



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

Item No. 14.1.2
Halifax and West Community Council
December 16, 2015

TO: Chair and Members of Halifax and West Community Council

Original Signed

SUBMITTED BY:

Bob Bjerke, Director of Planning and Development

DATE: November 27, 2015

SUBJECT: **Case 19695 – Development Agreement to Permit a Change in Use to a Non-Conforming Use at 1210/1222 Henry Street, Halifax**

ORIGIN

Application by Geoff Keddy Architect and Associates

LEGISLATIVE AUTHORITY

HRM Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give Notice of Motion to consider the proposed development agreement, as described in Attachment A, to permit a change in use to a non-conforming use at 1210-22 Henry Street, Halifax, and to schedule a Public Hearing;
2. Approve the proposed development agreement, as contained in Attachment A; and
3. Require that the proposed development agreement be signed and delivered within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

A request has been submitted by Geoff Keddy Architect and Associates, on behalf of the property owner, to change the current laundromat use at 1210/1222 Henry Street in Halifax to a café use. As the proposed use is not permitted in the current zone applied to the property, the property owner has made an application to enter into a development agreement to allow the change in use. Since a café use is considered a “restaurant” use, the staff report and proposed development agreement will refer to the proposed use as a restaurant.

Subject Property	A single property with two buildings at the corner of South Street and Henry Street
Location	1210-22 Henry Street, Halifax
Designation (Map 1)	‘University’ under the Peninsula Centre Area Secondary Plan of the Halifax Municipal Planning Strategy (MPS)
Zoning (Map 2)	RC-1 (Neighbourhood Commercial) Zone under the Halifax Peninsula Land Use By-law (LUB)
Size of Property	259 square metres (2,788 square feet) in area
Street Frontage	10 metres (33 feet) on South Street and 30.3 metres (99.5 feet) on Henry Street
Site Conditions	Flat and fully developed with approximately 71% lot coverage, no surface parking is provided.
Current Land Use(s)	Contains 2 buildings: <ul style="list-style-type: none">• a two storey building with ground floor commercial at 6083 South Street (grocery store – permitted use) and apartment above;• and a single storey commercial building at 1210/1222 Henry Street (laundromat – non-conforming use).
Surrounding Land Use(s)	Surrounded by university uses to the north and west; Low and medium density residential uses to the north-east; and Minor commercial uses to the south.

Enabling Policy and Zoning Context:

Prior to the application of the RC-1 zone in the 1960’s, the subject property was developed with two buildings. The RC-1 Zone allows only a grocery store or a drug store, and as such the laundromat in the building that fronts on Henry Street is understood to be a non-conforming use (Attachment B). The grocery store in the other building on the property, fronting on South Street, is a permitted use in the zone.

As a non-conforming use, the laundromat use is permitted to continue, provided that the use is not discontinued for a period of longer than six continuous months. A non-conforming use may only be changed to a use that is permitted within the zone in which the property is located.

This development agreement application is made pursuant to Implementation Policy 3.14 of the Halifax MPS which enables Community Council to consider conversions of non-conforming uses to another use, provided that the new use is considered to be less intensive than the existing use (see Attachment C).

Proposal

The proposal is to allow the internal conversion of the existing building at 1210/1222 Henry Street from a laundromat to a small scale restaurant with approximately 63 square metres (680 square feet) of gross floor area. No expansion to the floor area of the existing building is proposed. However, the applicant is proposing extensive exterior renovations to improve the appearance of both buildings on the property.

DISCUSSION

Staff has reviewed the proposal relative to all relevant MPS policies and advise that it is consistent with the intent of the MPS, as the restaurant use is a less intensive land use than the existing laundromat use. Attachment C provides an evaluation of the proposed development agreement in relation to the relevant MPS policies. The following issues have been identified for more detailed discussion.

Restaurant Use vs. Laundromat Use

Both uses are similar in function as they intend to serve the local neighbourhood and due to the constraints created by lot and building size, they are small scale operations. The proposed restaurant use has the potential to attract more customers especially during certain hours of the day. However, through the development agreement, controls will be placed on the use to mitigate potential impacts that could arise. Aspects of the development agreement include the following:

- Requirements for renovations to all exterior facades of the buildings;
- Outdoor storage is not permitted and the storage of refuse must be fully enclosed to minimize potential impacts on neighboring properties;
- The proposed development agreement limits the hours of operation for the restaurant to:
 - 10:00 a.m. – 9:00 p.m. - Sunday to Thursday;
 - 10:00 a.m. – 10:00 p.m. - Friday and Saturday.
- Building footprints are limited to those currently existing; and
- The restaurant access doorway is to be located along Henry Street.

Districts 7 & 8 Planning Advisory Committee:

This application was presented to the Districts 7 & 8 Planning Advisory Committee (PAC) on September 28, 2015. The minutes of the meeting and the recommendations of the PAC on the application are sent to Council by means of a separate report.

The Committee had several recommendations for inclusion within the development agreement. The majority of the Committee's recommendations focused generally on:

- Hours of operation be Sunday to Thursday up to 9 p.m. and Friday to Saturday up to 10 or 11 p.m. at the latest and that any changes to these hours be considered substantive;
- Improvements to the appearance of both buildings;
- Landscaping to improve the appearance of the property;
- Solid waste receptacles to be appropriately designed to mitigate unsightliness and odour; and
- Maintenance of the existing building footprint as prescribed by current policy.

The recommendations of the PAC have been incorporated within the proposed development agreement to address each of these matters.

Conclusion

The proposed development agreement provides the ability to allow for a change in the commercial use of the building from a laundromat to a restaurant while ensuring that there are improvements to the appearance of both buildings and appropriate controls to reasonably mitigate land use compatibility issues. Therefore, it is recommended that Community Council approve the proposed development agreement as set out in Attachment A of this report.

FINANCIAL IMPLICATIONS

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

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 a Public Information Meeting held on July 29th, 2015. Attachment D contains a copy of the minutes from the meeting. Notices of the Public Information Meeting were posted on the HRM website, in the newspaper and mailed to property owners within the notification area shown on Map 2.

A public hearing must be held by Community Council before they can consider approval of a development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be advised of the public hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposed development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

ENVIRONMENTAL IMPLICATIONS

No environmental implications have been identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed development agreement subject to modifications. This may necessitate further negotiation with the applicant and may require an additional public hearing. A decision of Council to approve the development agreement is appealable to the NS Utility and Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse to approve the development agreement and, in doing so, must provide reasons why the agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

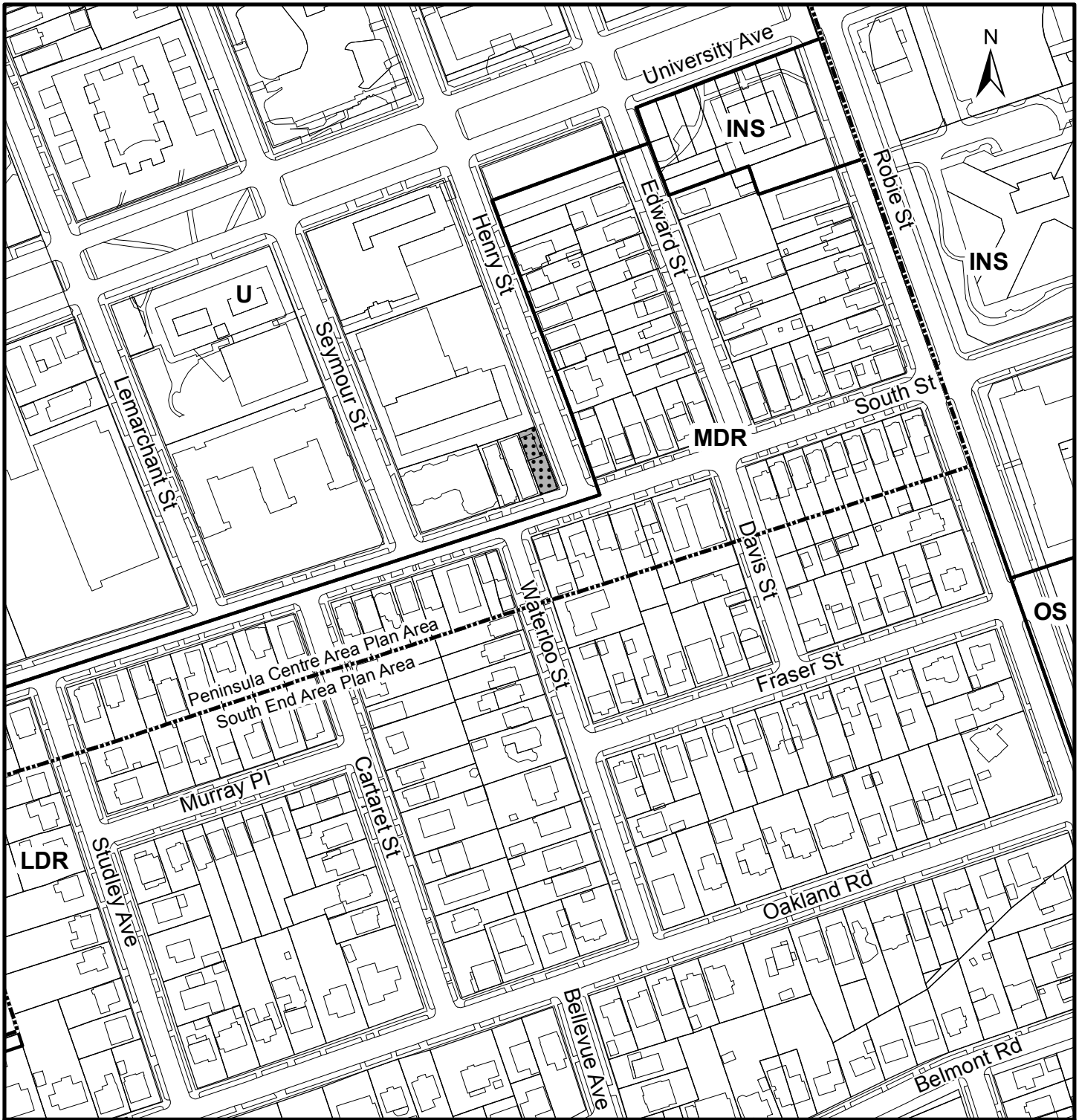
Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Attachment A	Proposed Development Agreement
Attachment B	RC-1 (Neighbourhood Commercial) Zone
Attachment C	Review of Relevant MPS Policies
Attachment D	Minutes from the Public Information Meeting

Report Prepared by: Dali Salih, Planner, Development Approvals, 902.490.1948

Original Signed

Report Approved by: -


Kelly Denty, Manager of Development Approvals, 902-490-4800



Map 1 - Generalized Future Land Use

1210 - 1222 Henry Street
Halifax

HALIFAX

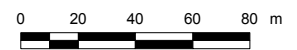
 Subject Property

Designation (Peninsula Centre)

- MDR Medium Density Residential
- INS Institutional
- U University

Designation (South End)

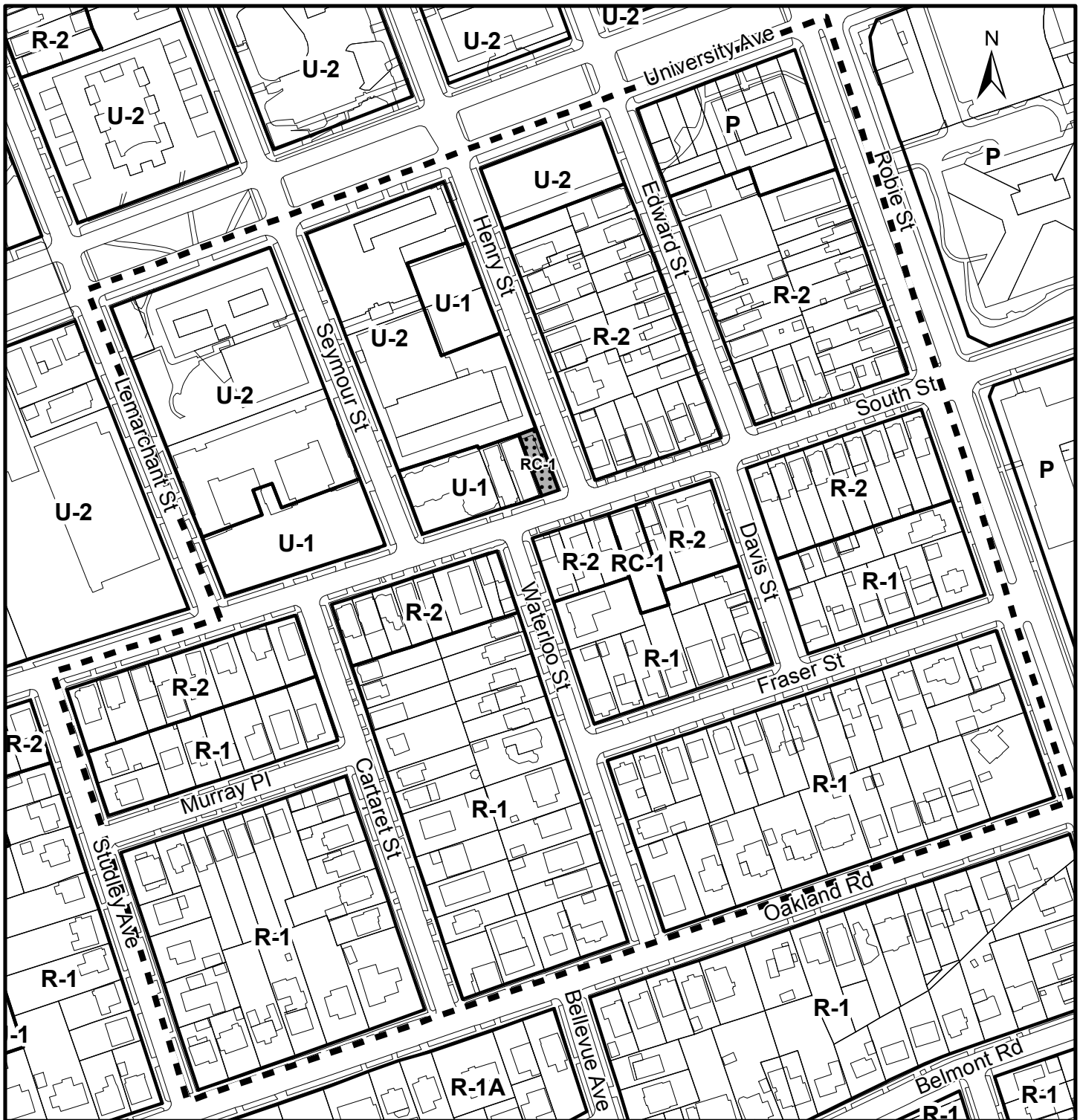
- LDR Low Density Residential
- INS Institutional
- OS Open Space



Halifax Plan Area
Peninsula Centre Area Plan Area

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


The accuracy of any representation on this plan is not guaranteed.




Map 2 - Zoning and Notification

1210 - 1222 Henry Street
Halifax

HALIFAX

 Subject Property

 Area of notification

- Zone**
- R-1 Single Family Dwelling
 - R-1A Single Family Dwelling A
 - R-2 General Residential
 - RC-1 Neighbourhood Commercial
 - P Park and Institutional
 - U-1 Low-Density University
 - U-2 High-Density University



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

The accuracy of any representation on this plan is not guaranteed.

Halifax Peninsula
Land Use By-Law Area

Attachment A
Proposed Development Agreement

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

BETWEEN:

[Insert Developer's name]

an individual, in the Halifax Regional Municipality in the Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 6083 South Street and 1210-1222 Henry Street, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a restaurant on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy 3.14 of the Halifax Municipal Planning Strategy and Section 99(4) of the Halifax Peninsula Land Use By-law;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 19695;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.2 Applicability of Land Use By-law and Subdivision By-law

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Halifax Peninsula and the Regional Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other By-laws, Statutes and Regulations

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

2.2 Definitions Specific to this Agreement

2.2.1 The following words used in this Agreement shall be defined as follows:

- (a) "Building A" means the building on the Lands, fronting on Henry Street, as shown on Schedule B.
- (b) "Building B" means the building on the Lands, on the corner of South Street and Henry Street, as shown on Schedule B.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and **filed in the Halifax Regional Municipality as Case Number 19695**:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Floor and Landscaping Plan
Schedule D	East Elevation Plan (Henry Street)
Schedule E	North Elevation Plan (Interior Lot Line)
Schedule F	South Elevation Plan (South Street)

3.2 Requirements Prior to Approval

- 3.2.1 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement until after a Development Permit has been issued by the Municipality. Upon the issuance of a Development Permit, the Developer shall comply with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.
- 3.2.2 Upon the issuance of an Occupancy Permit, the Developer shall confirm to the Development Officer that the requirements of this Agreement have been met.

3.3 General Description of Land Use

- 3.3.1 The following land uses shall be permitted by this Agreement in relation to Building A only:
 - (a) A restaurant; or
 - (b) Any uses permitted in the RC-1 (Neighbourhood Commercial) Zone, subject to the provisions of the Land Use By-law for Halifax Peninsula, as amended from time to time.
- 3.3.2 Permitted land uses in Building B shall conform to the RC-1 (Neighbourhood Commercial) Zone, subject to the provisions of the Land Use By-law for Halifax Peninsula, as amended from time to time.

3.3.3 The Development Officer may permit unenclosed structures attached to Building A that include and limited to decks, steps, and mobility disabled ramps to be located within the existing front, side and rear yards of Building A, in conformance with the provisions of the Land Use By-law for Halifax Peninsula, as amended from time to time.

3.4 Land Use Requirements

3.4.1 The permitted land uses shall:

- (a) be located on the main level of Building A within a single leasehold space, as shown on Schedule C; and
- (b) have entrance(s) fronting only on Henry Street.

3.5 Hours of Operation

3.5.1 The hours of operation for the restaurant use shall be within the timeframes as follows:

- (a) Sunday to Thursday - 10:00 a.m. – 9:00 p.m.
- (b) Friday and Saturday - 10:00 a.m. – 10:00 p.m.

3.6 Building, Design and Landscaping Requirements

3.6.1 The exterior facades of Building A and Building B shall be renovated to conform with Schedules B through F inclusive. Cladding on the west façade adjacent to 6087 South Street shall also be renovated to match the other facades however no stone veneer shall be required.

3.6.2 The footprint of Building A shall conform with Schedules B and C.

3.6.3 Landscaping shall be provided as shown on Schedule C. Plantings shall comprise a mix of shrubs and trees.

3.7 Subdivision of the Lands

3.7.1 No subdivision of the Lands shall be permitted.

3.8 Parking

3.8.1 No parking shall be required as part of this development.

3.9 Signs

3.9.1 Signs shall be limited to fascia signs, subject to the following:

- (a) there may be one fascia sign on Building A that faces Henry Street;
- (b) such fascia signs shall be located between the ground floor storefront windows and the second storey floor windows and shall be a maximum of 0.46 metres (18 inches) in height and 6.1 metres (20 feet) in width; and
- (c) the signage shall not be backlit.

3.9.2 Awning or canopies shall be permitted, subject to the requirements of the Land Use By-law for Halifax Peninsula and any other applicable by-law, statute or regulation.

3.10 Outdoor Storage

3.10.1 No outdoor storage shall be permitted.

3.11 Outdoor Lighting

3.11.1 Any lighting shall be directed to Building A entrances and walkways and shall be arranged so as to divert the light away from adjacent lots and buildings.

3.12 Waste Receptacles

3.12.1 Waste receptacles shall be located and screened as shown on Schedules B, C and E. A small waste receptacle to be emptied daily shall also be provided adjacent to the entry doors to Building A.

3.13 Maintenance

3.13.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

PART 4: AMENDMENTS

4.1 Non-Substantive Amendments

4.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:

- (a) Changes to the hours of operation as established under Section 3.5;
- (b) The granting of an extension to the date of commencement of construction as identified in Section 5.3.1 of this Agreement; and
- (c) The length of time for the completion of the development as identified in Section 5.5.1 of this Agreement;

4.2 Substantive Amendments

4.2.1 Amendments to any matters not identified under Section 4.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

5.1 Registration

5.1.1 A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

5.2 Subsequent Owners

5.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.

5.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

5.3 Commencement of Development

- 5.3.1 In the event that development on the Lands has not commenced within **two (2)** years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 5.3.2 For the purpose of this section, commencement of development shall mean issuance of a Construction Permit.
- 5.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 5.3.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

5.4 Completion of Development

- 5.4.1 Upon the completion of the whole development or complete phases of the development, Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
 - (b) negotiate a new Agreement;
 - (c) discharge this Agreement; or
 - (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Halifax Peninsula, as may be amended from time to time.

5.5 Discharge of Agreement

- 5.5.1 If the Developer fails to complete the development after **four (4)** years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office, Council may review this Agreement, in whole or in part, and may:
- (a) Retain the Agreement in its present form;
 - (b) Negotiate a new Agreement;
 - (c) Discharge this Agreement; or
 - (d) For those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the applicable Halifax Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.

PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

6.1 Enforcement

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

6.2 Failure to Comply

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer **thirty (30)** days written notice of the failure or default, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

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

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

Witness

Per: _____

MAYOR

Witness

Per: _____

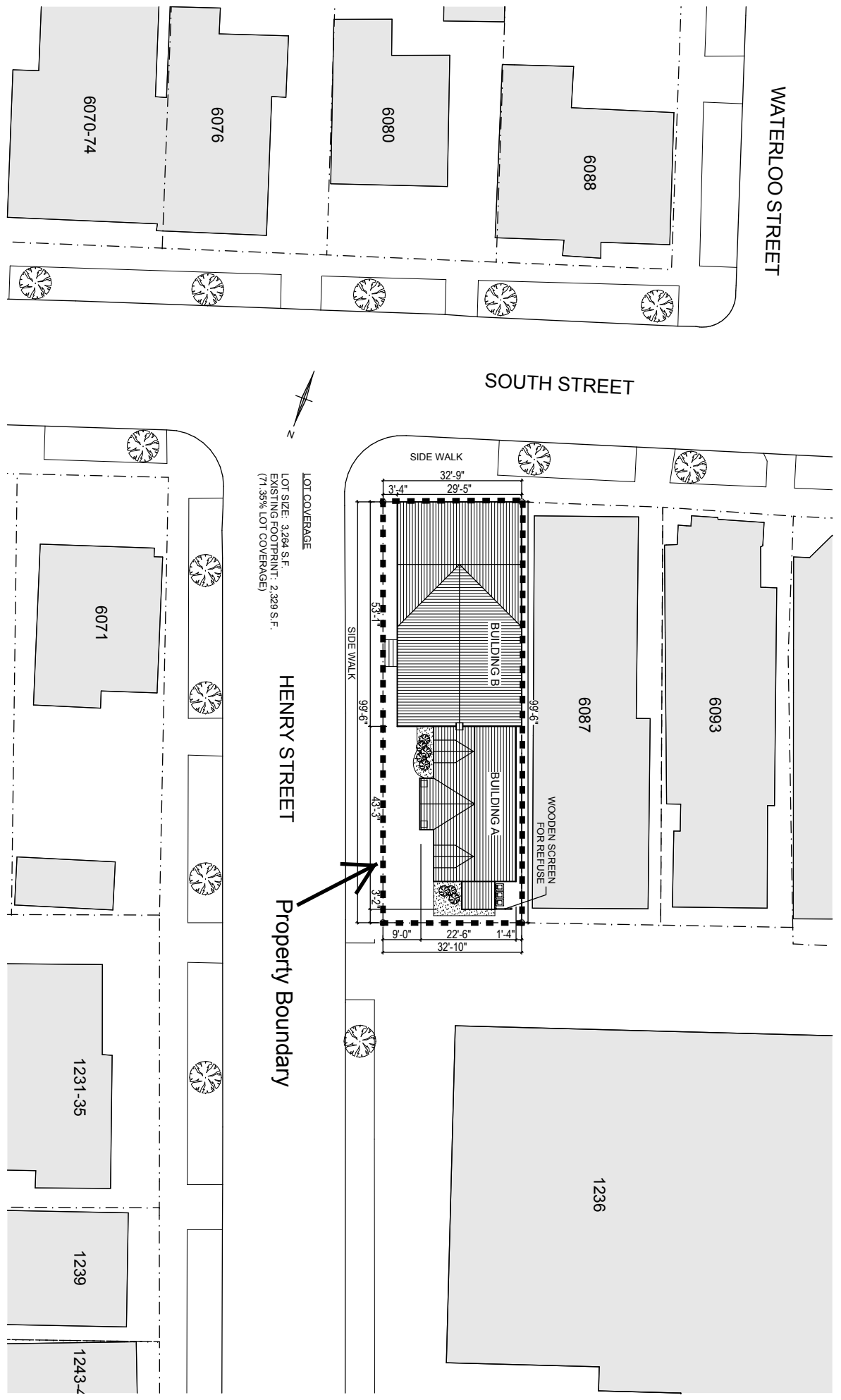
MUNICIPAL CLERK

WATERLOO STREET

SOUTH STREET

HENRY STREET

Property Boundary



GKA

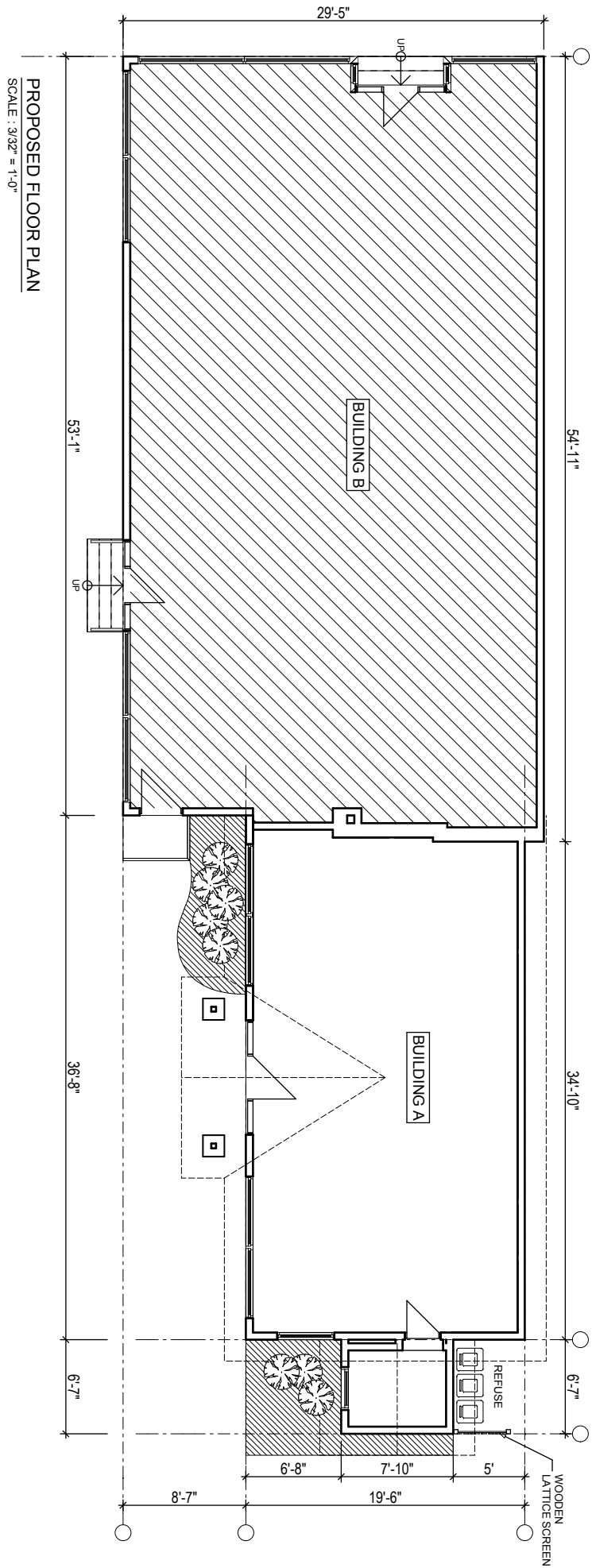
Geoff Keady Architect
 and Associates Ltd.

5357 Inglis Street
 Halifax, Nova Scotia
 B3H 1J4
 902 420 9400
 902 406 6066

SCALE: 1/32"=1'-0"
 DATE: NOV 06, 2015

6083 SOUTH STREET &
 1210-22 HENRY STREET
 HALIFAX, NS

Schedule C - Floor and Landscaping Plan



GKA

Geoff Keady Architect
and Associates Ltd.

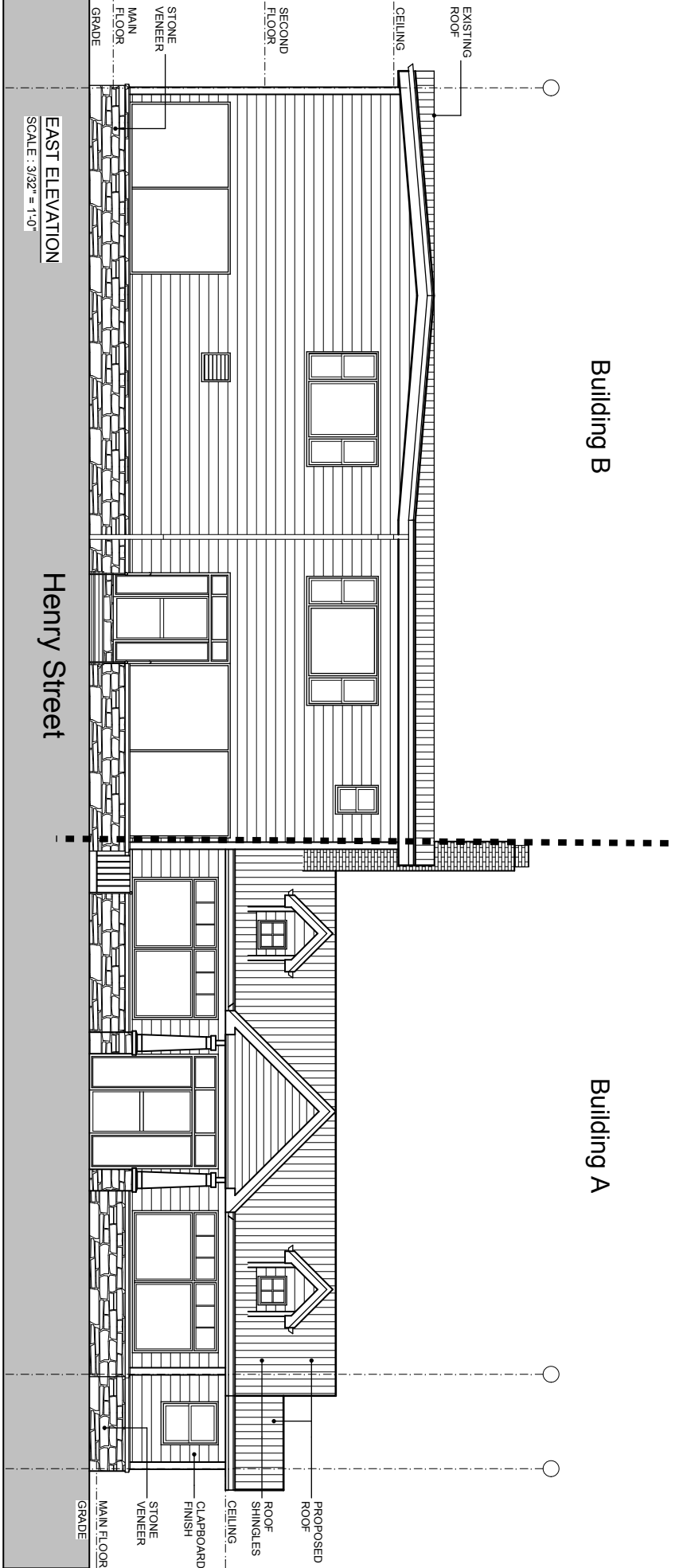
5357 Inglis Street
Halifax, Nova Scotia
B3H 1J4

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902 406 6066

SCALE: 3/32" = 1'-0"
DATE: NOV 06, 2015

6083 SOUTH STREET &
1210-22 HENRY STREET
HALIFAX, NS

Schedule D - East Elevation Plan (Henry Street)



Building B

Building A

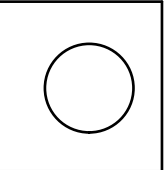
EAST ELEVATION
SCALE: 3/32" = 1'-0"

Henry Street

GKA
Geoff Kaddy Architect
and Associates Ltd.

5357 Inglis Street
Halifax, Nova Scotia
B3H 1J4
902 420 9400
902 406 6056

6083 SOUTH STREET &
1210-22 HENRY STREET
HALIFAX, NS

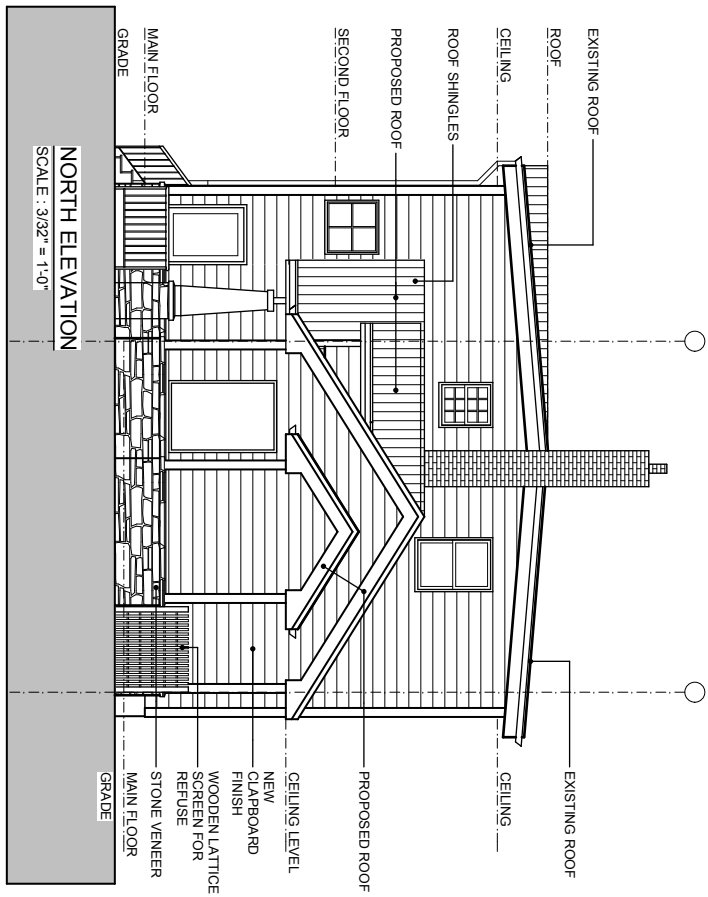


5357 Inglis Street
Halifax, Nova Scotia
B3H 1J4
902 420 9400
902 406 6056

SCALE: 3/32" = 1'-0"
DATE: NOV 06, 2015

6083 SOUTH STREET &
1210-22 HENRY STREET
HALIFAX, NS

Building A



GKA

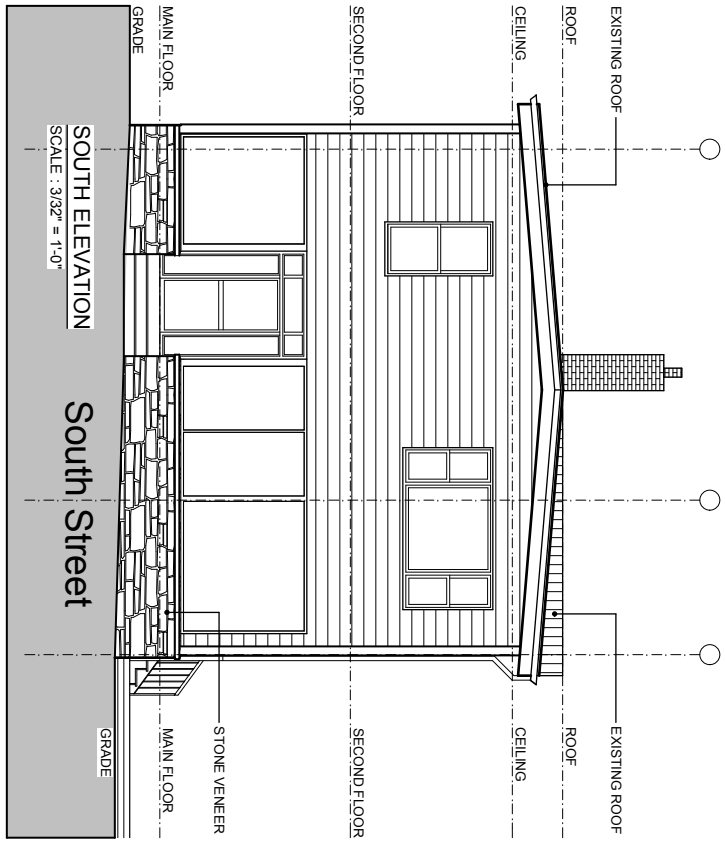
Geoff Keady Architect
and Associates Ltd.

5357 Inglis Street
Halifax, Nova Scotia
B3H 1J4

902 420 9400
902 406 6066

6083 SOUTH STREET &
1210-22 HENRY STREET
HALIFAX, NS

Building B



GKA

Geoff Keady Architect
and Associates Ltd.

5357 Inglis Street
Halifax, Nova Scotia
B3H 1J4

902 420 9400
902 406 6066

SCALE: 3/32"=1'-0"

DATE: NOV 06, 2015

6083 SOUTH STREET &
1210-22 HENRY STREET
HALIFAX, NS

Attachment B

RC-1 NEIGHBOURHOOD COMMERCIAL ZONE

- 48AA(1) The following uses shall be permitted in any RC-1 Zone:
- (a) R-1 and R-2 uses;
 - (b) an apartment house containing not more than four dwelling units excepting that the maximum number of dwelling units is six in the "**South End Area**";
 - (c) a grocery store or drug store;
 - (d) any use accessory to any of the foregoing uses.

48AA(2) No person shall in any RC-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).

48AA(3) No person shall in any RC-1 Zone use or permit to be used any land or building in whole or in part for any purpose other than Subsection (1).

REQUIREMENTS

48AB Buildings erected, altered or used for RC-1 uses in an RC-1 Zone shall comply with the following requisites:

- (a) a minimum lot frontage of 40 feet;
- (b) a minimum lot area of 4,000 square feet;
- (c) a minimum side yard of 4 feet; and
- (d) a maximum height of 35 feet.

SIGNS

48AC Any persons carrying on a business may place upon and parallel to the front of the building a non-illuminated sign board 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.

48AD A building line laid down for adjacent residential buildings shall also apply to those buildings hereafter erected or altered to RC-1 uses.

48AE Buildings erected, altered or used for R-1 and R-2 uses in an RC-1 Zone shall comply with the requirements of the R-1 and R-2 Zones respectively.

48AF The maximum lot coverage shall be 45 percent. Halifax Peninsula Land Use By-law

48AG **Commercial Uses** shall comply with the following:

- (a) Commercial uses shall be restricted to the ground floor;
- (b) Maximum gross commercial floor area of 1,000 square feet for grocery stores;
- (c) Maximum gross commercial floor area of 1,400 square feet for drug stores; and
- (d) Separate exterior access from any access to residential uses.

Attachment C
Review of Relevant MPS Policies

The proposal may be considered by Council through the following applicable policies of the Halifax Municipal Planning Strategy (MPS):

Applicable Policies	Staff Comments
Policy 3.14: Council may, by development agreement, permit a non-conforming use to be changed to another less intensive non-conforming use, or permit the structure in which such a use is located to be altered or expanded, provided that:	
<p>a) the layout and design of the property shall be complementary to the fabric of the neighbourhood, and this shall be achieved through attention to a variety of factors including, but not limited to, the following, on which Council shall specify conditions to be met in the development agreement:</p> <ul style="list-style-type: none"> i) architectural design; ii) the size, location, and landscaping of courts, open spaces, and yards; iii) location of primary and secondary entrances to the building; and iv) size, location, and design of fences. 	<p>The existing buildings will better complement the neighbourhood, as both are to be re-clad which is a positive change. The footprint of each building is to be maintained.</p> <p>Building A will be enhanced through the provision of a pitched roof with dormers.</p> <p>Additional landscaping is to be provided along the Henry Street frontage.</p> <p>The development agreement requires that the entrance to the restaurant use will be from Henry Street.</p>
<p>b) vehicular activity, particularly parking and loading, shall be controlled so as not adversely to affect the neighbourhood in terms of traffic flow and nuisance;</p>	<p>The site does not include any parking although on-street parking is provided along Henry Street. It is anticipated that the majority of the customers will walk to the restaurant.</p>
<p>c) facilities for parking, loading, vehicular access, outdoor display, and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and to ameliorate existing problems, through attention to factors including but not limited to:</p> <ul style="list-style-type: none"> i) location; ii) surface treatment; iii) storm drainage; iv) access from the street; and v) screening, buffering, and landscaping. 	<p>As discussed above there is no vehicular parking included as part of the proposed development. The proposed development agreement does not permit outdoor storage. Storage of waste refusal is to be enclosed at the rear of the building.</p>
<p>d) except where specific benefits to the neighbourhood can be demonstrated, all additions to a building, all off-street parking and loading areas, and all outdoor display and storage areas shall be set back from the street line by the more restrictive of:</p> <ul style="list-style-type: none"> i) the minimum setback of the existing building; ii) the mean setback of the buildings on the adjacent properties on either side; or iii) the minimum setback specified for the zone in which the use is located. 	<p>All parking and loading areas shall be on-street. Outdoor display is not permitted and storage areas are to be enclosed within the building.</p>

<p>e) except where specific benefits to the neighbourhood can be demonstrated, additions to the structures on the property shall not:</p> <ul style="list-style-type: none"> i) further encroach upon the minimum side and rear yards stipulated for the zone in which the property is located; or ii) result in the total lot coverage or building height exceeding the maximum stipulated for the zone in which the property is located; 	<p>A small addition to the rear is permitted to allow for the enclosure of waste and refuse in order to mitigate against unsightliness and odour.</p>
<p>f) any outdoor lighting or sign illumination shall be directed away from, or screened from, adjacent residential properties;</p>	<p>The proposed development agreement requires lighting to be diverted away from adjacent lots and buildings.</p>
<p>g) no bulk refuse containers shall be visible from the street or from the immediate neighbourhood;</p>	<p>The storage of waste refuse is to be accommodated behind Building A, where receptacles will be screened from view by means of fencing.</p>
<p>h) no additional lot area shall be used for outdoor storage, and measures shall be taken to screen any outdoor storage areas from the street and immediate neighbourhood;</p>	<p>The proposed development agreement does not permit outdoor storage.</p>
<p>i) with regard to on-site advertising for commercial or industrial uses:</p> <ul style="list-style-type: none"> i) where the property is located in a residential zone, no additional advertising surface area or illuminated signage shall be added; and ii) in all other cases, such advertising shall not exceed the limits prescribed for the zone in which the property is located. 	<p>The proposed development agreement requires that the signage is similar in size to the signage that was provided for the existing Laundromat.</p>
<p>j) in residential zones, the following additional considerations shall also apply:</p> <ul style="list-style-type: none"> i) there shall be a demonstrable improvement to the neighbourhood; ii) existing conditions resulting in noise, dust, vibration, odour, and emissions shall be required to be ameliorated where these cause a nuisance or hazard; and iii) operating hours shall be restricted to prevent nuisance. 	<ul style="list-style-type: none"> i) The proposed use will add to the mix of smaller scale businesses in the area. During the Public Consultation Session and through correspondence received as part of this application, the community provided positive feedback regarding the proposed café. ii) Through the proposed development agreement all waste/refuse is to be enclosed within a screened area behind Building A. iii) The development agreement restricts the hours of operation to: <ul style="list-style-type: none"> a. 10:00 a.m. – 9:00 p.m. - Sunday to Thursday; and b. 10:00 a.m. – 10:00 p.m. - Friday and Saturday.
<p>k) No subdivision of the lot shall have occurred subsequent to the time of the adoption of this section.</p>	<p>No subdivision has occurred</p>

Attachment D

Public Information Meeting Minutes

Wednesday, July 29, 2015

7:00 p.m.

Dalhousie, Kenneth C. Rowe Building (Room 1011)

STAFF IN

ATTENDANCE:

Dali Salih, Planner, HRM Development Approvals
Cara McFarlane, Planning Controller, HRM Development Approvals
Alden Thurston, Planning Technician, HRM Development Approvals

ALSO IN

ATTENDANCE:

Councillor Waye Mason, District 7
Geoff Keddy, Geoff Keddy Architect & Associates
Jae Hang Kim, Property Owner

PUBLIC IN

ATTENDANCE:

Approximately 12

The meeting commenced at approximately 7:06 p.m.

1. Call to order, purpose of meeting – Dali Salih

Ms. Salih introduced herself as the Planner and Facilitator for the application; Cara McFarlane and Alden Thurston, HRM Development Approvals; Councillor Waye Mason, District 7; and Jae Hang Kim, Property Owner; and Geoff Keddy, the Architect/Applicant, Geoff Keddy Architect & Associates.

Case 19695 is an application by Geoff Keddy Architects & Associates on behalf of the property owner to enter into a development agreement for a non-conforming use to allow for a café or small restaurant at the property located on the corner of Henry Street and South Street in Halifax.

The purpose of the Public Information Meeting (PIM) is to: a) identify that HRM has received a proposal for the site; b) provide information on the project; c) explain the Planning Policies and the stages of the Planning Process; d) an opportunity for the Applicant, in this case the Architect, to present the proposal and answer any questions regarding the application; and e) an opportunity for Staff to receive public feedback regarding the proposal. No decisions are made at this PIM.

2. Overview of planning process – Dali Salih

HRM receives an application; the PIM is held and is the beginning of the process; Staff will include comments from a detailed internal/external review along with public feedback in a Staff Report, in the form of a recommendation, to Halifax and West Community Council (HWCC); HWCC is required to hold a public hearing and make a decision in regards to this application; and, HWCC's decision is subject to an appeal process through the Nova Scotia Utility and Review Board (NSUARB).

3. Presentation of Proposal – Dali Salih

The site is located on the corner of South Street and Henry Street and consists of two buildings, an Asian grocery store (South Street) and what used to be a laundromat (at the rear).

An aerial image of the general area was shown. According to Municipal records, the subject property was developed as a grocery store and laundromat in the 1960s. As the laundromat predated the current Zone and has not been discontinued for a period longer than six continuous months, it is considered a non-conforming use. The application was submitted in the Fall of 2014; therefore, meeting that six-month time period.

The Halifax Municipal Planning Strategy (MPS) has two Secondary Plans: the Peninsula Centre Plan to the north and the South End Plan to the south. Areas designated for Medium Density Residential (MDR) allows a building of up to four units; Low Density Residential (LDR), single unit dwellings are permitted; and Universities (U) permits university uses.

Zoning in the area consists of U-1 (Low Density University) Zone and U-2 (High Density University) Zone (basically higher density), and R-1 (Single Unit Dwelling) Zone and R-2 (General Residential) Zone (medium density allowing up to four units).

There are two properties in the area that are zoned RC-1 and RC-2 (Neighbourhood Commercial) Zone which allows for limited use of Residential/Commercial uses. The uses were listed, the maximum permitted height is 35 feet (approximately three-storeys) and setbacks of developments in the area are regulated under the Halifax Peninsula Land Use By-law (LUB).

A table detailing the uses of the RC-1, R-1 and R-2 Zones were shown. All Zones are limited to 35 feet in height.

A rendering of the proposal that was submitted by the Architect, Geoff Keddy, was shown. The rendering depicts the same building but with changes to the exterior and interior.

Currently, there is an Implementation Policy that allows Council to consider allowing a non-conforming use, the laundromat use, to be converted to a less intensive use. Criteria considered include: layout and design providing amenity and beautification to the area; landscaping and lighting; improvements to the neighbourhood; traffic, site access, parking; and impacts on municipal services. This proposal is permitted by Development Agreement.

4. Presentation of Proposal – Geoff Keddy

The property, in its present condition, is not very attractive and considered an eyesore. This proposal offers the opportunity to allow the owner, with approval by Council, to be able to remedy the situation by fixing the exterior of the building as well do a major overhaul of what was the laundromat. Proposed are a new exterior façade with new windows, colors, traditional dormers and an overall neighbourhood setting with large gables to help improve the streetscape and curb appeal for pedestrians. The sloped roof tends to tie this building into the one situated behind it. As part of the proposal, the landscaping would be improved and a tree would be planted on the property. Mr. Keddy had a copy of the plans for the proposal for viewing.

5. Questions and Comments

Peggy Walt, Edward Street – She asked if the building is one-storey to which **Mr. Keddy** said yes.

Alan Ruffman, Fergusons Cove Road, was in attendance on the request of a resident who is part of the Southend Planning Group. He was pleased that this application was going forward as a Development Agreement because it gives Council and the neighbourhood some controls. Over the past six years there have been too many site specific plan amendments with massive amounts of increased density being approved by Council. He referred to the slide showing the boundary between 6083 South Street and 1210 Henry Street. Are two properties involved with the laundromat or are they single lots, 1210 and 1222 Henry Street? **Ms. Salih** – It is a single lot with two numbers. The property has a residential unit on the top floor giving a second address. Staff is hoping the issue will be corrected through this development agreement process.

Mr. Ruffman – The non-conforming use is only the laundromat. He understands that a non-conforming use would disappear if the property was to burn to the ground, for example, or discontinued use for a period of time. Has the property lost its non-conforming use status? **Ms. Salih** – The application was submitted in the Fall of 2014 which met the timeline for which a non-conforming use was not operating. **Mr. Ruffman** – The application is to change the non-conforming use from that of a laundromat to a small café/restaurant. This is permitted as long as the new use is a less intensive non-conforming use. How does a Planner define less or more intensive? **Ms. Salih** – The definition is open for interpretation depending on the status and the application. In this case, Staff believe that water consumption of a small café/restaurant would be less intensive than that of a laundromat. **Mr. Ruffman** – If this had been an application for a restaurant with an alcohol license, would you have defined that as a less intensive use? **Ms. Salih** – HRM does not regulate liquor licenses. From a land use perspective, the development agreement can state the use of the property (small café/restaurant), the hours of operation, etc. but liquor licenses are regulated by the Provincial Liquor and Gaming Authority. The development agreement can state that lounges are not permitted on the site. It is not the intent of the property owner to serve alcohol.

Mr. Ruffman – Is there access between the grocery store and the old laundromat or is that a solid firewall? **Ms. Salih** – The site plan that was submitted with the proposal shows a firewall between the grocery store and laundromat; therefore, each entity would have its own entrance and address. **Mr. Ruffman** – Could the small café/restaurant be sold separately? **Ms. Salih** – Subdividing the property does not meet the LUB and Subdivision requirements because the lots are too small.

Don Sinclair, Henry Street, is in support of the concept of having a small café/restaurant at that location as he believes it would improve the streetscape from its current state and add some vibrancy to the neighbourhood. What are the intended hours of operation? **Ms. Salih** asked the public what hours of operation they would like to see. **Mr. Sinclair** – 7:00 a.m. is a reasonable starting time. There will be a difference of opinion when discussing the closing time, somewhere between 9:00 p.m. and 11:00 p.m. From his house, he can mostly hear people on the back decks of the houses on that corner.

Mr. Sinclair - If the existing grocery store should decide to close down, could the restaurant become a bigger restaurant? **Ms. Salih** – The property owner is the owner of the entire property; however, the non-conforming status is only for the laundromat. Staff requires a site plan when drafting a development agreement which states where the laundromat is located, the size, etc. This would be the location of the small café/restaurant. Everything else in the existing building would have to meet, or comply with, the requirements of the LUB. Through the development agreement, the use would be restricted to avoid a bigger restaurant.

Arianne Pollet-Brannen, South Street, lives across the street and is concerned that foot traffic of people going to a laundromat is very different than those consuming pizza on Friday nights coming back from the bars. It will become a hangout. She wants to be supportive of the proposal but is tired of looking at the unsightly property, the graffiti that has been there for a long

time and is concerned that the property won't be maintained. Hours of operation will be a big issue. 11:00 p.m. is too late. More noise, garbage and parking on the street will be created. People will be parking at her driveway to run in to buy some food. **Ms. Salih** referred to Noise By-law. HRM will not be able to regulate parking on the premises as the structures occupy 80% of the lot and it is not a new structure; therefore, not requiring a driveway. There will be a clause for hours of operation and property maintenance in the development agreement and the property owner must comply with these conditions.

Ms. Pollet-Brannen - Is the interior of the building going the change? **Ms. Salih** - As part of this application and development agreement, the renovation will be done to the entire building to ensure uniformity.

Allan Cocksedge, South Street – Subject to further clarification on issues mentioned this evening, he believes this is a good proposal that would in fact enhance the community. The design shown tonight is attractive. There will be an increase in foot traffic but not so much in vehicular traffic. 7:00 a.m. to 11:00 p.m. would be good for hours of operation. Mr. Savard's store is currently open from 7:00 a.m. to 10:00 p.m. or 11:00 p.m. and does not generate great congregation of people late at night.

Amy Chen, South Street, likes the proposal and the design but 11:00 p.m. is too late. Some residents have small children.

Shimon Walt, Edward Street, has a lot of respect for Fred and what he does. The rendering of the property and building looks very nice. A small café/restaurant open for breakfast, lunch and dinner (ending at 8:00 p.m. or 9:00 p.m.) would be nice for the neighbourhood. There are some young families in the area and he hopes more move in. The students drink a lot, go to the bars and cause lots of noise and swear. Having a small café/restaurant might cause the students to hang out longer and later at night before going to the bars. There are properties in the area where the police are called quite often due to University students partying and the noise. It is a worry that they will be on the streets more. He doesn't want to see this as another Pizza Corner.

Mr. Walt expressed concern about fire safety with ovens in use and rodents in the area. He is also concerned for if/when Mr. Savard sells his property and who might buy it.

Mr. Walt can't see too many tables in the establishment and sees it as a takeout place rather than sit down restaurant. The residents hope that the small café/restaurant will help the area and not make it worse.

Lukas Pearse, South Street, recently moved to South Street and is enthusiastic about there being some sort of restaurant at that property. He has no great concern with the hours of operation as children tend to sleep through noise. There was a pizza place near to his last place of residence which didn't cause significant problems as long as things are done responsibly and citizens are aware of the rules that the City can enforce. It is possible for businesses and neighbourhoods to happily coexist. 11:00 p.m. is not too late for Halifax's late night culture. It would be nice to be able to grab a bite to eat after a show at the University or Rebecca Cohn without having to go closer to the Downtown. He respects that the longtime neighbours know the dynamics of the area but night businesses don't have to be a problem.

Ms. Walt would like to have a better idea of the type of small café/restaurant this will be and the seating capacity. There are different feelings with different types of restaurants. The rendering is an improvement of the state the property is currently in. There is constantly garbage at the entrance on Henry Street or in the street when it is not garbage day. She is concerned about rodents. Most of the buildings on South Street and Henry Street are rental units with the exception of some single unit dwellings on the corner of South Street and Edward Street. The

house that is directly on the corner of South and Henry Streets is an abandoned house (empty for six or seven years). She has reported it to the Councillor and the City as an unsightly premise. She is concerned that with the house next to that property on Henry Street and the fact that the five houses beyond are student rental units that someone might set fire to the empty house during one of their parties. She is for an earlier closing of the operation, 9:00 p.m. or 10:00 p.m. maximum. **Ms. Salih** asked Ms. Walt to send an email giving the property address (6071 South Street) so it can be forwarded to the Development Officer and Land Use Compliance department.

Mr. Ruffman referred to a Toronto court case when suggesting that a non-conforming use could migrate to the whole building. The Supreme Court of Canada ruled in favour of the applicant. He suggested that Ms. Salih seek advice from HRM's Legal Services on this. He believes that a small café/restaurant will work well in the neighbourhood but the raised concerns need to be addressed.

Councillor Mason did have Compliance look into the situation at 6071 South Street. It is legal to have a house empty. He can have them look at it again but there is no requirement for occupancy. He named some businesses in the area and their hours of operation. There is quite a range and the hours would depend on clientele. Will there be seating inside? Is it a takeaway? Further to that, where is the garbage going to be located. Regular pick up will be needed. **Mr. Keddy** believes the number of interior seats would be limited (maximum of ten) due to the washroom facilities. During the Summer months, two tables with four seats and some umbrellas outside could be accommodated outside. The garbage containers would more than likely be located close to the main entrance, maybe something amongst the landscaping. The existing building has what appears to be a shed as an addition. In front of that is where the compost could be located so it's not visible. **Ms. Salih** – When negotiating the development agreement with the property owner and applicant, it will consist of a site plan that will show exactly where each use is and the main entry point.

Mr. Walt is concerned about security, fire, smells, etc. and knows the City will look into proper codes. Is the garbage being collected and removed from the premises daily or stored until pick up day? **Ms. Salih** will look into that issue a bit more. That can be regulated in the development agreement in terms of wording. **Mr. Cocksedge** believes that with a grocery store, apartment and café/restaurant, a commercial bin will be needed and placed in the back of the building.

Ms. Walt – The situation on Henry Street and the Killam property is a real problem with Summer students and the problem will increase in the Fall. Police are called frequently. She can hear the parties as their properties back onto hers'. Students party on the sidewalk all evening which make some neighbours afraid to walk up and down the street. Anything that worsens this situation will not enhance their neighbourhood.

Mr. Pearse – Similar concerns were felt with the development in his previous neighbourhood around Agricola Street. But the increase in businesses, foot traffic, normal usage of a neighbourhood and the normalizing of people going to the business actually diminishes the sort of antisocial use of the streets. Business developments can have a positive social influence in neighbourhoods especially if the development serves and attracts people in the surrounding neighbourhood instead of the people hanging around in the streets.

Mr. Ruffman – Ten people are going to be able to sit inside? **Fred** – There will be a counter with takeaway.

Fred Saoud, [REDACTED] **South Street**, understands the residents' concerns about garbage and people hanging around, but he will do his best to avoid those issues. He has operated his store for 15 years with no problems. There will be a counter and a couple of tables for people to grab

a slice of, or whole, pizza and have a seat. Liquor will not be served because at least 35 tables are required to obtain a liquor license. He believes the development will be good for the area.

Ms. Chen – What is going in there exactly? **Fred** – At this stage, a pizza/café type of business.

Ms. Salih – The development agreement can state that no lounges are permitted and define what a small restaurant or café is to allow flexibility in the future.

Mr. Cocksedge – Hours of operation should be 10:00 a.m. to 11:00 p.m.

Lisa Underwood, Edward Street, is in principle support of this development but is concerned about the hours of operation. 9:00 p.m. is acceptable, maybe even 10:00 p.m., but 11:00 p.m. is too late.

Ms. Walt – The issues in the neighbourhood will not change; therefore, this development will either make it better or worse. If the Asian grocery store were to close, can that become a non-conforming application to open another restaurant? **Ms. Salih** – The Asian grocery store is a legal land use. **Ms. Walt** – The graffiti was never dealt with and things on the property don't get fixed. **Ms. Salih** – All of those issues would be addressed in the development agreement and the property owner would be required to maintain the property.

6. Closing Comments

Ms. Salih thanked everyone for coming and expressing their comments.

7. Adjournment

The meeting adjourned at approximately 8:26 p.m.