

DECISION/DIRECTION NOTE

Title: Proposed Extension to Building – Jack’s Auto Repairs
INT1800003
132 Paradise Road

Date Prepared: February 15, 2018

Report To: His Worship the Mayor and Members of Council

Councillor and Role: Councillor Maggie Burton, Chair, Planning & Development Committee

Ward: N/A (Town of Paradise)

Decision/Direction Required:

To seek approval by Council regarding a referral to build a forty-five (45) square metre extension onto a commercial garage (Non-Conforming Use) which is located in the Broad Cove River Watershed.

Discussion – Background and current status:

While the Subject Property is located in the Town of Paradise, it is also situated within the Broad Cove River Watershed. Management of Development in the watershed is controlled by the City of St. John’s pursuant to the City of St. John’s Act (the “Act”).

The Act states that a person shall not erect a building on land within the catchment area of the Broad Cove River above an elevation of 131.92 meters, however Council may permit the erection on the land in certain circumstances. The proposed extension is not captured by one of the specific permitted circumstances as set forth in section 104(4) of the Act. However, 104(4)(d) does provide that Council may permit an erection subject to the written recommendation of the City Manager. In the normal course the City Manager would not recommend an erection beyond those specific enumerated circumstances in the Act.

However, in this situation there are extenuating circumstances. The City of St. John’s and the Town of Paradise have entered into an Agreement that deals with development and permitted uses within the watershed within the Town’s boundary (the “Agreement”). The Subject Property is enumerated in Schedule “B” of that Agreement, being an inventory of land uses that are tolerated non-conforming uses. In the Agreement, consideration can be given to an application for an extension to a building if it is determined that the expansion does not cause any detrimental effect on the water quality of the watershed. In addition, the proposed development shall remain subject to the provisions of the City of St. John’s Act. The building extension will be for the purpose of a washroom and office use, and will be built on a parking area that does not impact any undeveloped land on the watershed property.

While the Agreement contemplates an extension of these nonconforming uses, the proposal must also not contravene the Act. Upon review of the Agreement and the Act, approval for the proposed extension would be on the written recommendation of the City Manager in consideration of the situation created by the Agreement, distinguishing this request from others.

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Additionally, the proposed extension is smaller than what would be allowable if the use was residential, not commercial.

A recommendation from the City Manager must also accompany a recommendation on development applications in the City of St. John's Act and the Town of Paradise Watershed Agreement

Consideration/Implications:

1. Budget/Financial Implications: Not Applicable.
2. Partners or other stakeholders: Town of Paradise.
3. Alignment and Strategic Directions/Adopted Plans: Not Applicable.
4. Legal or Policy Implications:
City of St. John's and The Town of Paradise Development Agreement and Section 104 (4)(d) of The City of St. John's Act.
5. Human Resource Implication: Not Applicable.
6. Procurement Implications: Not Applicable.
7. Information Technology Implications: Not Applicable.
8. Other Implications: Not Applicable.

Recommendation:

That Council consider this memo as the written recommendation of the City Manager to allow for the proposed extension, on the basis that an extension for this property was contemplated in the Agreement between the City of St. John's and the Town of Paradise. It is further recommended that Council exercise its authority and approve the application for the extension to the subject property, in accordance with its jurisdiction within the City of St. John's Act, and The City of St. John's and The Town of Paradise Development Agreement. .

Prepared by/Signature:

Gerard Doran, Development Supervisor – Planning, Engineering and Development

Signature: _____

Approved by/Signature:

Kevin Breen, City Manager

Signature: _____

GJD/dlm