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MEMORANDUM

TO: Chair and Members of Districts 7 and 8 Planning Advisory Committee

FROM: Dali Salih, Planner, HRM Development Approvals

DATE: September 21, 2015

SUBJECT: Case 19695: Application by Geoff Keddy Architects, Geoff Keddy Architects, on behalf of the property owner, to enter into a Development Agreement for a non-conforming use that enables converting a laundromat to a café/small restaurant at 1210-22 Henry Street, Halifax.

Background:

A request has been submitted by Geoff Keddy Architect and Associates, on behalf of the property owner, to change the current laundromat use to a café use at the property located on the corner of South Street and Henry Street, Halifax. As the café use is not permitted in the current zone, the property owner has made an application to enter into a development agreement to allow the change in use from the laundromat to a café.

Location and Surrounding Area:

The subject site is:

- located on the corner of South Street and Henry Street (Map 1);
- approximately 259 square metres (2,788 square feet) in area;
- currently comprised of two buildings
- surrounded by university uses, low and medium density residential uses and minor commercial uses (Map 1).

Designation and Zoning:

The subject site is:

- designated 'University' under the Peninsula Centre Secondary Planning Strategy (PCSPS) and the Halifax Municipal Planning Strategy (MPS) (Map 1); and
- zoned RC-1 (Neighbourhood Commercial) under the Halifax Peninsula Land Use By-law (LUB), which allows for a mixture of residential and commercial uses (Map 2).

Non-Conforming Use and Enabling Policy

Although the RC-1 Zone does not permit commercial uses such as a laundromat, the subject property was developed as a laundromat and residential unit in 1960s prior to the application of the RC-1 Zone on the property. As such, the laundromat is considered a non-conforming use. As a non-conforming use, the

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laundromat use is permitted to continue, provided that the use is not discontinued for a period of longer than six continuous months.

Generally, a non-conforming use may not be changed to another use that is not permitted within the zone in which the property is located. However, Implementation Policy 3.14 of the Halifax MPS allows the consideration for change in use that is not permitted in the current zone, as long as the use can be considered less intensive than the non-conforming use (Attachment C).

Public Meeting:

The level of community engagement was consultation, achieved through a Public Information Meeting (PIM) held on July 29, 2015.

Input Sought from the Committee:

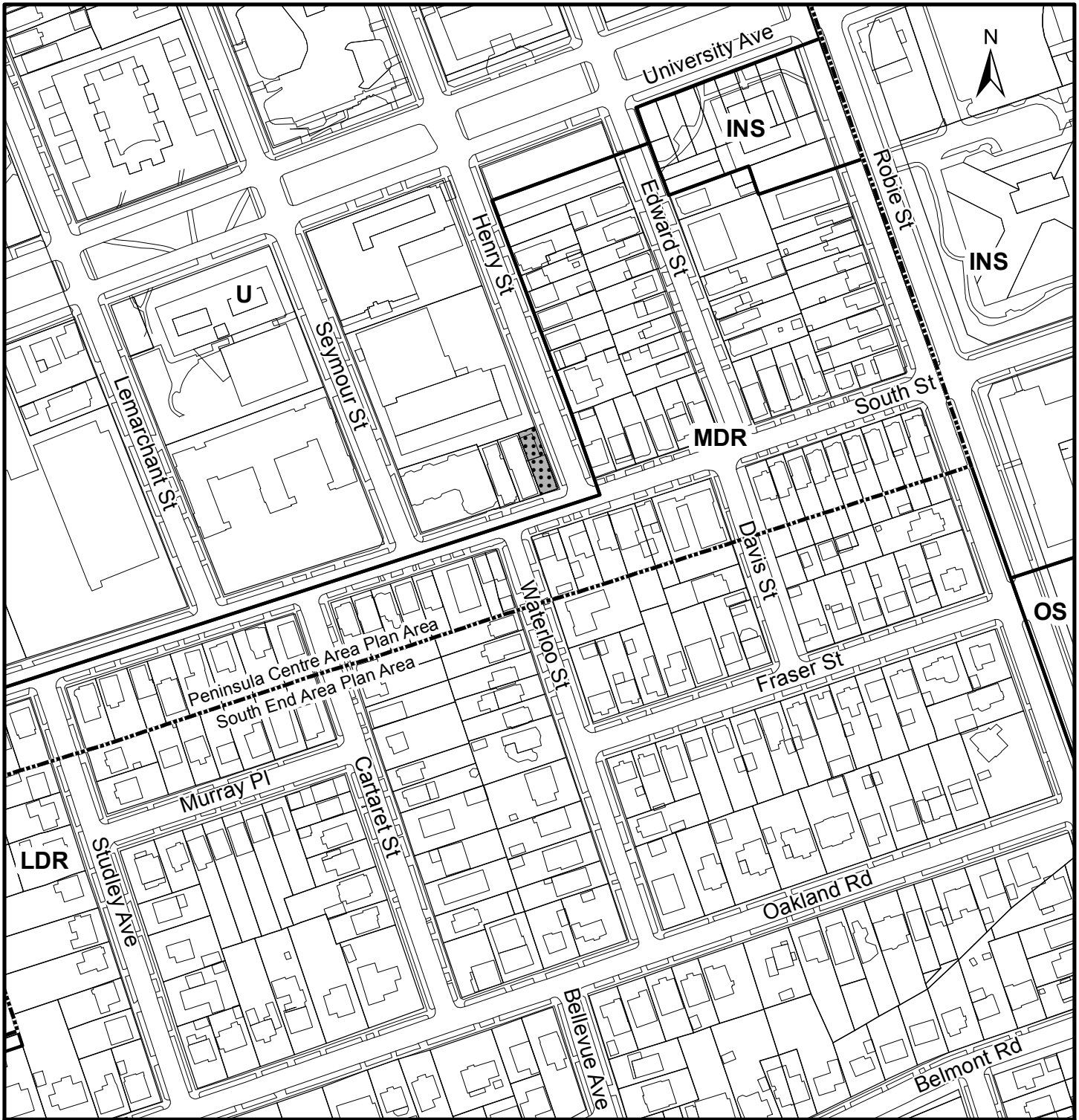
As such, pursuant to the Committee's Terms of Reference, feedback is sought from the Committee relative to the following:

- the acceptability of the proposal;
- considerations of the proposal on basis of its site and surroundings; and
- elements and provisions to be included in the development agreement.

It should be noted that PAC's recommendations will be included in the Staff Report to Halifax and West Community Council.

Attachments:


Map 1	Generalized Future Land Use
Map 2	Zoning
Attachment A	Conceptual Building 3D Rendering
Attachment B	Public Information Meeting Minutes – July 29, 2015
Attachment C	Implementation Policy 3.14 of the Halifax MPS



Map 1 - Generalized Future Land Use

1210 - 1222 Henry Street
Halifax

HALIFAX

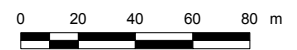
 Subject Property

Designation (Peninsula Centre)

- MDR Medium Density Residential
- INS Institutional
- U University

Designation (South End)

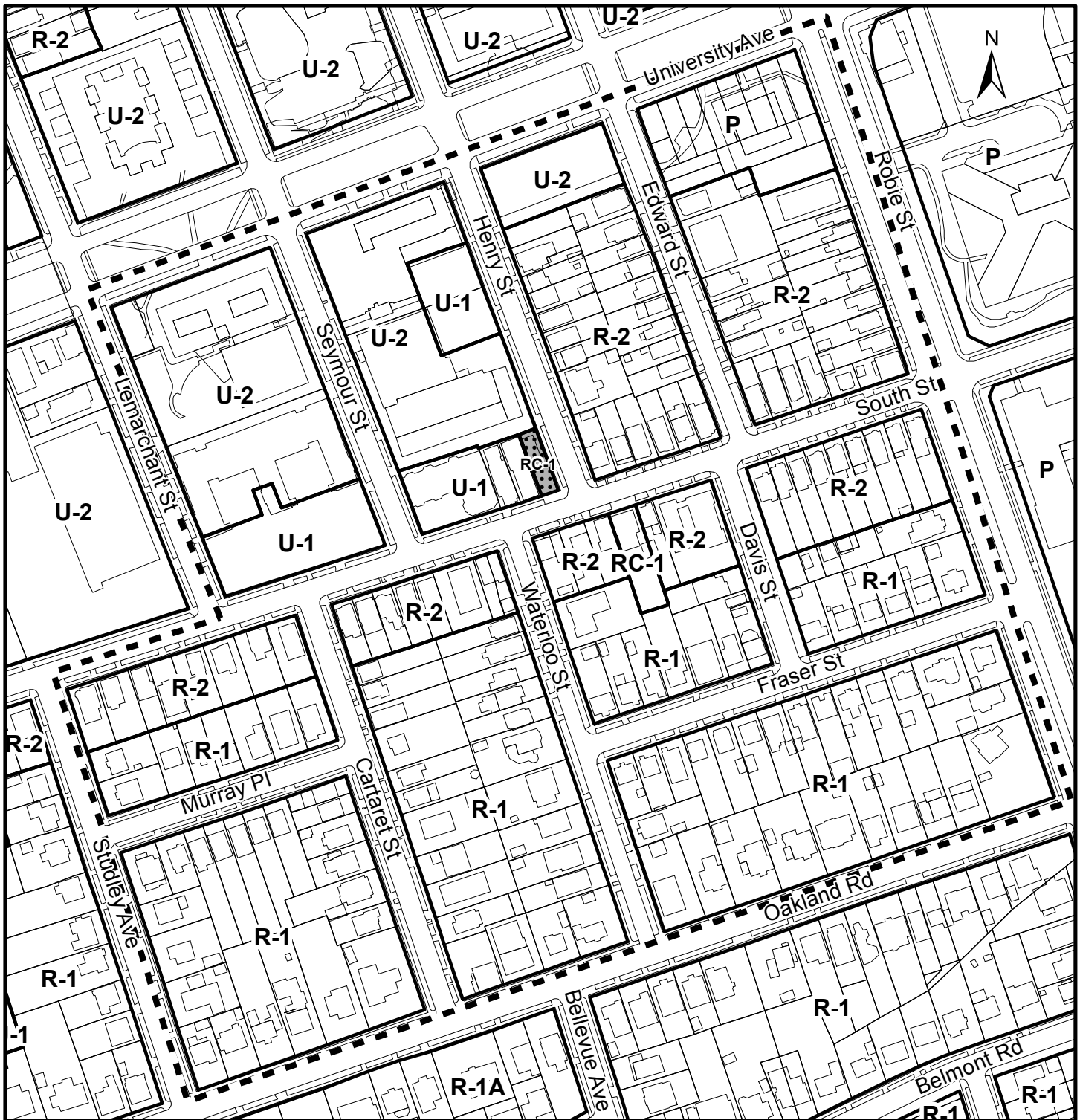
- LDR Low Density Residential
- INS Institutional
- OS Open Space



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

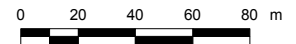
1210 - 1222 Henry Street
Halifax

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 B:
Public Information Meeting Minutes – July 29, 2015

Wednesday, July 29, 2015
7:00 p.m.

Dalhousie, Kenneth C. Rowe Building (Room 1011)

STAFF IN

ATTENDANCE:

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

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.

4. 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, 6070 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.

5. Closing Comments

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

6. Adjournment

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

ATTACHMENT C:

Implementation Policy 3.14 of the Halifax Municipal Planning Strategy (MPS)

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:

- 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:
 - 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.
- 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;
- 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:
 - i) location;
 - ii) surface treatment;
 - iii) storm drainage;
 - iv) access from the street; and
 - v) screening, buffering, and landscaping.
- 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:
 - i) the minimum setback of the existing building; or
 - 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.
- e) except where specific benefits to the neighbourhood can be demonstrated, additions to the structures on the property shall not:
 - 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;
- f) any outdoor lighting or sign illumination shall be directed away from, or screened from, adjacent residential properties;
- g) no bulk refuse containers shall be visible from the street or from the immediate neighbourhood;
- 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;
- i) with regard to on-site advertising for commercial or industrial uses:
 - 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.
- j) in the case of commercial and industrial operations in residential zones, the following additional considerations shall also apply:
 - 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.
- k) No subdivision of the lot shall have occurred subsequent to the time of the adoption of this section.