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Item No. 9.1 (i)

Halifax Regional Council
July 7, 2009
September 8, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Julia Hencastle
for Councillor Andrew Younger, Chair
Harbour East Community Council

DATE: June 15, 2009

SUBJECT: Case 01053: Dartmouth MPS/LUB Amendments - Waverley Road

ORIGIN

Meeting of Harbour East Community Council held on June 11, 2009.

RECOMMENDATION

Harbour East Community Council recommends that Regional Council:

1. Give First Reading to the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachments A and B, of the staff report dated May 29, 2009 and schedule a public hearing.
2. During the hearing give consideration to the following amendments:
 - a) Allow vehicle uses in the C-1B zone by site approval
 - b) That the Land Use By-law allow Council to consider, by public hearing, an extension to the 12 month grandfathering of non-conforming uses to a maximum of 24 months total grandfathered time on application by the property owner to Community Council.
 - c) 216 Waverley Road be re-zoned to C-1B if the property owner can provide documentation prior to the public hearing, as they have indicated they have, that the current parking use pre-dates the 1978 Dartmouth Land Use By-law; otherwise, such re-zoning shall, as suggested in the staff report, be by separate application.

DISCUSSION

Harbour East Community Council considered this matter at their June 11, 2009 meeting and approved the recommendation to forward the matter to Regional Council.

BUDGET IMPLICATIONS

As per the attached supplementary staff report dated May 29, 2009.

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

As outlined on page 5 of the attached supplementary staff report dated May 29, 2009.

ATTACHMENTS

1. Supplementary report dated May 29, 2009.
2. Staff report dated July 24, 2008

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| <p>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.</p> <p>Report Prepared by: Julia Horncastle, Acting Municipal Clerk</p> |
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TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: 
Denise Schofield, Acting Director of Community Development

DATE: May 29, 2009

SUBJECT: **Case 01053: Dartmouth MPS / LUB Amendments – Waverley Road**

SUPPLEMENTARY REPORT

ORIGIN

- October 30, 2007 – Regional Council directed staff to consider applying a commercial designation to those properties located at 194, 196, 198 and 200 Waverley Road.
- April 1, 2008 – Regional Council expanded the review area to include a larger area along Waverley Road in response to public input.
- October 2, 2008 – Harbour East Community Council reviewed the staff report dated July 24, 2008 and provided direction to staff on how to proceed.
- April 2, 2009 – Harbour East Community Council tabled the staff report dated March 19, 2009 and directed staff to receive and address comments from the public.

RECOMMENDATION

It is recommended that Harbour East Community Council recommend that Regional Council:

1. Give First Reading to the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachments A and B, and schedule a public hearing; and
2. Approve the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachments A and B of this report.

BACKGROUND

In 2007, Regional Council initiated the Waverley Road planning study to address compatibility issues, arising due to the proximity of industrial uses to residential uses near Red Bridge Pond on Waverley Road (Maps 1 and 2). In 2008, Regional Council expanded the scope of the project, due to feedback from the initial public consultation process. As a result, the project area now includes the lands along Waverley Road from Red Bridge Pond to Montebello Drive (Maps 3 and 4). The goal of the project is:

To establish a mixed use commercial and residential area on Waverley Road that encourages and supports businesses while addressing land use compatibility issues with surrounding residential neighbourhoods.

March 19, 2009 staff report

The March 19, 2009 staff report includes proposed MPS and LUB amendments. Staff propose that Council adopt a new land use designation entitled ‘Waverley Road’ which contains three sub-designations (Attachment A). The new designation and sub-designations will be applied upon Regional Council’s approval of the amendment package (Attachment B). Certain properties within the study area will be rezoned; however, policy for future rezonings and development agreements will also be provided (Attachment C).

Public consultation

At the April 2, 2009 meeting of HECC, Council directed staff to collect comments from the public regarding the proposed MPS and LUB amendments, and to address these comments in a supplementary report. The request for comments was posted on the HRM website, with a deadline of May 13, 2009. In addition, phone calls and emails were directed to those members of the public who had left contact information.

Should Regional Council decide to hold a public hearing, property owners in the area shown on Map 5 will be sent written notification. Public notices will also be posted in the local newspaper and on the HRM website.

DISCUSSION

Since Harbour East Community Council tabled the amendment package on April 2, 2009, staff have received a number of comments from the public (Attachment E). The comments have been grouped into general areas of interest, as summarized in Table 1 on the next page. The complete analysis can be found in Attachment D. The original public submissions are in Attachment E.

In some cases, comments have resulted in revisions to the amendment package (Attachments A and B). In others, staff are recommending no changes be made.

| Table 1. Summary of public submissions. | | |
|--|--|---|
| Public comment | | Staff recommendation |
| <i>Re: Existing development agreements</i> | | |
| 1 | Although currently covered by a DA, 202 Waverley Road should not be rezoned without adequate protection from offensive uses. | If the development agreement was discharged, permits must be issued for uses permitted in the C-1B zone, as uses cannot be prejudged to be offensive or obnoxious. – No changes are proposed. |
| <i>Re: Proposed C-1A (Neighbourhood Commercial) zone</i> | | |
| 2 | 224 and 226 Waverley Road should be rezoned to the new C-1A zone now. The C-1A zone should be changed to allow existing residential uses. | The public expressed the desire to have input on these properties before commercial uses are considered. – No changes are proposed with regard to the rezoning; however existing residential uses have been added to the list of permitted uses. |
| <i>Re: Proposed C-1B (Mixed Use Commercial) zone</i> | | |
| 3 | The I-1 zone should be maintained at 219 Waverley Road (CME Protective Coatings) and 198 Waverley Road (Perry Rand). | The public clearly expressed that new industrial uses and vehicle-related uses should not be permitted; therefore, the I-1 zone is no longer considered appropriate. – No changes are proposed. |
| 4 | The list of uses excluded in the C-1B zone is not sufficient. | Revisions have been made to the proposed amendments to include cabarets, pawnshops and amusement arcades to the list of prohibited uses. |
| 5 | ‘Vehicle services’ should be permitted in the C-1B zone. | Through the public consultation, staff received no support for new vehicle-related uses. However, Council may direct staff to permit vehicle services with a higher degree of land use control, such as site plan approval or development agreements. – No changes are proposed. |
| 6 | Would HRM Fleet Services at 196 Waverley Road become a non-conforming use in the C-1B zone? | No, HRM Fleet Services will be recognized as an existing use, with the ability to expand through the site plan approval process with public input. |

| <i>Re: Outdoor storage and display</i> | | |
|--|---|---|
| 7 | The restrictions on outdoor storage and display are too strict for the C-1B zone. | These restrictions have been revised for the C-1B (Mixed Use Commercial) Zone. |
| 8 | The requirements for buffering from residential uses are too strict for the Micmac Bar & Grill at 217 Waverley Road . | The proposed amendments are less strict with regard to this property than the regulations that currently apply. – No changes are proposed. |
| <i>Re: Non-conforming uses</i> | | |
| 9 | There should be a method established to outline the existing uses which will become non-conforming. | Staff will continue to use the existing system of development permits and occupancy permits. – No changes are proposed. |
| 10 | <p>Policies C-43 and C-44 are not objectionable, though they probably unduly prolong the desired transition process.</p> <p>Policy C-44 should be amended to increase the recommencement period to 12 months.</p> <p>Property owners should be able to ask Council for an additional 12 months.</p> | <p>Staff believe the proposed policies balance the neighbourhood's desire to transition to a mixed use commercial and residential community with commercial and industrial investments in certain properties.</p> <p>– No changes are proposed.</p> <p>A 12 month recommencement period was already included in the proposed amendments to the Dartmouth LUB.</p> <p>To change the length of the permitted recommencement period in the future, Council will have to amend the LUB.</p> <p>– No changes are proposed.</p> |
| 11 | Will all of the businesses at 221 Waverley Road become non-conforming uses? | No, only uses that are not permitted in the C-1B zone (such as vehicle services) will become legal non-conforming uses. – No changes are proposed. |
| 12 | Since Policy IP-1(c) mandates that Council consider whether a proposal is “compatible and consistent with adjacent uses”, the option to expand through a development agreement is not viable. | All development agreements and rezonings in Dartmouth are currently evaluated under Policy IP-1(c). It is unlikely Council would use their discretion to refuse a development agreement or rezoning unless it was truly incompatible with the neighbourhood. – No changes are proposed. |

| | | |
|-----------------------|--|---|
| 13 | 216 Waverley Road (i.e. the vacant property at the corner of Evans Court and Waverley Road) should be recognized as a 'non-conforming use' attached to the Micmac Bar & Grill, and it should be rezoned to C-1B. | Staff cannot simply recognize a longstanding use as 'non-conforming'; it must be proven that it was lawfully existing before the current zone was applied. Rezoning to C-1B would contradict Council's direction to consider only local commercial uses in this area. – No changes are proposed |
| <i>Re: Study area</i> | | |
| 14 | 266, 268 and 270 Waverley Road (north of Montebello Drive) should be re-instated in the study area. | Due to the largely residential nature of this area, six properties north of 252 Waverley Road were removed from the final study area based on Harbour East Community Council's direction in October 2008. – No changes are proposed. |

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved operating budget for C310.

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. Council may choose to approve the amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as outlined in this report and presented in Attachments A and B. This is the recommended alternative.
2. Council may choose to modify the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as presented in Attachments A and B. If this alternative is chosen, specific direction regarding the requested amendments is required. Substantive amendments may require another public hearing be held before approval is granted.
3. Council may choose to refuse the amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law. This is not a recommended course of action due to the concerns outlined in this report.

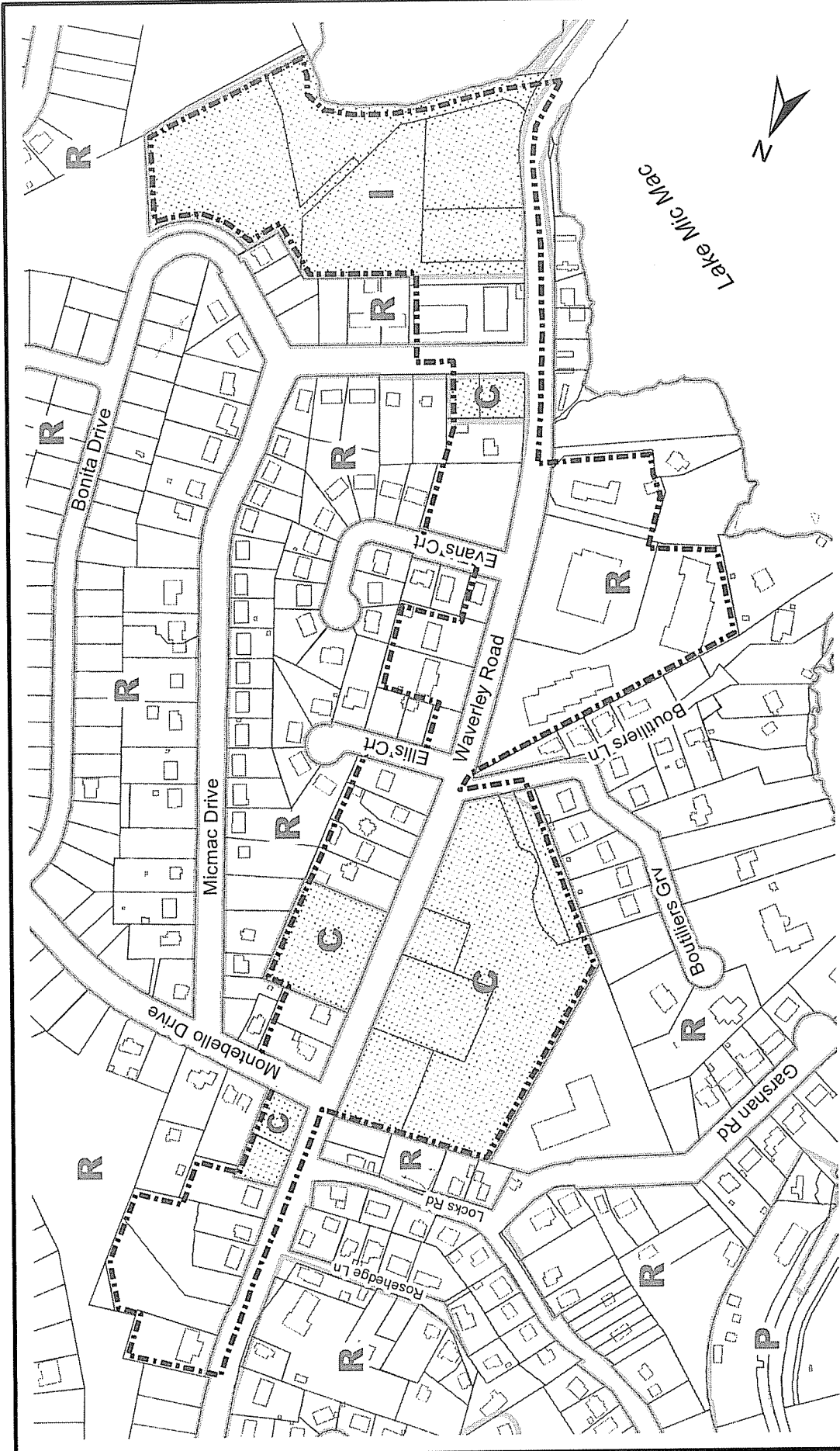
ATTACHMENTS

| | |
|--------------|--|
| Map 1 | Generalized Future Land Use Map |
| Map 2 | Location and Zoning Map |
| Map 3 | Expanded Study Area |
| Map 4 | Existing Commercial and Industrial Uses |
| Map 5 | Notification Area |
| Attachment A | Proposed Amendments to the Dartmouth Municipal Planning Strategy |
| Attachment B | Proposed Amendments to the Dartmouth Land Use By-law |
| Attachment C | List of Properties to be Rezoned |
| Attachment D | Analysis of Public Submissions |
| Attachment E | Public Submissions |

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



Report Prepared by: Mackenzie Stonehocker, Planner I, 490-3999

Report Approved by: 
Austin French, Manager of Planning Services, 490-6717



Map 1 Generalized Future Land Use Map

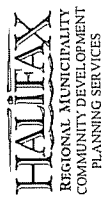
Waverley Road

-  Commercial & Industrial Designations
-  Proposed Review Area for Commercial Designation

Dartmouth Plan Area

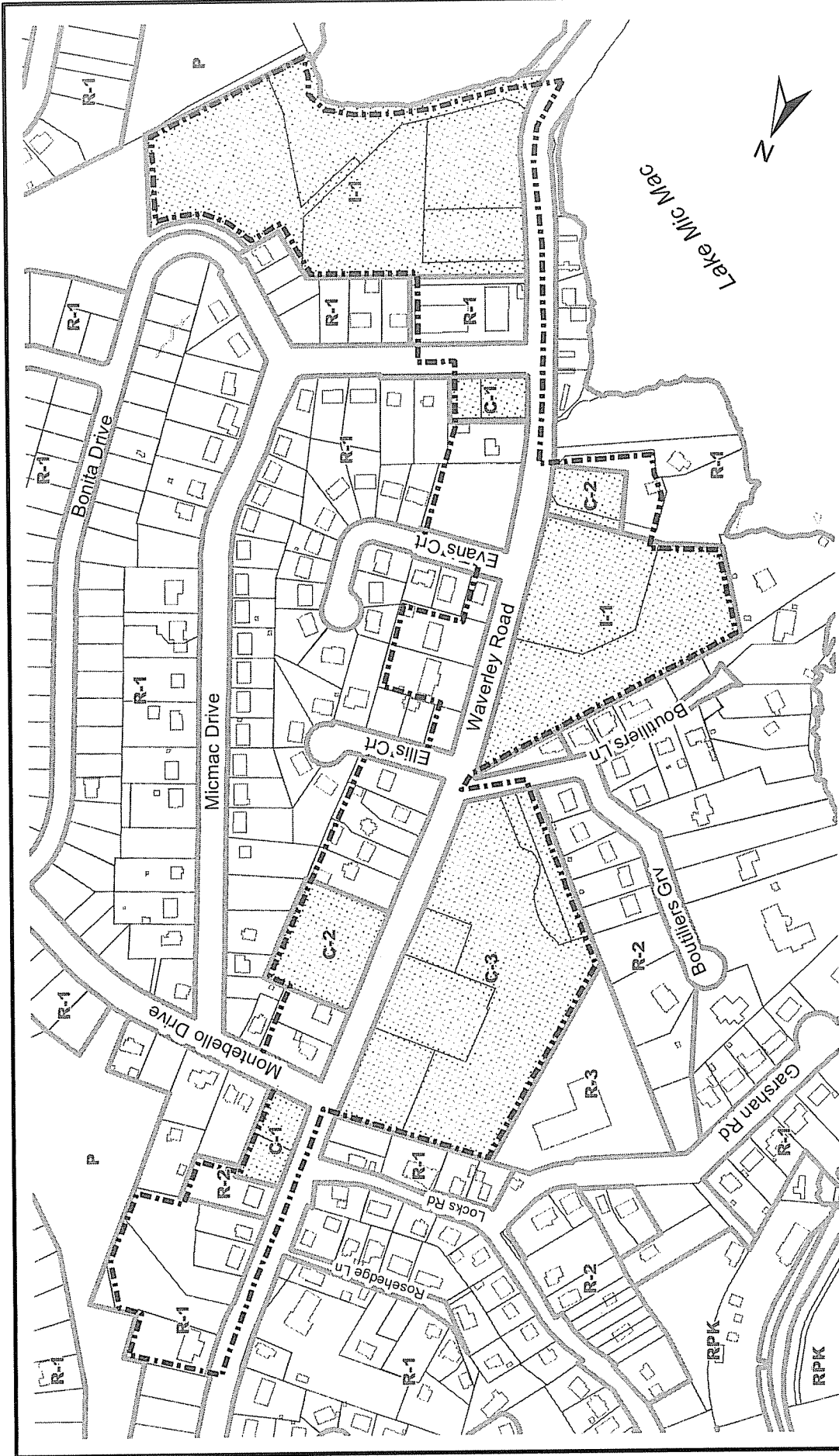
Designation

- R Residential
- C Commercial
- I Industrial
- P Park



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Dartmouth Plan Area.
 HRM does not guarantee the accuracy of any representation on this plan.





Map 2 Location and Zoning Map

Waverley Road

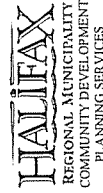
Industrial & Commercial Zones

Proposed Review Area for Commercial Designation

Dartmouth Plan Area

Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential
- C-1 Local Business
- C-2 General Business
- C-3 General Business
- I-1 Light Industrial
- P Park
- RPK Regional Park







This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area.

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



Map 3 Expanded Study Area

Waverley Road

-  Existing Commercial & Industrial Uses
-  Section to be excluded from Expanded Study Area
-  Expanded Study Area
-  Original Study Area

Dartmouth Plan Area



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REGIONAL MUNICIPALITY
Community Development
Planning Services

This map is an unofficial reproduction of a portion of the Dartmouth Plan Area.

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Map 4 Existing Commercial & Industrial Uses

Waverley Road

Existing Commercial & Industrial Uses

Areas 1-4

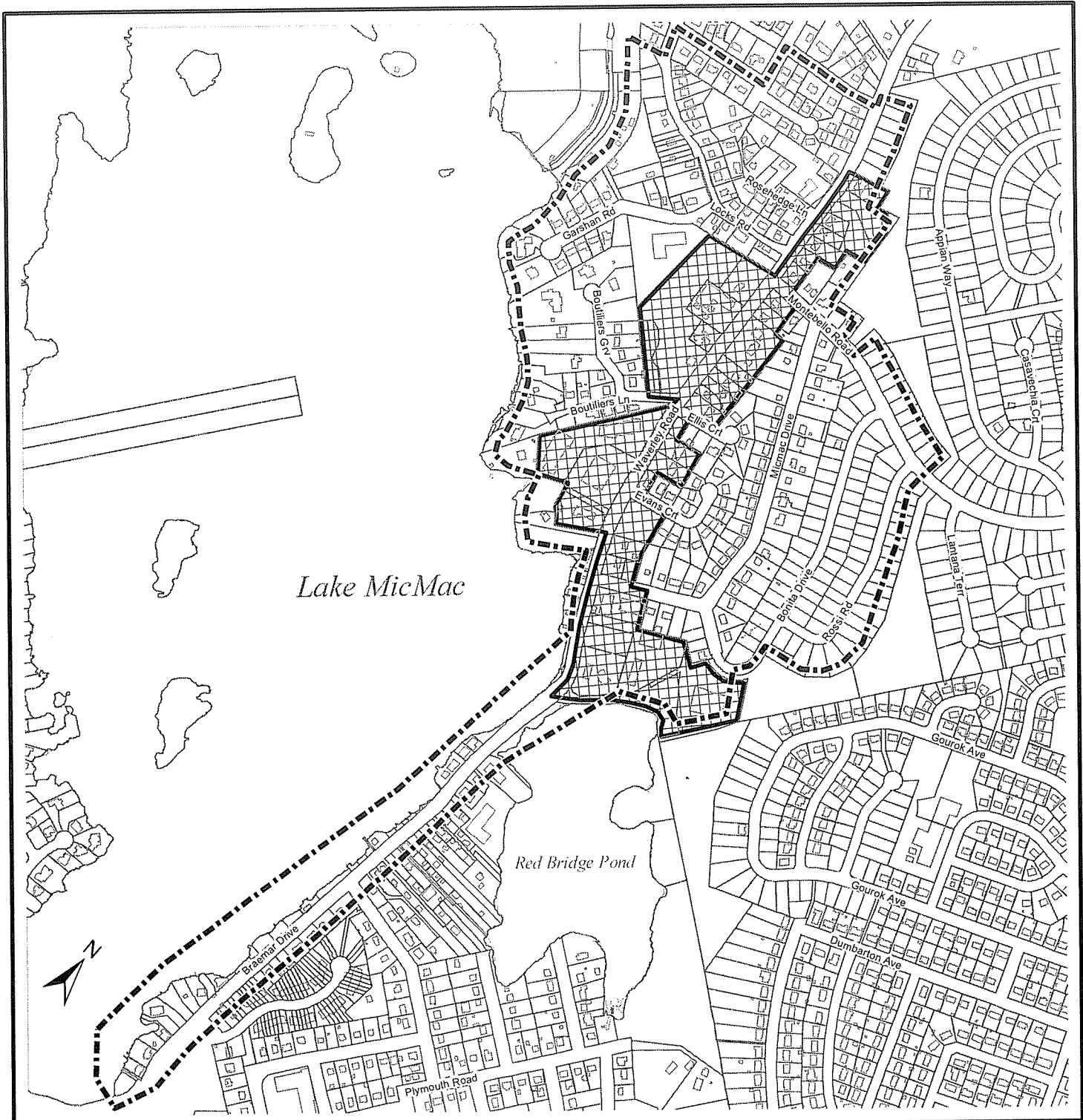
Section to be excluded from Area 1

Dartmouth Plan Area

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Planning Services



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Map 5 Notification Area

Waverley Road

-  Proposed Notification Area
-  Proposed Review Area for Commercial Designation

Dartmouth Plan Area

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 PLANNING SERVICES



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**Attachment A:
Proposed Amendments to the Dartmouth Municipal Planning Strategy**

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Dartmouth, which was adopted by the former City of Dartmouth on the 25th day of July 1978 and approved with amendments by the Minister of Municipal Affairs on the 15th day of September, 1978, as amended, is hereby further amended as follows:

1. In the Table of Contents, insert one new item in Chapter 5 after ‘32 Primrose Street’:

Waverley Road Designation

2. In the Table of Contents, insert one new item in the List of Maps after Map 9t:

Map 9u Waverley Road Generalized Future Land Use

3. In the Table of Contents, insert one new item in the List of Tables after Table 4:

4a Generalized Land Use Matrix – Waverley Road Designation

4. Add a new subsection at the end of Chapter 5 ‘Commercial’ after Policy C-31 as follows:

(9) WAVERLEY ROAD DESIGNATION

The lands located on Waverley Road from Red Bridge Pond to Montebello Drive have developed such that residential, commercial and industrial uses of varying intensities are mixed in close proximity. In 2008, a planning study was conducted along this stretch of Waverley Road, with the intent to create a mixed use community that meets the needs of residents, while allowing existing businesses to continue growing in a manner that limits conflicts. To meet these goals, a new land use designation will be created: ‘Waverley Road’. The Waverley Road designation includes three sub-designations and new zones, to encourage growth that is more community focussed, and to permit certain land uses only by site plan approval or development agreement.

Policy C-32 It shall be the intention of Council to establish the Waverley Road designation, as shown on Map 9u. The vision for the Waverley Road designation is to encourage a mixed use community which has a range of commercial uses, while addressing land use compatibility issues by limiting the types of land uses permitted and by establishing land use controls. Due to the commercial concentration in the

designation, within residential areas, expanded home occupations can be considered through site plan approval regulations in the land use by-law. Further, the designation will recognize existing land uses.

Within the Waverley Road designation, specific land use changes or controls are required for three distinct areas due to the types and location of uses. To achieve the intent of the designation, separate sub-designations shall be established for the three distinct areas, which are:

- Residential lands on the east side of Waverley Road;
- Lands around Montebello Drive on the east side of Waverley Road; and
- Lands near Red Bridge Pond, as well as lands on the west side of Waverley Road.

WR Low Density Residential Sub-designation

In 2008, the lands on the east side of Waverley Road were mainly used for residential purposes, and the community wanted this pattern to continue. In addition to maintaining the low density residential character of this area, there is support for consideration of auxiliary dwelling units through amendments to the land use by-law. Further, expanded home occupations shall be permitted subject to site plan approval regulations within the land use by-law. As this sub-designation has been applied to a residential enclave surrounded by commercial uses, neighbourhood commercial uses may also be considered, but only by development agreement to minimize land use conflicts.

Policy C-33 Within the Waverley Road designation, it shall be the intention of Council to establish the WR Low Density Residential sub-designation, as shown on Map 9u of this Plan. The intent of this sub-designation is to recognize and support the area's low density residential character as well as its central location within the commercially-oriented Waverley Road designation.

Auxiliary Dwelling Unit (R-1A) Zone

Policy C-34 Within the WR Low Density Residential sub-designation, it shall be the intention of Council to establish an auxiliary dwelling unit (R-1A) zone which permits auxiliary dwelling units, as well as uses permitted in the single family dwelling (R-1) zone and accessory uses. In addition, the auxiliary dwelling unit (R-1A) zone will provide for the use of dwellings for day care facilities and home occupations, as well as expanded home occupations by site plan approval. In considering amendments to the land use by-law to apply the auxiliary dwelling unit (R-1A) zone, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood; and
- (b) the provisions of Policy IP-1(c).

Development agreements: Neighbourhood commercial uses

Commercial uses are the predominant use in the Waverley Road designation; however, residential uses are currently more common within the WR Low Density Residential sub-designation. Therefore, the impacts of proposed neighbourhood commercial uses on residential neighbours need to be given special attention. Therefore, neighbourhood commercial uses shall mean uses permitted in the C-1A zone and such uses shall only be considered by development agreement.

Policy C-35 Within the WR Low Density Residential sub-designation, Council shall consider neighbourhood commercial uses by development agreement in accordance with the provisions of the *Halifax Regional Municipality Charter*. In considering such an agreement, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood;
- (b) number, location and layout of parking and loading areas;
- (c) landscaping, screening and buffering, especially to reduce impacts on residential land uses;
- (d) hours of operation; and
- (e) the provisions of Policy IP-1(c).

WR Neighbourhood Sub-designation

In 2008, the lands around Montebello Drive on the east side of Waverley Road were used for a mix of neighbourhood commercial and residential uses. In the future, the mix of uses in this area may change to a more commercial focus, with the development of small scale commercial uses and dwelling units in conjunction with commercial uses. In residential areas, expanded home occupations will be permitted subject to site plan approval regulations within the land use by-law.

Policy C-36 Within the Waverley Road designation, it shall be the intention of Council to establish the WR Neighbourhood sub-designation, as shown on Map 9u of this Plan. The intent of this sub-designation is to encourage neighbourhood commercial uses and lower density residential uses.

Neighbourhood Commercial (C-1A) Zone

Policy C-37 Within the WR Neighbourhood sub-designation, it shall be the intention of Council to establish a neighbourhood commercial (C-1A) zone which permits existing residential uses, single unit dwellings, two unit dwellings, townhouses, food and grocery stores, restaurants (excluding drive-through restaurants), personal service shops, veterinary clinics without outdoor runs, and small scale offices, retail stores, fitness centres and health clinics. The land use by-law shall

limit the heights of buildings and lot coverage, and shall limit the floor area used for certain commercial purposes. No outdoor storage shall be permitted within the zone, and outdoor display shall be restricted to the temporary or seasonal display of plant materials or perishable goods normally associated with retail uses permitted in the zone. In considering amendments to the land use by-law, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood; and
- (b) the provisions of Policy IP-1(c).

Auxiliary Dwelling Unit (R-1A) Zone

Policy C-38 Within the WR Neighbourhood sub-designation, it shall be the intention of Council to enable the auxiliary dwelling unit (R-1A) zone, and to consider amendments to the land use by-law using the provisions of Policy C-34.

WR Mixed Use Sub-designation

In 2008, the lands near Red Bridge Pond, as well as lands on the west side of Waverley Road, were used for a variety of commercial and industrial uses. Industrial uses are no longer considered appropriate within this area. In recognition of this area's capacity to sustain a higher intensity mix of uses than in the other Waverley Road sub-designations, permitted development includes institutional uses, multiple unit dwellings, existing municipally owned fleet services, and a wide variety of commercial uses. However, certain commercial uses may be prohibited due to their potential impact on residential uses in the area.

Policy C-39 Within the Waverley Road designation, it shall be the intention of Council to establish the WR Mixed Use sub-designation, as shown on Map 9u of this Plan. The intent of this sub-designation is to encourage and support a variety of commercial uses, as well as institutional and residential uses.

Mixed Use Commercial (C-1B) Zone

Policy C-40 Within the WR Mixed Use sub-designation, it shall be the intention of Council to establish a mixed use commercial (C-1B) zone which permits single unit dwellings, two unit dwellings, townhouses, institutional uses, local and neighbourhood commercial uses, and general commercial uses excluding drive-through restaurants, adult entertainment uses, cabarets, amusement arcades, pawn shops, recycling depots and vehicle service uses. However, existing municipally owned fleet services at 196 Waverley Road will be permitted by site plan approval. The land use by-law shall limit the heights of buildings and lot coverage. In considering amendments to the land use by-law, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood;
- (b) the provisions of Policy IP-1(c).

Development agreements: Multiple unit dwellings / Long term care facilities

Multiple unit dwellings were recognized during the Waverley Road study as a land use which could contribute to the desired walkable, mixed use community; however, concern was expressed about the impact such uses may have on the existing neighbourhoods. Therefore, multiple unit dwellings shall only be permitted by development agreement to ensure compatibility with the existing neighbourhoods.

Also, residents recognized the need for long term care facilities in the community and identified this sub-designation as an appropriate location. Controls on design and reduced impacts on residential neighbours are desired, therefore applications for long term care facilities should only be considered through the development agreement process.

Policy C-41 Within the WR Mixed Use sub-designation, Council shall consider multiple unit dwellings and long term care facilities by development agreement in accordance with the provisions of the *Halifax Regional Municipality Charter*. In considering such an agreement, Council shall have regard for the provisions of Policy IP-5, and should use the land use density standards of the R-3 zone as a guide.

Development agreements: Self storage facilities

Self storage facilities are generally low impact uses, with few visits generated by their users. However, issues may arise when they are located near residential areas, due to issues with regards to lighting, appearance and hours of operation. Self storage facilities should only be considered by development agreement, in order to limit nuisances and impacts on residential neighbours.

Policy C-42 Within the WR Mixed Use sub-designation, Council shall consider self storage facilities by development agreement in accordance with the provisions of the *Halifax Regional Municipality Charter*. In considering such an agreement, Council shall have regard for the following:

- (a) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood;
- (b) controls are placed on the development to reduce conflict with adjacent or nearby land uses;
- (c) number, location and layout of parking and loading areas;
- (d) lighting design to reduce impacts on adjacent properties;
- (e) landscaping, screening and buffering, especially to reduce impacts on residential land uses;

- (f) visual impacts from Waverley Road should be minimized, through the use of landscaping, buffering, screening and significant setbacks from Waverley Road for any buildings or fences;
- (g) hours of operation; and
- (h) the provisions of Policy IP-1(c).

Legal non-conforming uses

With the adoption of the Waverley Road designation, certain uses will become legal non-conforming uses as a result of amendments to the land use by-law. To support the affected businesses, the municipal planning documents allow for consideration of a development agreement to provide more flexibility for future expansion or change of use than a non-conforming use would normally receive under the provisions of the *Halifax Regional Municipality Charter*.

Policy C-43 Within the WR Mixed Use sub-designation, Council shall consider permitting a legal non-conforming use – as identified in the land use by-law – 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 by development agreement in accordance with the provisions of the *Halifax Regional Municipality Charter*. In considering such an agreement, Council shall have regard for the following:

- (a) controls are placed on the development to reduce conflict with and impacts on adjacent land uses;
- (b) when adjacent to residential uses, existing conditions resulting in noise, dust, vibration, odour, and emissions must be mitigated;
- (c) adequacy of the exterior design, height, bulk and scale of the development with respect to its compatibility with the existing neighbourhood;
- (d) facilities for parking, loading, vehicular access, outdoor display and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and to mitigate existing problems, through attention to factors including but not limited to:
 - (i) layout and number of parking spaces and loading areas;
 - (ii) location on the site;
 - (iii) surface treatment and storm drainage; and
 - (iv) access from the street.
- (e) landscaping, screening and buffering, especially to reduce impacts on adjacent residential uses;
- (f) controls on signage;
- (g) hours of operation; and
- (h) the criteria listed in Policy IP-1(c).

In order to allow for re-use of the existing buildings in the WR Mixed Use sub-designation, it shall be the intention of Council to consider extending the period of inactivity permitted for a

non-conforming use, while still working towards the long-term transition of the area to a mixed use commercial and residential node.

Policy C-44 Within the WR Mixed Use sub-designation, on lands occupied by legal non-conforming uses – as identified in the land use by-law – it shall be the intention of Council to consider permitting the recommencement of a legal non-conforming use of land after it is discontinued for a continuous period longer than six months.

5. Add a new table directly after Table 4 as shown:

| Table 4a: Generalized Land Use Matrix – Waverley Road Designation | | | |
|--|---|---|--|
| WR Mixed Use Sub-designation | WR Neighbourhood Sub-designation | WR Low Density Residential Sub-designation | <<< Sub-designation Land Use |
| ● | ● | ● | Single Unit Dwelling |
| ● | ● | ● | Auxiliary Dwelling Unit |
| ● | ● | | Two Unit Dwelling |
| ● | ● | | Townhouse |
| ● | | | Multiple Unit Dwelling |
| | | | Mobile Homes |
| ● | ● | ● | Neighbourhood Conv. Stores |
| ● | ● | ● | Home Occupations |
| ● | ● | | Retail Trade |
| ● | ● | | Service Commercial |
| | | | Regional Commercial |
| ● | ● | | Local Office |
| ● | ● | | General Office |
| ● | ● | | Tourist Commercial |
| | | | Warehousing / Distribution |
| | | | Light Industrial |
| | | | Harbour Oriented Industrial |
| | | | General Industrial |
| ● | ● | ● | Local Parks / Rec. Facilities |
| ● | ● | ● | District Parks / Rec. Facilities |
| ● | ● | ● | City Parks / Rec. Facilities |
| ● | ● | ● | Regional Parks & Facilities |
| | | | Watershed |
| ● | ● | ● | Environmental Protection Area |
| ● | ● | ● | Local Institutional |
| ● | ● | ● | City / Regional Institutional |
| ● | ● | ● | Utilities |

6. Adding a sentence after the words “The Zoning By-law is the principal mechanism by which land use policies shall be implemented. It shall set out zones, permitted uses and development standards which shall reflect the policies of the Municipal Development Plan as per Section 33 (3) of the Planning Act” (currently on page 123), as follows:

The zoning by-law may use site plan approval as a mechanism to regulate various uses.

7. Adding one new map, directly after Map 9t (Wright's Cove):

Map 9u Waverley Road Generalized Future Land Use

THIS IS TO CERTIFY that the amendments to the Municipal Planning Strategy for Dartmouth, as set out above, were passed by a majority vote of the Halifax Regional Council on the ____ day of _____, 2009.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2009.

Julia Horncastle
Acting Municipal Clerk






This map is an unofficial reproduction of a portion of the Dartmouth Plan Area.


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

Map 9U Waverley Road Generalized Future Land Use

Waverley Road Sub-Designations

-  LDR Low Density Residential
-  N Neighbourhood
-  MU Mixed Use

Designation

-  (WR) Waverley Road Designation

**Attachment B:
Proposed Amendments to the Dartmouth Land Use By-law**

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality that the Land Use By-law for Dartmouth, which was adopted by the former City of Dartmouth on the 25th day of July 1978 and approved by the Minister of Municipal Affairs on the 15th day of September, 1978, as amended, is hereby further amended as follows:

Table of Contents

1. Insert one new item after Part 2 “R-1M (Single Family Modified Residential) Zone”:

PART 1A R-1A (Auxiliary Dwelling Unit) Zone

2. Insert two new items after Schedule “AA”:

Schedule “AB” – Waverley Road Zoning Map

Schedule “AC” - Waverley Road Legal Non-conforming Uses

Section 1 - Definitions

3. Insert one new definition after Section 1(d) (“Apartment Hotel”):

(da) **AUXILIARY DWELLING UNIT** means a self-contained second dwelling unit within a single unit dwelling, such that the auxiliary dwelling unit is no greater in size than forty (40) percent of the gross floor area of the dwelling, and is secondary to the main residential use of the property.

4. Insert one new definition after Section 1(r) (“Family”):

(ra) **FITNESS CENTRE** means a building or part thereof designed to promote physical fitness, health awareness and maintenance through a variety of programs and services tailored to individual needs, including but not limited to a gym, yoga studio or martial arts studio, and which may include, as an accessory use to the fitness centre use, services for weight management, nutrition education and paramedical clinics including but not limited to physiotherapists, psychologists, speech therapists, chiropractors, osteopaths, naturopaths and registered massage therapists.

5. Insert three new definitions after Section 1(af) (“Registered Plan”):
- (afa) **RESTAURANT, DRIVE-THROUGH** means a building or part of a building wherein food is prepared and offered for sale to the public for consumption within or outside the building. A drive-through restaurant is characterized by the provision of take-out services at a counter or from a drive-through car pick up window. It does not provide the service of delivering to or waiting on tables nor is it licensed to sell alcoholic beverages.
 - (afb) **RESTAURANT, FULL-SERVICE** means a building or part of a building wherein food is prepared and offered for sale to the public primarily for consumption within the building and may include a take-out area which does not exceed 10% of the gross floor area of the full service restaurant. A full service restaurant is characterized by the provision of table service, including buffet service and may also be licensed to serve alcoholic beverages.
 - (afc) **RESTAURANT, TAKE-OUT** means a building or part of a building wherein food is prepared and offered for sale to the public primarily for off-premises consumption and may include a seating area which does not exceed 25% of the gross floor area of the take-out restaurant. A take-out restaurant does not provide the service of delivery to or waiting on tables nor is it licensed to sell alcoholic beverages. Take-out restaurants, however, may provide a home delivery service.
6. Insert two new definitions after Section 1(ala) (“Used Building Material Outlet”):
- (alb) **VEHICLE SERVICES** means the use of a building, structure or land to provide sales of vehicles or services for vehicles, including but not limited to: autobody shops, automotive repair outlets, car dealerships, car washes, service stations, retail gasoline outlets and vehicle depots.
 - (alc) **VETERINARY CLINIC** means a building or structure in which domestic animals are examined, treated, groomed, or operated on, and in conjunction with which, there may be shelter provided within the building during a period of medical treatment.

Section 2 - General Provisions

7. Amend Section 11 (keeping of livestock) by inserting, directly after “R-1M,”:
- R-1A,

8. Amend Section 12 (business or profession concerned with house pets) by inserting, directly after “R-1M,”:

R-1A,

9. Amend Section 14(f) (parking requirements) by deleting:

restaurants,

and replacing it with:

full-service restaurants, drive-through restaurants

10. Insert a new clause after Section 14(f) (parking requirements):

(fa) for take-out restaurants, one parking space per 200 square feet of floor area shall be provided;

11. Insert one new clause after Section 18(T) (development agreements):

18(U) Within the Waverley Road designation, notwithstanding any other provisions of this By-law, certain uses may be considered through policy:
 - (a) Within the WR Low Density Residential sub-designation, in accordance with Policy C-35, neighbourhood commercial uses may be considered by development agreement.

 - (b) Within the WR Mixed Use sub-designation, in accordance with:
 - (i) Policy C-41, multiple unit dwellings and long term care facilities may be considered by development agreement;
 - (ii) Policy C-42, self-storage facilities may be considered by development agreement;
 - (iii) Policy C-43, alteration or expansion of a non-conforming use may be considered by development agreement on lands identified in Schedule “AC” of this By-law; and
 - (iv) Policy C-44, a non-conforming use of land may be recommenced if discontinued for a continuous period of up to 12 months on lands identified in Schedule “AC” of this By-law.

12. Amend Section 22 (boarders and lodgers) by inserting, directly after “R-1M,”:

R-1A,
13. Amend Section 23 (home occupations) by inserting, directly after “R-1M,”:

R-1A,
14. Insert a new clause after Section 23 (home occupations):

23A Notwithstanding Subsection 23(g) of the General Provisions, on lands zoned as residential within the Waverley Road designation, as identified on Schedule “AB” of this By-law, Expanded Home Occupations that use up to 60% of the gross floor area of the dwelling and accessory buildings are permitted subject to Site Plan Approval. Where the Site Plan Approval provisions conflict with Section 23 of the General Provisions, the Site Plan Approval provisions shall prevail. The Development Officer shall approve a site plan where the following matters have been addressed:
 - (a) Where the proposed expanded home occupation abuts a residential use or zone:
 - (i) required parking and loading areas shall be set back from side and rear property boundaries;
 - (ii) a landscaped buffer of a minimum width of five (5) feet shall be provided in these portions of the property; and
 - (ii) an opaque fence or landscaping, to screen the view from abutting residential properties, shall be constructed along all property boundaries abutting a residential use or zone.
 - (b) No outdoor display shall be permitted;
 - (c) Commercial signage shall be limited to one sign of a maximum area of four (4) square feet, and shall be located to minimize intrusion on the neighbourhood;
 - (d) The maximum size of an expanded home occupation use shall not exceed 3000 square feet; and
 - (e) New accesses shall be from Waverley Road or Montebello Drive only.
15. Amend Section 27A (accessory buildings) by inserting, directly after “R-1M,”:

R-1A,

16. Amend Section 28(3) (front setbacks) by inserting, between R-1 and R-2:
R-1A 15 feet minimum
17. Amend Section 28(3) (front setbacks) by inserting, between C-1 and C-2:
C-1A 10 feet minimum
C-1B 10 feet minimum
18. Amend Section 29A (medical clinics) by inserting, directly after “R-1M,”:
R-1A,
19. Amend Section 32E (sign limitations) by inserting, directly after “R-1,”:
R-1A,

Section 3 - Zones

20. Amend Section 31 (list of established zones) by inserting one new zone after “R-1M Single Family (Modified) Residential Zone”:
R-1A Auxiliary Dwelling Unit Zone
21. Amend Section 32(1) (list of permitted uses) of the R-1 zone by inserting one new item after “(g) uses accessory to any of the foregoing uses”:
32(1) (h) within the Waverley Road designation, expanded home occupations are permitted subject to site plan approval, in accordance with the requirements of Section 23A of the General Provisions.
22. Insert the R-1A zone as a new zone, immediately following Part 2: R-1M (Single Family (Modified) Residential) Zone (currently on page 29):
PART 1A: R-1A (AUXILIARY DWELLING UNIT) ZONE
32B (1) The following uses only shall be permitted in a R-1A Zone:
(a) R-1 uses as hereinbefore set out;

- (b) auxiliary dwelling units; and
 - (c) uses accessory to any of the foregoing uses.
- 32B (2) Within the Waverley Road designation, expanded home occupations are permitted subject to site plan approval, in accordance with the requirements of Section 23A of the General Provisions.
- 32B (3) Buildings used for R-1 and R-1A uses in a R-1A Zone shall comply with the requirements of the R-1 Zone.
- 32B (4) OTHER REQUIREMENTS: AUXILIARY DWELLING UNITS:

Where auxiliary dwelling units are permitted in a R-1A Zone, the following shall apply:

- (a) no more than forty (40) percent of the gross floor area of the dwelling shall be devoted to the auxiliary dwelling unit;
 - (b) dwellings containing an auxiliary dwelling unit shall be designed to maintain the appearance of a single unit dwelling from the street; and
 - (c) one (1) off-street parking space shall be provided for the auxiliary dwelling unit.
23. Amend Section 38(1) (C-1 permitted uses) by adding a new subsection, after subsection (f):
- (fa) veterinary clinics without outdoor runs,
24. Housekeeping amendment to Subsection 38(3)(d) (floor area maximum) of the C-1 zone by deleting:
- 5000 quare feet
- and replacing it with:
- 5000 square feet.
25. Insert the C-1A zone as a new zone, immediately following Part 8: C-1 (Local Business) Zone:

PART 8A: C-1A (NEIGHBOURHOOD COMMERCIAL) ZONE

- 38A (1) The following uses only shall be permitted in a C-1A Zone:

- (a) Existing residential uses,
 - (b) R-1, R-1A and R-2 uses, in conjunction with a commercial use,
 - (c) TH uses as hereinbefore set out,
 - (d) food and grocery stores,
 - (e) restaurants, excluding new drive-through restaurants,
 - (f) personal service shops,
 - (g) veterinary clinics without outdoor runs,
 - (h) offices (including offices of professional people providing personal services), not to exceed 5000 square feet,
 - (i) retail, not to exceed 5000 square feet,
 - (j) fitness centres, not to exceed 5000 square feet,
 - (k) health clinics, not to exceed 5000 square feet,
 - (l) uses accessory to any of the foregoing uses.
- 38A (2) Buildings used for R-1, R-1A and R-2 uses in a C-1A Zone shall be permitted only in conjunction with a commercial use, and new accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only.
- 38A (3) Buildings used for TH uses in a C-1A Zone shall comply with the requirements of the TH Zone, and new accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only.
- 38A (4) Buildings used for commercial uses in a C-1A Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 square feet.
 - (b) Height maximum - 45 feet, with two storeys (to a maximum of 30 feet measured from the ground) to be used for commercial uses.
 - (c) Lot coverage maximum - 60%.
 - (d) New accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only.
 - (e) Where the C-1A use abuts a residential use or zone:
 - (i) required parking and loading areas shall be set back from side and rear property boundaries;
 - (ii) a landscaped buffer of a minimum width of five (5) feet shall be provided in these portions of the property; and
 - (ii) an opaque fence or landscaping, to screen the view from the adjacent residential property, shall be constructed along all property boundaries abutting the residential use or zone.
 - (f) No outdoor storage shall be permitted, and outdoor display shall be restricted to the temporary or seasonal display of plant materials or perishable goods normally associated with retail uses permitted in this zone, provided that no such display area is located within any parking area required pursuant to Section 14 of the General Provisions of this by-law.

26. Insert the C-1B zone as a new zone, immediately following the new C-1A zone and immediately preceding Part 9: C-2 (General Business) Zone:

PART 8B: C-1B (MIXED USE COMMERCIAL) ZONE

- 38B (1) The following uses only shall be permitted in a C-1B Zone:

- (a) R-1, R-1A, R-2, R-3, C-1, S and TH uses as herein set out;
- (b) Commercial uses except:
 - (i) drive-through restaurants;
 - (ii) adult entertainment uses;
 - (iii) cabarets;
 - (iv) amusement arcades;
 - (v) pawn shops;
 - (vi) vehicle service uses; and
 - (vii) recycling depots.
- (c) Existing municipally owned fleet service uses; and
- (d) Uses accessory to the foregoing uses.

- 38B (2) Buildings used for R-1, R-1A, R-2, R-3, S and TH uses in a C-1B Zone shall comply with the requirements of an R-1, R-1A, R-2, R-3, S or TH Zone respectively, except:

- (a) New accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only; and
- (b) Notwithstanding Section 45(1) (the permitted uses in a S (Institutional) Zone), long term care facilities in the C-1B Zone may only be considered by development agreement in accordance with Section 18(U)(b)(i) of this By-law.

- 38B (3) Buildings used for commercial uses in a C-1B Zone shall comply with the following requirements:

- (a) Lot area minimum - 5,000 square feet.
- (b) Height maximum - three storeys (to a maximum of 40 feet measured from the ground) to be used for commercial uses.
- (c) Maximum Lot coverage - 80%.
- (d) New accesses shall be limited to one driveway per building accessing Waverley Road or Montebello Drive only.
- (e) Where the commercial use abuts a residential use or zone:
 - (i) required parking and loading areas shall be set back from side and rear property boundaries;
 - (ii) a landscaped buffer of a minimum width of five (5) feet shall be provided in these portions of the property; and
 - (ii) an opaque fence or landscaping, to screen the view from the adjacent residential property, shall be constructed along all

- property boundaries abutting the residential use or zone.
- (f) Existing municipally owned fleet services at 196 Waverley Road (PID 40789166) shall be permitted to expand through site plan approval, subject to the requirements of the C-1B Zone.

Section 4 - Scheduling

27. Insert new Schedule “AB” immediately following existing Schedule “AA”:

Schedule “AB” – Waverley Road Zoning Map

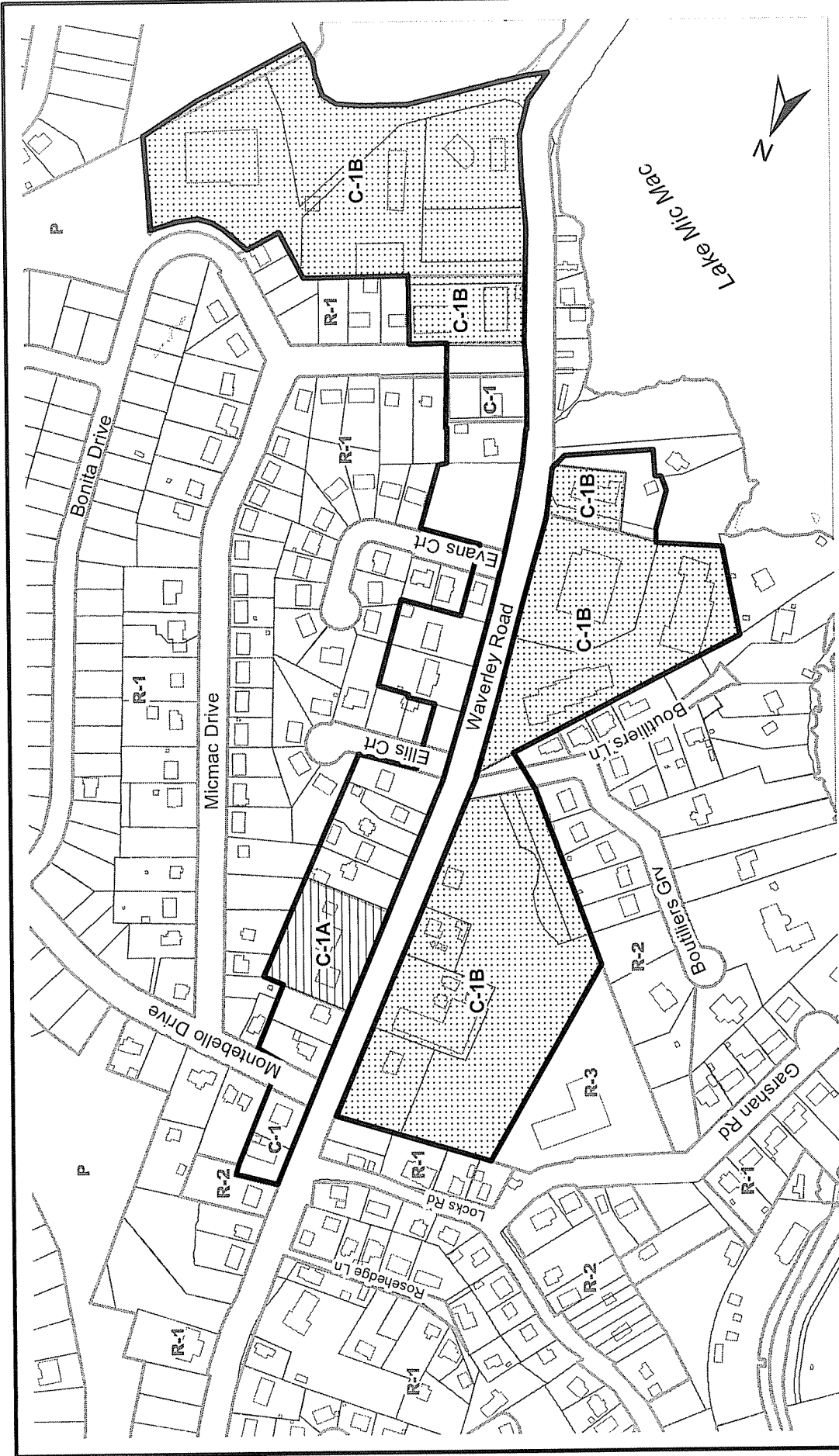
28. Insert new Schedule “AC” immediately following new Schedule “AB”:

Schedule “AC” - Waverley Road Legal Non-conforming Uses

I HEREBY CERTIFY that the amendment to the Land Use By-law for Dartmouth, as set out above, was passed by a majority vote of the Regional Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2009.

GIVEN under the hands of the Municipal Clerk and Under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2009.

Julia Horncastle
Acting Municipal Clerk



This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area.

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

Schedule AB Waverley Road Zoning Map

Waverley Road

Waverley Road Study Area & Designation



Area Being rezoned to C-1A



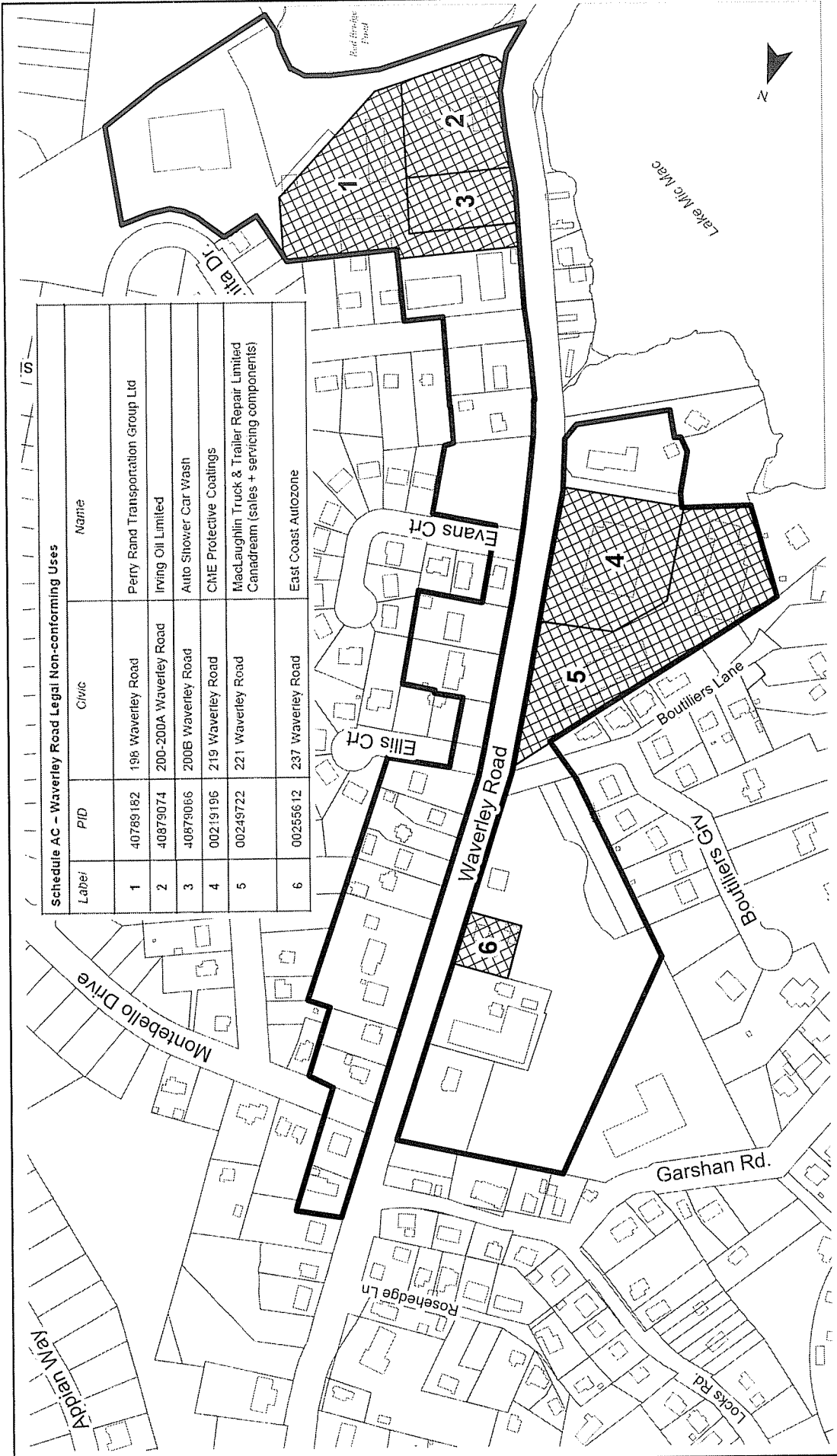
Area being rezoned to C-1B



Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential
- C-1 Local Business
- C-1A Neighbourhood Commercial
- C-1B Mixed Use Commercial
- P Park
- RPK Regional Park



Dartmouth Plan Area



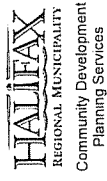
| Schedule AC - Waverley Road Legal Non-conforming Uses | | |
|---|----------|--|
| Label | PID | Name |
| 1 | 40789182 | Perry Rand Transportation Group Ltd |
| 2 | 40879074 | Irving Oil Limited |
| 3 | 40879066 | Auto Shower Car Wash |
| 4 | 00219196 | CME Protective Coatings |
| 5 | 00249722 | MacLaughlin Truck & Trailer Repair Limited Canadream (sales + servicing components) |
| 6 | 00255612 | East Coast Autozone |

Schedule AC Waverley Road Legal Non-Conforming Uses

Waverley Road

-  Waverley Road Study Area & Designation
-  Legal Non-Conforming Commercial & Industrial Uses

Dartmouth Plan Area



This map is an unofficial reproduction of a portion of the Dartmouth Plan Area.
 HRM does not guarantee the accuracy of any representation on this plan.

**Attachment C:
 List of Properties to be Rezoned**

| Zoning Change | Civic Address | PID |
|----------------------|-----------------------|--------------|
| From C-2 to C-1A | 242-244 Waverley Road | PID 40265977 |
| From R-1 to C-1B | 202 Waverley Road | PID 40789174 |
| From I-1 to C-1B | 194 Waverley Road | PID 40789190 |
| | 196 Waverley Road | PID 40789166 |
| | 198 Waverley Road | PID 40789182 |
| | 200A Waverley Road | PID 40879074 |
| | 200B Waverley Road | PID 40879066 |
| | 219 Waverley Road | PID 00219196 |
| | 221 Waverley Road | PID 00249722 |
| From C-2 to C-1B | 217 Waverley Road | PID 40879439 |
| From C-3 to C-1B | (no civic address) | PID 40268765 |
| | (no civic address) | PID 40285942 |
| | 233 Waverley Road | PID 00255521 |
| | 237 Waverley Road | PID 00255612 |
| | 245 Waverley Road | PID 40638686 |
| | 249 Waverley Road | PID 00255588 |

**Attachment D:
 Analysis of Public Submissions**

| Public Comment | | Staff Analysis |
|---|---|---|
| <i>Re: Existing development agreements</i> | | |
| 1 | <p>Although currently regulated by a restrictive development agreement, 202 Waverley Road should not be rezoned to C-1B (Mixed Use Commercial) without adequate protection from offensive uses.</p> | <p><u>Existing MPS / LUB:</u> R-1 (Single Family Residential) Zone; however, an existing development agreement permits certain commercial uses.</p> <p><u>Proposed amendments (March 19):</u> Rezone to C-1B (Mixed Use Commercial); however, the existing development agreement would remain in effect.</p> <p><u>Staff response:</u> If the development agreement was discharged, C-1B uses would be permitted. Permits must be issued for any use permitted in the C-1B zone, as staff cannot prejudge a use to be offensive or obnoxious.</p> <p><u>Recommendation:</u> No changes proposed</p> |
| <i>Re: proposed C-1A (Neighbourhood Commercial) zone</i> | | |
| 2 | <p>224 and 226 Waverley Road should be rezoned to the new C-1A (Neighbourhood Commercial) zone, since they are the only two lots facing Waverley Road in this block.</p> <p>The C-1A zone should also be changed to permit residential uses as they currently exist (i.e. not in conjunction with a commercial use).</p> | <p><u>Existing MPS / LUB:</u> R-1 (Single Family Residential)</p> <p><u>Proposed amendments (March 19):</u> Remain as R-1, with potential for expanded home occupations through site plan approval and C-1A (Neighbourhood Commercial) uses through development agreement.</p> <p><u>Staff response:</u> Although C-1A uses would be reasonable on these properties, staff and the public believe a public process specific to these properties (as required by the development agreement process) would be appropriate, since they are surrounded by residential properties.</p> <p><u>Recommendation:</u> With regard to the rezoning, no changes are proposed. However, staff have added existing residential uses to the list of permitted uses in the C-1A zone, so they will not become non-conforming.</p> |

| <i>Re: proposed C-1B (Mixed Use Commercial) zone</i> | | |
|--|--|---|
| 3 | <p>The I-1 zone should be maintained at 219 Waverley Road (CME Protective Coatings) and 198 Waverley Road (Perry Rand Transportation Group).</p> | <p><u>Existing MPS / LUB:</u> I-1 (Light Industrial) Zone.</p> <p><u>Proposed amendments (March 19):</u> Rezone to C-1B (Mixed Use Commercial), with new options for non-conforming uses.</p> <p><u>Staff response:</u> During consultation, the public was clear that new industrial uses or vehicle-related uses should not be permitted; therefore, the existing I-1 zone will be changed to a zone which does not permit these uses.</p> <p>The C-1B zone will prohibit new industrial and vehicle service uses from being established, although existing industrial uses may continue indefinitely as legal non-conforming uses, and may change or expand through a development agreement.</p> <p><u>Recommendation:</u> No changes proposed.</p> |
| 4 | <p>The list of uses excluded in the C-1B (Mixed Use Commercial) zone is not sufficient.</p> <p><u>In addition to:</u></p> <ul style="list-style-type: none"> – drive-through restaurants – adult entertainment uses – vehicle service uses – recycling depots <p><u>The following should be excluded:</u></p> <ul style="list-style-type: none"> – amusement arcades – fuel dispensing facilities – dry cleaning plants – salvage yards – any facility that vents fumes | <p><u>Staff response:</u> Although amusement arcades are less popular than in past years, it is reasonable to exclude them from the C-1B (Mixed Use Commercial) zone. Fuel dispensing, dry cleaning plants and salvage yards are already excluded, as ‘vehicle services’ and industrial uses, respectively.</p> <p>Staff cannot prejudge an otherwise permitted commercial use based on the possibility that it may produce fumes; only specific uses can be excluded.</p> <p>Finally, since the proposed amendments were drafted, amendments have been approved to exclude cabarets and pawn shops from the C-2 zone. To be consistent, these uses should also be excluded from the C-1B zone.</p> <p><u>Recommendation:</u> Staff have revised the proposed amendments to the Dartmouth LUB to exclude the following uses from the C-1B zone:</p> <ul style="list-style-type: none"> – drive-through restaurants – adult entertainment uses – cabarets – amusement arcades – pawn shops – vehicle service uses (excepting municipal fleet services) – recycling depots |

| | | |
|----------|--|---|
| <p>5</p> | <p>‘Vehicle services’ should be permitted in the C-1B (Mixed Use Commercial) zone.</p> <p><u>Examples were:</u></p> <ul style="list-style-type: none"> – Canadream RV Rentals – MacLaughlin Truck and Trailer Repair Limited <p><u>However, this would also apply to:</u></p> <ul style="list-style-type: none"> – HRM Fleet Services – Perry Rand Transportation Group – Irving Oil Limited – Auto Shower Car Wash – East Coast Autozone | <p><u>Proposed amendments (March 19):</u> ‘Vehicle services’ means “the use of a building, structure or land to provide sales of vehicles or services for vehicles, including but not limited to: autobody shops, automotive repair outlets, car dealerships, car washes, service stations, retail gasoline outlets and vehicle depots.”</p> <p><u>Staff response:</u> During the public consultation, issues with regard to vehicle services were a concern. These concerns related to noise, fumes, outdoor storage and potential environmental contamination.</p> <p><u>Recommendation:</u> No changes proposed; however, Council may direct staff to permit vehicle services with a higher degree of land use control, such as site plan approval or development agreements.</p> |
| <p>6</p> | <p>Would HRM Fleet Services at 196 Waverley Road become a non-conforming use in the C-1B (Mixed Use Commercial) zone?</p> | <p><u>Existing MPS / LUB:</u> I-1 (Light Industrial) Zone.</p> <p><u>Proposed amendments (March 19):</u> The new definition of ‘vehicle services’ would include HRM Fleet Services.</p> <p><u>Staff response:</u> During the public consultation, issues with regard to vehicle services were a concern, and HRM Fleet Services was mentioned.</p> <p>While other non-conforming uses have the option to expand through a development agreement, this is not possible for HRM Fleet Services – the municipality cannot enter into a development agreement with itself.</p> <p><u>Recommendation:</u> As such, the proposed amendments have been revised to recognize the existing municipally owned fleet services depot as an existing use. Staff propose that site plan approval be used for any future expansions, as the process allows public input.</p> |

| <i>Re: Outdoor storage and display</i> | | |
|--|--|--|
| 7 | The restrictions on outdoor storage and display are too strict for the C-1B (Mixed Use Commercial) zone. | <p><u>Staff response:</u> While it is reasonable to limit outdoor storage and display in the C-1A (Neighbourhood Commercial) zone, the C-1B (Mixed Use Commercial) zone is a more permissive commercial zone, where outdoor storage and display may be required.</p> <p>When the C-1B zone abuts a residential use or zone, screening and buffering provisions will still apply to limit the impact of the commercial use.</p> <p><u>Recommendation:</u> Staff have removed the subsection limiting outdoor storage and display in the C-1B zone from the proposed amendments to the Dartmouth LUB.</p> |
| 8 | The proposed restrictions on outdoor storage and display and the requirements for buffering from residential uses are too strict for the Micmac Bar & Grill at 217 Waverley Road. | <p><u>Existing MPS / LUB:</u> The property currently has two zones: the C-2 (General Business) Zone and the R-1 (Single Family Residential) Zone.</p> <p>Currently, any expansion next to a residential or community zone or use would be subject to the setback requirements in Section 2(15) of the Dartmouth LUB. The required buffer is either 20 feet along the length of the adjacent property, or it can be reduced to 10 feet in combination with an opaque 6 foot fence.</p> <p><u>Staff response:</u> With regard to buffering from residential zones or uses, the proposed requirements for buffering in the C-1B (Mixed Use Commercial) zone are less strict than those that apply to this property today.</p> <p>It should be noted that the requirements would only be applied if the existing building was expanded; the business as it exists today is not required to conform to the new requirements.</p> <p><u>Recommendation:</u> No changes proposed.</p> |
| <i>Re: Non-conforming uses</i> | | |
| 9 | There should be a method established to outline the existing uses which will become non-conforming. | <p><u>Staff response:</u> All land uses are expected to have a up-to-date development permit or occupancy permit that reflects the currently existing use.</p> <p><u>Recommendation:</u> No changes proposed.</p> |

| | | |
|-----------|---|--|
| <p>10</p> | <p>– Policies C-43 and C-44 are not objectionable, though they probably unduly prolong the desired transition process.</p> <p>– Policy C-44 should be amended to increase the recommencement period to 12 months.</p> <p>– In addition, a property owner should be able to apply to Council during that 12 months for an additional 12 month extension.</p> | <p><u>Existing MPS / LUB:</u> Non-conforming uses cannot be expanded, and cannot be recommenced after a 6 month period of inactivity.</p> <p><u>Proposed amendments (March 19):</u> Non-conforming uses may expand or change through a development agreement, and the recommencement period is extended up to 12 months of inactivity.</p> <p><u>Staff response:</u> The aim was to balance the neighbourhood’s desire to transition to a mixed use commercial and residential community, with existing investments in certain commercial and industrial properties. Staff believe these policies meet this aim.</p> <p>A 12 month recommencement period was already included in the proposed amendments to the Dartmouth LUB. The ability to ask for an additional 12 months was not included.</p> <p>Staff believe that doubling the recommencement period from 6 months to 12 months is sufficient, and a reasonable compromise between the neighbourhood’s desire to transition and property owner’s existing investments.</p> <p><u>Recommendation:</u> No changes proposed; however, Council may direct staff to change the permitted recommencement period to a different length of time.</p> |
| <p>11</p> | <p>Will all of the businesses operating at 221 Waverley Road become non-conforming uses?</p> <p>Current tenants:</p> <ul style="list-style-type: none"> – truck and trailer repair – RV rental – HVAC services – commercial painting – commercial door installation | <p><u>Existing MPS / LUB:</u> I-1 (Light Industrial) Zone.</p> <p><u>Proposed amendments (March 19):</u> Rezone to C-1B (Mixed Use Commercial), with new options for non-conforming uses.</p> <p><u>Staff response:</u> Only uses that are not permitted in the C-1B zone will become legal non-conforming uses.</p> <p>For example, the truck and trailer repair business is a ‘vehicle service’, so it would become non-conforming. Rental of vehicles is not a ‘vehicle service’; however, sale and servicing of those rental vehicles would not be permitted; therefore, the rental portion of the business would be permitted as-of-right, but the sale or servicing components would become non-conforming. The HVAC, painting and door installation businesses are ‘commercial uses’, which are permitted in the C-1B zone.</p> <p><u>Recommendation:</u> No changes proposed.</p> |

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| <p>12</p> | <p>Since Policy IP(1)(c) mandates that Council consider whether a proposal is “compatible and consistent with adjacent uses”, the option to expand or change a non-conforming use through a development agreement is not viable.</p> | <p><u>Existing MPS / LUB:</u> I-1 (Light Industrial) Zone or C-3 (General Business) Zone.</p> <p><u>Proposed amendments (March 19):</u> Rezone to C-1B (Mixed Use Commercial), with new options for non-conforming uses.</p> <p><u>Staff response:</u> To recognize existing commercial and industrial businesses that will be rezoned, staff have proposed development options for non-conforming uses beyond those available anywhere else in Dartmouth. Furthermore, all rezoning and development agreement applications in Dartmouth are currently evaluated against Policy IP(1)(c), as well as other relevant policies, public consultation, and various internal and external approval agencies. It is unlikely that Council would use their discretion to refuse a development agreement based on the single clause mentioned in the public submission, unless the proposal was truly incompatible.</p> <p><u>Recommendation:</u> No changes proposed.</p> |
| <p>13</p> | <p>216 Waverley Road (i.e. the vacant property at the corner of Evans Court and Waverley Road) should also be recognized as a ‘non-conforming use’ attached to the Micmac Bar & Grill, the sole property it has served since 1972.</p> <p>In addition, the vacant property should be rezoned to C-1B (Mixed Use Commercial).</p> | <p><u>Existing MPS / LUB:</u> R-1 (Single Family Residential)</p> <p><u>Proposed amendments (March 19):</u> Remain as R-1, with potential for C-1A (Neighbourhood Commercial) uses through a development agreement.</p> <p><u>Staff response:</u> In order to recognize a longstanding use that is no longer permitted in the current zone as a legal non-conforming use (i.e. a parking lot in the R-1 zone), the landowner must prove that the use was lawfully permitted before the current zone came into effect. Staff cannot simply recognize an illegal use as ‘non-conforming’.</p> <p>The use of this property as a parking lot for patrons of the Micmac Bar & Grill is a legal non-conforming use; however, the use of this property as a parking lot for any other use is illegal.</p> <p>Rezoning this property to C-1B (Mixed Use Commercial) would contradict Council’s direction, since Option 3 only considered local commercial uses (e.g. C-1 or C-1A uses) in this area. However, the ability to apply C-1A uses through a development agreement could potentially permit restaurants and their accessory uses (i.e. parking) on this property.</p> <p><u>Recommendation:</u> No changes proposed.</p> |

| | | |
|-----------------------|---|---|
| <i>Re: Study area</i> | | |
| 14 | <p>266, 268 and 270 Waverley Road (north of Montebello Drive) should be re-instated in the study area.</p> | <p><u>Existing MPS / LUB:</u> R-1 (Single Family Residential) Zone.</p> <p><u>Proposed amendments (March 19):</u> None – HECC removed six properties from the northern end of the study area on October 2, 2008, as recommended in the staff report dated July 24, 2008.</p> <p><u>Staff response:</u> The properties north of 252 Waverley Road were excluded from the final study area after the public workshop. Neither staff nor the public saw further expansion of commercial uses in this area as appropriate, given the largely residential nature of the surrounding area.</p> <p><u>Recommendation:</u> No changes proposed.</p> |

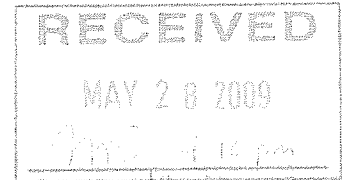
**Attachment E:
Public Submissions**

See attached letters from:

- J&W Whebby Builders and Repairs Ltd.
- Glenn and Judy Conrad
- Phil Power
- Janice Carney
- Peter McDonough, on behalf of 3010526 Nova Scotia Ltd.
- Tom Boyne, on behalf of Terry LeGoffic

Case 01053: Dartmouth MPS/LUB Amendments -- Waverley Road

To: Halifax Regional Municipality
From: J&W Whebby Builders and Repairs Ltd.



We felt the need to write a letter expressing our concerns regarding the rezoning of Waverley road. The public participation survey didn't seem to ask some of the questions addressing business owners in the area. We currently operate in what I believe is a Legal Non-Conforming zone (268 Waverley road) and were originally included in the rezoning agenda but have been dropped but would like to be included to be zoned commercial such as the properties on the other side of Montebello Drive. Also we must express concerns of the effect on our ability to earn a living via our rental properties in the area.

We would like to have 266, 268 and 270 Waverley road included in the commercial zoning. We own these 3 of the 6 lots which have been dropped from the original rezoning plan and wanted to know if we could have them re-entered and why they were dropped. There is already a green belt and a hill behind our property to act as a buffer. Since we already pay commercial tax, having a commercial piece of land would be beneficial to us even though we have no intentions of changing our type of business.

We are not in favor of rezoning the currently zoned I1 areas of Waverley road. Some of the businesses located behind the Irving on the Waverley road rent from us and most of them won't be affected immediately by the rezoning. However this will in the future limit who we can have as tenants directly effecting our ability to rent these properties as well as decreasing the value of these properties. This will make it harder for us to earn a living off these properties, but sadly are not even are largest concern.

Our largest concern for the rezoning is the building currently occupied by Perry Rand. This Building is essentially a warehouse with several large bay doors in it and a decent sized lot which extends behind the 3 unit building over to the right-of-way for the Fleet Services building. If or when this building becomes vacant this building will be rendered useless and would be a complete financial loss. This may not be the intent of the rezoning but will be the result.

We would like to continue operating our rentals as they are. We have no intentions to demolish them to build other structures. Although there will be a much greater limitation on that as well with the new rezoning. I agree with some residents of the neighbourhood that it would be a good place for a park or maybe even a seniors home. However the land is privately owed and not feasible unless the city wanted to purchase the land from J&W and then they could do as they wished.

We do not believe that the Waverley road area should exclude automotive services. By our count there are 9 business in this area who would fall under this

category. I understand that the rezoning doesn't mean everybody has to close up shop immediately but this is the goal of it. I don't see why we can't all manage to co-exist and deal with problems as they arise. We don't have a problem with any of these businesses and no one from the area who we know have expressed concerns to us about them either. We heard that people near the car wash didn't like the noise but that's just hearsay and from my understanding before opening and receiving a permit they had a public hearing for it anyways.

This rezoning will hurt those who own rental properties such as ourself quicker and more directly then those who operate they're own business. This is due to the obvious fact that rental properties would be more likely to change occupants and/or uses more frequently. However, the rezoning would reduce flexibility for those who decide to relocate they're business or shut down and still wished to generate an income from it. As far as the residential that is proposed to be zoned commercial I think that is a good idea. It allows for future business expansion in the area and for homeowners to increase the value of their homes. However if the businesses in the area can't be diverse it's expansion will be limited. Our communities are growing but are still only able to sustain a limited number of similar businesses.

This entire problem arose from a large number of nuisance complaints originating from the same residence and has escalated over time. We had made attempts to satisfy this resident and the city by marking off 30 foot set backs on our property as well as constructing a large 12 fence. Perry Rand has also been more then co-operative, shutting down parts of their businesses and restricting hours of operation voluntarily. We have already gone through and continue to be burdened with rising financial costs and nuisance complaints however.

The Businesses in this area existed long before the residential encroached on them. I know what's done is done but it seems silly for somebody to be able to buy a cheap peace of land because its near an industrial zone, build a house and then be able to shut the businesses down because they don't want them there. Small business like these employ a great deal of people in our province and many of the workers like where they are and not having to commute to Halifax or the traffic logged Burnside.

We would also like to add that in speaking with some of the other business owners in the area, there seems to be some confusion on deadlines for comments and the status of the case. One person told us that it had been suspended for a year which obviously isn't the case. I would recommend that the city take some time to contact the business and land owners in the industrial and commercial zones in order to make sure they have their input in the process before proceeding.

From: <glenn.conrad
To: <andrew.younger@halifax.ca>, <bonds@halifax.ca>, <stonehm@halifax.ca>
Date: 06/04/2009 10:03 pm
Subject: Staff Report – Case 01053: Dartmouth MPS / LUB Amendments – Waverley Ro

This is in response to a telephone message from Ms. Stonehocker, HRM Planner, requesting feedback from interested parties to herself and Councilor Younger on the proposed amendments to Dartmouth MPS / LUB before Harbour East Council sends them to Region Council.

Generally speaking we find the stated intention to establish a mixed use commercial / residential area on Waverley Road that encourages and supports business while addressing land use compatibility issues with surrounding residential neighborhoods to be acceptable and working toward the common good. The proposed amendments are laced with provisions designed to mitigate conflict issues between business and residents.

However, we are concerned about the intention to rezone the property identified as 202 Waverley Road from R-1 to C-1B. We do not find the list of excluded commercial uses of C-1B zone to be sufficient. We would recommend the following be added to the list re: Part 8B - 38B:

- (v) dry cleaning plants
- (vi) any fuel dispensing facility (retail or private)
- (vii) any facility that vents toxic or unpleasant smelling fumes into the atmosphere.
 - ex: furniture stripping and refinishing
- (viii) amusement arcades
- (ix) salvage yard

The above are in addition to i to iv already proposed. Given the very negative experience we had with a furniture refinishing business at this location it is hard to believe Planning would not have excluded this type of business on the first pass. The only reason we were ultimately able to shut this business down at the 202 Waverley road location was because it was zoned R-1 and it was not permitted by the development agreement which was restrictive in the type of commercial uses permitted.

We could never support the rezoning of this property to C-1B without adequate protection from this and similarly offensive businesses. We certainly know the current landowner had no qualms about putting this property to illegal land use.

Also there should be no fuel dispensing permitted on any property located within a proposed C-1B zone. Needless to say with the Perry Rand tour and school buses being refueled on a daily basis, almost in our backyard, we can attest to the complete unacceptability of this type of facility.

With respect to the policies related to self-storage facilities, multiple unit dwellings, and elderly care facilities, they all seem well intended.

Now comes the matter regarding Policies C-43 and C-44 especially as it pertains to issues around legal non-conforming land use. If we are talking about legal nonconforming land uses that are not potentially or actually harmful to adjacent residential property owners or citizens one couldn't take too much objection to your proposed policies in this regard, albeit it probably unduly prolongs the process of achieving the desired transition of Waverley Road. But there is the rub, and let's get right to the point.

These policies relate to the continued use of 198 Waverley Road by the Perry Rand Transportation Group. Just a short time ago Ms. Bond left us a telephone message indicating she was at a loss to explain how "we" thought the Perry Rand lease with Whebby Enterprises for the 198 Waverley Road property was for a five year term, when in fact it does not expire for another two years. For the record, "we", Glenn and Judy Conrad came to that conclusion because we were told so by HRM staff or alderman on numerous occasions- the previous councilor, incumbent councilor, and by Mr. Josh Judah in our kitchen. As an aside we were also advised by one of our neighbors, tenants of Flora Whebby, and who are employees of Stock Transportation (industry scuttlebutt) that the lease on 198 Waverley Road was up for bids last fall. So,

unless everyone lied the five-year lease was either amended or a new lease was entered into. So, for five years we were teased by information from HRM that Perry Rand would be gone in five years, if not sooner; that in fact, Perry Rand wanted out of the lease but Whebby Enterprises refused to release them. From all HRM quarters the word was that no one believed they should be there (well documented in our mountainous file).

For our part we expressed our appreciation for HRM's efforts to shut down the Perry Rand bus operation from 6:00 pm until 7:00am the following morning, and that although we documented on many occasions that the daytime noise was unacceptable we said we would restrain from complaining on a daily basis in the knowledge that the lease expired at the end of December 2008 and Perry Rand would then be gone. Now it appears their departure date is indefinite. Extremely disturbing and totally unacceptable..

We also documented on several occasions, as well as during our meeting with the mayor and various staff, our concern about the possible ill effects of being exposed to the toxicity of such a high volume of diesel fumes on such a regular basis resulting from the constant idling, shunting, refueling and serving that goes on everyday at this service depot. Even the most superficial research on the toxicity of diesel fumes and the amount of carbon dioxide and other gases even one bus emits (not to mention 15-30 buses) into the atmosphere on an annual basis by idling just one half hour per day, would lead any person who was not intellectually challenged, to conclude that this type of operation you cannot allow anywhere near a residential neighborhood. We warned and complained to no avail.

I regret to inform you that on December 12, 2008 I took my wife to the emergency department of Dartmouth General because of her extreme inability to breath, whereupon she was immediately admitted to intensive care and remained there for twelve days on oxygen therapy to clear her lungs. The diagnosis at this point shall remain confidential. Suffice it to say she has been diagnosed with a very serious respiratory condition that cannot be reversed. All that can be done is for her to be treated and protected from potential triggers that could provoke a similarly severe recurrence.

How could a person whose medical history was completely devoid of any respiratory problems of any sort, who never smoked, and worked in a smoke and scent free environment (hospitals) most of her working career over a period of seven or eight years gradually develop recurring sinus and bronchial problems, full blown asthma and culminating in twelve days of intensive care hospitalization and a horrible diagnosis of an irreversible respiratory condition.. In the complete absence of any other factors it does not take rocket science to establish a causal connection to the constant daily barrage of toxic organic solvents from the Woodgrain operation at 292 Waverley Road from 1999 to 2007 compounded by the daily exposure to diesel fumes from the 15 to 30 diesel buses that have been operating from 198 Waverley Road from January 2005 to the present. Incidentally I also am a non-smoker and have been for over 40 years.

This unfortunately rains on the parade of any thought that involves Perry Rand continuing to operate at 198 Waverley Road. Inherent in a liberal democracy and in all the regulations and by-laws that permit individuals the freedom to pursue self-interest is the proviso that any such activities are not harmful to others or infringe on their rights. The certainty and reality that the Perry Rand bus operation has been injurious to my wife's health requires that "our" government take the necessary actions to ensure that that the exposures that without doubt attributed to her ill health be removed with the utmost expedience. In addition we are in awe that this bus operation would be permitted to operate immediately adjacent to a day care center. The implications are mind boggling. We also are aware that one of our residential neighbours directly abutting the Perry Rad operation also cares for several pre-schoolers during the day. We often wonder the types of symptoms these kids are presenting and the perplexity of the parents who haven't made the connection that there are diesel engines emitting diesel fuels into the atmosphere on a daily basis that in all probability are affecting their kids. School buses are not permitted to idle their engines in school yards for very good reasons.

Given the extreme seriousness of this situation I must tell you that from our viewpoint we attribute the fact that we had to experience the barrage of daily toxins from Woodgrain for so many years to the negligence of HRM staff in not properly investigating our complaints properly from day one. Instead we were

repeatedly advised incorrectly that the property was zoned commercial and that the business operator had a permit to be there. Only after years of being bounced back and forth between HRM and the Provincial Dept of Environment did I stumble across a copy of the original development agreement for 202 Waverley Rd. that identified the R-1 zoning and the restricted commercial uses. If HRM had investigated our complaints properly all those years of exposure to toxic organic solvents could have been prevented.

Also it is our view that when Whebby Enterprises signed a 5-year lease with Perry Rand, without a development permit, and only applied for the permit after HRM was inundated with noise complaints from adjacent residential property owners; and was given the permit by HRM, after the fact, that also was negligence. The most cursory site inspection would have revealed the property was in non-compliance with respect to the zoning regulations requiring a landscaped 30-foot buffer and full screening from any adjacent residential property. How else could it be described but negligence that a site inspection was not done? Had it been done the permit could not have been issued and the matter would have been left to Perry Rand and Whebby Enterprises to resolve instead of victimizing innocent residents. Lack of resources does not cut it as an excuse.

Now to an issue where we expect immediate action. We insist that the Perry Rand refueling facility at 198 Waverly Road be relocated elsewhere on the property. At the current location of the facility it is impossible for them to comply with the zoning requirement that the vehicles do not infringe on the 30' landscaped buffer. The buses back in to be refueled alongside the fuel tanks and in doing so the rear end of the vehicles comes to within 10 feet to 15 feet of our property line. The buses line up in some type of zigzag formation like inchworms and idle waiting for their turn. The bus getting fuelled is idling, spewing fumes over the fence into our property for the entire 10 to 15 minutes it takes to refuel and then another bus moves in. It is futile for anyone to deny this because we have the incriminating pictures to prove it. In addition because there is no secondary containment such as a concrete apron to prevent spills from getting into the ground the soil is saturated with 5 years of fuel slopping onto the ground during the refueling operations. The fumes are there now with or without the buses.

We were told by an HRM staff person the ground was contaminated, and Councilor Younger told us one of the reasons the property was not purchased as a location for the new pumping station was the prohibitive cost of remediating the site. This was no surprise to us.

At any rate the refueling operation is in non-compliance to the zoning regulation. This is something HRM can remedy immediately by ordering Perry Rand to relocate the fuelling facility elsewhere on the property. Given the current condition of my wife's health and the certainty of the detrimental effect of these daily exposures, I will consider HRM's failure to rectify this situation with expedience as something more than benign neglect. Unfortunately the stakes in this bizarre situation have risen exponentially upon the reality of my wife's diagnosis of a severe and irreversible respiratory condition and her recent hospitalization.

Of course the noise, dust and vibrations have also been an issue since day one. My wife had a good paying administrative position with Capital Health, which she loved and had no intention of leaving until age 65. When Perry Rand commenced operations at 198 Waverley Road with their 24/7 operation she had no choice but to leave her job because of the inability to get a reasonable period of uninterrupted sleep. The financial loss has been significant (far in excess of the \$50K Jack Whebby claims we cost him in legal fees and compliance expenses. The house vibrations that we experience on a daily basis are very unnerving and damaging to the structure of our house. We had our house painted professionally throughout, at considerable expense, in the fall of 2003, just before Perry Rand commenced operations in January 2004. In 2007 we had our basement finished and had the same painter back to paint. She and her crew could not believe the cracks that developed around most of our interior door casings which were non-existent upon the completion of their paint job 4 years previously. We have had numerous trades people in to do a multitude of jobs from tree pruning, roofing, to new window installation and without exception they have all commented on the noise from the buses in the depot adjacent to our property. Within the last week we contracted a tradesman to retile our bathroom floor. We had contracted his services previously and in making the connection he said, "Oh yeh, you are the people who have those buses making all that noise behind your property". Our neighbors at the time had an infant son. The husband is in the military and away a lot. They sold their property within 6 months of Perry Rand commencing operations because the infant could not sleep day or night because of the noise. The people

who purchased the property from them immediately tried to back out of the deal because of the noise but were unable to do so. We have documented on many occasions our assertion that we are exposed daily to noise that would be expected from a permanent construction zone. The bleating of air brakes, beeping reverse direction alarms, gear shifting and idling, and the accompanying vibrations are a constant irritation, as is the dust from the unpaved yard area. The daily barrage of these noises exact a terrible price. My wife has been on anxiety pills for the past two years. I too find the inability to enjoy our yard during the day to be very stressful. I understand the provincial guideline for acceptable level of noise is 55dB. This is not a law or statute, merely a guideline, but I can assure you the noise emanating from the Perry Rand operation significantly exceeds that guideline. We will be officially requesting copies of the residential affidavits that were taken in the fall of 2004 from affected residential property owners, plus copies of the results of the sound intensity readings that were taken over a 30 day period from a neighbors deck. We were told by HRM staff that the noise was excessive. We believe the noise and vibrations exceed acceptable standards.

Sorry folks. The time for games, lies and deception is over. The worst nightmare that could possibly come out of this situation has now become reality. We were told by Josh Judah in our kitchen several years ago when he was investigating the whole thing (prior to the Supreme Court injunction closing down the 24 hour operation) that this was a very serious problem and that the way it would probably be resolved for us was that one day we would wake up and the Perry Rand operation would be gone. You know, that seems to me to still be the best solution – and sooner than later.

We are currently preparing our home for sale in the event that Perry Rand remains at their current location. All I can say in this regard is that the last thing Perry Rand, Whebby Enterprises and HRM would want to see is a For Sale on our lawn as long as there are unresolved noise and pollution issues pertaining to business operations at 198 Waverley Road that continue to affect the physical and mental health of my family.

We are open to holding discussions with HRM towards resolving this very grave issue. Another meeting with the mayor might be appropriate.

Yours truly,

Glenn and Judy Conrad

Mackenzie Stonehocker - RE: Waverley Road update

From: Phil Power
To: "Mackenzie Stonehocker"
Date: 20/04/2009 5:06 PM
Subject: RE: Waverley Road update

Hi Mackenzie,

You had sent me an email that I read on my blackberry (thanks by the way) however it got deleted off of my laptop, can you please resend it???

Also I would like to formally put into comments that I believe the two lots on Waverley road (226, 224) should be zoned commercial as they are the only two lots facing the road with no residence on either side (as the residences are facing Ellis / Evans court) and both property owners are for putting in a commercial application.

You never know what may happen, as I have asked the neighbor if they were willing to sell, we talked for about ½ hour so maybe something will come of it.

Again thanks so much for the help (ps -- were you certain of that easement in the upper lot overlooking red bridge pond?)

Phil

Sincerely,

Mr. Phil Power
President
Grasshoppers Holdings Limited
(Grasshoppers Martial Arts, After School, Pilates / Yoga,
Time to Dance, & VIP Transportation Services)
226 Waverley Road
Dartmouth, NS B2X 2C4
(902) 455-4853 phone
(902) 454-8888 fax
www.grasshoppers.ca

From: Mackenzie Stonehocker [mailto:stonehm@halifax.ca]
Sent: April 6, 2009 9:47 AM
To: mrpower@grasshoppers.ca; Andrew Younger
Subject: Re: Waverley Road update

Good morning Andrew and Phil,

I am available between 12 and 2 on Thursday, and could meet with you at Phil's place at whatever time you choose.

Thanks!

Mackenzie Stonehocker - 224 Waverley Road

From: "Carney, Janice"
To:
Date: 28/05/2009 11:07 AM
Subject: 224 Waverley Road
CC: "Carney, Janice"

Hi Mackenzie,

As per our previous conversation, John and I are interested in having our property be considered for rezoning. We only wish to do so if the residential uses are permitted to remain as they are now.

Sincerely,

Janice Carney

Mackenzie Stonehocker - ON BEHALF OF PETER MCDONOUGH

From: "Carson, Bev"
To: "Mackenzie Stonehocker"
Date: 12/05/2009 11:14 AM
Subject: ON BEHALF OF PETER MCDONOUGH
CC: , , "McDonough, Peter"

Hello Mackenzie,

I appreciate you need our comments on or before May 13th. I will not be able to get my thoughts organized in an orderly fashion prior to that date so I wanted to send you my concerns in no fixed priority as follows:

1. It seems extremely unfair to exclude "vehicle service uses" from the as of right opportunities in the Mixed Use Commercial zone. For instance, MacLaughlin Truck and Trailer Repair Limited and their predecessors have been at 221 Waverley Road for more than 35 years. I suspect this would mean this type of a use was in operation long before many of the area residents dreamed of moving to this area of Dartmouth. A business sets up, area residents move in knowing very well of its existence and then lobby to have it limited and eventually eliminated. It has not caused a problem for some 35 years and I do not see how this type of a service for the area residents could reasonably be of concern. Also, my client has another tenant on the property by the name of Canadream Limited. They lease out RVs to many European tourists who use them to tour the Maritimes in the summer. Units, once they have reached a certain level of maturity, are also sold from the site. Again, this is a very unobtrusive use of the property. It could be interpreted (incorrectly I submit) that this is a vehicle service use and thereby excluded by the proposed changes.

Would you tell me what type of a use you consider the HRM Fleet Services Building? It would seem like a vehicle-related business to me. My request is that "vehicle service uses" be eliminated as an exclusion in the zone and thereby permitted as a right.

2. Another question I have relates to Schedule AC Waverley Road Legal Conforming Uses. It refers to 221 Waverley Road and could be interpreted that it is deeming every use at that property to be non-conforming. What is the answer and was this the intent?
3. In the proposed C-1B zone, I note that "No outdoor storage shall be permitted, and outdoor display shall be restricted to the temporary or seasonal display of plant material or perishable goods normally associated with retail uses permitted in this zone...". Again, if this applies to the so-called vehicle-related uses on my client's property, it could mean (incorrectly I submit) that any vehicles left outside would be in violation of the by-law. The same would apply to certain of the smaller businesses operating on the property such as professional painters, electrical and air conditioner installers, etc. They all need to store material outside the confines of the building at certain times. Again, this has gone on for over 35 years and has never been objected to by the area residents. You are trying to kill a dragon that does not exist. This restriction needs to be deleted.
4. By way of comment, I need to add that reference throughout your recommendations to the use of development agreements (D.A.) by my client or others affected, is a nearly useless device.

I imagine you and planning staff know very well the Policy 1P-1(c) mandates that Council have regard to the fact that the proposal "is compatible and consistent with adjacent uses..." in considering D.A.'s. This virtually eliminates any chance of the land owner obtaining a D.A. from Council. There are now (there was not some time ago) more residents than business people in the area and they thereby speak the loudest at any public hearing. The businessman nearly always loses and an appeal would have little chance because of the "discretion" granted the Council.

I have no solution to this problem except to point out that we are aware that the D.A. option is really not viable and we are not foolish enough to believe that it is. This is particularly galling when my client was requested to approve a minor variance to allow the construction of a residential dwelling on Boutilier's Lane, did so in the spirit of cooperation. Now the concession will come back to haunt it.

The foregoing is all I have at this time but I reserve the right to make further submissions if they can be received by Council.

I must add that the Councillor and yourself have been extremely helpful and cooperative throughout this exercise. While I may strongly disagree with certain of your recommendations (as above), I can not criticize the process in any way. It was fair and transparent throughout.



Bev Carson
Administrative Assistant

tel 902.425.6500 x8201 | fax 902.425.6350

Purdy's Wharf Tower II
1300-1969 Upper Water Street
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1. **PARCEL:** Civic No. 217 Waverley Road, Dartmouth
PID No. 40879439
Micmac Bar & Grill

2. **EXISTING ZONING:** C-2 (commercial)

3. **PROPOSED AMENDMENT:** C-1B (mixed/use commercial)

4. **ISSUES FOR OWNER:**

This parcel was acquired by the existing owner in 1963 and the Micmac Bar & Grill opened in 1966. It has remained in existence for 42 years at this location and is at present a very popular and successful business. Parking is an issue and a separate presentation has been made with respect to the parking lot located on the east side of Waverley Road (PID # 0219220), opposite Micmac Bar & Grill.

The proposed amendments in subparagraphs (e) and (f) of 38B of the Proposed Amendments will operate to reduce the parking, require the installation of fencing and berms and prohibit outdoor storage. Not only is parking a concern to any business, adequate parking is one of the many considerations of the NS Gaming Authority in determining the granting and renewal of liquor licenses. Loss of parking would result in a reduction of the number of seats authorized by the Authority. The proposed amendments will prohibit any effective growth or expansion of the business and will effectively make the existing use a “non-conforming use”, prohibiting any future change in response to the needs of the business and its customers.

5. **RECOMMENDATIONS:**

It is recommended that:

1. this parcel be exempted from the proposal amendments in 38B(3)(e)&(f) which would strangle the continued operation of the business; or
2. there be a recognition that the existing use of this parcel where not in conformity with 38B(3)(e)&(f) would constitute a non-conforming use and not require the owner to bring the use of the property into conformity with the by-law and
3. the excepted vehicle services uses in 38B(3)(e)&(f) be excluded from the proposed amendment so that this parcel is consistent with those located to its north.

1. **PARCEL:** Civic No. 216 Waverley Road, Dartmouth
PID No. 0219220
Parking lot opposite Micmac Bar & Grill

2. **EXISTING ZONING :** R-1

3. **PROPOSED AMENDMENT:** None

4. **ISSUES FOR OWNER:** These lands have never been developed or built upon. They were acquired by the existing owner 37 years ago (1972) and have used as a parking lot ever since. This parking lot provides approximately 50-60% of the parking for the patrons of the Micmac Bar & Grill located immediately across the Waverley Road (Civic No. 217 Waverley Rd.). The current use predates the 1978 Dartmouth Municipal Planning Strategy. There is no roadside parking available on the Waverley Road. Obviously the loss of the parking facility would have a significant adverse impact on the business of the Micmac Bar & Grill. Without this parking lot, the patrons of the Micmac Bar & Grill would be forced to park in the residential areas to the east of the Waverley Road.

5. RECOMMENDATIONS:

It is recommended:

1. that the zoning of this parcel be changed to C-1B in order that it be consistent with the zoning of the Micmac Bar & Grill, the sole property that it has served for 37 years. It is to be noted that the lands situate on the east side of the Waverley Road between Evans Court and Micmac Drive contain 3 parcels, including the parking lot. The parking lot represents 60% of the total land area of the 3 parcels. Only one of the contains a residential use and it occupies only 25% of the total. The other use of the 3rd parcel use is to be continued as C-1; or
2. that this parcel be recognized as a non-conforming use attached to the Micmac Bar & Grill property.

1. **PARCEL:** Civic No. 219 Waverley Road, Dartmouth
PID No. 00219196
Industrial site

2. **EXISTING
ZONING:** I-1

3. **PROPOSED
AMENDMENT:** C-1B

4. **ISSUES FOR
OWNER:**

1. The building on this property was originally constructed 50 years ago as a storage warehouse. In 1996 it was converted in accordance with the current zoning, and is used for industrial uses including paint booths, a sand blasting booth, and a large mechanical room with overhead cranes. The sole tenant is engaged in the business of installing protective coatings (on a variety of equipment including seafaring equipment, automobiles, trucks, trailers), mechanical construction, woodworking and other related businesses. This business is a highly specialized business installing protective coatings on a variety of items particularly in the offshore. Such specialized businesses in a smaller business community such as HRM are always at risk due to economic conditions.

It is of significance that the operator of the business is a tenant and not an owner. A tenant does not need to consider the maintenance of an on-going non-conforming use since it can resolve any limitations on use through the re-location of the business to new premises. A landlord must look for a new tenant who is not only engaged in the same business but also who is able to leave its existing location and relocate within the short window attached to non-conforming uses, that is 6 months.

Conditions exist in which a landlord would not have 6 months notice of a tenant's intention to vacate or not renew. Most leases have notice provisions that only require between 3 and 6 months notice. In addition businesses fail. Commonly in the event of a business failure, trustees in bankruptcy or receivers are appointed who often choose to retain the lease pending a sale of the business or the assets. Such actions by a trustee or receiver are usually supported by Court Orders allowing the trustee or receiver to remain in possession (and not operate the business) but to terminate and vacate on short notice (i.e. a week or a month's notice). In such circumstances a landlord can do nothing to continue the non-conforming use.

The effect of the down zoning from I-1 to C-1B will if the non-conforming use cannot be continued, have very severe consequences for an owner of this property. The down zoning will have an immediate effect of the ability to obtain mortgage financing due to the risk of loss of use. If the non-conforming use is lost and the zoning reverts to C-1B, the owner can expect major renovations will have to be undertaken to the building to enable the limited uses and other indirect effects such as different environmental standards for a commercial rather than the current industrial use.

In summary, a landlord is in a very poor position to control in the short period of time of 6 months, to assure the continuation of the non-conforming use.

2. The proposed prohibition of “vehicle service uses” [see Part *B, s.38B(1)(b)] is extremely limiting and does not recognize either the many existing vehicle service uses in the area or the ongoing need for such services. This is the only area of the Waverley Road, the major collector between the former village of Waverley and the downtown of Dartmouth, capable of providing such services. One would think that the many residents of the area would want such services to be available in reasonable proximity to their homes. Clearly such uses provide a very reasonable business opportunity to the owners of the lands that may be down zoned to C-1B.

3. The proposed Development Agreement vehicle is flawed in that Council is obligated to determine that the proposed Development Agreement “is compatible and consistent with adjacent uses...”. It is difficult to contemplate how Council could ever satisfy this requirement since any continuation of uses similar to the existing uses, would not be “compatible and consistent”.

5. **RECOMMENDATIONS:**

It is recommended that:

1. The I-1 zone be continued; or
2. There be a method established to permit the recognition of the existing non-conforming uses. The owner and HRM should

agree to a process whereby the existing uses could be confirmed by an Agreed Statement of Facts that would outline in some detail the non-conforming use existing as at the date of the Amendment;

3. Policy C-44 be amended to provide that the period of discontinued use be increased to 12 months and that an owner may apply to Council during the 12 months for a further 12 months; and
4. The exception regarding “vehicle service uses” be deleted from 38B(1)(b) of Part 8B of the proposed amendment to the LUB.



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
October 2, 2008

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: Sharon Bond
Sharon Bond, Acting Director of Community Development

DATE: July 24, 2008

SUBJECT: Case 01053: Dartmouth MPS/LUB Amendments - Waverley Road, Dartmouth

ORIGIN

- On October 30, 2007 - Regional Council directed staff to review industrial activity occurring on those properties located at 194, 196, 198 and 200 Waverley Road and consider applying a commercial designation.
- April 1, 2008 - Regional Council expanded the commercial review area to include a larger area along Waverley Road in response to public input.

RECOMMENDATION

It is recommended that Harbour East Community Council:

- (i) endorse Option 3 as the preferred approach to address Land Use Designation and Zoning amendments along Waverley Road between Red Bridge Pond and Montebello Drive; and
- (ii) direct staff to prepare the detailed policy and land use by-law amendments to implement Option 3.

BACKGROUND

Scope of Review:

Regional Council's motion of October 30, 2007 (Attachment A) directed staff to consider the appropriateness of the industrial designation applied to those properties located at 194, 196, 198 and 200 Waverley Road, as shown on Map 1, and develop site specific policy for the area. A Public Information meeting was held on January 31, 2008 to obtain feedback on the proposed amendments.

At the Public Information Meeting, the public indicated a need to review commercial activity in a larger geographic area. Consequently, Regional Council expanded the review area on April 1, 2008 (Map 2) to include properties along the Waverley Road from Red Bridge Pond to Montebello Drive area. The intent of expanding the area is to discuss the appropriateness of various industrial, commercial and residential uses along the Waverley Road.

Land Use Designation and Zoning

Land Use Designation:

- within the Study area, there are a mix of land use designations including residential, commercial and industrial (Map 1);
- majority of the area is designated residential with limited areas being designated for either commercial or industrial;
- within the residential designation there is a martial arts studio, a restaurant, a parking lot, a parcel of industrial land, an automotive repair facility and a radiator repair shop; and
- Map 4 identifies the properties presently being used for residential, commercial and industrial uses within the area.

Zoning:

- R-1 Zone is the predominate residential zone within the Residential Designation (Map 2);
- Industrial (I-1) and Commercial (C-2) zoning is also applied within the Residential Designation; and
- I-1 and C-2 Zone are the main zones applied within the Commercial and Industrial designations.

Public Participation

Two public meetings have been held for this case: a public information meeting was held on January 31, 2008 and a workshop was held on June 11, 2008.

Approximately 75 people attended the public information meeting on January 31, 2008. The topics of discussion were: expanding the commercial review area; hazards of obnoxious uses; lack of clarity in the land use by-law; and what uses were desired on the site. Attachment C contains the minutes to this meeting.

The workshop was held in response to the issues that arose at the public meeting. Twenty-two people attended the workshop. The group was broken up into four smaller groups, each with a facilitator present to guide the discussion. The table discussions looked at the site and reviewed what types of uses would be appropriate on each of the four smaller areas. The discussions focussed on what uses were desired in each section, why these uses were desirable and any potential concerns for these lands. Attachment B contains the minutes to the workshop.

DISCUSSION

Staff have determined there are discrepancies between land uses, designations and zoning and a review is needed to determine what is appropriate for this area. This review has occurred through conversations with the public and have led staff to develop a series of options to guide development activity along this section of Waverley Road in a manner that is complimentary to the surrounding land uses.

In order to evaluate potential options and to focus public input within the study area, staff divided the study area into 4 areas as shown on Map 4. The types of uses, zoning and land use designations are described as follows:

| Area | Land Use Designations | Zoning* | Current Use |
|------|---|---------------|-------------------------------------|
| 1 | Residential /Commercial | R-1, C-1, C-2 | mix of commercial/residential uses |
| 2 | Residential | R-1 | residential with one commercial lot |
| 3 | Industrial with some residential/commercial | I-1, R-1, C-1 | used for commercial uses |
| 4 | Commercial / Residential | I-1, C-2, C-3 | used for commercial/industrial uses |

*Note: R-1 Zone Single Family Residential Zone
C-1 Zone Local Business Zone
C-2 Zone General Business Zone
C-3 Zone General Business Zone
I-1 Zone Light Industrial Zone

Options

Based upon the two public information meetings, staff were able to develop 3 potential amendment options to address future development within the study area. There are underlying assumptions for all options as part of this process. These assumptions are inherent to this process and are addressed in all three options.

- (i) the future land use intent for the area is a mix of residential and commercial uses;
- (ii) new commercial and residential land use designations and zones need to be created to better reflect the community's intent;

- (iii) landscaping, height limits, and buffering requirements should be incorporated into new zone standards;
- (iv) multi-unit residential and institutional uses should be considered in Areas 3 and 4, subject to new standards;
- (v) lands currently designated and zoned industrial shall be replaced with a commercial designation and zoning but existing industrial uses shall be permitted to continue operation; and
- (vi) the north end of the study area (shown on Map 3) should be removed from the study area.

Attachment C contains a brief explanation of each assumption.

OPTION #1: REDESIGNATE THE ENTIRE STUDY AREA TO COMMERCIAL

Description: Designate the entire study area to commercial thereby enabling a wide variety of commercial uses in all four areas.

Public Input: This approach received little support from the public.

The public expressed the opinion that certain uses were acceptable in specific areas, but not all commercial uses would be appropriate for the entire study area.

Staff's

Recommendation: Staff agree that greater control on commercial activity is desired in this area to a mix of commercial and residential use and to minimize land use conflicts with surrounding residential neighbourhoods.

OPTION #2: REDESIGNATE A PORTION OF THE STUDY AREA TO COMMERCIAL

Description:

| Area | Future Land Use Designations | Zoning* | Future Use |
|------|------------------------------|----------------------|--|
| 1 | Commercial | existing zone | allow smaller scale local commercial type uses as well as residential uses |
| 2 | Residential | existing zone | residential <i>(No Change)</i> |
| 3 | Commercial | new commercial zones | permit a broader range of commercial uses |

| | | | |
|---|------------|---|---|
| 4 | Commercial | existing zone/ new commercial zones | permit a broader range of commercial uses |
|---|------------|---|---|

*new zones will be drafted and enabled, but would not be applied outside of current Industrial zones

Public Input: The public was generally supportive of this approach, however many expressed support for allowing expansions to existing home occupations within Area 2.

Staff's

Recommendation: Staff is supportive of this option as it allows for guided consideration of commercial development within the study area but agree that it unduly limits the commercial development potential in Area 2.

OPTION #3: OPTION 2 PLUS COMMERCIAL THROUGH ENHANCED ZONE STANDARDS IN AREA 2

Description:

| Area | Future Land Use Designation | Zoning* | Future Use |
|------|-----------------------------|----------------------|---|
| 1 | Commercial | existing zone | allow smaller scale local commercial type uses as well as residential uses |
| 2 | Residential | existing zone | residential <i>plus local commercial uses and expanded home occupations by through the enhanced prescriptive zone standards</i> |
| 3 | Commercial | new commercial zones | permit a broader range of commercial uses |
| 4 | Commercial | new commercial zones | permit a broader range of commercial uses |

*new zones will be drafted and enabled, but would not be applied outside of current Industrial zones

Public Input: Some members of the public expressed concern over the impacts of existing home occupation uses and many did not want to see an increased as-of-right ability for commercial uses in Area 2. At the same time, other members of the public expressed support for increasing commercial uses in this area.

Staff's

Recommendation: This approach would address the apprehensions of the public who were concerned about the impacts of home occupation uses and, at the same time, address the interests of those who wished to see a greater ability to expand home occupations and other types of local commercial uses. The

use of enhanced prescriptive zone standards could limit the potential for land use conflicts between the residential and any commercial uses.

Staff are recommending that Harbour East Community Council endorse this option.

Implementation

Should Council choose to amend the Dartmouth Municipal Planning Strategy, any applications received to rezone a property or for a development agreement as proposed under this amendment package would proceed through the standard planning approval process and require approval by Harbour East Community Council.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved operating budget for C310.

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. Council may proceed with the amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as outlined in Option 3. This is the recommended approach for the reasons stated in the report.
2. Council may proceed with the amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as outlined in the other options or any combination that Council chooses. This option is not recommended for the reasons stated in this report.
3. Council may recommend that Regional Council refuse to amend the Dartmouth Municipal Planning Strategy and Land Use By-law. This option is not recommended for the reasons stated in this report.

ATTACHMENTS

Map 1: Initial Review Area

Map 2: General Future Land Use Map

Map 3: Existing Commercial and Industrial Uses

Map 4: Location and Zoning Map

Attachment A: Workshop Minutes-- June 11, 2008

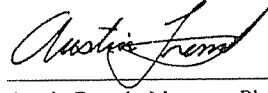
Attachment B: Public Information Meeting, January 31, 2008

Attachment C: Rational for Assumptions

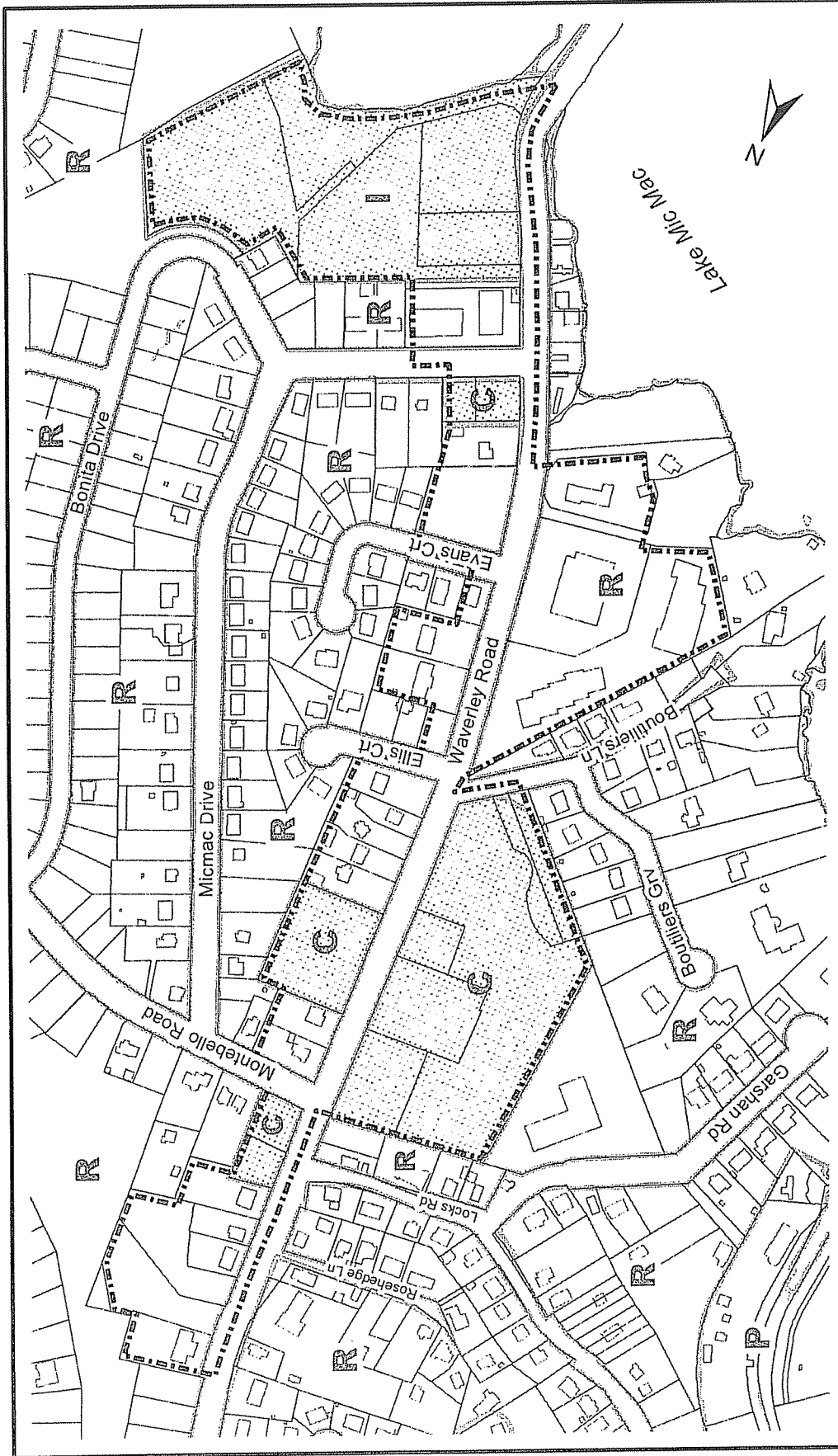
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Jennifer Chapman, Planner 490-3999

Report Approved by:






Austin French, Manager, Planning Services, 490-6717



Map 1 Generalized Future Land Use Map

Waverley Road

-  Commercial & Industrial Designations
-  Proposed Review Area for Commercial Designation
-  Dartmouth Plan Area

Designation

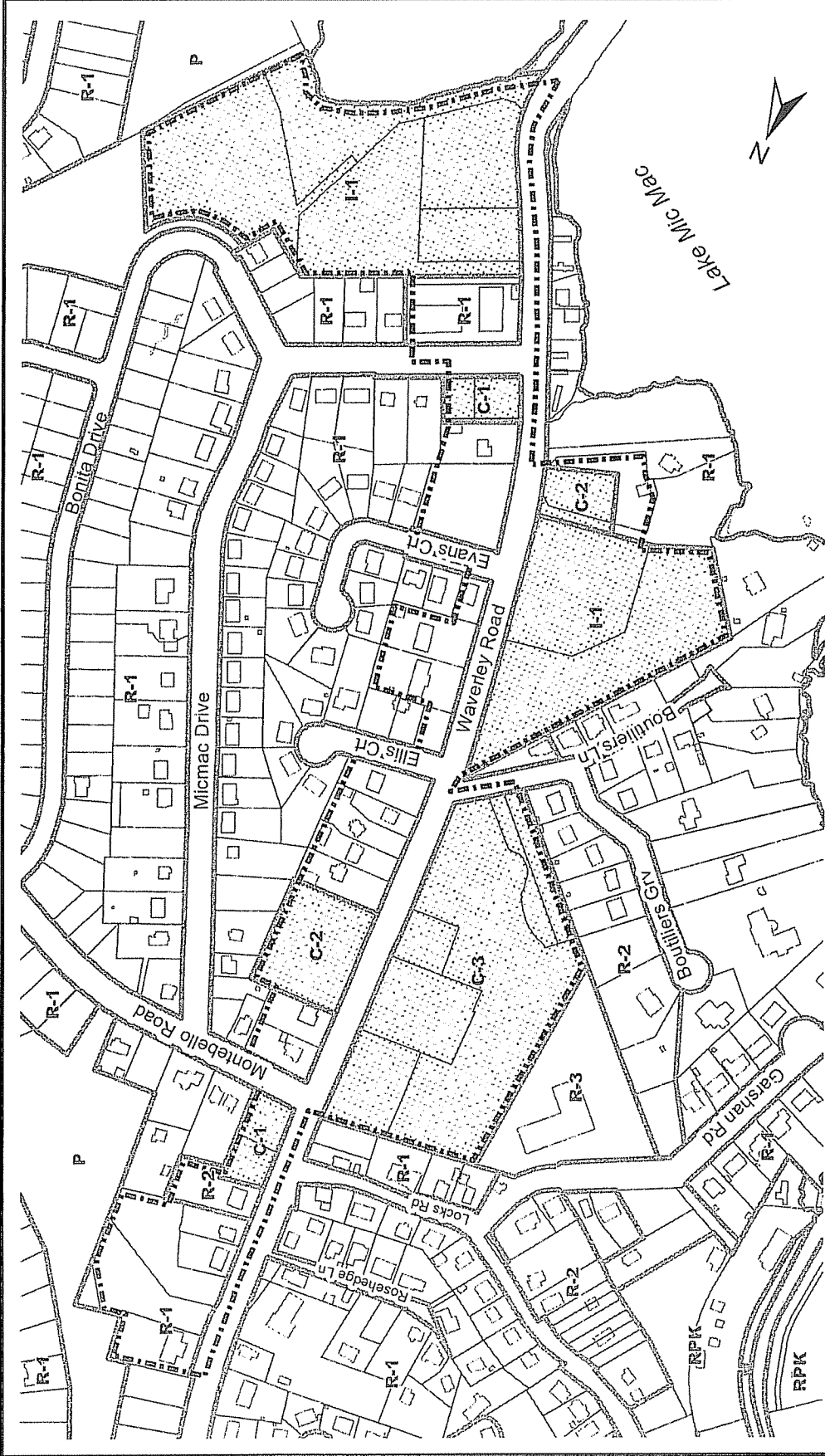
- R Residential
- C Commercial
- I Industrial
- P Park



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

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





This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area.
 HRM does not guarantee the accuracy of any representation on this plan.

Map 2 Location and Zoning Map

Waverley Road

- Industrial & Commercial Zones
- Proposed Review Area for Commercial Designation
- Dartmouth Plan Area

Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential
- C-1 Local Business
- C-2 General Business
- C-3 General Business
- I-1 Light Industrial
- P Park
- RPK Regional Park



Map 3 Expanded Review Area

Waverley Road

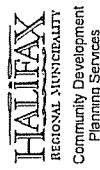
Existing Uses

Expanded Review Area

Section to be excluded from Expanded Review Area

Original Study Area

Dartmouth Plan Area



This map is an unofficial reproduction of a portion of the Dartmouth Plan Area.
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Map 4 Existing Commercial & Industrial Uses

Waverley Road

Existing Uses

Areas 1-4

Section to be excluded from Area 1

Dartmouth Plan Area

HALIFAX
REGIONAL MUNICIPALITY
Community Development
Planning Services

This map is an unofficial reproduction of a portion of the Dartmouth Plan Area.

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**Attachment A:
Workshop Minutes June 11, 2008**

**HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING - Workshop
CASE NO. 01053**

**7:00 p.m.
Wednesday, June 11, 2008
Akerley Campus (Cafeteria)**

STAFF IN

ATTENDANCE: Jennifer Chapman, Planner, HRM Planning Applications
Kurt Pyle, Supervisor, HRM Planning Applications
David Lane, Planner, HRM Planning Applications
Joseph Driscoll, Planner, HRM Planning Applications
Brian White, Planner, HRM Planning Applications
Miles Agar, Planner, HRM Planning Applications
Holly Kent, Planning Technician, HRM Planning Applications
Jennifer Little, Planning Controller, HRM Planning Applications

ALSO IN

ATTENDANCE: Councillor Andrew Younger, District 6

PUBLIC IN

ATTENDANCE: 22

The meeting commenced at approximately 7:08 p.m.

1. Opening remarks/Introductions/Purpose of meeting

Councillor Andrew Younger, introduced himself as being the Councillor for District 6, welcomed residents and indicated how important it is to get the Communities input. He introduced Jennifer Chapman as the Planner who is guiding this application through the process.

Ms. Chapman thanked Councillor Younger for the introduction and explained that the group would separate into four tables and will each have its own facilitator. She introduced David Lane, Joseph Driscoll, Miles Agar and Brian White as planners each stationed at separate tables.

She explained that the purpose of the meeting is to generate discussion about how, where and what types of commercial uses should be permitted along a Waverley Road. The feedback will be used to consider changes to the Dartmouth Municipal Planning Strategy and the Land Use By Law. She explained what a Municipal Planning Strategy and a Land Use By Law are and the different requirements.

Ms. Chapman noted that at Harbour East Community Council, a discussion arose about the compatibility issues between various land uses. On October 30, 2007 Regional Council initiated a process to review these uses. On January 31, 2008 a public information meeting had been held regarding the particular site. At that meeting it was requested that a larger area be reviewed. On April 1, 2008, Regional Council initiated the process to look at an expanded area. The original study area was 194, 196, 198 and 200 Waverley Road. The zoning for the expanded study area includes lands that are zone I-1 as well as various commercial and residential zoning. Ms. Chapman explained that she would like to sort out what uses are appropriate for the land and how they should continue to develop. The goal is to encourage appropriate development in the appropriate areas while limiting potential conflict between various land uses.

Ms. Chapman reviewed a slide show of the study area, current uses and possible uses.

Ms. Chapman explained that within each group discussion, it is asked that they identify in each of the four districts which category type should be appropriate in each of the districts.

At this time, each group separated with their facilitator and concluded the following suggestions/comments:

2. Questions/Comments

Facilitation Notes:

Table 1 (Miles Agar, Planner)

Area 1:

Residential and Local Commercial Preferred

Residential

- residential because it is currently 50% residential
- small scale retail and local commercial is ok
- concerned about traffic conditions– less traffic with residential uses
- less commercial provides a cleaner streetscape to maintain the look of Waverley

Road

- Residential area because of its location– already has a lot of traffic

Local Commercial

- have little impact
- small business is the heart of the neighbourhood
- creates a more walkable community
- area is the gateway to Shubie Park

Uses

- Single family
- Cliff behind– not a lot of room

- Auxiliary dwelling units ok
- hair salon, personal service uses
- corner stores
- bakery

Area 2:

Residential only

- streetscape can be controlled
- traffic is an issue
- already predominantly residential
- home businesses are an issue

Uses

- Residential
- single family with accessory units (for family only)

Area 3:

General Commercial

- Do not want to see industrial uses
- location is suitable for general commercial
- industrial not suitable because of its location to watercourses

Local Commercial

- want to allow a wide range of businesses not just general commercial

Uses

- Professional offices
- nursing home
- bank
- mixed retail- with small free standing buildings (not strip malls)
- needs to add character to the area
- personal service
- local market
- needs to have enough space for parking
- higher end development like hydrostone is ideal
- no impact on the street- commercial should be off the street

Area 4:

Residential

- Lots of area for residential and higher density residential
- provide a cleaner landscape
- walkable and pedestrian oriented

General Commercial

- Suitable area for a mixed use community– create a vibrant/ resilient area
- space and access are suitable
- room for parking

Area also suited for expanded home business and local commercial uses

Uses

- Carry on the same retail concept in the area
- have ground floor retail in a residential building
- restaurants are encouraged but no lounges
- no hotels
- higher density multi unit– max height 6 stories
- townhomes

Parking Lot

- noise issues
- junkyards, rundown cars
- 221 Waverley– mass of noise– heavy duty truck repair
- traffic– trying to get off the residential streets onto Waverley Road– difficult
- Problem with home business and customers parking on the street
- Crosswalks not safe

Table 2 (David Lane, Planner)

Parking Lot

- Water quality issues in Lake
- Illegal use in residential areas
- Traffic an issue
- Improve Metro Transit Service in area
- Pedestrian crossings needed at Evans Court to Mic Mac Tavern
- Right turn land on Waverley Road (north bound) to Montebello

Why here tonight?

- Nuisance effect of existing industrial use
- streetscape improvements required for Waverley Road
- Concerns with area 3
- Traffic

Area 1

- Local businesses desired
- Neighbourhood business streetscape

Area 2

- New commercial uses desired
- local amenities

Uses

- Restaurant
- Daycare
- Doctor
- martial arts school
- new uses should front on and have access to Waverley road
- Improved design controls
- maybe a new zone is needed?
- limit drive throughs
- Main Street visioning process would be great!

Area 3

- General Commercial, larger home businesses, residential
- New commercial uses desired
- local amenities
- environmentally responsible and sustainable uses
- multi unit residential would be compatible with neighbourhood
- parkland please

Area 4

- General Commercial
- industrial uses not desired
- General Commercial

Table 3 (Brian White, Planner)

Area 1

- Residential and General Commercial
- Single family dwellings
- Tim Hortons OK (local commercial)
- No street trees from Montebello down
- need landscaping standards

Area 2

- Status Quo– Residential and larger Home Businesses
- Concerns about nuisance effects of home businesses
- Tavern parking lot– illegal use?

Area 3

- local commercial, residential and larger home businesses
- No heavy industrial uses
- No obnoxious uses
- Needs parkland– especially near pond
- No development along waters edge
- Local business uses

- Residential
- Home Based
- No high density– prefer single family
- Medium density (i.e town homes) is ok
- Institutional uses– Seniors complex
- Red Bridge Pond Archaeological Mi'Kmaq Heritage Site

Area 4

- Residential, general commercial and local commercial
- Medium density townhouses
- landscaping
- institutional uses– nursing homes
- low rise, high quality architecture
- gardening store ok
- tire store needs to go
- neighbourhood pub ok
- no billboards
- need buffers and separation of residential from Waverley Road
- Business uses need to be buffered from residential (fences and landscaping)

Table 4 (Joseph Driscoll, Planner)

Why are you here tonight?

- concerns about future changes/ stability
- prefer commercial zone to residential (adjacent Tim Hortons)

Area 3

- Light industrial uses
- long standing uses
- provide employment
- predate most other uses

Uses

- non-obnoxious uses
- no smells, smoke, or chemicals
- should be environmentally friendly

Area 4

- Existing light industrial uses are fine; additional industrial uses could be problematic
 - Commercial less intrusive
 - residential would breakup all the heavy commercial and light industrial
 - less truck traffic

Uses

- health and fitness

- bank
- grocery store
- professional offices
- no apartments

Area 2

- general preference to maintain existing residential character
- existing homes have great character—should preserve these
- concerns with home business and on street parking

Area 1

- existing commercial causes concern for adjacent residents
- split between residential and commercial at Waverley convenience would make

sense

- allow commercial on properties adjacent and across from commercial
- maintain residential higher up

Uses

- professional office
- flower shop
- small retail
- uses that do not cause a lot of traffic
- no apartments

Parking lot

- Tim Hortons causes way too much traffic
- big increase in traffic since Tim Hortons opened

3. Closing comments

Ms. Chapman thanked everyone for coming to the meeting and expressing any comments and concerns they had.

4. Adjournment

The meeting adjourned at approximately 8:58 p.m.

**Attachment B:
Public Information Meeting, January 31, 2008**

**HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 01053**

STAFF

IN ATTENDANCE: Sharon Bond, Manager, Subdivision and Land Use
Kurt Pyle, Supervisor, Planning Applications
Jennifer Chapman, Planner
Sherry Faulkner, Planning Controller
Alden Thurston, Planning Technician
Staff Sergeant Don MacLean

ALSO IN

ATTENDANCE: Councillor Younger
Ken Donnolly, Facilitator

PUBLIC IN

ATTENDANCE: Approximately 75 people

Councillor Younger called the public meeting to order at approximately 7:00 p.m. at the Fairbanks Centre. This meeting is the very beginning of the process and is part of a much broader process. In 1996, Regional Council approved a Regional Plan which is a twenty-five year plan for the Municipality. The Regional Plan is an over-riding plan.

As part of the Regional Plan, many areas are undergoing a visioning process. Councillor Younger referenced the Main Street plan, a very extensive process where they brought landowners and businesses together and came up with a plan. Fall River had their meeting last night and Bedford has one coming up. These processes are going on all over the place. The way we choose them is areas where we have had a history of issues between various landowners. The businesses are getting together to form a business association for Waverley Road. That is a very exciting thing where businesses are getting together and trying to make sure things are done right.

Councillor Younger advised that following this meeting, any written comments should be sent to Jennifer Chapman. They should be sent to Jennifer because the Councillors are supposed to try and stay neutral until the public hearing. Staff will ensure every member of Council has a copy of any submissions. At the end of this process, there are a number of options for Council. After reviewing all the comments, they may decide that leaving it the way it is, is the best solution or they may choose to make changes. That is why he wanted to stress this is the very beginning of the process.

Councillor Younger noted we are looking at a collection of properties in one area. There was notification to property owners in the area. We receive lots of requests. For instance, we received an inquiry for a doctor's office on Waverley Road. That could not be approved because of the very complicated Municipal Planning Strategy (MPS) rules. That is something we will also look at through this process.

Councillor Younger stressed this meeting is about land use. Land use does not solve all the problems in the world. The HRM by-laws such as the Noise By-law, the Nuisance By-law, and the Grading By-law, are separate from this process. This meeting is about how land is used and what rules they should follow. If there is ever a violation of either land use or other by-laws it requires us to go to court, which is a long lengthy process, so what we try to do is create conditions that people can live with and accept. HRM does not have any kind of authority to go in and make a decision because they are not judge and jury. We can go in and prosecute things under the land use by-laws, but we are better off coming up with a solution that everybody feels they can live with because then you are less likely to have conflicts and things tend to work better.

Mr. Ken Donnelly advised he would be facilitating the meeting. Jennifer is going to make a presentation on this case and he would ask that any questions be held until the end following her presentation. Then we will try and answer any questions of clarification, after which we will get into discussion which he would facilitate.

Ms. Jennifer Chapman stated the case we are here to talk about tonight is the Waverley Road industrial land. The properties are shown in the shaded area of the map, which is 194, 196, 198 and 200 Waverley Road. The lands now have I-1 Light Industrial zoning, and in our MPS they have an Industrial Designation.

Ms. Chapman noted that in terms of background about the site, compatibility issues have come up in the past at Harbour East Community Council. On October 30, 2007, Regional Council initiated a process to review these lands. Some of the uses that came up involved fumes generated on the site as well as the definition of obnoxious in our land use by-law and how HRM interprets that. Within our Regional Plan, Policy G-12 directs staff to consider separation and buffering between residential and industrial uses in order to minimize noise, odor, glare, dust and other impacts, as well as to protect industry from nuisance complaints.

Ms. Chapman advised one of the things we are considering doing on this site is an MPS amendment. The MPS reflects the vision for the Municipality and how it should grow in the future. The Dartmouth MPS identifies this site for industrial uses. We are proposing a change to a Commercial Designation. We are also proposing to draft some site specific policies in order to alleviate some of the compatibility concerns, as well as some zoning changes. Currently, the land is zoned I-1 Light Industrial. We are proposing a commercial zone. We may use existing zone standards such as C-2 or C-3 and apply those to the land, or we may consider drafting a new zone standard with a new set of regulations. Currently the I-1 Zone permits all the uses listed here (displayed on overhead), so it is all the uses permitted within the C-3 zone except for adult entertainment uses; industrial uses except for obnoxious uses; uses creating a hazard to the

public; and uses creating heat, humidity and glare. It is pretty broad and there is a lot of room for interpretation. One of the outcomes we are hoping to get from this process is some clarification about what uses should be allowed and what uses should not.

Ms. Chapman displayed some pictures of: the entrance to the site; the gas station and the multi-use building; another picture of the gas station; the day care; the pond; HRM Fleet Services with the pond and the multi-use building; from the hill in between some residential buildings; the car lot and the bus compound with this fence which runs along some residential properties along the back; another vantage point of the same area where you can see the fence, the houses and some of the busses; the houses which share the fence; and the multi-use building.

Ms. Chapman advised our goals for this project are to provide clarity about the permitted uses on the site, as well as to reduce potential for conflict between the various land uses that presently occur.

Ms. Chapman noted in terms of our planning processes:

- Regional Council initiated a process and directed us to have a public meeting
- We will take the recommendations and comments from this meeting and draft a staff report and a recommendation to Council
- Council will review that at first reading and decide whether they want to schedule a joint public hearing
- Regional Council will review the planning strategy amendments and Community Council will review any zoning or by-law changes
- There is a two week appeal period; only the decision of Community Council can be appealed

Ms. Chapman reviewed some of the questions we would like answered tonight:

- What uses you think should be permitted on these lands?
- What controls should be placed on these lands to limit any future conflict?
- Are there any uses you think should not be allowed?
- Are there any uses you think should be permitted by development agreement which is essentially a contract between the landowner and the Municipality which spells out how you could develop that property?

Mr. Donnolly questioned whether there were any points of clarification before we get into any discussion.

Councillor Younger noted this presentation was generally on what Council initiated, but as part of the process we would also consider any other requests related to this. One of those is to address the whole commercial designation on Montebello Drive. That is a designation change that would allow people to apply for a light commercial use in this area. We only want to open up the MPS once for this area so you can certainly give comments on it.

An individual asked for confirmation that this does not include the unshaded area, specifically the land on the corner of Waverley Road and MicMac Drive which is now zoned R-1.

Ms. Chapman responded it is just the I-1 zoned land.

Councillor Younger indicated a couple of people came in before the meeting and said they did not think this was R-1 but it is. That is where the radiator guy is. There is a development agreement for commercial uses on that residential parcel. The development agreement overrides the Land Use By-law (LUB) and says specifically what uses are allowed on that site. If the property owner wanted to change the uses from what is listed in that agreement, which is fairly restrictive, they would have to apply to amend that development agreement which would require one of these meetings.

An individual referenced a couple of parcels of land zoned I-1 and indicated there are more concerns with the whole street frontage heading up Waverley Road that may be able to be turned into some form of commercial in the residential area. He was concerned that we are dealing with one piece of land rather than the whole thing.

Mr. Donnolly noted we are here to talk about this particular piece of land.

Councillor Younger indicated we know the request has come in for the larger area and we invite any comments on that. Jennifer has only given a presentation related to the planning application that Regional Council initiated. If people want to comment on that, that's fine. That will be part of staff's recommendation.

Councillor Younger said they were approached by a number of businesses about the possibility of a commercial designation. The MPS tells you what properties can be considered for a commercial designation. We had requests, for example, for a day care, and from lawyers and doctors, but we cannot consider those unless we change the designation.

An individual referenced the notification area and questioned the significance of that.

Ms. Chapman advised that is the area where we sent out a mailout about the meeting.

Ms. Kim Railing questioned whether it was a done deal about them making it a commercial area. She was interested in the development of parks and more green space.

Ms. Chapman advised as a Municipality we cannot zone private lands for park and it is not something we could consider for this site. We think that commercial is appropriate for the area but we are open to hearing what people would prefer.

Mr. Kurt Pyle indicated that if this area was zoned as park, under *the Municipal Government Act* the Municipality would be required to buy it within two years.

Mr. Peter Thorpe said he was a little confused as to what exactly is encompassed by commercial zones. What is designated to be commercial? Perhaps at the same time you could address what is industrial.

Ms. Chapman responded that there is a lack of clarity in the zone standards. The differences between the I-1 and C-3 zone are not really clear so we are hoping to generate a list of uses through this process. You could say, for example, some examples of commercial uses would be an autobody shop but heavy equipment repair would be more industrial. It is a balancing act and there is room for interpretation. Through this process we are hoping to clarify that.

Mr. Thorpe asked if he was correct in understanding there is ambiguity for the entire HRM.

Ms. Chapman clarified this is the Dartmouth LUB and MPS.

Mr. Thorpe commented when he thought of commercial, he tended to think of retail.

Ms. Chapman indicated a commercial office use would be a commercial use so a doctor's office or a dental clinic or a dry cleaner would also be considered a commercial use.

Mr. Thorpe said it is a little difficult at this stage to talk about commercial if they cannot completely identify what commercial is.

Mr. Donnolly noted we will talk about what would be considered commercial types of operations as we get going which should help.

Councillor Younger said one of the problems is that the Dartmouth MPS was created in 1978, so we are dealing with something thirty years old.

Ms. Doris Gates questioned if it is possible for the I-1 zone to be potentially broken up into different categories, ie., commercial and parkland.

Ms. Chapman noted we could explore C-2 in the front and draft a new zone, perhaps C-5, in the back.

Mr. Victor Tetrault said the letter talks about this being drafted in 1978. If you look at that map in 1978, there were no holes there. That is why through time neighbourhoods have developed around these lands and conflicts with land use have emerged. It is a clear cut case of an area that had not been planned in 1978 with the influx of a new residential neighbourhood. They are there and they have children and grandchildren. They would love to have a place where they can walk to. He heard it was a two year process. This whole area has not been looked at since 1978. He thought it was time for HRM to look at the whole picture. He liked the comment about new zoning that would allow for the neighbourhood to have a place where they could take their children. There are no green spaces in their area.

Councillor Younger commented everyone agrees the problem originates from the fact that neighbourhoods moved in after the fact. We cannot go back and change the rules that were in place at the time. The rules are different now. In the Regional Plan, there is a requirement in new areas for substantial buffers between residential and industrial uses. That is the focus today. We

cannot go back to 1978 and change that. That problem is not just here; it is in Sheet Harbour and Hubbards.

An individual said he just moved here in the last six months but he lived in the Province for the last twenty years. Ever since he has been here, it is the same. You say this was zoned in 1978. It is not really a new thing. It is called the Burnside Industrial Park. You say we cannot go back in time to change things. They are trying to change the zoning. This is obviously a residential area and he was concerned about turning it into commercial. Now they have this brand new thing which used to be called a gravel pit which is called Dartmouth Crossing. We are pushing everything over there. He did not see what the big problem is. It is one property causing the problems? Has anybody offered to find out how much it is worth? Do some fundraising and just buy it.

An individual asked for confirmation that the existing businesses would not be affected.

Ms. Chapman responded we can change the rules but we cannot evict anybody. Those uses would become a legal non-conforming use which means they were legal when they started and would be allowed to remain but if they decided to move, then that same use cannot go back in there and the new rules would apply.

Ms. Janet Rhymes noted staff's questions do not fit with everybody's priorities. Are we talking about industrial, commercial and residential being the three options?

Ms. Chapman responded we are not looking at a specific commercial zone. We want to specify the uses. Park is beyond HRM's jurisdiction. We cannot go in and rezone private property as park. If you thought, for example, there should be a medium-sized apartment building or a hair salon on that site, then tell us that. We want to capture the use.

Ms. Rhymes questioned whether water came into any of those subcategories, and referenced oil leaking.

Ms. Chapman responded we do have requirements for buffers from a watercourse. You cannot have any development within 65' of a watercourse.

An individual questioned whether the parcel they are talking about is privately owned.

Ms. Chapman referencing the map, pointed out the one parcel which is owned by HRM, but noted the rest is privately owned.

An individual noted it was mentioned truck repair would be industrial.

Ms. Chapman indicated heavy equipment repair would be considered industrial.

The individual referenced the property on the left hand side where an individual is repairing trucks and heavy equipment, and the building next door to him along the frontage is doing

military equipment sandblasting and heating and so forth, and questioned why that is not included for discussion tonight.

Ms. Chapman advised Council directed us to look at this property.

Councillor Younger stated Council has directed staff to look at areas with chronic history of problems first. It takes awhile to get everywhere so we are doing blocks with a history of problems first.

Ms. Chapman noted it was raised they should look at the whole area, which is maybe something they can do.

The individual urged that people step up and look at the whole picture.

Ms. Judy Conrad said it is with great effort that communities make change. Their neighbourhood that surrounds this area took months and years to get to this meeting. Petitions, complaints, and messages were left at HRM. She would be behind anything that is happening along Waverley Road because she was totally disgusted with what is happening along there. There are no proper lights to cross the road. It is unsafe and smelly. She was on the side of anything the people along Waverley Road wanted.

Mr. Donnolly noted one of the suggestions being made is to deal with the entire area and not just one parcel. We will take that under advisement.

Mr. Glen Conrad referenced the property at the corner of MicMac Drive and Waverley Road, and said they would have had a huge problem if they had allowed that property to go commercial. In the last six years, there was a furniture stripping business in there illegally without a permit. The business was emitting toxic fumes and substances into their neighbourhood causing all kinds of ill effects to people, particularly to those abutting it because of prevailing winds coming off the lake. They would have never gotten rid of that business had the property been zoned commercial. Because it was zoned R-1, with a very restrictive development agreement, and he was there illegally, they were able to get rid of him. It took six years. It was only by the good grace of one of the senior members of this neighbourhood who had an original copy of the development agreement and their Councillor moved it forward. That person had to be threatened with a court order injunction to leave the property because he refused.

Councillor Younger noted this is about the future. Everyone of those businesses can build and change ownership. This meeting is about the future and trying to prevent conflicts in the future. There is the potential for problems because zoning has not changed in the grey areas. The grey areas still exist because of the 1978 zoning. We are getting far less complaints today than three years ago.

· Mr. Donnolly opened the meeting for discussion.

Mr. Phil Power said we have to look at the entire area. We cannot just look at that one I-1 property because we will be back here two years from now about another I-1 property or the legal non-conforming use.

Mr. Power indicated it was important at this meeting to set some tones on what businesses should be allowed there. Right now that area is zoned I-1. That zoning would allow somebody to put a fish farm there and there is not much the residents could say about it. If that happened, there would be lots of calls to HRM, and it would be horrible because of the smell. He totally understood the ideas about a green park but it is private land and they would have to buy it. He would love to see a park there but it will not happen. However, they can start to lobby some of the commercial components or some of the residents to build a playground if commercial is going to go there. They really have to look at what commercial businesses they would like to have in their community so they do not have bus noise and bus fumes, and perhaps put in place a C-5 zone. Let's add more commercial so they do not have to travel to Burnside Industrial Park to buy a bag of chips, so they can more or less stay in their community but not have an industrial park.

Mr. Donnolly stated that is a good start to the discussion. Planning staff will make a recommendation to Council, and would like input on things like what kind of commercial use would work in that community. Residents from the area and people from the business community are here, so it is a great opportunity to make suggestions.

Mr. Terry Murphy said he was a resident in the neighbourhood. He lived here all his life and he could remember that area when Mr. Cassavechia had his heavy machinery there and was working late hours and early into the morning, and all these houses were not here. Why did they not set up a buffer originally so they would not be having this conversation now? They are wanting to penalize people who bought property and are using as it was always used. If they cannot get around it, then why don't they buy the properties and make a buffer for the next street? Wouldn't that solve the problem?

Mr. Donnolly noted it was a suggestion.

Mr. Murphy questioned how wide a buffer is.

Mr. Pyle responded between commercial/industrial and residential, it varies throughout the Municipality. The Municipality can include requirements in the by-law to require a buffer between uses.

It was questioned if they can do that before they build a house.

Mr. Pyle responded not at this time. There is no buffer zone.

It was questioned if there was supposed to be a buffer there. Mr. Pyle responded no. There is no requirement for one under the existing land use by-law.

It was questioned if there was one when they built the houses there. Mr. Pyle responded no.

Mr. Murphy said if he did not want to be around a commercial zone, then he would not build his house next door to one.

Mr. Donnolly commented he did not think anybody would disagree that having the uses close together might not have been a good idea, however, what we are dealing with now is what we have. The point that those buffers should be in place in the future is a great one, but we have to deal with the situation we have right now.

Mr. Ralph Bagnell questioned if there is a park off Bonita Drive.

It was responded it is a greenbelt with a couple of pathways.

An individual commented teenagers hang out there in the summer.

Ms. Sandy Lowe indicated they are basically just talking about this one piece of land. The people who own the land have businesses there and they were there before the houses. She was sorry it is not a park but wondered what this one piece of land has to do with parks for kids to go to.

Mr. Donnolly noted the point is well taken. We have residences right beside an industrial area. Some people own in the industrial area and some people own in the residential area and this is the kind of thing we are going to have to deal with.

Ms. Lowe commented some people do own land in the industrial area and have done everything they can and have done some testing.

Mr. Donnolly noted the point is well taken. There are two sides to this.

Mr. Fred Dundas stated he agreed the industrial has been there. The neighbour who lives behind them has had a house on Bonita Drive for fifty years so industrial has not had first crack at it. There has been residential for a long time. We already solved the problem. The City has agreed to alternate bus locations in Burnside so why don't we work out a property swap.

Bill Whebby said they have been here for a long time and created a lot of employment. He really did not want to leave the community and be forced out.

Mr. Conrad said there have been very positive comments about commercial development and what they contribute positively to the community and they are all for it. The present use of that I-1 zone we are talking about tonight is a totally inappropriate use. Just because something is zoned Light Industrial does not give them the right or the privilege to infringe on other people's rights or cause harm. That is one of the central principles. People are free to pursue their own self-interest provided they do not harm others. That is why they have gone a long ways since the days of Adam Smith and the visible hand of no regulation. We now know there has to be

regulations because in the last 250 years there has been all kinds of proof of how individuals pursued their interest and there was no balance.

Mr. Donnolly pointed out he would like to get them talking about the kinds of things that could work in here. If Jennifer makes a recommendation that says this is commercial, then that means a whole bunch of things can happen. This is really valid input into the process and is what he would like to get to.

Ms. Sherry Neilson commented while she could appreciate everybody's concerns, the possible future commercial was concerning her. Not knowing what the definition of commercial means is a little bit scary. They have a very nice area. Waverley Road is extremely busy and suddenly they are going to have more little corner stores. She agreed with allowing a doctor's office going in but if they are going to look at more strip malls for example like the Needs and the Pharmasave, it will mean a lot of people going to appointments. It is so busy along Waverley Road now that you cannot even cross the street because there are no proper crosswalks or proper lighting.

Councillor Younger noted we really want to know what the appropriate and inappropriate uses are. They are probably different for this site than they are going up Waverley Road. Having that input will allow them to have the broader picture which everybody seems to feel should be addressed and also that site.

Mr. Drysdale said they have been hearing on the radio about there being no beds in their hospitals for our long term care patients. Here we have a beautiful lake with beautiful trees in behind it, which would be an ideal place for the government or the City to put a long term care facility on that property.

Mr. Donnolly asked for further suggestions on appropriate uses. This is a good way of giving a flavour that you might see for the area.

Terry Murphy suggested the property could be developed with mini-storage. That use does not create congestion and a lot of traffic and no toxic fumes.

An individual suggested inappropriate would be when toxic fumes are being produced which would affect the residents in the area.

An individual stated it should not involve dispensing of fuels.

An individual suggested some professional lawyers and dentists, a daytime use, would be appropriate.

Ms. Lucy Burke said she wanted to go back to the parcel of land owned by HRM and questioned how it was zoned. It was responded industrial. She said that was an inappropriate use. They have a birds eye view of that particular facility and it is very noisy.

Mr. Donnolly noted he was hearing noisy ugly things.

Mr. Phil Powers indicated this is currently zoned industrial. The big thing is that no matter what, it is industrial. No matter what happens, they are still legally allowed to continue on with their business.

Ms. Chapman advised the existing uses would be considered legal non-conforming uses if we changed the zoning. However, once a use leaves, they have a six month window to replace the use with the same use, otherwise the new regulations would apply.

It was commented the busses are parking overnight in Burnside because they were harmful to the neighbourhood. HRM stepped in and did something about it.

An individual referenced the singling out of the parcel owned by HRM and said she believed HRM has a lot more options.

Mr. Terry Murphy referenced the comment that busses were harmful. Was the air tested by HRM and found to be harmful? Is that why they moved? He questioned the reason for them moving.

Ms. Chapman advised HRM did some air quality testing and did not find any traces in those tests, but there was still the issue of the noise complaints which the bus company was found to be non-compliant with.

Mr. Murphy asked for clarification that it was noisy, not harmful.

Councillor Younger stated it was found through the legal process to be in violation of the Noise By-law. He urged that they stick to future uses.

Mr. Murphy said he was wanting to know if things were being changed because it was harmful or noisy.

Councillor Younger urged that they not dwell on the existing use. If somebody thinks bus depots should still be allowed, then put that on the list of appropriate uses.

Mr. Murphy stated that if the uses are not harmful and in violation of rules, they should be allowed to do what they want.

Mr. Donnolly noted the point being made was the use should be allowed if it meets the by-laws.

Mr. Murphy added that it should not be harmful.

Mr. Larry Aarrell advised his property was directly in behind this man's property. When he was out on his deck and they started up the busses, he had to go into his house and shut his doors and windows and close off his air exchanger because the fumes were coming directly into his

house. He stated they were dangerous and harmful to them. When the busses were turned off and just being repaired, they were not.

Ms. Judy Conrad indicated she wanted to go back to the word “obnoxious” in their by-law. Obnoxious is anything that makes you nauseous, turns you green, and that you want to run away from. The bus depot is not just used by the City. There are busses used for charters, as well as tour busses, access-a-bus busses, tow trucks, and a fork lift tractor which was there today for a few hours. All of them have big diesel pipes. Her windows were black all the time with diesel. The word “obnoxious” is something people should look up. She did not want to see noisy businesses there. She was all for children in parks but we have to really want what we ask for. For the people in their area who have little children who are home in bed at 6 and 7 and 8 o'clock and are chaperoned by their parents, that is fine. With the drug issues and all the other issues in their community, they have to be very careful about what they invite into their community because they do not necessarily have the number of police officers they need per square mile. We have to be very careful where we put parks and how they are chaperoned. A park is questionable.

Mr. Pyle stated the term “obnoxious” goes back to the courts. Through this process, rather than letting the courts determine what obnoxious is, we want the community to identify what obnoxious is. By doing that, you need to tell us what uses you do and do not want. The ones you do not want, the court will look at them as being potentially incompatible or obnoxious. The ones you pick are okay. There are many ways to look at an issue. A good example is that of self-storage facilities. One could say self-storage facilities are okay, however, are they twenty-four hours, are the trucks going to back up with beepers on them at 2 o'clock in the morning unloading equipment, or is it going to be lit twenty-four hours a day? We need specific examples of what you mean by obnoxious in terms of uses. We regulate through land use.

Ms. Conrad indicated when the busses first moved in, they were operating twenty-four hours a day. She was not working full time in the hospital because of that. It was fairly obnoxious to her that she had police officers in her living room at 3 and 4 o'clock in the morning because they could not sleep. She could not go to work in the hospital for safety reasons. Also, before the owner put up a fence, she was down cleaning in her back yard and she did not know that a diesel school bus was going to start up and it blew diesel fumes into her face. She went to Emergency and it looked like somebody beat her up because of what went in her face from the diesel fuels. She was on penicillin and was monitored for months.

Mr. Pyle noted the big thing here is how the courts are going to interpret the regulations. Be clear about what you mean in terms of obnoxious in terms of uses. Give us more ideas in terms of how to address it.

An individual said they were asked to list things they would want to see, and questioned whether he would be correct in saying those are for commercial purposes?

Councillor Younger indicated he would say other than the park zone.

The individual asked for clarification what was meant by a development agreement.

Mr. Pyle responded a development agreement is a legal contract between the Municipality and the landowner for a specific use subject to certain conditions. For instance, if you have an agreement which allows you to open an ice cream stand on your property, the ice cream stand would be permitted but you would have to meet five or six criteria such as providing parking spaces or putting up a fence against the next residential neighbour. The agreement is approved by Council and both parties sign it, and those are the regulations that would apply. In terms of how we use it, sometimes we over-use development agreements and sometimes we do not. Development agreements are very good if you are trying to control very specific issues and one big thing they can control that a rezoning cannot is hours of operation. It also can deal with architectural controls in terms of what it will look like and how it fits into your community. It also can deal with the full gambit in terms of environmental protection. It is a tool. There is public input through the process and it requires a public hearing. However, it is appealable. He referenced a piece of property, noting there is a development agreement. Because the Municipality entered into an agreement with that applicant, until that applicant says for the Municipality to remove it, it is there.

An individual said she heard a lot of terminology thrown around tonight and they are being asked to speak to appropriate use of the land. They are talking about the different C zones but she had no idea what is involved in each of those categories. In order for her to make an informed decision about appropriate uses, she thought it would be helpful to have an idea what is involved in each of the zones.

Councillor Younger stated it is much more important to have a list of uses.

Mr. Donnelly said they are trying to avoid having members of the public determine appropriate zoning but instead talk about what you think would and would not work there.

Councillor Younger noted this is the very first step. If you sign the sheet at the back of the room, once staff has prepared a report for Council, then everybody will be contacted again. We do not usually hold another meeting. We usually make the report available online and then people can read what the recommendation is. This is the first step. We need to hear tonight what uses people do and do not like.

Mr. Donnelly encouraged the speaker to get in contact with Jennifer who would make sure she got any information that might help her.

Mr. Stephen Ferguson stated in terms of appropriate uses, what about residential R-1?

Ms. Chapman asked for clarification whether he meant just single family when he said residential.

An individual indicated height and light would be a concern.

An individual said they would like to make an informed decision but the City says they do not want them to know what the C-1 zone says.

Mr. Donnelly clarified he indicated the information could be made available following the meeting.

The individual said they are going to get between 3000 and 4000 lots available for the Waverley Road. It is going to be an amazing development area. What are the rules and regulations and what can be done? Take an educated approach and have all the information so everybody knows what exists now.

Mr. Pyle clarified that in terms of C-1 and C-2, in other areas, such as in the City of Halifax, it is very complex. In Dartmouth, it simply says the C-2 zone allows any commercial use that is not obnoxious. That is why we are here tonight to look at what is and is not appropriate.

An individual expressed concern with how you put weights on these because they heard somebody say busses are okay while we heard others say they are not.

Mr. Donnelly stated they are trying to get a flavour here today of what the community thinks but we are not looking for a vote. The point is very well taken. What we are doing is writing down what each person says and he has not asked for a vote on each one. We are not making any decisions.

An individual said she was here to support the twenty-four hour issue with the lights on twenty four hours a day. She thought those issues are very valid.

Ms. Rhonda McOnie stated she was hearing from a lot of the comments they were looking more for community based businesses which the families and kids can enjoy. She was all for commercializing more properties along Waverley Road. She gathered from the conversation they have the ability to possibly put their limits on what type of C zoning that it is. They have the possibility of saying they did not want the C-2 zone. She referred to the martial arts school they have in the area which she would like to remain. It is family oriented and is community based for kids as well as the parents.

Mr. Phil Power said he felt they were spinning their wheels a bit on what they want to do. He thought they have to have an open forum and people throw out ideas. He did not want to see a bus depot or a fish plant or heavy machinery.

Mr. Power advised he went to the City to apply for a commercial zone because his property is in a residential zone. For any residential property you can apply for a permit to use up to 25% of your property as commercial use inside your home. He did that and received his business occupancy permit and he paid tax on his commercial use as well as his residential use. However, his business might pose a problem to some people in the community because of certain aspects. For instance, there is a lot of traffic with this business and a lot of his students have to park on the street, so he went to some of his neighbouring businesses and asked for permission to park on their property. He was involved in the community because he was teaching martial arts to children. They have 225 students from the Waverley Road community who come and support his business.

Mr. Power indicated that because he had a residential property, he could not do the things that would make the community better. If he had a commercial property, he would have the option to expand in which case he could offer day care which is needed here and he could put in a playground. The community has to look at what businesses are good and bad and what they can do to improve their community. Who is happy with the way the business and residential district looks on the Waverley Road. It looks horrible. They did not need to look like Spring Garden Road where all you see are storefronts. What he would like to see is a much cleaned up community and something where the kids would not have a problem and a bus depot in your backyard, but rather have something you could live with and support.

An individual spoke in favour of development agreements. You know what you are getting with a development agreement as opposed to permitting a development by right and you have to deal with each one of those in terms of by-law violations and spend years getting rid of them.

An individual referenced community and family oriented businesses. They also have to look at how difficult it is to get on the Waverley Road. Some companies have been bashed here tonight but by the same token they were only doing what they were permitted to do under the existing laws. They were given permission to be there doing what they are doing. The culprits are the people who gave them permission in the first place. As we move ahead, let's not repeat those mistakes.

An individual commented something we are forgetting is the natural beauty. There is a pond there and it is next to the lake. They have an obligation as citizens and politicians to maintain that natural beauty in some form.

An individual stated the meeting was called to address one property. With the information that came out tonight, a number of them have started to realize it is reasonable to ask Council to develop an overall plan so we are not focused on just one property.

Councillor Younger referenced the Main Street Plan which took twelve meetings to prepare. Before we can come back to the community with some recommendations or options, we need to hear back from you in terms of appropriate and inappropriate uses, otherwise the planner will go back to her office and guess based on this partial list we have. Please send in your comments.

An individual questioned whether there are plans to hold any more meetings.

Councillor Younger responded they could do that.

An individual suggested they hold a series of meetings. Some people do not feel comfortable writing and would certainly be prepared to talk.

Councillor Younger commented some business owners have expressed some urgency to the process. They did it the other way for the Main Street project and it took two years. This one we were trying to shorten. We want additional meetings but it would mean a longer process before it gets to Council for change.

An individual commented it should take however long it takes to get it done properly.

Councillor Younger noted it appears this has evolved into a bigger thing in terms of addressing a wider area. We will not go to a public hearing at Council until we are satisfied we have heard from the public.

Ms. Chapman reminded people to complete and submit their surveys by the end of February.

The meeting adjourned at approximately 8:45 p.m.

Attachment C:
Rational for Assumptions

(i) the future land use intent for the area is a mix of residential and commercial uses;
Compatibility issues have arisen due to the proximity of industrial uses to residential uses. The goal for the area is to develop a mixed use community with a variety of commercial uses that serve the needs of the residential community.

(ii) new commercial and residential land use designations and zones need to be created to better reflect the community's intent;

Existing commercial zones do not address the concerns of this area. Zoning needs to be revised in order to provide a zone that accommodates more uses than the Local Business (C-1) zone but would not be as permissive as the General Business (C-2) zone. Proposed amendments will only provide policy changes to the Municipal Planning Strategy and the provision of new zones but not the application of the new zones except in areas with industrial zoning. The policy changes will allow for the consideration of new zones through the standard Council approvals process.

(iii) landscaping, height limits, and buffering requirements should be incorporated into new zone standards;

As part of the new zone standards, a variety of issues need to be addressed. One of the outcomes of the public meeting and workshop was a desire to see aesthetic improvements for commercial uses. The public felt that the streetscape along Waverley Road was lacking in consistency and required enhanced landscaping regulations. In addition to these concerns, they wanted to see buffering requirements to reduce impacts from commercial uses on residential uses. Lastly, some residents expressed concern about the current lack of control on building height. Under present zoning, there are no restrictions on building height. Limitations should be placed on height to provide for a development that is consistent with the surrounding area.

(iv) multi-unit residential and institutional uses should be considered in Areas 3 and 4, subject to new standards;

Multi-unit residential developments and institutional uses will be encouraged on Areas 3 and 4. Staff received a lot of support for multi-unit residential development to encourage a mixed use development form in this area, through the public workshop. The public also suggested that a long term care facility would be appropriate for either of these sites. Staff agree that these areas would be appropriate for this use given the sites locations on a major road, proximity to Highway 111 and the location of existing commercial uses

(v) lands currently designated and zoned industrial shall be replaced with a commercial designation and zoning but existing industrial uses shall be permitted to continue operation;

Industrial uses are not part of the vision for the community. There was little support for allowing new industrial uses to be established in the area. However, current industrial uses would be allowed to remain and operate. Should these uses cease, it would be undesirable to replace them with new industrial uses. Due to the history of Area 3, this area will have site specific policy in the MPS designed to reduce conflict between the residential and commercial uses.

(vi) the north end of the study area (shown on Map 3) should be removed from the study area.

The north end of the study area (shown on Map 3) will be removed from the commercial study and will not be included in any amendments. While the site does contain existing legal non-conforming uses, given the largely residential nature of the surrounding area, staff and the public do not see any further expansion of commercial uses in this area as appropriate.