

PO Box 1749 Halifax, Nova Scotia B3J 3A5 Canada

> Peninsula Community Council July 7, 2009

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY:

for Paul Dunphy, Director of Community Development

DATE: June 23, 2009

SUBJECT: Case 01252: Rezoning of 6581 and 6589 Chebucto Road, Halifax

ORIGIN

Application by 3234098 Nova Scotia Limited.

RECOMMENDATION

It is recommended that Peninsula Community Council:

- 1. Give First Reading of the proposed rezoning as set out in Attachment A and schedule a public hearing; and
- 2. Approve the proposed rezoning of 6581 and 6589 Chebucto Road, Halifax, (PID #s 40723363 & 00116525) from R-2 (General Residential) Zone to C-1 (Local Business) Zone as set out in Attachment A.

BACKGROUND

The subject properties, 6581 and 6589 Chebucto Road, Halifax (PID #s 40723363 & 00116525), are located on the north east corner of Chebucto Road and Connaught Avenue (Map 1). The combined properties are approximately 76,435 square feet in area, are occupied by a single, non-conforming, mixed use building known as the Connaught Pharmacy and the vacant lot has been utilized as a parking lot for the building. Records show that the ground floor of the building was occupied for 55 years as a Pharmacy, from 1952 until the end of 2007. The non-conforming status of the commercial use has been lost as the use has been discontinued for longer than six months. The upper level of the building contains a single residential unit but currently the entire building is vacant.

The property owner intends to fully renovate the existing two storey building and expand the building with a small addition for professional office uses. Parking for customers will be provided on the consolidated site.

DISCUSSION

Designation and Zoning

The properties are currently zoned R-2 (General Residential) under the Halifax Peninsula Land Use By-law (LUB) as are the surrounding properties. The land use designation is Residential Environments under the Halifax Municipal Planning Strategy (MPS) and Urban Settlement under the Regional Plan. The applicant wishes to rezone to the C-1 (Local Business) Zone.

MPS Policy

A rezoning of the properties can be considered by Council according to Policy 3.1.1 of the Commercial Facilities Section of the Citywide Objectives and Policies of the Halifax MPS. This policy further references Implementation Policies 4.1 and 4.2 of the Halifax MPS (Attachment B). Rezonings to the C-1 zone are permitted within the Residential Environments designation without an amendment to the MPS.

- Policy 3.1.1 promotes neighbourhood shopping facilities that service primarily local and walk-in trade, and indicates that they should be primarily owner-occupied. The main business proposed to locate here is operated by the owner and provides a service to the community. Clients already living in this area will have the benefit of walking to their appointment, taking the bus which stops directly in front of the building, or use the parking which will be provided.
- Policy 3.1.1 also requires the C-1 use to locate at or adjacent to the intersections of local streets rather than in mid-block. The proposal meets this requirement.
- Policy 3.1.1 states that neighbourhood shopping facilities may include one business, for example a corner store or a cluster of businesses. The owner is proposing a small office building and their business will occupy the first floor and part of the second floor, which allows for approximately two small office spaces for rent. Buildings in the C-1 Zone have a height restriction of 35 feet and are

limited to maximum lot coverage of 35 percent. Staff believe that these restrictions provide sufficient limitations to confine uses to a size and scale that reinforce the neighbourhood character.

In considering a rezoning to the C-1 Zone, Implementation Policies 4.1 and 4.2 require that Council shall have regard for the fiscal capacity of the City to absorb the costs and adequacy of all services provided by the City necessary to serve the development. HRM has sufficient capacity to accommodate the needs of this site. It should also be noted that although the proposal before us has a specific project associated with it, once rezoned, the property can be utilized for any C-1 Zone use and is not tied to this particular proposal. Recently the C-1 Zone was amended to allow small scale restaurants.

Public Information Meeting

A Public Information Meeting (PIM) was held April 20, 2009. Minutes of this meeting are provided as Attachment C. Concerns were raised related to the diversity of uses allowed within the C-1 Zone. An amendment to the C-1 Zone to allow small scale restaurant uses occurred after the PIM but all those who attended the PIM were contacted and informed of the public hearing for the amendment.

In Staff's opinion, the proposed rezoning satisfies the applicable policies of the Halifax MPS (Attachment B). As such, it is recommended that Peninsula Community Council approve the rezoning application. Should Community Council decide to hold a Public Hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 1 will be sent written notification. This notification will also inform residents of the recent amendment to the C-1 Zone to allow restaurants.

BUDGET IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved operating budget for C310.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

- 1. Council may approve the rezoning application.
- 2. Alternatively, Council may choose to reject the proposed rezoning giving specific reasons.

ATTACHMENTS

Map 1 Location, Zoning and Area of Notification

Map 2 Schedule "A" - Zoning

Rezoning 6581 & 6589 Chebucto Road Case 01252

Peninsula Community Council July 7, 2009

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Attachment A Proposed Amendment

Attachment B Excerpts from the Halifax MPS and the Halifax Mainland LUB Attachment C Minutes of the April 20, 2009, Public Information Meeting

A copy of this report can be obtained online at at http://www.halifax.ca/commcoun/cc.html then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Randa Wheaton, Senior Planner, 490-4499

Report Approved by:

Austin French, Manager, Planning Services, 490-6717

Attachment A Proposed Amendments to the Peninsula Area of the Land Use Bylaw

BE IT ENACTED by the Peninsula Community Council of the Halifax Regional Municipality that the Peninsula Area Land Use By-law of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

1. Map ZM-1 of the Land Use By-law be amended as shown in the attached Schedule "A".

I HEREBY CERTIFY that the amendment to the Peninsula Land Use By-law for Halifax, as set out above, was passed by a majority vote of the Peninsula Community
Council of the Halifax Regional
Municipality at a meeting held on the
day of, 2009.
GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this day of, 2009.
Municipal Clerk

Attachment B Excerpts from the Halifax MPS

SECTION II - CITY-WIDE OBJECTIVES AND POLICIES

3. COMMERCIAL FACILITIES

Objective

The provision of commercial facilities appropriately located in relation to the City, or to the region as a whole, and to communities and neighbourhoods within the City.

3.1.1 Neighbourhood shopping facilities in residential environments should service primarily local and walk-in trade, and should be primarily owner-occupied. They shall be required to locate at or adjacent to the intersections of local streets rather than in mid-block. Neighbourhood shopping facilities may include one business, for example a corner store or a cluster of businesses. This policy shall serve as a guideline for rezoning decisions in accordance with Implementation Policies 4.1 and 4.2 as appropriate.

IMPLEMENTATION POLICIES

AMENDMENTS TO THE ZONING BY-LAW

- 4. When considering amendments to the Zoning By-laws and in addition to considering all relevant policies as set out in this Plan, the City shall have regard to the matters defined below.
- 4.1 The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.
- 4.2 The City shall review the proposal to determine that it is not premature or inappropriate by reason of:
 - 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.

Excerpts from the Halifax Peninsula Land Use By-Law

C-1 ZONE

LOCAL BUSINESS ZONE

- 49(1) The following uses shall be permitted in any C-1 Zone:
 - (a) R-1, R-2, R-2T and R-3 uses;
 - (b) stores for the purpose of retail trade and rental excluding:
 - (I) motor vehicle dealers;
 - (ii) motor vehicle repair shops
 - (iii) adult entertainment uses; and
 - (iv) amusement centres.
 - © restaurant, bank, public hall, office, municipal building, hairdresser, beauty parlour; receiving office of a dry cleaner or dyer;
 - (d) any use accessory to any of the foregoing uses.
- 49(2) No person shall in any C-1 Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 49(3) No person shall in any C-1 Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

REQUIREMENTS

Buildings erected, altered, or used for C-1 uses in a C-1 Zone shall comply with the following requisites:

Lot Frontage <u>Ft.</u>	Lot Area <u>Ft.</u>	Side Yard <u>Ft.</u>

SIGNS

Any persons carrying on a business may place upon and parallel to the front of the building a non-illuminated signboard not exceeding 3 feet in height and limited to the space immediately above the ground floor store windows extending the length of such front and appertaining solely to the ownership of the business conducted therein.

Illuminated signs may be erected provided that they do not constitute a nuisance or hazard to the public.

HEIGHT

The basic height of buildings in this zone shall not exceed 35 feet.

FRONT YARD SETBACK

The building line laid down for the adjacent residential buildings shall also apply to those buildings hereafter erected or altered to C-1 uses. If, however, it is intended to erect or alter a building for C-1 uses between two existing buildings of C-1 uses, neither of which encroach over the street line, then such erections or alterations may be carried out in line with the two adjacent existing buildings.

R-1, R-2, R-2T AND R-3 USES IN C-1 ZONE

- Buildings erected, altered or used for R-1, R-2, R-2T and R-3 uses in a C-1 Zone shall comply with the requirements of their respective zones.
- Lot coverage maximum lot coverage shall be 35 percent.

RESTAURANTS

- 55A Notwithstanding Section 49 (1)©, restaurants may be permitted provided that:
 - (a) they do not exceed a gross floor area of 1,000 square feet;
 - (b) an opaque fence having a minimum height of five feet is constructed abutting any residentially zoned property;
 - © lighting facilities, if provided, are directed away from any abutting residentially zoned property;
 - (d) any commercial refuse container is enclosed in a structure which visually screens it from the street and any abutting residentially zoned property;

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- (e) any commercial patio is not located in yards abutting any residentially zoned property;
- (f) any take-out area does not exceed ten (10) percent of the gross floor area of the restaurant; and
- (g) vehicle drive through order and pick up windows are not permitted.

Attachment C

HALIFAX REGIONAL MUNICIPALITY PUBLIC INFORMATION MEETING

Case No. 01252: Application by 3234098 Nova Scotia Limited to rezone 6581 and 6589 Chebucto Road, Halifax (PID's 40723363 and 00116525) from R-2 (General Residential) to C-1 (Local Business) zone

7:00 p.m. Monday, April 20, 2009 St. Andrew's Centre

STAFF IN

ATTENDANCE: Randa Wheaton, Senior Planner, HRM Planning Services

Hilary Campbell, Planning Technician, HRM Planning Services Alana Hines, Planning Controller, HRM Planning Services

ALSO IN

ATTENDANCE: Councillor Jennifer Watts, District 14

Councillor Gerry Blumenthal, District 11 Councillor Russell Walker, District 15

Applicant: Denise Deveau and Michael Harvey, Architect

PUBLIC IN

ATTENDANCE: Approx. 10 people

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

1. Opening Remarks/Introductions/Purpose of Meeting

Randa Wheaton welcomed everyone and introduced herself as a Senior Planner with HRM and the Planner assigned to this case. Ms. Wheaton introduced the Councillors for the area, Councillor Watts and Councillor Blumenthal. Ms. Wheaton introduced Alana Hines, Planning Controller and indicated that the meeting minutes would be recorded. Ms. Wheaton also introduced Michael Harvey, Architect, and Denise Deveau, property owner. Councillor Walker arrived soon after.

The agenda, purpose, and the planning process were reviewed.

2. Application

Ms. Wheaton indicated that the designation is Residential Environment and is currently zoned two family dwelling (R-2). This property has a history of non-conforming commercial use and has for many years. The proposal is essentially trying to re-instate that commercial ability on the property and making it a legal ability as opposed to a non-conforming use that was there. The application

received is to rezone the property to a C-1 zone (Local Business zone). Ms. Wheaton provided an overview of the applicable MPS Policies as well as the requirements of the C-1 Zone.

3. Presentation of Proposal

This proposal is a unique site with an existing building, and the proposal is to reuse the existing building with a small addition. There will be visual improvements to the site and building as a result of this application. The proposal is for professional office uses. There will be parking provided on site, and there are adequate services available. The proposal must meet the requirement of the C-1 zone.

Ms. Wheaton added that although a specific proposal will be shown, the application is for a rezoning from one zone to another zone. They are only required to meet the zone requirements. What they are proposing might not be exactly what will go there. They are still in the early design of the property and they may modify the building slightly, but they would still need to meet the C-1 zone requirements. HRM is not approving a building, Council will be approving a zone change to the C-1 zone.

Ms. Wheaton handed the presentation over to Mr. Harvey the Applicant's Architect.

Mr. Harvey indicated that they have designed several schemes to make sure the design will meet the requirements of the zone. Mr. Harvey showed some plans with elevations. They are trying to keep the same scale, colours, materials, etc.

Lot Coverage has specific requirements and they are trying to maximize the 35%. The existing building will be gutted and rebuilt on the inside with reconfiguration internally. Mr. Harvey described the renderings to the audience.

Parking is an issue and there are parking requirements with the size of the building and the zoning requirements which will be met, even though it is a challenge.

The existing building has been there for a long time and they wish to respect that and keep the basic aesthetics to the building and extend them to the proposed addition.

4. Questions/Comments

Wendy Bird said when she looks at section 3.1.1 it talks about the facility should service primarily local trade and walk in trade. What kind of business are we looking at going in here, what is going to help the neighbourhood?

Ms. Wheaton said it was her understanding that the proposal is for professional offices. She understands that they are looking for tenants so they don't know exactly who all the tenants will be.

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Ms. Bird said according to that the first two requirements are really not being met, putting office space, regardless of what it is, is not really walk in trade, not like a corner store or convenience for the neighbourhood. Ms. Bird said that Gottingen Street has a number of boarded up spaces that could certainly use revitalization.

Her next concern is the drive way and the parking. She stated that it is a very busy intersection. Having a Commercial space with vehicles coming in and out is problematic.

Ms. Wheaton indicated that a traffic impact statement was submitted that indicated that anyone entering right in or right out of the site will have no problems, it is if one is trying to turn left in or left out that is going to be problematic. The access point is as far from the intersection as it can possibly be for these properties.

Ms. Bird said that Ms. Wheaton make a comment that it was Commercial space. She said she's lived in the neighbourhood in excess of 23 years and she has never seen that Drug Store open. She stated she is very frustrated by the idea of this proposal.

Ms. Bird said that the facade doesn't look like a small addition and indicated that the neighbourhood does not need an office building.

Ms. Wheaton indicated that the non-conforming use of the Pharmacy has been on the books for many years as non-conforming officially, whether in anyone's opinion it was used or not, according to HRM's zoning staff it is recognized as a non-conforming use, until recently, and it was deemed that the Pharmacy was no longer in existence and people have been refused Commercial uses on that property as a result of that.

Ms. Bird asked how long does it take to lose a non-conforming use if you haven't used a property for that purpose. Ms. Wheaton said it was her understanding it is six months but as long as you are getting a business licence then it is expected that you are still a business functioning at that address. Ms. Bird asked if the Drug Store was getting a business licence and until when. Ms. Wheaton said it was her understanding that it was and she was unsure of the exact date but understood it was fairly recently and that another business was asked to leave as it didn't meet the requirements. Ms. Bird said the Beauty Parlor didn't meet the requirements. Ms. Wheaton said yes, because it is a Commercial use and the Pharmacy lost its Commercial status. This is why the applicant is going through the rezoning is so that they can have a Commercial use here.

Fred Pegley sees parking for 7 cars (on the drawing) and wanted to know where will other people park as he is assuming that the 7 spaces is enough for the people working in the building. Mr. Harvey said that the zoning requirements for office space are met by this proposal. The zoning has particular requirements for parking per square foot of office space and this meets those requirements

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and exceeds it by 1 car. Mr. Pegley asked where will other people park. Ms. Wheaton said the proposal meets the zoning standards. Mr. Harvey said it is no different if it were a corner store, Drug Store or anything else there was street parking for visitors and they meet more than the parking requirements.

David Hazen indicated he lives right across from the site. His understanding of the zoning process is there is nothing to say there can't be a 24-hour convenient store. Ms. Wheaton said it would have to meet the C-1 uses previously shown and in the handout. He asked if a well known franchise, e.g. coffee/donut shop could go in there. Ms. Wheaton said no that is considered a restaurant under another category.

Mr. Hazen said that it is his understanding that the properties along the north side of Chebucto and North Street were red lined a number of years ago required a set back from the street incase the street had to get widened. There is an existing street line that runs through the property (in the middle of the existing building). If they were to tear down the existing building they would not be permitted to replace it.

Troy Mazmanian asked what were the set backs from the rear (which have to be 20 ft). Mr. Harvey said they have to meet these requirements of the C-1 zone. Mr. Mazmanian said this is one proposal but it could change so does that mean they have to go through this process again. Ms. Wheaton said that once they have the zone approved they would have to meet the zone requirements, except from the existing building. Mr. Mazmanian asked what would be the hours of operation for the businesses. Ms. Wheaton said she would assume standard office hours, with maybe some evening hours. Mr. Mazmanian said so they could be operating 24 hours. Ms. Wheaton said it would depend on the uses, professional office uses, she would assume it would not be a 24 hour operation. Mr. Mazmanian asked that if they get the zoning can they change their mind on professional office use to any of the aforementioned uses. Ms. Wheaton said that once it is a C-1 zone it could have any of those uses allowed within the C-1 zone.

Mr. Mazmanian asked how long the construction process would take. Mr. Harvey said approximately 6 to 8 months. Mr. Mazmanian asked if the traffic impact statement could be viewed. Ms. Wheaton said she can put it on the HRM website for viewing.

Wendy Bird said the very first line under section 3.1.1 said Neighbourhood shopping facilities and residential environment should service primarily local and walk in trade and should be primarily owner occupied. Does this development in any way address this first line. Ms. Wheaton said it will depend on what uses actually go in there, they may be of local interest, if it was a beauty salon then maybe they would, if it is another type of professional office it may draw from a wider range but it still maybe a local uses. Ms. Bird said ok, but it says primarily owner occupied. Ms. Wheaton said it is her understanding that the owner has a business that she is considering putting in here. Ms. Bird said what she is hearing is you are considering rezoning to C-1 without having any idea of what ultimately is going to be put in this site. Ms. Wheaton said only C-1 uses can go on the site. HRM cannot control who the property owner leases to. They can be leased to anyone who has any of these

businesses that are allowed in a C-1 zone. Ms. Bird said well why do we have section 3.1.1 at all if it's not addressed at all by City Planning. Ms. Wheaton said the C-1 zone is called the local business zone so it is recognizing that the businesses in the C-1 zone are intended to be of a local nature. The policy was created to recognize that there are some needs for Commercial uses to be within a residential community. So it is allowed, in specific locations, that you can rezone a residential property to Commercial for these uses. Ms. Bird said to help the neighbourhood. Ms. Wheaton said that is the intention that it would be useful to the community. Ms. Bird asked if Ms. Wheaton if she sees that an office building of this sort is useful. Ms. Wheaton said it depends on what the uses are, for example, it could be someone who sells insurance, there are a lot of uses in the C-1 zone that would be allowed and would be used by the local people. Ms. Bird said it seems to her that walk in trade/corner store, things like this would be of interest to her when she goes for a walk, not a doctor or lawyer. Ms. Bird said it says it should be local services/walk in trade/primarily owner occupied but when ask about this there is no assurance of any of this. If C-1 is approved, it's approved, and they may have to deal with set backs, but it is not going to make her community any better.

Ms. Wheaton said she thinks that statement can't really be said as she doesn't know at this point for sure if it will be beneficial or not, the point is that this policy allows for a rezoning to occur from a residential use to a Commercial use. The C-1 (Commercial use) is called local business, it is the most local Commercial zone in existence in Halifax, so there is no other appropriate Commercial zone that could be placed on this property that would allow the uses of this nature that are intended to be of a local nature. The walk in, people may walk in, again, it depends specifically on the use and HRM can not control what the exact use is as long as it meets the uses in the C-1 zone then the owner can have that use as a tenant in her building.

Fred Pegley said the simplest way to say it is does it benefit the people around or could you sell this the day it's built and it would have a negative impact on the people in the neighbourhood. The unknown factor makes him happy the way it is. Ms. Wheaton said if rezoned to C-1 you will know what uses are that can go there. Mr. Pegley said yes but there is no control in what goes there. He said that everyone that moved into the neighbourhood as it exists today and did their homework and made sure it fit with their life style and what they expected and this proposal can have an effect on the lifestyle of the people in the neighbourhood and possibly the property value. Ms. Wheaton said there are really two choices here. The current R-2, has two lots, that would allow for two units on each lot, ending up with 4 units on two properties, or if the rezoning goes forward, the C-1 use would allow for the uses as provided tonight. This is why the meeting is being held to hear the concerns and to see if this is something that should happen or not, ultimately Council has to make a decision about it and Planning has to make a recommendation based on policy. It's still early in the process, it still hasn't been looked at in detail to see what a recommendation would be from a planning perspective and then Council will have to make the final decision on this.

David Hazen asked in the C-1 zone how many businesses can be on the site. Ms. Wheaton said it doesn't really limit it, in fact the policy itself talks about clusters. Are there any restrictions on the size and height and building. Ms. Wheaton said 35 feet maximum. Mr. Hazen said he really

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questions the traffic study as there are 3 to 4 fender benders per week in the intersection and the idea that traffic can easily come and go without parking is questionable. Ms. Wheaton said the traffic impact statement did say right-in right-out no issues on Chebucto Road, which is meant to accommodate a lot of traffic. The problem is with the left-out left-in. Most people using the site would realize that is not something they would want to try and do. Ms. Wheaton believes most of the traffic would be right-in right-out only. Mr. Hazen asked if this would be something the building users would put up to advise. Ms. Wheaton said probably not, but anyone that uses it would learn quickly that left-in left-out is not the way to go about it.

Troy Mazmanian said that with the 7 parking spaces taken up by employees there shouldn't be any right-in right-out as there will be no parking. Customers for these businesses are going to park on the other side of Connaught or in front of his house, or on another street, there is not guest parking. Ms. Wheaton said in keeping with the theme of walk ins, she would hope that some people utilizing this site, employees or users, would use public transit or walk. Ms. Wheaton said we are all about trying to increase people living on the Peninsula, they also need places to work.

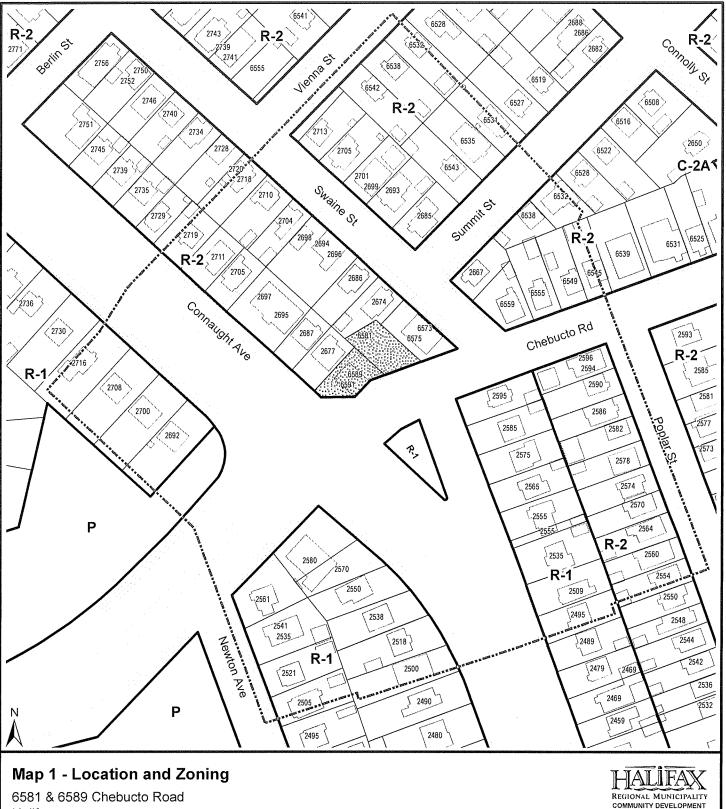
Ms. Deveau, owner, said she has zero interest in putting in uses other than what is permitted. She also noted there is a bus stop in front of the existing building.

3. Closing Comments

Ms. Wheaton thanked everyone for coming and indicated that she would put the traffic impact study on the HRM website by the end of the day tomorrow. Ms. Wheaton gave her contact information for further comments or questions.

4. Adjournment

The meeting adjourned at approximately 7:45 p.m.



Halifax



Area proposed to be rezoned from R-2 (General Residential) to C-1 (Local Business



Area of notification

Halifax Peninsula Land Use By-Law Area

Zone

R-1 Single Family Dwelling R-2 General Residential C-2A Minor Commercial Park and Institutional

COMMUNITY DEVELOPMENT PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law Area

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



Schedule A - Zoning

6581 & 6589 Chebucto Road Halifax



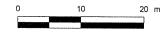
Area to be rezoned from R-2 (General Residential) to C-1 (Local Business

Halifax Peninsula Land Use By-Law Area

Zone

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REGIONAL MUNICIPALITY COMMUNITY DEVELOPMENT PLANNING SERVICES



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