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10.1.1

Peninsula Community Council
February 13, 2012

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY:

A handwritten signature in dark ink, appearing to read "Phil Townsend".

Phil Townsend, Director, Planning & Infrastructure

DATE: January 18, 2012

SUBJECT: Case 17108 Rezoning Lot H-1 on Windsor Street, Halifax

ORIGIN

Application by the W.M. Fares Group.

RECOMMENDATION

It is recommended that the Peninsula Community Council:

1. Give First Reading to the proposed rezoning of Lot H-1 on Windsor Street, Halifax, from the R-2 (General Residential) Zone to the R-3 (Multiple Dwelling) Zone to permit the development of a 43-unit residential building, as provided in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed rezoning of Lot H-1 on Windsor Street, Halifax, from the R-2 (General Residential) Zone to the R-3 (Multiple Dwelling) Zone, as provided in Attachment A of this report.

BACKGROUND

W.M. Fares Group has applied, on behalf of 3224829 Nova Scotia Limited, to rezone Lot H-1 located across from the Connolly Street intersection, identified by PID No. 41118258, on Windsor Street in Halifax, from the R-2 (General Residential) Zone to the R-3 (Multiple Dwelling) Zone to allow for a multi-unit residential building.

Proposal

This rezoning application is to construct/permit a 6-storey, 43-unit, residential building on the subject site. The development is proposed to be accessed by a driveway on Windsor Street that is opposite to the Connolly Street intersection, and will include 29 underground and 16 surface parking spaces.

History of Site, Location, Designation, Zoning and Surrounding Land Use:

- To assist with understanding of the current development activity on the subject property, a brief development history is provided in Attachment B.
- Lot H-1, Windsor Street is:
 - located on the north side of Windsor Street, between Connaught Avenue and Connolly Street, and opposite to the Connolly Street intersection (Map 1);
 - located in a predominantly residential neighbourhood;
 - vacant and approximately 44,500 square feet in area;
 - designated Residential Environments under the Halifax Municipal Planning Strategy (MPS) (Map 2);
 - zoned R-2 (General Residential) Zone under the Halifax Peninsula Land Use By-Law (LUB) (Map 1);
 - bounded by the R-2 (General Residential) Zone to the east and R-3 (Multiple Dwelling) Zone to the west; and
 - surrounded by concentrations of commercial uses along Strawberry Hill Street and on a block located on the south side of Windsor Street, between Connaught Avenue and Connolly Street (Map 1).

Caveat Agreements:

From the 1960s to 1980s, Halifax City Council considered many zoning changes that were deemed not in keeping with the planned future character of various areas in the City of Halifax. In order to allow special requested uses on certain properties, which are not permitted under the original zoning, Council agreed to permit zoning changes with special conditions drafted in a caveat, an agreement between the City and property owners. However, in 1978, the Supreme Court of Nova Scotia found

rezoning with caveat agreements to be beyond the power of municipalities and declared them to be null and void. Since then, caveats are considered without legal effect.

Halifax Municipal Planning Strategy (MPS) – Enabling Policy:

The Halifax MPS consists of criteria that allow the consideration of residential development through the rezoning process. Council may consider rezoning the subject property to the R-3 Zone according to Policies 2.1, 2.1.1, 2.2, 2.4 and 2.4.1, contained in the Halifax MPS and listed in Attachment B.

Halifax Peninsula Land Use By-Law (LUB) - Land Use Provisions:

Under the Halifax Peninsula LUB, certain types of permitted uses in the R-3 Zone are high density in nature and date back to the mid-1960s. The zone permits the following uses, subject to provisions detailed in Attachment C:

- R-1 (Single Family Dwelling), R-2 (General Residential) and R-2T (Townhouse) uses;
- boarding house;
- lodging or rooming house;
- apartment house;
- uses accessory to any of the foregoing uses;
- in any one building, one office for rendering professional or personal services;
- special care home;
- greenhouse;
- the office of a Consulate located in a single family dwelling; and
- day care facility.

DISCUSSION

Staff has reviewed the proposed rezoning with regard to relevant policies contained in the City-wide Objectives and Policies Section of the Halifax MPS (Attachment B). The Residential Environments Designation is intended to encourage the provision and maintenance of diverse and quality housing and residential development through retention, rehabilitation and infill that is compatible with existing neighbourhoods.

The following issues have been identified for more detailed discussion:

1) Parking Lot:

The existing parking lot on the site is considered a non-conforming use of land as it has been continuously used as such since the 1970s. Under Section 255 of the HRM Charter, *a non-conforming use of land may not be:*

- a) extended beyond the limits that the use legally occupies;*
- b) changed to any other use except a use permitted in the zone; or*

c) recommended if discontinued for a continuous period of six months.

Therefore, it should be noted that if Council approves the proposed rezoning and the development is built, the non-conforming status of the subject site will be lost.

2) Rezoning Impacts:

Under the current R-2 Zone, the subject property could be developed for medium density residential uses such as semi-detached or duplex dwellings, or buildings containing not more than four apartments.

The proposed rezoning to the R-3 Zone provides a reasonable and consistent response to the current land use arrangement, as the subject property is bounded by R-2 uses such as semi-detached and duplex dwellings to the east and higher density R-3 uses such as apartment buildings to the west. Therefore, should Council choose to consider the proposal, the R-3 Zone will reflect the medium to high density residential nature of the surrounding neighbourhood.

3) R-3 Zone Requirements:

The proposed development must comply with the R-3 Zone requirements as outlined in the Halifax Peninsula LUB (Attachment C). A review of the proposal, to build a 6-storey, 43-unit, residential building to the applicable zone provisions, is outlined as follows:

<u>Issue</u>	<u>R-3 Zone Requirements</u>	<u>Proposed</u>
Lot Area (min)	8,100 square feet	44,500 square feet
Frontage (min)	90 feet	272 feet
Setbacks (min)	10 feet	23 feet – 46 feet
Height	Determined by 60° and 80° Angle Controls	Angle Controls
Density	125 person per acre	128 person per acre
Open Space	120 square feet <i>(for each person occupying a dwelling unit containing two or more bedrooms)</i>	12,900 square feet
Parking	1 space per unit	43 spaces <i>(29 underground and 16 surface parking spaces)</i>
Bicycle Parking	0.5 space per unit	22 spaces

The proposed building meets or exceeds all of the above noted requirements of the R-3 Zone. It should be noted that if Council decides to entertain the rezoning proposal, once rezoned, the subject property can be developed subject to the provisions in the R-3 Zone and is not tied to this particular proposal.

Conclusion:

In Staff's opinion, the proposed rezoning is consistent with the relevant policies and the intent of the Halifax MPS as described above. Therefore, Staff recommends that the Peninsula Community Council approve the proposed rezoning as provided in Attachment A.

BUDGET IMPLICATIONS

The HRM cost associated with processing 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, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation. In accordance with Regional Council's Public Participation Program, a public information meeting was held on September 21, 2011. The minutes of the meeting are included as Attachment E.

Should Council decide to schedule a public hearing, property owners within the notification area as shown on Map 1 will be notified of the hearing by mail. Notices will also be published in the local newspaper and posted on the HRM website.

The proposed amendment and rezoning will potentially impact the following stakeholders: local residents, property owners, and community or neighbourhood organizations.

ALTERNATIVES

1. Council may choose to approve the proposed rezoning contained in Attachment A of this report. This is the recommended alternative.
2. Council may refuse the proposed rezoning, and in doing so, must provide reasons based on a conflict with the MPS policies.

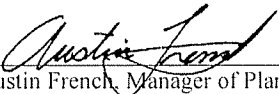
ATTACHMENTS

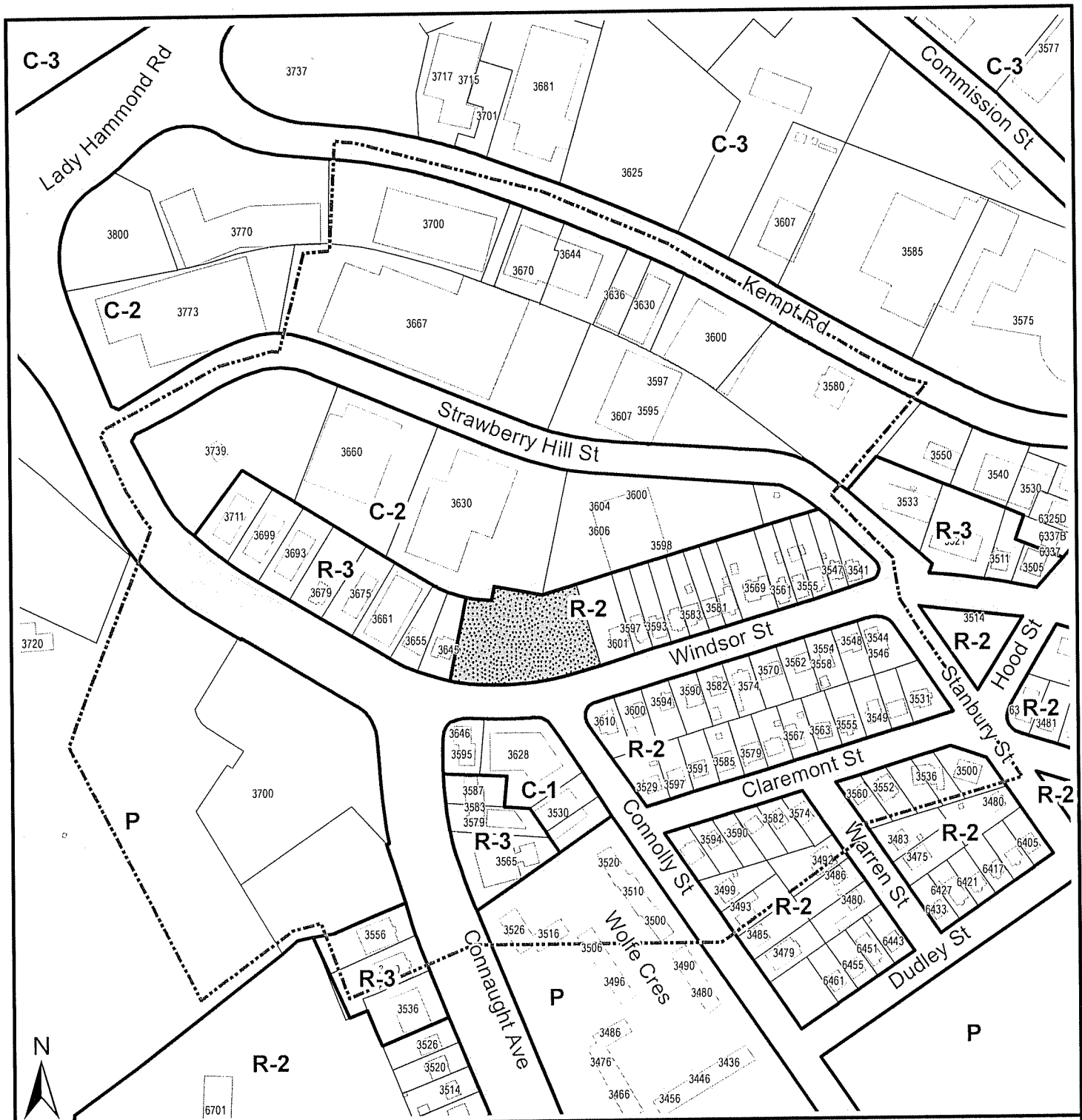
Map 1	Location, Zoning and Notification Area
Map 2	Generalized Future Land Use
Attachment A	Proposed Amendments to the Halifax Peninsula LUB
• Schedule A	Area to be Rezoned
Attachment B	History of Subject Property
Attachment C	Review of Relevant Halifax MPS Policies
Attachment D	Excerpt from the Halifax Peninsula LUB
Attachment E	Public Information Meeting Minutes – September 21, 2011

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: Dali H. Salih, Planner I, Planning Services, 490-1948

Report Approved by:


Austin French, Manager of Planning Services, 490-6717



Map 1 - Location and Zoning

Windsor Street near Connolly Street
Halifax

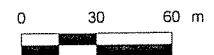
-  Subject area
-  Area of notification

Halifax Peninsula
Land Use By-Law Area

Zone

- R-2 General Residential
- R-3 Multiple Dwelling
- C-1 Local Business
- C-2 General Business
- C-3 Industrial
- P Park and Institutional

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This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated

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



Map 2 - Generalized Future Land Use

Windsor Street near Connolly Street
Halifax

 Subject area

Designation

RES	Residential Environments
COMM	Commercial
IND	Industrial
INST	Institutional
OPEN	Major Community Open Space

Halifax Plan Area

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This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated

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ATTACHMENT A:
Proposed Amendments to the Halifax Peninsula Land Use Bylaw

BE IT ENACTED by the Peninsula Community Council of the Halifax Regional Municipality that the Halifax Peninsula Land Use By-law, as amended, is hereby further amended as follows:

1. Amend zoning map, **ZM-1**, by rezoning the Lot H-1 located on Windsor Street in Halifax, identified by PID No. 41118258, from the R-2 (General Residential) Zone to the R-3 (Multiple Dwelling) Zone, as shown on Schedule A attached.

I HEREBY CERTIFY that the amendments to the Peninsula Land Use Bylaw for Halifax, as set out above, were passed by a majority vote of the Peninsula Community Council of the Halifax Regional Municipality at a meeting held on the day of _____, _____.

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

Municipal Clerk



Schedule A

Windsor Street near Connolly Street
Halifax

 Area to be rezoned from
R-2 (General Residential)
to R-3 (Multiple Dwelling)

Halifax Peninsula
Land Use By-Law Area

Zone

R-2	General Residential
R-3	Multiple Dwelling
C-1	Local Business
C-2	General Business
P	Park and Institutional

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PLANNING SERVICES

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area indicated

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ATTACHMENT B:
History of Subject Property

A brief history of the current development activity on the subject property is provided as follows:

- In 1971, the commercial buildings occupying 3630 Strawberry Hill Street were acquired by the Nova Scotia Liquor Commission (NSLC) and municipal permits were issued for retail and additional warehouse uses.
- In 1975, the Halifax City Council approved rezoning the subject property from the R-2 (General Residential) Zone to the C-2 (General Business) Zone at the request of the developer, Halifax Commercial Park Leaseholds Limited (HCPL), in order to expand the parking lot for the Nova Scotia Liquor Commission outlet on Strawberry Hill Street. The proposal was approved with special conditions, which required the property owner to sign a caveat agreement between the City of Halifax and HCPL. The agreement, dated February 10, 1976, restricted the use of the property to a parking lot, and permitted the property to revert back to the R-2 Zone if the parking lot use ceased or the property is sold.
- In September, 1979, a Municipal Development Plan (MDP) Amendment was approved by City Council to change the future land use designation of the subject property from 'Commercial Facilities' Designation to the 'Residential Environments' Designation. This application was initiated by the City of Halifax as a result of a planning program aimed to resolve specific land use conflicts in various parts of Halifax. It should be noted that the property owner did not object to the MDP Amendment and preferred to let the caveat agreement stand instead of including additional terms to the agreement.
- As the MDP Amendment resulted in re-designating the subject property to Residential Environments, it was deemed appropriate to rezone it from the C-2 (General Commercial) Zone to the R-2 (General Residential) Zone. The rezoning was approved in November, 1979 and as a result, the parking lot became a non-conforming use. It was permitted to continue as provided by the Planning Act (now HRM Charter).
- In 1990, the building and site were occupied by the Department of Government Services for a short time lease, which continued to use the site for parking for approximately one year.
- The site was continuously used as a parking lot for various commercial operations that consisted of offices and warehouses from 1991 to 2004.
- In 2004, Lot H-1 was subdivided from 3630 Strawberry Hill Street (Map 1) and was used by many car dealerships to park and store additional vehicles.

ATTACHMENT C:
Review of Relevant Halifax Municipal Planning Strategy (MPS) Policies

The request is consistent with Policies 2.1, 2.1.1, 2.2, 2.4 and 2.4.1 in Section II of City-wide Objectives and Policies under the Residential Environments Designation of the Halifax Municipal Planning Strategy (MPS). Findings that support this position are as follows:

Policy	Staff Comments
Policy 2.1: <i>Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.</i>	The subject property is located in a stable mixed use neighbourhood, which comprises of medium and high density residential and commercial uses. The property is bounded by R-2 (General Residential) uses to the east and R-3 (Multiple Dwelling) uses to the west. Staff believe that the rezoning proposal is consistent with Policies 2.1, 2.1.1 and 2.2 as the integrity of existing residential neighbourhoods will be maintained.
Policy 2.1.1: <i>On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhood; and the City shall develop the means to do this through the detailed are planning process.</i>	
Policy 2.2: <i>The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i>	

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

Policy 2.4.1: *Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.*

- The R-3 Zone allows an “apartment house” to be constructed to a larger scale than a single unit dwelling (R-1 use), considering that the height in the R-3 Zone is determined through angle control provisions in the Halifax Peninsula LUB. The proposal meets the requirements of the R-3 Zone, through the 60° and 80° angle controls, such as building size and open spaces.
- No new principle streets are proposed

Zoning Implementation Policies

	Staff Comments
Policy 3.1: <i>Repealed 6 June 1990</i> Policy 3.1.1: <i>The City shall review all applications to amend the zoning by-laws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.</i>	These policies do not apply to the subject property as they are intended to focus on ‘soft areas’ located outside areas designated for detailed planning (Schedule II.1).
Policy 3.2: <i>For those areas identified in Section II, Policy 2.5.2 of this Plan, the City shall, pursuant to the authority of Section 33(2)(b) of the Planning Act, establish such development control regulations as are necessary to implement the policies of this Plan.</i>	

ATTACHMENT D:
Excerpt from the Halifax Peninsula Land Use Bylaw

R-3 (Multiple Dwelling) Zone

44(1) The following uses shall be permitted in any R-3 Zone:

- (a) R-1 and R-2 and R-2T uses;
- (aa) R-2A uses in "**South End Area**";
- (b) boarding house;
- (c) lodging or rooming house;
- (d) apartment house;
- (e) uses accessory to any of the foregoing uses, if not specifically prohibited;

OTHER USES:

- (f) in any one building one office for rendering professional or personal services, provided that the net area for such purposes does not exceed 700 square feet;
- (g) special care home;
- (h) greenhouse;
- (i) the office of a Consulate located in a single family dwelling provided such dwelling is used by the Consulate as his private residence;
- (ia) **day care facility; (RC- Mar 3/09; E - Mar 21/09)**
- (ib) parking lots and parking structures existing on the date of adoption of this Section, in Area 8 of the "**Peninsula North Area**".

COMMERCIAL USES:

One each of the following uses only if located in an apartment house which contains not less than one hundred self-contained dwelling units and located in "**Schedule B**";

- (j) Section, in Area 8 of the "**Peninsula North Area**".
- (k) retail foodstuff store of not more than 600 square feet;

One each of the following uses only if located in an apartment house which contains not less than one hundred self-contained dwelling units and which is erected on a lot of more than one acre:

- (l) restaurant of not more than 900 square feet of dining area, exclusive of kitchen, storage, washroom, staff areas, and the like;
- (m) barber shop;
- (n) beauty parlour;
- (o) dry cleaning distribution station;
- (p) valet service;
- (q) restaurant;
- (r) florist shop;
- (s) newsstand;
- (t) health club;

- (u) coin-operated vending machines;
- (v) retail foodstuff store of not more than 600 square feet;

Provided that:

- (i) these uses shall be for the exclusive use of the residents of such apartment house or their guests;
- (ii) there shall be no advertising or identification of the uses on the outside of the building;
- (iii) there shall be no visible indication from the exterior of the building that the commercial uses described in this section are carried on;
- (iv) there shall be no direct access from the exterior of the building to any of the commercial uses described in this section other than emergency access places in case of fire.

44(2) No person shall in any R-3 Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).

44(3) No person shall in any R-3 Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

DISPLAY WINDOW

44(4) Where any building is used in an R-3 Zone for any of the purposes described in clause (f) of subsection (1) of this section, no display window shall be permitted, nor shall any evidence of the use of such building for such purposes be visible from the exterior of such building; PROVIDED, however, that nothing contained herein shall prohibit the display of a sign not exceeding one square foot in area, which bears the name and profession as set forth in clause (f) of subsection (1) of this section, of any person occupying such building.

SOUTH END

44A Notwithstanding the provisions of subsections 44(1) and 44(4), an apartment house in the "**South End Area**", and which contains 100 or more self-contained dwelling units may include those commercial uses which are permitted in Section 59A(1), except a bowling alley, a motion picture theatre and a service station, provided that such uses are located on the ground floor of the apartment house and are separately accessible from the building exterior.

SIGNS/ADVERTISING

44B Exterior advertising of the commercial uses described in Section 44A shall be permitted, provided that such advertising is non-illuminated.

UNIT MIX

44C An apartment house in the "**South End Area**" shall, of the total amount of dwelling units, be required to include at least one dwelling unit of a minimum of 800 square feet in floor area for every three dwelling units, each of which is less than 800 square feet in floor area.

- 44D An apartment house in the "**Peninsula Centre Area**" area shall, of the total amount of dwelling units, be required to include at least one dwelling unit of a minimum of 800 square feet in floor area for every two dwelling units, each of which is less than 800 square feet.

SPECIAL PARKING

- 44E Notwithstanding any other provision of this by-law, an apartment house in the "**South End**" and "**Peninsula Centre Areas**", shall be required to provide one parking space for each dwelling unit which is 800 square feet or greater, and one parking space for every two dwelling units, each of which is less than 800 square feet.
- 44F A lot which abuts a street at more than one location or which abuts two or more streets shall not be used for R-3 uses in the "**South End Area**", except for corner lots which abut at least two streets on a continuous uninterrupted line. For greater certainty, a corner lot may be subdivided and developed for R-3 uses in accordance with the requirements of this by-law, notwithstanding that a through lot may be created.

R-1, R-2, AND R-2T USES IN R-3 ZONE

- 45 Buildings erected, altered, or used for R-1, R-2 and R-2T uses in an R-3 Zone shall comply with the requirements of their respective zones.
- 45(2) Buildings erected, altered or used for R-2A uses in an R-3 Zone in the "**South End Area**" shall comply with the requirements of the R-2A Zone with the exception of Sections 43AD (vii) and viii), 43AE and 43AG.

SIGNS

- 46(1) No person shall erect or display any billboard or illuminated sign in an R-3 Zone.
- 46(2) A non-illuminated sign may be erected in an R-3 Zone if, in the opinion of the Inspector of Buildings, such sign is of reasonable proportion and will not constitute a hazard to the public or a nuisance to the owners of the property in the area.
- 47 Where any building is erected or altered or used for R-3 uses in an R-3 Zone, such building shall comply with the following requirements:

MINIMUM LOT AREA

- 47(1) (a) The minimum lot area upon which such building is located shall be 8,100 square feet with a minimum continuous street frontage of at least 90 feet on one street;
- (b) (Deleted)

DISTANCE FROM LOT LINE – 80 Degree ANGLE

- 47(2) (a) The distance from any part of such building and any official street line or lines abutting upon such lot shall be no less than 20 feet measured at right angles to any such official street line or lines; provided, however, that such distance may be reduced to not less than 10 feet measured at right angles to any such official street line or lines

if that part of the building which is less than 20 feet from any such official street line or lines is entirely contained within the arms of an 80 degree horizontal angle as determined in subsection (3) of this section.

- (b) The distance from any part of such building and any lot line of such lot other than an official street line shall be not less than 10 feet measured at right angles to such lot line.
- (c) All windows and doors serving habitable rooms in such building shall be located not less than 10 feet from any lot line of such lot measured at right angles to such lot line.
- (d) Notwithstanding the provisions of clauses (a) and (b) of this subsection, the distance from any part of such building, not containing any windows or doors serving habitable rooms, to any official street line or lot line, may be less than the distance prescribed in said clauses (a) and (b) or may extend to any such official street line or lot line of the lot upon which such building is located, provided that:
 - (i) the height of such part of the building does not exceed 5 feet above the natural ground level measured at any point on any official street line abutting such lot and extending for a horizontal distance of 10 feet measured at right angles to any such official street line;
 - (ii) the height of such part of the building does not exceed 5 feet above the natural ground level measured at any point on any lot line of such lot other than an official street line; and
 - (iii) the building is so designed that it does not interfere with traffic safety.
- (e) (Deleted)

SIZE OF BUILDING – 60 Degree ANGLE

- 47(3) (a) Subject to the provisions of subsection (2), such building or any part thereof shall not project beyond the angular planes determined by constructing such angular planes over such lot
- (i) from each lot line at natural or finished ground level, whichever is the lower, at a vertical angle of 60 degrees above the horizontal and measured perpendicular to such lot line or, in the case of a curved lot line, perpendicular to the tangents of all points of such lot line; provided, however, that where the natural ground at the lot line is more than 5 feet above the finished ground level established at any point on the wall opposite the lot line and where the horizontal distance to the face of any part of such wall or its vertical projection is less than 50 feet, the angular planes shall be constructed over the lot from all points on the intersections of the vertical projections of the lot line and the horizontal projection of the finished ground level; or
 - (ii) in the case where a lot line of such lot coincides with an official street line, from the center line of such street or from any intervening line parallel to such center line; provided, however, that
 - (A) the distance from the line on which the plane is constructed and the lot line does not exceed 30 feet; and

- (B) the vertical angle of 60 degrees is constructed perpendicular to the line on which the plane is constructed or, in the case of a curved line, perpendicular to the tangents of all points of the curved line.
- (b) Notwithstanding the provisions of clause (a) of this subsection and subject to the provisions of subsection (2), any part of such building may project beyond any prescribed 60 degree angular plane if:
 - (i) the projection through the plane subtends a horizontal angle not exceeding 80 degrees formed by lines drawn from a point on the line on which the 60 degree angular plane is constructed opposite to the center of the projection; and
 - (ii) the extremities of the projection are enclosed by the arms of such 80 degree horizontal angle.

DISTANCE BETWEEN EXTERNAL WALLS – 85 Degree ANGLE

47(4) (a) For the purposes of this subsection:

- (i) "base line" means, in the case of a wall rising from the ground, the natural or finished level of the ground adjoining the base of the wall, whichever is lower, and in all other cases means the lowest line of the wall above the natural or finished level of the ground, whichever is lower;
- (ii) a wall supported by construction above posts, pillars, or other open construction shall be deemed to rise from the ground and the base line of the wall shall be deemed to be the line on which the projection downward of the face of the wall meets the natural or finished level of the ground, whichever is lower;
- (iii) where external walls are not parallel to each other but the angle of divergence does not exceed 85 degrees, such walls shall be deemed to face each other.

65 Degree ANGLE

- (b) The provisions of this subsection (4) shall only apply if any part of such building is erected within the arms of horizontal angles of 65 degrees constructed outwards at the natural level of the ground, from the nearest extremities of external walls that face each other; provided, however, that where the two extremities of one such wall are, respectively, equidistant from the opposite extremities of the other wall or where the two extremities of one wall are equidistant from the nearest extremity of the other wall, the 65 degree horizontal angle may be constructed from either pair of equidistant extremities.

40 Degree ANGLE

- (c) The distance between any external walls of such building that face each other shall be not less than 50 feet, and any part of such building shall not project beyond any of the angular planes determined by constructing such angular planes outwards from the base line of each such external facing wall of each part of such building at a vertical angle of 40 degrees above the horizontal and measured perpendicular to such base line or, in the case of a curved base line, perpendicular to the tangents of all points of such curved base line.

- (d) Where two external walls of such building face each other and neither wall contains any door or window serving a habitable room, the provisions of clause (c) of this subsection shall not apply but the distance between such walls shall not be less than six feet.

BALCONIES, CORNICES, EAVES, AND CANOPIES

47(5) Notwithstanding the provisions of subsections (3) and (4) of this section, separate individual balconies, which are open on three sides, cornices, eaves, and canopies may project through the angular planes as determined in such subsections; provided, however, that any part of such projection shall be not less than 10 feet from any lot line of such lot.

48 Where any building is erected, altered, or used as a **boarding house, lodging or rooming house, an apartment house or special care home** in an R-3 Zone, such building, in addition to the requirements hereinbefore set out in Section 47, shall comply with the following requirements:

POPULATION DENSITY

48(1) The population density of such building shall not exceed:

- (a) 250 persons per acre if located in "**Schedule A**"; and
- (b) 125 persons per acre if located in an area other than that described in Schedule "A".

OPEN SPACE

48(2) (a) The lot upon which such building is located shall contain a minimum of:

- (i) 120 square feet of open space for each person occupying such building in a dwelling unit containing two or more bedrooms, of which at least 100 square feet shall be landscaped open space; and
- (ii) 80 square feet of open space for each person residing within such building in a dwelling unit containing one bedroom, of which at least 70 square feet shall be landscaped open space; and
- (iii) 50 square feet of landscaped open space for each person residing within such building in a bachelor unit if located in "**Schedule B**"; and
- (iv) 80 square feet of open space, of which at least 70 square feet shall be landscaped open space, for each person residing within such building in a bachelor unit if located within an area other than "**Schedule B**".

(b) The occupancy of such building shall be calculated on the basis of one person for each habitable room contained therein.

(c) For the purpose of this subsection, the roof, or any portion thereof, of any part of such building that has no residential accommodation included below such roof or portion thereof may be calculated as landscaped open space; provided that:

- (i) no part of such roof is more than 5 feet above the ground level of at least one lot line of such lot; and
- (ii) such roof, or portion thereof, is capable of being used as landscaped open space.

(d) Notwithstanding the provisions of Subsection 48(2)(c) above, a maximum of 40% of the landscaped open space requirement for dwelling units containing two or more bedrooms may be transferred to the building rooftop, including rooftops greater than 5 feet above the ground level; provided that:

- (i) the rooftop landscaped open space is contiguous and not less than 600 square feet (56 m²) in area; and
- (ii) the rooftop landscaped open space is fully accessible for the common use of the occupants of the building. (PCC-April14/08; E-May 5/08)

OPEN SPACE FOR SPECIAL CARE HOME

48A A minimum of 35 percent of the lot area of any lot on which a building is erected, altered or used as a special care home, shall consist of landscaped open space.

ATTACHMENT E:
Public Information Meeting Minutes - Wednesday, September 21, 2011

7:00 p.m.
HRM's Bayers Road Office, Halifax

IN ATTENDANCE: Dali Salih, Planner, HRM Planning Services
Hilary Campbell, Planning Technician, HRM Planning Services
Sharlene Seaman, Planning Controller, HRM Planning Services
Councillor Jerry Blumenthal
Councillor Jennifer Watts

ALSO IN ATTENDANCE: Cesar Saleh, W.M. Fares Group, Applicant

PUBLIC IN ATTENDANCE: Approximately 6

1. Opening remarks/Introductions/Purpose of meeting – Dali Salih

Dali Salih opened the meeting by introducing herself as a Planner for the Western Region with Halifax Regional Municipality (HRM). She introduced HRM staff, the Councillors present and the applicant. She welcomed everyone and thanked them for coming.

She stated that the reason for the meeting was to review case # 17108; an application by W.M. Fares on behalf of 3224829 Nova Scotia Limited for the rezoning of a property located on Windsor Street, from the R-2 (General Residential) zone to the R-3 (Multiple Dwelling) zone to allow for a 43-unit apartment building. She noted that the purpose of the meeting was to explain the planning process and for the applicant to give a presentation of the proposal. She stated that this is also an opportunity for the public to ask questions and give feedback concerning the application.

2. Overview of proposal/planning process – Dali Salih

Ms. Salih stated that the HRM Planning Department has received an application to rezone the vacant parcel of land (H-1) located across from the intersection of Connolly Street and Windsor Street, Halifax from R-2 to R-3 to allow for a 43-unit apartment building. She showed the subject property using a map and an aerial view, noting that it was in a predominantly residential neighborhood. The site is approximately 44,500 square feet in area. Records show that the property was subdivided in 2004 from 3630 Strawberry Hill Street, Halifax, which is located to the North of the subject area. Prior to subdivision, the northern part of the property was

developed in 1969 as a commercial use that consisted of offices and warehouses. Then in 1971, the buildings were acquired by the Nova Scotia Liquor Commission and redeveloped for retail and warehouse uses. It was used as a parking lot for quite a long time.

She stated that the proposal consists of constructing a 43-unit apartment building which will be served by a driveway on Windsor Street that is approximately opposite the Connolly Street intersection, and will consist of 29 underground and 16 surface parking spaces.

She noted that the property is currently zoned R-2 under the Halifax Peninsula Land Use By-law. It is bounded by the R-2 Zone to the east, R-3 Zone to the west. It also has a C-2 (General Business) Zone to the north and a combination of different zones, such as P (Park and Institutional), C-1 (Local Business) and both R-2 Zone and R-3 Zone to the south. She explained the permitted land uses for all of the zones, using a chart.

Ms. Salih stated that the property is designated Residential Environments under the Halifax Municipal Planning Strategy (MPS), which provides policy that enables Council to consider the proposal. Policies of the Halifax MPS promote maintaining the integrity and the stability of the existing residential neighborhoods; and encourage retaining their scale, intensity and character, especially when considering future residential development on the Peninsula. Policies 2.2, 2.4 and 2.4.1 enable Council to consider the rezoning.

She stated that in terms of the planning process, all planning processes, including the rezoning process, start with an application. Staff does an initial review, to ensure that there is some level of policy support, and then a public information meeting (PIM) is held. Staff will gather feedback from the public, comments from other HRM departments and compare that information with what the MPS states. Along with the minutes, there will be a staff report that either recommends Council approve or refuse the proposal. The report will go to Peninsula Community Council (PCC), with a recommendation. Peninsula Community Council will then schedule a public hearing (PH). The public hearing is yet another opportunity for the public to give comment. Written submissions can be sent to the Municipal Clerk's office in advance of the hearing. After the public hearing, Council will make their decision, based on the staff recommendation and the public hearing. Whether they approve or refuse it, there is an appeal period, during which the decision can be appealed to the Nova Scotia Utility and Review Board (NSURB).

She passed the floor to the applicant, Cesar Saleh, for information on the proposal.

3. Presentation of Proposal - Cesar Saleh

Cesar Salah introduced himself as a professional engineer with W.M. Fares, engineering, design and planning company. They are representing the client with this application. He gave some examples of the company's high end multi residential projects. He thanked everyone for coming to the meeting. He showed some pictures of commercial, residential and hospitality projects by W.M. Fares.

He noted that the subject property is located on Windsor Street. The proposal is for a multi-use residential that may become an apartment building or a condominium depending on

marketability. The owners have developed both types and with the quality of the building, it could go either way. He showed the location and stated that the area is about 37,000 square feet. It is surrounded by various zones. The proposed site has access off Windsor, across the street from Connolly Street. They put the parking towards the back so the front street scape would look nice. All parking would be underground or behind the building. There are 45 parking spots proposed but that may change depending on if it is to be built as an apartment building or a condominium. If it is a condominium building, there has to be a ratio of 1 underground parking space per every 1 unit in the building.

He showed the site plan and advised that bicycle parking will be available. The front setback is 42 feet from the street as there are some beautiful trees on the property. This adds value to the building. He showed different perspective and 3D images to appreciate the relationship of the building and the surrounding area. It is a multi-unit residential building containing 43, 2 bedroom units. The building consists of six (6) stories, where the fifth and sixth levels step back 40 feet from neighboring R-2 properties. He stated that they would be using materials and ideas such as; Stone, fiber cement board, hardy plank siding, composite metal, glass, aluminum railing for the round balconies, punched windows and glass stairwells for better lighting.

He showed views for different elevations and levels of the building. The site area is approximately 36,000 square feet. The building area is 10,530 square feet. The landscape open space is 38 percent coverage and the building itself covers 28 percent of the lot.

Dali Salih opened the floor for questions and comments.

4. Questions/Comments

Doris White, Halifax asked if this building would be considered to be of higher quality than the other apartment buildings in the area. Secondly, she asked about the traffic issues.

Ms. Salih advised that a Traffic Impact Statement was submitted by the applicant and is available online. It was reviewed by HRM's Engineering Department and the Department of Transportation (TIR). It was deemed satisfactory.

Cesar Saleh stated that he is aware of the other apartment buildings in the area. He noted that the development will speak for itself. He feels that Windsor Street is an important street and that this development will set precedence for the area as it is a higher quality building.

Janet Stevenson, Halifax supports increasing development but is concerned about the driveway entrance being directly across from Connolly Street. She wanted to know why they decided to place the driveway there.

Ms. Salih stated that she can forward the Traffic Impact Statement to her as it would answer her question.

Mr. Saleh stated that the driveway is required to be there as per the Traffic Impact Statement. The statement describes the traffic volume generated from the building. It also states that the driveway doesn't cause conflict with other drivers. The location is actually a positive thing.

Ms. Stevenson asked if the Connolly Street patrons will be allowed to go directly across to the building or if it will be a no entrance from that street. She also asked how that will effect on street parking.

Mr. Saleh stated that he does not know the answer but he will look into it.

Ms. Stevenson asked if there was any coordination with Metro Transit concerning bus routes.

Mr. Saleh stated that there is an existing bus stop near the subject property.

Ms. Stevenson noted that she does not support large parking areas in developments. She would like to move away from that because the use of single vehicles should not be encouraged.

Dale Smith, Halifax expressed concern for parking spaces for visitors. He asked how many will be available.

Mr. Saleh stated that there are currently 4 spots for visitors but the parking plan has not been finalized. If it becomes a condominium, there will have to be a ratio of 1 space per unit underground. With that arrangement, there will be 16 outside spaces. He feels that it can be reduced and some could be landscaped as 16 parking spaces are not required.

Mr. Smith is worried about having not enough visitors parking and having people parking in front of homes on the street.

Mr. Saleh stated that it has to be a balance of too much or not enough parking. The Land Use By-law states that there has to be a minimum of 1 space per unit. Building parking spaces comes at an environmental cost so they will do what they can to see something that is more appeasing.

Shane Findley, Halifax asked what determines if the project will be an apartment building or a condominium.

Mr. Saleh stated that the final decision will come from the owner. It depends on the marketability.

5. Closing comments

Ms. Salih asked for any other questions, gave her contact information and thanked everyone for attending the meeting.

6. Adjournment

The meeting adjourned at approximately 7:40 p.m.