



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

MEMORANDUM

TO: Chair and Members of Districts 7 and 8 Planning Advisory Committee

FROM: Leah Perrin, Planning Intern, Development Approvals

DATE: September 22, 2014

SUBJECT: Case 19238 - Application by Peter McInroy, on behalf of Lucas Dambergs, to convert an existing non-conforming commercial space into a residential unit at 2631A&B-2639 Fuller Terrace, Halifax

An application has been received by Peter McInroy, on behalf of Lucas Dambergs, to enter into a development agreement to convert a non-conforming commercial space into a residential unit at 2631A&B-2639 Fuller Terrace, Halifax.

A copy of the application submission, including the proposed site plan and floor plans, are attached to this memo (see Attachments A and B).

Location and Existing Use

The subject property is located on Fuller Terrace in the North End area of Halifax. The property has a lot area of 6402 square feet, with 66 feet of frontage, twice the size of most lots in the area. Three parking spaces are located in the rear yard, accessed via a private easement over the driveway at 2636 Northwood Terrace. The surrounding neighbourhood has mostly two unit dwellings, with some three and four unit dwellings. The property is designated Medium Density Residential under Area 5 of the Peninsula North Secondary Plan of the Halifax Municipal Planning Strategy, and is zoned R-2 (General Residential) Zone under the Halifax Peninsula Land Use By-law.

Proposal

While the existing R-2 Zone does not permit commercial uses, commercial uses existed in the building prior to the current zoning taking effect. As a result, the legal non-conforming use of the existing building is 4 apartment units and 1 commercial use.

The current owner recently purchased the property and established a residential unit in the former commercial space without the necessary approvals. The current zoning permits up to four residential units only, prohibiting a fifth residential unit. Due to its legal non-conforming status, the space could be

Development Approvals

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reinstated for commercial use, or must be incorporated into the existing four dwelling units. Instead, the owner wishes to retain this space as a fifth dwelling unit.

Planning Policy

The proposal is being considered under Policy 3.14 of the Halifax Municipal Planning Strategy, which allows Council to permit, by development agreement, a non-conforming use to be changed to another less intensive non-conforming use. The residential use may be considered less intensive than a commercial use. The policy highlights a desire for the layout and design of the building to be complementary to the neighbourhood, and minimize the impact of vehicle activity (Attachment E).

This proposal would allow one residential unit more than what is permitted under the existing zoning (Attachment F). It is envisioned that the development agreement will not permit any increase in the height or volume of the building, will require the three existing parking spaces to be maintained, and address minimum requirements for landscaping.

Public Consultation

In consultation with the area Councillor, it was determined that a Public Information Meeting would not be held given the limited scale of the development and nature of the request. Instead, information was posted on the HRM website, and information letters requesting written comments were mailed to property owners and residents within the notification area as shown on Map 2. The notification letter is provided in Attachment C, and written comments received are provided in Attachment D.

Input Sought from the Committee

Pursuant to the Committee's Terms of Reference, feedback is sought from the Committee relative to the appropriateness of the proposal. The recommendation will be included in the staff report to Halifax and West Community Council. Specific items that the Committee may wish to address include the following:

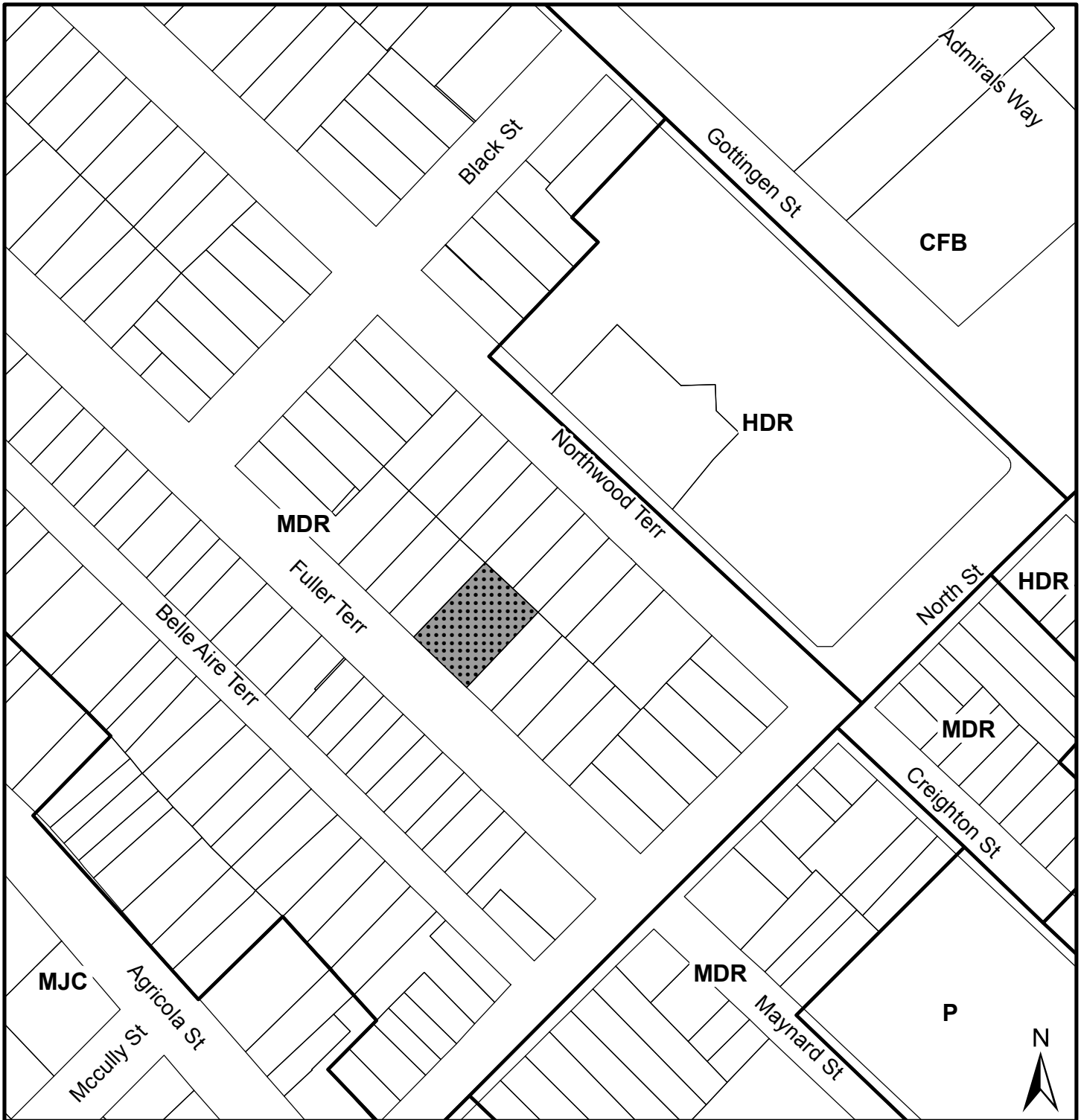
- Is a fifth residential unit less intensive than a commercial use?
- Is the existing parking and landscaping sufficient for the development?

Attachments

Map 1: Generalized Future Land Use
Map 2: Zoning and Notification
Attachment A: Site Plan
Attachment B: Floor Plans
Attachment C: Notification to owners and residents
Attachment D: Public comments
Attachment E: MPS Policy
Attachment F: Halifax Peninsula Land Use By-law, Relevant Section from R-2 Zone
Attachment G: Photographs

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
Tel: 902.490.4398 Fax: 902.490.4406
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Map 1 - Generalized Future Land Use

HALIFAX

2631A&B-2639 Fuller Terrace
Halifax

 Area of proposed development agreement

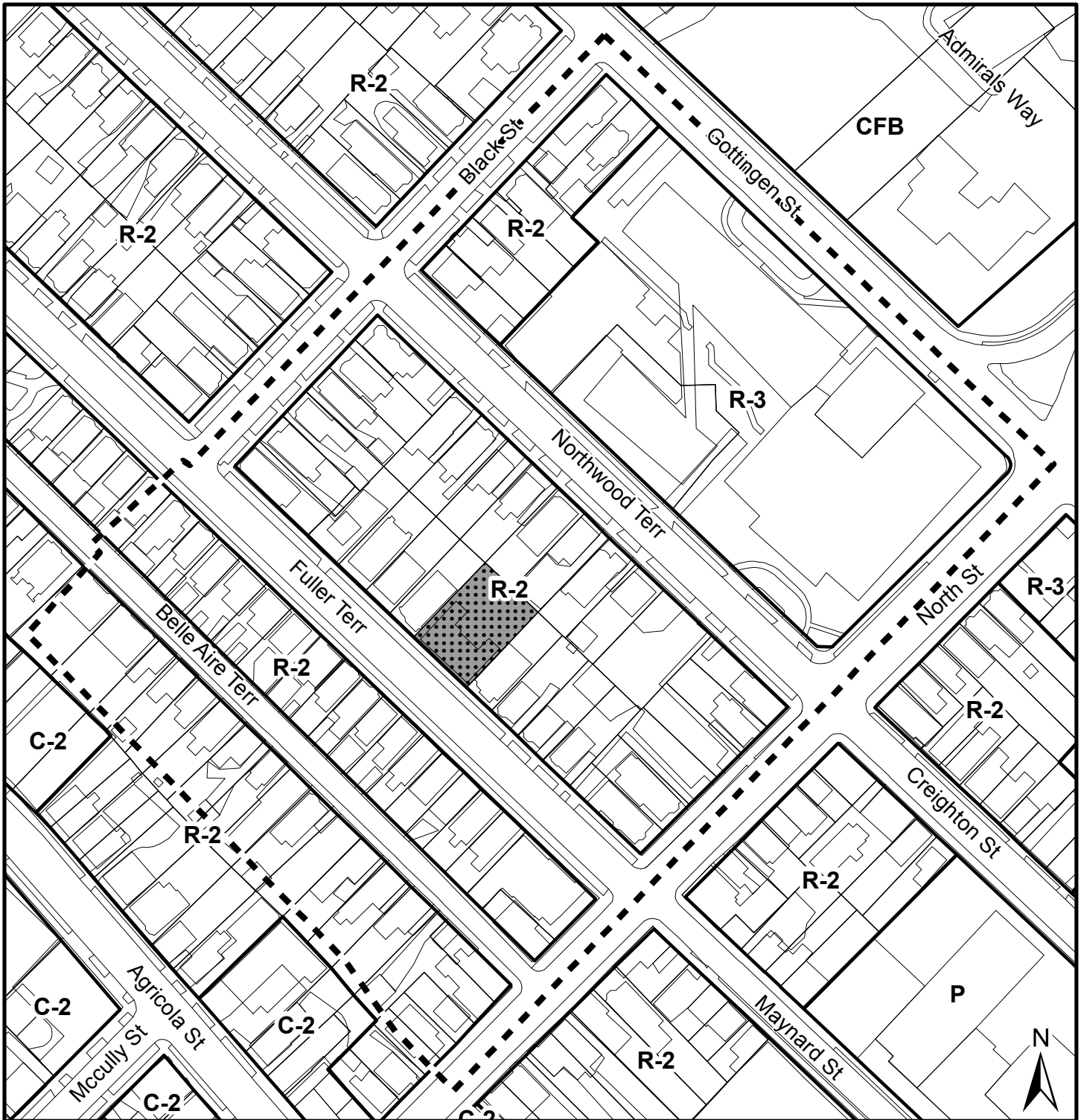
- Designation**
- MDR Medium Density Residential
 - HDR High Density Residential
 - MJC Major Commercial
 - CFB Canadian Forces Base
 - P Park and Institutional



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.


Halifax Plan Area
Peninsula North Secondary Plan Area




Map 2 - Zoning and Notification

HALIFAX

2631A&B-2639 Fuller Terrace
Halifax

 Area of proposed development agreement

 Area of notification

Halifax Peninsula
Land Use By-Law Area

Zone

- R-2 General Residential
- R-3 Multiple Dwelling
- C-2 General Commercial
- P Park and Institutional
- CFB Canadian Forces Base

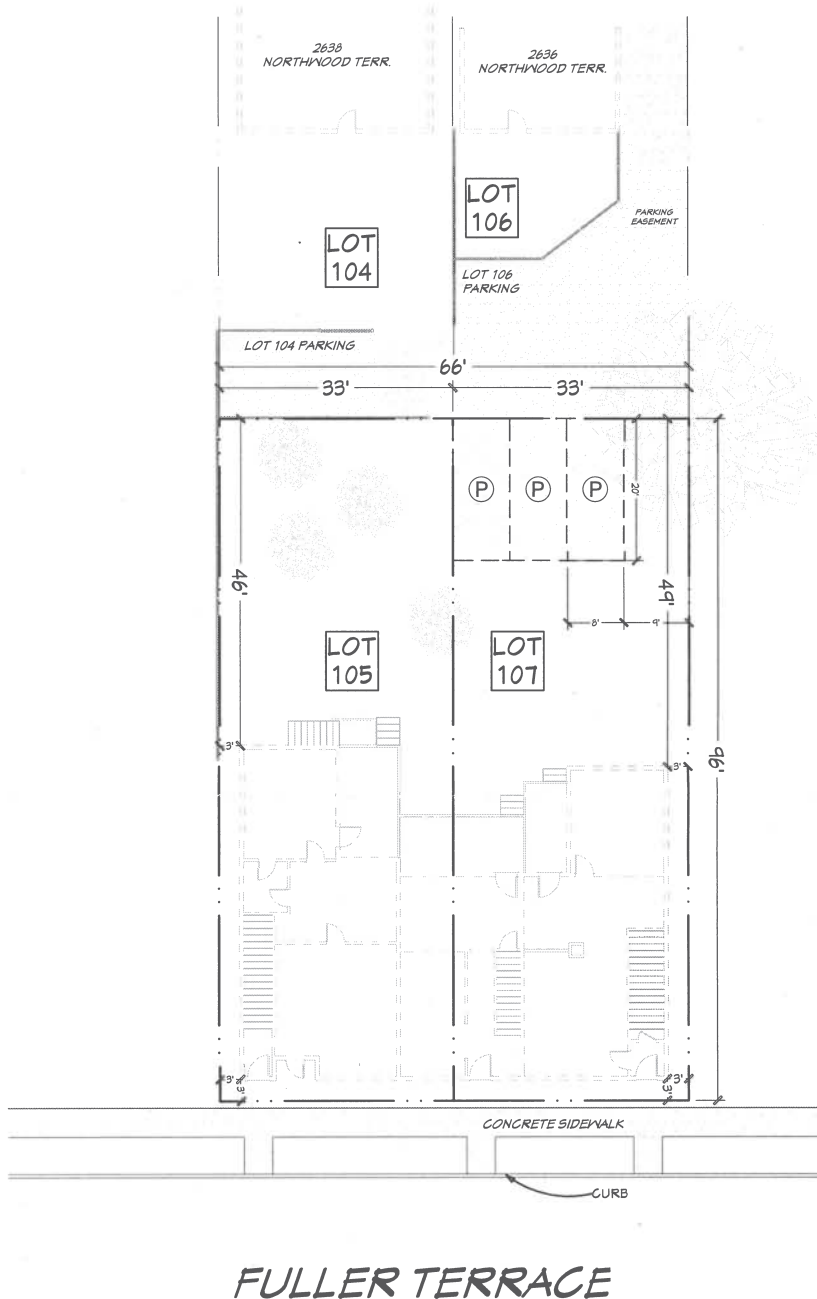


This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

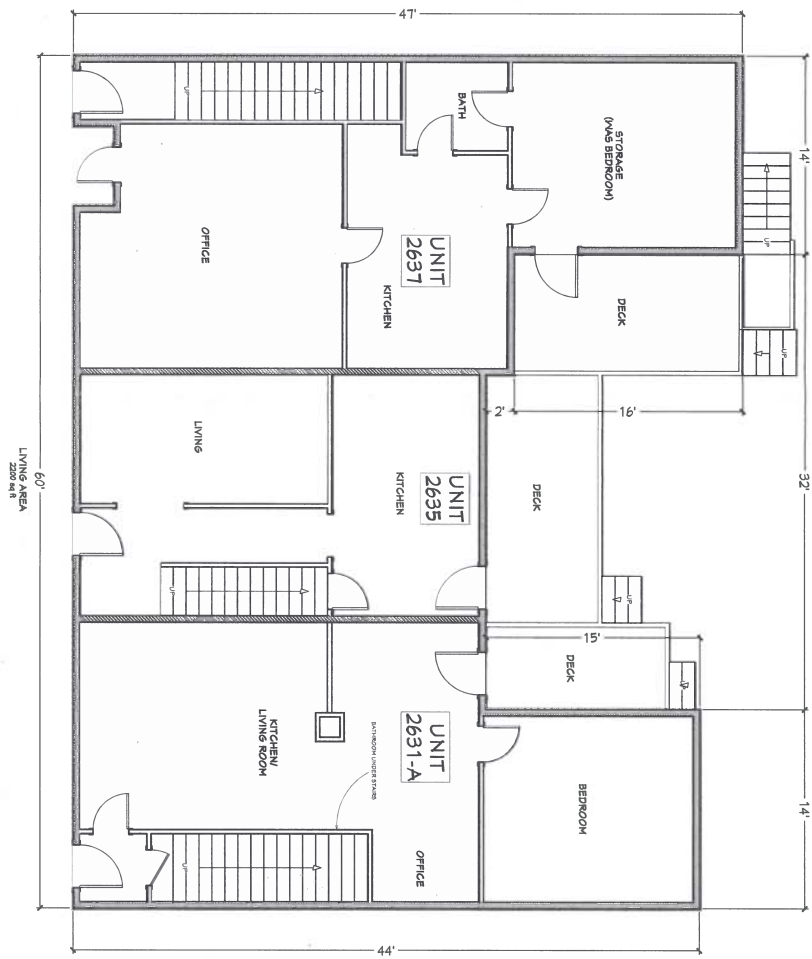
The accuracy of any representation on this plan is not guaranteed.

Civic Address: 2631-2639 Fuller Terrace Halifax - Nova Scotia		Customer Name: Lucas DAMBURGS	
REV. #	0	COMMENTS	DATE
		NOT FOR CONSTRUCTION - FOR REVIEW ONLY	06/06/2013
REVISION:	0		
Scale:	1/16" = 1 FT		
	ON TEXT PAPER ONLY		
SHEET #	1		

Site Plan



First Floor Layout



Civic Address:
2631-2639
Fuller Terrace
Halifax - Nova Scotia

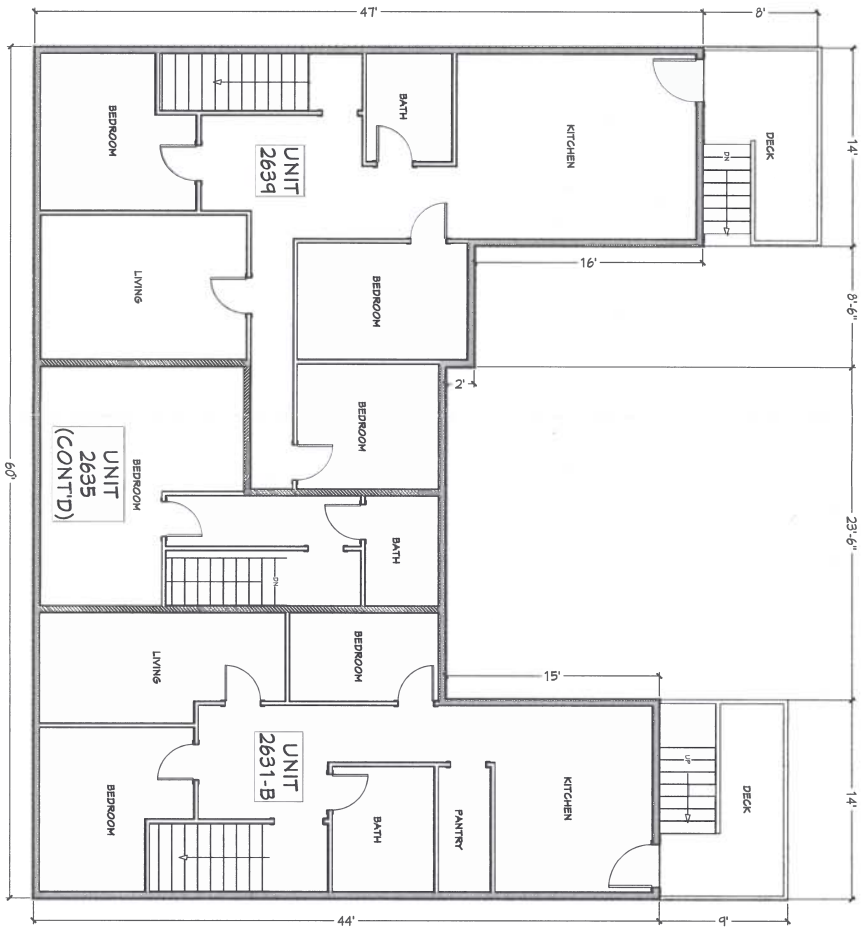
Customer Name:
Lucas
DAMBURGS

REV. #	COMMENTS	DATE
0	NOT FOR CONSTRUCTION - FOR REVIEW ONLY	09/06/2013

REVISION:
0

Scale:
1/8" = 1 FT
ON 11x17 PAPER ONLY

SHEET #
2



Upper Floor Layout

Civic Address:
 2631-2639
 Fuller Terrace
 Halifax - Nova Scotia

Customer Name:
 Lucas
 DAMBURGS

REV. #	COMMENTS	DATE
0	NOT FOR CONSTRUCTION - FOR REVIEW ONLY	06/06/2013

REVISION:
 0

Scale:
 1/8" = 1 FT
 ON TEXT PAPER ONLY

SHEET #
3



Dear Resident/Property Owner:

Case 19238 - Application by Peter McInroy, on behalf of Lucas Dambergs, to convert an existing non-conforming commercial space into a residential unit at 2631A&B-2639 Fuller Terrace, Halifax.

This is to inform you and seek your comments on the proposal for 2631A&B-2639 Fuller Terrace, Halifax, to permit the conversion of an existing non-conforming commercial space to a residential unit. The reverse side of this notice provides additional information on the proposal.

Staff are in the process of reviewing the proposal for a development agreement, which will be considered by the Halifax and West Community Council (HWCC). Before HWCC can consider the proposal, a Public Hearing must be held. As your property falls within the notification area, you will receive written notice of the date, time and location of the Public Hearing.

As part of this process, we are inviting written comments and feedback from the public, which will be attached to the staff report. We encourage you to contact us with any questions or comments you may have. If you wish to comment on the proposal or if you have any questions, please contact Leah Perrin at 490-4398 or email perrinl@halifax.ca. Alternatively, you may contact Miles Agar at 490-4495 or email agarm@halifax.ca. Please send all written comments by **August 29, 2014**.

More detailed information on the proposal can be found on the HRM website at <http://www.halifax.ca/planning/applications/Case19238Details.php>.

Sincerely,

Leah Perrin

Planning Intern
Development Approvals
Halifax Regional Municipality

Tel 902.490.4398

Email perrinl@halifax.ca

PROPOSAL INFORMATION – PLANNING APPLICATION CASE #19238

APPLICANT: Peter McInroy, on behalf of Lucas Dambergs

REQUEST: To allow a non-conforming commercial unit to be converted to a residential unit, by development agreement, at 2631A&B-2639 Fuller Terrace, Halifax.

PROPOSAL: While the existing R-2 Zone does not permit commercial uses, a grocery store existed in this building prior to the current zoning taking effect. As a result, the legal non-conforming use of the existing building is 4 apartment units and 1 commercial area.

The current owner recently purchased the property and established a residential unit in the former commercial space without the necessary approvals. The current zoning permits up to four residential units only, prohibiting a fifth residential unit. Due to its legal non-conforming status, the space could be reinstated for commercial use, or must be incorporated into the existing four dwelling units. Instead, the owner wishes to retain this space as a fifth dwelling unit.

PROCESS: The proposal is being considered under Policy 3.14 of the Halifax Municipal Planning Strategy, which allows Council to permit, by development agreement, a non-conforming use to be changed to another less intensive non-conforming use. A development agreement is a contract between the municipality and the property owner that establishes specific land use and building requirements for the property. The applicant is not proposing changes to the size of the existing building under this application.

At this time, Planning Staff are seeking comments from the public regarding the proposal.

DISTRICT: 8 (Halifax Peninsula North) – Councillor Jennifer Watts

SITE INFORMATION: 2631A&B – 2639 Fuller Terrace, Halifax

PLAN AREA:

- Halifax Plan Area - Peninsula North Secondary Plan Area, Area 5
- Halifax Peninsula Land Use Bylaw Area

LAND USE DESIGNATION:

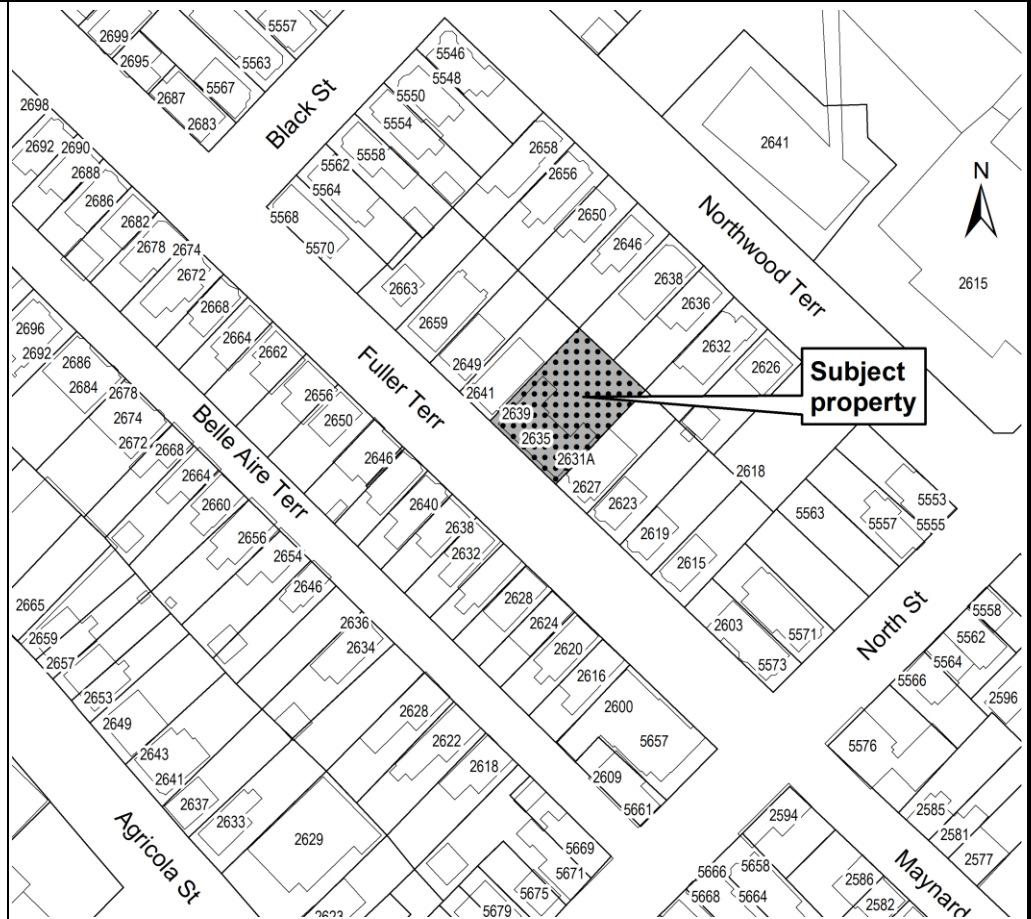
- Medium Density Residential

CURRENT ZONING:

- R-2 (Two Family Dwelling) Zone

PROPERTY DESCRIPTION:

- Current authorized use: Four apartment units and one commercial area
- Lot Area: 6402 square feet



For further information, please contact **Leah Perrin**, Planning Intern, (902) 490-4398, perrinl@halifax.ca; or **Miles Agar**, Planner, (902) 490-4995, agarm@halifax.ca; or visit <http://www.halifax.ca/planning/applications/Case19238Details.php>

Perrin, Leah

From: Dan Boyd
Sent: August-12-14 10:23 AM
To: Perrin, Leah
Subject: Case 19238

Follow Up Flag: Follow up
Flag Status: Completed

Resident of
100% in favor of the application by Peter McInroy.

Regards,

Dan Boyd
President, Quality Urban Enterprises Inc. | Big Box Canada Inc. | The Marks Brothers Corporation Ltd.
Franchisee, Pizza Delight & East Side Mario's Restaurants
Franchisor, Massage Experts Franchising Limited



Perrin, Leah

From: Jason Gavras
Sent: August-13-14 11:56 AM
To: Perrin, Leah; Agar, Miles
Subject: case # 19238/Lucas Dambergs

Follow Up Flag: Follow up
Flag Status: Completed

Ms Perrin/Mr Agar-

By this email I am registering my complete support for this application. I live at _____ and Mr Dambergs has done an excellent job on the subject property and he has had a very positive effect on the neighbourhood.

Kind Regards,

Jason

Jason P. Gavras
Gavras & Associates
Barristers and Solicitors

Perrin, Leah

From: David Roback
Sent: August-13-14 10:05 PM
To: Perrin, Leah
Subject: Case 19238

Follow Up Flag: Follow up
Flag Status: Completed

Hello Ms Perrin,

First of all, allow me to express my appreciation - not without a small dollop of surprise - for your notification about the process around review of this application. Is the city now more attentive to process compliance, since being cited by the court after the St. Pat's Junior High School affair?

Now, in relation to this application. We purchased our property on _____ in 1981. At that time, there was a suggestion that a convenience store had been in existence in the row building on the east side of the street, but not for some years. There were plate glass windows, but the room behind them was unoccupied and looked like it had been in that state for a long while. You may be getting historical accounts from residents of longer standing than me, perhaps from Tom Creighton, who led the community initiative to down-zone the block to R2 at that time. That campaign was in response to Northwood Corporation's proposal to level the block between Fuller and Northwood Terraces, from North St. to Black Street, in order to construct underground parking, with a nice park on the surface. In order to keep this message from getting too long, I will omit the numerous exclamation marks the previous sentence calls for. I need hardly add that the Bloomfield neighbourhood is an acknowledged jewel in the North end of Halifax, thanks in no small measure to the R2 zoning.

How does this relate to the Dambergs application? As I understand it, the city is being asked to consider approving a use which has been in place for something like 30 years, and which is consistent with the R2 zoning, established after pressure from residents to prevent the destruction of a block of excellent housing stock in a wonderfully vibrant neighbourhood.

My retelling of the zoning history is consistent with what you have provided us, but I think it is useful to be aware of the substance of that history.

My response to the Dambergs application is - yes, of course.

Regards,
David Roback

Perrin, Leah

From: joanne coffey
Sent: August-16-14 11:49 AM
To: Perrin, Leah
Cc: Agar, Miles
Subject: Case 19238

Follow Up Flag: Follow up
Flag Status: Completed

Leah, my name is Joanne Coffey and I live at [REDACTED]. I have lived on [REDACTED] since 1979 and have witnessed many changes to the north end of Halifax. The changes made to 2631 A&B-2639 Fuller Terrace are beautiful. These units preserve the unique look of old architectural designs found in this part of HRM. The modest design of this project fits in well with my neighbourhood.

I think this proposal is an excellent idea to help provide more housing in the North end of Halifax. I understand that the one unit that was commercial space is to be converted into residential space - what a great idea. So many people want to live in the north end of Halifax near HRM bus routes and near the traditional HRM downtown area.

I am a PWD and do wish this lovely proposal on Fuller Terrace included WC access to some of the units. However, I understand because of the size of this project, that building code regulations do not mandate that this proposal include full accessible unit(s). Still, with minor adaptations such as flop-down ramps, I can envision that the units in this proposal could be easily made WC accessible. This potential is attractive.

Joanne Coffey

Halifax Municipal Planning Strategy Implementation Policy 3.14

- 3.14 Council may, by development agreement, permit a non-conforming use to be changed to another less intensive non-conforming use, or permit the structure in which such a use is located to be altered or expanded, provided that:
- a) the layout and design of the property shall be complementary to the fabric of the neighbourhood, and this shall be achieved through attention to a variety of factors including, but not limited to, the following, on which Council shall specify conditions to be met in the development agreement:
 - i) architectural design;
 - ii) the size, location, and landscaping of courts, open spaces, and yards;
 - iii) location of primary and secondary entrances to the building; and
 - iv) size, location, and design of fences.
 - b) vehicular activity, particularly parking and loading, shall be controlled so as not adversely to affect the neighbourhood in terms of traffic flow and nuisance;
 - c) facilities for parking, loading, vehicular access, outdoor display, and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and to ameliorate existing problems, through attention to factors including but not limited to:
 - i) location;
 - ii) surface treatment;
 - iii) storm drainage;
 - iv) access from the street; and
 - v) screening, buffering, and landscaping.
 - d) except where specific benefits to the neighbourhood can be demonstrated, all additions to a building, all off-street parking and loading areas, and all outdoor display and storage areas shall be set back from the street line by the more restrictive of:
 - i) the minimum setback of the existing building; or
 - ii) the mean setback of the buildings on the adjacent properties on either side; or
 - iii) the minimum setback specified for the zone in which the use is located.
 - e) except where specific benefits to the neighbourhood can be demonstrated, additions to the structures on the property shall not:
 - i) further encroach upon the minimum side and rear yards stipulated for the zone in which the property is located; or
 - ii) result in the total lot coverage or building height exceeding the maximum stipulated for the zone in which the property is located;
 - f) any outdoor lighting or sign illumination shall be directed away from, or screened from, adjacent residential properties;
 - g) no bulk refuse containers shall be visible from the street or from the immediate neighbourhood;
 - h) no additional lot area shall be used for outdoor storage, and measures shall be taken to screen any outdoor storage areas from the street and immediate neighbourhood;
 - i) with regard to on-site advertising for commercial or industrial uses:
 - i) where the property is located in a residential zone, no additional advertising surface area or illuminated signage shall be added; and
 - ii) in all other cases, such advertising shall not exceed the limits prescribed for the zone in which the property is located.
 - j) in the case of commercial and industrial operations in residential zones, the following additional considerations shall also apply:
 - i) there shall be a demonstrable improvement to the neighbourhood;
 - ii) existing conditions resulting in noise, dust, vibration, odour, and emissions shall be required to be ameliorated where these cause a nuisance or hazard; and
 - iii) operating hours shall be restricted to prevent nuisance.
 - k) No subdivision of the lot shall have occurred subsequent to the time of the adoption of this section.

Halifax Peninsula Land Use Bylaw

Relevant Section from the R-2 (General Residential) Zone

FOUR UNIT CONVERSION - PENINSULA NORTH #5

43J

Notwithstanding Sections 6(1), 6(2A) and 37 to 40, a building, excluding an accessory building, in existence on 14 July 1979, in "**Peninsula North Area #5**, and located south of Russell Street (**NIP III**), may be converted to a maximum of four units provided that:

- (i) there is no increase in the height or volume of the building;
- (ii) at least one of the units in the converted building contains two or more bedrooms.

Case 19238 Attachment G – Photographs

