



MUNICIPALITY *of the*
COUNTY *of* KINGS

PUBLIC HEARING

July 4, 2023

6:00 P.M.

Council Chambers

AGENDA

1. Call Meeting to Order
2. Application to enter into a development agreement for a comprehensive neighbourhood development consisting of a mix of residential uses and a neighbourhood commercial use at 1207 Belcher Street and associated properties (PIDs 55030092, 55523153, 55037915, 55534978), Port Williams (File #22-07 – Laura Mosher)
3. Adjournment

THE MUNICIPALITY OF THE COUNTY OF KINGS

REPORT TO MUNICIPAL COUNCIL

Subject: Public Hearing – Development Agreement in Port Williams

Application to enter into a development agreement on the property at 1207 Belcher Street and associated properties (PIDs 55030092, 55523153, 55037915, 55534978) to permit a comprehensive neighbourhood development consisting of a mix of residential uses and a neighbourhood commercial use.

File # 22-07 (Michael Napier)

From: Planning and Development Division

Date: July 4, 2023

Background

Michael Napier has applied to enter into a development agreement on the property at 1207 Belcher Street and associated properties (PIDs 55030092, 55523153, 55037915, 55534978). The requested change is to permit a comprehensive neighbourhood development consisting of a mix of residential uses and a neighbourhood commercial use.

The application and staff report were reviewed by the Port Williams Area Advisory Committee (AAC) on May 3rd, 2023 and the Planning Advisory Committee (PAC) on May 9th, 2023. At these meetings, the Committees forwarded a positive recommendation to Council.

On June 6, 2023, Municipal Council gave Initial Consideration to the proposed development agreement and forwarded it on to this Public Hearing. The proposed development agreement is attached as Appendix A.

Public Hearing

At this Public Hearing, members of the public have the opportunity to present opinions on the proposal directly to Municipal Council. Council is scheduled to consider approving the development agreement by giving it Final Consideration at the Municipal Council immediately following this public hearing. If approved, a Notice of Passing will be published in the local paper, at which time a 14 day appeal period becomes effective.

Appendix A

Draft Development Agreement

THIS DEVELOPMENT AGREEMENT BETWEEN:

3019538 NOVA SCOTIA LIMITED with head office in Port Williams, Nova Scotia,

And

Bradford and Constance Hopgood of Port Williams, Nova Scotia,

hereinafter called the "Property Owner",

of the First Part

and

MUNICIPALITY OF THE COUNTY OF KINGS, a body corporate pursuant to the Municipal Government Act, S.N.S., 1998, Chapter 18, as amended, having its chief place of business at Coldbrook, Kings County, Nova Scotia, hereinafter called the "Municipality",

of the Second Part

WHEREAS the Property Owner is the owner of certain lands and premises (hereinafter called the "Property") which lands are more particularly described in Schedule A attached hereto and which are known as Property Identification (PID) Numbers 55030092, 55523153, 55037915, 55534978; and

WHEREAS the Property Owner wishes to use the Property for a Comprehensive Neighbourhood Development and neighbourhood commercial use; and

WHEREAS the Property is situated within an area designated Residential on the Future Land Use Map of the Municipal Planning Strategy, and zoned Comprehensive Neighbourhood Development (R5) and Residential Mixed Density (R3) on the Zoning Map of the Land Use By-law with a portion of the Property being subject to an Environmentally Sensitive Area Overlay; and

WHEREAS policies 3.1.13 and 3.1.14 of the Municipal Planning Strategy and section 4.7.4(a) of the Land Use By-law provide that the proposed use may be developed only if authorized by development agreement; and

WHEREAS the Property Owner has requested that the Municipality of the County of Kings enter into this development agreement pursuant to Section 225 of the Municipal Government Act so that the Property Owner may develop and use the Property in the manner specified; and

WHEREAS the Municipality by resolution of Municipal Council approved this Development Agreement;

Now this Agreement witnesses that in consideration of covenants and agreements contained herein, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Schedules

The following attached schedules shall form part of this Agreement:

Schedule A Property Description

Schedule B Site Plan

1.2 Municipal Planning Strategy and Land Use By-law

- (a) *Municipal Planning Strategy* means By-law 105 of the Municipality, approved on March 5, 2020, as amended, or successor by-laws.
- (b) *Land Use By-law* means By-law 106 of the Municipality, approved on March 5, 2020, as amended, or successor by-laws.
- (c) *Subdivision By-law* means By-law 60 of the Municipality, approved September 5, 1995, as amended, or successor by-laws.

1.3 Definitions

Unless otherwise defined in this Agreement, all words used herein shall have the same meaning as defined in the Land Use By-law unless the context clearly indicates otherwise. Words not defined in the Land Use By-law but defined herein are:

- (a) *Development Officer* means the Development Officer appointed by the Council of the Municipality.
- (b) *Agricultural buffer* means an area of land having a width no less than 100 feet parallel to the zone boundary between the Agricultural (A1) Zone and the Property. No development is permitted within this area unless otherwise specified in this Agreement.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

That the Parties agree that the Property is permitted to be developed with the following:

- (a) A total of 210 residential units contained within any combination of dwellings that may consist of one unit dwellings, two unit dwellings, townhouse dwellings and multi-unit dwellings to a maximum of seventy (70) units per dwelling;
 - i. In addition to the existing one unit dwelling on PID 55030092, a minimum of two different dwelling types listed in (a) above shall be provided;
 - ii. The overall residential density shall be a minimum of ten (10) units per acre;
 - iii. Any number of dwellings may be developed on the same lot;
 - iv. Multi-unit dwellings shall be subject to subsection (c) below. All other dwelling types shall be subject to the requirements of the Residential Multi-unit (R4) Zone;

- (b) A commercial use located within the area identified as '1 storey commercial' on Schedule B – Site Plan. This use shall be subject to the permitted uses and requirements contained within the Mixed Commercial Residential (C3) Zone;
- (c) Multi-unit dwellings shall also be subject to the following:
 - i. Below grade parking structures are permitted to extend beyond the building footprint and into the agricultural buffer, provided they are set back a minimum of 30 feet from any lot line;
 - ii. The maximum height shall be 60 feet or 5 storeys, whichever is greater;
 - iii. A parking rate of 1.5 spaces per residential unit is required and may be provided below or at grade, parking is not required to be located on the same lot as long as the use provided easements are in place;
 - iv. Each residential unit shall include a private balcony, or patio area for residential units at grade, having an area no less than 40 square feet;
 - v. The Property Owner is required to provide 100 square feet of amenity area per residential unit which may include common outdoor spaces, private outdoor spaces and/or indoor common spaces;
 - vi. Indoor common spaces may be combined and located in one or more multi-unit buildings and/ or provided in one or more accessory buildings subject to the requirements of this Agreement;
- (d) Uses and buildings accessory to the uses listed above and subject to the following:
 - i. Accessory buildings and uses shall not be located within the required agricultural buffer located along the western property line of the Property and shall be located a minimum of 10 feet from any other lot line;
 - ii. Notwithstanding (i) above, an on-site trail may be located within the required agricultural buffer; and
 - iii. Accessory building height shall not exceed 20 feet;

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

2.2 Site Plan

- (a) All uses enabled by this Agreement on the Property shall be developed in general accordance with Schedule B - Site Plan;

2.3 Appearance of Property

- (a) The Property Owner shall at all times maintain all structures and services on the Property in good repair and a useable state and maintain the Property in a neat and presentable condition.
- (b) The Property Owner shall provide a walkway having a minimum width of five (5) feet along all traffic aisles leading to parking areas. Walkways shall be constructed out of asphalt, concrete, paving stones or other hardscaping materials that provide a smooth surface. Gravel walkways shall not be permitted along driveways. Walkways are not required along traffic aisles within parking areas.
- (c) Walkways provided as part of the on-site trail system shall not be subject to the requirements of (b) above.
- (d) Areas labelled 'Existing Tree Buffer' are not intended to be removed. These areas are

not intended for development and shall be permitted to grow naturally. Nothing in this Agreement shall prevent the removal of diseased and damaged trees.

- (e) Any portion of the property not covered by buildings or parking areas shall be landscaped with a mixture of grass, flower beds, shrubs, trees or other permeable surfaces.

2.4 Subdivision

Subdivision of the property shall be subject to the following:

- (a) Subdivision may occur in accordance with the requirements of the Residential Medium Density (R4) Zone;
- (b) Notwithstanding the requirements and exemptions under the Subdivision By-law for Open Space, a ten percent contribution consisting of either land, money or a combination thereof shall be submitted at the time of approval of subdivision for the portion(s) of the properties being subdivided;
- (c) The Property Owner shall ensure all necessary easements for the provision of access, public utilities and shared private services are provided at the time of approval of any plan of subdivision; and
- (d) Any subdivision that would result in the creation of any new public road shall require a substantive amendment to this Agreement.

Except as otherwise provided for in this Agreement, the subdivision of the Property shall comply with the requirements of the Subdivision By-law, as may be amended from time-to-time.

2.5 Erosion and Sedimentation Control

During any site preparation, construction activities or demolition activities of a structure or parking area, all exposed soil shall be stabilized immediately and all silt and sediment shall be contained within the site as required by the Municipal Specifications and according to the practices outlined in the Department of Environment *Erosion and Sedimentation Control Handbook for Construction*, or any successor documents, so as to effectively control erosion of the soil.

2.6 Lighting

The Property Owner shall ensure that any lights used for illumination of the Property or signs shall be arranged so as to divert light downwards and away from streets and neighbouring properties.

2.7 Drainage

- (a) A drainage plan incorporating low impact stormwater management initiatives satisfactory to the Municipal Engineer, shall be required at the time of permitting.
- (b) Engineering record drawings shall be submitted to the Municipal Engineer within ten (10) days of completion of any work related to the implementation of a drainage plan.

2.8 Servicing

The Property Owner shall be responsible for providing adequate water services and wastewater disposal services to the standards of the authority having jurisdiction and at the Property Owner's expense.

PART 3 CHANGES AND DISCHARGE

3.1 Any matters in this Agreement which are not specified in Subsection 3.2 below are not substantive matters and may be changed by Council without a public hearing.

3.2 The following matters are substantive matters:

- (a) the uses permitted on the property as listed in Section 2.1 of this Agreement; and
- (b) subdivision that would result in the creation of a new public road;

3.3 Upon conveyance of land by the Property Owner to either:

- (a) the road authority for the purpose of creating or expanding a public street over the Property; or
- (b) the Municipality for the purpose of creating or expanding open space within the Property;

registration of the deed reflecting the conveyance shall be conclusive evidence that that this Agreement shall be discharged as it relates to the public street or open space, as the case may be, as of the date of registration with the Land Registry Office but this Agreement shall remain in full force and effect for all remaining portions of the Property.

3.4 Notwithstanding the foregoing, discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council at the request of the Property Owner without a public hearing provided the following conditions are met:

- (a) any easements necessary to maintain existing vehicular public road access based on the as-developed condition at the time of discharge are registered on any affected parcels;
- (b) easements or agreements are in place to the satisfaction of the Development Officer addressing shared amenities including, but not limited to, parking, use of amenity areas and trails if the requirements of this Agreement are not met on individual properties to which this Agreement applies;

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

- (a) as provided for in Section 3.4 of this Agreement; or
- (b) at the discretion of the Municipality, with or without the concurrence of the Property Owner, 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 Property Owner, 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 thirty (30) days after a Notice of Intent to Discharge has been given. Notwithstanding any other provision of this Agreement, the discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council without a Public Hearing.

PART 4 IMPLEMENTATION

4.1 Commencement of Operation

No construction or use may be commenced on the Property until the Municipality has issued any Development Permits, Building Permits and/or Occupancy Permits that may be required.

4.2 Drawings to be Provided

When an engineered design is required for any portion of a development, record drawings shall be provided to the Development Officer within ten days of completion of the work which requires the engineered design.

4.3 Completion and Expiry Date

1. (a) The Property Owner shall sign this Agreement within 30 days from the date the appeal period lapses or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Nova Scotia Utility and Review Board or the unexecuted Agreement shall be null and void;
 - (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 thirty (30) days after giving Notice of Intent to Discharge to the Property Owner. Upon the written request of the Property Owner, the Development Officer, at their sole discretion, may grant an extension for a period of time that they deem appropriate.

PART 5 COMPLIANCE

5.1 Compliance With Other By-laws and Regulations

- (a) Nothing in this Agreement shall exempt the Property Owner 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 Municipal Responsibility

The Municipality does not make any representations to the Property Owner about the suitability of the Property for the development proposed by this Agreement. The Property owner assumes all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the development.

5.3 Warranties by Property Owner

The Property Owner warrants as follows:

- (a) The Property Owner has good title in fee simple to the Lands or good beneficial title subject to a normal financing encumbrance, or is the sole holder of a Registered Interest in the Lands. No other entity has an interest in the Lands which would require their signature on this Development Agreement to validly bind the Lands or the Property Owner has obtained the approval of every other entity which has an interest in the Lands whose authorization is required for the Property Owner to sign the Development Agreement to validly bind the Lands.
- (b) The Property Owner has taken all steps necessary to, and it has full authority to, enter this Development Agreement.

5.4 Onus For Compliance On Property Owner

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 Property Owner in writing. In the event that the Property Owner has 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 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 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*.

5.7 Assignment of Agreement

The Property Owner 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.

5.8 Costs

The Property Owner is responsible for all costs associated with recording this Agreement in the Registry of Deeds or Land Registration Office, as applicable, and all costs of advertising for and recording of any amendments.

5.9 Full Agreement

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

5.10 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.

5.11 Interpretation

- (a) Where the context requires, the singular shall include the plural, and the use of words in one gender shall include all genders as circumstances warrant;
- (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.
- (c) References to particular sections of statutes and bylaws shall be deemed to be references to any successor legislation and bylaws even if the content has been amended, unless the context otherwise requires.

THIS AGREEMENT shall enure to the benefit of and be binding upon the parties hereto, their respective agents, successors and assigns.

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

SIGNED, SEALED AND ATTESTED to be the proper designing officers of the Municipality of the County of Kings, duly authorized in that behalf, in the presence of:

MUNICIPALITY OF THE COUNTY OF KINGS

Witness

Peter Muttart, Mayor

Date

Witness

Janny Postema, Municipal Clerk

Date

SIGNED, SEALED AND DELIVERED
In the presence of:

Bradford and Constance Hopgood

Witness

Bradford Hopgood

Date

Witness

Constance Hopgood

Date

3019538 Nova Scotia Limited

Constance Hopgood, President

Date

Schedule A – Property Description

(Accessed from Property Online, April 2023)

PID 55030092

All that certain lot and parcel of land situate on the South side of Belcher Street near Port Williams on the County of Kings and bounded and described as follows:

Commencing at a post marking the point of intersection of the Southern boundary of said Belcher Street with the Western boundary of a right of way;

Thence Southerly along the Western boundary of said right of way for a distance of Two Hundred and Twenty Three (223) feet more or less to a post;

Thence Northwesterly for a distance of Three Hundred and Sixty Four (364) feet more or less to a post;

Thence Northwesterly for a distance of One Hundred (100) feet more or less to a post set in the Southern boundary of Blecher Street:

Thence Easterly along the various courses of the said Belcher Street for a distance of Three Hundred and Sixty Four (364) feet more or less to the place of beginning.

Being and intended to be the lands conveyed to Allison McDow by Arthur Jess, Jessie Jess, Allan Jess and Mary Jess by Deed dated the 17th day of April 1954 and recorded at the Registry of Deeds Office, Kentville, in Book 183, Page 643.

*** Municipal Government Act, Part IX Compliance ***

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

PID 55523153

All the property located on the south side of Belcher Street in Port Williams more particularly bounded and described as follows:

Beginning at a point marking the intersection of the south limit of Belcher Street and the northeast corner of lands of Allison McDow;

Thence Easterly along the various courses of the south limit of Belcher Street to the northwest corner of lands of Beverly Fluck;

Thence Southerly along the said Flucks west boundary a distance of 223 feet to a point;

Thence in a Westerly direction to a stake marking the southeast corner of said McDows lands;

Thence Northerly along the east boundary of said McDow lands a distance of 223 feet to the place of beginning;

Being and Intended to be a portion of that land described as lot no 14 in a Deed conveyed to Perry L. Millett and Sons Company Limited by Hazel C Millett dated October 5, 1962 and recorded in the Kings County Registry Office in Book 210 at Page 621;

Also being and intended to be a small strip of land approximately 30 feet in width abutting the east boundary of said McDow land and being all the land owned by Perry Millett and Sons Company Limited between the lands of Beverly Fluck and Allison McDow.

*** Municipal Government Act, Part IX Compliance ***

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

PID 55037915

ALL and singular the land and premises situate at Port Williams, in the County of Kings and bounded as follows:

BEGINNING at a stake on Belcher Street seven and thirty three one hundredths chains westerly from the north west corner of the school house lot (so called);

THENCE south two degrees east to dyke land of W. Rand;

THENCE westerly by dyke land of W. Rand eight and ninety-one hundredths chains to land belonging nor or formerly to the estate of the late James Borden;

THENCE north three and one quarter degrees east by said land seven and thirty one hundredths chains to a cedar post on the south side of Belcher Street and in the line with the west side of a street running north from Belcher Street;

THENCE on the south side of Belcher Street easterly by the courses of said street to the place of beginning.

Being the first described lot in the Deed from Perry L. Millett and Sons Company to 3019538 Nova Scotia Limited recorded June 3, 1998 in Book 1147 Page 781 as Document 3190.

SAVING AND EXCEPTING THEREOUT a portion of those lands conveyed in Book 183 Page 643 (PID 55037915).

SUBJECT TO a Nova Scotia Power Inc. Easement recorded in Book 180 Page 137.

*** Municipal Government Act, Part IX Compliance ***

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

PID 55534978

THAT certain lot of land and premises situate, lying and being at Port Williams and bounded and described as follows:

BEGINNING at a post on the south side of Belcher Street being set in the north east corner of a certain lot of land conveyed by William Chase et al to George A. Chase;

THENCE running easterly by Belcher Street 2.63 chains;

THENCE running southerly by lands of Fred M. Vaughan to dyke lands of Newton Newcombe;

THENCE westerly by dyke lands of Newton Newcombe to lands of George A. Chase;

THENCE northerly by the east line of said lands of George A. Chase to the point of beginning.

CONTAINING 3.12 acres.

Being the 2nd described lot in the Deed from Perry L. Millett and Sons Company to 3019538 Nova Scotia Limited recorded June 3, 1998 in Book 1147 Page 781 as Document 3190.

SAVING AND EXCEPTING THEREOUT a portion of those lands conveyed in Book 183 Page 643 (PID 55037915).

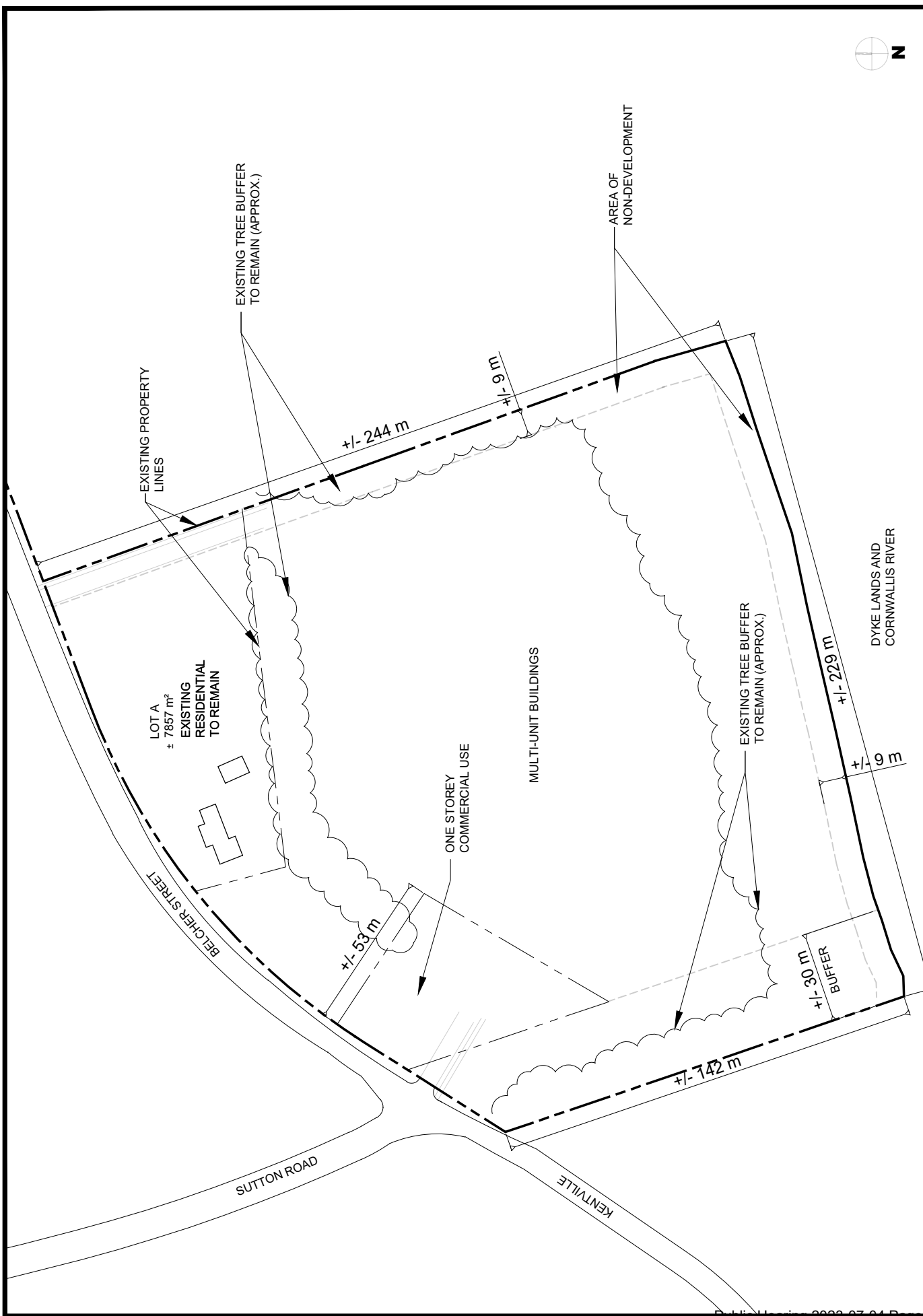
ALSO SAVING AND EXCEPTING THEREOUT those lands described in Book 337 Page 155 (PID 55523153).

SUBJECT TO a Nova Scotia Power Inc. Easement recorded in Book 180 Page 137.

*** Municipal Government Act, Part IX Compliance ***

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.



PORT RIDGE - PROPOSED SUBDIVISION PLAN

1207 BELCHER STREET
PORT WILLIAMS
NOVA SCOTIA