

Council Meeting

August 9, 2022

Time: 6:30pm

AGENDA

1. **Call to Order**
2. **Approval of Previous Minutes**
3. **Approval of the Agenda**
4. **Kent Field Estates Ltd Development Agreement**
5. **Adjournment**

Staff Report – Development Agreement Application for 228 Main Street	
Prepared by:	Chrystal Fuller of Brighter Community Planning
Subject:	Development Agreement Application for 228 Main Street (PID 55539670)
Date:	August 9, 2022
Purpose:	For Council to consider entering into a development agreement to permit the development of approximately 80 units at 228 Main Street
Recommendation:	That Council refer the application to PAC, and for the applicant to provide a traffic study and additional stormwater management information.

Part 1: Background

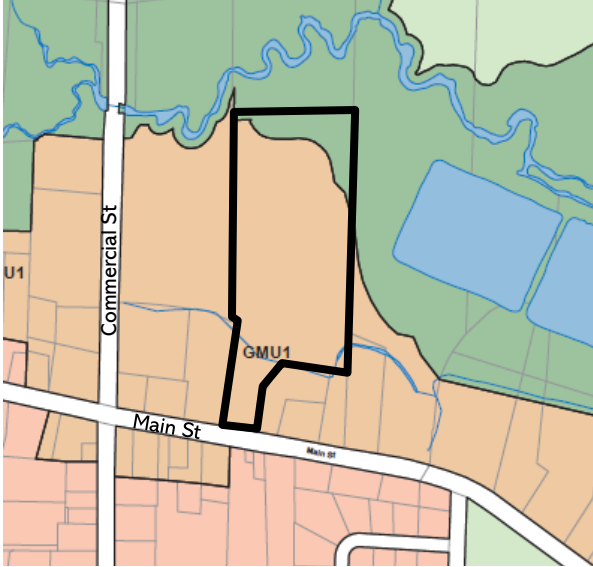
The Town received an application for multi-residential development of the site on April 30, 2021. The application was considered by the Town’s Planning Advisory Committee (PAC) on August 3, 2021 and the PAC approved a motion to recommend that Council approve the development subject to a series of conditions. A copy of the staff report and PAC recommendation is included as Appendix 1.

Following the PAC recommendation, the applicant provided new drawings in April 2022. The subsequent submissions were reviewed by the Traffic Authority, Public Works, the Fire Department, the Town Engineer, and Town Planners. Due to the size of the project, and consistent with a recently adopted procedure, a Public Information Meeting (PIM) was held on June 7, 2022 to gather public input on the proposal. Notes from the PIM are included as Appendix 2.

The Development Agreement has been drafted in response to the applicant’s proposal and is guided by the Town’s land use policies and regulations, community planning principles, and the servicing requirements of the site. The draft Development Agreement (DA) is included as Appendix 3.

1.1: Project Summary

Property Owner(s)	Town of Berwick
Civic Address	228 Main Street
Current Designation	Gateway Mixed Use and Conservation Designation
Current Zoning	Gateway Mixed Use (GMU1) and Conservation (OS2)

Subject Property	
Subject Property Area	4 hectares (9.88 acres)
Existing Land Use	Vacant
Adjacent Land Use	West – Legion, Fire Hall, Dental Clinic South – Low Density Residential Development East – Residential, Sewage Treatment Plant, Conservation North – Cornwallis River

1.2: Location

The Subject Property is located at 228 Main Street and is owned by the Town of Berwick, but is subject to a purchase and sale agreement with Kent Field Estates. This neighbourhood has a diverse mix of land uses including low density residential, institutional, and commercial. The property has frontage along Main Street which provides the only access to the site. The Cornwallis River is located north of the site and lands abutting the Cornwallis River are designated for Conservation. The proposal is to develop only on the lands designated as Gateway Mixed Use. No development is proposed for lands designated as Conservation.

1.3: Proposal

The applicant is seeking a development agreement to permit approximately 80 dwelling units on the site. The proposed site plan (Appendix 4) includes 10 apartment buildings, 122 surface parking spaces, landscaped amenity areas, two accessory storage buildings and pedestrian walkways. The proposed buildings are two-storeys in height and each of the buildings contain eight (8) dwelling units accessed from a common hallway and internal staircase.

The site design proposes three (3) building clusters with each cluster oriented around a common outdoor amenity space. Outdoor amenity areas are connected to the adjacent buildings through walkways. A central gravel walkway provides a pedestrian connection between the buildings and through to Main Street. Private balconies will also be provided for each of the units.

The applicant has asked for flexibility to combine units and create a longer building. The development agreement has been drafted to allow for up to 16 units in a building provided it is located in the rear of the site and meets additional design criteria.

The development will be accessed from Main Street by a two-way drive aisle. An internal one-way driveway loop provides access to surface parking areas. The applicant is currently proposing 122 parking stalls which exceeds the Land Use Bylaw requirement of 1.5 stalls per unit.



Part 3: Policy Analysis

When considering development agreement applications, the policies of the Municipal Planning Strategy (MPS) guide decision making. The majority of the land property is designated Gateway Mixed Use on the Future Land Use Map while the forested area to the north near the Cornwallis River is designated as Conservation.

The initial staff report to PAC included policy analysis comparing the development proposal with the policies of the MPS. The report also recommended that additional information be provided prior to Council's consideration including details related to potable water, municipal servicing, outdoor lighting, landscaping, and sediment and erosion control. With the exception of drinking water approvals, this information has since been provided.

Part 4: Public Input

As noted above, a Public Information Meeting (PIM) was held on June 7th, 2022, to get public feedback on this application. Usually, public information meetings are held before PAC reviews the staff report, but in this case the input of the public was gathered after the PAC made a recommendation to Council.

The purpose of a PIM is to identify public issues of concern so that these concerns, if possible, can be addressed through the approval process or within the DA itself. Due to changes in the way planning applications are processed by the Town since PAC originally considered the Staff report, Planning staff in the Spring of 2022 recommended that a development of this size and scale would warrant input from the public before Council considered First Reading. This would allow a draft DA to address issues of concern, subject to the policies of the *Municipal Government Act* and the Town's MPS. The PIM was held on June 7rd, 2022

Approximately 50 people attended the PIM and several people called or emailed prior to the meeting to discuss the proposal. Overall, it was acknowledged that the proposal would help to address the current housing shortage by providing much needed new rental housing units. However, there were a number of concerns identified, the main one related to flooding and storm water management. The following chart provides a summary of the issue, staff comments and if (or how) the draft DA responds to the issue.

Concern raised by the public	Staff Comments	Addressed within the DA
The development will cause additional flooding. More analysis and study is required to understand how this development will impact neighbours.	The 2021 staff report states that Public Works and the Town Engineer found the stormwater water plans acceptable. No watercourse or wetland assessment has been completed on the property.	The draft DA will require adherence to the stormwater plans submitted.
The smell from the STP needs to be addressed and concern was expressed about the smell from the STP on human health. The STP may need to be expanded in the future and the Town should keep the lands.	The Town continues to address STP issues but not short-term solution for the odour is imminent.	No ability to address the smell from the STP within the DA. Issues relating to the future expansion of the STP and the sale of the lands is outside the scope and consideration of this planning report.

Concern raised by the public	Staff Comments	Addressed within the DA
Traffic Impacts – concerns about road safety and capacity.	Traffic Authority did not request a traffic impact statement. The Traffic Authority may reconsider the need for a TIS.	Off site traffic upgrades are not requested.
Does the school have enough capacity to accommodate these units?	According to the 2018 School Assessment report, Berwick School had a school utilization rate of 63% or 271 students in 2017. In 2022, they had a school population of ~290 students. According to the School Assessment report, the school population was projected to decrease to 221 by 2027. Berwick School feeds into West Kings District High School, which had a school utilization rate of 61% in 2017 (1147 students).	N/A
Ground water impacts. How will this development impact the ground water supply of Berwick generally, and wells of the neighbours.	Last assessment of the groundwater was in 2004, which indicated that Berwick has high quality/quantity groundwater supply. No hydrological study was completed for this development. The Town may decide to update the 2004 study that would encompass all of Berwick.	The DA requires water withdrawal permits, if required under legislation, to be provided before a development permit can be issued.
What is the impact of the proposed development on the RCMP services?	No Impact	This is outside the scope of the DA.

Part 5: DA Summary

The application for the development of 80 multi-residential dwellings at 228 Main Street has been reviewed by staff for consistency with the policies of the Municipal Planning Strategy. While the proposed building design is not consistent with the design criteria of the Gateway lands, these policies are focused on improving the public streetscape through high-quality building design and street improvements. The proposed buildings are setback quite far on the site and will not be very visible from the street so they will have minimal impact on the aesthetic of the streetscape. The Development Agreement does include the requirements for landscaping along the Main Street frontage to soften the street edge and provide an attractive entrance to the proposed development.

The draft development agreement is attached for review and includes the following provisions:

- Permits up to 80 residential units, with a 10 % variance, within 10 units.
- Parking requirements

- Maximum height of 40 feet and 3 stories.
- Two of the buildings may be combined into one. This building can not be adjacent to an existing residential use.
- The submission of a master drainage plan that demonstrate pre-development flows do not exceed post development flows
- The submission of a master landscaping plan that provides adequate buffering from residential development.
- Phasing of the development that requires open space areas be constructed at certain points in the development process.
- Parking spaces at a 1 stall per unit and 1.25 stalls for 3-bedroom units.

Part 6: Recommendation

On August 3, 2021, PAC provided the following recommendation to Council:

“The developer is to be advised of all seven additional requirements. Once plans have been modified to sufficiently address these requirements, the application can go before Council”

The addition requirements were:

Additional Requirements	Status	Staff Comments
Nova Scotia Department of Environment (NSE) approval of the proposed sanitary sewer system.	Not received	Recommend that this be included in DA as a requirement before a Development Permit (DP) is issued.
Confirmation from NSE that the proposed domestic water supply conforms with regulatory requirements for a Public Water Supply.	Not received	Recommend that this be included in DA as a requirement before a DP is issued.
The provision of a Construction Management and Erosion and Sedimentation Control Plans be acceptable to the Town Engineer and prepared by a qualified person;	Not received	Recommend that this be included in DA as a requirement before a DP is issued.
The provision of a separate driveway access consistent with one-way internal circulation pattern or the construction of a median within a single driveway to a depth of 75 feet north of Main Street.	Not achieved	Developer is not prepared to construct as requested and has asked the Town to confirm that this is what it wants. The concern is that it creates a wide pedestrian/car area where accidents may occur.
The provision of an internal walkway enabling pedestrian transit through the development from the north (Phase 4) area to Main Street and connection with the existing Main Street sidewalk;	Completed	

Additional Requirements	Status	Staff Comments
The provision of overhead lighting along the driveway/internal vehicle circulation route;	Not completed	The draft DA will require lighting.
Landscaping at Main Street, which could include signage and be integrated into a median (if provided as an alternative to separated driveway access).	Completed	A detailed landscaping plan will be required before a DP is issued.

6.1: Options

Council has the following options regarding this application.

1. Give First Reading to the Draft DA and forward the application on to a Public Hearing.
2. Defer First Reading and direct staff to make changes to the Draft DA. Any significant amendments will need to be discussed with the Developer before First Reading is considered.
3. Refer the application back to staff with requests for additional information and updated staff report, including a policy analysis that incorporates the new information. With this option, staff would recommend that the new information be reviewed by PAC to assess if the new information, PIM comments, and policy analysis impacts the original recommendation it provided to Council. Additional information could entail:
 - a. Hydrological assessment – An assessment of the impacts of this development on water quantity and quality.
 - b. A Traffic Impact Statement– This usually involves an assessment of the proposed development on street capacity and infrastructure.
 - c. Flood modeling or a flood assessment. – Given the proposed development is in an area that has a history of flooding, the Town could seek additional information on how the proposed development can be flood proofed or mitigate impacts. A watercourse and wetland delineation should also be completed.
 - d. Other information as requested by Council.
4. Reject the Application – With this option, the applicant would have the right to appeal Council's decision to the Utility and Review Board.

6.2: Planning Staff Recommendation

Planning staff recommends referring this application back to PAC and requesting additional information from the developer. The additional information would include:

- Traffic Impact Statement
- Flooding Assessment Study that examines the potential flooding impacts of the proposed development. This assessment should also include a watercourse and wetland delineation by a qualified person(s).
- Other information as requested by Council.

Once this information is received, staff will update the policy analysis and planning report and present it to PAC, who would then make a recommendation to Council.

Draft Motion

That Council direct Staff to seek additional information from the developer, relating to traffic and flood assessment, and prepare a supplemental staff report for PAC's review.

Appendix 1

PAC Staff Report



**Planning
Development
Project Management**

To: Berwick Planning Advisory Committee
From: Chris Millier
Date: August 3, 2021
**Re: Proposed Development Agreement, Kent Fields Estates Ltd., Lands
of the Town of Berwick, 228 Main Street**

Introduction

The Town has received an application from Kent Fields Estates Ltd. to enter into a Development Agreement for the development of ten 8-unit apartment buildings (80 dwelling units) and two accessory storage buildings on lands of the Town of Berwick at 228 Main Street (“Lot 2020-1”, PID 55539670).

The application form is attached for the Committee’s information. The application also includes a site plan, driveway/sanitary sewer engineering design and details prepared by DeWolfe & Morse and typical building floor plans and elevations prepared by Palmer & Doherty, circulated with this report for the Committee’s review.

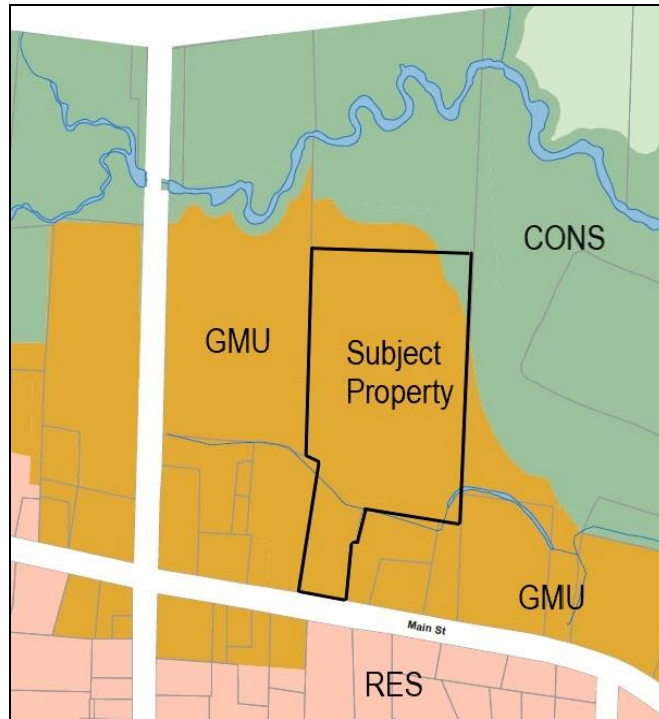
The subject property contains approximately 4 hectares (9.8 acres) and has frontage on Commercial Street frontage of approximately 35.5 meters (116 ft.) The property is shaped in a “flag” configuration with a narrowed access at Main Street which widens to a width of approximately (135 meters (440 ft) to the north of the property.

The lands are located on the north side of Main Street, east of Commercial Street and are vacant. Lands to the east are residential and institutional (Town of Berwick Public Works). Lands to the west are institutional (Royal Canadian Legion/Berwick and District Fire Hall). Lands on the south side of Main Street, east of Commercial Street, are predominately low density residential.

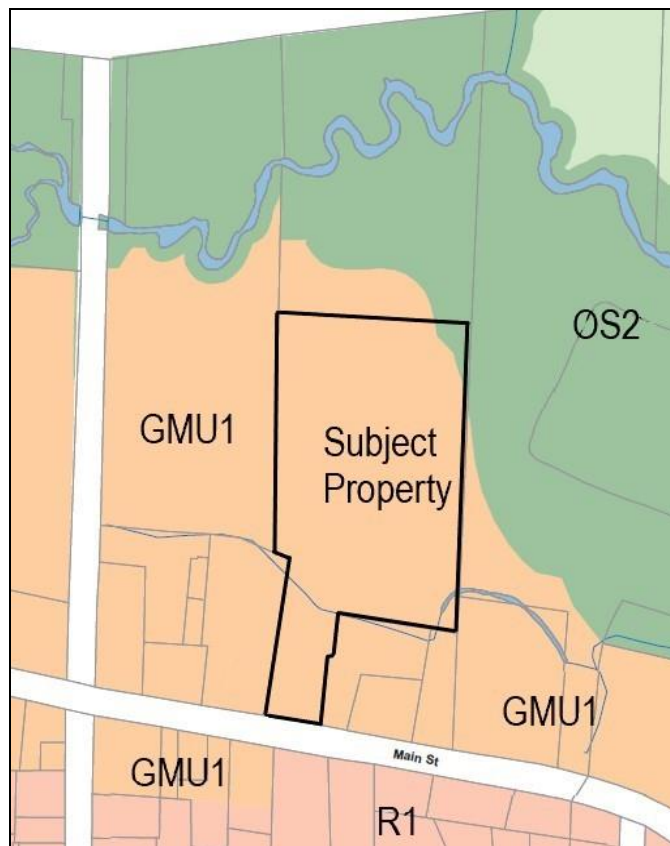
Generalized Future Land Use Designation and Zoning

A majority of the property is designated Gateway Mixed Use on the Municipal Planning Strategy's Generalized Future Land Use Map. A portion of the property at the north is designated Conservation and is within the Cornwallis River flood plan. The property is similarly zoned Gateway Mixed Use (GMU1) and Conservation (OS2) pursuant to the Town's Land Use By-law.

Generalized Future Land Use Map



Zoning Map



Current Municipal Planning Strategy and Land Use By-law Provisions

The Berwick Municipal Planning Strategy and Land Use By-law contain the following provisions which are relevant to the current application.

From the Berwick Municipal Planning Strategy

Part 2.3, Development and Land Use Control Principles and Objectives

Gateway Mixed Use Principles and Objectives

To identify lands which serve as the critical “gateway:” to the community and encourage a range of residential and commercial uses which are designed and constructed to integrate visual appeal, vibrant activity, public amenity and which can serve to reinforce the character of the Town. The Town has adopted a “Northern Gateway Strategy” which establishes design and land use objectives for both public and private development aimed at creating a focal point highlighting cultural, recreational and entrepreneurial opportunities. This Strategy encourages fulfillment of the Gateway concept through encouraging mixed use development and the integration of new public amenity as a major component of redevelopment.

Part 2.6, Northern Gateway Area Policies

In light of the goals and objectives contained in the Strategy and in particular the Gateway development principles and objectives identified in Part 2.3 the following policies are intended to regulate development of the Northern Gateway District.

- GMU 1 It shall be the intention of Council to create a Gateway Mixed Use Designation on the Generalized Future Land Use Map and encourage the development and redevelopment of a broad range of residential, commercial, institutional and public amenity uses within this Designation.
- GMU2 It shall be the intention of Council to Designate as Gateway Mixed Use those lands generally located on Commercial Street north of Main Street, lands generally located at the intersection of Main and Commercial Streets and lands located on the north side of Main Street east of Commercial Street up to and including lands which abut the Town’s Wastewater Treatment Facility.
- GMU3 It shall be the intention of Council to include in the Land Use By-law a Gateway Mixed Use (GMU1) Zone. This zone shall include as permitted uses a wide variety of residential, small scale commercial, institutional and parks and open space uses.

GMU4

It shall be the intention of Council that within the Gateway Mixed Use (GMU1) Zone all development, except single unit residential uses, shall be considered by Development Agreement and in addition to criteria contained in Policy IM7, consideration shall be given to the following:

- (a) The proposed development is generally consistent with the design and development principles identified in the Northern Gateway Strategy (2009);
- (b) That provisions are made, where appropriate and possible, for the integration of access to public open space, recreation and amenity space into the proposed site plan;
- (c) That the proposed structure is generally compatible with existing dwellings on adjacent properties;
- (d) That the design of the proposed structure and site reflects and is consistent with adjacent existing dwellings with respect to:
 - (1) Building Mass;
 - (2) Relationship to and setback from the street line;
 - (3) Roof Line Heights and Orientations;
 - (4) Building Height;
 - (5) Placement and Proportions of window and door openings along the primary façade;
 - (6) Location of on-site parking;
 - (7) Landscaping and landscape treatment.
- (e) That the site plan promote the integration of the structure and use with the streetscape and pedestrian realm by means of locating primary parking areas in the rear of proposed structures and the provision of landscape features between the proposed building and the street line. (As amended January 2014)

Part 3, Implementation and Administration

IM7 In considering amendments to the Land Use By-law and/or the entering into of a Development Agreement, in addition to the criteria set out in various policies of this Strategy, Council shall consider:

- (a) That the proposal is in conformance with the intents of this Strategy and with the requirements of all other Town By-laws and regulations;
- (b) That the proposal is not premature or inappropriate by reason of:
 - (1) the financial capability of the Town to absorb any costs relating to the development;
 - (2) the adequacy of sewer and groundwater to support the proposed density of development;
 - (3) the adequacy and proximity of school, recreation and other community facilities;

- (4) the adequacy of road networks adjacent to, or leading to the development;
- (5) the potential for the contamination of watercourses or the creation of erosion or sedimentation;
- (6) the potential for damage to or destruction of historical buildings and sites;
- (c) That controls are contained in a Land Use By-law or a Development Agreement so as to reduce conflict between the development and any other adjacent or nearby land use by reason of:
 - (1) type of use;
 - (2) emissions including air and water pollutants and noise;
 - (3) height, bulk, and lot coverage of the proposed building;
 - (4) traffic generation, access to and egress from the site, and parking;
 - (5) open storage;
 - (6) signs;
 - (7) similar matters of planning concern;
- (d) The suitability and development costs of the proposed site in terms of steepness of grades, soil and geological conditions, marshes, swamps, or bogs and proximity of highway ramps, railway rights-of-way and other nuisance factors;
- (e) That provision is made for buffering, landscaping, screening and access control to reduce potential incompatibility with adjacent land uses and traffic; and
- (f) That the development is located so as not to obstruct any natural drainage channels or watercourses.

From the Berwick Land Use By-law

Part 8 Gateway Mixed Use (GMU1) Zone

8.1 GMU1 Uses Permitted

No development permit shall be issued in a Gateway Mixed Use (GM1) Zone except for the following uses:

- (a) All Residential Single Unit (R1) Zone uses subject to R1 Zone Requirements
- (b) Uses Subject to Development Agreement

All Residential Two Unit (R2) Zone uses

All Residential Three Unit (R3) Zone uses

Multiple Unit Residential Dwellings containing four (4) or more units

General Commercial and Business Offices, Commercial Retail,
Commercial Service and Personal Service Uses (As amended Jan 2014)
Restaurants
Hotels, Motels, Tourist Establishments and Inns
Institutional Uses
Recreation and Open Space Uses

8.2 General Lot Requirements

In the Gateway Mixed Use (GMU1) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area:	929 square meters (10,000 sq. ft.)
Minimum Lot Frontage:	24.38 meters (80 ft.)
Minimum Front Yard:	6.1 meters (20 ft.)
Minimum Rear Yard:	7.6 meters (25 ft.)
Minimum Side Yard:	4.6 meters (15 ft.)
Maximum Height of Main Building:	10.6 meters (35 ft.)
Maximum Lot Coverage	40% (As amended Jan 2014)

Planning Considerations and Analysis

The following comments and analysis are presented in the context of evaluating the current application in light of relevant provisions of the Strategy and By-law.

Part 2.3, Gateway Mixed Use Designation Objectives

The 2009 Northern Gateway Strategy identified areas, land use and development criteria aimed at promoting a visually appealing and vibrant entrance to the Town. The Strategy focused primarily on Commercial Street frontage however the area does include lands east and west of Commercial Street which abut Commercial Street lots and/or which may also play a role in enhancing the “gateway” concept.

While the subject property is located within the Gateway Mixed Use the active frontage is modest compared to the total lot area and the lot configuration promotes development away from and to the north of Main Street. As proposed the development will be visible from Main Street however it will have a minimal presence at the Main Street frontage and not address the primary design aspirations of the designation.

The proposed development does not contain any type of public amenity, a trail network along the Cornwallis River was a major objective of the 2009 Strategy. Development of infill residential uses in the area will support increased activity in the area and will support commercial, institutional and cultural resources in the Town.

Policies GMU1/GMU2/GMU3, GMU Designation and Zone

The Gateway Mixed Use designation promotes the development of new commercial, institutional and residential uses. The proposed infill residential development is consistent with the intent of the designation. The subject property exceeds the minimum lot frontage and area requirements for the GMU1 Zone.

Policy GMU4, Development Agreement Criteria

In addition to General Criteria for Development Agreements the Municipal Planning Strategy identifies criteria specific to development within the Gateway Mixed Use designation and zone:

Consistency with the 2009 Northern Gateway Strategy

The proposed use (residential) is consistent with intended land use in the Gateway Mixed Use designation. The proposed development is sited away/north from the Main Street frontage and other than a driveway entrance does not provide for any presence at the street line.

Public Amenity

The proposed development does not include any type of public amenity. It is noted that the property does not extend north to the Cornwallis River, precluding the potential for the creation of access, trails or pedestrian walkways as envisioned in the Northern Gateway Strategy.

Compatibility with Adjacent Dwellings

The existing adjacent residential structures are primarily older single family dwellings. The purpose built 8-unit apartment building structures vary in character from the existing adjacent form. The separation distance between existing and proposed dwelling will serve to mitigate difference in character.

Building Mass

The proposed structures are substantially larger than adjacent residential structure and the total number of structures exceeds any development in the immediate vicinity.

Relationship to the Streetline

The proposed site plan does not provide for any relationship between the built form and the streetline other than the driveway entrance.

Building Height

The proposed structures are 2 storey and do not exceed the maximum height for as-of-right development within the GMU1 Zone.

Building Façade

The proposal calls for the development of ten identical units which have a utilitarian design and façade features. None of the proposed structures face or front on Main Street.

On-site Parking

The site plan provides for approximately 125 angled parking spaces, including 10 identified as accessible. The parking spaces are accessed by a one-way circular internal driveway. Provision is made for two intermediate driveway connections which will be constructed as the development is phased.

Landscaping

The site plan identifies areas of lawn and selected tree planting adjacent to the proposed structures.

Integration with Streetscape

The proposed site plan does not provide for the integration of the proposed development with Main Street.

Part 3, Implementation Policy Criteria

Policy IM7(a), General Conformity with Strategy

The Municipal Planning Strategy enables an application for development agreement to permit the construction of multiple unit dwellings within the Gateway Mixed Use designation and zone subject to Policy GMU4 and Policy IM(7).

Policy IM7(b)(1), Financial Impact on Town

The proposed development would not require any direct expenditure by the Town, continued development of the property will contribute positively to the tax base. It is noted that the lands are currently owned by the Town and have been deemed surplus to Town needs and suitable for disposal/sale.

Policy IM7(b)(2), Adequacy of Sewer and Groundwater Resources

Public sewer is present on Main Street adjacent to subject property and Public Works has confirmed that the existing sewage treatment plant has capacity to accommodate the proposed development.

The proposed development will be serviced by a private sewer system which has been designed by an engineer. The proposed engineering design has been reviewed by the Town Engineer. The Town Engineer has noted that the design is at the minimal acceptable slope and may be subject to debris build up, noting however that as a private system this will be the responsibility of the developer. The Town Engineer has recommended that:

- Nova Scotia Department of Environment approval be obtained for the proposed sewer system.

Storm water will be managed by proposed open ditches along the east and west property boundaries which will connect to existing ditches. The design has been reviewed by Public Works and the Town Engineer and found to be acceptable. It is noted that Fire Service comments confirmed the desirability of the construction of a dry hydrant on the property if storm water were to be retained on the lot. Given the proposal to direct storm water to existing drainage facilities this opportunity is not possible.

The Town's 2004 Groundwater Resource Management Study confirmed that Berwick has an extremely high quality/quantity groundwater supply and no documentation exists indicating that problems relating to the provision of water have been experienced in the general vicinity of the subject properties. The provision of potable water for the development will be the responsibility of the owner.

Nova Scotia Department of Environment regulations define that water supply systems as having at least 15 service connections, regularly serve 25 or more persons for at least 60 days of the year. No details have been provided with respect to domestic water supply for the proposed development.

Policy IM7(b)(3), Adequacy and Proximity of Community Facilities

The subject property is located in the northern area of Town in general proximity to a variety of commercial, institutional and recreation facilities. It is not anticipated that the proposed change of use will contribute to increasing demand on existing community facilities.

Policy IM7(b)(4), Adequacy of Road Network

Main Street is designated as a Collector Street pursuant to the Municipal Planning Strategy streets hierarchy. Collector streets are intended to accommodate major traffic flows from local streets, support through traffic as well as accommodate direct lotted frontage and access. The road network adjacent to the lands subject to the application is capable of accommodation traffic volumes generated by the proposed development. The proposal has been reviewed by the Town's Traffic Authority with respect to access/egress, safety and potential traffic congestion and has been found to be acceptable. It is noted

that no traffic generation information has been provided however on-site parking for approximately 125 vehicles is proposed.

Policy IM7(b)(5), Erosion and Sedimentation Control

The proposed on-site open ditch system will connect to an existing ditch system which is connected downstream to the Cornwallis River. While site grading is provided, no details relating to proposed interim and permanent erosion and sedimentation provisions are identified.

Policy IM7(b)(6), Historic Buildings or Sites.

Not applicable.

Policy IM7(c)(1), Land Use By-law Provisions - Use

The proposed residential infill is consistent with the intent of the Gateway Mixed Use designation and zone. The high density use will not be incompatible with adjacent institutional uses and will be sufficiently separated from lower density residential uses fronting on Main Street in the general area.

Policy IM7(c)(2), Obnoxious Emissions

Not applicable.

Policy IM7(c)(3), Height, Bulk and Lot Coverage

The purpose built multiple unit dwelling structures and the massing of ten structures on a single lot is not consistent with the general fabric of the residential development in the immediate area. The setback from the street and the large lot size (4 hectares) will serve to mitigate character of the proposed development. The development does not exceed the 40% maximum lot coverage provided for as-of-right development in the GMU1 Zone.

Policy IM7(c)(4), Traffic and Road Network

In addition to comments provided to Policy IM7(b)(4) above it is noted that the proposed development is serviced by a single access and no provisions are made for secondary or emergency access. With 80 dwelling units and an estimated 160 – 200 residents it would be appropriate for separated driveways consistent with the one-way internal traffic flow. Separate by means of a median or the construction of two (2) driveways is recommended.

Policy IM7(c)(5), Open Storage

Not applicable.

Policy IM7(c)(6), Signage

Not applicable.

Policy IM7(c)(7), Matters of General Planning Concern

The proposal identifies the development will be constructed in four phases. The development agreement should address phasing and ensure that the construction of internal circulation, on-site parking, sewer and domestic water services are appropriate for each phase.

The proposed development has a substantial internal circulation/driveway structure. No provision has been made for overhead driveway lighting or walkways to connect the interior of the site with the existing Main Street sidewalk.

The site plan identifies 2 accessory storage building however no indication is provided for maintenance facilities including garbage storage.

Policy IM7(d), Environmental Suitability of the Site

A portion of the subject property is located with the Conservation designation and zone. Development is not proposed for this area and should be prohibited.

The site grading and sewer/driveway design confirm that the existing grade is low and fill will be required to be imported to the site. Finished grading will be required to conform with the engineered design.

Policy IM7(e), Buffering from Adjacent Uses

The subject property is large and the proposed structures are sufficiently separated from adjacent dwelling to not require further buffering.

Policy IM7(f), Watercourse Contamination

As identified in comments relating to Policy IM7(b)(5) erosion and sedimentation control provisions are required to mitigate against potential watercourse contamination.

Recommendation

As identified in the above analysis the proposed application is enable pursuant to the Gateway Mixed Use policy provision of the Municipal Planning Strategy. The intent of the Gateway Mixed Use policies is to encourage development which through its design, land use and site planning creates “a focal point highlighting cultural, recreational and entrepreneurial opportunities”.

The policies seek to promote development which addresses the importance of the streetscape, building design, landscape and public amenities. While the increase of residential uses will promote the general level of activity in the Gateway Mixed Use area the proposed development addresses few of the important development criteria identified in Policy GMU4 and the site plan contain only the minimal consideration of features which would create the quality of development sought through the Gateway Mixed Use objectives. It is acknowledged however that the configuration of the property and the scale of the proposed development present challenges in addressing the larger objectives of the Gateway Mixed Use policies.

It is therefore recommended that:

That a Development Agreement be entered into with Kent Field Estates Ltd. to allow the development of ten (10) 8-unit apartment buildings containing a total of 80 units and two (2) accessory storage structures on lands of the Town of Berwick at 228 Main Street (PID 55539670) as proposed in the application dated April 30, 2021 conditional upon the following:

- Nova Scotia Department of Environment approval of the proposed sanitary sewer system;
- Confirmation from the Nova Scotia Department of Environment that the proposed domestic water supply conforms with all regulatory requirements for a Public Water Supply;
- The provision of a Construction Management and Erosion and Sedimentation Control Plans acceptable to the Town Engineer prepared by qualified;
- The provision of separated driveway access consistent with one-way internal circulation pattern.

Appendix 2

PIM Notes

**MINUTES OF THE PUBLIC INFORMATION MEETING FOR KENT FIELDS
ESTATES
June 7, 2022**

Chrystal Fuller introduced the proposed Development Agreement. Dale Whynot of **Kent Field Estates** spoke to the development indicating he was part of this 45-year-old company with residential buildings currently in Berwick and looking forward to developing further here.

Ms. Fuller asked for questions regarding the development.

1. Scott Yetman, 225 Main Street
 - Concerned about flood issues, flooded basements of neighboring properties
 - Concerned about the sewer smell for incoming residents renting at the development
 - Sewer pond expansion – where will it expand if there is a development on the lands?
 - Would like the Town to contact Public Health to inquire if the sewer smell would have impact on a person's health
 - What is the basic flood elevation?
2. George Russell, Main Street
 - Concerned about flooding, fire siren noise and stormwater issues
3. Kelly Branton, 231 Main Street
 - Concerns regarding traffic, needs more analysis (could there be a secondary road beside the fire hall?)
 - Lack of foot paths, better connections for active transportation
4. Elizabeth Walker, Main Street
 - Concerns regarding sewer, machinery and gees noise, flooding
 - Insurance may be higher
 - Extraordinary amount of fill will be needed
5. Angela Christie
 - Concerns regarding flooding (flood elevation needs to be reviewed)
 - Sewer smell is terrible
 - Construction garbage will be blowing around
 - Major flood plane
 - Speeding/traffic concerns

6. Gwen Murray
 - Often times she can smell sewer over residential sink drains
7. Jonathan Visca, Main Street
 - Has concerns regarding traffic
 - Feels water table needs a re-assessment
 - Currently has basement flooding with down pours of rain
8. Resident (*unsure of name)
 - Will there be additional RCMP with an increase in population with these developments?
9. Melvin Hart, Autumn Drive
 - Concerned regarding the impact on the community with more population (can the school handle more students?)
 - Traffic concerns
10. Pat Jodrie, Daniel Drive
 - Will many trees be taken down?
11. George Russell, Main Street
 - Concerns about stone foundations at neighboring properties with flooding
 - Feels this is the wrong location for a residential development

The Public Information Meeting for the two developments of 3264285 NS LTD and Kent Field Estates closed at 8:20pm.

***Attendance for Public Information Meeting
Kent Field Estates Development Agreement
June 07, 2022***

Total Number of Attendees: 53

Councillors in Attendance:

Mayor Don Clarke
Deputy Mayor Mike Trinacty
Councillor Ty Walsh
Councillor Rod Reeves
Councillor Adam Lutz
Councillor Chris Goddard

Planning Advisory Committee Attendees:

Council members – Rod Reeves (Chair), Adam Lutz, Ty Walsh
Kelly Braton
Joan Laveck

Erin,

I am a resident of Berwick, 224 Main st.

I have a few concerns about the 80 unit multi dev:

1. The project is on a flood plain. Enclosed is a picture of what it looked like last May behind my house, as the creek flooded. There was actually quite a current flow behind the trees. It happened again early in December and then in January, coming much further up my property.

My neighbour had water in his basement. I did not.

How would this development deal with this?

Would the pressure on wells lower the water table necessitating a deeper well?

Would the water during a flood come right up to my house and others, if diversion occurs?

2. We are near the sewage lagoon and some days there is quite a smell.

Today is one of those days. Would the 80 unit residents like this?

3. The fire station is right next door, and the siren sounds at all hours, waking us up in the night. Would the residents like that?

4. The extra traffic would create slower movement at the corner of main and commercial. In fact a lot more congestion, necessitating a new traffic Light perhaps.

These are just my concerns, shared by my neighbours.

I will be at the meeting.

Shalom,

George and Karen Russell



PROPOSED DEVELOPMENT OF 228 MAIN STREET, BERWICK

Dear Town of Berwick,

Please allow me to introduce myself before addressing the proposed development at 228 Main St, Berwick. I am Jonathan Visca, the owner and resident at 226 Main St, Berwick. I reside here with my wife Emelia and 2 year old son. We moved here in December 2020, having grown up in Ontario and living the previous few years in Saskatchewan. We decided to move to Berwick because I am a military pilot; a job with a high level of stress and thus Berwick being a peaceful, welcoming town was a perfect fit to live and raise our family.

I would like to preface this letter by saying I am excited to see Berwick eager to expand the town's population. As we all know, the more Berwick expands, the more diverse the local population, business, and activities will become. More housing is certainly needed and the future of Berwick is exciting as the town grows more in the coming years. There are many positive aspects about growing as a town and I am sure the council is very much aware of this; thus I will not touch on those benefits but only bring forth a few concerns regarding this particular development of which I feel the town may not be entirely aware.

Regarding the proposed development at 228 Main St, Berwick, I am one of two non-commercial residents in Berwick who own property that sits adjacent to this proposed development site; to be more specific I own approximately 88% of this shared property line on two fronts. This proximity to the proposed development lot and the amount of which is shared not only has provided me with year round knowledge of the land beside and behind me, but also means I am one of two residents directly affected by this development. As such, below are points I wish the town will consider before approving this development, stated in order of perceived impact.

1. Traffic Congestion. This 80-unit multi-residential development poses concerns for traffic primarily at the intersection of Commercial and Main Street. As of June 2022, this is a four-way intersection just off the highway off ramp. This intersection often backs up during the morning and afternoon work rush, frequently reaching the Wheaton/fire hall parking lot entrances. Based on the proposal by Kent Field Estates developments, each single unit contains 8 dwellings, with 10 units proposed. Assuming one vehicle per household and an average of two people per dwelling, that is an extra 80 vehicles going through this intersection, potentially more. This additional traffic may be a concern with the current road layout. Increased traffic may result in a backup beyond the Highway 101 off ramp and can also affect response times if blocking the left turn out of the fire hall.

Perhaps this intersection will require a traffic light; however, that might necessitate turn lanes and further development from the town and widening of the road. An additional solution might be to close road access from 228 Main St and instead access the approx. 10 acre lot from beside the fire hall. To be more specific, the grass field to the north of the fire hall has direct access to the north west corner of this lot and it will bypass the Commercial/Main St intersection.

PROPOSED DEVELOPMENT OF 228 MAIN STREET, BERWICK

2. **Water table.** Main St in Berwick is home to some of the oldest homes in the town. I personally own a house built circa 1896 by Malby Anthony, a young entrepreneur who brought a lot of business to the town in the early 1900's. As such, the vast majority of homes in the vicinity of 228 Main St have stone foundations, highly susceptible to changes in the water table. To provide some facts, the creek that runs south of and feeds into the Cornwallis river, flows through my lot from the west and heads north along the Berwick electric commission. This creek is prone to flooding approximately 2-3 times per year between December and May when residual snowfall and rain cause an increase in snowmelt water. Most drastically, January of 2022 saw a large melt that caused the creek to overflow into the surrounding areas. This flood water not only affected the properties around Main St, but also along Commercial street as the water level rose to approximately ten inches in front of the Fire Hall. As for my residence, I had approximately 28 gallons per minute flooding into my basement through the soil for 48 hours. The next 72 hours saw this flooding slowly diminish until it stopped five days after the flooding began. Personally, I am working to make my house more resilient to these annual flood events, but with the development of 228 Main St, these flood waters are guaranteed to rise without significant measures.

It is unknown to me if the town has been made aware of the land status at 228 Main St during these flood events. I not only inspect my lot when the water level rises, but I also walk north inspecting the water flow towards the Cornwallis and the state of the lot behind me. When the water level rises, it flows approximately one quarter to one third of the way into this lot. Predominantly around a small outcrop of trees near the north east corner. In order to develop this land for residential housing, the overall land grade would have to be raised to prevent the units from flooding. However, this will cause the same volume of water to be displaced into the existing creek. As a result, the flood water table will rise and cause more water to be displaced into the basements along Main St and into the stretch of Commercial St in front of the fire hall; threatening to cut off Berwick from Highway 101 access during the floods. Therefore, development of 228 Main St could directly cause property damage to existing structures unless significant measures are taken.

Finally, the only access to the back field of this lot is via a small farm road over a culvert. In order to access the lot with machinery required for development of this size, the bridge will need to be built, adding more potential to affect the flow of the creek and restricting access to the lot when submerged by flood waters.

3. **Potable Well Water.** All the homes along Main St are dependent on drilled wells for our water needs. These wells are roughly 160 feet deep and have been replaced several times in the history of the homes. However, with the construction of 80 units in a dense area, residents are concerned the available water in this area could be drained frequently as supply might not meet the proposed demand. Before development is approved, consideration or analysis of the well water supply would be extremely beneficial to prevent damages to existing well structures.

4. **Public Disturbances.** The noise surrounding this development is certainly a two-way issue. Firstly, the development of 80 units will take months, if not years to construct resulting in a long period of construction noise to surrounding residents. Secondly, once construction is completed it is unlikely potential residents will be made aware of or be comfortable with the

PROPOSED DEVELOPMENT OF 228 MAIN STREET, BERWICK

siren at the fire hall. I can personally attest to this as we only became aware of the siren after purchasing our house and living in it for about one week. Had we known of the siren, it is likely we would not have moved in. Thus, these units would be closer to the fire hall siren and prone to complaints to either the town or the developer. Thirdly, the volume of residents and primarily vehicles will cause a significant amount of noise as their road access is surrounded by old residential homes. These older homes are prone to a lot of noise infiltration; it is bad but tolerable with the amount of semi-trucks driving down Main St, but this added road noise could increase the ambient decibel level in the neighbourhood and negatively affect the market value of our properties. Finally, directly adjacent to the back lot on 228 Main St are the water treatment ponds. Generally, winds blow to the east resulting in no issue; however, when winds blow from the east this may result in an odour detectible to any residents on that lot. This smell is generally not detected by the homes on Main St since we are just south of the ponds.

5. Damage to Property. As a result of this development and the concerns stated above, unless properly addressed, damage to existing structures and property is entirely possible. As residents of this town, we would like to be assured that all reasonable efforts are taken to ensure our property is not damaged by this proposed development.

In closing, I would like to reiterate that I am entirely supportive of Berwick growing as a town. More residents will allow more business and activities to come to Berwick, of which we will all benefit. However, this proposed development on 228 Main Street does not appear to be a good fit for the location. The field has been an agricultural lot for decades and was well suited towards that need. The vegetation allows excess flood waters to be absorbed, and the vacancy allows this flood water to spillover and replenish the water table for the local wells.

The current developments on Beckwith Drive and Daniel Drive are certainly great to see, with new homes developed in suitable regions of the town. The corner lot on Main St and Maple St will also be a great area for multi-unit development. However, for the primary concerns of the flood waters, water table, and traffic congestion, affecting residents of the town and even the town as a whole, this development does not seem appropriate for this location.

I appreciate your time and I trust the town will take all these points into consideration, taking into account I am likely the resident/residence most affected by this development and with first hand knowledge of the year round status of this vacant lot. I would ask that the town continue to keep myself and local residents informed of this proposals progress.

Kindly,
Jonathan Visca
226 Main St, Berwick

PROPOSED DEVELOPMENT OF 228 MAIN STREET, BERWICK



July 11, 2025

Dear Gen Vayd

I am the resident that lives at 233 main st. Berwick.

I am writing in regards to the letter I received from the town of Berwick informing me of a 180 unit residential building that is within 100 meters of me.

Unfortunately I am not available to attend this meeting / information session as I am working but would like to express my concerns.

Upon purchasing my home. I felt this little spot at the end of town in a quiet neighbourhood would be the perfect place as it is close to my place of employment, stores, banking needs, mail etc. with limited number of children and pets in this area.

Other factors would include decreased property value, power increase and higher level of traffic which possibly increases vandalism and thefts.

Sincerely,

Michelle Brown
233 main st.
Berwick,

Chantal Franey

Staff only received one video.

Subject: FW: Second video for June 7 meeting
Attachments: IMG_2656.MOV

From: Elizabeth Walker **Sent:** June 6, 2022 7:35 PM
To: planning <planning@berwick.ca>
Subject: Second video for June 7 meeting

Here is another short clip taken on Willow St Feb 18, 2022.
The area in question is not suitable for residential development.

Elizabeth Walker
Home owner, 153 Main St.
Sent from my iPad

Chantal Franey

Subject: FW: Proposed Main Street Development
Attachments: Backyard May 2021.jpg; 17 Mayor ave.PNG; 17 Mayor ave 2.PNG

From: Angela Christie **Sent:** July 3, 2022 8:24 PM
To: j.boyd@berwick.ca
Cc: Mayor Clarke <mayor@berwick.ca>; Councillor Lutz <councillor.lutz@berwick.ca>; Councillor Jamieson <councillor.jamieson@berwick.ca>; Councillor Goddard <councillor.goddard@berwick.ca>; Councillor Trinacty <councillor.trinacty@berwick.ca>; Councillor Walsh <councillor.walsh@berwick.ca>; Councillor Reeves <councillor.reeves@berwick.ca>; planning <planning@berwick.ca>
Subject: Proposed Main Street Development

Hi Jen,

I want to thank you for taking the time to return my phone call and speaking to me and my husband (who has a certificate from the University of Victoria in Environmental Occupational Health and Safety as well as a certificate from Dalhousie in Environmental Site Assessment.) regarding this proposed development on Main Street.

As I mentioned, we had this exact situation happen at our Halifax property, 17 Mayor Avenue, where a development that was pushed through at the adjacent Randhawa Court was not properly assessed and we flooded multiple times due to poor drainage planning.

I want to point out several things that have been left out and unanswered when questioned to the planners, that seemed to have been missed before holding a public meeting.

- Environmental site assessment – when is this being done, and by which 3rd party company?
 - o This requires speaking to neighboring homes and taking historical information regarding flooding into account.
 - <https://www.bdc.ca/en/articles-tools/money-finance/buy-lease-commercial-real-estate/what-you-need-know-about-environmental-site-assessments>
 - https://novascotia.ca/nse/contaminatedsites/docs/PRO300_Phase%201%20ESA%20Protocol.pdf
 - On the below link - seems to come up in Wetlands
 - o https://www.researchgate.net/figure/Annapolis-Valley-NS-featuring-approximate-wetland-locations-Map-adapted-from-Timmer-de_fig4_275830827
- Stream behind our property

- Development = garbage, containment (oil and fluids),etc going into the waterway
- Overland water damage to my property and at least 3- 5 others
- No traffic study done for Main Street
 - I Have not been able to get a stop sign for the corner of Main & Maple , even with a high # of vehicles speeding by and now construction vehicles and potentially 80 new vehicles are going to be added to a typical busy morning and evening with people rushing the 4 way stop sign.

• Air Quality Study done **during the specific days when the public works has odor coming out of it?**

- Is this being looked into? When will that be completed.

• New Flood elevation assessment – **what date was the old one completed and when will a new one be completed before any movement forward with discussing this.**

-

• **Study done on water table-** affecting wells in the surrounding homes?

• Stone Foundations on many properties surrounding this proposed development-

The land utilised by the public works building at the back of our property was built up last year with no assessments done and that led to even further flooding damages. If you were to speak to the employees at the public works, I am sure they can attest to the fact our property floods every year now. Adding a development beside our property will no doubt cause greater flooding, worse than we already experienced so far.

I have attached a photo of our property here in Berwick from May 2021. I can offer photos from the flooding in Feb 2022 in a follow up email later this week. As you can see this flooding goes into our property quite far. Far enough in fact that it flooded our basement.

In closing, my husband and I want to reaffirm with you and the development team that we are against this development as are many of the home owners along Main Street. We want and deserve, as the homeowners on Main Street, to be given a proper opportunity to voice our concerns at the upcoming meeting in July.

My husband is a Veteran and we have a daughter, that we moved from Halifax to the quiet town we fell in love with and now this development, if pushed forward, will potentially force us to move as our safety, security and finally our property values will be negatively affected.

Regards ,

Angela & Shannon Christie
218 Main Street.

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17 Mayor Ave,
Halifax, NS B3P 1N1



Layton Rd

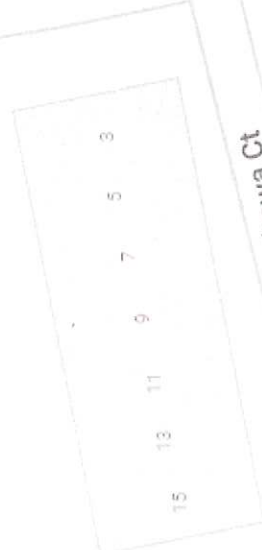
Mayor Ave

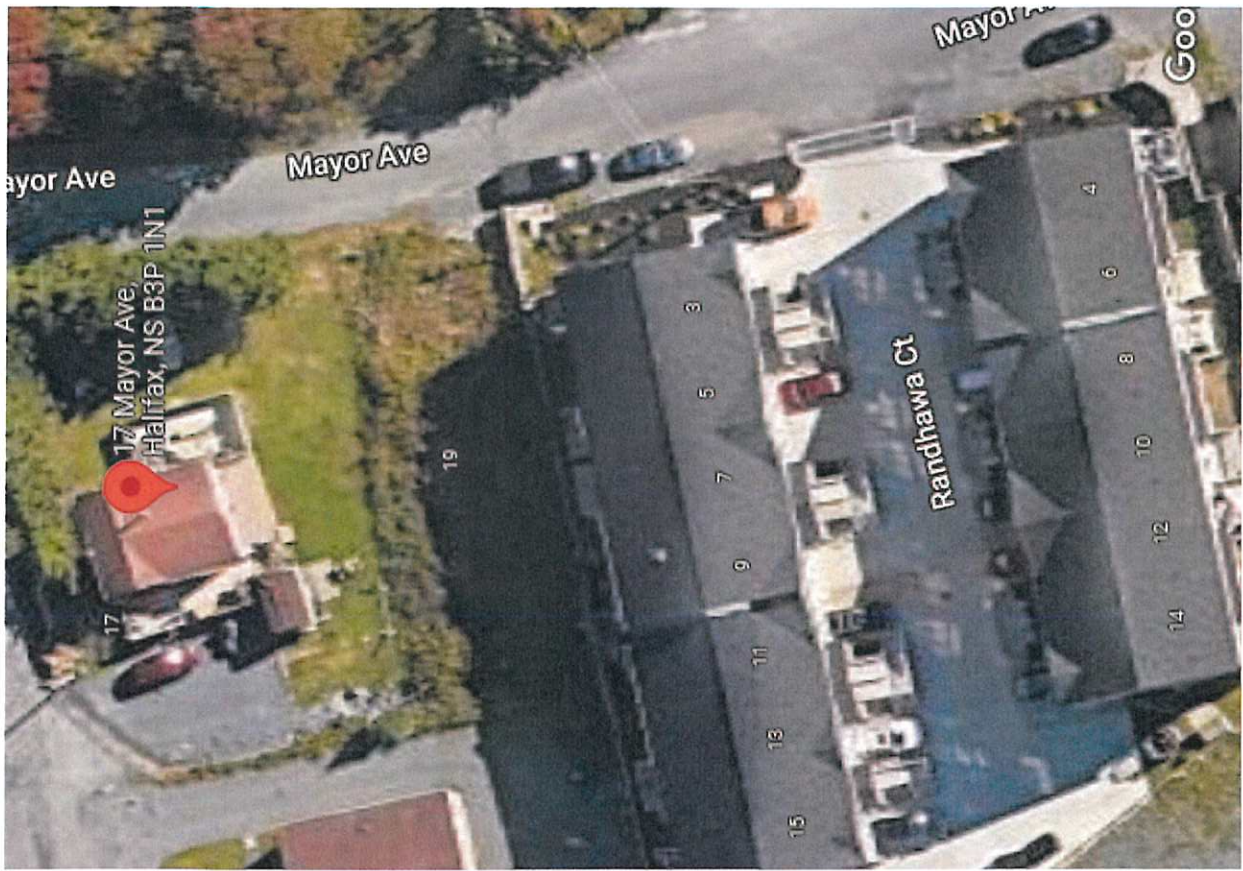
Randhawa Ct

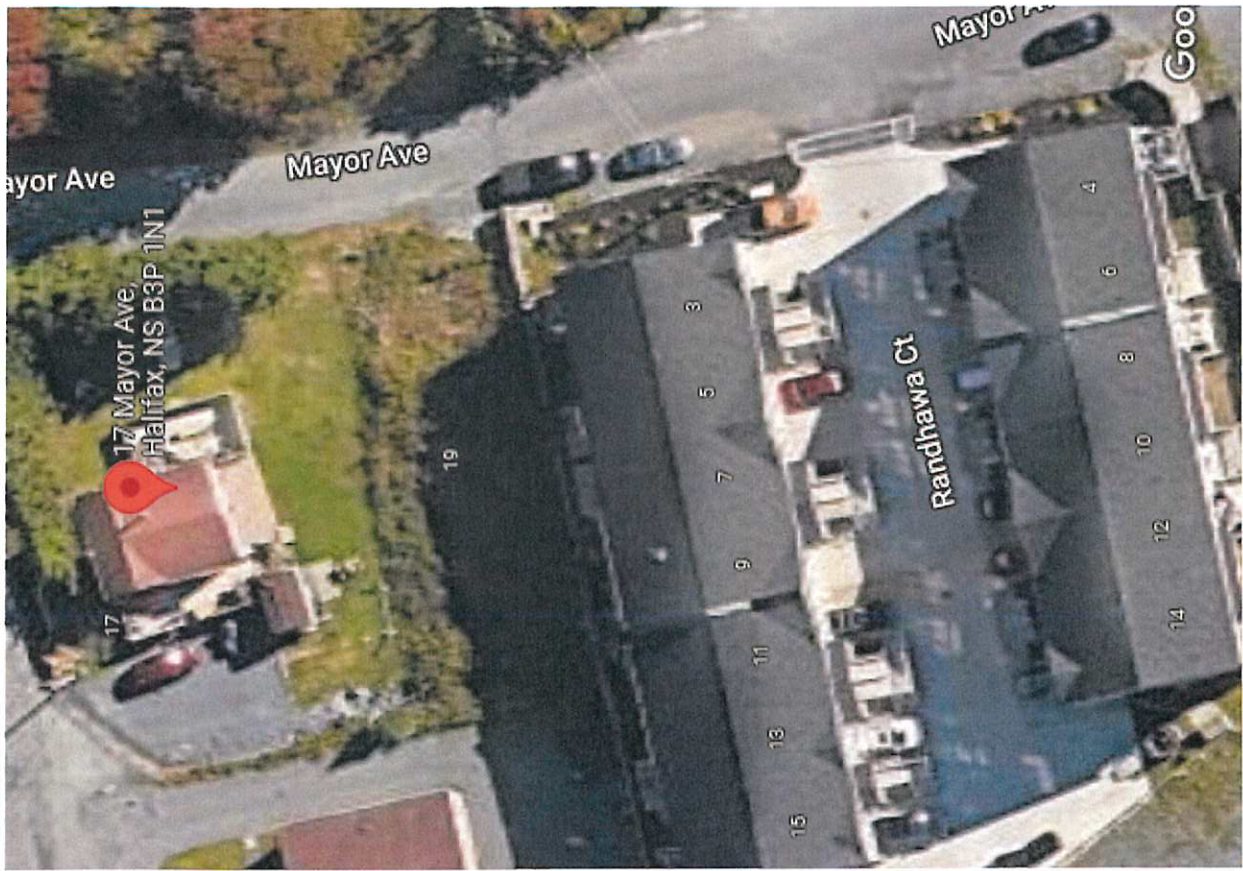
Dobbin I.



19







Appendix 3

Draft Development Agreement

This Development Agreement made this _____ day of _____, A.D.,2022

Between:

Kent Field Estates Ltd references body duly incorporated pursuant to the Companies Act of Nova Scotia and registered with the Nova Scotia Registry of Joint Stock Companies, with offices in Kentville Nova Scotia and hereinafter called the "Developer",

OF THE FIRST PART

-and-

Town of Berwick a duly incorporated municipal body incorporated under the laws of the Province of Nova Scotia, hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Developer is the owner of certain lands known in the Town of Berwick (PID 55539670) and more particularly described in the attached Schedule "A" and hereinafter called the "Property"; and

AND WHEREAS the Developer has submitted a detailed development proposal for 80 grouped residential dwellings with associated surface parking;

AND WHEREAS Policy GMU4 of the Town of Berwick Municipal Planning Strategy requires that grouped residential dwellings be considered and approved by Development Agreement;

AND WHEREAS the proposed development of the Property has been considered at a Public Hearing held on Insert Date of PH. and approved by a majority vote of the Town Council on [Click or tap to enter a date.](#) pursuant to requirements of the Municipal Government Act;

NOW THEREFORE in consideration of the various covenants and benefits hereinafter set out in this Agreement, the parties hereto agree as follows:

Part 1: General Requirements and Administration

1.1 Applicability of Agreement

1.1.1 The Developer agrees that the Property shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.1.2 Variances to the requirements of the applicable Land Use By-law shall be permitted in accordance with the Municipal Government Act on the whole site as shown on Schedule B.

1.2 Applicability of Other By-laws, Statutes and Regulations

1.2.1 Nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Town applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Property.

1.2.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Town and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.3 Conflict

1.3.1 Where the provisions of this Agreement conflict with those of any by-law of the Town applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail;.

1.3.2 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.

1.4 Costs, Expenses, Liabilities and Obligations

1.4.1 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Property.

1.5 Provisions Severable

1.5.1 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.

1.6 Property

1.6.1 The Developer hereby represents and warrants to the Town that the Developer is the owner of the Property and that all owners of the Property have entered into this Agreement.

Part 2: Definitions

2.1.1 All words used herein shall be defined as in the Land Use Bylaw and Subdivision Bylaw unless otherwise specifically defined herein. If not defined herein or in these Bylaws, the customary meaning shall apply.

2.2 When interpreting this agreement, the following words are defined as follows:

- a) *Interior drive isles* are travel pathways for vehicles interior to the Lot that provide access to vehicles to the onsite buildings or uses.
- b) *Land Use Bylaw* means the Town of Berwick Land Use By-law adopted by Council on October 9, 2012, as amended from time to time.
- c) *Master Drainage Plan* means a drainage plan prepared by a qualified engineer for the lot that illustrates the discharge to drains, ditches or streams of catchment runoff as a result of storm rainfall over the catchment.
- d) *Residential Grouped Dwellings* means two or more multiple unit dwellings buildings on the same lot.
- e) *Municipal Planning Strategy* means the Town of Berwick Municipal Planning Strategy adopted by Town Council on October 9, 2012, as amended from time to time.

Part 3: Use of Property, Subdivision and Development Provisions

3.1 Schedules

3.1.1 The Developer shall develop the Property in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement:

- a) Schedule A: Legal Description of the Property(s)
- b) Schedule B: Site Plan
- c) Schedule C: Insert if there is a Schedule C
- d) Schedule D: Insert if there is a Schedule D

3.2 Requirements Prior to approval

3.2.1 Prior to the issuance of any Development Permits, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- a) Approval of the Municipal Engineer of all on site sewer infrastructure that will connect the Town's sewer system.
- b) If required, the necessary permits from Nova Scotia Environment and Climate Change regarding the provision of potable water to the Use.
- c) Approval of the landscaped median and driveway access from the Public Street to the Development.
- d) An access and drainage easement in a format acceptable to the Town for the drainage ditch identified in Schedule B
- e) A Master Drainage Plan for the entire site that demonstrates that the pre-construction stormwater run off will not exceed post development run-off. Any Development Permit applications for subsequent phases or buildings must include a drainage plan that demonstrates how the development permit application complies with the Master Drainage Pan.
- f) A Master Landscaping Plan that, in the opinion of the Development Offices, complies with the following requirements:
 - Shows the location of internal walkways that connects public street or the Interior Drive Isles to each residential dwelling, as generally shown on the Site Plan
 - Provide an area of exterior common space for the use of tenants
 - A vegetative buffer along the property line with any adjacent residential uses. The vegetative buffer shall include a mixed of trees at a minimum of 6 feet at planting and bushy shrubs. Trees shall be no more than 15 feet apart and include both deciduous and coniferous species. Landscaping must be complete within 6 months of issuance of a building permit.
 - Development Permit applications for subsequent phases or buildings must include a landscaping plan that demonstrates how the development permit application complies with the Master Landscaping Plan.

3.2.2 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Property for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Town. No Occupancy Permit shall be issued by the Town unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

3.3.1 The uses of the Property permitted by this Agreement are the following and as generally shown on Schedule B:

- Grouped residential uses
- Accessory structures related to the residential use including accessory storage facilities for residents of the Development.

3.3.2 Site Requirements

(a) The Development shall generally comply with the site plan in Schedule A.

- (b) Notwithstanding the requirements of 3.3.2(a), the Developer may alter the Site Plan to allow for an increase in the number of dwelling units in a building to a maximum of sixteen (16) with the following conditions
 - i. The building that is to accommodate the increased units have interior hallways and stairways.
 - ii. The building that is accommodate more units may be located to the rear of the property so as not to form a visual barrier between the other buildings and the street. The building may not be located adjacent to an existing residential dwelling.
 - iii. The building that is to accommodate more units, if over 40 feet in length, must include architectural elements that include windows, balconies, doors and other elements to provide a visual break
 - iv. The maximum building height will not exceed 3 storeys and 40 feet.
- (c) Amenity Areas, as shown on the Schedule A, must be grassed and include shade trees (deciduous trees). Each amenity area must include fixed seating (benches).
- (d) The minimum separation distance between buildings shall be 29 feet
- (e) Drive isles shall be designed as to minimize hazards to pedestrians and cyclists. Drive isles must be a minimum of 20 feet for two way traffic and 10 feet for one way traffic.
- (f) Parking spaces are required at a rate of one (1) parking space for each dwelling unit under three (3) bedrooms. For units over three (3) bedrooms, 1.25 parking spaces shall be required.
- (g) Parking Area Standards listed in 5.26 of the LUB, as amended from time to time, apply except as otherwise stated in this Agreement.

3.3.3

Phasing

- (a) The Development may be constructed in a phased approach.
- (b) Amenity areas shall be required as follows:
 - i. The first amenity area shall be constructed before a Development Permit is issued for the seventeen (17) unit.
 - ii. A second amenity area shall be constructed before a Development can be issued for 49 or more dwelling units.
 - iii. A third amenity area is required before a development permit may be issued for 65 or more units.
- (c) A development permit may be issued for self storage after the first 16 units have received a full building permit.
- (d) Building 1 will require the construction of the Gravel walkway from the Public Steet to Phase 1.

3.3.4

Maintenance

The Developer shall be responsible to maintain the property in compliance with all Town By-laws and applicable Provincial regulations and to ensure that the property is maintained in a safe and clean condition.

All non-hard surfaced areas, such as walkways, drive isles, and building footprints, shall be grassed.

Part 4: Streets and Municipal Services

4.1 Off-Site Disturbance

- 4.1.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Town's Engineer or Director of Public Works.
- 4.1.2 Driveway Access from the Public Street to the Development shall be approved. Driveway Access shall include a landscaped medium beginning at the Public Street and continue for a minimum of 75 feet.

Part 5: Amendments

5.1 Non-Substantive Amendments

- 5.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council.
- a) The requirements of the Landscaping Plan
 - b) An increase in the total number of units by ten (10%)
 - c) Conversion of no more than two (2) of the residential units into a commercial use that serves the needs of residents of the Development. This includes, but is not limited to
 - Hairdressers
 - Personal service uses
 - Small scale commercial uses not exceeding 1000 square feet

5.2 Substantive Amendments

- 5.2.1 Amendments to any matters not identified under Section 5.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act and includes:
- a) Altering the size of an individual building to include more than sixteen units
 - b) Reducing the amount of Amenity Space by more than five (5%)
 - c) Any other change no listed in 5.1.1

Part 6: Registration, Effect of Conveyances and Discharge

6.1 Registration

- 6.1.1 A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office for the County of Kings, Nova Scotia and the Developer shall incur all costs in recording such documents.

6.2 Subsequent Owners

6.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Property which are the subject of this Agreement until this Agreement is discharged by Council.

6.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

6.3 Commencement of Development

6.3.1 In the event that development on the Property has not commenced within one year from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Property shall conform with the provisions of the Land Use By-law.

6.3.2 For the purpose of this section, commencement of development shall mean issuance of a Building Permit.

6.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, if the Town receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

6.4 Completion of Development

6.4.1 Upon the completion of the whole development, Council may review this Agreement, in whole or in part, and may:

- a) retain the Agreement in its present form;
- b) negotiate a new Agreement; or
- c) discharge this Agreement.

6.4.2 For the purpose of this section, completion of development shall mean issuance of an Occupancy Permit.

6.4.3 The Development shall be within 10 years of the Commencement of Development.

6.5 Discharge of Agreement

6.5.1 If the Developer fails to complete the development after five years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office Council may review this Agreement, in whole or in part, and may:

- a) retain the Agreement in its present form;
- b) negotiate a new Agreement;
- c) discharge this Agreement; or
- d) Extend the Agreement for an additional two years.

Part 7: Enforcement and Rights and Remedies on Default

7.1 Enforcement

7.1.1 The Developer agrees that any officer appointed by the Town to enforce this Agreement shall be granted access onto the Property during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Town to inspect the interior of any building located on the Property, the Developer agrees to allow for such an inspection during any reasonable hour within seventy two hours of receiving such a request.

7.2 Failure to Comply

7.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Town has given the Developer 30 days written notice of the failure or default, then in each such case:

- a) The Town shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
- b) The Town may enter onto the Property and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Property or from the performance of the covenants or remedial action, shall be a first lien on the Property and be shown on any tax certificate issued under the Assessment Act;
- c) The Town may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- d) In addition to the above remedies, the Town reserves the right to pursue any other remedy under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

Part 8: Expenses

8.1.1 In addition to the costs to be paid pursuant to section 6.1.1, any expenses incurred by the Town in exercising its rights under Section 12 shall be paid by the Developer to the Town. Such expenses may include, but are not limited to, costs incurred in returning property owned by the Town, or the Property to their original condition before the beginning of work on the development, costs incurred for entry on the Properties and performance of the Developer's obligations, and all solicitors' fees and disbursements incurred in terminating or discharging this Development Agreement. Such expenses shall be payable by the Developer to the Town as a debt and may be recovered from the Developer by direct suit. They shall form a charge upon the Properties. The Developer shall pay interest on any sum so expended by the Town at the same monthly rate charged by the Town for tax arrears on the outstanding balance from time to time. Such interest shall be treated as an expense

8.1.2 The Developer shall be liable for any damage caused to public or private property by Developer or any contractor or other individual doing work related to the development. The Developer shall indemnify the Town and save it harmless from any claim, cause of action, or liability in any way relating to the development. The Developer shall obtain and maintain in force throughout the course of construction on the development, liability insurance coverage to ensure the responsibilities which the Developer is assuming in this section.

Part 9: Notice

Any notice to be given under this Development Agreement shall be made in writing and either served personally or forwarded by courier or by registered mail, postage prepaid,

if to the Town to:

Town of Berwick
236 Commercial Street
Berwick, NS
B0P 1E0
Attention: Chief Administrative Officer

And if to the Developer to:

Kent Field Estates Ltd
6 Neva Mae Place
Kentville, NS B4N 0G5
Attention: Terry Whynot

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

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

SIGNED, SEALED AND DELIVERED

In the presence of:

Developer

Witness

Kent Field Estates

Town of Berwick

Witness

Mayor Don Clark

Witness

Municipal Clerk

Schedule "A", - Property Description

Registration County: KINGS COUNTY

Street/Place Name: MAIN STREET /BERWICK

Title of Plan: PLAN OF S/D PARCEL A & PARCEL B PARCEL A LAND OF TOWN OF BERWICK TO BE AN ADDITION TO LAND OF R ANTHONY LENTON PARCEL B LAND OF R ANTHONY LENTON TO BE AN ADDITION TO LAND OF TOWN OF BERWICK TO FORM LOT 2020-1 & LOT 2020-2 REMAINDER OF PID 55242606 LAND OF TOWN OF BERWICK TO BE CONSOLIDATED WITH PID 55481915 ADJACENT LAND OWNED BY TOWN OF BERWICK CIVIC 226 & CIVIC 228 MAIN ST BERWICK

Designation of Parcel on Plan: LOT 2020-1

Registration Number of Plan: 117975947

Registration Date of Plan: 2021-02-10 12:10:06

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

Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the Land Registration Act

Registration District: KINGS COUNTY

Registration Year: 2021

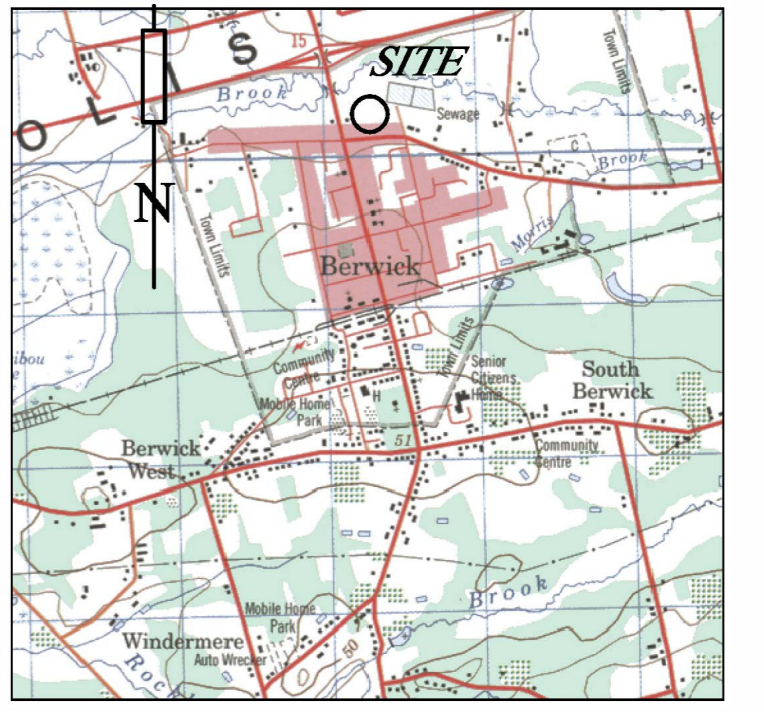
Plan or Document Number: 117975947

Schedule "B", - Site Plan

Appendix 4

Proposed Site Plan

LOT "2020-1"
PID 55539670
TOWN OF BERWICK



KEY PLAN SCALE 1:50,000

REVISIONS

- JAN. 12, 2022 - RENAME SHEET 1 TO 2020-293P1-A
- REMOVE SERVICING FROM 2020-293P1-A
- ADD SERVICING INFORMATION TO 2020-293P1-B
- ADD INTERNAL WALKWAY TO SHEET 1
- ADD AMENITY AREAS
- ADD STREET LIGHTING AND OVERHEAD LIGHTING TO SHEET 1
- ADD SIGNAGE AT MAIN STREET
- ADD TABLE SHOWING PARKING SPACES
- ADD TABLE SHOWING LOT COVERAGE CALCULATIONS
- REMOVE PHASING INFORMATION
- ADD SHEET 5, EROSION AND SEDIMENTATION CONTROL PLAN

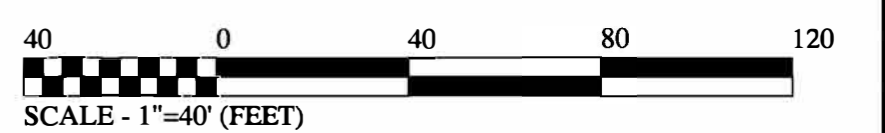
NOTES

- ALL SANITARY SEWER WORKS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARD SPECIFICATION FOR MUNICIPAL SERVICES 2021
- ALL STORM WATER DRAINAGE WORKS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARD SPECIFICATION FOR MUNICIPAL SERVICES 2021
- CONTRACTOR TO VERIFY LOCATION OF ALL EXISTING UNDERGROUND SERVICES PRIOR TO CONSTRUCTION (CHECK WITH TOWN OF BERWICK)
- POTABLE WATER TO BE SUPPLIED BY DRILLED WELLS. EACH BUILDING WILL HAVE ITS OWN DRILLED WELL.

LEGEND

BEGINNING OF VERTICAL CURVE	BVC
END OF VERTICAL CURVE	EVC
POINT OF VERTICAL INTERSECTION	PVI
FINISHED GRADE	.89.3
CALCULATED	C
POINT OF CURVATURE	.PC
POINT OF COMPOUND CURVATURE	.PCC
CHORD	.CH
MANHOLE (SANITARY)	.MHS
MANHOLE (STORM)	.MHS1
CATCH BASIN	.CB
EXISTING	.EX
WATER VALVE	.WV
CALCULATED POINT	.CP
UTILITY POLE	.UP
CHECK DAM	.CD
NOT TO SCALE	.N.T.S.
ANCHOR	.A
OVERHEAD WIRES	.OHW
ELEVATION (EXISTING)	+ 7.63
PROPERTY LINE	
ROCK LINED (6" MINUS)	
SILT FENCE	
FINISHED FLOOR ELEVATION	FFE
PROPOSED TREE	
EDGE OF NEW ASPHALT	.EOA
NEW DITCH ELEVATION	.89.3
NEW OVERHEAD LIGHT	.NOHL

SITE PLAN
PROPOSED
MULTI UNIT DEVELOPMENT
FOR KENT FIELD ESTATES LIMITED
ON LANDS OF
TOWN OF BERWICK
MAIN STREET
BERWICK
KINGS COUNTY, N.S.



HORIZONTAL SCALE - 1" = 40'
PREPARED BY ERIC J. MORSE, P.ENG., NSLS



DeWOLFE & MORSE SURVEYING LIMITED
P.O. BOX 520 MIDDLETON
ANNAPOLIS COUNTY, N.S.
BOS - 1P0
Email: info@demosl.ca



TOTAL PARKING	Required 120	
PARKING STALLS	112	
ACCESSIBLE PARKING STALLS	10	
TOTAL	122	
LOT COVERAGE	Square Feet	Percentage
LOT "2020-1"	43872	100%
APARTMENT BUILDINGS	43960	10%
SELF STORAGE BUILDINGS	1920	0.5%
DRIVEWAYS/PARKING	74769	17%
WALKWAY TO BUILDINGS	3059	1%
OPEN/GREEN SPACE/DITCHES	312164	71.5%

PID 55242622
TOWN OF BERWICK
FIRE PROTECTION COMMISSIONERS

PID 55242614
ROYAL CANADIAN LEGION

PID 55244727
JONATHAN VISCA
EMELIA VISCA

PID 55242580
TERRANCE AWALT

PID 55242598
GEORGE RUSSELL
KAREN RUSSELL

PID 55481915
TOWN OF BERWICK

PID 55242572
SHANNON CHRISTIE