



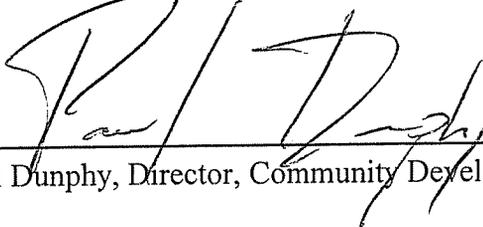
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

4.1.1

North West Community Council
January 28, 2010

TO: Chair and Members of North West Community Council

SUBMITTED BY:


Paul Dunphy, Director, Community Development

DATE: January 19, 2010

SUBJECT: Case 01285: Development Agreement - 96 Pockwock Road

ORIGIN

Application by Sharon Pelley to enter into a development agreement for a kennel at 96 Pockwock Road, Hammonds Plains.

RECOMMENDATION

It is recommended that North West Community Council:

1. Give Notice of Motion to consider the proposed development agreement as provided in Attachment A, and schedule a public hearing;
2. Approve the proposed development agreement and set out in Attachment A of this report to permit a kennel at 96 Pockwock Road, Hammonds Plains; and
3. Require the agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The Proposal:

Sharon Pelley has submitted an application to consider a kennel development at 96 Pockwock Road, Hammonds Plains. The applicant has proposed to construct a 3,000 square foot (278.7 m²) one storey building to house the kennel. A kennel is not permitted as-of-right on the subject property, but can be considered through the development agreement process.

The Kennel:

The proposed kennel building includes a grooming area, reception area, and three separate play areas for various size and temperament of dogs. The kennel is proposed to include outdoor pens. Services proposed to be offered at the kennel include a daycare for dogs, a breeding operation, overnight boarding, and dog grooming. The kennel is also intended to provide self-service dog wash facilities for patrons.

The Property:

The subject property is generally described as follows:

- located on Pockwock Road in Hammonds Plains (Map 1 & 2);
- approximately 3.5 hectares (8.6 acres) in size;
- approximately 88.4 m (290 ft) of road frontage;
- designated Mixed Use B (MU-B) under the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy (MPS) (Map 1);
- zoned Mixed Use-1 (MU-1) under the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law (LUB) (Map 2); and
- home to an existing equestrian facility (Windspirit Farm).

DISCUSSION

Policy Intent:

The MPS enables the consideration of kennels in the Mixed Use designations through the development agreement process, subject to Policy P-26A.

It is the opinion of staff that development agreement provided in Attachment A satisfies the intent of relevant MPS policies (Attachment B). While the proposal is consistent with the intent of the MPS, staff have identified the following issues for specific discussion:

Kennel Definition:

The LUB defines a kennel as a building or structure used for the enclosure of more than two dogs which are kept for the purposes of commercial breeding or showing or for commercial boarding with or without veterinary care.

Uses Enabled by Development Agreement:

The development agreement provided in Attachment A enables a kennel to operate as a stand alone use, restricting the kennel operation to a single building and associated outdoor dog pens. Certain uses considered accessory to a kennel are also permitted, such as grooming and self-service washing.

The development agreement also enables uses permitted by the zoning of the property. As the property is zoned MU-1, a mix of uses could also be established, including a single or two unit dwelling, subject to the provisions of the LUB (Attachment C).

Building Size (Policy P-26A):

The development agreement provided in Attachment A enables the construction of a kennel building, up to 3,000 square feet in gross floor area, and up to 35 feet in height. Given the size of the property, and provisions included within the development agreement related to setbacks and buffering, the maximum size of the kennel building is considered reasonable.

Traffic (Policy P-26A):

A Traffic Impact Statement (TIS) has been conducted by a Professional Engineer to address the applicant's proposal, which requested the ability to operate a kennel with up to forty (40) dogs. As the kennel's primary service is related to the daycare of dogs, the majority of traffic is anticipated to take place during the morning and afternoon peak hours. The TIS estimates that forty (40) vehicle trips will be generated during the am peak, with the same number generated during the pm peak. The TIS concludes by stating the development is not expected to have any significant impact on the traffic performance on Pockwock Road. Staff are satisfied with the findings of the TIS.

Number of Dogs (Policy P-26A):

MPS policy explains that where appropriate, a development agreement for a kennel shall place limits on the number of dogs permitted. The development agreement provided in Attachment A limits the boarding and breeding of dogs to forty (40). As the grooming and washing of dogs are considered to be accessory functions of the kennel (focus is boarding and breeding), the limit on dogs is not related to these accessory uses.

Compatibility with Adjacent Land Uses (Policy P-137):

The primary form of development in the vicinity of the subject property is low density residential. The subject property is much larger in size than other developed properties in the area. Abutting properties (civic # 88 and # 116) are developed with single unit dwellings.

Provisions within the development agreement require a 60 foot (18.3 m) non-disturbance buffer at the front of the property and between civic #116, as well as solid panel wood fencing along the common lot boundary with civic #88. The site plan included within the development agreement (Schedule B of Attachment A) illustrates the required location of the non-disturbance buffer and solid panel wood fence, as well as the location of the abutting residentially developed properties (Attachment A). In addition, the development agreement requires the kennel building to be located a minimum of fifty (50) feet (15.2 m) from abutting properties.

To further address potential conflict and with adjacent land uses, the development agreement establishes provisions for the size and design of outdoor dog pens, the size of the kennel building, maintenance of the property, number of dogs, signage, and times when dogs are permitted outside.

Potential Noise (Policy P-137):

The Halifax Regional Municipality By-law Number A-300 (Animal By-law) regulates noise related to dogs. To further address potential noise issues related to the establishment of a kennel, the proposed development agreement contains provisions that require dogs to be kept inside the kennel building between 7:00 pm and 7:00 am.

Treatment of Solid and Liquid Waste & General Maintenance (Policy P-26A & P-137):

The subject property is not serviced with municipal sewer. The treatment of solid and liquid waste associated with the kennel building is regulated by Nova Scotia Environment. With respect to dog waste that may be generated outside (within the outdoor dog pens), the proposed development agreement establishes maintenance provisions that require the Developers to collect and store all dog waste in a manner that does not create a nuisance through odour. Further, maintenance provisions require the Developers to remove and properly dispose of dog waste from the property all together on a regular basis.

Water Service (Policy P-137):

A portion of the subject property is within the Water Service District (Map 3). The proposed kennel building is located with the Water Service District, and has the potential to be serviced with Municipal water.

Public Information Meeting:

A public information meeting (PIM) was held on July 6, 2009. Minutes from the PIM are provided as Attachment D. Should Council decide to proceed with a public hearing on this application, in addition to published newspaper advertisements, property owners in the immediate area will be individually notified, as shown on Map 2.

North West Planning Advisory Committee:

Although North West Community Council has jurisdiction in this case, the application does not effect electoral districts dealt with by the North West Planning Advisory Committee.

Conclusion:

MPS policy indicates that kennels are generally acceptable within the Mixed Use designations, provided a development agreement is negotiated and conditions of the MPS are addressed. In the opinion of staff, the proposed development agreement reasonably satisfies the applicable policies of the MPS.

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 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

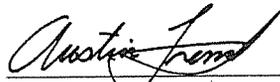
1. Council may choose to approve the proposed development agreement as shown in Attachment A. This is the recommended course of action.
2. Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons based on a conflict with MPS policies.
3. Council may choose to approve the proposed development agreement subject to modifications. This may necessitate further negotiation with the applicant and may require an additional public hearing.

ATTACHMENTS

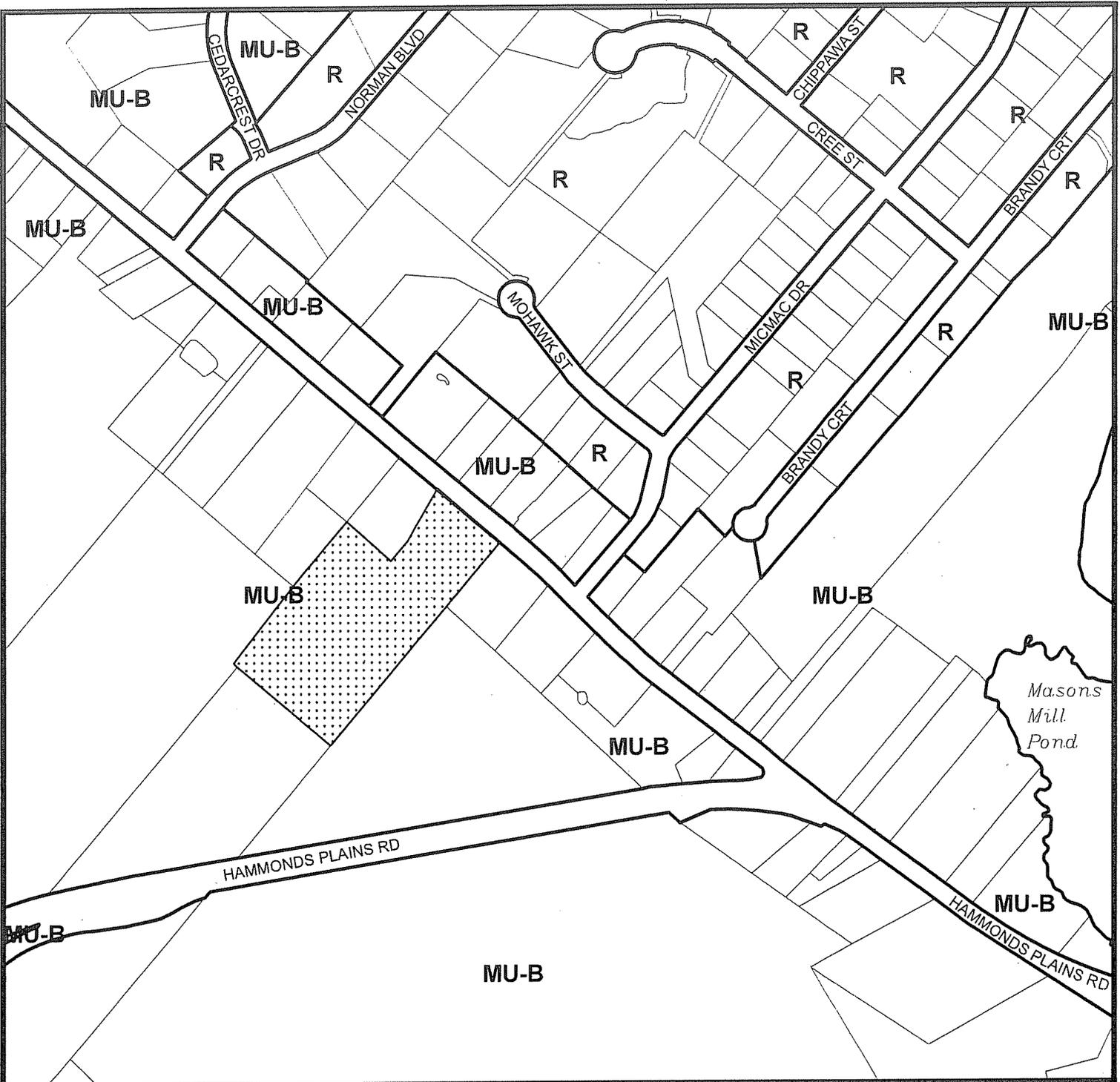
Map 1:	Generalized Future Land Use Map
Map 2:	Zoning Map and Public Hearing Notification Area
Map 3:	Water Service Boundary
Attachment A:	Proposed Development Agreement
Attachment B:	Review of Relevant Policies from the MPS
Attachment C:	Applicable LUB Requirements
Attachment D:	Public Information Meeting Minutes

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.

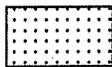
Report Prepared by : Miles Agar, Planner I, Community Development, 869-4262



Report Approved by: Austin French, Manager of Planning Services, 490-6717



Map 1
Generalized Future Land Use

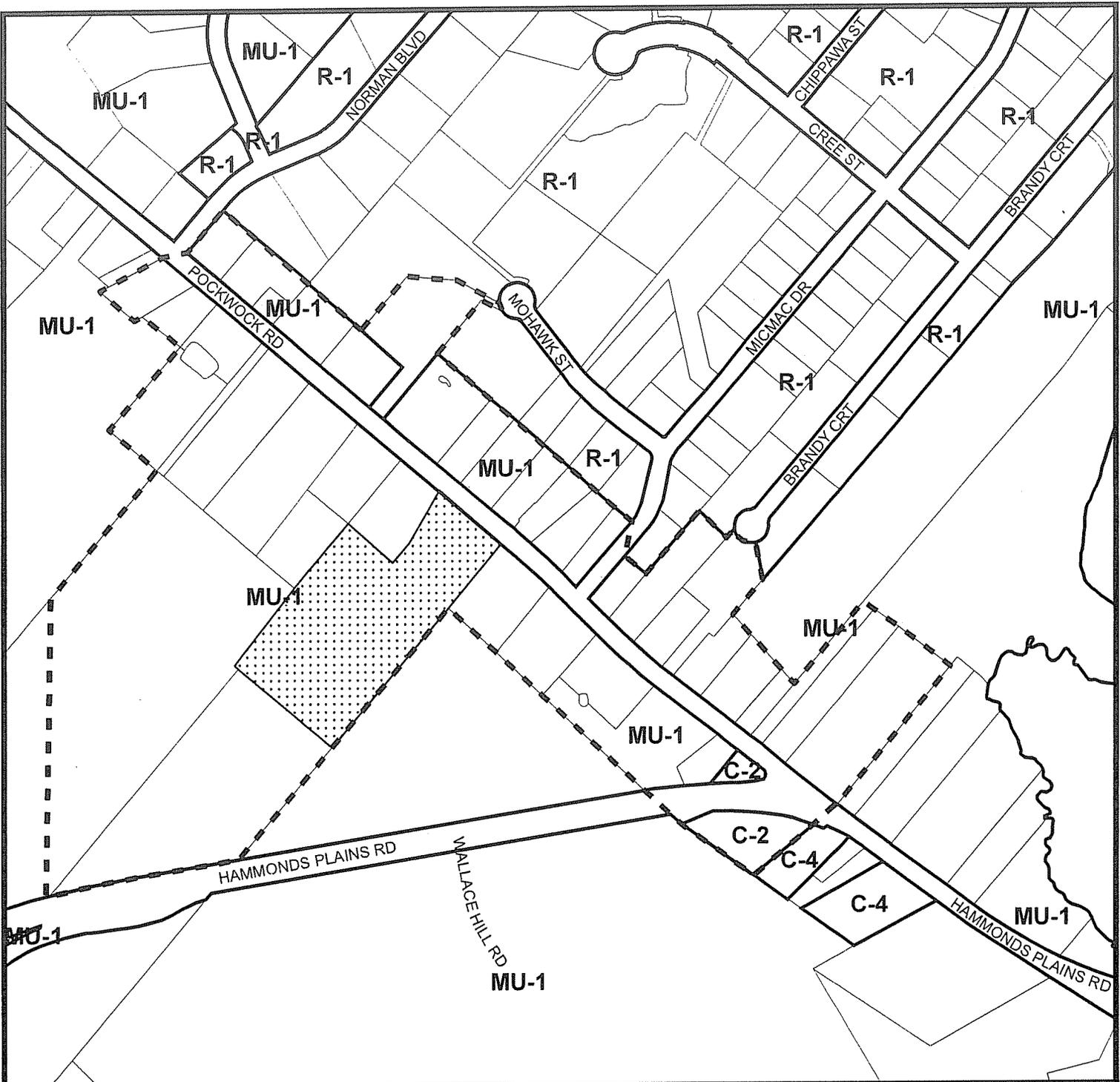


Subject Property

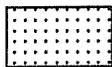
R Residential Designation
 MU-B Mixed Use B Designation

HALIFAX
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 Community Development
 Planning Services





**Map 2
Zoning**



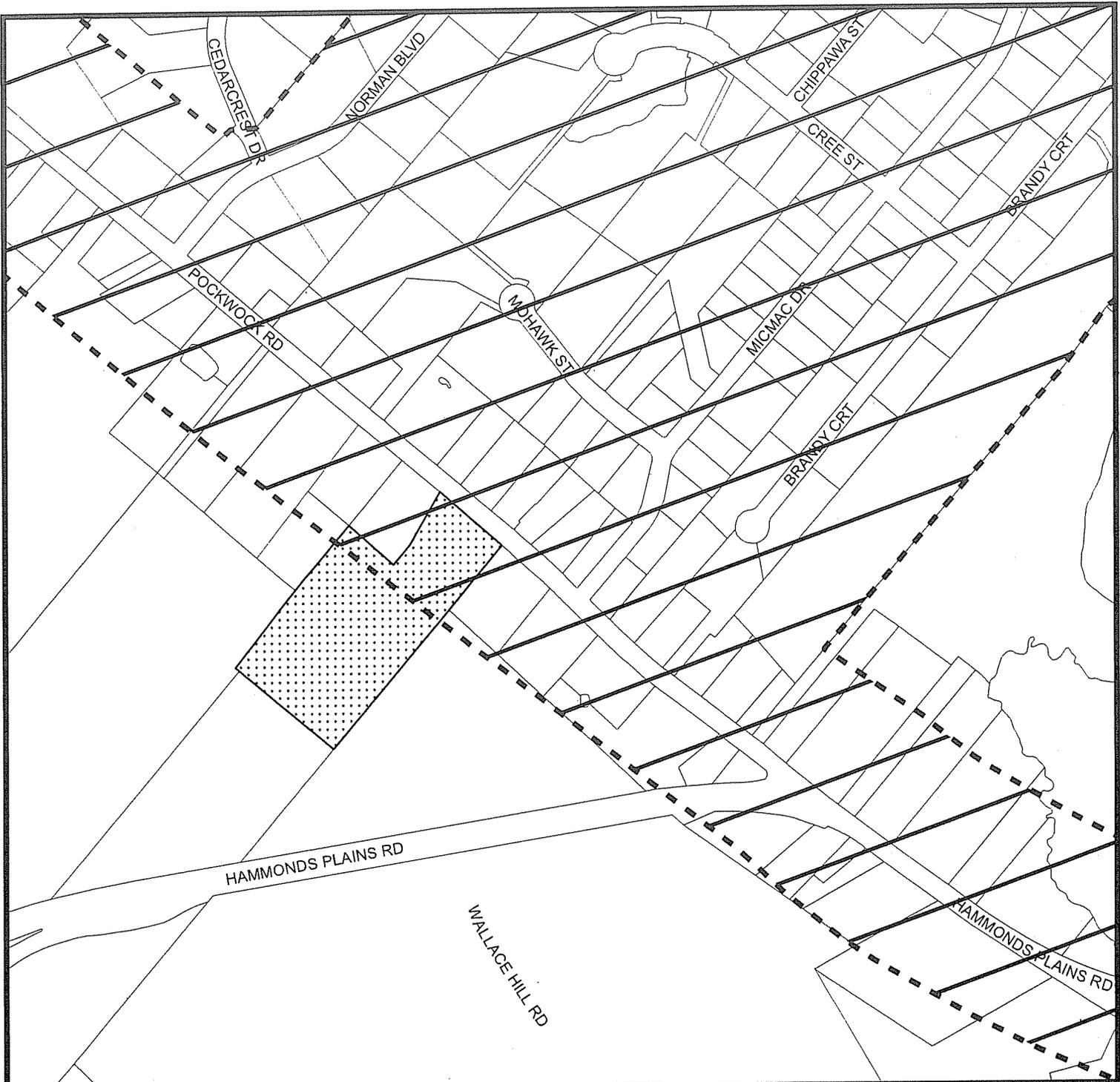
Subject Property



- R-1 Single Unit Dwelling Zone
- MU-1 Mixed Use 1 Zone
- C-2 General Business Zone
- C-4 Highway Commercial Zone

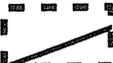
--- Notification Area





Map 3
Water Service Boundary

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Community Development
Planning Services

-  Subject Property
-  Water Service Boundary



PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

The Developers agree 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 and use of the Lands shall comply with the requirements of the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other By-laws, Statutes and Regulations

Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developers, 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 Developers or Owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

The Developers 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 HRM and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developers. All design drawings and information shall be certified by a Professional Engineer.

1.4 Conflict

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.

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 Developers 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.

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 All words unless otherwise specifically defined herein shall be as defined in the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law and Regional Subdivision By-law.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developers shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the Schedules attached to this Agreement and the plans filed in the Halifax Regional Municipality as Case Number 01285.

The Schedules are:

Schedule A: Legal Description of the Lands

Schedule B: Site Plan

3.2 General Description of Land Use

- 3.2.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) A kennel and uses accessory thereto, as shown on Schedule B and set out in this Agreement; and
- (b) Any use permitted within the existing zone applied to the Lands subject to the provisions contained within the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville as amended from time to time.

- 3.2.2 The Municipality agrees that the variance provisions and procedures enabled by the Halifax Regional Municipality Charter, with respect to percentage of land that may be built upon, size or other requirements related to yards, and lot frontage or lot area, or both, shall apply to the development of the Lands permitted by this Agreement except that, where the Charter references "Land Use By-law", the words "this Agreement" shall be substituted.

3.3 Detailed Provisions for Land Use

- 3.3.1 The Developers use of the Lands as a kennel shall be limited to the outdoor dog pens and within the kennel building, as illustrated on Schedule B.

- 3.3.2 The kennel building shall:

- (a) be located as shown on Schedule B;
 - (b) not exceed a gross floor area of 278.7 m² (3,000 ft²);
 - (c) be located a minimum of 15.2 m (50 ft) from any abutting property; and
 - (d) not exceed 10.6 m (35 ft) in height above established grade.
- 3.3.3 The outdoor dog pens shall:
- (a) be located within the area shown on Schedule B;
 - (b) be located a minimum of 15.2 m (50 ft) from any abutting property;
 - (c) be fenced according to Section 3.3.8 of this Agreement; and
 - (d) be directly accessible to the kennel building.
- 3.3.4 The Development Officer may approve modifications to the location of the kennel building on the Lands and the layout of elements related to parking and the outdoor dog pens, provided that such modifications do not enable an expansion of the kennel use and are, in the opinion of the Municipality's Development Officer, minor in nature.
- 3.3.5 The Developers shall ensure that expansion or addition to any structure on the Lands shall conform with the all applicable requirements of the Land Use By-law, except where varied by this Agreement, and shall receive, where applicable, written approval by the Municipality's Development Officer.
- 3.3.6 No more than forty (40) dogs shall be boarded or bred at any given time.
- 3.3.7 The grooming and washing of dogs shall be considered accessory to the kennel use.
- 3.3.8 The Developers shall provide and maintain fencing, a minimum of 1.8 m (6 ft) in height, around the entire perimeter of all outdoor dog pens.
- 3.3.9 The Developers shall provide a solid panel wood fence along a portion of the southern property line, as shown on Schedule B. The construction of the fence shall be 1.5 m (5ft) in height, except that the fence shall be 1.2 m (4 ft) in height for the first 30.4 m (100 ft), starting from the front property line.
- 3.3.10 The Developers agree that, except for supervised bathroom breaks, dogs shall not be permitted outside of the kennel building between the hours of 7:00 PM and 7:00 AM.
- 3.4 Wastewater**
- 3.4.1 The Developer shall provide a private sanitary system for the kennel building, as required by Nova Scotia Environment.
- 3.5 Parking, Circulation and Access**
- 3.5.1 The Developers shall provide an internal driveway layout and parking area on the Lands as shown on Schedule B. The Municipality's Development Officer may approve modifications

to the internal driveway and parking area, provided parking spaces are not reduced beyond the number required by the Land Use By-law and the changes are minor in the opinion of the Municipality's Development Officer.

3.5.2 The driveway and parking area associated with the kennel building shall be graveled or hard surfaced with asphalt, concrete or an acceptable equivalent in the opinion of the Municipality's Development Officer.

3.5.3 The driveway associated with the kennel building shall maintain a minimum width of 6 m (20 ft).

3.6 Building and Site Lighting

3.6.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances outdoor dog pens and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

3.6.2 If, in the opinion of the Municipality's Development Officer, conformance with the requirements of Clause 3.6.1 are in question, the Developers shall submit information to the Municipality's Development Officer regarding the location and type of illuminating devices, fixtures, lamps, supports, and other devices sufficient to enable the Municipality's Development Officer to ensure compliance with Clause 3.6.1. If such plan and description cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the Developers shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

3.7 Non-Disturbance Area / Landscaping

3.7.1 The 18.2 m (60 ft) non-disturbance area shown on Schedule B shall:

- (a) be retained and maintained to act as a natural buffer and visual screen to adjacent properties;
- (b) be identified on all plans required by the Municipality;
- (c) permit the following activities provided the approval of the Municipality:
 - (i) removal of standing hazardous or diseased trees; the Municipality may require verification in writing by a Landscape Architect (a full member, in good standing with the Canadian Society of Landscape Architects) or other qualified professional;
 - (ii) removal of fallen timber and debris where the potential exists for a fire or safety risk; the Municipality may require verification in writing by a Landscape Architect (a full member, in good standing with the Canadian Society of Landscape Architects) or other qualified professional; or
 - (iii) be remediated if trees are removed or tree habitat is damaged beyond repair, unless removal is associated with the permitted activities of Clause 3.7.1 (c). The Developers shall replace the damaged trees with similar species of tree with a minimum caliper of 60 mm (2.4 inches) measured at 300 mm (11.8

inches) above established grade. The Municipality may require the Developers to submit a Remediation Plan prepared by a Landscape Architect (a full member, in good standing with the Canadian Society of Landscape Architects) or other qualified professional.

- 3.7.2 The Developers agree that landscaping shall be provided on all areas not dedicated to buildings, parking areas, driveways and walkways that are associated with the kennel.
- 3.7.3 Further to subsection 3.7.2, landscaping shall be grassed or include landscape features such as mulch, stone, water features, perennials, annuals, shrubs or other vegetation and features deemed acceptable by the Municipality.

3.8 Maintenance

- 3.8.1 The Developers shall collect and store all dog waste on the Lands in a manner that does not create a nuisance through odour. The Developers shall remove and properly dispose of dog waste from the Lands all together on a regular basis.
- 3.8.2 The Developers shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the kennel building, fencing, walkways, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow removal/salting of walkways and driveways.

3.9 Signs

- 3.9.1 A maximum of one (1) ground sign shall be permitted on the Lands for the kennel. The ground sign shall be located as shown on Schedule B, provided the ground sign:
- (a) does not exceed 3 m (10 ft) in vertical height above established grade above and is setback a minimal of 3 m (10 ft) from any street line, and 6 m (20 ft) from any abutting property;
 - (b) does not exceed a sign face width of 1.5 m (5 ft); and
 - (c) is not internally illuminated or backlit.

3.10 Outdoor Storage and Display

No outdoor storage or display associated with kennel shall be permitted on the Lands. Refuse containers located outside the kennel building shall be fully screened from adjacent properties and from streets by means of opaque fencing, masonry walls, suitable landscaping, or an acceptable equivalent.

4.0 STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

Any construction or use on the Lands shall conform with the Municipal Service Systems

Design Guidelines where applicable, unless otherwise provided for in this Agreement and shall receive written approval from the Municipality's Development Engineer prior to undertaking the work.

4.2 Off-Site Disturbance

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 Developers, and shall be reinstated, removed, replaced or relocated by the Developers as directed by the Municipality.

5.0 AMENDMENTS

5.1 Substantive Amendments

Amendments to any matters not identified under Section 5.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Halifax Regional Municipality Charter.

5.2 Non-Substantive Amendments

The following items are considered by both parties to be not substantive and may be amended by resolution of the Council:

- (a) The granting of an extension to the date of commencement of development as identified in Section 7.3 of this Agreement;
- (b) The length of time for the completion of the development as identified in Section 7.4 of this Agreement;
- (c) An increase in the size (gross floor area) of the kennel building and outdoor dog pens;
- (d) Alterations to the fencing requirements as identified in Section 3.3.9 of this Agreement; and
- (e) Alterations to the 18.2 m (60 ft) non-disturbance area as identified in Sections 3.7.1 (a) and 3.7.1 (b) of this Agreement.

6.0 ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

6.1 Enforcement

The Developers agree 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 Developers. 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 Developers agrees allow for such an inspection during any reasonable hour within one day of receiving such a request.

6.2 Failure to Comply

If the Developers fail to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developers thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, 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 Developers from continuing such default and the Developers hereby submits to the jurisdiction of such Court and waives any defense 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 development 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 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; and
- (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Halifax Regional Municipality Charter or Common Law in order to ensure compliance with this Agreement.

7.0 REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developers shall incur all cost in recording such documents.

7.2 Subsequent Owners

- 7.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the lands which is the subject of this Agreement until this Agreement is discharged by the Council.
- 7.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

7.3 Commencement of Development

In the event that a Development Permit for the kennel use has not been granted within three (3) years from the date of registration of this Agreement at the Registry of Deeds, 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 Developers, grant an extension to the date of commencement of construction.

7.4 Completion of Development

Upon the completion of the development or portions thereof, or within/after ten (10) years from the date of registration of this Agreement with the Registry of Deeds, 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; or
- (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developers' rights here under are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville, as may be amended from time to time.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2010.

SIGNED, SEALED AND DELIVERED)
in the presence of)

_____)

) Per: _____

SHARON PELLEY

) Per: _____

JOHN KEETON

SEALED, DELIVERED AND)

ATTESTED to by the proper)

signing officers of Halifax Regional)

Municipality duly authorized)

in that behalf in the presence)

of)

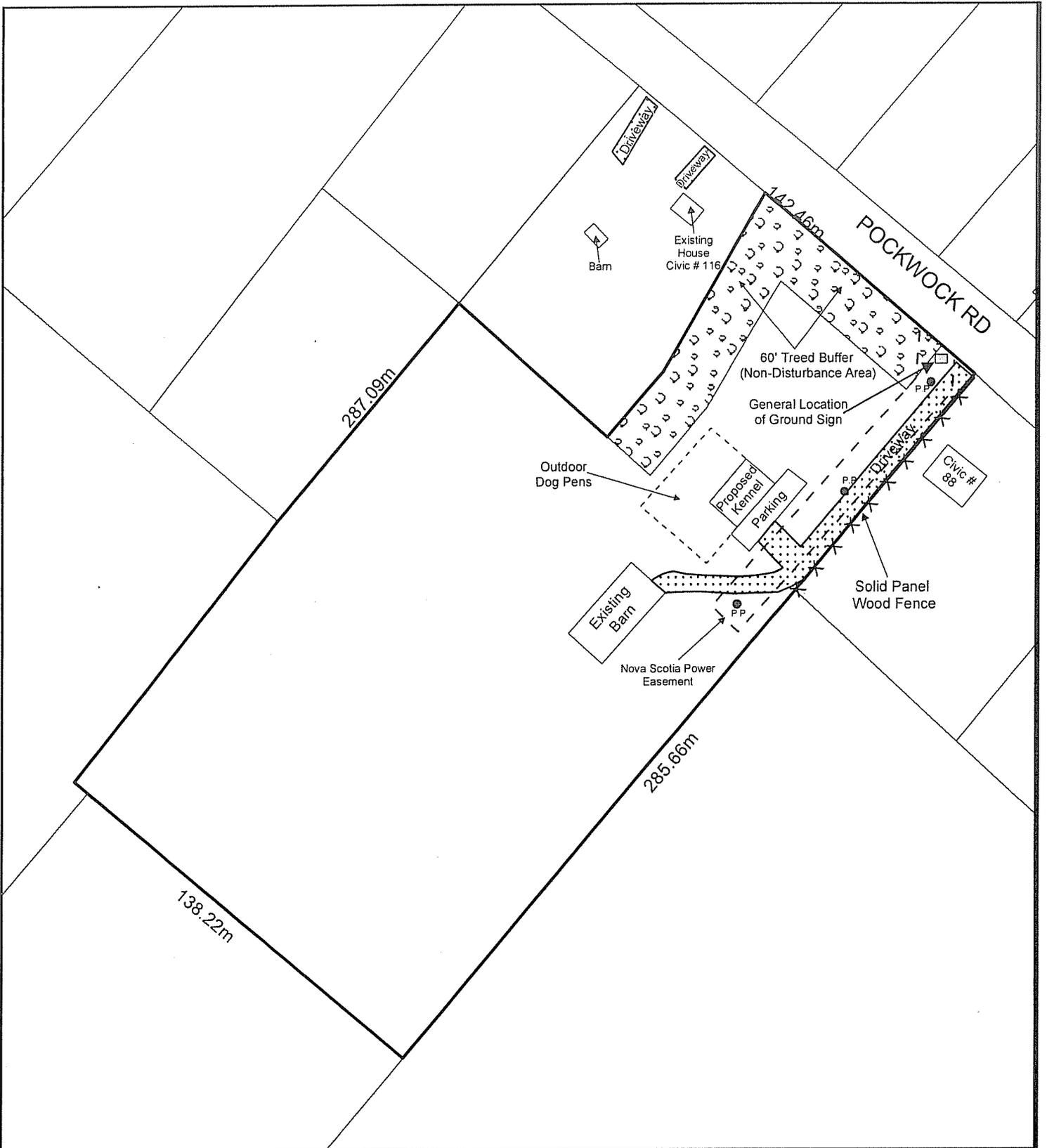
_____)

) Per: _____

MAYOR

) Per: _____

MUNICIPAL CLERK



Schedule B Site Plan



P.P
● Power Pole



Attachment B
Review of Relevant Policies from the MPS

<p>Policy 26-A: Within the Mixed Use A, B and C Designations, it shall be the intention of Council to consider permitting kennels by development agreement in accordance with the applicable provisions of the Municipal Government Act and having regard to the following:</p>	
Policy Criteria	Staff Comment
<p>(a) the subject property is not located within a residential zone;</p>	<p>The subject property is zoned MU-1 (Mixed Use 1). The subject property is designated Mixed Use B.</p>
<p>(b) the size and appearance of all buildings or structures related to the use are compatible with the surrounding area in terms of scale, design, materials and signage;</p>	<p>The development agreement limits the maximum size of the kennel building to 3,000 sq. ft. of gross floor area, and also includes provisions related to setbacks, buffering, and signage control. The kennel building is also limited to 35 feet in height.</p>
<p>(c) that limits are placed on the maximum number of dogs permitted on the property where appropriate;</p>	<p>The development agreement limits the boarding and breeding of dogs to forty (40). As the grooming and washing of dogs are considered to be accessory functions of the kennel (focus is boarding and breeding), the limit on dogs is not related to these accessory uses.</p>
<p>(d) that sufficient off-street parking is provided;</p>	<p>The development agreement requires off-street parking for the kennel be provided as required by the Land Use By-law.</p>

Policy Criteria	Staff Comment
(e) that all outdoor areas for dog play/socialization and waste are completely fenced and setback a minimum of 20 feet (6 metres) from any property line;	The development agreement requires the outdoor dog pens to be completely fenced and designed to ensure there is direct access to the kennel building. The development agreement also requires these pens to be located a minimum of 50 feet from an abutting property.
(f) the hours of operation, including limitations on outdoor dog play/socialization;	The development agreement requires dogs to be inside the kennel building between 7:00 pm and 7:00 am.
(g) provisions related to the collection, storage and disposal of animal waste;	The development agreement requires the collection and storage of all dog waste in a manner that does not create a nuisance through odour, and the removal and proper disposal of dog waste from the property all together on a regular basis.
(h) the impact of the proposed development on traffic circulation and the road network;	A Traffic Impact Statement (TIS) has been conducted by a Professional Engineer to address the applicant's proposal, which requested the ability to operate a kennel with up to forty (40) dogs. The TIS estimates that 40 vehicle trips will be generated during the am peak, with the same number generated during the pm peak. The TIS concludes by stating the development is not expected to have any significant impact on traffic performance on Pockwock Road. Staff are satisfied with the findings of the TIS.
(i) general maintenance of the facility;	The development agreement includes provisions for general maintenance.
(j) the provisions of Policy P-137.	See below

<p>Policy P-137: 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 Plan, Council shall have appropriate regard to the following matters:</p>	
Policy Criteria	Staff Comment
<p>(a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;</p>	<p>The proposal meets the policies included in the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy.</p>
<p>(b) that the proposal is not premature or inappropriate by reason of:</p> <ul style="list-style-type: none"> (i) the financial capability of the Municipality to absorb any costs relating to the development; (ii) the adequacy of central or on-site sewerage and water services; (iii) the adequacy or proximity of school, recreation or other community facilities; (iv) the adequacy of road networks leading or adjacent to or within the development; and (v) the potential for damage to or for destruction of designated historic buildings and sites. 	<p>The proposal is not premature or inappropriate. The proposed kennel has the potential to be serviced with municipal water. As the property is not serviced with municipal sewer, wastewater service to the kennel will be provided through an on-site septic system, which is the jurisdiction of the Nova Scotia Environment.</p> <p>According to the traffic impact study submitted with the application, the proposed kennel is “not expected to have any significant impact on traffic performance on Pockwock Road”.</p>
<p>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</p> <ul style="list-style-type: none"> (i) type of use; (ii) height, bulk and lot coverage of any proposed building; (iii) traffic generation, access to and egress from the site, and parking; (iv) open storage; (v) signs; and (vi) any other relevant matter of planning concern. 	<p>The development agreement includes provisions related to setbacks, buffering, landscaping, outdoor lighting, outdoor storage, signage, and the driveway system.</p> <p>In addition, the development agreement requires dogs to be inside the kennel building between 7:00 pm and 7:00 am.</p>

Policy Criteria	Staff Comment
(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 property is relatively flat and there are no watercourses in the area where the kennel use is proposed.
(e) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy P-81", 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.	Not applicable.

Attachment C
Applicable LUB Requirements

PART 2: DEFINITIONS

In this By-law the word "shall" is mandatory and not permissive. Words used in the present tense shall include the future; words used in the singular number shall include the plural and words used in the plural number shall include the singular. The word "used" shall include "intended to be used", "arranged" and "designed". All other words shall carry their customary meaning except for those defined hereinafter:

- 2.34 KENNEL means a building or structure used for the enclosure of more than two dogs which are kept for the purposes of commercial breeding or showing or for commercial boarding with or without veterinary care.

PART 13: MU-1 (MIXED USE) 1 ZONE

13.1 MU-1 USES PERMITTED

No development permit shall be issued in any MU-1 (Mixed Use) Zone except for the following:

Residential Uses

Single unit dwellings

Two unit dwellings

Boarding and rooming houses

Bed and Breakfast

Senior citizens housing

Existing mobile dwellings

Existing multiple unit dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Business uses in conjunction with permitted dwellings

Other Uses

Institutional uses, except fire and police stations

Open space uses

Commercial uses permitted in the C-2 (General Business) Zone

Trucking, landscaping, excavating and paving services

Agriculture uses

Forestry uses and wooden furniture manufacturing

Composting operations (see section 4.29)

13.2 MU-1 ZONE REQUIREMENTS: RESIDENTIAL USES

In any MU-1 Zone, no development permit shall be issued for residential uses except in conformity with the provisions of Section 11.2.

13.3 MU-1 ZONE REQUIREMENTS: OTHER USES

In any MU-1 Zone, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	29,064 square feet (2700 m ²)
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	15 feet (4.6 m)
Maximum Lot Coverage for Structures and Storage	50 per cent
Maximum Height of Main Building	35 feet (10.7 m)

13.4 OTHER REQUIREMENTS: BUSINESS AND DAY CARE USES

- (a) With the exception of outdoor display provisions, where business uses and day care facilities in conjunction with a dwelling are permitted in any MU-1 Zone, the provisions of Section 11.3 and Section 11.4 shall apply.
- (b) Outdoor display shall not be permitted:
 - (i) within 10 feet of the front lot line or within the required side yard;
 - (ii) within any yard which abuts an adjacent residential use, except where a visual barrier is provided;
 - (iii) shall not exceed 200 square feet.

13.5 OTHER REQUIREMENTS: COMMERCIAL USES

Where commercial uses are permitted in any MU-1 Zone, the following shall apply:

- (a) The gross floor area devoted to all commercial uses on any lot shall not exceed two thousand (2,000) square feet.
- (b) No open storage or outdoor display shall be permitted.
- (c) The parking lot shall be demarcated and paved or otherwise maintained with a stable surface which is treated in a manner to prevent the raising of dust and loose particles.
- (d) Except where any commercial use abuts another commercial use in an MU-1 Zone, no portion of any parking space shall be located within any required side yard.
- (e) Where any commercial use abuts another commercial use in the MU-1 Zone, the abutting side yard requirement shall be eight (8) feet.

13.6 OTHER REQUIREMENTS: AGRICULTURE USES

- (a) Notwithstanding the provisions of Section 13.3, where any barn, stable or other building intended for the keeping of more than fifty (50) domestic fowl or ten (10) other animals is erected in any MU-1 Zone, no structure shall:
 - (i) be less than fifty (50) feet from any side lot line;
 - (ii) be less than one hundred (100) feet from any dwelling or potable water supply

- except a dwelling or supply on the same lot or directly related to the agricultural use;
- (iii) be less than three hundred (300) feet from any watercourse or water body;
 - (iv) be less than five hundred (500) feet from any residential (R-1, RR-1) zone.
- (b) No more than two thousand (2,000) square feet of floor area of all structures on any lot shall be used for a retail use accessory to agriculture uses.

13.7 OTHER REQUIREMENTS: FORESTRY AND WOODEN FURNITURE MANUFACTURING

Where forestry uses and wooden furniture manufacturing are permitted in any MU-1 Zone, the following shall apply:

- (a) No more than two thousand (2,000) square feet of gross floor area of all structures on any lot shall be used for a sawmill, other industrial mill related to forestry, wooden furniture manufacturing, or retail use accessory to the above uses;
- (b) No sawmill or other industrial mill related to forestry shall be located less than fifty (50) feet from any lot line nor less than three hundred (300) feet from any dwelling except a dwelling located on the same lot or directly related to the above use;
- (c) Any area devoted to open storage shall not be permitted within any required front or side yard and shall not exceed twenty-five (25) per cent of the lot area.

13.8 OTHER REQUIREMENTS: INSTITUTIONAL USES

Where institutional uses are permitted in any MU-1 Zone, the provisions of Part 22 shall apply.

13.9 OTHER REQUIREMENTS: TRUCKING, LANDSCAPING, EXCAVATING AND PAVING SERVICES

Where trucking, landscaping, excavating and paving services are permitted in a MU-1 Zone, the following shall apply:

- (a) No development permit shall be issued for any use unless a dwelling is located on the lot.
- (b) The total gross floor area of all structures on any lot devoted to the above uses shall not exceed two thousand (2000) square feet.
- (c) No materials or mechanical equipment which is obnoxious or which creates a nuisance by virtue of noise, vibration, smell or glare shall be used on the lot.
- (d) With the exception of aggregate resources, any materials associated with the above uses shall be contained within a building or otherwise enclosed by a fence, vegetation, or other means which provide a visual and physical barrier.
- (e) Any area devoted to open storage shall not be permitted within any required front or side yard line and shall not exceed twenty-five (25) per cent of the lot area.
- (f) One off street parking space, other than that required for the dwelling shall be provided for every three hundred (300) square feet of floor area used by the above use.

- (g) No product stockpile or processing activity associated with the above uses shall be located within one hundred (100) feet of a watercourse.

13.10 EXEMPTION: EXISTING MOBILE HOME PARKS

Notwithstanding Section 13.1, Timber Trails Mobile Home Park, LIC Number 40203622, shall be a permitted use to the extent to which it is in existence on the effective date of this by-law.

13.11 EXEMPTION: EXISTING COMMERCIAL RECREATION USES

Notwithstanding Section 13.1, Woodhaven Campground, LIC Number 425389, and Pin-Hi Golf Course, LIC Number 425512, and Atlantic Playland, LIC Number 40203648 and 40203630, shall be permitted uses to the extent to which they are in existence on the effective date of this By-law.

Attachment D
Public Information Meeting Minutes

Public Information Meeting
Case 01285
July 6, 2009

In attendance: Councillor Lund
Miles Agar, Planner
Hilary Campbell, Planning Technician
Gail Harnish, Planning Services
Sharon Pelley, Applicant

Call to order/Purpose of meeting

Mr. Miles Agar called the public information meeting (PIM) to order at approximately 7:20 p.m. at the Hammonds Plains Community Hall. The purpose of tonight's meeting is: to let the public know HRM has received an application for a property on Pockwock Road known as 116 Pockwock Road, to give you background on the proposal, and to leave the floor open to receive feedback.

Proposal and Overview of planning process

Mr. Agar advised an application was received from Sharon Pelley for the property at 116 Pockwock Road. This application will consider the negotiation of a development agreement to permit a kennel, otherwise known as a dog care facility, on the property. He displayed a map showing the site and surrounding area.

Mr. Agar displayed an excerpt from the municipal planning strategy (MPS) dealing with the land use designations. The subject property is Designated Mixed Use B. That sets the framework for the application and the policy Council will ultimately have to consider. In the Mixed Use Designation there is policy for Council to consider a kennel through the development agreement process. A development agreement is a legal contract that regulates land uses or a particular land use, and it will spell out what, when, and where. Staff will look at the Charter, the MPS and the Regional Plan when reviewing the application. The decision lies with Community Council whose decision must be consistent with the guiding policy - Policy P-26A.

Mr. Agar advised outlined the criteria to be considered under Policy P-26A:

- the size and appearance of all buildings or structures related to the use are compatible with the surrounding area in terms of scale, design, materials and signage
- that limits are placed on the maximum number of dogs permitted on the property where appropriate
- that sufficient off-street parking is provided
- that all outdoor areas for dog play/socialization and waste are completely fenced and set back a minimum of 20' from any property line
- the hours of operation, including limitations on outdoor dog play/socialization

- provisions related to the collection, storage and disposal of animal waste
- the impact of the proposed development on traffic circulation and the road network
- the general maintenance of the facility
- the general considerations within the plan itself

Mr. Agar reviewed the development agreement process:

- we received an application
- we are now at the PIM
- we will do a detailed review of the application which will include circulating the application to internal and external parties
- we will prepare a report and a draft development agreement, which will be tabled with Western Region Community Council
- Community Council will decide whether or not to proceed with the application
- a public hearing is held if they proceed with the application
- Community Council will make its decision
- there is an appeal process

Mr. Agar reviewed the details of the application:

- the parcel of land is approximately 10 acres in size
- the land is zoned Mixed Use 1
- plan policy allows for the consideration of a kennel
- there is an existing dwelling on the property located towards the street
- the access to the proposed kennel is next to Civic #88
- 35-40% of the site is within a Water Service Boundary and has the potential to access municipal water
- the structure is proposed to be 50' from the closest abutting property
- it is a one storey building, 2400 sq.ft. in size
- there is some proposed outdoor play areas associated with the kennel to the side and rear
- there is a significant landscaped buffer
- the proposal contemplates maintaining most of the vegetation

Mr. Agar displayed photos of the site: looking from the street back and the site, the vegetation buffering the adjacent property, the existing dwelling and area cleared for the proposed use, and the back area of the buffer.

Questions and comments

Mr. Roger MacDonald indicated he was concerned about noise. There are dogs down the road which bark every time a vehicle with a siren goes by.

Ms. Joyce Evans stated there is a need for this service. Her daughter volunteered a lot at Pampered Paws (Wendy's) where they often have to turn people away. There is a need for a second facility. She had been hoping her son's dog could stay at Wendy's for a week in August but she's full.

Mr. Raymond Lambert said he had the same concern in terms of the noise from barking. He could hear dogs from his house barking at Civic #88 which is a neighbouring property to this one. He could hear them very clearly at all hours of the night. Originally he thought it was the same person applying but he found out tonight it is a different property. With Station 50 there, it is quite busy and every time they leave the station, the dogs howl. Sound travels. The barking is very loud.

Ms. Sharon Pelley advised the hours of operation are going to be from 7 a.m. to 7 p.m.. There will be an attendant ratio of one attendant for every eight dogs, so at no time will the dogs be left alone inside or outside. After 7 p.m. there will not be any dogs outside except for pee breaks. The last pee break for any dogs staying overnight will probably be at 9 or 10 p.m. No dogs will be left outside unless it is an emergency. There will be an attendant with them at all times.

Mr. MacDonald questioned how many dogs she was proposing to have at the site.

Ms. Pelley responded she was looking at forty but it would depend upon what is approved by HRM.

Mr. MacDonald asked if the buildings would be insulated.

Ms. Pelley responded yes. Outside, the dogs will be contained in an area with a 6' chain link fence. There will be three different play areas inside and outside, so the high energy dogs will be together, the toy breeds will have their own place, and seniors will have their own place.

Mr. Agar advised one of the policy criteria to be considered by Council is the number of dogs. We will be looking at feedback from other departments to figure out what will be a reasonable number of dogs based on things such as the size of the lot and the proximity to adjacent properties. The number of dogs will be addressed in the development agreement, as well as the fence and setback requirements and hours of operation. The applicant is proposing 7 a.m. to 7 p.m. That will be further negotiated and a recommendation will be brought forward to Community Council.

Ms. Pelley noted those hours were set to facilitate people wanting to drop off dogs on their way to work and on their way home.

Ms. Kathleen Corkum commented the dogs they could hear were hers. They would not hear them much past 11 o'clock at night. They would hear them as sirens go by. If the dogs are bothering people, they should come tell her. The barking generally only lasts for thirty seconds.

Ms. Pelley pointed out Ms. Corkum has a different breed of dogs which are probably more prone to howl. She had dogs at her house and people do not hear them but they do not react the same way to sirens.

Ms. Corkum noted there is construction next door to her and people in and out but the dogs do not make a peep. It is the sirens that make them bark, and for a period of about ten to fifteen

minutes they will bark when they are fed because they are excited. She brought her dogs in at night.

Ms. Pelley commented she had two different types of dogs and they did not pay attention to sirens. Some dogs will bark when they are dropped off and picked up because they are excited.

Mr. Lambert indicated he wanted to make the point that sound travels.

An individual commented that if the building is insulated and the dogs are not outside after 7 p.m. at night, he did not see any problem with the proposal.

Ms. Anne Marie Evans said it was her experience from working at dog kennels, that dogs only bark if the doorbell rings and somebody comes in, if they see something outside they want to see, or if another dog is in their face.

Mr. Agar advised it typically takes four to five months for the report to move forward following the PIM, so there will be a little bit of time for people to ask questions and provide comments between now and then. Also, there will be a public hearing held by Community Council, at which time members of the public can provide input. The report tabled with Community Council will include a draft development agreement.

Councillor Lund asked if there would be written notification of the public hearing.

Mr. Agar advised the public hearing would be advertised in the newspaper. In addition, there would be notification sent to those in the notification area plus to the people who sign the attendance sheet tonight. We did expand the notification area to a larger area than we typically do because of the large property.

The meeting adjourned at approximately 7:45 p.m.