

Halifax Regional Council
September 23, 2003
October 21, 2003

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

FROM: *Sheila Fougere*
Councillor Sheila Fougere, Acting Chair
Peninsula Community Council

DATE: September 18, 2003

SUBJECT: **Case 00594 - Halifax MPS and LUB Amendments - 6038-40 Cedar
Street (Lot T)**

ORIGIN

Peninsula Community Council September 8, 2003

RECOMMENDATION

Peninsula Community Council recommends that:

1. **Regional Council give First Reading to the proposed amendments to Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw with respect to Lot T, 6038-40 Cedar Street (p.i.d. 137273) as set out in Attachment A of the August 13, 2003 staff report and schedule a public hearing for October 21, 2003; and**
2. **Regional Council approve the amendments to Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw with respect to Lot T, 6038-40 Cedar Street (p.i.d. 137273) as set out in Attachment A of the August 13, 2003 staff report.**

PLEASE RETAIN FOR PUBLIC HEARING

BACKGROUND

This matter was before Peninsula Community Council as a result of the following motion of Regional Council:

1. Instruct staff to initiate a process to amend the Halifax Municipal Planning Strategy and Land Use By-law with respect to Lot T, Cedar Street (p.i.d 137273) as set out in attachment A of the July 8, 2003 staff report.
2. Request that public participation be undertaken in accordance with the Public Participation Resolution adopted by Regional Council on February 25, 1997.

DISCUSSION

Peninsula Community Council, with minimal discussion, approved the staff recommendation.

BUDGET IMPLICATIONS

N/A

FINANCIAL MANAGEMENT/BUSINESS PLAN

N/A

ALTERNATIVES

1. Give First Reading to the proposed amendments to Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw with respect to Lot T, 6038-40 Cedar Street (p.i.d. 137273) as set out in Attachment A of the August 13, 2003 staff report and schedule a public hearing for October 21, 2003;
2. Reject the recommendation of Peninsula Community Council and take no further action in this regard.

ATTACHMENTS

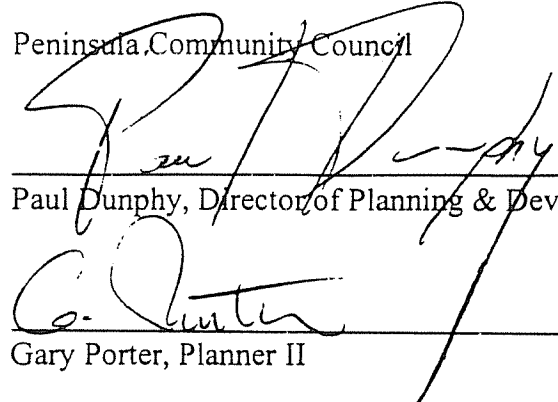
1. August 13, 1003 staff report re Case 00594: Halifax MPS and LUB Amendments - 6038-40 Cedar Street (Lot T)

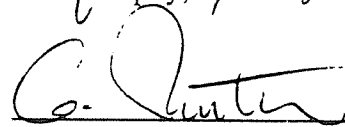
Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208. Report prepared by: Sherryl Murphy, Legislative Assistant 490-6517.

Peninsula Community Council
September 8, 2003

To: Peninsula Community Council

Submitted by:


Paul Dunphy, Director of Planning & Development


Gary Porter, Planner II

DATE: August 13, 2003

SUBJECT: Case 00594: Halifax MPS and LUB Amendments - 6038-40 Cedar Street (Lot T)

ORIGIN

Councillor Uteck and Staff

RECOMMENDATION

It is recommended that Peninsula Community Council:

1. recommend that Regional Council give First Reading to the proposed amendments to Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw with respect to Lot T, 6038-40 Cedar Street (p.i.d. 137273) as set out in Attachment A and to schedule the public hearing;
2. recommend that Regional Council approve the amendments to Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw with respect to Lot T, 6038-40 Cedar Street (p.i.d. 137273) as set out in Attachment A.

PLEASE RETAIN REPORT FOR PUBLIC HEARING

BACKGROUND

Mandate from Regional Council

The following motion was passed at the July 15, 2003 meeting of Halifax Regional Council:

MOVED by Councillor Uteck, seconded by Councillor Sloane that Regional Council:

1. Instruct staff to initiate a process to amend the Halifax Municipal Planning Strategy and Land Use By-law with respect to Lot T, Cedar Street (p.i.d 137273) as set out in attachment A of the July 8, 2003 staff report.
2. Request that public participation be undertaken in accordance with the Public Participation Resolution adopted by Regional Council on February 25, 1997.

In accordance with the February 25, 1997 Public Participation Resolution, staff held a public information meeting to discuss the proposed amendments on August 6, 2003. Attachment B contains the minutes of that meeting.

Property Information

The block bounded by Cedar Street, Robie Street, Jubilee Road and Henry Street is unique. The perimeter has been developed in a typical manner with homes facing the streets while a large vacant area is located in the middle of the block. (See Maps 1 and 2). This large vacant area is identified as Lot T and also includes a three-unit building at 6038-40 Cedar Street. The lot is 29,384 square feet in area, with 60 feet of frontage on Cedar Street and a right-of-way to Henry Street (See Maps 1 and 2). The lot previously existed as two separate parcels which were consolidated into one on August 26, 2002. Both of these previous parcels have been under common ownership for several years. The entire block is zoned R-2 (General Residential Zone), Peninsula Center.

Lot T has been the subject of numerous development proposals dating back to 1955 (See Table 1). Each development proposal, including several as-of-right proposals, has been extremely contentious and has created uncertainty for the neighbours as to how the site will ultimately be developed.

Staff is aware that some of the residents abutting Lot T are claiming adverse possession with respect to portions of Lot T. This is an issue in which Halifax Regional Municipality has no involvement. The proposed amendments will apply to the land, regardless of ownership. Therefore, the proposed amendments are not linked the outcome of any action with respect to a claim of adverse possession.

Current Policy Guidance

The policies of the Municipal Planning Strategy and land use bylaw regulations for this area are designed for typical or common property conditions and therefore may not be adequate for regulating development of this unique site. It is therefore appropriate to consider the adoption of unique policies and regulations. It should be noted that the proposed amendments are not intended to prohibit development. They are intended to ensure that future development of Lot T is compatible with surrounding homes.

Recent Development Permits

A development permit was issued in 2001 to construct one four-unit building on Lot T. This permit has now expired and there are no active applications to develop the property. It should be noted however, that while new policies and regulations are being considered for this site the owner has the right to develop the property in a manner which is consistent with all existing policies and regulations. Existing policies and regulations remain in effect until Regional Council advertises its intention to the amend them.

On August 15, 2003, a development permit was issued to construct additions to the existing building at 6038-40 Cedar Street for occupancy as four dwelling units and a church. If the proposed amendments to the Municipal Planning Strategy and land use by-law are approved, this development permit will expire on August 14, 2004.

DISCUSSION:

The Municipal Planning Strategy (MPS) is the adopted statements of policy to guide future growth within the area to which the Strategy applies. Amendments to the Municipal Planning Strategy are generally not considered unless it can be shown that circumstances have changed since the MPS was adopted, which makes the current designation or policy no longer appropriate or there is a situation which the MPS did not contemplate or address adequately. Given the history of unsuccessful proposals and neighbourhood uncertainty, it is clear that the current policies and regulations do not adequately address development of this site in the context of the surrounding neighbourhood.

Section VI of Part II of the Halifax Municipal Planning Strategy applies to the Peninsula Centre area. The thrust of the Residential Environments policies is the maintenance of Peninsula Centre as a predominantly low-rise residential neighbourhood with an emphasis on housing accommodation for family households. Current policies encourage retention and rehabilitation of existing housing stock and infill housing projects which are compatible with the existing neighbourhood (See Attachment C).

Considering amendments to the MPS and Land Use Bylaw for this site which create an opportunity to ensure that its future development will be compatible with the existing

neighbourhood is consistent with the goals of the current policies. However, the Municipal Government Act does not enable a municipality to eliminate all the as of right potential on a property (See Attachment D). Therefore, the draft policies contained in Attachment A allow for lot T to be used for a single family dwelling as of right, while requiring that uses, or additions for uses or a new building, other than a single unit dwelling, will require a development agreement.

New uses will be limited to those set listed in the R-2 zone (See Attachment E).. No approval can be granted by Council which would not meet the standards for that use as set out in the R-2 zone. Through this provision Council can reduce maximum requirements such as lot coverage or height and increase minimum requirements such as setbacks and parking but not vice versa. Council may also regulate building design including building materials and architectural feature. This approach is in keeping with the existing policies of ensuring neighbourhood compatibility and clearly indicating that development of this site requires greater sensitivity and public review.

Public Hearing Notification

Should Council decide to proceed with a public hearing on these amendments, in addition to published newspaper advertisement, property owners in the immediate area will be notified. The area of property notification is shown on Map 1.

BUDGET IMPLICATIONS:

None.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:

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

ALTERNATIVES:

1. Community Council can recommend that Regional Council approve the proposed amendments to the Municipal Planning Strategy and Land Use by-law. This is the staff recommendation.
2. Community Council can recommend that Regional Council not approve the proposed amendments to the Municipal Planning Strategy and Land Use By-law. A request to amend its Municipal Planning Strategy is completely at the discretion of Regional Council. A decision not to amend the MPS cannot be appealed. This alternative is not recommended as staff feels the amendments are appropriate to address the situation and there is community support for the amendments.

ATTACHMENTS:

Table 1	Outline of previous applications involving Lot T, Cedar Street
A	Suggested amendments to the Halifax Municipal Planning Strategy and Land Use By-law
B	Minutes of the August 6, 2003 public information meeting.
C	Excerpts from Section VI of the Halifax Municipal Planning Strategy
D	Excerpts from Municipal Government Act
E	Uses permitted in an R-2 zone
Map 1	Location and Zoning
Map 2	Plan of Lot T Cedar Street

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

Report Prepared by: Gary Porter, Planner II, 490-4403

Table 1

Date	Request	Proposal	Result
1955	rezoning from R-2 to R-3	two storey 14 unit apartment building.	approved
1967	rezoning from R-3 to C-2	a request was made to rezone this and several other properties on Jubilee Road, Henry Street and Cedar Street to permit shopping center	refused
1975	rezoning from R-3 to R-2	petition from residents to ensure that future development is "compatible in scale and density with area which surrounds it"	withdrawn
1978	development agreement	30 unit apartment building (also included 6038 Cedar Street)	refused
1980	development agreement	29 unit apartment building (also included 6038 Cedar Street)	did not proceed as City rezoned land
1980	rezoning from R-3 to R-2 (City initiated)	Changes to zoning pursuant to MPS	approved
1984	development agreement	13 townhouses	did not proceed due to unresolved servicing issues
1992	tentative subdivision approval	eight single family lots	replaced with application for final approval
1992	final subdivision approval	seven single family lots	did not proceed due to unresolved servicing issues
1999	development agreement	to enable subdivision of property into four lots for single family dwellings	withdrawn

Attachment A

Suggested amendments to the Halifax Municipal Planning Strategy and Land Use By-law

MPS

1.5.5 Because of the unique configuration of the property designated medium-density on the Future Land Use Map of this Plan and identified as P.I.D. 00137273 Cedar Street and its relationship to abutting properties, no development, other than a detached single unit dwelling, shall be permitted, except by development agreement

1.5.5.1 Any development permitted pursuant to Policy 1.5.5 shall:

- (a) be limited to those uses permitted by the R-2 General Residential Zone;
- (b) meet the provisions of the R-2 General Residential Zone of the land use by law; and
- (c) be compatible with the surrounding area and this shall be achieved by attention to a variety of factors for which conditions may be set out in the development agreement, such as but not limited to:
 - (i) land use;
 - (ii) architectural design;
 - (iii) scale, height and massing of the building;
 - (iii) population density;
 - (iv) lot size, lot frontage, setback, lot coverage and open space;
 - (v) adequacy of the servicing capacity
 - (vi) the location and amount of parking provided;
 - (vii) accesses to the site and building;
 - (viii) site landscaping including buffering; and
 - (ix) building materials

LUB

P.I.D. 00137273 Cedar Street

95(2) For the property identified as P.I.D. 00137273 Cedar Street, notwithstanding the uses permitted by the zone, no development, other than a detached single unit dwelling, shall be permitted, except by development agreement pursuant to Policy 1.5.5 of Section VI.

Attachment B

Minutes of the August 6, 2003 public information meeting

In attendance: Councillor Uteck
Gary Porter, Planner II
Gail Harnish, Planning & Development Services

Councillor Uteck called the meeting to order at approximately 7:00 p.m. in Halifax Hall with 25 people present. She noted that tonight was the beginning of a public information process. HRM has recognized the significance of this property to the surrounding neighbourhood so we are going to try and put some controls in place so that anything the developer builds has to have the agreement of the community, within reason.

Mr. Gary Porter advised this is a public information meeting to discuss a possible amendment to the municipal planning strategy (MPS). He explained that the municipal planning strategy is the foundation for zoning. It contains the policies that allow us to put regulations in our land use by-law (LUB). The proposal is to put a special policy in the MPS that will allow additional zoning restrictions on this piece of property on Cedar Street. He reviewed the MPS amendment process. The process started on July 15, 2003, when Council initiated the amendment process. The next step is the public information meeting which is where we are tonight. After this meeting is over and we hear the comments, staff will evaluate those comments and finalize our report and recommendation and forward it to Peninsula Community Council. Community Council will either agree with the staff recommendation or perhaps recommend a modification. It is Regional Council that will ultimately make the decision on this proposal.

Ms. Cheryl Harawitz, 1743 Henry Street, questioned whether there were time lines for the MPS amendment process.

Mr. Porter responded there are no specific time lines other than the ad for the public hearing has to be put in the newspaper at least fourteen days in advance of the hearing. Peninsula Community Council generally meets on the second Monday of the month. Their next meeting is on September 8th. In theory, it is possible the matter could be at that meeting. If not then, the October 6th meeting. The item then goes onto Regional Council to set a date for the public hearing. If the amendment is approved by Regional Council it is then review by the Minister of Municipal Affairs which takes about two weeks. If there are no objections at the provincial level, the approval is advertised and the amendment becomes law.

Mr. Porter noted this property has a long history of a variety of applications. These are outlined in Table 1 of the staff report. The earliest application was in 1955 which was a proposal to put a fourteen unit apartment building there. The last one was an application by Mr. Healy who had a

proposal for four single family dwellings. None of these applications has resulted in anything being constructed on the property yet.

Mr. Porter displayed the provisions which are being proposed to be added to the MPS and LUB which says if there are any proposals for this property which involve a change in use or a new building, it will have to be considered through the development agreement process. It is proposed that any development be limited to the uses permitted in the R-2 General Residential Zone and shall be compatible with the surrounding neighbourhood. The types of things that would be considered would be the land use, the design of the building, the scale, the height, etc.

Mr. Porter explained that if a proposal for the site is made, a development agreement would be required. The matter would ultimately go to the Peninsula Community Council for consideration. There would be a public hearing where the public could comment. The proposed amendment would remove the as-of-right potential for the property.

Ms. Harawitz questioned whether any approval was ever granted for a multiple dwelling on this property.

Mr. Porter responded there have been development permits issued for several proposals but they were never built. He referenced Table 1 in the staff report which outlines the previous applications. Mr. Healy had a development permit for a four unit building on the property but it has now expired.

Ms. Susan Wood, 1745 Henry Street, questioned whether approval of the proposed amendment meant that as-of-right development rights would not exist and any proposal would require a public hearing to get the input of neighbours. She questioned whether the final decision was at the discretion of the planning department.

Mr. Porter responded that the Planning Department's role is to evaluate a proposal and recommend to community council whether to approve it or not. The final decision would be made by Peninsula Community Council.

Mr. Moncef Askri stated the zoning on the property went from R-3 to R-2 to now nothing. They are now allowed to do anything. He questioned whether they thought that was justice.

Mr. Porter responded it is a difficult site to build on. It is an opportunity for him, as the developer, to select a proposal that meets R-2 requirements but overall the proposal would be acceptable to the neighbourhood.

Mr. Askri questioned whether he thought that was justice on the part of the City. Mr. Porter responded it was the City's proposal.

Mr. Porter clarified that the new rules would not take affect until Regional Council advertises its intention to adopt. Mr. Askri has made a permit application which is being processed under the current rules.

Ms. Elaine McCourt, 6525 Chebucto Road, questioned who on Council proposed this and why.

Councillor Uteck responded that the request came from her as the area councillor because of the history and seeing the difficulties in the past applications with Mr. Healy and Mr. Askri going to court. Perhaps this should have been done between Mr. Healy and someone else. This is a difficult site and a unique area which deserves special treatment, otherwise it will be contentious. This is an attempt to have a solution that perhaps Mr. Askri will want to build something outside the limitations but is acceptable to the neighbours. Something will be built on the site.

Ms. McCourt commented that was an assumption. It is an R-2 zone which is what the neighbourhood wanted.

Mr. Porter responded the property is zoned R-2 which allows up to a four unit building. There is a possibility that the existing building could be removed and a bigger building put at the back. The current zoning also allows a day care, a church, etc.

Ms. McCourt stated they are asking the whole neighbourhood to accommodate the investment of the new owners. The neighbourhood has made it very clear they are happy with the current zoning.

Mr. Porter pointed out that the current zoning allows the owner to construct another building there without any input from the community as long as it meets the R-2 zoning requirements.

Mr. Patrick McCourt, 6525 Chebucto Road, questioned how many units are currently on the lot.

Mr. Porter responded he believed there were three. The R-2 zone allows a maximum of four. There could be one more unit attached to the existing building.

Councillor Uteck noted that Mr. Askri is proposing that each unit have seven bedrooms. If there are no padlocks on the bedroom doors, then it would not be considered a boarding house. She indicated staff is looking at possibly amending the definition of a dwelling unit and other ways to control large apartment units.

It was questioned when the referenced amendment would go through. Mr. Porter responded it is something being worked on within the Halifax office. It was hoped to have something ready for consideration sometime in September.

Ms. Diane Ashworth, 1751 Henry Street, questioned whether it would be possible to take the house on Cedar Street and put in one kitchen and add bedrooms onto it for one unit; then add something else on that for unit two; add on something else huge for unit three; and then something else huge for unit four. She questioned whether there was a limit on the lot coverage.

Mr. Porter responded that four units are permitted and there is no limitation on the number or rooms that a dwelling unit can contain. However, the maximum allowable lot coverage is 35 per cent. This would indirectly control the size of the units by limiting the size of the building. However, the lot is large, so 35 percent would give a large building potential.

Ms. Ashworth commented they could be looking at an enormous building.

Ms. Mary Burke, 6047 Jubilee Road, stated she resided in her house for approximately thirty years. It is an attached house. It was a wooden house lived in by Mr. Maxwell who developed that area. The block of homes on Jubilee Road and Cedar Street were built by Mr. Maxwell in the early 1900's. The center block was designed to accommodate garages, coal delivery and a safe place for the children to play because all these houses have very little distance between the roads and sidewalk. During the depression, Mr. Maxwell was forced to sell some of the land for back taxes. Eventually the City sold the lot and allowed it to be separated and sold it to Mr. Butler who used it for a construction company. After Mr. Strum acquired it, he wanted to build a fifteen unit building. After years of hard work, the lot was elevated to R-2 status which corresponded to the rest of the residential area.

Ms. Burke indicated that Mr. Askri's company has removed at least thirty mature trees and all the middle vegetation has been removed from the lot. Their lot has been raised and changed from its original elevation and in some places, close to Cedar Street, it is nearly 2'. It is causing many drainage problems to the people on Jubilee Road. There is also construction parking which is in violation of the zoning. With the recent rain, the water was flowing into her backyard like a small river and it was with the assistance of her neighbours that they were able to make a dam outside the gate and flooded the right-of-way instead. This was the first time that ever happened. She felt the property should only be developed within the existing R-2 regulations and only as a R-2 lot. If that cannot be done, then Mr. Askri's company made a bad investment. The residents of this neighbourhood are not responsible and should not have to bail him out.

Mr. Askri commented that he thought when he bought the property it was a death trap. There are no walkways, a puddle of water, and there is a big foundation. It has been used for things he did not want to mention, such as drinking. He thought his neighbours must have closed their eyes to what was happening.

Mr. Askri stated the people had the opportunity to buy the land but they didn't. He bought the land and he wanted to develop it. The residents want something for nothing. Everybody should fix their water problem. The water was not his problem.

Ms. Burke stated Mr. Askri created the problem. The water was coming into her yard yesterday.

Mr. Askri reiterated they have to do something with their own drainage and that it was not his fault.

Ms. Bilsbury, 1755 Henry Street, stated that the comment about it being a death trap was not true. It was an area where children played. She lived there for sixteen years. The children went and played there after school. They did not have to drive them to the Needham Centre. Her kitchen window overlooked that everyday. Their children played there and did not have to be escorted to a playground. She lived in her house for sixteen years and the lady next to her bought her house in 1942. Neither of them had prior problems with flooding. Since the vegetation was removed, the lot was flattened and they have a little river. The water under her deck was 2" from her basement. It is not only the rain; the whole lot will be snowplowed so they will have huge snow banks next to their tiny gardens. When it melts, it will run into their basements. If her basement flooded, she felt the council would be responsible. They should listen to the people who lived there. Halifax is not all about development and progress. It is also about improvement and renovations. They have to think about the old houses and the people living there.

Mr. Porter questioned whether it was being suggested that the regulations be changed so that nothing could be done there.

Councillor Uteck advised that Engineering staff would go back out tomorrow after the heavy rains.

Ms. Bilsbury questioned where they would put the snow banks. The area was never plowed before. Ms. Bilsbury expressed concern that apartments are being built "willy nilly" next to houses.

Mr. McCourt stated that he was at Mrs. Burke's house yesterday and the land slopes towards her house. Hundreds of gallons of water per hour was going through her property as a result of the regrading. Mr. McCourt questioned what the regulations were relative to changing grade.

Councillor Uteck advised that the regulations have been changed so that HRM can get involved if a problem has been created by somebody as opposed to it being a civil matter. If the abutting owner who caused the problem refuses to correct the problem, HRM can do it and bill them.

Ms. Judith Fingard, 6061 Jubilee Road, thanked the councillor for raising the matter. She had no interest in terms of parking there but she looked out on it and it is part of her neighbourhood. She lived there for fifteen years. It used to be an urban wilderness. Now it is a bomb site. It is desolate and there is an illegal commercial parking lot. She said she did not entirely blame the developer. Also, she did not know why they did not buy the property and was angry that they did not, but somehow people kept putting up objections because they never wanted any change. There will be change. That is in the nature of things. If you start resisting change, you have to examine your mental health. She was very much in support of the proposal. She also spoke in support of them buying it and doing something interesting with it.

Councillor Uteck stated she made the proposal because of the number of issues that arise when development comes. If the proposed amendment is approved, it would mean any development would have to be reviewed by the community and they could look at things like brick. A development agreement is much more amenable than as-of-right development. HRM cannot regulate taste through the LUB but we can through the development agreement, right down to the landscaping. If it did not get the consensus of the neighbourhood, within reason, it is the privy of the Community Council to refuse it. Her interest tonight is to try and protect the interest of the residents.

Mr. Steve Fudge, 1745 Henry Street, stated he appreciated what the councillor was trying to do with the proposed amendments and supported them. He asked for confirmation that with this amendment, if it is approved, the lot would be subject all the R-2 requirements but with special considerations which are listed in Attachment "A", such as architectural design, access to the site and building, site landscaping, and building materials. Plus, there would have to be a development agreement which would require a public hearing. He appreciated that the matter has been raised and supported the proposed amendment.

Councillor Uteck cautioned that this is the first step. The owner has every right until the first notice of public hearing ad to take out a permit for a use permitted by the R-2 zone.

Mr. John Fisk, 6067 Jubilee Road, indicated he lived there for fifteen years and echoed Judith's sentiments. He felt it was a very important thing and thanked the councillor for bringing it forward. In terms of the integrity of the neighbourhood, that is extremely important. A lot of the unique aspects were already discussed. He was in favour of the proposal to require a development agreement for this site.

Mr. Dan Mahar questioned whether it was proposed through this amendment that the development agreement would only apply to this particular piece of property. It was responded yes.

Mr. Mahar asked for confirmation that the amendment would not affect any other property in Halifax. Councillor Uteck responded it would not.

Ms. Ann Louise King, 1735 Henry Street, commented she appreciated it being brought forward. The neighbours have been interested in this for twenty-five years, or at least they have. Relative to the comment about seeing bad things happening in the back lot as a reason for developing it, perhaps he was not aware of the good aspects before he purchased it and razed all the vegetation. She thanked the councillor and staff for bringing forward the proposed amendment and would support it.

Councillor Uteck advised that the report tabled with the Peninsula Community Council would be available through the clerks office. She hoped that the neighbours and Mr. Askri could work together. Something will be developed here and the neighbourhood understands that. They would like to have something in reason. She volunteered to attend any meetings.

Mr. Porter advised that Mr. Askri has recently applied for a development permit to allow an addition to the existing building at 6038 Cedar Street which will result in a structure consisting of four units and a church.

In response to questions, Mr. Porter advised that a church is permitted in the R-1 and R-2 zone, as are playgrounds, etc. You are allowed more than one use in a building.

It was questioned whether a specific religious denomination has applied for occupation.

Mr. Porter responded no. He clarified that it is an application for a development permit only, for which you have to look at whether or not the proposed use meets the zoning only. In order to get a building permit, the proposal needs to pass Building Code and engineering specifications, etc. One of the problems that always cropped up in previous applications is the requirement for a storm sewer connection.

Councillor Uteck pointed out that HRM does not regulate denominations.

An individual asked for clarification that the proposal was for four units plus a church and there are three units there already, to which Mr. Porter responded yes.

An individual questioned whether he could have a church in his back yard if he had his house on a R-2 lot as long as he met the landscaping requirements. Mr. Porter responded that only one principal building is permitted per lot. However, if it is one building and height, coverage requirements etc. were met, the answer would be yes..

Mr. Porter advised that the plans have been submitted to the Development Officer. The plans show the building being doubled in size and is to create four units and a larger structure attached in the back which is labeled as a church.

It was questioned whether there were any restrictions in terms of the use of the church building.

Mr. Porter responded that it could be used for activities normally associated with a church such as weddings, meetings, etc. He confirmed that a church could not be used as a dwelling.

Mr. Fudge requested that the appropriate City staff look at the drainage servicing issue. Because of the amount of fill put back there, these flooding issues are real. They had their basement flooded for the first time in thirteen years. The water flooded everybody along that area since that work has been done. There is overland flow which is obviously what the people on Jubilee Road are suffering from and, as well, on Henry Street their basements are flooding up with water. That whole drainage and stormwater situation has to be considered for any development.

It was questioned whether the permit that has been applied for is for one additional unit which doubles the size of the unit, to which Mr. Porter responded yes. He explained that the plans show the existing building being two units with the addition at the back accommodating two other units.

Mr. Porter confirmed that in order to get a development permit, you only have to show that you meet the zoning requirements in terms of the use, setbacks, lot coverage, etc. All the other things come at the building permit stage.

It was clarified that the building proposed to be doubled in size was at Civic #6038 - the first grey house on Cedar Street.

It was questioned whether the church would be attached, to which Mr. Porter responded yes. It has to be attached because only one building on a lot is permitted.

Mr. Porter clarified that the height of the church would be limited to 35' however, a spiral could be built on top which would be exempt from the height restriction and, in this area, the roof is also exempt from the height restriction.

Mr. Porter also clarified that you are not allowed to have any bedrooms in a church.

Councillor Uteck noted the plan she saw showed seven bedrooms in the one unit.

Ms. King commented it would therefore appear to be intended for student housing.

Mr. Askri stated there would be no students - it would be professionals.

It was questioned whether they could double the size of the house and still combine the house with a church, to which Mr. Porter responded yes. You can cover 35 per cent of the property.

It was questioned whether the church could apply for a church hall. Mr. Porter responded that he thought the plan showed a church hall in the basement.

An individual asked for clarification in terms of the development agreement and the R-2 zone requirements.

Councillor Uteck responded she was proposing that the development proceed by development agreement as opposed to as-of-right. She was proposing that the development meet all the requirements of the R-2 zone but would have to have the agreement of the majority of the neighbourhood.

Mr. Porter commented the difference would be that instead of being her tonight telling you what he will do, we would be here asking if it would be okay to do what he wants to do.

It was commented that the neighbourhood worked so hard to get the R-2 zoning.

Mr. Porter advised that the proposed amendment would not change the R-2 zoning. Any use would be limited to uses permitted in the R-2 zone. This process gives more control over the design placement and size of the building.

Mr. Askri stated he made his application for a church and four units. Also, if the neighbourhood wanted to meet and talk, they will talk and make some arrangements but his permit will stay. The last time the people did not want to talk. He was willing to talk with the people but the church has to be there. They will compromise and work together and make the building look like they want it and he did not want problems, but they put them in a position where he has to fight to survive. He stated he was willing to sit with them and talk but not to take him by surprise because he was not for that. He did what he said. Further, he was willing to work with all of them and there is no need for this waste of time going to meetings for nothing.

Being no persons wishing to speak further, the meeting adjourned at approximately 7:50 p.m.

Attachment C

Excerpts from Section VI of the Halifax Municipal Planning Strategy

- 1.1.4 For the purposes of this Plan, the concept of compatibility shall be deemed to require that infill housing projects are compatible with and enhance the existing development context of a neighbourhood. The City shall use as a guideline in considering rezonings, zoning amendments or contract agreements the key principle of not significantly changing the character of an area when reviewing infill housing proposals.
- 1.1.5 Without limiting the generality of Policy 1.1.4 above, the City shall, in reviewing proposals for compatibility with the surrounding area, have regard for the relationship of the proposal to the area in terms of the following:
- (a) land use;
 - (b) scale and height;
 - (c) population density;
 - (d) lot size, lot frontage, setback, lot coverage and open space; and
 - (e) service requirements, including parking.
- 1.1.6 Further to Policy 1.1.5 above, existing development standards will be assessed against their capacity to achieve the policies of this Detailed Area Plan with respect to infill housing and with respect to preservation of existing housing. Existing development standards will be amended as necessary to implement the policies of this Plan.

Attachment D

Excerpts from Municipal Government Act

Content of land-use by-law

- 220 (3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.
- (5) Where a municipal planning strategy so provides, a land-use by-law may
- (n) prohibit development or certain classes of development where, in the opinion of council, the
 - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) cost of maintaining municipal streets would be prohibitive;
 - (o) prohibit development within a specified distance of a watercourse;
 - (p) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy, or unstable,
 - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
 - (v) is known to be contaminated within the meaning of the *Environment Act*, or
 - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;

Attachment E

Uses permitted in an R-2 zone

- (a) a detached one-family dwelling house;
- (b) semi-detached or duplex dwelling;
- (c) buildings containing not more than four apartments;
- (d) the office of a professional person located in the dwelling house used by such professional person as his private residence;
- (e) a home occupation;
- (f) a public park or playground;
- (g) church or church hall;
- (h) a child care centre for not more than 14 children in conjunction with a dwelling;
- (i) a special care home containing not more than ten persons including resident staff members;
- (j) uses accessory to any of the foregoing uses.





Map 1 - Location and Zoning

6038-6040 Cedar Street
Lot T

Zone

- R-2 General Residential
- RC-1 Neighbourhood Commercial
- P Park and Institutional



-  Area of interest
-  Area of notification

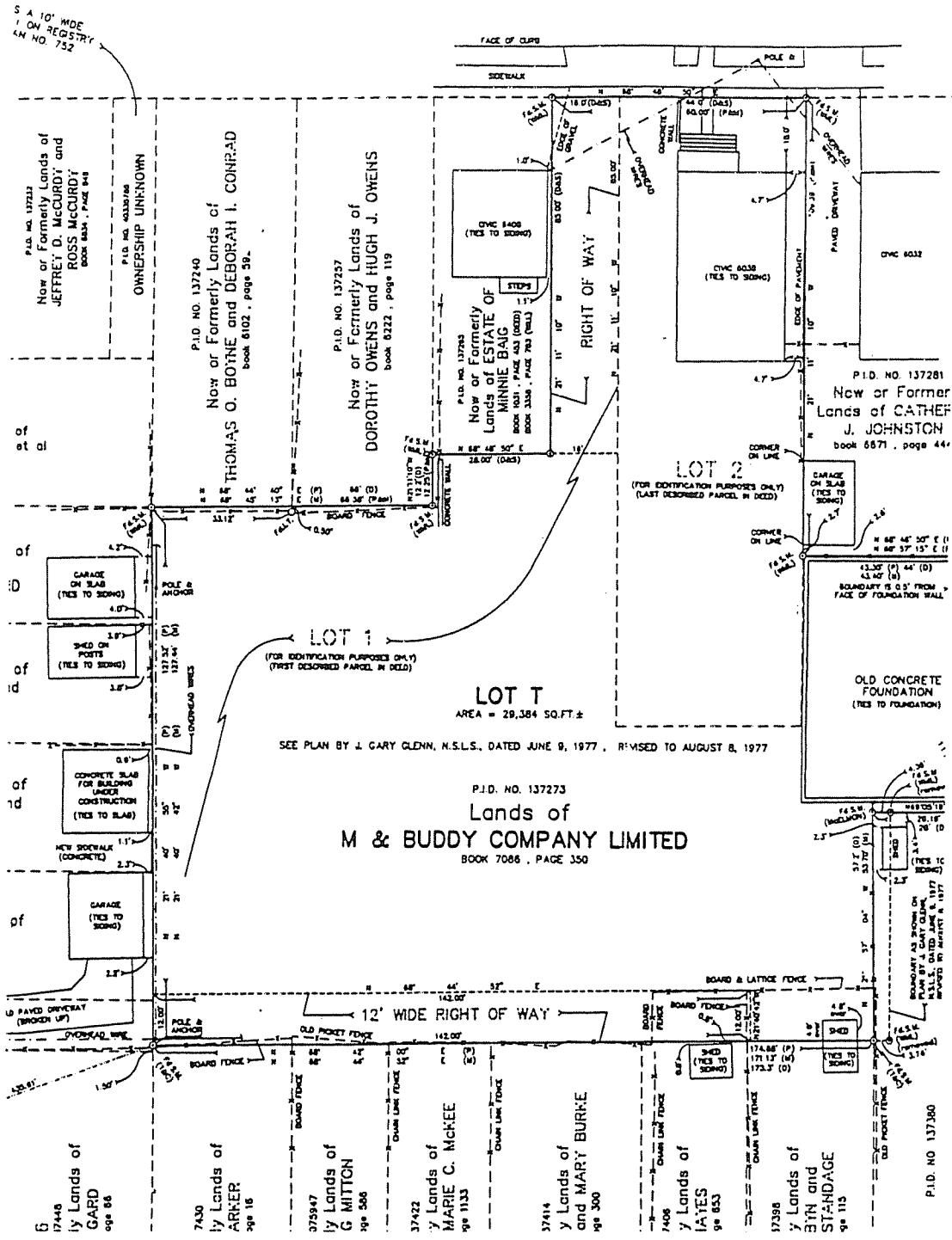


This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula By-Law Area.

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

Timberlea/Lakeside/Beechville Plan Area

CEDAR STREET (60' WOE)



Map 2
Plan of Lot T Cedar Street.



Planning and Development Services