

## STAFF REPORT

**TO: WEST HANTS PLANNING ADVISORY COMMITTEE**  
**FROM: PLANNING DEPARTMENT**  
**DATE: OCTOBER 23, 2008**  
**SUBJECT: FALLS LAKE RESORT INC. - DEVELOPMENT AGREEMENT APPLICATION, 132-UNIT CONDOMINIUM DEVELOPMENT, FALLS LAKE, VAUGHAN (PID 45039377)**

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### BACKGROUND

The Planning Department has received an application from Falls Lake Resort Inc. for a Development Agreement to allow 132 grouped dwellings on approximately 132 acres at the southern end of Falls Lake, Vaughan (see **Map 'A'**).

The property is zoned General Resource (GR) under the *West Hants Land Use By-Law* (LUB). Policy 9.1.10 of the *West Hants Municipal Planning Strategy* (MPS) allows Council to consider permitting "grouped dwellings" in the GR zone by Development Agreement. The preamble to this policy sets out the rationale for this type of development:

*The conventional subdivision process often results in a wasteful form of development where an entire parcel of land is segmented into individual lots and streets, leaving little undeveloped land for open space, environmental buffers or wildlife habitat. Cluster-style developments, or grouped dwellings, where buildings are concentrated in specific areas of the site, can reduce servicing costs and mean there is more land available for recreation and open space or for protection of wildlife habitat and sensitive environmental features such as watercourses and wetlands.*

### THE PROPOSAL

The developer proposes a condominium form of land ownership for this development. The condominium corporation will own, and be responsible for maintaining, all common elements including the majority of the land and services such as roads, common driveways, sewage disposal systems and water wells. Individual owners will be responsible for their own dwellings and driveways, along with an exclusive use area around the building.

The proposed concept plan (see **Exhibit '1'**) shows the main road in the development extending from New Ross Road north for a distance of just over one kilometer to the property boundary with Chateau Village. The majority of units are clustered in groups of four, except for about 48 which have been sited to take advantage of water frontage along Falls Lake. Each cluster is serviced by its own sewage disposal field and well. Dwellings are to be set back at least 70 feet from Falls Lake and Murphy Lake, with disposal fields 200 feet or more from the lake shore. Design sketches show a variety of traditional cottage styles, with steep or medium-pitched roofs and exterior wood cladding of board and batten. All are one to three-bedroom units, except for about 12 larger homes with four or five bedrooms. Setbacks from external boundaries are 40 feet.

## **PROPERTY LOCATION AND SURROUNDING LANDS**

At the time of writing this report, the subject property contained about 134.9 acres with a house and outbuildings at 1689 New Ross Road. An approximately 2.4-acre lot is to be subdivided off around the house, leaving 132.5 acres to which the requested Development Agreement will apply.

The property lies between Falls Lake and Murphy Lake, with water frontage on both. A strip of land, roughly 100 ft. wide by 900 ft. long, connects the bulk of the property with New Ross Road. To the west, the property has approximately 3,700 feet of water frontage on Falls Lake, and is adjacent to the Provincial Picnic Park off New Ross Road. To the northeast, the development known as Chateau Village abuts the property. Land uses in this private road development are a mix of seasonal and permanent residences. An unconstructed private road reserve extends from Summit Ridge Road in Chateau Village to the property boundary. Beyond the road reserve, a 29-acre triangular parcel owned by John VanBlarcom abuts the property.<sup>1</sup> To the east, there is about 800 feet of frontage on Murphy Lake. Several residential parcels ranging in size from one-half acre to about 20 acres separate the subject property from New Ross Road to the south.

Like the subject property, all of the surrounding lands are zoned General Resource (GR).

## **MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW CONSIDERATIONS**

With any Development Agreement application, Council must consider the policies and regulations of its MPS and LUB.

The proposal is for a condominium type of land ownership consisting of 132 grouped dwellings on one lot of 132.5 acres, where no subdivision occurs. The development conforms to the LUB definition of “grouped dwellings”.

*Grouped Dwellings means two or more dwelling units which are contained in two or more buildings designed to be part of a group of dwellings clustered on the same lot.*

### **Specific Policy for Grouped Dwellings by Development Agreement (Policy 9.1.10)**

Policy 9.1.10 of the MPS is the specific policy relevant to this application. Its preamble states:

*In conventional land development, the municipality controls key aspects such as density, street design and construction, and provision of public parkland, through subdivision and land use by-law requirements. For grouped dwellings or cluster developments where subdivision does not occur, the municipality must use other means to ensure that these developments are appropriate in scale and design, streets are adequate to accommodate the traffic generated and emergency vehicles, there is adequate open space, and access is not eliminated to lakes and major watercourses. To allow Council control over these aspects of the development, grouped dwellings will only be permitted in the General Resource zone by development agreement.*

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<sup>1</sup> The provincial mapping, upon which Map ‘A’ is based, incorrectly shows the parcel owned by John Van Blarcom (PID 45042637) jutting between the subject property and the road reserve. The developer’s Concept Plan, which was prepared with survey information, shows the correct layout.

**Policy 9.1.10** *It shall be the policy of Council to consider proposals for grouped single and two unit dwellings consisting of six or more units in the General Resource zone by development agreement subject to the following:*

- (a) the proposed development has frontage on:*
  - (i) a public street;*
  - (ii) a private road having direct access to a public street;*
  - (iii) a right-of-way clearly granted by deed or easement, unrestricted in use, and capable of being developed for road purposes.*

The subject property has frontage on New Ross Road, and complies with (a) (i).

- (c) the lot has an area of at least 10 acres;*

The property is 132.5 acres in area.

- (d) the proposed overall density of the development does not exceed one dwelling unit per acre;*

The overall density is one unit per acre.

- (e) the minimum distance between main buildings is 20 feet;*

The proposed concept plan shows the units located more than 20 feet apart. The terms of the Development Agreement will specify that this requirement be met at the construction stage.

- (f) adequate open space or recreational areas are provided, including, where the property is located on a lake or other significant watercourse, ensuring that access is maintained to that lake or watercourse;*

Because the units are clustered and the property will not be subdivided into individual lots, there is considerably more open space available to the residents of the development than is usually the case in a conventional subdivision. The site plan also shows one dock and community beach on Murphy Lake, and four docks, two boat launches, and two community beaches on Falls Lake. Staff feels there is adequate open and recreational space to serve the development. Public access to Falls Lake is also available through the provincial park which abuts the proposed development.

- (g) the amount of traffic generated is compatible with adjacent land uses, and the existing road network is capable of accommodating the traffic generated;*

Like the land uses in the adjacent Chateau Village, the proposed development is anticipated to contain a mix of seasonal and permanent residences and could be expected to generate a similar amount of traffic per unit. The developer has submitted a traffic impact statement prepared by Ken O'Brien, P.Eng., Atlantic Road & Traffic Management (see **Exhibit '2'**) which examines stopping sight distances, and existing and estimated traffic volumes, and concludes that traffic generated by the proposed 132 dwellings is "not expected to cause any significant impacts on the level of performance of New Ross Road or Trunk 14".

Brad MacInnis, Area Manager Hants, of the Nova Scotia Department of Transportation, advised by letter dated August 25, 2008 (see **Exhibit '3'**) that the proposed access to the development at New Ross Road meets the Department's stopping sight distance

requirements, but that a traffic impact study would be required. Mr. MacInnis advised by telephone on October 21, 2008 that the developer's traffic impact statement was acceptable and the proposed intersection was approved, subject to receipt of appropriate design drawings, drainage plan and Environmental permit. Mr. MacInnis advised that the intersection design would have to accommodate an adequate turning radius for school buses.

(h) *building clusters are located so as to conserve existing natural features of the site;*

The developer has proposed the following measures to conserve natural features of the site:

*No living tree larger than 6 inches in diameter will be cut with the exception of areas for roads, parking areas, sewage systems or building sites... Watercourses and wetlands will be kept in their natural state... All efforts will be taken to retain any old growth trees wherever possible. Walkways and roadways will bypass large trees wherever possible.*

Provincial topographic mapping shows no significant watercourses or wetlands on the subject property. Planning staff contacted the provincial departments of Environment (DOE) and Natural Resources (DNR) for site-specific information on significant natural features and wildlife habitat. Local DNR staff was unaware of any important habitat or natural features on the subject property that should be conserved. DNR's Significant Species and Habitats mapping and database indicates only that Falls Lake is designated as "significant Habitat – yellow species" for loons. Yellow species indicates sensitivity to human activities or natural events. Requiring buildings and walking trails to be set back from the lake will help ensure nesting sites are not affected.

DOE advised that there is a pond at the southern part of the site at the point where the proposed development road intersects with New Ross Road. No concerns were expressed by DOE staff about this pond and, in July 2008, DOE issued an approval to construct an access road and pipe culvert(s) across it. The approval required that the construction affect as little of the pond as possible and imposed strict sedimentation and erosion controls. The work was required to be completed by September 30, 2008.

On October 17, 2008, Norma Bennett of DOE advised that the developer will be required to hire a qualified person to carry out an assessment of the remainder of the property to identify any wetlands or watercourses. In the meantime, the developer advised Planning staff that his engineering consultants, KVM Consultants, recently discovered a wetland in the northwestern part of the property near Falls Lake during site investigations. They are in the process of revising the concept plan to avoid locating structures or sewage disposal systems in this area.

KVM has requested that the minimum building setback from watercourses be no greater than 70 feet, noting that there are locations where bedrock outcroppings create steep slopes around 100 feet from the lake shore. By letter dated August 18, 2008 (see **Exhibit '4'**), Kent Morash, P.Eng., said, "although this setback need not be applied for all units, it will provide the flexibility in our site planning and will ultimately allow us to work with the topography, preserving trees and minimizing earthworks and in turn minimizing the environmental impact." Planning staff feels this is a reasonable request. In fact, the LUB requires only a 50 foot setback from watercourses for as-of-right development.

Planning staff feels that the measures proposed by the developer, as well as all requirements of NS Dept. of Environment, will allow for the preservation of natural features of the site. The Development Agreement will include provisions to ensure that these measures are followed at the development stage. In addition, staff recommends including provisions in the Development Agreement requiring pedestrian trails to be located at least 50 feet from a watercourse, limiting the cutting of large trees, and establishing a minimum 50 ft. buffer zone along watercourses where vegetation removal will be strictly limited.

(i) *the predominant rural character of the area is not adversely affected;*

This development will change the property from its current state as an undeveloped forested area. As noted previously, however, the proposed condominium development will allow for considerably more open space and undeveloped land than would be possible in a conventional subdivision. Furthermore, because the application will proceed by Development Agreement rather than as-of-right, Council can exercise much more control over details of the development. Staff does not feel that the rural character and amenity of the area will be adversely affected.

(j) *the lot is either serviced with municipal water and sewer or capable of supporting private central or on-site sewage disposal system, and an adequate potable water supply is available;*

KVM Consultants advised (see **Exhibit '4'**) that soil and site conditions can support on-site sewage disposal systems for the development. Frank MacNeil of the NS Department of Environment stated in a telephone conversation that it is reasonable to expect that this development could receive approval once all necessary information is submitted. Among the requirements that must be met is the creation of a legal entity which will own and be responsible for system maintenance, and a condominium board fulfills that need. DOE requires submission of an acceptable sewage management program which would address maintenance of the systems, regular monitoring to identify malfunctions, and corrective action to be taken in the event of a malfunction. In addition, DOE will require detailed system design information including design flows, clearance distances, location of replacement disposal fields, and similar requirements common to any application.

The Development Agreement will contain terms ensuring all necessary approvals are obtained before development and building permits are issued. The Development Agreement will also require monitoring and maintenance plans for the sewage disposal systems, as well as a requirement for annual inspections.

With respect to the water supply, there have been over 100 wells drilled in the immediate vicinity, with close to 70 of these being in Chateau Village immediately adjacent to the subject property, and all have a potable water supply. The Development Agreement will require testing on a regular basis for the life of the development for both bacteriological and chemical water quality. Also, because the property is located in an area where high uranium concentrations may be found, specific testing will be required for uranium content. If the tests at any time reveal unacceptable levels, the property owner will be required to take all steps necessary to correct the problem.

(k) *adequate emergency protection services, including fire, police and ambulance, can be provided;*

Fire Chief Fred Fox of the Windsor Fire Department commented on the proposal in a letter dated August 13, 2008 (see **Exhibit '5'**). Chief Fox asked that the roads leading to and throughout the proposed development be constructed and maintained to support heavy fire apparatus. He referred in particular to road base construction and surfacing, width, bridge construction (if any) and steepness of roads. Interior roads within the development will be required to be designed and constructed to the private road standards as contained in the West Hants Subdivision By-Law. Where different standards are proposed, the developer's engineer will be required to certify the adequacy of the new standard for emergency access purposes. Planning staff feel the Development Agreement can include sufficient road design, construction and maintenance requirements to address Chief Fox's concerns.

Chief Fox also noted that there are often issues with regards to the width, turning radiuses and tree encroachments in private driveways. This can be addressed by including requirements in the Development Agreement for width and design of the driveways within the development.

Chief Fox has asked that the developer be required to install and maintain dry hydrant(s) to the Fire Department's specifications. As a dry hydrant can be located on the subject property, and NSDOE is now issuing installation approvals for two certified companies, the Development Agreement will address this matter.

Both Chief Fox and Rick Sherrard, West Hants Director of Public Works, (see **Exhibit '6'**) commented on the need for more than one way in and out of the development. Chief Fox noted that the *"safety of all residents and the protection of the properties of both developments (Chateau Village and Falls Lake Resort) would be substantially enhanced by any opportunity to obtain an alternate means of access and egress from either development."*

The logical location for a second access/egress is a road connection through Chateau Village via the unconstructed road reserve which abuts the subject property to the north. This would provide a link to Summit Ridge Road. Unfortunately, Chateau Village Property Owners Association has indicated that they will not grant access over their right-of-way. As an alternative, since the developer owns a lot (PID 45215837) in Chateau Village on the west side of the road reserve, he proposes to construct an emergency access over his land to Summit Ridge Road. The access road would be gated so that it could only be used in an emergency. Planning staff and the Director of Public Works believe this is a reasonable option that will work to the benefit of residents of both Chateau Village and the proposed Falls Lake Resort in the event of an emergency.

(l) *the application is accompanied by:*

- (i) *a site plan drawn to scale showing the proposed number, location and type of buildings, lot coverage, parking areas, vehicular and pedestrian circulation systems within the development, access to the site and open space and recreational areas;*
- (ii) *other supporting maps showing the topography of the lot including contours at five meter intervals, and significant natural features such as watercourses, wetlands and unique habitat or vegetation; and*
- (iii) *photo examples, plans or drawings showing the exterior design of the proposed buildings;*

The developer's submission in support of the application addresses all of the items set out in (l).

- (m) *any other matter which may be addressed in a development agreement;*

The Development Agreement includes a requirement that exterior illumination shall be shielded and installed with the light deflected downward and away from the lakes. The agreement also requires that the exterior design of buildings be consistent with the design sketches submitted with this application.

- (n) *Policy 16.3.1.*

The general policy for all land use by-law amendments or Development Agreements is discussed below.

**General Policy for all Development Agreements (Policy 16.3.1)**

*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;*

The area is not serviced by municipal water and sewer; however, the developer's engineer and the provincial Department of Environment have indicated that the development can be serviced by communal on-site sewage disposal systems and private wells.

- (ii) *the adequacy of school facilities;*

The proposed development, like the adjacent Chateau Village, will contain a mix of seasonal and permanent homes. Given the makeup of the neighbouring development, it is reasonable to assume that less than 50 percent of the dwellings will be used as permanent residences. Of these, staff estimates that not more than one out of seven units would have school-age children; thus the impact on the surrounding school system is not significant.

- (iii) *the adequacy of fire protection;*

This is addressed earlier in this report under Policy 9.1.10, section (k).

- (iv) *the adequacy of road networks adjacent to, or leading to the development;*

As outlined elsewhere in this report, New Ross Road and Highway 14 are considered adequate to carry the increased traffic generated by the development. Interior roads will be required to meet the Municipality's private road design and construction standards, or where different standards are proposed, the developer's engineer will certify their adequacy.

- (iv) *the financial capacity of the Municipality to absorb any costs relating to the development.*

No new costs to the Municipality are anticipated. As with any private road development, the Municipality does not provide services such as garbage collection, school busing, or road maintenance.

Staff does not feel that the proposed development is premature or inappropriate in terms of any of the matters outlined in clause (a).

*(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;*

This is addressed earlier in this report under Policy 9.1.10, section (j).

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

Automobile traffic has been addressed earlier in this report. The proposal will have an internal pedestrian circulation system. Rail traffic is not relevant.

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

The subject property contains 132.5 acres and its dimensions and shape are considered adequate for the proposed use.

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

Existing development in the area consists of a mix of cottage developments and year round homes. Staff does not feel that the development will substantially change the pattern of development in the area.

*(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;*

The property is considered suitable in terms of environmental conditions; however, as it is located in an area where high uranium concentrations have been found, the Development Agreement will require that purchasers of dwelling units be advised that periodic testing should be done to prevent the possible accumulation of radon gas in structures.

With respect to susceptibility of flooding, Nova Scotia Power has conducted a 1:100 year storm flood study for the Avon River Hydro system, including Falls Lake and Murphy Lake, and the potential flood inundation level is elevation 338.1 feet. Because Falls Lake forms the headpond for Nova Scotia Power's Avon No. 2 Generating Station, water levels in the lake are controlled. Nova Scotia Power has flowage rights along the lakeshore to an elevation of 341.13 ft. Planning staff recommends the Development Agreement require buildings to be located above this elevation.

Measures to address watercourses and wetlands have been discussed earlier in this report.

*(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 is not aware of any provincial, federal or municipal policies or regulations this proposal will not meet; however, as with any development, all necessary approvals from external agencies and municipal departments must be met. Furthermore, if the development is to proceed as a condominium development, requirements of the *Condominium Act* must be met as well.

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

All other matters have been addressed elsewhere in this report.

## **RECOMMENDATION**

This report has reviewed the application by Falls Lake Resort Inc. against all relevant policies and requirements of the *West Hants Municipal Planning Strategy* and *Land Use By-Law*. Staff believes the proposal is generally consistent with the MPS and the LUB and therefore recommends:

**THAT Council approve the application of Falls Lake Resort Inc. to enter into a Development Agreement to allow a 132 unit condominium development at Falls Lake, Vaughan, (PID 45039377).**

A draft Development Agreement accompanies this report. It should be noted that several changes will need to be made to the concept plan submitted with this application before the Agreement is finalized. Additional revisions to the Agreement may be necessary once comments have been received from the Municipal Solicitor.

Respectfully submitted,

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Jeanne Bourque  
Planner

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Lynn Davis  
Director of Planning