

10.3.1(i)



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Halifax Regional Council  
June 20, 2006

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:** Sheila Fougere  
Councillor Sheila Fougere, Chair  
Peninsula Community Council

**DATE:** June 13, 2006

**SUBJECT:** Case 00839: Halifax MPS and LUB Amendments, Development Agreement - 6273 Quinpool Road, Halifax

**ORIGIN**

Peninsula Community Council meeting of June 12, 2006.

**RECOMMENDATION**

It is recommended that Regional Council:

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw as provided in Attachments "A" and "B" of the report dated May 19, 2006, and that these be amended to include the following provisions on page 10 of the report:
  - 2.3(d) Adult entertainment uses shall not be permitted.
  - 2.5.2 Notwithstanding 2.5.1, the hours of operation of the lounge use shall be limited to the operating hours of the restaurant and operation shall occur between the hours of no earlier than 11 a.m. and no later than 12 a.m.
2. Schedule a joint public hearing with Peninsula Community Council.

## **BACKGROUND**

Quincey's on Quinpool (formerly Hogie's Steakhouse) has applied for a lounge license. Commercial zoning regulations on Quinpool Road do not allow for lounges. Quincey's wishes to amend the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use Bylaw to establish policies under which it can apply for a development agreement. These policy amendments would solely be directed at Quincey's. See the staff report dated May 19, 2006 for additional background information.

## **DISCUSSION**

During public consultation, the only major concerns raised by residents regarding granting Quincey's a lounge license, were ensuring that there would be no adult entertainment uses allowed and that the hours of operation of the lounge occurred in conjunction with the hours of operation of the restaurant. See the staff report dated May 19, 2006 for additional discussion.

## **BUDGET IMPLICATIONS**

There are no budget implications associated with this report.

## **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**

As proposed in the staff report dated May 19, 2006.

## **ATTACHMENTS**

1. A staff report dated May 19, 2006 with attached maps, proposed amendments to the Halifax MPS, proposed amendments to the Halifax Peninsula LUB, draft Development Agreement, and minutes from the December 14, 2005 Public Information Meeting.

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

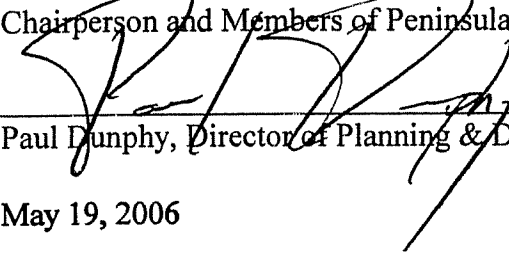
Report Prepared by: \_\_\_\_\_  
Jennifer Weagle, Legislative Assistant, 490-6521



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Peninsula Community Council**  
**June 12, 2006**

**TO:** Chairperson and Members of Peninsula Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Planning & Development Services

**DATE:** May 19, 2006

**SUBJECT:** **Case 00839: Halifax MPS and LUB Amendments, Development Agreement - 6273 Quinpool Road**

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### ORIGIN

1. Request by Robert McKelvie to amend the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use Bylaw to permit a lounge at 6273 Quinpool Road, PID 00177055. (restaurant operating under the name "Quincy's on Quinpool", formerly Hogie's Steakhouse).
2. On November 8, 2005, Regional Council approved proceeding with the amendment process.

### RECOMMENDATION

#### **It is recommended that Peninsula Community Council:**

1. Recommend that Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw as provided in Attachments "A" and "B" of this report, and schedule a joint public hearing with Peninsula Community Council.
2. Recommend that Regional Council approve the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw as described in Attachments "A" and "B" of this report.
3. Give Notice of Motion to consider the proposed development agreement, as described in Attachment "C", to permit a lounge use secondary to a restaurant use at 6273 Quinpool Road, and to schedule a joint public hearing with Regional Council.

#### **Contingent upon the adoption by Regional Council of the above Municipal Planning Strategy and Land Use By-law amendments and those becoming effective under the *Municipal Government Act*, it is further recommended that Peninsula Community Council:**

1. Approve the proposed development agreement, as contained in Attachment "C". (Staff will bring this matter back to Peninsula Community Council for a decision at the appropriate time.)
2. Require that the development agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

### **Application**

This application is to allow Quincy's on Quinpool (formerly Hogie's Steakhouse) to establish a lounge of up to 600 square feet in size within its existing restaurant at 6273 Quinpool Road.

Quincy's is located in the Quinpool Road Commercial Area and the C-2 (Minor Commercial - Quinpool Road) Zone (see Maps 1 and 2). The current zoning regulations allow for licenced restaurants but not lounges; meaning that alcoholic drinks may only be consumed when accompanied by a meal.

Quincy's application is succinct. It wishes to amend the Halifax Municipal Planning Strategy and Land Use Bylaw to establish policies under which it can apply for a development agreement to establish its lounge. These policies would solely be directed at Quincy's so that it is the only establishment that is able to apply for such a development agreement. The rationale for establishing a development agreement framework is that the *Municipal Government Act* provides that municipalities are able to stipulate hours of operation and specific maintenance controls through them. Municipalities cannot enact such regulations through normal Land Use Bylaw provisions.

### **Approval Process**

The approval process for this application has two steps:

1. Regional Council will consider and if deemed appropriate, adopt the proposed amendments to the Municipal Planning Strategy and Land Use Bylaw that enact the policies under which a development agreement may be considered and approved; and,
2. Provided that Regional Council approves the amendments, Peninsula Community Council will consider approving the proposed development agreement.

Approvals for both the proposed amendments and the proposed development agreement require a public hearing. These hearings can be held jointly. However, Peninsula Community Council may only consider approving the proposed development agreement at a future meeting following the Regional Council approval, as the development agreement cannot be considered until the Municipal Planning Strategy and Land Use Bylaw amendments are confirmed by the Province.

It must be made clear that site specific MPS applications are not appealable to the Nova Scotia Utility and Review Board (NSURB). Although, there does exist an appeal mechanism to the NSURB with any decision of Council on a development agreement.

In addition to the required public hearing advertisement in the local newspaper, property owners in the immediate area will be notified. The area of individual property notification is shown on attached Map 3.

## **DISCUSSION**

### **Quinpool Road Commercial Area Plan**

The intent of the MPS policies within the Quinpool Road Commercial Area Plan is to encourage commercial and mixed commercial/residential development which strengthens the community function of the Quinpool Road area, and which is in keeping with the scale and character of the adjacent residential neighbourhoods.

### **Bylaw Amendments**

The proposed Municipal Planning Strategy amendments establish a list of conditions under which the proposed development agreement will be evaluated against. Specifically, they specify that Council shall consider that:

- (a) the lounge use shall be secondary to a restaurant use;
- (b) the maximum floor area dedicated to the lounge use shall be 50% of the total seating area of the combined restaurant/lounge establishment; and,
- (c) the hours of operation of the lounge shall be limited.

Staff believe that these are suitable criteria for evaluating the proposed development agreement, or an amendment to it sometime in the future. They ensure that the size of the lounge and its hours of operation will be limited in consideration of the surrounding residential neighbourhood.

### **Development Agreement**

The draft development agreement, as described in Attachment "C", places limits on both the size of the proposed lounge and its hours of operation. Section 2.3 of the draft agreement limits the size of the proposed lounge to 55.74 square metres (600 square feet). Section 2.5 of the agreement limits the hours of operation of the lounge to between the hours of 11 a.m. and 12 a.m. As a result, Staff believe that the draft development agreement abides to the evaluation criteria as set out in the proposed MPS policy amendments and as such provides sufficient measures to ensure that the interests of the surrounding residential neighbourhood will be protected.

### **Public Consultation**

In accordance with Regional Council's Public Participation Program for MPS amendments, staff held a public information meeting on this application on December 14, 2005. Minutes for this meeting are provided as Attachment "D" of this report. In staff's estimation, there is sufficient community support for the proposed changes to the MPS.

### **Impact on Future Applications**

In the event that Regional Council adopts these amendments, it must be made clear that in no way does this action create a precedent for other similar type amendments on Quinpool Road. By limiting the MPS amendment process to 6273 Quinpool Road, Council has indicated that it is willing to entertain these types of applications on a case by case basis only. Therefore, in the event that other similar applications are received in the future, staff will return to Council to obtain direction on how to proceed.

### **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**

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

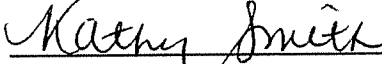

1. Regional Council may choose to approve the amendments provided in Attachments "A" and "B" of this report;
2. Regional Council may choose not to approve the amendments provided in Attachment "A" and "B" of this report; or,
3. Regional Council may choose to either adopt certain amendments but not others 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.

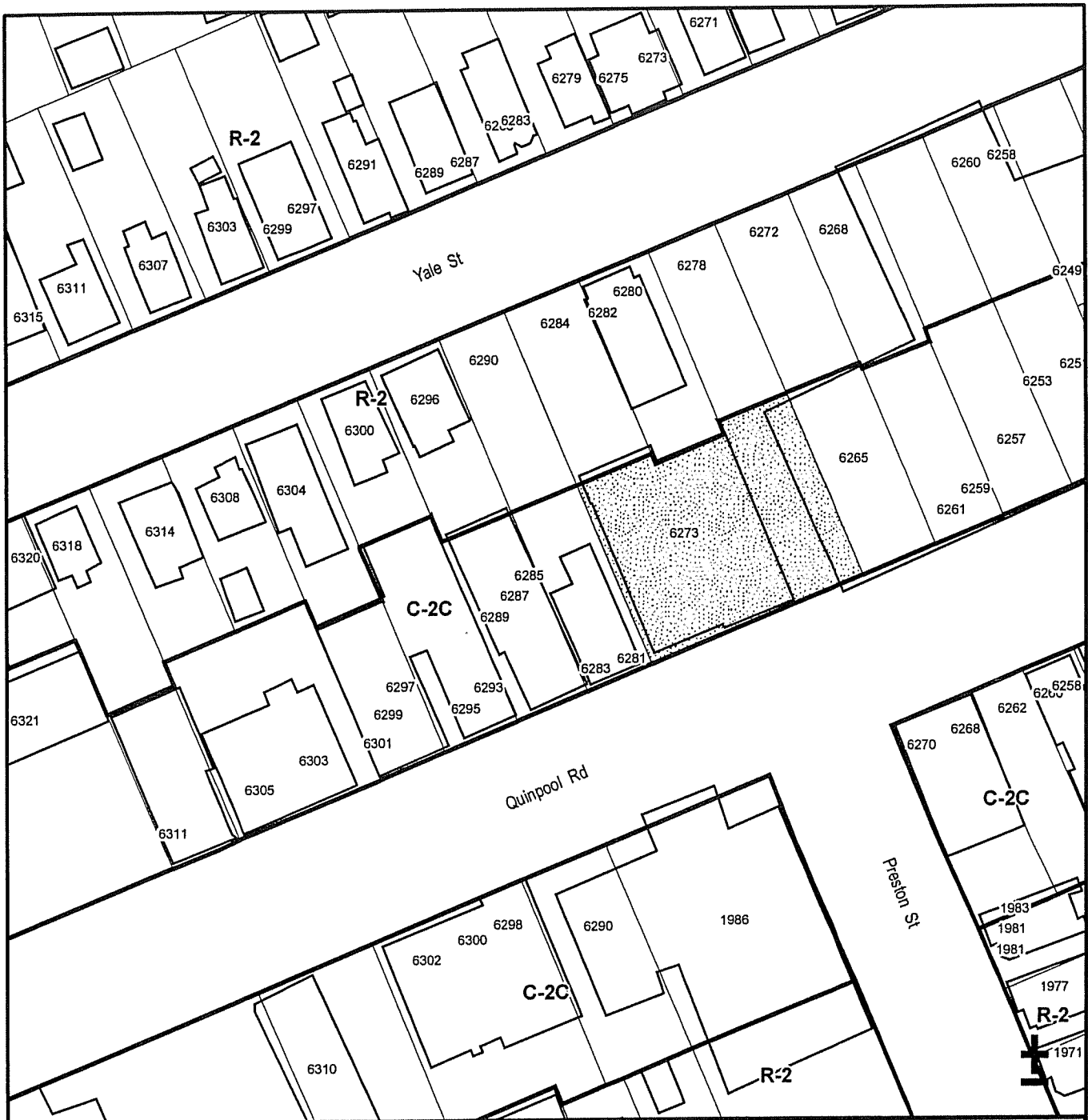
### **ATTACHMENTS**

Map 1	Location and Zoning
Map 2	Generalized Future Land Use
Map 3	Area of Notification
Attachment "A"	Proposed Amendments to Halifax MPS
Attachment "B"	Proposed Amendments to Halifax Peninsula LUB
Attachment "C"	Draft Development Agreement
Attachment "D"	Minutes from the December 14, 2005, Public Information Meeting

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: Luc Ouellet, Planner I, 490-3689

Financial Review:   
 Ferdinand Makani, Financial Consultant, 490-6902



Map 1 - Location and Zoning

6273 Quinpool Road  
Halifax

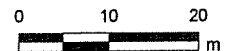
 Subject property

**Zone**

Halifax Peninsula  
Land Use By-Law Area

R-2 General Residential  
C-2C Minor Commercial - Quinpool Road

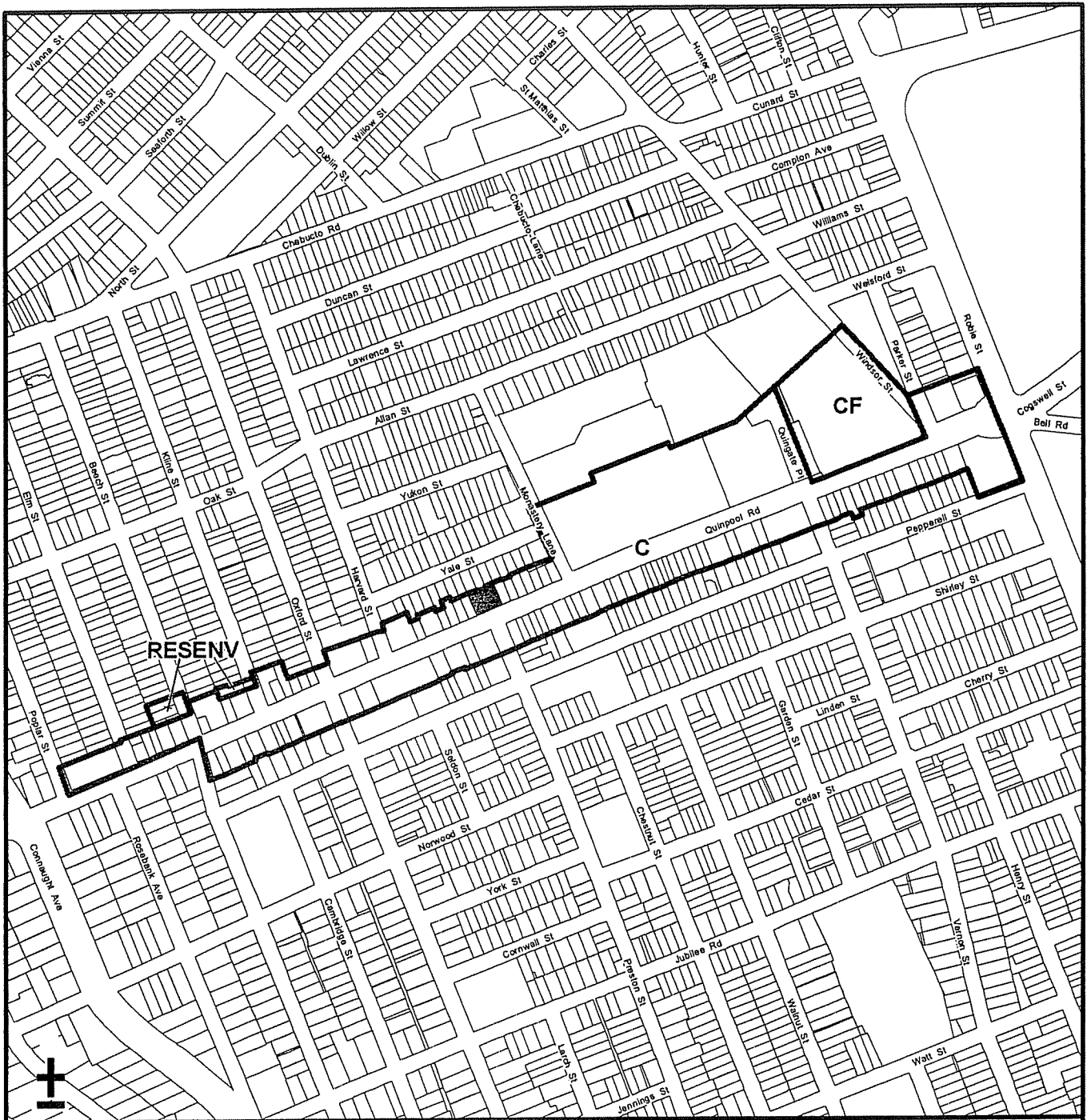
**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING AND  
DEVELOPMENT SERVICES



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


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





Map 2 - Generalized Future Land Use

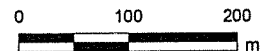
Quinpool Road Commercial Area  
Halifax

 Subject property

Halifax Plan Area

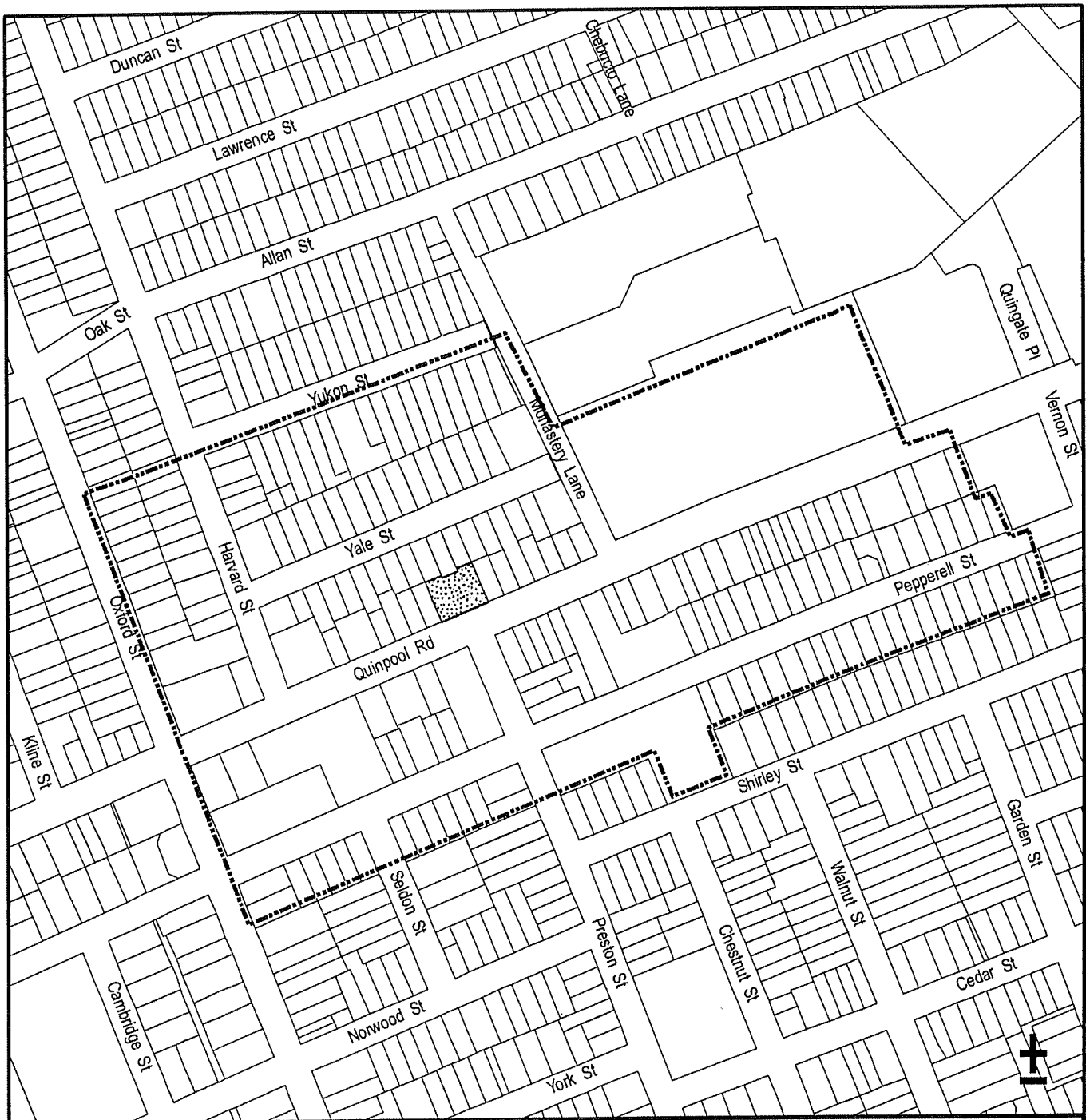
**Designation**

- RESENV Residential Environments
- C Commercial
- CF Community Facilities



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 3 - Notification Area

6273 Quinpool Road  
Halifax

 Subject property

Halifax Peninsula  
Land Use By-Law Area

**Zone**

R-2 General Residential  
C-2C Minor Commercial - Quinpool Road

**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING AND  
DEVELOPMENT SERVICES

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

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

**Attachment A**

**Case 00839: Amendments to Halifax Municipal Planning Strategy**

1. Amend Section XII, Part II, of the Municipal Planning Strategy for Halifax (Quinpool Road Commercial Area Plan) by adding the following policies:

2.8 Notwithstanding the provisions of Policy 2.2.1, a lounge in association with a restaurant may be considered by development agreement at 6273 Quinpool Road (PID 00177055).

2.8.1 Considering that 6273 Quinpool Road is located adjacent to a primarily residential area, any proposal for a lounge use must be carefully evaluated in order to minimize any negative impact on the residential area. Therefore, when determining whether to enter into a development agreement as authorized under 2.8, Council shall consider the following:

- (a) the lounge use shall be secondary to a restaurant use;
- (b) the maximum floor area dedicated to the lounge use shall be 50% of the total seating area of the combined restaurant/lounge establishment; and,
- (c) the hours of operation of the lounge may be limited.

**Attachment B**

**Case 00839: Amendments to Halifax Peninsula Land Use Bylaw**

1. Amend Section 98 of the Halifax Peninsula Land Use Bylaw by adding the following clause:

**QUINPOOL ROAD - DEVELOPMENT AGREEMENTS**

98A In the Quinpool Road Commercial Area, Council may, by development agreement pursuant to Section XII, Part II, of the Municipal Planning Strategy:

**6273 Quinpool Road**

- (c) permit a lounge in association with a restaurant in accordance with Policies 2.8 and 2.8.1.

**Attachment C**

THIS AGREEMENT made this      day of                      , 2006,

BETWEEN:

ENERGETIC FOODS RESTAURANT INCORPORATED  
a body corporate, in the Halifax Regional Municipality,  
Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART  
- and -

HALIFAX REGIONAL MUNICIPALITY,  
a municipal body corporate,  
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 6273 Quinpool Road, Halifax (PID 00177055) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for a lounge use on the Lands pursuant to the provisions of the Municipal Government Act and pursuant to Policies 2.8 and 2.8.1 of the Halifax Municipal Planning Strategy and Section 98A of the Halifax Peninsula Land Use Bylaw;

AND WHEREAS the Peninsula Community Council approved this request at a meeting held on [INSERT - Date], referenced as Municipal Case Number 00839;

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      Applicability of Agreement**

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

## **1.2 Applicability of Land Use By-law and Subdivision By-law**

Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Halifax Peninsula Land Use By-law and the Subdivision By-law, as may be amended from time to time.

## **1.3 Applicability of Other By-laws, Statutes and Regulations**

Further to Section 1.2, 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 to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia or of the Government of Canada, 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.

## **1.4 Conflict**

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 to the extent varied by this Agreement), or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

## **1.5 Costs, Expenses, Liabilities and Obligations**

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 the Lands.

## **1.6 Provisions Severable**

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 the Lands in a manner, which, in the opinion of the Development Officer, is substantially in conformance with the Schedule attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 00839:

Schedule 'A' Legal Description of the Lands

## 2.2 General Description of Land Use

The uses of the Lands permitted by this Agreement are the following:

- (a) A lounge subject to Section 2.3; and,
- (b) Any use permitted within the C-2C (Minor Commercial - Quinpool Road) Zone, subject to the provisions contained within the Land Use By-law for Halifax Peninsula.

## 2.3 Detailed Provisions for Land Use

A lounge shall be permitted within the building permitted on the Lands provided that:

- (a) The lounge use is secondary to a restaurant use;
- (b) The maximum floor area dedicated to the lounge use shall be 55.74 square metres (600 square feet), or 50% of the total seating area of the combined restaurant/lounge establishment, whichever is less; and,
- (c) Video gambling machines and video lottery terminals shall not be permitted on the premises.

## 2.4 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and exterior of the building, fencing, walkways, parking areas and driveways, and the maintenance of all landscaping and litter control, garbage removal and snow removal/salting of walkways and driveways.

## 2.5 Hours of Operation

- 2.5.1 Hours of operation of the lounge use shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.
- 2.5.2 Notwithstanding 2.5.1, the hours of operation of the lounge use shall be limited to between the hours of 11 a.m. and 12 a.m.

## 2.6 Required Approvals

Prior to the issuance of an Occupancy Permit for the operation of a lounge, the required approval from the Nova Scotia Alcohol and Gaming Authority must be submitted to the Development Officer.

### **PART 3: AMENDMENTS**

#### **3.1 Substantive Amendments**

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

#### **3.2 Non-Substantive Amendments**

The following item is considered by both parties to be not substantive 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 Registration**

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall incur all cost in recording such documents.

#### **4.2 Subsequent Owners**

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 Completion of Development**

In the event that an Occupancy Permit for the operation of the lounge has not been obtained within two (2) 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 completion of development.

#### **4.4 Discharge**

After five (5) years from the date of registration of this Agreement with the Registry of Deeds, 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; or,
- (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 Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as may be amended from time to time.



## **PART 5: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **5.1 Access**

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 Failure or Default**

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 Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands 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,
- (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.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2006.

SIGNED, SEALED AND DELIVERED )

)

) ENERGETIC FOODS RESTAURANT  
) INCORPORATED

in the presence of )

)

\_\_\_\_\_ )

)

Per: \_\_\_\_\_

)

ROBERT MCKELVIE

)

)

)

)

SEALED, DELIVERED AND )  
ATTESTED to by the proper )  
signing officers of Halifax Regional )  
Municipality duly authorized )  
in that behalf in the presence )  
of )

)

)

)

)

HALIFAX REGIONAL MUNICIPALITY

)

Per: \_\_\_\_\_

)

MAYOR

)

\_\_\_\_\_ )

)

Per: \_\_\_\_\_

)

MUNICIPAL CLERK

**Attachment D**

**Public Information Meeting  
Case 00839  
December 14, 2006**

In attendance: Luc Ouellet, Planner, Planning Services  
Gail Harnish, Planning Services  
Robert McKelvie, Quincy's on Quinpool  
Brian Smith, Quincy's on Quinpool  
Councillor Fougere

**Opening remarks, introductions, purpose of meeting**

Mr. Luc Ouellet called the public information meeting (PIM) to order at approximately 7:05 p.m. The application is for a site specific municipal planning strategy (MPS) amendment and a development agreement on the property at 6273 Quinpool Road, which is "Quincy's on Quinpool" (formerly Hogie's) and to allow a lounge which would go with the restaurant. It would not be bigger than the restaurant; it would be a part of the restaurant.

**Overview of planning process**

Mr. Ouellet provided an overview of the planning process:

- the request has gone to Regional Council to initiate the process
- tonight we are at the PIM. This is the opportunity for the people in the community to hear about the proposal and ask questions.
- we will do a detailed review of the request
- a report with a recommendation is tabled with Peninsula Community Council who will make a recommendation to Regional Council
- if Regional Council wants to continue the process, they will schedule a joint public hearing with Peninsula Community Council. The public hearing is an opportunity to address Council.
- if the MPS amendment is adopted by Regional Council, the amendments will be forwarded to the Province for review
- notice of approval is published in the newspaper for approval of the MPS amendment
- the development agreement is considered by Peninsula Community Council
- there is a 14 day appeal period for the development agreement

Mr. Ouellet indicated there has been a request for an amendment to introduce policies within the MPS to allow for a lounge at this property on Quinpool Road. A development agreement is a contract between the developer and the Municipality. In the agreement we can include special regulations such as hours of operation, size, and the number of seats dedicated to the lounge. Your comments tonight will potentially be used in drafting the development agreement.

### **Presentation of proposal**

**Mr. Robert McElvie** provided a brief background on his history. He has been involved in the restaurant business for about twenty-five years operating McElvies and Salty's on the Halifax waterfront.

Mr. McElvie indicated they purchased Hogies on Quinpool Road in 1988. They decided to change the direction of the restaurant. With Mr. Hogan gone, the culture and environment is different so for the past couple of years they worked on a new concept and hence the name "Quincy's Seafood and Steaks Casual Dining". There has been a significant investment in the building over the past two - three years making it a bit more modern and dynamic than it was in the 1960's, 70's and 80's.

Mr. McElvie commented the word "lounge" is a word that can be interpreted in a number of different ways. One of the definitions now for the new style of restaurant is an eating establishment lounge. In other words, this is a restaurant but you have facilities that allow people to come in and have a drink without having to eat and wait for a table.

Mr. McElvie indicated that in 1998, he helped Kate Carmichael establish the Quinpool Road Business Association. It became part of the Capital District Commission in 2000, which focuses on the downtown core of HRM. The significance of it being in the Capital District Commission is that they are in an area of universities, hospitals, professional centres, and banking, which is a very important part of HRM. There have been a lot of big changes in the Quinpool Road in the past fifteen years but more significantly in the last five years. They have had a lot more business investment.

Mr. McElvie said they applied to the Province for a lounge license which is what they need to have a holding bar in their restaurant. Unfortunately this location is not zoned properly for a lounge license so they were turned down. That is why they are here tonight to ask that the building be zoned to afford them the opportunity to apply for a lounge license. They will not change their hours; they are still a restaurant; they don't have music there; and they don't have VLTs and are not expecting to. There are no significant changes so he was asking for everybody's support tonight.

Mr. Ouellet clarified it is not a rezoning; it is a MPS amendment that would allow for a development agreement to be considered. A rezoning could open it up for other uses so we are considering a development agreement to allow for the lounge. It is an extra layer on top of the zoning. It is an MPS amendment to allow a development agreement to allow for a lounge only. A development agreement will have different conditions attached to the land.

### Questions and comments from members of the public

**Ms. Pamela Whelan** questioned what the current zoning of the property was.

Mr. Ouellet responded it is zoned C-2C (Minor Commercial - Quinpool Road). Quinpool Road has the same zoning on most of it, especially the commercial part. It is a zone that is specifically designed for Quinpool Road and does not allow any lounges or bars. Bars and lounges on the Peninsula are only allowed in the Central Business District, Gottingen Street, and Spring Garden Road. Freeman's is a lounge on Quinpool Road. It was there before the Quinpool Secondary Plan was put into place. The last page of the handout has a list of permitted uses in the C-2C zone.

Ms. Whelan questioned whether the development agreement would sit on top of the zoning for a certain period of time or whether it would expire.

Mr. Ouellet responded the expiry date would be until the developer wants the development agreement discharged, especially for something with a specific use. In this instance, there probably would not be an expiry date. Normally expiry dates are put in when there is construction of a building involved and they have expiry dates in case they are never acted on. Council could perhaps say that if it has not used it for a lounge within five years, it might discharge the agreement. If it is actively being used for a lounge, it would continue until the current owner or a successor property owner asked it to be discharged.

Ms. Whalen questioned whether there is a review time.

Mr. Ouellet responded that if they did not meet the requirements of the development agreement, we would have to follow-up with by-law enforcement. One of the conditions could be that the development agreement would be discharged if they did not meet the terms of the development agreement.

**Mr. Brian Smith** commented the development agreement is site specific for this property only.

Mr. McElvie indicated lounges are permitted far beyond Spring Garden Road and Gottingen Street. They are all over the Peninsula. Perhaps the downtown core was not necessarily a residential area ten years ago but it certainly is now. He has lived and worked on Quinpool Road for about eighteen years and it is a great part of the City. They have no intention of destroying anything they built up over the last number of years.

**Mr. David Young** questioned whether Mr. McElvie's competition on Quinpool Road has the same zoning.

Mr. Ouellet responded everybody has the same zoning. Other restaurants on Quinpool Road would not be allowed to have a lounge. This request is site specific for this property only. Others wanting a lounge in the future would have to request an MPS amendment.

Mr. Young questioned whether competitors on the street had the holding area now.

It was responded Freeman's and the Holiday Inn. The reason they went for a site specific amendment is because asking for redesignation of the whole Quinpool Road would allow anybody to come in and take advantage of something they are trying to do themselves. Some people mentioned lately about the lounge in Dartmouth wanting to become adult entertainment.

Mr. Smith indicated they are looking for a site specific amendment. They chose the development agreement because they can put in measures to address community concerns, such as not being open past midnight or having VLTs. If they did it for the whole of Quinpool Road, it would allow anybody to have a lounge. They just want to be able to have their guests come in and enjoy a drink and then stroll home or have dinner and cocktails, which at the moment they are not allowed to do.

**Mr. Bruce Sampson**, owner of a new business across the street from Quincy's, commented he and Mr. McElvie went back a long way, since working for him in 1993 when he opened McElvie's. Also, he was a life long resident of the Peninsula. He thought what is happening in this City is that it is becoming neighbourhoods. He has been there for eight months now. He was selling food and not liquor, the same as Mr. McElvie. They are not in the business of peddling booze so he has become known as a pub. People want to come into his place before going to the Oxford to have a glass of wine and could not without ordering food. He could see nothing wrong with having a lounge as part of a restaurant.

Mr. Sampson commented they are not fully licensed. It is just a matter of allowing people to come in and have a drink. In the eight months he has been open, he has had no problems with public intoxication. They have not asked anybody to leave yet.

**Mr. Luc Erjavec** indicated he was a resident who lived nearby and worked with the Canadian Restaurant Association. The liquor laws in Nova Scotia were written over the past forty years. They are a huge industry today, particularly on the Peninsula. Twenty years ago it was pretty clear what was a bar, lounge and a tavern. The industry has become so competitive and flexible and society has changed. You could not walk down the street today and tell what is a bar or a tavern. There are only ten tavern licenses left in this province. There are 922 eating establishment licenses in the Province; 435 of them have lounges. That is the norm. It is not that they are doing a nightly entertainment; it is just giving the customers what they want. You want to serve a customer a beer without having to serve them food. He has heard complaints from restaurants where someone has been asked to leave a restaurant without having a drink which puts them in an awkward position. He is asking for the flexibility to serve his customers.

Mr. Erjavec said there are some pretty clear restrictions even in terms of what he is allowed to do under the liquor laws. The first thing is quiet enjoyment of the neighbourhood. You can impose restrictions in the development agreement. He could not even get VLTs because the Province is taking 1000 of them away and there is a waiting list. Restaurants are a big business with profit margin of 5%.

Mr. Erjavec indicated he supported the request on behalf of the Association as well as a customer who walks up Quinpool Road. Mr. McElvie's track record speaks for itself. He has a lounge license at McElvie's and Salty's and walking by you could not tell if they were a bar or a restaurant. He will continue to support his community and provide a business in the neighbourhood who likes the quiet enjoyment of the establishment.

**Mr. Roger Wells** asked Luc to explain the hierarchy of licenses issued by the Province. Mr. Ouellet responded he was not familiar with them.

Mr. Wells questioned whether the Palace and the Liquor Dome have lounge licenses. It was responded they have cabaret licenses.

Mr. Erjavec commented there are only six or nine of these type of licenses in the Province.

Mr. Wells indicated that he did not think they had a problem with what Mr. McElvie wants to do but a development agreement runs with the property so if he sells the property, the development agreement with the development rights passes to the new owner. Mr. McElvie has very good intentions but if Quincy's is ever sold down the road and the new owner wants to test the limits of what the lounge license would enable, we might be talking about a different set of circumstances.

Mr. Ouellet commented that is always a risk because the development agreement runs with the land. It would transfer to a new property owner.

Mr. Wells stated that perhaps the limitations need to be put in the development agreement because if they are not written down, then the new owner has a blank cheque and could go where you do not intend to go and might impact the abutting properties in the neighbourhood. If you do not intend to have VLTs and the Province cannot control that through its legislation, maybe they should have that in the development agreement and perhaps address the square footage in the development agreement.

Mr. Smith indicated they plan to include their hours of operation which is their current hours. That is part of the reason the development agreement route was chosen. Mr. McElvie has a history with restaurants for twenty-five years.

Ms. Donna Davis commented they are delighted they (Quincey's) are on Quinpool Road. They have frequented his other restaurants and he does have a good track record. When they first heard about the application, they were apprehensive. They recognize they about a commercial aspect and like the existing commercial neighbourhood. Their fear would be that it changes from the neighbourhood environment they really liked. They first went into his establishment to have a glass of wine and they had to order food which they did. They like that concept. They just got back from Italy and like the concept. She found it a bit surprising that a holding bar somehow necessitates a special license. Perhaps the Province needs to have a look at its licensing provisions. Restaurants typically have a holding area and you can talk about the square footage of them. If they are really serious about their committing to all these provisions, one more step can be put into place. They have to write a policy to allow this and can say it is for a holding bar adjacent to a restaurant and address the maximum

square footage which gives a higher level of comfort. If they want to deviate from that, they would have to come back through the process again. If it is sold down the road, the comfort level is there for everybody.

Mr. Ouellet noted staff has discussed this application. We are thinking of doing something similar to what was done for two streets behind Spring Garden Road where they changed the policy to permit lounges of up to 600 sq.ft.

Ms. Davis commented that is reasonable. You would not want to set it up so that it would not make economic sense. As well, it gives a higher level of comfort to the people in the neighbourhood.

Mr. Smith indicated that Quinpool Road is a neighbourhood of restaurants. They simply want to serve their guests.

**Mr. John Conn** commented he grew up on Pepperell Street abutting Quinpool Road. He has had business establishments in back of him that he has not wanted. Right now he was pretty lucky. He would have liked to have Quincy's in past years. He has had adult video stores and grocery stores that he did not want to see and a business on Quinpool Road for the past number of years. It is a great idea. They are all lucky that they have establishments like they do and not some that could be put in as-of-right. He questioned what other uses were permitted by the current zoning.

Mr. Ouellet reviewed the list of permitted uses in the C-2C zone. Adult video rental stores would not be allowed. Those establishments there now were there previously.

Mr. Smith questioned whether these uses were put there in 1986 when the Quinpool Road Secondary Plan was put into place.

Mr. Ouellet responded he believed so. Normally when we do zoning, we try to include what was there before.

It was questioned how many eating establishments are on Quinpool Road and how many serve liquor.

Mr. Ouellet responded he did not know but there are a number of them.

**Mr. Tim Dauphinee** commented they live downtown for the lifestyle. They bought a home near Quinpool Road because they like Quinpool Road. He could walk to the bank and for groceries and to church but he could not walk to have a glass of wine which did not seem right to him. Given the safety issues of the City, he did not know why his wife could not go out with a friend for a glass of wine. They cannot unless they take a \$8 taxi downtown. This is a safe neighbourhood and they should be allowed to do that in the neighbourhood. He has been in six countries in the last several months with his business and this is nothing out of the ordinary. He entertained locals and people from across Canada and around the world and this is something they would shake their heads at. It



is things like this that could hinder where they are going. This makes a lot of sense. They are the role models of the industry and set the standards so let them.

**Curtis...**, business owner on Quinpool Road, indicated he thought it was a nice idea. There is always something missing. You just cannot walk and have a glass of wine. It is known as a restaurant street. There is no life to just having a restaurant strip. You need to have something more for your neighbourhood. He and Mr. McElvie sold services and food. It is their neighbourhood and there is always something missing. It would be nice to have a lounge on Quinpool Road and it would complement their neighbourhood.

**Councillor Fougere** advised that she had a number of calls from the immediate neighbourhood and concerns were raised relative to hours of operation and adult entertainment. They should make sure those things are addressed in the development agreement. As well, they should address the square footage and permit no VLTs. In terms of disposition of the agreement, perhaps if at some point in the future this ceased to be a restaurant, then the development agreement to allow the lounge would be discharged. The biggest concerns were hours of operation, loud music, gambling, and adult entertainment. They have all been addressed to the extent they could be regulated by a development agreement.

It was questioned at what point people would get to see the parameters.

Mr. Ouellet advised that once staff has completed the staff report and draft development agreement, they will be tabled with Peninsula Community Council. At that point, the report becomes public. Also, they would get notification if a public hearing is held.

Councillor Fougere noted that the Community Council generally meets on the second Monday of each month and their agendas are posted on the HRM web site.

### **Adjournment**

The meeting adjourned at approximately 8:00 p.m.