



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 10.1.2
Halifax and West Community Council
June 24, 2015

TO: Chair and Members of Halifax and West Community Council
Original Signed

SUBMITTED BY: _____
Bob Bjerke, Chief Planner and Director of Planning and Development

DATE: June 9, 2015

SUBJECT: **Case 18120: MPS and LUB Amendments for 348 Purcell's Cove Road, Halifax**

ORIGIN

- Application by Sunrose Land Use Consulting
- October 29, 2013 Regional Council initiation of the MPS amendment process

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council recommend that Halifax Regional Council:

1. Refuse the request to amend the Halifax Municipal Planning Strategy (MPS) and Halifax Mainland Land Use By-law (LUB) to permit existing buildings and land uses (single unit dwelling, office of a professional person and accessory buildings) at 348 Purcell's Cove Road, Halifax.

EXECUTIVE SUMMARY

A request has been submitted for site-specific amendments to the Halifax Municipal Planning Strategy (MPS) and Halifax Mainland Land Use By-law (LUB) for properties located at 348 Purcell's Cove Road, Halifax (Map 1). The purpose of this request is to authorize an existing single unit dwelling, an office of a professional person (former dental office) and accessory buildings, which were constructed without permits and with disregard for the LUB and development agreement requirements, to remain in their current locations on the subject properties. This application was submitted in response to a 2008 LUB compliance case which has been dealt with in Provincial Court, resulting in the payment of a fine. However, there continues to be various issues of non-compliance with the LUB and the development agreement.

The proposal involves three properties, one of which is a water lot owned by the Halifax Port Authority over which the dwelling was partly built, and also has implications for an HRM-owned walkway parcel located between the properties for which the applicant is requesting an easement.

Proposed MPS/LUB amendments (Attachments A and B, Alternative 1) have been drafted which would allow for the proposal. These amendments are not recommended, as the subject properties are similar to other properties in the area and do not contain features which would have prevented the placement of structures and land uses in conformance with the LUB and the development agreement.

Regional Council could consider and approve the MPS and LUB amendments to allow for the requested proposal, as outlined in Alternative 1. Regional Council could also explore other alternatives, such as one which would result in the properties becoming more compliant with the existing development agreement and LUB in terms of the use of the buildings. Such alternatives will require the drafting of new amendments that would be included in a supplementary staff report.

BACKGROUND

Sunrose Land Use Consulting, on behalf of the property owner Paulette Jensen, has submitted an application for a site-specific amendment to the Halifax Municipal Planning Strategy (MPS) and Halifax Mainland Land Use By-law (LUB) to authorize a single unit dwelling, an office of a professional person (former dental office) and accessory buildings at 348 Purcell's Cove Road, Halifax (Maps 1, 2 and 3). The purpose of this request is to allow several existing buildings and land uses that were established with disregard for municipal land use by-law requirements and the terms of a development agreement, including setbacks from the Northwest Arm and other property boundaries.

This application was submitted in response to a 2008 land use by-law compliance case (#92162). The case was taken to Provincial Court for a trial date in March of 2012. However, prior to the trial, the property owner plead guilty to one charge (of allowing a building that is less than 8 feet from the rear lot line) and, subsequently, paid a fine of \$8,000.00 on July 17, 2012. While dental office has been discontinued, there continues to be various issues of non-compliance with the LUB which are proposed by the owner to be resolved through amendments to the MPS and LUB (Attachments A and B). Further legal action is in abeyance pending the result of this application.

Site Description and Surrounding Land Uses

Site Description

The area under discussion consists of three properties as shown on Maps 1, 2, 3 and Attachment C. Two are owned by Paulette Jensen and the third, a water lot, is owned by the Halifax Port Authority (HPA). These properties are:

- Lot G1, which has a total area of approximately 53,000 square feet, a total street frontage of 75 feet and contains a three-storey building that resembles a house but which has been occupied by a former dental office ("office of a professional person"), two detached garages and a well;
- Lot G2, which has a total area of approximately 5,300 square feet, has water frontage on the Northwest Arm and contains a residential dwelling, shed and on-site sewage disposal system for lots G1 and G2; and
- A post-confederation water lot, owned by the HPA, which has a total area of approximately 2.9 acres and within which a portion of the dwelling and dock are located. The HPA and Paulette Jensen entered into a three-year license agreement on April 1, 2012 to allow for the existing dwelling and deck overhang and concrete piles within the water lot. On April 1, 2015, Paulette Jensen entered into a new license agreement with the HPA for an additional three years.

Additionally, HRM owns a narrow parcel of land which separates lots G1 and G2 and which is intended to be developed as a public pathway but which has not been fully constructed nor maintained for this purpose.

Surrounding Land Uses

The surrounding area is mainly comprised of low-density residential uses, as shown on Map 1. The Royal N.S. Yacht Squadron is located along Purcell's Cove Road to the southeast.

Designation and Zoning

The subject site, 348 Purcell's Cove Road, is located within the Mainland South Secondary Planning Strategy (Section X) of the MPS, which was adopted in 1987, and is regulated by the Halifax Mainland LUB (Maps 1 and 2, Attachment D). The following policy and regulatory context applies:

- the site is designated Low Density Residential (LDR), which is intended to support primarily single unit residential development with some neighbourhood commercial uses;
- lots G1 and G2 are zoned H (Holding Zone), which allows for single unit dwellings with on-site sewage disposal and water services; and
- the water lot is zoned WA (Water Access), which allows for wharves and docks, but does not permit buildings other than publicly owned facilities.

Lot and Development History

Original Subdivisions

Lots G1 and G2 were approved by the former Halifax City Council in August of 1975 as part of a larger subdivision carried out by Pinecrest Realities Limited (lots A1 to G1 and A2 to G2), as partially shown on Maps 1 and 2. Percolation tests were carried out by the Department of Public Health on the larger, roadside lots (A1 to G1) which abut Purcell's Cove Road, in order to assess their suitability for the installation of on-site sewage disposal systems. The waterside lots were much smaller in area than the roadside lots and were not intended to be occupied with residential dwellings and, therefore, were not assessed for their suitability to contain on-site sewage disposal systems. The waterside lots and the larger roadside lots are separated by a proposed public pathway which was deeded to the former City of Halifax as a condition of subdivision approval to satisfy part of the parkland dedication requirements.

1982 Development Agreement

In late 1982, the former City of Halifax and Dr. Gene Jensen entered into a development agreement to allow a single unit dwelling and accessory uses on lot G1 and a non-habitable boathouse and storage shed on lot G2 (Attachment E). The development agreement process was required at the time for the development of lots which were not serviced with central sewer and water services. The original

development agreement application was revised to account for two storage sheds which were being built without permits on the waterside lot (G2). In response, Dr. Jensen was fined for failing to obtain permits. The staff report to the former Halifax City Council at that time indicated that the sheds would be relocated to an area near the proposed dwelling site on lot G1 once construction began on the non-habitable boathouse. The development agreement did not allow for a dwelling on lot G2, and required that the future dwelling (on lot G1) meet LUB requirements including setbacks from property lines. It also required the approval of other government departments before any municipal permits would be granted. The development agreement did not include an expiry date, which was common at the time, and is, therefore, still in force and effect.

Land Use and Building Issues

After the development agreement was registered in 1982, the existing buildings were constructed without permits and with disregard to its requirements and those of the LUB. Attachment F details these issues as they relate to the LUB requirements. Issues of non-compliance with both the development agreement and LUB are summarized as follows:

- A single unit dwelling (instead of a non-habitable boathouse permitted by the development agreement) was built overhanging the Northwest Arm, over the high water mark, instead of being set back from it. The dwelling now lies within the WA (Water Access) Zone, which does not permit any dwellings or other buildings;
- The dwelling is located on a lot which does not contain public street frontage nor does it contain both on-site sewage disposal and water services on the same lot;
- An “office of a professional person”¹ use (dentist/ orthodontist) is located within an accessory building instead of within the main dwelling;
- Three accessory buildings (including the “office of a professional person”) are located on an adjacent lot, separate from that of the dwelling, instead of on the same lot as the dwelling;
- Two of the accessory buildings (including the “office of a professional person”) are located too close to side and rear property lines; and
- The accessory building which contained the dental/ professional office exceeds, and is approximately double, the permitted building height requirement.

In addition to the above issues, there are also various encroachments into the HRM-owned public pathway. These include the disposal system pipes constructed beneath the HRM-owned public pathway (which was discussed in the original staff report in 1982), an underground water line (from the well) and existing steps, deck and fence encroachments into the easement.

Municipal Permits and Other Approvals

There is no record of municipal Development or Construction permits for the dwelling, dental office or detached garages/sheds. The applicant has submitted preliminary engineering reports with regards to the structural adequacy of buildings and the on-site sewage disposal system (Attachment G), which would require further investigation in the event that Regional Council approves the proposed MPS/LUB amendments. However, the applicant has not provided any approvals from other government departments or agencies, with the exception of the HPA.

Proposal

The application is to create site-specific MPS policies and LUB allowances in order to allow the existing buildings and uses, including the stand-alone professional office use, to remain as-is on the site (Map 3).

¹ The Holding (H) Zone permits the office of a professional person located in the dwelling house used by such professional person as his private residence. The term “professional person” is defined by the LUB and includes a dentist.

Staff has prepared MPS and LUB amendments (Attachments A and B) to allow for this proposal for Regional Council's consideration.

Process

It is important to note that, if Regional Council approves the proposed MPS and LUB amendments, then additional information will be required from the applicant and additional process steps will be necessary prior to the existing buildings and land uses being authorized. At this time, it is not known whether these approvals will be granted and how long the process will take to obtain them. These include:

- Municipal permit applications, which will be required in order to ensure compliance with building code and other requirements. The existing buildings may have to be altered at the expense of the owner in order to conform to these requirements;
- The approval of other government agencies, including but not limited to the ongoing licensing through the HPA, will be required prior to the issuance of any municipal permits;
- The discharge of the existing development agreement on the site, as the policy used to establish it no longer exists and the existing development does not comply with it; and
- The granting of easements for the encroachments into the public pathway noted above by HRM.

DISCUSSION

MPS Amendment Process

Amendments to an MPS are generally not considered unless it can be shown that circumstances have changed since the document was adopted to the extent that the original land use policy is no longer appropriate. Site specific MPS amendment requests, in particular, require significant justification to be considered.

Applicant's Justification for Amendments

To support the request to amend the MPS and LUB in this case, the applicant has prepared a written submission, which is included as Attachment G to this report. The following is a brief summary of the applicant's rationale for the proposed amendments:

- The site has unique topographical features. A detailed environmental analysis was conducted during site development which found that grades and soil conditions, particularly a steep shale cliff, were not suitable for building a residential home on lot G1, so the accessory building on lot G2 was converted into a dwelling;
- It was not practical to locate the dental office ("office of a professional person") on lot G2 within the dwelling, as patients would find it difficult to navigate stairs and cross the fenced HRM walkway, so it was located within a separate building on lot G1;
- On-site sewage disposal services received approval from the appropriate agencies at the time of their installation;
- Buildings and services on the properties have been well built and maintained over approximately 30 years. Building architecture compliments the shoreline and blends with the landscape;
- In some cases in HRM, certain land uses and existing buildings have been "grandfathered" by the MPS and LUB that applies to a particular site. This is a reasonable solution in this case; and
- The property owner plead guilty to a LUB offence in Provincial Court and paid a fine to conclude that process. This application has been made to resolve the property's MPS and LUB issues.

Staff Evaluation of the Proposal

In considering approval of amendments to the MPS and LUB, Regional Council may wish to take into account the following:

- there has been a longstanding use of the property and buildings as a dwelling and dental office, despite being unauthorized, without seemingly creating conflict with neighbouring land uses;
- there are instances in HRM in which the LUB allows accessory buildings to contain home occupations instead of being contained within the dwelling; and
- there are instances in HRM in which the LUB allows accessory buildings to be located on a lot which abuts or is adjacent to that of the main dwelling.

While recognizing the merits described above, there is not sufficient justification to warrant a site-specific amendment to the MPS and LUB for the subject lands. It would be reasonable to conclude that the applicant was aware of municipal requirements prior to construction due to the original establishment of a development agreement on the site in 1982 and the enforcement issues at that time related to the unauthorized construction of two sheds. In addition to past events, staff also note:

- The subject site is similar to other properties in the immediate area. There are no apparent site features which make the properties unique and, therefore, different from surrounding properties which conform with the MPS and LUB. There is no readily apparent reason why a dwelling and other buildings could not have been located on the site in compliance with the development agreement and zoning requirements;
- The applicant's submission contains no documentation, detailed environmental analysis, or approvals from other agencies to confirm its assertion that the buildings and septic tank/field had to be situated in their current locations. Additionally, if site conditions warranted such, the owner could have applied for an amendment to the agreement or sought some other form of approval from the former City of Halifax at the time;
- Had the dwelling been located on lot G1, pursuant to the approved development agreement, then the dental office could have been located within it, thus meeting the intent of the agreement and zoning requirements; and
- Historically, the "grandfathering" of existing land uses and buildings occurs when there is a proposed change in regulations and the longstanding use or building was legally permitted at the time of its construction. That is not the case here, as the buildings were constructed without required permits. Amending the MPS and LUB to authorize illegal development should be carefully considered by Regional Council, as doing so could demonstrate to others in similar situations that this approach is a viable alternative to compliance with HRM by-laws.

Proposed MPS and LUB Amendments (Alternative 1)

The above notwithstanding, Regional Council has the authority to establish its own planning policy in support of the applicant's proposal. To enable this course of action, amendments to both the MPS and LUB have been prepared (Attachments A and B). These amendments have been customized for the subject properties so that the new regulations match the existing situation, with restrictions put in place to prohibit additional floor area and minimize the potential for expansions to the existing dwelling and building containing the professional office.

Modified Proposal (Alternative 2)

Although staff do not recommend any amendments and the applicant proposes the amendments that are identified as Alternative 1 be approved, Regional Council could consider and approve alternative MPS and LUB amendments to those outlined as Alternative 1. One such alternative would be to allow the buildings to remain in their current locations but require that the dental office building be converted into a single family dwelling and the existing dwelling on the Northwest Arm on Lot G2 be converted into a non-habitable boathouse, as was originally envisioned by the development agreement. This scenario would

result in the properties becoming more compliant with the existing development agreement and LUB in terms of the use of the buildings.

Such an alternative will require the drafting of new amendments that would be included in a supplementary staff report. While this alternative has not been requested by the applicant and would require extensive renovations, it would provide a compromise that would avoid costly building relocations or demolition while, at the same time, achieving a greater level of compliance with the development agreement.

Conclusion

There are no site characteristics or unique circumstances that have been identified by the applicant that would warrant amending the MPS and LUB. Considering past events, including the entering into of the original development agreement in 1982 and the initial fine for not obtaining municipal permits for sheds at that time, it would be reasonable to conclude that the property owner was aware of the requirement to apply for municipal permits and other approvals prior to building construction. Regardless of the time period which has lapsed, the failure to apply for permits and comply with the development agreement and municipal requirements shows a disregard for municipal requirements, on more than one occasion, which should not be supported by amendments to the MPS and LUB. Therefore, staff recommends that Regional Council refuse to amend the Halifax MPS and LUB to permit the existing land uses and buildings at 348 Purcell's Cove Road to remain as they currently exist.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2015/2016 operating budget for C310 Planning & Applications.

COMMUNITY ENGAGEMENT

The community engagement process undertaken for this application 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 January 13, 2014. Notices of the meeting were posted on the HRM website, in the newspaper, and mailed to property owners within the notification area (Map 4). The minutes from the meeting are found in Attachment H.

Prior to considering the approval of any MPS amendments, Regional Council must hold a public hearing. Should Regional Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, individual property owners within the notification area will be advised of the public hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposed MPS and LUB amendments will potentially impact local property owners.

ENVIRONMENTAL IMPLICATIONS

The proposed amendments (Attachments A and B) to enable the proposal are inconsistent with the applicable environmental policies of the MPS related to building setbacks and land uses along the shoreline of the Northwest Arm. However, they recognize only the existing buildings and land uses of the properties and do not allow for additional buildings or uses.

ALTERNATIVES

1. The Halifax and West Community Council could recommend that Halifax Regional Council:
 - a. Give First Reading to consider the proposed amendments to the Halifax Municipal Planning Strategy (MPS) and the Halifax Mainland Land Use By-law (LUB) as set out in Attachments A and B of this report and schedule a public hearing; and
 - b. Approve the proposed amendments to the Halifax MPS and the Halifax Mainland LUB, as contained in Attachments A and B of this report. A decision of Regional Council to approve or refuse potential amendments is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.
2. The Halifax and West Community Council could recommend that Halifax Regional Council modify the proposed amendments to the MPS for Halifax and the LUB for Halifax Mainland, as contained in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications and amendments is required as well as a supplementary staff report. This should be done prior to "First Reading", as any substantive amendments following it may require another public hearing to be held before approval is granted. A decision of Regional Council to approve or refuse the proposed amendments is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1	Generalized Future Land Use Map
Map 2	Zoning
Map 3	Excerpt of Surveyor's Location Certificate
Map 4	Area of Notification
Attachment A	Proposed Amendments to the Halifax MPS
Attachment B	Proposed Amendments to the Halifax Mainland LUB
Attachment C	Photos of 348 Purcell's Cove Road, Halifax
Attachment D	Relevant Excerpts from the Halifax MPS and Mainland LUB
Attachment E	Existing Development Agreement and Staff Report from 1982
Attachment F	Table of Land Use and Building Issues
Attachment G	Submission by Sunrose Land Use Consulting
Attachment H	Minutes from Public Information Meeting

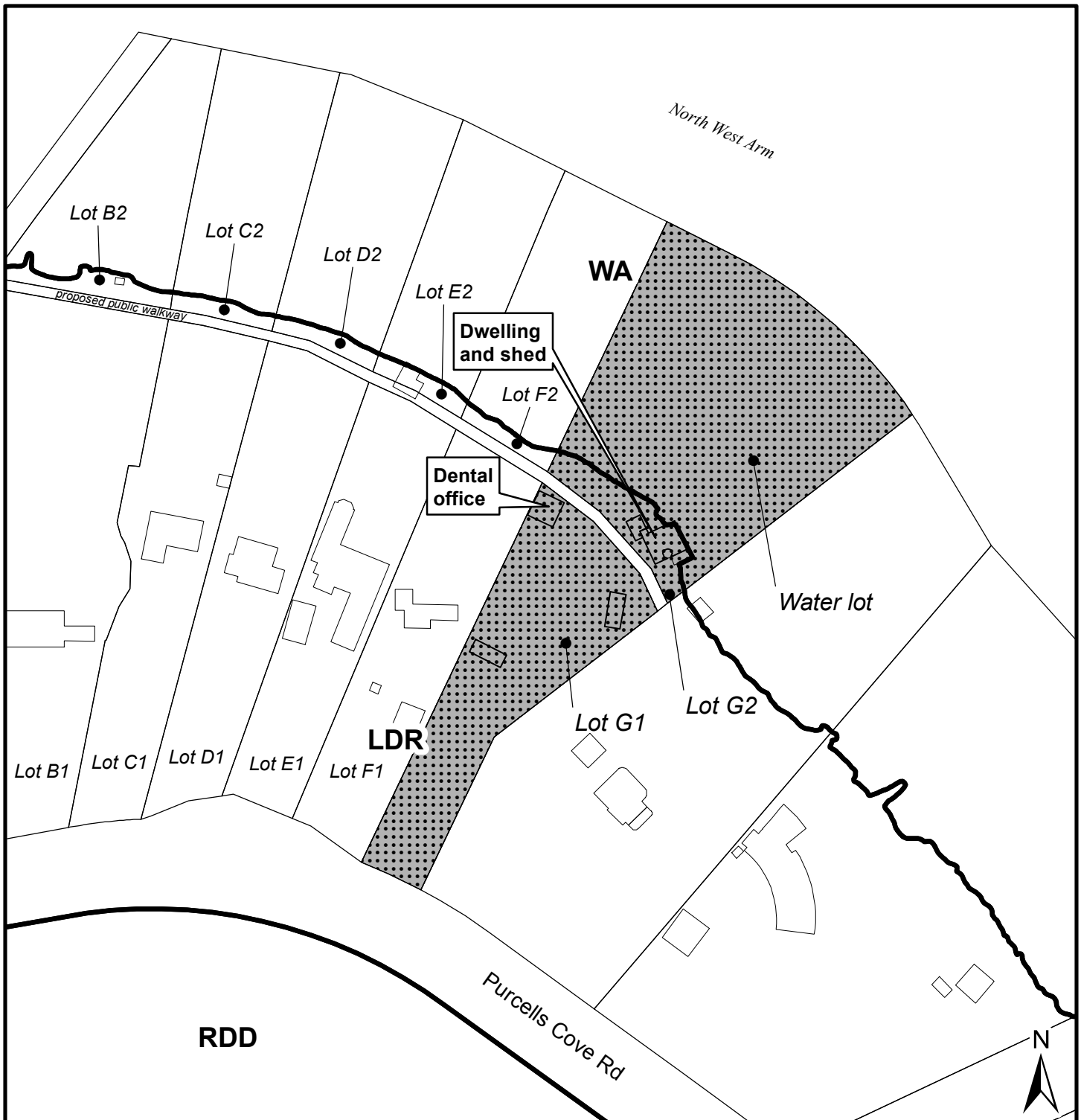
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

Report Prepared by: Paul Sampson, LPP, Planner, 902-490-6259

Original Signed

Report Approved by:

Kelly Denty, Manager Development Approvals, 902-490-4800



Map 1 - Generalized Future Land Use

348 Purcell's Cove Road
Halifax

HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS

 Subject area

0 20 40 60 m

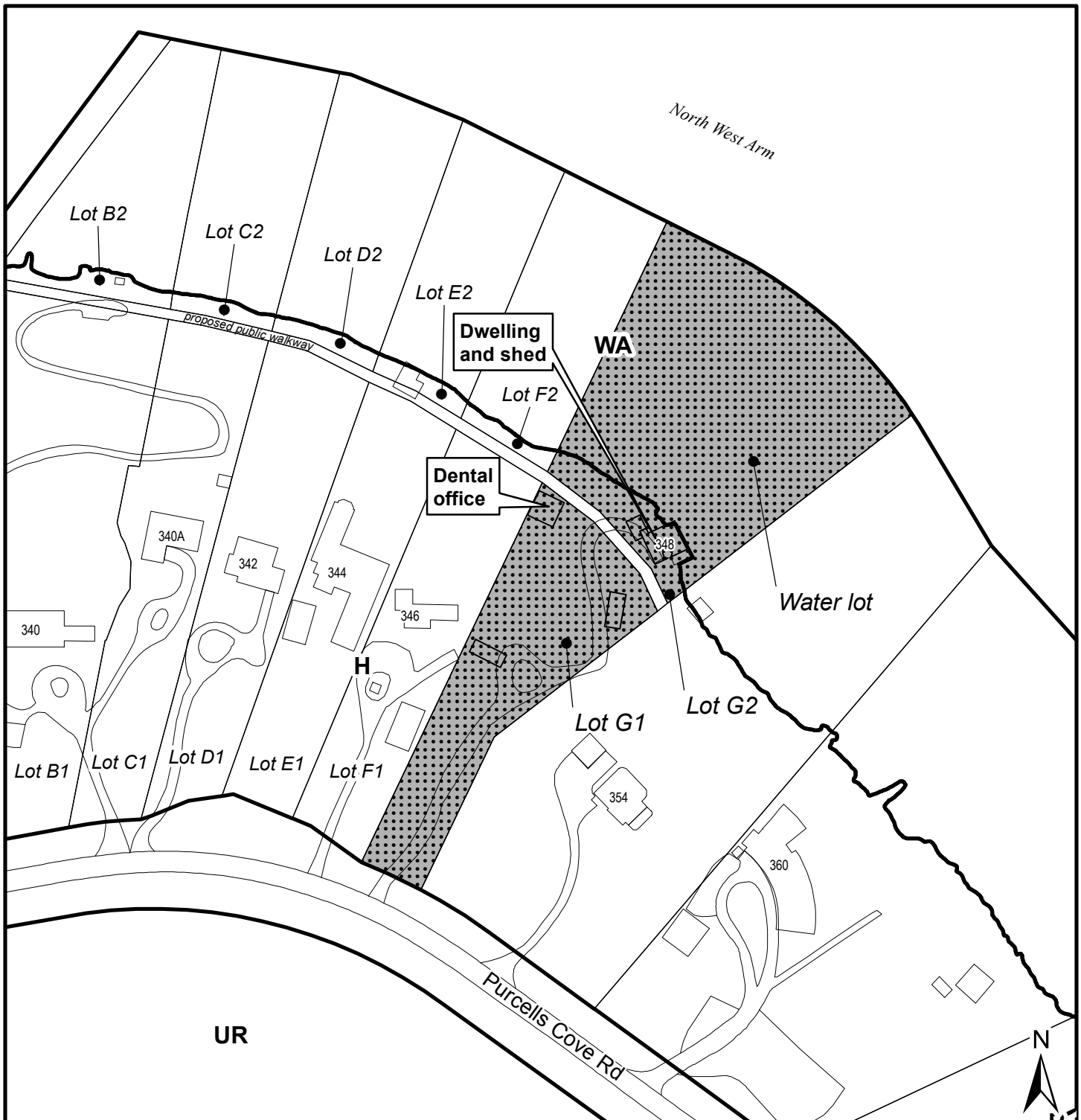
Halifax Plan Area
Mainland South Secondary Plan Area

Designation

LDR Low Density Residential
RDD Residential Development District
WA Water Access

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

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



Map 2 - Zoning

348 Purcell's Cove Road
Halifax

 Subject area

Halifax Mainland
Land Use By-Law Area

Zone

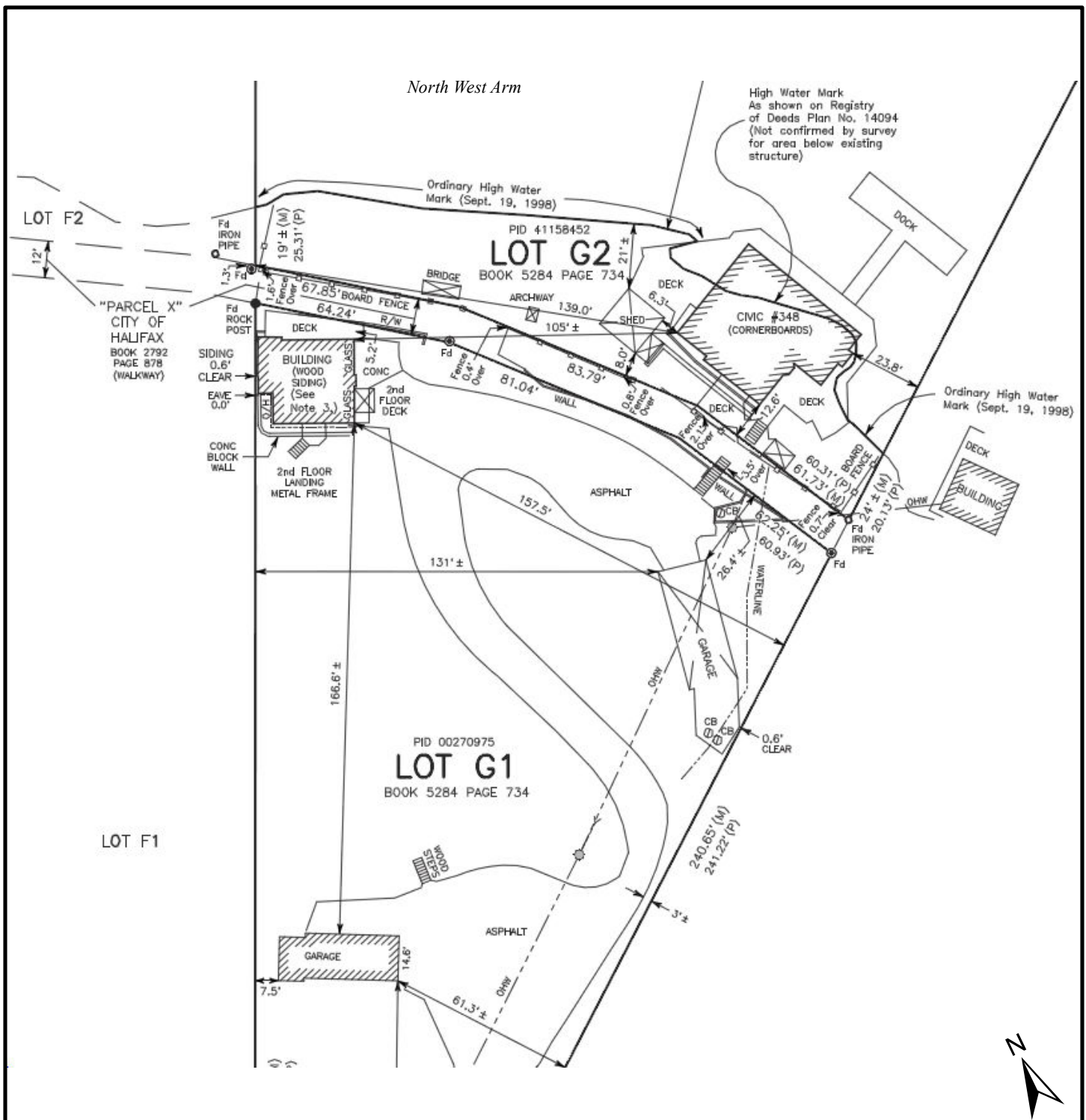
R-1 Single Family Dwelling
H Holding
UR Urban Reserve
WA Water Access

HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS

0 20 40 60 m

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

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



Map 3 - Excerpt of Surveyor's Location Certificate

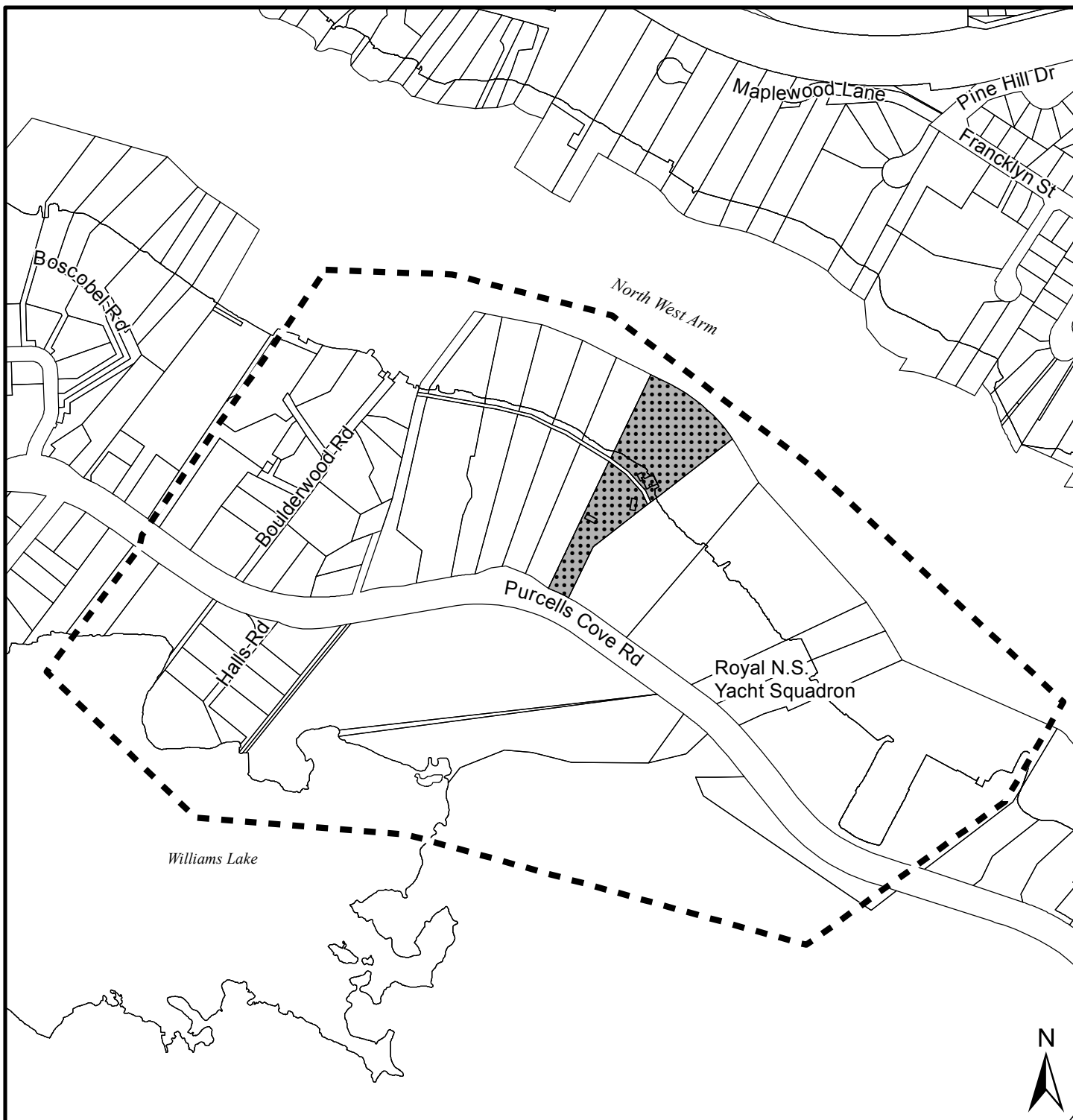
348 Purcell's Cove Road
Halifax

Plan shown is a portion of a location certificate dated February 4, 2010 and revised January 4, 2011
Certified to Gene Jensen by Carl K. Hartlen, NSLS

Halifax Mainland
Land Use By-Law Area

HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS

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



Map 4 - Area of Notification

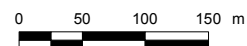
348 Purcell's Cove Road
Halifax



Subject area

Halifax Mainland
Land Use By-Law Area

HALIFAX



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

ATTACHMENT A

Proposed Amendments to the Municipal Planning Strategy for Halifax

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Halifax is hereby amended as follows:

1. By adding Policies 1.2.12 and 1.2.12.1 to Section X, Part 1 (Residential Environments), immediately following Policy 1.2.11, as follows:

1.2.12 For the properties at 348 Purcell's Cove Road (PID #00270975, 41158452 and 00633511), in order to recognize the longstanding land uses and existing building locations and sizes, the Halifax Mainland Land Use By-law shall be amended to permit the existing uses and buildings to remain at their present locations as of the effective date of this provision, notwithstanding that building setbacks and other By-law requirements may not be met, subject to the following:

- a) A dwelling and an accessory building shall be permitted on Lot G2 (PID #41158452) and a portion of a water lot (PID #00633511) in their existing locations;
- b) On Lot G1 (PID #00270975), one existing accessory building shall be permitted to contain the office of a professional person who resides on lot G2 and shall be permitted at a height of three storeys. Two additional existing accessory buildings shall be permitted in their existing locations;
- c) No additions to existing buildings which would increase the floor area nor any new buildings shall be permitted on any lot, with the exception of accessory buildings on Lot G1 which do not contain the office of a professional person; and
- d) Nothing shall prevent repairs and renovations to or the replacement of any existing building.

1.2.12.1 The provisions of Policy 1.2.12 shall not exempt the existing buildings from any associated approvals from agencies which may be necessary in order to obtain development and construction permits for the existing buildings.

I HEREBY CERTIFY that the amendments to the Halifax Municipal Planning Strategy, as set out above, were duly passed by a majority vote of the Halifax Regional Council at a meeting held on the ____ day of _____, 2015.

GIVEN under the hand of the Clerk and the
Corporate Seal of the Halifax Regional
Municipality this ____ day of _____,
2015.

Municipal Clerk

ATTACHMENT B

Proposed Amendments to the Halifax Mainland Land Use By-law (LUB)

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland as adopted by Regional Council on the 11th day of May, 1978, and approved by the Minister of Municipal Affairs on the 11th day of August, 1978, which includes all amendments thereto which have been adopted by the Halifax Regional Municipality and are in effect as of the [insert date of 'appeal date'] is hereby further amended as follows:

1. By adding a new Zoning Map, **ZM-27**, as presented on Schedule A;
2. By adding subsection **61(5)** to the H (Holding) Zone as follows:

"348 PURCELL'S COVE ROAD"

61(5) Notwithstanding the definitions of "accessory building" and "accessory use" in sections 2, sections 14A, 14C, and 14U, clauses 21 (a), (b), (ba), (e), (f) and (g)) and subsections 61(1), 61(2), 61(3), 61(4), for those properties known as Lots G1, G2 and a portion of a water lot located at 348 Purcell's Cove Road, Halifax (PID #00270975, 41158452 and 00633511) and shown on Map ZM-27, the following shall apply:

- (a) An existing single family dwelling and an accessory building shall be permitted on Lot G2 (PID #41158452) and a portion of a water lot (PID #00633511) as shown on Map ZM-27. No additions to the single family dwelling building or the accessory building which would increase the floor area on Lot G2 shall be permitted. No new buildings on Lot G2 shall be permitted. However, nothing in this clause shall prevent repairs and renovations to or the replacement of buildings that existed on the effective date of this provision on Lot G2;
- (b) (i) An accessory building existing on the effective date of this provision and located in the northern corner of Lot G1 (PID #00270975) shall be permitted:
 - (A) to contain the office of a professional person whose private residence is the dwelling located on Lot G2,
 - (B) at a height of a maximum of three storeys and a maximum of thirty (30) feet and
 - (C) to have a minimum setback of zero (0) feet from a side or rear property line, as shown on Map ZM-27.
- (ii) The accessory building in the northern corner of Lot G1 shall not be occupied at any time as a dwelling.
- (iii) No additions to the accessory building in the northern corner of Lot G1 which would increase the floor area of this building or increase the existing height of this building shall be permitted.

- (iv) However, nothing in this clause shall prevent repairs and renovations to or the replacement of the accessory building in the northern corner of Lot G1;
- (c) An existing accessory building located on the eastern side of Lot G1 (PID #00270975) shall be permitted to have a minimum setback of zero (0) feet from a side or rear property line, as shown on Map ZM-27. Additions to this building shall comply with clause 21(f) and shall have a maximum height of fourteen (14) feet;
- (d) The southernmost accessory building on Lot G1 shall be permitted to expand, subject to compliance with clause 21(f) and subject to a maximum height of fourteen (14) feet;
- (e) New accessory buildings on Lot G1 which are accessory to the dwelling located on Lot G2 shall comply with the requirements of Section 21 and shall have a maximum height of fourteen (14) feet; and
- (f) The provisions of clauses 61(5) (a), (b),(c),(d) (e) and subsection 62EE (7) shall not exempt the existing buildings from any associated approvals from any agency or government which may be necessary in order to obtain municipal permits for the existing buildings.”

3. By adding subsection **62EE (7)** to the WA (Water Access) Zone as follows:

“348 PURCELL’S COVE ROAD

62EE (7) Notwithstanding subsections 62EE(1),(2),(3)(4), section 14U and pursuant to subsection 61(5), an existing single family dwelling shall be permitted on a portion of a water lot (PID #00633511) as shown on Map ZM-27.

I HEREBY CERTIFY that the amendments to the Land Use By-law for Halifax Mainland, as set out above, were duly passed by a majority vote of the Halifax Regional Council at a meeting held on the ____ day of _____, 2015.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2015.

Municipal Clerk

**HALIFAX**Halifax Mainland
Land Use By-Law Area

31 October 2014

Attachment C – Photos of 348 Purcell's Cove Road, Halifax



Professional Office on Lot G1



Dwelling on Lot G2 (from dock)

Attachment C – Photos of 348 Purcell's Cove Road, Halifax



Garage on Lot G1 (upper portion)

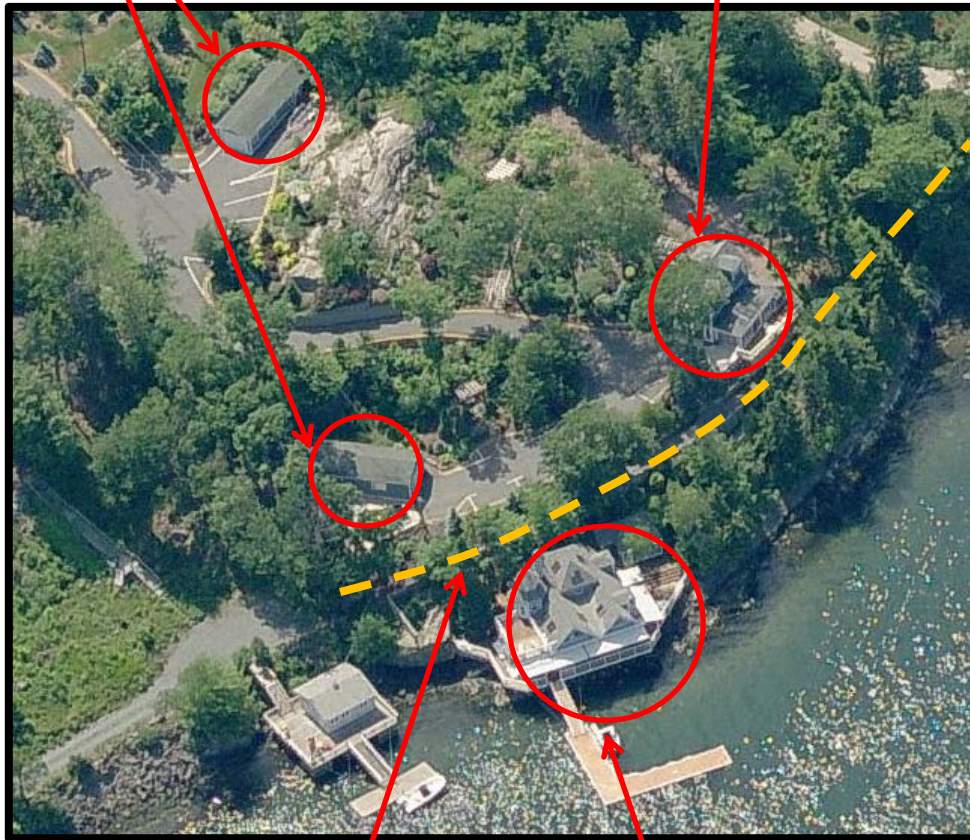


Garage on Lot G1 (lower portion)

Attachment C – Photos of 348 Purcell's Cove Road, Halifax

Garages

Professional Office



Approximate location
of HRM Property

Dwelling

Attachment D
Relevant Excerpts from the Halifax MPS and Mainland LUB

HALIFAX MUNICIPAL PLANNING STRATEGY

SECTION II - CITY-WIDE OBJECTIVES AND POLICIES

2. RESIDENTIAL ENVIRONMENTS

- 2.1 Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.
- 2.1.4 In accordance with Policy 2.1.3, the City shall permit only limited development with on-site services in that portion of the Mainland South area indicated on Map 1 and this shall be accomplished by Implementation Policy 3.6.
- 2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.
- 2.4.2 In residential neighbourhoods alternative specialized housing such as special care homes; commercial uses such as daycare centres and home occupations; municipal recreation facilities such as parks; and community facilities such as churches shall be permitted. Regulations may be established in the land use by-law to control the intensity of such uses to ensure compatibility to surrounding residential neighbourhoods.

SECTION X - MAINLAND SOUTH SECONDARY PLANNING STRATEGY

1. RESIDENTIAL ENVIRONMENTS

- 1.2 In areas designated "Low-Density Residential" on the Generalized Future Land Use Map, which are predominantly single-family dwellings in character, residential development consisting of detached (single-family) dwellings shall be permitted, and neighbourhood commercial uses may be permitted pursuant to Policies 2.1.1 and 2.1.2 of this Plan.
- 1.2.2 In areas designated "Low-Density Residential" on the Generalized Future Land Use Map, which are unserved by municipal sewer and/or water, the City may permit detached, single-family dwellings with individual on-site sewer and water services.

- 1.6 The City shall maintain zoning regulations which encourage stability and maintenance of the prevalent character and integrity of residential neighbourhoods.

4. RECREATIONAL

- 4.4 The City shall continue to seek public access to the Northwest Arm from and including the Edmonds Grounds to the City limits at Purcell's Cove. Such access may include pedestrian or limited vehicular access, and consist of existing and future parks, streets and other public land and rights-of-way. Continuous access along the Arm shall be a priority. However, exceptions to this may be considered based upon detailed consideration of site conditions and the acceptability of alternative means of maintaining a continuous open space system in accordance with Policy 4.6.
- 4.5 Pursuant to Policy 4.4, the City shall continue to seek control of portions of the pathway fronting on the Northwest Arm through acquisition or dedication of land as part of the land subdivision process.
- 4.6 The City shall develop a strategy for and seek to establish a continuous passive or active recreational open space system in the Mainland South area; such a system would include public parks, walkways, nature trails and water-oriented activities. The principal components of such a system shall be located adjacent to or in association with the Northwest Arm and shoreline, Williams Lake, Colbart Lake, Long Lake, Kidston Lake, and McIntosh Run.

IMPLEMENTATION POLICIES

- 3.6 In accordance with Section II, Policy 2.1.4 the City shall establish a holding zone to be in effect at least until such time as the detailed area plan for Mainland South is adopted and approved as an amendment to this Plan.

LAND USE BY-LAW FOR HALIFAX MAINLAND

DEFINITIONS

2. In this by-law:

"Accessory Building" means a detached subordinate building not exceeding one storey and 14 feet in height, not used for human habitation, located on the same lot as the main building, structure or use to which it is accessory, the use of which is naturally or customarily incidental and complementary to the main use of the land, building or structure;

"Accessory Use" means a use that is normally incidental, subordinate and exclusively devoted to a principal use and located on the same lot therewith;

WATER/SEWER EXCEPTIONS

- 14A No development permit shall be issued unless the proposed development is on a city sewer or water system, provided however, that this section shall not apply to:
- (a) developments within a holding zone or WC zone on lots which abut the existing public street network;
 - (b) the replacement by a similar use, or the repair of a building which is not on city sewer and water but conforms in every other respect to the land use by-law;
 - (c) additions which do not result in a change in use or increase in the number of dwelling units;
 - (d) accessory buildings.
 - (e) developments within an I-3 Zone, located outside the Development Boundary identified on Map II, Appendix "C" of the Halifax-Dartmouth Metropolitan Regional Plan.
 - (f) Repealed
 - (g) R-1 and R-2 uses on lots which abut the existing public street network for the area designated "Residential Environments" for the area of Kearney Lake west of the Bicentennial highway.
 - (h) **a development within an Urban Reserve (UR) Zone. (RC-Jun 25/14;E-Oct 18/14)**

REDUCED LOT SIZE

- 14C Notwithstanding any section of this by-law, in the case of lots existing prior to the date of adoption of this section, the lot size and lot frontage requirements shall be reduced to **3,000 square feet and 30 feet**, respectively, for single family residential uses.

DEVELOPMENT AND SUBDIVISION ON THE NORTHWEST ARM AND THE WESTERN SHORE OF THE BEDFORD BASIN (RC-Jan 11/11;E-Mar 12/11)

- 14U **For any development or subdivision within the Northwest Arm Water Access Area or the Bedford Basin Water Access Area, in addition to all other applicable requirements of this By-law, the following requirements shall apply:**

- (a) **Definitions:**
 - (i) **“Boathouse” means a building or structure, whether permanent or temporary, which is located on a waterfront lot, which is roofed, which does not contain toilet, bathroom, kitchen or sleeping facilities and which is used for the shelter or storage of boats, watercrafts and associated marine accessories and equipment, but not for the accommodation of persons, animals, or vehicles as defined by the Motor Vehicle Act.**

- (ii) **“Gazebo” means a freestanding, roofed accessory building or structure, which is not enclosed, which does not contain toilet, bathroom, kitchen or sleeping facilities, and which is not used for the accommodation of animals or vehicles as defined by the Motor Vehicle Act.**
 - (iii) **“Shoreline” means the Ordinary High Water Mark as defined under the Nova Scotia Land Surveyors Regulations and as it existed on the effective date of this Section.**
 - (iv) **“Water Lot” means any part or parcel of land located seaward of the Shoreline as illustrated on Map 9 the Generalized Future Land Use Map for the Halifax Plan Area.**
 - (b) In addition to all other applicable requirements of this by-law:**
 - (i) **No structure, with the exception of boathouses, public works and utilities, ferry terminal facilities, a multi-use trail system and associated facilities, parks on public lands, wharves, docks, gazebos, municipal, provincial and national historic sites and monuments, and existing structures may be located within 9 metres (30 feet) of the Shoreline within the Water Access Zone.**
 - (ii) **Where boathouses and gazebos are to be located within 9 metres (30 feet) of the Shoreline within the Water Access Zone, they shall be limited to one boathouse and one gazebo per lot and each structure may have a maximum area of 121.92 square metres (400 square feet), a maximum width of 6 metres (20 feet) on the side that is most parallel to the Shoreline, a maximum depth of 7.8 metres (26 feet), a minimum roof pitch of 5/12 and a maximum height of 4.2 metres (14 feet);**
 - (c) Notwithstanding Subsection (b), the 9-metre (30-foot) Northwest Arm Shoreline setback shall not apply to the properties identified by the following P.I.D. numbers: 00251868 (leased to the Armdale Yacht Club), 00274548 and 00270942 (Royal Nova Scotia Yacht Squadron).**
 - (d) No portion of a water lot shall:**
 - (i) **be included within the calculation of the minimum setback required by clause (b)(I);**
 - (ii) **be included within the calculation of the minimum lot area requirements of this by-law; and,**
 - (iii) **have frontage on any street not opened for vehicular use as of January 1, 2010.**
 - (e) The requirements of this Section shall continue to apply to water lots following any subsequent consolidation with abutting land lots.**
- 17(e) Where the boundary line of a use zone is coincident with a shoreline, the boundary line will follow any change in the shoreline.
- 17(h) **Notwithstanding Subsection 17(e), the boundary of the WA Zone is deemed to coincide with the Shoreline of the Northwest Arm or the Western Shoreline of the Bedford Basin. (RC-Jan 11/11;E-Mar 12/11)**

R-1 ZONE - SINGLE FAMILY DWELLING ZONE

REQUIREMENTS

- 21 Buildings erected, altered or used for R-1 uses in an R-1 Zone shall comply with the following requirements:
- (a) lot frontage minimum: 50 feet except when a lot faces on the outer side of a curve in the street, in which case the min. frontage may be reduced to 30 feet
 - (b) lot area minimum: 5,000 square feet
 - (ba) Notwithstanding clause (b), the minimum lot area, for lots abutting an inland watercourse in the "**Mainland South Area**", shall be 6,000 square feet;
 - (c) lot coverage maximum 35 percent
 - (ca) height maximum 35 feet
 - (d) floor coverage of living 950 square feet space, minimum
 - (e) every building shall be at least 12 feet from any other building and at least 8 feet from the rear and both side lines of the lot on which it is situated and at least 20 feet from any street line in front of such building

ACCESSORY BUILDINGS

- (f) notwithstanding the provisions of clause (e), a carport or a detached or attached non-commercial garage may be located not less than 4 feet from the rear and both side lines of the lot on which it is situated and shall be located 8 feet from any other building
- (g) notwithstanding the provisions of clause (f), any accessory building shall not require any side or rear yard nor any setback from any other building if such building is located entirely within the rear yard of the lot on which such building is located; provided, however, that such accessory building shall not be closer than 15 feet to any street line.

H ZONE - HOLDING ZONE

- 61(1) The following uses shall be permitted in any H Zone:
- (a) a detached one-family dwelling, provided that on-site sewage disposal and water services are provided on the lot on which the dwelling is proposed to be located;
 - (b) a public park or playground;
 - (c) a public recreational centre, provided that sewer and water service connections for the centre are made to the existing city services;
 - (d) the office of a professional person located in the dwelling house used by such professional person as his private residence;
 - (e) any use, other than a privy, accessory to any of the uses in (a), (b), (c) and (d).

- 61(2) No person shall in any H Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 61(3) No person shall in any H Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

REQUIREMENTS FOR SFD IN HOLDING ZONE

- 61(4) Buildings erected, altered or used as single family residences in a Holding Zone shall comply with the "Single Family Dwelling Zone" requirements as contained in Section 21(a) and (c) through (h) inclusive of this by-law.

WA (WATER ACCESS) ZONE (RC-Jan 11/11;E-Mar 12/11)

- 62EE (1) The following uses shall be permitted in any WA Zone:**
- (a) wharves and docks;**
 - (b) municipal, provincial and national historic sites and monuments;**
 - (c) passive recreation uses; and,**
 - (d) public works and utilities.**
- 62EE (2) No person shall in any WA Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsections (1), (5) or (6).**
- 62EE (3) No person shall in any WA Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsections (1), (5) or (6).**
- 62EE (4) No person shall in any WA Zone construct or erect a building, with the exception of public works, public utilities, a multi-use trail system and associated facilities and ferry terminal facilities, on a wharf, on pillars, on piles, or on any other type of structural support located on or over a water lot.**

NORTHWEST ARM

- 62EE (5) Ferry Terminal Facilities shall be permitted within the Northwest Arm Water Access Zone.**

WESTERN SHORE OF THE BEDFORD BASIN

- 62EE (6) A multi-use trail system and associated parking facilities shall be permitted within the Western Shore of the Bedford Basin Water Access Zone.**

Attachment E
Existing Development Agreement and Staff Report from 1982

51407

273

1982

THIS AGREEMENT made this *25th* day of *November*,

BETWEEN:

DR. GENE JENSEN, of Halifax, County of
Halifax and Province of Nova Scotia
(Hereinafter called the "Developer")

APPROVED
AS TO FORM

City Solicitor

OF THE ONE PART

- and -

CITY OF HALIFAX, a municipal body corporate
(Hereinafter called the "City")

OF THE OTHER PART

WHEREAS the Developer wishes to obtain permission to construct a single family dwelling and boathouse in the City, pursuant to Section 66 of the Mainland part of the Zoning Bylaw;

AND WHEREAS a condition of the granting of approval of Council is that the Developer enter into an agreement with the City;

AND WHEREAS the Council of the City, at its meeting on the 28 day of October, 1982, approved the said contract development and boathouse, subject to the registered owner of the lands described herein entering into this agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the granting by the City of the contract development requested by the Developer, the Developer agrees as follows:

1. The Developer is the registered owner of the lands known as Lots G-1 and G-2, Purcell's Cove Road, in the City of Halifax, described in Schedule "A" hereto (hereinafter called the "lands").
2. The Developer shall construct on the lands a building, which in the opinion of the Building Inspector, is substantially in conformance with Plans No. P200/11119-21 and 11582-87, filed in the City of Halifax Development Department as Case No. 4170 and shall not develop or use the lands for any other purpose than a single family dwelling, a boathouse, storage shed and accessory uses.
3. The boathouse and storage shed shall not be used as a dwelling.
4. The on-site services shall be designed and constructed in accordance with the requirements of the Nova Scotia Department of Health.
5. No building or development permits for any structure in the water lot shall be issued until approval is granted by the Federal Department of Transport.
6. The dwelling shall be located in accordance with siting requirements of the Zoning Bylaw.

7. Notwithstanding any other provision of this agreement, the Developer shall not undertake or carry out any development on the lands which does not comply with all City of Halifax laws, including, without restricting the generality of the foregoing, the Building Code Ordinance and the Fire Prevention Ordinance, and no permit shall be issued for any such development.

8. The City shall issue the necessary permits for the development upon the expiration of the thirty (30) day appeal period under Section 35 of the Planning Act, Stats., N.S. 1969 c. 16 as the same may be amended from time to time or upon the withdrawal or dismissal of any appeal which may be taken; provided; however, that the City shall not issue any occupancy permit for the development unless and until the development specified in the plans referred to in No. 2 hereof has been completed substantially in accordance with the said plans and the requirements of this have been met.

This agreement shall be binding upon the parties hereto and their heirs, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of the day and year first above written.

SIGNED, SEALED & DELIVERED)
in the presence of)

Original Signed)

Original Signed)

Original Signed

DR. GENE JENSEN

CITY OF HALIFAX

Original Signed

Mayor

Original Signed

City Clerk

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

ON this 23rd day of November, 1982, before me, the subscriber personally came and appeared Concew Crawford subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that Dr. Gene Jensen one of the parties thereto, signed, sealed and delivered the same in her presence.

Original Signed

A Barrister of the Supreme
Court of Nova Scotia

PETER J. McDONOUGH

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

ON this 24th day of November, 1982, before me, the subscriber personally came and appeared PAM NEWTON subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that the City of Halifax, one of the parties thereto, caused the same to be executed and its Corporate Seal to be thereunto affixed by the hands of Ronald Wallace, its Mayor and Gladys Blennerhassett, its City Clerk, its duly authorized officers, in her presence.

Original Signed

A Barrister of the Supreme
Court of Nova Scotia

WAYNE AUSTEY

SCHEDULE "A"

All that certain lot, piece or parcel of land situate, lying and being in the City of Halifax, County of Halifax, Province of Nova Scotia and marked Lot G1 on "Plan Showing Lots A1 to G1 and A2 to G2 Pinecrest Realities Ltd." dated 25 Sept. 1973, revised to 26 June, 1974, and signed by R. J. Donovan, Nova Scotia Land Surveyor, said Lot G1 being more particularly described as follows:

Beginning at a point on the northeast sideline of Purcell's Cove Road at the most southerly corner of Lot F1;

Thence North twenty-five degrees fifteen minutes forty-four seconds East (N 25° 15' 44" E) along Lot F1 a distance of four hundred eighty-nine sixty-six hundredths (489.66) feet to Parcel X;

Thence South fifty-three degrees eighteen minutes eleven seconds East (S 53° 18' 11" E) along Parcel X a distance of sixty-four and twenty-four hundredths (64.24) feet;

Thence South forty-two degrees ten minutes eleven seconds East (S 42° 10' 11" E) along Parcel X a distance of eighty-one and four hundredths (81.04) feet;

Thence South twenty-seven degrees and one minute East (27° 01' E) along Parcel X sixty and ninety-three hundredths (60.93) feet to land of Morley G. Taylor;

Thence South twenty-two degrees thirty-six minutes forty-nine seconds West (S 22° 36' 49" W) along land of Morley G. Taylor a distance of two hundred forty-one twenty-two hundredths (241.22) feet;

Thence South twenty-five degrees twenty-one minutes forty-nine seconds West (S 25° 21' 49" W) along land of Morley G. Taylor a distance of one hundred ninety-five (195) feet to the Purcell's Cove Road;

Thence Northwestwardly following a curve to the left of Radius six hundred twenty-three and seven tenths (623.7) feet to a distance of seventy-five (75) feet to the point of beginning.

And Also All that certain lot, piece or parcel of land situate, lying and being in the City of Halifax, County of Halifax and Province of Nova Scotia, and marked Lot G2 on "Plan Showing Lots A1 to G1 and A2 to G2 Pinecrest Realities Ltd." dated 25 Sept. 1973, revised to 26 June, 1974, and signed by R. J. Donovan, Nova Scotia Land Surveyor, said Lot G2 being more particularly described as follows:

Beginning at a point on the high-water mark at the waters of the Northwest Arm at the northeast corner of Lot F2;

Thence Southeastwardly along said high-water mark a distance of two hundred thirty-four and sixty-eight hundredths (234.68) feet more or less, to land of Morley G. Taylor;

Thence South fifty-two degrees thirty-six minutes forty-nine seconds West (S 52° 36' 49" W) along land of Morley G. Taylor a distance of twenty and thirteen hundredths (20.13) feet to Parcel X;

Thence North twenty-seven degrees one minute West (N 27° 01' W) along Parcel X a distance of sixty and thirty-one hundredths (60.31) feet;

SCHEDULE "A" CONT'D

Thence North forty-two degrees ten minutes eleven seconds West (N 42° 10' 11" W) along Parcel X a distance of eighty-three and seventy-nine hundredths (83.79) feet;

Thence North fifty-three degrees eighteen minutes and eleven seconds West (N 53° 18' 11" W) along Parcel X a distance of sixty-seven and eighty-five hundredths (67.85) feet;

Thence North twenty-five degrees fifteen minutes forty-four seconds East (N 25° 15' 44" E) along Lot F2 a distance of twenty-five and thirty-one hundredths (25.31) feet to the point of beginning.

Together with all the right, title and interest which Pinecrest Realities Limited, the Grantor, has over a twelve foot wide right-of-way described as Lot G3 on the said plan, subject however to a conveyance by Pinecrest Realities Limited, as Grantor to the City of Halifax by deed dated the 30th day of April, 1974 and recorded in the Registry of Deeds at Halifax in Book 2792 at page 878.

And Also All that certain lot, piecer or parcel of land, situate, lying and being in the City of Halifax, County of Halifax, Province of Nova Scotia, and being the lot covered with water abutting Lot G2 as shown on "Plan Showing Lots A1 to G1 and A2 to G2 Pinecrest Realities Ltd." dated 25 Sept. 1973 and revised 26 June, 1974 and signed by R. J. Donovan, Nova Scotia Land Surveyor, said lot covered with water being more particularly described as follows:

Beginning at a point on the high-water mark of the waters of the Northwest Arm at the northeast corner of Lot F2;

Thence North twenty-five degrees fifteen minutes and forty-four seconds East (N 25° 15' 44" E) along the northward prolongation of the west boundary of Lot G2 a distance of three hundred (300) feet more or less;

Thence eastwardly and southeastwardly parallel to and distant three hundred (300) feet from said high-water mark of Lot G2 and unto the northeastward prolongation of the southeast boundary of Lot G2;

Thence South fifty-two degrees thirty-six minutes and forty-nine seconds West (S 52° 36' 49" W) along the northeastward prolongation of the southeast boundary of Lot G2 a distance of three hundred (300) feet, more or less, to said high-water mark;

Thence northwestwardly and westwardly following the various courses of the high-water mark of Lot G2 a distance of two hundred thirty-four and sixty-eight hundredths (234.68) feet, more or less, to the point of beginning.

OFFICE OF THE REGISTRAR
County of Halifax

I hereby certify that the within instrument
was recorded in the Registry of Deeds Office
at Halifax, in the County of Halifax, N.S.
at 9:41 o'clock A. M. on
the 7th day of December
A.D. 1982 in Book Number 3633
of Page 273-277.

Original Signed

Registrar of Deeds for the County of Halifax

DESCRIPTION
CHECKED

- Deputy

TO: His Worship the Mayor
and Members of Council

FROM: B. G. Smith, Acting City Manager

DATE: September 2, 1982

SUBJECT: Contract Development - Lots G-1 and G-2, Purcell's Cove Road.

APPLICATION

An application has been received for a contract development to permit the construction of a single family dwelling, a boathouse and a storage shed on unserviced Lots G-1 and G-2, Purcell's Cove Road. Lots G-1 and G-2 (approved August 14, 1975) are separated by a walkway which was deeded to the City as part of the open space dedication when the lots were approved in 1975 (see Sketches 1 and 2).

The lot presently contains two recently constructed storage sheds (joined together) which are protected by a 7 foot high wood fence with barbed wire. The sheds are wood construction, completely insulated, wired and finished inside. The applicant has stated that they will be heated and used for the storage of building materials for the boathouse and boating equipment (sails, etc.). The boathouse is proposed to be built in the same location as the sheds (see Sketch 3), following relocation of the sheds to an area near the dwelling site.

The applicant has revised the original application (for a dwelling and boathouse) to include the shed after construction of these sheds were nearly complete. As the shed and fence were constructed without building permits, the City is proceeding with prosecution under Ordinance 131, Section 1.4.

The property is located on the east side of Purcell's Cove Road, approximately 200 feet north of the Saraguay Club in an R-1 Zone and within the bounds of Schedule "D". The lot is not serviced with City sewer and water, therefore, cannot be built on as-of-right. However, as it is located within Schedule "D", Council has the authority, under Section 66 of the Zoning Bylaw, Mainland area, to permit any specific development requested, provided it is consistent with the Municipal Development Plan (MDP).

INFORMATION

At the time when Lot G-1 was approved, developments on approved lots were controlled through Regional Development Permits. The City was advised in 1975 that a Regional Development Permit would be issued for this site and that the site would be suitable for the installation of a private on-site sewer disposal system.

The lot has 75 feet of frontage on Purcell's Cove Road, 235 feet on the Northwest Arm, is approximately 500 feet deep and contains 60,300 sq.ft. The owner has already constructed the storage sheds and fence. The boathouse (2 storey) and the dwelling will be constructed in the future. The sheds will have no washroom facilities but the boathouse will, if approved by the Department of Health. Depending on the location of the septic tank and disposal field, an easement over the walkway may have to be granted by the City.

In an effort to expedite matters, staff prepared this report without knowledge of whether or not the proposed dwelling will meet the requirements of the Zoning Bylaw, if the lot will accommodate on-site services (recommended for approval in 1975 by the Department of Public Health), or if approval has been granted by the Department of Transportation and the National Harbours Board. The attached draft agreement stipulates that building and development permits will not be issued until the above items are dealt with to staff's satisfaction.

The Department of the Environment has no objections to the proposal. Although the lot is within the alignment of the proposed Arm bridge, the Province of Nova Scotia does not oppose the development, as the status of the bridge remains uncertain.

Lot G-1 is one of 7 lots A-1 to G-1, with frontage on the Purcell's Cove Road, which were formerly the Lynch Estate. Five (5) of these lots presently contain dwellings. Of these, only one (1) required Council's approval via a contract development (Case No. 3705 - approved by Council on May 17, 1979), as it was applied for after the adoption of the MDP.

COMMENTS

The proposal conforms with the MDP Residential Environments designation and the R-1 Zoning with respect to land use. It is understood that the boathouse will not be used as a dwelling or sleeping quarters and the draft contract reflects that.

With respect to services, staff is of the opinion that, in this situation, where the lot was approved prior to adoption of the MDP and present Zoning Bylaw, no new lots are being created, and where the owner will have to receive approval from the Department of Health and Environment before a building permit can be issued, approval of the proposal is warranted.

RECOMMENDATION

Therefore, it is recommended that the contract development application under Section 66 of the Zoning Bylaw, Mainland area, to permit the construction of a single family dwelling, a boathouse and a storage shed on Lots G-1 and G-2, Purcell's Cove Road, respectively, be approved by Council.

Should Council wish to entertain this request, a Public Hearing is mandatory prior to approval under Section 66 of the Zoning Bylaw, Mainland area. Attached Sketch 4 indicates a suggested area of notification for Council's consideration. Also attached for Council's information is a ~~draft~~ agreement.

GEF/jep
Attachs.
Prepared by:
G. Fleming, Sr. Planning Tech.
Approved by:
R.B. Grant, Director
Development Department

Original Signed
B. G. Smith,
Acting City Manager

Mr. B. Mizerit
1569 Dresden Row
Third Floor
B3H 2K4

BETWEEN :

OF THE ONE PART

- and -

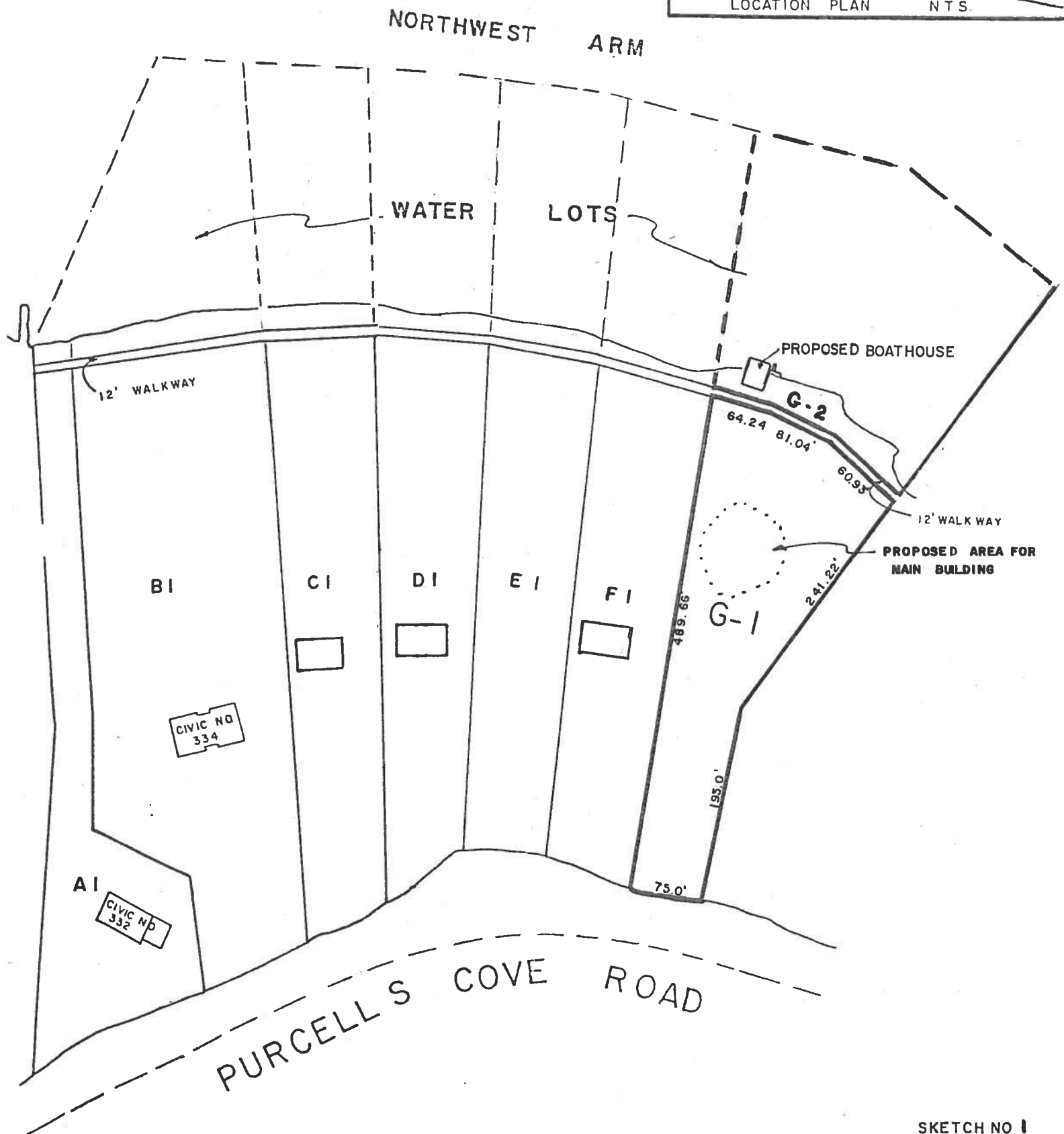
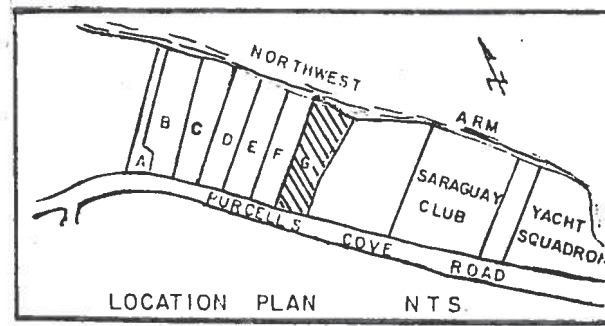
OF THE OTHER PART

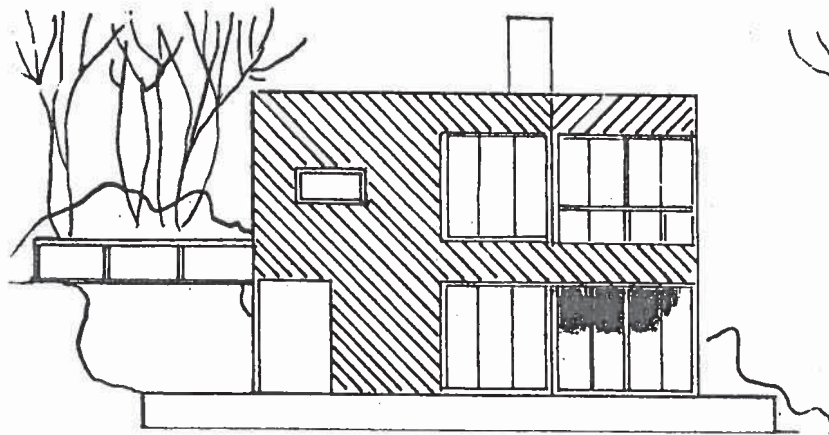
5. No building or development permits for any structure in the water lot shall be issued until approval is granted by the Federal Department of Transport.

7. Notwithstanding any other provision of this agreement, the Developer shall not undertake or carry out any development on the lands which does not comply with all City of Halifax laws, including, without restricting, the generality of the foregoing, the Building Code Ordinance and the Fire Prevention Ordinance, and no permits shall be issued for any such development.

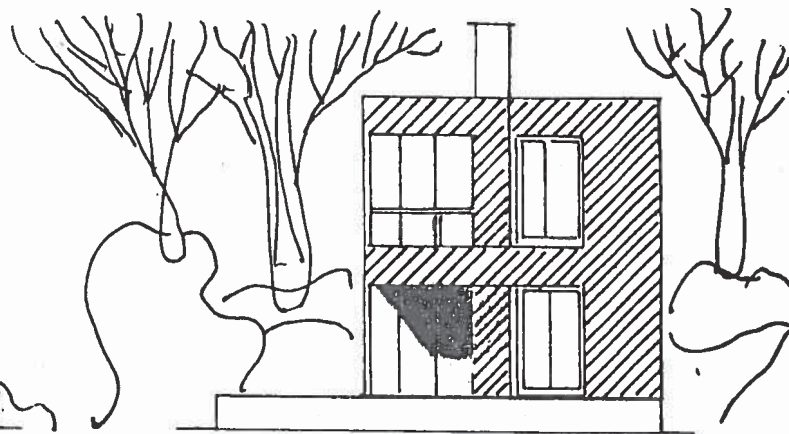
This agreement shall be binding upon the parties hereto and their heirs, successors and assigns.

SIGNED, SEALED AND DELIVERED)
in the presence of)
)
) City of Halifax
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) Dr. Gene Jensen
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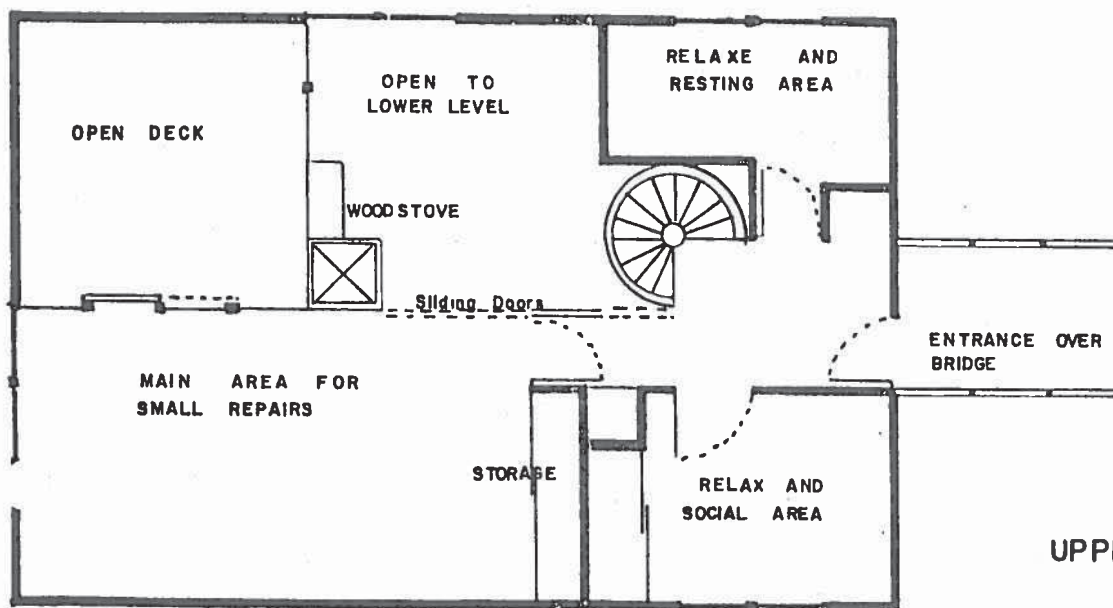




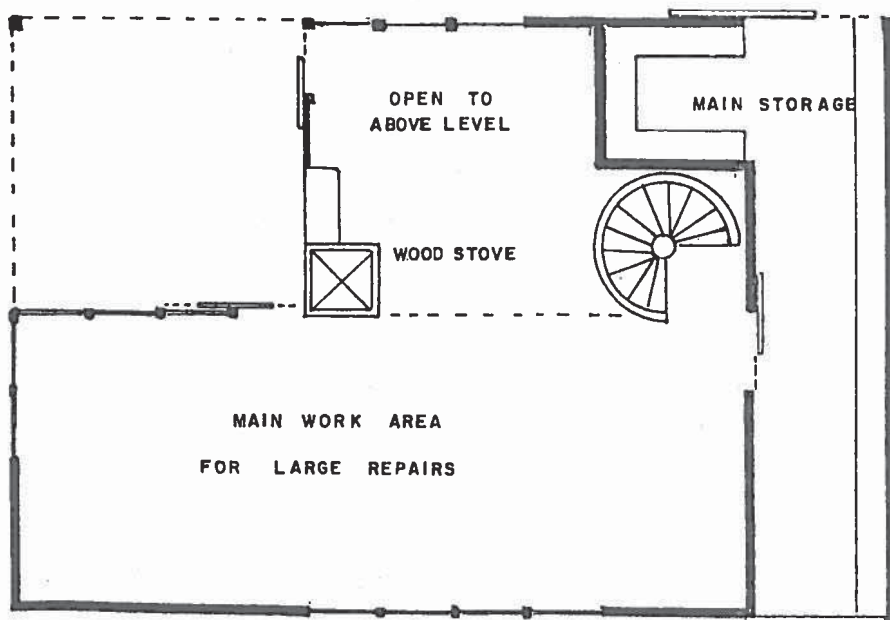
SOUTH ELEVATION



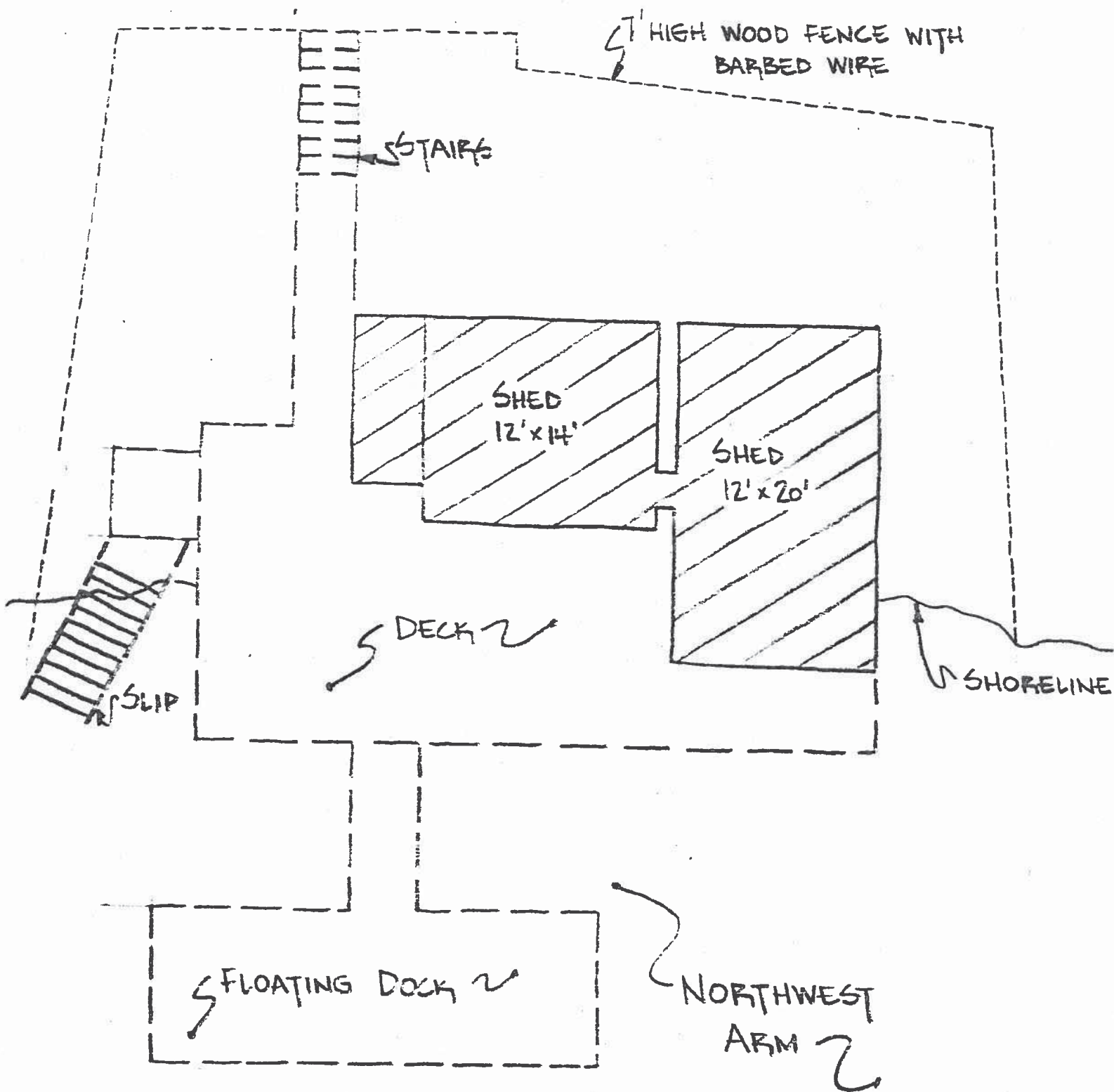
EAST ELEVATION

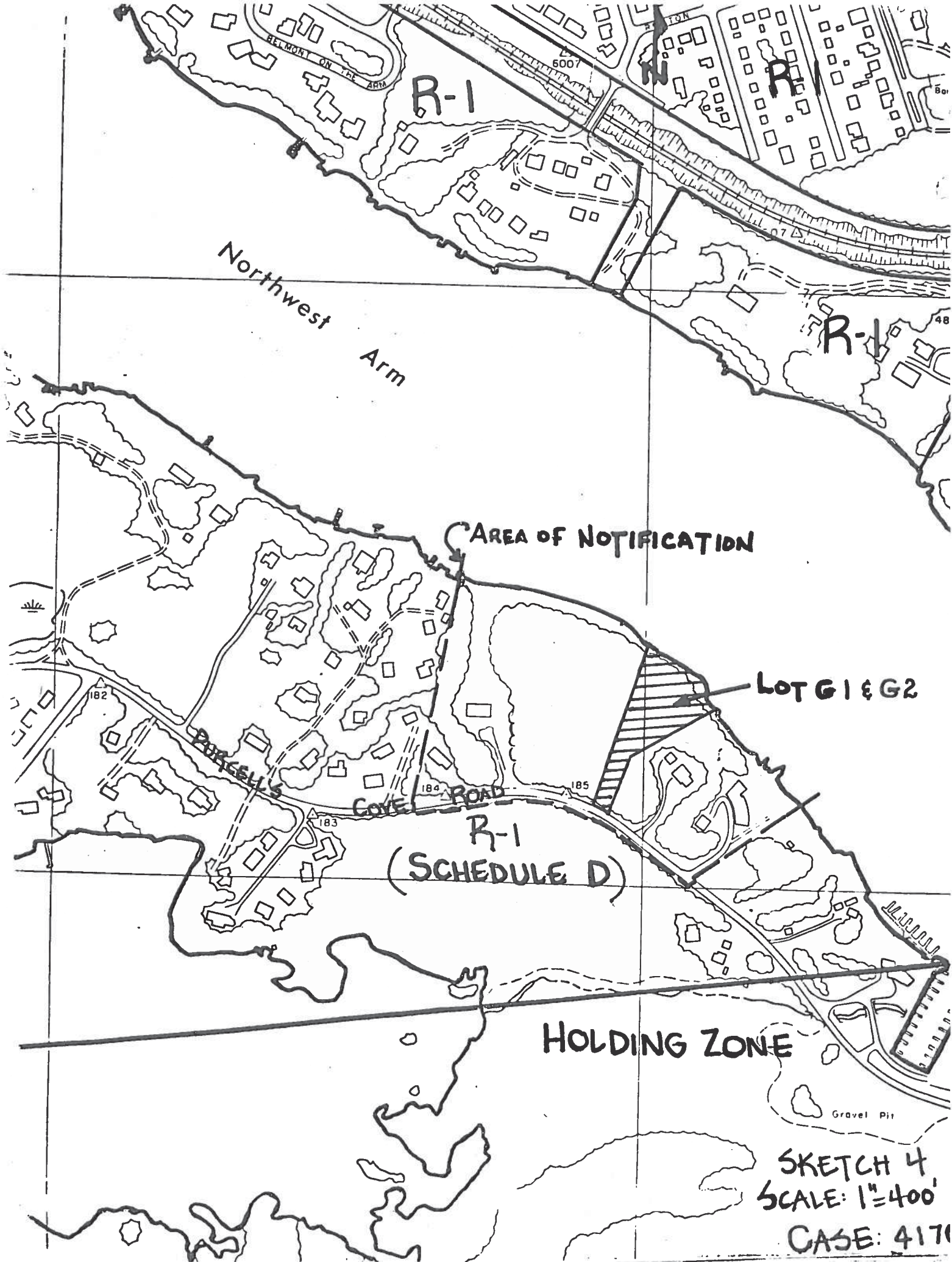


UPPER LEVEL



GROUND LEVEL





SKETCH 4
SCALE: 1"=400'
CASE: 4170

Attachment F – Table of Land Use and Building Issues

Case 18120: 348 Purcell's Cove Road

<u>Existing Situation</u>	<u>LUB Requirement</u>
Lot G1	Lot G1
An "office of a professional person" use (dentist/orthodontist) is located within an accessory building.	An "office of a professional person" use is required to be within the dwelling.
Three accessory buildings (including the "office of a professional person") are located on an adjacent lot (Lot G1) which is separate from that of the dwelling (Lot G2).	Accessory buildings are required to be located on the same lot as the dwelling.
The accessory building containing the professional office is three floors and approximately 30 feet high (above mean grade).	Accessory buildings are limited to one storey and 14 feet in height.
The accessory building containing the professional office is located 0 feet and 0.6 feet from two property lines (side and rear).	Accessory buildings are required to be located 4 feet from the side and rear property lines.
A second (easternmost) accessory building is located 0.6 feet from the side property line.	Accessory buildings are required to be located 4 feet from the side and rear property lines.
Lot G2	Lot G2
The existing single unit dwelling was built partially over the high water mark and is now within the WA (Water Access) Zone.	The WA zone does not permit any dwellings or other buildings.
The dwelling is located closer to a property line (high water mark) than permitted by the LUB. It is 0 feet from, and extends over, the high water mark.	The dwelling is required to be a minimum of 30 feet from the high water mark. However, at the time of the agreement in 1982, the requirement would have been 8 feet.
The dwelling is located on a lot which does not contain public street frontage.	All lots are required to abut a public street.
The dwelling is located on a lot which does not contain both on-site sewage disposal and water services on the same lot. Lot G2 currently contains an on-site sewage holding tank and disposal field, but the well is located on lot G1.	On-site sewage disposal and water services are required to be on the lot on which the dwelling is proposed to be located.



Attachment G

Submission by Sunrose Land Use Consulting

July 16, 2012

Paul Sampson, Planner
Halifax Regional Municipality
Western Region Office – Bayers Road
7071 Bayers Road, Suite 2005
Halifax, Nova Scotia
B3L 2C2

Dear Paul:

RE: 348 Purcell's Cove Road, Halifax (PIDs 00270975, 41158452) – Development Agreement registered as document 51401 pages 273 – 277.

On behalf of my Client, Paulette Jensen, please consider this an application for an amendment to the Halifax Municipal Planning Strategy (MPS) and Halifax Mainland Land Use By-law (LUB) to identify the land uses and structures on the above-noted properties as permitted in the current zone, the Holding (H) Zone. The two properties (Lot G1 and Lot G2) are divided by an HRM easement, but function as one residential property, (see attached survey plan).

The current uses on the properties consist of a residential dwelling and three accessory buildings, one of which formally contained a part-time dental office. The land uses and the structures have developed over time under a development agreement and some do not meet all of the requirements of the Land Use By-law. Due to the unusual 30 year history of these properties, this MPS amendment application is the most reasonable alternative for bringing the land uses and structures into compliance with current regulations.

Lot G1 (the lot with road frontage) contains three accessory buildings but no "main building" as defined in the Land Use By-law. Some of the accessory buildings do not meet current setbacks requirements. As well, one of the accessory buildings formerly contained "an office of a professional person" – a use that is permitted in the zone within a residential dwelling. In this case the office was contained within an accessory building because that is the most logical location given the site conditions. It is not practical to put an office of a professional person in the residential dwelling because the residential dwelling is situated on Lot G2 (the lot that fronts on the Northwest Arm) and would require patients to cross the fenced portion of the HRM easement and navigate stairs.

Lot G2 (the lot that fronts on the Northwest Arm) contains the residential dwelling. A portion of the dwelling overhangs the water, which has been allowed by the Port Authority, but HRM's Water Access Zone does not allow it. The HRM regulations also do not allow a dwelling on a lot that does not have street frontage. However, this is the most appropriate location for a residential dwelling because Lot G1 contains a very steep and unstable shale rock cliff that is not conducive for residential dwelling.

Because both the residence and one of the accessory buildings share the well and septic services, connections are made with piping that traverses under the HRM-owned easement. These services received approvals from appropriate agencies at the time they were installed, but today's regulations require them to be contained on the same lot that they service.

I. BACKGROUND

Paulette Jensen is the registered owner of the properties (which comprise approximately two acres). The properties are subject to a 1982 Development Agreement between Gene Jensen (Paulette's husband) and the former City of Halifax. The Development Agreement applies to two lots located at 348 Purcell's Cove Road: Lot G1 and Lot G2. Lots G1 and G2 are severed by an HRM-owned easement (also referred to as the "HRM trail" in this letter) with access to each lot provided by one driveway. The residence and the 1.5 storey accessory building are serviced with on-site well and septic systems. Some of the piping for these systems runs under the HRM trail.

When the Development Agreement was approved by Halifax City Council in 1982, detailed topographic surveys and environmental studies were not part of the required submission documents. The Development Agreement allowed for a residence and boathouse on the property; however, the plans detailing the exact placement of these structures are missing. Lot G1 has a large, very unstable, steep 91-foot-high, shale rock cliff that extends across the property north to south from one side to the other. During the development of the property, a detailed environmental analysis was commissioned and it was found that the grades and soil conditions of the property were not conducive to building a residential home on Lot G1. Options for the placement of buildings, the well and the septic system were limited. A boathouse was built on Lot G2 and later converted into a dwelling approximately 30 years ago. The dwelling has been used as a residence since its completion.

The HRM trail that divides Lots G1 and G2 ends at the southeastern edge of the property. The portion of the trail that runs through the Jensen property has been built, fenced, and maintained in a passable and safe condition by the Jensens. However, the extension of the trail that crosses five properties to the northwest consists of a neglected and dangerous residual trail that is not maintained and, in fact, in some places has fallen away into the Northwest Arm and is virtually impassable.

The buildings and services on the Jensen property have been well-built and carefully maintained for over 30 years. (See attached report on Structural Adequacy by George Brandys, P. Eng. and On-site Sewage Disposal System Assessment by Able). Considerable clean up of over 200 trees and the construction of retaining walls were required after Hurricane Juan devastated the property in 2003. The Jensens have maintained the property and the HRM trail consistently and have developed the property to a high standard, with an emphasis on safety and aesthetics that complement the surrounding area.

In 2010, HRM filed charges against the Jensens for Land Use By-law violations. That case was resolved by plea agreement in Provincial Court earlier this year. With this concluded, the Jensens wish to continue working with HRM to bring their residential property into compliance with HRM regulations.



Since the former MPS policies that enabled the Development Agreement in 1982 no longer exist and new regulations are more stringent, the properties present certain compliance challenges. Of particular note, Lot G2 does not have frontage on a public street and some buildings do not meet current setbacks. The current zone allows "an office of a professional person" in the dwelling but not in an accessory building, and the well and septic systems cross the HRM walkway, which although anticipated at the time, may need special consideration under the current LUB.

II. PROPOSAL

Several options have been considered for bringing the properties into compliance, such as: 1) create new MPS policy that would enable an amendment to the Development Agreement, 2) move the buildings to meet setbacks, or 3) create site-specific MPS policy that recognizes the unusual circumstances of the site and lists the properties as permitted in the Zone.

The first option to amend the Development Agreement would require new policy since the former policies no longer exist. However, this approach would have to consider its applicability to other residential areas similar in nature, which could involve lengthy research and public consultation.

The second option of moving the buildings to meet current setbacks would require the demolition and re-development of the buildings and infrastructure which would involve significant expense, time, effort and disturbance to the area. In this case, the adjacent lots are very large with significant tree cover with their buildings located several hundred feet away from the property lines. Setbacks are intended to provide privacy and buffers between land uses, however, in this case, there is plenty of privacy and buffer between the Jensen property and the adjacent properties. A demolition of the Jensen buildings would be a significant over-correction to the situation.

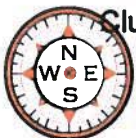
The third option is what is being requested here, which is relatively common in instances where Council chooses to allow a long-standing land use that does not meet current regulations, and is deemed appropriate and reasonable at its location.

The Jensen property, consisting of a residential dwelling, three accessory buildings and an office of a professional person, deals with residential land uses and structures that do not have negative impacts to the area in terms of land use, traffic, noise, or other land use by-law matters.

III. PLANNING RATIONALE

There are several MPS/LUBs in HRM that have used the proposed approach to allow for land uses that do not meet the requirements of the zone, but are deemed to be appropriate and reasonable at their location.

The Halifax Mainland MPS/LUB has been amended to allow exceptions for two areas along Purcell's Cove Road. The Royal Nova Scotia Yacht Squadron and Saraguay Club, (which are only one property away from the Jensen property), are exempt from



certain setback requirements. Also on Purcell's Cove Road is a Tree Works demolition company with a fleet of trucks, cars, and machinery just a few hundred metres north of the Jensen property. The LUB in this area also exempts specific properties from a minimum lot area requirement. The MPS/LUB permits an existing apartment building on Alma Crescent to exceed the maximum units specified in the LUB.

The Sackville MPS/LUB identifies specific multiple unit dwellings that are located in residential neighbourhoods and lists them as permitted in the R1 zone. The Sackville MPS/LUB also recognizes and accommodates two existing commercial uses in the residential designation and has created special MPS policy for Atlantic Gardens.

The Beaverbank/Hammonds Plains/Upper Sackville MPS/LUB recognize existing home based businesses that do not meet the requirements of their residential zone and it allows limited expansion of a non-conforming commercial operation of a printing press.

Planning Districts 1 & 3, the St. Margaret's Bay MPS/LUB, allows exceptions for an accounting business as well as a marina in Hackett's Cove.

The Preston/Lake Major MPS/LUB has an Appendix C that identifies land uses to be permitted in their zones although they do not meet the zone requirements.

IV. PLANNING CONSIDERATIONS:

Shoreline

The planning considerations that Municipalities often review in allowing a residential dwelling to be situated on the edge of the shoreline include adequacy of on-site water and sewer services, quality of architectural design, and analysis of any impact to the shoreline.

The residence on Lot G2 and the 1.5 storey accessory building on Lot G1 are both serviced with an on-site sanitary system that involves a multi-lined tank that is designed to withstand corrosion. The sewage is pumped to a septic field on the property and the tank has been pumped out on a regular basis. The system is functioning well and has been regularly maintained by a local company (Hilchie Environmental Services). At no time was there any insufficient sewage system on this property in past 30 years. The Development Agreement requires that the on-site services meet the requirements of the Department of Health, which they do. Water to the property is provided by a well, which is located on Lot G1 and meets environmental and health requirements.

The residence is well-built and structurally sound. It has been engineer-certified and is designed with a nautical theme that complements the shoreline along the Northwest Arm. One corner of the building overhangs the edge of the shoreline, but it does not impede the natural ocean currents or flow. The Jensens have secured a license from the Port Authority for the residential dwelling to overhang the water (see attached).

Frontage

Planning by-laws usually require residential dwellings to be located on properties that have public street frontage. This is to ensure that dwellings have vehicular and



pedestrian access. In this case, the driveway comes from Purcell's Cove Road, through Lot G1 and stops at the HRM trail. The residence on Lot G2 has pedestrian access from Lot G1 across the HRM trail. When the Development Agreement was approved, it was recognized that access to Lot G2 would come from Lot G1 and would have to cross the HRM trail.

Community Considerations

The Jensen properties are located in a residential area of HRM. The residence is not visible from the road nor is it visible from the adjacent properties. The residence is visible from the Northwest Arm, and its architectural design complements the shoreline and blends into the surrounding landscape. The structure meets all building codes, is safe and of the highest quality. It also fits the character of the area and is often complimented as one of the most attractive homes on the Arm.

Properties in this area are large with significant separation between neighbouring buildings. The accessory dental office is not visible from the road, does not generate noise, and involves very little traffic. There are other, more intense commercial uses in the area, including the Royal Nova Scotian Yacht Squadron, the Saraquay Club, the Tree Works company, the Purcell's Cove Road Theatre, and the Purcell's Cove Social Club.

Taxes

The Jensens have been under the impression that they owned the water lot that is a portion of Lot G2 upon which the dwelling overhangs. For over 30 years the Jensens have been paying property taxes on the water lot (see attached tax information). Recently, the Port Authority claimed that they own the water lot and in the recent months, the Port Authority granted a license to the Jensens' to continue their residential use on the water lot.

Occupancy Permit

By virtue of the Building By-Law B-201, an occupancy permit is not needed for buildings or occupancies in existence prior to April 1, 1987 as shown on the assessment roll. The residence on Lot G2 was occupied prior to 1987 (see attached assessment information). This exemption, therefore, applies to the residence on Lot G2.

V. SUMMARY

It was not known that topographical site constraints would prevent development as envisioned under the Development Agreement dated 1982. The length of time that has passed and the incomplete plans also make it difficult to determine exactly what was envisioned in 1982. We do know that amendments are required in order to bring the properties into compliance with today's regulations.

Recognizing the land uses and structures on the properties as permitted uses in the zone is a reasonable solution to the unusual circumstances. It is the appropriate solution given the Jensens' historical use of the property and the context of the surrounding area.



The residential use with an office of a professional person is consistent with the land uses permitted in the zone. The Jensens have lived on the property for the past 30 years. The added benefit of the construction and maintenance of the HRM-owned trail to a fenced walkway standard indicates the high level of care and commitment that the Jensens apply to their properties. When Hurricane Juan struck in 2003, much time, effort and resources were expended to clean up the property which had taken on the appearance of a war-zone. Their care and commitment is also evidenced by the recent resolution of the court case and by this request to Council for a constructive approach to compliance.

Please do not hesitate to contact me if you require any additional information. We thank you for your consideration to this request and look forward to hearing from you.

Sincerely:

Original Signed

Jennifer Tsang, MCIP



Sunrose LAND USE CONSULTING

June 25, 2010

REPORT ON STRUCTURAL ADEQUACY OF EXISTING BUILDINGS
JENSENS RESIDENCE – AT 348 PURCELL'S COVE RD, HALIFAX, NS

The undersigned carried out an extensive inspection of the existing buildings, including the boathouse garage, the dwelling, the accessory building and the small garage at the property entrance.

The two garage buildings are simple, wood frame, one storey structures, consisting of pre-engineered wood roof trusses, post, beam and wood stud exterior bearing walls. Foundations are round concrete column footings and grade beams. These exposed structures were checked and found to be quite adequate.

The dwelling, including a small change cabin, is a one and one half storey wood frame structure. It is supported in part by wood beams above high tide level, resting on concrete footings along the shoreline. These were built by Waterworks Construction Ltd. as shown on the enclosed drawing. At higher elevations - on land, the building is supported by conventional concrete footings. The exposed structural framing was checked and found to be safe and sound. Where the structure was not accessible, detailed visual inspection was made. This inspection did not indicate any weaknesses, which would demonstrate themselves in form of cracks, deflections, floor springiness etc. No anomalies were reported by construction personnel that worked on this building.

The accessory building is a two storey and low attic, mostly wood framed building, except for steel framed front wall, steel monorail beam at ridge, steel stairs, steel framed lower lean-to roof containing skylights and steel reinforced attic floor wood joists. The wood frame elements were checked and found more than adequate. The structural steel framing was designed and supervised during construction by Tom Parsons – a qualified structural engineer, as confirmed by his enclosed letter – please refer to the enclosed drawing's for detailed information.

CONCLUSIONS:

All four existing bldg's were thoroughly inspected visually and analyzed structurally, where appropriate. The above four bldgs were found to be more than adequate in terms of supporting the intended loading, and in compliance with the applicable building codes and safety factors. In general, both the materials and workmanship were found to be of exceptionally good quality.

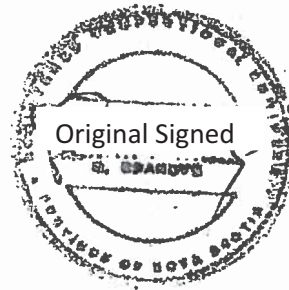
ENCLOSURES:

Accessory Bldg Page 1 to 11 incl
Dwelling Bldg Page 1 to 5 incl

Respectfully Submitted;

Original Signed

George Brandys. P. ENG
Consulting Structural Engineer





December 16, 2010

Mr. Marc Beaubien

**Re: On-Site Sewage Disposal System Assessment, Lot G2,
348 Purcell's Cove Road, Halifax, NS, PID #41158452**

Dear Mr. Beaubien,

I visited the above mentioned property on June 18, 2010 and performed a visual walk around site inspection, and provide the following comments:

The property is located on the shore of the Northwest Arm in Purcell's Cove, on a small narrow strip of land known as Lot G2, PID 41158452.

Based on owner supplied information, the septic tanks and disposal field are located entirely on Lot G2. The septic tank and pump tank are located under the existing dwelling and pump up to the existing disposal field located to the west on the narrow strip of land. (see attached sketch CSK-1)

The auxiliary building located on Lot G1 has a convenience washroom that is connected to the existing septic tank located under the existing dwelling.

Based on my visual inspection of this property the septic system appeared to be functioning with no visible signs of malfunction.

Please feel free to contact me if you have questions or concerns.

Yours truly,

Original Signed

Paul JK Kundzins, P. Eng

Cc Dr. Gene and Paulette Jensen

Attachment H – Minutes from Public Information Meeting

HALIFAX REGIONAL MUNICIPALITY Public Information Meeting - Case No. 18120

**Monday, January 13, 2014, 7:00 p.m.
Captain William Spry Centre**

STAFF IN

ATTENDANCE: Paul Sampson, Planner, HRM Planning Applications
Hilary Campbell, Planning Technician, HRM Planning Applications
Cara McFarlane, Planning Controller, HRM Planning Applications

ALSO IN

ATTENDANCE: Councillor Steve Adams, District 11
Jenifer Tsang, Sunrose Land Use Consulting

PUBLIC IN

ATTENDANCE: Approximately 5

The meeting commenced at approximately 7:00 P.M.

1. Call to Order, Purpose of Meeting – Paul Sampson

Mr. Sampson introduced himself as the HRM Planner facilitating this application through the planning process; Jenifer Tsang, Sunrose Land Use Consulting; and Councillor Steve Adams, District 11.

Case 18120 is an application to amend the Halifax Municipal Planning Strategy (MPS) and Halifax Mainland Land Use By-law (LUB) for 348 Purcells Cove Road.

The Public Information Meeting (PIM) Agenda was reviewed.

The purpose of the meeting is to give an overview of the proposal and planning process and receive feedback from the public. No decisions are made at the PIM, it is strictly an information exchange session.

2. Overview of Planning Process – Paul Sampson

The PIM will be followed by a detailed Staff review including other departments and Halifax Watershed Advisory Board (HWAB); HWAB will provide recommendation to Council, Staff will report back to Council with the comments from the PIM and with suggested possible amendments to the Halifax MPS and Halifax Mainland LUB; Regional Council will then hold a Public Hearing.

Councillor Adams – How long is the Planning process? **Mr. Sampson** said it varies, but in this case, depending on the time it takes to get approvals from other departments, could be six to eight months.

3. Presentation of Proposal – Paul Sampson

There are three properties involved. Lot G1 has road frontage on Purcell's Cove Road and contains two accessory garages and a building that has been used for dental offices in the past. Lot G2 abuts the water and contains a single unit dwelling and a shed building. The third is a water lot which is owned by the Port Authority. There is also a walkway parcel that is owned by HRM.

A number of images of the property were shown. Mr. Sampson pointed out that the walkway was never constructed. The parcel runs from the Jensens' property along six or seven properties and is owned by HRM.

The property is designated Low Density Residential under the Halifax MPS. The two properties owned by the Jensens are zoned H (Holding) Zone which allows for single family dwellings and accessory uses. The WA (Water Access) Zone is also applied to water lots.

In 1982, the property owners entered into a development agreement which allowed for a single unit dwelling and accessory uses (garages) on Lot G1 and a non-habitable boathouse on Lot G2. The proposal is to allow for MPS and LUB amendments that would permit the existing buildings and land uses (office use) to remain in place and the existing development agreement would be discharged. Regional Council could potentially grant an easement for sewage pipes which are located underneath the HRM parcel and for fence encroachments. Approvals will be needed from Provincial and Federal Departments and Agencies.

Presentation of Proposal – Jenifer Tsang, Sunrose Land Use Consulting

This property, made up of three parcels, has been in existence for 30 years and really functions as a residential property. Over the years, by-laws have changed and it became apparent that there were some violations. There was a court case between HRM and the Jensens that has been settled and now the uses have to comply. A couple of options were discussed with HRM Staff before deciding to amend the Halifax MPS and Halifax Mainland LUB. Over the 30 years, the Jensens thought they owned the water lot and in the last year, the Jensens did receive permits and approvals from the Port Authority to use the water lot. There are a number of ways to bring the various items into compliance in terms of setbacks and maybe consolidate Lots G1 and G2 by acquiring part of the HRM walkway or all of it. One lot would solve a lot of problems.

The two immediate neighbours, from their houses, cannot see these buildings so having the building close to the property lines would not be an intrusive situation.

Mr. Sampson – Regional Council initiated this process in late October, 2013. The report indicated that potentially there are Provincial and Federal Government departments that would have to grant approval. Staff will investigate and be in contact with those departments.

4. Questions and Comments

Kathleen Hall – She asked Ms. Tsang to clarify what she said about the public right-of-way. **Ms. Tsang** explained that an existing walkway, owned by HRM, extends across six properties but currently, only the portion that lies on Jensens' property is fenced and has been maintained (by the Jensens) and is passable. If Lots G1 and G2 were consolidated it would solve a lot of problems. This could be accomplished by HRM selling a portion of that walkway to the Jensens which

would allow their two properties to connect or sell all of the walkway so that it would be one large parcel. The walkway currently is not used by anyone and it terminates at one side of the Jensens' property (shown). There is no public access beyond this point. **Ms. Hall** is very familiar with the pathway as she has walked it for many years. It was made clear prior to the Jensens purchasing the property, that the walkway was to be cleared and maintained. The walkway does connect up and the public want to be able to walk along the Northwest Arm. It would be very remiss of HRM to sell any or all of that walkway because once it is gone, it's gone. Before amalgamation, the whole idea from City Planners was to have a path along there. She does not object to what the Jensens want to do, but it is very important that the walkway be maintained.

Mr. Sampson – There are sewer pipes that run beneath the walkway; therefore, an alternative would be for Regional Council to grant an easement. There is also a fence encroachment that will have to be investigated but it doesn't impede the walkway at the moment.

Gene Jensen, one of the property owners – He takes Ms. Hall's concerns seriously. He believes it should be maintained for future generations. **Ms. Hall** said that Mr. Jensen is one of the few people who have maintained the path. The property is currently and has been on the market. What happens when it sells? Staff have to be very careful about what is being proposed. She would like to see this included in the staff report. She believes this is workable, maybe a well-drafted restrictive covenant or something but there needs to be more of a process. **Mr. Sampson** will, following this meeting, look at the possibilities and make recommendation to Regional Council. Alternatives are provided to Regional Council in the Staff Report.

John Traves, HRM Solicitor and resident of the area – He would be opposed to a conveyance of a piece of the right-of-way. Ownership interests are much stronger than an easement. He believes that it was a condition of the development agreement in the first place that the right-of-way be conveyed to the City and those rights should not be eroded. That pathway should be protected for the future. He has some issues in terms of the process where a homeowner enters into a development agreement with the City, breaches it and feels that in some way HRM has an obligation to help fix that. He is opposed to the commercial use. The property has been, and is currently on the market and there would be a huge opposition from himself and the neighbourhood to a change in use to provide for professional offices or otherwise through the future. He is concerned as to whether or not the sewer septic system is sufficient. The initial Staff Report included a comment that the system was sufficient in accordance with standard requirements but if this goes forward, there needs to be a professional study done to ensure there is proper septic and sewer.

Mr. Sampson – These issues will be looked into. Some of HRM's By-laws allow for accessory buildings to be located on an adjacent lot; therefore, that may be another option.

5. Closing Comments

Mr. Sampson thanked everyone for coming and expressing their comments.

6. Adjournment

The meeting adjourned at approximately 7:30 p.m.