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Item No.
Halifax and West Community Council
May 30, 2017
June 27, 2017
July 25, 2017

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: February 13, 2017

SUBJECT: **Case 20100: Rezoning and LUB Amendments, 214, 216 and 218 Herring Cove Road, Halifax**

ORIGIN

Application by Ekistics Planning and Design to rezone 214, 216 and 218 Herring Cove Road, Halifax and to amend the R-3 Zone of the Halifax Mainland Land Use By-law to allow the development of a mixed use, residential and commercial building.

LEGISLATIVE AUTHORITY

See Attachment F.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed rezoning of 214, 216 and 218 Herring Cove Road, Halifax from R-2P (General Residential Zone) to R-3 (General Residential and Low Rise Apartment Zone), and the proposed text amendments to the R-3 Zone of the Land Use By-law for Halifax Mainland, as contained in Attachment A of this report, and schedule a public hearing; and
2. Adopt the amendments to the Land Use By-law for Halifax Mainland, as set out in Attachment A.

BACKGROUND

Ekistics Planning and Design submitted an application on behalf of Nanco Developments Limited to rezone 214, 216 and 218 Herring Cove Road, Halifax (Maps 1 and 2) from R-2P (General Residential Zone) to R-3 (General Residential and Low Rise Apartment Zone), and to consider text amendments to the R-3 Zone of the Halifax Mainland Land Use By-law to allow for a four-storey apartment building with ground-floor commercial space (Attachments A and B).

Subject Site	214, 216 and 218 Herring Cove Road, Halifax (consolidation of three properties)
Location	North of Old Sambro Road, Halifax
Regional Plan Designation	US (Urban Settlement)
Community Plan Designation (Map 1)	MDR (Medium Density Residential), Halifax Mainland South Secondary Planning Strategy
Zoning (Map 2)	R-2P (General Residential), Halifax Mainland Land Use Bylaw
Size of Site	Total site area of approximately 3,820 sq. metres (41,120 sq.ft.)
Street Frontage	Approximately 52 metres (170 feet) total
Current Land Use(s)	2 vacant lots and one single-unit dwelling; existing easement for underground services on southern portion of site.
Surrounding Use(s)	The surrounding area is comprised of low and medium-density residential uses (single and 2-unit dwellings) to the rear (east), the Golden Age Social Centre to the north, a 2.5-storey apartment building to the south and a mix of commercial and residential land uses on the opposite (west) side of Herring Cove Road.

Proposal Details

Nanco Developments Limited proposes to consolidate the three properties and develop the subject site with a four-storey mixed use building including approximately 36 dwelling units and up to 2,000 square feet of neighbourhood commercial space on the ground floor. A conceptual development rendering and site plan of the proposed development is provided for information purposes (Attachment B). In order to enable consideration of the desired development proposal, the application includes the following two elements:

- Rezoning from R-2P (General Residential) zone to R-3 (General Residential and Low Rise Apartment) zone; and
- Text Amendments to the R-3 Zone of the Halifax Mainland Land Use By-law to: 1) require new apartment buildings to have a 20-foot wide landscaped area abutting any low-density residential uses; and 2) to allow for limited ground-floor commercial uses up to 2,000 square feet in area.

It is important to note that, if the proposed rezoning and text amendments to the Halifax Mainland LUB are approved, the proposed development (Attachment B) could change at the permitting stage, provided that the requirements of the LUB are met.

Enabling Policy and LUB Context

The subject properties are designated MDR (Medium Density Residential) pursuant to the Mainland South Secondary Planning Strategy, Section 10 of the Halifax Municipal Planning Strategy. The properties are zoned R-2P (General Residential) Zone under the Halifax Mainland Land Use By-law (Maps 1 and 2).

The subject proposal is being considered pursuant to the applicable policies of the Mainland South SPS, and a review of these relevant policies is contained in Attachment C. Additionally, Attachment D provides an excerpt of the R-3 Zone from the Halifax Mainland LUB.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through signage posted on the subject site, a public information meeting on February 25, 2015, and the provision of information on the HRM website. Notices of the meeting were posted on the HRM website, in the newspaper, and mailed to property owners within the notification area (Map 2). The minutes from the public information meeting are found in Attachment E.

The proposal was amended following the public information meeting on February 25, 2015 which resulted in the following revisions:

- Implementation of a 20-foot wide setback and landscaped area abutting any low-density and medium-density residential uses to achieve increased compatibility between land uses;
- A reduction in the number of residential units by two, for a total of 36 units, in order to meet the unit-mix requirements of the LUB;
- A restaurant on the ground floor was originally proposed but will now be prohibited. However, limited “neighbourhood commercial” uses such as convenience stores and offices will be permitted on the ground-floor of buildings which front on Herring Cove Road and are zoned R-3; and
- Instead of applying two zones (R-3 and RC-1 zones) which was originally proposed, only the R-3 Zone will be applied. Commercial uses noted above would be permitted via text amendments to the R-3 Zone.

In January of 2017, information postcards with notice of the proposal revisions were sent by regular mail to property owners within the notification area shown on Map 2, with a request for feedback. No additional written comments were received.

A public hearing must be held by Halifax and West Community Council before considering approval of the proposed LUB amendments. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail. The proposal will potentially impact local residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment C provides an evaluation of the proposed rezoning and LUB amendments in relation to relevant MPS policies. Of the matters reviewed to satisfy the MPS criteria, the following have been identified for more detailed discussion:

Appropriateness of Site Rezoning

The subject site, which is made up of three properties with a combined site area of just under one acre (0.4 hectares), is of adequate size to support an apartment building which meets or exceeds the zone requirements related to building setbacks and form. The site fronts on Herring Cove Road, one of the key principal streets in the Mainland South area, and is near street intersections. An existing apartment building abuts the site to the south, while a social club exists to the north. The houses abutting the site to the east will have greater buffering than is normally achieved in the R-3 Zone via the proposed LUB amendments (refer to “Building Setback/ Landscaped Area” section below).

There are other R-3 zoned properties in the immediate area as well as properties on the opposite (west) side of Herring Cove Road zoned C-2A (minor commercial uses), which also permits 4-storey apartment buildings. Therefore, staff advise that it is appropriate to rezone the subject site, as it is compatible with the surrounding residential neighbourhood.

Building Setback/ Landscaped Area

The proposed LUB amendments require a 20-foot wide side and rear yard setback and landscaped area abutting any low-density residential uses compared to the current minimum setback of 10 feet required by the R-3 Zone. This is in addition to the existing angular plane requirements of the R-3 Zone which control the resultant building form. The proposed 20-foot wide landscaped area will achieve greater compatibility between future apartment buildings and low/ medium-density residential uses than is currently the case.

Within the 20-foot wide landscaped area, only landscaping, visual screening (which may include opaque fencing measuring a minimum of six feet in height), pedestrian walkways, landscaped open space and recreational space will be permitted. Vehicular driveways, parking or loading spaces, storage/ refuse containers and accessory buildings will be prohibited.

Proposed Commercial Uses

The MPS encourages Neighbourhood Commercial uses within areas designated for residential development, provided they are compatible with those areas and in convenient and accessible locations. The proposed amendments will permit “neighbourhood” commercial uses on the ground-floor, up to 2,000 square feet in area, for properties which are zoned R-3 and which front on Herring Cove Road, which is a principal street within Mainland South.

The following commercial uses are proposed to be allowed:

- Offices;
- Grocery store;
- Drug store;
- Laundromat;
- Dry cleaners;
- Tailor;
- Dressmaker; and
- Beauty shop or barber shop (in the Mainland South area).

These uses are the same as those within the RC-1 (Neighbourhood Commercial) Zone, with the exception of offices. However, small-scale offices can be considered a Neighbourhood Commercial use. In comparison, in the R-4 Zone, limited commercial uses are permitted on the ground floor of all apartment buildings while buildings with more than 100 units are permitted to have minor commercial uses on the entire ground floor. In addition, properties located directly across the street, on the west side of Herring Cove Road are zoned C-2A (Minor Commercial). Therefore, the proposed ground-floor, small-scale commercial uses on the subject site are compatible with the surrounding area.

A restaurant was part of the original proposal, but is considered a type of “local” or “minor” commercial use which is more intensive than traditional neighbourhood uses. As such, the addition of this use was withdrawn from the proposal. Additionally, the original proposal requested applying two zones simultaneously (R-3 and RC-1) to the property. However, in the Halifax MPS area, there is no practice of applying more than one zone to properties. Instead, mixed-use zones are common, which result in more than one use in a building. Therefore, it is more appropriate to allow for ground-floor neighbourhood commercial uses via text amendments to the R-3 Zone.

Implications for other properties

The proposed text amendments to the existing R-3 Zone inclusive of a 20-foot wide building setback and landscaped area will only apply to lots that are zoned R-3 after these amendments become effective. These new amendments will not apply to existing lots. Regarding the proposed allowance for ground-floor commercial uses, this provision will only apply to those R-3 zoned properties which front on Herring Cove Road. There are only three other privately owned, R-3 zoned properties along Herring Cove Road; one which abuts the site to the south and two properties on either side of Twin Oaks Road (Map 2). There are two other sites which are publicly owned, one by HRM (in front of Captain William Spry Centre) and one owned by the Canada Mortgage and Housing Corporation (Greystones townhouse development). Therefore, the implications of the proposed LUB amendments for other properties are considered minor.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the MPS. Therefore, staff recommend that the Halifax and West Community Council approve the proposed rezoning and LUB amendments (Attachment A).

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2016/17 operating budget for C310 Urban & Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed rezoning and LUB amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications have been identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to adopt the proposed rezoning and LUB amendments subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to adopt the proposed rezoning and LUB amendments is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse to adopt the proposed rezoning and LUB amendments, and in doing so, must provide reasons why the proposed rezoning and amendments do not reasonably carry out the intent of the MPS. A decision of Council to refuse to adopt the proposed rezoning and LUB amendments is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

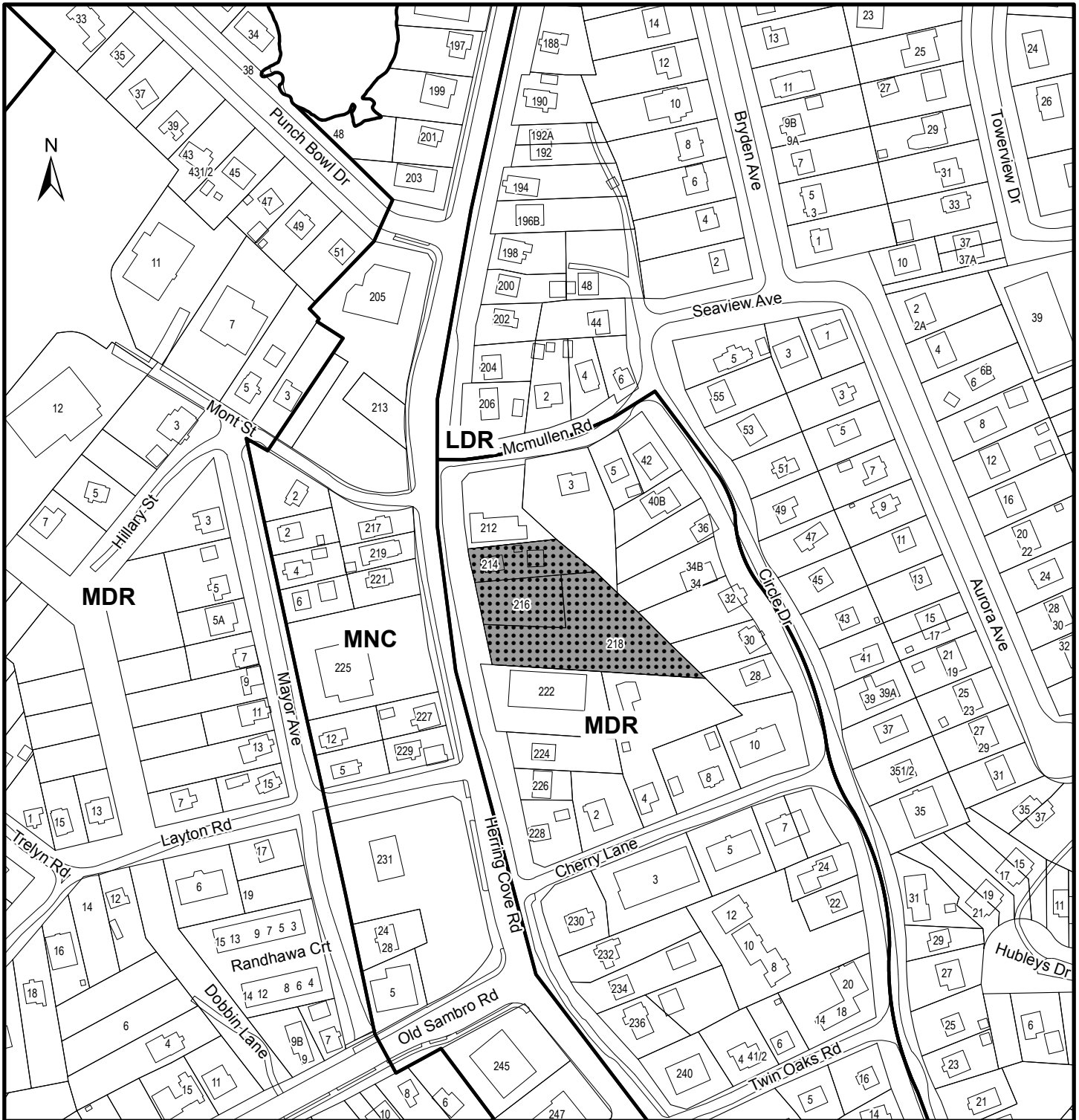
Map 1	Generalized Future Land Use
Map 2	Zoning and Notification Area
Attachment A	Proposed Amendments to the Halifax Mainland LUB
Attachment B	Conceptual Development Rendering and Site Plan
Attachment C	Review of Relevant Halifax MPS Policies
Attachment D	R-3 Zone Excerpt, Halifax Mainland LUB
Attachment E	Minutes of Public Information Meeting
Attachment F	Legislative Authority

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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Report Approved by: Original Signed

Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

214, 216 & 218 Herring Cove Road

HALIFAX

 Subject Properties

Designation

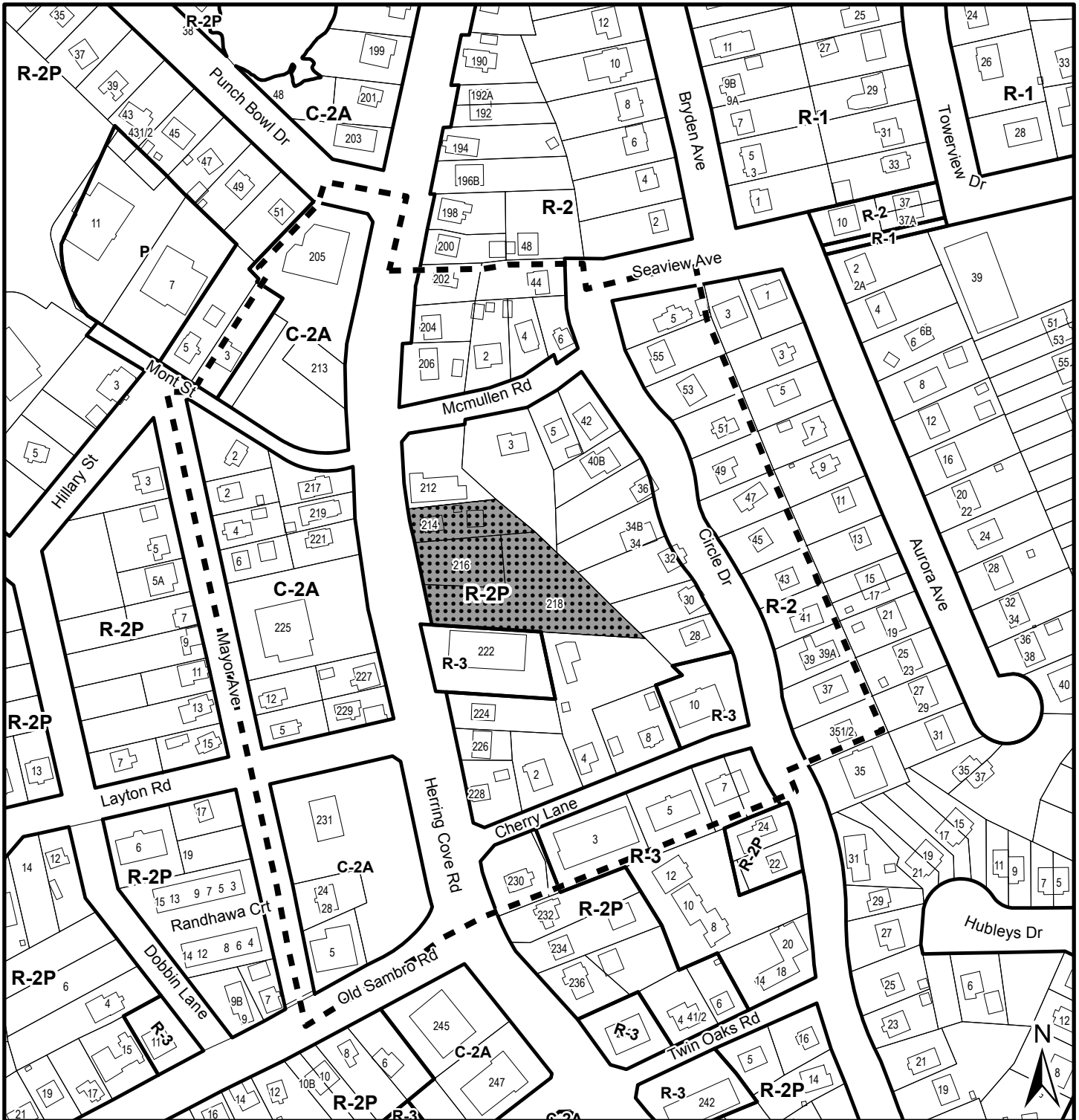
- LDR Low Density Residential
- MDR Medium Density Residential
- MNC Minor Commercial



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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



Halifax
Plan Area



Map 2 - Zoning and Notification Area

214, 216 & 218 Herring Cove Road

HALIFAX

-  Subject Properties
-  Notification Area

- Zone**
- R-1 Single Family Dwelling
 - R-2 Two Family Dwelling
 - R-2P General Residential
 - R-3 Low-Rise Apartment
 - C-2A Minor Commercial



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

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Halifax Mainland
Land Use By-Law Area

ATTACHMENT A

Proposed Amendments to the Halifax Mainland Land Use By-law

BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland is hereby further amended as follows:

1. Amend Map ZM-1 (Zoning Map) by rezoning 214, 216 and 218 Herring Cove Road, Halifax (PID # 00312041, 41352204 and 41352212) from R-2P (General Residential Zone) to R-3 (General Residential and Low Rise Apartment Zone), as shown on Schedule A attached hereto; and
2. Amend the R-3 (General Residential and Low Rise Apartment) Zone by adding the following sections immediately after Section 28CI:

YARDS, LANDSCAPING AND SCREENING – MAINLAND SOUTH

28CJ For properties zoned R-3 on or after the effective date of this section, in the Mainland South area, the following shall apply to new apartment houses:

- (a) Notwithstanding Section 28CE(2)(b), the minimum side or rear yard abutting any low-density and medium-density residential uses (R-1, R-2, R-2T or R-2P uses) shall be twenty (20) feet and shall otherwise adhere to the angular planes indicated in Sections 28CE(2) and 28CE(3);
- (b) The minimum 20 foot side or rear yard abutting any low-density and medium-density residential uses shall consist of a landscaped area which provides visual screening and which may include opaque fencing measuring a minimum of six feet in height. The landscaped area may include pedestrian walkways, landscaped open space and recreational space but shall not include vehicular driveways, parking or loading spaces, storage or refuse containers or any buildings.

COMMERCIAL USES

28CK Notwithstanding Section 28CA(1), an apartment house which fronts on Herring Cove Road may include those commercial uses which are permitted in Section 34AA(1)(c) as well as offices, provided that:

- (a) The commercial uses shall be located on the ground-floor and limited to a maximum of 2,000 square feet of gross commercial floor area;
- (b) Exterior access to commercial uses shall be separate from any access to residential uses;
- (c) One sign shall be permitted for each commercial use and such sign shall not exceed 3 feet in height and shall be limited to the space immediately above the ground-floor store windows. Such sign(s) shall be either non-illuminated, illuminated from the front or those with back-lighted lettering; and

(d) Vehicular parking for commercial uses shall be provided pursuant to Section 9(d) in addition to parking required for residential uses. Notwithstanding Section 14, no loading space shall be required.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Halifax and West Community Council of Halifax Regional Municipality held on the _____ day of _____, 2017.

GIVEN under the hand of the municipal clerk and under the Corporate Seal of the said Municipality this ____ day of _____, 2017.

Municipal Clerk



Schedule A

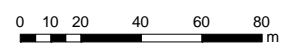
214, 216 & 218 Herring Cove Road



Area to be rezoned to R-3

Zone

- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- R-3 Low-Rise Apartment
- C-2A Minor Commercial



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.

Halifax Mainland
Land Use By-Law Area

Attachment B: Conceptual Development Rendering and Site Plan

HERRING COVE ROAD MASSING CONCEPT



Attachment C
Review of Relevant Halifax MPS Policies

Policy Criteria	Staff Comment
SECTION X - MAINLAND SOUTH SECONDARY PLANNING STRATEGY	
<p>RESIDENTIAL ENVIRONMENTS</p> <p>Objective: The development and maintenance of Mainland South as a predominantly residential area with a diverse mixture of family and non-family housing.</p> <p>1.3 In areas designated as "Medium-Density Residential" on the Generalized Future Land Use Map, detached dwellings, semi-detached dwellings, duplex dwellings, townhouses and apartments containing a maximum of four units two of which must be family-type, shall be permitted and neighbourhood commercial uses may be permitted pursuant to Policies 2.1.1 and 2.1.2 of this Plan.</p>	<p>The subject property is designated Medium-Density Residential. The proposal is to rezone to R-3 (General Residential and Low Rise Apartment) zone. A small-scale neighbourhood commercial component is also included in the proposal.</p>
<p>1.3.1 In areas designated as "Medium-Density Residential" on the Generalized Future Land Use Map Council may zone to permit apartments provided that their height is limited to a maximum of four storeys and in assessing such rezonings Council shall consider compatibility with the existing neighbourhoods and the adequacy of municipal infrastructure.</p>	<p>The proposed R-3 zone limits the height of apartment buildings to four storeys. The subject site is located next to an apartment building which is zoned R-3 as well as low and medium-density residential uses.</p> <p>The proposed LUB amendments increase the level of compatibility by requiring a larger setback (20 feet) from low and medium-density residential uses than is currently required (10 feet) and require landscaped screening within this setback area. There have been no concerns raised regarding the adequacy of municipal services. However, as per standard practice, the applicant will be required to confirm servicing capacity exists. and that infrastructure is adequate prior to obtaining a Construction Permit.</p>
<p>COMMERCIAL</p> <p>Objective: A variety of commercial and business uses in convenient and accessible locations to serve the area and the City, compatible with adjacent residential neighbourhoods.</p> <p>2.1 The forms of commercial development provided for shall include neighbourhood commercial uses, minor commercial uses and major commercial centres.</p>	<p>Neighbourhood Commercial uses are encouraged within areas designated for residential development, provided they are compatible with those areas and in convenient and accessible locations.</p>
<p>2.1.1 Neighbourhood commercial uses are local convenience establishments providing services and the sale of convenience goods intended for the daily needs of immediate neighbourhoods, and shall be regulated in terms of size and type by the Land Use By-law.</p>	<p>The proposed uses are of the "Neighbourhood Commercial" type. Small-scale offices can be considered a Neighbourhood Commercial use. Floor area is limited to 2,000 square feet in the proposed amendments in order to ensure compatibility with adjacent residential neighbourhoods.</p>

<p>2.1.2 Except as provided in the Residential Development District for neighbourhood and convenience centre commercial uses, the City may consider new neighbourhood commercial uses in residential designations only through a rezoning process to a neighbourhood commercial zone and provided that the use is located at, or near, a City street intersection.</p>	<p>While there is no history of applying more than one zone to a single property within the Halifax MPS area, mixed-use zones are common, and result in more than one use in a building. Therefore, instead of applying two zones (R-3 and RC-1) to the property as originally requested by the applicant, the current proposal will achieve the neighbourhood commercial objectives of the MPS by allowing “neighbourhood” commercial uses to be located on the ground floor of apartment buildings fronting on Herring Cove Road. This is similar to the R-4 (Multiple Dwelling) zone of the LUB, which permits commercial uses on the ground floor of apartment buildings.</p>
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Attachment D: R-3 Zone Excerpt, Halifax Mainland LUB

R-3 ZONE

GENERAL RESIDENTIAL AND LOW-RISE APARTMENT

- 28CA(1) The following uses shall be permitted in any R-3 Zone:
- (a) R-1, R-2, R-2T and R-2AM uses;
 - (b) stacked-attached housing;
 - (c) apartment house of four storeys or less;
 - (ca) **day care facility (RC-Mar 3/09;E-Mar 21/09)**;
 - (d) uses accessory to any of the foregoing uses.
- 28CA(2) No person shall in any R-3 Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 28CA(3) No person shall in any R-3 Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).
- 28CB No person shall in any R-3 Zone, erect, place or display any billboard or sign except those permitted in R-1 Zones.

R-1, R-2, R-2T AND R-2AM USES IN R-3 ZONE

- 28CC(1) Buildings erected, altered or used for R-1, R-2, R-2T or R-2AM uses in an R-3 Zone shall comply with the requirements of their respective zones, **with the exception of stacked attached housing.**

STACKED ATTACHED HOUSING

- 28CD Buildings erected, altered or used for stacked attached housing in an R-3 Zone, shall comply with the following requirements:
- 28CD(1) The minimum distance between the rear lot line and every building shall be at least 20 feet.
- 28CD(2) The maximum lot coverage shall be 50 percent.
- 28CD(3) The maximum height shall be 50 feet.
- 28CD(4) Each dwelling unit shall have a minimum of 175 square feet of exterior open space accessible directly from the unit.

- 28CD(5) One separately accessible parking space at least 9 feet by 20 feet shall be provided for each stacked-attached unit, exclusive of the area of the front yard and entrance or driveway leading to such building.
- 28CD(6) The lot frontage shall be 60 feet.
- 28CD(7) The minimum lot area shall be 6,000 square feet.
- 28CD(8) The minimum side yard shall be 15'.

FOUR STOREY APARTMENTS

- 28CE Apartment buildings of four (4) storeys or less and not exceeding 50 feet in height shall be permitted in an R-3 Zone provided the following requirements are complied with:

MINIMUM LOT AREA

- 28CE(1) The minimum lot area upon which such building is located shall be 6,000 square feet with a minimum continuous street frontage of at least 60 feet on one street;

DISTANCE FROM LOT LINES - 80° ANGLE

- 28CE(2) (a) The distance from any part of such building and any official street line or lines abutting upon such lot shall be no less than 20 feet measured at right angles to any such official street line or lines; provided, however, that such distance may be reduced to not less than 10 feet measured at right angles to any such official street line or lines if that part of the building which is less than 20 feet from any such official street line or lines is entirely contained within the arms of an 80 degree horizontal angle as determined in subsection (3) of this section;
- (b) The distance from any part of such building and any lot line of such lot other than an official street line shall be not less than 10 feet measured at right angles to such a lot line;
- (c) All windows and doors serving habitable rooms in such building shall be located not less than 10 feet from any lot line of such lot measured at right angles to such lot line;

SIZE OF BUILDING - 60° ANGLE

- 28CE(3) (a) Subject to the provisions of subsection (2), such building or any part thereof shall not project beyond the angular planes determined by constructing such angular planes over such lot:
- (i) From each lot line at natural or finished ground level, whichever is the lower, at a vertical angle of 60 degrees above the horizontal and measured perpendicular to such lot line or, in the case of a curved lot line, perpendicular to the tangents of all points of such lot lines; provided,

however, that where the natural ground at the lot line is more than 5 feet above the finished ground level established at any point on the wall opposite the lot line and where the horizontal distance to the face of any part of such wall or its vertical projection is less than 50 feet, the angular planes shall be constructed over the lot from all points on the intersections of the vertical projection of the lot line and the horizontal projection of the finished ground level; or

- (ii) In the case where a lot line of such lot coincides with an official street line, from the center line of such street or from any intervening line parallel to such center line provided, however, that:
 - (A) the distance from the line on which the plane is constructed and the lot line does not exceed 30 feet; and
 - (B) the vertical angle of 60 degrees is constructed perpendicular to the line on which the plane is constructed or, in the case of a curved line, perpendicular to the tangents of all points of the curved line.

- (b) Notwithstanding the provisions of clause (a) of subsection (3) and subject to the provisions of subsection (2), any part of such building may project beyond any prescribed 60 degree angular plane if:
 - (i) The projection through the plane subtends a horizontal angle not exceeding 80 degrees formed by lines drawn from a point on the line on which the 60 degree angular plane constructed opposite to the center of the projection; and
 - (ii) The extremities of the projection are enclosed by the arms of such 80 degree horizontal angle.

DISTANCE BETWEEN EXTERNAL WALLS - 85° ANGLE

28CE(4) (a) For the purposes of this subsection:

- (i) "Base line" means, in the case of a wall rising from the ground, the natural or finished level of the ground adjoining the base of the wall, whichever is lower, and in all other cases means the lowest line of the wall above the natural or finished level of the ground, whichever is lower;
- (ii) A wall supported by construction above posts, pillars, or other open construction shall be deemed to rise from the ground, and the base line of the wall shall be deemed to be the line on which the projection downward of the face of the wall meets the natural or finished level of the ground, whichever is lower;

- (iii) Where external walls are not parallel to each other but the angle of divergence does not exceed 85 degrees, such walls shall be deemed to face each other.

DISTANCE BETWEEN EXTERNAL WALLS - 65° ANGLE

- (b) The provisions of this subsection (4) shall only apply if any part of such building is erected with the arms of horizontal angles of 65 degrees constructed outwards at the natural level of the ground, from the nearest extremities of external walls that face each other; provided, however, that where the two extremities of one such wall are, respectively equidistant from the opposite extremities of the other wall or where the two extremities of one wall are equidistant from the nearest extremity of the other wall, the 65 degree horizontal angle may be constructed from either pair of equidistant extremities;

MINIMUM 50 FOOT SEPARATION BETWEEN WALLS - 40° ANGLE

- (c) The distance between any external walls of such building that face each other shall be not less than 50 feet, and any part of such building shall not project beyond any of the angular planes outwards from the base line of each such external facing wall of each part of such building at a vertical angle of 40 degrees above the horizontal and measured perpendicular to such base line or, in the case of a curbed base line, perpendicular to the tangents of all points of such curved base line;

EXTERIOR FACING WALLS - NO WINDOWS - NO HABITABLE ROOMS

- (d) Where two external walls of such building face each other and neither wall contains any door or window serving a habitable room, the provisions of clause (c) of this subsection shall not apply but the distance between such walls shall not be less than six feet.

BALCONIES, CORNICES, EAVES, AND CANOPIES

- 28CE(5) (a) Notwithstanding the provisions of Subsections (3) and (4) of this section, separate individual balconies, which are open on three sides, cornices, eaves and canopies, may project through the angular planes as determined in such subsections; provided, however, that any part of such balcony, cornices or eaves, shall be not less than 10 feet from any lot line of such lot;
- (b) Notwithstanding clause (a); of subsection (5), canopies may project to within 5 ft. of the street line.

28CF A lot on which there is a building used as a boarding house, lodging or rooming house, or apartment house shall comply with the following requirements:

DENSITY

28CF(1) The population density of such building on the lot shall not exceed 75 persons per acre.

OPEN SPACE

28CF(2) Open space on such lot shall be provided as follows:

- (a) 150 sq.ft. for each bachelor unit
275 sq.ft. for each one-bedroom unit
575 sq.ft. for each two-bedroom unit
950 sq.ft. for each three-bedroom unit
1,325 sq.ft. for each unit containing four or more bedrooms
- (b) At least 80 percent of the open space required in clause (a) shall be landscaped open space, and the roof or any portion thereof of any part of such building that has no residential accommodation included below such roof or portion thereof may be calculated as landscaped open space, provided that:
 - (i) no part of such roof is more than 5 feet above the ground level of at least one lot line of such lot; and
 - (ii) such roof or portion thereof is capable of being used as landscaped open space.
- (c) Section 28CF shall be applied to the combined occupancy of all the buildings on the lot.

28CG (Deleted)

DRIVEWAY ACCESS

28CH(1) In the "**Bedford Highway Area**" one vehicle access point shall be permitted to the Highway from each lot with 100 feet of frontage or less and two vehicle access points shall be permitted for each lot with frontage greater than 100 feet.

28CH(2) For the purpose of Subsection (1) the vehicle access point shall not exceed 35 feet in width and shall be defined by curbing, planting, or a similar device that will not obstruct the view of traffic.

UNIT MIX - MAINLAND SOUTH

28CI An apartment house which is located in the "**Mainland South Area**", shall be required to provide one two-bedroom unit for every three bachelor and/or one bedroom units.

Attachment E- Minutes of Public Information Meeting

HALIFAX REGIONAL MUNICIPALITY Public Information Meeting, Case 20100

The following does not represent a verbatim record of the proceedings of this meeting.

Thursday, February 25, 2016

7:00 p.m.

Captain William Spry Community Centre (Multi-Purpose Room)

STAFF IN

ATTENDANCE:

Paul Sampson, Planner, HRM Development Approvals
Alden Thurston, Planning Technician, HRM Development Approvals
Cara McFarlane, Planning Controller, HRM Development Approvals

ALSO IN

ATTENDANCE:

Councillor Linda Mosher, District 9
Councillor Stephen Adams, District 11
Julien Boudreau, Ekistics Planning and Design
Chris Crawford, Ekistics Planning and Design
Norman Nahas, Nanco Developments Limited

PUBLIC IN

ATTENDANCE:

Approximately 12

The meeting commenced at approximately 7:04 p.m.

1. Call to order, purpose of meeting – Paul Sampson

Mr. Sampson introduced himself as the Planner facilitating this application through the planning process; Councillor Linda Mosher, District 9; Councillor Stephen Adams, District 11; Julien Boudreau and Chris Crawford, Ekistics Planning and Design; Norman Nahas, Nanco Developments Limited; and Alden Thurston (Planning Technician) and Cara McFarlane (Planning Controller), HRM Development Approvals.

Case 20100 - Application by Ekistics Planning and Design, for the lands of Nanco Developments Limited, to rezone 214, 216 and 218 Herring Cove Road, Halifax from R-2P (General Residential) Zone to R-3 (General Residential and Low Rise Apartment) Zone and RC-1 (Neighbourhood Commercial) Zone and consider text amendments to the Halifax Mainland Land Use By-law to enable a four-storey mixed use building including 38 dwelling units and 2,000 square feet of neighbourhood commercial space on the ground floor.

The Public Information Meeting (PIM) Agenda was reviewed.

The purpose of the PIM is: a) to identify to the community that HRM has received an application on the subject property; b) to provide information/background on the proposal; c) to explain the planning policies and process; d) to provide the applicant an opportunity to present their proposal and answer questions; and e) to provide Staff an opportunity to receive public feedback regarding the application. This is purely for information exchange and no decisions are made at the PIM.

2. Overview of Proposal – Paul Sampson

Mr. Sampson made a presentation outlining the site just under 1 acre in size consisting of three parcels on Herring Cove Road between McMullen Road and Cherry Lane.

An image of the site was shown giving an idea of the configuration and mix of uses within the area.

The planning process was reviewed: a) PIM; b) detailed review (internal/external agencies); c) staff report before Halifax and West Community Council (HWCC); d) public hearing held by HWCC; and e) a 14-day appeal process.

The planning framework and land use regulations of the site were explained: a) currently, the site is R-2P (General Residential) Zone within the Halifax Mainland Land Use By-law (LUB) which allows between one and four units on an individual property; and b) the area is set aside for Medium Density Residential under the Mainland South Secondary Planning Strategy (SPS) within the Halifax Municipal Planning Strategy (MPS).

The process is being considered under Policy 1.3.1 (allows the consideration of Medium Density Residential) and Policy 2.1.2 (consideration of commercial uses on the development site) of the Mainland South SPS. The applicant is proposing to rezone the property to R-3 (General Residential) Zone and to RC-1 (Neighbourhood Commercial) Zone, to amend the RC-1 zone in order to allow commercial uses up to 2,000 square feet and to allow restaurants or neighbourhood services.

3. Presentation of Proposal – Julien Boudreau, Ekistics Planning and Design

Mr. Boudreau presented the proposal for the subject property: the site contains a sewage easement that prevents any development along the south portion of the lot but allows a unique opportunity to create and provide the public with some greenspace along the street; there are trees and a fairly steep slope between the back property line and the residential properties creating some separation and buffering; one level of underground parking to minimize parking at grade; 2,000 square feet of ground floor commercial along Herring Cove Road fairly close to the property line allowing direct access from the street; residential units on the upper storeys; articulations included to reduce the scale of the building; and setbacks incorporated to meet the R-3 Zone requirements.

Chris Crawford, Ekistics Planning and Design

A key element of the design proposal includes the addition of commercial space (mixed use) at the streetscape to increase activity along Herring Cove Road and create a more friendly neighbourhood. Also, parking is being minimized along the street frontage by introducing underground parking. More of the buildings throughout the area are moving toward medium density residential.

Norman Nahas, Nanco Developments Limited

Mr. Nahas gave some background on another site that Nanco has developed in the area (Salvation Army) and understands that Spryfield needs more commercial development. The initial plan was to have more square footage of commercial use but the by-law has to be amended. This proposal will allow the opportunity for commercial and greenspace at street frontage and give people the option to downsize and stay within the neighbourhood.

4. Questions and Comments

Jeff Gregg, McMullen Road – His property abuts the proposal and feels the presentation is skewed. He is disappointed that the presentation doesn't reflect that 75% of the neighbourhood is low density residential. Some of the houses have been there for 60 to 80 years. Did the owners not know the zoning and requirements when the property was purchased? Mr. Nahas wanted to purchase his property and also the community centre property to enable a larger building. A building with three or four units would fit in nicely there. Mr. Gregg would not have purchased his property if there had been an apartment building next to it at the time. **Mr. Crawford** – The focus of the proposal was on Herring Cove Road; therefore, more commercial and multi residential buildings were shown in the presentation. This particular area has been earmarked by HRM as medium density residential in the future. **Mr. Sampson** – A large percentage of properties in this area are low density residential but there is a mix of high density buildings and commercial lots located on the other side of Herring Cove Road.

Kathy Melvin, Circle Drive lives behind the proposal. How high will the building be? **Mr. Boudreau** – Much effort was made to reduce the height as much as possible within the framework of the R-3 Zone. The height would be about 45 to 48 feet, maybe another eight feet above the building next to it. **Ms. Melvin** is concerned that the building will block the afternoon sun from her property and others' in the neighbourhood. **Mr. Crawford** – Because of the direction that the sun rises and sets, there wouldn't be much change in the midday Summer sun, especially with the grade change on the rear sites. There may be some minimal impact late in the day during the late Winter months.

Ms. Melvin – The property looks like it slopes from the Herring Cove Road towards the back. When constructing the building, will the back be lower than the front? **Mr. Boudreau** – A proposed drainage report prepared by a civil engineer was submitted to HRM. It not only makes the site work but also improves the water conditions that are there for the extreme water events. The front of the building would be considered the high point of the property. The parking garage would come out about four to five feet from the bottom of the drainage ditch in the back.

Ms. Melvin – The site once housed a gas station. Have the underground tanks been taken out of that area? **Mr. Crawford** - Any possible remediation that is required would have to be done.

Ms. Melvin – What about blasting? **Mr. Boudreau** – This development would require digging one storey down with standard construction equipment and no blasting.

Ms. Melvin – How big is the parking area along the side? **Mr. Crawford** – There are 22 parking stalls.

Mr. Gregg – Before removing the soil from the site, it would have to be treated because the entire block is infested with European fire ants. There may be other environmental issues due to the previous use being a gas station. Also, the entire site is filled with soot from the power plant. **Mr. Sampson** – Prior to digging and removing any soil and/or rock, there are Provincial regulations, overseen by Nova Scotia Environment, separate from Municipal regulations, that all developers have to follow and comply with. **Mr. Boudreau** – When applying for a permit, a developer has to prove that all regulations have been met and/or show the commitment to remediate any existing issues.

Mr. Sampson wanted to inform the residents that this is a process to rezone and change the LUB requirements, but the appearance of what is shown tonight could change. In the end, the developer must meet the LUB requirements.

Wyatt Redmond, Herring Cove Road owns about ten properties along the Herring Cove Road (combination of residential or commercial, one has both). He agrees with the issues that Mr. Gregg brings up but sees this as a rejuvenation for Herring Cove Road and welcomes it as long as the neighbours behind and around the property(ies) are taken into consideration. Change is coming to the area which he believes will better the community. That particular property has been an eyesore for some time. Herring Cove Road is on its way to becoming more attractive and everyone will benefit from it.

5. Closing Comments

Mr. Sampson thanked everyone for coming and expressing their comments.

6. Adjournment

The meeting adjourned at approximately 7:50 p.m.

Attachment F – Legislative Authority

Land Use By-law Amendments By Community Council

The *Community Council Administrative Order*, subsection 3 (1) “Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council.”

Halifax Regional Municipality Charter (“HRM Charter”),

- 30 (3)** A community council may amend the land-use by-law of the Municipality applicable to the community with respect to any property in the community if the amendment carries out the intent of any municipal planning strategy of the Municipality applicable to the property and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.

HRM Charter, Part VIII, Planning and Development, including:

Requirements for adoption of planning documents

- 220 (1)** The Council shall adopt, by by-law, planning documents.
- (3)** Before planning documents are read for a second time, the Council shall hold a public hearing.

Amendment of land-use by-law

- 225 (1)** An amendment to a land-use by-law that
- (a) is undertaken in accordance with the municipal planning strategy; and
 - (b) is not required to carry out a concurrent amendment to a municipal planning strategy,
 - (c) is not subject to the review of the Director or the approval of the Minister.
- (2)** The procedure for the adoption of an amendment to a land-use by-law referred to in subsection (1) is the same as the procedure for the adoption of planning documents, but a public participation program is at the discretion of the Council and the amendment may be adopted by a majority of votes of the Council members present at the public hearing.
- (3)** Upon the adoption of an amendment to a land-use by-law referred to in subsection (1), the Clerk shall place a notice in a newspaper circulating in the Municipality stating that the amendment has been adopted and setting out the right of appeal.
- (4)** When notice of an amendment to a land-use by-law referred to in subsection (1) is published, the Clerk shall file a certified copy of the amending by-law with the Minister.
- (5)** Within seven days after a decision to refuse to amend a landuse by-law referred to in subsection (1), the Clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.
- (6)** Where the Council has not, within one hundred and twenty days after receipt of a completed application to amend a land-use by-law referred to in subsection (1), commenced the procedure required for amending the land-use bylaw by publishing the required notice of public hearing, the application is deemed to have been refused.
- (7)** Within seven days after an application to amend a land-use by-law, referred to in subsection (1), being deemed to be refused, the Clerk shall notify the applicant in writing that the application is deemed to have been refused and setting out the right to appeal.
- (8)** An amendment to a land-use by-law referred to in subsection (1) is effective when

- (a) the appeal period has elapsed and no appeal has been commenced; or
- (b) all appeals have been abandoned or disposed of or the amendment has been affirmed by the Board.

Content of land-use by-law

- 235 (1)** A land-use by-law must include maps that divide the planning area into zones.
- (2)** A land-use by-law must
- (a) list permitted or prohibited uses for each zone; and
 - (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.
- (3)** A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.
- (4)** A land-use by-law may
- (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
 - (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
 - (c) regulate the maximum area of the ground that a structure may cover;
 - (d) regulate the location of a structure on a lot;
 - (e) regulate the height of structures;
 - (f) regulate the percentage of land that may be built upon;
 - (g) regulate the size, or other requirements, relating to yards;
 - (h) regulate the density of dwelling units;
 - (i) require and regulate the establishment and location of off-street parking and loading facilities;
 - (j) regulate the location of developments adjacent to pits and quarries;
 - (k) regulate the period of time for which temporary developments may be permitted;
 - (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
 - (m) regulate the floor area ratio of a building;
 - (n) prescribe the fees for an application to amend a landuse by-law or for entering into a development agreement, site plan or variance.
- (5)** Where a municipal planning strategy so provides, a land-use by-law may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
 - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
 - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
 - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
 - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
 - (f) regulate the location of disposal sites for any waste material;
 - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
 - (h) regulate or prohibit the removal of topsoil;
 - (i) regulate the external appearance of structures;
 - (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;

- (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
 - (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
 - (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
 - (n) prohibit development or certain classes of development where, in the opinion of the Council, the
 - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) cost of maintaining municipal streets would be prohibitive;
 - (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
 - (p) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy, or unstable,
 - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
 - (v) is known to be contaminated within the meaning of the *Environment Act*, or
 - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
 - (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
 - (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.
- (6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

Appeals to the Board

- 262 (1)** The approval or refusal by the Council to amend a land-use by-law may be appealed to the Board by
- (a) an aggrieved person;
 - (b) the applicant;
 - (c) an adjacent municipality;
 - (d) the Director.