



Planning Advisory Committee
Tuesday, February 13th, 2024 at 1:00PM
Council Chambers
181 Coldbrook Village Park Drive

A G E N D A

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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. December 12 th 2023	2
7. Business Arising from the Minutes	
8. Business	
a. Application to rezone properties located at 496/498 and 500/502 Mosher Street (PIDs 55109698, 55109680), Kingston. (Alice Jacob File # 23-15)	5
b. Application to enter into a development agreement at 1441 Church Street (PID 55037188), Port Williams. (Katie Ollmann File #22-23)	21
c. Application for a substantive amendment to a Development Agreement registered on vacant land in the southeast quadrant of the intersection of J Jordan Road and Summer Street (PIDs 55008627, 55354385, 55551758), Canning (Laura Mosher File# 23-12)	45
9. Other Business	
10. Date of Next Meeting : March 12 th 2024 at 1:00 pm	
11. Comments from the Public	
12. Adjournment	

PLANNING ADVISORY COMMITTEE

Tuesday, December 12th, 2023

Minutes

Meeting, Date and Time	A meeting of the Planning Advisory Committee (PAC) was held on Tuesday, December 12 th , 2023, in Council Chambers at 181 Coldbrook Village Park Drive.
Attending	In Attendance:
PAC Members	Councillor Martha Armstrong – District 4 Councillor June Granger – District 1 Councillor Dick Killam – District 3 Councillor Kevin Davison – District 8 Councillor Peter Allen – District 9 Kate Friars – Citizen Member Logan Morse – Citizen Member
Municipal Staff	Trish Javorek – Director of Planning and Inspections Laura Mosher – Manager of Planning and Development Alice Jacob – Planner Haley Hutt – Recording Secretary
Public	1
1. Meeting to Order	Trish Javorek, Director of Planning and Inspections called the meeting to order at 1:00 p.m.
2. Roll Call	Roll call was taken.
3. Election of Chair	Ms. Javorek opened the floor for nominations for Chair. Councillor Allen nominated Councillor Armstrong who accepted the nomination. Councillor Killam seconded the nomination. No other nominations were made. Councillor Armstrong was acclaimed as Chair. Councillor Armstrong assumed the role of Chair.
4. Election of Vice Chair	The Chair called for nominations for the position of Vice Chair. Councillor Davison nominated Councillor Granger who accepted the nomination. Councillor Killam seconded the nomination. No other nominations were made. Councillor Granger was acclaimed as Vice Chair.
5. Amendments to the Agenda	There were no amendments to the agenda.

6. **Approval of the Agenda** On motion of Ms. Friars and Mr. Morse, that the agenda for the December 12th, 2023 meeting of Planning Advisory Committee be approved as circulated.
- The question was called on the motion. **Motion carried.**
7. **Disclosure of Conflict-of-Interest** None
8. **Approval of Minutes Nov 14th 2023** On motion of Councillor Allen and Councillor Davison, that the minutes of the Planning Advisory Committee meeting held November 14th, 2023, be approved as circulated.
- The question was called on the motion. **Motion carried.**
9. **Business Arising from the Minutes** None.
10. **Business**
- a. Change the requirements for semi-detached dwellings within the Country Residential (A4) Zone (File 23-13) Alice Jacob, Planner, presented an application for a text amendment to revise the minimum area and minimum lot frontage requirements of the Country Residential (A4) Zone. These amendments will enable the subdivision semi-detached dwellings which would be consistent with other zones.
- On the motion of Councillor Allen and Councillor Granger that the Planning Advisory Committee recommends that Municipal Council give First Reading to and approve a Public Hearing for the amendments to the text of the Land Use By-law to change the minimum lot area and lot frontage requirements for semi-detached dwellings within the Country Residential (A4) Zone as described in Appendix A of the report dated December 12, 2023.**
- The question was called on the motion. **Motion Carried.**
- b. Options for Development Incentives Laura Mosher, Manager of Planning and Development provided an update on the file. This project proposes changes to the planning documents to enable Incentive and Bonus Zoning in the future. The proposed amendments also include changes to the Residential Mix-Density (R3), Residential Multi-Unit (R4) and the Mixed Commercial Residential (C3) zones as it relates to maximum number of units permitted in a dwelling. A minor housekeeping amendment are also included to clarify the intent to permit Accessory Dwelling Units in the Residential One-Unit (R1) zone.
- On the motion of Councillor Killam and Mr. Morse that the Planning Advisory Committee recommend that Municipal Council give First Reading to and hold a Public Hearing regarding the draft**

development incentives policies contained in Appendix B of the report dated December 12, 2023.

The question was called. **Motion Carried.**

11. Other Business

Councillor Killam asked about the possibility for an agrologist's to assess the viability of agricultural production on properties zoned Agricultural (A1) when considering the development of a dwelling. Staff spoke to some issues with using those reports, and that a major policy change would need to be conducted to use these reports.

The Chair put into record that there is a vacancy on the committee for a citizen member and those interested can contact the Municipality or fill out the application found on the Municipalities website.

12. Public Comments

None

13. Date of Next Meeting

The next meeting of PAC will be held on Tuesday, January 16th, 2024, at 1:00 p.m.

14. Adjournment

There being no further business, on motion of Mr. Morse and Ms. Friars, that the meeting adjourn.

The meeting adjourned at 1:53pm

Approved:
Planning Advisory Committee

Month/Day/Year

THE MUNICIPALITY OF THE COUNTY OF KINGS

REPORT TO PLANNING ADVISORY COMMITTEE

Subject: Application to rezone the properties located at 496/498, 500/502 Mosher Street (PIDs: 55109698, 55109680), Kingston from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone (File # 23-15)

From: Planning Staff

Date: February 13, 2024

Background

On January 31, 2024, the Kingston Area Advisory Committee considered the staff report for the proposed land use by-law map amendment to rezone the subject properties from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone to permit additional residential units on the subject properties (see the attached staff report for more information).

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

The Kingston Area Advisory Committee recommends that Planning Advisory Committee recommend the Municipal Council give First Reading to and hold a Public Hearing regarding the application to rezone the properties located at 496/498, 500/502 Mosher Street (PIDs: 55109698, 55109680), Kingston from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone, as described in Appendix D of the report dated January 31, 2024.

Recommendation

The Kingston Area Advisory Committee recommends that the Planning Advisory Committee pass the following motion:

The Planning Advisory Committee recommends that Municipal Council give First Reading to and hold a Public Hearing regarding the application to rezone the properties located at 496/498, 500/502 Mosher Street (PIDs: 55109698, 55109680), Kingston from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone, as described in Appendix D of the report dated January 31, 2024.



Municipality of the County of Kings Report to the Area Advisory Committee

Application to rezone the properties located at 496/498, 500/502 Mosher Street (PIDs: 55109698, 55109680), Kingston from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone.

File: 23-15

DATE: January 31, 2024

Prepared by: Planning and Development Services

Applicant	Riley Peckford
Landowner	Peckford Holdings Inc.
Proposal	Rezoning from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone
Location	496/498, 500/502 Mosher Street (PIDs: 55109698, 55109680), Kingston
Lot Area	19,697 Square feet and 19,546 Square feet
Designation	Residential Designation
Zone	Residential One Unit (R1) Zone
Surrounding Uses	Residential uses, commercial uses and recreation uses
Neighbour Notification	39 letters were sent to owners of properties within 500 feet of the subject properties

1. PROPOSAL

Riley Peckford on behalf of Peckford Holdings Inc. has applied to amend the Land Use By-law ('LUB') map to rezone the properties located at 496/498, 500/502 Mosher Street (PIDs: 55109698, 55109680), Kingston (hereafter referred to as lot 496/498 and lot 500/502 respectively) from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone to permit additional residential units on the subject properties.

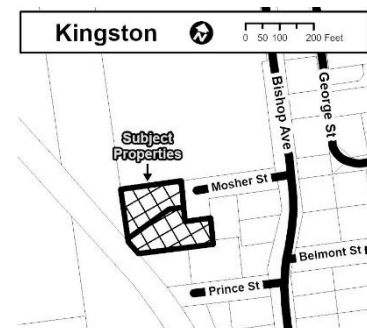


Figure 1: Subject Properties

2. OPTIONS

In response to the application, the Kingston Area Advisory Committee may:

- A. Forward a recommendation to the Planning Advisory Committee recommending that Council approve the amendment as drafted;
- B. Provide alternative direction, such as requesting further information on a specific topic, or recommending changes;
- C. Forward a recommendation to the Planning Advisory Committee recommending that Council refuse the amendment as drafted.

3. STAFF RECOMMENDATION

Staff recommend that the Area Advisory Committee forward a positive recommendation by passing the following motion:

The Kingston Area Advisory Committee recommends that Planning Advisory Committee recommend the Municipal Council give First Reading to and hold a Public Hearing regarding the application to rezone the properties located at 496/498, 500/502 Mosher Street (PIDs: 55109698, 55109680), Kingston from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone, as described in Appendix D of the report dated January 31, 2024.

4. BACKGROUND

Peckford Holdings Inc. purchased the subject properties in September 2023. Each property has a two unit dwelling which is currently occupied by tenants. The properties are located in the Residential One Unit (R1) Zone which permits limited residential uses such as one unit dwellings and secondary suites, this makes the existing two unit dwellings non-conforming uses. However, with the proposed rezoning to the Residential Mixed Density (R3) Zone the existing non-conforming uses would become permitted uses within the zone and the rezoning would also enable the applicant to develop additional residential units on the subject properties.

Although the properties have an area of 19,697 square feet (lot 496/498) and 19,546 square feet (lot 500/502) respectively, the total developable area is limited because of easements the properties are subject to. A 24-foot-wide right-of-way runs along the west end of lot 496/498 and continues along the south end of lot 500/502 benefitting the property owners bordering or adjoining the said right-of-way. Also, a 20-foot-wide sewer easement exists towards the west end of the properties within the 24-foot-



Figure 2: Existing Two Unit Dwellings

wide easement benefitting the adjacent property owners for the provision of sewer services on their property. Further, lot 496/498 is also subject to a 66-foot-wide utility easement that exists towards the north portion of the property in favour of Nova Scotia Power Inc.

5. SUBJECT PROPERTY INFORMATION

The subject properties are within the Growth Centre of Kingston. Lot 500/502 has a lot frontage of approximately 120 feet and lot 496/498 has approximately 77 feet frontage. Although both lots have frontages on Mosher Street, lot 496/498 is currently accessed only via lot 500/502 through a common driveway. The 66-foot-wide utility easement running from the frontage (east) of lot 496/498 to the opposite (west) end is covered with vegetation and remains inaccessible at this time. This portion of the property is on the same elevation as Mosher Street. The access providing entry to lot 500/502 from Mosher Street slopes down towards the lot which is at a lower elevation than Mosher Street. The portion of the properties that have been developed with the existing dwellings seems to have been graded to accommodate the structures. Other than the vegetation cover on the portion where the utility easement exists there is some vegetation towards the west end of the properties behind the existing dwellings.

The adjacent properties to the south and the east are in the same zone as the subject properties and are developed with residential dwellings. Towards the north of lot 496/498 where the property borders the General Commercial (C1) Zone, there are several commercial establishments. Right behind lot 500/502 to the west is the Kings rail trail and beyond that, there is a golf club which is within the Commercial Recreation (P1) Zone.

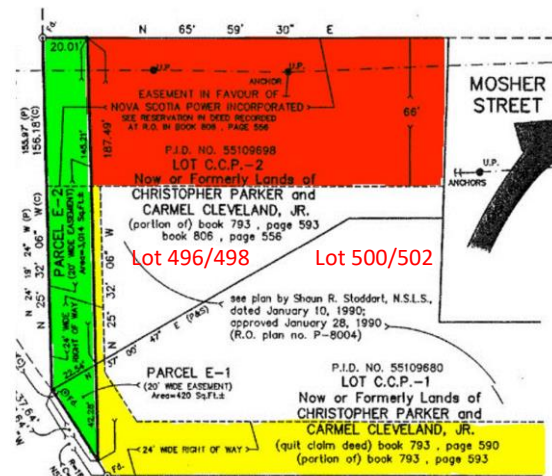


Figure 3: Easements and Right-of-way (Source: Property Online, document number 3050, recorded May 8, 2002)

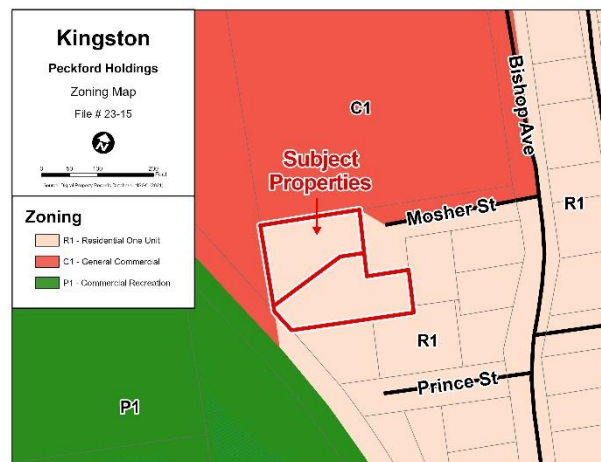


Figure 4: Zoning Map

6. PUBLIC CONSULTATION

Under the Planning Policies of the Municipality of the County of Kings (PLAN-09-001), a Public Information Meeting (PIM) was not required because the application concerns a land use by-law map amendment to rezone properties measuring less than an acre. Notification letters were sent to 39 property owners within a 500-foot radius of the subject properties seeking comments and feedback on the proposed Land Use By-law map amendment. Staff received a call from one of the neighbours enquiring about the 24-foot-

wide right-of-way on the subject properties and shared their concerns regarding the maintenance of the right-of-way.

7. POLICY REVIEW

7.1 Enabling Policy

The proposed rezoning is from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone which is within the same designation. Policy 5.3.3 criteria (a) enables the Council to consider this rezoning.

Council shall:

5.3.3 *consider amendments to any one of the zoning maps of the Land Use By-law provided the application is for a specific development and:*

- (a) is to rezone land to another zone enabled within the same designation, unless the zone change is specifically prohibited within this Strategy; or,*
- (b) is to rezone land that is a maximum of five (5) acres in size to a zone that is enabled in an adjacent designation. For clarity, land that abuts a right-of-way, such as a road, is considered to be adjacent to the designation on the other side of the road; and*
- (c) notwithstanding (b) above, Land Use By-law amendments that would result in the expansion of a Growth Centre or that would remove lands from the Agricultural (A1) Zone shall not be permitted without an amendment to this Strategy;*

Criteria b and c of this policy are not applicable to this application. The application is to rezone land from one zone enabled within the Residential Designation to another within the same designation. The list of zones enabled within the Residential Designation is provided in section 3.1 of the Municipal Planning Strategy (MPS).

Policy 3.1.3 of the MPS lists the zones enabled within the Residential Designation.

Council shall

3.1.3 *permit within the Residential Designation:*

- (a) all zones listed in policy 3.1.2 above;*
- (b) all zones permitted within all designations, as listed in policy 3.0.32;*
- (c) isolated commercial or industrial zones applied to uses in existence on November 21, 2019, as provided for in policy 3.1.5; and*
- (d) Mixed Commercial Residential (C3) Zone, as provided for in policy 3.2.2*

Criteria (a) of the above policy further directs to policy 3.1.2 which lists out all residential zones within the residential designation including the Residential Mixed Density (R3) Zone. Since the zone is listed within

the list of enabled zones in policy 3.1.3 above, Council is able to consider rezoning the property to the Residential Mixed Density (R3) Zone.

Further to this, Policy 5.3.5 provides additional policy directions in terms of the zone placement and impacts to be considered when considering an application to rezone land.

Council shall:

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*

With regard to criteria (a) in the above policy, the zone placement policy for the Residential Mixed Density (R3) Zone states the following:

Council shall

3.1.2 *establish the following Residential Zones in the Land Use By-law:*

- (b) Residential Mixed Density (R3): lands located in this zone are intended to contribute to a sense of activity and liveliness in the community and shall be generally located on main transportation corridors within Growth Centres. This zone is intended to include up to eight (8) residential units in a dwelling in a variety of building types;*

Figure 5 shows the location of the subject properties within the area. The area has a mix of various commercial and residential zones consisting of and permitting a variety of commercial and residential uses. Several commercial establishments are found within the commercial zones lining Highway 1 and the subject properties are less than 2,135 feet (650 metres) from Highway 1. The area also has a few recreational uses consisting of parks, trails, a golf club etc., within accessible distance from the subject properties. The variety and mix of uses make this an active area within the Growth Centre. Considering the location of the properties in such an area within proximity to all the facilities mentioned above staff are

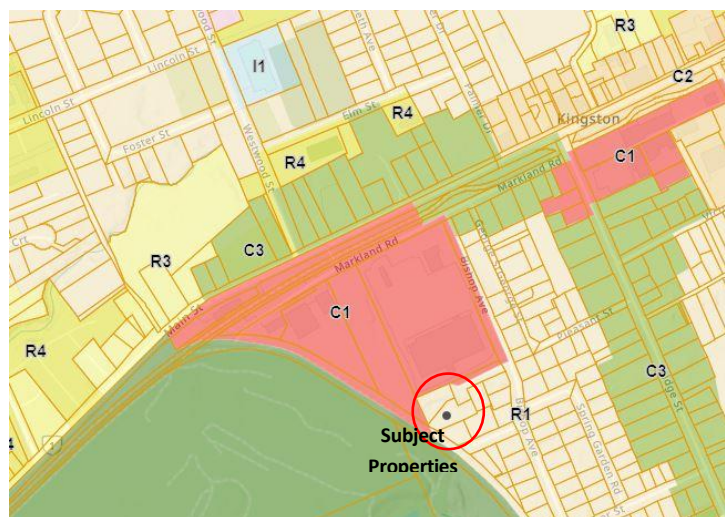


Figure 5: Location of the Subject Properties within the Growth Centre

are

of the opinion that the proposed zone placement would be appropriate and any future residential development on the properties would benefit from being in such a location.

In terms of the uses permitted and their impacts (criteria (b)), when compared to the Residential One Unit (R1) Zone which permits only one unit dwellings and secondary suites the Residential Mixed Density (R3) Zone permits a variety of residential uses such as one unit dwellings, two unit dwellings, semi-detached dwellings, grouped dwellings, townhouses, multi-unit dwellings containing up to 8 residential units etc. However, both zones permit the same types of non-residential uses. Although the proposed zone permits a variety of residential uses the full development of the properties may not be possible because of the constraints discussed in section 4. Given the property's location in the Growth Centre, where it is within walkable distance to all amenities, this still makes these properties good candidate sites for some intensification and increased residential development. As a result, staff are of the opinion that the proposal and the other permitted uses within the Residential Mixed Density (R3) Zone are appropriate and reasonable for these properties.

Criteria (c) of policy 5.3.5 is discussed in section 7.3 of this report and reviewed in detail in Appendix C.

7.2 Municipal Planning Strategy- Supporting Goals, Objectives and Policies

The proposed rezoning to the Residential Mixed Density (R3) Zone would enable the applicant to develop any of the housing options permitted within the zone which is consistent with Council's Vision to *"Enable and encourage a diversity of housing throughout the region"*. This intention is also mentioned within section 3.1 Residential Designation where the objective related to the theme of healthy communities states *"To provide a wide range of housing choices, including affordable housing"*. Further to this, the settlement priority within the same section also states, *"To accommodate a wide range of housing options, including opportunities for mixed uses and increased densities in areas where urban services are efficient to deliver"*. With regards to density and urban services, the rezoning provides options to the applicant to develop a greater number of residential units than what is permitted under the current zoning. Any future developments or additional dwellings on the property can be efficiently serviced by the existing sewer infrastructure and this would be consistent with Council's goal to maximise infrastructure efficiencies. This intention is further stated within section 2.3 Infrastructure where the objective related to the theme of settlement states, *"To make effective use of existing infrastructure located within Growth Centres"*.

With regard to location, within section 1.1 Vision one of the settlement priorities states *"Concentrate new commercial and residential development, including mixed uses, in the Growth Centres with clearly defined boundaries"*; and within section 2.1 Growth Centres the objective related to the theme of settlement also states, *"To provide a wide range of urban development and business opportunities supported by cost-effective municipal services"*. Within the same section the theme of agriculture/ rural and natural areas also states, *"To protect agricultural land and rural character by directing development to clearly defined Growth Centres"*. The proposed rezoning would enable more developments to be concentrated within the Growth Centre of Kingston and would be compatible with this intention.

The proposed rezoning also aligns with Council's objectives related to transportation and infrastructure because of the proximity of the subject properties to Highway 1. Within section 2.3 Infrastructure the

objective related to the theme of transportation states, *“To efficiently use transportation infrastructure by encouraging greater development densities along transit routes and major transportation routes”* and within section 2.8 Energy the objective related to the theme of settlement states *“To encourage development patterns that reduce transportation needs”*. Further to this section 3.1 Residential Designation the theme of Transportation, the objective states *“To encourage higher-density development adjacent to main transportation corridors”*. The subject properties are less than 2,135 feet (650 metres) from Highway 1 which is the main transportation corridor in the area. As mentioned previously there are several commercial establishments within close proximity. Enabling the development of more residential units in the area would help reduce transportation needs and also help concentrate development densities along transit routes and major transportation routes.

7.3 General Criteria

Municipal Planning Strategy policy 5.3.7 contains the criteria to be used when considering all applications for rezonings and development agreement proposals. These criteria consider the proposal's impact on the road network, services, development pattern, environment, finances, wellfields, and the proposal's consistency with the intent of the Municipal Planning Strategy. It is Staff's opinion that the proposal meets the general criteria. There are no costs to the Municipality due to the proposed development and the development raises no concerns regarding emergency services, sewer services, traffic hazards/ congestion or pollution. These criteria are reviewed in detail in Appendix C.

8. CONCLUSION

The proposed rezoning from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone to permit additional residential units on the properties is consistent with the intent of the Municipal Planning Strategy including the general criteria for all rezonings and will provide the opportunity for more housing within walking distance to amenities and increase the efficiency of existing infrastructure. As a result, a positive recommendation is being made to the Area Advisory Committee.

9. APPENDICES

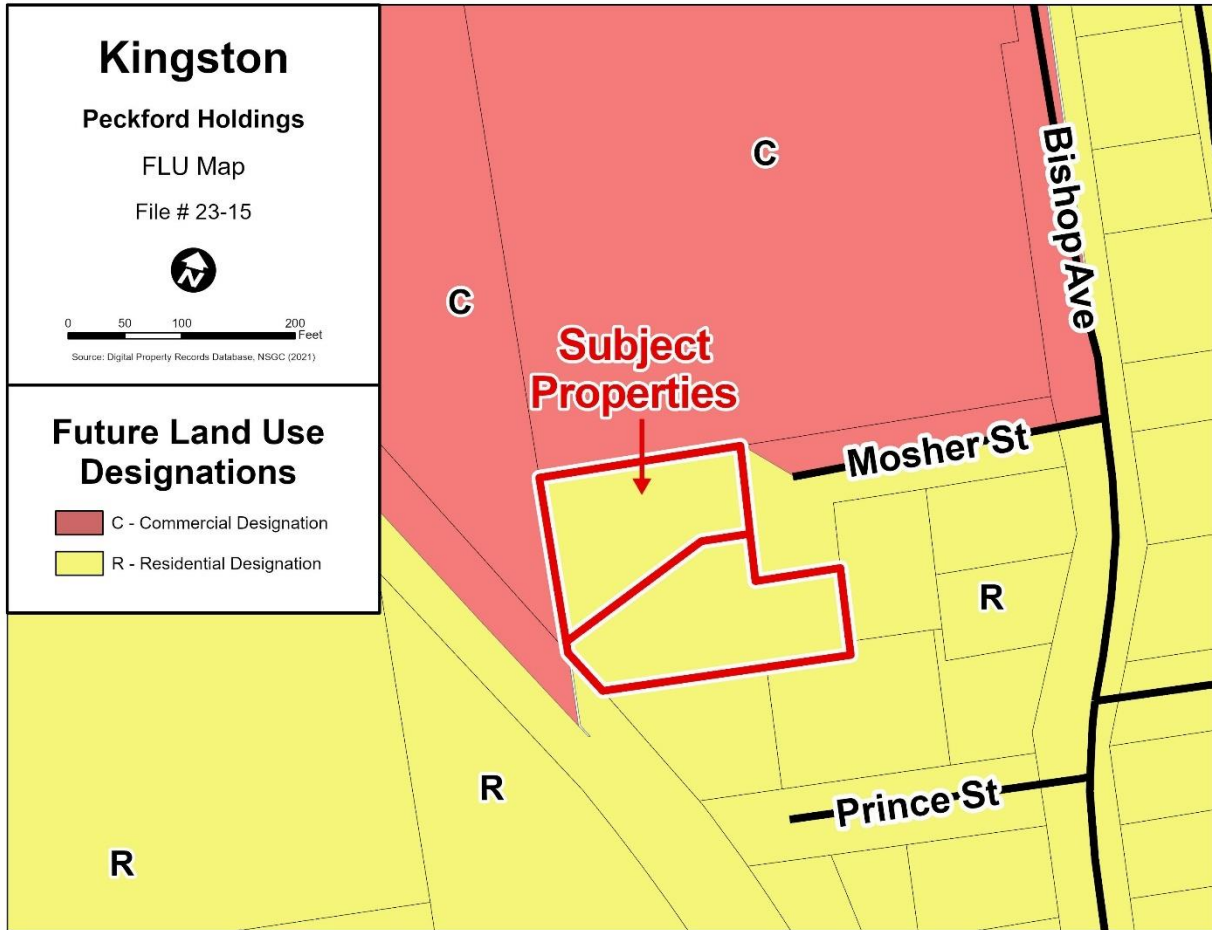
Appendix A - Future Land Use Map

Appendix B – Photographs of the Subject Properties

**Appendix C - Municipal Planning Strategy (By-law #105), Section 5.3. – General Criteria to Consider for
all Development Agreements and Land Use By-law Amendments**

Appendix D - Proposed Land Use By-Law Map Amendment (By-Law #106)

Appendix - A
Future Land Use Map



Appendix – B
Photographs of the Subject Properties



Access to the Subject Properties



Vegetation on Utility Easement



Neighbouring Property to the South



Neighbouring Property to the South



Neighbouring Property to the East



Vegetation to the West

Appendix - C

Municipal Planning Strategy (By-law #105), Section 5.3. – 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:

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 land use by-law map amendment is consistent with the intent of the Municipal Planning Strategy, and the applicable goals, objectives and policies contained within 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 proposed amendment 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 rezoning would enable additional residential uses which will be compatible with the surrounding residential uses. Both zones permit the same non-residential uses.
<i>iii. the adequacy and proximity of school, recreation and other community facilities;</i>	The subject properties are within proximity to schools, recreation and community facilities.
<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 Public Works has confirmed the adequacy of the road networks and did not indicate any concerns with the proposal.
<i>v. the adequacy of fire protection services and equipment;</i>	The Kingston Fire Chief has confirmed the adequacy of fire services and equipment for the properties.
<i>vi. the adequacy of sewer and water services;</i>	The Village of Kingston has confirmed the adequacy of sewer capacity. There is an existing drilled well that currently services both properties and is expected to continue to do so.
<i>vii. the potential for creating flooding or serious drainage problems either within</i>	No issues with the existing drainage have been raised. Staff do not anticipate drainage issues as a result of the rezoning.

<i>the area of development or nearby areas;</i>	
<i>viii. negative impacts on identified wellfields or other groundwater supplies for the area;</i>	The subject properties are not within any wellfield protection overlay.
<i>ix. pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i>	Not expected. The Property Owner will be required to follow provincial requirements related to erosion and siltation.
<i>x. negative impacts on lake water quality or nearby wetlands;</i>	The proposal is not expected to cause any negative impacts on the nearby lakes or wetlands.
<i>xi. negative impacts on neighbouring farm operations;</i>	There are no farms within proximity to the subject properties.
<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>	The subject properties are suitable in terms of grades, soils, geological conditions, and proximity to natural features and rights-of-way.

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

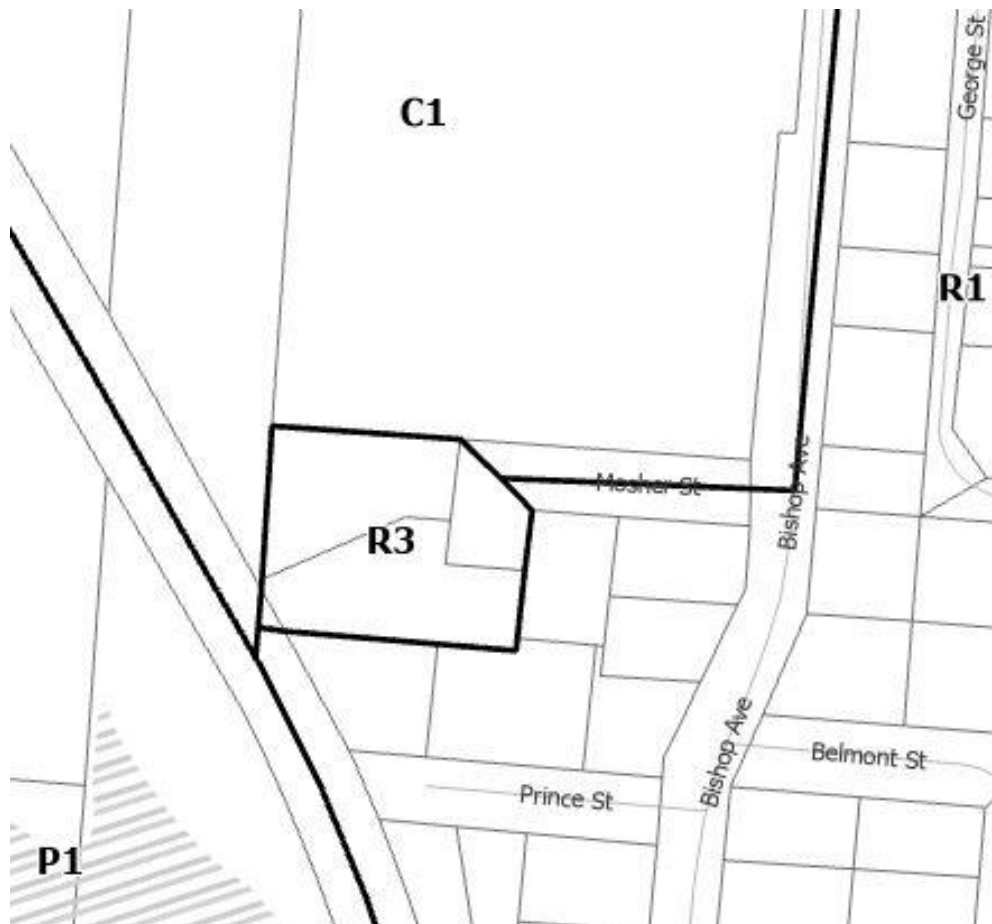
THE MUNICIPALITY OF THE COUNTY OF KINGS

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

Land Use By-Law Map Amendment to rezone the properties located at 496/498, 500/502 Mosher Street (PIDs: 55109698, 55109680), Kingston from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone.

BY-LAW 106 Land Use By-law

1. Amend Map 8 Kingston, to rezone PIDs 55109698 and 55109680 from the Residential One Unit (R1) Zone to the Residential Mixed Density (R3) Zone, as shown on the inset copy of a portion of Map 8 below.



THE MUNICIPALITY OF THE COUNTY OF KINGS

REPORT TO PLANNING ADVISORY COMMITTEE

Subject: Proposed Development Agreement in Port Williams (File #22-23)

From: Planning Staff

Date: February 13, 2024

Background

On February 8, 2024, the Port Williams Area Advisory Committee considered the staff report for the proposed Development Agreement to permit a restaurant, event venue and expanded tasting area at 1441 Church Street (PID55037188), Port Williams (see the attached staff report for more information).

The Port Williams Area Advisory Committee forwarded a **positive** recommendation by passing the following motion:

“The Area Advisory Committee recommends that Planning Advisory Committee recommends that Municipal Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit the addition of a restaurant, event venue and an expanded commercial area within an existing building at 1441 Church Street (PID 55037188), Port Williams as described in Appendix C of the report dated February 8 2024.”

Recommendation

The Port Williams Area Advisory Committee recommends that the Planning Advisory Committee pass the following motion:

The Planning Advisory Committee recommends that Municipal Council give Initial Consideration to and hold a Public Hearing regarding a Development Agreement to permit a restaurant, event venue and expanded tasting area at 1441 Church Street (PID55037188), Port Williams as described in Appendix C of the report dated February 8, 2024.



Municipality of the County of Kings Report to Area Advisory Committee

Development Agreement to permit a restaurant, event venue and expanded tasting area at 1441 Church Street (PID55037188), Port Williams

(File #22-23)

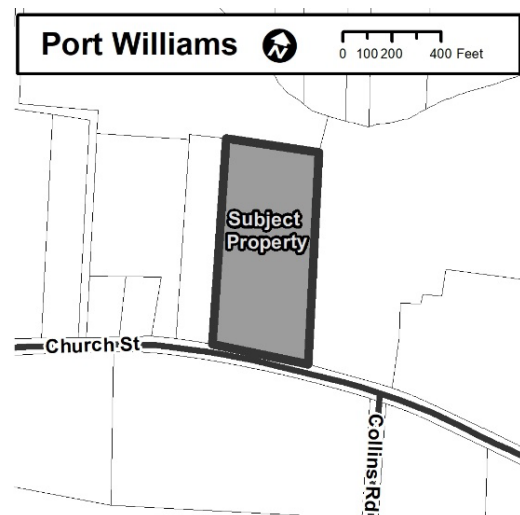
February 8, 2024

Prepared by: Planning and Development Services

Applicant	John McLarty
Land Owner	John McLarty & Lisa Anne Law
Proposal	Expand existing winery operation through the addition of a restaurant, event venue use and expanded tasting area within an existing structure.
Location	1441 Church Street (55037188), Port Williams
Lot Area	7.25 acres
Designation	Agricultural
Zone	Agricultural (A1) Zone, Environmental Constraints (O1) Zone and Environmentally Sensitive Area (ESA) Overlay
Surrounding Uses	Agricultural uses, low density residential uses
Neighbour Notification	13 property owners within 500 feet were notified via letter mail

1. PROPOSAL

John McLarty and Lisa Law have applied to enter into a development agreement to permit the addition of a restaurant, event venue and expanded tasting area on their property at 1441 Church Street (PID 55037188), Port Williams. The property is the location of the applicant's winery, Planters Ridge which has become a tourist destination in the Municipality.



2. OPTIONS

In response to the application, the Port Williams Area Advisory Committee may:

- A. Recommend that the Area Advisory Committee forward to the Planning Advisory Committee a recommendation to 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 the Area Advisory Committee forward to the Planning Advisory Committee A recommendation that Council refuse the development agreement as drafted.

3. STAFF RECOMMENDATION

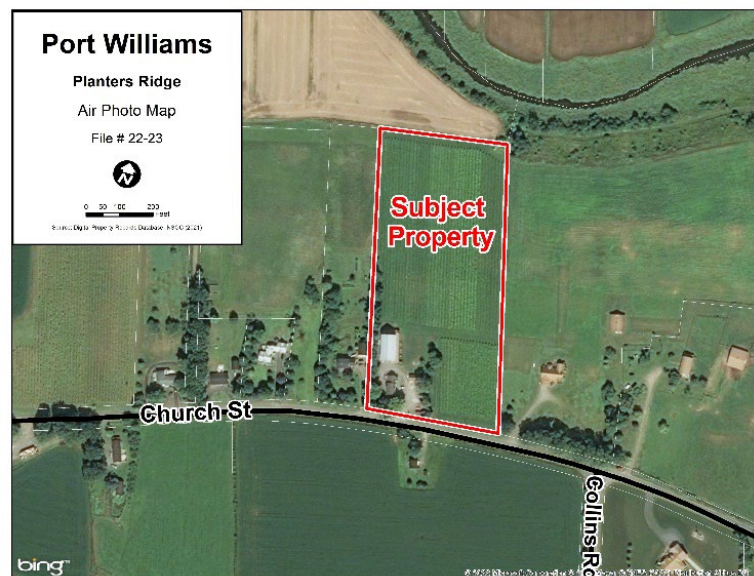
Staff recommend that the Area Advisory Committee forward a positive recommendation by passing the following motion.

The Area Advisory Committee recommends that Planning Advisory Committee recommends that Municipal Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit the addition of a restaurant, event venue and an expanded commercial area within an existing building at 1441 Church Street (PID 55037188), Port Williams as described in Appendix C of the report dated February 8, 2024.

4. BACKGROUND

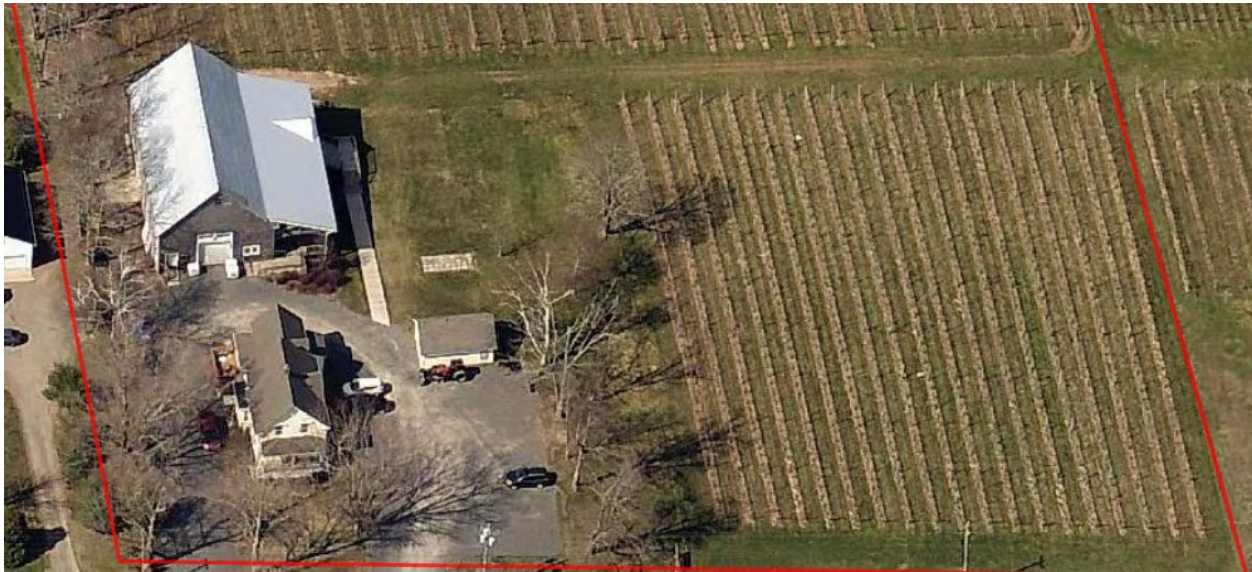
The applicants purchased the subject property in 2010. The subject property has a 160-year-old house and barn in the southwest corner of the property. In 2013 the applicants applied to convert the barn to a winery and associated tasting area and a retail space was added. In 2021 a deck located on the east side of the winery building was expanded, and a roof was added, created an expanded outdoor seating area. While a Farm and Vinyard Product Sampling (wine tasting) use permits the provision of small food offerings, the applicants would like to

be able to provide customers a more robust dining experience and host events in the existing dining areas. No expansion of the building is proposed through this application.



5. SITE INFORMATION

5.1 Subject Property Information



The subject property is located within the Village of Port Williams on Church Street and has approximately 400 feet of road frontage. The subject property has a lot area of 7.25 acres. The existing dwelling and winery building are in the southwest portion of the property. The balance of the property is planted with grape vines for the use in the production of wines.

The subject property is in the Agricultural Designation and zoned Agricultural (A1). The north end of the property closest to the Canard River has both the Environmental Constraints (O1) Zone and Environmentally Sensitive Area (ESA) Overlay.

An existing parking area, having 34 vehicle spaces, is in the front portion of the subject property, near Church Street. There is an existing shed on the property which is proposed to be expanded for storage and office space at a later date. The consideration of this building is permitted as-of-right under the Land Use By-law and does not form part of this application. The property gradually slopes down going northward and offers unobstructed views to the north towards the Canard River from the existing decks. Access to the property is located off Church Street.

5.2 Site Visit

A Municipal Planner conducted a site visit on the subject property on December 12, 2022. The applicant and planner walked around the interior of the winery building and the applicant explained how the changes in space would occur and the intent behind the planning application.

5.3 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 a development agreement. A public Information Meeting was held at the Port Williams Community Centre, February 28, 2023, at 6 pm, the presentation was recorded and added to the

planning application website and has been available since that time. An advertisement was also placed in the February 18, 2023, edition of the *Valley Journal-Advertiser* and property owners within 500 feet of the subject property were notified by letter mail.

There were eight people in attendance at the PIM, including Village Commissioners, the Fire Chief and the applicant. The comments received were positive including that it would be a positive for economic growth in the village. There was no opposition from the public to the proposed development agreement and proposed uses.

Since the PIM Staff have received no public comments for this proposed development agreement.

6. POLICY REVIEW

6.1 Land Use By-law - Agricultural (A1) Zone

In order for Council to consider enabling a use by development agreement, in accordance with the *Municipal Government Act*, this ability must be outlined in both the Land Use By-law and the Municipal Planning Strategy. Section 8.3.5 of the Land Use By-law outlines the uses that Council can consider by development agreement:

8.3.5 Uses Considered by development agreement

(a) Event venues and restaurants accessory to an operating farm business in accordance with policy 3.4.15 of the Municipal Planning Strategy.

6.2 Enabling Policy and Criteria

Council supports diversification of farm businesses to enable producers to provide value-added products and services associated with their farm and to balance income loss caused by unfavourable seasonal weather conditions or other factors. Development of tourism uses is one such avenue.

Policy 3.4.15 provides Council with the ability to consider expanded tourism uses in the Agricultural (A1) zone.

Council shall:

3.4.15 *consider only by development agreement proposals for event venues or restaurants to be developed within the Agricultural (A1) Zone. In evaluating such development agreements Council shall be satisfied that the proposal:*

(a) is accessory to an operating farm business and the owner's income from the farming business for the previous year exceeds the income of all other sources;

The subject property is within the Agricultural Designation and agriculture is the main activity on the property. Confirmation of farm income has been provided to staff and has been deemed acceptable, thereby meeting the requirement of this criteria.

(b) establishes a maximum setback from the road for any proposed structure to minimize disruption to land in production;

The proposed uses are utilizing an existing building that will minimize impact on the surrounding agricultural land.

(c) includes the inclusion of a building existing on the date of application or the construction of a new building. If the proposal is a new building, Council shall be satisfied that the location of the new building minimizes potential negative impacts on current or future farming practices;

The proposed uses are utilizing an existing building minimizing potential negative impacts on current and future farming practices.

(d) includes, if the ability to use temporary structures is requested:

(i) a maximum number of times each year that temporary structures may be located on the lot; and

(ii) a maximum duration for each time temporary structures are located on the lot; and

(iii) the location on the lot of any proposed temporary structure;

This proposal does not include the use of temporary structures.

(e) excludes the ability to obtain or use a cabaret licence or its equivalent;

This proposal does not include a request to run a cabaret.

(f) includes sufficient parking for the proposed permanent structure and any proposed temporary structures. Council shall be satisfied that the parking areas:

(i) are flat, stable surfaces;

(ii) are in close proximity to the restaurant or event venue; and

(iii) are designed for easy reversion back to agricultural production; and

There is adequate parking provided in the site plan that is relatively flat, in close proximity to the proposed restaurant and event venue and, will remain a permeable surface for easy conversion back to agriculture.

(g) the proposal may include small-scale accessory fixed roof accommodation; and

The property currently includes a bed and breakfast operation. This use is not proposed to be expanded through this application.

(h) the proposal meets the general development agreement criteria set out in section 5.3 development agreements and Amending the Land Use By-law

These criteria will be reviewed in a later section of the report.

6.3 Other MPS Policies

Agricultural Designation

Agriculture is an important part of the landscape and a vital component of the economy in the Municipality. Agriculture can be seen in many forms throughout the Valley, and encouraging and supporting change and growth within the agricultural sector will assist in the ongoing success within the sector.

The objective related to Economic Development for the Agricultural Designation, is *“to provide a flexible regulatory environment that accommodates innovation, agri-business, value added agriculture and agritainment.”*

Enabling agricultural lands to have the flexibility for agriculture-related economic development opportunities, enables local farmers to expand their businesses and attract visitors to their farms, thereby facilitating a healthy and productive agricultural industry. This enables the agricultural land to remain in agricultural production while sharing the process and experience with the public.

The applicants wishes to diversify their farming business and attract visitors to their farm with a restaurant and event venue.

Economic Development - Agri-Business

Economic development and Agri-Business are important to the Municipality. Promoting and encouraging a wide range of economic activities is identified as a goal in the Municipal Planning Strategy. The Municipal Planning Strategy identifies the Economic Goal is *“to sustain the Municipality’s diverse economic base and encourage entrepreneurship and innovation”*. The Agricultural Objective of Economic Development within the Municipality is *“to encourage agri-business expansion and innovation, including agritainment and value added processing”*. Policy 2.5.10 Council Shall: *“promote and encourage the establishment of new and expanded agriculture, agribusiness, and value-added processing in the Municipality.”*

The purpose of this proposal is to expand and grow an existing business, which is keeping with the goals and objectives contained within the Municipal Planning Strategy. Planters Ridge Winery is an agricultural business and Council has identified the importance of supporting and encouraging growth of entrepreneurship businesses throughout the Municipality.

Tourism

Tourism is an important part of the economy within the Municipality. Council encourages tourism-related business development. Wineries bring visitors from other areas of Nova Scotia, Canada and internationally to the Municipality. The wineries and associated tours as well as other associated uses are

an important part of the tourism landscape in the Municipality. As such, Council recognizes the importance of supporting tourism operators within the Municipality. Policy 2.5.11 states that Council Shall: *“permit a variety of opportunities for visitor-oriented businesses in location and at a scale consistent with the intent of the zones enabled within the Agricultural, Resource, and Shoreline Designations...”*. Policy 2.5.12 states that Council Shall: *“encourage and promote opportunities for visitor-oriented businesses in the Municipality.”*

The proposal enables a more complete tourist experience by enabling a full-service restaurant and the opportunities to host events at Planters Ridge Winery. The economic impacts this could have on surrounding local businesses means more tourism and revenue in the local area.

6.5 General Criteria – development agreements

Policy 5.3.7 of the Municipal Planning Strategy (By-Law #105) contains general criteria for applications for entering into development agreements. 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 planning strategy. In terms of the other general development criteria contained in the Municipal Planning Strategy there are no additional costs to the Municipality related to the rezoning and development of the subject property. There are no concerns regarding road networks or traffic generation however, the provincial Department of Public Works requested that the development agreement specify that all parking be contained on site. These criteria are reviewed in more detail in Appendix B to this report.

7. Summary of Draft development agreement

The draft development agreement has been attached as Appendix C of this report. The main content includes:

- Permitting the operation of an Event Venue and restaurant within the existing winery building;
- Establishing hours of operations permitting operating between the hours of 8:00 a.m. to 1:00 a.m. on weekends and 8:00 a.m. to 10:00 p.m. weekdays;
- Permitting a portion of the lower level of the winery building to be repurposed as a commercial use to be used as an additional tasting area; and
- Regulates the provision of parking;

8. CONCLUSION

The proposal and terms of the draft development agreement are in keeping with the intent of Council’s Municipal Planning Strategy related to agriculture and economic development. The proposal meets the goals and objectives outlined in the Municipal Planning Strategy and promotes entrepreneurship and tourism within the Municipality. As a result, a positive recommendation regarding the application is being made to the Area Advisory Committee.

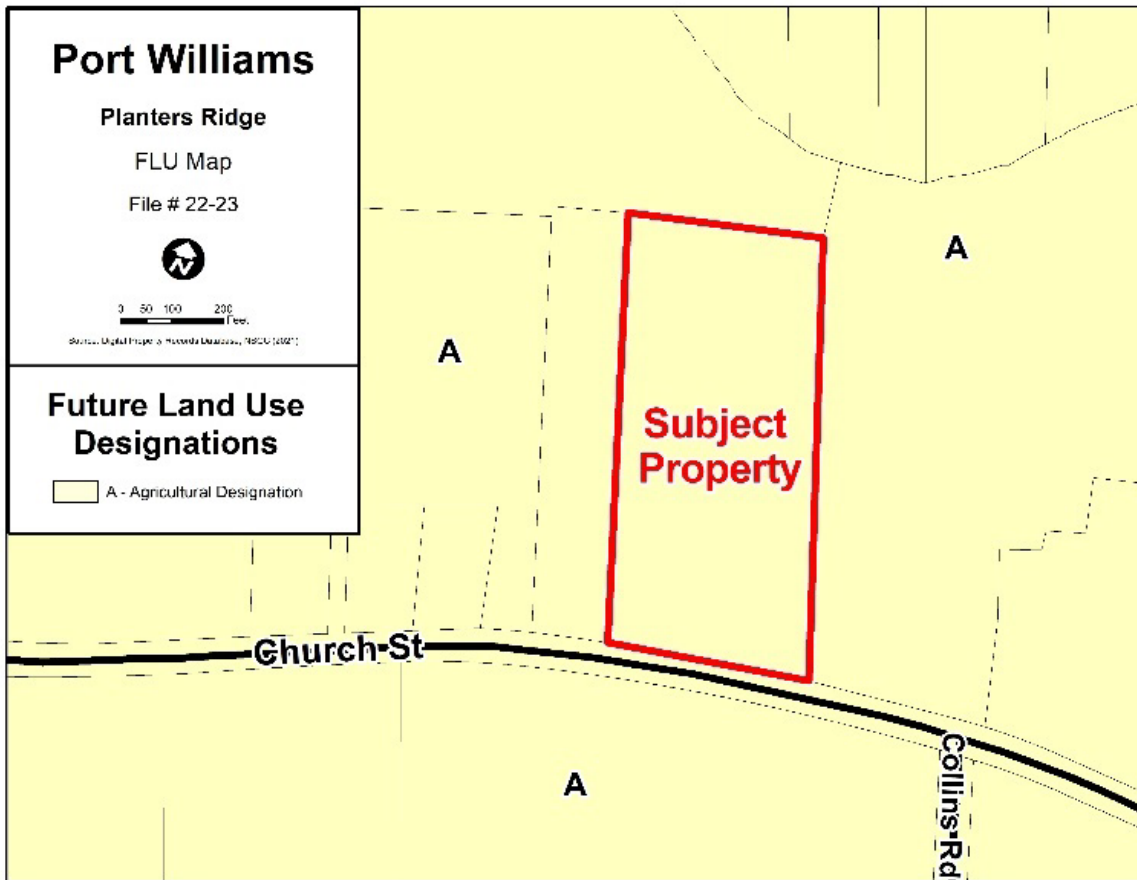
9. APPENDICES

Appendix A – Maps

Appendix B – General Criteria

Appendix C – Draft development agreement

Appendix A: Maps



Port Williams

Planters Ridge

Zoning Map

File # 22-23



0 50 100 200 feet

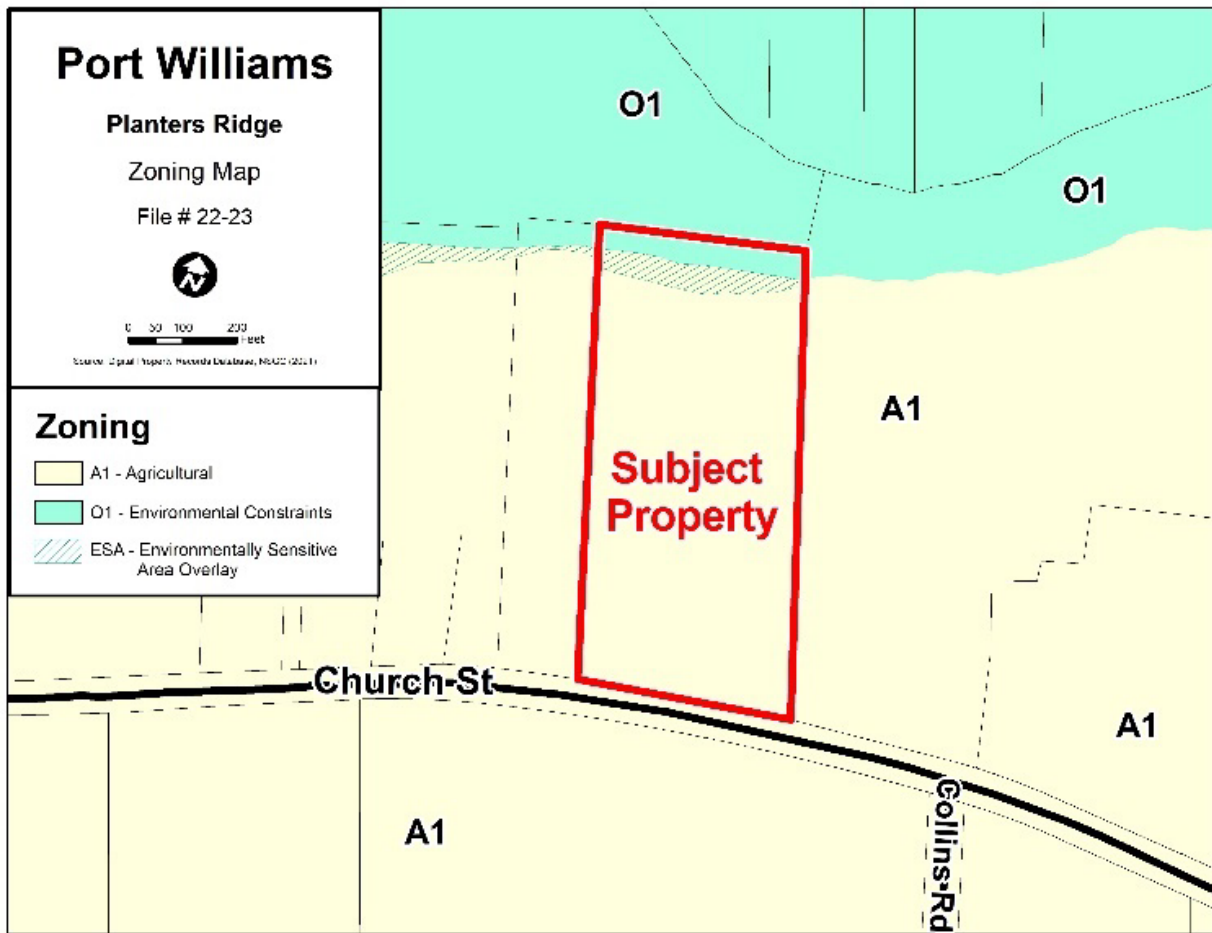
Source: Digital Topographic Database, NAD83 (2011)

Zoning

A1 - Agricultural

O1 - Environmental Constraints

ESA - Environmentally Sensitive
Area Overlay



Appendix B: Municipal Planning Strategy (By-law #105), Section 5.3. – 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:

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 development agreement is consistent with the intent of the Municipal Planning Strategy, and the applicable goals, objectives and policies contained within 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 proposed development agreement is not in conflict with any Municipal or Provincial 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 proposed land use would be compatible with surrounding land uses. The development agreement contains restrictions to mitigate noise.
<i>iii. the adequacy and proximity of school, recreation, and other community facilities;</i>	Not Applicable – no residential uses are proposed.
<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 provincial Department of Public Works (DPW) indicated that no parking is permitted on Church Street; otherwise, they have no other concerns. The applicant will need to send DPW parking site plan to update access permit.
<i>v. the adequacy of fire protection services and equipment;</i>	Port Williams Fire Chief has advised fire protection and equipment are adequate for this proposal.
<i>vi. the adequacy of sewer and water services;</i>	Not applicable - on site services
<i>vii. the potential for creating flooding or serious drainage problems either within the area of development or nearby areas;</i>	No additional construction is enabled by this agreement.
<i>viii. negative impacts on identified wellfields or other groundwater supplies for the area;</i>	The subject property is not located within a wellfield

<i>ix. pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i>	Not applicable - applicants are utilizing existing space in the converted barn.
<i>x. negative impacts on lake water quality or nearby wetlands;</i>	Not applicable – subject property is not in proximity to identified lakes or wetlands.
<i>xi. negative impacts on neighbouring farm operations;</i>	The proposal consists of uses that are accessory to an existing farming business located within an agricultural area. It is not expected that area farming operations will be affected.
<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>	The subject property is suitable in terms of grades, soils, geological conditions, and proximity to natural features and rights-of-way.

Appendix C: Draft development agreement

THIS DEVELOPMENT AGREEMENT BETWEEN:

John Alexander McLarty and Lisa Anne Law of Port Williams, Nova Scotia here in after 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 55037188; and

WHEREAS the Property Owner wishes to use the Property for an event venue and restaurant accessory to
their winery; and

WHEREAS the Property is situated within an area designated Agriculture (A) on the Future Land Use Map
of the Municipal Planning Strategy, and zoned Agricultural (A1), Environmental Constraints (O1), and
identified as an Environmentally Sensitive Area (ESA); and

WHEREAS policy 3.4.15 of By-law 105- Municipal Planning Strategy and section 8.3.5(a) of By-law 106 –
Land Use By-law, provides that the proposed use may be permitted 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 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 By-law* means By-law 60 of the Municipality, approved on July 17, 1997, as amended or successor by-laws.

1.3 Definitions

Unless otherwise defined in this Agreement, all words used herein shall have the same meaning as defined in the Land Use By-law 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.

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) The following uses are enabled by this Agreement within the existing building identified as Winery and outdoor areas identified as Decks on Schedule B - Site Plan, :
 - i. Event Venue;
 - ii. Restaurant, accessory to the farming business;

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

- (a) All uses enabled by this Agreement on the property shall be developed generally in conformance with Schedule B – Site Plan.

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

Subdivision of this property shall not be permitted unless the subdivision serves to enlarge the property.

2.5 Erosion and Sedimentation Control

During any site preparation, construction activities or demolition activities of a structure or parking area, all exposed soil shall be stabilized immediately, and all silt and sediment shall be contained within the site as required by 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.

2.6 Lighting

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

2.7 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.

2.8 Parking

The Developer shall meet the following criteria and standards for parking and shall locate all parking in general conformance with Schedule E, Site Plan.

- (a) Parking associated with activities, or visitors on the subject property shall not be permitted within the front road right-of-way along Church Street including buses for wine tours; and
- (b) Parking areas and loading areas shall be developed in accordance with the requirements of the Land Use By-law and shall be located generally in accordance with Schedule B- Site Plan;
- (c) Parking associated with the Event Venue and restaurant use shall be provided at a shared rate of 1 space per 60 square feet of commercial floor area; and
- (d) Parking area to remain permeable to be able to revert back to agriculture in the future. Parking requirements as per Section 14.5 of the LUB.

2.9 Hours of Operation

The hours of operation for the Event Venue permitted in Section 2.1 (b) of this Agreement shall be between the hours of 8:00 am and 10:00 pm Sunday through Thursday, inclusive, except when Sunday precedes a holiday Monday when the hours of operation shall be between the hours of 8:00 am and 1:00 am, inclusive. Hours of operation on Fridays and Saturdays shall be between the hours of 7:00 am and 1:00 am, inclusive.

2.10 Amplified Sound

The use of speakers to amplify sound (ie. Music, microphones) shall only be permitted within the building labelled as Winery on Schedule B – Site Plan.

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:

(a) the use permitted on the property as listed in Section 2.1 of 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.

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 3.4 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.

PART 4 IMPLEMENTATION

4.3 Completion and Expiry Date

The Property Owner shall sign this Agreement within 60 days from the date the appeal period lapses, or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Nova Scotia Utility and Review Board or the unexecuted Agreement shall be null and void;

PART 5 COMPLIANCE

5.1 Compliance with Other By-laws and Regulations

- (a) Nothing in this Agreement shall exempt the Property Owner from complying with Federal, Provincial and Municipal laws, by-laws, and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority, or approval required thereunder.
- (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 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 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 Property 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 cured 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 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 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 all 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.

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 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

Date

Witness

Janny Postema, Municipal Clerk

Date

SIGNED, SEALED AND DELIVERED
In the presence of:

JOHN MCLARTY

Witness

John McLarty

Date

LISA ANNE LAW

Witness

Lisa Anne Law

Date

Schedule A – Parcel Description (source: Property Online, January 5, 2023)

ALL that certain lot of land situate, lying and being at Church Street, in the County of Kings and Province of Nova Scotia, bounded and described as follows:

BEGINNING at the north side of Church Street, in the County of Kings at the southwest corner of lands now or formerly of the Estate of the late John Donaldson;

THENCE in a northerly direction by the west boundary line of said Donaldson lands to lands of Cecil Woodworth;

THENCE in a westerly direction by the south boundary line of said Cecil Woodworth lands to other lands of said Cecil Woodworth;

THENCE in a southerly direction by said Woodworth lands to the north boundary line of said Church Street;

THENCE in a easterly direction by the north boundary line of said Church Street to the point of beginning and containing seven and one-quarter acres, more or less.

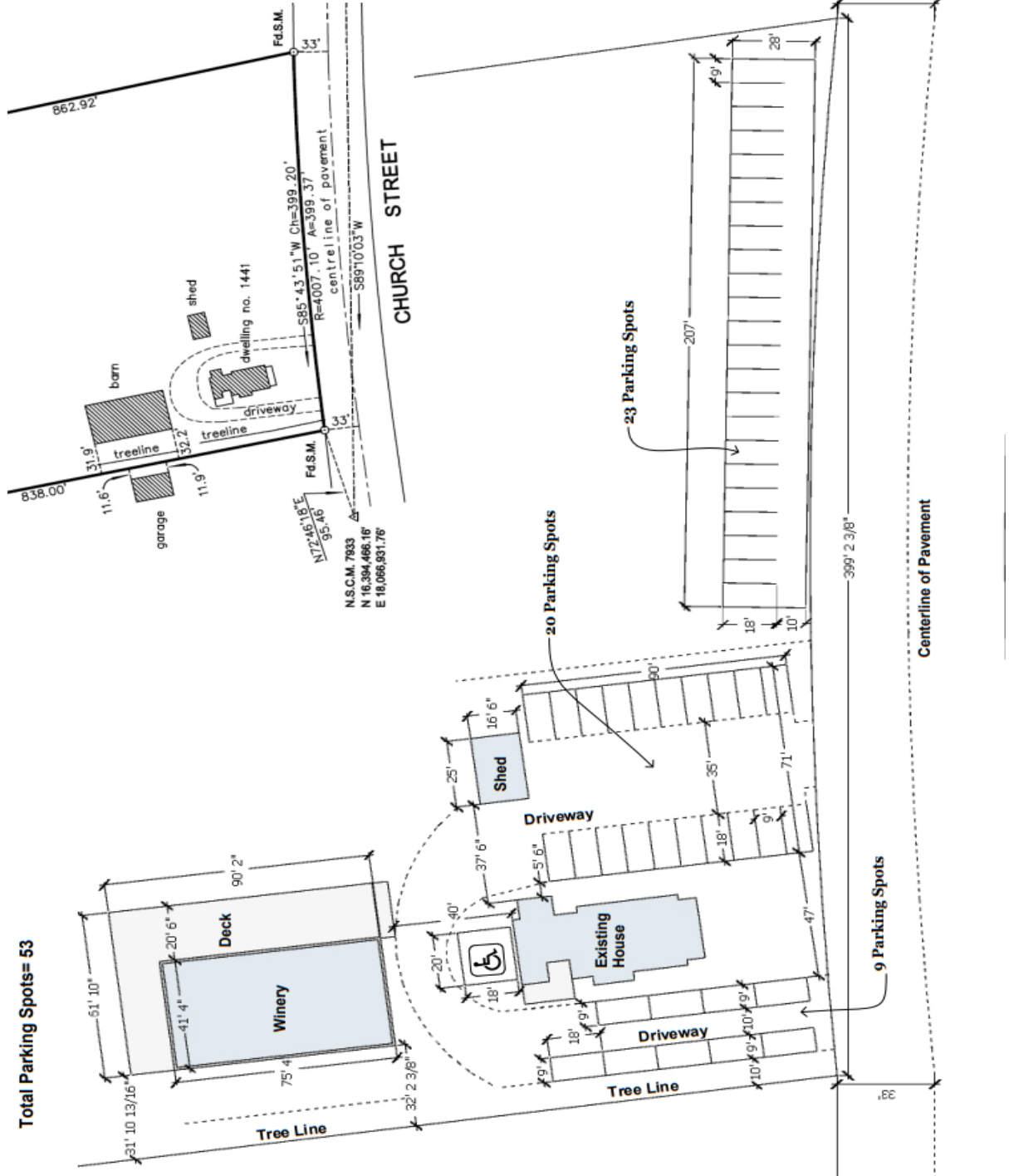
The description for this parcel originates with a deed registered on May 25th 1964, in the registration district of Kings in Book 226 at page 31 and the subdivision is validated by Section 291 of the Municipal Government Act.

Appendix E – Site Plan



Timberhart Woodworks Limited
195 Fuller Rd RR#1
Hantsport, Nova Scotia
Canada B0P 1P0
Tel: 902-684-9708
info@timberhart.com

The Contractor is responsible to check and verify that all dimensions and sizes are correct, and to report any errors and omissions to the client. The Contractor is responsible for the accuracy of the drawings. Do not scale from the drawings. The contractor is responsible to verify the accuracy of all data and information provided to them. All work to conform to the applicable National Building Code and all local Codes and Regulations. Minimum code standards may be exceeded by the Contractor. The Contractor is responsible for obtaining all necessary permits and approvals. The Contractor is responsible for ensuring that all work is completed in accordance with the applicable safety, health and environmental practices. Typical construction and normal occupancy is expected for details not shown.





Municipality of the County of Kings

Report to the Planning Advisory Committee

Application for a substantive amendment to a development agreement registered on vacant land in the southeast quadrant of the intersection of J Jordan Road and Summer Street, Canning (File 23-12)

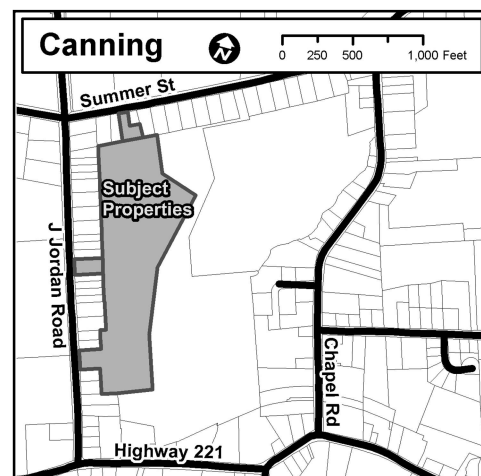
February 13, 2024

Prepared by: Planning Staff

Applicant	Parsons Green Developments
Land Owner	4325323 Nova Scotia Limited
Proposal	Substantive amendments to enable a reallocation of approved residential units in multiple, smaller buildings
Location	Southeast quadrant of J Jordan Road and Summer Street (PIDs 55354385, 55008627 and 55551758) , Canning
Lot Area	22.24 acres
Designation	Residential
Zone	Comprehensive Neighbourhood Development (R5) Zone Residential One and Two Unit (R2)
Surrounding Uses	Low density residential uses, agriculture, institutional and community uses
Neighbour Notification	Staff sent notification letters to 54 property owners within 500 feet of the subject properties.

1. INTRODUCTION

Noel Taiani of Parsons Green Developments has applied to substantively amend the development agreement registered on a vacant parcel of land in the southeast quadrant of J Jordan Road and Summer Street. The applicant is seeking amendments that would enable greater flexibility in allocating the approved residential units within a potentially greater number of multi-unit dwellings having smaller building footprints and/or lower building heights.



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; and
- 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 and hold a Public Hearing regarding amendments to an approved development agreement registered on a vacant parcel in the southeast quadrant of J Jordan Road and Summer Street (PID 55354385, 55008627 and 55551758), Canning, which is substantively the same (save for minor differences in form) as the draft set out in Appendix C of the report dated February 13, 2024.

4. BACKGROUND

Parsons Green Developments purchased the subject properties in June 2021 for the purposes of developing a comprehensive development consisting of six multi-unit dwellings, each containing 70 residential units and having a maximum height of 60 feet as well as 22 townhouse units. Municipal Council gave the application Final Consideration on July 26, 2022 and approved the proposed development. Following an appeal at the Nova Scotia Utility and Review Board which was ultimately dismissed, the development agreement was registered on the property on April 11, 2023.

Due to a number of factors including market fluctuations and increasing interest rates, the proponent has requested the ability to build smaller buildings that contain fewer units in an effort to reduce costs to retain the viability of the project, reduce construction times and provide greater affordability to future residents within the development.

5. INFORMATION

5.1 Site Information

The subject properties are located in the southeast quadrant of the intersection of J Jordan Road and Summer Street and have a total lot area of 22.24 acres. The subject properties have three access points: from J Jordan Road and Summer Street. Two accesses are located off J Jordan Road with one access having approximately 110 feet of frontage opposite Glooscap Elementary School and the other having approximately 165 feet of frontage opposite the Village of Canning offices and Fire Department. The access off Summer Street has approximately 66 feet of frontage. A public road is proposed to connect the access off Summer Street to the northerly access off J Jordan Road.

The subject property is generally flat with a somewhat rolling topography that slopes generally downward toward the southeast. There are two watercourses that traverse the subject properties. The first is in the northeast portion of the property and the second bisects the property toward the southern end of the property. Both watercourses are seasonal and intermittent in nature.



Figure 1: aerial photograph of the subject properties and surrounding area.

The surrounding area is made up primarily of low density residential development consisting of one and two unit dwellings fronting on J Jordan Road and Summer Street. On the west side of J Jordan Road, there are many institutional uses including the Canning Village Commission Offices and Fire Department, Northeast Kings Educational Centre, Glooscap Elementary School, Glooscap District Arena and Apple Tree Landing Family Education Centre. There is agricultural activity occurring on abutting properties to the east however, where these lands are located within the Growth Centre, they are subject to residential zoning and are not considered agricultural lands that are required to have protection under the Statement of Provincial Interest. The north side of Summer Street is also under agricultural production however, the lands on the north side of Summer Street to a depth of approximately 225 feet are

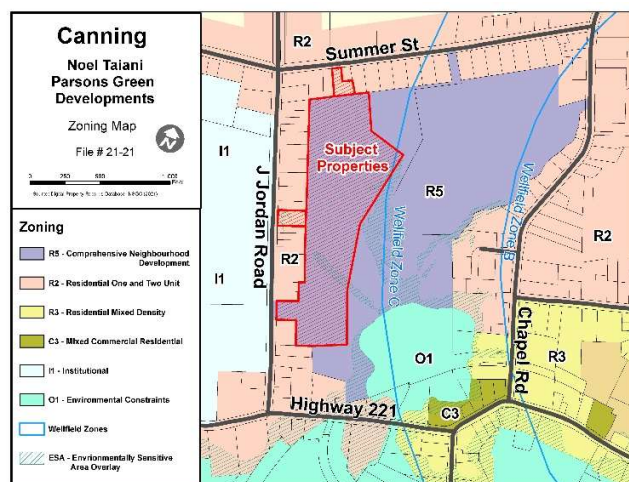


Figure 2: area zoning map

within the Growth Centre boundary and are also within the Residential Designation and have had residential zoning applied, as shown in Figure 2.

6. PROPOSAL

As previously mentioned, the approved development agreement permits a total of six multi-unit dwellings each containing up to 70 residential units as well as 22 townhouse units, resulting in a total of 442 permitted residential units on the subject properties. The subject properties were approved to be developed in two separate phases, but no priority was given to either phase. Phase 1 consists of two multi-unit dwellings to be accessed directly from J Jordan Road by private driveway. Phase 2 consists of 4 additional multi-unit dwellings and the 22 townhouse units. Phase 2 includes the development of a new public road extending from the northern access on J Jordan Road and extending to the access from Summer Street. Most of the approved townhouse units are proposed to be located on the west side of the new public road however, a small pocket of land in the northeast portion of the subject properties was identified for townhouse development.

Due to changing market conditions and a re-assessment of the rental market in Canning, the proponent has requested a substantive amendment to the approved development agreement that would see four of the six approved multi-unit dwellings in the area identified as Phase 2 re-allocate the approved residential units into a larger number of smaller buildings, each containing fewer units. This would also capture the townhouse units that were previously proposed for the east side of the new public road. The revised Phase 2 proposal is meant to be conceptual in nature. This iteration presented a potential development pattern consisted of 5 buildings, having heights between 4 and 5 storeys, smaller building footprints and fewer residential units than initially approved.

The change in the proposal may result in the loss of underground parking for some or all of the buildings, increasing the area of the property devoted to parking and the impermeable surfaces occupying the subject properties. The proponent has requested the option to reduce the required parking and has submitted a letter from a traffic engineer in support of this change. The stormwater management plan has also been revised and the proposed stormwater management ponds are proposed to be increased in volume over and above the additional volume needed to accommodate in the increase in impermeable surfaces.

Site Visit

A Municipal Planner conducted a site visit on the subject property on September 19, 2023. As this is an application for a development agreement amendment and no construction had occurred to date, the proponent was not present for the site visit. The area at the south end of the subject properties has seen much of the vegetation removed and some grading performed. There was evidence of temporary stormwater management infrastructure having been installed to control increases in stormwater flows due to the removal of vegetation.

Public Information Meeting

A Public Information Meeting was held at the Canning Village Office on September 20, 2023. The meeting was well attended with approximately 45 individuals in attendance.

Members of the community asked questions and made comments pertaining to the following topics:

- Whether supporting studies would be redone as a result of the application;
- Concerns related to ongoing stormwater management issues;
- The overall increases in tax revenues that would be generated;
- Questions regarding affordable housing;
- Concerns related to the unit types;
- Overall construction timelines;

Staff have addressed the concerns relevant to this application in the following sections of this report. With particular regard to requests to have the studies conducted as part of the initial application prepared again for this application, Staff have not requested that the proponent have the studies redone with the exception of the stormwater management calculations and plan. Traffic Impact Analyses and servicing studies are prepared on the basis of the number of units and, to a lesser extent, the size of units to estimate the total number of individuals that would use the roads and servicing infrastructure. These reports, during the processing of the initial application, were approved by the authorities having jurisdiction over those matters at the time. In consultation with the engineering department, it was determined that, since the overall unit count is not changing, that the studies do not need to be prepared again. Also, since the composition of the units to be constructed in this revised proposal are intended to consist of a greater number of one bedroom units, it is expected that the overall population of the development will be slightly smaller, thereby reducing the total number of cars as well as water/sewer flows, further reducing the need to have the studies prepared again.

Staff requested that the stormwater management plan be prepared on the basis of the revised site plan associated with this proposal since the elimination of underground parking necessitates additional at grade parking areas, thereby increasing the overall impermeability of the subject properties. As a result, Staff requested the proponent have their engineer prepare revised materials.

The proponent also requested that Staff consider a reduction in the parking requirement for the revised proposal and submitted a letter from a qualified Transportation Engineer in support of the reduced parking rate.

7. POLICY REVIEW – DEVELOPMENT AGREEMENT

7.1 Land Use By-law

This proposal can be considered by development agreement, as enabled in Section 4.7.4(a) of the LUB which states,

“Pursuant to the Municipal Planning Strategy, the uses noted below may be considered by Development Agreement within the Comprehensive Neighbourhood (R5) Zone.

- (a) The development of comprehensive planned neighbourhood developments in accordance with policies 3.1.13 and 3.1.14 of the Municipal Planning Strategy.”

7.2 Municipal Planning Strategy

7.2.1 Enabling Policy and Criteria

The Comprehensive Neighbourhood Development (R5) Zone is generally applied to large properties within the Residential Designation in order to ensure that development is planned in a comprehensive manner that considers the impacts on future development on neighbouring vacant parcels and on existing properties.

The Municipal Planning Strategy contains specific direction related to this type of development contained in policies 3.1.13 and 3.1.14. The subject properties include two parcels within the Residential One and Two Unit (R2) Zone. While the policies within this section apply exclusively to properties within the Residential Comprehensive Development (R5) Zone, policy 3.1.14 addresses proposals that include properties in more than one zone:

Council shall

3.1.14 consider including lands outside the Comprehensive Neighbourhood Development (R5) Zone in a development agreement that applies primarily to lands within the Comprehensive Neighbourhood Development (R5) Zone without an amendment to the Land Use By-law to expand the zone. In considering such an addition Council shall be satisfied that:

(a) the lands abut a Comprehensive Neighbourhood Development (R5) Zone; and

(b) the lands in the Comprehensive Neighbourhood Development (R5) Zone development agreement demonstrably contributes to protecting natural features, improving transportation linkages or facilitating the development of isolated properties;

The two parcels that are located within the Residential One and Two Unit (R2) Zone abut the larger parcel that is zoned Comprehensive Neighbourhood Development (R5) and provide access to this parcel at the southerly end of J Jordan Road and on Summer Street. It is Staff's opinion that, based on policy 3.1.14, they can be included as part of this development agreement application.

Policy 3.1.13 provides the criteria to be used by Council to assess the appropriateness of the proposed development. Several of the policies relate to the revenue and costs associated with development.

Policies 3.1.13 states,

Council shall

3.1.13 consider only by development agreement proposals for comprehensive planned neighbourhood developments within the Comprehensive Neighbourhood Development (R5) Zone. In evaluating such development agreements, Council shall be satisfied that the proposal:

(a) consists of land uses that are consistent with the intent of the Residential Designation, including but not limited to residential uses, community facilities, recreational facilities and commercial uses intended to serve the neighbourhood;

(b) provides a mix of housing options rather than only one building type;

The proposal includes residential uses in the form of multi-unit dwellings and townhouses, providing a mix of housing types consistent with the intent of the Residential Designation.

(c) has an overall minimum density of four (4) units/acre for developments serviced by central sewer and water and similar density for unserviced developments provided the environment can sustainably support the proposed density;

A total of 442 residential units are proposed and the total area of the subject properties is 22.24 acres resulting in a total density of just under 20 units per acre. The subject properties benefit from central services provided by the Municipality and the Village Water Utility. While this level of density has not been seen in Canning thus far, it is not significantly higher than within an as-of-right development within the Residential One and Two Unit (R2) Zone which could result in a density of 32.67 units per acre.

(d) has a neutral or positive long-term impact on municipal finances, as shown by a fiscal impact analysis, or the community or environmental benefits outweigh the costs;

As part of the original review for this application, Staff consulted with the Managers of Revenue, Engineering, Compliance, Public Works and the Director of Engineering to estimate both the revenues and ongoing municipal expenses associated with this proposal. At that time, it was estimated that the combined village and municipal revenues associated with this development at full build-out would be roughly \$770,000 per year while costs associated with water and sewer service along with road maintenance were estimated at \$21,500. While both figures may have changed in the intervening period, Staff are confident that, given the exponential difference in costs vs. revenues, that this proposal will continue to generate far more benefits than costs for the Municipality and the Village.

(e) includes appropriate phasing to ensure orderly development that minimizes the creation of vacant parcels of land between the existing developed lands and the proposed site;

The subject properties are interior to a block of land that has seen all road frontage developed. As a result, no vacant parcels will be created between existing and proposed development .

(f) results in public infrastructure that is efficient to service and maintain;

Similar to criterion (d), above, the previous review of this proposal, on the basis of the financial analysis determined that the new infrastructure would be efficient to service. Given that this proposal would see all of the Phase 2 units (or 272 units) would be located on 430 metres (1,410 feet) of public road. By comparison, typical subdivision development consisting of one or two unit dwellings, this length of road would support the development of between 70 and 210 residential units, if developed to minimum lot standards. With the public infrastructure supporting a greater number of units than would otherwise be expected, this proposal will result in far more efficient infrastructure.

(g) encourages active transportation by providing sufficient sidewalks, pathways and/or trails consistent with the transportation infrastructure policies contained in section 2.3, Infrastructure;

The proposed development provides a walking trail throughout the site, providing connection to J Jordan Road and Summer Street via the proposed new public road which will include a sidewalk along one side. The Village of Canning has been working to develop a sidewalk network with funding being pursued currently for the installation of a sidewalk along Summer Street, in the vicinity of the proposed development. The new sidewalk forming part of the proposed development will contribute to the overall sidewalk network within the Growth Centre of Canning encouraging continuous safe travel throughout the community.

It should be noted that the clustering of development along a shorter public road, as seen in the proposed development, will result in significantly fewer costs to the Village for the ongoing maintenance of the sidewalk.

(h) minimizes environmental impact by protecting sensitive natural features and incorporating low-impact approaches for managing storm water;

The proposed development utilizes low-impact approaches for the management of stormwater. Two retention ponds are proposed near the east property line to manage additional stormwater flows prior to discharge at a rate that does not exceed current flows from the site. All stormwater on site will be directed to the southerly watercourse.

The overall impermeability of the site is expected to increase by approximately 11% as a result of the changes requested in this application, primarily increased use of at grade parking instead of underground parking. In contrast, the volume of the stormwater retention ponds is proposed to be increased by approximately 52%. This results in a net increase of the size of the stormwater management ponds of 37% which will assist in managing stormwater flows associated with extreme weather events. The subject properties continue to benefit from significant areas of vegetation which will continue to assist in managing stormwater management flows naturally, through infiltration into the ground. The Municipal Engineer reviewed revised stormwater management materials and has indicated that the proposed approach is reasonable subject to detailed calculations at the time of permitting.

(i) provides a minimum 100-foot-wide vegetated buffer within Comprehensive Neighbourhood Development (R5) Zones adjacent to the Agricultural (A1) Zone. This buffer area must be entirely contained within the development and may be used for park, recreation and service utility purposes, but must not contain buildings for any other use. The width of the buffer area may be reduced where natural or built features, including but not limited to a ravine, watercourse or road create a buffer with the Agricultural (A1) Zone;

This criteria is not applicable to the proposed development since it does not abut the Agricultural (A1) Zone.

(j) notwithstanding the minimum requirements set out in the Subdivision By-law, provides a minimum of ten (10) per cent open space contribution;

The applicant has agreed to work with the Municipality at the time of subdivision to ensure a 10% contribution in the form of cash-in-lieu, land or a combination thereof to satisfy this requirement. The purpose of this policy is to ensure that there is adequate parkland for residents of the proposed development in the community. The proposed development is in proximity to two schools and the local arena. Based on this consideration and the area context, Staff are satisfied that this criteria has been met through this approach.

(k) utilizes, alternative road, lot, servicing and other infrastructure standards where appropriate;

This criteria is not applicable to this proposal.

(l) provides sufficient vehicle and pedestrian transportation linkages with any adjacent town, village or property through the dedication of land intended for use as a road reserve;

The proposed development provides both vehicular and active transportation linkages to the broader community through the provision of pedestrian walkways and sidewalks within the subject properties. The topography of the site and location of a watercourse and associated ravine along the eastern property

line makes connecting adjacent development difficult. The development of other abutting vacant parcels can still occur since these parcels have multiple points of access to public roads.

(m) complements existing and planned development within an adjacent town or village in location, design, and any linkages between town or village and Municipal infrastructure; and

The proposed development will assist in the development of complete communities within Canning by providing housing within built forms that are not currently prominent in the community. The layout and setback requirements ensure compatibility between built forms. There are no other significant development planned for Canning at this time.

(n) meets the general development agreement criteria set out in section 5.3 Development Agreements and Amending the Land Use By-law;

This will be reviewed in the following section within this report.

7.2.2 Other MPS Policies

With regard to the overarching vision, goals and objectives of the Municipal Planning Strategy, the Vision statement related to the theme of Settlement encourages efficient service and infrastructure delivery as well as a diversity of housing throughout the region. This proposal introduces new forms of housing to the Growth Centre of Canning in a format that is efficient to service from an infrastructure perspective.

With regard to Growth Centres, the objective related to Transportation indicates that the Municipality is seeking to “promote the development of compact, complete communities with accessible active transportation options.” The proposed development adds housing diversity, contributing to a complete community that is able to welcome people of all ages and stages in their lives in a community that boasts a vibrant commercial centre in a walkable format.

With regard to the Residential Designation, the objective related to Settlement indicates that the Residential Designation is intended to, “Accommodate a wide range of housing options, including opportunities for mixed uses and increased densities in areas where urban services are efficient to deliver.” The proposed development is significantly more efficient to service than existing forms of development within the Growth Centre of Canning, contributing to a better overall efficiency across the community. Moreover, the objective encourages increased densities within these areas. Further, the objective related to Healthy Communities indicates that the Residential Designation is intended to, “provide a wide range of housing choices, including affordable housing.” This does increase the types of housing options available to residents within Canning.

7.2.3 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.

It is Staff’s opinion that the proposal meets the general criteria. Staff have reviewed 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. Detailed information related to each criterion is provided in Appendix B.

8. 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 includes:

- Enables the development of up to 442 residential units within multi-unit dwellings and townhouse dwellings;
- Regulates the maximum number of residential units permitted within a multi-unit dwelling and the maximum height;
- Enables the development of amenity buildings;
- Regulates the location and development of a new public road
- Regulates the development of Phase 2 in relation to the development of the public road
- Requires the submission of engineering record drawings related to drainage and other infrastructure
- Regulates the provision and location of parking areas
- Regulates subdivision
- Enables Council to consider neighbourhood commercial uses through a non-substantive amendment

9. CONCLUSION

The proposal and the terms of the draft amending agreement are in keeping with the intent of Council's Municipal Planning Strategy. The proposed amendment to the development agreement continues to permit a development that is efficient to service and provides some flexibility in the overall built form, reducing the impacts of market conditions on the developability of the site. As a result, Staff anticipate much needed housing will be able to be developed faster in a market with little supply. The proposed development introduces housing types that are not very prevalent (apartments and townhouses) in the community thereby increasing the diversity of housing options within the Growth Centre of Canning, which contributes to complete communities where people of all ages and demographics can thrive.

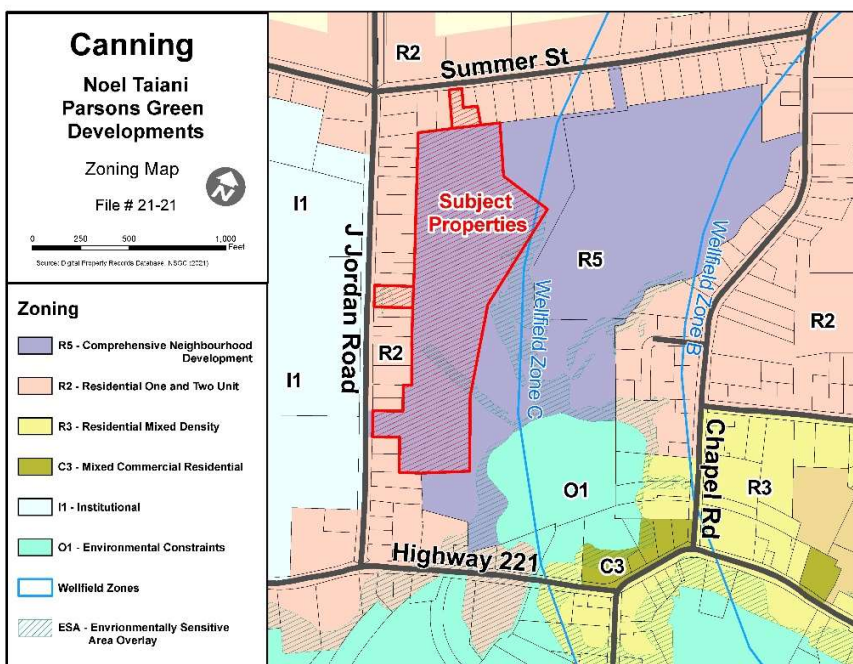
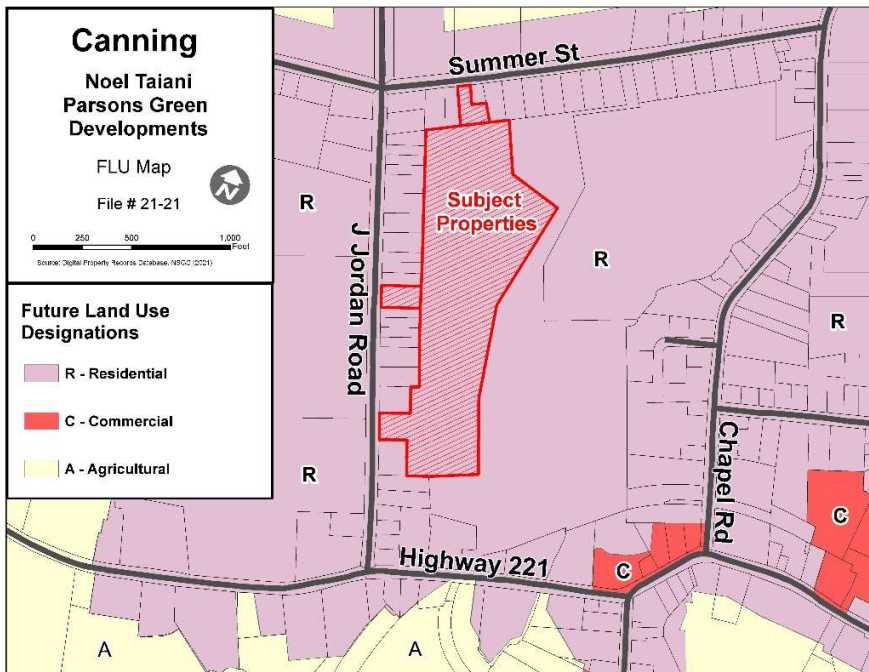
10. APPENDICES

Appendix A: MPS and LUB Maps

Appendix B: General Criteria to Consider for all Development Agreements and Land Use By-law Amendments

Appendix C: Draft Development Agreement

APPENDIX A – MPS and LUB Maps



APPENDIX B - 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:

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 proposal is in keeping with the intent of the MPS as described previously in this report and contributes to the achievement of the overarching vision and objectives for the Municipality. There is no Secondary Planning Strategy in this area.
<i>b. is not in conflict with any Municipal or Provincial programs, By-laws, or regulations in effect in the Municipality;</i>	
<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>	A financial analysis has determined that this development will have a net positive impact on Municipal and Village finances.
<i>ii. land use compatibility with surrounding land uses;</i>	The proposal includes building types that are not currently prevalent within Canning however, the proposed layout ensures that potential negative impacts will be minimized and mitigated through the site layout. Staff do not anticipate land use compatibility issues.
<i>iii. the adequacy and proximity of school, recreation and other community facilities;</i>	The Annapolis Valley Regional Centre for Education indicated that there was capacity at both area schools to accommodate new students and would plan accordingly for any anticipated enrollment increases. The Village Commission Offices and the Glooscap District Arena are nearby on the west side of J Jordan Road, providing recreational and community facilities in addition to the school buildings and yards.
<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 proponent had a traffic study prepared at the time of the initial application which was approved by the Department of Public Works. Since the number of residential units is not proposed to increase, Staff did not request an updated study.

<p>v. <i>the adequacy of fire protection services and equipment;</i></p>	<p>The Canning Fire Chief indicated their current equipment would not provide external rescue to floors above the second floor. The Kentville Fire Department has been established as an automatic responder to any emergency on the subject properties. The buildings are still required to be sprinklered, providing a measure of protection in addition to local fire departments.</p>
<p>vi. <i>the adequacy of sewer and water services;</i></p>	<p>Staff have identified necessary upgrades in both the water and sewer systems in the community, however, these are necessary in the absence of the proposed development and upgrades are planned in both systems in advance of the construction of Phase 2 of the proposed development.</p> <p>Both water and sewer systems are adequate to service Phase 1 at this time.</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>The applicant has prepared a revised drainage plan that includes proposed expansions to the proposed stormwater management ponds that would be able to accommodate 37% more stormwater than would be generated on site. This plan has been deemed acceptable by the Municipal Engineer.</p>
<p>viii. <i>negative impacts on identified wellfields or other groundwater supplies for the area;</i></p>	<p>The proposed development is located outside of the Wellfield Protection Overlays in Canning.</p>
<p>ix. <i>pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i></p>	<p>Due to several extreme weather events and higher than normal precipitation over the course of the last year, neighbouring properties have experienced some overland flooding and some siltation as a result of site preparation prior to development and the installation of permanent stormwater management infrastructure.</p> <p>The proponent has made several upgrades to mitigative infrastructure and, it appears that the negative impacts have been mitigated. The final, built condition is expected not to generate any additional pollution and the expanded volume of the stormwater management ponds are expected to contain any stormwater flows on the subject properties.</p>
<p>x. <i>negative impacts on lake water quality or nearby wetlands;</i></p>	<p>The proposal is not in proximity to any lakes. A small wetland was identified in the northeast portion of the subject properties. The proposed development will maintain appropriate setbacks from this area. The topography of the site would ensure that</p>

	<p>drainage occurs away from the wetland and, therefore, Staff are satisfied that there will not be any negative impacts on the wetland.</p> <p>There is a man-made pond on the property abutting to the east but, given the proposed stormwater management plan which includes two expanded detention ponds, staff do not anticipate negative impacts associated with the proposed development.</p>
<i>xi. negative impacts on neighbouring farm operations;</i>	Staff do not anticipate any negative impacts on neighbouring farm operations as a result of the proposed development.
<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>The subject properties do not exhibit features that are incompatible with the proposed development.</p> <p>There are no utility rights-of-way through the subject properties.</p>

APPENDIX C – Draft Development Agreement

THIS AMENDING AGREEMENT made between:

4325323 Nova Scotia Limited, of Halifax, 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 parties entered into a Development Agreement registered at the Kings County Land Registration Office as Document 122285555 on April 11, 2023, and affecting land described therein and now known as Property Identification (PID) Numbers PID 55354385, 55551758 and 55008627 (herein after called the "Property"); and

WHEREAS the parties wish to amend the Development Agreement as hereinafter set forth, and

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

WHEREAS the Property is situated within an area designated Residential on the Future Land Use Map of the Municipal Planning Strategy, and zoned Comprehensive Neighbourhood Development (R5) and Residential One and Two Unit (R2) on the Zoning Map of the Land Use By-law;

WHEREAS policy 3.1.13 and 3.1.14 of the Municipal Planning Strategy and section 4.7.4 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 approved this Development Agreement;

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

1. Schedule B – Phasing Plan is deleted and replaced with Schedule B – Phasing Plan attached to this Amending Agreement and which forms part of this Agreement.
2. Schedule C – Site Plan is deleted and replaced with Schedule C – Site Plan attached to this Amending Agreement and which forms part of this Agreement.
3. Schedule D – Subdivision sketch is deleted.
4. Section 2.1, Permitted Uses and Requirements, is deleted and replaced with the following:
 - (a) Phase 1 as shown on Schedule B – Phasing Plan consisting of two multi-unit dwellings and an amenity building:
 - (i) Buildings shall be located within the area identified as ‘Phase 1 Apartment Development Envelope’ as shown on Schedule C – Site Plan; and
 - (ii) Multi-unit dwellings shall have a maximum of 70 residential units per dwelling and a maximum height of 60 feet or five storeys, whichever is greater;
 - (iii) Phase 1 may be further subdivided in accordance with the requirements of the Subdivision By-law and the zone requirements of the Residential Multi-Unit (R4) Zone; and
 - (iv) The amenity building may be located on a separate lot, subject to the zone requirements for all other permitted uses in the Residential Multi-Unit (R4) Zone except that the building shall be permitted to have a maximum height of two storeys or 25 feet, whichever is greater..
 - (b) Phase 2 as shown on Schedule B – Phasing Plan consisting of a maximum of 302 residential units contained within townhouse dwellings and multi-unit dwellings and an amenity building subject to the following:
 - (i) Townhouse units shall be located in the area identified as “Townhouse Block” on Schedule C – Site plan;
 - (ii) Multi-unit dwellings shall be located in the area identified as “Multi-unit Block” on Schedule C – Site Plan
 - (iii) All dwellings in Phase 2 shall be subject to the requirements of the Residential Multi-unit (R4) Zone, as amended from time to time; and,
 - (iv) Notwithstanding 2.1(b)(iii) above, multi-unit dwellings are permitted to contain a maximum of 70 residential units per dwelling and a maximum height of 60 feet or five storeys, whichever is greater;
 - (v) The amenity building may be located on its own lot, subject to the zone requirements for all other permitted uses in the Residential Multi-Unit (R4) Zone except that the building shall be permitted to have a maximum height of two storeys or 25 feet, whichever is greater.
 - (c) Accessory buildings and uses shall be permitted and shall be subject to the zone requirements of the Residential Multi-unit (R4) Zone. Accessory buildings and uses are

not required to be located within a Development Envelope or shown on Schedule B – Site Plan.

5. Section 2.3 Parking is deleted and replaced with the following:

- (a) Parking in Phase 1 shall be provided at a rate of 1.4 spaces per residential unit and shall be required to be located within the same phase, but not necessarily on the same lot, as the associated use provided easements for shared parking are in place;
- (b) Parking in Phase 2 shall be provided at a rate of 1.25 spaces per residential unit and shall be required to be located within the same phase, but not necessarily the same lot, as the associated use provided easements for shared parking are in place;
- (c) Parking shall be provided at a rate of 1 parking space per residential unit for townhouse dwellings;
- (d) Parking areas in Phase 2 associated with multi-unit dwellings shall not be located between the public road and a multi-unit dwelling; and
- (e) Parking areas associated with multi-unit dwellings shall be subject to section 14.5.1 and 14.5.4 of the Land Use By-law, unless otherwise addressed in this agreement.

6. Section 2.7.1(b) is deleted.

7. Section 3.1 is deleted and replaced with the following:

In addition to any matters in this Agreement which are not specified in Subsection 3.2 below, the following are not substantive matters and may be changed by Council without a public hearing:

- (a) The development of commercial uses consistent with those permitted in the Mixed Residential Commercial (C3) Zone on the ground floor of any multi-unit dwelling or within any amenity building permitted by this Agreement.

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

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 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

Date

Witness

Janny Postema, Municipal Clerk

Date

SIGNED, SEALED AND DELIVERED
In the presence of:

4325323 Nova Scotia Limited

Witness

Noel Taiani, Director

Date

Schedule A – Property Description

PID 55354385

ALL that certain lot, piece or parcel of land situate, lying and being on the East side of J. Jordan Road in the Village of Canning in the County of Kings and Province of Nova Scotia, more particularly bounded and described as follows:

BEGINNING at a survey marker found on the east bound limit of J. Jordan Road marking the northwest corner of Lot 1 as depicted on the Plan of Subdivision filed in the Kings County Registry of Deeds under Plan No. P-10,460, as hereinafter referred to;

THENCE North 18 degrees 36 minutes 56 seconds West a distance of 149.61 feet following the east bound limit of J. Jordan Road to a survey marker found;

THENCE continuing along a curvature in the east bound of J. Jordan Road an arc distance of 203.76 feet to a survey marker found, being a chord distance of 203.76 feet on chord bearing North 18 degrees 59 minutes 11 seconds West from the last mentioned survey marker;

THENCE continuing along the east bound limit of J. Jordan Road North 19 degrees 22 minutes 11 seconds West a distance of 246.54 feet to a survey marker found at the southwest corner of Lot M-2;

THENCE North 71 degrees 18 minutes 02 seconds East a distance of 199.19 feet following the south bound of Lot M-2 to a survey marker found at the southeast corner of Lot M-2;

THENCE North 19 degrees 01 minutes 22 seconds West a distance of 100.57 feet following the east bound of Lot M-2 to a survey marker found at the southeast corner of Lot M-1;

THENCE North 19 degrees 03 minutes 17 seconds West a distance of 100.22 feet following the east bound of Lot M-1 to a survey marker found at the southeast corner of Lot 26;

THENCE North 18 degrees 28 minutes 15 seconds West a distance of 100.03 feet following the east bound of Lot 26 to a survey marker found at the southeast corner of Lot 25;

THENCE North 18 degrees 19 minutes 29 seconds West a distance of 99.99 feet following the east bound of Lot 25 to a survey marker found at the northeast corner of Lot 25;

THENCE South 71 degrees 06 minutes 02 seconds West a distance of 202.09 feet following the north bound of Lot 25 to a survey marker found on the aforesaid east bound limit of J. Jordan Road and marking the northwest corner of Lot 25;

THENCE North 18 degrees 30 minutes 52 seconds West a distance of 178.10 feet following the east bound limit of J. Jordan Road to a survey marker found at the southwest corner of Lot 23B;

THENCE North 71 degrees 51 minutes 37 seconds East a distance of 202.43 feet following the south bound of Lot 23B to a survey marker found at the southeast corner of Lot 23B;

THENCE North 18 degrees 21 minutes 51 seconds West a total distance of 730.29 feet following the east bounds of Lots 23B, 23A, 22, 21, 20, 19, 18, and 17 to a survey marker found at the southeast corner of Lot 16, lands of George and Cheryl Melvin;

THENCE North 63 degrees 08 minutes 35 seconds East a distance of 97.78 feet following the south bound of Lot 14 (lands of George and Nancy Redden) to a survey marker found at the southeast corner of Lot 14;

THENCE North 63 degrees 11 minutes 39 seconds East a distance of 82.00 feet following the south bound of Lot T.H.-1 to a survey marker found at the southeast corner of Lot T.H.-1;

THENCE North 63 degrees 11 minutes 39 seconds East a distance of 66.05 feet following the south bound of Lot T.H.-2 to a survey marker found at the southeast corner of Lot T.H.-2;

THENCE North 63 degrees 11 minutes 39 seconds East a distance of 82.82 feet following the south bound of Lot T.H.-3 to a survey marker found at the southeast corner of Lot T.H.-3;

THENCE North 63 degrees 10 minutes 54 seconds East a distance of 100.03 feet following the south bound of Lot 12 (lands of Paul Graves) to a survey marker found at the southeast corner of Lot 12 also marking the southwest corner of Lot 11;

THENCE South 23 degrees 52 minutes 10 seconds East a distance of 277.13 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 73 degrees 05 minutes 56 seconds East a distance of 284.38 feet following the southwest bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 12 degrees 02 minutes 23 seconds West a distance of 580.78 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 09 degrees 04 minutes 34 seconds East a distance of 482.26 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 19 degrees 47 minutes 50 seconds East a distance of 387.73 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 67 degrees 38 minutes 10 seconds West a distance of 253.78 feet following the north bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 22 degrees 50 minutes 12 seconds East a distance of 162.05 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker found;

THENCE South 71 degrees 56 minutes 02 seconds West a distance of 70.11 feet following the north bound of lands formerly of Central Guaranty Trust Company to a survey marker found;

THENCE continuing South 71 degrees 56 minutes 02 seconds West a distance of 26.31 feet following the north bound of lands formerly of Central Guaranty Trust Company to a survey marker found;

THENCE South 75 degrees 49 minutes 58 seconds West a distance of 173.65 feet following the north bound of lands formerly of Central Guaranty Trust Company, and the north bound of Lot 1, to the place of beginning.

CONTAINING an area of 21.24 acres (925,150 square feet).

BEING AND INTENDED TO BE Lot C.L.M.-2 as depicted on a Plan of Subdivision and Consolidation of lands of Clifford L. Meek and Cynthia A. Meek prepared by Hiltz & Seamone Company Limited Drawing No. 96-

90 dated September 13, 1996, signed by D. A. Seamone, N.S.L.S. No. 265, and consolidating Lot C.L.M.-1 with remaining portion of Parcel R-1 to form approved consolidated Lot C.L.M.-2, and Remainder Lands of Meek, and bearing the final approval stamp of the Development Officer for the Municipality of the County of Kings dated September 25, 1996, under Municipal Registration Number 960207, and the said approved Plan of Subdivision having been filed in the Kings County Registry of Deeds under Plan No. P-10,460.

EXCEPTIONS:

EXCEPTING THEREOUT AND THEREFROM the following lots:

Lot 26 conveyed in Book 1092 at Page 740 - Plan P-10,576 - Filed: January 21, 1997
Lot 22 conveyed in Book 1095 at Page 739 - Plan P-10,576 - Filed: January 21, 1997
Lot 27 conveyed in Book 1097 at Page 130 - Plan P-10,576 - Filed: January 21, 1997
Lot 25 conveyed in Book 1099 at Page 72 - Plan P-10,598 - Filed: February 21, 1997
Lot 23 conveyed in Book 1099 at Page 205 - Plan P-10,576 - Filed: January 21, 1997
Lot 57 conveyed in Book 1099 at Page 244 - Plan P-10,598 - Filed: February 21, 1997
Lot 28 conveyed in Book 1130 at Page 737 - Plan P-10,598 - Filed: February 21, 1997
Lot 58 conveyed in Book 1238 at Page 753 - Plan P-11,341 - Filed: July 12, 1999

BENEFIT:

TOGETHER WITH a utility easement for purposes of the installation, maintenance and repair of water and/or sewer utility lines running in a general north south direction leading from the north bound of Borden Street (Highway 221) along and beneath the existing farm driveway leading past the east side of the barn complex on the remaining lands of Meek, the centre line of which is approximately 20 feet more or less from the east side of the farm complex buildings, and continuing northerly beneath the farm driveway to the south bound of the above noted Lot C.L.M.-2 (being the boundary thereof having a distance of 253.78 feet on bearing South 67 degrees 38 minutes 10 seconds West from east to west), said easement or right-of-way for purposes of the laying, construction, maintenance and repair of water and/or sewer utility lines leading northerly from the Village of Canning municipal sewer and water services along Borden Street (Highway 221), and in favour of the above noted described Lot C.L.M.-2, with the right at all times for the Grantee, Traditional Home Centres Incorporated, its successors, assigns, workers, servants and agents, to enter upon the said remaining lands of Clifford and Cynthia Meek lying between the south bound of Lot C.L.M.-2 and the north bound limit of Borden Street (Highway 221), provided however that any and all excavation work carried out on the said remaining lands of Meek shall be conducted in a proper, prompt and responsible manner, and all excavation work shall be covered over and the surface of the ground returned as close as reasonably possible to its original state upon any excavation work being carried out for the laying or construction of said line or lines and the repair and maintenance thereof. This grant of easement or right-of-way is not intended for normal pedestrian or vehicular access or ingress or egress to and from Lot C.L.M.-2 from Borden Street (Highway 221), and is only intended to grant vehicular traffic necessary to construct or maintain sewer or water lines. The Grantee, Traditional Home Centres Incorporated and its successors and assigns shall be solely responsible for all costs of construction and laying of any water or sewer lines pursuant to the terms of this easement, and any and all maintenance and repair costs associated therewith.

PID 55008627

ALL that certain lot, piece or parcel of land situate, lying and being at Canning, Kings County, Nova Scotia more particularly bounded and described as follows:

COMMENCING at a survey marker found in the northeast corner of Lot T.H.-1 and the southern

boundary of Summer Street;

THENCE North 63 degrees 13 minutes 03 seconds East, 66.05 feet to a survey marker found marking the northwest corner of Lot T.H.-3;

THENCE South 24 degrees 30 minutes 46 seconds East along the western boundary of Lot T.H.-3, 100.00 feet to a survey marker placed marking the southwest corner of Lot T.H.-3;

THENCE North 63 degrees 08 minutes 34 seconds East along the southern boundary of Lot T.H.-3, 72.97 feet to a survey marker placed on the western boundary of Lot 12;

THENCE South 30 degrees 09 minutes 33 seconds East, 100.12 feet to a survey marker found on the northern boundary of Lot C.L.M.-2;

THENCE South 63 degrees 11 minutes 39 seconds West along the northern boundary of Lot C.L.M.-2, 148.87 feet to a survey marker found marking the southeast corner of Lot T.H.-1;

THENCE North 24 degrees 30 minutes 47 seconds West along the eastern boundary of Lot T.H.-1, 199.99 feet to the point of commencement.

BEING AND INTENDED TO BE Lot T.H.-2 as shown on a plan of survey prepared by Hiltz & Seamone Co., Ltd., dated November 18, 1996 under drawing number 96-109. The said plan having received final approval by the Municipality of the County of Kings on December 6, 1996 under no. 960254 and is filed at the Kings County Registry of Deeds at Kentville, Nova Scotia as P-10535.

PID 55551758

Registration County: KINGS COUNTY

Street/Place Name: J JORDAN ROAD /CANNING

Title of Plan: PLAN OF S/D PLAN OF SURVEY OF BLOCK A1 BEING A S/D OF LOT CLM-2 & LOT 58 AS AN ADDITION TO THE REMAINDER OF LOT CLM-2 TO FORM BLOCK A2 LANDS OF 4325323 NOVA SCOTIA LTD J JORDAN RD CANNING

Designation of Parcel on Plan: BLOCK A1

Registration Number of Plan: 123026503

Registration Date of Plan: 2023-09-07 12:12:59

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

Compliance:

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

Registration District: KINGS COUNTY

Registration Year: 2023

Plan or Document Number: 123026503

THIS AMENDING AGREEMENT made between:

4325323 Nova Scotia Limited, of Halifax, 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 parties entered into a Development Agreement registered at the Kings County Land Registration Office as Document 122285555 on April 11, 2023, and affecting land described therein and now known as Property Identification (PID) Numbers PID 55354385, 55551758 and 55008627 (herein after called the "Property"); and

WHEREAS the parties wish to amend the Development Agreement as hereinafter set forth, and

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

WHEREAS the Property is situated within an area designated Residential on the Future Land Use Map of the Municipal Planning Strategy, and zoned Comprehensive Neighbourhood Development (R5) and Residential One and Two Unit (R2) on the Zoning Map of the Land Use By-law;

WHEREAS policy 3.1.13 and 3.1.14 of the Municipal Planning Strategy and section 4.7.4 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 approved this Development Agreement;

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

1. Schedule B – Phasing Plan is deleted and replaced with Schedule B – Phasing Plan attached to this Amending Agreement and which forms part of this Agreement.
2. Schedule C – Site Plan is deleted and replaced with Schedule C – Site Plan attached to this Amending Agreement and which forms part of this Agreement.
3. Schedule D – Subdivision sketch is deleted.
4. Section 2.1, Permitted Uses and Requirements, is deleted and replaced with the following:
 - (a) Phase 1 as shown on Schedule B – Phasing Plan consisting of two multi-unit dwellings and an amenity building:
 - (i) Buildings shall be located within the area identified as ‘Phase 1 Apartment Development Envelope’ as shown on Schedule C – Site Plan; and
 - (ii) Multi-unit dwellings shall have a maximum of 70 residential units per dwelling and a maximum height of 60 feet or five storeys, whichever is greater;
 - (iii) Phase 1 may be further subdivided in accordance with the requirements of the Subdivision By-law and the zone requirements of the Residential Multi-Unit (R4) Zone; and
 - (iv) The amenity building may be located on a separate lot, subject to the zone requirements for all other permitted uses in the Residential Multi-Unit (R4) Zone except that the building shall be permitted to have a maximum height of two storeys or 25 feet, whichever is greater..
 - (b) Phase 2 as shown on Schedule B – Phasing Plan consisting of a maximum of 302 residential units contained within townhouse dwellings and multi-unit dwellings and an amenity building subject to the following:
 - (i) Townhouse units shall be located in the area identified as “Townhouse Block” on Schedule C – Site plan;
 - (ii) Multi-unit dwellings shall be located in the area identified as “Multi-unit Block” on Schedule C – Site Plan
 - (iii) All dwellings in Phase 2 shall be subject to the requirements of the Residential Multi-unit (R4) Zone, as amended from time to time; and,
 - (iv) Notwithstanding 2.1(b)(iii) above, multi-unit dwellings are permitted to contain a maximum of 70 residential units per dwelling and a maximum height of 60 feet or five storeys, whichever is greater;
 - (v) The amenity building may be located on its own lot, subject to the zone requirements for all other permitted uses in the Residential Multi-Unit (R4) Zone except that the building shall be permitted to have a maximum height of two storeys or 25 feet, whichever is greater.
 - (c) Accessory buildings and uses shall be permitted and shall be subject to the zone requirements of the Residential Multi-unit (R4) Zone. Accessory buildings and uses are not

required to be located within a Development Envelope or shown on Schedule B – Site Plan.

5. Section 2.3 Parking is deleted and replaced with the following:

- (a) Parking in Phase 1 shall be provided at a rate of 1.4 spaces per residential unit and shall be required to be located within the same phase, but not necessarily on the same lot, as the associated use provided easements for shared parking are in place;
- (b) Parking in Phase 2 shall be provided at a rate of 1.25 spaces per residential unit and shall be required to be located within the same phase, but not necessarily the same lot, as the associated use provided easements for shared parking are in place;
- (c) Parking shall be provided at a rate of 1 parking space per residential unit for townhouse dwellings;
- (d) Parking areas in Phase 2 associated with multi-unit dwellings shall not be located between the public road and a multi-unit dwelling; and
- (e) Parking areas associated with multi-unit dwellings shall be subject to section 14.5.1 and 14.5.4 of the Land Use By-law, unless otherwise addressed in this agreement.

6. Section 2.7.1(b) is deleted.

7. Section 3.1 is deleted and replaced with the following:

In addition to any matters in this Agreement which are not specified in Subsection 3.2 below, the following are not substantive matters and may be changed by Council without a public hearing:

- (a) The development of commercial uses consistent with those permitted in the Mixed Residential Commercial (C3) Zone on the ground floor of any multi-unit dwelling or within any amenity building permitted by this Agreement.

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

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 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

Date

Witness

Janny Postema, Municipal Clerk

Date

SIGNED, SEALED AND DELIVERED
In the presence of:

4325323 Nova Scotia Limited

Witness

Noel Taiani, Director

Date

Schedule A – Property Description

PID 55354385

ALL that certain lot, piece or parcel of land situate, lying and being on the East side of J. Jordan Road in the Village of Canning in the County of Kings and Province of Nova Scotia, more particularly bounded and described as follows:

BEGINNING at a survey marker found on the east bound limit of J. Jordan Road marking the northwest corner of Lot 1 as depicted on the Plan of Subdivision filed in the Kings County Registry of Deeds under Plan No. P-10,460, as hereinafter referred to;

THENCE North 18 degrees 36 minutes 56 seconds West a distance of 149.61 feet following the east bound limit of J. Jordan Road to a survey marker found;

THENCE continuing along a curvature in the east bound of J. Jordan Road an arc distance of 203.76 feet to a survey marker found, being a chord distance of 203.76 feet on chord bearing North 18 degrees 59 minutes 11 seconds West from the last mentioned survey marker;

THENCE continuing along the east bound limit of J. Jordan Road North 19 degrees 22 minutes 11 seconds West a distance of 246.54 feet to a survey marker found at the southwest corner of Lot M-2;

THENCE North 71 degrees 18 minutes 02 seconds East a distance of 199.19 feet following the south bound of Lot M-2 to a survey marker found at the southeast corner of Lot M-2;

THENCE North 19 degrees 01 minutes 22 seconds West a distance of 100.57 feet following the east bound of Lot M-2 to a survey marker found at the southeast corner of Lot M-1;

THENCE North 19 degrees 03 minutes 17 seconds West a distance of 100.22 feet following the east bound of Lot M-1 to a survey marker found at the southeast corner of Lot 26;

THENCE North 18 degrees 28 minutes 15 seconds West a distance of 100.03 feet following the east bound of Lot 26 to a survey marker found at the southeast corner of Lot 25;

THENCE North 18 degrees 19 minutes 29 seconds West a distance of 99.99 feet following the east bound of Lot 25 to a survey marker found at the northeast corner of Lot 25;

THENCE South 71 degrees 06 minutes 02 seconds West a distance of 202.09 feet following the north bound of Lot 25 to a survey marker found on the aforesaid east bound limit of J. Jordan Road and marking the northwest corner of Lot 25;

THENCE North 18 degrees 30 minutes 52 seconds West a distance of 178.10 feet following the east bound limit of J. Jordan Road to a survey marker found at the southwest corner of Lot 23B;

THENCE North 71 degrees 51 minutes 37 seconds East a distance of 202.43 feet following the south bound of Lot 23B to a survey marker found at the southeast corner of Lot 23B;

THENCE North 18 degrees 21 minutes 51 seconds West a total distance of 730.29 feet following the east bounds of Lots 23B, 23A, 22, 21, 20, 19, 18, and 17 to a survey marker found at the southeast corner of Lot 16, lands of George and Cheryl Melvin;

THENCE North 63 degrees 08 minutes 35 seconds East a distance of 97.78 feet following the south bound of Lot 14 (lands of George and Nancy Redden) to a survey marker found at the southeast corner of Lot 14;

THENCE North 63 degrees 11 minutes 39 seconds East a distance of 82.00 feet following the south bound of Lot T.H.-1 to a survey marker found at the southeast corner of Lot T.H.-1;

THENCE North 63 degrees 11 minutes 39 seconds East a distance of 66.05 feet following the south bound of Lot T.H.-2 to a survey marker found at the southeast corner of Lot T.H.-2;

THENCE North 63 degrees 11 minutes 39 seconds East a distance of 82.82 feet following the south bound of Lot T.H.-3 to a survey marker found at the southeast corner of Lot T.H.-3;

THENCE North 63 degrees 10 minutes 54 seconds East a distance of 100.03 feet following the south bound of Lot 12 (lands of Paul Graves) to a survey marker found at the southeast corner of Lot 12 also marking the southwest corner of Lot 11;

THENCE South 23 degrees 52 minutes 10 seconds East a distance of 277.13 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 73 degrees 05 minutes 56 seconds East a distance of 284.38 feet following the southwest bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 12 degrees 02 minutes 23 seconds West a distance of 580.78 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 09 degrees 04 minutes 34 seconds East a distance of 482.26 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 19 degrees 47 minutes 50 seconds East a distance of 387.73 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 67 degrees 38 minutes 10 seconds West a distance of 253.78 feet following the north bound of lands retained by Clifford and Cynthia Meek to a survey marker placed;

THENCE South 22 degrees 50 minutes 12 seconds East a distance of 162.05 feet following the west bound of lands retained by Clifford and Cynthia Meek to a survey marker found;

THENCE South 71 degrees 56 minutes 02 seconds West a distance of 70.11 feet following the north bound of lands formerly of Central Guaranty Trust Company to a survey marker found;

THENCE continuing South 71 degrees 56 minutes 02 seconds West a distance of 26.31 feet following the north bound of lands formerly of Central Guaranty Trust Company to a survey marker found;

THENCE South 75 degrees 49 minutes 58 seconds West a distance of 173.65 feet following the north bound of lands formerly of Central Guaranty Trust Company, and the north bound of Lot 1, to the place of beginning.

CONTAINING an area of 21.24 acres (925,150 square feet).

BEING AND INTENDED TO BE Lot C.L.M.-2 as depicted on a Plan of Subdivision and Consolidation of lands of Clifford L. Meek and Cynthia A. Meek prepared by Hiltz & Seamone Company Limited Drawing No. 96-

90 dated September 13, 1996, signed by D. A. Seamone, N.S.L.S. No. 265, and consolidating Lot C.L.M.-1 with remaining portion of Parcel R-1 to form approved consolidated Lot C.L.M.-2, and Remainder Lands of Meek, and bearing the final approval stamp of the Development Officer for the Municipality of the County of Kings dated September 25, 1996, under Municipal Registration Number 960207, and the said approved Plan of Subdivision having been filed in the Kings County Registry of Deeds under Plan No. P-10,460.

EXCEPTIONS:

EXCEPTING THEREOUT AND THEREFROM the following lots:

Lot 26 conveyed in Book 1092 at Page 740 - Plan P-10,576 - Filed: January 21, 1997
Lot 22 conveyed in Book 1095 at Page 739 - Plan P-10,576 - Filed: January 21, 1997
Lot 27 conveyed in Book 1097 at Page 130 - Plan P-10,576 - Filed: January 21, 1997
Lot 25 conveyed in Book 1099 at Page 72 - Plan P-10,598 - Filed: February 21, 1997
Lot 23 conveyed in Book 1099 at Page 205 - Plan P-10,576 - Filed: January 21, 1997
Lot 57 conveyed in Book 1099 at Page 244 - Plan P-10,598 - Filed: February 21, 1997
Lot 28 conveyed in Book 1130 at Page 737 - Plan P-10,598 - Filed: February 21, 1997
Lot 58 conveyed in Book 1238 at Page 753 - Plan P-11,341 - Filed: July 12, 1999

BENEFIT:

TOGETHER WITH a utility easement for purposes of the installation, maintenance and repair of water and/or sewer utility lines running in a general north south direction leading from the north bound of Borden Street (Highway 221) along and beneath the existing farm driveway leading past the east side of the barn complex on the remaining lands of Meek, the centre line of which is approximately 20 feet more or less from the east side of the farm complex buildings, and continuing northerly beneath the farm driveway to the south bound of the above noted Lot C.L.M.-2 (being the boundary thereof having a distance of 253.78 feet on bearing South 67 degrees 38 minutes 10 seconds West from east to west), said easement or right-of-way for purposes of the laying, construction, maintenance and repair of water and/or sewer utility lines leading northerly from the Village of Canning municipal sewer and water services along Borden Street (Highway 221), and in favour of the above noted described Lot C.L.M.-2, with the right at all times for the Grantee, Traditional Home Centres Incorporated, its successors, assigns, workers, servants and agents, to enter upon the said remaining lands of Clifford and Cynthia Meek lying between the south bound of Lot C.L.M.-2 and the north bound limit of Borden Street (Highway 221), provided however that any and all excavation work carried out on the said remaining lands of Meek shall be conducted in a proper, prompt and responsible manner, and all excavation work shall be covered over and the surface of the ground returned as close as reasonably possible to its original state upon any excavation work being carried out for the laying or construction of said line or lines and the repair and maintenance thereof. This grant of easement or right-of-way is not intended for normal pedestrian or vehicular access or ingress or egress to and from Lot C.L.M.-2 from Borden Street (Highway 221), and is only intended to grant vehicular traffic necessary to construct or maintain sewer or water lines. The Grantee, Traditional Home Centres Incorporated and its successors and assigns shall be solely responsible for all costs of construction and laying of any water or sewer lines pursuant to the terms of this easement, and any and all maintenance and repair costs associated therewith.

PID 55008627

ALL that certain lot, piece or parcel of land situate, lying and being at Canning, Kings County, Nova Scotia more particularly bounded and described as follows:

COMMENCING at a survey marker found in the northeast corner of Lot T.H.-1 and the southern boundary of Summer Street;

THENCE North 63 degrees 13 minutes 03 seconds East, 66.05 feet to a survey marker found marking the northwest corner of Lot T.H.-3;

THENCE South 24 degrees 30 minutes 46 seconds East along the western boundary of Lot T.H.-3, 100.00 feet to a survey marker placed marking the southwest corner of Lot T.H.-3;

THENCE North 63 degrees 08 minutes 34 seconds East along the southern boundary of Lot T.H.-3, 72.97 feet to a survey marker placed on the western boundary of Lot 12;

THENCE South 30 degrees 09 minutes 33 seconds East, 100.12 feet to a survey marker found on the northern boundary of Lot C.L.M.-2;

THENCE South 63 degrees 11 minutes 39 seconds West along the northern boundary of Lot C.L.M.-2, 148.87 feet to a survey marker found marking the southeast corner of Lot T.H.-1;

THENCE North 24 degrees 30 minutes 47 seconds West along the eastern boundary of Lot T.H.-1, 199.99 feet to the point of commencement.

BEING AND INTENDED TO BE Lot T.H.-2 as shown on a plan of survey prepared by Hiltz & Seamone Co., Ltd., dated November 18, 1996 under drawing number 96-109. The said plan having received final approval by the Municipality of the County of Kings on December 6, 1996 under no. 960254 and is filed at the Kings County Registry of Deeds at Kentville, Nova Scotia as P-10535.

PID 55384796

ALL that parcel of land on the east road limit of J. Jordan Road, Canning, Kings County, Nova Scotia the boundaries of which are described as follows:

BEGINNING at a survey marker placed in the southwest corner of Lot 57 in the east road limit of J. Jordan Road;

THENCE North 71 degrees 51 minutes 37 seconds East by the south bound of Lot 57, 202.31 feet to a survey marker placed in the west bound of Lot C.L.M.-2, lands of Traditional Home Centres Limited;

THENCE South 18 degrees 24 minutes 08 seconds East by the west bound of Lot C.L.M.-2, 110.42 feet to a survey marker found in the northeast corner of Lot 25;

THENCE South 71 degrees 06 minutes 02 seconds West by the south bound of Lot 58, 202.09 feet to a survey marker found in the east road limit of J. Jordan Road;

THENCE North 18 degrees 30 minutes 52 seconds West by the east road limit of the J. Jordan Road, 113.10 feet to the place of beginning.

BEING AND INTENDED TO BE lot 58 as shown in a plan of subdivision prepared by Hiltz & Seamone Company Limited dated November 18, 1996. Lot 58 was approved by the Municipality of the County of

Kings on July 12, 1999 under its approval number 990097 and filed in the Registry of Deeds for Kings County, Nova Scotia on July 12, 1999 as Plan P-11341.

PID 55551758

Registration County: KINGS COUNTY

Street/Place Name: J JORDAN ROAD /CANNING

Title of Plan: PLAN OF S/D PLAN OF SURVEY OF BLOCK A1 BEING A S/D OF LOT CLM-2 & LOT 58 AS AN ADDITION TO THE REMAINDER OF LOT CLM-2 TO FORM BLOCK A2 LANDS OF 4325323 NOVA SCOTIA LTD J JORDAN RD CANNING

Designation of Parcel on Plan: BLOCK A1

Registration Number of Plan: 123026503

Registration Date of Plan: 2023-09-07 12:12:59

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

Compliance:

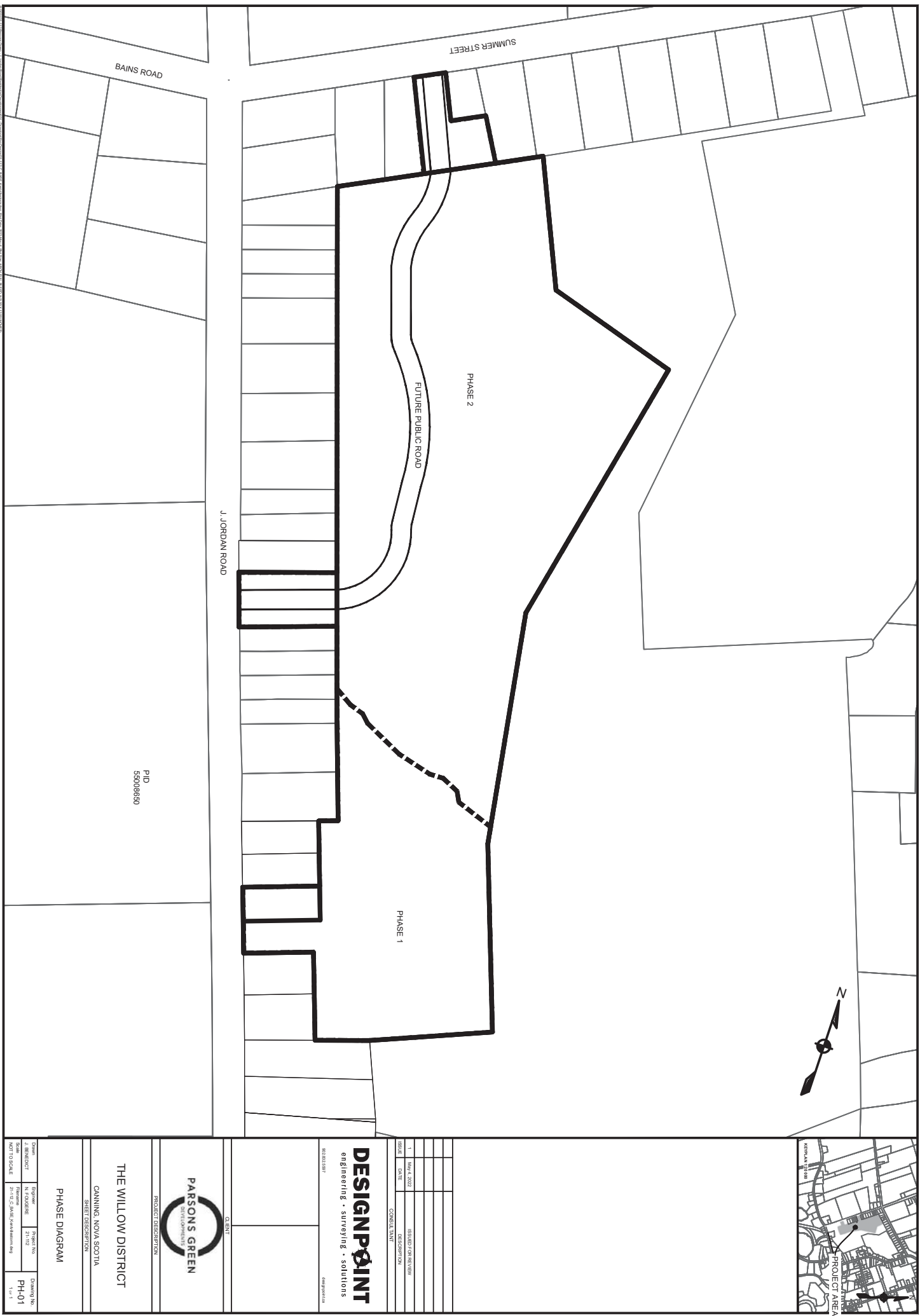
The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the Land Registration Act

Registration District: KINGS COUNTY

Registration Year: 2023

Plan or Document Number: 123026503

Schedule B - Phasing Plan



Schedule C - Site Plan

