



Subject: *Tammy and Joe Ferguson- Development Agreement Application*
To: CAO for Planning Advisory Committee, April 16th, 2024
Date Prepared: April 8, 2024
Related Motions: PAC24(4), C24(14)
Prepared by: Lee-Ann Martin, Planner and Development Officer
Approved by: John Woodford, Director of Planning and Development

Summary

Tammy and Joe Ferguson have submitted an application to operate an Educational Services use which is being considered through a development agreement application.

Financial Impact Statement

Municipal staff do not anticipate a financial impact as a result of this application. Due to the change in use, this may result in a higher tax rate or different tax type.

Recommendation

That the Planning Advisory Committee recommend that Council give final consideration and approve the development agreement application.

Recommended Motion

Planning Advisory Committee recommends that Council:

- *Give final consideration and approve entering into a Development Agreement for an Educational Services Use on properties identified as PID 45123122 and 45123114*

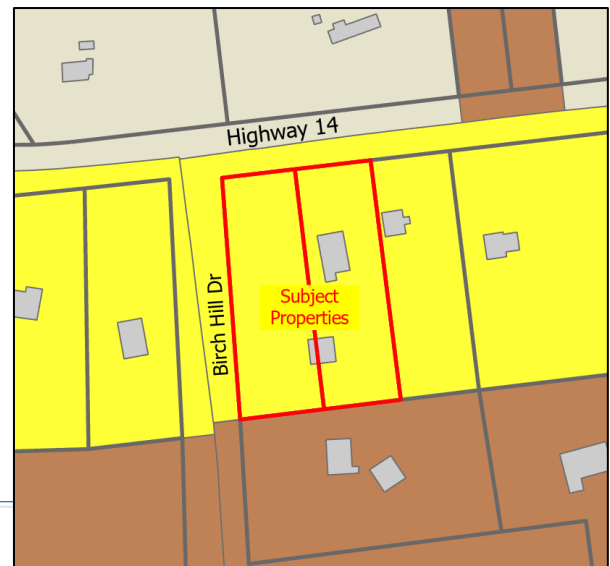
Background

The Municipality received an application in December 2023 from Tammy and Joe Ferguson to enter into a development agreement to allow for the operation of an Educational Service Use on two properties in Nine Mile River. The intention of the use is the operation of a Cosmetology School specifically pertaining to the instruction of hair design, styling, and related practices.

Subject Property

An excerpt of the zoning map to the right shows the subject properties, identified as PID 45123122 and 45123114 located at 7224 Highway 14 in Nile Mile River. The properties are currently zoned Two Dwelling Unit Residential (R2) as per the Land Use Bylaw (LUB) and designated as Established Residential Neighbourhood (ER) as per the Generalized Future Land Use Bylaw map. Surrounding properties are zoned the Two Dwelling Unit Residential (R2) zone and the Country Residential (CR) Zone.

These properties are not located within a Growth Management Area or a Growth Reserve Area.



Development Proposal

The applicant has requested to enter into a development agreement with the Municipality to operate a Cosmetology school on R2 zoned properties located along Highway 14 in Nine Mile River. The school intends to specialize in hair styling and hair design practices. There will be an average of 12 students on site with one instructor.

The school will operate out of the existing single unit dwelling located on the property. Presently, there is residential access to the dwelling off of Highway 14 and another via Birch Hill Drive to access the dwelling. The intent is to have the school located on the top floor of the dwelling and have the lower level as a residential dwelling. Parking is proposed to be located on the vacant parcel.

Discussion

STRATEGIC ALIGNEMENT

One of the key strategies from Council's Strategic Plan is Economic Prosperity. Supporting the continuous growth of local businesses within the Municipality aims to achieve the objective of attracting and retaining business investments.

LEGISLATIVE AUTHORITY

The Municipal Government Act, Part VIII gives legislative authority for this application. This section outlines the process for Development Agreement applications, and the scheduling of a Public Hearing.

FINANCIAL CONSIDERATIONS

The Municipality does not anticipate an immediate fiscal impact of the proposed Cosmetology school. No new roads or services are required to be installed as a result of the application. Due to the change in use on the property, any increase in property value may result in a higher tax rate or different tax type.

MUNICIPAL PLANNING STRATEGY POLICY ANALYSIS

The Planning and Development Department have reviewed the proposed application based on the applicable policies contained in the Municipal Planning Strategy. A detailed table of the evaluative criteria from the enabling policies and corresponding comments from Staff and reviewing agencies is attached as Appendix A.

The MPS policy OS28 states that Council shall consider Institutional uses in all zones by development agreement to ensure that the Institutional Use is in the community's best interest. Educational Services are a permitted use in the Institutional Use (IU) Zone; therefore, as per policy OS28, the use is permitted by entering into a development agreement. Staff have also taken into consideration policies IM27, IM28 and IM29 of the MPS which outline the evaluation criteria, terms and conditions for a development agreement that Council shall consider. A full detailed evaluation is included in Appendix A.

REVIEWING AGENCIES

Nova Scotia Public Works commented on the application and stated that it is not anticipated that the application will negatively impact the Provincial Road networks. Their comments also indicated that access to the Cosmetology School parking lot is restricted to Birch Hill Drive and access to PID 45123114 from Highway 14 will not be granted.

Council's decision on this application is appealable to the Nova Scotia Utility and Review Board (NSUARB) as it does not involve amendments to policy or policy mapping.

Citizen Engagement

Planning staff have complied with the Citizen Engagement policies of the Municipal Planning Strategy when processing this application. An advertisement outlining the proposal and indicating that it is under review by staff was placed in the *Chronicle Herald* in January 2024. A letter and questionnaire were mailed to all property owners and residents within 300 m of the subject property asking for comments on the application. 46 letters and questionnaires were mailed and seven (7) were returned. Comments from residents were with respect to the increase to the volume of water needed as a result of the business, and if there will be an impact on neighbouring wells, and comments regarding increased traffic on Birch Hill Drive and access to parking areas onto Birch Hill Drive. All other responses were in favour of the application.

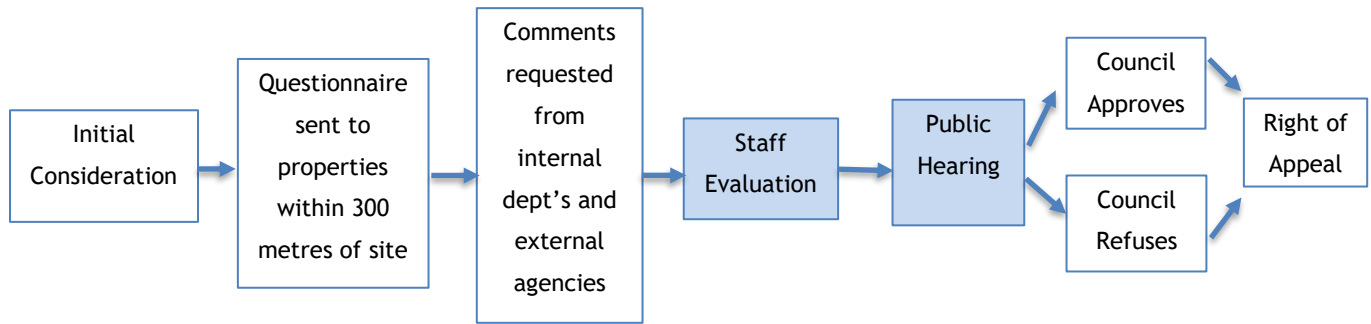
Due to the size and scale of the application, staff did not request a hydrogeological study be completed. Additionally, NSPW commented on the application and indicated that a negative impact is not anticipated to the provincial road network as a result of this application. Additionally, the department indicated that access to the parking area off of Highway 214 would not be granted. Access will only be granted off of Birch Hill Drive.

As per the requirements of the *Municipal Government Act*, a Public Hearing is also required with authorization from Council. Notice of the Public Hearing indicating the date, time, and location of the hearing was mailed to all property owners and residents within 300m of the site, as well as advertised in the *Chronicle Herald* for two consecutive weeks prior to the Hearing.

A Public Information Meeting was not required as this application does not have an amendment to the policy or the policy mapping.

Conclusion

Planning staff have reviewed the development agreement application using all the evaluative criteria outlined in the Municipal Planning Strategy and they were found to be consistent. Therefore, staff are recommending approval of this application.



Recommendation

That the Planning Advisory Committee recommend that Council give final consideration and approve the development agreement application.

Alternatives

If the PAC does not support this application, they can recommend refusal of this application or request amendments to the proposed development agreement.

Attachments

Appendix A: Evaluation Criteria

Appendix B: Site Plan

Appendix C: Draft Development Agreement

Appendix A:

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| <i>OS28 Council shall consider Institutional uses in all zones, by development agreement, to ensure that the Institutional Use is in the community's best interest.</i> | |
| <i>IM27. Council shall consider the evaluation criteria, terms, and conditions for development agreements enabled by this Strategy, and specifically in this subsection.</i> | |
| <i>IM28. Council shall consider the following evaluation criteria for any development agreement application:</i> | |
| a) | <p><i>The impact of the proposed development on existing uses in the area with particular regard to the use and size and of proposed structure(s), buffering and landscaping, hours of operation for the proposed use, and other similar features of the proposed use and structures.</i></p> <p>There is an existing dwelling located on the property. The proposed Cosmetology school will be operating out of the existing building while retaining one dwelling unit located on the lower level of the building. No new structures are proposed with the application.</p> |
| b) | <p><i>The impact of the proposed development on existing infrastructure with particular regard to Municipal piped water and wastewater systems, fire protection, refuse collection, school capacities, and recreation amenities. Council shall consider comments from the Municipal Engineer and other agencies as applicable.</i></p> <p>This property does not access municipal water and wastewater services. No new residential units are proposed with this development, therefore, no impact on school capacities or recreation is anticipated.</p> |
| c) | <p><i>The impact of the proposed development on pedestrian and motor traffic circulation with particular regard to ingress and egress from the site, traffic flows and parking, adequacy of existing and proposed road networks to service the proposed development, adequacy of pedestrian infrastructure including walkways and sidewalks where required. Council shall consider comments from Municipal Engineer(s) and/or the Provincial Transportation Departments as applicable.</i></p> <p>Nova Scotia Public Works have commented on this application and confirmed that a negative impact to the Provincial Road network is not anticipated. Access to the parking areas shall only be granted off Birch Hill Drive. Access will not be granted off of Highway 214.</p> |
| d) | <p><i>Council shall consider, where appropriate, the impact of the development on the comfort and design of proposed streets and existing street users. This shall include whether the proposed development is human-scaled, is easily accessible to active transportation users, and if it promotes visual variety and interest for active transportation users.</i></p> <p>No new streets are proposed. This development is fully contained on the noted property.</p> |
| e) | <p><i>The suitability and availability of other appropriately zoned sites for the proposed use.</i></p> <p>The site is zoned appropriately for the land use of the property. Institutional uses are permitted in all zones by entering into a development agreement.</p> |
| f) | <p><i>The submission of a professionally drawn site plan showing the location of all new and existing structures on the lot, parking areas,</i></p> <p>A site plan has been submitted showing the location of the existing buildings and parking areas.</p> |

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| | <i>proposed and existing walkways, areas of tree retention, watercourses or environmentally sensitive areas, buffering, and landscaping and building plans, including signage plans, if applicable, showing the nature and design of the proposed structure.</i> | |
| g) | <i>Adequacy of the size of the lot to ensure required buffering and screening can be carried out.</i> | Buffering requirements will follow those outlined in the Land Use Bylaw for Residential Zones. |
| h) | <i>Potential for significantly reducing the continuation of agricultural land uses.</i> | Not applicable. |
| i) | <i>The proposed density and urban form, including height, massing, bulk, stepbacks and setbacks, are compatible with (not necessarily the same as) existing development forms.</i> | No new structures are proposed with this application. |
| j) | <i>If the proposal is inappropriate by reason of the financial capability of the Municipality to absorb any costs relating to the development.</i> | There is no immediate fiscal impact of the proposed development to the Municipality. No new roads or services are required to be installed. Due to the change in use on the property, any increase in property value may result in a higher tax rate or may result in a different tax type. |
| j) | <i>The adequacy of municipally approved water and wastewater services or if services are not provided, the adequacy of the lot to provide an adequate and safe water supply as determined by a hydrogeological assessment prepared by a hydrogeologist. The requirement for a hydrogeological assessment shall be determined by the Municipality.</i> | Due to the size and scale of the application, staff did not request a hydrogeological study be completed. |
| IM29. Terms and conditions of the agreement to ensure consistency with Strategy policies and the employment of sustainable development practices shall include, but are not limited to the following where applicable: | | |
| a) | <i>The use and size of any new structures or any expansions of existing structures.</i> | No new structures are proposed with the application. The proposed cosmetology school will be operating out of the existing structure on the property. |
| b) | <i>The compatibility of the structure in terms of design elements including, but not limited to roof type, exterior cladding material, and overall architectural form and elements that are reasonably consistent with the style and character of the community.</i> | There are no design requirements in the R2 zone. The Cosmetology school will be operating out of the existing structure on the property. |
| c) | <i>Provisions for adequate buffering and screening to minimize the impacts of the development on adjacent uses, such buffering and screening to be designed with consideration given to the types of impacts that may be felt by adjacent properties (ie. noise, headlights, dust, etc.).</i> | Buffering and screening from adjacent properties is not required in Residential zones. |
| d) | <i>Any matter that may be addressed in the Land Use Bylaw, such as yard requirements,</i> | All items not identified in the development agreement shall be applicable to the LUB. |

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| | <i>outdoor storage, height, bulk and lot coverage, etc.</i> | |
| e) | <i>Time limits for the application for a development permit and the initiation and completion of construction.</i> | One year to enter into the agreement, one year to apply for a development permit and two years to make the property consistent with the terms of the development agreement. |
| f) | <i>The establishment of hours of operation and maintenance of the proposed use.</i> | There are no limits in the Land Use Bylaw regarding hours of operation. The development agreement does not limit the hours of operation. |
| g) | <i>The provision of adequate parking and parking lot design to include maximum ease and safety of traffic flow and dust control.</i> | Parking shall comply with the requirements set in section 3.31 of the LUB |
| h) | <i>Provisions regarding signage that may be sensitive to the overall visual amenity of the immediate area and safety issues.</i> | Signage will be as per the requirements of the LUB. |
| i) | <i>Methods of protection of the land and watercourses and mitigation practices during and after construction of the proposed development.</i> | As per NSE regulations. |
| j) | <i>Methods of stormwater management on-site during and after construction and methods used to control erosion and sedimentation.</i> | A stormwater drainage plan is not required for an unserved lot. |
| k) | <i>Provisions regarding tree removal, devegetation, and tree planting on the site and overall adequacy of landscaping.</i> | Any disturbed area on the property will be covered with grass, tress, or shrubs. |
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Appendix B

