



P.O. Box 1749
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Item No.
Halifax & West Community Council
May 30, 2017
July 25, 2017

TO: Chair and Members of Halifax & West Community Council

SUBMITTED BY: Original Signed

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: March 3, 2017

SUBJECT: Case 20868: Rezoning – 968 Herring Cove Road, Herring Cove

ORIGIN

Application by Blaine and Laura James to rezone 968 Herring Cove Road to enable a larger home occupation.

LEGISLATIVE AUTHORITY

Refer to Attachment D.

RECOMMENDATION

It is recommended that Halifax & West Community Council:

1. Give first reading to consider the proposed amendment to the Land Use By-law for Planning District 5, as set out in Attachment A, to rezone 968 Herring Cove Road, Herring Cove from the HCR (Herring Cove Residential) Zone to the R-2a (Residential Home Occupation) Zone, and schedule a public hearing;
2. Adopt the amendment to Schedule A of the Land Use By-law for Planning Districts-5 (Chebucto Peninsula), as set out in Attachment A.

BACKGROUND

Blaine and Laura James have applied to rezone lands at 968 Herring Cove Road, Herring Cove from the HCR (Herring Cove Residential) Zone to the R-2a (Residential Home Occupation) Zone. The change in zoning is requested to accommodate their existing home occupation. The rezoning may be considered by Council under Policies RES-4 and IM-10 of the Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy (Attachment B).

Subject Site	968 Herring Cove Road, Herring Cove
Location	The site is located on the north-east side of Herring Cove Road between Norawarren Drive and Ketch Harbour Road
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Residential under the Municipal Planning Strategy (MPS) for Planning District 5 (Chebucto Peninsula)
Zoning (Map 2)	HCR (Herring Cove Residential) Zone under the Land Use By-law (LUB) for Planning District 5 (Chebucto Peninsula)
Size of Site	1,845 square meters (19,857 square feet / 0.46 acres)
Street Frontage	27.5 meters (90 feet)
Current Land Use(s)	A single unit dwelling and home occupation
Surrounding Use(s)	<ul style="list-style-type: none">• Two unit dwelling to the north-west (966 & 966A Herring Cove Road);• Crown land zoned PA (Protected Area) to the north-east;• Single unit dwelling south-east (970 Herring Cove Road), also owned by the applicant; and• Single unit dwellings to the south-west across the Herring Cove Road (967 and 971 Herring Cove Road).

Proposal Details

The applicants own a commercial cleaning company (Seascope Building Maintenance Inc.). The office functions of this business are conducted from the subject site as a home occupation. Under the current HCR Zone, home occupations are permitted, however they are limited to a maximum of 28 square meters (300 square feet) in size and must be wholly contained within the dwelling. However, under the R-2a Zone, home occupations can be up to 70 square meters (750 square feet) in size and may also be located within an accessory building.

The applicants are currently operating their business in violation of the home occupation provisions of the HCR Zone. As such, an active municipal compliance case applies to the property. The proposed rezoning will enable a development permit to be issued to allow the business to continue operating as it is currently. Should the rezoning not be approved, the home occupation must come into compliance with the requirements prescribed of the HCR Zone.

Enabling Policy and LUB Context

The proposed rezoning may be considered by Community Council in accordance with Policies RES-4 and IM-10 of the MPS (Attachment B). Policy RES-4 permits larger home businesses to be considered by rezoning and establishes conditions for consideration and Policy IM-10 establishes the evaluation criteria.

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 providing information and seeking comments through the HRM website, signage posted on the subject site, and letters mailed to property owners within the notification area. The public comment received mainly sought clarification regarding the proposal and what, if any, changes would be occurring on the site.

A public hearing must be held by Halifax & West Community Council before they can consider approval of the proposed LUB amendment. 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 HRM website will also be updated to indicate notice of the public hearing.

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 B provides an evaluation of the proposed rezoning in relation to relevant MPS policies RES-4 and IM-10. Of the matters reviewed to satisfy the MPS criteria, the following have been identified for more detailed discussion:

Compatibility with Surrounding Uses and Community

The site is located in an area of other HCR-zoned properties developed for residential purposes. The existing accessory building utilized for the home occupation is located within the rear yard and is difficult to observe from the Herring Cove Road as the lot slopes downward toward the rear. The proposed rezoning is not anticipated to have any negative impact on the surrounding properties or land uses. Attachment C contains a table which compares the standards between the HCR and R-2a Zones.

The difference in land uses permitted between the HCR Zone and the R-2a Zone relate mostly to the differences between home occupation standards, however should the rezoning be approved the property owner would be able to establish a more expansive bed and breakfast (greater than 3 rooms) and would also lose the right to establish a recreation use on the property. It should be noted that the property owners use a property on Poole Drive, off the Ketch Harbour Road approximately 1km south of the subject site, for the storage of work vehicles. The property on Poole Drive is zoned C-2 which permits this use.

Once a property is rezoned, any of the land uses permitted under the R-2a Zone could be established on the site subject to the proposal meeting the requirements of the land use by-law.

Existing as-of-right use of the lands

The applicants are also the owners of 970 and 974 Herring Cove Road. All three properties share a parking area in the rear lot and an accessory building (garage) has been constructed on 974 Herring Cove Road. The applicants own vehicles and items for personal use that are not related to the home occupation and these items would be present regardless of a home occupation being conducted from the site.

Traffic

Policy RES-4(c), IM-10(b)(iv) and IM-10(c)(iii) (Attachment B) direct appropriate regard be given to:

- the impact on the local residential area of any traffic generated by the home occupation;
- that the proposal is not premature or inappropriate by reason of the adequacy of the road networks leading or adjacent to or within the development; and
- that controls are placed on the proposed development to reduce conflict with respect to traffic generation, access to and egress from the site, and parking.

HRM Development Engineering have reviewed the proposal and are of the opinion that a safe access is provided to the site with minimal impact to the existing street network.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the MPS. Therefore, staff recommend that the Halifax & West Community Council approve the proposed rezoning from the HCR Zone to the R-2a Zone.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2016/2017 operating budget for C310 Urban and 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 LUB amendment are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax & West Community Council may choose to refuse the proposed land use by-law amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

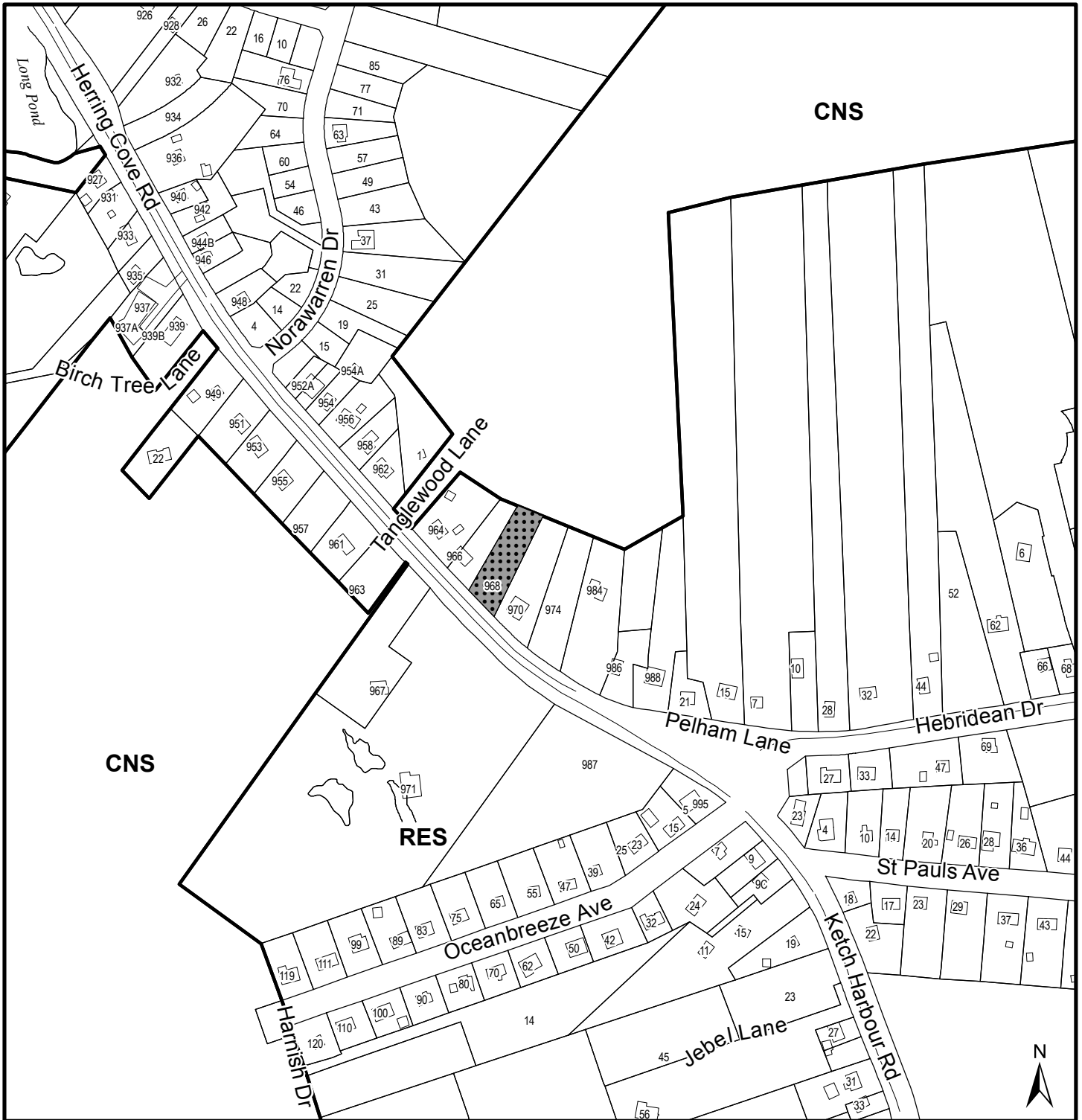
Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed LUB Amendment
Attachment B:	Excerpt from the MPS and Review of Relevant Policies
Attachment C:	Table Comparing the Current and Proposed Zone Standards
Attachment D:	Legislative Authority

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.

Report Prepared by: Jacqueline Belisle, Planner II, 902.490.3970

Report Approved by: Original Signed

Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

968 Herring Cove Road
Herring Cove

HALIFAX



Area proposed to be rezoned
from HCR (Herring Cove Residential)
to R-2a (Residential Home Occupation)

Designation

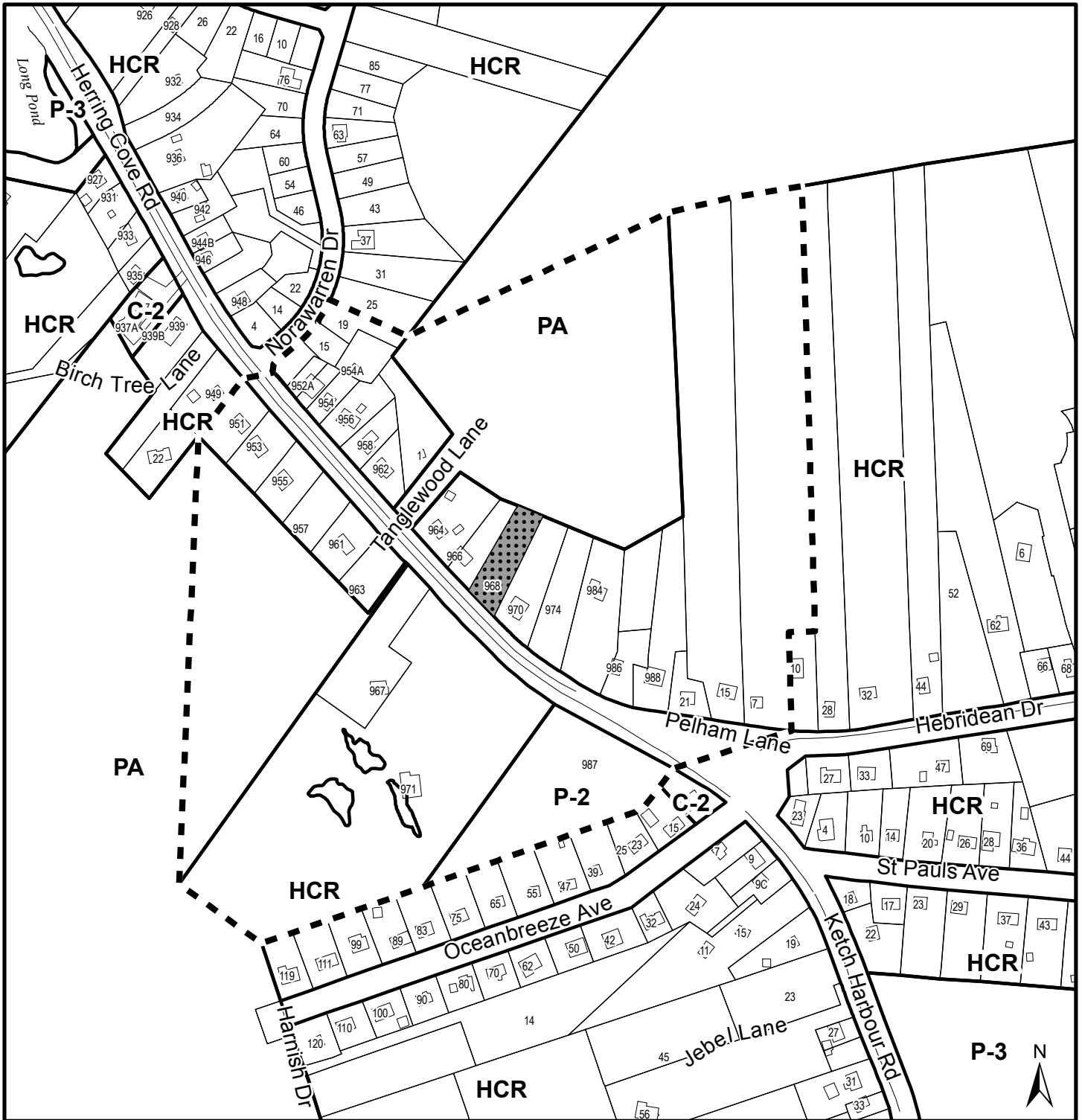
CNS Conservation
RES Residential



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

Planning District 5
(Chebucto Peninsula) Plan Area


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



Map 2 - Zoning and Notification

968 Herring Cove Road
Herring Cove

HALIFAX

 Area proposed to be rezoned from HCR (Herring Cove Residential) to R-2a (Residential Home Occupation)

 Notification Area

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



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

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

Planning District 5
(Chebucto Peninsula) Plan Area

ATTACHMENT A

Proposed Amendment to the Land Use By-law for Planning District 5

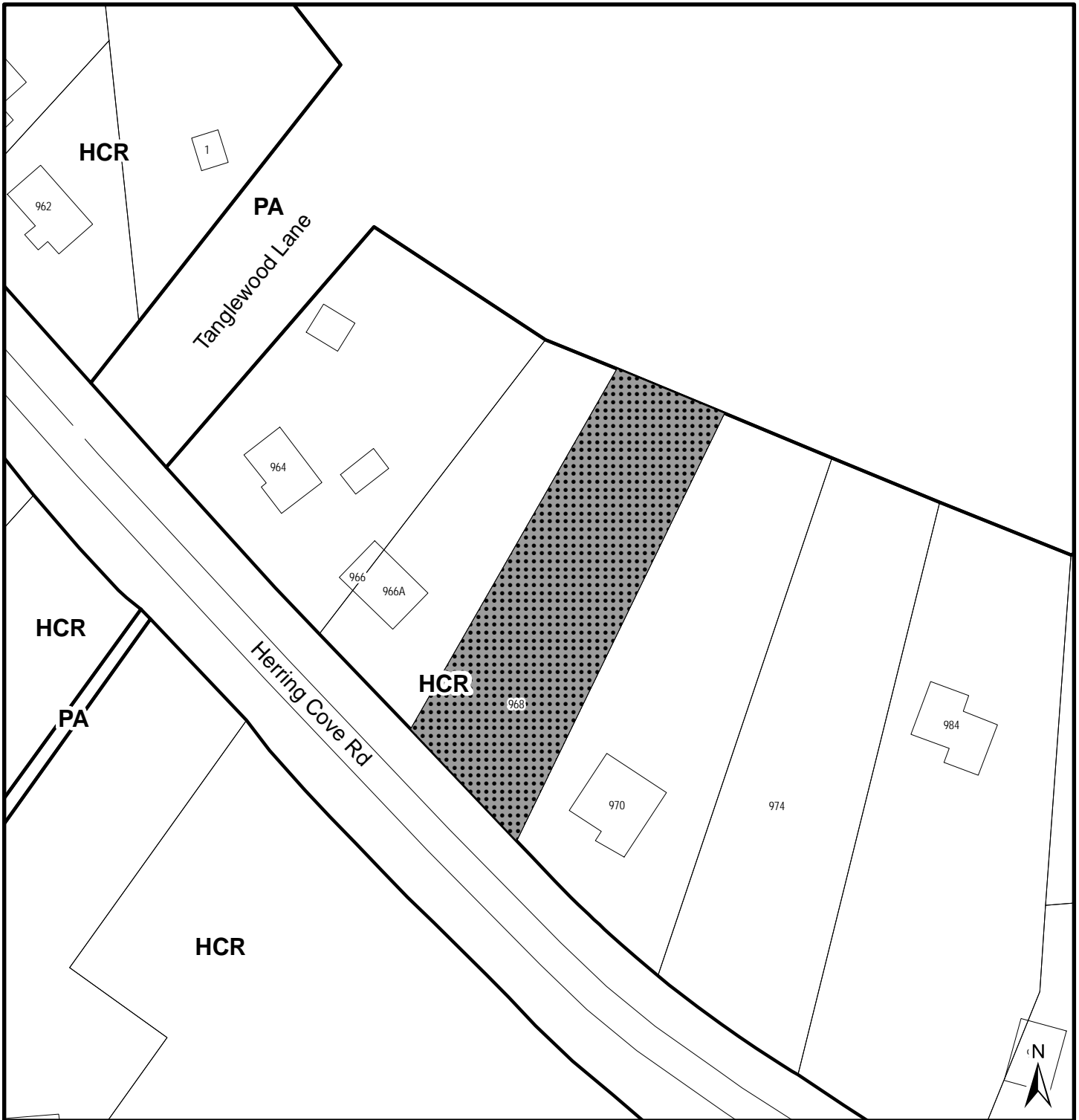
BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Planning District 5, as amended, is hereby further amended as follows:

1. Amend SCHEDULE "A" Chebucto Peninsula (Planning District 5) Zoning Map by rezoning 968 Herring Cove Road from the HCR (Herring Cove Residential) Zone to the R-2a (Residential Home Occupation) Zone as illustrated in Schedule A of this Attachment.

THEREBY CERTIFY that the amendments of the Land Use By-law for Planning District 5 (Chebucto Peninsula), as set out above, were passed by a majority vote 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

968 Herring Cove Road
Herring Cove



Area proposed to be rezoned
from HCR (Herring Cove Residential)
to R-2a (Residential Home Occupation)

Zone

- HCR Herring Cove Residential
- PA Protected Area

Planning District 5
(Chebucto Peninsula) Plan Area

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

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Attachment B
Excerpt from the Municipal Planning Strategy for Planning District 5 (Chebucto Peninsula)
and Review of Relevant Policies

Home occupations, located both within the dwelling and in accessory buildings on residential properties, are scattered throughout the designation. They have provided both employment and personal services at the neighbourhood level. There exists a need to allow some level of entrepreneurship in residential areas, while ensuring that these activities do not interfere with the character and quality of the residential environment. Therefore, home occupations will be permitted, provided that they are in keeping with the surrounding residential environment. Controls on site design details such as maximum size, signage, outdoor storage and parking, as well as provisions that the occupation be conducted by a resident of the dwelling and be wholly contained within the dwelling, will be established in the land use by-law. These controls will help to ensure that no aspect of the home occupation will detract from the residential environment.

While, for the most part, home occupations will be restricted to a small area within the dwelling, it has been recognized that there are limited situations in which larger home occupation capabilities may be desired, either within the dwelling or in an accessory building. Expanded home occupation provisions will be permitted within the designation where it can be shown that more extensive home occupations can be accommodated without any infringement on surrounding residential areas. Such uses will be permitted through an amendment to the land use by-law. This review procedure is necessary because of the more intensive use of a residential lot which expanded home occupation capabilities provide.

With the adoption of appropriate development standards under the land use by-law, many types of larger home occupations can be accommodated in a residential environment without being obtrusive or a nuisance to neighbouring property owners. However, certain types of uses are more likely to detract from neighbourhood aesthetics or generate undesired levels of traffic. Such uses will be precluded from consideration as a home occupation.

Policy	
<i>RES-4 Within the Residential Designation, it shall be the intention of Council to establish a residential home occupation zone in the land use by-law which permits single and two unit dwellings, existing mobile dwellings, open space uses, fishery support uses, bed and breakfast outlets and the limited use of residential properties for home occupations and daycare facilities provided that controls are established on signage, open storage, and the size and nature of these uses. In order to address compatibility concerns, this zone shall also place limitations on size and the use of signage for bed and breakfast outlets. This zone shall be applied in areas where larger home business capabilities are desired. In considering amendments to the schedules of the land use by-law to a residential home occupation zone to permit larger home businesses, Council shall have regard to the following:</i>	
Policy Criteria	Staff Comment
<i>(a) that the greater use of the dwelling or use of an accessory building for the home occupation is compatible with adjacent residential properties in terms of the size of the home occupation, parking areas, separation, and existing landscaping or buffering</i>	The accessory building which currently exists on the property and is occupied for the home occupation conforms with the requirements of both the HCR and the R-2a zone in terms of setbacks, height and size. There is adequate area on the property to accommodate parking. The storage of work vehicles takes place off-site as discussed in the report. Given the placement of accessory building in the rear yard no additional landscaping or buffering is required.
<i>(b) the adequacy of water and sewerage services</i>	The lands are serviced adequately by the municipal water and sewer service.
<i>(c) the impact on the local residential area of any traffic being generated by the home occupation; and</i>	An increase in traffic is not anticipated as a result of this application. The property owners have been operating a business from the property with same

	number of employees since 1995.
(d) the provisions of Policy IM-10.	See table below

Policy	
<i>IM-10 In considering development agreements and amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:</i>	
Policy Criteria	Staff Comment
<i>(a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;</i>	The proposal is consistent with Policy RES-4. See table above.
<i>(b) that the proposal is not premature or inappropriate by reason of:</i>	...
<i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i>	No concerns were identified regarding potential financial implications for HRM.
<i>(ii) the adequacy of on-site sewerage and water services;</i>	The lands are serviced adequately by the municipal water and sewer service.
<i>(iii) the adequacy or proximity of school, recreation or other Community facilities;</i>	No additional residential units are proposed in conjunction with this application therefore the proposal would not increase the demand on local schools or existing community facilities.
<i>(iv) the adequacy of road networks leading or adjacent to or within the development;</i>	The adequacy of the road network leading to this site does not raise any concerns. Development Engineering has confirmed that the driveway access is adequate.
<i>(v) pedestrian safety; and</i>	The proposed rezoning is not anticipated to generate any pedestrian traffic.
<i>(vi) the potential for damage to or for destruction of designated historic buildings and sites.</i>	No historic buildings or sites have been identified.
<i>(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>	...
<i>(i) type of use;</i>	The uses permitted within the R-2a zone are similar to the uses permitted within the HCR zone with minor differences. Please refer to Attachment C of this report for detail.
<i>(ii) height, bulk and lot coverage of any proposed building;</i>	No new buildings are proposed in conjunction with this application. Any building on the site must conform with the zoning standards set out in the LUB.
<i>(iii) traffic generation, access to and egress from the site, and parking;</i>	No additional traffic is expected to be generated by the proposal.
<i>(iv) open storage;</i>	The R-2a zone does not permit any materials or equipment which are obnoxious or create a nuisance by virtue of noise, vibration, smell or glare.
<i>(v) signs; and</i>	Signage is required to comply with the LUB. The requirements for signage under the proposed R-2a zone are the same as the requirements under the current HCR zone.
<i>(vi) any other relevant matter of planning concern.</i>	No other concerns have been identified.
<i>(d) that the proposed site is suitable in terms of the steepness of grades, soil and</i>	None of the natural features listed have been identified on the site.

<p><i>geological conditions, locations of watercourses, marshes or bogs and susceptibility of flooding.</i></p>	
<p><i>(f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy p-79F", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i></p>	<p>No holding zone has been established and no additional lots are proposed in conjunction with this application.</p>

Attachment C
Table Comparing the Current and Proposed Zone Standards

The following is a comparison of the standards between the HCR and R-2a Zones:

Zones/ Zone Standards	HCR (Herring Cove Residential) Zone	R-2a (Residential Home Occupation) Zone
Uses Permitted	<ul style="list-style-type: none"> • Single unit dwellings; • Two unit dwellings; • Existing mobile dwellings • Fishery support uses; • Home occupations in conjunction with permitted dwellings; • Open space uses; • Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings; • Bed and Breakfast uses not exceeding three bedrooms in conjunction with permitted dwellings; • Recreation uses. 	<ul style="list-style-type: none"> • Single unit dwellings; • Two unit dwellings; • Existing mobile dwellings; • Fishery support uses; • Home occupations in conjunction with permitted dwellings; • Open space uses; • Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings except in two unit dwellings where each unit is held under separate title; • Bed and breakfast;
Minimum Lot Area on central sewer and water services	929 square meters (10,000 square feet) per dwelling unit	557.4 square meters (6,000 square feet) per dwelling unit (less than the HCR zone)
Minimum Frontage on central sewer and water services	22.9 m (75 feet) per dwelling unit	18.3 m (60 feet) per dwelling unit (less than the HCR zone)
Maximum Height of Main Building	10.7 m (35 ft.)	10.7 m (35 ft.) (same as the HCR zone)
Minimum Front or Flankage Yard	6.1 m (20 feet)	6.1 m (20 feet) (same as the HCR zone)
Minimum Rear or Side Yard	2.4 m (8 feet)	2.4 m (8 feet) (same as the HCR zone)
Maximum Lot Coverage	35 percent	35 percent (same as the HCR zone)
Home Occupations	<ul style="list-style-type: none"> • Any home occupation shall be wholly contained within the dwelling which is the principle residence of the operator of the home occupation. • No more than three hundred (300) square feet (28 m²) of gross floor area shall be devoted to any home occupation. 	<ul style="list-style-type: none"> • Any home occupation shall be wholly contained within the dwelling or accessory building. The dwelling shall be the principle residence of the operator of the home occupation. • No more than seven hundred and fifty (750) square feet (70 m²) of gross floor area shall be devoted to any home occupation.

	<ul style="list-style-type: none">• No open storage or outdoor display shall be permitted.• One (1) facial wall sign, not exceeding two (2) square feet (.2 m2) in size, shall be permitted to advertise the home occupation and shall be constructed of wood.• One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet of floor area devoted to any home occupation.	<ul style="list-style-type: none">• No materials or equipment which is obnoxious or creates a nuisance by virtue of noise, vibration, smell or glare shall be used on the lot.• One (1) facial wall sign, not exceeding two (2) square feet (.2 m2) in size, shall be permitted to advertise the home occupation and shall be constructed of wood.
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Attachment D – 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,

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.

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(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;

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- (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;

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- (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.