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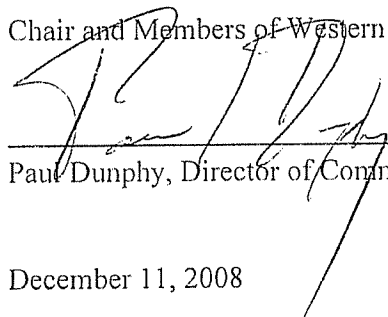


PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Western Region Community Council  
January 26, 2009

**TO:** Chair and Members of Western Region Community Council

**SUBMITTED BY:**

  
\_\_\_\_\_  
Paul Dunphy, Director of Community Development

**DATE:** December 11, 2008

**SUBJECT:** Case 01177: Rezoning of 862 Prospect Road, Goodwood

**ORIGIN**

Application by Mr. Anthony Keizer to rezone 862 Prospect Road from the RB-1 (Residential B-1) zone to the C-2 (General Business) zone.

**RECOMMENDATION**

It is recommended that Western Region Community Council:

1. Give First Reading of the proposed rezoning and schedule a public hearing.
2. Approve the rezoning of 862 Prospect Road (PID 00568113) from the RB-1 (Residential B-1) Zone to the C-2 (General Business) Zone as illustrated in Attachment "A".

## BACKGROUND

The subject property, 862 Prospect Road (PID 00568113), is located on the south side of the Prospect Road approximately 3.5km from Exhibition Park and is zoned RB-1 (Residential B-1) under the Planning District 4 (Prospect) Land Use By-law. The property is 44,741 square feet in area and is occupied by a single building that operates as an auto repair business; a land use that is not permitted within the RB-1 zone.

In 1994, previous owners purchased the property and operated a farmers market. A farmers market is a permitted use in the RB-1 zone. In 2001, Mr. Keizer purchased the property and began operation of an automotive repair business. Automotive repair is not a permitted use in the RB-1 zone and staff are currently pursuing a land use compliance case with regard to that matter. The applicant is requesting a rezoning from the RB-1 (Residential B-1) zone to the C-2 (General Business) zone in an effort to authorize the business.

## DISCUSSION

### **Designation and Zoning**

The property is flanked on one side by a property zoned I-1 (Light Industry) and another RB-1 zoned property. The land use designation is Residential B in the Planning District 4 (Prospect) MPS (Map 2). The property is located 0.5 km from the Goodwood Industrial Park and this area along the Prospect Road contains a mix of commercial, light industrial and residential uses.

### **MPS Policy**

A rezoning of the property can be considered by Council according to Policy RB-9 of the MPS. In considering a rezoning to the C-2 (General Business) zone, Council shall have regard for the architectural compatibility, traffic impacts, and considerations regarding site suitability and servicing as specified in implementation policy IM-11.

### **Architectural Compatibility**

The property is occupied by a single storey, pitched roof, wood framed and clad building which is both compatible in style and scale with the existing residential and commercial buildings in the immediate area.

### **Traffic**

The property is operating as an existing commercial use with existing driveway access to the Prospect Road, a provincial trunk highway (#333). The driveway access onto a provincial highway is regulated by the province under the *Nova Scotia Public Highways Act*. The NS Department of Transportation and Infrastructure Renewal have checked the sight distance for safe stopping at this location and have determined that it does meet their requirements.

### **Implementation Policy**

Policy IM-11 (Attachment "B") concerns several issues regarding site suitability and the Municipality's ability to accommodate the proposed rezoning. The property is currently serviced by an on-site septic system and well, contains no historic features, and does not contain watercourses, wetlands, steep grades, or geological conditions that would negatively effect site suitability.

### **Zone Requirements**

In order to address compatibility concerns, the LUB includes requirements in the C-2 (General Business) zone that control commercial open storage and outdoor display, the location and screening of refuse containers, parking and signage and provision of screening between commercial uses and abutting residential properties. Staff's review of the operation indicates that it would meet the requirements of the C-2 zone.

### **Public Information Meeting**

A Public Information Meeting for this application was held on November 12, 2008. Minutes of this meeting are provided as Attachment "D" of this report.

The proposed rezoning satisfies the applicable policies (RB-9, IM-11) of the Prospect MPS (Attachment "B"). As such, it is recommended that Western Region 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.

### **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. This is the recommended course of action.
2. Alternatively, Council may choose to reject the proposed rezoning. The applicant would be required to cease operation of the commercial uses of the property.

ATTACHMENTS

Map 1	Zoning and Area of Notification
Map 2	Generalized Future Land Use
Attachment "A"	Amendments to the Land Use By-law for Planning District 4
Attachment "B"	Excerpts from the Planning District 4 MPS
Attachment "C"	Excerpts from the Planning District 4 LUB
Attachment "D"	Minutes from the November 12, 2008 Public Information Meeting

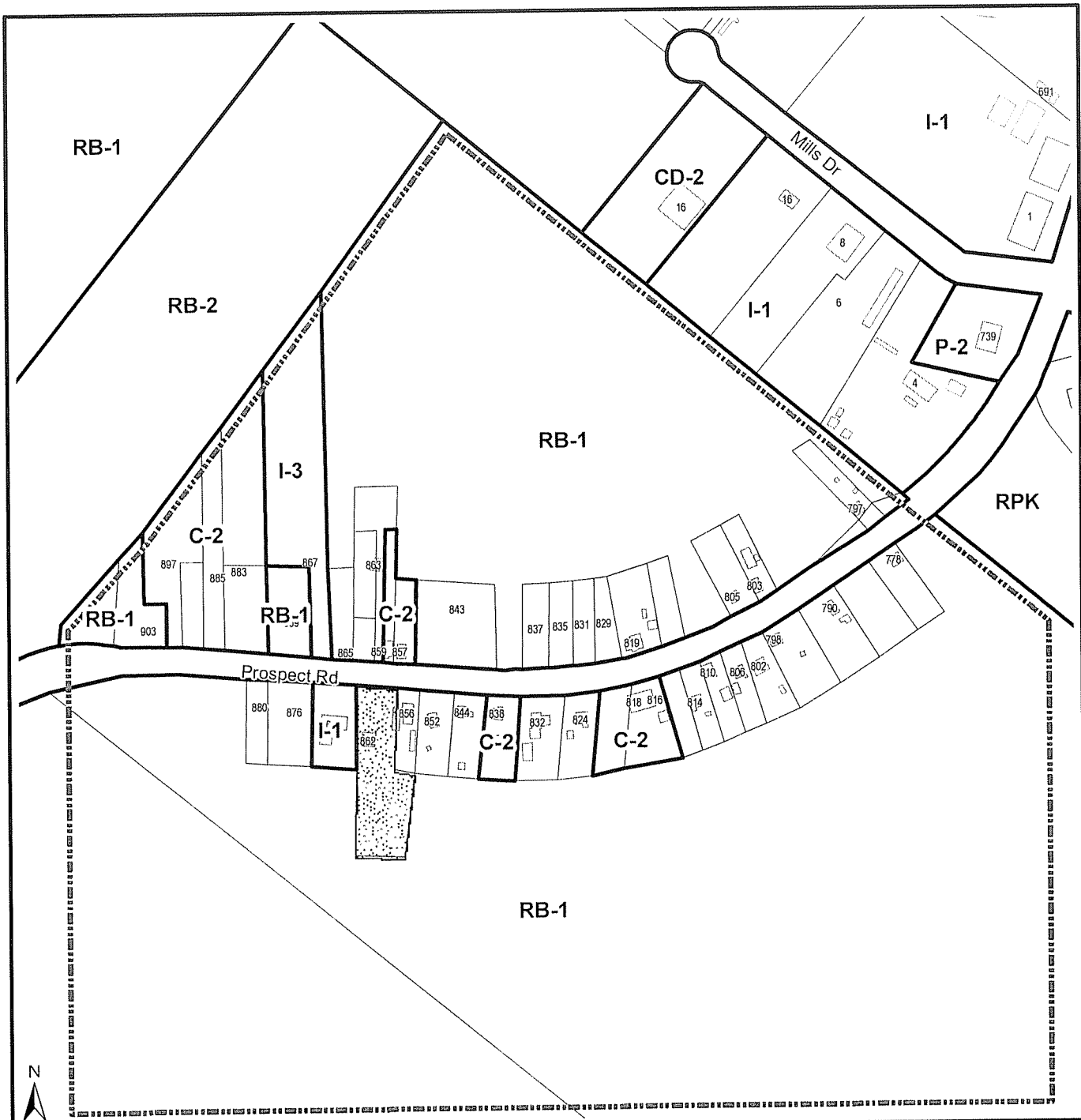
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Brian White, Planner I, 490-4793

Report Approved by:



Austin French, Manager, Planning Services, 490-6717



**Map 1 - Location and Zoning**

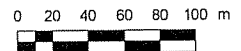
862 Prospect Road  
Goodwood

**Zone**

- RB-1 Residential B-1
- RB-2 Residential B-2
- C-2 General Business
- I-1 Light Industry
- I-3 Local Service
- P-2 Community Facility
- RPK Regional Park
- CD-2 C&D Materials Processing Facilities

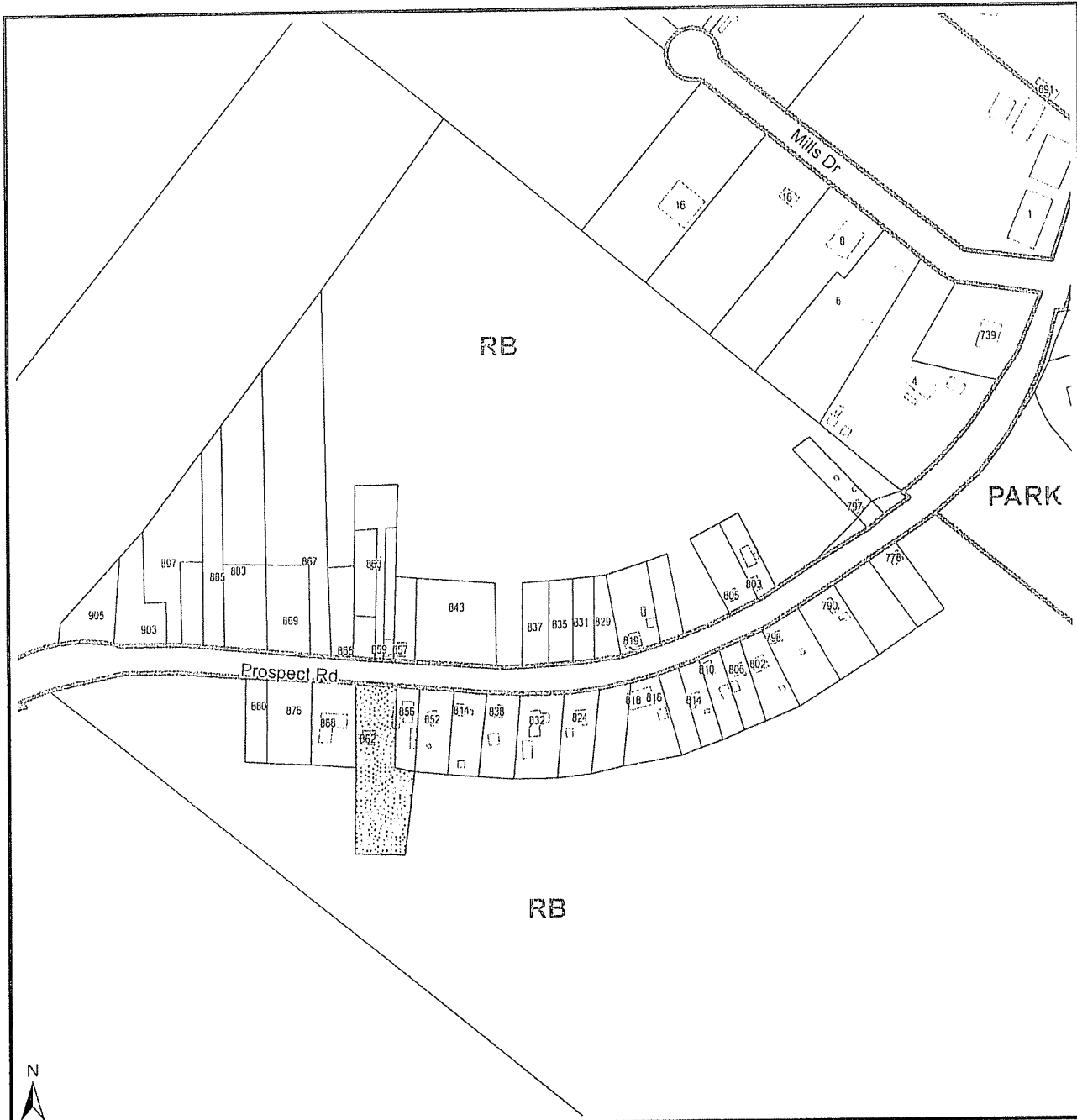
- Subject area
- Area of notification

Planning District 4  
(Prospect) Plan Area



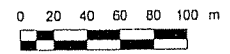
This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated


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



**Map 2 - Generalized Future Land Use**

862 Prospect Road  
Goodwood



 Subject area

**Designation**

RB Residential "B"  
PARK Park

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

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Planning District 4  
(Prospect) Plan Area

Attachment "A"  
Amendment to the Land Use By-law for Planning District 4

BE IT ENACTED by the Western Region Community Council of the Halifax Regional Municipality that the Land Use Bylaw for Planning District 4 as enacted by the Halifax County Municipality on the 12<sup>th</sup> day of December, 1994 which includes all amendments thereto which have been approved by the Municipality and are in effect as of the 23rd day of August, 2008, is hereby further amended as follows:

1. The Zoning Schedules of the Land Use By-law shall be amended as shown in the attached Schedule "A".

I HEREBY CERTIFY that the amendment to the Land Use By-law for Planning District 4 as set out above, was passed by a majority vote of the Western Region 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.

\_\_\_\_\_  
Julia Horncastle  
Acting Municipal Clerk



**Schedule A**

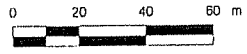
862 Prospect Road  
Goodwood

 Area to be rezoned from  
RB-1 (Residential B-1)  
to C-2 (General Business)

Planning District 4  
(Prospect) Plan Area

**Zone**

- RB-1 Residential B-1
- RB-2 Residential B-2
- C-2 General Business
- I-1 Light Industry
- I-3 Local Service
- P-2 Community Facility
- RPK Regional Park
- CD-2 C&D Materials Processing Facilities



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

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**Attachment "B"**  
**Excerpts from the Planning District 4 (Prospect) MPS**

*At present, there are numerous commercial outlets located along Highway No. 333 which supply goods and services to residents throughout Planning District 4. This main transportation artery provides convenient access to commuters who travel this route daily. While it is the desire of the residents to provide for the continued development of commercial outlets within the Residential B Designation, it is also recognized that these developments must co-exist with the existing and future residential land uses. In order to minimize future land use conflicts, new commercial developments which are limited in size and type may be considered by amendment to the land use by-law. Existing commercial outlets which have been operating with minimal conflict with adjacent or nearby land uses shall be permitted to extend throughout the entirety of existing structures located on properties identified within the land use by-law, should the floor area exceed the present size limitation.*

RB-9 Notwithstanding Policy RB-2 or Policy RB-4, within the Residential B Designation, it shall be the intention of Council to establish a general business zone which permits the development of general commercial uses, excluding service stations, motels and entertainment uses, up to a maximum floor area of ten (10) percent of the lot area. In order to address compatibility concerns, this zone shall place controls on open storage and outdoor display, the location and screening of refuse containers, parking and signage and require screening from existing and future residential developments. This zone shall be applied to existing commercial uses located throughout all of Planning District 4 and special provisions will be made to permit the increased use of existing structures located on lots listed in Sections 26.5 and 26.6 of the land use by-law. In considering amendments to the land use by-law, for new commercial uses, within the Residential B Designation, Council shall have regard to the following:

- (a) that the architectural design (external appearance) and scale of any building is compatible with nearby land uses; and
- (b) the impact of the proposed use on the existing road network in terms of traffic generation and vehicular and pedestrian safety; and
- (c) the provisions of Policy IM-11.

IM-11 In considering development agreements or amendments to the land use bylaw, in addition to all other criteria as set out in various policies of this Planning Strategy, Council shall have appropriate regard to the following matters:

- (a) that the proposal is in conformity with the intent of this Planning Strategy and with the requirements of all other municipal by-laws and regulations;
- (b) that the proposal is not premature or inappropriate by reason of:

- (i) the financial capability of the Municipality to absorb any costs relating to the development;
  - (ii) the adequacy of on-site sewerage and water services;
  - (iii) the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;
  - (iv) the adequacy of road networks leading to or within the development; and
  - (v) the potential for damage to or for destruction of designated historic buildings and sites.
- (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
- (i) type of use;
  - (ii) height, bulk and lot coverage of any proposed building;
  - (iii) traffic generation, access to and egress from the site, and parking;
  - (iv) open storage;
  - (v) signs; and
  - (vi) any other relevant matter of planning concern.
- (d) that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.
- (e) **Within any designation, where a holding zone has been established pursuant to “Infrastructure Charges - Policy IC-6”, Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the “Infrastructure Charges” Policies of this MPS. (RC-July 2, 2002 / E-August 17, 2002)**

Attachment "C"  
Excerpts from the Planning District 4 (Prospect) Land Use By-law

PART 26: C-2 (GENERAL BUSINESS) ZONE

26.1 C-2 USES PERMITTED

No development permit shall be issued in any C-2 (General Business) Zone except for the following:

Commercial Uses

Bed and breakfast outlets  
Banks and financial institutions  
Retail stores  
Personal service shops  
Offices  
Commercial schools  
Restaurants, drive-inns, take-outs and mobile canteens  
Parking lots  
Funeral parlours  
Medical, dental and veterinary clinics  
Service shops  
Automotive repair outlets  
Athletic, sports and health clubs  
Greenhouses and nurseries  
Outdoor display courts  
Building supply outlets  
Light equipment sales and rentals  
Marinas and boat yards  
**Marine service industries (WRCC-Sept27/95, E-Oct21/95)**

Residential uses

Residential dwellings containing up to two dwelling units

Other Uses

All existing dwellings including the existing 4 unit dwelling on LIMS No. 40430209  
All existing businesses

26.2 C-2 ZONE REQUIREMENTS

In any C-2 Zone, where uses are permitted in accordance with Section 26.2, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	20,000 square feet (1858.1 m <sup>2</sup> )
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear Yard or Side Yard	15 feet (4.6 m)
Maximum Height of Main Building	35 feet (10.7 m)

26.3 OTHER REQUIREMENTS: COMMERCIAL USES

Where uses are permitted as commercial uses in a C-2 Zone, the following shall apply:

- (a) The gross floor area of the commercial use shall not exceed ten (10) percent of the lot area.
- (b) Any area devoted to open storage shall not exceed fifty (50) percent of the lot area.
- (c) No outdoor storage or display shall be permitted within any required yard except as permitted within clause (e).
- (d) Any area devoted to outdoor display shall be not exceed twenty-five (25) percent of the lot area.
- (e) That any display areas shall be set back a minimum of ten (10) feet (3.0 m) from the street line.
- (f) That all commercial refuse containers shall be located beside or behind the building which it serves, subject to servicing constraints.
- (g) That all commercial refuse containers shall be enclosed by an effective visual screen so as to not be visible from the street and/or highway and from adjacent properties.

26.4 OTHER REQUIREMENTS: COMMERCIAL USES ABUTTING RESIDENTIAL USES OR VACANT LOT

Notwithstanding the provisions of Section 26.2, within a C-2 Zone, where any commercial use abuts any residential use and/or vacant lot(s), the following shall apply:

- (a) The side yard which abuts residential use(s) and/or vacant lot(s) shall consist of the greater of fifteen (15) feet (4.6 m) or five (5) percent of the lot frontage.
- (b) The rear yard which abuts residential use(s) and/or vacant lot(s) shall consist of the greater of fifteen (15) feet (4.6 m) or five (5) percent of the minimum lot depth.
- (c) No parking or driving aisles shall be permitted within the required side and/or rear yard which abuts a residential use(s) and/or vacant lot(s).
- (d) An effective landscaped barrier shall be provided throughout the required rear and/or side yard which abuts a residential use(s) and/or vacant lot(s). This barrier shall consist of either existing vegetation, newly established vegetation or a combination thereof, so long as it provides an effective visual screen.

26.5 EXEMPTION: EXISTING COMMERCIAL USES

Where any existing business zoned C-2 on the effective date of this by-law (as listed in Section 26.6), exceeds the commercial floor area permitted in Section 25.3 clause (a) any use permitted within the C-2 Zone may extend throughout the entirety of the structure in which it was located on the effective date of this by-law.

26.6 EXISTING COMMERCIAL USES

<u>Business Name</u>	<u>LIMS Index Number</u>
1. Harry Mitchel Sales	568071
2. Carl Lawrence TV Repair	40415671, 404722
3. Helen's Paint Box and Gary's Wood Yard	655688
4. Hatchet Lake Esso	380311
5. Community Medical Centre and Pharmacy	380097
6. Ritchies Tire Shop and Hants	381772
7. Urban Shell Service	381335
8. Tammy's Salon	40537268
9. Holts Take-Out	380204
10. Whites Lake Smart Cart	377861
11. Petro Can Station	377291
12. Pats Place	380246

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13.	Kathy's Salon	378661
14.	AB Chance/Inn Joy Tea Room	377234
15.	Dr. McEvoy/Dentist	592568
16.	B.J. Settlers	40236895
17.	Bayside Irving and Grocery	40264681, 40064206
18.	Buddy's Canteen	386896
19.	Perry's General Store	384560
20.	Brophy's Bakery	387100
21.	Terry LeBlanc/Commercial Safety and Auto Glass Limited	404855
22.	Michael Price/K&T Hairstyling	491266
23.	Woodcrest Developments	40430209
24.	Gert Lenckersdorfer	40063992
25.	Bay Landing\Kwikway	40039265
26.	Jack Coolen Marina	570697
27.	Whites Lake Motorcycle	378661
28.	Richard Sampson	40484, 485516
29.	Hatchet Lake Takeout	380097
30.	William Jardine	40547549
31.	Russell Hazeldon	40066920
32.	Louise's Takeout	40067068
33.	Dover Sea Side Cottages, Ice Cream Stand, and Folk Art/Antique Store	40066730 40183170
34.	Big Lake Restaurant	40629792
35.	Triple A. Grocery	381665
36.	Abbies Restaurant and Associated Structures on the Lands of Linda Warden	40070179 377523

**Attachment "D"**  
**Public Information Meeting**  
**Case 01177**  
**November 12, 2008 Prospect Road Elementary (Library)**

STAFF IN ATTENDANCE: Mackenzie Stonehocker, Planner  
Brian White, Planner  
Jennifer Little, Planning Controller  
Councillor Reg Rankin, District 22  
Anthony Keizer, (Applicant) Dartmouth

PUBLIC IN ATTENDANCE: 17

The meeting commenced at approximately 7:08 p.m.

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

Ms. MacKenzie Stonehocker, Planner, Planning Applications, called the meeting to order at approximately 7:08 p.m. in the Prospect Road Elementary School, Library.

Ms. Stonehocker advised that the application is to rezone 862 Prospect Road from RB-1 (Residential B-1) zone to C-2 (General Business) zone, Goodwood. She at this time introduced Councillor Reg Rankin, District 22; Brian White, Planner; Jennifer Little, Planning Controller and the applicant Mr. Tony Keizer.

**Overview of planning process**

Ms. Stonehocker reviewed the application process, noting that the public information meeting is an initial step, whereby HRM reviews and identifies the scope of the application and seeks input from the neighborhood. After this meeting staff will prepare a report which will be brought forward to Community Council which will hold a public hearing at a later date, prior to making a decision on the proposed agreement. If Community Council decides to proceed, they will set a Public Hearing date. Notification of this hearing will be advertised in the Chronicle Herald two consecutive Saturday's prior to the meeting. The public hearing is a formal opportunity for any member of the public to speak for or against the proposal before Council makes a decision to accept or reject the proposal. After the decision is made, there is a 14 day appeal period.

Ms. Stonehocker reviewed slides showing pictures of the subject property. She reviewed the zoning, showing the general context of the property and all of the surrounding zones that are around it. She explained that Mr. Keizer's automotive business already exists and prior to ownership the previous owners also had commercial uses. Since Mr. Keizer is in a residential zone, commercial uses are not confirming. However, rezoning to a commercial zone is supported in this area.

Mr. Keizer explained that he has resided at 862 Prospect Road for six years and was unaware that the zoning did not allow for a commercial business. He had bought the property under the understanding that the land allowed for his business since there had been some form of business operating at this property for a number of years in the past. He also added that he has been paying commercial tax on the property as well. He expressed his interest in the rezoning to correct the error.

Ms. Stonehocker explained that if the property was rezoned to C-2 General Business, the rezoning would stay with the property if Mr. Keizer chose to sell in the future. She reviewed the other permitted uses allowed under this zone.

### Questions/Comments

Mr. Thomas A. Young, West Dover, explained that he was a member of the Public Participation Committee for Planning District 4, County of Halifax, who designed the Municipal Planning Strategy. He noted that it is his understanding that Goodwood was zoned as a light industrial commercial I-1, I-2 and I-3 zone and wanted to be put on the record that the Residential B-1 zone is incorrect. He requested that Mr. Keizer be reimbursed his application fees. Ms. Stonehocker assured the residence that she would look into his concern and will advise Mr. Keizer and Mr. Young of the outcome. It was noted that if the zone is in error, Mr. Keizer would be reimbursed his application fees.

Mr. Fred Walsh explained that he has been a resident on the Prospect Road for the past 25 years and explained that there had been a business at this property for as long as he was a resident and addressed concern as to why this was being brought forward now.

Ms. Stonehocker explained that the zoning maps show this property as being residential zone therefore, a re-zoning process would need to be completed.

A lady in attendance asked if the previous owners had been operating their businesses illegal as well.

Mr. Young continued to explain the planner's intention when creating the Municipal Planning Strategy.

Councillor Rankin explained that there may be a possibility that there is an error in the documents. Staff will look further into this and if it shows to be an error the applicant will be reimbursed the applications fees.

Mr. Brian White, Planner agreed with Council Rankin and added that if there was a mistake this public information meeting is the proper process that would be followed regardless.

Mr. Joseph Hazelden explained his past experience with an error in the mapping regarding his parents home. He also expressed his concern with the notification process to the surrounding residents regarding the rezoning notifications and explained that some residents do not read the newspaper.



Ms. Stonehocker explained that a notification letter was sent to residents that live within the surrounding area of 300 feet. Mr. White added that the legal radius is 300 feet but, staff usually expand this range. Some discussion was held regarding the lack of communication for the Prospect Road area and requested that notifications be placed in the Resource Opportunity Centre (ROC) Publication or to distribute notifications to a wider radius.

Mr. Russ Hazelden explained that he had participated as a volunteer for the District 4 planning process in 1993 and 1994. He has retained all paper work from that time and expressed concern of the process. He added that this is a house keeping issue that should be approved as soon as possible.

Mr. Bob Dooley owes a business next door to the applicant. He explained that both himself and Mr. Keizer bought the properties approximately at the same time under the assumption that they could operate a commercial business. He has reviewed his zoning and confirmed that it was zoned for his business but, has concern for Mr. Keizer that he has to go through this process.

Councillor Rankin explained that it is also the responsibility of the buyers and their Lawyers to review the designation of the land before finalizing the purchase of the land. Some discussion was held on the difference between having a commercial zone and paying taxes on a commercial business.

Jason Tufts questioned who will pay for the correction.

Ms. Stonehocker explained that if the zoning is incorrect and Mr. Keizer does not need to follow through with a rezoning application, HRM will reimburse him for his fees. However, if the zoning is correct then the rezoning process will need to be continued and the standard fees will be paid by the applicant.

Mr. Ron Blackburn asked if the Planner could explain the definition of a Light Industry zoning.

Ms. Stonehocker explained that this application is to rezone to allow for a Commercial zone. She reviewed slides of the different zoning surrounding the area.

Councillor Rankin explained that the Landfill is zoned Light Industry.

Ms. Karen Hazeldon questioned how HRM found out that Mr. Keizer's land was zoned differently than what it should have been.

Mr. Keizer explained that a By-Law Enforcement Officer stopped by because they had received a complaint regarding his property. After some review they had discovered that the zoning did not allow for his commercial business.

Some of the residents explained that Mr. Keizer's Automotive Business is always kept tidy and is never unsightly. Mr. Keizer assured that he makes high efforts in keeping things tidy.

A Gentleman expressed concern of the Automobile shop being closed.

Councillor Rankin requested a copy of the staff report.

Ms. Tufts questioned what is the decision was based on when rezoning a property.

Ms. Stonehocker explained that staff will evaluate and review to see if the requested zoning is compatible with the surrounding land uses, traffic studies are reviewed and to ensure that the property meets the requirements of the zone (ie., size). She added that Mr. Keizer meets all requirements for this rezoning.

Ms. Tufts noted that their property is zoned commercial but does not meet the requirements. Ms. Stonehocker explained that their property would be an existing undersized lot and would be grand-fathered. It was explained that being 'grand fathered' has to do with the date of the Municipal Plan.

Mr. Tufts asked why there are different zoning requirements for different areas.

Ms. Stonehocker explained that HRM has 21 Land Use By-Laws that all have different requirements.

Some discussion was held regarding issues with the by-law as well as some discussion regarding the tax rates and how they are determined.

### **Closing comments**

Ms. Stonehocker thanked everyone for coming to the meeting and expressing their comments and concerns.

### **Adjournment**

The meeting adjourned at approximately 7:50 p.m.