



PUBLIC HEARING

TUESDAY, NOVEMBER 2, 2021

6:00 P.M.

Council Chambers

The meeting will be held in person in the Council Chambers, 181 Coldbrook Village Park Drive, Coldbrook. Any members of the public who wish to attend are required to pre-register, as seating is limited due to physical distancing requirements. To register, please send an e-mail to lclarke@countyofkings.ca or call 902-690-2566. All those in attendance will be required to wear a facemask, with Council and Staff removing masks once seated. Members of the public can also listen live by visiting www.countyofkings.ca and following the "Listen Live" link.

Any interested persons may listen to the meeting online at:
<https://www.countyofkings.ca> Follow the 'Listen Live' links / Icon

AGENDA

1. Call Meeting to Order
2. Application to enter into a development agreement to permit up to 5 tourist cabins at 1828 Bishopville Road, Bishopville (PID 55501225) (File # 21-10, Mark Fredericks) 2
3. Application to enter into a development agreement to permit a tourist commercial use (expansion of existing restaurant) at 1293 Grand Pre Road, Wallbrook (PID 55446710) (File #21-04, Will Robinson-Mushkat) 12
4. Adjournment

THE MUNICIPALITY OF THE COUNTY OF KINGS

REPORT TO MUNICIPAL COUNCIL

Subject: PUBLIC HEARING – DEVELOPMENT AGREEMENT in Bishopville
Application to enter into a development agreement to permit up to 5 tourists cabins at 1828 Bishopville Road, Bishopville. (PID 55501225) (File # 21-10) (Applicant: Shawna Johnston Clarke)

From: Planning and Development Division

Date: November 2, 2021

Background

Shawna Johnston Clarke has applied for a development agreement to accommodate up to 5 tourist cabins at their property, 1828 Bishopville Road in Bishopville. The proposed cabins are modular geodesic dome style structures that would be available for overnight accommodation rentals.

The application and staff report were reviewed by the Planning Advisory Committee (PAC) on September 14, 2021. At this meeting the Committee forwarded a positive recommendation to Council.

On October 5, 2021 Municipal Council gave Initial Consideration to the 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 becomes effective.

Appendix A - Draft Development Agreement

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

BETWEEN:

Shawna Johnston-Clarke and Mark Clarke of Bishopville, 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 55501225; and

WHEREAS the Property Owner wishes to use the Property for Tourist accommodations.

WHEREAS the Property is situated within an area designated Resource (N) on the Future Land Use Map of the Municipal Planning Strategy, and zoned Resource (N1) on the Zoning Map of the Land Use By-law; and

WHEREAS policies 2.5.13 and 3.6.9 of the Municipal Planning Strategy and section 10.3.5 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

1.2 Municipal Planning Strategy and Land Use By-law

- (a) *Municipal Planning Strategy* means By-law 105 of the Municipality, approved on March 5, 2020 as amended, or successor by-laws.
- (b) *Land Use By-law* means By-law 106 of the Municipality, approved on March 5, 2020 as amended, or successor by-laws.
- (c) *Subdivision Bylaw* means Bylaw 60 of the Municipality, approved September 5, 1995, as amended, or successor by-laws.

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) *Tourist cabin* means a rental cabin, yurt, geo dome or one unit dwelling in which accommodation is provided on a short term or temporary basis to the travelling public.

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) Tourist Cabins – not to exceed a total of 5 cabins, with a maximum building footprint of 800 sq ft for each cabin. If more than 2 tourist cabins are offered, an on-site caretaker shall reside on the same lot.

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 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.

2.3 Subdivision

Except as otherwise provided for in this Agreement, the subdivision of the Property shall comply with the requirements of the Subdivision By-law, as may be amended from time-to-time, according to the minimum lot size requirements in the Commercial Recreation (P1) Zone.

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 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.

2.5 Lighting

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

2.6 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.

2.7 Enhanced Buffering

A natural wooded area at least 60 feet in width along all side and rear lot lines shall be maintained. If any portion of the 60 foot wide area is cleared, then trees and shrubs that would naturally spread in the area shall be grown.

2.8 Setbacks

All developments, including parking areas, camp sites, public gathering areas, loading areas, and outdoor storage shall be set back 60 feet from all lot boundaries. This setback shall not apply to signage, which can locate closer to front lot lines.

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;

Uses and structures permitted by the underlying zoning on the Property shall not require any amendment to this Agreement.

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

- (a) The Property Owner shall sign this Agreement within 120 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 commence construction within ten (10) years of recording this Agreement at the Registry of Deeds.

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

In the presence of

SHAWNA JOHNSTON-CLARKE AND

MARK CLARKE

Witness

Shawna Johnston-Clarke

Witness

Mark Clarke

Witness

Name of Signing Authority

Schedule A – Property Description

All that lot of land and premises which was conveyed by Berlyn G. Wile et ux Joanne L. to Maritime Arborists Limited by deed dated the 31st day of December, A.D., 1976 and recorded at the Registry of Deeds for Kings County on the 16th day of June, A.D., 1977 in Book 419 Page 878, and therein more particularly bounded and described as follows:

ALL that certain lot, piece or parcel of land and premises situate, lying and being at Bishopville, in Horton, in the County of Kings and Province of Nova Scotia, bounded and described as follows:

BEGINNING on the Kings and Hants County line at the southwest angle of Micmac Lands, so called;

THENCE by a line running north twenty five degrees west twenty seven chains;

THENCE south sixty five degrees west fifteen chains;

THENCE north twenty five degrees west eighteen chains;

THENCE south sixty five degrees west twenty five chains or to John L. Pelton s east line, all bounded on the so called Micmac lands;

THENCE southwardly by said John L. Pelton s east line also the telegraph road, so called, twenty chains;

THENCE south sixty five degrees west two chains or within two rods of James Bishop s east line;

THENCE southwardly parallel with said James Bishop s east line to the Micmac Road, so called, the said John L. Pelton reserves the strip of land for a road to his lot;

THENCE southwardly crossing said Micmac Road to said James Bishop s east line and running by its several courses and crossing the Halfway River to the County line;

THENCE easterly by said County line to the place of beginning, and containing one hundred and seventy acres more or less.

EXCEPTING AND RESERVING THE FOLLOWING LOTS OF LAND:

1. All of the lands lying to the north of the Bishopville Road.
2. Lots of 1.43, 0.77 and 0.24 acres (shown on Plan under File No. A-1545) conveyed to Her Majesty the Queen by Deed dated August 6, 1970, recorded in Book 287 at Page 681.
3. Lots of 0.22 and 1.40 acres (shown on Plan under File No. P-89) conveyed to Her Majesty the Queen

by Deed dated May 4, 1972 and recorded in Book 319 at Page 220.

4. Lot of land conveyed by James W. Beckwith to Ralph Chipman Frizzell by Deed dated August 3, 1946, recorded May 31, 1948, in Book 174 at Page 47.

5. All those lands to the south of the Halfway River.

BEING AND INTENDED TO BE a portion of the lands conveyed to Berlyn Wile by James W. Beckwith et ux by Deed dated November 17, 1976 and recorded in the Registry of Deeds at Kentville in Book 410 at Page 249.

SAVING AND EXCEPTING Lot MA-1 as shown on registered plan number 94674935 recorded in the Land Registration Office for Kings County.

AND ALSO Lot MA-1 as shown on registered plan no. 94674935 recorded in the Land Registration Office for Kings County.

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

Not Subject To:

The parcel was created by a repeal of subdivision and the notice of repeal was registered on March 30, 2021 as instrument number 118311662.=

THE MUNICIPALITY OF THE COUNTY OF KINGS

REPORT TO MUNICIPAL COUNCIL

Subject: **Public Hearing – Development Agreement in Wallbrook**
Application to enter into a development agreement to permit a tourist commercial use (expansion of existing restaurant) at 1293 Grand Pre Road (PID 55446710), Wallbrook
File 21-04 (Philip Dennis, on behalf of Luckett Farms Limited)

From: Planning Staff

Date: November 2, 2021

Background

Philip Dennis, on behalf of the owner, Luckett Farms Limited, has applied to enter into a development agreement to permit a tourist commercial use (expansion of an existing restaurant) at 1293 Grand Pre Road (PID 55446710), Wallbrook.

The Planning Advisory Committee (PAC) reviewed the application and staff report on September 14, 2021. At this meeting, PAC forwarded a positive recommendation regarding the application to Council.

On October 5, 2021, Municipal Council gave Initial Consideration to the proposed development agreement and forwarded it on to this Public Hearing. The proposed motion is attached as Appendix A to this report.

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 amendment 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: Draft Development Agreement

THIS DEVELOPMENT AGREEMENT made this ____ day of _____, 2021 A.D.

BETWEEN:

LUCKETT FARMS LIMITED, of Wallbrook, 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 55446710; and

WHEREAS the Property Owner wishes to use the Property for visitor-oriented development and

WHEREAS the Property is situated within an area designated Agriculture on the Future Land Use Map, Schedule B, of the Municipality of the County of Kings Municipal Planning Strategy (By-law #105) and zoned Rural Mixed Use (A2) on the Rural Zoning Map, Map 13, of the Municipality of the County of Kings Land Use By-law (By-law #106); and

WHEREAS 2.5.13 of the Municipal Planning Strategy and 8.4.5 (a) of the Land Use By-law 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 XX, 2021 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 By-law 105 of the Municipality, approved on March 5, 2020, as amended.
- (b) *Land Use By-law* means By-law 106 of the Municipality, approved on March 5, 2020, as amended.

1.3 Definitions

Unless otherwise defined in this Agreement, all words used herein shall have the same meaning as defined in the Land Use By-law unless the context clearly indicates otherwise. Words not defined in the Land Use By-law but defined herein are:

- (a) *Development Officer* means the Development Officer appointed by the Council of the Municipality.
- (b) *Tent* means a covered, open-air building—that can be disassembled—intended for use by the public and is accessory to the full-service restaurant use.

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);
- (b) A restaurant contained either in an enclosed building, tent, or an open-air patio area, or a combination thereof, located within the area identified as “Development Envelope 1” and/or “Development Envelope 2” on Schedule B – Site Plan;
- (c) A retail store located within the building situated in the area identified as “Development Envelope 1” on Schedule B – Site Plan;
- (d) Accessory uses to 2.1 (b) and 2.1 (c) shall be wholly contained within Development Envelope 1 and 2.

Except as otherwise provided in this Agreement, the provisions of the Land Use By-law apply to any development undertaken pursuant to this Agreement.

2.2 Site Plan

All uses enabled by this agreement on the Property shall be developed in accordance with Schedule B - Site Plan, except to the extent authorized in writing by the Development Officer pursuant to Section 3.3(b) of this Agreement.

2.3 Signs

- (a) Signage on the Property shall be consistent with Municipality of the County of Kings Land Use By-law (By-law #106) – Section 14.6: Signs
- (b) Signage shall only be constructed of wood and/or metal and shall not obstruct the sight lines at the driveway entrance/exits.
- (c) Internally illuminated signs are prohibited.
- (d) The Property Owner shall obtain a development permit from the Development Officer prior to the erection or installation of any sign.

2.4 Buffering and Landscaping

- (a) Within the area labelled 'Vegetation Buffer Zone' as identified on Schedule B – Site Plan, an existing vegetative buffer approximately forty (40) feet in width between the boundary line and parking area shall be maintained and consist of a mixture of coniferous and deciduous trees and grassed vegetation.
- (b) In the event of the destruction of the entirety, or a portion of, the vegetative buffer referred to in Section 2.4 (a), new trees shall be planted within six (6) months, consist of minimum of fifty percent coniferous, and shall be a minimum of six feet in height with the ability to grow to fifteen (15) feet in height and spaced a maximum of ten (10) feet apart.

2.5 Appearance of Property

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

2.6 Subdivision

No alterations to the Property are permitted without a substantive amendment to this agreement except:

- (a) Lands not occupied by uses enabled in this Agreement may be subdivided, subject to the requirements of the Land Use By-law, the Subdivision By-law and sections 3.5 and 3.6 of this Agreement related to discharging this agreement;
- (b) When subdivision may be required by the road authority for the purpose of creating or expanding a public street over the Property.

2.7 Parking

The property owner shall meet the following criteria for parking and shall locate all parking in general conformance with Schedule B – Site Plan;

- (a) One vehicular parking space per 60 square feet of commercial floor area for the restaurant;
- (b) One vehicular parking space per 300 square feet of commercial floor area for the retail store;
- (c) Parking locations shall comply with the *National Building Code*, Part 3, Fire Truck Access Route
- (d) All uses enabled by this agreement are required to meet the parking requirements of the Land Use By-law.

2.8 Access and Egress

- (a) The Property Owner must submit current permits from Nova Scotia Transportation and Active Transit, or any successor body, to the Municipality before receiving any development or building permits for uses enabled by this Agreement.
- (b) Road access points shall comply with the *National Building Code*, Part 3, Fire Truck Access Route.

2.9 Lighting

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

2.10 Architectural Design

Any reconstruction, alteration or development of new buildings and structures shall be carried out in a manner which is architecturally compatible with other buildings in the surrounding area. The building shall feature a pitched roof and use natural cladding materials including, but not limited to, wood, stone, stucco or brick.

2.11 Hours of Operation

- (a) The hours of operation for all uses shall be between 6:00AM and 11:00PM Sunday through Saturday, inclusive.
- (b) Notwithstanding 3.1 (a),
 - i. Private functions occurring indoors on a Friday, Saturday or day that precedes a statutory holiday may operate from 6:00AM to 1:00AM the following day;
 - ii. The full-service restaurant use - Section 2.1(b) – may operate from 6:00AM on December 31st to 1:00AM January 1st of each calendar year.
- (c) No shipping or receiving activity shall occur between 11:00PM and 6:00AM

2.12 Amplified Sound

The amplification of sound (e.g. speakers) for use in the full-service restaurant and/or private functions shall be prohibited from occurring outside of an enclosed building located in “Development Envelope 1” as identified on Schedule B – Site Plan. For greater clarity, the amplification of sound is prohibited to occur within a tent or on a deck.

2.13 Erosion and Sedimentation Control and Drainage

Adequate measures shall be taken by the Property Owner to contain within the site all silt and sediment created during construction according to the practices outlined in the Department of Environment *Erosion and Sedimentation Control Handbook for Construction*, or any successor documents.

2.14 Servicing

The Property Owner shall be responsible the acquisition of permits for the provision of water services and wastewater disposal services to the standards of the authority having jurisdiction and these services will be provided at the Property Owner’s expense.

2.15 Off-Site Disturbance

Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Property Owner, and shall be reinstated, removed, replaced or relocated by the Property Owner as directed by the Development Officer, in consultation with the Municipal Engineer.

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, Use 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 specified in section 2.1
- (b) Development not in accordance with Schedule B - Site Plan, except that the Development Officer may permit variation from the Site Plan for the following:
 - i. the location of future parking areas provided that they determine in their sole discretion that such variations are within the intent of this Agreement and within the intent of the Municipal Planning Strategy

Such variations from the Site Plan permitted by the Development Officer in writing shall not be deemed an amendment to this Agreement.

3.4 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.

3.5 Notice of Intent to Discharge this Agreement may be given by the Municipality to the Property Owner following a resolution of Council to give such Notice:

- (a) As provided for in Section 4.3 of this Agreement; or
- (b) At the discretion of the Municipality, with or without the concurrence of the Property Owner, where the Development has, in the reasonable opinion of Council on advice from the Development Officer, ceased operation for a period of at least twenty-four (24) months; or
- (c) At any time upon the written request of the Property Owner, provided the use of the Property is in accordance with the Land Use By-law or a new Agreement has been entered into.

3.6 Council may discharge this Agreement thirty (30) days after a Notice of Intent to Discharge has been given. Notwithstanding any other provision of this Agreement, the discharge of this

Agreement is not a substantive matter and this Agreement may be discharged by Council 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 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) If the Property Owner is bona fide delayed from commencing the development for reasons which are beyond the Property Owner's control, the determination of which shall be at the sole discretion of the Development Officer, then performance by the Property Owner is excused for the period of the delay and the time period for the Property Owner to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

PART 5 COMPLIANCE

5.1 Compliance With Other Bylaws and Regulations

- (a) 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;
- (b) Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (other than the Land Use By-law to the extent

varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

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 Property Owner has obtained the approval of every other entity which has an interest in the Lands whose authorization is required for the Property Owner 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.

5.4 Onus For Compliance On Owner

Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.5 Breach of Terms or Conditions

Upon breach of any term or condition of this Agreement, the Municipality may notify the Property Owner in writing. In the event that the Property Owner has not remedied any such breach or entered into arrangements with the Municipality related to such breach to the Municipality's satisfaction, acting reasonably, within six (6) months of such notice then the Municipality may rely upon the remedies contained in Section 264 of the *Municipal Government Act* and may enter the land and perform any of the terms contained in the Development Agreement, or take such remedial action as is considered necessary to correct a breach of the Agreement, including the removal or destruction of anything that contravenes the terms of the Agreement and including decommissioning the site. It is agreed that all reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the Development Agreement.

5.6 Development Agreement Bound to Land

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Municipality in accordance with Section 229 of the Municipal Government Act.

5.7 Assignment of Agreement

The Property Owner may, at any time and from time to time, transfer or assign this Agreement and its rights hereunder and may delegate its obligations hereunder to an assign, successor, heir, or purchaser of the land bound by this Agreement.

5.8 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, and all costs of advertising for and recording of any amendments.

5.9 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.

5.10 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.

5.11 Interpretation

- (a) Where the context requires, the singular shall include the plural, and the use of words in one gender shall include the masculine, feminine and neutral genders as circumstances warrant;
- (b) Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.
- (c) References to particular sections of statutes and bylaws shall be deemed to be references to any successor legislation and bylaws even if the content has been amended, unless the context otherwise requires.

PART 6 ACKNOWLEDGEMENT OF FARMING PRACTICES

The Property Owner acknowledges that the Property is located in an area of active agricultural practices and agricultural processing industries, which may generate traffic, noise, dust, and odors. The Property Owner recognizes the right of surrounding landowners to carry on activities normally associated with farming and related businesses.

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

LUCKETT FARMS LIMITED

In the presence of:

Witness

Peter Lockett

Witness

Geena Lockett

Schedule A – Property Description (Taken from Property Online: July 30th, 2021)

ALL that certain lot, piece or parcel of land situate, lying and being on the South side of the Gaspereau River, at Wallbrook in the County of Kings and Province of Nova Scotia, and bounded as follows:

COMMENCING at a point on the West side of the Old Telegraph Road, so called, at the Southeast corner of lands of Elmo Miner;

THENCE in a Westerly direction by lands of Elmo Miner, Russell Coldwell and Morton Allen as a line fence dividing said lands from the lands herein described now stands 180 Rods to lands of William Allen;

THENCE in a Southerly direction of lands of William Allen and Elmer Allen 90 Rods to lands of Thomas Kennedy;

THENCE Easterly by lands of Thomas Kennedy 180 Rods to the West side of the Old Telegraph Road, so called;

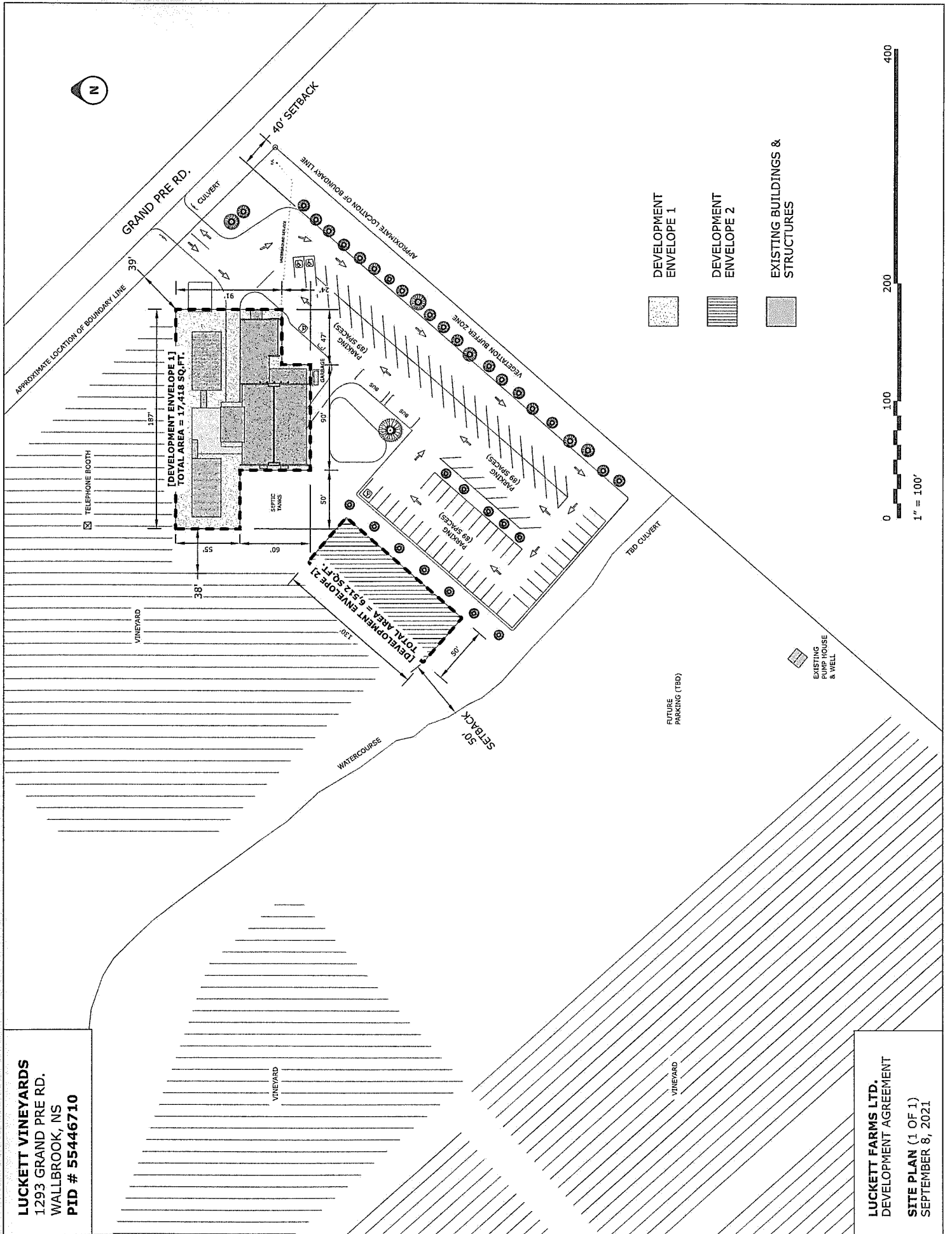
THENCE Northerly by the West side of the Old Telegraph Road 90 Rods more or less to the place of BEGINNING, containing 90 Acres, more or less.

BEING AND INTENDED TO BE the first parcel of land described in a Quit Claim Deed from Mary Ann Munroe, as Grantor and Releasor, to William Robert Munroe, dated February 15th, 1990 and recorded on February 16th, 1990 in the Kings County Registry of Deeds in Book 809 at Page 109.

Saving and Excepting Lot L.F.L.-1-03 as shown on plan number 12318 recorded on May 8, 2003.

SUBJECT to a Grant of Easement with Nova Scotia Power Inc. recorded at the Registry of Deeds in and for Kings County as Document No. 95952561.

This parcel complies with the subdivision provisions of Part IX of the Municipal Government Act.



LUCKETT VINEYARDS
 1293 GRAND PRE RD.
 WALLBROOK, NS
PID # 55446710

LUCKETT FARMS LTD.
 DEVELOPMENT AGREEMENT
SITE PLAN (1 OF 1)
 SEPTEMBER 8, 2021