



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

**Item No. 10.1.1**  
**Harbour East - Marine Drive Community Council**  
**December 11 2024**  
**January 9, 2025**

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

**FROM:** Jacqueline Hamilton, Executive Director of Planning and Development

**DATE:** November 4, 2024

**SUBJECT:** **PLANAPP-2024-00311: Development Agreement for 204 Conrad Road, Lawrencetown (PID 00490862)**

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**ORIGIN**

Application by the property owners, Matthew and Jordyn Howse.

**EXECUTIVE SUMMARY**

This report recommends approval of a development agreement to allow for a take-out restaurant at 204 Conrad Road, Lawrencetown within an existing accessory building. The existing accessory building was previously a woodworking shop and is recognized by the Lawrencetown Land Use By-law as an existing industrial use. Policy P-39A of the Lawrencetown Municipal Planning Strategy enables Council to consider changes to existing recognized commercial and industrial uses, such as the request subject of this report. Staff recommend approval of the proposed development agreement, which shall be substantially of the same form as set out in Attachment A. There are no budgetary implications as the applicant will bear all costs, expenses, liabilities, and obligations necessary to fulfill the terms of this proposed development agreement.

**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 a take-out restaurant at 204 Conrad Road and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

Matthew and Jordyn Howse are applying to allow a take-out restaurant within an existing accessory building at 204 Conrad Road in Lawrencetown.

<b>Subject Site</b>	204 Conrad Road, Lawrencetown (PID 00490862)
<b>Location</b>	North of the intersection of Rosebank Lane and Conrad Road; South of the intersection of Westview Drive and Conrad Road
<b>Regional Plan Designation</b>	Rural Commuter (RC)
<b>Community Plan Designation (Map 1)</b>	Lawrencetown (L) of the <a href="#">Lawrencetown Municipal Planning Strategy (MPS)</a>
<b>Zoning (Map 2)</b>	RR-1 (Rural Residential) of the <a href="#">Lawrencetown Land Use By-law (LUB)</a>
<b>Size of Site</b>	Approximately 5,058.6 square metres (1.25 acres)
<b>Street Frontage</b>	Approximately 40 metres (131.2 feet)
<b>Current Land Use(s)</b>	Single unit dwelling
<b>Surrounding Use(s)</b>	Single unit dwellings

### **Proposal Details**

The applicant proposes to establish a take-out restaurant within an existing accessory building adjacent to the single unit dwelling. The major aspects of the proposal are as follows:

- Conversion of an existing accessory building, previously used as a woodworking shop, to a take-out restaurant use;
- Allow a maximum footprint of 1,100 square feet (103.1 square meters) for the take-out restaurant use. No expansion to the existing accessory building will be permitted; and
- Require controls in the proposed development agreement regarding visual barriers and hours of operation.

### **History**

HRM staff was made aware that the current take-out restaurant on the subject property, Better Vibe Café, had been operating for the past two years without a development permit. An investigation was completed, and the property owner received direction to obtain the missing approval. As a take-out restaurant use is not permitted in the RR-1 zone that applies to the property, the owners have applied to enter into a development agreement to legalize the use in accordance with Policy P-39A of the Lawrencetown Municipal Planning Strategy (MPS). Should this development agreement be approved, the compliance issues would be considered resolved and the Better Vibe café could begin operations again.

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

Prior to the adoption of the Lawrencetown Land Use By-law (LUB) in 1990, a woodworking shop operated within the accessory building on the subject property. Commercial and industrial uses are generally limited within the Lawrencetown Plan Area, but existing commercial or industrial uses in existence at the time of the adoption of the LUB are recognized, and may be expanded, repaired or replaced subject to the appropriate provisions of the LUB. These properties are recognized in Appendix B and C of the LUB.

The subject property is within the Lawrencetown Designation and zoned RR-1 (Rural Residential) within the Lawrencetown Municipal Planning Strategy (MPS) and Land Use By-law (LUB) respectively. The RR-1 zone allows residential, resource, non-intensive agricultural, and community uses, and the existing commercial and industrial uses recognized in Appendix B and C of the LUB. As the site is recognized in Appendix C, a woodworking shop would be a permitted use as-of-right on the subject property, but other commercial uses are not.

Policy P-39A of the Lawrencetown MPS allows Council to consider a change of use for the properties identified within Appendix B and C of the LUB, provided that the change of use is of a similar scale to the existing use in terms of structure and outdoor storage and display areas.

## **DISCUSSION**

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

### **Proposed Development Agreement**

Attachment A contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- Allows a take-out restaurant use in the existing accessory building on the subject property, with no additional expansions permitted;
- Requires a minimum of 6 parking spaces for the commercial use;
- Requires visual barriers to screen the commercial use and parking area from residential neighbours on both the northern and southern sides of the lot;
- Places controls on the hours of operation for weekdays and weekends, including controls on deliveries and the collection of refuse and recyclables to the take-out restaurant; and
- Lists matters that are able to be considered as non-substantive amendments including minor changes to the architectural requirements for the commercial building, changes to parking, access and circulation requirements and extensions to the dates of commencement and completion of development.

The attached development agreement will permit a take-out restaurant use, 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.

### **Scale of Use and Impact to the Surrounding Residential Environment**

Policy P-39A(a) requires that the change in use be of a similar scale to the existing use (woodworking shop) in terms of structures and outdoor storage and display areas. In this case, the change of use is proposed within the existing accessory structure, which is the same structure within which the existing woodworking business operated.

The existing building is located 1.2 meters from the northern property line, which does not meet the minimum required setback for accessory buildings in the LUB. The accessory building is a non-conforming structure, as it existed lawfully prior to the adoption of the LUB. In this case, because the proposed use is located within the same building and is of the same scale of the woodworking shop, this policy criteria is satisfied. Any potential impacts will be mitigated through the requirement for opaque fencing, masonry walls, or landscaping along the northern and southern side of the subject property. These visual barriers are designed to minimize any visual intrusion that could be caused by the commercial building or parking area and maintain the residential character of the area. Additionally, the agreement mandates that operational activities, including deliveries and refuse collection, be confined to specified hours, further reducing potential disturbances. Combined with designated parking provisions and guidelines for outdoor lighting to prevent light spill, these measures aim to effectively address community concerns while fostering a harmonious coexistence between the take-out restaurant and the surrounding residential environment.

### **Traffic and Parking**

The general implementation policy P-61(c)(iii) requires that in development agreements, controls be placed on the proposed development to reduce conflict with any adjacent or nearby land uses by reason of traffic generation, access to and egress from the site, and parking. In this case, the submitted traffic impact statement (TIS) confirmed there is adequate capacity on Conrad Road to service the development. Additionally, the TIS confirmed that given the anticipated trip generation rates, access to and egress from the site can be accommodated.

The LUB requires that 6 parking spaces be provided which can be accommodated on the site in the parking area as shown on Schedule B of the proposed development agreement, excluding additional parking spaces provided for personal use by the property owners. Additionally, the TIS noted that during favourable weather days, as much as 50% of the traffic to the take-out restaurant can be from cyclists. Bicycle racks have been provided on the site plan to accommodate these cyclists.

Based on the recommendations in the TIS, staff have determined the required parking in accordance with the LUB provisions is sufficient to accommodate the use, and the applicant has demonstrated ability to meet and exceed the minimum requirements in the LUB.

### **Compatibility with Nearby Land Uses**

The proposed take-out restaurant at 204 Conrad Road, while representing a shift to a customer-facing commercial use from the previous woodworking shop, has been designed to align with the surrounding residential context in accordance with the general implementation Policy P-61(c)(i). To enhance compatibility with nearby land uses, the development agreement requires the installation of visual barriers that will provide screening and visual appeal to the adjacent residential uses to help mitigate potential visual impacts from the take-out restaurant and accompanying parking area. Furthermore, the take-out restaurant's operational hours are restricted to 7:00 am to 9:00 pm ensuring that late-night disturbances are minimized. These measures collectively aim to manage traffic and parking demand while allowing the take-out restaurant to operate in a residential neighbourhood.

### **Priorities Plans**

In accordance with Policy G-14A of the Halifax Regional Plan, staff considered 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 in making its recommendation to Council. In this case, the proposed development does not directly conflict with any specific objectives, policies or actions 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 represents a significant opportunity to re-purpose an existing accessory building while adhering to the policies outlined in the Lawrencetown Municipal Planning Strategy. The conversion of the accessory building from a woodworking shop to a take-out restaurant aligns with community needs for local dining options and economic activity. While concerns regarding traffic, parking, and compatibility with neighboring residential uses have been raised, the development agreement includes specific measures to mitigate these impacts, such as designated parking spaces, visual barrier requirements and controls regarding hours of operation. Furthermore, the proposal is supported by the Traffic Impact Statement which confirms the adequacy of local infrastructure to accommodate anticipated visitors. Therefore, staff recommend that 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 2024-2025 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.

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and the Public Participation Administrative Order (2023-002-ADM). 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 59 letters were mailed to property owners and tenants within the notification area (Map 2). The HRM website received a total of 670 unique pageviews over the course of the application. Staff received a total of 98 responses from the public. The comments include the following topics:

- General support for the take-out restaurant, for reasons such as community connection, tourism, local need and support for small business, and
- Concerns regarding the take-out restaurant, for reasons such as traffic, insufficient parking, noise, incompatibility with surrounding residential area and possible impact on Conrads Beach.

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.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

### **LEGISLATIVE AUTHORITY**

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

### **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**

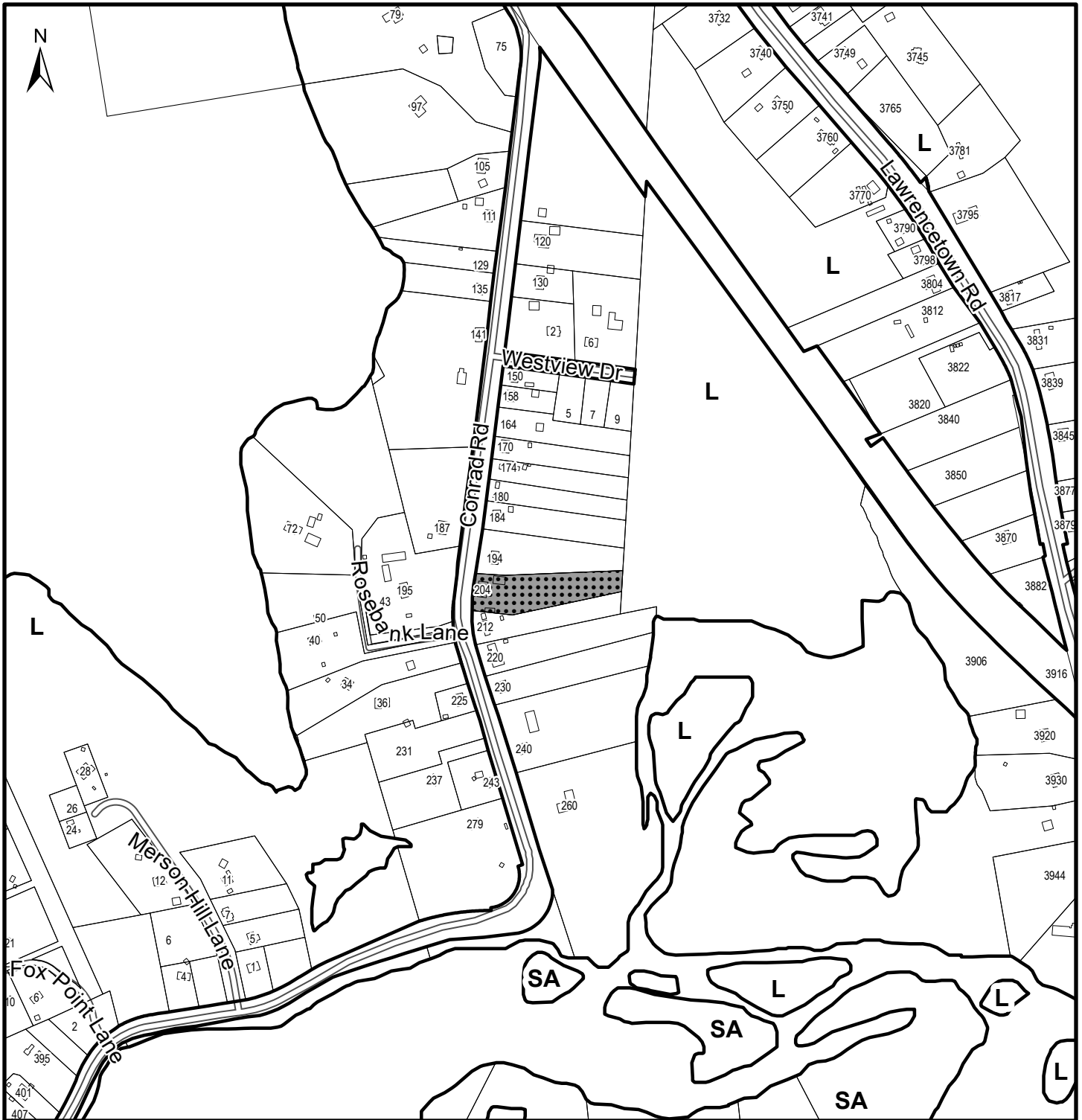
Map 1: Generalized Future Land Use  
Map 2: Zoning and Notification Area

Attachment A: Proposed Development Agreement  
Attachment B: Review of Relevant MPS Policies

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Report Prepared by: Ardalan Shareghi Boroujeni, Planner II, 782-641-3478


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**Map 1 - Generalized Future Land Use**

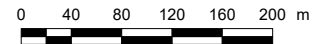
204 Conrad Rd,  
Lawrencetown

**HALIFAX**

 Subject Property

**Designation**

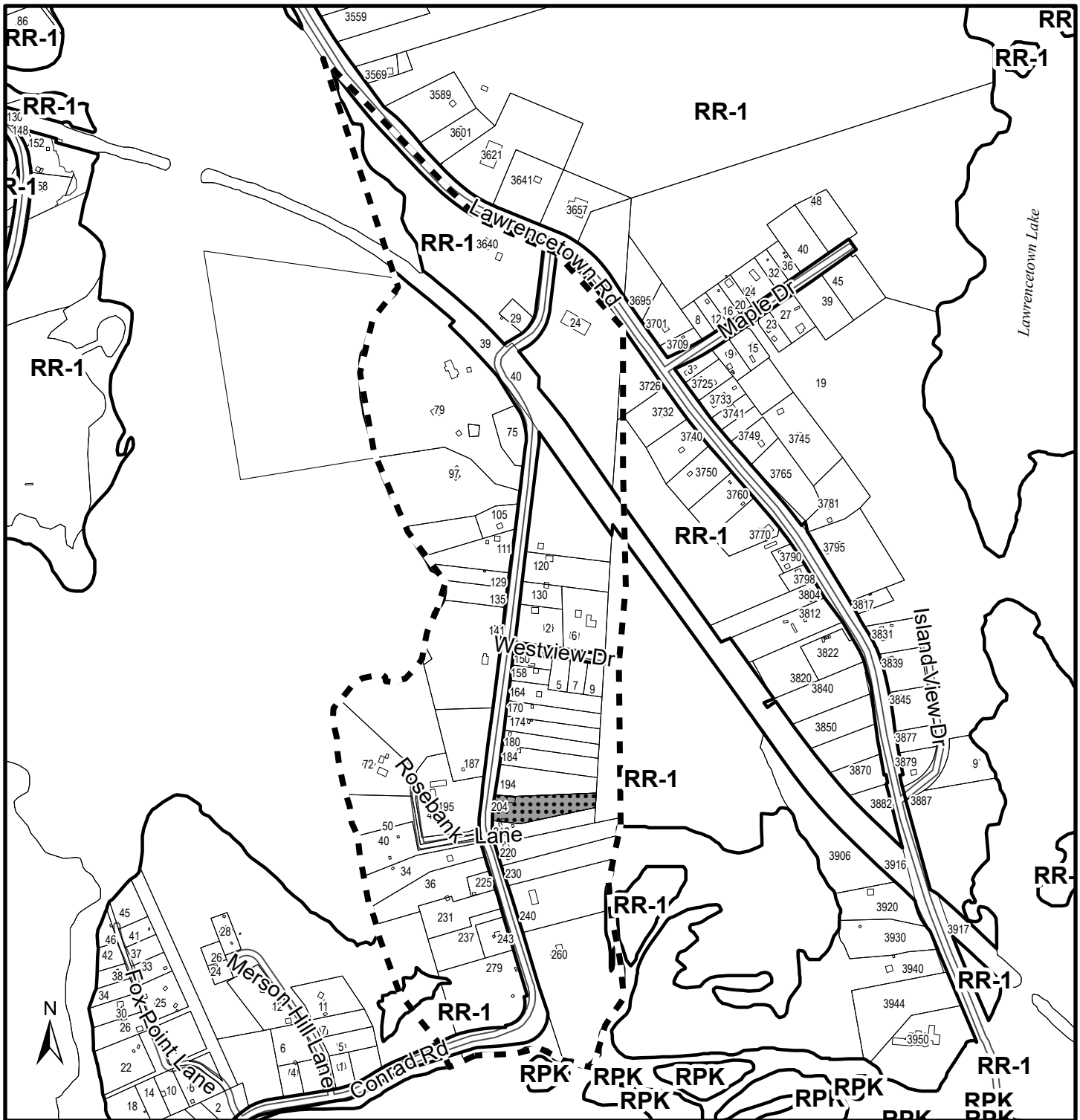
LTWN L Lawrencetown  
SA Special Area



Lawrencetown  
Land Use By-Law Area

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



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



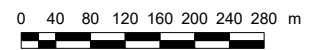
### Map 2 - Zoning and Notification Area

204 Conrad Road,  
Lawrencetown

# HALIFAX

-  Subject Property
-  Area of Notification

Zone	
LTWN	RR-1 Rural Residential
	R-1 Single Unit Residential
	RPK Regional Park



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.

Lawrencetown  
Land Use By-Law Area



**Attachment A:  
Proposed Development Agreement**

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

BETWEEN:

**[Insert Individual's name]**

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

OF THE FIRST PART

- and -

**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 204 Conrad Road (PID 00490862), Lawrencetown, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** the Developer has requested that the Municipality enter into a Development Agreement to allow for a take-out restaurant use on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy P-39A of the Lawrencetown Municipal Planning Strategy and Section 3.6 (e) of the Lawrencetown 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-2024-00311.

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

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

### **1.1 Applicability of Agreement**

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

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

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the applicable Land Use By-law and the Regional Subdivision By-law, as amended from time to time.
- 1.2.2 Variances applications enabled under Section 250 of the *Halifax Regional Municipality Charter* shall be permitted.

### **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 Words Defined under this Agreement**

- 2.2.1 The following definition applies to this Agreement:

- (a) "Commercial Building" shall refer to the take-out restaurant permitted through this Agreement and as labelled 'Commercial Building' on Schedule B. It does not refer to the existing single-family dwelling that exists on the property on the effective date of this Agreement.

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

### **3.1 Schedules**

- 3.1.1 The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, generally conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as PLANAPP-2024-00311.

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

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

- 3.2.1 Prior to the issuance of a Development Permit for the Commercial Building, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) A copy of all permits, licences, and approvals required by the NS Department of the Environment and Climate Change respecting the design, installation, construction of the on-site sewer system in accordance with Section 4.3.1 of this Agreement; and
- (b) 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.

- 3.2.2 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 take-out restaurant;
- (b) The existing single detached dwelling that exists on the property on the effective date of the Agreement as shown on Schedule B; and
- (b) Any uses permitted within the zone applied to the Lands subject to the provisions contained within the applicable Land Use By-law as amended from time to time.

3.3.2 The Development Officer may permit unenclosed structures attached to a main building such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the applicable Land Use By-law, as amended from time to time.

### **3.4 Building Siting for the Commercial Building**

3.4.1 The Commercial Building's siting, bulk and scale shall comply with the following:

- (a) The commercial building shall be sited as generally as shown on Schedule B;
- (b) The commercial building shall not exceed a footprint of 103.1 square meters (1,110 square feet);
- (c) The commercial building setback along the northern side lot line shall be no less than 1.2 meters (4 feet) as shown on Schedule B; and
- (d) No more than 20% of the total floor plan shall be dedicated as seating area.

3.4.2 No expansion to the Commercial Building is permitted.

### **3.5 Architectural Requirements for the Commercial Building**

3.5.1 The main entrances to the commercial building shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. At least one main door shall face Conrad Road.

3.5.2 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

3.5.3 Commercial Building shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Conrad Road or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

### **3.6 Subdivision of the Lands**

3.6.1 Subdivision applications shall be permitted, subject to the Regional Subdivision By-law, as amended from time to time.

### **3.7 Parking, Circulation and Access**

3.7.1 The parking areas, circulation and access shall be sited as generally shown on Schedule B. The parking area shall not be less than 1.2 meters (4 feet) from the side property line(s).

3.7.2 The parking areas for the Commercial Building shall require a minimum of 6 parking spaces including 1 accessible parking space.

3.7.3 The parking areas shall be hard surfaced.

3.7.4 The limits of the parking areas shall be defined by fencing or landscaping or curb or a combination thereof.

3.7.5 Bicycle racks shall be provided as generally shown on Schedule B.

3.7.6 A 1.5 meter (5 foot) wide walkway shall be constructed in the front yard as generally shown on Schedule B. The proposed walkway shall be constructed of pavers, stamped or stained concrete, or an acceptable equivalent in the opinion of the Development Officer.

### **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.

### **3.9 Visual Barrier**

3.9.1 Visual barriers shall be provided to screen the Commercial Building and parking area from residential neighbours on both the northern and southern sides of the lot by means of opaque fencing, masonry walls, landscaping or an acceptable equivalent in the opinion of the Development Officer.

### **3.10 Maintenance**

3.10.1 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.

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

### **3.11 Signs**

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

### **3.12 Screening**

- 3.12.1 Refuse containers located outside the Commercial Building shall be fully screened from adjacent residential properties and from the street by means of opaque fencing or masonry walls with suitable landscaping or an acceptable equivalent in the opinion of the Development Officer.
- 3.12.2 Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from Conrad Road and adjacent residential properties along the northern and southern property lines. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping or an acceptable equivalent in the opinion of the Development Officer.

### **3.13 Hours of Operation for the Commercial Building**

- 3.13.1 The take-out restaurant may be permitted to operate between the hours of 7:00 am to 9:00 pm seven (7) days a week.
- 3.13.2 Deliveries to the take-out restaurant, and the collection of refuse and recyclables, shall occur only between the hours of 7.00 am to 7.00 pm.
- 3.13.3 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

### **3.14 Reinstatement**

- 3.14.1 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 On-Site Sanitary System**

- 4.3.1 The Lands shall be serviced through privately owned and operated sewer systems and treatment facilities. The Developer agrees to have prepared by a qualified professional and submitted to the Municipality, the NS Department of the Environment and Labour and any other relevant agency, a design for all private sewer systems. In accordance with Section 3.2.1(a) no Development Permit shall be issued prior to receiving a copy of all permits, licences, and approvals required by the NS Department of the Environment and Labour respecting the design, installation, construction of the on-site sewer system.

### **4.4 Solid Waste Facilities for the Commercial Building**

- 4.4.1 Solid waste facilities shall be designed in accordance with By-law S-600 as amended from time to time. This designated space shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with HRM Solid Waste Resources.
- 4.4.2 Refuse containers and waste compactors shall be confined to the loading areas of the commercial building and shall be screened from public view where necessary by means of opaque fencing or masonry walls with suitable landscaping.
- 4.4.3 All refuse and recycling materials shall be contained within the commercial building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal effect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

## **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, 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) Minor changes to the Architectural Requirements for the Commercial Building as identified in Section 3.5 of this Agreement;
  - (b) Changes to the Parking, Access and Circulation as identified in Section 3.7 of this Agreement;
  - (c) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement; and
  - (a) 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 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.

### **7.4 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 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 issuance of an Occupancy Permit.
- 7.4.3 In the event that development on the Lands has not been completed within five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.



## **7.5 Discharge of Agreement**

- 7.5.1 If the Developer fails to complete the development after five (5) 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 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

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

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

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**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

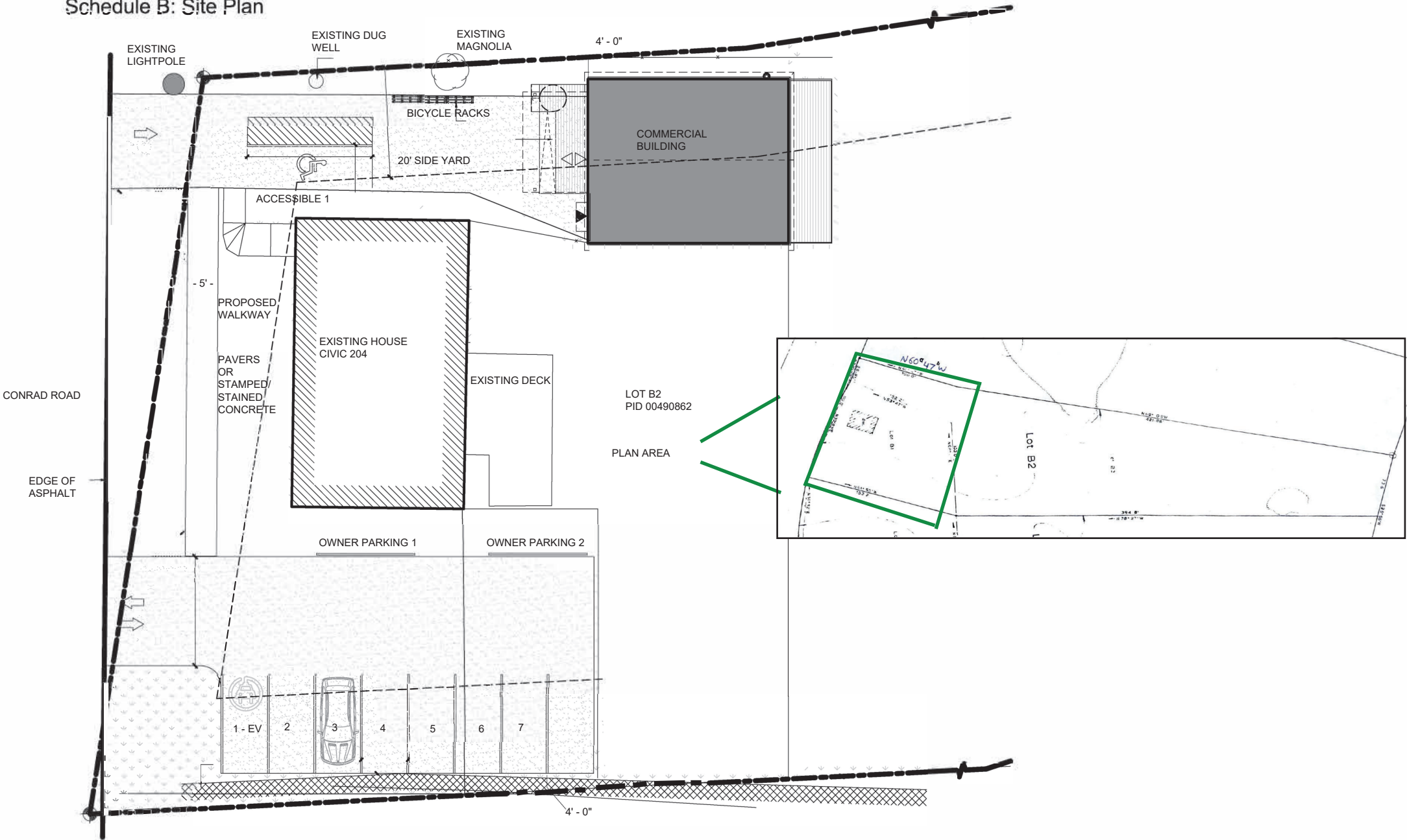
On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, the subscriber personally came and appeared \_\_\_\_\_ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Andy Fillmore, Mayor and Iain MacLean, Clerk of the Halifax Regional Municipality, 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

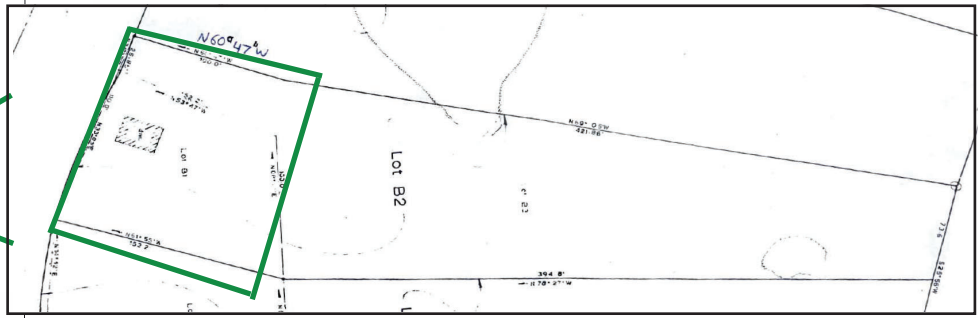
# Schedule B: Site Plan

LOT B4  
PID 66482786



LOT B2  
PID 00490862

PLAN AREA



LOT 4A  
PID 00482505



**Attachment B  
Review of Relevant MPS Policies**

<b>Lawrencetown Municipal Planning Strategy</b>	
<b>LAWRENCETOWN DESIGNATION</b> <u>Existing Uses</u>	
<b>Policy</b>	<b>Staff Comments</b>
<p><b>P-39</b> <i>Within the Lawrencetown Designation, it shall be the intention of Council to accommodate existing commercial and industrial uses as permitted uses and to provide for their expansion by including them in Appendix B or C of the land use by-law. Uses listed in Appendix B will be permitted to expand subject to the requirements for existing commercial uses in the Rural Residential Zone (Policy P-2).</i></p>	
<p><b>P-39A</b> <i>With reference to Policy P-39, it shall be the intention of Council to consider a change of use of the existing uses identified in Appendices B and C of the land use by-law subject to the provisions of Sections 55, 73 and 74 of the Planning Act. In considering such development agreements Council shall have regard to the following:</i></p>	
<p><i>(a) that the change of use is of a similar scale to the existing use in terms of structures and outdoor storage and display areas;</i></p>	<p><b>Satisfied.</b> The existing industrial use was contained within the accessory building that the take-out restaurant is proposed to be located in. No expansion of the building footprint is permitted under the proposed development agreement and no outdoor storage or display areas are proposed.</p>
<p><i>(b) the provision of adequate measures for the long-term maintenance of the proposed development;</i></p>	<p><b>Satisfied.</b> The applicant has proposed a renovation to the existing accessory building that will involve an overall clean-up of the subject property. Long-term maintenance of the property will be regulated through the development agreement.</p>
<p><i>(c) the effects of the development on the natural environment as contained in a report from the appropriate provincial or federal government authority; and</i></p>	<p><b>Satisfied.</b> This policy was created in the early 1990's with the intent of this section to require a report from the applicable federal or provincial government authority to demonstrate the effect of the proposed development on the natural environment (e.g., impact on groundwater or environmentally sensitive features on the property). The report required that was intended to satisfy this criteria is no longer available. However, the intent of this criteria was to minimize the impact that a proposed change in use to the subject property would</p>

	<p>have on the natural environment. The proposed development (change in use) does not include any additional development or site-work beyond the existing conditions on the subject property. Therefore, it is not anticipated that the proposed development will cause any further disturbance to the natural environment.</p>
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<p>(d) the provisions of Policy P-61.</p>	<p>See below.</p>
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**IMPLEMENTATION**

**Policy P-61** *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 planning strategy, Council shall have appropriate regard to the following matters:*

<p>(a) that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulations</p>	<p><b>Satisfied.</b> The proposal generally conforms with the intent of the MPS and other by-laws and regulations.</p>
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<p>(b) that the proposal is not premature or inappropriate by reason of:</p> <ul style="list-style-type: none"> <li>(i) the financial capability of the Municipality to absorb any costs relating to the development;</li> <li>(ii) the adequacy of on-site sewerage and water services;</li> <li>(iii) the adequacy or proximity of school, recreation and other community facilities;</li> <li>(iv) the adequacy of road networks leading or adjacent to or within the development; and</li> <li>(v) the potential for damage to or destruction of designated historic buildings and sites</li> </ul>	<p>(i) <b>Satisfied.</b> No costs to the Municipality are expected. The developer will be responsible for all costs associated with the development.</p> <p>(ii) <b>Satisfied.</b> Notification receipt from NSE provided confirming that the existing septic system, which was designed for residential use, has capacity to sufficiently service the proposed commercial use.</p> <p>(iii) <b>Satisfied.</b> The proposed development is not anticipated to impact schools, or recreation/community facilities. Although Conrad’s Beach is an existing recreational use near the subject site, its capacity is not directly correlated to the proposed use. The proximity of Conrad’s Beach and the Salt Marsh Trail to the site encourages active transportation to a rural area.</p> <p>(iv) <b>Satisfied.</b> The Traffic Impact Statement (TIS) has confirmed that the road network is adequate to service the proposed development.</p>
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	<p>(v) <b>Satisfied.</b> No historic buildings or sites have been identified.</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></p> <p><i>(ii) height, bulk and lot coverage of any proposed building;</i></p> <p><i>(iii) traffic generation, access to and egress from the site, and parking;</i></p> <p><i>(iv) open storage;</i></p> <p><i>(v) signs; and</i></p> <p><i>(vi) any other relevant matter of planning concern.</i></p>	<p>(i) <b>Satisfied.</b> The proposed commercial use will be located within a residential neighbourhood. However, the land use by-law recognizes through Appendix C the existing industrial use on the property and the MPS allows for Council's consideration of a change in use. The subject site has been the location of commercial/industrial activities (i.e., a woodworking shop) since before the Lawrencetown Plan was adopted in 1990.</p> <p>(ii) <b>Satisfied.</b> The proposed development is within an existing accessory building, which has a height, bulk and lot coverage that is consistent with the adjacent built form.</p> <p>(iii) <b>Satisfied.</b> Though there is currently high traffic demand on Conrad Road given the limited parking at Conrad's Beach, the TIS confirms that the majority of the trips to the take-out restaurant would be from drive-by vehicles. Therefore, the take-out restaurant is not anticipated to unreasonably increase the traffic beyond existing conditions. The TIS also notes that the proposed development is not anticipated to increase demand beyond the capacity of Conrad Road. The applicant has provided more parking than required in the Land Use By-law in addition to providing bike racks.</p> <p>The TIS analyzed the required demand based on peak days and has noted that the amount of parking provided appears to be sufficient based on number of customers arriving via active transportation methods, and the nature of the drive-by traffic that exists on the street, regardless of the take-out restaurant. The TIS also noted that on favourable weather days, up to 50% of the customers to the site is on foot or by bicycle.</p> <p>(iv) <b>Satisfied.</b> No open storage is proposed as part of this application.</p>

	<p>(v) <b>Satisfied.</b> Signate will be regulated through the provisions of the Land Use By-law.</p> <p>(vi). <b>Satisfied.</b> No other matters of planning concerns have been identified at this time.</p>
<p><i>(d) that the proposed site is suitable with respect to the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding; and</i></p>	<p><b>Satisfied.</b> The proposed development utilizes an existing developed lot. No additional clearing or impact to the land is proposed to occur. Therefore, it is not anticipated that there would be changes in the susceptibility to flooding or impact on any watercourses or wetlands.</p>
<p><i>(e) any other relevant matter of planning concern.</i></p>	<p><b>Satisfied.</b> No other matters of planning concerns have been identified at this time.</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>N/A – The subject site is not located within a holding zone.</p>

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

**CHAPTER 3: SETTLEMENT AND HOUSING**

3.2 Land Use Designations

<p><b>3.2.3.1 Rural Commuter Designation</b></p> <p>S-5 The Rural Commuter Designation shall be established on the Generalized Future Land Use Map (Map 2) to encompass those areas within commuting distance of the Regional Centre that are heavily influenced by low-density residential development. The intent for this designation is to:</p>	<p>The proposed development is aligned with the intent of the Rural Commuter Designation.</p> <p>The proposal supports the intent of the Rural Commuter Designation by supporting the delivery of services and economic development. A convenience service would be provided to the settlement area and would utilize an existing built form retaining the rural character of the area.</p>
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<ul style="list-style-type: none"> <li>• to protect the character of rural communities and conserve open space and natural resources by focusing growth within a series of centres, as shown on Settlement and Transportation Map (Map 1);</li> <li>• support the delivery of convenience services to the surrounding settlement area;</li> <li>• control the amount and form of development between centres; and</li> <li>• protect the natural resource base and preserve the natural features that foster the traditional rural community character.</li> </ul>	
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**9.6 PRIORITIES PLANS**

*Since the adoption of this Plan in 2014, Regional Council has approved several priority plans including the Integrated Mobility Plan, Halifax Green Network Plan, HalifACT, and Halifax’s Inclusive Economic Strategy 2022-2027. The second review of this Plan began in 2020 and is expected to be readopted by Regional Council in 2023. The review will revise the policies of this Plan to ensure they are consistent with the priorities plans as approved. In the interim, this Plan supports the priorities plans which are actively used by staff to guide ongoing work.*

<p><b>G-14A</b> <i>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:</i></p> <p><i>(a) The Integrated Mobility Plan;</i>  <i>(b) Halifax Green Network Plan;</i>  <i>(c) HalifACT;</i>  <i>(d) Halifax’s Inclusive Economic Strategy 2022-2027; and</i>  <i>(e) any other priority plan approved by Regional Council while this policy is in Effect</i></p>	<p>(d) Halifax’s Inclusive Economic Strategy 2022-2017: The proposed development supports the tourism economy by providing a service to cyclists, beachgoers, and visitors to Lawrencetown. This generally supports the strategic goal of the plan of “Making Halifax a Better Place to Live and Work”, by attracting and retaining visitors.</p> <p>The objectives, policies, and actions in the Priorities Plans outlined in policy G-14A will not impact or be affected by this proposal.</p>
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