



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

Item No. 14.3.2
Halifax Regional Council
August 15, 2017

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY: _____
Councillor Stephen D. Adams, Chair, Halifax & West Community Council

DATE: July 26, 2017

SUBJECT: Case 19722: Amendments to the Halifax MPS and Halifax Mainland LUB and Amending Development Agreement for 15 Shoreham Lane, Halifax

ORIGIN

Motion by Halifax and West Community Council at a meeting held on July 25, 2017.

LEGISLATIVE AUTHORITY

HRM Charter, Part 1, Clause 25(c) – “The powers and duties of a Community Council include recommending to the Council appropriate by-laws, regulations, controls and development standards for the community.”

RECOMMENDATION

Halifax and West Community Council recommends Halifax Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy for Halifax (MPS) and to the Land Use By-law for Halifax Mainland (LUB), as set out in Attachments A and B of the June 28, 2017 staff report, to enable additional commercial land uses, including a restaurant, in an existing commercial/office building located at 15 Shoreham Lane, Halifax, and schedule a joint public hearing with Halifax and West Community Council; and
2. Approve the proposed amendments to the MPS and LUB, as set out in Attachments A and B of the June 28, 2017 staff report.

BACKGROUND

At the July 25, 2017 meeting of Halifax and West Community Council, Community Council considered a staff report regarding amendments to the Halifax Municipal Planning Strategy and Halifax Mainland Land Use Bylaw and Amending Development Agreement for 15 Shoreham Lane, Halifax.

DISCUSSION

Halifax and West Community Council passed a motion to approve the staff recommendation, forwarding the recommendation to Regional Council, without discussion.

Halifax and West Community Council also gave Notice of Motion and approved a recommendation that the public hearing for the proposed amending development agreement as set out in Attachment C of the June 28, 2017 staff report be held concurrently with the joint public hearing on the proposed amendments to the MPS and LUB for Halifax Mainland.

FINANCIAL IMPLICATIONS

Financial implications are addressed in the attached staff report dated June 28, 2017.

RISK CONSIDERATION

Risk considerations are addressed in the attached staff report dated June 28, 2017.

COMMUNITY ENGAGEMENT

Halifax and West Community Council is comprised of six (6) elected members. Meetings are held in public unless otherwise indicated and the agendas and reports are posted to the HRM website.

ENVIRONMENTAL IMPLICATIONS

None identified.

ALTERNATIVES

Community Council did not provide alternatives.

ATTACHMENTS

Attachment 1 – Staff report dated June 28, 2017.

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Sheilagh Edmonds, Legislative Assistant, Municipal Clerk's Office, 902.490.6520

Item No.
Halifax and West Community Council
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: June 28, 2017

SUBJECT: **Case 19722: Amendments to the Halifax MPS and Halifax Mainland LUB and Amending Development Agreement for 15 Shoreham Lane, Halifax**

ORIGIN

- Application by Gem Health Care Group Limited
- On November 24, 2015, the following motion was unanimously passed by Regional Council to initiate the Municipal Planning Strategy amendment process:

THAT Halifax Regional Council direct staff to initiate the process to consider amending the Halifax Mainland South Secondary Planning Strategy and Mainland Land Use By-law to:

1. Broaden the range of permitted land uses at 15 Shoreham Lane, as identified on Map 1 of the October 28, 2015 staff report; and
2. Follow the public participation program for municipal planning strategy amendments that was adopted by Regional Council on February 27, 1997.

LEGISLATIVE AUTHORITY

See Attachment E

RECOMMENDATION

It is recommended that Halifax and West Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy for Halifax (MPS) and to the Land Use By-law for Halifax Mainland (LUB), as set out in Attachments A and B of this report, to enable additional commercial land uses, including a restaurant, in an existing commercial/office building located at 15 Shoreham Lane, Halifax, and schedule a joint public hearing with Halifax and West Community Council; and
2. Approve the proposed amendments to the MPS and LUB, as set out in Attachments A and B of this report.

It is recommended that Halifax and West Community Council:

3. Give Notice of Motion to consider the proposed amending development agreement, as set out in Attachment C of this report, to permit neighbourhood commercial uses and select local commercial uses, including a restaurant, in an existing commercial/office building located at 15 Shoreham Lane, Halifax. The public hearing for the amending development agreement shall be held concurrently with the public hearing referenced in Recommendation 1.

Contingent upon the adoption of the above MPS and LUB amendments which are applicable to the proposed amending development agreement as set out in Attachment C of this report, and those amendments becoming effective under the Halifax Regional Municipality Charter, it is further recommended that Halifax and West Community Council:

1. Approve the proposed amending development agreement as contained in Attachment C of this report; and
2. Require the amending development agreement to be signed by the property owner within 120 days, or any extension thereof granted by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Gem Health Care Group Limited (the applicant) is seeking to allow additional commercial land uses, including a restaurant, in an existing commercial building located at 15 Shoreham Lane, Halifax (Map 1). 15 Shoreham Lane (subject property) is part of the Melville Heights Residential Development District (RDD) and an existing development agreement is in place. Existing land use policy limits uses on the subject property to health care related uses; they do not allow other commercial land uses in the building. As such, the applicant is seeking amendments to the MPS and the existing development agreement.

Subject Site	15 Shoreham Lane, Halifax
Location	Southeast corner of Herring Cove Road and Shoreham Lane - accessed via Shoreham Lane
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Residential Development District (RDD) under the Mainland South Secondary Planning Strategy (SPS), which forms part of the Municipal Planning Strategy for Halifax (MPS)
Zoning (Map 2)	Residential Development District (RDD) under the Land Use By-law for Halifax Mainland (LUB)
Size of Site	0.43 hectares (46,768 square feet)
Street Frontage	66m (215') Herring Cove Road & 52m (172') Shoreham Lane
Current Land Use(s)	Gem Health Care Group offices Training Centre Physio Centre Denture Clinic Vacant
Surrounding Use(s)	North: single-unit residential/ retirement complex South: retail and single and multi-unit residential East: single-unit residential West: single residential and a funeral home

Proposal Details

The applicant proposes to enable restaurant uses and additional commercial uses within the existing building on the subject property, and to allow a second storey mechanical room to be added. The proposed restaurant is approximately 560 square metres (6,000 square feet) (approximately 40 percent of the existing

building). The proposed second storey mechanical room is an addition of about 88 square metres (950 square feet).

MPS and LUB Context

Existing MPS policy limits development on the subject property to only health care related land uses. Vacancy has been high as there are few potential health care related tenants. The general policies of the SPS which enable the consideration of RDD development in the Mainland South area provide direction when considering the range of land uses permitted through a development agreement. These general policies contemplate a range of commercial uses as part of an RDD development, as outlined immediately below.

6. Commercial

“Neighbourhood commercial uses are permitted at or near the intersection of local streets, and on the ground floor of high-density residential buildings. In addition, consideration may be given for a commercial convenience centre, except in the RDD areas generally west of the Herring Cove Road and south of Leiblin Drive. The amount of gross leasable space may be limited to ensure that the development primarily serves the adjacent neighbourhoods. The intent is to provide for a range of uses such as retail, rental and personal service, household repair shops, service stations, restaurants and office uses.”¹

However, the SPS also contains specific policies for the Melville Heights RDD area, which specifically limits uses at 15 Shoreham Lane to health care related uses.

Existing Development Agreement and Policy Context

The existing development agreement for the Melville Heights RDD area was approved in 1985 and enabled what was referred to at the time as a retirement community. The development agreement enables seven buildings with a variety of housing types (213 long term beds and 243 dwelling units). The development agreement has been repeatedly amended. The policies enabling this development were replaced in 1987 when the Mainland South SPS was adopted. The SPS provided new RDD policies that enable Council to consider limited changes to the development. Council approved revisions to these policies in 1994 to enable limited changes to the range of health care uses allowed within the commercial/office building at 15 Shoreham Lane.

Approval Process

The approval process for this application involves two steps:

- a) First, Regional Council must consider and, if deemed appropriate, approve proposed amendments to the MPS and LUB; and
- b) Second, Halifax and West Community Council must consider and, if deemed appropriate, approve a proposed amending development agreement once the amendments to the MPS and LUB are in effect.

A public hearing is required prior to a decision on both matters. The hearing may be held at the same time for both the MPS and LUB amendments and the proposed amending development agreement. If Regional Council approves the MPS and LUB amendments, the amendments must come into effect before Halifax and West Community Council may decide on the proposed amending development agreement. A decision on MPS and concurrent LUB amendments is not appealable to the Nova Scotia Utility and Review Board (Board). However, the decision on the amending development agreement is appealable to the Board.

¹ Halifax Municipal Planning Strategy. Pg. 158. Mainland South Secondary Planning Strategy. (Part II – Section X). Schedule I. Guidelines for Residential Development District.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy, the HRM Charter, and the Public Participation Program approved by Council on February 25, 1997. The level of community engagement is consultation, achieved through: providing information and seeking comments through the HRM website; posting a sign on the subject site; mailing letters to property owners within the notification area shown on Map 2; and hosting a public information meeting (PIM) on March 23, 2016. Attachment D contains a copy of the notes from the PIM. The public comments received include the following topics:

- a non-fast food style restaurant would be a welcome addition in Spryfield
- a lounge/bar is not desired
- potential negative impacts of the use on the surrounding neighbourhood should be mitigated through appropriate landscaping, site lighting and hours of operation

A public hearing must be held by Regional Council before they can consider approving the proposed MPS and LUB amendments. Should Regional 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 residents, property owners, and community or neighbourhood organizations.

DISCUSSION

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in the Municipality. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. In this case, staff advise that allowing a portion of the existing building at 15 Shoreham Lane to be used for neighbourhood commercial uses and select local commercial uses, including a restaurant, is reasonable. This approach is in keeping with the SPS' general policies for RDD development in the Mainland South area, and would provide the option to establish amenities typically present within a neighbourhood context. Amending the development agreement by introducing requirements for screening and hours of operation (for restaurants) will also help to integrate these new land uses into the surrounding neighbourhood. The following paragraphs review the rationale and content of the proposed MPS and LUB amendments, as well as the associated amending development agreement.

Proposed MPS and LUB Amendments

Staff considered the existing MPS policy context and several policy approaches when drafting the proposed MPS and LUB amendments. Attachments A and B contain the proposed MPS and LUB amendments. A summary of the proposed amendments are as follows:

- use of the existing building as a restaurant is permitted;
- use of the existing building for neighbourhood commercial uses and select local commercial uses is permitted;
- use of the existing building for motor vehicle dealers, vehicle repair shops, and service stations is prohibited

Of the matters addressed by the proposed MPS and LUB amendments, the following has been identified for detailed discussion.

The original Residential Development District for Melville Ridge restricted the use of 15 Shoreham Drive to a complimentary Referral Centre and Day Care related to the assisted living facility. The policy did not envision subsequent changes in use. The relocation of a former drugstore to another commercial site on Herring Cove Road again resulted in vacant commercial space, which remains restricted to health care related uses. In fact, permitting the drugstore use in 1994 required an amending development agreement to permit health care related uses.

The proposed MPS and LUB amendments would enable neighbourhood commercial uses and select local commercial uses, including a restaurant within a portion of the existing building, while ensuring significant building space remains for health care related uses. This approach is in keeping with the SPS' general policies for RDD development in the Mainland South area, and would provide reasonable re-use of the building, should occupants change.

Proposed Development Agreement

Attachment C contains the proposed amending development agreement for the subject site and the conditions under which the development may occur. The proposed amending development agreement addresses the following matters:

- Allowing re-use of the existing building, with up to 6,000 square feet permitted for neighbourhood commercial uses and select local commercial uses, including a restaurant. Specifically, the proposed amending development agreement would permit the following uses:
 - a grocery store, drug store, laundromat, dry cleaner, tailor, dressmaker, beauty shop or barber shop;
 - bank, public hall, office, hairdresser, beauty parlour, restaurant, receiving office of a dry cleaner or dyer;
 - a store for retail trade, rental and services, excluding: motor vehicle dealers and repair shops; service stations; and amusement centres; and
 - any use accessory to any of the foregoing uses.
- Allowing a 950 square foot second storey mechanical room addition
- Requiring screening for refuse containers
- Limiting restaurant uses to between 5 a.m and 10 p.m.

Conclusion

Staff have reviewed the application and the existing policy context and advise that the MPS should be amended to enable neighbourhood commercial uses and select local commercial uses, including a restaurant, within the existing building on the subject property. The existing building has had a variety of tenants following its construction in conjunction with the Melville Ridge RDD area. The relocation of a former drugstore has resulted in a long-term vacancy. The repurposing of a portion of the existing building for commercial uses envisioned under general RDD policies in the Mainland South area will provide neighbourhood amenity for the Melville Ridge community and surrounding neighbourhood.

The proposed amendments to the development agreement will also introduce requirements to help new land uses on the subject property integrate into the neighbourhood. Therefore, staff recommend that Halifax and West Community Council recommend that Regional Council approve the proposed amendments to the MPS and LUB, and that Halifax and West Community Council approve the amending development agreement.

FINANCIAL IMPLICATIONS

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this amending development agreement. The administration of the amending development agreement can be carried out within the approved 2017-18 budget with existing resources.

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.

ALTERNATIVES

The Halifax and West Community Council may choose to recommend that Regional Council:

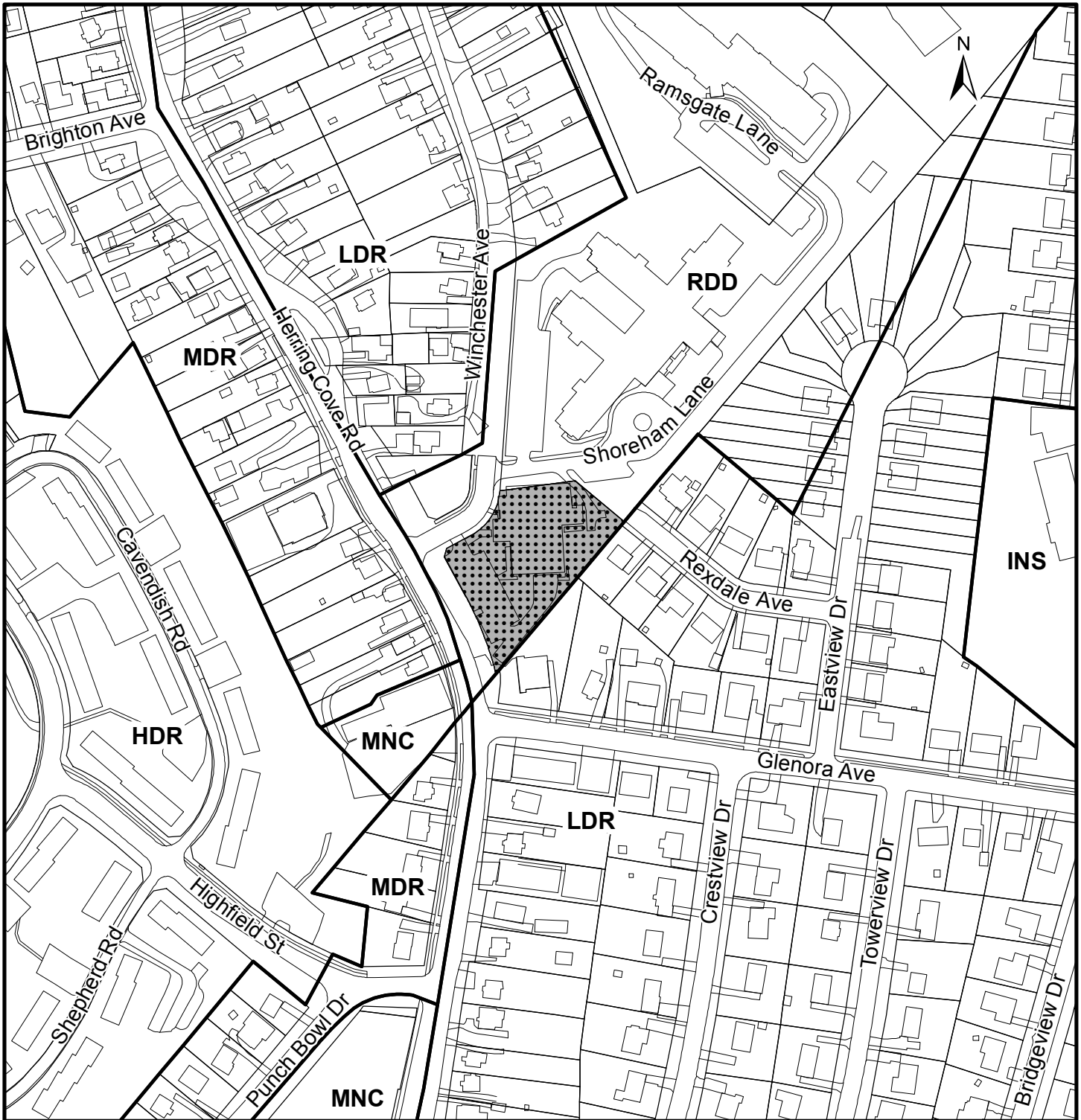
1. Modify the proposed amendments to the MPS and LUB, as set out in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modification is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve or refuse the proposed amendments is not appealable to the Board as per Sections 262 and 263 of the *HRM Charter*.
2. Refuse the proposed amendments to the MPS and LUB. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Sections 262 and 263 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed MPS Amendments
Attachment B:	Proposed LUB Amendments
Attachment C:	Proposed Amending Development Agreement
Attachment D:	Public Information Meeting (PIM) Notes
Attachment E:	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: Sean Gillis, Planner II, 902.490.6357



Map 1 - Generalized Future Land Use

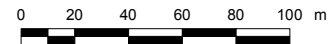
15 Shoreham Lane
Halifax

HALIFAX

 Subject Property

Designations

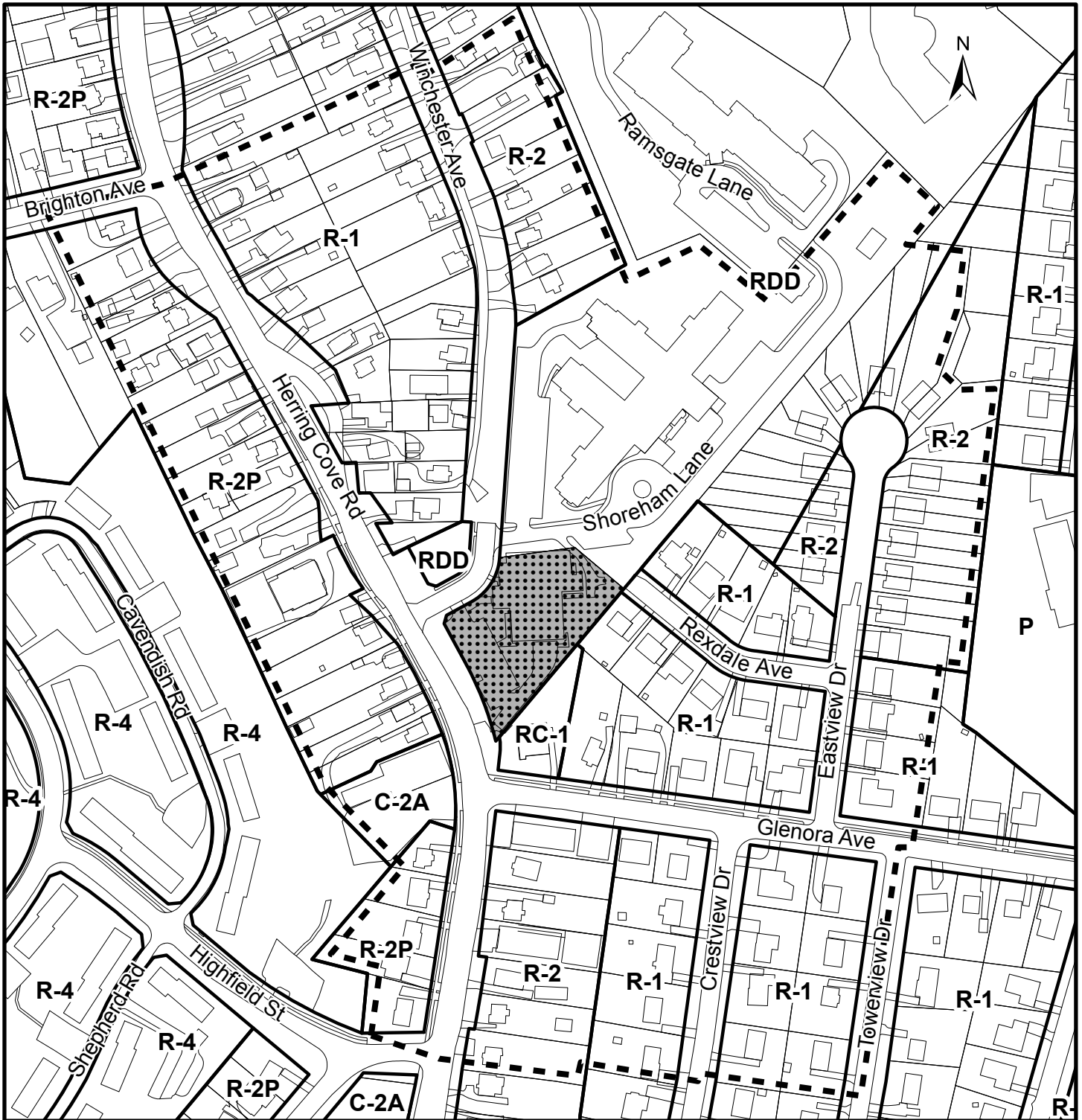
- LDR Low Density Residential
- MDR Medium Density Residential
- HDR High Density Residential
- RDD Residential Development District
- MNC Minor Commercial
- INS Industrial



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
Mainland South Secondary Plan Area



Map 2 - Zoning and Notification

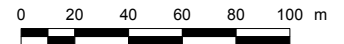
15 Shoreham Lane
Halifax

HALIFAX

-  Subject Property
-  Area of notification

Zones

- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- RC-1 Neighbourhood Commercial
- R-4 Multiple Dwelling
- RDD Residential Development District
- C-2A Minor Commercial
- P Park and Institutional



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.

Attachment A
Proposed Amendments to the Halifax Municipal Planning Strategy

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Halifax as enacted by the former Halifax City Council on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August, 1978, which includes all amendments thereto which have been approved by the Municipality and are in effect as of the 26th day of November, 2016, is hereby further amended as follows:

Bold text is added. Text that is struck-through is removed.

1. Section X, Mainland South Secondary Planning Strategy of the Municipal Planning Strategy shall be amended as follows:
 - 1.5.3 For the area designated as "Residential Development District" known as Melville Ridge as shown on Map 1 of Schedule I, the City may by an amendment to the existing development agreement permit a change in use of and/or an addition to the existing building at 15 Shoreham Lane and a sign on Ramsgate Lane near Purcell's Cove Road.
 - 1.5.3.1 Any change in use permitted pursuant to Policy 1.5.3 shall be ~~health care related~~. **limited to: neighbourhood commercial uses; appropriate local commercial uses, including restaurant uses; and health care related uses. A significant portion of the existing building shall continue to be used for health care related uses.**
 - 1.5.3.1.1 Any addition permitted pursuant to Policy 1.5.3 shall not include any type of residential accommodation such as but not limited to dwelling units, residential care/retirement facility or nursing home.

I HEREBY CERTIFY that the amendments to the Halifax Municipal Planning Strategy as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the day of , 2017

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this day of , 2017

Municipal Clerk

Attachment B
Proposed Amendments to the Halifax Mainland Land Use By-law

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland as enacted by the former Halifax City Council on the 30th day of March and 11th day of May, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August, 1978, which includes all amendments thereto which have been approved by the Municipality and are in effect as of the 31st day of December, 2016, is hereby further amended as follows:

Bold text is added:

1. MAINLAND SOUTH AREA - DEVELOPMENT AGREEMENTS

72 In the "Mainland South Area", Council may, by development agreement pursuant to Section X of the Municipal Planning Strategy:

Block F, Kelly Street

(a) permit a residential complex including assisted living facilities on Block F, Kelly Street, in accordance with Policies 1.2.3 and 1.2.3.1.

72(1) For the area known as Regatta Point, the Municipality may, by development agreement, permit the consolidation of Lot RP-1 (PID 40396699) with Lot RP-2 (16 Anchor Drive; PID 40396681), and the expansion of the existing apartment building to a maximum of 118 units on the consolidated lot. (RC-Jan 19/10;E-Apr 17/10)

72(2) The Municipality may, by development agreement, allow townhouse style residential developments that do not meet the requirements of the R-2T (Townhouse) Zone in accordance with Policy 1.3.4. (RC-Feb 2/10;E-Apr 17/10)

72(3) The Municipality may, by development agreement, allow for apartment house developments in accordance with policies 1.2.5, 1.2.6, 1.2.7, 1.2.8, and 2.3.2 of Section X (Mainland South Secondary Planning Strategy, Residential Environments and Commercial) of the Municipal Planning Strategy for Halifax. (RC-Jun 10/14;E-Jul 26/14)

72(4) Civic Number 15 Shoreham Lane, Halifax

Council may, by development agreement, pursuant to policies 1.5.3 and 1.5.3.1 of Section X of the Halifax Municipal Planning Strategy, permit the following uses within the existing building:

- i. **a grocery store, drug store, laundromat, dry cleaner, tailor, dressmaker, beauty shop or barber shop;**
- ii. **bank, public hall, office, hairdresser, beauty parlour, restaurant, receiving office of a dry cleaner or dyer;**
- iii. **a store for retail trade, rental and services, excluding: motor vehicle dealers and repair shops; service stations; and amusement centres; and**
- iv. **any use accessory to any of the foregoing uses.**

I HEREBY CERTIFY that the amendments to the Halifax Mainland Land Use By-law as set out above, was

passed by a majority vote of the whole Council of the
Halifax Regional Municipality at a meeting held on
the day of , 2017

GIVEN under the hands of the Municipal Clerk and
under the Corporate Seal of the Halifax Regional
Municipality this day of , 2017

Municipal Clerk

Attachment C
Proposed Amending Development Agreement

Case 19722 Melville Ridge

1

June 19, 2017

THIS AMENDING AGREEMENT made this day of **[Insert Month]**, 20__,

BETWEEN:

[INSERT NAME OF CORPORATION/BUSINESS LTD.],
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 15 Shoreham Lane, Spryfield and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS Melville Ridge Holdings Limited and the City of Halifax have previously entered into a development agreement on August 8, 1986 to permit the construction of retirement community in the City of Halifax, the said Agreement being recorded at the Registry of Deeds at Halifax in Book 4228, Pages 111-116, (hereinafter called the "Original Agreement");

AND WHEREAS the Original Agreement was amended in conformity with Section 11(d) to permit the inclusion of additional lands within the area of land subject to the Original Agreement; said Amending Agreement being entered into on 11 July 1988 and registered at the Registry of Deeds in Book 4599 at pages 467-473 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Original Agreement was amended by delaying the construction of 18 parking spaces as required by Section 1 of the Original Agreement; the subsequent Amending Agreement being entered into on 3 August 1989 and registered at the Registry of Deeds in Book 4787 at Pages 275-277 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Original Agreement was amended by extending the time limit for completion as set out in Section 14 of the Original Agreement; the said Third Amending

Agreement being entered into on 28 June 1991 and registered at the Registry of deeds in Book 5100 at Pages 133-135 (hereinafter called the “Third Amending Agreement”);

AND WHEREAS the Third Amending Agreement was amended by extending the time limit for completion as set out in Section 1 of the Third Amending Agreement; said Fourth Amending Agreement being entered into on 18 August 1993 and registered at the Registry of Deeds in Book 5455 at Pages 601-603 (hereinafter called the “Fourth Amending Agreement”);

AND WHEREAS the Fourth Amending Agreement was amended by extending the time limit for completion as set out in Section 1 of the Fourth Amending Agreement; said Fifth Amending Agreement being entered into on 24 December 1996 and registered at the Registry of Deeds in Book 5998 at Pages 997-1000 (hereinafter called the “Fifth Amending Agreement”);

AND WHEREAS the Original Agreement was amended by decreasing the floor area limit on Non-referral Centre/Day Care Uses as set out in Section 12 of the Original Agreement; said Sixth Amending Agreement being entered into on 6 November 1997 and registered at the Registry of Deeds in Book 6188 at Pages 606-609 (hereinafter called the “Sixth Amending Agreement”);

AND WHEREAS the Original Agreement, the First Amending Agreement, the Second Amending Agreement, the Third Amending Agreement, the Fourth Amending Agreement, the Fifth Amending Agreement, and the Sixth Amending Agreement together comprise the Existing Development Agreement (the “Existing Agreement”);

AND WHEREAS the Developer has requested that the Municipality amend the Existing Agreement to allow for additional commercial uses, including a restaurant use, within the existing building referred to as ‘Building E’ under the Existing Agreement, and to allow for an addition to ‘Building E’ for the purpose of creating a second storey mechanical room pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Section X, Policy 1.5.3 and Policy 1.5.3.1 of the Municipal Planning Strategy for Halifax and pursuant to Section 72(4) of the Land Use By-law for Halifax Mainland (hereinafter called “the Seventh Amending Agreement”);

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on [Insert - Date], referenced as Municipal Case Number 19722;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

Text shown in **bold** is added, and struck through text is removed

1. Previous Agreements

~~The applicable portion of the Existing Agreement together with applicable portions of the previous Amending Agreements shall remain in force except where specifically varied by this amending agreement.~~

Except where specifically varied by this Seventh Amending Agreement, all other terms, conditions and provisions of the Existing Agreement shall remain in effect.

2. Land Use – Building E

Clause 12 of the Existing Agreement shall be amended as follows:

Building “E” the Referral Centre/Day Care Centre may be used for health care related uses, **and for the following uses to a maximum size of 6000 square feet:** ~~such as but not limited to professional offices, a drugstore and other support services, and shall not develop or use the lands for any purpose other than as provided by this agreement.~~

- i. **a grocery store, drug store, laundromat, dry cleaner, tailor, dressmaker, beauty shop or barber shop;**
- ii. **bank, public hall, office, hairdresser, beauty parlour, restaurant, receiving office of a dry cleaner or dyer;**
- iii. **a store for retail trade, rental and services, excluding: motor vehicle dealers and repair shops; service stations; and amusement centres; and**
- iv. **any use accessory to any of the foregoing uses.**

Building “E” shall not develop or use the lands for any purpose other than as provided by this Agreement.

Building “E” may be modified to include a maximum 950 square foot second storey mechanical room addition. The mechanical room addition shall be located in proximity to the building entrance facing Herring Cove Road and shall be incorporated into the existing architectural appearance of the building.

Restaurant uses shall be permitted to operate between the hours of 5 a.m. and 10 p.m., Monday to Sunday.

Refuse containers located outside Building “E” shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.

~~No addition shall be made to Building “E” except by amendment to this Agreement in accordance with the applicable provisions of the Planning Act.~~

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

SIGNED, DELIVERED AND ATTESTED by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Cathy Mellett, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

**Attachment D
Public Information Meeting Notes**

**HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting
Case 19722**

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

**Wednesday, March 23, 2016
7:00 p.m.**

Captain William Spry Community Centre (Kidston Room)

STAFF IN

ATTENDANCE: David Lane, Senior Planner, HRM Development Approvals
Iain Grant, Planning Technician, HRM Development Approvals
Cara McFarlane, Planning Controller, HRM Development Approvals

ALSO IN

ATTENDANCE: Councillor Linda Mosher, District 9
Councillor Steve Adams, District 11
George Oickle, Gem Health Care Group Limited

PUBLIC IN

ATTENDANCE: Approximately 10

The meeting commenced at 7:01 p.m.

1. Call to order, purpose of meeting – David Lane

Mr. Lane introduced himself as the Planner facilitating this application through the planning process; Councillors Linda Mosher (District 9) and Steve Adams (District 11); George Oickle, Gem Health Care Group Limited; Iain Grant (Planning Technician) and Cara McFarlane (Planning Controller), HRM Development Approvals.

Case 19722 - Application by Gem Health Care Group Limited to amend the Halifax Mainland South Secondary Planning Strategy and Land Use By-law and an existing development agreement to enable commercial uses and mechanical room addition at 15 Shoreham Lane, Spryfield.

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 – David Lane

Mr. Lane made a presentation outlining the applicant's request to enable a restaurant use (6,000 sq.ft.) within the existing building and the addition of a 950 sq.ft. second floor mechanical

room at 15 Shoreham Lane. Regional Council initiated the process at a meeting held on November 24, 2015.

An image of the site was shown. This parcel is engaged with the development agreement for Melville Heights Community. Mr. Lane explained the documents involved with this application: Halifax Municipal Planning Strategy (MPS) – Mainland South Secondary Plan, Halifax Mainland Land Use By-law (LUB) and an existing development agreement on the property.

The property is designated Residential Development District (RDD) within the Halifax MPS and falls under Policy 1.5.3. It is zoned Residential Development District (RDD) under the Halifax Mainland LUB (allows R-1 and R-2 uses). The RDD designation and the permitted uses within the RDD Zone were explained. The existing Melville Heights Community was enabled by development agreement under the plan policy.

The existing development agreement includes the subject property which was affected by two of seven amendments that have been approved by Council. The original development agreement (lays out general uses for the lands) was registered on the entire Melville Heights Community in 1986 and allowed the subject property to be constructed as Building “E” (Referral and Day Care Centre along with ½ the building for some other uses such as professional offices and support services). An amendment to the development agreement was approved by Council in 1997 to enable health care related uses but not limited to professional offices, drug store and other support services and restricted additional buildings on this site.

Mr. Lane described the plan policy supporting rationale for the amendments to the aforementioned documents. The enabling RDD Plan policy for Melville Heights was, and continues to be, very restrictive and did not allow for supporting commercial services.

The proposed site plan was described (size and existing layout): 0.43 ha. (46,768 sq.ft.) lot, 16,000 sq.ft. existing building (10,000 sq.ft.-health related offices / 6,000 sq.ft.-restaurant), 39 existing parking spaces (no additional spaces proposed). Two proposed options and their differences (renderings of the mechanical room addition over the main entrance to the building) were shown.

Mr. Lane explained two Planning document amendment options to enable the proposed changes: 1) remove the subject property from the Melville Heights development agreement and create a new commercial zone (very restrictive) for the site; or 2) amend the development agreement to allow the restaurant use and mechanical room addition.

A Traffic Impact Study (TIS) has been submitted to HRM for the proposed uses of the existing building. Access to the property is and will continue to be limited to Herring Cove Road via the existing Shoreham Lane Driveway.

3. Questions and Comments

Bruce Holland, Executive Director of the Spryfield Business Commission – The last review for the plan area (Community Plan) was done in 1987. He would like to see another review take place especially within the business corridor. Commercial/retail space is limited within the district. **Mr. Lane** is working on another application that may encompass a portion of that corridor. **Mr. Holland** – In terms of this request, he prefers Option 1 for the building but either is fine. The area does need a family restaurant. **Mr. Lane** mentioned that the Municipality is enabling the use but cannot regulate what type (ie: name) of restaurant it would be. Mr. Lane clarified that a drive-thru style restaurant would not be enabled.

William Phillips, Crestview Drive, has been familiar with the area since 1956 and gave a history on the development of the land in the area. In his experience, rezoning properties end up with unintended consequences. The facility on the property was intended for health care and it should remain that use. It would be a mistake to put a restaurant in that building. A restaurant is not compatible with that type of facility and the original concept of the building will be taken away. He is not in favor of the proposal.

Corinne Cookson, Rexdale Avenue, has lived in the area for a long time and was appalled to find out that a restaurant may be at the end of her street. It will change the whole area.

Mr. Phillips has brought to the attention of the owner of the facility that Gem Company have not been good stewards of the property.

Tim Schuit, Winchester Avenue, is new to the area and questioned if there are any family restaurants located on Herring Cove Road. The residents have to go downtown to a restaurant where there is no parking. He is not opposed to a family restaurant in that building but is opposed to a bar/lounge. Mr Lane responded that restrictions would be placed on the use (ie. no bars, tattoo parlours, adult themed uses, etc).

There was a brief discussion as to the boundaries of the Spryfield/Armdale area.

Wyatt Redmond, Herring Cove Road, owns businesses on the Herring Cove Road and properties in Spryfield and Armdale. He is 100% in favour of a family restaurant establishment with restricted hours in the Armdale-Spryfield Business District area but not a pizza place. The community needs a family restaurant.

Mr. Holland clarified the legal geographical boundaries of the Spryfield and District Business Commission.

Councillor Mosher asked that it be included in the report that the community is in favour of a family restaurant with restricted hours and opposed to a drinking establishment. She believes an amendment to the development agreement would have more controls over the use than a rezoning of the property.

Councillor Mosher would like the legal interpretation of uses permitted under the existing development agreement (original (1986) and amended one (1997) for the property). She interprets it as the uses in the original agreement are permitted as well as the uses in the amended development agreement. This should be made clear for the community. **Mr. Lane** – A newly created zone would be restrictive but a development agreement would have more control. **Mr. Holland** – Restricting the sale of alcohol in a restaurant may want to be reconsidered. **Mr. Lane** – The idea would be to restrict a bar and have the primary focus as food with complimentary alcohol. **Mr. Schuit** wondered what would happen if the restaurant went under and a bar was proposed? **Mr. Lane** – If the development agreement restricted bars as a permitted use and it was desired by the new owners, they would have to apply to amend the development agreement and go through another public process such as this.

Mr. Phillips was unsure if the original development agreement from 1986 included the use of a convenience store. Mr. Lane stated he would confirm and report back to Mr. Phillips.

After calling for any additional questions or comments, **Mr. Lane** explained the next steps in the process. This process includes a plan amendment that has to be approved by Regional Council before the development agreement can be approved by Halifax and West Community Council (HWCC).

Councillor Mosher added that additional feedback could be forwarded to her or Mr. Lane.

Dan Doherty, Drysdale Road, wondered what the timeline would be for a decision on this proposal. **Mr. Lane** expects by the end of the Summer of this year. When HWCC send their recommendation to Regional Council through the Staff Report, all the language is worked out along with the proposal (plan amendment and development agreement).

5. Closing Comments

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

6. Adjournment

The meeting adjourned at 7:58 p.m.

Attachment E – 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.

Development Agreements 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.

Development agreements by community councils

- 31** (1) This Section applies to a community council if the Council so provides in the policy establishing the community council.
- (2) Where a municipal planning strategy of the Municipality provides for development by agreement, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.
 - (3) A development agreement, or amendment to a development agreement, entered into by a community council must be signed by the Mayor and the Clerk on behalf of the Municipality.
 - (4) Where a development agreement entered into by a community council purports to commit the

Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 39, s. 31.

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

Development agreements

- 240 (2)** The Council may consider development by development agreement where a municipal planning strategy identifies
- (a) the developments that are subject to a development agreement;
 - (b) the area or areas where the developments may be located; and
 - (c) the matters that the Council must consider prior to the approval of a development agreement.
- (3)** The land-use by-law must identify the developments to be considered by development agreement. 2008, c. 39, s. 240.

Content of development agreements

- 242 (1)** A development agreement may contain terms with respect to
- (a) matters that a land-use by-law may contain;
 - (b) hours of operation;
 - (c) maintenance of the development;
 - (d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, stormwater systems, wastewater facilities, water systems and other utilities;
 - (e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;
 - (f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;
 - (g) the subdivision of land;
 - (h) security or performance bonding.
- (2)** A development agreement may include plans or maps.
- (3)** A development agreement may
- (a) identify matters that are not substantive or, alternatively, identify matters that are substantive;
 - (b) identify whether the variance provisions are to apply to the development agreement;
 - (c) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;
 - (d) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by the Council;
 - (e) provide that, where the development does not commence or is not completed within the time specified in the development agreement, the development agreement or portions of it may be discharged by the Council without the concurrence of the property owner. 2008, c. 39, s. 242.

Requirements for effective development agreement

- 243 (1)** A development agreement must not be entered into until
- (a) the appeal period has elapsed and no appeal has been commenced; or
 - (b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.
- (2)** The Council may stipulate that a development agreement must be signed by the property owner within a specified period of time.
- (3)** A development agreement does not come into effect until

- (a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board;
 - (b) the development agreement is signed by the property owner, within the specified period of time, if any, and the Municipality; and
 - (c) the development agreement is filed by the Municipality in the registry.
- (4)** The Clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry. 2008, c. 39, s. 243.