

Halifax and West Community Council
July 22, 2013

TO: Chair and Members of Halifax and West Community Council

Original Signed

SUBMITTED BY: Brad Anguish, Director, Community & Recreation Services

DATE: July 3, 2013

SUBJECT: Case 18216: Rezoning – 4 York Redoubt Crescent, Fergusons Cove

ORIGIN

Application by Thomas Foster

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter; Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading of the proposed rezoning of 4 York Redoubt Crescent, Fergusons Cove, from the P-2 (Community Facility) Zone to the R-2a (Residential Home Occupation) Zone, as contained in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed rezoning of 4 York Redoubt Crescent, Fergusons Cove, from the P-2 (Community Facility) Zone to the R-2a (Residential Home Occupation) Zone, as contained in Attachment A of this report.

BACKGROUND

The subject property is approximately 80,800 square feet (1.85 acres) in area and located on York Redoubt Crescent in Fergusons Cove. The entire property is registered as a municipal heritage property and it includes a vacant church building. The property owner wishes to reuse the vacant church building as a single unit dwelling with a bed and breakfast operation. To enable this proposal, the property owner has requested that the subject property be rezoned to R-2a under the Planning District 5 Land Use By-law. The R-2a (Residential Home Occupation) Zone which permits single and two unit dwellings, bed and breakfast operations, and home occupations in conjunction with permitted dwellings (Attachment B).

Location

The subject property is located at 4 York Redoubt Crescent, a provincially owned road off Fergusons Cove Road. The southern property boundary abuts the York Redoubt National Historic Site. York Redoubt Crescent is used frequently as a public right of way to access a trail within the National Historic Site. The subject property includes a steep slope toward Halifax Harbour and the east property line comprises coastal frontage. The property also abuts a residential property to the north. The subject property is registered as a municipal heritage property known as the Stella Maris Church. It was used as a Roman Catholic Church from the date it was constructed in 1846 to 1993.

Designation and Zoning

The subject property is designated as Park under the Secondary Planning Strategy (SPS) for Planning District 5 (Map 1). The property is zoned P-2 (Community Facility) Zone under the Land Use By-law (LUB) for Planning District 5 (Map 2) which permits institutional uses such as day care facilities, fire stations, community centres, and residential care facilities (Attachment B).

Surrounding Zoning

The community of Fergusons Cove is characterized by low density residential development. As shown on Map 2 of this report, the subject property is predominantly surrounded by properties which are zoned R-2a, with the exception of the York Redoubt National Historic Site which is zoned Regional Park (RPK).

Proposal and Enabling Policy

The applicant is seeking the rezoning to permit a single unit dwelling and a bed and breakfast operation within the vacant church building. These uses are currently not permitted under the existing P-2 Zone. However, the SPS contains policy that enables Community Council to consider applying the R-2a (Residential Home Occupation) Zone through a Land Use By-law amendment.

Under the Park designation, policy IM-6 provides the Community Council with the ability to consider the development of similar uses on properties which abut one another within the abutting designation. In this case, the abutting property to the north is zoned (R-2a) and used for residential purposes. Policy RES-4 provides the Community Council with the ability to consider applying the R-2a Zone through a Land Use By-law amendment within the Residential

designation subject to specific criteria and the general evaluation criteria contained in policy IM-10 (Attachment C).

DISCUSSION

Policies within the SPS enable Community Council to consider the rezoning of the subject property. These policies contain criteria to be considered when evaluating the proposed rezoning. In staff's opinion, the proposed rezoning is consistent with applicable policies. Attachment C provides an evaluation of the proposed rezoning in relation to these applicable policies. The following issues are being highlighted for more detailed discussion.

Compatibility of Home Occupation with Adjacent Residential Properties

One of the key considerations when reviewing an application to rezone a property is to consider the compatibility of the proposed land use with neighbouring properties. The R-2a Zone of the Land Use By-law places controls on the size of any future home occupation, day care facility, and bed and breakfast operations. Parking can be accommodated on the 1.85 acre property. The surrounding community is characterized by low density residential development on large lots and, as such, neighbouring residential properties are separated from any future home occupation. The subject property includes many trees around the existing building which will provide a buffer between neighbouring residential properties and the existing building.

Traffic/Access

York Redoubt Crescent is recognized as a provincial public highway under the (*Public Highways Act*) and it is frequently used to access a trail system on Park Canada's lands. Staff in both HRM and NSTIR have indicated the change in use from a religious institutional use to a residential use with a bed and breakfast operation does not raise any concerns from a traffic impact standpoint. NSTIR is prepared to permit York Redoubt Crescent to be used for access to the property under residential zoning.

On-Site Services

The subject site will be serviced with an on-site well which will need to be installed by a licensed well driller. The applicant has undertaken a design for a new residential septic system on the subject property for which Nova Scotia Environment has issued an approval. In the event that the subject property is rezoned to R-2a, NSE approvals would be required before permits would be issued for a single unit dwelling with a bed and breakfast operation.

Potential Damage/Destruction of Designated Historic Buildings and Sites

The applicant wishes to convert the vacant church building on the property to a single unit residence with bed and breakfast operation. The proposed development involves changes to all four sides of the heritage building. Two additions will be constructed at the front and harbour-side of the building. A second floor will be added in the interior of the existing building and a sliding glass door will be installed on the side of the building facing the harbour.

As a result, many character-defining elements of the heritage property will be preserved but many will also be removed. The *Heritage Property Act* enables substantial alterations to registered municipal heritage properties through a Council approval process. On June 25, 2013,

Regional Council approved the substantial alterations to the municipal heritage property as described above under Case No: H00373.

Conclusion

The proposal is capable of meeting the requirements of the R-2a Zone, however, as this is a rezoning request, should Council grant their approval, the subject property can be developed for any use permitted in the R-2a Zone provided it complies with the requirements of the Land Use By-Law.

In staff's opinion, the proposed rezoning is consistent with applicable policies of the MPS and staff recommends that Halifax and West Community Council approve the rezoning of the subject property to R-2a as outlined in Attachment A.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this application can be accommodated within the approved 2013/14 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 consultation, achieved through a public information meeting held on March 28, 2013. For the Public Information Meeting, notices were posted on the HRM website, in the local newspaper, and mailed to property owners with 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 rezoning. 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 rezoning will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all applicable environmental polices contained in the SPS. No additional items have been identified.

ALTERNATIVES

1. Council may choose to approve the proposed rezoning of 4 York Redoubt Crescent, Fergusons Cove, from P-2 (Community Facility) Zone to the R-2a (Residential Home Occupation) Zone, as contained in Attachment A of this report. This is the recommended course of action for reasons outlined in this report. A decision of Council to approve this land use by-law amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Council may choose to refuse the rezoning of 4 York Redoubt Crescent, Fergusons Cove, and in doing so must provide reasons based on a conflict with policy of the SPS for Planning District 5. This alternative is not recommended for reasons outlined in this report. A decision of Council to reject this land use by-law amendment, with or without a public hearing, is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

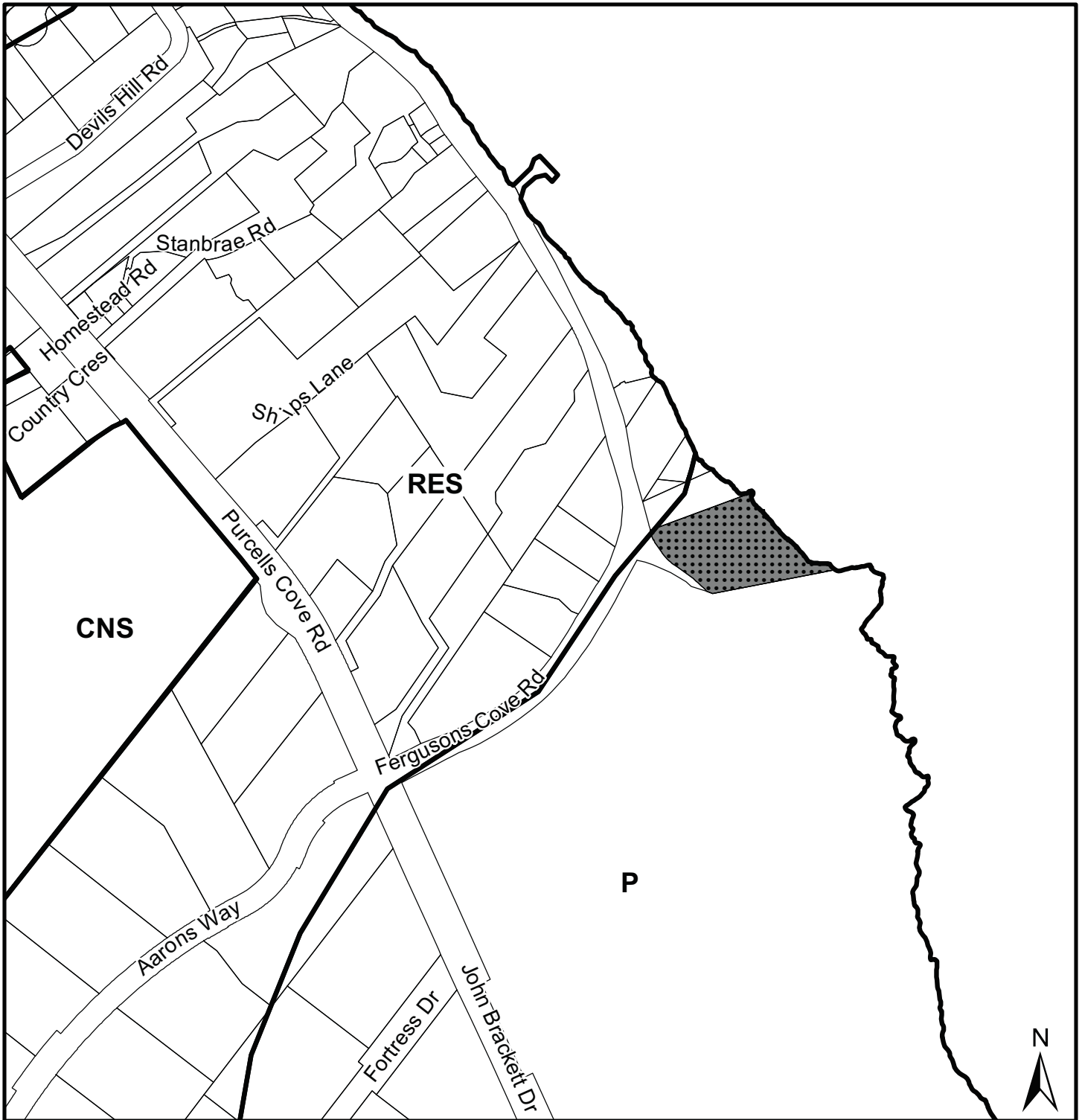
ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Attachment A	Proposed Amendment to the Land Use By-law for Planning District 5
Attachment B	Excerpts from the Planning District 5 LUB
Attachment C	Review of Relevant Policies from Planning District 5 SPS
Attachment D	Public Information Meeting Minutes – March 28, 2013

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: Seamus McGreal 490-5113
Original Signed

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



Map 1 - Generalized Future Land Use

4 York Redoubt Crescent
Fergusons Cove

 Area proposed to be rezoned from P-2 (Community Facility) to R-2a (Residential Home Occupation)

Planning District 5
(Chebucto Peninsula) Plan Area

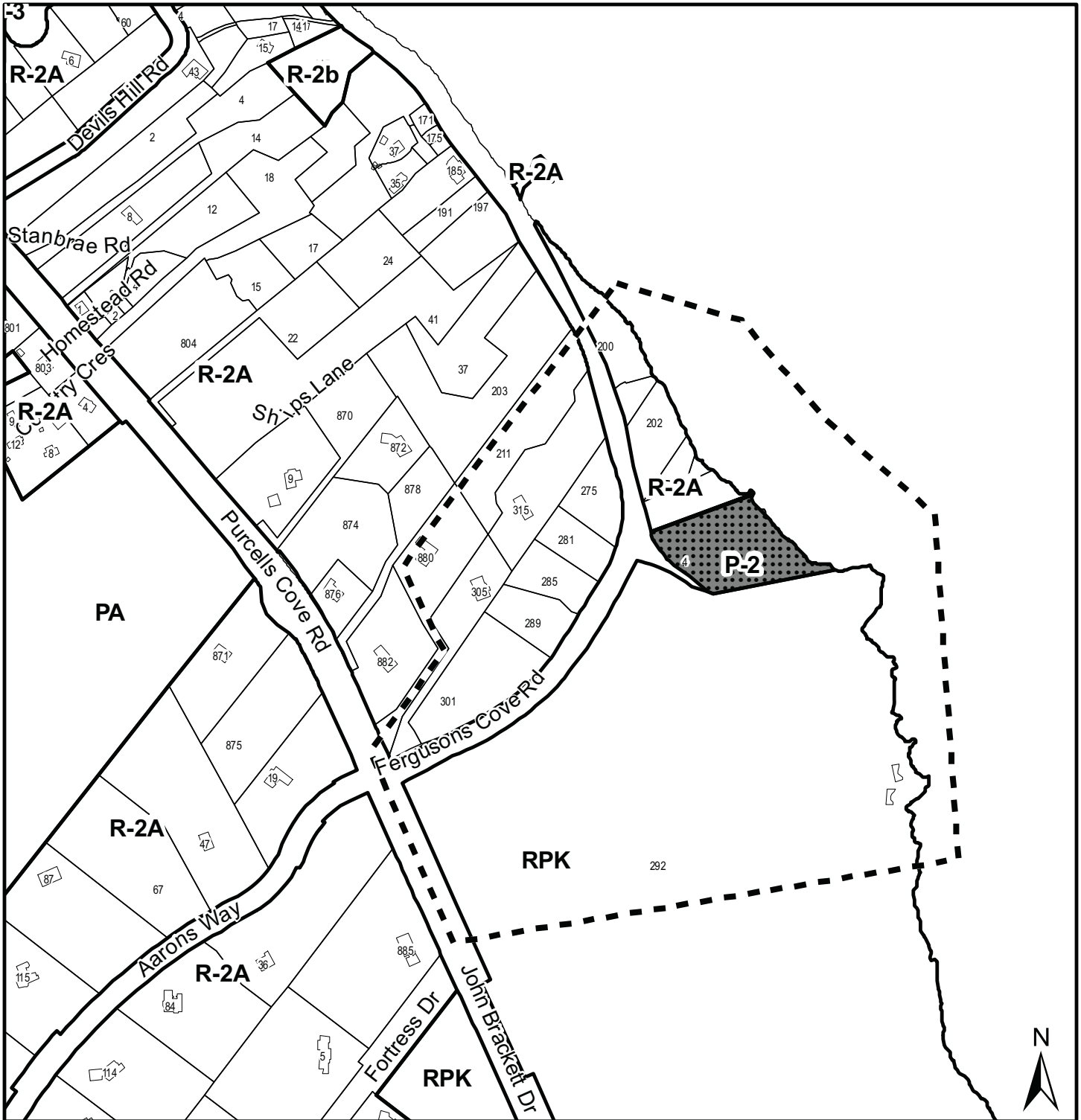
Designation

RES Residential
CNS Conservation
P Park




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 - Zoning and Notification

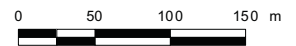
4 York Redoubt Crescent
Fergusons Cove

 Area proposed to be rezoned from P-2 (Community Facility) to R-2a (Residential Home Occupation)

 Area of notification

Planning District 5
(Chebucto Peninsula) Plan Area

Zone	
R-2A	Residential Home Occupation
R-2B	Residential Equine
P-2	Community Facility
P-3	Park
RPK	Regional Park
PA	Protected Area



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Attachment A

Amendment to the Land Use By-law for Planning District 5

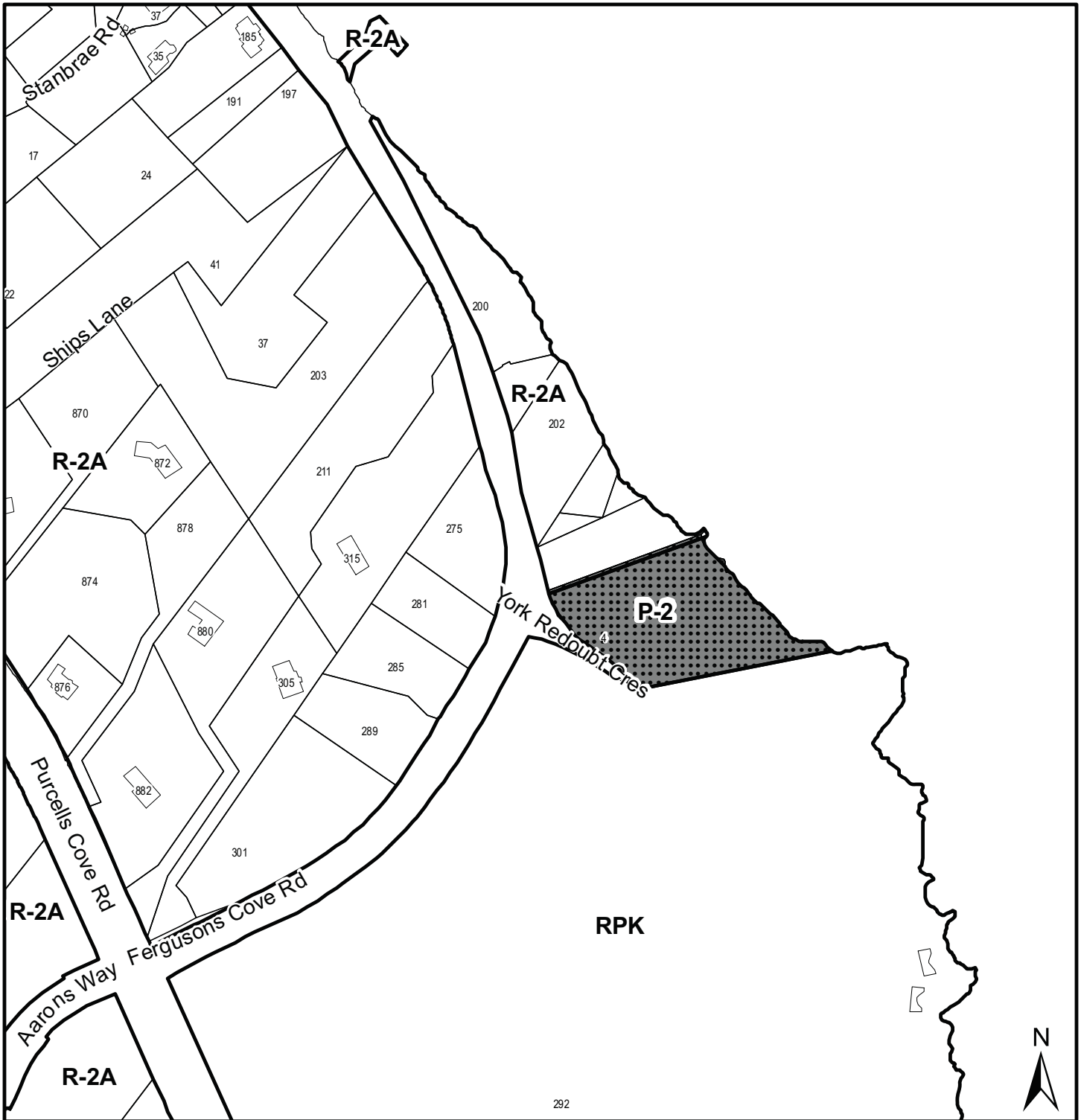
BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use Bylaw for Planning District 5 as enacted by the former Halifax County Municipality on the 5th day of December, 1994, and approved with amendments by the Minister of Municipal Affairs on the 9th day of February, 1995, which includes all amendments thereto which have been adopted by the Halifax Regional Municipality and are in effect as of the 17th day of April, 2010, is hereby further amended as follows:

1. Planning District 5 Zoning Map is further amended by rezoning 4 York Redoubt Crescent, Fergusons Cove, from P-2 (Community Facility) Zone to the R-2a (Residential Home Occupation) Zone as shown on the Schedule A.

I HEREBY CERTIFY that the amendment to the Land Use By-law for Planning District 5 as set out above, was 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.

Cathy Mellett
Municipal Clerk



Schedule A

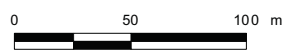
4 York Redoubt Crescent
Fergusons Cove

 Area to be rezoned from
P-2 (Community Facility) to
R-2a (Residential Home Occupation)

Planning District 5
(Chebucto Peninsula) Plan Area

Zone

R-2A Residential Home Occupation
P-2 Community Facility
RPK Regional Park



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 B
Excerpts from the Planning District 5 LUB

PART 20: P-2 (COMMUNITY FACILITY) ZONE

20.1 P-2 USES PERMITTED

No development permit shall be issued in any P-2 (Community Facility) Zone except for the following:

Institutional Uses

Educational institutions and uses;
Denominational institutions and uses;
Day care facilities;
A single unit dwelling in conjunction with a day care facility;
Fire and police stations;
Government offices and public works;
Hospitals, medical and veterinary clinics;
Senior citizen housing;
Public libraries, museums and galleries;
Fraternal centres and halls;
Community centres and halls;
Recreation uses;
Residential care facilities.

Open Space Uses

Public and private parks and playgrounds;
Cemeteries;
Historic sites and monuments;
Marine related navigational aids.

20.2 P-2 ZONE REQUIREMENTS: COMMUNITY FACILITIES

In any P-2 Zone, where uses are permitted as Institutional Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	20,000 square feet (1858 m ²)
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	½ the height of the main building
Maximum Lot Coverage	50 per cent

20.3 OTHER REQUIREMENTS: PARKING AREAS

(a) No parking areas shall be permitted within any required side or rear yard.

- (b) All parking areas shall be demarcated and paved or otherwise treated with a stable surface which is treated in a manner to prevent the raising of dust and loose particles.

PART 8: R-2a (RESIDENTIAL HOME OCCUPATION) ZONE

8.1 R-2a USES PERMITTED

No development permit shall be issued in any R-2a (Residential Home Occupation) Zone except for the following:

Single unit dwellings;
Two unit dwellings;
Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings except in two unit dwellings where each unit is held under separate title;
Home occupations in conjunction with permitted dwellings;
Bed and breakfast;
Open space uses;
Fishery support uses;
Existing mobile dwellings.

8.2 R-2a ZONE REQUIREMENTS: RESIDENTIAL USES

In any R-2a Zone, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:	
central sewer and water services	6,000 square feet (557.4 m ²) per dwelling unit
central sewer services/ on-site water	10,000 square feet (929 m ²) per dwelling unit
on-site services	20,000 square feet (1858 m ²)
Minimum Frontage:	
central sewer and water services	60 feet (18.3 m) per dwelling unit
central sewer services/ on-site water	75 feet (23 m) per dwelling unit
on-site services	100 feet (32.84 m)
Minimum Front or Flankage Yard	20 feet (6.1 m)
Minimum Rear or Side Yard	8 feet (2.4 m)
Maximum Lot Coverage	35 per cent
Maximum Height of Main Building	35 feet (10.7 m)

8.3 OTHER REQUIREMENTS: OPEN SPACE USES

Where open space uses are permitted in any R-2a Zone, the following shall apply:

Minimum Front or Flankage Yard	30 feet (9.1 m)
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Minimum Rear or Side Yard 30 feet (9.1 m)

8.4 OTHER REQUIREMENTS: FISHERY SUPPORT USES

- (a) Where fishery support uses are permitted in any R-2a Zone, the following shall apply:

Minimum Side Yard 8 feet (2.4 m)

- (b) Notwithstanding the provisions of Section 4.1, where uses are permitted as fishery support uses in an R-2a zone, no development permit shall be required.

8.5 OTHER REQUIREMENTS: HOME OCCUPATIONS

Where home occupations are permitted in any R-2a Zone, the following shall apply:

- (a) Any home occupation shall be wholly contained within the dwelling or accessory building. The dwelling shall be the principle residence of the operator of the home occupation.
- (b) No more than seven hundred and fifty (750) square feet (70 m²) of gross floor area shall be devoted to any home occupation.
- (c) No materials or equipment which is obnoxious or creates a nuisance by virtue of noise, vibration, smell or glare shall be used on the lot.
- (d) One (1) facial wall sign, not exceeding two (2) square feet (.2 m²) in size, shall be permitted to advertise the home occupation and shall be constructed of wood.

8.6 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-2a Zone, the following shall apply:

- (a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling which is the principal residence of the operator of the dwelling.
- (b) No open storage or outdoor display shall be permitted.
- (c) One (1) facial wall sign, not exceeding two (2) square feet (0.2 m²) in size, shall be permitted to advertise the day care facility and shall be constructed of wood.
- (d) One off-street parking space, other than that required for the dwelling, shall be provided.

8.7 OTHER REQUIREMENTS: BED AND BREAKFASTS

Where bed and breakfast outlets are permitted in any R-2a Zone, the following shall apply:

- (a) Notwithstanding Section 2.7, no dwelling shall be used for the rental of more than three (3) rooms for sleeping accommodation, with or without meals to the travelling public.

- (b) One (1) facial wall sign, not exceeding two (2) square feet (0.2 m²) in size, shall be permitted to advertise the bed and breakfast outlet and shall be constructed of wood.
- (c) One off-street parking space in addition to that required for the dwelling shall be provided for each room to be let.

Attachment C

Review of Relevant Policies from Planning District 5 SPS

<p>IM-6 Providing that the intentions of all other policies are satisfied, Council may, for the purpose of providing for the development of similar uses on properties which abut one another, consider development agreements or amendments to the land use by-law within a designation to provide for the development of uses which are uses permitted by the zone on the abutting property within the abutting designation, as shown on the Generalized Future Land Use Map (Map 1), except where commercial or industrial zones abut residential (R-1, R-2, R-2a) zones.</p>	<p>This application is in conformity with the SPS for District 5 and all other municipal documents. The subject property abuts a property to the north that is within the R-2a Zone and designated Residential. Therefore, the development of R-2a uses on the subject property is consistent with the intent of the Residential Designation.</p>
<p>RES-4 Within the Residential Designation, it shall be the intention of Council to establish a residential home occupation zone in the land use by-law which permits single and two unit dwellings, existing mobile dwellings, open space uses, fishery support uses, bed and breakfast outlets and the limited use of residential properties for home occupations and daycare facilities provided that controls are established on signage, open storage, and the size and nature of these uses. In order to address compatibility concerns, this zone shall also place limitations on size and the use of signage for bed and breakfast outlets. This zone shall be applied in areas where larger home business capabilities are desired. In considering amendments to the schedules of the land use by-law to a residential home occupation zone to permit larger home businesses, Council shall have regard to the following:</p>	
<p>(a) that the greater use of the dwelling or use of an accessory building for the home occupation is compatible with adjacent residential properties in terms of the size of the home occupation, parking areas, separation, and existing landscaping or buffering;</p>	<p>The surrounding community is characterized by low density residential development on large treed lots and, as such, neighbouring residential properties are separated from any future home occupation.</p>
<p>(b) the adequacy of water and sewerage services;</p>	<p>Nova Scotia Environment (NSE) requires that any well on the subject property be installed by a licensed well driller and NSE has issued an approval for a new residential septic system.</p>
<p>(c) the impact on the local residential area of any traffic being generated by the home occupation; and</p>	<p>HRM and NSTIR staff have both indicated that the change in use does not raise any concerns from a traffic impact standpoint.</p>

(d) the provisions of Policy IM-10.	See below
IM-10 In considering development agreements and amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:	
(a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;	This application is in conformity with the SPS for District 5 and all other municipal documents.
(b) that the proposal is not premature or inappropriate by reason of:	
(i) the financial capability of the Municipality to absorb any costs relating to the development;	The subject proposal does not require any capital or operating costs be absorbed by the Municipality.
(ii) the adequacy of on-site sewerage and water services;	Nova Scotia Environment (NSE) requires that any well on the subject property be installed by a licensed well driller and NSE has issued an approval for a new residential septic system.
(iii) the adequacy or proximity of school, recreation or other Community facilities;	The subject property is located within an established residential neighbourhood with facilities nearby.
(iv) the adequacy of road networks leading or adjacent to or within the development;	NSTIR is prepared to permit York Redoubt Crescent to be used for access to the property under residential zoning.
(v) pedestrian safety; and	York Redoubt Crescent is frequently used to access a trail system within the York Redoubt National Historic Site. This application will not impact the use of the right of way.
(vi) the potential for damage to or for destruction of designated historic buildings and sites.	The subject property is a municipally registered heritage property and Regional Council approved substantial alterations to the existing building.
(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:	
(i) type of use;	The R-2a Zone will ensure that permitted uses are consistent with neighbouring properties also zoned R-2a.
(ii) height, bulk and lot coverage of any proposed building;	The application is for the adaptive reuse of an existing building.
(iii) traffic generation, access to and egress from the site, and	HRM and NSTIR staff have both indicated the change in use does not raise any

parking;	concerns from a traffic impact standpoint. The R-2a Zone includes controls for parking at bed and breakfast operations and the LUB includes general provisions for parking.
(iv) open storage;	Controls are in place under the Land Use By-law for Planning District 5.
(v) signs; and	Controls are in place under the R-2a (Residential Home Occupation) Zone of the Land Use By-law for Planning District 5
(vi) any other relevant matter of planning concern.	No additional concerns were raised.
(d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility of flooding.	The application is for the adaptive reuse of an existing building and property. The property contains steep grades and abuts the oceans, however, there is adequate area on the property for the use of the property as a single unit dwelling with a bed and breakfast operation.

Attachment D

Public Information Meeting Minutes – March 28, 2013

7:00 p.m.

**Captain William Spry Community Centre
Kidston Room, 16 Sussex Street, Spryfield**

IN ATTENDANCE: Seamus McGreal, Heritage Planner
Holly Kent, Planning Technician
Rowena Dill, Planning Controller
Councillor Steve Adams, District 11

ALSO IN

ATTENDANCE: Eva Kroger, Applicant
Thomas Foster, Applicant

PUBLIC IN

ATTENDANCE: Approximately 16

The meeting commenced at approximately 7:00 p.m.

Opening Remarks/Introduction/Purpose of Meeting

Mr. Seamus McGreal thanked everyone for coming and introduced himself as the Heritage Planner assigned to this case for the rezoning. He advised that Councillor Adams would be attending as well but was running late. He introduced his fellow colleagues in attendance. He related that the meeting would be recorded and minutes would be taken.

Mr. McGreal advised that HRM is required to do a public information meeting for rezoning applications. The purpose of this meeting is to inform citizens of this application and to identify what is proposed for the site. It is also an opportunity to hear from the public about their concerns over the site and the proposed development recognizing that we are still in the early stages of the process. Public comment will be considered in the discussions and recommendations that will be taken forward to both the Heritage Advisory Committee and Community Council. No decisions will be made here tonight, it is strictly an information sharing meeting.

Mr. McGreal noted that this is not the last opportunity for input. If you want to get in touch with him after this meeting, his contact information is available. There will also be a public hearing before council makes its decision. Community Council will hear the staff report and members of the public will have a chance to speak at the public hearing before any decision is made.

Mr. McGreal introduced the applicants Mr. Thomas Foster and Eva Kroger who are applying for the rezoning.

Proposal

Using a PowerPoint presentation, Mr. McGreal explained that the applicant would like to rezone the property from P-2 (Community Facility) Zone to R-2A (Residential Home Occupation) Zone. The proposal is to rehabilitate a vacant church building by converting it to a single unit residence with a Bed & Breakfast operation. The applicant is also interested in subdividing the property and constructing a new two-unit dwelling at the rear.

An aerial view shows that the lot is approximately 1.85 acres in size and abuts the York Redoubt National Historic site to the South. It is surrounded by residential uses. The Planning District 5 Secondary Planning Strategy has a Park Designation on the York Redoubt Park and on the subject property. This Park Designation is surrounded by a Residential Designation.

The aerial view shows the topography of the site. Mr. McGreal identified the steep slopes and showed where there may be space for a second building at the rear of the church building. There is a lot of slope in the topography down to the coastal frontage. He identified the York Redoubt Crescent Right of Way and explained that it is a path used by residents in the community that connects to a trail running along the fort walls in the National Historic Site. This trail can also be accessed from a trail head in the parking lot of the National Historic Site.

Mr. McGreal explained that the National Historic Site is zoned Regional Park, the subject property is zoned P-2 (Community Facility), and surrounding properties are zoned R-2a (Residential Home Occupation). The P-2 (Community Facility) Zone on the subject property permits institutional uses such as daycare facilities, church uses, community centers, and residential care facilities. The R-2a (Residential Home Occupation) Zone which the applicants are requesting for the subject property permits single unit dwellings, two unit dwellings, home occupations, B&B operations. The applicant would like to use the property as a single unit dwelling with a B&B operation. Therefore, the R-2a Zone is appropriate to their needs and this is why they have requested the rezoning.

Mr. McGreal explained some of the regulations of the R-2a Zone. There is a 35% limit on lot coverage. Buildings cannot be more than 35 feet high. The minimum setbacks are 20 feet for front, side and rear yards. If you take these regulations into consideration with the topography of the site you can see that there is not much room to build another building. The applicants are proposing to re-use the church building and to construct a small two-unit dwelling to the rear.

Mr. McGreal showed a sketch of the proposed development prepared by the applicant. He explained that the new building would include some of the design characteristics of the church building. He explained that the church building would have some added features such as verandas, decks and a swimming pool at the front to entertain the guests at the Bed and Breakfast. The applicant will be making changes to all four sides of the building. Mr. McGreal explained that there is a separate process underway for the heritage application since the church building is a registered municipal heritage property. The proposal for a substantial alteration to a

heritage property will go to the Heritage Advisory Committee and to Regional Council for approval. This process is separate from the rezoning. Mr. McGreal related that there are more drawings to be shown on the proposed changes to the church building that were submitted by the applicant. These drawings will be displayed later in the question and answer period.

Policy Review

Mr. McGreal explained the policy that allows an application for rezoning on the subject property. The properties abutting the subject property are within the Residential Designation and zoned R-2a. Therefore, the uses permitted within the R-2a Zone may be developed on the subject property. Under the policy, the development of abutting residential uses on the subject property must be considered within the Residential Designation. Residential policies of the community plan allow the land use by-law amendment (rezoning) process to develop R-2a uses.

Mr. McGreal turned to the policy criteria within the community plan most relevant to this case:

- The proposed home occupation uses, such as the Bed & Breakfast, should be compatible with adjacent residential properties. The policy considers such things as the size of property, parking, separation, landscaping and buffering. Mr. McGreal related that the residential properties are not close together in this area and an existing building will be re-used for the B&B.
- Potential for damage to or for destruction of designated historic buildings and sites must be considered. Mr. McGreal explained that the applicant is proposing changes to a heritage building. Regional Council will review if the proposed changes are appropriate and decide if the proposed substantial alteration to the heritage property can take place. Community Council will also consider the appropriateness of the changes to the church building under the policy criteria for the rezoning. If Community Council feels that the proposed changes to the heritage property are destructive then it may impact their decision for the rezoning. So we want to make sure that the changes to the heritage building are appropriate.
- Council will also be looking at the adequacy of water and sewage services. The applicants do have approval from Nova Scotia Environment for the sewage and are looking into the well at this time.
- The road networks leading to, adjacent to, or within the development should be adequate and pedestrian safety is a factor. Mr. McGreal related that York Redoubt Crescent is used by the community to access park trails. Mr. McGreal related that he would like to get some feedback today as to what could possibly happen with this public right of way. He indicated that the applicant has expressed interest in acquiring this land as it is currently a provincial road. We are looking at getting approval for access off of Fergusons Cove Road. The applicant will then need to get approval from the province to use this road as a driveway. That is one option. The applicants have also proposed re-aligning the right of way onto the adjacent Parks Canada land above the stone wall. The public could then continue to use the right of way on public land and the York Redoubt Crescent could be

sold. Mr. McGreal related that we are looking for ideas as to whether this would be an appropriate change for the community.

Process

Mr. McGreal explained that a preliminary review of the application was done. He related that now we are at the Public Information Meeting stage in the process. The next stage will be a detailed review and preparing a staff report for the rezoning. Another staff report will be prepared for the substantial alteration to a heritage property which will proceed to the Heritage Advisory Committee. Regional Council will decide on the changes to the heritage building. Community Council will decide on the rezoning. The public will have a chance to speak directly to Community Council at a Public Hearing before a final decision is made. Once that final decision is made there is a two week appeal period in which anybody can appeal Council's decision to the NS Utility and Review Board.

Presentation by Applicant – Eva Kroger

Ms. Kroger welcomed everyone. She thanked the neighbours for their support and for welcoming them. Ms. Kroger also thanked Seamus for working with them closely and guiding them through the process.

Ms. Kroger started her presentation by giving some background information about her and Mr. Thomas Foster. She explained where they were from, their past and present occupations, and how they met and what brought them to want to purchase this property.

Ms. Kroger explained that she thinks everyone here knows that major renovations are necessary. Windows are non-thermal, there is no heating, and there is no septic or water on the property at present.

Ms. Kroger explained that she and Tom feel that not only the building but also the location and views would make this the perfect location for a Bed & Breakfast. There would be unique historical attractions together with walking paths and berry picking. Ms. Kroger related that by renovating and preserving the structure and land, it will be saved from deterioration for many years to come. They hope to maintain as many historical features as possible but will have to think of their personal needs and wants at the same time. To make it a cozy home and maintain the integrity of the building, they will have to achieve a balance to satisfy the community and the new owners as well. Beautiful gardens, climbing vines and grasses will give the church new life and marry the old with the new. Ms. Kroger expressed that it is in their interest to try and incorporate historical items such as the windows into the new additions.

Ms. Kroger said that she could think of many positive attributes the new residence will bring to neighbors, tourists, and the general public:

- Preservation of a Heritage Property and not the removal of the Church;
- Awareness of York Redoubt National Historic Site and the battery;
- Promotion of tourism;

- Prevention of vandalism and crime in the area such as graffiti, drug dealings, raves, fires etc.;
- No overnight parking;
- Prevention of dumping garbage;
- Cleaning up debris from hurricane.

Ms. Kroger stated that overall, they feel the residence at the property will deter from abusing the land and structures in the immediate area.

Ms. Kroger closed her presentation by stating that she hopes they meet everyone's expectation. It has been a long rough road but they have had incredibly positive feedback and support not only from neighbours but also from passers-by. She explained it is their intention to treat the property with love and respect considering its past and present.

Questions and Answers

Angie McCleod, Fergusons Cove Rd., related that she has been at her residence for seven and a half years and before that she lived on Battery Drive for four years. She is an avid runner, she runs by this church at least once if not twice a day. It is a beautiful spot but since the services stopped at the church it has fallen apart and rotted. It is in disrepair and someone needs to do something. She feels the proposal is good for the community and is glad to see that the church will be restored. As for the lane, she has been taking a different route on her runs now to give the new owners their privacy but would like to see the trail continued even if it is relocated. Ms. McCleod stated a B&B would be great for tourism in the community. She explained she is in full support of what they are doing.

Alan Ruffman, Fergusons Cove Rd., stated, point of order, the sign that is on the road says development agreement, but under the development agreement wording it refers to the rezoning. Mr. Ruffman asked if this is a public information meeting for the development agreement or is it a public information meeting for the rezoning or is it a public information meeting for a substantial alteration to a heritage building?

Mr. McGreal stated that it is a public information meeting for a rezoning. He explained the application originally started as a development agreement then the policy was reviewed and it was determined that the rezoning is the appropriate approach.

Mr. Ruffman asked if this has, in any way, been presented to the Heritage Advisory Committee at this point?

Mr. McGreal stated no. The substantial alteration nor the rezoning has been presented to the Heritage Advisory Committee yet.

Mr. Ruffman requested Mr. McGreal to go back to an overhead of one of the policies that had to do with considering potential change to the construction of a heritage building. Mr. Ruffman

asked if it could be explained what is meant by the wording of potential for damage. Is this something that affects how municipal council or regional council would think about a rezoning?

Mr. McGreal said that because this is a registered heritage property Council can consider damage to a heritage property in its decision for the rezoning.

Mr. Ruffman stated that presumably the public that is here tonight for the rezoning also should be able to consider those issues. If this is the case, then surely we should be shown the proposed changes to the church as part of the public information meeting. It was suggested that we could not see those until after we have made our comments on the rezoning.

Mr. McGreal explained that he would show the pictures of the changes to the church building as part of the question and answer period. He explained he would first like to hear the other comments relating to the rezoning before discussing the specific changes to the church.

Mr. Ruffman stated he would then reserve his comments until that time.

Hilary Marentat, Devils Hill Rd., stated that she frequently passes the church and notes the remarkable amount of deterioration that has come to the church. She advises that she was at a meeting with the Catholic Church about maintaining it but they decided to put it on the market. The community will benefit from this building being made whole again and becoming a sound building. She is concerned about the pathway being gone but would like to see it moved if this is the case. It is a beautiful area we would like to maintain it and enjoy it.

Mr. Ryan, Fergusons Cove Rd., explained that he has enjoyed walks in the park every day with his dog. He and his wife got to know Tom and Eva quite well and feels they have had a lot of their neighbours concerns in mind with their decisions. The church in particular has been in a sad state of disrepair for some time and it has been the staging ground for a lot of unsavory activity. Having someone there living in that building will be the best solution to keep the undesirables out of there and things such as raves. He feels that turning the driveway over to them is a good idea. If it is left to being accessible to the public then you will continue to have people coming and causing problems. The R-2a zone is all throughout the area so can't see why this property shouldn't be R-2a as well. He stated that his family agrees that it should be rezoned to R-2a.

Mr. Phil Pacey, Chair of the HRM Committee of the Heritage Trust of Nova Scotia, explained that he missed the first part of the meeting so apologizes if he doesn't understand entirely what is happening. He feels there is a better way of accomplishing the ideas in the room that people have expressed, such as activity on the property, deterioration of the building, potential uses and so on. He stated that one person mentioned there had been a sign about a Development Agreement and he feels that would be a better approach in this case. There is a policy 6.8 in the Municipal Planning Strategy which enables a registered heritage property to have a different use, and that is subject to a development agreement, which is a formal contract between HRM and the property owners and runs with the property. He states that if the property

was sold it would then run with future owners. It offers a lot of protection for the municipality, for the neighbors, that things definitely have to happen especially if something were to happen with the current owners. A development agreement can have time limits on it and then things have to happen within the time limit and if not then people lose their rights with the development agreement. He would encourage HRM and the owners to select that route instead because it does offer protection. In terms of the owners, they could do so much more under an R-2 zoning. He states that he noticed there is roughly 2 acres so there is potential to do more with the property, so that might be something that neighbors might not be too keen on. It would be all subject to another public meeting like this and discussion with staff and so on.

Mr. Pacey states that he being with the Heritage Trust would be here talking about more protection for the heritage property, because then there is a contract on what happens to Stella Maris Church. That is something of concern. It is an extremely old and important building and very visible even from Citadel Hill and Point Pleasant Park. It is a landmark in this part of the municipality. It has two steeples, which he understands there is some problem with one of the steeples. It would be good if both steeples could be maintained and with a development agreement it is possible to reimburse the owner for the cost of repairing the second steeple and to keep it intact. It is quite possible that the owners and staff have been down this pathway and have considered it and decided that this would be a preferential pathway but seems to me in terms of benefits to community, neighbours, municipality, and potentially the owners that this would be a beneficial approach.

Mr. McGreal explained that certainly the development agreement approach would provide more control over the property and the design of the existing church building. He explained it has been discussed with the applicants. Under the policy they have the option for either a rezoning or a development agreement and they requested the rezoning. Planning staff need to consider that application and has studied the applicable policy. Planning staff understands that the policy addresses the abutting residential designation. Under the residential policies there is the option to rezone but no option for a development agreement. So this is why we decided to proceed with the rezoning and not the development agreement.

Mr. Pacey stated that he has been through the municipal planning strategy quite carefully and policy 6.8 is a city wide policy, so it does definitely apply. Unless there is some policy somewhere that says it does not apply in Mainland South. He recognizes that there are also secondary planning strategies in place but they would have to actually say 6.8 doesn't apply here and he's not aware of that. From the Mainland Land Use By-Law he found that there is clause 70(2) on page 127 that clearly enables the use of policy 6.8 and the use of development agreements for registered heritage properties. So he thinks it is definitely applicable. This is not the place to debate this but would sit down and review it with Mr. McGreal and go over it and look at it clause by clause. He feels it is relevant and used quite effectively in many cases.

Mr. McGreal stated that policy 6.8 only applies in peninsular Halifax.

Mr. Pacey stated there are three documents which are relevant here. One is the Halifax Municipal Planning Strategy which applies to the entire former City of Halifax. There are two land use by-laws. There is the Mainland Land Use By-Law and the Peninsula Land Use By-Law. Policy 6.8 has been used more frequently on the peninsula but the strategy is Municipality wide, it is applied over the whole area. There is an enabling clause in the Mainland Land Use By-Law to enable the use of a development agreement. Examples: property by the arm, some old estate, it is a registered heritage property. The proposal was to put extra buildings on the property and that got approved.

Terry O’leary, Fergusons Cove Rd., explained that he lives across the street from Stella Maris Church. The community has had lots of time to do something with this church. There have been various meetings within the last four or five years in regard to what was going to happen to the church. The church has given opportunity for many groups to take this over but no one would provide the funds. Then along came Mr. Foster and his proposal is fantastic. He should be allowed to do exactly what he wants to do and it would not take anything away from the community. As far as the entrance to the Fort goes, he and his wife use it and know there are lots of entrances and ways to get into the Fort without having to interfere with Mr. Foster’s property.

Mr. Ruffman stated he that feels this rezoning is being done in part to allow a church to be used for another use. He feels that Mr. Pacey has raised the possibility that there may be another way of doing it. He stated that he would not be prepared as a city staff person or city councillor to give approval to this rezoning until he has seen the two approaches put down on paper and had a chance to think about them. Suppose you have thought about them and thought policy 6.8 was not applicable, Mr. Pacey has suggested that it may have been an error. If that is the case, Mr. Ruffman explained that he would like that to be looked at carefully. Mr. Ruffman stated he was the person who nominated the church for heritage registration in 1994. He was the one who defended it as a heritage property in front of county council. He agrees it was in the hands of those who couldn’t manage the church and it is now in hands of people who can manage it. The question that will be in front of the Heritage Advisory Committee will be whether any or all of the proposed substantial alterations are appropriate and should be approved by Regional Council, subject to input by the Committee. He asked to keep in mind that owners and possible uses change. We all pass out of this world and other people take over the properties. This one is 150 or 160 years old and it has survived very well.

Patrick Mabey, Fergusons Cove Rd, explained that he has lived in the community for twenty years. He stated that he walks past that church and in the last couple of years it has deteriorated, windows broken, fires set around, people are now going in and putting graffiti inside the church. This stopped when Eva and Tom took it over. He believes that the church was getting close to being burned down and the community was at risk of a fire.

Mike Maritek, Devils Hill Rd., related that he has lived in the community for 8 years. He has co-chaired the Fergusons Cove Neighbourhood Association. He indicated that he would like to go on record with the fact that there have been many attempts for the Association to work with the Diocese on turning the church building into something useful to the community. They have held public meetings with an interest maintaining the building. It became quite apparent that the Diocese was not putting any more money into the building and all they wanted to do was sell it. It was difficult to get the Diocese to admit to it. They went through several proposals of how the building could be used but to no avail. We were not in any position to purchase it or to come up with the funds to develop it further. He would like to welcome Tom and Eva to the community. He is anxious to see more details on the proposal for the church building.

Doug Moxam, Fergusons Cove Rd., related that he had a client who was about ten minutes late from buying that property. The intention was going to be to tear down the church building after the three year moratorium. He related that the applicants are two community minded people that want to maintain integrity of the building. He indicated that what they are doing is a great thing.

Phil Robertson, Fergusons Cove Rd., states has been there sixty years or so. He notes that he walks by it often. This church has been frequented by vandals who used to use it to burn vehicles. He states that the response to this was a barrier which now makes it only accessible by walkers. If the new owners make a new path then he would be quite happy if they end up owning the road. He feels that giving it another five or six years without an owner there would be no church. He would prefer to see the church exist whether it is with one tower or both towers. We should be please someone wants to use their money to preserve our heritage.

Design of the Church Building

Mr. McGreal showed a slide of the church as it is now. In the heritage file, the church building is described as a Romanesque vernacular style architecture that is very rare in the province. The two steeples, copper alcove, classic windows on the front façade and gothic revival windows on the sides make the building unique. Mr. McGreal showed a slide of the side of the proposed building. There is a platform added to create two stories inside the building and as a result they will split the tall windows to preserve the appearance of tall windows but will be two separate windows.

In the front of the building there is interest in reducing the size of one of the towers because of the poor condition of the top of the tower. An HRM building official has gone inspected it with the applicant and does concur that it is in very poor condition on top. A new addition is proposed for the front. The applicant would like to construct a look-off at the top of the ocean side tower but would like the option to take it down if it is unsafe. The copper alcove is proposed to be removed and replaced with a doorway.

The rear and side of the building as it stands is shown. The ocean side is proposed to have a new addition. The applicant is proposing to remove the original gothic style windows and install

them in the addition on the side to salvage them. The addition will have some decking on the roof. At the rear of the building, the proposal is to put in windows where there are none and remove the door that is there now.

Mr. McGreal asked if there are any questions or comments on the changes to the church building.

Member of the Public (no name stated) asked what will they be salvaging?

Mr. McGreal related that they will be preserving the dimensions of the pitched roof, the footprint, one tower; half of the other tower will be preserved. The windows on one side will be salvaged by being taken out and put into the addition on one side.

Mr. McGreal asked for clarification by the owner about the shingles being preserved.

Mr. Foster stated that all the shingles will be reconditioned and painted with the exception of the tower built toward the water. Some shingles have fallen off the tower with the twisting motion that was caused by the wind. The building will be painted a light grey.

Mr. Ruffman wanted clarification on the tower and if the request put forth to the Heritage Advisory Committee would be for the owners to preserve the tower but in the future it could be removed if they so choose. He wanted to know if the Committee would ever approve a heritage building to have that option.

Mr. McGreal stated that what would be proposed in this case was that they would be reducing the height of the tower and that would be what would be presented to the committee. That is how it should be understood by the committee. The tower is being reduced. However they will look into maintaining it under their own volition. The ocean side tower is in very poor condition. It would be unsafe to access at this time so the applicant is proposing to remove the top portion and to construct a new structure that would replicate its appearance.

Mr. Ruffman stated he does not understand why they would want to rebuild the tower only to possibly remove it in the future.

Mr. Thomas Foster stated he is going to remove a portion and try to repair as best he can and create a lookout up there for the guests. He is not going to take it down, fix it and put it back. He stated he is going to try and preserve it as it is but it is quite crooked and if they get heavy winds it shakes quite a bit. He is nervous that in the event that they have 120 km/h winds and it turns out that it is starting to threaten the integrity of the building, he wants the option to be able to remove it because he cannot afford to reconstruct it.

Member of Public (no name stated) asked if he heard correctly at the start of the meeting that there may be money to help repair this tower in this situation?

Mr. McGreal stated that he did not mention anything like that at this meeting but that they can apply for a grant through the HRM Heritage Incentive Program for conservation work on the exterior of the building.

Mr. Pacey related that from what he has seen here tonight he would be prefer going by a development agreement. He indicated that the real subject of the meeting here tonight is a rezoning and once the property is rezoned then the alterations to a heritage property are only subject to a three year delay. If the owners were going to sell the property and somebody had mentioned that there was someone interested in buying the property and tearing it down, then that basically it could happen in three years. The drawings we saw here tonight are a separate matter. They are not part of the rezoning. A development agreement has a huge advantage in that everything the owners have said can be put down in writing and signed to become a legally binding contract between the municipality and the owners. Of course it could be changed if needed but that is a way to connect the use part and the building part. But this is the only way to guarantee the building would still be there in four years time.

Member of Public (no name stated) asked if this is an application to rezone the land that just the church sits on or the entire two acres?

Mr. McGreal answered that it is to rezone the entire two acres.

Member of Public (no name stated) asked that in order to build two residences, the owners would then have to apply for a subdivision permit?

Mr. McGreal answered yes, a subdivision approval and a building permit for the second dwelling would be required.

Mrs. Ruffman related that she is concerned as someone who has been protecting the property for years. She feels that the Diocese had no moral right to have sold the applicants the property. She is disappointed in the plan for the church and does not believe the look of the church is being kept and the grounds are not being kept as they were. She related that there have been significant changes to the land that she is concerned about. With the new residential zone, she is concerned that they could tear the place down and sell it to someone else. She indicated that they got a good deal on the property. She is pleased they want to fix up the church but does not see the concern for the church building in the long term when there is not a single side of the church that will remain the same.

Member of Public (no name stated) related that with all due respect to Mrs. Ruffman's comments, the church was on the market for some time. He explained that he was offered the church before it hit the market but the price was way too high. It went for fair market value but that is not what we are here to talk about today. This meeting is about rezoning the property.

Mrs. Ryan, Fergusons Cove Rd., would like to talk about the caretakers cottage. She loved the cottage but it blew down in a storm because it was not taken care of. She is concerned that this is the same way the church will go if no one will buy it. It will become a heap like the caretakers cottage.

Member of Public (no name stated) asked how long this process will take?

Mr. McGreal answered that there are two parts to the process. The first part is an application process for a substantial alteration to a heritage property, and then an application for the rezoning. He explained that the substantial alteration to a heritage property would go before the Heritage Advisory Committee in May, and then the report for the rezoning would go before the Community Council in June. If things go according to schedule, we will be doing a detailed review after this meeting and the new zone could be in place by August.

Closing Comments

Mr. McGreal thanked everyone for attending. He advised his contact information was posted for those that may want to contact him.

Adjournment

The meeting adjourned at approximately 8:21p.m.