

Western Region Community Council
August 2, 2011

TO: Chair and Members of Western Region Community Council



SUBMITTED BY: _____
Austin French, Manager, Planning Services

DATE: July 19, 2011

SUBJECT: Case 16713: Development Agreement – Herring Cove Village

ORIGIN

Application by Genivar for the lands of Valerium Group Incorporated to consider the development of a residential subdivision on two new public streets through the development agreement process.

RECOMMENDATION

It is recommended that Western Region Community Council:

1. Move Notice of Motion to consider approval of the proposed development agreement, presented as Attachment A, and schedule a Public Hearing.
2. Approve the proposed development agreement, presented as Attachment A, and;
3. Require the 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

Proposal

This application is for a development agreement to allow residential subdivision on new public streets. In general, the proposal includes:

- 46 single unit dwelling lots, serviced with municipal sewer and water;
- Minimum lot frontages of 60 feet;
- Minimum lot areas of 6,000 square feet;
- 2 new public streets;
- 1 Municipal "Neighbourhood" park; and
- 10.7 acres of Municipal conservation land.

Subject Lands

The subject lands are located in the community of Herring Cove and are approximately 26.7 acres in area. Specifically, the lands consist of 950 Herring Cove Road and three abutting parcels. These lands are generally located east of Herring Cove Road between Glen Baker Drive and Tanglewood Lane (Map 1). The land is zoned HCR (Herring Cove Residential) by the Planning District 5 Land Use By-law (LUB) and designated Residential by the Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy (MPS) (Maps 1 and 2). Provincial / Federal land zoned PA (Protected Area) is located immediately east and south of the subject lands (Map 1).

Previous Proposal

The applicant has previously submitted a proposal (Case 01280) to develop the property as a residential subdivision through the development agreement process. In the fall of 2010, following public and staff review of Case 01280, a proposed development agreement allowing 49 single unit dwelling lots on a similar street network was presented to Western Region Community Council.

The previous proposal provided for the required lot frontages to be averaged, which would have allowed some lots to have less than the 60 feet of frontage discussed in MPS policy, provided the average lot frontage was no less than 60 feet. Following a public hearing, Western Region Community Council advised the proposal for Case 01280 did not conform to the MPS with respect to lot frontages, and subsequently refused the proposal.

As noted above, the current proposal provides minimum required lot frontages of 60 feet.

DISCUSSION

MPS Policy

General Policy Intent - This application is being considered pursuant to several policies found in the MPS (Attachment B). In particular, policies RES-2C, RES-2D, RES-2E, and REC-8 of the MPS form the basis for evaluation. Policy RES-2C requires that subdivision of lots on new public streets with municipal services be considered by development agreement only. Policies RES-2D and RES-2E contain criteria for Council to consider when evaluating a development

agreement proposal of this nature. These two policy sets reflect the competing goals of protecting environmental assets while encouraging growth. In this proposal, these goals are achieved, and a balance is proposed that minimizes disturbance to the natural environment while also allowing for reasonable development of the lands.

Environmental Protection - Specifically, policy RES-2D focuses on preservation and protection of the natural environment by emphasizing that development should be confined to the most suitable areas of the site to minimize disturbance to topography, drainage, and natural vegetation, and to protect any watercourses or sensitive areas that exist on the lands.

The subject lands are currently in a substantially natural state. Two watercourses run through the southeast sector of the lands. The proposal includes establishing a 100 foot (30.48 metre) riparian buffer from these watercourses, which would function as a non-disturbance area, and only permit the development of natural trails. The majority of the riparian buffer would be deeded to HRM as conservation lands, although some would continue to be held privately. As a result, natural vegetation will be retained on approximately 50 percent of the site, which exceeds the policy criteria of 30 percent.

Development is concentrated outside the riparian buffer on lands closer to Herring Cove Road, and avoids the majority of areas with steep slopes (greater than 16 percent). This configuration facilitates expansion of the existing residential community, while also enabling expansion of existing contiguous public open space.

Lot Frontage and Area - Policy RES-2E contains criteria relating to density and lot standards. This includes a policy which allows lot frontage to be reduced from the zone standard of 75 feet, to 60 feet, and lot area to be reduced from 10,000 square feet to 6000 square feet, provided that the difference in lot area is set aside as contiguous common open space.

The proposal includes lots that vary in size from 6,007 square feet to 27,722 square feet. As required by policy RES-2E, for those lots with less than 10,000 square feet in area, the difference is to be set aside as contiguous open space in the form of conservation land. For this proposal, 21 of the lots are less than 10,000 square feet in area, and vary in size from 6,007 to 9,926 square feet. In total, these 21 lots provide approximately 1.44 acres less than the required zone standard. As a result, conservation land is required.

The proposed Development Agreement (Attachment A) requires a minimum of 10 acres to be set aside as conservation land (to be conveyed to the Municipality), which more than satisfies the requirement for equivalent contiguous common open space, and requires each residential lot to have a minimum of 6,000 square feet of area. Further, as required by policy, the proposed Development Agreement requires each residential lot to have a minimum of 60 feet of street frontage.

Land Use/Density - The lots are to be developed as single unit residential dwellings, and the proposed Development Agreement also allows for auxiliary dwellings. The LUB defines an auxiliary dwelling as a dwelling unit contained within a single unit dwelling, and further clarifies that the building as a whole is still considered a single unit dwelling for the purpose of

determining lot size requirements/density. The proposed Development Agreement also contains specific provisions to further ensure auxiliary dwellings are secondary in nature.

The density of the development is 1.7 units per acre, which is significantly lower than the 4 units per acre permitted by policy. The proposal is consistent with the overall intent of RES-2E, and is a reasonable form of development for these lands.

Halifax Watershed Advisory Board

This application was not reviewed by the Halifax Watershed Advisory Board (HWAB). However, the previous application (Case 01280), which proposed the same riparian buffer requirements, was reviewed by HWAB in October, 2009.

At the time, HWAB was supportive of a 100 foot riparian buffer to protect the watercourses on the subject lands. The preference of HWAB would be for these lands to be entirely within municipal ownership. Although the majority of these lands are included in the conservation lands being deeded to the Municipality, a portion of the riparian buffer will consist of privately held rear yards. This is necessary to allow for the development of appropriately sized lots. However, the proposed Development Agreement requires dwellings to be a minimum of 15 feet from the edge of the buffer, which should allow for the construction and use of these dwellings without encroachment into the buffer.

Environmental protection measures addressed by the previous proposal have been carried forward as part of this proposal, and are reflected in the proposed Development Agreement. Further to this point, the proposed Development Agreement also specifies that conservation lands deeded to the Municipality shall be reserved for passive recreation and conservation purposes.

In October of 2009, HWAB also expressed concern with the proposed pumping station's ability to function in the event of a power failure. The pumping station is required to meet Halifax Water's specifications, which include provisions related to power failures. Also, the stormwater retention pond will have a 1 in 100 year storm capacity, with all stormwater directed to this retention pond, rather than directly into a watercourse.

Conclusion

The proposed Development Agreement is consistent with applicable policies of the MPS (Attachment B). As such, it is recommended that Western Region Community Council approve the proposed Development Agreement presented as Attachment A.

BUDGET IMPLICATIONS

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

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

The community engagement process incorporated with this case is consistent with the intent of the HRM Community Engagement Strategy. Community engagement included public consultation, which was facilitated through a public information meeting (PIM) held on March 9, 2011. A public hearing must be held by Western Region Community Council before they can consider approval of a development agreement.

For the PIM, notices were posted on the HRM website, in the newspaper, and mailed to property owners with the notification area shown on Map 1. Attachment C contains a copy of the minutes from the meeting. Should Western Region Community Council decide to proceed with a public hearing for this case, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 1 will receive a mailed notification. Also, as required by MPS policy, local ratepayers associations, churches, and the school board, will be sent written notification, and a notice will be posted in local fire stations, convenience stores, and post offices. The HRM website will also be updated to indicate notice of the public hearing.

ALTERNATIVES

1. Community Council may choose to approve the proposed development agreement provided as Attachment A of this report. This is the staff recommendation.
2. Community Council may choose to propose modifications to the proposed development agreement. Such modifications may require further negotiations with the Developer, and may require a supplementary report or an additional public hearing.
3. Community Council may choose to refuse the proposed development agreement. Pursuant to the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal based on the policies of the MPS.

ATTACHMENTS

Map 1	Zoning and Area of Notification
Map 2	Generalized Future Land Use
Attachment A	Proposed Development Agreement
Attachment B	Policy Review – Excerpt from the Planning District 5 MPS
Attachment C	Minutes from the Public Information Meeting

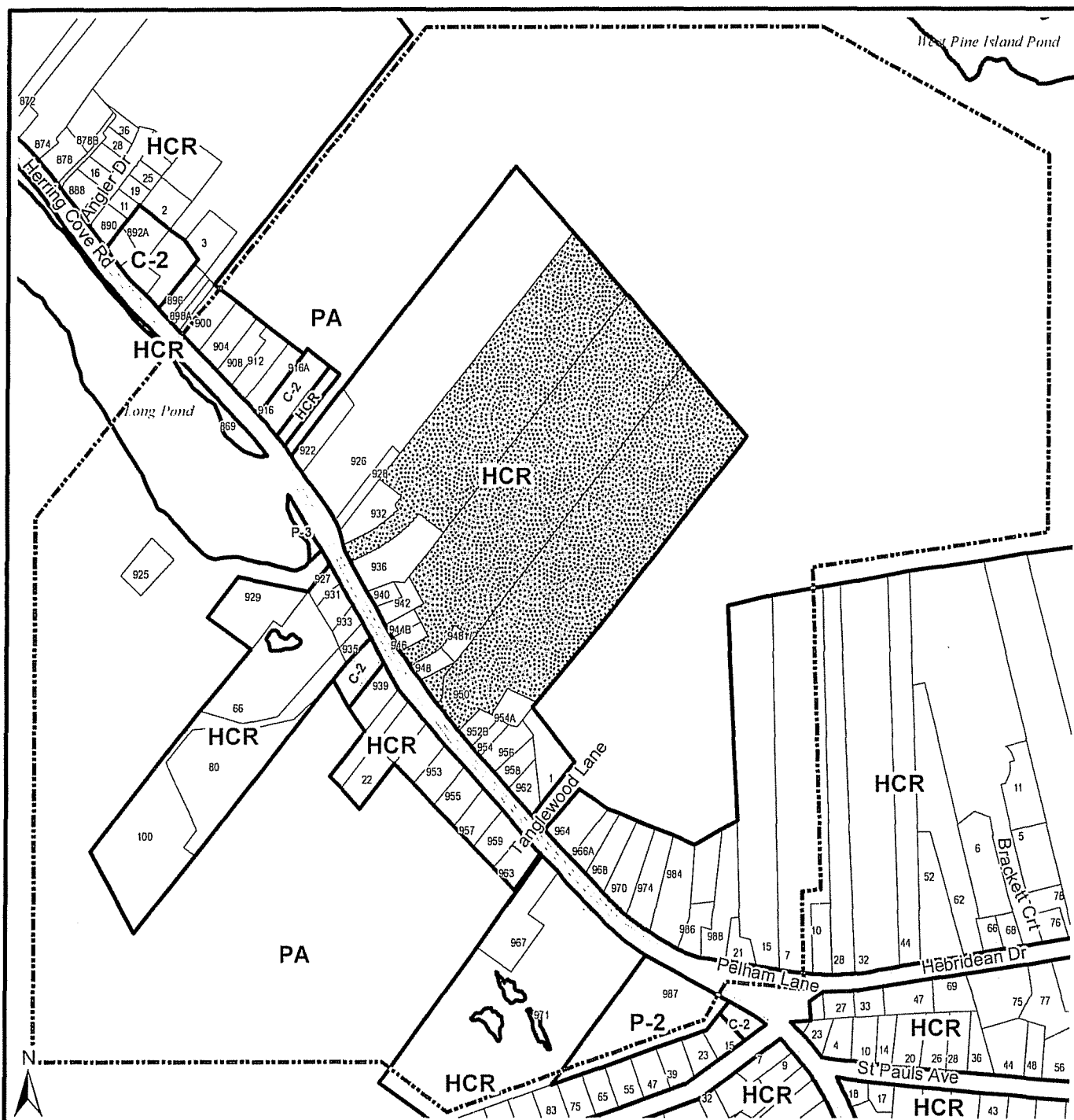
**Herring Cove Village
Community Council Report**

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August 2, 2011


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


Report Prepared by: Miles Agar, Planner I, Planning Services, 490-4495



Map 1 - Location and Zoning

Herring Cove Road
Herring Cove

 Area of proposed
development agreement

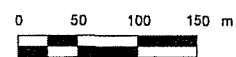
 Area of notification

Planning District 5
(Chebucto Peninsula) Planning Area

Zone

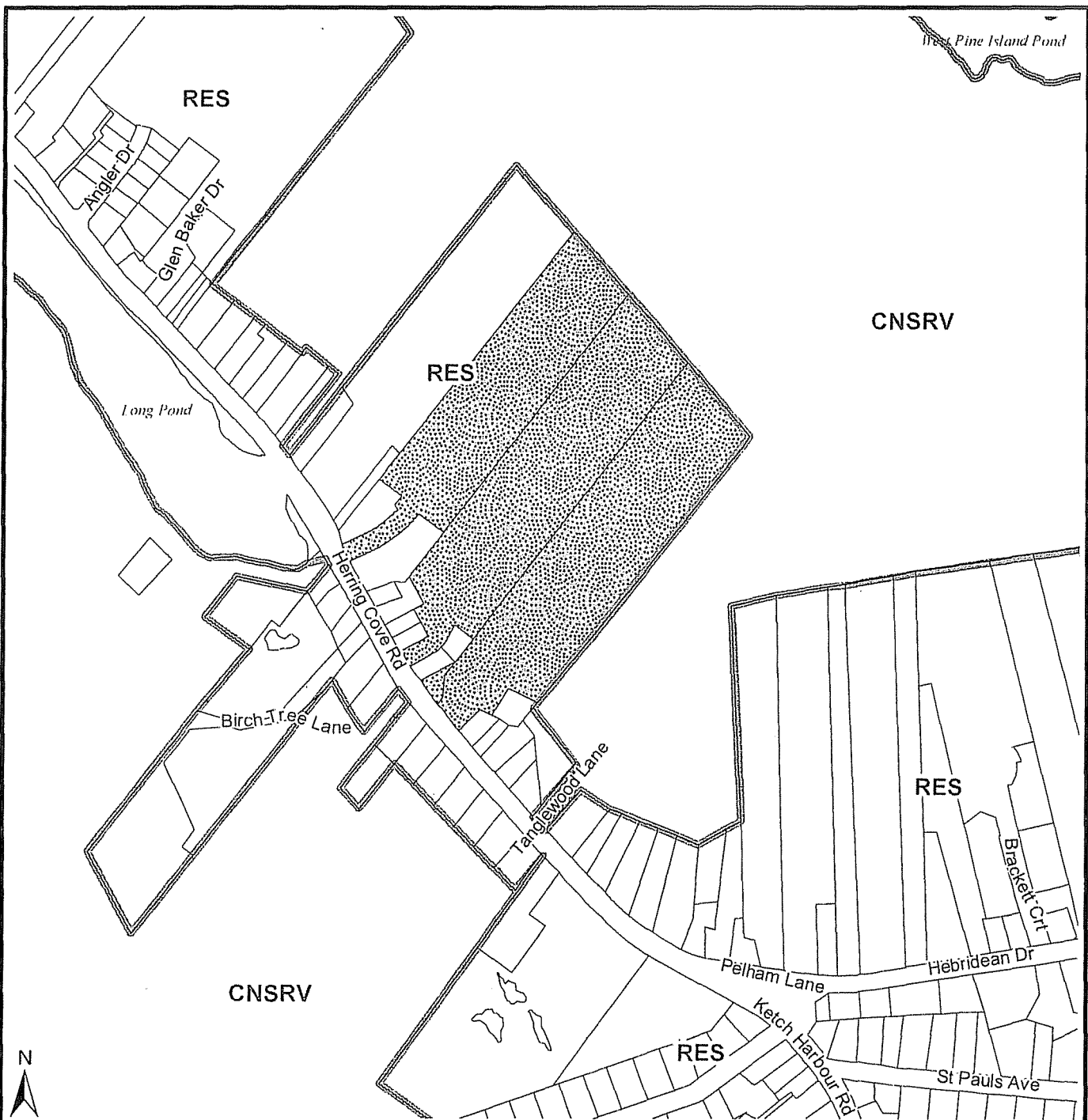
HCR Herring Cove Residential
C-2 General Business
P-2 Community Facility
P-3 Park
PA Protected Area

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES




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 2 - Generalized Future Land Use

Herring Cove Road
Herring Cove


 Area of proposed development agreement

Planning District 5
(Chebucto Peninsula) Planning Area

Designation

RES Residential
CNSRV Conservation

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 50 100 150 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

Attachment A:
Proposed Development Agreement

THIS AGREEMENT made this day of , 2011,

BETWEEN:

<INSERT DEVELOPER NAME>

a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at Herring Cove Road, Herring Cove [insert PIDS here] and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a residential subdivision on two new public streets on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy RES-2C, RES-2D, RES-2E, and REC-8 of the Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy;

AND WHEREAS the Western Region Community Council of the Halifax Regional Municipality approved this request at a meeting held on [INSERT - Date], referenced as Municipal Case Number 16713;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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

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

- 1.2.1 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law for Planning District 5 (Chebucto Peninsula), as amended to **[INSERT – Date of Council Approval]**.
- 1.2.2 Except as otherwise provided for herein, subdivision of the Lands shall comply with the requirements of the Halifax Regional Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other By-laws, Statutes and Regulations

- 1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.
- 1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

- 1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law, as amended to **[INSERT – Date of Council Approval]**. All words unless otherwise specifically defined herein shall be defined in the Halifax Regional Subdivision By-law, as may be amended from time to time.

2.2 Definitions Specific to this Agreement

The following words used in the Agreement shall be defined as follows:

- (a) **“Auxiliary Dwelling”** means a self-contained dwelling unit within a single unit dwelling which is secondary to the main residential use of the property and does not exceed thirty-five (35) percent of the gross floor area of the main structure.
- (b) **“Flag Lot”** means a lot with a configuration that resembles a fully outstretched flag at the top of a flag pole where the "pole" portion of the lot contains the required lot frontage and lot access route and the “flag” portion of the lot contains the required lot area.
- (c) **“Landscaped”** means any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, pavers, screening or other landscape architectural elements, all of which are designed to enhance the visual amenity of a property and /or to provide an amenity for common use by the occupants of a dwelling, but shall not include areas covered by a building.

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

3.1 Schedules

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 16713:

Schedule A	Legal Description of the Lands
Schedule B	Concept Plan

3.2 Subdivision of the Lands

- 3.2.1 This Agreement shall be deemed to fulfill the requirements of the Halifax Regional Subdivision By-law with respect to Concept Plan approval.
- 3.2.2 Unless otherwise acceptable to the Development Officer, final subdivision applications shall be submitted to the Development Officer in conformance with the Concept Plan as shown on Schedule B. The Development Officer may permit minor changes to the lot layout shown on

Schedule B, provided the revised layout does not result in any residential lot having less than 18.288 metres of public street frontage and less than 557.4 square metres of lot area. Further, the Development Officer may permit minor changes to the lot layout shown on Schedule B, provided the revised lot layout does not result in more than two (2) flag lots that are contiguous to each other, or result in more than three (3) flag lots in total.

3.3 General Description of Land Use

The uses of the Lands permitted by this Agreement are the following:

- (a) single unit dwellings;
- (b) auxiliary dwellings;
- (c) in conjunction with permitted single unit dwellings, home occupations, bed and breakfast establishments or day care facilities, subject to the requirements of the HCR (Herring Cove Residential) Zone as set out in the Land Use By-law for Planning District 5 (Chebucto Peninsula);
- (d) open space, conservation, and recreation uses;
- (e) public utility uses; and
- (f) uses accessory to any of the foregoing uses.

3.4 Requirements

- 3.4.1 Except where varied by this Agreement, all land uses shall comply with the requirements of the HCR (Herring Cove Residential) Zone as set out in the Land Use By-law for Planning District 5 (Chebucto Peninsula).
- 3.4.2 Notwithstanding Subsection 3.4.1, the minimum required lot area shall be 557.4 square metres (6,000 square feet).
- 3.4.3 Notwithstanding Subsection 3.4.1, the minimum required lot frontage shall be 18.288 metres (60 feet).
- 3.4.4 Notwithstanding Subsections 3.4.2 and 3.4.3, a lot created for public utility purposes may have less than the required lot area and frontage.
- 3.4.5 Notwithstanding Subsection 3.4.1, the required setbacks may be reduced such that the minimum front yard setback for any lot shall be not less than six (6) metres, and the minimum flankage yard for Lot 46 shall be not less than four (4) metres. The front yard setback for flag lots shall be measured from the front of the flag portion of the lot, not from the street.
- 3.4.6 Notwithstanding Subsection 3.4.1, no portion of any main building shall be located less than 4.5 metres from the boundary of any riparian buffer.
- 3.4.7 Notwithstanding Subsection 3.3 (c) and Subsection 3.4.1, a bed and breakfast establishment and a daycare shall not be permitted on the same lot.
- 3.4.8 Where an auxiliary dwelling is permitted, the following shall apply:
 - (a) Access to the auxiliary dwelling shall be on the side or rear of the associated single unit dwelling, or through a common entrance shared with the associated single unit dwelling; and

(b) The auxiliary dwelling is limited to a maximum of two (2) bedrooms.

- 3.4.9 Accessory buildings shall be permitted subject to the requirements of the Land Use By-law for Planning District 5 (Chebucto Peninsula) but shall have a building footprint no greater than 35 square metres.
- 3.4.10 A maximum of 33 percent of the front yard shall be used for vehicular access, manoeuvring and parking, and a minimum of 67 percent of the front yard shall be landscaped.
- 3.4.11 Where a flag lot is permitted, Subsection 3.4.10 shall apply to the flag portion of the lot. In addition, the portion of the flag pole containing the required lot frontage and minimum lot depth shall also be landscaped, excepting the area used as the lot access route.
- 3.4.12 New driveway access to Herring Cove Road shall not be permitted for Lots 1 and 46.
- 3.4.13 The variance provisions and procedures enabled by the *Halifax Regional Municipality Charter* (Sections 250 to 252) shall apply to the development of the Lands permitted by this Agreement.

3.5 Riparian Buffers

- 3.5.1 A riparian buffer shall be established which includes all lands within a minimum of 30.48 metres from any watercourse.
- 3.5.2 No disturbance, including development, erection of structures, clearing of vegetation or grade alteration shall be permitted within any riparian buffer, with the exception of trail development, in which case, clearing may occur to a maximum width of two (2) metres. All trails must consist of natural ground coverings, and no grade alteration or construction of any elements such as boardwalks, railings or fencing shall be permitted.
- 3.5.3 Notwithstanding Subsection 3.5.2, where approved in writing by the Development Officer, the Developer may be permitted to remove fallen timber and dead debris where a fire or safety risk is present, or to remove a tree that is dead, dying or in decline and which represents a danger to private property, public infrastructure or other natural trees and vegetation. Prior to granting approval for such removal, the Development Officer may require the Developer or lot owner to engage a Certified Arborist, Forester or Landscape Architect to certify in writing that the timber or debris poses a fire or safety risk, that the tree poses a danger to people or property, or that it is in severe decline. A plan shall be provided by such professional that clearly delineates the area to be cleared.
- 3.5.4 If trees are removed or tree habitat is damaged beyond repair within the riparian buffer, the Developer shall replace each tree with a new tree of a minimum 40 mm caliper for every one removed or damaged, as directed by the Development Officer, in consultation with the appropriate HRM Business Units. This section applies to trees removed without permission, as well as trees removed with the Development Officer's permission as outlined in Subsection 3.5.3. A tree remediation plan shall be prepared by a Certified Arborist, Forester or Landscape Architect and provided by the Developer.

3.6 Temporary Construction Building

A building shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The temporary construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit, or within five (5) years from the date of Final Subdivision Design Approval, whichever comes first.

3.7 Parkland and Conservation Area

- 3.7.1 In conjunction with final subdivision approval for the portion of the development on which the Neighbourhood Park fronts, the Developer shall convey to the Municipality a Neighbourhood Park (Parcel P-1) as shown on Schedule B. The Neighbourhood Park shall have a minimum frontage of 30.5 metres on Norawarren Drive. The Neighbourhood Park shall include a 20 metre by 20 metre area adjacent to the public street which is graded, stabilized, and hydroseeded by the Developer and suitable for Neighbourhood Park site development. Both hydroseeding and the fence shown on Schedule B shall be completed by the Developer before acceptance of primary servicing. The fence shown on Schedule B shall extend from the public street to the required riparian buffer.
- 3.7.2 The Neighbourhood Park (Parcel P-1) shall be useable land free of encumbrances as defined in the Halifax Regional Subdivision By-law, unless specifically agreed to in writing by the Development Officer in consultation with the Parkland Planner.
- 3.7.3 The Developer shall convey a minimum of ten (10) acres of Conservation land to the Municipality as shown on Schedule B. This Conservation land shall abut the Neighbourhood Park, be surveyed by the Developer prior to acceptance by the Municipality, be subject to site inspection by the Parkland Planner, and shall be conveyed free of encumbrances at the time primary services are accepted.
- 3.7.4 The Municipality shall ensure the Conservation land is reserved for passive recreation and conservation purposes.
- 3.7.5 This Agreement shall be deemed to fulfill the requirements of the Halifax Regional Subdivision By-law with respect to parkland dedication.

3.8 Signs

- 3.8.1 Signage shall be in accordance with the Planning District 5 (Chebucto Peninsula) Land Use By-law.
- 3.8.2 Signs depicting the name or corporate logo of the Developer shall be permitted while a temporary construction building is located on the site.
- 3.8.3 A maximum of one ground sign shall be permitted on private lands at the entrance to the subdivision to denote the community or subdivision name. The location of such sign shall require the approval of the Development Officer and Development Engineer. The maximum height of any such sign inclusive of support structures shall not exceed three (3) metres and the face area of any sign shall not exceed three (3) square metres. Any such sign shall be constructed of natural materials such as wood, stone, brick, enhanced concrete or masonry. The only illumination permitted shall be low wattage, shielded exterior fixtures.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

All design and construction of primary and secondary service systems shall satisfy the latest edition of the Municipal Design Guidelines and the latest edition of Halifax Water's Design and Construction Specifications unless otherwise provided for in this Agreement, and shall receive written approval from the Development Engineer prior to undertaking the work.

4.2 Off-Site Disturbance

Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

4.3 Site Preparation in a Subdivision

The Developer shall not commence clearing, excavation or blasting activities required for the installation of primary or secondary services in association with a subdivision prior to receiving final approval of the subdivision design unless otherwise permitted by the Development Officer, in consultation with the Development Engineer.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Erosion and Sedimentation Control

5.1.1 Prior to the commencement of any onsite works on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall have prepared by a Professional Engineer and submitted to the Municipality a detailed Erosion and Sedimentation Control Plan. The plans shall comply with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this clause have been met and implemented.

5.1.2 The Developer agrees that nothing in this Agreement shall exempt or imply an exemption from environmental protection requirements as may be required by Municipality or other levels of government. Further to this, the Developer recognizes that any such requirement may result in a reduction of the number of proposed lots shown on Schedule B.

5.2 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of buildings, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow removal/salting/sanding of walkways and driveways.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

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

- (a) The granting of an extension to the date of commencement of development as identified in Section 7.3 of this Agreement;
- (b) The length of time for the completion of the development as identified in Section 7.5 of this Agreement; and
- (c) If the Neighbourhood Park required by this Agreement is unacceptable to the Municipality, the Concept Plan (Schedule B) may be modified to provide an alternative location for the Neighbourhood Park.

6.2 Substantive Amendments

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

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

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

7.2 Subsequent Owners

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

7.3 Commencement of Development

- 7.3.1 In the event that Final Subdivision Design Approval for development of the Lands has not been approved within three (3) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of development.
- 7.3.2 In the event that the Subdivision Agreement for development of the Lands has not been entered into
 - (a) within two (2) years from the date of Final Subdivision Design Approval; or

- (b) within five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein,

the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of development.

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

7.4 Completion of Development

Upon the completion of the whole development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Planning District 5 (Chebucto Peninsula), as may be amended from time to time.

7.5 Discharge of Agreement

If the Developer fails to complete the development after six (6) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement; or
- (c) discharge this Agreement.

7.6 Occupancy Permits Required

- 7.6.1 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.
- 7.6.2 Notwithstanding Subsection 7.6.1, an Occupancy Permit may be issued for a temporary construction building following Final Subdivision Design Approval.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

8.2 Failure to Comply

If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer 30 days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;
- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the Assessment Act;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remediation under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

WITNESS that this Development Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2011.

Signed, sealed and delivered in the
presence of:

per: _____

=====

Sealed, Delivered and Attested by the proper
signing officers of Halifax Regional Municipality
duly authorized on that behalf in the presence of

per: _____

<INSERT DEVELOPER NAME>

per: _____

=====

HALIFAX REGIONAL MUNICIPALITY

per: _____

MAYOR

per: _____

MUNICIPAL CLERK

Attachment B:
Policy Review – Excerpt from the Planning District 5 (Chebucto Peninsula) MPS

Planning District 5 (Chebucto Peninsula) MPS – Policy Review	
<u>Environmental - Policy E-32</u>	
<i>E-32 Within the Herring Cove Community no development (including the erection of a structure, the clearing of vegetation or the alteration of existing grades) shall be permitted within a buffer zone of undisturbed ground and vegetation that extends 100 feet from all watercourses and wetlands, including floodplains, except for required stream crossings or recreational uses. Provision shall be made for 50 feet buffer zones on lots in existence on the effective date of this policy that would be made unreasonably affected by the 100 feet requirement.</i>	
<i>Staff Comment:</i>	
The proposed development agreement includes a 100 foot (30.48 metre) riparian buffer from all watercourses.	
<u>Environmental – Policy E-33</u>	
<i>E-33 Every effort shall be made to ensure that vegetation remains undisturbed on slopes 16% and greater.</i>	
<i>Staff Comment:</i>	
Slopes 16% and greater are identified on the Schedule B of the proposed Development Agreement. Most of these areas are within the riparian buffer or conservation lands, and the vegetation will remain undisturbed. The subdivision has been oriented such that the majority of the steep slopes within the development area are avoided.	
<u>Residential – Policy RES-2C</u>	
<i>RES-2C Subdivisions which include new or extended public streets may only be considered by development agreement, where:</i>	
<i>Policy Criteria:</i>	<i>Staff Comment:</i>
<i>a) municipal sewer and water services are to be provided;</i>	The proposed development includes municipal sewer and water.
<i>b) sewage treatment facilities are available, and</i>	The sewage from this development will be treated by the Herring Cove Waste Water Treatment Facility.
<i>c) a public street is to be constructed.</i>	The proposal includes the construction of two new public streets. The proposed Development Agreement requires all road design and construction to meet the standards in the Municipality's Municipal Service Systems manual as determined and approved by the Municipal Engineer.
<u>Residential – Policy RES-2D</u>	
<i>RES-2D It shall be the intention of Council to encourage all new development under Policy RES-2C to meet certain basic design objectives as follows:</i>	

<i>Policy Criteria:</i>	<i>Staff Comment:</i>
<i>(a) to reproduce the pre-development hydrological conditions;</i>	The Developer's engineers have provided staff with an analysis regarding management of post development stormwater flows at a rate equivalent to the pre-developed site condition. To satisfy this criterion, the Developer proposes a stormwater retention pond. Further detailed plans will be prepared at the subdivision stage.
<i>(b) confine development and construction activities to the least critical areas of the site and consider cluster development to minimize land disturbance; and that the subdivision design minimizes change to the existing landscape by matching new streets, services and lot grading to the existing topography as closely as possible.</i>	The proposed Development Agreement confines development to the area generally closest to Herring Cove Road, and furthest away from the watercourses, leaving approximately 50% of the subject lands undisturbed. Reducing lot standards, while also requiring a substantial amount of conservation land helps to further cluster the development and minimize land disturbance. The subdivision design attempts to minimize changes to the existing topography by avoiding the most sensitive areas, including watercourses, riparian buffers, and steep slopes.
<i>(c) allocate permitted density to those areas most suitable for development;</i>	In this situation, the most suitable area for development is the eastern portion of the lands near Herring Cove Road and furthest from the watercourses. The proposed Development Agreement confines development to this area.
<i>(d) minimize changes to the existing topography;</i>	The proposed Development Agreement minimizes changes to topography by avoiding the most sensitive areas of the site, including watercourses and riparian buffers, and steep slopes where possible.
<i>(e) preserve and utilize the natural drainage system to the greatest possible extent,</i>	Retention and protection of the watercourses and riparian buffer, as well as minimizing land disturbance, aid in preserving the natural drainage system.
<i>(f) attempt to retain a minimum of 30% of the natural vegetation on the site in an undisturbed state; and</i>	The proposed Development Agreement requires approximately 13.3 acres of conservation lands/riparian buffer, in which natural vegetation will remain undisturbed. This represents over 50% of the subject lands.
<i>(g) all shorelines shall be protected by a 100 foot wide buffer zone within which no vegetation or soil should be removed or altered except as required for utilities, trails or water access.</i>	The proposed Development Agreement includes a 100 foot (30.48 metre) riparian buffer from all watercourses within which no disturbance is permitted except to allow for natural trails.

Residential – Policy RES-2E

RES-2E In considering a development agreement proposal pursuant to Policies RES-2C and RES-2D, the following development criteria shall be addressed:

Policy Criteria:**Staff Comment:**

a) That the maximum permissible density is 4 units per net developable acre based on HCR and F-1 zone requirements. The net developable area shall be calculated based on the gross land area less any designated wetland areas;

The subject lands are approximately 26.7 acres and contain no wetlands. The proposal is for 46 single unit dwellings, or 1.7 units per acre, which is less than half the permitted density under this policy.

b) That only single unit dwellings, two unit dwellings and auxiliary dwellings may be considered. Individual lot frontages per dwelling may be reduced to 60 feet, and lot areas to 6,000 square feet provided that an area equivalent to the amount of lot area reduction for each lot is provided as contiguous common open space which shall be maintained permanently in a substantially natural state, in addition to the minimum 10 percent public parkland dedication as required by Policy REC-10;

The proposed Development Agreement specifies that only single unit dwellings and auxiliary dwelling units are permitted. In order to provide greater balance in achieving both the environmental objectives and density criteria, the proposed Development Agreement permits a reduction of zone standards related to lot frontage and lot area. The proposed Development Agreement also permits a maximum of flag lots, which serve to better take advantage of the irregular shape of the land and cluster development.

Although the proposed Development Agreement permits reduced lot standards and three flag lots, the proposed Development Agreement requires all residential lots to have a minimum of 60 feet of frontage and 6,000 square feet of area.

The 10 acres of Municipal conservation land required by the proposed Development Agreement is approximately 8.6 acres in excess of the amount of the total lot area reduction for each lot.

c) That adequate erosion and sediment control plans and stormwater management plans are prepared;

Staff and the Halifax Watershed Advisory Board have reviewed both the preliminary erosion and sediment control plan and preliminary stormwater management plan and found them satisfactory. The Developer will also be required to submit final detailed plans as part of the subdivision process.

d) That full consideration is given to use of a public road standard in keeping with that identified in Policy TR-18;

The proposed Development Agreement requires all road design and construction shall meet the standards in the Municipality's Municipal Service Systems manual as determined and approved by the Municipal Engineer.

e) <i>That there is adequate provision of public access to traditional trails and recreation areas and that adequate open space areas are provided, including substantial parkland areas and frontages on any lake to serve appropriate parkland functions; and</i>	<p>The proposed Development Agreement requires that the Developer establish a Neighbourhood Park, designed and constructed to the Municipality's specifications. The agreement also requires the conservation lands be deeded to HRM. The conservation lands abut the Provincial / Federal land, and may serve to facilitate a future connection to these lands.</p> <p>Further, the proposed Development Agreement requires the Neighbourhood Park to abut the conservation lands, thereby facilitating a connection between the public street and Provincial / Federal land.</p>
f) <i>The provisions of Policy IM-10. (RC - February 13, 2001 / E-May 5, 2001).</i>	The provisions of IM-10 have been adequately addressed, as discussed below.

Recreation – Policy REC-8

REC-8 In order to ensure that adequate parkland is provided in new or extended developments, it is appropriate to require that 10 percent of lands being subdivided be dedicated for public parkland and recreation use pursuant to the Municipal Government Act. This will help offset deficiencies in existing recreation space, and ensure that there is sufficient land area provided within new development to meet a range of active and passive recreation needs for a community of varied needs and lifestyles.

Staff Comment:

The proposed Development Agreement requires that the Developer establish a Neighbourhood Park, designed and constructed to the Municipality's specifications. The proposed Development Agreement also requires the conservation lands be deeded to HRM. The conservation lands abut the Provincial / Federal land, and may serve as a future connection to those lands.

Further, the proposed Development Agreement requires the Neighbourhood Park to abut the conservation lands, thereby facilitating a connection between the public street and Provincial / Federal land.

The Neighbourhood Park will facilitate more active forms of recreation; while the conservation lands will facilitate more passive forms of recreation. In total, the Neighbourhood Park and the conservation lands create approximately 11.5 acres of public park and recreation land.

Transportation – Policy TR-16

TR-16 Individual driveway access to collector or arterial roads within the Herring Cove Community shall be discouraged to the greatest possible extent. Individual driveway access shall be required to local streets where a lot has such frontage. The use of shared driveways shall be considered through the subdivision process for any new lots.

Staff Comment:

The proposed Development Agreement does not permit Lots 1 and 46 to access Herring Cove

Road. Access to these lots must be provided from the new local street. With respect to Lots 4 and 17, frontage used to create these lots is gained from Herring Cove Road. HRM Engineering has recommended driveway access approval to Lots 4 and 17.

Implementation – Policy IM-10

IM-10 In considering development agreements and amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:

- (a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;*
- (b) that the proposal is not premature or inappropriate by reason of:*
 - (i) the financial capability of the Municipality to absorb any costs relating to the development;*
 - (ii) the adequacy of on-site sewerage and water services;*
 - (iii) the adequacy or proximity of school, recreation or other Community facilities;*
 - (iv) the adequacy of road networks leading or adjacent to or within the development;*
 - (v) pedestrian safety; and*
 - (vi) the potential for damage to or for destruction of designated historic buildings and sites.*
- (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:*
 - (i) type of use;*
 - (ii) height, bulk and lot coverage of any proposed building;*
 - (iii) traffic generation, access to and egress from the site, and parking;*
 - (iv) open storage;*
 - (v) signs; and*
 - (vi) any other relevant matter of planning concern.*
- (d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility of flooding.*
- (f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy p-79F", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)*

Staff Comment:

The subject lands are located in the established community of Herring Cove and have adequate access to public schools and community facilities. There are no designated historic sites or buildings on or abutting the subject lands.

The proposed Development Agreement requires that all sidewalks and streets meet the design and construction standards in the Municipality's Municipal Service Systems manual as determined and approved by the Municipal Engineer. The construction of all streets and services including the wastewater pumping station and stormwater management infrastructure are the responsibility of the developer, additionally, the proposed development would be subject to a

capital cost contribution towards municipal services.

The proposed Development Agreement permits single unit dwellings, with the opportunity to create an auxiliary dwelling within a single unit dwelling. These land uses are compatible with the primarily residential land uses adjacent to the subject lands. The subject lands contain two watercourses, some steep slopes, and no wetlands. As discussed above, development has been confined to the most suitable area of the subject lands, and the proposed Development Agreement prohibits the disturbance of the watercourses and riparian buffers.

A Traffic Impact Analysis has been prepared by a Professional Engineer and provided by the applicant. This analysis finds that traffic on Herring Cove Road or the regional street network will not be noticeably impacted by site generated trips, and that a left turn lane will not be warranted on Herring Cove Road at the proposed intersection when the site is fully developed. HRM Engineering is satisfied with the findings of this analysis.

Implementation -- Policy IM-13

IM-13 It shall be the intention of Council, in considering development agreements or amendments to the Land Use By-law, to:

- (a) give notice of the amendment or agreement by posting the public hearing notice in any post office, convenience store and fire hall within a two (2) mile radius of the lands proposed for amendment or agreement within the Plan Area; and*
- (b) notify ratepayers organizations, churches and school boards of the public hearing by registered letter.*

Staff Comment:

Should Western Region Community Council decide to proceed with a public hearing for this case, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 1 will receive a mailed notification. Also, local ratepayers associations, churches, and the school board, will be sent written notification, and a notice will be posted in local fire stations, convenience stores, and post offices. The HRM website will also be updated to indicate notice of the public hearing.

Attachment C:
Minutes from the March 9, 2011 Public Information Meeting

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE # 16713

Wednesday, March 9, 2011, 7:00 pm
William King Elementary, Herring Cove

IN ATTENDANCE: Miles Agar, Planner, HRM Planning Services
Dali Salih, Planner, HRM Planning Services
Shanan Pictou, Planning Technician, HRM Planning Services
Sharlene Seaman, Planning Controller, HRM Planning Services
Councillor Steve Adams

ALSO IN ATTENDANCE: Nathan Rogers, Genivar

PUBLIC IN ATTENDANCE: Approximately 14

The meeting commenced at approximately 7:00 pm.

1. Opening remarks / Introductions / Purpose of meeting – Miles Agar

Miles Agar introduced himself as a planner with HRM's Western region. He introduced the applicant, HRM staff and the district councillor. He stated that the purpose of the meeting was to talk about an application by Genivar, for the lands of Valerium Group Incorporated to consider the development of 46 single unit dwellings on two new public streets off Herring Cove Road, by development agreement. The meeting would be a chance to clarify the planning process, to identify the scope of the proposal and to give the public a chance to give feedback on the proposal.

2. Overview of planning process – Miles Agar

Mr. Agar stated that at this point in the planning process, HRM would be seeking feedback and no decisions would be made at the meeting. He advised that the applicant would provide a presentation of the proposal. He stated that the application had been received from the applicant and it would consider new residential lots on municipal sewer and water, two new public streets, with access onto Herring Cove Road and public amenities, such as, public parkland and conservation land. The application will be considered under the development agreement process.

He showed the location, northwest of the traditional Herring Cove Village on Herring Cove Road. It is about twenty six acres with a collection of several properties. The property is zoned Herring Cove Residential, which permits single and two unit dwellings. However, new lots on new public streets are to be considered subject to a public process. In terms of planning policy, the Municipal Planning Strategy for the area of Planning District 5, Chebucto Peninsula, states that subdivisions which included new or extended public streets in the current zone may only be considered by the development agreement process. The focus of the planning approach is to focus or localize development within the land to the least critical areas. This takes into consideration the environmental features, such as, the slope, the protection of watercourses, natural vegetation and to try and minimize as much land disturbance as possible.

He noted that a development agreement is a little different than a zone. It is a negotiated contract between a property owner and the municipality. It is guided by municipal policies and provincial legislation, which states what can and cannot go in a development agreement in terms of provisions. These provisions typically involve land use, the site development and the environmental protection features. There must include a public process in the development agreement process and the decision is a decision of Council, in this case, it would be Western Region Community Council.

He stated that the application is currently at the beginning of the planning process. HRM has received an application and the public information meeting is being held to receive public feedback, insight, comments and concerns. There will then be a staff review followed by a staff report with a recommendation to the Community Council. Community Council will hold a Public Hearing prior to making any decisions. The decision, either way, is appealable.

Mr. Agar stated that the applicant had a previous application for the property, which was considered by Council that was not approved. He stated that this was not the same application. He stated that the applicant would be providing detailed information on the site design.

He gave the meeting guidelines, gave his contact information and passed the floor over to Nathan Rogers.

3. Presentation of Proposal – Nathan Rogers

Nathan Rogers, Genivar, introduced himself and welcomed everyone to the meeting. He stated the project isn't new and gave the dates from the past public information meetings. He advised that the previous application provided some semi-detached houses along with some singles. The most recent application includes forty-nine single detached dwellings. At the Public Hearing there were a number of residents that suggested that they would like to move to the area. The applicant and the developer believe that this development conforms and meets the objective of the Herring Cove Area Settlement Strategy. This is a strategy that some of the residents have invested a lot of time investing in the community and feels that the document represents the wants and needs of the community.

He feels that the newest proposal completely meets that. There are forty six single family homes purposed on two new streets off the Herring Cove Road, Nora Warren Drive and Reginald Court.

He stated that all units will have at least sixty feet of frontage and showed the site. He stated that the previous application, in working with HRM staff, had averaged the lot frontage to be sixty feet and that was the key point at which Council thought it did not meet the Herring Cove Area Settlement Strategy. The new application has every lot at a minimum of sixty feet. He noted that one of the important points of the Herring Cove Area Settlement Strategy and the policy for the area is that they would like to cluster development to protect the natural resources. The site is approximately twenty seven acres. Approximately forty-five to fifty percent of that is going to be deeded to HRM for a conservation area. He showed the area and stated that it is not to be developed. He stated that there is a purposed path connecting Reginald Court to Herring Cove Road. He advised that the project is pretty straight forward and it represents an opportunity for people, who have moved away, to come back to Herring Cove. It also represents an opportunity for people to grow up in Herring Cove and have families.

Miles Agar gave the ground rules and opened the floor for questions and comments.

4. Questions / Comments

Ronald Harnish, Ketch Harbour, stated that this is the third meeting he has attended. He stated that he has been in favour of the application but each time wonders why the pond is fenced on the right hand side. He asked the purpose in the planning process to have the pond.

Miles Agar stated that generally the property slopes starting from the right of Herring Cove Road down to the lower point of elevation. That is a storm water management pond which is designed to control storm water after the subdivision is developed.

Mr. Harnish asked if it is a pond currently or if it was to be created.

Nathan Rogers stated that it will be created.

Mr. Harnish asked if it would be fenced in and if the sewage pumping station would be next to the pond.

Mr. Rogers advised that it would be.

Greg Shacklock, Ketch Harbour Road, asked how big the pathway is.

Mr. Agar stated that the pathway is a requirement of a cul-de-sac to provide access for pedestrians.

Mr. Shacklock if they would be bringing the sewer and water down that pathway.

Mr. Rogers stated that they would be doing that and it is a part of the requirement that a path be provided at the end of a cul-de-sac.

Mr. Shacklock asked about a purposed house that he thought to be new from the old application.

Mr. Rogers stated that one of the challenges in continuing forward with this proposal was the number of units they wanted to achieve to make the project feasible. The project has a density of one point seven units per acre, which complies and is similar to the characteristic of Herring Cove as it is now. The Herring Cove Area Settlement Strategy Plan states that council can consider up to four units per acre. The density of the development is substantially lower than what could be achieved but some of the other requirements, such as lot area and lot frontage make that be a challenge.

Mr. Shacklock asked how long the path has to be.

Mr. Agar stated that it would be something they look into as a part of the process. There will be a review of staff that will involve the engineering department to get a sense of what is an appropriate type of path in terms of width and design. It is proposed but it will still have to be reviewed, as a part of the process. Before HRM staff provides a recommendation to Council, they will work out the more specific details.

Mr. Shacklock asked if there should be two entrances off the Herring Cove Road.

Mr. Agar stated that HRM has requirements as to the lots that can be built within a cul-de-sac and again, this would have to be looked into before going to council. There will be some consideration as to whether they need a second access point and this will be determined by the engineering department. As a part of the planning process, a traffic impact statement has been provided and it will be reviewed before any recommendation is provided to Council.

Paul Warden, Herring Cove Road, stated that not only might people return to Herring Cove but this project is also a business venture for the applicant. Taking this into consideration, he asked why the parklands are so generous. It seems like the applicant is giving away half of the land and this must be much more than the city would require.

Nathan Rogers explained that the policy of the Herring Cove Area Settlement Strategy requires that if the lot size is changed, the difference has to be supplied as contiguous open space.

Mr. Warden asked him for clarification.

Mr. Rogers stated that the lot size required for the area is ten thousand square feet. The developer is proposing that some of the lots be six thousand square feet. The difference would be four thousand less than the requirement. That difference has to be taken and put as open space as per the policy. In addition, there are two watercourses that have been identified by the Department of Environment. HRM requires a thirty meter buffer around those non disturbance areas. The nature of the site dictates that there cannot be any disturbances certain areas, such as new roads.

Mr. Warden wanted more clarification, asking if it is Council that accepts that difference.

Mr. Agar stated that under the policies of the Herring Cove Area Settlement Strategy, Council can consider going through the development agreement process.

Mr. Warden asked if it would be Councillor Adams and his peers that make that decision.

Mr. Agar stated that it is Western Region Community Council that makes that decision but it is the Municipal Planning Strategy that has the policy framework which gives Council the ability to consider something like this. Prior to them making a decision, they have to hold a public hearing with the Community Council. It is Western Region Community Council that will give the final approved or refusal, when brought forth.

Mr. Warden asked if the developer felt this was the best they could do. He did not understand fully as to why they would give so much land to HRM. He wondered if the developer was being overly generous or if the numbers equalled out.

Mr. Rogers stated that the developer has done more than was expected of them and he was not aware of the exact percentages.

Mr. Agar reviewed the next stages of the process, thanked everyone for coming and provided his contact information.

6. Adjournment

The meeting adjourned at approximately 8:10 pm.

