



PUBLIC HEARING
TUESDAY, NOVEMBER 5, 2019
6:00 P.M.
Council Chambers

AGENDA

1. Call Meeting to Order
2. File 17-10: Application to enter into a development agreement to permit the expansion of a full service restaurant and gift shop, located at 1157 West Halls Harbour Road, Halls Harbour (Will-Robinson-Mushkat, Planner) 1
3. File 19-05: Application to enter into a development agreement to permit the expansion of a day care facility, located at 1733 Highway 1, Auburn. (Mark Fredericks, GIS Planner) 12
4. File 19-08: Application to enter into a development agreement to permit a excavation and trucking equipment, storage, sales and maintenance business, located at 114 Brow of Mountain Road, Weltons Corner. (Will Robinson-Mushkat, Planner) 19
5. Adjournment

THE MUNICIPALITY OF THE COUNTY OF KINGS

REPORT TO MUNICIPAL COUNCIL

Subject: Public Hearing –Development Agreement in Halls Harbour
Application to enter into a development agreement to permit the expansion of full service restaurant and gift shop in conjunction with existing lobster storage, packaging, and exporting business (PID 5541032), Halls Harbour
File 17-10 (Rodger Cameron)

From: Planning and Development Division

Date: November 5, 2019

Background

Mr. Rodger Cameron of Halls Harbour Lobster Pound Limited, has applied for a development agreement to permit the expansion of a full service restaurant and gift shop at 1157 West Halls Harbour Road, Halls Harbour. In addition to the proposed expanded uses, the business also includes fisheries uses – specifically lobster storage, packaging, and exporting at the subject property.

The application and staff report were reviewed by the Planning Advisory Committee (PAC) on September 10, 2019. At this meeting, PAC forwarded a positive recommendation to Council.

On October 1, 2019, Municipal Council gave Initial Consideration to the proposed development agreement and forwarded it on to this Public Hearing. The proposed development agreement is attached as Appendix A.

Public Hearing

At this Public Hearing, members of the public have the opportunity to present opinions on the proposal directly to Municipal Council. Council is scheduled to consider approving the development agreement by giving it Final Consideration at the Municipal Council meeting immediately following this public hearing. If approved, a Notice of Passing will be published in the local paper, at which time a 14 day appeal period commences.

APPENDIX A

THIS DEVELOPMENT AGREEMENT made this ____ day of _____, A.D.

BETWEEN:

Halls Harbour Lobster Pound Limited, a body corporate of HALLS HARBOUR, Nova Scotia, hereinafter called the "Property Owner",

of the First Part

and

MUNICIPALITY OF THE COUNTY OF KINGS, a body corporate pursuant to the Municipal Government Act, S.N.S., 1998, Chapter 18, as amended, having its chief place of business at Coldbrook, Kings County, Nova Scotia, hereinafter called the "Municipality",

of the Second Part

WHEREAS the Property Owner is the owner of certain lands and premises (hereinafter called the "Property") which lands are more particularly described in Schedule A attached hereto and which are known as Property Identification (PID) Number 55041032; and

WHEREAS the Property Owner wishes to use the Property for a full service restaurant, retail store and fishing use; and

WHEREAS the Property is situated within an area designated Tourist Destination Area on the Future Land Use Map of the Municipal Planning Strategy, and zoned Hamlet Industrial (M5) on the Zoning Map of the Land Use By-law; and

WHEREAS policy 4.4.8.7 of the Municipal Planning Strategy and section 5.4.2 of the Land Use Bylaw provide that the proposed use may be developed only if authorized by development agreement; and

WHEREAS the Property Owner has requested that the Municipality of the County of Kings enter into this development agreement pursuant to Section 225 of the Municipal Government Act so that the Property Owner may develop and use the Property in the manner specified; and

WHEREAS the Municipality by resolution of Municipal Council passed at a meeting on (add date of motion), approved this Development Agreement;

Now this Agreement witnesses that in consideration of covenants and agreements contained herein, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Schedules

The following attached schedules shall form part of this Agreement:

Schedule A Property Description

Schedule B Site Plan

1.2 Municipal Planning Strategy and Land Use Bylaw

- (a) *Municipal Planning Strategy* means Bylaw 56 of the Municipality, approved on August 6, 1992, as amended, or successor bylaws.
- (b) *Land Use Bylaw* means Bylaw 75 of the Municipality, approved on August 6, 1992, as amended, or successor bylaws.
- (c) *Subdivision Bylaw* means Bylaw 60 of the Municipality, approved September 5, 1995, as amended, or successor bylaws.

1.3 Definitions

Unless otherwise defined in this Agreement, all words used herein shall have the same meaning as defined in the Land Use Bylaw. Words not defined in the Land Use Bylaw but used herein are:

- (a) *Development Officer* means the Development Officer appointed by the Council of the Municipality.
- (b) *Arts and Crafts Shop* means an accessory structure for the production and sale of works of art.
- (c) *Fish and Seafood Processing* means a building, structure, or land, or part thereof used for processing fish and other seafood

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Permitted Uses

The Property Owner's use of the Property shall be limited to:

- (a) those uses permitted by the underlying zoning in the Land Use Bylaw, as may be amended from time-to-time; and
- (b) the following uses in accordance with the terms of this agreement:
 - (i) a full-service restaurant having a maximum commercial floor area of 2,500 square feet

- (ii) a retail store having a maximum gross floor area of 950 square feet
- (iii) an arts and crafts shop in the existing building labelled “Gift Shop” on the site plan

(c) Fish and seafood processing

- (i) A cold storage (freezer), as part of the fish and seafood processing use, shall be permitted as indicated on Schedule B, Site Plan

(d) Office and storage areas accessory to the fish and seafood processing use.

(e) Except as otherwise provided in this Agreement, the provisions of the Land Use Bylaw apply to any development undertaken pursuant to this Agreement.

2.2 Site Plan

(a) All uses enabled by this Agreement on the Property shall be developed generally in accordance with Schedule B, Site Plan.

(b) Any future changes to Schedule B, Site Plan, that would result in a change to the access and/or parking configuration shall be approved by the Department of Transportation and Infrastructure Renewal, or any successor bodies, as well as the Municipality.

2.3 Appearance of Property

The Property Owner shall at all times maintain all structures and services on the Property in good repair and a useable state, and maintain the Property in a neat and presentable condition.

2.4 Erosion and Sedimentation Control

During any site preparation, construction activities or demolition activities of a structure or parking area, all exposed soil shall be stabilized immediately and all silt and sediment shall be contained within the site as required by the Department of Environment *Erosion and Sedimentation Control Handbook for Construction*, or any successor documents, so as to effectively control erosion of the soil.

2.5 Water and Sewer Services

The Property Owner shall be responsible for providing adequate water services and wastewater disposal services for the uses on the Property to the standards of the authority having jurisdiction and at the Property Owner’s expense.

2.6 Access and Egress

The Property Owner shall submit current permits from Nova Scotia Transportation and Infrastructure Renewal and Nova Scotia Environment, or any successor bodies, before receiving any development and/or building permits from the Municipality.

2.7 Parking

- (a) Parking areas shall be developed in accordance with the Standards for Parking Areas of the Land Use Bylaw, as may be amended from time-to-time.
- (b) Parking spaces shall be provided in accordance with the number and layout as indicated on Schedule B, Site Plan.

2.8 Outdoor Storage

All forms of outdoor storage shall be prohibited on the Property.

2.9 Erosion

Armour Rock shall be maintained along the boundary of the subject property with the Bay of Fundy as indicated on Schedule B, Site Plan.

2.10 Lighting

- (a) The subject property, including the areas designated for parking on Schedule B, Site Plan, shall be properly illuminated for safe and effective circulation of vehicular traffic after dark
- (b) All lights used for illumination shall be designed and installed in a manner that does not project onto adjacent properties.

2.11 Signage

- (a) Signs on the Property shall subject to the regulations of the underlying zone in the Land Use Bylaw, as may be amended from time-to-time.
- (b) Notwithstanding sub-clause 2.11 (a) above, signs on the Property shall be constructed of metal and/or wood. Internally illuminated signage is prohibited.

2.12 Subdivision

No alterations to the lot configuration that would result in a reduced lot area are permitted without a substantive amendment to this agreement except as may be required by the road authority for the purpose of creating or expanding a public street over the Property.

2.13 Damage or destruction

In the event that the existing building is destroyed or damaged by fire or otherwise, it may be repaired, rebuilt or replaced in accordance with this agreement provided any new buildings meet all setbacks required in the underlying zone. A new Schedule B, Site plan will be required.

PART 3 CHANGES AND DISCHARGE

3.1 Any matters in this Agreement which are not specified in Subsection 3.2 below are not substantive matters and may be changed by Council without a public hearing.

3.2 The following matters are substantive matters:

- (a) the uses permitted on the Property as listed in Section 2.1 of this Agreement; and
- (b) development that would result in any change to Schedule B, Site Plan for uses specifically enabled by this Agreement. The replacement of Schedule B, Site Plan for the purposes of replacing buildings following destruction or damage by fire or otherwise shall not be considered substantive if the lot requirements of the underlying zone are met; and
- (c) alterations to the lot configuration that would result in a reduced lot area.

3.3 Upon conveyance of land by the Property Owner to either:

- (a) the road authority for the purpose of creating or expanding a public street over the Property; or
- (b) the Municipality for the purpose of creating or expanding open space within the Property;

registration of the deed reflecting the conveyance shall be conclusive evidence that that this Agreement shall be discharged as it relates to the public street or open space, as the case may be, as of the date of registration with the Land Registry Office but this Agreement shall remain in full force and effect for all remaining portions of the Property.

3.4 Notwithstanding the foregoing, discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council at the request of the Property Owner without a public hearing.

PART 4 IMPLEMENTATION

4.1 Commencement of Operation

No construction or use may be commenced on the Property until the Municipality has issued any Development Permits, Building Permits and/or Occupancy Permits that may be required.

4.2 Drawings to Be Provided

When an engineered design is required for any portion of a development, record drawings shall be provided to the Development Officer within ten days of completion of the work which requires the engineered design.

4.3 Completion and Expiry Date

The Property Owner shall sign this Agreement within 90 days from the date the appeal period lapses or all appeals have been abandoned or disposed of or the Development Agreement has been affirmed by the Nova Scotia Utility and Review Board or the unexecuted Agreement shall be null and void.

PART 5 COMPLIANCE

5.1 Compliance with Other Bylaws and Regulations

Nothing in this Agreement shall exempt the Property Owner from complying with Federal, Provincial and Municipal laws, bylaws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority or approval required thereunder.

5.2 Municipal Responsibility

The Municipality does not make any representations to the Property Owner about the suitability of the Property for the development proposed by this Agreement. The Property owner assumes all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the development.

5.3 Warranties by Property Owner

The Property Owner warrants as follows:

- (a) The Property Owner has good title in fee simple to the Lands or good beneficial title subject to a normal financing encumbrance, or is the sole holder of a Registered Interest in the Lands. No other entity has an interest in the Lands which would require their signature on this Development Agreement to validly bind the Lands or the Developer has obtained the approval of every other entity which has an interest in the Lands whose authorization is required for the Developer to sign the Development Agreement to validly bind the Lands.
- (b) The Property Owner has taken all steps necessary to, and it has full authority to, enter this Development Agreement.

5.5 Costs

The Property Owner is responsible for all costs associated with recording this Agreement in the Registry of Deeds or Land Registration Office, as applicable.

5.6 Full Agreement

This Agreement constitutes the entire agreement and contract entered into by the Municipality and the Property Owner. No other agreement or representation, oral or written, shall be binding.

5.7 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.8 Interpretation

Where the context requires, the singular shall include the plural, and the masculine gender shall include the feminine and neutral genders.

5.9 Breach of Terms or Conditions

Upon the breach by the Property Owner of the terms or conditions of this Agreement, the Municipality may undertake any remedies permitted by the Municipal Government Act.

THIS AGREEMENT shall ensure to the benefit of and be binding upon the parties hereto, their respective agents, successors and assigns.

IN WITNESS WHEREOF this Agreement was properly executed by the respective parties hereto and is effective as of the day and year first above written.

SIGNED, SEALED AND ATTESTED to be the proper designing officers of the Municipality of the County of Kings, duly authorized in that behalf, in the presence of:

MUNICIPALITY OF THE COUNTY OF KINGS

Witness

Peter Muttart, Mayor

Witness

Janny Postema, Municipal Clerk

SIGNED, SEALED AND DELIVERED

HALLS HARBOUR LOBSTER POUND LIMITED

In the presence of:

Witness

Rodger Cameron, President

Schedule 'A'
Property Description

Retrieved from Property Online on August 23, 2019

Parcel Description

Registration County: Kings County

Street/Place Name: West Halls Harbour Road, Halls Harbour

Title of Plan: Plan of Resurvey Parcel A Land Granted to Paramount Hotels Limited in Book 1153 Page 26 Now Land of Halls Harbour Lobster Pound Limited Civic 1153 and 1157 West Halls Harbor Road, Halls Harbour, Kings County, Nova Scotia

Designation of Parcel on Plan: Parcel A

Registration Number of Plan: 112155529

Registration Date of Plan: 2018-02-13

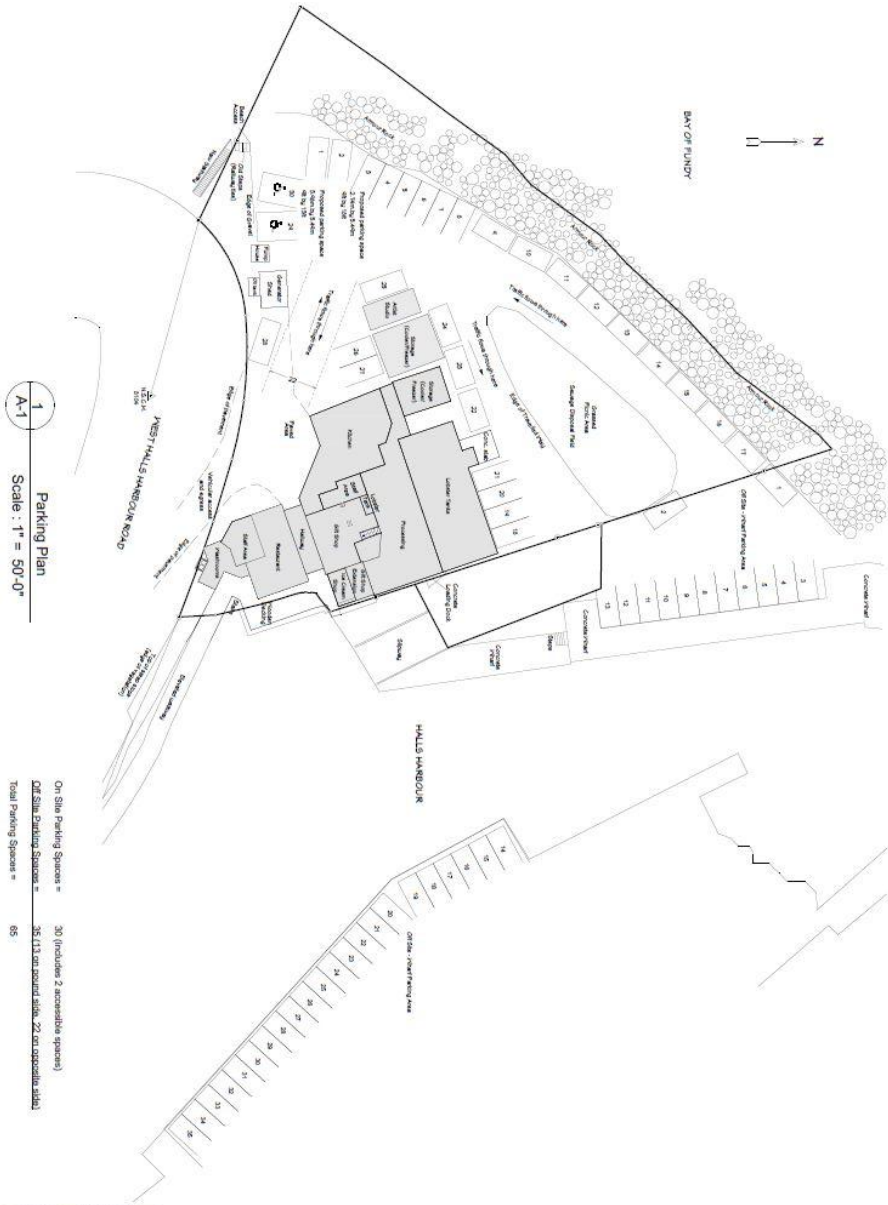
Subject to the Restrictive Covenants as described in the Deed recorded October 2, 1997 at the Kings County Registry of Deeds in Book 1122 Page 594 as Document 9094.

Subject to the Right-of-Way Easement unto Her Majesty the Queen, Her Heirs, Successors and Assigns, in common with the owner of the parcel, as set out by Crown Grant recorded July 14, 1998, at the Kings County Registry of Deeds in Book 1153 at Page 26 as Document 4185.

Also subject to the covenants unto Her Majesty the Queen, Her Heirs, Successors and Assigns, as set out by Crown Grant recorded July 14, 1998, at the Kings County Registry of Deeds in Book 1153 at Page 26 as Document 4185.

The parcel is exempt from the requirement for subdivision approval under the Municipal Government Act because it is a deemed consolidation under Section 268A.

Schedule 'B' Site Plan



A-1
Parking Plan
Scale: 1" = 50'-0"

On Site Parking Spaces = 30 (includes 2 accessible spaces)
 Off Site Parking Spaces = 35 (13 on main site, 22 on adjacent site)
 Total Parking Spaces = 65

www.beaconhilldesign.ca

REVISIONS	
No.	DATE
1	ISSUED FOR OA SUBMISSION Aug. 30/2019
2	
3	

This drawing may not be used for construction in any part until signed by owner.

Date: _____

ALL CONSTRUCTION SHALL BE CARRIED OUT IN ACCORDANCE WITH ALL LOCAL CODES AND AUTHORITIES HAVING JURISDICTION.

THE GENERAL CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND CONDITIONS PRIOR TO CONSTRUCTION. OMISSIONS TO DESIGNER.

DO NOT SCALE DRAWINGS

Copyright Beacon Hill Home & Property Design

<p>A SECTION or DETAIL NO.</p> <p>B SHEET NO. WHERE DETAILED</p>	
SCALE (1/8" = 1'-0" (unless otherwise noted))	DATE
DESIGNED BY: D. Reilly	CHECK BY: S. Garbit
DRAWN BY: S. Garbit	PROJECT NO.: 19-0232
TITLE	
<p>Halls Harbour Lobster Parking Plan</p>	
PROJECT	
<p>Cameron Seafood Halls Harbour, Nova Scotia</p>	
Sheet No. A-1	
CONSULTANT	
<p>BEACON HILL</p> <p>David Reilly Stephen Garbit Home & Property Design by appointment</p> <p>phone 902.542.1787 design@beaconhilldesign.ca fax 902.542.1787 info@beaconhilldesign.ca Box 2199 • Whiteville • Nova Scotia • Canada • B1P 2N5</p>	

THE MUNICIPALITY OF THE COUNTY OF KINGS

REPORT TO MUNICIPAL COUNCIL

Subject: **Public Hearing – Amending Development Agreement in Auburn**
Application to amend an existing development agreement to permit the expansion of a day care facility at 1733 Hwy 1 (PID 55079073), Auburn
File 19-05 (Margo Thomas)

From: Planning and Development Division

Date: November 5, 2019

Background

Margo Thomas has applied for an amendment to her existing development agreement to expand the Stepping Stone Preschool and Child Care Centre at 1733 Highway 1 in Auburn. The day care facility has been in operation since 2002, with an expansion approved by Council through a development agreement in 2003. Mrs. Thomas is now looking to expand the day care facility to include 8 new spaces for infants. This expansion is proposed to include a new building to be constructed in the rear portion of the property.

The application and staff report were reviewed by the Planning Advisory Committee (PAC) on September 10, 2019. At this meeting, PAC forwarded a positive recommendation to Council.

On October 1, 2019, Municipal Council gave Initial Consideration to the proposed amending development agreement and forwarded it on to this Public Hearing. The proposed amending development agreement is attached as Appendix A.

Public Hearing

At this Public Hearing, members of the public have the opportunity to present opinions on the proposal directly to Municipal Council. Council is scheduled to consider approving the amending development agreement by giving it Final Consideration at the Municipal Council meeting immediately following this public hearing. If approved, a Notice of Passing will be published in the local paper, at which time a 14 day appeal period becomes effective.

APPENDIX A – Amending Development Agreement

THIS AMENDING AGREEMENT made this _____ day of _____, A.D., 2019

BETWEEN:

MARGO J. THOMAS AND PETER J. THOMAS, of Auburn, Nova Scotia, hereinafter called the "Developers"

of the First Part

and

MUNICIPALITY OF THE COUNTY OF KINGS, a body corporate pursuant to the Municipal Government Act, S.N.S., 1998, Chapter 18, as amended, having its chief place of business at Coldbrook, Kings County, Nova Scotia, hereinafter called the "Municipality",

of the Second Part

WHEREAS the Parties entered into a Development Agreement registered at the Kings County Land Registration Office as Document 6713 in Book 1404, pages 415-425 on September 29, 2003 affecting land described therein and now known as PID 55079073.

WHEREAS the Parties wish to amend the Development Agreement as hereinafter set forth;

WHEREAS the amendments are identified in the Development Agreement as matters that are substantive.

WHEREAS the Municipality by resolution of Municipal Council passed at a meeting on **DATE**, approved this Amending Agreement;

Now this Agreement witnesses that in consideration of covenants and agreements contained herein, the parties agree as follows:

1. Definitions

Section 1.2 c. is deleted and replaced with the following:

- c. *A Day Care Facility* means a building or part of a building where four or more people are cared for on a daily basis without overnight accommodation and shall include any associated play areas.

Section 1.2 d. is deleted.

Section 1.2 f. is deleted and replaced with the following:

- f. Unless otherwise defined, all words used herein shall have the same meaning as defined in the Land Use Bylaw.

2. Use

Sections 2.1 a. and b. are deleted and replaced with the following:

- (a) those uses permitted by the underlying zoning in the Land Use Bylaw (as may be amended from time to time); and
- (b) a Day Care Facility within the existing dwelling occupying no more than 50% of the floor area, to a maximum of 2000 square feet, and/or within 100% of the building identified as “Proposed Building” on Schedule ‘B’ – Site Plan that shall be a maximum of 1000 square feet in area.

3. Site Plan

Section 2.2 is deleted and replaced with the following:

The Developers shall develop and use the lands in general conformance with the Site Plan attached as Schedule ‘B’ to this Agreement. The permitted uses, including parking, shall be wholly contained within the Development Envelope as shown on Schedule ‘B’ – Site Plan.

4. Vehicular Access

Section 2.4 b. is deleted.

5. Buffering

Section 2.5 is deleted and replaced with the following:

The developer shall provide adequate buffering on the Property to provide a visual and physical barrier between the Day Care Facility and any nearby residential uses. Buffering shall include:

- (a) an opaque fence measuring no less than five (5) feet in height and not more than six (6) feet in height to be installed along a portion of the eastern property line (as indicated on Schedule ‘B’, Site Plan), set back a minimum of four (4) feet from the property line; and
- (b) the maintenance of the existing ‘Vegetative Buffer’ identified on Schedule ‘B’ – Site Plan. If this vegetation is destroyed or removed for any reason, the Developers shall replace it with evergreen vegetation or an opaque fence. Replacement vegetation shall be at least four (4) feet in height, capable of growing to at least six (6) feet in height and planted at no greater than a four (4) foot spacing. A replacement fence shall be no less than five (5) feet in height and not more than six (6) feet in height. The

replacement shall be completed within eight (8) months.

6. Access, Parking and Drop off

Section 2.6 (a) is deleted and replaced with the following:

- (a) For uses permitted by this Agreement, the Developer shall provide a minimum of seven (7) parking spaces within the area designated for parking as indicated on Schedule 'B' – Site Plan.

The following is added to Section 2.6:

- (e) Parking spaces and parking areas, except traffic aisles, shall be developed to the standards outlined in the Land Use Bylaw, as amended from time-to-time.

7. Hours of Operation

Section 2.10 is added as follows:

The hours of operation of the Day Care Facility shall be from 6:30 a.m. to 6:30 p.m., Monday to Friday, excluding statutory holidays. Use of the outdoor play areas on the Property shall be restricted to the hours of 7:30 a.m. to 6:30 p.m., Monday to Friday, excluding statutory holidays.

8. Erosion and Sedimentation Control

Section 2.11 is added as follows:

During any site preparation or construction of a structure or parking area, all exposed soil shall be stabilized immediately and all silt and sediment shall be contained within the site according to the practices outlined in the Department of Environment *Erosion and Sedimentation Control Handbook for Construction*, or any successor documents, so as to effectively control erosion of the soil.

9. Expiry Date

Section 3.5 is added as follows:

The Developers shall sign this Agreement within 180 calendar days from the date the appeal period lapses or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Nova Scotia Utility and Review Board or the unexecuted Agreement shall be null and void.

10. Amendments to this Agreement

Section 4.2 a. ii. is deleted.

Section 4.2 a. iii. is deleted and replaced with the following:

- iii. Additional buildings or structures that would not otherwise be permitted within the underlying zone.

Section 4.2 b. ii. is deleted and replaced with the following:

- ii. Changes to the buffering requirements contained in Section 2.5.

11. Schedule 'B' – Site Plan is deleted and replaced with Schedule 'B' – Site Plan attached to this Amending Agreement and which forms part of the Agreement.

12. Section 5.4 is deleted and replaced with the following:

The Developer shall ensure that the buffering requirements of this agreement are completed within eight (8) months of signing this Agreement.

13. Section 5.5 is deleted.

14. Amending Agreement

This Amending Agreement is to be read and construed with the Development Agreement and be treated as part thereof, and for such purpose and so far as may be necessary to give effect to this Amending Agreement, the Development Agreement is hereby amended, and the Development Agreement as so amended, together with all the covenants and provisions thereof, shall remain in full force and effect.

15. Parties to the Agreement

By signing this agreement, Peter J. Thomas agrees to be bound by the terms and conditions of the Development Agreement recorded at the Kings County Land Registration Office in Book 1404, Page 415 on September 29, 2003, as amended by this Agreement.

THIS AGREEMENT shall enure to the benefit of and be binding upon the parties hereto, their respective agents, successors and assigns.

IN WITNESS WHEREOF this Agreement was properly executed by the respective parties hereto and is effective as of the day and year first above written.

SIGNED, SEALED AND ATTESTED to be the proper signing officers of the Municipality of the County of Kings, duly authorized in that behalf, in the presence of:

MUNICIPALITY OF THE COUNTY OF KINGS

Witness

Peter Muttart, Mayor

Witness

Janny Postema, Municipal Clerk

SIGNED, SEALED AND DELIVERED
In the presence of:

Witness

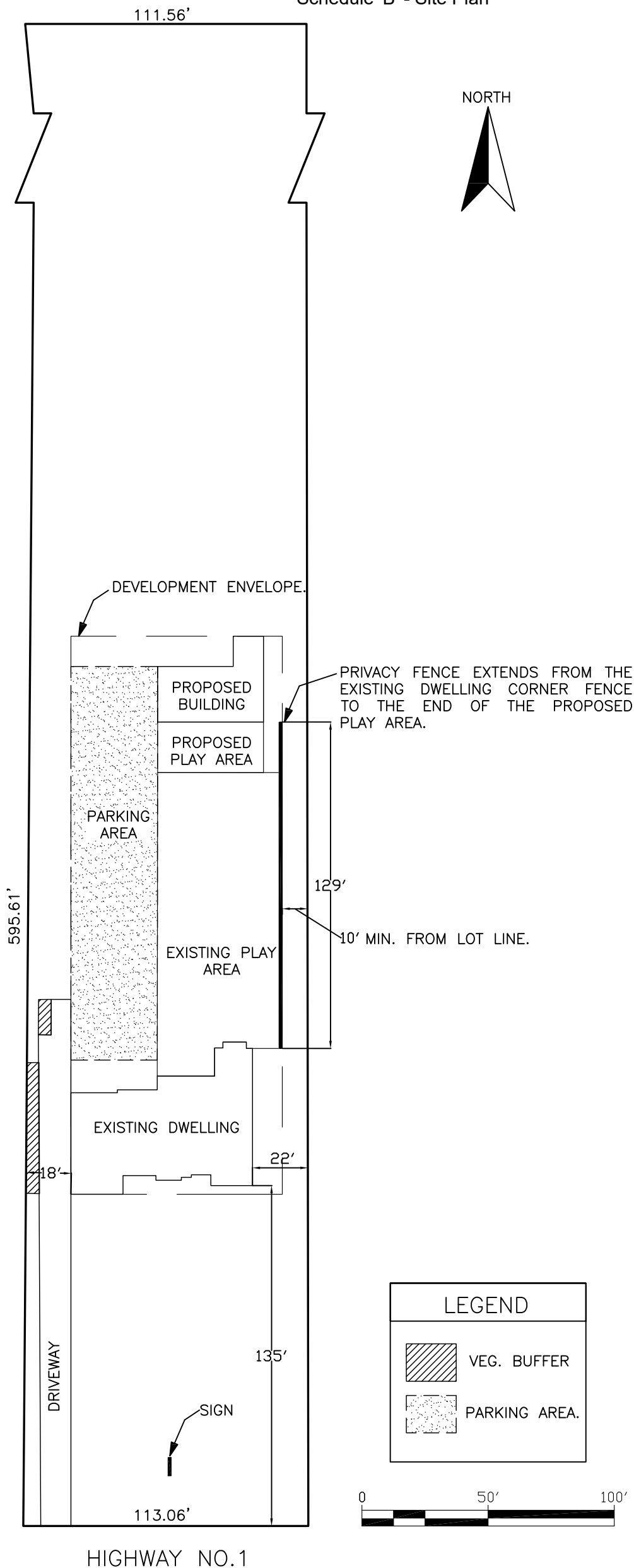
Margo J. Thomas

Witness

Peter J. Thomas

Schedule 'B' - Site Plan

GENERAL NOTES



AMENDMENTS		
REV.	DESCRIPTION	DATE

THOMAS HOMESXDESIGN
 PHONE: 902.844.0362
 EMAIL: SARAH@THOMASHOMESXDESIGN.COM

CLIENT:
 STEPPING STONE
 PRESCHOOL & CHILD
 CARE

SITE:
 1733 HWY 1 AUBURN

TITLE:
 EXPANSION SITE PLAN

19-08-24	001	
DATE	PROJECT NO.	REVISION



Municipality of the County of Kings

Report to the Planning Advisory Committee

Application to enter into a development agreement to permit an excavation and trucking business at 144 Brow of Mountain Road West, Weltons Corner, NS (PID 55321335) (File19-08)

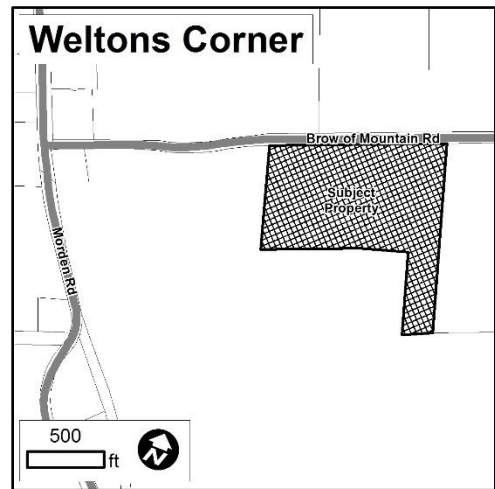
September 10, 2019

Prepared by: Planning Services

Applicant	Kenneth Lutz
Land Owner	Becky Lou Lutz
Proposal	Excavation and trucking equipment storage, sale, and maintenance
Location	144 Brow of Mountain Road West, Weltons Corner (PID 55321335)
Lot Area	20.6 acres
Designation	Forestry
Zone	Forestry (F1) Zone
Surrounding Uses	Resource uses and low density residential
Neighbour Notification	Staff sent notification letters to the 4 owners of property within 500 feet of the subject property

1. PROPOSAL

Mr. Kenneth Lutz of Kenneth Lutz Excavating Ltd., has applied for a development agreement to permit his excavation and trucking business located at 144 Brow of Mountain Road West, Weltons Corner to take place as a stand alone use. The business includes excavation and trucking equipment storage, sales, and repair.



2. OPTIONS

In response to the application, the Planning Advisory Committee may:

- A. Recommend that Council approve the development agreement as drafted;
- B. Recommend that Council refuse the development agreement as drafted;
- C. Provide alternative direction, such as requesting further information on a specific topic, or recommending changes to the draft development agreement.

3. BACKGROUND

Kenneth Lutz Excavation Ltd. was established more than thirty years ago by Kenneth Lutz, who has grown his business to employ twelve employees. The business taking place on the site mainly involves the storage and repair of trucks, machinery and parts. Mr. Lutz also stores on the site machinery and parts related to the installation of septic systems and snow plowing. There is no storage or processing of extracted material on the subject site.

The business is currently permitted as a Rural Home Occupation which means that the business is permitted as an accessory use to the residential use on the subject property. Mr. Lutz intends to subdivide the property to place the excavation and trucking business on a separate lot from the residential dwelling. In order for such a subdivision to be approved, Mr. Lutz must first have approval for his excavation and trucking business as a stand-alone use.

4. INFORMATION

4.1 Site Information

The subject property is located on Brow of Mountain Road West, approximately a half a kilometre east of Morden Road. It is 20.6 acres in area and is mainly forested. The developed portion of the subject property is relatively flat. It contains one residential dwelling, one garage used for repair, storage and offices, and a number of smaller buildings and trailers used for storage. There is also a large amount of salvage material stored on the subject property. The subject property is designated Forestry (F) and zoned Forestry (F1).

4.2 Site Visit

A Municipal Planner, Development Officer and two summer students conducted a site visit on the subject property. At this time, staff met with the applicant and further discussed the proposal.

4.3 Public Information Meeting

Council's Planning Policy PLAN-09-001 requires a Public Information Meeting (PIM) for all new uses which are to be considered by development agreement. The required Public Information Meeting was held on Tuesday, July 9th, 2019, prior to a regularly scheduled Planning Advisory Committee, with 10 members of the public in attendance. The meeting notes from this meeting are attached as Appendix B.

4.4 Requests for Comments

Comments were requested from the following groups with the results as described:

4.4.1 Department of Transportation and Infrastructure Renewal (DTIR)

- The proposed driveway is sufficient;
- The road networks in, adjacent to, and leading to the site are adequate;
- They have no concerns regarding traffic generation

4.4.2 Nova Scotia Environment (NSE)

- No comments were received from NSE.

4.4.3 Municipality of the County of Kings Engineering and Public Works (EPW)

- The development agreement should require that a spill response kit, capable of cleaning up any potential spills or leaks from vehicles/equipment, be located on site.

4.4.4 Municipality of the County of Kings Building and Enforcement

- It is anticipated that portions of the existing garage will be required to be brought into full compliance with the Building Code.
- If approved, the use will be subject to regular fire inspections.
- Fire protection services for the subject property have been deemed to be adequate by the local fire chief.

4.4.5 Municipality of the County of Kings Development Control

- Comments from Development Control have, in part, informed the terms of the draft development agreement.

5. POLICY REVIEW – DEVELOPMENT AGREEMENT

5.2 Land Use Bylaw

The proposal may be considered by development agreement according to Section 5.2.12 of the LUB which states: “*Council shall provide for excavation company related industrial uses involving the transportation and storage of extracted materials and fleet maintenance in the Forestry (F1) Zone by development agreement as provided for in Policy 3.3.4.6 of the Municipal Planning Strategy.*”

5.3 Municipal Planning Strategy

Policy 3.3.4.6 of the Municipal Planning Strategy states: “*Council may consider proposals for excavation company related industrial uses involving the transportation and storage of extracted materials and fleet maintenance, by way of a development agreement, subject to the conditions contained in Part 6 of this Strategy.*”

The subsequent policy, 3.3.4.7, establishes the specific criteria for which Council shall have regard when considering a development agreement application under Policy 3.3.4.6: “*In satisfying the requirements in Policy 3.3.4.6, by addressing the conditions contained in Part 6, Council shall be satisfied that the development agreement has sufficient provisions addressing:*

- a. the amount and location of extracted materials to be stored*
The applicant does not store and does not intend to store extracted materials on the subject property. Therefore, the amount and location of extracted materials to be stored is not permitted by the draft development agreement.
- b. nuisance created by the processing of extracted materials*
The applicant does not process and has no intention of processing extracted materials on the subject property. Therefore, the processing of extracted materials is not permitted by the development agreement.
- c. hours of operation, with restrictions or a prohibition on activities in the evenings and weekends where warranted*

Hours of operation are regulated within the draft development agreement. Uses permitted through the development agreement are prohibited to operate on Sundays and Statutory Holidays.

5.4 General Development Agreement Criteria

Municipal Planning Strategy section 6.3.3.1 contains the criteria to be used when considering all development agreement proposals. These criteria consider the impact of the proposal on the road network, services, development pattern, environment, finances, and wellfields, as well as the proposal's consistency with the intent of the Municipal Planning Strategy (see Appendix C for a full review).

It is Staff's opinion that the proposal meets the general criteria in that it will not result in any direct costs to the Municipality, raises no concerns in terms of traffic or access, is compatible with the surrounding development pattern, is serviced by a private sanitary septic system, is compatible with adjacent uses, and raises no concerns regarding emergency services.

MPS subsection 6.3.3.1 (c) specifies a number of controls that may be put into the terms and conditions of a development agreement in order to reduce potential land use conflicts. Provisions that have been included in the draft development agreement include controls on access, outdoor storage and display, signs and lighting, hours of operation, and maintenance of the development.

6. SUMMARY OF DRAFT DEVELOPMENT AGREEMENT

The draft development agreement has been attached as Appendix D to this report. The main content of the proposed development agreement includes:

- Regulation of the uses on the property
- Limitations placed on the amount and location of outdoor storage and outdoor display
- Regulation of parking
- Regulation of the hours of operation
- Regulation of buffering on the site
- Requirement for a spill response kit on-site
- A site plan illustrating a development area, buffer areas, areas for storage and a parking area
- A list of substantive matters, including the uses permitted through the development agreement on the property, and changes to the site plan

7. CONCLUSION

The proposal and the terms of the draft development agreement are in keeping with the intent of Council's Municipal Planning Strategy. The proposal is enabled by policies regarding industrial uses within the Forestry District of the Municipal Planning Strategy. The proposal meets all other general Development Agreement criteria. As a result, a positive recommendation is being made to the Planning Advisory Committee.

8. STAFF RECOMMENDATION

Staff recommends that the Planning Advisory Committee forward a positive recommendation by passing the following motions:

The Planning Advisory Committee recommends that Municipal Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit an excavation and trucking business at 144 Brow of Mountain Road West (PID 55321335), Weltons Corner, which is substantively the same (save for minor differences in form) as the draft set out in Appendix D of the report dated September 10, 2019.

9. APPENDIXES

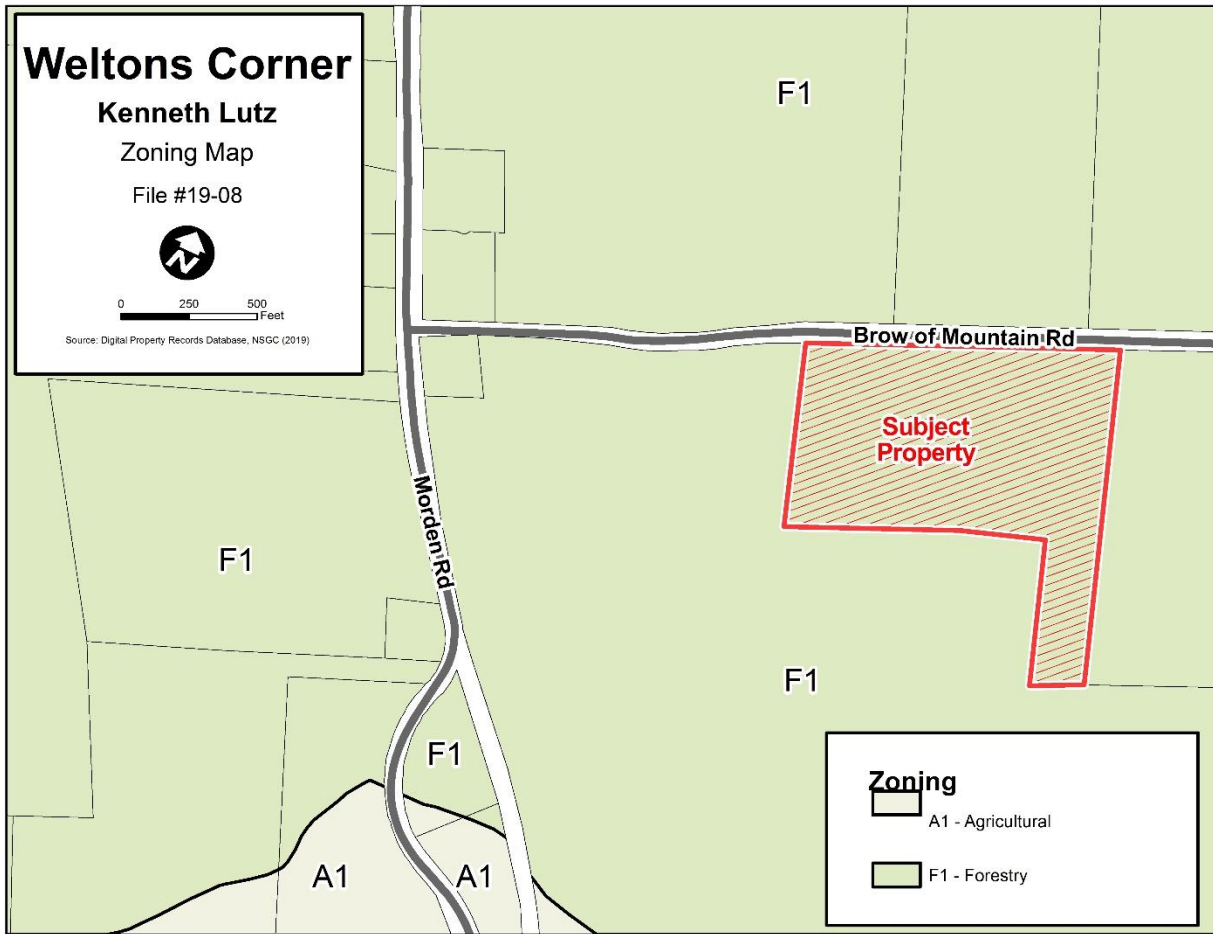
Appendix A: Reference Zoning Map

Appendix B: Public Information Meeting (July 9, 2019) Notes

Appendix C: General Development Agreement Criteria

Appendix D: Draft Development Agreement

Appendix A – Reference Zoning Map



Appendix B – Public Information Meeting Notes

MUNICIPALITY OF THE COUNTY OF KINGS

PLANNING AND DEVELOPMENT SERVICES

PUBLIC INFORMATION MEETING NOTES

Planning application for a Development Agreement to permit the expansion of an excavation and trucking company at 144 Brow of Mountain Road West, Weltons Corner.

<i>Meeting, Date and Time</i>	A Public Information Meeting was held on Tuesday July 9, 2019 at 1:00 p.m. in the Council Chambers of the Municipal Complex, Coldbrook.
<i>Attending</i>	In Attendance:
<i>Council Members</i>	Councillor Brian Hirtle (Chair) Councillor Pauline Raven Councillor Martha Armstrong Councillor Jim Winsor Councillor Peter Allen
<i>Planning Staff</i>	Laura Mosher - Manager of Planning and Development Services Leanne Jennings – Planner Katherine Deturbide – Planning Intern Chloe Austin – Recording Secretary
<i>Applicant</i>	Kenneth Lutz
<i>Public</i>	10 Members
<i>Welcome and Introductions</i>	The Chair, Councillor Brian Hirtle, called the meeting to order, introductions were made and the members of the public were welcomed to the meeting. The Public Information Meeting provides an opportunity for the public to express concerns and/or receive clarification on any aspect of the proposal. No evaluation has been completed and no decisions have been made at this point.
<i>Presentations</i>	Leanne Jennings provided an overview of the planning process and the application from Kenneth Lutz.
<i>Comments from the Public</i>	Following the presentation, the floor was opened for comments from the public. No comments or questions were brought forward
<i>Adjournment</i>	There being no further discussion, the Chair thanked those in attendance and adjourned the meeting at 1:09 p.m.

Chloe Austin
Recording Secretary

Appendix C – General Development Agreement Criteria

Policy 6.3.3.1

A Development Agreement shall not require an amendment to the Land Use Bylaw but shall be binding upon the property until the agreement or part thereof is discharged by the Municipality. In considering Development Agreements under the Municipal Government Act, in addition to all other criteria as set out in various policies of this Strategy, Council shall be satisfied:

Criteria	Comments
<i>a. the proposal is in keeping with the intent of the Municipal Planning Strategy, including the intent of any Secondary Planning Strategy</i>	The proposal is in keeping with the intent of the MPS. There is no Secondary Planning Strategy in this area.
<i>b. that the proposal is not premature or inappropriate by reason of:</i>	
<i>i. the financial capability of the Municipality to absorb any costs related to the development of the subject site</i>	The proposal does not involve any development costs to the Municipality.
<i>ii. the adequacy of municipal sewer and water services if services are to be provided. Alternatively, the adequacy of the physical site conditions for private on-site sewer and water systems</i>	The applicant has indicated that there is an existing private on-site septic system and well which supports the existing uses. No additional development is proposed through this development agreement.
<i>iii. the potential for creating, or contributing to, a pollution problem including the contamination of watercourses or the creation of erosion or sedimentation during construction</i>	The proposal does not cause concern regarding pollution or contamination. The draft development agreement requires the property owner to have a spill response kit on site that is capable of cleaning up any potential spills or leaks from vehicles and/or equipment.
<i>iv. the adequacy of storm drainage and the effect of same on adjacent uses</i>	The subject property is well buffered by forested areas. Therefore, there is no concern regarding storm drainage on the property.
<i>v. the adequacy of street or road networks in, adjacent to, and leading to, the development</i>	DTIR has no concerns regarding the adequacy of the road networks in, adjacent to, and leading to the development.
<i>vi. the adequacy, capacity and proximity of schools, recreation and other community facilities</i>	Not applicable since the application is non-residential in nature.
<i>vii. adequacy of municipal fire protection services and equipment</i>	Municipal Building and Enforcement Services has indicated that the Aylesford Fire Chief has indicated that they can adequately service the proposal.
<i>viii. creating extensive intervening parcels of vacant land between the existing developed lands and the proposed site, or a scattered or ribbon development pattern as opposed to compact development</i>	This proposal does not result in a scattered development pattern. This type of industrial use is appropriate for more remote areas of the County.
<i>ix. the suitability of the proposed site in terms of steepness of grades, soil and/or geological conditions, and the</i>	The lot is suitable for development, and staff is not aware of any soil or geological conditions in

<i>relative location of watercourses, marshes, swamps or bogs</i>	the area that would have a negative impact on development.
x. <i>traffic generation, access to and egress from the site, and parking</i>	DTIR is satisfied that the proposed use will not generate an undue amount of traffic on the surrounding roads. A minimum number of parking spaces is required within the draft development agreement.
xi. <i>compatibility with adjacent uses</i>	The uses enabled by the development agreement are compatible with adjacent uses provided the terms of the development agreement are respected.
c. <i>the Development Agreement may specify that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i>	
i. <i>the type of use</i>	The draft development agreement specifies the permitted uses.
ii. <i>the location and positioning of outlets for air, water and noise within the context of the Land Use Bylaw</i>	No special requirements have been included.
iii. <i>the height, bulk and lot coverage of any proposed buildings or structures</i>	There are no proposed buildings as part of this application.
iv. <i>traffic generation</i>	No special requirements are necessary.
v. <i>access to and egress from the site and the distance of these from street intersections</i>	The draft development agreement specifies that the access must be approved by DTIR before receiving permits.
vi. <i>availability, accessibility of on-site parking</i>	The draft development agreement requires a minimum on-site parking for staff and customers.
vii. <i>outdoor storage and/or display</i>	Controls on the location of outdoor storage and the amount and location of outdoor display are contained within the draft development agreement.
viii. <i>signs and lighting</i>	The draft development agreement places restrictions on lighting.
ix. <i>the hours of operation</i>	The draft development agreement places controls on the hours of operation.
x. <i>maintenance of the development</i>	The draft development agreement requires that the property be maintained in good repair and a reasonable state.
xi. <i>buffering, landscaping, screening and access control</i>	The uses permitted by the draft development agreement must be contained within a specified area. The draft development agreement contains buffering and screening requirements.
xii. <i>the suitability of the proposed site in terms of steepness of grades, soil and/or geological conditions, and the relative location of watercourses, marshes, swamps, or bogs</i>	The site is suitable with regard to topographical and geological conditions as well as the relative location of watercourses, marshes, swamps, or bogs.
xiii. <i>the terms of the agreement provide for the discharge of the agreement or</i>	The draft development agreement provides for discharge of the agreement.

<i>parts thereof upon the successful fulfillment of its terms</i>	
<i>xiv. appropriate phasing and stage by stage control</i>	Phasing is not applicable.
<i>d. performance bonding or security shall be included in the agreement if deemed necessary by Council to ensure that components of the development such as, but not limited to, road construction or maintenance, landscaping or the development of amenity areas, are completed in a timely manner</i>	No performance bonding or security is needed.

Appendix D - Draft Development Agreement

THIS DEVELOPMENT AGREEMENT made this _____ day of _____, A.D.

BETWEEN:

BECKY LOU LUTZ, of Aylesford, Nova Scotia, hereinafter called the "Property Owner"

of the First Part

and

MUNICIPALITY OF THE COUNTY OF KINGS, a body corporate pursuant to the Municipal Government Act, S.N.S., 1998, Chapter 18, as amended, having its chief place of business at Coldbrook, Kings County, Nova Scotia, hereinafter called the "Municipality",

of the Second Part

WHEREAS the Property Owner is the owner of certain lands and premises (hereinafter called the "Property") which lands are more particularly described in Schedule A attached hereto and which are known as 144 Brow of Mountain Road West, Weltons Corner and Property Identification (PID) Number 55321335; and

WHEREAS the Property Owner wishes to use the Property for an excavation and trucking business and related activities; and

WHEREAS the Property is situated within an area designated Forestry on the Future Land Use Map of the Municipal Planning Strategy, and zoned Forestry (F1); and

WHEREAS policy 3.3.4.6 and policy 3.3.4.7 of the Municipal Planning Strategy and Section 5.2.12 of the Land Use Bylaw provide that the proposed use may be developed only if authorized by development agreement; and

WHEREAS the Property Owner has requested that the Municipality of the County of Kings enter into this development agreement pursuant to Section 225 of the Municipal Government Act so that the Property Owner may develop and use the Property in the manner specified; and

WHEREAS the Municipality by resolution of Municipal Council passed at a meeting on **X**, 2019, approved this Development Agreement;

Now this Agreement witnesses that in consideration of covenants and agreements contained herein, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Schedules

The following attached schedules shall form part of this Agreement:

Schedule A	Property Description
Schedule B	Site Plan

1.2 Municipal Planning Strategy and Land Use Bylaw

- (a) *Municipal Planning Strategy* means Bylaw 56 of the Municipality, approved on August 6, 1992, or successor bylaws.
- (b) *Land Use By-law* means Bylaw 75 of the Municipality, approved on August 6, 1992, or successor bylaws.
- (c) *Subdivision By-law* means Bylaw 60 of the Municipality, approved September 5, 1995, as amended, or successor bylaws.

1.3 Definitions

Unless otherwise defined in this Agreement, all words used herein shall have the same meaning as defined in the Land Use Bylaw. Words not defined in the Land Use Bylaw but used herein are:

- (a) *Development Officer* means the Development Officer appointed by the Council of the Municipality.
- (b) *Excavation Related Industrial Use* means a use involving the storage, salvaging, sale, and maintenance of heavy equipment and/or parts used to remove aggregate materials, as well as the storage, salvaging, sale, and maintenance of trucks used in these operations. The storage of vehicles and equipment needed for snow removal is included in this use. For clarity, this use does not involve the processing or storage of aggregate materials on-site.
- (c) *Septic Service* means a business related to the installation and maintenance of private septic systems.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

That the Parties agree that the Property shall be limited to the following uses:

- (a) Those uses permitted by the underlying zoning in the Land Use By-law (as may be amended from time-to-time); and
- (b) The following uses must be contained within Development Area "A" as indicated on Schedule 'B', Site Plan:
 - i. Excavation Related Industrial Use
 - ii. Septic Service

- (c) Except as otherwise provided in this Agreement, the provisions of the Land Use Bylaw apply to any development undertaken pursuant to this Agreement.

2.2 Site Plan

- (a) All uses enabled by this Agreement on the Property shall be developed generally in accordance with Schedule 'B', Site Plan.

2.3 Signs

- (a) A maximum of one ground sign shall be permitted on the property subject to the following:
 - i. The sign shall be constructed of wood and/or metal;
 - ii. Sign area shall not exceed 32 square feet;
 - iii. The sign shall not exceed 10 feet in height;
 - iv. The sign shall be located no closer than 5 feet from any lot line;
 - v. The sign shall be lit only by lights focused on the surface of the sign, and directed away from the street and nearby dwellings ; and
 - vi. Internally illuminated sign shall be prohibited.
- (b) Signs otherwise permitted in the underlying zone shall be permitted in accordance with the Land Use By-law, as amended from time-to-time.

2.4 Appearance of Property

The Property Owner shall at all times maintain all structures, driveways, storage areas and services on the Property in good repair and in a useable state. The Property Owner shall maintain the Property in a neat and presentable condition at all times.

2.5 Lighting

The Property Owner shall ensure that any lights used for illumination of the Property shall be arranged so as to divert light away from streets.

2.6 Outdoor Storage and Commercial Display

- (a) All salvaged materials on the Property shall be stored in the areas identified as "Salvaged Vehicles Material Storage" and "Storage Trailers Parking Area" on Schedule 'B', Site Plan and shall not be visible to any member of the travelling public on a public road and shall be screened from adjacent properties.
- (b) Outdoor commercial display of vehicles and machinery shall not exceed a maximum of four (4) at any time and shall only be permitted in 'Development Area A', as identified on Schedule 'B', Site Plan.
- (c) All other forms of outdoor storage and commercial display are prohibited except for outdoor storage associated with uses permitted in the underlying zone.

2.7 Parking

- (a) Parking spaces for the Excavation Related Industrial Use and Septic Service shall be provided in accordance with the requirements of the Land Use Bylaw, as amended from time-to-time.

- (b) Parking areas shall be maintained with a stable surface that is treated to prevent the raising of dust or loose particles.
- (c) Employee and customer parking shall be limited to the area marked "Parking Area" on Schedule 'B', Site Plan.

2.8 Access and Egress

The Property Owner must submit current permits from Nova Scotia Transportation and Infrastructure Renewal, or any successor body, to the Municipality before receiving any Development or Building Permits for uses enabled by this Agreement.

2.9 Servicing

The Property Owner shall be responsible for providing adequate water services and wastewater disposal services to the standards of the authority having jurisdiction and at the Property Owner's expense.

2.10 Erosion and Sedimentation Control

During any site preparation or construction of a structure or parking area, all exposed soil shall be stabilized immediately and all silt and sediment shall be contained within the site as required by the Department of Environment *Erosion and Sedimentation Control Handbook for Construction*, or any successor documents, so as to effectively control erosion of the soil.

2.11 Hours of Operation

- (a) The hours of operation on site for the uses listed in Section 2.1 (b) of this Agreement shall be from 7:00 am to 8:00 pm, inclusive, Monday through Saturday.
- (b) Vehicles stored on site for business purposes occurring off-site shall be permitted to leave and return to the property from 5:00 am to 11:59 pm, inclusive, Monday through Saturday.
- (c) The uses listed in section 2.1(b) shall be prohibited to operate on Sundays and Statutory Holidays.
- (d) There shall be no restrictions on the hours of operation for the uses listed in Section 2.1 (b) (i), when pertaining to snow and ice removal only.

2.12 Buffering

- (a) All areas within Development Area 'A' that are located north of the building labelled "Garage" on Schedule 'B', Site Plan and are not developed shall be maintained in a naturally wooded state.
- (d) The area identified as 'Existing Vegetation to be Maintained' within Development Area 'A' on the Schedule 'B', Site Plan, shall be maintained as a natural buffer.

2.13 Pollution Prevention

The Property Owner is required to have a spill response kit on site that is capable of cleaning up any potential spills or leaks from vehicles and/or equipment.

2.14 Subdivision

The Property may be subdivided provided that the lot standards of the underlying zone are met and provided that the area identified as "Development Area 'A'" on Schedule 'B', Site Plan is not reduced in size and is located entirely on one parcel.

PART 3 CHANGES AND DISCHARGE

3.1 The Property Owner shall not vary or change the use of the Property, except as provided for in Section 2.1, Uses, of this Agreement, unless a new development agreement is entered into with the Municipality or this Agreement is amended.

3.2 Any matters in this Agreement which are not specified in Subsection 3.3 below are not substantive matters and may be changed by Council without a public hearing.

3.3 The following matters are substantive matters:

- (a) The uses permitted on the property as listed in Section 2.1 of this Agreement;
- (b) Any change to Schedule 'B', Site Plan for uses specifically enabled by this Agreement. Uses and structures permitted by the underlying zoning on the Property shall not require any amendment to this Agreement. Furthermore, future subdivision of the Property provided in Section 2.14 above shall not require any amendment to this Agreement.

3.4 Upon conveyance of land by the Property Owner to:

- (a) The road authority for the purpose of creating or expanding a public street over the Property; or
- (b) The Municipality for the purpose of creating or expanding open space within the Property; or
- (c) A third party, upon subdivision of the Property as permitted in Section 2.14 of this Agreement, with the conveyance being land located outside of Development Area 'A', as indicated on Schedule 'B', Site Plan;

Registration of the deed reflecting the conveyance shall be conclusive evidence that that this Agreement shall be discharged as it relates to the public street, open space, or portion of land outside Development Area 'A', as the case may be, as of the date of registration with the Land Registry Office but this Agreement shall remain in full force and effect for all remaining portions of the Property.

3.5 Notwithstanding the foregoing, discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council at the request of the Property Owner without a public hearing.

PART 4 IMPLEMENTATION

4.1 Commencement of Operation

No construction or use may be commenced on the Property until the Municipality has issued any Development Permits, Building Permits and/or Occupancy Permits that may be required.

4.2 Drawings to be Provided

When an engineered design is required for any portion of a development, record drawings shall be provided to the Development Officer within ten days of completion of the work which requires the engineered design.

4.3 Completion and Expiry Date

- (a) The Property Owner shall sign this Agreement within ninety (90) days from the date the appeal period lapses or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Nova Scotia Utility and Review Board or the unexecuted Agreement shall be null and void;
- (b) The developer shall relocate the topsoil and salvage vehicles within six (6) months of recording this Agreement.

PART 5 COMPLIANCE

5.1 Compliance With Other Bylaws and Regulations

Nothing in this Agreement shall exempt the Property Owner from complying with Federal, Provincial and Municipal laws, bylaws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority or approval required thereunder.

5.2 Municipal Responsibility

The Municipality does not make any representations to the Property Owner about the suitability of the Property for the development proposed by this Agreement. The Property owner assumes all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the development.

5.3 Warranties by Property Owner

The Property Owner warrants as follows:

- (a) The Property Owner has good title in fee simple to the Lands or good beneficial title subject to a normal financing encumbrance, or is the sole holder of a Registered Interest in the Lands. No other entity has an interest in the Lands which would require their signature on this Development Agreement to validly bind the Lands or the Developer has obtained the approval of every other entity which has an interest in the Lands whose authorization is required for the Developer to sign the Development Agreement to validly bind the Lands.
- (b) The Property Owner has taken all steps necessary to, and it has full authority to, enter this Development Agreement.

5.5 Costs

The Property Owner is responsible for all costs associated with recording this Agreement in the Registry of Deeds or Land Registration Office, as applicable.

5.6 Full Agreement

This Agreement constitutes the entire agreement and contract entered into by the Municipality and the Property Owner. No other agreement or representation, oral or written, shall be binding.

5.7 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.8 Interpretation

Where the context requires, the singular shall include the plural, and the masculine gender shall include the feminine and neutral genders.

5.9 Breach of Terms or Conditions

Upon the breach by the Property Owner of the terms or conditions of this Agreement, the Municipality may undertake any remedies permitted by the Municipal Government Act.

THIS AGREEMENT shall enure to the benefit of and be binding upon the parties hereto, their respective agents, successors and assigns.

IN WITNESS WHEREOF this Agreement was properly executed by the respective parties hereto and is effective as of the day and year first above written.

SIGNED, SEALED AND ATTESTED to be the proper signing officers of the Municipality of the County of Kings, duly authorized in that behalf, in the presence of:

**MUNICIPALITY OF THE COUNTY
OF KINGS**

Witness

Peter Muttart, Mayor

Witness

Janny Postema, Municipal Clerk

SIGNED, SEALED AND DELIVERED

BECKY LOU LUTZ

In the presence of:

Witness

Becky Lou Lutz

Schedule A – Property Description

Taken from Property Online July 22, 2019

Municipality/County: The Municipality of the County of Kings

Designation of Parcel on Plan: Lot K.B.L. 2004

Title of Plan: Plan of Subdivision and Consolidation Showing Parcel 2004, A Portion of Lands Conveyed to Leon Harlan Lutz, To be Consolidated with Existing Parcel K.B.L. 1 X, Lands Conveyed to Kenny Lutz and Becky Lutz to Form Lot K.B.L. 2004, Brow Mountain Road, Near Weltons Corner, Kings County, Nova Scotia.

Registration District: Kings

Registration Reference of Plan: Plan 81264575 recorded on January 26, 2005.

Burden:

Subject to an easement to Nova Scotia Power Inc. as more particularly described in an easement recorded on May 11, 2010 as Document No. 95886660.

*** Municipal Government Act, Part IX Compliance ***

Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the Land Registration Act

Registration District: KINGS COUNTY

Registration Year: 2005

Plan or Document Number: 81264575

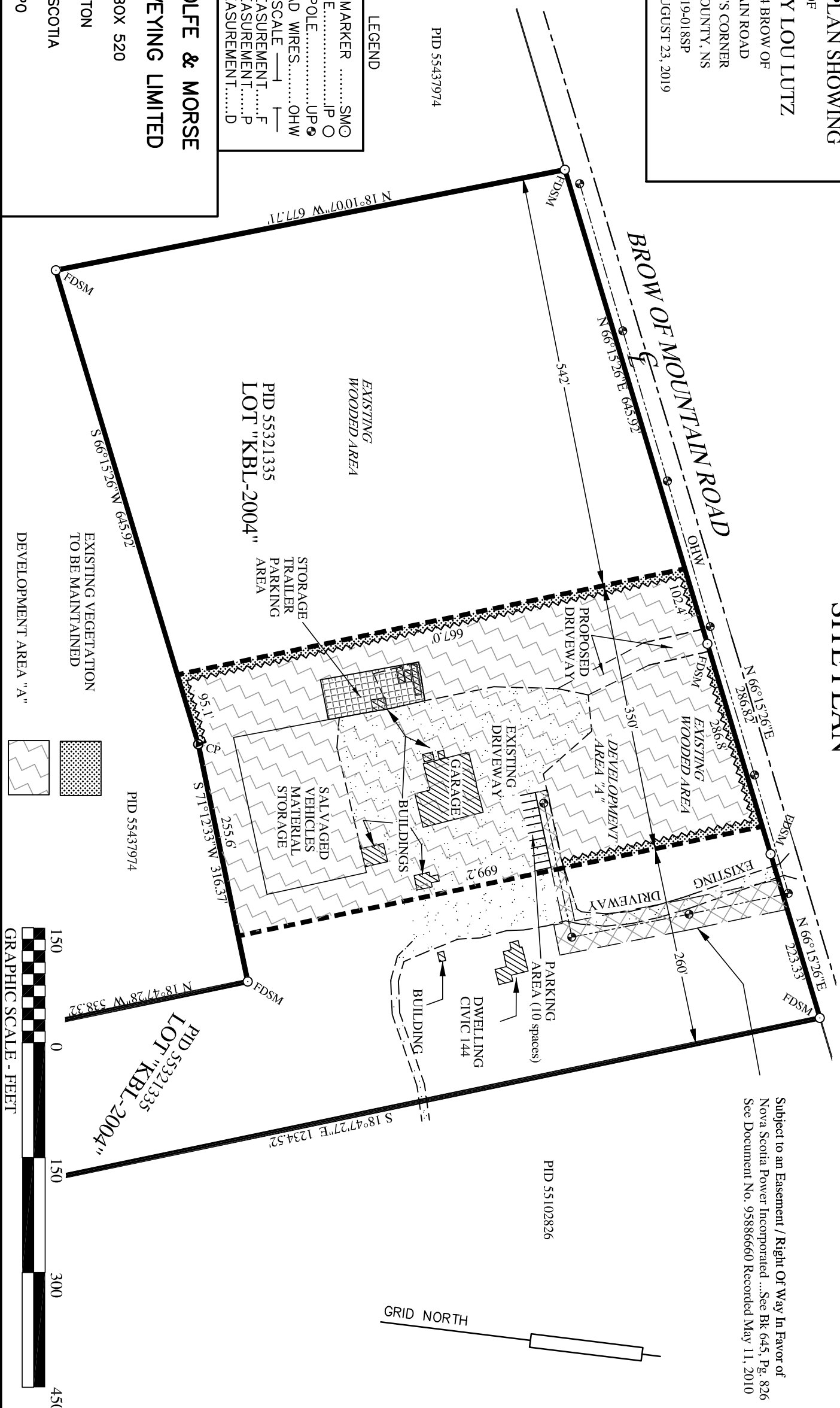
SITE PLAN

SITE PLAN SHOWING
 LANDS OF
BECKY LOU LUTZ
 CIVIC 144 BROW OF
 MOUNTAIN ROAD
 WELTON'S CORNER
 KINGS COUNTY, NS
 PLAN: 2019-0188P
 DATE: AUGUST 23, 2019

LEGEND

SURVEY MARKER	SMO
IRON PIPE.....	IP O
UTILITY POLE.....	UP ⊙
OVERHEAD WIRES.....	OHW ⊕
NOT TO SCALE	—
FIELD MEASUREMENT.....	F —
PLAN MEASUREMENT.....	P —
DEED MEASUREMENT.....	D —

DeWOLFE & MORSE
SURVEYING LIMITED
 P. O. BOX 520
 MIDDLETON
 NOVA SCOTIA
 BOS 1P0



Subject to an Easement / Right Of Way In Favor of
 Nova Scotia Power Incorporated ... See Bk 645, Pg. 826
 See Document No. 95886660 Recorded May 11, 2010

