



Municipality of the District of West Hants

STAFF REPORT

TO: Planning Advisory Committee

FROM: Jeanne Bourque, Planner

DATE: July 17, 2014

SUBJECT: Application to rezone a property in Brooklyn from Two Unit Residential (R-2) to Highway Commercial (HC) (PID 45354222)

ORIGIN

An application has been received from Barry and Jackie Parker to rezone a property in Brooklyn from Two Unit Residential (R-2) to Highway Commercial (HC), (PID 45354222).

BACKGROUND

The subject property is owned by Colin Robert Gillis, who has provided permission to Barry and Jackie Parker to apply for the rezoning of this property. The Parkers propose to build a car wash and a garden centre on the property, and these uses are permitted in the Highway Commercial zone.

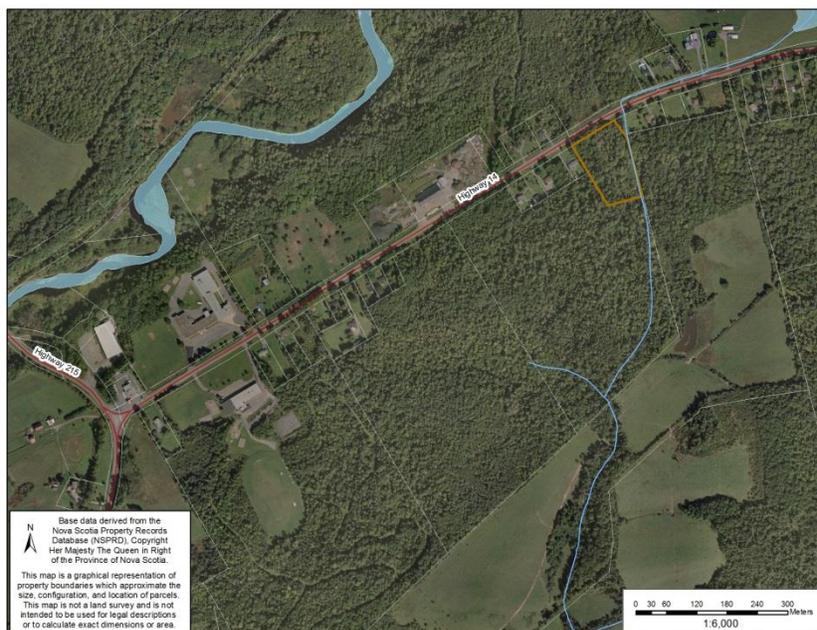


Figure 1
Aerial view.
Subject property outlined in red in
upper right hand corner.

PROPERTY LOCATION AND SURROUNDING LAND USES

The subject property (see **Exhibit 1**), has about 320 feet of frontage (98 meters) on Highway 14, located between civic #'s 8164 and 8198. It is 3.28 acres (1.32 hectares) in size and is currently vacant and forested. The property is zoned Two Unit Residential (R-2), and is within the Village designation (see **Exhibit 2**). The subject property is gently sloped with wet areas, and has a watercourse running along its eastern boundary. Lands abutting the property to the east and west are zoned R-2 and currently contain residential dwellings. The large vacant property across the highway, which is also owned by Mr. Gillis, is zoned R-2. Lands abutting the southern portion of the property are zoned Agricultural Priority Two (AR-2), and are outside of the Village designation.

The maintenance depot for Nova Scotia Transportation and Infrastructure Renewal is located approximately 500 feet (1/10 k) to the west on Highway 14 and is zoned Resource Industrial (M-1). The two Brooklyn schools, zoned Institutional (I), are located about 2,300 feet (¾ k) further down the road to the west. There is also a Petro Canada service station, a convenience store, and a NSLC store at the corner of Highway 14 and Highway 215, about 3,200 feet or one kilometer from the subject property, and this property is zoned Highway Commercial (HC).

MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW CONSIDERATIONS

In reviewing an application for rezoning, Council must consider the policies and regulations of the *West Hants Municipal Planning Strategy* (MPS) and *West Hants Land Use By-law* (LUB).

HIGHWAY COMMERCIAL

MPS section 7.2 Commercial and Industrial Development states that while smaller commercial development may be considered in most areas of West Hants, the intent is to “...*encourag(e) larger, more urban commercial uses to concentrate in the Village or Growth Centres*”. This is reiterated in Policy 5.5.10.

Policy 5.5.10 *It shall be the policy of Council to establish a Highway Commercial (HC) zone which permits a range of retail and service uses intended to serve the needs of the travelling public and cater to the automobile, as well as uses requiring a large amount of commercial floor space or outdoor storage and display areas.*

BROOKLYN VILLAGE

The MPS preamble to the Village designation states:

The community of Brooklyn, 11 km east of Windsor, is centrally located at the junction of Highways 215 and 14 and is considered a service centre for the surrounding countryside. Some of the services provided in the community include a post office, volunteer fire department, West Hants Middle School (Grades 7-9), Brooklyn District Elementary School (Grades P-6) and Newport and District Rink, which is one of only two rinks in the Windsor-West Hants area. The community also includes several churches and a variety of businesses such as service stations, auto body shops, convenience stores, dental and insurance offices, a hardware and building supply store, a credit union and a feed mill.

Residents of Brooklyn value its quiet, rural atmosphere. There is interest in improving community facilities and the overall quality of life in the community. **Controlled residential and commercial development is seen as a benefit to the area.**

Policy 6.4.2 of the MPS stipulates those issues which must be addressed when considering new Highway Commercial uses in the Village designation. As with any rezoning, the property would then be subject to the LUB requirements of the Highway Commercial zone, attached as **Exhibit 3**.

6.4 Commercial Uses Outside the Village Core

Outside the Village Core where lots are generally larger, Highway Commercial and General Commercial development will be considered through either a rezoning process for small businesses or a development agreement for larger businesses.

The Village is made up of three Generalized Future Land Use Map (GFLUM) designations, Village Core (VC), where development will be more strictly controlled, Community Use (CU) which is applied to the two schools, and Village (V) is applied to the remainder of lands within the Village boundary. The West Hants GFLUM designations are intended to be a “broad brush” of intent to guide long term planning. The subject property is located within the Village designation.

Policy 6.4.2 *It shall be the policy of Council to consider rezoning land outside the Village Core to allow new General Commercial (GC) or Highway Commercial (HC) uses with a commercial floor area not greater than 5,000 square feet (464.50 square meters) subject to the following:*

(a) *the development has frontage on an arterial street;*

Section 14.6 of the West Hants LUB restricts the size of Highway Commercial uses permitted in the Village designation without a development agreement to 5,000 ft². The subject property has approximately 320 feet of frontage on Highway 14, which is a provincially owned and maintained road, and classified as an Arterial Road in the West Hants MPS.



(b) *safe and efficient roadway access is provided;*

Nova Scotia Transportation and Infrastructure Renewal (NSTIR) has done a preliminary inspection of the subject property and provided staff with a letter stating that “commercial access stopping sight distance (SSD) requirements are obtainable for this property.”

Figure 2
Front of subject property on the left looking west down Highway 14.

(c) *adequate on-site parking is provided;*

Parking requirements for Highway Commercial uses are stipulated in the LUB (see **Exhibit 3**), and any use proposed for the property would have to meet those requirements. Most commercial uses require 1 parking space for every 300 ft² of commercial floor area. With a maximum building size of 5,000 ft², 17 spaces would be required. The property is adequate to accommodate the required amount of parking spaces.

- (d) *the development is compatible with adjacent land uses with respect to:*
(i) *traffic generation and traffic safety;*

The amount of traffic that will be generated from any permitted highway commercial use will be greater than the existing traffic from an undeveloped property, and also greater than that generated by rural residential use. However, when considering the compatibility of traffic generation, staff look at how the proposed rezoning meets the objectives of the MPS GFLUM designations. In the case of the subject property it is designated as Village. As stated in the MPS, “*Controlled residential and commercial development is seen as a benefit to the area.*” It is the intent of the MPS to direct increased commercial development to the Brooklyn Village area, so planning staff feel that the increased traffic that will be generated by a highway commercial use is in keeping with this objective.

As the property is on a provincial highway, NSTIR will determine the exact location of suitable commercial driveway access, and they are responsible to determine if the location meets the safety standards for provincial highways.

- (ii) *hours of operation;*

It must be noted that land use by-laws cannot include provisions related to hours of operation, so West Hants does not regulate the hours a business may operate except in the case of a development agreement.

- (iii) *noise;*

The proposed commercial uses are not considered to be a source of noise that would be incompatible with a residential use.

- (iv) *size and design of building(s);*

Any building proposed for the site would have to meet all requirements of the Land Use By-law (see **Exhibit 3**).

- (v) *pedestrian circulation and safety;*

As with most commercial uses, on-site pedestrian use will be limited. The property is considered adequate to provide for safe pedestrian circulation.

- (e) *the rural character of the area will not be adversely affected;*

A wide variety of commercial uses are typically found interspersed throughout rural areas of West Hants. In the Village designation the Land Use By-law restricts the maximum commercial floor area to 5,000 ft², so this size of development should not adversely affect the rural character of the area.

- (f) *adequate buffering or screening, setbacks and yards are provided;*

All of the Land Use By-law (LUB) requirements of the Highway Commercial zone (see **Exhibit 3**) would have to be met by any proposed development on the property. The minimum lot size required for the HC zone is 29,000 ft² (2,694 m²), and the subject property is 3.28 acres, so it is large enough to accommodate all of the required screening, setbacks and yards for the proposed zone, as set out in section 14.0 of the Land Use By-law.

Planting strips are required when a HC zone abuts residential use, as defined in the LUB:

Planting Strip means an area of landscaped open space located immediately adjacent to a lot line or portion thereof and on which is situated one or more of the following:

- (a) a continuous row of trees;
- (b) a continuous hedge of evergreens or shrubs;
- (c) a berm;
- (d) a wall; or
- (e) an opaque fence;

arranged in such a way as to form a dense or opaque screen.

Planning staff consider that the required screening between commercial and residential uses will be sufficient to minimize land use conflicts.

- (g) any other matter which may be addressed in a Land Use By-law; and

Council must keep in mind that once a parcel of land is rezoned, any of the uses listed in the Highway Commercial zone may locate on the property in the future, provided they meet all other applicable provisions of the Land Use By-law.

Highway Commercial signage is regulated by section 7.0 of the Land Use By-law. This stipulates how many signs, the maximum size they may be, and of what type:

- Combined area of all signs shall not exceed 3 ft² for every 1 ft of lot frontage.
- Facial wall signs may not exceed 15% of the wall to which it is attached.
- Limit of 1 roof sign per business premise.
- Limit of one ground sign for every 50 feet of road frontage with a maximum height of 35 ft (10.67m), and area of 50 ft² (4.64 m²).

All other matters have been addressed elsewhere in this report.

- (h) Policy 16.3.1.

GENERAL POLICY FOR ALL LAND USE BY-LAW AMENDMENTS AND DEVELOPMENT AGREEMENTS

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:*

- (a) *whether the proposal is considered premature or inappropriate in terms of:*
 - (i) *the adequacy of sewer and water services;*
 - (ii) *the adequacy of school facilities;*
 - (iii) *the adequacy of fire protection;*
 - (iv) *the adequacy of road networks adjacent to, or leading to the development; and*
 - (v) *the financial capacity of the Municipality to absorb any costs relating to the development.*

The Director of Public Works, Rick Sherrard, states that there are no issues that he is aware of concerning this property and municipal services. There will be no impact on school facilities. The Brooklyn Fire Department is able to provide adequate fire protection services for the proposed use. All of the roads leading to the development are owned and maintained by NS Transportation and Infrastructure Renewal (NSTIR). There are no anticipated costs to the Municipality related to this rezoning application.

- (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;*

Prior to the issuance of a building permit, any development must provide documentation that the property is capable of being serviced with a adequate potable water supply and on-site sewage disposal system.

- (c) *the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;*

The proposed development will add to the traffic on Highway 14. However, as this is a provincially owned and maintained road, it is up to NSTIR to ensure that any commercial use can be safely accessed. Rail traffic is not relevant. As with most rural roads, pedestrian traffic must use the shoulders of the roads. While there will be increased vehicular traffic accompanying the establishment of a new commercial use, planning staff feel that there will be minimal impact on pedestrian circulation and safety.

- (d) *the adequacy of the dimensions and shape of the lot for the intended use;*

The property is 3.28 acres and is considered adequate to support the uses permitted in the proposed zoning.

- (e) *the pattern of development which the proposal might create;*

As stated in the MPS section on the Village designation, the community of Brooklyn is considered a service centre for the surrounding countryside. Staff feel that the proposed rezoning fits the development pattern of a service centre.

- (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;*

Staff are not aware of any environmental conditions that would affect the suitability of the property for the proposed use. Nova Scotia Environment regulates all matters relating to watercourses and wetlands, including setbacks and erosion and sedimentation controls that must be in place before construction begins.

- (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;*

Staff are not aware of any other requirements that are applicable at this stage. If the rezoning is approved, then all municipal, provincial and federal regulations in regards to watercourse protection, storm water drainage, and any other matters covered in the *West Hants Land Use By-law* will have to be met. Planning staff are not aware of any requirement that this proposed rezoning cannot meet.

- (h) *any other matter required by relevant policies of this Strategy.*

All other matters have been addressed elsewhere in this report.

RECOMMENDATION

It is recommended:

THAT COUNCIL APPROVE THE APPLICATION OF BARRY & JACKIE PARKER TO REZONE PID 45354222, HIGHWAY 14, BROOKLYN, FROM TWO UNIT DWELLING (R-2) TO HIGHWAY COMMERCIAL (HC).

CONCLUSION

This report has reviewed the application against relevant policies and requirements of the MPS and the LUB, and Planning staff feel that the proposed rezoning reasonably carries out the intent of the MPS and does not conflict with the LUB. Staff therefore recommend that the application be approved.

ALTERNATIVES

1. PAC could accept the staff recommendation and recommend that Council approve the application for rezoning as presented. The application would then move forward to a First Reading by Council, then to a formal Public Hearing prior to a Second Reading and decision.
2. PAC could recommend that Council refuse the application for rezoning.

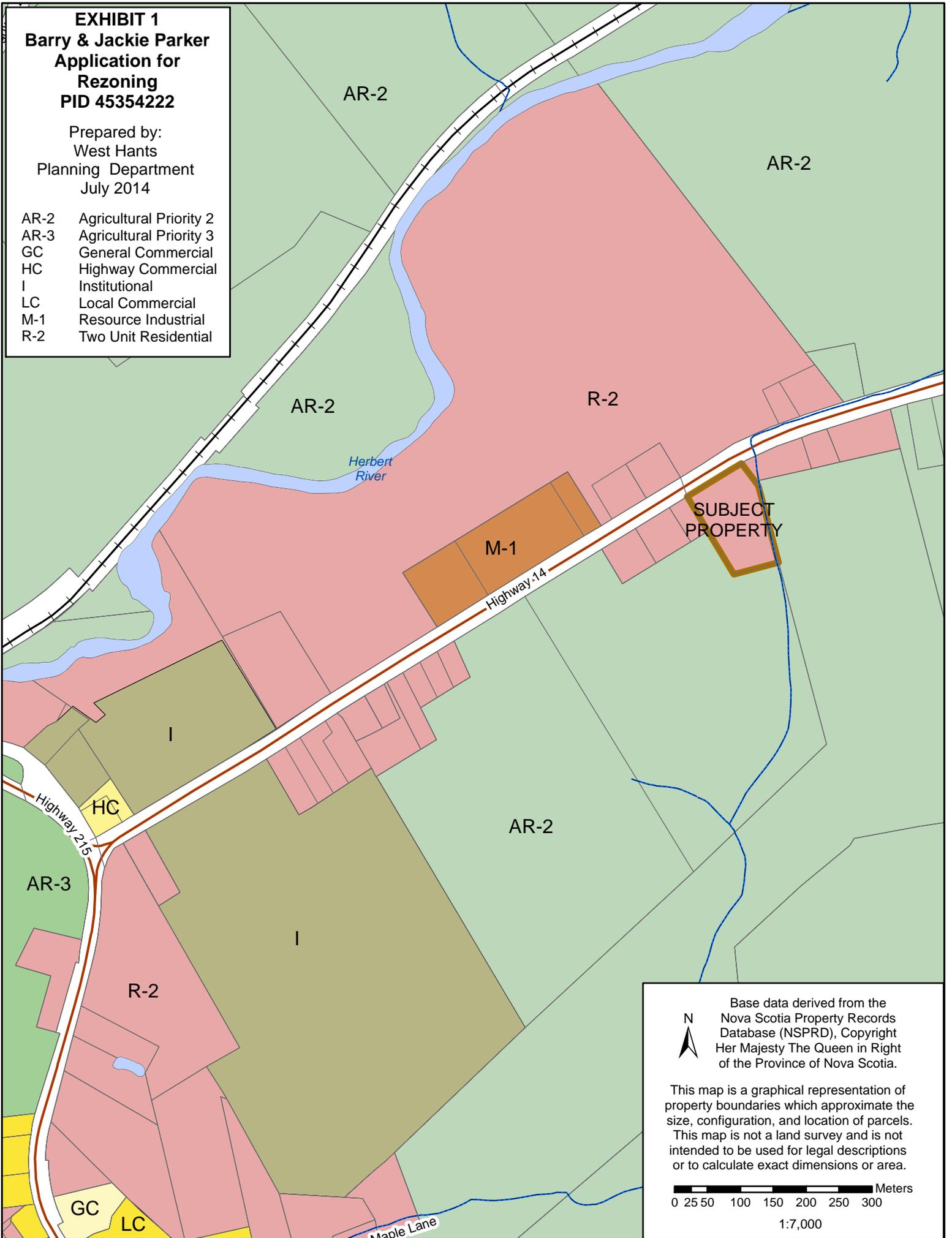
Respectfully submitted,


Jeanne Bourque
Planner

EXHIBIT 1
Barry & Jackie Parker
Application for
Rezoning
PID 45354222

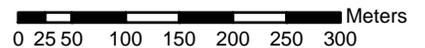
Prepared by:
 West Hants
 Planning Department
 July 2014

- AR-2 Agricultural Priority 2
- AR-3 Agricultural Priority 3
- GC General Commercial
- HC Highway Commercial
- I Institutional
- LC Local Commercial
- M-1 Resource Industrial
- R-2 Two Unit Residential



Base data derived from the
 Nova Scotia Property Records
 Database (NSPRD), Copyright
 Her Majesty The Queen in Right
 of the Province of Nova Scotia.

This map is a graphical representation of
 property boundaries which approximate the
 size, configuration, and location of parcels.
 This map is not a land survey and is not
 intended to be used for legal descriptions
 or to calculate exact dimensions or area.



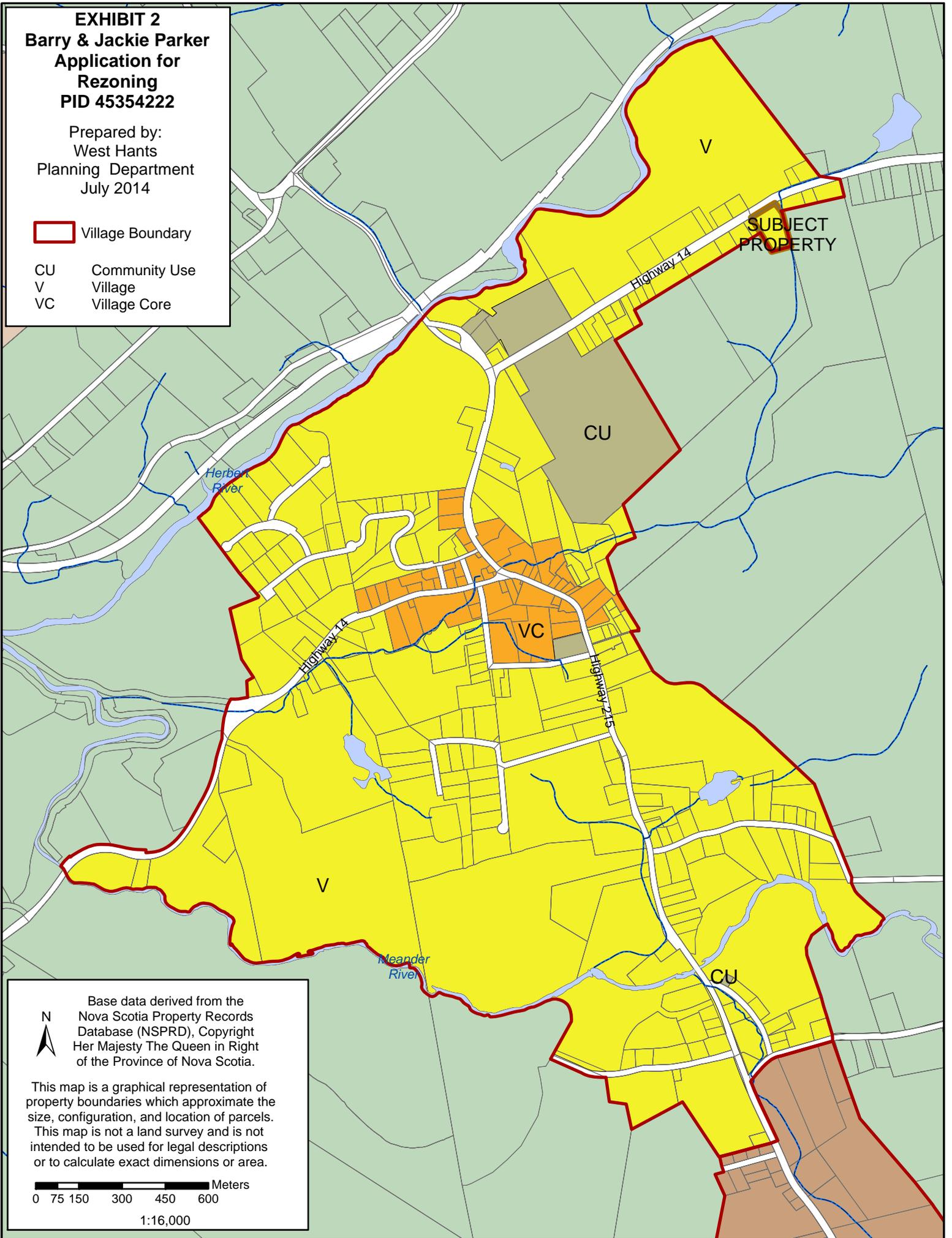
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EXHIBIT 2
Barry & Jackie Parker
Application for
Rezoning
PID 45354222

Prepared by:
West Hants
Planning Department
July 2014

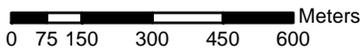
 Village Boundary

CU Community Use
V Village
VC Village Core



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EXHIBIT 3

EXCERPT FROM WEST HANTS LAND USE BY-LAW 2008

14.0 HIGHWAY COMMERCIAL (HC)

Permitted Uses

14.1 The following uses shall be permitted in the Highway Commercial (HC) zone:

- Arts and crafts studios including photography
- Automobile service stations, car washes and repair centres
- Automobile, truck and motorcycle sales, service or rental establishments
- Building supply establishments
- Day care centres, licensed or non-licensed
- Dry cleaning and laundry establishments
- Entertainment, recreation and assembly uses within a wholly enclosed building
- Farm supplies and equipment sales and service
- Farm markets
- Funeral homes
- Garden and nursery sales and supplies
- Heavy equipment sales and service
- Hotels, motels and other tourist accommodations
- Kennels
- Licensed liquor establishments
- Local shopping centres
- Manufactured home sales
- Offices (not on the ground floor)
- Post offices and postal outlets
- Recreational vehicle sales, service and rental establishments
- Recycling depots
- Repair and rental establishments
- Residential uses in the same building as the commercial use, subject to Section 14.5
- Restaurants, including drive-through and take-out establishments
- Retail stores
- Self Storage Operations (*Amendment GC1LUB 11-01 Effective October 7, 2011*)
- Service and personal service shops
- Taxi, train and bus stations
- Veterinary clinics and animal hospitals
- Wholesaling and wholesale sales
- Existing residential uses

HC Zone General Requirements

14.2 In the HC zone, no development permit shall be issued except in conformity with the

following:

	with municipal services	with on-site services
Minimum lot area	20,000 ft ² (1858.00 m ²)	29,000 ft ² (2,694.10 m ²)
Minimum lot frontage	100 ft (30.48 m)	
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)	

Abutting Zone Requirements

14.3 Where a HC zone abuts a lot in a residential zone, the following standards apply:

- (a) the minimum side yard requirement for the commercial use from the abutting lot line shall be 20 ft (6.10 m);
- (b) no open storage or outdoor display shall be permitted in an abutting yard; and
- (c) the part of the commercial lot directly adjoining the residential zone shall be used for no purpose other than a planting strip having a minimum width of 5 ft (1.52 m) measured perpendicular to the lot line.

Access

14.4 Entrance to and exit from properties zoned GC shall be restricted to not more than two driveways on any street or road. On a corner lot, access shall be restricted to not more than three driveways to the lot. Driveways shall meet Nova Scotia Department of Transportation and Public Works' requirements for commercial access.

Residential Uses

14.5 Residential uses as part of the main building as commercial use are permitted provided the total floor area of the residential use does not exceed two-thirds (66 percent) of the total floor area of the building.

Maximum Commercial Floor Area in Village Designation

13.7 The maximum commercial floor area of HC uses in the Village designation shall not exceed 5,000 ft² (464.50 m²). This restriction shall not apply to existing uses zoned Highway Commercial. New HC uses with a commercial floor area greater than 5,000 ft² (464.50 m²) may be considered by development agreement pursuant to Policies 6.3.4 and 6.4.3 of the Municipal Planning Strategy.