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Halifax and West Community Council
February 4, 2013

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed

Brad Anguish, Director, Community and Recreation Services

DATE: January 23, 2013

SUBJECT: Case 17973: Rezoning - 485 Herring Cove Road, Halifax

ORIGIN

Application by BANC Properties Limited

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter; Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council

1. Give First Reading to the proposed rezoning of 485 Herring Cove Road, Halifax, from the R-4 (Multiple Dwelling) Zone to the P (Park and Institutional) Zone, as contained in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed rezoning of 485 Herring Cove Road, Halifax, from the R-4 (Multiple Dwelling) Zone to the P (Park and Institutional) Zone, as contained in Attachment A of this report.

BACKGROUND

The applicant, BANC Properties Limited, has requested that the property at 485 Herring Cove Road, Halifax, be rezoned to the P (Park and Institutional) Zone, from the R-4 (Multiple Dwelling) Zone. The property owner would like to develop the property for a non-profit thrift store and associated offices; however, the current zoning does not permit such a use.

Location

The subject property is located at the corner of Herring Cove Road and Auburn Avenue in the community of Spryfield (see Map 1). The site is surrounded by mainly residential properties, however, there are some commercial properties located along Herring Cove Road and a church is located on Auburn Drive, on the block south-west of the property. The property is vacant and was previously recently occupied by a gas station which was demolished in 2009.

Designation and Zoning

The property is designated High Density Residential in the Mainland South Secondary Plan of the Municipal Planning Strategy for Halifax (MPS). The property is currently zoned R-4 (Multiple Dwelling) in the Land Use By-law (LUB) for Halifax Mainland. The R-4 Zone (Attachment C) permits a variety of residential uses ranging from single unit dwelling to apartment houses, some commercial uses and recreational uses. The P Zone (Attachment B) permits a variety of institutional uses including a store for the sale or provision of donated merchandise in combination with offices or facilities of a non-profit organization.

Enabling Policy

Policy 3.3.1 (see Attachment D) of the Mainland South Secondary Plan provides Council with the ability to consider applying the P Zone throughout the Mainland South Secondary Plan Area.

DISCUSSION

The institutional policies of the MPS enable the consideration of rezoning any property within the Mainland South Secondary Plan to the P Zone, regardless of its designation on the Generalized Future Land Use Map. These policies contain criteria for Council to consider when evaluating a proposal of this nature. Attachment D contains staff's evaluation of the proposed rezoning in relation to these applicable policies. The following issue is being highlighted for more detailed discussion.

Compatibility with Surrounding Neighbourhood

One of the key considerations when reviewing an application for rezoning a property to the P Zone is whether the proposed land uses would be compatible with the existing neighbourhood. The subject property is located on the corner of Herring Cove Road and Auburn Drive. Herring Cove Road is a 4 lane arterial street and consists of a mix of residential and commercial uses. Multiple unit dwellings and minor commercial uses surround the subject property along Herring Cove Road and are permitted now on the property. Auburn Drive is a residential local street and uses are mainly low density residential.

The applicant has indicated that the proposed use is for a thrift store and offices associated with a non-profit organization. Due to the location of the subject property fronting on a high volume street and its proximity to a low density residential neighbourhood, this type of use is considered appropriate for this location. However, it is important to note that this application is for a rezoning and not a development agreement. The P Zone permits a variety of park and institutional uses including public parks, recreation areas, schools, churches and daycare facilities. If the proposed rezoning is approved by Community Council, the property owner would be permitted to develop the property for any use permitted, provided the requirements of the P Zone are satisfied. Staff is of the opinion that institutional uses permitted in the P Zone would be considered appropriate and compatible with the abutting neighbourhood.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2012/13 operating budget for C310 Planning & Applications.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

The level of community engagement was information sharing, achieved through notices posted on the HRM website, and mailed to property owners within the notification area as shown on Map 2.

A public hearing has to be held by Council before they can consider approval of the proposed rezoning. Should Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area, as shown on Map 2, will be notified of the hearing by regular mail.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all applicable environmental policies contained in the Halifax MPS. Please refer to the Discussion section of this report for further information.

ALTERNATIVES

1. Council may choose to approve the proposed rezoning as set out in Attachment A. This is the staff recommendation.
2. Council may choose to refuse the proposed rezoning as set out in Attachment A, and in doing so, must provide reasons based on a conflict with MPS policies.

ATTACHMENTS

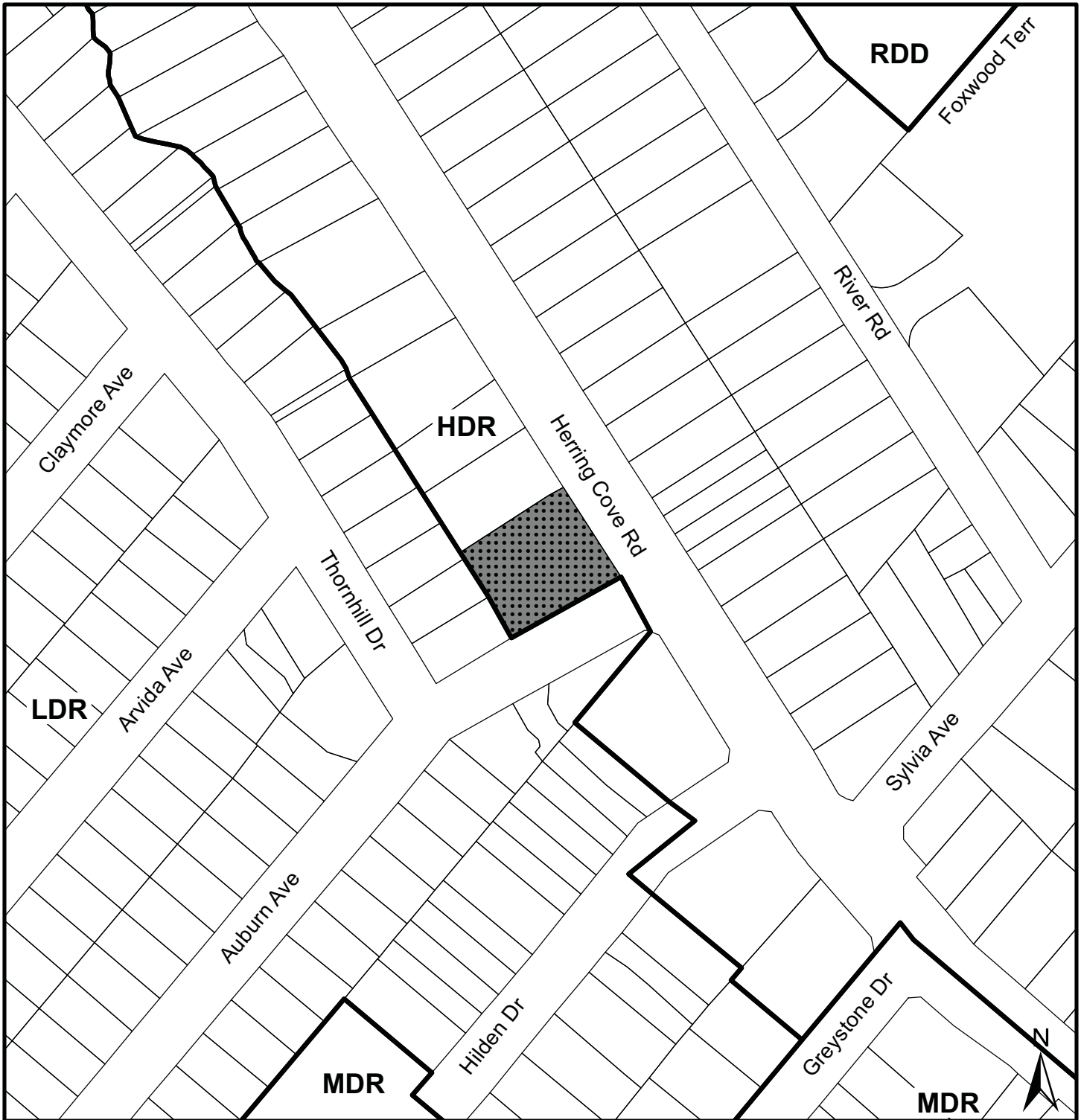
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|--------------|--|
| Map 1 | Generalized Future Land Use Map |
| Map 2 | Location and Zoning |
| Attachment A | Proposed Amendments to the Land Use By-law for Halifax Mainland |
| Attachment B | P Zone Excerpt from the Land Use By-law for Halifax Mainland |
| Attachment C | R-4 Zone Excerpt from the Land Use By-law for Halifax Mainland |
| Attachment D | Review of Relevant Policies from Municipal Planning Strategy for Halifax |

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: Jillian MacLellan, Planner 1, Planning Services, 490-4423


Original Signed 


Report Approved by:  Kelly Denty, Manager of Development Approvals, 490-4800



Map 1 - Generalized Future Land Use

485 Herring Cove Road
Halifax

 Area proposed to be rezoned from R-4 (Multiple Dwelling) to P (Park and Institutional)

 Area of notification

Halifax Plan Area
Mainland South Secondary Plan Area

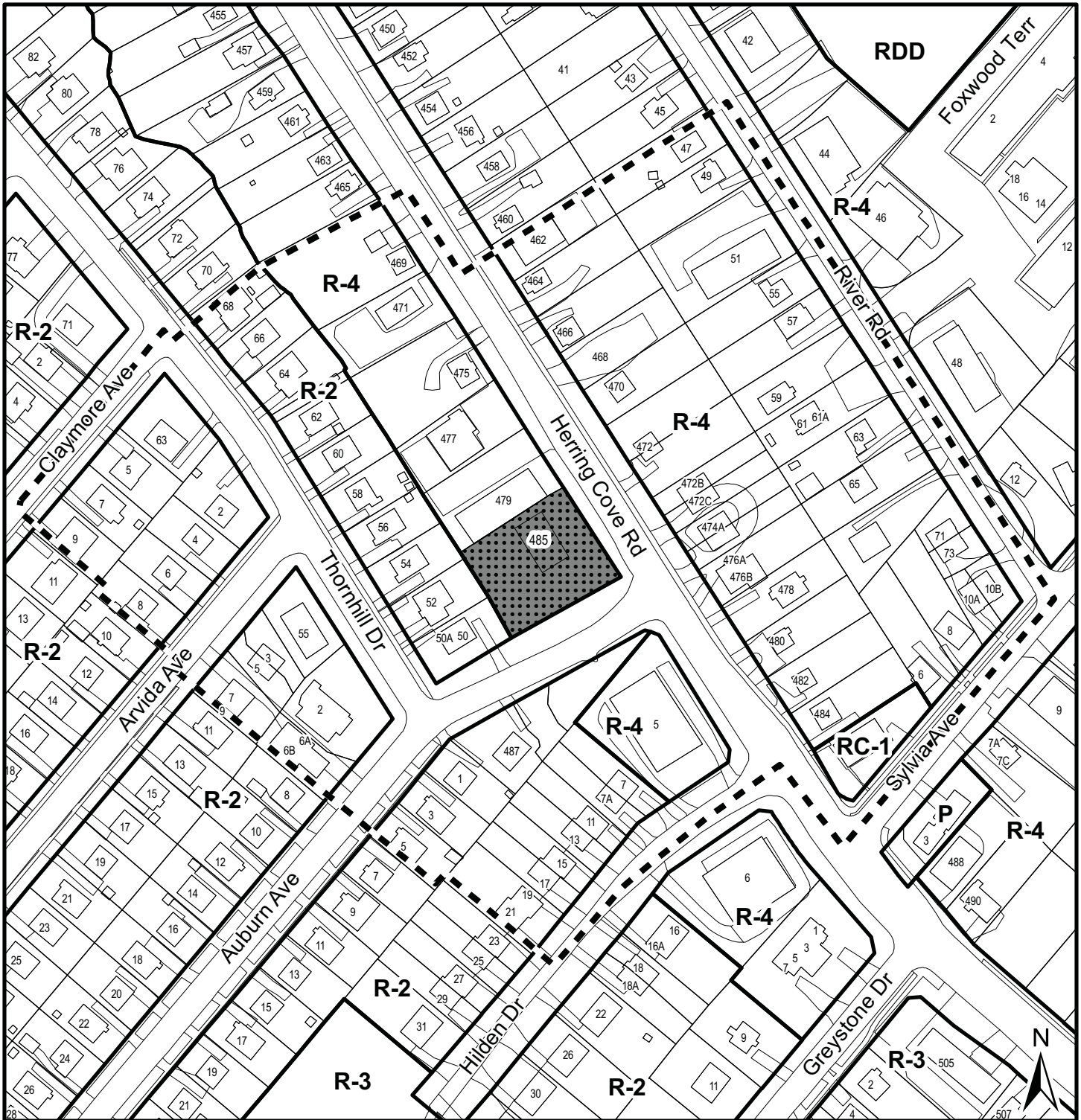
Designation

- LDR Low Density Residential
- MDR Medium Density Residential
- HDR High Density Residential
- RDD Residential Development District




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


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



Map 2 - Zoning and Notification

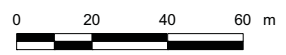
485 Herring Cove Road
Halifax

 Area proposed to be rezoned from R-4 (Multiple Dwelling) to P (Park and Institutional)

 Area of notification

Halifax Mainland
Land Use By-Law Area

| Zone | |
|------|----------------------------------|
| R-2 | Two Family Dwelling |
| R-3 | Low-Rise Apartment |
| R-4 | Multiple Dwelling |
| RC-1 | Neighbourhood Commercial |
| P | Park and Institutional |
| RDD | Residential Development District |



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Attachment A:
Proposed Amendments to the Halifax Mainland Land Use By-law

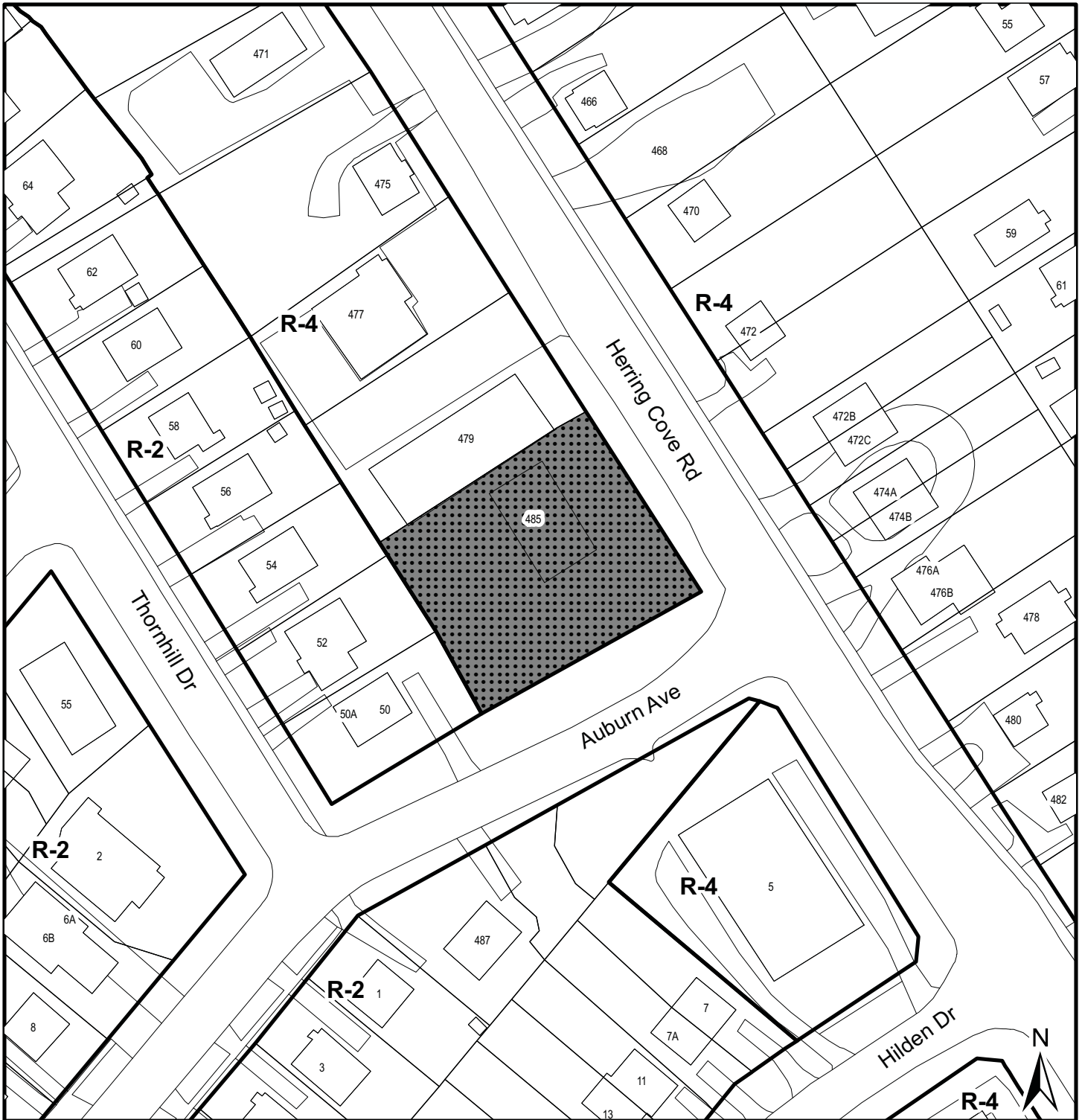
BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland, as amended, is hereby further amended as follows:

1. Map ZM-1 (Halifax Zoning Map) is further amended by rezoning 485 Herring Cove Road from the R-4 (Multiple Dwelling) Zone to the P (Park and Institutional) Zone as shown on Schedule A.

I HEREBY CERTIFY that the amendments to the Land Use By-law for the Halifax Mainland as set out above, were passed by a majority vote of the Halifax and West Community Council of the Halifax Regional Municipality at a meeting held on the _____ day of _____, 2013.


GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this _____ day of _____, 2013.

Municipal Clerk



Schedule A

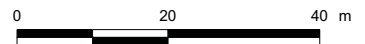
485 Herring Cove Road
Halifax

 Area to be rezoned
from R-4 (Multiple Dwelling)
to P (Park and Institutional)

Halifax Mainland
Land Use By-Law Area

Zone

R-2 Two Family Dwelling
R-4 Multiple Dwelling



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

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Attachment B
P Zone Excerpt from the Land Use By-law for Halifax Mainland

P ZONE
PARK AND INSTITUTIONAL ZONE

- 51(1) The following uses shall be permitted in any P Zone:
- (a) a public park;
 - (b) a recreation field, sports club, and community facilities** (see definition below);
 - (c) a cemetery;
 - (d) a hospital, public school, university, monastery, church, library, court of law, or other institution of a similar type, either public or private;
 - (e) an institution used for the advancement of public school education services;
 - (f) uses accessory to any of the uses in (a), (b), (c), (d) and (e);
 - (g) day care facility (RC-Mar 3/09;E-Mar 21/09).
- 51(2) No person shall in any P 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).
- 51(3) No person shall in any P 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).

SIGNS

- 52 No person shall in a P Zone erect, place or display any billboard or sign except:
- (a) One fascia sign per building elevation facing a street;
 - (b) One fascia sign for the building elevation containing the main entrance where such entrance does not face a street;
 - (c) One free standing sign not to exceed 12 feet in height and 40 square feet in area (per side) per vehicular entrance and pedestrian entrance where such entrance is not part of a vehicular entrance, provided, however, that where the property contains more than one principal park and institutional use such sign shall not exceed 18 feet in height and an additional 10 square feet of area may be added to a maximum of 80 square feet (per side) for each additional park and institutional use;
 - (d) The signs permitted by (a), (b), and (c) may be illuminated;
 - (e) The signs permitted by (a), (b), and (c) shall be limited to indicating the name of the building or site and civic address of the property on which it is located, the logo, slogan or motto of the occupant of such building or site; and
 - (f) The signs permitted by (a), (b) and (c) may also contain a changeable message area which shall be limited to indicating the name, date and time of an event taking place on the site.

REQUIREMENTS

- 53 Buildings erected, altered or used for P uses in a P Zone shall comply with the following requirements:
- (a) Every building shall be at least 12 feet from any other building and at least 8 feet from the rear and both side lines of the lot on which it is situated and at least 20 feet from any street line in front of such building;
 - (b) Notwithstanding the provisions of clause (a), a carport or a detached or attached non-commercial garage shall be located not less than 4 feet from the rear and both side lines of the lot on which it is situated, and shall be located 8 feet from any other building;
 - (c) Where a building is situated on a corner lot, it shall be at least 20 feet from each street line abutting such lot.

DRIVEWAY ACCESS

53A(1) In the "Bedford Highway Area" one vehicle access point shall be permitted to the Highway from each lot with 100 feet of frontage or less and two vehicle access points shall be permitted for each lot with frontage greater than 100 feet.

53A(2) For the purposes of Subsection (1), the vehicle access point shall not exceed 35 feet in width and shall be defined by curbing, planting or a similar device that will not obstruct the view of traffic.

*** **"COMMUNITY FACILITY"** means a building or site owned by a government agency or non-profit organization or religious institution or philanthropic institution and used as a meeting place for entertainment or education or social activities by the general public on a regular or occasional basis and includes a church hall or a public hall. A community facility may also include, in combination with offices or facilities of a non-profit organization, a store for the sale or provision of donated merchandise. (CC-Sep 11/06; E-Oct 2/06)

Attachment C
R-4 Zone Excerpt from the Land Use By-law for Halifax Mainland

R-4 ZONE
MULTIPLE DWELLING ZONE

- 29(1) The following uses shall be permitted in any R-4 Zone:
- (a) R-1, R-2 and R-2T uses;
 - (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 sq.ft.;
 - (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 consul as his private residence.
 - (j) day care facility (RC-Mar 3/09;E-Mar 21/09)
- 29(2) No person shall in any R-4 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).
- 29(3) No person shall in any R-4 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).

COMMERCIAL USES

- 29A Notwithstanding the provisions of Section 9(d), 14 and 29(1), an apartment house at or within 120 ft. of an intersection, which contains 100 or more self-contained dwelling units may include those commercial uses which are permitted in Section 38A(1), except a bowling alley, a motion picture theatre, a service station and billboard, provided that such uses are located on the ground floor of the apartment and are separately accessible from the building exterior.

SIGNS

- 29B Exterior advertising of the commercial uses described in Section 29A shall be permitted provided such advertising is not illuminated.

NO WINDOW DISPLAY

- 30 Where any building is used in an R-4 Zone for any of the purposes described in clause (f) of Section 29(1), 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 and bearing the name and profession as set forth in clause (f) of Section 29(1) of any person occupying such building.

R-1, R-2 AND R-2T USES IN R-4 ZONE

31 Buildings erected, altered, or used for R-1, R-2 and R-2T uses in an R-4 Zone shall comply with the requirements their respective zones.

BILLBOARDS

32(1) No person shall erect or display any billboard or illuminated sign in an R-4 Zone.

NON-ILLUMINATED SIGN

32(2) A non-illuminated sign not to exceed 6 square feet in size may be erected in an R-4 zone, provided such sign will not cause a hazard or nuisance to the public.

33 Where any building is erected, altered or used for R-4 uses in an R-4 zone, such building shall comply with the following requirements:

MINIMUM LOT AREA

- 33(1) (a) The minimum lot area upon which such building is located shall be 6,000 square feet with a minimum continuous street frontage of at least 60 feet on one street, except when a lot faces on the outer side of a curve in the street, in which case the frontage may be reduced to 30 feet;
- (b) The Council may, after public hearing if deemed necessary, permit modification of the minimum lot area and continuous street frontage as provided in clause (a) of this subsection if, in the opinion of Council:
- (i) the amenity, convenience, character, and value of neighbouring properties will not be adversely affected; and
 - (ii) conditions necessitating such modification are unique to the lot and have not been created by either the owner of such lot or the applicant.

DISTANCE FROM LOT LINES - 80 ANGLE

- 33(2) (a) The distance from any part of such building and any official street line or lines abutting upon such lot shall be not 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 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 subsection (2), 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) herein 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 ANGLE

- 33(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 level 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 projection of the lot line and the horizontal projection of the finished 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.

EXCEPTION TO 60 ANGLE

- (b) Notwithstanding the provisions of clause (a) of subsection (3) 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 - 65 ANGLE

- 33(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; and
 - (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.
- (b) The provisions of 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 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 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 subsection (4) shall not apply; but the distance between such walls shall be not less than 6 feet.

BALCONIES, CORNICES, EAVES, AND CANOPIES

- 33(5) (a) Notwithstanding the provisions of subsection (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 balcony, cornices, or eaves shall be not less than 10 feet from any lot line of such lot;
- (b) Notwithstanding clause (a) of subsection (5), canopies may project to within 5 feet of the street line.

34 Where any building is erected, altered, or used as a boarding house, lodging, or rooming house, or an apartment house in an R-4 Zone, such building, in addition to the requirements hereinbefore set out in Section 33, shall comply with the following requirements:

DENSITY

34(1) The population density of such building shall not exceed 75 persons per acre.

OPEN SPACE

- 34(2) The lot upon which such building is located shall contain a minimum open space of:
- (a) 150 square feet for each bachelor unit/275 square feet for each one-bedroom unit/575 square feet for each two-bedroom unit/950 square feet for each three-bedroom unit/1,325 square feet for each four-bedroom unit and over;
- (b) At least 80 percent of the open space required in clause (a) of subsection (2) of Section 34 shall be landscaped open space, provided that:
- (c) For the purposes of subsection (2) 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.

SPECIAL CARE HOME - LANDSCAPED SPACE

34(3) 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 D
Review of Relevant Policies from the Municipal Planning Strategy for Halifax

| Policy Criteria | Staff Comment |
|--|---|
| <p>3. INSTITUTIONAL</p> <p>Objective: Public and private institutional uses to serve the Mainland South area and the City.</p> | |
| <p>3.1 Institutional development may comprise public, quasi-public and non-commercial private institutional uses devoted to the provision of social, cultural, health, educational and recreational services.</p> | <p>The P Zone of the Land Use By-law for Halifax Mainland (LUB) includes a list of permitted uses, including community facilities.</p> |
| <p>3.1.1 Institutional uses may be considered throughout Mainland South, through rezoning. In considering such rezoning, the City shall have regard for compatibility with neighbouring residential uses in terms of scale, size, intensity of use, traffic generation, and noise.</p> | <p>The proposed community facility use is considered to be compatible with the mixed residential and minor commercial uses located in the neighbourhood.</p> <p>However, it is important to note that as the proposed application is for a rezoning, any new development on the property would be subject to the requirements of the zone.</p> <p>A traffic impact statement was submitted as part of this application which concluded that the proposed development would have no significant impact to traffic in the area. Access from Herring Cove Road is to be limited to a right-in/right-out only driveway. The applicant would be responsible for the removal of any existing access points not being used.</p> <p>It is anticipated that the proposed use would not create any additional noise than what would be generated from a gas station, which was previously located on the property or a multiple unit dwelling which is permitted in the R-4 Zone.</p> |
| <p>3.2 The City shall encourage existing institutional uses to remain in their present locations, and shall encourage the re-use of such institutional areas and facilities, consistent with the policies of this Section and Part II, Section II.</p> | <p>N/A</p> |