

**Region of Queens Municipality
Public Hearing
Development Agreement – New Fixed-Roof Overnight
Accommodation in South Brookfield
Tuesday, November 28, 2023
6:00 p.m.**

Agenda

Purpose:

The purpose of this Public Hearing is to provide any interested person an opportunity to present an oral or written presentation to Council of Region of Queens Municipality with regard to the intention to enter into a development agreement that would allow for the establishment of a new fixed-roof overnight accommodation on a vacant parcel of land in South Brookfield. Property is identified as PID #70191937.

The procedure for this Public Hearing is as follows:

A. OPENING REMARKS:

- 1) Every person is eligible to speak, but first must be recognized by the Chair and must give his or her name and address before commencing.
- 2) A person may speak more than once, but preference will be given to those who have not previously spoken.
- 3) This meeting will be conducted following parliamentary procedure. This Council uses its own Rules of Order, as well as Bourinot's Rules of Order.
- 4) Staff review and comments.
- 5) The floor is now open for comments.

B. CLOSING REMARKS

C. ADJOURNMENT

Region of Queens Municipality Staff Report

7.1

To: Council

From: Mike MacLeod, Director of Planning and Development

Date: October 24, 2023

Re: Fixed-roof Overnight Accommodation in South Brookfield

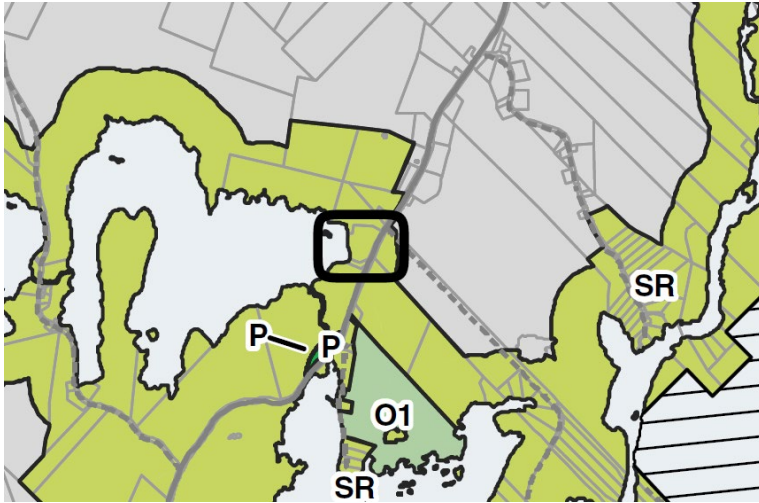
Background

Region of Queens Municipality has received an application to enter into a development agreement that would allow for the establishment of a new fixed-roof overnight accommodation on a vacant parcel of land in South Brookfield. Property is identified as PID# 70191937. A copy of the application is attached as Appendix A.



Details

The property is zoned as Lakeshore Residential (SR) under the Land Use Bylaw and has a future land use designation of Residential (RES) under the Municipal Planning Strategy.



Zoning Map

Fixed-roof overnight accommodation is a use that is not permitted as of right in the Lakeshore Residential (SR) Zone. This being said; however, Council has incorporated provision within the Municipal Planning Strategy and Land Use Bylaw whereby it can consider such uses through a development agreement process.

Commercial and Industrial Uses in Rural Zones

	R5	R6	SL	SR	Re	CR	SPECIAL REQ'S
Airport	DA	DA	-	-	DA	DA	
Agriculture Related Industries	P	P	-	-	P	P	
Animal Care	-	-	-	-	P	P	
Art Gallery / Studio	P	P	-	-	P	P	
Automobile Body Shop	-	-	-	-	-	DA	
Automobile Repair Shop	-	-	-	-	-	P	S7.2
Automobile Sales	-	-	-	-	-	P	
Automobile Service	-	-	-	-	-	P	S7.3
Banks and Financial Institutions	-	-	-	-	-	P	
Boat and Marine Sales	-	-	-	-	-	P	
Business or Professional Office	-	-	-	-	P	P	
Campground	P	P	-	DA	P	P	
Commercial Recreation - Indoor	-	-	-	-	P	P	
Outdoor	P	P	-	-	P	P	
Convenience Store	P	P	-	-	P	P	
Craft Shop	P	P	-	-	P	P	
Day Care Centre	P	P	-	-	P	P	
Electric Vehicle Charging - Commercial	-	-	-	-	P	P	
Equestrian Facility	P	P	-	-	P	P	
Farm Market	P	P	-	-	P	P	
Fishery Related Industries	P	P	-	-	P	P	
Fixed-roof Overnight Accommodations	-	-	-	DA	P	P	

Policy 5-65 of the Municipal Planning Strategy sets out that:

Policy 5-65 Council shall consider proposals for accommodations and campgrounds in the Lakeshore Residential Zone by development agreement, subject to the policies of Section 6.4.

6.4 Development Agreements

6.4.1 Context

A development agreement is a written legal agreement between Council and a property owner. It “runs with the land”; hence, the terms of the agreement do not cease if the land is sold or if the property owner dies.

The development agreement is a mechanism through which Council can oversee the implementation of a development proposal that would not otherwise be permitted by the standards established in the applicable zone. This can allow a proposal to better fit the specific constraints or opportunities provided by a site.

A development agreement allows or limits the development to the use or types of uses actually proposed and outlined in the agreement. This allows Council to have a finer-grained level of control over the proposed development, and to implement specific measures to mitigate potential impacts. To change the development to another use that is not listed in the development agreement would require an amendment to the agreement, which would be evaluated against the policies in this Plan. In accordance with the Municipal Government Act, the types of development that may be considered by a development agreement must be clearly identified in the Plan.

6.4.2 Adopting and Amending Development Agreements

Policy 6-13: Council shall consider entering into a new development agreement where such an agreement is enabled by policies elsewhere in this Plan. Where Council approves a development agreement, the development agreement shall:

- (a) specify the development, expansion, alteration, or change permitted;
- (b) specify the conditions under which the development may occur; and
- (c) set terms by which Council may amend or terminate and discharge the agreement.

Policy 6-14: Council shall not approve or amend a development agreement unless Council is satisfied the proposed agreement is consistent with the enabling policy and the general criteria set out in Policy 6-21.

When evaluating development agreements, Council must be cognizant of the overall goals and policies of this MPS. In particular, it should have regard to the criteria listed in Policy 6-21.

Policy 6-21: Council shall not amend the Land Use Bylaw or approve a development agreement unless Council is satisfied the proposal:

- (a) is consistent with the intent of this Municipal Planning Strategy;
- (b) does not conflict with any Municipal or Provincial programs, bylaws, or regulations in effect in the municipality;
- (c) is not premature or inappropriate due to:
 - (i) the ability of the Municipality to absorb public costs related to the proposal;
 - (ii) impacts on existing drinking water supplies, both private and public;
 - (iii) the adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services;
 - (iv) the creation of excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal;
 - (v) the adequacy of fire protection services and equipment;
 - (vi) the adequacy and proximity of schools and other community facilities;
 - (vii) the creation of a new, or worsening of a known, pollution problem in the area, including, but not limited to, soil erosion and siltation of watercourses;
 - (viii) site-specific climate change risks;
 - (ix) the potential to create flooding or serious drainage issues, including within the proposal site and in nearby areas;
 - (ix) impacts on known habitat for species at risk;
 - (x) light pollution and impacts on dark sky views, especially in the vicinity of the Kejimikujik Dark-Sky Preserve;
 - (xi) the suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to utility rights-of-way; and
 - (xiii) negative impacts on the viability of existing businesses in the surrounding community, including, but not limited to, the risk of land use conflicts that could place limits on existing operational procedures.

The Municipal Planning Strategy also establishes a list of conditions that may be incorporated in a development agreement.

Policy 6-15: Council may specify conditions in the development agreement to bring the proposal into alignment with the enabling policy and the general criteria set out in Policy 6-21. Such conditions may include, but are not limited to, controls regarding:

- (a) servicing;
- (b) the type, location, and orientation of structures;

- (c) *the architectural design of structures, including, but not limited to, bulk, scale, height, roof shape, building and cladding materials, and the shape and size and placement of doors and windows;*
- (d) *the provision of open space and amenities;*
- (e) *the type, size, and location of signage;*
- (f) *the type and orientation of exterior lighting;*
- (g) *management of solid waste, compost, and recycling;*
- (h) *pedestrian, bicycle, and vehicular circulation;*
- (i) *connections to existing or planned pedestrian, bicycle, and vehicular networks;*
- (j) *the location and number of bicycle and vehicular parking and loading spaces;*
- (k) *access for emergency vehicles;*
- (l) *the location and type of landscaping, including fences and other forms of screening;*
- (m) *stormwater management;*
- (n) *grading and erosion control;*
- (o) *the emission of noise, odour, light, liquids, gases, and dust;*
- (p) *the type of materials stored and/or sold on site;*
- (q) *hours of operation;*
- (r) *the phasing of development;*
- (s) *financial bonding for the construction and maintenance of components of the development, including, but not limited to, roads and landscaping;*
- (t) *mitigation measures for construction impacts;*
- (u) *time limits for the initiation and/or completion of development; and*
- (v) *all other matters enabled in Section 227 of the Municipal Government Act.*

The process for entering into a development agreement is set out in Section 230 of the Municipal Government Act and requires a public hearing process prior to Council making a decision.

Adoption or amendment of development agreement

- 230 (1) *A council shall adopt or amend a development agreement by policy.*
(2) *A council shall hold a public hearing before approving a development agreement or an amendment to a development agreement.*
(3) *Only those members of the council present at the public hearing may vote on the development agreement or the amendment.*
(4) *Upon approving a development agreement or an amendment to a development agreement, the clerk shall place a notice in a newspaper circulating in the municipality stating that the development agreement is approved and setting out the right of appeal.*

- (5) *The clerk shall file a certified copy of a development agreement or amendment with the Minister when notice of the development agreement or an amendment to it is published.*
- (6) *Within seven days after a decision refusing to approve a development agreement or an amendment to a development agreement, the clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.*
- (7) *Amendments to those items in a development agreement that the parties have identified as not substantive, if the substantive items were identified in the agreement, or that were not identified as being substantive, do not require a public hearing. 1998, c. 18, s. 230; 2003, c. 9, s. 60.*

Considerations

- PID# 70191937 has a lot area of approximately 19 acres, with approximately 1,500 feet of frontage on Highway 8.
- The area is rural in nature with scattered low density residential development.
- Highway 8 is a provincially owned and maintained public road.
- No municipal services in vicinity of subject property. Development would require an on-site sewage disposal system and well.

Potential Options

1. Maintain status quo (deny development agreement request); or
2. Enter into a development agreement with Jasmine and Matthew Mallay to allow for a fixed-roof overnight accommodation operation, consisting of eight (8) rental units, on property identified as PID#70191937 and located on Highway 8 in South Brookfield.

Tentative Timeframe

<u>Date</u>	<u>Procedure</u>
October 11, 2023	Planning Advisory Committee
October 24, 2023	Council
November 1, 2023	First Public Notice
November 8, 2023	Second Public Notice
November 28, 2023	Public Hearing
November 28, 2023	Council
December 6, 2023	Notice of Passing
December 21, 2023	Appeal Period Ends

In looking at the use that is being proposed for the property, the property itself and the surrounding area, it is the opinion of Staff that the use of the property for an eight (8) unit fixed-roof overnight accommodation units will have negligible impact. Sufficient terms and condition can be incorporated into a development agreement to meet the needs of the applicant and also to mitigate potential issues.

The Region's Planning Advisory Committee (PAC) met on October 11, 2023 to review the application and the proposed use of the property. Following discussion on the implications of the proposed use, PAC recommended in favor of entering into a development agreement to allow for a fixed-roof overnight accommodation operation, consisting of eight (8) rental units, on property identified as PID#70191937 and located on Highway 8 in South Brookfield.

A draft copy of the development agreement has been prepared for discussion purposes and is attached hereto as Appendix B.

Applicable Legislation

Municipal Government Act.

Recommendation

That Council of Region of Queens Municipality give notice of its intention to enter into a development agreement with Jasmine and Matthew Mallay to allow for a fixed-roof overnight accommodation operation, consisting of eight (8) rental units, on property identified as PID#70191937 and located on Highway 8 in South Brookfield.

And That a Public Hearing be held on November 28, 2023 in the Council Chambers of the Municipal Building, 249 White Point Road in Liverpool, NS, at 6:00 p.m.

Appendix A

Jasmine Mallay

September 19, 2023

Mike MacLeod
Director of Planning & Development
Region of Queens Municipality
249 White Point Road
Liverpool, NS B0T 1K0

To whom it may concern:

I am proposing to build eight fixed-roof overnight accommodations and one accessory building on Lot 19 Highway 8 (PID: 70191937) in South Brookfield, Nova Scotia.

This project would be in three phases. Phase 1 would be to build four buildings along the brookside of the lot that would be approximately 400 square feet. These buildings would offer comfortable amenities such as a hot tub and screened-in covered porch. Guests would be able to relax and enjoy the sounds of nature and the babbling brook. They could also enjoy visiting the nearby Kejimikujik National Park and exploring the Region of Queens Municipality.

Phase 2 would be to build one larger lakefront cottage and accessory building (garage). The cottage would be approximately 1800-2500 square feet. The garage would be approximately 1080 square feet. This accommodation would be the perfect fit for a family getaway as it would have three bedrooms and ample space for guests.

Phase 3 would be the remaining three lakefront cottages that would be approximately 900-1200 square feet. These would be two bedroom accommodations.

The intent of this project is to create an experience where people could enjoy nature, kayaking, swimming, and other activities with the added comfort of luxury overnight accommodations. A priority of this project is to maintain a natural look to the property where the environmental conditions would continue to provide a strong habitat for the existing ecosystem. This is integral to the brand and the experience I would want to offer guests.

Sincerely,
Jasmine Mallay



For Internal Use Only
Acceptance Date: _____
Processing Date: _____

Region of Queens Municipality

Planning Amendment and Development Agreement Application



1. Application Type:

- Land Use Bylaw Amendment
- Development Agreement

2. Property Information:

Civic address of subject property - Lot 19

Property Identification Number (PID) - 70191937

Present use of subject property - Vacant land

Proposed Use of subject property - fixed-roof overnight accommodation

Existing Lot Size - 19 acres

Existing Lot Frontage - 452m / 1484ft

3. Property Owner Information:

Name - Jasmine Mallay & Matthew Mallay

Applicant is:

- Owner
- Agent of Owner

Civic Address - _____

Mailing Address (If different from Civic Address) - _____

Telephone Number - _____

Email Address - _____

4. Zoning Information:

Existing Zoning - Lakeshore Residential (SR)

Proposed Zoning - no change

5. Property Servicing Information:

Water Services -

Municipal System - Existing Proposed
Drilled Well - Existing Proposed
Dug Well - Existing Proposed
Other - _____

Sewer Services -

Municipal System - Existing Proposed
On-site System - Existing Proposed
Other - _____

Access -

Public Road - Existing Proposed
Private Road - Existing Proposed
Other - _____

6. Declaration:

Registered Owner of Property (Please print)

I / We Jasmine Mally and Matthew Mally do solemnly declare that I / We are the current registered owner(s) of the property described in this application. I / We have examined the contents of this application and certify that the information submitted is accurate.

Registered Owner Jasmine Mally
Signature J Mally
Date Sept 19/23

Registered Owner (if more than one) Matthew Mally
Signature Mtt Mally
Date Sept 19/23

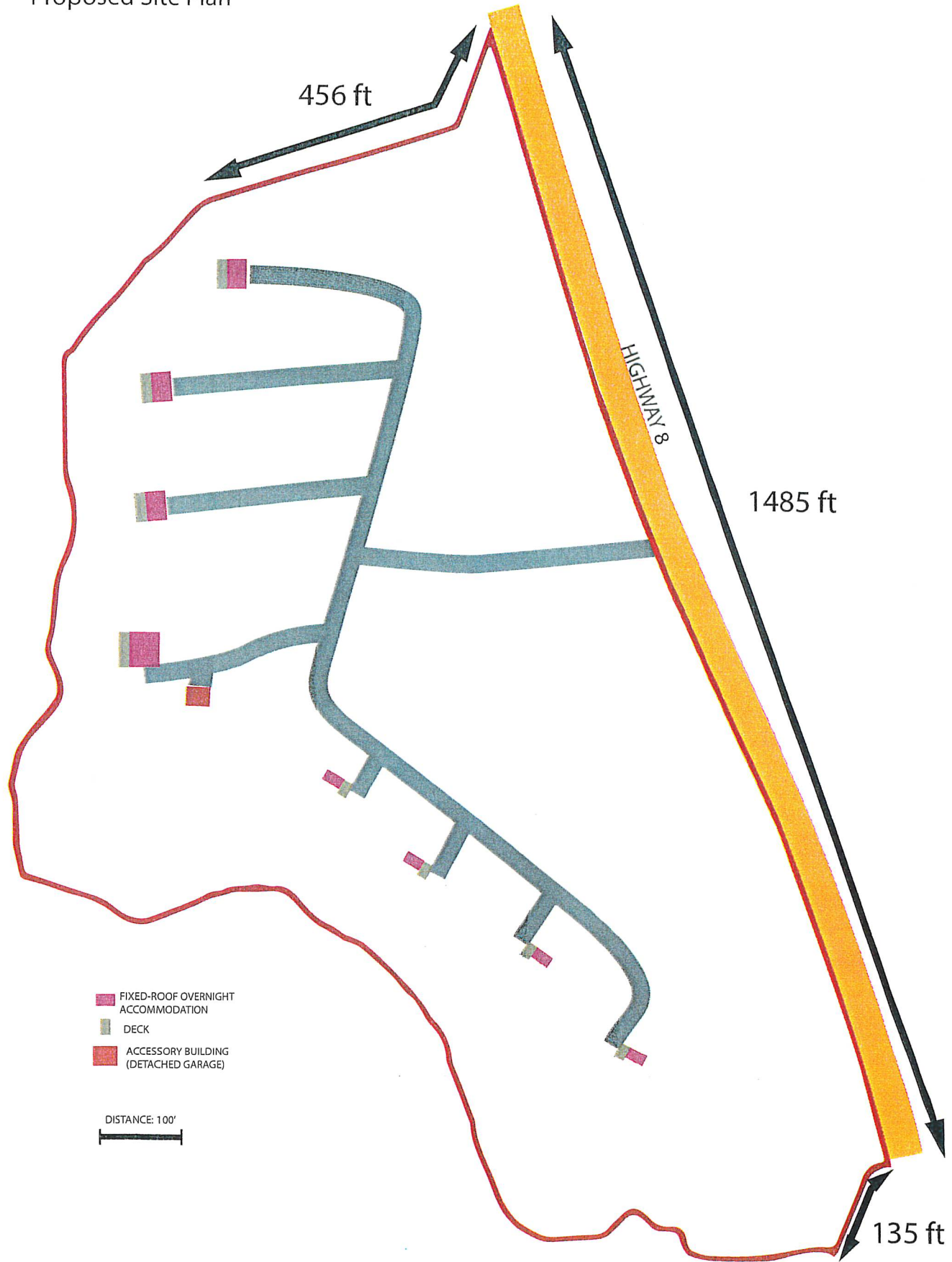
Authorization of Registered Owner (Please print)

I / We _____ authorize _____
To act as agent and sign this application on my / our behalf for property located
at
(Civic Address) _____ and identified as PID# _____.

Notes:

1. *The requirements of a Land Use Bylaw amendment or development agreement application are established by the Planning Department of the Region of Queens Municipality. An application approval process will not commence until a completed application and advertising deposit are received.*
2. Please make cheques payable to the Region of Queens Municipality. Following completion of the amendment process, the unused balance will be returned to the applicant. However, should the deposit be insufficient to cover the cost of advertising, the applicant will be responsible for the difference.
3. It is recommended that an applicant have a pre-consultation meeting with staff of the Planning Department prior to submitting this application.

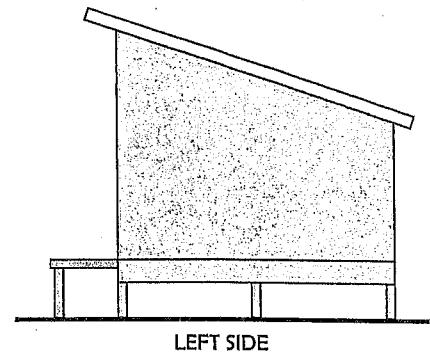
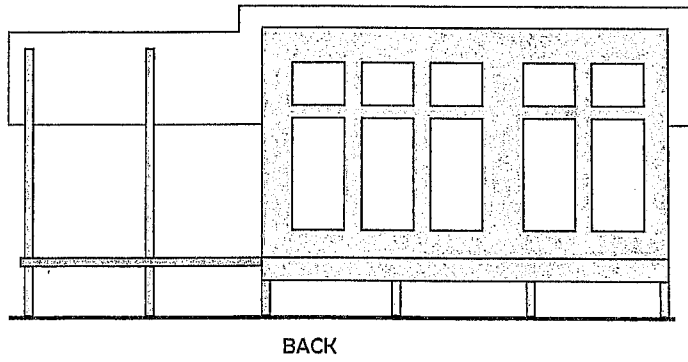
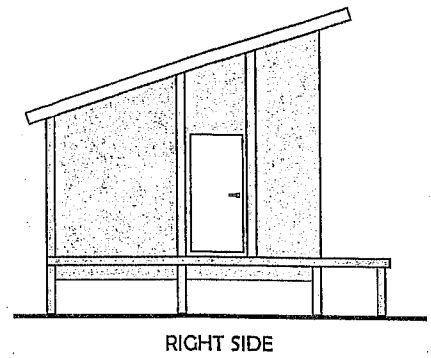
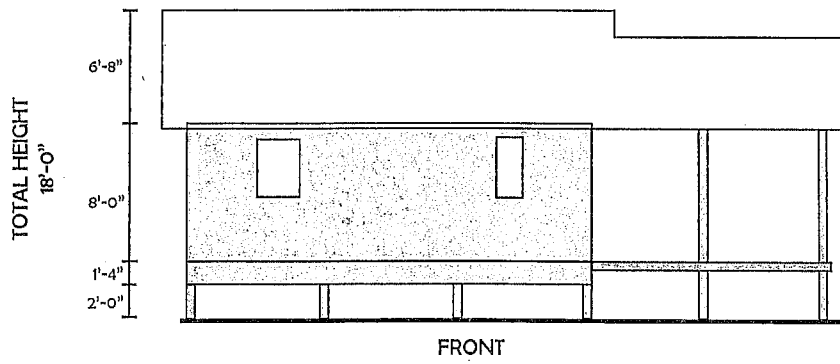
Proposed Site Plan



Existing development within 250 feet of subject property



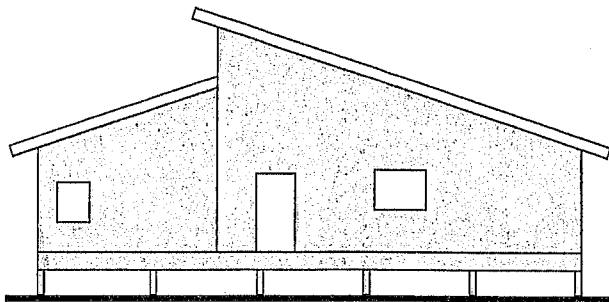
BUILDING ELEVATION DRAWINGS - PHASE 1 COTTAGES



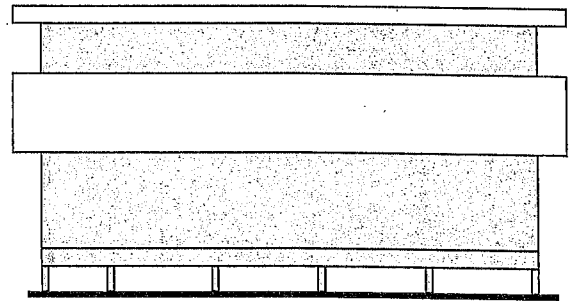
BUILDING ELEVATION DRAWINGS - PHASE 2 COTTAGE

TOTAL HEIGHT
22'-0"

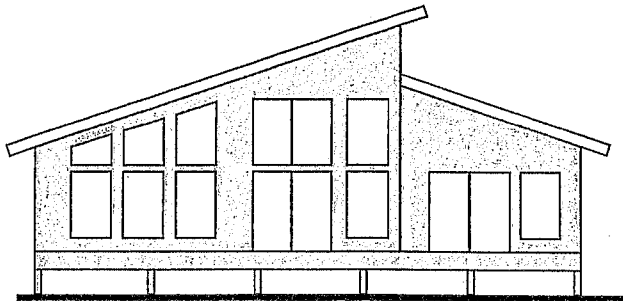
18'-8"
1'-4"
2'-0"



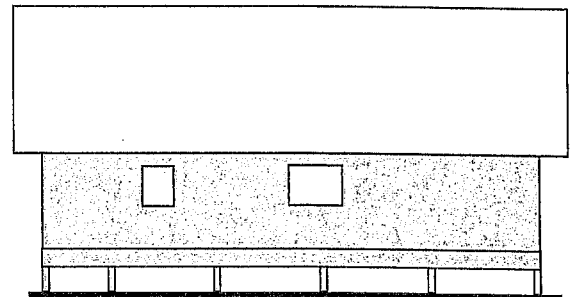
FRONT



LEFT SIDE



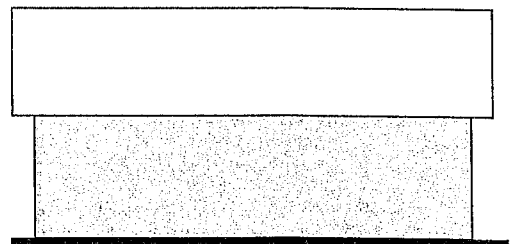
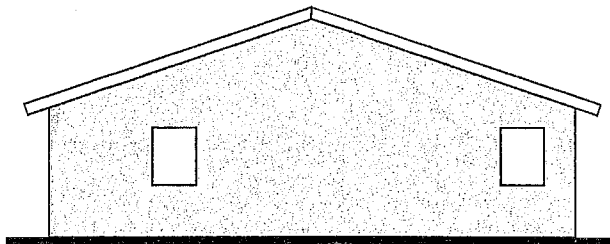
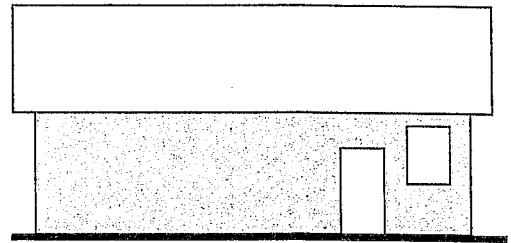
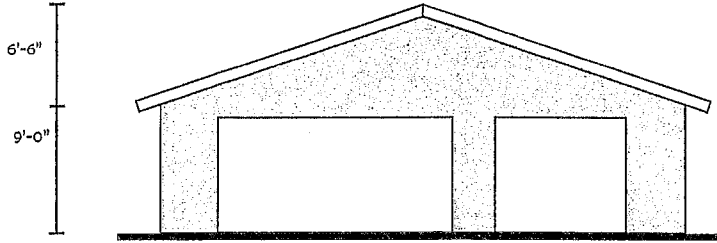
BACK



RIGHT SIDE

BUILDING ELEVATION DRAWINGS - PHASE 2 GARAGE

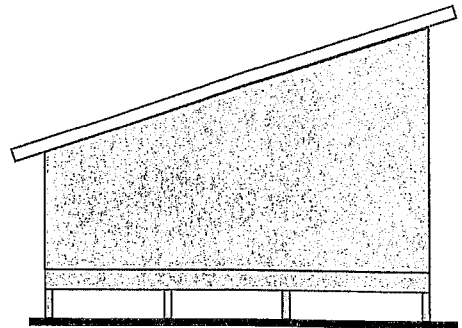
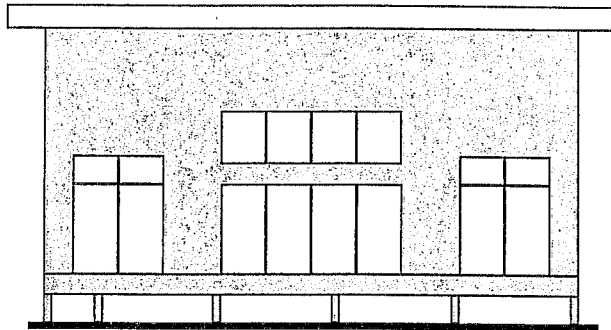
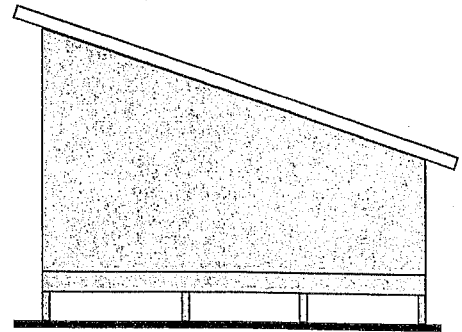
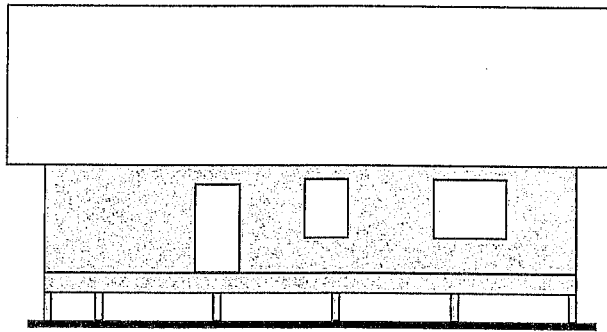
TOTAL HEIGHT
15'-6"



BUILDING ELEVATION DRAWINGS - PHASE 3 COTTAGES

TOTAL HEIGHT

21'-4"
18'-0"
1'-4"
2'-0"











5. **THAT** any lighting for proposed development shall be directed away from abutting properties;
6. **THAT** notwithstanding any other provisions of this Development Agreement, the Developers 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.
7. **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;
8. **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;
9. **THAT** amendments which shall be considered substantial are any affecting the following:
 - (a) A change in the uses permitted;
 - (b) An increase in the number of rental units.
10. **THAT** any amendment whether substantial or otherwise must be approved by both parties in writing;
11. **THAT** the Developers agree to pay for all legal costs, advertising and expenses incurred by the Region that have originated from its application for this Development Agreement;
12. **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;
13. **THAT** this Agreement is not assignable without the written consent of the Region;
14. **THAT** enforcement and rights and remedies on default of this Agreement shall be as follows:

- (a) The Developers agree 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 Developers. The Developers further agree that, upon receiving written notification from the Development Officer to inspect the interior of any building located on the lands, the Developers agree to allow for such inspection during any reasonable hour within two (2) days of receiving such notice.
- (b) If the Developers fail to observe or perform any condition of this Agreement, after the Region has given the Developers 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 Developers from continuing such default, and the Developers hereby submit 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 Developers; 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 Developers 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.

15. **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 _____, 2023.

- (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.

**PROVINCE OF NOVA SCOTIA
COUNTY OF QUEENS**

ON this ____ day of _____, 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 Region of Queens Municipality, per its authorized officers, Darlene Norman and Cody Joudry, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court of Nova Scotia

SCHEDULE A

PETERS POINT ROAD

70191937

FIRST CHRISTOPHER LAKE

HIGHWAY 8

LONG POINT ROAD



PROPERTY SUBJECT TO DEVELOPMENT AGREEMENT