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Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 13.1.2
North West Community Council
July 11, 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 20590: Discharge Agreement for 1495 Cobequid Road, Waverley

ORIGIN

Application by Brad Meisner on behalf of Eacan Inc. (formerly Case 16696).

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council:

1. Approve, by resolution, the Discharge Agreement as contained in Attachment A of this report; and
2. Require the Discharge 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, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Brad Meisner on behalf of Eacan Inc. is applying to discharge the existing development agreement on the lands at 1495 Cobequid Road, Waverley:

Subject Site	1495 Cobequid Road, Waverley
Location	Planning Districts 14 and 17 (Shubenacadie Lakes)
Regional Plan Designation	Rural Commuter (RC)
Community Plan Designation (Map 1)	Community Centre (CC) under the Planning Districts 14 and 17 Municipal Planning Strategy
Zoning (Map 2)	C-2 (Community Commercial Zone) in the Planning Districts 14 and 17 Land Use By-law
Size of Site	8,114 square metres (87,348 square feet)
Street Frontage	Approximately 100 m (333 feet) on Cobequid Road
Current Land Use(s)	Offices in a 1.5 storey building with an approximate footprint of 297 square metres (3,200 square feet).
Surrounding Use(s)	<ul style="list-style-type: none">• Single unit dwellings to the north• Commercial uses to the west and east• To the southeast across Old Scott Road is an elementary school• Vacant land, swamp and commercial warehouses to the west

Proposal Details

The applicant wishes to discharge the existing development agreement on the lands, which had permitted the use of the lands for a storage yard and maintenance facility for construction equipment. This will allow the property to be fully regulated under the zoning of the Planning Districts 14 and 17 Land Use By-law.

History

On January 27, 2005, Marine Drive, Valley & Canal Community Council entered into a development agreement to permit a storage yard for construction material and a maintenance facility for construction equipment at 1495 Cobequid Road and 5 Sawlers Road, Waverley. In February 2006, 1495 Cobequid Road was sold to Eacan Incorporated and the existing maintenance facility ceased operation.

North West Community Council previously approved the discharge of the agreement from 1495 Cobequid Road under Case 16696 at a meeting held on February 23, 2015. However, the discharging agreement was not signed within the required time, and therefore approval of a new discharging agreement is necessary.

Also on February 23, 2015, North West Community Council approved the discharge of the agreement for the adjacent property at 5 Sawlers Road (Case 16742). The discharging agreement for 5 Sawlers Road was signed within the permitted time, and the agreement was discharged on that property. As a result, the Agreement remains in effect only on the subject property at 1495 Cobequid Road.

Discharge of Development Agreements

The *Halifax Regional Municipality Charter* provides Council with a mechanism to discharge development agreements. Part VIII, Clause 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The Charter does not require a public hearing for the discharge of an agreement or a portion thereof. A development agreement may be discharged by resolution of Community Council.

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. A public information meeting or a public hearing is not required, nor is it the practice to hold such meetings for the discharge of a development agreement. The decision to discharge a development agreement is made by resolution of Community Council.

The proposed discharge will have no impact on local residents, property owners or other stakeholders as the existing zoning allows the existing building and land use.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the MPS. The C-2 Zone is currently applied to the lands and the existing building and land use (offices) are permitted under this zone. The proposed discharge would enable the subject property to be developed in accordance with the provisions of the existing underlying C-2 Zone. Therefore, staff recommends that Community Council discharge the existing development agreement through the discharging agreement contained in Attachment A.

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 discharging development agreement. The administration of the proposed discharging 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 discharging 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 not to discharge the existing development agreement and therefore, development on the property would remain subject to the conditions of the development agreement. A decision of Council to refuse to discharge a 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

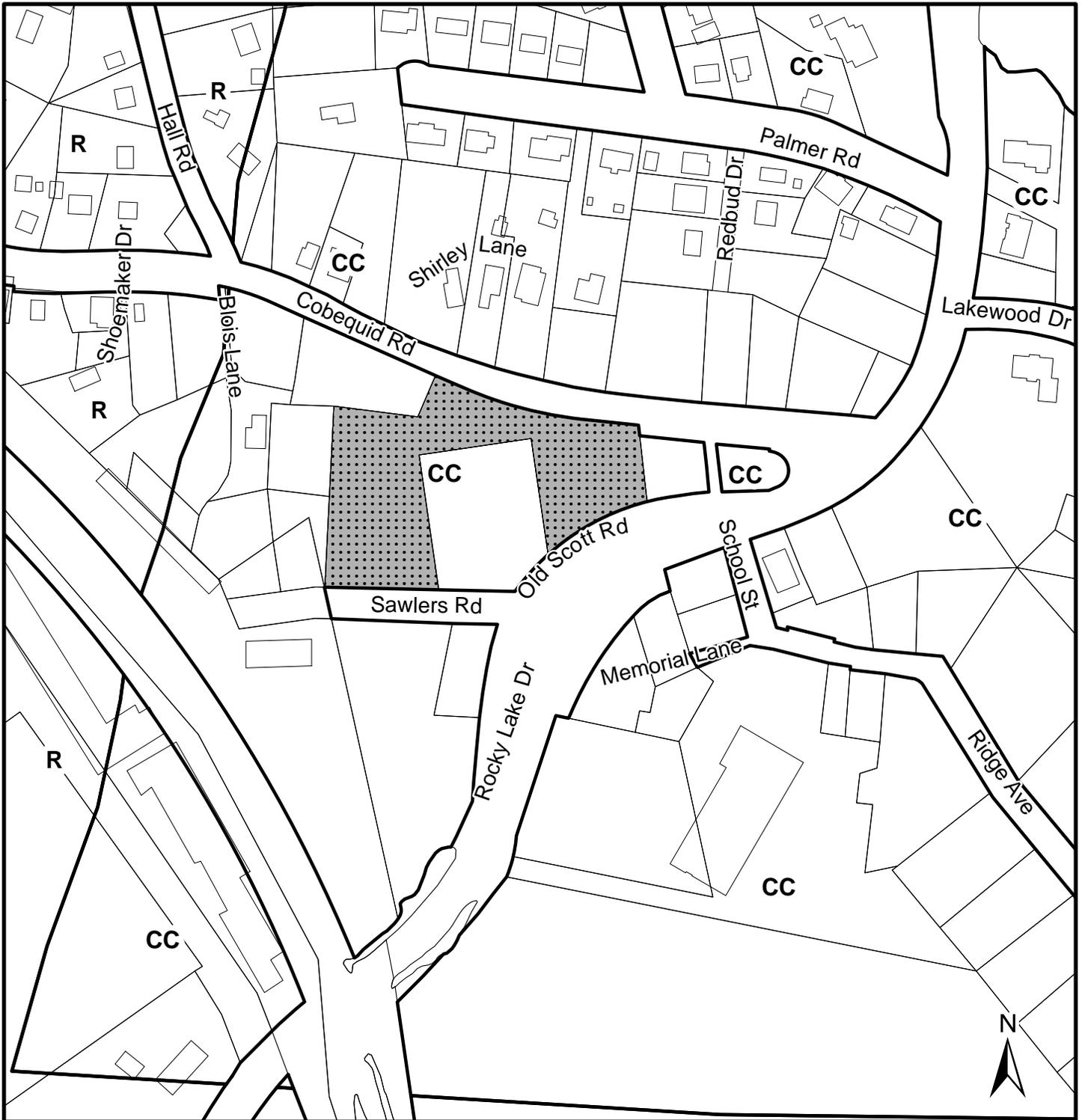
Attachment A: Proposed Discharge Agreement
Attachment B: C-2 Zone Requirements

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



Map 1 - Generalized Future Land Use

1495 Cobequid Road
Waverley

HALIFAX

 Subject Property

Designations

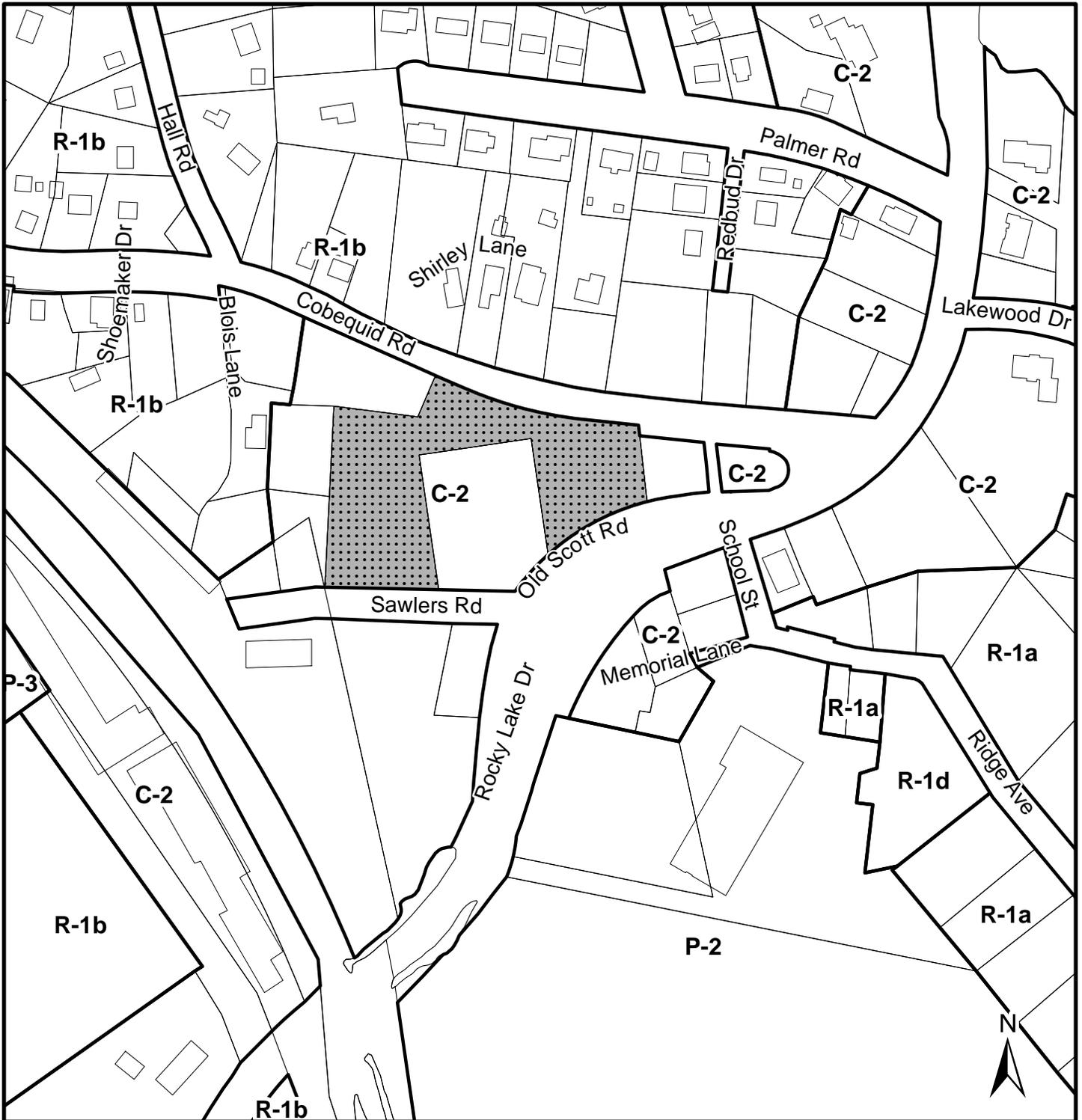
- R Residential Designation
- CC Community Centre Designation



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.



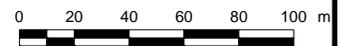
Map 2 - Zoning

1495 Cobequid Road
Waverley

 Subject Property

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



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.

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

Attachment A
Proposed Discharge Agreement

THIS DISCHARGING AGREEMENT made this day of **[Insert Month]** , 20__,

BETWEEN:

[Insert name here],
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 1495 Cobequid Road, Waverley and identified as **[INSERT PID]** which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipal Council of Halifax County Municipality approved an application to enter into a development agreement to allow for the construction of a new building and the continuation of the use of the property as a storage yard for construction materials and a maintenance facility for construction equipment on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 45782 in Book Number 5645 at Pages 84 to 95 (hereinafter called the "Original Agreement");

AND WHEREAS the Marine Drive Valley and Canal Community Council previously approved the discharge of the Original Agreement on November 30, 2005;

AND WHEREAS the Marine Drive Valley and Canal Community Council approved an application to enter into a development agreement to allow for the expansion of a storage yard for construction materials and a maintenance facility for construction equipment on the Lands and 5 Sawlers Road, Waverley on November 30, 2005, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 84626440 (hereinafter called the "Existing Agreement");

AND WHEREAS the North West Community Council previously approved the discharge of the Existing Agreement on February 23, 2015 however the discharge agreement for the Lands was not signed within the required 120 days and therefore is null and void. The discharge agreement for 5 Sawlers Road, referenced as Municipal Case Number 16742, was registered at the Registry of Deeds in Halifax as Document Number 108141251;

AND WHEREAS the Developer has once again requested that the Existing Agreement be discharged from the Lands;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the North West Community Council of the Municipality approved this request by resolution at a meeting held on **[INSERT - date]**, referenced as Municipal Case Number 20590;

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

1. The Existing Agreement is hereby discharged as it applies to the Lands and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with all applicable provisions and requirements of the Planning Districts 14 and 17 Land Use By-law, as amended from time to time.

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:

(Insert Registered Owner Name)

Witness

Per: _____

SIGNED, DELIVERED AND ATTESTED
To by the proper signing officers of Halifax
Regional Municipality, duly authorized in that
Behalf, in the presence of:

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

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 (RC-Jun 17/03;E-Jun 20/03)**
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 (MC-Jul 26/93;SCC-Aug 10/93;E-Sep 4/93)

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 ²)
Other	40,000 square feet (3,716 m ²)

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 m²) 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.