



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 10.1.3
North West Community Council
February 23, 2015

TO: Chair and Members of North West Community Council

SUBMITTED BY: Original signed

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: February 9, 2015

SUBJECT: **Case 16696: Discharge of Development Agreement - 1495 Cobequid Road, Waverley**

ORIGIN

Application by Brad Meisner on behalf of Eacan Incorporated (formerly Case 01283)

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that North West Community Council:

1. Approve, by resolution, the discharge agreement as contained in Attachment A to this report, to allow for the discharge of the development agreement applied to 1495 Cobequid Road, Waverley; and
2. Require the discharging agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The owner of 1495 Cobequid Road, Waverly has proposed to discharge a development agreement approved in 2005 in order to allow the property to be fully regulated under the zoning of the Planning Districts 14 and 17 Land Use By-law. On January 27, 2005, Marine Drive, Valley & Canal Community Council entered into a development agreement to permit the storage of construction equipment and for the operation of maintenance facilities at 1495 Cobequid Road and 5 Sawlers Road, Waverley. In February 2006, 1495 Cobequid Road was sold to Eacan Incorporated and the existing maintenance facility ceased operation.

Further, the adjacent land owner at 5 Sawlers Road has requested the discharge of the remainder of the existing development agreement from their lands and the negotiation of a new development agreement. This request is being dealt with under a separate application (Case 16742).

Location, Designation, Zoning and Surrounding Land Use

Subject Property	1495 Cobequid Road
Location	Near the intersection of Cobequid Road and Rocky Lake Drive.
Designation (Map 1)	Community Centre
Zoning (Map 2)	C-2 (Community Commercial Zone) in the Planning Districts 14 and 17 Land Use By-law
Size of Property	87,348 square feet (8,114 sq. metres)
Street Frontage	Approximately 333 feet (100 m) on Cobequid Road
Site Conditions	Fully Developed site sloping from Cobequid Road to the south
Existing Buildings & Structures	1.5 storey office with pitched roof - ~3,200 sq. ft. footprint
Current Land Use(s)	Offices
Surrounding Land Use(s)	Single unit dwellings – to the north Commercial– to the west and east Vacant land, swamp and commercial warehouses – to the west
Existing Agreements	5 Sawlers Road and 1495 Cobequid Road –maintenance facility and construction equipment storage

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. 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.

DISCUSSION

Staff has reviewed the discharge request and has determined that it is consistent with the MPS policies for the Planning Districts 14 and 17 MPS. The C-2 Zone is currently applied to the lands and the existing building and land use (offices) are currently permitted under the zone.

The proposed discharge would enable the subject property to be developed in accordance with the Land Use By-law provisions of the existing underlying C-2 Zone. Therefore, staff recommends that Community Council discharge the existing development agreement through the discharging agreement contained in Attachment A.

FINANCIAL IMPLICATIONS

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

The level of community engagement was information sharing, achieved through the HRM website and responses to inquiries. A public information meeting or a public hearing is not required, nor is it the practice to hold such meetings for discharging development agreements. The decision to discharge a development agreement is made by resolution of Community Council.

The proposed discharge will have no impact on local residents, property owners or other stakeholders as the existing zoning allows for the uses that were permitted by the existing development agreement.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

ALTERNATIVES

1. 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
Attachment B:	C-2 (Community Commercial) Zone Requirements

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Andrew Bone, Senior Planner, Development Approvals, 902.490-6743

Original signed

Report Approved by: _____
Kelly Denty, Manager Development Approvals, 902.490-4800

**Attachment A
Proposed Discharge Agreement**

THIS DISCHARGE AGREEMENT made this _____ day of _____, 2015,

BETWEEN:

[Insert name here],

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 1495 Cobequid Road, Waverley and identified as PID# 40607186 which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipal Council of Halifax County Municipality entered into a development agreement to allow for the construction of a new building and the continuation of the use of the property as a Storage Yard for construction materials and a maintenance facility for construction equipment on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number (45782) in Book Number (5645) at Pages (84 to 95) (hereinafter called the "Original Agreement");

AND WHEREAS the Marine Drive Valley and Canal Community Council previously approved the discharge of the Original Agreement on November 30, 2005;

AND WHEREAS the Marine Drive Valley and Canal Community Council entered into a development agreement to allow for the expansion of a Storage Yard for construction materials and a maintenance facility for construction equipment on the Lands and 5 Sawlers Road (PID# 40607194), Waverley on November 30, 2005, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number (84626440) hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that the Existing Agreement be discharged from the Lands (1495 Cobequid Road - PID #40607186);

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the North West Community Council approved this request, by resolution, at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 16696;

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 Planning Districts 14 and 17 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: _____

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

Witness

Per: _____
MUNICIPAL CLERK

Attachment B
C-2 (Community Commercial) Zone Requirements

PART 13: C-2 (COMMUNITY COMMERCIAL) ZONE

13.1 C-2 USES PERMITTED

No development permit shall be issued in any C-2 (Community Commercial) Zone except for the following:

Commercial Uses

Retail stores
Food stores
Service and **Personal Service Uses (RC-Jun 17/03;E-Jun 20/03)**
Offices
Banks and financial institutions
Restaurants
Funeral establishments
Greenhouses and nurseries
Guest homes
Taxi depots
Medical, dental, and veterinary offices and clinics
Existing service stations
Craft shops (MC-Jul 26/93;SCC-Aug 10/93;E-Sep 4/93)

Residential Uses

Single unit dwellings
Two unit dwellings

Community Uses

Open space uses
Institutional uses
Fraternal centres and halls

13.2 C-2 ZONE REQUIREMENTS: COMMERCIAL USES

In any C-2 Zone, where uses are permitted as Commercial Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:

Central water and sewer services	10,000 square feet (929 m ²)
Other	40,000 square feet (3,716 m ²)

Minimum Frontage:

Central water and sewer services	75 feet (22.9 m)
Other	100 feet 30.5 m)

Minimum Front or Flankage Yard

20 feet (6.1 m)
30 feet (9.1 m) where front or flankage yard is abutting Highway #2

Minimum Rear or Side Yard

Central water and sewer services	8 feet (2.4 m)
Other	20 feet (6.1 m)

Maximum Lot Coverage

35 per cent

Maximum Height of Main Building

35 feet (10.7 m)

13.3 OTHER REQUIREMENTS: COMMERCIAL FLOOR AREA

Notwithstanding the provisions of Part 13.2, no commercial building within any C-2 Zone shall exceed ten thousand (10,000) square feet (930 m²) of gross floor area.

13.4 OTHER REQUIREMENTS: COMMERCIAL USES

Where uses are permitted as Commercial Uses in any C-2 Zone, the following shall apply:

- (a) No open storage or outdoor display other than the display of plants shall be permitted.
- (b) No portion of any lot shall be used for the collection or storage of refuse unless the refuse containers are screened.

13.5 OTHER REQUIREMENTS: ABUTTING YARDS

Where the rear or side yard of any commercial use in any C-2 Zone abuts any Residential or Community Facility Zone, the minimum rear or side yard shall be 30 feet (9.1 m) and no parking, loading or accessory structures shall be permitted within the required yards unless a visual barrier is provided, in which case the minimum rear or side yard shall be 20 feet (6.1 m).

13.6 OTHER REQUIREMENTS: REDUCED FRONT YARD

Notwithstanding the provisions of Part 13.2, the minimum front yard may be reduced to fifteen (15) feet where no parking or loading facilities are located within the required front yard.

13.7 OTHER REQUIREMENTS: REDUCED PARKING REQUIREMENTS

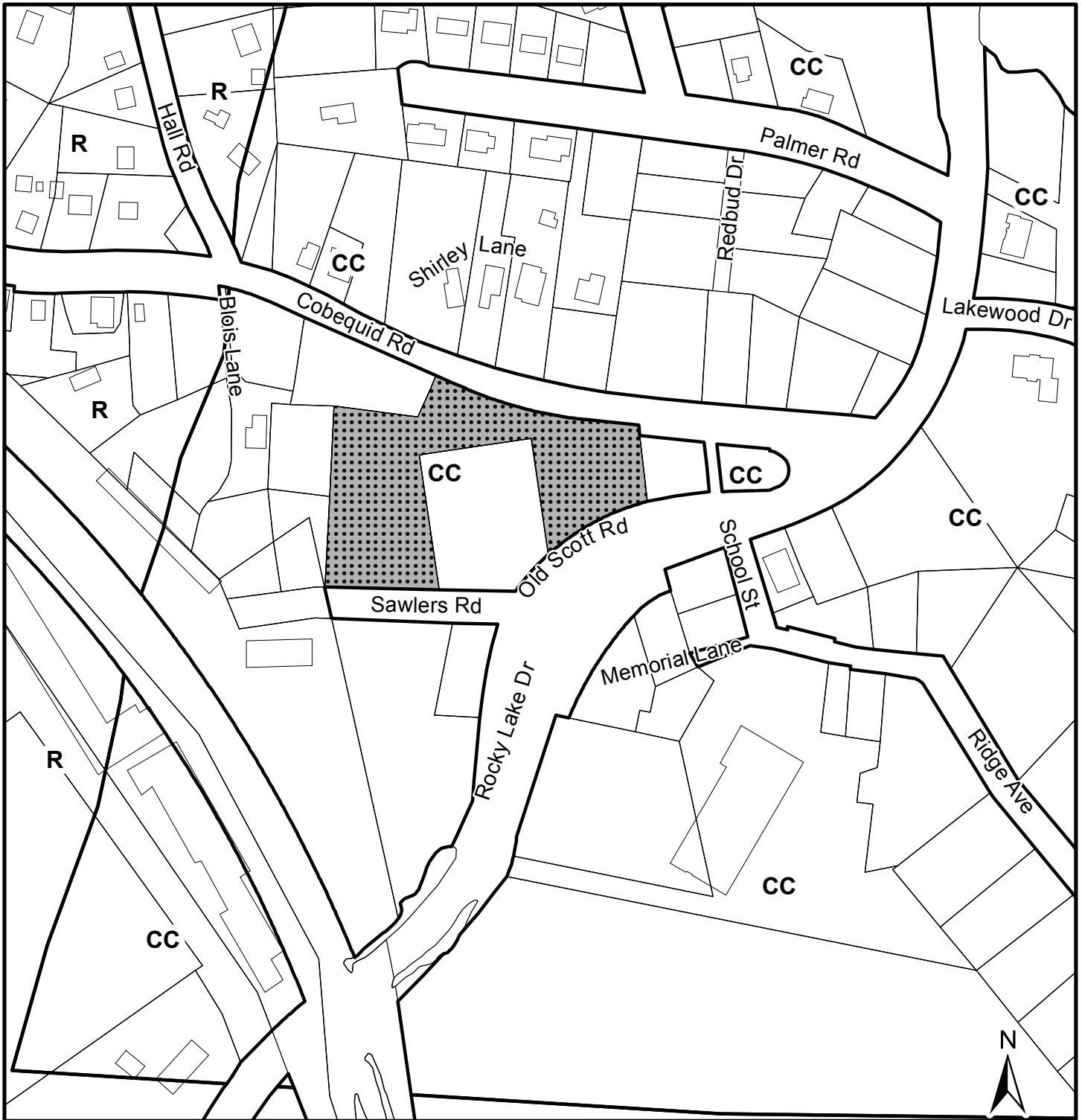
Notwithstanding Part 4.25 where the main building is constructed within fifteen (15) feet of the road right-of-way in accordance with the provisions of Part 13.6, the overall parking requirements for commercial uses within the structure may be reduced by a maximum of fifteen (15) per cent.

13.8 C-2 ZONE REQUIREMENTS: COMMUNITY USES

In any C-2 Zone, where uses are permitted as Community Uses, no development permit shall be issued except in conforming with Part 22.

13.9 C-2 ZONE REQUIREMENTS: RESIDENTIAL USES


In any C-2 Zone, where uses are permitted as Residential Uses, no development permit shall be issued except in conformity with Part 7.



Map 1 - Generalized Future Land Use

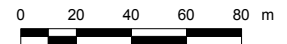
1495 Cobequid Road
Waverley

HALIFAX

 Subject Property

Designations

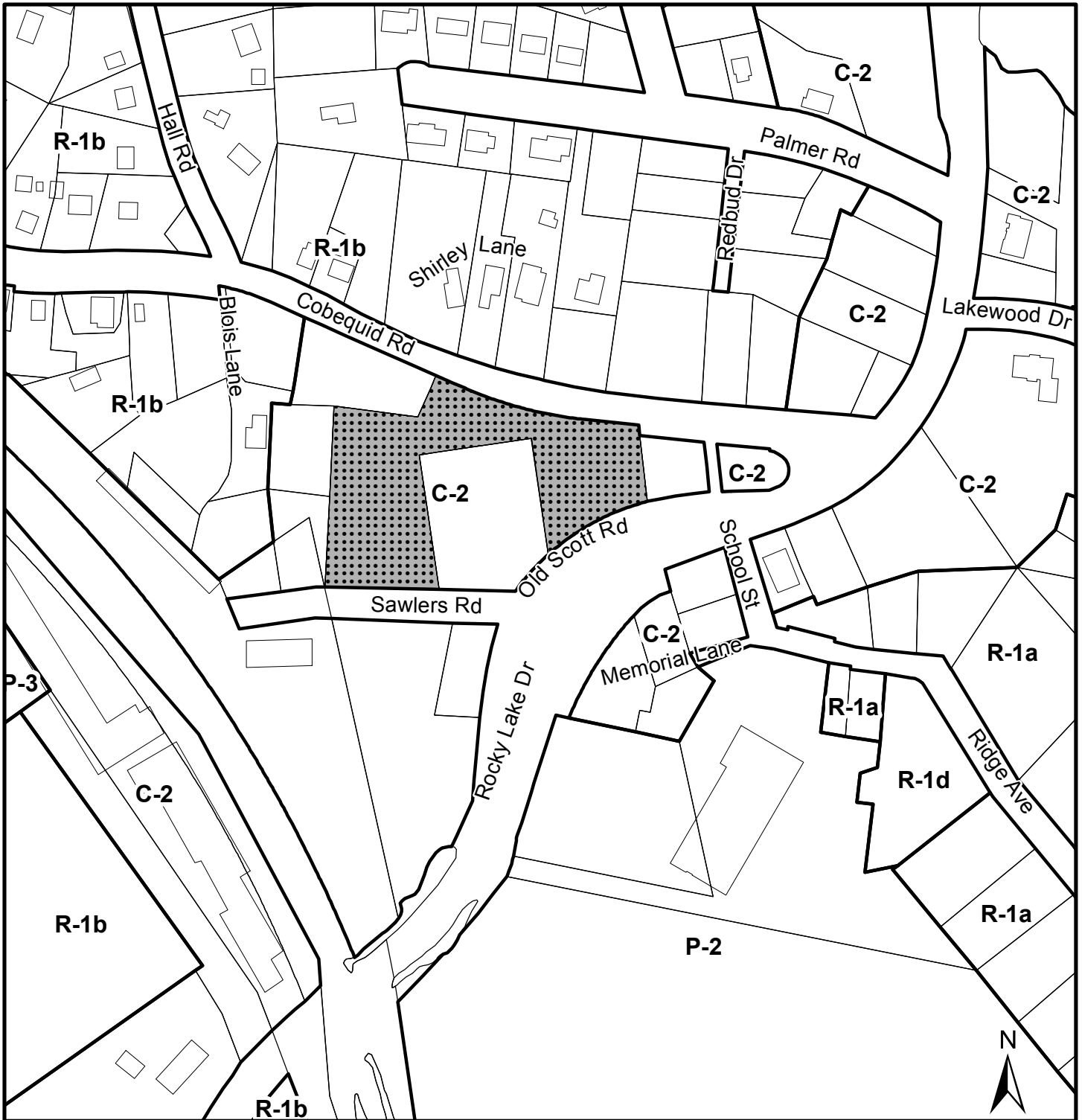
- R Residential Designation
- CC Community Centre Designation



Planning Districts 14 & 17
(Shubenacadie Lakes) 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
 1495 Cobequid Road
 Waverley

HALIFAX

 Subject Property

- Zones**
- R-1a Single Unit Dwelling Zone
 - R-1b Suburban Residential Zone
 - R-1d Residential Auxiliary Dwelling Zone
 - C-2 Community Commercial Zone
 - P-2 Community Facility Zone
 - P-3 Park Zone



Planning Districts 14 & 17
 (Shubenacadie Lakes) By-Law Area

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