



WEST HANTS
NOVA SCOTIA

MUNICIPALITY OF THE DISTRICT OF WEST HANTS
Public Hearing
December 11, 2018
Development Agreement Amendments – Garlands Crossing Land Lease
and Mixed Residential Community

Present:	A. Zebian	Warden
	R. Jannasch	Councillor District 1
	K. Monroe	Councillor District 2
	D. Keith	Councillor District 3
	T. Leopold	Councillor District 4
	D. Francis	Councillor District 5
	R. Hussey	Councillor District 6
	J. Daniels	Councillor District 7
	P. Morton	Deputy Warden
	R. Zwicker	Councillor District 10
	M. Laycock	Chief Administrative Officer
	M. LeMay	Director of Planning and Development
	R. Brown	Municipal Clerk
	C. Remme	Communications Coordinator

There were 9 members of the public in attendance.

Warden Zebian advised that the Public Hearing for the amendments to planning documents and development agreements are required under Part 8 of the *Municipal Government Act*. The Warden went on to say that the session is hosted by Council and provides members of the public with an opportunity to bring forward concerns and ask the applicant and planning staff questions regarding the proposal. He went on to say that upon completion of the Public Hearing, the Council meeting will resume, and members of Council may then ask questions and make comments.

Warden Zebian called on the Director of Planning and Development, Madelyn LeMay, to speak on the amendments.

The Director reviewed the presentation (attached). She stated that the application stems from several requests for amendments to an existing development and earlier amendments adding that the requests were completed on September 19, 2018.

The Director of Planning and Development stated that there had been over thirty changes that were requested noting that the Planning Advisory Committee (PAC) recommendations accommodate all the changes plus increases the percentage of the

main floor of the multi-unit building which can be used for commercial use and removes the recommended maximum floor area restriction. She went on to say that the amendments are within the context of the policies of the Municipal Planning Strategy excluding the removal of the recommended maximum percentage of floor area in multi-unit dwellings that can be used for commercial purposes, the return of the letter of credit and not requiring a parkland contribution.

The Director concluded her presentation by advising that the recommendations can be considered consistent with the intent, objectives and policies of the Municipal Planning Strategy and the earlier development agreement and amendments. She went on to say that, in terms of process, advertisements had been placed, she had received no emails or phone calls from the public and all statutory requirements had been met to date.

The Municipal Clerk read the following letter she received on December 11 from Stephanie Sedgwick.

"To the Council of West Hants:

As residents of Underwood Drive in Windsor since 2008, our home is one of four on the cul-de-sac (directly impacted by any road development connecting to Edward Drive in The Crossing). I have a young family, and we are frequently active on both sides of the Windsor/West Hants boundary. My husband and I are both participants in the Active Transportation Committee, which is a joint Windsor/West Hants initiative. I have a couple of concerns about the proposed amendments to the Brison Development of The Crossing.

1. Parkland amendment: I think that Brison's development efforts to date are reasonably attractive and pleasant to walk through. The pond and walking trail are a welcome (if under-developed, in my opinion) addition to the area.

My concern for this letter lies how Brison Development will continue to promote active living for the community residents, on both sides of the invisible boundary. My interpretation is that the requested parkland amendments will mean there is no further investment in additional green space or connector trails. If that is correct, I think it would be a great detriment to the future development of the area.

I would like to respectfully suggest that any further "parkland" contributions should consider both recreational and active transportation options for residents. The walking trail in Windsor linking Payzant Drive to the elementary school has been a huge success, even without winter maintenance. Properly graded connection points between various neighborhoods of Windsor and West Hants would be of huge value, both now and in the future.

2. Safe pedestrian passageways for both recreation and active living: I walk the roads in The Crossing almost daily and usually see many residents out walking too, and I love to see how there are so many active folks. There are no sidewalks on Underwood Drive. There are approximately 100 homes in our immediate neighbourhood, and residents here are required to walk on the street. Same thing happens in the Crossing. The fact that there are no sidewalks in The Crossing either was not an immediate surprise, since our own neighbourhood also doesn't offer such a benefit.

But I would suggest that further development consider safe pedestrian use for residents, for both recreational and active living purposes. If the development continues to expand and the traffic continues to increase (which it will do, whether Underwood Drive and Edward Drive end up connecting), it will become increasingly difficult and risky for residents walking in the area on the roads. The roads are curvy and often lined with parked vehicles on both sides, making visibility limited. Increased traffic as the development expands, and Windsor and West Hants connect, will not improve this situation.

Further, I would also love to see Brison Developments consider how new residents can get from one neighbourhood to another without a vehicle. For example, residents of The Crossing (or even Garlands Crossing, the older portion of that community) have no pedestrian-friendly connection between their neighbourhood and any other. They can't even walk safely to the convenience store and restaurants at the Irving. High school students and adults cut across private fields to get to the shopping and dining areas. Thanks for your time and consideration.

Respectfully,

Stephanie Sedgwick, Town of Windsor resident"

Warden Zebian asked if there were any questions from the public. There were no questions from the public.

Jenifer Tsang, MCIP, Sunrose Land Use Consulting, addressed Council on behalf of Brison Developments. She stated that the requests have come forward to Council to show the vision of what the developer, Mitch Brison, would like to have in the Crossing. She went on to say that the reason for all the changes is because the development does not fit within the Land Use By-law criteria, adding that the existing agreement is old and has had two amendments. She noted that there have been several different staff dealing with and providing input on the agreement.

Jenifer Tsang went on to speak of the letter of credit. She stated that the developer had a vision early in the project to include Edward Drive lands in the development agreement but they were not included due to different views and visions of the staff involved. She stated that the developer was under the impression, from discussion with previous staff,

that the letter of credit would be returned when the Edward Drive lands became part of the development agreement.

Jenifer Tsang advised Council that Edward Drive properties function as part of The Crossing development adding that the process would be a way to bring them into the agreement so that they can legally and officially become part of the development.

Ms. Tsang advised that residents of Edward Drive would have been notified and that revised plans and property identification numbers (PIDs) had been given to planning staff prior to the Public Hearing. She noted that Mr. Brison had also spoke to the owners that would have to be party to the agreement, that letter of agreement had been received by some of the residents which staff were made aware of but not yet submitted. She spoke of the letter of submission of September 18 and discussions held at PAC regarding Edward Drive, expressing that she was surprised to hear that another Public Hearing would have to be held for that to happen.

Jenifer Tsang spoke of bonding requirements noting that the number had changed between discussions at PAC where it was at 150%, then the Committee recommended 50%. She added that it is normally at 120% for a subdivision adding this was to build buildings.

Ms. Tsang went on to say that it was stated by the Director of Planning and Development that the bonding requirements were only applicable to the multi-unit buildings adding that she did not read it the same way. She added that the developer was okay with it being placed at 50% but felt that it should not apply to buildings as they are protected by the occupancy permit and building codes. Ms. Tsang went on to say that it is difficult to limit it to the services strictly for the building as it is unclear if it is a lateral or for the entire street, so it complicates the matter.

Jenifer Tsang spoke of the parkland and whether a future subdivision should be required to provide parkland or not. She voiced that a development agreement is a tool that can be used by Council to allow a development to have differing rules from the Land Use By-law and Subdivision By-law. She spoke of situations she had seen that had development agreements have all private parkland in the past noting that the original plans for The Crossing development was a land lease community with all private parkland. Ms. Tsang acknowledged the legal advice given to staff stating that the request may be in violation stating that she felt the advice was a reasonable and cautionary wording to Council if we were to be in an appeal situation.

Ms. Tsang stated that in previous conversations through previous amendments with previous staff regarding the parkland, it had been noted many times to the developer that the Municipality did not want to take ownership and maintenance of the parkland. She went on to say that, often, that is why parkland is private in development

agreements to ensure that the municipality does not have to maintain it and it is written in the contract that the developer must maintain it as protection for the municipal unit. She reiterated that this is something to be done in the development agreement adding that the purpose of it is to provide parkland for the residents of the development.

Ms. Tsang spoke of the owners on Edward Drive, stating that they did not make requests for the amendment that she was aware of. She added that the developer was made aware that the owners on Edward Drive would be required to sign on to the agreement and be part of it, but they were not aware they would have to request it.

Ms. Tsang spoke of the local commercial uses in the residential zones stating that they are limited. She advised that the development agreement allows for different rules on a site-specific basis. She went on to say that it is common today, with a multi-unit building, to have commercial in the downstairs and that allowing it will not open the same option across the Municipality as it is site specific. She reiterated that requesting commercial space in a multi-unit building is common for mixed-use developments but not set up in West Hants or mentioned in the Municipal Planning Strategy.

Jenifer Tsang concluded by stating that the requests from the developer are contained in the draft agreement outside of the request to include Edward Drive and to add language as outlined in the letter submitted to staff on September 18 that would return the letter of credit in recognition of including them in the development agreement. She went on to stated that letters of agreement will be provided to staff at the time of signing and executing the development agreement.

Warden Zebian asked if the Director of Planning and Development had any closing comments. She did not.

Warden Zebian declared the Public Hearing adjourned at 8:08 p.m.

Abraham Zebian, Warden

Rhonda Brown, Municipal Clerk



WEST HANTS
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The Crossing
Public Hearing
Amending Development Agreement
December 11, 2018



APPLICATION

- requests for amendment to the existing development agreement and earlier amendments were completed September 19, 2018
- PIDs and legal descriptions needed for the Public Hearing were received November 26, 2018

REQUEST TO AMEND

- intention of owner has not changed in any substantial way
- intention regarding the “Future Development” area has been clarified: a mixture of housing types
- details regarding development have been clarified since the initial agreement

EXISTING DEVELOPMENT AGREEMENT

- 1 development agreement (2008) & 2 amendments (2014, 2017)
- one consolidated document created last fall; developer agreed to minor changes to the consolidated document for clarity
- consolidated document is the base for the proposed changes
 - ✓ provide for a Land Lease Community including office & Community Use/Local Commercial Building
 - ✓ permit uses allowed in underlying zone of the LUB
 - ✓ prohibit subdivision in the Land Lease Community area ...

EXISTING DEVELOPMENT AGREEMENT

- ✓ establish phasing for the development
- ✓ regulate building design & appearance & site layout in the Land Lease Community
- ✓ establish requirements for streets, services, storm drainage, landscaping and parking
- ✓ establish the requirement for the Community Commons.

SITE

- Land Lease Community - mostly developed
- 1 public street constructed and taken over by the Municipality
- lots on Edward Drive have been subdivided; some sold/developed
- 2 other streets being considered by the Development Officer.



PLANNING DOCUMENTS

- development agreement: contract
- ability in LUB; criteria in MPS
- requests measured against only specific & general criteria in the MPS.

REVIEW COMMENTS

DTIR, Public Works and the Municipal Engineer

- satisfied the development can be served by the existing street network if development is limited to the maximum number of dwellings established in the 2017 Traffic Impact Analysis (DA Dec 11 Appendix J)

Parks and Recreation and the Development Officer

- commented on the required parkland contribution

Solicitor and Development Officer

- comments incorporated in proposed agreement and provided in Supplementary Report

REQUESTS

- on October 18 at the PIM, each request & staff comments were reviewed
- recommended changes within the draft development agreement to accommodate requests were described
- for this Public Hearing, the requests and the PAC recommendations have been summarized
- there are requests where the PAC recommendation varies from the staff recommendation; these will be covered individually
- decisions on all contents will be up to Council at Second Reading.

BONDING

PAC: that bonding be required only in the amount of 50% of the estimated cost to complete the streets and services required to service the area for which permits have been requested.

- “bonding” of some type is a usual requirement when a developer wishes to subdivide lots or construct buildings before the services or roads which serve the lot or building are completed; this ensures that the Municipality can correct any deficiencies once it owns the service or road

BONDING

- the bonding requirement is set out in s. 7.5 of the draft agreement; bonding would be required only for the services or roads *to service the area for which permits have been requested*, not any larger area
- staff recommend bonding be required in the amount of 150%
- Municipal Solicitor recommends a minimum of 120% : there are added costs when the public sector does work and/or added cost for repair work after services are completed
- Solicitor also noted that Council should not put ratepayers in the situation of subsidizing infrastructure required entirely for a private development.

PARKLAND 1

PAC: that the Letters of Credit for the subdivision of thirty-three (33) lots on Edward Drive which took place in June 2016 be returned to the Owner.

- the Letters of Credit are required by the existing development agreement and Subdivision By-law and usually would be returned to the owner once the required parkland was deeded to West Hants or the equivalent cash was paid

- staff recommend the Letters of Credit not be returned since:
 - parkland dedication is required by both the Subdivision By-law and the existing development agreement;

PARKLAND 1

- subdivision completed in 2016: historical matter completed in the past;
- existing agreement & amendments clear the parkland contribution is required;
- Developer posted the required security at the time of subdivision;
- retrospective exemption from a Subdivision By-law requirement which was not waived at the time may be an improper use of a development agreement;

PARKLAND 1

- returning the Letters of Credit appears to be Council interfering with the Development Officer's past handling of subdivision approvals;
- if Edward Drive lots are released from the development agreement once the Letters of Credit are released, language to that effect would need to be included within the development agreement and must be drafted by the Developer for consideration by Council;

PARKLAND 1

- application came only from the Developer; ~ 23 of the lots on Edward Drive now owned by other people who are not applicants. No signed consent from each owner naming the Developer as agent was provided; this is a requirement.
- for the agreement to apply to these lots, the owner of each lot must sign the development agreement, requiring a revised process:
 - signed consent provided to the Municipality from the owner of each of these lots by the applicant;
 - new notice of public hearing, with each of these owners advised;
 - new public hearing, notice and appeal period.

PARKLAND CONTRIBUTION 2

PAC: that land not owned by the Municipality be considered as the parkland contribution required by the Subdivision By-law even though it does not meet the requirements of the Subdivision By-law.

- staff recommended that PAC and Council not consider privately-owned land as the parkland equivalent since:
 - access can be restricted by the owner at any time;
 - the owner chose not to have the land examined by the Director of Parks and Recreation to determine if it meets the requirements of the Subdivision By-law;
 - in response to a September 19 request, the Private Recreation Lands are also considered as 50% of the required private open space for multiple-unit dwellings.

PARKLAND CONTRIBUTION 3

PAC: that material be added to the draft agreement which would exempt lots subdivided from the area under agreement in the future from the parkland requirements of the Subdivision By-law.

- staff recommend that the 5% dedication of parkland be required;
- any subdivision not under development agreement must make the 5% contribution.

COMMERCIAL USES IN APARTMENT BUILDINGS

PAC: that the commercial development in apartment buildings be increased from 25% to 50%, and that the limitation of 1,000 sq. ft. be removed

- developer asked for professional offices, pharmacies, & uses allowed in the Local Commercial (LC) Zone in apartment buildings
- staff recommended also including home-based businesses & recommended a maximum size of 25% of the ground floor of a building to a maximum floor area of 1,000 sq. ft. for commercial uses.

COMMERCIAL USES IN APARTMENT BUILDINGS

- recommended limitation reflects Council's policies regarding commercial uses in residential areas;
- 2,500 square feet of commercial space is also allowed in the Community Use/Local Commercial Building;
- development is within residential zones and the ability established in the LUB is for development agreements for residential development.

EFFECT of REQUESTS: SUMMARY

- the requests have been summarized for this presentation
- details are available for each request

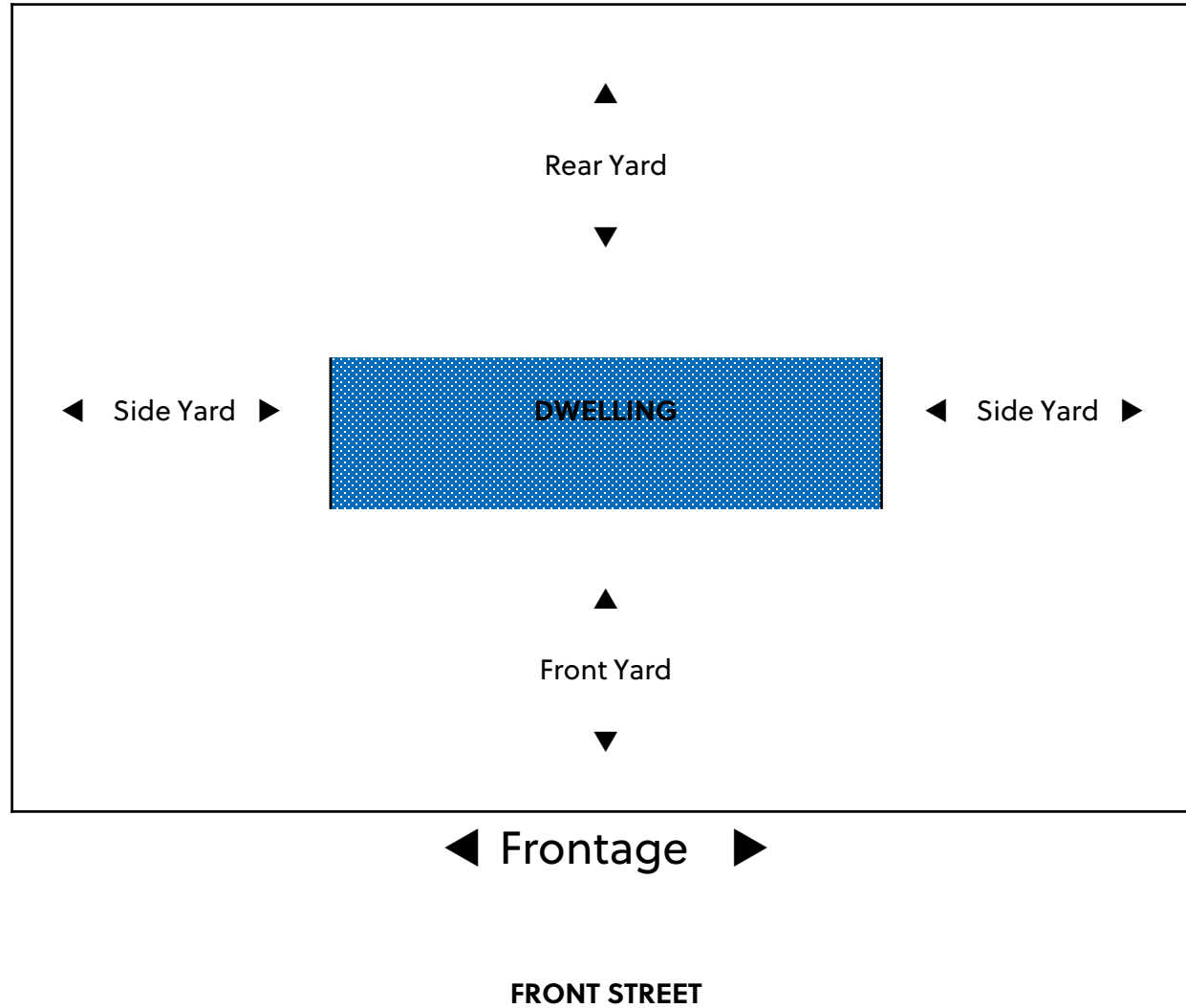
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EFFECT of PAC RECOMMENDATIONS: SUMMARY

- allow the sale of up to 50% of the lots in the land lease community
- include the ability to develop single unit, two unit, three unit, four unit, grouped dwellings, and multiple unit buildings, including buildings over 3 storeys in height, in the area shown as “Mixed Residential” of the development agreement, with the total number of units to stay within the parameters of the 2017 traffic study;
- allow the development of commercial uses similar to home-based businesses or local commercial uses within multi-unit dwelling buildings...

FRONTAGE, AREA & YARDS

- reduce the minimum frontage, lot size and yard requirements for a variety of dwelling types



EFFECT of PAC RECOMMENDATIONS: SUMMARY

- allow the Community Use/Local Commercial building to be constructed without public road frontage but with an access approved by the Municipal Engineer;
- allow multiple unit-dwellings with six (6) or more units to be located on a right-of-way;
- reduce the minimum required size and dimensions for parking spaces;...

EFFECT of PAC RECOMMENDATIONS: SUMMARY

- reduce the amount of parking required for the Community Use/Local Commercial building;
- reduce by 50% the recreational space required by the Land Use By-law for any multiple-unit dwelling;
- remove the clause which notes that the development agreement does not apply to any land within Windsor;
- remove phasing from the development agreement; ...

EFFECT of PAC RECOMMENDATIONS: SUMMARY

- remove the requirement for an emergency access should another access/egress be constructed in another location;
- provide for either one or two maintenance sheds to be constructed, with a total gross maximum floor area;
- include the ability to construct more than one building before services are completed, if a bond is provided; ...

EFFECT of PAC RECOMMENDATIONS: SUMMARY

- re-name the Community Commons as Private Recreation Land (PRL) and specify some of the uses permitted in PRL #1;
- restructure the agreement so that it identifies items that are substantive rather than items that are non-substantive; and
- replace the Schedules with updated Schedules.

SUMMARY

- 30+ changes requested
- PAC recommendations accommodate all requests plus increase the percentage of the main floor of a multi-unit building which can be used for commercial uses and remove the recommended maximum floor area restriction for these uses

CONCLUSION

- proposed amendments considered only within the context of the policies of the MPS which pertain to this amendment

- with the exception of the recommendations regarding:
 - maximum percentage and floor area of a multiple-unit dwelling which can be used for commercial purposes;
 - return of the Letters of Credit; and
 - not requiring parkland contribution,the recommendations can be considered consistent with the intent, objectives and policies of the MPS and the earlier development agreement and amendments

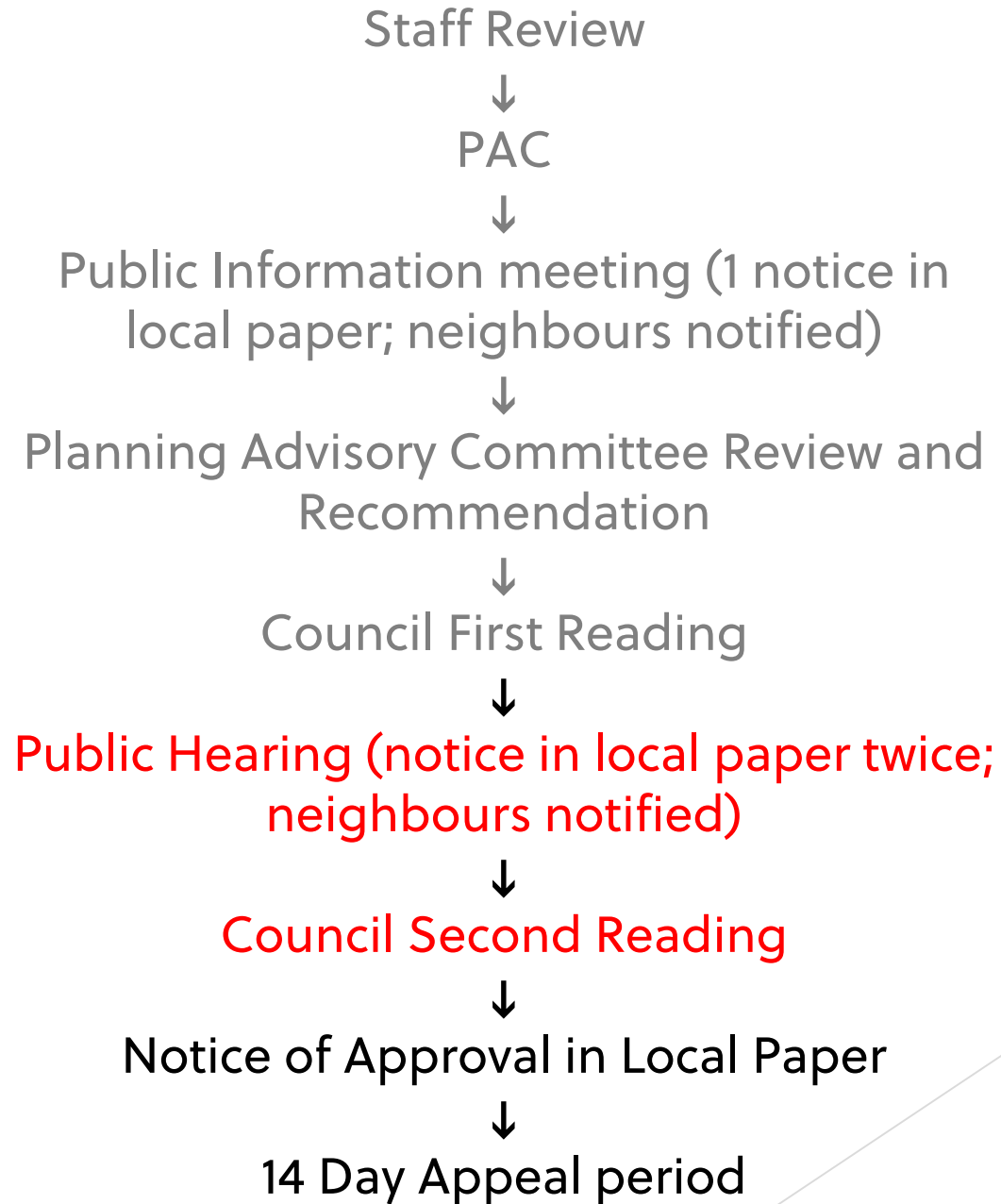
PROCESS

Notices appeared in the local paper advertising the Public Hearing

No emails received from the public

No calls received from the public

All statutory requirements met





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Second Reading:

- #1 reflects all November PAC decisions
- #2 same motion but would:
 - increase bonding from the 50% recommended by PAC to 120%
 - would not consider Private Recreation Lands as the parkland contribution required by the Subdivision By-law & earlier DA
 - decreases maximum allowed percentage of commercial use within a multiple-unit dwelling from 50 to 25% & limits floor area
- #3 reflects all November PAC decisions except consideration of Private Recreation Lands as the parkland contribution required by the Subdivision By-law & earlier DA
- #4 reflects all November PAC decisions except the maximum allowed percentage of commercial use & removal of limitation on floor area to 1,000 sq. ft.
- #5 needed only to confirm Letters of Credit are not to be returned

1. APPROVES ALL PAC RECOMMENDATIONS

...that Council gives Second Reading to and approves entering into an amending development agreement for the area described in Schedule A of the draft development agreement set out in Appendix B of the report dated December 11, 2018 and known as The Crossing, in a manner which is substantively the same as the draft set out in Appendix B of the report dated December 11, 2018 and taking note that this development agreement will discharge and replace the development agreements and amendments dated April 2, 2008, recorded on April 8, 2008 as Document No. 90368441; January 23, 2014, recorded January 28, 2014 as Document No. 104520904; and January 10, 2017, recorded March 7, 2017 as Document No. 1104222921.

2. OPPORTUNITY TO CHANGE all PAC RECC'

...that Council gives Second Reading to and approves entering into an amending development agreement for the area described in Schedule A of the draft development agreement set out in Appendix B of the report dated December 11, 2018 and known as The Crossing, in a manner which is substantively the same as the draft set out in Appendix B of the report dated December 11, 2018,

- with the amount of bonding increased to 120%, AND
- with the Private Recreation Lands not be considered as the parkland contribution required by the Subdivision By-law, and s. 3.2.8 be removed from the draft development agreement, AND
- with s. 3.2.2 (ii) changed by decreasing the maximum allowed percentage of commercial use within a multiple-unit dwelling to 25% and limiting the floor area to 1,000 sq. ft., ...continued

taking note that this development agreement will discharge and replace the development agreements and amendments dated April 2, 2008, recorded on April 8, 2008 as Document No. 90368441; January 23, 2014, recorded January 28, 2014 as Document No. 104520904; and January 10, 2017, recorded March 7, 2017 as Document No. 1104222921.

3. ALL PAC RECOMMENDATIONS EXCEPT PARKLAND

...that Council gives Second Reading to and approves entering into an amending development agreement for the area described in Schedule A of the draft development agreement set out in Appendix B of the report dated December 11, 2018 and known as The Crossing, in a manner which is substantively the same as the draft set out in Appendix B of the report dated December 11, 2018,

but that the Private Recreation Lands not be considered as the parkland contribution required by the Subdivision By-law, and that s. 3.2.8 be removed from the draft development agreement,

and taking note that this development agreement will discharge and replace the development agreements and amendments dated April 2, 2008, recorded on April 8, 2008 as Document No. 90368441; January 23, 2014, recorded January 28, 2014 as Document No. 104520904; and January 10, 2017, recorded March 7, 2017 as Document No. 1104222921.

4. ALL PAC RECOMMENDATIONS EXCEPT COMMERCIAL USES IN MULTI-UNIT DWELLINGS

...that Council gives Second Reading to and approves entering into an amending development agreement for the area described in Schedule A of the draft development agreement set out in Appendix B of the report dated December 11, 2018 and known as The Crossing, in a manner which is substantively the same as the draft set out in Appendix B of the report dated December 11, 2018 but s. 3.2.2 (ii) be changed by decreasing the maximum allowed percentage of commercial use within a multiple-unit dwelling to 25% and limiting the floor area to 1,000 sq. ft.,

and taking note that this development agreement will discharge and replace the development agreements and amendments dated April 2, 2008, recorded on April 8, 2008 as Document No. 90368441; January 23, 2014, recorded January 28, 2014 as Document No. 104520904; and January 10, 2017, recorded March 7, 2017 as Document No. 1104222921.

5. LETTERS OF CREDIT

...that Council directs that the Letters of Credit provided in 2016 for the subdivision of lands on Edward Drive not be returned to the developer.