



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation <input checked="" type="checkbox"/>	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Members of the Planning and Heritage Advisory Committee (PAC/HAC)

Submitted by: _____
Sara Poirier, Planner

Date: 2021-06-10

Subject: Development Agreement: 101 Three Mile Plains Cross Rd. PID 45197456; File 21-02 B

LEGISLATIVE AUTHORITY

Section 230 of the Municipal Government Act.

RECOMMENDATION

To allow the requested development, staff recommends that the Planning and Heritage Advisory Committee (PAC/HAC) forward a positive recommendation by passing the following motion:

...that PAC/HAC recommends that Council give First Reading and hold a Public Hearing to consider entering into a development agreement to allow an automotive repair shop at 101 Three Mile Plains Cross Rd., Three Mile Plains (PID 45197456) which is substantively the same as the draft set out in Attachment C of the report to the Planning Advisory Committee dated June 10, 2021.

BACKGROUND

An application was received on January 15, 2021 from Geoff Lunn, with authorization from property owner Brian Lunn, to permit an automotive repair shop at 101 Three Mile Plains Cross Rd., Three Mile Plains. All necessary material for the application was submitted on January 18, 2021.

DISCUSSION

The approximately 14,500 ft² lot is designated Residential on the Generalized Future Land Use Map of the West Hants Municipal Planning Strategy (WHMPS) (Figure 1) and is within the Three Mile Plains Growth Centre. Part 5.3 of the WHMPS contains the overall intention for properties designated Residential in the Three Mile Plains Growth Centre.

The lot is zoned Two-Unit Residential (R-2) on the Zoning Map of the West Hants Land Use By-law (WHLUB) (Figure 2). An automotive repair shop is not permitted as-of-right in the Two-Unit Residential (R-2) zone.

The subject lot directly abuts properties with a variety of different zoning including Two Unit Residential (R-2), Local Industrial (LI), Resource Industrial (M-1), and Multiple Residential (R-3) (Figure 2). These properties are all designated Residential within the Three Mile Plains Growth Centre (Figure 1).

Development Agreements

A development agreement is a legal contract between an owner of land and the Municipality to allow Council to consider a use that is not a listed, permitted use within a zone on a specific lot. The ability for Council to consider a development agreement must be stated in the Land Use Bylaw (LUB) and the Municipal Planning Strategy (MPS) must identify the kinds of uses Council may consider in each area. Uses which Council may consider are those which Council has determined may have sufficient impact on an area that a negotiated process is required to ensure the potential impact is minimized. In the MPS Council usually identifies both specific and general criteria which must be considered when making decisions regarding a development agreement.

The draft development agreement can be found in Attachment C.

Proposed Development Agreement

Section 6.1 of the WHLUB, *Development Agreements*, states that "*The following developments may be considered only by development agreement in accordance with the Municipal Government Act and the Municipal Planning Strategy:*

- (i) Resource Industrial (M-1) uses in the Growth Centres in accordance with Policy 5.7.2 of the Municipal Planning Strategy;*

Although there is no specific definition for a Resource Industrial (M-1) use, the best basis for determining what is considered a Resource Industrial (M-1) use is the list of permitted uses in the Resource Industrial (M-1) zone in the WHLUB. Any activity connected with the automobile trade other than an automobile scrap yard or automobile related commercial recreation establishment is a listed permitted use in the Resource Industrial (M-1) zone which would include an automotive repair shop.

Part 5 of the WHMPS contains the overall intention for Growth Centres in West Hants; Section 5.7 indicates the intention of Council to allow certain industrial development in the Growth Centres. Policy 5.7.2 establishes Council's intention to "*consider new resource-related industrial uses in the Growth Centres by development agreement*". The criteria for Policy 5.7.2 have been evaluated by staff in Attachment A.

Specific Requirements/Requests

The applicant submitted a rough site plan indicating the size of the proposed building for the automotive repair shop and the intended location for the building. Policy 5.7.2 (g) requires adequate buffering or screening, setbacks and yards to minimize potential land use conflicts with adjacent properties. Two (2) of the properties adjacent to the subject lot to the north and south, 97 and 107 Three Mile Plains Cross Rd., and the subject lot at 101 Three Mile Plains Cross Rd., are all owned by Brian Lunn. Staff recommend not requiring buffering, screening, setbacks, or yards on the subject lot where they are adjacent to the properties owned by the same property owner, Brian Lunn. However, for the abutting property to the east that has different ownership a planting strip consisting of a continuous row of trees or hedge of evergreens or shrubs arranged in such a way to form a dense or opaque screen will be required on the subject lot with a minimum width of 5 ft (1.52 m). This is similar to the existing WHLUB requirements for commercial businesses that abut residential uses.

For the hours of operation, the applicant has stated they intend to operate the business full-time, during daytime hours. The development agreement permits the automotive repair shop to operate between the hours of 8:00 a.m. and 5:00 p.m. daily.

Staff discussed parking requirements with the applicant and determined that six (6) parking spaces for the automotive repair shop would be sufficient. In terms of signage, the number of signs permitted in the WHLUB is adequate for the applicant.

In terms of access to the property, there is an existing driveway shared between 97 and 101 Three Mile Plains Cross Rd. that the applicant intends to use for the automotive repair shop. The Department of Transportation and Active Transit (DTAT) found the existing access to be suitable for the proposed use and suggested an agreement be established to ensure the driveway could be used for the automotive repair shop, particularly if there is ever a change in ownership of 97 Three Mile Plains Cross Rd. This has been incorporated into Clause 2.3, *Access and Egress*, in the proposed development agreement. The owner of 101 Three Mile Palins Cross Road will need to provide proof to the Development Officer of an easement agreement with any new owner of 97 Three Mile Plains Cross Rd. to ensure access can be maintained or a new access can be created contingent on approval from DTAT. The applicant found this requirement suitable and intends to make it a requirement of sale if the abutting property is ever sold.

When the Director of Public Works was asked to comment on the adequacy of water and sewer services for policy 16.3.1 (a) (i) they stated oil and petroleum products would need to be stored appropriately and not disposed of in the Three Mile Plains sewer system. Staff spoke with the applicant about their intentions for these products. The applicant mentioned an on-site oil heater would use some oil products and that all other oil and petroleum products would be recycled following Nova Scotia requirements, *Solid Waste-Resource Management Regulations made under Section 102 of the Environment Act. Clause 2.7, Water and Sewer Services*, of the proposed development agreement addresses storage and disposal of oil and petroleum products ensuring the

property owner is responsible and that these substances do not enter the Three Mile Plains sewer system.

Policy 5.7.2 (h) requires that open storage be limited to the rear yard. The applicant has indicated that they do not intend to have any open storage and may apply for permits for accessory buildings such as a shed for storage at a later date. Clause 2.5, *Storage*, of the development agreement prohibits open storage and permits accessory buildings for the automotive repair shop in accordance with Section 5.1 of the WLUB.

WHMPS Specific Criteria

Policy 5.7.2 of the WHMPS establishes Council's intention to consider new resource-related industrial uses in the Growth Centres by development agreement. The above policy establishes the criteria to be considered by Council, which are examined in detail in Attachment A.

In summary, the remaining criteria are met since:

- the use is permitted in the Resource Industrial (M-1) zone;
- the development will not adversely affect adjacent land uses as the hours of operation are regulated to daytime hours and the expected noise is minimal as it will be contained within a new building; and
- the development has frontage on a collector street.

WHMPS General Criteria

Policy 16.3.1 of the WHMPS states general criteria for any development agreement considered in West Hants. These criteria are examined in detail in Attachment B. In summary:

- the proposal is not premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated; and
- the Fire Chief, Manager of Building and Fire Inspection Services, Director of Public Works and Department of Transportation and Active Transit have no major concerns that have not been addressed in the development agreement.

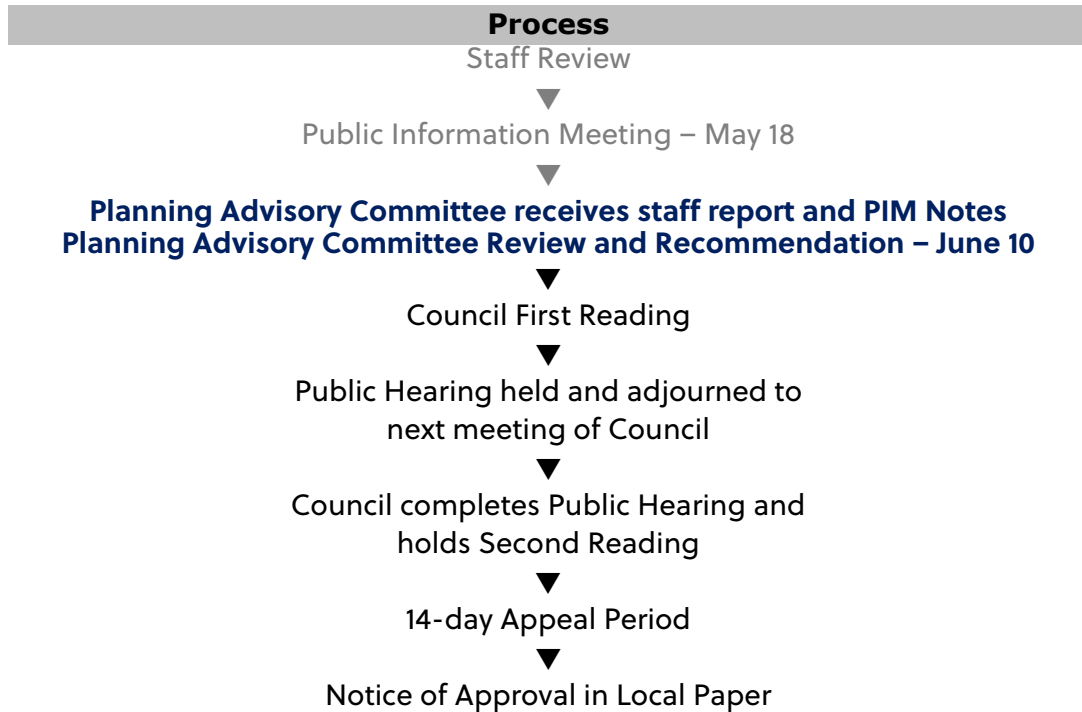
MCCAP

The Municipal Climate Change Action Plan (MCCAP) Inland Flooding and Coastal Flooding maps do not show any risks of either inland or coastal flooding on the property. The Three Mile Plains Flood Risk Assessment Study does not identify the site as an area vulnerable to flooding.

NEXT STEPS

As noted above, the proposed development agreement has been considered within the context of both the specific and general policies of the WHMPS and is consistent with the intent, objectives, and policies of the WHMPS. The amendment meets the specific and general criteria for a development agreement. As a result, it is reasonable to

consider permitting an automotive repair shop at 101 Three Mile Plains Cross Rd. by development agreement.



FINANCIAL IMPLICATIONS

There are no financial implications associated with this application.

ALTERNATIVES

In response to the application, PAC/HAC may recommend that Council:

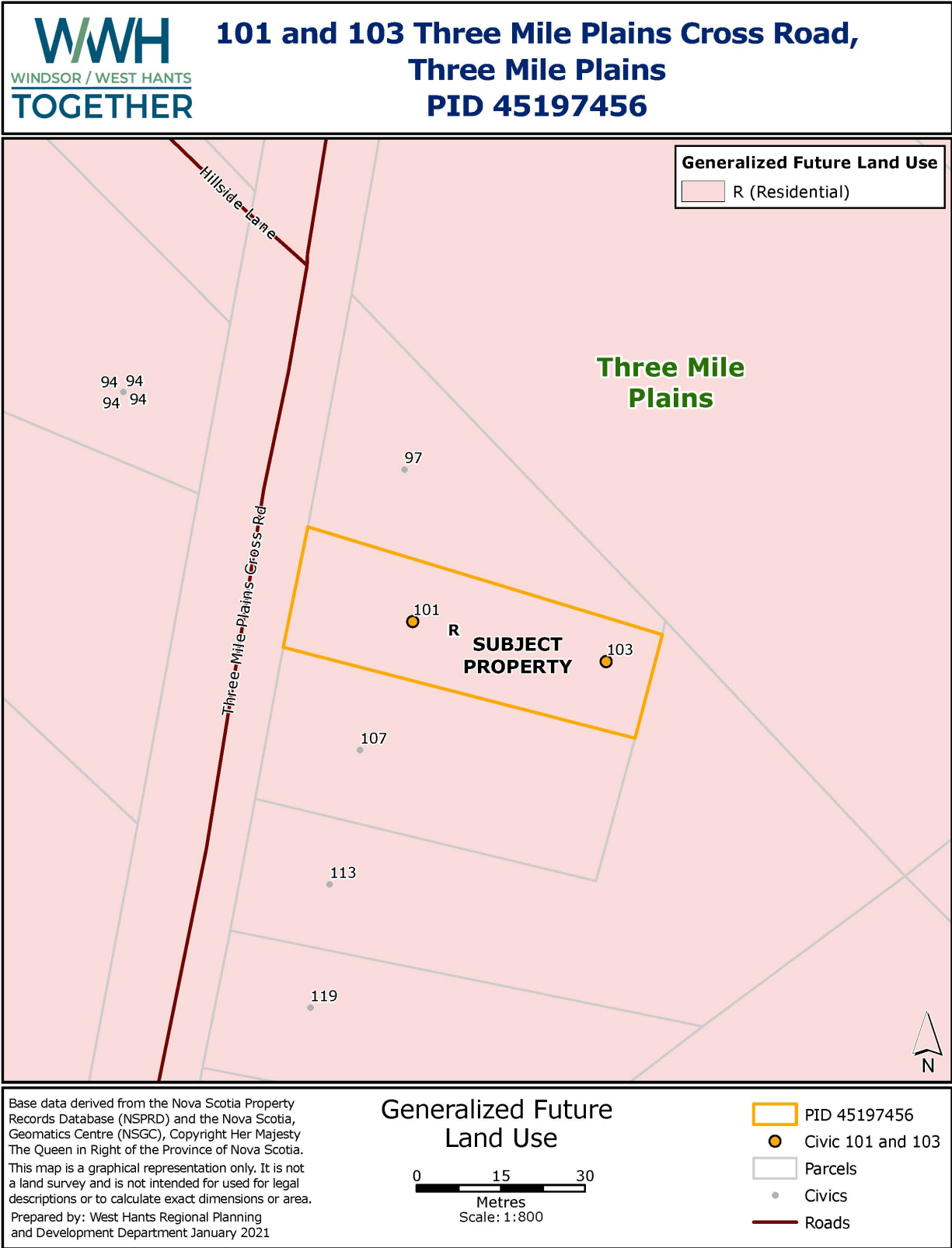
- recommend that Council hold First Reading and authorize a Public Hearing to approve the Development Agreement as drafted or as specifically revised by direction of PAC/HAC;
- provide alternative direction such as requesting further information on a specific topic.

ATTACHMENTS

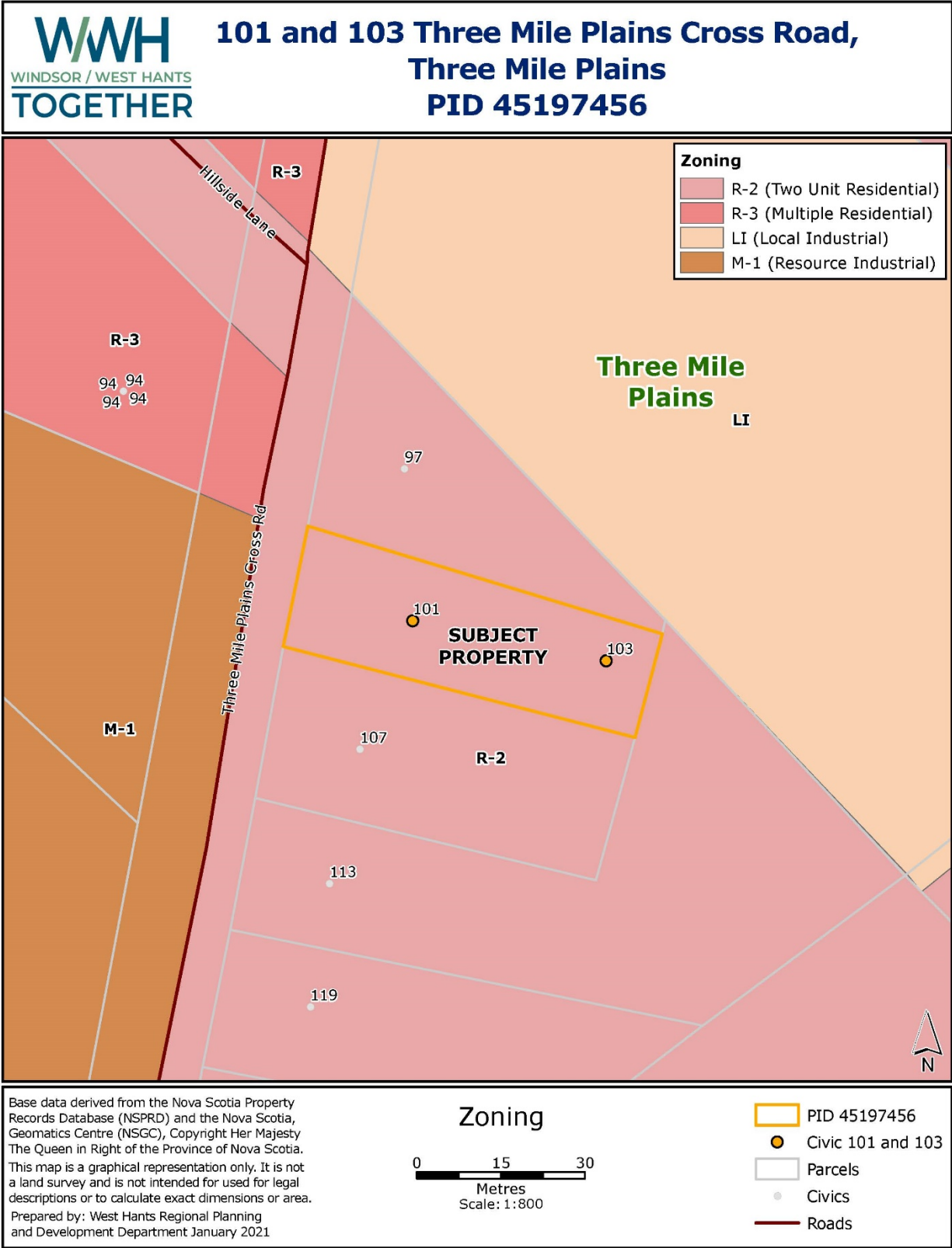
Figure 1	Generalized Future Land Use Map Excerpt
Figure 2	Zoning Map Excerpt
Attachment A	Specific Criteria for Development Agreement
Attachment B	General Criteria for Development Agreement
Attachment C	Draft Development Agreement

Report Reviewed by: _____
Madelyn LeMay, Director of Planning and Development

Figure 1
Generalized Future Land Use Map Excerpt



**Figure 2
Zoning Map Excerpt**



Attachment A

Specific Criteria for Development Agreement

Policy 5.7.2

It shall be the policy of Council to consider new resource-related industrial uses in the Growth Centres by development agreement subject to the following:

CRITERIA	COMMENT
<i>(a) the use is permitted in the Resource Industrial (M-1) zone;</i>	Any activity connected with the automobile trade other than an automobile scrap yard or automobile related commercial recreation establishment is permitted in the Resource Industrial (M-1) zone. The draft development agreement defines the propose use as an "automotive repair shop" which means "a commercial establishment for the repair or replacement of parts in automotive, farm or forestry vehicles, machinery or equipment".
<i>(b) the use is not considered obnoxious by virtue of noise, odours, dust, fumes or other emissions;</i>	The automotive repair shop will be contained within a new proposed building. The applicant has stated the building will be well insulated and they plan on having air conditioning in the building so the doors of the shop will be closed most of the time. The building will have an exhaust fan with a filter to prevent dust and odours from escaping.
<i>(c) the development will not adversely affect adjacent land uses with respect to:</i>	
<i>(i) traffic generation and traffic safety;</i>	The Department of Transportation and Active Transit (DTAT) have stated they do not anticipate a negative impact to traffic generation and safety with the proposed use. DTAT would not consider approving any widening of the existing access currently shared by 97 and 101 Three Mile Plains Cross Rd. but suggested an agreement be put in place to ensure continued access for the automotive use if there is ever a change in ownership of 97 Three Mile Plains Cross Rd. Both properties are currently owned by the same owner and will not require an agreement for access at this time, as the property

	owner cannot enter into an agreement with himself. However, if 97 Three Mile Plains Cross Rd. is sold to a new owner Clause 2.3 of the proposed development agreement requires the property owner to provide proof of an agreement with the new property owner to the Development Officer to ensure access for the automotive repair business can be maintained or the applicant will have to create a new access that is acceptable to DTAT.
<i>(ii) hours of operation;</i>	The hours of operation are regulated in Clause 2.9 of the proposed development agreement as 8 a.m. – 5 p.m. daily.
<i>(iii) noise; and</i>	Please see 5.7.2 (b) for further details.
<i>(iv) size of building.</i>	The size of the building is outlined in the site layout attached to the proposed development agreement. The size of the building is not unusual for the area and a planting strip is required between the abutting property to the east to reduce potential land use conflicts.
<i>(d) the development has frontage on an arterial or collector street;</i>	The lot has frontage on Three Mile Plains Cross Rd. which is a collector street.
<i>(e) safe and efficient roadway access can be provided;</i>	Please see 5.7.2 (i) for further details.
<i>(f) adequate parking and loading areas can be provided;</i>	Clause 2.4 of the proposed development agreement ensures a maximum of six (6) parking spaces are permitted for the automotive repair shop in the development agreement and an adequate parking area is outlined on the site layout.
<i>(g) adequate buffering or screening, setbacks and yards are provided to minimize potential land use conflicts with adjacent properties;</i>	The subject lot and property abutting the subject lot to the north (97) and south (107) are all owned by the same owner. Staff will not requiring buffering, screening, setbacks, and yard from these abutting properties as they have the same owner.

	There is one (1) abutting property to the east that has a different owner. Clause 2.8 in the draft development agreement requires a planting strip between the subject lot and this property to ensure adequate buffering.
<i>(h) open storage and display areas are adequately fenced or screened and limited to the rear yard where there is potential for conflict with adjacent non-industrial uses;</i>	Clause 2.5 of the proposed development agreement does not permit open storage or display areas. Accessory buildings associated with the automotive repair shop are permitted in accordance with Section 5.1 of the WHLUB.
<i>(i) any other matter which may be addressed in a development agreement;</i>	No other matters have been raised.
<i>(j) Policy 16.3.1.</i>	See Attachment B.

Attachment B
General Criteria for Development Agreement

Policy 16.3.1 *In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:*

CRITERIA	COMMENT
<i>(a) whether the proposal is considered premature or inappropriate in terms of:</i>	
<i>(i) the adequacy of sewer and water services;</i>	The Director of Public Works stated that the property is capable of being serviced by municipal water and sewer. They have stated that oil and petroleum products will need to be properly stored and disposed of to ensure these products do not enter the Three Mile Plains sewer system. The applicant has been informed and intends to use oil for an on-site heater or dispose of these products through the provincial recycling programs. Clause 2.7 of the proposed development agreement addresses these concerns and ensures the property owner is responsible for the safe storage and disposal of these products.
<i>(ii) the adequacy of school facilities;</i>	No impact on school facilities is anticipated.
<i>(iii) the adequacy of fire protection and other emergency services;</i>	The Manager of Building and Fire Inspection Services and the local Fire Chief have no concerns with regards to fire protection and emergency services. The Manager of Building and Fire Inspection Services has noted that the applicant purchased a steel structural (non-combustible) building. This will help with the close proximity of the structure to the property lines under the National Building Code. The Fire Chief stated that this is located on a well-maintained road and has a fire hydrant in the area. The adjacent properties appear to be well spread apart from this building if a fire were to occur.

<p><i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i></p>	<p>Please see 8.9.4 (f) for further details.</p>
<p><i>(v) the financial capacity of the Municipality to absorb any costs relating to the development.</i></p>	<p>No municipal costs related to this amendment are anticipated.</p>
<p><i>(b) whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system;</i></p>	<p>As noted above in 16.3.1 (a) (i), the property is capable of being serviced by municipal water and sewer.</p>
<p><i>(c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i></p>	<p>Please see 8.9.4 (f) for further details.</p>
<p><i>(d) the adequacy of the dimensions and shape of the lot for the intended use;</i></p>	<p>The property is 14,451ft² in area and has sufficient space for the intended use based on the building materials required in the National Building Code. As abutting properties to the north and south are within the same ownership, no setbacks and yards have been required.</p>
<p><i>(e) the pattern of development which the proposal might create;</i></p>	<p>The use permitted by the development agreement will not create a pattern of development that is unusual for the area.</p>
<p><i>(f) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding;</i></p>	<p>Based on a preliminary site visit the lot is fairly flat and there are no evident concerns in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding. The Municipal Climate Change Action Plan (MCCAP) Inland and Coastal Flooding maps and Three Mile Plains Flood Risk Assessment do not show any risks of either inland or coastal flooding on the property. The applicant will be responsible if any issues arise in terms of the suitability of the area for the proposed uses.</p>

<i>(g) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by laws and regulations; and</i>	The proposed amendment meets all relevant municipal, provincial and federal regulations.
<i>(h) any other matter required by relevant policies of this Strategy.</i>	Please see Attachment A for further details.