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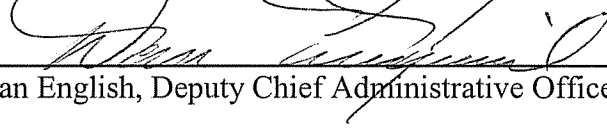
HALIFAX
REGIONAL MUNICIPALITY
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
May 18, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


George McLellan, Chief Administrative Officer


Dan English, Deputy Chief Administrative Officer

DATE: May 11, 2004

SUBJECT: **Case 00654: Request for a MPS/LUB Amendment to Permit a Health Centre at 5667 Kaye Street, Halifax**

ORIGIN

Request by Ms. Dana Landry to amend the Halifax Municipal Planning Strategy and Land Use Bylaw to permit a health centre at 5667 Kaye Street.

RECOMMENDATION

It is recommended that Regional Council:

1. **Not initiate** the process to consider amending the Halifax Municipal Planning Strategy and Land Use Bylaw to permit a health centre at 5667 Kaye Street.

BACKGROUND

Synopsis of Proposed Development: The applicant wishes to have a commercial zone to open a Natural Health Clinic (see Attachment B). The applicant indicates in her letter of February 17, 2004 (see Attachment B) that: "The clinic will have four or five various professionals in the natural health field such as naturalopathy, osteopathy, massage therapy and natural nutrition."

Location, Designation and Zoning: The property is located at 5667 Kaye Street, Halifax. This site is within a "Residential Environments" Designation on the Generalized Future Land Use Map of the Halifax Municipal Planning Strategy (see Map 1) and is zoned R-2 (General Residential) Zone (see Map 2). The R-2 Zone does not permit offices as proposed; although home occupations are permitted.

History of the Property: This property has been zoned R-2 since the adoption of the first Halifax Zoning Bylaw in 1950. The R-2 Zone was reconfirmed with the approval of the Halifax Municipal Plan in 1978.

DISCUSSION

Site specific plan amendments and policy reviews should generally only be considered where circumstances related to policies of Council have changed significantly. The applicant indicates in her letter of February 17, 2004 (see Attachment B) that: "There has been significant change in Halifax since 1979 when the last rezoning occurred. The population has increased dramatically and more people are taking responsibility for their health."

The "soft" area review program (this area was known as Soft Area 14) reviewed the zoning of this area in 1978-79 and, as a result, City Council on May 31, 1979 rezoned properties that had a residential use from C-2 to R-2 and those that had a commercial use from C-2 to C-1 including the adjacent property 5651 Kaye Street which was then a service station.¹ The staff report on Soft Area 14 of March 14, 1979 stated that the thrust of the residential policies is towards maintaining the existing neighbourhood character and stabilizing residential areas. These are the same policies which provide the guidance today (see Attachment A). These policies have worked to minimize commercial intrusion into this residential area and, generally, to set Young Street as the major division between the major commercial/industrial to the south and the stable residential area to the north.

¹The service station was built in 1955. A portion of the property had been rezoned from R-2 to C-2 to allow for the expansion of the service station in March 2, 1967. In May 31, 1979 it was rezoned to C-1 (Local Business) Zone. Effective April 1, 1997 this property was redesignated "Commercial" from "Residential Environments" and rezoned from C-1 to C-2A (Minor Commercial) as part of amendments respecting service stations and motor vehicle repair shops (Case 7345).

The development of this property as a commercial use could lead to land use conflicts as well as additional requests for commercial uses in the adjacent residential neighbourhood. This was part of the rationale for the 1979 decision by the former Halifax City Council in reducing the size of the area zoned commercial. That rationale is valid today. Any extension of the area where commercial uses are permitted would open the door for similar requests for “extension” elsewhere in this area; for example, those properties made non-conforming during the 1979 rezoning process. The rationale provided by the applicant is not sufficient grounds to be considered a change in circumstances.

There is nothing to distinguish this property from the other residentially zoned properties along the Kaye Street frontage. The majority of the block is residential in nature and that residential character should be maintained as such. Any expansion of the commercial uses would undermine the balance achieved between the residential and commercial uses. If Council feels a change is warranted then consideration should be given to the future use of all of the properties at least fronting along Kaye Street and possibly a larger area. In addition, although the application is for a health use, the C-1 (Local Business Zone) or C-2A (Minor Commercial Zone) the commercial zones that could be applied allow a much wider range of retail, office and service uses.

Staff does not see the rationale provided as sufficient, from the planning perspective, for changing the policy framework to enable a health centre at 5667 Kaye Street, Halifax. Staff would recommend against any change in designation and zoning for the property.

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:

This report complies with the Municipality’s Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Do not proceed with this requested amendment. This is the recommended course of action.
2. Authorize a MPS and land use by-law amendment process to consider permitting commercial zoning along the Kaye Street frontage towards Agricola Street. This could involve redesignation to “Commercial” on the Future land Use Map and rezoning to a C-1 (Local Business Zone) or C-2A (Minor Commercial Zone). This is not recommended for the reasons outlined above. However, if Council does wish to proceed this option should be followed as opposed to a site specific amendment as outlined in Alternative 3 below. If Council wishes to proceed, then staff should be directed to follow the public participation program as approved by Council in February, 1997 with staff to hold the public participation meeting.

3. Authorize a MPS and land use by-law amendment process to consider a specific amendment to permit a commercial use at 5667 Kaye Street, Halifax. This could involve redesignation to "Commercial" on the Future land Use Map and rezoning to a C-1 (Local Business Zone) or C-2A (Minor Commercial Zone). This is not recommended for the reasons outlined above. If Council wants to proceed, then staff should be directed to follow the public participation program as approved by Council in February, 1997 with staff to hold the public participation meeting.

ATTACHMENTS

Map 1: Generalized Future Land Use

Map 2: Zoning

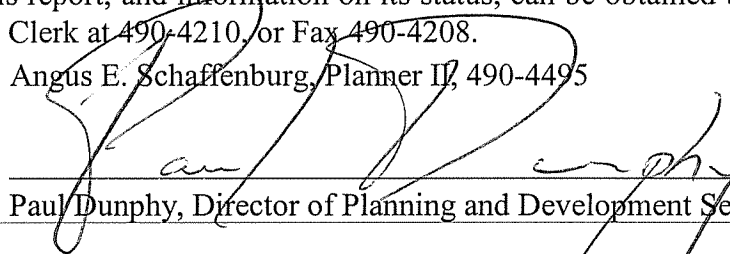
Attachment A: Extracts from the Municipal Plan and the Peninsula Land Use Bylaw

Attachment B: Letter from Dana Landry of February 17, 2004

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.


Report Prepared by: Angus E. Schaffenburg, Planner II, 490-4495

Report Approved by: _____


Paul Dunphy, Director of Planning and Development Services



Map 1 - Generalized Future Land Use

 Subject property

5667 Kaye Street
Halifax

Designation - Peninsula North

MJC Major Commercial
IND Industrial
P Park and Open Space

Halifax Plan Area

Designation - Halifax Plan

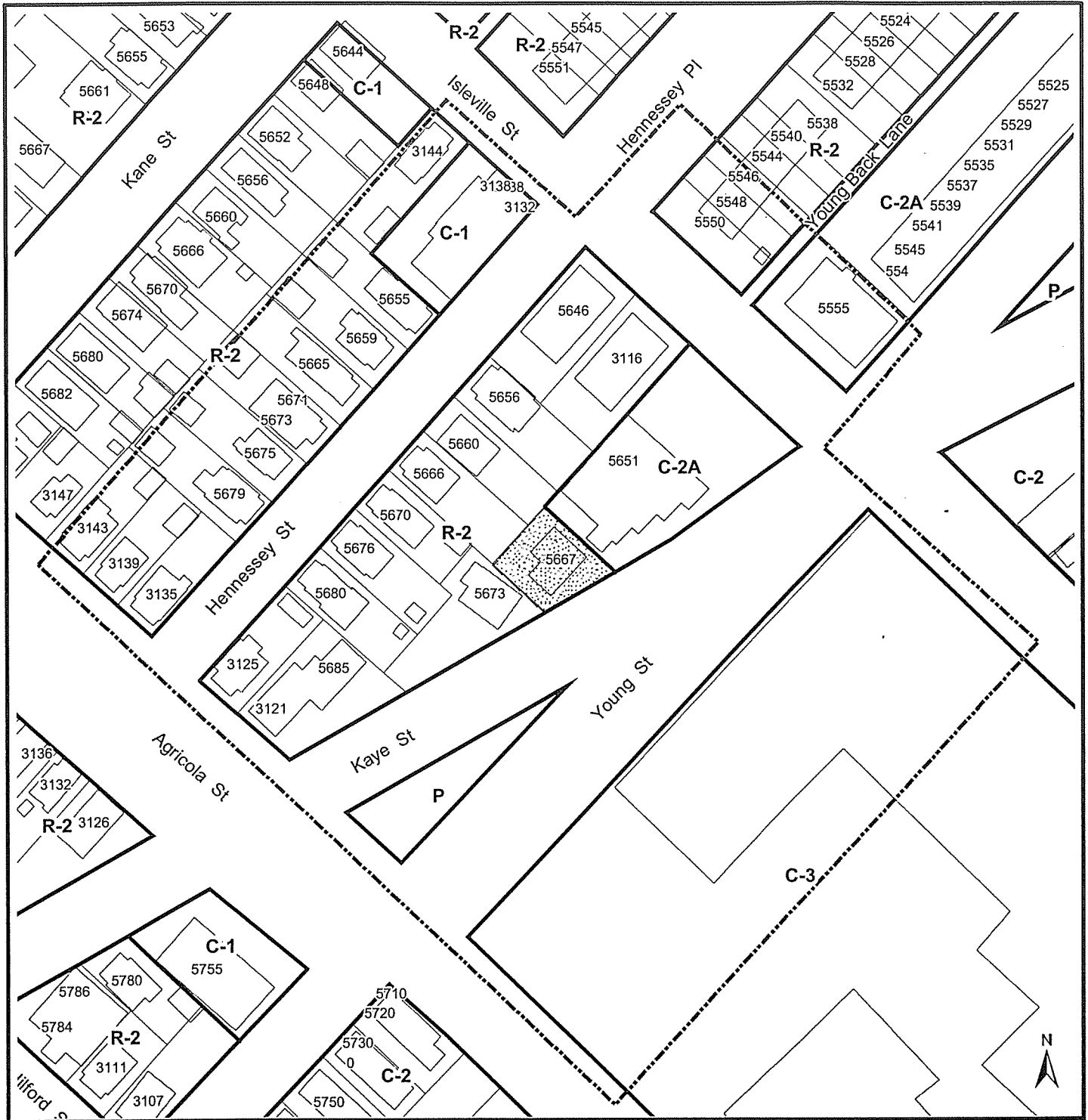
ResEnv Residential Environments
Comm Commercial

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

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



Map 2 - Location and Zoning

5667 Kaye Street
Halifax

-  Subject property
-  Area of notification

Halifax Peninsula By-Law Area

Zone

- R-2 General Residential
- C-1 Local Business
- C-2 General Business
- C-2A Minor Commercial
- C-3 General Industrial
- P Park and Institutional

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This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula By-Law area.

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

Attachment A: Extracts from the Municipal Plan and the Peninsula Land Use Bylaw

Municipal Planning Strategy

2. RESIDENTIAL ENVIRONMENTS

Objective The provision and maintenance of diverse and high quality housing in adequate amounts, in safe residential environments, at prices which residents can afford.

2.1 Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.

2.1.1 On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhoods; and the City shall develop the means to do this through the detailed area planning process.

2.2 The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.

2.3 The City shall investigate alternative means for encouraging well-planned, integrated development.

2.3.1 The City should restrict ribbon development which does not conform to the policies of this document and should seek ways to remove any such development which may become obsolete.

2.3.2 Ribbon development along principal streets should be prohibited in order to minimize access points required by local traffic.

2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.

2.4.1 Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion

within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.

- 2.7 The City should permit the redevelopment of portions of existing neighbourhoods only at a scale compatible with those neighbourhoods. The City should attempt to preclude massive redevelopment of neighbourhood housing stock and dislocations of residents by encouraging infill housing and rehabilitation. The City should prevent large and socially unjustifiable neighbourhood dislocations and should ensure change processes that are manageable and acceptable to the residents. The intent of this policy, including the manageability and acceptability of change processes, shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.

SCHEDULE II.1

SOFT AREAS OUTSIDE AREAS DESIGNATED FOR DETAILED PLANNING

10. Area bounded by west side of Windsor Street, London Street, and Chebucto Road.
11. Area fronting south side of Bayers Road and both sides of Oxford Street between Connaught Avenue and Liverpool Street.
12. Area within the curtilage of Civic Number 6450 Young Street (presently occupied by Hoyt's Moving and Storage Limited).
13. Area bounded by Richmond and Barrington Streets, and Devonshire Avenue.
14. Area bounded by Young Street, Isleville Street, Columbus Street, Agricola Street, Kane Street and Robie Street.

3. COMMERCIAL FACILITIES

Objective The provision of commercial facilities appropriately located in relation to the City, or to the region as a whole, and to communities and neighbourhoods within the City.

- 3.1 The City shall encourage a variety of commercial centres to serve the variety of community needs and shall seek to do so under Implementation Policy 3.7. Provision shall be made for neighbourhood shopping facilities, minor commercial centres, shopping centres and regional centres.
- 3.1.1 Neighbourhood shopping facilities in residential environments should service primarily local and walk-in trade, and should be primarily owner-occupied. They

shall be required to locate at or adjacent to the intersections of local streets rather than in mid-block. Neighbourhood shopping facilities may include one business, for example a corner store or a cluster of businesses. This policy shall serve as a guideline for rezoning decisions in accordance with Implementation Policies 4.1 and 4.2 as appropriate.

- 3.1.2 Minor commercial centres should service several neighbourhoods. They should locate along principal streets with adequate provision for pedestrian, transit, service and private automobile access. Parking provision should be allowed on surface lots servicing single businesses, as long as conditions preclude nuisance impact on adjacent residential areas. Access to any parking area from the principal street should be controlled. The City should define the geographic limits of minor commercial centres, and shall encourage contiguity of commercial or associated uses within those limits. Minor commercial centres should offer a wider range of services than neighbourhood shopping facilities including local office, restaurants, cinemas, health centres and multi-service centres. Notwithstanding any other policy in the Municipal Planning Strategy or Secondary Planning Strategies, billboards advertising off-site goods and services shall be prohibited in Minor Commercial areas. This policy shall serve as a guideline in rezoning decisions in accordance with Implementation Policies 3.1 and 3.2 as appropriate.
- 3.5 All commercial areas not within areas designated for detailed planning and not considered neighbourhood commercial centres pursuant to Policy 3.1.1 shall be resolved as to type at the time of adoption of a new land use bylaw pursuant to Implementation Policy 3.7.

IMPLEMENTATION POLICIES

GENERAL

1. The City of Halifax Municipal Development Plan provides the major framework to guide decision-making with respect to development in the City. This Plan shall be implemented through the powers of City Council under the Planning Act, the Halifax City Charter, and such other statutes as may apply.
2. The City shall follow and maintain a system of ongoing planning generally as detailed in Part III of this document.

ZONING

3. Pursuant to the authority of Section 33 of the Planning Act, the City shall adopt the Zoning Bylaw, Mainland Area and the Zoning Bylaw, Peninsula Area, both of the City of Halifax substantially as they presently exist to further the objectives

and policies of this Plan, except those bylaws shall first be revised according to the directions established by the detailed policies below.

- 3.1 Repealed 6 June 1990
- 3.1.1 The City shall review all applications to amend the zoning bylaws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.
- 3.7 It shall be the intention of the City, subject to further study, to draft a new zoning bylaw which would more precisely reflect the intents of this Plan.

AMENDMENTS TO THE ZONING BYLAW

4. When considering amendments to the Zoning Bylaws and in addition to considering all relevant policies as set out in this Plan, the City shall have regard to the matters defined below.
- 4.1 The City shall ensure that the proposal would conform to this Plan and to all other City bylaws and regulations.
- 4.2 The City shall review the proposal to determine that it is not premature or inappropriate by reason of:
- i) the fiscal capacity of the City to absorb the costs relating to the development; and
 - ii) the adequacy of all services provided by the City to serve the development.

PLAN AMENDMENTS

7. An amendment to this Plan shall be required:
- i) to change, alter, amend, revise or delete any policy of Part II;
 - ii) to undertake a proposed zoning amendment or rezoning which would otherwise not conform to the Generalized Future Land Use Map (Map 9) or to the policies of this Plan if warranted by further planning study; and
 - iii) to incorporate detailed area or functional plans into this Plan.

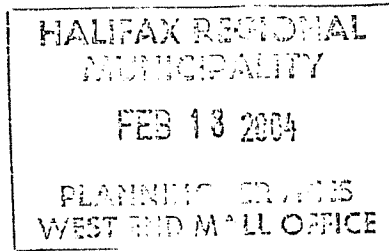
Land Use Bylaw (Peninsula Area)

R-2 ZONE

GENERAL RESIDENTIAL ZONE

- 35(1) The following uses shall be permitted in any R-2 Zone:
- (a) R-1 uses as hereinbefore set out;
 - (b) semi-detached or duplex dwelling;
 - (c) buildings containing not more than four apartments;

Attachment B



Dana Landry
Halifax Holistic Health House
39 St. Michael's Ave.
Halifax, NS
B3P 1M6
479-2296

Halifax Regional Municipality Planning Office
PO Box 1749
Halifax, Nova Scotia
B3J 3A5

February 17, 2004

Re: 5667 Kaye Street

I wish to make application to have 5667 Kaye Street rezoned to a commercial property. The proposed plan is to open a Natural Health Clinic at that location. The clinic will have four or five various professionals in the natural health field such as naturopathy, osteopathy, massage therapy and natural nutrition. The clinic will provide services for people to maintain their health and/or restore their health.

The location is ideal, being in a commercial area, next to a paint store, across from Olands and a natural health store. I purchased the house two years ago with future plans of working there with other natural health professionals, providing alternative health care to the people of Halifax. The clinic will create full time employment for myself, a receptionist and 3 to 5 other practitioners.

There has been significant change in Halifax since 1979 when the last rezoning occurred. The population has increased dramatically and more people are taking responsibility for their health.

I have canvassed the immediate area asking the residents their opinion on the Health House and all the people I have talked to are in favour of the natural health clinic.

All the reasons I have stated are just cause for rezoning 5667 Kaye Street.

Thank you,
Dana Landry

A handwritten signature in cursive script that reads "Dana Landry".