

To: **Antigonish County Planning Advisory Committee**
Antigonish County Council

From: **Planning Staff (EDPC)**

Date: **September 12, 2022**

Reference: **File No. AT-DA2022-003 Application to enter into a Development Agreement for commercial storage facilities on Lot 1A2, PID 01297456, 2784 Highway 4, Brierly Brook, Antigonish County**

Staff Recommendation:

Staff recommend that the Antigonish County Planning Advisory Committee forward the following recommendations: That Municipal Council enter into a Development Agreement for a maximum of 4 commercial storage buildings on Lot 1A2, 32784 Highway 4, PID 01297456, Brierly Brook, Antigonish County; and that Municipal Council give First Reading and schedule a Public Hearing.

Background Information:

On March 9rd 2022, the Eastern District Planning Commission (EDPC) received a letter from Kyle Van de Sande, President of Riavan Investments LTD seeking a Development Agreement for Lot 1A2, PID 01297456, 2784 Highway 4 to allow for a maximum of 4 commercial storage buildings. On April 7th 2022 Mr. Van de Sande dropped off a cheque for the advertising deposit. On May 3rd 2022 Mr. Van de Sande emailed the site plans. On June 9th 2022 the necessary supporting document in regards to approving a commercial access to the site were received by the EDPC.

Description	
Designation:	Rural Development
Current Zoning:	Rural General (RG-1)
Heritage Property:	No
Request:	Development Agreement
Identification No:	PID 01297456
Total Lot Area:	1.39 Acres
Site Visit:	July 8 th , 2022



Figure 1. Photo showing the proximity of the site’s commercial access to the roundabout

Currently the property is zoned as Rural General (RG-1) under the West River Antigonish Harbour Plan Area in the Municipality of Antigonish County. Under this zoning, commercial storage

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facilities are a permitted land use by development agreement (pg 24 West River Antigonish Harbour Land Use Bylaws [LUB] and pg 12 – 13 West River Antigonish Harbour Municipal Planning Strategy [MPS]). Part 8.1 of the West River Antigonish Land Use By-Law states: *“No development permit shall be issues in a Rural General (RG-1) zone except for one or more of the following uses... Commercial storage facilities by development agreement”*

Mr. Van de Sande has requested to enter into a development agreement to build a maximum of 4 commercial storage buildings.

It is recommended that Municipal Council approve the proposed development agreement attached to this staff report between Mr. Kyle Van de Sande and the Municipality of Antigonish County with respect to the construction of a maximum of 4 commercial storage buildings on Lot 1A2, PID 01297456, 2784 Highway 4.

Site Visit:

The subject property, PID 01297456, is located just off the Exit 31 roundabout on Highway 4 (Figure 1). The lot has been cleared and leveled with gravel/fill in preparation for construction and is currently vacant except for some markers and the occasional vehicle as seen in Figure 2.

The site is currently completely flat with little vegetation Figure 2. The property does have strips of short brush/vegetation between it and Highway 4 and a small patch of trees on the southern corner of the lot. The adjacent properties have a few small clusters of trees buffering the properties.

The abutting two properties are a commercial trucking operation owned by R.B. MacDougall Trucking (north-western property) and a Church owned by the Pentecostal Assemblies of Canada (southern property), shown in Figure 3. The Church building itself and access to the Church is located on the other side of R.B MacDougall Trucking’s property. There is a large buffer of trees between the rest of the Church’s property and Mr. Van de Sande’s. On Mr. Van de Sande’s property the Church is not visible. Due to these factors, staff are of the



Figure 2 . Photo of the site which has been leveled & cleared in preparation for development



Figure 3 . Satellite map abutting properties

opinion that there will be little or negligible impact on the Church by the future Commercial Storage Facilities on Mr. Van de Sande's property.

Analysis:

Development agreements allow a municipality to review and consider a development proposal for certain uses that are not otherwise be permitted by the Land Use By-law. A development agreement is a legal contract that is negotiated between Municipal Council and the applicant. The agreement is registered and runs with the title of the land. Subsequent owners of the property are bound by the terms of the development agreement.

Policy I-1.11 of the West River Antigonish Harbour Municipal Planning Strategy (MPS) [pg 56] sets out that: *The following uses shall be considered subject to the entering into of a development Agreement... h. commercial storage facilities according to Policy L-1.4.1"*

As such, the proposed use proceeds by way of the development agreement approval process.

Policy L-1.4.1 and Policy I-1.12 (West River Antigonish Harbour MPS pg 12 -13 & pg 56-57) sets out criteria to which Council shall have regarded in its consideration of a development agreement. Please refer to Appendix A for a summary of Policy L-1.4.1 and Policy I-1.12.

A primary consideration is whether the proposal conforms to the intent to the Municipal Planning Strategy and whether the proposed development is compatible with adjacent rural development uses with respect to scale, mass and use. This proposal does conform with the intent as it is in keeping with relevant land use policies of the Municipal Planning Strategy such as the above referenced Policy I-1.11. Regarding surrounding adjacent rural development, the site is immediately next to a commercial trucking operation. Other commercial uses nearby include a car dealership and a modular home display lot.

Council shall consider whether the proposal is premature or inappropriate.

Staff solicited input on the proposal for Policy L-1.4.1 (g) and Policy I.1.12 (i) and (iv).

In correspondence dated 18 July 2022, the Provincial Department of Public Works indicated that the Department is not concerned with the surrounding road networks regarding this development.

The Municipality should have the ability to absorb any costs related to the development so that there is not an undue burden on municipal finances or negative impacts on asset management. No upgrades to municipal infrastructure are required to accommodate the proposed development as the development will not be using water or sewer systems in any capacity. Policy I.1.12 (i) sets out that Council shall have regard to whether the proposal is premature or inappropriate by reason of the financial capability of the community to absorb any costs related to the development. With respect to this ability, in correspondence received 14 July 2022, the Municipal CAO, Glenn Horne, on behalf of the Municipal Finance Department offered the

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following comments: *“In conformance with Policy I-1.12 (b) i of the West River Antigonish Harbour Municipal Planning Strategy, I can confirm that this proposal is not premature or inappropriate by reason of the financial capability of the Municipality to absorb any cost relating to the development. Specifically, the property owner is responsible for any and all costs associated with this development.”*

Regarding the adequacy of the site for sewer and water referred to in Policy L-1.4.1 (b) and Policy I.1.12 (b)(ii), this criterion is not applicable to this development. Also, not applicable to this development is Policy I.1.12(b) (iii) and Policy I.1.12 (c). There are no nearby schools, recreation, or community facilities. The site is not historical nor were there any historical buildings on it. There are no nearby historical sites or buildings that could be affected during construction.

Policy L-1.4.1 (c), (d) and (f) speak to the total area used for outdoor storage and adequate provisions of artificial or natural screening devices; adequate buffering, including landscaping setback distances and berms where appropriate are maintained to minimize effects on/from adjacent land uses; and whether the proposed development is not obnoxious by virtue of noise, odour, dust, vibration, smoke or other emissions. The proposed development will not have outdoor storage. The development will not require buffering between it, Highway 4 and the Trans-Canada. The proposed storage buildings follow the required Land Use Bylaw setbacks and the abutting properties have adequate natural vegetation and trees to act as an appropriate buffer. Aside from the Pentecostal Church which is located on the other side of the commercial trucking operation, the property abuts Highway 4 and the TransCanada. It is highly doubtful that this development will be any more obnoxious, noisy, odorous, dusty or create more vibrations than the Highways or adjacent commercial trucking operation.

Policy L-1.4.1 (e) and Policy I.1.12 (i) require that adequate lighting, parking, outdoor storage and erosion/stormwater control measures are demonstrated and well designed; and that the proposal is not premature or inappropriate by reason of the potential for the contamination of watercourses or the creation of erosion and sedimentation. There are no watercourses running through or nearby the property. Regarding erosion, the property is entirely flat with drainage ditches between the property and the abutting highways (Highway 4 and the Trans-Canada). Additionally, also satisfying Policy I.1.12 (d) and (e), the Development Agreement has provisions requiring; a lighting and signage plan; a section on erosion and sedimentation (including requiring an assessment prepared by a qualified individual or company and necessary control measures); and a storm water management plan prepared by a qualified individual or company.

Statements of Provincial Interest:

The purpose of the Statements of Provincial Interest (SPI) is to protect the common public interest and encourage sustainable development in municipalities. The SPI are policy statements adopted by the provincial government under the powers of the Municipal Government Act (MGA s.193). They are set out in Schedule “B” of the MGA and came into effect on April 1, 1999. Legislation

requires that municipal planning documents are “reasonably consistent” with the SPI. As such, the following comments are offered with respect to consistency of the proposal with the SPI:

1. Drinking Water: The proposed development does not impact the provision of drinking water. The property is not located within a well field or an area covered by a Source Water Protection Plan.
2. Flood Risk Areas: Not in an identified flood risk area.
3. Agricultural Land: Not considered agricultural land or impacting agricultural lands.
4. Infrastructure: Makes use of existing municipal water with no demand for new municipal infrastructure.
5. Housing: Does not provide additional housing. There are no residential units removed as a result of this proposal.

The proposed development is reasonably consistent with the SPI.

Conclusion:

Analysis of the site and proposal, completed through a review of relevant policies the Municipal Planning Strategy indicate that the draft development agreement is in keeping with the intent of policy as set by the Municipality of Antigonish County for the West River Antigonish Harbour Plan Area. After consideration, the Eastern District Planning Commission staff are advising that the Municipality enter into a development agreement to develop up to a maximum of 4 commercial storage buildings on Lot 1A2, PID 01297456, 2784 Highway 4, Brierly Brook, Antigonish County.

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Proposed Motions for the Planning Advisory Committee:

Based upon the staff recommendation, the proposed motions for PAC are:

- 1. That the Planning Advisory Committee recommend that Municipal Council enter into a Development Agreement for a maximum of 4 commercial storage buildings on Lot 1A2, PID 01297456, 2784 Highway 4, Brierly Brook, Antigonish County; and
That Municipal Council give First Reading and schedule a Public Hearing.*

Proposed Motions for Council:

Based upon a positive recommendation from the PAC, the proposed motions for Council are:

FIRST READING AND SETTING A PUBLIC HEARING DATE:

NEW DEVELOPMENT AGREEMENT:

- 1. That Municipal Council give First Reading and schedule a Public Hearing regarding entering into a Development Agreement for a maximum of 4 commercial storage buildings on Lot 1A2, PID 01297456, 2784 Highway 4, Brierly Brook, Antigonish County;*

SECOND READING AND APPROVAL:

- 1. That Municipal Council give Second Reading and approve entering into the Development Agreement for a maximum of 4 commercial storage buildings on Lot 1A2, PID 01297456, 2784 Highway 4, Brierly Brook, Antigonish County*

Appendices:

Appendix A: Summary of Policies

Appendix B: Proposed New Development Agreement

Appendix A: Summary of Policies

<p>Policy L-1.4.1</p> <p>... In considering such an agreement [referring to Development Agreements (DA)], Council shall have regard to the following matters:</p>	
<p>(a) whether the proposed development is compatible with adjacent rural development uses with respect to scale, mass and use;</p>	<p>Complies – See Staff Report</p>
<p>(b) whether the lot on the which the proposed development is sited is adequately served by a centralized sewer system and/or central water system or if on-site services are to be used, these services are adequate for RG-1 zone uses;</p>	<p>This development will not have or use water nor sewer</p>
<p>(c) the total area used for outdoor storage and adequate provisions of artificial or natural screening devices;</p>	<p>Complies – See Staff Report</p>
<p>(d) that adequate buffering, including landscaping setback distances and berms where appropriate are maintained to minimize effects on/from adjacent land uses;</p>	<p>Complies – See Staff Report</p>
<p>(e) that adequate lighting, parking, outdoor storage and erosion/stormwater control measure are demonstrated and well designed;</p>	<p>Complies – See Staff Report</p>
<p>(f) whether the proposed development is not obnoxious by virtue of noise, odour, dust, vibration, smoke or other emissions;</p>	<p>Complies – See Staff Report</p>
<p>(g) whether the location of the proposed development creates any major traffic problems; and,</p>	<p>Complies – See Staff Report</p>
<p>(h) whether the proposed development is consistent with the criteria for a development agreement, as found in Policy I-1.12.</p>	<p>Complies – See Table Below</p>

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<p>Policy I.1.12</p> <p>... In considering Development Agreements (DA), in addition to all other criteria as set out in various policies of this planning strategy, Council shall have regard to the following matters:</p>	
<p>(a) Whether the proposal is in conformance with the intent of this Strategy and with the requirements of all other applicable municipal by-laws and regulations;</p>	<p>Conforms with intent.</p> <p>No known conflict with other By-laws or regulations.</p>
<p>(b) Whether the proposal is premature or inappropriate by reason of:</p>	
<p>i) the financial capability of the Municipality to absorb any costs relating to the development;</p>	<p>Other - See Staff Report</p>
<p>ii) the adequacy of sewer and water services to support the proposed development;</p>	<p>N/A</p>
<p>iii) the adequacy and proximity of school, recreation and other community facilities;</p>	<p>N/A</p>
<p>iv) adequacy of road networks adjacent to, or leading to the development;</p>	<p>Complies – See Staff Report</p>
<p>v) the potential for the contamination of watercourses or the creation of erosion and sedimentation; and</p>	<p>Complies – See Staff Report</p>
<p>(c) Whether the development has potential for damage to or destruction of historical buildings and sites.</p>	<p>N/A</p>
<p>(d) An erosion and sedimentation control plan prepared by a qualified individual or company;</p>	<p>Complies – See Staff Report Provisions in DA</p>
<p>(e) A storm water management plan prepared by a qualified individual or company.</p>	<p>Complies – See Staff Report Provisions in DA</p>

*DA: Development Agreement