



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 14.1.2
Halifax and West Community Council
December 5, 2023

TO: Chair and Members of Halifax and West Community Council

- Original Signed -

SUBMITTED BY:

Jacqueline Hamilton, Executive Director of Planning and Development

DATE: November 9, 2023

SUBJECT: **PLANAPP 2023-00417 (formerly 23741): Development Agreement for Reginald Court, Herring Cove**

ORIGIN

Application by Upland Urban Planning and Design Inc.

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 20 single detached homes on an extension of Reginald Court in Herring Cove 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 development 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

Upland Urban Planning and Design Inc. is requesting a development agreement to allow extension to an existing public street, Reginald Court, which will allow 20 residential units. The Herring Cove Residential (HCR) zone is applied to the subject site and encourages retention of the low-density character of the area and allows a development agreement option whereby the minimum lot standards relative to frontage and area may be reduced if additional lands are left undeveloped and in a natural state. Development agreement proposals permit a density of 4 units per net developable acre to meet policy criteria in the Municipal Planning Strategy for Planning District 5 (Chebucto Peninsula) (MPS).

Subject Site	PID 40074437 off Herring Cove Road
Location	Located at the end of Reginald Court which is located off Norrawarren Drive
Regional Plan Designation	Urban Settlement (US) under the Regional Plan (Regional MPS)
Community Plan Designation (Map 1)	Residential (RES) under Planning District 5 (Chebucto Peninsula) MPS
Zoning (Map 2)	HCR (Herring Cove Residential) and PA (Protected Area) zones under Planning District 5 (Chebucto Peninsula) Land Use By-law (LUB)
Size of Site	28,513 sq. metres (2.8 Ha)
Street Frontage	6.1 metres (20 ft.) at Herring Cove Road; 16 metres (52 ft.) at Reginald Court end where new street is proposed to begin
Current Land Use(s)	Undeveloped
Surrounding Use(s)	<ul style="list-style-type: none"> • The majority of lands immediately surrounding the subject site are protected natural areas (predominantly crown woodlands) with various formal and informal trails. • Abutting the southeast of the subject site lies the residential development on Norrawarren Drive that connects to Herring Cove Road; • Other nearby residential developments include: Anglers Drive and Glen Baker Drive; more typical ribbon pattern development lies alongside Herring Cove Road with small patches of recreational lands such as Long Pond Community Beach.

Proposal Details

The applicant proposes to extend Reginald Court and development with single unit dwellings. The major aspects of the proposal are as follows:

- Extend Reginald Court with new public road from current end at subject site boundary;
- 20 single detached residential dwellings;
- Reduced lot size to minimums of 18.3 meters (60 ft) frontage and 557.4 square metres (6,000 sq ft) lot area;
- Direct pedestrian access to Herring Cove Road; and
- Provides 9,248 square metres contiguous natural open space with natural vegetation.

Enabling Policy and LUB Context

Policy RES-2A of the MPS for Planning District 5 (Chebucto Peninsula) establishes the Herring Cove Residential zone that encourages retention of the low-density character of the area through appropriate lot sizes within the Herring Cove portion of the Residential Designation. Policy RES-2C enables subdivisions that include new or extended public streets by development agreement, where municipal sewer and water services are to be provided; sewage treatment facilities are available, and a public street is to be constructed.

Policy RES-2D requires all new development considered under Policy RES-2C to meet certain basic design objectives as follows: reproduce the pre-development hydrological conditions; confine development and

construction activities to the least ecologically critical areas of the site and minimize changes to the existing landscape; preserve and utilize the natural drainage system to the greatest possible extent; retain a minimum 30% of undisturbed natural vegetation on the site; and protect all shorelines by a 100 foot wide buffer zone.

Policy RES-2E guides development agreement proposals, subject to Policies RES-2C and RES-2D above, through the following development criteria: maximum permissible density is 4 units per net developable acre (developable acres are defined as net acres minus designated wetlands); only single unit, two unit, and auxiliary dwellings may be considered; lot frontages per dwelling may be reduced to 18.3 meters (60 ft), and lot areas to 557.4 square metres (6,000 sq ft) provided an area equivalent to the amount of lot area reduction is provided and maintained on site as contiguous common open space; requirement of adequate erosion and sediment control plans and stormwater management plans; use of a public road standard in Policy TR-18; adequate public access to traditional trails and recreation areas and that adequate open space areas are provided.

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.

A total of 96 letters were mailed to property owners and tenants within the notification area (Map 2). The HRM website received a total of 373 unique pageviews over the course of the application, with an average time on the webpage of 3 minutes and 23 seconds. Staff received 9 emails/2 calls responses from the public. The public comments received include the following topics:

- Additional traffic volume dangerous for children playing on streets or cul-de-sac;
- Possible impact on water and sewer;
- Traffic study was qualitative not quantitative; does not consider traffic calming or increased traffic volumes;
- Concern over access to existing streets;
- Concern around noise and dust from surge of construction-related traffic;
- Additional traffic will adversely affect home values and cause safety concerns; and
- Increase of traffic volumes in existing overall subdivision - would be better development if it connected (directly) to Herring Cove Road.

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 advertisement on the HRM webpage, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

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 attached proposed development agreement will permit an

extension to Reginald Court with 20 proposed single detached dwellings, subject to the controls identified as follows:

- Approved plan of subdivision to be accepted before a Lot Grading permit can be issued;
- Written confirmation that a landscape plan has been accepted;
- Permits the requested use of lands; 20 single unit dwellings development;
- Building siting to comply with that of the HCR (Herring Cove Road) zone;
- Architectural requirements are specified;
- Outdoor lighting conditions;
- Sign provisions; and
- Non-substantive amendments, including changes to architectural requirements, changes to signage provisions, minor changes to lot layout that does not change the number of lots or reduce the amount of open space; and extension to timelines for commencement and completion of the development.

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.

Lot Frontage and Area

Policy RES-2E contains criteria relating to development density and lot standards. It allows lot frontage to be reduced from the HCR zone standard of 22.86 metres (75 feet), to 18.29 metres (60 feet), and lot area to be reduced from 3048 square metres (10,000 square feet) to 182.8 square metres (6000 square feet). This is allowed provided that the difference in lot area is set aside as contiguous common open space.

The gross lot area is 28,513 square meters (93,546.59 square feet) and as there are no designated wetland areas on the site the gross lot area serves as the developable area. The net developable area converts to 7.045 acres, in order to align with the policy units, which yields a maximum density of 28 dwelling units. However, the proposal is only for 20 single unit dwelling units as the applicant wanted to minimize development impact on the lands and reduce road length and costs. An area equivalent to the amount of total lot area reduction, 9,248 square metres (30,341.21 sq. ft.), is proposed to be provided as contiguous natural open space located at the end of the cul-de-sac and adjacent to the MacIntosh Run trail system. The policy states in addition that 10% parkland dedication under the Regional Subdivision By-law is required but there is no land dedication in this subdivision as cash-in-lieu was preferred for this application.

Land Use/Density

The lots are to be residentially developed as single unit dwellings and the proposed development agreement also allows for Secondary Suites and Background Suites. The density of the development is 1.3 units per acre, which is significantly lower than the 4 units per acre permitted by policy. The proposal is consistent with the overall intent of RES-2E and is a reasonable form of development for these lands.

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 following policies were identified to be most relevant to this application, and as such were used to inform the recommendation within this report:

1) The Integrated Mobility Plan (IMP) always places safety at the forefront of mobility planning. The IMP encourages walking and bicycling through connected networks that do not yet exist on the subject site but will be developed in the future as the site is built out. The site is surrounded by a large expanse of crown resource lands with walking and cycling trails, including the MacIntosh Run system, that can be connected to through the natural open space at the end of the proposed cul-de-sac bulb.

The proposed subdivision is a development that, through local land use policy, allows slightly denser residential land use than adjacent existing development. The location and density will allow more residents access to transit, while improving ridership of the existing route. The overall parking plan is simply to allow parking on the reduced sized lots (6000 square feet as opposed to 10,000 square feet) which limits the number of vehicles that may park and this reduction shifts more trips to active transportation and transit modes.

2) The Halifax Green Network Plan is grounded in conservation biology, landscape ecology and the social sciences that supports interconnected built environment, outdoor recreation, cultural landscapes, placemaking, preservation, and green infrastructure intended to sustain and restore ecological functioning to benefit community shaping on the land. Planning projects should update land use by-laws to work towards promotion of green infrastructure, such as naturalized stormwater retention ponds and bioswales, establish guidelines to improve quality of stormwater runoff and develop Low Impact Development approaches for managing stormwater on private property for multis, commercial and individual developments such as this proposal.

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 public street extension of Reginald Court satisfies minimum cul-de-sac length allowed by the Subdivision By-law by use of a road reserve. The proposal meets “green” design objectives found in the policy criteria including retaining 30% of the site in natural vegetation. Therefore, staff recommend that Halifax and West Community Council approve the proposed development agreement.

FINANCIAL 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 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. 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*.

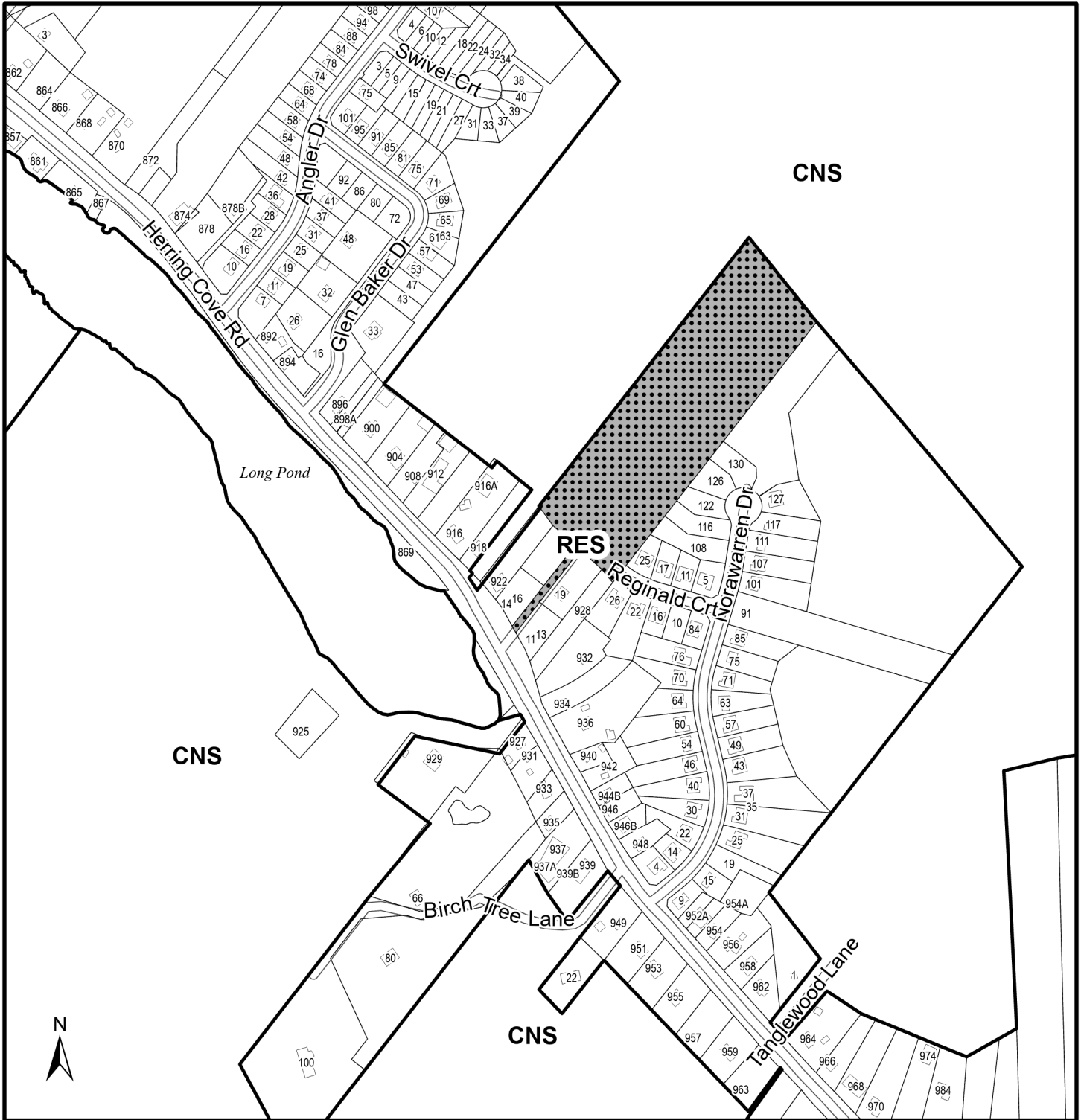
2. Halifax and West Community Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the 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 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: Darrell Joudrey, Planner II, 902.225.8630



Map 1 - Generalized Future Land Use

PID: 40074437
Herring Cove

 Subject Property

Designation

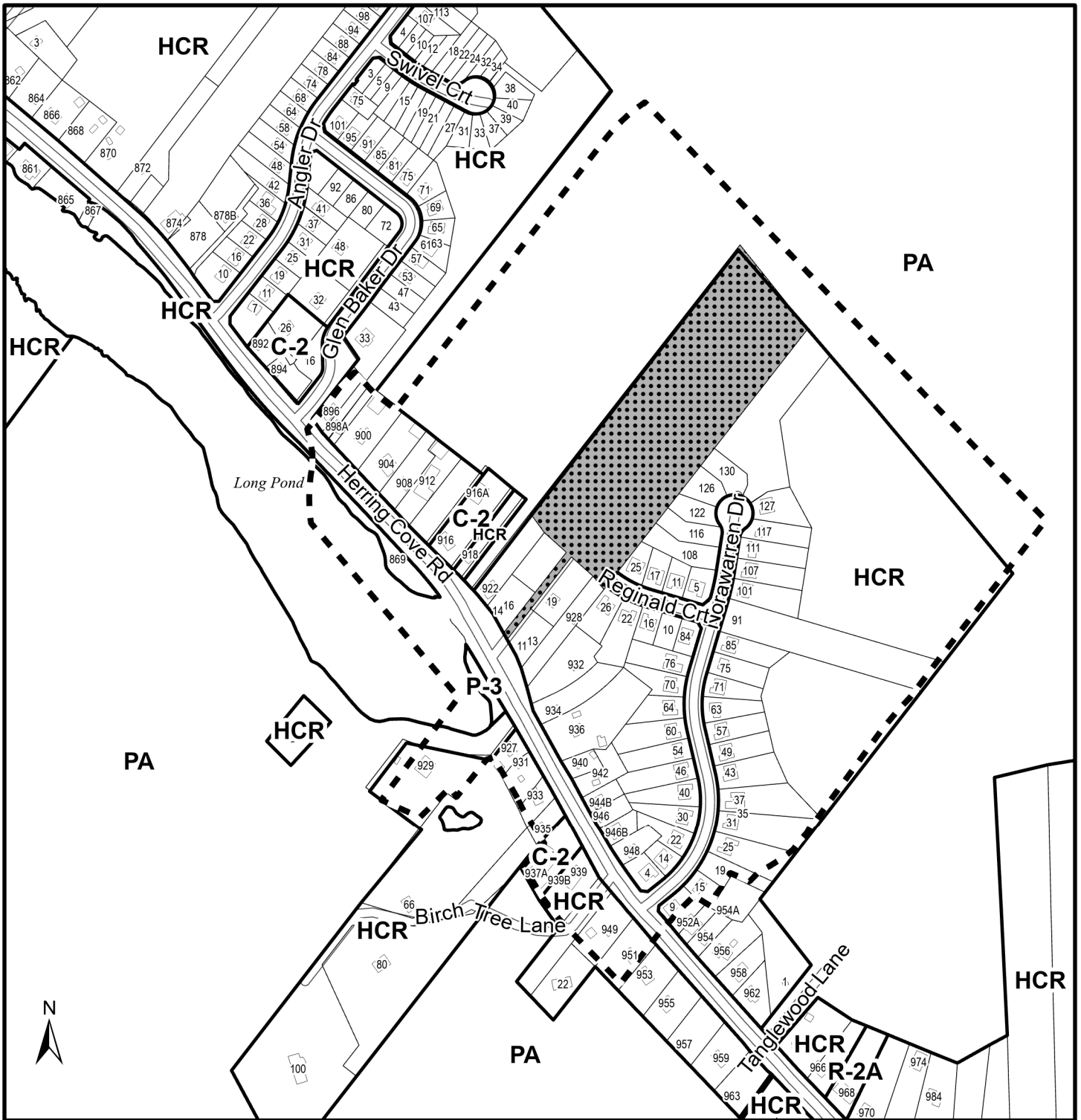
CNS Conservation
RES Residential



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

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



Planning District 5
Land Use By-Law Area



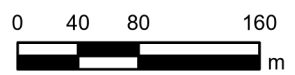
Map 2 - Zoning and Notification Area

PID: 40074437
Herring Cove

HALIFAX

-  Subject Property
-  Area of Notification

Zone	
C-2	General Business
HCR	Herring Cove Residential
P-3	Park
PA	Protected Area
R-2A	Residential Home Occupation



Planning District 5
Land Use By-Law Area

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:
Proposed Development Agreement**

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

BETWEEN:

[Insert Name of Corporation/Business LTD.]
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located off the Herring Cove Road (PID 40074437) 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 20 single unit dwellings on a new public street at the end of Reginald Court on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies RES-2C, RES-2D, RES-2E, and IM-10 of the Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy and Part 3 of the Planning District 5 (Chebucto Peninsula) Land Use By-law;

AND WHEREAS the Halifax and West Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as PLANAPP 2023-00417 (formerly Case 23741);

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 Planning District 5 (Chebucto Peninsula) 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 Planning District 5 (Chebucto Peninsula) 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 Planning District 5 (Chebucto Peninsula) Land Use By-law and the Regional Subdivision 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 Planning District 5 (Chebucto Peninsula) Land Use By-law and the Regional Subdivision 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 Planning District 5 (Chebucto Peninsula) Land Use By-law and Regional Subdivision By-law, if not defined in these documents their customary meaning shall apply.

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 PLANAPP 2023-00417 (formerly Case 23741):

Schedule A	Legal Description of the Lands
Schedule B	Site Plan

3.2 Requirements Prior to Approval

- 3.2.1 Prior to the issuance of any Lot Grading Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- (a) Plan of Survey of approved subdivision. This Plan of Survey shall generally comply with Section 3.6 of this Agreement.
- 3.2.2 Prior to the issuance of the first the Occupancy Permit for the building, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- (a) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Landscape Plan.
- 3.2.3 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 and the Regional Subdivision 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) 20 single unit dwellings;
- (b) Accessory buildings in conformance with the Planning District 5 (Chebucto Peninsula) Land Use By-law; and
- (c) Secondary Suites and Backyard Suites in conformance with the Planning District 5 (Chebucto Peninsula) Land Use By-law.

3.4 Building Siting

3.4.1 The siting of dwellings shall comply with the provisions of the HCR (Herring Cove Residential) zone contained within the Planning District 5 (Chebucto Peninsula) Land Use By-law, as amended from time to time, for Single Unit Dwellings. The following zone requirements shall be permitted by this Agreement:

- (a) the minimum lot frontage shall be 18.29 metres (60 feet); and
- (b) the minimum lot area shall be 557.42 square metres (6000 square feet).

3.4.2 The Development Officer may permit unenclosed structures attached to a dwelling such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the Planning District 5 (Chebucto Peninsula) Land Use By-law, as amended from time to time.

3.5 Subdivision of the Lands

3.5.1 Subdivision applications for the Lands shall be submitted to the Development Officer in accordance with The Regional Subdivision By-law following Land Registration of this Agreement and the Development Officer shall grant subdivision approval subject to and in accordance with the terms and conditions of this Agreement.

3.6 Outdoor Lighting

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

3.7 Signs

3.7.1 The sign requirements shall be accordance with the Planning District 5 (Chebucto Peninsula) Land Use By-law as amended from time to time.

3.7.2 Ornamental plants shall be planted and maintained around the entire base of any sign as part of the required landscaping.

3.7.3 Signs depicting the name or corporate logo of the Developer shall be permitted while a sales office is located on the site.

3.7.4 Signs shall only be externally illuminated.

3.7.5 A maximum of one ground sign shall be permitted at the entrance to the subdivision to denote the community or subdivision name. The locations of such signs shall require the approval of the Development Officer and Development Engineer. The maximum height of any such sign inclusive of support structures shall not exceed 10 feet (3.05 m) and the face area of any sign shall not exceed 50 square feet (4.65 sq. m.). All such signs shall be constructed of natural materials such

as wood, stone, brick, enhanced concrete or masonry and no planter box bases shall be permitted. The only illumination permitted shall be low wattage, shielded exterior fixtures.

3.8 Temporary Construction Building

- 3.8.1 A building shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit.

3.9 Reinstatement

- 3.9.1 All disturbed areas shall be reinstated to original condition or better.

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 Site Preparation in a Subdivision

- 4.3.1 The Developer shall not commence clearing, excavation or blasting activities required for the installation of primary or secondary services in association with a subdivision prior to receiving final approval of the subdivision design unless otherwise permitted by the Development Officer.

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.

5.3 Sulphide Bearing Materials

- 5.3.1 The Developer agrees to comply with the legislation and regulations of the Province of Nova Scotia with regards to the handling, removal, and disposal of sulphide bearing materials, which may be found on the Lands.

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 matter consistent with the *Halifax Regional Municipality Charter*:
- (a) Changes to the signage provisions as detailed in section 3.7 of this Agreement;
 - (b) Minor changes to the lot layout that do not increase the number of lots and do not reduce the amount of natural open space;
 - (c) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement; and
 - (d) The granting of an extension to the length of time for the completion of the development as identified in Section 7.4.4 of 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 three (3) 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 issuance of a Building Permit

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, if the Municipality receives a written request from the Developer.

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 issuance of an Occupancy Permit.

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;
- (c) discharge this Agreement; or
- (d) for those portions of the development which have been completed, discharge this Agreement and apply appropriate zoning pursuant to the Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy and Land Use By-law for Planning District 5 (Chebucto Peninsula), as may be amended from time to time.

7.4.4 In the event that development on the Lands has not been completed within ten (10) 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 15 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 60 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: _____

Print Name: _____

Print Position: _____

Date Signed: _____

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

Date Signed: _____

Witness

Per: _____

MUNICIPAL CLERK

Date Signed: _____

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.

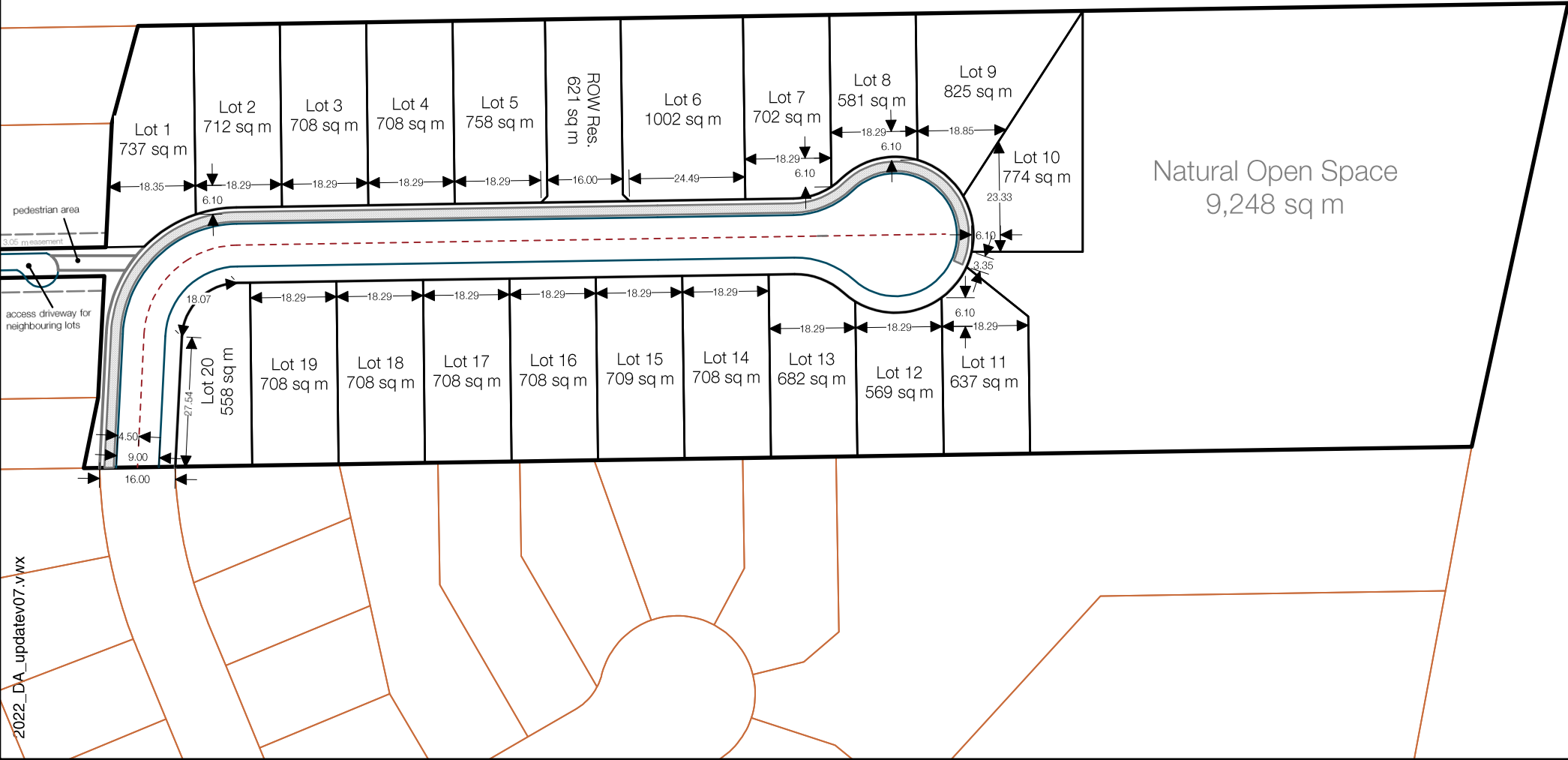
A Commissioner of the Supreme Court
of Nova Scotia

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: Site Plan



2022_DA_update07.vwx

- Existing Property Lines
- Proposed Property Lines
- Proposed Road Centre Line
- Proposed Sidewalk

Drawn by	PD
Checked by	SK
Date	
Project No	1.1 - 210101
Scale	1:1200

Date: 12/13/22
Time: 6:19:09 PM

Attachment B – Review of Relevant MPS Policies

Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy	
RESIDENTIAL DESIGNATION	
<u>Subdivision with new Public Roads by Development Agreement</u>	
Policy	Staff Comments
<p>RES-2A <i>Within the Herring Cove portion of the Residential Designation, it shall be the intention of Council to establish a Herring Cove Residential Zone which encourages retention of the low density character of the area through appropriate lot sizes. The zone shall permit low density residential uses as well as limited home business uses, fishery support uses and open space uses. The zone shall include appropriate restrictions on all permitted uses. The zone shall also provide for uses as listed in Appendix B and Appendix C of the Land Use By-law.</i></p>	
<p>RES-2B <i>Within the HCR (Herring Cove Residential) Zone and F-1 (Fishing Village) Zone, the Subdivision By-law shall permit:</i></p>	
<p><i>(a) subdivision of lots which utilize existing public street or private road frontage; and</i></p>	n. a.
<p><i>(b) the subdivision of lots in existence on February 9, 1995 to a total of three (3) lots (two plus remainder) without the required road frontage provided that all lots meet minimum area requirements and that reasonable access to a public street is provided.</i></p>	n. a.
<p>RES-2C <i>Subdivisions which include new or extended public streets may only be considered by development agreement, where:</i></p>	
<p><i>(a) municipal sewer and water services are to be provided;</i></p>	Both municipal piped services will be provided for the proposed development. Halifax Water has reviewed the revised proposal for 20 single detached dwelling units and has provided advisory comments that will need to be addressed at subdivision application and no issues have been identified.
<p><i>(b) sewage treatment facilities are available, and</i></p>	Halifax Water has reviewed the revised proposal with 20 detached dwelling units and has provided advisory comments that will need to be addressed at subdivision application stage and no issues have been identified.

<p><i>(c) a public street is to be constructed.</i></p>	<p>The submitted Traffic Impact Study has been reviewed and accepted by Development Engineering and Traffic Management. Initially the proposed cul-de-sac length was deemed too long and a variance was requested by the applicant but denied. The matter was resolved with addition of a road reserve accessing future development lands from the west side of the subject site.</p>
<p>RES-2D <i>It shall be the intention of Council to encourage all new development under Policy RES-2C to meet certain basic design objectives as follows:</i></p>	
<p><i>(a) to reproduce the pre-development hydrological conditions;</i></p>	<p>Stormwater run-off from the 20-unit development is proposed to be directed to the existing retention pond located at the end of the Norrawarren Drive cul-de-sac bulb, that abuts the subject site along the northeast boundary with the Natural Open Space, that will allow for stormwater run-off from hardscaped terrain to be controllably released, therefore reducing the impact on downstream hydrological features.</p> <p>Should the capacity of the neighbouring pond not allow for additional stormwater absorption, a dedicated pond would be installed by the developer at their cost within approximately 1,100 m² of the area dedicated to 'Natural Open Space'.</p>
<p><i>(b) confine development and construction activities to the least critical areas of the site and consider cluster development to minimize land disturbance; and that the subdivision design minimizes change to the existing landscape by matching new streets, services and lot grading to the existing topography as closely as possible.</i></p>	<p>Development on the lot is constrained by its narrow, rectangular shape, however the subdivision design makes contribution to conservation efforts by concentrating development in an area that is contiguous to existing urban development and leaving a natural area that is contiguous to the Crown Lands.</p> <p>The consideration of cluster type development on this restrictive, narrow site would require fewer dwellings (with smaller footprint), and narrower streets and available conservation lands to be set aside. This would necessitate a development form not in keeping with the existing character of the Herring Cove community.</p>

<i>(c) allocate permitted density to those areas most suitable for development;</i>	See RES-2D(b) above.
<i>(d) minimize changes to the existing topography;</i>	The proposal concentrates development in the gently sloped, top part of the property. The street is proposed to end just before the steepest drop of the property, which is situated about halfway through the site.
<i>(e) preserve and utilize the natural drainage system to the greatest possible extent;</i>	The natural drainage system will be preserved to the greatest possible extent both overall and on a lot-by-lot basis.
<i>(f) attempt to retain a minimum of 30% of the natural vegetation on the site in an undisturbed state; and</i>	Approximately 32.4% of the total land area is proposed to remain undisturbed as natural open space.
<i>(g) all shorelines shall be protected by a 100 foot wide buffer zone within which no vegetation or soil should be removed or altered except as required for utilities, trails or water access.</i>	n. a.
<p>RES-2E <i>In considering a development agreement proposal pursuant to Policies RES-2C and RES-2D, the following development criteria shall be addressed:</i></p>	
<i>(a) That the maximum permissible density is 4 units per net developable acre based on HCR and F-1 zone requirements. The net developable area shall be calculated based on the gross land area less any designated wetland areas;</i>	The gross lot area is 28,513 square meters. There are no designated wetland areas on the site. The net developable area is 7.045 acres, which results in a maximum density of 28 dwelling units. The proposal is for 20 single unit dwelling units.
<i>(b) That only single unit dwellings, two unit dwellings and auxiliary dwellings may be considered. Individual lot frontages per dwelling may be reduced to 60 feet, and lot areas to 6,000 square feet provided that an area equivalent to the amount of lot area reduction for each lot is provided as contiguous common open space which shall be maintained permanently in a substantially natural state, in addition to the minimum 10 percent public parkland dedication as required by Policy REC-10;</i>	<p>Single unit dwellings are the only dwelling type proposed.</p> <p>The proposed individual lots are reduced from the HCR Zone requirement of 10,000 square feet, however an area equivalent to the amount of total lot area reduction is proposed to be provided as contiguous open space: the policy states in addition to the 10% parkland dedication but there is no land dedication as cash-in-lieu is preferred for this application.</p> <p>Lot frontages meet 60 feet requirement of this policy and lot areas are reduced to approximately 6000 square feet.</p>

<i>(c) That adequate erosion and sediment control plans and stormwater management plans are prepared;</i>	These plans would be required during the subdivision and permitting stages prior to the start of any development.
<i>(d) That full consideration is given to use of a public road standard in keeping with that identified in Policy TR-18;</i>	<p><i>Policy TR-18</i> <i>The HRM should provide for a street design standard that is similar in scale and character to traditional village roads, while addressing key design issues as addressed in the Municipal Service Specifications.</i></p> <p>There is no street design standard similar in scale and character to traditional village roads in the HRM Redbook.</p>
<i>(e) That there is adequate provision of public access to traditional trails and recreation areas and that adequate open space areas are provided, including substantial parkland areas and frontages on any lake to serve appropriate parkland functions; and</i>	HRM Parks and Recreation has reviewed the revised application regarding the proposed HRM parkland. Adequate access to the multitude of existing trails in the local area (Crown Lands) will be determined at a later date. See Parks comments below.
<i>(f) The provisions of Policy IM-10. (RC-Feb 13/01;E-May 5/01).</i>	See below.

IMPLEMENTATION

Policy IM-10
 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>(a) that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;</i>	As discussed, the proposal generally conforms with the intent of the MPS and other by-laws and regulations.
<p><i>(b) that the proposal is not premature or inappropriate by reason of:</i></p> <p><i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i> <i>(ii) the adequacy of sewer and water services;</i> <i>(iii) the adequacy or proximity of school, recreation and other community facilities;</i></p>	<p>(i) There is no cost to the Municipality related to this proposed development as all costs will be borne by the developer.</p> <p>(ii) Halifax Water has reviewed the application and services are available in the area.</p> <p>(iii) The William King Elementary School and Herring Cove Junior High school are both located in the community of Herring Cove, within a walking distance of 17 minutes and 19 minutes respectively.</p>

<p><i>(iv) the adequacy of road networks leading or adjacent to or within the development;</i> <i>(v) pedestrian safety; and</i> <i>(vi) the potential for damage to or destruction of designated historic buildings and sites</i></p>	<p>(iv) Please see comments below.</p> <p>(v) A sidewalk on one side of the street is shown on the entirety of the cul-de-sac and around the bulb until it meets the opening to the open space.</p> <p>(vi) n. a.</p>
<p><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></p> <p><i>(i) type of use;</i> <i>(ii) height, bulk and lot coverage of any proposed building;</i> <i>(iii) traffic generation, access to and egress from the site, and parking;</i> <i>(iv) open storage;</i> <i>(v) signs; and</i> <i>(vi) any other relevant matter of planning concern.</i></p>	<p>(i) The proposed development agreement will allow non-conflicting residential uses on the lands adjacent to surrounding residential land uses.</p> <p>(ii) A development agreement will control the height, bulk, and lot coverage of any building(s) on the lots.</p> <p>(iii) Access and egress to the site as well as parking will be controlled in a development agreement.</p> <p>(iv) No open storage is proposed - a development agreement will restrict open storage on the site.</p> <p>(v) No signage is proposed. A development agreement will control/restrict signage.</p> <p>(vi) n. a.</p>
<p><i>(d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding; and</i></p>	<p>Large tracts of the site, including the lands proposed for development, are situated on gently sloped lands with gradients between 0% to 4%. Several sections of the property show steeper slopes. However, these sections are usually short and can be prepared for development through appropriate grading.</p>
<p><i>(e) any other relevant matter of planning concern.</i></p>	<p>None identified.</p>
<p><i>(f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", 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</i></p>	<p>n. a. - not a holding zone.</p>

<p><i>“Infrastructure Charges” Policies of this MPS.</i></p>	
<p>Halifax Regional Municipal Planning Strategy (Regional Plan)</p>	
<p>CHAPTER 3: SETTLEMENT AND HOUSING 3.2 Land Use Designations</p>	
<p>Policy S-1 <i>The Urban Settlement Designation, shown on the Generalized Future Land Use Map (Map 2), encompasses those areas where HRM approval for serviced development has been granted and to undeveloped lands to be considered for serviced development over the life of this Plan. Amendments to this Boundary may be considered:</i></p> <p>(a) <i>where reviews of regional population and housing forecasts have been undertaken and the proposed amendments may assist in achieving the growth targets established by this Plan; and</i></p> <p>(b) <i>the lands are within or adjacent to a growth centre.</i></p>	<p>Staff advise that this request is supported and reasonably consistent with the Regional Centre Growth Centre intentions. The medium density of units is supported by the location of the site on the edge of an established community. The building design is human-scale and features façade differentiation. Existing adjacent trails, walkways and paths will eventually be accessible from this development.</p> <p>It is noted that this development does feature parking on individual sites. The sites will have limited area to be developed as private amenity space. Community amenity space and open space will play an important role. Additionally, public art was not made a requirement of this development based on the context and scale of the proposal.</p>
<p>Table 3-1: Future Characteristics of Urban Settlement Growth Centres</p> <p><i>This subject site falls within the Urban Local Growth Centre identified on Table 3-1 of the Regional Plan that lists intended future characteristics of Urban Settlement Growth Centres. Characteristics intended for the Herring Cove centre which are applicable to this request include:</i></p> <ul style="list-style-type: none"> • <i>Mix of low, medium and high density residential, small office, small institutional and convenience commercial uses</i> • <i>In established residential neighbourhoods, low to medium density residential uses</i> • <i>Pedestrian oriented facades</i> • <i>Street, or rear yard parking wherever possible</i> 	<p>This request within an established residential development is a medium density development of single unit dwellings with street oriented facades. The local plan policies allow trade off large lots for natural open space and contiguous natural lands specifically. The local street network and the surrounding trails and links will provide for eventual connection to private lands and other public lands.</p>

<ul style="list-style-type: none"> • Access to AT (Active Transportation) routes • Interconnected private and public open space. 	
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Integrated Mobility Plan

3. MODE-SPECIFIC POLICIES

3.1 Active Transportation

<p>Objective 3.1.1 <i>Encourage walking and bicycling by building complete and connected networks that respond to the needs of urban, suburban and rural communities, for all ages and abilities.</i></p>	<p>The subject site is located within surrounding Crown land resources that has existing walking and bicycling paths. There is an existing path segment which connects the public sidewalk at the beginning of Norawarren Drive at Herring Cove Road intersection. A HRM connection from the proposed Natural Open Space will eventually connect to the existing pathways.</p>
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3.2 Transit

<p>Objective 3.2.1 <i>Enhance transit service by increasing the priority of transit and improving the integration of transit service with land use and settlement patterns.</i></p>	<p>This proposal is an infill development which allows a comparably denser land use to be integrated within existing transit service. The location and density of this proposal lends itself to more residents being able to access transit, while having the potential to improve ridership of the existing route.</p>
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3.5 Parking

<p>Objective 3.5.1 <i>Align parking management with the goal of shifting more trips to active transportation, transit and car-sharing, while supporting growth in the Regional Centre and in Transit Oriented Developments and Communities proposed by this plan.</i></p>	<p>This growth within an identified growth centre is within proximity of existing active transportation and transit routes and therefore the proposal parking ratio of 0.8 is supported by staff. A reduction in vehicular parking lends itself to shifting more trips to active transportation and transit modes.</p>
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Halifax Green Network Plan

4 Green Network Objectives and Actions

4.4 Outdoor Recreation

<p>Objective 4.4.3.1 <i>Recognize the Importance of parks for community health and well-being</i></p>	<p>The subject site of this application is surrounded by Crown lands on two sides. There are no formal connections to the hiking trails and bicycling trails that are located on the Crown lands. The proposed parkland at the end of the subdivision presents an opportunity to install a trail head parking lot and connect the</p>
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	subdivision to nearby MacIntosh Run Community Trail system. This will depend on conversations with the Province and local trail association.
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