

Halifax and West Community Council
May 13, 2013

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed
Brad Anguish, Director, Community and Recreation Services

DATE: May 6, 2013

SUBJECT: **Case 17885 – Development Agreement to Permit a Change in Use to a Non-Conforming Use at 2347 Agricola Street, Halifax**

ORIGIN

Application by Geoff Keddy Architects and Associates

LEGISLATIVE AUTHORITY

HRM Charter; Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give Notice of Motion to consider the proposed development agreement, as described in Attachment A, to permit a change to a non-conforming use at 2347 Agricola Street, Halifax, and to schedule a public hearing;
2. Approve the proposed development agreement, as contained in Attachment A; and
3. Require that the proposed development agreement be signed and delivered within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The subject property, 2347 Agricola Street, is located in central Halifax and is zoned R-2 (General Residential) Zone under the Land Use By-law for Halifax Peninsula. The property contains a two storey building with a ground floor laundromat and a single dwelling unit located on the upper floor. The property owner would like to change the laundromat use to a café use. As the café use is not permitted in the R-2 Zone, the property owner has made an application to enter into a development agreement to allow the change in use from the laundromat to a café. As a café use is considered a “restaurant” use, the staff report and proposed development agreement will refer to the proposed use as a restaurant.

Location, Designation and Zoning

The property is located at the northwest corner of Agricola Street and Woodill Street in Halifax (See Maps 1 and 2). Surrounding uses are mainly residential with a mix of commercial uses along the eastern block of Agricola Street.

The subject property is located in the Halifax Plan Area. It is designated Medium Density Residential (MDR) in the Peninsula North Secondary Plan of the Halifax Municipal Planning Strategy (MPS), and is zoned R-2 (General Residential) under the Halifax Peninsula Land Use By-law (see Attachment B).

Non-Conforming Use and Enabling Policy

Although the R-2 Zone does not permit commercial uses such as a laundromat, the subject property was developed as a laundromat and residential unit in 1952 prior to the application of the R-2 Zone on the property. As such, the laundromat is considered a non-conforming use. As a non-conforming use, the laundromat use is permitted to continue, provided that the use is not discontinued for a period of longer than six continuous months.

Generally, a non-conforming use may not be changed to another use that is not permitted within the zone in which the property is located. However, Implementation Policy 3.5 of the MPS for Halifax allows the consideration for change in use that is not permitted in the current zone, as long as the use can be considered less intensive than the non-conforming use (see Attachment C).

DISCUSSION

Implementation Policy 3.14 of the MPS enables the consideration of a development agreement to change a non-conforming use to a less intensive use not otherwise permitted within a zone. Attachment C provides an evaluation of the proposal and development agreement in relation to the applicable policy. In staff’s opinion, the proposed change in use is consistent with the applicable policies of the MPS in that the restaurant use is less intensive than the existing laundromat use. The following issues are being highlighted for more detailed discussion.

Restaurant Use vs. Laundromat Use

The proposed development agreement would permit the conversion of the existing laundromat to a restaurant use. Both uses are similar in function as they intend to serve the local neighbourhood and due to the constraints in building size, they are small scale operations.

The proposed restaurant use has the potential to attract more customers especially during certain hours of the day, however, through entering into a development agreement there is the ability to place controls on the use that otherwise would not exist if the use remained as a laundromat. Aspects of the development agreement include the following:

- There are currently no specific requirements for the outdoor storage of refuse that might be associated with the commercial use. The development agreement specifies that outdoor storage is not permitted and that the storage of refuse must be fully enclosed to minimize potential odour or unsightliness to neighboring properties;
- There are currently no limitations on the hours of operation for the ground floor commercial uses. The proposed development agreement limits the hours of operation to between 6:00 a.m. and midnight.
- The proposed development agreement specifies the location of the commercial access to be located along Agricola Street, to limit potential disturbance to the primarily residential Woodill Street.

The proposed development agreement provides the ability to allow for a change in the commercial use of the building from a laundromat to a restaurant while ensuring that there are appropriate controls to reasonably mitigate land use compatibility issues. The terms of the development agreement reflect and are consistent with the criteria of Policy 3.14.

FINANCIAL IMPLICATIONS

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a public information meeting held on September 26, 2012. For the Public Information Meeting, notices were posted on the HRM website, in the local newspaper, and mailed to property owners within the notification area shown on Map 2. Attachment D contains a copy of the minutes from the meeting.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the development agreement. Should Halifax and West Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, individual property owners within the notification area will be advised of the public hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposed development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

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 development agreement, as contained in Attachment A of this report. This is the staff recommendation. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Council may choose to refuse to approve the development agreement and, in doing so, must provide reasons why the agreement does not reasonably carry out the intent of the MPS. This is not recommended for the reasons discussed above. A decision of Council to reject this development agreement, with or without a public hearing, is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
3. Council may choose to approve the proposed development agreement subject to modifications. This may necessitate further negotiation with the applicant and may require an additional public hearing.

ATTACHMENTS

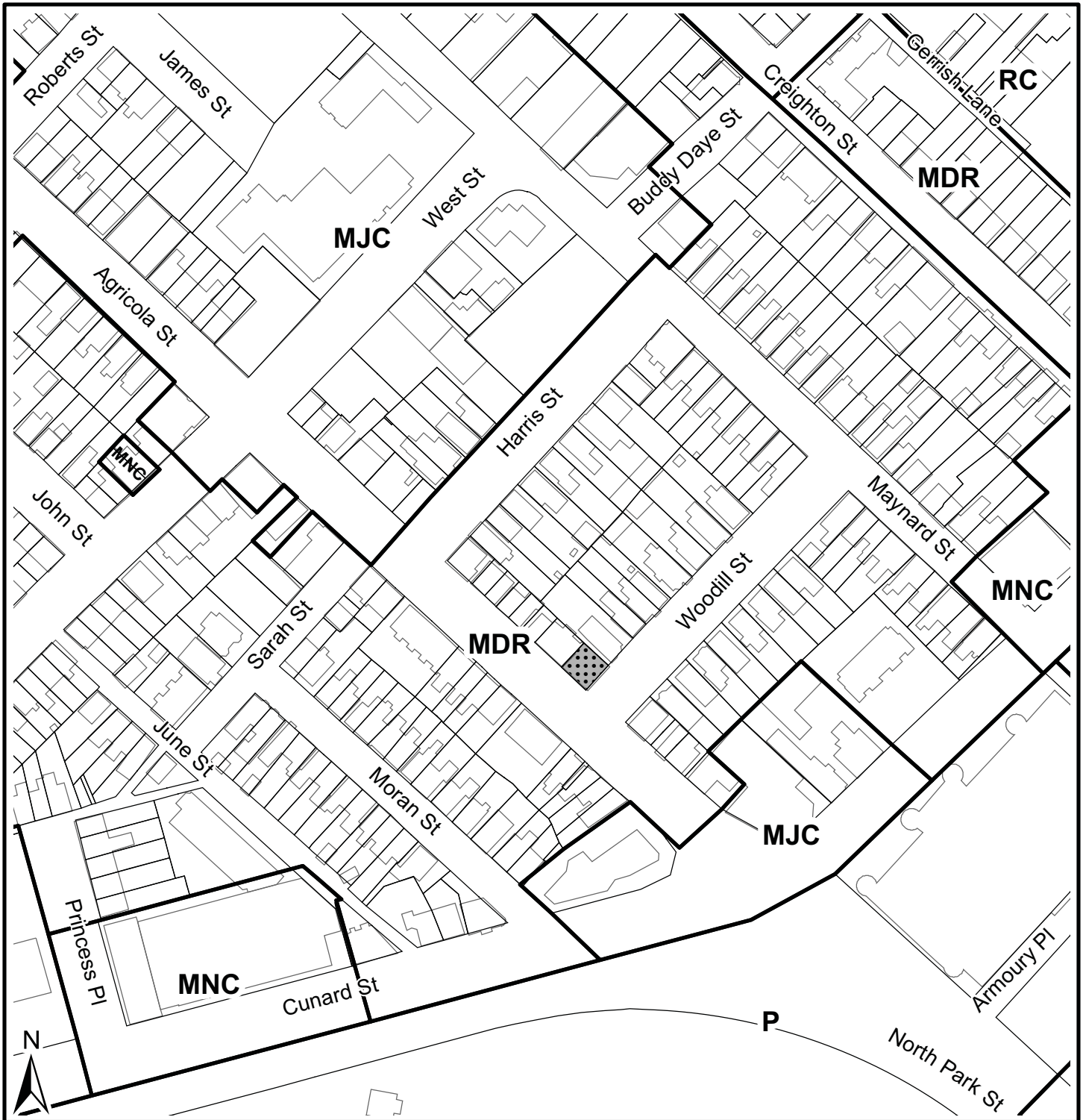
Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Attachment A	Proposed Development Agreement
Attachment B	R-2 (General Residential) Zone – Land Use By-law for Halifax Peninsula
Attachment C	Review of Relevant Policies from Municipal Planning Strategy for Halifax
Attachment D	Minutes from the Public Information Meeting

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

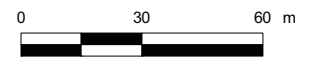
2347 Agricola Street
Halifax

 Subject area

Designations

- MDR Medium Density Residential
- MNC Minor Commercial
- MJC Major Commercial
- P Park and Institutional
- RC Residential Commercial Mix

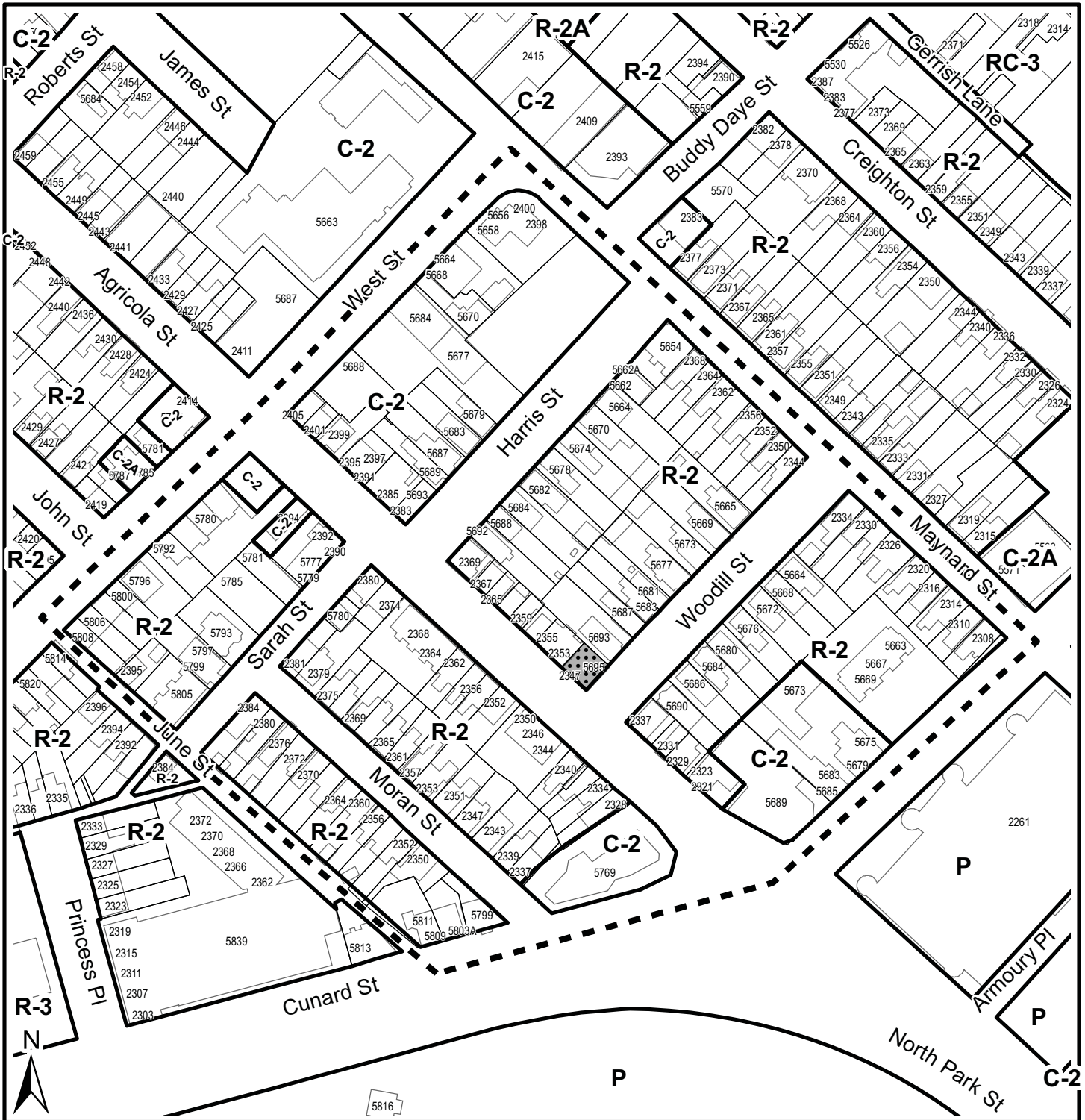
HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS
PLANNING SERVICES



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.

Halifax Plan Area
Peninsula North Secondary Plan Area



Map 2 - Zoning and Notification

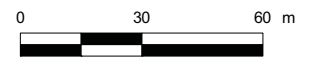
2347 Agricola Street
Halifax

-  Subject area
-  Area of notification

Halifax Peninsula
Land Use By-Law Area

Zone

- R-2 General Residential
- R-2A General Residential Conversion
- R-3 Multiple Dwelling
- RC-3 High Density Residential Minor Commercial
- C-2 General Business
- C-2A Minor Commercial
- P Park and Institutional



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.

Attachment A
Proposed Development Agreement

THIS AGREEMENT made this ____ day of _____, 20__,

BETWEEN:

[DEVELOPER]

an individual, in the Halifax Regional Municipality,
in the Province of Nova Scotia (hereinafter called the
“Developer”)

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the “Municipality”)

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands identified as 2347 Agricola Street and which said lands are more particularly described in Schedule A hereto (hereinafter called the “Lands”);

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for restaurant and retail store on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy 3.14 of the Halifax Municipal Planning Strategy and Section 99 (4) of the Halifax Peninsula Land Use By-law;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on _____, referenced as Municipal Case Number 17885;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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

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

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

1.3 Applicability of Other By-laws, Statutes and Regulations

- 1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.
- 1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

- 1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

- 1.5.1 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

- 1.6.1 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

- 2.1.1 All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

2.2 Definitions Specific to this Agreement

Building means the building on the Lands as shown on Schedule B.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

- 3.1.1 The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms to the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 17885:

Schedule A Legal Description of the Lands

Schedule B Site Plan

3.2 Requirements Prior to Approval

- 3.2.1 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement until after a Development Permit has been issued by the Municipality. Upon the issuance of a Development Permit, the Developer comply with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all

permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

- 3.2.2 Upon the issuance of an Occupancy Permit, the Developer shall confirm to the Development Officer that the requirements of this Agreement have been met.

3.3 Land Use

- 3.3.1 The following land uses are permitted:

- (a) one residential dwelling unit; and
- (b) a restaurant.

3.4 Land Use Requirements

- 3.4.1 The residential dwelling unit, exclusive of entrances, shall be located on the second floor of the Building.

- 3.4.2 The restaurant use shall only be located on the ground floor of the Building within a single leasehold space.

- 3.4.3 All entrances to the restaurant use shall be located on Agricola Street.

- 3.4.4 The hours of operation for commercial uses store uses shall be between 6:00 a.m. and midnight.

- 3.4.5 The basement of the Building may be used for storage for any of the uses permitted by this Agreement.

3.5 Building Requirements

- 3.5.1 The Building foot print shall comply with Building foot print as shown on Schedule B.

- 3.5.2 The Building may not be expanded or altered so as to increase the volume of the Building that is capable of being occupied by the restaurant use.

3.6 Signs

- 3.6.1 Signs on the exterior of the Building shall be limited to fascia signs, subject to the following:

- (a) there may be one fascia sign on each side of the Building that faces Agricola Street and Woodill Street;

- (b) such fascia signs shall be located between the ground floor storefront windows and the second storey floor windows and shall be a maximum of 0.46 metres (18 inches) in height and 6.1 metres (20 feet) in width; and
- (c) the signage shall not be backlit.

3.6.2 Awning or canopies shall be permitted, subject to the requirements of the Land Use By-law for Halifax Peninsula and any other applicable by-law, statute or regulation.

3.7 Parking

3.7.1 No parking shall be required as part of this development.

3.8 Outdoor Storage

3.8.1 No outdoor storage shall be permitted.

3.9 Outdoor Lighting

3.9.1 Lighting shall be directed to Building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

3.10 Subdivision of the Lands

3.10.1 No subdivision of the Lands shall be permitted.

3.11 Maintenance

3.11.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the Building, fencing, walkways, outdoor storage, recreational amenities, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

PART 4: AMENDMENTS

4.1 Non-Substantive Amendments

4.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:

- (a) The granting of an extension to the date of commencement of development as identified in Section 5.3 of this Agreement; and
- (b) The length of time for the completion of the development as identified in Section 5.4 of this Agreement.

4.2 Substantive Amendments

- 4.2.1 Amendments to any matters not identified under Section 4.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

5.1 Registration

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

5.2 Subsequent Owners

- 5.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.
- 5.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

5.3 Commencement of Development

- 5.3.1 In the event that development on the Lands has not commenced within one (1) year from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 5.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Construction Permit.
- 5.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 4.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

5.4 Completion of Development

- 5.4.1 If the Developer fails to complete the development after five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office, Council may review this Agreement, in whole or in part, and may:

- (a) Retain the Agreement in its present form;
- (b) Negotiate a new Agreement; or
- (c) Discharge this Agreement.

5.4.2 For the purpose of this section, completion of development shall mean the issuance of an Occupancy Permit.

5.4.3 For the purpose of this section, Council may consider granting an extension of the completion of development time period through a resolution under Section 4.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the completion of development time period.

5.5 Discharge of Agreement

Upon the completion of the whole development or complete phases of the development, Council may review this Agreement, in whole or in part, and may:

- (a) Retain the Agreement in its present form;
- (b) Negotiate a new Agreement;
- (c) Discharge this Agreement; or
- (d) For those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the applicable Halifax Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.

PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

6.1 Enforcement

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty-four hours of receiving such a request.

6.2 Failure to Comply

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and

waives any defence based upon the allegation that damages would be an adequate remedy;

- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or,
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 20__.

SIGNED, SEALED AND DELIVERED in
the presence of:

[DEVELOPER]

Per: _____

Per: _____

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

**HALIFAX REGIONAL
MUNICIPALITY**

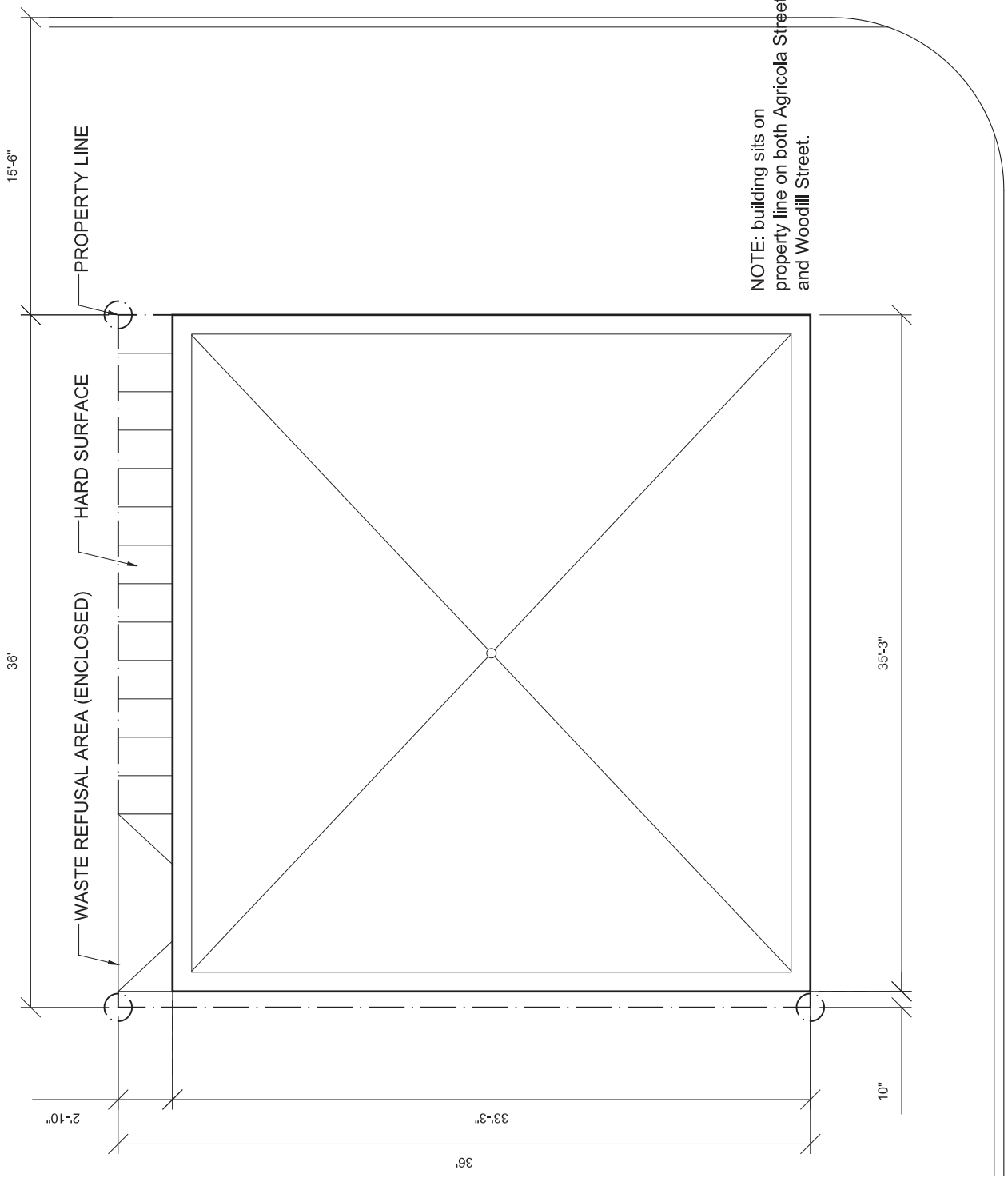
Per: _____

Mayor

Per: _____

Municipal Clerk

WOODILL STREET



Case 17885
Attachment B
R-2 (General Residential) Zone – Land Use By-law for Halifax Peninsula

R-2 ZONE
GENERAL RESIDENTIAL ZONE

- 35(1) The following uses shall be permitted in any R-2 Zone:
- (a) R-1 uses as hereinbefore set out;
 - (b) semi-detached or duplex dwelling;
 - (c) buildings containing not more than four apartments;
 - (d) (Deleted)
 - (e) (Deleted)
 - (f) uses accessory to any of the foregoing uses
 - (g) **The reconstruction of an apartment building containing 12 or fewer dwelling units at the South-East corner of Creighton and Buddy Daye Streets (PID 40877292) (RC-Aug 1/06;E-Aug 12/06)**
- 35(2) No person shall in any R-2 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).
- 35(3) No person shall in any R-2 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

- 36 No person shall, in any R-2 Zone, erect, place or display any billboard or sign except those permitted in R-1 Zones.

REQUIREMENTS

- 37 Buildings erected, altered, or used for R-1 and R-2 uses in an R-2 Zone shall comply with the following requisites:

	Lot Frontage Ft.	Lot Area Sq.Ft.	Side Yard Ft.
R 1 Uses	40	4000	4
duplex	50	5000	5
3-unit and 4- unit apartment building	80	8000	6

- 38 Front and Rear Yards - The requirements of Sections 29 and 30 inclusive above shall apply.
- 39 Lot coverage - Maximum lot coverage shall be 35 percent.

40 Maximum height - Maximum height shall be 35 feet.

ACCESSORY STRUCTURES (*deleted PCC/CCC-Nov 8/10;E-Nov 27/10*)

40A (*deleted PCC/CCC-Nov 8/10;E-Nov 27/10*)

TWO UNIT CONVERSION

41 A building in existence on or before the 11th of May, 1950 may be converted into a duplex dwelling provided that the building, after conversion, complies with the following:

- (a) A duplex dwelling containing not more than a total of six habitable rooms be permitted on a lot containing an area of not less than 3,300 square feet.
- (b) A duplex dwelling containing not more than a total of eight habitable rooms be permitted on a lot containing an area of not less than 4,000 square feet.
- (c) There is no increase in height or volume and that the external dimensions of the building have not changed since 25 October 1985.
- (d) One separately accessible parking space at least 8 feet by 16 feet shall be provided on the lot for each of the two dwelling units.

42 (Deleted)

SEMI-DETACHED DWELLING

- 43 (a) For each unit of a semi-detached dwelling, there shall be at least 25 feet of lot frontage and 2,500 square feet of lot area. A minimum side yard of 5 feet shall be required for a semi-detached dwelling provided however that where a lot containing a semi-detached dwelling is to be or has been subdivided so that each unit is on its own lot, there shall be no setback required from the common lot boundary.
- (b) Front yards and rear yards for a semi-detached dwelling - the requirements of Sections 29 and 30 shall apply.
- (c) Lot coverage for a semi-detached dwelling - maximum lot coverage shall be 35 percent.
- (d) Maximum height for a semi-detached dwelling - maximum height shall be 35 feet.

43A (Deleted)

THREE AND FOUR UNIT BUILDING

43A(1) In addition to other R-2 Zone requirements, there shall be:

- (a) Eight or fewer bedrooms within the whole of a three dwelling unit Halifax Peninsula apartment house; and
- (b) Ten or fewer bedrooms within the whole of a four dwelling unit apartment house.

DAY NURSERY

43B (Deleted)

ADDITIONAL CHILDREN PROVISION

43C (Deleted)

43D (Deleted)

PENINSULA CENTRE AND SOUTH END AREA

43E Notwithstanding the provisions of Sections 37 to 43, buildings erected, altered or used for R-1 or R-2 uses in the R-2 Zone in the "**Peninsula Centre**" and "**South End Areas**" shall comply with the following requisites:

(a)	Minimum Lot Frontage (Feet)	Minimum Lot Area (Sq.Ft.)	Side Yards (Feet)
R-1	30	N/A	4
Duplex	33	3,300	5
Semi-detached dwelling	50	5,000	5
Three Unit Building	45	5,000	6
Four Unit Building	60	6,000	6

- (b) **UNIT MIX:**
 - (i) duplexes or semi-detached dwellings shall contain at least one unit of a minimum of 800 sq.ft.;
 - (ii) 3 or 4 unit apartment buildings shall contain at least two units of a minimum of 800 sq.ft.
- (c) Lot coverage: Maximum lot coverage shall be 35 percent.
- (d) Parking and Open Space: For each unit which is 800 sq.ft. or greater, one parking space at least 8 feet wide and 16 feet long and 300 sq.ft. of open space shall be required, and for dwelling units less than 800 sq.ft., one parking space at least 8 wide and 16 long shall be required for each two dwelling units, and 50 sq.ft. of open space for each unit.
- (e) Maximum Height: The maximum height shall be 35 ft.
- (f) *(deleted PCC/CCC-Nov 8/10;E-Nov 27/10)*
- (g) *(deleted PCC/CCC-Nov 8/10;E- Nov 27/10)*
- (h) Semi-detached building: A lot containing a semi-detached dwelling may be subdivided so that each unit is located on a separate lot provided that the lot for each unit contains a minimum frontage of 25 ft. and a minimum area of 2,500 sq.ft. No side yard shall be required along the common lot boundary dividing a semi-detached dwelling.

CONVERSIONS ON ROBIE STREET OR COBURG ROAD

43F Notwithstanding any other provision of this by-law, for any building which existed on the date of adoption of this by-law, located in the "**Peninsula Centre Area**", and which is located on a lot which abuts Coburg Road between Oxford Street and Robie Street, or on a lot which abuts Robie Street between Pepperell Street and South Street interior conversions shall be permitted, provided that there is no change in the height or volume of the building and that the minimum size of each dwelling unit shall be 600 square feet.

43G (Deleted)

FRONT YARD SETBACK

- 43G(1) For any R-1 or R-2 use constructed after 14 October 1982 in the **"Peninsula Centre"**, **"South End"**, or **"Peninsula North Areas"**, the minimum front yard shall be the front yard of the majority of residential buildings fronting on the same side of the same block in which the building is to be constructed. For the purposes of measuring, existing front yard dimensions shall be rounded to the nearest foot.
- 43G(2) Where there is no majority of buildings with the same front yard on the block, the minimum front yard shall be:
- (g) that of the residential building of the adjacent lot on either side of the proposed development which is closer to the street line; and
 - (b) where there is no residential building on either adjacent lot
 - (i) 10 feet in all zones except in the U-1 zone
 - (ii) 0 feet in the U-1 zone

PENINSULA NORTH AREA

- 43H Notwithstanding Section 37 a building erected, altered, or used as a detached one-family dwelling house, office of a professional person located in the dwelling house used by such professional person as his private residence or home occupation in an R-2 Zone in the **"Peninsula North Area"** shall comply with the following requirements:
- (1) Lot Frontage minimum 30 feet
 - (2) Lot Size minimum 3,000 square feet
 - (3) Side Yards 4 feet

TWO UNIT CONVERSION - PENINSULA NORTH

- 43I Notwithstanding Sections 37 to 40 a building, excluding accessory buildings, in existence on the date of adoption of this section in the **"Peninsula North Area"** may be converted to a maximum of two units provided that:
- (i) there is no increase in height or volume of the building,
 - (ii) one unit contains two or more bedrooms; and
 - (iii) there is one parking space at least 8 feet wide and 16 feet long for each dwelling unit.

FOUR UNIT CONVERSION - PENINSULA NORTH #5

- 43J Notwithstanding Sections 6(1), 6(2A) and 37 to 40, a building, excluding an accessory building, in existence on 14 July 1979, in **"Peninsula North Area #5"**, and located south of Russell Street (**NIP III**), may be converted to a maximum of four units provided that:
- (i) there is no increase in the height or volume of the building;
 - (ii) at least one of the units in the converted building contains two or more bedrooms.

FOUR UNIT CONVERSION - PENINSULA NORTH - NIP I

- 43K Notwithstanding Sections 6(1), 6(2A) and 37 to 40, a building, excluding an accessory building, in existence on 14 July 1979, in the area bounded by North, Gottingen, Cogswell, North Park and Agricola Street, may be converted to a maximum of four units provided that:
- (i) there is no increase in the height or volume of the building; and
 - (ii) at least one of the units in the converted building contains two or more bedrooms.

MULTIPLE UNIT CONVERSION - SCHEDULE HA-1

- 43L Notwithstanding Sections 6(1), 6(2A) and 37 to 40 a building, excluding an accessory building or a registered heritage building, in existence on the date of adoption of this Section, located in "**Schedule HA-1**", may be converted into an apartment house provided that:
- (i) there is no increase in the height or volume of the building;
 - (ii) the following features on the building facing the street(s) are not altered:
 - (a) the number, location, size and shape of the windows, bays and dormers;
 - (b) the size, shape and location of the entrance way including the door; and
 - (c) the size and location of any existing verandas, porches or stairways.
 - (iii) at least one unit for every five units, or fraction thereof, in the converted building contains two or more bedrooms.

SFD REQUIREMENTS - PENINSULA NORTH AREA #6

- 43M Notwithstanding Sections 37 and 39, a building erected, altered or used as a one family dwelling house, in an R-2 zone in "Peninsula North Areas 6 and 8", shall comply with the following requirements:
- (1) Lot Frontage Minimum 20 feet
 - (2) Lot Size Minimum 2000 sq.ft.
 - (3) Side Yard Minimum 0 feet
 - (4) Maximum Lot Coverage 50 percent

43MA Notwithstanding Section 43M (1,2,3) of this by-law, in the case of lots existing on the date of adoption of this Section, in Peninsula North Areas 6 and 8 respectively, the lot size, lot frontage and side yard requirements shall be waived for one family dwelling houses.

APARTMENT BUILDINGS - PENINSULA WEST AREA 1

43MB Within Peninsula West Area 1, a lot which did not exist prior to the date of adoption of this section shall not be used for a three or four unit apartment building.

43N Notwithstanding any other provision of this By-law, the apartment building that is referred to in Section 35 (g) may be reconstructed to the same or lesser size and the same location upon its lot as that which existed immediately before its demolition on March 3, 2006. (RC-Aug 1/06;E-Aug 12/06)

Case 17885
Attachment C
Review of Relevant Policies from Municipal Planning Strategy for Halifax

Policy Criteria	Staff Comment
<p>3.14 Council may, by development agreement, permit a non-conforming use 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, provided that:</p>	
<p>a) the layout and design of the property shall be complementary to the fabric of the neighbourhood, and this shall be achieved through attention to a variety of factors including, but not limited to, the following, on which Council shall specify conditions to be met in the development agreement:</p> <ul style="list-style-type: none"> i) architectural design; ii) the size, location, and landscaping of courts, open spaces, and yards; iii) location of primary and secondary entrances to the building; and iv) size, location, and design of fences; 	<p>The existing building and site are complementary to the neighbourhood. No changes to the exterior dimensions of the building are viewed as necessary, by the proposed development agreement. The developer is proposing to re-clad the building, however, staff do not feel the re-cladding needs to be addressed through the development agreement. The general architectural design will remain the same.</p> <p>The proposed development agreement requires that access to the restaurant use will be from Agricola Street.</p>
<p>b) vehicular activity, particularly parking and loading, shall be controlled so as not to adversely affect the neighbourhood in terms of traffic flow and nuisance;</p>	<p>The property does not include any parking although on-street parking is provided along Agricola Street and Woodill Street. It is anticipated that the majority of the customers will walk to the restaurant.</p>
<p>c) facilities for parking, loading, vehicular access, outdoor display, and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and to ameliorate existing problems, through attention to factors including but not limited to:</p> <ul style="list-style-type: none"> i) location; ii) surface treatment; iii) storm drainage; iv) access from the street; and v) screening, buffering, and landscaping; 	<p>As discussed above there is no vehicular parking included as part of the proposed development. The proposed development agreement does not permit outdoor storage. Storage of waste refusal is to be enclosed at the rear of the building.</p>

<p>d) except where specific benefits to the neighbourhood can be demonstrated, all additions to a building, all off-street parking and loading areas, and all outdoor display and storage areas shall be set back from the street line by the more restrictive of:</p> <ul style="list-style-type: none"> i) the minimum setback of the existing building; or ii) the mean setback of the buildings on the adjacent properties on either side; or iii) the minimum setback specified for the zone in which the use is located; 	<p>All parking and loading areas shall be on-street. Outdoor display is not permitted and storage areas are to be enclosed within the building.</p>
<p>e) except where specific benefits to the neighbourhood can be demonstrated, additions to the structures on the property shall not:</p> <ul style="list-style-type: none"> i) further encroach upon the minimum side and rear yards stipulated for the zone in which the property is located; or ii) result in the total lot coverage or building height exceeding the maximum stipulated for the zone in which the property is located; 	<p>A small addition to the rear is permitted to allow for the enclosure of waste and refuse. This area is currently developed with an exterior set of stairs which lead to the residential unit. Access to the interior unit is to be located within the building.</p>
<p>f) any outdoor lighting or sign illumination shall be directed away from, or screened from, adjacent residential properties;</p>	<p>The proposed development agreement requires lighting to be diverted away from streets, adjacent lots and buildings.</p>
<p>g) no bulk refuse containers shall be visible from the street or from the immediate neighbourhood;</p>	<p>The storage of waste refuse is to be fully enclosed within the building.</p>
<p>h) no additional lot area shall be used for outdoor storage, and measures shall be taken to screen any outdoor storage areas from the street and immediate neighbourhood;</p>	<p>The proposed development agreement does not permit outdoor storage.</p>
<p>i) with regard to on-site advertising for commercial or industrial uses:</p> <ul style="list-style-type: none"> i) where the property is located in a residential zone, no additional advertising surface area or illuminated 	<p>The proposed development agreement requires that the signage is similar in size to the signage that was provided for the Laundromat.</p>

<p>signage shall be added; and ii) in all other cases, such advertising shall not exceed the limits prescribed for the zone in which the property is located;</p>	
<p>j) in the case of commercial and industrial operations in residential zones, the following additional considerations shall also apply: i) there shall be a demonstrable improvement to the neighbourhood; ii) existing conditions resulting in noise, dust, vibration, odour, and emissions shall be required to be ameliorated where these cause a nuisance or hazard; and iii) operating hours shall be restricted to prevent nuisance;</p>	<p>i) The proposed use will add to the mix of smaller scale businesses in the area. During the public information meeting and through correspondence received as part of this application the community is excited about the idea of having a café in the area. ii) Through the proposed development agreement all waste/refuse is to be enclosed within the building</p>
<p>k) No subdivision of the lot shall have occurred subsequent to the time of the adoption of this section.</p>	<p>No subdivision has occurred.</p>

Case 17885
Attachment D: Minutes from the Public Information Meeting

**HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 17885: 2347 AGRICOLA STREET, HALIFAX**

**7:00 p.m.
Wednesday, September 27, 2012
Bayers Road Meeting Rooms, Halifax**

STAFF IN

ATTENDANCE: Jillian MacLellan, Planner, Planning Applications
Holly Kent, Planning Technician
Jennifer Purdy, Planning Controller

ALSO IN

ATTENDANCE: Nick Fudge, Geoff Keddy Architects & Associates

PUBLIC IN

ATTENDANCE: 16

The meeting commenced at approximately 7:01p.m.

Opening remarks/Introductions/Purpose of meeting

Ms. Jillian MacLellan, Planner, Planning Applications, called the meeting to order at approximately 7:00 p.m. in the Halifax Regional Municipality Meeting Room, Bayers Road Office. She introduced herself as the planner guiding this application through the process and also Holly Kent, Planning Technician, HRM Planning Services and Jennifer Purdy, Planning Controller, HRM Planning Services.

Ms. MacLellan explained that HRM has received a request to convert a Legal Non-Conforming Laundromat to a Café by a development agreement at 2347 Agricola Street. She added that a legal non-confirming use existed before the land use came into effect.

Ms. MacLellan reviewed the application process, noting that the public information meeting is an initial step, whereby HRM reviews and identifies the scope of the application and seeks input from the neighborhood. Following tonight's meeting, staff will create a draft development agreement and a staff report which will be brought forward to Community Council who will make a decision on the proposed development. There will be a two week appeal period following that decision.

Presentation on Application

Ms. MacLellan reviewed a slide of the location explaining that the subject property is at the corner of Agricola and Woodill Streets and also close to the Armory and Commons. Surrounding the area are a variety of commercial uses on Agricola such as the Theatre Space, the Clothing Store and the Food Co-Op. Also surrounding the area is a low to medium size density residential neighbourhood with some higher density along Cunard Street.

At this time, a gentleman asked if a development agreement is a public agreement.

Ms. MacLellan explained that once a development agreement has been approved by Council, it becomes accessible to the public by visiting property on-line or HRM offices.

Ms. MacLellan explained that the most current use at this site was a Laundromat with a residential use on top. The property is zoned R2 (General Residential) Zone which permits residential dwellings up to 4 units and some institutional uses, for example a church hall. On this site a Laundromat has been in existence since at least 1961. The Peninsula North Secondary Plan was only adopted in 1986; therefore this use was considered a legal non-confirming use. There was a permit issued in 1952 for a dwelling and a store. Although residential zoning applies to the property, the commercial use of the ground floor as a Laundromat has status as a non-confirming use, however, this does not permit a change from a Laundromat to a café simply through a permit.

Ms. MacLellan reviewed Planning Policy 3.14 of the Halifax Municipal Planning Strategy explaining that Council may, by development agreement, permit a non-confirming use to be changed to another less intensive non-confirming use. She, at this time, viewed the proposed rendering explaining that it is a 2-storey building explaining that they want to convert the Laundromat into a café and the residential units on top will remain the same.

Questions and Answers

Ms. MacLellan explained that the following two questions should be considered:

1. Should the café, as a change of use, be permitted?
2. If the café is permitted, what conditions should be placed in the development agreement?

Ms. Megan Blanchard, Halifax, asked if this use is changed to allow for the café, what will happen to the property if the ownership changes.

Ms. MacLellan explained that the development agreement is tied to the land, regardless of the ownership; the café would be the permitted use. If the owner wanted to change the use, they would have to go through a development agreement process.

Ms. Blanchard expressed concern with the use changing to a different food related operation that could use deep fryers and this causes fire hazard concerns.

Ms. MacLellan explained that she would consult HRM Building Officials and assured that the tenants would have to apply with all safety codes.

Ms. Poppy, Halifax, explained that she has no concerns with serving coffee and pastries; however, her concern lies with serving alcohol.

Ms. MacLellan explained that a restaurant use is different from a lounge use. A restaurant use only permits alcohol consumption in conjunction with meals. She added that HRM staff cannot restrict what is sold within the restaurant. She added that she will also discuss this point with HRM Development Officers to see if they can restrict what is sold in the restaurant.

Ms. Kelly, Property Owner, assured that there will not be liquor or deep frying.

Mr. Ashley Morton, Halifax, explained that he is in support of the application and asked if there was another way to limit the uses to avoid more intensive uses that can be written within the development agreement such as limiting the power usage to the building (not to exceed 200 amps) or set certain standards for fire protection.

Mr. Alan Parish, Halifax, asked if the applicant could give a description of what the café will look like.

Mr. Nick Fudge explained that they will be giving the building a facelift, introducing as much glazing as possible at the ground level. There will be aluminum windows at the ground level with an aluminum bris de soleil above. The second floor will be clad with white cedar shingles, pre-stained black, and they are proposing to do a silver metallic vinyl window to keep the cost down. On the inside, they will be replacing the existing columns with steel beams and the above residential units will be renovated as well.

Mr. Parish asked if this is more a renovation vs. a demolition.

Mr. Fudge explained that there is no demo to be done; the inside has already been stripped down to the studs.

Mr. Sean Gallagher, Applicant, explained that he is currently the owner for 'Local Source Market' and also lives in the area. He explained that they have been speaking with the owners and trying to negotiate a good use for this space with the owners for quite awhile. They are planning on creating a café that lends itself to the neighbourhood and offers a really nice community space. They will be going back to the origins of coffee houses where people actually sit and talk. They will be working with an offshoot roastery from 'Just Us'. They will be doing local sourcing of food and explained that the coffee will be of high quality, beyond fair-trade and the food as well will also be high quality and organic. He assured that there will not be any deep-fryer usage.

Mr. Parish asked what the difference between this café and the one on Charles Street will be.

Mr. Gallagher explained that the café on Charles Street is a committal for the building and is not their own café space, therefore, not able to add their own charm. He wants this to be a social coffee house.

Mr. Chad Jamieson, Halifax, highly supports this proposal, agrees with the design and feels that it improves the fabric of the neighbourhood. He addressed some concern with the lack of parking in this area and asked what the parking plans are and if there will be a loading zone. He asked if there will be any parking conditions added to the development agreement.

Ms. MacLellan explained that they are not able to address limiting the parking on Agricola Street within the development agreement, but will discuss these concerns with HRM Traffic Authority.

Mr. Fudge explained that they aren't required to do a traffic study as part of this application.

Ms. Kelly explained that she had completed one in regards to the Laundromat.

Ms. MacLellan noted that there is no parking available on-site and since this is not a more intensity of a use, they are not asking for more parking, however, she will speak with Traffic Authority about it.

Mr. Lucas Pearce, Halifax, explained that he is in support of this idea and that this is a perfect space for this development. He asked if there will be low key acoustic music within the hours of operation and if so, are there any considerations for sound isolation, such as particular windows being used to keep noise limited.

Mr. Fudge explained that they haven't considered this and that they are using the standard double pain windows. They don't anticipate loud noises.

Ms. MacLellan explained that this also can be looked at as part of the application.

Ms. Blanchard asked about the new door in the proposed agreement.

Mr. Fudge explained that this is a separate entrance for the family only, so that they don't have to walk through the café to get outside.

Ms. Blanchard asked about what type of furnace will be used. She addressed concern with propane, but not if it is only for the residents and if it will be in a locked gate. She also asked where the garbage and compost will be located.

Ms. Kelly explained that she wasn't sure what type of heat they are going to go with.

Mr. Fudge explained that they are looking at storing the compost/garbage downstairs.

Ms. Kelly added that there is a portion next to Agricola Street that they do not own.

Ms. Blanchard asked at what part of the application staff determines where the furnace rooms or propane tanks will be located.

Ms. MacLellan explained that it will be reviewed on the site plan of the development.

Ms. Blanchard asked about the awning and asked if it is at a 7 ft height and added concern about how far it will project onto to the street. She doesn't want to see all metal when stepping outside her door.

Mr. Fudge explained that it will be a sunshade and will be made of light weight aluminum. It will project 2-3 ft onto the sidewalk, however, there has been some debate whether the owner wants to have an awning or not.

Ms. MacLellan explained that they will look at keeping it consistent with how the other awnings on the street look.

Ms. Kelly explained that you have to pay by size of the awning.

Ms. MacLellan added that you have to pay a fee to Traffic and Right Away for any projection over the street.

Mr. Parish asked if he can get a copy of the traffic impact study.

Ms. MacLellan explained that it will be on-line and if residents provide their personal email addresses, she can also send a copy electronically to them.

Mr. Parish explained that local street parking gets quite full and sometimes is hard to find a spot. He added concern with the parking and explained that on West Street they have street parking for only those who live there and asked if this could be a possibility for this street.

Ms. MacLellan explained that she can speak with Dave McClusker and his group about this option and see if it is something that they can also look into for this area.

Mr. Parish asked if there can be another chance for public input once the draft development agreement is complete.

Ms. MacLellan explained that staff is not allowed to circulate the draft development agreement however, she can meet with the residents prior to a public hearing to discuss some of the topic that are addressed within the development agreement.

Ms. Jill Manderson explained that this proposal looks great however, added concerns with compost, alcohol, and late night ruckuses. She gave an example of another area where their compost is offensive and asked that the compost be put inside. She gave another example where there is late night hang outs and asked what the hours of operation will be.

Ms. MacLellan explained that they can negotiate through the development agreement.

Mr. Pearce asked if there will be bicycle parking available. He explained that HRM has provided some bicycle parking in another area of Agricola Street and asked if HRM could possibly do the same.

Ms. Blanchard added that it would also be nice for HRM to provide trees on Agricola Street.

Ms. Poppy asked what type of venting systems will be used and added concern with some venting systems being extremely loud. She also mentioned loud generator usage.

Mr. Jamieson asked if there will be outside seating.

Ms. MacLellan explained that the development agreement can only address the specific property that it is under; HRM owns a right-of-way. She added that, based on the site plan, it doesn't look like there is room for outside seating.

Mr. Jamieson asked about loose seating.

Ms. MacLellan explained that she will address this with HRM Traffic and Right-Away Services to see if it is an option.

Ms. Kelly explained that they are looking at Natural Gas and added that, in regards to the electricity, there is enough power to run 20 washers and 20 dryers.

Mr. Morton addressed concern with restricting the uses of the café through the development agreement. He gave a couple of examples of times where it would be nice to have the option to extend hours of operation without having to go through the development agreement.

Mr. Gallagher explained that this is a good time for this development to move forward. There is a lot of high density residential and it is time that Agricola also grows. He added that it also helps knowing that the owners live upstairs; this helps limit the use downstairs. He agrees with not having fixed furniture outside.

Closing Comments

Ms. MacLellan thanked everyone for attending. She encouraged anyone with further questions or comments to contact her.

Adjournment

The meeting adjourned at approximately 7:55 p.m.