

**REGION OF QUEENS MUNICIPALITY
PUBLIC HEARING
DEVELOPMENT AGREEMENT WITH KIRK MITTON
TO ALLOW FOR A DOG BOARDING KENNEL ON PROPERTY
LOCATED AT 380 BROOKLYN SHORE ROAD, BROOKLYN
TUESDAY, OCTOBER 24, 2017
8:45 A.M.**

MEMBERS OF COUNCIL: Mayor David Dagley, Chair
Councillor Heather Kelly
Deputy Mayor Susan MacLeod
Councillor Brian Fralic
Councillor Jack Fancy
Councillor Raymond Fiske
Councillor Gilbert Johnson

MEMBERS OF STAFF: Jennifer Keating-Hubley, Interim CAO
Christine Watson, Recording / Management Secretary
Mike MacLeod, Planner

REGRETS: Councillor Kevin Muise

CALL TO ORDER:

Mayor Dagley called the Public Hearing to order at 8:45 a.m.

REMARKS:

Mayor Dagley reviewed that the purpose of the Public Hearing is to provide any interested person with an opportunity to present an oral or written presentation to the Council of the Region of Queens with regards to its intention to enter into a development agreement with Kirk Mitton to allow for a dog boarding kennel on property located at 380 Brooklyn Shore Road in the community of Brooklyn and is identified as PID #7008965.

Mayor Dagley reviewed the procedures for the Hearing which was provided on the agenda.

**Public Hearing
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To allow for a Dog Boarding Kennel on
Property Located at 380 Brooklyn Shore Road, Brooklyn
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REPORTS AND PRESENTATION BY STAFF:

Mike MacLeod, Planner, stated an application was received to operate a dog boarding kennel at property located at 380 Brooklyn Shore Road, Brooklyn. The property is located in the General Residential (R2) zone and under the provision of the Region's Land Use Bylaw (LUB). Council can consider allowing this operation by way of a development agreement. The Development Agreement sets out a list of conditions to which the operation must comply (copy of draft agreement attached to original set of Minutes).


WRITTEN AND ORAL PRESENTATIONS:

There were no written or oral presentations to come before this meeting.

Mayor Dagley asked three times if there were any members of the public who wished to speak on this matter; hearing none declared the meeting adjourned.

CLOSING OF PUBLIC MEETING:

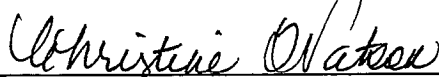
Mayor Dagley declared the Public Hearing closed at 8:52 a.m.



Mayor David Dagley, Chair



Jennifer Keating-Hubley, Interim CAO



Christine Watson, Recording / Management Secretary

Date approved: November 14, 2017

Appendix B

THIS AGREEMENT made this _____ day of _____, A.D., 2017.

BETWEEN:

KIRK SHELDON MITTON of Brooklyn, in the County of Queens and Province of Nova Scotia, hereinafter referred to as the "Developer"

OF THE ONE PART

-and-

THE REGION OF QUEENS MUNICIPALITY, a municipal corporation, duly incorporated under the laws of the Province of Nova Scotia and having its office in Liverpool in the County of Queens and Province of Nova Scotia, hereinafter referred to as the "Region"

OF THE SECOND PART

WHEREAS the Developer has requested that the Region enter into a Development Agreement, pursuant to Sections 225 and 230 of the Municipal Government Act of Nova Scotia, and Policy 3.3.42 of the Region of Queens Municipality Municipal Planning Strategy, so that the Developer may use the subject property in a manner which is not presently provided for under the Region's Land Use Bylaw;

AND WHEREAS the Region is prepared to enter into such an agreement on the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the benefits which flow to both parties as a result of the covenants contained herein, the parties hereto agree by and between themselves as follows:

1. THAT the Developer is the registered owner of the Lands described in Schedule "A" attached hereto (hereinafter referred to as "the Lands"); and shown on Schedule "B" attached hereto (hereinafter referred to as "the Plan");
2. THAT the developer shall not develop or use the Lands, including buildings located on the lands, for purposes other than those described in this Agreement;
3. THAT the proposed uses permitted under this Development Agreement are the following:
 - a) Dog Boarding Kennel;
 - b) General Residential (R2) Zone Uses
4. THAT any outdoor storage of materials shall be screened from view by an opaque fence;
5. THAT the Developer shall provide a minimum of three (3) off-street parking space for the commercial business;
6. THAT the proposed parking area shall be maintained with a stable surface, that is treated to prevent the raising of dust or loose particles;
7. THAT any lighting for proposed parking area shall be directed away from abutting properties;
8. THAT vegetative screening or opaque fencing be installed around the outdoor dog run area as shown in Schedule B;
9. THAT the dog boarding kennel operation, including buildings and the outdoor dog run area, shall be maintained in a neat and tidy manner;

10. THAT dog feces be cleaned up and properly disposed of through Municipal solid waste collection;
11. THAT the maximum number of dogs to be permitted on the property, as part of the kennel operation, shall be fifteen (15);
12. THAT the building to be utilized for the kennel operation shall be insulated to a minimum sound transmission rating of 55, as part of the Developer's noise mitigation measures;
13. THAT the hours of operation for the daytime boarding of dogs shall be from 7:00 am to 7:00 pm;
14. THAT for overnight boarding dogs are to be kept inside the kennel building between the hours of 8:00 pm and 7:00 am;
15. THAT notwithstanding any other provisions of this Development Agreement, the Developer shall not undertake or carry out any development on the Lands which does not comply with:
 - (a) this Development Agreement;
 - (b) any statutes and regulations of the Province of Nova Scotia to the extent that the same are properly the subject of a development agreement; and
 - (c) appropriate Municipal Bylaws, including without restricting the generality of the foregoing, the Bylaw Respecting the Building Code Act.
16. THAT in the event of a dispute, the decision of the Development Officer of the Region as to whether the development is in conformance with the terms of this Agreement shall be conclusive;
17. THAT notwithstanding the provisions of the Region of Queens Municipality Municipal Planning Strategy and Land Use Bylaw, the Developer shall be permitted to seek substantial or non-substantial amendments to this Development Agreement, subject to the procedure as set forth in Section 230 of the Municipal Government Act of Nova Scotia;
18. THAT amendments which shall be considered substantial are any affecting the following:
 - (a) A change in the number of dogs permitted on the property;
 - (b) Any increase in the size of the building utilized for commercial purposes;
19. THAT any amendment whether substantial or otherwise must be approved by both parties in writing;
20. THAT the Developer agrees to pay for all legal costs, advertising and expenses incurred by the Region that have originated from its application for this Development Agreement;
21. THAT this Agreement shall be binding upon the parties hereto, their heirs, successors and assigns and shall run with the land which is subject to this Agreement;
22. THAT this Agreement is not assignable without the written consent of the Region;
23. THAT enforcement and rights and remedies on default of this Agreement shall be as follows;

- (a) The Developer agrees that the Development Officer appointed by the Region to enforce this Agreement shall be granted access onto the lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from the Development Officer to inspect the interior of any building located on the lands, the Developer agrees to allow for such inspection during any reasonable hour within two (2) days of receiving such notice.
- (b) If the Developer fails to observe or perform any condition of this Agreement, after the Region has given the Developer thirty (30) days written notice of the failure or default, then in each such case:
 - (1) the Region shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default, and the Developer hereby submits to the jurisdiction of such Court and waive any such defense based upon the allegation that damages would be an adequate remedy;
 - (2) The Region may enter upon the lands and perform any of the covenants contained in this Agreement, whereupon all reasonable expenses whether arising out of the entry on the lands or from the performance of the covenants may be recovered from the Developer; if unpaid within 30 days of billing by the Region, by direct suit and such amount shall, until paid, form a lien upon the lands and be shown on any tax certificate issued under the Municipal Government Act;
 - (3) The Region may by resolution discharge this Agreement, upon providing the Developer sixty days (60) written notice, whereupon this agreement shall have no further force or effect and henceforth the development of the lands shall conform with the provisions of the Region of Queens Municipality Land Use Bylaw;
 - (4) In addition to the above mentioned remedies, the Region reserves the right to pursue any other remediation under the Municipal Government Act or common law to ensure compliance with this Agreement.

24. THAT the entering into of this Agreement was approved by the Council of the Region of Queens Municipality at a duly held meeting of Council convened on the ____ day of _____, 2017.

- (a) This Agreement shall not be entered into, or signed by the parties, until the time for Appeal under Section 228 of the Municipal Government Act of Nova Scotia has elapsed, any appeals which have been lodged have been disposed of and the required resolution of Council has been affirmed by the Nova Scotia Utility and Review Board;
- (b) This Agreement does not come into effect until it is filed, by the Region of Queens Municipality, in the Registry of Deeds as set out in Section 228 of the Municipal Government Act of Nova Scotia.

IN WITNESS WHEREOF the parties have hereto set their hands and affixed their Corporate seals the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of

_____) Per: _____
Witness) Kirk Sheldon Mitton

REGION OF QUEENS MUNICIPALITY

_____) Per: _____
Witness) Mayor

_____) Per: _____
Witness) Chief Administrative Officer

PROVINCE OF NOVA SCOTIA
COUNTY OF QUEENS

ON this ____ day of _____, 2017, 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 Kirk Sheldon Mitton signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF QUEENS

ON this ____ day of _____, 2017, 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 Region of Queens Municipality, per its authorized officers, David Dagley and Richard MacLellan, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court of Nova Scotia

Schedule A

ALL that certain lot, piece or parcel of land situate, lying and being at Brooklyn, in the County of Queens and Province of Nova Scotia and being more particularly bounded and described as follows:

BEGINNING at a survey marker on the southern sideline of the Shore Road between Beach Meadows and Highway No. 3 at the northwest corner of lands conveyed by the Grantor to Paul Shot and Shirley Shot, the said survey marker being 40 feet on a course of north 70 degrees 11 minutes 00 seconds west from the survey marker on the northwestern corner of lands now or formerly of Atwood Dexter;

THENCE south 18 degrees 03 minutes 00 seconds west 253.55 feet to a survey marker;

THENCE north 70 degrees 11 minutes 00 seconds west 226.63 feet to a survey marker at a wire fence marking the eastern boundary of lands of Elizabeth Fralic;

THENCE northeasterly, following the said wire fence and stonewall marking the eastern boundary of said lands of Elizabeth Fralic, to the southern sideline of the said highway;

THENCE southeasterly along the southern sideline of the said highway to the place of beginning;

THE same being shown as Lands being retained by Gifford Fralic in a certain plan of Survey No. B-006 by Merwin W. Hartler, NSLS No. 366 dated May 21, 1982 (Plan P. 1569)

Schedule B

BROOKLYN SHORE ROAD

