



MUNICIPALITY OF THE DISTRICT OF LUNENBURG

Development Agreement Amendment
with Boulangerie La Vendéenne, 500 Highway 325, Blockhouse
PUBLIC HEARING

Facebook Page – Municipality of the District of Lunenburg (MODL)
Tuesday, May 26, 2020 at 8:30 a.m.

PUBLIC HEARING AGENDA

- 1. CALL TO ORDER at 8:30 a.m.**
- 2. OPENING REMARKS by MAYOR BOLIVAR-GETSON**
 - (a) Introductions
 - (b) Review of Agenda and Rules of Conduct
- 3. REPORT AND PRESENTATION from Planning Staff**
- 4. WRITTEN AND VERBAL PRESENTATIONS from the Public**
 - (a) Review of written submissions
 - (b) Online comments by the Public (if any)

5. REVIEW OF APPROVAL PROCESS

Municipal Council may decide at the Council meeting after the close of this Public Hearing. If Council deems it advisable to adopt the amendment to the existing Development Agreement with Boulangerie La Vendéenne, Council will conduct Second Reading. Once Council has approved the documents, they are forwarded to the Department of Municipal Affairs and Housing for review.

Upon confirmation from Municipal Affairs and Housing that the documents do not conflict with any provincial interest, a Notice of Approval is inserted into the local newspaper advising of the adoption of these documents. The date that the Public Notice appears in the paper is the date the documents become effective.

6. CLOSING OF THE PUBLIC HEARING

RULES OF CONDUCT

Persons who wish to speak at the Public Hearing are asked to note the following:

- [a] State your name and address;
- [b] Direct all statements to the Chairperson;
- [c] Try to limit presentations to 10 minutes;
- [d] Speakers may address Council twice, but before addressing Municipal Council for a second time, speakers will be requested to wait until all others have had the opportunity to speak, before they can then address Council for a second time.



Municipality of the District of Lunenburg

REQUEST FOR DECISION

REPORT TO: Municipal Council

SUBMITTED BY: Byung Jun Kang, Planner

DATE: April 28, 2020

SUBJECT: PL200006 – Development Agreement Amendment
Boulangerie La Vendéenne (500 Highway 325, Blockhouse)
Council Staff Report

BACKGROUND

Mr. Unterweger, the owner of Boulangerie La Vendéenne, constructed a new building at 500 Highway 325, Blockhouse, to move from a previous store building in Martin's River. Originally, Mr. Unterweger focused on the manufacturing and retailing of baked goods, primarily selling his products in farmers' markets and restaurants.

In the last couple of years, customers expressed interest in sitting down and ordering food and drink for consumption on the premise. To accommodate the increasing demand, the existing Development Agreement must be amended so that the current storefront can accommodate a limited-service eating place, along with retailing of products other than baked goods.

Site Profile

Name: Boulangerie La Vendéenne
Civic Address: 500 Highway 325, Blockhouse, NS
Property Identification Number: 60220076
Landowner: Boulangerie La Vendéenne Incorporée
President: Mr. David Unterweger
Plan Area and Zoning: Blockhouse Plan Area (Rural Zone)
Operation Commencement: December 7, 2017

Existing Development Agreement

Currently, the existing Development Agreement limits the property to be

1. used only as a bakery and related retail operations;
2. up to a maximum total indoor floor area of 570 square metres (6,135 square feet) for all identified uses, including identified accessory structures; and
3. up to a maximum total indoor floor area of 55 square metres (592 square feet) for the related Retail operations is included in the total indoor floor area maximum identified above.

For a greater certainty, a bakery means an establishment “primarily engaged in the production and storage of baked products (breads, cakes, pastries, buns, biscuits, and so on), for either wholesale or retail sale purposes, for consumption off-site”.

Related retail operations mean “the keeping or offering for sale, directly to the public at retail value, those baked products, or related products, directly associated to the Bakery production facility, where such goods are manufactured.”

The current structure is 458 m² (4,935 ft²), including the storefront of 41.8 m² (450 ft²).

Other Existing Uses

Other than baked goods, the current structure also includes the use of manufacturing Helen B’s products, such as pickles and jams. Products manufactured by other local businesses are on display for retailing purposes within the existing structure, which includes honey, maple syrup, chocolate, reusable bags, and books. In the future, the applicant wishes to serve lunch meals, such as soup, sandwiches, and salad.

North American Industry Classification System (NAICS)

NAICS is a classification of business types used by Statistics Canada. It is commonly used in defining the permitted commercial, industrial and resource uses.

ANALYSIS

To accommodate the existing and future uses, the following amendments are required:

1. Addition of permitted uses, including:
 - a. Food manufacturing;
 - b. Limited-service eating places;
 - c. Other specialty food stores
2. Expansion of the maximum building footprint from 570 m² to 800 m²;
3. Deletion of maximum total indoor floor area for the related Retail operations; and
4. Defining the minimum number of parking spaces required for the storefront use.

Addition of Permitted Uses

Only the bread and bakery product manufacturing is permitted by the existing Development Agreement. To allow a café use, as well as producing and selling of other products, the following uses need to be included in the Development Agreement:

Food manufacturing. This includes establishments primarily engaged in producing food for human or animal consumption, but excludes beverage manufacturing.

Limited-service eating. This includes establishments primarily engaged in providing food services to patrons who order or select items at a counter, food bar or cafeteria line and pay before eating. Food and drink are picked up for consumption on the premises or for take-out, or delivered to the customer's location. This includes offering of a variety of food items, specialty snacks or non-alcoholic beverages, such as coffee shops, soup-and-sandwich shops and fast food restaurants.

Store Retailing. This includes establishments primarily engaged in retailing products not manufactured on the premises, and not for immediate consumption or use. Products range from dairy product, baked goods, beverages, cheese, coffee, maple syrup, honey, packaged ice cream, spices, herbs, as well as reusable bags and books.

Expansion of Building Footprint

The applicant showed his interest in the possibility of expansion of the current structure, as shown in Appendix B. Two additions, 297 m² (3,195 ft²) in total, are planned:

1. An 87.8 m² expansion for loading and manufacturing (15' x 63' = 945 ft²); and
2. A 209 m² expansion for retailing (45' x 50' = 2,250 ft²).

The current Development Agreement accounted for the expansion of loading and manufacturing area, as noted in the site plan submitted in 2017, but not the expansion of retailing area.

Consolidation of Building Footprint Limits

The current Development Agreement defines the maximum indoor space for the total structural area and for the area used as bakery-related retail. Both maximum limits need to be revised to accommodate the potential expansion of storefront area.

The reason for having separate clauses was the applicant, at the time of original application in 2017, was not intending to have a storefront. Staff recommends consolidating indoor space limits for both the structure and the retail use to allow more flexibility, in case changes are needed for the proposed additions.

Defining the Minimum Parking Spaces

The current Development Agreement requires a minimum of 9 parking spaces for the existing structure, and may require 2 more parking spaces for the proposed loading and storage area expansion. There are 9 parking spaces at the site, conforming to the existing Development Agreement.

The minimum number of parking spaces for the proposed expansion of storefront is not defined in the existing Development Agreement. Considering the potential increase in the number of customers with the storefront expansion, staff recommends adding a new clause so the applicant would provide the total of 20 parking spaces, following the expansion, for his patrons and staff.

Consideration for Development Agreement

Policies 8.1.3 and 8.1.4 of the Blockhouse Secondary Planning Strategy state the number of considerations when amending a development agreement for commercial properties.

Table 1

Considerations for a By-law Amendment and Development Agreement, Non-Residential Uses

Legislative Authority	Considerations	Evaluation	Result
8.1.3 a)	the development conforms to the intent of the Municipal Planning Strategy and of the Secondary Planning Strategy	As per Policy 3.4.2, commercial activities are encouraged in Blockhouse.	Satisfied.
8.1.3 b)	the development is not premature or inappropriate due to		
i.	financial ability of the Municipality to absorb costs related to the development	This is a private development.	Not applicable.
ii.	adequacy of Municipal services	There are no municipal services.	Not applicable.
iii.	the adequacy of physical site conditions for on-site services	Department of Environment issued a certificate of installation for on-site sewage system in 2017, intended for commercial bakery uses.	Satisfied.
iv.	creation or worsening of a pollution problem including soil erosion and siltation	The current site is relatively flat and adequately distanced from significant watercourses	Satisfied.
v.	adequacy of storm drainage and effects of alteration to drainage pattern including potential for creation of a flooding problem	The expansion should not affect the drainage pattern. (See Policy 8.1.3 b) iv.)	Satisfied.
vi.	adequacy and proximity of school, recreation, emergency services, and other community facilities	Blockhouse Fire Hall is 40 metres away from the existing building.	Satisfied.

vii.	adequacy of street networks and site access regarding congestion, traffic hazards and emergency access	The existing building is on Highway 325, a collector road with higher capacity than residential streets. Department of Transportation and Infrastructure Renewal sees no concerns regarding traffic.	Satisfied.
8.1.3 c)	The development site is suitable regarding grades, soils, geological conditions, location of watercourses, flooding, marshes, bogs, swamps, and susceptibility to natural or man-made hazards as determined by a qualified person	The current site is relatively flat and adequately distanced from significant watercourses	Satisfied.
8.1.3. d)	All other matters of planning concern have been addressed	No other planning concerns have been identified.	Satisfied.
8.1.4 a)	The development shall not create undue traffic hazards, traffic congestion, or pedestrian hazards	Department of Transportation and Infrastructure Renewal stated that the building must be set back 43 feet (13.1 metres) or more from the centreline of Highway 325. Adequate room is required for vehicles to turn on-site, to eliminate backing onto the highway.	Satisfied.
8.1.4 b)	The development shall not generate emissions such as sound, dust, radiation, odours, liquids or light to the air, water, or ground so as to create a nuisance or health hazard or so as to compromise the development potential or value of properties in the vicinity	The basic operation processes will remain the same.	Satisfied.

8.1.4 c)	Subject to the physical characteristics of the site, the development shall achieve optimum separation from adjacent properties which are not in Commercial or Industrial use	The separation distance of 40 metres from the adjacent fire hall will remain the same.	Satisfied.
8.1.4 d)	Screening in the form of fences, vegetation, or berms as appropriate shall be constructed or installed wherever possible in order to minimize impact on the abutting uses and ensure public safety	Existing Development Agreement prohibits development on the side yard abutting a residence. No expansion permitted beyond the existing side wall.	Satisfied.
8.1.4 e)	all structures shall be built, repaired, and maintained with durable, weather-resistant building material, such that the appearance complements the natural surroundings and existing built environment	The existing building is built with durable, weather-resistant building materials.	Satisfied.
8.1.4 f)	no Development Agreement shall be approved until all necessary permits required by Federal, Provincial, and Municipal government agencies have been issued or Council is satisfied that the required permits will be issued	Provincial food establish permit and food handler certifications are up to date.	Satisfied.
8.1.4 g)	no development shall increase traffic volume so as to have an undue negative effect on properties that are served by a residential street	The existing building is on Highway 325, a provincial collector highway.	Satisfied.

<p>8.1.4 h)</p>	<p>the applicant has clearly shown both that the development can be serviced with central or on-site sewer and water and that the disposal of sewage or other effluent as well as the demand on the water source will not have a negative impact on the environment or the quality and quantity of the water resources</p>	<p>Department of Environment issued a certificate of installation for on-site sewage system in 2017, intended for commercial bakery uses.</p>	<p>Satisfied.</p>
<p>8.1.4 i)</p>	<p>driveways, parking areas, and any areas used for the open storage of equipment or stock shall be surfaced with stable materials to prevent dust from blowing onto adjacent properties</p>	<p>The current parking lot is paved with Class A materials, and any expansion will use the same standard material. Additional parking will be required for expansion, according to the minimum parking spaces defined in the Land Use By-law and the Development Agreement.</p>	<p>Satisfied.</p>
<p>8.1.4 j)</p>	<p>where any development includes facilities such as dance halls or entertainment facilities that have amplified or other loud music or sound, the building shall be located on the property and designed such that activities within the building or otherwise associated with the use, will not unduly disturb any abutting residential uses.</p>	<p>The business does not involve producing loud noises.</p>	<p>Not applicable.</p>

Correspondences from External Agencies

Nova Scotia Transportation and Infrastructure Renewal (TIR). TIR has no objection to this expansion, as long as the existing 43-foot setback requirements are maintained. The loss of parking is of concern; however, it is addressed in the proposed amendment to the Development Agreement. TIR suggested that there should be adequate room for vehicles to turn on-site, eliminating backing onto the highway.

Nova Scotia Environment (DOE). DOE also has no objection to this expansion, as it could not identify outstanding issues regarding on-site sewage disposal systems and other environmental concerns.

Blockhouse & District Fire Department. The Fire Department is in proximity to the site. A couple of concerns include (a) lack of visibility towards the highway due to the existing sign, and (b) lack of parking spaces in which it may overflow to the Fire Department's property. Having said that, Concern (a) would be addressed by TIR, and Concern (b) can be mitigated with the co-operation from the applicant.

Municipal Solicitor. The draft Amendment to the Development Agreement, attached in Appendix A, has been reviewed by the municipal solicitor on March 6, 2020.

DISCUSSION

Applicant requested the expansion as the current manufacturing facility is at capacity. With the two additions, the indoor space would increase by 60% to accommodate for additional loading, storing, and retailing areas.

The intention of the Council is clear as to encouraging commercial and industrial activities in Blockhouse. While commercial and industrial uses, including all of the 5 existing and proposed uses, are permitted in the Rural Zone of Blockhouse, a development agreement is required because of the structural size, not the uses.

The Blockhouse Secondary Planning Strategy (2016) states the intention of mandating a Development Agreement for non-residential developments over 375 m²: "A Development Agreement will give Council and the community greater flexibility and input into how larger scale developments fit into the planning area" (p. 10).

Based on the increasing number of customers over the last couple of years, it is deemed that the community members are relatively satisfied with the on-going commercial and industrial uses. Should there be opposition to this development due to scale, it would be identified throughout the public participation process, at the Public Hearing, and during a 14-day appeal period prior to approval.

WORK PLAN IMPLICATIONS

Table 2 displays the schedule of this Development Agreement amendment process.

Table 2

Checklist for a Development Agreement Adoption, Amendment and Repeal

Legislative Authority	Work Performed	Planned Date	Revised Date
	Complete application received	February 18, 2020	February 18, 2020
	Council referral	February 25, 2020	February 25, 2020
<i>Municipal Government Act, Subsection 201(1)</i>	Blockhouse Area Advisory Committee presentation	March 9, 2020	March 9, 2020
MDL-02, Section 3.1	Planning Advisory Committee presentation	March 26, 2020	April 23, 2020
	Council Notice of Intention	April 14, 2020	April 28, 2020
Blockhouse LUB, Section 2.17	Notice to residents within 305 metres, along with signs	April 15, 2020	May 1, 2020
<i>Municipal Government Act, Subsection 206(5)</i>	Notice of Public Hearing to the Town Clerk of Mahone Bay	April 15, 2020	May 1, 2020
<i>Municipal Government Act, Subsection 206(1)</i>	Public Hearing newspaper notice 1	April 27, 2020	May 6, 2020
<i>Municipal Government Act, Subsection 206(1)</i>	Public Hearing newspaper notice 2	May 4, 2020	May 13, 2020
<i>Municipal Government Act, Subsection 48(1)</i>	Notice of amendment to the Council at least 7 days before the reading	May 5, 2020	May 19, 2020
<i>Municipal Government Act, Subsection 230(2)</i>	Public Hearing	May 12, 2020	May 26, 2020

<i>Municipal Government Act, Subsection 48(3)</i>	Reading of the Council	May 12, 2020	May 26, 2020
<i>Municipal Government Act, Subsection 230(3) and Clause 249(c)</i>	Newspaper notice of approval and right to appeal for the next 14 days	May 18, 2020	June 3, 2020
	Signing of the new Development Agreement	June 1, 2020	June 17, 2020
<i>Municipal Government Act, Subsection 230(4)</i>	Filing of a certified copy of a DA with the Minister of Municipal Affairs and Housing	June 2, 2020	June 19, 2020
<i>Municipal Government Act, Subsection 228(4)</i>	Filing of Development Agreement in the Registry of Deeds by Municipal Clerk after the appeal period	June 2, 2020	June 19, 2020

COMMUNICATION CONSIDERATIONS

Policy MDL-66, the Public Participation Program, will be followed to send notices to adjacent landowners within 305 metres, posting of signs, newspaper ad and e-mails.

APPENDICES

Appendix A: First Amendment to the Development Agreement No. 110824936

Appendix B: Site map of Boulangerie La Vendeenne with planned additions

Department: Planning & Development Services

Directory: 66510-40

Prepared by: Byung Jun Kang, Planner

Date: 2020.04.23

Approved by: Jeff Merrill, Director of Planning & Development Services

Date: 2020.04.24

Appendix A – First Amendment to the Development Agreement No. 110824936

THIS FIRST AMENDING AGREEMENT made this ____ day of _____, 2020,

BETWEEN:

BOULANGERIE LA VENDEENE INCORPOREE

a body corporate, with registered offices in the Town of Mahone Bay,
in the County of Lunenburg, in the Province of Nova Scotia

(hereinafter called the “DEVELOPER”)

OF THE FIRST PART

- and -

MUNICIPALITY OF THE DISTRICT OF LUNENBURG

a municipal body corporate, with offices in the Town of Bridgewater,
in the County of Lunenburg, in the Province of Nova Scotia

(hereinafter called the “MUNICIPALITY”)

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands identified as PID 60220076, which is also more commonly known as the property located at civic address 500 Highway 325, in the community of Blockhouse, Lunenburg County, Nova Scotia (hereinafter called the “Lands”);

AND WHEREAS the Municipality entered into a Development Agreement with the Developer to allow for a commercial and retail bakery, as well as the related retail use on the Lands on May 9, 2017, and which was registered at the Lunenburg County Land Registration Office on May 30, 2017 as Document Number 110824936, (hereinafter called the “Original Agreement”);

AND WHEREAS the Developer has requested that further amendments to the Original Agreement to expand the permitted uses and the maximum total indoor floor area, pursuant to the provisions of the *Municipal Government Act* and pursuant to Policy 4.1.4 of the Blockhouse Secondary Planning Strategy, and Subclause 5.2.3b(i) of the Blockhouse Land Use By-law;

AND WHEREAS the Council of the Municipality, at a meeting on June 9, 2020, approved this request, referenced as Municipal Project Number PL200006;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

Existing Agreement still in effect

- 1 Except where specifically varied by this First Amending Agreement, all other terms, conditions, and provisions of the Existing Agreement shall remain in effect.

Terms and conditions

- 2 The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this First Amending Agreement and the Original Agreement.

Definitions clarified

- 3 Section 1 of the Original Agreement is amended by striking out Subsections b. and c. and substituting the following subsections:
 - b. **Food Manufacturing Facility** means an establishment primarily engaged in producing food for human or animal consumption, but not for immediate consumption and excluding beverage and tobacco product manufacturing.
 - c. **Limited-Service Eating Place** means an establishment primarily engaged in providing food services to patrons who order or select items at a counter, food bar or cafeteria line, or order by telephone or online, and pay before eating. Food and drink are picked up for consumption on the premises or for take-out, or delivered to the customer's location.
 - d. **Retail Store** means an establishment primarily engaged in retailing products that are not manufactured on the premise and not for immediate consumption.

Permitted uses added

- 4 Section 2 of the Original Agreement is amended by striking out “a Bakery and a Related Retail operations directly associated with the Bakery” on the first line and substituting “Food Manufacturing Facility, Limited-Service Eating Place, and Retail Store”.

Minimum parking defined

- 5 Section 4 of the Original Agreement is amended by adding immediately after Subsection c. the following subsection:
 - d. That should there be any proposed additions to the development, which is dedicated to the general public use for the purpose of retailing, to be undertaken in the future by the Developer, that the Municipality may require nine (9) additional parking spaces to be developed on the property, at that time.

Maximum indoor floor area increased

- 6 Section 10 of the Original Agreement is amended by
 - (a) striking out a colon at the end of Subsection c. and substituting with “, up to a maximum total indoor floor area of 800 square metres (8,611 square feet) for all identified uses in Section 2, including identified accessory structures.”; and
 - (b) striking out Clauses i) and ii) of Subsection 10 c.

IN WITNESS WHEREOF the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

In the presence of:

BOULANGERIE LA VENDEENE INCORPOREE

Per

WITNESS

DAVID UNTERWEGER
PRESIDENT & RECOGNIZED AGENT

In the presence of:

MUNICIPALITY OF THE DISTRICT OF LUNENBURG

Per

WITNESS

SHERRY CONRAD, CLERK

WITNESS

CAROLYN BOLIVAR-GETSON, MAYOR

PROVINCE OF NOVA SCOTIA
COUNTY OF LUNENBURG

I CERTIFY that on the _____ day of _____ 2020,

BOULANGERIE LA VENDEENE INCORPOREE, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by its proper officers and I have signed as a witness to such execution.

A BARRISTER OF THE SUPREME COURT
OF NOVA SCOTIA

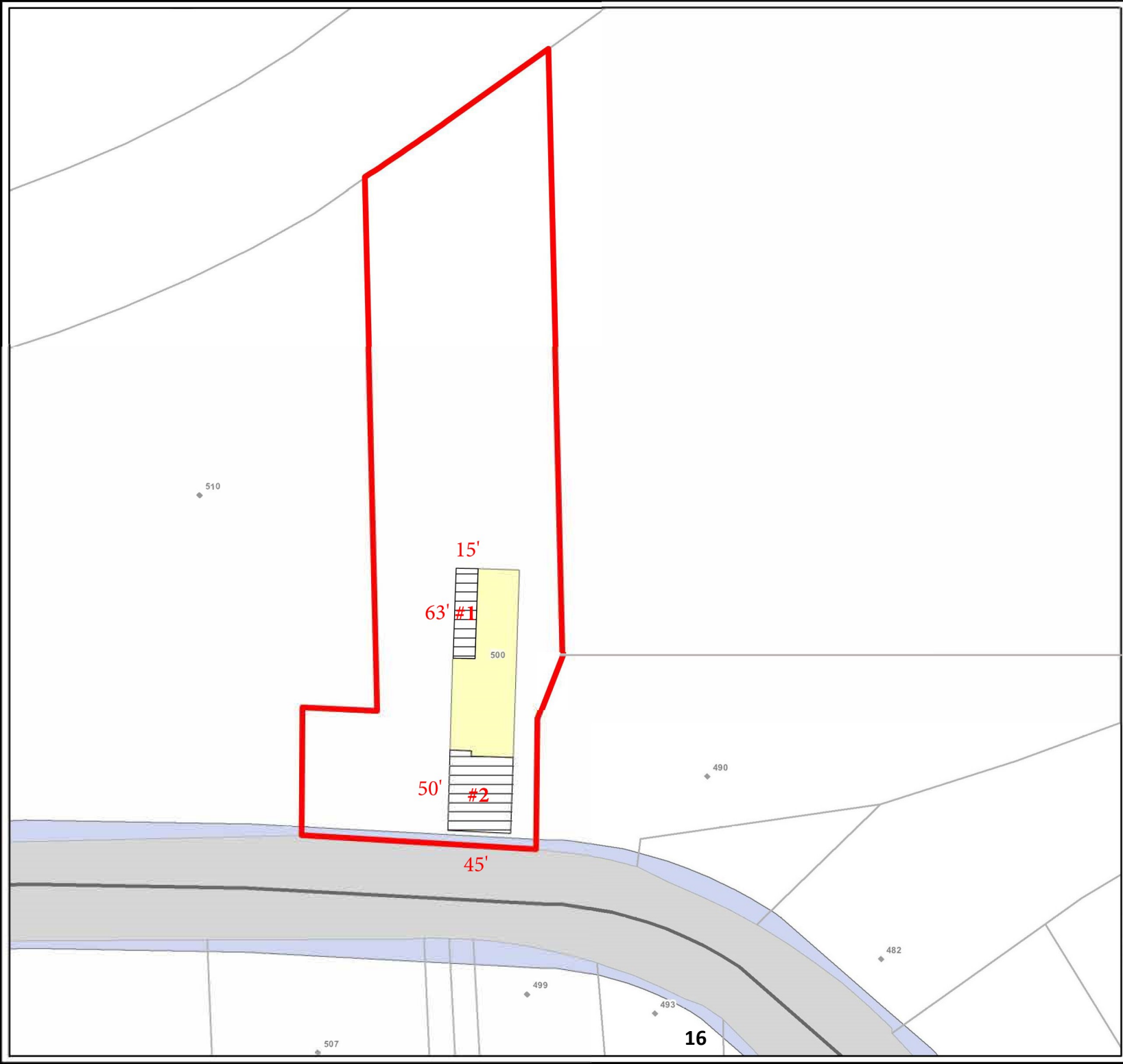
PROVINCE OF NOVA SCOTIA
COUNTY OF LUNENBURG

I CERTIFY that on the _____ day of _____ 2020,

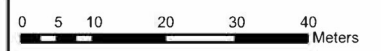
MUNICIPALITY OF THE DISTRICT OF LUNENBURG, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by its proper officers and I have signed as a witness to such execution.

A BARRISTER OF THE SUPREME COURT
OF NOVA SCOTIA

60220076
500 Highway 325



-  Additions
-  Original Building
-  Civic Points
-  Provincial Road
-  Municipal Road
-  Private Road
-  Road Right-of-Way
-  Properties (Jan 2020)
-  13.1m road centreline setback
-  Waterbody



Project Description:

**MUNICIPALITY OF THE
DISTRICT OF LUNENBURG**

Sources: Digital Base Map Data from the Nova Scotia Geomatics Centre, Amherst, NS

Disclaimer: Information compiled from numerous sources and may not be complete or accurate. Graphical representation only.

Date: February 2020

File: \plan2020\ByungJun\60220076

Prepared By: Planning & Development Services
Municipality of the District of Lunenburg