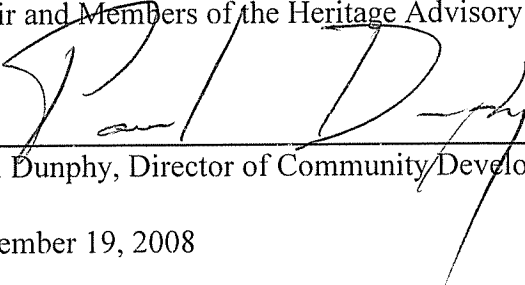




PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Heritage Advisory Committee - January 21, 2009

**TO:** Chair and Members of the Heritage Advisory Committee

**SUBMITTED BY:**   
Paul Dunphy, Director of Community Development

**DATE:** December 19, 2008

**SUBJECT:** **Case 01225: Discharging Agreement - 1390 Thornvale Avenue,  
Halifax**

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**ORIGIN**

Application by Thornvale Estates Limited to discharge the existing development agreement for the Thomas Kenny House, at 1390 Thornvale Avenue, Halifax (PID # 00078303).

**RECOMMENDATION**

**It is recommended that the Heritage Advisory Committee recommend that Peninsula Community Council:**

1. Approve the discharging agreement, presented as Attachment A to this report, for lands located at 1390 Thornvale Avenue, Halifax.
2. Require that the discharging agreement be signed within 120 days, or any extension thereof granted by Community Council on the request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

Following is a brief summary of the site history:

- Thomas Kenny House, 1390 Thornvale Ave., is Second Empire style circa 1868-1869;
- the most famous resident of the estate, in the late 1800s, was T. E. Kenny, an entrepreneur, politician and confidant to Prime Minister MacDonald;
- 1390 Thornvale Avenue was designated as a municipally registered heritage property in 1982 and as a provincially registered heritage property in 2001;
- the site is 2.695 acres, with 251 feet of water frontage together with a water lot of 33,163 square feet on the Northwest Arm;
- the property is zoned R-1 (Single Family Residential) and designated LDR (Low Density Residential) under the Halifax Municipal Planning Strategy (see Map 1); and
- on October 4, 2004, Peninsula Community Council approved a development agreement on the property to allow an addition to the Thomas Kenny House for a total of eight residential units, the demolition of a shed and porch, the subdivision of the property into four lots and the de-registration of lots 2, 3 and 4; the development agreement is still binding on the property.

## **DISCUSSION**

The development agreement limits the use of the property to an addition to the Thomas Kenny House, for a total of eight residential units, the demolition of a shed and porch and the subdivision of the property into four lots. The agreement simply intended to accommodate the proposed use of the property at the time and did not provide for any other uses including the uses allowed within the R-1 base zone. The current owner of the property wishes to use the property for a private residence which is permitted under the R-1 Zone.

The development agreement also included requirements for restoration and rehabilitation of the Thomas Kenny House. The current owner intends to restore the building and is currently undertaking cosmetic interior renovations.

The owners have requested that the development agreement be discharged in order to allow typical R-1 requirements to apply to the property and allow the building's reversion to a single unit residence. Should the owner wish to subdivide or further develop the property, the requirements of the *Heritage Property Act* will need to be met as well as any municipal requirements related to the proposed development such as a discretionary development approval which would entail public consultation.

Based on the owner's intent to use the property as a single unit residence, it is staff's position that the development agreement is no longer required. Under these circumstances, staff support the proposed discharge.

**Public Information Meeting:** No public information meeting was held. Such meetings are not typically convened for development agreement discharge applications.

### **BUDGET IMPLICATIONS**

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

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

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

### **ALTERNATIVES**

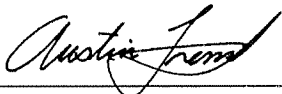
1. Council could accept to enter into a discharging agreement and allow the subject property to revert back to the R-1 (Single Family Residential) Zone. This is the staff recommendation.
2. Council could refuse to enter into a discharging agreement and the use allowed by the development agreement would be retained as the only permitted use.

### **ATTACHMENTS**

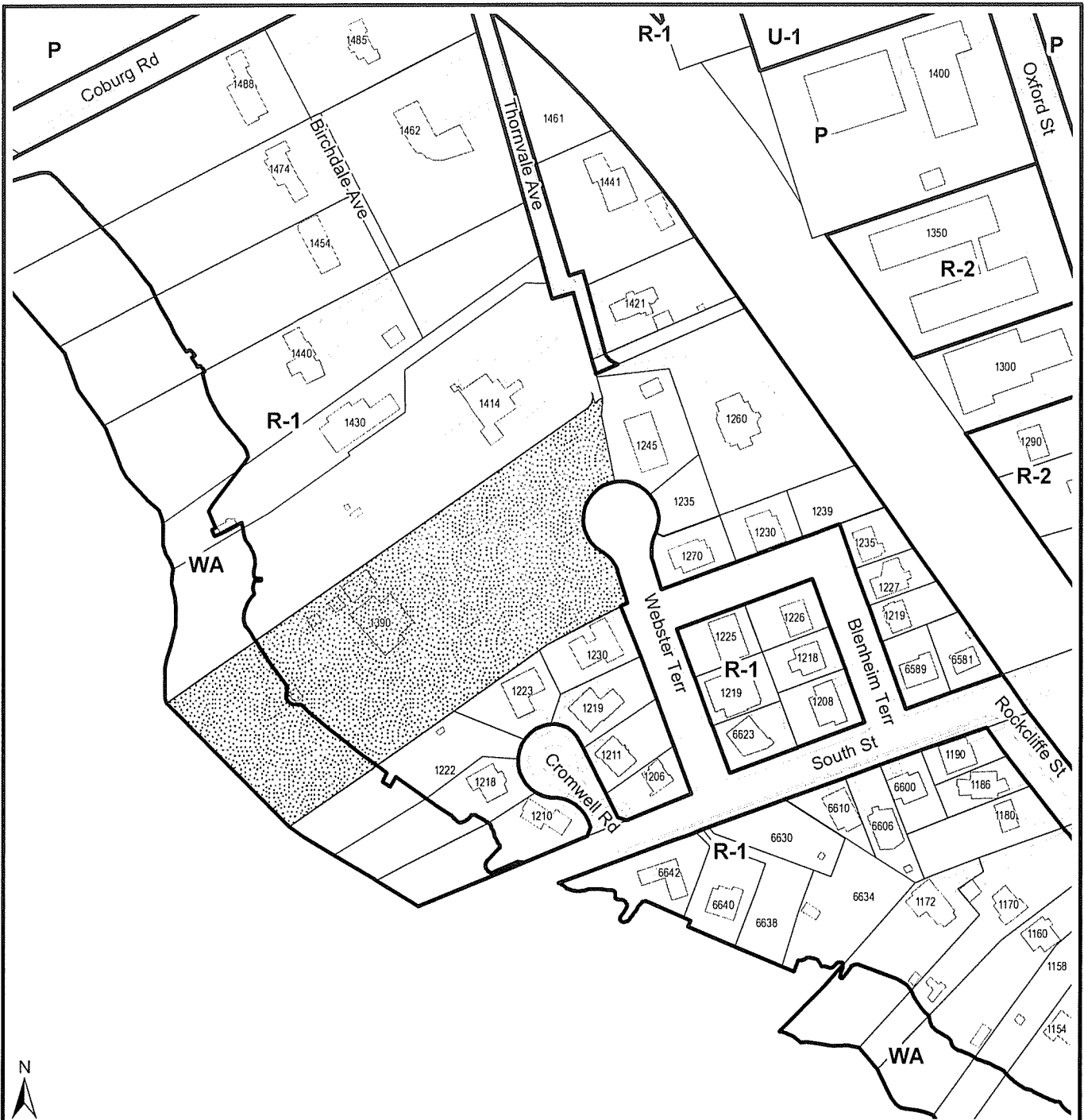
Map 1	Location and Zoning
Attachment A	Draft Discharging Agreement

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 : Randa Wheaton, Senior Planner, Community Development, 490-4499

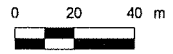


Report Approved by: Austin French, Manager of Planning Services, 490-6717



**Map 1 - Location and Zoning**

1390 Thornvale Avenue  
Halifax



Subject area

**Zone**

R-1	Single Family Dwelling
R-2	General Residential
P	Park and Institutional
U-1	Low-Density University
WA	Water Access

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law Area.

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

Halifax Peninsula  
Land Use By-Law Area

**Attachment A**

THIS DISCHARGING AGREEMENT made this      day of                      , 2009,

BETWEEN:

THORNVALE ESTATES LIMITED  
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 1390 Thornvale Avenue, Halifax (PID # 00078303), and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** Halifax Regional Municipality entered into a development agreement with Thornvale Estates Limited to allow for an addition to the Thomas Kenny House, for a total of eight residential units, demolition of a shed and porch, subdivision of the property into four lots and the deregistration of lots 2, 3 and 4 on the Lands, which was registered at the Halifax County Land Registration Office in Dartmouth as Document Number 81792617 (hereinafter called the "Existing Agreement");

**AND WHEREAS** the Developer has requested that the Agreement be discharged;

**AND WHEREAS** the Lands have been registered as a municipal heritage property pursuant to the provisions of the Municipality's Heritage Property By-law;

**AND WHEREAS**, pursuant to the procedures and requirements contained in the *Municipal Government Act*, the Peninsula Community Council approved this request by resolution at a meeting held on \_\_\_\_\_, 2009, referenced as Municipal Case Number 01225;

**WITNESS** that it is agreed that the Lands are hereby discharged from the Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2009.

SIGNED, SEALED AND DELIVERED  
in the presence of

\_\_\_\_\_

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

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THORNVALE ESTATES LIMITED

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

\_\_\_\_\_

HALIFAX REGIONAL MUNICIPALITY

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

MAYOR

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

MUNICIPAL CLERK