



Municipality of the County of Kings

Committee Recommendations

COMMITTEE: Planning Advisory Committee

COMMITTEE MEETING DATE: [October 12, 2021](#)

COUNCIL MEETING DATE: November 2, 2021

a.	Application to enter into a development agreement in Wallbrook (File 21-04)	That Municipal Council give Final Consideration to entering into a development agreement to permit an expanded full service restaurant and tourist commercial uses at 1293 Grand Pré Road (PID 55446710), Wallbrook, which is substantively the same (save for minor differences in form) as the draft set out in Appendix C of the report dated September 14, 2021.
b.	Application to enter into a development agreement in Bishopville (File 21-10)	That Municipal Council give Final Consideration to entering into a development agreement to permit tourist cabins at 1828 Bishopville Road (PID 55501225), Bishopville, which is substantively the same (save for minor differences in form) as the draft set out in Appendix D of the report dated September 14, 2021.
c.	Application to rezone a property on Highway 358 (File # 21-03)	That Municipal Council give First Reading to and hold a Public Hearing regarding the rezoning of 3335 Highway 358, Arlington from the Rural Mixed Use (A2) Zone to the Commercial Recreation (P1) Zone as shown in Appendix D of the report dated October 12, 2021. <u>Report attached</u>
d.	Application to enter into a development agreement in North Grand Pré (File # 21-11)	That Municipal Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit a replacement dwelling at 100 Beach Row (PID 55221246) in North Grand Pré, which is substantively the same (save for minor differences in form) as the draft set out in Appendix D of the report dated October 12, 2021. <u>Report attached</u>
e.	Public Hearing Date	December 7, 2021 at 6:00 p.m.



Municipality of the County of Kings

Report to the Planning Advisory Committee

Application to rezone a 4.5 acre property on Highway 358 in Arlington from the Rural Mixed Use (A2) Zone, to the Commercial Recreation (P1) Zone to permit a campground. (PID 55002000) (File # 21-03)

October 12, 2021

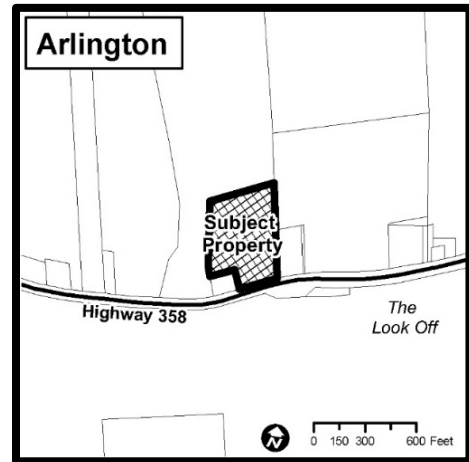
Prepared by: Planning Staff

Applicant	Fred Rogers
Land Owner	Fredrick Rogers
Proposal	Rezone property to the Commercial Recreation (P1) Zone to build a campground
Location	3335 Highway 358 (PID 55002000)
Lot Area	Approximately 200,000 square feet or 4.5 acres
Designation	Agricultural (A)
Zone	Rural Mixed Use (A2)
Surrounding Uses	Rural residential uses and an existing campground (adjacent) and the "Look Off" roadside viewing area.
Neighbour Notification	Staff sent notification letters to the 9 land owners within 500 feet of the subject property

1. PROPOSAL

Fred Rogers applied to rezone a property on Highway 358 in Arlington from the Rural Mixed Use (A2) Zone to the Commercial Recreation (P1) Zone to permit a new campground. The location in Arlington is near the popular "Look Off" roadside viewing area and adjacent to another campground. This area of the Municipality attracts tourists and local residents to experience the large views and proximity to recreation and eco-tourism opportunities including Cape Spilt and Blomidon Provincial Park.

The applicant wants to establish a campground in this popular area of the municipality. His proposal would offer both tent camping sites in the woods (20+) and RV trailer sites (10-15) in the more open field. The requested commercial Recreation (P1) Zone allows for a land owner to develop a campground as-of-right, if a 40 foot setback is kept from side and rear lot lines, and a 40 foot wide wooded buffer is planted to help separate the impacts of a campground from adjacent properties.



2. 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 rezoning of 3335 Highway 358, Arlington from the Rural Mixed Use (A2) Zone to the Commercial Recreation (P1) Zone as shown in Appendix D of the report dated October 12, 2021.

3. OPTIONS

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

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

4. BACKGROUND

The applicant purchased the land 5 years ago and has engaged a local architect, Lisa Tondino to help design and lay out a campground on the 4.5 acre property that overlooks the Annapolis Valley and Minas Basin. The subject property is forested in the rear portion of the property and partially cleared in the front. The trees are mature, and a mixture of hardwood and softwood. There was a dwelling on the property that has been removed, and a barn from the previous owner remains. The applicant has leveled, and cleared the grassy areas in the front of the property and extended a driveway to access further into the property. The applicant has also begun cutting trails through the wooded section of the property and has established where the property boundaries are. The property is adjacent to another campground, and close to two residential dwellings on either side of the subject property, which has generated concern from some of the neighbours.



5. INFORMATION

5.1 Site Information

The subject property is on the north mountain along Highway 358 where many properties are zoned Rural Mixed Use (A2). The Rural Mixed Use (A2) Zone permits a variety of low-impact rural uses including residential uses, agricultural uses and other similar or related uses that have few associated negative impacts. A campground is not a permitted use in the Rural Mixed Use (A2) Zone. The subject property has about 230 feet of road frontage and it is approximately 4.5 acres in size. The land is mostly flat with a mature mixture of trees, including a dense patch of forest in the back of the property where tenting sites are proposed.



5.2 Public Information Meeting & Public Feedback

Council's Planning Policy PLAN-09-001 requires a Public Information Meeting (PIM) for rezoning applications that are over 1 acre in size. Staff recorded a PIM and sent out notification letters to property owners within 500 feet of the subject property to provide more information to the neighbours.

Staff spoke with two of the adjacent land owners who had concerns about fencing and separation of the proposed campground along their property lines. These neighbouring property owners are both located along the east side of the subject property and were looking for additional information about the proposed campground. Their concerns about separations led to discussions with the applicant, who was willing to make revisions to the proposed site plan, which offered increased buffering and fencing. The Site Plan is attached as Appendix A, and indicates an approximate campground configuration which can change as long as the Commercial Recreation (P1) Zone requirements are still being met. However the neighbours concerns are addressed by the zone standards which require a 40 foot setback for all parking area and campsites, plus a wooded buffer of at least 40 feet on side and rear lines. The wooded buffer must be planted with new trees or the existing vegetation maintained to create an effective screen.

6. POLICY REVIEW

Municipal Planning Strategy Enabling Policy

Policy 2.7.16 of the Municipal Planning Strategy enables a rezoning from any designation to the Commercial Recreation (P1) Zone.

"MPS 2.7.16 consider proposals to rezone lands within any designation to the Commercial Recreation (P1) Zone. In evaluating such proposals, Council shall be satisfied that the property to be rezoned:

(a) does not include lands zoned Agricultural (A1), Lakeshore Residential (S1), Lakeshore Limited Development (S2), Environmental Constraints (O1) Zone or lands within the Residential Designation;

(b) meets the minimum lot area and minimum lot frontage requirements for the Commercial Recreation (P1) Zone; and

(c) meets the Land Use By-law amendment criteria set out in section 5.3 Development Agreements and Amending the Land Use By-law."

The proposed rezoning does not include any Agricultural (A1) Zone land and the subject property can meet the minimum lot area and frontage requirements of the Commercial Recreation (P1) Zone. The general criteria are reviewed below.

Rezoning application policies

Policy 5.3.5 of the Municipal Planning Strategy considers the following for all rezoning applications.

"MPS 5.3.5 consider, in relation to all applications to rezone land:

(a) the applicable zone placement policies, including any specific policy criteria for applying the proposed zone set out within this Strategy;

(b) the impact of both the specific development proposal and of other possible uses permitted in the proposed zone; and

(c) the general criteria for amending the Land Use By-law set out in section 5.3 Development Agreements and Amending the Land Use By-law."

The general amendment criteria are reviewed below and the possible uses enabled by this rezoning are impactful but are mitigated by the zone regulations which include buffering and deep setbacks to minimize the impact on neighbouring uses. The intent of the Commercial Recreation zone is consistent with the proposal, and this zone is intended to allow impactful land uses only when deep setbacks and buffers are provided to separate the commercial use from an adjacent residential use.

MPS 2.7.11 Commercial Recreation (P1): establish the Commercial Recreation (P1) Zone, intended for areas within any designation that contain, or are intended to contain commercial recreation facilities and uses, indoor recreation uses and high-impact recreation uses with predictable land use impacts including but not limited to, golf courses, campgrounds, gun ranges or similar uses;

General Amendment Criteria

Municipal Planning Strategy section 5.3.7 contains the general criteria used to consider all proposals to amend the Land Use By-Law. These criteria consider the impact of the proposal on the road network, services, development pattern, environment, finances, and wellfields, as well as the proposal's consistency with the intent of the Municipal Planning Strategy (see Appendix C for a full list of these criteria).

It is Staff's opinion that the proposal meets the general criteria by not creating any direct costs to the Municipality, and can be developed to enable compatibility with adjacent residential properties, with the use of wooded buffer areas, and the potential for fencing. There is potential to have compatibility issues in a popular tourist destination. The concerns from the adjacent property owners are partly related to the activities of campground users. Campground owners are always responsible for ensuring their patrons don't trespass on adjacent properties. The applicant has been made aware of this and the neighbour's concerns and demonstrates a willingness to install an appropriate level of screening between the properties.

Land use compatibility in this popular tourist destination is not straightforward. The impact of a new campground next to an existing campground introduces more noise and activity. The proposed zone recognizes this impact and requires a 40 foot wooded buffer to offer separation from adjacent properties. When more separation is desired, solid fencing can provide additional screening, either behind or among the trees in the buffer area. Staff recognize the close proximity of neighbours in this location and understand the proposal introduces more commercial impact to the area, though Staff believe compatibility can be achieved with continued discussions between the land owners and the buffering requirements in the Commercial Recreation (P1) Zone.

7. CONCLUSION

The proposed rezoning is in keeping with the intent of Council's Municipal Planning Strategy. The proposed rezoning is enabled by policies regarding the Commercial Recreation Zone. In addition to meeting all the Land Use By-Law requirements for a campground the applicant has indicated an intent to accommodate the requests of neighbouring land owners to install fencing and wooded buffers on the side property lines. As a result, Staff are giving a positive recommendation to the Planning Advisory Committee.

8. APPENDICES

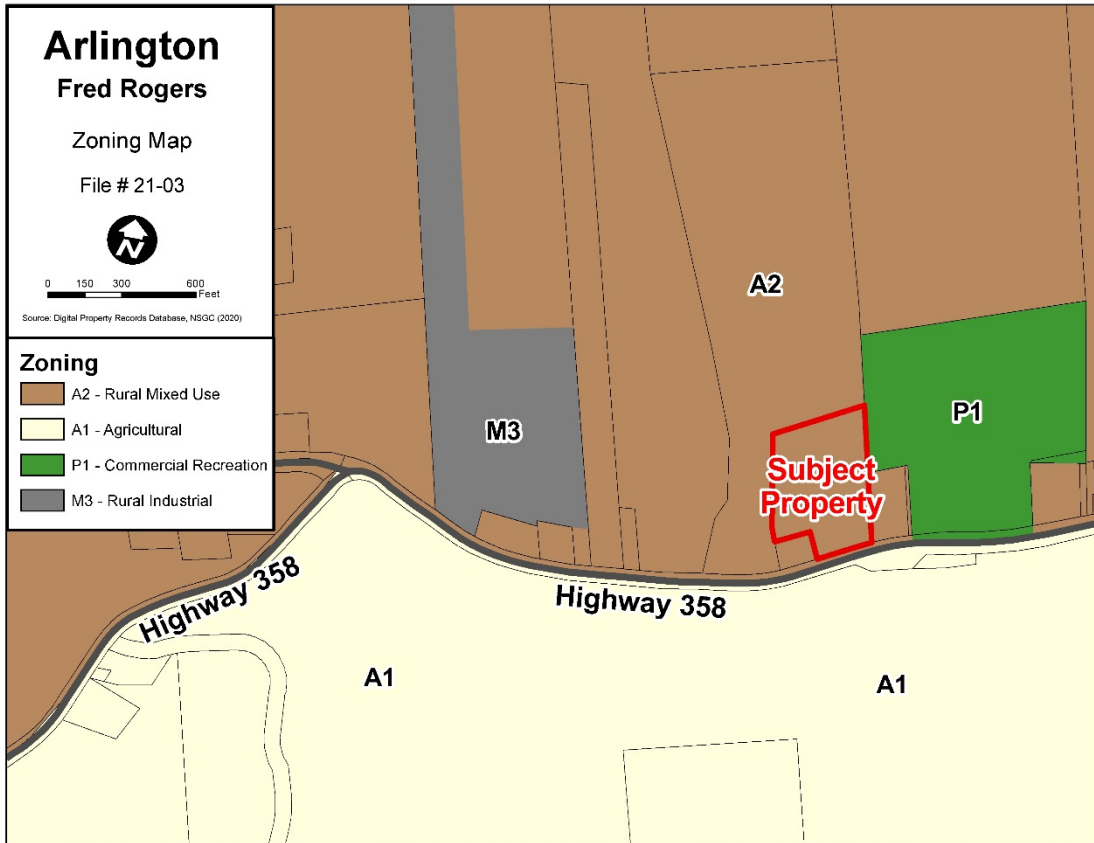
Appendix A: Maps & Proposed Site Plan

Appendix B: Public Comments

Appendix C: General Amendment Criteria

Appendix D: Proposed Map Amendment

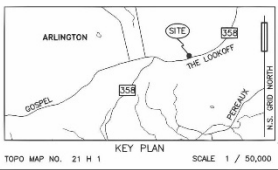
Appendix A: Maps & Proposed Site Plan



<h1>houdinidesign ARCHITECTS</h1>	PROJECT: ROGERS RESIDENCE
	DATE: 2021-09-27
	SCALE: 1" = 60' - 0"

- NOTES**
- P.I.D. 55002018 LANDS OF LISA LUCCIA TONDINO AND ELIZABETH CHRISTINE VAN BERKEL, DEED, DOC. 97409336
 - UTILITY AND SERVICE EASEMENT IN FAVOUR OF BELL CANADA SEE BOOK 186 PAGE 2.

- LEGEND:**
- LIVING QUARTERS FOR OWNERS (UPPER FLOOR)
 - WASHROOMS, SAUNA, GYM & SHOWERS (2 SHOWERS, TWO WASHROOMS) MAIN FLOOR TO BE FULLY ACCESSIBLE
 - PROPOSED ROAD
 - PROPOSED PARKING
 - PROPOSED WALKING TRAILS
 - PROPOSED 12 x 12' CABINS IN CLEARED AREA WITHIN WOODED AREA (FULLY ACCESSIBLE)
- NOTE**
3-5 CABINS TO BE CONSTRUCTED INITIALLY, ADDITIONAL CABINS TO BE CONSTRUCTED AS PART OF A FUTURE PHASE
- TYPICAL 25 CABINS**
NOTE
CABINS MAY NEED TO BE LARGER TO ACCOMMODATE VISITORS, SIZE IS APPROXIMATE.
- PORT-A-POTTIES ADDITIONAL WASHROOMS FOR CAMPERS, FULLY ACCESSIBLE
NOTE QUANTITY AS REQUIRED
 - EXISTING WELL
 - GARAGE
 - PROPOSED HOUSE
 - PROPOSED SEPTIC
 - PROPOSED STORE / BOUTIQUE
 - EXISTING SHED
 - EXISTING TREES
 - EXISTING ROW OF OAK TREES
 - NEW TREES
 - CAMPERS
 - FENCE



- LEGEND :**
- | | | | |
|------------|--------------------------------------|----|------------|
| CP | CALCULATED POINT | WT | WITNESS |
| UP | UTILITY POLE | WA | MEASURED |
| RP | IRON BARS | CA | CALCULATED |
| RP | IRON PIPE | DE | DELETED |
| RP | IRON PIPE | FL | FOUND |
| RP | MAGNETIC NAIL | FR | FOUND |
| RP | WOOD POST | RC | RECORDED |
| SM | SURVEY MARKER (IRON BAR WITH ID CAP) | | |
| N.S.C.M. | NOVA SCOTIA CO-ORDINATE MONUMENT | | |
| N.S.H.P.N. | NOVA SCOTIA HIGH PRECISION NETWORK | | |
| N.S.A.C.S. | NOVA SCOTIA ACTIVE CONTROL STATION | | |
| | LANDS DEALT WITH BY THIS PLAN | | |
| | LAND REGISTRATION OFFICE | | |
| | RIGHT-OF-WAY | | |
| | ORDINARY HIGH WATER MARK | | |
| | PROPERTY IDENTIFICATION NUMBER | | |
| | POINT OF SURMISE | | |
| | SEPTIC DISPOSAL SYSTEM | | |
| | EXIST. | | |

GRID BEARINGS ARE REFERENCED TO THE NOVA SCOTIA 3rd MODIFIED TRANSVERSE MERCATOR PROJECTION, ZONE 5, CENTRAL MERIDIAN 64° 20' WEST LONGITUDE. HORIZONTAL REFERENCE FRAME OF NAD83 (CSRS), EPOCH 2010.0 VERTICAL REFERENCE FRAME OF NAD83 CON2013.0 NAD83 (CSRS) CONTROL COORDINATES WERE DERIVED VIA THE NOVA SCOTIA HIGH PRECISION NETWORK (G.N.S.S. OBSERVATIONS)

G.N.S.S. SURVEY TYPE: NRTK SOURCE: BRANDNET

DISTANCES SHOWN ON THE PLAN ARE GROUND DISTANCES UNLESS OTHERWISE STATED. MEASURED USING A COMBINATION OF TOTAL STATION AND DERIVED G.N.S.S. GROUND DISTANCES.

CONTOUR 0.25 (DECIMAL FOOT) INTERVALS.

FIELD SURVEYS CARRIED OUT DECEMBER 16TH, 2020.

SKETCH OF TOPOGRAPHIC FEATURES ON P.I.D. 55002018, LANDS OF LISA LUCCIA TONDINO & CHRISTINE VAN BERKEL, AND P.I.D. 55002000, LANDS OF FREDRICK V. ROGERS, AT 3325 & 3335 HIGHWAY NO. 358, ARLINGTON, KINGS COUNTY, NOVA SCOTIA.

ARLE ENGINEERING SERVICES INC.
4073 HIGHWAY 41 P.O. BOX 501 CHESTER, NOVA SCOTIA, B3J 1J0
TEL 1-853-791-8133 FAX 902-273-3672
Email: arle@arleservices.com Website: www.arleservices.com

SCALE	1" = 40'	MUNICIPALITY	KINGS
DATE	(DD/MM/YY) 15/01/21	PROJ. NAME	
DRN	J.C.W.	SWG. NO.	201207-04

Appendix B: Public Comments

Staff had telephone conversations with three of the immediate neighbors, including:

- Neighbour (adjacent) Applicant's designer/architect - **Lisa Tondino**
 - 3325 Highway 358, Arlington
- Neighbour (adjacent) campground owner **Wes Healy**
 - 3369 Highway 358, Arlington
- Neighbour (adjacent) **Mark Turner**
 - 3348 Highway 358, Arlington

Telephone conversations with Mark Turner and Wes Healy were related to their concerns with the proximity of the proposed campground to their property, safety concerns with the busy road, privacy screening and buffering, potential conflicts with the existing campground. Mark Turner also submitted the letter attached below for consideration during the rezoning approval process.

Telephone conversations with Lisa Tondino and Fred Rogers (co-applicants) were related to the concerns of the neighbours, and discussing how we could recognize and address these concerns. These strategies included pulling campsites further back from the side property line, and installation of fencing around the sides and back property line of the subject property. The owner and designer were both understanding of the neighbour's hesitations and were accommodating of these requested changes. They revised the Site Plan with fencing and layout adjustments to work with the community and enable more separation between the adjacent properties.

27 March 2021

Mr. Mark Fredericks
GIS Planner
Municipality of the County of Kings
181 Coldbrook Village Park Drive,
Coldbrook, NS

Dear Mr. Fredericks:

I am in receipt of your correspondence regarding the proposed rezoning application by Mr. Fred Rogers at 3335 Highway 358, Arlington, NS. As noted in your letter, I am the owner of an adjacent property, 3349 Highway 358, Arlington, NS. As invited, this letter outlines concerns around this application. As my property has been in my family for decades, I am aware that this attraction brings the public and tourists to view the beautiful Annapolis Valley from this location. This is not an issue. What becomes an issue is how people access and enjoy that view.

Currently, our property is surrounded on the eastern and the northern boundary lines by an adjacent campground. We have had the public on our property various times of the day and seasons. Campers continually take wood from our property for their enjoyment at their campfires and individuals have been using our property for an outside toilet. Public defecation is not only illegal, but also violates the provincial Department of Environment requirements regarding the treatment or collection of human waste. The current campground owners are aware and do the best they can to mitigate unruly campers.

Mr. Rogers proposed development would allow our property to be fully surrounded with a competing development against the current campground. The proposed parking lot and store sits adjacent to our green space, which is also adjacent to the existing campground. As for the intent to develop the property into a

campground, this could impose significant limitations on the quiet enjoyment of our property, which is the primary purpose of our property. Noise, traffic, lights, and additional trespassing are all concerns. Because the most direct route to access the viewpoint from Mr. Fred Rogers property crosses part of our property, there will no doubt be frequent trespassing. Add to that a potential absent/out of province landlord, the ability to resolve potential conflicts in a timely and reasonable manner cause significant concern. The primary activities and uses that incur much of the noise are designated to be closest to my property (i.e. convenience store, parking, roadway, leisure activities).

We do not support this development. If this rezoning and development is considered for approval, appropriate and sufficient buffer zones, privacy barriers that contribute to the natural setting, and quiet hours be some of the requirements for the developer to provide and install. A redesign to ensure that the busiest activities are located further from my property line which will ensure uninterrupted enjoyment by me and my family.

Thank you for the opportunity to provide input into this process. If you have any questions, please feel free to contact me at mark.turner2@eastlink.ca, or by phone at 902-670-4975

Sincerely,

Mark Turner,
Elizabeth Turner, and Tanya Justason

APPENDIX C – General Amendment Criteria

Policy 5.3.7

Council expects to receive applications to amend the Land Use By-law or enter into a development agreement for development that is not permitted as-of-right in the Land Use By-law. Council has established criteria to ensure the proposal is appropriate and consistent with the intent of this Strategy.

Council shall be satisfied that a proposal to amend the Land Use By-law or to enter into a development agreement:

Criteria	Comments
<i>a. is consistent with the intent of this Municipal Planning Strategy, including the Vision Statements, relevant goals, objectives and policies, and any applicable goals, objectives and policies contained within a Secondary Plan;</i>	The proposed rezoning is consistent with the intent for Commercial Recreation (P1) zoning.
<i>b. is not in conflict with any Municipal or Provincial programs, By-laws, or regulations in effect in the Municipality;</i>	No conflict with programs or by-laws
<i>c. that the proposal is not premature or inappropriate by reason of:</i>	
<i>i. the Municipal or village costs related to the proposal;</i>	The proposal does not involve any development costs to the Municipality.
<i>ii. land use compatibility with surrounding land uses;</i>	<p>The area is a tourist destination and the proposed campground would complement this by offering accommodations. The Commercial Recreation (P1) Zone requires 40 foot setback and a 40 foot wooded buffer along all side and rear lot lines. These requirements help to minimize the impact on neighboring properties.</p> <p>In this case there are two neighbours who have expressed concerns with compatibility between two adjacent campgrounds and a residential use that would be surrounded by campgrounds. These concerns reflect potential impacts which should be minimized by the requirements for campgrounds in the P1 Zone.</p>
<i>iii. the adequacy and proximity of school, recreation and other community facilities;</i>	Not applicable
<i>iv. the creation of any excessive traffic hazards or congestion due to road or pedestrian network adequacy within, adjacent to, and leading to the proposal;</i>	Staff are not expecting access or road network issues, but are still awaiting formal comments from the provincial road authority.
<i>v. the adequacy of fire protection services and equipment;</i>	The Canning Fire Department confirmed that adequate coverage was available to service this location. They requested more information about emergency access which will be considered during the permitting stage.

<p>vi. <i>the adequacy of sewer and water services, including but not limited to on-site services;</i></p>	<p>Private on-site septic and wells are required in this area, which both fall under the jurisdiction of Nova Scotia Environment.</p>
<p>vii. <i>the potential for creating flooding or serious drainage problems either within the area of development or nearby areas;</i></p>	<p>Not expected to create problems</p>
<p>viii. <i>negative impacts on identified wellfields or other groundwater supplies for the area;</i></p>	<p>There are no identified wellfields in the area.</p>
<p>ix. <i>pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i></p>	<p>The property owner will be required to follow provincial specifications regarding soil erosion during construction phases.</p>
<p>x. <i>negative impacts on lake water quality or nearby wetlands;</i></p>	<p>Not applicable</p>
<p>xi. <i>negative impacts on neighbouring farm operations;</i></p>	<p>Not applicable</p>
<p>xii. <i>the suitability of the site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way.</i></p>	<p>The subject property is suitable in terms of grades, soils, geological conditions, and proximity to natural features and rights-of-way.</p>

APPENDIX D - Proposed Map Amendment

Proposed Land Use By-law Map Amendment (By-law 106)

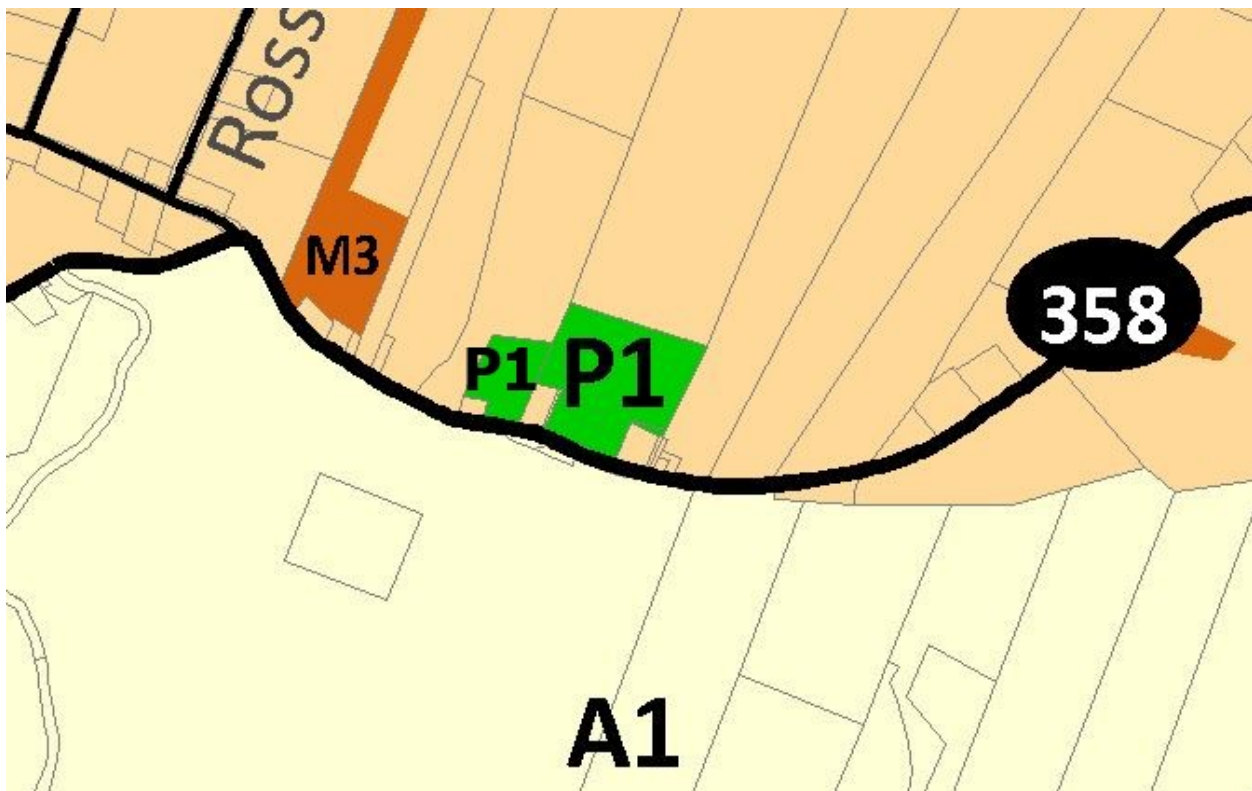
THE MUNICIPALITY OF THE COUNTY OF KINGS

AMENDMENT TO BY-LAW 106
COUNTY OF KINGS LAND USE BY-LAW

Land Use By-Law Map Amendment to rezone 3335 Highway 358 (PID 55002000) Arlington from the Rural Mixed Use (A2) Zone to the Commercial Recreation (P1) Zone.

BY-LAW 106 Land Use By-Law

1. Amend Map 13, Land Use By-Law zoning map by rezoning property (PID 55002000) on Highway 358, from the Rural Mixed Use (A2) Zone to the Commercial Recreation (P1) Zone as shown on the inset copy of a portion of Map 13 below.





Municipality of the County of Kings

Report to the Planning Advisory Committee

Application to enter into a development agreement to permit a dwelling replacement at 100 Beach Row, North Grand Pre (PID 55221246) (File 21-11)

October 12, 2021

Prepared by: Planning Staff

Applicant	Lorrie Rand
Land Owner	Beth McNeil and Geoffrey Hawboldt
Proposal	Replace existing dwelling with a new dwelling
Location	100 Beach Row, North Grand Pre (PID 55221246)
Lot Area	Approximately 1.3 acres (58,750 square feet)
Designation	Shoreland (S)
Zone	Tidal Shoreland (T1) Zone + O1 and ESA near the shoreline
Surrounding Uses	Residential, campground, commercial and agricultural uses
Neighbour Notification	Staff sent notification letters to the 14 land owners within 500 feet of the subject property

1. PROPOSAL

Lorrie Rand has applied on behalf of owners Beth McNeil and Geoffrey Hawboldt, for a development agreement to permit the replacement of an existing dwelling (an older cottage) with a new dwelling on a waterfront property in North Grand Pre. The property does not have adequate road frontage to meet the minimum zone requirement and therefore cannot be permitted as-of-right, though the proposed redevelopment can be considered through a development agreement process.

2. OPTIONS

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

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

3. 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 Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit a replacement dwelling at 100 Beach Row (PID 55221246) in North Grand Pre, which is substantively the same (save for minor differences in form) as the draft set out in Appendix D of the report dated October 12, 2021.

4. BACKGROUND

The property is near Evangeline Beach and the Land of Evangeline Campground in North Grand Pre. The Grand Pre National Historic Site is nearby, and the subject property and surrounding community falls within the Grand Pre and Area Community Plan boundary, which helps preserve the agricultural history of the area.

The owners have owned the subject property since 2013 and would like to build a new home. The requested dwelling cannot be developed as-of-right due to the property's lack of public or private road frontage. The underlying zone requires a minimum of 60-100 feet of road frontage, depending on the use and type of sewer servicing, which the subject property cannot meet. All other zone standards are able to be met, including the minimum shoreline setback of 75 feet. Had the property been vacant, this property would not qualify to have a dwelling constructed as-of-right. The applicant has requested permission to build a new dwelling in this situation, through a development agreement, as enabled by the Municipal Planning Strategy policy 3.5.18. The proposed dwelling would be positioned on the site as shown below:

Figure 1 Proposed dwelling

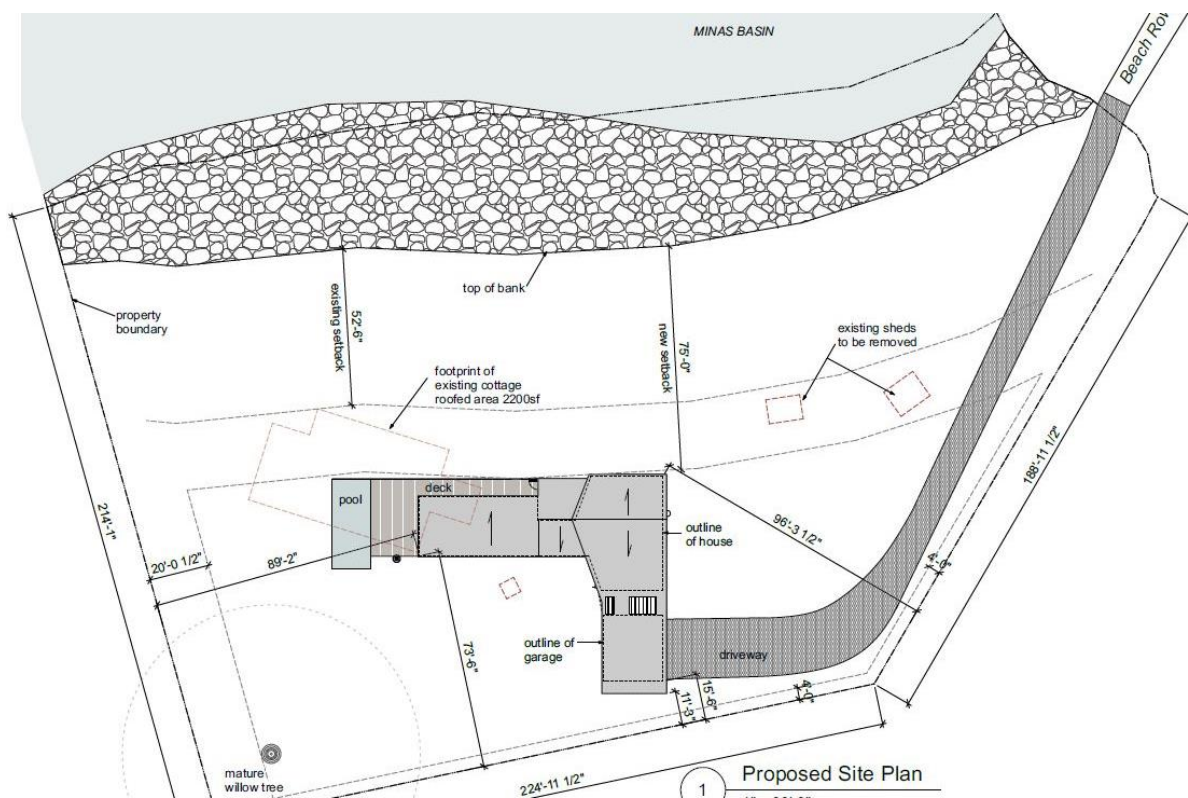


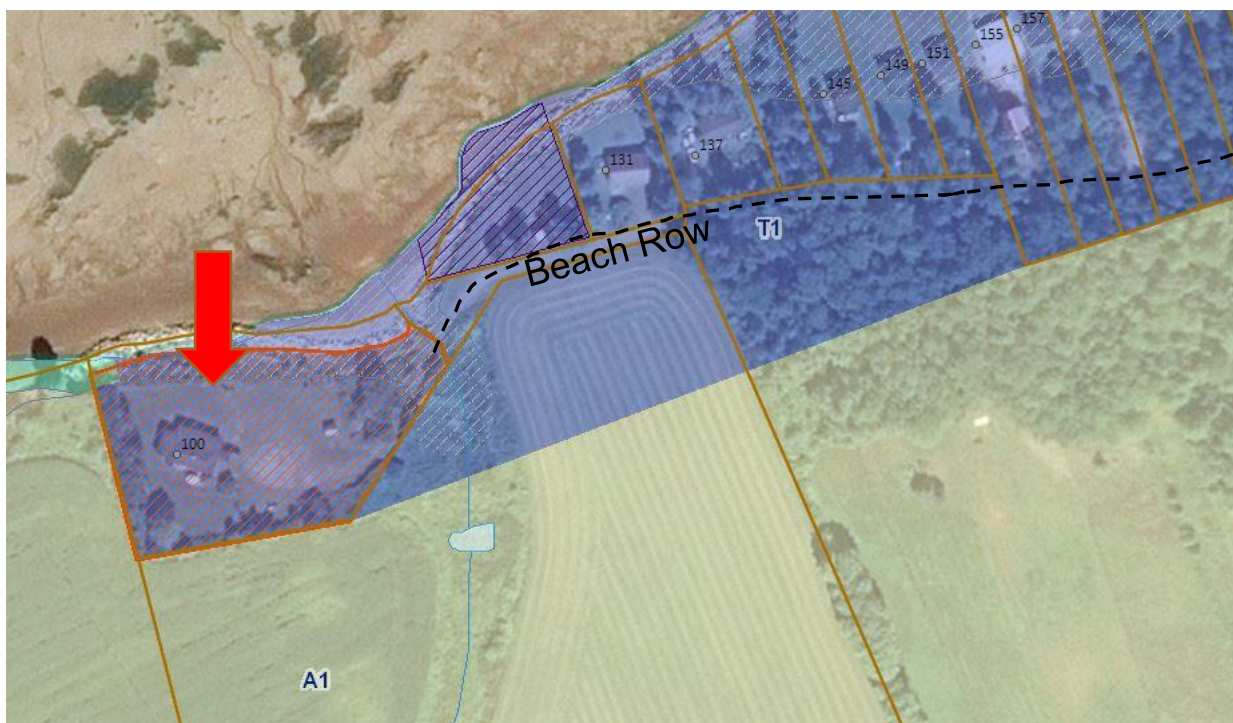
Figure 2 Existing dwelling



5. INFORMATION

5.1 Site Information

The subject property is approximately 1.3 acres in size and has mature trees and vegetation along its rear and side property lines. The current driveway is extended off the end of Beach Row (a private road) which provides access to many other cottages and homes.



The proposed redevelopment would remove the existing dwelling and two sheds and locate a new dwelling, which would be positioned further back from the shoreline. This increased setback is a planning goal in the Shoreland designation, particularly in the sandstone areas around the Minas Basin where coastal erosion occurs more rapidly.

The subject property is within a designated shoreland area which includes a nearby campground and cottages and homes. The subject property is at the west end of this T1 zone and abuts the Agricultural (A1) Zone. The boundary between the A1 and T1 zones is established and well separated on the ground with mature trees and vegetation within the subject property.

The subject property is zoned Tidal Shoreland (T1) and within the Shoreland (S) Future Land Use designation. The Tidal Shoreland (T1) Zone exists in small pockets along the marine coastline of the municipality. These pockets are intended for residential development.

MPS 3.5.2 Tidal Shoreland (T1): lands within this zone are intended to provide pockets of concentrated opportunity for residential development along the marine coast, and institute controls intended to protect development from coastal hazards

The development of land within the Tidal Shoreland (T1)_ Zone must consider its impact on the natural world, and the natural world's potential impact on development. The Land Use By-Law (LUB) helps to address these potential risks by requiring a large setback from the edge of the shore. This setback is particularly important in areas around the Minas Basin where coastal erosion is known to significantly shift the boundary between land and sea.

5.2 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 online and remained open for public comments for a period of 30 days. One phone call was received in response to the PIM and notification letters sent to surrounding property owners. The call was from the neighbouring farmland owner who was looking for more information, and was not concerned with the proposed redevelopment on the subject property.

6. POLICY REVIEW – DEVELOPMENT AGREEMENT

6.1 Land Use By-law

This proposal can be considered by development agreement, as enabled in Section 9.5.5 of the LUB. This section of the LUB lists the uses that can be considered by development agreement within the Tidal Shoreland (T1) Zone:

“LUB 9.5.5 Uses Considered by Development Agreement

Pursuant to the Municipal Planning Strategy, the uses noted below may be considered by Development Agreement within the Tidal Shoreland (T1) Zone:

(d) Proposals for a one unit dwelling on lots that cannot reasonably meet the zone requirements in accordance with policy 3.5.17 of the Municipal Planning Strategy.”

6.2 Municipal Planning Strategy

Enabling Policy and Criteria

Policy 3.5.18 of the Municipal Planning Strategy enables a development agreement within the Shoreland Designation for single unit dwellings on properties that cannot meet a certain zone requirement. This policy allows Council to consider the requested dwelling with a development agreement option.

“MPS 3.5.18 consider only by development agreement proposals for one unit dwellings on lots where a single unit dwelling cannot reasonably meet the required lot standards or yards within the Tidal Shoreland (T1) Zone. In evaluating such development agreements Council shall be satisfied that the proposal:

- (a) maximizes the setback from the marine coast;*
- (b) provides a survey of the top and toe of the bank existing at the time of consideration of the development agreement, and includes the survey in the development agreement application;*
and
- (c) the proposal meets the general development agreement criteria set out in section 5.3 Development Agreements and Amending the Land Use By-law.”*

The application that was submitted for a new dwelling to replace an existing dwelling at 100 Beach Row, meets these criteria. The location for the new proposed dwelling is setback from the marine coast by 75 feet. This distance is an increase when compared to the existing dwelling which is approximately 52 feet from the existing shoreline. The applicant has also provided a site plan with top and toe of bank information. The application also meets the general development agreement criteria contained in **MPS 5.3.7** because it is a residential development in a residential area that is consistent with the surrounding zoning, and does not create any issues regarding wellfields, servicing or traffic, etc. A full description of these general criteria are reviewed in Appendix C.

Grand Pre and Area Community Plan

In 2010 a community plan was established that sets goals and objectives for the Grand Pre and Area communities of Grand Pre, North Grand Pre, Hortonville and Lower Wolfville. The subject property is located in North Grand Pre, where residential development and a campground are clustered around Evangeline Beach. This community plan recognizes North Grand Pre as being sensitive to coastal erosion and looks to implement improved septic system and shoreline protection measures. The applicant and owners are working with a shoreline reclamation expert to improve the conditions on the subject property and a septic system in accordance with Nova Scotia Environment’s regulations, will be required as part of the development agreement.

Many of the policies in the Grand Pre and Area Community Plan do not address the applicant’s proposed redevelopment of replacing a dwelling with a new dwelling. The policies in this community plan are generally focused around preserving agriculture and cultural landmarks, while limiting non-agricultural industry to help maintain the historic fabric of the area.

7. 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:

- Enable a new dwelling to replace the existing dwelling
- Ensures a 75 foot setback from the marine shoreline
- Establishes a survey of top and toe of bank for coastal erosion monitoring and observation

8. CONCLUSION

It is staff's opinion that the proposed dwelling and the draft development agreement are in keeping with the intent of Council's Municipal Planning Strategy. The proposal is enabled by policies regarding Shoreland development within the Municipal Planning Strategy and the layout and location of the dwelling are consistent with Shoreland policies and the underlying zoning. The proposal meets all other general Development Agreement criteria. As a result, a positive recommendation is being made to the Planning Advisory Committee.

9. APPENDICES

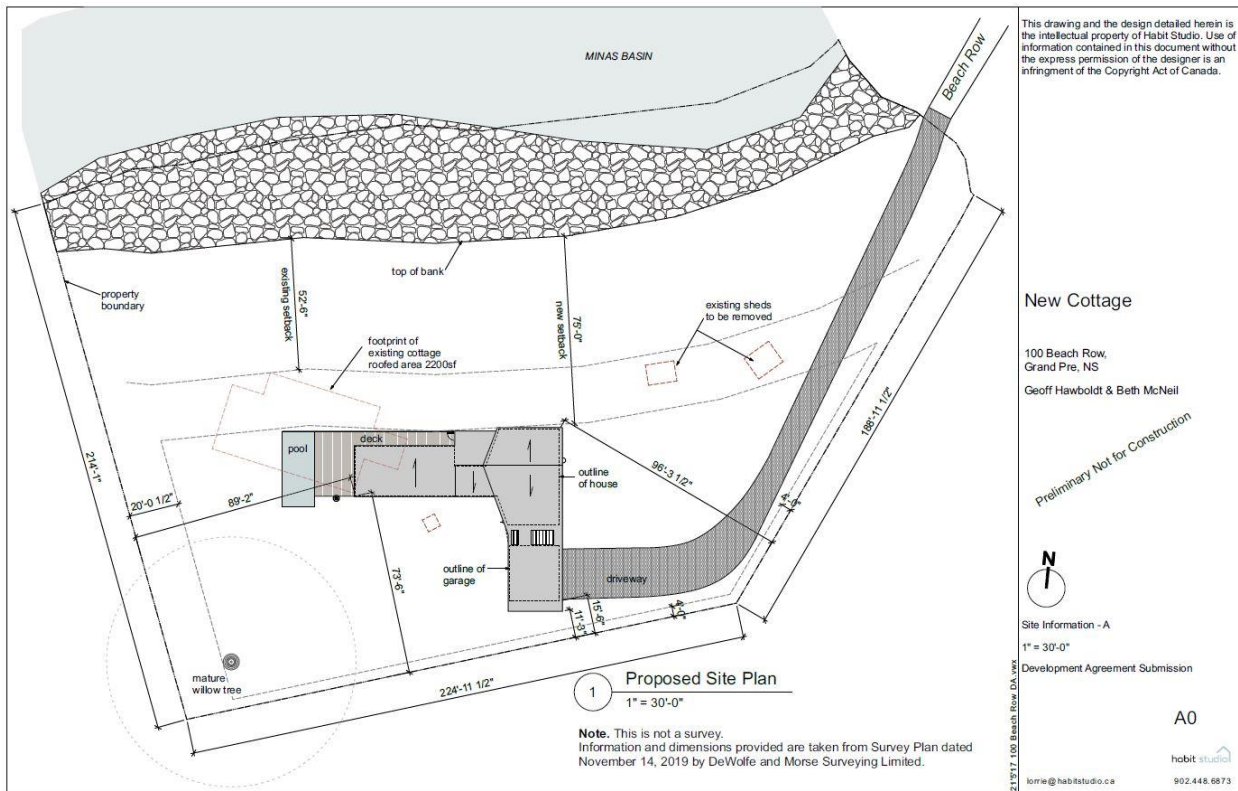
Appendix A: Maps, Site Plan and Survey

Appendix B: Public Comments

Appendix C: General Development Agreement Criteria

Appendix D: Draft Development Agreement

Appendix A: Maps Site Plan & Survey



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New Cottage

100 Beach Row,
Grand Pre, NS
Geoff Hawboldt & Beth McNeil

Preliminary Not for Construction



Site Information - A
1" = 30'-0"
Development Agreement Submission

A0

habit studio
lorie@habitstudio.ca 902.448.6873

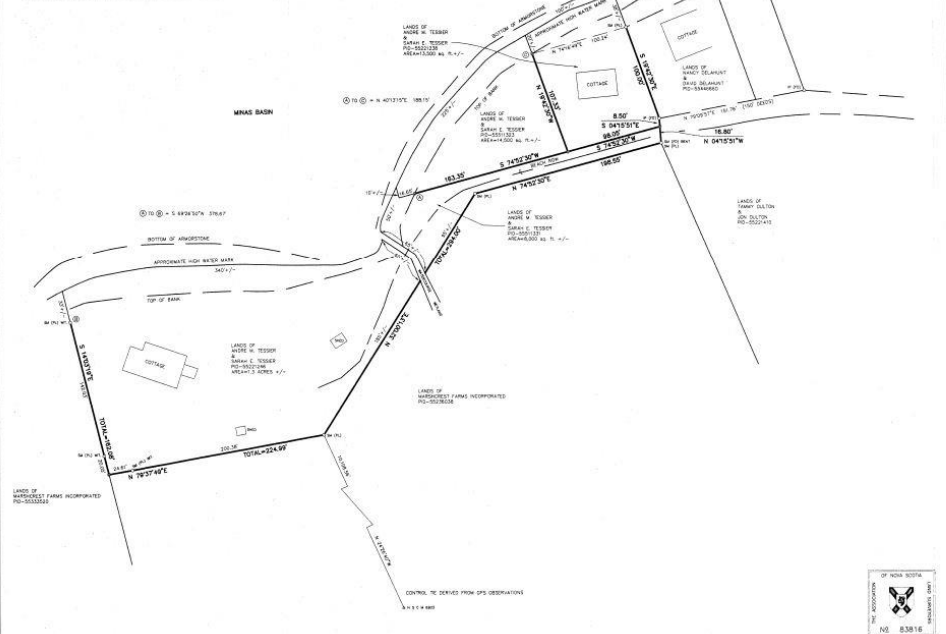
1 Proposed Site Plan
1" = 30'-0"
Note: This is not a survey.
Information and dimensions provided are taken from Survey Plan dated
November 14, 2019 by DeWolfe and Morse Surveying Limited.

NOTES

- ALL DIMENSIONS ARE OBTAINED FROM NORTH SOUTH CONTROL MEASUREMENT TAKEN ON THE NORTH SOUTH 2' ADDED TRANSVERSE MERIDIAN PROJECTION (ZONE 8, CENTRAL MERIDIAN 64° 30' WEST LONGITUDE)
- COORDINATE VALUES REFERRED AS OF JULY 10, 1979 CONFORMED TO NORTH AMERICAN DATUM OF 1983 (NAD 83)
- REFER TO PLAN BY JOHN & ROSE TESSER PROPERTY SURVEY PLAN OF JAMES S. McLELLAN, DATED AUGUST 4, 1976, FOR PROPERTY REFERENCE POINTS

WE, THE UNDERSIGNED, HEREBY AGREE TO OUR BOUNDARIES AS SHOWN ON THIS PLAN AND MONUMENTS ON THE GROUND.

NAME	SIGNATURE	DATE	DATE
JOHN MICHEL TESSER	<i>[Signature]</i>	July 10, 2019	
SARAH ELIZABETH TESSER	<i>[Signature]</i>	July 10, 2019	
ROBERT FAWCETT	<i>[Signature]</i>	July 10, 2019	
ROBERT AND PAMELA	<i>[Signature]</i>	July 10, 2019	
ROBERT FAWCETT & PAMELA AND HEIR(S) FOR HABIT STUDIO	<i>[Signature]</i>	July 10, 2019	



NET PLAN SCALE 1:50,000

LEGEND

SHADED BENT	IRON N
CHISEL	CHISEL
POINT OF CORNER	POINT OF CORNER
IRON N	IRON N
NORTH SOUTH CONTROL MONUMENT	CHISEL
SURVEY MARKER	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL
CHISEL	CHISEL

ALL VALUES ARE MEASURED
ALL BEARINGS ARE BASED ON 1" IN 100' (1 CM IN 100' FT.)
ALL DISTANCES ARE CORRECTED, BEARING DISTANCES BY BEAM FACTOR APPLIED

H. KIRK HICKS

NOVA SCOTIA LAND SURVEYOR, REGISTRATION NO. 10074

PLAN OF SURVEY SHOWING
CERTAIN BOUNDARIES
LANDS OF
ANDRE MICHEL TESSER
SARAH ELIZABETH TESSER
BEACH ROW
NORTH GRAND PRE
NOVA COUNTY, NOVA SCOTIA

NOVA COUNTY LAND REGISTRATION OFFICE
NOVA SCOTIA
90887740
JUL 10 2019
10:44 AM

SCALE 1" = 40'

SURVEYED BY H. KIRK HICKS
THIS SURVEY WAS EXECUTED DURING THE PERIOD FROM
APRIL 12, 2019 TO JUNE 10, 2019

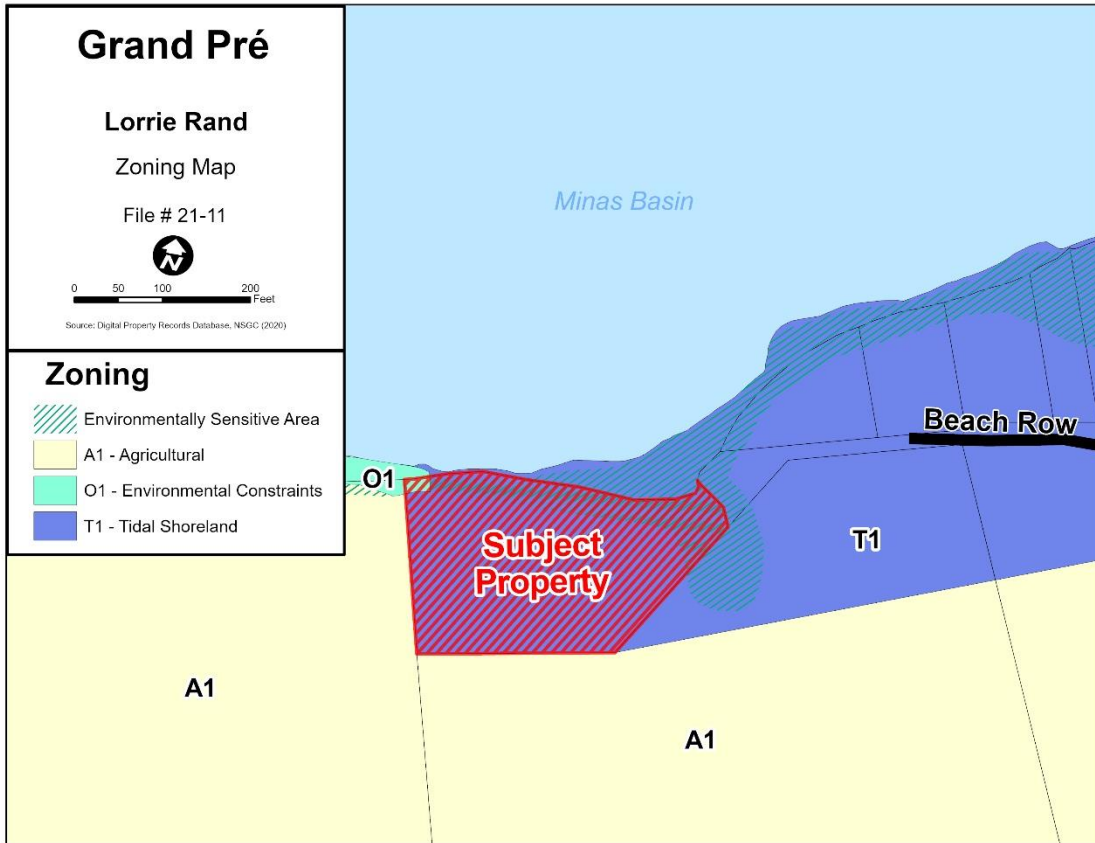
SURVEYOR'S CERTIFICATE

I, H. KIRK HICKS, Land Surveyor and Surveyor, hereby certify that the Survey, as described in this Survey Plan, was conducted under my supervision and that the boundaries shown thereon are correct and conform to the provisions of the Land Registration Act, R.S.N.S. 1988, c. 210, and the Survey Act, R.S.N.S. 1988, c. 210, and that the Survey Plan is a true and correct copy of the original Survey Plan.

Signed this 10th day of July, 2019.

H. KIRK HICKS, L.S.S., No. 10074

Plan No. 11011



Appendix B: Public Comments

- One phone call was received and staff spoke with the land owner about their surrounding farmland. The land owner was not concerned with the proposed dwelling replacing the existing dwelling.

APPENDIX C – General Development Agreement Criteria

Policy 5.3.7

Council expects to receive applications to amend the Land Use By-law or enter into a development agreement for development that is not permitted as-of-right in the Land Use By-law. Council has established criteria to ensure the proposal is appropriate and consistent with the intent of this Strategy.

Council shall be satisfied that a proposal to amend the Land Use By-law or to enter into a development agreement:

Criteria	Comments
<i>a. is consistent with the intent of this Municipal Planning Strategy, including the Vision Statements, relevant goals, objectives and policies, and any applicable goals, objectives and policies contained within a Secondary Plan;</i>	The proposed dwelling is consistent with directing residential development along the coast, into concentrated pockets of T1 Zoning. The intent of the MPS is met by allowing for development that cannot meet the zone standards, to be considered through a development agreement.
<i>b. is not in conflict with any Municipal or Provincial programs, By-laws, or regulations in effect in the Municipality;</i>	No conflict with programs or by-laws.
<i>c. that the proposal is not premature or inappropriate due to:</i>	
<i>i. the Municipal or village costs related to the proposal;</i>	The proposal does not involve any development costs to the Municipality.
<i>ii. land use compatibility with surrounding land uses;</i>	Residential development is intended to locate in areas of T1 Zoning. The subject property is at the edge of this zone and abuts the Agricultural Zone. The boundary between these two zones is well established and separated with mature trees and vegetation.
<i>iii. the adequacy and proximity of school, recreation and other community facilities;</i>	Ocean side properties do not always have close access to these types of services, though within this community there are beaches, trails and parks.
<i>iv. the creation of any excessive traffic hazards or congestion due to road or pedestrian network adequacy within, adjacent to, and leading to the proposal;</i>	The proposed development is replacing one dwelling with a new dwelling. This change would have no significant impact on the surrounding road network.
<i>v. the adequacy of fire protection services and equipment;</i>	The Wolfville Fire department confirmed that fire protection services and equipment were adequate to serve this property.
<i>vi. the adequacy of sewer and water services;</i>	No central sewer or water services are available at the subject property. Water and waste water services are both on-site systems falling under the jurisdiction of Nova Scotia Environment.
<i>vii. the potential for creating flooding or serious drainage problems either within the area of development or nearby areas;</i>	Not expected. Also the property owner is required to contain all post-development storm water flow on site.

<p><i>viii. negative impacts on identified wellfields or other groundwater supplies for the area;</i></p>	<p>There are no identified wellfields in the area.</p>
<p><i>ix. pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i></p>	<p>The property owner will be required to follow provincial specifications regarding soil erosion during construction phases.</p>
<p><i>x. negative impacts on lake water quality or nearby wetlands;</i></p>	<p>Not applicable, the property is not in proximity to a lake or known wetlands.</p>
<p><i>xi. negative impacts on neighbouring farm operations;</i></p>	<p>Not expected. The surrounding farming operation has already established a boundary between the fields and the pocket of T1 Zoning.</p>
<p><i>xii. the suitability of the site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way.</i></p>	<p>The subject property is suitable in terms of grades, soils, geological conditions, and proximity to natural features and rights-of-way.</p>

Appendix D: Draft Development Agreement

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

BETWEEN:

Geoffrey Hawboldt and Beth McNeil, of Calgary, Alberta, 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 55221246; and

WHEREAS the Property Owner wishes to use the Property for a single unit dwelling.

WHEREAS the Property is situated within an area designated Shoreland (S) on the Future Land Use Map of the Municipal Planning Strategy, and zoned Tidal Shoreland (T1) on the Zoning Map of the Land Use By-law; and

WHEREAS policy 3.5.18 the Municipal Planning Strategy and section 9.5.5 (d) 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 (add date of motion), approved this Development Agreement;

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

PART 1 AGREEMENT CONTEXT

1.1 Schedules

The following attached schedules shall form part of this Agreement:

Schedule A Property Description

Schedule B Site Plan

1.2 Municipal Planning Strategy and Land Use 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.

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

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 Road frontage requirement – waived

Development that is permitted by section 2.1 may proceed with no public or private road frontage.

2.2 Site Plan

Development shall remain generally consistent with the Site Plan – Schedule B.

2.3 Appearance of Property

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

2.4 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 Tidal Shoreland (T1) 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. This means development requires that a septic system in accordance with Nova Scotia Environment's regulations be provided.

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:

Witness

Beth McNeil

Witness

Geoffrey Hawboldt

Witness

Name of Signing Authority

Schedule A – Property Description

Parcel Description

Place Name: North Grand Pre

Municipality/County: Kings

Designation of Parcel on Plan:

Lands of Andre M. Tessier & Sarah E. Tessier PID 55221246 Area = 1.3 acres +/-

Title of Plan:

Plan of survey showing certain boundaries lands of Andre Michel Tessier & Sarah Elizabeth Tessier, Beach Row, North Grand Pre, Kings County, Nova Scotia

Registration County: KINGS COUNTY

Registration Number of Plan: 98837140

Registration Date of Plan August 3, 2011

BENEFIT:

Granting to the Grantee, his heirs and assigns, a right of way over and along the right of way as now used, leading from the public highway at Evangeline Beach to the lands hereby conveyed.

BURDEN:

Reserving however to William Wilson his heirs and assigns a right of way over one (1) rod of land lying immediately south of the Wilson lands for all purposes reasonably incidental to the enjoyment of a right of Way.

Subject to an Easement Right of Way as set out in Document Number 103354016 recorded on July 4, 2013.

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

Compliance:

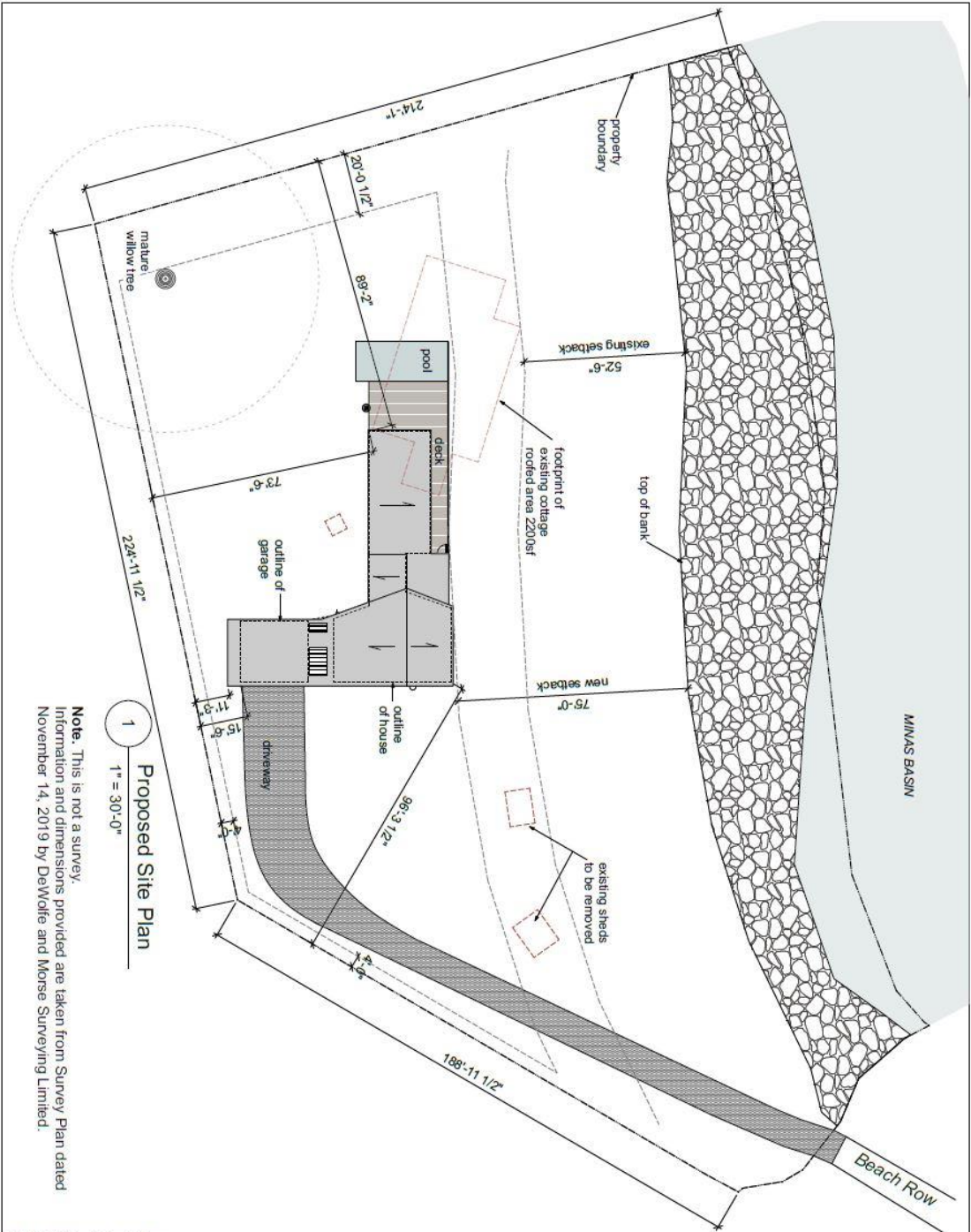
The parcel originates with an instrument (registration details below) and the subdivision is validated by Section 291 of the Municipal Government Act

Registration District: KINGS COUNTY

Registration Year: 2011

Document Number: 98837140

Schedule B – Site Plan



1 Proposed Site Plan
1" = 30'-0"

Note. This is not a survey. Information and dimensions provided are taken from Survey Plan dated November 14, 2019 by DeWolfe and Morse Surveying Limited.

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New Cottage

100 Beach Row,
Grand Pre, NS
Geoff Hawboldt & Beth McNeill

Preliminary Not for Construction



Site Information - A
1" = 30'-0"

Development Agreement Submission

A0

21'S17 100 Beach Row DA.vwx
h@bit-studio.ca
902.448.8873