



## STAFF REPORT

### Planning and Development

**Subject:** *Application for a Development Agreement to permit the development of an automotive service station (gas bar), retail store (convenience store) and restaurant with drive through located at 4134 Highway 308 (PID# 90087388) Tusket, Municipality of the District of Argyle.*

**To:** Municipality of Argyle CAO and Municipal Council for January 30, 2024

**Date Prepared:** January 24, 2024

**Related Motions:** None

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### Summary

The Municipality has received a Development Agreement (DA) application from Hubert Pothier (Key Holdings Ltd.) to permit the development of an automotive service station (gas bar), retail store (convenience store) and restaurant with drive-through located at 4134 Highway 308 (PID# 90087388), Tusket. The purpose of this report is to consider the policies and evaluative criteria within the Municipal Planning Strategy and accompanying Land Use By-law that permit the Municipality to enter into a development agreement with the proponent to permit the proposed uses on the subject property.

### Financial Impact Statement

There is no immediate financial impact aside from the typical public engagement process and staffing requirements resulting from the application.

### Recommendation

That Council approve second reading of the proposed Development Agreement, to permit the development of an automotive service station (gas bar), retail store (convenience store) and drive-through located at 4134 Highway 308 (PID# 90087388), Tusket within the Municipality of the District of Argyle and schedule a public hearing.

### Background

Hubert Pothier (Key Holdings Ltd.) has applied for a development agreement to permit an automotive service station (gas bar), retail store (convenience store) and restaurant with drive-through located at 4134 Highway 308 (PID# 90087388) Tusket. This property has recently been consolidated from three separate properties, which were all under the same ownership. The subject property is located within the Tusket Rural Centre designation of the Municipal Planning Strategy (MPS). The zoning on the subject property is split between the Light Industrial (LI) Zone and the Mixed Use (MU) in the Land Use By-law (LUB). Both zones permit the proposed uses, however the drive through restaurant land use component is only permitted via a Development Agreement, necessitating the need for the planning process, recommendation from the PAC, and approval from Council to enter into the Development Agreement. This policy requirement is the same for both the Light Industrial (LI) Zone and the Mixed Use (MU) Zone.

### Subject Land Assembly

The subject land assembly consists of one (1) property. PID 90087388 is approximately 6.21 acres in total area and has approximately 340 feet in frontage along Highway 308. There is an existing, vacant building, along with cleared land, a paved parking surface and commercial grade access point from Highway 308 to the property. There is a large tract of forested land extending throughout much of the property further from Highway 308. The property spans approximately 1370 feet in a generally East West direction.



In proximity to the subject property are mainly commercial uses, including an automotive retail dealership, an automotive service station (gas bar), other retail shops, an office complex, and a construction business. There is a small number of residential uses, and the Municipality of the District of Argyle administrative building in proximity as well. All these various land uses are oriented towards Highway 308, which runs through Tusket in a generally North-South direction. Behind the identified land uses are large tracts of vacant, forested land. Exit 33 interchange of the NS-103 Highway is approximately 800 feet north of the subject land assembly. On the opposite side of the interchange are additional commercial and institutional uses such as the Tusket campus of Université de Sainte-Anne and the École Secondaire De Par-En-Bas.

**Table 1. Land Assembly Summary**

<b>PID Number</b>	90087388
<b>MPS Designation</b>	Rural Centre
<b>Zone</b>	Light Industrial (LI)/ Mixed Use (MU)
<b>Total Area (approximate)</b>	6.21 acres
<b>Street Frontage (approximate)</b>	340ft.
<b>Current Land Uses</b>	Vacant building, paved parking area. Cleared and vegetated land.
<b>Surrounding Land Uses</b>	Mainly commercial, including automotive retail and automotive service station, some low-density residential uses, vacant forested land.

## Development Proposal

The applicant is proposing to develop an automotive service station (gas bar), retail store (convenience store), and drive-through on the subject land assembly. The existing building located on PID 90087388 will be demolished, however the existing commercial access point will remain and serve as the north access points to the proposed development. A second, south access point will be developed and the two access points will be separated by a raise concrete bed providing separation from Highway 308 and the subject land assembly. Signage will be placed on the concrete bed for the proposed uses. Four (4) pump islands are proposed, each containing two (2) pumps per island for a total of eight (8) fuel pumps. A pump canopy will be installed as part of the pump islands to provide cover to vehicles when fueling occurs. Underground fuel storage tanks are proposed to be installed, to hold fuel reserves on site.

A single, slab on-grade, single-story building is proposed to be developed for the convenience store and



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restaurant use with approximately 4000ft<sup>2</sup> in total floor area. Each use will occupy approximately 2000ft<sup>2</sup> (185.9m<sup>2</sup>) of the total floor area of the building. A walk-in freezer is proposed to be developed along the eastern face of the building, accessed via the interior of the restaurant portion of the building. A concrete sidewalk is proposed for the front and south side face of the building; two electric vehicle (EV) charging stations are proposed to be installed along the south face of the building. A drive-through is proposed to circle the building, with the entrance at the southern end of the property; a landscaped median will separate the drive-through entrance from the parking and EV charging stations. The drive-through commences as a single lane but splits into two lanes on the back side of the building, with two separate voice boxes proposed for customers to place orders. The lanes then merge back into a single lane and the drive through wraps around the north face of the building for customers to access the pick-up window.

Forty-three (43) parking spaces are proposed to serve the entire development. This includes ten (10) spaces for staff, located behind the building, eight (8) spaces proposed for the front of the building, including two (2) accessible spaces, six (6) proposed for the south face of the building, including those for EV charging, and an additional nineteen (19) proposed for the north boundary of the property. A pylon sign is proposed for the north side of the property, in proximity to Highway 308 for travelling motorists to identify. At the northeast corner of the proposed development, a double-enclosed refuse area is proposed, along with a new power pole for the development.

#### Policy Analysis and Discussion

WSP has reviewed the application based on the applicable policies contained in the Municipal Planning Strategy (MPS) and regulations in the Land Use Bylaw (LUB). In our planning opinion, the proposed development is generally consistent with the intent of the MPS and LUB and is an appropriate use of the site.

The subject land assembly is located within the Rural Centre (RC) designation, which is intended to accommodate a wide range of residential, commercial, agricultural, recreational, wind energy, and utility uses. There are three areas designated as Rural Centre (RC) within the Municipality of the District of Argyle: Tusket, West Pubnico, and Wedgeport. Specific to Tusket, there is a significant commercial node oriented around the Exit 33 interchange with NS-103. This is in proximity to the land assembly. Policies within the MPS encourage commercial and light industrial uses, such as those proposed as part of this development, within this area either as "as-of-right" uses or those permitted via Development Agreement. Further, there are several similar businesses (gar bar, restaurant, retail uses, etc.) which are also located within this commercial node - creating a complementary fabric of commercial uses that serve the immediate and wider community as well as the travelling public.

A more fulsome discussion of the policies that permit and encourage the proposed uses and development, as well as an analysis of the policies is provided in Appendix A to this staff report.

#### Financial Analysis and Discussion

It is not anticipated that the proposed uses and development would have an undue financial impact on the Municipality of the District of Argyle beyond the standard and normal processing fees and costs. It is anticipated that the proposed uses and development would generate economic benefits to the Municipality, directly through tax revenues and indirectly through employment opportunities and retail sales within the community.



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### Public Participation

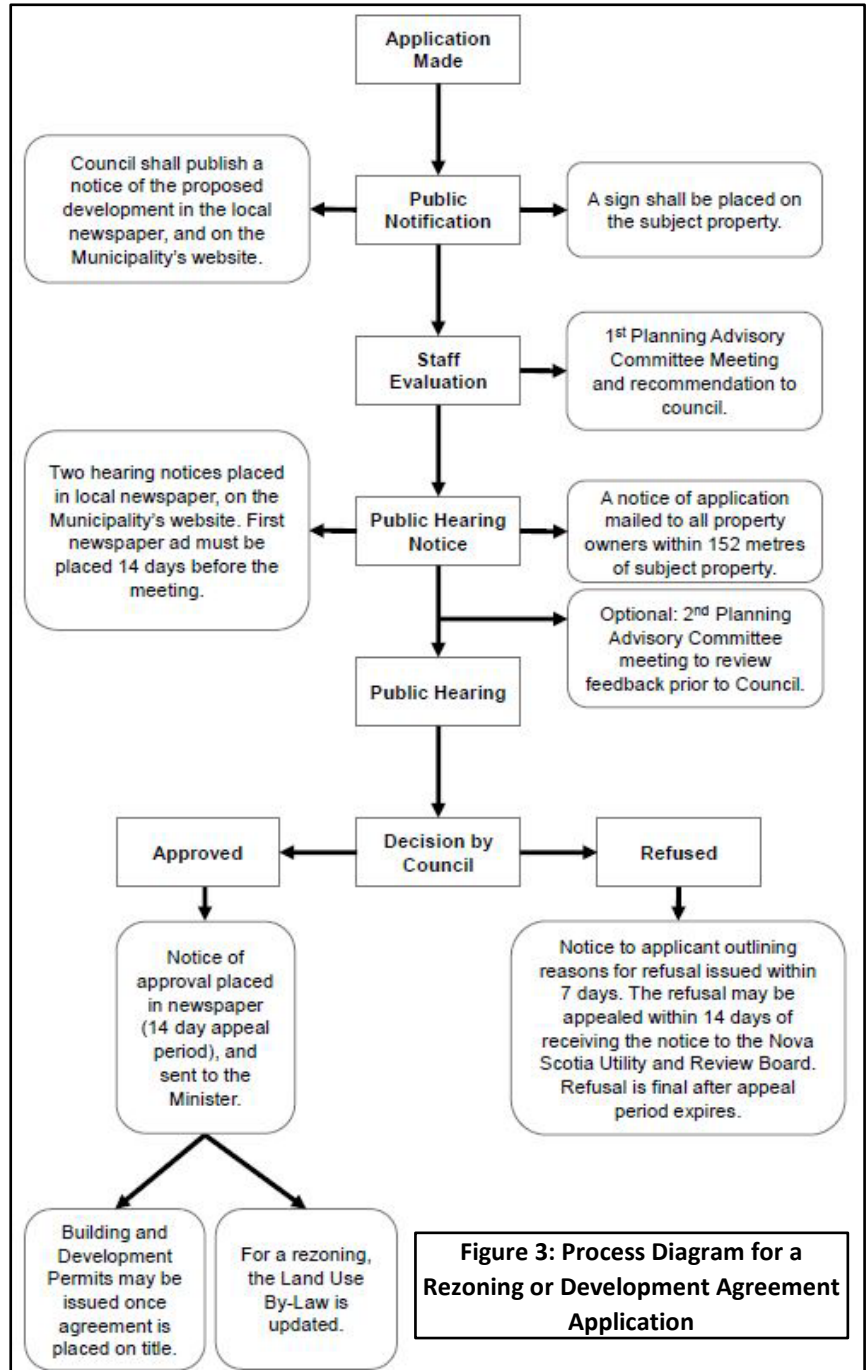
Staff have and will continue to comply with Public Participation Policies of the Municipal Planning Strategy in the processing this application. As per Section 206 of the *Municipal Government Act*, a public hearing is required for entering into a Development Agreement to hear input from the community. Notices regarding the application have been placed in strategic, highly visible points on the subject land assembly.

An advertisement outlining the application, indicating that it had been received and notifying the public of the public hearing will be placed in the *VanGuard* two weeks in advance of the public hearing.

Figure 3 illustrates the process followed by the Municipality for a Development Agreement Application.

Staff will mailout a notice of application to all property owners within 152 meters of the subject property and a public hearing will be held prior to the decision of Council.

The public is encouraged to request additional information and clarification from Staff leading up to the public hearing if they have any questions.



### Right to Appeal

Under the terms of the *Municipal Government Act*, the approval, or refusal to approve, a Development Agreement may be appealed to the Nova Scotia Utility and Review Board by: an aggrieved person, the applicant, an adjacent municipality, a village in which the affected property is situated, and the Director. Appeals must be filed within fourteen (14) days after the notice of Council’s decision is published in a newspaper of record.

### Conclusion

The application to allow a automotive service station (gas bar), a retail store (convenience store) and a restaurant with drive through is generally consistent with the Municipality’s land use polices and regulations



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in the Municipal Planning Strategy and Land Use Bylaw. It is recommended that Council enter into a Development Agreement with the property owner for the proposed uses. As currently drafted, the Development Agreement permits the restaurant with drive through in addition to the uses permitted in the underlying zone, including the automotive service station (gas bar) and the retail store (convenience store). The applicant has no current plans to expand the uses beyond the existing buildings, and any further expansion of these uses would require an amendment to the development agreement.

#### Attachments

Attachment A - Policy Evaluation Table

Attachment B - Access Permit, Nova Scotia Department of Public Works

Attachment C - Draft Development Agreement



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### Attachment A: Policy Evaluation

The proposal may be considered by Council through the following applicable policies of the Municipal Planning Strategy for Argyle (MPS):

<b>RURAL CENTRE DESIGNATION</b>	
<p>The Municipal Planning Strategy designates three rural centres for Argyle, overlaying the communities of Tusket, West Pubnico, and Wedgeport. The Municipality’s rural centres have been the historical regional centres for residential development and commercial growth in the municipality.</p>	
Applicable MPS Policies	Staff Comments
<p><b>Policy 4.5.1:</b> To designate the communities of West Pubnico, Wedgeport and Tusket as Rural Centres (RC) designation on the Generalized Future Land Use Maps to accommodate a wide range of uses in a manner which is flexible and sensitive to the needs of the residents. The existing wind farm Pubnico Point will be excluded from this designation.</p>	<p>The subject land assembly is within this designation and zone.</p>
<p><b>Policy 4.5.2:</b> That the intent of the Rural Centres (RC) designation is to accommodate a wide range of residential, institutional, commercial, agricultural, recreational, wind energy, and utility uses.</p>	<p>The subject land assembly is within this designation, and the proposed uses for the land assembly, automotive service station (gas bar), retail store (convenience store), and restaurant (with drive through) are all uses that are permitted either as-of-right or via a Development Agreement.</p>
<p><b>Policy 4.5.3:</b> To establish in the Rural Centres (RC) designation the following zones:</p> <ul style="list-style-type: none"> <li>a) Mixed Use (MU) Zone;</li> <li>b) a Light Industrial (LI) zone and a Heavy Industrial (HI) Zone. Existing industrial uses will be zoned according to their operations, either as Light Industrial (LI) zone or Heavy Industrial (HI) zone.</li> <li>c) a Pubnico Point Wind Farm (WF) Zone in the Land Use By-law at the Pubnico Point Wind Farm site.</li> <li>d) a Residential Park (RP) Zone for the western portion of the current and former Municipal lands in Tusket.</li> <li>e) a Marine Industrial (MI) Zone as per the policies of Section 8.9.</li> </ul>	<p>The land assembly consists of a single property that features split zoning - Mixed Use (MU) or Light Industrial (LI).</p>
<p><b>Policy 4.5.4:</b> That the intent of the Light Industrial (LI) zone and a Heavy Industrial (HI) zone will be to provide land for existing industrial development in the rural centres.</p>	<p>The proposed use is not an existing use; however the proposed use is consistent with the permitted uses in the Light Industrial (LI) zone, either as-of-right or via a Development Agreement.</p>
<p><b>Policy 4.5.5:</b> That single detached dwellings will be permitted as a main or accessory use in the LI and HI</p>	<p>Not applicable. The proposed uses are not residential.</p>



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<p>zones or a single dwelling unit within any main or accessory building in the LI and HI zones, if a minimum two (2) acre minimum lot area is met.</p>	
<p><b>Policy 4.5.6:</b> That the intent of the Pubnico Point Wind Farm (WF) zone will be to facilitate the continued operation of the existing wind farm on Pubnico Point, including supporting accessory uses. This zone will establish permitted uses and requirements including minimum separation distances between wind turbine generators and dwellings to apply to development within the Pubnico Point Wind Farm (WF) zone.</p>	<p>Not applicable.</p>
<p><b>Policy 4.5.7:</b> To exclude from the Rural Centre designation certain agricultural uses, commercial uses, industrial uses and recreational uses deemed not compatible with the fabric of the Rural Centre communities.</p>	<p>The proposed uses are compatible with the uses enabled in the Rural Centre designation, either as-of-right or via a Development Agreement.</p>
<p><b>Policy 4.5.8:</b> Council shall consider the following uses by site plan approval in the Mixed Use (MU) Zone:</p> <ul style="list-style-type: none"> <li>a) Group Dwelling Units</li> <li>b) Small Scale Wind Turbine Generator</li> </ul>	<p>Not applicable.</p>
<p><b>Policy 4.5.9:</b> Council may consider the following uses by development agreement, pursuant to the requirements of Policy 13.14 and Section 4.5, in the Mixed Use (MU) Zone:</p> <ul style="list-style-type: none"> <li>a) Cannabis Production and/or Processing Facility, Micro</li> <li>b) Drive-throughs</li> <li>c) Mini-Home Community</li> <li>d) Multi-Unit Dwelling (5 to 24 Units)</li> <li>e) Restaurant, Evening Patio Use</li> <li>f) Salvage Yards and Scrap Yards</li> <li>g) Solar Farm</li> </ul>	<p>One of the proposed uses is a drive-through, which is enabled via a Development Agreement only.</p>
<p><b>Policy 4.5.10:</b> Council shall consider the following uses by site plan approval in the Light Industrial (LI) Zone:</p> <ul style="list-style-type: none"> <li>a) Small Scale Wind Turbine Generator</li> </ul>	<p>Not applicable.</p>
<p><b>Policy 4.5.11:</b> Council may consider the following uses by development agreement, pursuant to the requirements of Policy 13.14 and Section 4.5, in the Light Industrial (LI) Zone:</p> <ul style="list-style-type: none"> <li>a) Aquaculture (Indoor and Outdoor)</li> </ul>	<p>One of the proposed uses is a drive-through, which is enabled via a Development Agreement only.</p>



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<p>b) Drive-throughs</p> <p>c) Restaurant, Evening Patio Use</p>	
<p><b>Policy 4.5.12:</b> Council may consider the following uses by development agreement, pursuant to the requirements of Policy 13.14 and Section 4.5, in the Heavy Industrial (HI) Zone:</p> <p>a) Cannabis Production and/or Processing Facility, Standard b) Commercial Brewery and/or Distillery</p> <p>c) Drive-throughs</p> <p>d) Restaurant, Evening Patio Use</p> <p>e) Salvage Yards or Scrap Yards</p>	<p>Not applicable. The land assembly is not zoned Heavy Industrial (HI).</p>
<p><b>Policy 4.5.13:</b> Council shall consider the following uses by site plan approval in the Residential Park (RP) Zone:</p> <p>a) Group Dwellings</p>	<p>Not applicable. The land assembly is not zoned Residential Park (RP), nor is the a proposed use a Group Dwelling.</p>
<p><b>Policy 4.5.14:</b> Council may consider the following uses by development agreement, pursuant to the requirements of Policy 13.14 and Section 4.5, in the Residential Park (RP) Zone:</p> <p>a) Multi-Unit Dwelling (5 to 24 units)</p>	<p>Not applicable. The land assembly is not zoned Residential Park (RP), nor is the a proposed use a Multi-Unit Dwelling.</p>
<p><b>Policy 4.5.15:</b> Council may consider the following uses by development agreement, pursuant to the requirements of Policy 13.14 and Section 4.5, in the Pubnico Point Wind Farm (WF) Zone:</p> <p>a) Large Scale Wind Turbine Generator</p> <p>b) Wind Farm</p>	<p>Not applicable.</p>
<p>To enter into development agreement pursuant to the <i>Municipal Government Act</i> on the terms and conditions set forth in this Municipal Planning Strategy and a development agreement shall:</p> <p>13.12.1 specify the development, expansion, alteration, or change in use permitted; and</p> <p>13.12.2 specify the conditions under which the development may occur; and</p> <p>13.12.3 set forth the terms by which Council may terminate the agreement.</p> <p>13.12.4 The provisions of the Land Use By-law shall prevail after discharge of any agreement.</p>	<p>The required provisions are contained in the draft development agreement.</p>
<p><b>Policy 13.14.4:</b> That the proposal is not in conflict with Municipal or Provincial programs in effect in the Municipality; and that the proposal is not premature or inappropriate by reason of the:</p>	<p>a) No negative financial impacts are expected to the Municipality from the proposed development.</p> <p>b) <b>Not applicable</b></p>





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| <p><b>a)</b> Financial ability of the Municipality to absorb costs related to the development; or</p> <p><b>b)</b> Adequacy of sewer and water services, including fire flows and water pressure or the adequacy of the site for on-site services; or</p> <p><b>c)</b> Creation or worsening of a pollution problem in the area such as but not limited to soil erosion and siltation of watercourses; or</p> <p><b>d)</b> Adequacy of storm drainage and effects of alteration to drainage patterns, including the potential for creation of a flooding problem; or</p> <p><b>e)</b> Suitability of the site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way; or</p> <p><b>f)</b> Adequacy and proximity of school, recreation, and other community facilities; or</p> <p><b>g)</b> Adequacy of road networks in, nearby, and leading to the development, regarding congestion and traffic hazards; and</p> <p><b>h)</b> That the proposal provides adequate off-street parking to prevent congestion, nuisance, and inconvenience in the area; and</p> <p><b>i)</b> The hours of operation are appropriate for the neighbourhood; and</p> <p><b>j)</b> That the primary architectural features of the proposal, including but not limited to bulk, scale, roof shape, building materials, exterior cladding and shape, and size and relationship of doors and windows, shall be visually compatible with nearby buildings in the case of a new building, or with the original building in the case of an addition; and</p> <p><b>k)</b> That the proposal will not significantly alter the character or stability of the surrounding neighbourhood.</p> | <p><b>c)</b> No concerns are expected from the proposed development. Storage of bulk petroleum products is contained within underground containers.</p> <p><b>d)</b> No drainage concerns are expected from the proposed development.</p> <p><b>e)</b> The site is suitable for the proposed uses.</p> <p><b>f)</b> Proposed development will not impact capacity nor operation of schools and community facilities, and it is not in proximity.</p> <p><b>g)</b> No significant impacts are expected to the transportation network from the proposed development. An access permit has been issued for the proposed development by the Nova Scotia Department of Public Works. Highway 308 is a major arterial roadway within the community.</p> <p><b>h)</b> The development exceeds the minimum number of parking spaces required by the Land Use By-law.</p> <p><b>i)</b> The hours of operation are regulated via the development agreement.</p> <p><b>j)</b> The development agreement regulates the primary architectural features of the development and will be consistent and complementary to the existing commercial node.</p> <p><b>k)</b> The proposed development is not expected to be intrusive given the proposed uses are consistent with those already established within the commercial node of the area.</p> |
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#### **Attachment B: Highway Access Permit - Nova Scotia Department of Public Works**