

Item No. 10.1.1
North West Community Council
September 25, 2023
November 20, 2023

TO: Chair and Members of North West Community Council

SUBMITTED BY:



Jacqueline Hamilton, Executive Director of Planning and Development

DATE: August 15, 2023

SUBJECT: **Case 23904: Amendments to the Timber Trails Mobile Home Park
Development Agreement, 1036 Lucasville Rd, Lucasville**

ORIGIN

Application by Brighter Communities Planning and Consulting on behalf of Timber Trails Mobile Home Ltd.

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 amendments to the existing development agreement, as set out in Attachment A, and schedule a public hearing;
2. Approve the proposed amendments to the existing 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

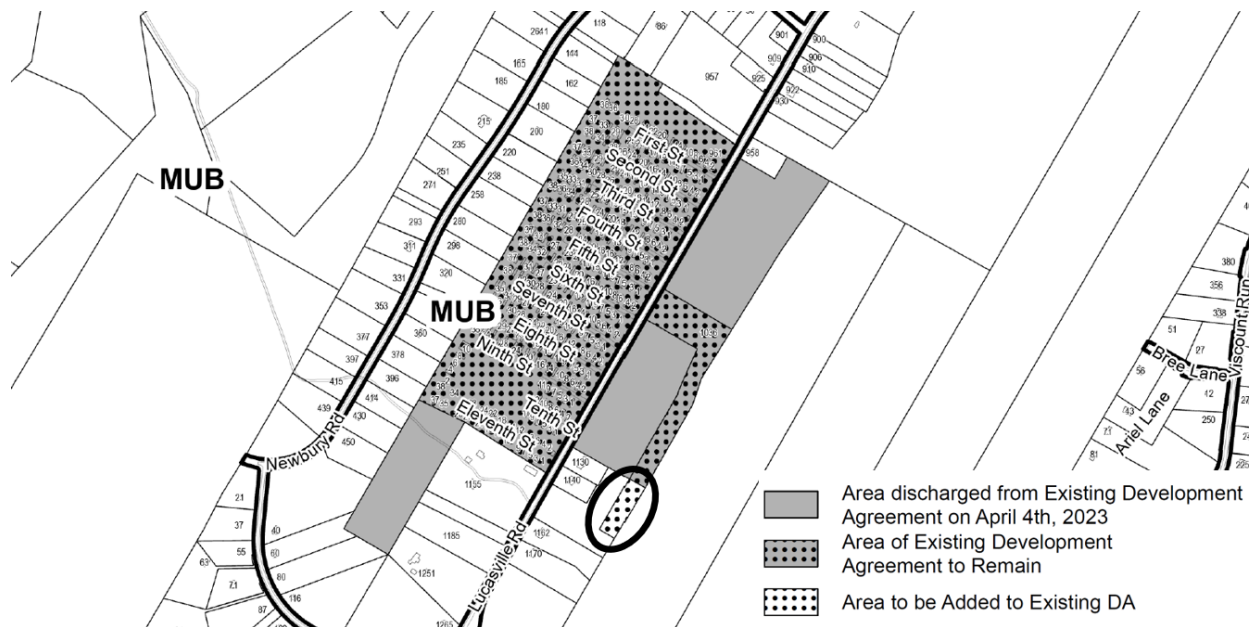
Brighter Communities Planning & Consulting, on behalf of Timber Trails Homes Ltd., has applied to amend the existing Timber Trails Mobile Home Park development agreement to expand the area to which the development agreement applies such that the entirety of the supporting sewage treatment facility is included. There is a small portion of the existing sewage treatment facility that currently supports the mobile home park which is not included within the bounds of the existing development agreement. This amendment will correct that issue.

Subject Site	1036 Lucasville Road (PID 41518101)
Location	Lucasville Road between Cranley Road and Waterstone Run
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	36,282.5 square metres
Street Frontage	121.65 metres
Current Land Use(s)	Sewage treatment facility
Surrounding Use(s)	Residential and commercial

Proposal Details

The applicant proposes to amend the Timber Trails Mobile Home Park Development Agreement. The major aspects of the proposal are as follows:

- Add the portion of lands (circled area shown below) containing part of the sewage treatment facility infrastructure to the development agreement.
- Lands containing the sewage treatment facility and the established mobile home park will continue to be regulated by the development agreement.



Existing Development Agreement

On November 27, 2008, North West Community Council approved a development agreement to allow for an expansion of the Timber Trails Mobile Home Park, referenced as Municipal Case 00908.

On September 9, 2012, North West Community Council approved, by resolution, a partial discharge of the development agreement as it applies to 958 Lucasville Road to allow for the development of a single unit dwelling.

On December 15, 2014, North West Community Council refused a request by the developer for an amendment to the provisions of the development agreement to allow Phase 2 to proceed, as shown on Schedule B of the proposed amended agreement. This refusal was appealed by the developer to the Nova Scotia Utility and Review Board, who issued an order dated February 27, 2016, overturning Council's refusal and approving the amendments. The appeal case is referenced as Case M06625.

On April 4, 2023, the Chief Administrative Officer for the Halifax Regional Municipality approved a request to discharge a vacant portion of the Timber Trails Mobile Home Park located on the southern side of Lucasville Road, from the existing agreement.

Enabling Policy and LUB Context

The subject property is designated Mixed Use "B" (MUB) under the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy (MPS), and zoned Mixed Use 1 (MU-1) under the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-Law (LUB). Policy P-19 allows for consideration of the expansion of mobile home parks through the development agreement process. Although the mobile home park itself is not proposed to expand, the same policy enables a substantive amendment to the boundaries of the development agreement. This application consists of the addition of the lands containing a portion of the supporting sewage treatment facility.

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 a Fact Sheet about the proposal mailed to property owners within the notification area. The public comments received include the following topics:

- Clarification about what it means to "discharge" a development agreement; and
- Clarification about how this proposal may impact the residents of the Timber Trails Mobile Home Park.

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

The proposal will potentially impact local residents and nearby property owners.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and advise that it is 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 amendments to the development agreement for the subject site. The amendments pertain to the expansion of the boundaries of the development agreement, specifically the addition of the lands containing a portion of the existing supporting sewage treatment facility. No other changes to the existing development agreement are proposed at this time. Of the matters addressed by

the proposed amending agreement to satisfy the MPS criteria as shown in Attachment B, the following have been identified for detailed discussion.

Addition of Lands

Policy P-19 enables the expansion of mobile home parks, provided consideration be given to the proximity of the park to other land uses as well as to the access. The subject site will retain the appropriate and adequate public road access to the addition of Lands, as well maintain the minimum 200 feet separation distance from the R-1, C-4, I-1, and I-4 zones, as required by Policy P-19. Policy 137 requires that appropriate regard is given to whether the proposal is in conformity with the intent of the plan and with the requirements of all other municipal by-laws and regulations. The policy also requires that consideration be given to the adequacy of on-site services. The proposed addition of lands meets the requirements of Policy P-137, as the purpose of the addition is to include all aspects of the mobile home park use, specifically the sewage treatment facility, within the bounds, making it subject to the regulations of the development agreement. As required by the development agreement, the sewage treatment facility has already received the necessary Provincial approvals to operate.

Priorities Plans

In accordance with Policy G-14A of the Halifax Regional Plan, this planning application was assessed against the objectives, policies and actions of the priorities plans, inclusive of the Integrated Mobility Plan, the Halifax Green Network Plan, HalifACT, and Halifax's Inclusive Economic Strategy 2022-2027. While these priority plans often contain policies which were originally intended to apply at a regional level and inform the development of Municipal Planning Strategy policies, there are still components of each plan which can and should be considered on a site by site basis. Where conflict between MPS policy and priority plan policy exists, staff must weigh the specificity, age, and intent of each policy, and consider how they would be applied to a specific geographic context. In this case, the proposed amendment to the existing development agreement is not within the scope of any of the priorities plans, and therefore none of the priority plan policies are relevant to this application.

North West Planning Advisory Committee

On March 2, 2022, the North West Planning Advisory Committee (PAC) recommended that the application be approved. A report from the PAC to Community Council will be provided under separate cover. It should be noted that this application was reviewed by the PAC in advance of changes to the *Halifax Regional Municipality Charter* in April of 2022 which prohibited Council from seeking the recommendations of this committee prior to deciding on a planning application. New applications received today are not considered by the PAC.

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 mobile home park and the supporting sewage treatment facility are existing uses. The purpose of the proposed addition to the development agreement is to include all portions of the sewage treatment facility within the boundaries of the agreement. 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 2023-2024 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 amending development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

The existing sewage treatment facility has obtained the necessary approvals from the Nova Scotia Department of Environment and Climate Change. No concerns were identified.

ALTERNATIVES

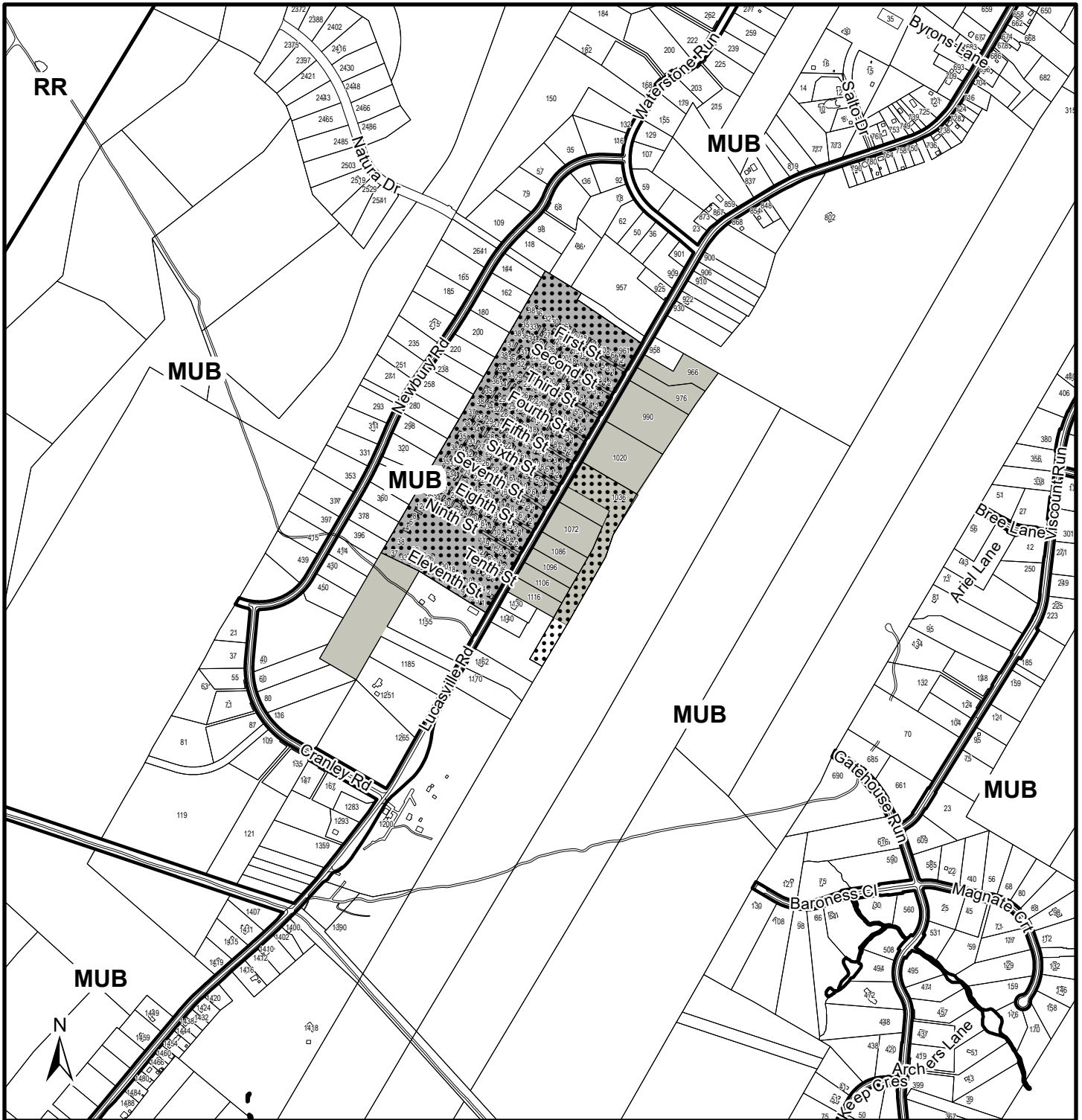
1. North West Community Council may choose to approve the proposed amending development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development 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 amending 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
Map 2:	Zoning and Notification Area Map
Attachment A:	Proposed Amending 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

1036 Lucasville Rd, Lucasville

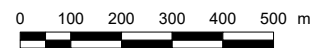
-  Area discharged from Existing Development Agreement on April 4th, 2023
-  Area of Existing Development Agreement to Remain
-  Area to be Added to Existing DA

Beaver Bank, Hammonds Plains and Upper Sackville Plan Area

Designation

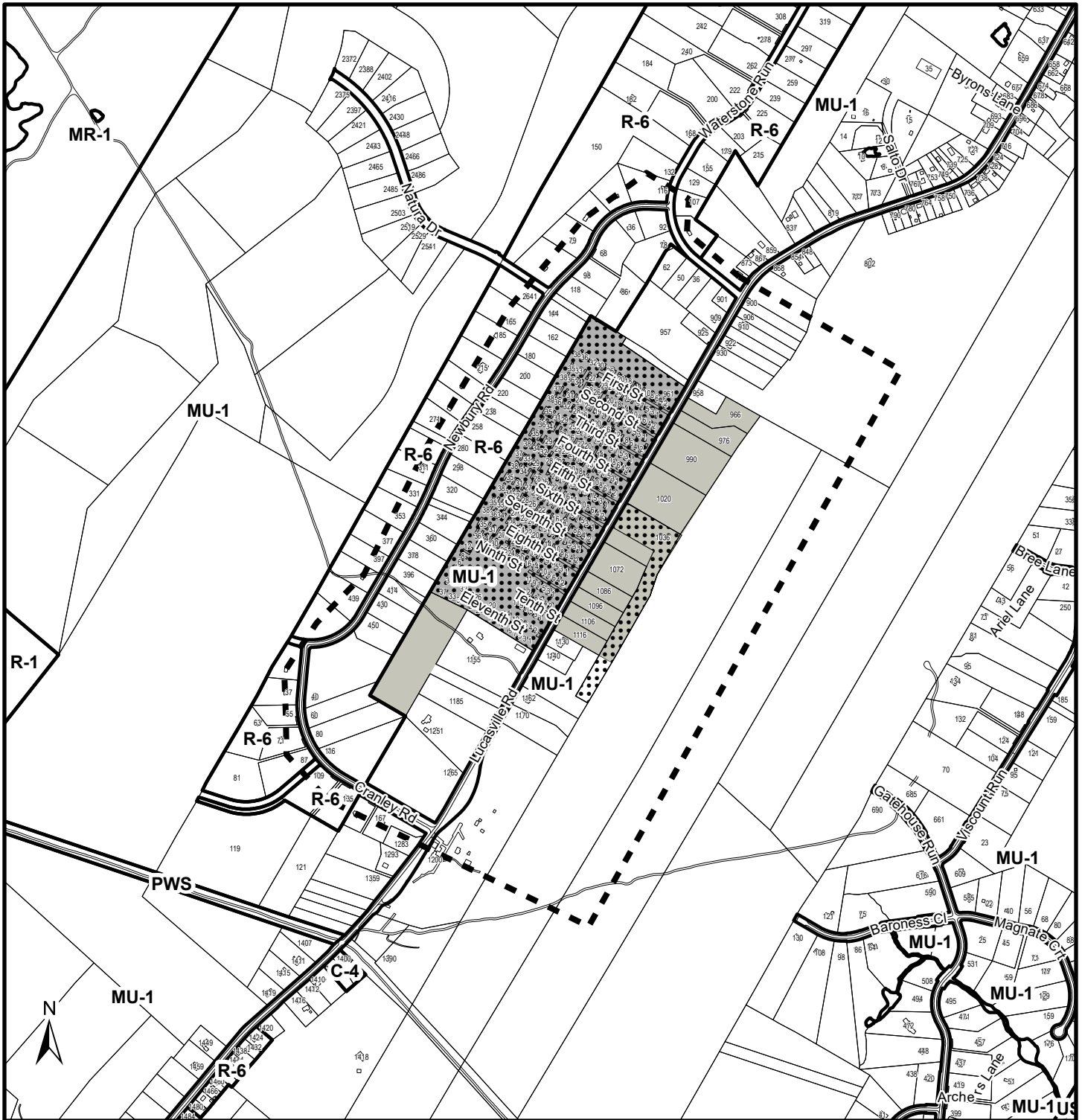
- MUB Mixed Use B
- RR Rural Resource

HALIFAX



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 Area
 1036 Lucasville Rd, Lucasville

HALIFAX

- Area discharged from Existing Development Agreement on April 4th, 2023
- Area of Existing Development Agreement to Remain
- Area to be Added to Existing DA
- Area of Notification

- Zone**
- R-6 Rural Residential
 - MU-1 Mixed Use 1
 - C-4 Highway Commercial
 - MR-1 Mixed Resource
 - PWS Protected Water Supply
 - US Urban Settlement



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.

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

THIS SECOND AMENDING AGREEMENT made this _____ day of _____, 20____,

BETWEEN:

TIMBER TRAIL HOMES LIMITED

a body corporate, in the Province of Nova Scotia

- and -

HARRY BLAINE HEFLER AND TRACY GRAHAM HEFLER

individuals, in the Halifax Regional Municipality, in the Province of Nova Scotia

(hereinafter collectively called the "Developer")

- and -

HALIFAX REGIONAL MUNICIPALITY

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

WHEREAS the Developer is the registered owner of certain lands located at Lucasville Road (PIDs 40202814 and 41518101) in Lucasville and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS on November 27, 2008 the North West Community Council of the Halifax Regional Municipality approved an application to enter into a development agreement to allow for an expansion to the Timber Trail mobile home park on the Lands (Municipal Case Number 00908), and which said development agreement was registered at the Land Registration Office on December 18, 2009 as Document Number 94961910 (hereinafter called the "Original Agreement");

AND WHEREAS on September 9, 2012 the North West Community Council for the Municipality approved, by resolution, the partial discharge of a portion of the Original Development Agreement as it applies to 958 Lucasville Rd, to allow for the development of a single unit dwelling and was registered at the Land Registration Office on September 18, 2012 as Document Number 101558527;

AND WHEREAS on December 15, 2014 the North West Community Council refused a request by the Developer for an amendment to the provisions of the Original Agreement to allow the development of Phase 2 as shown on Schedule B of the Original Agreement (Municipal Case Number 19503);

AND WHEREAS the Developer appealed the refusal of the North West Community Council to the Nova Scotia Utility and Review Board;

AND WHEREAS the Appeal of the decision of the North West Community Council was allowed by the Nova Scotia Utility and Review Board by Order dated February 27, 2015, referenced as Case No. M06625 and which said Amending Agreement was registered at the Land Registration Office on July 3, 2015 as Document Number 107369267 (hereinafter called the "1st Amending Agreement");

AND WHEREAS the Chief Administrative Officer approved a request to discharge a portion of the Lands and this Discharge Agreement was registered at the Land Registration Office on May 3, 2023 as 122385132 ;

AND WHEREAS the Original Agreement and the 1st Amending Agreement together comprise the Existing Development Agreement (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that Parcel C-R-A be added to the Existing Agreement, as shown on Schedule B-1 this 2nd Amending Agreement;

AND WHEREAS the North West Community Council approved this request at a meeting held on **[Insert – date]**, referenced as case number *********;

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

1. Except where specifically varied by this Second Amending Agreement, all other conditions and provisions of the Existing Agreement as amended shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Second Amending Agreement, and the Existing Agreement.
3. Section 3.2 of the Existing Agreement shall be amended by inserting the text shown in bold after clause (c), as follows:

(d) Schedule B-1: Illustration of Development Agreement Boundary

4. Section 3.4 of the Existing Agreement shall be amended by inserting the text shown in bold in place of the text shown as ~~strikeout~~, as follows:

3.4.1 ~~The use(s) of the Lands on Lot A-2, as shown on Schedule B-1, permitted by this Agreement are the following:~~

- (a) Mobile dwellings,
- (b) Accessory buildings,
- (c) Business uses in conjunction with mobile dwellings;
- (d) Open space uses; and
- (e) Uses permitted under the MU-1 zone in the existing commercial building.

3.4.2 ~~The use(s) on Lot LR-1R-AB and Parcel C-R-A, as shown on Schedule B-1, permitted by this Agreement are sewage treatment facility use(s) in conjunction with the mobile home park use.~~

5. The Existing Agreement shall be amended by inserting the following Schedules:
 - (a) Schedule B-1 Illustration of Development Agreement Boundary (attached)

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:

TIMBER TRAIL HOMES LIMITED

Witness

Per: _____

Witness

HARRY BLAINE HEFLER

Witness

TRACY GRAHAM HEFLER

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 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

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

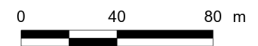


Schedule B-1: Illustration of Development Agreement Boundary

1036 Lucasville Rd, Lucasville

HALIFAX

 Boundaries of the Development Agreement



Beaver Bank, Hammonds Plains and
Upper Sackville Plan Area

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

Attachment B – Review of Relevant MPS Policies

Beaver Bank, Hammonds Plains, Upper Sackville Municipal Planning Strategy	
MIXED USE B DESIGNATION <u>Mobile Home Parks</u>	
Policy Provision	Staff Comment
<p>P-19 <i>Within the Mixed Use B and C Designations, it shall be the intention of Council to consider permitting new mobile home parks as well as expansions to existing parks, by development agreement and according to the provisions of the Municipal Government Act. In considering such uses Council shall, in addition to the considerations identified in Policy P-18, have regard to the following:</i></p>	
<p><i>(a) that the proposed development not be located within two hundred feet of a R-1(Single Unit Dwelling), C-4(Highway Commercial), I-1 (Mixed Industrial) or I-4 (Sanitary Landfill Site) Zone;</i></p>	<p>The mobile home park is not within 200ft of any R-1, C-4, I-1, or I-4 zone and will continue to be as such. The Timber Trails Mobile Home Park is existing and the Development Agreement was approved in 2009.</p>
<p><i>(b) that the mobile home park shall not require access through a R-1(Single Unit Dwelling) zone; and</i></p>	<p>The mobile home park does not require access through an R-1 zone and will continue to be as such. The existing mobile home park has direct access to Lucasville Road and there are no proposed changes to access through the amendment to the boundaries of the development agreement.</p>
<p><i>(c) the provisions of Policy P-137.</i></p>	<p>See below.</p>
IMPLEMENTATION	
<p>P-137 <i>In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:</i></p>	<p>See below.</p>
<p><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></p>	<p>Policy P-19 of the Beaver Bank, Hammonds Plains and Upper Sackville MPS enables the existing mobile home use through development agreement. This proposal is to reconfigure the boundaries of the existing Timber Trails Mobile Home Park Development Agreement to only include lands which contain the mobile home park use and the supporting sewage treatment facility. An addition of lands which contain a portion of the sewage treatment facility is proposed to be included in the development agreement.</p>

<i>(b) that the proposal is not premature or inappropriate by reason of:</i>	See below.
<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 services;</i>	The existing sewage treatment facility received the necessary Provincial Approvals to operate and through this amendment, all Lands containing the sewage treatment facility will be included within the Timber Trails Mobile Home Park Development Agreement.
<i>(iii) the adequacy or proximity of school, recreation or other community facilities;</i>	The proposal does not pose any demand for surrounding community facilities and schools.
<i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i>	The road networks were deemed adequate at the time of approval of the Timber Trails Mobile Home Park Development Agreement in 2009. The proposed partial discharge and addition is not anticipated to create a greater demand on local road networks adjacent to or within the development.
<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>	The mobile home park use will continue to be controlled through the Timber Trails Development Agreement.
<i>(ii) height, bulk and lot coverage of any proposed building;</i>	The Timber Trails Development Agreement refers to the HRM Mobile Home Park By-Law and the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law, which regulate height, bulk and lot coverage of any proposed building.

<i>(iii) traffic generation, access to and egress from the site, and parking;</i>	Increases to traffic generation are not anticipated, nor are conflicts with parking, access to or egress from the site.
<i>(iv) open storage;</i>	Open storage is not proposed to be added to the existing development agreement as a permitted use.
<i>(v) signs; and</i>	No signage is proposed at this time.
<i>(vi) any other relevant matter of planning concern.</i>	No other concerns are identified at this time.
<i>(d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</i>	There are no proposed changes to lot grading at this time. Future building permit applications will be required to meet the requirements of the <i>G-200 Respecting Grade Alteration and Stormwater Management Associated with Land Development By-Law</i> .
<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. (RC-Jul 2/02;E-Aug 17/02)</i>	N/A

Halifax Regional Municipal Planning Strategy (Regional Plan)

CHAPTER 9: GOVERNANCE AND IMPLEMENTATION

9.6.A Priorities Plans

G-14A *In considering development agreements or amendments to development agreements, or any proposed amendments to the Regional Plan, secondary planning strategies, or land use by-laws, in addition to the policies of this Plan, HRM shall consider the objectives, policies and actions of the priorities plans approved by Regional Council since 2014, including: (a) The Integrated Mobility Plan;*

*(a) The Integrated Mobility Plan;
(b) Halifax Green Network Plan;
(c) HalifACT;
(d) Halifax's Inclusive Economic Strategy 2022-2027; and
(e) any other priority plan approved by Regional Council while this policy is in effect.*

(a) N/A (The subject property is not within the scope of the Integrated Mobility Plan).

(b) N/A (The proposed substantive amendment to the development agreement is not relevant to the objectives of the Halifax Green Network Plan).

(c) N/A (The proposed substantive amendment to the development agreement is not relevant to the objectives of HalifACT).

(d) N/A (The proposed substantive amendment to the development agreement is not relevant to the objectives of Halifax's Inclusive Economic Strategy).

(e) N/A (No other priority plans have been approved by Regional Council at this time).