

WEST HANTS REGIONAL MUNICIPALITY
Council Meeting Agenda **AMENDED**
January 24, 2023 - 6:00 p.m.
Virtual via Zoom (also FB Livestream)



1. Call to Order
2. Attendance
3. Announcements
4. Approval of the Agenda, including additions or deletions
 - a) Dashboard Action Items – Information Log
 - b) Dashboard Action Items – Dangerous or Unsightly Premises
5. Declaration(s) of Conflict of Interest
6. Approval of Previous Meeting Minutes
 - a) 2022-12-13 Council Meeting Minutes
7. Presentations
 - a) Valley Regional Enterprise Network (VREN) – Jennifer Tufts, Chief Executive Officer and Paul Dixon, Board Chair
8. Public Hearings
 - i. Cole Drive Windsor MPS and LUB Amendments, PID 45366432 – Planner Dunphy
 - ii. Cole Drive West Hants MPS and LUB Amendments, PID 45366432 – Planner Dunphy
 - iii. 394 Greenhill Road, Greenhill PID 45118502, Development Agreement - Planner Dunphy
 - iv. Coastal Protection Plan Policy Updates West Hants, Windsor and Hantsport – (3 Reports, 3 Motions) Planner Dunphy
 - v. West Hants Land Use By-law Housekeeping Amendments – Director LeMay
9. Second Readings
 - i. Cole Drive Windsor MPS and LUB Amendments, PID 45366432 – Planner Dunphy
 - ii. Cole Drive West Hants MPS and LUB Amendments, PID 45366432 – Planner Dunphy
 - iii. 394 Greenhill Road, PID 45118502, Development Agreement - Planner Dunphy
 - iv. Coastal Protection Plan Policy Updates West Hants, Windsor and Hantsport (3 Reports, 3 Motions) – Planner Dunphy
 - v. West Hants Land Use By-law Housekeeping Amendments – Director LeMay
10. Unfinished Business/Postponed Motions

- a) Public Participation Program Policy Amendment - Director LeMay
- b) Supplementary Report for the WFD Rescue Engine Tender Award – Supervisor Thornton
- c) Municipal Boundary Review/Mapping Discussion on Next Steps

11. Mayor’s Report

12. Committee(s) of Council Excerpts/Recommendations

- a) Committee of the Whole Excerpts (January 10/11th , 2023)
 - i. BFD Pumper Tanker Over Budget Equipment, including all invoices
 - ii. Electronic Sign
 - iii. Grants and Contributions Policy RCOFN-0012.00
 - iv. Meeting and Committee Procedural Policy RCOGE-003.00 Amendment
 - v. Region 6 Budget
 - vi. Regional High School Bursary Policy
 - vii. Subdivision Street Lighting
 - viii. West Hants Sports Complex Acoustics

- b) Planning and Heritage Recommendations (January 12, 2023) (First Readings)
 - i. Bog Road, Hantsport/Hants Border PIDs 45366473, 45366481, 45366499, 45366507, and 45366515 – Rezoning (Hantsport) and Rezoning (West Hants) – Planner Dunphy
 - ii. Highway 215 Cheverie, PID 45178944 (Campground) Development Agreement – Planner Dunphy
 - iii. Burgess Crescent, Windsor, PID 45338688 Development Agreement Multi-Unit – Planner Dunphy
 - iv. 4190 Highway 1, Garlands Crossing, PID 45003357 Development Agreement – Planner Poirier
 - v. Hantsport MPS Amendment Related to Public Participation Program Policy RCOPL-006.00 – Director LeMay
 - vi. West Hants MPS Amendment Related to Public Participation Program Policy RCOPL-006.00 – Director LeMay
 - vii. Windsor MPS Amendment Related to Public Participation Program Policy RCOPL-006.00 – Director LeMay
 - viii. Heritage Plaque Presentations – Director LeMay

13. Councillor Municipal Business/Activity Reports

- a) Councillor Ivey, District 11 Activity Report

14. Correspondence

- a) Information
 - 1. Avon Causeway Activity Log as of January 19th, 2023 - No new correspondence

 - 2. Correspondence Received Activity Log as of January 24th, 2023
 - i. 2023-01-24 Graham Sanford re File to Rezone Lots along Bog Road

3. Fort Edward Activity Log as of January 19th, 2023 – No new correspondence
4. Storm Wastewater Activity Log as of January 19th, 2023 - No new correspondence
- b) Requests – None
- c) Outgoing Correspondence Log as of January 19th, 2023 - No new correspondence
15. New Business
16. In-Camera
 - a) ~~MGA 22(2)(a) Contract Matter~~ **b) MGA 22(2)(a) Contract Matter**
 - b) ~~MGA 22(2)(a) Contract Matter~~ **a) MGA 22(2)(a) Contract Matter**
17. Next Meeting Date / Adjournment – February 14, 2023 Committee of the Whole 6 p.m.

WEST HANTS REGIONAL MUNICIPALITY

**Public Hearing Minutes – 2023-01-24 PH Meeting, 394 Green hill Road, Greenhill
PID 45118502 Development Agreement**

Tuesday, January 24, 2023 – 7:24 pm

In-person Sanford Council Chambers and virtually via ZOOM

(also Facebook Livestreamed)



West Hants
something inspiring awaits

1. Call to Order

The Public Hearing was called to order at 7:24 pm.

2. Council:

Abraham Zebian, Mayor

Rupert Jannasch, Councillor, District 1(ZOOM)

Scott McLean, Councillor, District 2

Mark McLean, Councillor, District 3

Jeff Hartt, Councillor, District 4

Debbie Francis, Councillor, Dist. 5

Paul Morton, Deputy Mayor, District 8

Bob Morton, Councillor District 6

Ed Sherman, Councillor, District 7

John A. Smith, Councillor, District 9

Laurie Murley, Councillor, District 10

Jim Ivey, Councillor, District 11

Staff and Guests:

Mark Phillips, CAO

Shelleena Thornton, Mun. Ops Supervisor

Todd Richard, Dir. Public Works

Diana Gibson, Acting Dir. Financial Services

Madelyn LeMay, Dir. Planning & Development
(ZOOM)

Deanna Snair Municipal Clerk

Sara Poirier, Senior Planner

Alex Dunphy, Planner

Jennifer Tufts and Paul Dixon, VREN

Shawn Foote - Mainland South
Developments

Darren Shupe, Planner, Brighter
Planning

Ryan Richard, Chief, BFD

Daniel Lavers and Jamie Harvey, Deputy
Chiefs, WFD

Regrets:

Kathy Kehoe, Director Community Development

3. Public Hearings – All public hearings and presentations are available on the Municipal website.

394 Green hill Road, Greenhill, PID 45118502 Development Agreement

Planner Dunphy reviewed the report highlighting that a completed application was received on September 6, 2022 from Jeff Brown and Erika Rice to permit a heavy truck equipment repair shop by development agreement. A development agreement is a legal contract between the Municipality and a property owner to permit a use that is not permitted in the underlying zone.

The subject lot was primarily a wooded land with a residence and cleared area located on a driveway, and the adjacent properties were primarily wooded lands, with cleared fields to the

north, and sparse residential uses. The current designation was Agricultural. The current zoning was Agricultural Priority (AR-2), which permits agricultural uses, agricultural supported uses, churches, community centres, and fire Halls, forestry and forestry related activities, manufactured homes and one and two-unit dwellings.

Part 6.0 of the WHLUB, Development Agreements states that “The following developments may be considered only by development agreement in accordance with the Municipal Government Act and the Municipal Planning Strategy:

- Rural Commercial (RC), Recreation Commercial (RecC), **Resource Industrial (M-1)** or Open Space (OS) uses in the Agricultural Priority Two (AR-2) zone and the Agricultural Priority Three (AR-3) zone outside the Growth Centre, Village and Hamlet designations in accordance with Policies 8.9.4 and 8.10.5 respectively of the Municipal Planning Strategy.

There was no specific definition for a resource industrial use, the best basis for determining what is considered a resource industrial use was the list of permitted uses in the Resource Industrial (M-1) zone in the West Hants Land Use By-law. In the Resource Industrial (M-1) zone, heavy equipment sales and service was listed as a permitted use.

Policy 8.9.4 provides Council with the ability to consider new non-resource uses from the Resource Industrial (M-1) zone by development agreement. In summary, the criteria were met since:

- the agrologist report concludes that the subject lot has limitations for agricultural production and is not well suited for future agricultural development;
- the proposed use will not compromise the agricultural character of the area or the operation of existing agricultural operations;
- The Area Manager from the Nova Scotia Department of Public Works had no concerns regarding roadway access or traffic generation; and
- the design, hours of operation, and on-site parking are suitable for the proposed use.

Policy 8.6.1 states the criteria for the agrologist report required to determine the agricultural capability for the subject lot. In summary, the criteria are met since:

- the subject lot exhibits constraints with regard to agriculture including stoniness, steepness of slope, depth of soil, and plot size;
- the author of the report is a professional agrologist who performed a site visit;
- the report includes a site plan showing the study area; and
- the report identifies site features and reasons that the subject lot would not be productive agricultural land.

Policy 16.3.1 states general criteria for development agreements. In summary, the criteria are met since:

- the proposal is not considered premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated; and

- the Fire Chief, Development Officer, Manager of Building and Fire Inspection Services, Municipal Engineering Technologist, and Area Manager of the Nova Scotia Department of Public Works have no concerns which have not been addressed in this report.

Within the Development Agreement the following requirements were listed:

- Permits a heavy truck and equipment repair shop: commercial establishment for the repair or replacement of parts in automotive, farm or forestry vehicles, machinery or equipment
- Hours of operation: 7:00 a.m. and 7:00 p.m. Monday to Saturday
- Minimum of five (5) parking spaces
- Driveway access from Greenhill Road
- Property owner is responsible for the safe storage and disposal of waste products
- Open storage limited to the space behind the heavy truck and equipment repair shop and shall be screened from adjacent residential properties
- Accessory buildings and signage in accordance with the WHLUB
- Restriction on dynamometers

At the October 13th, 2022, Planning and Heritage Advisory Committee (PAC/HAC) reviewed the report and recommended in favour. First reading was held November 22, 2022 resulting in a request to include a restriction on dynamometers. The Development Agreement has been updated to reflect the request.

A Public Information Meeting was held on October 13th and broadcasted live on the Municipal Facebook page. No members of the public were in attendance. The deadline for comments was October 28th, with no comments received.

The Public Hearing was advertised in the paper January 3rd and 10th; and letters were sent to property owners within 500 ft of the subject lot. The deadline for comments was Friday, January 20th with no comments received.

Planner Dunphy noted that all statutory requirements had been met.

The presentation ended at 7:33 p.m.

Discussion Points:

- Planning was working on a summary sheet pertaining to D.A.'s to be presented to Council.
- Intent was for annual inspections be completed. Since consolidation this has not been the case due to time and the volume of work. As time and weather permits the intent was to resume the inspection process.
- When interpreting standards in a D.A., community standards are used.

4. Adjournment

Mayor Zebian declared the Public Hearing closed at 7:33 p.m.

Abraham Zebian, Mayor

Deanna Snair, Executive Assistant/Clerk



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation <input checked="" type="checkbox"/>	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Mayor Zebian and Members of West Hants Regional Municipality Council

Submitted by: _____
Alex Dunphy, Planner

Date: January 24th, 2023

Subject: 394 Greenhill Road, Greenhill PID 45118502 – Development Agreement; File #22-21B

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230

RECOMMENDATION

If Council wishes to approve the development agreement following the Public Hearing, the following motion would be in order:

... that Council gives Second Reading and approves entering into a development agreement to allow a heavy truck and equipment repair shop at 394 Greenhill Road, Greenhill (PID 45118502) which is substantively the same as the agreement set out in Appendix B of the report File #22-21B dated January 24, 2023.

... that Council requires that the development agreement with Jeff Brown & Erika Rice for 394 Greenhill Road, Greenhill (PID 45118502) be signed within 120 days from the date of final approval by Council or the date that any appeals have been disposed of; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Property X	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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The completed application was submitted by Jeff Brown and Erika Rice on September 6th, 2022 to permit a heavy truck and equipment repair shop by development agreement at 394 Greenhill Road, Greenhill (PID 45118502).

DISCUSSION

A Public Information Meeting was held on October 13th, 2022.

The public comment period ended on October 28th, 2022 with no comments received from the public.

On November 10th, 2022, staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC) (Appendix A).

During the November 10th meeting, PAC/HAC recommended in favour of the application.

On November 22nd, 2022, staff presented the PAC/HAC recommendation to Council for First Reading (Appendix A).

During the November 22nd meeting, Council had requested that a restriction on dynamometers be included in the development agreement. Staff have updated the development agreement to reflect that request (Appendix B).

NEXT STEPS

The proposed development agreement has been considered based on the West Hants Municipal Planning Strategy and has proven consistent with the intent, objectives, and policies of the Planning Strategy. As a result, it is reasonable to consider permitting a heavy truck and equipment repair shop by development agreement.

FINANCIAL IMPLICATIONS

There are no financial implications to the Municipality or residents with regard to the filing of this report.

ALTERNATIVES

In response to the application, Council may decide to:

- approve the amendment as drafted or as specifically revised by direction of Council; or
- provide alternative direction such as requesting further information on a specific topic.

APPENDICIES

Appendix A 2022-11-10 Staff Report - 394 Greenhill Road, Greenhill PID 45118502 – Development Agreement; File #22-21

CHIEF ADMINISTRATIVE OFFICER REVIEW

The planner has noted that the development agreement (DA) application is in alignment with the current planning strategy and intent. The standard public feedback process has been conducted. Language in the DA associated with parking, open storage and maintenance of property, which has risen as points of conflict between neighbors with existing DAs, appear to be more detailed. I am not aware of existing large-scale dynamometers currently being used for the servicing of heavy truck and repairs but as with a recent DA application this may be an addition for Council's consideration.

I support the recommendation.

Report Prepared by: _____

Alex Dunphy, Planner

Report Approved by: _____

Madelyn LeMay, Director of Planning and Development

Report Approved by:  _____

Mark Phillips, Chief Administrative Officer

**Appendix A – 2022-11-10 Staff Report - 394 Greenhill Road, Greenhill PID 45118502 –
Development Agreement; File #22-21**



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation X	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Members of Planning and Heritage Advisory Committee (PAC/HAC)

Submitted by: _____
Alex Dunphy, Planner

Date: November 10th, 2022

Subject: 394 Greenhill Road, Greenhill PID 45118502 – Development Agreement; File #22-21

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230

RECOMMENDATION

To allow the requested development, staff recommends that the PAC/HAC forward a positive recommendation by passing the following motion:

...that PAC/HAC recommends that Council give First Reading and hold a Public Hearing to consider entering into a development agreement to allow a heavy truck and equipment repair shop at 394 Greenhill Road, Greenhill (PID 45118502) which is substantively the same as the draft set out in Attachment B of the report File #22-21 to the Planning and Heritage Advisory Committee dated November 10, 2022.

...that PAC/HAC recommends that Council require that the development agreement with Jeff Brown & Erika Rice for 394 Greenhill Road, Greenhill (PID 45118502) be signed within 120 days from the date of final approval by Council or the date that any appeals have been disposed of; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Property X	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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The completed application was submitted by Jeff Brown and Erika Rice on September 6th, 2022 to permit a heavy truck and equipment repair shop by development agreement at 394 Greenhill Road, Greenhill (PID 45118502).

Surrounding Context

All properties surrounding the subject lot are designated Agriculture and zoned Agricultural Priority Two (AR-2). Lands to the south, east, and west appear to be wooded lots with sparse residential uses. Lands to the north appear to be cleared field with a single residential use.

DISCUSSION

The subject lot is currently designated Agriculture on the Generalized Future Land Use Map (GFLUM) of the West Hants Municipal Planning Strategy (MPS) (Figure 1). The subject lot is zoned Agricultural Priority Two (AR-2) on Schedule A of the West Hants Land Use By-law (LUB) (Figure 2).

Municipal Planning Strategy Document Review

Policy 8.9.4 is the primary enabling policy to be considered for this application. This policy provides Council with the ability to consider new non-resource uses from the Resource Industrial (M-1) zone by development agreement. The Policy also includes criteria which must be met by the proposed development. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria since:

- the agrologist report concludes that the subject lot has limitations for agricultural production and is not well suited for future agricultural development;
- the proposed use will not compromise the agricultural character of the area or the operation of existing agricultural operations;
- The Area Manager from the Nova Scotia Department of Public Works had no concerns regarding roadway access or traffic generation; and
- the design, hours of operation, and on-site parking are suitable for the proposed use.

Policy 8.6.1 provides the criteria which must be met by an agrologist report in order to permit the consideration of rezoning a lot for non-farm development. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria since:

- the subject lot exhibits constraints with regard to agriculture including stoniness, steepness of slope, depth of soil, and plot size;
- the author of the report is a professional agrologist who performed a site visit;
- the report includes a site plan showing the study area; and
- the report identifies site features and reasons that the subject lot would not be productive agricultural land.

Policy 16.3.1 establishes the general criteria that all amendments to the Windsor Land Use By-law must meet. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria as:

- the proposal is not considered premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated; and
- the Fire Chief, Development Officer, Manager of Building and Fire Inspection Services, Municipal Engineering Technologist, and Area Manager of the Nova Scotia Department of Public Works have no concerns which have not been addressed in this report.

NEXT STEPS

Discussion from PAC will be incorporated into the report and presentation to Council.

FINANCIAL IMPLICATIONS

There are no financial implications to the Municipality or residents with regard to the filing of this report.

ALTERNATIVES

The Planning and Heritage Advisory Committee (PAC/HAC) may:

- provide alternative direction, such as requesting further information on a specific topic.

ATTACHMENTS

Figure 1	West Hants GFLUM Extract
Figure 2	West Hants Zoning Map Extract
Attachment A	Policy Summary for Development Agreement
Attachment B	Draft Development Agreement
Attachment C	Public Information Meeting Notes
Attachment D	Agrologist Report

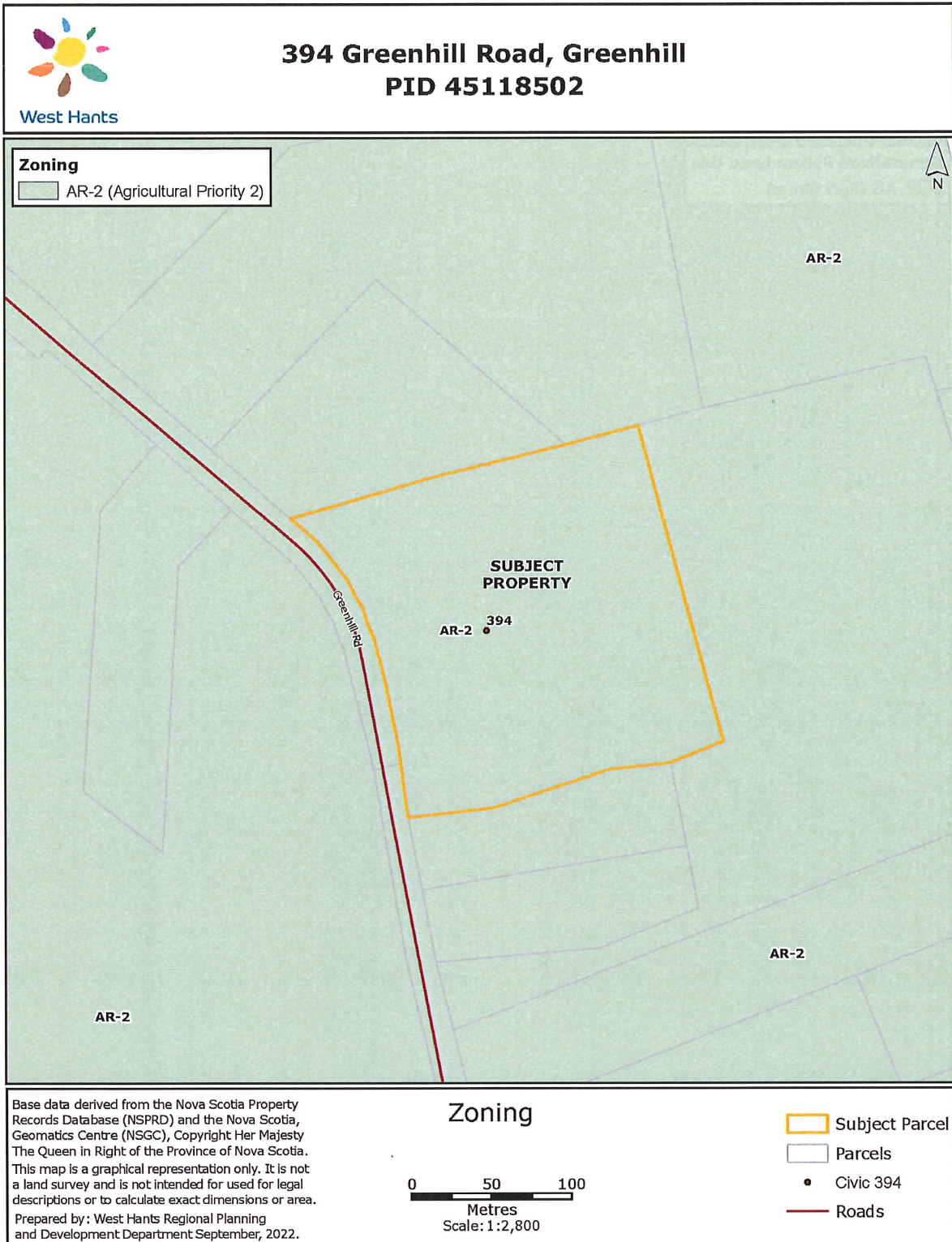
Report Prepared by: _____

Alex Dunphy, Planner

Report Approved by: _____

Madelyn LeMay, Director of Planning and Development

Figure 2 – West Hants Zoning Map Extract



Attachment A – Policy Summary for Development Agreement

<p>Policy 8.9.4 <i>It shall be the intention of Council to consider new non-resource Rural Commercial (RC), Recreation Commercial (RecC), Resource Industrial (M-1) or Open Space (OS) uses in the AR-2 zone by development agreement subject to the following:</i></p>	
<p><i>(a) the development site has been determined to have little or no agricultural capability in accordance with Policy 8.6.1;</i></p>	<p>The agrologist report listed as Attachment D concludes that the subject lot has limitations for agricultural production and is not well suited for future agricultural development.</p>
<p><i>(b) the proposed use will not compromise or adversely affect the operation or integrity of existing agricultural operations;</i></p>	<p>As part of the agrologist report, the agrologist consulted neighbouring farms and neither noted any concerns. The proposed use will not affect neighbouring farms.</p>
<p><i>(c) the predominant agricultural character of the area will not be adversely affected;</i></p>	<p>The proposed use will be developed on a previously infilled lot which has not affected any agricultural uses.</p>
<p><i>(d) adequate separation distances and buffering between agricultural and non-agricultural uses can be provided;</i></p>	<p>The subject lot has sufficient space to maintain setbacks from surrounding properties. The Development Officer noted that a minimum setback of 40 ft from all property lines is recommended and included in the development agreement.</p>
<p><i>(e) the use is not one which, because of its size or nature, would be more appropriately located in a Growth Centre, Village or Hamlet;</i></p>	<p>The proposed use is appropriate in terms of scale and usage for the location.</p>
<p><i>(f) safe and efficient roadway access is provided;</i></p>	<p>The Area Manager from the Nova Scotia Department of Public Works had no concerns regarding the roadway access for the subject lot.</p>
<p><i>(g) adequate on-site parking is provided;</i></p>	<p>The West Hants Land Use By-law specifies the minimum number of parking spaces required for a use. Using the calculation for parking requirements in Clause 5.31 (a) of the West Hants Land Use By-law, staff request that a minimum of five (5) parking spaces be included in the draft development agreement for the heavy truck and equipment repair shop to ensure the shop can provide adequate on-site parking.</p>

<i>(h) the development is compatible with adjacent land uses with respect to:</i>	
<i>(i) traffic generation and traffic safety;</i>	The Area Manager from the Nova Scotia Department of Public Works had no concerns regarding the generation of traffic or traffic safety.
<i>(ii) hours of operation;</i>	The applicant contacted neighbouring properties and informed the owners of the proposed development and hours of operation. No concerns were raised from those interactions, so standard operating hours will be outlined in the development agreement as 7:00 am to 7:00 pm Monday to Saturday.
<i>(iii) size and design of building(s);</i>	The proposed building footprint is 60 ft. by 80 ft. with two bay doors and wall height of 16 ft. The applicant would like to perform maintenance and repair on larger vehicles and equipment. This building would be appropriate in terms of size and design for the proposed use.
<i>(iv) signage; and</i>	Any signage will need to meet the requirements of the West Hants Land Use By-law.
<i>(v) pedestrian circulation and safety;</i>	There are no existing sidewalks on Greenhill Road. Based on the proposed use, it is unlikely that individuals will walk to or from the subject lot.
<i>(i) any other matter which may be addressed in a development agreement;</i>	All matters are addressed.
<i>(j) Policy 16.3.1.</i>	Refer to Policy 16.3.1 summary.
<p>Policy 8.6.1 <i>It shall be the policy of Council to consider certain non-farm development, pursuant to the relevant specific policies of this Part, on land within the Agricultural designation that has been determined to have little or no agricultural capability. A determination of agricultural capability shall be based on the following:</i></p>	
<i>(a) 90 percent or more of the development site is an existing or abandoned resource extraction site such as a sand pit, gravel pit or quarry for which a permit for extraction has been issued by the Province of Nova Scotia. The resource extraction must have</i>	N/A

<i>been existing or abandoned prior to the effective date of this Strategy; or</i>	
<i>(b) if not a resource extraction site, a study has been prepared by a professional agrologist, at the expense of the applicant, which concludes that the proposed development will not adversely affect the viability of surrounding agricultural operations and:</i>	
<i>(i) 90 percent or more of the development site has soils defined as Class 4 or lower capability for agriculture; or</i>	N/A
<i>(ii) the soils have a capability for agriculture rating better than Class 4, but 90 percent or more of the development site exhibits severe limitations for agricultural use because of slope, stoniness, salinity, wetness, permeability, depth of soils, size of parcel or proximity to non-farm buildings;</i>	The land is rated as Canada Land Inventory (CLI) Class 3 or lower but has constraints which limit the use of the land for agriculture. There are limitations in the site which influence the viability for agricultural production including stoniness, steep slope, depth of soil, and plot size. The lot is not in agricultural production and would not result in a loss of production based on the proposed use.
<i>(c) the study shall:</i>	
<i>(i) be prepared by a registered full member of the Nova Scotia Institute of Agrologists;</i>	A report was received from Yvonne Thyssen-Post, who is a Professional Agrologist recognized by the Nova Scotia Institute of Agrologists.
<i>(ii) require a site inspection by the agrologist;</i>	A site visit was conducted on August 16 th , 2022 by Yvonne Thyssen-Post.
<i>(iii) specify the method used, consistent with the C.L.I. classification methodology, to determine soil capability for agriculture;</i>	The Canadian Land Classification system was designed for regional level classification. The agrologist's report did not reclassify the land, but instead identified key characteristics of agricultural production capability which determine whether the subject lot is suitable.
<i>(iv) identify any major site features or characteristics which influence or determine soil capability including, but not limited to, slope, soil texture, stoniness, wetness, salinity, permeability, and depth of soils;</i>	Refer to the Study Criteria section in Attachment D.
<i>(v) include a site plan illustrating the area studied and any relevant site features;</i>	Included within Attachment D.

<p><i>(vi) identify reasons why the use would be compatible with, or not adversely affect, area farms. Reference should be made to the following where applicable: site and locational constraints; infilling between existing non-farm development; logical extension of existing non-farm development; special use with special locational requirements; current pattern of development; parcel size and shape; surrounding land uses; context within which the parcel fits into the farming area; viability of the parcel and remnant for farming; and existing, past and future use of the parcel and remnant;</i></p>	<p>The proposed use is compatible with the surrounding agricultural uses as there is sufficient buffering from the neighbouring farms. The farm owners were also consulted as part of the agrologist report and both stated that the proposed use would have no impact on their existing operations.</p>
<p><i>(vii) indicate the implications of letting the parcel go out of agricultural production; and</i></p>	<p>The subject lot has not been in agricultural production prior to this request. The lot is insignificant and would not be useful to neighbouring farms for agricultural production.</p>
<p><i>(viii) indicate the implications of fragmenting the land.</i></p>	<p>Fragmentation of the subject will not affect the capability of agricultural production on the lot.</p>

<p>Policy 16.3.1 <i>In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:</i></p>	
<p><i>(a) whether the proposal is considered premature or inappropriate in terms of:</i></p>	
<p><i>(i) the adequacy of sewer and water services;</i></p>	<p>The Public Works Department confirmed that there are no municipal services on the subject lot. Any on-site services must meet the requirements of the Nova Scotia Department of Environment and Climate Change.</p>
<p><i>(ii) the adequacy of school facilities;</i></p>	<p>N/A</p>
<p><i>(iii) the adequacy of fire protection and other emergency services;</i></p>	<p>The local Fire Chief has stated that there is adequate fire protection for the proposed use. The Manager of Building and Fire Inspection Services had no issues with fire protection but recommended at least a 26 ft. setback for the side yard.</p>

<i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i>	The Area Manager from the Nova Scotia Department of Public Works had no concerns regarding the road networks adjacent or leading to the development.
<i>(v) the financial capacity of the Municipality to absorb any costs relating to the development.</i>	There are no anticipated costs to the Municipality regarding this development.
<i>(b) whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system;</i>	Any on-site services must meet the requirements of the Nova Scotia Department of Environment and Climate Change.
<i>(c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i>	The Area Manager from the Nova Scotia Department of Public Works had no concerns regarding movement suitability on the subject lot.
<i>(d) the adequacy of the dimensions and shape of the lot for the intended use;</i>	The Development Officer commented that the proposed use should not be located closer than 40 ft from any property line. The subject lot is suitable for this recommendation.
<i>(e) the pattern of development which the proposal might create;</i>	The heavy truck and equipment repair shop is proposed to be located on a lot that is surrounded by forested area and the home of the applicant. Although the surrounding area is designated Agriculture and zoned Agricultural Priority Two (AR-2) it is not anticipated that this proposed use will interfere with the pattern of development.
<i>(f) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, wetlands, and susceptibility of flooding;</i>	See Attachment D.
<i>(g) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations; and</i>	All Municipal, Provincial, and Federal regulations will have to be met.
<i>(h) any other matter required by relevant policies of this Strategy.</i>	All relevant matters have been addressed in this report.

Attachment B – Draft Development Agreement



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2022.

BETWEEN:

WEST HANTS REGIONAL MUNICIPALITY, a body corporate pursuant to the *Municipal Government Act*, having its chief place of business at 76 Morison Drive, Wentworth Creek, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the “Municipality”)

OF THE FIRST PART

- and -

Jeff Brown and Erika Rice, of 394 Greenhill Road, Greenhill, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the “Owners”)

OF THE SECOND PART

WHEREAS the Owners are the registered owners of a parcel of land located at 394 Greenhill Road (PID 45118502) hereinafter referred to as the “Property”, which lands are more particularly described in Schedule A attached hereto; and

WHEREAS the Property is designated Agriculture on the Generalized Future Land Use Map of the West Hants Municipal Planning Strategy (June 26, 2008) (the “Municipal Planning Strategy”) and

zoned Agricultural Priority Two (AR-2) on the Zoning Map of the West Hants Land Use By-law (June 26, 2008) (the “Land Use By-law”); and

WHEREAS the Owners have requested that the Municipality enter into a development agreement to permit a Heavy Truck and Equipment Repair Shop on the Property (the “Development”) and Section 6.1 (s) of the Land Use By-law enables Council to consider a development agreement for heavy equipment sales and service as it is a listed permitted use in the Resource Industrial (M-1) zone; and

WHEREAS the Council of the Municipality, at a meeting held on **Month Day, 2022**, approved this request;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Definitions

In this Agreement, all words or phrases used shall carry their customary meaning unless otherwise set out in the Land Use By-law, except those defined as follows:

- (a) “Heavy Truck and Equipment Repair Shop” means a commercial establishment for the repair or replacement of parts in automotive, farm or forestry vehicles, machinery or equipment.

1.2 Schedules

The following attached schedules shall form part of this agreement:

Schedule A - Legal Description

Schedule B - Site Layout

1.3 Municipal Planning Strategy, Land Use By-law and Subdivision By-law

- (a) *Municipal Planning Strategy* means the West Hants Municipal Planning Strategy, effective on June 26, 2008, as amended, or successor By-laws;
- (b) *Land Use By-law* means the West Hants Land Use By-law, effective on June 26, 2008, as amended, or successor By-laws;
- (c) *Subdivision By-law* means the West Hants Subdivision By-law, effective on June 26, 2008, as amended, or successor By-laws.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

The Parties agree that uses on the Property shall be limited to the following:

- (a) those uses permitted by the underlying zoning in the Land Use By-law;
- (b) a Heavy Truck and Equipment Repair Shop; and
- (c) uses and structures accessory to the uses specified in clause 2.1 (a) and (b), including, but not limited to, storage sheds.

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

2.2 Development Location and Design

The Heavy Truck and Equipment Repair Shop shall be located entirely within a new 60 ft. by 80 ft. building located at 394 Greenhill identified as “Shop” on the Site Layout, Schedule B. The new building for the Heavy Truck and Equipment Repair Shop shall meet the following requirements:

Minimum front yard	40 ft (12.19 m)
Minimum rear yard	40 ft (12.19 m)
Minimum side yard	40 ft (12.19 m)
Maximum height of main building	35 ft (10.67 m)

2.3 Access and Egress

The main access/egress to the lot shall be directly from Greenhill Road. The vehicular entrance and exit shall be clearly demarcated and maintained to a level adequate to allow for access by emergency service vehicles.

2.4 Parking

A minimum of five (5) parking spaces may be used as part of the Heavy Truck and Equipment Repair Shop. The parking shall be located as shown on Schedule B or at such other location as may be approved in writing by the Development Officer without such new location being deemed an amendment of this agreement.

2.5 Storage

No open storage or display areas shall be permitted in the front yard along Greenhill Road or the side yards. Open storage shall be limited to the space behind the Heavy Truck and Equipment Repair Shop and shall be screened from adjacent residential properties by a continuous row of trees, a hedge, a fence, or a combination of the

foregoing arranged to form a dense or opaque screen. Accessory buildings for the Heavy Truck and Equipment Repair Shop shall be permitted in accordance with Section 5.1 of the Land Use By-law.

2.6 Signs and Lighting

Signage and illumination shall be regulated under Sections 5.18 and 7.0 of the Land Use By-law, *Illumination* and *Signs*, which controls lighting, size, location, and number of signs. Exterior lighting for driveways, parking areas, signs or structures shall be shielded and directed downward to ensure there is no light spilling, glare or light cast over neighbouring properties or the street.

2.7 Water and Sewer Services

The property is not serviced by municipal water and sewer. The Owners shall be responsible for ensuring adequate water and sewer services are available for the uses permitted.

2.8 Hours of Operation

The hours of operation for the Heavy Truck and Equipment Repair Shop shall be limited to between 7:00 a.m. and 7:00 p.m. daily, Monday to Saturday, inclusive.

2.9 Maintenance

- (a) The Owners shall keep the Property and buildings and any portion thereof clean and in good repair. Any driveways, fences, lawns, trees, shrubs, walkways and other landscaping elements shall be regularly maintained and kept in a tidy state and free from unkempt materials or matter of any kind.
- (b) The Owners shall maintain the driveway to a level adequate to allow for access by emergency service vehicles.

PART 3 CHANGES and DISCHARGE

3.1 The Owners shall not vary or change the use of the Property from that provided for in Section 2.1 of this Agreement, *Use*, unless a new agreement is entered into with the Municipality or this agreement is amended.

3.2 Any matters in this agreement which are not specified in Subsection 3.3 below are not substantive matters and may be changed with the written consent of Council without a public hearing provided that Council determines that the changes do not significantly alter the intended effect of these aspects of this agreement.

3.3 The following matters are substantive matters:

- (a) the uses permitted on the Property as listed in Section 2.1 *Use of this Agreement*; and
 - (b) the location of the shop shown on Schedule B of this agreement.
- 3.4** Notwithstanding the foregoing, discharge of this agreement is not a substantive matter and this agreement may be discharged by Council without a public hearing.
- 3.5** Notice of Intent to Discharge this Agreement may be given by the Municipality to the Owners following a resolution of Council to give such Notice:
- (a) as provided for in Section 4.1, *Commencement of Development*, of this Agreement; or
 - (b) at the discretion of the Municipality, with or without the concurrence of the Owners, where the Development has, in the reasonable opinion of Council on advice from the Development Officer, ceased operation for a period of at least twenty-four (24) months; or
 - (c) at any time upon the written request of the Owners, provided the use of the Property is in accordance with the Land Use By-law or a new Agreement has been entered into.
- 3.6** Council may discharge this Agreement 30 days after a Notice of Intent to Discharge has been given.

PART 4 IMPLEMENTATION

4.1 Commencement of Development

- (a) The Owners may not commence any construction or use on the Property until the Municipality has issued any development permit, building permit and/or occupancy permit that may be required.
- (b) Development as provided in Part 2 of this Agreement shall commence not later than twenty four (24) months from the date this Agreement is signed. If, in the opinion of the Development Officer, this time limit has not been met, this Agreement may be discharged at the option of the Municipality by resolution of Council in accordance with Section 229 of the Municipal Government Act, 30 days after giving Notice of Intent to Discharge to the Owners. Upon the written request of the Owners, the Municipality, by resolution of Council, may grant an extension to the date of commencement of development without such an extension being deemed to be an amendment to this Agreement.
- (c) If the Owners are bona fide delayed from commencing the development for reasons which are beyond the Owners' control, the determination of which shall

be at the sole discretion of the Development Officer, then performance by the Owners is excused for the period of the delay and the time period for the Owners to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

4.2 Material to be Provided

- (a) The Owners shall provide record drawings to the Development Officer for any portion of the development for which an engineered design is required, within ten days of completion of any work which requires the engineered design.
- (b) The Owners shall, upon written request, provide the Municipality with copies of any documentation, permits or approvals required by Provincial or Federal governments or agencies.

PART 5 ADMINISTRATION and COMPLIANCE

5.1 Compliance with Other Bylaws and Regulations

- (a) Nothing in this Agreement shall exempt the Owners from complying with Federal, Provincial and Municipal laws, by-laws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority, or approval required thereunder.
- (b) Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

5.2 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.3 Interpretation

- (a) Where the context requires, the singular shall include the plural and the neutral gender shall include the masculine and feminine.
- (b) Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

5.4 Municipal Responsibility

- (a) The Municipality does not make any representations to the Owners about the suitability of the Property for the development proposed by this agreement. The Owners assume all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the Development.
- (b) Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.5 Breach of Terms or Conditions

Upon breach of any term or condition of this Agreement, the Municipality may notify the Owners in writing. In the event that the Owners have not cured any such breach or entered into arrangements with the Municipality related to such breach to the Municipality's satisfaction, acting reasonably, within six (6) months of such notice then the Municipality may rely upon the remedies contained in Section 264 of the *Municipal Government Act* and may enter the land and perform any of the terms contained in the Development Agreement, or take such remedial action as is considered necessary to correct a breach of the Agreement, including the removal or destruction of anything that contravenes the terms of the Agreement and including decommissioning the site. It is agreed that all reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the Development Agreement.

5.6 Costs

The Owners shall pay all costs associated with registering this Agreement and all costs associated with any amendment thereof.

5.7 Development Agreement Bound to Land

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Municipality in accordance with Section 229 of the *Municipal Government Act*.

5.8 Assignment of Agreement

The Owners may, at any time and from time to time, transfer or assign this Agreement and its rights hereunder and may delegate its obligations hereunder to an assign, successor, heir, or purchaser of the land bound by this Agreement.

5.9 Written Notice

- (a) The Municipality may serve notice on the Owners personally or by ordinary mail which shall be deemed to have been received within three (3) business days of mailing, addressed to Jeff Brown and Erika Rice, PO Box 18, Mount Uniacke, NS B0N 1Z0 or at any other address provided by the Owners in writing.
- (b) The Owner may serve notice on the Municipality by registered mail addressed to the Chief Administrative Officer, West Hants Regional Municipality, 76 Morison Drive, P.O. Box 3000, Windsor, NS, B0N 2T0, or at any successor address provided by the Municipality to the Owner in writing.

5.10 Full Agreement

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

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

SIGNED, SEALED AND DELIVERED

In the presence of:

) **WEST HANTS REGIONAL**
) **MUNICIPALITY**

)
)
)

Per: _____

Witness

) Abraham Zebian, Mayor

)
)

) Per: _____

Witness

) Deanna Snair, Municipal Clerk

)
)

Per: _____

Witness

) Jeff Brown

)
)

Per: _____

Witness

) Erika Rice

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2022, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in presence.

A Commissioner of the Supreme Court of Nova Scotia

ON THIS day of , A.D. 2022, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2022, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that, **Jeff Brown**, one of the parties thereto, signed, sealed and delivered the same in presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. **2022**, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that, **Erika Rice**, one of the parties thereto, signed, sealed and delivered the same in presence.

A Commissioner of the Supreme Court of Nova Scotia

AFFIDAVIT OF CLERK

WEST HANTS REGIONAL MUNICIPALITY

I, Deanna Snair of _____, Hants County, Nova Scotia make oath and swear that:

1. I am the Clerk of the West Hants Regional Municipality (the "Municipality") and I have personal knowledge of the matters to which I have sworn in this Affidavit.
2. The Municipality is a body corporate pursuant to the *Municipal Government Act*, S.N.S. 1988, c.18, as amended.
3. I acknowledge that the Municipality executed the attached Instrument by its proper designates duly authorized in that regard under seal on the date of this Affidavit pursuant to subsection 13(3) of the *Municipal Government Act*, S.N.S. 1988, c.18, as amended. This acknowledgement is made pursuant to subsection 31(a) of the Registry Act, R.S.N.S. 1989, c.392 and/or clause 79(1)(a) of the Land Registry Act, S.N.S. 2001, c.6, as amended, for the purpose of registering or recording the Instrument.
4. The Municipality is resident in Canada for the purposes of the Income Tax Act (Canada).

I certify that on this _____, 2022
the Municipal Clerk, Deanna Snair came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

Deanna Snair, Clerk

CANADA
PROVINCE OF NOVA SCOTIA
HANTS COUNTY

AFFIDAVIT & PROOF OF EXECUTION (INDIVIDUAL)

We, Jeff Brown and Erika Rice, the “Deponents”, make oath and swear that:

1. We acknowledge that we executed the foregoing instrument on the date of this affidavit; this acknowledgement is made for the purpose of registering such instrument pursuant to s.31(a) of the *Registry Act*, R.S.N.S. 1989, c.392 or s.79(1)(a) of the *Land Registration Act* as the case may be.
2. We are nineteen years of age or older and are residents of Canada under the *Income Tax Act* (Canada).
3. For the purpose of this affidavit “spouse” means an individual who is married to another individual; is married to another individual by a marriage that is voidable and has not been voided by a declaration of nullity; has gone through a form of marriage with an individual, in good faith, that is void and they are cohabiting or have cohabited within the preceding year; or is a party to a registered domestic-partner declaration made in accordance with Section 53 of the *Vital Statistics Act* as amended, but does not include an individual who becomes a former domestic partner pursuant to section 55(1) of the Act.
4. We are the spouses of each other. Neither of us has any other spouse nor, with respect to the within property, any former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or any former spouse with rights under the *Matrimonial Property Act*. We consent to this disposition.

I certify that on this _____, 2022
the Deponents came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA

Jeff Brown

Erika Rice

Schedule A
Legal Description – PID 45118502

ALL those lots, pieces or parcels of land and premises, situate, lying and being in the Township of Newport and being bounded and described as follows; viz:

FIRST - That lot bounded on the South by lands formerly owned by Frederick Canavan;

On the West by the Main Road leading from Hillsvale to Ashdale;

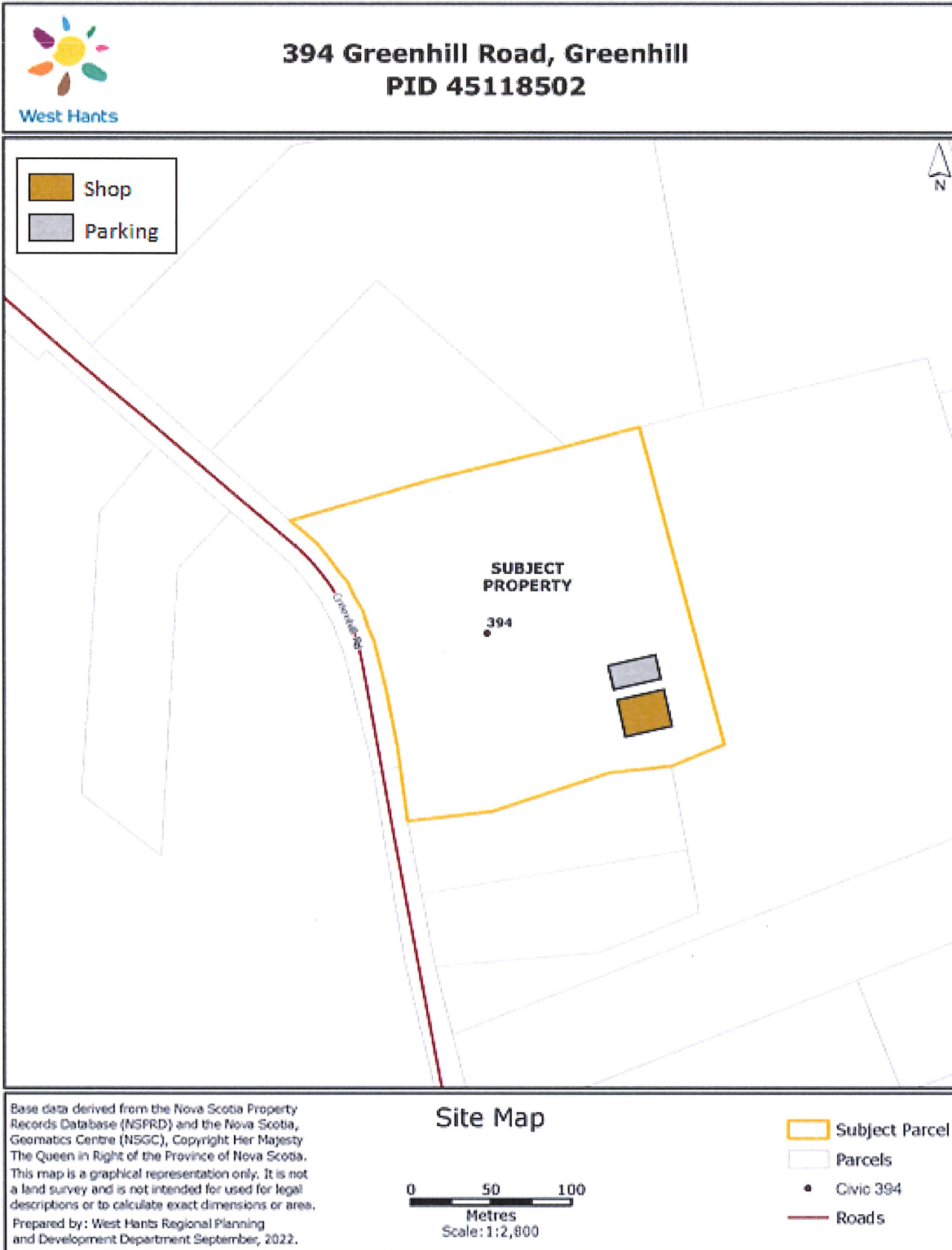
On the North by lands of Charles Canavan;

And on the East by lands owned by Frederick Canavan.

And containing in the whole TEN ACRES, more or less.

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

Schedule B
Site Layout



Attachment C – Public Information Meeting Notes

October 13 - October 28, 2022

File 22-21: Development Agreement: 394 Greenhill Road, Greenhill (PID 45118502)

Meeting date and time	A public information meeting was held on October 13, 2022 beginning at 6:10 p.m. The meeting was broadcast live on the Municipal Facebook page.
File Number	22-21
Attending	In attendance: One (1) Councillor: <ul style="list-style-type: none">• Councillor Jim Ivey Four (4) members of staff: <ul style="list-style-type: none">• Director LeMay• Planner Poirier• Planner Dunphy• Meeting Secretary Lake No members of the public were present for this meeting.
Applicant Jeff Brown and Erika Rice Property 394 Greenhill Road, Greenhill (PID 45118502)	Planner Dunphy outlined the application to allow a proposed heavy truck and equipment repair shop by development agreement.
Comments	Comments from the public could be submitted to Alex Dunphy by mail, e-mail and telephone between October 13 – October 28, 2022. No comments were received from the public.
Adjournment	The presentation portion of the PIM ended at approximately 6:15 p.m.

Attachment D – Agrologist Report

**PROFESSIONAL AGROLOGST REPORT
DETERMINATION OF AGRICULTURAL CAPABILITY**

LAND REZONING REQUEST OF PID 45118502

for

J. Brown Excavating Limited

August 2022



Managing Today for Tomorrow

Tel: 902-895-1414 Cell: 902-899-5929

Email: yvonne@thyagrissenconsulting.ca

Website: www.thyagrissenconsulting.ca

I. Scope of Work

The West Hants Municipal Planning Strategy and Land Use By-Law outlines a process that land owners are required to undertake when requesting a development agreement from Council to rezone land that is agricultural. This report complies with Policy 8.6.1 providing a Professional Agrologist study addressing the criteria outlined to determine agricultural capability of the land. This section of the strategy acknowledges that the scale of the C.L.I. (Canada Land Inventory) mapping, upon which the agricultural designation is based, is generalized. As such there may be pockets of land with a higher or lower capability rating. A land-use by-law amendment or development agreement process provides an opportunity for owners of land with minimal or no agricultural capability to use the property for certain non-farm development, provided the development will not interfere with adjacent farm activities or negatively affect the viability of the farming area.

Policy 8.6.1 outlines the parameters for determining agricultural capability of a land parcel. Section 8.6.1.(a) excludes sites which are existing or abandoned resource extraction sites. The site being assessed in this study is not a resource extraction site, and as such this section is not applicable. Section 8.6.1(b) applies to the site, requiring a site study prepared by a Professional Agrologist to assess the agricultural capability of the land, and to consider whether or not the proposed development adversely affects the viability of surrounding agricultural operations. This document presents the Professional Agrologist study of PID 45118502 which is co-owned by Jeff Brown & Ericka Rice. The PID is currently zoned Agricultural Priority Two (AR-2) and the current owners are requesting a rezoning to commercial to construct a heavy machinery servicing and repair shop.

II. Professional Agrologist – Yvonne Thyssen-Post

Yvonne Thyssen-Post of Thyagrissen Consulting Limited is a Professional Agrologist with 40 years experience. She is a registered full member of the Nova Scotia Institute of Agrologists (NSIA), member ID #19311; confirmation of current membership provided in Appendix A. She holds a Bachelor of Science in Agriculture from McGill University as well as a Masters of Adult Education from St. Francis Xavier University. Her experience includes 14 years as an agricultural extension worker with the NS government, followed by 26 years as a private consultant serving the agricultural industry. She established her own company in 1998 – Thyagrissen Consulting Limited - and continues to provide various professional business planning services, primarily to the agricultural industry of Atlantic Canada.

III. PID Profile

PID #45118502 is located at 394 Greenhill Road, Greenhill, Hants County, NS, and is co-owned by husband/wife, Jeff Brown and Ericka Rice. The lot is approximately 10.4 acres in size, zoned Agricultural Priority Two (AR-2) by the West Hants Regional Municipality and is designated Agriculture. Mr. Brown and Ms. Rice built their personal residence on the lot in 2015. Jeff Brown owns and operates an excavation company – J. Brown Excavating Limited. He provides excavation services for residential and commercial property owners in the local area as well as HRM. He established his company in 2008 and today employs 11 people including himself and his wife. His business continues to grow and he wants to build a shop where he can service and repair the heavy equipment his business requires. He wants to sub-divide PID 45118502, separating out approximately a 2-acre parcel from personal ownership to the corporate name and build the heavy machinery servicing and repair shop on this site. The parcel referenced is identified in the map, Appendix C. The land was originally forested, and Mr. Brown removed the trees from the front portion of the 2-acre lot in the past year. He brought in fill to level the area and gravel to provide a solid base. The land had a significant slope from the road frontage to the back, inclining towards a river at the back of the property. He is currently using the site to store unwanted debris from excavation jobs, such as fill, lumber, gravel, top soil, etc. He also installed a portable saw mill on site where he mills discarded wood from job sites.

Land zoned AR-2 is defined in Section 8.7 of the West Hants Municipal Planning Strategy (WHMPS) as "Improved and unimproved land with high capability (Class 2 and 3) for production of a variety of crops. This land will be reserved for agricultural production with limited non-agricultural development." (Page 73, WHMPS)

The strategy further clarifies the intent behind zoning land as AR-2:

"The Agricultural Priority Two (AR-2) zone is intended to apply to areas with high capability for agriculture, but where land owners do not want the strict development controls of the Prime Agriculture (P/Ag) zone. The AR-2 zone allows for more flexibility than the P/Ag zone including a wider scope of on-farm businesses by development agreement. Unlike the P/Ag zone, new dwellings are permitted as a main use, although subdivision is limited to two lots per area of land in a calendar year." (Page 76, WHMPS)

IV. Study Criteria

The Professional Agrologist study considers the land parcel according to Policy 8.6.1(b)(ii) of the WHMPS, as this policy applies to this site. The study evaluates soils that have capability for agriculture rating better than Class 4 but 90% or more of the development site exhibits severe limitations for agricultural use.

The next section addresses each aspect of Policy 8.6.1.(c) fulfilling the requirements of the Professional Agrologist study.

- Author of study - Yvonne Thyssen-Post, P.Ag., is a registered full-member of NSIA.
- A site inspection was conducted on Tuesday, August 16 accompanied by Mr. Brown.

The Canada Land Inventory (CLI) Capability for Agriculture classification system shows the varying potential of a specific area for agricultural production. It indicates the classes and subclasses according to the Soil Capability Classification of Agriculture, which is based on characteristics of the soil as determined by soil surveys. These agricultural capability maps can be used at the regional level for making decisions on land improvements and farm consolidation, for developing land-use plans and for preparing equitable land assessments (Government of Canada website). The classes indicate the degree of limitation imposed by the soil in its use for mechanized agriculture. The subclasses indicate the kinds of limitations that individually or in combination with others, are affecting agricultural land use. Although the information is old, and better information is available for some areas as part of more recent soil surveys, the interpretations are still largely valid and many jurisdictions still use them for land use planning purposes.

- Soil capability for agriculture was determined using the Soil Map of Hants County, NS, (Report #5, NS Soil Survey) sourced from Government of Canada website, Agriculture & Agri-Food Canada, Canada Land Inventory (CLI) soil surveys. Soil surveys have been published for most of the agricultural areas, and many surrounding areas across Canada. Data from these surveys comprise the most detailed soil inventory information in the National Soil Database (NSDB). The PID was located using commercially available mapping software and the location transposed to the soil survey map. See slides in Appendix C. The site is identified as EI-P/2.B5. CLI describes the soil type as follows:
 - a. The soil characteristics are consistent with those represented by the Elmsdale classification. The surface and subsoil are described as light brown sandy loam over yellowish red sandy loam. The parent material is reddish brown clay loam till derived from shales and sandstones; contains hard slate and quartzite cobbles as confirmed during the visual viewing of the site on August 16.
 - b. Topography and drainage: on the road front of the property this was difficult to determine as the site had been in-filled; back of the site where the topography was undisturbed, it was rolling-to-hilly, imperfectly drained. Transcribing the CLI labeling P indicates well drained; 2 indicates moderately stony, enough stone to interfere with cultivation unless removed; B complex slopes, irregular or rough surface; 5 steeply sloping. Visual inspection of the site verified these parameters.
 - c. The present land use – prior to the clearing and in-filling, the land was forested. Currently it is being used for the placement of excavation equipment and storing/sorting of debris from excavation sites.
 - d. Land capability use of Elmsdale soil as defined in the CLI as fair crop land.

There are approximately 91,000 acres in West Hants is rated CL 1, 2, and 3 (less than 50% of this land is cleared, there is considerable potential for future expansion). The soil in PID 45118502 is primarily Class 3, possibly a small amount of Class 7 according to the Atlantic Provinces Soil Class Maps, compiled by the Soil Research Institute, Research Branch, Agriculture Canada based on maps supplied by NS Soil Survey.

- Major site features or characteristics which influence or determine soil capability include severe slope from the road front of the property to the river as reported by Mr. Brown, a 40-ft drop to the river; stoniness with slate evident in property line ditch and depth of soil, as evidenced by Mr. Brown in reaching bedrock within 12 inches when digging the ditch (Photos in Appendix B). The size of the land parcel being considered is also a factor influencing the capability as it is a 2-acre parcel next to a private residence belonging to Mr. Brown and on the other side is one PID that is being subdivided for 2 house lots. The size of a field (~2 acres) is a nuisance to operate efficiently for crop production. It is inefficient to crop with no other cleared cropland in the immediate vicinity.
 - Appendix C locates the site via commercially available mapping software, soils maps and aerial photography. Mr Brown has yet to have a site survey plan completed including the topography as he wanted to ensure he would be approved for rezoning before spending additional money.
 - Rezoning the land to commercial does not appear to have any adverse affect on neighboring farms. There are two farms in the immediate area that were consulted to assess the impact and determine compatibility. Mr. Brown provided contact information for two neighboring farmers, and notified them that the consultant would be contacting them to discuss his project.
- Misty & Martin Croney live next to the site in question and operate a small farm part-time. They have two horses for pleasure purposes plus operate a small cow-calf beef farm consisting of 2 cows, 2 calves, 2 yearlings and 1 bull at the time of consultations on August 18, 2022. They sell freezer beef to individual customers. Ms. Thyssen-Post spoke with Martin Croney and he indicated that the construction of a shop by Mr. Brown would have “absolutely no impact on their farming activities whatsoever.”
 - Carl Miller owns a property about one kilometer away from the study site. Ms. Thyssen-Post spoke with him on August 23, 2022. Mr. Miller purchased the vacated hog farm in 2020 for his roofing company – Bluenose Roofing - to store equipment and supplies. He also is working to develop a beef and sheep farm. His current livestock inventory consists of 6 beef cows, 2 bulls, 100 ewes and 10 rams. His intent is to sell finished lambs to Northumberland Co-op or Oulton’s Meats. He is uncertain yet as to where he will market the feeders, once they are ready for market. “From his perspective, the machine shop will not impact his farm in any shape or form. He has no concerns.”

- Removing the parcel out of agriculture will not result in any loss of agriculture production as the land was not farmed prior to this rezoning request. The 2-acre parcel is insignificant and there are no neighboring farms that would utilize it, especially since the parcel is part of the PID where Mr. Brown built his personal residence.
- Fragmenting the land will mostly impact Mr. Brown as he will have a commercially zoned land parcel at the road entrance to his personal residence. This may impact the future value of his personal residence.

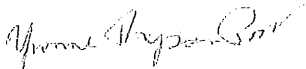
V. Rezoning Assessment Summary

The soil found in PID 45118502 is considered fair to good quality in terms of agricultural capability, as recorded in the CLI, and from the site inspection conducted by Ms. Thyssen-Post. The parcel could potentially produce a fair to good quality hay crop as it contains Class 3 soil similar to many areas of the province that are in agricultural production. There are limitations in the site that influence its' economic viability for agricultural production including the stoniness, steep slope, depth of soil and plot size as noted from the site inspection. The parcel is not currently in agricultural production, therefore there is no loss of production resulting from rezoning of the land.

The land parcel in question is already part of Mr. Brown's personal property and is of a size that is of little value for agricultural cropping purposes. Two neighboring farms were consulted as part of this study as to the impact of rezoning on their farm, and both noted no adverse effects. The construction of a machinery servicing and repair shop will not have any noise and smell affect on neighboring farms. Infilling that has already been completed on the site does not adversely affect existing non-farm development. Mr. Brown's residence is to the left of the site; another neighbor is developing 2 house lots on the right. This site is lower in elevation to the neighboring property. A drainage ditch dug by Mr. Brown along the property line directs run-off from the neighboring property away from the site.

Rezoning the land from AR-2 to commercial to build a heavy machinery servicing and repair shop will not adversely affect neighboring properties as confirmed in this study. The closest neighbor is the residence of Mr. Brown and so if anything, he may be impacted the most by it's affect on future property value.

Sincerely,


Yvonne Thyssen-Post, P.Ag.

Thyagrissen Consulting Limited



References

Canada Land Inventory (CLI) 1:1,000,000. (1954). Atlantic Provinces Soil Capability for Agriculture Map. Retrieved from <https://sis.agr.gc.ca/cansis/publications/maps/cli/1m/agr/index.html>

Cann, D.B., Hilchey, J.D., & Smith, G.R. (1954). Soil Survey of Hants County Nova Scotia. Report No. 5 Nova Scotia Soil Survey. Agriculture Canada.

Devanney, M. (June 2010). Profile of Agricultural Land Resources in Nova Scotia. NS Department of Agriculture.

Municipality of the District of West Hants Municipal Planning Strategy. (Approved May 13, 2008; Amended to September 14, 2021).

Overview of Classification Methodology for Determining Land Capability for Agriculture. Canada Land Inventory (CLI), Agriculture & Agri-Food Canada. (2022) Retrieved from <https://sis.agr.gc.ca/cansis/nsdb/cli/index.html>

APPENDIX A

NS Institute of Agrologist Membership

Receipt Number: 1882

2022



Nova Scotia Institute of Agrologists
7 Atlantic Central Dr
East Mountain, NS B6L 2Z2

Yvonne Thyssen-Post
35 Talon Court Bible Hill, NS B2N 7B4

Member ID: 19311

This is your receipt for income tax purposes.


NSIA Membership Fee for 2022 (HST Included at 15%)

\$178.25

Status: Professional Agrologist

****THIS IS YOUR OFFICIAL RECEIPT --- DO NOT PAY****

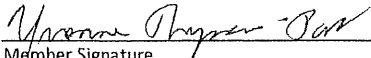
BN 888 257 599 RT0001



Nova Scotia Institute of Agrologists
7 Atlantic Central Dr.,
East Mountain, NS B6L 2Z2
902-893-7455
Web: <http://www.nsagrologists.ca>

**This is to certify that Yvonne Thyssen-Post
is a(n) Professional Agrologist**

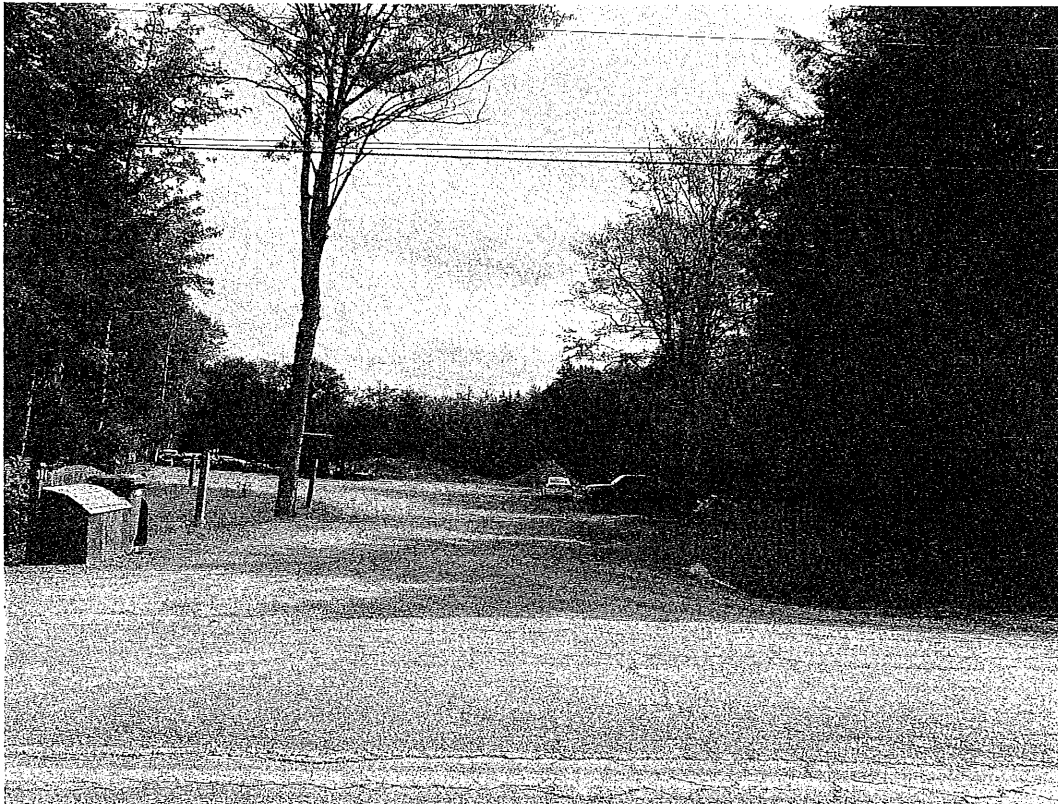
Membership valid from Jan. 1 to Dec. 31, 2022


Member Signature

APPENDIX B

Site Photos (as of August 16, 2022)

Road front view of PID depicting the area that has been leveled with in-filling, the proposed location of the shop. The land slopes steeply at the back of the property where there is no in-filling. Mr. Brown's personal residence uses the same driveway, and is to the left of the photo.



Drainage ditch along property line of PID 45118502 depicting depth to bedrock. Topsoil to the left was brought in from construction sites and screened.



APPENDIX C

PID Identification; Agricultural Capability Determination



Managing Today for Tomorrow

Soil Classification

Brown's Excavating Limited

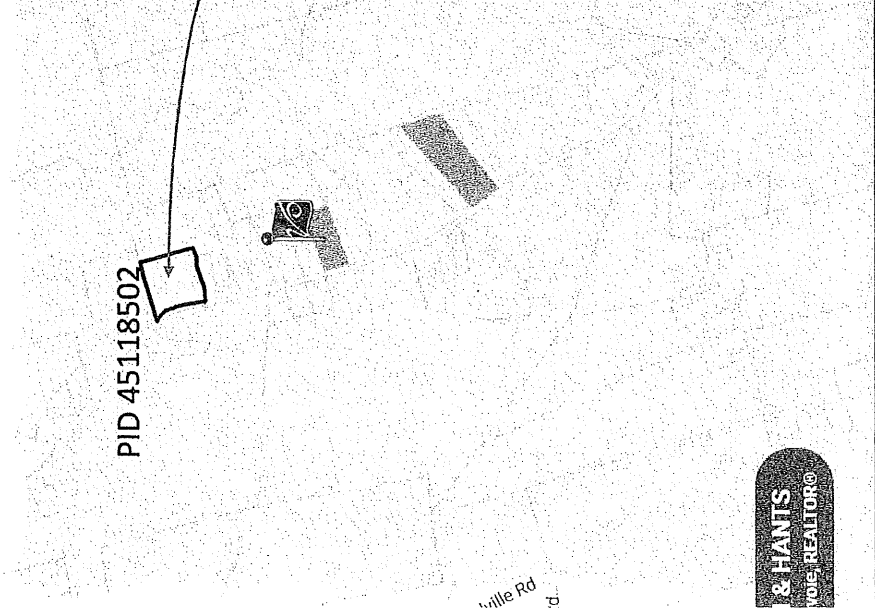
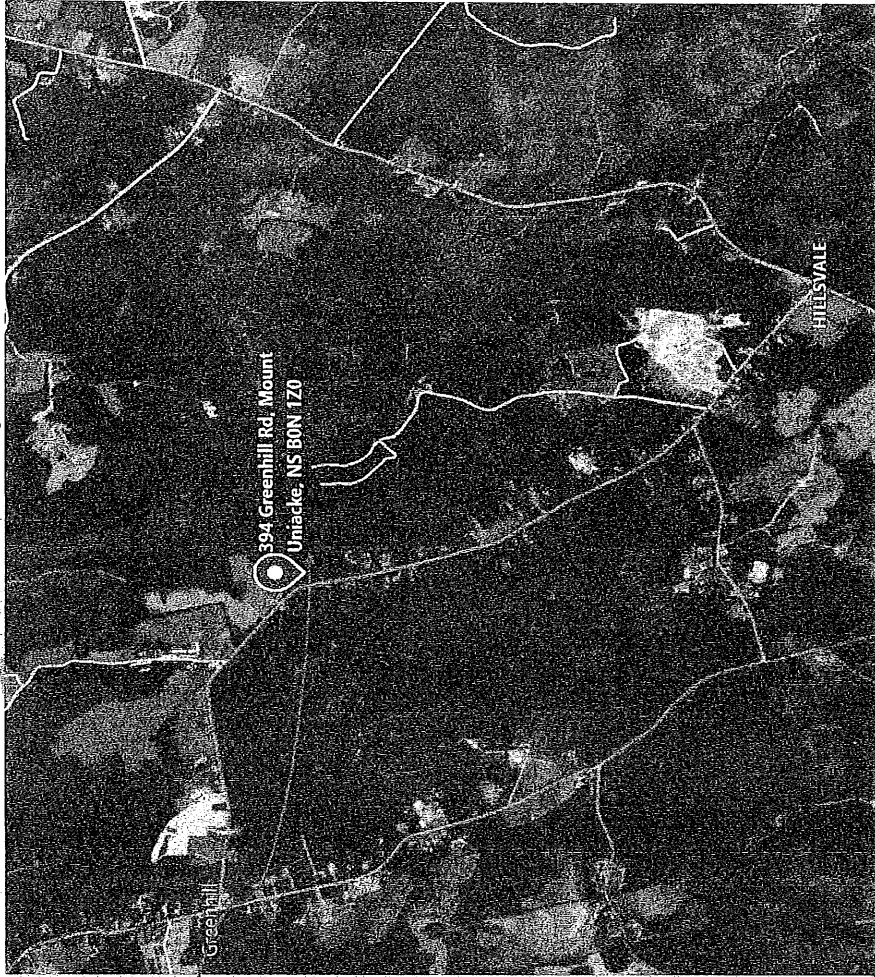
394 Greenhill Rd

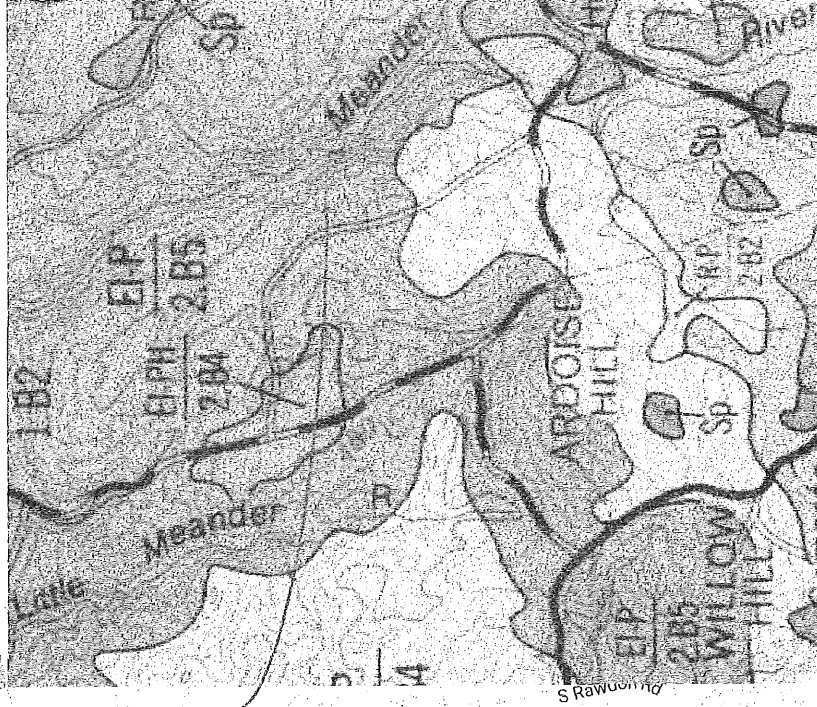
Hants County, NS

PID 45118502

Yvonne Thyssen-Post, P.Ag.

Thyagrissen Consulting Limited





PID 45118502



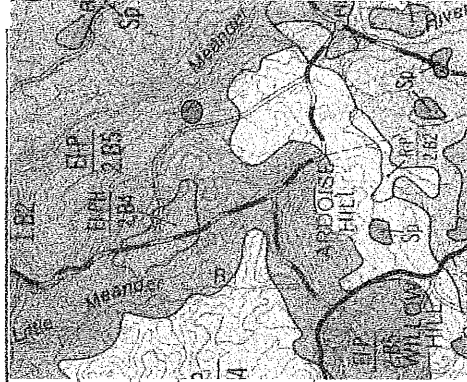
Hillsvale



ville Rd

L E G E N D

SYMBOL	Q:PH	E:PH:EL:PH	
SOIL CATENA	QUEENS	ELMSDALE	
ACREAGE	107769.6	72160.0	
DESCRIPTION OF SURFACE AND SUBSOIL	Light reddish brown clay loam over reddish brown clay loam; slightly mottled; moderately stony.	Light brown sandy loam over yellowish red sandy loam.	
PARENT MATERIAL	Dusky red clay loam till from red shales and mud stone; contains numerous red and brown sandstone fragments.	Reddish brown clay loam till derived from shales and sandstones; contains hard slate and quartzite cobbles.	
TOPOGRAPHY AND DRAINAGE	Undulating to gently rolling; fair surface drainage; internal drainage moderately slow to slow.	Rolling to hilly; well drained; internal drainage moderately rapid.	Undulating to rolling; well drained, but contains numerous depressional areas.
PRESENT LAND USE	Mixed farming, hay and grain crops; only small areas of Hansford and Elmsdale soils are cleared. Both the Elmsdale and Hansford soils contain considerable stone.		
LAND USE CAPABILITY	FAIR CROP LAND		

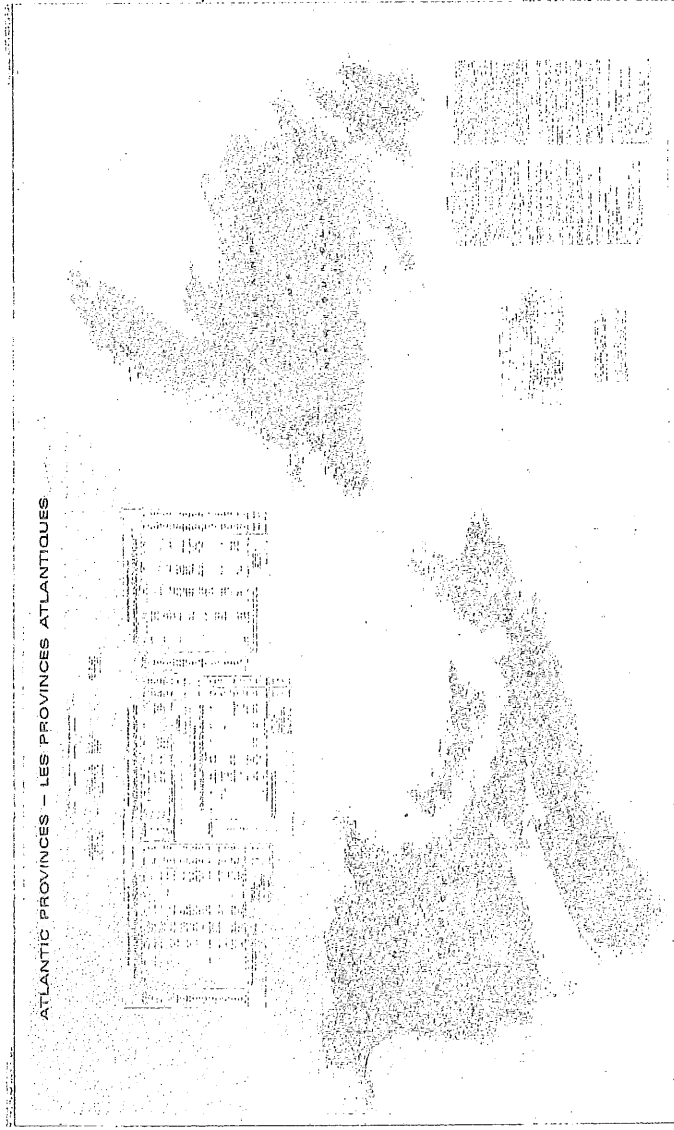


Source: Soil Survey of Hants County - Area Soils map-ns5b
<https://sis.agr.gc.ca/cansis/publications/surveys/ns/index.html>

Canada Land Inventory

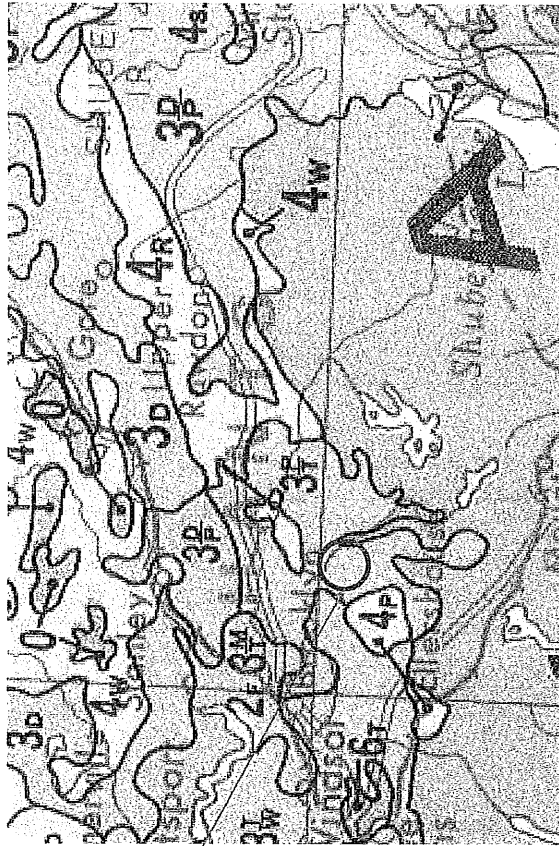
Soil Class

Scale 1:1,000,000



Source: Government of Canada -Canada Land Inventory - cli-1m_agr_Atlantic
https://sis.agr.gc.ca/cansis/publications/maps/cli/1m/agr/cli_1m_agr_atlantic.jpg

Browns Excavation
PID 45118502
(approximate)



- CLASS 2
 SOILS IN THIS CLASS HAVE MODERATE LIMITATIONS THAT RESTRICT THE RANGE OF CROPS OR REQUIRE MODERATE CONSERVATION PRACTICES.
- CLASS 3
 SOILS IN THIS CLASS HAVE MODERATE SEVERE LIMITATIONS THAT RESTRICT THE RANGE OF CROPS OR REQUIRE SPECIAL CONSERVATION PRACTICES.
- CLASS 4
 SOILS IN THIS CLASS HAVE SEVERE LIMITATIONS THAT RESTRICT THE RANGE OF CROPS OR REQUIRE SPECIAL CONSERVATION PRACTICES, OR BOTH.
- CLASS 5
 SOILS IN THIS CLASS HAVE VERY SEVERE LIMITATIONS THAT RESTRICT THEIR CAPABILITY TO PRODUCING PERENNIAL FORAGE CROPS, BUT IMPROVEMENT PRACTICES ARE NOT FEASIBLE.
- CLASS 6
 SOILS IN THIS CLASS ARE CAPABLE OF PRODUCING PERENNIAL CROPS ONLY, AND IMPROVEMENT PRACTICES ARE NOT FEASIBLE.
- CLASS 7
 SOILS IN THIS CLASS HAVE NO CAPABILITY FOR CROP USE OR PERMANENT PASTURE.
- 0
 ORGANIC SOILS (not placed in capability classes).

Appendix B – Updated Development Agreement



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2023.

BETWEEN:

WEST HANTS REGIONAL MUNICIPALITY, a body corporate pursuant to the *Municipal Government Act*, having its chief place of business at 76 Morison Drive, Wentworth Creek, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the “Municipality”)

OF THE FIRST PART

- and -

Jeff Brown and Erika Rice, of 394 Greenhill Road, Greenhill, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the “Owners”)

OF THE SECOND PART

WHEREAS the Owners are the registered owners of a parcel of land located at 394 Greenhill Road (PID 45118502) hereinafter referred to as the “Property”, which lands are more particularly described in Schedule A attached hereto; and

WHEREAS the Property is designated Agriculture on the Generalized Future Land Use Map of the West Hants Municipal Planning Strategy (June 26, 2008) (the “Municipal Planning Strategy”) and

zoned Agricultural Priority Two (AR-2) on the Zoning Map of the West Hants Land Use By-law (June 26, 2008) (the “Land Use By-law”); and

WHEREAS the Owners have requested that the Municipality enter into a development agreement to permit a Heavy Truck and Equipment Repair Shop on the Property (the “Development”) and Section 6.1 (s) of the Land Use By-law enables Council to consider a development agreement for heavy equipment sales and service as it is a listed permitted use in the Resource Industrial (M-1) zone; and

WHEREAS the Council of the Municipality, at a meeting held on **Month Day, 2023**, approved this request;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Definitions

In this Agreement, all words or phrases used shall carry their customary meaning unless otherwise set out in the Land Use By-law, except those defined as follows:

- (a) “Heavy Truck and Equipment Repair Shop” means a commercial establishment for the repair or replacement of parts in automotive, farm or forestry vehicles, machinery or equipment.

1.2 Schedules

The following attached schedules shall form part of this agreement:

Schedule A - Legal Description

Schedule B - Site Layout

1.3 Municipal Planning Strategy, Land Use By-law and Subdivision By-law

- (a) *Municipal Planning Strategy* means the West Hants Municipal Planning Strategy, effective on June 26, 2008, as amended, or successor By-laws;
- (b) *Land Use By-law* means the West Hants Land Use By-law, effective on June 26, 2008, as amended, or successor By-laws;
- (c) *Subdivision By-law* means the West Hants Subdivision By-law, effective on June 26, 2008, as amended, or successor By-laws.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

- (a) The Parties agree that uses on the Property shall be limited to the following:
 - (i) those uses permitted by the underlying zoning in the Land Use By-law;
 - (ii) a Heavy Truck and Equipment Repair Shop; and
 - (iii) uses and structures accessory to the uses specified in clause 2.1 (a) and (b), including, but not limited to, storage sheds.
- (b) The use of dynamometers is prohibited on the lot.
- (c) Except as otherwise provided in this Agreement, the provisions of the Land Use By-law and the Subdivision By-law apply to any development undertaken pursuant to this agreement.

2.2 Development Location and Design

The Heavy Truck and Equipment Repair Shop shall be located entirely within a new 60 ft. by 80 ft. building located at 394 Greenhill identified as "Shop" on the Site Layout, Schedule B. The new building for the Heavy Truck and Equipment Repair Shop shall meet the following requirements:

Minimum front yard	40 ft (12.19 m)
Minimum rear yard	40 ft (12.19 m)
Minimum side yard	40 ft (12.19 m)
Maximum height of main building	35 ft (10.67 m)

2.3 Access and Egress

The main access/egress to the lot shall be directly from Greenhill Road. The vehicular entrance and exit shall be clearly demarcated and maintained to a level adequate to allow for access by emergency service vehicles.

2.4 Parking

A minimum of five (5) parking spaces may be used as part of the Heavy Truck and Equipment Repair Shop. The parking shall be located as shown on Schedule B or at such other location as may be approved in writing by the Development Officer without such new location being deemed an amendment of this agreement.

2.5 Storage

No open storage or display areas shall be permitted in the front yard along Greenhill Road or the side yards. Open storage shall be limited to the space behind the Heavy

Truck and Equipment Repair Shop and shall be screened from adjacent residential properties by a continuous row of trees, a hedge, a fence, or a combination of the foregoing arranged to form a dense or opaque screen. Accessory buildings for the Heavy Truck and Equipment Repair Shop shall be permitted in accordance with Section 5.1 of the Land Use By-law.

2.6 Signs and Lighting

Signage and illumination shall be regulated under Sections 5.18 and 7.0 of the Land Use By-law, *Illumination* and *Signs*, which controls lighting, size, location, and number of signs. Exterior lighting for driveways, parking areas, signs or structures shall be shielded and directed downward to ensure there is no light spilling, glare or light cast over neighbouring properties or the street.

2.7 Water and Sewer Services

The property is not serviced by municipal water and sewer. The Owners shall be responsible for ensuring adequate water and sewer services are available for the uses permitted.

2.8 Hours of Operation

The hours of operation for the Heavy Truck and Equipment Repair Shop shall be limited to between 7:00 a.m. and 7:00 p.m. daily, Monday to Saturday, inclusive.

2.9 Maintenance

- (a) The Owners shall keep the Property and buildings and any portion thereof clean and in good repair. Any driveways, fences, lawns, trees, shrubs, walkways and other landscaping elements shall be regularly maintained and kept in a tidy state and free from unkempt materials or matter of any kind.
- (b) The Owners shall maintain the driveway to a level adequate to allow for access by emergency service vehicles.

PART 3 CHANGES and DISCHARGE

3.1 The Owners shall not vary or change the use of the Property from that provided for in Section 2.1 of this Agreement, *Use*, unless a new agreement is entered into with the Municipality or this agreement is amended.

3.2 Any matters in this agreement which are not specified in Subsection 3.3 below are not substantive matters and may be changed with the written consent of Council without a public hearing provided that Council determines that the changes do not significantly alter the intended effect of these aspects of this agreement.

- 3.3** The following matters are substantive matters:
- (a) the uses permitted on the Property as listed in Section 2.1 *Use of this Agreement*; and
 - (b) the location of the shop shown on Schedule B of this agreement.
- 3.4** Notwithstanding the foregoing, discharge of this agreement is not a substantive matter and this agreement may be discharged by Council without a public hearing.
- 3.5** Notice of Intent to Discharge this Agreement may be given by the Municipality to the Owners following a resolution of Council to give such Notice:
- (a) as provided for in Section 4.1, *Commencement of Development*, of this Agreement; or
 - (b) at the discretion of the Municipality, with or without the concurrence of the Owners, where the Development has, in the reasonable opinion of Council on advice from the Development Officer, ceased operation for a period of at least twenty-four (24) months; or
 - (c) at any time upon the written request of the Owners, provided the use of the Property is in accordance with the Land Use By-law or a new Agreement has been entered into.
- 3.6** Council may discharge this Agreement 30 days after a Notice of Intent to Discharge has been given.

PART 4 IMPLEMENTATION

4.1 Commencement of Development

- (a) The Owners may not commence any construction or use on the Property until the Municipality has issued any development permit, building permit and/or occupancy permit that may be required.
- (b) Development as provided in Part 2 of this Agreement shall commence not later than twenty four (24) months from the date this Agreement is signed. If, in the opinion of the Development Officer, this time limit has not been met, this Agreement may be discharged at the option of the Municipality by resolution of Council in accordance with Section 229 of the Municipal Government Act, 30 days after giving Notice of Intent to Discharge to the Owners. Upon the written request of the Owners, the Municipality, by resolution of Council, may grant an extension to the date of commencement of development without such an extension being deemed to be an amendment to this Agreement.

- (c) If the Owners are bona fide delayed from commencing the development for reasons which are beyond the Owners' control, the determination of which shall be at the sole discretion of the Development Officer, then performance by the Owners is excused for the period of the delay and the time period for the Owners to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

4.2 Material to be Provided

- (a) The Owners shall provide record drawings to the Development Officer for any portion of the development for which an engineered design is required, within ten days of completion of any work which requires the engineered design.
- (b) The Owners shall, upon written request, provide the Municipality with copies of any documentation, permits or approvals required by Provincial or Federal governments or agencies.

PART 5 ADMINISTRATION and COMPLIANCE

5.1 Compliance with Other Bylaws and Regulations

- (a) Nothing in this Agreement shall exempt the Owners from complying with Federal, Provincial and Municipal laws, by-laws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority, or approval required thereunder.
- (b) Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

5.2 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.3 Interpretation

- (a) Where the context requires, the singular shall include the plural and the neutral gender shall include the masculine and feminine.
- (b) Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

5.4 Municipal Responsibility

- (a) The Municipality does not make any representations to the Owners about the suitability of the Property for the development proposed by this agreement. The Owners assume all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the Development.
- (b) Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.5 Breach of Terms or Conditions

Upon breach of any term or condition of this Agreement, the Municipality may notify the Owners in writing. In the event that the Owners have not cured any such breach or entered into arrangements with the Municipality related to such breach to the Municipality's satisfaction, acting reasonably, within six (6) months of such notice then the Municipality may rely upon the remedies contained in Section 264 of the *Municipal Government Act* and may enter the land and perform any of the terms contained in the Development Agreement, or take such remedial action as is considered necessary to correct a breach of the Agreement, including the removal or destruction of anything that contravenes the terms of the Agreement and including decommissioning the site. It is agreed that all reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the Development Agreement.

5.6 Costs

The Owners shall pay all costs associated with registering this Agreement and all costs associated with any amendment thereof.

5.7 Development Agreement Bound to Land

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Municipality in accordance with Section 229 of the *Municipal Government Act*.

5.8 Assignment of Agreement

The Owners may, at any time and from time to time, transfer or assign this Agreement and its rights hereunder and may delegate its obligations hereunder to an assign, successor, heir, or purchaser of the land bound by this Agreement.

5.9 Written Notice

- (a) The Municipality may serve notice on the Owners personally or by ordinary mail which shall be deemed to have been received within three (3) business days of mailing, addressed to Jeff Brown and Erika Rice, PO Box 18, Mount Uniacke, NS B0N 1Z0 or at any other address provided by the Owners in writing.
- (b) The Owner may serve notice on the Municipality by registered mail addressed to the Chief Administrative Officer, West Hants Regional Municipality, 76 Morison Drive, P.O. Box 3000, Windsor, NS, B0N 2T0, or at any successor address provided by the Municipality to the Owner in writing.

5.10 Full Agreement

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

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

SIGNED, SEALED AND DELIVERED

In the presence of:

Witness

Witness

Witness

) **WEST HANTS REGIONAL**

) **MUNICIPALITY**

)

)

)

Per: _____

) Abraham Zebian, Mayor

)

)

) Per: _____

) Deanna Snair, Municipal Clerk

)

)

Per: _____

) Jeff Brown

) _____

) _____

Per: _____

Witness

) Erika Rice

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. **2023**, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in presence.

A Commissioner of the Supreme Court of Nova Scotia

ON THIS day of , A.D. **2023**, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **THE WEST HANTS REGIONAL MUNICIPALITY**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed in presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. **2023**, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that, **Jeff Brown**, one of the parties thereto, signed, sealed and delivered the same in presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. **2023**, before me, the subscriber, personally came and appeared , a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that, **Erika Rice**, one of the parties thereto, signed, sealed and delivered the same in presence.

A Commissioner of the Supreme Court of Nova Scotia

AFFIDAVIT OF CLERK

WEST HANTS REGIONAL MUNICIPALITY

I, Deanna Snair of _____, Hants County, Nova Scotia make oath and swear that:

1. I am the Clerk of the West Hants Regional Municipality (the "Municipality") and I have personal knowledge of the matters to which I have sworn in this Affidavit.
2. The Municipality is a body corporate pursuant to the *Municipal Government Act*, S.N.S. 1988, c.18, as amended.
3. I acknowledge that the Municipality executed the attached Instrument by its proper designates duly authorized in that regard under seal on the date of this Affidavit pursuant to subsection 13(3) of the *Municipal Government Act*, S.N.S. 1988, c.18, as amended. This acknowledgement is made pursuant to subsection 31(a) of the Registry Act, R.S.N.S. 1989, c.392 and/or clause 79(1)(a) of the Land Registry Act, S.N.S. 2001, c.6, as amended, for the purpose of registering or recording the Instrument.
4. The Municipality is resident in Canada for the purposes of the Income Tax Act (Canada).

I certify that on this _____, 2023
the Municipal Clerk, Deanna Snair came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

Deanna Snair, Clerk

CANADA
PROVINCE OF NOVA SCOTIA
HANTS COUNTY

AFFIDAVIT & PROOF OF EXECUTION (INDIVIDUAL)

We, Jeff Brown and Erika Rice, the “Deponents”, make oath and swear that:

1. We acknowledge that we executed the foregoing instrument on the date of this affidavit; this acknowledgement is made for the purpose of registering such instrument pursuant to s.31(a) of the *Registry Act*, R.S.N.S. 1989, c.392 or s.79(1)(a) of the *Land Registration Act* as the case may be.
2. We are nineteen years of age or older and are residents of Canada under the *Income Tax Act* (Canada).
3. For the purpose of this affidavit “spouse” means an individual who is married to another individual; is married to another individual by a marriage that is voidable and has not been voided by a declaration of nullity; has gone through a form of marriage with an individual, in good faith, that is void and they are cohabiting or have cohabited within the preceding year; or is a party to a registered domestic-partner declaration made in accordance with Section 53 of the *Vital Statistics Act* as amended, but does not include an individual who becomes a former domestic partner pursuant to section 55(1) of the Act.
4. We are the spouses of each other. Neither of us has any other spouse nor, with respect to the within property, any former domestic partner with the rights contemplated by Section 55 of the *Vital Statistics Act*, or any former spouse with rights under the *Matrimonial Property Act*. We consent to this disposition.

I certify that on this _____, 2023
the Deponents came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA

Jeff Brown

Erika Rice

Schedule A
Legal Description – PID 45118502

ALL those lots, pieces or parcels of land and premises, situate, lying and being in the Township of Newport and being bounded and described as follows; viz:

FIRST - That lot bounded on the South by lands formerly owned by Frederick Canavan;

On the West by the Main Road leading from Hillsvale to Ashdale;

On the North by lands of Charles Canavan;

And on the East by lands owned by Frederick Canavan.

And containing in the whole TEN ACRES, more or less.

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

Schedule B
Site Layout

