



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

**Item No. 8.1.1**  
**North West Community Council**  
**February 29, 2016**  
**March 21, 2016**

**TO:** Chair and Members of North West Community Council

Original Signed

**SUBMITTED BY:**

\_\_\_\_\_  
Bob Bjerke, Chief Planner & Director, Planning and Development

**DATE:** January 15, 2016

**SUBJECT:** Case 18004: Rezoning – Highland Park Subdivision, Hammonds Plains

**ORIGIN**

July 5, 2012 motion of North West Community Council:

*MOVED by Councillor Lund, seconded by Councillor Johns that North West Community Council request staff to commence the process to examine amending the zoning within Highland Park in District 23 to provide consistent residential zoning throughout the subdivision. MOTION PUT AND PASSED.*

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipal Charter, Part VIII, Planning and Development.*

**RECOMMENDATION**

It is recommended that North West Community Council:

1. Direct staff to not further proceed with the rezoning application for the Highland Park subdivision on file as Case Number 18004.

## **BACKGROUND**

A July 5, 2012 motion of North West Community Council requested that staff explore options and implications of rezoning the Highland Park Subdivision in Hammonds Plains to provide for consistent land use regulation. On August 9, 2012, an Information Report<sup>1</sup> was tabled with North West Community Council which indicated that a planning application (Case 18004) had been opened to consider rezoning properties within Highland Park.

### *Policy Intent and Zoning:*

The Highland Park subdivision located in Hammonds Plains is situated within both the Mixed Use B and Residential designations under the Municipal Planning Strategy (MPS) for Beaver Bank, Hammonds Plains and Upper Sackville (Map 1). The subdivision has been developed in phases over a number of years expanding from the area zoned R-1 (Single Unit Dwelling) to include lands zoned MU-1 (Mixed Use 1) (Map 2). As a result, land use within the subdivision is subject to two different sets of regulation.

Older portions of Highland Park Subdivision, located near Hammonds Plains Road, are within the Residential Designation. A majority of Residential Designated properties within Highland Park are zoned R-1, however there are approximately a dozen properties which are zoned MU-1. The R-1 Zone is more restrictive than the MU-1 Zone as it only permits single unit dwellings, existing two unit dwellings, existing mobile dwellings, limited scale daycare facilities in conjunction with permitted dwellings, offices in conjunction with permitted dwellings, bed and breakfasts and open space uses. The MU-1 Zone permits a range of uses including single and two unit dwellings, open space uses, existing mobile dwellings, boarding and rooming houses, bed and breakfast establishments, the limited use of residential properties for business purposes, small scale commercial and resource related activities and most institutional uses. Newer portions of Highland Park are located within the MU-B Designation and the properties are zoned MU-1.

The intent of Community Council's motion is to have staff explore options and implications of rezoning the subdivision to provide for consistent land use regulation and more specifically, give consideration to rezoning the MU-1 properties to a more restrictive zone such as the R-1 or R-6 (Rural Residential) zones.

## **DISCUSSION**

### *Public Consultation*

To inform the potential rezoning, staff undertook community consultation and held two public information meetings (PIM) on February 24, 2014 and April 16, 2015. Attachments B and C contain copies of the minutes from the meetings. Based on feedback provided by property owners at the public information meetings and through direct correspondence with staff, many residents are not supportive of rezoning the subdivision to a more restrictive zone.

### *Creation of Non-Conforming Uses*

Council requested staff evaluate the option to rezone the subdivision from the existing MU-1 Zone to a more restrictive zone. One of the concerns raised by staff and residents was the creation of non-conforming uses should more restrictive zoning be applied to the area. When seeking to rezone existing properties there is a risk that non-conforming uses can be created. Non-conforming uses are land uses that were previously authorized but are not permitted by the current zoning. An established non-conforming use may continue to exist however, the use may not be discontinued for a period of six months or more, otherwise the lands may only be used as per the requirements of the new zone. There are also restrictions relative to future expansion or changes in use.

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<sup>1</sup> See report at <http://www.halifax.ca/Commcoun/nwcc/documents/InfoReportRezoningOptionsforHighlandParkSubdivisionHP.pdf>

If the subdivision is rezoned, some uses may be non-conforming as the rezoning would likely remove resource and commercial land uses from the list of permitted uses. Additionally, there may be other land uses within Highland Park which may currently be permitted but do not have municipal permits or approval. As such, rezoning these lands may preclude the Municipality's ability to issue permits to legally establish these uses in the future.

*Impact of the Existing Mixed Use 1 (MU-1) Zoning on Residential Uses*

Although the MU-1 Zone permits some commercial uses up to a maximum of 185 square meters (2,000 square feet) of total gross floor area, the Land Use By-law contains adequate requirements which allow permitted commercial uses to coexist with neighbouring residential uses while limiting potential nuisance and land use conflict. Specifically, the MU-1 Zone requires a minimum lot area of 2,700 square meters (29,064 square feet) and lot frontage of 30.4 meters (100 feet). This lot area allows for adequate separation of commercial uses from neighbouring residential uses. Further, the MU-1 Zone contains additional requirements for commercial uses including: restricting open storage and outdoor display; requiring parking areas and driveways to be maintained with a stable surface which is treated in a manner to prevent the raising of dust and loose particles, and limiting the location of parking areas so as to reduce impact on neighbouring residential uses. Less compatible permitted MU-1 uses such as composting facilities, are subject to generous setback provisions from residential properties and watercourses and due to these restrictions, these types of uses would not be permitted within the Highland Park subdivision. Accordingly, staff advise that there are no immediate or urgent land use conflicts in the area, therefore downzoning to the R-1 Zone is not necessary at this time.

**Conclusion:**

It is important that land use requirements reflect current community standards and the condition within the Highland Park subdivision is a good example of how existing regulation may no longer be suitable for a neighbourhood. However, staff has observed that the existing zoning standards appear to be satisfactory for the majority of residents.

Based on consultation to date, many property owners within the subdivision are not supportive of rezoning to provide consistent residential zoning throughout the subdivision. Although the Mixed Use 1 Zone permits some commercial land uses, the Land Use By-law contains adequate requirements which allow such uses to coexist with neighbouring residential uses while limiting potential nuisance and land use conflict. Accordingly, it is recommended that North West Community Council direct staff to not further proceed with this rezoning application.

Apart from this, staff advise that a more comprehensive review of community land use standards would be more appropriately considered through broader secondary planning processes in this area as this condition also exists in several other residential subdivisions bordering the Hammonds Plains Road, such as Glen Arbour, White Hills and Kingswood North. Through these future planning processes, staff will undertake public consultation to consider the appropriateness of adopting a variety of general land use regulations for the area.

**FINANCIAL IMPLICATIONS**

There are no financial implications related to this report.

**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 two Public Information Meetings held on February 24, 2014 and April 16, 2015 (See Attachments B and C for Minutes). Notice of the

Public Information Meeting was posted on the HRM Website, in the newspaper, and mailed to property owners.

A public hearing must be held by Community Council before they could consider approval of the rezoning. Should Community Council decide to proceed with a public hearing on this application, additional public consultation will be necessary.

The proposed rezoning will potentially impact local residents and property owners.

### **ENVIRONMENTAL IMPLICATIONS**

The proposal meets all relevant environmental policies contained in the MPS. No additional concerns have been identified beyond those raised in this report.

### **ALTERNATIVES**

1. Community Council may choose to direct staff to continue with the application to consider rezoning properties in the Highland Park Subdivision from MU-1 (Mixed Use 1) to the R-1 (Single Unit Dwelling) and R-6 (Rural Residential) Zone. This will require further public consultation and a public hearing.

### **ATTACHMENTS**

Map 1                      Generalized Future Land Use  
Map 2                      Zoning and Notification

Attachment A:        Excerpts from the Municipal Planning Strategy and Land Use By-law  
Attachment B:        Minutes of the Public Information Meeting (February 24, 2014)  
Attachment C:        Minutes of the Public Information Meeting (April 16, 2015)

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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.

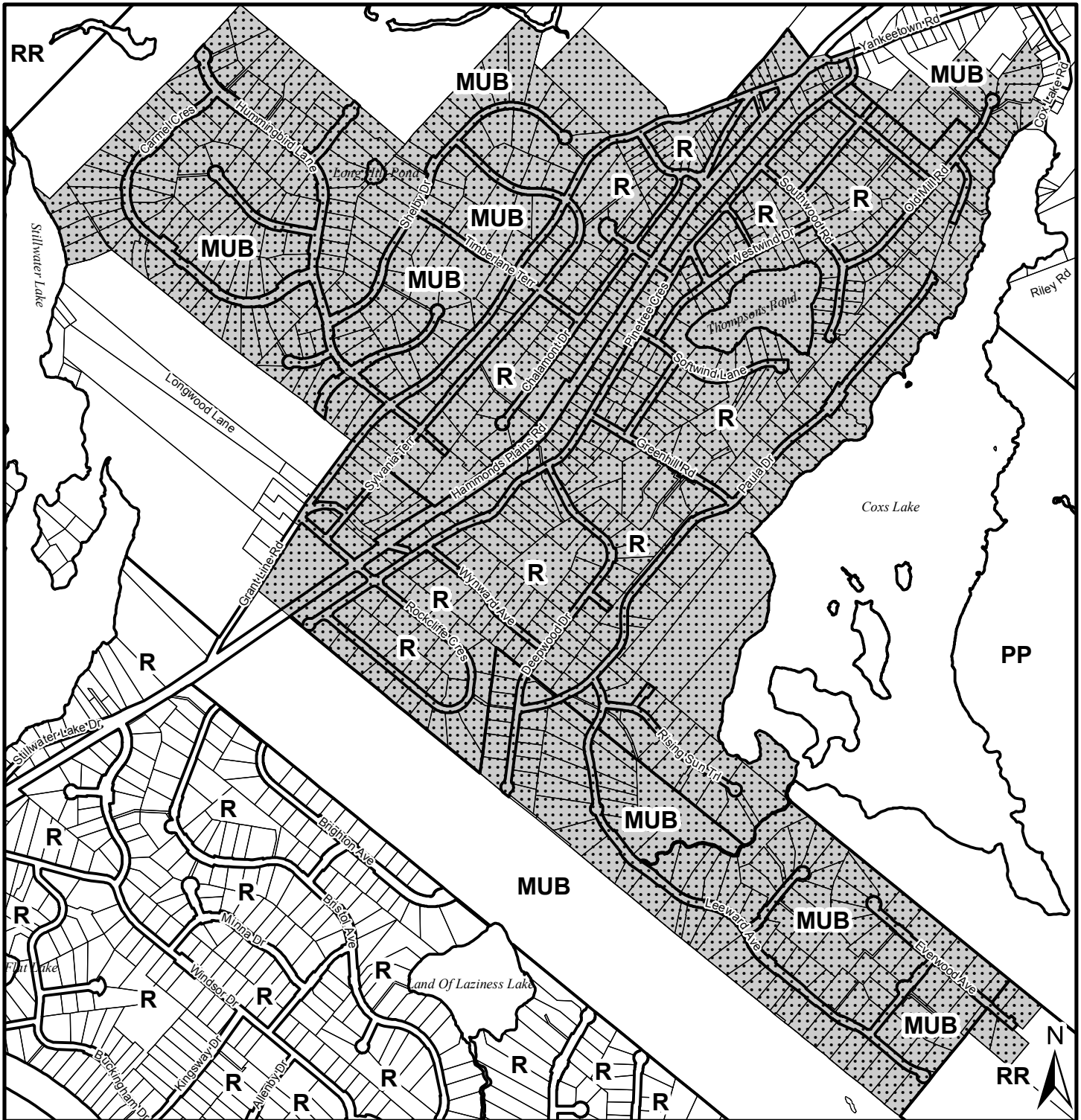
Report Prepared by:    Thea Langille, Major Projects Planner, 902.490.7066

Original Signed

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Report Approved by:    Kelly Denty, Manager of Development Approvals, 902.490.4800


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**Map 1 - Generalized Future Land Use**

**HALIFAX**

Highland Park  
Hammonds Plains

 Subject Properties

**Designation**

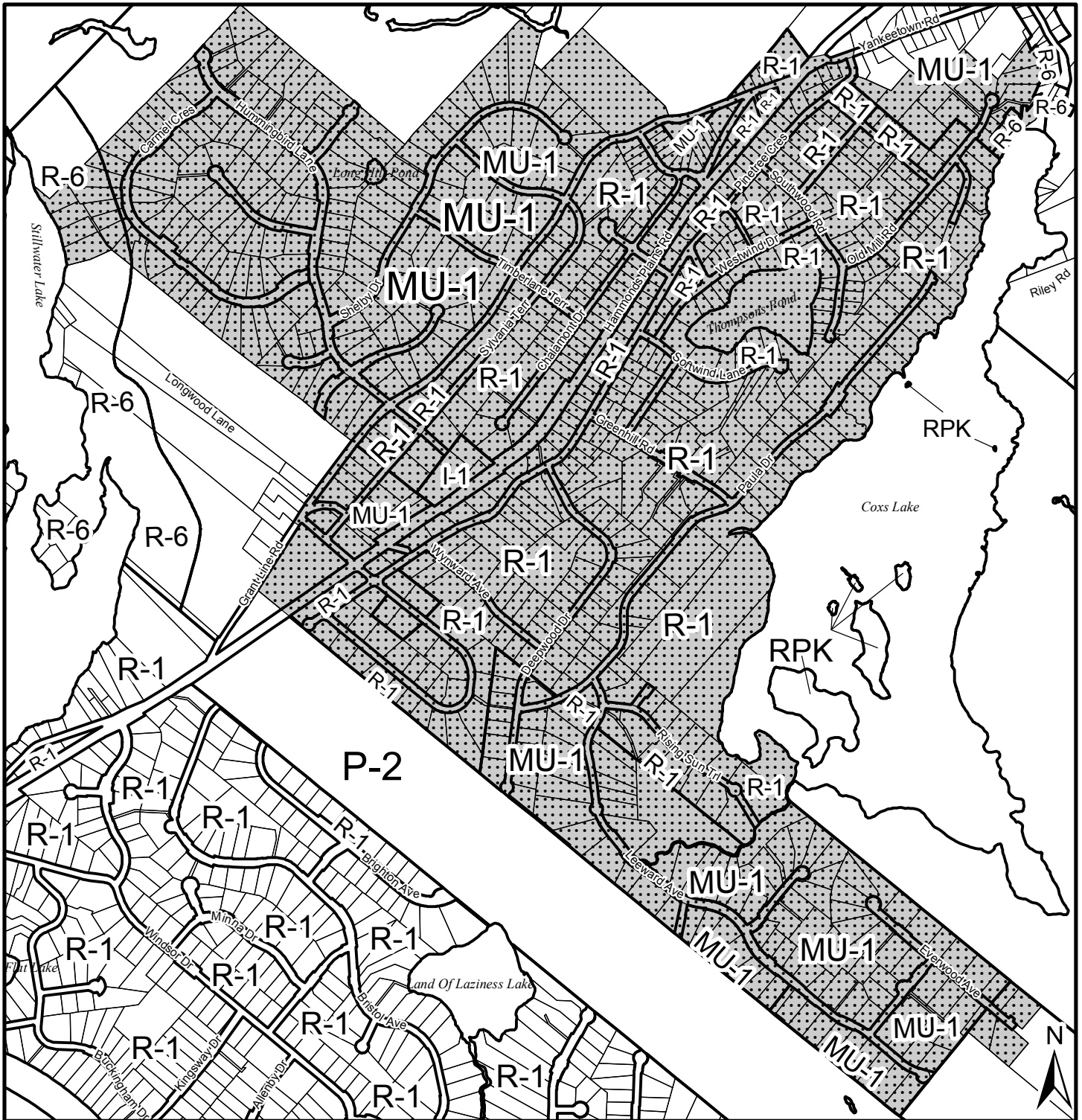
- R Residential
- MU-B Mixed Use B
- RR Rural Resource
- PP Provincial Park



Beaver Bank, Hammonds Plains  
and Upper Sackville Plan Area

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

HRM does not guarantee the accuracy of any representation on this plan.



### Map 2 - Zoning and Notification

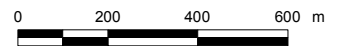
Highland Park  
Hammonds Plains

 Subject Properties  
and Notification Area

Beaver Bank, Hammonds Plains  
and Upper Sackville Plan Area

**Zone**

- R-1 Single Unit Dwelling
- R-6 Rural Residential
- P-2 Community Facility
- RPK Regional Park
- I-1 Mixed Industrial
- MU-1 Mixed Use 1
- MR-1 Mixed Resource



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

HRM does not guarantee the accuracy of any representation on this plan.

## Attachment A

### Excerpts from the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Land Use By-law

#### *Municipal Planning Strategy*

##### **Policy P-34**

Within the Residential Designation, it shall be the intention of Council to establish a residential zone which permits single unit dwellings, existing two unit and mobile dwellings, open space uses, offices and day care facilities operated by a resident of the dwelling, bed & breakfasts, as well as activities related to traditional arts and crafts and domestic arts, provided that controls are established on the scale of the business and that no outdoor storage or display are permitted and signs are regulated through provisions of the Land Use By-law (RC-Jun 30/09;E-Sep 5/09), in order to ensure that the external appearance is compatible with the residential environment.

##### **Policy P-13**

Within the Mixed Use A, B and C Designations, it shall be the intention of Council to establish a R-6(Rural Residential) Zone within the land use by-law which permits single and two unit dwellings and the limited use of residential properties for business purposes, including day care facilities, as well as small-scale resource uses. This zone shall be applied to existing rural residential areas as well as undeveloped areas where a rural residential environment is desired. Council may consider applying the R-6(Rural Residential) Zone to other areas subject to the following conditions:

- (a) the provisions of Policy P-137;
- (b) the effect on existing non-residential development within or adjacent to the area to be rezoned; and
- (c) the suitability of the area to be rezoned for non-residential development in terms of road access, location, and adjacent land uses.

##### **Policy P-137**

In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:

- (a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;
- (b) that the proposal is not premature or inappropriate by reason of:
  - (i) the financial capability of the Municipality to absorb any costs relating to the development;
  - (ii) the adequacy of central or on-site sewerage and water services;
  - (iii) the adequacy or proximity of school, recreation or other community facilities;
  - (iv) the adequacy of road networks leading or adjacent to or within the development; and
  - (v) the potential for damage to or for destruction of designated historic buildings and sites.
- (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
  - (i) type of use;
  - (ii) height, bulk and lot coverage of any proposed building;
  - (iii) traffic generation, access to and egress from the site, and parking;
  - (iv) open storage;
  - (v) signs; and
  - (vi) any other relevant matter of planning concern.
- (d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.
- (e) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy P-81", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02; E-Aug 17/02).

*Land Use By-law*

**PART 13: MU-1 (MIXED USE) 1 ZONE**

13.1 MU-1 USES PERMITTED

No development permit shall be issued in any MU-1 (Mixed Use) Zone except for the following:

Residential Uses

Single unit dwellings

Two unit dwellings

Boarding and rooming houses

Bed and Breakfast

Senior citizens housing

Existing mobile dwellings

Existing multiple unit dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Business uses in conjunction with permitted dwellings

Other Uses

Institutional uses, except fire and police stations

Open space uses

Commercial uses permitted in the C-2 (General Business) Zone

Trucking, landscaping, excavating and paving services

Agriculture uses

Forestry uses and wooden furniture manufacturing

Composting operations (see section 4.29)

13.2 MU-1 ZONE REQUIREMENTS: RESIDENTIAL USES

In any MU-1 Zone, no development permit shall be issued for residential uses except in conformity with the provisions of Section 11.2.

13.3 MU-1 ZONE REQUIREMENTS: OTHER USES

In any MU-1 Zone, no development permit shall be issued except in conformity with the following:

Minimum Lot Area 29,064 square feet (2700 m<sup>2</sup>)

Minimum Frontage 100 feet (30.5 m)

Minimum Front or Flankage Yard 30 feet (9.1 m)

Minimum Rear or Side Yard 15 feet (4.6 m)

Maximum Lot Coverage for Structures

and Storage 50 per cent

Maximum Height of Main Building 35 feet (10.7 m)

**PART 6: R-1 (SINGLE UNIT DWELLING) ZONE**

6.1 R-1 USES PERMITTED

No development permit shall be issued in any R-1 (Single Unit Dwelling) Zone except for the following:

Single unit dwellings

Existing two unit dwellings

Existing mobile dwellings

Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings

Offices in conjunction with permitted dwellings

Bed & Breakfasts

Open space uses



## 6.2 R-1 ZONE REQUIREMENTS

In any R-1 Zone, no development permit shall be issued except in conformity with the following:

Minimum Lot Area: on-site services 29,064 square feet (2700 m<sup>2</sup>)

central water 12,000 square feet (1118 m<sup>2</sup>)

central sewer 10,000 square feet (929 m<sup>2</sup>)

Sewer and water 6,000 square feet

services

Minimum Frontage: on-site services 100 feet (30.5 m)

central sewer 75 feet (23 m)

Sewer and water 60 feet

services

Minimum Front or Flankage Yard 20 feet (6.1 m)

Minimum Side or Rear Yard 8 feet (2.4 m)

Maximum Lot Coverage 35 per cent

Maximum Height of Main Building 35 feet (10.7 m)

## PART 11: R-6 (RURAL RESIDENTIAL) ZONE

### 11.1 R-6 USES PERMITTED

No development permit shall be issued in any R-6 (Rural Residential) Zone except for the following:

Single unit dwellings

Two unit dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Business uses in conjunction with permitted dwellings

Open space uses

Agriculture uses

Forestry uses

Existing mobile dwellings

### 11.2 R-6 ZONE REQUIREMENTS

In any R-6 Zone, no development permit shall be issued except in conformity with the following:

Minimum Lot Area: on-site services 29,064 sq. ft. (2700 m<sup>2</sup>)

central sewer 10,000 sq. ft. (929 m<sup>2</sup>)

Minimum Frontage: on-site services 100 ft. (30.5 m)

central sewer 75 ft. (23 m)

Minimum Front or Flankage Yard 20 feet (6.1 m)

Minimum Rear or Side Yard 8 feet (2.4 m)

Maximum Lot Coverage 35 per cent

Maximum Height of Main Building 35 feet (10.7 m)

**Attachment B:**  
Public Information Meeting Minutes (February 24, 2014)

**HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING  
CASE NO. 18004**

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**7:00 p.m.**  
**Monday, February 24, 2014**  
**Hammonds Plains Elementary School**  
**2180 Hammonds Plains Road, Hammonds Plains**

**STAFF IN**

**ATTENDANCE:** Tyson Simms, Planner, Planning Applications  
Holly Kent, Planning Technician  
Jennifer Purdy Planning Controller

**ALSO IN**  
**ATTENDANCE:** Councillor Matt Whitman  
Ben Jessome, MLA

**PUBLIC IN**  
**ATTENDANCE:** 10

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The meeting commenced at approximately 7:02p.m.

**Opening remarks/Introductions/Purpose of meeting**

**Mr. Tyson Simms**, Planner, Planning Applications, called the meeting to order at approximately 7:03 p.m. in the Hammonds Plains Elementary School, 2180 Hammonds Plains Road, Hammonds Plains.

He introduced himself as the planner guiding this application through the process and also introduced Councilor Matt Whitman, District 13; Holly Kent, Planning Technician, HRM Planning Services and Jennifer Purdy, Planning Controller, HRM Planning Services.

He advised that the application has been initiated by HRM to consider an amendment to the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville, to rezone existing MU-1 (Mixed Use 1) zoned properties, within the Highland Park Subdivision, to the R-1 (Single Unit Dwelling) zone.

Mr. Simms reviewed the application process, noting North West Community Council at its July 5, 2012 meeting made the motion to "*Examine amending the zoning within Highland Park to provide consistent residential zoning.*" The proposal is to consider an amendment to the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville, to rezone existing MU-1 (Mixed Use 1) zoned properties, within the Highland Park Subdivision to reflect more consistent residential zoning.

**Presentation on Application**

Viewing a slide of the subject property, Mr. Simms explained that the plan area is Beaver Bank, Hammonds Plains and Upper Sackville and the designation is MU-1 (Mixed Use 1) and R-1 (Single Unit Dwelling). Under the MU-1 designation, the following uses are allowed: Single unit dwellings, two unit dwellings, boarding and rooming houses, bed and breakfast, senior citizen housing, existing mobile dwellings, day care facilities for not more than fourteen (14) children; business uses in conjunction with permitted dwellings, institutional uses, except fire and police stations; open space uses, **Commercial uses permitted in the C-2 (General Business) Zone**, trucking, landscaping, excavating and paving

services, agricultural uses, forestry uses and wooden furniture manufacturing, composting operations, commercial uses permitted in the C-2 (General Business) Zone (Max 2,000 sq. ft), retail stores, food stores, service and personal service shops; offices, commercial schools, banks and financial institutions, full service and take-out restaurant, funeral establishment, theatres and cinemas, except drive-in theatres, parking lots, welding, plumbing and heating, electrical and other special trade contracting services, bakeries.

The allowable uses in the R-1 designation are: single unit dwellings, existing two unit dwellings, existing mobile dwellings, day care facilities (not more than 7 children), offices in conjunction with permitted dwellings, bed and breakfasts, open space uses, offices in conjunction with permitted dwellings (max 300 sq. ft and no more than 25% of gross floor area) must be wholly contained within the dwelling which is the principle residence, no open storage or outdoor display permitted, limited signage, sale of goods and/or services – Does not include restaurants, take outs, convenience stores, the boarding of animals, taxi stands or any use deemed to be obnoxious

Mr. Simms explained that under Policy P-13 of the Municipal Planning Strategy, the Mixed Use A, B and C Designations shall be the intention of Council to establish a **R-6(Rural Residential) Zone** within the land use by-law which permits single and two unit dwellings and the limited use of residential properties for business purposes, including day care facilities, as well as small-scale resource uses. This zone shall be applied to existing rural residential areas as well as undeveloped areas where a rural residential environment is desired. Council may consider applying the R-6 (Rural Residential) Zone to other areas subject to the following conditions:

(a) the provisions of Policy P-137;

(b) the effect on existing non-residential development within or adjacent to the area to be rezoned; and

(c) the suitability of the area to be rezoned for non-residential development in terms of road access, location, and adjacent land uses.

Following tonight meeting, Mr. Simms explained that there will be survey mailed out to nearby residents to see if there is any interest in rezoning these properties. Staff will then perform a detailed review of the motion and prepare a recommendation to North West Community Council. North West Community Council will hold a public hearing at a later date at which time, make a decision.

### **Questions and Answers**

Mr. Robert Sager, Stillwater Lake explained that the boundaries of Highland Park need to be more clear and explained that there are some adjacent properties that the owners wish to keep their zone as MU-1.

Mr. Simms explained that one of the challenges staff had was trying to understand exactly what the area Council was requesting to do this amendment in.

Mr. Sager explained that his property is not considered park of Highland Park.

Mr. Simms explained that in 1990 there was an exercise that was very similar to this application to look at mixed use lands in this community. Many of the properties were rezoned however, there were other portions that were not as the property owners had no interest. Staff is not interested in recommending that Council rezone properties of those who do not want their properties rezoned.

Mr. Peter Lund, Glen Haven explained that he is the former Councillor for the area and the Councillor that brought forward this recommendation to have these properties looked at. He explained that there was a concern in the past where an individual who was servicing vehicles on one of the residential properties, therefore this motion was brought forward to look at changing the entire residential zone. He explained that rezoning this area would allow for the entire sub-division to be the same zone. He explained that the intent of the motion were to cover areas of North and South Highland Park.

Mr. Lund explained that the Home Owners Association should be involved in this decision as well. He added that Mr. Sager is correct by saying that his property is not part of Highland Park.

At this time there was some review of the site plan in determining which areas were intended to be considered for this amendment.

Mr. Lund asked if it is easier to go from MU-1 to R6 zoning than it is to go from MU-1 to R1. He explained

that he would be more open for an amendment to allow R6 zoning vs. R1 zoning as the R1 zone is too restrictive.

Mr. Simms explained that this is the case but, only for the back portion. He added that there is no reference to R1 and that it belongs solely in the residential designation. The R6 serves as the residential zone equivalent in the Mixed Use Designation.

Mr. Lund asked if a triplex could be accommodated if it is one bedroom plus den.

Mr. Simms explained that they will have to look at the existing to figure out where that use would be most appropriate. If there is a requirement for a change to plan policy, the process requires that Council initiates the process to amend their own documents and is a larger undertaking.

Mr. Lund explained that there is a large portion of land undeveloped next to Cox Lake which would be an ideal spot for triplexes. He asked if it is warranted to taking existing R1 and rezoning these lands to R6.

Mr. Simms explained that the R1 zone and the R6 are not in the same category. He explained that there are two different designations; the residential designation and the mixed use designation. The two zones do not coexist.

Ms. Linda Little, Leeward explained that she has concern with being rezoned to mixed-use based on the size of their property. He also addressed concern with large trucks travelling up and down their road and causing damage to the road. She explained that she would be more comfortable with an R6 zone than a MU-1 zone.

Councillor Whitman asked why this application was initiated and explained that there are not many residents who have attended this meeting and asked how the residents were notified of this meeting. He addressed concern with those who should have been notified not knowing anything about this meeting.

Mr. Simms reviewed a slide of the site area showing who was included in the notification area. He explained that staff wanted to mainly include the Mixed Use properties in this particular area. He added that when staff proceeds with a survey mailout, they will be expanding upon the area and including areas that were discussed during tonight's meeting. If staff receives an overwhelming response from residents through survey returns, there may be need for a second public information meeting.

Councillor Whitman explained that due to the lack of residents attending this meeting, he questioned whether this is of any concern to residents or if it is that they were unaware of the meeting. He added that he wasn't part of this initiation and hasn't heard much about this concern. He asked what happens when a zone goes from MU-1 to R6.

Reviewing a slide, Mr. Simms viewed all the uses allowed under the mixed use zone adding that it is fairly flexible and allows for some commercial uses. The R1 doesn't allow any commercial use except for a home base business restricted to 300 sqft.

Councillor Whitman explained that most neighbourhood discussions are focused more on making the area more pro-business. He asked what would happen to the current businesses and if this was rezoned, would they be grandfathered.

Mr. Simms explained that it depends on what type of responses staff receives. If there are an overwhelming number of properties that would like to remain MU-1 than staff will consider leaving a large portion this zone and if it would be feasible to rezone the remaining portion to residential.

Councillor Whitman requested that staff extends the survey and addressed concern with the Home Owners Association not being aware of this application.

Mr. Lund explained that under the R1 and R6 zones, home-based businesses are allowed as long as you are providing a service such as a hair salon or an accounting business etc. and has to be contained within the dwelling that is the principle residents. He added that the issue wasn't that there was a business but, what type of business was being done that could potentially impact peoples wells.

Mr. Simms explained that the R1 zone and the Residential designation were applied to existing subdivisions. This subdivision preceded the initial interpretation in the by-law.

Mr. Ben Jessome, MLA addressed concern from where this request came from and why the Home Owners Association wasn't made aware of this meeting. He asked that the Chair of the Home Owners Association be notified of any future commination regarding this application and addressed concern with how these notifications are being communicated.

### **Closing Comments**

Mr. Simms thanked everyone for attending. He encouraged anyone with further questions or comments to contact him.

### **Adjournment**

The meeting adjourned at approximately 7:52 pm.

**Attachment C:**  
Public Information Meeting Minutes (April 16, 2015)

**HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING  
CASE NO. 18004**

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7:00 p.m.  
Thursday, April 16, 2015  
Hammonds Plains Consolidated School  
2180 Hammonds Plains Road, Hammonds Plains

**STAFF IN**

**ATTENDANCE:** Tyson Simms, Planner, Planning Applications  
Alden Thurston, Planning Technician  
Laura Szigatti, Planning Technician  
Tara Couvrette Planning Controller  
Andrew Faulkner, Development Officer,  
Thea Langille, Major Project Planner

**ALSO IN**

**ATTENDANCE:** Councillor Matt Whitman

**PUBLIC IN**

**ATTENDANCE:** 31

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The meeting commenced at approximately 7:00 p.m.

**1. Commencing of meeting**

Tyson Simms started the meeting at 7:00 p.m.

**2. Presentation**

2.1 Case 18004: Application initiated by HRM to consider an amendment to the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville, to rezone portions of the Highland Park Subdivision from the MU-1 (Mixed Use 1) Zone to the R-1 (Single Unit Dwelling) Zone and the R-6 (Rural Residential) Zone.

Mr. Simms, Planner, introduced himself. He provided a brief introduction to the case.

Mr. Simms made a presentation to the public outlining the purpose of the meeting, status of the application. Mr. Simms outlined the context of the subject lands, and relevant planning policies and explained the zoning and what the changes would mean.

Mr. Simms explained to the members of the public the process and ground rules for the meeting and opened the floor up to comments.

### **3. Questions and Answers**

**Tom Wagner, Highland Park** – Stated this would affect him dramatically because he has a home based business and he would have to close up shop and move somewhere else to operate his business. He wanted to know if he could make a request to rezone Sobey's and Rona as residential. He also stated that MU-1 zoned properties would be worth a substantial amount more than residentially zoned properties and wanted to know if he was rezoned would he be compensated for the difference in property value. He also wanted to know how it would affect his property tax. If the majority wants to rezone do we have to follow suite?

In response Mr. Simms advised you can't make a request for another property to have them rezoned. Our intent is not to rezone anyone's property that does not want to rezone their property. We want to see if the community collectively wants to rezone. We anticipate that there will be some residents that don't want to do that and that is fine. This is not a numbers game. If 51 % said yes, and 49% said no, were going to do it, no, it doesn't work like that. We do not encourage spot zoning. If we were to exclude individuals that don't want to do this that would result in a mixture of zonings, spot zoning all over the subdivision and that is not what we are after. If we were to rezone and we had a great consensus that people really wanted to do this and proceed with this, your use would be existing. It was there prior to this change coming into effect, we would acknowledge the use that you have and would accommodate that. That in itself is a big exercise because you're not the only business within Highland Park, there are several. We would have to understand what is operating within Highland Park and make provisions to allow for the continued use of those businesses. There is a difference between the two zones R-6 and MU-1, the intention here is if the residents collectively want to make this change then we will try to make that happened and work with them, if there is resistance than we understand that too.

**Lyle Kennedy, Highland Park** stated that he has a MU-1 property and a home based business and for the record he does not want the rezoning for his property. He believes the value of a MU-1 property is greater than that of a residential zoned property. If he is rezoned to R-6 will he be restricted to only increasing the size of his business under 1000 square feet? Because he stated as a MU-1 and reducing down to an R-6 would there be consideration of increasing beyond 1000 square feet? We the rezoning have an effect on the approval process on him building a separate garage/detached structure on his property on for personal use.

In response Tyson stated that the garage for person use, the R-6 zone would allow you to construct a garage or accessory dwelling providing you meet the guidelines of the R-6 zone. Expansion of the business might be a little tricky. The MU-1 and R-6 zone are very similar with regards to their size, lot area, frontage etc. In terms of the commercial use, the MU-1 allows up to 2000 square feet for listed commercial use, the R-6 doesn't really provide a list of commercial uses. You can have a home based business but there are restrictions in terms of how big that can be. R-1 says 300 square feet or no more than 25% of your house and that is not uncommon.

In response Andrew Faulkner, Development Officer stated if the R-6 zone is applied to the MU1 and you had a commercial business that is less than 1000 square feet you would be able to expand it up to 1000 square feet, If it was more than 1000 square feet you would not be able to expand it. Your rights are protected to continue your business your rights are protected if you don't meet the bylaw if your business if currently large than 1000 square feet but you wouldn't be allowed to expand it.

**Matt Whitman, area councillor** wanted to know if the nonconforming business would be transferable.

In response Andrew Faulkner stated that the way none conformity works it is tied to use not ownership so if you had 1500 square feet and it was R-6 and it was nonconforming (Grandfathering) you would be able to sell it but the rule is you would not be able to change the use to another commercial use. If you had landscape business right now and it was 1500 square feet and you were rezoned to R-6 whoever bought the business would have to operate a landscape business or something very similar. They would not be able to change it to retail or restaurant or something like that; they would not be able to change to another commercial use.

**Robert Sager, Still Water Lake** stated that he is not part of Highland Park and wanted to make sure that his property is separated from Highland Park.

**Kelly Bush, chairperson of the Rate Payers Association** – She stated that the previous chairperson was the one who brought this forward as an issue because there was a business, a junkyard essentially on one of the streets on the Cox Lake side. That was her solution. We had a meeting and realized after looking into it a bit further that the more you restrict the use through zoning the more restrictive it is for people who are there. My understanding, after talking to the people that I have talked to, is that we don't want this to go forward. Can we stop this? Are we going to ask the people here what they want? Are we going to ask the people here for a consensus? If everyone says no this is not what we want can we then stop this? I think it would be helpful for those that are on the fence to understand what the benefit would be to changing to R-6 and what the benefits would be to staying as MU-1. How are you going to decide whether we collectively want this or do not want this if you are not going to ask the people here tonight?

In response Tyson stated that he has received the email. He didn't realize that was the question can we stop this. This is not an uncommon question, a lot of subdivisions are looking at this same question, can we rezone. I am not looking for a general consensus here this evening but if anyone has comments about this, they just don't think it is appropriate, they don't want to rezone, I would like to hear that. It helps me when I go back to council after this meeting and say we had a meeting and this is the comments we received and what you want to do. The benefits to going R-6 zoning would be to collectively have consistent R-6 zoning that would mainly have residential uses and would potentially eliminate what people were complaining about from happening. The benefits to staying MU-1, those who have MU-1 properties have the ability to have commercial uses; it would provide them with quite a bit a variety for the property. Through feedback from email, phone calls, and the meeting here tonight, we will then be sending out a survey.

**Kelly Bush** wanted to know if most people don't respond to the survey will we make our determination through that feedback anyway.

In response Tyson stated, we have to work with what response we gain from the public. If we don't have much interest in this maybe that will feed the recommendation that there isn't that much interest in it. It is a challenging exercise. This is a request that council has asked us to look into. If we can ascertain that the residents of this subdivision collectively want to rezone the subdivision, if we feel at the end of the day we can recommend that then we have to say how we got there. We would be counting on something like a survey to provide us with that information.

**Lyle Kennedy** wanted to know if we were going to educate the people who have the MU-1 zone about what they would be giving up before we asked for a response. People who don't own a business would not care about giving this up.

In response Tyson stated that he is not asking for a stern vote. The R-6 zone and the MU-1 zone have very similar characteristics in terms of residential use. The R-6 has really no commercial component; you can have a home based business that's it. If you are MU-1 you can have up to 2000 square feet, once you get past 2000 square feet you have graduated to finding another property. The survey would provide what their zone entailed and what abilities they have. If we do proceed with a survey MU-1 property owners we will provide an excerpt of this zone so they can see what it is that they are able to do.

**Lyle Kennedy** asked how many households this survey would be sent out to

In response Tyson stated 700+ households.

**Lauretta Walker, Highland Park** – stated she understands the history behind what is happening here today. She would like to know is this the only solution HRM has in dealing with a situation like this. It is typical that the majority always have to suffer for the infractions of a few. How do you determine what is appropriate and what is not in a residential area.

In response Tyson stated that the challenge is MU-1 zone has a list of uses and provided the property owner is able to meet the requirements of the zone then that use is permitted. This exercise is responding to a community collectively wanting to change the zoning not one individual wanting to change their property.

**Robert Sager** stated that on the average lot size most of the uses for MU-1 would not be allowed as far as body shops, repair shops etc. It would be beneficial to be educated on what a MU-1 would allow on a



given size property.

In response Tyson stated that in Hammonds Plains the MU-1 zone is quite common so is the R-6 and the R-1 and there are many areas where they co-exist and I think when a lot of the uses there were a consensus on what uses would work in a residential area. On the list of uses you will not find a salvage yard, you are not going to find uses that would typically be intrusive and causes noisiness's like an asphalt plant. It is a balance.

**Coucillor Matt Whitman** if going back to when this all started would there have been other ways to achieve what is trying to be achieved here tonight without going through all this over the past three years?

In response Tyson stated if the use was illegal and not permitted by the zone then that would be a matter of compliance and removing the use. If the use was permitted then I am not sure. When staff took this on we didn't know this was stemming from only one property we thought maybe the residents want to do this.

**Coucillor Matt Whitman** stated he would have handled it differently. He is interested in this next step survey. He would like the people that like the idea come to him and tell him why they like it because he thinks their voice is important but he thinks they are the minority. He stated that if you tell him why you like it he might be able to let you know if what you are saying is right. The way it is going is that it is leaning towards no change. Grandfathering and transferability were his two biggest questions. Keep in touch with Kelly Bush and go to the HGM's. Good questions about impact on value. The whole point was to fix this one issue however, they have moved now. I just wanted to let the residents know I was listening.

**Ed Joy** wanted to know if it was stated that there were approximately 700 people in the subdivision or 700 in the MU-1 zone. How many are zoned MU-1 or have a registered business on it? Why can't you cherry pick and leave people who are MU-1, that have a business, as a MU-1 so that in the future no more development is going to happen except for the people that are already there. Instead of grandfathering in and putting restrictions on them you could just leave them as an MU-1 and then they are free to pursue, you don't have an issue and everyone else is fine. When you talked about size, 2000 square feet is MU-1, you are just talking about floor size not a parking lot. Because the whole issue was because of a certain type of business on a certain type of lot and because that is gone, right now there is nothing to stop that from happening again, correct?

In response Tyson stated it was 730 households. We don't know that. Part of this exercise would be to determine that and understand what existing businesses are in the area. We don't have a clear picture what businesses are there now, we need to understand that. If this proceeds we are not going to go in there blindly essentially not understanding what businesses are there. I think it all comes down to what the picture is in the end and how many people want to remain MU-1. 2000 square feet is the maximum size you can have commercial floor area for a commercial business. 2000 square feet is just floor area. I am not certain if that use was illegal or not. I don't know if it was removed or the person just moved away.

**Kelly Bush** stated that it was a rental property that they were at and they have moved on.

In response Tyson stated that what can happen is that somebody can buy a MU-1 property and they could apply for a permit for any of the MU-1 uses that are under that zone. Salvage yards, recycling depots I don't believe are.

**Ed Joy** stated that people can apply for any of the uses but you don't know what is in the area right now. You don't know personally or the city doesn't know?

In response Tyson stated that HRM knows, I don't know personally but it is something that we would find out if we were to go ahead with this. One of the questions on the survey would be; do you have an existing commercial business?

**Ed Joy** stated, so we don't really know the extent of the number of people that have the MU-1 use and actually use it.

In response Tyson stated – Yes, we don't know.

**Sydney Hamilton – Highland Park** stated that his concern is, Chalamont Drive it is completely surrounded by R-1 property and when you change from R-1 to R-1, am I correct in stating that there is nothing changing on that property? With the survey would you to the survey is 51% of 700 properties would like the change made then off you go, or would you do it surveying the R-1 properties and the MU-1 properties and then look at the percentages on both? I expect that most of the people in R-1 zones will go for the change and most of the people with MU-1 will be against it and it strikes me as a little bit unfair like you are stacking the deck to get a result that isn't what the community wants.

In response Tyson stated that yes, the only properties that would change if this were to proceed would be the MU-1 properties. R-1 is already the residential base zone. Our intention is not to do that. If we were to construct a survey would be construct it in a way that we are mainly focusing on people that have a MU-1 property and whether or not they would like to see a change. We have thought of those things as well.

**Linda Little, Highland Park** stated that her concern with the MU-1 was the composting operations that could be done and new businesses coming in that could be disruptive to their residential community. Why don't current MU-1 fall under the existing use bylaw?

In response Andrew Faulkner stated composting operations are listed as a permitted use in MU-1 zoning but it is subject to 4.29 of the Bylaw which makes it highly unlikely you will find a property that this would work on. There is an existing use clause and that is a specific term in the bylaw so an existing use is when they did something like a rezoning they would say if it is listed as an existing use in the zone then it is now a permitted use. It is controlled grandfathering a few more rights but not as much as an MU-1 zone.

Tyson stated that all the bylaw, zoning, any limitation all that information can be found on the website.

**Miriam Sager, Still Water Lake** stated if it all just gets changed to R-1 and you want to do something with your property and rezone it that, that is a possibly but is that not a very difficult possibly once it is all R-1 and I want my property to be zoned something different from that? The people bordering your property also have to save it's ok, it has to be put in the paper and if you want to change it back it isn't something simple to do. If you change it, it is going to be a real hard thing to get it back.

In response Tyson stated that yes, if you have a zone you want to change, specifically one property, you would have to go through a planning processes which is a public processes and residents would be notified about the application and it would be considered by council and it would be at the discretion of council to recommend in favor or not. We wouldn't encourage a scenario where we change everything and then ask everybody to come in one by one to change their property that wouldn't be ideal.

**Bill Fenton, land owner in the R-1 zone of Highland Park.** He stated he thinks it should be left as is. He would like to know if the MU-1 would go to R-6 and the R-1 would they remain as R-1.

In response Tyson stated that yes that is correct.

**Bill Fenton** stated, so there is no new R-1 being created? Is this isn't going to sweep the whole thing?

In response Tyson stated that there are four properties that would be rezoned to R-1 however, the owners of those four properties, we believe, don't want to rezone. The reason we would have an R-1 and have an R-6 is because the R-6 relates to the MU-1. There is a very small number of properties that could become an R-1, only a handful. The majority would be R-6.

**Bill Fenton** stated, so it would be helpful if everybody understood, if you have a single lot zoned MU-1 you are very restricted as to what you can put on it just from planning purposes. Like you said, the size of what the building is you can put on there. Somebody couldn't come in and put a convenience store. I think a lot of the lots are already developed. The likelihood of somebody coming in tearing a house down and putting up a business is not very likely.

In response Tyson stated that a business can co-exist with a residence as well and is very common in Hammonds Plains.

#### **4. Closing Comments**

Mr. Simms thanked everyone for attending. He encouraged anyone with further questions or comments to contact him.

#### **5. Adjournment**

The meeting adjourned at approximately 8:25 pm.