



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

**Item No. 5.1.1**  
**Halifax and West Community Council**  
**February 18, 2020 Notice of Motion**  
**July 8, 2020 Public Hearing**

**TO:** Chair and Members of the Halifax and West Community Council

Original Signed

**SUBMITTED BY:**

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Kelly Denty, Director of Planning and Development

**DATE:** February 5, 2020

**SUBJECT:** **Case 22462 – Development Agreement for the expansion of an existing day care at 6583 Quinpool Road, Halifax**

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**ORIGIN**

Application by Michelle Cleary and Shawn Cleary

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A, to allow an expansion from 14 to 20 children for the child care centre located at 6853 Quinpool Road and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the agreement be signed by the property owner within 200 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**

Michelle and Shawn Cleary are requesting to enter into a development agreement for the lands at 6583 Quinpool Road, Halifax and PID 00612341. The applicant operates the Maple Tree Montessori, which has been in operation at this location since September 2012, with spaces for 14 children between the ages of 3 to 5 years.

<b>Subject Site</b>	6583 Quinpool Road and PID 00612341
<b>Location</b>	Intersection of Quinpool Road and Poplar Street, Halifax
<b>Regional Plan Designation</b>	Urban Settlement (US)
<b>Community Plan Designation (Map 1)</b>	Residential (RES)
<b>Zoning (Map 2)</b>	Single Family Residential Zone (R-1)
<b>Size of Site</b>	6583 Quinpool – 481m <sup>2</sup> ; PID 00612341 – 248 m <sup>2</sup>
<b>Street Frontage</b>	16m on Quinpool, 30m along Poplar; 16m along Poplar St.
<b>Current Land Use(s)</b>	Single Family Residential use with a Secondary Suite, and a Child care centre for 14 children
<b>Surrounding Use(s)</b>	Commercial, Low Density Residential

### **Proposal Details**

The applicant proposes to enter into a development agreement to expand an existing child care centre at 6583 Quinpool Road, Halifax. The request is enabled by the Halifax Municipal Planning Strategy (MPS) under Policy 3.20. The expansion would increase the number of children in care from 14 to 20.

Child care is provided on the main floor of the dwelling and the outdoor play area is in the rear yard which is a separate, abutting property. The applicants are the primary residents of the dwelling with living areas on the second and third floor. The building also contains a non-conforming second dwelling unit in the basement. The apartment suite existed prior to the current owners purchasing the building. No changes to the exterior of the building have been proposed in association with this development application.

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

Under the Halifax Peninsula MPS, the subject site is designated Residential Environments and zoned R-1 (Single Family Zone). The R-1 Zone allows a variety of uses including detached one-family dwellings, offices of professionals, home occupations, and child care centres for not more than 14 children in conjunction with a dwelling.

Halifax MPS Implementation Policy 3.20 enables child care centres which would not meet the applicable land use by-law regulations to be considered by development agreement as follows:

*In order to encourage the establishment of child care centres in a variety of locations to meet the varied needs of families, and to allow the consideration of the specific circumstances of an individual location, a child care centre which does not meet applicable land use bylaw regulations may be permitted by development agreement.*

Implementation Policy 3.20.1 provides the criteria which Council needs to consider when reviewing applications for development agreements for child care centres.

## **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 October 28, 2019. A mailout was provided to 65 residents surrounding the site and the public information meeting was held in the Maritime Hall at the Halifax Forum at 7:00pm. One person attended the meeting. Attachment C contains a copy of a summary from the meeting. The public comments received include the following topics:

- Signage on residential properties, size and standards; and
- Screening from the outdoor play area for neighbouring properties.

A public hearing must be held by Halifax and 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 proposal will potentially impact local residents and property owners as well as parents in the community requiring third party child care.

## **DISCUSSION**

### **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:

- A maximum of 20 children under care;
- Permitted uses, building and site requirements;
- Architectural Requirements;
- Parking and access;
- Options for non-substantive amendments;
- Hours of operation set for 6:30am to 7:00pm; and
- Lighting and signs.

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the Halifax MPS. Attachment B provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

Implementation Policy 3.20 encourages the establishment of childcare centres in a variety of locations to meet the varied needs of families and states that childcare centres which would not meet LUB regulations may be considered by development agreement.

The attached proposed development agreement will permit expanded child care centre uses, subject to the controls identified above. Implementation Policy 3.20.1 lists criteria for consideration when evaluating development agreements for childcare centres. The following have been identified for detailed discussion.

### **Child Care Centre and External Appearance**

The R-1 Zone allows child care centre uses as of right provided the number of children does not exceed 14 and the building is in use as a dwelling. The proposed development agreement would allow 20 children within the facility along with an associated dwelling. As per Policy 3.20.1(a) the child care centre does not propose to change the residential form of the existing dwelling. The building is large enough to contain both the existing two dwelling units as well as the expanded child care centre. The building will maintain its residential appearance and the daycare will be accommodated via internal conversion. The development agreement does not permit changes to the exterior of the building that would be inconsistent with a residential building. Signage for the daycare would be permitted in accordance with the signage requirements of the R-1 Zone.

### **Traffic and Parking**

Policies 3.20.1(c) and 3.20.1(e) speak to parking and vehicular access to the site. A Traffic Impact Statement (TIS) has been submitted in support of the proposed expansion. The TIS has been reviewed by Engineering staff and the conclusions deemed acceptable. Staff advise that the existing driveway and parking will be adequate for the proposed use and any changes to the street access to the building would be required to meet the Streets By-law (S-300). The current drive way and garage can support up to four

vehicles, enough for all anticipated staff. During the periods where drop off and pickup will occur, one space may be available through onsite parking, the east side of Poplar Street has unrestricted daytime parking and 15-minute parking between 8:00 am and 5:00 pm along the west side. The conclusion from the TIS is that vehicle trips generated by the facility are not expected to have a significant impact on local streets or intersections.

### **Concentration of Daycares**

Implementation Policy 3.20.1(g) speaks to preventing a “concentration of child care centres within a particular neighbourhood.” When the locations of registered day cares are overlaid on a map of the Halifax Peninsula there is no visible concentration of day care facilities in this community. The policy directs Council to consider the siting any new child care facilities to avoid a “concentration within a particular neighbourhood.” There is currently one other licensed daycare within a 500 m radius around the site. It is in a residential building approximately 400 m away at 2130 Armcrescent West Ave., has a maximum enrollment of 18 children and has been in operation since 1979.

Staff advise that the daycares in existence in the surrounding community do not constitute a concentration of daycares in this neighbourhood.

### **Provincial Regulation**

Daycares over 6 children are subject to the requirements of the *Day Care Act* and the corresponding *Day Care Regulations* which outline the regulations for running a licensed daycare. *The Day Care Regulations* provide regulation for the following, amongst other items:

- Staff to children ratios;
- Creation of a daily program;
- Inspections;
- Building and space requirements; and
- Nutrition standards.

### **Halifax Planning Advisory Committee**

On November 5, 2019, the Halifax Planning Advisory Committee (PAC) recommended that the application be approved. A report from the PAC to Community Council will be provided under separate cover.

### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The exterior of the building is not expecting to change, the primary use will remain residential, and the number of required employees is not increasing. Staff parking is expected to be facilitated on the property and is not expected to impede traffic. Therefore, staff recommend that the Halifax and West Community Council approve 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 2019-2020 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. Halifax and 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. Halifax and 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**

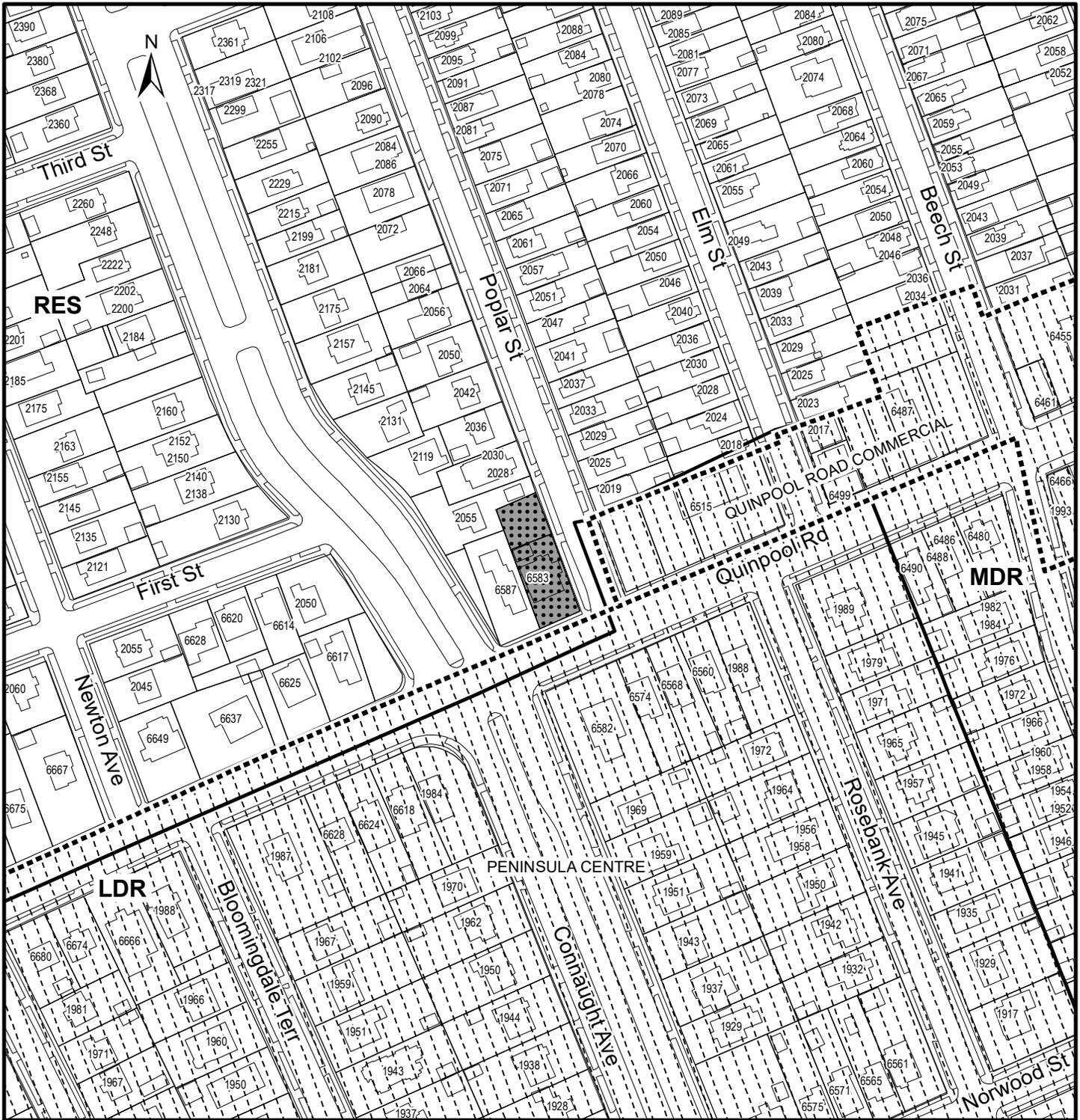
Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Development Agreement
Attachment B:	Review of Relevant Policies from the Halifax MPS
Attachment C:	Public Information Meeting Summary

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Cameron Robertson, Planner II, 902.490.7175

Report Approved by: Steve Higgins, Manager Current Planning, 902.490.4382



**Map 1 - Generalized Future Land Use**

6583 Quinpool Road,  
Halifax



Subject Property

**Designation**

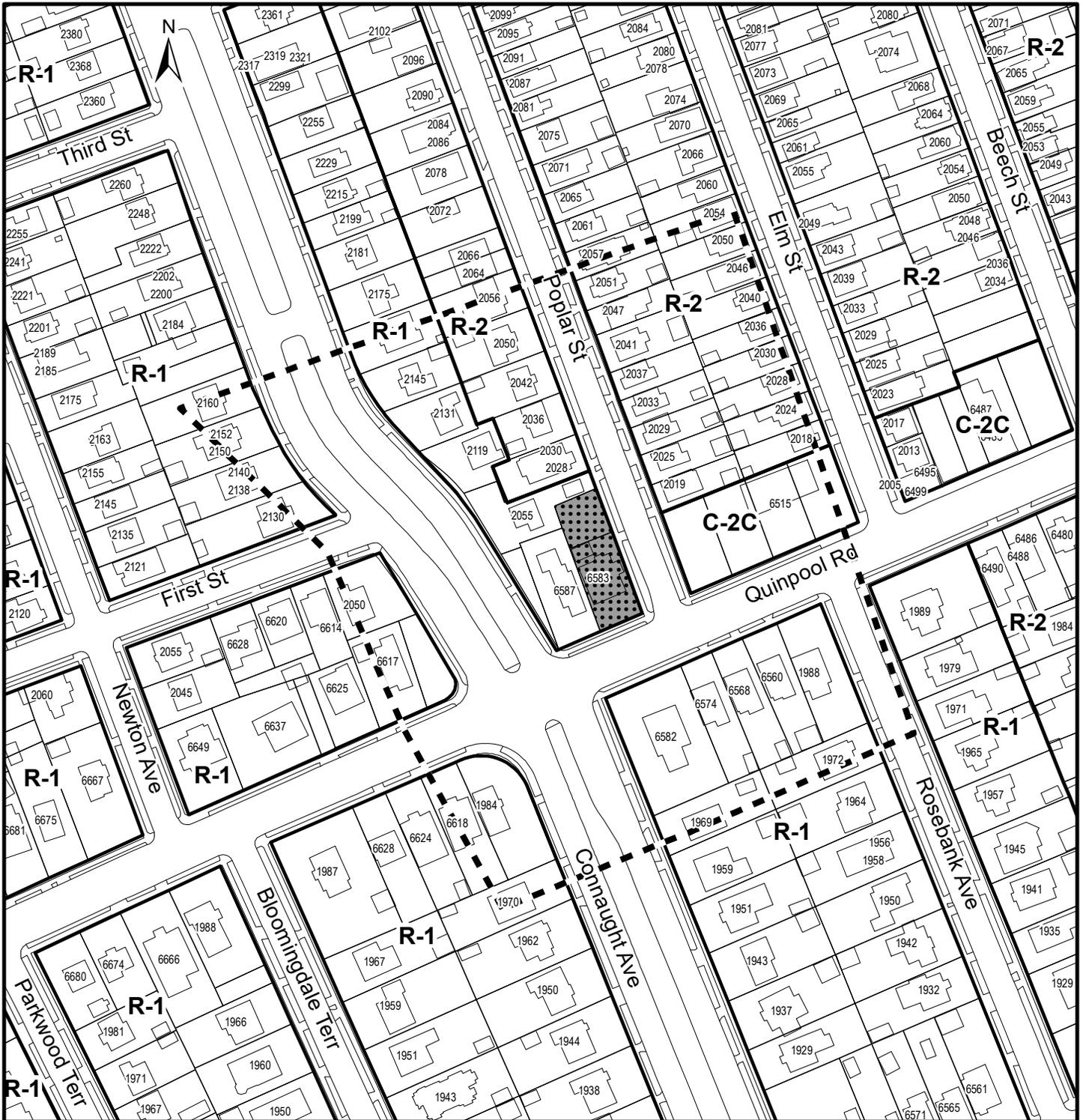


Halifax  
Plan Area,  
Regional Centre  
Plan Area

HFPC	LDR	Low Density Residential
	MDR	Medium Density Residential
HFX	RES	Residential Environments

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

6583 Quinpool Road  
Halifax

# HALIFAX

 Subject Properties

### Zone



 Area of Notification

C-2C Minor Commercial - Quinpool Road  
R-1 Single Family Dwelling  
R-2 General Residential

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

Halifax Peninsula  
Land Use By-Law Area

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

**ATTACHMENT A: PROPOSED DEVELOPMENT AGREEMENT**

THIS AGREEMENT made this      day of **[Insert Month]**, 2019,

BETWEEN:

**MICHELLE CLEARY AND SHAWN CLEARY**

an individual, in the Halifax Regional Municipality [**or other applicable County**], in the Province of Nova Scotia [**or other Province**.]  
(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 6583 Quinpool Road, Halifax and PID 00612341 and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** the Developer has requested that the Municipality enter into a Development Agreement to allow for a day care facility on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 3.20 and 3.20.1 of the Halifax Municipal Planning Strategy and Section 99(10) of the applicable Land Use Bylaw;

**AND WHEREAS** the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 22462;

**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**

- 1.1.1 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**

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the applicable Land Use Bylaw and the Regional Subdivision By-law, as may be amended from time to time.
- 1.2.2 Variances to the requirements of the Land Use Bylaw for Halifax Peninsula shall be permitted in accordance with the *Halifax Regional Municipality Charter*.

### **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**

- 1.5.1 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**

- 1.6.1 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**

- 2.1.1 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. The following words used in this Agreement shall be defined as follows:

a) "Existing Building" means building in existence as of the effective date of this Agreement.

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

### **3.1 Schedules**

- 3.1.1 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 22462:

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan

### **3.2 Requirements Prior to Approval**

- 3.2.1 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

### **3.3 General Description of Land Use**

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

- (a) a day care facility for not more than 20 children occupying the first floor of the existing building.
- (b) a residential dwelling occupying the second and third floors of the existing building;
- (c) a second dwelling unit contained within the basement of the building; and
- (d) any uses permitted within the existing zone applied to the Lands subject to the provisions contained within the applicable Land Use Bylaw, as amended from time to time.

- 3.3.2 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.

### **3.4 Architectural**

- 3.4.1 The existing building shall retain its residential character as a detached one-family dwelling subject to the R-1 (Single Family Zone) Zone as specified within the applicable Land Use Bylaw.
- 3.4.2 Alterations to the exterior of the building shall not be such that the building no longer appears to be residential in nature.
- 3.4.3 Neither 3.4.1 nor 3.4.2 shall prevent building or property alterations to improve accessibility or create barrier free access.

### **3.5 Hours of Operation**

- 3.5.1 The child care centre may operate Monday to Friday between the hours of 6:30 a.m. to 7:00 p.m.
- 3.5.2 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

### **3.6 Parking, Circulation and Access**

- 3.6.1 The parking area shall be hard surfaced and generally sited as shown on Schedule B.
- 3.6.2 The parking area shall provide a minimum of two independently accessible parking spaces.
- 3.6.5 The parking spaces shall be of a size compliant with the applicable Land Use Bylaw.
- 3.6.6 No designated parking space shall be occupied by outdoor play area.
- 3.6.7 Clear and unobstructed passage shall be maintained between the day care facility and play area during hours of operation and shall be located as generally shown on Schedule B.

### **3.7 Outdoor Lighting**

- 3.7.1 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.

### **3.8 Maintenance**

- 3.8.1 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.
- 3.8.2 All disturbed areas of the Lands shall be reinstated to original condition or better.

### **3.9 Signs**

- 3.9.1 The sign requirements shall be accordance with the R-1 (Single Family) zone of the applicable Land Use Bylaw as amended from time to time.

### **3.10 Screening**

- 3.10.1 A 1.5 metre opaque fence, or dense vegetative buffering, shall be located along the east section of the backyard to provide a buffer for the rear yard of a property located at 2055 Connaught Avenue.

- 3.10.2 The outdoor play area shall be screened or fenced, in the opinion of the Development Officer, in a way which provides adequate visual obstruction between the outdoor play area and abutting properties outdoor amenity space.
- 3.10.3 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing, masonry walls, or suitable landscaping.

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

### **4.1 General Provisions**

- 4.1.1 All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

### **4.2 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.

## **PART 5: AMENDMENTS**

### **5.1 Non-Substantive Amendments**

- 5.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:
- (a) The granting of an extension to the date of Commencement of Development as identified in Section 6.3.1 of this Agreement; and
  - (b) Changes to the signage requirements as outlined in section 3.9.

### **5.2 Substantive Amendments**

- 5.2.1 Amendments to any matters not identified under Section 5.1.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

## **PART 6: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **6.1 Registration**

- 6.1.1 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.

### **6.2 Subsequent Owners**

- 6.2.1 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.
- 6.2.2 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).

### **6.3 Commencement of Development**

- 6.3.1 In the event that development on the Lands has not commenced within 2 years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the applicable Land Use Bylaw.
- 6.3.2 For the purpose of this section, completion of development shall mean successful application for an Occupancy Permit.
- 6.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 5.1.1.

### **6.4 Completion of Development**

- 6.4.1 After five years from the date of registration of this Agreement with the Registry of Deeds or Land Registry 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;
  - (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 Halifax Peninsula Land Use By-law as may be amended from time to time.

### **6.5 Discharge of Agreement**

- 6.5.1 If the Developer fails to complete the development, or phases of this development, after 2 years from the date of registration of this Agreement at the 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;
  - (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 Halifax Peninsula, as may be amended from time to time.

## **PART 7: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **7.1 Enforcement**

- 7.1.1 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.

## 7.2 Failure to Comply

7.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 120 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 defence 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:

**Michelle Cleary and Shawn Cleary**

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
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

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, the subscriber personally came and appeared \_\_\_\_\_ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that \_\_\_\_\_, \_\_\_\_\_ of the parties thereto, signed, sealed and delivered the same in his/her presence.

\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, the subscriber personally came and appeared \_\_\_\_\_ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Sherryll Murphy, Acting Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

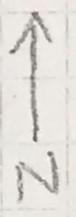
\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

Schedule B: Site Plan

PID 00612341

51'

6583 Quinpool  
Shawn & Michelle  
Clean



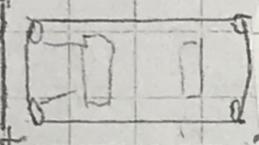
50'

Backyard

fence  
around  
perimeter

PID 00013276

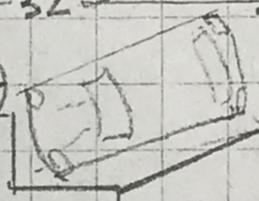
Garage



Driveway  
(concrete  
& asphalt)

32'

STAIRS



17'6"

House

6'6"

Poplar St.

100'

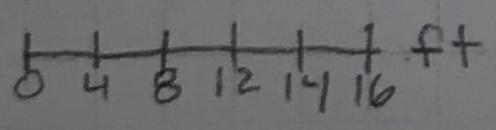
4'6"

Sidewalk

37'6"

Sidewalk

scale



Quinpool Rd.

# Attachment B: Review of Relevant Policies from the Halifax MPS

## SECTION II CITY-WIDE OBJECTIVES AND POLICIES

Part 2: Residential Environments	
Policy	Staff Comment
<p><i>Policy 2.1</i> Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland and should be related to the adequacy of existing or presently budgeted services.</p>	<p>The proposal is located on Peninsula Halifax. The Peninsula is anticipated to have adequate services and servicing for the scale of the proposal. The addition of several more spaces for children in care is not anticipated to impact existing or budgeted services. Halifax Water had no comment.</p>
<p><i>Policy 2.1.1</i> On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhoods; and the City shall develop the means to do this through the detailed area planning process.</p>	<p>N/A</p>
<p><i>Policy 2.2</i> The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</p>	<p>At this location is an existing 14 seat child daycare facility, a use permitted in the R-1 Zone. This facility has existed since September 2012, providing care for children between 3 and 5 years of age. The applicant has specified that the hours of operation will be between 8:30am and 5:30pm.</p> <p>The application for a development agreement is to allow the addition of 6 spaces to the facility. As this is an expansion to an existing facility there is no change in use, rather a change to the intensity. The increase in intensity from the existing day care facility is from 14 to 20 children, a total of 6 spaces.</p> <p>The applicant stated that many of the children enrolled at the daycare are within walking distance to the preschool. Registered daycares in established neighbourhoods fulfill a need for daytime child care within communities.</p>

<p><i>Policy 2.4</i></p> <p><i>Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.</i></p>	<p>The applicant has stated they do not intend to make any modifications to the exterior of the dwelling unit or the outdoor space. The dwelling will remain in substantially the same configuration as it currently exists, notwithstanding any changes the owner is legally permitted to make or to provide increased accessibility to the dwelling.</p> <p>Controls will be placed in the DA to ensure that the dwelling will remain compatible with the surrounding neighbourhoods.</p>
<p><i>Policy 2.4.1</i></p> <p><i>Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>Policy 3.1 – Repealed Policy 3.2 – N/A</p> <p>Not applicable to this application.</p>
<p><i>Policy 2.4.2</i></p> <p><i>In residential neighbourhoods alternative specialized housing such as special care homes; commercial uses such as daycare centres and home occupations; municipal recreation facilities such as parks; and community facilities such as churches shall be permitted. Regulations may be established in the land use by-law to control the intensity of such uses to ensure compatibility to surrounding residential neighbourhoods.</i></p>	<p>The dwelling is located within a residential neighbourhood and contains a daycare as an existing commercial use/home occupation. This is permitted in the R-1 Zone on the Halifax peninsula and is permitted up to 14 spaces for children. This is the maximum number of spaces allowed through controls in the land use by-law.</p> <p>As per policy 3.20, the expansion of the facility can be considered through a development agreement process.</p>

<p><i>Policy 2.4.2.1</i></p> <p><i>Pursuant to 2.4.2 the land use by-law may regulate the number, size, height, illumination and location of signs.</i></p>	<p>The applicant has not stated if there are signs associated with the existing daycare.</p> <p>The use would be required to comply with the land use by-law Section 34 of the R-1 Zone. This section permits a sign not exceeding two square feet in size for a daycare facility in the R-1 zone. Controls will be placed within the DA referencing signage.</p>
<p><i>Policy 2.6</i></p> <p><i>The development of vacant land, or of land no longer used for industrial or institutional purposes within existing residential neighbourhoods shall be at a scale and for uses compatible with these neighbourhoods, in accordance with this Plan and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>This land is not vacant, not used for industrial or institutional purposes. No changes are anticipated to the scale and uses of the building at this time. The current uses, daycare and dwelling, is permitted through the land use by-law. The increase from 14 to 20 children is anticipated to remain compatible with the neighbourhood.</p> <p>Policy 3.1 – Repealed Policy 3.2 – N/A</p>
<p><i>Policy 2.7</i></p> <p><i>The City should permit the redevelopment of portions of existing neighbourhoods only at a scale compatible with those neighbourhoods. The City should attempt to preclude massive redevelopment of neighbourhood housing stock and dislocations of residents by encouraging infill housing and rehabilitation.</i></p> <p><i>The City should prevent large and socially unjustifiable neighbourhood dislocations and should ensure change processes that are manageable and acceptable to the residents. The intent of this policy, including the manageability and acceptability of change processes, shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>This application is not to redevelop a portion of a neighbourhood. No redevelopment is to occur on this site through this application.</p> <p>Policy 3.1 – Repealed Policy 3.2 – N/A</p> <p>Not applicable to this application</p>

<p><i>Policy 2.8</i>  <i>The City shall foster the provision of housing for people with different income levels in all neighbourhoods, in ways which are compatible with these neighbourhoods. In so doing, the City will pay particular attention to those groups which have special needs (for example, those groups which require subsidized housing, senior citizens, and the handicapped).</i></p>	<p>Not applicable to this application.</p>
<p><i>Policy 2.9</i>  <i>The City shall actively seek to influence the policies and programs of other levels of government in order to implement the City's housing policies and priorities, and shall also actively seek taxation preference as one method of encouraging rehabilitation of existing housing stock.</i></p>	<p>Not applicable to this application.</p>
<p><i>Policy 2.10</i>  <i>For low and medium density residential uses, controls for landscaping, parking and driveways shall ensure that the front yard is primarily landscaped. The space devoted to a driveway and parking space shall be regulated to ensure that vehicles do not encroach on sidewalks.</i></p>	<p>Provisions for this will be placed into the development agreement to ensure the front yard is primarily landscaped. The driveway and parking area will be controlled through the development agreement.</p>
<p><i>Policy 2.11</i>  <i>For all residential uses the parking and storage of vehicles such as trailers, boats and mobile campers, shall be restricted to locations on the lot which create minimal visual impact from the street.</i></p>	<p>The storage and location of stored vehicles such as trailers, boats, and mobile campers will be controlled through the development agreement.</p>
<p><b>Part 9: Transportation</b></p>	
<p><b>Policy</b></p>	<p><b>Staff Comment</b></p>

<p><i>Policy 9.4</i>  <i>The transportation system within residential neighbourhoods should favour pedestrian movement and discourage vehicular through traffic in both new and existing neighbourhoods. A pedestrian system that utilizes neighbourhood streets and paths to link the residents with the commercial and school functions serving the area will be encouraged.</i></p>	<p>The applicant has submitted a TIS. This has been reviewed by engineering.</p> <p>The location of the site is within an established residential neighbourhood with sidewalks and public transportation options located adjacent to the property.</p>
<p><b>IMPLEMENTATION POLICIES</b></p>	
<p><b>Policy</b></p>	<p><b>Staff Comment</b></p>
<p><i>Policy 3.20</i>  <i>In order to encourage the establishment of child care centres in a variety of locations to meet the varied needs of families, and to allow the consideration of the specific circumstances of an individual location, a child care centre which does not meet applicable land use bylaw regulations may be permitted by development agreement.</i></p>	<p>The R-1 Zone allows daycare uses as of right in the zone, provided the number of children does not exceed 14 and the building is in use as a dwelling.</p> <p>Through Policy 99(10) of the Peninsula LUB, applications may be considered by Council to permit a day care facility which would not otherwise be permitted by the zoning requirements. This Policy in the LUB directs to implementations Policies 3.20 and 3.20.1 which direct consideration through development agreement.</p> <p>The applicant is requesting a development agreement for consideration of this application.</p>
<p><i>Policy 3.20.1</i>  <i>In considering approval of such development agreements, Council shall consider the following:</i></p>	
<p><i>a) for a child care centre located within a dwelling, alterations to the exterior of the building shall not be such that the building no longer appears to be residential in nature. This shall not prevent facilities for physically challenged children, or playground equipment to be erected on the property.</i></p>	<p>The applicant has stated there will be no alterations to the exterior of the building which would make the building to appear non-residential in nature. Notwithstanding any changes the applicant can make to the dwelling in the R-1 zone or for the accommodation of the physically challenged.</p>

<p><i>b) the hours of operation shall be such that adverse impacts of noise and traffic movements on adjacent residential uses are reduced.</i></p>	<p>The hours of operation will be managed through the development agreement. The applicant has stated that they currently operate between 8:30am and 5:30pm, Monday to Friday.</p>
<p><i>c) parking shall be required on the site of the child care centre to accommodate the employees of the centre. Parking areas should, where necessary, be visually buffered from any adjacent residential uses by the use of fences, screening and/or landscaping as appropriate.</i></p>	<p>The applicant has stated the daycare will require 3 employees for the number of children the expansion is requesting.</p> <p>The site plan shows the parking area can support 3 parking spaces and 1 additional space in the garage. The parking area is partially buffered from adjacent residential uses by the mass of the building, the garage, and the rear yard landscaping. Additional screening is likely not required.</p>
<p><i>d) site design features, including landscaping, outdoor play space, parking areas and driveways shall be designed, sized and located to provide for the needs of the users of the facility, as well as to address potential impacts on adjacent residential uses.</i></p>	<p>Around the perimeter of the outdoor play site is a 4' tall fence and some landscaping in the form of small shrubs and bushes. Generally, the outdoor location appears to be well screened from neighbouring properties.</p> <p>The applicant has stated the outdoor space has several fixed and portable experiential play equipment, including a sensory table, net and balls, and art easel.</p>
<p><i>e) vehicular access to and egress from the child care centre and pedestrian movement shall be accommodated in a manner which encourages safety</i></p>	<p>Vehicular access to the site is provided by a driveway with access onto Poplar Street. Pedestrians have access to the site via a walkway on Quinpool Road.</p>
<p><i>f) signs for the child care centre shall be of a size, design and placement on the lot which reduces impacts on adjacent residential uses.</i></p>	<p>The applicant has not specified if there is signage associated with the daycare, however it would be required to be to the allowable standard of the Halifax Peninsula Land Use Bylaw.</p>
<p><i>g) centres shall not be located so as to produce a concentration within a particular neighbourhood. In addition, only one centre with a licensed capacity of more than 14 children shall be permitted on any cul-de-sac</i></p>	<p>The continuation of this daycare is affect the existing not concentration within the neighbourhood. When the locations of the registered daycares, taken from the provincial registry online, are mapped, it shows that there is not a concentration of daycares in this neighbourhood at this time.</p>
<p><i>h) all other relevant policies of the municipal planning strategy with particular reference to the Residential Environments section.</i></p>	<p>See above regarding the Residential Environmental section.</p>

**HALIFAX REGIONAL MUNICIPALITY**  
**Public Information Meeting**  
**Case 22462**

*The following does not represent a verbatim record of the proceedings of this meeting.*

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**Monday, October 28, 2019**  
**7:00 p.m.**  
**Halifax Forum (Maritime Hall), Halifax**

**STAFF IN**

**ATTENDANCE:**

Cameron Robertson, Planner, HRM Planning and Development  
Jared Cavers, Planning Technician, HRM Planning and Development  
Cara McFarlane, Planning Controller, HRM Planning and Development

**ALSO IN**

**ATTENDANCE:**

Councillor Shawn Cleary, District 9, Applicant  
Michelle Cleary, Applicant

**PUBLIC IN**

**ATTENDANCE:**

Approximately

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The meeting commenced at approximately 7:10 p.m.

**1. Call to order, purpose of meeting – Cameron Robertson**

**C. Robertson** is the Planner and Facilitator for the application and introduced the applicants, Shawn (area Councillor) and Michelle Cleary, and HRM Staff members.

Case 22462 - Application by Shawn and Michelle Cleary requesting to enter into a development agreement on lands at 6583 Quinpool Road, Halifax to allow for the expansion of an existing day care from 14 to 20 children under care.

The purpose of the Public Information Meeting (PIM) is to:

- Identify the proposal site, highlight the proposal and explain the process;
- Give the Applicant an opportunity to present the proposal; and
- Receive public feedback and input regarding the proposal that will be used to prepare the staff report and go forward with this application.

No decisions are made at the PIM or have been made up to this point.

**2. Presentation of Proposal – Cameron Robertson**

**C. Robertson** gave a brief presentation of the proposal for 6583 Quinpool Road in Halifax, outlining the status of the application, the Applicant's request for a development agreement, site context of the subject land, the land designation [RES (Residential)] and enabling Planning Policies (2.4.2, 3.20, 3.20.1) within the Halifax and Municipal Planning Strategy (MPS) and the Zoning [R-1 (Single Family Residential) Zone] within the Halifax Peninsula Land Use By-law (LUB).

### 3. Questions and Comments

**Sameh Hassan, Quinpool Road** thought the application information sheet included a sign for the daycare along with the increase in the number of children for the daycare. **C. Robertson** mentioned that a sign is not part of the application but if the applicants chose to erect one, it would be permitted as-of-right and controlled by the LUB. **M. Cleary** chose not to put one up as the parameters would be quite small (maybe 2 sq.ft.).

### 4. Closing Comments

**C. Robertson** thanked the resident for coming and their comment.

### 5. Adjournment

The meeting adjourned at approximately 7:20 p.m.