

Audrey Rogers  
116 Pearson Bay  
Fort McMurray, AB T9H 4S1

February 17, 2020

Jade Brown, Chief Legislative Officer  
Regional Municipality of Wood Buffalo  
9909 Franklin Avenue  
Fort McMurray, AB T9H 2K4

Ms. Brown,

**RE: Public Hearing – Bylaw No. 02/002 – Lot 1, Block 1, Plan 182 1793 from R1M to R1S**

This submission is provided in **opposition** to the proposed rezoning of Lot 1, Block 12, Plan 182 1793 from R1M – Mixed Form Single Detached Residential District to R1S – Single Family Small Lot Residential District. I also do not support any zoning which would allow any development as a permitted use, as my property – my home - is immediately adjacent to this site and will be profoundly impacted by any future development on this site.

The property at 9102 McPhee Street is perhaps the most unique property in all of Fort McMurray. It is roughly the same size as the entirety of Pearson Bay, which is immediately adjacent to it. Pearson Bay has 8 residential lots, all zoned R1S, that range from 3500 ft<sup>2</sup> – 4000 ft<sup>2</sup> in size. This one property is at least ten times that in size. It certainly does not warrant the same zoning considerations as surrounding lots. McPhee Street is also not built to current municipal standards, and houses only a single address.

The property is also unique in that it has an upper terrace portion, with a steep slope leading to a lower fairly flat area. The steep slope has previously prevented development of the lower portion; however, the current owner has since acquired a lot on Cote Bay and amalgamated it with the larger portion into a single contiguous lot. There is a pending subdivision application to then subdivide the property into 2 parcels – one to be accessed from McPhee Street, the other from Cote Bay. This will ultimately lead to development of the site, which was previously undeveloped.

The 2016 wildfire brought to light many issues with slope stability in Waterways. In a March 7, 2017 presentation to the Wood Buffalo Recovery Committee, the site of the subject property was identified as alluvial terrace (the upper portion where a home previously existed), alluvial slope and alluvial **floodplain**. Alluvial floodplain is essentially land which has been flooded or where a river once flowed. This property sits fairly close to Saline Creek, but also at the bottom of Beacon Hill. Prior to the 2016 wildfire, the area formed a natural drainage pond in springtime, but the slope was also heavily treed, which resulted in a significant amount of water being absorbed. Since the wildfire, there is nothing left on the slope to absorb the run-off and the ponding has increased significantly. The attached photos, taken on March 13, 2019 from McPhee Street looking at the rear of the properties at 116 and 120 Pearson Bay, depict the water accumulation after just 2 relatively warm days. Other photos, taken on March 22, 2019, show that the water level has risen to the point where it now encroaches onto my property and roughly 2-3 feet into my back yard. Virtually the entirety of the lower portion of the lot at 9102 McPhee Street became a pond and stayed that way for several weeks.

The drainage issue on the portion of the lot behind mine is not something new. The original homes on Pearson and Cote Bay were built in 1980-1981, and a drainage easement was put in place around Cote Bay and running through the rear yards of 120, 124 and 128 Pearson Bay at that time to allow a channel for the water. The existing drainage easement certainly didn't take into account the volume of water that would result if all the trees were removed, as is the case at present. If the lower portion of 9102 McPhee Street is developed, the runoff will need to be diverted before it reaches the lower level. The only place to divert it is onto other properties, as the existing drainage easement is insufficient to prevent the ponding. Any elevation to the property, or the placement of a structure in the midst of the ponded area, will force the water and runoff onto adjacent properties, one of which is mine. This is not acceptable.

After losing my property to fire, I am now faced with the fear of having it flooded repeatedly. Prior to the 2016 wildfire, a large portion of this property (particularly the slopes) was heavily treed. A considerable number of trees were removed from 2012-2014, which was resulted in increased ponding and the flooding of the yard at 112 Pearson Bay. Thankfully, until 2019, I have never had an issue with drainage or runoff. Sadly, it is now very much an issue for me, although the drainage issue clearly resides on the applicant's property.

The natural assumption to all of this is that I do not want to have a house built in my back yard. It would be a correct assumption. I definitely do not want to look at the side of a 25-30 ft. high structure just 4 feet from my back fence and looking down into my yard or across into my windows – no one would. Had that even been a remote possibility, I would not have purchased my home there in 2006, nor would I have rebuilt in the same location. Ultimately, I could learn to live with a house at my back fence, despite the loss of privacy and natural sunlight, but the issue is far greater than just having another house built behind me. The very nature and configuration of this property makes development of the lower portion challenging and poses significant risk to adjacent properties. The amount of ponding that occurs in spring is tremendous – there is water on that property for 2 full months of the year, and mud for several weeks thereafter. I've tried to understand the rationale behind wanting to build in an area that floods regularly, but to no avail. It simply doesn't make sense to me. With that said, I'm certain the applicant would take measures to protect his property and his investment, but I have no assurance that mine will be protected. In fact, I have every reason to believe otherwise, hence my unwillingness to support any zoning which would not allow impacted property owners to have a voice or potentially a right of appeal.

It is my understanding that the proposed zoning of R1S is based on the frontage located on 108 Cote Bay. The property in question is 9102 McPhee Street. The pending subdivision application was made for 9102 McPhee Street, so I question why the frontage of 108 Cote Bay would determine zoning. Since this property has not yet been subdivided, it cannot and should not exist with two separate addresses. Both the current and proposed zoning would allow development on the site as a permitted use, meaning there is no requirement to notify or consult with impacted property owners with respect to any applications or approvals, nor is there any opportunity to appeal.

As a resident whose property is profoundly impacted by any future development on the lower part of this property, I am requesting that Council instead consider a **Direct Control** zoning. Direct Control zoning would require that any decision about the future development of the property be made by Council, thus putting it in the public domain and giving impacted residents a voice. Direct Control zoning is intended for those properties which are unique and/or have significant environmental considerations or features that necessitate a greater degree of due diligence. It is important to note that Direct Control zoning does not prohibit the applicant from developing his property; it recognizes the uniqueness of the property and provides for a different approval authority. In my opinion, it fits this property perfectly.

I realize the issue before Council relates to the use of the property, not the future subdivision or development of the property. However, it should be noted that the property has a lengthy history, including a previous subdivision application which was refused by Planning and was then granted by the Subdivision & Development Appeal Board in late 2014. For reasons unknown, that subdivision did not proceed. A development permit was issued for a 6-bedroom home to be built on the lower level of the property in August 2018, but again, for reasons unknown, it did not proceed and thankfully has now expired. There is now a pending subdivision application, which will likely be followed by two separate development permit applications. Under the present and proposed zoning, I have no right of appeal, no opportunity to ensure that what is being considered and potentially approved is sufficient to protect my property and that of my neighbours.

I note that the report from Planning indicates that the applicant held an open house, but no one attended. The open house was held on Tuesday, August 13<sup>th</sup> from 4-7 p.m. at Holy Trinity School, and I became aware of it at about 5:30 that same day. The only notice of the open house was an ad placed in the Fort McMurray Today. I suspect it was not attended because they were simply not aware it was taking place, rather than because they were not interested in it.

I respect the right of the property owner to develop his property and I believe that everyone who was impacted by the fire should have the right to rebuild what they had previously. This does not fit in that category. I do not believe the fire should provide an avenue to utilize properties in ways which were not previously contemplated or possible. Again, I note that Direct Control zoning will not prevent the applicant from developing his property. In fact, it may serve to open the door to unique opportunities and solutions to mitigate some of the issues that I have mentioned.

I have lived in Waterways at this location since 2006. I have always loved our little neighbourhood and the people who live in it. The sense of displacement I felt following the fire impacted me greatly, and nearly 2 years to the day following the fire, I finally got to return home again. Now that home and my sense of security and belonging is once again threatened, but this time it is preventable.

The following documents are attached for your information and consideration:

1. Excerpt from March 8, 2017 presentation to the Wood Buffalo Recovery Committee
2. March 9, 2019 submission in response to Subdivision Application File No. 2018-SU-00011
3. 3 Photos taken from McPhee Street overlooking the portion of the lot abutting 116 and 120 Pearson Bay – March 13, 2019
4. 2 photos depicting flooding inside the rear yard of 116 Pearson Bay – March 22, 2019.
5. Excerpts from Land Use Bylaw 99/059 for Direct Control and Single-Family Small Lot Residential Districts

In closing, I respectfully request that Council not support the proposed zoning amendment as is, and instead consider applying a **Direct Control** zoning to the property.

Sincerely,

Audrey Rogers



REGIONAL MUNICIPALITY  
OF WOOD BUFFALO

# Waterways Report

Address

- Legend
- Test Hole (Inclinometer)
  - No Movement
  - Creek Movement
  - Test Hole

- Sanitary Sewer
- Active, Sanitary Sewer Pipe
  - Abandoned, Sanitary Sewer Pipe
  - Sanitary Manholes
  - Active, Manhole
  - Storm Sewer
  - Active, Storm Sewer Pipe
  - Abandoned, Storm Sewer Pipe
  - Storm Sewer Lead
  - Storm Sewer Catchment
  - CD Inlet
  - Catch Basin
  - Manhole
  - Outfall

- Water Mains
- Active
  - Abandoned

- Zone
- 1-Agricultural Flood Plain
  - 2-Alluvial Terrace
  - 2A-Slide Slope of Alluvial Terrace
  - 3-Previously Developed Colluvium Slope
  - 3A-Previously Developed Colluvium Slope
  - 4-Colluvium Slope and Uplands
  - 5-Municipal Land

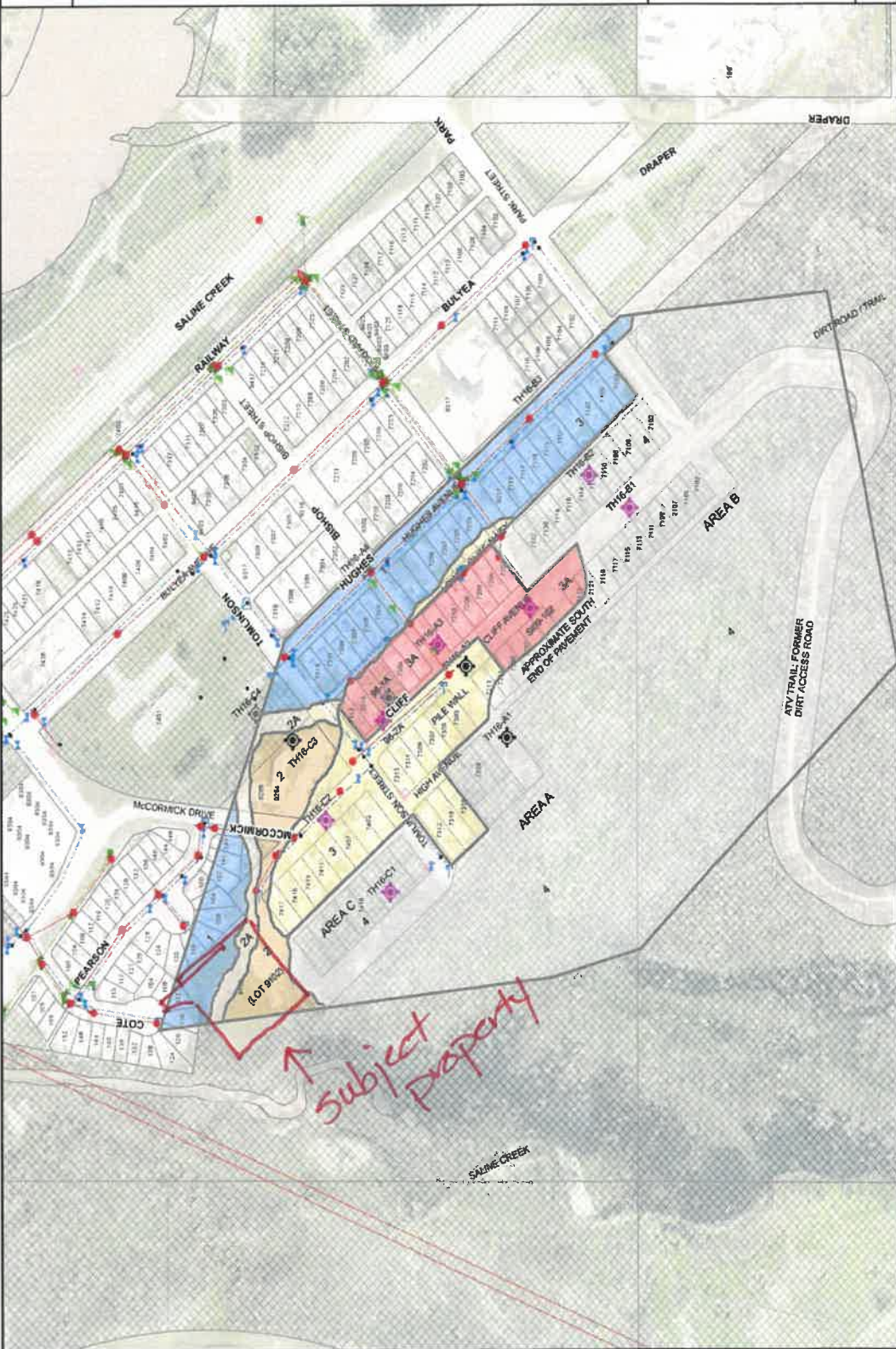


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THE MUNICIPALITY OF WOOD BUFFALO WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS OR OMISSIONS.

Map updated by the Geographic Information Systems Branch on 22/4/2017



Audrey Rogers  
116 Pearson Bay  
Fort McMurray, AB T9H 4S1

March 9, 2019

Ashlee Bevis, Planner III  
Regional Municipality of Wood Buffalo  
9909 Franklin Avenue  
Fort McMurray, AB T9H 2K4

Ms. Bevis,

**RE: Subdivision Application File No. 2018-SU-00011**

I am in receipt of your correspondence dated February 25, 2019 regarding the proposed subdivision of 9102 McPhee Street, otherwise known as Lot 1, Block 1, Plan 182 1793 into two separate lots. As an immediately adjacent owner whose property will be profoundly impacted by the planned subdivision, I have a number of concerns, as outlined below:

Civic Address

Since receiving this notice, I have discovered that the current owner has purchased the lot at 108 Cote Bay and consolidated it with 9102 McPhee Street to form a single contiguous lot. A development permit has been issued to 108 Cote Bay to construct a single-family home. The owner now wishes to subdivide the property at 9102 McPhee Street. How is it possible that a single property can exist with two civic addresses? Allowing any owner to have more than one civic address for a property is misleading to residents, and also prevents them from being properly informed of issues that may impact them. Given that a development permit was applied for and issued, it would stand to reason that the owner now identifies this property as 108 Cote Bay, as opposed to 9102 McPhee Street.

Inconsistent Zoning

The parcel of land, as it now sits, has two separate zonings. I'm not entirely certain how a single property can hold two different zonings and be issued a development permit, as it is unclear under which zoning the property now sits, and therefore impacts what is a permitted use and what is a discretionary use. The proposed subdivision application does not propose to retain the original lot lines; therefore, the zoning should be addressed prior to allowing subdivision to proceed.

Previous Subdivision Application

The Owner of what is now arguably 108 Cote Bay applied for a subdivision of 9102 McPhee Street in 2014. At the time of applying, he had not provided the Planning Department with the required

geotechnical survey and was ultimately denied. The matter was appealed to the Subdivision & Development Appeal Board successfully; however, conditions were applied by the Board. I have been advised by the Planning & Development Department that the owner did not proceed with the subdivision at that time because he did not wish to comply with the conditions applied by the Board, particularly with respect to the provision of environmental and municipal reserve. Why is a further application considered for the same property when the first was not followed through with?

#### Servicing

The subdivision proposes to establish two lots – the existing lot on Cote Bay, and the former lot, with an entrance off of McPhee Street. Prior to the 2016 Wildfire, there was a single property on McPhee Street, and several others along Cliff Avenue. The Cliff Avenue properties have since been deemed unsuitable for residential development and all but 4 have been acquired by the Municipality. There are presently no other homes in the area, which means that the Municipality is not required to provide services such as waste removal and road maintenance, all of which come at a cost to the taxpayer. The roadway known as McPhee Street may or may not be built to current municipal standards, which may necessitate upgrading to the approved standards for road width, sidewalks, extension of underground services, and so forth. Who is responsible for this cost? I sincerely hope it is borne by the property owner, as opposed to the taxpayer.

#### Drainage Easement

Cote Bay is surrounded by a drainage easement. The proposed subdivision provides for the driveway of 108 Cote Bay to actually cross that drainage easement. What steps have been undertaken to protect neighbouring properties, including those at the rear of Pearson Bay, from potential flooding? Where is the sump outflow directed?

#### Slope Stability

The geotechnical survey conducted in 2014 and submitted to the Subdivision and Development Appeal Board was based on the property in its pre-wildfire state. There have been significant changes to the landscape, not least of which is removal of all of the treed areas that aided in stabilizing slopes. The Municipality commissioned a study which was presented to Council in June 2017, which identified the entire area of the subject property as either alluvial terrace (where the home originally sat), side slope of alluvial terrace (the formerly treed hillside) or alluvial flood plain (the area for which a development permit has now been issued). The study indicated that geotechnical studies would need to be completed on the alluvial terrace before any development was commenced, which is presumably why the owner opted to develop in the alluvial flood plain area. The study further indicated that the side slope of the alluvial terrace is a relatively steep slope and therefore unsuitable for development. As previously noted, the Municipality acquired a number of lots in the areas of High Avenue and Cliff Avenue due to slope instability.

#### Emergency Access/Egress

Because the proposed home at 108 Cote Bay will be at the rear of a number of existing fenced lots, what arrangements have been made for emergency access/egress? Is the proposed access



sufficient to allow emergency vehicles to get to the property? Is a hydrant within reach? Additionally, what arrangements have been made for the proposed subdivided portion of the property? Emergency access to the home that previously existed at 9102 McPhee was challenging because of the narrow street, adjacent side slope and configuration of the house on the lot. Has Emergency Services (both fire and police) been consulted and, if so, what is their position? I am particularly interested in their position with respect to 108 Cote Bay and the approved development on that site, as its proximity to my own could have significant repercussions.

As a result of the concerns laid out in the foregoing, I first and foremost request that the Municipality require that the property have a single civic address, which either changes the subdivision application to reflect the address of 108 Cote Bay, or alternatively that the Municipality revoke the previously issued development permit for 108 Cote Bay and re-issue it to 9102 McPhee Street. Secondly, I request that the issue of zoning be rectified prior to any subdivision or development being permitted to commence. A change in land use would require that a public hearing be held, which would at minimum, provide impacted residents an opportunity to have their concerns heard.

If neither of the above requests is acknowledged or acted upon and subdivision of the property is permitted by the Municipality, I ask that the following conditions be applied:

1. The entire side slope of the alluvial terrace, as depicted in the June 7, 2017 report to Council, and the drainage easements or swales be identified as Environmental Reserve to prevent any future development or removal of new growth which may impact drainage or the stability of the slope;
2. The Owner be required to enter into a deferred service agreement with the Municipality for the extension or upgrading of McPhee Street and municipal services that may be required to facilitate development of the subdivided lot;
3. The owner must complete a comprehensive geotechnical study of the alluvial terrace area and side slope to the alluvial terrace to ensure that it is suitable for development and that any ground disturbance will not have impact on the side slope; and
4. That all conditions of the 2014 Subdivision and Development Appeal Board decision (SDAB 2014-024) be imposed.
5. That the owner of 108 Cote Bay/9102 McPhee Street be required to provide security to the Municipality to be used in the event that the proposed subdivision and approved development result in damage to neighbouring properties.

In closing, I would like to comment on the process surrounding this property, as I feel that neither myself nor my neighbours were adequately notified about the issuance of a development permit

(because it was issued for what is ostensibly a completely different property) and therefore denied our opportunity to appeal any decision that was made. I fully recognize that the area behind my home is private property and the owner has the right to utilize that property; however, in doing so, he must not be permitted to impact the use, enjoyment or amenities of adjacent properties or the surrounding neighbourhood. The proposed subdivision and the development permit that has been issued will do just that.

I purchased my property 13 years ago, with full knowledge that it was abutted by private property, but undevelopable because of the surrounding slopes which made it inaccessible. My decision to purchase would have been different had there been potential for future development. To find out that a development permit was issued under a different address is unpalatable and frustrating.

The wildfire has unmistakably changed our community and our lives, but I would argue that it should not be used as an opportunity to alter the character of our little neighbourhood. I don't believe there is any other location in the entire urban service area that allows one lot to be used as a driveway to access another area and build a home which literally backs onto about 10 others. The approved development permit allows for a 26' high structure to be built with the side of the home only 1.2 metres from my back fence. Had the rear of the home been facing my property, the minimum setback would be 3 metres, which would be a little more palatable. When completed, the home will stand taller than my own, look down into my yard and directly across into my windows. It will eliminate any sense of privacy and security that I have, will limit the sun exposure in my yard and prevent me from enjoying my property to the fullest. The nature of the proposed development is completely out of character with the surrounding neighbourhood which is zoned as R1S. I would also argue that it will significantly impact the future value and overall marketability of my property, as a home which backs onto undevelopable green space is far more appealing than one that has another home just 4 feet from its rear fence. Frankly, I feel re-victimized by the manner in which this entire situation has been handled and the lack of due consideration for the adjacent property owners and surrounding neighbourhood.

I trust the above will be given due consideration and would welcome any opportunity to expand upon my concerns. Ultimately, I would like the opportunity to exercise my right to appeal the decisions that have been made. I may be reached at 587-646-1967 or [audreyrogers@shaw.ca](mailto:audreyrogers@shaw.ca) at any time.

Audrey Rogers















**118 DC - Direct Control District****118.1 Purpose**

The purpose of this District is to provide for the creation of specific land use regulations where the circumstances are such that control by other Districts would be inappropriate or inadequate, having regard to any applicable statutory plans, existing or future surrounding developments and the public interest.

**118.2 Application**

- (a) This District shall only be applied where the following conditions are met:
  - (i) the development is, in the opinion of Council, considered appropriate for the site, having regard for the policies and objectives of any statutory plan and compatibility with the scale and character of surrounding development;
  - (ii) the use of any other District to accommodate the development would, in the opinion of Council, result in potential conflicts with existing or future surrounding developments, should the full development potential of such District be utilized; or
  - (iii) the development is of a unique form or nature not contemplated or reasonably regulated by another District.
- (b) In addition to the information required by this bylaw for an amendment application, the applicant shall also provide the following information:
  - (i) support rational explaining why the District is desirable for the site, having regard for the conditions of application set out in (a) above;
  - (ii) a list of uses proposed for the site;
  - (iii) a narrative documenting the options and concerns of surrounding property owners and residents obtained through a public information program, and how the proposed development responds to those concerns, together with a summary of the methods used to obtain such input;
  - (iv) plans and elevations that would help to substantiate the need for the district; and
  - (v) any other information as may be required by Council.

- (c) Notwithstanding (b) above, Council may consider an application for this District, if, in the opinion of Council, the application is of such a nature as to enable a decision to be made without all of the required information.

### **118.3 Uses**

In approving a Direct Control District, Council shall specify those uses which may be permitted or discretionary in the District.

### **118.4 Development Permits**

In approving this District, Council shall specify which uses shall be decided upon by the Development Officer, by the Municipal Planning Commission and by Council.

### **118.5 Development Controls**

In approving this district, Council shall specify those regulations, in addition to the general regulations of this bylaw, which shall apply to uses in this District.



## **96. R1S - Single Family Small Lot Residential District**

### **96.1 Purpose**

The purpose of this District is to provide for low density residential development on small lots with provisions for zero lot line development in the Urban Service Area.

### **96.2 Permitted Uses**

The following are permitted uses:

- (a) Accessory Building
- (b) DELETED
- (c) Duplex
- (d) Home Occupation
- (e) Park
- (f) Public Utility
- (g) Satellite Dish Antenna
- (h) Semi-Detached Dwelling
- (i) Single Detached Dwelling (

### **96.3 Discretionary Uses - Development Officer**

The following are discretionary uses that may be approved by the Development Officer:

- (a) Amateur Radio Antenna
- (b) Bed and Breakfast
- (c) Boarding House
- (d) Fourplex
- (e) Home Business
- (f) Project Accommodation
- (g) Public Use
- (h) Religious Assembly
- (i) Residential Sales Centre (dwelling based or portable)
- (j) Townhouse
- (k) Triplex
- (l) Visiting Students Supervised Housing Unit

### **96.4 Discretionary Uses - Planning Commission**

The following are discretionary uses that may be approved by the Municipal Planning Commission:

- (a) Basement Suite
- (b) Child Care Facility
- (c) Educational Service Facility (accessory to a Religious Assembly only)

- (d) Group Home

## 96.5 Site Provisions

In addition to the General Regulations contained in Part 5, the following standards shall apply to every development in this district.

- (a) Front Yard (minimum): 4.5 m, except the setback shall be a minimum of 6.0 m for a garage attached to the front of a dwelling unit.

- (i) Front yard (minimum) 9.0 m for a garage attached to the front of the dwelling unit without a rear lane for Portion of Lot 1A, Plan 012 3208 as depicted as site 4 on the Stonecreek Site Map.

- (b) Side Yard, Interior (minimum): 1.2 m

In a laneless subdivision, excepting corner lots, a dwelling without an attached garage shall provide one (1) 2.7 m (minimum) interior lot to provide vehicular access to the rear yard.

The interior side yard may be reduced to zero on one side of a lot if the following conditions are met:

- (i) The owner of the adjacent lot grants a 1.0 m private maintenance access easement. Such easements are to be registered by caveat against the title of the adjacent site.
- (ii) All roof drainage from the residence shall be contained to the lot and diverted to the municipal storm drainage system by eavestroughs and downspouts or other suitable means. Surface drainage to the adjacent lot will not be permitted.
- (iii) The development is designed comprehensively and comprises at least 12 lots.

- (c) Side Yard, Exterior (minimum): 3.0 m

- (d) Rear Yard (minimum): 4.6 m

- (e) Lot Width (minimum):

- (i) Semi-Detached and Duplex Dwellings 7.6 m per unit
- (ii) All Other Uses 9.0 m

- (f) Lot Depth (minimum): 30.0 m
- (g) Lot Area (minimum):
  - (i) Semi-Detached Dwelling: 228.0
  - (ii) Duplex Dwellings: 456.0 m<sup>2</sup>
  - (iii) All Other Uses: 270.0 m<sup>2</sup>
- (h) Building Height (maximum): 10.0 m for principal building
- (i) Lot Coverage (maximum): 45 percent including accessory buildings
- (j) Landscaping: a minimum of 30 percent of the lot area shall be landscaped with soft landscaping
- (k) Triplex and Fourplex dwellings shall comply with the regulations of the R2 district. Townhouses shall comply with the regulations of the R3 district.
- (l) Dwellings shall be required to have garages accessible from the lane only for a portion of Lot 1A, Plan 012 3208 as depicted as site 6 on Stonecreek Site Map.