



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 8.1.1
Halifax and West Community Council
June 3, 2015
June 24, 2015

TO: Chair and Members of Halifax and West Community Council
Original Signed

SUBMITTED BY:

Bob Bjerke, Chief Planner and Director Planning and Development

DATE: May 1, 2015

SUBJECT: Case 19533: Amendments to the Halifax Mainland Land Use By-law for the C-2A Zone within the Bedford Highway Secondary Plan area

ORIGIN

Application by Nick Stappas

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter); Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council

1. Give First Reading to the proposed amendment to the Land Use By-law for the Halifax Mainland to increase the maximum allowable height of mixed use commercial and residential buildings in the C-2A Zone of the Bedford Highway Secondary Plan from 35 feet to 50 feet, as contained in Attachment A of this report, and set a date for a public hearing; and
2. Approve the proposed amendment to the Land Use By-law for Halifax Mainland as contained in Attachment A of this report.

BACKGROUND

An application has been received from Nick Stappas to amend the Halifax Mainland Land Use By-law (LUB) to increase the maximum height requirement for multiple unit dwellings with ground floor commercial uses, from 35 to 50 feet, in the C-2A(Minor Commercial) Zone of the Bedford Highway Secondary Plan (Maps 1, 2 and 3). The applicant owns a C-2A zoned property at 205 Bedford Highway, which is currently developed with an older multiple unit dwelling. A development permit has been issued to redevelop the property with a new multiple unit dwelling with 30 units. To complement the development, the applicant would also like to include a single level of commercial space at the ground floor. This would result in a building of approximately 50 feet in height. This cannot be achieved as the C-2A Zone within the Bedford Highway Secondary Plan limits height for all uses to a maximum of 35 feet.

Location

As the application proposes to amend the requirements of the Land Use By-law it will apply to all C-2A properties that are located in the Bedford Highway Secondary Plan (see Maps 1 and 2). The subject area would apply to approximately 35 properties zoned C-2A in the LUB which are located at the southern end of the Bedford Highway between Northumberland Lane and Tremont Drive (see Maps 1 and 2). Existing uses in the subject area include residential uses, repair shops, small grocery stores, coffee shops and institutional uses. The subject area is bordered by the lower density neighbourhood of Rockingham to the west of Bedford Highway and the Canadian National Railway Rockingham Yard Operations and the Bedford Basin to the east.

Designation: Minor Commercial

The C-2A zoned properties within the subject area are all within the Minor Commercial designation of the Bedford Highway Secondary Plan (Section VIII) of the Municipal Planning Strategy for Halifax. As outlined in Policy 2.1 of the Bedford Highway Secondary Plan, the designation is to apply to areas “regarded as medium-scale commercial areas within walking or easy vehicular distance of several neighbourhoods, offering a variety of retail goods, services, and activities to the surrounding communities” (see Attachment B).

Zoning: C-2A

The C-2A Zone applies to properties within minor commercial and general commercial designations throughout the Halifax Mainland Plan Area. The zone allows for commercial uses intended to serve several neighbourhoods along with limited institutional uses and residential uses that range from single unit dwellings to multiple unit residential dwellings (see Attachment C).

The C-2A Zone limits height to a maximum of 35 feet. Residential uses are to comply with the requirements of their respective zone. In the case of multiple unit residential dwellings, the R-3 Zone permits buildings to a maximum height of 50 feet (see Attachment C. However, in the Bedford Highway Secondary Plan Area, there is a specific requirement that the maximum height for any building, whether it is commercial or residential, is 35 feet.

522 Bedford Highway

When staff initially considered this application, the property at 522 Bedford Highway was included as part of the study area as it is zoned C-2A (see Map 4). However, 522 Bedford Highway is designated as low density residential which supports mainly single unit dwelling style development. On this basis, it is no longer included as part of the subject area, nor are any changes to the permitted uses or height on the property considered under this application.

Regional Plan Designations

Approximately half of the subject area is located in the Urban Settlement Designation of the Regional Plan. The intent of this designation is to accommodate the majority of the residential and commercial development within the Municipality and it applies mainly to areas where centralized municipal services such as water and waste water are provided.

The remaining lands within the subject area are located within the Halifax Harbour designation, the intent of which is to protect port related industries as well as mitigate possible land use conflicts that can arise with increased residential development (Attachment D). However, the application of this designation has not resulted in any changes to the designations or permitted uses within the local MPS or LUB.

History of C-2A Height Requirements in the Bedford Highway Secondary Plan

The Bedford Highway Secondary Plan was adopted in 1987. Prior to this, large scale developments in this area were considered through development agreements. The Bedford Highway Secondary Plan establishes two commercial designations and zones:

- 1) Minor Commercial Designation / Minor Commercial (C-2A) Zone; and
- 2) Highway Commercial Designation / Highway Commercial (C-2B) Zone

Both the C-2A and C-2B Zones originally permitted R-3 uses which allow for multiple unit dwellings of a height of 50 feet. At the time of the implementation of the Bedford Highway Secondary Plan, central sanitary, sewer and water services did not extend fully along the Bedford Highway and it was anticipated that there would be little multiple unit dwelling development. However, as services were extended, several multiple unit dwellings were constructed in the C-2A and C-2B Zones.

On September 24, 2004 the former Chebucto Community Council requested a staff report to review the height requirements of the C-2A Zone and C-2B Zones. The request was a result of concerns from some community members regarding the development of multiple unit dwellings to a height of 50 feet and the loss of views of the Bedford Basin. In staff's report to Community Council, it was noted that private views should not be considered when determining height requirements. However, staff did recommend amendments to establish a height of 35 feet for all buildings in the C-2A and C-2B Zone of the Bedford Highway Secondary Plan, which was approved by Community Council in 2005. Staff cited that the term "medium scale", which is found in policy, proved the intent to keep all buildings at a height of 35 feet. The former Chebucto Community Council approved staff's recommendation in 2005.

In 2010, amendments to the Halifax MPS and Bedford Highway Secondary Plan were completed as part of the review of the Western Shore Bedford Basin. The study area for that exercise was established in the Regional Plan and extended from the Traveller's Motel to Hogan's Point with the objective to determine specific land use policy for properties along the western shore of the Bedford Basin (see Map 5). The review identified two commercial nodes, located in the Highway Commercial designation, where higher density development above a height of 35 feet could be considered through a development agreement. The policy criteria for the development agreement, does not include a specified maximum permitted height. The subject area was not included within the Western Shore Bedford Basin study area and as such there was no consideration of development opportunities for the commercial node that make up the subject area.

Proposal

The proposed amendment to the LUB would enable multiple residential unit dwellings in the in the C-2A Zone of the Bedford Highway Secondary Plan to be built to a height of 50 feet, where commercial uses occupy the ground level. The residential component of the building will be subject to the requirements of the R-3 Zone including setbacks, angle controls and open space. The maximum height of all other buildings permitted in the zone, including multiple unit dwellings that do not have ground floor commercial use, would continue to be 35 feet.

DISCUSSION

Staff have reviewed the proposed amendment to the LUB relative to all relevant policies and advise that it is reasonably consistent with the MPS. Attachment C provides an evaluation of the proposed LUB

amendment in relation to the relevant MPS policies. The following outlines matters which have been identified for more detailed discussion.

Minor Commercial Designation

The subject area is designated Minor Commercial in the Bedford Highway Secondary Plan, which encourages the development of commercial uses to serve the surrounding neighbourhood. However, the C-2A Zone also permits standalone multiple unit dwellings. As part of the public consultation process for this application, it was noted that the commercial node in this area has been deteriorating. A number of the residents who expressed concerns regarding the increase in height, noted that it may result in the redevelopment of the commercial node with mainly multiple unit residential dwellings.

The proposed amendment will only allow a height of 50 feet for multiple residential unit dwellings, where commercial uses are located on the ground floor. This requirement will provide an incentive for those who are already prepared to construct a residential building to include commercial uses at grade. Therefore, the proposed amendment supports the intent of the designation as a place for minor commercial uses.

The minor commercial designation in the Bedford Highway Secondary Plan regards the area as a medium scale commercial area. When comparing the proposed amendment to policies of the larger Halifax Plan Area, a height of 50 feet within the Bedford Highway Area is compatible with requirements in similar areas of Halifax. Although in 2005, staff concluded the term “medium scale” should represent a building height of 35 feet, through further analysis of the policy, staff have now determined that the term “medium scale” should more appropriately reference the types and extent of commercial uses. Further, when comparing the minor commercial designations in other secondary planning areas and the city wide policies of the Halifax Plan Area, there is little that would suggest R-3 uses at a height of 50 feet should not be permitted in the Bedford Highway Area but should be permitted in other areas.

Regional Plan

There are several policies and objectives in the Regional Plan that encourage mixed use development in and near the Regional Centre. However, as noted in the Background section of this report approximately half of the subject area is located within the Halifax Harbour designation of the Regional Plan (see Attachment D). Further, the Bedford Highway has been identified for future road widening and the subject area could benefit from the implementation of additional active transportation infrastructure.

While recognizing these circumstances, the proposed amendments balance the intent of the Minor Commercial designation and C-2A Zone in strengthening the mixed-use character of the subject area. The proposed amendment will not allow for any additional residential density but will encourage the area to remain as a commercial node as supported by the minor commercial designation.

Conclusion

The subject area serves as a minor commercial node for several neighbourhoods, mainly Rockingham. The proposed amendment to the LUB will foster the retention and future growth of this commercial node, by encouraging the inclusion of commercial uses when developing multiple unit dwellings. The proposed amendment is in keeping with the objectives and policies of the minor commercial designation of the Bedford Highway Secondary Plan. The proposed amendment will also bring the requirements of the C-2A Zone more in keeping with C-2A Zone requirements throughout the Halifax Mainland Plan area regarding the permitted height for R-3 uses. Therefore, staff recommends the proposed amendments to the Mainland Halifax Land Use By-law as outlined in Attachment A.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2015/16 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 February 4, 2015. Attachment E contains a copy of the minutes from the meeting. Notices of the Public Information Meeting were posted on the HRM website, in the newspaper and mailed to property owners within the notification area shown on Map 4.

A public hearing has to be held by Community Council before it can consider approval of the LUB amendments. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 4 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 land use by-law amendment will potentially impact the following stakeholders: local residents and property owners, business and institutions.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amendments to the LUB for Halifax Mainland subject to modification. This may necessitate further analysis and a supplementary report. A decision of Community Council to approve this LUB amendment is appealable to the Nova Scotia Utility and Review Board as per section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed amendments to the LUB for Halifax Mainland, and in doing so, must provide reasons why doing so would not reasonably carry out the intent of the MPS. This alternative is not recommended. A decision of Council to refuse this LUB amendment, with or without a public hearing, is appealable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter.
3. Halifax and West Community Council may choose to defer this amendment request until a comprehensive review of the Bedford Highway Secondary Plan is completed. The timing of such an exercise is indeterminate as this work is not currently scheduled.

ATTACHMENTS

Map 1: Generalized Future Land Use – Regional Plan
Map 2: Generalized Future Land Use – Halifax Municipal Planning Strategy
Map 3: Zoning
Map 4: Notification Area
Map 5: Western Shore Bedford Basin Study Area

Attachment A: Proposed Amendments to the Land Use By-law for Halifax Mainland
Attachment B: Review of Relevant Policies from the Municipal Planning Strategy for Halifax
Attachment C: Excerpts from the Land Use By-law for Halifax Mainland - C-2A (Minor Commercial) and

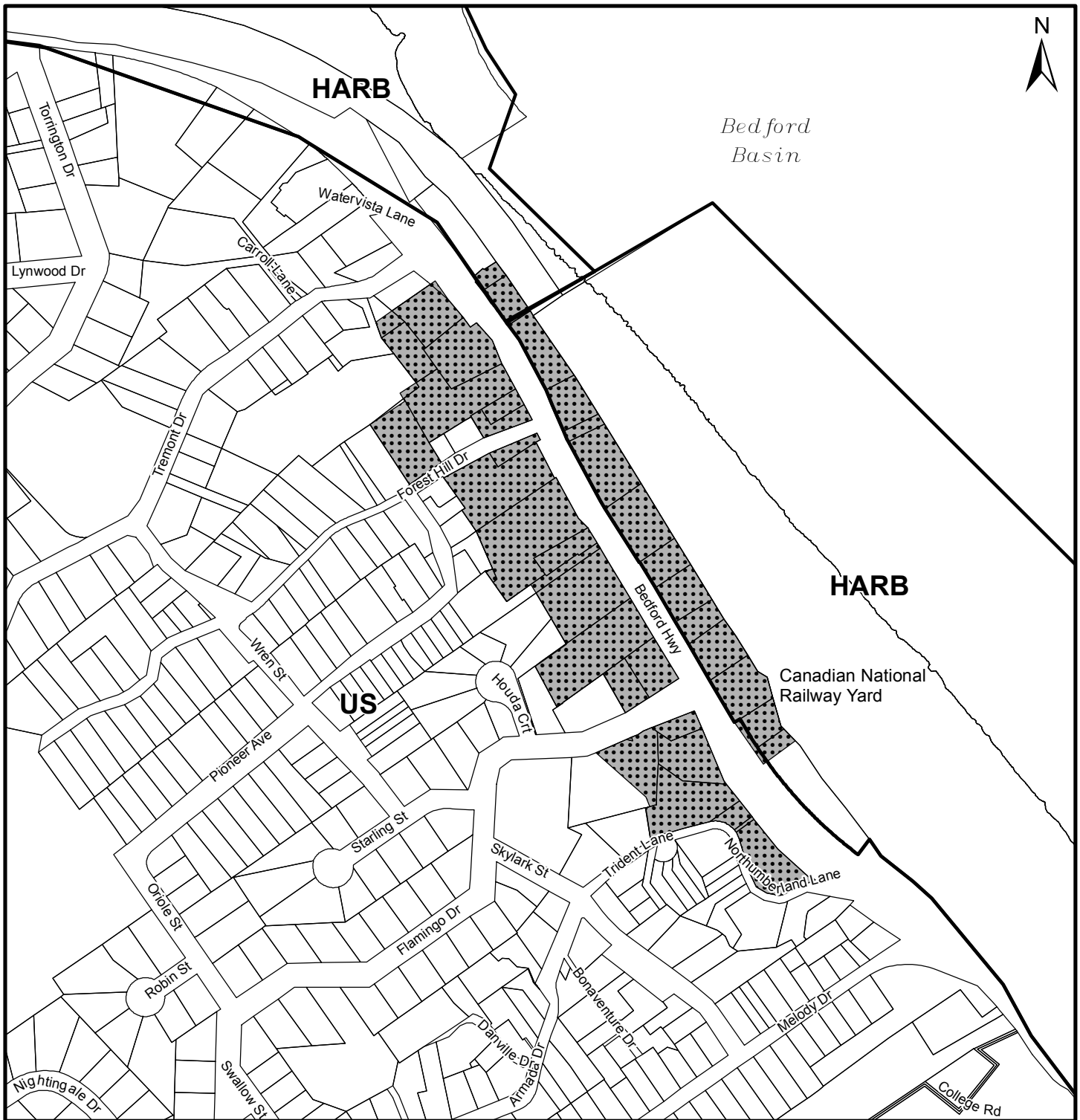
R-3 (General Residential and Low Rise Apartment) Zones
Attachment D: Excerpts from the Regional Plan – Halifax Harbour Designation
Attachment E: Minutes of Public Information Meeting

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

Report Prepared by: Jillian MacLellan, Planner, Development Approvals, 902-490-4423

Original Signed


Report Approved by: 
Kelly Denty, Manager Development Approvals, 902-490-4800



Map 1 - Regional Plan Generalized Future Land Use

C-2A Zone Bedford Highway
Halifax

HALIFAX

 Subject Area

Designations

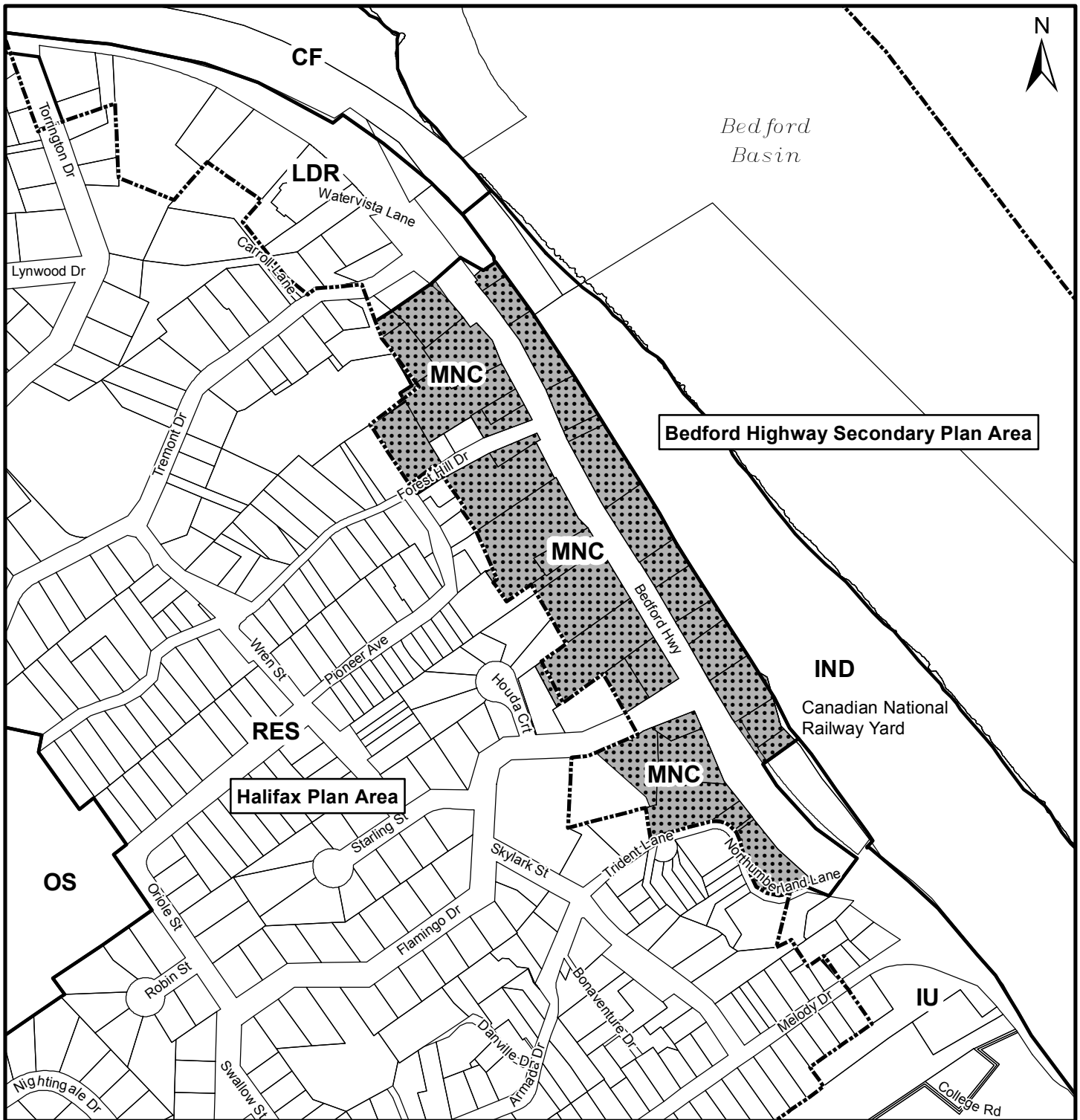
HARB Halifax Harbour
US Urban Settlement



Halifax Plan Area
Bedford Highway Secondary Plan Area


This map is an unofficial reproduction of
a portion of the Regional Plan Generalized
Future Land Use Map.

The accuracy of any representation on
this plan is not guaranteed.



Map 2 - Generalized Future Land Use

C-2A Zone Bedford Highway
Halifax

 Subject Area

Designations - Bedford Highway

LDR Low Density Residential
MNC Minor Commercial
CF Community Facilities
IND Industrial
IU Institutional - University

Designations - Halifax

RES Residential Environments
OS Major Community Open Spaces

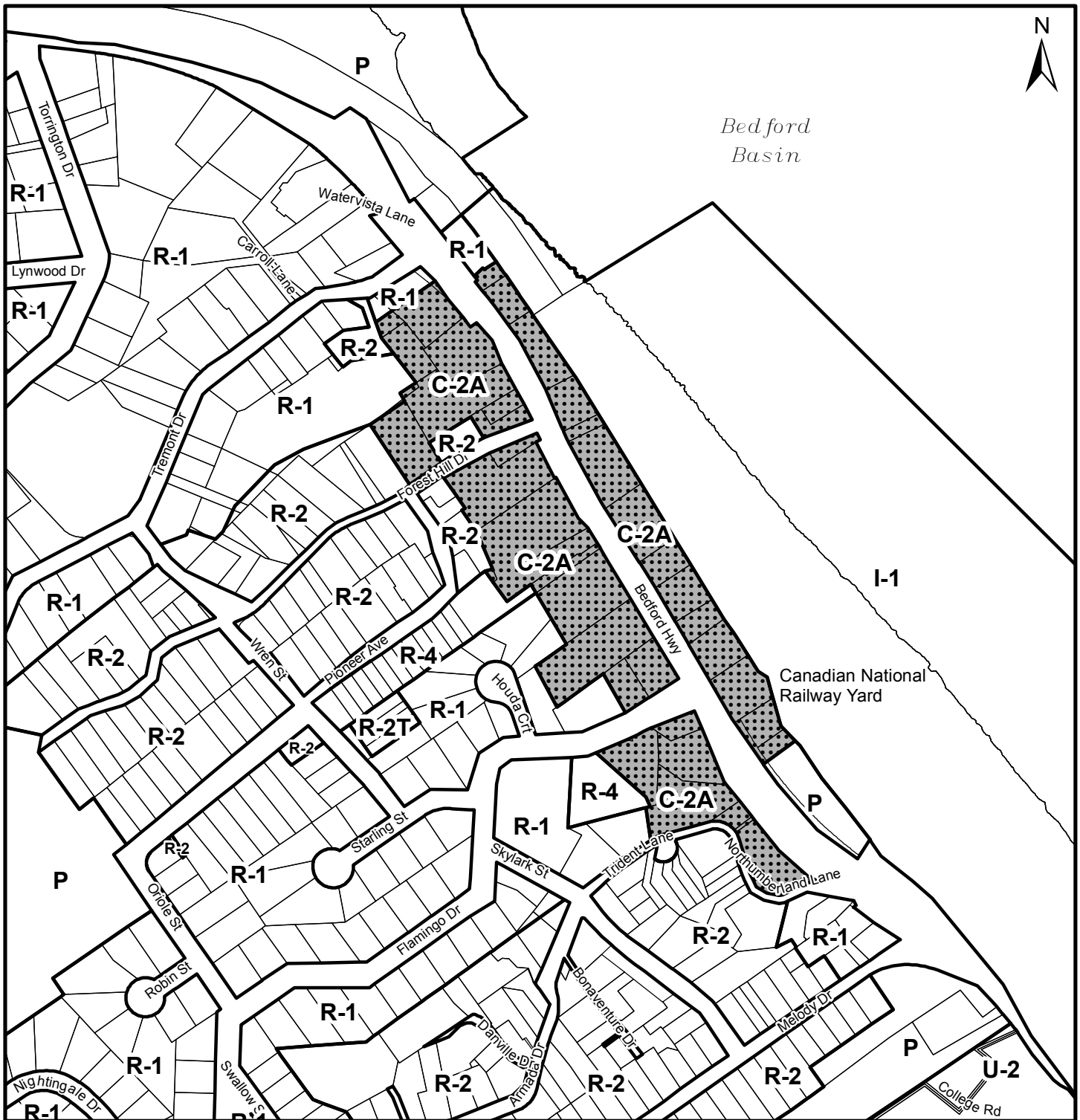
Halifax Plan Area
Bedford Highway Secondary Plan Area

HALIFAX

0 50 100 150 m

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


The accuracy of any representation on this plan is not guaranteed.



Map 3 - Zoning

C-2A Zone Bedford Highway
Halifax

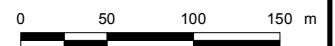
HALIFAX

 Subject Area

Zones

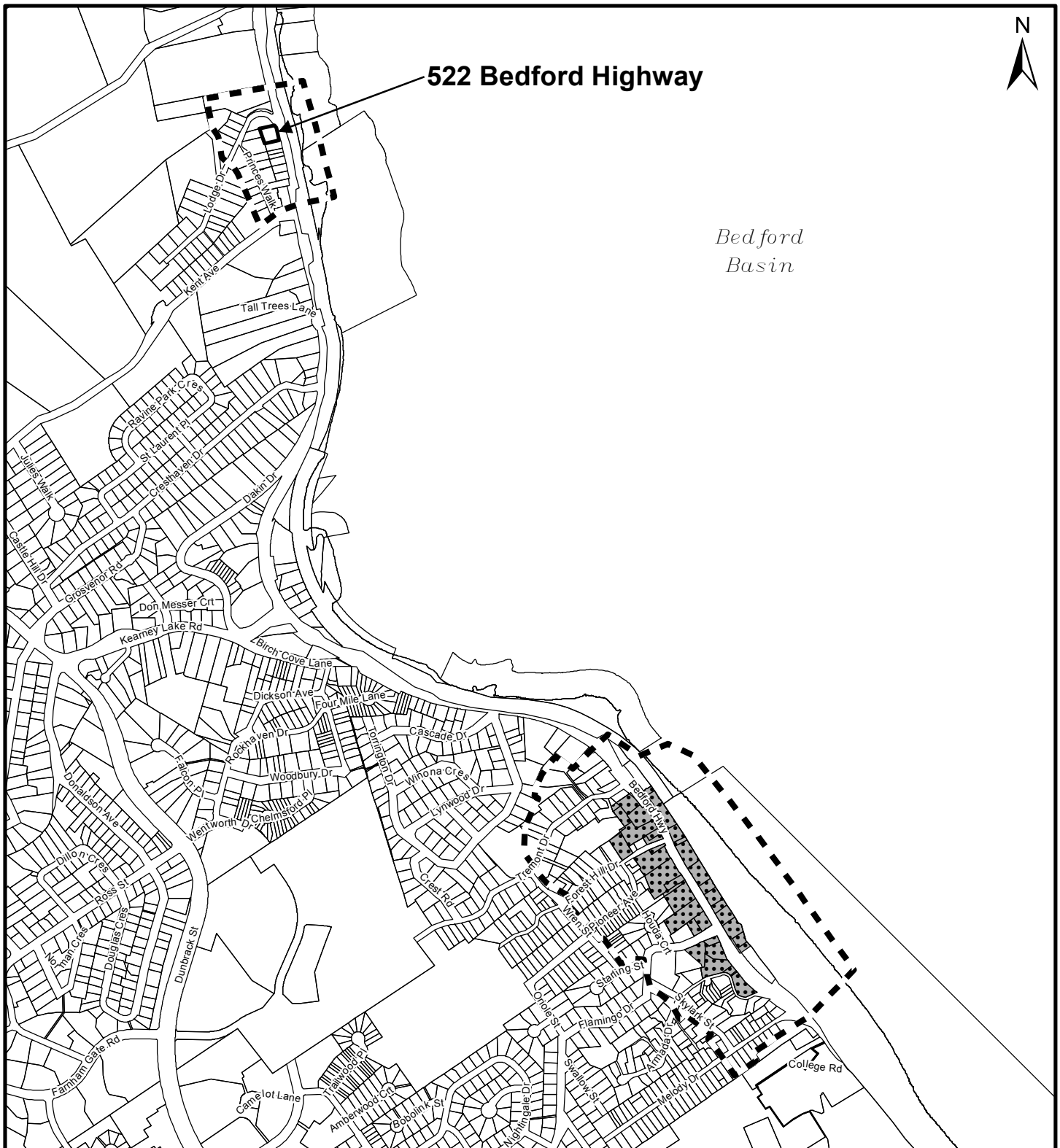
- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2T Townhouse
- R-4 Multiple Dwelling
- C-2A Minor Commercial
- P Park and Institutional
- I-1 General Industrial
- U-2 High Density University

Halifax Mainland
Land Use By-Law Area



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

The accuracy of any representation on this plan is not guaranteed.



522 Bedford Highway

*Bedford
Basin*

Map 4 - Area of Notification and 522 Bedford Highway

C-2A Zone Bedford Highway
Halifax

HALIFAX

 C-2A Zoned Properties (Subject Area)

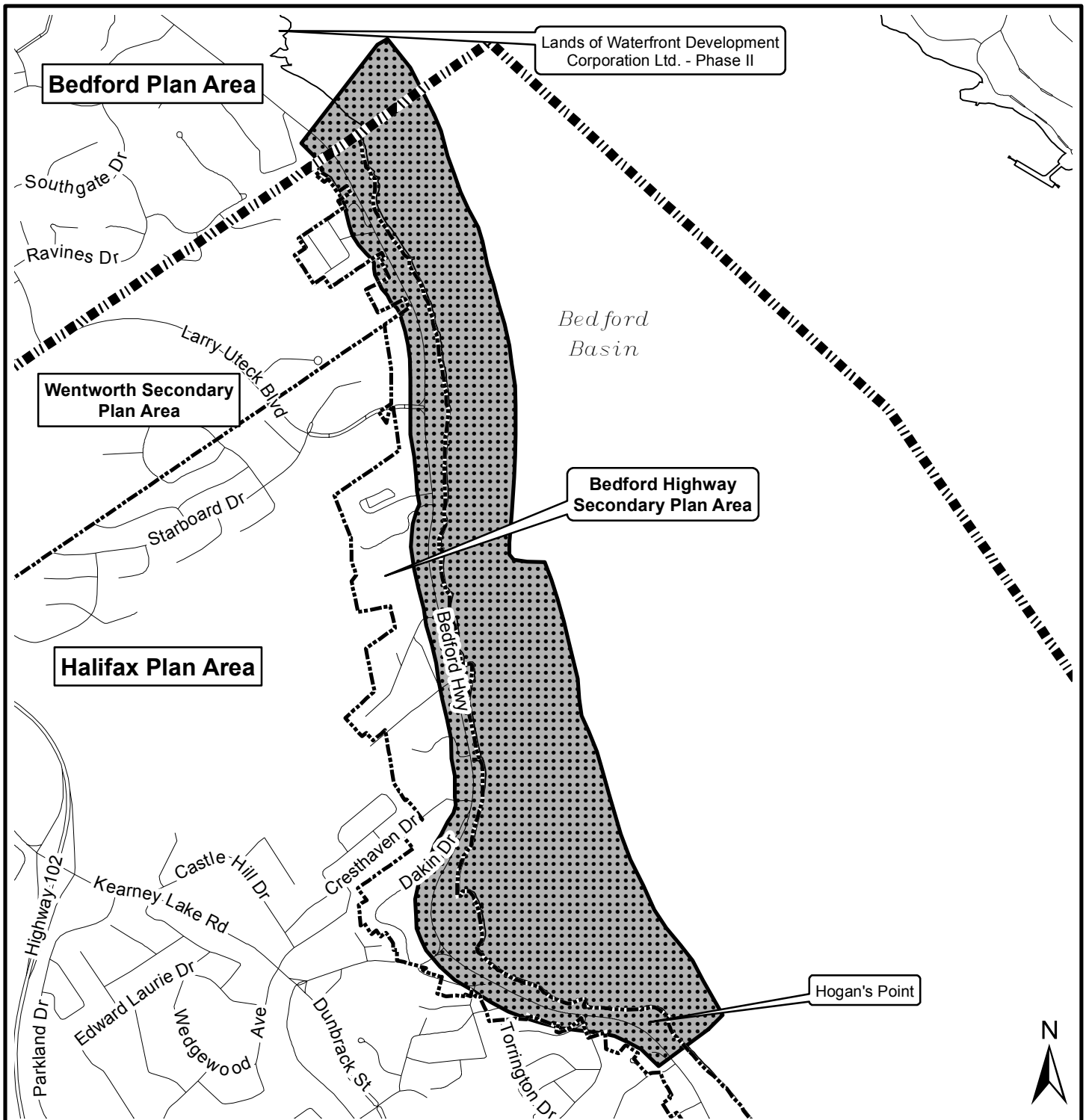
 Notification Area

Halifax Mainland
Land Use By-Law Area

0 100 200 300 400 m






The accuracy of any representation on
this plan is not guaranteed.



Map 5 - Western Shore Bedford Basin Study Area

Bedford Highway
Halifax

HALIFAX

-  Study Area
-  Plan Area Boundary
-  Secondary Plan Area Boundary
- Halifax Plan Area

0 100 200 300 400 500 600 700 m

The accuracy of any representation on this plan is not guaranteed.

Case 19533: ATTACHMENT A
Proposed Amendments to the Land Use By-law for Halifax Mainland

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

1. In the C-2A Zone – Minor Commercial amend Section 38C by inserting the following text as shown in bold and deleting text as shown in strikeout as follows:

HEIGHT

38C(1) The height of any building in a C-2A Zone shall not exceed 35 feet. ~~In the “Bedford Highway Area” notwithstanding Section 38B (2) no uses shall exceed 35 feet in height.~~

BEDFORD HIGHWAY SECONDARY PLAN

38C(2) In the Bedford Highway Secondary Plan, notwithstanding Section 38B (2), R-3 uses shall not exceed 35 feet in height.

38C(3) Notwithstanding Section 38C(2), in the Bedford Highway Secondary Plan, where commercial use(s) occupy the full ground floor of a mixed commercial and multiple unit residential development, inclusive of a residential entrance, the residential portion of the building shall be subject to the requirements of the R-3 Zone including a maximum height of 50 feet.

38C(4) Notwithstanding Section 38B(2) and Section 38C(3), for the property at 522 Bedford Highway, no building or use shall exceed the height of 35 feet.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Community Council of Halifax and West held on the ____ day of _____, A.D., 20____.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 20____.

Municipal Clerk

Attachment B
Review of Relevant Policies from the Municipal Planning Strategy for Halifax

SECTION VIII – BEDFORD HIGHWAY SECONDARY PLANNING STRATEGY	
2. COMMERCIAL FACILITIES	
Objective: The provision of commercial facilities in appropriate locations on the Bedford Highway to serve adjacent neighbourhoods and highway uses.	
Policy Criteria	Staff Comment
2.1 For the purposes of this Bedford Highway Strategy, the City shall define commercial facilities as comprising two categories: <div style="margin-left: 40px;"> (i) minor commercial; and (ii) highway commercial. </div>	The subject area is designated minor commercial.
2.2 Areas shown as minor commercial centres on the Generalized Future Land Use Map of this Bedford Highway Strategy shall be regarded as medium-scale commercial areas within walking or easy vehicular distance of several neighbourhoods, offering a variety of retail goods, services, and activities to the surrounding communities.	The existing zone already includes the types of minor commercial uses that are to be permitted. The proposed amendment will encourage more commercial development by providing an incentive for more mixed use buildings and will encourage such uses that will serve the residents of the building and surrounding neighborhood.
2.2.1 In minor commercial centres, the City shall permit retail shops, personal services, offices, specified entertainment uses, institutions, restaurants including convenience restaurants, community centres, and residential uses.	The existing zone already includes the types of minor commercial uses that are to be permitted.
2.2.2 In minor commercial centres in the Bedford Highway Area the City shall require sufficient parking to accommodate employees and customers.	The Halifax Mainland Land Use By-law includes provisions for parking.
2.3 Areas shown as highway commercial on the Generalized Future Land Use Map of this Bedford Highway Strategy shall be areas where specified commercial uses serving highway users shall be permitted on properties having direct access to the Highway.	N/A
2.3.1 In areas shown as highway commercial the Municipality shall permit motels; motor vehicle repair shops; motor vehicle dealers; and minor commercial uses. (RC-Jan 11/11; E-Mar 12/11)	N/A
2.3.2 In areas shown as highway commercial the City shall encourage development compatible with existing residential and commercial structures at a scale that will not substantially alter existing traffic	N/A

flow.	
<p>2.3.3 Pursuant to Policy 2.3.2, the Land Use Bylaw shall provide for:</p> <p>(i) a maximum height of structures; (ii) minimum setback, side yard, and rear yard requirements; (iii) maximum lot coverage; and (iv) sufficient parking to accommodate employees and customers.</p>	N/A
<p>2.3.4 When considering land use control procedures to permit construction or expansion of highway commercial uses in the Bedford Highway Area, the City may limit the size and number of signs, establish requirements for landscaping, control architectural design, or impose other similar requirements to ensure that the development is aesthetically pleasing and in keeping with the character of Bedford Highway as a major scenic approach to the City.</p>	N/A
<p>2.3.5 Pursuant to Policy 2.3.4, the City shall investigate design guidelines and the means of implementing such guidelines for highway commercial areas on the Bedford Highway.</p>	N/A

Attachment C:
Excerpt from the Land Use By-law for Halifax Mainland

C-2A ZONE

MINOR COMMERCIAL ZONE

- 38A(1) The following uses shall be permitted in any C-2A Zone:
- (a) R-1, R-2, R-2P, R-2T, R-2AM, R-3 and C-1 uses;
 - (b) stores for the purpose of retail trade and rental excepting:
 - (i) motor vehicle dealers;
 - (ii) motor vehicle repair shops which such shops are not primarily engaged in providing service station facilities; and
 - (iii) adult entertainment uses
 - (c) radio, television, and electrical appliance repair shops;
 - (d) watch and jewellery repair shops;
 - (e) a store for the purpose of personal service including shoe repair shops, barber and beauty shops, dry cleaners, self- service laundries, funeral services, and excepting massage parlours, adult entertainment uses and amusement centres;
 - (f) (Deleted)
 - (g) a motion picture theatre;
 - (h) a service station;
 - (i) offices;
 - (j) a bank and other financial institutions;
 - (k) a restaurant;
 - (l) community facilities;
 - (la) billboards not to exceed twenty-eight square meters (28m²) in area and not to extend more than eight meters (8m) above the mean grade on which it is situated;
 - (lb) commercial recreation use
 - (lc) recycling depots, bingo hall, pool hall and motor vehicle repair shops in the
 - (i) auto body shops; and
 - (ii) those engaged in the repair of trucks or other vehicles in excess of a gross weight of 6,000 pounds.
 - (ld) Motor Vehicle Sales in the Bedford Highway area
 - (ld) **day care facility (RC-Mar 3/09;E-Mar 21/09)**
 - (m) any use accessory to any of the foregoing uses.
- 38A(2) No person shall in any C-2A 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).
- 38A(3) No person shall in any C-2A 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).

R-1, R-2, R-2P, R-2T, R-2AM AND R-3 USES IN C-2A ZONE

- 38B(2) Buildings erected, altered or used for R-1, R-2, R-2P, R-2T, R-2AM and R-3 uses in a C-2A Zone shall comply with the requirements of their respective zones.

HEIGHT

- 38C The height of any building in a C-2A Zone shall not exceed 35 feet. In the "Bedford Highway Area" notwithstanding Section 38B (2) no uses shall exceed 35 feet in height.

SIGNS

- 38D(1) (a) Any persons carrying on a business may place upon and parallel to the front of the building a non-illuminated signboard not exceeding 3 feet in height and limited to the space immediately above the ground floor store windows extending the length of such front and appertaining solely to the ownership of the business conducted therein. For each foot that the building face upon which the said signboard is place is setback from the street line, 05 feet may be added to the height of such signboard to a maximum of 8 feet. In no case shall a sign be permitted by this section, to exceed 300 square feet.
- (b) Any person carrying on a business may place upon the building, a non-illuminated signboard not exceeding 3 feet in height and 300 square feet in area or 2 non-illuminated signboards, each of which does not exceed 3 feet in height and a total of 300 square feet in area and appertaining solely to the ownership of the business conducted therein.
- 38D(2) Illuminated signs may be erected provided they do not constitute a nuisance or hazard to the public.
- 38D(3) A single signboard (illuminated or otherwise) may be placed upon and perpendicular to the front of a building for the purpose of identifying the proprietor or nature of the business permitted therein. Such signboards shall be located immediately above the ground floor windows and shall not exceed 12 square feet (1.12 square meters) in area on a single surface. A maximum of two such signboards shall be permitted for any building regardless of the number of uses contained therein.

SETBACKS FROM RESIDENTIAL ZONES

- 38E(1) Any building used for C-1 or C-2A purposes in a C-2A zone shall be set back a minimum of 20 feet from a rear lot line and 12 feet from a side lot line where such lot line abuts a residential zone.

LANDSCAPING ALONG STREET LINE

- 38E(2) Any C-1 or C-2A use in a C-2A Zone shall provide a minimum 4 foot strip of landscaped open space, raised or otherwise protected, along that part of the street line not required for the curb cut or pedestrian entrance.
- 38F(1) In the "**Bedford Highway Area**" one vehicle access point shall be permitted to the Highway for each lot with 100 feet of frontage or less and two vehicle access points shall be permitted for lots with frontage greater than 100 feet.
- 38F(2) For the purposes of Subsection (1), the vehicle access point shall not exceed 35 feet in width and shall be defined by curbing, planting, or a similar device that will not obstruct the view of traffic.

FAIRVIEW AREA

ACCESS

- 38G(1) Stores shall front on Dutch Village Road, Titus Street or Alma Crescent only. There shall be no commercial display of goods for sale on the side or rear of any buildings.
- 38G(2) Vehicular access to commercial uses and parking areas shall be from Dutch Village Road, Titus Street or Alma Crescent. Access from side streets is also permitted provided that the minimum distance from an abutting residential zone to the point of access shall be 5 feet.
- 38G(3) Driveways and parking areas for C-1 or C-2A uses in a C-2A Zone shall be set back a minimum distance of 5 feet from a rear lot line adjacent to a residential zone and a side lot line adjacent to a residential zone and be screened by a fence having a minimum height of 5

feet. The 5 foot setback area is to be landscaped and where a transparent fence is to be used, the landscaped setback area must provide solid visual screening on a year-round basis to a minimum height of 5 feet at maturity.

PARKING MAINLAND SOUTH AREA

38H(1) Notwithstanding Section 9(d) the following parking requirements shall apply to Minor Commercial uses in the "**Mainland South Area**":

- (i) 3 spaces per 1,000 sq.ft. of office space;
- (ii) 4 spaces per 1,000 sq.ft. of retail/service store space;
- (iii) 8 spaces per 1,000 sq.ft. of restaurant space; and
- (iv) parking shall not be permitted within 3 feet of the street line and parking areas for commercial uses must be paved.

38H(2) In the "**Mainland South Area**" no vehicular access shall be obtained through a side or rear yard adjacent to a residential zone.

SETBACKS FROM RESIDENTIAL ZONE

38H(3) Buildings erected, altered, or used for commercial purposes in a C-2A Zone shall be set back a minimum of 20 ft. from a rear lot line and 12 ft. from a side lot line adjacent to a residential zone.

38H(4) Yard areas required pursuant to Section 38H(3) shall be landscaped.

(previous Section 38I(1) - Rescinded)

MOTOR VEHICLE REPAIR

38I A lot containing a motor vehicle repair shop in the "**Mainland South Area**" shall:

- (a) have an opaque fence a minimum of five feet in height abutting any residential zones;
- (b) have lighting facilities, if provided, directed away from any abutting residential zones;
- (c) have enclosed any commercial refuse container in a structure which screens them from the street and abutting residential zones;
- (d) not have outdoor storage of inoperative motor vehicles, boxes, crates or any other materials; and
- (e) provide a minimum of a 6 foot strip of landscaped open space, raised or otherwise protected, along that part of the street line not required for the curb cut or pedestrian entrance.

38J **MOTOR VEHICLE SALES**

No area of the lot greater than 10,000 square feet shall be used for the parking and display of motor vehicles including manoeuvring areas.

38J **MOTOR VEHICLE REPAIR SHOPS**

Notwithstanding Section 38A(1)(b)(ii), motor vehicle repair shops, excluding those which service or repair motor vehicles in excess of 6000 pounds or auto body shops or auto paint shops, may be permitted provided that:

- (a) They are located on a site which has a valid occupancy permit for a service station or the most recent valid occupancy permit is for a service station.
- (b) An opaque fence having a minimum height of five feet is constructed abutting any residential zone.
- (c) Lighting facilities, if provided, are directed away from any abutting residential zone.

- (d) Any commercial refuse container is enclosed in a structure which screens it from the street and abutting residential zones.
- (e) There is no outdoor storage of inoperative motor vehicles, boxes, crates or any other materials.
- (f) There is landscaped open space; raised or otherwise protected, having a minimum width of six feet along that part of the street line not required for the curb cut or pedestrian entrance.

264 HERRING COVE ROAD (RC-Jun 10/14;E-Jul 26/14)

38K

Notwithstanding subsection 38A(1), service stations, recycling depots, motor vehicle repair, billboards, and residential uses shall not be permitted at the site identified as 264 Herring Cove Road on ZM-26.

R-3 ZONE

GENERAL RESIDENTIAL AND LOW-RISE APARTMENT

- 28CA(1) The following uses shall be permitted in any R-3 Zone:
- (a) R-1, R-2, R-2T and R-2AM uses;
 - (b) stacked-attached housing;
 - (c) apartment house of four storeys or less;
 - (ca) **day care facility (RC-Mar 3/09;E-Mar 21/09);**
 - (d) uses accessory to any of the foregoing uses.
- 28CA(2) No person shall in any R-3 Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 28CA(3) No person shall in any R-3 Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).
- 28CB No person shall in any R-3 Zone, erect, place or display any billboard or sign except those permitted in R-1 Zones.

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

- 28CC(1) Buildings erected, altered or used for R-1, R-2, R-2T or R-2AM uses in an R-3 Zone shall comply with the requirements of their respective zones, **with the exception of stacked attached housing.**

STACKED ATTACHED HOUSING

- 28CD Buildings erected, altered or used for stacked attached housing in an R-3 Zone, shall comply with the following requirements:
- 28CD(1) The minimum distance between the rear lot line and every building shall be at least 20 feet.
- 28CD(2) The maximum lot coverage shall be 50 percent.
- 28CD(3) The maximum height shall be 50 feet.
- 28CD(4) Each dwelling unit shall have a minimum of 175 square feet of exterior open space accessible directly from the unit.
- 28CD(5) One separately accessible parking space at least 9 feet by 20 feet shall be provided for each stacked-attached unit, exclusive of the area of the front yard and entrance or driveway leading to such building.
- 28CD(6) The lot frontage shall be 60 feet.
- 28CD(7) The minimum lot area shall be 6,000 square feet.
- 28CD(8) The minimum side yard shall be 15'.

FOUR STOREY APARTMENTS

- 28CE Apartment buildings of four (4) storeys or less and not exceeding 50 feet in height shall be permitted in an R-3 Zone provided the following requirements are complied with:

MINIMUM LOT AREA

- 28CE(1) The minimum lot area upon which such building is located shall be 6,000 square feet with a minimum continuous street frontage of at least 60 feet on one street;

DISTANCE FROM LOT LINES - 80° ANGLE

- 28CE(2) (a) The distance from any part of such building and any official street line or lines abutting upon such lot shall be no less than 20 feet measured at right angles to any such official street line or lines; provided, however, that such distance may be reduced to not less than 10 feet measured at right angles to any such official street line or lines if that part of the building which is less than 20 feet from any such official street line or lines is entirely contained within the arms of an 80 degree horizontal angle as determined in subsection (3) of this section;
- (b) The distance from any part of such building and any lot line of such lot other than an official street line shall be not less than 10 feet measured at right angles to such a lot line;
- (c) All windows and doors serving habitable rooms in such building shall be located not less than 10 feet from any lot line of such lot measured at right angles to such lot line;

SIZE OF BUILDING - 60° ANGLE

- 28CE(3) (a) Subject to the provisions of subsection (2), such building or any part thereof shall not project beyond the angular planes determined by constructing such angular planes over such lot:
- (i) From each lot line at natural or finished ground level, whichever is the lower, at a vertical angle of 60 degrees above the horizontal and measured perpendicular to such lot line or, in the case of a curved lot line, perpendicular to the tangents of all points of such lot lines; provided, however, that where the natural ground at the lot line is more than 5 feet above the finished ground level established at any point on the wall opposite the lot line and where the horizontal distance to the face of any part of such wall or its vertical projection is less than 50 feet, the angular planes shall be constructed over the lot from all points on the intersections of the vertical projection of the lot line and the horizontal projection of the finished ground level; or
- (ii) In the case where a lot line of such lot coincides with an official street line, from the center line of such street or from any intervening line parallel to such center line provided, however, that:
- (A) the distance from the line on which the plane is constructed and the lot line does not exceed 30 feet; and
- (B) the vertical angle of 60 degrees is constructed perpendicular to the line on which the plane is constructed or, in the case of a curved line, perpendicular to the tangents of all points of the curved line.
- (b) Notwithstanding the provisions of clause (a) of subsection (3) and subject to the provisions of subsection (2), any part of such building may project beyond any prescribed 60 degree angular plane if:
- (i) The projection through the plane subtends a horizontal angle not exceeding 80 degrees formed by lines drawn from a point on the line on which the 60 degree angular plane constructed opposite to the center of the projection; and
- (ii) The extremities of the projection are enclosed by the arms of such 80 degree horizontal angle.

DISTANCE BETWEEN EXTERNAL WALLS - 85° ANGLE

- 28CE(4) (a) For the purposes of this subsection:
- (i) "Base line" means, in the case of a wall rising from the ground, the natural or finished level of the ground adjoining the base of the wall, whichever is lower, and in all other cases means the lowest line of the wall above the natural or finished level of the ground, whichever is lower;
- (ii) A wall supported by construction above posts, pillars, or other open construction shall be deemed to rise from the ground, and the base line of the wall shall be deemed to be the line on which the projection downward of the face of the wall meets the natural or finished level of the ground, whichever is lower;

- (iii) Where external walls are not parallel to each other but the angle of divergence does not exceed 85 degrees, such walls shall be deemed to face each other.

DISTANCE BETWEEN EXTERNAL WALLS - 65° ANGLE

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

MINIMUM 50 FOOT SEPARATION BETWEEN WALLS - 40° ANGLE

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

EXTERIOR FACING WALLS - NO WINDOWS - NO HABITABLE ROOMS

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

BALCONIES, CORNICES, EAVES, AND CANOPIES

- 28CE(5)
 - (a) Notwithstanding the provisions of Subsections (3) and (4) of this section, separate individual balconies, which are open on three sides, cornices, eaves and canopies, may project through the angular planes as determined in such subsections; provided, however, that any part of such balcony, cornices or eaves, shall be not less than 10 feet from any lot line of such lot;
 - (b) Notwithstanding clause (a); of subsection (5), canopies may project to within 5 ft. of the street line.
- 28CF A lot on which there is a building used as a boarding house, lodging or rooming house, or apartment house shall comply with the following requirements:

DENSITY

- 28CF(1) The population density of such building on the lot shall not exceed 75 persons per acre.

OPEN SPACE

- 28CF(2) Open space on such lot shall be provided as follows:
 - (a)
 - 150 sq.ft. for each bachelor unit
 - 275 sq.ft. for each one-bedroom unit
 - 575 sq.ft. for each two-bedroom unit
 - 950 sq.ft. for each three-bedroom unit
 - 1,325 sq.ft. for each unit containing four or more bedrooms
 - (b) At least 80 percent of the open space required in clause (a) shall be landscaped open space, and the roof or any portion therefor of any part of such building that has no residential accommodation included below such roof or portion thereof may be calculated as landscaped open space, provided that:

- (i) no part of such roof is more than 5 feet above the ground level of at least one lot line of such lot; and
- (ii) such roof or portion thereof is capable of being used as landscaped open space.
- (c) Section 28CF shall be applied to the combined occupancy of all the buildings on the lot.

28CG (Deleted)

DRIVEWAY ACCESS

28CH(1) In the "**Bedford Highway Area**" one vehicle access point shall be permitted to the Highway from each lot with 100 feet of frontage or less and two vehicle access points shall be permitted for each lot with frontage greater than 100 feet.

28CH(2) For the purpose of Subsection (1) the vehicle access point shall not exceed 35 feet in width and shall be defined by curbing, planting, or a similar device that will not obstruct the view of traffic.

UNIT MIX - MAINLAND SOUTH

28CI An apartment house which is located in the "**Mainland South Area**", shall be required to provide one two-bedroom unit for every three bachelor and/or one bedroom units.

Attachment D:
Excerpts of the Regional Plan - Harbour Designation

5.3.4 Halifax Harbour Designation

Halifax Harbour plays a strategically important economic role to HRM and the Province of Nova Scotia for shipping, ship building, naval operations and other port related industries. HRM seeks to ensure that sufficient lands are retained for these purposes and that the viability of these activities is not compromised by development of incompatible uses in their proximity.

- EC-12 HRM shall establish a Halifax Harbour Designation which extends from Hartlen Point in Eastern Passage to Chebucto Head, including Northwest Arm and Bedford Basin, and extends inland generally to the first major roadway paralleling the Harbour, as shown on the Generalized Future Land Use Map (Map 2). The Designation shall support a range of development opportunities including marine-dependent industrial and commercial uses, transportation uses and facilities including ferries, recreational uses, residential uses, institutional uses and matters related to environmental improvement and protection.
- EC-13 Within the Halifax Harbour Designation, HRM shall establish zoning under applicable land use by-laws and apply the zone on lands where existing harbour related industrial uses are located and lands or water lots determined by HRM to be suitable for these uses in the future. Corresponding land use regulations will be established under the applicable land use by-laws. Amendments to applicable land use by-laws may be made to:
- (a) allow for additional lands or water lots for harbour related industrial uses that have not been previously been identified where such lands are considered appropriately situated for these uses;
 - (b) implement regulations that mitigate potential negative impacts of existing and potential marine-dependent industrial and commercial areas on adjacent uses, while maintaining the economic viability of marine-dependent uses; and
 - (c) discourage new residential development from locating in areas that abut lands designated for intensive marine dependent industrial and commercial uses.
- EC-14 When considering an amendment to secondary planning strategies, land use by-laws or development agreements to permit new residential development in proximity to harbour related industrial uses, consideration shall be given to the potential for nuisances and compatibility issues and the importance to HRM in protecting the viability of the marine related industrial uses.

Attachment E:
Excerpt of the Regional Plan - Harbour Industrial Designation

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Attachment F:
Minutes of Public Information Meeting

HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting
Case 19533

Wednesday, February 4, 2015
7:00 p.m.
Rockingham United Church Hall

STAFF IN

ATTENDANCE: Jill MacLellan, Planner, HRM Planning Applications
Alden Thurston, Planning Technician, HRM Planning Applications
Cara McFarlane, Planning Controller, HRM Planning Applications

ALSO IN

ATTENDANCE: Councillor Russell Walker, District 10
Nick Stappas, Applicant
Greg Johnson, Paul Skerry Architects

PUBLIC IN

ATTENDANCE: Approximately 23

The meeting commenced at approximately 7:02 pm.

1. Call to order, purpose of meeting – Jillian MacLellan

Ms. MacLellan introduced herself as the Planner facilitating this application through the planning process; Cara McFarlane and Alden Thurston, HRM Planning Applications; Nick Stappas, Applicant; Greg Johnson, Architect; and Councillor Russell Walker, District 10.

Case 19533 is a proposed amendment to the Halifax Mainland Land Use By-law (LUB) for the C-2A Zone; specifically, as it applies to the Bedford Highway Secondary Plan.

The Public Information Meeting (PIM) Agenda was reviewed.

The purpose of the PIM is to identify that an application has been received, give some background on the proposal and receive feedback from the public. This is purely for information exchange and no decisions will be made at this PIM.

2. Overview of planning process – Jillian MacLellan

HRM receives an application from the applicant; a PIM is held to gain public feedback; HRM staff conduct a review and receive comments from internal/external departments; a staff report, with a recommendation to Halifax and West Community Council (HWCC), is prepared; HWCC will hold a public hearing which is advertised in the paper; HWCC makes a decision to approve or deny the application following the public hearing; that decision is followed by a two week appeal period.

3. Presentation of Proposal – Jillian MacLellan

The proposed amendment is to increase the height for multiple unit dwellings from 35 feet to 50 feet in the C-2A Zone of the Bedford Highway Secondary Plan to provide consistency with the other C-2A Zone in the Halifax Mainland Plan Area.

The Bedford Highway Secondary Plan Area borders along the Bedford Highway (beginning at the Fairview Container Port and ending just north of Larry Uteck Boulevard).

The C-2A Zone is located on properties that are designated Minor Commercial in the Bedford Highway Secondary Plan and on other Minor Commercial designated properties throughout the Halifax Mainland LUB allowing for a variety of different types of commercial uses to serve the surrounding neighbourhood. Single unit dwellings and apartment houses are permitted.

The C-2A Zoned properties located in the Bedford Highway Secondary Plan were shown.

Commercial uses in the C-2A Zone are restricted to a height of 35 feet. The Zone also allows for residential uses, one being an R-3 Zone which allows for the apartment house buildings. Section 38B(2) allows for residential uses to comply with the requirements of their respective zone. If an individual wants an R-3 use on a C-2A Zoned property, 50 feet is permitted even though all other uses need to be at 35 feet. However, Section 38C, added in 2005, states that the Bedford Highway Secondary Plan can go no higher than 35 feet no matter what the use is.

In 1987, the Bedford Highway Secondary Plan was adopted and the C-2B (Highway Commercial) Zone was created. R-3 uses (apartment uses) are permitted in both the C-2A and C-2B Zone. In 1987, these types of uses were permitted to go up to 50 feet. Over the years, the installation of sanitary and water services along the Bedford Highway were extended towards Larry Uteck Boulevard and as such, there was more concern about height especially towards the Larry Uteck Boulevard area. There was a motion put forward to Council to ask staff to review height and other matters along Bedford Highway. In 2005, Council reduced the height for residential uses in the C-2A Zone and C-2B Zone to 35 feet (considered medium scale).

In 2010, the Western Shore Bedford Basin Study was done and included the majority of the Bedford Highway Secondary Plan; however, it didn't include the cluster of C-2A properties in the southern portion of the Secondary Plan. As part of the Western Shore Bedford Basin Study, C-2B Zoned properties were permitted buildings higher than 35 feet by development agreement. Because there was only one C-2A Zoned property within this Study, no provisions were changed for the C-2A Zone.

The applicant is proposing a 50 foot mixed use development (a commercial component at grade and residential above) located at 205 Bedford Highway. The building will need to comply with the requirements of the LUB including angle controls, density, open space requirements, other types of setbacks, etc.

4. Questions and Comments

Susan Fogarty, Kent Avenue – The C-2A zoned property near Lodge Drive is surrounded by residential uses. The viewplanes should be taken into consideration when considering changing the height from 35 feet to 50 feet in the C-2A Zone.

Paul Zwicker, Almon Street – Has property on Forest Hill Drive. The Rockingham area has deteriorated over the past 20 to 30 years and a number of Heritage properties destroyed. The only thing left is the view of the Basin. The Heritage properties, if they hadn't been destroyed, would have made the trip through Rockingham similar to Wolfville. Armada Drive properties are unsellable because of erosion due to development. Development has had a detrimental effect on the Rockingham area and all that is left are photographs. He is concerned adding apartment buildings in an area where the aesthetics have already been damaged by development. He would like to see what is left in the area preserved. Anyone would be astounded by what has been destroyed within the past 50 years.

Lynn Zinck, Trident Lane – Owns one of the homes on Armada Drive. She had no say on the construction of the Legacy building (view from her backyard) that depleted her property value by approximately \$10,000. If this proposal is approved, there will be an apartment building in her front yard as well diminishing her view of the Bedford Basin and decreasing her property value again. The legacy building further ruined the business of a B&B as it lost its view of the Bedford Basin.

Manon Gilroy, Dakin Drive – She loved old Rockingham and is against an increase to 50 feet. Rockingham currently looks hideous and she feels for the residents that have the apartment buildings in front of them. She is against the increase in height.

Art MacDonald, Torrington Drive – Many of the buildings along the street have been built quite recently. Why does the zone need to change? It looks like maybe the properties are going to be bought and apartment buildings developed all along this stretch of the Bedford Highway. Do we really need all these buildings in addition to the ones on Larry Uteck Boulevard, further up the Bedford Highway and at the top of what is known as a CHNS hill (new development)? His home overlooks the Bedford Basin and a 50 foot building would obstruct his view completely. Soon Bedford Highway will be a mass of apartment buildings.

Linda Graham, Lodge Drive – She was told by Planning that the area behind her property was parkland but is now apartment buildings. She attended meetings in 2004 to restrict building heights and here it is, 11 years later, another proposal for to raise the height to 50 feet again. It was agreed at previous meetings that this is a unique area. It doesn't make sense to further destroy the area by developing mammoth buildings especially at the foot of Lodge Drive.

Ms. MacLellan – She clarified that the majority of C-2A Zoned properties were not included in the Western Shore Bedford Basin Study area in 2010. This proposal is to see if 50 feet would be considered appropriate for C-2A Zoned properties because in the C-2B Zoned properties there is a provision to allow for extra height through discretionary approval.

Wendy McDonald, Warwick Lane – The property in question was not pointed out in the handout. **Ms. MacLellan** – Clarified that apartment buildings are already permitted. The proposal is to allow for an increase in height for apartment uses. The genesis of this application came from 205 Bedford Highway which is located across from the bottom of Flamingo Drive. **Ms. McDonald** – If approved, there would be no further reason for public meetings on future developments for that entire block. Is that correct? **Ms. MacLellan** – Yes, if approved by Council. Any future applications would have to meet the requirements within the LUB which would be reviewed by Development Services. **Ms. McDonald** – She suggested that each property be considered one by one so it wouldn't be a blanket approval. Also, the property near Lodge Drive is opposite a Heritage property on the Bedford Basin side.

Ms. McDonald – More apartments on the Bedford Highway would increase traffic. If anything, the Bedford Highway should be widened rather than elevated.

Ms. McDonald – There is a vacancy rate now in apartments; therefore, there is no real need for extra buildings at the moment.

Ms. McDonald – She suggested reinstating the Planning Advisory Committee for the area.

Michelle Boisvert, Forest Hill Drive – She is the property manager of a C-2A Zoned property and a residential property beside it. Rockingham is very unique and she sees it deteriorating. She is concerned that it is starting to lose that community feel. She is not opposed to development in the area but would like to see it spruced up more so than developed. Development should be looked at on a site specific basis.

Arun Meharer – Bedford Highway/own Bedford Highway – Agrees that over the years the area has deteriorated but within the past five to eight years some beautiful buildings have been constructed. For consistency purposes, he is opposed to the site specific suggestion.

Nick Stappas, Applicant, Swallow Street – They currently own a thirteen unit apartment house which requires maintenance and many upgrades. The proposal is for a five storey mixed use building with commercial at grade and residential units above. A certain amount of units is needed to make financial sense. The commercial component would consist of 6,000 square feet. He feels this would give the area an opportunity to grow and spruce up the area as well.

Ms. Fogarty – Where is the parking going to be? **Mr. Stappas** – Fully underground. The density will not change and traffic flow will not increase. **Ms. Fogarty** – Will the first floor be retail or commercial? Retail would produce more traffic. **Mr. Stappas** – He would like retail but traffic could be taken into consideration. **Ms. MacLellan** – She clarified that through this specific application, height is the only thing being considered. Commercial uses have already been established in the C-2A Zone.

Ms. Zinck – Is this site the only application HRM has received for new construction in the area? **Ms. MacLellan** – Yes, but the increased height would apply to all the C-2A Zoned properties in the Bedford Highway Secondary Plan Area.

5. Closing Comments

Ms. MacLellan thanked everyone for coming and expressing their comments.

6. Adjournment

The meeting adjourned at approximately 7:49 p.m.