



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

Item No. 10.1.4
Halifax and West Community Council
September 15, 2015

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

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

DATE: August 18, 2015

SUBJECT: **Case 19690: Development Agreement Time Extension, 10 Kirk Road,
Halifax**

ORIGIN

Application by Marterra Incorporated

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Approve the proposed amending development agreement, as contained in Attachment A of this report, to allow for an extension to the dates of commencement and completion of construction for the proposed development at 10 Kirk Road, Halifax; and
2. Require the amending development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

On July 4, 2011, the former Chebucto Community Council approved a development agreement, herein referred to as the "Agreement" to allow for 10 single unit dwellings and 1 two unit dwelling to be constructed at 10 Kirk Road in Halifax. The Agreement included provisions for building placement, architectural design, protection of heritage buildings, site design and landscaping, and site access and servicing.

Site Description, Designation and Zoning

The subject property (Attachment B) includes two parcels described as follows:

- Combined lot area of 1.41 hectares (3.5 acres);
- Contains two single-unit dwellings (main house and gate house) and several accessory buildings (pool house, pool shed, boathouse, garage and 'roost');
- Surrounded by low-density residential uses;
- Registered as municipal heritage properties;
- Designated Low-Density Residential under Section X of the Mainland South Secondary Planning Strategy which forms part of the Halifax Municipal Planning Strategy (Map 1); and
- Zoned R-1 (Single Unit Dwelling) Zone under the Halifax Mainland Land Use By-law (LUB), (Map 2).

Requested Amendments

The applicant is seeking non-substantive amendments to the Agreement to allow the date for construction commencement to be extended by 2.75 years and for the completion date to be extended by 5 years. Currently, commencement was to have taken place by February 2, 2015 with construction to be completed by February 2, 2017. "Commencement" of development is defined by the Agreement as final subdivision approval, which entails lot consolidation and the detailed design, construction and installation of piped services and private driveways to individual home sites. "Completion" of development is defined as the issuance of a Construction Permit for all home sites. The extension is requested on the basis that market conditions have not been favourable to begin construction.

Process

The Agreement identifies changes to the construction commencement and completion requirements as non-substantive matters. Therefore under the provisions of the *Charter*, these matters do not require a public hearing. The decision is made by Community Council and is subject to the appeal process outlined in the *Charter*.

Enabling Policy

City-Wide heritage policy 6.8 of the Halifax MPS enables the development agreement process for registered municipal heritage properties, to consider uses of land not otherwise permitted by the LUB. This is the policy framework under which the agreement was considered and approved.

DISCUSSION

The requested amendments to the Agreement are to extend the deadlines for construction commencement to November 2, 2017 and for completion to February 2, 2022. These amendments are consistent with the relevant policies of the MPS and given that the requested changes relate only to dates, all other provisions of the Agreement will remain unchanged. Therefore, it is recommended that the dates for commencement and completion of construction be extended as outlined in the proposed amending development agreement (Attachment A).

FINANCIAL IMPLICATIONS

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved prior to approval of the original agreement through a Public Information Meeting (held on September 22, 2010) and a Public Hearing held on July 4, 2011. Given the agreement identifies construction commencement and completion as non-substantive matters, a public hearing on the proposed amendments is not required. The decision is made by resolution of Community Council. In the event council approves the proposed amending development agreement, a notice will be placed in the Chronicle Herald setting out the right to appeal.

The proposed development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amending development agreement with modifications. This may necessitate further negotiation with the applicant and the preparation of a supplementary staff report. A decision of Community Council to approve this amending development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons why the amending agreement is not reasonably consistent with the MPS. A decision of Council to refuse the proposed amending development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

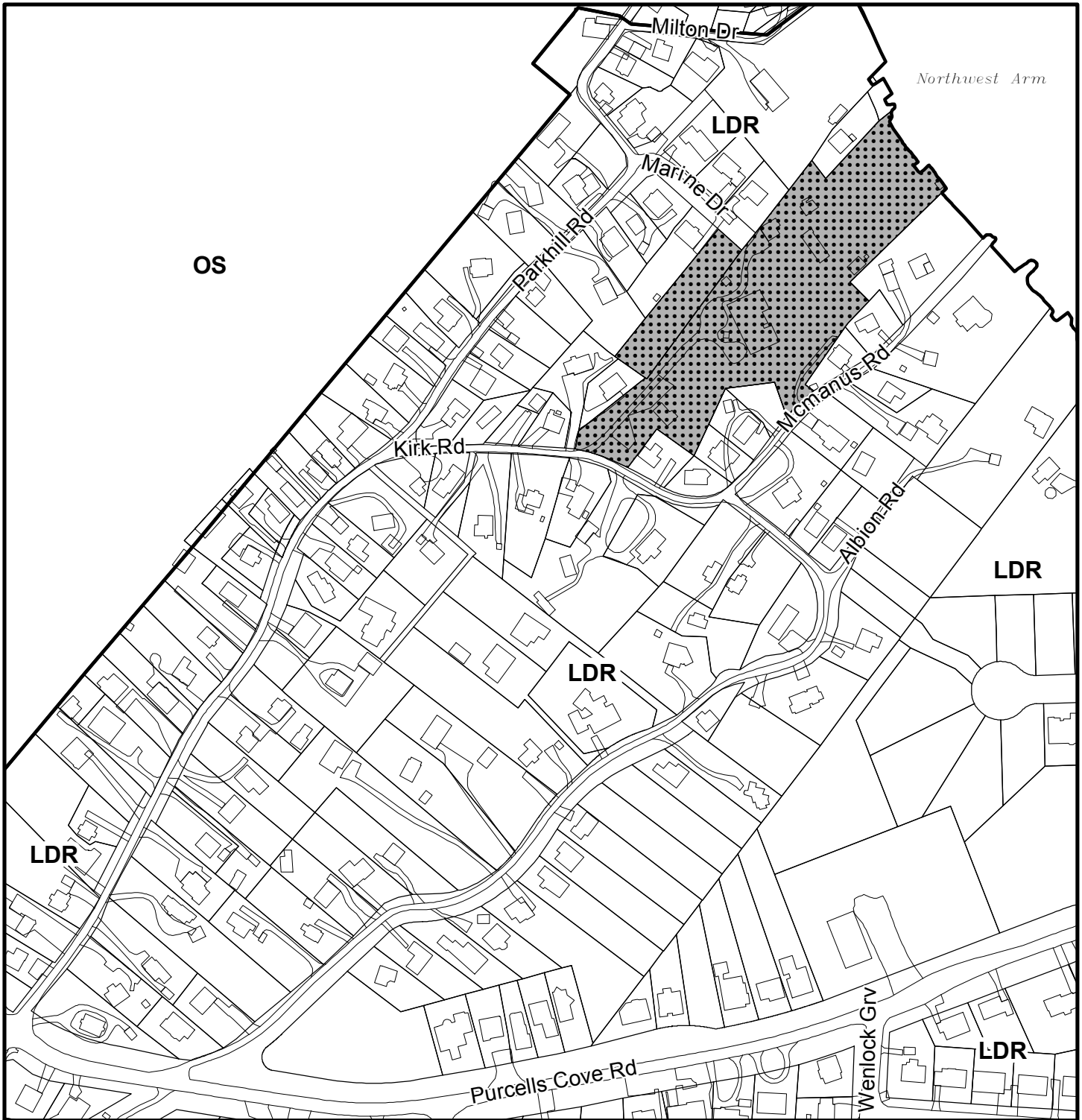
Map 1	Generalized Future Land Use
Map 2	Zoning
Attachment A	Proposed Amending Development Agreement
Attachment B	Site Plan

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 of Development Approvals, 902-490-4800



Map 1 - Generalized Future Land Use

HALIFAX

10 Kirk Road
Halifax

 Subject Site

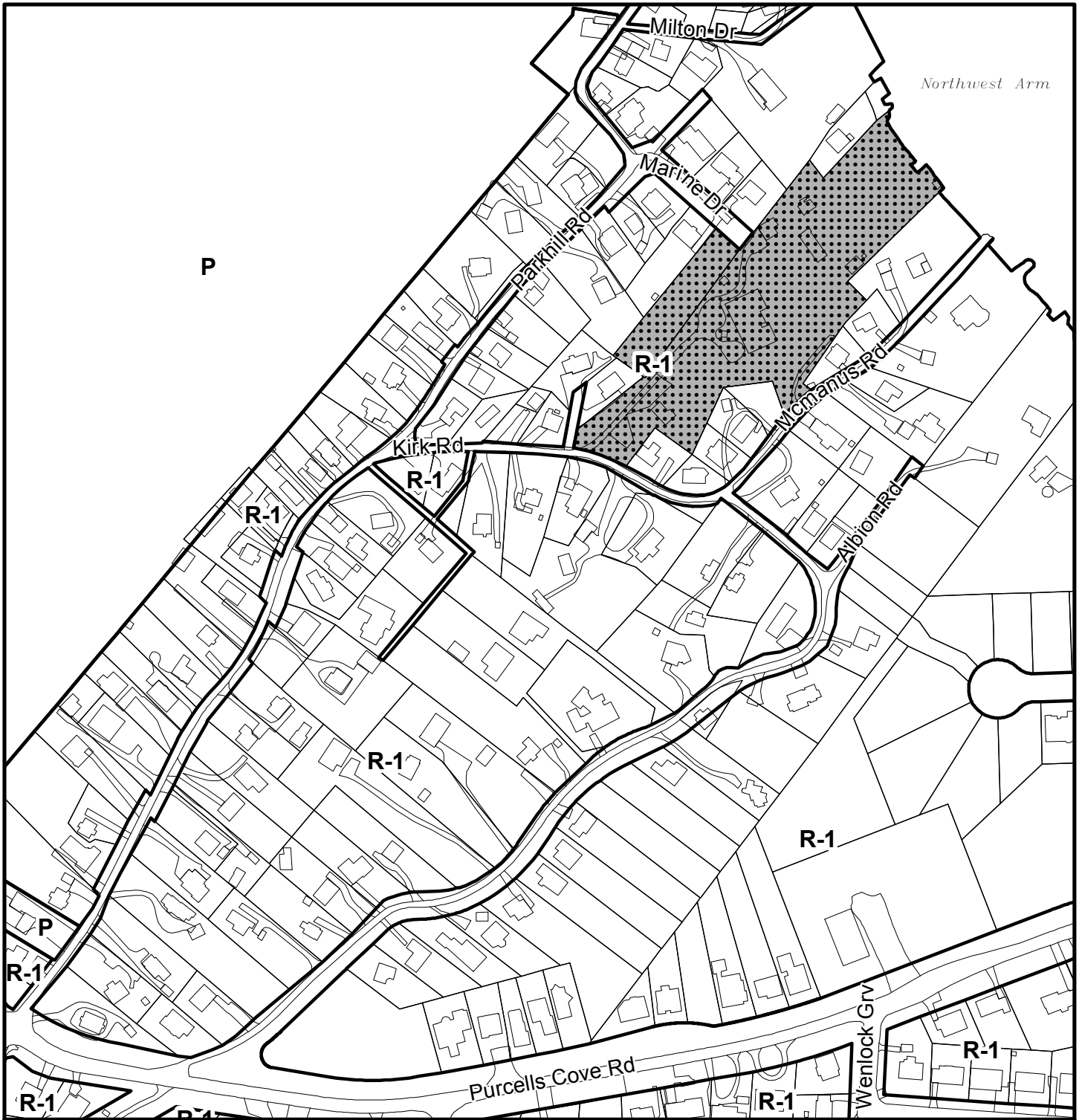
Designation

LDR Low Density Residential
OS Major Community Open Space

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.

Halifax Mainland
Municipal Plan Area



Map 2 - Zoning

10 Kirk Road
Halifax

 Subject Site

Zone

R-1 Single Family Dwelling
P Park and Institutional



HALIFAX

Halifax Mainland
Land Use By-Law Area

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

The accuracy of any representation on this plan is not guaranteed.

**ATTACHMENT A
PROPOSED AMENDING DEVELOPMENT AGREEMENT**

THIS AMENDING AGREEMENT made this day of **[Insert Month]**, 20___,

BETWEEN:

[Insert Name of Corporation/Business LTD.],
individuals, in the Halifax Regional Municipality,
in the Province of Nova Scotia, (hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 10 Kirk Road, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the former Chebucto Community Council of the Municipality approved an application by the Developer to enter into a development agreement to allow for one (1) two-unit dwelling and ten (10) single-unit dwellings on the Lands (referenced as Municipal Case Number 16217), which said Development Agreement was registered at the Land Registration Office in Halifax as Document Number 100025627 (hereinafter called the "Existing Agreement");

AND WHEREAS the Lands have been registered as a municipal heritage property pursuant to the provisions of the Municipality's Heritage Property By law (By-law H-200) as amended from time to time;

AND WHEREAS the Developer has requested non-substantive amendments to the Existing Agreement (pursuant to Section 6.1, clauses (c) and (d) of the Existing Agreement);

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on _____, referenced as Municipal Case Number 19690;

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

The Existing Agreement is amended as follows:

1. Subsection 7.3.1 shall be deleted and replaced with the following revised subsection:
"7.3.1 In the event that development on the Lands has not commenced by November 2, 2017, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use Bylaw."
2. Subsection 7.4.2 shall be deleted and replaced with the following revised subsection:
"7.4.2 In the event that development on the Lands has not been completed by February 2, 2022, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use Bylaw."

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

(Insert Registered Owner Name)

Witness

HALIFAX REGIONAL MUNICIPALITY

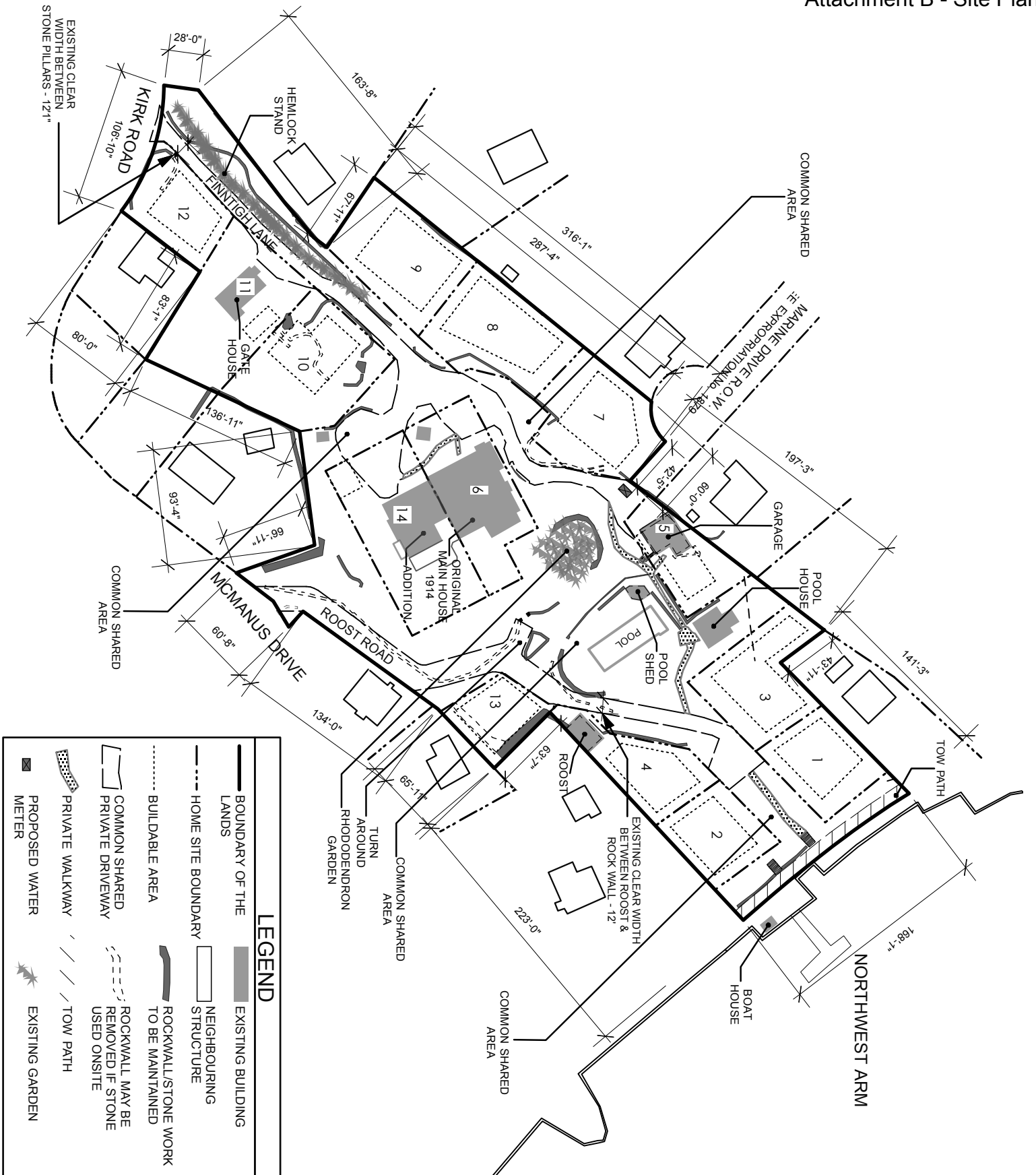
SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK



LEGEND

- BOUNDARY OF THE LANDS
- HOME SITE BOUNDARY
- BUILDABLE AREA
- COMMON SHARED PRIVATE DRIVEWAY
- PRIVATE WALKWAY
- PROPOSED WATER METER
- EXISTING BUILDING
- NEIGHBOURING STRUCTURE
- ROCKWALL/STONE WORK TO BE MAINTAINED
- ROCKWALL MAY BE REMOVED IF STONE USED ONSITE
- TOW PATH
- EXISTING GARDEN

FINNTIGH MARA

Project: 10 KIRK ROAD HALIFAX, NOVA SCOTIA

REVISIONS:

APRIL 29 REVISION
APRIL 28 REVISION
APRIL 13 REVISION
APRIL 12 MEETING
APRIL 7 SUBMISSION

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Scale: 1:1250

29 APRIL 2011

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SITE PLAN