



# PLANNING ADVISORY COMMITTEE MEETING

TUESDAY, September 14, 2021, 1:00 p.m.

Council Chambers, 181 Coldbrook Village Park Dr.

## A G E N D A

### PLANNING ADVISORY COMMITTEE MEETING

Page

1. Meeting to Order
2. Roll Call
3. Amendments to Agenda
4. Approval of the Agenda
5. Disclosure of Conflict of Interest Issues
6. Approval of Minutes
  - a) July 13, 2021 2
7. Business Arising from the Minutes
8. Business
  - a) Application to enter into a development agreement to permit an expansion of an existing restaurant at 1293 Grand Pre Road (PID 55446710), Wallbrook. (File 21-04, Will Robinson-Mushkat) 6
  - b) Application to enter into a development agreement to permit additional tourist cabins at Bishopville Road, (PID 55501225) Bishopville. (File #21-10, Mark Fredericks) 30
9. Other Business
10. Date of Next Meeting – October 12, 2021 - 1:00 p.m.
11. Adjournment

# PLANNING ADVISORY COMMITTEE

## Draft Minutes

- Meeting, Date and Time** A meeting of the Planning Advisory Committee (PAC) was on Tuesday, July 13, 2021 at 1:00 pm in Council Chambers at 181 Coldbrook Village Park Drive.
- Attending** In Attendance:
- PAC Members** Councillor Martha Armstrong – District 4 (Chair)  
Councillor Dick Killam – District 5 (Vice Chair)  
Councillor June Granger – District 1  
Councillor Jim Winsor – District 8  
Councillor Peter Allen – District 9  
Michael Kuhn – Citizen Member  
Emile Fournier – Citizen Member
- Municipal Staff** Trish Javorek - Director Planning and Inspections  
Laura Mosher - Manager of Planning and Development Services  
Mark Fredericks - Planner  
Will Robinson-Mushkat – Planner  
Chloe Austin – Recording Secretary
- Public** 2
1. **Meeting to Order** The Chair called the meeting to order at 1:00 pm.
  2. **Roll Call** Roll call was taken.
  3. **Amendments to Agenda** There were no amendments to the agenda.
  4. **Approval of the Agenda** **On motion of Councillor Killam and Councillor Granger, that the agenda be approved.**  
**The question was called on the motion. Motion carried.**
  5. **Disclosure of Conflict of Interest Issues** There were no conflict of interest issues disclosed.
  6. **Approval of Minutes**
    - a. **June 6, 2021** **On motion of Mr. Fournier and Mr. Kuhn, that the minutes of the Planning Advisory Committee meeting held on Tuesday, June 6, 2021 be approved.**  
**The question was called on the motion. Motion carried.**
  7. **Business Arising from the Minutes** There was no business arising from the June 6, 2021 minutes.
  8. **Business**

**a. Application to rezone vacant land at 1217 White Rock Road (PID 55179303) (File # 21-07)**

Mark Fredericks, Planner, presented the application by Niche Designs to rezone a 10 acre portion of the property at 1217 White Rock Road (PID 55087647) from the Rural Mixed Use (A2) Zone to the Rural Industrial (M3) Zone.

Questions of Clarification:

Councillor Winsor asked about the total size of the property in relation to the portion that would be rezoned. The 10 acres is only a portion of the property.

Councillor asked about restrictions around agricultural land. It was clarified that this would not be allowed if it had been zoned A1, but it is possible in this instance because it is zoned A2. Discussion was had around areas that were formerly zoned Forestry under previous planning documents; many of these areas came to be zoned A2.

**On motion of Councillor Allen and Mr. Fournier, that the Planning Advisory Committee recommends that it be resolved that Municipal Council approves the discharge of the development agreement dated September 6 1994, between Clifford Long & Sons Limited et al. and the Municipality of the County of Kings, from the lands located at 1217 White Rock Road (PID 55179303) as described in Appendix E of the report dated July 13, 2021.**

Debate: No debate

**Motion carried.**

**On motion of Councillor Allen and Councillor Killam, that the Planning Advisory Committee recommends that Municipal Council give First Reading to and hold a Public Hearing regarding the rezoning of a portion of 1217 White Rock Road (PID 55179303), White Rock from the Rural Mixed Use (A2) Zone to the Rural Industrial (M3) Zone, as shown in Appendix D of the report dated July 13, 2021.**

Debate: No debate

**The question was called on the motion.**

**Motion carried.**

**b. Application to enter into a development agreement to permit a three unit residential dwelling (File #21-01)**

Will Robinson-Mushkat, Planner, presented the application by Duane Richards and Jennifer Alders to enter into a development agreement to permit a three unit residential dwelling at 15 Lockhart Drive (PID 55205538), New Minas.

Questions of Clarification:

The Chair asked for clarification around the units that would have been permitted as-of-right. Mr. Robinson-Mushkat clarified that one additional unit would have been allowed as-of-right; the three units creates the need for the development agreement due to the presence of the wellfield.

**On motion of Councillor Winsor and Councillor Allen, that the Planning Advisory Committee recommends that Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit two additional residential units within an existing dwelling for a total of three residential units on the property located at 15 Lockhart Drive (PID 55205538), New Minas which is substantively the same (save for minor differences in form), as described in Appendix D of the report dated July 13th, 2021.**

Debate: No debate

**The question was called on the motion.**

**Motion carried.**

**c. Application to rezone from Light Industrial Commercial (M1) Zone to Residential One and Two Unit (R2) Zone. (File #21-08)**

Will Robinson-Mushkat, Planner, presented the application by Gregory Webster to rezone 5854 Highway #1 (PID 55158158) Cambridge, NS from the Light Industrial Commercial (M1) zone to the Residential One and Two Unit (R2) Zone.

Questions of Clarification:

Councillor Killam asked if there was any information on where a potential highway exit might be constructed. Ms. Mosher, Manager of Planning and Development Services, indicated that this is not relevant to the application.

Councillor Winsor asked how much land is zoned Commercial Light Industrial in the surrounding area. Mr. Robinson-Mushkat indicated that there are many commercial properties in the surrounding area. The exact acreage is unknown. It was clarified that the balance of commercial and residential property in the area would not be negatively impacted by this application.

**On motion of Mr. Kuhn and Councillor Killam, that The Planning Advisory Committee recommends that Council give First Reading to and hold a Public Hearing regarding the map amendment to the Land Use By-law to rezone the property at 5854 Highway #1, (PID 55158158), Cambridge, from the Light Industrial Commercial (M1) Zone to the Residential One and Two Unit (R2) Zone, as described in Appendix D of the report dated July 13th, 2021.**

Debate:

**The question was called on the motion.**

**Motion carried.**

**9. Date of Next Meeting**

Tuesday, September 14, 2021 - 1:00 pm.

**10. Comments from the Public**

Gregory Webster noted that the property under discussion for file 21-08 (agenda item 8c) had always been zoned residential prior to the approval of

the new MPS LUB documents in 2020. It was not made clear to him that his property would become zoned M1 when these documents were approved. Mr. Webster considers it an error in the planning process that is detrimental to the value of his property as it made his property non-conforming and has made this application as an attempt to correct the situation.

11. **Adjournment**

**There being no further business, on motion of Councillor Allen and Councillor Winsor, that the meeting adjourn.**

The meeting adjourned at 1:52pm.

DRAFT



Municipality of the County of Kings

## Report to the Planning Advisory Committee

Planning application to enter into a development agreement to permit an expansion of an existing restaurant at 1293 Grand Pre Road (PID 55446710), Wallbrook

(File #21-04)

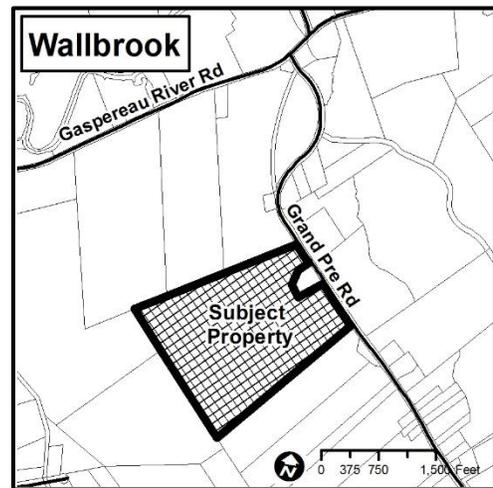
September 14<sup>th</sup>, 2021

Prepared by: Planning Staff

|                               |  |
|-------------------------------|--|
| <b>Applicant</b>              | Philip Dennis  |
| <b>Land Owner</b>             | Luckett Farms Ltd.   |
| <b>Proposal</b>               | To enter into a development agreement to permit an expansion of an existing restaurant               |
| <b>Location</b>               | 1293 Grand Pre Road (PID 55446710), Wallbrook  |
| <b>Lot Area</b>               | Approximately 87 acres   |
| <b>Designation</b>            | Agricultural (A)   |
| <b>Zone/Overlay</b>           | Rural Mixed Use (A2) Zone  |
| <b>Surrounding Uses</b>       | Residential and Agricultural Uses  |
| <b>Neighbour Notification</b> | Staff sent notification letters to the 16 owners of property within 500 feet of the subject property |

### 1. PROPOSAL

Philip Dennis, on behalf of Luckett Farms Limited, has applied to discharge an existing development agreement and enter into a new development agreement for the property located at 1293 Grand Pre Road (PID 55446710), Wallbrook – Luckett’s Vineyard. The new development agreement would permit the expansion of an existing restaurant. This expansion would enable a future conversion of outdoor dining areas (patios and decks) into an enclosed portion of the existing main building that currently contains a winery, retail store, private dining room, offices, and commercial kitchen, or a combination of outdoor and indoor full-service dining.



### 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. BACKGROUND**

The property has been used for the cultivation of grapes for the production of wine for approximately two decades. Prior to the construction of the building on the subject property, the grapes were taken to a separate facility to be processed. A development agreement process commenced in 2009 and was entered into by the property owner and the Municipality of Kings in 2011. The main building, which houses Lockett's Vineyards, was established on the subject property by the current owners. In 2014, an expansion to the existing building and two deck/patio areas were permitted under the terms of the existing development agreement. The subject property is currently occupied by one main building which houses the following:

- a private dining area
- a retail storefront with items oriented towards a tourist market such as wine and accessory items
- winery operations including production, storage and tasting
- a commercial kitchen

Over the period of time since the original development agreement was approved and has been in force the uses at Lockett's Vineyard have gradually evolved with the establishment of outdoor dining as a feature of the operation. Further, as the business has evolved there has been a need identified to enable the restaurant use to expand in a manner that enables the use to continue during the shoulder seasons of spring and autumn by enclosing the outdoor eating areas. Seating areas are located outdoors on patio/deck areas and, for the past several years, two tents of approximately 1,000 square feet in area have been erected for outdoor seating. These tents have been located on either side of a permanent patio and canopy area which extends out on the south facing side of the building.

It is proposed that the existing development agreement be discharged and a new development agreement drafted to reflect the evolution and expansion in the uses permitted to occur on the subject property. The new development agreement would enable this area to be enclosed in the future, along with a permanent patio area and breezeway between the main building and deck/patio area. The single level, main building is approximately 7500 square feet in size and the area for the proposed restaurant expansion approximately is 4000 square feet.

### **4. INFORMATION**

#### **4.1 Site Information**

The subject property is located within the community of Wallbrook on the west side of Grand Pre Road, approximately 1.1 kilometres south of the intersection of Gaspereau River Road and Grand Pre Road. The subject property has a lot area of 87.0 acres. The subject property is irregularly shaped owing to the subdivision of a portion of the property in 2003 to create a parcel, approximately 2.3 acres in total area, for a residential dwelling. This has resulted in the frontage of the property along Grand Pre Road being broken into two separate portions. The northern portion of frontage along Grand Pre Road is approximately 300 feet in length while the southern portion of the frontage, where the access to the main building is located, is approximately 670 feet in length. The property has an approximate depth of 2,300

feet on both the north and south property lines. The western (rear) property line is approximately 2,000 feet in length.

The property slopes upwards toward the south, providing a north-facing slope for the cultivation of grapes. Approximately 55 acres of the property, primarily located towards the eastern end of the property, is cleared and primarily used for the cultivation of grapes for winemaking. The remaining portion of the subject property, approximately 22 acres, is forested. There are two identified watercourses on the subject property. One is located towards the western property line and traverses primarily through forested land. The other is located in close proximity to the existing development. This watercourse feeds into a pond that is centrally located on the subject property, near the residential property.

The buildings and structures on the subject property are all located in the eastern end of the subject property, closest to Grand Pre Road. There is one parking area at the front of the property, located next to the main building housing the restaurant, retail, and processing uses. There is one access point from Grand Pre Road for this parking area. The parking area is paved, with 89 delineated spaces for vehicles along with 2 parking spaces for tour busses and 4 accessible parking spaces. The main building and patio/deck area is setback approximately 48 feet from the front property line.

The subject property is located within the area designated as *Agricultural* in the Municipal Planning Strategy. Land within this designation is intended for agricultural uses and these land uses are promoted and prioritized over other land uses. Within the designation, the subject property is located in the Rural Mixed Use (A2) Zone. The purpose of this zone is to provide for a mixture of agricultural, residential and resources uses in order to enable the expansion of the agricultural industry as well as accommodate demand for rural housing. However, in the event of a conflict between agricultural and non-agricultural land uses, the agricultural land use shall have precedence.

#### **4.2 Site Visit**

A Municipal Planner conducted a site visit on the subject property on February 24, 2021. A second site visit was conducted by a Municipal Planner on June 16, 2021. On both occasions the applicant and planner walked the subject property and discussed the intent behind the planning application. The planner took photos of the subject property on both occasions as well.

#### **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. Due to the restrictions regarding public gatherings as a result of public health orders concerning COVID-19, an online recording of the Public Information Meeting presentation was posted to the website of the Municipality of the County of Kings from March 23<sup>rd</sup>, 2021 to April 23<sup>rd</sup>, 2021. A letter was sent out to 16 property owners within a 500 foot radius of the subject property providing notification of the Development Agreement application and online PIM. An advertisement was also placed in the March 23<sup>rd</sup>, 2021 edition of the *Valley Journal-Advertiser*. No

comments from members of the public were received by planning staff pertaining to the online PIM for the planning application.

## 5. POLICY REVIEW – DEVELOPMENT AGREEMENT

### 5.1 Land Use Bylaw

This proposal can be considered by development agreement, as enabled in Section 8.4.5 of the By-Law #106 - Land Use Bylaw (LUB) which states: *“Pursuant to the Municipal Planning Strategy, the uses noted below may be considered by Development Agreement within the Rural Mixed Use (A2) Zone:*

- (a) Proposals for visitor-oriented development not permitted as-of-right in accordance with policy 2.5.13 of the Municipal Planning Strategy.”*

### 5.2 Municipal Planning Strategy

#### 5.2.1 Enabling Policy and Criteria

Policy 2.5.13 of the Municipal Planning Strategy states: *“consider only by development agreement within the Agriculture, Resource, and Shoreland Designations, with the exception of in the Agriculture (A1) Zone, proposals for visitor-oriented developments not permitted as-of-right. In evaluating development agreements, Council shall be satisfied that:*

- a. “the proposal is oriented to visitors or the travelling public, such as, but not limited to, lodging, restaurants, event venues, or other type of special attractions;”*  
The uses permitted by the proposed development agreement, including the full-service restaurant, retail sales, farm/vineyard product sampling, private dining functions, wine bar, and tourist commercial uses all are oriented towards visitors and the travelling public.
- b. “the subject property has a lot area that can appropriately accommodate the proposed use, any accessory uses, and structures, parking areas and required infrastructure;”*  
The site plan, which forms a schedule of the proposed development agreement, demonstrates that the development envelope(s) for the subject property can comfortably accommodate the permitted uses, structures, and required infrastructure.
- c. “the site facilities are adequately buffered and/or separated from surrounding residential dwellings (other than a residential dwelling occupied by the operator) to mitigate negative impacts associated with noise, light, and other visual impacts;”*  
Section 2.4 of the proposed development agreement requires the maintenance of a vegetative buffer zone in accordance with Schedule B – Site Plan.
- d. “if the proposal is for a lot located on a lake within the Shoreland designation, Council shall be satisfied that...”*  
These criteria are not applicable for this development as the subject property is not located in the Shoreland designation.

- e. *“if the use is a listed permitted use, the condition(s) that prevent the proposal from being permitted as-of-right in the designation is addressed by development agreement including, but not limited to, enhanced buffering and the positioning and design of buildings and structures; and”*

Many of the uses enabled through the development agreement are permitted, however the commercial floor area exceeds the maximum permitted under the land use by-law. The location of uses enabled by the agreement is controlled by the inclusion of a site plan. Uses have been buffered through the provision of a vegetated buffer area.

- f. *“the proposal meets the general development agreement criteria set out in section 5.3 Development Agreements & Amending the Land Use By-law.”*

The uses permitted by the proposed development agreement meet the general criteria set out in section 5.3 of the Municipal Planning Strategy. It is Staff’s opinion that the proposal meets the general criteria in that it will not result in any direct costs to the Municipality, raises no concerns in terms of traffic or access, is serviced by a private sanitary septic system, is compatible with adjacent uses, and raises no concerns regarding emergency services. A full review of these criteria as they pertain to this application are outlined in Appendix B of this report.

### **5.2.2 General Development Agreement Criteria**

Municipal Planning Strategy section 5.3.7 contains the criteria to be used when considering all development agreement proposals. These criteria consider the impact of the proposal on the road network, services, development pattern, environment, finances, and wellfields, as well as the proposal’s consistency with the intent of the Municipal Planning Strategy (see Appendix B 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 concerns in terms of traffic or access, is compatible with the surrounding development pattern, is serviced by municipal sewer, is compatible with adjacent uses, and raises no concerns regarding emergency services.

## **6. SUMMARY OF DRAFT DEVELOPMENT AGREEMENT**

The draft development agreement has been attached as Appendix C to this report. The main content of the proposed development agreement permits the following uses (Section 2.1):

- A full-service restaurant located within an enclosed building, tent, or open-air patio area;
- A retail area;

The uses enabled by the development agreement are permitted to be located within the existing building, an expansion of the existing building, a tent and/or patio area, or a combination thereof. However, they are required to be located within Development Envelopes 1 and 2, as located on the Site Plan, which forms a schedule of the proposed Development Agreement.

The draft development agreement also includes provision for control and maintenance of the development, including the following:

- Site Plan (Section 2.2)

- Signage (Section 2.3)
- Buffering and Landscaping (Section 2.4)
- Parking (Section 2.7)
- Lighting (Section 2.9)
- Hours of Operation (Section 2.11)
- Amplified Sound (Section 2.12)

Standard clauses related to maintenance of the property, commencement, discharge and other matters have also been included.

## 7. CONCLUSION

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

## 8. STAFF RECOMMENDATION

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

**The Planning Advisory Committee recommends that Municipal Council discharge the existing development agreement and give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit an expanded full service restaurant, and tourist commercial uses at 1293 Grand Pre 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<sup>th</sup>, 2021.**

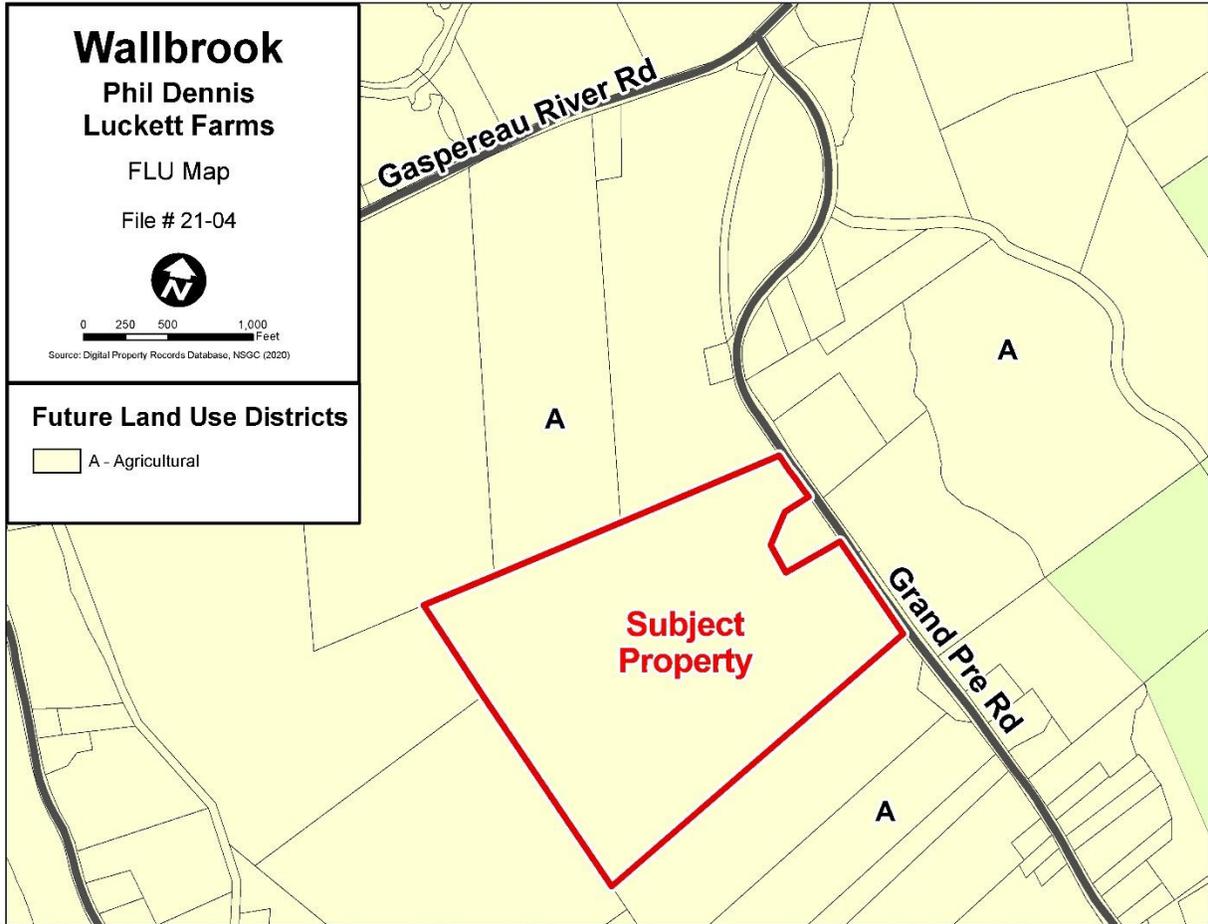
## 9. APPENDICES

Appendix A: Future Land Use Map and Zoning Map

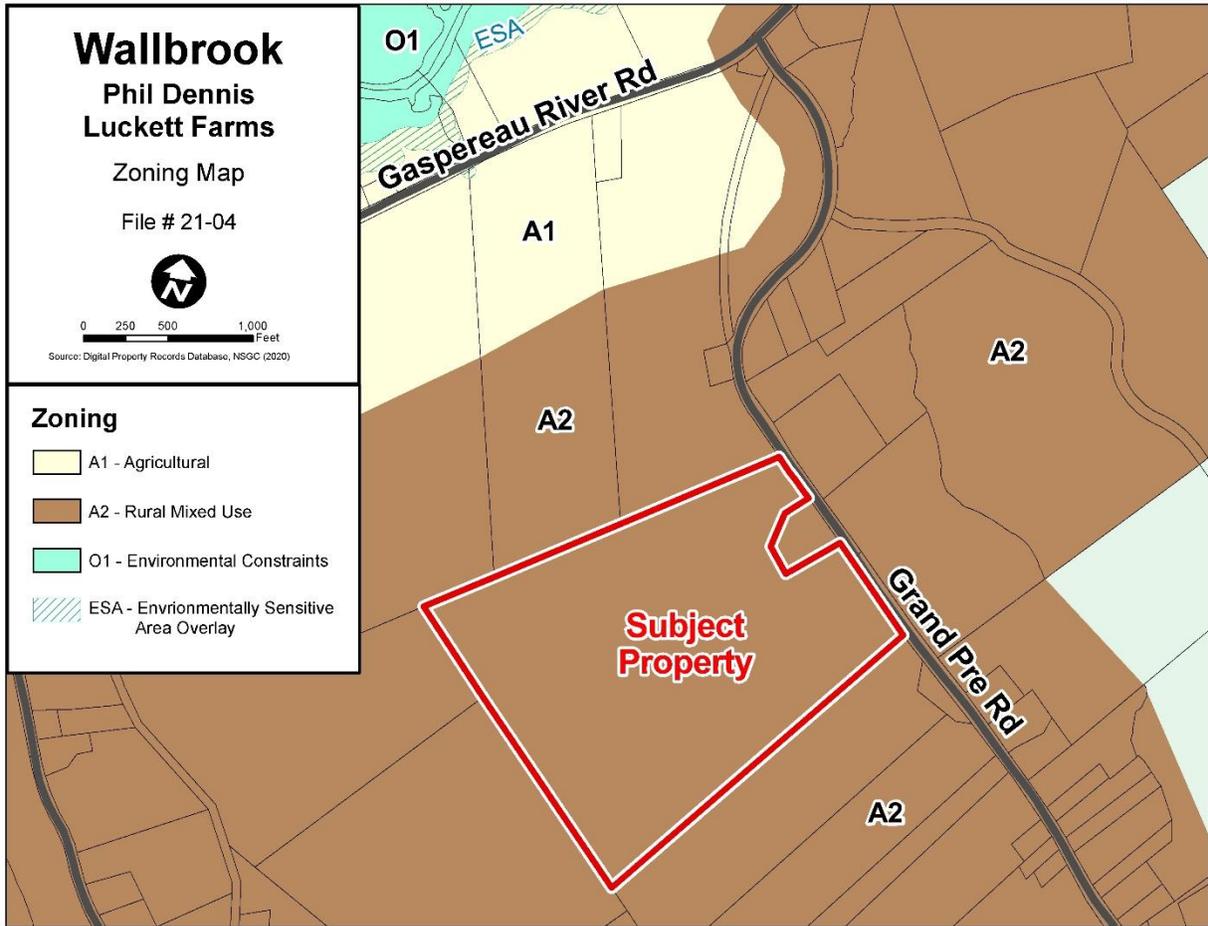
Appendix B: General Development Agreement Criteria (MPS Policy 5.3.7)

Appendix C: Draft Development Agreement

APPENDIX A  
FUTURE LAND USE MAP



ZONING MAP



**APPENDIX B: By-law 105 - Municipal Planning Strategy, Policy 5.3.7 General Criteria to Consider for all Development Agreements and Land Use By-law Amendments**

**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:*

| <b>Criteria</b>   | <b>Comments</b>  |
|---|--|
| <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 application is consistent with the vision statements, goals, objectives and meets the policies of the Municipal Planning Strategy.   |
| <i>b. is not in conflict with any Municipal or Provincial programs, By-laws, or regulations in effect in the Municipality;</i>  | The application is not in conflict with any Municipal or Provincial programs, by-laws, or regulations.   |
| <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>   | The land uses surrounding the property are rural in character and contain a mixture of agricultural, forestry, and low-density residential uses.   |
| <i>iii. the adequacy and proximity of school, recreation and other community facilities;</i>  | Not applicable – the uses enabled by the development agreement are commercial.   |
| <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>   | DTAT provided comment on the application noting that the existing road network is sufficient for the proposed uses, had no concerns with access/egress from the subject property and did not require further traffic analysis. |

|  |  |
|--|--|
| v. <i>the adequacy of fire protection services and equipment;</i>  | The Wolfville Fire Chief confirmed that fire protection services and equipment were adequate for the existing and proposed uses.   |
| vi. <i>the adequacy of sewer and water services;</i>   | Not applicable – central water and sewer services are not available at this location. Sewer and water serving the property are privately owned.  |
| vii. <i>the potential for creating flooding or serious drainage problems either within the area of development or nearby areas;</i>  | The existing and proposed uses are not anticipated to create flood or drainage issues on or around the subject property  |
| viii. <i>negative impacts on identified wellfields or other groundwater supplies for the area;</i>   | No identified wellfields are located in proximity to the subject property. It is not anticipated that the existing and proposed development will have a negative impact on ground water supplies for the area.   |
| ix. <i>pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i>  | The proposed development is not expected to cause any issues related to pollution, soil erosion, or siltation of watercourses.   |
| x. <i>negative impacts on lake water quality or nearby wetlands;</i>   | Not applicable.  |
| xi. <i>negative impacts on neighbouring farm operations;</i>   | It is not anticipated that the proposed uses enabled by the development agreement would have a negative impact on neighbouring farm operations. Given the location of the subject property within an area identified as <i>Agricultural</i> on the Future Land Use Map, a clause acknowledging farming practices in the area is included as part of the development agreement. |
| 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> | The proposed development area on the subject property is suitable in terms of grades, soils, geological conditions, and proximity to natural features and rights-of-way.   |

*Establish controls that may be needed to adequately address any concerns raised by the criteria set out in Policy 5.3.7 above, including but not limited to controls regarding:*

| Criteria | Comments |
|----------|----------|
|----------|----------|

|   |   |
|---|---|
| <i>a. the type of uses permitted on the lot;</i>  | The types of uses are controlled by the proposed development agreement.   |
| <i>b. the location, height, bulk, and lot coverage of any proposed buildings or structures;</i>   | Proposed expansions to the existing building will be restricted to the development envelopes identified on Schedule B – Site Plan, contained within the proposed development agreement.                               |
| <i>c. access, egress and parking requirements including, but not limited to the following:</i>  |   |
| <i>i. the location of parking areas on the lot;</i>   | Areas for parking are identified on site plan.  |
| <i>ii. off-road parking and loading spaces, that do not require consistency with the Land Use By-law requirements;</i>  | Parking and loading is not permitted off-site.  |
| <i>iii. waiving parking requirements;</i>   | Not applicable.   |
| <i>iv. the acceptance of cash-in-lieu for required parking provided there is adequate street or parking on other sites to serve the commercial uses; and;</i> | Not applicable.   |
| <i>v. shared parking arrangements;</i>  | Not applicable.   |
| <i>d. hours of operation;</i>   | Regulated by proposed development agreement.  |
| <i>e. signs and lighting;</i>   | Regulated by proposed development agreement.  |
| <i>f. phasing of the development;</i>   | Not applicable.   |
| <i>g. integrating the proposal into the surrounding area by means of good landscaping, buffering, sensitive site orientation and screening;</i>               | Not applicable.   |
| <i>h. reducing the impacts of noise, odour, dust, or light or any other form of emission on other properties in the area;</i>                                 | The amplification of sounds is prohibited from occurring outside of the enclosed building identified on Schedule B – Site Plan. For greater clarity, amplified noise is not permitted to occur within a tent or deck. |
| <i>i. reducing the potential for contamination of, or interference with, wellfields or other designated groundwater supply protection area;</i>               | Not applicable.   |
| <i>j. reducing contamination risk and damage to either the natural or built environment;</i>  | Not applicable.   |
| <i>k. managing lighting to reduce glare, light trespass, and skyglow;</i>   | Regulated by proposed development agreement.  |

|   |   |
|---|---|
| <i>l. architectural features, including but not limited to bulk, scale, height, roof shape, building materials, exterior cladding, and shape and size and placement of doors and windows, to ensure they are visually compatible with nearby buildings in the case of a new building, or with the original building in the case of an addition;</i> | Regulated by proposed development agreement.  |
| <i>m. ensuring the proposal provides sufficient park and trail features consistent with the applicable policies of section 2.7 Recreation and within the Subdivision By-law;</i>  | Not applicable.   |
| <i>n. the location of structures on the lot to ensure minimal interference with sunlight received by abutting properties, including but not limited to potential impact on solar collectors;</i>  | Not applicable.   |
| <i>o. management of garbage collection and industrial waste disposal;</i>   | Garbage is collected by Valley Waste.   |
| <i>p. ensuring no part of the area of the development agreement will be developed so as to prejudice or compromise future development on site or on nearby lands;</i>   | The location of the proposed expansion to the existing building it currently being utilized for the outdoor deck/patio area permitted under the terms of the in force development agreement and is wholly contained within an identified development envelope. Any future development is contained within an identified development envelope. |
| <i>q. on-going maintenance of the development;</i>  | Not applicable.   |
| <i>r. time limits for construction;</i>   | Not applicable.   |
| <i>s. requirements for adequate performance bonding or security to ensure that major components of the development, including but not limited to, road construction or maintenance, landscaping, or development of amenity areas, are completed in an appropriate and timely manner and maintained for a specific time period;</i>                  | Not applicable.   |
| <i>t. the discharge of the agreement or parts thereof; and</i>  | Not applicable.   |
| <i>u. any other matter determined by Council.</i>   | Not applicable.   |

## Appendix C: Draft Development Agreement

THIS DEVELOPMENT AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2021 A.D.

BETWEEN:

**LUCKETT FARMS LIMITED**, of Wallbrook, Nova Scotia, hereinafter called the "Property Owner"

of the First Part

and

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

of the Second Part

WHEREAS the Property Owner is the owner of certain lands and premises (hereinafter called the "Property") which lands are more particularly described in Schedule A attached hereto and which are known as Property Identification (PID) Number 55446710; and

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

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

WHEREAS 2.5.13 of the Municipal Planning Strategy and 8.4.5 (a) of the Land Use By-law provide that the proposed use may be developed only if authorized by development agreement; and

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

WHEREAS the Municipality by resolution of Municipal Council passed at a meeting on XX, 2021 approved this Development Agreement;

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

## **PART 1 AGREEMENT CONTEXT**

### **1.1 Schedules**

The following attached schedules shall form part of this Agreement:

|            |                      |
|------------|----------------------|
| Schedule A | Property Description |
| Schedule B | Site Plan            |

### **1.2 Municipal Planning Strategy and Land Use Bylaw**

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

### **1.3 Definitions**

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

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

## **PART 2 DEVELOPMENT REQUIREMENTS**

### **2.1 Use**

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

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

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

## **2.2 Site Plan**

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

## **2.3 Signs**

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

## **2.4 Buffering and Landscaping**

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

## **2.5 Appearance of Property**

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

## **2.6 Subdivision**

No alterations to the Property are permitted without a substantive amendment to this agreement except as may be required by the road authority for the purpose of creating or expanding a public street over the Property.

## **2.7 Parking**

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

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

## **2.8 Access and Egress**

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

## **2.9 Lighting**

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

## **2.10 Architectural Design**

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

## **2.11 Hours of Operation**

- (a) The hours of operation for all uses shall be between 6:00AM and 11:00PM Sunday through Saturday, inclusive.
- (b) Notwithstanding 3.1 (a),
  - i. Private functions occurring indoors on a Friday, Saturday or day that precedes a statutory holiday may operate from 6:00AM to 1:00AM the following day;

- ii. The full-service restaurant use - Section 2.1(b) – may operate from 6:00AM on December 31<sup>st</sup> to 1:00AM January 1<sup>st</sup> of each calendar year.

(c) No shipping or receiving activity shall occur between 11:00PM and 6:00AM

## **2.12 Amplified Sound**

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

## **2.13 Erosion and Sedimentation Control and Drainage**

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

## **2.14 Servicing**

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

## **2.15 Off-Site Disturbance**

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

## **PART 3 CHANGES AND DISCHARGE**

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

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

**3.3** The following matters are substantive matters

- (a) The Uses specified in section 2.1

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

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

**3.4** Upon conveyance of land by the Property Owner to either:

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

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

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

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

**3.6** Council may discharge this Agreement thirty (30) days after a Notice of Intent to Discharge has been given. Notwithstanding any other provision of this Agreement, the discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council without a public hearing.

## **PART 4 IMPLEMENTATION**

### **4.1 Commencement of Operation**

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

### **4.2 Drawings to be Provided**

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

### **4.3 Completion and Expiry Date**

- (a) The Property Owner shall sign this Agreement within 90 days from the date the appeal period lapses or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Nova Scotia Utility and Review Board or the unexecuted Agreement shall be null and void;
- (b) If the Property Owner is bona fide delayed from commencing the development for reasons which are beyond the Property Owner's control, the determination of which shall be at the sole discretion of the Development Officer, then performance by the Property Owner is excused for the period of the delay and the time period for the Property Owner to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

## **PART 5 COMPLIANCE**

### **5.1 Compliance With Other Bylaws and Regulations**

- (a) Nothing in this Agreement shall exempt the Property Owner from complying with Federal, Provincial and Municipal laws, bylaws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority or approval required thereunder;
- (b) Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

## **5.2 Municipal Responsibility**

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

## **5.3 Warranties by Property Owner**

The Property Owner warrants as follows:

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

## **5.4 Onus For Compliance On Owner**

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

## **5.5 Breach of Terms or Conditions**

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

## **5.6 Development Agreement Bound to Land**

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

### **5.7 Assignment of Agreement**

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

### **5.8 Costs**

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

### **5.9 Full Agreement**

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

### **5.10 Severability of Provisions**

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

### **5.11 Interpretation**

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

## **PART 6 ACKNOWLEDGEMENT OF FARMING PRACTICES**

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

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

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

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

**MUNICIPALITY OF THE COUNTY  
OF KINGS**

---

Witness

---

Peter Muttart, Mayor

---

Witness

---

Janny Postema, Municipal Clerk

SIGNED, SEALED AND DELIVERED

**LUCKETT FARMS LIMITED**

In the presence of:

---

Witness

---

Peter Lockett

---

Witness

---

Geena Lockett

**Schedule A – Property Description (Taken from Property Online: July 30<sup>th</sup>, 2021)**

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

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

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

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

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

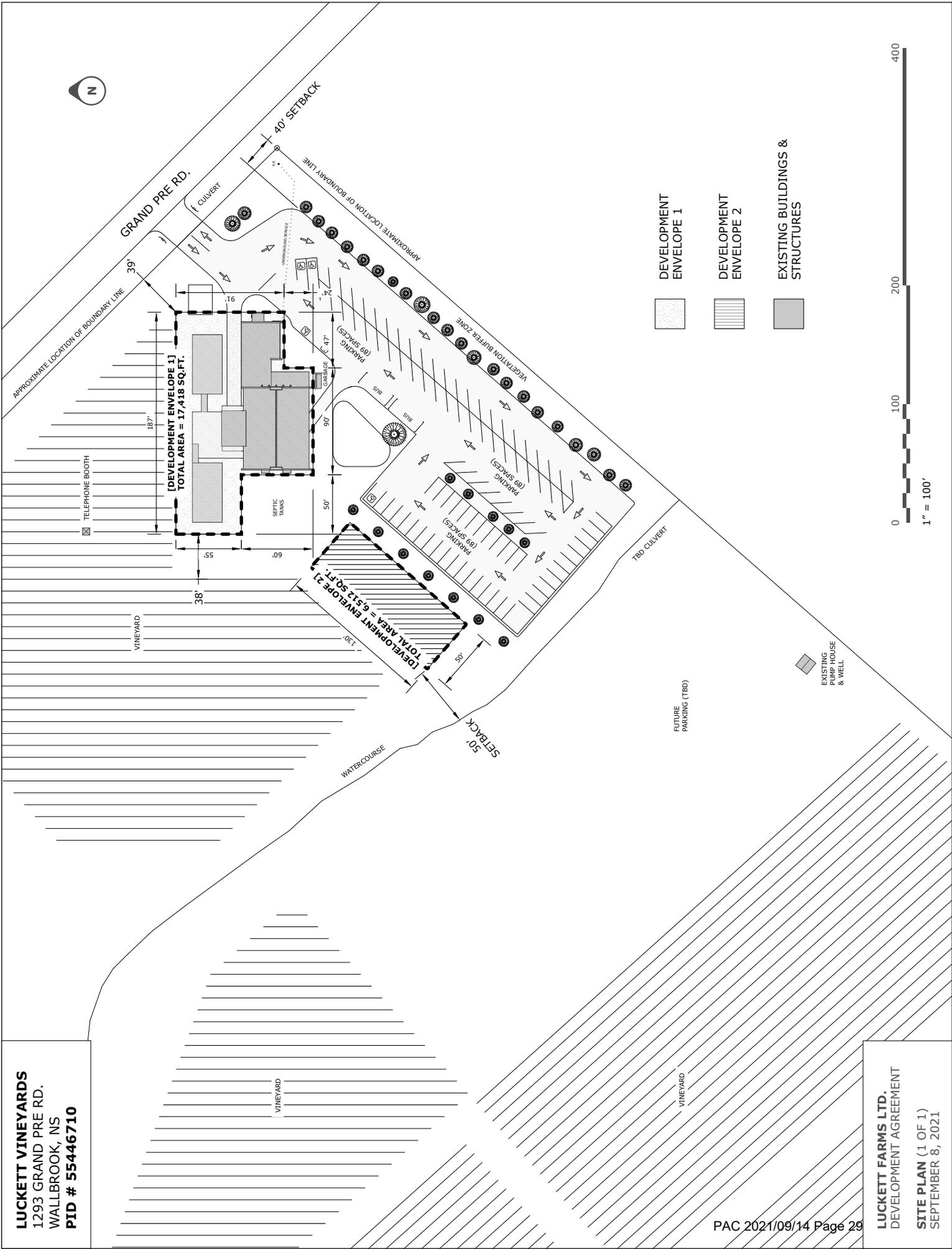
THENCE Northerly by the West side of the Old Telegraph Road 90 Rods more or less to the place of BEGINNING, containing 90 Acres, more or less.

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

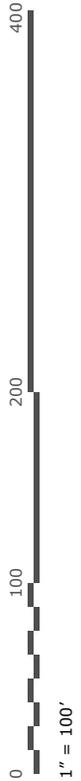
Saving and Excepting Lot L.F.L.-1-03 as shown on plan number 12318 recorded on May 8, 2003.

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

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



- DEVELOPMENT ENVELOPE 1
- DEVELOPMENT ENVELOPE 2
- EXISTING BUILDINGS & STRUCTURES



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

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



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

Application to enter into a development agreement to permit additional tourist cabins at Bishopville Road, Bishopville (PID 55501225)

(File 21-10)

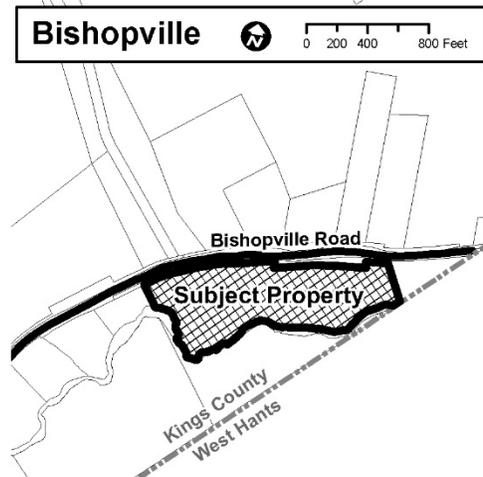
**September 14, 2021**

**Prepared by:** Planning Staff

|                               |   |
|-------------------------------|---|
| <b>Applicant</b>              | Shawna Johnston-Clarke  |
| <b>Land Owner</b>             | Shawna Johnston-Clarke and Mark Clarke  |
| <b>Proposal</b>               | A clustering of Geodesic Camping Domes  |
| <b>Location</b>               | Bishopville Road, Bishopville PID 55501225  |
| <b>Lot Area</b>               | Approximately 14 acres  |
| <b>Designation</b>            | Resource  |
| <b>Zone</b>                   | Resource (N1) Zone  |
| <b>Surrounding Uses</b>       | Rural residential uses, Glooscap First Nation Reserve and forested land                       |
| <b>Neighbour Notification</b> | Staff sent notification letters to the 14 land owners within 500 feet of the subject property |

**1. PROPOSAL**

Shawna Johnston-Clarke has applied for a development agreement to accommodate tourist cabins at 1828 Bishopville Road. The applicant also lives on the large rural property and has requested the ability to add a group of geodesic domes for short term rental accommodations. The subject property through the available as-of-right development opportunities. The zoning on the property allows for a dwelling and the accessory use of up to 2 tourist cabins as-of-right. The development agreement is needed to enable the development of additional cabins (any more than 2) and to accommodate the increased building footprint allowance for the larger proposed cabins. The applicant would build 5 tourist cabins. The proposed cabins are modular geodesic dome style structures.



**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 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.**

### 4. BACKGROUND

The applicant has lived on the subject property for many years and intends on creating an eco-tourism camping destination. The subject property has a cleared area for cabins that is well buffered and separated from the road and surrounding properties.

### 5. INFORMATION

#### 5.1 Site Information

The subject property is mostly wooded rural property at the south side of Bishopville Road. The property is surrounded by forested areas, and rural residential uses. The property generally slopes downward towards the south, where it meets a ravine created by Beckwith Brook.

The surrounding area and subject property are zoned Resource (N1) and fall within the Resource (N) Future Land Use designation. Bishopville Road is also home to the Glooscap First Nations Reserve, approximately 1 km away.

#### 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. No comments or questions were received in response to the PIM or notification letters sent to surrounding property owners.

### 6. POLICY REVIEW – DEVELOPMENT AGREEMENT

#### 6.1 Land Use By-law

This proposal can be considered by development agreement, as enabled in Section 10.3.5 of the LUB. This section of the LUB lists the uses that can be considered by development agreement within the Resource (N1) Zone:

#### ***LUB 10.3.5 Uses Considered by Development Agreement***

*Pursuant to the Municipal Planning Strategy, the uses noted below may be considered by Development Agreement within the Resource (N1) Zone:*

*(a) Proposals for visitor-oriented development not permitted as-of-right in accordance with policy 2.5.13 of the Municipal Planning Strategy.*

*(d) Uses compatible with the purpose of the Resource (N1) Zone that do not otherwise meet the requirements of the zone in accordance with policy 3.6.9 of the Municipal Planning Strategy.*

## **6.2 Municipal Planning Strategy**

### **6.2.1 Enabling Policy and Criteria**

Policy 3.6.9 of the Municipal Planning Strategy enables a development agreement within the Resource Designation.

***MPS 3.6.9*** consider only by development agreement in the Resource Designation, proposals for uses that are not otherwise permitted or cannot meet zone standards. In evaluating such development agreements, Council shall be satisfied that:

*(a) if the use is a listed, permitted use, the condition(s) that prevents the proposal from being permitted as-of-right in the designation is addressed by the development agreement, including but not limited to enhanced buffering and building and structure position and design; and*

*(b) the proposal meets the general development agreement criteria set out in section 5.3 Development Agreements and Amending the Land Use By-law.*

The proposed location for the cabins is suitable and buffered by the wooded property which can help minimize conflict with adjacent properties. The draft agreement is also able to satisfy the general development agreement criteria which are reviewed in Appendix D and discussed below.

Another MPS Policy enables this development agreement and others that are related to visitor-oriented developments that are not permitted as-of-right. The application can satisfy either of these two enabling policies.

***MPS 2.5.13*** consider only by development agreement within the Agriculture, Resource, and Shoreland Designations, with the exception of in the Agricultural (A1) Zone, proposals for visitor-oriented developments not permitted as-of-right. In evaluating development agreements, Council shall be satisfied that:

*(a) the proposal is oriented to visitors or the travelling public, such as, but not limited to, lodging, restaurants, events venues, or other type of special attractions;*

*(b) the subject property has a lot area that can appropriately accommodate the proposed use, any accessory uses and structures, parking areas and required infrastructure;*

*(c) the site facilities are adequately buffered and/or separated from surrounding residential dwellings (other than a residential dwelling occupied by the operator) to mitigate negative impacts associated with noise, light, and other visual impacts;*

The proposal is a visitor-oriented development that offers a unique lodging experience, and is located on a 14 acre property that is mostly wooded and buffered from the nearest residential uses. The cabins and facilities are positioned in the center of the property site, which is wooded on all sides, and the proposed development agreement increases the required buffering distance to mitigate any impact from noise, light or activity to the nearest residential use.

## 6.2.2 Tourism and MPS Objectives

The MPS encourages tourism development in the areas surrounding Grand Pré in an effort to promote the UNESCO designated World Heritage Site (MPS 5.5 Investing in the Future).

### ***MPS 5.5 Grand Pré UNESCO Inscription***

*In 2011, the Municipality, together with the Province and Federal governments, successfully applied to the United Nations to inscribe Grand Pré as a World Heritage Site. Council intends to continue to support efforts to manage the Landscape and promote the area as a tourism destination.*

Providing overnight accommodation in proximity to the Grand Pré UNESCO Site may contribute to this goal by offering visitors access to this and other destinations in the area.

The Economic Objectives in the MPS aim to support eco-tourism opportunities, which is a main aspect of the proposal.

### ***MPS 2.5 Economic Development Objectives***

*To facilitate and promote outdoor recreation and eco-tourism opportunities that take advantage of our natural and scenic assets.*

The Tourism Policies state that Council shall encourage and permit a variety of visitor-oriented businesses in areas including the Resource designation (MPS 2.5.11)

***MPS 2.5.11 Council Shall:*** permit a variety of opportunities for visitor-oriented businesses in locations and at a scale consistent with the intent of the zones enabled within the Agricultural, Resource, and Shoreland Designations as well as the Historic Hamlet of Grand Pré (A5) Zone;

***MPS 2.5.12*** encourage and promote opportunities for visitor-oriented businesses in the Municipality

The proposal helps to achieve these policies by providing a visitor-oriented and eco-tourism related business with a unique year-round camping experience.

## 6.2.3 General Development Agreement Criteria

Municipal Planning Strategy section 5.3.7 contains the general criteria used to consider all development agreement proposals. These criteria consider the impact of the proposal on the road network, services, development pattern, environment, finances, and wellfields, as well as the proposal's consistency with the intent of the Municipal Planning Strategy (see Appendix C for 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 concerns in terms of traffic or access, is compatible with the surrounding development pattern, is serviced by a private sanitary septic system, is compatible with adjacent uses, and raises no concerns regarding emergency services.

## 7. SUMMARY OF DRAFT DEVELOPMENT AGREEMENT

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

- Enable a group of Tourist Cabins
- Enable tourist cabins (domes) up to 800 square feet in building footprint.
- Enhanced wooded area buffering requirements of 60 feet minimum along all property lines.

## **8. CONCLUSION**

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

## **9. APPENDICES**

Appendix A: Maps

Appendix B: Public Comments

Appendix C: General Development Agreement Criteria

Appendix D: Draft Development Agreement

Appendix A: Maps



Appendix B: Public Comments  
No questions or comments were received

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:*

| <b>Criteria</b>   | <b>Comments</b>  |
|---|--|
| <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 accommodations align with the tourism objectives, resource designation and economic development objectives of the MPS   |
| <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>   | Residential and commercial tourism uses are expected to be compatible with the surrounding land uses which include other rural residential land uses. The subject property is well buffered, which minimizes any potential impact on surrounding properties. |
| <i>iii. the adequacy and proximity of school, recreation and other community facilities;</i>  | Not applicable to tourist accommodations   |
| <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 Department of Transportation and Infrastructure Renewal was comfortable with the existing road network and did not consider increased traffic to be a hazard on Bishopville Road.  |
| <i>v. the adequacy of fire protection services and equipment;</i>   | The Hantsport Fire department confirmed that fire protection services and equipment were adequate to serve the property.   |
| <i>vi. the adequacy of sewer and water services, including but not limited to on-site 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>   | Unexpected, as the property is mostly covered with mature vegetation and the property owner is required to contain all post-development storm water flow on site.  |
| <i>viii. negative impacts on identified wellfields or other groundwater supplies for the area;</i>  | There are no identified wellfields in the area.  |

|   |  |
|---|--|
| <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 expected to create impact as the property is mostly covered with mature vegetation. Also the property owner is required to contain all post-development storm water flow on site.</p> |
| <p><i>xi. negative impacts on neighbouring farm operations;</i></p>   | <p>Not applicable</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:

**Shawna Johnston-Clarke**, of Bishopville, Nova Scotia, hereinafter called the "Property Owner",

of the First Part

and

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

of the Second Part

WHEREAS the Property Owner is the owner of certain lands and premises (hereinafter called the "Property") which lands are more particularly described in Schedule A attached hereto and which are known as Property Identification (PID) Number 55501225; and

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

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

WHEREAS policies 2.5.13 and 3.6.9 of the Municipal Planning Strategy and section 10.3.5 of the Land Use Bylaw provide that the proposed use may be developed only if authorized by development agreement; and

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

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

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

## **PART 1 AGREEMENT CONTEXT**

### **1.1 Schedules**

The following attached schedules shall form part of this Agreement:

Schedule A          Property Description

### **1.2 Municipal Planning Strategy and Land Use By-law**

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

### **1.3 Definitions**

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

- (a) *Development Officer* means the Development Officer appointed by the Council of the Municipality.
- (b) *Tourist cabin* means a rental cabin, yurt, geo dome or one unit dwelling in which accommodation is provided on a short term or temporary basis to the travelling public.

## **PART 2 DEVELOPMENT REQUIREMENTS**

### **2.1 Use**

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

- (a) those uses permitted by the underlying zoning in the Land Use By-law (as may be amended from time-to-time); and
- (b) Tourist Cabins – not to exceed a total of 5 cabins, with a maximum building footprint of 800 sq ft for each cabin. If more than 2 tourist cabins are offered, an on-site caretaker shall reside on the same lot.

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

### **2.2 Appearance of Property**

The Property Owner shall at all times maintain all structures and services on the

Property in good repair and a useable state and maintain the Property in a neat and presentable condition.

### **2.3 Subdivision**

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

### **2.4 Erosion and Sedimentation Control**

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

### **2.5 Lighting**

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

### **2.6 Servicing**

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

### **2.7 Enhanced Buffering**

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

### **2.8 Setbacks**

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

## **PART 3 CHANGES AND DISCHARGE**

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

**3.2** The following matters are substantive matters:

a) The uses permitted on the property as listed in Section 2.1 of this Agreement;

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

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

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

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

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

## **PART 4 IMPLEMENTATION**

### **4.1 Commencement of Operation**

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

### **4.2 Drawings to be Provided**

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

### **4.3 Completion and Expiry Date**

- (a) The Property Owner shall sign this Agreement within 120 days from the date the appeal period lapses or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Nova Scotia Utility and Review Board or the unexecuted Agreement shall be null and void;
- (b) The Developer shall commence construction within ten (10) years of recording this Agreement at the Registry of Deeds.

## **PART 5 COMPLIANCE**

### **5.1 Compliance with Other Bylaws and Regulations**

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

### **5.2 Municipal Responsibility**

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

### **5.3 Warranties by Property Owner**

The Property Owner warrants as follows:

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

### **5.5 Costs**

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

### **5.6 Full Agreement**

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

### **5.7 Severability of Provisions**

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

## **5.8 Interpretation**

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

## **5.9 Breach of Terms or Conditions**

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

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

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

|   |  |  |
|---|--|--|
| SIGNED, SEALED AND ATTESTED to be the proper designing officers of the Municipality of the County of Kings, duly authorized in that behalf, in the presence of: |  | <b>MUNICIPALITY OF THE COUNTY OF KINGS</b> |
|   |  |  |
|   |  |  |
|   |  |  |
| _____<br>Witness  |  | _____<br>Peter Muttart, Mayor              |
|   |  |  |
|   |  |  |
|   |  |  |
| _____<br>Witness  |  | _____<br>Janny Postema, Municipal Clerk    |
|   |  |  |
|   |  |  |
|   |  |  |
| SIGNED, SEALED AND DELIVERED<br>In the presence of:   |  | <b>SHAWNA JOHNSTON-CLARKE</b>              |
|   |  |  |
|   |  |  |
| _____<br>Witness  |  | _____<br>Shawna Johnston-Clarke            |
|   |  |  |
|   |  |  |
| _____<br>Witness  |  | _____<br>Name of Signing Authority         |

## Schedule A – Property Description

### Parcel Description

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

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

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

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

THENCE south sixty five degrees west fifteen chains;

THENCE north twenty five degrees west eighteen chains;

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

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

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

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

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

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

EXCEPTING AND RESERVING THE FOLLOWING LOTS OF LAND:

1. All of the lands lying to the north of the Bishopville Road.
2. Lots of 1.43, 0.77 and 0.24 acres (shown on Plan under File No. A-1545) conveyed to Her Majesty the Queen by Deed dated August 6, 1970, recorded in Book 287 at Page 681.
3. Lots of 0.22 and 1.40 acres (shown on Plan under File No. P-89) conveyed to Her Majesty the Queen by Deed dated May 4, 1972 and recorded in Book 319 at Page 220.
4. Lot of land conveyed by James W. Beckwith to Ralph Chipman Frizzell by Deed dated August 3, 1946,

recorded May 31, 1948, in Book 174 at Page 47.

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

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

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

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

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

Not Subject To:

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