


Item No. 10.1.3
Halifax Regional Council
December 6, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 
Richard Butts, Chief Administrative Officer

Original Signed by 
Mike Labrecque, Deputy Chief Administrative Officer

DATE: November 15, 2011

SUBJECT: **Case 17224: Amendments to the Eastern Passage and Cow Bay
Municipal Planning Strategy to permit two unit dwellings by
development agreement**

ORIGIN

Application by Robert McCoombs to amend the Eastern Passage and Cow Bay Municipal Planning Strategy to permit two unit dwellings at 1948 Shore Road by development agreement.

RECOMMENDATION

It is recommended that Regional Council:

1. Initiate the process to consider amending the Eastern Passage and Cow Bay Municipal Planning Strategy to permit two unit dwellings at 1948 Shore Road, Eastern Passage by development agreement; and
2. Request staff to follow the public participation program as approved by Council in February 1997.

BACKGROUND

Robert McCoombs wishes to develop his lands at 1948 Shore Road in Eastern Passage with two unit dwellings instead of single unit dwellings as the current zoning permits. He has submitted an application to consider amending the Eastern Passage and Cow Bay Municipal Planning Strategy (MPS) in order to permit two unit dwellings by development agreement. The land use designation permits R-2 zoning but current sewage treatment capacity at the Eastern Passage Wastewater Treatment Facility may only be allocated for the number of potential dwelling units under existing zoning. The lands could be rezoned to R-2 but only for the equivalent number of dwelling units permitted under the R-1 zone and this restriction may only be addressed by amending the MPS and to permit two unit dwellings by development agreement.

Location, Designation, Zoning and Surrounding Land Use

The lands are:

- located about 130 metres north of Shore Road;
- approximately 12,327.83 square metres in area;
- designated Urban Residential under Eastern Passage Cow Bay MPS (Map 1);
- zoned R-1 (Single Unit Dwelling) under Eastern Passage and Cow Bay Land Use By-law (LUB) (Map 2); and
- surrounded by R-2 zoned land uses with the exception of P-2 on the northeast boundary.

Proposal

The applicant's proposal is to amend the MPS policy for the lands at 1948 Shore Road to allow two unit dwellings by development agreement so that the number of dwelling units permitted may be equivalent to the number of dwelling units permitted under the R-1 zone. The applicant proposes to develop the equivalent number of two unit dwellings permitted by development agreement and develop the remainder of the lands when sewer capacity becomes available.

Eastern Passage and Cow Bay MPS Policy

The current designation applied to the subject lands is Urban Residential (Map1). The designation supports the rezoning of lands to R-2 by amendment to the LUB under Policy UR-7 (Attachment A) and Policy IM-11 (Attachment A). The criteria requires that a buffer must be provided in the form of a row of R-1 dwellings, municipal central services are available and of sufficient capacity, the effect on housing mix is to be considered, proposed new roads be evaluated on potential impact and regard be given the provisions of Policy IM-11 (Attachment A).

DISCUSSION

Generally, MPS amendments should only be considered where situations or conditions have changed in such a manner that the MPS had not anticipated. The MPS provides for future land use by designating lands on the Generalized Future Land Use Map. The Land Use By-law applies zones within the various MPS designations which may not always be congruent with the Plan designation. These variations become relevant when considering discretionary approvals such as this application.

In this case, the Eastern Passage and Cow Bay MPS permits lands to be rezoned to R-2 by land use by-law amendment under Policy UR-7 of the Urban Residential designation. The provisional clause of Policy UR-7 that requires “municipal services be available and capable of supporting the development” would limit sewer capacity to the number of equivalency units in order to service an R-1 residential proposal. However, under the LUB when lands are rezoned to R-2 there is no mechanism to ensure that only the equivalent number of R-2 dwelling units would be built.

This situation is made somewhat unique in that the applicant is requesting to zone from R-1 to R-2, a greater density, instead of the reverse; zoning from R-2 to R-1 would not present the sewer capacity issue. Staff believe the development agreement may be utilized to establish the permitted number of dwelling units for this form of development.

Recently, the larger Eastern Passage/Cow Bay community has experienced flooding following storm events with the most significant flooding occurring in the vicinity of Cow Bay Road and Caldwell Road. Shore Road, in general, is subject to flooding during high tides and heavy rainfalls and there is some history of wet basements on Chater Street, Peter Court and Romkey Drive (see Map 1). These streets are adjacent to the subject lands and any development proposal will require the submission of a comprehensive storm water management plan which would include measures to mitigate against flooding. Such a plan would include a site engineering analysis and take into consideration the site’s location within the overall drainage basin and the sensitivity of the area’s drainage system. Staff will review the plan for compliance with municipal standards, and consider the project for approval provided those standards can be met.

Summary

Staff is of the opinion that the proposed amendment to consider R-2 uses by development agreement is consistent with the Eastern Passage and Cow Bay MPS to address sewer capacity. Therefore, staff recommends that Council initiate the process to consider amending the Eastern Passage and Cow Bay MPS to enable two unit dwellings in the Urban Residential designation by development agreement.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved operating budget for C310.

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.

ALTERNATIVES

1. Council may choose to initiate the MPS amendment process for reasons set out in this report. This is the recommended course of action.

2. Council may choose not to initiate the MPS amendment process. A decision not to amend the MPS may not be appealed. This alternative is not recommended, as staff believes that there is merit in considering the requested MPS amendment.

ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Location
Attachment A	Excerpts from the Eastern Passage and Cow Bay MPS

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

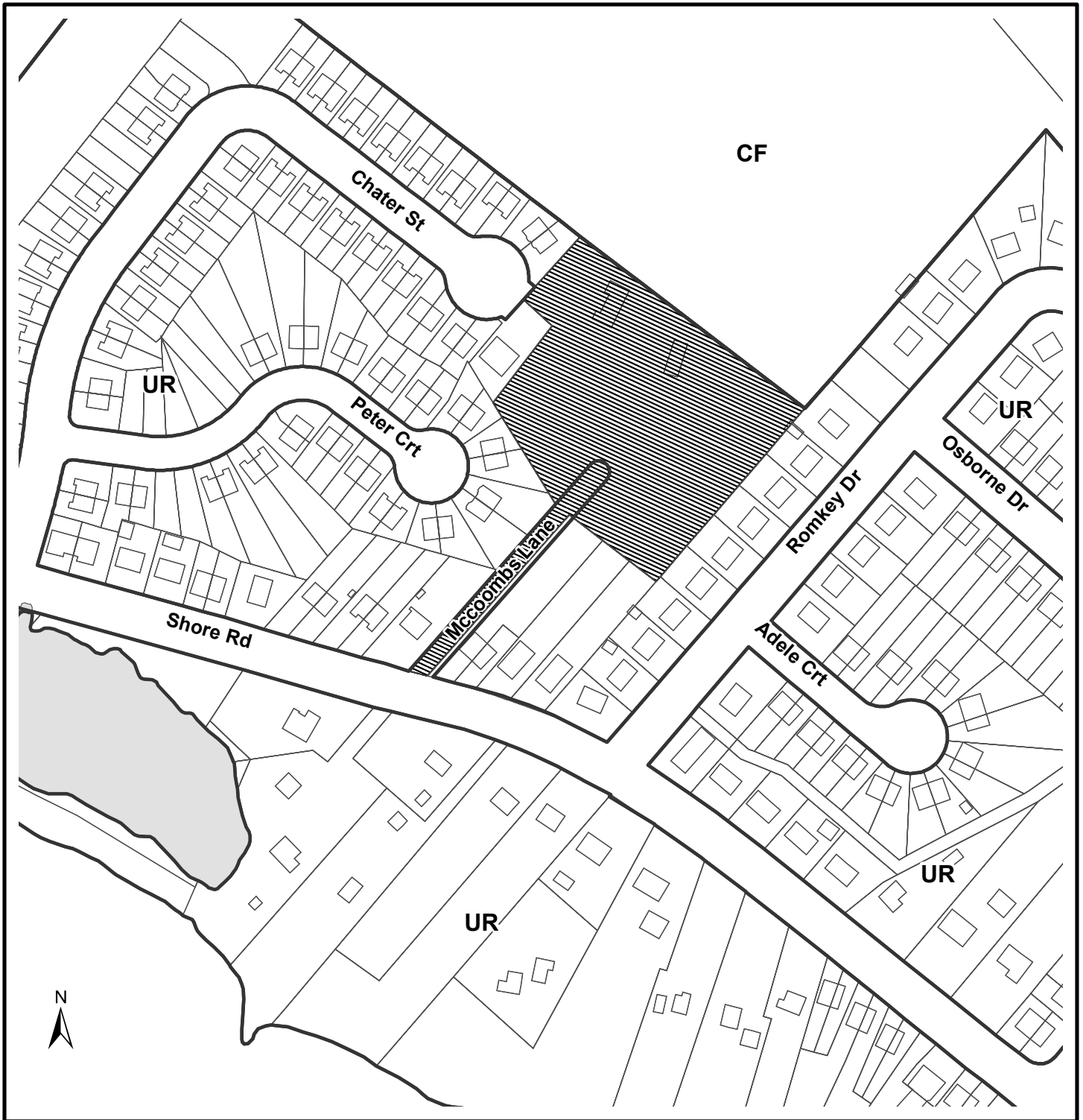
Report Prepared by: Darrell Joudrey, Planner 1, 490-4181

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

Financial Approval by: _____
James Cooke, CMAA, Director of Finance/CFO, 490-6308


Report Approved by: _____
Phil Townsend, Director of Planning and Infrastructure, 490-7166

Original Signed



Map 1 - Generalized Future Land Use

1948 Shore Road

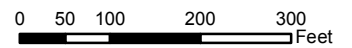
 Subject Property

Designation

CF Community Facility
 UR Urban Residential

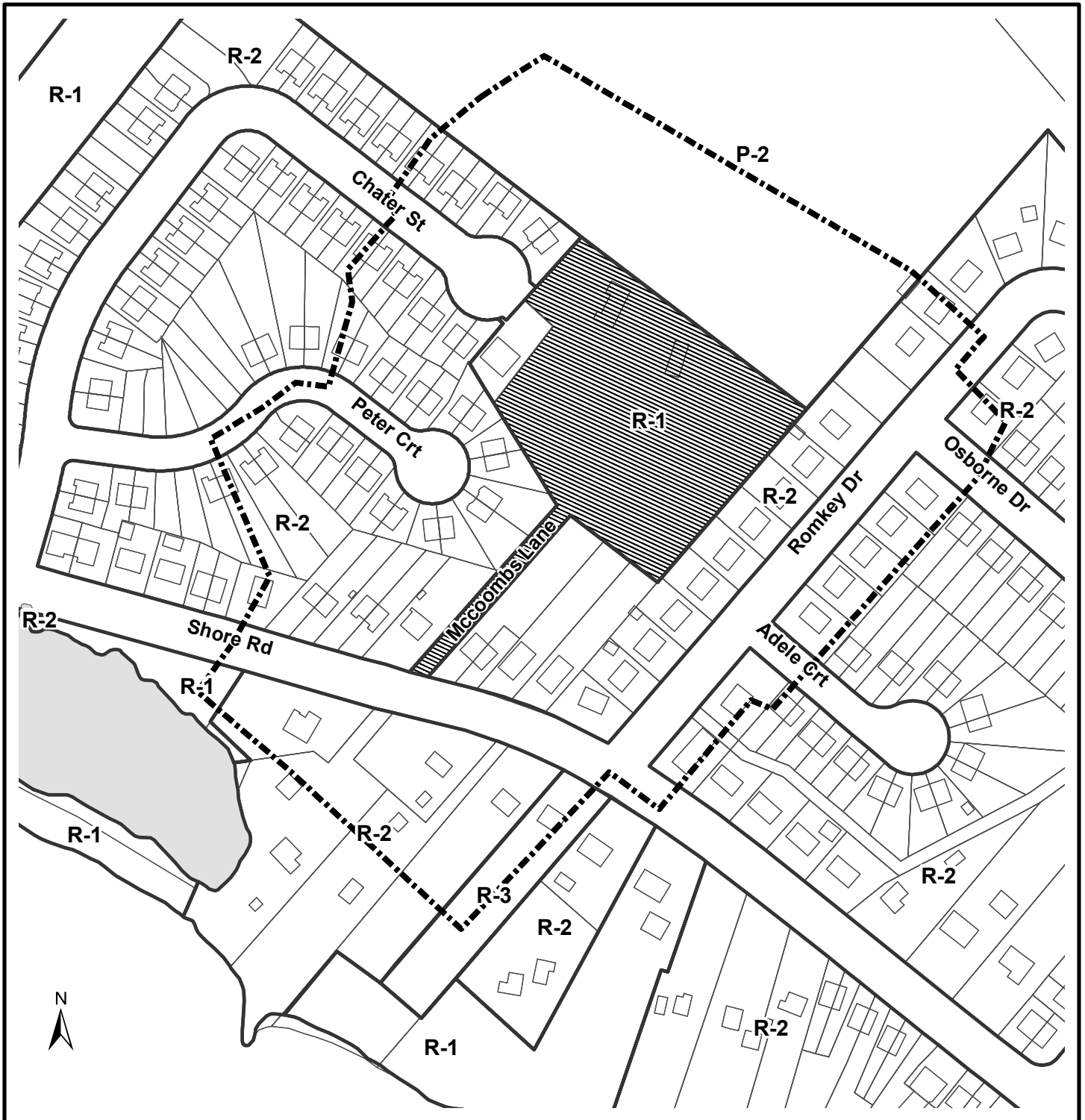
Eastern Passage/Cow Bay Plan Area

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This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Eastern Passage/Cow Bay Plan Area.

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



Map 2 - Zoning and Location

1948 Shore Road

 Subject Property

 Notification Area

Eastern Passage/Cow Bay Plan Area

Zoning

- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-3 Mobile Dwelling
- P-2 Community Facility

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0 50 100 200 300
Feet

This map is an unofficial reproduction of a portion of the zoning Map for the Eastern Passage/Cow Bay Plan Area.

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Attachment A: Excerpts from the Eastern Passage/Cow Bay MPS

UR-7 Notwithstanding Policy UR-2, within the Urban Residential Designation, it shall be the intention of Council to establish a two unit dwelling zone which permits new two unit dwellings in addition to all uses permitted in the single unit dwelling zone (Policy UR-2), under revised zone standards. This zone shall be applied to all existing two unit dwellings and to those lands which are affected by approved plans of subdivision. Provisions will also be established within the land use by-law to permit these existing developments to proceed based on the previous two unit dwelling zone standards. Council shall only consider permitting new two unit dwellings, under revised standards by amendment to the land use by-law and with regard to the following:

- (a) that where a vacant lot or parcel of land to be rezoned abuts or is immediately adjacent to properties with single unit dwelling zoning, a buffer of R-1 zoned lots shall be maintained between existing and proposed development;
- (b) that streets are not considered to constitute part of the buffer and, except for individual lot infill, parkland with an area of less than one acre and a depth of less than one hundred (100) feet shall not constitute part of the buffer;
- (c) that municipal central services are available and capable of supporting the development;
- (d) where new roads are being proposed as part of the development, an evaluation of the proposed road layout and the impacts on traffic circulation in the surrounding area; and
- (e) the provisions of Policy IM-11.

IM-11 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 planning strategy, Council shall have appropriate regard to the following matters:

- (a) that the proposal is in conformity with the intent of this planning strategy 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 sewerage and water services;
 - (iii) the adequacy or proximity of school, recreation or other community facilities;
 - (iv) the adequacy of road networks leading or adjacent to or within the development; and
 - (v) the potential for damage to or for destruction of designated historic buildings and sites.
- (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 to flooding.

(e) Within any designation, where a holding zone has been established pursuant to “Infrastructure Charges - Policy IC-6”, 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)