



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 5.1.1
North West Community Council
February 13, 2023

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Executive Director of Planning and Development

DATE: January 12, 2023

SUBJECT: **Case 22097: Development Agreement for 96 Pockwock Road, Hammonds Plains**

ORIGIN

Application by property owners, Beth and Dennis Hiltz

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council:

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A, to allow an equestrian facility at 96 Pockwock 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 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Beth and Dennis Hiltz are applying to have an equestrian facility at 96 Pockwock Road in Hammonds Plains. The current zoning allows for agricultural uses, including the breeding and handling of animals. The purpose of this development agreement is to permit the commercial recreation aspects of an equestrian facility such as horse boarding, lessons, horse shows and educational clinics, which are not permitted as-of-right under the applicable zoning. Policy P-27 of the Beaver Bank, Hammonds Plains and Upper Sackville MPS enables the development of new commercial recreation uses by development agreement.

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|---|--|
| Subject Site | 96 Pockwock Road (PID 00423152), Hammonds Plains (subject to proposed Development Agreement) 94 Pockwock Road (PID 41416371), Hammonds Plains (access and continued use as a kennel under original Development Agreement) |
| Location | Southwest side of Pockwock Road, northwest of Hammonds Plains Road. |
| Regional Plan Designation | RC (Rural Commuter) |
| Community Plan Designation (Map 1) | MUB (Mixed Use B) |
| Zoning (Map 2) | MU-1 (Mixed Use 1) |
| Size of Site | 96 Pockwock Rd is 34,400 square metres (8.5 acres) 94 Pockwock Rd is 6164.6 square metres (1.5 acres) |
| Street Frontage | 96 Pockwock Rd has 0 metres (access is gained via registered easement over 94 Pockwock Rd, which has 89.157 metres) |
| Current Land Use(s) | 96 Pockwock Rd contains agricultural uses (keeping of horses) 94 Pockwock Rd contains commercial recreation uses (kennel use) |
| Surrounding Use(s) | Residential, commercial, institutional |

Proposal Details

This property is currently being used for the keeping of horses, as permitted by the MU-1 Zone of the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-Law (LUB). The applicant is proposing to allow commercial recreation uses to occur on the property in conjunction with the agricultural use. Specifically, the applicant has proposed the following commercial recreation uses as part of an equestrian facility:

- Horse boarding;
- Horse-back riding lessons;
- Horse showing; and
- Educational horse clinics.

Existing Development Agreement

On February 25, 2010, the North West Community Council approved a development agreement to allow for a kennel use on the subject properties (94 and 96 Pockwock Rd), referenced as Municipal Case 01285.

On July 14, 2015, the subject property was subdivided into Lot 1 (94 Pockwock Rd) and a remainder parcel R1 (96 Pockwock Rd). Schedule B of the development agreement for Case 01285 indicates that all aspects of the kennel use are contained on Lot 1 (94 Pockwock Rd), although the development agreement continues to apply to both properties.

Should Case 22097 be approved by NWCC, it would allow for the new commercial recreation (equestrian facility) at 96 Pockwock Road, and the access and continued kennel use at 94 Pockwock Road. Subject to Council's approval of the new development agreement, it is proposed that the existing development agreement for Case 01285 be discharged from 96 Pockwock Rd. As such, the original development agreement (Case 01285) would continue to pertain to 94 Pockwock Rd to allow the kennel use, and the proposed development agreement (Case 22097) would pertain to 96 Pockwock Rd to allow an equestrian facility.

The *Halifax Regional Municipality Charter* provides a new mechanism to discharge development agreements. Part VIII, Section 244 of the *Charter* now empowers the Chief Administrative Officer (CAO) to discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The *Charter* does not require a public hearing for the discharge of an agreement or a portion thereof. Therefore, if the proposed development agreement (Attachment A) is approved by North West Community Council then the proposed discharge agreement will be signed by the CAO, following which it will be filed at the Land Registry Office.

Enabling Policy and LUB Context

The subject property is designated MUB (Mixed Use B) under the Beaver Bank, Hammonds Plains and Upper Sackville MPS and zoned MU-1 (Mixed Use 1) under the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-Law.

Policy P-27 of the Beaver Bank, Hammonds Plains and Upper Sackville MPS enables the development of new commercial recreation uses by development agreement. The policy seeks to encourage new commercial recreation uses, provided they contribute to the community rather than detract by way of noise, pollution, or traffic. The keeping of horses is permitted as-of-right through the MU-1 Zone, but aspects such as horse boarding, horse-back riding lessons, horse shows and educational horse clinics are considered commercial recreation, and therefore may be considered under Policies P-27 and P-137.

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, and letters mailed to property owners within the notification area in the form of a fact sheet. The public comments received include the following points:

- There is support for commercial recreation aspects of an equestrian facility
- The use is beneficial for organizations such as Special Olympics NS
- The benefits of allowing horse-related activities exceed negative impacts such as increased traffic
- This type of facility will enhance the area and the community
- This type of facility is preferred over residential development in the area

A public hearing must be held by North West Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the advertisement on the HRM webpage, 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.

North West Planning Advisory Committee

This application is within the boundary of the North West Planning Advisory Committee. However, in accordance with Section 14 (1) and (2) of Bill No. 137 *An Act to Amend Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter, Respecting Housing* this application was not considered by the North West Planning Advisory Committee.

DISCUSSION

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

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:

- Permitted uses;
- Permitted structures;
- Number of horse shows and clinics permitted annually;
- Non-disturbance area;
- Manure storage;
- Parking;
- Lighting;
- Hours of operation; and
- Maintenance.

The attached development agreement will permit equestrian commercial recreation uses, subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment B, the following have been identified for detailed discussion.

Site Suitability

Policy P-27 requires Council to consider the characteristics of the site to determine whether the site is particularly suitable for the proposed use. This property has an active agricultural use and existing infrastructure including a barn, indoor riding arena, outdoor riding arena, paddocks, outdoor run-in shelters for the horses, parking area, and manure storage area. The property is 3.4 hectares (8.5 acres) in size, which is capable of entirely containing all aspects of the operation within the boundary of the proposed site. The property contains adequate parking for the proposed use and is surrounded by a treed buffer. The property is serviced by municipal water. The proposed development agreement permits one single unit dwelling, built in accordance with the provisions of the applicable land use by-law and serviced by an on-site septic system.

Policy P-137 requires that Council consider whether the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding. This property has a gentle slope from north to south but is flat in most areas including around the barn and riding arenas. There is an intermittent watercourse located on the adjacent properties to the south, approximately 180 feet from the existing barn. The current operation includes 10 horses kept within the barn and 4 horses kept within the indoor riding arena, attached to the barn. The underlying MU-1 Zone does not limit the total number of horses permitted on a property, but does limit the number of horses kept in a structure to 10 horses, if within 300 feet of a watercourse. The proposed development agreement will not place a limit on the number of horses permitted within a structure, but rather will limit the total number of horses permitted on the property to a maximum of twenty-five (25), which will ensure that the suitability of the site is maintained. To further mitigate any potential impacts, the proposed development agreement requires that a non-disturbance area be maintained to reduce potential smell, runoff, and visual impacts, and requires that manure storage be located outside the non-disturbance area and set back a minimum of 20 metres from any property line.

Traffic Impacts

Policies P-27 and P-137 require that Council consider the impacts of increased traffic generated by the proposed use. This property had a non-conforming equestrian commercial recreation use for several years before the current property owners purchased 96 Pockwock Rd. It appears the previous use consisted of 27 horses kept on site, a lesson program of approximately 60 students, and occasional horse shows. HRM does not have any records of complaints filed with respect to the non-conforming use. This operation no longer exists, however, the applicant has proposed to recommence the use by development agreement, subject to controls such as hours of operation, limited number of horses, limited number of horse shows and clinics annually, and a requirement for adequate parking and loading spaces. HRM Development Engineering and Traffic Management staff reviewed the proposal and determined that a Traffic Impact Study is not necessary for this application, given the capacity of Pockwock Road and the surrounding road networks, and given the successful operation of the previous non-conforming commercial recreation use.

This property is accessed by a private easement, filed at the provincial Land Registry Office. The property owner of 94 Pockwock Rd must be party to the proposed development agreement in order that the access over their land be permitted.

Hours of Operation

Policy P-137 requires that Council consider the potential of the proposed use to adversely affect adjacent residential and community facility development by virtue of noise, visual intrusion, traffic generation and littering. These impacts can be reduced through implementation of regular hours of operation. The hours of operation for this use will be controlled through the development agreement and are proposed to only allow the use to operate between the hours of 8:00am and 9:00pm. These hours will only pertain to the commercial recreation aspects of the use such as horse boarding, riding lessons, shows and clinics. Activity will otherwise continue to be subject to the HRM Noise By-Law N-200.

Noise and Littering

Policy P-27 requires that consideration be given to the potential of the use to create nuisance by way of littering and noise intrusion. The horse boarding and horse-back riding lessons are not anticipated to generate nuisance by way of noise or littering. The horse shows and educational horse clinics have the potential to produce increased noise and littering due to the increased number of people and horses that will be on site for the duration of an event. Horse shows may cause noise pollution due to the use of public address (PA) systems, which include a loudspeaker and microphone, potential cheering, music, and general noise from having a larger group of people interacting in one place. Educational clinics are anticipated to produce less noise but may still involve large groups of people on site at a time. For these reasons, the development agreement limits the number of horse shows to a maximum of four (4) per calendar year for a maximum duration of two (2) days per event. Educational horse clinics are proposed to be limited to four (4) events per calendar year for a maximum duration of seven (7) days per event. The hours of operation will continue to apply on those days.

Non-Disturbance Area

Policy P-27 requires Council to consider the proposed and existing landscaping and buffering to determine whether the proposed use will cause visual impacts to surrounding land uses and the road. This property gains access from a right of way easement over 94 Pockwock Road and is therefore not visible from Pockwock Road. The property is currently treed along the front and rear of the lot and the adjacent properties are also currently treed, providing a natural buffer from adjacent land uses. The proposed development agreement identifies those existing tree stands on the property as non-disturbance areas and does not permit development of any form within those areas, for the purpose of maintaining the natural visual buffer. No further landscaping is required through the proposed development agreement.

Manure Management

Policy P-27 requires Council consider the general maintenance of the site as well as any environmental concerns. It is proposed that the development agreement provide regulation with respect to manure management, given the potential for the smell and runoff of manure that may impact adjacent land uses and to provide appropriate protection to the watercourse located on abutting properties. The proposed development agreement does not permit manure to be stored within twenty metres (20m) of any property line, nor within any non-disturbance area.

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 proposed development agreement permits an equestrian facility at 96 Pockwock Rd, which is a commercial recreation use that includes the use of land for the boarding, breeding, and keeping of horses, horse-back riding lessons, horse shows, and educational clinics as enabled through Policies P-27 and P-137 of the Beaver Bank, Hammonds Plains and Upper Sackville MPS. The proposed development agreements places controls on hours of operation, manure storage, setbacks and non-disturbance area, number of horses, and number and duration of equestrian events. Therefore, staff recommend that the North West Community Council approve the proposed development agreement.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2022-2023 operating budget for Planning and Development.

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 additional concerns were identified beyond those raised in this report.

ALTERNATIVES

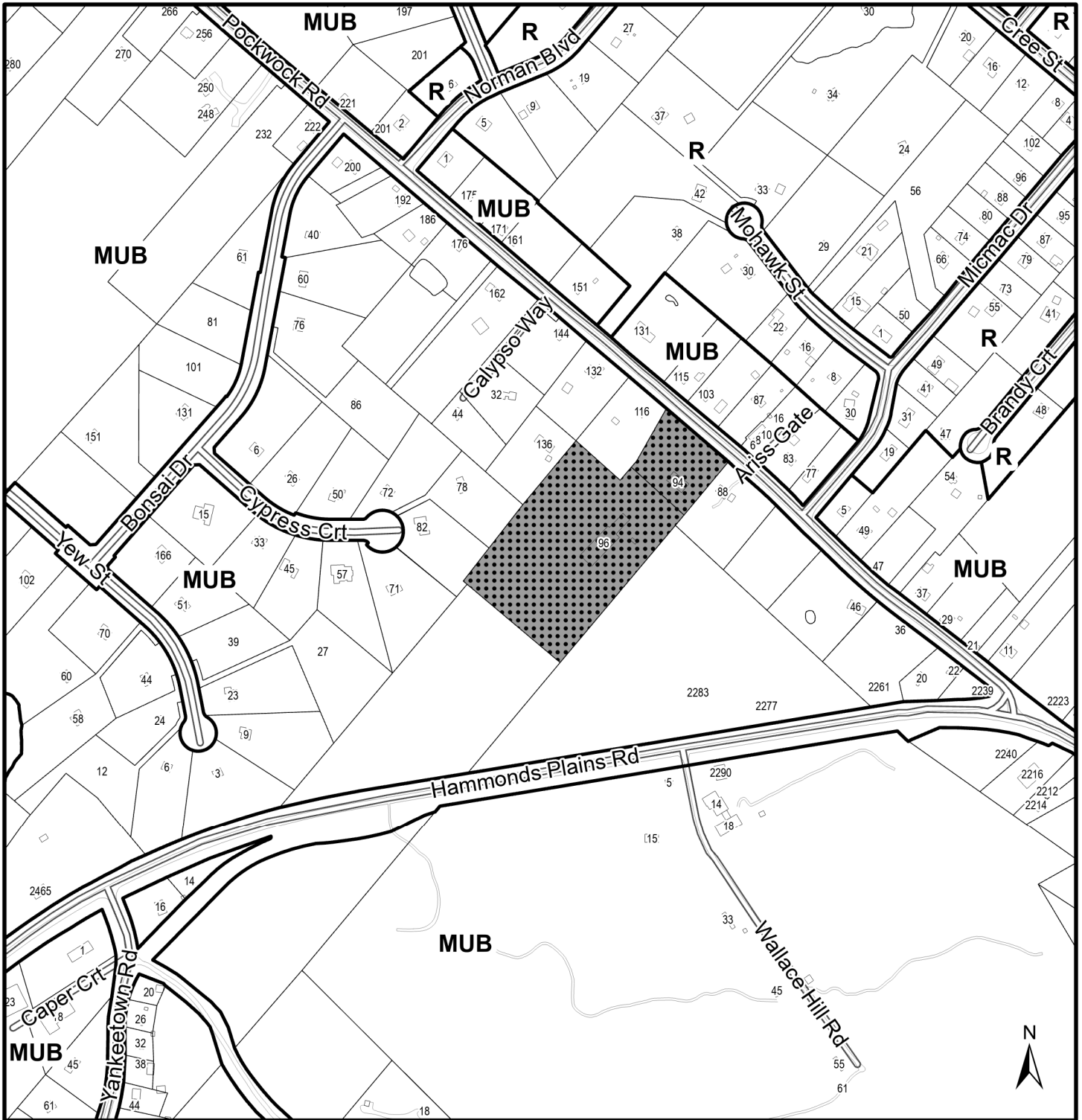
1. North West Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development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

ATTACHMENTS

| | |
|---------------|---------------------------------|
| Map 1: | Generalized Future Land Use |
| Map 2: | Zoning and Notification Area |
| Attachment A: | Proposed Development Agreement |
| Attachment B: | Review of Relevant MPS Policies |


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: Claire Tusz, Planner II, 902.430.0645

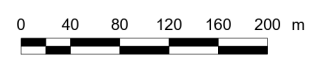


Map 1 - Generalized Future Land Use

94 & 96 Pockwock Rd,
Hammonds Plains

 Subject Area

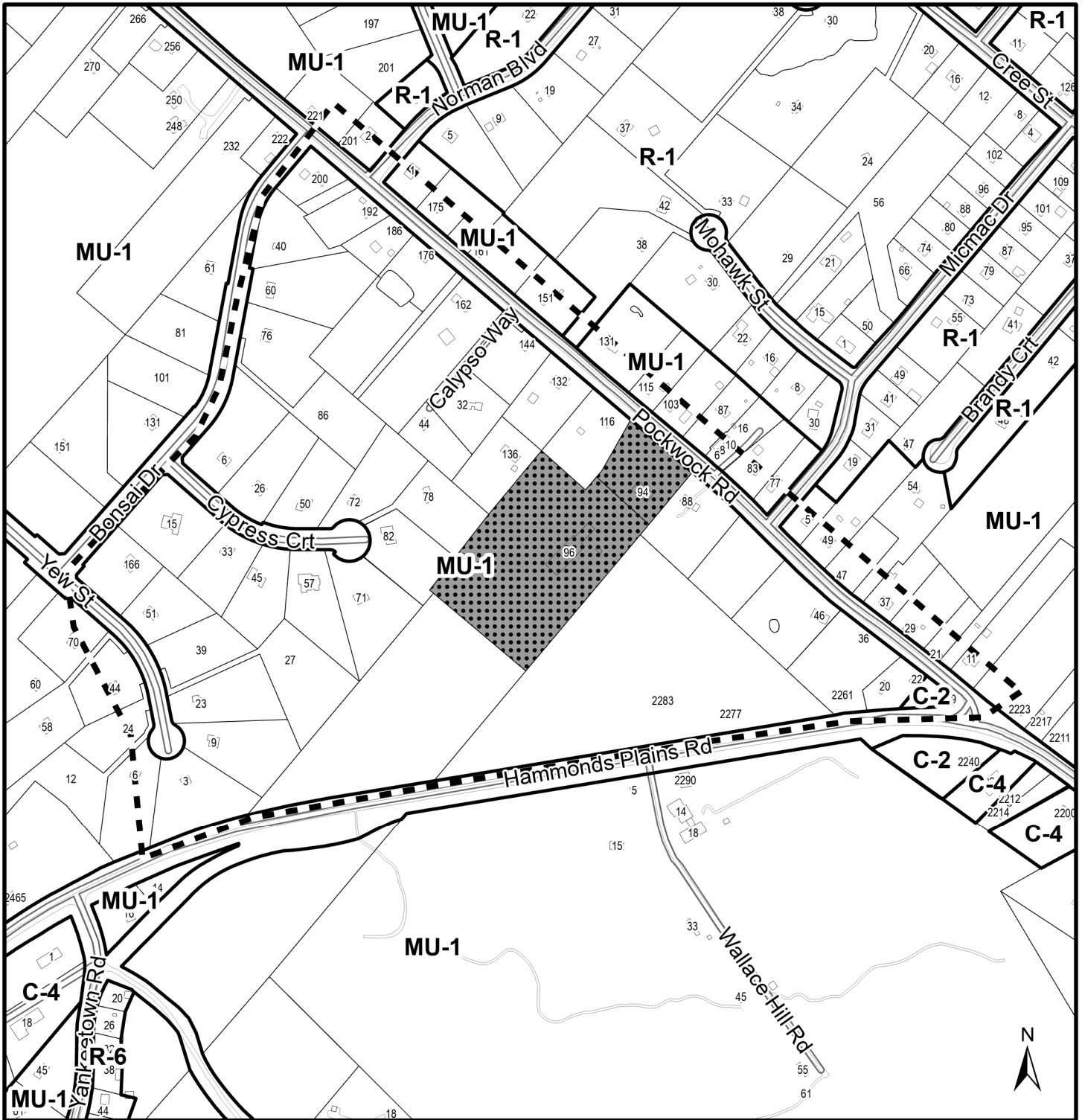
Designation
 MUB Mixed Use B
 R Residential





Beaver Bank, Hammonds Plains and Upper Sackville
Plan Area

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

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



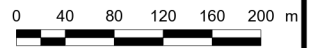
Map 2 - Zoning and Notification
 94 & 96 Pockwock Rd, Hammonds Plains

-  Subject Area
-  Area of Notification

Beaver Bank, Hammonds Plains and Upper Sackville
 Land Use By-Law Area

Zone

- R-1 Single Unit Dwelling
- R-6 Rural Residential
- MU-1 Mixed Use 1
- C-2 General Business
- C-4 Highway Commercial



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.

ATTACHMENT A DEVELOPMENT AGREEMENT

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

BETWEEN:

[Insert Individual's name]

an individual, in the Halifax Regional Municipality, in the Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

STEPHANIE HELENA BAGNELL

an individual, in the Halifax Regional Municipality, in the Province of Nova Scotia (hereinafter called the "Lot 1 Owner")

OF THE SECOND PART

- and -

HALIFAX REGIONAL MUNICIPALITY

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

OF THE THIRD PART

WHEREAS the Developer is the registered owner of certain lands located at 96 Pockwock Rd, Hammonds Plains and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Lot 1 Owner is the registered owner of certain lands located at 94 Pockwock Rd, Hammonds Plains, which said lands are more particularly described in Schedule A hereto (hereinafter called "Lot 1");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for an equestrian facility on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies P-27 and P-137 of the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Section 13 of the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law;

AND WHEREAS access to the Lands from Pockwock Road is by a private access easement over Lot 1;

AND WHEREAS the North West Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 22097;

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

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 By-law and the Regional Subdivision By-law, as may be amended from time to time.
- 1.2.2 Variances to the requirements of the applicable Land Use By-law shall be permitted in accordance with the *Halifax Regional Municipality Charter* on the whole site as shown on Schedule B.

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 1 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.

1.7 Lands

- 1.7.1 The Developer hereby represents and warrants to the Municipality that the Developer is the owner of the Lands and that all owners of the Lands have entered into this Agreement.

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.

2.2 Definitions Specific to this Agreement

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

- (a) *Barn* means a farm building used for the storage of grain, hay, and other farm products, or the sheltering of livestock or farm equipment.
- (b) *Equestrian event* means an exhibition or competition involving horses whose purpose is to test or advance the skills of a horse or its rider, such as but not limited to horse shows, schooling events, horse training seminars or clinics, and open houses.
- (c) *Equestrian Facility* means the use of land, building or structures for the boarding, breeding, and keeping of horses, the training of horses and the staging of equestrian events but does not include racetracks, gambling or gaming establishments, feedlots or auctions.
- (d) *Indoor Riding Arena* means a building used for the exercising of horses and uses related to the operation of the Commercial Recreation Use as permitted under this agreement.
- (e) *Landscaping* means any combination of trees, shrubs, flowers or other vegetative ground cover, decorative stonework, or other hard surfacing material of a different texture than adjacent paving and screening, berming, or similar elements.
- (f) *Paddock* means a small field or enclosure where horses are kept or exercised.

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 22097:

- Schedule A Legal Description of the Lands and Lot 1
- Schedule B Site Layout and Existing Conditions

3.2 General Description of Land Use

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

- (a) Equestrian facility which includes;
 - a. Horse-back riding lesson program
 - b. Horse shows and competitions to a maximum of two (4) shows or competitions per calendar year, for a duration of maximum two (2) days per event;
 - c. Educational horse clinics to a maximum of four (4) clinics per calendar year, for a duration of maximum seven (7) days per event; and
- (b) One single unit dwelling.

3.3.2 The uses of Lot 1, as shown on Schedule B, permitted by this Agreement are the following:

- (a) Access for the Equestrian facility;
- (b) Uses permitted under the Development Agreement referenced as Municipal Case 01285; and
- (c) Uses permitted in the applicable Land Use By-law, as amended from time to time.

3.3 Detailed Provisions for Land Use

3.3.1 A maximum of twenty (25) horses shall be permitted on the Lands. The maximum number of horses may be exceeded during equestrian events.

3.3.2 Manure shall not be stored within a non-disturbance area as shown on Schedule B or within twenty (20) meters (66 feet) of any property line.

3.3.3 The structure(s) on the Lands permitted by this Agreement are the following:

- (a) Existing buildings as illustrated on Schedule B of this Agreement;
- (b) Buildings associated with the uses permitted under this agreement built in accordance with the applicable land use by-law and any other applicable regulations.

3.4 Parking, Circulation and Access

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

3.4.2 The parking area shall provide a minimum of 10 parking spaces.

3.4.3 The parking area shall be hard surfaced or gravelled.

3.4.4 The limits of the parking area shall be defined by fencing or landscaping or curb.

3.4.5 Parking is required to be accommodated within the boundaries of the Lands.

3.4.6 The Equestrian facility on the Lands will gain vehicular access from Pockwock Road by traversing over Lot 1, as shown on Schedule B.

3.4.7 It is the responsibility of the Developer to convey all required rights-of-way over the properties as shown on Schedule B.

3.5 Outdoor Lighting

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

3.6 Non-Disturbance Area

- 3.6.1 No development, tree removal or grade alteration shall be permitted within Non-Disturbance Area identified on Schedule B, except where approved in writing by the Development Officer for the following:
- (a) To remove fallen trees or dead debris that poses a fire or safety risk; or,
 - (b) To remove a tree that is dead, dying or in decline which present a danger to private property, public infrastructure or other natural trees and vegetation.
- 3.6.2 Prior to granting approval for any removal pursuant to 3.6.1, the Development Officer may require that the Developer or subsequent property owner engage a Certified Arborist, Forester or Landscape Architect to certify in writing that the timber or debris poses a fire or safety risk, that the tree poses a danger to people or property, or that it is in severe decline.
- 3.6.3 If trees are removed or tree habitat is damaged beyond repair in the Tree Buffer as identified on Schedule B, the Developer or subsequent property owner shall replace each tree removed or damaged as directed by the Development Officer, in consultation with the appropriate HRM Business Units. This section applies to trees removed without permission, as well as trees removed with permission as outlined in this Agreement.

3.7 Maintenance

- 3.7.1 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 Signs

- 3.8.1 The sign requirements shall be accordance with the applicable Land Use By-law as amended from time to time.

3.9 Hours of Operation

- 3.9.1 The equestrian facility shall be permitted to operate between the hours of 8:00 am and 9:00pm all days of the week.

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.

4.3 On-Site Sanitary System

- 4.3.1 The Lands shall be serviced through privately owned and operated sewer systems and treatment facilities. The Developer agrees to have prepared by a qualified professional and submitted to the Municipality, the Nova Scotia Environment and Climate Change and any other relevant agency, a design for all private sewer systems.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Private Storm Water Facilities

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

5.2 Stormwater Management Plans and Erosion and Sedimentation Control Plan

- 5.2.1 Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall have been issued a Grade Alteration Permit in accordance with By-law G-200 Respecting Grade Alteration and Stormwater Management Associated with Land Development, as amended from time to time.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

- 6.1.1 The following items are considered by both parties to be not substantive and may be amended in a manner consistent with the *Halifax Regional Municipality Charter*.
- (a) The granting of an extension to the date of commencement of construction as identified in this Agreement;
 - (b) The length of time for the completion of the development as identified in this Agreement;

6.2 Substantive Amendments

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

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

- 7.1.1 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.

7.2 Subsequent Owners

- 7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the

subject of this Agreement until this Agreement is discharged by the Chief Administrative Officer for the Municipality.

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

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.

- 7.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Development Permit for a commercial recreation use.

- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

7.4 Completion of Development

- 7.4.1 Upon the completion of the whole development, the Municipality may review this Agreement, in whole or in part, and may:

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

- 7.4.2 For the purpose of this section, completion of development shall mean the issuance of an Occupancy Permit for a commercial recreation use.

- 7.4.3 Upon the completion of the whole development or complete phases of the development, or at such time that policies applicable to the lands have been amended, the Municipality may review this Agreement, in whole or in part, and may:

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

- 7.4.4 In the event that development on the Lands has not been completed within seven (7) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.

7.5 Discharge of Agreement

- 7.5.1 If the Developer fails to complete the development after seven (7) years from the date of execution of this Agreement, the Municipality may review this Agreement, in whole or in part, and may:

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

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

8.1.1 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.

8.2 Failure to Comply

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

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any 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:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

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

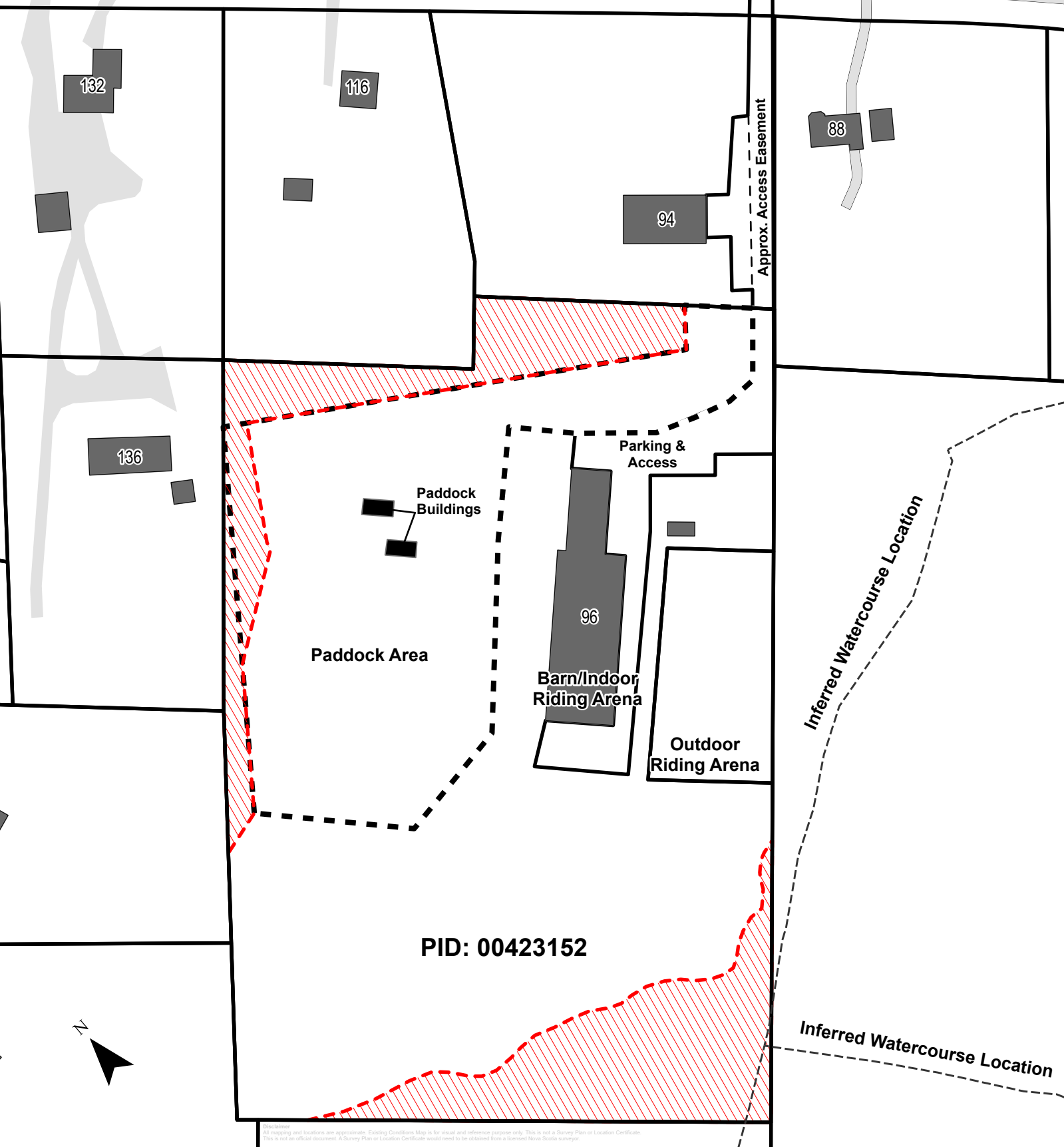
On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Iain MacLean, Clerk of the Halifax Regional Municipality, signed the same and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

A Commissioner of the Supreme Court
of Nova Scotia

Schedule B

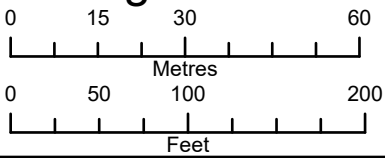
Pockwoc Rd


Ariss Gate



All mapping and locations are approximate. Existing Conditions Map is for visual and reference purpose only. This is not a Survey Plan or Location Certificate. This is not an official document. A Survey Plan or Location Certificate would need to be obtained from a licensed Nova Scotia surveyor.

96 Pockwoc Road Existing Conditions



 Approximate Non-Disturbance Area

Disclaimer
All mapping and locations are approximate. Existing Conditions Map is for visual and reference purpose only. This is not a Survey Plan or Location Certificate. This is not an official document. A Survey Plan or Location Certificate would need to be obtained from a licensed Nova Scotia surveyor.

Attachment B Review of Relevant MPS Policies

Policy P-27 (Mixed Use B Designation)

Within the Mixed Use A, B and C Designations, it shall be the intention of Council through the land use by-law to provide for the continued use of commercial recreation uses to the extent they presently exist (Policy P-9 and P-12). Further, Council may consider any proposed expansion of existing commercial recreation uses as well as the development of new commercial recreation uses by development agreement and according to the provisions of the Municipal Government Act. In considering any new or expanded commercial recreation use, Council shall have regard to the following:

| Policy P-27 Criteria | Staff Comment |
|---|--|
| <p><i>(a) that the site exhibits characteristics which make the location particularly suitable for the proposed use;</i></p> | <p>The subject site is 3.4 hectares (8.5 acres), which provides enough space for horses both indoor and outdoor. It is set back from the street, which makes it visually unobtrusive. The site is on the edge of a low density residential subdivision, which may create land use issues, but a development agreement has the opportunity to add controls to mitigate conflict.</p> |
| <p><i>(b) the potential for adversely affecting adjacent residential and community facility development by virtue of noise, visual intrusion, traffic generation and littering;</i></p> | <p>Traffic generation is not expected to be an issue, as the scale of the proposed commercial recreation use is not large. Both Development Engineering and Traffic Services have reviewed the proposed development and determined that a TIS is not necessary given the scale of the use.</p> <p>Smell may be a concern for adjacent property owners. The province requires that all agricultural uses that produce manure adhere to an approved manure management plan.</p> <p>An existing treeline around the boundaries of the subject site will be retained as a non-disturbance area and act as a visual barrier to any horse related uses. Noise generated from equestrian events such as horse shows and educational horse clinics will be mitigated through hours of operation and limited number of events permitted annually.</p> |

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| <i>(c) the provision of landscaping or buffering from adjacent development and the public road to which it has access in order to reduce the impact of the proposed development;</i> | Horse related land uses are on the property in the rear, with no visual intrusion from the street. An existing treeline around the front and rear lot lines acts as a visual buffer from adjacent property owners and will be retained through the development agreement as a non-disturbance area. |
| <i>(d) the availability of a site and site design which will entirely contain all aspects of the operation within the boundary of the proposed site;</i> | All proposed commercial recreation uses are operated within the subject site boundaries. |
| <i>(e) the impact on traffic circulation and in particular sighting distances and entrances and exits to the site.;</i> | Access onto Pockwock Road is existing. See P-27(b) for traffic circulation. |
| <i>(f) the layout and design of the facility;</i> | Layout and design of facility are existing with no changes proposed. |
| <i>(g) general maintenance of the facility;</i> | General maintenance clause is included in the development agreement. |
| <i>(h) where any sewage treatment plant is proposed, the location and level of treatment of the sewage treatment plant;</i> | The subject property is serviced with municipal water. This is no septic field as there is no flushable toilet on the property. |
| <i>(i) that the appearance of all buildings and structures related to the use shall be compatible with the surrounding area in terms of scale, exterior finish and signage;</i> | This application does not propose any new buildings. The existing barn and riding arena is larger than surrounding single unit dwellings, but visually buffered by trees and was built as per LUB requirements for agricultural buildings. The proposed Development Agreement permits new buildings in association with the equestrian use, and a single unit dwelling, provided they are built in accordance with the applicable Land Use By-Law. |
| <i>(j) an assessment of environmental concerns related to the proposed development and in particular, potential effects on watercourses;</i> | The Energy and Environment Team at HRM reviewed this proposal and did not identify any environmental concerns with respect to the proposed uses and with respect to the inferred watercourse on the adjacent properties to the South. The proposed Development Agreement requires that existing tree stands be maintained as a non-disturbance area where tree clearing and storage of manure shall not be permitted, and that manure piles be setback a minimum of 20 metres from any property line. |

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| <i>(k) the requirement for any applicable provincial approvals; and</i> | Additional requirements relating to the commercial recreation component of this use have not been identified by Nova Scotia Environment and Climate Change or the Department of Agriculture. |
| <i>(l) hours of operation; and</i> | The hours of operation are regulated through the development agreement. |
| <i>(m) the provisions of Policy P-137.</i> | See below. |

Policy P-137 (Implementation)

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:

| Policy P-137 Criteria | Staff Comment |
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| <i>(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;</i> | |
| <i>(b) that the proposal is not premature or inappropriate by reason of:</i> | |
| <i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i> | The proposed development does not impose any costs to the Municipality. |
| <i>(ii) the adequacy of central or on-site sewerage and water service;</i> | See Policy P-27(h). |
| <i>(iii) the adequacy of proximity of school, recreation or other community facilities;</i> | A new commercial recreation use is not expected to have an impact on nearby schools or community facilities. Two other horse boarding/riding facilities are located within 4km north east on Lucasville Road. |
| <i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i> | See Policy P-27(b). |
| <i>(v) the potential for damage to or for destruction of designated historic buildings and sites.</i> | N/A |
| <i>(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> | See below. |
| <i>(i) type of use;</i> | Development controls are included in the development agreement, such as retaining |

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| | existing treed areas for a visual buffer as a non-disturbance area, prohibiting the storage of manure within 20m of any property line and within any non-disturbance area, limiting the number of horses permitted on the Lands, and limiting the number and duration of equestrian events permitted annually. |
| (ii) <i>height, bulk and lot coverage of any proposed building;</i> | This application does not propose any new buildings. The proposed Development Agreement permits new buildings associated with the equestrian use, and a single unit dwelling, provided they are built in accordance with the applicable Land Use By-Law. |
| (iii) <i>traffic generation, access to and egress from the site, and parking;</i> | The site is accessed via a registered easement over 94 Pockwock Road. The property owners of 94 Pockwock Road will be required to sign the proposed development agreement to grant access over their property. The parking area for 96 Pockwock Rd is regulated through the development agreement. See Policy P-27(b). |
| (iv) <i>open storage;</i> | Open storage related to the agricultural use such as storage of hay/animal feed, manure, horse trailers, related farm equipment, and horse training equipment is permitted as-of-right. No further open storage will be permitted through the development agreement. |
| (v) <i>signs; and</i> | Signage will continue to be regulated through the applicable land use by-law. |
| (vi) <i>any other relevant matter of planning concern.</i> | N/A |
| (d) <i>that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</i> | The site is mostly flat and there is an inferred watercourse located on the adjacent properties to the South. Future development is required to meet the G-200 By-Law "Respecting Grade Alteration and Stormwater Management Associated with Land Development". HRM Engineering staff and HRM Energy and Environment staff had no concerns relating to steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding. |

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| <p><i>(e) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges – Policy P-81", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.</i></p> | <p>N/A</p> |
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