



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 14.1.09**  
**Halifax Regional Council**  
**August 15, 2017**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed  
\_\_\_\_\_  
Brad Anguish, A/Chief Administrative Officer

**DATE:** July 21, 2017

**SUBJECT:** **Case 21168: MPS and LUB amendments for 830, 834, 848, and 850 Highway 7, and 1 Broom Road, Westphal**

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**ORIGIN**

Application by 3274606 NS Ltd. for MPS and LUB amendments to allow additional commercial uses at 830, 834, 848, and 850 Highway 7, and 1 Broom Road, Westphal.

**LEGISLATIVE AUTHORITY**

See Attachment C

**RECOMMENDATION**

It is recommended that Regional Council direct staff to:

1. Initiate a process to consider amendments to the Municipal Planning Strategy and Land Use By-law for Cole Harbour / Westphal to allow for automotive repair, office, and self-storage uses at 830, 834, 848, and 850 Highway 7, and 1 Broom Road, Westphal; and
2. Follow the public participation program for municipal planning strategy amendments as approved by Regional Council on February 27, 1997.

## **BACKGROUND**

3274606 NS Ltd. is applying to allow additional commercial uses including auto repair, offices, and a self-storage facility at 830, 834, 848, and 850 Highway 7, and 1 Broom Road, Westphal. There is no enabling policy to consider the proposed commercial uses on the site. Therefore, the applicant is seeking amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Cole Harbour/Westphal to allow a wider range of commercial uses.

### **Location, Designation, Zoning and Surrounding Use**

<b>Subject Site</b>	830, 834, 848, 850 Highway 7 and 1 Broom Road, Westphal (PID 00650689)
<b>Location</b>	Southwest corner of Highway 7 and Broom Road, Westphal
<b>Regional Plan Designation</b>	Rural Commuter (RC) and Urban Settlement (US)
<b>Community Plan Designation (Map 1)</b>	Highway Commercial (HC) and Urban Residential (UR) under the Cole Harbour / Westphal Municipal Planning Strategy (MPS)
<b>Zoning (Map 2)</b>	C-4, Highway Commercial Zone, and R-1, Single Unit Dwelling Zone, under the Cole Harbour / Westphal Land Use By-Law (LUB)
<b>Size of Site</b>	3 Ha (7.47 acres)
<b>Street Frontage</b>	136.7 m (448.6 ft) on Highway No. 7 151.6 m (497.44 ft) on Broom Road
<b>Current Land Use(s)</b>	There are six buildings on the property with a total floor area of 6,178 square metres (66,500 square feet). The property is currently occupied by several commercial uses: Super Dave's Auto Sales, Bargain Basket, Mariner Auctions, CivTech Engineering, JunkBin and McCarthy's Roofing.
<b>Surrounding Use(s)</b>	<ul style="list-style-type: none"> <li>• An existing residential neighbourhood along Odell Drive to the southwest;</li> <li>• A vacant piece of land zoned R-1 to the south;</li> <li>• Assorted highway oriented commercial uses to the east, west and north inclusive of Karen's Recycling, Kelly's Creative Sewing, Adventure Sports, and Titans Gymnastic and Trampoline Club</li> </ul>

### **Subject Site History**

The subject site has an extensive history which provides insight for the current proposal:

- In 1959, A. R. Hemming Building Supplies Ltd. used the property for manufacturing roof trusses and general building supplies.
- In 1982, the former Halifax County Municipality (Halifax County) approved a Municipal Development Plan (MDP) and Land Use By-law (LUB) for Cole Harbour/Westphal. The subject site was split designated Highway Commercial and Residential A. The MDP allowed for consideration of the expansion of A. R. Hemming Building Supplies Ltd. through the development agreement process.
- In 1984, Halifax County approved a development agreement (DA-CH/W-04-84-07), to permit the expansion of the A. R. Hemming manufacturing operation. The development agreement permitted highway commercial uses on the entire property.
- In 1989, Halifax County adopted the MPS and LUB for Cole Harbour/Westphal. Similar to the 1982 MDP, an expansion of the business could only be considered through the development agreement process.
- Beaver Lumber leased the property in 1989 for a building supply outlet. It closed in April, 2001.

The property is no longer occupied by Hemming Building Supplies Ltd. nor is it used for industrial purposes. There are several highway commercial uses that currently operate at this site. On March 23, 2016, HRM staff conducted a site visit and became aware of three businesses operating on the site without permits: McCarthy's Roofing Limited, Junk Bin, and CivTech Engineering and Surveying Limited. The property owner was advised that these businesses needed occupancy permits. All businesses were subsequently informed of this requirement. To date, McCarthy's Roofing and Junk Bin have received permits; however, CivTech Engineering and Surveying Limited received a permit refusal as offices are not permitted under the provisions of the development agreement and C-4 Zone.

### **Proposal Details**

The property owner originally applied to amend the existing development agreement to consider auto repair uses at 830 Highway 7. The building at 830 Highway 7 is currently occupied by Super Dave's Auto Sales. The business also includes existing service bays. The nature of the applicant's amendment request was to allow both the sale and service of cars within the existing building.

Upon further review, staff advised that there is no enabling policy to consider a development agreement for these uses on the rear portion of the site, which is designated UR. An MPS amendment is therefore required to consider the use. Furthermore, the compliance issue involving an office use within another building on the subject site also requires approval of an MPS amendment.

Upon altering their planning application to include an amendment to the MPS, the applicant indicated they would like to have a self-storage facility at this site in the future. Consequently, the application has been revised to include an MPS amendment to allow additional commercial uses to those already permitted under the Highway Commercial (C-4) Zone on the property including auto repair, offices, and self-storage uses.

### **MPS and LUB Context**

The subject property is split by two land use designations with the Highway Commercial designation applying along the northern portion and the Urban Residential designation applying to the south (Map 1). The property is also split zoned with the northern portion of the property zoned C-4 and the southern portion zoned R-1 (Map 2). The property is listed in Appendix "B" of the LUB, which enables the Hemming Building Supply Operation to be expanded through the development agreement process. The existing development agreement permits Highway Commercial Zone (C-4) uses under the 1982 LUB throughout the property.

#### *Automotive Repair*

The existing development agreement permits automotive repair uses only in conjunction with a service station. There is enabling policy under the Highway Commercial Designation to consider auto repair uses through the development agreement process, however the property is split designated and there is no enabling policy under the Urban Residential designation to consider this use.

#### *Self Storage*

Self-storage facilities are not permitted under the existing development agreement or the C-4 Zone under the 1982 LUB. There is no enabling policy under the HC and UR designations to consider this use.

#### *Offices*

The property owner would also like to consider office uses through this application to resolve their compliance issue. Offices are not permitted under the 1982 C-4 Zone and there is no enabling policy under the HC and UR designations to consider office uses.

## **DISCUSSION**

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in Municipality. While the MPS provides broad direction, Regional Council may consider MPS amendment requests to enable proposed development that is inconsistent with its policies. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. Amendments should only be considered within the broader planning context and when there is reason to believe that there has been a change to the circumstances since the MPS was adopted, or last reviewed.

### **Applicant Rationale**

The applicant provided the following rationale in support of the proposed amendments:

- The industrial use of the Hemming Building Supplies operation no longer exists and new industrial uses are not envisioned under the existing MPS policy;
- There is demand for commercial space in this area of Westphal; and
- All of the buildings on this site are occupied by other commercial uses. The proposed uses are compatible with the existing commercial uses on the property and adjacent properties along Highway 7.

### **Staff Review**

Staff have reviewed the applicant's rationale, the existing policy, and changes that have occurred in the area since the policy's adoption. Staff advise there is merit to consider policy changes for the subject properties to allow a wider range of commercial uses as an adaptive reuse of the site. The intent of the existing policy is to prevent the development of new industrial uses within the plan area. The proposed uses on this site would be consistent with that vision.

#### *Existing Development Agreement*

In 1982, the MDP allowed consideration of the expansion of the Hemming Building Supplies outlet through the development agreement process and in 1984, a development agreement was approved pursuant to those policies. Although Hemming Building Supplies Limited no longer operates at the subject site, this development agreement remains registered on title. The planning policy has since been updated, however the existing C-4 Zone has not changed from the 1982 C-4 Zone to include automotive repair, offices, and storage facilities. As such, policy changes would be required to consider the appropriate adaptive reuse of the property.

#### *Split Zoning and Designation*

The properties fronting Highway 7 between Montague Road and Riley Road are designated HC and zoned C-4 except for the cemetery on the corner of Highway 7 and Montague Road. The subject property is the only lot split zoned and designated for commercial and residential uses. Through the planning application process to come, a determination will need to be made as to what the appropriate zone and designation is for the property.

#### *Demand for Commercial Zoned Land*

There are six buildings at this site and are all occupied by commercial uses. There is a high demand for commercial space in this area and this property currently contains commercial warehouse buildings with service bays and outdoor storage. Due to the UR designation, the options to use the property for commercial purposes are quite limited.

#### *Compatibility*

The applicant does not wish to have another industrial use on the property, which is consistent with the intent of the plan. The site is better suited for commercial uses. Staff recognize the sensitivity of this site because of its proximity to an existing low density residential neighbourhood, south west of the site.

A full review would consider the following:

- the scope and appropriateness of different planning tools, such as zoning, development agreements or site plan approvals;
- appropriate limits for any new development or uses including but not limited to setbacks from residential areas, screening, and parking;
- storm water management;
- the impact on traffic infrastructure; and
- the feedback received through community engagement initiatives.

## **Conclusion**

Staff have reviewed the proposed MPS amendment and advise that there is merit to the request. The proposed uses are compatible with the existing uses on the subject site and adjacent properties. Therefore, staff recommend that Regional Council initiate the MPS amendment application process.

## **COMMUNITY ENGAGEMENT**

Should Regional Council choose to initiate the MPS amendment process, the *HRM Charter* requires that Regional Council approve a public participation program. In February of 1997, Regional Council approved a public participation resolution which outlines the process to be undertaken for proposed MPS amendments which are considered to be local in nature. This requires a public meeting to be held, at a minimum, and any other measures deemed necessary to obtain public opinion. Letters were sent to property owners for the original application, Case 19910. However, a public meeting will be required for the current application.

The proposed level of community engagement is further consultation, achieved through a public information meeting, as well as a public hearing, before Regional Council can consider approval of any amendments.

Amendments to the Cole Harbor/Westphal MPS will potentially impact the following stakeholders: residents, businesses, and property owners.

## **FINANCIAL IMPLICATIONS**

The HRM costs associated with processing this planning application can be accommodated within the approved 2017-18 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 involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

## **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified at this time.

## **ALTERNATIVES**

1. Regional Council may choose to initiate the consideration of potential policy that would differ from those outlined in this report. This may require a supplementary report from staff.
2. Regional Council may choose not to initiate the MPS amendment process. A decision of Council not to initiate a process to consider amending the Municipal Planning Strategy for Cole Harbour / Westphal is not appealable to the NS Utility and 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: Application Letter  
Attachment B: Site Plan  
Attachment C: Legislative Authority

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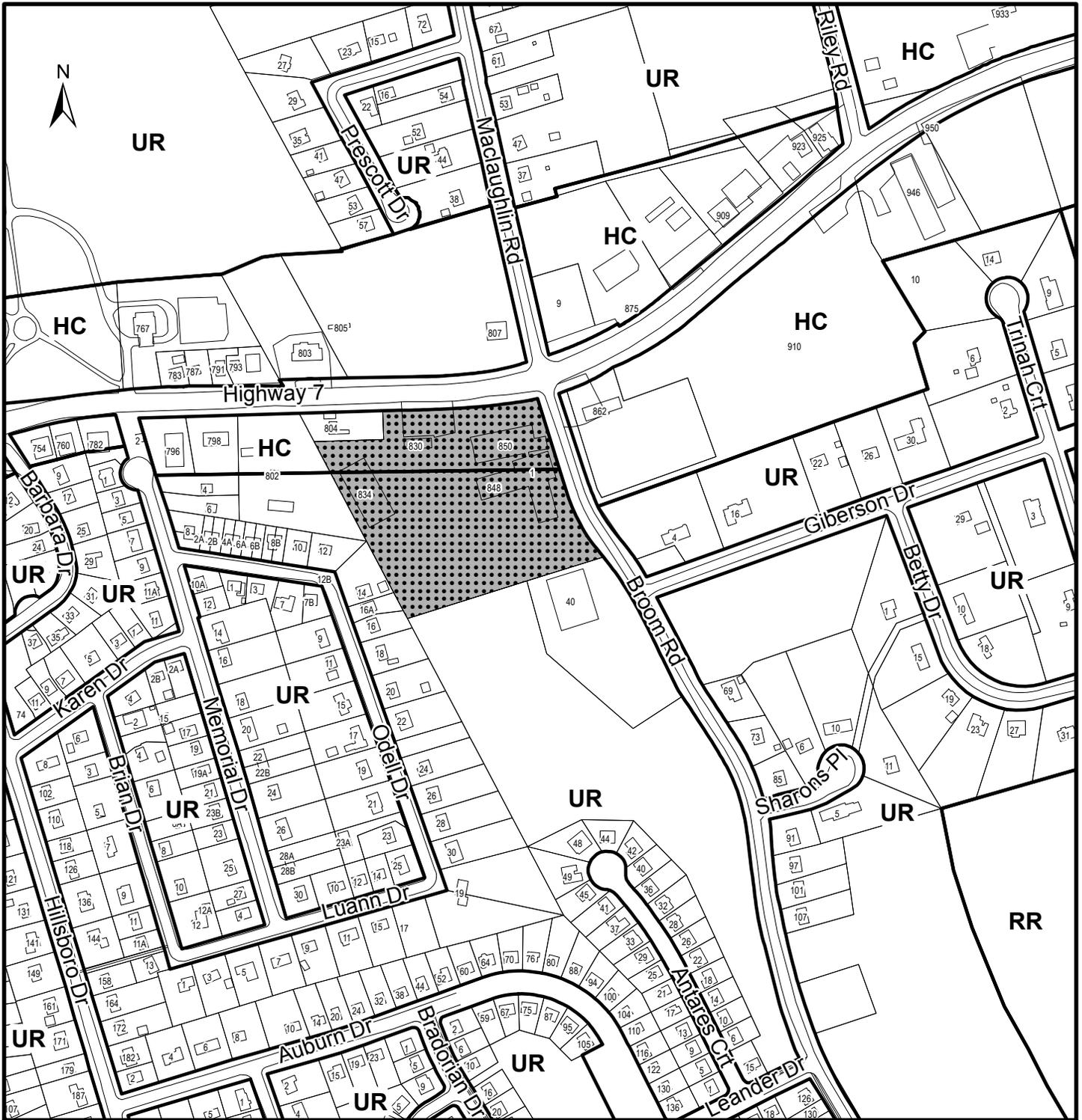
A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Stephanie Salloum, Planner II, Rural Policy and Applications, 902.490.4223

Report Approved by: Original Signed  
Kelly Denty, Manager, Current Planning, 902.490.4800

Report Approved by: Original Signed  
Bob Bjerke, Chief Planner & Director, Planning and Development, 902.490.1627

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**Map 1 - Generalized Future Land Use**

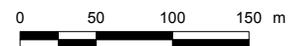
830 Highway 7,  
Westphal

**HALIFAX**

 Subject Site

**Designation**

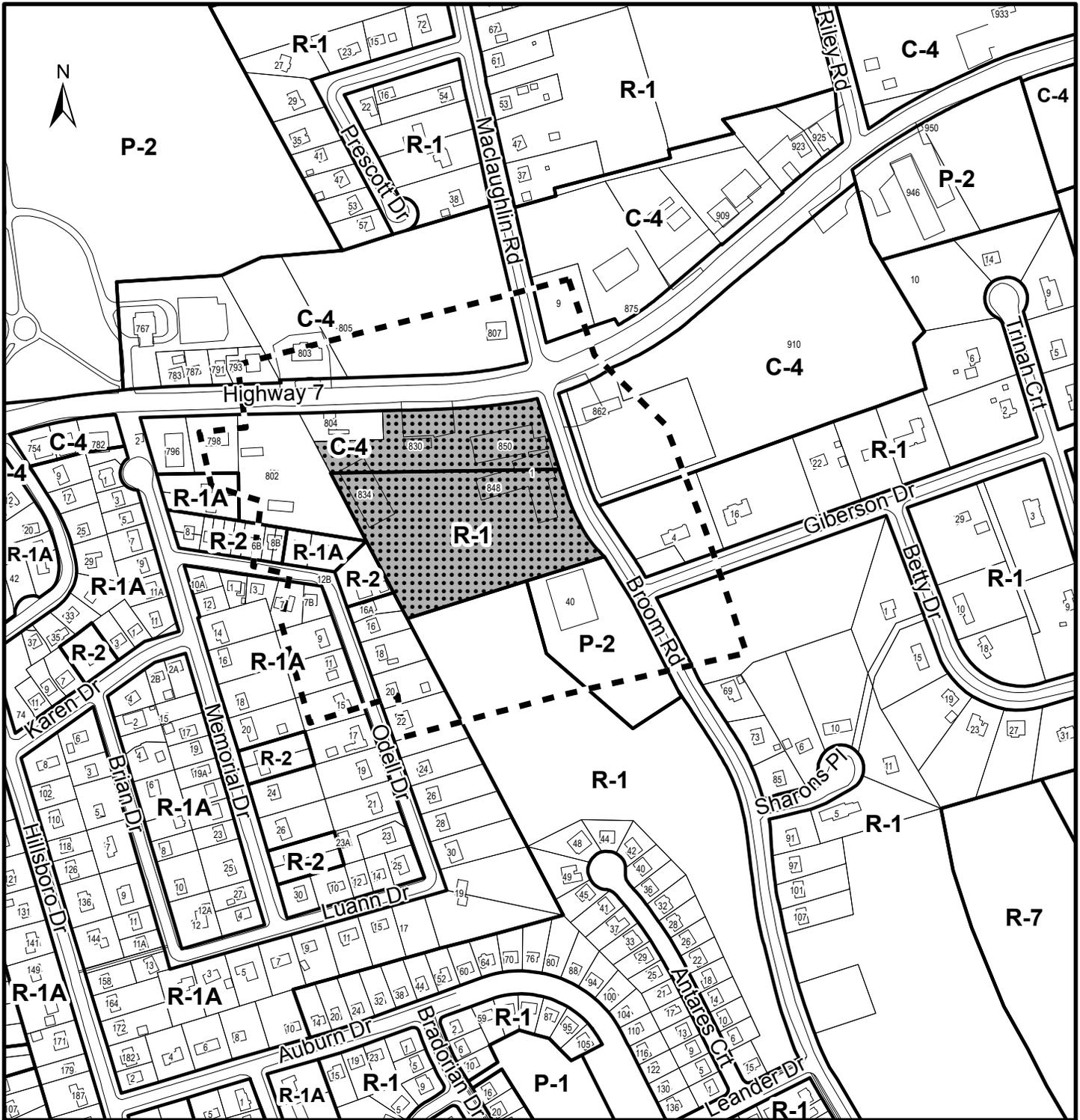
- UR Urban Residential
- RR Rural Residential
- HC Highway Commercial



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.

Cole Harbour/Westphal  
Plan Area



### Map 2 - Zoning and Notification

830 Highway 7,  
Weshpal

**HALIFAX**

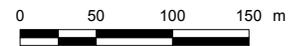
 Subject Site

 Area of Notification

Cole Harbour/Westphal  
Plan Area

**Zone**

- R-1A Single Unit Dwelling
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-7 Rural Estate
- C-4 Highway Commercial
- P-2 Community Facility



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.



Bedrock Properties  
6041 Stairs Street  
Halifax, NS  
B3K 2E6

May 3, 2017

The purpose of this letter is to provide a background and outline of my intentions for the property known as 850 Main Street (outlined in Case 21168 for the MPS amendment).

My company, 3274606 NS Limited purchase this property on October 21, 2013. The property has 6 commercial and industrial buildings on 7.5 acres of land. It has highway commercial zoning on the front of the property with R1 zoning on the rear 2/3rds of the property. These buildings were constructed for a truss plant that operated for many years. There is a development agreement that applies to the property allowing manufacturing and industrial uses on the entire property. The property has commercial and residential buildings bordering it.

When I purchase the property, it was in poor repair and had a high vacancy rate. There was a workplace death on the property just prior to my purchasing and there were many safety hazards present. These hazards have been resolved. I saw a huge opportunity to add value to the property and improve the look of the property. The location has high visibility with over 40,000 cars going by every day. It is an ideal location for businesses to thrive. We have renovated and put significant effort to providing useful space for businesses and are currently 100% occupied with frequent inquiries from other businesses wanting space. The prior owners were involved in the truss plant and recognized that the industrial/manufacturing uses seems out of place for the area. They had started renting the property and dividing it up so smaller businesses could rent areas in their community. This was done approximately 15 years ago. I continued doing this while observing zoning and bylaw restrictions. I have recently become aware that a tenant who has rented about 800sqft of office for over 10 years does not comply with land use bylaws since he is only renting office space, no warehouse space. HRM is aware of this issue and is allowing it for the time

being. We currently have tenants such as a roofing company, a dollar store, a civil engineering company, a construction company, a car dealer, a foundation company, a junk removal company and a bus company. I feel these tenants service the community much better than a manufacturing plant which the land is zoned for.

My plans for the property are to create a site that promotes business and adds value to the area residents. My goal is to expand the automotive uses for the property to serve the community and the large number of commuters passing daily. These changes will likely involve having space for automotive repair, a detail shop and an automotive glass shop. These improvements could be done using space in our existing buildings. I would also like to use some of our existing space for a self-storage facility with the option of adding self-storage units to the rear of the property.

These changes cannot be made under the existing land use requirements. I hope the city will support my efforts to improve this property by changing the zoning for the entire property to Commercial Zoning and allow future uses such as automotive mechanical repair, automotive glass repair, a detail shop and self-storage facility. I would be happy to surrender the current development agreement that allows manufacturing on the site.

Thank you,

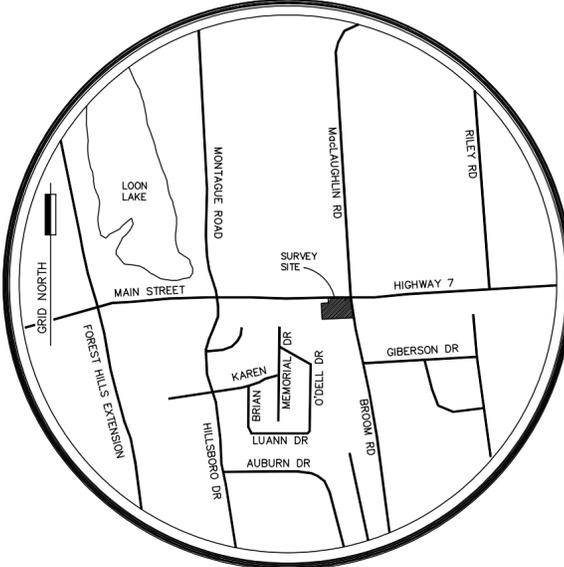
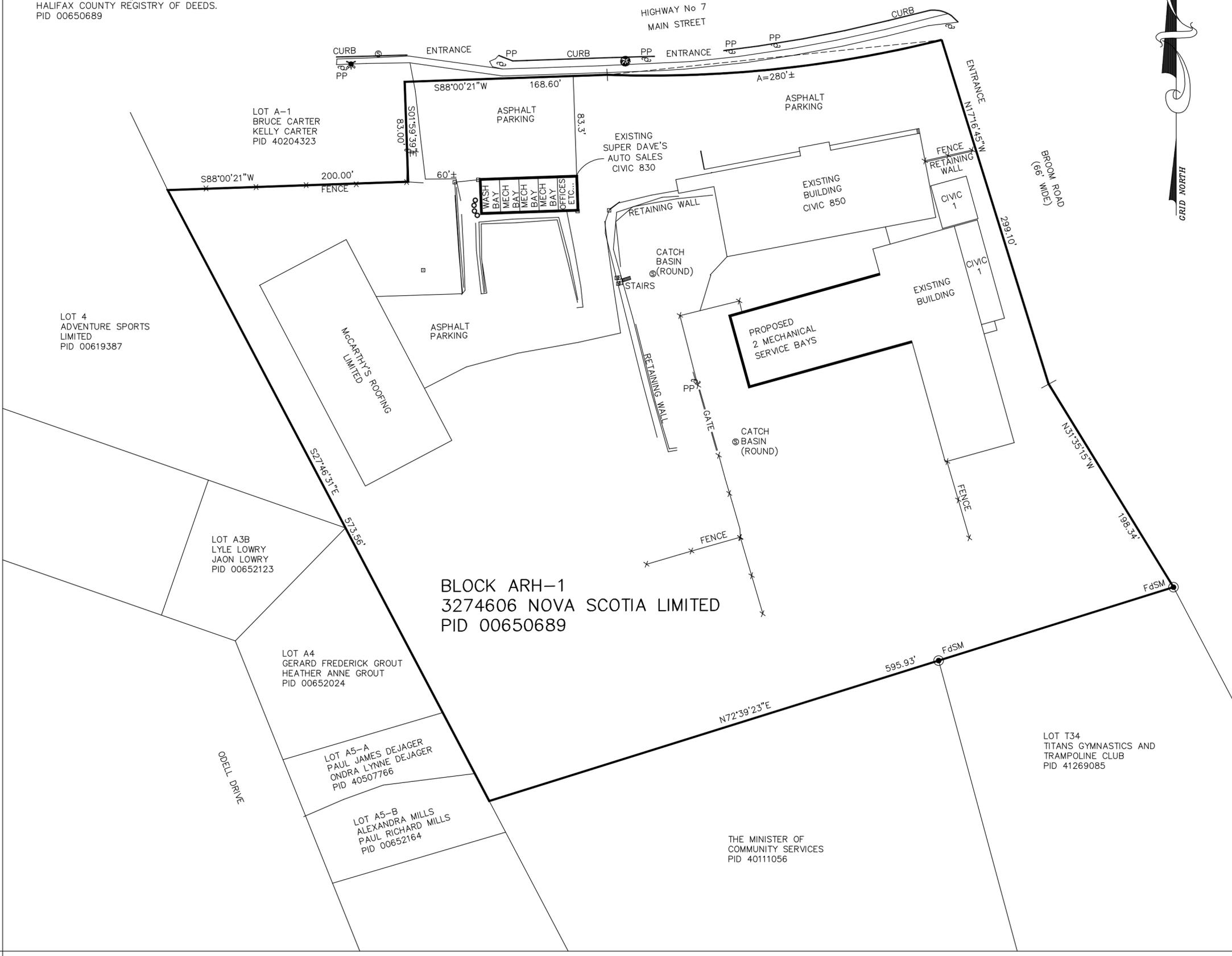
Dave Campbell  
Bedrock Properties

PLAN REFERENCES:

1. PLAN SHOWING LOT CONSOLIDATION LANDS OF A R HEMMING BUILDING SYSTEMS LTD. & CHARLES A ELLIOTT, PREPARED BY K W ROBB & ASSOCIATES, DATED MARCH 19, 1984.

DEED REFERENCES:

1. BLOCK ARH-1 LANDS CONVEYED TO 3274606 NOVA SCOTIA LIMITED 2013 DEED - DOC # 104000360 HALIFAX COUNTY REGISTRY OF DEEDS. PID 00650689



KEY PLAN SCALE: 1 : 50,000

LEGEND:

- LANDS DEALT WITH BY THIS SURVEY
  - NOVA SCOTIA CO-ORDINATE MONUMENT
  - SURVEY MARKER
  - UNMONUMENTED POINT
  - ROCK POST
  - IRON BAR
  - IRON PIPE
  - WOOD POST, WOOD STAKE
  - FOUND, WITNESS, NOT TO SCALE
  - PLAN, DEED
  - CALCULATED FROM FIELD MEASUREMENTS
  - TIE LINE, TOTAL
  - BEGINNING OF CURVE, END OF CURVE
  - POINT OF COMMON CURVATURE, POINT OF REVERSE CURVATURE
  - RADIUS, ARC, CHORD
  - ORDINARY HIGH WATER MARK
  - UNMONUMENTED POINT
- N.S.C.M.
  - S.M.
  - U.P.
  - R.P.
  - I.B.
  - I.P.
  - W.P. W.S.
  - Fd., Wit. (N.T.S.)
  - (P), (D)
  - calc.
  - (T/L) (T)
  - B.C., E.C.
  - P.C.C., P.R.C.
  - R, L, C
  - O.W.H.M.
  - U.P.

NOTES :

DETAILED SITE PLAN OF  
**BLOCK ARH-1**  
 LANDS CONVEYED TO  
**3274606 NOVA SCOTIA LIMITED**  
 MAIN STREET & BROOM ROAD, DARTMOUTH  
 HALIFAX COUNTY, NOVA SCOTIA



**CIVTECH ENGINEERING & SURVEYING LIMITED**  
 P.O. Box 3237, D.E.P.S., DARTMOUTH  
 NOVA SCOTIA, B2W 5G2, 434-4600

No.	REVISION/REMARKS	DATE	SCALE:
			1" = 60'
DRAWN BY : A STEVENS   CHECKED BY : T. GIOVANNETTI			14149

## **Attachment C – Legislative Authority**

### **Municipal Planning Strategy and Land Use By-law Amendments Initiated by Regional Council**

*Halifax Regional Municipality Charter, Part VIII, Planning and Development, including:*

#### **Planning documents reasonably consistent**

**214 (1)** Planning documents adopted after the adoption of a statement of provincial interest that applies within the Municipality must be reasonably consistent with the statement.

#### **Planning advisory committee**

**215 (1)** The Municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the Municipality.

**(4)** The purpose of a planning advisory committee or a joint planning advisory committee is to advise respecting the preparation or amendment of planning documents and respecting planning matters generally.

#### **Public participation program**

**219 (1)** The Council shall adopt, by policy, a public participation program concerning the preparation of planning documents.

**(2)** The Council may adopt different public participation programs for different types of planning documents.

**(3)** The content of a public participation program is at the discretion of the Council, but it must identify opportunities and establish ways and means of seeking the opinions of the public concerning the proposed planning documents.

**220 (1)** The Council shall adopt, by by-law, planning documents.

**(4)** The Council shall complete the public participation program before placing the first notice for a public hearing in a newspaper circulating in the Municipality.

#### **Purpose of municipal planning strategy**

**228** The purpose of a municipal planning strategy is to provide statements of policy to guide the development and management of the Municipality and, to further this purpose, to establish

- (a) policies that address problems and opportunities concerning the development of land and the effects of the development;
- (b) policies to provide a framework for the environmental, social and economic development within the Municipality;
- (c) policies that are reasonably consistent with the intent of statements of provincial interest; and
- (d) specify programs and actions necessary for implementing the municipal planning strategy.

#### **Statements of policy in planning strategy**

**229 (1)** A municipal planning strategy may include statements of policy with respect to any or all of the following:

- (a) the goals and objectives of the Municipality for its future;
- (b) the physical, economic and social environment of the Municipality;
- (c) the protection, use and development of lands within the Municipality, including the identification, protection, use and development of lands subject to flooding, steep slopes, lands susceptible to subsidence, erosion or other geological hazards, swamps, marshes or other environmentally sensitive areas;

- (d) stormwater management and erosion control;
- (e) in connection with a development, the excavation or filling in of land, the placement of fill or the removal of soil, unless these matters are subject to another enactment of the Province;
- (f) in connection with a development, retention of trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
- (g) studies to be carried out prior to undertaking specified developments or developments in specified areas;
- (h) the staging of development;
- (i) the provision of municipal services and facilities;
- (j) municipal investment for public and private development and the coordination of public programs relating to the economic, social and physical development of the Municipality;
- (k) non-conforming uses and structures;
- (l) the subdivision of land;
- (m) the use and conservation of energy, including the height and siting of developments;
- (n) measures for informing, or securing, the views of the public regarding contemplated planning policies and actions or bylaws arising from such policies;
- (o) policies governing
  - (i) land-use by-law matters,
  - (ii) amendment of the land-use by-law,
  - (iii) the acceptance and use of cash-in-lieu of required parking,
  - (iv) the use of development agreements,
  - (v) the establishment of comprehensive development districts,
  - (vi) the use of site-plan approval areas, including whether notice must be given to owners and tenants of property that is thirty metres or more from the applicant's property,
  - (vii) the establishment of transportation reserves,
  - (viii) the use of infrastructure charges,
  - (ix) the eligibility criteria for the establishment of a commercial development district including, without limiting the generality of the foregoing, the percentage increase in the taxable assessed value of the eligible properties, as defined in subsection 92C(1), within the proposed commercial development district and the period over which the increase in the taxable assessed value of the properties occurs;
- (p) the regulation or prohibition of 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);
- (q) any other matter relating to the physical, social or economic environment of the Municipality.

- (2) The Council shall include policies in the municipal planning strategy on how it intends to review the municipal planning strategy and land-use by-law.

**No action inconsistent with planning strategy**

- 232 (1)** The Municipality may not act in a manner that is inconsistent with a municipal planning strategy.

**Adoption of land-use by-law or amendment**

- 234 (1)** Where the Council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the Council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that enables the policies to be carried out.

**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 land-use 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.

**No appeal permitted**

**263** The following are not subject to an appeal:

- (d) an amendment to a land-use by-law that is required to carry out a concurrent amendment to a municipal planning strategy.