

10.3.1



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

Halifax Regional Council
September 28, 2004

TO: His Worship Mayor Peter Kelly and
Members of Halifax Regional Council

FROM: *Sue Uteck*
Councillor Sue Uteck, Chair
Sue Peninsula Community Council

DATE: September 20, 2004

SUBJECT: **Case 00654: Request for a MPS/LUB Amendment to Permit a Health
Centre at 5667 Kaye Street, Halifax**

ORIGIN

A meeting of Peninsula Community Council held on September 13, 2004

RECOMMENDATION

Peninsula Community Council recommends that Regional Council take no further action on the request to amend the Halifax Municipal Planning Strategy and Land Use Bylaw for the property located at 5667 Kaye Street, Halifax, to permit a holistic health centre.

BACKGROUND

See attached staff report.

DISCUSSION

See attached staff report.

BUDGET IMPLICATIONS

N/A

FINANCIAL MANAGEMENT/BUSINESS PLAN

N/A

ALTERNATIVES

1. Take no further action on the request to amend the Halifax Municipal Planning Strategy and Land Use Bylaw for the property located at 5667 Kaye Street, Halifax, to permit a holistic health centre.
2. Reject the recommendation of Peninsula Community Council and proceed with a site specific amendment.

ATTACHMENTS

Staff report dated August 27, 2004 re Case 00654: Request for MPS/LUB Amendment to permit a Health Centre at 5667 Kaye Street, Halifax.

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| 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: Sherryll Murphy, Legislative Assistant 490-6517. |
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10.3

HALIFAX
REGIONAL MUNICIPALITY
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

**Peninsula Community Council
September 13, 2004**

TO: The Chair and Members of Peninsula Community Council

SUBMITTED BY: Sharon Bond
Sharon Bond, Acting Director, Planning and Development Services

Angus E. Schaffenburg
Angus E. Schaffenburg, Planning and Development Services

DATE: August 27, 2004

SUBJECT: Case 00654: Request for a MPS/LUB Amendment to Permit a Health Centre at 5667 Kaye Street, Halifax

ORIGIN

1. Request of February 17, 2004 to amend the Halifax Municipal Planning Strategy and Land Use Bylaw to permit a holistic health centre at 5667 Kaye Street.
2. Regional Council on May 18, 2004 approved proceeding with a site specific amendment process.
3. Public meeting held on June 24, 2004.
4. Petition in opposition tabled at Regional Council on July 13, 2004.

RECOMMENDATION

It is recommended that Peninsula Community Council recommend that Regional Council take no further action on the request to amend the Halifax Municipal Planning Strategy and Land Use Bylaw for the property located at 5667 Kaye Street, Halifax, to permit a holistic health centre.

BACKGROUND

Synopsis of Proposed Development: The applicant indicates that: "The clinic will have four or five various professionals in the natural health field such as naturalopathy, osteopathy, massage therapy and natural nutrition." No expansion of the building is proposed. There would be an interior conversion of the residential space to offices. Regional Council on May 18, 2004 directed that the uses be considered by development agreement.

Location, Designation and Zoning: The property is located at 5667 Kaye Street, Halifax. This site is within a "Residential Environments" Designation on the Generalized Future Land Use Map of the Halifax Municipal Planning Strategy (see Map 1) and is zoned R-2 (General Residential) Zone (see Map 2). The R-2 Zone does not permit offices as proposed, although home occupations are permitted.

History of the Property: This property has been zoned R-2 since the adoption of the first Halifax Zoning Bylaw in 1950. The R-2 Zone was reconfirmed with the approval of the Halifax Municipal Plan in 1978.

Public Meeting: On June 24, 2004 a public meeting (see Attachment "D") was held to discuss site specific amendments to permit a holistic health centre 5667 Kaye Street, Halifax. An additional submission is in Attachment "E". In addition, on July 13, 2004, Councillor Blumenthal tabled a petition at Regional Council in opposition to the proposal (see Attachment "F").

DISCUSSION

Site specific plan amendments and policy reviews should generally only be considered where circumstances related to policies of Council have changed significantly. The applicant indicates in her letter of February 17, 2004 that: "There has been significant change in Halifax since 1979 when the last rezoning occurred. The population has increased dramatically and more people are taking responsibility for their health."

The "soft" area review program (this area was known as Soft Area 14) reviewed the zoning of this area in 1978-79 and, as a result, City Council on May 31, 1979 rezoned properties that had a residential use from C-2 to R-2 and those that had a commercial use from C-2 to C-1 including the adjacent property 5651 Kaye Street which was then a service station.¹ The staff report on Soft Area 14 of March 14, 1979 stated that the thrust of the residential policies is towards maintaining the

¹The service station was built in 1955. A portion of the property had been rezoned from R-2 to C-2 to allow for the expansion of the service station in March 2, 1967. In May 31, 1979 it was rezoned to C-1 (Local Business) Zone. Effective April 1, 1997 this property was redesignated "Commercial" from "Residential Environments" and rezoned from C-1 to C-2A (Minor Commercial) as part of amendments respecting service stations and motor vehicle repair shops (Case 7345).

existing neighbourhood character and stabilizing residential areas. These are the same policies which provide the guidance today (see Attachment A). These policies have worked to minimize commercial intrusion into this residential area and, generally, to set Young Street as the major division between the major commercial/industrial to the south and the stable residential area to the north.

The development of this property as a commercial use, even by development agreement, could lead to land use conflicts as well as additional requests for commercial uses in the adjacent residential neighbourhood. This was part of the rationale for the 1979 decision by the former Halifax City Council in reducing the size of the area zoned commercial. That rationale is valid today. Any extension of the area where commercial uses are permitted would open the door for similar requests for "extension" elsewhere in this area. This concern was also expressed at the public meeting (see Attachment "D"), in the petition (see Attachment "F"), and in the written piece of correspondence received after the meeting (see Attachment "E"). The rationale provided by the applicant is not sufficient grounds to be considered a change in circumstances.

There is nothing to distinguish this property from the other residentially zoned properties along the Kaye Street frontage. The majority of the block is residential in nature and that residential character should be maintained as such. Any expansion of the commercial uses would undermine the balance achieved between the residential and commercial uses. Staff does not see the rationale provided as sufficient, from the planning perspective, for changing the policy framework to enable a health centre at 5667 Kaye Street, Halifax. Staff would recommend against any change in permitted use.

BUDGET IMPLICATIONS

There are no budget 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

1. Do not proceed with this requested amendment. This is the recommended course of action.
2. Approve amendments to the Halifax Municipal Planning Strategy and Land Use Bylaw that would allow the health centre offices through development agreement as outlined in Attachment "A" and approve the draft development agreement in Attachment "B". This course of action is not recommended for the reasons provided.

ATTACHMENTS

Map 1: Generalized Future Land Use

Map 2: Zoning

Attachment "A" Proposed Amendments to the Halifax Municipal Planning Strategy and Peninsula Area Land Use Bylaw

Attachment "B" Draft Development Agreement

Attachment "C" Extracts from the Municipal Plan and the Peninsula Land Use Bylaw

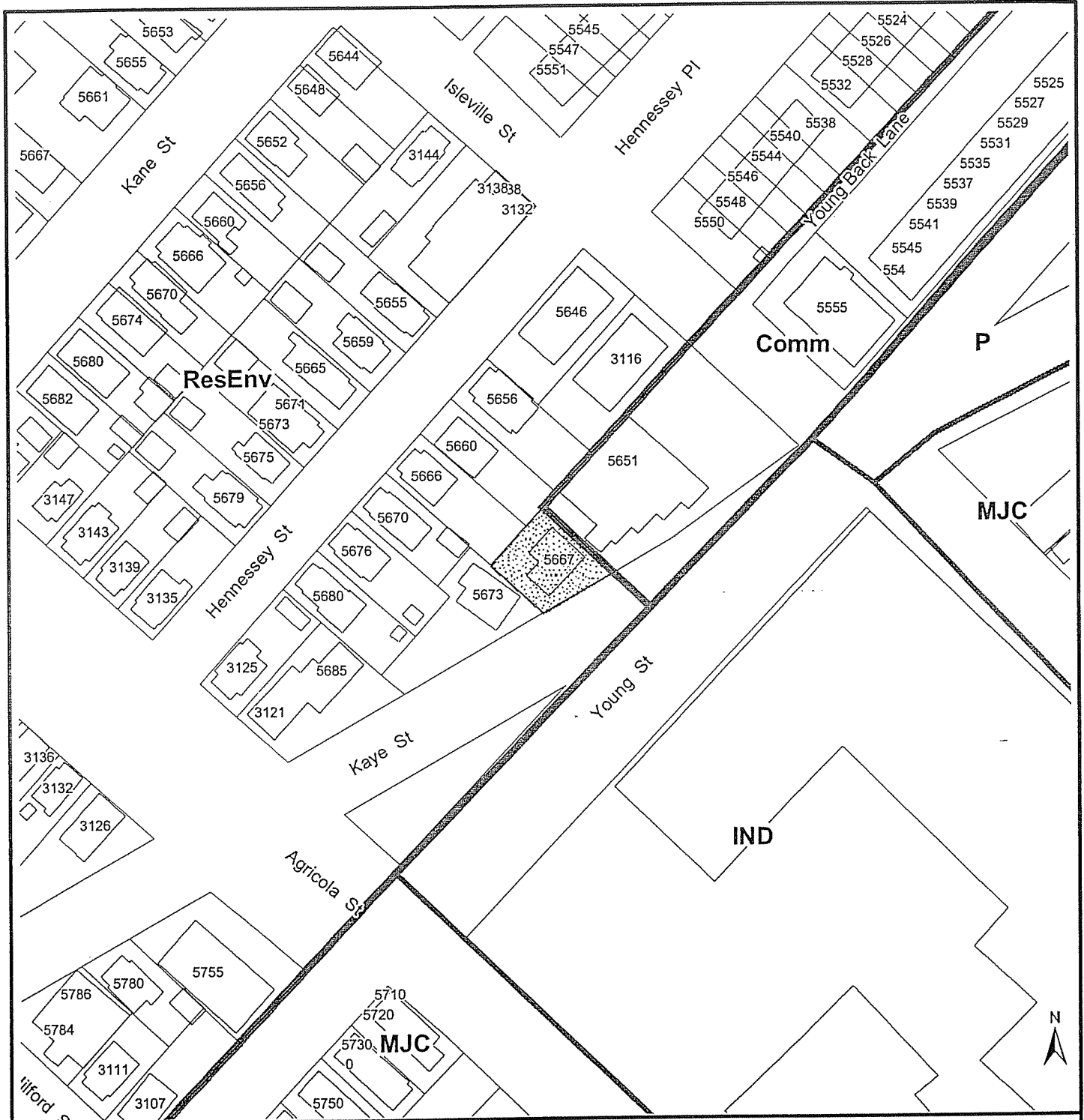
Attachment "D" Notes from Public Participation Meeting of June 24, 2004

Attachment "E" E-mail from Mr. Steward of June 27, 2004


Attachment "F" Petition Councillor Blumenthal tabled at Regional Council on July 13, 2004 in opposition to a proposal for a health centre at 5667 Kaye 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: Angus E. Schaffenburg, Planner II, 490-4495



Map 1 - Generalized Future Land Use

 Subject property

5667 Kaye Street
Halifax

Designation - Peninsula North

MJC Major Commercial
IND Industrial
P Park and Open Space

Halifax Plan Area

Designation - Halifax Plan

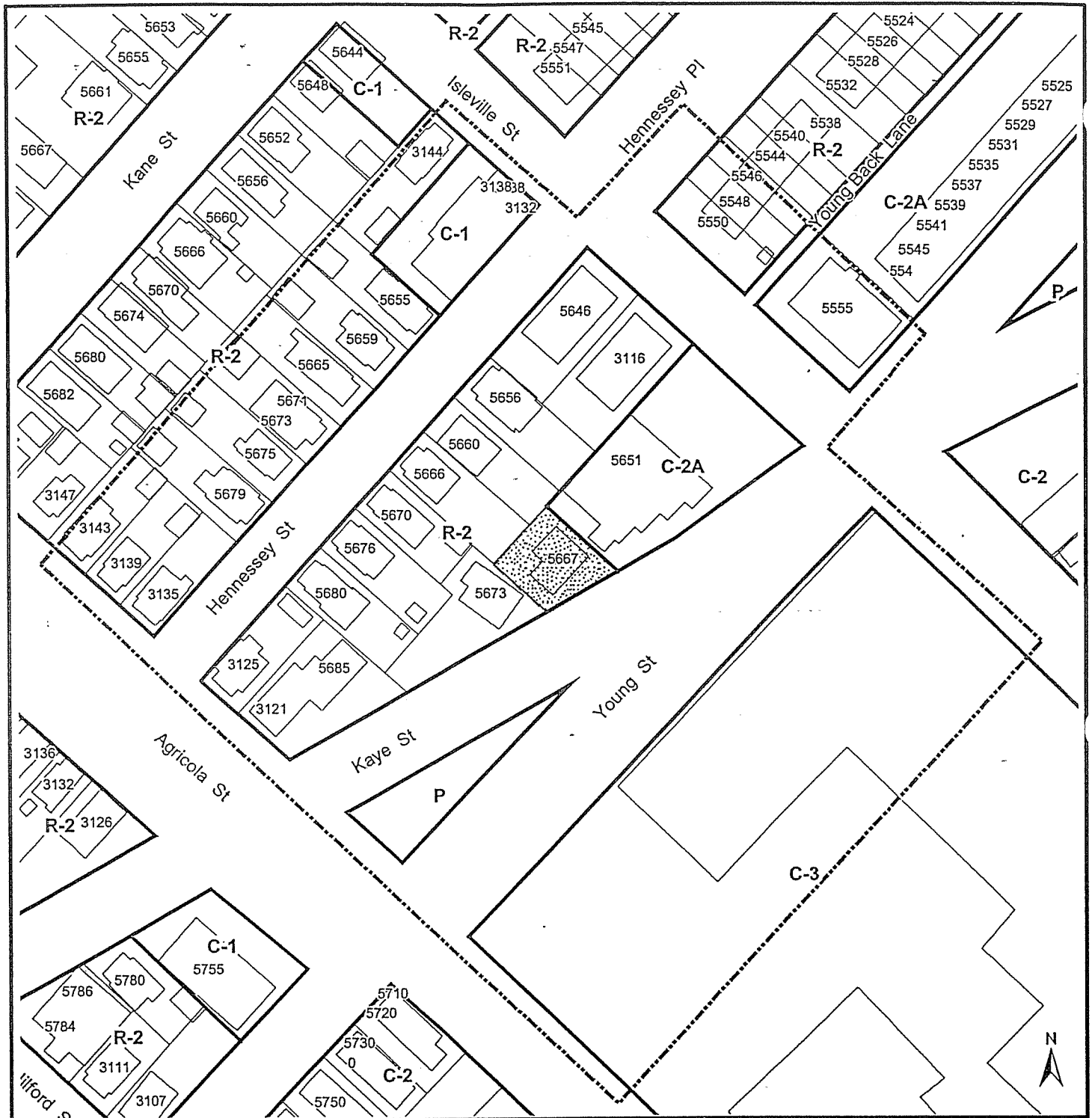
ResEnv Residential Environments
Comm Commercial

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan Area.


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



Map 2 - Location and Zoning


5667 Kaye Street
Halifax

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES

 Subject property

Zone

- R-2 General Residential
- C-1 Local Business
- C-2 General Business
- C-2A Minor Commercial
- C-3 General Industrial
- P Park and Institutional

 Area of notification

Halifax Peninsula By-Law Area



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula By-Law area.

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

Attachment "A": Case 00654: Amendment to Halifax Municipal Planning Strategy

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

Add a new Policy 3.10 immediately after Policy 3.9 in Section II:

Policy 3.10: Notwithstanding the Residential Environments Designation the property at 5667 Kaye Street (PID 00131813) may be considered for a development agreement for offices used by persons engaged in health matters.

Policy 3.10.1 Any development permitted pursuant to Policy 3.10 shall consider a variety of factors to be set out in the development agreement such as but not limited to:

- a) the maintenance of the general appearance of a residential dwelling;
- b) identification signage in keeping with the residential character of the area;
- c) the retention of the existing structure;
- d) that the residential component be maintained; and
- e) operating hours may be controlled.

I HEREBY CERTIFY that the amendment to the Municipal Planning Strategy for Halifax, as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the ___ day of _____, 2004.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ___ day of _____, 2004.

Jan Gibson, Municipal Clerk

Attachment "A" (Continued) Case 00654: Amendment to Halifax Peninsula Land Use By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Peninsula Area Land Use By-law of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

Peninsula Wide Development Agreements

Section 99(13) **5667 Kaye Street (PID 00131813)**

Permit offices of a health related nature in accordance with Policy 3.10 of Section II.

I HEREBY CERTIFY that the amendment to the Peninsula Area Land Use By-law for Halifax, as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the ___ day of _____, 2004.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ___ day of _____, 2004.

Jan Gibson, Municipal Clerk

Attachment "B" Draft Development Agreement

THIS AGREEMENT made this day of , 2004,

BETWEEN:

Dana Landry
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,
a body corporate, in the County of
Halifax, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 5667 Kaye Street, Halifax and which said lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow health related commercial offices on the Lands pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law (Peninsula Area) for Halifax;

AND WHEREAS the Peninsula Community Council approved this request at a meeting held on 2004, referenced as Municipal Case Number 00654;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

- 1.1 The Developer agrees that the Lands shall be subdivided, developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 1.2 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law of the Halifax Land Use Bylaw (Peninsula Area), as may be amended from time to time.

- 1.3 Except as otherwise provided for herein, the subdivision of the Lands shall comply with the requirements of the Subdivision By-law of Halifax, as may be amended from time to time.
- 1.4 Pursuant to Section 1.2 and 1.3, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.
- 1.5 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.6 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any lands owned by the Developer.
- 1.7 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: USE OF LANDS AND DEVELOPMENT PROVISIONS

2.1 Schedules

The Developer shall develop and use the Lands in conformance with the site plans, design drawings, renderings and supporting technical documents, attached as the following Schedules to this Agreement:

Schedule "A" Legal Description of the Lands at 5667 Kaye Street

2.2 Permitted Uses

The use of the Lands permitted by this Agreement shall include health related offices within the existing building and all residential uses permitted by the R-2 (General Residential) Zone. A residential use shall be maintained in conjunction with the health related offices. The driveway shall only be used for vehicle parking related to the residential use.

2.3 Building Design

2.3.1 The Developer shall construct a building on the Lands, which, in the opinion of the Development Officer, is substantially in conformance with the Schedules to this agreement.

2.3.2 In addition the Developer agrees that the uses within the present building shall comply with the following:

a) No expansion of the building is permitted.

2.3.3 Solid Waste Facilities: The building shall include designated space for three stream (refuse, recycling and composting) source separation services. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer.

2.4 Streets and Municipal Services

2.4.1 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including street intersection improvements, sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities, as generally illustrated by the Schedules attached hereto. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies and regulations of HRM and other approval agencies, except as provide for herein. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer.

2.4.2 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer.

2.4.3 Pursuant to this Section (Section 2.4), no occupancy permit shall be issued for any building on the Lands until all street improvements, municipal servicing systems and utilities have been completed, except that the occupancy permit may, at the discretion of the Municipality, be issued subject to security being provided to the Municipality in the amount of 120 per cent of the estimated cost of completion, as provided by the Developer, of all outstanding work. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or irrevocable letter of credit, with automatic renewal, issued by a chartered bank. The security shall be returned to the Developer only upon completion of all work, as described herein and illustrated on the Schedules, and as approved by the Municipality.

2.5 Signage

2.5.1 One non-illuminated sign not exceeding three square feet in area, indicating the name and occupation or profession of those using the building. No mobile signs shall be permitted.

2.6 Building and Site Lighting

2.6.1 Lighting shall be directed to all driveways, parking areas, loading areas, building entrances and walkways and away from streets and abutting properties.

2.6.2 No occupancy permit shall be issued for any building until such time as the lighting has been completed. An occupancy permit may be issued, however, provided the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost, as provided by the Developer, to complete the lighting. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable letter of credit, with automatic renewal, issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer.

2.7 Maintenance

2.7.1 The Developer shall maintain and keep in good repair all portions of the development and Lands, including but not limited to, the interior and exterior of the buildings, retaining walls and fencing, lighting, walkways, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, and snow and ice removal on walkways, driveways and parking areas.

2.8 Occupancy Permit

2.8.1 No occupancy permit shall be issued for the building until all applicable infrastructure applicable to the Lands is complete, subject to Sections 2.4.3, and 2.6.2.

PART 3: AMENDMENTS

3.1 The provisions of this Agreement relating to the following matters are identified as and shall be deemed to be not substantial and may be amended by resolution of the Community Council:

(A) Minor changes to the building with the uses remaining the same

3.2 Amendments to any matters not identified under Section 3.1 shall be deemed substantial and may only be amended in accordance with the approval requirements of the Municipal Government Act.

PART 4: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 4.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.
- 4.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 4.3 In the event that construction on the Lands has not commenced within 2 (two) years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction. For the purposes of this section, "commencement of construction" shall mean the pouring of the footings for the foundation.
- 4.4 Upon the completion of all development on the Lands, or after 10 (ten) years from the date of registration of this Agreement at the Registry of Deeds, whichever time period is less, Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
 - (b) negotiate a new Agreement;
 - (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

PART 5: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

- 5.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within one day of receiving such a request.
- 5.2 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:

- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
- (b) the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property and be shown on any tax certificate issued under the Assessment Act.
- (c) the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
- (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

Attachment C: Extracts from the Municipal Plan and the Peninsula Land Use Bylaw

Municipal Planning Strategy

2. RESIDENTIAL ENVIRONMENTS

Objective The provision and maintenance of diverse and high quality housing in adequate amounts, in safe residential environments, at prices which residents can afford.

2.1 Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.

2.1.1 On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhoods; and the City shall develop the means to do this through the detailed area planning process.

2.2 The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.

2.3 The City shall investigate alternative means for encouraging well-planned, integrated development.

2.3.1 The City should restrict ribbon development which does not conform to the policies of this document and should seek ways to remove any such development which may become obsolete.

2.3.2 Ribbon development along principal streets should be prohibited in order to minimize access points required by local traffic.

2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.

- 2.4.1 Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.
- 2.7 The City should permit the redevelopment of portions of existing neighbourhoods only at a scale compatible with those neighbourhoods. The City should attempt to preclude massive redevelopment of neighbourhood housing stock and dislocations of residents by encouraging infill housing and rehabilitation. The City should prevent large and socially unjustifiable neighbourhood dislocations and should ensure change processes that are manageable and acceptable to the residents. The intent of this policy, including the manageability and acceptability of change processes, shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.

SCHEDULE II.1

SOFT AREAS OUTSIDE AREAS DESIGNATED FOR DETAILED PLANNING

10. Area bounded by west side of Windsor Street, London Street, and Chebucto Road.
11. Area fronting south side of Bayers Road and both sides of Oxford Street between Connaught Avenue and Liverpool Street.
12. Area within the curtilage of Civic Number 6450 Young Street (presently occupied by Hoyt's Moving and Storage Limited).
13. Area bounded by Richmond and Barrington Streets, and Devonshire Avenue.
14. Area bounded by Young Street, Isleville Street, Columbus Street, Agricola Street, Kane Street and Robie Street.

3. COMMERCIAL FACILITIES

Objective The provision of commercial facilities appropriately located in relation to the City, or to the region as a whole, and to communities and neighbourhoods within the City.

- 3.1 The City shall encourage a variety of commercial centres to serve the variety of community needs and shall seek to do so under Implementation Policy 3.7. Provision shall be made for neighbourhood shopping facilities, minor commercial centres,

shopping centres and regional centres.

- 3.1.1 Neighbourhood shopping facilities in residential environments should service primarily local and walk-in trade, and should be primarily owner-occupied. They shall be required to locate at or adjacent to the intersections of local streets rather than in mid-block. Neighbourhood shopping facilities may include one business, for example a corner store or a cluster of businesses. This policy shall serve as a guideline for rezoning decisions in accordance with Implementation Policies 4.1 and 4.2 as appropriate.
- 3.1.2 Minor commercial centres should service several neighbourhoods. They should locate along principal streets with adequate provision for pedestrian, transit, service and private automobile access. Parking provision should be allowed on surface lots servicing single businesses, as long as conditions preclude nuisance impact on adjacent residential areas. Access to any parking area from the principal street should be controlled. The City should define the geographic limits of minor commercial centres, and shall encourage contiguity of commercial or associated uses within those limits. Minor commercial centres should offer a wider range of services than neighbourhood shopping facilities including local office, restaurants, cinemas, health centres and multi-service centres. Notwithstanding any other policy in the Municipal Planning Strategy or Secondary Planning Strategies, billboards advertising off-site goods and services shall be prohibited in Minor Commercial areas. This policy shall serve as a guideline in rezoning decisions in accordance with Implementation Policies 3.1 and 3.2 as appropriate.
- 3.5 All commercial areas not within areas designated for detailed planning and not considered neighbourhood commercial centres pursuant to Policy 3.1.1 shall be resolved as to type at the time of adoption of a new land use bylaw pursuant to Implementation Policy 3.7.

IMPLEMENTATION POLICIES

GENERAL

1. The City of Halifax Municipal Development Plan provides the major framework to guide decision-making with respect to development in the City. This Plan shall be implemented through the powers of City Council under the Planning Act, the Halifax City Charter, and such other statutes as may apply.
2. The City shall follow and maintain a system of ongoing planning generally as detailed in Part III of this document.

ZONING

3. Pursuant to the authority of Section 33 of the Planning Act, the City shall adopt the Zoning Bylaw, Mainland Area and the Zoning Bylaw, Peninsula Area, both of the City of Halifax substantially as they presently exist to further the objectives and policies of this Plan, except those bylaws shall first be revised according to the directions established by the detailed policies below.
 - 3.1 Repealed 6 June 1990
 - 3.1.1 The City shall review all applications to amend the zoning bylaws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.
 - 3.7 It shall be the intention of the City, subject to further study, to draft a new zoning bylaw which would more precisely reflect the intents of this Plan.

AMENDMENTS TO THE ZONING BYLAW

4. When considering amendments to the Zoning Bylaws and in addition to considering all relevant policies as set out in this Plan, the City shall have regard to the matters defined below.
 - 4.1 The City shall ensure that the proposal would conform to this Plan and to all other City bylaws and regulations.
 - 4.2 The City shall review the proposal to determine that it is not premature or inappropriate by reason of:
 - i) the fiscal capacity of the City to absorb the costs relating to the development; and
 - ii) the adequacy of all services provided by the City to serve the development.

PLAN AMENDMENTS

7. An amendment to this Plan shall be required:
 - i) to change, alter, amend, revise or delete any policy of Part II;

- ii) to undertake a proposed zoning amendment or rezoning which would otherwise not conform to the Generalized Future Land Use Map (Map 9) or to the policies of this Plan if warranted by further planning study; and
- iii) to incorporate detailed area or functional plans into this Plan.

Land Use Bylaw (Peninsula Area)

R-2 ZONE

GENERAL RESIDENTIAL ZONE

- 35(1) The following uses shall be permitted in any R-2 Zone:
- (a) R-1 uses as hereinbefore set out;
 - (b) semi-detached or duplex dwelling;
 - (c) buildings containing not more than four apartments;

**Attachment "D" Public Information Meeting Minutes
Case 00654
June 24, 2004**

In attendance: Councillor Blumenthal
Angus Schaffenburg, Planner II, Planning & Development Services
Gail Harnish, Planning & Development Services
Dana Landry, Applicant

Mr. Angus Schaffenburg called the public information meeting to order at approximately 7:00 p.m. in Halifax Hall.

Mr. Schaffenburg advised the notes of the meeting will form part of the staff report which first goes to Peninsula Community Council for consideration and then Regional Council would have to hold a public hearing. If there is a development agreement, it would be a joint public hearing with Regional Council. Regional Council would have to approve the change in policy and Community Council would approve the development agreement.

Mr. Schaffenburg indicated the request is to use the house at 5667 Kaye Street as a holistic health centre. The property is zoned R-2 which does not permit that use. Some uses are permitted in the R-2 zone such as a home occupation but this use would not fit that. A staff report was tabled with Regional Council. Staff recommended that Council not proceed with the process to consider amendments for the reasons outlined in the report. Regional Council directed staff to proceed with the public participation process and suggested the request be considered by way of development agreement.

Mr. Schaffenburg noted that in planning there is as-of-right zoning such as the R-2 and C-2A zones. A commercial use would often be placed in a zone like the Minor Commercial Zone. The zone is neighbourhood in the Hydrostone market area. We also have an opportunity to do something by development agreement which allows us to tailor a specific zone for the property. It can be unique to that property so you can be more specific in the type of use, and can regulate things like hours of operation (if required), the design of a new building, and the height. You can make it very specific to the neighbourhood and to the use. A development agreement is a contract between the Municipality and the owner. It goes with the land so if there is another owner, they have the same property rights. It does not disappear because of change in ownership.

Mr. Schaffenburg referenced the flow chart for the plan amendment process included in the handout, noting the public hearing might be in the September/October timeframe.

Ms. Dana Landry, Applicant, referenced the block which says "Regional Council considers recommendation and decides whether or not to hold a public hearing" and asked for clarification. Mr. Schaffenburg advised that if Council wishes to approve any amendments, it has to hold a public hearing. If they get to Regional Council and they decide they do not like it they can decide not to hold the public hearing and the process ends. There is no appeal. A plan amendment is a change in policy and, as such, Regional Council has the jurisdiction to either change it or not to change it.

Mr. Dave Clarke, 5666 Hennessey Place, asked for clarification about the comment that Council wanted it to proceed whereas someone else did not recommend it.

Mr. Schaffenburg explained that staff recommended the amendment process to consider the request not be initiated. That was the recommendation contained in the report which is included as part of the handout. Regional Council decided to proceed with the public participation process.

Ms. Landry read into the record her letter of application which was attached to the back of the staff report included as part of the handout.

Ms. Landry confirmed for Councillor Blumenthal that she planned to live there.

Mr. Clarke stated that Ms. Landry did not canvass him. Ms. Landry responded she canvassed her direct neighbour. She did not come down his street.

Mr. Bill Stewart, 5522 Hennessey Place, referenced the second paragraph of Ms. Landry's letter and indicated he was concerned with making it more of a commercial area. They have Gladstone now which sticks out as a bit of a "sore thumb". Specifically, the establishment you're talking about is more like a medical clinic similar to a doctor's office? Ms. Landry responded yes.

Mr. Stewart indicated that some of them are not happy about commercial moving further down Young Street.

Ms. Landry stated she was in a commercial area. She would not propose to open a business on the block he lived on because he is definitely in a residential area. There is a business across the street from her and next door.

Mr. Stewart commented those decisions have been made in the past with the paint store which does not necessarily mean that is a trend that needs to be followed.

Councillor Blumenthal indicated they discussed it with the idea to remain as R-2 and like a home occupation she would live there. If she had wanted to open up a doctor's office, it would have been okay.

Mr. Schaffenburg advised that under the R-1 zone, a doctor could live in his residence and work there and have reception of that nature. They cannot however have a clinic situation.

Mr. Clarke indicated that was a critical point. There would only be one doctor and not three or four.

Councillor Blumenthal pointed out that is why we have a public meeting. If it goes further, a public hearing would have to be held.

Mr. Stewart asked about parking, particularly if they are talking about more than one professional.

Ms. Landry responded she could not give a number now but the parking would be on the street.

Councillor Blumenthal pointed out there would be no special change for parking.

Mr. Clarke indicated that when he bought his house he did not want to buy next to commercial. One house away from commercial is a lot in the City.

Ms. Landry commented she looked at the area as being commercial.

Mr. Schaffenburg referenced proposed wording for discussion purposes included in the handout which would probably be the type of policy written for Council's consideration. In this instance, we would tie the policy considerations together with the development agreement. The staff report would include a proposed policy that would enable Council to consider a development agreement in the Land Use By-law, and also write a development agreement which would carry out these clauses. For instance, there is a clause saying signage would be in keeping with the residential area. There would be a maximum size on the sign. He suggested 3'. He also suggested the residential look of the building be maintained.

Mr. Stewart asked for confirmation that it would be done by development agreement.

Mr. Schaffenburg responded yes. He encouraged that people make any suggestions for inclusion in the policy.

Mr. Schaffenburg read into the record an email received from Ann and Lewis Cruickshanks, 5656 Hennessey Street. "We are unable to attend this meeting, but we would like the following

concerns addressed. My husband and I are not opposed to the clinic, but we do not want the area to be rezoned. Rezoning would allow other businesses into this residential community - encroachment. One other concern we have is with regards to parking - five employees plus clients. There is limited parking on that street for residents and part of the street is designated for taxis. Could we be informed of the results of this meeting and where the process goes from here before it is given final consideration.”

Mr. Schaffenburg advised that he also received an email from Peter Ewert who indicated he was against the proposal.

Councillor Blumenthal urged that the wording be made as tight as possible to make the residents feel comfortable. If the residents go against it, he would not be voting for it.

Mr. Ramon Sison, 5673 Kaye Street, indicated he was concerned about parking and was concerned he would lose his parking in his driveway.

Ms. Landry stated that only she would be parking in the driveway.

Mr. Schaffenburg concurred parking is an issue. Perhaps the only way to resolve it a bit would be to try and purchase parking somewhere close-by, especially if she had people working there.

Ms. Landry commented it is not like a commercial/retail use. There won't be a lot of traffic.

Mr. Clarke noted there could be up to ten people there at one time. On Hennessey Place, you can only park on one side of the street.

Ms. Landry countered there is always cars around any time she goes there.

It was noted that Olands bought three properties for their employees to park.

Mr. Sison commented he might have to put a fence on that property.

Mr. Schaffenburg suggested the development agreement could restrict the parking space on the property to one vehicle. It is a shared driveway.

Councillor Blumenthal indicated there is parking across the street where people go to the Hydrostone and Kaye Street and Young Street. He would want to make sure Mr. Sison had no problems and that there would only be one space available so they could have a harmonious relationship.

Ms. Landry commented she understood their driveway was shared and there is a question of the property line and her driveway is part of his property. She acknowledged that was something for the two of them to discuss.

Mr. Sison responded he did not mind it being between the two of them but did not want her customers parking in his driveway.

Councillor Blumenthal indicated this is the beginning of the public participation process. It will go back to Regional Council. Before anything is approved, Regional Council will have to hold a public hearing.

Mr. Schaffenburg noted that Regional Council has to have in front of them a draft policy and a development agreement for the public hearing. If there are things that people think are not worded well enough, it is an opportunity to comment on that and also an opportunity to say whether or not they are in favour of the proposal.

Mr. Stewart asked if the development agreement continues on if Ms. Landry moves out.

Mr. Schaffenburg advised the agreement is tied to the land. It is registered on title with the land. Somebody else could purchase the property and the rights for a health clinic could continue.

Councillor Blumenthal questioned whether it could be put in the development agreement that the person has to live there and that it would be considered as a home-occupation. He felt the people would feel better if a person is living there.

Mr. Schaffenburg responded that maybe we could specify that only the first floor could be used for offices and the residential use would be above. He was not allowed to specify that the owner had to live there. He could specify that it be a mixed residential/commercial use and that the residential be on the second floor and that the commercial be on the first floor. The Municipal Government Act does not permit us to say it has to be owner occupied. We can only deal with land use.

Mr. Landry indicated the kitchen and the living room are on the bottom floor. They would have to take into consideration the house itself.

Mr. Schaffenburg questioned where the offices would be.

Ms. Landry responded offices would be on both levels. Most of the residential will be on the first level.

Ms. Margo Wilkinson, 1343 Hollis Street, indicated she was a good friend of Ms. Landry's. She asked for clarification about the comment that a doctor's office would be permitted to move in.

Mr. Schaffenburg responded that a practising doctor who dispenses drugs would be permitted. The R-1 and R-2 zone permits an office professional person. Professional people are doctors, lawyers, accountants, and architects. They have to live there but the office can be more than would be allowed in the square footage for a home occupation. Home occupations are only allowed 400 sq.ft. This is a larger home occupation. You cannot have a group of professionals in a professional office. The only exception is if you were married to the other professional. They could have a secretary or other support staff but they could not have another professional or run a clinic. That has been allowed in the land use by-law for a long time. The other thing they have is a home occupation. She could have the uses she wants as a home occupation, however, you're not allowed to employ anybody else and it is a maximum of 400 sq.ft.

Mr. Clarke indicated he had two sons aged eleven and eight who play every sport going in their yard including hockey and basketball and make noise.

Ms. Landry commented she did not have a problem with kids and did not see a problem.

Mr. Schaffenburg questioned what Ms. Landry saw her hours as being. Ms. Landry responded 9 a.m. to 5 p.m.

Mr. Schaffenburg questioned whether it was felt the hours of operation should be stipulated in the development agreement.

Mr. Clarke responded absolutely.

Mr. Clarke stated that when he bought his property it was with the expectation that there was not a business behind it.

Mr. Schaffenburg suggested the agreement say Monday to Saturday from 9 a.m.-5 p.m. or 8 a.m.-4 p.m. Mr. Clarke and Ms. Landry confirmed they were both okay with this.

Mr. Stewart questioned whether there was a market study done for the business.

Mr. Landry responded she did a business plan. She practised natural nutrition. She would be moving into the house as soon as her other house sells.

Mr. Stewart commented he was wondering about the longevity of the enterprise.

Ms. Landry responded she hoped it would be a great business. She felt people will get more into natural health.

Mr. Schaffenburg suggested perhaps the development agreement could indicate not more than 50% of the first and second floor could be used for offices.

Ms. Landry commented she had to find out the square footage of the house.

Mr. Schaffenburg indicated it could reference a combined residential/commercial use and not bother with the square footage.

An individual noted there is no restriction in terms of the number of cars a person may have in the R-2 zone and there is no reason to think this particular type of operation would necessarily overload the area with cars other than what might come about if a doctor and receptionist moved there. There should be residential in there. It might help people get over their objections if a responsible person is living there and will take pride in their home. Parking can be a problem anywhere in the City.

Councillor Blumenthal indicated the main point is the shared driveway. There is parking on a first come serve basis on the other side. People living on Hennessey put up with Stadacona parking there as well.

Mr. Clarke asked if they would be notified for the next stage.

Mr. Schaffenburg responded yes. The staff report would be available at that time as well.

The meeting adjourned at approximately 7:45 p.m.

Attachment E: Email from Mr. Steward of June 27, 2004

Dear Mr. Schaffenburg:

I am just following up on your suggestion for input from the Public Information Meeting held last week.

As indicated in my comments at the meeting my primary concern is the commercialization of a residential neighbourhood. In that sense I am in agreement with the original staff report. From what Councillor Blumenthal indicated there does not seem to be a clear rationale as to why that recommendation was not followed. There is really only one or two residences adjacent to the proposed site which would leave the whole street vulnerable to commercialization.

During the meeting it was clear that the owner had not taken into consideration such aspects as parking. This will involve both customers and the staff that are intended to be hired. Perhaps there is adequate space in the area but it should have been explored as part of the business plan. While the applicant seems very motivated and well meaning concerning her intentions, I was not convinced by her responses that a viable business is possible in that location. As such, I am concerned that, should the business fold, the property may fall into other commercial ventures that may be more intrusive on the residential character of the neighbourhood.

I would think the adjacent property owner may have some misgivings about a commercial establishment being set up next door. He has a fine property there that may be de-valued in the eyes of some depending on the development that takes place.

If the proposal is to go ahead I would agree that it should be a very specific Agreement that stipulates that it remain a residence, that the signage be unobtrusive..perhaps similar to a physician's name plate at the entrance way rather than signage on the street or side of the building, that the parking arrangements be stipulated for staff and customers and formally clarified with neighbouring property owners, that hours of operation be clarified and that if there is a change in ownership or proposed terms of the agreement that the neighbourhood be consulted.

Thanks again for your valuable work and the facilitation of this process.

Yours truly,

William J. Stewart
5522 Hennessey Place
Halifax, N.S.

9.P. 2/3
All: Blument
Coffey
26 Signat

We, the undersigned, wish to voice our disagreement with the proposal put forward to amend the Halifax Municipal Planning Strategy and Land Use By-law to permit a health centre at 5667 Kaye Street.

We disagree that " the location is ideal, being in a commercial area." Rather, it is in a residential area, that we want to preserve and maintain.

The encroachment of businesses into R-2 zoned areas will erode the family community that we enjoy in the Halifax North End.

For this reason alone, besides the issues of parking for up to seven employees, and all their patients, we ask that you respect the R-2 zoning, and not weaken or circumvent it by an amendment to the Municipal Planning strategy and Land Use By-law.

JUNE 27th, 2004

Name

Address

David Clarke 5666 HENNESSEY STREET

Crystal Clarke 5666 Hennessy St.

Lisa Steves 5670 Hennessy St.

Hada McKenna 5671 Hennessy St.

ETHAN NEVILLE 5656 Hennessy St

Kirsty Money 5656 Hennessy St.

Mario Bradit 3125 Agricola St.

Paul K 5679 Hennessy St.

Theresa Kemp 5679 Hennessy St.

Janet Pollard 3139 Agricola

Bernadette Campbell 3143 Agricola St.

RAY R CME R, 5675 Hennessy

Lillian Kennedy 5665 Hennessy St.

We were
not involved
by tomato
business
owner

JUNE 27th, 2004

Name

Address

Geraldine Puggles

5665 Hennessey St

P. Luske

5659 Hennessey St

J. Cuckhade

" " "

Jenita Rene

5548 Hennessey Pl.

Ken Lam

" "

~~Anna Jones~~

5660 Hennessey.

Kelli Murphy

5673 Hennessey

Tred Robicheau

3135 Agricola St.

Rita Robicheau

3135 Agricola St

Rann P. Sism

5673 Kaye St.

Annism

5673 KAYE ST.

Maria J. R.

5660 Hennessey St

Alexis White

5660 Hennessey St.

JUNE 27th, 2004

Name

Address

DAVID TERRIO

5680 HENNESSEY ST.

DEVIN HARTNELL

5676 Hennessey St.

Nicole Hartnell

5076 Hennessey St.
