



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: Mayor Zebian and Members of West Hants Regional Municipality Council

Submitted by: _____

Sara Poirier, Senior Planner

Date: 2022-11-22

Subject: Development Agreement: 4701 Highway 1, Three Mile Plains PID 45005733;
File #22-10 C

LEGISLATIVE AUTHORITY

Section 230 of the Municipal Government Act.

RECOMMENDATION

Should Council wish to approve the development agreement following Public Hearing, the following motion would be in order:

...that Council gives Second Reading to and approves entering into a development agreement to allow an automotive repair shop, excluding the use of dyno machines, at 4701 Highway 1, Three Mile Plains (PID 45005733) which is substantively the same as the draft set out in Attachment C of the report File #22-10 to the Planning and Heritage Advisory Committee dated October 13, 2022.

...that Council requires that the development agreement with Phil Marryatt for 4701 Highway 1, Three Mile Plains PID 45005733 be signed within 120 days from the date of final approval by Council or the date that any appeals have been disposed of; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Property <input checked="" type="checkbox"/>	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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A completed application was received on June 21, 2022, from Phil Marryatt to consider permitting an automotive repair shop at 4701 Highway 1 (PID 45005733) in Three Mile Plains. The property is owned by Phil and Roberta Marryatt. Mr. Marryatt would like to convert the existing detached garage on the property to a commercial automotive repair shop to perform vehicle service-related repairs such as tire changes, oil changes, brake changes and fluids/coolant changes.

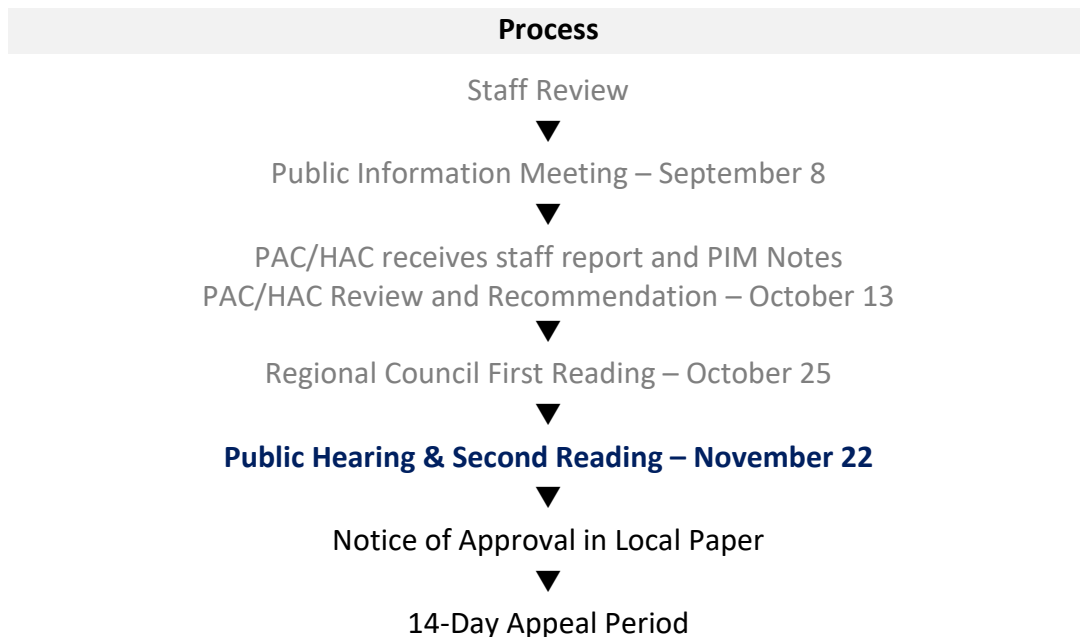
A Public Information Meeting was held on September 8, 2022.

On October 13, 2022 staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC). PAC/HAC recommended in favour of the development agreement on October 13, 2022.

On October 22, 2022 Council considered the PAC/HAC recommendation (Appendix A). Council discussed the use of dynamometers (dyno's) and amended the recommended motion to exclude the use of dyno's in the proposed automotive repair shop due to the potential noise that could cause conflict with abutting property owners in a residential area. If the recommendation is approved at Second Reading staff will add a clause to the development agreement which states "The use of dynamometers is prohibited on the lot."

NEXT STEPS

The process for this application is as follows:



APPENDICIES

Appendix A 2022-10-25 Recommendation from PAC/HAC to Council: Development Agreement: 4701 Highway 1, Three Mile Plains PID 45005733; File #22-10 B

CHIEF ADMINISTRATIVE OFFICER REVIEW

This is a recommendation that has been thoroughly reviewed by staff and the PAC / HAC and further reviewed and amended by the Council as reflected in the report. Several opportunities have been provided to the public for input as outlined in the report.

I support the recommendation.

Report Prepared by: _____
Sara Poirier, Senior Planner

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

Report Approved by:  _____
Mark Phillips, CAO



WEST HANTS REGIONAL MUNICIPALITY REPORT

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To: Mayor Zebian and Members of West Hants Regional Municipality Council

Submitted by: _____

Sara Poirier, Senior Planner

Date: 2022-10-25

Subject: Development Agreement: 4701 Highway 1, Three Mile Plains PID 45005733;
File #22-10 B

LEGISLATIVE AUTHORITY

Section 230 of the Municipal Government Act.

RECOMMENDATION

Should Council wish to proceed to Public Hearing, the following motion would be in order:

...that Council gives First Reading and will hold a Public Hearing to consider entering into a development agreement to allow an automotive repair shop at 4701 Highway 1, Three Mile Plains (PID 45005733) which is substantively the same as the draft set out in Attachment C of the report File #22-10 to the Planning and Heritage Advisory Committee dated October 13, 2022.

...that Council requires that the development agreement with Phil Marryatt for 4701 Highway 1, Three Mile Plains PID 45005733 be signed within 120 days from the date of final approval by Council or the date that any appeals have been disposed of; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Property <input checked="" type="checkbox"/>	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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A completed application was received on June 21, 2022, from Phil Marryatt to consider permitting an automotive repair shop at 4701 Highway 1 (PID 45005733) in Three Mile Plains. The property is owned by Phil and Roberta Marryatt. Mr. Marryatt would like to convert the existing detached garage on the property to a commercial automotive repair shop to perform vehicle service-related repairs such as tire changes, oil changes, brake changes and fluids/coolant changes.

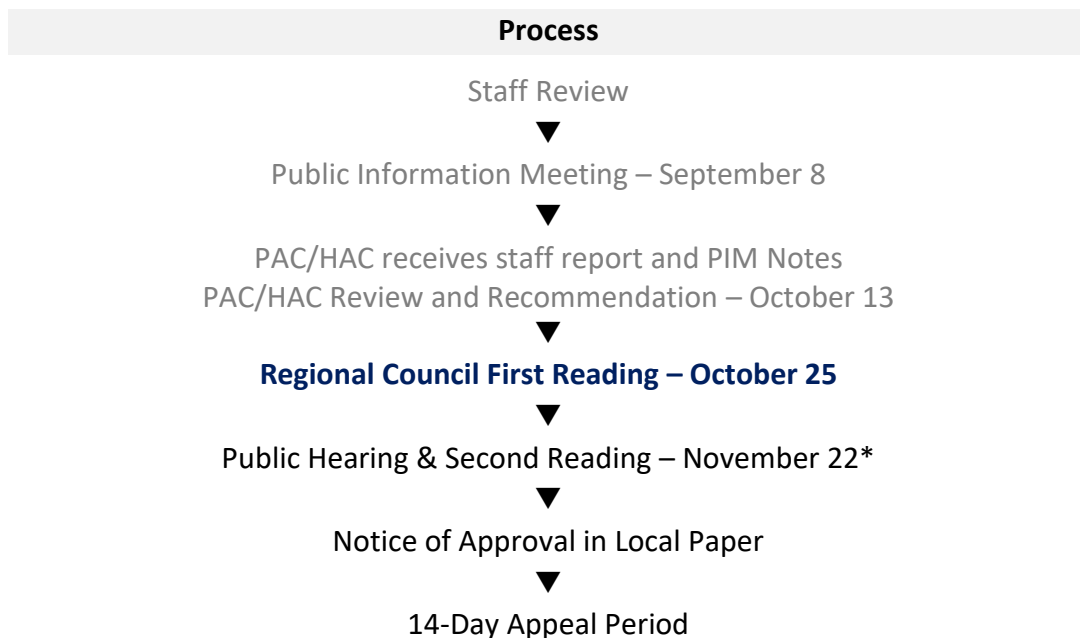
DISCUSSION

A Public Information Meeting was held on September 8, 2022.

On October 13, 2022 staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC) (Appendix A). PAC/HAC recommended in favour of the development agreement on October 13, 2022.

NEXT STEPS

The process for this application is as follows:



*anticipated dates; final dates set by Council

FINANCIAL IMPLICATIONS

There are no anticipated costs to the Municipality in regard to this development.

ALTERNATIVES

In response to the application, Council may decide to:

- hold First Reading and authorize a Public Hearing to approve the development agreement as drafted or as specifically revised by direction of Council;
- provide alternative direction such as requesting further information on a specific topic.

APPENDICIES

Appendix A 2022-10-13 Staff Report: Development Agreement: 4701 Highway 1, Three Mile Plains PID 45005733; File #22-10

CHIEF ADMINISTRATIVE OFFICER REVIEW

I encourage Council to reflect on the details of the Development Agreement to ensure the terms and conditions proposed within the DA represent Council's point of view and wishes. From my observations the DA reflect the appropriate conditions for operating a repair shop that jointly support the applicant and protect surrounding property owners.

Further, it is noted in the supporting documents that there were no comments from the public regarding this DA to date as collected through the Public Information process conducted between September 8 to 23, 2022.

Further comments from the public should be considered throughout the remaining public engagement opportunities as noted above.

Report Prepared by: _____
Sara Poirier, Senior Planner

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

Report Approved by:  _____
Mark Phillips, CAO

Appendix A



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 Planning and Heritage Advisory Committee (PAC/HAC)

Submitted by: _____
Sara Poirier, Senior Planner

Date: 2022-10-13

Subject: Development Agreement: 4701 Highway 1, Three Mile Plains PID 45005733;
File #22-10

LEGISLATIVE AUTHORITY

Section 230 of the Municipal Government Act.

RECOMMENDATION

To allow the requested development, staff recommends that the 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 4701 Highway 1, Three Mile Plains (PID 45005733) which is substantively the same as the draft set out in Attachment C of the report File #22-10 to the Planning and Heritage Advisory Committee dated October 13, 2022.

...that PAC/HAC recommends that Council require that the development agreement with Phil Marryatt for 4701 Highway 1, Three Mile Plains PID 45005733 be signed within 120 days from the date of final approval by Council or the date that any appeals have been disposed of; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Property <input checked="" type="checkbox"/>	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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A completed application was received on June 21, 2022, from Phil Marryatt to consider permitting an automotive repair shop at 4701 Highway 1 (PID 45005733) in Three Mile Plains. The property is owned by Phil and Roberta Marryatt. Mr. Marryatt would like to convert the existing detached garage on the property to a commercial automotive repair shop to perform vehicle service-related repairs such as tire changes, oil changes, brake changes and fluids/coolant changes.

DISCUSSION

The approximately 30,537 sq. ft. (2,836.98 sq. m.) 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 zoned Two Unit Residential (R-2) and designated Residential. These properties are all within the Three Mile Plains Growth Centre.

Development Agreement

A development agreement is a 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 By-law and the Municipal Planning Strategy 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 Municipal Planning Strategy Council usually identifies both specific and general criteria which must be considered when making decisions regarding a development agreement.

A proposal being considered must be measured against only the specific and general criteria for the proposal in the Municipal Planning Strategy and not any other criteria.

West Hants Land Use By-law

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:

- (j) Local Industrial (LI) uses in the Growth Centres in accordance with Policy 5.7.6 of the Municipal Planning Strategy;

Although there is no specific definition for a Local Industrial (LI) use, the best basis for determining what is considered a Local Industrial (LI) use is the list of permitted uses in the Local Industrial (LI) zone in the WHLUB. Auto repair and auto body shops in conjunction with a single unit dwelling is a listed permitted use in the Local Industrial (LI) zone.

Proposed Development Agreement

The property owner would like to convert the existing detached garage on the property to a commercial automotive repair shop to perform vehicle service-related repairs such as tire changes, oil changes, brake changes and fluids/coolant changes. The draft development agreement defines an “automotive repair shop” as a commercial establishment for the general repair, rebuilding, and reconditioning of vehicles and light trucks (up to one ton).

The main access for the automotive repair shop will be from Highway 1. The Nova Scotia Department of Public Works found the existing access to be suitable for the proposed use. The property owner does have an access easement to Old Halifax Road West across the abutting property. The property owner would have to check the access easement to determine if the access to Old Halifax Road West could be used for the automotive repair shop.

Staff discussed parking requirements with the applicant and determined that four (4) 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.

Policy 5.7.6 (f) requires that open storage be limited to the rear yard. Clause 2.5, Storage, of the development agreement prohibits open storage in the front or side yard and limits open storage to a 100 sq. ft. (9.29 sq. m.) area of the lot that is to be screened from adjacent residential properties. It also permits accessory buildings for the automotive repair shop in accordance with Section 5.1 of the WHLUB.

The Municipal Project Engineer stated that the lot is capable of being serviced by municipal water and sewer. They have stated that “disposal of special waste products and special collection would be required if the property/development does not meet requirements for standard curbside collection (including exceeding curbside quantities and special material disposal requirements, i.e., waste oil, oily rags, filters, cleaners, solvents, etc.).” The applicant has been informed and intends to dispose of these products through the provincial recycling programs. Clause 2.7 of the draft development agreement addresses these concerns and

ensures the property owner is responsible for the safe storage and disposal of these products including that these substances do not enter the Three Mile Plains sewer system.

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 only between the hours of 7:00 a.m. and 7:00 p.m. Monday to Saturday.

West Hants Municipal Planning Strategy

Part 5.0 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 5.7.6 establishes Council's intention to consider "new Local Industrial uses in the Growth Centres by development agreement".

WHMPS Specific Criteria

Policy 5.7.6 outlines the specific criteria to be considered by Council, which are examined in detail in Attachment A.

In summary, the criteria are met since:

- the use is permitted in the Local Industrial (LI) zone;
- the use is not considered obnoxious by virtue of noise, odours, dust, fumes or other emissions as it will be contained within an existing building;
- safe and efficient roadway access is provided from Highway 1; and
- adequate on-site parking is provided.

WHMPS General Criteria

The proposed development meets the general criteria for development agreements set out in the WHMPS Policy 16.3.1. 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, Development Officer, Manager of Building and Fire Inspection Services, Municipal Project Engineer, and Provincial Department of Public Works have no concerns which have not been addressed in the development agreement.

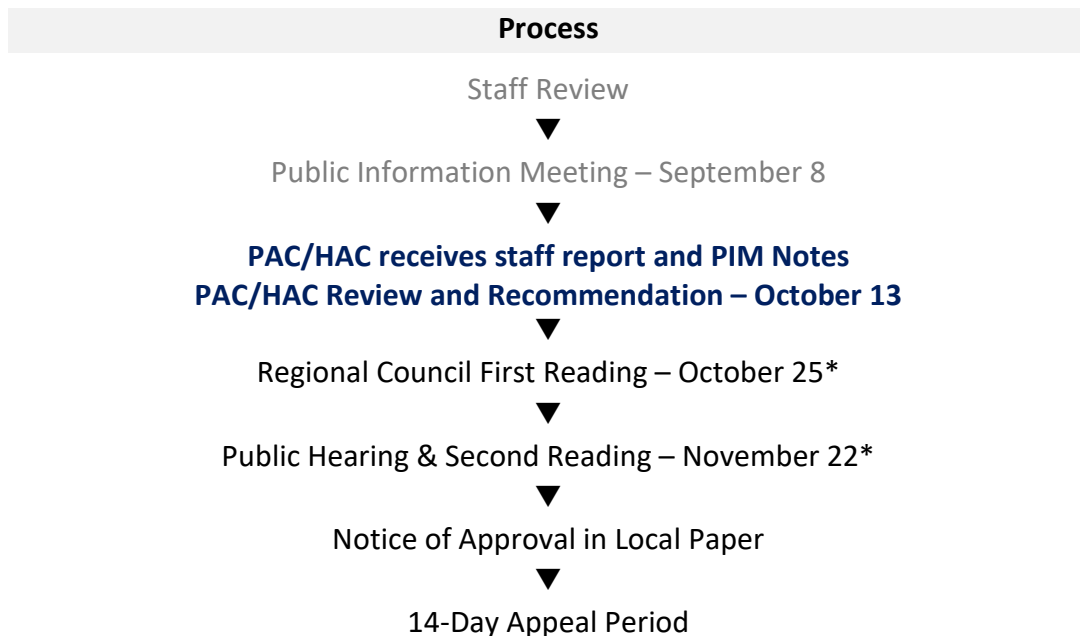
MUNICIPAL CLIMATE CHANGE ACTION PLAN

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 shows that there may be some flooding expected at the Lebreau Creek Brook road crossing at Panuke Road in the future. This may interrupt access to the property during extreme weather events due to the proximity of the property to the

intersection of Panuke Road and Highway 1. Property owners are responsible for ensuring that their lot is suitable for the proposed uses.

NEXT STEPS

As noted above, the draft development agreement has been considered within the context of the general policies of the WHMPS, and is consistent with the intent, objectives, policies and criteria of the WHMPS. As a result, it is reasonable to consider permitting an automotive repair shop at 4701 Highway 1 in Three Mile Plains by development agreement.



*anticipated dates; final dates set by Council

FINANCIAL IMPLICATIONS

There are no anticipated costs to the Municipality in regard to this development.

ALTERNATIVES

In response to the application, PAC/HAC may 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	GFLUM Extract
Figure 2	Zoning Map Extract
Attachment A	Specific Criteria for Development Agreement
Attachment B	General Criteria for Development Agreement
Attachment C	Draft Development Agreement
Attachment D	Public Information Meeting Notes

Report Prepared by: _____
Sara Poirier, Senior Planner

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

Figure 1
GFLUM Extract

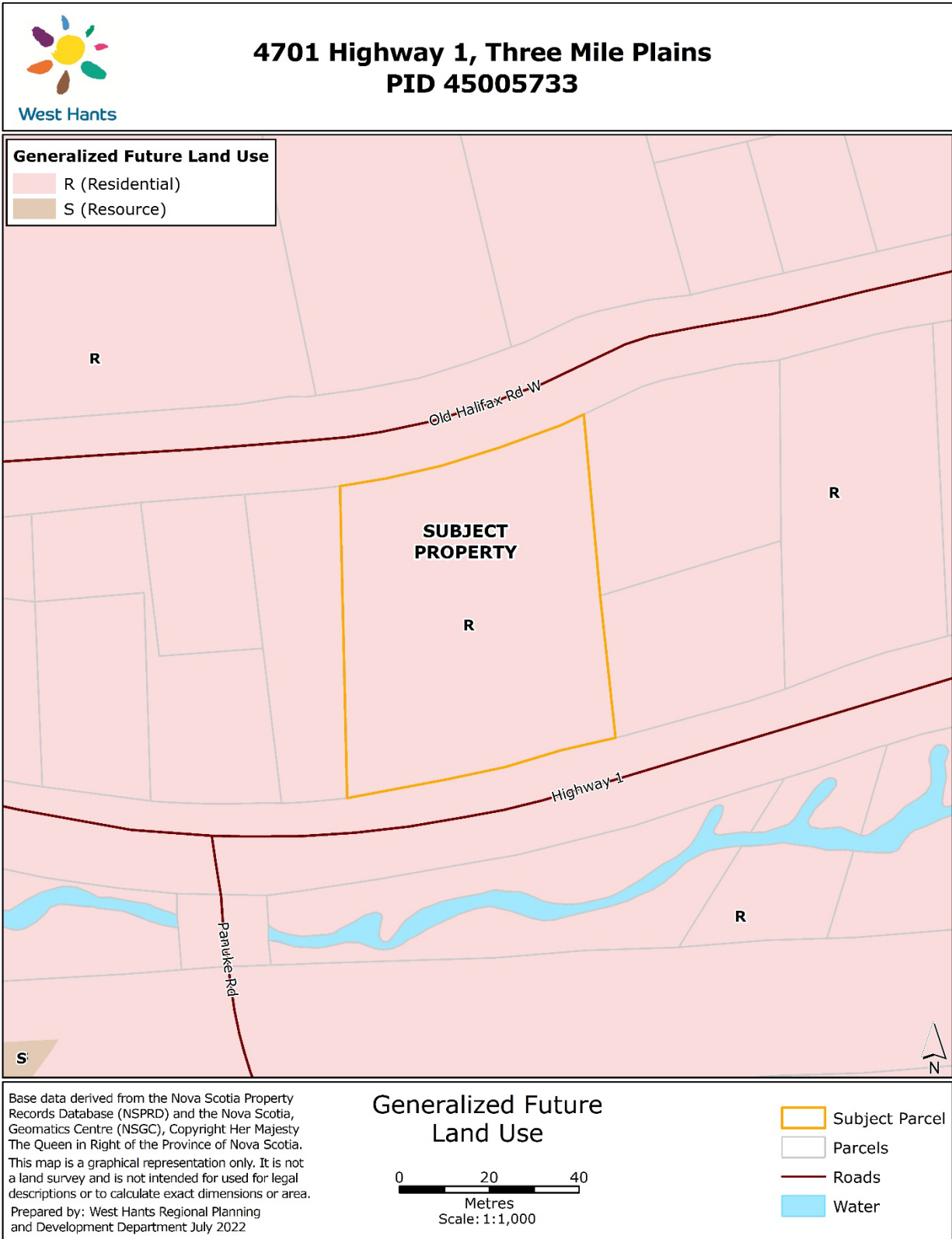
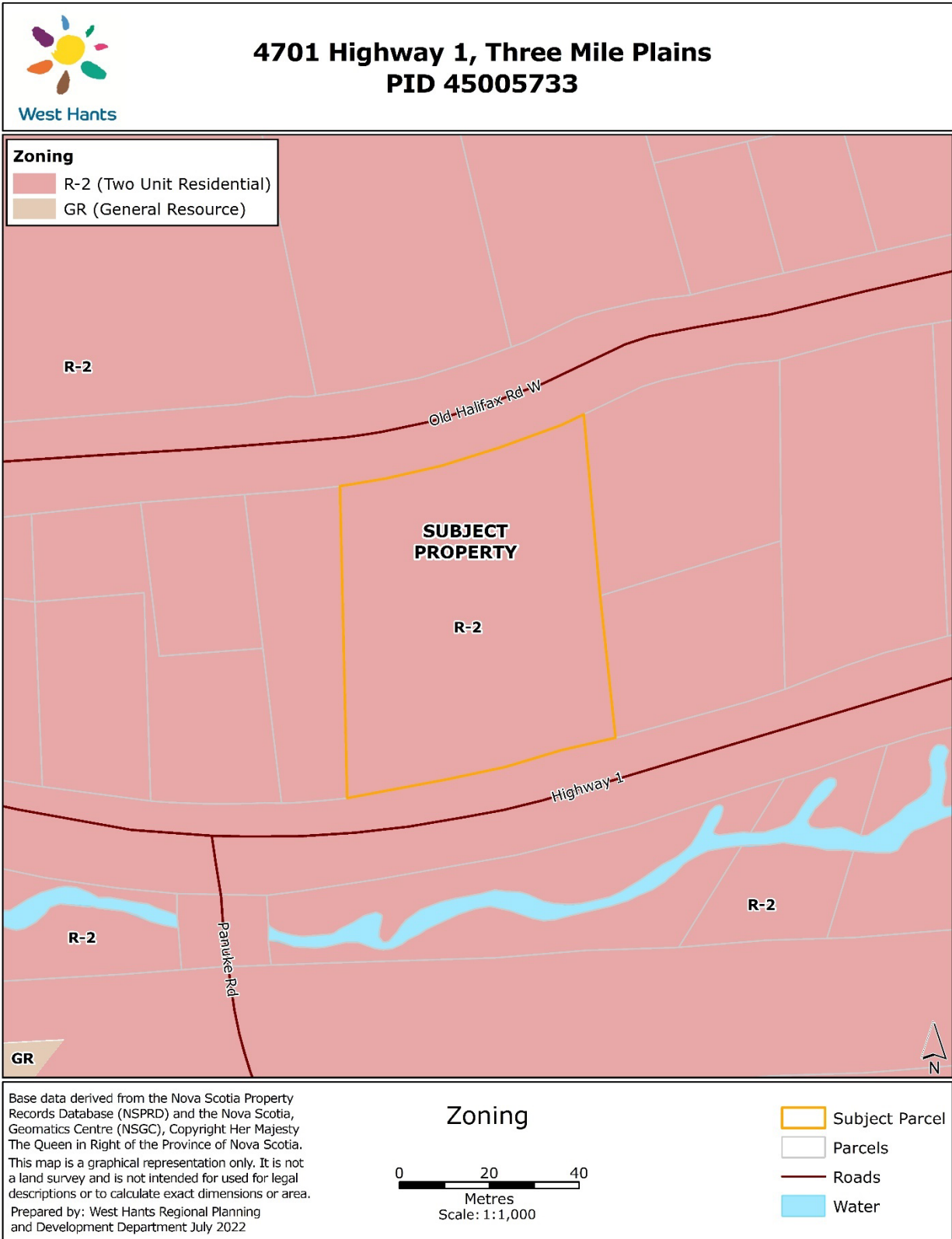


Figure 2
Zoning Map Extract



Attachment A
Specific Criteria for Development Agreement

West Hants Municipal Planning Strategy

Policy 5.7.6 It shall be the policy of Council to consider new Local Industrial uses in the Growth Centres by development agreement subject to the following:

CRITERIA	COMMENT
(a) the use is permitted in the Local Industrial (LI) zone;	“Auto repair and auto body shops in conjunction with a single unit dwelling” is a listed permitted use in the Local Industrial (LI) zone. The draft development agreement defines the proposed use as an “automotive repair shop” which means “ <i>means a commercial establishment for the general repair, rebuilding, and reconditioning of vehicles and light trucks (up to one ton)</i> ”.
(b) the use is not considered obnoxious by virtue of noise, odours, dust, fumes or other emissions;	The automotive repair shop will be contained within an existing building on site therefore the use is not anticipated to be considered obnoxious by virtue of odours, dust, fumes or other emissions.
(c) safe and efficient roadway access is provided;	The Nova Scotia Department of Public Works has stated that “the Department does not have any concerns about the impact of the proposed use on traffic generation and traffic safety” and that “safe and efficient roadway access can be provided for the proposed use.”
(d) adequate on-site parking is provided;	The municipal Land Use By-law’s specify the minimum number of parking spaces for a use. However, in the draft development agreement staff have stated that a maximum of four (4) parking spaces are permitted for the automotive repair shop to ensure the automotive repair shop remains compatible with the residential use on the property and the residential uses in the surrounding area.
(e) the development will not adversely affect the adjacent residential area with respect to:	

<p>(i) traffic generation and traffic safety;</p>	<p>The automotive repair shop is proposed to be operated from a 20 ft. x 20 ft. garage with one bay door which means that only one vehicle can be worked on at a time. The draft development agreement allows parking for up to four (4) vehicles which means there may be a total of five (5) extra vehicles on the lot at one time. As noted in 5.7.6 (c) the Nova Scotia Department of Public Works has stated that “the Department does not have any concerns about the impact of the proposed use on traffic generation and traffic safety”.</p>
<p>(ii) hours of operation;</p>	<p>The hours of operation are regulated in Section 2.8 of the draft development agreement as 7 a.m. – 7 p.m. Monday to Saturday.</p>
<p>(iii) noise;</p>	<p>Please see 5.7.6 (b) for further details.</p>
<p>(iv) size and design of building(s); and</p>	<p>The existing garage is 20 ft. x 20 ft. in size with one bay door. The applicant has stated they would like to perform vehicle service-related repairs such as tire changes, oil changes, break changes and fluids/coolant changes. This building would be adequate in size and design for this proposed use.</p>
<p>(v) pedestrian circulation and safety;</p>	<p>Highway 1 and Old Halifax Road West do not have sidewalks. However, based on the proposed uses it is unlikely that anyone will walk to or from the subject lot in relation to the automotive repair shop.</p>
<p>(f) adequate buffering or screening, setbacks and yards are provided, and open storage areas are adequately fenced or screened and limited to the rear yard where there is potential for conflict with adjacent uses;</p>	<p>The Development Officer noted that “the existing garage exceeds minimum setback requirements for both personal storage building and a commercial use.” Should the property owner decide that they wish to construct a new garage for the automotive repair shop in the future, the new building would have to meet the setback</p>

	<p>requirements outlined in Section 2.2 of the draft development.</p> <p>Clause 2.5, Storage, of the draft development agreement prohibits open storage in the front or side yard and limits open storage to a 100 sq. ft. (9.29 sq. m.) area of the lot that is to be screened from adjacent residential properties. It also permits accessory buildings for the automotive repair shop in accordance with Section 5.1 of the WLUB.</p> <p>Section 2.6, Signs and Lighting, of the draft development agreement states that exterior lighting for driveways, parking areas, signs or structures shall be shielded and directed downward to ensure there is no light spilling, glare or light cast over neighbouring properties or the street.</p> <p>All of these items should reduce the potential for conflict with adjacent uses.</p>
(g) maintenance of the local industrial use will be satisfactory;	<p>Maintenance of the proposed use is outlined in Section 2.9 of the draft development agreement and will ensure that the Owner is responsible for keeping the property, buildings and driveway in good repair.</p>
(h) any other matter which may be addressed in a development agreement; and	<p>All other matters are addressed elsewhere in this report.</p>
(i) Policy 16.3.1.	<p>Please see Attachment B for further details.</p>

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
(a) whether the proposal is considered premature or inappropriate in terms of:	
(i) the adequacy of sewer and water services;	The Municipal Project Engineer stated that the lot is capable of being serviced by municipal water and sewer. They have stated that “disposal of special waste products and special collection would be required if the property/development does not meet requirements for standard curbside collection (including exceeding curbside quantities and special material disposal requirements, i.e., waste oil, oily rags, filters, cleaners, solvents, etc.)” The applicant has been informed and intends to dispose of these products through the provincial recycling programs. Clause 2.7 of the draft development agreement addresses these concerns and ensures the property owner is responsible for the safe storage and disposal of these products.
(ii) the adequacy of school facilities;	No impact on school facilities is anticipated.
(iii) the adequacy of fire protection and other emergency services;	The Manager of Building and Fire Inspection Services and the local Fire Chief have stated that they have no concerns at this time.
(iv) the adequacy of road networks adjacent to, or leading to the development; and	As noted in 5.7.6 (c), the Nova Scotia Department of Public Works has stated that “the Department does not have any concerns about the impact of the proposed use on traffic generation and traffic safety” and that “safe and efficient roadway access can be provided for the proposed use.”

<p>(v) the financial capacity of the Municipality to absorb any costs relating to the development.</p>	<p>There are no anticipated costs to the Municipality regarding this development.</p>
<p>(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;</p>	<p>As noted in 16.3.1 (a) (i), the property is capable of being serviced by municipal water and sewer.</p>
<p>(c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</p>	<p>As stated in 5.7.6 (c), the Nova Scotia Department of Public Works has stated that “the Department does not have any concerns about the impact of the proposed use on traffic generation and traffic safety” and that “safe and efficient roadway access can be provided for the proposed use.” There is no active rail line in the area. Highway 1 and Old Halifax Road West do not have sidewalks. However, based on the proposed uses it is unlikely that anyone will walk to or from the subject lot in relation to the automotive repair shop.</p>
<p>(d) the adequacy of the dimensions and shape of the lot for the intended use;</p>	<p>The property is approximately 30,537 sq. ft. (2,836.98 sq. m.) and is rectangular in shape. There is an existing 20 ft. x. 20 ft. garage on the lot for the proposed automotive repair shop and space for parking. This lot would be adequate in dimension and shape for this proposed use.</p>
<p>(e) the pattern of development which the proposal might create;</p>	<p>The automotive repair shop is proposed within an existing building on a property where the applicant and his family reside. Although the surrounding area is designated Residential and zoned Two Unit Residential (R-2) it is not anticipated that this proposed automotive repair shop will interfere with this pattern of development.</p>
<p>(f) the suitability of the area in terms of steepness of grade, soil and geological</p>	<p>The lot slopes upward from Highway 101 towards Old Halifax Road West. The lot</p>

<p>conditions, location of water courses or wetlands, and susceptibility of flooding;</p>	<p>flattens off behind the house where the garage and parking area are proposed for the automotive repair shop.</p> <p>There is a watercourse on the south side of Highway 1. Section 5.50 requires that no structure be located closer than 50 ft. (15.24 m.) from a watercourse. The buildings on the lot at 4701 Hwy 1 are located over 100 ft. from the watercourse. Clause 2.7 of the draft development agreement ensures that the property owner is responsible for the safe storage and disposal of any waste products from the automotive repair shop, therefore there should be no contamination of the watercourse in relation to this proposed development.</p> <p>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.</p> <p>The property owner is responsible for ensuring that the lot is suitable for the proposed uses.</p>
<p>(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</p>	<p>All Municipal, Provincial and Federal regulations will have to be met.</p>
<p>(h) any other matter required by relevant policies of this Strategy.</p>	<p>There are no other relevant policies of this Strategy.</p>

Attachment C



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2022.

BETWEEN:

WEST HANTS REGIONAL MUNICIPALITY, a body corporate pursuant to the *Municipal Government Act*, having its chief place of business at 76 Morison Drive, Wentworth Creek, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the “Municipality”)

OF THE FIRST PART

- and -

Phillip and Roberta Marryatt, of 4701 Highway 1, Three Mile Plains, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the “Owners”)

OF THE SECOND PART

WHEREAS the Owners are the registered owners of a parcel of land located at 4701 Highway 1 (PID 45005733) hereinafter referred to as the “Property”, which lands are more particularly described in Schedule A attached hereto; and

WHEREAS the Property is designated Residential on the Generalized Future Land Use Map of the West Hants Municipal Planning Strategy (June 26, 2008) (the “Municipal Planning Strategy”) and

zoned Two-Unit Residential (R-2) on the Zoning Map of the West Hants Land Use By-law (June 26, 2008) (the “Land Use By-law”) and is in Three Mile Plains Growth Centre; and

WHEREAS the Owners have requested that the Municipality enter into a development agreement to permit an Automotive Repair Shop on the Property (the “Development”) and Section 6.1 (j) of the Land Use By-law enables Council to consider a development agreement for auto repair and auto body shops in conjunction with a single unit dwelling as it is a listed permitted use in the Local Industrial (LI) zone; and

WHEREAS the Council of the Municipality, at a meeting held on **Month Day, 2022**, approved this request;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Definitions

In this Agreement, all words or phrases used shall carry their customary meaning unless otherwise set out in the Land Use By-law, except those defined as follows:

- (a) “Automotive Repair Shop” means a commercial establishment for the general repair, rebuilding, and reconditioning of vehicles and light trucks (up to one ton).

1.2 Schedules

The following attached schedules shall form part of this agreement:

Schedule A - Legal Description

Schedule B - Site Layout

1.3 Municipal Planning Strategy, Land Use By-law and Subdivision By-law

- (a) *Municipal Planning Strategy* means the West Hants Municipal Planning Strategy, effective on June 26, 2008, as amended, or successor By-laws;
- (b) *Land Use By-law* means the West Hants Land Use By-law, effective on June 26, 2008, as amended, or successor By-laws;
- (c) *Subdivision By-law* means the West Hants Subdivision By-law, effective on June 26, 2008, as amended, or successor By-laws.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

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

- (a) those uses permitted by the underlying zoning in the Land Use By-law;
- (b) an Automotive Repair Shop; and
- (c) uses and structures accessory to the uses specified in clause 2.1 (a) and (b), including, but not limited to, storage sheds.

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

2.2 Development Location and Design

The Automotive Repair Shop shall be located entirely within a 20 ft. by 20 ft. accessory building located at 4701 Highway 1 identified as “Shop” on the Site Layout, Schedule B. If the existing building is ever to be replaced the new building for the Automotive Repair Shop shall meet the following requirements:

Minimum front yard	25 ft (7.62 m)
Minimum rear yard	25 ft (7.62 m)
Minimum side yard	15 ft (4.57 m)
Maximum height of main building	35 ft (10.67 m)

2.3 Access and Egress

The main access/egress to the lot shall be directly from Highway 1. Any other access/egress shall be secondary and only used for emergency purposes. The vehicular entrance and exit shall be clearly demarcated and maintained to a level adequate to allow for access by emergency service vehicles.

2.4 Parking

A maximum of four (4) parking spaces may be used as part of the Automotive Repair Shop. The parking shall be located approximately as shown on Schedule B.

2.5 Storage

No open storage or display areas shall be permitted in the front yard along Highway 1 or the side yards. Open storage shall be limited to a 10 ft. (3.05 m.) x 10 ft. (3.05 m.) space and shall be screened from adjacent residential properties by a continuous row of trees, a hedge, a fence, or a combination of the foregoing arranged to form a dense or opaque screen. Accessory buildings for the Automotive Repair Shop shall be permitted in accordance with Section 5.1 of the Land Use By-law.

2.6 Signs and Lighting

Signage and illumination shall be regulated under Sections 5.18 and 7.0 of the Land Use By-law, *Illumination* and *Signs*, which controls lighting, size, location, and number of signs. Exterior lighting for driveways, parking areas, signs or structures shall be shielded and directed downward to ensure there is no light spilling, glare or light cast over neighbouring properties or the street.

2.7 Water and Sewer Services

The Property is capable of being serviced by municipal water and sewer. Oil and petroleum products must be stored and disposed of entirely at the Owners' responsibility and expense in a manner that ensures these products do not enter the Three Mile Plains Sewer System.

2.8 Hours of Operation

The hours of operation for the Automotive Repair Shop shall be limited to between 7:00 a.m. and 7:00 p.m. daily, Monday to Saturday, inclusive.

2.9 Maintenance

- (a) The Owners shall keep the Property and buildings and any portion thereof clean and in good repair. Any driveways, fences, lawns, trees, shrubs, walkways and other landscaping elements shall be regularly maintained and kept in a tidy state and free from unkempt materials or matter of any kind.
- (b) The Owners shall maintain the driveway to a level adequate to allow for access by emergency service vehicles.

PART 3 CHANGES and DISCHARGE

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

3.2 Any matters in this agreement which are not specified in Subsection 3.3 below are not substantive matters and may be changed with the written consent of Council without a public hearing provided that Council determines that the changes do not significantly alter the intended effect of these aspects of this agreement.

3.3 The following matters are substantive matters:

- (a) the uses permitted on the Property as listed in Section 2.1 *Use* of this Agreement; and

(b) the location of the shop, parking, and driveway shown on Schedule B of this agreement.

3.4 Notwithstanding the foregoing, discharge of this agreement is not a substantive matter and this agreement may be discharged by Council without a public hearing.

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

(a) as provided for in Section 4.1, *Commencement of Development*, of this Agreement; or

(b) at the discretion of the Municipality, with or without the concurrence of the Owners, 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 Owners, 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 30 days after a Notice of Intent to Discharge has been given.

PART 4 IMPLEMENTATION

4.1 Commencement of Development

(a) The Owners may not commence any construction or use on the Property until the Municipality has issued any development permit, building permit and/or occupancy permit that may be required.

(b) Development as provided in Part 2 of this Agreement shall commence not later than twenty four (24) months from the date this Agreement is signed. If, in the opinion of the Development Officer, this time limit has not been met, this Agreement may be discharged at the option of the Municipality by resolution of Council in accordance with Section 229 of the Municipal Government Act, 30 days after giving Notice of Intent to Discharge to the Owners. Upon the written request of the Owners, the Municipality, by resolution of Council, may grant an extension to the date of commencement of development without such an extension being deemed to be an amendment to this Agreement.

(c) If the Owners are bona fide delayed from commencing the development for reasons which are beyond the Owners' control, the determination of which shall be at the sole discretion of the Development Officer, then performance by the

Owners is excused for the period of the delay and the time period for the Owners to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

4.2 Material to be Provided

- (a) The Owners shall provide record drawings to the Development Officer for any portion of the development for which an engineered design is required, within ten days of completion of any work which requires the engineered design.
- (b) The Owners shall, upon written request, provide the Municipality with copies of any documentation, permits or approvals required by Provincial or Federal governments or agencies.

PART 5 ADMINISTRATION and COMPLIANCE

5.1 Compliance with Other Bylaws and Regulations

- (a) Nothing in this Agreement shall exempt the Owners 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 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.

5.3 Interpretation

- (a) Where the context requires, the singular shall include the plural and the neutral gender shall include the masculine and feminine.
- (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.

5.4 Municipal Responsibility

- (a) The Municipality does not make any representations to the Owners about the suitability of the Property for the development proposed by this agreement. The Owners assume all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the Development.
- (b) 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 Owners in writing. In the event that the Owners have 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 Development Agreement, or take such remedial action as is considered necessary to correct a breach of the Agreement, including the removal or destruction of anything that contravenes the terms of the Agreement and including decommissioning the site. It is agreed that all reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the Development Agreement.

5.6 Costs

The Owners shall pay all costs associated with registering this Agreement and all costs associated with any amendment thereof.

5.7 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*.

5.8 Assignment of Agreement

The Owners 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.

5.9 Written Notice

- (a) The Municipality may serve notice on the Owners personally or by ordinary mail which shall be deemed to have been received within three (3) business days of mailing, addressed to Phillip and Roberta Marryatt, 4701 Highway 1, Three Mile Plains, NS, B0N 2T0 or at any other address provided by the Owners.
- (b) The Owner may serve notice on the Municipality by registered mail addressed to the Chief Administrative Officer, West Hants Regional Municipality, 76 Morison Drive, P.O. Box 3000, Windsor, NS, B0N 2T0, or at any successor address provided by the Municipality to the Owner.

5.10 Full Agreement

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

IN WITNESS WHEREOF this Agreement was properly executed by the respective parties hereto on the day and year first above written.

SIGNED, SEALED AND DELIVERED

In the presence of:

) **WEST HANTS REGIONAL**

) **MUNICIPALITY**

)

)

)

Per: _____

Witness

) Abraham Zebian, Mayor

)

)

) Per: _____

Witness

) Deanna Snair, Municipal Clerk

)

)

Per: _____

Witness

) Phillip Marryatt

)

)

Per: _____

Witness

) Roberta Marryatt

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2022, 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 **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in presence.

A Commissioner of the Supreme Court of Nova Scotia

ON THIS day of , A.D. 2022, 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 **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2022, 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, **Phillip Marryatt**, one of the parties thereto, signed, sealed and delivered the same in presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2022, 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, **Roberta Marryatt**, one of the parties thereto, signed, sealed and delivered the same in presence.

A Commissioner of the Supreme Court of Nova Scotia

AFFIDAVIT OF CLERK

WEST HANTS REGIONAL MUNICIPALITY

I, Deanna Snair of _____, Hants County, Nova Scotia make oath and swear that:

1. I am the Clerk of the West Hants Regional Municipality (the “Municipality”) and I have personal knowledge of the matters to which I have sworn in this Affidavit.
2. The Municipality is a body corporate pursuant to the *Municipal Government Act*, S.N.S. 1988, c.18, as amended.
3. I acknowledge that the Municipality executed the attached Instrument by its proper designates duly authorized in that regard under seal on the date of this Affidavit pursuant to subsection 13(3) of the *Municipal Government Act*, S.N.S. 1988, c.18, as amended. This acknowledgement is made pursuant to subsection 31(a) of the Registry Act, R.S.N.S. 1989, c.392 and/or clause 79(1)(a) of the Land Registry Act, S.N.S. 2001, c.6, as amended, for the purpose of registering or recording the Instrument.
4. The Municipality is resident in Canada for the purposes of the Income Tax Act (Canada).

I certify that on this _____, 2022
the Municipal Clerk, Deanna Snair came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

Deanna Snair, Clerk

CANADA
PROVINCE OF NOVA SCOTIA
HANTS COUNTY

AFFIDAVIT & PROOF OF EXECUTION (INDIVIDUAL)

We, Phillip and Roberta Marryatt, the “Deponents”, make oath and swear that:

1. We acknowledge that we executed the foregoing instrument on the date of this affidavit; this acknowledgement is made for the purpose of registering such instrument pursuant to s.31(a) of the *Registry Act*, R.S.N.S. 1989, c.392 or s.79(1)(a) of the *Land Registration Act* as the case may be.
2. We are nineteen years of age or older and are residents of Canada under the *Income Tax Act* (Canada).
3. For the purpose of this affidavit “spouse” means an individual who is married to another individual; is married to another individual by a marriage that is voidable and has not been voided by a declaration of nullity; has gone through a form of marriage with an individual, in good faith, that is void and they are cohabiting or have cohabited within the preceding year; or is a party to a registered domestic-partner declaration made in accordance with Section 53 of the *Vital Statistics Act* as amended, but does not include an individual who becomes a former domestic partner pursuant to section 55(1) of the Act.
4. We are the spouses of each other. Neither of us has any other spouse nor, with respect to the within property, any former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or any former spouse with rights under the *Matrimonial Property Act*. We consent to this disposition.

I certify that on this _____, 2022
the Deponents came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA

Phillip Marryatt

Roberta Marryatt

Schedule A
Legal Description – PID 45005733

ALL that certain lot of land situate at Three Mile Plains in the County of Hants and Province of Nova Scotia more particularly bounded and described as follows:

BEGINNING at a stake on the northerly side of the Windsor-Halifax Highway;

THENCE north sixteen degrees east two hundred and forty five feet to the Old Windsor-Halifax Road;

THENCE easterly along the old Windsor-Halifax Road a distance of two hundred and thirty six feet;

THENCE south seventeen degrees west two hundred fifty three feet to the Windsor-Halifax highway;

THENCE westerly along the Windsor-Halifax highway two hundred thirty two feet to a stake being the place of beginning.

SAVING and EXCEPTING Lot P-1 as shown on registered Plan No. 89234489 at the Land Registration Office for Hants County.

The parcel originates with an approved plan of subdivision that has been filed under the Registry Act or registered under the Land Registration Act at the Land Registration Office for the registration district of Hants as plan or document number 89234489.

The MGA compliance statement has been applied by SNSMR during the processing of Land Registration Plan 89234489.

Schedule B
Site Layout



Attachment D
Public Information Meeting Notes
September 8 – 23, 2022
File 22-10

4701 Highway 1, Three Mile Plains; PID 45005733

Meeting date and time	A Public Information Meeting was held on September 8, 2022 beginning at 7 p.m. The meeting was live broadcast on the Municipal Facebook page.
Attending	<p>In attendance:</p> <p>One (1) Councillor:</p> <ul style="list-style-type: none"> • Councillor Ivey (Chair) <p>Four (4) members of staff:</p> <ul style="list-style-type: none"> • Planner Poirier • Planner Dunphy • Director LeMay • Meeting Secretary Lake
<p>Applicant Phil and Roberta Marryatt</p> <p>Property 4701 Highway 1, Three Mile Plains PID 45005733</p>	<p>Planner Poirier outlined the development agreement application to permit an automotive repair shop at 4701 Highway 1 (PID 45005733) in Three Mile Plains.</p> <p>The applicant did not make a formal presentation.</p>
Comments	<p>Comments from the public could be submitted to Planner Poirier by mail, e-mail and telephone between September 8 – 23, 2022.</p> <p>No members of the public spoke at the Public Information Meeting. No comments or questions were received via mail, email or phone.</p>
Adjournment	The meeting was adjourned at 7:09 p.m.