

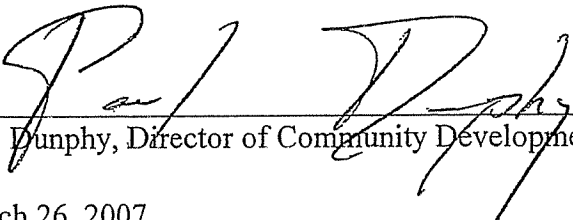


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council - April 2, 2007
Peninsula Community Council - April 2, 2007

TO: Chair and Members of Chebucto Community Council and Peninsula Community Council

SUBMITTED BY:


Paul Dunphy, Director of Community Development

DATE: March 26, 2007

SUBJECT: Case 00596: Amendments to Halifax MPS and LUBs - Water Lot Infilling, Subdivision, and Development on Northwest Arm, Halifax

ORIGIN

- Citizen concerns expressed about water lot infilling, subdivision and development activities along the Northwest Arm;
- May 3, 2004, request from Chebucto Community Council that the Halifax Harbour Plan include an assessment of infilling activities on the Northwest Arm; and,
- Staff report dated July 28, 2005 and August 9, 2005 agreement by Regional Council to initiate the MPS amendment process.

RECOMMENDATIONS

It is recommended that Chebucto Community Council recommend Regional Council:

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Mainland Land Use By-law as provided in Attachments "A" and "B" of this report, and schedule a Public Hearing.
2. Approve the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Mainland Land Use By-law as provided in Attachments "A" and "B" of this report.

It is recommended that Peninsula Community Council recommend Regional Council:

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as provided in Attachments "A" and "C" of this report, and schedule a Public Hearing.
2. Approve the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as provided in Attachments "A" and "C" of this report.

BACKGROUND

Issues related to water lot infilling, subdivision and development along the Northwest Arm (see Map 1) have been the subject of past media and community attention. Citizens and members of Community Council have called upon the Municipality to develop an appropriate response to identified issues. In general, concerns have been expressed about such matters as:

- Restricting the navigability and use of the Arm for sailing and other boating activities by narrowing its width;
- Loss or obstruction of public and private views from either side of the Arm;
- Scale and design of development occurring on water lots and abutting land;
- Potentially negative environmental impacts; and
- Loss of the traditional character and aesthetic qualities of the Arm.

Some of the above issues, such as restricting navigability and potential environmental impacts, are directly associated with the activity of infilling itself over which the Municipality has no control.¹ However, the Municipality does control the eventual use and development of land once infilling has taken place and it is at this stage where municipal zoning, subdivision and other regulations can be applied in a manner which can address key issues.

Initiation: On August 9, 2005, Regional Council requested staff to initiate the process to consider amending the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula and Mainland Land Use By-laws (LUB) to establish policies and regulations aimed at controlling development and subdivision on water lots and abutting land lots located along either side of the Northwest Arm.

Process: MPS amendments, along with the LUB amendments necessary to implement the MPS amendments are under the jurisdiction of Regional Council. The Halifax Mainland and Peninsula LUBs are within the authority of Chebucto CC and Peninsula CC, respectively. Therefore, the recommendations of staff have to be forwarded to Regional Council by these two Community Councils. The MPS amendment process requires a public hearing which must be held by Regional Council.

DISCUSSION

The Northwest Arm is a narrow recreational inlet characterized by major urban parks (Sir Sandford Fleming, Point Pleasant, Deadman's Island and Horseshoe Island Parks), historical assets and predominantly residential uses. The Northwest Arm is also home to a number of boat/sailing clubs which generate significant boating traffic in the Arm. Consequently, the infilling of water lots along either side of the Arm tends to have a major impact on community character and recreational activities.

¹Infilling is a jurisdiction of the Federal Government and not the Municipality.

As illustrated on Map 2, the Northwest Arm contains many water lots, some of which are privately owned and some of which are owned/managed by the Halifax Port Authority. The concern is related not so much to a small number of minor infill activities, but rather to the potential cumulative effect of major infill activities and the resultant implications on the Arm's aesthetic character and navigability.

From a municipal perspective, the infilling of water lots is a difficult issue to address since municipal powers to control both infilling and land use under the Municipal Government Act do not explicitly extend to land submerged under water. Only when a water lot has been filled in beyond the water column does it necessarily become land and thus falls under municipal jurisdiction. Therefore, the amendments proposed through this report are limited in scope to development and subdivision controls once a water lot has been infilled.

Property owners who propose to infill water lots within Halifax Harbour are required to obtain approvals from a number of government agencies. Key approval agencies at the Federal level include Department of Fisheries & Oceans, Transport Canada (Navigable Waters) and the Halifax Port Authority. At the Provincial level, the Department of Natural Resources and the Department of Environment & Labour are involved. Lastly, once the infill approvals are secured from the senior levels of government, HRM's by-laws regulate the use and development of the newly created land.

Council is made aware that through the Harbour Planning project, staff have struck a working committee of the above mentioned government agencies. The mandate of the group is to develop improved communication and clearance procedures regarding water lot infill, review of respective legislative authorities and procedures, and to collaborate in developing measures by which water lot infilling can be better managed or restricted. These efforts are ongoing.

Under existing HRM by-laws, once a water lot is infilled, the newly created land parcel assumes the zoning of the abutting land parcel and becomes subject to the applicable provisions of the Subdivision By-law and the Land Use By-law. Provided all regulations are met, including requirements for minimum lot frontage and area, the "water lot" becomes a fully developable piece of property. The proposed new MPS policy and LUB regulations, if approved, will place new restrictions on current property rights.

In its review of concerns brought forward by citizens and members of Council, staff identified four issues relating to subdivision and development along the Northwest Arm that can and should be addressed by Council in order to protect the aesthetic character and traditional built form of the Arm. These issues are:

- The lack of restrictions against the use of infilled water lots in lot area calculations;
- The absence of land use regulations preventing the erection of buildings on wharves, piles or similar type structures;
- The lack of an adequate setback from the Arm; and,
- The absence of proper controls over the use of water lots once they become land.

Proposed Amendments

The proposed MPS and LUB amendments, if adopted in their entirety, will entail:

1. The creation of a new designation and zone (Water Access) that will limit the use of land created by infilling of the Northwest Arm to wharves, docks, historic sites and monuments, passive recreation uses, public works and utilities, and ferry terminal facilities.
2. The establishment of a 9-metre (30-foot) setback from the Northwest Arm in which only boathouses, public works and utilities, ferry terminal facilities, parks on public lands, historic sites and monuments, wharves, docks, gazebos and existing structures will be permitted. The four existing boat/sailing clubs will be exempt from the setback regulation.
3. Control over the size, height and number of boathouses that can be erected within the 9-metre (30-foot) setback from the Arm.
4. A restriction in using water lots for lot area and setback calculations.
5. A restriction against the erection of buildings on wharves, pillars, piles, or any other type of structural support located on or over a water lot. Public works, public utilities and ferry terminal facilities will be exempt from this restriction.

While the proposed amendments are geared towards protecting the character of the Northwest Arm in terms of setback, subdivision control, and the types of uses and structures permitted on an infilled water lot, it is anticipated that the resulting regulations will nonetheless act as a strong disincentive to infilling itself by preventing additional development and subdivision opportunities which would not exist had a water lot not been infilled. A detailed description of the proposed amendments is provided in Attachments "A" to "C" of this report.

Public Information Meeting / Area of Notification

In accordance with Regional Council's Public Participation Program for MPS amendments, staff held two public information meetings on this application (November 3 and 9, 2005). Minutes of these meetings are provided as Attachments "D" and "E" of this report. Community attendees were in favour of enhanced regulations over the development and subdivision of water lots and abutting land along either side of the Northwest Arm. Should Regional Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 3 will be sent written notification.

Conclusion

Staff is of the opinion that the proposed amendments represent an appropriate response to the issues identified by the community, and given the legislative authority, HRM can exercise in the matter of water lot infill. As such, staff recommend that Regional Council adopt the attached amendments to the Halifax MPS and Halifax Peninsula and Mainland LUBs.

BUDGET IMPLICATIONS

There are no budgetary implications.

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

The following alternatives are identified in conjunction with this report for consideration by Regional Council:

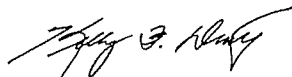
1. Regional Council may choose to approve the amendments provided in Attachments "A", "B" and "C" of this report. Staff recommends this alternative for the reasons outlined above.
2. Regional Council may choose not to approve the amendments provided in Attachments "A", "B" and "C" of this report. This is not recommended for reasons discussed above.
3. Regional Council may choose to either adopt certain amendments but not others outlined in this report or alternatively request that additional amendments not identified in this report be made in which case an additional staff report(s) may be required.

ATTACHMENTS

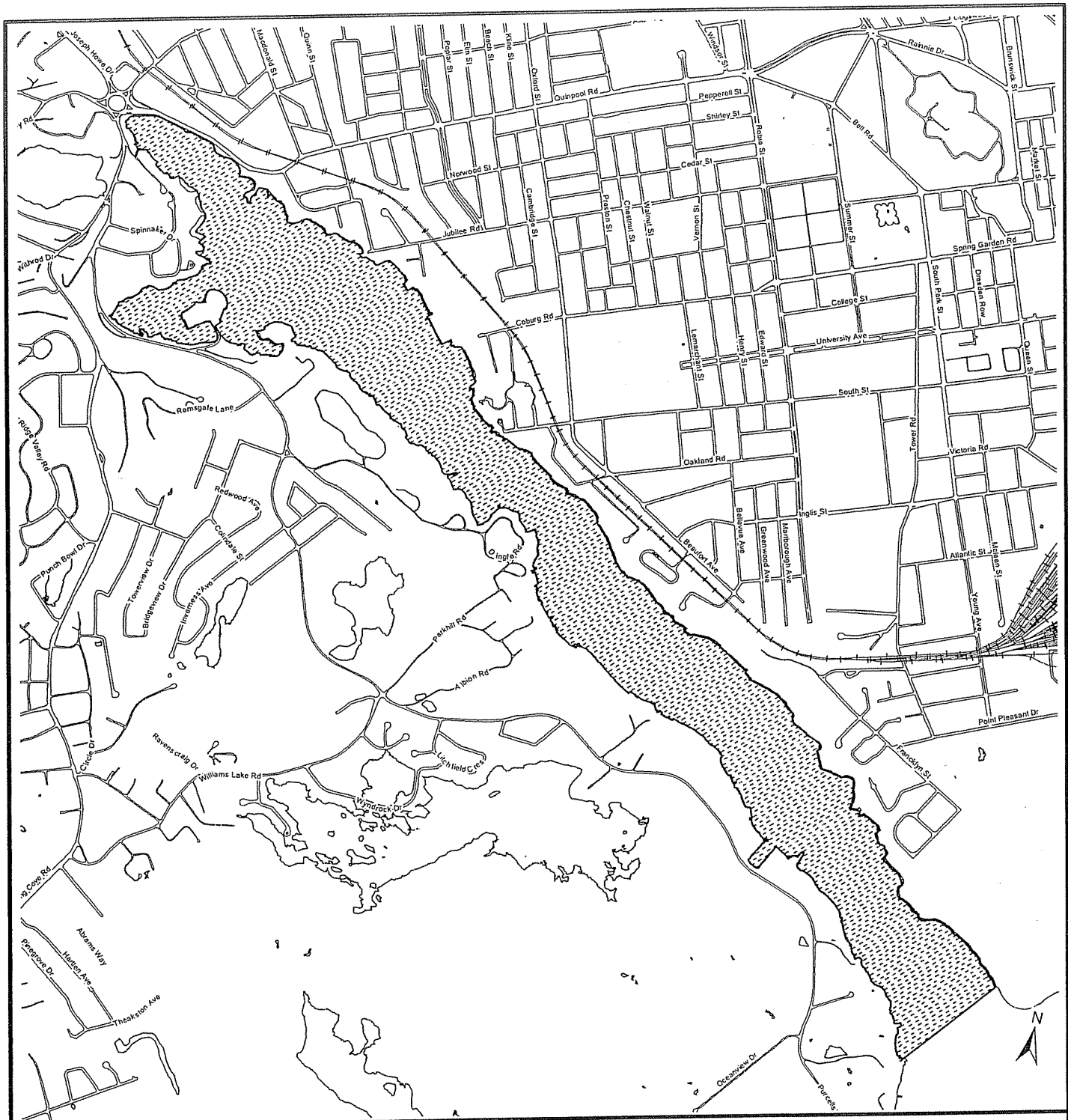
| | |
|----------------|---|
| Map 1 | Area of Interest |
| Map 2 | Water Lots to be Zoned |
| Map 3 | Notification Area |
| Attachment "A" | Amendments to Halifax MPS |
| Attachment "B" | Amendments to Halifax Mainland LUB |
| Attachment "C" | Amendments to Halifax Peninsula LUB |
| Attachment "D" | Minutes from November 3, 2005, Public Information Meeting |
| Attachment "E" | Minutes from November 9, 2005, Public Information Meeting |

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

Report Prepared by: Luc Ouellet, Planner I, 490-368



Report Approved by: _____
Kelly Denty, Acting Manager of Planning Services, 490-6011



Map 1: Area of Interest

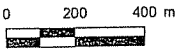
Northwest Arm
Halifax

 Area to be designated "Water Access"

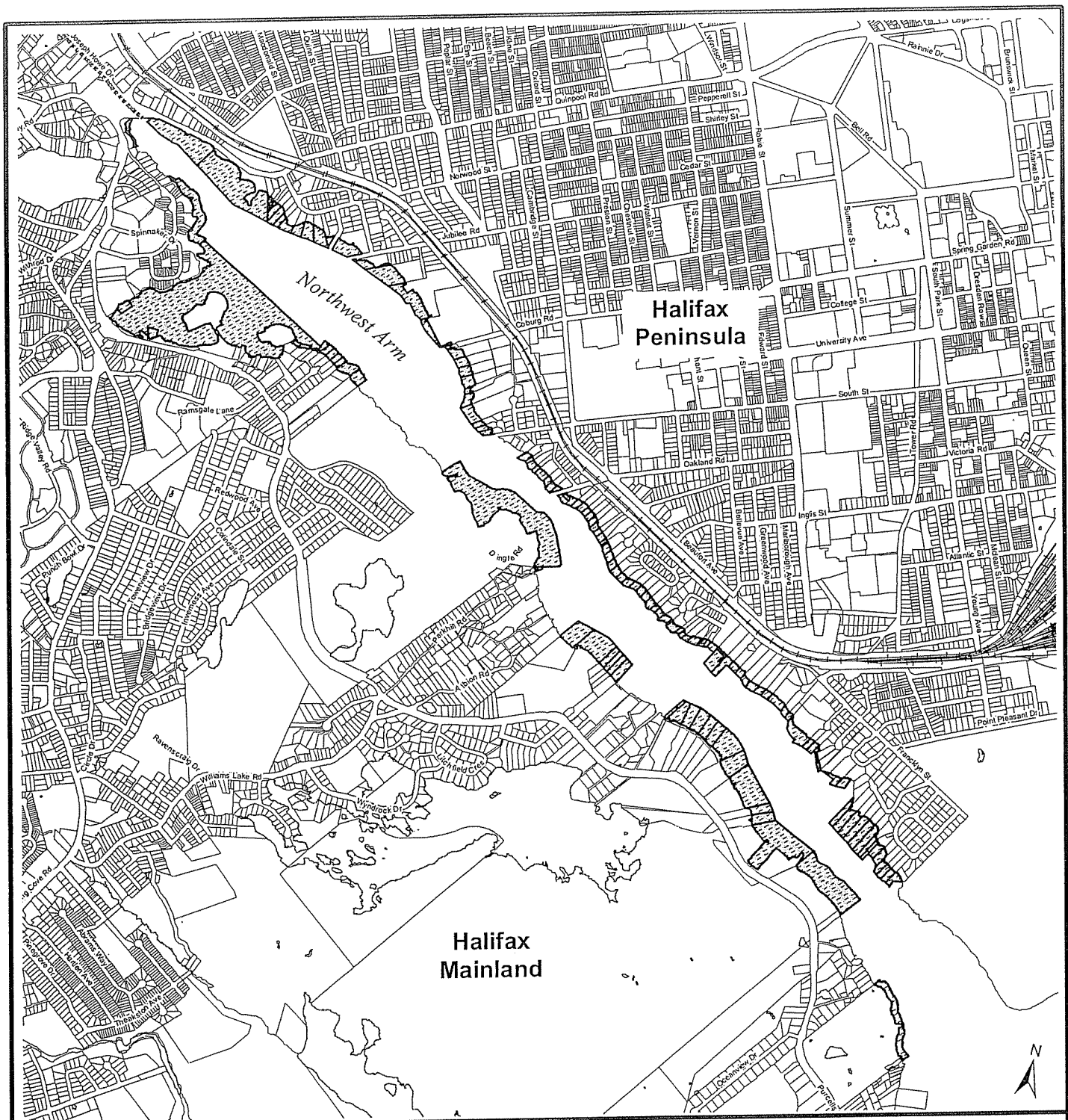
Halifax Plan Area



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Map 2: Water Lots to be Zoned

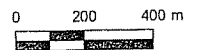
Northwest Arm
Halifax

 Water lots to be zoned "WA - Water Access"

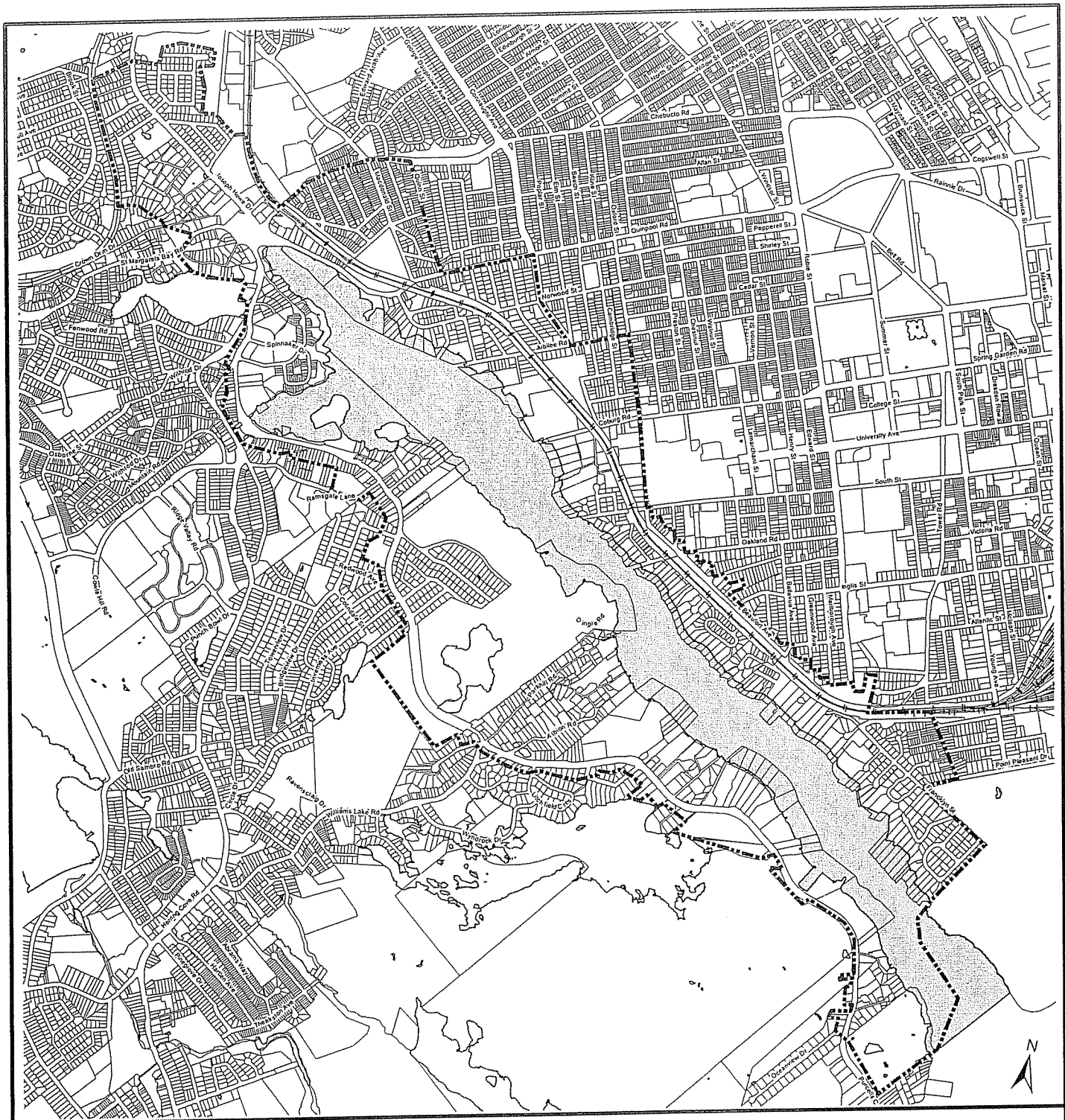
Halifax Plan Area
Halifax Peninsula Land Use By-Law Area
Halifax Mainland Land Use By-Law Area

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Map 3: Notification Area

Northwest Arm
Halifax

 Area of Notification

Halifax Plan Area

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Attachment "A"
Amendments to the Halifax Municipal Planning Strategy

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Halifax is hereby amended as follows:

1. Amend Section II, Part II, of the Municipal Planning Strategy for Halifax by adding the following policy:
 - 8.12 The Northwest Arm is a narrow, recreational inlet characterized by major urban parks (Sir Sandford Fleming, Point Pleasant, Deadman's Island and Horseshoe Island Parks), historical assets and predominantly residential uses. The Northwest Arm is also home to a number of boat/sailing clubs which generate significant boating traffic in the Arm. Consequently, the Halifax Regional Municipality recognizes that subdivision, development and water lot infilling activities along the Northwest Arm may result in undesirable impacts on the aesthetic character and traditional built form of the Northwest Arm, on its recreational use and navigability and on its marine environment. As a means of protecting the character of the Northwest Arm, the Municipality shall control development and subdivision on lots and water lots along the Northwest Arm. Specific measures will include limiting the type of structures that will be allowed on both infilled and non-infilled water lots, implementing a setback from the Northwest Arm, limiting the type and size of structures to be built within the Northwest Arm setback, and preventing infilled and non-infilled water lots from being used in lot area and setback calculations.
 - 8.12.1 In order to carry out the intentions described in 8.12, the Municipality shall designate the seabed of the Northwest Arm seaward of the Ordinary High Water Mark, as it existed on the effective date of the adoption of this amendment and as generally shown on Appendix A (Generalized Future Land Use Map), as Water Access. Through the Land Use By-laws, the Municipality shall establish a corresponding Water Access Zone which shall apply to any new land created by infilling of the Northwest Arm. Development within this Zone shall be limited to public works and utilities, ferry terminal facilities, municipal, provincial and national historic sites and monuments, passive recreation uses and wharves and docks.
 - 8.12.2 The Municipality shall encourage the respective provincial and federal approval authorities from issuing any approval to permit the infilling of water lots, which would be detrimental to the objectives described in 8.12. Infilling activities related to the construction of public works and utilities, ferry terminal facilities, municipal, provincial and national historic sites and monuments, passive recreation uses, and wharves and docks are not considered to be detrimental to the objectives of 8.12.

- 8.12.3 The Municipality shall also encourage the respective provincial and federal approval authorities to refer any marine related infrastructure or infilling requests and applications occurring within Halifax Harbour, including the Northwest Arm, to the Development Officer for review of compliance with the Land Use By-law.
2. Amend Map 9 of Section II, Part II, of the Municipal Planning Strategy for Halifax as illustrated in Appendix "A".

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2007.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 2007.

Jan Gibson
Municipal Clerk



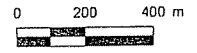
Appendix A: Generalized Future Land Use

Northwest Arm
Halifax

 Area to be designated "Water Access"

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Effective:

Halifax Plan Area

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Attachment "B"
Amendments to the Halifax Mainland Land Use By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland is hereby amended as follows:

1. By adding the words "WA ZONE" immediately below the words "RPK ZONE" within the "TABLE OF CONTENTS".

2. By adding the following definition after the definition of "Nonconforming Use":

"Northwest Arm Water Access Area" means the area shown on map ZM-24 attached to this By-law.

3. By replacing the definition for "Zoning Area" with the following definition:

"Zoning Area" means the area shown on the zoning maps attached to and forming part of this by-law as R-1, R-2, R-2P, R-2T, R-2AM, R-3, R-4, RC-1, C-1, C-2, C-2A, C-2B, C-6, I-1, I-2, I-3, P, U-2, T, H, US, UR, PWS, RDD, WC, WCDD, BWCDD, WCCDD, CD-1, CD-2, CD-3, ICH, RPK, PA and WA Zones.

4. By adding the following Section after Section 14R:

DEVELOPMENT AND SUBDIVISION ON THE NORTHWEST ARM

14S For any development or subdivision within the Northwest Arm Water Access Area, in addition to all other applicable requirements of this By-law, the following requirements shall apply:

- (a) Definitions:

- (i) "Boathouse" means a building or structure, whether permanent or temporary, which is located on a waterfront lot, which is roofed, which does not contain toilet, bathroom, kitchen or sleeping facilities and which is used for the shelter or storage of boats, watercrafts and associated marine accessories and equipment, but not for the accommodation of persons, animals, or vehicles as defined by the Motor Vehicle Act.

- (ii) "Gazebo" means a freestanding, roofed accessory building or structure, which is not enclosed, which does not contain toilet, bathroom, kitchen or sleeping facilities, and which is not used for the accommodation of animals or vehicles as defined by the Motor Vehicle Act.

- (iii) "Shoreline" means the Ordinary High Water Mark as defined under the Nova

Scotia Land Surveyors Regulations and as it existed on the effective date of this Section.

- (iv) "Water Lot" means any part or parcel of land on the Northwest Arm located seaward of the Shoreline.
- (b) In addition to all other applicable requirements of this by-law:
 - (i) No structure, with the exception of boathouses, public works and utilities, ferry terminal facilities, parks on public lands, wharves, docks, gazebos, municipal, provincial and national historic sites and monuments, and existing structures may be located within 9 metres (30 feet) of the Shoreline of the Northwest Arm.
 - (ii) Where boathouses and gazebos are to be located within 9 metres (30 feet) of the Shoreline of the Northwest Arm, they shall be limited to one boathouse and one gazebo per lot and each structure may have a maximum area of 121.92 square metres (400 square feet), a maximum width of 6 metres (20 feet) on the side that is most parallel to the Shoreline, a maximum depth of 7.8 metres (26 feet), a minimum roof pitch of 5/12 and a maximum height of 4.2 metres (14 feet);
- (c) Notwithstanding Subsection (b), the 9-metre (30-foot) Northwest Arm Shoreline setback shall not apply to the properties identified by the following P.I.D. numbers: 00251868 (leased to the Armdale Yacht Club), 00274548 and 00270942 (Royal Nova Scotia Yacht Squadron).
- (d) No portion of a water lot shall:
 - (i) be included within the calculation of the minimum setback required by clause (b)(i);
 - (ii) be included within the calculation of the minimum lot area requirements of this by-law; and,
 - (iii) have frontage on any street not opened for vehicular use as of April 1, 2007.
- (e) The requirements of this Section shall continue to apply to water lots following any subsequent consolidation with abutting land lots.

5. By replacing Section 16 with the following:

ZONES

16(1) The following classes of use zones are established:

| | |
|-------|---|
| R-1 | Single Family Dwelling Zone |
| R-2 | Two Family Dwelling Zone |
| R-2P | General Residential Zone |
| R-2T | Townhouse Zone |
| R-2AM | General Residential Conversion Zone |
| R-3 | Low-Rise Apartment Zone |
| R-4 | Multiple Dwelling Zone |
| RC-1 | Neighbourhood Commercial Zone |
| C-1 | Local Business Zone |
| C-2A | Minor Commercial Zone |
| C-2B | Highway Commercial Zone |
| C-2 | General Business Zone |
| C-6 | Adult Entertainment Zone |
| I-1 | General Industrial Zone |
| I-2 | Radio Transmitter Zone |
| I-3 | General Industrial Zone |
| IP | (Deleted) |
| P | Park and Institutional Zone |
| U-2 | High Density University Zone |
| T | Mobile Home Park Zone |
| G | (Deleted) |
| M | (Deleted) |
| H | Holding Zone |
| W | (Deleted) |
| US | Urban Settlement Zone (RC-June 27/06: E-August 26/06) |
| UR | Urban Reserve Zone (RC-June 27/06: E-August 26/06) |
| PWS | Protected Water Supply Zone (RC-June 27/06: E-August 26/06) |
| RDD | Residential Development District Zone |
| WC | Western Common Zone |
| WCCDD | Western Common Comprehensive Development District Zone |
| CD-1 | C&D Materials Transfer Stations Zone |
| CD-2 | C&D Materials Processing Facilities Zone |
| CD-3 | C&D Materials Disposal Sites Zone |
| WCDD | Wentworth Comprehensive Development District Zone |
| ICH | Infrastructure Charge Holding Zone |
| RPK | Regional Park Zone (RC-June 27/06: E-August 26/06) |
| PA | Protected Area Zone (RC-June 27/06: E-August 26/06) |
| BWCDD | Bedford West Comprehensive Development District Zone (RC-June 27/06: E-August 26/06) |
| WA | Water Access Zone |

16(2) The uses of buildings and land permitted by this by-law in such zones may be referred to as R-1, R-2, R-2P, R-2T, R-2AM, R-3, R-4, RC-1, C-1, C-2A, C-2B, C-2, C-6, I-1, I-2, I-3, P, U-2, T, H, US, UR, PWS, RDD, WC, WCDD, BWCDD, WCCDD, CD-1 CD-2, CD-3, ICH, RPK, PA and WA uses, respectively.

6. By adding the following clause after clause 17(g):

17(h) Notwithstanding Subsection 17(e), the boundary of the WA Zone is deemed to coincide with the Shoreline of the Northwest Arm as defined in Section 14S.

7. By adding the following Section after Subsection 62ED(5):

WA

Water Access Zone

62EE (1) The following uses shall be permitted in any WA Zone:

- (a) wharves and docks;
- (b) municipal, provincial and national historic sites and monuments;
- (c) passive recreation uses;
- (d) public works and utilities; and,
- (e) ferry terminal facilities.

62EE (2) No person shall in any WA 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).

62EE (3) No person shall in any WA Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection(1).

62EE (4) No person shall in any WA Zone construct or erect a building, with the exception of public works, public utilities and ferry terminal facilities, on a wharf, on pillars, on piles, or on any other type of structural support located on or over a water lot.

8. Amend Zoning Map "ZM-1" as illustrated in Appendix "B".

Case 00596
Northwest Arm

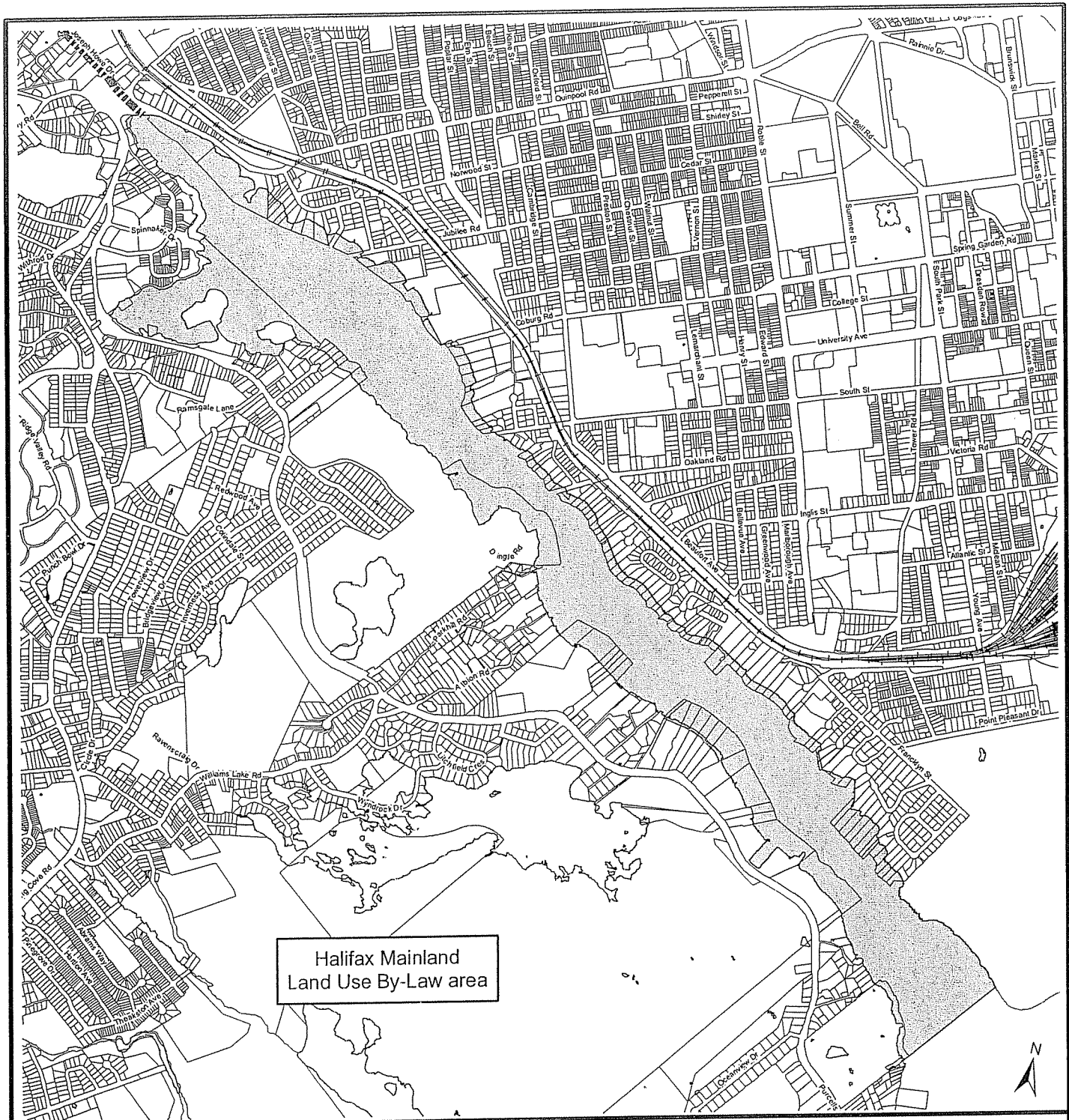
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Chebucto CC - April 2, 2007
Peninsula CC - April 2, 2007

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2007.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 2007.

Jan Gibson
Municipal Clerk



Halifax Mainland
Land Use By-Law area



ZM-24

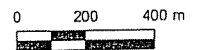
Northwest Arm
Halifax

 Water Access area

Halifax Mainland
Land Use By-Law

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COMMUNITY DEVELOPMENT
PLANNING SERVICES

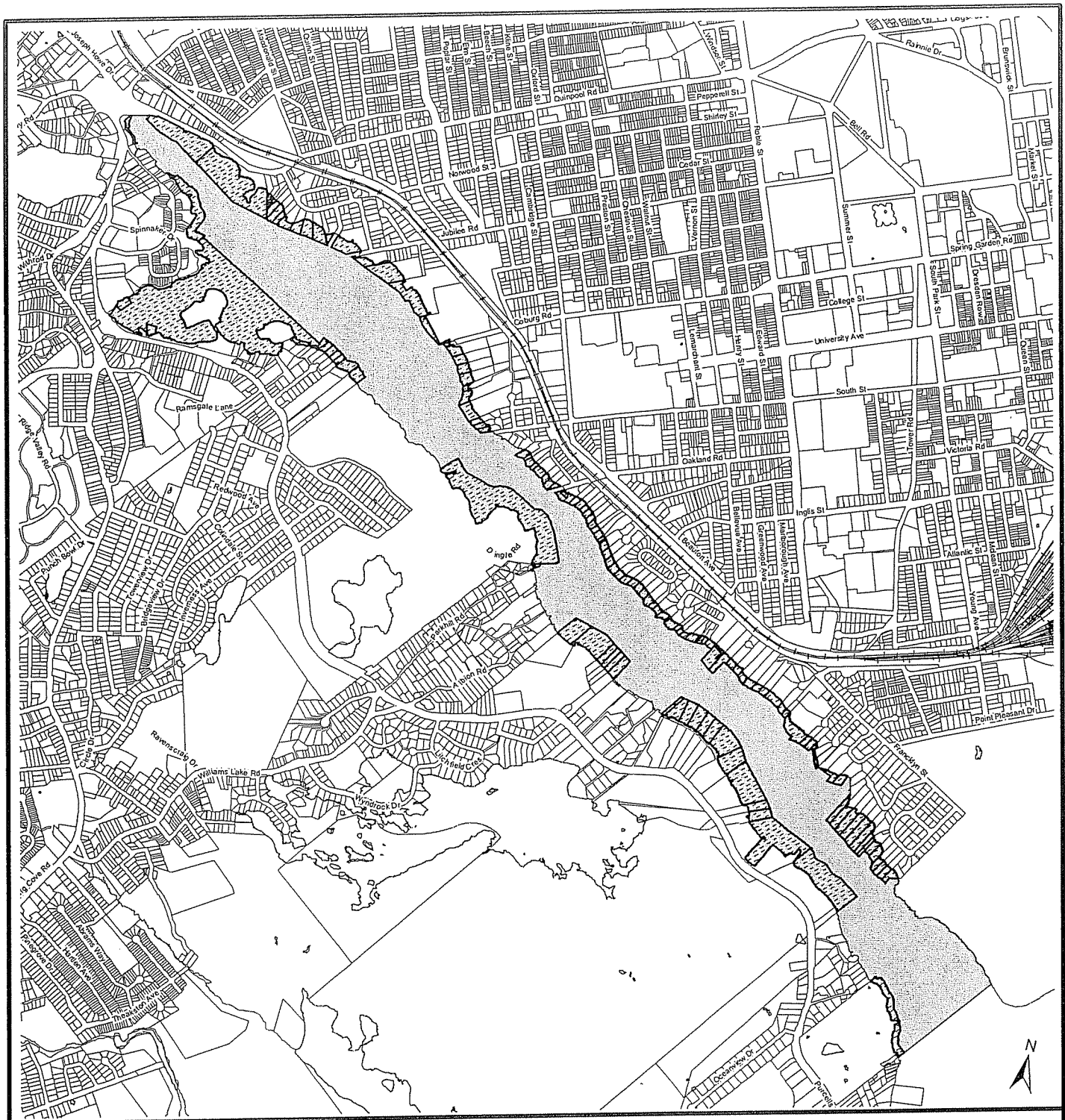


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
Halifax Plan Area

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Appendix B: Zoning

North West Arm
Halifax

-  Water Access area
-  Water lots zoned "WA - Water Access"

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COMMUNITY DEVELOPMENT
PLANNING SERVICES

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Attachment "C"
Amendments to Halifax Peninsula Land Use By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Peninsula is hereby amended as follows:

1. By adding the words "WA ZONE" immediately below the words "RPK ZONE" within the "TABLE OF CONTENTS".

2. By adding the following definition after the definition of "Nonconforming Use":

"Northwest Arm Water Access Area" means the area shown on map ZM-21 attached to this By-law.

3. By adding the following Section after Section 16K:

DEVELOPMENT AND SUBDIVISION ON THE NORTHWEST ARM

16L For any development or subdivision within the Northwest Arm Water Access Area, in addition to all other applicable requirements of this By-law, the following requirements shall apply:

(a) Definitions:

(i) "Boathouse" means a building or structure, whether permanent or temporary, which is located on a waterfront lot, which is roofed, which does not contain toilet, bathroom, kitchen or sleeping facilities and which is used for the shelter or storage of boats, watercrafts and associated marine accessories and equipment, but not for the accommodation of persons, animals, or vehicles as defined by the Motor Vehicle Act.

(ii) "Gazebo" means a freestanding, roofed accessory building or structure, which is not enclosed, which does not contain toilet, bathroom, kitchen or sleeping facilities, and which is not used for the accommodation of animals or vehicles as defined by the Motor Vehicle Act.

(iii) "Shoreline" means the Ordinary High Water Mark as defined under the Nova Scotia Land Surveyors Regulations and as it existed on the effective date of this Section.

(iv) "Water Lot" means any part or parcel of land on the Northwest Arm located seaward of the Shoreline.

(b) In addition to all other applicable requirements of this by-law:

- (i) No structure, with the exception of boathouses, public works and utilities, ferry terminal facilities, parks on public lands, wharves, docks, gazebos, municipal, provincial and national historic sites and monuments, and existing structures may be located within 9 metres (30 feet) of the Shoreline of the Northwest Arm; and,
- (ii) Where boathouses and gazebos are to be located within 9 metres (30 feet) of the Shoreline of the Northwest Arm, they shall be limited to one boathouse and one gazebo per lot and each structure may have a maximum area of 121.92 square metres (400 square feet), a maximum width of 6 metres (20 feet) on the side that is most parallel to the Shoreline, a maximum depth of 7.8 metres (26 feet), a minimum roof pitch of 5/12 and a maximum height of 4.2 metres (14 feet);
- (c) Notwithstanding Subsection (b), the 9-metre (30-foot) Northwest Arm Shoreline setback shall not apply to the properties identified by the following P.I.D. numbers: 41020439, 00079020 (St. Mary's Boat Club), and 00079186 (The Waegwoltic Limited).
- (d) No portion of a water lot shall:
 - (i) be included within the calculation of the minimum setback required by clause (b)(i);
 - (ii) be included within the calculation of the minimum lot area requirements of this by-law; and,
 - (iii) have frontage on any street not opened for vehicular use as of April 1, 2007.
- (e) The requirements of this Section shall continue to apply to water lots following any subsequent consolidation with abutting land lots.

4. By replacing Section 17 with the following:

ZONES, ZONING MAPS AND BUILDING LINE PLAN

CLASSES OF ZONES

17 For the purpose of this by-law and of the maps entitled ZM-1, ZM-2, and ZM-17 Height Precinct Map annexed hereto, hereinafter referred to as "zoning maps", the following classes of zones are hereby established:

| | Not Within View Plane | Within View Plane |
|-----------------------------|--------------------------|-------------------------|
| Single Family Dwelling Zone | R-1 | R-1-V |

| | | |
|---|------------|--------------|
| General Residential Zone | R-2 | R-2-V |
| Townhouse Zone | R-2T | R-2T-V |
| General Residential Conversion Zone | R-2A | R-2A-V |
| Multiple Dwelling Zone | R-3 | R-3-V |
| Neighbourhood Commercial Zone | RC-1 | RC-1-V |
| Residential Minor Commercial Zone | RC-2 | RC-2-V |
| High Density Residential Minor Commercial Zone | RC-3 | RC-3-V |
| Local Business Zone | C-1 | C-1-V |
| General Business Zone | C-2 | C-2-V |
| Minor Commercial Zone | C-2A | C-2A-V |
| Minor Commercial - Quinpool Road | C-2C | C-2C-V |
| General Business Zone - Spring Garden Road | C-2D | C-2D-V |
| Business Service Zone | C-3A | C-3A-V |
| Industrial Zone | C-3 | C-3-V |
| Professional Zone | C-4 | C-4-V |
| Harbour-Related Industrial Zone | C-5 | C-5-V |
| Adult Entertainment Zone | C-6 | C-6-V |
| Park and Institutional Zone | P | P-V |
| Bakery Zone | B | B-V |
| Low-Density University Zone | U-1 | U-1-V |
| High-Density University Zone | U-2 | U-2-V |
| Hotel Zone | HZ | HZ-V |
| Canadian Forces Base Zone | CFB | CFB-V |
| Brunswick Comprehensive Development District | BCDD | BCDD-V |
| C&D Materials Transfer Stations Zone | CD-1 | CD-1-V |
| C&D Materials Processing Facilities Zone | CD-2 | CD-2-V |
| C&D Materials Disposal Sites Zone | CD-3 | CD-3-V |
| Infrastructure Charge Holding Zone | ICH | ICH-V |
| Regional Park Zone (RC-June 27/06;E-Aug 26/06) | RPK | RPK-V |
| Water Access Zone | WA | WA-V |

5. By replacing Section 18 with the following:

18 The uses of buildings and land permitted by this by-law in such zones may be referred to as R-1, R-2, R-2T, R-2A, R-3, RC-1, RC-2, RC-3, C-1, C-2, C-2A, C-2C, C-2D, C-3A, C-3, C-5, C-6, P, B, U-1, U-2, CFB, BCDD, CD-1, CD-2, CD-3, ICH, HZ, **RPK (RC-June 27/06;E-Aug 26/06)**, and **WA** uses, respectively.

6. By adding the following Section after Section 21A:

21B Notwithstanding Subsection 21A, the boundary of the WA Zone is deemed to coincide with the Shoreline of the Northwest Arm as defined in Section 16L.

7. By replacing Section 34F(1) with the following:

34F(1) In the **North West Arm Sub-Area** the following additional requirements shall apply to lots which abut the Northwest Arm. R-1 uses shall be required to have a minimum lot area of 743.2 square metres (8,000 square feet) and a minimum distance of 9 metres (30 feet) between buildings. This section shall not apply to lots 6 and 7 of the Thornvale Subdivision as shown on Plan P200/7591 filed in the Municipality's Community Development Department as Case No. 3356.

8. By adding the following Section after Section 62EC(4):

WA

Water Access Zone

62ED(1) The following uses shall be permitted in any WA Zone:

- (a) wharves and docks;
- (b) municipal, provincial and national historic sites and monuments;
- (c) passive recreation uses;
- (d) public works and utilities; and,
- (e) ferry terminal facilities.

62ED(2) No person shall in any WA 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).

62ED(3) No person shall in any WA Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection(1).

62ED(4) No person shall in any WA Zone construct or erect a building, with the exception of public works, public utilities and ferry terminals, on a wharf, on pillars, on piles, or on any other type of structural support located on or over a water lot.

9. Amend Zoning Schedule ZM-1 as illustrated in Appendix "B".

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2007.


GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 2007.

Jan Gibson
Municipal Clerk



ZM-21

Northwest Arm
Halifax

 Water Access area

Halifax Peninsula
Land Use By-Law

HALIFAX
REGIONAL MUNICIPALITY

COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 200 400 m

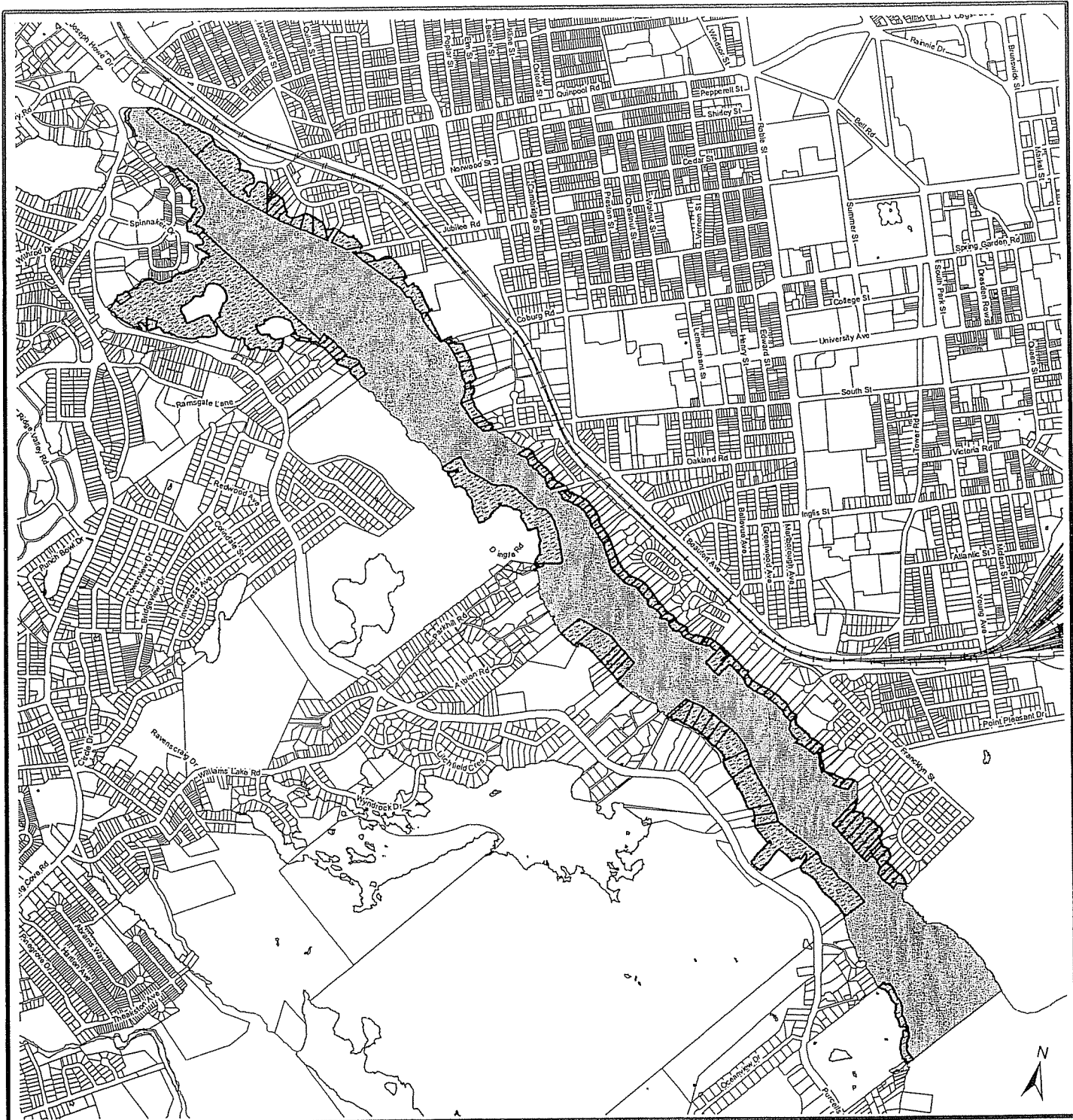


HRM does not guarantee the accuracy
of any representation on this plan.

Effective:



Halifax Plan Area

file: T:\work\planning\hilary\hfxmaps\WaterAccess.pdf (HEC)



Appendix B: Zoning

North West Arm
Halifax

-  Water Access area
-  Water lots zoned "WA - Water Access"

HALIFAX
REGIONAL MUNICIPALITY

COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 200 400 m



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

Attachment D
Public Information Meeting Minutes
Case 00596
November 3, 2005

In attendance: Councillor Mosher
Councillor Uteck
Councillor Fougere
Jim Donovan, Manager of Planning Applications
Luc Ouellet, Planner, Planning & Development Services
Gail Harnish, Planning & Development Services

Opening Comments and Purpose of Meeting

Councillor Uteck called the public information meeting (PIM) to order at approximately 7:00 p.m. at the St. James Anglican Church Hall. She indicated she would chair the meeting this evening and Councillor Mosher would chair the second meeting on November 9th. She thanked members of the public for attending, noting it is heartening to see so many people interested in the issue.

Councillor Uteck indicated the purpose of tonight's meeting is to discuss potential amendments relative to infilling of water lots and to get feedback.

Councillor Uteck referenced the one page notice marked "urgent" which was faxed to residents and indicated about three-quarters of it is complete misinformation. The resident circulating the notice did not call either herself or Councillor Mosher. She urged they disregard the notice.

Councillor Mosher indicated there has been some confusion regarding the plan policy. In the South End, it is the Peninsula Land Use By-law (LUB) and on her side it is the Mainland South LUB. They have to look at different legislation. The Municipality cannot prevent the infilling. We are not here to talk about infilling or not but rather to talk about planning. Once the infilling takes place, it takes on the abutting zoning. There has been recent controversy about infilling on both sides and what happened to the land after it was infilled. People have been coming up to her. They are trying to restrict the use. They are trying to have a balance of people's property rights and people's concerns with the Northwest Arm relative to navigability, obstruction of views, scale, design, and negative impact on the environment of adjacent properties. It is about planning and what happens once the infilling occurs. She urged that they tell their neighbours about the meeting being held next week on November 9th.

Mr. Luc Ouellet indicated that Councillor Uteck's name is mentioned on the agenda because she is chairing the meeting tonight and Councillor Mosher is chairing the meeting next week. We are holding two meetings and anyone is welcome to attend either. We felt it was necessary to hold two meetings because it is a large area.

Overview of Planning Process

Mr. Ouellet advised the process began in 2003. There were a lot of concerns expressed to planning staff from councillors and members of the community. Councillors Mosher and Uteck were probably the most vocal members on Council for this process. They brought it to our attention and due to recent infilling there was an issue on the Arm and people did not like what they were seeing. We then began looking into the issue which brought us to Council on August 9, 2005. The full staff report that went to Regional Council which looked at the overall process is available online.

Mr. Ouellet further reviewed the planning process:

- we are at the PIM stage
- we will proceed to do a detailed review of the issue and potential amendments
- a staff report will be prepared which will be tabled with Chebucto Community Council and Peninsula Community Council
- the two Community Council's will make a recommendation to Regional Council
- Regional Council will either pursue the matter further and schedule a public hearing or reject the report
- if a public hearing is scheduled, people previously notified and those who sign the attendance sheet this evening will be notified by letter and it is advertised in the Chronicle Herald/Mail Star
- following conclusion of the public hearing, Regional Council will make a decision on the proposed amendments
- the amendments, if approved by Regional Council, will be forwarded to the Province for review and sign off
- a notice of approval is placed in the newspaper

Mr. Ouellet noted the properties that would be most affected by the future amendments are outlined in the map included with the handout.

Potential Amendments

Mr. Ouellet indicated the concerns are the infilling itself, and what could potentially be built on an infilled water lot. HRM does not have control over approvals of any infilling; that is the jurisdiction of the Federal government. We have been meeting with these agencies for the past few months. The Municipality is not looking to prevent infilling; it is to better control what can be built on an infilled water lot. We will not be going back; this is for the future. In anybody has infilled in the past, those water lots would not be affected by any amendments. We are looking at setting a date in the future, say perhaps in February, where the high water mark in existence at that time would remain the setback.

Mr. Ouellet indicated some of the water lots are 200 to 250' deep going into the Arm. We are trying to prevent buildings from being built on water lots in the future. We are not here to discuss preventing docks from being built or actually infilled itself but how can a building be

built on that lot. We might restrict what type of accessory buildings would be built on an infilled water lot. We are looking at limiting the size of structures that would be built on an infilled water lot.

Questions and Comments

Mr. Leonard Preya, member of Northwest Arm Coastal Coalition, stated he wished to commend planning staff and the councillors for bringing this suggestion forward. They feel Mr. MacLean and the Northwest Arm Heritage Association has been carrying this issue for quite some time. The infilling of water lots creates a huge problem for the ecosystem, integrity, infringes on the shoreline and recreational and navigatability activities, and it affects viewplanes. He rowed up and down the Arm yesterday. He displayed some slides.

- Slide 1 shows a huge concrete wall built out into the water. A beautiful heritage viewplane has been effectively destroyed.
- Slide 2 shows how that water lot has been subdivided. The original house is behind and that is the infilling you see now going on and it has created a look to what was once a beautiful space.
- Slide 3 shows what that viewplane looks like now and two days before with the deforestation of the property.
- Slide 4 shows the south side of the public dock. It will show what was once a public dock and from that angle it looks like there is more space than there is.
- Slide 5 shows how that concrete wall has cut off access to the shoreline and privatize what was once a private space. It also shows where the wharf will extend out into the Arm. That will affect not only the adjacent park but threaten navigatability at the point of the Arm.
- Slides 6 and 7 show houses which some think are beautiful but they have to look at setbacks and green space. Both those slides show they need this measure if only to protect the setback and some of our green space.

Mr. Preya said he knew there are some outstanding issues at the Oakland Road property. What they learned from Oakland Road was really important. They need some kind of plan to address that issue and need measures to control development of infilled land. He realized they were not here to talk about infilling. Part of the reason they have this problem is because they have a mixture of jurisdiction and they do not talk to each other. They believe there should be a moratorium until these two processes work out.

Mr. Preya concluded by saying the history can be tracked back to the MicMac. They left us with the philosophy that you must consider the impact for the next seven generations. They are

stewards and custodians of that heritage and they owe it to their children and grandchildren to protect it.

Mr. Ed Murray stated he grew up on the Northwest Arm. He lived at St. Margarets Bay. He was still living on the Northwest Arm to a certain extent. Nowhere in this record did he see ecology and environment. He realized it was not HRM's jurisdiction. For many years he was on the Dartmouth side and worked at BIO. The chain of lakes in the City of Lakes are pristine. This was accomplished by the City Fathers such as Mayor Brownlow and Mayor Savage. A Lakes Advisory Board was established and any infringement on any body of water went through a scientific process. They looked at things such as whether slate was leeching into the water or whether there were any carcinogenics. The model they are trying to accomplish is already there in Dartmouth. It was a Lakes Advisory Board and they got together with the agencies and the City Fathers and made things happen. He hated to see what was happening on the shores of the Northwest Arm.

Mr. Guy MacLean, President of Northwest Arm Heritage Association, indicated he lived on the Arm and he was a pre-confederation lot owner. The Northwest Arm is appreciated by the people of Halifax. A few years ago, Peter Newman was asked why so many able people would stay in Halifax to pursue business projects. In his response, he did not mention Point Pleasant Park or the Public Gardens. He referenced the Northwest Arm which you cannot equal anywhere else in the world or in Canada. We have an international competition to restore Point Pleasant Park and rightly so. One million dollars was raised to restore the Public Gardens and rightly so. People will spend a lot of money to protect the Citadel Hill and referenced the Midtown proposal as a recent example and rightly so. On the Northwest Arm, in contrast to Point Pleasant Park or the Public Gardens or Citadel Hill, you can do anything you want as long as you don't disturb the fish. That is absolutely the case as long as the Department of Fisheries & Oceans, the Coast Guard, and Transport Canada are happy with navigation.

Mr. MacLean indicated the Halifax Port Authority is the representative for the Federal government and they own the Northwest Arm to the high water mark. The Port Authority by its own admission has paid no attention to the Northwest Arm. As far as they are concerned, it is not part of the harbour and rightly so. It is residential. They are concerned with containers and defense and pay no attention to the Northwest Arm. They say they will not take responsibility for the regulation of the Northwest Arm so they should get out of the way and let somebody else take over.

Mr. David Keeting, immediate neighbour to the south of the latest infilling of the Northwest Arm, said he would like to applaud HRM for trying to establish some kind of way to deal with infilling. However, he has told HRM on a number of occasions that they already have the ability, particularly in regard to the one going on now, and then in Marlborough Woods as they are landowners abutting these infills. In those two particular circumstances they actually own land and could contest the infilling. However, he has been told directly by the former City Solicitor, Wayne Anstey, that they could not do that mainly because it would be a conflict of interest as a regulator and an owner. He also told him he doubted they had the ability to do that and asked

him to prove that they owned the land. His lawyer has proven to him that the City owns the land abutting this current infilling. They also own the land immediately abutting the property in Marlborough Woods that is being infilled and nothing is being done. The City became aware that there are covenants against subdivision of the property that is being infilled. The City did nothing to prevent that development from occurring subsequent to finding out there were covenants. There is infilling not only into the Arm but over the sewer easement itself. The City said they will prevent the current developer from infilling over the sewer easement and will insist that it be removed but nothing has happened.

Mr. Keeting indicated he recently attended a meeting which was chaired by Councillor Uteck and attended by a number of people on City staff including, the Development office, the sewer easement people, engineers, the City solicitor, etc. Part of the difficulty is that the City does not have its own act together to be able to contest any of these developments. When a developer comes in to develop a piece of property, they can do pretty much what they like unless somebody complains. There have been retaining walls built, 10-15' of infilling with no regulation or oversight from the City, and it's over a ninety year old easement. Why does it take that long for somebody to clue in that something is wrong?

Mr. Ouellet commented he was not aware of the sewer easement until this afternoon.

Councillor Uteck noted that in addition to a number of meetings, there were four or five stop orders on this property. The property owner was ordered to remove the fill over the sewer easement and she believed the retaining wall as well. There will be a 30 day notice. In terms of the covenants, although she was not a lawyer or a planner, she understood the City cannot enforce private covenants between neighbours.

Mr. Jim Donovan stated the Planning Department is often confronted with the question of whether or not we can enforce deed covenants. As an example, people buy properties in a subdivision where their covenants say they have to have all brick and somebody subsequently decides to alter their home and does not use brick and their neighbours complain and say the Municipality was involved with the approvals. The Municipality does not have a role in enforcing deed covenants. It is a private property matter. The deed covenants are registered on the deeds by the developer. The Municipality enforces zoning regulations. This exercise that we are embarking on is to ascertain from the community what degree of control they would like us to exercise in order to address this issue. The Municipality gets its license to regulate from you. Zoning by its nature takes away rights. If you have no zoning, you have infinite rights. Zoning removes those rights. They need a license from the community to apply zoning which is why they go through a planning process.

Mr. Keeting stated he did not see that as being the answer. He could see the City not getting involved with covenants where they are not a property owner.

Councillor Mosher indicated the concerns are being written down. She would attempt to have a legal representative at the next meeting and would try to get some of the answers in writing for

the next meeting. There is no point debating what we did in the past. What we are looking for is direction. For instance, should there be a setback from water? Talk about what we can do for the future.

Mr. Crane Stookey, two doors from the Oakland Road disaster and water lot owner, stated water lots should be abolished. He would encourage any one in authority to do whatever they can to make infilling as non-appealing as possible. He thought the things noted in the paper are excellent ideas, such as protecting viewplanes, and might discourage people from infilling. He did not think there is a problem with having wharfs but if there is any indirect way to limit infilling he would encourage it. It is not enough to say it is Federal jurisdiction. You should be extremely concerned about infilling and do everything you can to encourage the Federal government to ban it.

Councillor Uteck noted the three levels of government have had three or four meetings to look at the jurisdictional issue.

Mr. Mark Poirier, President of the Halifax Urban Greenway Association, stated they are the community group working with HRM to build a multi-purpose trail from the railcut from the Arm to Point Pleasant Park. They are interested because they are interested in linking all the water access points and public access points along the Arm and opening them up to trail users. Why do they want to go down to the Arm? It is not to swim. They will not be carrying canoes. They want to enjoy the view on their way to the park. He was addressing the issue of viewplanes. There is a difference between protecting private views from people's homes and from public views from public points. He was suggesting that each of the access points along the Northwest Arm have a public view point. The issue of conflict of interest is completely irrelevant. He was talking about policies and regulations. He was suggesting that each should be considered as viewpoints and the views should be protected for the public.

Mr. Graham Read indicated that for the past twenty years, the Northwest Arm Heritage Association has been trying to get something done to preserve the view of the Northwest Arm. Unfortunately at the time it was the City of Halifax and staff refused to get involved with anything beyond the high water mark. He was pleased that HRM planning staff is making an effort to sort out some of these cross-jurisdictional issues. He was pleased to see what was being proposed and was hoping it proceeds promptly without too much difficulty.

Mr. Read referred to the "urgent notice" circulated to residents which talks about fear mongering in terms of loss of property value. The whole objective of this exercise and putting in controls is to preserve property values from adjacent property owners from this devastation taking place. The objective is for the public good.

Mr. Read indicated the view at the rotary is important to the Northwest Arm Heritage Association. You see a lot of trees until you get out onto the Arm. You see that there are a lot of houses behind the trees. When people are putting in new homes, it has to be on the water and

there are no trees. If we take down the trees and put in concrete, that is taking away the natural views. We have a nice feature there. Let's preserve it and not chip away at it.

Mr. Read said that although he was pleased with what HRM is now doing, he thought they should be more aggressive. He thought they should take some action and do away with water lots. It requires action from the other levels of government. The Port Authority seems to have no interest in the Northwest Arm. Maybe there should be a Northwest Arm Authority to control these things. He believed that when these water lots were created 150-200 years ago that the people at the time had no idea they would have these massive homes. The idea was to have a water lot to anchor a boat.

Mr. Rod Kerr, Water Works Construction, commented he has been using the Arm recreationally since he was a kid. He has building docks for thirty years and for many of the people in this room. Over that time they probably ran into several occasions where some infilling may have made things easier to build a dock. His understanding from the Department of Fisheries & Oceans (DFO) is that if you infill below the high water line, you cannot cover up fish habitat and you can be charged under the *Fisheries Act*.

Mr. Ouellet stated DFO does not approve projects. What they give approval to is disruption to fish habitat and, if they do so, they have to compensate somewhere else. There would be some fines.

Mr. Carr said they are not allowed to alter the watercourse without approval from the Department of Natural Resources and the Navigable Waters Protection Plan. They will not give their authorization without the plan from the DFO Habitat Division. IF DFO will not approve infilling, and he understood they will not, then how can anybody build those without breaking the law? If those laws are involved and you cannot infill, then why are they talking about what can be built on infilled lands? He could not understand how people are infilling legally.

Mr. Ouellet stated we have been clearly told by DFO that they provide permits quite often and this happens all the time. They review the project and calculate the amount of compensation needed. As long as it does not have too much of a disruptive effect, they will issue a permit. They may require some compensation and thought the ratio is 2:1.

Mr. Carr commented he understood that trade-off was only accepted when the project was for the public good. It has been his experience that you cannot get approval to build a breakwater for a private residence.

Councillor Uteck referenced a letter from Geoff Regan, Minister of Fisheries and Oceans, dated July 21, 2004, and read into the record two paragraphs.

“Under the authority of the *Fisheries Act*, DFO has decision-making authority for the conservation and protection of fish and fish habitat supporting Canadian fisheries. The fish habitat protection provisions of the *Fisheries Act* provide mechanisms to allow development

projects to occur while providing for the protection of fish and fish habitat. DFO does not approve developments, but assesses proposals for their potential to harm fish or fish habitat, and may authorize the harmful alteration, disruption or destruction (HADD) of fish habitat if deemed appropriate under the circumstances. Subsection 35(2) of the *Fisheries Act* allows for the Minister to authorize the HADD of fish habitat, if there are appropriate agreed-upon habitat compensation.

A proposal that requires an authorization under subsection 35(2) of the *Fisheries Act* triggers additional responsibilities under the *Canadian Environmental Assessment Act* (CEAA). DFO is responsible under CEAA to ensure that proposals proceed in a manner consistent with the concept of sustainable development and that they are not likely to cause significant adverse environmental effects.”

Mr. Carr commented that if you do the mitigation measures on the Arm, he thought they would find it usually happens after the fact where somebody has already done the infilling. Ideally it would happen in advance. For those who get permits in advance, they are often quite unsuccessful. Many of the people in this room were disappointed with some of the things they have witnessed. They caused an uproar so if you go through the permitting process, they cannot get any more permits without having to advertise across the country in French and English at a cost of \$700 and you have to do an environmental assessment.

Mr. Carr indicated he thought a lot of people were interested in developing policies to make the Arm as good a place as it can be. That is commendable. It is not always a navigable issue. They have to be careful it does not damage other businesses. Some of the bureaucrats doing the administration are “gun shy” about everything and some of them are paying the price for that.

Mr. Hugh Pullen questioned whether the City has public access to the Northwest Arm and whether the City has a water lot off Oakland Road and the Marlborough Woods Park.

Councillor Uteck responded that in terms of 6400 Oakland Road, HRM does have pre-confederation rights into that lot.

Mr. Pullen commented he was an advocate of the slow ferry from the foot of Oakland Road to the Dingle which would replace the one that used to be there before they got a bus along the Purcells Cove Road. It was used by a lot of people. A lot of people in Jollymore work at the hospital and go to activities, and felt it would be a real asset to both sides of the community on the Arm. It would have to be a year round service complete with buildings on the water.

Ms. Janet Kitz stated she was very concerned about the preservation of historical sites and views on the Arm. From where she lived next to the public wharf, most of them here must remember the huge rock that stood by the public wharf. It is mentioned in all the early histories. It was called Trumaine Rock and was very attractive to look at. It is now covered by a concrete bunker and she was very concerned about the preservation of such things.

Ms. Jill Robinson said she wished to speak in support of a previous speaker. She worked as a landscaper and they work very hard to ensure they fulfill all the requirements necessary in order to get permits when they are doing breakwaters. It is not fair that somebody should be, by default, exempt from any of the restrictions whether they are ocean or fresh waterways.

Ms. Colleen Mizerit stated she lived next to the bunker and also next to dope alley - this wonderful building and public wharf. How come she was the only one that has to call the Police? There are ninety-three calls on police records from this summer from between the hours of 10 p.m. and 4 a.m. There are kids that come all night long who smoke and drink and cause a lot of damage on the street. How come she was the only one in that neighbourhood that complains? While they are so busy protecting this park, she could barely walk up and down the park. It is not a park; it is a road. It is great to have a wharf. How many boats do you see get up to it?

Councillor Uteck questioned how she envisaged the Arm in the next twenty-five years.

Mr. Arthur MacNeil commented they live in a society with words you must not say. We have a new one - "i" for infill. He would submit that they as a community have been guilty of infilling. Where he lived in Regatta Point he saw the public walkway along the Arm. Infilling is not always the wrong thing to do. He understood the concerns and appreciated the approach being taken this evening. He commended the work that has been done and the novel approach to get around the awkward civic structure. He urged that they set up a system that promotes rational judgement.

Mr. Ken Bell said he has been playing on the Arm for at least sixty-five years. He was not a lawyer but in land use they used to have squatter's rights. In the north, the government is expressing concern that if they do not police it, it will become an international right. He questioned whether they can take a similar approach to squatter's rights because this land has been used for years by boaters and swimmers. Does that not give them some rights? He wanted to play on the Arm for a few more years.

Mr. Richard Peisinger, nearby resident of Northwest Arm and part of the Northwest Arm Coalition, stated he was so pleased the City is in motion in terms of the particular things we are talking about tonight in terms of changing the zoning - the contemplation of what can be built there and the lot sizes as well as the viewplanes. Keep going! He also heard we are not here to talking about infilling. That is what motivated it. He thought they were looking at personal greed. If there is a good reason for infilling, then let that happen. Not all infilling is bad.

Mr. Peisinger stated there is no coherent infilling strategy or management of the Northwest Arm. There are seventeen agencies within the Federal, Provincial and Municipal government that are involved in the Harbour. None of them know what the other is doing and are acting independently. We should applaud the City for getting some kind of coherence there. He sat down at the table with DFO and the Ecology Action Centre and they will have coherent policies in the Harbour. The City has to lead. Roger Wells and Peter Bigelow have been key people and leaders. Let's find out who is doing what. He questioned whether DFO talked to the City when

they were making a decision that would affect the City 5' away and the response was no. Nobody is speaking to each other. It is not the way to protect the jewel of the Northwest Arm. He asked that they continue with what they are doing and ask that there be a resolution brought before Council, and that the City continue to bring leadership into the Northwest Arm.

Mr. Ouellet indicated that over the past number of months, they have had all the players around the table to share information. They have done that through Roger Wells. They had DFO, Transport Canada, Natural Resources, and the Federal Department of Environment. All the players are sitting at one table and it is an ongoing process. They were aware of this meeting and they are aware of the process. Some of the agencies are starting to listen to what HRM is wanting. We are not here to say that all infills are bad. Sometimes it is necessary to protect for erosion control. DFO is aware that there may be applications in the future to do infilling for much more than docking and erosion control. They may be able to say there are very clear policies in the MPS for the bigger infills that HRM does not want them, and they may be able to use that in the future to turn down applications. That is something they put on the table and are willing to think about. Also, they are willing to look at the cumulative effect of infills and not individual parcels. Hopefully that will continue.

Mr. Peisinger stated the Northwest Arm Coalition and others were sending a letter to this body of different agencies asking them to put a moratorium in place until such time as a decision has been made. Let's get some policies in place and we'll have something.

Councillor Mosher noted there are two Community Councils encompassing the Northwest Arm. Both Community Council's passed a motion to send a letter to Minister Geoff Regan. She quoted an excerpt from the letter from Chebucto Community Council to the Minister: "In an attempt to prevent water lot owners from undermining the planning process initiated by Regional Council, members of Chebucto Community Council would like to ask for your assistance in issuing a temporary moratorium on the authorization of any further infilling of water lots on the Northwest Arm in the period leading up to January 17, 2006." Regional Council has endorsed looking at this in advance which is very unusual. Many councillors were upset and wanted similar controls in Bedford and Dartmouth. Staff did a remarkable job bringing this forward now instead of waiting for the regional plan.

Mr. Paul Huber stated he resided in Halifax for forty years, the first ten in Jollymore. For the last thirty years he has resided on a property which has a water lot on the Northwest Arm. He would like to commend City staff and Councillors Uteck and Mosher for bringing this initiative of the City forward. This is a very important step in terms of trying to develop a coherent policy for municipal planning for the Northwest Arm and the adjacent area.

Mr. Huber commented he took partial exception to the view that zoning represents a loss of property rights. What it does is prevent a minority of people from exploiting their property rights at the expense of the property rights of their neighbours, and other people who may not be neighbours but have the attractiveness of their community degraded by the few who try to push

the limit. Zoning is an important function of government to maintain a level coherent playing field for development to occur.

Mr. Huber said that when he came here forty years ago, the Northwest Arm was much more attractive. The ferries still operated but for not much longer. He used to take it for about four years. After that, the Boutilier family sold their property just to the south of the Dingle Park to a developer who was going to put a high rise building on that property. It created quite a stir. Ultimately the City bought that property and attached it to Fleming Park. That was an important initiative back then to try and preserve the amenities of Fleming Park and the Arm.

Mr. Huber indicated there have been other instances since then but unfortunately in the last few years the City was unwilling to act or deal with not just infilling but the degradation of the environment in the area adjacent to the Arm. Some of this has proceeded at high speed and as a result when you walk or jog on Fleming Park, what you see is a horrible looking development on the other side. When you look down the Arm from the rotary, you see a building stuck out and a breakwater which extends well beyond their water lot property by 15-20'. In the head of the Arm, the water lots went from the high water mark as it existed in 1954/56. In the meantime, there has been a lot of siltation in the Arm as well as construction and as a consequence the low water mark from where it was in the middle of the 19th century is further out. As a result, the land claims are creeping. His lot had some land infilled about 40'. The shoreline was stable until this large wharf was built with a structure on it.

Mr. Huber stated there has to be an effort made by the City and hopefully by the other levels of government through the various groups that are involved to create a system where we do not have this type of problem continuing to occur. There should be a major effort made to reverse some of the degradation that has happened in the past five years. The idea that we grandfather everybody who has gotten away with stuff in the past is wrong and we should be going after some of these people and restoring it where possible.

Ms. Michelle Raymond, MLA, said she grew up in the Northwest Arm in a house that was attached to a pre-confederation water lot. She had serious concerns about recent actions, not just on the Northwest Arm, but across the coastal area of Nova Scotia as a result of development pressures and the increasing price of land.

Ms. Raymond stated she wished to commend the City for having taken the lead. In the community they have a complicated situation with three levels of government, all of which have historical contributions. The situation is somewhat more complicated here than in other places. A level of government always has to take that step forward. She has been working mostly with the Department of Natural Resources (DNR) and to some degree the Departments of the Environment and Municipal Affairs. DNR has jurisdiction over beaches. She hoped in the end they would be able to make a strong legislative statement which says they do not believe in large amounts of rock walls and aggregate being placed in waterbodies but they are not at that stage yet. In the meantime, they have to work in the silos of three levels of government and they will

look at restrictions. Most of the people here know the Northwest Arm and know it is a very small and vulnerable body of water.

Ms. Raymond indicated it was also seen as a means of natural transportation. People have been evaluating it for its fishery and defense and its recreation and aesthetics for 250+ years.

Ms. Stephanie Sodero, Ecology Action Centre, said she wished to thank the councillors and staff for organizing the meetings and bringing together the three levels of government through their seventeen departments. She would like to see a management body come from that or form a cohesive measure for the Northwest Arm. Perhaps create a community advisory group. They should look at viewplanes, setbacks, and what infill would be acceptable or not. For her to address it broadly she would need to be able to see a comprehensive list and then select what she would determine to be appropriate. She felt it would be advisable to have a community advisory group to discuss the various parameters.

Closing Comments

Councillor Uteck thanked everyone for coming out this evening. The comments have been insightful and helpful for staff. The meeting adjourned at approximately 8:45 p.m.

Attachment E
Public Information Meeting Minutes
Case 00596
November 9, 2005

In attendance: Councillor Mosher
Peter Bigelow, Real Property Planning
Luc Ouellet, Planner
Gail Harnish, Planning & Development Services
Roger Wells, Regional Planning

Opening Remarks/Introductions/Purpose of Meeting

Councillor Mosher called the public information meeting (PIM) to order at approximately 7:10 p.m. at St. James Anglican Church Hall. The purpose of the meeting is to discuss potential amendments to the Halifax Municipal Planning Strategy (MPS) relative to water lot infilling on the Northwest Arm. She thanked everyone for attending the second meeting.

Councillor Mosher indicated staff would give an overview of the planning process. There is somebody from the Federal government (Paul Boudreau of Fisheries & Oceans) present this evening to hear the comments. He is part of an intergovernmental working committee that HRM is working with. We are not focusing on infill but rather looking at the broader view of the Municipal and Federal governments.

Councillor Mosher advised there are a couple of letters available for handout as a result of questions raised at the last meeting. There is a letter from Geoff Regan, Minister of Fisheries and Oceans, dated July 21, 2004, talking about Federal jurisdiction plus a letter from herself as Chair of the Chebucto Community Council dated October 3, 2005, to the Minister asking for a moratorium on infilling until we go through this process. The date we asked for was January 17, 2006.

Councillor Mosher indicated the municipal jurisdiction starts when the land is infilled. At the last meeting, many people talked about the infilling issue in general. Unfortunately that does not help HRM as we cannot do anything about that. We can hopefully through our intergovernmental group look at this issue. We need your feedback about what you would like to allow. Some people are saying there should be no infilling and to limit infilling. Do you want boat houses and accessory buildings? On the Armdale side, the maximum height for an accessory building is 14'. Is that appropriate? Right now there are no setbacks from the water. Do you want to maintain that or change that?

Councillor Mosher advised the format of tonight's meeting is a bit different. It became clear that if you do not know the current regulations, it is unclear what recommendations to make. Luc Ouellet will talk about the planning process and Roger Wells will talk about harbour planning and the intergovernmental working committee as well as a neighbourhood planning process for

the future. In addition, Luc will review the current land use by-law (LUB) regulations for the Peninsula and the Mainland side. Although infilling in general is important, please keep in mind that is a Federal issue. We need valuable input for what the Municipal government has responsibility for. When the lot is infilled, it takes on the zoning from the adjacent lot.

Overview of Planning Process

Mr. Luc Ouellet advised this case has been ongoing for about two years. Staff has been working on potential amendments with different agencies at the Federal and Provincial government level. It is a very complicated issue. HRM has no jurisdiction over water lots. We only start having jurisdiction once the land has been infilled. Our jurisdiction is over land and not water.

Mr. Ouellet reviewed the planning process:

- an initiation report was tabled with Regional Council on August 9, 2005. At that time, Regional Council initiated the MPS amendment process. The MPS is the overlying vision for the community. The regulations that govern land use fall under the LUB.
- we are now at the PIM stage
- following this meeting, we will review the comments from the two meetings which will give us input on drafting potential amendments
- a report with recommendations will be tabled with Chebucto Community Council and Peninsula Community Council who will make a recommendation to Regional Council
- Regional Council will decide whether or not to further pursue the file. If so, they will schedule a public hearing. Notification will occur again and there will be notices posted in the newspaper.
- the public hearing is held
- the amendments, if approved by Regional Council, are forwarded to the Minister for review and sign-off
- a notice of approval is placed in the newspaper, at which time the amendments become effective

Review of Current Regulations on the Northwest Arm/Potential Amendments

Mr. Ouellet advised there are two LUBs covering the Northwest Arm; Mainland and Peninsula. A lot of the regulations are similar, however, some do differ. One of them being the height of buildings. He reviewed the minimum lot frontage and lot area requirements, the maximum height for main buildings and accessory buildings, the maximum lot coverage provisions, and the setback requirements from the Arm from the main building, for both the Mainland and Peninsula LUBs.

Mr. Ouellet indicated we are looking at including a policy in our MPS which states that "HRM is opposed to the infilling of water lots along the Northwest Arm with the exception of municipal works, docks and retaining walls for shoreline protection." We hope this is strong enough to convince Provincial and Federal agencies not to issue new approvals for infilling on the Northwest Arm.

Mr. Ouellet noted we may be able to stop it indirectly by making it very expensive to infill and what you get out of it is very limited. For instance, we might implement LUB amendments which would only allow boat houses to be built on the infilled portion. We are trying to avoid habitable buildings. We might allow boat houses but define what they are and perhaps specify a maximum size.

Mr. Ouellet indicated another possibility is to amend the LUB to not allow any infilled land to be calculated towards the current setback from the water and towards the main lot area. The amendments would discourage the infilling of water lots to create additional subdivision and development opportunities. He showed three diagrams as examples entitled "Setback from the Arm (before and after infill); Increased subdivision opportunity by infilling; and Height for Building on the Mainland.

Mr. Ouellet concluded by saying those are the issues we think we can rectify. We are looking at other angles as well but they are not specific at this point and have to be vetted out by Legal Services.

Halifax Harbour Planning Process/Neighbourhood Planning Process

Mr. Roger Wells advised he was the Manager of the Halifax Harbour planning process which is a component of the overall regional plan that HRM is undertaking. What we are doing tonight is addressing immediate changes to the existing MPS policies and LUB regulations. The Halifax Harbour plan is looking at a 25 year strategy - what we want Halifax to be 25 years from now. He did not want there to be confusion between what we can address tonight versus the longer view plan that he was looking at. He would be giving a presentation on where we are going in 5-10-25 years.

Mr. Wells indicated we have a finite amount of land available around the harbour and a lot of competing interests, such as: marine industrial; marine commercial; increasing demand for residential development; unanimous consent from the public for more parks and trails on the harbour; with Harbour Solutions they are looking at cleaning up and greatly improving the water quality in the harbour. We will be able to look at the environment and re-institute fish habitat, as well as look at a transportation network with more ferries. Lastly, there is a management structure. The different levels of government are working somewhat independent of one another and we can talk more together.

Mr. Wells stated a draft set of policies will be presented to Regional Council hopefully in the new year as part of the regional planning exercise. He wanted to point out three areas specific to the Northwest Arm that are managed as part of the planning exercise: Firstly, validate the establishment of an intergovernmental working committee to look at this whole topic of infill. It is not unique to the Northwest Arm. The community of Bedford also has issues regarding water lot infilling and there are water lots around the shoreline of Halifax Harbour. It is a hot button right now because there have been a few recent water lot infill applications put forward.

Mr. Wells indicated that stemming from the harbour planning exercise we want to establish an inter-governmental working committee to collectively look at the issue of water lot infilling and if and how we can do things better than in the past. This is the three levels of government and the levels within each of the three levels of government. Not only is it vertical, it is also horizontal between departments. It is a very complicated and complex issue and it will take work and creative thinking to come to a bottom line to deal with water lot infilling. That inter-agency committee has been struck. Three meetings have been held and he was pleased to say there is a spirit of cooperation around the table. The composition of the inter-agency comprises: Federal Department of Fisheries and Oceans, Federal Transport Canada, Halifax Port Authority, two Provincial Departments both who have a say in water lot infill activity (Natural Resources and Department of the Environment), and HRM.

Mr. Wells advised the committee has brainstormed, done some team-building, and are looking at scoping out issues and objectives and what they would like to try and accomplish. They will be looking at a review of all their mandates under the current statutes they are working under. There are 17/18 different statutes that deal with water lots. They will also look at gaps/overlaps, opportunities, how within their own structure they can do things better, and legislative opportunities.

Mr. Wells indicated they have already come to two conclusions: institute better communication between departments laterally and between government levels on any infill application that comes in; and improve the coordination between those units so they talk together while the approval is in process. Those decisions have been made and they are acting on them.

Mr. Wells noted that following approval of the regional plan, specific to the Northwest Arm they want to undertake a neighbourhood planning process which would include extensive stakeholder consideration, and address issues and opportunities regarding things such as: water lot infilling; environmental management; parkland and trail development; water based recreation and navigability; historical and cultural assets; protection of public views; public transit extensions, and related land use matters.

Mr. Wells stated they recognize the Northwest Arm is a special place and it has been for a couple of hundred centuries. It is still a special place. It needs a community-based comprehensive look at what the community wants to achieve over the longer term for the Northwest Arm. That will not be a short process and will take a lot of public consideration, decision-making and discussion. That is where they want to go over the longer term with respect to the Northwest Arm.

Mr. Wells indicated it is a three-prong approach for the Northwest Arm: (1) undertake immediate interim amendments to plan policy which can be brought into effect in January of 2006 addressing infilled water lots; (2) create an inter-governmental approval agency committee which would take a more holistic look at when and not to approve water lots; and (3) undertake a neighbourhood planning process that looks at the much broader.

Councillor Mosher noted that at the last meeting some people were critical of HRM not having done much lately so she asked them to do a summary of what they have done and, as you can see, they have been working hard.

Councillor Mosher advised that Councillor Uteck sent her regrets as she is away, and Councillor Walker and Councillor Fougere both had other meetings and were unable to attend this evening.

Questions/Comments

Mr. Bishop, Peninsula side, commented he was a boater as well. The Northwest Arm is a very unique place that should be preserved. He thought they do things properly, however, the public tends to look at what is in place and not done. He questioned whether there are plans in place to prevent the activity occurring down there now while these actions are in motion. What is to stop him from infilling a water lot and putting in another slab of concrete?

Councillor Mosher responded that both the Chebucto Community Council and the Peninsula Community Council passed a motion asking the Federal government to put a moratorium on infilling. They have not had a response. Tonight Mr. Boudreau is here from the Federal government and they are aware of it. It would be great if everybody here tonight called the Federal government and said they supported the moratorium.

Councillor Mosher indicated that if a lot is already infilled and there is nothing on it, the owner can come in and subject to land use requirements get a permit tomorrow. Somebody has approached HRM with that scenario. She asked if they could ask for a Ministerial Order from the Province. It is doubtful but they are trying.

Mr. Bishop commented he understood that between now and the time they reach where they want to go, they could see some more development like they have seen on the Peninsula side in the past couple of years.

Mr. John Dick said he wished to compliment Councillor Mosher and Councillor Uteck for holding the meetings. He lived on the Arm and wished to make two points for the record. The first point being transfer of equity or value from the public sector to the private sector. Any time there is a development adjacent to a public place, like the Arm or the Public Gardens, very often there is a transfer, when the project is finished, of equity in value from the public sector to the private sector. When the whole project is completed, the private project is worth a lot more being adjacent to these beautiful places. He was a finance minister for many years. You have to remember that what is important to the developer is making money. Not all developments are bad. You have developments like Sheraton Hotel which was a good development and even Purdy's Wharf which was built right on the harbour. It gives Halifax a dynamic and vibrant port.

Mr. Dick indicated that in terms of the environment, he did not think they can say too much about the incredible ecosystem on the Northwest Arm. He lived on Armview Avenue overlooking Horseshoe Island Beech, which is a key point. It is a place where you have tidal

action twice a day. There are things going on and they are replenishing the food chain. He has watched eagles, ospreys, herring, terns, mink otters, seals, and porpoises, as well as others. This is an incredible ecosystem in the middle of the City. Every time you infill, you destroy the beech. There is so little beech and places on the Arm because of infilling taking place over the years. In the past they have asked the Federal government if there are any ill effects with infilling and they said no. They could have asked the seals and the otters and they would have said yes.

Ms. Janet Doyle said she wished to touch on something raised at the last meeting about prevention. We cannot close down all our parks and trails and streets just because groups of teenagers are misbehaving at night. They have a large treed green lot and there have been kids drinking there at night. They had six light stands put up from Beaufort Avenue and they have been knocked down, however, that has not stopped her from wanting to support trails, parks and water access points. She thought it was important to keep in mind that there will be some night time activity around these access point but proper controls insisted on in a neighbourhood can vastly improve this situation. She suggested there be lighting all the way down to the park.

Councillor Mosher advised they would forward that concern to the community response team.

Ms. Doyle stated she would like to see the planning around water accesses be kept in mind and kept beautiful and not harmed. She would like to see controls on water lot infilling. There should be proper setbacks and no crowding of buildings on new land built out onto the Arm. Accessory buildings, possibly yes, and docks, possibly yes, but kept within reason. She would like to promote good planning.

Mr. David Wilcox, Bedford, questioned why these amendments are only being proposed for Bedford and not HRM in total.

Councillor Mosher responded it was due to some recent issues at the Armshore site and the recent infilling on the Oakland Road site. The other plan areas will be looked at after the regional plan but we felt this had to be looked at in advance of the regional plan. It is primarily residential and there is not any commercial activity. Councillor Uteck and herself pushed to have it. Other councillors would like to have the same type of process at some point.

Mr. Wilcox questioned whether Bedford could be included in this exercise.

Councillor Mosher responded no. She knew Councillor Goucher was concerned about this issue. There are different issues with the Bedford aspect.

Mr. Wells indicated this is not to diminish the water lot infill situation in Bedford. When they went to Council and after discussion with Council about the Northwest Arm, there were some very specific applications and more impending applications coming in the future. We were concerned that if we opened this question to the whole of the harbour that it would get bogged down community by community. The issues in Bedford might be a bit different and then in Dartmouth the community might feel a bit differently. Rather than run the risk of biting off more

than we can chew and getting bogged down in a lot of process, Council deemed it best to keep it to the Northwest Arm and perhaps use that as a model and then it could more easily be applied to other communities around the harbour. They wanted to start small.

Mr. Leonard Preya stated the Northwest Arm Coalition has been pushing for it to be treated as a priority project in large part because they think they can establish best practices that will help coastal communities across Nova Scotia. Because they have a number of organized groups here and a lot of attention devoted to the issues, they would be able to deal with it ambitiously. He appreciated Mr. Wells' comment on what the working committee is doing. He thought that will be a much longer process.

Councillor Mosher noted it was mentioned by Mr. Preya at the last meeting that there were seventeen different organizations dealing with the Northwest Arm. It would be great if all those organizations would make representation when it came to the public hearing.

Mr. Preya said they have been urging all the members of the Coalition to speak.

Councillor Mosher indicated that at the public hearing we do not look at the phone calls but rather the written submissions and verbal comments. She urged that they submit a written submission if they are unable to attend the public hearing.

Mr. Mike Gross, long time resident of the Arm, commented some of the perspectives are different. He referenced a flyer that came to his mailbox which said HRM was adopting new LUB amendments to impose limitations. The flyer also says it will remove the 30' easement. Obviously this came from somebody with an agenda. There are a number of people on the Arm who want to register their own personal development, whether for their own domestic or commercial use, before any regulations come in. What makes the Arm beautiful is beautiful things. What upsets people is the non-beautiful things such as ugly infills, concrete walls, hotel Californias, that are not pleasing. It is very difficult for rules to say whether or not a building is beautiful.

Mr. Gross stated that when they make the rules and regulations they have to be absolute with respect to the setback and the rules on infilling, but also describe the purpose behind the rules and regulations which is to make sure it maintains the character of the Arm.

Mr. Ouellet indicated that in terms of why, they would be putting the reasons into MPS policy and not the LUB. We will say it is to try and prevent infilling. The reason is to preserve the character of the Arm, the impact on the environment, and all the bad things that come with infilling. There are points about the character which will come at a later date. A community planning process will follow the regional plan and it will look at public views (the view of the Arm from the Rotary and from Sir Fleming Park). This is a two-prong approach. There will be some elements in these amendments but a lot of them will follow in the secondary planning process.

Mr. Ian MacDonald commented ditto to what he was hearing tonight. This gentleman was speaking of views down the Arm and started thinking of it on the other side. How much infilling will happen and the Arm gets plugged up? He felt there should be no infilling whatsoever. When we speak of the character of the Northwest Arm, the character is the shoreline. You cannot decide what people build on their property. That is their own business. The character of the Northwest Arm is the shoreline itself. Leave it as it is. If you have to put up a stone wall to protect your property, so be it, but other than that there should be no infilling.

Councillor Mosher noted that the walkway around Regatta Point is the result of infilling. She questioned whether people were saying no to walkways.

Mr. Dick Hodgson said he has lived there for three years and was very attached to the Northwest Arm. He would like to comment on the initiative. He liked the three-prong approach. It seems that the problem is related to how do they get through the next year or so without allowing it to deteriorate. He was concerned about the comment not to tell them about infilling because they cannot do anything about it. They have to find a way to work with their colleagues and find the corrective solution to get the job done. He was not particularly knowledgeable but under the *Navigable Waters Act* any disturbance has to be justified over and above the right to navigate. With Transport Canada you would strengthen its authority that infilling not occur in a sensitive place like the Northwest Arm. The Northwest Arm is also a waterway under the *Oceans Act*. He referenced the comment about the ecosystem approach.

Mr. Michael Reardon indicated he lived on the Arm for fifty years. An earlier speaker referenced seeing a whale. Right now it's a sewer. He applauded the plans the City has to improve this and it is under way. In contrast, most people who live on the Arm spent most of their life working to be able to live there and they are in support of preserving the Arm as a waterway. He thought there were very few people who live on the Arm who want to infill their lots and subdivide for houses.

Mr. Reardon said he felt the long-term plan is straight-forward. Dr. Gross referred to the sewer easement which goes through everybody's property and was unchanged for fifty years. Whether they live on the Northwest Arm or any metropolitan area, if somebody is pushing to have the 30' wide easement accessible through their property, then he thought that gives some concern. He thought that was the biggest issue for most of them. Most of them are against inappropriate infilling. No one wants that waterway to disappear. At some point, is there an intention to make the throughway public?

Mr. Ouellet responded that the sewer easement is for the sewer itself and nothing more. If you own property that an easement passes on, it is a contract between that property owner and the City for a particular purpose. The City cannot turn around and use that easement for another purpose.

Mr. Reardon commented he thought that is why some people are here wondering what will happen. Everybody would be concerned if the middle of their backyard becomes a thoroughfare.

Mr. Ouellet advised Engineering is working on a staff report to study the easement itself. The sewer line dates back to 1917. There have been a lot of problems with that sewer line and it might need to be replaced. The ongoing study is to look at what the opportunities are for that. There are some encroachments on the easement. The Municipality does not know how it will deal with some of them. Some might be fine and some may be causing a problem with the sewer. The study will be completed sometime in the new year and those with easements attached to their property will receive notices.

Mr. Reardon questioned whether they knew where it ran. He had very small scale maps which they could view after the meeting.

Mr. Ouellet responded they thought it was more to do with access to the pipes when they need to replace them. The stability of the pipes is what they are more worried about.

Councillor Mosher stated they wanted to continue the walkway but not through somebody's property. HRM has the Regatta Point walkway and Deadman's Island, and eventually Raven's Craig. She envisioned they would be able to walk from the Rotary to Spryfield but it is not through somebody's backyard. There will be a public process. In terms of the rotary, some of the councillors said they should be looking at putting an overpass over it and she told them to look at the view. That is the best thing to look at when you're sitting in traffic. She also said no when Maritime Life asked about putting a pedway at the former County building on Dutch Village Road.

An individual indicated they grew up and swam in the Arm. Their group is trying to protect what you see. Their goal is not to put a walkway through their backyards and disrupt their community.

Mr. Graham Read said he wished to thank Councillor Mosher for saying no to pedways. He referenced previous comments about transfer of equity and comments about Horseshoe Island. The Northwest Arm Heritage Society argued strongly against those infills. Those walkways could have been put in place without infilling of the Arm. One of their goals is the idea of a Northwest Arm walkway. They recognized that it would not be along the water's edge all the time. It could have a view or access on the Arm but it does not have to go on private property. There is a reference in the regional planning fact sheet to requiring a 20 metre setback and buffer from all watercourses except Halifax Harbour, and questioned why they should exclude the Halifax Harbour and the Northwest Arm.

Councillor Mosher noted Luc was talking about the current regulations. She understood it only applies to the area of Horseshoe Island to South Street and does not cover the entire Peninsula side. Reference was made to the minimum lot area for the Mainland and Peninsula. Part of the Peninsula side is not 8000 sq.ft. It is closer to 5000 sq.ft. on the Mainland. It is that one sub area.

Mr. Read indicated that in terms of what should be permitted on infilled lots, he disagreed that boat houses should be permitted. He did not think any accessory buildings should be permitted on infilled land including boat houses. Most boat houses do not enhance the character of the

Arm. They look out of place. Perhaps one of the regulations they need is to require tree retention along the Arm. He had a photograph from a few years ago looking down across the public wharf and you can see the little rock that used to be there.

Councillor Mosher responded they have been looking at tree retention since 2001. It is part of the regional plan.

Mr. Wells advised there are two things in the regional plan that will go to Council hopefully in January. With regard to setback from watercourses across HRM, it is being recommended that a riparian buffer of 20 metres in width be instituted for all properties abutting a watercourse. Nothing happens within 20 metres (60'). When we are talking about infill applications on the Northwest Arm, which is what we are talking about tonight, there will not be a riparian buffer. There will be no vegetation to protect. The Harbour Steering Committee felt it was premature to institute a 20 metre setback whereby all existing vegetation cannot be disturbed except for pathways down to the watercourse knowing that a detailed planning exercise will be carried out for the Northwest Arm.

Mr. Wells indicated the second regulation has to do with coastal inundation. The regional plan is proposing, with the exception of Halifax Harbour, that all floor elevations need to be a minimum of 2.5 metres (7') above the ordinary high water mark. For the same reasons, they are hesitant to bring in that regulation for Northwest Arm and the harbour primarily because the harbour is all serviced by Municipal water and sewer. The lot sizes are much smaller. In the rural areas, the lots are larger and you can move your house back. That will be difficult to achieve on lands abutting the harbour and the Northwest Arm. They are hesitant to do that without more study. That regulation on the Northwest Arm and the harbour might backfire on them because if the approvals for water lot infills are obtained from the Federal Department of Fisheries and Oceans and Transport Canada, the consequences might be that the amount of infill would be 7' and then the basement slab is poured. For those very technical reasons, at this point in time, they do not feel that sort of regulation should come into effect for the harbour and the Northwest Arm. He thought the regulation does work for the rural coastlines and most of the freshwater systems in HRM.

Mr. Branko Mizerit indicated he designed the project for 6400 Oakland Road. He wished to commend the councillor for holding these meetings because they are important. He said he cared about the Arm just as much as everybody else. He felt the controversial project referenced as having a concrete slab, etc., is misinterpreted and would like to set the record straight.

Mr. Mizerit said that in terms of the size of properties on the Arm and whether they should be subdivided, some should and some may depending on the size. The size is important. The property he designed is over 16,000 sq.ft. which is a big property. The subdivision is extremely legal. It was approved by HRM. The subdivision approval of the property was in place before they bought the property. The impression has been put forward that he bought the property, divided it, and put a big bunker on it.

Mr. Mizerit advised that when he started the project, he put a design together and went to all the departments for approval and got his approvals before he started, except for a Navigable Waters permit which he was originally told should not be a problem. Today he was told there is still not a problem.

Mr. Mizerit indicated this particular property has a very steep slope and inherent of that condition is erosion. There are two types of erosion; one is land erosion and the other is shoreline erosion by the ocean. It is a very typical common occurrence and the Northwest Arm is no different. During Hurricane Juan there was a lot of erosion. They lost trees and about 10' of shoreline. He knew about environmental management and knew that a retaining wall was the only way to protect the shore. Some of the trees by the shoreline had no soil left. The only way you will keep the shore alive and not have erosion is to protect it with a retaining wall.

Mr. Mizerit commented everybody here is saying it is a huge infilling project. The foundation of the retaining walls is on existing shore and no further out. The big infill that everybody is talking about did not happen. When you build retaining walls, you have to have a structural footing. Stone retaining walls do not happen. Their retaining wall was designed to follow the shore.

Mr. Mizerit stated it is private property and the owner who bought the land has the right to develop it. When the project was approved 1.5 years ago, they knew it would not have an effect on the fishery on the Arm. They had an independent environmental study done to make sure this project does not affect the environment.

Mr. Mizerit said it is concrete because concrete lasts. This is not the final picture. People are complaining about a project that is not completed. The picture shows his project as a particular proposal. The retaining walls are very big so that they do not lose the shore. From an environmental point of view, one of the most important issues is sustainability. Erosion has to be taken care of first. Also the shore of the Arm is eroding every year. All their shoreline will be lost.

Mr. Mizerit indicated the project was designed to look similar to the other side of Fleming Park. When it's finished, it will look similar to that.

Mr. Mizerit stated he believed they should be allowed to have retaining walls and totally disagreed about allowing no infilling. He believed these infilled areas could be used for vegetation and they could create a nice buffer. On the sewer easement you cannot have big trees. Those are dangerous and should not be there. They need to protect the Arm. It looked very different 100 years ago. The City has been continually growing.

Mr. Mizerit said he was in favour of permitting accessory buildings and boathouses as long as they are designed as quality buildings.

Mr. Leonard Preya asked for confirmation that the proposal being forward would not tolerate subdivision of any infilled land and would not allow for the construction of habitable buildings on infilled lands.

Mr. Ouellet responded that's correct. What is being proposing would prevent habitable buildings from being built on infilled land as of a certain date.

Mr. Preya stated this is not a personal battle about that particular piece of land. The concrete wall does not protect the shoreline.

Mr. Murray Brown, living next to infilled lot, said he commended the councillors and staff for taking this initiative. He found the suggestions given to them tonight to be quite reasonable and supported them. He thought the thrust was to provide a better balance between public versus private rights and the neighbour's rights, and thought those were reflected in the presentations. One way to even that playing field a bit would be to provide notice of proposed developments so people can react before and not after the fact. He thought the new by-laws should make provision for interested parties to challenge proposed developments, particularly in matters of fact where circumstances may be made which others may contest on factual grounds.

Mr. Brown indicated there should be limitations on the type of buildings placed on infilled lands and setbacks similar to what was presented. No buildings on infill should be considered but sometimes we should consider appropriate buildings. Focusing on boathouses as a starter may be appropriate but you may want to consider the type of boats suitable for such boathouses. He did not think boathouses to serve large yachts or cruisers are suitable. There are commercial facilities to accommodate those. He thought boathouses could be considered for small boats, canoes and kayaks.

Mr. Brown said he thought they should revisit the height restriction and get away from the notion that it be the street level as opposed to ground level. If there are interested parties who are concerned the development may not conform, there should be provision in the by-laws for balances and for inspectors to confirm the Code has been met.

Mr. Brown stated any infilled land and development should be noted for assessment purposes to make sure that additions to the value of the property are appropriately reflected in the assessment for tax purposes. He fully endorsed the notion that viewplanes should be one of the criteria addressed in the by-law.

Councillor Mosher commented that in terms of assessment, there will be aerial photographs. There is a new assessment board being formed and they will be updating everything. Anything there will be captured.

Councillor Mosher noted there is a by-law which addresses the length of a boat allowed to be stored on a property. You cannot keep a boat on your property any longer than 23', not including the trailer.

Mr. David Keeting, next to the Mizerit development, said he did not want to comment on that particular development directly other than to use it as an example. He wished he could have the confidence of HRM that they are capable of putting all the pieces together to do this. He has been dealing with the issue of the development next door to him for the last three years. He spoke to every department in the City structure and nobody talks to each other so he wondered how we can expect HRM to coordinate the other levels of government.

Mr. Keeting commented that even though there are lots of regulations in place, they are only enforced if the individual wanting to carry out a project applies for a permit or if a complaint has been lodged. Many times what ends up happening is that once something is in the ground it is there permanently and nothing happens to remove it. Most of the development next door to him was done without any kind of permit.

Councillor Mosher cautioned he could not confirm or deny that.

Mr. Keeting indicated there are no regulations pertaining to retaining walls. You cannot build a 6.5' high fence or a building over 35' high without a permit but you can build a 10' high retaining wall without any permit. There could be regulations relative to the retaining wall and the sea wall. It is a 14' high retaining wall along the shoreline. There will be an artificial island out in the water. There could be a regulation regarding walls along the shoreline. In the Peninsula area, you cannot get to the waterfront without going over a sewer easement. If HRM was to say you cannot do anything over an easement, it would immediately stop infills.

Mr. Ouellet noted that in terms of the sewer easement, some of these encroachments happened over a long period of time. In the past, HRM has not been as vigilant but felt they would be more proactive in the future.

Mr. Keeting commented they could stop heavy equipment from going over the sewer easement. They talked a lot about pre-confederation water lots along the Northwest Arm. He already recommended that the City meet with all the owners along the Northwest Arm and solicit their assistance in preventing that kind of development. They could put covenants in those deeds that the City could administer.

Councillor Mosher advised that the Municipality cannot enforce covenants that people have in subdivisions. At their last meeting, the development officer said he'd be happy to meet with him and get the answers.

Mr. Keeting stated he already met with Legal relative to their ownership. His lawyer has proven to the City they were part of the building scheme which makes the City able to contest the covenants in the deed.

Mr. Peter Buell said he'd be 85 years old next year and has lived on the Northwest Arm all his life. No erosion is taking place on the Arm to speak of, if any at all! It is not subject to natural shore erosion. For the most part there is no need for retaining walls to hold property in place.

Forget about planning what infills you will allow. You have one problem and that is how you can put a stop to it right away and not allow infill unless it is in the public's interest. He questioned whether they could have a plebiscite to prevent infilling with a show of hands. He agreed the walkway could have been done around Regatta Point without infilling. It is a beautiful walkway. You can see the public does not want any infilling unless it is in the public's interest.

Councillor Mosher noted the MPS amendment process is a legal process. The first step is to hold a public information meeting.

Leslie... encouraged that the City make sure the process is transparent. She referenced a document which says the City agreed to grant a 65' wide easement.

Mr. Peter Bigelow stated the document in question was released from the Federal government. That document has not been signed. There is ongoing negotiation. A meeting is being arranged for next week with the people who would be affected to get feedback prior to writing a report to Regional Council. They are trying to keep it to a manageable group.

Leslie... said they are concerned that people not living on the Arm who want access to use the Arm should be able to do so by using the public dock. It is extremely distressing to see a multitude of people trying to protect the dock and there seems to be no protection. Trees have been destroyed on private land. This is one of two access points for the public to sail or kayak on the Arm. She urged that there be transparency. They are working to protect the land but the connections are not being made and she was extremely concerned to see this document.

Councillor Mosher indicated that the personnel from the three different levels of government working together on this agree that is a necessary component. She noted Councillor Goucher was in attendance who wanted to initiate a similar process for Bedford. We really appreciate the input and feedback. Tonight was excellent. They have something to move forward with. The next step will be a public hearing which they will be notified of.

The meeting adjourned at approximately 9:05 p.m.