

# THE MUNICIPALITY OF THE COUNTY OF KINGS

## REPORT TO COUNCIL

**Subject:** Planning Advisory Committee Recommendations

**Date:** March 3, 2020

A	<b>Application to adjust the boundary of the Environmental Open Space (O1) Zone within PID 55159883, on Lovett Road, Coldbrook (File 19-14)</b>	<i>Be it resolved that Municipal Council give Second Reading to and approve the zone boundary adjustment to the O1 Zone on PID 55159883 in Coldbrook, as described in Appendix A of the report dated January 14, 2020.</i>
B	<b>Application to rezone land at 197 JT Morse Road, Harmony (PID 55113179) from Forestry (F1) to Resource Extraction (M7) to allow for an asphalt processing plant (File 19-18)</b>	<i>Be it resolved that Municipal Council give First Reading to and hold a Public Hearing regarding the application to rezone the property at 197 JT Morse Road, Harmony (PID 55113179) from the Forestry (F1) Zone to the Resource Extraction (M7) Zone as described in Appendix E of the report dated February 11, 2020.</i>  <u>Report Attached</u>
C	<b>Application to enter into a development agreement to permit tourist commercial uses at 555 Ross Creek Road (PID 55015457), Ross Creek (File 18-17)</b>	<i>Be it resolved that Municipal Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit tourist commercial facilities at 555 Ross Creek Road (PID 55015457), Ross Creek, which is substantively the same (save for minor differences in form) as the draft set out in Appendix A of the report dated March 3, 2020.</i>  <u>Report Attached</u>
D	<b>Public Hearing Date</b>	Tuesday, April 7, 2020 at 6:00 p.m.



## Municipality of the County of Kings

### Report to the Planning Advisory Committee

Application to rezone land at 197 JT Morse Road in Harmony from Forestry (F1) to Resource Extraction (M7) to allow for an asphalt processing plant.

(PID 55113179) (File 19-18)

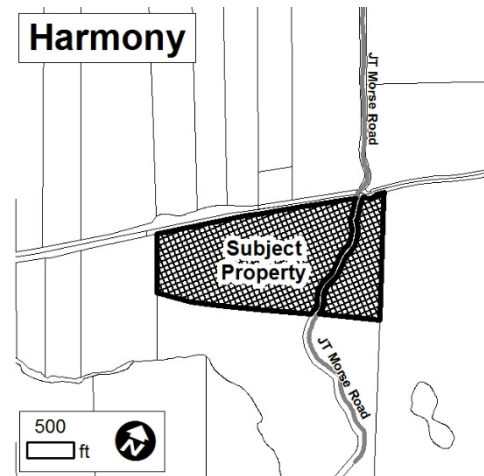
**February 11, 2020**

**Prepared by:** Planning Staff

<b>Applicant</b>	Ronald Robinson
<b>Land Owner</b>	David Robinson and Ronald Robinson
<b>Proposal</b>	Add an asphalt plant to an active quarry site
<b>Location</b>	197 JT Morse Road, Harmony (PID 55113179)
<b>Lot Area</b>	Total property size 74 acres
<b>Designation</b>	Forestry (F)
<b>Zone</b>	Forestry (F1) (See Reference Zoning Map contained in Appendix A)
<b>Surrounding Uses</b>	Wood lots and potential forestry uses surrounding. Nearest rural residential uses are 1 km+ away from the subject property.
<b>Neighbour Notification</b>	Staff sent notification letters to the 8 owners of property within 500 feet of the subject property

## 1. PROPOSAL

Ronald Robinson has applied to rezone his property from the Forestry (F1) Zone to the Resource Extraction (M7) Zone to permit the addition of an Asphalt Processing Plant at the existing quarry located at 197 JT Morse Road in Harmony. This location is currently being leased by Chapman Brothers Construction Limited, who have received the appropriate quarrying approval from NS Environment. Rock quarrying sites and asphalt manufacturing are often complimentary uses, but a specific zone (M7) must be applied to the property in order to permit the addition of an Asphalt Processing Plant.



## 2. OPTIONS

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

- Recommend that Council approve the amendment as drafted;
- Recommend that Council refuse the amendment as drafted;
- Provide alternative direction, such as requesting further information on a specific topic, or recommending changes to the amendment.

### **3. BACKGROUND**

The subject property has a long history of rock quarrying over the past ~40 years. The site has most recently been approved by NS Environment under NS Quarry Approval # 2549027 which recognizes the land as being leased by Chapman Brothers Construction, from the owners David Robinson and Ronald Robinson. The Chapman Brothers are looking to add an Asphalt Processing Plant to the property which led to the land owner submitting a planning application for the rezoning from the Forestry (F1) Zone to Resource Extraction (M7) Zone.

### **4. INFORMATION**

#### **4.1 Site Information**

The subject site is located in the Forestry (F) District and within the Forestry (F1) Zone. The property is 74 acres in size, the landscape is a mixture of exposed rock and wooded areas. The surrounding properties are wooded and remote. The nearest home is approximately 1 kilometre away, and the Growth Centre of Greenwood is approximately 4 kilometres to the northwest. The property is located in an isolated area with very few activities or other uses nearby.

#### **4.2 Public Information Meeting**

Council's Planning Policy PLAN-09-001 requires a Public Information Meeting (PIM) for rezoning applications that are greater than 1 acre in size. The required Public Information Meeting was held on December 10, 2019 prior to a regularly scheduled Planning Advisory Committee, with 14 members of the public in attendance. The meeting notes from this meeting are attached as Appendix B.

The primary concern of those in attendance was regarding the drainage conditions along JT Morse Road. Recent upgrades were done to this road, which resulted in the blocking of several culverts. This has caused storm drainage issues along the roadway and storm water spilling into the wood lots that line this road. Chapman Brothers Construction are working with DTIR and NSE to repair these culverts as soon as possible, which is expected to occur in spring 2020.

#### **4.3 Requests for Comments**

Staff reached out to municipal and provincial departments, as necessary, for comments on this application. These comments are summarized in Appendix D.

No significant concerns were identified. No municipal infrastructure is offered in this location, and it's on a provincially owned road. The company doing the quarrying has been working with DTIR on upgrading the surface to improve the road conditions to help them operate in this remote location.

## 5. POLICY REVIEW – REZONING

### 5.1 Municipal Planning Strategy

#### 5.1.1 Enabling Policy and Criteria

Policy 3.3.4.3 of the Municipal Planning Strategy states: *“Council may consider proposals to rezone lands in the Forestry Districts for Resource Extraction use. Amendments to the Land Use Bylaw to rezone lands Resource Extraction (M7) shall be in accordance with the policies contained in Part 5 and the policies for amending the Land Use Bylaw contained in Part 6 of this Strategy.”*

#### 5.1.2 Forestry District - Objectives

MPS Section 3.3.1 lists the Objectives of the Forestry District. These objectives include:

*“3.3.1.3 To accommodate residential development at a limited density in limited locations.”*

The Forestry district is intended to prioritize resource based industries, and not prioritize protection to rural residential uses. Residential uses are permitted within the Forestry District but objective 3.3.1.2 indicates, it is Council’s objective *“To establish provisions for forestry and agricultural uses as the first priority in the Forestry Districts.”* However Council also recognizes the natural resources available in these areas may also include rock and other aggregate material. Therefore, Council also intends:

*“3.3.1.4 To provide for a limited range of local convenience, commercial, industrial, recreational uses and community facilities”.*

Within the Forestry district, there are opportunities offered to support industrial and other uses that are suited to a rural or resource based setting. Rock quarrying and aggregate related uses such as asphalt processing can be considered as a local industrial use. The quarry provides aggregate for local businesses and home owners, and the rock is often used as base material for many surrounding road construction projects. This type of material is heavy and sourcing it locally is advantageous to reducing the transportation costs.

*“3.3.1.5 To provide for a distance separation between incompatible uses.”*

The separation distance offered by the proposed site and surrounding woodlands offer a large natural wooded buffer between the industrial activity and the nearest rural residential use. The Land Use Bylaw also includes regulations for vegetative buffers and fencing requirements (LUB 13.2) for this type of industrial uses if it abuts a residential zone or use.

#### 5.1.3 General Amendment Criteria

Municipal Planning Strategy section 6.2.2 contains the criteria to be used when considering all proposals that would amend the Land Use Bylaw. 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 more detail).

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 immediate concerns in terms of traffic or access, is compatible with the surrounding woodlands and does not require any central services. The subject property is located several KMs from the nearest wellfield protection area, and the industrial operations are strictly controlled through the NS Environment Quarry Approval document attached as Appendix F.

## 6. CONCLUSION

The proposal is located in an isolated area where the operational noise, odor and vibration associated with an industrial use will have minimal impact on surrounding properties. The proposal is also in keeping with the intent of Council's Municipal Planning Strategy regarding industrial development within the Forestry District. The proposal is enabled by policies regarding Resource Extraction related uses, and it satisfies many of the Objectives for the Forestry District. The proposal meets all other general amendment criteria. As a result, a positive recommendation is being made to the Planning Advisory Committee.

## 7. STAFF RECOMMENDATION

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

**The Planning Advisory Committee recommends that Municipal Council give First Reading to and hold a Public Hearing regarding the application to rezone the property at 197 JT Morse Road, (PID 55113179) Harmony from the Forestry (F1) Zone to the Resource Extraction (M7) Zone as described in Appendix E of the report dated February 11, 2020.**

## 8. APPENDICES

Appendix A: Zoning Map

Appendix B: Public Information Meeting Notes – December 10, 2019

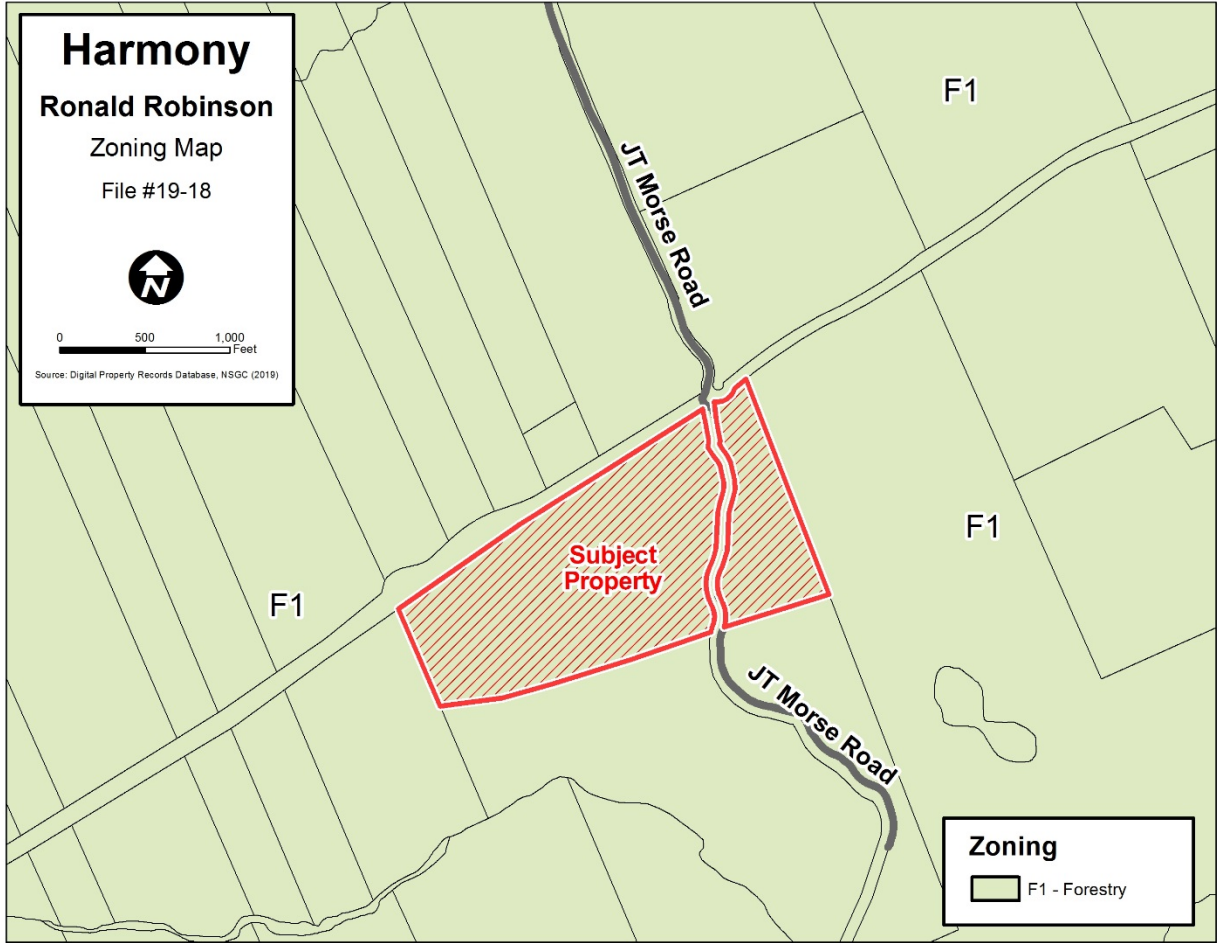
Appendix C: General Amendment Criteria (MPS Policy 6.2.2)

Appendix D: Requests for Comments

Appendix E: Proposed Map Amendments

Appendix F: NS Environment Quarry Approval and Regulations

Appendix A: Zoning Map





## Municipality of the County of Kings Public Information Meeting

Planning application for proposed rezoning of lands at 197 JT Morse Road, Harmony from the Forestry (F1) Zone to the Resource Extraction (M7) Zone.

**Applicant:** Ronald Robinson

**File #** 19-18

**Council Chambers**  
**181 Coldbrook Village Park Dr, Coldbrook**  
**December 10, 2019 – 1:00 p.m.**

### NOTES

**Meeting, Date and Time**

A Public Information Meeting was held on Tuesday, December 10, 2019 at 1:00 p.m. in the Council Chambers at the Municipal Complex.

**Attending**

In Attendance:

Councillor Martha Armstrong – District 4  
Councillor Brian Hirtle – District 3  
Councillor Pauline Raven – District 2  
Councillor Jim Winsor – District 8  
Councillor Peter Allen – District 9  
Annette Veasey – Citizen Member  
Emile Fournier – Citizen Member

**Chair**

Councillor Brian Hirtle – District 3

**Planning Staff**

Trish Javorek - Director Planning and Inspections  
Laura Mosher – Manager of Planning and Development Services  
Mark Fredericks – Planner  
Chloe Austin – Recording Secretary

**Public**

14 Members

**Welcome and Introductions**

The Chair, Councillor Brian Hirtle, called the meeting to order at 1:00 pm, 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.

**Presentations**

Mark Fredericks provided a brief overview of the planning process and the criteria that will be used to evaluate the application from Ronald

Robinson to rezone lands at 197 JT Morse Road, Harmony from the Forestry (F1) Zone to the Resource Extraction (M7) Zone.

**Comments from  
the Public**

Bonnie O'Driscoll – Harmony

Ms. O'Driscoll owns a lot immediately west of the site. She has concerns about the volume of traffic that will be on the road. The road was widened but when this took place, a culvert was blocked. The blocked culvert has resulted in a change to the watercourse causing flooding on her woodlot and on the road itself. She would like to know if the culverts will be replaced.

David Hodges – near J.T. Morse rd.

Mr. Hodges also has concerns about traffic, specifically about trucks engine breaking. This noise is loud and occurs as early as 5am. He also has concerns that the value of his property will be diminished by the property development. Although his relationship with the current owner is a good one, he is worried about what would happen following a change of ownership. Dust is a concern, but the biggest concern is noise.

Jamie Chapman

Mr. Chapman spoke about the upgrades to the road. They did not know about the culvert when these upgrades took place but they are in communication with DTIR about replacing them. The replacement of the culverts is complicated by the winter conditions but should be in place by the spring. It is in the company's interest as well as the locals to maintain the road. Mr. Chapman also commented that a small amount of pavement in the area around the community mailbox would help.

**Adjournment**

There being no further discussion, the Chair thanked those in attendance and adjourned the meeting at 1:18 p.m.

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Chloe Austin  
Recorder



**APPENDIX C – General Development Agreement Criteria**  
**Policy 6.2.2 – General Rezoning Criteria**

In considering amendments to the Land Use Bylaw, in addition to all other criteria as set out in various policies of this Strategy, Council shall be satisfied:

<b>Criteria</b>	<b>Comments</b>
<i>a. the proposal is in keeping with the intent of the Strategy, including the intent of any Secondary Planning Strategy, and can meet the requirements of all other Municipal Bylaws and regulations</i>	The proposed rezoning is consistent with: <ul style="list-style-type: none"> <li>the intent set forth in the MPS because the enabling policy allows for the rezoning of a property in the Forestry District to the Resource Extraction (M7) Zone</li> <li>The objectives of the Forestry Designation to separate incompatible uses and provide opportunities for industrial uses to establish in isolated areas.</li> </ul>
<i>b. the proposed rezoning is not premature or inappropriate by reason of:</i>	
<i>i. the financial capability of the Municipality to absorb any costs relating to the development of the subject site</i>	There will be no additional costs to the Municipality.
<i>ii. the impact on, or feasibility and costs of, sewerage and water services if central services are to be provided, or adequacy of physical site conditions for private on-site sewer and water systems</i>	No central services are provided in this location.
<i>iii. the potential for creating, or contributing to, a pollution problem including contamination of watercourses</i>	The regulations established by NS Environment ensure all activity is setback at least 30 metres from the bank of any watercourse.
<i>iv. the adequacy of storm drainage and the effect on adjacent uses</i>	Staff have no reason to believe that there will be any issues relating to drainage. The regulations established by NS Environment can require ground water and surface water monitoring and the regulations also ensure all activity is setback at least 30 metres from the bank of any watercourse.  During the PIM, storm drainage along the nearby roadway was a concern, and the deficiencies in road drainage are being corrected with the installation of replacement culverts as soon as possible in Spring 2020.
<i>v. the adequacy and proximity of school, recreation, and any other community facilities</i>	Not applicable to an industrial operation
<i>vi. the adequacy of street or road networks in, adjacent to, or leading to the subject site</i>	DTIR has confirmed that the road networks leading to the site are adequate for the intended use.
<i>vii. the potential for the contamination of a watercourse due to erosion or sedimentation</i>	The regulations established by NS Environment can require ground water and surface water monitoring and the regulations also ensure all

	activity is setback at least 30 metres from the bank of any watercourse.
viii. <i>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>	The nature of the industrial activity proposed, is well suited to the isolated location. Staff are not concerned with scattered development patterns in this situation.
ix. <i>traffic generation, access to and egress from the subject site, and parking</i>	DTIR is satisfied with the anticipated traffic generation and the adequacy of the surrounding road network. DTIR is working with the Chapman Brothers on an agreement for road maintenance and upgrades prior to issuing an access permit.
x. <i>incompatibility with adjacent uses and the existing development form of the surrounding area</i>	Adjacent properties are all vacant, woodlands with the nearest rural residential use over 1 kilometre away. The proposed industrial use is considered compatible with the isolated area, far from residents and any other activities.
xi. <i>the potential for overcrowding on lakeshores or the reduction of water quality</i>	N/A
xii. <i>the potential for contamination of, or interference with a designated groundwater supply protection area</i>	The rezoning of the subject property is not expected to contribute to the potential for contamination of, or interference with, a designated groundwater supply protection area.
c. <i>the proposed site is suitable for development in terms of steepness of grades, soil and geological conditions, location of watercourses, marshes, swamps, or bogs and proximity of highway ramps, railway rights-of-way and other similar factors that may pose a hazard to development</i>	The site is suitable for the intended development based on the continued and historic use of the property as a quarry.

## APPENDIX D – Requests for Comments

### 4.4.1 Department of Transportation and Infrastructure Renewal (DTIR)

- DTIR commented that JT Morse Road is an I-class road which is owned by the province. There has been co-operation on the maintenance of this road between the Chapman Brothers and DTIR. DTIR are willing to issue an access permit once the road and culverts are replaced to restore the previous storm drainage flow.

### 4.4.2 Nova Scotia Environment (NSE)

- Staff from NSE provided the Quarry Approval document (attached below) and indicated the addition of an Asphalt Processing Plant would require an additional approval from NSE. Depending on the size of the operation, an environmental assessment may be required as part of the NSE approval process.

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

- The Manager of Engineering Services expressed no concerns with the proposed rezoning.

### 4.4.4 Municipality of the County of Kings Development Control

- Comments from Development Control verified that the regulations can include buffering requirements (as per the M4 Zone standards) however this only applies when abutting a residential zone, and would not be necessary in this case. No concerns were raised with the ability to issue permits for an asphalt processing plant, if the rezoning were approved.

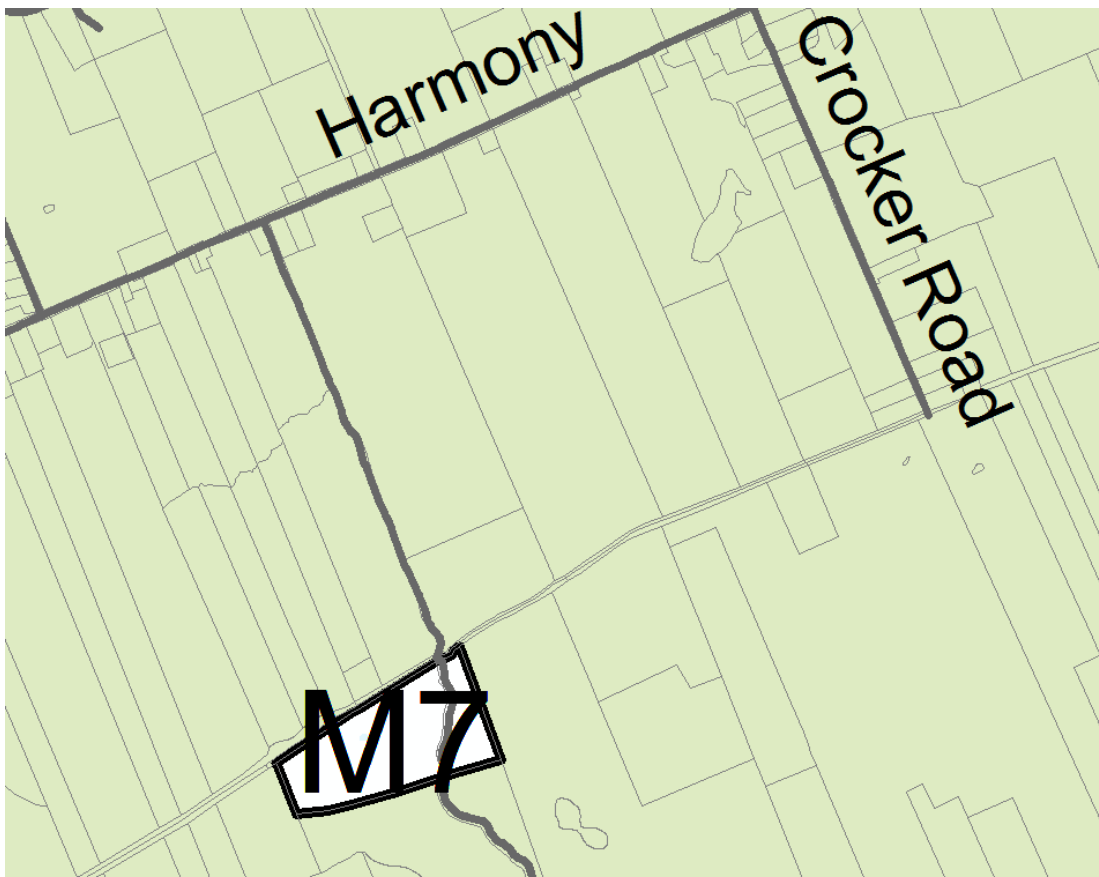
**THE MUNICIPALITY OF THE COUNTY OF KINGS**

**AMENDMENT TO BYLAW # 75  
COUNTY OF KINGS LAND USE BYLAW**

**Land Use Bylaw Map Amendment to rezone 197 JT Morse Road, Harmony NS (PID 55113179) from the Forestry (F1) Zone to the Resource Extraction (M7) Zone.**

**BYLAW 75 – LAND USE BYLAW**

1. Amend Land Use Bylaw Schedule 1m, the Rural Zoning Map, by rezoning the property at 197 JT Morse Road, Harmony (PID 55113179) from the Forestry (F1) Zone to the Resource Extraction (M7) Zone as shown in the inset copy of a portion of Schedule 1m below.



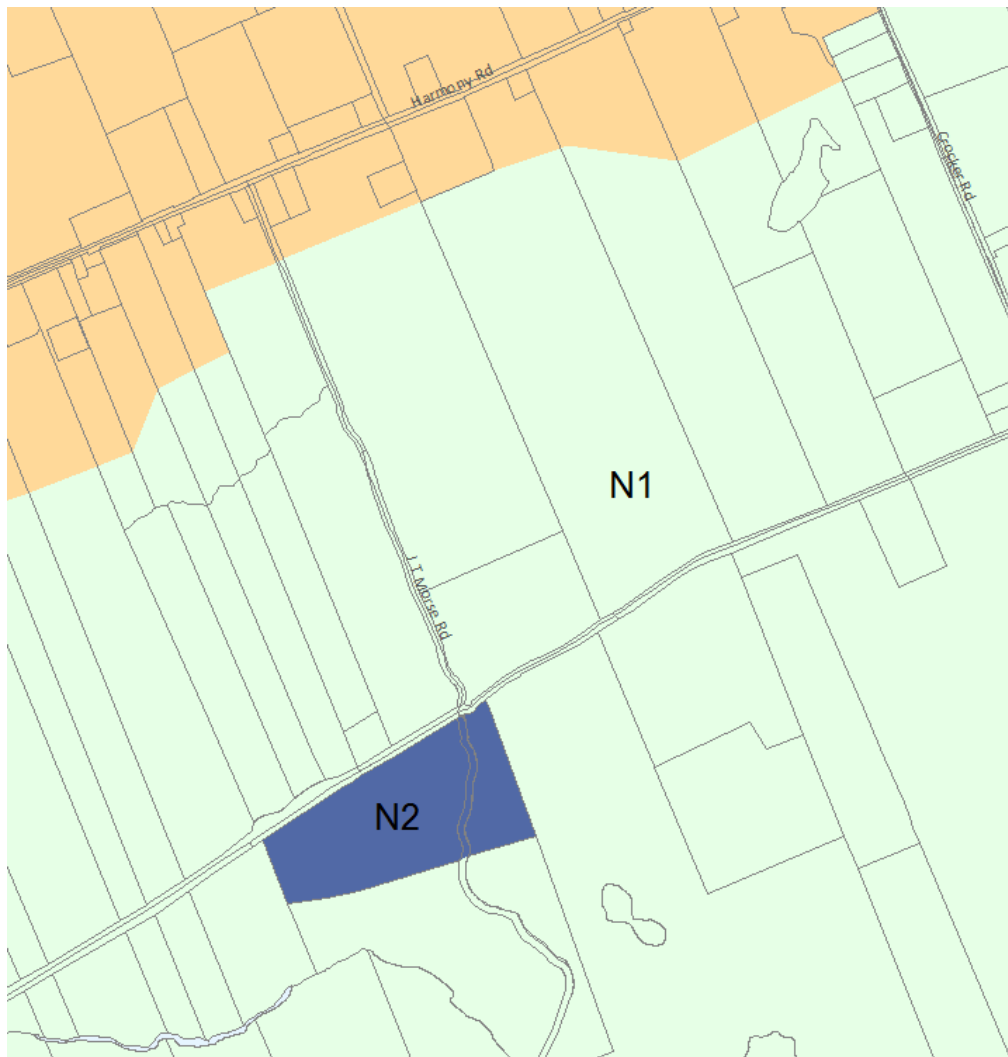
**THE MUNICIPALITY OF THE COUNTY OF KINGS**

**AMENDMENT TO BYLAW #106  
COUNTY OF KINGS LAND USE BY-LAW**

**Land Use By-law Map Amendment to rezone 197 JT Morse Road, Harmony NS  
(PID 55113179) from the Resource (N1) Zone to the Aggregate Related Industry  
(N2) Zone.**

**BYLAW 106 – LAND USE BY-LAW**

1. Amend Land Use By-law Map 13, the Rural Zoning Map, by rezoning the property at 197 JT Morse Road, Harmony (PID 55113179) from the Resource (N1) Zone to the Aggregate Related Industry (N2) Zone as shown in the inset copy of a portion of Map 13 below.



# THE MUNICIPALITY OF THE COUNTY OF KINGS

## REPORT TO COUNCIL

**Subject: Proposed tourist commercial uses in Ross Creek (File #18-17)**

**From: Planning Staff**

**Date: March 3, 2020**

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### Background

On October 8, 2019, Planning Advisory Committee considered the staff report for the proposed development agreement to permit tourist commercial uses at 555 Ross Creek Road (see the attached staff report for more information).

The Planning Advisory Committee forwarded a **positive** recommendation by passing the following motion:

**On the motion of Councillor Winsor and Councillor Hirtle, 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 tourist commercial facilities at 555 Ross Creek Road (PID 55015457) Ross Creek, which is substantively the same (save for minor differences in form) as the draft set out in Appendix D of the report dated October 8, 2019.**

Since Planning Advisory Committee gave their recommendation, there have been some requested changes to the development agreement. The changes are for clarification and would be considered 'minor differences in form'. None of the requested changes affect the uses proposed on the subject property. As such, a revised copy of the draft development agreement is attached as Appendix A. A copy of the staff report (including the draft development agreement presented to Planning Advisory Committee), is included as Appendix B to this report.

### Recommendation

It is recommended that Council pass the following motion:

**That Municipal Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit tourist commercial facilities at 555 Ross Creek Road (PID 55015457) Ross Creek, which is substantively the same (save for minor differences in form) as the draft set out in Appendix A of the report dated March 3, 2020.**



## Appendix A – Draft Development Agreement

THIS DEVELOPMENT AGREEMENT made this X day of X A.D., 2020

BETWEEN:

**COASTARTS ASSOCIATION**, of Canning, 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 55015457; and

WHEREAS the Property Owner wishes to use the Property for tourist commercial and ancillary uses; 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 4.4.8.5, 3.3.2.8 f., and Policy 6.3.2.1 of the Municipal Planning Strategy and Clause 5.4.1 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 X, 2020, 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 By-law**

- (a) *Municipal Planning Strategy* means By-law 56 of the Municipality, approved on August 6, 1992, as amended, or successor by-laws.
- (b) *Land Use By-law* means Bylaw 75 of the Municipality, approved on August 6, 1992, as amended, or successor by-laws.
- (c) *Subdivision By-law* means By-law 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 By-law. Words not defined in the Land Use By-law but used herein are:

- (a) *Development Officer* means the Development Officer appointed by the Council of the Municipality.
- (b) *Development Envelope* means the portion of the Property within which the development may take place.
- (c) *Event Venue* means a location for the hosting of weddings, conferences, galas, and other similar events. Such a use may take place in an outdoor setting.
- (d) *Tourist Cabin* means overnight accommodations within separate buildings servicing the travelling public.
- (e) *Tourist Lodge* means a building containing overnight accommodations servicing the travelling public.

## **PART 2 DEVELOPMENT REQUIREMENTS**

### **2.1 Site Plan**

The Property Owner shall develop and use the lands in general conformance with the Site Plan attached as Schedule 'B' to this Agreement.

### **2.2 Use**

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

- (a) those uses permitted by the underlying zone in the Land Use By-law (as may be amended from time-to-time), including a non-profit camp; and
- (b) tourist commercial uses wholly contained within the Development Envelope, consisting of one or more of the following uses and in accordance with the terms of this Agreement:
  - i. A Tourist Lodge containing no more than seven (7) guest rooms;
  - ii. Up to 12 Tourist Cabins. The total combined area for Tourist Cabins may not exceed 4,000 square feet and each individual Tourist Cabin may not exceed 500 square feet in size;
  - iii. An Arts and Cultural Centre to a maximum commercial floor area of 30,000 square feet. As part of this use, temporary outdoor seating and temporary staging shall be permitted and shall not be included in the calculation of the maximum permitted gross floor area;
  - iv. A Full-service Restaurant to a maximum commercial floor area of 2,000 square feet; and
  - v. An Event Venue operated as an accessory to the Arts and Cultural Centre and restaurant, which may also include the use of temporary structures such as tents.
- (c) publicly accessible trails

2.2.2 Except as otherwise provided in this Agreement, the provisions of the Land Use By-law, as may be amended from time to time, apply to any development undertaken pursuant to this Agreement.

## **2.3 Signs**

- (a) Signage for the uses permitted in Section 2.2 Use, shall meet the following requirements:
- i. One ground sign shall be permitted on the lot with a maximum sign area of 12 square feet and a maximum height of 10 feet;
  - ii. The total sign area of a wall sign shall not exceed 16 square feet;
  - iii. The total sign area of a projecting sign shall not exceed 12 square feet;
  - iv. The total number of signs on the property shall not exceed two;
  - v. Internally illuminated signs are prohibited;
  - vi. The Developer shall obtain a permit from the Municipality prior to the erection or installation of any sign; and
  - vii. Notwithstanding Section 2.3 (a) iv. and vi. above, any number of signs that identify building names or uses, or directional signs are permitted.
- (b) Except as otherwise provided in Section 2.3 (a) above, the sign provisions of the Land Use By-law, as may be amended from time to time, apply to any signs developed on the Property.
- (c) 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 and services on the Property in good repair and in a useable state, and maintain the Property in a neat and presentable condition.

## **2.5 Lighting**

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

## **2.6 Parking**

The Developer shall meet the following criteria and standards for parking:

- (a) Parking spaces shall be provided at the following rates:

- i. one space for each guest room within the Tourist Lodge;
  - ii. one space for each Tourist Cabin;
  - iii. one space for every sixty (60) square feet of commercial floor area for a Full-service Restaurant;
  - iv. one space for every one hundred (100) square feet of commercial floor area for an Arts and Cultural Centre; and
  - v. one space for every employee for uses permitted by this Agreement.
- (b) Parking for uses permitted by this Agreement shall be wholly located within the Development Envelope.
- (c) All Parking areas for uses permitted by this Agreement shall be maintained with a stable surface that is treated to prevent the raising of dust or loose particles through the use of paving, vegetation or some other treatment.

## **2.7 Buffering and Landscaping**

- (a) Within the Development Envelope, the front yard shall be landscaped. Landscaping shall consist of a combination of grass, trees, flowers, or decorative stone work, and be provided in a manner that is sympathetic to the surrounding rural setting.
- (b) Within the Development Envelope, buffering that provides an effective visual and physical buffer between the development and adjacent properties shall be provided in the form of a minimum fifty (50) foot wide natural vegetative buffer between the proposed tourist commercial use and adjacent properties.

## **2.8 Access and Egress**

- (a) The number of access driveways onto the Property shall be limited to two (2). The minimum separation between access driveways shall be thirty (30) feet. Maximum width for an access driveway shall be twenty-five (25) feet.
- (b) The Property Owner must submit current permits from Nova Scotia Transportation and Infrastructure Renewal, or any successor body, before receiving any development or building permits for uses permitted by this Agreement.

## **2.9 Architectural Design**

Construction of new buildings and alterations to existing buildings shall be done in a manner which is architecturally compatible with other buildings in the surrounding area. Construction of all buildings shall feature a pitched roof and use natural wall cladding materials including, but not limited to, wood, stone, stucco or brick. The height restrictions of the Rural Commercial (C9) Zone, or equivalent, shall apply for all new structures or renovations to structures intended for uses permitted by this Agreement.

## **2.10 Servicing**

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

## **2.11 Hours of Operation**

The hours of operation for the Event Venue permitted in Section 2.2.1 (b) v. of this Agreement shall be between the hours of 7:00 am and 11:00 pm Sunday through Thursday, inclusive, except when a Sunday precedes a holiday Monday when the hours of operation on that Sunday shall be between the hours of 7:00 am and 12:00 am. Hours of operation on Fridays and Saturdays shall be between the hours of 7:00 am and 12:00 am.

## **2.12 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 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.

## **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 2.2, 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) Changes to the uses permitted on the property by Section 2.2 of this Agreement; and
- (b) Changes to or substitution of the Site Plan contained in Schedule 'B' of 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** 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 Expiry Date**

The Property Owner shall sign this Agreement within 60 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.

## **PART 5 COMPLIANCE**

### **5.1 Compliance With Other By-laws and Regulations**

Nothing in this Agreement shall exempt the Property Owner from complying with Federal, Provincial and Municipal laws, by-laws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority or approval required thereunder. Specifically, all permanent and temporary structures, including tents, erected on the Property are required to be in compliance with the National Building Code, where applicable.

### **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.

#### **5.4 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.

#### **5.5 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.

#### **5.6 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.

#### **5.7 Interpretation**

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

#### **5.8 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  
In the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Joanne Linzey, Chair, CoastArts Association



**Schedule 'A'**  
**Property Description**

*Copied from Property Online on August 06, 2019*

PID 55015457

ALL that certain lot, piece or parcel of land and premises situate in Arlington (Ross Creek Road), Kings County, Nova Scotia, on the west side of the Ross Creek Road and more particularly bounded and described as follows:

BEGINNING at a stone pile on the northeast corner of lands belonging to Barbara Benjamin Blenkhorn running north along the Ross Creek Road One Hundred (100) rods to a stone pile on the southeast corner of lands belonging to Joseph E. Bennett;

THENCE westerly Two Hundred and Thirty-four (234) rods to a birch tree on the east side of a brook;

THENCE southeasterly along said brook Two Hundred and Twenty (220) rods;

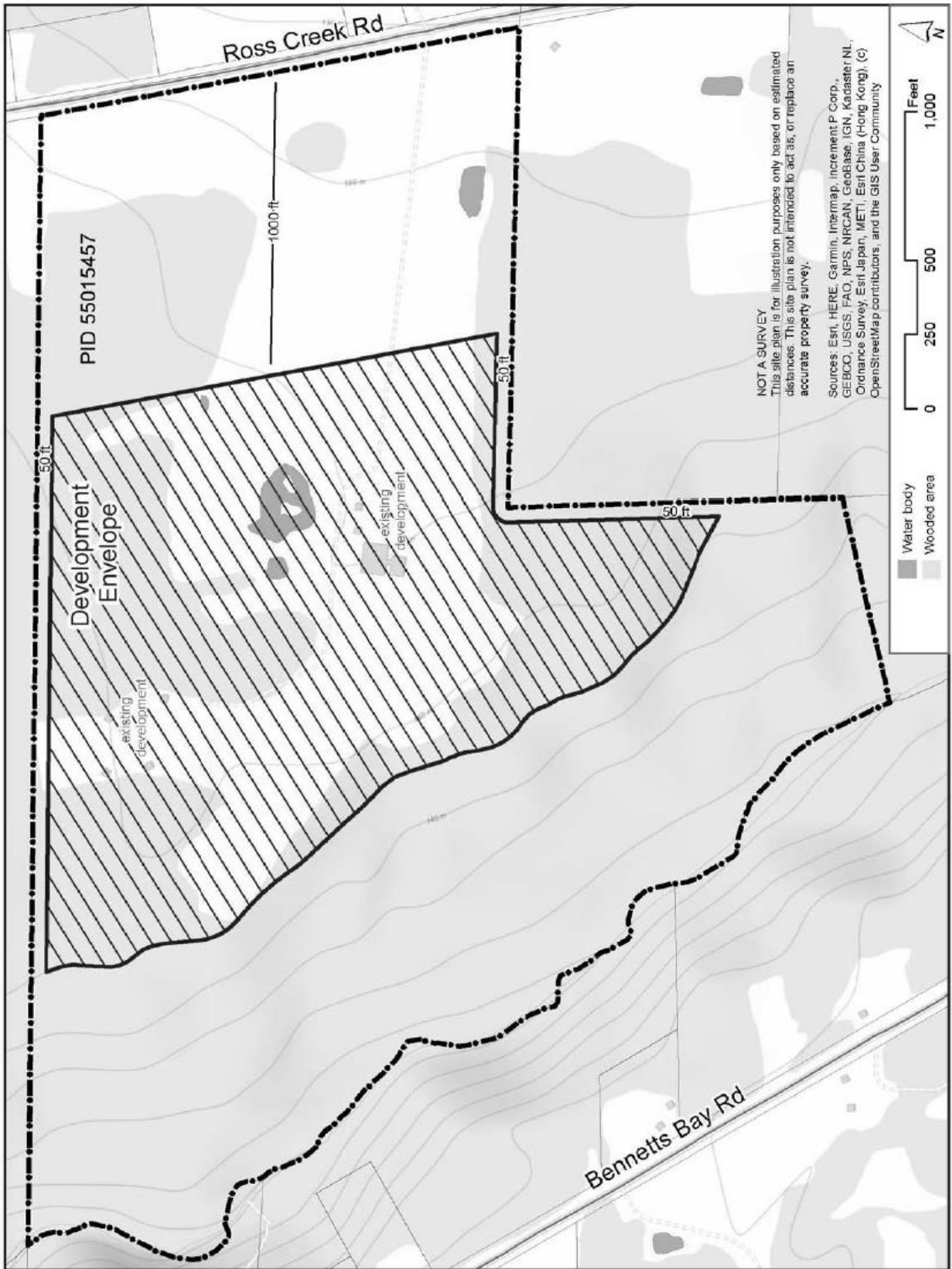
THENCE easterly Forty (40) rods to land of George Porter;

THENCE northerly along George Porters line Ninety-six (96) rods;

THENCE easterly Ninety-nine (99) rods to the stone pile at place of beginning on the Ross Creek Road.

The description for this parcel originates with a deed dated January 3, 1923, registered in the registration district of Kings in book 144 at page 393 and the subdivision is validated by Section 291 of the Municipal Government Act.

# Schedule 'B' Site Plan



## Appendix B – Report to Planning Advisory Committee



### Municipality of the County of Kings Report to the Planning Advisory Committee

**Application:** Application to enter into a development agreement to permit tourist commercial uses at 555 Ross Creek Road, Ross Creek (PID 55015457) (File 18-17)

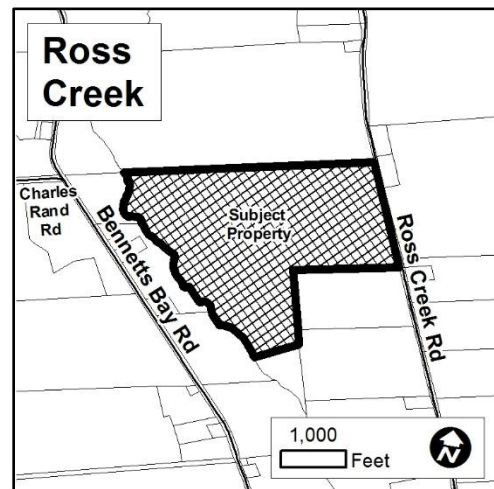
**Date:** October 8, 2019

**Prepared by:** Planning and Development Services

<b>Applicants</b>	Chris O'Neill, Executive Director, Ross Creek Centre for the Arts
<b>Land Owner</b>	CoastArts Association
<b>Proposal</b>	To develop an arts and cultural centre, tourist accommodations, a restaurant, and an event venue
<b>Location</b>	555 Ross Creek Rd., Ross Creek, NS PID 55015457
<b>Lot Area</b>	Approximately 168 acres
<b>Designation</b>	Forestry (F) Designation
<b>Zone</b>	Forestry (F1) Zone
<b>Surrounding Uses</b>	residential and agricultural
<b>Neighbour Notification</b>	Letters were sent to the 17 owners of property within 500 feet of the subject property notifying them of the Public Information Meeting (PIM).

### 1. PROPOSAL

The Ross Creek Centre for the Arts has applied for a development agreement to permit expanded tourist commercial facilities. The proposal is for the expansion of existing uses including events, programming, theatre productions and arts and cultural activities. Additional uses include improvement and expansion of their publicly accessible trail system, operation of a restaurant open to the public, and the renting of cabins to tourists during their shoulder seasons.



### 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

Two Planks and a Passion Theatre Association was founded by the husband and wife team of Ken Schwartz and Chris O'Neill in 1992. This association purchased the subject property in

2000. In 2005, CoastArts Association, a registered charity run by a board of directors, was created. The two operating arms of CoastArts Association are the Ross Creek Centre for the Arts and its theatre company in residence, Two Planks and a Passion Theatre. CoastArts Association is the current owner of the subject property.

The Ross Creek Centre for the Arts was opened in 2006. With the theatre as an anchor partner producing award-winning plays on-site during the summer months, the Centre has hosted thousands of youth as part of March break and summer camps and school programs. Community members of all ages attend their art workshops and gallery exhibits, and artists from around the world participate in their residency program. The Ross Creek Centre for the Arts is currently undergoing a major capital campaign with the intent to reinvest in their campus and operations.

On June 5, 2018 Municipal Council approved funding for the CoastArts Association in the amount of \$50,000 for the 2018/19 fiscal year and \$50,000 for the next three years, subject to annual Council approval, subject further to the Planning and Development Departments confirming that the organization's operational activities are in compliance with By-laws, including, if necessary, requiring the submission of an application for a Development Agreement. This development agreement application is a result of this motion.

## **4. INFORMATION**

### **4.1 Site Information**

The subject property is located on the North Mountain just west of the Lookoff in the community of Ross Creek. The area surrounding the subject property is dominated by forested land with residential and some agricultural uses spread throughout (see Zoning Map attached as Appendix A). The subject property is predominantly forested with cleared areas containing multiple buildings and structures. In addition to the main programming building, there is a farm house, quonset hut, box office, open-air dining hall, and a series of cabins for housing artists, campers and camp staff. The property slopes down gently toward the west where Ross Creek flows along the property's western boundary.



### **4.2 Site Visit**

Planning and development staff visited the subject property on October 4, 2018 and again on April 26, 2019. During these visits the applicant was available to discuss in more detail the organization's intentions for the subject property with staff.

### **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 October 9, 2018 in the Council Chambers of the Municipal Complex with 6 members of the public in attendance. The complete notes from the PIM are attached as Appendix B.

#### **4.4 Request for Comments**

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

##### **4.4.1 Department of Transportation and Infrastructure Renewal**

The Department of Transportation and Infrastructure Renewal has indicated that the existing access for the subject property is acceptable to accommodate the proposal. The department also verified that the road networks adjacent and leading to the site are adequate for the requested development. They noted that they do not have any concerns with regards to traffic generation at this site.

##### **4.4.2 Municipality of the County of Kings Engineering and Public Works (EPW)**

EPW indicated that the site appears suitable for the proposed development provided appropriate best management practices are put into place. In particular, EPW recommended that the development agreement stipulate that, as much as practical, roof drains and other "point" discharges be managed to minimize the impact of their concentrated flows and that Nova Scotia Environment's erosion control guidelines be followed.

##### **4.4.3 Nova Scotia Environment**

Nova Scotia Environment did not respond to planning staff's request for comments.

##### **4.4.5 Building and Enforcement Services**

Building and Enforcement Services indicated that they have no concerns regarding issuing the necessary building permits associate with the proposal. Some uses may require engineering signoffs, fire ratings for construction and the possibility of restrictive code requirements to ensure full building/fire code compliance is being met on any new builds or change of use. All code requirements must be complied with. Through Municipal Building and Inspection, the Canning Fire Chief advised that fire protection and equipment are adequate to serve the proposal.

## **5. POLICY REVIEW**

### **5.1 Ability to enter into a Development Agreement**

Section 5.4.1 of the Land Use Bylaw states that "...*the following shall be dealt with by development agreement: Tourist commercial uses for lodging, food services and ancillary uses in accordance with the policies of the Municipal Planning Strategy Section 4.4.8 and the provisions of the Land Use Bylaw Section 10.1.5 within the Forestry (F1) Zone, Country Residential (R6) Zone, and the Hamlet Historic Residential (R9) Zone.*" The ability for Council to

consider tourist commercial facilities for lodging, food services and ancillary uses by development agreement is also listed in Section 6.3.2.1 of the Municipal Planning Strategy. Policy 3.3.2.8 f. of the Municipal Planning Strategy is the specific policy that provides direction to Council when considering permitting tourist commercial facilities within Forestry Districts. Policy 4.4.8.5 of the Municipal Planning Strategy provides the policy direction and criteria for approving proposals for tourist commercial facilities by development agreement.

## **5.2 Relevant Land Use Bylaw Regulations**

Section 10.1.5 I outlines general provisions for all tourist commercial development in rural zones. These regulations are intended to apply to tourist commercial developments that are regulated through as-of-right permitting as well as those considered by development agreement. Section 10.1.5.1 specifies signage requirements for all tourist commercial developments. The maximum sign area and maximum number of signs permitted through these regulations has been reflected in the draft development agreement. Section 10.1.5.2 specifies parking requirements for all tourist commercial developments. The location, minimum number and parking area treatment criteria have also been reflected in the draft development agreement.

## **5.3 Relevant Municipal Planning Strategy Policies**

### **Tourist Commercial Facilities Policies**

Within the MPS, Council acknowledges the benefits of tourism development within the Municipality. Section 4.4.1.4 states Council's objective "to provide opportunities for expanded tourism development and encourage tourist-related commercial uses." Council demonstrates support for tourist facilities within the Municipality through policy 4.4.2.3 which states: "Council intends to support the development of off-season activities and events to encourage greater use of tourist facilities."

Section 4.4.8.5 of the MPS allows Council to consider large-scale tourism commercial uses such as tourist cabins and full-service restaurants in most rural areas of the Municipality, including the Forestry Designation, by development agreement. Staff reviewed this application against the criteria contained in MPS Section 4.4.8.5. The criteria are:

- a. *The facilities must be constructed in a manner which are architecturally compatible with other buildings in the surrounding area, and feature a pitched roof, natural, wood, stone, or brick cladding materials.*
- b. *The site facilities must be adequately buffered and well separated from surrounding residential dwellings, (other than a residential dwelling occupied by the operator), with a significant vegetative buffer, or other significant visual buffer, to mitigate noise, light, and other visual impacts.*
- c. *Proposed site alteration, grading and landscaping must be sympathetic to the natural landscape and any significant natural features on the site, including significant woodland areas, watercourses and wetland areas, and steep slopes.*
- d. *The site must be capable of accommodating on-site sewage disposal systems and must also not pose any threat to the ground water supply, in term of water quality or water quantity, for surrounding properties.*

The draft development agreement requires that all newly constructed buildings be architecturally compatible with surrounding buildings including a pitched roof and compatible cladding materials. The proposed uses will be adequately separated and buffered from the neighbouring residential dwellings because all development is required to locate within the Development Envelope identified on the Site Plan. The Development Envelope is set back 1,000 feet from the front property line and a minimum of 50 feet from all other property lines. All forested areas outside of the Development Envelope must be maintained in a forested state. The site appears to be able to accommodate both an adequate on-site sewage disposal system and an adequate water supply. The building permit process will require confirmation from a qualified professional that the existing private septic system is adequate for the use.

### **General Policies**

Planning in the Municipality is guided by a series of general goals that are outlined in Section 1.3.1 of the Municipal Planning Strategy (MPS). One of the main goals in this list is: to facilitate a broad economic base. One of the main ways Council intends to fulfill this goal is by providing opportunities for expanded industrial, commercial and tourism development. This application fulfills this goal by permitting an arts and cultural centre, including lodging and food services that will attract visitors to the Municipality.

Section 4.4 of the Municipal Planning Strategy provides Council with policy direction regarding heritage and cultural preservation and tourism development. A relevant policy within this section is Policy 4.4.2.3 which states: “*Council intends to support the development of off-season activities and events to encourage greater use of tourist facilities.*” The proposed development is consistent with this policy in that it will allow for the expansion of facilities and programs available for tourists on a year-round basis.

### **General Development Agreement Policies**

Municipal Planning Strategy section **6.3.3.1** contains the criteria to be used when considering all development agreement proposals (see Appendix C for more detail). These 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. The proposal meets the general criteria in that it will not result in any costs to the Municipality, raises no concerns in terms of traffic or access, is suitable for the development and appears to be free of hazards, will be serviced by a private on-site 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 a development agreement may put in place in order to reduce potential land use conflicts. The draft development agreement implements controls on the permitted uses, maintenance of the property, parking, signage, lighting, buffering and the hours of operation.

## **5.5 2019 Draft Municipal Planning Strategy/Land Use Bylaw Analysis**

The 2019 draft Municipal Planning Strategy contains a set of tourism policies that direct Council to encourage and promote opportunities for visitor-oriented businesses in the Municipality. These policies include the ability for Council to consider visitor-oriented proposals for uses such as lodging, restaurants, event venues and other types of special attractions by development agreement within the Municipality’s rural designations.

## 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
- Regulation of signs
- Regulation of parking
- Regulation of the hours of operation
- Regulation of buffering and landscaping on the site
- Architectural controls
- A list of substantive matters, including the uses permitted through the development agreement on the property, and changes to the site plan

## 7. CONCLUSION

Staff have reviewed the application for consistency and compliance with the MPS including the policies for tourist commercial facilities. Since the terms of the draft development agreement are in keeping with and carry out the policies of the MPS, Staff are forwarding a positive recommendation to the Planning Advisory Committee.

## 8. STAFF RECOMMENDATION

Staff recommend that the Planning Advisory Committee forward a positive recommendation to Council by passing the following motion:

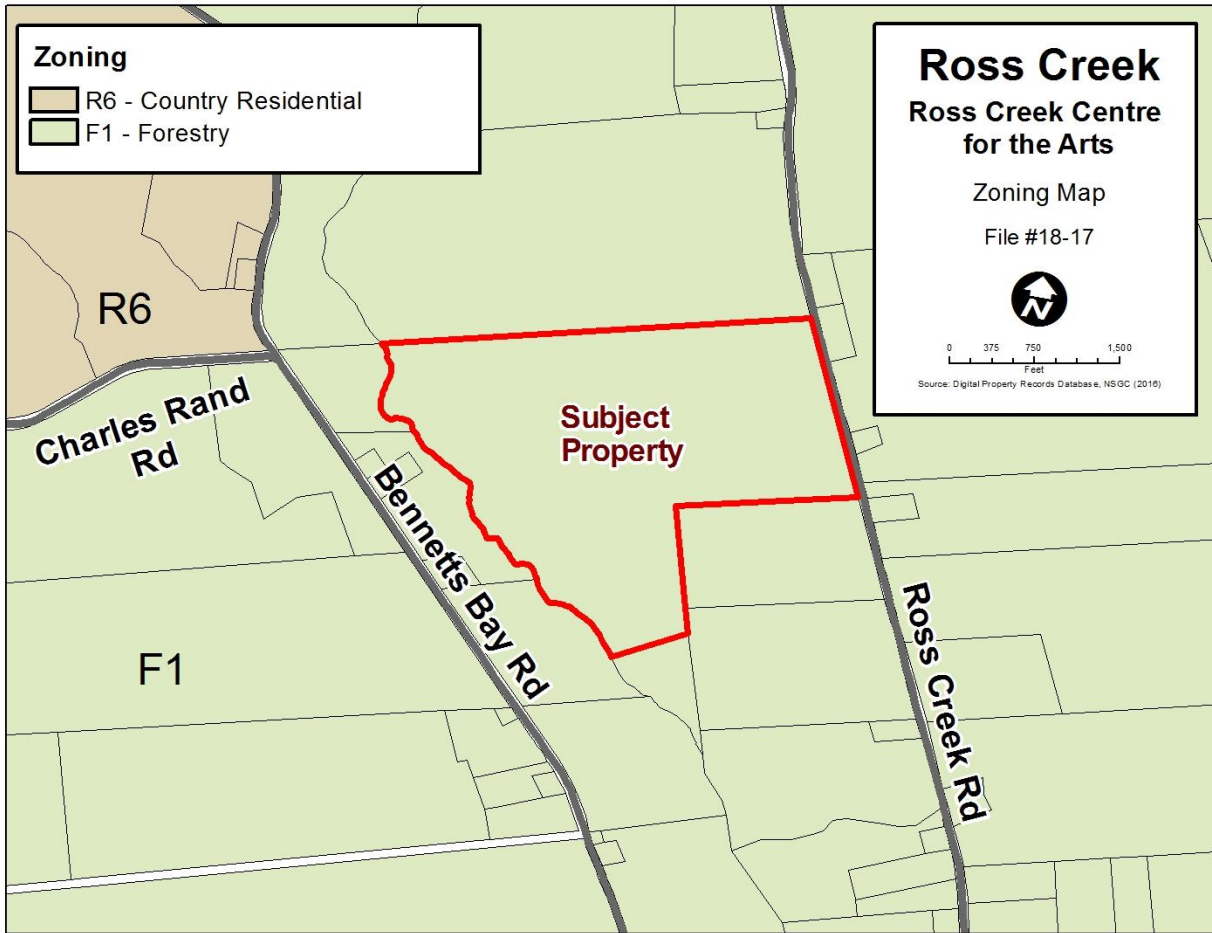
**The Planning Advisory Committee recommends that Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit tourist commercial facilities at 555 Ross Creek Road (PID 55015457) Ross Creek, which is substantively the same (save for minor differences in form) as the draft set out in Appendix D of the report dated October 8, 2019.**

## 9. APPENDICES

Appendix A	Zoning Map
Appendix B	Public Information Meeting Notes
Appendix C	MPS 6.3.3 (General Development Agreement Criteria)
Appendix D	Draft Development Agreement



APPENDIX A - Zoning Map



**APPENDIX B – Public Information Meeting Notes**

**MUNICIPALITY OF THE COUNTY OF KINGS**

**PLANNING AND DEVELOPMENT SERVICES**

**PUBLIC INFORMATION MEETING NOTES**

**Planning Application to Permit Expanded Tourism Facilities at 555 Ross Creek Road, Ross  
Creek  
(File 18-17)**

<b><i>Meeting, Date and Time</i></b>	A Public Information Meeting was held on Tuesday, October 9th, 2018 at 1:00 p.m. in the Council Chambers of the Municipal Complex, 87 Cornwallis Street, Kentville, NS.
<b><i>Attending</i></b>	In Attendance:
<b><i>Planning Advisory Committee Members</i></b>	Councillor Meg Hodges – District 1 (Chair) Councillor Brian Hirtle – District 3 Councillor Paul Spicer – District 5 Deputy Mayor Emily Lutz – District 7 Councillor Jim Winsor – District 8 Emile Fournier – Citizen Member Tom Cosman – Citizen Member
<b><i>Regrets</i></b>	
<b><i>Planning Staff</i></b>	Rob Frost – Deputy CAO Trish Javorek – Manager of Land Use Planning and Inspections Laura Mosher – Supervisor of Planning and Development Services Will Robinson-Mushkat – Planner Jasmine Bradet – Planner Lilly Ashdown – Recording Secretary
<b><i>Applicants</i></b>	Chris O’Neill, on behalf of Ross Creek Centre for the Arts
<b><i>Public</i></b>	6 Members
<b><i>Welcome and Introductions</i></b>	The Chair, Councillor Meg Hodges, called the meeting to order, introductions were made and the members of the public were welcomed to the meeting. It was explained that the purpose of the meeting was to inform the public of the application, to explain the planning policies that enable the application to occur and to receive preliminary feedback from the public. No evaluation has been completed and no decisions have been made at this point.
<b><i>Presentations</i></b>	Laura Mosher provided a brief overview of the planning process and the criteria that will be used to evaluate the application from Chris O’Neill. The proposal is to enter into a development agreement to permit expanded

tourism facilities at 555 Ross Creek Road (PID 55015457), Ross Creek, NS.

Ms. Mosher stated that the Public Information Meeting provides an opportunity for the public to express concerns and/or receive clarification on any aspect of the proposal.

Chris O'Neill spoke on the development plans associated with the proposal. She stated the intent of the process is to develop what they do at the facilities currently while maintaining the neighbourhood and landscape of the area. The Ross Creek Centre of the Arts is hoping expansion will aid in their offering of various programs, events and bursaries.

Following the presentations, the floor was opened for comments from the public.

***Comments from  
the Public***

There were no comments from the public.

***Adjournment***

There being no further discussion, the Chair thanked those in attendance and adjourned the meeting at 1:20 p.m.

---

Lilly Ashdown  
Recording Secretary

**Appendix C – MPS policy 6.3.3: General Development Agreement Criteria**

<b>MPS Policy</b>	<b>Proposal</b>
6.3.3.1 ... in addition to all other criteria as set out in various policies of this Strategy, Council shall be satisfied:	The proposal conforms to all other policies outlined in the MPS.
a) that the proposal is in keeping with the intent of the MPS	The proposal is in keeping with the intent of the MPS, in particular policies 3.3.2.8 and 4.4.8.5.
b) that the proposal is not premature or inappropriate by reason of:	
i. financial capability of the municipality	No Municipal investment is required for this proposal. However, the Municipality has recently awarded this organization grants to support improvements to buildings and programming.
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	The site appears to be able to accommodate both an adequate on-site sewage disposal system and an adequate water supply. All necessary permits required by Nova Scotia Environment must be submitted at the time of permitting.
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	No pollution problem is anticipated with this proposal. All construction must follow Nova Scotia Environment's erosion control protocols.
iv. the adequacy of storm drainage and the effect of same on adjacent uses	There are no concerns related to storm drainage.
v. the adequacy of street or road networks in, adjacent to, and leading to, the development	The Department of Transportation and Infrastructure Renewal has indicated that the road networks adjacent and leading to the site are adequate.
vi. the adequacy, capacity and proximity of schools, recreation and other community facilities	Not applicable as this is not a residential development.
vii. adequacy of municipal fire protection services and equipment	The local Fire Chief has stated that he has no concerns with the proposal. Municipal fire protection is considered adequate for this development.
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	This is a unique use that takes advantage of the remote, pristine wilderness environment. While subject site is removed from other developed lands, the proposed use is appropriate given the nature of the use.
ix. 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	The rural setting, surrounding forested areas and views of the Bay of Fundy make this an ideal site for tourist-oriented uses. The site itself appears suitable for the proposed uses. The trail system and location of tourist cabins will take advantage of the changes in grade at the south end of the property.

<p>x. traffic generation, access to and egress from the site, and parking</p>	<p>The draft development agreement requires a minimum number of on-site parking spaces. The Dept. of Transportation and Infrastructure Renewal has indicated that it has no concerns regarding traffic generation or access to and egress from the site.</p>
<p>xi. compatibility with adjacent uses</p>	<p>The proposed uses appear to be compatible with adjacent residential uses. The subject site is quite large and allows for a significant separation between the proposed uses and neighbouring residential uses. The provision for buffering has also been included in the draft development agreement.</p>
<p>c) ...controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</p>	
<p>i. the type of use</p>	<p>The types of uses have been restricted with the draft development agreement.</p>
<p>ii. the location of positioning of outlets for air, water and noise within the context of the Land Use Bylaw</p>	<p>No special requirements are necessary.</p>
<p>iii. the height, bulk and lot coverage of any proposed buildings or structures</p>	<p>The draft development agreement regulates the size and height of the structures used for the uses permitted by the development agreement.</p>
<p>iv. traffic generation</p>	<p>No special requirements are necessary.</p>
<p>v. access to and egress from the site and the distance of these from street intersections</p>	<p>As shown on the Site Plan.</p>
<p>vi. availability, accessibility of on-site parking</p>	<p>The Property Owner is required to provide a minimum number of on-site parking spaces.</p>
<p>vii. outdoor storage and/or displays</p>	<p>No special requirements are necessary.</p>
<p>viii. signs and lighting</p>	<p>Sign limitations and restrictions on exterior lighting are included in the draft development agreement.</p>
<p>ix. hours of operation</p>	<p>Hours of operation are set out in Section 2.11 of the draft development agreement.</p>
<p>x. maintenance of the development</p>	<p>The draft development agreement requires that the property be maintained in good repair and kept in a neat and presentable condition.</p>

<p>xi. buffering, landscaping, screening and access control</p>	<p>A minimum fifty (50) foot wide natural vegetative buffer between the proposed tourist commercial use and adjacent properties is required. The front yard is required to be landscaped.</p>
<p>xii. the suitability of the site in terms of the landscape and environmental features</p>	<p>No special requirements necessary.</p>
<p>xiii. the terms of the agreement provide for the discharge of the agreement or parts thereof upon the successful fulfillment of its terms</p>	<p>Provision is made for discharge.</p>
<p>xiv. appropriate phasing and stage by stage control</p>	<p>No special requirements necessary.</p>
<p>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</p>	<p>No performance bonding or security is needed.</p>

**APPENDIX D – Draft Development Agreement**

THIS DEVELOPMENT AGREEMENT made this X day of X A.D., 2019

BETWEEN:

**COASTARTS ASSOCIATION**, of Canning, 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 55015457; and

WHEREAS the Property Owner wishes to use the Property for tourist commercial and ancillary uses; 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 4.4.8.5, 3.3.2.8 f., and Policy 6.3.2.1 of the Municipal Planning Strategy and Clause 5.4.1 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 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 By-law**

- (a) *Municipal Planning Strategy* means By-law 56 of the Municipality, approved on August 6, 1992, as amended, or successor by-laws.
- (b) *Land Use By-law* means Bylaw 75 of the Municipality, approved on August 6, 1992, as amended, or successor by-laws.
- (c) *Subdivision By-law* means By-law 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 By-law. Words not defined in the Land Use By-law but used herein are:

- (a) *Development Officer* means the Development Officer appointed by the Council of the Municipality.
- (b) *Development Envelope* means the portion of the Property within which the development may take place.
- (c) *Event Venue* means a location for the hosting of weddings, conferences, galas, and other similar events. Such a use may take place in an outdoor setting.
- (d) *Tourist Cabin* means overnight accommodations within separate buildings servicing the travelling public.
- (e) *Tourist Lodge* means a building containing overnight accommodations servicing the travelling public.

## **PART 2 DEVELOPMENT REQUIREMENTS**

### **2.1 Site Plan**

The Property Owner shall develop and use the lands in general conformance with the Site Plan attached as Schedule 'B' to this Agreement.

### **2.2 Use**

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



- (a) those uses permitted by the underlying zone in the Land Use By-law (as may be amended from time-to-time), including a non-profit camp; and
- (b) tourist commercial uses wholly contained within the Development Envelope, consisting of one or more of the following uses and in accordance with the terms of this Agreement:
  - i. A Tourist Lodge containing no more than seven (7) guest rooms;
  - ii. Up to 12 Tourist Cabins. The total combined area for Tourist Cabins may not exceed 4,000 square feet and each individual Tourist Cabin may not exceed 500 square feet in size;
  - iii. An Arts and Cultural Centre to a maximum commercial floor area of 30,000 square feet. As part of this use, temporary outdoor seating and temporary staging shall be permitted and shall not be included in the calculation of the maximum permitted gross floor area;
  - iv. A Full-service Restaurant to a maximum commercial floor area of 2,000 square feet; and
  - v. An Event Venue operated as an accessory to the Arts and Cultural Centre and restaurant, which may also include the use of temporary structures such as tents.
- (c) publicly accessible trails

2.2.2 Except as otherwise provided in this Agreement, the provisions of the Land Use By-law, as may be amended from time to time, apply to any development undertaken pursuant to this Agreement.

## **2.3 Signs**

- (a) Signage for the uses permitted in Section 2.2 Use, shall meet the following requirements:
  - i. One ground sign shall be permitted on the lot with a maximum sign area of 12 square feet and a maximum height of 10 feet;
  - ii. The total sign area of a wall sign shall not exceed 16 square feet;
  - iii. The total sign area of a projecting sign shall not exceed 12 square feet;
  - iv. The total number of signs on the property shall not exceed two;
  - v. Internally illuminated signs are prohibited;
  - vi. The Developer shall obtain a permit from the Municipality prior to the erection or installation of any sign; and

- vii. Notwithstanding Section 2.3 (a) iv. and vi. above, any number of signs that identify building names or uses, or directional signs are permitted.
- (b) Except as otherwise provided in Section 2.3 (a) above, the sign provisions of the Land Use By-law, as may be amended from time to time, apply to any signs developed on the Property.
- (c) 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 and services on the Property in good repair and in a useable state, and maintain the Property in a neat and presentable condition.

## **2.5 Lighting**

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

## **2.6 Parking**

The Developer shall meet the following criteria and standards for parking:

- (a) Parking spaces shall be provided at the following rates:
  - a. one space for each guest room within the Tourist Lodge;
  - b. one space for each Tourist Cabin;
  - c. one space for every sixty (60) square feet of commercial floor area for a Full-service Restaurant;
  - d. one space for every one hundred (100) square feet of commercial floor area for an Arts and Cultural Centre; and
  - e. one space for every employee for uses permitted by this Agreement.
- (b) Parking for uses permitted by this Agreement shall be wholly located within the Development Envelope.
- (c) All Parking areas for uses permitted by this Agreement shall be maintained with a stable surface that is treated to prevent the raising of dust or loose particles.

## **2.7 Buffering and Landscaping**

- (a) Within the Development Envelope, the front yard shall be landscaped. Landscaping shall consist of a combination of grass, trees, flowers, or decorative stone work, and be provided in a manner that is sympathetic to the surrounding rural setting.

- (b) Within the Development Envelope, buffering that provides an effective visual and physical buffer between the development and adjacent properties shall be provided in the form of a minimum fifty (50) foot wide natural vegetative buffer between the proposed tourist commercial use and adjacent properties.

## **2.8 Access and Egress**

- (a) The number of access driveways onto the Property shall be limited to two (2). The minimum separation between access driveways shall be thirty (30) feet. Maximum width for an access driveway shall be twenty-five (25) feet.
- (b) The Property Owner must submit current permits from Nova Scotia Transportation and Infrastructure Renewal, or any successor body, before receiving any development or building permits for uses permitted by this Agreement.

## **2.9 Architectural Design**

Construction of new buildings and alterations to existing buildings shall be done in a manner which is architecturally compatible with other buildings in the surrounding area. Construction of all buildings shall feature a pitched roof and use natural cladding materials including, but not limited to, wood, stone, stucco or brick. The height restrictions of the Rural Commercial (C9) Zone, or equivalent, shall apply for all new structures or renovations to structures intended for uses permitted by this Agreement.

## **2.10 Servicing**

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

## **2.11 Hours of Operation**

The hours of operation for the Event Venue permitted in Section 2.2.1 (b) v. of this Agreement shall be between the hours of 7:00 am and 11:00 pm Sunday through Thursday, inclusive, except when a Sunday precedes a holiday Monday when the hours of operation on that Sunday shall be between the hours of 7:00 am and 12:00 am. Hours of operation on Fridays and Saturdays shall be between the hours of 7:00 am and 12:00 am.

## **2.12 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 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.

## **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 2.2, 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) Changes to the uses permitted on the property by Section 2.2 of this Agreement; and

(b) Changes to or substitution of the Site Plan contained in Schedule 'B' of 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** 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.

**3.6** Prior to discharging this Agreement, the Property Owner shall provide the Municipality with the necessary rights-of-way covering all public trails to ensure the ability for the public to access the trails in perpetuity.

## **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. More specifically, each time a tent structure is erected on the property, both a Development Permit and a Building Permit is required.

### **4.2 Expiry Date**

The Property Owner shall sign this Agreement within 60 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.

## **PART 5 COMPLIANCE**

### **5.1 Compliance With Other By-laws and Regulations**

Nothing in this Agreement shall exempt the Property Owner from complying with Federal, Provincial and Municipal laws, by-laws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority or approval required thereunder. Specifically, all permanent and temporary structures constructed on the Property are required to be in compliance with the National Building Code, where applicable.

## **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.

## **5.4 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.

## **5.5 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.

## **5.6 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.

## **5.7 Interpretation**

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

## **5.8 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  
In the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Joanne Linzey, Chair, CoastArts Association

**Schedule 'A'**  
**Property Description**

*Copied from Property Online on August 06, 2019*

PID 55015457

ALL that certain lot, piece or parcel of land and premises situate in Arlington (Ross Creek Road), Kings County, Nova Scotia, on the west side of the Ross Creek Road and more particularly bounded and described as follows:

BEGINNING at a stone pile on the northeast corner of lands belonging to Barbara Benjamin Blenkhorn running north along the Ross Creek Road One Hundred (100) rods to a stone pile on the southeast corner of lands belonging to Joseph E. Bennett;

THENCE westerly Two Hundred and Thirty-four (234) rods to a birch tree on the east side of a brook;

THENCE southeasterly along said brook Two Hundred and Twenty (220) rods;

THENCE easterly Forty (40) rods to land of George Porter;

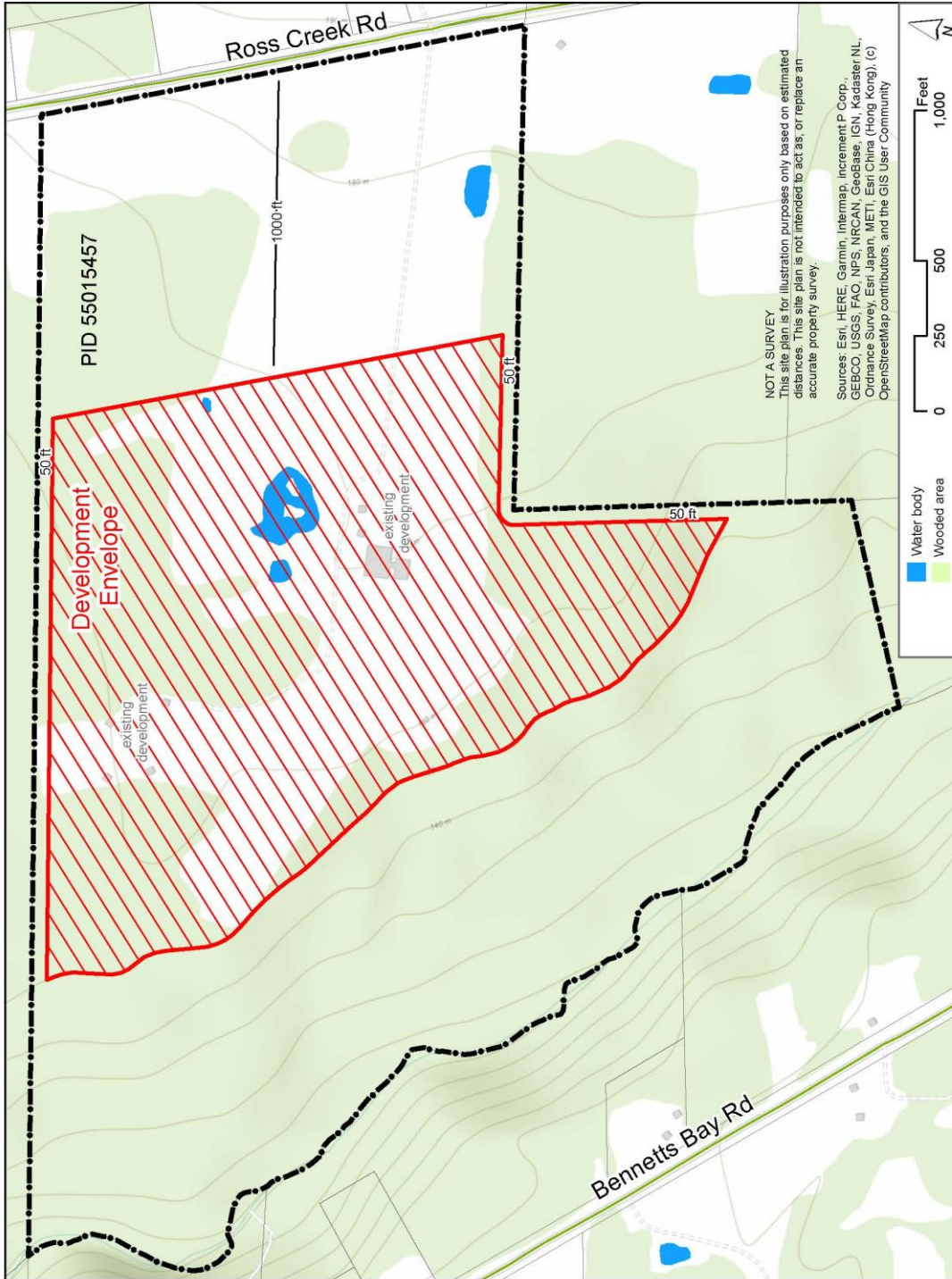
THENCE northerly along George Porters line Ninety-six (96) rods;

THENCE easterly Ninety-nine (99) rods to the stone pile at place of beginning on the Ross Creek Road.

The description for this parcel originates with a deed dated January 3, 1923, registered in the registration district of Kings in book 144 at page 393 and the subdivision is validated by Section 291 of the Municipal Government Act.



# Schedule 'B' Site Plan



(Double-click image to open full pdf)



136 Exhibition Street  
Kentville NS  
Canada B4N 4E5

902-679-6086 P  
902-679-6186 F  
www.novascotia.ca

## APPROVAL

**Province of Nova Scotia  
Environment Act, S.N.S. 1994-95, c.1 s.1**

**APPROVAL HOLDER:** CHAPMAN BROS. CONSTRUCTION LTD.

**SITE PID:** 55113179

**APPROVAL NO:** 2019-2549027-00

**EXPIRY DATE:** June 26, 2029

**Pursuant to Part V of the *Environment Act*, S.N.S. 1994-95, c.1 s.1 as amended from time to time, approval is granted to the Approval Holder subject to the Terms and Conditions attached to and forming part of this Approval, for the following activity:**

Industrial - Construction - Quarry

A handwritten signature in black ink that reads "Jennifer Lonergan".

**Administrator:** Jennifer Lonergan

**Effective Date:** June 26, 2019

The Minister's powers and responsibilities under the Act with respect to this Approval have been delegated to the Administrator named above. Therefore, any information or notifications required to be provided to the Minister under this Approval can be provided to the Administrator unless otherwise advised in writing.