



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 14.1.10
Halifax Regional Council
August 15, 2017

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Brad Anguish, A/Chief Administrative Officer

DATE: July 26, 2017

SUBJECT: **Case 21281: Initiation of RMPS amendments for lands on the east side of Scots Lake, Musquodoboit Harbour**

ORIGIN

Application by Scott Rowlings on behalf of 3224570 Nova Scotia Limited.

LEGISLATIVE AUTHORITY

See Attachment A

RECOMMENDATION

It is recommended that Regional Council direct staff to:

1. Initiate a process to consider site-specific amendments to the Regional Municipal Planning Strategy and the East Shore (West) Land Use By-law, as appropriate, regarding the development of certain 10-hectare (25-acre) lots on the east side of Scots Lake, Musquodoboit Harbour; and
2. Follow the public participation program for municipal planning strategy amendments as approved by Regional Council on February 27, 1997.

BACKGROUND

The applicant is applying to amend the Regional Municipal Planning Strategy (RMPS) and the Eastern Shore (West) Land Use By-law (LUB) to enable development permits to be issued on ten existing 10-hectare (25-acre) lots located on the east side of Scots Lake, Musquodoboit Harbour. This proposal cannot be considered under existing policies and by-law provisions therefore, the applicant is seeking site-specific amendments to the RMPS and the Eastern Shore (West) LUB.

Subject Site	10 lots on the east side of Scots Lake PIDs 41394255, 41394248, 41394230, 41394222, 41394214, 41394206, 413194198, 41394180, 41394172, 41394164
Location	Musquodoboit Harbour
Regional Plan Designation	Rural Commuter
Community Plan Designation (Map 1)	Mixed Use (MU) Designation (Map 1)
Zoning (Map 2)	Mixed Use (MU) Zone (Map 2)
Size of Site	Ten 10-hectare (25-acres) lots which cover a total area of approximately 101.08 hectares (249.7 acres)
Street Frontage	Frontage along a public road is limited to two locations (48m and 6.1m) along Highway #357 and both contain easements
Current Land Use(s)	Vacant with a constructed shared access driveway
Surrounding Use(s)	Single unit dwellings and undeveloped lands

History and Proposal Details

The applicant is the owner and developer of the lands located on both the west and east sides of Scots Lake in Musquodoboit Harbour. In 2012, the applicant received subdivision approval for 5 lots on the east side of the lake under the provisions of the Regional Subdivision By-law (RSBL). The following year, the applicant subdivided ten lots under the provincial legislation (*HRM Charter*) which enables lots that are 10 hectares (25 acres) or greater in size to be created outside of the municipal subdivision approval process (Map 3).

While this subdivision approval exemption was intended for resource uses such as farming or forestry, it has recently become more commonly used to create lots for residential development purposes. Although this exemption may be used to create lots that do not meet Subdivision By-law requirements, in order that development permits may be issued, any such lots must also meet HRM's land use by-law requirements. Because lots typically created through this process do not meet LUB requirements for street frontage, permits cannot be issued. In this case, the applicant constructed a shared access to the subject site in 2011 labeled as Darius Lane in Map 1 of this report, however, this access does not satisfy LUB requirements for street frontage.

Recent Decisions of Regional Council

In January of this year, Regional Council approved amendments to the RMPS and several community LUBs to allow residential development on lots created through the *HRM Charter* 10-hectare (25-acre) subdivision approval exemption. These amendments were adopted by Council in recognition of the fact that some development permits had been issued to allow the development of single unit dwellings on lots created through the 10-hectare (25-acre) exception in the *HRM Charter*. Regional Council approved a relaxation to the road frontage requirements to allow the continued development of several subdivisions that had received permits for some, but not all lots. This was done as a one-time exception, intentionally focused on unique situations to maintain the general intent of the Regional Plan while being fair to affected property owners. Seven subdivisions received the one-time exception including the applicant's development on the west side of Scots Lake.

The applicant's development on the east side of Scots Lake did not receive this one-time exception as it did not meet the criteria of a development permit being having been issued for any of the lots located within the same subdivision. Regional Council debated whether or not to include the east side of Scots Lake in

this exemption at the January 10, 2017 public hearing for 10-hectare (25-acre) lots (see *Supplementary Report dated November 23, 2016*), however, these lots were ultimately not included. Further, staff at that time were of the understanding that the approved lots on the east side of Scots Lake could be reconfigured through the as-of-right subdivision process in a way that would both yield a similar number of lots and meet the standards of the Land Use By-law. Upon further evaluation, staff have determined that this is not the case.

MPS and LUB Context

Regional Plan

In preparing the 2006 RMPS, HRM completed several studies that raised concerns with the uncontrolled growth of rural subdivisions due to the costs of providing services, drinking water quantity and quality, and environmental impacts. Consequently, the 2006 Regional Plan significantly changed and improved the way HRM manages rural residential development.

The current 2014 RMPS, which builds on the direction established in 2006, controls rural housing development in multiple ways in order to support traditional service centres, manage environmental impacts and preserve rural character. While new housing is permitted on existing public and approved private roads, the development of new public roads is limited to a maximum of 8 lots, and new private roads are prohibited. These controls are intended to direct development to existing roads, which reduces long-term servicing costs, and prevents uncontrolled development of large rural subdivisions. New private roads are not permitted due to long-term maintenance risks that have resulted in the Municipality being requested to take over private roads at significant costs.

As an alternative, the Regional Plan permits new large scale housing developments only through the conservation design development agreement process. The conservation design approach is intended to preserve significant environmental features, such as watercourses, wetlands, and steep slopes while clustering development in suitable areas. Accordingly, development proposals seeking a conservation design development agreement are required to submit detailed ground water studies and site analysis reports. While conservation design developments are permitted in most rural areas, in support of traditional centres, higher densities are only permitted within identified growth centres, such as Musquodoboit Harbour. Since 2006, HRM has approved several conservation design development agreements (previously Open Space Design Subdivision under the 2006 RMSP), which enable new housing developments on new public roads or shared private driveways.

Lot Frontage Requirements

The requirement for lots to front on a public or approved private road is common throughout Nova Scotia and Canada more generally. From a planning perspective, road frontage is important for safety and service delivery to ensure properties can be accessed by emergency vehicles, as well as other government services, such as waste collection. Lot frontage requirements are also an important tool for managing long-term development patterns and related public costs by directing new development to either existing roads, or areas that are planned to accommodate new roads, people and related services.

Generally, the LUBs that apply to rural areas require a minimum amount of frontage on a public or approved private road. However, there are several lot design exceptions that apply to the Eastern Shore (West) Plan Area which are described below.

- Section 38 of the Regional Subdivision By-law (RSBL) enables the creation of no more than two lots that do not meet lot frontage requirements from parcels that existed prior to August 1, 1987. Residential development is permitted on such lots provided all other LUB requirements can be met.
- Section 52 of the RSBL provides that, where more than one main building exists on a lot or parcel of land in existence on March 29, 1996, the lot or parcel may be subdivided to create up to the same number of lots as there are main buildings as well as a remainder lot provided the lots have a minimum road frontage of 6.1m (20 ft.).

- Section 53 of the RSBL enables the creation of a maximum of three (3) lots having a minimum road frontage of 6.1m (20 ft.) which are located on land zoned MU, R-6, FI or FV from an area of land which existed on March 29, 1996.
- Section 54 allows lots to be subdivided from an area of land in existence on March 29, 1996 which front Highway No. 7 or Highway No. 357 to be subdivided into a maximum of 2 lots or one lot and a remainder having a minimum lot frontage of 30.48 m (100 ft.).
- Section 57 of the RSBL enables the creation of a maximum of six (6) access by water lots, or five lots and a remainder lot, from an area of land which existed on March 29, 1996, subject to meeting a number of criteria including that the lands are located at least 2km from any public street or private road;
- Section 58 of the RSBL enables the creation of a maximum of three (3) lots having a minimum waterfront lot width of 6.1m (20ft) which are located on land zoned MU, R-6, FI, or FV from an area on land which existed on March 29, 1996.
- Policies 28A and 28B RMPS enables residential uses located on lots within specifically identified subdivisions that do not meet road frontage requirements where development permits were issued on or before April 1, 2016.

Existing Options

The applicants' development on the east side of Scots Lake consists of a total of 15 lots. Of the 15 lots, 5 were approved under the Regional Subdivision By-law lot frontage exemptions while the remaining 10 were created under the *HRM Charter* provisions and do not meet the LUB lot frontage requirements. Therefore, development permits can only be issued on 5 of the 15 lots. The development of all 15 lots as specifically proposed (Map 3) cannot be accommodated within existing policies. There are, however, provisions under the Regional Municipal Planning Strategy and the Regional Subdivision By-law to allow some subdivision of the subject property. The available options and limitations under the current planning documents for the subject lands are as follows:

Planning Document	Options	Limitations
<i>Regional MPS</i>	Policies S-14, S-15, S-16, S-17: Lower Density, Higher Density and Hybrid Conservation Design development	Very limited access to an existing publicly owned and maintained road, topography limits development to along the shoreline which could possibly result in additional road construction to comply with policy. The outset costs of the Conservation Design development applications are a concern for the applicant. Further, the lot configuration has already been established and a shared driveway access constructed.
	Policy S-28 A and S-28 B: Permits residential uses on lots in specified subdivisions where the lots do not meet road frontage requirements and where development permits were issued on or before April 1, 2016.	There were no permits issued on any of the ten 10-hectare (25-acre) located on the east side of Scots Lake unlike the west side of the lake. The east side of Scots Lake is not one of the specified subdivisions therefore development permits cannot be issued on the east side of the lake.
<i>Regional Subdivision By-law</i>	Section 38: Re-subdivide the lands into a total of 10 lots that do not meet lot frontage requirements.	This option requires the repeal of the Land Registry document that created the 10 hectare lots under the <i>HRM Charter</i> . This would reinstate the bulk lands as they previously existed which would enable the approval of 5 lots, and 5 remainders, (10 areas of land in total) all of which would be eligible for development permits. The applicant has advised this option would result in a different lot configuration and would not maximum the potential of the property as well as incur significant costs in survey and legal fees.

		Further, the reconfiguration may not enable the use of existing shared access.
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DISCUSSION

The RMPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in Municipality. While the RMPS provides broad direction, Regional Council may consider RMPS amendment requests to enable proposed development that is inconsistent with its policies and under unique circumstances. Amendments to an RMPS are significant undertakings and Council is under no obligation to consider such requests. Amendments should be only considered within the broader planning context or when there is reason to believe that there has been a change to the circumstances since the policy was adopted, or last reviewed.

Staff have met with the applicant and his consultants and upon further review, it appears the development options for the east side of Scots Lake are more limited than what was first anticipated. There are several technical constraints (i.e. surrounding land ownership and topography) as well as financial implications to the development of the area. Consequently, the applicant has requested a site-specific amendment to the RMPS Strategy and Eastern Shore (West) LUB to enable development permits to be issued on the east side of Scots Lake similar to what is permitted on the west side of Scots Lake.

Applicant Rationale

The applicant has provided the following rationale in support of the proposed amendment(s):

- It was not until March 2016 that the applicant became aware that the lots around Scots Lake were not conforming to the LUB and that development permits could not be issued;
- It was believed the 10 hectares (25 acres) lots could be reverted back to the original 5 bulk parcels and the lots reconfigured to meet the RSBL and LUB requirements, however, this results in a significantly different configuration which does not maximize the potential of the property. This also incurs further significant cost in survey and legal fees in an area where hundreds or thousands of dollars have already been spent;
- The conservation design development agreement process was considered, however, there are considerable expenses at the outset of the planning process and there are limitations to the site created by local topography and land ownership; and
- The east side of Scots Lake should be developed in the same manner as the west side of Scots Lake is being developed.

Attachment B contains the applicant's application letter.

Review

Staff have reviewed the submitted rationale in the context of site circumstances and surrounding land uses. Staff advise there is merit in considering the request. The following is provided as rationale for initiating the requested RMPS amendment.

Limited Scope

The proposed amendment would be site specific and would have limited implications to development region-wide. As specified at the January 10th, 2017 meeting of Regional Council and in the Memorandum dated February 28th, 2017 to Regional Council regarding "Development of 10-hectare (25 acre) lots – Regional Council Follow-Up" given the individuality of the community plans and lot configurations throughout the municipality, staff would approach issues related to rural 10-hectare lot development on a case by case bases, working with property owners as they identify issues to develop practical and reasonable solutions. This request is consistent with the case by case approach referenced in this memorandum.

Previous Advice

At the time of the January 10th, 2017 public hearing for 10 hectare (25 acre) lots, staff identified that other development options were available for the lots on the east side of Scots Lake which are the subject of this report. While this remains true, the development potential is not to the extent that staff originally understood and communicated to Council. A number of technical limitations and financial implications related to options available under current regulations make it reasonable to further investigate potential amendments for the subject site.

Minimal Impact

It is reasonable to anticipate the addition of 10 large scale residential lots may have a minimal impact on the surrounding area. This will be further explored by staff should Council decide to initiate the site-specific RMPS amendment.

Lots with Existing Development Potential

5 of the 15 lots meet the LUB requirements meaning that development permits can be issued. This will result in 5 residential lots dispersed along a 1.5km long shared driveway access. The additional development of the 10 lots may assist with providing support for ongoing maintenance of the shared access (Darius Lane) in the future.

Conclusion

Given the history and the unique circumstances surrounding this specific development there is merit in considering site-specific amendments to the RMPS and the Eastern Shore (West) LUB for east side of Scots Lake. Therefore, staff recommend that Regional Council initiate the RMPS amendment application process.

COMMUNITY ENGAGEMENT

Should Regional Council choose to initiate the MPS amendment process, the *HRM Charter* requires that Regional Council approve a public participation program. In February of 1997, Regional Council approved a public participation resolution which outlines the process to be undertaken for proposed MPS amendments which are considered to be local in nature. This requires a public meeting to be held, at a minimum, and any other measures deemed necessary to obtain public opinion.

The proposed level of community engagement is consultation, achieved through a public meeting early in the review process, as well as a public hearing, before Regional Council can consider approval of any amendments.

Amendments to the Regional Planning Strategy and Eastern Shore (West) Land Use By-law will potentially impact the following stakeholders: developer and surrounding land owners.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2017/2018 operating budget for C310 Urban and Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No additional concerns were identified beyond those raised in this report.

ALTERNATIVES

1. Regional Council may choose to initiate the consideration of potential policy that would differ from those outlined in this report. This may require a supplementary report from staff.
2. Regional Council may choose not to initiate the MPS amendment process. A decision of Council not to initiate a process to consider amending the Regional Planning Strategy is not appealable to the NS Utility and Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1: Generalized Future Land Use
Map 2: Zoning and Notification Area
Map 3: Site Plan

Attachment A: Legislative Authority
Attachment B: Rationale Letter from Michael G. Williams on behalf of Scott Rowlings
Attachment C: Excerpts from Regional MPS and Eastern Shore (West) Land Use By-law

Previous Staff Reports relating to 10-hectare (25-acre) lots

Initiation Report: <http://legacycontent.halifax.ca/council/agendasc/documents/161004ca14112.pdf>

Staff Report: <http://legacycontent.halifax.ca/council/agendasc/documents/170110ca112i.pdf>

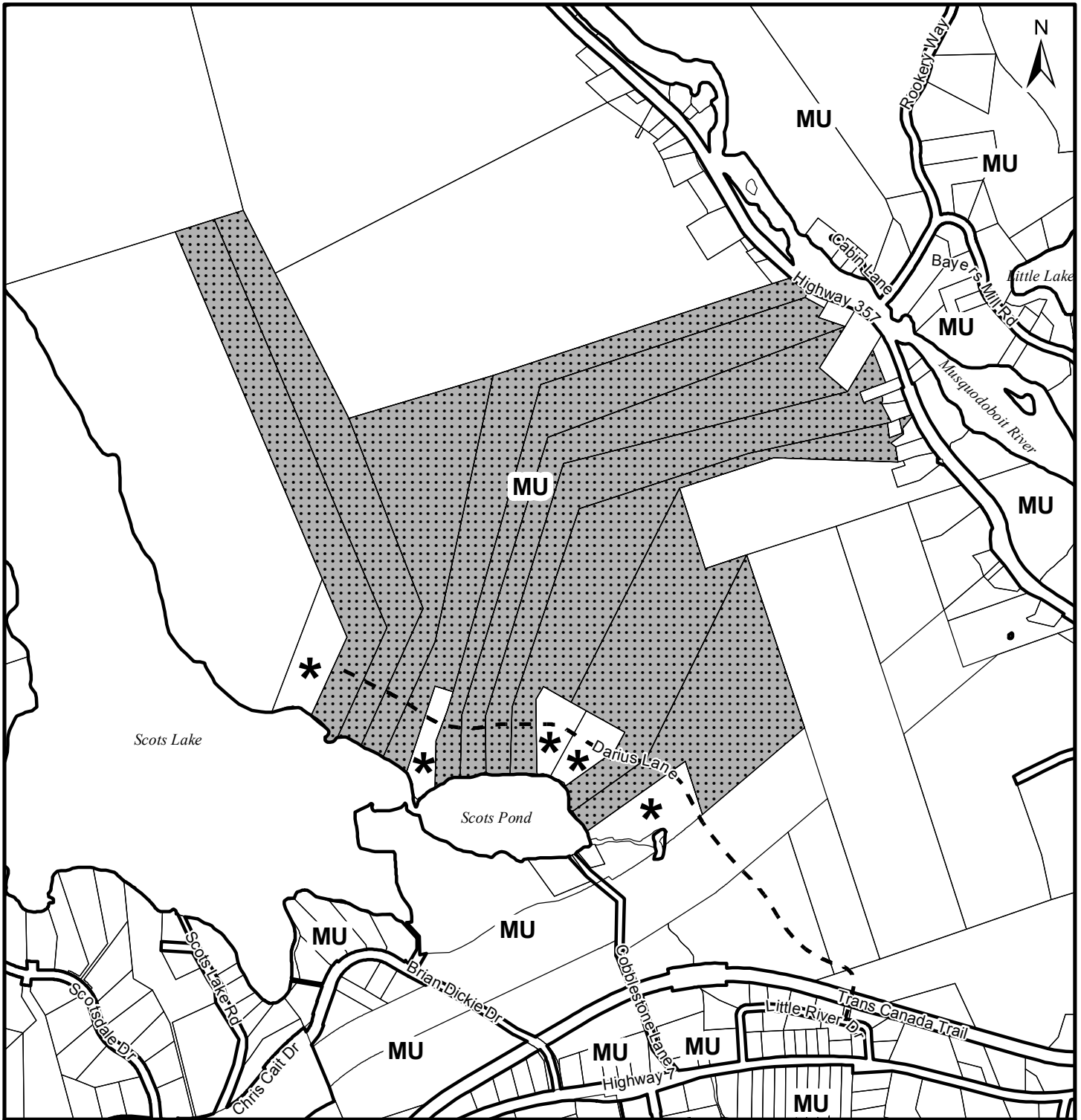
Supplementary Report: <http://legacycontent.halifax.ca/council/agendasc/documents/170110ca112.pdf>

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Thea Langille, Principal Planner, Current Planning, 902-490-7066


Report Approved by: Original Signed
Kelly Denty, Manager, Current Planning, 902.490.4800

Report Approved by: Original Signed
Bob Bjerke, Chief Planner & Director, Planning and Development, 902.490.1627



**Map 1 - Generalized Future Land Use
Petpeswick Hills
Musquodoboit Harbour**

HALIFAX

 Subject Properties

Designations
MU Mixed Use

 Lots Approved in 2012

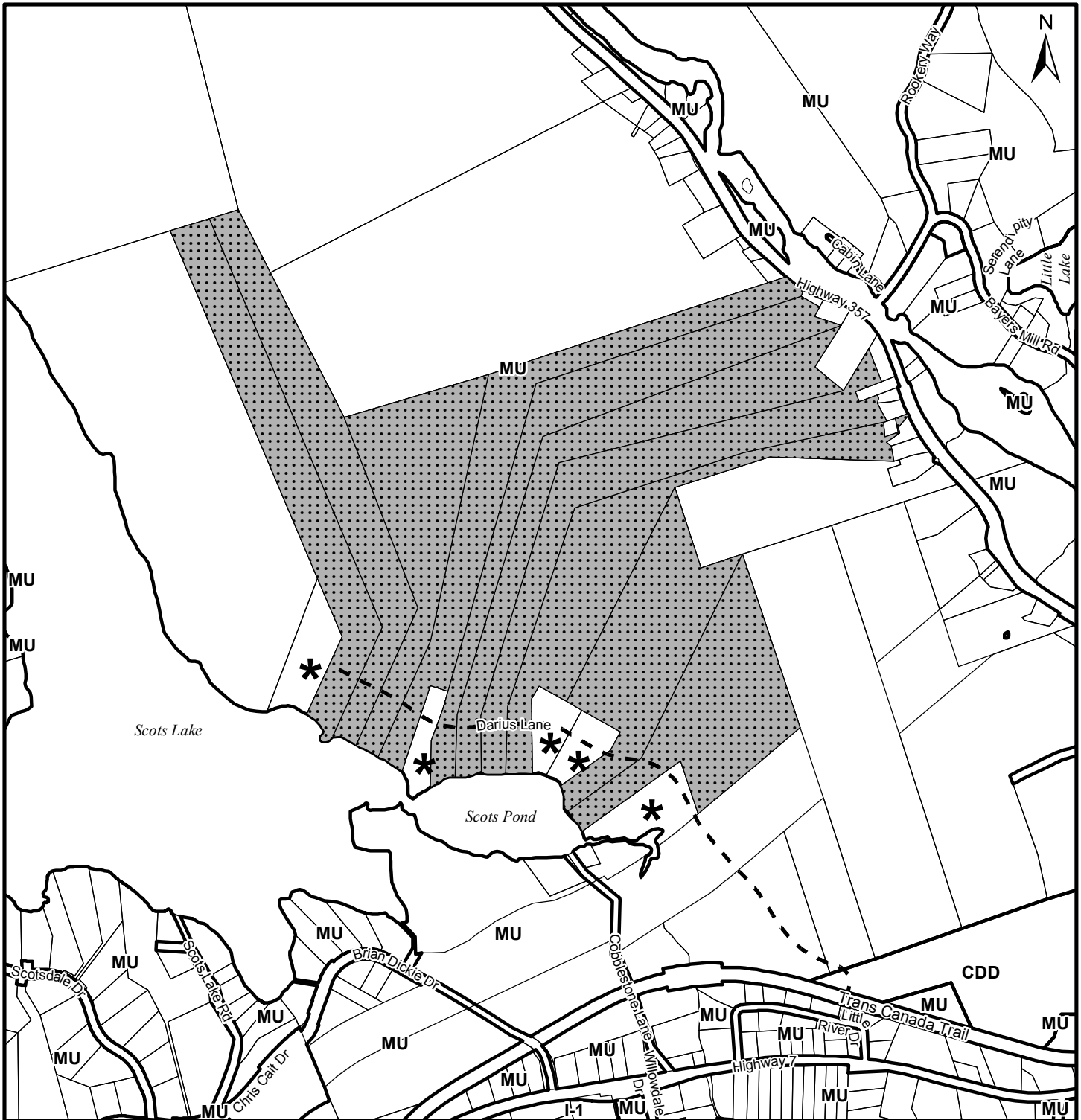
 Shared Access



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Eastern Shore (West)
Plan Area



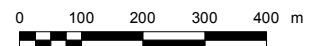
**Map 2 - Zoning
Petpeswick Hills
Musquodoboit Harbour**

HALIFAX

 Subject Properties

Zone
MU
CDD

Mixed Use
Comprehensive Development District



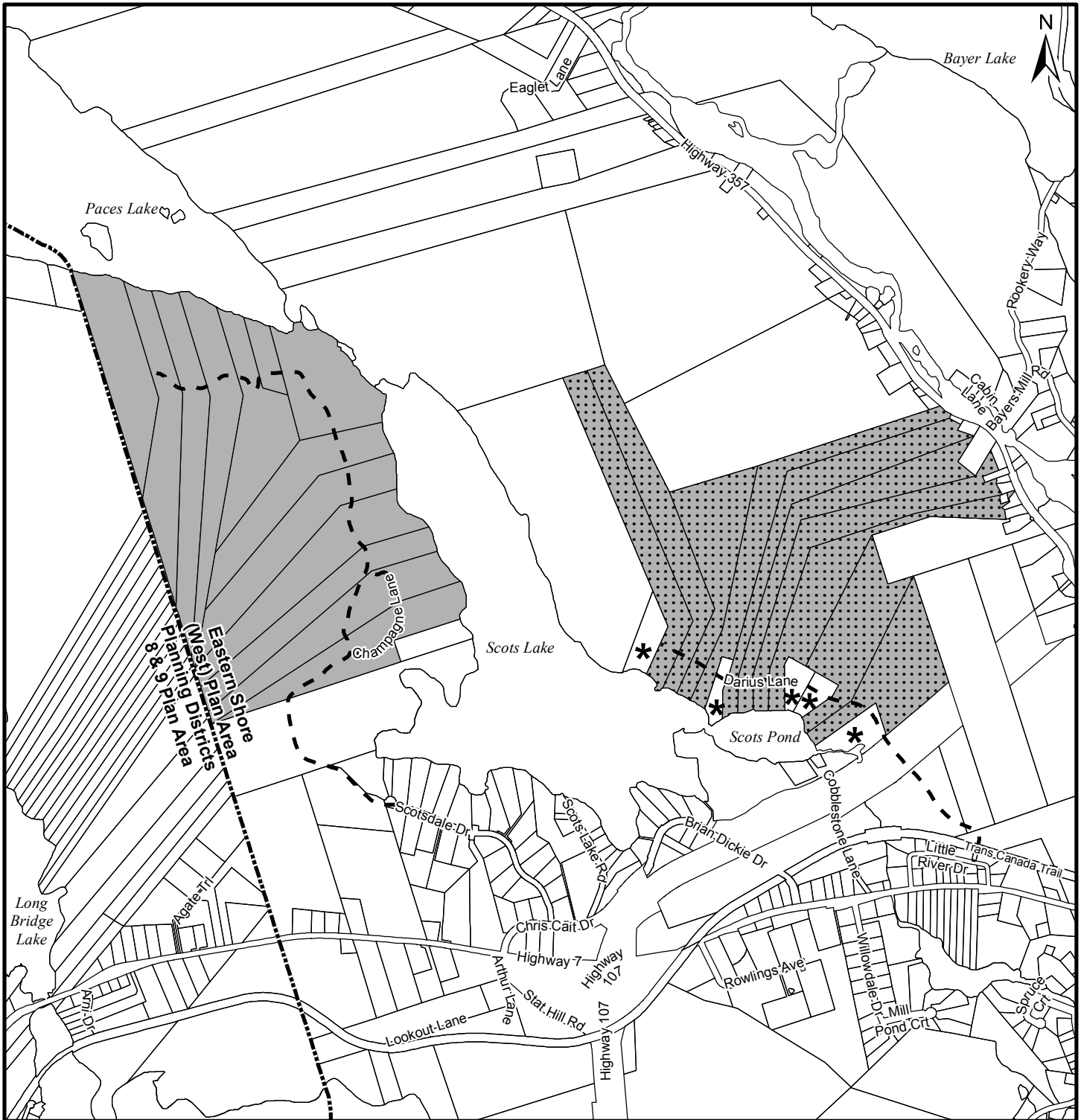
 Lots Approved in 2012

 Shared Access

This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.




Eastern Shore (West)
By-Law Area

The accuracy of any representation on this plan is not guaranteed.

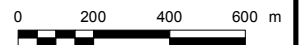


Map 3 - Site Plan
Petpeswick Hills
Musquodoboit Harbour

HALIFAX

-  Subject Properties
-  Lots Subject to Reduced Road Frontage Requirements (Land Use By-Law Schedule D)
-  Lots Approved in 2012

Eastern Shore (West)
 Plan Area



The accuracy of any representation on this plan is not guaranteed.

ATTACHMENT A – Legislative Authority

Municipal Planning Strategy and Land Use By-law Amendments Initiated by Regional Council

Halifax Regional Municipality Charter, Part VIII, Planning and Development, including:

Planning documents reasonably consistent

214 (1) Planning documents adopted after the adoption of a statement of provincial interest that applies within the Municipality must be reasonably consistent with the statement.

Planning advisory committee

215 (1) The Municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the Municipality.

(4) The purpose of a planning advisory committee or a joint planning advisory committee is to advise respecting the preparation or amendment of planning documents and respecting planning matters generally.

Public participation program

219 (1) The Council shall adopt, by policy, a public participation program concerning the preparation of planning documents.

(2) The Council may adopt different public participation programs for different types of planning documents.

(3) The content of a public participation program is at the discretion of the Council, but it must identify opportunities and establish ways and means of seeking the opinions of the public concerning the proposed planning documents.

220 (1) The Council shall adopt, by by-law, planning documents.

(4) The Council shall complete the public participation program before placing the first notice for a public hearing in a newspaper circulating in the Municipality.

Purpose of municipal planning strategy

228 The purpose of a municipal planning strategy is to provide statements of policy to guide the development and management of the Municipality and, to further this purpose, to establish

- (a) policies that address problems and opportunities concerning the development of land and the effects of the development;
- (b) policies to provide a framework for the environmental, social and economic development within the Municipality;
- (c) policies that are reasonably consistent with the intent of statements of provincial interest; and
- (d) specify programs and actions necessary for implementing the municipal planning strategy.

Statements of policy in planning strategy

229 (1) A municipal planning strategy may include statements of policy with respect to any or all of the following:

- (a) the goals and objectives of the Municipality for its future;
- (b) the physical, economic and social environment of the Municipality;
- (c) the protection, use and development of lands within the Municipality, including the identification, protection, use and development of lands subject to flooding, steep slopes, lands susceptible to subsidence, erosion or other geological hazards, swamps, marshes or other environmentally sensitive areas;

- (d) stormwater management and erosion control;
- (e) in connection with a development, the excavation or filling in of land, the placement of fill or the removal of soil, unless these matters are subject to another enactment of the Province;
- (f) in connection with a development, retention of trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
- (g) studies to be carried out prior to undertaking specified developments or developments in specified areas;
- (h) the staging of development;
- (i) the provision of municipal services and facilities;
- (j) municipal investment for public and private development and the coordination of public programs relating to the economic, social and physical development of the Municipality;
- (k) non-conforming uses and structures;
- (l) the subdivision of land;
- (m) the use and conservation of energy, including the height and siting of developments;
- (n) measures for informing, or securing, the views of the public regarding contemplated planning policies and actions or bylaws arising from such policies;
- (o) policies governing
 - (i) land-use by-law matters,
 - (ii) amendment of the land-use by-law,
 - (iii) the acceptance and use of cash-in-lieu of required parking,
 - (iv) the use of development agreements,
 - (v) the establishment of comprehensive development districts,
 - (vi) the use of site-plan approval areas, including whether notice must be given to owners and tenants of property that is thirty metres or more from the applicant's property,
 - (vii) the establishment of transportation reserves,
 - (viii) the use of infrastructure charges,
 - (ix) the eligibility criteria for the establishment of a commercial development district including, without limiting the generality of the foregoing, the percentage increase in the taxable assessed value of the eligible properties, as defined in subsection 92C(1), within the proposed commercial development district and the period over which the increase in the taxable assessed value of the properties occurs;
- (p) the regulation or prohibition of development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (q) any other matter relating to the physical, social or economic environment of the Municipality.

- (2) The Council shall include policies in the municipal planning strategy on how it intends to review the municipal planning strategy and land-use by-law.

No action inconsistent with planning strategy

- 232 (1)** The Municipality may not act in a manner that is inconsistent with a municipal planning strategy.

Adoption of land-use by-law or amendment

- 234 (1)** Where the Council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the Council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that enables the policies to be carried out.

Content of land-use by-law

- 235 (1)** A land-use by-law must include maps that divide the planning area into zones.

- (2) A land-use by-law must

 - (a) list permitted or prohibited uses for each zone; and
 - (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

- (3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

- (4) A land-use by-law may

 - (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
 - (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
 - (c) regulate the maximum area of the ground that a structure may cover;
 - (d) regulate the location of a structure on a lot;
 - (e) regulate the height of structures;
 - (f) regulate the percentage of land that may be built upon;
 - (g) regulate the size, or other requirements, relating to yards;
 - (h) regulate the density of dwelling units;
 - (i) require and regulate the establishment and location of off-street parking and loading facilities;
 - (j) regulate the location of developments adjacent to pits and quarries;
 - (k) regulate the period of time for which temporary developments may be permitted;
 - (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
 - (m) regulate the floor area ratio of a building;
 - (n) prescribe the fees for an application to amend a landuse by-law or for entering into a development agreement, site plan or variance.

- (5) Where a municipal planning strategy so provides, a land-use by-law may

 - (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
 - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
 - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
 - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
 - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
 - (f) regulate the location of disposal sites for any waste material;
 - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
 - (h) regulate or prohibit the removal of topsoil;
 - (i) regulate the external appearance of structures;
 - (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
 - (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
 - (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
 - (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
 - (n) prohibit development or certain classes of development where, in the opinion of the

Council, the

- (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
- (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
- (iii) cost of maintaining municipal streets would be prohibitive;
- (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
- (p) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy, or unstable,
 - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
 - (v) is known to be contaminated within the meaning of the *Environment Act*, or
 - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
- (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.

- (6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

No appeal permitted

263 The following are not subject to an appeal:

- (d) an amendment to a land-use by-law that is required to carry out a concurrent amendment to a municipal planning strategy.

Attachment B

From: Scott Rowlings [REDACTED]
Sent: July-05-17 11:27 AM
To: Hendsbee, David; Langille, Thea; Dube, Jacques; Traves, John; Mike Savage; Fraughton, Nicole; Purvis, Carl; Denty, Kelly; Streach, Steve; Karsten, Bill; Nicoll, Lorelei; Austin, Sam; Mason, Wayne; Smith, Lindell; Cleary, Shawn; Walker, Russell; Adams, Stephen; Whitman, Matt; Blackburn, Lisa; Craig, Steve; Zurawski, Richard; Outhit, Tim; Mancini, Tony
Subject: large lot development RP amendments- Inclusion of 10 additional lots
Attachments: HRM Council Letter..doc; HRM Letter - wnL.pdf; HRM Letter - Josh.docx; letter to council, D Clark.doc

Hello HRM Planning Dept Staff & Halifax Council Members;

I am writing the email and including 4 letters of attachment to Halifax Planning Staff and Halifax Council to look for final closure on an issue that has plagued myself and two partners involved in a small development in Musquodoboit Harbout that has been ongoing for almost 18 months.

On May 29, 2017 myself, Councilor David Hendsbee and Mike Williams (survey engineer) attended a meeting with Halifax Planning Staff including: Kelly Denty, Kevin Warner, Rosemary MacNeil and Thea Langille to discuss my development project on the East side of Scots Lake in Musquodoboit Harbout, known as Petpeswick Hills East. At the end of the meeting Planning Staff asked if I could write a letter explaining the current situation and my intention to ask to have the affected lots in this project to go before Council for consideration to be added to the other 25 acre lots that were grandfathered in to be eligible for building permits and why. If you could please read my letter(S.W.Rowlings) carefully; I put in very simple terms what we have been experiencing with this issue. The three additional letters from the other investors involved and survey engineer involved in this project also will give you an idea of what they have been experiencing through this process and to add support for the request.

I hope that this issue can be put before Council in the very near future for some closure. I urge some common sense to be looked at with this considering the time that has passed since the original errors of HRM Planning Dept were discovered, followed by another ill-timed error and Council will understand the urgency from our part on this matter.

Sincerely

SW Rowlings

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S.W. Rowlings
SWR Developments Ltd
Musq. Hbr, NS
June 28 ,2017

To Whom it May Concern (Halifax Planning Dept Staff & Halifax Council Members);

This letter is written to further along the recent discussions regarding the 10, twenty five acre lots on the East side of Scots Lake, know as "Petpeswick Hills East"; the letter as requested by Halifax Planning Staff at meeting May 29, 2017. In Feb-March of 2016 HRM Planning Staff discovered that their development officers had been issuing building permits on 25-acre lots when apparently not conforming to the current By Laws. My company, SWR Developments had been developing some of these types of lots since 2003 based on expert advice from Survey Engineers, Lawyers and HRM Staff themselves whom were quite aware of what I was doing at the time. Lots were created and sold on the West side of the lake and owners were receiving building permits. So based on this and after looking at a possible Development Agreement project, it was decided by myself and advised by industry professionals (survey engineers, lawyers) that the best use of 300 plus acres on the East side of Scots Lake would be a similar development as was completed on the West side. I wouldd like to be VERY clear on the fact that we undertook this second development in good faith and based solely on facts that were available at the time that these 25 acre lots were eligible to receive building permits. There are ten of the 25-acre lots in this project in question. The Development Agreement option was again looked at and discussed at the may 29th meeting and again I reiterated why it was not a viable option;. it was not ecomonical before the project was undertaken and as a defacto to the project it certainly makes even less sense.

This project was completed and significant capital was spent on this project involving outside investors who both have large sums of capital at risk. So the lots went on the market in late 2015, only to be curtailed from being able to be sold in early 2016 when HRM Staff finally recognized their error after all these years and well informed industry professionals trying to make sense of their recent change. This caused us to put sales on hold and go along with the lengthy process of working this issue through Council to have current effected lots "grandfathered" into the system so that they could at least be eligible for building permits. Next, in July of 2016 myself and my survey engineer Mike Williams had a meeting with HRM planning Staff (including Rosemary MacNeil) where they informed me that they could offer me another avenue to bring these lots to market utilizing another by law. This was discussed with Mike Williams at length following th emeeting and although fair at the time, it was not without significant added expense so it was decided to wait to see how the "grandfathering" would get along with Council and that these lots on the East side would to be included.

In Nov/Dec of 2016 the 25 acre issue went through Council vote and at Council session where I spoke to have my lots on the west and east of the lake included it was stated by

Bob Bjorke at that time that I was offered another development option in July by his staff so it was his recommendation to Council that the East side not be included in the "grandfathering" clause for effected lots. It turns out that the East side ultimately was not included to be grandfathered. As the new "grandfather" clause was being solidified through the proper procedures, I received a call from Planning Staffer Rosemary MacNeil to let me know that the other development option she had offered me in July of 2016 was an error on their part and this was now no longer an option. Another "error" from HRM Planning staff that is adding even more to our "undue financial hardship" from this issue. Halifax Planning Staff said that they would acknowledge this recent error with a letter from Staff to Council and I hope that this gets followed through with. The net effect of this new "error" is that the lots on the East side of the lake were dropped from the grandfather clause, leaving us with unsalable lots for another season. This whole process has been very taxing financially for the group of us involved trying to do this small project in rural HRM.

I read that HRM Planning Dept will "not cause undue financial hardship" somewhere within the system. We as a small group understand that mistakes are made and have no issue with mistakes when they can be rectified within reason. This has now gone well beyond anything reasonable from our perspective and I urge Councillors to consider now adding these 10 affected lots to the existing grandfather clause, as it should have originally been done in the first round.

Sincerely



LETTER OF SUPPORT

Re: Existing Development on the East Side of Scots Lake / Scots Pond, Musquodoboit Harbour, Halifax County, Nova Scotia as shown on Land Registration Office Plan No. 105006762; Lands Conveyed to 3224570 Nova Scotia Limited

To whom it may concern,

As I have done previously, I once again declare my support for the existing development described above and offer up the following information for your consideration with respect to issuing building permits on the 15 lots under their current configuration.

I have been involved with this project since its inception as both a Land Surveyor and Consultant. It was not until March of 2016 that the developer became aware of HRM's recent realization that the Lots were not conforming to the Land Use Bylaw (LUB) and therefore ineligible for municipal building permits. Since that time and until recently, it was believed that were we able to revert back to the original 5 properties that we altered to make up the current lot configuration, there was an alternate way to develop the land into how it currently stands and to do so within the limits of the (LUB). After recent consultation with HRM staff it turns out that this was incorrect and the 15 lots as they currently exist today, cannot be recreated under the LUB. It is my opinion, that the fact that there was mistakenly thought to be an alternate method of development within the LUB, weighed heavily into HRM Council's decision to exclude this development from the recent group of exceptions.

The developer is aware that they could enter into a Development Agreement (DA) with the Municipality that would potentially allow them to create up to 20 lots were the DA to be approved. The DA option was explored at considerable expense at the outset of the project. Due to limitations created by the local topography, there is in reality very little area within the 300 acres of land that is easily accessible and fit for residential development.

The current lots are accessed via a private road constructed within an easement, through the middle of the "developable area" of the total 300 acres of property. While there was no certified engineering design of this road, Professional Engineers were consulted throughout the design and construction phase of the private road in order to ensure it was built to an acceptable standard.

In reality, the development I am currently discussing on the east side of the lake, is no different than the existing development on the west side. The latter of which has been included in the recent round of bylaw amendments allowing HRM to issue building permits on the properties.

During a recent meeting with senior HRM planning and development staff, the developer was given 3 options for the land. The first was to go through the DA process, which has already been explored and deemed inappropriate for these parcels of land. The second was to revert back to the original 5 parcel lot fabric and subdivide them again "as of right". This option would yield 5 approved lots and 5 remainders, significantly different than the current configuration and not maximizing the potential of the property. This second option would also incur further significant cost to the developer in Survey and Legal fees and would leave them with "nothing to show" for the hundreds of thousands of dollars already invested in the site.

The third option was to appeal once again to council. This time with the hope that no longer having any means of creating the 15 lots that exist today within the confines of the LUB (as was erroneously believed before), that they may alter their previous decision and include the development on the east side of Scots Lake and Scots Pond within the amended bylaw. It is my hope that council will reconsider this request and do what needs to be done to allow for the issuance of residential building permits within the current 15 lot development.

Should you have any questions or desire further information, please do not hesitate to contact me at the number below.

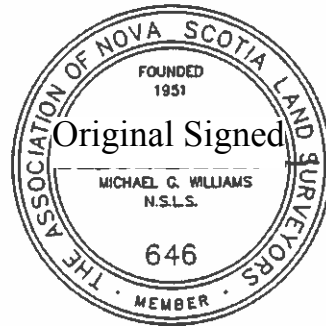
Kindest regards and thank you for your consideration of this matter,

Original Signed

Signature

Name: Michael G. Williams, NSLS

Date: June 16, 2017



June 19, 2017

Land Registration Plan # 105006762 conveyed to 3224670 Nova Scotia

To Whom it May Concern;

As a US Citizen who fell in love with Nova Scotia in the late 1960s while camping one summer and now as a retired investor in property for the past 15 +/- years I am saddened to say how disappointed and concerned I am regarding the recent interpretation of the HRM bylaws.

I have always admired the Canadian Culture of 'reasonableness'. Unlike the US approach to issues Canadians always have expressed to me the ability to be fair with others and situations. In this instance I am frustrated by the lack of logic behind the shift. I was involved in the Petpeswick Hills Development across the Lake from this parcel and in fact own a home on Paces Lake. It was because of the advice of professionals at Boyne Clark and The Terrain Group that this project went forward. Subsequently the above mentioned project was born. After over \$1,000,000 in cash and debt by the partners to make this possible with development costs, land costs, road and Scotia Power expenses only to have the project's legs cut off.

Last year we were advised by HRM planning that an alternate option was available so not to be concerned regarding this issue. Now we are told that this option was mistakenly offered as a solution and another year of sales is gone.

I implore you to consider the facts, history and whether or not 15 additional 25 acre lots in rural HRM are going to impact the big picture when we have our retirement hopes and funds tied up in a project based upon past experience and professional advice. Please restore my faith in the Canadian Culture that let me fall in love with Nova Scotia.

Respectfully,

Josiah Rutter

David Clark

BOM1PO

Municipal Clerk
HRM

July 5th 2017

Good day ladies and gentlemen. I am a land owner in HRM affected by these changes recently brought about by planning regarding 25 acre lots. I purchased the land in Musquodoboit Harbour in the late 80's hoping it would be a benefit to my retirement package. I partnered with my colleagues Scott Rowlings and Josh Rutter approximately 10 years ago, and the approval process has been challenging to say the least, and now a reversal of field on previously approved lots quite frankly is mind boggling.

We are not the only group in this situation and I understand there are close to 1000 lots being held up at this point. What does Scott and others tell individuals that have already bought lots to build on at some time down the road, and moreover who would buy that land at all now. We have followed the legal process set out to us by council, the planning department, and the engineers from the beginning. Something I admire about our great country of Canada is that we have a democracy, have the right to vote and have the right to discuss and aid in influencing decisions for all citizens. This recent flip flop in the decision to approve 25 acer lots is more liken to a dictatorship or a police state rather than a democracy.

Urban permits are on the rise according to publications in the Halifax Herald, while I'm sure rural ones are on the decrease or at a standstill. A couple of weeks ago, while at my lawyer's office he pointed out the location on the soon to be high rise on the Dartmouth shoreline, close to the old Secunda Marine. Virtually the building's foundation will be below sea level, and as such subject to tides and salt water which are extremely detrimental to conventional building materials.

By reversing your decision to reapprove these 25 acer lots you will be stimulating the economy and increasing the tax base, (realtors, builders, retail, tax base) which we in this province should be very concerned about as most of our young people are leaving to pursue careers elsewhere, as there aren't enough jobs for them here. Also, you would be saving millions in legal fees starting with disgruntled lot buyers versus the land owner, land owners versus the engineers, land owners versus the municipality etc.

Frankly the only fair resolution to this issue is to set a date after which these types of 25 acre lots will no longer be approved, and allow we the land owners, developers, and investors to see our projects to completion. Certainly, source or water and sewage disposal can't be an issue on this size lot. Quite honestly, I would never have bought the property for future development had I known we would be into a mess like this.

Finally, I implore you to reverse your decision on this very delicate matter. Many individuals' life savings are invested in these projects and I would hate to see how many foreclosures and bankruptcies are apt to take place should we continue in the present direction!

ATTACHMENT C

Excerpts from Regional Planning Strategy and Eastern Shore (West) Land Use By-law

Regional Planning Strategy:

The HRM Charter enables lots that exceed 10 hectares in area to be created outside of the municipal subdivision approval process. This exception is generally intended for resource uses, such as farming or forestry. In recent years, however, it has become more common for people to utilize the exemption with the intent to create such lots for cottage or residential development. Although such lots can be created without meeting land use by-law requirements for road frontage, the lots must meet land use by-law requirements in order to obtain development permits. (RC-Jan 10/17;E-Feb 25/17)

In recognition of certain development permits having being issued for a limited number of single unit dwellings on lots created through the 10 hectare exception in the HRM Charter, Council approves relaxing the road frontage requirements and allowing the continued development of subdivisions that had received permits for some, but not all lots. This one time exception is intentionally focused on these unique situations to maintain the general intent of this Plan while being fair to affected property owners. (RC-Jan 10/17;E-Feb 25/17)

S-28A HRM shall, through the applicable land use by-laws, permit residential uses located on lots that do not meet road frontage requirements and were issued development permits on or before April 1, 2016. (RC-Jan 10/17;E-Feb 25/17)

S-28B HRM shall, through the applicable land use by-laws, permit development on lots that existed on or before April 1, 2016, and do not meet road frontage requirements within identified subdivisions that received development permits for some, but not all, lots located with the same subdivision. (RC-Jan 10/17;E-Feb 25/17)

Eastern Shore (West) Land Use By-law:

Section 4.4 REDUCED FRONTAGE OR AREA

- (d) Notwithstanding the lot frontage requirements found elsewhere in this By-law, residential uses that are located on lots that do not meet lot frontage requirements and received development permits on or before April 1, 2016 are permitted provided all other applicable provisions of this By-law are satisfied. (RC-Jan 10/17;E-Feb 25/17)
- (e) Notwithstanding the lot frontage requirements found elsewhere in this By-law, residential uses, excluding daycare facilities and senior citizen housing, are permitted on lots that do not meet lot frontage requirements provided the following conditions are satisfied: (RC-Jan 10/17;E-Feb 25/17)
 - i. the lot existed on April 1, 2016 and is located within the area shown in Schedule D; (RC-Jan 10/17;E-Feb 25/17)
 - ii. at the time of permitting, the applicant shall provide evidence satisfactory to the Development Officer establishing a registered easement in favour of the property that allows vehicular access to a street or road; (RC-Jan 10/17;E-Feb 25/17)

- iii. where the vehicular access required by subclause ii is a shared private driveway serving four or more dwellings, it has been constructed, as certified by a professional engineer, to the design standards contained in Schedule E; (RC-Jan 10/17;E-Feb 25/17)
- iv. for properties accessed by the shared private driveway known as Moser Head Road, Subsection iii of this section shall come into force on January 1, 2022; and (RC-Jan 10/17;E-Feb 25/17)
- v. all other requirements of this By-law are met. (RC-Jan 10/17;E-Feb 25/17)

Schedule D – Areas Subject to Reduced Road Frontage Requirements

(RC-Jan 10/17;E-Feb 25/17)

