



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

**Item No. 14.1.3**  
**Harbour East- Marine Drive Community Council**  
**March 7, 2024**

**TO:** Chair and Members of Harbour East-Marine Drive

**SUBMITTED BY:** *- Original Signed -*  
\_\_\_\_\_  
Jacqueline Hamilton, Executive Director of Planning and Development

**DATE:** February 12, 2024

**SUBJECT:** **PLANAPP 2023-01030: Development Agreement for an expansion to an existing commercial building at 667 Highway 7, Westphal (Gateway Meat Market)**

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**ORIGIN**

Application by the property owner, Steven Addison.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Harbour East-Marine Drive Community Council:

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A, to allow an expansion to an existing commercial building at 667 Highway 7, Westphal 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**

The property owner has applied for a development agreement to permit an expansion of the gross floor area of an existing commercial building at 667 Highway 7, Westphal to allow for more commercial retail and office space to support the business, "Gateway Meat Market".

<b>Subject Site</b>	667 Highway 7, Westphal (PID 00619494)
<b>Location</b>	Approximately 300 metres northeast of the intersection of Hwy 7 and Hwy 107, to right of Loonview Lane.
<b>Regional Plan Designation</b>	US (Urban Settlement)
<b>Community Plan Designation (Map 1)</b>	HC (Highway Commercial) Designation
<b>Zoning (Map 2)</b>	C-4 (Highway Commercial) Zone
<b>Size of Site</b>	6,688 square metres (1.7 acres)
<b>Street Frontage</b>	70 metres (230 feet)
<b>Current Land Use(s)</b>	Commercial (Gateway Meat Market)
<b>Surrounding Use(s)</b>	Commercial, residential, and institutional

### **Proposal Details**

The applicant proposes to expand the existing commercial building at 667 Highway 7, Westphal. The major aspects of the proposal are as follows:

- Lot consolidation of 667 Hwy 7 and 671 Hwy 7 (plan registered on November 8, 2023);
- Demolition of existing structures at 671 Hwy 7 (permit issued on June 5<sup>th</sup>, 2023);
- Two storey addition to existing commercial building at 667 Hwy 7 (701 sq. m / 7546 sq. ft.);
- Alteration of existing façade and side walls to create flat roofs across the entirety of the building; and
- Pedestrian covered walkway at new front entrance of building.

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

The subject property is designated as HC (Highway Commercial) under the Cole Harbour/Westphal Municipal Planning Strategy (MPS) and zoned C-4 (Highway Commercial) under the Cole Harbour/Westphal Land Use By-Law (LUB). MPS policy HC-3 enables Council to consider commercial uses in excess of 929 square metres (10,000 square feet) and to a maximum of 4645 square metres (50,000 square feet) of gross floor area by development agreement.

The subject property is zoned C-4 zone, which permits commercial uses with a maximum gross floor area of 929 square metres (10,000 square feet). If approved, the proposed development agreement will allow the building to expand up to 1672.3 square metres (18,000 square feet) for commercial uses, including a food store.

## **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 21 letters were mailed to property owners and tenants within the notification area (Map 2). The HRM website received a total of 99 unique pageviews over the course of the application, with an average time on page of 28 seconds. Staff received 1 response from the public. The public comments received include the following topics:

- Questions of clarification about the proposal;

- Traffic sight lines;
- Sightliness of the proposal.

A public hearing must be held by Harbour East- Marine Drive 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 Cole Harbour/ Westphal 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;
- Building footprint and height; and
- Hours of operation.

The attached proposed development agreement will permit a food store, as defined in the Cole Harbour/Westphal Land Use By-law, 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.

### **Intent of Policy**

The Cole Harbour/Westphal MPS describes lands along Highway 7 as conducive to supporting uses dependant on a regional market and which require extensive use of land. The Highway Commercial designation was applied to lands along Highway 7 to support the development of these lands and to provide services the travelling public. Policy HC-3 was adopted to enable commercial uses along Highway 7 to expand beyond 929 square metres (10,000 square feet) as permitted in the C-4 zone, according to provisions of a development agreement, so that aspects such as site design and access, stormwater management, and particularly separation from residential land uses could be addressed. The subject property is located on Highway 7, surrounded by primarily commercial uses. There is a residential development to the west of the property along Loonview Lane. The proposed expansion will be located on the opposite side of the existing commercial building, to the east. The size of the proposed addition will be controlled through the proposed development agreement, while aspects such as setbacks, parking, landscaping and outdoor storage will continue to be regulated through the C-4 zone of the Cole Harbour/Westphal Land Use By-law.

### **Site Design and Access**

Policy HC-3 requires Council to consider the site design, including open storage and outdoor display, parking and loading, landscaping, and vehicular access to the site. The existing building has undergone three additions over the past two decades through the as-of-right permitting process, which have shaped the existing site conditions. The subject property was consolidated with an adjacent property to the east in November 2023 to accommodate the proposed addition without impacting the existing access and parking area to the west. The adjacent property (now consolidated) contained a single unit dwelling (which was issued a Demolition Permit in June 2023) with its own driveway access. That driveway will be eliminated, as the LUB limits access to no more than one per property along Highway 7. Open storage, outdoor display and landscaping will continue to be regulated through the C-4 zone of the Cole Harbour/Westphal LUB.

### Stormwater Management and Watercourse Setbacks

Policy HC-3 directs Council to consider the proposed storm drainage when contemplating expansions in excess of 929 square metres (10,000 square feet). A preliminary stormwater management plan was submitted as part of this application. Stormwater is proposed to drain into the Halifax Water infrastructure along Highway 7. A full stormwater management plan will be evaluated prior to the issuance of permits, in accordance with By-law G-200, *Respecting Grade Alteration and Stormwater Management Associated with Land Development*. The rear portion of the property has frontage along Lake Loon. A 20 metre watercourse setback from Lake Loon is required by the Cole Harbour/Westphal Land Use By-law. The current building is approximately 20 metres from the ordinary high water mark and the addition will be no closer than the existing building and will respect the minimum 20 metre setback as well.

### **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 addition to the commercial building does not conflict with any of the Priorities Plans.

### **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 will allow for commercial uses, including a food store, as per the underlying zone. The existing commercial building is permitted to expand, provided a footprint of 1672.3 (18,000 square feet) is not exceeded. Most controls will continue to be enforced through the underlying zone. Therefore, staff recommend that the Harbour East-Marine Drive 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**

The existing commercial building is located 20m (66 feet) from Lake Loon, in accordance with the current watercourse buffer setback requirements of the Cole Harbour/Westphal Land Use By-law. The proposed addition will continue to meet the 20m setback. Stormwater is proposed to drain into the Halifax Water stormwater system. A complete stormwater management plan will be reviewed in accordance with By-Law G-200 at the permitting stage. No additional concerns were identified beyond those raised in this report.

## **ALTERNATIVES**

1. Harbour East- Marine Drive 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. Harbour East- Marine Drive 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**

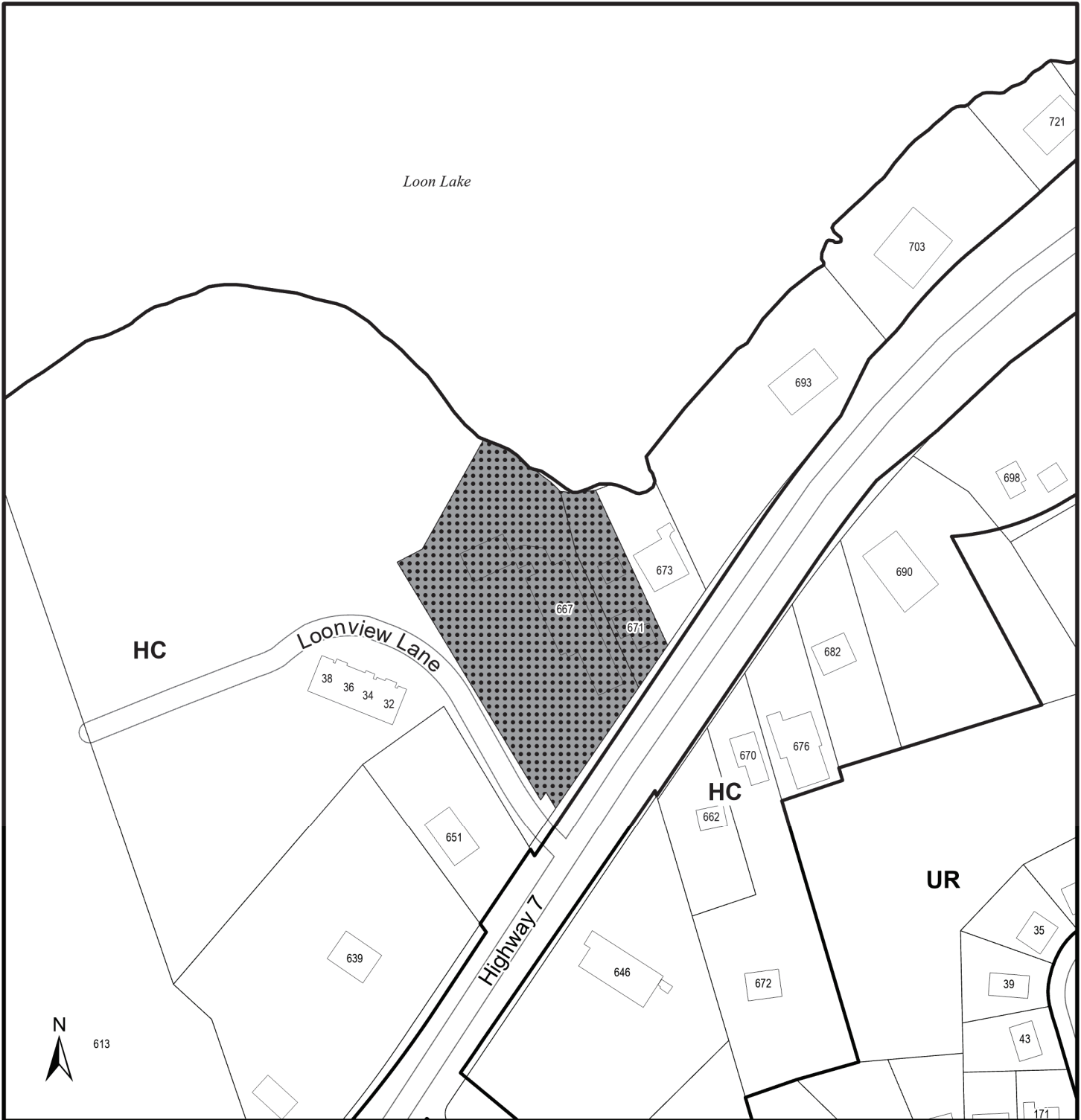
Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Development Agreement
Attachment B:	Review of Relevant MPS Policies

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

Report Prepared by: Claire Tusz, Planner II, 902.430.0645

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**Map 1 - Generalized Future Land Use**

667 and 671 Highway 7  
Westphal

**HALIFAX**

 Subject Properties

**Designation**

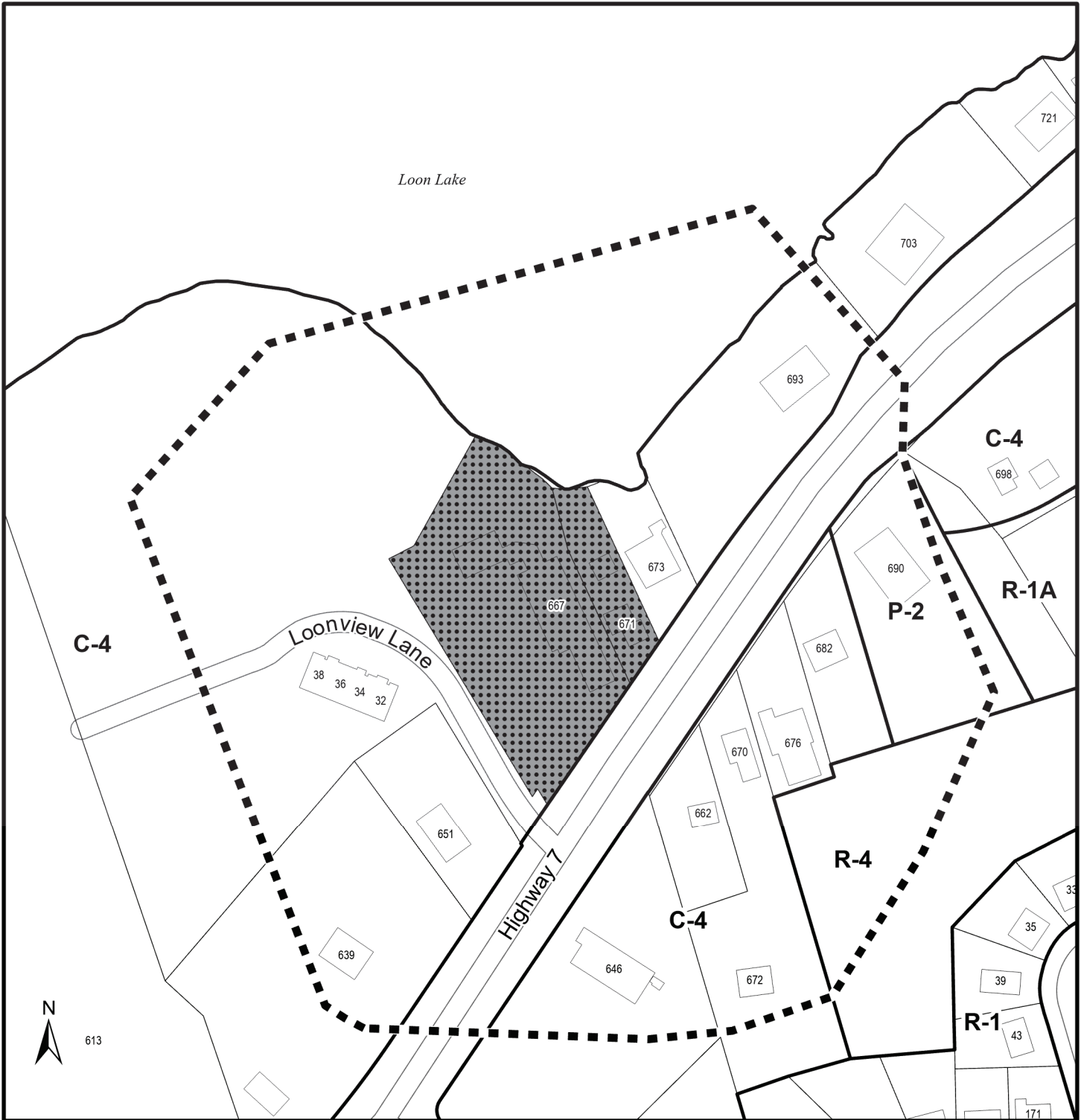
HC Highway Commercial  
UR Urban Residential



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.

Cole Harbour/Westphal  
Municipal Planning Strategy




## Map 2 - Zoning and Notification Area

667 and 671 Highway 7  
Westphal

**HALIFAX**

 Subject Properties

 Area of Notification

### Zone

C-4	Highway Commercial
P-2	Community Facility
R-1	Single Unit Dwelling
R-1A	Single Unit Dwelling
R-4	Multiple Unit Dwelling



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.

Cole Harbour/Westphal  
Land Use By-Law Area

**Attachment A: Proposed Development Agreement**

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

BETWEEN:

**INSERT NAME**

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 at 667 Highway 7, Westphal 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 an expansion to a commercial building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy HC-3 of the Cole Harbour/Westphal Municipal Planning Strategy and Part 18 of the Cole Harbour/Westphal Land Use By-law;

**AND WHEREAS** the Harbour East-Marine Drive Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as PLANAPP 2023-01030;

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

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## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

- 1.1.1 The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

### **1.2 Applicability of Land Use By-law and Subdivision By-law**

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Cole Harbour/Westphal Land Use By-law and the Regional Subdivision By-law, as 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.

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

- 1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.
- 1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

### **1.4 Conflict**

- 1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

### **1.5 Costs, Expenses, Liabilities and Obligations**

- 1.5.1 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

### **1.6 Provisions Severable**

- 1.6.1 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

### **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:

**Food Store** means a retail establishment that primarily sells food, including the accessory sale of food being prepared on-site, and that may also sell other convenience and household goods, but excludes a farmers' market use.

## **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 2023-01030:

Schedule A      Legal Description of the Lands(s)

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

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

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

- 3.3.1 The use(s) of the Lands permitted by this Agreement are the following:
- (a) A food store; or
  - (b) Any use permitted within the C-4 Zone, subject to the provisions contained within the applicable Land Use By-law.
- 3.3.2 The Development Officer may permit unenclosed structures attached to a main building such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the applicable land use by-law, as amended from time to time.

### **3.4 General Provisions for Land Use**

3.4.1 Further to Section 3.3.1, an addition to the existing building shall be permitted, provided the following conditions are met:

- (a) The total building footprint does not exceed 1672.3 square metres (18,000 square feet);
- (b) The height of the commercial building does not exceed 10.7 metres (35 feet); and
- (c) The building meets all other provisions of the applicable Land Use By-law.

### **3.5 Parking, Circulation and Access**

3.5.1 The parking requirements shall be in accordance with the C-4 zone of the Cole Harbour/Westphal Land Use By-law, as amended from time to time, and shall be hard surfaced.

### **3.6 Landscaping**

3.6.1 The landscaping requirements shall be in accordance with the C-4 zone of the Cole Harbour/Westphal Land Use By-law, as amended from time to time.

### **3.7 Outdoor Storage and Display**

3.7.1 Outdoor storage and display of retail goods is permitted in accordance with the requirements of the C-4 Zone of the Cole Harbour/Westphal Land Use By-law, as amended from time to time.

### **3.8 Outdoor Lighting**

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

3.8.2 The building may be illuminated for visual effect provided such illumination is directed away from streets, adjacent lots and buildings and does not flash, move or vary in intensity such that it creates a hazard to public safety.

### **3.9 Maintenance**

3.9.1 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.

3.9.2 All disturbed areas of the Lands shall be reinstated to original condition or better.

### **3.10 Signs**

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

### **3.11 Hours of Operation**

3.11.1 The food store shall be permitted to operate between the hours of 7:00 am and 10:00 pm on all days of the week.

3.11.2 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

### **3.12 Reinstatement**

3.12.1 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.

## **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.

5.2.2 Stormwater Management must meet average removal of 80% of Total Suspended Solids (TSS) on an annual loading basis from all stormwater runoff leaving the development site based on the post-development level of imperviousness.

### **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) To allow the building to expand an additional 93 square metres (1000 square feet), provided 50% lot coverage is not exceeded as per the applicable zone;
  - (b) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement; and
  - (c) The granting of an extension to the length of time for the completion of the development as identified in Section 7.4.3 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 four (4) 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 Building Permit for an addition to a commercial building.
- 7.3.3 For the purpose of this section, the Municipality 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;

- (c) discharge this Agreement; or
- (d) discharge this Agreement and apply appropriate zoning pursuant to the applicable Municipal Planning Strategy and Land Use By law, as may be amended from time to time.

7.4.2 For the purpose of this section, completion of development shall mean the issuance of an Occupancy Permit.

7.4.3 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: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date Signed: \_\_\_\_\_

=====

=====

**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

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.

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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.

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A Commissioner of the Supreme Court  
of Nova Scotia



## Attachment B: Review of Relevant MPS Policies

Cole Harbour/Westphal Municipal Planning Strategy	
Highway Commercial Designation COMMERCIAL USES BY DEVELOPMENT AGREEMENT	
Policy	Staff Comments
<p><b>Policy HC-3</b>  <i>Notwithstanding Policy HC-2, in order to accommodate adjacent commercial and residential uses, it shall be the intention of Council to only consider commercial uses in excess of ten thousand (10,000) square feet and to a maximum of fifty thousand (50,000) square feet of gross floor area, according to the development agreement provisions of the Planning Act. When considering such an agreement, Council shall regard to the following:</i></p>	
<p><i>(a) vehicular access to the site;</i></p>	<p>A Traffic Impact Study (TIS) was submitted by the applicant and reviewed and accepted by HRM Development Engineering. The existing access to the Gateway Meat Market parking lot is adequate and no changes are proposed through this application. For background information, an adjacent lot to the east was consolidated with the subject property (plan registered on November 8<sup>th</sup>, 2023) to create space for the expansion of the building. The adjacent lot had a single unit dwelling (demolition permit issued on June 5<sup>th</sup>, 2023) and a driveway. The driveway will be removed as only one point of access is permitted per property along Highway 7 (Section 18.7 of the LUB). Only the existing access to the Gateway Meat Market parking lot will remain.</p>
<p><i>(b) separation from residential uses;</i></p>	<p>The proposed expansion is no closer to the residential development on Loonview Lane to the west/southwest nor to the residential building across the street. There are no residential buildings to the east/northeast, and to the north is Loon Lake.</p>
<p><i>(c) storm drainage;</i></p>	<p>A preliminary stormwater drainage plan was reviewed by Halifax Water who provided Advisory comments regarding standards for the acceptance of infrastructure connections. Through the proposed development agreement, a full stormwater management plan will be required at the permitting stage.</p>
<p><i>(d) site design including open storage and outdoor display area parking and loading spaces and landscaping; and</i></p>	<p>To accommodate the proposed addition the subject property was consolidated with the property abutting the right-side yard on November 8<sup>th</sup>, 2023. There will be no major changes to the existing site design with</p>

	respect to access, egress, parking a loading areas, aside from the addition of some parking spaces where the previous entrance to the building is located. Open storage, outdoor display, and landscaping (buffering and screening) will continue to be regulated through the C-4 zone of the applicable land use by-law.
<i>(e) the provisions of Policy IM-11.</i>	See below.
<b>Implementation</b>	
<p><b>Policy IM-11</b>  <i>In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this planning strategy, Cole Harbour/Westphal Community Council shall have appropriate regard to the following matters:</i></p>	
<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>	The existing commercial building is permitted by the C-4 zone of the Cole Harbour/Westphal Land Use By-law and records show the most recent renovation permit was issued in 2013 for an addition to an existing commercial building for Gateway Meat Market leasehold. The proposed expansion is enabled for consideration by community council through the discretionary approval process. The Municipal Planning Strategy (MPS) speaks to accommodating larger scale commercial buildings where aspects such as vehicular access and separation from residential uses are not problematic.
<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> <i>(ii) the adequacy of sewer and water services;</i> <i>(iii) the adequacy or proximity of school, recreation and other community facilities;</i> <i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i> <i>(v) the potential for damage to or destruction of designated historic buildings and sites.</i>	(i) It is not anticipated that the proposed development will incur any costs to the Municipality. (ii) Halifax Water reviewed the proposed development and provided Advisory comments relating to the capacity of wastewater infrastructure to support the proposed expansion. A stormwater management plan will be required and reviewed at the permitting stage. (iii) The proposed development is not anticipated to impact the local schools. (iv) The TIS has been reviewed by HRM Engineers who determined the road networks leading to, adjacent to, and within the development to be adequate. (v) The proposed development is not in proximity to designated historic buildings and sites.
<i>(c) that controls are placed on the proposed development so as to reduce</i>	(i) The proposed land use is existing and surrounded by similar uses (commercial). The proposed development agreement limits the types

<p><i>conflict with any adjacent or nearby land uses by reason of:</i></p> <ul style="list-style-type: none"> <li><i>(i) type of use;</i></li> <li><i>(ii) height, bulk and lot coverage of any proposed building;</i></li> <li><i>(iii) traffic generation, access to and egress from the site, and parking;</i></li> <li><i>(iv) open storage;</i></li> <li><i>(v) signs; and</i></li> <li><i>(vi) any other relevant matter of planning concern.</i></li> </ul>	<p>of uses permitted on the subject property to commercial uses as per the C-4 zone of the applicable land use by-law, including a food store.</p> <ul style="list-style-type: none"> <li>(ii) The proposed development agreement limits the maximum height permitted for this development to 10.7 metres (35 feet) which is consistent with the C-4 zone of the applicable land use by-law.</li> <li>(iii) The TIS was reviewed by HRM Engineers who determined traffic generation, access to and egress from the site to be acceptable. HRM Parking Standards reviewed the proposed parking and determined it to be adequate to support the proposed addition to the building.</li> <li>(iv) Open storage and outdoor display will continue to be regulated through the C-4 zone of the applicable land use by-law.</li> <li>(v) Signage will continue to be regulated through the applicable land use by-law.</li> <li>(vi) No concerns have been identified.</li> </ul>
<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>The proposed site appears to be suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding. No portion of the proposed development is located within the 20m watercourse buffer.</p>
<p><i>(e) any other relevant matter of planning concern.</i></p>	<p>No concerns have been 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 “Infrastructure Charges” Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i></p>	<p>No holding zone has been established.</p>

**Halifax Regional Municipal Planning Strategy (Regional Plan)**

**9.6.A Priorities Plans**

**Policy 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;*
- (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) The scope of the proposed expansion does not impact the goals and objectives of the Integrated Mobility Plan. Transit staff did not identify opportunities for additional transit to this location.
- (b) The subject property is not located in or near a wilderness corridor or wetland. There are no anticipated impacts to the goals and objectives of the Halifax Green Network Plan resulting from the proposed expansion.
- (c) The scope of the proposed expansion does not impact the goals and objectives of HalifACT.
- (d) The proposed expansion is aligned with the goals and objectives of Halifax's Inclusive Economic Strategy as it supports a land use (food store) that is integral to the community in terms of food sovereignty and employment opportunities.
- (e) No other priority plan has been approved by Regional Council at this time.