




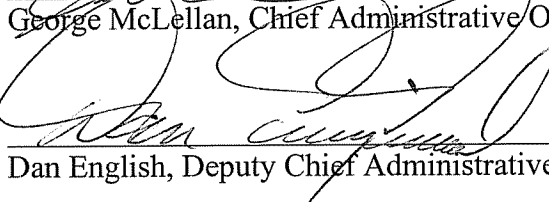
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Halifax Regional Council
January 13, 2004

To: Mayor Kelly and Members of Regional Council

Submitted by:


George McLellan, Chief Administrative Officer


Dan English, Deputy Chief Administrative Officer

Date: January 8, 2004

Subject: Case 00628: Halifax MPS and LUB Amendment - 5837 Cunard Street and
2372 June Street.

ORIGIN:

Request by Steve Tsimikilis to amend the Municipal Planning Strategy and Land Use By-law for Halifax to enable a development agreement at 5837 Cunard Street and 2372 June Street.

RECOMMENDATION:

It is recommended that Halifax Regional Council:

1. instruct staff to initiate a process to consider amending the Halifax Municipal Planning Strategy and Land Use Bylaw to enable a development agreement at 5837 Cunard Street and 2372 June Street; and
2. the public participation be undertaken in accordance with the Public Participation Resolution adopted by Regional Council on February 25, 1997.

BACKGROUND:

Zoning

The property at 5837 Cunard Street is zoned C-2A (Minor Commercial Zone) and the property at 2372 June Street is zoned R-2 (General Residential Zone). The property at 5837 Cunard Street is designated Mn. C (Minor Commercial) and the property at 2372 June Street is designated MDR (Medium Density Residential) (see Maps 1 and 2). The properties are located in Area 6 of the Peninsula North Planning Area which is an area where the permitted density is 250 persons per acre (Schedule A), giving this site an "as of right" possibility of 304 persons (i.e., habitable rooms) if it was zoned R-3.

The existing building at 5837 Cunard Street was previously occupied by Royal Canadian Legion, Scotia Branch 25. The existing building on the adjoining property at 2372 June Street was the Maritime Canvas Converters location. The legion is vacant, while Maritime Canvas Converters will soon vacate. The applicant advises that the demolition of these buildings will not occur before February, 2004.

Both of these uses are non conforming. Within six months of these uses ceasing there is the potential to reoccupy each building with similar uses. However, once the demolition takes place, the non-conforming use status is lost.

Proposal

The owner proposes to construct a 130-unit apartment building comprising a tower of seven (plus penthouse) storeys with two attached 3 storey wings (406 habitable rooms) at 5819 to 5837 Cunard Street and 2372 June Street. This is an R-3 land use. The existing R-2 and C-2A zones do not permit R-3 uses. Furthermore, the proposed building does not comply with the provisions of the R-3 zone. Therefore, the owner has requested that the Halifax Municipal Planning Strategy and peninsula land use by-law be amended to enable consideration of a development agreement for this site to allow an apartment building and grant exemptions to the R-3 zone requirements.

DISCUSSION:

Rationale for change

Site specific amendments to the MPS are not routine applications as rezoning and development agreement applications are. The Municipal Government Act contemplates applications for rezoning and development agreements and sets out a procedure for a municipality to follow including an appeal period. While there is an ability for Council to amend its MPS, it is under no obligation to do so and there is no appeal on its decision to amend or not amend.

As the Municipal Planning Strategy is the document adopted by Council to guide the future development of the municipality, requests to change it by individuals are generally not supported by staff unless it can be shown that circumstances have changed since the MPS was adopted which make the current designation or policy no longer appropriate. If circumstances have

changed and the current designation or policies are no longer appropriate, the second matter is what designation or policy is appropriate.

The portion of the MPS applicable to this area was adopted in 1995. With the closure of Maritime Canvas Converters and Scotia Branch Legion, there is now an opportunity to consider reuse of these properties, so that these commercial uses will be eliminated from this predominantly residential area. However, unlike the Maritime Canvas Converters site which is zoned residential, the Scotia Branch Legion site is zoned C-2A. Therefore, even with the cessation of the legion use and demolition of the building, this site has the potential for “as of right” redevelopment pursuant to the current zoning for other commercial or combination commercial-residential uses.

Given the predominance of residential uses in this area and the proximity to a number of registered heritage properties, this is an opportunity to consider redevelopment of this site by development agreement which could provide for a development which eliminates commercial uses and provides a better level of compatibility with the residential neighbourhood, in particular, the heritage properties. Staff is satisfied that this is a reasonable change in circumstance, giving this request sufficient merit to be considered.

Use as an apartment site

Staff is on record as recognizing that Cunard Street, from Agricola Street to Robie Street may be suitable for apartment development, given its relation to the Common. As a result, in 1995, when the area 6 portion of the Peninsula North Secondary Planning Strategy was being prepared, staff recommended that a policy be included in the MPS which would allow multiple-family high density residential development on all properties on this portion of Cunard Street by development agreement¹.

The staff report pointed out that redevelopment along Cunard Street could also include adjacent properties not directly fronting on Cunard Street and that guidelines would have to be put in place to ensure protection of the adjacent low rise residential neighbourhood. This recommendation of staff was not accepted by the Planning Advisory Committee and was therefore not included in the material presented to Halifax City Council for consideration. However, staff continues to support the concept of an apartment building for this area, subject to adequate protection of adjacent residential neighbourhoods.

Scope of MPS amendment process

Requests for site specific amendments to the Municipal Planning Strategy are normally accompanied with a specific development proposal which staff feels is appropriate for the site. In this case, although it is a marked improvement over earlier proposals for development of this site, the current proposal requires further refinement before it can be recommended by staff. Therefore, it is not the basis on which this request is going forward.

However, because staff sees merit in an apartment building on this site, it is prepared to recommend considering an amendment to the Municipal Planning Strategy to enable an

¹ Staff report dated May 30, 1994

apartment building (rental or condominium) by development agreement for this site. The following criteria are identified as the basis for such MPS amendment:

- the development is compatible with the adjacent low rise residential neighbourhood
- The development is sensitive to adjacent Registered Heritage Properties
- the development is reasonably consistent with the provisions of the R-3 zone

Adoption of an MPS amendment as described above doesn't necessarily imply approval of a development agreement which would allow the current proposal for this site. Such MPS amendment will identify the concept for this site while the development agreement will identify the specifics of the design. Whether the developer's proposal complies with whatever policy is adopted by Regional Council will be determined by Peninsula Community Council

BUDGET IMPLICATIONS:

None

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:

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

ALTERNATIVES:

1. Staff be instructed to initiate a process to consider amending the Halifax Municipal Planning Strategy and Land Use Bylaw to enable a development agreement at 5837 Cunard Street - 2372 June Street for the purpose of permitting an apartment building. This is the recommended alternative.
2. Refuse the requested amendment. A request to amend its Municipal Planning Strategy is completely at the discretion of Council. A decision not to amend the MPS cannot be appealed.
3. Instruct staff to review the open space, angle control and density requirements of the land use by-law, and consider such alternative control mechanisms as lot coverage, ratio of floor area to site area, and setback requirements for siting of apartment buildings, provided that the intents of the Municipal Planning Strategy will be furthered. This is not recommended as there is no evidence that the current requirements are no longer appropriate.

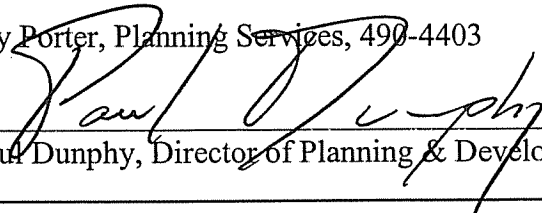
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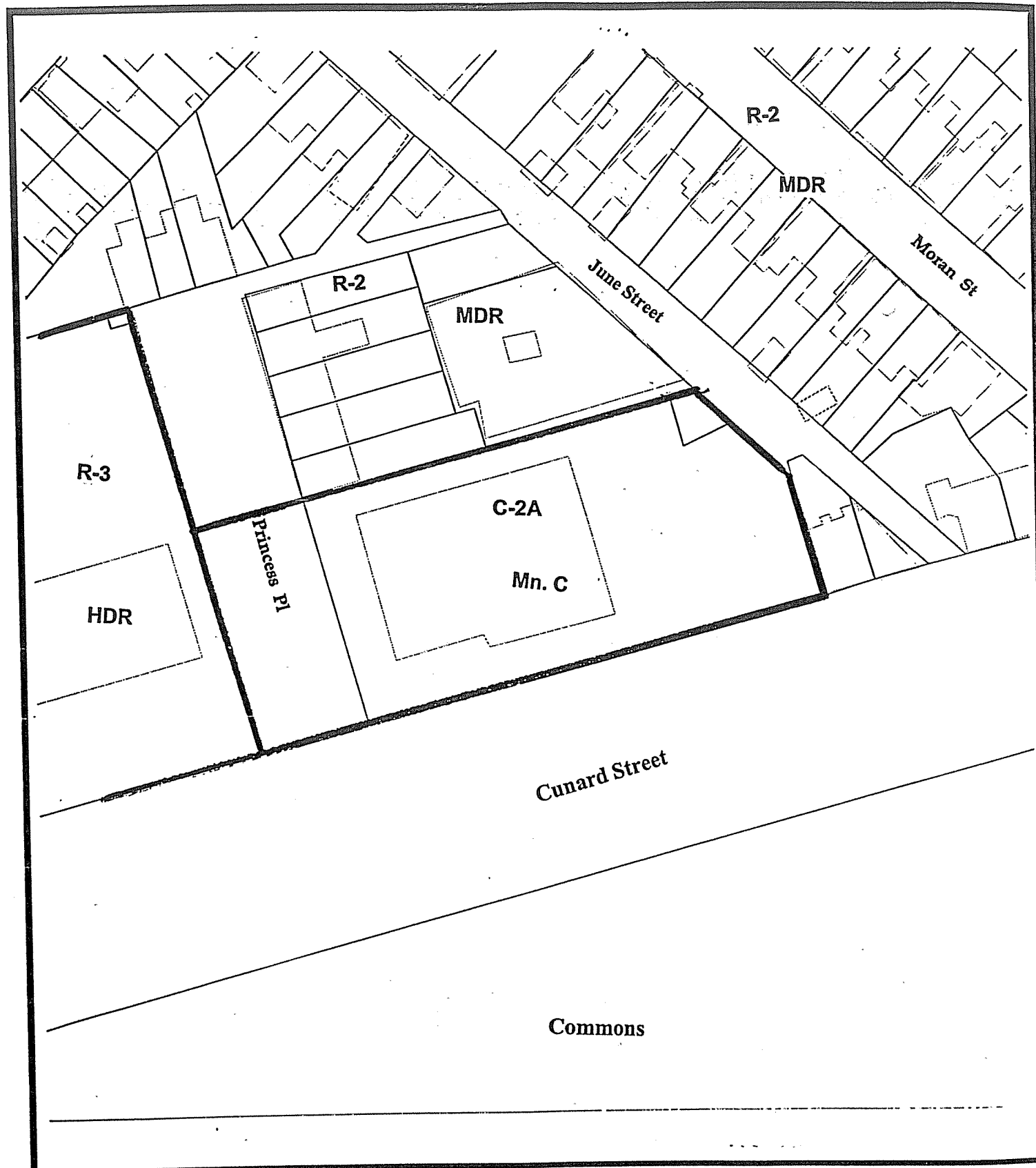
Map 1 Area Plan

Map 2 5837 Cunard Street - 2372 June Street

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by Gary Porter, Planning Services, 490-4403

Report approved by: 
Paul Dunphy, Director of Planning & Development



Map 1 **Area Plan**

R-2 - General Residential Zone
R-3 - Multiple Dwelling Zone
C-2A - Minor Commercial Zone

MDR - Medium Density Residential
HDR - High Density Residential
Mn. C - Minor Commercial

HALIFAX
REGIONAL MUNICIPALITY

Planning and Development Services

