



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 13.1.3
Halifax and West Community Council
October 15, 2019

TO: Chair and Members of the Halifax and West Community Council

-Original Signed-

SUBMITTED BY: _____
Kelly Denty, Director of Planning and Development

DATE: September 10, 2019

SUBJECT: **Case 21847: Time Extension to existing Development Agreement for PID 40306730, property adjacent to 1300 Prospect Road, Goodwood**

SUPPLEMENTARY REPORT

ORIGIN

- Application by Jack Bryant;
- On December 12, 2018 Halifax and West Community Council held a public hearing to consider the proposed amendment to an existing development agreement to permit a four-year extension to the deadline for commencement of development and a five-year extension to the deadline for completion of development at PID 40306730, Goodwood; and
- Council defeated staff's recommendation and proceeded with Alternative 1 in the staff report dated September 25, 2018; to request a supplementary staff report examining increasing the buffer between PID 40306730 and the adjacent wetlands from 20 meters to 30 meters.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the new proposed amending development agreement, as set out in Attachment A, to permit a four-year extension to the deadline for commencement of development and a five (5) year time extension for development completion for lands at PID 40306730, Prospect Road, Goodwood with an increased wetland buffer, and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

On December 12, 2018, Halifax and West Community Council held a public hearing to consider a proposed amendment to an existing development agreement to permit a four-year extension to the deadline for commencement of development and a five-year extension to the deadline for completion of a service station and commercial development at PID 40306730. Minutes from the Public Hearing can be found in Attachment B.

The motion considered by Community Council after the closing of the public hearing was:

MOVED by Councillor Zurawski, seconded by Councillor Smith

THAT Halifax and West Community Council:

- 1. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of the staff report dated September 25, 2018; and***
- 2. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.***

Community Council defeated that motion and adopted Alternative 1 in the staff report:

MOVED by Councillor Cleary, seconded by Councillor Zurawski

THAT Halifax and West Community Council request a supplementary staff report examining increasing the buffer between PID 40306730 and the adjacent wetlands from 20 meters to 30 meters.

DISCUSSION

The applicant has considered the motion from Community Council and submitted a revised site plan increasing the proposed wetland buffer from 20 meters (65.6 feet) to 23.5 meters (77 feet) as shown in Attachment D of this report. The increased wetland buffer results in the following:

- a reduction of 75 square meters (807 square feet) in the footprint of the proposed commercial building; and
- the elimination of 5 parking spaces, decreasing the total number of spaces in the proposed development from 103 to 98.

Staff advise the changes to the building footprint and parking lot remain reasonably consistent with the intent of the Planning District 4 (Prospect) Municipal Planning Strategy (MPS).

For more information, please see the December 12, 2018 staff report at the following link.

<https://www.halifax.ca/sites/default/files/documents/city-hall/community-councils/181212hwcc1011.pdf>

Wetland Protection

During the public hearing for Case 21847, environmental concerns were brought forward by Council and a member of the public regarding the previously approved 20 meter buffer around the eastern portion of a

wetland located on the subject site. Questions were raised as to whether that previously approved distance of 20 meters was still sufficient. A supplementary report was requested to explore increasing the buffer from 20 meters to 30 meters (98.4 feet).

During the original development agreement process in 2014, the boundaries of the wetland were defined and approved by Nova Scotia Environment. The proposal was approved based on the 20 meter buffer required by municipal policy and regulations. In response to Council's motion on December 12, 2018, the applicant has provided a revised site plan that increases the wetland buffer from 20 meters to 23.5 meters. This is intended to provide an increased separation distance from the wetland while minimizing the changes to the footprint of the proposed commercial building and the previously approved site plan.

The applicant has indicated that providing additional separation distance beyond 23.5 meters would generate material impacts to the viability of the project. If the buffer were extended, material cost increases are expected to redesign the location of the two proposed buildings and re-evaluate parking and vehicle circulation. Relocating the proposed commercial building closer to Prospect Road or the proposed driveway could compromise vehicular sightlines approaching the gas bar and convenience store located on proposed Lot 2. Given these circumstances, the applicant has indicated that a 30 meter wetland buffer would necessitate a complete redesign of the project.

Regional Municipal Planning Strategy (RMPS) Policies

Policy E-15 of the RMPS requires every plan area to establish a Wetlands Schedule which identifies the presence of wetlands 2000 square meters (21,527.8 square feet) or greater in area. Applicants are required to verify the extent of wetlands and development is not permitted within the outer edge of the wetland. However, if a wetland is contiguous with a natural watercourse, the RMPS requires an additional minimum 20 meter riparian buffer from the outer edges of the wetland and only very limited development such as boardwalks and small accessory buildings may be located within the buffer. In this application, the wetland is contiguous with Peter's Lake via a small stream at the rear of the property and therefore a 20 meter buffer is required to comply with municipal policy and regulation. The original development agreement was approved on this basis in 2014.

The 20 meter buffer, as shown in Attachment C, was consistent with RMPS and MPS policies when the existing development agreement was approved. As the MPS policies regarding wetlands buffers have not changed, staff advise that a 20 meter buffer remains consistent with relevant policies for development in proximity to a wetland contiguous with a watercourse.

Public Hearing Process

The applicant's response to Council's December 12, 2018 motion results in three changes to the plans advertised and considered at the December 12, 2018 public hearing and the original public hearing in 2014:

- the proposed wetland buffer has been increased from 20 meters (65.6 feet.) to 23.5 meters (77.1 feet.)
- the proposed commercial building footprint has been reduced by 74.6 square meters (802 square feet); and
- 5 parking spaces on the property have been eliminated.

Material changes to the development proposal after the public hearing have been identified as being significant enough to necessitate an additional public hearing to ensure the community has adequate opportunity to comment on the merits of the application in context of the proposed changes.

The original public hearing was held on June 4, 2014. Three written submissions were provided and two members of the community spoke at the hearing. One of the written submissions was in support of the proposal and two were in opposition. One of the opposing submissions was based on environmental impacts and one was primarily for competitive business reasons. Both speakers spoke generally in favour of the application but noted concerns about risks to water quality. See Attachment E for minutes of that public hearing and copies of the written submissions.

One community member spoke at the subsequent public hearing on December 12, 2018 raising similar questions with respect to water quality and adequacy of the 20 meter buffer. No additional public input was received.

The changes submitted by the applicant are in direct response to the only issues raised by community members throughout the course of the application. Staff advise these alterations are minor and represent a reduction in development intensity. None of these changes represent fundamental alterations to the proposal previously approved and they are unlikely to generate additional community impacts.

Conclusion

The original 20 meter wetland buffer, as advertised for the December 12, 2018 public hearing, aligns with RMPS policies and the Land Use By-law (LUB) requirements. The newly proposed 23.5 meter buffer exceeds minimum municipal requirements. Staff advise the newly proposed 23.5 meter wetland buffer and the associated changes to the development plan remain reasonably consistent with the intent of the MPS.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area, and a public hearing held on December 12, 2018.

FINANCIAL IMPLICATIONS

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this development agreement. The administration of the development agreement can be carried out within the approved 2019-2020 budget with existing resources.

RISK CONSIDERATION

Generally, this application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS and these decisions can be subject to judicial review or appealed to the N.S. Utility and Review Board. This general risk of challenge to decisions on this application is consistent with consideration of any Development Agreement approval.

Should Council choose to refuse the proposed time extension and the stated reason for refusal is the requirement for an additional watercourse buffer beyond the current 20 meter standard set out in municipal policy and regulation, there is an increased risk of a challenge to that decision from the applicant. Staff assess the likelihood of that risk as moderate to high and the impact is moderate.

ENVIRONMENTAL IMPLICATIONS

Staff has not identified additional environmental risk, other than what is noted in the Discussion section of the report. An increase of 3.5 meters to the wetland buffer would make it more stringent than what is required by the MPS and would act to provide enhanced protection to the wetland but not necessary to provide appropriate buffering to the wetland.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A:	Revised Proposed Amending Development Agreement
Attachment B:	Halifax and West Community Council Meeting Minutes – December 12, 2019
Attachment C:	Previously Approved Site Plan (20m Wetland Buffer)
Attachment D:	Proposed Revised Site Plan (23.5m Wetland Buffer)
Attachment E:	Halifax and West Community Council Meeting Minutes and Submission – June 4, 2014

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Megan Backos, Planner II, Current Planning, 902.490.7092

-Original Signed-

Report Approved by:

Steve Higgins, Manager, Current Planning, 902.490.4382

Attachment A
Proposed Amending Development Agreement

THIS FIRST AMENDING DEVELOPMENT AGREEMENT made this day of **[Insert Month]**,
20__,

BETWEEN:

3232975 NOVA SCOTIA LIMITED
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at PID 40306730 on the Prospect Road in Goodwood, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Halifax and West Community Council of the Halifax Regional Municipality approved an application to enter into a development agreement to allow for a service station and commercial uses on the Lands on June 4, 2014 (Municipal Case Number 18107), and which said development agreement was registered at the Land Registration Office on August 26, 2014 as Document Number 105672597 (hereinafter called the "Original Agreement");

AND WHEREAS the Developer has requested to amend the Original Agreement to allow for a four (4) year time extension to the date of commencement of development and a five (5) year time extension to the date of completion of development pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Part 6.2 of the Original Agreement;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 21847;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

-
1. Except where specifically varied by this First Amending Development Agreement, all other conditions and provisions of the Original Agreement as amended shall remain in effect.
 2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this First Amending Development Agreement, and the Original Agreement.

3. Subsection 3.1 of the Original Agreement shall be amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in bold, as follows:

3.1 Schedules

The Developer shall develop and use the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 18107:

Schedule A Legal Description of the Lands
~~Schedule B Site Plan~~
Schedule B-1 Site Plan
Schedule C Building Elevations – Proposed Lot 1
Schedule D Building Elevations – Proposed Lot 2

4. The Original Agreement shall be amended by deleting the following Schedules:

Schedule B Site Plan

And inserting the following Schedules:

Schedule B-1 Site Plan (attached)

5. The Original Agreement shall be amended by deleting all text references to Schedule B and replacing them with the respective reference to Schedule B-1.
6. Subsection 3.4.5 of the Original Agreement shall be amended by deleting text shown in ~~strikeout~~ and inserting the text in bold, as shows as follows:

3.4.5 Each main building to be constructed on the Lands shall comply with the following siting, massing and scale requirements:

- (a) Main buildings shall be located on the Lands as generally shown on ~~Schedule B~~ **Schedule B-1**;
 - (b) No portion of any main building shall be located less than 18.29 metres (60 feet) from the front property line;
 - (c) No portion of any main building shall be located less than 9.14 metres (30 feet) from any side or rear property line;
 - (d) No development or disturbance of any kind shall be permitted within the ~~20-m~~ **23.5m** buffer as shown on ~~Schedule B~~ **Schedule B-1** of this Agreement;
 - (e) The gross floor area for each main building shall be as generally shown on ~~Schedule B~~ **Schedule B-1**. A gross floor area increase for each main building of no more than 20 square metres (215.28 square feet) shall be permitted, however, the total gross floor area of all main buildings shall not exceed 1,336 square metres (14,381.05 square feet); and
 - (f) The maximum height of each main building shall not exceed 10.67 metres (35 feet).
7. Subsection 7.3.1 of the Original Agreement shall be amended by deleting text shown in ~~strikeout~~ and inserting the text in bold, as shown as follows:

7.3.1 In the event that development on the Lands has not commenced within four (4) years from the date of registration of ~~this~~ **the First Amending Development Agreement** at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

8. Subsection 7.4.1 of the Original Agreement shall be amended by deleting text shown in ~~strikeout~~ and inserting the text shown in bold, as shown as follows:

7.4.1 If the Developer fails to complete the development after five (5) years from the date of registration of ~~this~~ **the First Amending Development Agreement** at the Registry of Deeds or Land Registration Office, Council may review this Agreement, in whole or in part, and may:

- (a) Retain the Agreement in its present form;
- (b) Negotiate a new Agreement; or
- (c) Discharge this Agreement.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(insert company name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Per: _____

MAYOR

Witness

Per: _____

MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

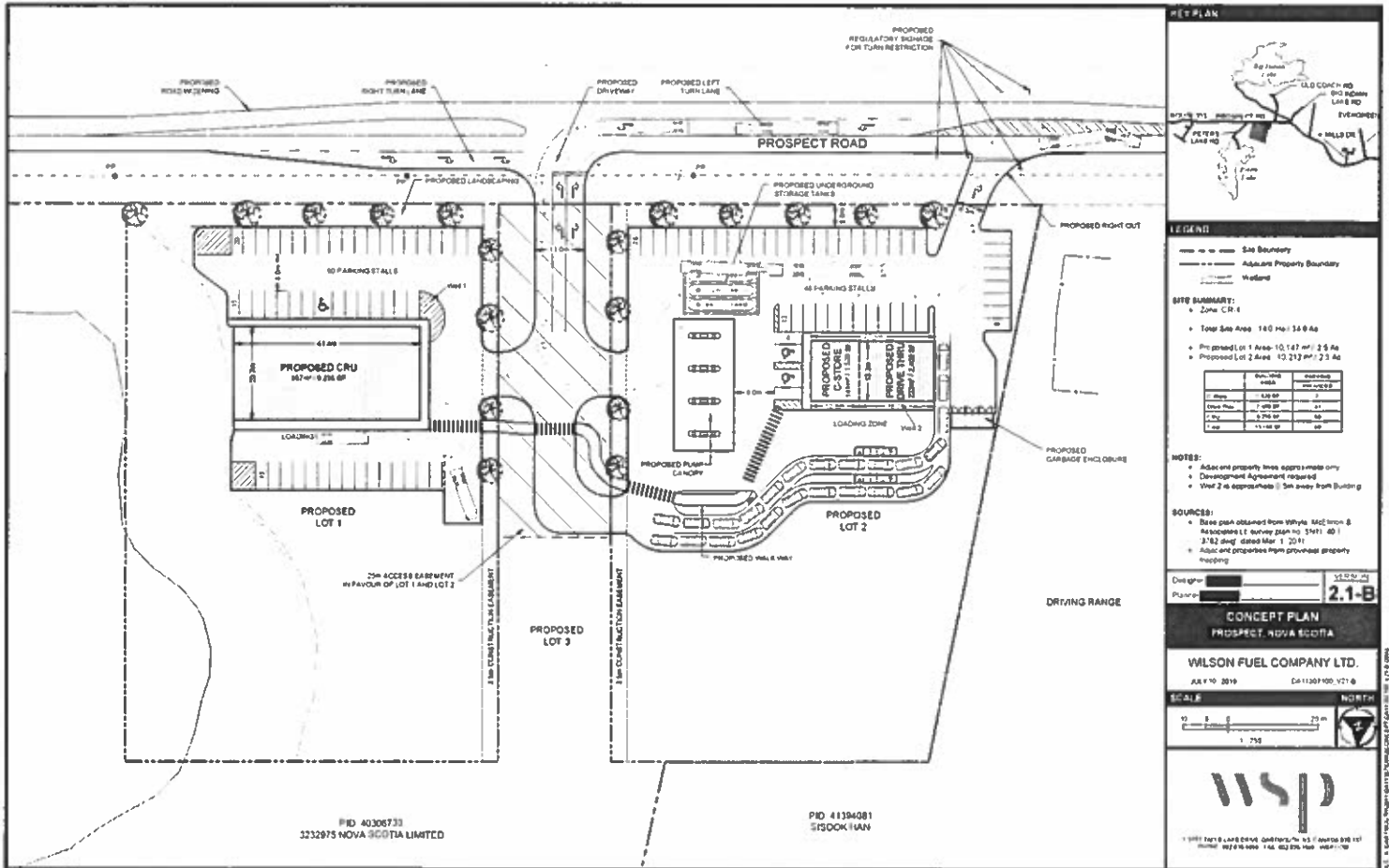
A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Cathy Kevin Arjoon, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

Schedule B-1 - Site Plan



NET PLAN

LEGEND

- Site Boundary
- - - - - Adjacent Property Boundary
- Wetland

SITE SUMMARY:

- Zone CR 4
- Total Site Area: 140 Ha: 349.4a
- Proposed Lot 1 Area: 10,147 m²: 2.5 Aa
- Proposed Lot 2 Area: 10,212 m²: 2.3 Aa

	Site	Proposed
Area	140.00	12.50
Dist. Pct.	7.0000	8.9091
City	0.7500	0.8000
Land	11.4400	11.7091

NOTES:

- Adjacent property lines approx. made only
- Development Agreement required
- Wet 2 is approximately 11m away from Building

SOURCES:

- Base plan obtained from Whyte, McEwen & Associates Ltd. (Survey plan no. 59471 401)
- 2012 zoning dated Mar 1, 2011
- Adjacent properties from provincial property mapping

Designer: [Redacted] 512.833.3333
 Planner: [Redacted] 512.833.3333

CONCEPT PLAN
 PROSPECT, NOVA SCOTIA

WILSON FUEL COMPANY LTD.
 JOB # 10-3819 CA 11207-000-121-B

SCALE NORTH

1:750

WSP

11881 TAYLOR LANE DRIVE, QUENSTOWN, NS B0T 1R0 (519) 538-3333
 (902) 916-6666 FAX (902) 976-1888 (902) 916-7777

PID 40306733
3232975 NOVA SCOTIA LIMITED

PID 41394081
SISOOK HAN

Attachment B
Community Council Minutes - December 12, 2018

**HALIFAX AND WEST COMMUNITY COUNCIL
MINUTES
December 12, 2018**

PRESENT: Councillor Stephen D. Adams, Chair
Councillor Lindell Smith, Vice Chair
Councillor Shawn Cleary
Councillor Richard Zurawski

REGRETS: Councillor Wayne Mason
Councillor Russell Walker

STAFF: Donna Boutilier, Solicitor
David Perusse, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

The agenda, reports, supporting documents, and information items circulated are online at halifax.ca.

The meeting was called to order at 6:00 p.m. and adjourned at 7:31 p.m.

1. CALL TO ORDER

The Legislative Assistant called the meeting to order at 6:00 p.m. in Halifax Hall, 2nd Floor City Hall, 1841 Argyle Street, Halifax.

1.1 Annual Election of Chair and Vice Chair

The Legislative Assistant called for nominations for the position of Chair of Halifax and West Community Council.

MOVED by Councillor Cleary, seconded Councillor Zurawski

THAT Councillor Steve Adams be nominated for the position of Chair of Halifax and West Community Council.

MOTION PUT AND PASSED.

The Legislative Assistant called three times for any further nominations. There being none, Councillor Adams was declared Chair of Halifax and West Community Council.

Councillor Adams took the Chair at 6:05 p.m.

The Chair then called for nominations for the position of Vice Chair of Halifax and West Community Council.

MOVED by Councillor Zurawski, seconded by Councillor Cleary

THAT Councillor Lindell Smith be nominated for the position of Vice Chair of Halifax and West Community Council.

MOTION PUT AND PASSED.

The Chair called three times for any further nominations. There being none, Councillor Smith was declared Vice Chair of Halifax and West Community Council.

1.2 TABLING OF 2018 ANNUAL REPORT

The following was before Community Council:

- A staff recommendation report dated December 3, 2018

The Chair opened the hearing and invited members of the public to come forward and address Community Council on the 2018 Annual Report.

The Chair called three times for anyone wishing to address Community Council on this matter; there being none, it was MOVED by Councillor Smith, seconded by Councillor Cleary

THAT the public hearing close.

MOTION PUT AND PASSED.

MOVED by Councillor Cleary, seconded by Councillor Zurawski

THAT Halifax and West Community Council accept the 2018 Halifax and West Community Council Annual Report as presented.

MOTION PUT AND PASSED.

2. APPROVAL OF MINUTES – November 14, 2018

MOVED by Councillor Cleary, seconded by Councillor Zurawski

THAT the minutes of November 14, 2018 be approved as presented.

MOTION PUT AND PASSED.

3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

MOVED by Councillor Zurawski, seconded by Councillor Smith

THAT the agenda be approved as presented.

MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES – NONE

5. CALL FOR DECLARATION OF CONFLICT OF INTERESTS – NONE

6. MOTIONS OF RECONSIDERATION – NONE

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS – NONE

9. NOTICES OF TABLED MATTERS – NONE

10. HEARINGS

10.1 Public Hearings

10.1.1 Case 21847: Time Extension to existing Development Agreement for PID 40306730, property adjacent to 1300 Prospect Road, Goodwood

The following was before Community Council:

- A staff recommendation report dated September 25, 2018
- A staff presentation on Case 21847: Time Extension to existing Development Agreement for PID 40306730, property adjacent to 1300 Prospect Road, Goodwood

Megan Backos, Planner II, Current Planning, provided Community Council with a presentation on Case 21847 to amend an existing Development Agreement to permit a four-year extension to the deadline for commencement of development and a five (5) year extension to the deadline for completion of development at PID 40306730, Prospect Road.

Responding to questions from members of Community Council, Backos and Carl Purvis, Major Projects Planner, noted that an environmental assessment was completed for the proposed development and was included as part of the original report in 2014.

The Chair opened the hearing and invited the Applicant to come forward and address Community Council.

Jack Bryant, on behalf of the property owner, 3232975 Nova Scotia Ltd., spoke to Community Council on Case 21847 to amend an existing development agreement to permit a four-year extension to the deadline for commencement of development and a five (5) year extension to the deadline for completion of development at PID 40306730, Prospect Road. They explained that the delay in the development timeline was a result of the developer's struggle to secure a water supply with adequate water quality necessary for the planned commercial uses for the development.

Responding to questions from members of Community Council, Bryant noted that they could not state whether the Developers would be open to eliminating the planned drive through for the property, but noted that it may be difficult for the economic viability of the development if it were to be excluded.

The Chair then called for anyone wishing to address Community Council on this matter.

Kristie Walker, 4 Peters Lake Road, expressed their concerns with the Development Agreement. They noted that although there was an initial environmental assessment conducted on the property, as it is now 2018, a new environmental lens is required that takes into account the current environmental challenges the Municipality is facing. They expressed concerns with storm water capacity, and the potential impacts on neighbouring properties. They suggested that the 20 meter buffer to the adjacent wetlands may no longer be sufficient, and asked that Community Council consider amending the Development Agreement to require a larger buffer.

The Chair then called three times for anyone else wishing to address Community Council on this matter; there being none, it was **MOVED** by Councillor Zurawski, seconded by Councillor Cleary

THAT the public hearing close.

MOTION PUT AND PASSED.

Responding to further questions from members of Community Council, Backos and Purvis noted that the 20 meter buffer in the current Development Agreement originates from HRM standards and requirements set out in the planning By-laws.

MOVED by Councillor Zurawski, seconded by Councillor Smith

THAT Halifax and West Community Council:

- 1. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of the staff report dated September 25, 2018; and**
- 2. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

Councillor Zurawski suggested that members of Community Council defeated the staff recommendation and proceed with Alternative 1 in the staff report; to request that staff return with a supplementary staff report that employs an updated environmental lens for the development.

Speaking from the Chair, Councillor Adams expressed concern that the Land-Use By-law (LUB) and Municipal Planning Strategy (MPS) component of the development were already dealt with and approved when the matter originally appeared before Community Council. The MPS has not changed since the original development was approved, and as such, it is likely that the current decision dealing with environmental issues would be overturned if appealed to the Utility Review Board.

Councillor Cleary suggested that the alternative be moved requesting that staff provide a supplementary staff report on the possibility of increasing the buffer between the property and the adjacent wetlands from twenty (20) meters to thirty (30) meters.

Community Council voted on the staff recommendation on the floor at this time.

MOTION PUT AND DEFEATED.

MOVED by Councillor Cleary, seconded by Councillor Zurawski

THAT Halifax and West Community Council request a supplementary staff report examining increasing the buffer between PID 40306730 and the adjacent wetlands from 20 meters to 30 meters.

MOTION PUT AND PASSED.

10.2 Variance Hearings

10.2.1 Case 21703: Appeal of Variance Approval – 12 Alderwood Drive, Halifax

The following was before Community Council:

- A staff recommendation report dated November 2, 2018
- A staff presentation on Case 21703: Appeal of Variance Approval – 12 Alderwood Drive, Halifax
- Correspondence submitted by Michael and Paula Hodson, and Sania Dorey

Tessa Williams, Planner I, provided a presentation on Case 21703 to allow an addition to a single unit dwelling located at 12 Alderwood Drive to accommodate additional living space consisting of an enclosed porch, expanded kitchen and additional bedroom for a total of three bedrooms. Williams noted the position of staff that there are sufficient constraints on the property that are not commonly shared by properties in the neighbourhood to justify granting the variance.

The Solicitor reviewed the rules of procedure for variance hearings and the Chair invited the Appellants to come forward and address Community Council.

It was noted by the Chair that the Appellant were not present.

Kathryn Ilyas and Shehab Ilyas, owners of 12 Alderwood Drive, spoke to Community Council about the variance, noting that they are looking for ways to increase the living space for their home to accommodate their growing family, rather than having to moved to a new residence. They noted that they have explored several different designs for the property to achieve this goal; however, with the property's constrains, the most practical and economic approach was the expansion on the south side of the building. They further noted that the abutting neighbours who would be most effected by the expansion supported their proposal. They noted that without the variance, they will likely have to relocate.

The Chair then called three times for anyone in the notification area wishing to address Community Council on this matter. There being none, it was **MOVED** by Councillor Smith, seconded by Councillor Cleary

THAT the public hearing close.

MOTION PUT AND PASSED.

MOVED by Councillor Cleary, seconded by Councillor Smith

THAT Halifax and West Community Council allow the appeal.

MOTION PUT AND DEFEATED. (Development Officer's decision upheld.)

Members of Community Council expressed concerns to staff that the rules for third parties appealing variances need to be tightened up as an increasing amount of these appeals appear to be vexatious in nature, and result in real delays and consequences for the affected parties.

11. CORRESPONDENCE, PETITIONS & DELEGATIONS

11.1 Correspondence

The Legislative Assistant noted that correspondence was received for item 10.2.1. This correspondence was circulated to Community Council.

For a detailed list of correspondence received, refer to the specific agenda item.

11.2 Petitions - None

11.3 Presentations - None

12. INFORMATION ITEMS BROUGHT FORWARD – NONE

13. REPORTS

13.1 STAFF

13.1.1 Point Pleasant Park Mobile App

The following was before Community Council:

- A staff recommendation report dated November 22, 2018

MOVED by Councillor Cleary, seconded by Councillor Smith

THAT Halifax and West Community Council recommend that Halifax Regional Council direct staff to develop and embed a Story Map in the existing Point Pleasant Park web page as a pilot project within the Halifax.ca website for 2019, and monitor the usage and popularity for future consideration in other parks.

Responding to questions from members of Community Council, Alana Tapper, Superintendent Parks West, noted that although there are several options outlined in the staff report for technology that could be considered for delivering information to visitors to Point Pleasant Park, if the staff recommended option is successful, then the additional two (2) options will not be necessary.

MOTION PUT AND PASSED.

13.1.2 Case 21379: Municipal Planning Strategy and Land Use By-law Amendments for Planning District 4 (Prospect) to allow a church at 797 Prospect Road, Goodwood

The following was before Community Council:

- A staff recommendation report dated October 10, 2018

MOVED by Councillor Cleary, seconded by Councillor Smith

THAT Halifax and West Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Planning District 4 (Prospect), as set out in Attachments A and B of the staff report dated October 10, 2018, to allow for a church at 797 Prospect Road, Goodwood, and schedule a public hearing; and
2. Adopt the proposed amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Planning District 4 (Prospect), as set out in Attachments A and B of the staff report dated October 10, 2018.

MOTION PUT AND PASSED.

14. MOTIONS - NONE

15. IN CAMERA (IN PRIVATE)

15.1 APPROVAL OF IN CAMERA (IN PRIVATE) MINUTES – November 14, 2018

This matter was dealt with by the Community Council in public session.

MOVED by Councillor Cleary, seconded by Councillor Smith

THAT the In Camera (In Private) minutes of November 14, 2018 be approved as presented.

MOTION PUT AND PASSED.

16. ADDED ITEMS - NONE

17. NOTICES OF MOTION - NONE

18. PUBLIC PARTICIPATION

No one came forward to address Community Council during public participation.

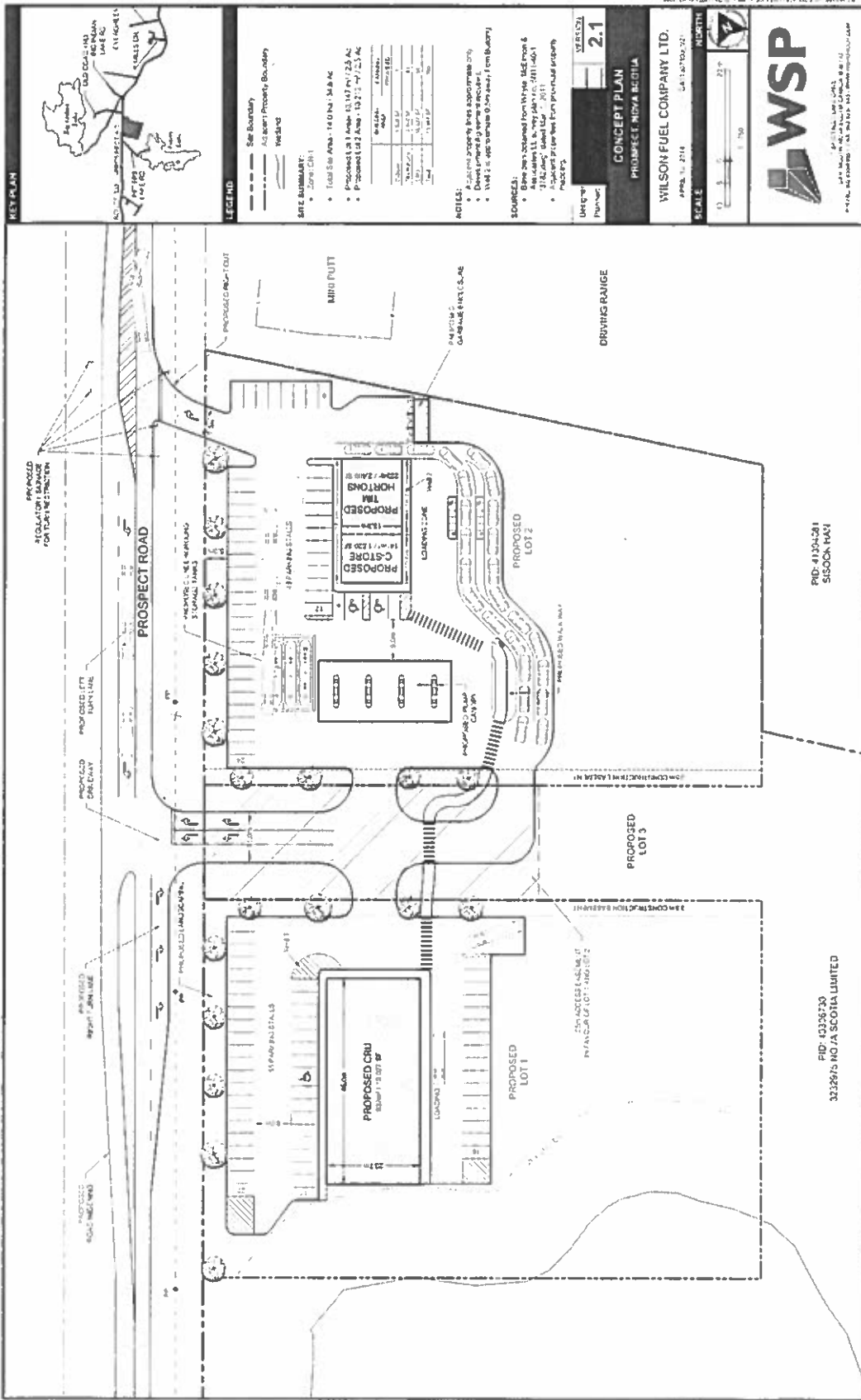
19. DATE OF NEXT MEETING – January 8, 2019

20. ADJOURNMENT

The meeting was adjourned at 7:31 p.m.

David Perusse
Legislative Assistant

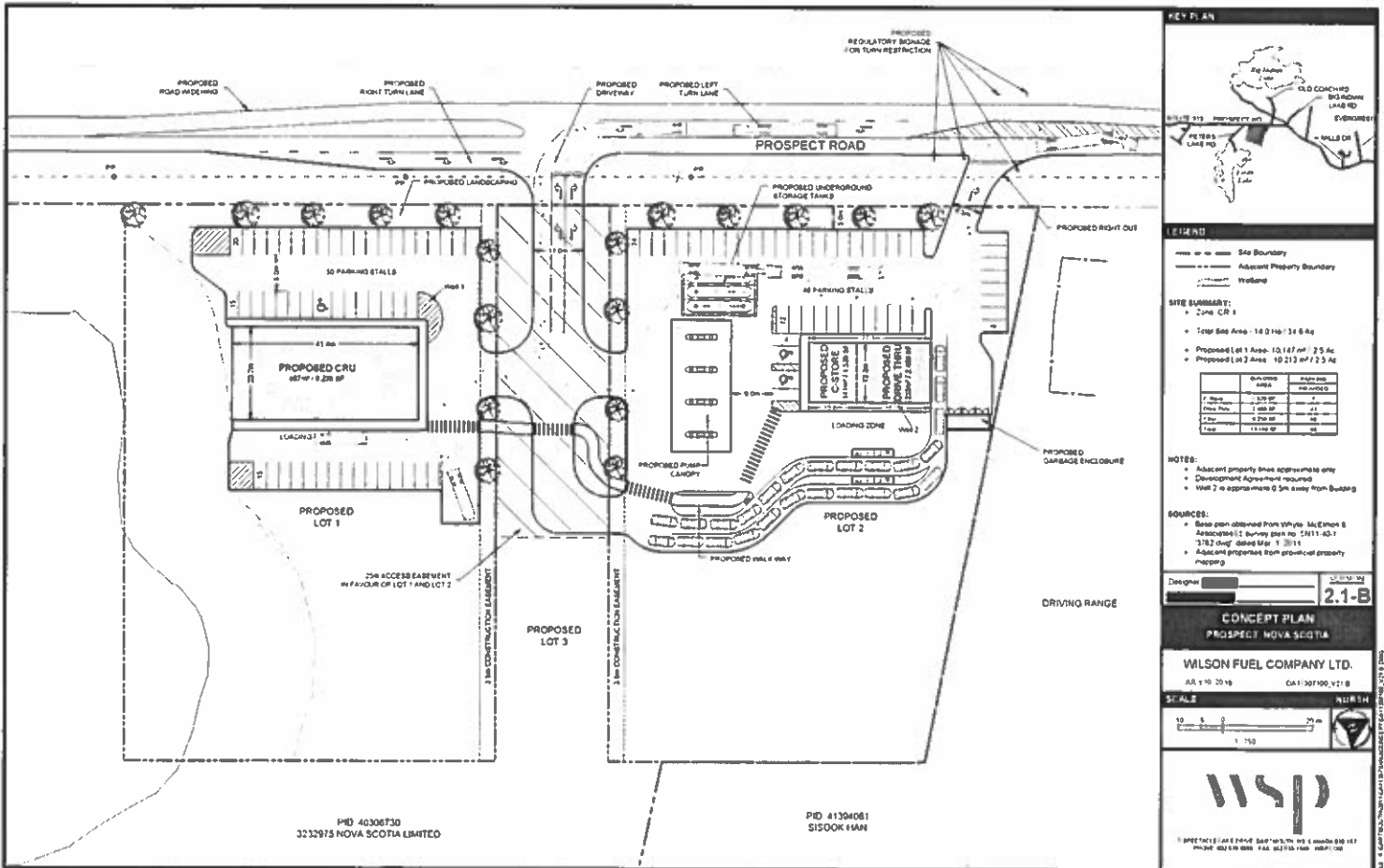
Attachment C - Previously Approved Site Plan (20m Wetland Buffer)



PID: 41304/21
SISOOK TACU

PID: 43363/30
3232675 NO/IA SCOTIA LIMITED

Attachment D: Proposed Revised Site Plan (23.5m Wetland Buffer)



KEY PLAN

LEGEND

- Site Boundary
- Adjacent Property Boundary
- Wetland

SITE SUMMARY:

- Zone CR 8
- Total Site Area: 140,146 / 34.6 Ha
- Proposed Lot 1 Area: 10,127 m² / 2.5 Ac
- Proposed Lot 2 Area: 10,213 m² / 2.5 Ac

	EXISTING	PROPOSED
Lot Area	10,127 m ²	10,213 m ²
Site Area	140,146 m ²	140,146 m ²
Wetland	0 m ²	0 m ²
Total	110,019 m ²	110,213 m ²

NOTES:

- Adjacent property lines approximate only
- Development Agreement required
- Well 2 is approximately 8.5m away from Building

SOURCES:

- Base plan obtained from White McEwen & Associates Ltd. Survey plan no. 59111-02.1 dated 08/08/2014
- Adjacent properties from provincial property mapping

Designer: 2.1-B

CONCEPT PLAN
PROSPECT, NOVA SCOTIA

WILSON FUEL COMPANY LTD.
ADDY RD 20148 CA 1 307 000 V21 B

SCALE 1:750

WSP

1. SPECIFICALLY FOR PROPOSED WILSON FUEL COMPANY LTD. PROJECT
PROJECT: 002-0-0000 FAX: 902-710-7000 WWW: WSP.CO

PID 40308730
3232975 NOVA SCOTIA LIMITED

PID 41304081
SISOOK #1481

**Halifax and West Community Council Minutes
June 4, 2014**

MOVED by Councillor Rankin, seconded by Councillor Adams that Halifax and West Community Council:

- 1. Approve the 9th Amending Agreement, as provided in Attachment A of the staff report dated April 11, 2014, to amend the requirements for single unit dwellings; and**
- 2. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

Councillor Rankin expressed his support for the amendments to the development agreement. He noted that there will be more single unit dwellings incorporated in the development and that the density requirements would not change. He noted that he is also very supportive of the green space and golf course components of the development and noted that it will be very beneficial to the community. He noted that Brunello Estates is a good news story for the area and has put Timberlea on the map.

Councillor Watts commented that there is no change in the density requirements for the area and that the proposed changes will offer more measures of affordability within the existing development. She noted that she is satisfied that the Developer will incorporate sound design characteristics for the development.

MOTION PUT AND PASSED.

8.1.2 Case 18107: Development Agreement, Prospect Road, Goodwood

The following was before Community Council:

- *A staff recommendation/information report dated April 21, 2014*
- *Correspondence submitted on behalf of Double D Construction dated, October 10, 2012*
- *Correspondence from Cleo Donohue dated May 19, 2014*
- *Correspondence from Shirley, Joseph and John Sampson, dated May 20, 2014*

Mr. Miles Agar, Planner, gave a presentation on Case 18107 in relation to a development agreement on Prospect Road in Goodwood.

The Chair thanked Mr. Agar for his presentation and asked Members of Community Council for questions of clarification from staff. As there were none, the Chair invited the applicant to come forward and address Community Council.

Mr. Shand, Urban Planner with WSP Group, noted that he is a representative for Wilson's Fuel which will develop the site. He provided a presentation and noted that the proposed development includes 10,000 square feet of retail developments (restaurant, office and retail space), a gas station, and a drive thru restaurant. He noted a wetland delineation which was undertaken in 2012 and well as a traffic assessment which indicated that traffic will not be significantly

impacted by the development. He provided background information on a Wastewater Treatment study undertaken in September of 2013 which noted that wastewater generated from the site will be treated and meets current Environmental standards. He concluded by stating that the proposed development will create jobs within the community and provides much needed services for that area.

Councillor Adams noted that chloroform was identified in the water which will service the development and inquired if the water will be drinkable and treated on site.

Mr. Shand commented that the water will be treated on site and that the presence of chloroform is not outside of the norm.

Councillor Adams inquired if the source of the chloroform identified. Mr. Shand replied that he did not have the information readily available but noted he can follow up and confirm the information requested.

The Chair thanked Mr. Shand for his presentation and opened the public hearing.

Mr. John Cascadden, 148 MacDonald Lake Drive, stated that he is in favour of the project and noted that a residential phase in close proximity to the subject area was proposed at the Public Information Meeting. He inquired if that proposed development will be under way in the near future. He further inquired if there is a fuel spill abatement plan that will go along with the development to capture any run off from the service station so that contaminants do not enter the ground water system.

Ms. Christine Walker, of 4 Peters Lake Road, stated that her home is in close proximity to the proposed development. She commented that the 20 meter buffer zone between the proposed development and neighbouring wetlands has not been maintained and she is concerned about the quality of the well water on her property. She commented that she is very much in favour of the development but is concerned about her water quality. She commented that she would like to see more monitoring by HRM to ensure that water quality is maintained.

The Chair called three more times for further speakers. As there were none, it was **MOVED** by **Councillor Mason**, seconded by **Councillor Watts** that the public hearing be closed.

MOTION PUT AND PASSED.

The Chair invited the applicant to come forward and address comments made during the public hearing.

Mr. Shand stated that there are substantial properties located behind the proposed development but there are no provisions with respect to residential development associated with the application. With regard to managing fuel spills, Mr. Shand noted that the fuel station will be in compliance with Nova Scotia Department of Environment regulations regarding fuel spillage. He commented that the service station has double walled fuel tanks to ensure that there is no leakage.

Mr. Shand commented that the twenty meter buffer zone will be maintained and no development will be permitted within that area. He concluded by stating that he can provide a ground level water analysis. With respect to fuel abatement, he deferred to Mr. Carl Brown with Wilsons Fuels to provide more information.

Mr. Carl Brown, Wilson Fuels, commented that the fuel nozzles which will be utilized in service station portion of the development are designed to prevent spillage. He noted that if an incident were to occur, staff is trained to deal with the spillage with materials designed to absorb fuel. He noted that every effort is made to ensure that spillage does not get away from the area. He advised that in addition to double-walled tanks, the fuel lines leading to the tanks are also double-walled to further prevent leakage.

Mr. Miles Agar, Planner commented that no residential phasing can take place on the back lands as part of the development agreement. He noted that future plans to do so would require a change in policy. He further noted that the buffering between the development and the wetlands is shown on the schedule attached to the staff report and that the buffer will need to be adhered to as development takes place.

Councillor Adams stated that during the Public Information Meeting in 2012, concerns about industrial development would take place on the back lands.

Mr. Agar stated what is shown on the site plan is permitted. He commented that no uses are permitted on the back lands.

MOVED by Councillor Adams, seconded by Councillor Walker that that Halifax and West Community Council:

- 1. Approve the proposed development agreement, presented as Attachment A of the staff report dated April 21, 2014; and**
- 2. Require the development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED.

8.2 VARIANCE APPEAL HEARINGS

8.2.1 Case 18820: Appeal of Variance Approval – 13 Round Tuit Road, Whites Lake

The following was before Community Council:

- *A staff recommendation report dated May 13, 2014*

Re: Item No. 8.1.2

May 20, 2014.

We hereby give a big ok in regard to
opening a Service Station (Drive thru) Restaurant
at 1300 Prospect Rd. Greenwood
We think the idea is great!

(Go for it.)

Wrote by —

Case # 18107

HALIFAX REGIONAL
MUNICIPALITY

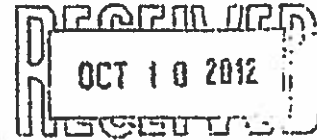
MAY 23 2014

MUNICIPAL CLERK

Objection to the Application submitted by Genivar Inc for a development plan on lands Zoned CR-1 located at 1300 Prospect Road (PID # 4036770)

Submitted To Paul Sampson Case # 18107

Submitted on behalf of Double D Construction



INTRODUCTION

Double D Construction is planning to construct a neighbourhood shopping mall to be located in Hatchet Lake, Nova Scotia on land it has held for over 20 years designated for this purpose by the Halifax City Planning Department.

Double D construction owns an 11 acre parcel of land at 1656 Prospect Road (PID #40713844) zoned for a shopping mall as well as 12 acres of adjacent land located at 1604 Prospect Road (PID # 40441140). The site is located in Hatchet Lake on Highway 333 approximately 11 kilometres from the Bayers Lake business park and shopping district. Highway 333 is the only road leading to Halifax, servicing a group of small communities with a combined population of approximately 10,000 people. Most residents of this area work in Halifax or Dartmouth and commute to the city for work and shopping.

The area offers local residents limited choices for neighbourhood food shopping services, except for that provided by a few small village stores and a Pharma Save. There is a medical practice and a modern recreation centre in the immediate area along with a couple of corner stores and a small coffee shop. The development envisioned by Double D would complement existing business while providing needed services to local residents.

The land owned by Double D was designated by city planning as a development site for a neighbourhood shopping mall in 1996 and reconfirmed in 2009 (See Attachment). The site enjoys Light Industrial zoning, which provides for all uses described in Commercial # 2 zoning (C 2) plus the additional uses specific to the industrial zoning.(See Attachments showing Permitted Usages)

Double D has paid taxes on this site for over 20 years based on Industrial and commercial zoning which values the land for tax purposes at [REDACTED]

Genivar Inc's client has operated a driving range and paid taxes on its 50 Acre Site located at 1300 Prospect Road in Goodwood (PID # 4036770) based on an assessment of [REDACTED] which is approximately 16.5% less than that paid by Double D but they have almost 5 times the land mass owned by Double D.

Genivar's client has enjoyed this favourable tax rate due to having land classified for Recreational use only.

The site proposed for development by Genivar includes an existing driving range with adjacent WET LANDS. Zoned, as CR-1 RECREATION land with specific uses described below which do not include any of the uses proposed by Genivar Inc on behalf of its client.

PERMITTED USES

PART 35: CR-1 (COMMERCIAL RECREATION 1) ZONE

35.1 CR-1 USES PERMITTED

No development permit shall be issued in any CR-1 (Commercial Recreation 1) Zone except for the following:

Golf courses and miniature golf courses

Tennis clubs

Lawn bowling clubs

Uses accessory to the foregoing.

35.2 CR-1 (ZONE REQUIREMENTS)

In any CR-1 Zone, no development permit shall be issued except in conformity with the following:

Minimum Lot Area 20,000 square feet (1858.1 m²)

Minimum Frontage 100 feet (30.5 m)

Minimum Front

Or Flankage Yard 30 feet (9.1 m)

Minimum Rear Yard

Or Side Yard 30 feet (9.1 m)

Genivar Inc. on behalf of its client appears to be proposing to use a development agreement to circumvent the existing zoning classification, which designates the land used for development of this project as CR 1, which provides specific land use designations shown above.

The persistent rumours regarding development of this recreational land as a commercial site has affected the development of the site owned by Double D at 1656 Prospect R in Hatchet Lake approximately 2 kilometres from the Genivar site.

Double D intends to build a 30,000 square foot shopping mall in conjunction with an experienced developer provided council rejects the proposal by Genivar.

The development agreement proposed by Genivar seeks to use lower cost land to enable the construction of buildings to attract clients whose usage is similar or identical to the usages proposed by Double D for its property.

Several of the proposed tenants in the Genivar proposal were and are aware of Double D's intended development plans and the negative impact this proposal has had on Double D.

The Double D project will house a 12,000 square foot branded grocery store provider [REDACTED] along with a National Gas Provider, Convenience store and small coffee shop. Double D has commitments for more than 65% of the proposed space, which targets service providers need by the Prospect Road Communities such as a grocery store, veterinarian, gas station with diesel fuel, pet food provider as well as professional and health related services not provided through the existing dentist, pharmacy and related offices

IMPACT OF APPROVING THE GENIVAR PLAN

- Signals that existing property can be rezoned to improve return on investment to stake holders
- Signals that WET LANDS can be reclaimed as development property even when previously designated as CR1 by city planning to limit its usage to very specific purposes
- De-values existing commercial properties by allowing zoning changes that increase the amount of property designated as commercial property when existing property is available for construction of the services and usages proposed by Genivar

- Opens up the Prospect Road Communities through present to future development that may be available by expanding the land that can be used for commercial and industrial purposes including usages such as land fill or heavy equipment storage on sites not presently designated for these purposes
- Based on specific tenants shown on the attachments provided by Genivar, it may be reasonable to conclude that speed limits will need to be reduced on this stretch of the road to limit potential accidents
- Reduced speed limits and increased traffic congestion would likely increase the driving time for commuters, particularly during the critical morning drive times
- The development is not needed and would be replaced by a development that conforms with existing land usage proposed by the city planning department in 1996 and confirmed in its revised plan of 2009
- Land Values for existing commercial and industrial property holders will be reduced and may result in applications for reduced assessments for tax purposes

DESIGNATION FOR THE DOUBLE D PROPERTY

EXISTING INDUSTRIAL USES

(Copied from the city plan zoning reconfirmed in the 2009 Plan)

As previously mentioned, there are numerous industrial operations scattered throughout the Plan Area,

Along the collector highway systems.

These include a wide range of operations, which include manufacturing operations, warehousing, trucking and excavating companies, general contractors Construction storage yards, salvage yards and numerous industries involving a specialized trade, which may be conducted from a residential property.

In many instances, these Industrial operations have grown from a home business activity into a larger scale establishment, which provides industrial services to consumers throughout the Halifax-Dartmouth Metropolitan Area and beyond.

Since these operations have grown beyond what can be considered a home business activity in most designations, industrial zoning shall be created for application to existing industrial operations located within all residentially Designated areas and within the Mixed Use Designation.

In order to minimize future land use conflicts, these industrial operations shall be either zoned light industrial or local service industrial, depending on the type and size of the existing establishment.

Although it is not the intention of the Planning Strategy to support the future development of industrial uses within the Residential B Designation, there are a few parcels of land where future industrial

Development is considered acceptable by residents. These include a 2-acre parcel of land located within

The Butler Brothers Subdivision in Hatchet Lake (Lands of Alvin MacDonald) (LIMS # 40544348) and

An 11-acre parcel of land, which is a portion of a 36-acre parcel of land, located on the north side of Drysdale Estates Subdivision (Lands of Double D. Construction) (LIMS # 655399). By special request,

These landowners have advanced proposals for the future development of industrial uses, which will have minimal impact on surrounding lands. In the case of the lands of [REDACTED]

Proposed to use this small parcel of land for the storage of heavy equipment.

This area is surrounded by

Existing industrial developments and the future storage of heavy equipment will not be incompatible with the local area.

Double D. Construction intends to use its lands for the future development of shopping centre and Warehousing facilities. This parcel of land is separated from surrounding lands by a dense buffer of trees, which will screen future development, while providing for the development of services, which will

Benefit the entirety of Planning District 4. The lands of [REDACTED] and

Double D. Construction

Will, therefore, be zoned light industrial in accordance with Policy RB-15.

Planning District 4, (MPS) Page 142

IU-1 notwithstanding Policies RA-2, RB-2, RB-3, RRA-2, RRB-2, RRC-2, RRD-2, RRE-2 or MU-2, within any rural residential, or Mixed Use designation, it shall be the intention of Council to recognize and support the continuation of existing industrial operations through the creation of a local service zone.

SUMMARY

Double D has owned its land for approximately 20 years and presently has highway access permits. Double D has completed environmental studies on the site and received clearances from the respective government agencies.

Double D has incurred considerable expense to itself; for the cost required to prepare the land for construction of a neighbourhood shopping mall. These costs include compacting, infill, grading and levelling of the property as well as construction of entrances and service roads to provide access to the back of the property for future expansion of the present septic fields and water supply.

There appears to be considerable demand for construction of a neighbourhood shopping mall in this under serviced market. Double D has received a firm offer from [REDACTED] to lease a 12,000-foot food space for 10 years as and grocery facility. Double D also has perspective tenants who are prepared to enter into letter of understanding that include a national gas retailer , coffee provider, to complement local neighbourhood service providers and professionals .

Please note that any gas bar would require approval by city council but this usage would be consistent with the industrial designation provided to the property by city planning.

Please note that Double D and its partners are prepared to start construction within 12 months or less from the time that the Genivar proposal is rejected by city planning or council.

DOUBLE D STRONGLY OBJECTS TO GENIVAR PROPOSAL, WHICH DUPLICATES ITS ACTIVE PLANS FOR THE LANDS AT 1656 PROSPECT ROAD THAT ARE SPECIFICALLY DESIGNATED FOR THE INTENDED USAGE AS A NEIGHBOURHOOD SHOPPING MALL.

The land Genivar is proposing to build its development on is designated WETLAND and RECREATIONAL not Commercial for construction of a shopping mall and petroleum service station.

Re: Item No. 8.1.2

Stewart, April

From: [REDACTED]
Sent: May-19-14 8:31 PM
To: Office, Clerks
Subject: Against development at 1300 Prospect Road, case 18107

HALIFAX REGIONAL
MUNICIPALITY
MAY 20 2014
[REDACTED]
MUNICIPAL CLERK

I am against the development of 1300 Prospect Road, case 18107. This area is known as The Long Bog. It is an environmentally sensitive area. The land was supposed to be zoned recreational for the people. Reputedly, the portion of the property next to the road was filled in without the proper permits. Now they are getting cleared for a development. Seems like developers can throw money at the government and get what they want without any thought to the environment policies. This is watershed area, and an industrial complex could be detrimental to the neighbouring properties:

Virtually by not holding this meeting in the community and holding it at City Hall, wreaks of impropriety between the government and the land developers and that you are trying to pull a fast one on the people of the Prospect Road.

Indeed, the road needs another gas station as there is only one next is at the beginning in Goodwood...the new gas station would be too close to the Irving Station. All other gas stations on the road were closed down and nothing has been built on these sites because the soil was ruined by oil and gas contaminations. There was a gas station in Hatchet Lake, Brookside, White's Lake and Bayside....now you want to build one on a bog????? Doesn't make sense.

The government needs to protect the environment and the water table and not approved this development proposal.