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Item No. 10.1.1.
Halifax and West Community Council
February 14, 2017
April 18, 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: December 15, 2016

SUBJECT: **Case 20120: Rezoning Request - Lands at Parkmoor Avenue, Hayes Street and Charlton Avenue, Halifax**

ORIGIN

Application by WSP Canada Inc., on behalf of FH Construction, to rezone portions of bulk lands on Parkmoor Avenue, Hayes Street and Charlton Avenue, Halifax from the R-1 (Single Family Dwelling) Zone to the R-2 (Two-Family Dwelling) Zone and from the R-2 (Two -Family Dwelling) Zone to the R-1 (Single Family Dwelling) Zone.

LEGISLATIVE AUTHORITY

Refer to Attachment C.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give first reading to consider approval of the proposed rezoning, as set out in Attachment A, to rezone one portion of the lands located at Parkmoor Avenue, Hayes Street and Charlton Avenue in Halifax from the R-1 (Single Family Dwelling) Zone to R-2 (Two-Family Dwelling) Zone and another portion of the same lands from the R-2 Zone to R-1 Zone of the Land Use By-law for Halifax Mainland, and schedule a public hearing; and
2. Adopt the amendment to the Land Use By-law for Halifax Mainland, as set out in Attachment A.

BACKGROUND

WSP Canada Ltd is applying on behalf of FH Construction to rezone two portions of the same lands on Parkmoor Avenue, Hayes Street and Charlton Avenue in Halifax from R-1 (Single Family Dwelling) to R-2 (Two-Family Dwelling) and from R-2 to R-1 of the Land Use By-law for Halifax Mainland (LUB).

Subject Site	Portion of PID 00277228, Halifax
Location	South side of Herring Cove Road, end of Parkmoor Avenue, Hayes Street and Charlton Avenue
Regional Plan Designation	US- Urban Settlement
Community Plan Designation (Map 1)	LDR- Low Density Residential, Halifax Municipal Planning Strategy (MPS) Section X – Mainland South Secondary Planning Strategy (MSSPS)
Land Use By-law	Halifax Mainland
Zoning (Map 2)	R-2 (Two-Family Dwelling) Zone R-1 (Single Family Dwelling) Zone H (Holding) Zone
Size of Site	27 hectares (16 hectares proposed for rezoning)
Street Frontage	50.5 metres
Current Land Use(s)	Vacant
Surrounding Use(s)	Single and two-unit dwellings

Proposal Details

The applicant proposes to rezone two portions of the 27 hectare subject site to enable a residential subdivision development containing 309 units. For the portion of the property which is adjacent to the existing neighbourhood along Herring Cove Road, Parkmoor Avenue, Hayes Street and Charlton Avenue, the lands are proposed to be rezoned from R-2 (Two-Family Dwelling) to R-1 (Single Family Dwelling). For the interior portion of the site which does not abut the existing neighbourhood, the applicant proposes to rezone the lands from R-1 to R-2. Based on its current zoning, the site would yield approximately 194 units while the proposed rezoning would allow for an approximate 59% increase for a total of 309 units.

Enabling Policy and LUB Context

The Halifax MPS and MSSPS contain policies that enable consideration of a residential development through the rezoning process. Council may consider the rezoning request in accordance with Policies 1.2 and 1.2.1. The MSSPS refers to City-Wide Objectives and the Residential Environments Designation Policies of the Halifax MPS. These policies encourage maintaining the character of residential areas by preserving the scale of existing neighbourhoods, and promoting and encouraging development that can be supported by existing and budgeted services. A comprehensive evaluation of all relevant policies is contained in Attachment B.

It is important to note that the subject site can currently be developed through as-of-right processes in accordance with the provisions of the R-1 and R-2 zones of the LUB and the Regional Subdivision By-law. If Community Council were to approve the proposed rezoning, the process for development approval of the lands would remain the same except that the site development standards (lot area, frontage, setbacks, etc.) of the R-1 and R-2 Zones would apply to different geographic areas of the site.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site and letters mailed to property owners within the notification area as shown on Map 2. The public comments received include the following topics:

- Concern regarding the age of existing stormwater infrastructure, and the possibility of increasing the amount of stormwater the system receives;
- Redirection of overland stormwater to adjacent properties;
- Traffic capacity concerns on Herring Cove Road;
- Potential damage to natural environment; and
- Concern with amount of pending development occurring along Herring Cove Road.

A public hearing must be held by Halifax and West Community Council before the rezoning can be considered. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed rezoning from R-2 to R-1 for the portion of the property that abuts the existing residential neighbourhood, and from R-1 to R-2 for the larger bulk of the property to the south.

LUB Amendment Review

Attachment B provides an evaluation of the proposed rezoning in relation to relevant MPS policies. Of the matters reviewed to satisfy the MPS criteria, the following issues have been identified for more detailed discussion:

Policy Context

Both the city-wide policies of the Halifax MPS and those found in the Mainland South SPS promote and encourage residential development, as long as considerations are made regarding servicing and traffic capacities, and that the proposed development is compatible with the character of existing neighbourhoods. The Regional Plan 'Urban Settlement' designation also encourages development, as it in part encompasses undeveloped lands to be considered for serviced development. Growth is somewhat limited along Herring Cove Road by the extents of the servicing boundary and the corresponding Holding Zone, which only allows single unit dwellings on existing lots with on-site services.

Community Concerns

Through consultation, the community has expressed concern with the sufficiency of services and the traffic capacity of Herring Cove Road. The impact of this proposed rezoning, when considered in the larger context of proposed development along Herring Cove Road, is central to the community's concerns. There is a considerable amount of undeveloped land still available for low density residential development along Herring Cove Road. Several projects have concept stage subdivision approval and some are currently under construction, resulting in a large number of potential units:

Project Name	Status	Approximate number of units
Governor's Brook (Ph. 7 – 12)	Approved, vacant lots	400
Hilden Avenue extension	Approved, unconstructed	28
MacIntosh Run	Approved, unconstructed	325
Green Acres	Concept approval, unconstructed	756
Briarwood Golf Course Lands	Rezoning planning process (subject to approval under Case 20246)	380
Parkmoor/Charlton Avenue	Rezoning planning process (subject to approval under Case 20120)	309
	TOTAL	2,198

With the exception of Governor's Brook, the same criteria for rezoning from R-1 to R-2 would apply to the other five projects, should the owners decide to make application. Notwithstanding the fact that it may not have been the original intent of these policies to facilitate such extensive growth in the area, under existing policies, there is opportunity for more significant growth along Herring Cove Road.

Servicing and Traffic Capacity

While the community's concerns relative to the site's effect on existing infrastructure are noted, no technical constraints were identified with respect to the Municipality's ability to service the future development. Halifax Water indicated that the capacity in the systems is not reserved for any particular project, and that capacity exists in the system for the lands to be developed at the density permitted by the R-1 and R-2 zones. Development Engineering staff have reviewed and accepted the Traffic Impact Statement that was submitted in support of the application. Upgrades to the existing street accesses may be required to support the development, however these costs will be borne by the developer and the design details will be determined through the subdivision approval process.

Conclusion

Staff has reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The property is currently able to be developed under the Halifax Mainland Land Use By-law and the Regional Subdivision By-law with new streets, park dedication and single and two unit homes. Policy enables consideration of rezoning to R-2, as long as regard is given to servicing and traffic capacity. No concern relative to servicing have been identified. Therefore, staff recommend that the Halifax and West Community Council approve the proposed rezoning.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2016/2017 operating budget for C310 Urban & Rural Planning Applications.

RISK CONSIDERATION

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

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

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

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Amendment to the Halifax Mainland Land Use By-law
Attachment B:	Review of Relevant MPS Policies
Attachment C:	Legislative Authority

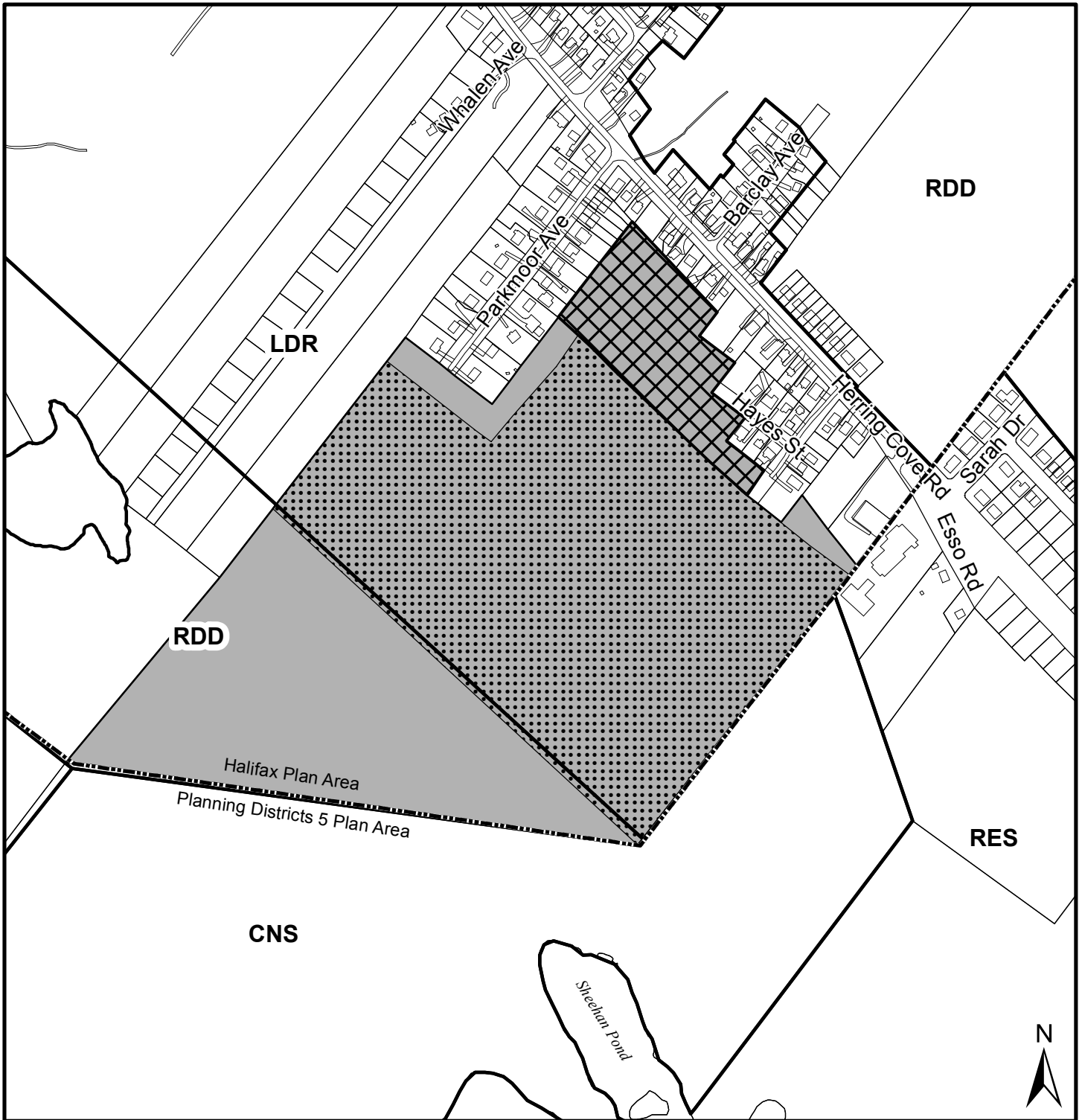
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Erin MacIntyre, Principal Planner, 902.490.6704

Original Signed

Report Approved by:




Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

Charlton Avenue & Parkmoor Avenue,
Halifax

HALIFAX

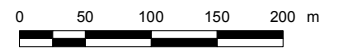
-  Subject Property
-  Proposed Area to be Rezoned R-1 to R-2
-  Proposed Area to be Rezoned R-2 to R-1

Halifax Mainland Designation

- LDR Low Density Residential
- RDD Residential Development District

Planning District 5 Designation

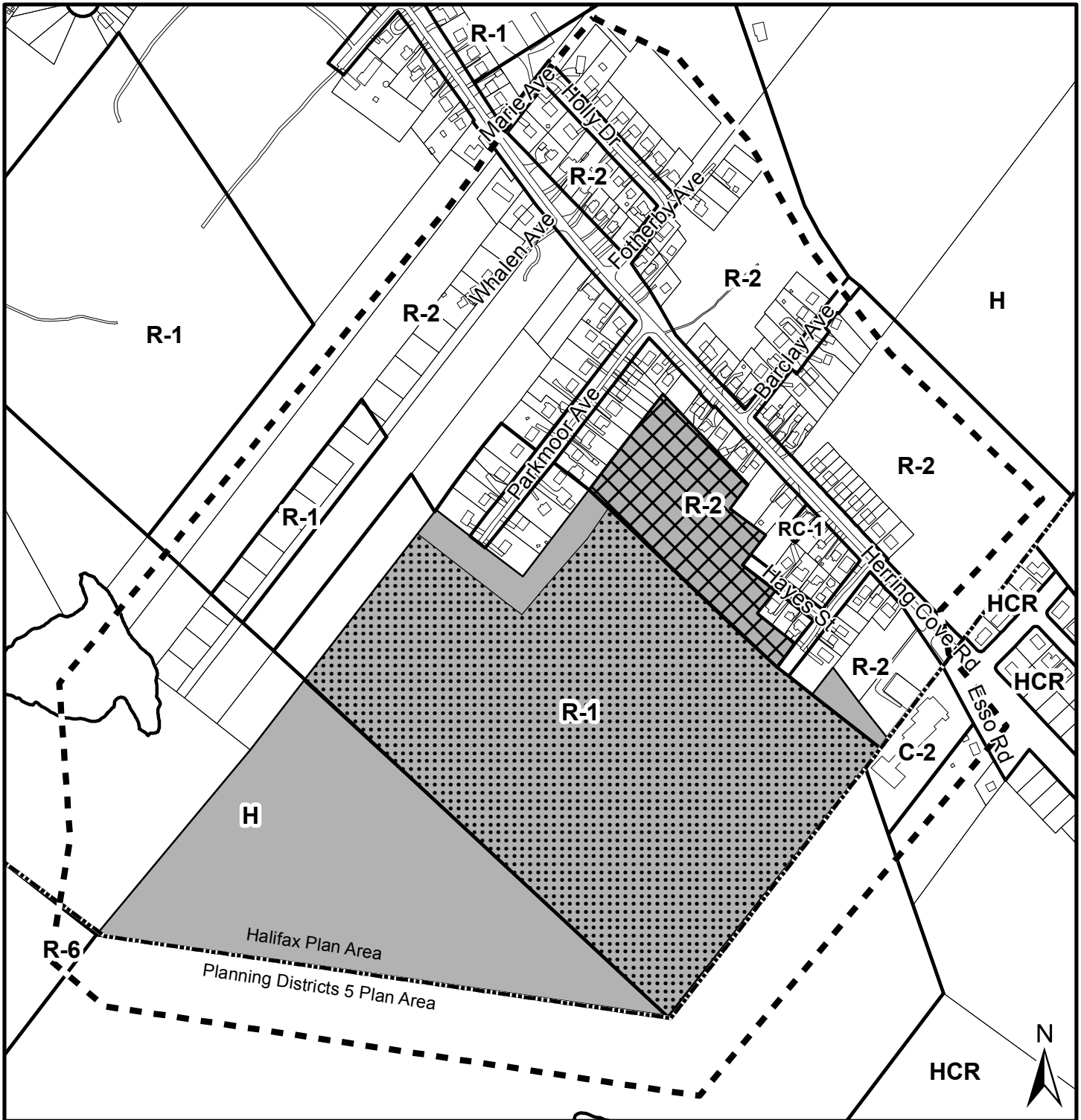
- RES Residential
- CNS Conservation



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 Mainland
Land Use By-Law Area



Map 2 - Zoning and Notification

Charlton Avenue & Parkmoor Avenue,
Halifax

-  Subject Property
-  Proposed Area to be Rezoned R-1 to R-2
-  Proposed Area to be Rezoned R-2 to R-1
-  Area of Notification

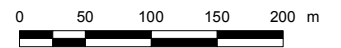
Halifax Mainland Zone

- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- RC-1 Neighbourhood Commercial
- H Holding

Planning District 5 Zone

- R-6 Rural Residential
- HCR Herring Cove Residential
- C-2 General Business
- PA Protected Park

HALIFAX



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

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Halifax Mainland Land Use By-Law Area

ATTACHMENT A

Proposed Amendment to the Halifax Mainland Land Use By-law

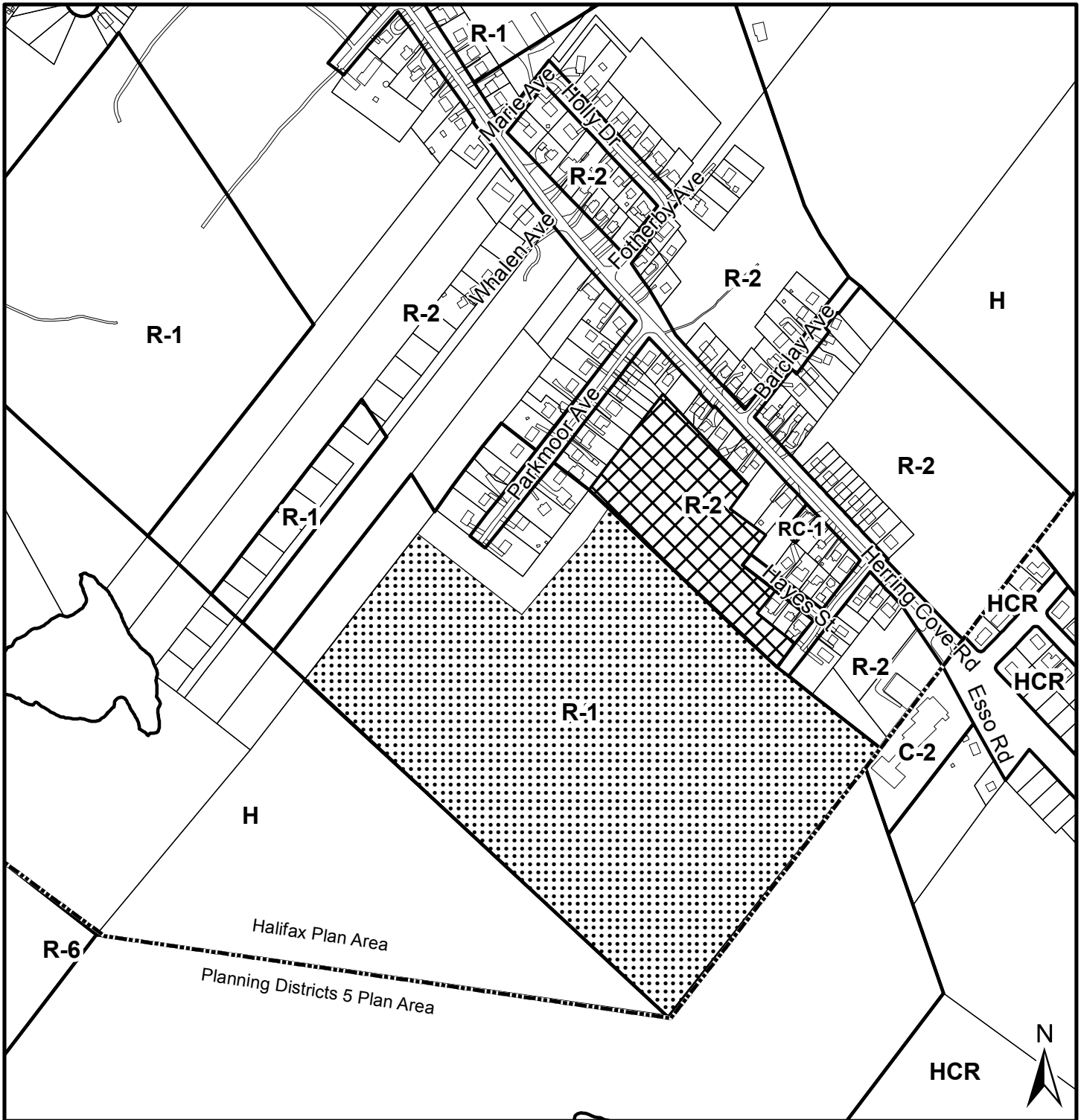
BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Halifax Mainland Land Use By-law is hereby amended as follows:

1. Map ZM-1 (Halifax Zoning Map) is further amended by rezoning certain lands from the R-1 (Single Family Dwelling) Zone to the R-2 (Two Family Dwelling) Zone, as shown on Schedule A; and
2. Map ZM-1 (Halifax Zoning Map) is further amended by rezoning certain lands from the R-2 (Two Family Dwelling) Zone to the R-1 (Single Family Dwelling) Zone, as shown on Schedule A.

THIS IS TO CERTIFY that the amendment to the Halifax Mainland Land Use By-law, as set out above, was duly passed by a majority vote of the Halifax and West Community Council of Halifax Regional Municipality held on the day of _____, 2016.

GIVEN under the hand of the municipal clerk and under the Corporate Seal of the said Municipality this ____ day of _____, 2016.

Municipal Clerk



Schedule A

Charlton Avenue & Parkmoor Avenue,
Halifax



Area to be Rezoned from R-1 (Single Family Dwelling) to R-2 (Two-Family Dwelling)



Area to be Rezoned from R-2 (Two-Family Dwelling) to R-1 (Single Family Dwelling)

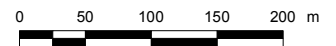
Halifax Mainland Zone

- R-1 Single Family Dwelling
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Planning District 5 Zone

- R-6 Rural Residential
- HCR Herring Cove Residential
- C-2 General Business
- PA Protected Park

HALIFAX



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Halifax Mainland Land Use By-Law Area

Effective Date:

Case 20120

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ATTACHMENT B:
**Excerpts from the Halifax Municipal Planning Strategy and the Mainland South Secondary
Planning Strategy: Policy Evaluation**

Halifax Municipal Planning Strategy (MPS) Section II – City Wide Objectives and Policies	
Applicable Policies	Staff Comments
<u>Section 1: Economic Development</u>	
Policy 1.2.2: In considering new development regulations and changes to existing regulations, and development applications, the City shall give consideration of any additional tax revenues or municipal costs that may be generated therefrom.	The effect of the rezoning on the tax base is limited to increased property tax generated by the ability to subdivide any proposed semi-detached dwellings into two independent parcels. Municipal costs are those normally associated with service delivery to residential neighbourhoods.
<u>Section 2: Residential Environments</u>	
Policy 2.1: Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.	A service analysis (water, stormwater and sanitary capacity, traffic network impacts, school and recreation facilities, etc) is referenced later in this table.
Policy 2.2: The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.	The existing neighbouring residential community fronting on Parkmoor Ave., Charlton Ave. and Hayes St. and Herring Cove Road is primarily developed with single unit dwellings but is zoned R-2. The exception to this are the 9 properties at the end of Parkmoor Avenue, which are zoned R-1 and are not proposed to be rezoned. Approximately 82% of the units in the neighbourhood are single detached homes. The proposal intends to ‘buffer’ the proposed R-2 Zone with R-1 zoned lots, in an effort to recognize the character of the existing neighbourhood.
Policy 2.3.2: Ribbon development along principal streets should be prohibited in order to minimize access points required by local traffic.	Herring Cove Road is a principal street, as shown on Map 8 of the MPS. The proposal is near, but does not front on, Herring Cove Road. The access points to Herring Cove Road are existing and will be upgraded.
Policy 2.4: Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.	The existing neighbourhood is primarily (approximately 82%) single unit dwellings. The proposal ‘buffers’ the proposed R-2 Zone with R-1 zoned lots, in an effort to recognize the character of the existing neighbourhood.

<p>Policy 2.4.1: Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</p>	<p>The proposal is to zone lands adjacent to the existing neighbourhood as R-1. There are neither proposed principal streets nor commercial expansion of uses. See analysis of Policies 3.1 and 3.2, below.</p>
<p>Section 10: Environmental Health Services</p>	
<p>Policy 10.2: In order to ensure that critical sewer and water problems will not be created within or beyond development areas, the amount of development shall be related to capacity of existing (including potential rehabilitation) and planned sewer, water and pollution control systems, by drainage area, and shall not exceed the capacities of those systems as determined by the standard practises of the City. This shall be accomplished by Implementation Policy 5.</p>	<p>Sanitary and water capacity will be evaluated at the time of subdivision. Halifax Water has provided input on this rezoning request and has not identified any concerns.</p>
<p>Section X - Mainland South Secondary Planning Strategy (MSSPS) Section 1: Residential Environments</p>	
<p>Applicable Policies</p>	<p>Staff Comments</p>
<p>Policy 1.2: In areas designated "Low-Density Residential" on the Generalized Future Land Use Map, which are predominantly single-family dwellings in character, residential development consisting of detached (single-family) dwellings shall be permitted, and neighbourhood commercial uses may be permitted pursuant to Policies 2.1.1 and 2.1.2 of this Plan.</p>	<p>This area is predominantly single-family dwellings in character. As the proposal buffers the existing neighbourhood with the same use, there is no concern relative to this policy.</p>
<p>Policy 1.2.1: In areas designated "Low-Density Residential" on the Generalized Future Land Use Map, which are predominantly two-family dwellings in character, residential development consisting of detached (single-family) dwellings, semi-detached dwellings and duplex dwellings shall be permitted, and neighbourhood commercial uses may be permitted pursuant to Policies 2.1 and 2.1.2 of this Plan.</p>	<p>Not applicable; the area is not predominantly developed with two-family dwellings.</p>
<p>Policy 7.3 Where development proposals are being considered through rezoning or development agreement, the City shall protect environmentally sensitive areas.</p>	<p>The area between Hayes Street and Parkmoor Avenue is identified as having a significant natural feature (tree cover of greater than 40% and height of over 30 feet). That tree cover is largely intact, however, the land is able to be developed under the current zoning, and there is no increased risk of resulting impact on that feature resulting from the proposed rezoning.</p>
<p>Implementation Policies:</p>	<p>Staff Comments</p>
<p>Policy 4.1: The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.</p>	<p>The development proposal conforms to the plan, and detailed review by staff has not indicated any conflict with other by-laws or regulations. There is no concern relative to this policy.</p>

<p>Policy 4.2: The City shall review the proposal to determine that it is not premature or inappropriate by reason of:</p> <ul style="list-style-type: none"> i) the fiscal capacity of the City to absorb the costs relating to the development; and ii) the adequacy of all services provided by the City to serve the development. 	<p>No Municipal costs are anticipated.</p> <p>No servicing concerns have been identified.</p>
<p>Policy 4.3: More specifically, for those applications for amendments to the zoning bylaw in Mainland South as defined on Map 1, the City shall require an assessment of the proposal by staff with regard to this Plan and the adopted Land Development Distribution Strategy, and that such assessment include the potential impacts of the proposal on: (a) the sewer system (including the budgetary implications); (b) the water system; (c) the transportation system (including transit); (d) existing public schools; (e) existing recreation and community facilities; (f) the provision of police and fire protection services; and any other matter deemed advisable by Council prior to any final approval by City Council.</p>	<p>The Land Development Distribution Strategy was authored in 1976 and is wholly outdated and is not relevant to the current development environment. No concerns have been identified by Halifax Water regarding sewer or water systems, other than to caution that capacity is not reserved.</p> <p>No concern was identified by any review agency relative to the provision of municipal services.</p>

ATTACHMENT C – Legislative Authority

Land Use By-law Amendments By Community Council

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

Halifax Regional Municipality Charter (“HRM Charter”),

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

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

Requirements for adoption of planning documents

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

(3) Before planning documents are read for a second time, the Council shall hold a public hearing.

Amendment of land-use by-law

225 (1) An amendment to a land-use by-law that

(a) is undertaken in accordance with the municipal planning strategy; and

(b) is not required to carry out a concurrent amendment to a municipal planning strategy,

is not subject to the review of the Director or the approval of the Minister.

(2) The procedure for the adoption of an amendment to a land-use by-law referred to in subsection (1) is the same as the procedure for the adoption of planning documents, but a public participation program is at the discretion of the Council and the amendment may be adopted by a majority of votes of the Council members present at the public hearing.

(3) Upon the adoption of an amendment to a land-use by-law referred to in subsection (1), the Clerk shall place a notice in a newspaper circulating in the Municipality stating that the amendment has been adopted and setting out the right of appeal.

(4) When notice of an amendment to a land-use by-law referred to in subsection (1) is published, the Clerk shall file a certified copy of the amending by-law with the Minister.

(5) Within seven days after a decision to refuse to amend a landuse by-law referred to in subsection (1), the Clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.

(6) Where the Council has not, within one hundred and twenty days after receipt of a completed application to amend a land-use by-law referred to in subsection (1), commenced the procedure required for amending the land-use bylaw by publishing the required notice of public hearing, the application is deemed to have been refused.

ATTACHMENT C – Legislative Authority

(7) Within seven days after an application to amend a land-use by-law, referred to in subsection (1), being deemed to be refused, the Clerk shall notify the applicant in writing that the application is deemed to have been refused and setting out the right to appeal.

- (8) An amendment to a land-use by-law referred to in subsection (1) is effective when
- (a) the appeal period has elapsed and no appeal has been commenced; or
 - (b) all appeals have been abandoned or disposed of or the amendment has been affirmed by the Board.

Content of land-use by-law

235 (1) A land-use by-law must include maps that divide the planning area into zones.

(2) A land-use by-law must

- (a) list permitted or prohibited uses for each zone; and
- (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

(3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

(4) A land-use by-law may

- (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
- (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
- (c) regulate the maximum area of the ground that a structure may cover;
- (d) regulate the location of a structure on a lot;
- (e) regulate the height of structures;
- (f) regulate the percentage of land that may be built upon;
- (g) regulate the size, or other requirements, relating to yards;
- (h) regulate the density of dwelling units;
- (i) require and regulate the establishment and location of off-street parking and loading facilities;
- (j) regulate the location of developments adjacent to pits and quarries;
- (k) regulate the period of time for which temporary developments may be permitted;
- (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;

ATTACHMENT C – Legislative Authority

- (m) regulate the floor area ratio of a building;
 - (n) prescribe the fees for an application to amend a landuse by-law or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use by-law may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
 - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
 - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
 - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
 - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
 - (f) regulate the location of disposal sites for any waste material;
 - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
 - (h) regulate or prohibit the removal of topsoil;
 - (i) regulate the external appearance of structures;
 - (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
 - (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
 - (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
 - (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
 - (n) prohibit development or certain classes of development where, in the opinion of the Council, the
 - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) cost of maintaining municipal streets would be prohibitive;
 - (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;

ATTACHMENT C – Legislative Authority

- (p) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy, or unstable,
 - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
 - (v) is known to be contaminated within the meaning of the *Environment Act*, or
 - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
 - (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
 - (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.
- (6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

Appeals to the Board

262 (1) The approval or refusal by the Council to amend a land-use by-law may be appealed to the Board by

- (a) an aggrieved person;
- (b) the applicant;
- (c) an adjacent municipality;
- (d) the Director.