

October 07, 2025

Jessica Harper
Halifax Regional Municipality
Planning & Development
40 Alderney Drive, Suite 101
Dartmouth, NS B2Y 2N5

RE: Rezoning Request – Portion of PID 00649178 (Protected Area to R-2) to Facilitate Access to PID 00397992

Dear Jessica:

1. Introduction & Background

PID 00397992 (Garrison Property), located in Williamswood, is owned by Doug Garrison. Mr. Garrison wants to subdivide his property to provide parcels to other family members, however, his land lacks frontage on any road.

Mr. Garrison currently holds an access easement over the property to the east of his land, PID 00649178 (Crown Land). However, because this parcel is zoned PA (Protected Area), the Land Use Bylaw prohibits the construction of infrastructure such as a driveway for residential use across it. Nova Scotia legal precedent (*Zive Estate v. Lynch, 1989*) confirms a right-of-way over land zoned for residential/park use cannot be used in a way that conflicts with that land's zoning; the use of the ROW is limited by the zoning of the servient parcel. As a result, the existing easement cannot provide lawful access unless the zoning is amended to permit residential development. If Council rezones the access easement, a private driveway serving residential lots would be a permitted outcome under the applied zone (R-2), subject to all LUB standards and permits and would allow the Garrison property to be subdivided.

Policy CON-5 of the District 5 Municipal Planning Strategy (MPS) enables a residential zone within the Conservation Designation where access constraints affect residentially designated lands. This rezoning request is therefore made under CON-5 as the appropriate mechanism to allow lawful access to the Garrison Property while respecting conservation intent.

2. Description

The Garrison Property consists of 130 acres of undeveloped land bordered by Grover Lake and Sheehan Lake to the north and surrounded by additional undeveloped Crown Land. It sits close to the Old Sambro Rd (Highway 306) and around 3km north of the community of Sambro.

Garrison Property (PID 00397992)

Regional Municipal Planning Strategy Designation

Rural Commuter

Planning District 5 (Chebucto Peninsula) MPS Designation

Residential

LUB Zone	R-2 Two Unit Dwelling
Adjacent Zones to Subject Property	PA Protected Area, UR Urban Reserve
Adjacent uses	Undeveloped Forested Land and lakes

Crown Land (PID 00649178)	
Regional Municipal Planning Strategy Designation	Rural Commuter
Planning District 5 (Chebucto Peninsula) MPS Designation	Conservation
LUB Zone	PA Protected Area
Adjacent Zones to Subject Property	R2 Two Unit Dwelling, UR Urban Reserve
Adjacent uses	Rural Residential, undeveloped forested land and lakes

Properties and Easement Corridor

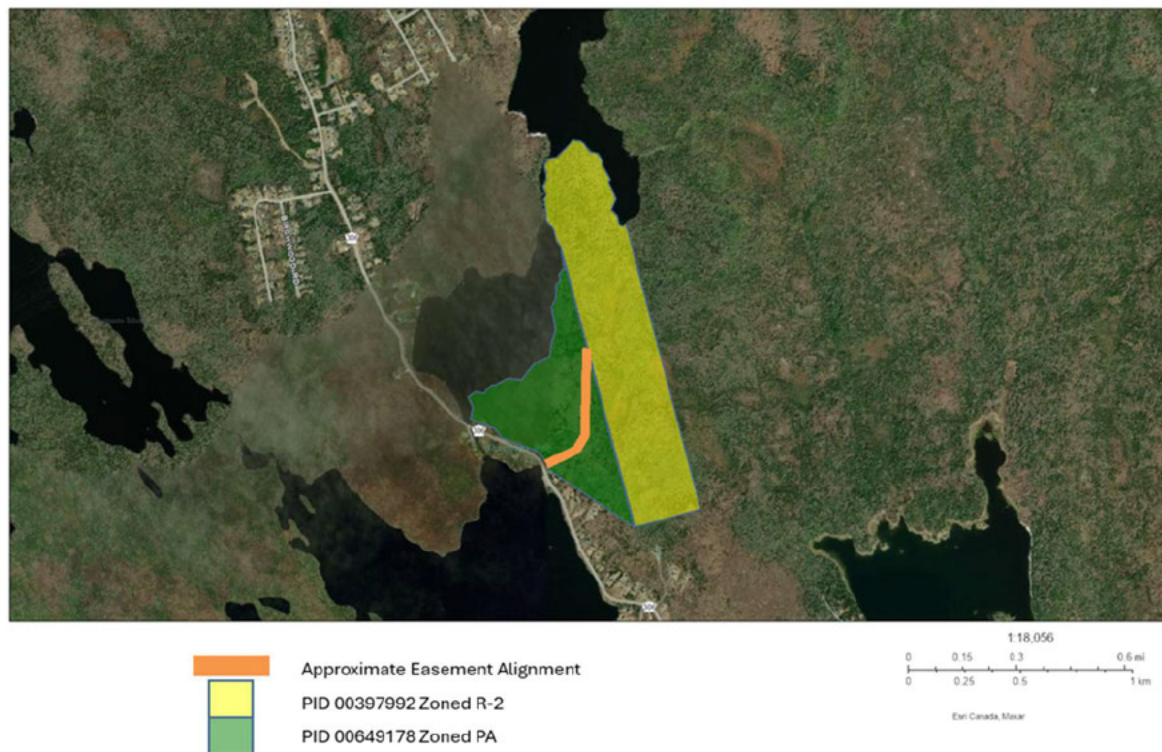


Figure 1 Simplified aerial view showing PID 00397992, PID 00649178 and the easement corridor (Prepared using ExploreHRM web resource). Detailed boundaries and ROW alignment are provided in the Appendix.

3. Policy Discussion

The subject lands are currently zoned PA (Protected Area) and R-2 (Two Unit Residential), within areas designated Conservation and Residential under the Planning District 5 MPS. Understanding the intent of these zones and the enabling policies provides context for the proposed rezoning.

The proposed rezoning is required to subdivide and subsequent development of the Garrison Property. Although an easement exists, the PA Zone limits development to conservation-related/low impact uses; private residential driveways are not listed as permitted uses. Policy CON-5 of the MPS provides Council with authority to consider such amendments where access constraints prevent reasonable use of adjacent residential designated lands.

Planning and Legal Context

Nova Scotia case law confirms that the use of rights-of-way must be consistent with the zoning of the lands they traverse. *Zive Estate v. Lynch* (1989) clarifies that easements cannot authorize uses incompatible with the zoning of the servient parcel. In *Zive*, the Court held that only uses permitted by the zoning of the servient lands may occur over the right-of-way crossing them. This principle underscores the importance of aligning zoning with intended land use to provide legal clarity and certainty for the property owners and the municipality.

From the planning perspective, ensuring that easements comply with zoning supports the municipality's goals of orderly development, predictable zoning and protection of lands within sensitive designations. Applying these principles through the rezoning mechanism allows the municipality to formalize longstanding access arrangements in a manner consistent with both provincial law and the objectives of the District 5 MPS.

R-2 Two Unit Residential Zone

The R-2 Zone permits single- and two-unit dwellings (see *LUB Part 7: R-2 Zone*), supporting low-density residential development consistent with the Residential Designation. The zone supports residential growth while maintaining the rural environmental character of the area.

PA Protected Area Zone

The PA zone protects environmentally sensitive lands by limiting development to low impact uses such as trails, conservation activities and scientific study. Infrastructure or development unrelated to conservation, such as private driveways, is not permitted under Section 22A: PA (*Protected Area*) Zone of the Land Use Bylaw.

Enabling Policy – CON-5

The MPS provides an enabling mechanism under Policy CON-5:

"Notwithstanding Policy CON-1, within the Conservation Designation, it shall be the intention of Council to consider the application of a residential zone, by amendment to the schedules of the Land Use Bylaw. In considering any amendment, Council shall have regard for the following:

- 1. That residential zone to be applied shall be the*
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same zone as that of the nearest residential zoned property within the Plan Area;

- 2. That the property to be rezoned is part of a Crown land exchange within the Plan Area;*
- 3. The potential impact of the Crown land transfer on public land and/or facilities; and*
- 4. The provision of Policy IM-10."*

4. Policy Analysis

The Garrison Property is intended for low-density residential use consistent with the R-2 zoning. Without suitable access, however, the land remains unable to be subdivided and then developed. The requested rezoning provides the necessary means of access, thereby enabling the intended residential development.

The PA zone, under Section 22A.1 of the LUB, restricts development to conservation related uses. The proposed rezoning respects the intent of the Conservation designation by limiting the scope of the development to the minimum necessary, that being the single access road. The alignment of the existing easement avoids wetlands located on the either property. The request serves to balance the reasonable development rights of the Garrison Property while still maintaining the environmental protection that PA zone is meant to uphold.

Policy CON-5 provides the enabling framework for this application, allowing consideration of rezonings where access constraints affect residentially designated lands on a case-by-case basis within conservation lands. The proposed rezoning of the access easement ensures consistency of zoning with the Garrison Property and enables a private driveway serving only the future residents of that property.

Although the Crown does not intend to conduct a land exchange in this instance, the proposed rezoning aligns with the intent of points 2 and 3 of Policy CON-5. Specifically, the rezoning respects the framework established for properties that may be involved in Crown land exchanges by ensuring that the access easement is limited in scope, avoids environmentally sensitive areas and does not adversely impact public lands or facilities. In this way, the proposal demonstrates consideration of the policy objectives concerning land management and public interest, even in the absence of a formal land exchange.

Both parcels are located within the Rural Commuter designation in the Regional Plan. The proposed rezoning supports the intent of this designation by facilitating appropriate residential growth in a commuter area without introducing urban levels of intensity.

Policy IM-10 sets out general criteria for all land use bylaw amendments, including consideration of servicing, traffic, municipal costs and compatibility. As detailed in Appendix 2, there are no issues of note that arose.

5. Conclusion

Rezoning the access easement on the Crown Land from PA to R-2 provides a

practical and policy-supported solution to establish access to the Garrison Property. The rezoning achieves the following:

- Zoning Consistency – Ensures the access corridor is zoned in alignment with the Garrison Property, for later subdivision of the lands.
- Conservation Protection – Maintains the broader conservation role and intent of the remaining PA-zoned lands.
- Policy Alignment – Supports the intent of Policy CON-5 within the MPS and advances the objectives of the Residential designation.
- Environmental Consideration – Minimizes impacts by following the existing easement alignment and avoiding sensitive features.

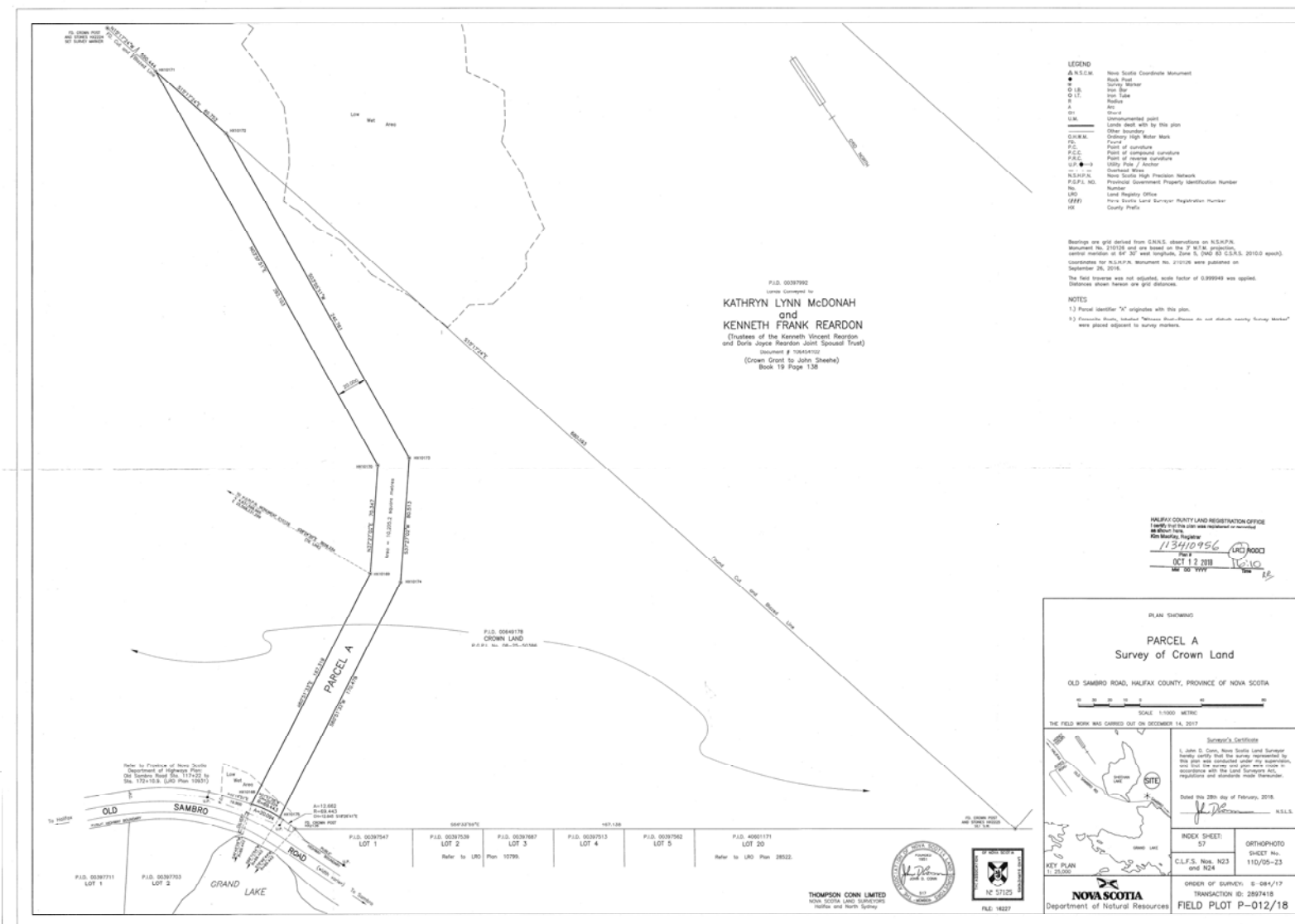
Please contact me if there are any additional questions or concerns.

Sincerely,



Chrystal Fuller, LPP, MCIP
Brighter Community Planning & Consulting

6. Appendix 1. ROW Alignment



7. Appendix 2. Policy Analysis Table

Con-5 Notwithstanding Policy Con-1, within the Conservation Designation, it shall be the intention of Council to Consider the application of a residential zone, by amendment to the schedules of the land use by-law. In considering any amendment, Council shall have regard for the following:	
(a) That residential zone to be applied shall be the same zone as that of the nearest residential zoned property within the Plan Area:	The easement corridor will be rezoned R-2, matching the zoning of PID 00397992.
(b) That the property to be rezoned is part of a crown land exchange within the Plan Area;	The corridor runs across Crown land that is zoned PA and provides access to a residentially designated parcel.
(c) The potential impact of the crown land transfer on public land and/or facilities;	The ROW is narrow and access is limited to the landowner. No public facilities are affected and the corridor has been reviewed by DNR.
(d) The provision of Policy IM-10.	The rezoning follows IM-10 requirements for land use amendments in the MPS.
Policy IM-10 In considering development agreements and amendments to the Land Use Bylaw, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:	
a) That the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal bylaws and regulations;	The rezoning of the easement corridor from PA to R-2 is consistent with the intent of the District 5 MPS, maintains the Conservation designation's objectives outside the corridor, and aligns with all municipal bylaws and regulations.
b) That the proposal is not premature or inappropriate by	

reason of: i) The financial capability of the Municipality to absorb any costs relating to the development; ii) The adequacy of on-site sewerage and water services; iii) The adequacy or proximity of school, recreation or other Community facilities; iv) The adequacy of road networks leading or adjacent to or within the development; v) Pedestrian safety; and vi) The potential for damage to or for destruction of designated historic buildings and sites.	i) No municipal financial resources are required; all construction and maintenance of the ROW are the responsibility of the landowner. ii) PID 00397992 has capacity for on-site sewerage and water services and the easement corridor does not require additional municipal servicing. iii) The proposed rezoning does not create immediate demand for community facilities; the easement is limited to access. iv) The ROW provides direct legal access to Highway 306. The road standard is a Commercial Driveway/Right-of-Way Entrance, adequate for anticipated use. v) Access is limited to the landowner and construction traffic. No public pedestrian routes are affected. vi) No designated historic buildings or sites exist along the easement corridor.
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) Type of use;	i) The ROW is for access only, compatible with adjacent PA lands and surrounding residential property

ii) Height, bulk and lot coverage of any proposed building; iii) Traffic generation, access to and egress from the site and parking; iv) Open storage; v) Signs; and vi) Any other relevant matter of planning concern.	ii) No buildings are proposed on the easement corridor. iii) Traffic will be limited to the landowner and construction vehicles. Road access design minimizes impacts. iv) No open storage is proposed along the corridor. v) No signage is proposed along the easement. vi) Environmental considerations, including lichen presence and vegetation, have been reviewed by DNR and will be managed during construction.
d) That the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility of flooding.	The ROW corridor is gently graded, avoids wetlands and has been assessed for soil stability and drainage.
e) 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 Bylaw 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 the MPS.	The proposal complies with Subdivision Bylaw requirements and future subdivision of PID 00397992 will adhere to Infrastructure Charges policies if applicable.

8. Appendix 3. DNR Approval Letter for ROW

Mr. Garrison is currently waiting on attaining this letter and it will be forward when it is received.
