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**Chebucto Community Council**  
**January 7, 2008**

**TO:** Chebucto Community Council

**SUBMITTED BY:** Denise Schofield  
Denise Schofield, Acting Director of Community Development

**DATE:** December 20, 2007

**SUBJECT:** Case 01004: MPS / LUB Amendments and Development Agreement,  
Former BC Silver School, Halifax (Spryfield)

**ORIGIN**

Request by Kimberly-Lloyd Developments Limited, to amend the Halifax Municipal Planning Strategy (MPS) and Halifax Mainland Land Use By-law (LUB) to permit a residential subdivision development upon the former BC Silver School Site, Theakston Avenue, Halifax.

**RECOMMENDATION**

It is recommended that Chebucto Community Council:

1. Recommend that Regional Council give First Reading to the proposed amendments to the Halifax MPS and Halifax Mainland LUB presented in Attachment C and schedule a joint Public Hearing with Chebucto Community Council;
2. Recommend that Regional Council approve the proposed amendments to the Halifax MPS and Halifax Mainland LUB presented in Attachment C; and
3. Give Notice of Motion to consider the proposed development agreement presented in Attachment D, and schedule a joint public hearing with Regional Council.

**Recommendations continued on next page.**

**Contingent upon the adoption by Regional Council of the above Municipal Planning Strategy and Land Use By-law amendments and those becoming effective under the Municipal Government Act, it is further recommended that Chebucto Community Council:**

1. Approve the proposed development agreement presented in Attachment D;
2. Require the development agreement be signed within 120 days, or any extension thereof granted by the Chebucto Community Council on request of the applicant, from the date of the final approval of said agreement by the Community Council and any other bodies as necessary, whichever is later, including applicable appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

## **BACKGROUND**

### **Proposal**

Kimberly-Lloyd Developments Limited purchased the former BC Silver School site from HRM in 2006 (Map 1). The property, with its former school building, was sold because it was not required for any municipal purpose. Since obtaining it, Kimberly-Lloyd has demolished the building and proposes to develop a residential subdivision, which is to include:

- a new street that is to extend from the intersection of Pinegrove Drive and Theakston Avenue to a new cul-de-sac, serving up to 40 single detached dwellings;
- a new section of road that is to extend from Levis Street and end with a new turning circle, serving up to four, new single detached dwellings;
- a walkway and emergency access between the two cul-de-sacs; and
- new trails alongside the McIntosh Run that will connect to a recently re-established bridge.

The single detached dwelling lots are to have frontages of 32 feet and have 3,200 square feet in area. Side yard setbacks are to be 10 feet on one side and 2 feet on the other side. This is often referred to as a “narrow-lot” style of subdivision, as the minimum standards in the Land Use By-law for single detached dwellings are frontages of 50 feet and lot areas of 5,000 square feet.

There are several encroachments upon the land; situations where neighbouring property owners (current or past) have extended their backyards beyond the limits of their own property boundaries. Kimberly-Lloyd has initiated discussions to sell some or all of these encroachments to these neighbours. Small reductions in the size of the proposed lots, less than 3,200 square feet, may occur to accommodate these land transfers.

## **Amendments**

The property is located within the Institutional District under the Mainland South Secondary Planning Strategy and is zoned P (Park and Institutional), which is reflective of the former school use. Kimberly-Lloyd proposes to amend the Generalized Future Land Use Map and Zoning Map to apply the Residential Development District designation and the Residential Development District (RDD) Zone to the property.

The change in zoning would allow for an “as-of-right” residential development on the site as the RDD Zone allows for single detached dwellings and semi-detached dwellings upon lots with a minimum of 50 feet of frontage and 5,000 square feet of area. However, this zone also allows for alternative forms of residential development to be considered by development agreement. This is what is being sought through this application, to allow for a narrow-lot subdivision.

Separate from Kimberly-Lloyd’s request, there is a small triangular parcel that is to the north of the site that is inappropriately included within the Institutional District and P Zone (shown on Map 1). At the same time as the Kimberly-Lloyd application is considered, it is recommended that this parcel be redesignated and rezoned as a “housekeeping” measure. It is proposed to be included in the Medium Density Residential District and R-2P (Residential General) Zone, which is reflective of the immediately surrounding area.

## **DISCUSSION**

### **Municipal Planning Strategy Amendments**

#### **Existing Institutional District**

Under the existing district designation and zoning, development of the property is limited to institutional uses. Removing the Institutional District and P Zone from the property should be considered in light of the objectives and policies of the Municipal Planning Strategy. Policy 3.2 of the Mainland South Secondary Planning Strategy states that, “The City shall encourage existing institutional uses to remain in their present locations, and shall encourage the re-use of such institutional areas and facilities, consistent with the policies of this Section and Part II, Section II.”

This policy could support a retention of the existing Institutional District and P Zone. However, the context for this policy is the Institutional Objective, which is to have, “Public and private institutional uses to serve the Mainland South area and the City.”

The process associated with the disposition of this property, first by the School Board and then by HRM, involved a thorough review of the institutional needs of the Mainland South area. Through this exercise, it was determined that the land and building were surplus. Other

institutional lands and facilities in the Mainland South area serve the immediate and long-term needs of the community and are the focus of investment and upgrades.

### Residential Development District

Amending the MPS to enable a residential development is appropriate given the residential character of the surrounding area. Applying the Residential Development District designation to the site, thereby allowing a subdivision by development agreement, permits Council to ensure that a proposal is particularly suitable for the site and surroundings through a process that involves public consultation. However, the Residential Development District policies state that any development proposal should be comprised of a mixture of dwelling unit types, as follows:

- 1.5 Areas designated as “Residential Development District” on the Generalized Future Land Use Map shall be residential development areas planned and developed as a whole or in phases under a unified site design, providing a mixture of residential uses and related recreational, commercial and open space uses, **with an emphasis on a mix of dwelling unit types. [emphasis added]**

The subject site is relatively small compared to many other lands with the Residential Development District designation. A mix of dwelling units on this site would not be appropriate given its size and the low density character of the surrounding area. Therefore, it is proposed that a policy be introduced into the Municipal Planning Strategy so that such a mix of dwelling types not be required on the lands. This approach has been previously applied within Melville Ridge, another development in a Residential Development District which permits a limited range of residential dwelling types.

### **Development Agreement**

The proposed development agreement has been devised with consideration of the policies of the MPS and with regard to the attributes of the site and its surroundings. The following are key highlights:

- The minimum setbacks for the dwellings are 10 feet on one side and 2 feet on the other, with a front yard of 15 feet and a rear yard of 20 feet.
- Features such as decks, bay windows, chimneys are permitted to encroach within specified setbacks so as to provide increased flexibility.
- Accessory buildings are only permitted in rear yards.
- Driveways are limited to a maximum of 12 feet in width.
- Home occupations are permitted.
- Power metres are not permitted on the front of any houses and any utility features such as heat pumps and oil tanks must be located in the rear or side yards.
- The parkland dedication requirements are satisfied by constructing trails, with any remaining funds to be received by HRM in the form of cash.

- There is to be a pedestrian and emergency vehicle connection from the new street to Levis Street.
- The developer is required to transfer the land next to the Macintosh Run, which serves as a watercourse buffer, to the Municipality.
- No buildings are permitted within 100 feet of the ordinary high water mark of McIntosh Run.
- Provisions have been made to allow for land to be transferred to property owners that are encroaching upon the site, although it should be noted that these small parcels will continue to be subject to the proposed development agreement and will be included in the Residential Development District and RDD Zone.
- There is an extended period of time, five years, that Kimberly-Lloyd has before construction must commence to permit ongoing upgrades to Roaches Pond Pumping Station to be completed.

### **Consideration of the Development Agreement**

If Council redesignates and rezones the site, the proposed development agreement should be considered against the policies within the Municipal Planning Strategy. Among other matters, the policies require Council to consider the impact of the proposal on matters such as the surrounding land uses and watercourses. In this regard, the proposal is found to relate favourably to these policies and the overall intent of the Municipal Planning Strategy (Policy Review - Attachments A and B).

The only issue that has been identified is the lack of an actual dedication of land for a park. In the long term, as adjacent subdivisions such as Governor's Brook are developed, there may be a need for a neighbourhood park, which could have been established upon the lands, in the vicinity of the bridge crossing McIntosh Run. This would also provide visibility of the bridge area, crossing McIntosh Run from the new street. However, Kimberly-Lloyd does not support the development of a park upon the lands; a position that was seemingly supported by people at the public information meeting.

Instead of an actual land dedication, the proposed development agreement requires Kimberly-Lloyd to provide an "equivalent value", which will be in the form of construction work that results in the trails being constructed, and remaining value to be provided in the form of a cash payment to HRM.

### **Review by Halifax Watershed Advisory Board**

The application was reviewed by the Halifax Watershed Advisory Board (HWAB) on July 18, 2007 (HWAB Report - Attachment E). Since the time in which it was considered by the HWAB, the site plan has been refined, but not in any way that there is a greater degree of impact upon McIntosh Run. The main focus of the HWAB's recommendations was the establishment of a

suitable riparian buffer, which is established under the proposed development agreement. Other recommendations, such as a suggestion for a water sampling program, have not been included as a requirement, as HRM does not yet have a program in place under which such sampling can be suitably administered. This is currently being addressed through an anticipated Water Quality Monitoring Functional Plan, which stems from the Regional Plan.

### **Public Information Meeting / Area of Notification**

A Public Information Meeting was held on July 5, 2007 (Minutes - Attachment F). Should Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners within the area shown on Map 1 will be sent written notification.

### **BUDGET 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 and the work can be carried out within the approved budget with existing resources.

### **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

### **ALTERNATIVES**

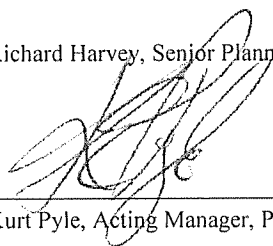
1. Council could approve the proposed amendments and proposed development agreement for the reasons outlined in this staff report; this is the recommended alternative.
2. Council could retain the existing designation (the Institutional District) upon the site which would mean that it could only be developed for uses that are permitted by the Institutional Zone. This alternative is not recommended for the reasons outlined in this report.
3. Council could approve the proposed amendments to the Municipal Planning Strategy and Land Use By-law, but refuse the proposed development agreement. This would allow for the site to be developed for "as-of-right" residential development or it could lead to a subsequent development agreement proposal. Should Council select this alternative, it is required to provide reasons as to why the proposed development agreement does not relate favourably to the Municipal Planning Strategy. This alternative is not recommended for the reasons outlined in this report.

**ATTACHMENTS**

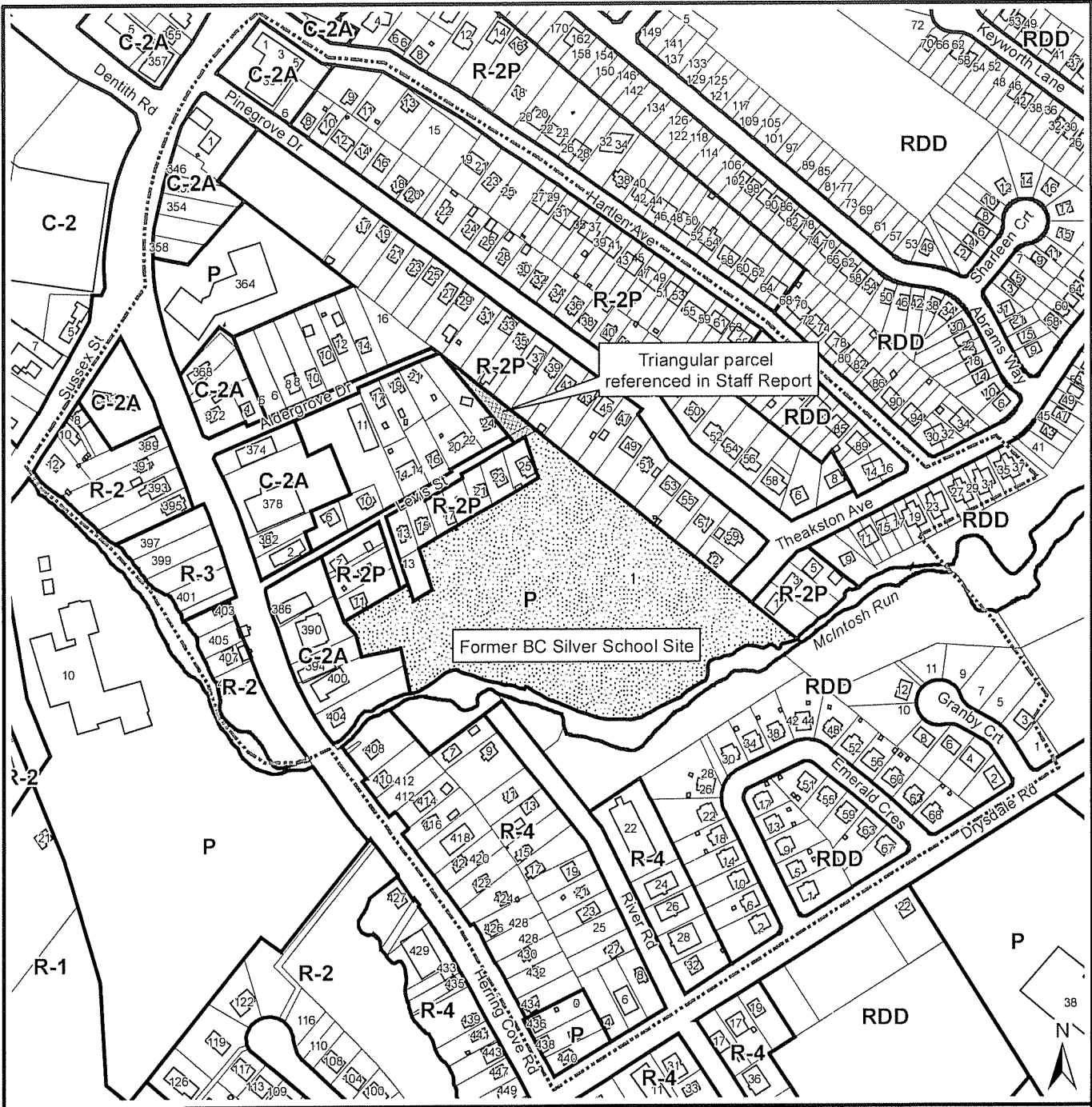
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|--------------|------------------------------------------------------------------------------------------------------------|
| Map 1        | Location and Zoning Map (With Notification Area)                                                           |
| Attachment A | Review of Schedule I, Guidelines for Residential Development District                                      |
| Attachment B | Review of Other Relevant Municipal Planning Strategy Policies                                              |
| Attachment C | Proposed Amendments to the Halifax Municipal Planning Strategy and the<br>Halifax Mainland Land Use By-law |
| Attachment D | Proposed Development Agreement                                                                             |
| Attachment E | Report from the Halifax Watershed Advisory Board                                                           |
| Attachment F | Public Information Meeting Minutes                                                                         |

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Richard Harvey, Senior Planner, 490-3800



Report Approved by: \_\_\_\_\_  
Kurt Pyle, Acting Manager, Planning Services, 490-7066



Map 1 - Location and Zoning

1 Theakston Lane  
(formerly BC Silver School)  
Halifax

Notification area

Halifax Mainland  
Land Use By-Law Area

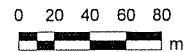
Area to be rezoned from P (Park and Institutional) to RDD (Residential Development District)

Area to be rezoned from P (Park and Institutional) to R-2P (General Residential)

**Zone**

- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- R-4 Multiple Dwelling
- C-2A Minor Commercial
- P Park and Institutional
- RDD Residential Development District

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area

HRM does not guarantee the accuracy of any representation on this plan



| <b>Attachment "A"</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <b>Review of Schedule I, Guidelines for Residential Development District</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Policy</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Comment</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Pursuant to Policy 1.5.1, contract development in any area designated "Residential Development District" on the Generalized Future Land Use Map must conform with the following guidelines:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <u>Uses Which May be Permitted</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <ol style="list-style-type: none"> <li>1. Residential Uses</li> <li>2. Community Facilities</li> <li>3. Institutional Uses</li> <li>4. Neighbourhood Commercial Uses</li> <li>5. Commercial Convenience Centres</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | The proposal is comprised of residential uses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <u>Site Development Guidelines</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <ol style="list-style-type: none"> <li>5. Residential                             <ul style="list-style-type: none"> <li>• a density of twenty-two persons per gross acre shall be permitted. Proposals in excess of twenty-two persons per gross acre may be considered provided that no development shall exceed the capacity of existing or proposed sewers. In calculating the permissible density of any project, the capacities available to the drainage area shall be considered.</li> <li>• no more than 15 percent of any area covered by a development agreement may be developed for apartment uses including the building(s), ancillary parking, open space, and landscaping.</li> </ul> </li> </ol> | <p>The property is approximately 8 acres in size. Using a standard of 3.35 persons per single detached dwelling, the population density will be 18 persons per acre.</p> <p>There is a capacity issue with the Roach's Pond pumping station, which results in a concern with increasing the amount of sewage beyond what has occurred on the site in the past. Kimberly-Lloyd has submitted an analysis that indicates that the sewage that will be generated by the new residential development, will be less than that which existed with the former school use. This has been viewed favourably. Further review about the differences in peak flow times will be considered as the project proceeds.</p> <p>At the time in which development is actually to proceed, the Province will be required to approve the proposed extension of the sewage system. At this time, it is expected that there will be a further review of the capacity of the Roaches Pond pumping station.</p> <p>Not relevant to this proposal.</p> |

| <b>Attachment "A"</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                              |
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| <b>Review of Schedule I, Guidelines for Residential Development District</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                              |
| <b>Policy</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Comment</b>                                                                                                                               |
| <ul style="list-style-type: none"> <li>the design and layout of the portion of new residential developments abutting existing residential areas shall endeavour to protect the character and scale of these areas by attention to such matters as use of open space, landscaping, and ensuring adequate transition between areas of differing building forms and densities.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                               | <p>The proposed development, being comprised of single detached dwellings, is compatible with the existing housing surrounding the site.</p> |
| 6. Commercial                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                              |
| <ul style="list-style-type: none"> <li>neighbourhood commercial uses are permitted at or near the intersection of local streets, and on the ground floor of high-density residential buildings. In addition, consideration may be given for a commercial convenience centre, except in the RDD areas generally west of the Herring Cove Road and south of Leiblin Drive. The amount of gross leasable space may be limited to ensure that the development primarily serves the adjacent neighbourhoods. The intent is to provide for a range of uses such as retail, rental and personal service, household repair shops, service stations, restaurants and office uses. The additional matters to be considered are found in the guidelines of Policy 3.7 of Section II.</li> </ul> | <p>Not relevant to this proposal.</p>                                                                                                        |
| <u>Landscaping and Open Space</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                              |
| 7. At least 5 percent of the area of the district development must be useable, landscaped, open space.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>There are lands associated with the trails will provide a considerable open space amenity that addresses this policy.</p>                 |
| 8. No residential or accessory building shall be constructed within 50 feet of any lake, watercourse, or water body. No commercial or accessory structure shall be constructed within 100 feet of any lake, watercourse, or water body.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>The proposal meets these requirements.</p>                                                                                                |
| 9. Any proposal to construct a community                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>Not relevant to this proposal.</p>                                                                                                        |

| <b>Attachment "A"</b><br><b>Review of Schedule I, Guidelines for Residential Development District</b>                                                                                                                                                      |                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Policy</b>                                                                                                                                                                                                                                              | <b>Comment</b>                                                                                                                              |
| facility or institutional use within 100 feet of the water's edge should ensure, through the use of landscaping or other means, that adverse effects on water quality will be avoided or ameliorated during and after construction.                        |                                                                                                                                             |
| 10. A landscape plan shall be submitted as part of the approval process and the preservation of natural amenities, including rock outcroppings, groves of trees, mature trees, ponds, streams, shores, and wetlands should be preserved whenever possible. | This was not required on the basis that the site is relatively small and largely involves a redevelopment of an already developed property. |
| <u>Circulation</u>                                                                                                                                                                                                                                         |                                                                                                                                             |
| 11. Access to arterial or collector streets should be such that additional traffic along local streets in residential neighbourhoods adjacent to the development is minimized.                                                                             | This is not so substantial of a development that there will be a significant increase in local traffic.                                     |
| 12. Where common parking areas are provided, they should be so aligned as to restrict through traffic.                                                                                                                                                     | Not relevant to this proposal.                                                                                                              |
| <u>General</u>                                                                                                                                                                                                                                             |                                                                                                                                             |
| 13. The minimum required site size for a contract within this area shall be three acres.                                                                                                                                                                   | Achieved.                                                                                                                                   |
| 14. Municipal infrastructure must be adequate to service any proposed development.                                                                                                                                                                         | Sanitary sewage capacity is the only municipal infrastructure issue. See earlier commentary associated with No. 1.                          |

| <b>Attachment "B"</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                   |
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| <b>Review of Other Relevant Municipal Planning Strategy Policies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                   |
| <b>Policy</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Comment</b>                                                                                                                                                                                                                                                                    |
| <b><u>4. RECREATIONAL</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                   |
| <p>4.2 The City shall encourage passive recreational uses adjoining the McIntosh Run shoreline including public walkways and bicycle trails along the flood plain area and related environmentally sensitive areas reserved for public use. Such uses should be integrated with adjacent recreational and institutional uses, where considered appropriate.</p> <p>4.3 The City shall seek to secure passive recreational areas along the McIntosh Run by such means as acquisition through open space dedication as part of the subdivision process or through purchase.</p> <p>4.6 The City shall develop a strategy for and seek to establish a continuous passive or active recreational open space system in the Mainland South area; such a system would include public parks, walkways, nature trails and water-oriented activities. The principal components of such a system shall be located adjacent to or in association with the Northwest Arm and shoreline, Williams Lake, Colbart Lake, Long Lake, Kidston Lake, and McIntosh Run.</p> | <p>These are achieved through the development agreement requirement that trails be constructed by the developer and land adjacent to the Macintosh Run be transferred to the Municipality. This corresponds to HRM strategy for establishing a trail along the Macintosh Run.</p> |
| <b><u>5. TRANSPORTATION</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                   |
| <p>5.2 The City shall seek to minimize through traffic on local residential streets.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>The volume of traffic associated with the proposal is considered to be minimal.</p>                                                                                                                                                                                            |
| <b><u>6. MUNICIPAL SERVICES</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                   |
| <p>6.2 The City shall discourage the practice</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>Although there will be stormwater discharge into</p>                                                                                                                                                                                                                           |

| <b>Attachment "B"</b>                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <b>Review of Other Relevant Municipal Planning Strategy Policies</b>                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Policy</b>                                                                                                                                                                                                                                       | <b>Comment</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| of disposing uncontrolled and unmanaged storm water directly into inland lakes and waterways.                                                                                                                                                       | the Macintosh Run, the flows will be reduced from that which has existed with the former uses of the property. With the use of the property as a school site there has been a considerable amount of impervious "hard surface"; which will be removed with the residential redevelopment of the site. There are also opportunities to consider measures to reduce the flow of stormwater that will investigated during development detailed designs for the subdivision and subsequent approvals. |
| <b>7. ENVIRONMENT</b>                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 7.1.2 Lands within 100 feet of the water's edge of any water body shall be considered to be environmentally sensitive and the Land Use By-law shall require a higher standard for new single-family lots adjacent to watercourses.                  | No buildings may be constructed within 100 feet from Macintosh Run.                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 7.3 Where development proposals are being considered through rezoning or development agreement, the City shall protect environmentally sensitive areas                                                                                              | Such an area, as identified on the Environmental Sensitivity Map, adjacent to the Macintosh Run is being protected through this proposal.                                                                                                                                                                                                                                                                                                                                                         |
| 7.4 The City shall require setbacks for new development adjacent to lakes, watercourses or waterbodies for the purposes of maintaining and enhancing a high quality lakes and waterways system for development considered pursuant to Policy 1.5.1. | No buildings may be constructed within 100 feet from Macintosh Run.                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 7.4.1 The City shall undertake an analysis of flooding along the McIntosh Run and prepare suitable policy and regulatory controls to protect the watercourse.                                                                                       | No buildings are to be located within the Macintosh Run floodplain.                                                                                                                                                                                                                                                                                                                                                                                                                               |

| <b>Attachment "B"</b>                                                                                                                                                                                |                                                                                   |
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| <b>Review of Other Relevant Municipal Planning Strategy Policies</b>                                                                                                                                 |                                                                                   |
| <b>Policy</b>                                                                                                                                                                                        | <b>Comment</b>                                                                    |
| 7.4.2 Pending the completion of the study outlined in Policy 7.4.1, the City shall amend its Land Use By-law to require a setback for all new development of one hundred feet from the McIntosh Run. | A minimum setback of 100 feet is specified in the development agreement.          |
| 7.5 Environmentally sensitive areas in public ownership should be preserved in their natural state and utilized for limited park and recreation uses.                                                | The development agreement requires that such land be transferred to Municipality. |

**Attachment C**  
**Amendments to the Halifax Municipal Planning Strategy and**  
**Halifax Mainland Land Use By-law**

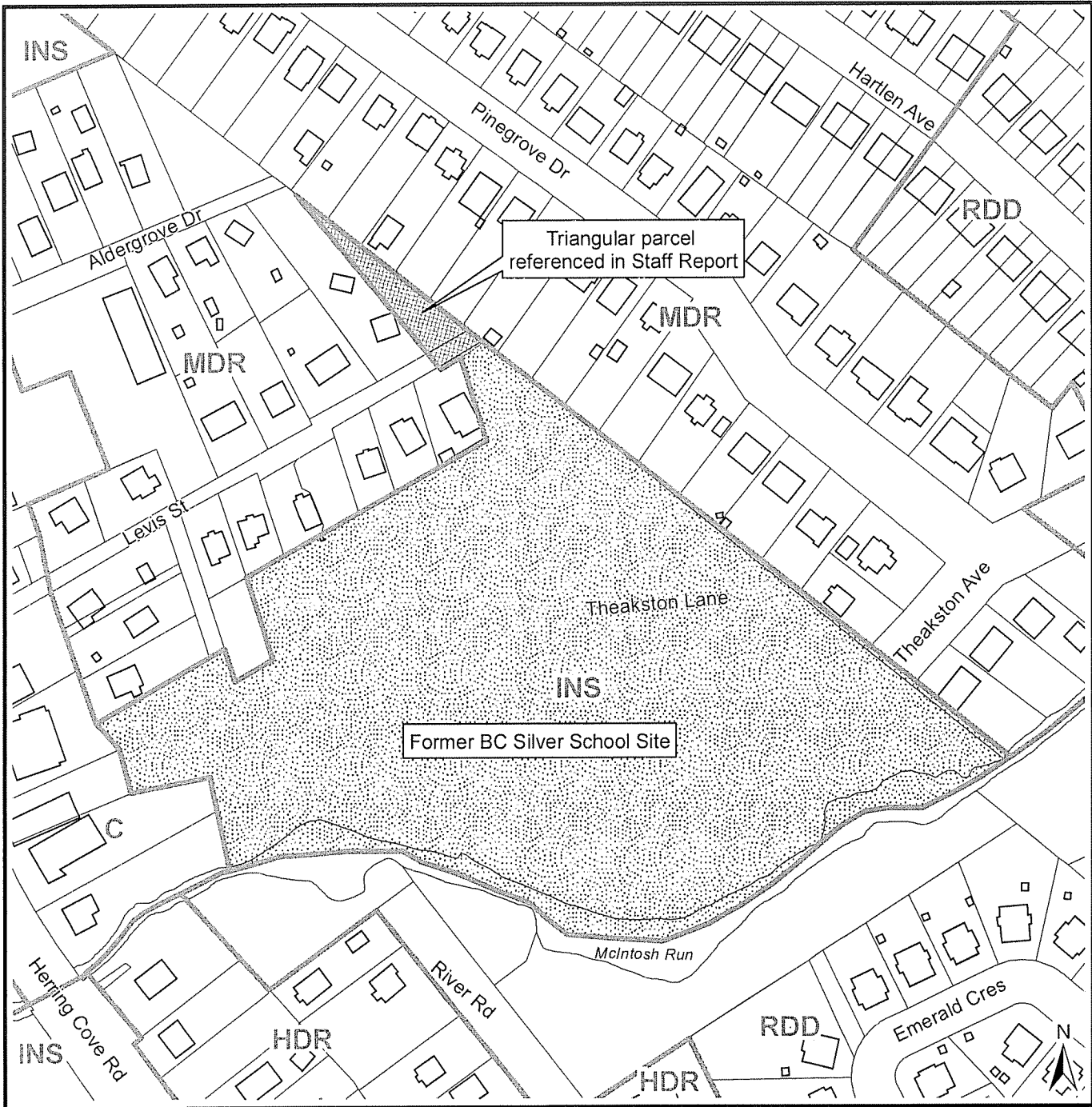
BE IT ENACTED by the Council of the Halifax Regional Municipality that the **Halifax Municipal Planning Strategy** as enacted by Halifax City Council on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August, 1978 as amended, is hereby further amended as follows:

1. Redesignating the lands highlighted on Schedule A-1 attached hereto from:
  - a) Institutional to Residential Development District; and
  - b) Institutional to Medium Density Residential.

on the Generalized Future Land Use Map of the Mainland South Secondary Planning Strategy.
2. Adding the following policy in Section X, the Mainland South Secondary Planning Strategy:
  - 1.5.7 For the area designated as "Residential Development District" known as the former BC Silver School site as shown on Map 3 of Schedule I, notwithstanding that policy 1.5 calls for, "an emphasis on a mix of dwelling types," the Municipality may by development agreement pursuant to Schedule I, permit a subdivision of single detached dwellings with development specifications that differ from those of the R-1 and R-2 zones.
3. Adding the map, attached hereto and identified as Map 3 Schedule I, within Section X, the Mainland South Secondary Planning Strategy.



BE IT ENACTED by the Council of the Halifax Regional Municipality that the **Halifax Mainland Land Use By-law** as enacted by Halifax City Council on March 30, 1978 and approved by the Minister of Municipal Affairs on August 11, 1978 as amended, is hereby further amended as follows:

1. Rezoning the lands highlighted on Schedule A-2 attached hereto from:
  - a) P (Park and Institutional) Zone to RDD (Residential Development District) Zone;  
and
  - b) P (Park and Institutional) Zone to R-2P (Residential General) Zone.



**Schedule A-1**

1 Theakston Lane  
Halifax

-  Area to be redesignated from INS (Institutional) to RDD (Residential Development District)
-  Area to be redesignated from INS (Institutional) to MDR (Medium Density Residential)

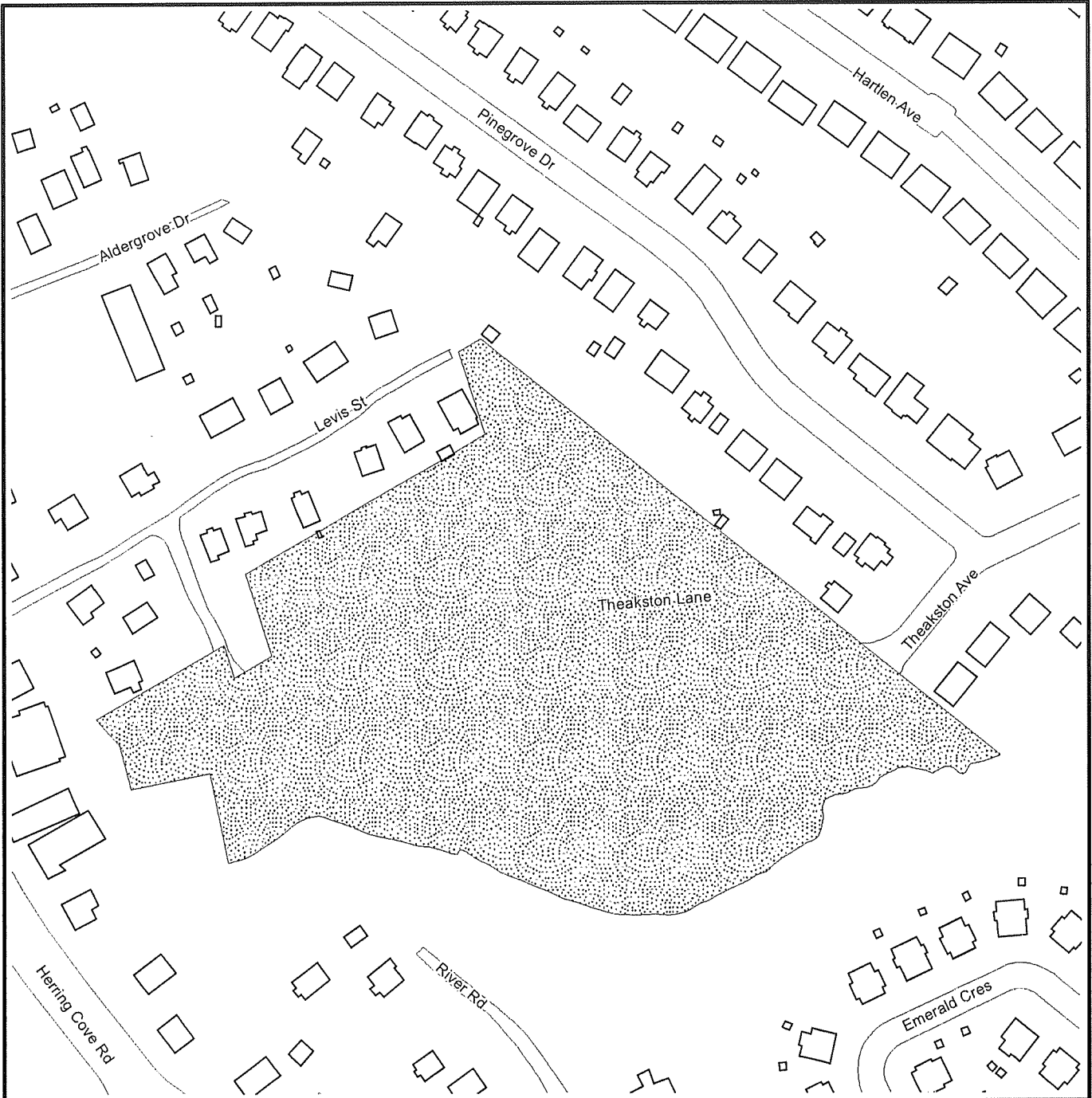
**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan Area


HRM does not guarantee the accuracy of any representation on this plan



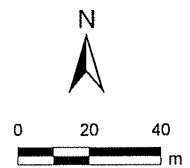


Mainland South Area Plan

Former BC Silver School Site

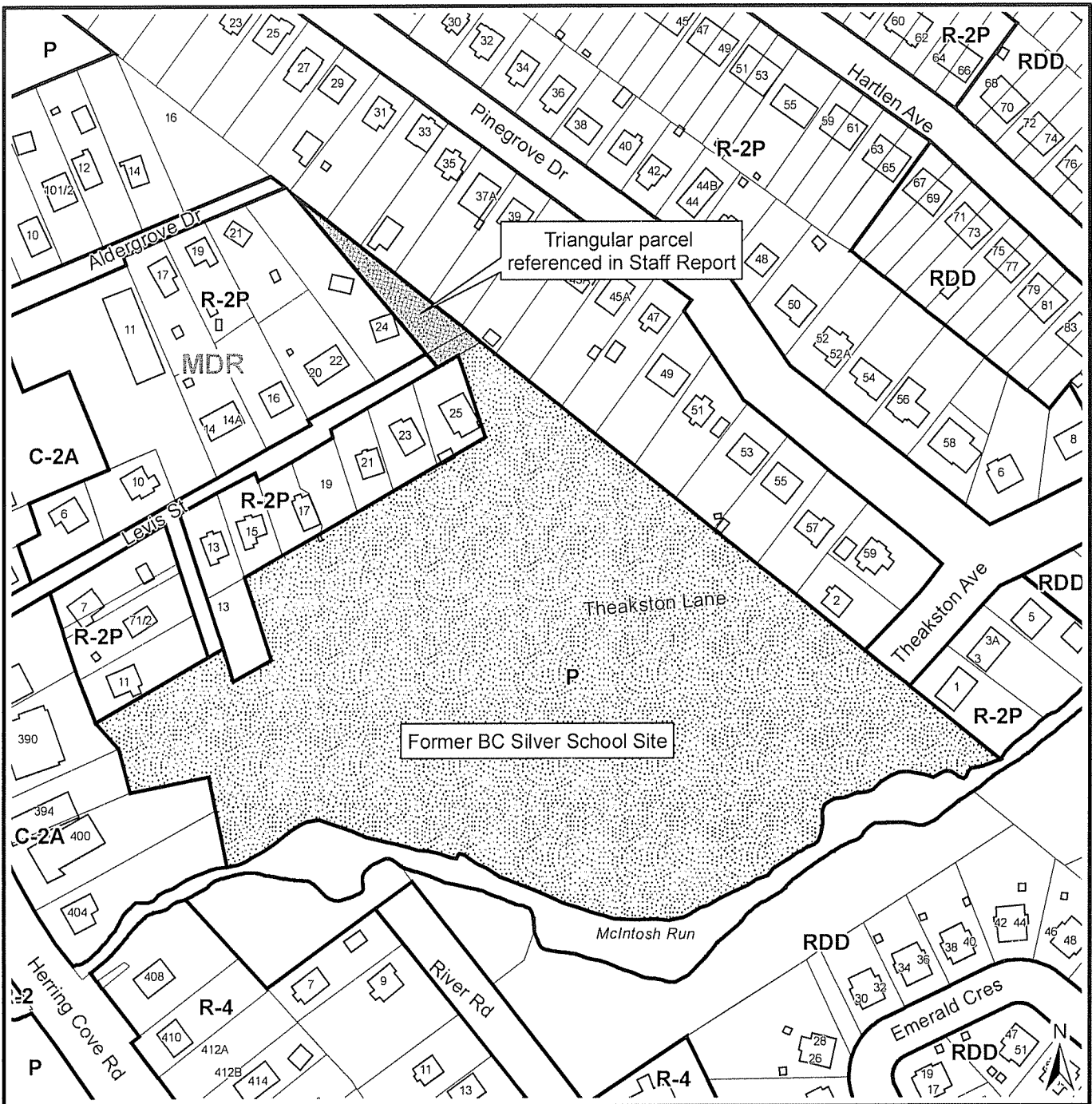
 Former school site

**Map 3  
Schedule I**





Approved:

file: MainlandSouthMap3ScheduleI.pdf (HEC)

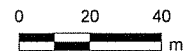


**Schedule A-2**

1 Theakston Lane  
Halifax

-  Area to be rezoned from P (Park and Institutional) to RDD (Residential Development District)
-  Area to be rezoned from P (Park and Institutional) to R-2P (General Residential)

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area

HRM does not guarantee the accuracy of any representation on this plan

Halifax Mainland Land Use By-Law

Attachment D

**THIS AGREEMENT** made this            day of            , 2008,

BETWEEN:

**KIMBERLY-LLOYD DEVELOPMENTS LIMITED**

(hereinafter called the "Developer")

OF THE FIRST PART

-and-

**HALIFAX REGIONAL MUNICIPALITY**

A body corporate, in the County of  
Halifax, Province of Nova Scotia  
(hereinafter called the "Municipality")

OF THE SECOND PART

**WHEREAS** the Developer is the registered owner of certain lands located at 1 Theakston Avenue, PID 00332056, Halifax (Spryfield) and which said lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Lands");

**AND WHEREAS** the Developer has requested that the Municipality enter into a development agreement to allow for a subdivision comprised of single detached dwellings on the Lands pursuant to the provisions of the Municipal Government Act and the Halifax Municipal Planning Strategy and Halifax Mainland Land Use By-law;

**AND WHEREAS** the Chebucto Community Council approved this request at a meeting held on \_\_\_\_\_, referenced as Municipal Case Number 01004;

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

## **PART 1: DEFINITIONS**

“Community Council” means the Chebucto Community Council of the Municipality or any subsequent body established by the Municipality under the provisions of the Municipal Government Act .

“Development Officer” means a person appointed by the Municipality to administer the Municipality’s Subdivision By-law or Land Use By-law.

“Land Use By-law” means the Halifax Mainland Land Use By-law, as amended from time to time.

“Municipal Engineer” means a professional engineer employed by the Municipality to administer engineering guidelines, standards and by-laws adopted by the Municipality and to administer terms of this Agreement.

“Municipal Planning Strategy” means the Halifax Municipal Planning Strategy, as amended from time to time.

“Municipal Service Systems” means the manual adopted by the Municipality which provides standards for the construction of infrastructure, as amended from time to time.

“Subdivision By-law” means the Regional Subdivision By-law for Halifax Regional Municipality, as amended from time to time.

All words unless otherwise specifically defined herein shall be as defined in the Halifax Mainland Land Use By-law and the Subdivision By-law, as applicable.

## **PART 2: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **2.1 Relationship with By-laws and Regulations**

- 2.1.1 The Developer agrees that the Lands shall be subdivided, developed, and used only in accordance with and subject to the terms and conditions of this Agreement.
- 2.1.2 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Halifax Mainland Land Use By-law, as may be amended from time to time.
- 2.1.3 Except as otherwise provided for herein, the subdivision of the Lands shall comply with the requirements of the Regional Subdivision By-law of the Halifax Regional Municipality, as may be amended from time to time.

- 2.1.4 Pursuant to clauses 2.1.2 and 2.1.3, 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 and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws, and regulations in connection with the development and use of the Lands.
- 2.1.5 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 and Subdivision 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.
- 2.1.6 The Developer and each lot owner 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 regulations, by-laws, or codes applicable to any lands owned by the Developer or lot owner.
- 2.1.7 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.

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

#### **3.1 Schedules**

- 3.1.1 The Developer shall develop and use the Lands in reasonable conformance, as determined by the Development Officer, with the site plans, design drawings, renderings, and supporting technical documents, attached as the following Schedules to this Agreement:

|              |                                                                                 |
|--------------|---------------------------------------------------------------------------------|
| Schedule "A" | Legal Description of the Lands of Kimberly-Lloyd,<br>identified as PID 00332056 |
| Schedule "B" | Site Plan                                                                       |

- 3.1.2 In the case of a conflict between the site plan and the written requirements of this Agreement, the written requirements shall prevail.

#### **3.2 Land Uses**

- 3.2.1 The land uses permitted by this Agreement, subject to its terms and as generally illustrated on Schedule "B", shall be the following:

- (a) single unit dwellings;
- (b) office of a professional person located in a dwelling used by such professional person as their private residence;
- (c) home occupations; and
- (d) uses accessory to any of the foregoing uses.

### 3.3 Requirements

- 3.3.1 The development shall be in substantial conformance with Schedule “B” with a maximum of 44 single unit dwellings, provided that the terms of this Agreement are met.
- 3.3.2 Notwithstanding Schedule “B”, buildings erected, altered or used for the land uses specified by clause 3.3.1 shall comply with the following requirements:

|                                               |                                                                                                    |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------|
| Minimum lot area                              | 3,200 square feet*                                                                                 |
| Minimum lot frontage                          | 32 feet                                                                                            |
| Maximum lot coverage                          | 35 percent                                                                                         |
| Maximum height                                | 35 feet                                                                                            |
| Minimum side yard setback                     | a) one side           10 feet<br>b) other side        2 feet                                       |
| Minimum separation distance                   | There shall be a minimum separation distance of 12 feet between any dwellings.                     |
| Minimum front yard setback                    | 15 feet                                                                                            |
| Minimum rear yard setback                     | 20 feet                                                                                            |
| Watercourse setback                           | Buildings shall be located a minimum of 100 feet from the ordinary high water line of McIntosh Run |
| * See 3.9.1 for permitted lot area reductions |                                                                                                    |

- 3.3.3 Notwithstanding 3.3.2, those structural elements of a dwelling (not an accessory building) listed below shall be permitted to project into a setback and the separation distance requirement specified in 3.3.2 as follows:

| Structural Element                                    | Yard in which Projection is Permitted    | Maximum Encroachment into Prescribed Minimum Setback |
|-------------------------------------------------------|------------------------------------------|------------------------------------------------------|
| Sills, cornices, eaves, gutters, and chimneys         | Any yard                                 | 1.5 feet                                             |
| Window bays                                           | Front and rear yards                     | 3 feet                                               |
| Decks                                                 | Any yard other than the 2 foot side yard | 4 feet                                               |
| Open, roofed porches not exceeding 1 storey in height | Front and rear yards                     | 4 feet                                               |
| Steps and stairs                                      | Any yard other than the 2 foot side yard | 4 feet                                               |

- 3.3.4 Accessory buildings shall be:
- (a) located in rear yards;
  - (b) a maximum of 10 feet in height;
  - (c) a minimum of 1 foot from any lot boundary; and
  - (d) a minimum of 6 feet from any dwelling.
- 3.3.5 Fences shall be:
- (a) a maximum of 6.5 feet in height; and
  - (b) located in rear yards or in a yard that abuts a walkway right-of-way.
- 3.3.6 Driveways shall be:
- (a) a maximum of 12 feet in width; and
  - (b) located within front and side yards.
- 3.3.7 There shall be a minimum of one parking space per detached single unit dwelling and all parking spaces shall be located within the bounds of a driveway.
- 3.3.8 No utility elements, such as power metres and oil tanks shall be installed upon the front elevation of a dwelling or within a front yard.
- 3.3.9 The minimum distance between the dwelling on Lot 41 of Schedule “B” and the boundary of the lot identified on said Site Plan as “PID 00333468 Sharon Benoit” shall be 10 feet.

- 3.3.10 No buildings shall be situated within the bounds of the municipal sanitary sewer pipe easements or other easement unless otherwise agreed to by the Municipality.

### **3.4 Maintenance Easements**

- 3.4.1 With the exception of Lot 41 pursuant to clause 3.3.9, for each lot, within the “10 foot side yard” specified in 3.3.2, there shall be an easement conveyed in favour of the abutting property owner that enables periodic maintenance and repair to be undertaken upon their house and property. This easement shall extend a minimum distance of four feet from the subject property boundary.
- 3.4.2 Deed descriptions with the specified easements shall be provided to the Development Officer with the final plan of subdivision.

### **3.5 Park Dedication**

- 3.5.1 With the approval of the final plan of subdivision, the Developer shall provide an “equivalent value” park dedication to the Municipality in the form of:
- (a) trail improvements pursuant to Section 3.7 of this Agreement; and
  - (b) “cash” pursuant to Section 82 of the Subdivision By-law.
- 3.5.2 Pursuant to Section 3.7, the Developer shall provide construction drawings and cost estimates for the trail improvements, from a Qualified Professional, with the final plan of subdivision.

### **3.6 Streets and Walkway**

- 3.6.1 The section of Levis Street, identified on Schedule “B”, shall be reconstructed and extended. The existing portion of the street shall be repaved and widened to the fullest extent possible within the existing right-of-way. The extended portion shall maintain the existing right-of-way width and include a proportionately sized cul-de-sac adequate for snow storage. All design and construction shall meet the standards in the Municipality's Municipal Service Systems manual (Red Book) as determined and approved by the Municipal Engineer, however, such primary and secondary services as are unnecessary for the proper development of the subdivision may be waived in consultation and with the approval of the Municipal Engineer.
- 3.6.2 The sub-base and base of the walkway, suitable to allow for the passage of pedestrians and emergency vehicles shall be classified as “Primary Services” and the remaining requirements of the specified walkway shall be classified as “Secondary Services”, pursuant to the Subdivision By-law.



### 3.7 Trails and Active Transportation

- 3.7.1 The Developer shall establish two sections of trails, that are to be located in reasonable conformance with Schedule "B" and, unless otherwise varied by the Development Officer and Municipal Engineer, designed and constructed to the following specifications:

#### **Primary Trail: Between the Bridge and Levis Street**

- 3.7.1.1 The Primary Trail shall consist of:

- (a) a travelled way (actual trail) that has:
  - i) a minimum width of 3.5 metres, the centre of which is located at the centre of the right-of-way;
  - ii) an asphalt surface and gravel subgrade as specified by the Municipal Service Systems manual (Red Book) pursuant to Figure 8.02630.01;
  - iii) a maximum slope of 8 percent along its length and maximum slope of 4 percent across its width;
- (b) a vegetative buffer that is a minimum 5 metres between the edge of the travelled way (actual trail) and the property boundary of any house lot, except between Lot 44, where the buffer shall be as shown on the Site Plan;
- (c) post and rail fencing along the sides of portions of the travelled way (actual trail) that are next to 2:1 slopes; and
- (d) chain link fences along the edge of the trail right-of-ways, where such right-of-ways abut the property boundary of a house lot, constructed in conformance with the specification for a Type II Boundary Fence within the Municipality's Municipal Service Systems manual (Red Book).

#### **Secondary Trail: Between the Bridge and the Intersection of Pinegrove Drive and Theakston Avenue**

- 3.7.1.2 The Secondary trail shall consist of:

- (a) a travelled way (actual trail) that has:
  - i) a minimum width of 2 metres, the centre of which is located at the centre of the right-of-way;
  - ii) a 150 mm base of Type 1A gravel on compacted subgrade that is topped with 50 mm of compacted crusher dust;
  - iii) maximum slope of 8 percent along its length and maximum slope of 4 percent across its width;

- (b) a vegetative buffer that is a minimum 5 metres between the edge of the travelled way (actual trail) and the property boundary of any house lot;
- (c) post and rail fencing along the sides of portions of the travelled way (actual trail) that are next to 2:1 slopes; and
- (d) chain link fences along the edge of the trail right-of-ways, where such right-of-ways abut the property boundary of a house lot, constructed in conformance with the specification for a Type II Boundary Fence within the Municipality's Municipal Service Systems manual (Red Book).

3.7.2 The sub-base and base of the trails, suitable to allow for the passage of pedestrians shall be classified as "Primary Services" and the remaining requirements of the specified walkway shall be classified as "Secondary Services", pursuant to the Subdivision By-law.

3.7.3 Pursuant to clause 3.7.1, the Developer shall consult with the Development Officer and Parkland Planner about the final location and other details of the trails prior to preparation of construction drawings.

### **3.8 Vegetation and Parcel E-2**

3.8.1 Existing trees and other vegetation between the trails and McIntosh Run, as shown on Schedule "B", shall be retained unless otherwise required by this Agreement, or as approved by the Development Officer.

3.8.2 With the approval of the final plan of subdivision, the Developer shall transfer ownership of Parcel E-2, as reasonably shown on Schedule "B", to the Municipality.

### **3.9 Encroachments**

3.9.1 Where there are encroachments upon the lands, the Developer may transfer ownership of such land and in such instances, minimum specified lot area requirements shall not apply, provided that all other requirements and terms of this Agreement are met.

3.9.2 Transferred land, pursuant to 3.9.1, shall be subject to provisions of the R-2P Zone of the Halifax Mainland Land Use By-law.

### **3.10 Municipal Service**

3.10.1 Any development permitted by this Agreement shall be subject to confirmation that there is a sufficient capacity of Municipal services, such as sanitary sewage

services and water, to accommodate the development and such services shall be installed pursuant to the requirements of the Municipality.

### **3.11 Environmental Protection**

- 3.11.1 The Developer is required to submit a storm water management plan as part of the application process which must address erosion and sediment control, balancing of pre and post development flows, and disbursement of run off.
- 3.11.2 Nothing in this Agreement shall exempt or imply an exemption from the requirements of the Municipality or other level of government with regard to environmental protection requirements. Further to this, the Developer recognizes that any such requirements, which may include storm water settlement ponds and other features, may result in a reduction of the number of lots shown on Schedule "B."
- 3.11.3 The Developer agrees investigate the installation oil/grit separators and other measures associated with any stormwater management plan.

### **3.12 Land Alteration Prior to Subdivision Approval**

- 3.12.1 Provided the Developer complies with all other requirements of this Agreement, the Municipality agrees that the Developer may commence clearing, excavation, and blasting activities required for the installation of municipal services prior to the Developer receiving final subdivision approval provided that engineering design plans, including the erosion and sedimentation control plans, have been approved by the Development Engineer and the Nova Scotia Department of the Environment and Labour, as required.

## **PART 4: AMENDMENTS**

### **4.1 Substantial and Non-substantial Amendments**

- 4.1.1 Amendments to this Agreement shall be deemed substantial and may only be amended in accordance with the approval requirements of the Municipal Government Act.

## **PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **5.1.1 Application**

- 5.1.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia, and

the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.

- 5.1.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, leasees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 5.1.3 Notwithstanding any subdivision approvals granted pursuant to this Agreement or any transfer or conveyance of any lot or of all or any portion of the Lands, this Agreement shall continue to apply to and bind the Developer, the Lands and each lot and, subject to 5.1.4, the Developer shall continue to be bound by all terms and conditions of this Agreement until discharged by the Council.
- 5.1.4 Upon the transfer of title to any lot, the owner thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.
- 5.1.5 Notwithstanding 5.1.4 or any transfer of title to a lot, the Developer shall continue to be responsible for the fulfilment of the Developer's covenants under this Agreement and any Subdivision Agreement entered pursuant to this Agreement.
- 5.1.6 In the event that construction of the project has not commenced within 5 years from the date of approval of this Agreement by the Municipality, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction. For the purposes of this section, "commencement of construction" shall mean the construction of primary and secondary services for the subdivision.
- 5.1.7 Upon the completion of the development or portions thereof, or within 7 years from the date of approval of this Agreement, whichever time period is less, Council may review this Agreement, in whole or in part, and may:
  - (a) retain the Agreement in its present form;
  - (b) negotiate a new Agreement; and
  - (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

## PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

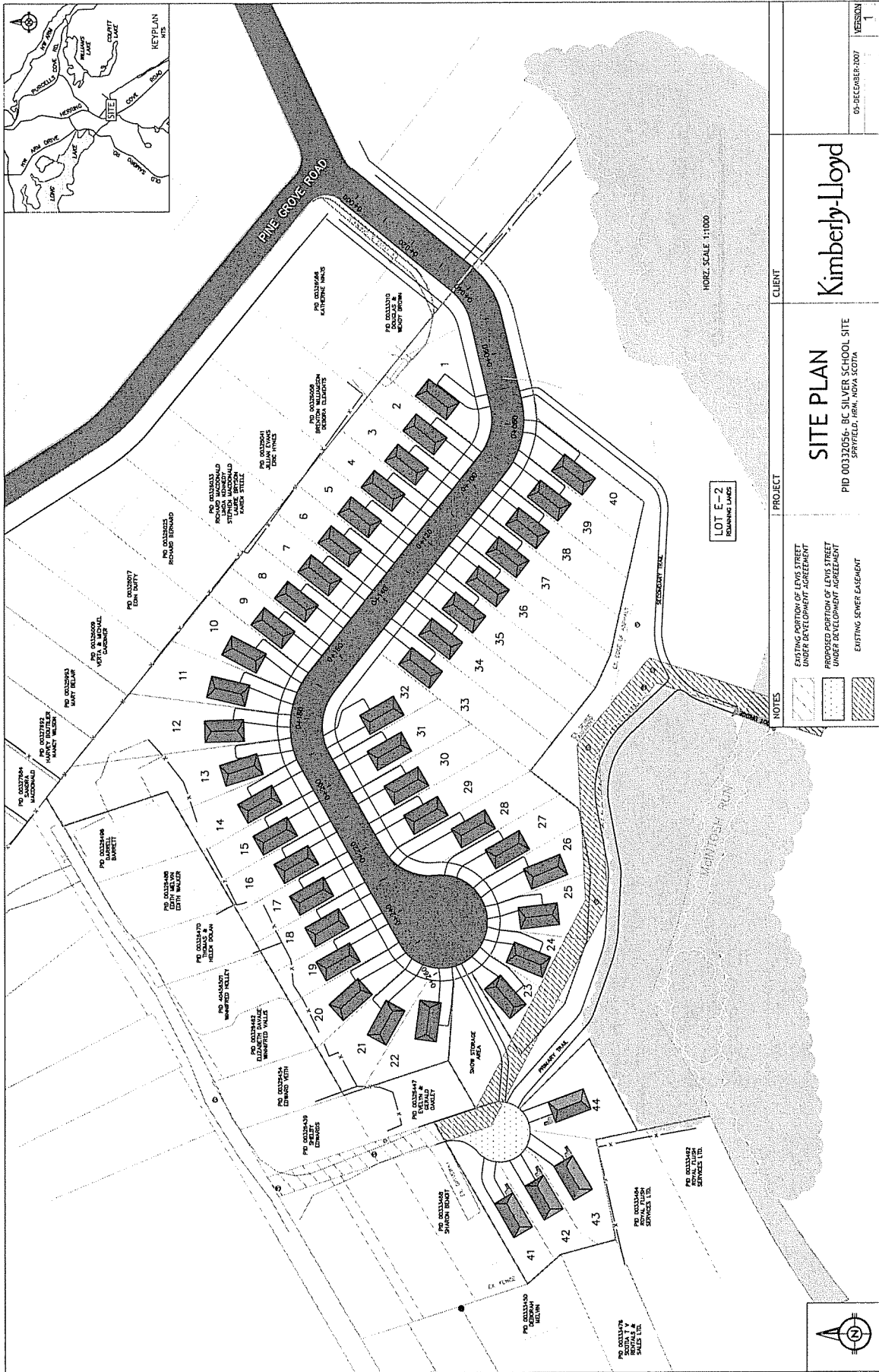
### 6.1 Enforcement and Rights

- 6.1.1 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.
- 6.1.2 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (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 Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property 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; and/or
  - (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

|                                   |   |                                     |
|-----------------------------------|---|-------------------------------------|
| Signed, sealed and delivered      | ) | Kimberly-Lloyd Developments Limited |
| in the presence of:               | ) |                                     |
|                                   | ) |                                     |
| per: _____                        | ) | per: _____                          |
|                                   | ) |                                     |
| Sealed, Delivered and Attested    | ) | Halifax Regional Municipality       |
| by the proper signing officers of | ) |                                     |
| Halifax Regional Municipality     | ) |                                     |
| duly authorized on that behalf    | ) | per: _____                          |
| in the presence of                | ) | MAYOR                               |
|                                   | ) |                                     |
| per: _____                        | ) | per: _____                          |
|                                   | ) | DEPUTY MUNICIPAL CLERK              |

Schedule B - Site Plan



HORIZ. SCALE 1:1000

LOT E-2  
REMAINING LAND

| NOTES                                                                                                                                                                | PROJECT                                                                                              | CLIENT                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| <p>EXISTING PORTION OF LEVY STREET UNDER DEVELOPMENT AGREEMENT</p> <p>PROPOSED PORTION OF LEVY STREET UNDER DEVELOPMENT AGREEMENT</p> <p>EXISTING SEWER EASEMENT</p> | <p><b>SITE PLAN</b></p> <p>PID 00337056-BC SILVER SCHOOL SITE<br/>SPRINGFIELD, IOWA, NDIA SCOTIA</p> | <p><b>Kimberly-Lloyd</b></p>                  |
|                                                                                                                                                                      |                                                                                                      | <p>05-DECEMBER-2007</p> <p>REVISION<br/>1</p> |



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Attachment E**

**Chebucto Community Council**

**TO:** Chair and Members of Chebucto Community Council

**SUBMITTED BY:** \_\_\_\_\_  
Dr. Wayne Stobo, Chair, Halifax Watershed Advisory Board

**DATE:** September 28, 2007

**SUBJECT:** **Case 091004 - Redevelopment of the Former BC Silver School Site,  
(Spryfield) Halifax**

**ORIGIN**

On July 18, 2007, an application from Kimberly-Lloyd Developments Ltd. to permit the development of a residential subdivision on the former B. C. Silver School site by development agreement was reviewed by the Halifax Watershed Advisory Board.

**RECOMMENDATION**

The Halifax Watershed Advisory Board recommends:

1. Oil/grit separators should be installed on the storm drainage system.
2. In keeping with the Board's policy, a water retention area should be created to mitigate water flows into MacIntosh Run under storm conditions.
3. All building materials should be disposed of in an approved Construction and Demolition Debris Disposal site.
4. All buffer zones and open space areas should be turned over to HRM.
5. Water quality testing should be undertaken seasonally (every three months) both upstream and downstream of the point where stormwater enters MacIntosh Run before, during and after construction for a period of one year after completion of the project.
6. The proposed trail should be built to meet provincial standards.
7. An approved Sediment and Erosion Control Plan should be drawn up.
8. The area shown as open space on the plan should be designed by a registered landscape architect and planted with native species.



**DISCUSSION**

The primary concerns of the Watershed Advisory Board are to protect the watershed and the natural environment. The Board appreciates the opportunity to comment on this application and would like to make the recommendations as presented above.

**BACKGROUND**

Kimberly - Lloyd is proposing to demolish the former B.C. Silver School building at 1Theakston Lane and establish on the site a residential subdivision comprised of single, detached dwellings. A park area, buffer zone and trails connecting to local streets and footbridge across MacIntosh Run currently under construction by HRM are included in the proposal.

The Board is pleased to note that, as a result of the proposed development, the area of impervious surfaces will be reduced.

**BUDGET IMPLICATIONS**

None

**FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES**

None suggested.

**ATTACHMENTS**

None

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.  
Report Prepared by: Julia Horncastle, Legislative Assistant

**Attachment F**  
**Public Information Meeting**  
**Case 01004**  
**July 5, 2007**

In attendance: Councillor Adams  
Richard Harvey, Senior Planner, Planning Applications  
Gail Harnish, Planning Services  
Andrew Giles, Kimberly-Lloyd Developments

**Opening remarks, introductions, purpose of meeting**

**Mr. Richard Harvey** called the public information meeting (PIM) to order at approximately 7:00 p.m. at the Captain William Spry Centre. A proposal was received to change some of the land use planning concerning the former BC Silver School. The purpose of the meeting is to provide you with some information, an overview of the development proposal, and receive comments back from members of the public.

**Overview of planning process**

Mr. Harvey briefly reviewed the planning process, noting that in terms of the overall process, we are at the very start. Following this meeting, staff will:

- prepare a staff report, which includes a recommendation, which is tabled with the Chebucto Community Council
- Community Council will then make a recommendation to Regional Council because we are making policy changes
- Regional Council will decide whether or not to schedule a public hearing
- if the MPS amendments are approved, following a public hearing, they are forwarded to the Province for review
- the development agreement will go back to Community Council for approval

Mr. Harvey indicated we are looking at the former BC Silver School site which is currently within an Institutional Designation which reflects its former use (a school). As a result it has a Park and Institutional (P) Zone. The surrounding area is largely residential uses with a variety of residential zones. McIntosh Run is to the south. It is essentially a two storey school which was built in 1961 and was declared surplus by the School Board in January of 2003. It was turned over to HRM and after an assessment by HRM, it was declared surplus to municipal needs in 2005. The Municipality put forth an expression of interest in 2006 and the property was sold to Kimberly-Lloyd Developments. They have now made this application for some changes to the planning policies and regulations.

Mr. Harvey provided some images: from the entrance of the school from Theakson Avenue and moving around the site; residential uses to the north; we are currently re-establishing a trail

linkage over the McIntosh Run which is underway by HRM; from the vantage point of Levis Street; and then looking down from Levis Street and moving closer to the north side of the site; and then looking back.

Mr. Harvey indicated the proposal is to change the property in terms of planning policy from Institutional to Residential Development District. With that, they want to change the zoning from P&I to Residential Development District zone. The implications of that is they could go ahead and proceed with an as-of-right subdivision and do singles and semis; anything permitted in the R-1 and R-2 zones. It also allows them to propose a wide variety of residential projects by development agreement. Kimberly Lloyd's proposal is for a development agreement because it proposes some standards which are different from what could be in the R-1 and R-2 Zones. He displayed a site plan submitted by the applicant which provides a sense of what they are looking at.

Mr. Harvey advised there are important considerations from a staff perspective:

- the appropriateness of changing the zoning from Park and Institutional to a Residential Development District Zone
- the compatibility with the surrounding area
- interest in finding out the appropriateness of siting off Levis Street
- the length of the cul de sac
- the sewage capacity of the Roaches Pond pumping station - Council recently approved a tender for improvements
- trails
- buffer from McIntosh Run
- there is to be a purchase of parkland or cash-in-lieu or some other local improvements; and
- other matters which may be of interest to the residents

### **Presentation of proposal**

**Mr. Andrew Giles**, General Manager of Development, Kimberly-Lloyd Developments, noted the following:

- the site is 7.7 acres and is now owned by Kimberly-Lloyd Developments
- the current zoning is Park and Institutional, and they propose to go to Residential Development District
- they are proposing forty-three lots
- the minimum lot frontage is 32'x100'
- the length of the cul de sac is about 850'
- there will be municipal services
- as part of the purchase and sale agreement, they have to convey back to HRM at no cost approximately two acres along McIntosh Run (an equivalent of 25% of the land)
- there is a 100' setback
- the inter-connectivity with the walkways is important

- there are existing walkways that run along the existing easement
- there is an inter-connection across at Theakston Avenue to Levis Street
- tree retention is also important. It would be their intention to keep as many of the trees as possible. There is very nice hardwood on the property which is very mature growth.

Mr. Giles displayed a drawing of the site, noting:

- how the layout fits with respect to the existing school site and how the new development would fit on the site
- it is the intention to remove the existing asphalt and revegetate it with grass
- the inter-connectivity with the trails is the bridge at McIntosh Run and they would construct a trail to come up to Theakston Avenue
- he pointed out the area of a new trail, noting the current trail comes along the sewer easement. It gets shifted off a little bit and there is a trail up through to Levis Street. They have the connection off the end of the bulb to the parkland.
- the three units at the end of Levis Street would be condo type of ownership. Because there is no existing road frontage, they would be shown as one lot and they would be owned by the Corporation

Mr. Giles indicated the type of housing style would be like that at Keyworth Lane just down the street. The length of the cul de sac is about 100' shorter than what they are proposing here. The lot widths and the depths are the same. They have been talking to the builder who did Keyworth Lane and he showed some interest in working with them.

### **Questions and comments**

**Ms. Helen Dolan** said in their backyards they have their fences and there are trees up across the fences. She questioned whether the trees would stay or whether they would be cut down. Right now they are good for privacy.

Mr. Giles responded they would clear 20' beyond the house pads. Their intention would be to leave the trees there. He did not think the homeowners would cut them down but they cannot stop them from doing that.

In response to an individual, Mr. Giles indicated some of the resident's fences are on their property. They will meet with them and talk about a solution. There are some encroachments which they will have to deal with.

**Ms. Anne Duffy** indicated the amount of traffic just for the Tim Hortons drive-thru is amazing. They have noticed a huge difference since Tim Hortons re-opened after renovations. With the number of people living in the area, it increases the amount of traffic. Also, getting in and out is dangerous. She referenced the fence that runs along the back of the properties on Pinegrove Drive and the treed area, and indicated they would like to keep their fence.

**Mr. Richard Ferguson** noted they would each have to give back 3' but it is a wasted space because it is a hill.

**Ms. Duffy** indicated they put up the fence to prevent the kids from cutting through.

Mr. Giles commented he did not think they would have as much throughfare once the area is developed. He could see that the fence is important to them. It would be their intention to keep the trees where possible. They would cut 20' back from the house pads. They would not envision going right to the property line.

**Councillor Adams** questioned how far back from the edge of the street the houses would be built.

Mr. Giles responded they are setback 15' from the property line and the houses are about 40'. There would be about a 15' strip on the shallower one. There will be a 15' buffer that will stay there unless the person who buys the property has other ideas.

**Mr. Ferguson** said he was concerned about the fence. He was told to move his fence and shed within thirty days. The property is going back to the City in the end. His dad said he had 60' but it was knocked back 3' when HRM did the survey.

**Ms. Irene Hurshman** indicated she was concerned about the amount of traffic. There are children in the area. She wondered about the playgrounds. One was supposed to be enlarged when they started the development at McIntosh.

Mr. Harvey advised when a subdivision like this one is done, there is an assessment done by the Municipality. It can often be looked at in terms of trails or other incentives. There is a requirement to provide 10% space for a park. Our parkland planners said the possible place for that might be in here (pointed out). The other possibility might be to make direct improvements to another park such as Hartlin that is just a bit further away. Maybe there is other open space or cash-in-lieu.

**Councillor Adams** indicated there are plans to put in a playground behind the rink.

**Ms. Megan Roache** said they are happy to see the school going. They were concerned about the possibility of high density housing which they do not believe would be in keeping with their neighbourhood. They like their yards and property. She did not think it would be conducive to have high density housing in that area. This would be great for the area and was really pleased to see it happening.

Mr. Harvey advised it is not the proposal at this stage to have high density housing.

**Ms. Edith Melvin** questioned what is meant by the R-1 and R-2 zones.

Mr. Harvey responded the R-1 zone is a single family zone and R-2 allows up to two dwelling units such as a semi-detached dwelling. What is being proposed is different in the sense that you have reduced lot area and reduced lot sizes.

Ms. Melvin indicated they were proposing single family units and “other developments” that would be appropriate for the area. She questioned what they meant by “other developments”.

Mr. Harvey responded we are considering the appropriateness of changing from Park and Institutional to Residential. It is something the applicant is proposing. Staff will do an assessment to find out if that is appropriate.

Ms. Melvin said she understood it is in writing that there would not be high density.

**Councillor Adams** advised it is part of the purchase and sale agreement that there would be no high density. We are talking about the appropriate development being R-1 which permits single family homes and R-2 which permits semis and duplexes.

Ms. Melvin questioned what is meant by RDD.

Mr. Harvey responded it allows for the development of R-1 and R-2 uses by right through the subdivision approval process. There are some issues with this land in terms of proceeding with that form of development. It also allows Community Council to consider an alternative form of development, which is what we have in front of us. Even though the land use is single, a small lot standard is being proposed. In terms of how we review that, we look at whether the site is being comprehensively planned, such as open space and trails. It is applied through a variety of areas in Mainland South.

**Councillor Adams** pointed out the purchase and sale agreement does not allow for apartments.

Mr. Giles noted what they see here tonight is what they would like to do.

Mr. Harvey indicated that pursuant to those RDD policies, they have to consider the surrounding uses.

**An individual** questioned if in terms of stormwater development whether there would be any development on Theakston Avenue. There is only one entrance to the school.

Mr. Giles responded they have not done that detail yet. When they move forward they would do detailed engineering design. They have to balance the pre and after flows. That is part of Department of the Environment approval.

**Mr. Doug Brown** said he was the closest to this development and wanted to express his support. He would encourage planning staff to consider that all the abutting neighbours are very

supportive of this proposal as it is laid out. Kimberly-Lloyd indicated it is not their intention to deviate and it is conducive to their neighbourhood. He encouraged that they get on with this development. They have had a rough spring with the property, although through no fault of the current property owner. HRM had the same problems. With respect to the traffic and the concerns with the Tim Horton's drive-thru, he would rather see 100 cars go by than to have an empty building. From that perspective, he would support the traffic going in being legitimate as opposed to the nuisance traffic they now have. This is a good idea and is a wonderful development which will enhance their neighbourhood. Let's not worry about putting a park in this area.

**Ms. Heather Whitehead**, Spryfield Residents Association, questioned whether they would be hooked up to sewer and water, and whether this is in line with the finish date with the treatment plant in Herring Cove. She questioned if there is capacity for the extra forty houses.

Mr. Harvey advised the issue is not when the treatment plant comes on but rather the capacity at the Roaches Pond pumping station. There have been recent initiatives. There was a tender awarded by Council on Tuesday. Any increase in sewer flows will have to be considered and addressed by the Roaches Pond pumping station and there is capacity. There was sewage generated by the previous use. It is a technical issue which will be addressed.

**Councillor Adams** indicated they are now putting in a new force main with 1.1 million projected which will alleviate the overflows.

**An individual** questioned how long it would be until the school house comes down. Kids are vandalizing the building. They put up plywood to try and keep them out.

Mr. Giles advised they have tendered the demolition to tear the building down. They will not let the tender go until they get through this process.

It was questioned whether they would dig up the old tanks. Mr. Giles advised everything has to come out; the oil tanks, the foundations, and the asphalt.

In response to an individual, Mr. Giles confirmed they now own the property. It is their expense to tear down the building.

**An individual** stated that building is costing the City and Kimberly-Lloyd money. It is a waste of police and fire service resources. It may be surplus to them but it is a hazard and a waste of resources with the calls to 911 and the Police.

**Mr. Russell McKinnon** asked about the long-term engineering of the general locale. He lived off Whimsical Lake Road and the recent development off the old Department of Transportation property has changed some of the hydraulics in the ground. Is there a long-term engineering plan in place to deal with the storm sewer and its discharge and distribution into the water system? He thought this is a good project from what he could see and thought it fits well within the texture of

the community, but he was a bit concerned that unless they can see the comprehensive plan rather than a piece-meal approach, there will be overflow capacity at some point.

Mr. Harvey responded he did not have an answer tonight but would review that concern with our Development Engineer.

Mr. McKinnon indicated Fleming Park is in back of the property they own. The road from Ravenscraig would come down to Forward Avenue but he thought everyone in the community is of the opinion that will not go through because it is reserved land. He was really concerned about the hydraulics. He was particularly pleased with the buffer zone along McIntosh Run. Off Williams Lake it is pretty pristine and the brook is saturated.

**Ms. Margery Willison** stated it is really nice to see that 100' buffer. The pedestrian linkage looks really good. She knew Kimberly-Lloyd has done this before. They put in a pedestrian walkway behind Sobeys and it is good to see that being attended to so well.

**Councillor Adams** said he believed it was the mandate to finish that.

Mr. Giles responded yes, and indicated it would be fenced to prevent short-cutting.

Ms. Willison questioned who would maintain the walkway. There was a walkway beside her home and when she looked down she could see ten to fifteen grocery carts. If there was a fence, it would force people to go up to the walkway.

**Mr. Brown** encouraged that they do the design of the walkway such that it would deter or eliminate the use of ATVs. Since the bridge has been gone, their community has been nice. He nearly got run over the other night by a vehicle with no headlights on.

Mr. Giles indicated he suspected they would put in a bollard. Typically they would do something like that for fences as well. They have done some in the past where they have been required to put a bollard in.

**An individual** stated the proposed development would be so much nicer to look at than what they see today.

**Mr. Dave Roach** said the storm sewer is an issue. In their back yards there is an easement that goes through the yard. He encouraged that HRM look at the stormwater for Pinegrove Drive. When they did work there eight years ago they did not put in any drainage.

Mr. Roach questioned whether there would be sidewalks on the 1, 3 and 5 side. Mr. Giles pointed out the side of the street with the sidewalks. They would not be tying into any but they would be putting their own in.



In response to a question, Mr. Giles indicated this would be an emergency access and there would be a bollard. It will be the same as what you see at the end of Keyworth Lane.

It was questioned if there would be any parkland in the vicinity of this development. Concern was expressed that it would be a hangout for kids. It is an isolated space.

Another individual commented there are two playgrounds in close proximity.

**Ms. Irene Hurshman** stated it would be a good idea to clean up that area.

Mr. Harvey advised the next step would be to review the comments, and then to prepare a report and draft development agreement for this particular development. Added to the agreement is a site plan.

**An individual** expressed concern that the building could not be torn down until the development is approved.

**Councillor Adams** stated that if this development does not happen, the property goes back to the Municipality and the building will have to come down. Given that there are a lot of needless calls, and he has spoken to our staff sergeant, they will ask our CAO to consider having Kimberly-Lloyd demolish the building. If this development does not go through, then they will look at having HRM reimburse Kimberly-Lloyd for the cost of the demolition. If HRM put out the tender, it would be twice as much money.

**An individual** commented an empty lot would be better.

**An individual** asked for confirmation that this would go to Community Council in September and then onto Regional Council to have a public hearing.

Mr. Harvey responded that is the intention. They will provide notification of the public hearing.

In response to an individual, Mr. Harvey indicated a development agreement is registered against the property. He encouraged that anyone having a property dispute not sit back and wait for the public hearing.

Mr. Giles indicated Mr. MacPherson of their company and Councillor Adams met with a few of the neighbours. It is their intention to come with a solution. It is not their intention to wait.

The meeting adjourned at approximately 8:15 p.m.

### Council Report Sign-Off Sheet

| <b>Subject:</b> BC Silver School Site Redevelopment                                                                                                                                                                                                                                       |                                                                                              |                  |                                |                            |              |         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|------------------|--------------------------------|----------------------------|--------------|---------|
| Meeting Date: <u>January 7, 2008</u> <input type="checkbox"/> Regular Council <input type="checkbox"/> COW <input type="checkbox"/> In Camera <input type="checkbox"/> Information Report<br><div style="text-align: center;"><input checked="" type="checkbox"/> Community Council</div> |                                                                                              |                  |                                |                            |              |         |
| Prepared by <u>Richard Harvey</u>                                                                                                                                                                                                                                                         |                                                                                              |                  | <u>December 20, 2007</u>       |                            |              |         |
| Name & Business Unit                                                                                                                                                                                                                                                                      |                                                                                              |                  | Date                           |                            |              |         |
| <input type="checkbox"/> <b>First Draft for Information Only</b> <input type="checkbox"/> <b>Consultation</b> <input type="checkbox"/> <b>Approval</b>                                                                                                                                    |                                                                                              |                  |                                |                            |              |         |
| √                                                                                                                                                                                                                                                                                         | Stakeholder -Internal                                                                        | Approved By      | Date & Time                    | Time spent on report (min) | Revised Date | Initial |
|                                                                                                                                                                                                                                                                                           | Not Required (unique to originating Business Unit)                                           |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | By-Law Rationalization                                                                       |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | BPIM                                                                                         |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | CD                                                                                           |                  |                                |                            |              |         |
| √                                                                                                                                                                                                                                                                                         | EMS                                                                                          | Charles Lloyd    | Dec. 19                        |                            |              |         |
|                                                                                                                                                                                                                                                                                           | Finance<br>- FinTrack<br>- Accounts<br>- Financial Consultants<br>- Procurement<br>- Manager | <i>Skinner</i>   | <i>Jan 3/08</i><br><i>8 pm</i> |                            |              |         |
| √                                                                                                                                                                                                                                                                                         | Fire                                                                                         | Robert Kamperman | Dec. 20                        |                            |              |         |
|                                                                                                                                                                                                                                                                                           | HR                                                                                           |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | Legal                                                                                        |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | Police                                                                                       |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | TPW                                                                                          |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | Library                                                                                      |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | RCMP                                                                                         |                  |                                |                            |              |         |
| √                                                                                                                                                                                                                                                                                         | Water Commission                                                                             | Steve Skinner    | Dec. 19                        |                            |              |         |
|                                                                                                                                                                                                                                                                                           | Councillor (s)                                                                               |                  |                                |                            |              |         |
|                                                                                                                                                                                                                                                                                           | <b>Stakeholder - External</b>                                                                |                  |                                |                            |              |         |