



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

Item No. 13.1.1
Harbour East – Marine Drive Community Council
November 1, 2018

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

Original Signed

SUBMITTED BY:

Kelly Denty, Director, Planning and Development

Original Signed

Jacques Dubé, Chief Administrative Officer

DATE: September 18, 2018

SUBJECT: **Case 21168: Discharge Agreement for 830, 834, 848, and 850 Highway 7, and 1 Broom Road, Westphal (PID 00650689)**

SUPPLEMENTARY REPORT

ORIGIN

- Application by Dave Campbell of 3274606 NS Ltd.
- August 15, 2017, Regional Council initiation of the MPS amendment process.
- August 14, 2018, Regional Council approved amendments to the Cole Harbour/Westphal MPS and LUB to allow a wider range of commercial uses at the subject property.
- September 15, 2018, the MPS and LUB amendments came into effect.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

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

1. Approve, by resolution, the proposed Discharge Agreement, which shall be substantially of the same form as set out in Attachment A of this report; and

Recommendation continues on page 2

2. Require the Discharge 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, otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The applicant, Dave Campbell, on behalf of 3274606 Nova Scotia Limited, has applied to amend the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Cole Harbour/Westphal to allow additional commercial uses at the subject properties and to discharge a development agreement that enabled an industrial use. On August 14, 2018, Regional Council approved the proposed MPS and LUB amendments and they became effective on September 15, 2018. The previous development agreement which enabled an industrial use that no longer exists is still registered on the property.

Subject Site	830, 834, 848, 850 Highway 7 and 1 Broom Road, Westphal (PID 00650689)
Location	Southwest corner of Highway 7 and Broom Road, Westphal
Regional Plan Designation	Rural Commuter (RC) and Urban Settlement (US)
Community Plan Designation (Map 1)	Highway Commercial (HC) under the Cole Harbour / Westphal Municipal Planning Strategy (MPS)
Zoning (Map 2)	C-4 (Highway Commercial) Zone under the Cole Harbour / Westphal Land Use By-Law (LUB)
Size of Site	3 HA (7.47 acres)
Street Frontage	136.7 m (448.6 ft.) on Highway No. 7 151.6 m (497.44 ft.) on Broom Road
Current Land Use(s)	There are six buildings on the property with a total floor area of 6,178 square metres (66,500 square feet). The property is currently occupied by several commercial uses: Super Dave's Auto Sales, Bargain Basket, Mariner Auctions, CivTech Engineering, JunkBin and McCarthy's Roofing.
Surrounding Use(s)	<ul style="list-style-type: none"> • An existing residential neighbourhood along Odell Drive to the southwest; • A vacant piece of land zoned R-1 to the south; • Assorted highway oriented commercial uses to the east, west and north inclusive of Karen's Recycling, Kelly's Creative Sewing, Adventure Sports, and Titans Gymnastic and Trampoline Club

Proposal Details

Mr. Campbell wishes to discharge the existing development agreement that enabled the A. R. Hemming building supplies outlet, which no longer operates at the property. Discharging the agreement would remove the land use rights for the manufacturing of roof trusses and general building supplies. The newly approved zoning would then regulate use of the lands.

Discharge of Development Agreements

The *Halifax Regional Municipality Charter* provides Council with a mechanism to discharge development agreements. Part VIII, Clause 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner(s). The Charter does not require a public hearing for the discharge of an agreement or a portion thereof. A development agreement may be discharged by resolution of Community Council.

COMMUNITY ENGAGEMENT

The community engagement process on this file was consistent with the intent of the HRM Community Engagement Strategy. A public meeting was held in consideration of the MPS and LUB amendments that were approved by Regional Council in August. The applicant's intent to discharge the development agreement was part of the overall planning process and that intent was presented at this meeting. A separate and additional public information meeting or a public hearing is not required for the discharge of a development agreement. The decision to discharge a development agreement is made by resolution of Community Council.

The proposed discharge carries out the final step in the overall planning process for this property and will have minimal impact on local residents, property owners or other stakeholders.

DISCUSSION

Staff reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS.

The development agreement allows an industrial use that no longer operates at the property. Recent amendments to the MPS and LUB allow the appropriate reuse of the property. Highway commercial and office uses occupy the existing buildings. The recent amendments also allow for self-storage at the property. Discharge of the agreement would eliminate the industrial capacity but no other development rights would change upon its discharge.

Staff recommend that Harbour East – Marine Drive Community Council discharge the existing development agreement.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2018/2019 budget and with existing resources.

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 discharge agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified beyond those identified in this report.

ALTERNATIVES

1. Harbour East – Marine Drive Community Council may choose not to discharge the existing development agreement and therefore, development on the property would remain subject to the

conditions of the development agreement. A decision of Council to refuse to discharge a development agreement is not 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

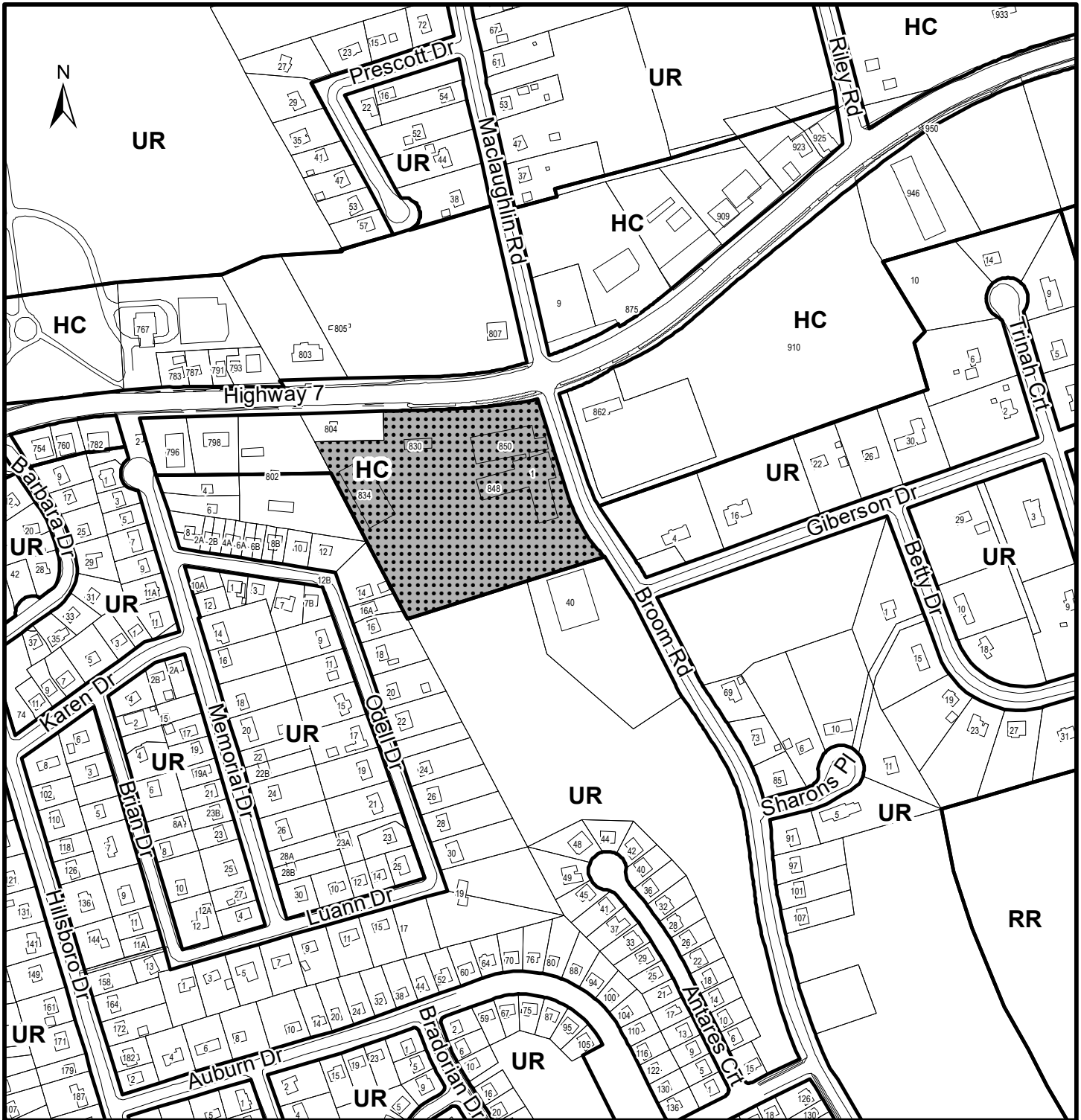
Attachment A: Proposed Discharge Agreement

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Stephanie Salloum, Planner II, Current Planning, 902.490.4223

Original Signed

Report Approved by: _____
Steve Higgins, Manager of Current Planning, 902.490.4382



Map 1 - Generalized Future Land Use

830 Highway 7,
Weshpal

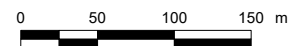
HALIFAX

 Subject Site

Designation

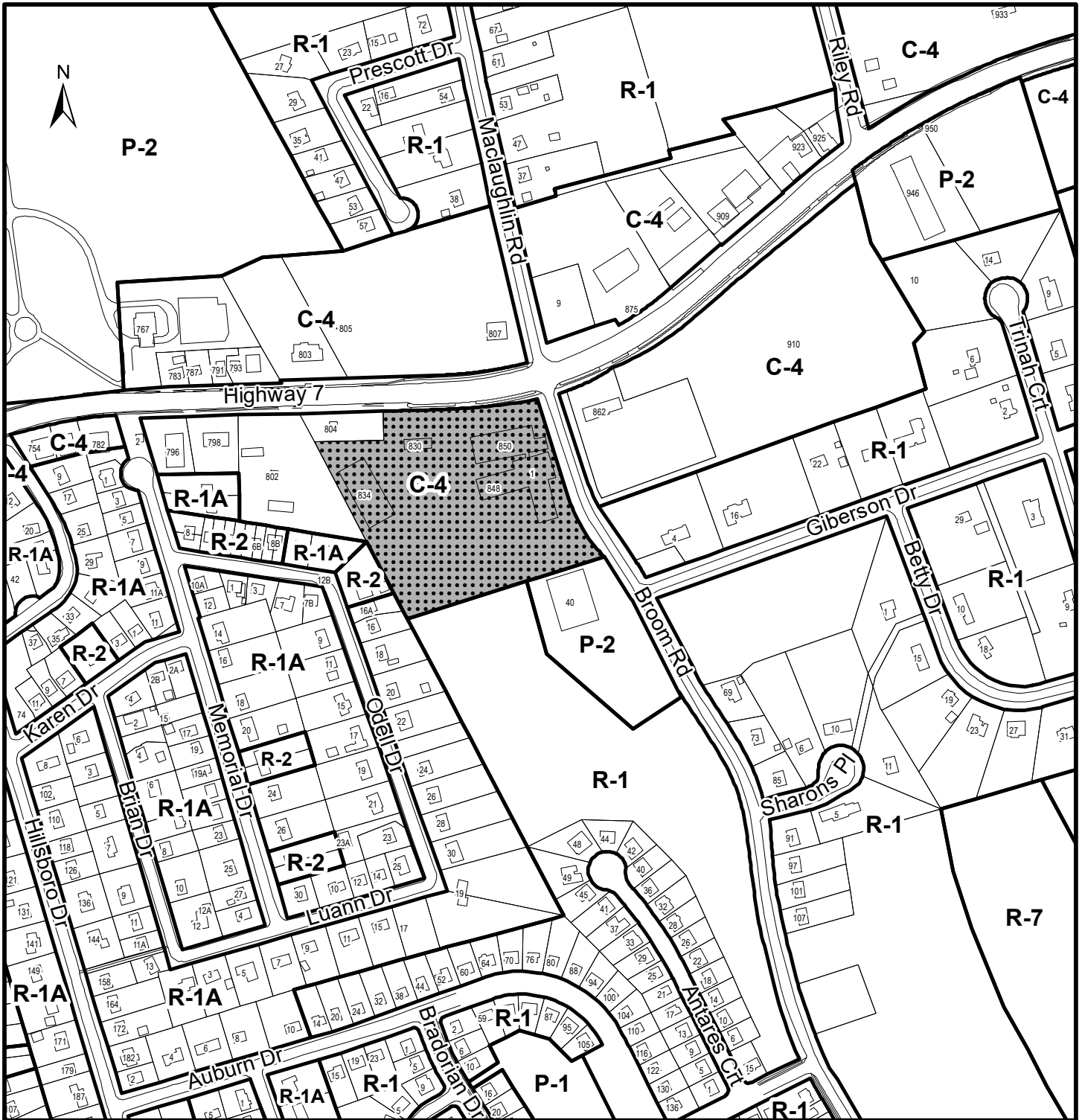
- UR Urban Residential
- RR Rural Residential
- HC Highway Commercial

Cole Harbour/Westphal
Plan 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

830 Highway 7,
Weshpal

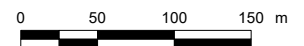
 Subject Site

Cole Harbour/Westphal
Plan Area

Zone

- R-1A Single Unit Dwelling
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-7 Rural Estate
- C-4 Highway Commercial
- P-2 Community Facility

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This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

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

**ATTACHMENT A
DISCHARGE DEVELOPMENT AGREEMENT**

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

BETWEEN:

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

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 830, 834, 848, and 850 Highway 7 and 1 Broom Road, Westphal and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the former Halifax County approved an application to enter into a development agreement to allow for expansions to buildings on the Lands and to erect, construct, or otherwise locate a series of new buildings on the Lands for the former A. R. Hemmings Building Supplies manufacturing operation, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 73616, in Book 3936, Page 312 (hereinafter called the "Existing Agreement");

AND WHEREAS the Harbour East – Marine Drive Community Council for the Municipality approved this request, by resolution, pursuant to the *Halifax Regional Municipality Charter*, at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 21168;

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

1. The Existing Agreement is hereby discharged as it applies to the Lands and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with all applicable provisions and requirements of the Cole Harbour / Westphal Land Use By-law, as amended from time to time.

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: _____

HALIFAX REGIONAL MUNICIPALITY

SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Per: _____

MAYOR

Witness

Per: _____

MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Cathy Mellett, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia