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Item No. 14.1.1
Halifax West Community Council
January 21, 2025

TO: Chair and Members of Halifax and West Community Council

FROM: Jacqueline Hamilton, Executive Director of Planning and Development

DATE: December 21, 2024

SUBJECT: **PLANAPP 2024-01000: Amendment to the Land Use By-law for Planning District 5 (Chebucto Peninsula) to amend Schedule E – Areas Subject to Reduced Road Frontage Requirements**

ORIGIN

Application by Bernd Stolz.

EXECUTIVE SUMMARY

This report recommends an amendment to Schedule E - Areas Subject to Reduced Road Frontage Requirements of the Planning District 5 (Chebucto Peninsula) Land Use By-law to allow development single unit dwellings at 1110 and 1137 Wilderness Drive in Portuguese Cove. It was brought to staff's attention that 1110 Wilderness Drive was not included within Schedule E – Areas Subject to Reduced Road Frontage Requirements. An extensive review of the subject site and surrounding area has been completed and concluded it is reasonable to include both 1110 and 1137 Wilderness Drive within Schedule E of the Planning District 5 Land Use By-law. Staff recommend that Halifax and West Community Council approve the proposed amendment to Schedule E. There are no budgetary implications as the applicant will bear all costs, expenses, liabilities, and obligations necessary to fulfill the terms of this proposed amendment to the land use by-law.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to Schedule E - Areas Subject to Reduced Road Frontage Requirements of the Planning District 5 (Chebucto Peninsula) Land Use By-law as set out in Attachment A, and schedule a public hearing; and
2. Adopt the amendment to Schedule E - Areas Subject to Reduced Road Frontage Requirements of the Planning District 5 (Chebucto Peninsula) Land Use By-law set out in Attachment A.

BACKGROUND

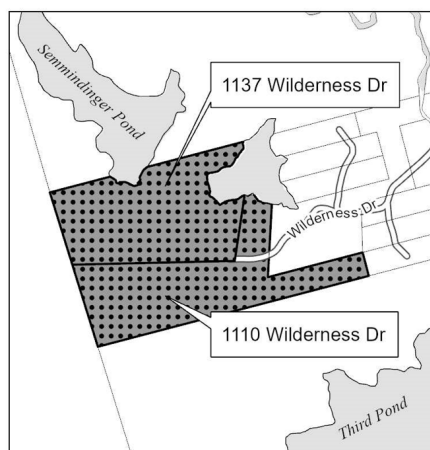
A planning application has been submitted by Bernd Stolz requesting amendment to Schedule E - Areas Subject to Reduced Road Frontage Requirements of the Planning District 5 (Chebucto Peninsula) Land Use By-law (LUB) to allow the issuance of a development permit for a single unit dwelling at 1110 Wilderness Drive (PID 41320086) in Portuguese Cove.

The applicant wishes to construct a single unit dwelling at 1110 Wilderness Drive. The lot was created in 2010 through the provisions of the *HRM Charter* which allows the creation of parcels with an area greater than 10 hectares (25 acres) to be created without municipal subdivision approval. This exemption from the subdivision approval process was originally intended for resource uses such as farming or forestry, however, it has more recently been used to create lots intended for residential purposes.

A development permit cannot be issued unless the requirements of the LUB are met. Section 9.2 of the LUB states that lots in the R-6 (Rural Residential) Zone must have 100 feet of frontage on a public street in order for a development permit to be issued. There are sections of the LUB that allow for development of lots with reduced road frontage, but those provisions are limited to lots that existed prior to the LUB coming into effect and lots created through road frontage relaxations as set out in the *Regional Subdivision By-law*, and lots shown on Schedule E – Areas Subject to Reduced Road Frontage Requirements, as set out in section 4.7 of the LUB. The subject property, 1100 Wilderness Drive, does not meet the road frontage relaxation provisions of the LUB, meaning that a development permit can not be issued.

Following an extensive review, staff have determined that 1137 Wilderness Drive is subject to the same circumstances and should be included on Schedule E as well.

Subject Sites	1110 Wilderness Drive (PID 41320086) and 1137 Wilderness Drive (PID 41306291)
Location	Lands located at the end of Wilderness Drive in Portuguese Cove
Regional Plan Designation	Rural Commuter (RC)
Community Plan Designation (Map 1)	Rural B Designation (RB) under the Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy
Zoning (Map 2)	Rural Residential (R-6) under the Planning District 5 (Chebucto Peninsula) Land Use By-law
Size of Site	Approximately 10 hectares (25 acres)
Street Frontage	No frontage on a public street
Current Land Use(s)	Vacant
Surrounding Use(s)	Residential (primarily single unit)

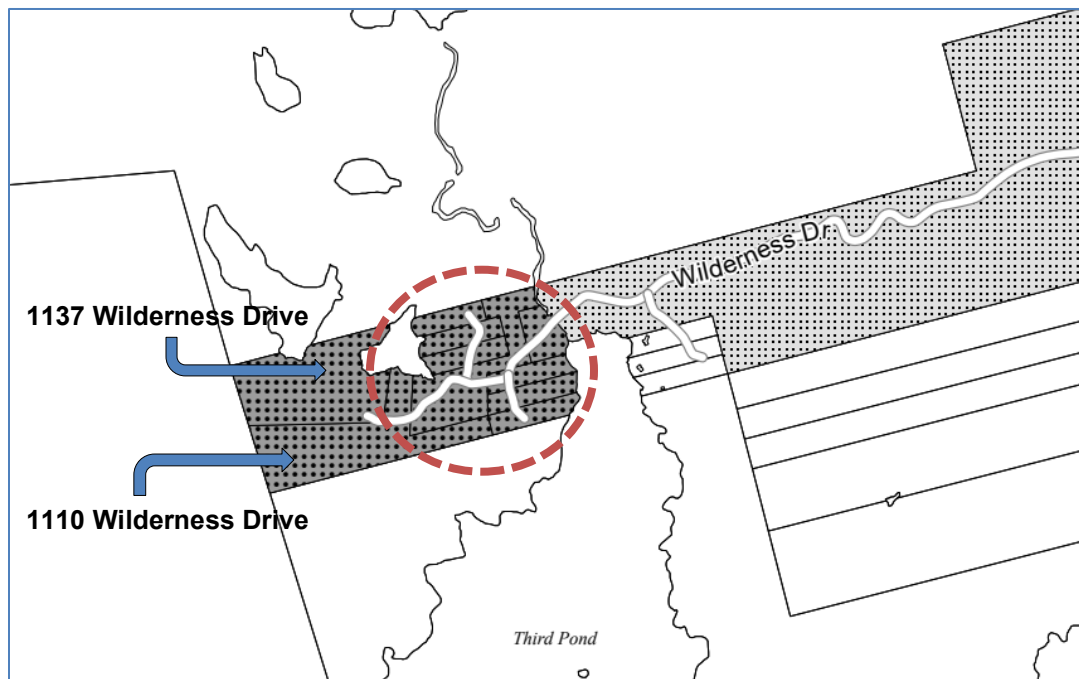


Regional Plan Context

The Regional Municipal Planning Strategy (RMPS) regulates rural development in multiple ways to support traditional service centres, manage environmental impacts and preserve rural character. Since the 2006 adoption of the RMPS, new private roads have been prohibited, with development permitted on existing public and approved private roads. The development of new public roads is limited to a maximum of 8 lots plus one remainder lot within areas designated Rural Commuter and Rural Resource under the RMPS. These controls are intended to direct development to existing roads, which reduces servicing costs, and prevents uncontrolled development of large rural subdivisions. New private roads are not permitted due to maintenance and servicing risks at significant costs that have historically resulted in requests for municipal takeover. As an alternative, the RMPS permits new, larger scale housing developments through the conservation design development agreement process.

History of 10 Hectare Lots in HRM

The *HRM Charter* includes a provision allowing the creation of parcels of land having an area greater than 10-hectares (25 acres) without municipal subdivision approval. This exemption from the municipal approval process was originally intended for resource uses such as farming or forestry. Notwithstanding the original intent, the exemption has become commonly used to create lots for residential purposes. Many of these lots do not meet LUB requirements for frontage and therefore, development permits cannot be issued. There have been instances of development permits being issued in error, allowing single unit dwellings on lots created through the exemption, despite not meet the LUB requirements for frontage. On [January 10, 2017, Regional Council approved amendments](#)¹ to the RMPS and several community LUBs to remedy this situation by relaxing the minimum frontage requirements to allow continued development of several subdivisions that had received permits. This was a one-time exception, intended to focus on unique situations and maintain the intent of the Regional Plan while remaining fair to affected property owners. Seven subdivisions received that one-time exception including the Wilderness Drive area in Portuguese Cove. However, 1110 Wilderness Drive and 1137 Wilderness Drive were not included in the one-time exception. The smaller lots shown below circled in red were approved by the Development Officer through the municipal subdivision approval process, using exceptions and relaxations of the *Regional Subdivision By-law*.



¹ https://cdn.halifax.ca/sites/default/files/documents/city-hall/regional-council/170110rc112_0.pdf

History Leading to Proposal

Staff have reviewed the approval history of 1110 and 1137 Wilderness Drive, both of which have no public street frontage, and are located at the end of a private shared driveway, Wilderness Drive. Both lots were created in 2010 through the *HRM Charter* exemption from municipal subdivision approval. The owner of 1110 Wilderness Drive purchased the property in November of 2021 with the intent to construct a single unit dwelling. In June of 2023, they applied for a development permit for a single unit dwelling which was approved in error on June 7, 2023. The error was then realized and on July 13, 2023, staff advised of the errant approval, noting to the owner that the property does not meet the requirements of the LUB. The property owner has subsequently requested amendment to Schedule E - Areas Subject to Reduced Road Frontage Requirements of the LUB to include 1110 Wilderness Drive (PID 41320086), so that the minimum public street frontage requirements are effectively eliminated, and the property could be developed in accordance with the requirements.

The adjacent lot, 1137 Wilderness Drive, was created through the same mechanism and so is in the same situation. Both lots, 1110 and 1137 Wilderness Drive, did not exist prior to the LUB becoming in effect, and neither were created through reduced frontage provisions of the *Regional Subdivision By-law*, or included in the lots currently shown on Schedule E – Areas Subject to Reduced Road Frontage Requirements. This effectively means that neither property can be developed.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS and aligns with the prior approval of Regional Council relative to the conditions for consideration of inclusion within Schedule E - Areas Subject to Reduced Road Frontage Requirements of the LUB. Attachment A contains the proposed land use by-law amendment that would allow the issuance of a permit for a single unit dwelling at both 1110 Wilderness Drive (PID 41320086) and 1137 Wilderness Drive (PID 41306291) in Portuguese Cove.

Below is a review of the rationale and content of the proposed LUB amendments.

Limited Scope

The proposed amendment is site-specific and has limited implications to region-wide residential development. At the January 10th, 2017, meeting, Regional Council specified that, given the individuality of the community plans and lot configurations throughout the municipality, staff should approach issues related to rural 10-hectare lot development on a case-by-case basis. This was reiterated in a memorandum to Council dated February 28th, 2017, regarding the “Development of 10 hectare (25 acre) lots – Regional Council Follow-Up”. More specifically, Council directed staff to work with property owners as they identified issues to develop practical and reasonable solutions. Consideration of the application subject of this report is consistent with the Council-directed, case-by-case approach. Further, it is reasonable to anticipate that limited scope of an additional two residential lots will have a minimal impact on the surrounding area.

Both lots were created in 2010 through the exemption to municipal subdivision approval, as set out in Section 278 (2) of the *HRM Charter*. A development permit cannot be issued unless the requirements of the land use by-law are met. The LUB requires that new lots zoned R-6 have at least 100 feet of public street frontage. There are provisions in the LUB that allow for development of lots with reduced road frontage requirement, but they only apply to lots that were created through reduced frontage requirements as set out in the *Regional Subdivision By-law*, those that existed prior to the land use bylaw, and those that are included within Schedule E of the LUB.

The two lots in question are currently not eligible for development, as they do not predate the Land Use By-law, weren't created through reduced road frontage requirements of the *Regional Subdivision By-law* and aren't currently included within Schedule E of the LUB. Many of the lots on Wilderness Drive and Deerfield Avenue were created either through the exemption to municipal subdivision approval, or through exemption to road frontage requirements as set out in the *Regional Subdivision By-law* in or around 2010. As set out in the 2017 report to Council, lots without frontage that were created through the exemption from municipal

subdivision approval were included within Schedule E of the LUB when they were within subdivisions where permits had been issued in error, which created an expectation that they were able to be developed. The two lots in question weren't included in Schedule E in 2017, because they were separated from the 10-hectare (25 acre) lots by a cluster of municipally-approved lots and hadn't had permits issued in error. However, a permit has since been issued and revoked for one of the two subject properties, which leads to merit in considering their inclusion.

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 application and the existing policy context and advise that Schedule E of the LUB should be amended to include 1110 and 1137 Wilderness Drive. This request is consistent with the case-by-case approach, and it is reasonable to anticipate that an additional two residential lots will have a minimal impact on the surrounding area. Therefore, staff recommend that the Halifax and West Community Council approve the proposed amendments to Schedule E - Areas Subject to Reduced Road Frontage Requirements of the Planning District 5 (Chebucto Peninsula) Land Use By-law as set out in Attachment A of this report.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with 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 LUB amendment 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 61 letters were mailed to property owners and tenants within the notification area (Map 2). The HRM website received a total of 125 unique pageviews over the course of the application, with an average time on page of 20 seconds. The public comments consisted of two individuals in support of the proposed amendment and one individual not in support as the land was originally crown land, too many exceptions have been granted already, and the dwelling is located too far from the main road in the event of a fire or flood.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed LUB amendment. 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. The HRM website will also be updated to indicate notice of the public hearing.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

LEGISLATIVE AUTHORITY

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

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed LUB amendment subject to modifications. Such modifications may require further discussion with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment 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

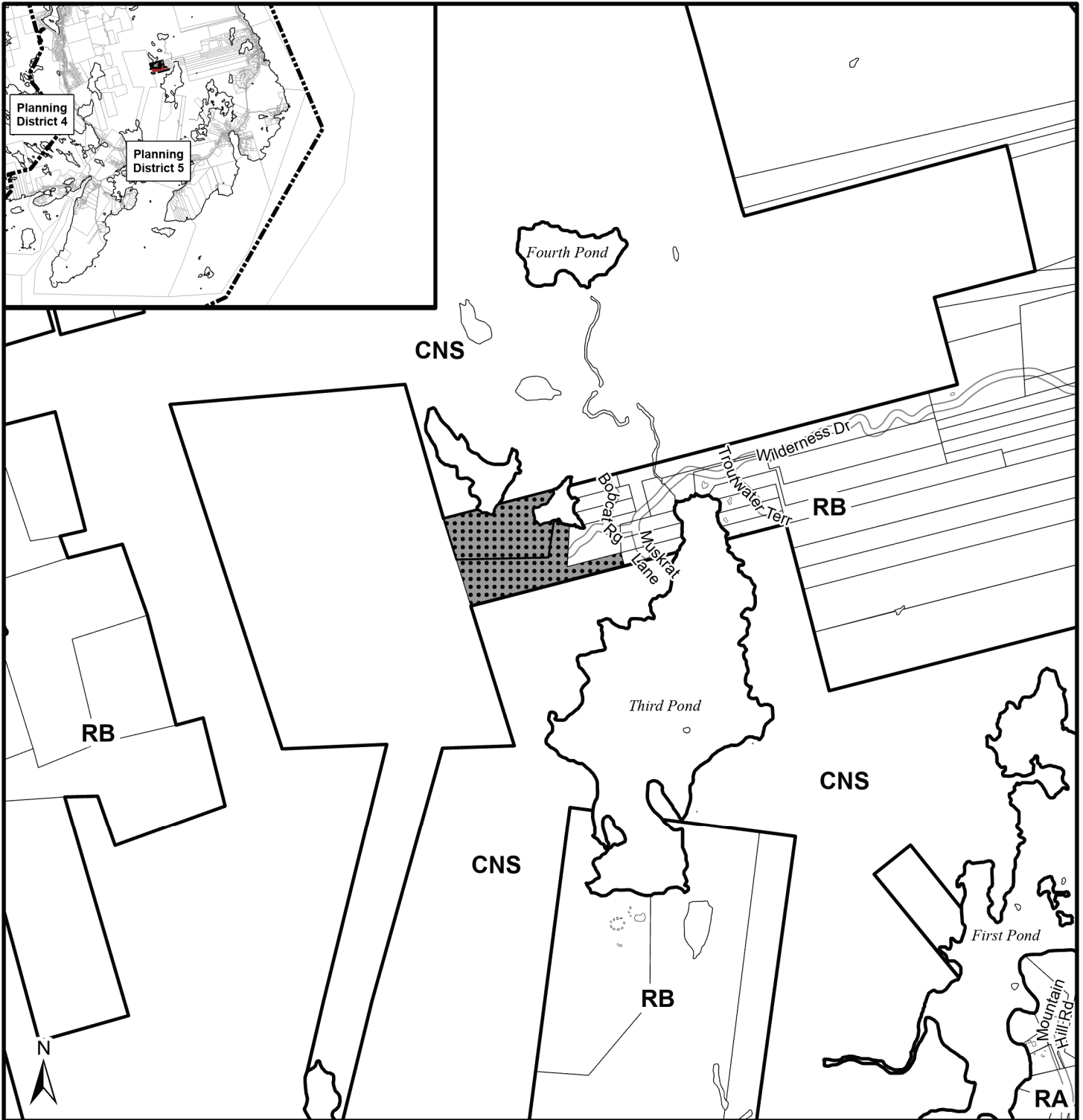
Attachment A: Proposed LUB Amendment
Attachment B: Excerpts from Regional Planning Strategy and Planning District 5 (Chebucto Peninsula) Land Use By-law

Previous Staff Reports relating to 10-hectare (25-acre) lots

Initiation Report: <http://legacycontent.halifax.ca/council/agendasc/documents/161004ca14112.pdf>

Staff Report: <http://legacycontent.halifax.ca/council/agendasc/documents/170110ca112i.pdf>

Supplementary Report: <http://legacycontent.halifax.ca/council/agendasc/documents/170110ca112.pdf>



Map 1 - Generalized Future Land Use

1110 Wilderness Drive,
Portuguese Cove

HALIFAX

Designation

- CNS Conservation
- RA Rural A
- RB Rural B

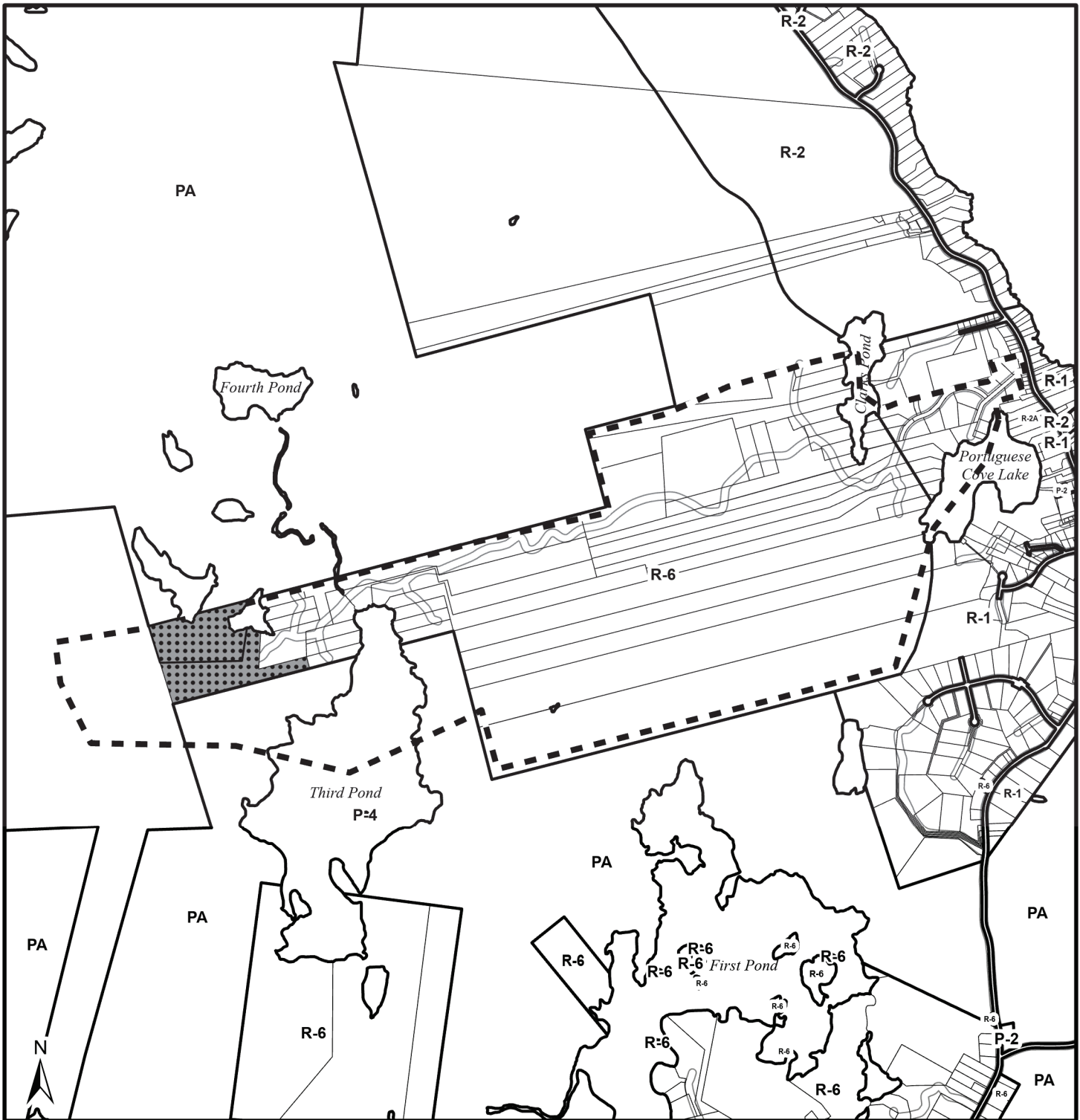
 Subject Properties



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

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

Planning District 5
(Chebucto Peninsula) Plan Area




Map 2 - Zoning and Notification Area

1110 Wilderness Drive,
Portuguese Cove

HALIFAX

 Subject Properties

 Area of Notification

Planning District 5
Land Use By-Law

Zone

- PA Protected Area
- P-2 Community Facility Conservation
- P-4 Conservation
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-2A Residential Home Occupation
- R-6 Rural Residential



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

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ATTACHMENT A

Proposed Amendment to the Land Use By-law for the Chebucto Peninsula (Planning District 5) area

BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Chebucto Peninsula (Planning District 5) is hereby further amended as follows:

1. SCHEDULE E – AREAS SUBJECT TO REDUCE ROAD FRONTAGE is amended by adding certain lands at the end of Wilderness Drive (1110 and 1137 Wilderness Drive) as shown on Attachment A-1.


I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax and West Community Council held on [DATE], 2025.


Iain MacLean
Municipal Clerk



Areas to be Added to Schedule E: Areas Subject to Reduced Road Frontage **HALIFAX**

1110 and 1137 Wilderness Drive,
Portuguese Cove

 Area proposed to be added to
Schedule E: Areas Subject to Reduced Road Frontage

 Existing area subject to Schedule E:
Areas Subject to Reduced Road Frontage



Planning District 5
Land Use By-Law

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Attachment B

Excerpts from the Regional Plan and the Chebucto Peninsula Land Use By-law

Regional Plan

The HRM Charter enables lots that exceed 10 hectares in area to be created outside of the municipal subdivision approval process. This exception is generally intended for resource uses, such as farming or forestry. In recent years, however, it has become more common for people to utilize the exemption with the intent to create such lots for cottage or residential development. Although such lots can be created without meeting land use by-law requirements for road frontage, the lots must meet land use by-law requirements in order to obtain development permits. (RC-Jan 10/17;E-Feb 25/17)

In recognition of certain development permits having been issued for a limited number of single unit dwellings on lots created through the 10 hectare exception in the HRM Charter, Council approves relaxing the road frontage requirements and allowing the continued development of subdivisions that had received permits for some, but not all lots. This one time exception is intentionally focused on these unique situations to maintain the general intent of this Plan while being fair to affected property owners. (RC-Jan 10/17;E-Feb 25/17)

- S-28A HRM shall, through the applicable land use by-laws, permit residential uses located on lots that do not meet road frontage requirements and were issued development permits on or before April 1, 2016. (RC-Jan 10/17;E-Feb 25/17)
- S-28B HRM shall, through the applicable land use by-laws, permit development on lots that existed on or before April 1, 2016, and do not meet road frontage requirements within identified subdivisions that received development permits for some, but not all, lots located with the same subdivision. (RC-Jan 10/17;E-Feb 25/17)
- S-28C HRM shall, through the applicable land use by-law, permit development on ten (10) lots do not meet road frontage requirements and that existed on or before April 1, 2016 on the east side of Scots Lake in Musquodoboit Harbour. (RC-Apr 24/18;E-Jun 2/18)

Chebucto Peninsula Land Use By-law

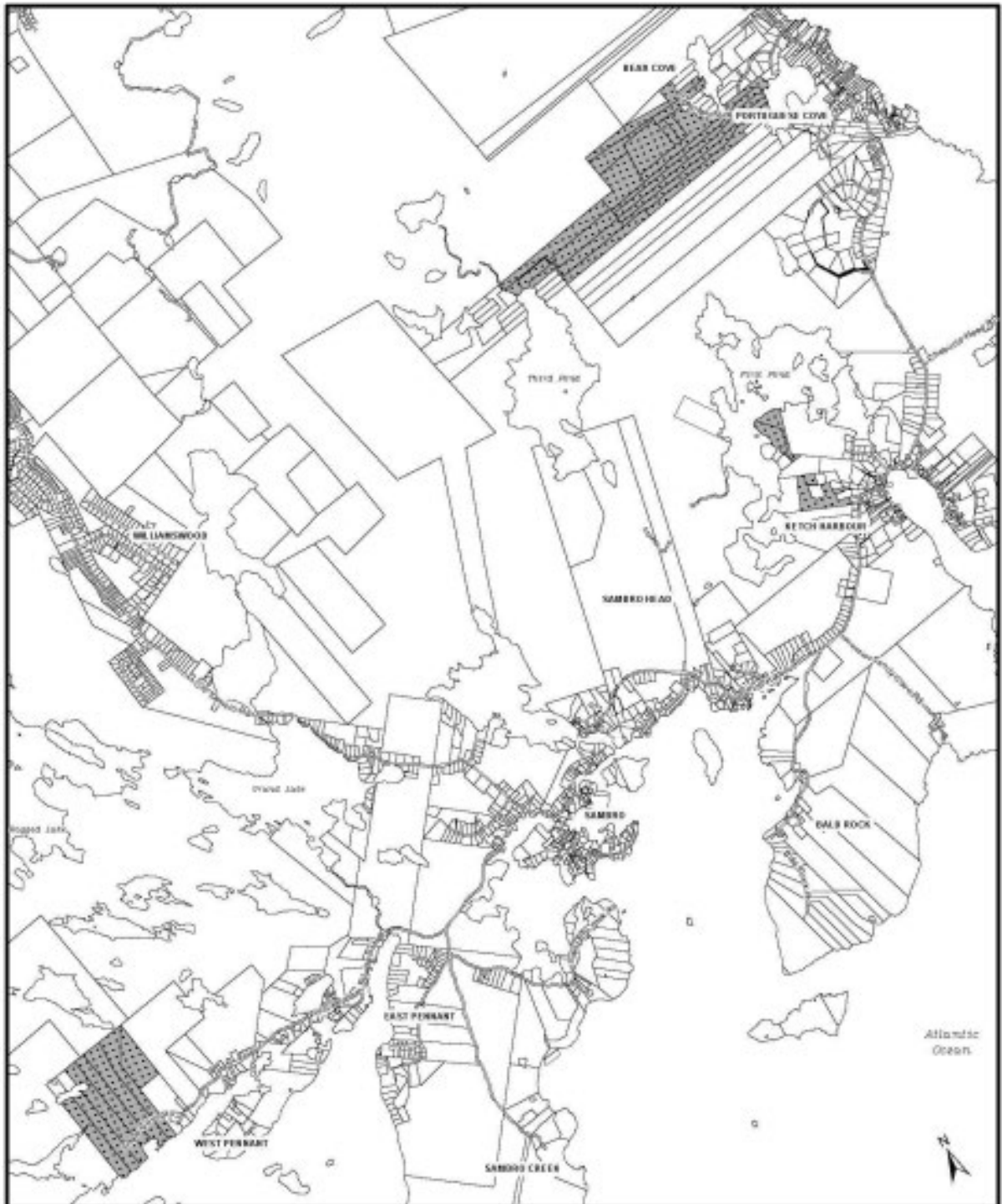
4.7 REDUCED FRONTAGE

- (a) Notwithstanding the lot frontage requirements found elsewhere in this By-law, lots may be created pursuant to the provisions of Sections 40, 41, 42 and 45 (RC-Jun 25/14;E-Oct 18/14) of the Subdivision By-law and a development permit may be issued provided that all other applicable provisions of this By-law are satisfied.
- (b) Notwithstanding the lot frontage provisions contained in this By-law, a portion of a lot identified as a road entrance reserve shall meet the requirements of the Department of

Transportation or the Municipal Service System Guidelines, as applicable (RC-Jun 25/14;E-Oct 18/14).

- (c) Deleted (RC-Jun 25/14;E-Oct 18/14)
- (d) Notwithstanding the lot frontage requirements found elsewhere in this By-law, residential uses that are located on lots that do not meet lot frontage requirements and received development permits on or before April 1, 2016 are permitted provided all other applicable provisions of this By-law are satisfied. (RC-Jan 10/17;E-Feb 25/17)
- (e) Notwithstanding the lot frontage requirements found elsewhere in this By-law, residential uses, excluding daycares facilities, are permitted on lots that do not meet lot frontage requirements provided the following conditions are satisfied: (RC-Jan 10/17;E-Feb 25/17)
 - i. the lot existed on April 1, 2016 and is located within the area shown in Schedule E; (RC-Jan 10/17;E-Feb 25/17)
 - ii. at the time of permitting, the applicant shall provide evidence satisfactory to the Development Officer establishing a registered easement in favour of the property that allows vehicular access to a street or road; (RC-Jan 10/17;E-Feb 25/17)
 - iii. where the vehicular access required by subclause ii is a shared private driveway serving four or more dwellings, it has been constructed, as certified by a professional engineer, to the design standards contained in Schedule F; and (RC-Jan 10/17;E-Feb 25/17)
 - iv. all other requirements of this By-law are met. (RC-Jan 10/17;E-Feb 25/17)

Schedule E: Areas Subject to Reduced Road Frontage Requirements (RC-Jan 10/17;E-Feb 25/17)



Schedule E - Areas subject to reduced road frontage requirements

 Areas subject to reduced road frontage requirements

HALIFAX

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

Schedule F: Shared Private Driveway Design Standards

Where specifically required by LUB provisions, shared private driveways that provide vehicular access to four or more dwellings shall meet the following design standards.

1. All shared private driveways shall have a minimum clear width of 6 meters (19.7 feet) as follows:
 - (a) Travel lanes shall be a minimum of 3 meters (9.84 feet) for each direction of travel and shall not include parking areas. Travel lanes shall be designed and constructed, complete with gravel or a paved asphalt surface, to adequately support the loads produced by all emergency vehicles.
2. All shared private driveways shall be constructed so as to prevent the accumulation of water and ice on any section of the driveway. Where the driveway grades are less than 0.5 percent, the shared private driveway shall be crowned in the center to prevent pooling of water in a travelled way. Swales shall be installed if required to prevent erosion of the shoulders.
3. Provisions for drainage systems, snow banks, utilities, and the like shall be provided and shall not be located within the required 6 meter (19.7 foot) driveway.
4. At least 4.26 meters (14 feet) nominal vertical clearance shall be provided and maintained over the full width of the shared private driveway.
5. Shared private driveways shall not have grades greater than 10 % with no change in grade over 8% in 15 meters (49.21 feet) of travel distance.
6. All cul-de-sacs shall be constructed with a minimum radius of 13 meters (42.65 feet) to the edge of asphalt and 15 meters (49.21 feet) to outside of shoulder.
7. All travel lane curves and turns at intersection, are to have a minimum 12 meter (39.37 feet) centreline travel radius. Curves and turns shall not reduce the clear width of the driveway.
8. The angle of approach and the angle of departure shall not exceed 8 degrees at any point on the driveway or its intersection with another driveway.
9. Sight distance shall be incorporated into the design of intersections.
10. If speed bumps are going to be constructed; acceptable warning signs shall be required.