

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

# Item No. 14.1.4 Halifax Regional Council September 18, 2018

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by

SUBMITTED BY:

Jacques Dubé, Chief Administrative Officer

**DATE:** August 27, 2018

SUBJECT: Case 21850: Municipal Planning Strategy amendments for 5426 Portland

Place, Halifax

# **ORIGIN**

Application by Michael Napier Architecture

# **LEGISLATIVE AUTHORITY**

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

# **RECOMMENDATION**

It is recommended that Regional Council direct staff to:

- Initiate a process to consider amendments to the Halifax Municipal Planning Strategy to remove 5426
  Portland Place, Halifax from Schedule HA-1of the Halifax Municipal Planning Strategy and allow
  residential uses throughout the site; and
- Follow the public participation program as referenced within the Community Engagement section of this report.

### **BACKGROUND**

Michael Napier Architecture on behalf of Anthony Metledge is applying to remove the property at 5426 Portland Place, Halifax from Schedule HA-1 of the Halifax Municipal Planning Strategy (MPS). This schedule is applied to the first 50 feet of the property as measured starting from the front property line on Portland Place. As the schedule is contained within the existing MPS, an amendment to the MPS is required to consider its alteration.

- 2 -

Subject Site	5426 Portland Place, Halifax		
Location	South side of Portland Place, just west of Brunswick Street		
Regional Plan Designation	US – Urban Settlement		
Community Plan Designation	MJC – Major Commercial		
(Map 1)	Halifax Municipal Planning Strategy		
Zoning (Map 2)	C-2 – General Business Zone		
	Halifax Peninsula Land Use By-law		
Size of Site	4,090 m <sup>2</sup> (44,024 ft <sup>2</sup> )		
Street Frontage	Approximately 51 metres (167 feet)		
Current Land Use(s)	Vacant / Under Construction		
Surrounding Use(s)	East- Residential Row Houses ('12 Apostles')		
- , ,	North- 3-4 Storey Buildings Containing a Mix of Commercial and		
	Residential Uses		
	West- 1-2 Storey Commercial Buildings		
	South- Impark Parking Lot		
	<u>-</u>		

# **Project Background**

The applicant has been pursuing a development permit for an 'as-of-right' development on this property over the course of the past several months. A proposal for a 6-storey residential building inclusive of underground parking was submitted for consideration under the existing C-2 General Business Zone regulations. Over the past months, the building has been refined to a point where angle control, view plane, setback, lot coverage and other stipulations of the Land Use By-law have been met. In anticipation of a development permit, the applicant began site preparation work in advance of construction of a foundation. A construction mitigation plan was created, surrounding residents informed, and excavation of the site was started.

In the final stages of permit review, staff identified that a Schedule of the Municipal Planning Strategy was applicable to portions of the subject site which materially altered the 'as-of-right' development options for the property. Schedule HA-1 is applied to the entire frontage of the subject property to a depth of approximately 50 feet (Map 3). This schedule requires a development agreement for any residential development in excess of 4 units within this portion of the site due to the heritage character on Brunswick Street. This Schedule was originally applied to the property in the mid 1990's and has been altered several times in 1998 and 1999, and 2011. The Schedule and extent of Map 3 in the MPS is now applied to significantly fewer properties than when originally adopted.

Application of Schedule HA-1 to this property has several impacts to its development rights

- A multi-unit residential development of greater than 4 units can be approved for the site, but only
  on the rear of the site where the Schedule does not apply;
- A multi-unit residential development could occur at the front of the site, however any development containing more than 4 units would require the application of a Development Agreement as per policy 9.3.2 of the Peninsula North Secondary Municipal Planning Strategy;
- 'As-Of-Right' development of 4 or fewer residential units could occur within the portion of the property regulated by Schedule HA-1; and

:

• Commercial development of the site could by approved through the 'as-of-right' development permit process under the regulations of the C-2 Zone and without a development agreement.

#### **Proposal Details**

The applicant is currently proceeding with an amended version of their original residential project (Attachment B). They will construct the development in such a way to ensure that the portion of the property within Schedule HA-1 is primarily commercial in nature and contains no more than 4 residential dwelling units. This notwithstanding, the applicant wishes to remove the schedule from the property to allow residential units in this portion of the property at a future date should this so be desired. As such, the request is to amend Map 3 of the Peninsula North Planning Area to remove 5426 Portland Place from Schedule HA-1, thus eliminating the requirement for a Development Agreement for a proposal containing more than 4 dwelling units.

#### **MPS and LUB Context**

The property is zoned as C-2 General Business Zone within the Halifax Peninsula Land Use By-law. This zone allows for a relatively extensive list of residential, business, and commercial enterprises.

The property is designated as MJC – Major Commercial within the Halifax Municipal Planning Strategy. This designation is intended to provide a mix of commercial and residential uses. Schedule HA-1 is also applied to a portion of the site. This schedule allows comprehensive commercial development to occur through the 'As-Of-Right' process while residential or mixed-use development containing more than 4 units would be required to go through a Development Agreement process. The intent of the Development Agreement process is to encourage retention of buildings not already registered as heritage properties, to promote new development which reflects the architectural character of existing heritage structures and to maintain the streetscapes on Brunswick Street.

The property is also almost entirely within Viewplane #1 as denoted within the View Map of the Halifax Peninsula Land Use By-law. As applied to this property, the viewplane limits the height of development to approximately 6 storeys depending the point of the site at which it is measured.

#### **Centre Plan**

The Halifax Regional Municipal Planning Strategy (Regional Plan) identifies the Halifax Peninsula and Dartmouth between Halifax Harbour and the Circumferential Highway as the Regional Centre. The Regional Plan expresses a clear objective to adopt a Regional Centre Plan. The process to adopt the Regional Centre Plan is well underway.

The draft Centre Plan designates the subject property as Centre-2 (CEN-2) which allows a maximum Gross Floor Area Ratio (GFAR) of 3.5 and a maximum height of 20 metres. The draft plan does not include retention of Schedule HA-1 on this property. If Council were to approve the draft plan in its current iteration, development of this site would be as per the design standards of the updated Land Use By-law and Design Manual.

In recent months, new site-specific plan amendment applications in the Regional Centre have been rare. In most cases, new Centre Plan policy will update the planning framework against which new development will be assessed. This framework will have benefitted from a comprehensive engagement program as well as a thorough assessment of the impacts of growth and development in any given location against the context of the Regional Centre. With this said, in some circumstances, it may be appropriate for site specific MPS amendments to be considered in advance of the Centre Plan completion.

#### **DISCUSSION**

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in Municipality. While the MPS provides broad direction, Regional Council may consider MPS amendment requests to enable proposed development that is inconsistent with its policies.

Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. Amendments should be only considered within the broader planning context and when there is reason to believe that there has been a change to the circumstances since the MPS was adopted, or last reviewed.

## **Applicant Rationale**

The applicant has provided the following rationale in support of the proposed amendment(s):

- The Schedule was applied with the intent to preserve the heritage Character of Brunswick Street, with this site having no frontage on Brunswick;
- The Schedule currently applies predominantly to the east side of Brunswick, with only 2 properties on the west side of Brunswick being identified in HA-1;
- 5426 Portland Place is the only property in Schedule HA-1 with no Brunswick Street frontage;
- The draft Centre Plan document does not plan on retaining Schedule HA-1 within updated plan policies; and
- The built form of the desired development has already been approved, received development permits, and is currently under construction. The HA-1 schedules were applied with a focus on built form, and do not speak to a concern about residential as opposed to commercial use.

Attachment A contains the applicant's application letter.

#### Review

Staff have reviewed the submitted rationale in the context of this site and advise there is merit to the request. This conclusion was reached given the lack of frontage for the property on Brunswick Street, the likelihood of the schedule being soon be removed in its entirety and the existing ability to construct the proposed built-form for commercial use.

The potential approval of the Centre Plan notwithstanding, the applicant has indicated they would prefer to move forward with the proposed site-specific plan amendment to allow greater flexibility in the location of residential uses on the site. As construction of the development is already underway and, with the proposed built form approved, Council could choose to remove this schedule now to allow residential uses throughout the building. Alternatively, it is projected that the CEN-2 zoning in the Draft Centre Plan could allow for future conversion of the space.

A full review would consider the following:

- the scope and appropriateness of different planning tools, such as zoning, development agreements or site plan approvals;
- the feedback received though community engagement initiatives; and
- consideration of feedback received on development in this community through the Centre Plan todate

#### Conclusion

Staff have reviewed the proposed MPS amendment and advise that there is merit to the request. The built form permitted on the site would not be changed by this amendment. The process would allow a completely mixed-used building consistent with the intent of ongoing planning policy projects being undertaken to encourage development of this type. Therefore, staff recommend that Regional Council initiate the MPS amendment application process.

## **COMMUNITY ENGAGEMENT**

Should Regional Council choose to initiate the MPS amendment process, the HRM Charter requires that Regional Council approve a public participation program. Rather than proceeding with the February 1997 Public Participation resolution, given the minimal impact and localized nature of this requested amendment

Case 21850: Initiation of MPS Amendment

5426 Portland Place, Halifax

Regional Council Report - 5 - September 18, 2018

which pertaining to the internal use of a building possessing permits, staff propose that the level of community engagement be achieved through the HRM website, signage on the subject lot, letters mailed to property owners within the notification area, and consultation with the Halifax Peninsula Planning Advisory Committee (HPENPAC) early in the review process.

Amendments to the Halifax Plan Area will potentially impact the following stakeholders: residents, property owners, community or neighbourhood organizations, and nearby business owners.

# **FINANCIAL IMPLICATIONS**

The HRM costs associated with processing this planning application can be accommodated within the approved 2018-2019 operating budget for C310 Urban and Rural Planning Applications.

## **RISK CONSIDERATION**

There are no significant risks associated with the recommendations contained within this report. This application involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

# **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified at this time.

#### **ALTERNATIVES**

- Regional Council may choose to initiate the consideration of potential policy that would differ from those outlined in this report. This may require a supplementary report from staff.
- Regional Council may choose not to initiate the MPS amendment process. A decision of Council not to initiate a process to consider amending the Halifax Municipal Planning Strategy is not appealable to the NS Utility and Review Board as per Section 262 of the HRM Charter.

#### **ATTACHMENTS**

Map 1: Generalized Future Land Use Map 2: Zoning and Notification Area

Map 3: Schedule HA-1

Attachment A: Application Letter

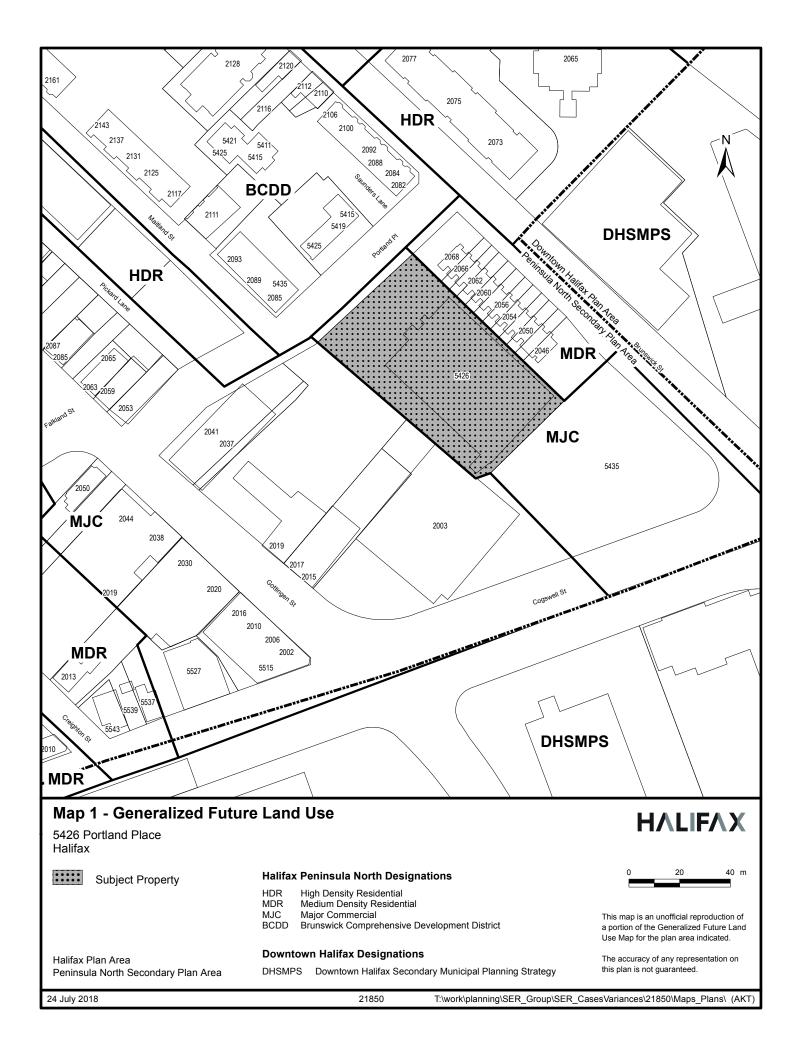
Attachment B: Development Plans for Project Under Construction

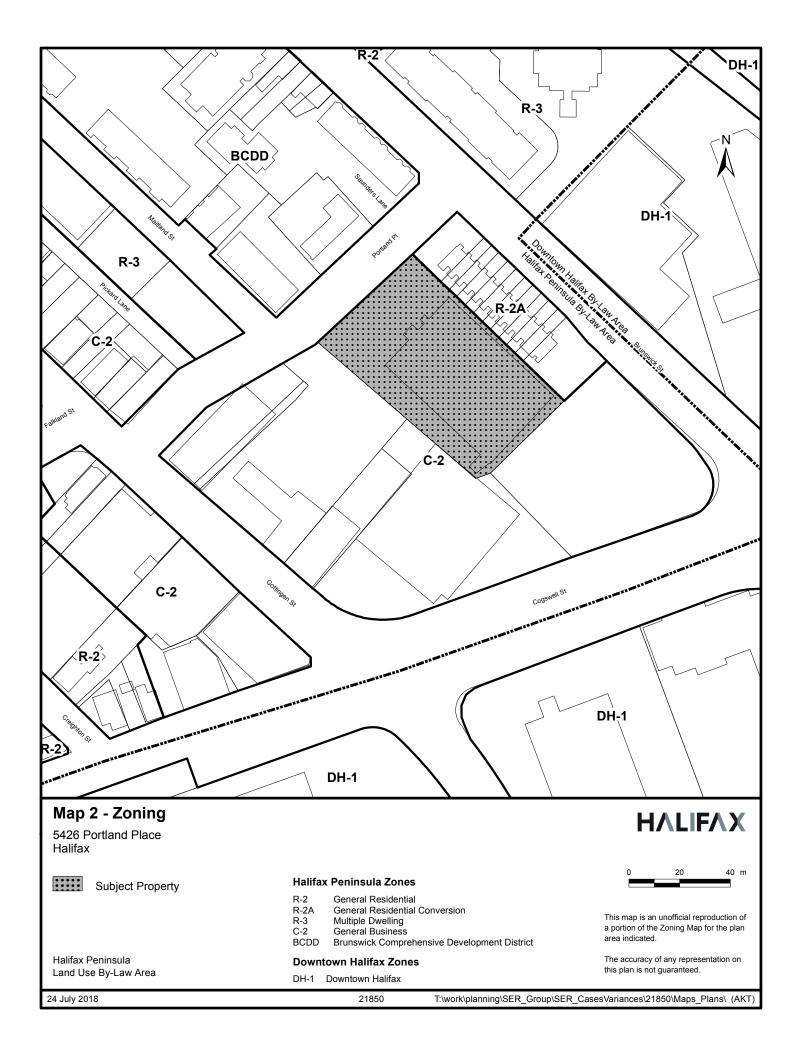
A copy of this report can be obtained online at <a href="halifax.ca">halifax.ca</a> or by contacting the Office of the Municipal Clerk at 902.490.4210.

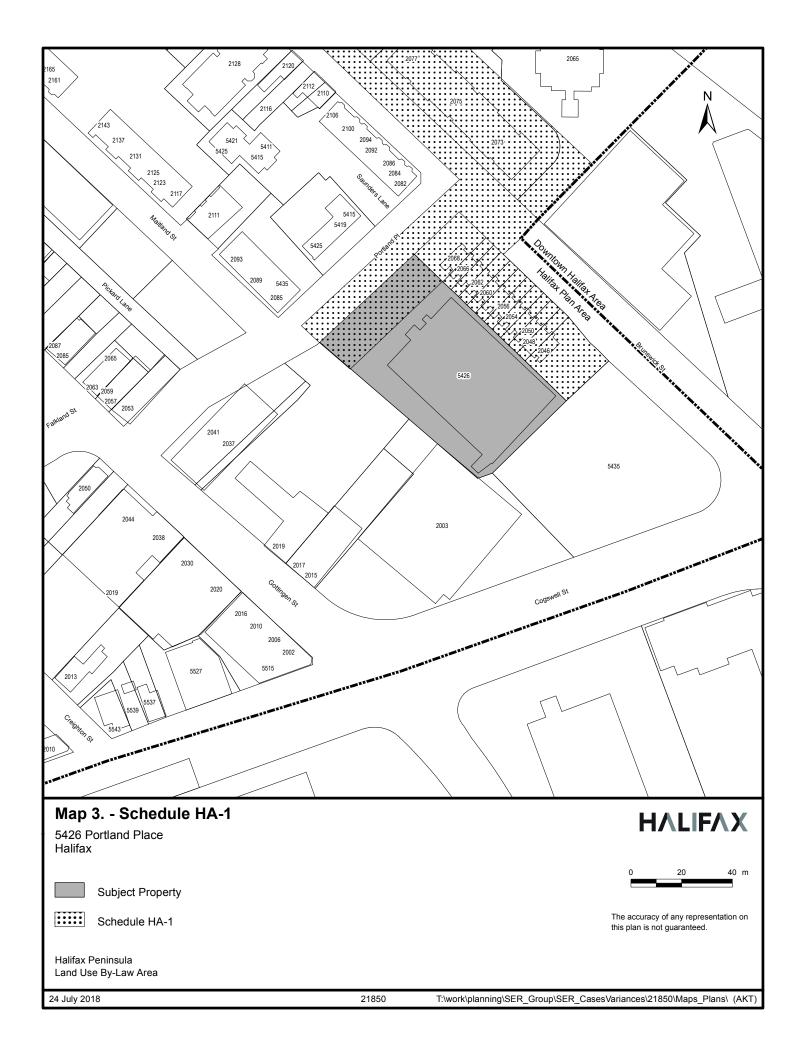
Report Prepared by: Carl Purvis, Planning Applications Program Manager, 902.490.4797

September <u>18, 2018</u>

Regional Council Repor	- 6 -	September 18, 2018
	Original Signed	
Report Approved by:	Steven Higgins, Manager, Current Planning, 902.490.4382	
Financial Approval by:	Original Signed  Jerry Blackwood, Acting Director of Finance and Asset Manage	ement/CFO 902 490 6308
	Original Signed	SHIERIUCI O, 302.430.0300
Report Approved by:	Kelly Denty, Director of Planning and Development, 902.490.48	<del></del> 300









400 - 5540 KAYE STREET HALIFAX, NS B3K 1Y5

> www.mnarch.ca T: 902.455.5522

09 July 2018

Planning Application
HRM Planning and Development
Alderney Gate
40 Alderney Drive, 1<sup>st</sup> Floor
Dartmouth

Attention: Carl Purvis and Maggie Holm

Re: MPS Amendment Application for 5426 Portland Place, Halifax – PID 0054021

A portion of this property is located within Schedule HA-1, The Brunswick Street Heritage Area. We are applying to have the affected area, constituting an area across the entire property frontage to a depth of 50' removed from this schedule. This Schedule pursuant to Section 93 of the LUB states:

In the area shown as Schedule "HA-1", notwithstanding the uses permitted by the zone, any new apartment house with over four dwelling units or the addition to an existing building, excluding a registered heritage building, which results in an apartment house with over four dwelling units, shall only be permitted by development agreement pursuant to Policy 9.3.2.1 of Section XI.

This Schedule was added to the MPS in approximately 1994 with further revisions in approximately 1998. No further modifications have occurred in the following 20 years. The soon to be implemented Centre Plan will be the first major change to the MPS in this area in many years. Presently this property is included under the Centre Plan as a CEN-2 use allowing a variety of Commercial and Residential uses. This is envisioned as the highest- intensity zone and permits mixed – use development in mid-rise and high-rise buildings.

The 50' line, which was imposed, was placed on a property that had at the time a former curling rink which had been repurposed as a multi-tenant commercial complex. It was located approximately 75' from the streetline with a parking lot in front of the building. Due to the existing grade along Portland Place a retaining wall, +/- 12' in height was located at approximately the front property line to create this parking area. The Brunswick Street Heritage Area was envisioned to protect the stock of heritage buildings along Brunswick Street. The zone applies to predominately the East side of Brunswick Street, the only areas on the West side of

Brunswick that are presently in the zone are the "12 Apostles" which abut the subject property and St. Georges Church and its grounds. 5426 Portland Place is the only property to the West of Brunswick Street without a Brunswick Street address to be included in this Heritage Zone. The properties across Portland Place were originally included in the HA-1 but were removed in approximately 1998 when The Brunswick Comprehensive Development District was created. For reasons unknown the adjacent Trinity Church which abutted Brunswick Street and the rear property line of 5426 Portland Place was not included in this Schedule. In the MPS generalized Future Land Use Map the subject site is designated Mj.C – Major Commercial. This area includes this site, the adjacent Trinity Church site and extends across Brunswick to include the Scotia Square lands north of Cogswell Street.

The existing MPS has not kept current with changing patterns in the neighbourhood. There has been a major trend towards new residential throughout the North End and Downtown Halifax areas. This particular site and the adjacent Trinity Church site (which has a DP for a major residential project) form a connective link to the recent new residential projects along Brunswick and south of Cogswell. This change in the area has been acknowledged by the Planners drafting the new Centre Plan and including it in the CEN-2 zone (previously discussed above). Being included in this zone with the impediment of the HA-1 designation across the front of the property severely limits the flexibility of this property. This designation was originally written to protect heritage properties along Brunswick Street. The average size of these lots was in the 4,000-6,000 square foot range so the limitation of four dwelling units was perhaps in keeping with the scale of the land and streetscape. 5426 Portland Space has a depth of some 274' and an area of 44,026 square feet, some ten times larger than the Brunswick Street properties, being protected. The area of the 50' deep HA-1 zone is approximately 8,000 square feet, making just this portion larger than the average lot size.

How the original Planners envisioned this property being redeveloped in the future is a bit of a mystery. If the goal was to protect and complement the adjacent heritage properties then the restriction which applies to residential properties should have been applicable to commercial properties also. This however is not the case. As long as there is no residential component within this 50' zone the existing C-2 rules apply and a building could be built with 100% lot coverage. It seems that this line was indiscriminately added to this Portland Street address without considering the future implications of its inclusion. The removal of this line from the property and the ability to include residential development on the site is in keeping with where this area of Halifax is headed in terms of future densification and the goals of the new MPS outlined in the Centre Plan.

The request to remove this HA-1 designation from 5426 Portland Street is of an urgent matter. A Development Permit was applied for in the fall of 2017 and the HA-1 designation was only flagged recently in June by the Development department.

\_\_\_\_\_ www.mparch.ca

Excavation had already begun for a residential only project which was now not in conformance with this HA-1 zone. This zone did not occur on HRM on-line mapping and the property on Portland Place was not picked up as part of the Brunswick Street Heritage Area because for reasons previously discussed it did not seem to be related. So now we are in a position where we have revised all plans to eliminate the residential component from the front 50' and substituted a commercial use. This is to secure a DP to allow the construction to continue in a timely fashion and to keep the construction financing previously arranged in place. Given the timing of the construction and the possible revision to the MPS we are hoping to have a seamless transition to allow for residential units to be located throughout the site. The Centre Plan envisions the same outcome but due to uncertainties over the final approval date we are making this separate application.

Thank you for your assistance in this matter and if you have any questions or comments please do not hesitate to contact us.

Regards,

Michael Napier MNSAA AANB MRAIC

