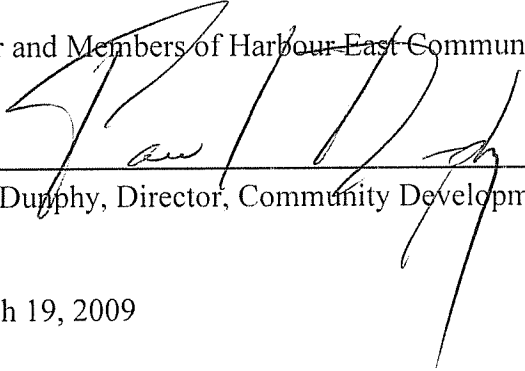


Harbour East Community Council
April 2, 2009

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: 
Paul Murphy, Director, Community Development

DATE: March 19, 2009

SUBJECT: **Case 01053: Dartmouth MPS / LUB Amendments - Waverley Road**

SUPPLEMENTARY REPORT

ORIGIN

- October 30, 2007 – Regional Council directed staff to consider applying a commercial designation to those properties located at 194, 196, 198 and 200 Waverley Road.
- April 1, 2008 – Regional Council expanded the review area to include a larger area along Waverley Road in response to public input.
- October 2, 2008 – Harbour East Community Council reviewed the staff report dated July 24, 2008 and directed staff to follow Option 3 (Attachment H).

RECOMMENDATION

It is recommended that Harbour East Community Council recommend that Regional Council:

1. Give first reading to the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachments A and B, and schedule a public hearing; and
2. Approve the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachment A and Attachment B of this report.

EXECUTIVE SUMMARY

The Waverley Road study area currently consists of a mix of residential, commercial and industrial designations and zones between Red Bridge Pond and Montebello Road (Maps 1 and 2). Staff have reviewed the mix of land uses in the study area with the objective of minimizing land use compatibility issues and establishing a commercial and residential node.

An information meeting, a workshop and a survey were conducted with the public to determine what uses were viewed as appropriate for the area and what measures should be used to mitigate conflict between land uses. The public identified the following issues and concerns: compatibility of new uses; conflict between existing uses; traffic; landscaping, street trees and urban design; and the desire to encourage a mixed use, walkable community.

Staff propose that Council adopt a new land use designation entitled ‘Waverley Road’ which contains three sub-designations (see Table 1, below). Under these new sub-designations, land use concerns will be addressed through discretionary approval processes (Attachment A) and through new residential and commercial zones (Attachment B). The new designation and sub-designations will be applied upon Council’s approval of the amendment package. Certain properties within the study area will be rezoned at this time (Attachment C); however, policy for future rezonings will be provided which will allow for additional public consultation.

Table 1: Sub-designations within the Waverley Road future land use designation	
<i>Sub-designation</i>	<i>Permissions</i>
WR Low Density Residential (East side of Waverley Road)	<i>Zones:</i> Auxiliary Dwelling Unit (R-1A) Zone: policy support for future rezonings, but no rezonings proposed at this time <i>Through SPA:</i> Expanded home occupations in residential zones <i>Through DA:</i> C-1A uses
WR Neighbourhood (Lands around Montebello Drive)	<i>Zones:</i> Neighbourhood Commercial (C-1A) Zone: policy support for future rezonings, plus one rezoning proposed at this time <i>Through SPA:</i> Expanded home occupations in residential zones
WR Mixed Use (Lands near Red Bridge Pond and the west side of Waverley Road)	<i>Zones:</i> Mixed Use Commercial (C-1B) Zone: policy support for future rezonings, plus fifteen rezonings proposed at this time <i>Through DA:</i> Multiple unit dwellings Long term care facilities Self storage facilities Expansion or alteration of listed legal non-conforming uses
<i>SPA – Site plan approval, DA – Development agreement</i>	

The existing industrial and vehicle-related commercial uses do not match the proposed land use intent for the area; however, there is support for these landowners and businesses to continue. The amendment package proposes an extended recommencement period (i.e. 12 months), and the

ability for businesses to expand or change to a less intensive nonconforming use through a development agreement.

BACKGROUND

In 2007, Regional Council initiated the Waverley Road planning study to address compatibility issues, arising due to the proximity of industrial uses to residential uses near Red Bridge Pond on Waverley Road. In 2008, Regional Council expanded the scope of the project, due to feedback from the initial public consultation process. As a result, the project area now includes the lands along Waverley Road from Red Bridge Pond to Montebello Drive (Map 3). The goal of the project is:

To establish a mixed use commercial and residential area on Waverley Road that encourages and supports business while addressing land use compatibility issues with surrounding residential neighbourhoods.

Land Use Designations and Zoning

Designations: - The majority of the study area is designated Residential, with limited areas being designated Commercial or Industrial (Map 1).

Zoning:

- The R-1 Zone is the predominate zone within the Residential designation (Map 2).
- However, industrial (I-1) and commercial (C-2) zones also exist within the Residential designation (as they existed prior to the application of this designation in 1978).
- The I-1 and C-2 Zones are the main zones applied to those lands within the Industrial and Commercial designations.

Existing

Land Use:

- In areas designated Residential, there are a number of existing non-residential uses, including a martial arts studio, a restaurant, a parking lot, a parcel of industrial land, an automotive repair facility and a radiator repair shop.
- Map 4 identifies all properties presently used for commercial and industrial uses within the study area.

Direction from Harbour East Community Council

A comprehensive land use review was completed for those lands located on Waverley Road from Red Bridge Pond to Montebello Drive. Based upon staff's review and public feedback, staff outlined three options for consideration by Harbour East Community Council (HECC) (Attachment H). All three options included amendments to both the Dartmouth MPS and LUB. HECC recommended that staff prepare the detailed amendments necessary for the implementation of Option 3, as outlined below:

Dartmouth MPS Amendments

- Establish a new Waverley Road designation and three sub-designations; and
- Establish area-specific development agreement (DA) policies to permit neighbourhood commercial uses, multiple unit dwellings, long term care facilities, self storage, and expansions and alterations to legal non-conforming uses.

Dartmouth LUB Amendments

- Establish a new residential zone and two new commercial zones;
- Add definitions and parking requirements, for appropriate controls in the new zones;
- Add a site plan approval process for expanded home occupations; and
- Minor housekeeping amendments to fix a spelling error; and to add veterinary clinics as a permitted use in the C-1 zone, provided there are no outdoor runs for the animals.

Public Meeting / Area of Notification

In accordance with Regional Council's Public Participation Program for MPS amendments, and to obtain feedback from residents and business owners, staff took the following actions:

Public information meeting: January 31, 2008 - 75 people attended (Attachment E).

Public workshop: June 11, 2008 - 22 people attended (Attachment F).

Surveys: Mailed to properties within the notification boundary on Map 5 (Attachment G).

Informal Input: Staff received a number of telephone calls and emails from concerned residents and business owners.

The feedback from the various sources can be summarized into five general categories:

- compatibility of new uses;
- conflict between existing land uses;
- landscaping, street trees and urban design;
- traffic; and
- a desire to encourage mixed use, walkable community.

Should Regional Council decide to hold a public hearing, in addition to published newspaper advertisement, property owners in the area shown on Map 5 will be sent written notification.

DISCUSSION

To implement Option 3, Council will need to consider amendments to both the Dartmouth MPS and LUB. Attachments A and B to this report contain the necessary amendments for implementation. The following pages outline the key aspects of the proposed amendment package:

Establishment of ‘Waverley Road Designation’

The study area will be re-designated to ‘Waverley Road’ (WR) with the intent *to establish a mixed use commercial / residential area on Waverley Road that encourages and supports business while addressing land use compatibility issues with surrounding residential neighbourhoods*. Within the Waverley Road designation, three sub-designations will be established:

- WR Low Density Residential;
- WR Neighbourhood; and
- WR Mixed Use.

Each sub-designation will be associated with a new zone designed to minimize land use impacts for by-right development in residential and commercial areas. The new zones will limit, in addition to industrial uses, drive-through restaurants and vehicle-related uses, such as autobody shops, service stations and vehicle depots. To move towards the desired mixed use, walkable community, some of the properties within the Waverley Road designation will be rezoned as part of the LUB amendments. New policy will allow those land uses that have the potential for greater impacts on neighbouring properties to be managed through the development agreement process. In addition, the Dartmouth MPS and LUB will be amended to allow the Municipality to use site plan approval to regulate certain uses, such as expanded home occupations.

The proposed amendments do not fully address the issue of urban design, which is beyond the scope of this case. The Dartmouth LUB currently contains provisions that require landscaping along the street edge when a commercial use expands (Attachment D). As uses in the community change, this should address the desire for improved landscaping and the provision of street trees in the community. The change will not be immediate, but one that will be effected through time.

The following tables provide a summary of each sub-designation.

<i>Sub-designation</i>	WR LOW DENSITY RESIDENTIAL	(Attachment A)
<i>Intent</i>	<ul style="list-style-type: none"> Continues to support the existing residential fabric of this area, while permitting other uses on a discretionary basis. Encourages community features desired by the public, such as auxiliary dwelling units and limited commercial uses. 	
<i>Application</i>	<ul style="list-style-type: none"> Residential lands on the east side of Waverley Road (Area 2 on Map 4). 	
<i>Associated Zone</i>	<u>R-1A (Auxiliary Dwelling Unit)</u>	(Attachment B)
	<ul style="list-style-type: none"> This zone addresses residents' request for a zone which allows 'granny suites' without permitting semidetached dwellings. Homeowners will be permitted to add a secondary unit to their property, defined in the LUB as an auxiliary dwelling unit. 	
<i>Application</i>	<ul style="list-style-type: none"> No properties will be rezoned at this time; however, new policy supports future applications to rezone to R-1A within this sub-designation. 	
<i>Site plan approval</i>	<ul style="list-style-type: none"> For residentially zoned properties in this sub-designation, expanded home occupations (up to 60% gross floor area) will be permitted through site plan approval. If abutting a residential property, the parking and loading areas of the home occupation would have to comply with buffering, fencing and landscaping requirements. Signage would have to be located in a manner that limits intrusion on the neighbourhood, and outdoor display would not be permitted. 	
<i>Discretionary approvals</i>	<ul style="list-style-type: none"> Neighbourhood commercial (C-1A) uses may be considered by DA in this sub-designation, subject to new policy which requires compatibility with the existing neighbourhood and consideration of impacts on residential neighbours. 	

<i>Sub-designation</i>	WR NEIGHBOURHOOD	(Attachment A)
<i>Intent</i>	<ul style="list-style-type: none"> • Encourages a mix of uses including neighbourhood commercial uses, townhouses, and one or two units dwellings in conjunction with neighbourhood commercial uses. • This sub-designation is less permissive than the existing Commercial designation. 	
<i>Application</i>	<ul style="list-style-type: none"> • Lands around Montebello Drive on the east side of Waverley Road (Area 1 on Map 4). 	
<i>Associated Zone</i>	<u>C-1A (Neighbourhood Commercial)</u>	(Attachment B)
	<ul style="list-style-type: none"> • Allows a broader range of uses than the C-1 Zone, but restricts the size of commercial uses. • Size limitations apply to retail stores, offices, health clinics and fitness centres, and should encourage smaller scale commercial uses that would serve the local community. • New drive-through restaurants will not be permitted in this zone, as they tend to generate large traffic volumes. Prohibiting these uses will help minimize traffic concerns in this area. 	
<i>Application</i>	<ul style="list-style-type: none"> • Tim Horton's (242-244 Waverley Road, PID 40265977) will be rezoned to C-1A (Attachment C). • New policy supports future applications to rezone to C-1A within this sub-designation 	
<i>Site plan approval</i>	<ul style="list-style-type: none"> • For residentially zoned properties in this sub-designation, expanded home occupations will be permitted through site plan approval, subject to the same requirements as above. 	
<i>Discretionary approvals</i>	<ul style="list-style-type: none"> • None. 	

<i>Sub-designation</i>	WR MIXED USE	(Attachment A)
<i>Intent</i>	<ul style="list-style-type: none"> • Fulfills residents’ desire for a mixed use, walkable community, while decreasing compatibility issues between residential uses and other land uses. • The preferred development in this sub-designation includes institutional uses, multiple unit dwellings and a wide variety of commercial uses; however, vehicle-related uses, recycling centres and drive-through restaurants are discouraged. • This sub-designation varies from the existing Commercial designation in that it proposes a mix of residential, commercial and institutional uses. 	
<i>Application</i>	<ul style="list-style-type: none"> • Lands near Red Bridge Pond on the east side of Waverley Road (Area 3 on Map 4), as well as lands along the west side of Waverley Road (Area 4 on Map 4). 	
<i>Associated Zone</i>	<u>C-1B (Mixed Use Commercial)</u>	(Attachment B)
<i>Application</i>	<ul style="list-style-type: none"> • Designed to permit a wider variety of uses than the C-1 and C-1A zones, but to be more restrictive than the C-2 zone. • To encourage a mixed use community, this zone permits commercial, residential and institutional uses. • The public identified ‘vehicle services’ as an inappropriate land use for this area, and as such, these uses are not permitted in this zone. 	
<i>Site plan approval</i>	<ul style="list-style-type: none"> • None. 	
<i>Discretionary approvals</i>	<p><u>Existing industrial and commercial uses</u></p> <ul style="list-style-type: none"> • Within the study area, certain existing industrial and vehicle related uses are incompatible with the existing residential uses. • These uses will become legal non-conforming uses after the lands are rezoned to C-1B; however, the existing uses will be permitted to change or expand through a development agreement. 	

- New policy directs Council to consider compatibility and other criteria to mitigate existing or potential impacts between land uses.
- Also, the grace period of inactivity before recommencement of the non-conforming use is no longer allowed (normally 6 months) will be extended to 12 months for these uses. This will accommodate the existing businesses, while working towards the long-term transition to a mixed use commercial and residential community.

Self storage facilities

- Self storage may generate impacts on neighbours but should have limited impacts if designed effectively, and as such, may be considered by development agreement subject to new policy.
- Among other criteria, buffers from residential properties and impacts on views from Waverley Road shall be considered.

Multiple unit dwellings and long term care facilities

- During the public consultation process, residents identified a need for long term care facilities in the community and identified this area as an appropriate location.
- Design controls, compatibility and the ability to reduce impacts on residential neighbours are desired, therefore applications will be reviewed subject to the same criteria as the existing multi-unit residential policy, Policy IP-5.

Housekeeping Amendments to the Land Use By-law

To further the intent of the proposed Dartmouth MPS changes, and to effectively implement the proposed new zones, additional amendments to the Dartmouth LUB are also required. For example, references to the proposed R-1A zone need to be added throughout the LUB. Also, a few housekeeping amendments have been proposed (Attachment B).

New definitions

The proposed amendments include the addition of the following definitions: auxiliary dwelling unit, fitness centre; drive-through, full-service and take-out restaurants; vehicle services; and veterinary clinic. These uses have all been identified as uses that require further regulation: either to encourage their presence in the Waverley Road community or to prevent further spread.

Amended parking standards

As part of this process, take-out restaurants were identified as requiring a new parking standard. Customers typically pick up food at a take-out restaurant or get their food delivered from a take-out restaurant. As such, customers are there for only a limited period of time; for this reason, a lower parking standard than for other restaurants is preferred.

Summary of Discussion

Based on the comprehensive land use review for the study area and the issues and objectives discussed during consultation with the public, the proposed amendments to the Dartmouth MPS and LUB fulfill two goals: to address the existing land use compatibility issues, and to provide direction for the mix of uses desired in future development.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved operating budget for C310.

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. Council may choose to approve the amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as outlined in this report and presented in Attachments A and B. This is the recommended alternative.
2. Council may choose to modify the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as presented in Attachments A and B. If this alternative is chosen, specific direction regarding the requested amendments should be provided. Substantive amendments may require another public hearing be held before approval is granted.
3. Council may choose to refuse the amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law. This is not a recommended course of action due to the concerns outlined in this report.

ATTACHMENTS

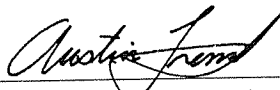
Map 1:	Generalized Future Land Use Map
Map 2:	Location and Zoning Map
Map 3:	Expanded Study Area
Map 4:	Existing Commercial and Industrial Uses
Map 5:	Notification Area

- Attachment A: Proposed Amendments to the Dartmouth Municipal Planning Strategy
- Attachment B: Proposed Amendments to the Dartmouth Land Use By-law
- Attachment C: List of Properties to be Rezoned
- Attachment D: Excerpts from the Dartmouth Land Use By-law
- Attachment E: Minutes from the Public Information Meeting – January 31, 2008
- Attachment F: Minutes from the Workshop – June 11, 2008
- Attachment G: Public Participation – Survey
- Attachment H: Excerpt from Staff Report dated July 24, 2008 (Council Options)

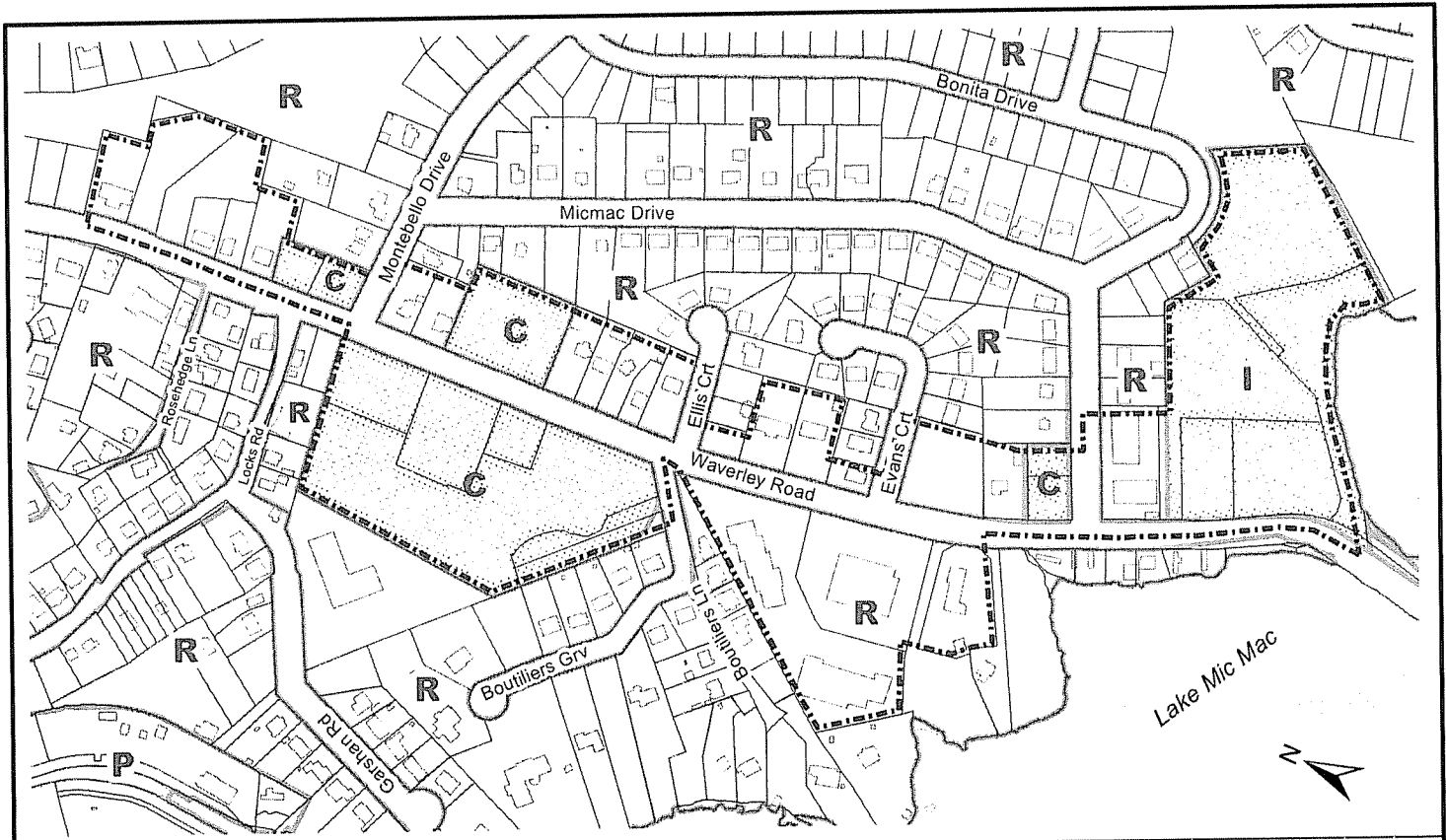
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Jennifer Chapman, Planner / Mackenzie Stonehocker, Planner I, 490-3999

Report Approved by:





Austin French, Manager, Planning Services, 490-6717



Map 1 Generalized Future Land Use Map

Waverley Road

-  Commercial & Industrial Designations
-  Proposed Review Area for Commercial Designation

Dartmouth Plan Area

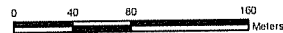
Designation

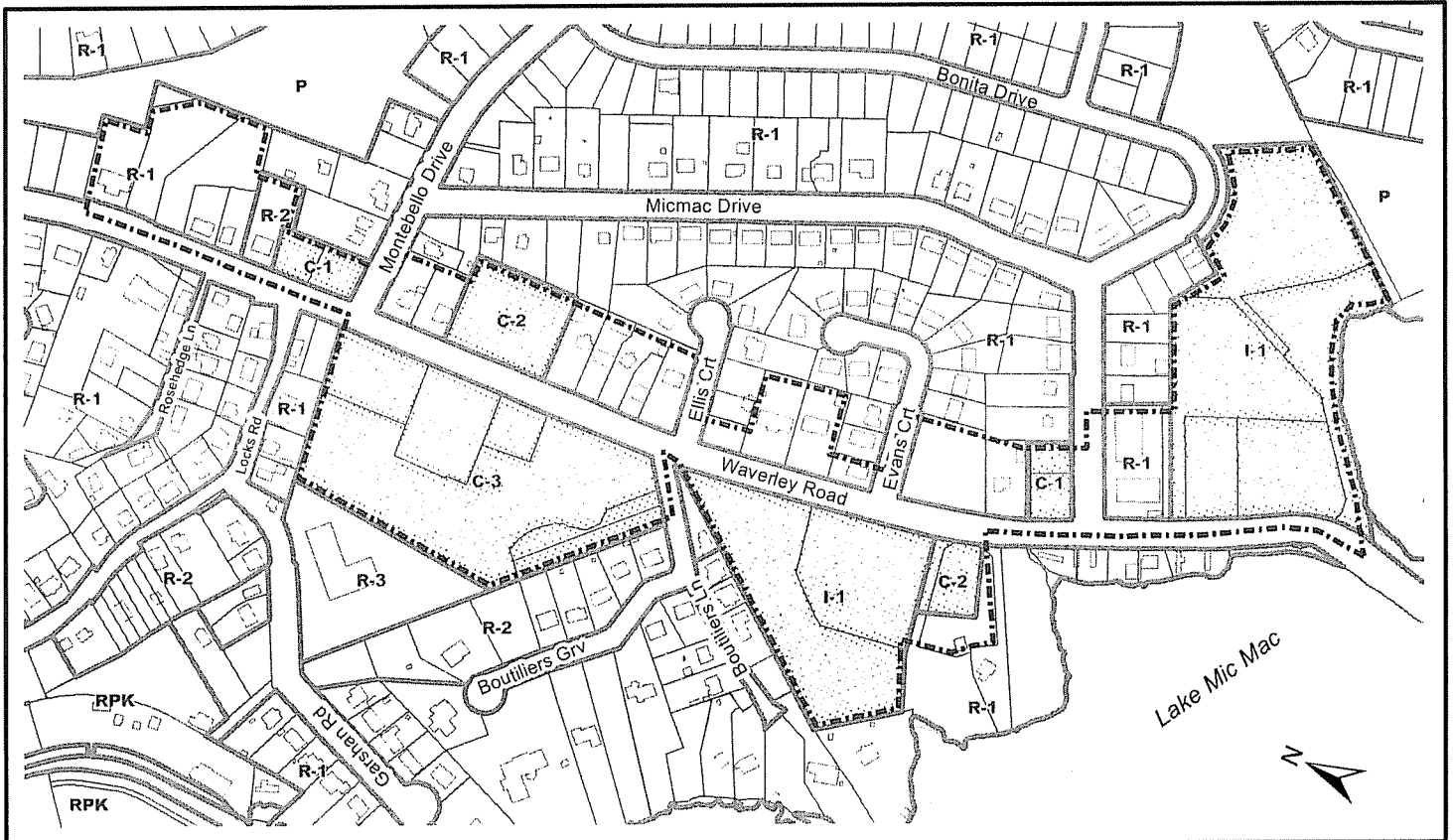
- R Residential
- C Commercial
- I Industrial
- P Park



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

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





Map 2 Location and Zoning Map

Waverley Road

Industrial & Commercial Zones

Proposed Review Area for
 Commercial Designation

Dartmouth Plan Area

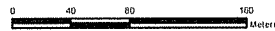
Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential
- C-1 Local Business
- C-2 General Business
- C-3 General Business
- I-1 Light Industrial
- P Park
- RPK Regional Park



This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area

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



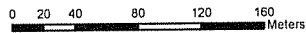


Map 3 Expanded Study Area

Waverley Road

-  Existing Commercial & Industrial Uses
-  Section to be excluded from Expanded Study Area
-  Expanded Study Area
-  Original Study Area

Dartmouth Plan Area



HALIFAX
REGIONAL MUNICIPALITY
Community Development
Planning Services




This map is an unofficial reproduction of a portion of the Dartmouth Plan Area

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

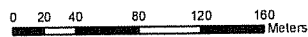


Map 4 Existing Commercial & Industrial Uses

Waverley Road

-  Existing Commercial & Industrial Uses
-  Areas 1-4
-  Section to be excluded from Area 1

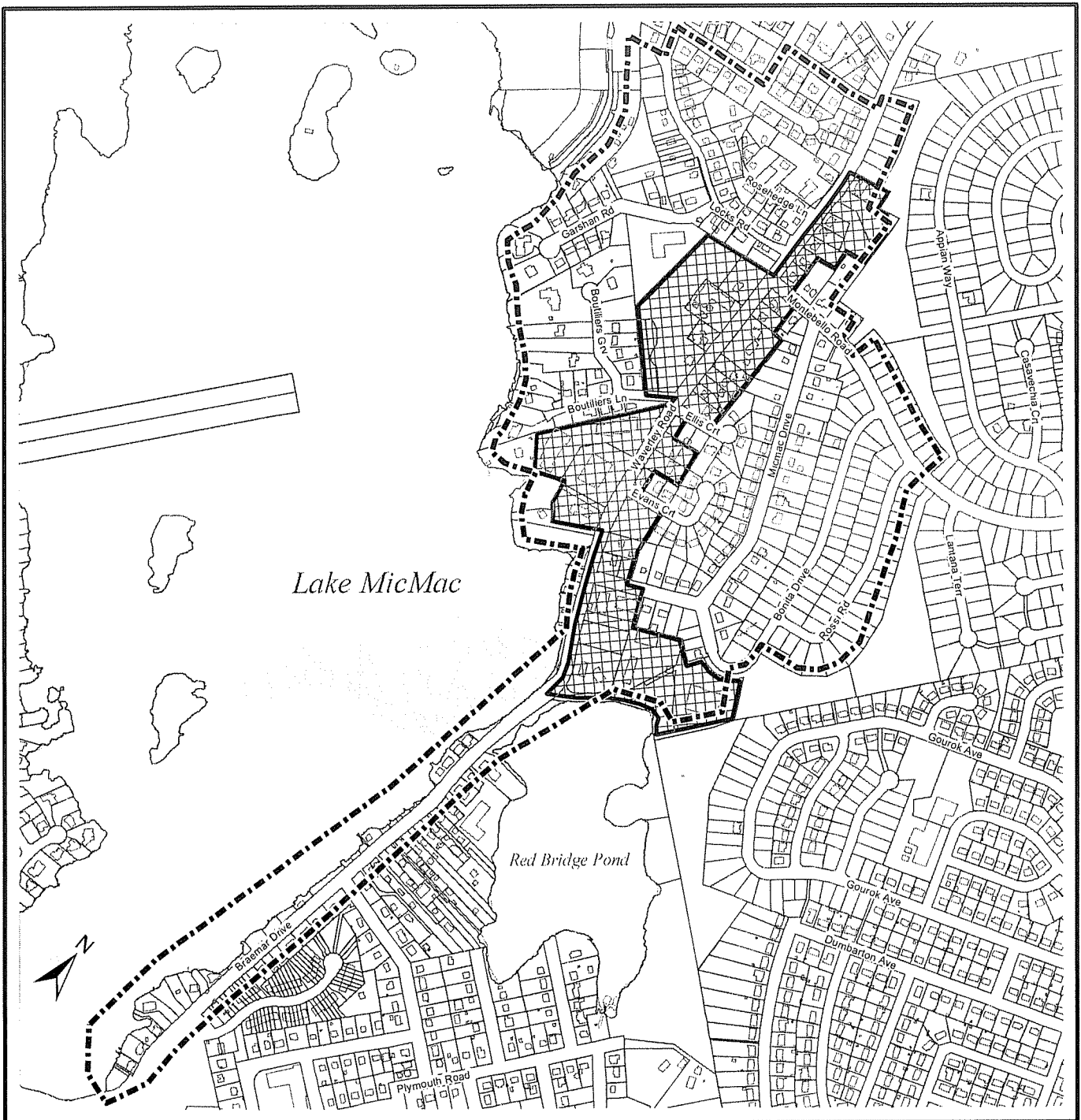
Dartmouth Plan Area



HALIFAX
REGIONAL MUNICIPALITY
Community Development
Planning Services



This map is an unofficial reproduction of a portion of the Dartmouth Plan Area

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

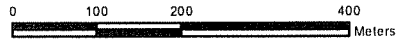


Map 5 Notification Area

Waverley Road

-  Proposed Notification Area
-  Proposed Review Area for Commercial Designation

HALIFAX
 REGIONAL MUNICIPALITY
 COMMUNITY DEVELOPMENT
 PLANNING SERVICES



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

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

Dartmouth Plan Area

**Attachment A:
Proposed Amendments to the Dartmouth Municipal Planning Strategy**

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Dartmouth, which was adopted by the former City of Dartmouth on the 25th day of July 1978 and approved with amendments by the Minister of Municipal Affairs on the 15th day of September, 1978, as amended, is hereby further amended as follows:

1. In the Table of Contents, insert one new item in Chapter 5 after ‘32 Primrose Street’:

Waverley Road Designation

2. In the Table of Contents, insert one new item in the List of Maps after Map 9t:

Map 9u Waverley Road Generalized Future Land Use

3. In the Table of Contents, insert one new item in the List of Tables after Table 4:

4a Generalized Land Use Matrix – Waverley Road Designation

4. Add a new subsection at the end of Chapter 5 ‘Commercial’ after Policy C-31 as follows:

(9) WAVERLEY ROAD DESIGNATION

The lands located on Waverley Road from Red Bridge Pond to Montebello Drive have developed such that residential, commercial and industrial uses of varying intensities are mixed in close proximity. In 2008, a planning study was conducted along this stretch of Waverley Road, with the intent to create a mixed use community that meets the needs of residents, while allowing existing businesses to continue growing in a manner that limits conflicts. To meet these goals, a new land use designation will be created: ‘Waverley Road’. The Waverley Road designation includes three sub-designations and new zones, to encourage growth that is more community focussed, and to permit certain land uses only by site plan approval or development agreement.

Policy C-32 It shall be the intention of Council to establish the Waverley Road designation, as shown on Map 9u. The vision for the Waverley Road designation is to encourage a mixed use community which has a range of commercial uses, while addressing

land use compatibility issues by limiting the types of land uses permitted and by establishing land use controls. Due to the commercial concentration in the designation, within residential areas, expanded home occupations can be considered through site plan approval regulations in the land use by-law. Further, the designation will recognize existing land uses.

Within the Waverley Road designation, specific land use changes or controls are required for three distinct areas due to the types and location of uses. To achieve the intent of the designation, separate sub-designations shall be established for the three distinct areas, which are:

- Residential lands on the east side of Waverley Road;
- Lands around Montebello Drive on the east side of Waverley Road; and
- Lands near Red Bridge Pond, as well as lands on the west side of Waverley Road.

WR Low Density Residential Sub-designation

In 2008, the lands on the east side of Waverley Road were mainly used for residential purposes, and the community wanted this pattern to continue. In addition to maintaining the low density residential character of this area, there is support for consideration of auxiliary dwelling units through amendments to the land use by-law. Further, expanded home occupations shall be permitted subject to site plan approval regulations within the land use by-law. As this sub-designation has been applied to a residential enclave surrounded by commercial uses, neighbourhood commercial uses may also be considered, but only by development agreement to minimize land use conflicts.

Policy C-33 Within the Waverley Road designation, it shall be the intention of Council to establish the WR Low Density Residential sub-designation, as shown on Map 9u of this Plan. The intent of this sub-designation is to recognize and support the area's low density residential character as well as its central location within the commercially-oriented Waverley Road designation.

Auxiliary Dwelling Unit (R-1A) Zone

Policy C-34 Within the WR Low Density Residential sub-designation, it shall be the intention of Council to establish an auxiliary dwelling unit (R-1A) zone which permits auxiliary dwelling units, as well as uses permitted in the single family dwelling (R-1) zone and accessory uses. In addition, the auxiliary dwelling unit (R-1A) zone will provide for the use of dwellings for day care facilities, home occupations, and expanded home occupations by site plan approval. In considering amendments to the land use by-law to apply the auxiliary dwelling unit (R-1A) zone, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood; and
- (b) the provisions of Policy IP-1(c).

Development agreements: Neighbourhood commercial uses

Commercial uses are the predominant use in the Waverley Road designation; however, residential uses are currently more common within the WR Low Density Residential sub-designation. Therefore, the impacts of proposed neighbourhood commercial uses on residential neighbours need to be given special attention. Therefore, neighbourhood commercial uses shall mean uses permitted in the C-1A zone and such uses shall only be considered by development agreement.

Policy C-35 Within the WR Low Density Residential sub-designation, Council shall consider neighbourhood commercial uses by development agreement in accordance with the provisions of the *Halifax Regional Municipality Charter*. In considering such an agreement, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood;
- (b) number, location and layout of parking and loading areas;
- (c) landscaping, screening and buffering, especially to reduce impacts on residential land uses;
- (d) hours of operation; and
- (e) the provisions of Policy IP-1(c).

WR Neighbourhood Sub-designation

In 2008, the lands around Montebello Drive on the east side of Waverley Road were used for a mix of neighbourhood commercial and residential uses. In the future, the mix of uses in this area may change to a more commercial focus, with the development of small scale commercial uses and dwelling units in conjunction with commercial uses. In residential areas, expanded home occupations will be permitted subject to site plan approval regulations within the land use by-law.

Policy C-36 Within the Waverley Road designation, it shall be the intention of Council to establish the WR Neighbourhood sub-designation, as shown on Map 9u of this Plan. The intent of this sub-designation is to encourage neighbourhood commercial uses and lower density residential uses.

Neighbourhood Commercial (C-1A) Zone

Policy C-37 Within the WR Neighbourhood sub-designation, it shall be the intention of Council to establish a neighbourhood commercial (C-1A) zone which permits single unit dwellings, two unit dwellings, townhouses, food and grocery stores, restaurants (excluding drive-through restaurants), personal service shops, veterinary clinics without outdoor runs, and small scale offices, retail stores, fitness centres and health clinics. The land use by-law shall limit the heights of buildings and lot coverage, and shall limit the floor area used for certain commercial purposes. No outdoor storage shall be permitted within the zone, and outdoor display shall be restricted to the temporary or seasonal display of plant materials or perishable goods normally associated with retail uses permitted in the zone. In considering amendments to the land use by-law, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood; and
- (b) the provisions of Policy IP-1(c).

Auxiliary Dwelling Unit (R-1A) Zone

Policy C-38 Within the WR Neighbourhood sub-designation, it shall be the intention of Council to enable the auxiliary dwelling unit (R-1A) zone, and to consider amendments to the land use by-law using the provisions of Policy C-34.

WR Mixed Use Sub-designation

In 2008, the lands near Red Bridge Pond, as well as lands on the west side of Waverley Road, were used for a variety of commercial and industrial uses. Industrial uses are no longer considered appropriate within this area. In recognition of this area's capacity to sustain a higher intensity mix of uses than in the other Waverley Road sub-designations, permitted development includes institutional uses, multiple unit dwellings, and a wide variety of commercial uses, but vehicle-related uses, recycling centres and drive-through restaurants will be prohibited.

Policy C-39 Within the Waverley Road designation, it shall be the intention of Council to establish the WR Mixed Use sub-designation, as shown on Map 9u of this Plan. The intent of this sub-designation is to encourage and support a variety of commercial uses, as well as institutional and residential uses.

Mixed Use Commercial (C-1B) Zone

Policy C-40 Within the WR Mixed Use sub-designation, it shall be the intention of Council to establish a mixed use commercial (C-1B) zone which permits single unit dwellings, two unit dwellings, townhouses, institutional uses, local and neighbourhood commercial uses, and general commercial uses excluding drive-through restaurants, offices other than those permitted in the local business (C-1) zone, adult entertainment uses, vehicle service uses and recycling depots. The land use by-law shall limit the heights of buildings and lot coverage. No outdoor storage shall be permitted within the zone, and outdoor display shall be restricted to the temporary or seasonal display of plant materials or perishable goods normally associated with retail uses permitted in the zone. In considering amendments to the land use by-law, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood;
- (b) the provisions of Policy IP-1(c).

Development agreements: Multiple unit dwellings / Long term care facilities

Multiple unit dwellings were recognized during the Waverley Road study as a land use which could contribute to the desired walkable, mixed use community; however, concern was expressed about the impact such uses may have on the existing neighbourhoods. Therefore, multiple unit dwellings shall only be permitted by development agreement to ensure compatibility with the existing neighbourhoods.

Also, residents recognized the need for long term care facilities in the community and identified this sub-designation as an appropriate location. Controls on design and reduced impacts on residential neighbours are desired, therefore applications for long term care facilities should only be considered through the development agreement process.

Policy C-41 Within the WR Mixed Use sub-designation, Council shall consider multiple unit dwellings and long term care facilities by development agreement in accordance with the provisions of the *Halifax Regional Municipality Charter*. In considering such an agreement, Council shall have regard for the provisions of Policy IP-5, and should use the land use density standards of the R-3 zone as a guide.

Development agreements: Self storage facilities

Self storage facilities are generally low impact uses, with few visits generated by their users. However, issues may arise when they are located near residential areas, due to issues with regards to lighting, appearance and hours of operation. Self storage facilities should only be

considered by development agreement, in order to limit nuisances and impacts on residential neighbours.

Policy C-42 Within the WR Mixed Use sub-designation, Council shall consider self storage facilities by development agreement in accordance with the provisions of the *Halifax Regional Municipality Charter*. In considering such an agreement, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood;
- (b) controls are placed on the development to reduce conflict with adjacent or nearby land uses;
- (c) number, location and layout of parking and loading areas;
- (d) lighting design to reduce impacts on adjacent properties;
- (e) landscaping, screening and buffering, especially to reduce impacts on residential land uses;
- (f) visual impacts from Waverley Road should be minimized, through the use of landscaping, buffering, screening and significant setbacks from Waverley Road for any buildings or fences;
- (g) hours of operation; and
- (h) the provisions of Policy IP-1(c).

Legal non-conforming uses

With the adoption of the Waverley Road designation, certain uses will become legal non-conforming uses as a result of amendments to the land use by-law. To support the affected businesses, the municipal planning documents allow for consideration of a development agreement to provide more flexibility for future expansion or change of use than a non-conforming use would normally receive under the provisions of the *Halifax Regional Municipality Charter*.

Policy C-43 Within the WR Mixed Use sub-designation, Council shall consider permitting a legal non-conforming use – as identified in the land use by-law – to be changed to another less intensive non-conforming use, or permit the structure in which such a use is located to be altered or expanded by development agreement in accordance with the provisions of the *Halifax Regional Municipality Charter*. In considering such an agreement, Council shall have regard for the following:

- (a) controls are placed on the development to reduce conflict with and impacts on adjacent land uses;
- (b) when adjacent to residential uses, existing conditions resulting in noise, dust, vibration, odour, and emissions must be mitigated;

- (c) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood;
- (d) facilities for parking, loading, vehicular access, outdoor display and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and to mitigate existing problems, through attention to factors including but not limited to:
 - (i) layout and number of parking spaces and loading areas;
 - (ii) location on the site;
 - (iii) surface treatment and storm drainage; and
 - (iv) access from the street.
- (e) landscaping, screening and buffering, especially to reduce impacts on adjacent residential uses;
- (f) controls on signage;
- (g) hours of operation; and
- (h) the criteria listed in Policy IP-1(c).

In order to allow for re-use of the existing buildings in the WR Mixed Use sub-designation, it shall be the intention of Council to consider extending the period of inactivity permitted for a non-conforming use, while still working towards the long-term transition of the area to a mixed use commercial and residential node.

Policy C-44 Within the WR Mixed Use sub-designation, on lands occupied by legal non-conforming uses – as identified in the land use by-law – it shall be the intention of Council to consider permitting the recommencement of a legal non-conforming use of land after it is discontinued for a continuous period in excess of six months.

5. Add a new table directly after Table 4 as shown:

Table 4a: Generalized Land Use Matrix – Waverley Road Designation			
WR Mixed Use Sub-designation	WR Neighbourhood Sub-designation	WR Low Density Residential Sub-designation	<<< Sub-designation Land Use
●	●	●	Single Unit Dwelling
●	●	●	Auxiliary Dwelling Unit
●	●		Two Unit Dwelling
●	●		Townhouse
●			Multiple Unit Dwelling
			Mobile Homes
●	●	●	Neighbourhood Conv. Stores
●	●	●	Home Occupations
●	●		Retail Trade
●	●		Service Commercial
			Regional Commercial
●	●		Local Office
●	●		General Office
●	●		Tourist Commercial
			Warehousing / Distribution
			Light Industrial
			Harbour Oriented Industrial
			General Industrial
●	●	●	Local Parks / Rec. Facilities
●	●	●	District Parks / Rec. Facilities
●	●	●	City Parks / Rec. Facilities
●	●	●	Regional Parks & Facilities
			Watershed
●	●	●	Environmental Protection Area
●	●	●	Local Institutional
●	●	●	City / Regional Institutional
●	●	●	Utilities

6. Adding a sentence after the words “The Zoning By-law is the principal mechanism by which land use policies shall be implemented. It shall set out zones, permitted uses and development standards which shall reflect the policies of the Municipal Development Plan as per Section 33 (3) of the Planning Act” (currently on page 123), as follows:

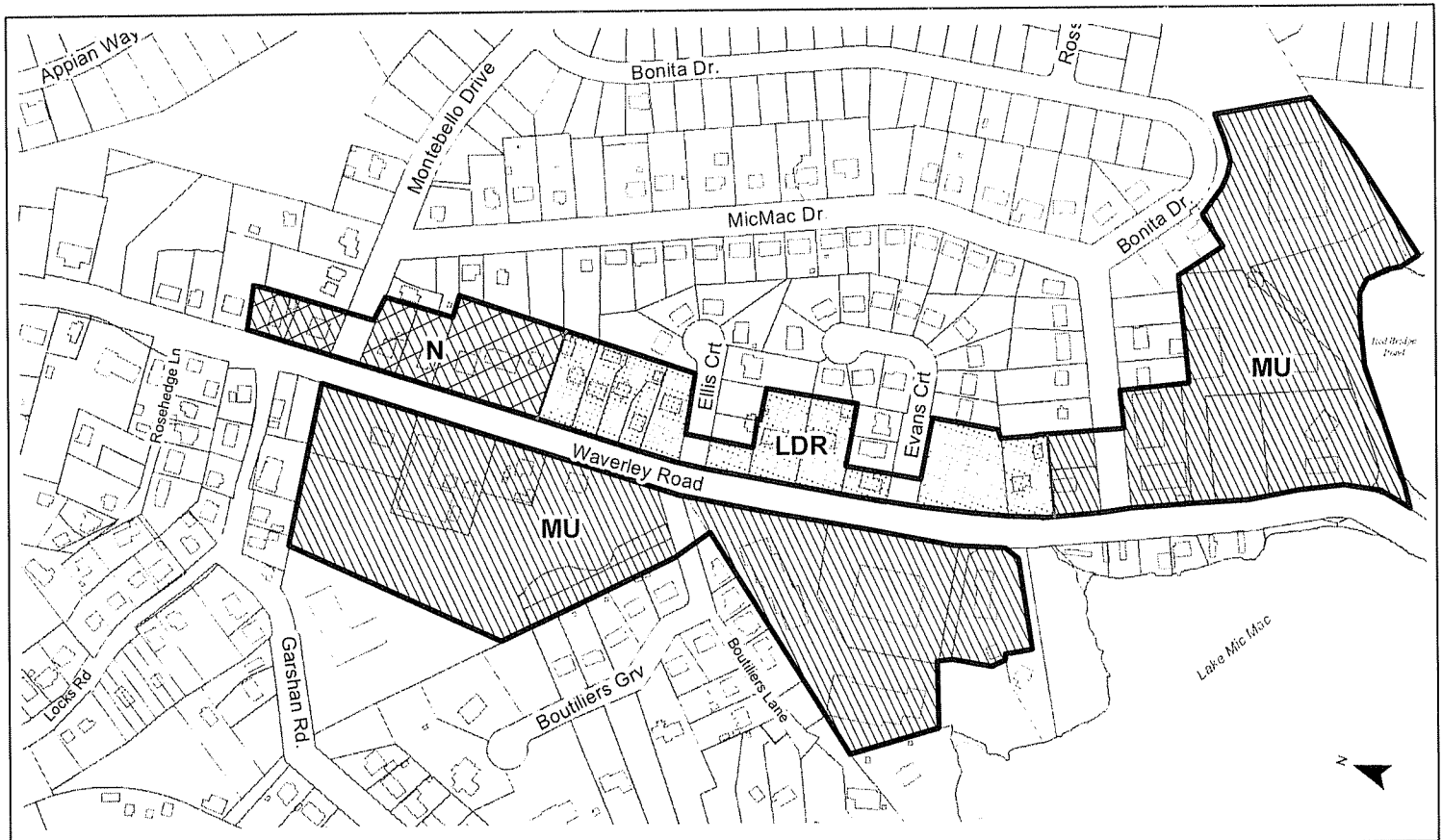
The zoning by-law may use site plan approval as a mechanism to regulate various uses.

7. Adding one new map, directly after Map 9t (Wright's Cove):
- Map 9u Waverley Road Generalized Future Land Use


THIS IS TO CERTIFY that the amendments to the Municipal Planning Strategy for Dartmouth, as set out above, were passed by a majority vote of the Halifax Regional Council on the ____ day of _____, 2009.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2009.

Julia Horncastle
Acting Municipal Clerk



Map 9U Waverley Road Generalized Future Land Use

Designation
 (WR) Waverley Road Designation

Waverley Road Sub-Designations
 LDR Low Density Residential
 N Neighbourhood
 MU Mixed Use

HALIFAX
 REGIONAL MUNICIPALITY
 Community Development
 Planning Services
 0 20 40 80 120 160 Meters

This map is an unofficial reproduction of a portion of the Dartmouth Plan Area

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

**Attachment B:
Proposed Amendments to the Dartmouth Land Use By-law**

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality that the Land Use By-law for Dartmouth, which was adopted by the former City of Dartmouth on the 25th day of July 1978 and approved by the Minister of Municipal Affairs on the 15th day of September, 1978, as amended, is hereby further amended as follows:

Table of Contents

1. Insert one new item after Part 2 “R-1M (Single Family Modified Residential) Zone”:

PART 1A R-1A (Auxiliary Dwelling Unit) Zone

2. Insert two new items after Schedule “AA”:

Schedule “AB” – Waverley Road Zoning Map

Schedule “AC” - Waverley Road Legal Non-conforming Uses

Section 1 - Definitions

3. Insert one new definition after Section 1(d) (“Apartment Hotel”):

(da) **AUXILIARY DWELLING UNIT** means a self-contained second dwelling unit within a single unit dwelling, such that the auxiliary dwelling unit is no greater in size than forty (40) percent of the gross floor area of the dwelling, and is secondary to the main residential use of the property.

4. Insert one new definition after Section 1(r) (“Family”):

(ra) **FITNESS CENTRE** means a building or part thereof designed to promote physical fitness, health awareness and maintenance through a variety of programs and services tailored to individual needs, including but not limited to a gym, yoga studio or martial arts studio, and which may include, as an accessory use to the fitness centre use, services for weight management, nutrition education and paramedical clinics including but not limited to physiotherapists, psychologists, speech therapists, chiropractors, osteopaths, naturopaths and registered massage therapists.

5. Insert three new definitions after Section 1(af) (“Registered Plan”):
- (afa) **RESTAURANT, DRIVE-THROUGH** means a building or part of a building wherein food is prepared and offered for sale to the public for consumption within or outside the building. A drive-through restaurant is characterized by the provision of take-out services at a counter or from a drive-through car pick up window. It does not provide the service of delivering to or waiting on tables nor is it licensed to sell alcoholic beverages.
 - (afb) **RESTAURANT, FULL-SERVICE** means a building or part of a building wherein food is prepared and offered for sale to the public primarily for consumption within the building and may include a take-out area which does not exceed 10% of the gross floor area of the full service restaurant. A full service restaurant is characterized by the provision of table service, including buffet service and may also be licensed to serve alcoholic beverages.
 - (afc) **RESTAURANT, TAKE-OUT** means a building or part of a building wherein food is prepared and offered for sale to the public primarily for off-premises consumption and may include a seating area which does not exceed 25% of the gross floor area of the take-out restaurant. A take-out restaurant does not provide the service of delivery to or waiting on tables nor is it licensed to sell alcoholic beverages. Take-out restaurants, however, may provide a home delivery service.
6. Insert two new definitions after Section 1(ala) (“Used Building Material Outlet”):
- (alb) **VEHICLE SERVICES** means the use of a building, structure or land to provide sales of vehicles or services for vehicles, including but not limited to: autobody shops, automotive repair outlets, car dealerships, car washes, service stations, retail gasoline outlets and vehicle depots.
 - (alc) **VETERINARY CLINIC** means a building or structure in which domestic animals are examined, treated, groomed, or operated on, and in conjunction with which, there may be shelter provided within the building during a period of medical treatment.

Section 2 - General Provisions

7. Amend Section 11 (keeping of livestock) by inserting, directly after “R-1M,”:
- R-1A,

8. Amend Section 12 (business or profession concerned with house pets) by inserting, directly after “R-1M,”:

R-1A,
9. Amend Section 14(f) (parking requirements) by deleting:

restaurants,

and replacing it with:

full-service restaurants, drive-through restaurants
10. Insert a new clause after Section 14(f) (parking requirements):

(fa) for take-out restaurants, one parking space per 200 square feet of floor area shall be provided;
11. Insert one new clause after Section 18(T) (development agreements):

18(U) Within the Waverley Road designation, notwithstanding any other provisions of this By-law, certain uses may be considered through policy:
 - (a) Within the WR Low Density Residential sub-designation, in accordance with Policy C-35, neighbourhood commercial uses may be considered by development agreement.
 - (b) Within the WR Mixed Use sub-designation, in accordance with:
 - (i) Policy C-41, multiple unit dwellings and long term care facilities may be considered by development agreement;
 - (ii) Policy C-42, self-storage facilities may be considered by development agreement;
 - (iii) Policy C-43, alteration or expansion of a non-conforming use may be considered by development agreement on lands identified in Schedule “AC” of this By-law; and
 - (iv) Policy C-44, a non-conforming use of land may be recommenced if discontinued for a continuous period of up to 12 months on lands identified in Schedule “AC” of this By-law.

12. Amend Section 22 (boarders and lodgers) by inserting, directly after “R-1M,”:

R-1A,
13. Amend Section 23 (home occupations) by inserting, directly after “R-1M,”:

R-1A,
14. Insert a new clause after Section 23 (home occupations):

23A Notwithstanding Subsection 23(g) of the General Provisions, on lands zoned as residential within the Waverley Road designation, as identified on Schedule “AB” of this By-law, Expanded Home Occupations that use up to 60% of the gross floor area of the dwelling and accessory buildings are permitted subject to Site Plan Approval. Where the Site Plan Approval provisions conflict with Section 23 of the General Provisions, the Site Plan Approval provisions shall prevail. The Development Officer shall approve a site plan where the following matters have been addressed:
 - (a) Where the proposed expanded home occupation abuts a residential use or zone:
 - (i) required parking and loading areas shall be set back from side and rear property boundaries;
 - (ii) a landscaped buffer of a minimum width of five (5) feet shall be provided in these portions of the property; and
 - (ii) an opaque fence or landscaping, to screen the view from abutting residential properties, shall be constructed along all property boundaries abutting a residential use or zone.
 - (b) No outdoor display shall be permitted;
 - (c) Commercial signage shall be limited to one sign of a maximum area of four (4) square feet, and shall be located to minimize intrusion on the neighbourhood;
 - (d) The maximum size of an expanded home occupation use shall not exceed 3000 square feet; and
 - (e) New accesses shall be from Waverley Road or Montebello Drive only.

15. Amend Section 27A (accessory buildings) by inserting, directly after "R-1M,":
R-1A,
16. Amend Section 28(3) (front setbacks) by inserting, between R-1 and R-2:
R-1A 15 feet minimum
17. Amend Section 28(3) (front setbacks) by inserting, between C-1 and C-2:
C-1A 10 feet minimum
C-1B 10 feet minimum
18. Amend Section 29A (medical clinics) by inserting, directly after "R-1M,":
R-1A,
19. Amend Section 32E (sign limitations) by inserting, directly after "R-1,":
R-1A,

Section 3 - Zones

20. Amend Section 31 (list of established zones) by inserting one new zone after "R-1M Single Family (Modified) Residential Zone":
R-1A Auxiliary Dwelling Unit Zone
21. Amend Section 32(1) (list of permitted uses) of the R-1 zone by inserting one new item after "(g) uses accessory to any of the foregoing uses":
32(1) (h) within the Waverley Road designation, expanded home occupations are permitted subject to site plan approval, in accordance with the requirements of Section 23A of the General Provisions.

22. Insert the R-1A zone as a new zone, immediately following Part 2: R-1M (Single Family (Modified) Residential) Zone (currently on page 29):

PART 1A: R-1A (AUXILIARY DWELLING UNIT) ZONE

- 32B (1) The following uses only shall be permitted in a R-1A Zone:

- (a) R-1 uses as hereinbefore set out;
- (b) auxiliary dwelling units; and
- (c) uses accessory to any of the foregoing uses.

- 32B (2) Within the Waverley Road designation, expanded home occupations are permitted subject to site plan approval, in accordance with the requirements of Section 23A of the General Provisions.

- 32B (3) Buildings used for R-1 and R-1A uses in a R-1A Zone shall comply with the requirements of the R-1 Zone.

- 32B (4) OTHER REQUIREMENTS: AUXILIARY DWELLING UNITS:

Where auxiliary dwelling units are permitted in a R-1A Zone, the following shall apply:

- (a) no more than forty (40) percent of the gross floor area of the dwelling shall be devoted to the auxiliary dwelling unit;
- (b) dwellings containing an auxiliary dwelling unit shall be designed to maintain the appearance of a single unit dwelling from the street; and
- (c) one (1) off-street parking space shall be provided for the auxiliary dwelling unit.

23. Amend Section 38(1) (C-1 permitted uses) by adding a new subsection, after subsection (f):

(fa) veterinary clinics without outdoor runs,

24. Housekeeping amendment to Subsection 38(3)(d) (floor area maximum) of the C-1 zone by deleting:

5000 square feet

and replacing it with:

5000 square feet.

25. Insert the C-1A zone as a new zone, immediately following Part 8: C-1 (Local Business) Zone:

PART 8A: C-1A (NEIGHBOURHOOD COMMERCIAL) ZONE

38A (1) The following uses only shall be permitted in a C-1A Zone:

- (a) R-1, R-1A and R-2 uses, in conjunction with a commercial use,
- (b) TH uses as hereinbefore set out,
- (c) food and grocery stores,
- (d) restaurants, excluding new drive-through restaurants,
- (e) personal service shops,
- (f) veterinary clinics without outdoor runs,
- (g) offices (including offices of professional people providing personal services), not to exceed 5000 square feet,
- (h) retail, not to exceed 5000 square feet,
- (i) fitness centres, not to exceed 5000 square feet,
- (j) health clinics, not to exceed 5000 square feet,
- (k) uses accessory to any of the foregoing uses.

38A (2) Buildings used for R-1, R-1A and R-2 uses in a C-1A Zone shall be permitted only in conjunction with a commercial use, and new accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only.

38A (3) Buildings used for TH uses in a C-1A Zone shall comply with the requirements of the TH Zone, and new accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only.

38A (4) Buildings used for commercial uses in a C-1A Zone shall comply with the following requirements:

- (a) Lot area minimum - 5,000 square feet.
- (b) Height maximum - 45 feet, with two storeys (to a maximum of 30 feet measured from the ground) to be used for commercial uses.
- (c) Lot coverage maximum - 60%.
- (d) New accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only.
- (e) Where the C-1A use abuts a residential use or zone:
 - (i) required parking and loading areas shall be set back from side and rear property boundaries;
 - (ii) a landscaped buffer of a minimum width of five (5) feet shall be provided in these portions of the property; and

- (ii) an opaque fence or landscaping, to screen the view from the adjacent residential property, shall be constructed along all property boundaries abutting the residential use or zone.
- (f) No outdoor storage shall be permitted, and outdoor display shall be restricted to the temporary or seasonal display of plant materials or perishable goods normally associated with retail uses permitted in this zone, provided that no such display area is located within any parking area required pursuant to Section 14 of the General Provisions of this by-law.

26. Insert the C-1B zone as a new zone, immediately following the new C-1A zone and immediately preceding Part 9: C-2 (General Business) Zone:

PART 8B: C-1B (MIXED USE COMMERCIAL) ZONE

38B (1) The following uses only shall be permitted in a C-1B Zone:

- (a) R-1, R-1A, R-2, R-3, C-1, S and TH uses as herein set out;
- (b) Commercial uses except:
 - (i) drive-through restaurants;
 - (ii) adult entertainment uses;
 - (iii) vehicle service uses; and
 - (iv) recycling depots.
- (c) Uses accessory to the foregoing uses.

38B (2) Buildings used for R-1, R-1A, R-2, R-3, S and TH uses in a C-1B Zone shall comply with the requirements of an R-1, R-1A, R-2, R-3, S or TH Zone respectively, except:

- (a) New accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only; and
- (b) Notwithstanding Section 45(1) (the permitted uses in a S (Institutional) Zone), long term care facilities in the C-1B Zone may only be considered by development agreement in accordance with Section 18(U)(b)(i) of this By-law.

38B (3) Buildings used for commercial uses in a C-1B Zone shall comply with the following requirements:

- (a) Lot area minimum - 5,000 square feet.

- (b) Height maximum - three storeys (to a maximum of 40 feet measured from the ground) to be used for commercial uses.
- (c) Maximum Lot coverage - 80%.
- (d) New accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only.
- (e) Where the commercial use abuts a residential use or zone:
 - (i) required parking and loading areas shall be set back from side and rear property boundaries;
 - (ii) a landscaped buffer of a minimum width of five (5) feet shall be provided in these portions of the property; and
 - (ii) an opaque fence or landscaping, to screen the view from the adjacent residential property, shall be constructed along all property boundaries abutting the residential use or zone.
- (f) No outdoor storage shall be permitted, and outdoor display shall be restricted to the temporary or seasonal display of plant materials or perishable goods normally associated with retail uses permitted in this zone, provided that no such display area is located within any parking area required pursuant to Section 14 of the General Provisions of this by-law.

Section 4 - Scheduling

27. Insert new Schedule “AB” immediately following existing Schedule “AA”:

Schedule “AB” – Waverley Road Zoning Map

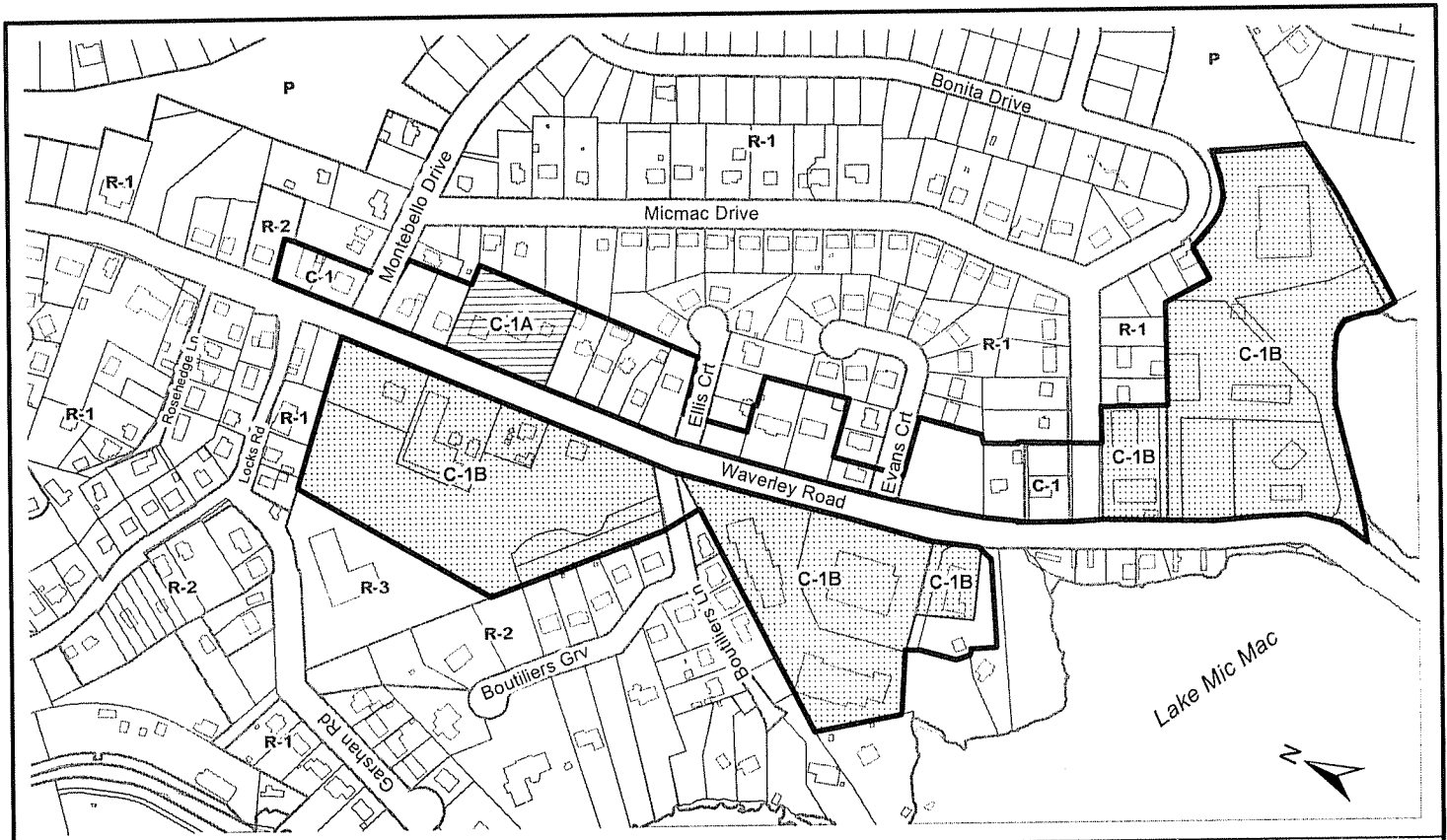
28. Insert new Schedule “AC” immediately following new Schedule “AB”:

Schedule “AC” - Waverley Road Legal Non-conforming Uses

I HEREBY CERTIFY that the amendment to the Land Use By-law for Dartmouth, as set out above, was passed by a majority vote of the Regional Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2009.

GIVEN under the hands of the Municipal Clerk and Under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2009.

Julia Horncastle
Acting Municipal Clerk



Schedule AB Waverley Road Zoning Map

Waverley Road

Waverley Road Study Area & Designation

Area Being rezoned to C-1A

Area being rezoned to C-1B

Dartmouth Plan Area

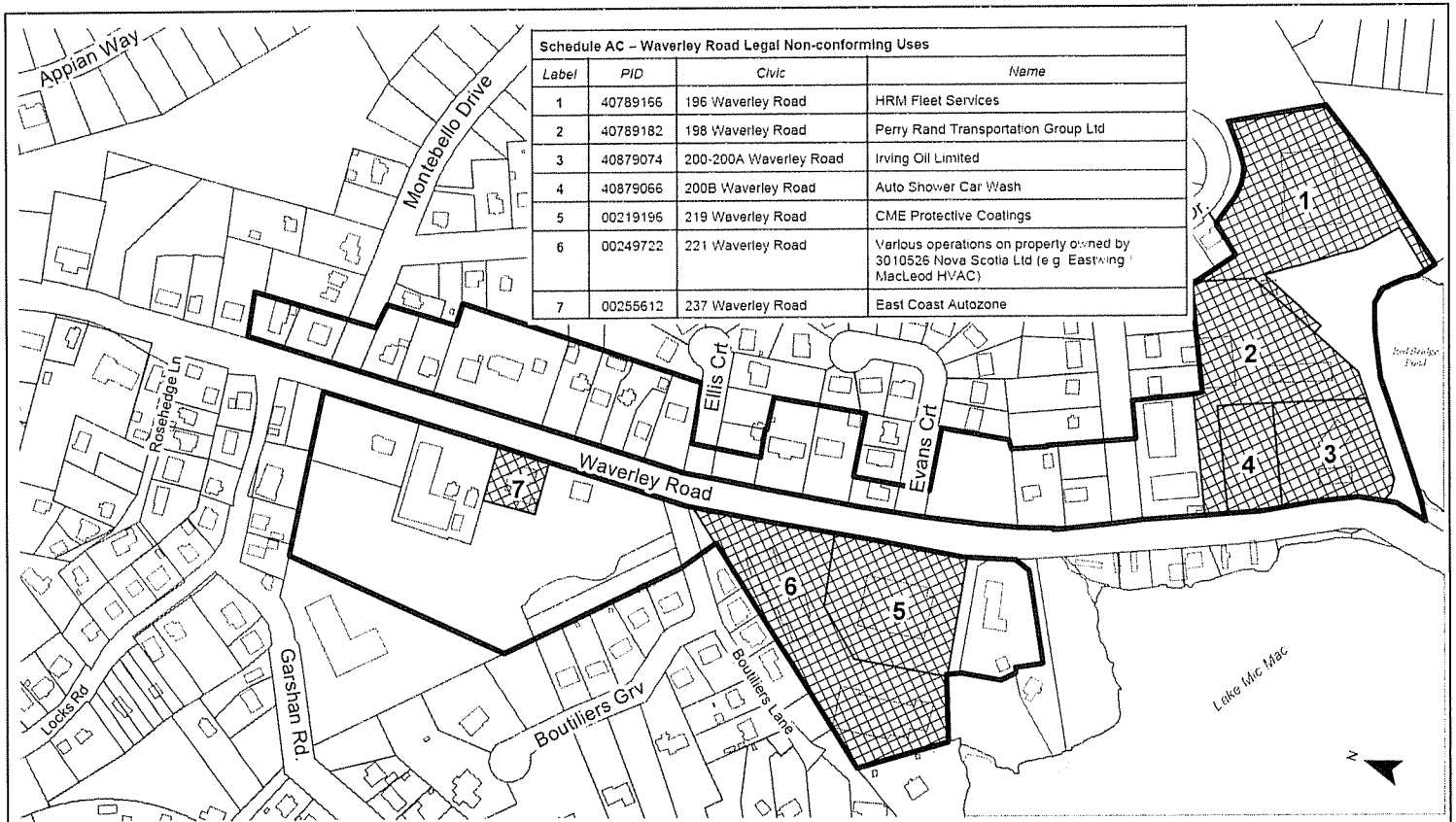
Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential
- C-1 Local Business
- C-1A Neighbourhood Commercial
- C-1B Mixed Use Commercial
- P Park
- RPK Regional Park



This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area



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



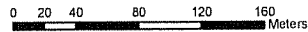
Schedule AC – Waverley Road Legal Non-conforming Uses			
Label	PID	Civic	Name
1	40789166	196 Waverley Road	HRM Fleet Services
2	40789182	198 Waverley Road	Perry Rand Transportation Group Ltd
3	40879074	200-200A Waverley Road	Irving Oil Limited
4	40879066	200B Waverley Road	Auto Shower Car Wash
5	00219196	219 Waverley Road	CME Protective Coatings
6	00249722	221 Waverley Road	Various operations on property owned by 3010526 Nova Scotia Ltd (e.g. Eastwing MacLeod HVAC)
7	00255612	237 Waverley Road	East Coast Autozone

Schedule AC Waverley Road Legal Non-Conforming Uses

Waverley Road

-  Waverley Road Study Area & Designation
-  Legal Non-Conforming Commercial & Industrial Uses

Dartmouth Plan Area



HALIFAX
REGIONAL MUNICIPALITY
Community Development
Planning Services

This map is an unofficial reproduction of a portion of the Dartmouth Plan Area

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

**Attachment C:
 List of Properties to be Rezoned**

Zoning Change	Civic Address	PID
From C-2 to C-1A	242-244 Waverley Road	PID 40265977
From R-1 to C-1B	202 Waverley Road	PID 40789174
From I-1 to C-1B	194 Waverley Road	PID 40789190
	196 Waverley Road	PID 40789166
	198 Waverley Road	PID 40789182
	200A Waverley Road	PID 40879074
	200B Waverley Road	PID 40879066
	219 Waverley Road	PID 00219196
	221 Waverley Road	PID 00249722
From C-2 to C-1B	217 Waverley Road	PID 40879439
From C-3 to C-1B	(no civic address)	PID 40268765
	(no civic address)	PID 40285942
	233 Waverley Road	PID 00255521
	237 Waverley Road	PID 00255612
	245 Waverley Road	PID 40638686
	249 Waverley Road	PID 00255588

**Attachment D:
Excerpts from the Dartmouth Land Use By-law**

- 15 (i) a landscaped buffer shall be provided for any new or expanded commercial, industrial or institutional use, including but not limited to: buildings; parking lots; outdoor display; or open storage to be located adjacent to any property zoned or used for residential or community uses. The landscaped buffer shall consist of:
- (i) a grassed area with a minimum depth of twenty (20) feet along the entire length of the adjacent property line and containing a vegetation screen consisting of at least two staggered rows of coniferous trees or other vegetation that may be approved by the Development Officer which are at least six (6) feet in height and at a maximum spacing of eight (8) feet on centre;
 - (ii) notwithstanding Subsection 15(i) (1), the grassed landscaped area may be reduced to ten (10) feet where an opaque fence of at least six (6) feet in height is provided along the common property boundary. The grassed landscaped area shall contain a mix of nursery-stock trees at a maximum spacing of ten (10) feet on centre, or a mix of shrubs at a spacing of six (6) feet on centre, or a combination of nursery-stock trees and shrubs at the required spacing.
 - (iii) no structures, parking, storage or open display shall be permitted within the landscaped area. (HECC-July10/03;E-Aug 3/03)
- (l) in any commercial zone (Regional Council-October 2, 2001, Effective-October 31, 2001) where a new or expanded commercial building, parking lot or display area is located on a lot which abuts a street(s), a landscaped area of at least ten (10) feet in depth measured at right angles from the property boundary abutting the street(s) shall be provided. This may be reduced to five (5) feet in depth where the greater requirement would be prohibitive in terms of providing required parking or driving aisles. Landscaping shall consist of grass and shall include one ornamental shrub for every one hundred (100) square feet of required landscaped area, and one double-staked nursery stock tree with minimum 50mm base caliper for every fifty (50) feet of lot frontage. All landscaping shall be maintained and kept free of litter, and deceased plants shall be replaced to maintain these standards (HECC-Jul 6/00;E-Jul 30/00)
23. A home occupation shall be permitted in any dwelling in an R-1, R-1M, R-2, R-3, R-4, T and TH Zone provided: (As amended by By-law C-694, Dec 6/91)
- (a) it shall be conducted by the resident occupant in his or her residence;
 - (b) it shall be clearly accessory and incidental to the use of the dwelling as a residence;
 - (c) it shall be conducted within the enclosed living areas of the dwelling or accessory buildings;
 - (d) no alterations shall be made which would change the physical character of the dwelling as a residence;

- (e) no outside storage of any kind shall be associated with the home occupation;
- (f) there shall be no exterior evidence of the conduct of a home occupation except for a business identification plate or sign of two square feet in maximum area;
- (g) not more than 25% of the total floor area of the dwelling shall be used for a home occupation;
- (h) one off-street parking space, other than that required for the dwelling, shall be provided for each 200 square feet of floor space occupied by the home occupation;
- (i) it shall not be an obnoxious use;
- (j) no stock in trade, except articles produced by members of the immediate family residing in the dwelling shall be displayed or sold on the property; (As amended by By-law C-421, Jan 2/81)
- (k) the following are deemed not to be home occupations:
 - (i) automotive repair shop
 - (ii) autobody repair shop
 - (iii) auto paint shop
 - (iv) machine shop
 - (v) welding
 - (vi) retail sales outlets, except articles produced by members of the immediate family in the dwelling
 - (vii) restaurants
 - (viii) amusement arcades (As amended by By-law C-514, Feb 15/84)
 - (ix) adult entertainment uses (RC-Jan 31/06;E-Mar 16/06)
 - (x) salvage yards (HECC-Mar 1/07;E-Mar 17/07)

Attachment E:
Minutes from the Public Information Meeting – January 31, 2008

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 01053

STAFF

IN ATTENDANCE: Sharon Bond, Manager, Subdivision and Land Use
Kurt Pyle, Supervisor, Planning Applications
Jennifer Chapman, Planner
Sherry Faulkner, Planning Controller
Alden Thurston, Planning Technician
Staff Sergeant Don MacLean

ALSO IN

ATTENDANCE: Councillor Younger
Ken Donnolly, Facilitator

PUBLIC IN

ATTENDANCE: Approximately 75 people

Councillor Younger called the public meeting to order at approximately 7:00 p.m. at the Fairbanks Centre. This meeting is the very beginning of the process and is part of a much broader process. In 1996, Regional Council approved a Regional Plan which is a twenty-five year plan for the Municipality. The Regional Plan is an over-riding plan.

As part of the Regional Plan, many areas are undergoing a visioning process. Councillor Younger referenced the Main Street plan, a very extensive process where they brought landowners and businesses together and came up with a plan. Fall River had their meeting last night and Bedford has one coming up. These processes are going on all over the place. The way we choose them is areas where we have had a history of issues between various landowners. The businesses are getting together to form a business association for Waverley Road. That is a very exciting thing where businesses are getting together and trying to make sure things are done right.

Councillor Younger advised that following this meeting, any written comments should be sent to Jennifer Chapman. They should be sent to Jennifer because the Councillors are supposed to try and stay neutral until the public hearing. Staff will ensure every member of Council has a copy of any submissions. At the end of this process, there are a number of options for Council. After reviewing all the comments, they may decide that leaving it the way it is, is the best solution or

they may choose to make changes. That is why he wanted to stress this is the very beginning of the process.

Councillor Younger noted we are looking at a collection of properties in one area. There was notification to property owners in the area. We receive lots of requests. For instance, we received an inquiry for a doctor's office on Waverley Road. That could not be approved because of the very complicated Municipal Planning Strategy (MPS) rules. That is something we will also look at through this process.

Councillor Younger stressed this meeting is about land use. Land use does not solve all the problems in the world. The HRM by-laws such as the Noise By-law, the Nuisance By-law, and the Grading By-law, are separate from this process. This meeting is about how land is used and what rules they should follow. If there is ever a violation of either land use or other by-laws it requires us to go to court, which is a long lengthy process, so what we try to do is create conditions that people can live with and accept. HRM does not have any kind of authority to go in and make a decision because they are not judge and jury. We can go in and prosecute things under the land use by-laws, but we are better off coming up with a solution that everybody feels they can live with because then you are less likely to have conflicts and things tend to work better.

Mr. Ken Donnelly advised he would be facilitating the meeting. Jennifer is going to make a presentation on this case and he would ask that any questions be held until the end following her presentation. Then we will try and answer any questions of clarification, after which we will get into discussion which he would facilitate.

Ms. Jennifer Chapman stated the case we are here to talk about tonight is the Waverley Road industrial land. The properties are shown in the shaded area of the map, which is 194, 196, 198 and 200 Waverley Road. The lands now have I-1 Light Industrial zoning, and in our MPS they have an Industrial Designation.

Ms. Chapman noted that in terms of background about the site, compatibility issues have come up in the past at Harbour East Community Council. On October 30, 2007, Regional Council initiated a process to review these lands. Some of the uses that came up involved fumes generated on the site as well as the definition of obnoxious in our land use by-law and how HRM interprets that. Within our Regional Plan, Policy G-12 directs staff to consider separation and buffering between residential and industrial uses in order to minimize noise, odor, glare, dust and other impacts, as well as to protect industry from nuisance complaints.

Ms. Chapman advised one of the things we are considering doing on this site is an MPS amendment. The MPS reflects the vision for the Municipality and how it should grow in the future. The Dartmouth MPS identifies this site for industrial uses. We are proposing a change to a Commercial Designation. We are also proposing to draft some site specific policies in order to

alleviate some of the compatibility concerns, as well as some zoning changes. Currently, the land is zoned I-1 Light Industrial. We are proposing a commercial zone. We may use existing zone standards such as C-2 or C-3 and apply those to the land, or we may consider drafting a new zone standard with a new set of regulations. Currently the I-1 Zone permits all the uses listed here (displayed on overhead), so it is all the uses permitted within the C-3 zone except for adult entertainment uses; industrial uses except for obnoxious uses; uses creating a hazard to the public; and uses creating heat, humidity and glare. It is pretty broad and there is a lot of room for interpretation. One of the outcomes we are hoping to get from this process is some clarification about what uses should be allowed and what uses should not.

Ms. Chapman displayed some pictures of: the entrance to the site; the gas station and the multi-use building; another picture of the gas station; the day care; the pond; HRM Fleet Services with the pond and the multi-use building; from the hill in between some residential buildings; the car lot and the bus compound with this fence which runs along some residential properties along the back; another vantage point of the same area where you can see the fence, the houses and some of the busses; the houses which share the fence; and the multi-use building.

Ms. Chapman advised our goals for this project are to provide clarity about the permitted uses on the site, as well as to reduce potential for conflict between the various land uses that presently occur.

Ms. Chapman noted in terms of our planning processes:

- Regional Council initiated a process and directed us to have a public meeting
- We will take the recommendations and comments from this meeting and draft a staff report and a recommendation to Council
- Council will review that at first reading and decide whether they want to schedule a joint public hearing
- Regional Council will review the planning strategy amendments and Community Council will review any zoning or by-law changes
- There is a two week appeal period; only the decision of Community Council can be appealed

Ms. Chapman reviewed some of the questions we would like answered tonight:

- What uses you think should be permitted on these lands?
- What controls should be placed on these lands to limit any future conflict?
- Are there any uses you think should not be allowed?
- Are there any uses you think should be permitted by development agreement which is essentially a contract between the landowner and the Municipality which spells out how you could develop that property?

Mr. Donnolly questioned whether there were any points of clarification before we get into any discussion.

Councillor Younger noted this presentation was generally on what Council initiated, but as part of the process we would also consider any other requests related to this. One of those is to address the whole commercial designation on Montebello Drive. That is a designation change that would allow people to apply for a light commercial use in this area. We only want to open up the MPS once for this area so you can certainly give comments on it.

An individual asked for confirmation that this does not include the unshaded area, specifically the land on the corner of Waverley Road and MicMac Drive which is now zoned R-1.

Ms. Chapman responded it is just the I-1 zoned land.

Councillor Younger indicated a couple of people came in before the meeting and said they did not think this was R-1 but it is. That is where the radiator guy is. There is a development agreement for commercial uses on that residential parcel. The development agreement overrides the Land Use By-law (LUB) and says specifically what uses are allowed on that site. If the property owner wanted to change the uses from what is listed in that agreement, which is fairly restrictive, they would have to apply to amend that development agreement which would require one of these meetings.

An individual referenced a couple of parcels of land zoned I-1 and indicated there are more concerns with the whole street frontage heading up Waverley Road that may be able to be turned into some form of commercial in the residential area. He was concerned that we are dealing with one piece of land rather than the whole thing.

Mr. Donnolly noted we are here to talk about this particular piece of land.

Councillor Younger indicated we know the request has come in for the larger area and we invite any comments on that. Jennifer has only given a presentation related to the planning application that Regional Council initiated. If people want to comment on that, that's fine. That will be part of staff's recommendation.

Councillor Younger said they were approached by a number of businesses about the possibility of a commercial designation. The MPS tells you what properties can be considered for a commercial designation. We had requests, for example, for a day care, and from lawyers and doctors, but we cannot consider those unless we change the designation.

An individual referenced the notification area and questioned the significance of that.

Ms. Chapman advised that is the area where we sent out a mailout about the meeting.

Ms. Kim Railing questioned whether it was a done deal about them making it a commercial area. She was interested in the development of parks and more green space.

Ms. Chapman advised as a Municipality we cannot zone private lands for park and it is not something we could consider for this site. We think that commercial is appropriate for the area but we are open to hearing what people would prefer.

Mr. Kurt Pyle indicated that if this area was zoned as park, under *the Municipal Government Act* the Municipality would be required to buy it within two years.

Mr. Peter Thorpe said he was a little confused as to what exactly is encompassed by commercial zones. What is designated to be commercial? Perhaps at the same time you could address what is industrial.

Ms. Chapman responded that there is a lack of clarity in the zone standards. The differences between the I-1 and C-3 zone are not really clear so we are hoping to generate a list of uses through this process. You could say, for example, some examples of commercial uses would be an autobody shop but heavy equipment repair would be more industrial. It is a balancing act and there is room for interpretation. Through this process we are hoping to clarify that.

Mr. Thorpe asked if he was correct in understanding there is ambiguity for the entire HRM.

Ms. Chapman clarified this is the Dartmouth LUB and MPS.

Mr. Thorpe commented when he thought of commercial, he tended to think of retail.

Ms. Chapman indicated a commercial office use would be a commercial use so a doctor's office or a dental clinic or a dry cleaner would also be considered a commercial use.

Mr. Thorpe said it is a little difficult at this stage to talk about commercial if they cannot completely identify what commercial is.

Mr. Donnolly noted we will talk about what would be considered commercial types of operations as we get going which should help.

Councillor Younger said one of the problems is that the Dartmouth MPS was created in 1978, so we are dealing with something thirty years old.

Ms. Doris Gates questioned if it is possible for the I-1 zone to be potentially broken up into different categories, ie., commercial and parkland.

Ms. Chapman noted we could explore C-2 in the front and draft a new zone, perhaps C-5, in the back.

Mr. Victor Tetrault said the letter talks about this being drafted in 1978. If you look at that map in 1978, there were no holes there. That is why through time neighbourhoods have developed around these lands and conflicts with land use have emerged. It is a clear cut case of an area that had not been planned in 1978 with the influx of a new residential neighbourhood. They are there and they have children and grandchildren. They would love to have a place where they can walk to. He heard it was a two year process. This whole area has not been looked at since 1978. He thought it was time for HRM to look at the whole picture. He liked the comment about new zoning that would allow for the neighbourhood to have a place where they could take their children. There are no green spaces in their area.

Councillor Younger commented everyone agrees the problem originates from the fact that neighbourhoods moved in after the fact. We cannot go back and change the rules that were in place at the time. The rules are different now. In the Regional Plan, there is a requirement in new areas for substantial buffers between residential and industrial uses. That is the focus today. We cannot go back to 1978 and change that. That problem is not just here; it is in Sheet Harbour and Hubbards.

An individual said he just moved here in the last six months but he lived in the Province for the last twenty years. Ever since he has been here, it is the same. You say this was zoned in 1978. It is not really a new thing. It is called the Burnside Industrial Park. You say we cannot go back in time to change things. They are trying to change the zoning. This is obviously a residential area and he was concerned about turning it into commercial. Now they have this brand new thing which used to be called a gravel pit which is called Dartmouth Crossing. We are pushing everything over there. He did not see what the big problem is. It is one property causing the problems? Has anybody offered to find out how much it is worth? Do some fundraising and just buy it.

An individual asked for confirmation that the existing businesses would not be affected.

Ms. Chapman responded we can change the rules but we cannot evict anybody. Those uses would become a legal non-conforming use which means they were legal when they started and would be allowed to remain but if they decided to move, then that same use cannot go back in there and the new rules would apply.

Ms. Janet Rhymes noted staff's questions do not fit with everybody's priorities. Are we talking about industrial, commercial and residential being the three options?

Ms. Chapman responded we are not looking at a specific commercial zone. We want to specify the uses. Park is beyond HRM's jurisdiction. We cannot go in and rezone private property as park. If you thought, for example, there should be a medium-sized apartment building or a hair salon on that site, then tell us that. We want to capture the use.

Ms. Rhymes questioned whether water came into any of those subcategories, and referenced oil leaking.

Ms. Chapman responded we do have requirements for buffers from a watercourse. You cannot have any development within 65' of a watercourse.

An individual questioned whether the parcel they are talking about is privately owned.

Ms. Chapman referencing the map, pointed out the one parcel which is owned by HRM, but noted the rest is privately owned.

An individual noted it was mentioned truck repair would be industrial.

Ms. Chapman indicated heavy equipment repair would be considered industrial.

The individual referenced the property on the left hand side where an individual is repairing trucks and heavy equipment, and the building next door to him along the frontage is doing military equipment sandblasting and heating and so forth, and questioned why that is not included for discussion tonight.

Ms. Chapman advised Council directed us to look at this property.

Councillor Younger stated Council has directed staff to look at areas with chronic history of problems first. It takes awhile to get everywhere so we are doing blocks with a history of problems first.

Ms. Chapman noted it was raised they should look at the whole area, which is maybe something they can do.

The individual urged that people step up and look at the whole picture.

Ms. Judy Conrad said it is with great effort that communities make change. Their neighbourhood that surrounds this area took months and years to get to this meeting. Petitions, complaints, and messages were left at HRM. She would be behind anything that is happening along Waverley Road because she was totally disgusted with what is happening along there. There are no proper lights to cross the road. It is unsafe and smelly. She was on the side of anything the people along Waverley Road wanted.

Mr. Donnolly noted one of the suggestions being made is to deal with the entire area and not just one parcel. We will take that under advisement.

Mr. Glen Conrad referenced the property at the corner of MicMac Drive and Waverley Road, and said they would have had a huge problem if they had allowed that property to go commercial. In the last six years, there was a furniture stripping business in there illegally without a permit. The business was emitting toxic fumes and substances into their neighbourhood causing all kinds of ill effects to people, particularly to those abutting it because of prevailing winds coming off the lake. They would have never gotten rid of that business had the property been zoned commercial. Because it was zoned R-1, with a very restrictive development agreement, and he was there illegally, they were able to get rid of him. It took six years. It was only by the good grace of one of the senior members of this neighbourhood who had an original copy of the development agreement and their Councillor moved it forward. That person had to be threatened with a court order injunction to leave the property because he refused.

Councillor Younger noted this is about the future. Everyone of those businesses can build and change ownership. This meeting is about the future and trying to prevent conflicts in the future. There is the potential for problems because zoning has not changed in the grey areas. The grey areas still exist because of the 1978 zoning. We are getting far less complaints today than three years ago.

Mr. Donnolly opened the meeting for discussion.

Mr. Phil Power said we have to look at the entire area. We cannot just look at that one I-1 property because we will be back here two years from now about another I-1 property or the legal non-conforming use.

Mr. Power indicated it was important at this meeting to set some tones on what businesses should be allowed there. Right now that area is zoned I-1. That zoning would allow somebody to put a fish farm there and there is not much the residents could say about it. If that happened, there would be lots of calls to HRM, and it would be horrible because of the smell. He totally understood the ideas about a green park but it is private land and they would have to buy it. He would love to see a park there but it will not happen. However, they can start to lobby some of the commercial components or some of the residents to build a playground if commercial is going to go there. They really have to look at what commercial businesses they would like to have in their community so they do not have bus noise and bus fumes, and perhaps put in place a C-5 zone. Let's add more commercial so they do not have to travel to Burnside Industrial Park to buy a bag of chips, so they can more or less stay in their community but not have an industrial park.

Mr. Donnolly stated that is a good start to the discussion. Planning staff will make a recommendation to Council, and would like input on things like what kind of commercial use would work in that community. Residents from the area and people from the business community are here, so it is a great opportunity to make suggestions.

Mr. Terry Murphy said he was a resident in the neighbourhood. He lived here all his life and he could remember that area when Mr. Cassavechia had his heavy machinery there and was working late hours and early into the morning, and all these houses were not here. Why did they not set up a buffer originally so they would not be having this conversation now? They are wanting to penalize people who bought property and are using as it was always used. If they cannot get around it, then why don't they buy the properties and make a buffer for the next street? Wouldn't that solve the problem?

Mr. Donnolly noted it was a suggestion.

Mr. Murphy questioned how wide a buffer is.

Mr. Pyle responded between commercial/industrial and residential, it varies throughout the Municipality. The Municipality can include requirements in the by-law to require a buffer between uses.

It was questioned if they can do that before they build a house.

Mr. Pyle responded not at this time. There is no buffer zone.

It was questioned if there was supposed to be a buffer there. Mr. Pyle responded no. There is no requirement for one under the existing land use by-law.

It was questioned if there was one when they built the houses there. Mr. Pyle responded no.

Mr. Murphy said if he did not want to be around a commercial zone, then he would not build his house next door to one.

Mr. Donnolly commented he did not think anybody would disagree that having the uses close together might not have been a good idea, however, what we are dealing with now is what we have. The point that those buffers should be in place in the future is a great one, but we have to deal with the situation we have right now.

Mr. Ralph Bagnell questioned if there is a park off Bonita Drive.

It was responded it is a greenbelt with a couple of pathways.

An individual commented teenagers hang out there in the summer.

Ms. Sandy Lowe indicated they are basically just talking about this one piece of land. The people who own the land have businesses there and they were there before the houses. She was

sorry it is not a park but wondered what this one piece of land has to do with parks for kids to go to.

Mr. Donnolly noted the point is well taken. We have residences right beside an industrial area. Some people own in the industrial area and some people own in the residential area and this is the kind of thing we are going to have to deal with.

Ms. Lowe commented some people do own land in the industrial area and have done everything they can and have done some testing.

Mr. Donnolly noted the point is well taken. There are two sides to this.

Mr. Fred Dundas stated he agreed the industrial has been there. The neighbour who lives behind them has had a house on Bonita Drive for fifty years so industrial has not had first crack at it. There has been residential for a long time. We already solved the problem. The City has agreed to alternate bus locations in Burnside so why don't we work out a property swap.

Bill Whebby said they have been here for a long time and created a lot of employment. He really did not want to leave the community and be forced out.

Mr. Conrad said there have been very positive comments about commercial development and what they contribute positively to the community and they are all for it. The present use of that I-1 zone we are talking about tonight is a totally inappropriate use. Just because something is zoned Light Industrial does not give them the right or the privilege to infringe on other people's rights or cause harm. That is one of the central principles. People are free to pursue their own self-interest provided they do not harm others. That is why they have gone a long ways since the days of Adam Smith and the visible hand of no regulation. We now know there has to be regulations because in the last 250 years there has been all kinds of proof of how individuals pursued their interest and there was no balance.

Mr. Donnolly pointed out he would like to get them talking about the kinds of things that could work in here. If Jennifer makes a recommendation that says this is commercial, then that means a whole bunch of things can happen. This is really valid input into the process and is what he would like to get to.

Ms. Sherry Neilson commented while she could appreciate everybody's concerns, the possible future commercial was concerning her. Not knowing what the definition of commercial means is a little bit scary. They have a very nice area. Waverley Road is extremely busy and suddenly they are going to have more little corner stores. She agreed with allowing a doctor's office going in but if they are going to look at more strip malls for example like the Needs and the Pharmasave, it will mean a lot of people going to appointments. It is so busy along Waverley Road now that you cannot even cross the street because there are no proper crosswalks or proper lighting.

Councillor Younger noted we really want to know what the appropriate and inappropriate uses are. They are probably different for this site than they are going up Waverley Road. Having that input will allow them to have the broader picture which everybody seems to feel should be addressed and also that site.

Mr. Drysdale said they have been hearing on the radio about there being no beds in their hospitals for our long term care patients. Here we have a beautiful lake with beautiful trees in behind it, which would be an ideal place for the government or the City to put a long term care facility on that property.

Mr. Donnolly asked for further suggestions on appropriate uses. This is a good way of giving a flavour that you might see for the area.

Terry Murphy suggested the property could be developed with mini-storage. That use does not create congestion and a lot of traffic and no toxic fumes.

An individual suggested inappropriate would be when toxic fumes are being produced which would affect the residents in the area.

An individual stated it should not involve dispensing of fuels.

An individual suggested some professional lawyers and dentists, a daytime use, would be appropriate.

Ms. Lucy Burke said she wanted to go back to the parcel of land owned by HRM and questioned how it was zoned. It was responded industrial. She said that was an inappropriate use. They have a birds eye view of that particular facility and it is very noisy.

Mr. Donnolly noted he was hearing noisy ugly things.

Mr. Phil Powers indicated this is currently zoned industrial. The big thing is that no matter what, it is industrial. No matter what happens, they are still legally allowed to continue on with their business.

Ms. Chapman advised the existing uses would be considered legal non-conforming uses if we changed the zoning. However, once a use leaves, they have a six month window to replace the use with the same use, otherwise the new regulations would apply.

It was commented the busses are parking overnight in Burnside because they were harmful to the neighbourhood. HRM stepped in and did something about it.

An individual referenced the singling out of the parcel owned by HRM and said she believed HRM has a lot more options.

Mr. Terry Murphy referenced the comment that busses were harmful. Was the air tested by HRM and found to be harmful? Is that why they moved? He questioned the reason for them moving.

Ms. Chapman advised HRM did some air quality testing and did not find any traces in those tests, but there was still the issue of the noise complaints which the bus company was found to be non-compliant with.

Mr. Murphy asked for clarification that it was noisy, not harmful.

Councillor Younger stated it was found through the legal process to be in violation of the Noise By-law. He urged that they stick to future uses.

Mr. Murphy said he was wanting to know if things were being changed because it was harmful or noisy.

Councillor Younger urged that they not dwell on the existing use. If somebody thinks bus depots should still be allowed, then put that on the list of appropriate uses.

Mr. Murphy stated that if the uses are not harmful and in violation of rules, they should be allowed to do what they want.

Mr. Donnolly noted the point being made was the use should be allowed if it meets the by-laws.

Mr. Murphy added that it should not be harmful.

Mr. Larry Aarrell advised his property was directly in behind this man's property. When he was out on his deck and they started up the busses, he had to go into his house and shut his doors and windows and close off his air exchanger because the fumes were coming directly into his house. He stated they were dangerous and harmful to them. When the busses were turned off and just being repaired, they were not.

Ms. Judy Conrad indicated she wanted to go back to the word "obnoxious" in their by-law. Obnoxious is anything that makes you nauseous, turns you green, and that you want to run away from. The bus depot is not just used by the City. There are busses used for charters, as well as tour busses, access-a-bus busses, tow trucks, and a fork lift tractor which was there today for a few hours. All of them have big diesel pipes. Her windows were black all the time with diesel. The word "obnoxious" is something people should look up. She did not want to see noisy

businesses there. She was all for children in parks but we have to really want what we ask for. For the people in their area who have little children who are home in bed at 6 and 7 and 8 o'clock and are chaperoned by their parents, that is fine. With the drug issues and all the other issues in their community, they have to be very careful about what they invite into their community because they do not necessarily have the number of police officers they need per square mile. We have to be very careful where we put parks and how they are chaperoned. A park is questionable.

Mr. Pyle stated the term "obnoxious" goes back to the courts. Through this process, rather than letting the courts determine what obnoxious is, we want the community to identify what obnoxious is. By doing that, you need to tell us what uses you do and do not want. The ones you do not want, the court will look at them as being potentially incompatible or obnoxious. The ones you pick are okay. There are many ways to look at an issue. A good example is that of self-storage facilities. One could say self-storage facilities are okay, however, are they twenty-four hours, are the trucks going to back up with beepers on them at 2 o'clock in the morning unloading equipment, or is it going to be lit twenty-four hours a day? We need specific examples of what you mean by obnoxious in terms of uses. We regulate through land use.

Ms. Conrad indicated when the busses first moved in, they were operating twenty-four hours a day. She was not working full time in the hospital because of that. It was fairly obnoxious to her that she had police officers in her living room at 3 and 4 o'clock in the morning because they could not sleep. She could not go to work in the hospital for safety reasons. Also, before the owner put up a fence, she was down cleaning in her back yard and she did not know that a diesel school bus was going to start up and it blew diesel fumes into her face. She went to Emergency and it looked like somebody beat her up because of what went in her face from the diesel fuels. She was on penicillin and was monitored for months.

Mr. Pyle noted the big thing here is how the courts are going to interpret the regulations. Be clear about what you mean in terms of obnoxious in terms of uses. Give us more ideas in terms of how to address it.

An individual said they were asked to list things they would want to see, and questioned whether he would be correct in saying those are for commercial purposes?

Councillor Younger indicated he would say other than the park zone.

The individual asked for clarification what was meant by a development agreement.

Mr. Pyle responded a development agreement is a legal contract between the Municipality and the landowner for a specific use subject to certain conditions. For instance, if you have an agreement which allows you to open an ice cream stand on your property, the ice cream stand would be permitted but you would have to meet five or six criteria such as providing parking spaces or putting up a fence against the next residential neighbour. The agreement is approved by

Council and both parties sign it, and those are the regulations that would apply. In terms of how we use it, sometimes we over-use development agreements and sometimes we do not. Development agreements are very good if you are trying to control very specific issues and one big thing they can control that a rezoning cannot is hours of operation. It also can deal with architectural controls in terms of what it will look like and how it fits into your community. It also can deal with the full gambit in terms of environmental protection. It is a tool. There is public input through the process and it requires a public hearing. However, it is appealable. He referenced a piece of property, noting there is a development agreement. Because the Municipality entered into an agreement with that applicant, until that applicant says for the Municipality to remove it, it is there.

An individual said she heard a lot of terminology thrown around tonight and they are being asked to speak to appropriate use of the land. They are talking about the different C zones but she had no idea what is involved in each of those categories. In order for her to make an informed decision about appropriate uses, she thought it would be helpful to have an idea what is involved in each of the zones.

Councillor Younger stated it is much more important to have a list of uses.

Mr. Donnelly said they are trying to avoid having members of the public determine appropriate zoning but instead talk about what you think would and would not work there.

Councillor Younger noted this is the very first step. If you sign the sheet at the back of the room, once staff has prepared a report for Council, then everybody will be contacted again. We do not usually hold another meeting. We usually make the report available online and then people can read what the recommendation is. This is the first step. We need to hear tonight what uses people do and do not like.

Mr. Donnelly encouraged the speaker to get in contact with Jennifer who would make sure she got any information that might help her.

Mr. Stephen Ferguson stated in terms of appropriate uses, what about residential R-1?

Ms. Chapman asked for clarification whether he meant just single family when he said residential.

An individual indicated height and light would be a concern.

An individual said they would like to make an informed decision but the City says they do not want them to know what the C-1 zone says.

Mr. Donnolly clarified he indicated the information could be made available following the meeting.

The individual said they are going to get between 3000 and 4000 lots available for the Waverley Road. It is going to be an amazing development area. What are the rules and regulations and what can be done? Take an educated approach and have all the information so everybody knows what exists now.

Mr. Pyle clarified that in terms of C-1 and C-2, in other areas, such as in the City of Halifax, it is very complex. In Dartmouth, it simply says the C-2 zone allows any commercial use that is not obnoxious. That is why we are here tonight to look at what is and is not appropriate.

An individual expressed concern with how you put weights on these because they heard somebody say busses are okay while we heard others say they are not.

Mr. Donnolly stated they are trying to get a flavour here today of what the community thinks but we are not looking for a vote. The point is very well taken. What we are doing is writing down what each person says and he has not asked for a vote on each one. We are not making any decisions.

An individual said she was here to support the twenty-four hour issue with the lights on twenty four hours a day. She thought those issues are very valid.

Ms. Rhonda McOnie stated she was hearing from a lot of the comments they were looking more for community based businesses which the families and kids can enjoy. She was all for commercializing more properties along Waverley Road. She gathered from the conversation they have the ability to possibly put their limits on what type of C zoning that it is. They have the possibility of saying they did not want the C-2 zone. She referred to the martial arts school they have in the area which she would like to remain. It is family oriented and is community based for kids as well as the parents.

Mr. Phil Power said he felt they were spinning their wheels a bit on what they want to do. He thought they have to have an open forum and people throw out ideas. He did not want to see a bus depot or a fish plant or heavy machinery.

Mr. Power advised he went to the City to apply for a commercial zone because his property is in a residential zone. For any residential property you can apply for a permit to use up to 25% of your property as commercial use inside your home. He did that and received his business occupancy permit and he paid tax on his commercial use as well as his residential use. However, his business might pose a problem to some people in the community because of certain aspects. For instance, there is a lot of traffic with this business and a lot of his students have to park on the street, so he went to some of his neighbouring businesses and asked for permission to park on

their property. He was involved in the community because he was teaching martial arts to children. They have 225 students from the Waverley Road community who come and support his business.

Mr. Power indicated that because he had a residential property, he could not do the things that would make the community better. If he had a commercial property, he would have the option to expand in which case he could offer day care which is needed here and he could put in a playground. The community has to look at what businesses are good and bad and what they can do to improve their community. Who is happy with the way the business and residential district looks on the Waverley Road. It looks horrible. They did not need to look like Spring Garden Road where all you see are storefronts. What he would like to see is a much cleaned up community and something where the kids would not have a problem and a bus depot in your backyard, but rather have something you could live with and support.

An individual spoke in favour of development agreements. You know what you are getting with a development agreement as opposed to permitting a development by right and you have to deal with each one of those in terms of by-law violations and spend years getting rid of them.

An individual referenced community and family oriented businesses. They also have to look at how difficult it is to get on the Waverley Road. Some companies have been bashed here tonight but by the same token they were only doing what they were permitted to do under the existing laws. They were given permission to be there doing what they are doing. The culprits are the people who gave them permission in the first place. As we move ahead, let's not repeat those mistakes.

An individual commented something we are forgetting is the natural beauty. There is a pond there and it is next to the lake. They have an obligation as citizens and politicians to maintain that natural beauty in some form.

An individual stated the meeting was called to address one property. With the information that came out tonight, a number of them have started to realize it is reasonable to ask Council to develop an overall plan so we are not focused on just one property.

Councillor Younger referenced the Main Street Plan which took twelve meetings to prepare. Before we can come back to the community with some recommendations or options, we need to hear back from you in terms of appropriate and inappropriate uses, otherwise the planner will go back to her office and guess based on this partial list we have. Please send in your comments.

An individual questioned whether there are plans to hold any more meetings.

Councillor Younger responded they could do that.

An individual suggested they hold a series of meetings. Some people do not feel comfortable writing and would certainly be prepared to talk.

Councillor Younger commented some business owners have expressed some urgency to the process. They did it the other way for the Main Street project and it took two years. This one we were trying to shorten. We want additional meetings but it would mean a longer process before it gets to Council for change.

An individual commented it should take however long it takes to get it done properly.

Councillor Younger noted it appears this has evolved into a bigger thing in terms of addressing a wider area. We will not go to a public hearing at Council until we are satisfied we have heard from the public.

Ms. Chapman reminded people to complete and submit their surveys by the end of February.

The meeting adjourned at approximately 8:45 p.m.

Attachment F:
Minutes from the Workshop – June 11, 2008

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING - Workshop
CASE NO. 01053

7:00 p.m.
Wednesday, June 11, 2008
Akerley Campus (Cafeteria)

STAFF IN

ATTENDANCE: Jennifer Chapman, Planner, HRM Planning Applications
Kurt Pyle, Supervisor, HRM Planning Applications
David Lane, Planner, HRM Planning Applications
Joseph Driscoll, Planner, HRM Planning Applications
Brian White, Planner, HRM Planning Applications
Miles Agar, Planner, HRM Planning Applications
Holly Kent, Planning Technician, HRM Planning Applications
Jennifer Little, Planning Controller, HRM Planning Applications

ALSO IN

ATTENDANCE: Councillor Andrew Younger, District 6

PUBLIC IN

ATTENDANCE: 22

The meeting commenced at approximately 7:08 p.m.

1. Opening remarks / Introductions / Purpose of meeting

Councillor Andrew Younger introduced himself as being the Councillor for District 6, welcomed residents and indicated how important it is to get the Communities input. He introduced Jennifer Chapman as the Planner who is guiding this application through the process.

Ms. Chapman thanked Councillor Younger for the introduction and explained that the group would separate into four tables and will each have its own facilitator. She introduced David Lane, Joseph Driscoll, Miles Agar and Brian White as planners each stationed at separate tables.

She explained that the purpose of the meeting is to generate discussion about how, where and what types of commercial uses should be permitted along a Waverley Road. The feedback will be used to consider changes to the Dartmouth Municipal Planning Strategy and the Land Use By Law. She explained what a Municipal Planning Strategy and a Land Use By Law are and the different requirements.

Ms. Chapman noted that at Harbour East Community Council, a discussion arose about the compatibility issues between various land uses. On October 30, 2007 Regional Council initiated a process to review these uses. On January 31, 2008 a public information meeting had been held regarding the particular site. At that meeting it was requested that a larger area be reviewed. On April 1, 2008, Regional Council initiated the process to look at an expanded area. The original study area was 194, 196, 198 and 200 Waverley Road. The zoning for the expanded study area includes lands that are zone I-1 as well as various commercial and residential zoning. Ms. Chapman explained that she would like to sort out what uses are appropriate for the land and how they should continue to develop. The goal is to encourage appropriate development in the appropriate areas while limiting potential conflict between various land uses.

Ms. Chapman reviewed a slide show of the study area, current uses and possible uses.

Ms. Chapman explained that within each group discussion, it is asked that they identify in each of the four districts which category type should be appropriate in each of the districts.

At this time, each group separated with their facilitator and concluded the following suggestions/comments:

2. Questions/Comments

Facilitation Notes:

Table 1 (Miles Agar, Planner)

Area 1:

Residential and Local Commercial Preferred

Residential

- residential because it is currently 50% residential
- small scale retail and local commercial is ok
- concerned about traffic conditions– less traffic with residential uses
- less commercial provides a cleaner streetscape to maintain the look of Waverley Road
- Residential area because of its location– already has a lot of traffic

Local Commercial

- have little impact
- small business is the heart of the neighbourhood
- creates a more walkable community
- area is the gateway to Shubie Park

Uses

- Single family
- Cliff behind– not a lot of room
- Auxiliary dwelling units ok
- hair salon, personal service uses

- corner stores
- bakery

Area 2:

Residential only

- streetscape can be controlled
- traffic is an issue
- already predominantly residential
- home businesses are an issue

Uses

- Residential
- single family with accessory units (for family only)

Area 3:

General Commercial

- Do not want to see industrial uses
- location is suitable for general commercial
- industrial not suitable because of its location to watercourses

Local Commercial

- want to allow a wide range of businesses not just general commercial

Uses

- Professional offices
- nursing home
- bank
- mixed retail– with small free standing buildings (not strip malls)
- needs to add character to the area
- personal service
- local market
- needs to have enough space for parking
- higher end development like hydrostone is ideal
- no impact on the street– commercial should be off the street

Area 4:

Residential

- Lots of area for residential and higher density residential
- provide a cleaner landscape
- walkable and pedestrian oriented

General Commercial

- Suitable area for a mixed use community– create a vibrant/ resilient area
- space and access are suitable
- room for parking

Area also suited for expanded home business and local commercial uses

Uses

- Carry on the same retail concept in the area
- have ground floor retail in a residential building
- restaurants are encouraged but no lounges
- no hotels
- higher density multi unit– max height 6 stories
- townhomes

Parking Lot

- noise issues
- junkyards, rundown cars
- 221 Waverley– mass of noise– heavy duty truck repair
- traffic– trying to get off the residential streets onto Waverley Road– difficult
- Problem with home business and customers parking on the street
- Crosswalks not safe

Table 2 (David Lane, Planner)

Parking Lot

- Water quality issues in Lake
- Illegal use in residential areas
- Traffic an issue
- Improve Metro Transit Service in area
- Pedestrian crossings needed at Evans Court to Mic Mac Tavern
- Right turn land on Waverley Road (north bound) to Montebello

Why here tonight?

- Nuisance effect of existing industrial use
- streetscape improvements required for Waverley Road
- Concerns with area 3
- Traffic

Area 1

- Local businesses desired
- Neighbourhood business streetscape

Area 2

- New commercial uses desired
- local amenities

Uses

- Restaurant
- Daycare
- Doctor

- martial arts school
- new uses should front on and have access to Waverley road
- Improved design controls
- maybe a new zone is needed?
- limit drive-throughs
- Main Street visioning process would be great!

Area 3

- General Commercial, larger home businesses, residential
- New commercial uses desired
- local amenities
- environmentally responsible and sustainable uses
- multi unit residential would be compatible with neighbourhood
- parkland please

Area 4

- General Commercial
- industrial uses not desired

Table 3 (Brian White, Planner)

Area 1

- Residential and General Commercial
- Single family dwellings
- Tim Hortons OK (local commercial)
- No street trees from Montebello down
- need landscaping standards

Area 2

- Status Quo– Residential and larger Home Businesses
- Concerns about nuisance effects of home businesses
- Tavern parking lot– illegal use?

Area 3

- local commercial, residential and larger home businesses
- No heavy industrial uses
- No obnoxious uses
- Needs parkland– especially near pond
- No development along waters edge
- Local business uses
- Residential
- Home Based
- No high density– prefer single family
- Medium density (i.e town homes) is ok
- Institutional uses– Seniors complex

- Red Bridge Pond Archaeological Mi'Kmaq Heritage Site

Area 4

- Residential, general commercial and local commercial
- Medium density townhouses
- landscaping
- institutional uses– nursing homes
- low rise, high quality architecture
- gardening store ok
- tire store needs to go
- neighbourhood pub ok
- no billboards
- need buffers and separation of residential from Waverley Road
- Business uses need to be buffered from residential (fences and landscaping)

Table 4 (Joseph Driscoll, Planner)

Why are you here tonight?

- concerns about future changes/ stability
- prefer commercial zone to residential (adjacent Tim Hortons)

Area 3

- Light industrial uses
- long standing uses
- provide employment
- predate most other uses

Uses

- non-obnoxious uses
- no smells, smoke, or chemicals
- should be environmentally friendly

Area 4

- Existing light industrial uses are fine; additional industrial uses could be problematic
- Commercial less intrusive
- residential would breakup all the heavy commercial and light industrial
- less truck traffic

Uses

- health and fitness
- bank
- grocery store
- professional offices
- no apartments

Area 2

- general preference to maintain existing residential character
- existing homes have great character—should preserve these
- concerns with home business and on street parking

Area 1

- existing commercial causes concern for adjacent residents
- split between residential and commercial at Waverley convenience would make sense
- allow commercial on properties adjacent and across from commercial
- maintain residential higher up

Uses

- professional office
- flower shop
- small retail
- uses that do not cause a lot of traffic
- no apartments

Parking lot

- Tim Hortons causes way too much traffic
- big increase in traffic since Tim Hortons opened

- **Closing comments**

Ms. Chapman thanked everyone for coming to the meeting and expressing any comments and concerns they had.

- **Adjournment**

The meeting adjourned at approximately 8:58 p.m.

Should certain land uses be by development agreement only? What are they?

Controls

Listed below are a selection of controls that could be placed on this property as an attempt to reduce potential conflicts between land uses. Please rank the following controls from 1 to 10 with one being most important and 10 being the least.

- Separation distances for non-residential buildings from Residential zones
- Landscaping requirements
- Fencing requirements for non-residential land uses from residential land uses
- Restrictions on hours of operations
- Limits on building height
- Separation distances for non-residential buildings from dwellings
- Restricting outside storage
- Controls over placement and lighting of signs
- Controls on architectural details
- Controls on placement and brightness of lights

Any other comments or concerns?

**Attachment H:
 Excerpt from Staff Report dated July 24, 2008 (Council Options)**

OPTION #1: REDESIGNATE THE ENTIRE STUDY AREA TO COMMERCIAL

Description: Designate the entire study area to commercial thereby enabling a wide variety of commercial uses in all four areas.

Public Input: This approach received little support from the public.

The public expressed the opinion that certain uses were acceptable in specific areas, but not all commercial uses would be appropriate for the entire study area.

Staff's

Recommendation: Staff agree that greater control on commercial activity is desired in this area to a mix of commercial and residential use and to minimize land use conflicts with surrounding residential neighbourhoods.

OPTION #2: REDESIGNATE A PORTION OF THE STUDY AREA TO COMMERCIAL

Description:

Area	Future Land Use Designations	Zoning*	Future Use
1	Commercial	existing zone	allow smaller scale local commercial type uses as well as residential uses
2	Residential	existing zone	residential <i>(No Change)</i>
3	Commercial	new commercial zones	permit a broader range of commercial uses
4	Commercial	existing zone/ new commercial zones	permit a broader range of commercial uses

*new zones will be drafted and enabled, but would not be applied outside of current Industrial zones

Public Input: The public was generally supportive of this approach, however many expressed support for allowing expansions to existing home occupations within Area 2.

Staff's

Recommendation: Staff is supportive of this option as it allows for guided consideration of commercial development within the study area but agree that it unduly limits the commercial development potential in Area 2.

OPTION #3: OPTION 2 PLUS COMMERCIAL THROUGH ENHANCED ZONE STANDARDS IN AREA 2

Description:

Area	Future Land Use Designation	Zoning*	Future Use
1	Commercial	existing zone	allow smaller scale local commercial type uses as well as residential uses
2	Residential	existing zone	residential <i>plus local commercial uses and expanded home occupations by through the enhanced prescriptive zone standards</i>
3	Commercial	new commercial zones	permit a broader range of commercial uses
4	Commercial	new commercial zones	permit a broader range of commercial uses

*new zones will be drafted and enabled, but would not be applied outside of current Industrial zones

Public Input: Some members of the public expressed concern over the impacts of existing home occupation uses and many did not want to see an increased as-of-right ability for commercial uses in Area 2. At the same time, other members of the public expressed support for increasing commercial uses in this area.

Staff's

Recommendation: This approach would address the apprehensions of the public who were concerned about the impacts of home occupation uses and, at the same time, address the interests of those who wished to see a greater ability to expand home occupations and other types of local commercial uses. The use of enhanced prescriptive zone standards could limit the potential for land use conflicts between the residential and any commercial uses.

Staff are recommending that Harbour East Community Council endorse this option.