



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 10.1.2**  
**North West Community Council**  
**July 11, 2016**  
**August 8, 2016**

**TO:** Chair and Members of North West Community Council

Original Signed

**SUBMITTED BY:**

\_\_\_\_\_  
Bob Bjerke, Chief Planner and Director, Planning and Development

**DATE:** June 15, 2016

**SUBJECT:** Case 20597: Development Agreement for 5 Sawlers Road, Waverley

**ORIGIN**

Application by Judson and Leona Sibbins (Case 16742)

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development*

**RECOMMENDATION**

It is recommended that North West Community Council:

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A of this report, to allow for a variety of commercial and industrial uses at 5 Sawlers Road, Waverley and to schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, which is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

Judson (Jud) and Leona Sibbins are applying to enter into a development agreement with the Municipality allow for a variety of commercial and industrial uses at 5 Sawlers Road, Waverley:

<b>Subject Site</b>	5 Sawlers Road, Waverley
<b>Location</b>	Planning Districts 14 and 17 (Shubenacadie Lakes)
<b>Regional Plan Designation</b>	Rural Commuter (RC)
<b>Community Plan Designation (Map 1)</b>	Community Centre (CC) under the Planning Districts 14 and 17 Municipal Planning Strategy
<b>Zoning (Map 2)</b>	C-2 (Community Commercial Zone) in the Planning Districts 14 and 17 Land Use By-law
<b>Size of Site</b>	3,733 square metres (40,185 square feet)
<b>Street Frontage</b>	Approximately 62 m (203 feet)
<b>Current Land Use(s)</b>	Communication Engineering Office
<b>Surrounding Use(s)</b>	<ul style="list-style-type: none"><li>• To the north and west are single unit dwellings</li><li>• Abutting the subject property to the east at 1495 Cobequid Road are commercial offices</li><li>• To the southeast across Old Scott Road is an elementary school</li><li>• To the south are vacant land, swamp and commercial warehouses</li></ul>

### **Proposal Details**

The application is for a development agreement to permit a variety of commercial and light industrial land uses within the existing buildings and on the subject lands. A detailed description of these land uses is provided later in this report.

The proposal would enable the following uses on the subject property by development agreement: parking lot, building supply outlet, warehousing, wholesale operations, service industry (not including heavy equipment repair, auto body repair shop, truck depot or paint shop), service and repair of automobiles, light manufacturing and assembly.

### **History**

The subject property is a former construction storage and maintenance facility and contains 2 commercial buildings which are enabled by a development agreement that was approved by Marine Drive, Valley & Canal Community Council in 2005. The agreement was discharged by North West Community Council at a meeting held on March 23, 2015, under case number 16742. At the same meeting, Community Council approved a development for the same proposal that this report concerns, however, that agreement was not signed and registered within the allotted timeframe. The application has therefore been reopened under case number 20597 and is again before Community Council for consideration.

### **Enabling Policy and LUB Context**

The Community Centre land use designation constitutes the primary areas where commercial and offices uses are encouraged within the Planning Districts 14 and 17 plan area. The C-2 Zone implements this and permits a mix of commercial and residential uses (Attachment B). The property is subject to an existing development agreement which enables the storage of construction equipment and operation of a maintenance facility. This agreement was enabled by the same policy (P-100) that is being considered for the current request.

Policy P-100 (Attachment C) of the MPS allows for the continued use of existing commercial and industrial uses which would not otherwise be permitted, to the extent they existed on the effective date of this plan. Further, it enables the consideration of either a change of use or an expansion of the existing use through a development agreement process and subject to consideration of specific criteria (Attachment C).

## **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public information meeting held on July 8, 2009. A copy of the minutes from the meeting can be found attached to the staff report for Case 16742<sup>1</sup>. An additional mail out was completed in the summer of 2011 to identify if surrounding property owners had any additional issues. Case 16742 was considered by North West Community Council at a public hearing on March 23, 2015, which provided an additional opportunity for public comment, and the proposed development agreement was approved by Community Council but was not signed within the required time and therefore is null and void.

The previous community engagement outlined above sufficiently achieves the goals of the Community Engagement Strategy and is sufficient for this application.

A public hearing must be held by North West Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposed development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

## **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the MPS. Attachment C provides an evaluation of the proposed development agreement in relation to the relevant MPS policies. A detailed review is provided in the staff report for Case 16742 dated February 9, 2015.

### **Proposed Development Agreement**

Attachment A contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- Outdoor storage;
- Landscaping;
- Hours of operation;
- Parking; and
- Changes that are non-substantive:
  - Changes to the landscaping provisions; and
  - The length of time for the completion of the development.

In addition, by resolution of North West Community Council at the public hearing held for the previous request under case number 16742, a requirement was added to the agreement to extend the existing cedar hedge along the norther property line to the western property line. Attachment A includes this provision in section 3.6.2(f).

For clarification purposes, staff has also made the following two changes to the development agreement that was previously approved:

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<sup>1</sup> <http://www.halifax.ca/Commcoun/central/documents/150323nwcc813.pdf>

- (a) A reference in Section 3.4.7 of the proposed agreement was corrected and now refers to Part 6; and
- (b) Section 3.6.2(b) respecting a required landscaped buffer was clarified, and the fourth sentence now reads: "All trees shall be planted a maximum of 16 feet (4.8m) on centre." Previously, the section required a minimum. The intention of the requirement is to ensure an adequate number of trees are planted and that they are spaced evenly.

### **Conclusion**

As recommended previously under Case 16742, staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is consistent with the intent of the MPS. Staff advise that the attached development agreement will permit a commercial development that is appropriate for the site while balancing the needs of the surrounding community and also includes the additional landscape requirement recommended by North West Community Council at the public hearing on March 23, 2015. Therefore, staff recommend that the North West Community Council approve the proposed development agreement.

### **FINANCIAL IMPLICATIONS**

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2016/2017 budget and with existing resources.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed development agreement are contained within the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

### **ALTERNATIVES**

1. North West Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. North West Community Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & 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: Proposed Development Agreement  
Attachment B: C-2 (Community Commercial) Zone Requirements  
Attachment C: Review of Relevant MPS Policies

HRM web link to the staff report for Case 16742:  
<http://www.halifax.ca/Commcoun/central/documents/150323nwcc813.pdf>

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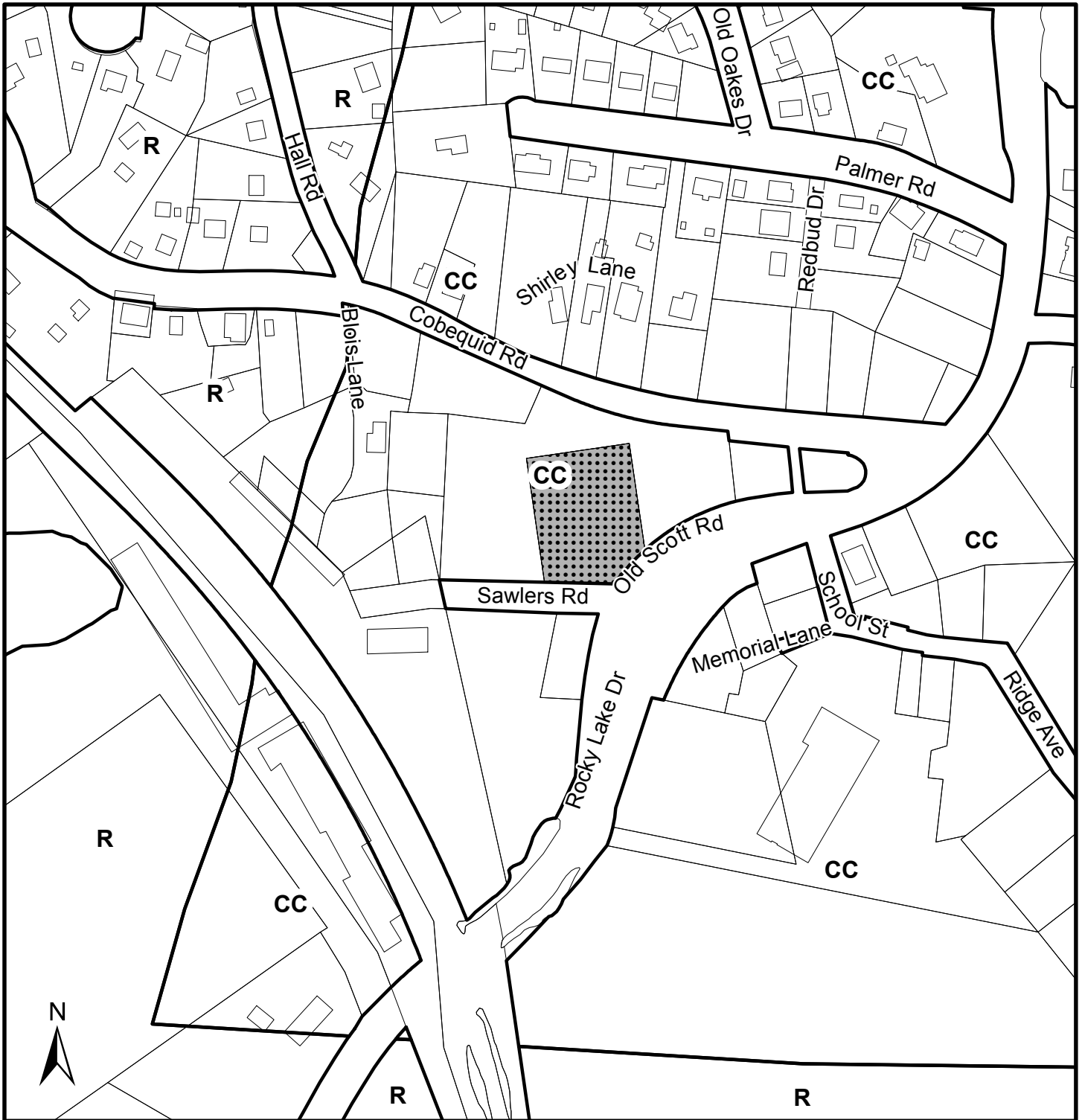
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Nathan Hall, Planning Intern, 902.490.4726

Original Signed

Report Approved by: \_\_\_\_\_  
Kelly Denty, Manager, Current Planning, 902.490.4800


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**Map 1 - Generalized Future Land Use**

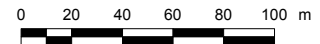
**HALIFAX**

5 Sawlers Road  
Waverley

 Subject Property

**Designations**

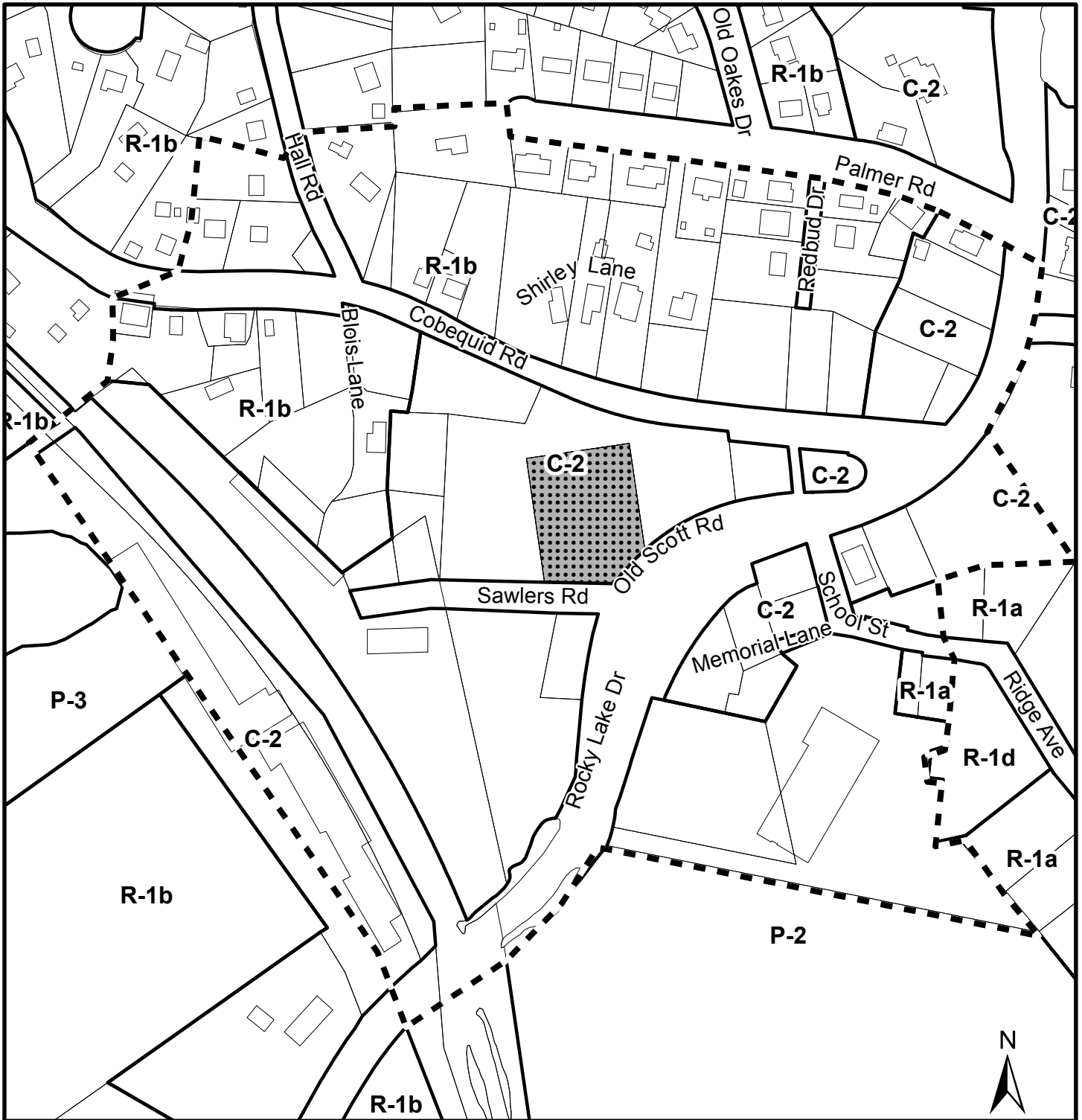
- R Residential Designation
- CC Community Centre Designation



Planning Districts 14 & 17  
(Shubenacadie Lakes) Plan Area



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.



## Map 2 - Zoning and Notification

5 Sawlers Road  
Waverley

-  Subject Property
-  Area of notification

Planning Districts 14 & 17  
(Shubenacadie Lakes) By-Law Area

### Zones

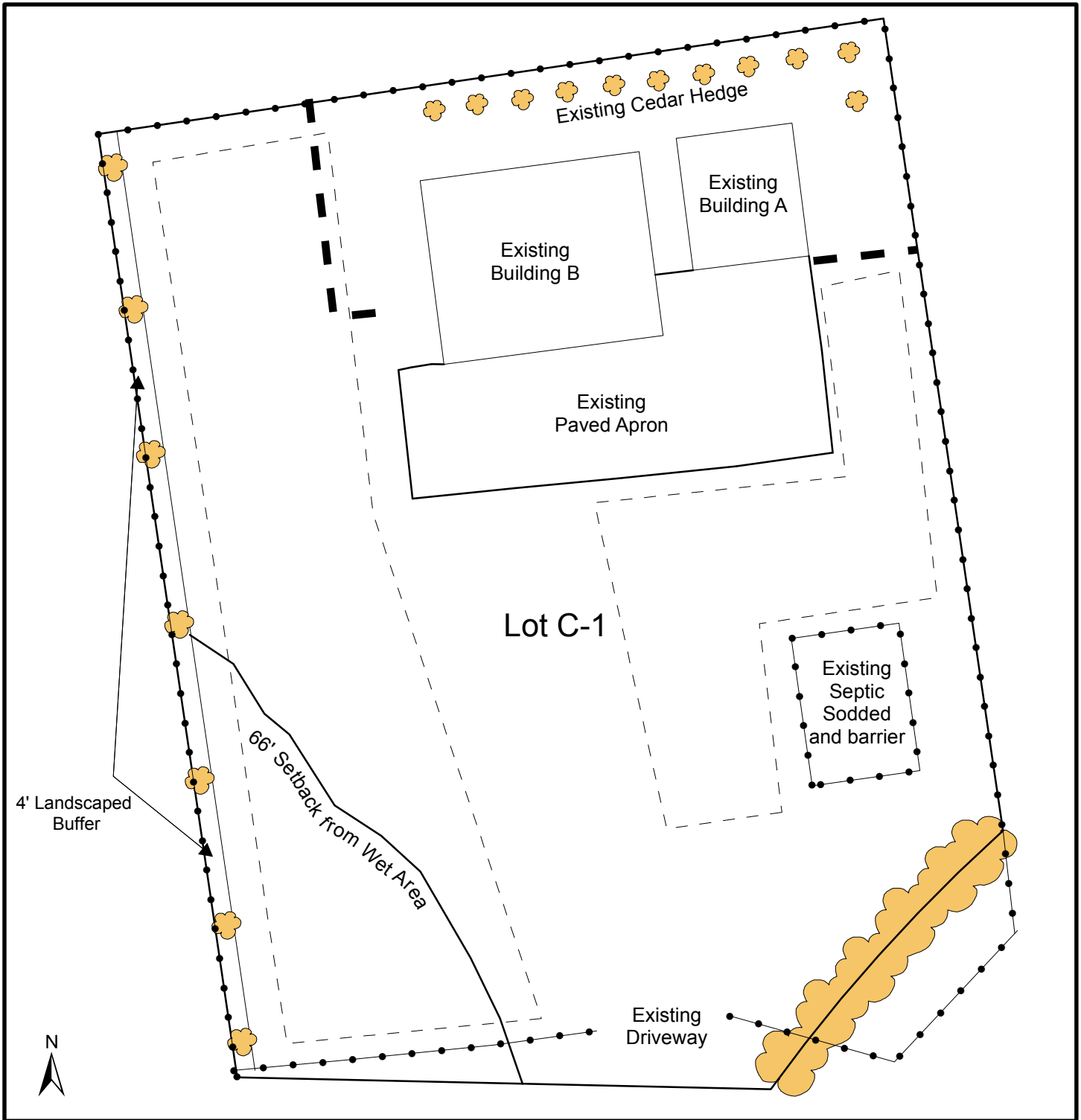
- R-1a Single Unit Dwelling Zone
- R-1b Suburban Residential Zone
- R-1d Residential Auxiliary Dwelling Zone
- C-2 Community Commercial Zone
- P-2 Community Facility Zone
- P-3 Park Zone

**HALIFAX**



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

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

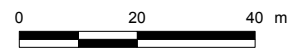


**Map 3 - Site Plan**

5 Sawlers Road  
Waverley

**HALIFAX**

- Existing Fence
- ▬—▬—▬ Existing Concrete Barrier
- - - - - Vehicle Storage Area



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

Planning Districts 14 & 17  
(Shubenacadie Lakes) By-Law Area





**AND WHEREAS** the Developer requested that the Municipality enter into a Development Agreement to allow for new commercial / light industrial land uses on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy P-100 of the Planning Districts 14 and 17 Municipal Planning Strategy and Section 3.6 of the Planning Districts 14 and 17 Land Use By-law;

**AND WHEREAS**, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the North West Community Council approved this request at a meeting held on March 23, 2015, referenced as Municipal Case Number 16742;

**AND WHEREAS** the Agreement approved by North West Community Council on March 23, 2015 and referenced as Municipal Case Number 16742 was not registered within the allotted time;

**AND WHEREAS** the Developer has once again requested that the Municipality enter into a Development Agreement to allow for new commercial / light industrial land uses on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy P-100 of the Planning Districts 14 and 17 Municipal Planning Strategy and Section 3.6 of the Planning Districts 14 and 17 Land Use By-law;

**AND WHEREAS**, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the North West Community Council approved this request at a meeting held on [INSERT DATE], referenced as Municipal Case Number 20597;

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

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## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

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

### **1.2 Applicability of Land Use By-law and Subdivision By-law**

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Planning Districts 14 and 17 and the Regional Subdivision By-law, as may be amended from time to time.

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development,

including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

#### **1.4 Conflict**

- 1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

#### **1.5 Costs, Expenses, Liabilities and Obligations**

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

#### **1.6 Provisions Severable**

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

### **PART 2: DEFINITIONS**

#### **2.1 Words Not Defined under this Agreement**

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

### **PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS**

#### **3.1 Schedules**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number (20597):

Schedule A Legal Description of the Lands(s)  
Schedule A-1 Map of Lands  
Schedule B Site Plan (0012840-01)

#### **3.2 General Description of Land Use**

3.2.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) Any uses permitted within the existing zone applied to the Lands subject to the provisions contained within the Land Use By-law for Planning Districts 14 and 17 as amended from time to time.
- (b) Subject to the terms of this agreement, the following additional uses are permitted:
  - Parking Lot
  - Building Supply Outlet
  - Warehousing
  - Wholesale operations
  - Service Industry not including heavy equipment repair, auto body repair shop, truck depot or paint shop
  - Service and repair of automobiles
  - Light manufacturing, assembly uses which are not obnoxious.

3.2.2 The Development Officer may permit unenclosed structures attached to a main building such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the Planning Districts 14 and 17 Land Use By-law, as amended from time to time.

3.2.3 All uses shall be conducted and wholly contained within a building or accessory building.

### **3.3 Building Alterations and Accessory Buildings**

3.3.1 The Developer shall not alter the location or size of the Existing Buildings, as illustrated on Schedule "B", unless this Agreement is amended in accordance with the provisions of Part 6 so as to allow such alteration.

3.3.2 Accessory buildings up to a maximum combined area of 1200 square feet (111.5 m<sup>2</sup>) shall be permitted subject to the terms of the Planning Districts 14 and 17 Land Use By-law, as amended from time to time. Further, accessory buildings shall be located in the north west corner of the site, adjacent the existing main buildings and not exceed a height of 35 feet (10.7m).

### **3.4 PARKING, CIRCULATION AND ACCESS**

3.4.1 The parking area shall be sited as shown on Schedule B.

3.4.2 The parking area shall be hard surfaced or gravelled.

3.4.3 The parking area shall provide a minimum of 13 parking spaces for staff and customers.

3.4.4 A maximum of 10 commercial vehicles shall be permitted on the Lands at any time.

3.4.5 The Developer shall park only in the areas illustrated on the Schedule B as "Vehicle Storage Area";

3.4.6 All access shall be through the existing driveway located on Sawlers Road.

3.4.7 No additional access driveways to the Lands shall be permitted unless this Agreement is amended pursuant to Part 6 so as to permit such change or additional access.

- 3.4.8 A barrier of large rocks, concrete barrier or fencing shall be placed around the existing septic field to prevent vehicles from parking or driving on the septic field.
- 3.4.9 A barrier of large rocks, concrete barriers or fencing shall be to prevent vehicles from driving between Building A and B and the northern property line as shown on Schedule B.
- 3.4.10 Parking shall be permitted on and access shall be permitted through areas which are identified on Schedule B as the 66 foot (20m) setback from the wetland.

### **3.5 OUTDOOR LIGHTING**

- 3.5.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

### **3.6 LANDSCAPING**

- 3.6.1 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.6.2 The Developer shall landscape the Lands in accordance with the following requirements:
- (a) existing trees and vegetation along the northern and western property lines shall be maintained;
  - (b) a new landscaped buffer shall be planted along the western property line. This buffer shall include a four foot (1.2m) wide grassed area (sodded or seeded) adjacent the property line. Further the developer shall plant a minimum of six new coniferous or deciduous trees within this landscaped buffer. All trees shall be planted a maximum of 16 feet (4.8m) on centre. The Development Officer may permit various tree varieties in consultation with the Urban Forester;
  - (c) trees when planted, shall be at least 6.56 feet (200 cm) in height;
  - (d) fencing and barriers shall be installed as per Section 3.4; and
  - (e) grass sodding or seeding shall be provided over the existing septic field;
  - (f) the existing cedar hedge along the northern property line shall be extended to the western property line. The new cedar trees shall have a minimum height of 1 metre (3 feet) and shall be planted at the same interval as the existing hedge.
- 3.6.3 Upon completion of the landscaping, the Developer shall submit to the Development Officer a letter prepared by a qualified person certifying that all landscaping has been completed according to the terms of this Development Agreement.
- 3.6.4 All landscaping (listed above) shall be completed within one (1) year of the date of registration of this agreement with the N.S. Registry of Deeds.

### **3.7 SIGNS**

- 3.7.1 The sign requirements shall be accordance with the Planning Districts 14 and 17 Land Use By-law as amended from time to time.

### **3.8 SCREENING**

3.8.1 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls.

### **3.9 HOURS OF OPERATION**

3.9.1 No activity related to the operation of land uses subject to Section 3.2.1 b) shall be conducted on the Lands except between the hours of 7:00 a.m. to 8:00 p.m., Monday to Saturday inclusive. Notwithstanding, the Developer may conduct internal office administration work beyond the permitted hours of operation.

3.9.2 Activities permitted by the existing zone, as amended from time to time, shall be subject to Provincial legislation.

3.9.3 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00am and 8:00pm.

### **3.10 OUTDOOR STORAGE**

3.10.1 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing, masonry walls or landscaping.

3.10.2 The Developer shall store all materials and equipment used in connection with all land uses within the existing buildings or accessory buildings.

3.10.3 Derelict vehicles are not permitted to be stored on the Lands.

3.10.4 Non-operating vehicles are not permitted on the lands unless associated with an automotive repair land use. Further, where non-operating vehicles are permitted, they shall be stored in an area which is screened from view by opaque fencing and not visible from a public street or residential property.

### **3.11 PERMITTING**

3.11.1 The Developer shall apply for an occupancy permit for the existing land use within 90 days of the registration of this agreement at the Registry of Deeds or Land Registration Office.

### **3.12 MAINTENANCE**

3.12.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

## **PART 4: STREETS AND MUNICIPAL SERVICES**

### *General Provisions*

4.1.1 All design and construction of primary and secondary service systems shall satisfy Municipal Service Systems Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineer prior to undertaking the work.

#### *Off-Site Disturbance*

- 4.2.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

#### *On-Site Septic*

- 4.3.1 The Lands shall be serviced through the existing privately owned and operated septic system. The Developer agrees to provide the Development Officer with a copy of all permits, licences, and approvals required by the NS Environment when there is a change in use of the buildings.

#### *Solid Waste Facilities*

- 4.4.1 Refuse containers and waste compactors shall be confined to the loading areas of each building, and shall be screened from public view where necessary by means of opaque fencing or masonry walls with suitable landscaping.
- 4.4.2 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal affect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

### **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

- 5.1.1 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

#### *Erosion and Sedimentation Control and Grading Plans*

- 5.2.1 Prior to the commencement of any onsite works on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall have prepared by a Professional Engineer and submitted to the Municipality a detailed Erosion and Sedimentation Control Plan. The plans shall comply with the *Erosion and Sedimentation Control Handbook for Construction Sites* as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented.

### **PART 6: AMENDMENTS**

#### **6.1 Non-Substantive Amendments**

The following items are considered by both parties to be not substantive and may be amended by resolution of Council.

- (a) Changes to the landscaping provisions; and
- (b) The length of time for the completion of the development as identified in Section 7.4 of this Agreement.

#### **6.2 Substantive Amendments**

Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

## **PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **7.1 Registration**

A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

### **7.2 Subsequent Owners**

7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.

7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

### **7.3 Commencement of Development**

7.3.1 For the purpose of this section, commencement of development shall mean registration of this agreement at the Registry of Deeds.

### **7.4. Completion of Development**

Upon the completion of the whole development or complete phases of the development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Planning Districts 14 and 17, as may be amended from time to time.

### **7.5 Discharge of Agreement**

7.5.1 If the Developer fails to complete the development after one year from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement; or
- (c) discharge this Agreement.

## **PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **8.1 Enforcement**



The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

**8.2 Failure to Comply**

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 30 days written notice of the failure or default, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;
- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

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

**SIGNED, SEALED AND DELIVERED** in  
the presence of:

**VERNON JUDSON SIBBINS**

\_\_\_\_\_  
Witness

Per:\_\_\_\_\_

**LEONA RACHEL SIBBINS**

\_\_\_\_\_  
Witness

Per:\_\_\_\_\_

=====  
**SIGNED, DELIVERED AND ATTESTED** to  
by the proper signing officers of Halifax

=====  
**HALIFAX REGIONAL MUNICIPALITY**

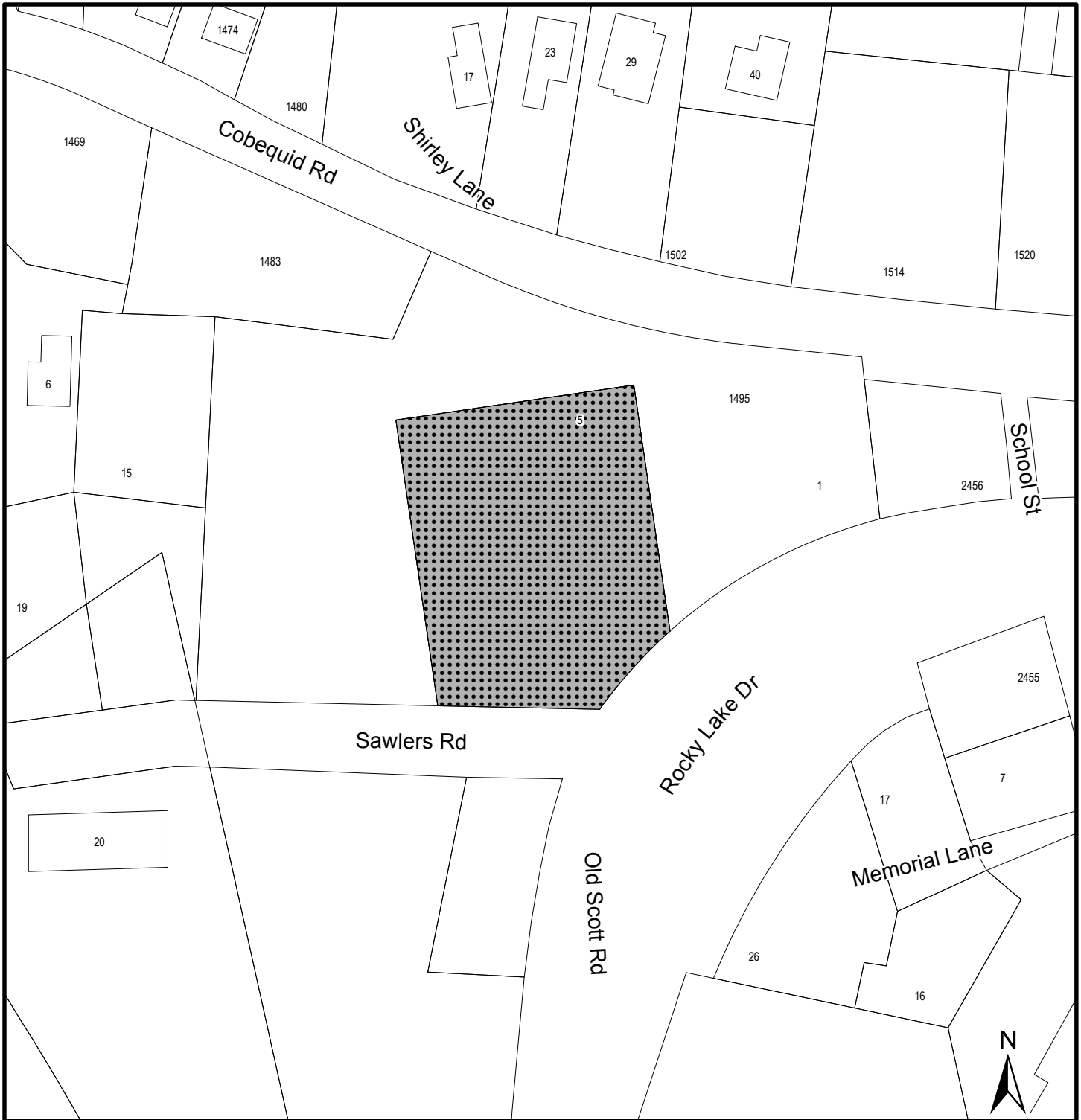
Regional Municipality, duly authorized in that behalf, in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor


\_\_\_\_\_  
Witness

\_\_\_\_\_  
Municipal Clerk

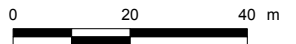


**Schedule A-1 - Map of Subject Lands**

5 Sawlers Road  
Waverley

 Subject Lands

**HALIFAX**



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

Planning Districts 14 & 17  
(Shubenacadie Lakes) Plan Area

**Attachment B**  
**C-2 (Community Commercial) Zone Requirements**

**PART 13: C-2 (COMMUNITY COMMERCIAL) ZONE**

**13.1 C-2 USES PERMITTED**

No development permit shall be issued in any C-2 (Community Commercial) Zone except for the following:

Commercial Uses

Retail stores  
Food stores  
Service and Personal Service Uses  
Offices  
Banks and financial institutions  
Restaurants  
Funeral establishments  
Greenhouses and nurseries  
Guest homes  
Taxi depots  
Medical, dental, and veterinary offices and clinics  
Existing service stations  
Craft shops

Residential Uses

Single unit dwellings  
Two unit dwellings

Community Uses

Open space uses  
Institutional uses  
Fraternal centres and halls

**13.2 C-2 ZONE REQUIREMENTS: COMMERCIAL USES**

In any C-2 Zone, where uses are permitted as Commercial Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:

Central water and sewer services	10,000 square feet (929 m <sup>2</sup> )
Other	40,000 square feet (3,716 m <sup>2</sup> )

Minimum Frontage:

Central water and sewer services	75 feet (22.9 m)
Other	100 feet (30.5 m)

Minimum Front or Flankage Yard

20 feet (6.1 m)  
30 feet (9.1 m) where front or flankage yard is abutting Highway #2

Minimum Rear or Side Yard

Central water and sewer services	8 feet (2.4 m)
Other	20 feet (6.1 m)

Maximum Lot Coverage

35 per cent

Maximum Height of Main Building

35 feet (10.7 m)

13.3 OTHER REQUIREMENTS: COMMERCIAL FLOOR AREA

Notwithstanding the provisions of Part 13.2, no commercial building within any C-2 Zone shall exceed ten thousand (10,000) square feet (930 m<sup>2</sup>) of gross floor area.

13.4 OTHER REQUIREMENTS: COMMERCIAL USES

Where uses are permitted as Commercial Uses in any C-2 Zone, the following shall apply:

- (a) No open storage or outdoor display other than the display of plants shall be permitted.
- (b) No portion of any lot shall be used for the collection or storage of refuse unless the refuse containers are screened.

13.5 OTHER REQUIREMENTS: ABUTTING YARDS

Where the rear or side yard of any commercial use in any C-2 Zone abuts any Residential or Community Facility Zone, the minimum rear or side yard shall be 30 feet (9.1 m) and no parking, loading or accessory structures shall be permitted within the required yards unless a visual barrier is provided, in which case the minimum rear or side yard shall be 20 feet (6.1 m).

13.6 OTHER REQUIREMENTS: REDUCED FRONT YARD

Notwithstanding the provisions of Part 13.2, the minimum front yard may be reduced to fifteen (15) feet where no parking or loading facilities are located within the required front yard.

13.7 OTHER REQUIREMENTS: REDUCED PARKING REQUIREMENTS

Notwithstanding Part 4.25 where the main building is constructed within fifteen (15) feet of the road right-of-way in accordance with the provisions of Part 13.6, the overall parking requirements for commercial uses within the structure may be reduced by a maximum of fifteen (15) per cent.

13.8 C-2 ZONE REQUIREMENTS: COMMUNITY USES

In any C-2 Zone, where uses are permitted as Community Uses, no development permit shall be issued except in conforming with Part 22.

13.9 C-2 ZONE REQUIREMENTS: RESIDENTIAL USES

In any C-2 Zone, where uses are permitted as Residential Uses, no development permit shall be issued except in conformity with Part 7.

**Attachment C**  
**Review of Relevant Planning Districts 14 and 17 MPS Policies**

	<b>Policy Criteria</b>	<b>Comment</b>
	<p><b>P 100</b>  <i>Notwithstanding Policy P 95, within the Community Centre Designation, it shall be the intention of Council to provide for the continued use of existing commercial and industrial uses which would not otherwise be permitted, to the extent they existed on the effective date of this plan. It shall be the intention of Council to consider either a change of use or an expansion of the existing use according to the provisions of Sections 55, 66, and 67 of the Planning Act. In considering such an agreement, Council shall have regard to the following:</i></p>	
(a)	<p><i>that the use is entirely enclosed within a structure and does not involve the processing or production of hazardous, toxic or dangerous materials;</i></p>	<p>The development agreement requires that activities be conducted within the existing buildings or accessory buildings with the exception of outside parking. Processing or production of hazardous, toxic or dangerous materials (classified as obnoxious uses) will not be permitted by the development agreement.</p>
(b)	<p><i>that the expansion or change of use be accommodated on the existing site;</i></p>	<p>The proposed change in use will be confined to the existing site.</p>
(c)	<p><i>that the expansion or change of use maintains an acceptable level of compatibility with surrounding lands in terms of traffic generation, noise, outdoor storage, scale and intensity of operation;</i></p>	<p>The proposed uses will result in a decrease in intensity of use, outdoor storage, noise and traffic generation as compared to the existing agreement on the site. The proposed change in use and new agreement results in new controls which result in a higher level of compatibility with adjacent residential and commercial land uses.</p>
(d)	<p><i>the provision of adequate measures for the long-term maintenance of the use; and</i></p>	<p>Maintenance of the site is required by the proposed agreement.</p>
(e)	<p><i>the provisions of Policy P-155.</i></p>	<p>See below.</p>
	<p><b>P-155</b>  <i>In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies in this Plan, Council shall have appropriate regard to the following matters:</i></p>	
(a)	<p><i>That the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;</i></p>	<p>The proposed agreement conforms with the intent of all MPS policies and the municipal by-laws and regulations.</p>

	<b>Policy Criteria</b>	<b>Comment</b>
(b)	<p><i>that the proposal is not premature or inappropriate by reason of:</i></p> <p>(i) <i>the financial capability of the Municipality to absorb any costs relating to the development;</i></p> <p>(ii) <i>the adequacy of central or on-site sewerage and water services;</i></p> <p>(iii) <i>the adequacy or proximity of school, recreation or other community facilities;</i></p> <p>(iv) <i>the adequacy of road networks leading or adjacent to or within the development; and</i></p> <p>(v) <i>potential for damage to or for destruction of designated historic buildings and sites.</i></p>	<p>The proposal does not create any costs to the Municipality. The developer is responsible for all costs.</p> <p>The proposed development is not serviced with sewer services and is presently served with central water. Water services can be maintained with the existing system. The existing sanitary septic system was designed and installed for a more intensive uses. Approval from NSE will be required for the change in use.</p> <p>The proposal is not residential in nature and as a result does not draw upon school or recreation facilities.</p> <p>The adjacent road networks are adequate to handle the proposal.</p> <p>The site does not contain historic buildings or sites.</p>
(c)	<p><i>that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i></p> <p>(i) <i>type of use;</i></p> <p>(ii) <i>height, bulk and lot coverage of any proposed building;</i></p> <p>(iii) <i>traffic generation, access to and egress from the site, and parking;</i></p> <p>(iv) <i>open storage;</i></p> <p>(v) <i>signs; and</i></p> <p>(vi) <i>any other relevant matter of planning concern.</i></p>	<p>The proposed agreement enables land uses which reduce the conflict with adjacent land uses as compared with the existing development agreement.</p> <p>No new buildings are proposed. Existing buildings have limited height, bulk and lot coverage.</p> <p>Proposed uses are anticipated to have a lesser impact than the land use permitted by the existing agreement. Access to the site is maintained through the Sawlers Road access and there is adequate parking on the site for the existing scale of development and proposed land uses.</p> <p>Open storage is not permitted by the development agreement.</p> <p>Signs will be regulated by the Planning District 14 and 17 Land Use By-law under the provisions of the C-2 Zone. No other matters identified.</p>

	<b>Policy Criteria</b>	<b>Comment</b>
(d)	<i>that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility or flooding.</i>	The proposed site is adjacent a wetland but is suitable for development. The proposal alters permitted uses on an existing developed site.
(e)	<i>Within any designation, where a holding zone has been established pursuant to Infrastructure Charges - Policy P-64F, Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the Infrastructure Charges Policies of this MPS.</i>	Not applicable.