

HALIFAX

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Item No. 15.1.2
Halifax Regional Council
October 22, 2019

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY:

Jacques Dubé, Chief Administrative Officer

DATE: September 18, 2019

SUBJECT: **Case 22195: Municipal Planning Strategy and Land Use By-law Amendments
for Block B at Canal Court, Fall River**

ORIGIN

Request by KWR Approvals Inc., on behalf of LawDia Developments.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Regional Council direct Chief Administrative Officer to:

1. Initiate a process to consider amendments to the Municipal Planning Strategy and Land Use By-law for Planning Districts 14 and 17 to review the existing Canal Court Policies for Block B and if appropriate, enable consideration of a development agreement for a townhouse development on a portion of Block B; and
2. Follow the public participation program for municipal planning strategy amendments as approved by Regional Council on February 27, 1997.

BACKGROUND

KWR Approvals Inc., on behalf of LawDia Developments, has requested an amendment to the River-Lakes Secondary Planning Strategy within the Municipal Planning Strategy (MPS) for Planning Districts 14 and 17 and Land Use By-law (LUB) to enable the development of 16 townhouse units on a portion of Block B in Canal Court, Fall River (Maps 1, 2 and 3). The existing MPS policies were completed in 2013 under the Fall River Visioning program. These existing policies require a comprehensive development agreement approach for pedestrian-oriented mixed-use commercial residential development along the Shubenacadie Canal rather than a site-by-site development approach. The existing policy requires the first floor of all buildings, including residential buildings, be retained for commercial or institutional uses which is very challenging for the subject site to achieve given its limited frontage to McPherson Road. The applicant has indicated that these existing policies may result in land use conflicts, and as such amendments are being requested to enable this project.

Subject Site	PIDs 40762106, 40770323 and 41026063 situated at 19 McPherson Road, Fall River
Location	Block B, north-east side of McPherson Road
Regional Plan Designation	Rural Commuter (RC)
Community Plan Designation (Map 1)	River-Lakes Village Centre of the River-Lakes Plan Area
Zoning (Map 2)	Canal Court (CC)
Size of Site	0.80 Ha (1.98 acres)
Current Land Use(s)	vacant
Surrounding Use(s)	14-unit multiple unit dwelling to the immediate west, single detached dwelling and retail commercial on McPherson Drive, and the Shubenacadie River to the north and east.

Proposal Details

Steeple Lake Estates is the first development proposal being considered for Block B since the adoption of the River-Lakes Secondary Planning Strategy in 2013. The applicant is seeking amendments to the MPS and LUB (Attachments A and B) to permit a 16 townhouse unit development on a portion of the Block without a ground floor commercial component as required in plan policy. The proposed development of 16 townhouses is positioned around an internal courtyard with driveway access to McPherson Road. Approximately 50 percent of the site in this proposal is left non-disturbed with a 20m wide buffer along Shubenacadie Canal.

SPS and LUB Context

The subject site is located within River-Lakes Village Centre (RLVC) designation of the Shubenacadie Lakes MPS and is zoned Canal Court (CC) under the LUB (Attachments A and B). The RLVC designation applies to Blocks A, B and C of Canal Court (Maps 1 and 2) and encourages the comprehensive development of a pedestrian-oriented mixed commercial-residential project that has an internally connected courtyard along the east and west sides of the Shubenacadie Canal with careful consideration to the external appearance of structures. The RLVC designation allows separate development agreements for each Block (A, B and C) but does not allow a development agreement on a portion of a Block (Attachment B). In addition, there is a requirement for the retention of significant non-disturbance areas and stormwater management practices.

The proposed MPS and LUB amendments would assess the viability of the proposed townhouse development in light of existing SPS policies to determine if:

- Block B should be developed comprehensively in its entirety or separated in two Blocks;
- Existing MPS policies that govern Block B are practically implementable given the level of conditions present in the existing SPS evaluation criteria; and
- Block B is viable as a commercial centre as identified in Policy.

DISCUSSION

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in the Municipality. While the MPS provides broad direction, Regional Council may consider MPS amendment requests to enable proposed development that is not consistent with its policies. Amendments to the MPS are significant undertakings and Council is under no obligation to consider such requests. Amendments should be only considered within the broader planning context and when there is reason to believe that there has been a change to the circumstances since the MPS was adopted, or last reviewed or if there may have been an oversight when drafting policies.

Applicant Rationale

The applicant has provided rationale in support of a site specific MPS amendment (Attachment C), and staff note the following highlights from its contents:

- The vision of the River-Lakes Secondary Planning Strategy is to maintain the rural village atmosphere and rural character in the area. A townhouse development without commercial better maintains, respects, preserves and enhances the rural village atmosphere and character of this neighbourhood than having 16 businesses located on the ground floor of residential dwellings accessing a local residential street known as McPherson Road.

Changes in Circumstances also warrant Council consideration of the application as follows:

- Over the past several years there have been several development applications within the River-Lakes Secondary Planning Strategy (RLSPS) area for non-single-detached housing developments, whether semi-detached, duplex, multiple-residential development buildings and townhouses. These are examples of market, demographic and growing community changes regarding the need for alternative housing
- This application in design, use, scale and density met the established policy framework of MPS Policies RL-4 and RL-23 with the exception of two evaluation criteria.
- This is not an example of a proposed site specific plan amendment that is looking to turn an existing SPS such as RLSPS 'on its head', but requests the practical implementation of a high quality residential development that does not include significant commercial component that is simply not compatible and environmental fit for this location.

Steeple Lake Estates aligns with the HRM Regional MPS by:

- Respecting Riparian Buffers including the watercourse setback buffer of Lake Fletcher.
- While respecting rural character of the Lake Fletcher community, provides for a range of social and economic needs and promote aging in place. The design respects future characteristics for Growth Centres in the Rural Commuter Designation as it relates to Rural District Growth Centre such as River-Lakes/Fall River. A 16-unit townhouse development on 2.27 acres is medium density residential.

Review

Staff have reviewed the submitted rationale in the context of site circumstances and surrounding land uses, and advise that there is merit to the request to consider the proposal by reviewing the MPS policy as it relates to the development of Block B due to the following:

- An oversight when drafting policies has produced conflicting MPS policies that have rendered the development of Block B practically unimplementable; and
- The current policy is structured such that 100% compliance with all six land owners in Block B (unlike only two land owners in Block C) is required prior to the development of a single property

by Development Agreement. This would also require the potential future land assembly and result in long range redevelopment timeframes. Staff advise that this circumstance is not reasonable.

While it is agreed that the proposed townhouse use may provide alternative housing which is needed within the Fall River area, the nature of the Canal Court MPS policies are intended to encourage the comprehensive development of Block B. It is of note that the interrelationship between the commercial component of the Block and the residential development is critical under existing policies. MPS policies require that when larger buildings are sought after, the proposed development should consider the relationship between these land uses and the physical space that connects them. Therefore, isolating the land use analysis to only a portion of Block B could potentially negatively impact the intent behind the development of the rest of it as a mixed-use centre. For example, assigning a portion of the Block for exclusively residential forms of alternative housing may assign undue commercial development pressure to the rest of the Block.

Staff advise that a site-specific policy amendment for a portion of Block B is not appropriate at this time. Rather, staff recommend a planning exercise that considers the entire Block B's future development potential as a commercial/ residential centre in Canal Court. Accordingly, staff support the following:

- A review of all of the policies pertaining to Block B; and
- Consideration of the proposed development as it relates to the vision of the entire Block B and Block B's relationship in context to Blocks A and C.

Under this scope it is reasonable to consider amending MPS policies to allow for the consideration of the townhouse request.

Conclusion

Staff have reviewed the proposed MPS amendment rationale and advise that there is merit to proceeding with the request to consider the planning policy in its entirety as it pertains to Block B. Therefore, staff recommend that Regional Council initiate the MPS 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 MPS and LUB will potentially impact the following stakeholders: residents, property owners, community or neighbourhood organizations, and nearby business owners.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2019-2020 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 environmental implications are identified at this time.

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 Halifax Municipal 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
Map 3:	Applicant's Proposed Site Plan
Attachment A:	Excerpts from the River-Lakes Secondary Planning Strategy – Planning Districts 14 and 17
Attachment B:	Excerpts from the Planning Districts 14 and 17 Land Use By-law
Attachment C:	Applicant's Rationale Submission

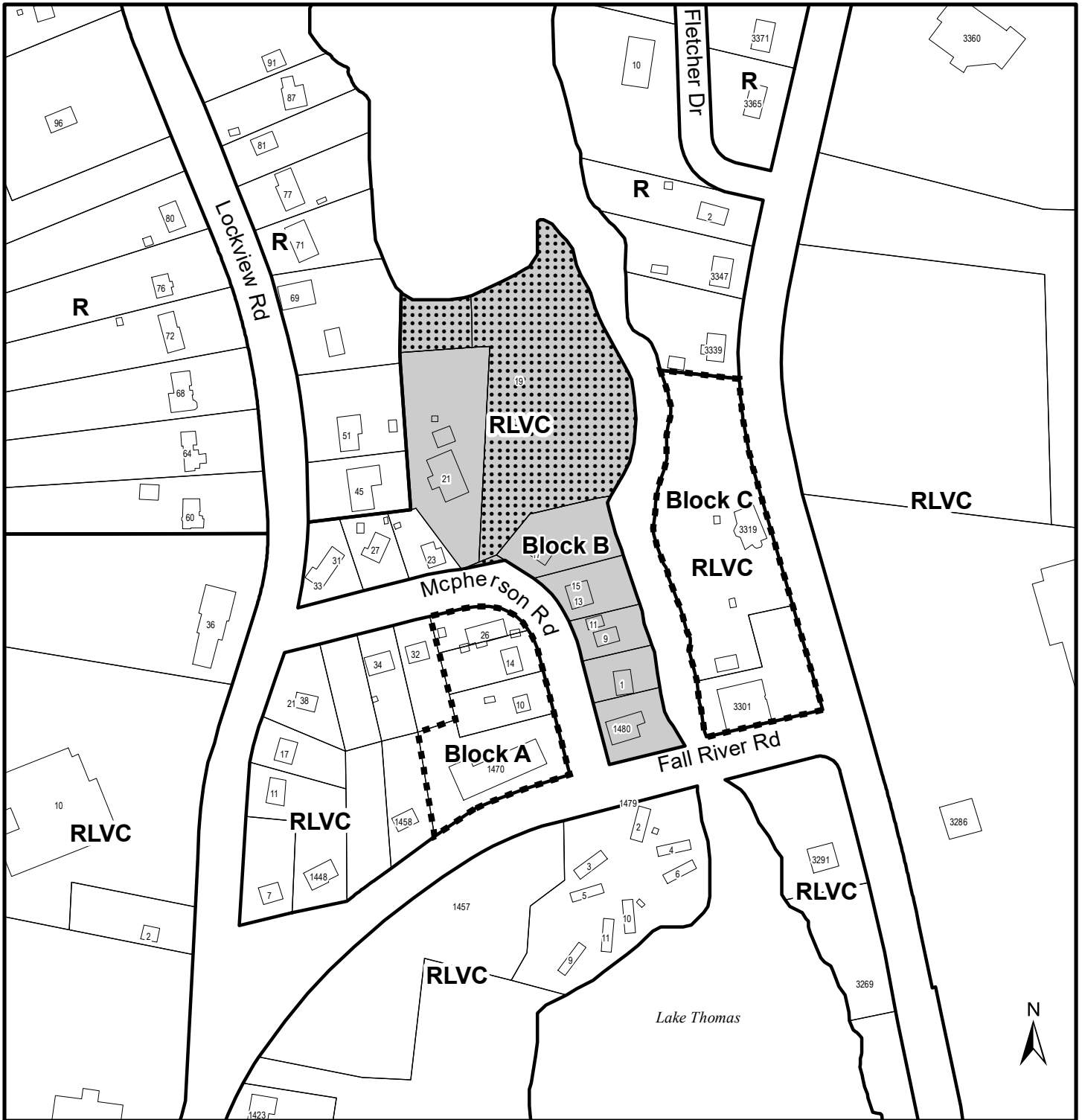
A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Shayne Vipond, Planner III, 902.490.4335

Report Approved by: Original Signed
Steven Higgins, Manager, Current Planning, 902.490.4797

Financial Approval by: Original Signed
Jane Fraser, Director of Finance, Asset Management and ICT/CFO, 902.490.6308




Report Approved by: Original Signed
Kelly Denty, Director of Planning and Development, 902.490.4800



Map 1 - Generalized Future Land Use

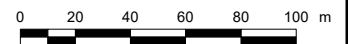
McPherson Road,
Fall River

HALIFAX

-  Area of Proposed Development
-  Schedule H - Block B (entirety of Block B SPS Policies to be reviewed)
-  Schedule H - Blocks A & C

Designation

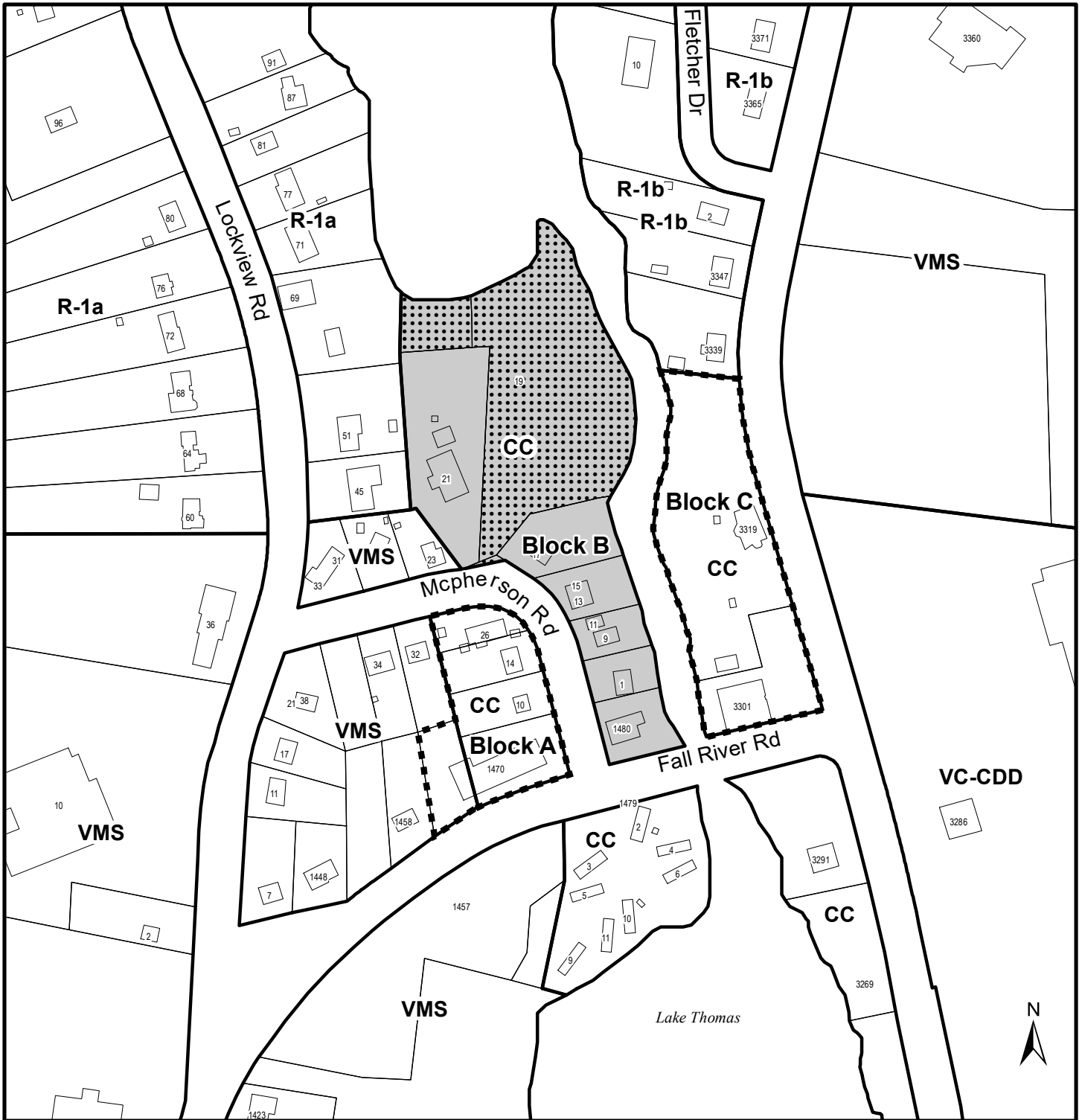
- R Residential
- RLVC River-Lakes Village Centre



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.




Planning Districts 14 & (Shubenacadie Lakes) Plan Area



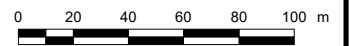
Map 2 - Zoning

McPherson Road,
Fall River

HALIFAX

-  Area of Proposed Development
-  Schedule H - Block B (entirety of Block B SPS Policies to be reviewed)
-  Schedule H - Blocks A & C

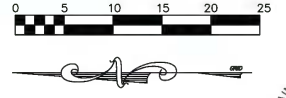
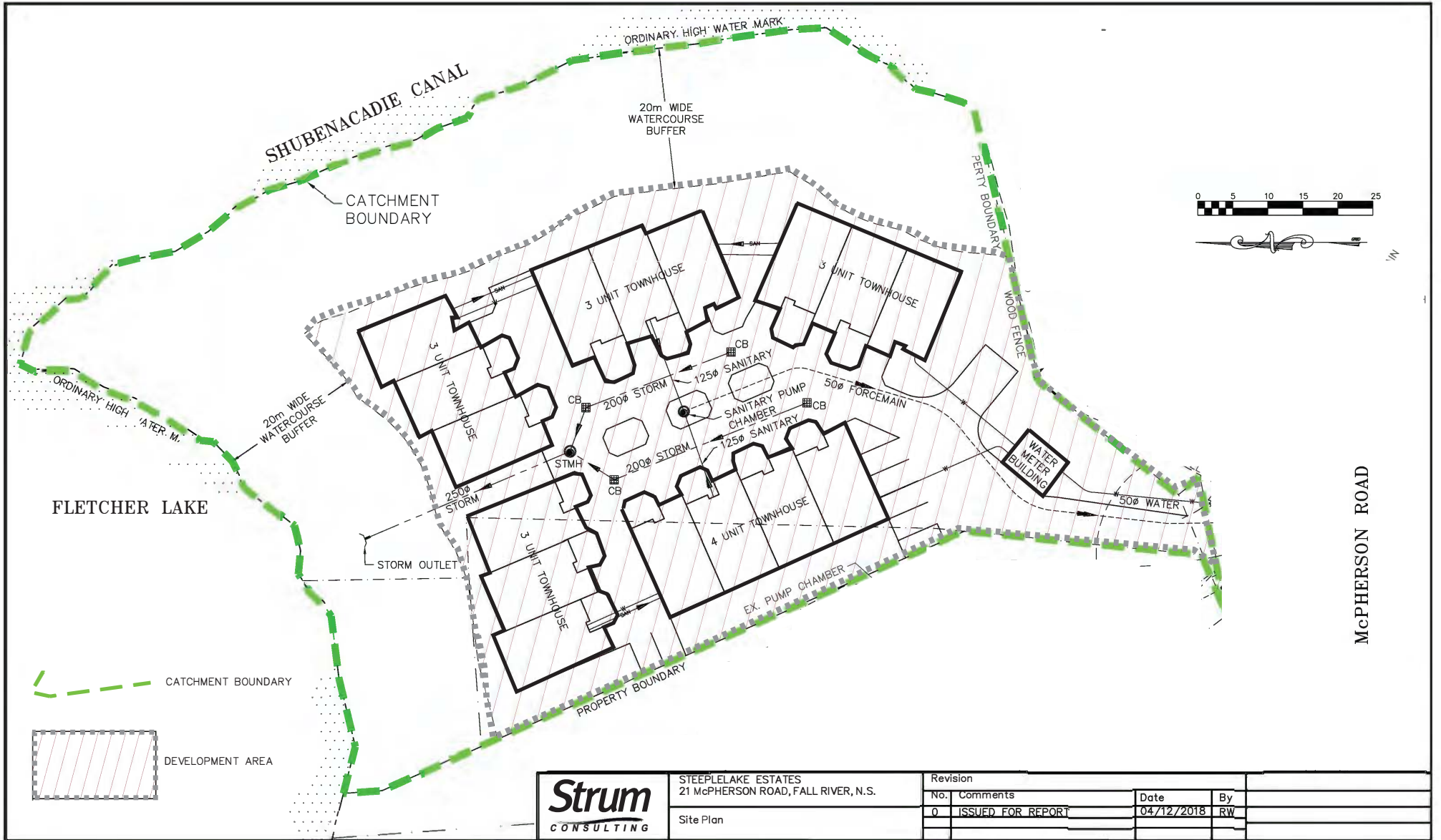
Zone	
R-1a	Single Unit Dwelling
R-1b	Suburban Residential
CC	Canal Court
VC-CDD	Village Core Comprehensive Development District
VMS	Village Main Street



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) Plan Area



McPHERSON ROAD

Map 3 - Applicant's Proposed Site Plan

	STEEPLAKE ESTATES 21 McPHERSON ROAD, FALL RIVER, N.S.	Revision			
	Site Plan	No.	Comments	Date	By
		0	ISSUED FOR REPORT	04/12/2018	RW

Attachment A

Excerpts from the River Lakes Secondary Planning Strategy - Planning Districts 14 and 17

Canal Court

The Canal Court encompasses Fall River Run which is situated between Lake Thomas and Fletchers Lake. It is the desire of the community to create a pedestrian-oriented area in this part of the Centre with small-scale buildings lining the streets and an internal court yard system adjacent to this historic part of the Shubenacadie Canal. Provisions will also be established to allow for the development of a slightly larger building at the intersection of Fall River Road and McPherson Road to serve as a focal point and gateway into the Canal Courtyard area. The expansion of an existing multiple-unit dwelling with the incorporation of a ground floor commercial component, at 19 MacPherson Road, shall also be permitted given the opportunities to provide alternative housing to the area.

RL-4 In order to encourage the comprehensive development of a pedestrian- oriented mixed commercial –residential development that has an internally connected courtyard along the east and west sides of the Shubenacadie Canal, HRM shall consider larger scale buildings on lands shown on Schedule H of the Land Use By-law, through the provisions of a development agreement. The Zone will permit commercial, residential and open space uses. Given the extent of the area and the number of property owners involved, HRM may allow the application of a separate development agreement for Blocks A, B, or C shown on Schedule H. In considering such an agreement, Council shall have regard to the following:

Built Form, Architecture and Use

- (a) that the style of the buildings are in a townhouse form or two-three story traditional village shops with architectural detailing that is in general conformity with the architectural design requirements under the Land Use By-law; ;
- (b) that the siting, massing, and façade design of buildings shall be coordinated on a block-by-block basis;
- (c) that the elevation of all buildings within the block shall be articulated in a manner that provides variation between units, and reinforces common characteristics that visually unites the block;
- (d) that the massing and built form of townhouse units adjacent to single-detached and semi-detached dwellings shall be broken down with architectural elements to promote visual integration;
- (e) that the first floor of all buildings are retained for commercial or institutional uses;

Site Development Criteria

- (f) that an internal courtyard system of interconnected trails and pathways, outdoor cafes and outdoor shopping areas is planned for the rear yards of the properties adjacent to the Shubenacadie Canal;
- (g) that there is limited trail development allowed throughout the Riparian Buffer to the extent that it does not reduce the function of the buffer for preventing impacts on the Shubenacadie Canal;
- (h) that a minimum of 25% of the entire development retains a combination of natural vegetation and combination of natural and structured landscaping to create an attractive relationship between buildings, rear and side yards, and the Riparian Buffers along the Canal;
- (i) that lighting is designed to prevent light pollution and to give a coordinated and unified appearance between the buildings and the site with oriented luminaries and is automatically timed to reduce illumination during non-business hours;
- (j) that parking is not provided in the front-yard of any property within the development;

Site Impact Controls/Assessments

- (k) that there is no adverse impact of development on any archaeological features in any areas identified on Schedule C of the Land Use By-law as determined by the Nova Scotia Department of Communities, Culture and Heritage;
- (l) that studies required pursuant to Policies RL-22 and RL-25 are undertaken prior to the approval of a development agreement; and
- (m) any other matter relating to the impact of the development on the surrounding community as outlined in Policies RL-23 and P-155 is addressed.

RL-23 The following measures shall be incorporated into all development agreements in the River-lakes Secondary Planning Strategy Area:

- (a) A site non- disturbance area of a minimum of 50% of the site or greater if required pursuant to any other policies within this Secondary Planning Strategy or the Regional Municipal Planning Strategy; and
- (b) Stormwater management and erosion and sedimentation control plans are in place to minimize impact on receiving waters.

P-155 In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:

- (a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;
- (b) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Municipality to absorb any costs relating to the development;
 - (ii) the adequacy of central or on-site sewerage and water services;
 - (iii) the adequacy or proximity of school, recreation or other community facilities;
 - (iv) the adequacy of road networks leading or adjacent to or within the development; and
 - (v) potential for damage to or for destruction of designated historic buildings and sites.
- (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;
 - (ii) height, bulk and lot coverage of any proposed building;
 - (iii) traffic generation, access to and egress from the site, and parking;
 - (iv) open storage;
 - (v) signs; and
 - (vi) any other relevant matter of planning concern.
- (d) 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.
- (e) 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. (RC-Jul 2/02;E-Aug 17/02)

Attachment B

Excerpts for the Planning District 14 and 17 Land Use By-law

PART 14A: CC (CANAL COURT) ZONE (RC-Oct 23/12;E-Jan 12/13)

14A.1 USES PERMITTED

No development permit shall be issued in any CC (Canal Court) Zone except for the following:

Commercial Uses

Retail Stores
Service and Personal Service Uses
Offices
Banks and Financial Institutions
Restaurants -Full Service and Take-out
Existing Service Stations pursuant to Section 4.6 (j)
Craft Shops

Residential and Commercial Uses

Single unit dwellings
Two unit dwellings
Bed and Breakfast
Home Businesses
Existing Multiple Unit Dwellings pursuant to Section 4.6 (k)

Community Uses

Public and private parks and playgrounds
Cemeteries
Historic sites and monuments
Museums as an educational institution

14A.2 CC ZONE REQUIREMENTS: RESIDENTIAL USES

In any CC Zone, where uses are permitted as Residential Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:	10,000 square feet (929 m ²) where central sewer services are provided 40,000 square feet (3716 m ²) where no central sewer services are provided
Minimum Frontage:	75 feet (22.9 m) where central sewer services are provided 100 feet (30.4 m ²) where no central sewer services are provided
Maximum Front or Flankage Yard	3 feet (0.9 m ²)
Minimum Side Yard:	8 feet (2.4 m ²) where central sewer services are provided 15 feet (4.5 m ²) where no central sewer services are provided
Minimum Rear Yard	25 feet (7.6 m ²)
Maximum Lot Coverage (Building)	35 percent
Maximum Impervious Surface Coverage	50 percent

Maximum Height of Main Building	35 feet (10.7 m ²)
Minimum Height of Main Building	35 feet (7.6 m ²)
Maximum Building Width	60 feet (18.2 m)
Minimum Landscaped Area	25 percent

14A.3 CC ZONE REQUIREMENTS: COMMERCIAL USES

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

Minimum Lot Area:	10,000 square feet (929 m ²) where central sewer services are provided 40,000 square feet (3716 m ²) where no central sewer services are provided
Minimum Frontage:	75 feet (22.9 m) 100 feet (30.4 m) where no central sewer services are provided
Maximum Front or Flankage Yard:	3 feet (0.9 m)
Minimum Side Yard:	8 feet (2.4 m) where central sewer services are provided 15 (4.5 m) where no central sewer services are provided
Minimum Rear Yard	25 feet (7.6 m)
Maximum Lot Coverage (Building)	35 per cent
Maximum Impervious Surface Coverage	50 percent
Maximum Height of Main Building	35 feet (10.7 m)
Minimum Height of Main Building	25 feet (7.6 m)
Maximum Building Width	60 feet (18.2 m)
Minimum Landscaped Area	25 percent

14A.4 OTHER REQUIREMENTS - FLOOR AREA

- (a) The gross floor area of the main building on a lot in any CC Zone, shall not exceed 4,000 square feet (371.6 m²). No main building footprint shall exceed 2,000 square feet (185.8 m²).

14A.5 OTHER REQUIREMENTS – INCREASED FLOOR AREA

- (a) Notwithstanding Section 14A.4 (a), where uses are permitted as Commercial Uses situated at 1480 Fall River Road, as illustrated in Schedule F, the following shall apply:
- (i) gross floor area of the building may be increased to 6,000 square feet (557.4 m²),
 - (ii) no main building footprint shall exceed 2,000 square feet (185.8 m²); and
 - (iii) all uses permitted as Commercial Uses, except Existing Service Stations or Existing Multiple Unit Dwellings, in any CC Zone can be extended throughout the entire building.
- (b) Notwithstanding Sections 14.3 and 14A.4 (a), where uses are permitted as Commercial Uses situated at 1470 Fall River Road, as illustrated on Schedule G, the following shall apply:
- (i) the gross floor area of the main building may be increased to 9,000 square feet (836.1 m²);
 - (ii) no main building footprint shall exceed 6,000 square feet (557.4 m²);
 - (iii) the width of the main building maybe increased to a maximum of 141 feet (42.9 m); and
 - (iv) all uses permitted as Commercial Uses, except Existing Service Stations or Existing Multiple Unit Dwellings, in any CC Zone may be extended throughout the entire building.

14A.6 OTHER REQUIREMENTS - BED AND BREAKFAST ESTABLISHMENTS

The following requirements shall apply for all bed and breakfast uses:

- (a) The Business shall be wholly contained within the dwelling which is the principal residence of the owner of the business. No more than one employee, not living in the dwelling, shall be permitted.
- (b) Not more than four (4) rooms may be let;
- (c) No more than one (1) sign advertising the bed and breakfast shall be permitted and no such sign shall exceed two (2) square feet (0.2 m²) in area;
- (d) One (1) off-street parking space, in addition to that required for the dwelling, shall be provided for every two rooms to be let or part thereof; and
- (e) Where parking is located in any required yard abutting a residential use, an opaque fence of 5 feet (1.52 m) in height or a Landscaped buffer, adequate to screen the view from the adjacent residential property, shall be constructed along all property boundaries abutting the residential use.

14A.7 OTHER REQUIREMENTS - HOME BUSINESS USES

The following requirements shall apply for all home business uses:

- (a) Any business shall be wholly contained within the dwelling which is the principal residence of the owner of the business. No more than one employee, not living in the dwelling, shall be permitted.
- (b) No more than 500 square feet (46.5 m²) of the building or accessory building shall be devoted to any business use.
- (c) Notwithstanding subsection (b), day care services for not more than 7 children may be permitted in conjunction with single unit dwellings subject to the remaining requirements for home business uses.
- (d) No mechanical equipment shall be used except that which is reasonably consistent with the use of a dwelling and which is not obnoxious.
- (e) Excluding out play areas associated with a daycare facility, no storage or display of materials, goods, supplies, or equipment related to the operation of the business use shall be permitted outside on the property.
- (f) No more than one (1) sign shall be permitted advertising any such home business and no such sign shall exceed 2 square feet (0.2 m²) in area.
- (g) One off-street parking space shall be required for every 150 square feet (13.9 m²) of floor space devoted to the Home Business.

14A.8 OTHER REQUIREMENT: COMMERCIAL PARKING

Within the CC Zone, parking shall be located at the side and/or in the rear of the building. Where parking is located in any required yard abutting a residential use, a wood fence of 5 feet (1.52 m) in height or a landscaped buffer, shall be constructed along all property boundaries abutting the residential use. The landscaped buffer may contain evergreen trees, earth berms, fences, or shrubs provided it screens the parking lot from the abutting residential property.

14A.9 OTHER REQUIREMENTS - STORAGE AND UTILITIES

Where uses are permitted as Commercial Uses in any CC Zone, the following requirements shall apply:

- (a) No storage or display of materials, goods, supplies, or equipment related to the operation of the business use shall be permitted outside of a building on the property;
- (b) HVAC equipment, refuse containers, electrical equipment excluding metres, propane

tanks, oil tanks and other similar equipment shall not face the street or shall be screened with a fence, berm or Landscaping that creates a visual barrier.

14A.10 OTHER REQUIREMENTS: LANDSCAPING

Where uses are permitted as Commercial Uses in any CC Zone, the following requirements shall apply:

- (a) A 15 foot (4.6 m) wide landscape strip shall be provided along all street lines, exclusive of buildings, driveways and walkways. The required landscape strip shall incorporate a minimum of one (1) tree (minimum of 60 mm calliper) and three (3) shrubs per 15 feet (4.6 m) of street lines. The required landscape strip, may be installed in the form of groupings.
- (b) In addition to clause (a), all landscaped areas shall include any one or a combination ground covers of grass, natural ground covers such as water features, washed or flat stone, decorative pavers, mulch, perennials, and annuals.
- (c) Notwithstanding clauses (a) and (b), existing trees and shrubs may be incorporated into the landscaped strip, and where possible may be calculated as part of the one (1) tree and three (3) shrubs per 15 foot (4.6 m) requirement.
- (d) Notwithstanding clauses (a) and (b), existing trees that are in excess of 150 mm in calliper, measured 150 mm above grade, shall be retained in the landscaped strip where possible and shall be calculated as part of the one (1) tree and three (3) shrubs per 15 foot (4.6 m) requirement.

14A.11 OTHER REQUIREMENTS: LIGHTING

Where uses are permitted as Commercial Uses in any CC Zone, all lighting shall be designed to meet the following requirements:

- (a) all lighting devices shall be designed to direct light to driveways, parking areas, loading area, building entrances and walkways and arranged to divert the light away from streets, adjacent lots and buildings;
- (b) have different purpose oriented lighting such as flush mount lighting for building accent, ground-oriented lighting along pathways, shall be provided; and
- (c) comprise full cut-off fixtures that are properly shielded to reduce the spillover of lighting onto adjacent properties.



April 12, 2019

DELIVERED VIA EMAIL: viponds@Halifax.CA

Mr. Shayne Vipond, MCI LPP

Planner III | Rural Policy & Applications
Current Planning | Planning & Development
Halifax Regional Municipality
PO Box 1749
Halifax, NS B3J 3A5

Dear Shayne:

Re: Case No. 22195 Site Specific Planning Amendment (SSPA) Application Submission on Behalf of LawDia Developments for Redevelopment of a Four-Parcel, 16-Unit Townhome Land Assembly Abutting/Near Lake Fletcher off McPherson Road, Fall River, HRM, Nova Scotia known as **'Steeple Lake Estates'**.

To follow up various discussions between Thea, you and I, please find enclosed the aforementioned SSPA application. I appreciate your work and advice to date as we always enjoy a collaborative approach in working with HRM Planning & Development Staff.

KWR Approvals Inc. (KWRA), as you are aware, has been retained by our client, LawDia Developments (Lawrence Tench, President), to review development options and approaches to achieve a higher/better use for his 2.27 acre (98,709.52 sq. ft.) four parcel land assembly abutting/near Lake Fletcher off McPherson Road. The land assembly includes three full parcels known as PID No.'s 40770323, 40762106 and 41026062 and the fourth is a 12,432.32 sq. ft. portion of the overall PID No. 00506196 also known as Lot 1 (21 McPherson Road). The remainder of this fourth parcel PID No. 00506196 (27,654.68 sq. ft.) would still have the existing 14-unit apartment building on-site. This adjacent apartment building is also owned by LawDia Developments (Lawrence Tench, President). The approach, as outlined further in the submission report, would be to consolidate these four parcels if the SSPA is approved into one larger lot to become **Steeple Lake Estates**.

In arriving to this SSPA application, the following is a brief summary of events to date in the process.

- ✓ March 8, 2018, KWRA submitted our standard Letter of Planning Opinion (LOP) to HRM outlining our general approach to the redevelopment of this land assembly.
- ✓ March 29, 2018, we received some initial feedback on the LOP from Jesse Morton, HRM Planner II.
- ✓ December 12, 2018, KWRA, on behalf of client, submitted Development Agreement Application for Steeple Lake Estates.
- ✓ February 20, 2019, Kevin Riles meets with Shayne Vipond and Thea Langille of HRM Planning & Development to review the Development Agreement Application.
- ✓ February 20, 2019, email from Shayne Vipond to Kevin Riles on the December 12, 2018, Application submission.
- ✓ February 21, 2019, received written letter from Tara Courvrette, Planning Controller, indicating \$2,600 receipt of application, applicable case number and outlining the 11 components of the submission.
- ✓ **April 12, 2019, SSPA electronic application forwarded to Shayne Vipond from KWRA.**

The February 20th, 2019 aforementioned meeting was summarized in your February 20th, 2019, email to me from in which you outlined the following concerns with the Development Agreement submission.

“In accordance with our discussion regarding the Steeple Lake Estates proposal on Fletcher Lake HRM staff advise that your townhouse proposal and your earlier submission (central commercial court yard/townhouse configuration) is not supported by the existing MPS policies that govern the proposed site. Please be advised that it is staff’s position that all of the criteria within RL-4 and RL-23 must be met in order for a development to proceed on the lands. Accordingly, any application would have to include all of the lands within Block B of Schedule H in order to proceed by way of the Development Agreement process.

Alternatively, you may wish to request an MPS amendment to consider changing some of the policies to better fit your development proposal. However should you wish to proceed by this route staff would advise that any planning process would likely include a review of the policies pertaining to all of Blocks A, B and C of Schedule H in the Schubie Lakes MPS. Further, any requests for a policy change would be publicly vetted with weight given to the community’s perspective given that these applicable MPS policies are relatively recent.”

KWRA reviewed the SSPA requirement in detail with our client and other members of our Professional Development Team (PDT). As further outlined in the original Development Agreement Application and in this SSPA submission, in our opinion, ***Steeple Lake Estates*** satisfied all 13 requirements of MPS policy RL-4 on Built Form, Site Impact Controls/Assessments, Site Development Criteria with the exceptions of Policy RL-4 (e) and (f). In addition, we believe the original Development Agreement Application was consistent with Policies RL-23 (a) and (b). ***This is a total of 13 of the 15 specific MPS policy evaluation criteria within RL-4 & RL-23 we are of the opinion Steeple Lake Estates was consistent with.***

In reviewing the impacts of having a significant commercial component (16 separate ground floor businesses) within the proposed Steeple Lake Estates land assembly, we have reached the conclusion this is not in the best interest of protecting the environment/natural habitat, optimum/practical land use planning and safe traffic circulation on a local residential road. The increased commercial traffic, noise, pollution at this well-established mixed use residential neighbourhood and so far from Fall River Road which is already established as a mixed use residential & commercial node, respectfully is not ideal planning from a compatibility, environmental, transportation or practical business/market perspective. This is an existing residential mixed use area surrounded by natural beauty. A well designed townhouse development that respects the environment and rural nature of this area is the best fit. Transitioning from the adjacent taller 14 unit apartment building to a 16 unit townhouse development that embraces a courtyard campus style approach both respects and fits the land assembly which Steeple Lake Estates would be nestled within and the surrounding residential neighbours including the adjacent taller 14 unit apartment building.

RL-4 (e) and (f), which were the focus of a significant amount of our meeting, outline ‘that the first floor of all buildings are retained for commercial or institutional uses’ and ‘that an internal courtyard system of interconnected trails and pathways, outdoor cafes and outdoor shopping areas is planned for the rear yards of the properties adjacent to the Shubenacadie Canal’.

HRM Planning & Development Department has taken the position, as highlighted above in blue as per the February 20th, 2019, email, that all of the criteria within RL-4 and RL-23 must be met. Therefore, unless all criteria within these two policies can be met, a Site Specific Planning Amendment (SSPA) must be applied to and rationale provided as to why this should be considered. ***Subsequently upon further review, we contend that MPS Policy RL-4 (e) and (f) is not practical, nor feasible and is in conflict with other criteria within RL-4 & RL-23 from a market, economic, land use, environment, planning, site construction perspective.*** This SSPA provides the rationale for this application as per the five criteria noted in page three of the HRM SSPA application form.

In working with LawDia Developments (Lawrence Tench) and his Professional Development Team (PDT), our studies and design analysis have created a neighbourhood campus style development approach of 16 townhouses to fit within the overall community. We have identified in Fall River and surrounding communities a **strong market need** for high-quality housing that is not single family home or apartment building in nature. Fall River's current housing stock is predominately single family home and there is a significant shortage of townhomes, which appeal to young professionals, retirees looking to downsize and empty nesters.

Levis St. Design Group Ltd (Andrew Holley) and RRG Construction/Management (Shane Kirk) have been taking the lead on the design and project management side of this project. Servant Dunbrack is the civil engineer.

The Design Package by Levis Group includes:

- Front elevation and main floor plan of the bungalow style townhomes
- Preliminary site concept plan (overlaid on spot elevations) of the sixteen (16) townhome units including Community/Office/Local Business Retail Centre location in the interior of **Steeple Lake Estates**.

Previously, the application and advertising fee of \$2,600 was submitted, cashed and receipt issued. The following is the rationale for the Site Specific Planning Amendment (SSPA). All accompanying background information, studies and related technical reports are part of the overall submission package.

Rationale for Site Specific Planning Amendment (SSPA)

The following outlines the rationale for the SSPA application to create a 16 townhouse development known as **Steeple Lake Estates** on a four parcel land assembly in the Lake Fletcher community off McPherson Road, HRM.

THE PARTICULARS OF THE AMENDMENT BEING REQUESTED

Attached is the full application, background with accompanying technical studies as required. The original December 12, 2018, Development Agreement Application was submitted after nine months preparation following a March 8, 2018, Letter of Planning Opinion (LOP) submission to HRM Planning & Development. This Development Agreement submission was for a high-quality, tasteful, rural style designed 16 townhouse development on a 2.27 acre, four-parcel land assembly known as **Steeple Lake Estates**. This was the culmination of our client, LawDia Development's desire to meet a community need for high-quality, reasonably-priced, non-single family home development in the area. The accompanying application contains the architectural design package and engineered site plan which highlights the architecture, layout and style of **Steeple Lake Estate**.

HOW THE REQUESTED AMENDMENT ALIGNS WITH THE REGIONAL MUNICIPAL PLANNING STRATEGY

The HRM Regional Municipal Planning Strategy (Regional Plan) designates the Fall River area as a Rural Commuter Centre. This Centre, now termed the River-Lakes Secondary Planning Strategy (RLSPS), is a place where the Regional Plan intends to support the growth of low-density development in the future through the provision of express bus transit and central water.

Lake Fletcher and the site of this proposed development is within this RLSPS. The vision of the River-Lakes Secondary Planning Strategy is to **maintain the rural village atmosphere and rural character in the area**. At the core of the vision is the desire to create an attractive centre to service the surrounding neighbourhoods and to **preserve the rural character** of the Plan area. We believe **Steeple Lake Estates** as a strictly townhouse development **without commercial far better** maintains, respects, preserves and enhances the rural village atmosphere and character of this neighbourhood, than having 16 businesses located on the ground floor of residential dwellings accessing a local residential street known as McPherson Road.

Steeple Lake Estates aligns with the HRM Regional MPS by:

- ✓ Respecting Riparian Buffers (Section 2.3.3, page 34) including the watercourse setback buffer of Lake Fletcher.
- ✓ While respecting rural character of the Lake Fletcher community, provides for a range of social and economic needs and promote aging in place (Chapter 3 Settlement and Housing, Section 4 (g) and 5.)
- ✓ The design respects future characteristics for Growth Centres in the Rural Commuter Designation (Table 3-2, page 47) as it relates to Rural District Growth Centre such as River-Lakes/Fall River. A 16-unit townhouse development on 2.27 acres is medium density residential.

A DETAILED ANALYSIS OF THE CHANGES IN CIRCUMSTANCES DEMONSTRATING WHY THE EXISTING SECONDARY MUNICIPAL PLANNING STRATEGY POLICY NO LONGER APPROPRIATE, SUCH AS SOCIETAL CHANGES, CHANGING DEVELOPMENT PATTERNS AND BROADER REGION; AND

The River-Lakes Secondary Planning Strategy Vision as outlined on pages 98 & 99 of the MPS first and foremost is to maintain the rural village atmosphere and rural character of the area by fostering five criteria. **Steeple Lakes Estates** architectural design, height, materials used and courtyard layout was purposeful in ensuring a rural village 'feel' and atmosphere.

Over the past several years there have been several development applications within the River-Lakes Secondary Planning Strategy (RLSPS) area for non-single-family housing developments, whether semi-detached, duplex, multiple-residential family buildings and townhouses. These are examples of market, demographic and growing community changes regarding the need for alternative housing in the community other than single family homes. For information, KWRA is currently working with HRM on two other townhouse developments in the Fall River Community which intend to meet this aforementioned societal community need for this type of housing.

As CMHC, CBRE and Re/MAX annual housing reports indicate, this RLSPS planned area, similar to many bedroom communities in HRM, is getting older and as children move out, parents wishing to downsize but remain in the community are looking for alternative smaller alternative housing to purchase or rent. With over 90% of the housing type in the area single family dwellings, there is a lack of alternative housing stock such as townhouses to meet the evolving needs or residents in the community. Whether empty nesters, young professional couples with fewer children or former residents wishing to retire back in this community they grew up in, townhouse development such as **Steeple Lake Estates** offers an attractive, smaller and simpler form of housing type to meet their evolving and changing needs.

As the owner of the adjacent 14-unit apartment building, LawDia since purchasing has completely refurbished and renovated this multiple-family residences (Appendix K). It is well documented Fall River and surrounding communities have one of the highest percentage of single family to other residential housing types in the HRM Municipality. As the demographics in the community change, people get older they begin to wish to often downsize and look to other housing types such as townhouses and multiple-family residences. Having sixteen townhouses on two plus acre land assembly next to the apartment building is good urban planning and highest/best use. It is important to note the original December 12th, 2018, Development Agreement Application in **built form, architecture, use, most of site development criteria and site impact controls /assessment** met the intent of MPS evaluation criteria policy. This application in design, use, scale and density worked within the established policy framework of MPS Policies RL-4 and RL-23. For example, the architectural style/massing/siting/façade design/elevations **was all in keeping with a rural village theme**. The watercourse buffers for Lake Fletcher as well as a minimum of 25% of the entire development retaining natural vegetation **were satisfied**. The siting of the proposed **Steeple Lake Estates** buildings and lighting is designed to significantly mitigate light pollution.

The parking, as per policy, is not provided in the front yard but each residential unit has an enclosed garage and all visitor parking is at the side or rear of the development. The archaeological and phosphorous studies **found no concerns**. Additionally, as per MPS policy a minimum of 50% of the land assembly shall not be disturbed.

This is not an example of a proposed SSPA that is looking to turn an existing Secondary MPS such as RLSPS 'on its head', but requests the practical implementation of a high quality residential development that does not include significant commercial component that is simply not the right compatibility and environmental fit for this location, residential neighbourhood and street.

As per RLSPS policy, we understand the approach to creating the Canal Court sub area and Block A, B and C within it. **Steeple Lake Estates** and the four-parcel land assembly it encompasses are found in Block B and are highlighted in Appendix L. As outlined on page 102 of the RLSPS, the Canal Court goal is to create a pedestrian-orientated area in this part of the Centre with small-scale buildings with an internal courtyard. **Steeple Lake Estates** design respects this.

In reviewing Block B we are of the opinion this four-parcel land assembly proposed for **Steeple Lake Estates** and sister (neighbouring) 14-unit apartment building at PID No. 00506196 is not conducive to commercial development and is ideally a residential node within this overall Block B. These four parcels both in overall size, location near or adjacent to a cove at Lake Fletcher, abutting a residential street and distance from Fall River Road where mixed use commercial/residential already exists are different than other parcels within Block B.

Having 16 small businesses on the ground floor of 16 townhouses with the traffic, noise, pollution at this location so far from Fall River Road is, respectfully, not ideal planning from a compatibility, environmental or practical business perspective. We agree with other aspects of the Policy set with the exception of RL-4 (e) and (f). Additional commercial traffic generated at this location would create a non-village style intensity and is not safe transportation planning (our traffic consultant reviewed this) for McPherson Road that was never designed for this level of commercial. Outdoor cafes and shopping areas in parts of Block A, B and C closer to or fronting Fall River Road where there is significantly more pedestrian and vehicular traffic makes much more sense. These are areas where having more a combination of commercial ground floor uses, cafés, shopping areas with residential could work. Commercial uses and/or businesses at our subject property is so far off main street even if it was transportation safe and practical, from a commerce perspective there is simply not the visibility or traffic to sustain these retail type of commercial operations. These are best suited to be near Fall River Road or Highway No.2.

We respectfully contend that this four-parcel portion of Block B within Canal Court is already operating as a medium residential node (existing 14-unit apartment building) and would be better suited for a high quality rural residentially designed townhouse development with any commercial or institutional uses.

ASSESSMENT OF THE IMPACT OF THE REQUESTED AMENDMENT ON THE LOCAL COMMUNITY AND BROADER REGION; AND

It is clear from the Regional Plan and the River-Lakes Secondary Planning Strategy that the overall goal is to create rural style development that enhances the rural atmosphere. **Steeple Lake Estates** does this as a high quality, well designed rural themed townhouse development. The proposed development was designed to respect the architectural and other siting policies of the MPS. The only difference is we are suggesting ground floor commercial with courtyard cafés/shopping areas is not appropriate here. There are many more properties in Block A, B and C near Fall River Road and Highway No.2 that have the visibility, transportation infrastructure to support a mixed-use residential development with combination of residential, commercial and institutional uses.

We see Steeple Lakes Estates having no negative impact on the local community and broader region. We are not asking for increased density, height or deviation from architecture/design standards. Additionally, **Steeple Lake Estates** is able to meet minimum vegetation retention and non-disturbance requirements. All phosphorous, stormwater, transportation, watercourse setback and archaeological studies had positive conclusions.

THE URGENCY OF THE REQUEST AND WHY ITS CONSIDERATION CANNOT WAIT THE NEXT HRM INITIATED COMPREHENSIVE PLANNING REVIEW FOR THE AREA.

We respect the River-Lakes Secondary Planning Strategy is relatively new. However, new secondary plans by nature are not static documents but meant to create new development and growth within a community subject to the policies/guidelines of the wishes of residents and sanctioned through an approval of Regional Council and ratified by the Province. However, it is quite common that new Secondary Planning documents result in new planning applications (i.e. our December 12, 2018 Development Agreement) that may highlight the need for legitimate amendments. It is not until considerable time, effort and money is spent by developers, residents and other applicants through development agreement and other discretionary planning processes that MPS evaluation policies are vetted and tested in practical terms. The ultimate question is whether the inclusion of practical applications is deserving of an SSPA to a relatively new Secondary Plan. Respectfully, we contend that Steeple Lake Estates with only well designed rural theme architecture and no commercial would strengthen the intent and spirit behind the River-Lakes Secondary Planning Strategy and not compromise it. It would provide a 16 town home development next to an existing 14 unit apartment building in a residential neighbourhood off a residential street.

In some cases the application for an SSPA is a complete departure from the spirit of the policy intent or it exposes a legitimate issue deserving of being vetted by HRM and the Community. Historically, once a Secondary Planning Strategy is implemented, it can take 10 years before it is revisited. Our client has 2.27 acres of undeveloped raw land in Block B – Canal Court and requests to provide townhouse homes in the marketplace to meet an established housing need today. The ground floor commercial and café/shopping courtyard requirement of the MPS is not technically, functionally, economically, financially and marketability wise feasible. Therefore, under the current MPS, my client does not have a realistic development approach to pursue making his property practically undevelopable.

Exempting these four parcels in Block B from RL-4 (e) and (f) would provide him a fair and reasonable means to have his application considered.

We look forward to your response and if you have any questions, please do not hesitate to contact me. KWRA and our client thank-you in advance for your review into this matter.

Warmest Regards,

ORIGINAL SIGNED BY

Kevin W. Riles
President and CEO

cc: Client & PDT