

**Harbour East Community Council  
July 5, 2012**

**TO:** Chair and Members of Harbour East Community Council



**SUBMITTED BY:** \_\_\_\_\_  
Brad Anguish, Director, Community and Recreation Services

**DATE:** June 12, 2012

**SUBJECT:** **Case 17224: MPS & LUB Amendments and Development Agreement  
for 1948 Shore Road, Eastern Passage**

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**ORIGIN**

Application by Robert McCoombs

**RECOMMENDATION**

**It is recommended that Harbour East Community Council recommend that Regional Council:**

1. Give First Reading to consider proposed amendments to the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-law as set out in Attachments A and B of this report, and schedule a joint public hearing with Harbour East Community Council; and
2. Approve the proposed amendments to the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-law to permit two unit dwelling by development agreement as set out in Attachments A and B.

**It is recommended that Harbour East Community Council:**

3. Move Notice of Motion to consider the proposed development agreement as set out in Attachment C of this report to permit the development of two unit dwellings at 1948 Shore Road, Eastern Passage. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1.

## **BACKGROUND**

Robert McCoombs is the owner of the lands at 1948 Shore Road in Eastern Passage. The subject lands cover approximately 3.1 acres of land and contain a single unit dwelling. The applicant wishes to develop his lands with two unit dwellings instead of single unit dwellings as the current zoning permits. The Eastern Passage/Cow Bay Municipal Planning Strategy (MPS) allows Council to consider rezoning on the subject lands to the R-2 Zone to enable such a development. However, the current Eastern Passage Wastewater Treatment plant has capacity issues which causes the number of dwelling units to be limited to what is permitted under the current zoning. Therefore, to enable the lands to be developed with R-2 buildings equal to the number of dwellings permitted under the current zoning, the applicant is requesting that MPS policy be amended to permit two unit dwellings by development agreement.

## **Initiation of MPS Amendments**

At the December 6, 2012 meeting of Regional Council, staff was instructed to initiate a process to consider amending the Eastern Passage/Cow Bay MPS and Land Use By-law (LUB) to enable a development agreement to permit two unit development at 1948 Shore Road, Eastern Passage.

## **Location, Designation, Zoning and Surrounding Land Use**

The lands are:

- located off Chater Street and can be accessed from Shore Road;
- approximately 3.1 acres (12,327.83 square metres) in area;
- designated Urban Residential under the Eastern Passage/Cow Bay MPS (Map 1);
- zoned R-1 (Single Unit Dwelling) under the Eastern Passage/Cow Bay Land Use By-law (LUB) (Map 2); and
- surrounded by R-2 zoned land uses with the exception of the lands on the northeast boundary which are zoned P-2 and contain sportsfields.

## **Proposal**

The applicant's proposal is to amend the MPS policy for the lands at 1948 Shore Road to enable the development of two unit dwellings by development agreement. This will enable the number of permitted dwelling units to not exceed the number of dwelling units permitted under the R-1 Zone. The applicant is proposing to develop five 2 unit buildings containing 10 units by development agreement off an extension to Chater Street. Due to the current limit on sewer capacity, not all of the lands can be developed at this time. The applicant would like to develop the remaining lands in the future when sewer capacity becomes available.

## **Eastern Passage/Cow Bay MPS Policy**

The subject lands are designated Urban Residential which supports the rezoning to R-2 under Policy UR-7 (Attachment D) and Policy IM-11 (Attachment D). The evaluation criteria requires Council to consider the following:

- a buffer must be provided in the form of a row of R-1 dwellings if it abuts R-1 zoned lands;
- municipal central services are available and of sufficient capacity;

- the effect of the development on the housing mix;
- impact of any proposed new road; and
- regard for the provisions of Policy IM-11.

At present, the MPS does not enable Council to consider R-2 development through the development agreement process. A similar approach restricting specific types of land uses is used in this and other plan areas, such as in Cole Harbour/Westphal, where Council can consider townhouses by development agreement where no direct access to public streets exists (Policy UR-8 of the Cole Harbour MPS and Policy UR-10 of Eastern Passage/Cow Bay).

### **Approval Process**

The proposed MPS/LUB amendments are under the jurisdiction of Regional Council. The draft development agreement is under the jurisdiction of Harbour East Community Council. A public hearing, which is required prior to a decision on both matters, may be held at the same time for both the MPS/LUB amendments and the development agreement. In the event that Regional Council approves the MPS/LUB amendments, Harbour East Community Council may only make a decision on the development agreement following the coming into effect of the MPS/LUB amendments.

### **DISCUSSION**

In order to prepare the draft MPS amendments (Attachment A) and development agreement (Attachment C), staff has reviewed the proposal relative to the applicable policies of the Eastern Passage/Cow Bay MPS as well as the public input received on the request (Attachment E). Policy UR-7 (Attachment D) sets out specific considerations for the development of new two unit dwellings in the Urban Residential designation and Policy IM-11 (Attachment D) sets out the general evaluation criteria for applicants within Eastern Passage/Cow Bay.

### **Proposed MPS Amendments**

The Eastern Passage/Cow Bay MPS allows for the consideration of the subject lands to be rezoned to R-2 under Policy UR-7 provided that “municipal services are available and capable of supporting the development”. Attachment D contains staff’s review of the proposal relative to Policy UR-7. However, there is no mechanism under the land use by-law to ensure that only the equivalent number of R-1 dwelling units is built on the subject property if they are rezoned to R-2. The intent of the development agreement process is not to alter the existing R-2 Zone standards but rather for the applicant to comply with such standards except for the number of units permitted which will be controlled due to sewage treatment capacity.

In staff’s opinion, the development agreement process is the only effective tool Council may use to control the number of dwelling units on the subject property. Also, the development agreement process will allow Council to:

- a) limit the type of uses to only R-1 and R-2 uses;
- b) address phasing of the development including the development of the remaining lands when sewer treatment capacity is available; and

- c) address the location and function of proposed public lands.

The proposed MPS amendments are specific to the subject property in order to limit the conversion of other lands from R-1 to R-2 within Eastern Passage and to recognize the property's unique context of being surrounded by R-2 zoned properties and adjacent to sportsfields. Staff believes the proposed MPS amendments are consistent with the intent of the Eastern Passage/Cow Bay MPS and can adequately address sewer capacity and compatibility concerns with the proposed development.

### **Development Agreement**

Staff has reviewed the applicant's proposal relative to existing MPS policy and the proposed policy (UR-7a). In staff's opinion the proposed development agreement, as contained in Attachment C, is consistent with MPS policy. The following issues have been highlighted for further detailed discussion.

#### *Number of Dwelling Units*

Under the LUB, the applicant is capable of creating 10 new R-1 dwelling units as-of-right. Therefore, the proposed development agreement permits the development of only 5 new two unit buildings (10 dwelling units) on the subject property which is equivalent to the property's current as-of-right development potential.

#### *Phasing*

The proposed development agreement will allow for the immediate development of 10 dwelling units. Future two unit dwelling development will not occur until such time as additional capacity is available at the Eastern Passage Wastewater Treatment facility. If capacity becomes available in the future, the applicant will be required to apply for a substantial amendment to the agreement to permit the remaining lands to be developed with two unit dwellings.

#### *Parkland Dedication*

Under the development agreement, the subject lands will be subdivided and the applicant will be required to provide HRM with a parkland dedication. The applicant has proposed to create a linear park that will provide a connection between Shore Road and the proposed extension to Chater Street as shown on Schedule B of the proposed agreement. The proposed park dedication will allow access to Chater Street and, subsequently, to an existing connection to the recreational fields lying north of the proposed development (see Map 2).

#### *Stormwater Management*

Recently, the Eastern Passage/Cow Bay communities have experienced flooding following storm events with the most significant flooding occurring at the intersection of Cow Bay Road and Caldwell Road. In general, Shore Road is subject to flooding in heavy rainfalls during high tides and there is a history of wet basements on Chater Street, Peter Court and Romkey Drive (see Map 1). These streets are adjacent to the subject lands. The proposed development agreement requires the applicant to comply with the requirements of the Regional Subdivision By-law which requires the submission of a Stormwater Management Plan. The Plan will address

stormwater and drainage for the site and include site engineering analysis to a level consistent with the size of the development, its location within the drainage basin and sensitivity of the area's drainage system.

### **Conclusion**

Staff is of the opinion that the proposed MPS amendment to consider R-2 uses by development agreement is appropriate to address sewer capacity constraints. Therefore, staff recommends that Regional Council approve amendments to the Eastern Passage/Cow Bay MPS and LUB to enable the development of two unit dwellings in the Urban Residential designation by development agreement. Further to the adoption of the amendments, staff recommends that Harbour East Community Council should approve the proposed development agreement as contained in Attachment C.

### **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. The administration of the Agreement can be carried out within the proposed 2012/13 budget with existing resources.

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

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

### **COMMUNITY ENGAGEMENT**

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

The level of community engagement was consultation, achieved through a Public Information Meeting held on February 1, 2012 (see Attachment E for minutes). Notices of the Public Information Meeting were posted on the HRM website, in the newspaper, and mailed to property owners within the notification area as shown on Map 2.

A public hearing has to be held by Council before they can consider approval of any amendments to the MPS and LUB or the approval of a development agreement. Should Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposed development agreement will potentially impact local residents and property owners on Chater Street, Peter Street and adjacent residential uses.

### **ENVIRONMENTAL IMPLICATIONS**

No additional concerns other than those highlighted in this staff report.

**ALTERNATIVES**

1. Regional Council may choose to approve the proposed amendments to the Eastern Passage/Cow Bay MPS and LUB as contained in Attachments A and B. This is the recommended course of action.
2. Regional Council may choose to either adopt certain amendments but not others outlined in this report, or alternatively request that additional amendments not identified in this report be made, in which case an additional staff report and public hearing may be required.
3. Regional Council may choose to refuse the requested amendments to the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-law, as contained in Attachments A and B. Regional Council is under no obligation to consider a request to amend its MPS and a decision not to amend the MPS cannot be appealed.

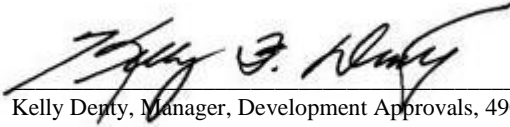
**ATTACHMENTS**

Map 1	Generalized Future Land Use
Map 2	Location and Zoning
Attachment A	Proposed Amendments to Eastern Passage/Cow Bay MPS
Attachment B	Proposed Amendments to Eastern Passage/Cow Bay LUB
Attachment C	Proposed Development Agreement
Attachment D	Excerpts from Eastern Passage/Cow Bay MPS
Attachment E	Minutes from Public Information Meeting

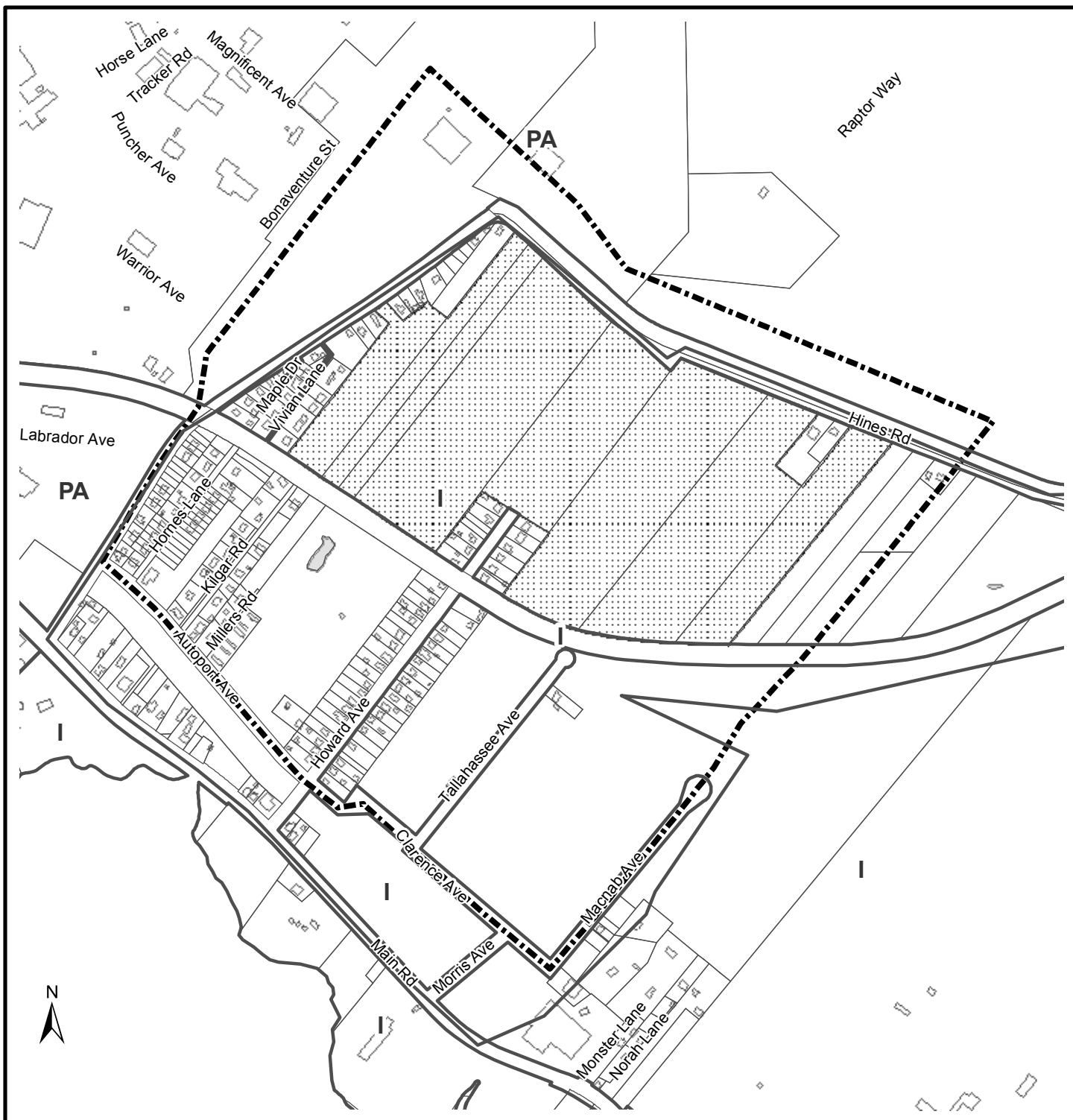
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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Darrell Joudrey, Planner 1, 490-4181

Report Approved by:   
Kelly Denty, Manager, Development Approvals, 490-4800

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## Map 1 - Generalized Future Land Use



Subject Lands to be  
redesignated from I  
to Urban Residential



Notification Area

### Designation

I Industrial  
PA Plan Amendment

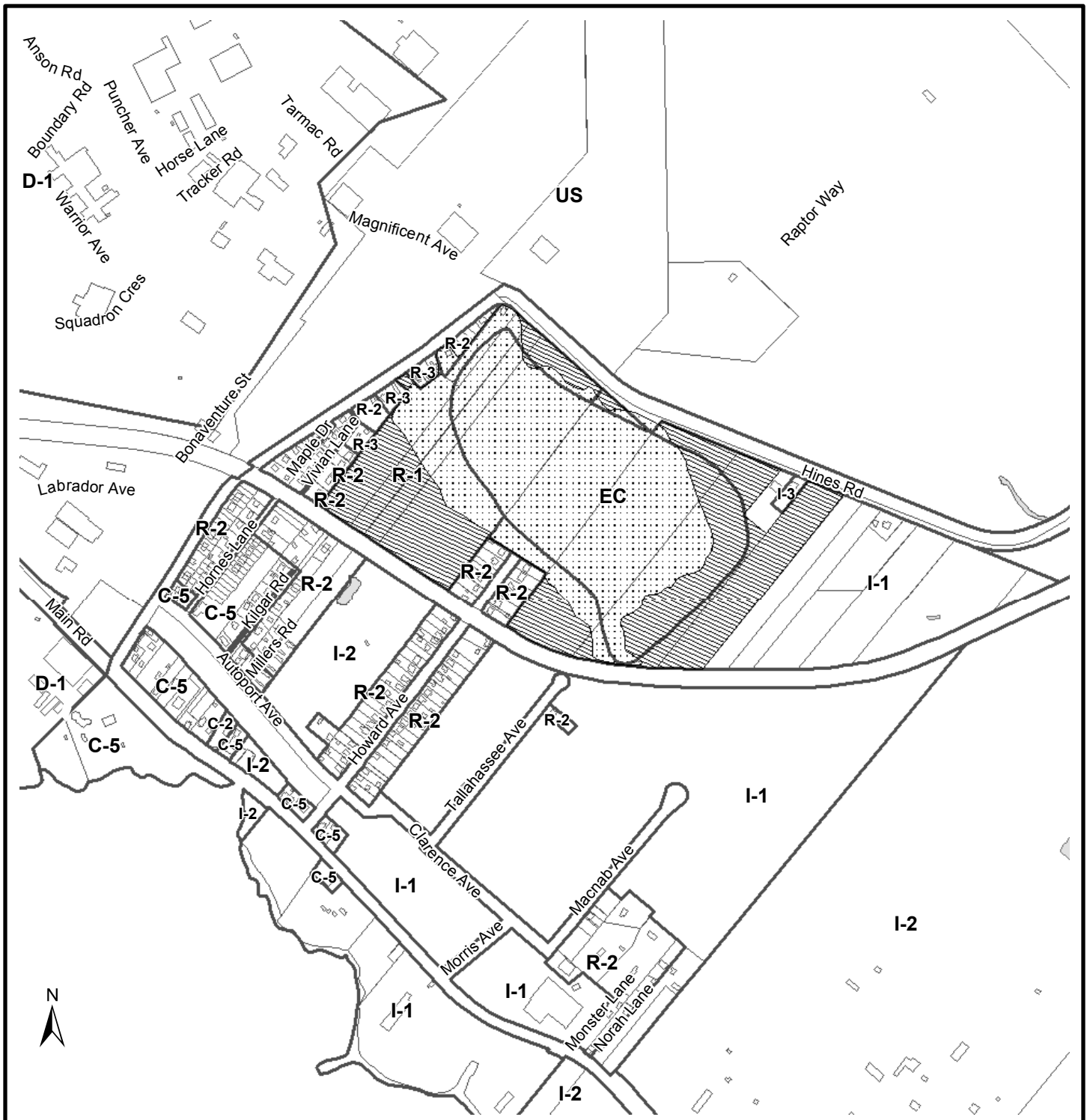
Eastern Passage/Cow Bay Plan Area

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES




0 175 350 700 1,050  
Feet

This map is an unofficial reproduction  
of a portion of the Generalized Future  
Land Use Map for the Eastern Passage/  
Cow Bay Plan Area.

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



## Map 2 - Zoning

-  Area to be zoned CDD
-  Area to be zoned EC
-  Current Zoning Boundaries

Eastern Passage/Cow Bay Plan Area

### Zone

- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-3 Mobile Dwelling
- C-2 General Business
- C-5 Mixed Use
- I-1 Light Industry
- I-2 General Industry
- I-3 Local Service
- D-1 DND
- EC Environmental Conservation
- US Urban Settlement

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

0 175 350 700 1,050  
Feet

This map is an unofficial reproduction of a portion of the Zoning Map for the Eastern Passage/Cow Bay Plan Area.

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



**Attachment A:  
Proposed Amendments to the Eastern Passage/Cow Bay Municipal Planning Strategy**

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Eastern Passage/Cow Bay as adopted by the former Halifax County Municipality on the 22<sup>nd</sup> day of June 1992, A. D. and approved with amendments by the Minister of Municipal Affairs on the 5<sup>th</sup> Day of October, 1992 A. D. which includes all amendments thereto as of the 25<sup>th</sup> Day of July, 2009 is hereby further amended as follows:

1. Insert the following new preamble and policy immediately following Policy UR-7:

**“In 2012, there are issues with the capacity of the Eastern Passage Wastewater Treatment Plant. The Treatment Plant is only capable of treating wastewater from the development that is permitted under existing zoning. The lands at the end of Chater Street are mainly surrounded by lands zoned R-2. In order to consider two unit development on the lands at the end of Chater Street equivalent to the number of units permitted under the existing R-1 zoning, a development agreement is required. If the Treatment Plant is upgraded and additional sewage capacity becomes available in the future, the remaining undeveloped lands may be developed at that time subject to Council’s approval.**

**UR-7(a) Further to Policy UR-7, it shall be the intention of Council to permit new two unit dwellings by development agreement within the Urban Residential Designation, in accordance with the provisions of the *Halifax Regional Municipality Charter*, for those lands identified on Schedule 1. In considering such an agreement, in addition to the criteria within Policy UR-7, Council shall have regard to the following:**

- (a) the types of land uses to be included in the development;**
- (b) the future phasing of the development; and**
- (c) the location and function of proposed public lands.**

2. Insert the following reference immediately following Policy IM-9(a)(iv):

**“(v) two unit dwellings according to Policy UR-7(a).”**

I HEREBY CERTIFY that the amendments to the Eastern Passage/Cow Bay Municipal Planning Strategy as set out above, were passed by a majority vote of the Halifax Regional Council held on the \_\_\_\_ day of \_\_\_\_\_, 2012.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2012.

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Cathy Mellet  
Municipal Clerk

**Attachment B:  
Proposed Amendments to the Eastern Passage/Cow Bay Land Use By-law**

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Land Use By-law for Eastern Passage/Cow Bay which was adopted by the former Halifax County Municipality on the 22<sup>nd</sup> day of June, 1992, and approved by the Minister of Municipal Affairs on the 5<sup>th</sup> Day of October, 1992 which includes all amendments thereto as of the 29<sup>th</sup> Day of October, 2011 is hereby further amended as follows:

1. By replacing the wording in Section 3.6 immediately following the words “OTHER USES CONSIDERED BY DEVELOPMENT AGREEMENT” and immediately before Section 3.6(a) with the following:

**“Notwithstanding Section 3.5 above, certain uses which may not be listed as permitted uses in a zone may be considered in accordance with the development agreement provisions of the *Halifax Regional Municipality Charter*, as provided for by Policies UR-7a, UR-8, UR-10, UR-11, UR-15, UR-18, UR-19, UR-20, UR-21, (HECC-May 11/09; E-May 30/09); (COM-6 - Deleted - RC-Apr 28/98; E-Jul 15/98), COM-7, COM-8, COM-9, COM-10, CF-2, CF-4 and SA-4, of the Municipal Planning Strategy. Such uses are:”**
2. By replacing Section 3.6(a) with the following:

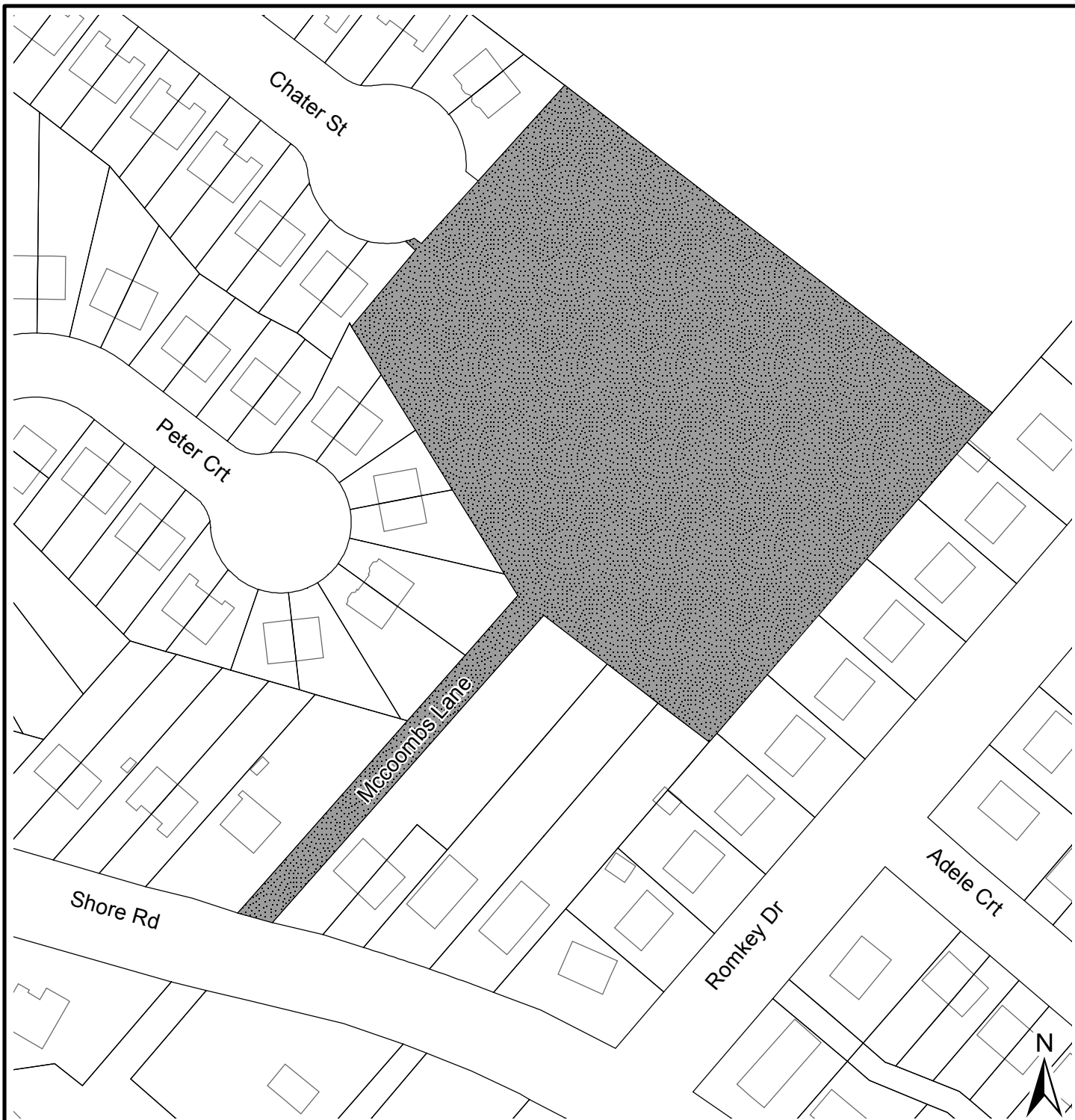
**“(a) Within the Urban Residential Designation:**

  - (i) **multiple unit dwellings up to a maximum of twelve (12) units;**
  - (ii) **townhouse developments which have frontage on an internal street;**
  - (iii) **local commercial, community facility uses and associated residential uses within any established CDD (Comprehensive Development District);**
  - (iv) **local commercial; community facility uses and associated residential uses within an established CDD on lands identified by Appendix "D";**
  - (v) **local commercial uses; and**
  - (vi) **two unit dwellings on those lands identified by Schedule 1 of Policy UR-7(a).”**

I HEREBY CERTIFY that the amendments to the Eastern Passage/Cow Bay Land Use By-law as set out above, were passed by a majority vote of the Halifax Regional Council held on the \_\_\_\_ day of \_\_\_\_\_, 2012.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Cathy Mellet  
Municipal Clerk



## Schedule 1

1948 Shore Road  
Eastern Passage



Area in which two-unit dwellings are permitted, pursuant to Policy UR-7(a)



Eastern Passage/Cow Bay  
Municipal Planning Strategy

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

Effective:

T:\work\planning\Holly\Official\_Maps\MPs\EP\_CB\Schedule 1

**ATTACHMENT C:  
PROPOSED DEVELOPMENT AGREEMENT**

THIS AGREEMENT made this      day of **[Insert Month]**, 2012,

BETWEEN:

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

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 1948 Shore Road, Eastern Passage and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to permit the development of two unit dwellings on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies UR-7(a) and IM-11 of the Eastern Passage Municipal Planning Strategy;

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 17224;

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

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## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

### **1.2 Applicability of Land Use By-law and Subdivision By-law**

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Eastern Passage and Cow Bay and the Regional Subdivision By-law, as may be amended from time to time.

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

1.3.1 Further to Section 1.2, 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 to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

### **1.4 Conflict**

1.4.1 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 to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

### **1.5 Costs, Expenses, Liabilities and Obligations**

The Developer 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 laws, by-laws, regulations and codes applicable to the Lands.

### **1.6 Provisions Severable**

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 2: DEFINITIONS**

### **2.1 Words Not Defined under this Agreement**

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

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

### **3.1 Schedules**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 17224:

Schedule A    Legal Description of the Lands  
Schedule B    Concept Plan

### **3.2 Requirements Prior to Approval**

- 3.2.1 Prior to the issuance of any municipal Permits, the Developer shall complete the subdivision of the Lands, as shown on Schedule B, to create 5 new lots.
- 3.2.2 Prior to the issuance of the first Occupancy Permit the Developer shall provide the necessary inspections and acceptance of work completed, including but not limited to:



- (a) Certification from a Professional Engineer indicating that the Developer has complied with the Erosion and Sedimentation Control Plan required pursuant to Section 5.1 of this Agreement.
- 3.2.3 No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

### **3.3 General Description of Land Use**

- 3.3.1 The uses of the Lands permitted by this Agreement are residential dwellings, generally located on the lots shown on Schedule B, comprised of the following:
  - (a) The creation of a maximum of 5 new lots which may be subdivided to place each semi-detached dwelling unit on its own lot;
  - (b) A walkway connecting Shore Road to proposed cul-de-sac on Chater Street, as generally shown on Schedule B; and
  - (c) All uses permitted under the R-2 Zone.

### **3.4 Land Use Requirements**

All buildings and structures, including associated elements shall meet the requirements of the Eastern Passage/Cow Bay Land Use By-law.

### **3.5 Parking**

- 3.5.1 The surface parking area shall be hard surfaced with asphalt, concrete or concrete pavers and shall be defined by landscaping or curb.

## **PART 4: STREETS AND MUNICIPAL SERVICES**

- 4.1 All design and construction of primary and secondary service systems shall satisfy Municipal Design Guidelines unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineer prior to undertaking the work.
- 4.2 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

- 4.3 All secondary or primary (as applicable) electrical, telephone and cable service to the building shall be underground installation.

## **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

- 5.1 Prior to the commencement of any onsite works on the Lands, a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer shall be submitted to the Municipality. The plans shall comply with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this clause have been met and implemented.
- 5.2 No Occupancy Permit shall be issued unless a Professional Engineer certifies that the entire lot is stabilized in accordance with all applicable standards and regulations of the Province of Nova Scotia and with the terms of this Agreement. Any temporary stabilization of the Lands shall be replaced with final landscaping within six (6) months of the issuance of the Occupancy Permit. The owner of the Lands shall be responsible for ensuring that any temporary stabilization materials are replaced and/or maintained on an as-required basis to ensure that exposed soil is adequately stabilized at all times.
- 5.3 If the Developer fails at any time during any site work or construction to fully conform to the requirements set out under Part 5 of this Agreement, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Officer, in consultation with the Development Engineer, to ensure compliance with the environmental protection plans.

## **PART 6: AMENDMENTS**

### **6.1 Non-Substantive Amendments**

The following items are considered by both parties to be non-substantive and may be amended by resolution of Council.

- (a) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement; and
- (b) The length of time for the completion of the development as identified in Section 7.5 of this Agreement.

### **6.2 Substantive Amendments**

Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

## **PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **7.1 Registration**

A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

### **7.2 Subsequent Owners**

7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.

7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

### **7.3 Commencement of Development**

7.3.1 In the event that development on the Lands has not commenced within 1 year from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the 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.

7.3.2 For the purpose of this section, commencement of development shall mean the execution of the subdivision agreement for the installation of the primary and secondary services required to service the subdivision.

7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1 if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

### **7.4 Completion of Development**

Upon the completion of the whole development or complete phases of the development, 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;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Downtown Dartmouth as may be amended from time to time.

## **7.5 Discharge of Agreement**

If the Developer fails to complete the development after 3 years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office 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; or
- (c) discharge this Agreement.

## **PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **8.1 Enforcement**

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. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

### **8.2 Failure to Comply**

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 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 Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands 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; or

- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**SIGNED, SEALED AND DELIVERED**  
in the presence of:

\_\_\_\_\_  
=====

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

\_\_\_\_\_

**(Insert Registered Owner Name)**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

=====

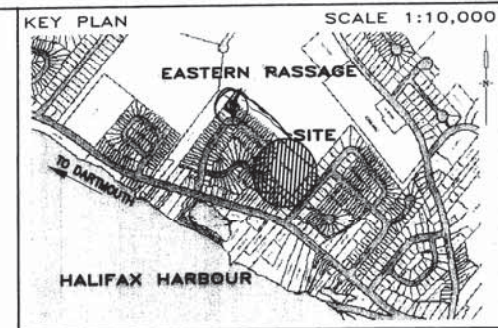
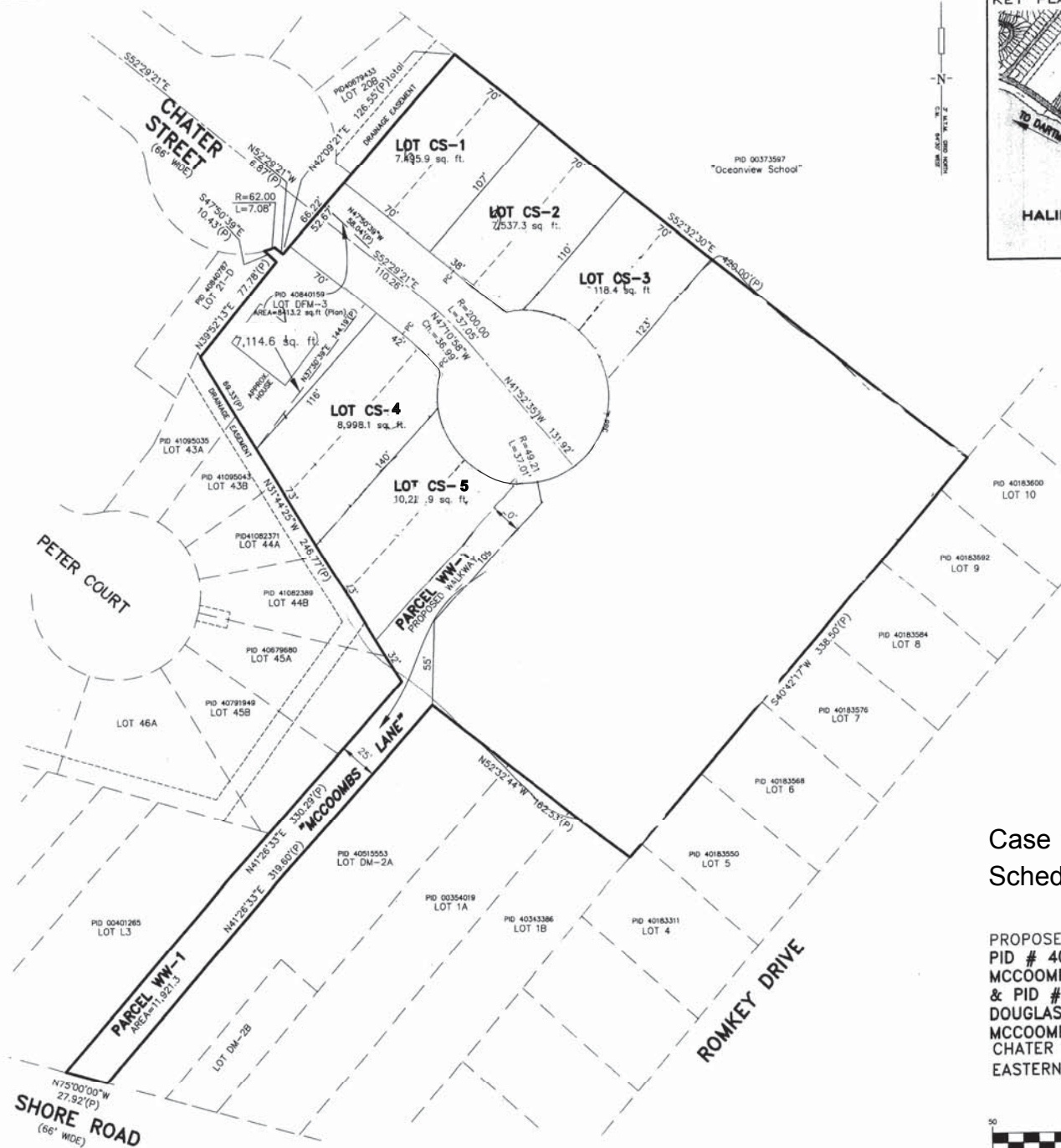
**HALIFAX REGIONAL  
MUNICIPALITY**

Per: \_\_\_\_\_

Mayor

Per: \_\_\_\_\_

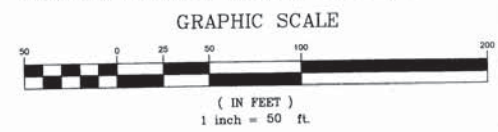
Municipal Clerk



**NOTES:**  
 TOTAL AREA OF PARENT PARCELS= 149,185 sq.ft  
 TOTAL ROAD AREA= 21,256.5 sq.ft  
 TOTAL LOT AREA= 115,987 sq.ft  
 WALKWAY AREA= 11,921 sq.ft

Case 17224  
 Schedule B

PROPOSED SUBDIVISION & CONSOLIDATION OF  
 PID # 40840159, LANDS OF ROBERT DOUGLAS MCCOOMBES  
 & PID #00400960, LANDS OF ROBERT DOUGLAS MCCOOMBES & FLORENCE AUBREY MCCOOMBES  
 CHATER STREET & SHORE ROAD  
 EASTERN PASSAGE, HALIFAX COUNTY, N.S.



DATE: 3 SEPTEMBER 2010

**Attachment D:  
Excerpts from the Eastern Passage/Cow Bay Municipal Planning Strategy**

UR-7 Notwithstanding Policy UR-2, within the Urban Residential Designation, it shall be the intention of Council to establish a two unit dwelling zone which permits new two unit dwellings in addition to all uses permitted in the single unit dwelling zone (Policy UR-2), under revised zone standards. This zone shall be applied to all existing two unit dwellings and to those lands which are affected by approved plans of subdivision. Provisions will also be established within the land use by-law to permit these existing developments to proceed based on the previous two unit dwelling zone standards. Council shall only consider permitting new two unit dwellings, under revised standards by amendment to the land use by-law and with regard to the following:

(a)that where a vacant lot or parcel of land to be rezoned abuts or is immediately adjacent to properties with single unit dwelling zoning, a buffer of R-1 zoned lots shall be maintained between existing and proposed development;	The subject lands do not abut any R-1 zoned lots and therefore no buffer is required on the lands.
(b)that streets are not considered to constitute part of the buffer and, except for individual lot infill, parkland with an area of less than one acre and a depth of less than one hundred (100) feet shall not constitute part of the buffer;	As per the above information, a buffer is not required.
(c) that municipal central services are available and capable of supporting the development;	Municipal central services are available and Halifax Regional Water Commission has advised that they are capable of servicing the proposed development (10 dwelling units) as allowed for by the proposed development agreement.
(d) where new roads are being proposed as part of the development, an evaluation of the proposed road layout and the impacts on traffic circulation in the surrounding area; and	An extension of Chater Street (74 m to end of cul-de-sac bulb) is proposed. The traffic impact study was prepared for the site and was accepted by HRM Traffic Services. The Study was generated for full build out of the lands to 20 dwelling units. The Study concluded that due to the low number of trips estimated to be generated and the low to moderate traffic volumes on Shore Road the development will not have a significant impact on Shore Road or the local street network. Traffic generated by the proposed

	development will access Shore Road by travelling on Chater Street; the site is expected to generate 4 trips in and 11 out during peak a.m. hours and 13 trips in and 7 out during peak p.m. hours.
(e) the provisions of Policy IM-11.	See below.

IM-11 In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this planning strategy, Council shall have appropriate regard to the following matters:

(a) that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;	The proposal is in conformity with Policy UR-7 of the Eastern Passage/Cow Bay MPS. The proposed new site specific Policy amendment and development agreement allow what is permitted by Policy but also addresses the request for two unit dwellings equivalent to the number of dwelling units possible under the existing R-1 Zone. Current sewage treatment capacity at the Eastern Passage plant is based on the permitted amount of development under the LUB but the Policy and a new agreement or substantive amendment to the agreement would allow the developer an additional 10 units if capacity becomes available.
(b) that the proposal is not premature or inappropriate by reason of:	Presently, the Eastern Passage Wastewater Treatment plant only has capacity for development permitted by existing zoning; that would be 10 dwelling units for the subject lands as outlined in the proposed development agreement. If and when capacity becomes available at the Eastern Passage plant the developer could apply for a substantial amendment to the proposed agreement or a new agreement to allow for an additional 10 dwelling units.
(i)the financial capability of the Municipality to absorb any costs relating to the development;	There is no additional cost to the municipality at this time.
(ii)the adequacy of sewerage and water services;	The proposed development agreement allows the equivalent number of



	dwelling units that would be permitted under the R-1 zone and Halifax Water confirms there is adequate sewage treatment capacity and water for this proposal.
(iii)the adequacy or proximity of school, recreation or other community facilities;	Enrolment projections for the schools in Eastern Passage indicate a decline in student population over the coming years.
(iv)the adequacy of road networks leading or adjacent to or within the development; and	The impact study accepted by Traffic Services indicates site development at full build out of 20 dwelling units will not have a significant impact on Shore Road or the local street network.
(v)the potential for damage to or for destruction of designated historic buildings and sites.	n/a
(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:	
(i)type of use;	The proposed land use is low density residential development in the form of two unit dwellings. No screening nor buffering is required.
(ii)height, bulk and lot coverage of any proposed building;	The dwelling units will comply with all regulations, requirements and provisions of the Eastern Passage/Cow Bay LUB.
(iii)traffic generation, access to and egress from the site, and parking;	The traffic impact study advises site development will not significantly impact Shore Road or the local street network due to the low number of trips estimated to be generated and the low traffic volumes on Shore Road.
(iv)open storage;	Open storage is not permitted under the LUB.
(v)signs; and	Signage is permitted as per the Eastern Passage/Cow Bay LUB.
(vi)any other relevant matter of planning concern.	The proposed development would be abutting the same R-2 land uses on east, south and west boundaries; the north boundary abuts two recreational fields adjacent a school.
(d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.	The subject lands are located near an area that has been the subject of drainage issues and recent flooding. The development agreement requires

	the developer to prepare a stormwater management plan addressing site surface drainage.
<b>(e) Within any designation, where a holding zone has been established pursuant to “Infrastructure Charges - Policy IC-6”, Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the “Infrastructure Charges” Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</b>	n/a

**Attachment E:  
Minutes from Public Information Meeting**

**HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING  
CASE NO. 17224 – MPS/LUB AMENDMENTS TO EASTERN PASSAGE/COWBAY**

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7:00 p.m.  
Wednesday, January 25, 2012  
Eastern Passage Cow Bay Fire Hall,  
1807 Caldwell Road, Eastern Passage

**STAFF IN**

**ATTENDANCE:** Darrell Joudrey, Planner, Planning Applications  
Holly Kent, Planning Technician  
Jennifer Purdy, Planning Controller

**ALSO IN**

**ATTENDANCE:** Robert McCoombs, Applicant  
Councillor Jackie Barkhouse, District 8

**PUBLIC IN**

**ATTENDANCE:** 11

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The meeting commenced at approximately 7:10 p.m.

**1. Opening remarks/Introductions**

**Mr. Darrell Joudrey, Planning Applications**, called the meeting to order at approximately 7:10 p.m. in the Eastern Passage Cow Bay Fire Hall. Mr. Joudrey introduced Councillor Jackie Barkhouse, District 8; Holly Kent, Planning Technician, HRM Planning Services and Jennifer Purdy, Planning Controller, HRM Planning Services.

Mr. Joudrey welcomed residents to the meeting and thanked them for attending. He advised that the purpose of the meeting is to share information with the residents and to receive feedback as well. No decisions will be made during this meeting.

**2. Overview**

Mr. Joudrey explained that this application has been initiated by Mr. Robert McCoombs; he would like to develop his lands at 1948 Shore Road with two unit dwellings instead of single unit dwellings as permitted by the current R-1 zoning. The current land use designation under the Eastern Passage/ Cow Bay Municipality Planning Strategy permits R2 or two unit dwelling zoning. However, current sewage treatment capacity at the Eastern Passage facility is only

allocated for the number of potential dwelling units permitted under existing zoning. Mr. Joudrey explained that the current Urban Residential designation on the lands recognizes the established residential community and provides for a variety of residential opportunities as the community continues to grow. The R1 zoning in place permits single unit dwellings and open space uses providing for the use of dwellings for limited day care and home business use. Currently the lands are undeveloped and about the applicant's home at the western corner.

The Eastern Passage/Cow Bay Municipal Planning Strategy permits lands to be rezoned to R2 by Land Use By-law amendment under Policy UR-7 that requires "municipal services be available and capable of supporting the development" and would limit sewer capacity to the number of equivalency units in order to service an R1 residential proposal. However, under the Land Use By-Law when lands are rezoned to R2 there is no mechanism to ensure that only the equivalent number of R2 dwelling units would be built. This restriction may be addressed by amending the Municipal Planning Strategy to permit two unit dwellings by development agreement.

Reviewing a slide of the area, Mr. Joudrey explained that under the Municipal Planning Strategy for Eastern Passage/Cow Bay, the current urban residential designation designation on the lands permits Council to consider zoning for two unit dwellings but there are some community concerns regarding potential visual impact on existing single unit neighbourhoods. Policy UR-7 establishes the two unit dwelling zone and asks Council regard the following standards: municipal central services must be available and capable of supporting the development; new roads must be evaluated for layout and impact on existing traffic circulation and the general criteria of Policy IM-11 are to be considered in development agreements. Any development on the subject lands would require the submission of a storm water management plan/report for review that deals with storm water and drainage issues related to the development.

### **3. Presentation of Proposal**

Mr. Robert McCoombs, Applicant, reviewed the map of the area explaining that the wooded area will not be developed until further municipal services are available. He explained that the lots at one time were R2 which was changed to R1 by Council. The Developer would like this changed back to R2 to compliment the rest of the road and to be equal as the others. His intention is to run water and sewer completely into Chater Street and eventually come back out on to the Shore Road.

### **4. Questions and Comments**

A gentleman asked about the next phase.

Mr. McCoombs explained that he needs to do something with the lands as it is part of his mother and fathers estate which they no longer use. He explained that instead of letting this property go to waste they have decided to develop it. He explained that some residents further down on

Jamison Street have some water issues, however, once there is water and sewer hook-up this will eliminate a lot of the drainage problems.

Ms. Gloria Reynolds, Eastern Passage/Cow Bay, expressed concern with water and explained that there is a lot of runoff in this area.

Mr. Joudrey explained that a storm water management plan will be required as part of the development agreement, this will address any potential flood concerns.

Councillor Barkhouse requested Mr. Joudrey review the planning process of the application and stressed the importance to the residents to voice any concerns they may have.

Mr. McCoombs asked about the timeline.

Mr. Joudrey explained that this process typically takes 5-6 months before it goes to public hearing.

## **5. Overview of Planning Process**

Mr. Joudrey explained that following tonight's public information meeting, a more detailed review of the application will take place. He explained that following tonight's public information meeting, a more detailed review of the application will take place. Staff will review the proposal; taking into consideration comments from residents at tonight's meeting. Staff will then bring forward a recommendation report to Harbour East Community Council who will send it to Regional Council to hold a public hearing for the MPS amendments and the development agreement; an opportunity for further public input, and then back to Harbour East Community Council for the actual decision regarding the Development Agreement. There will be the opportunity to appeal Community Council's decision for the development agreement to the Nova Scotia Utility and Review Board.

## **6. Closing Comments**

Mr. Joudrey thanked the residents for expressing their comments and concerns.

The meeting adjourned at 7:30pm.