



PO Box 1749
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B3J 3A5, Canada

Item No. 11.1.2
Halifax Regional Council
November 2, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by

A handwritten signature in black ink, appearing to be "Wayne Anstey".

Wayne Anstey, Acting Chief Administrative Officer

Original Signed by

A handwritten signature in black ink, appearing to be "Mike Labrecque".

Mike Labrecque, Deputy Chief Administrative Officer

DATE: October 7, 2010

SUBJECT: **Case 16367: MPS and LUB Amendments - 286/290 Herring Cove Road, Halifax**

ORIGIN

Application by WM Fares Group for the lands of 3156293 Nova Scotia Limited and Aboud Raymond Toulany to consider amending the Municipal Planning Strategy for Halifax and the Land Use By-law for Halifax Mainland to permit a multi-unit residential development at 286/290 Herring Cove Road, Halifax.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Authorize staff to initiate a process to consider amending the Municipal Planning Strategy for Halifax (MPS) and the Land Use By-law for Halifax Mainland (LUB) to permit a multi-unit residential development at 286/290 Herring Cove Road, Halifax, as well as consider other amendments, as appropriate, to the MPS and LUB for the proposed study area described in this report.
2. Request that staff follow the public participation program approved by Council on February 25, 1997.

BACKGROUND

Proposal:

WM Fares Group, on behalf of the property owner, has proposed a four storey, 52 unit residential building at 286/290 Herring Cove Road in Halifax. As municipal planning policy and zoning controls do not permit a multi-unit residential development at this location, the applicant has requested the Municipality consider amendments to the MPS and LUB.

Subject Site:

The subject site (286 and 290 Herring Cove Road) is:

- comprised of two existing lots (Map 1);
- located south of Clovis Avenue and north of Williams Lake Road;
- mostly undeveloped (a two unit dwelling is located at 290 Herring Cove Road);
- is approximately 2.09 acres (90,882 sq. ft.) in area with 196.75 ft. of frontage along Herring Cove Road;
- zoned General Residential (R-2) under the LUB;
- designated Low Density Residential (LDR) under the Mainland South Secondary Planning Strategy (MSSPS), which forms part of the MPS (Map 2).

Note: A wetland is located towards the rear of 286 Herring Cove Road (Map 2).

Surrounding Land Uses:

The subject site is surrounded by a mixture of land uses. The majority of residential development on the block surrounding the site are detached dwellings. The block also contains a commercial building, a church, a small private school associated with the church, and an HRM pocket park. Several commercial uses are located opposite the subject site, including a Sobeys' grocery store, a Nova Scotia Liquor Corporation (NSLC) retail store, and a Blockbuster Video. A service station (Wilson's Gas Stop) and an Aliant switching station are also located opposite the subject site.

Previous Planning Applications:

Between 1973 and 1990, the subject site, or portions thereof, were the subject of a number of planning applications. The details of these requests are provided in Attachment A. In total, there have been seven requests, two for commercial zoning, and five for rezonings or development agreements to permit multi-unit residential buildings. Only one of the applications was supported by staff. Each of the applications were either refused by the former Halifax City Council, cancelled, or withdrawn.

DISCUSSION

Existing Planning Policy and Zoning:

From a planning policy perspective, the subject site is governed by the Halifax MPS, and specifically by the Mainland South Secondary Planning Strategy (MSSPS). The MSSPS was adopted by Halifax

City Council on May 28, 1987. Since May of 1987, the subject site has been designated Low Density Residential (LDR) by the MSSPS and zoned General Residential (R-2) by the LUB. The MSSPS explains that the LDR designation is intended to promote two unit dwellings in areas predominantly comprised of two unit dwellings, while also restricting development to single unit dwellings in areas predominantly comprised of single unit dwellings (Attachment B).

Land within the block surrounding the subject site is also designated LDR and zoned R-2, with the exception of four properties located on the northern portion of the block. These properties are designated Minor Commercial (Map 2) and zoned Minor Commercial (C-2A) (Map 1). The property immediately north of the subject site is zoned Park and Institutional (P) (Map 1).

Changes in Planning Policy and Land Use:

Several significant changes in planning policy and land use have taken place in the vicinity of the subject site since the adoption of the MSSPS in 1987. In 1987, Sobey's land holdings immediately west of the subject site were designated Medium Density Residential (MDR) by the MSSPS and zoned General Residential (R-2P), with the exception of a small parcel, which was zoned General Business (C-2).

In 1990, following an application by Sobey's, Halifax City Council approved amendments to the MSSPS and Halifax Mainland LUB, which involved redesignating and rezoning a large portion of the Sobey's land to Minor Commercial (Maps 1 and 2). These amendments resulted in a change in land use pattern within the community, including construction of the Sobey's grocery store, NSCL retail store, Wilson's Gas Stop, and Blockbuster Video.

Responding to Policy and Land Use Changes:

Amendments to planning policy are not considered routine and while Halifax Regional Council has the ability to amend or create new planning policy, it is under no obligation to do so. However, based on the specific changes to planning policy and zoning previously outlined, and the resulting changes in land use within the area immediately west of the subject site, it is considered reasonable to investigate potential planning policy and zoning amendments for the subject site and properties within the same block that front onto Herring Cove Road (Map 3).

Other Considerations:

In 1987, the triangular parcel of land at the intersection of Herring Cove Road and Williams Lake Road was in private ownership. In 1998 this triangular parcel was purchased by the former City of Halifax, and subsequently developed as a pocket park, although the designation and zoning were not amended to reflect these changes.

Also, when the MSSPS was adopted in 1987, a Canadian Tire retail store was located at the intersection of Herring Cove Road and Clovis Street. In order to reflect this use, the Minor Commercial designation and zone were applied to this property, however, the Minor Commercial designation and zone have also been applied to three abutting residential properties along Clovis

street. The designation and zoning of these three residential properties should be amended to reflect the character of the street.

Conclusion:

Planning policy and land used changes in the area immediately surrounding the subject site have shifted the composition of the area. By authorizing staff to initiate a process designed to consider MPS and LUB amendments within the area identified on Map 3, Halifax Regional Council will provide staff an opportunity to investigate opportunities and potential options with the public related to future land uses and development form for properties between Clovis Street and Williams Lake Road interfacing Herring Cove Road, while at the same time, providing opportunity to address discrepancies in policy and zoning, such as those outlined above.

BUDGET IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2010/11 operating budget for C310 Planning & Applications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

Amendments to the Halifax MPS and LUB involve community engagement and the engagement process will be consistent with the intent of the HRM Community Engagement Strategy, the *Halifax Regional Municipality Charter*, and the Public Participation Program approved by Council on February 25, 1997.

The proposed level of community engagement is consultation, achieved through a public meeting and/or public workshop early in the review process, as well as a public hearing before Regional Council can consider approval of any amendments.

Potential municipal plan and land use by-law amendments will potentially impact the following stakeholders: local residents, property owners, community or neighbourhood organizations, other HRM business units, and other levels of government.

ALTERNATIVES

1. Council may choose to initiate a process to consider amending the Municipal Planning Strategy (MPS) for Halifax and the Land Use By-law (LUB) for Halifax Mainland to permit a multi-unit residential development at 286/290 Herring Cove Road, Halifax, as well as consider other amendments, as appropriate, to the MPS and LUB for the area shown on Map 3. This is the recommended approach.
2. Council may choose to initiate a process to consider site specific amendments to the MPS and LUB to permit a multi-unit residential development at 286/290 Herring Cove Road, Halifax.
3. Council may choose to pursue MPS and LUB amendments that would differ from those outlined in this report.
4. Council may choose not to initiate a process to consider amending the MPS and LUB. This is not the recommended approach for the reasons outlined in this report.

ATTACHMENTS

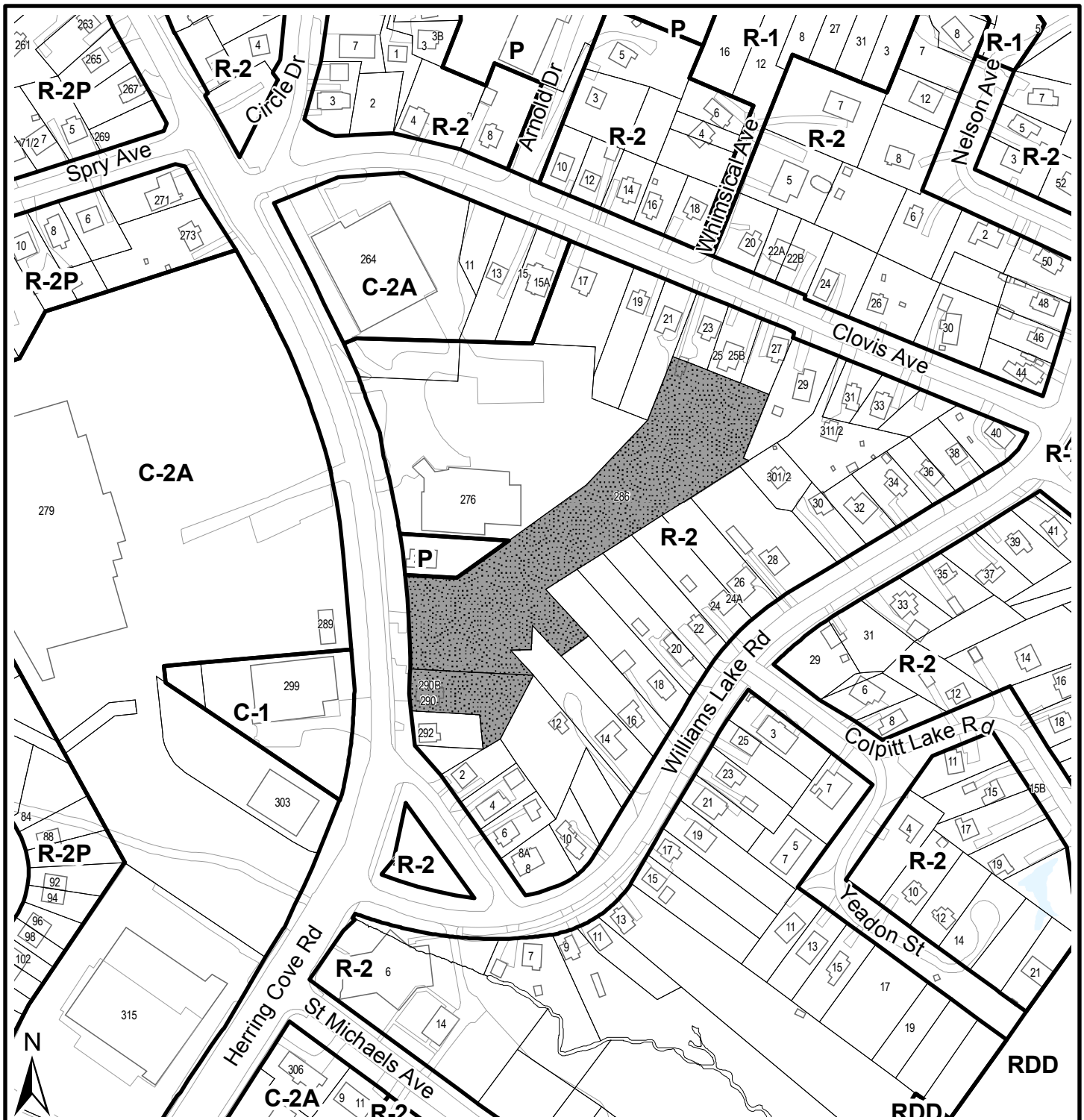
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|---------------|---|
| Map 1: | Location and Zoning |
| Map 2: | Generalized Future Land Use Map (GFLUM) |
| Map 3: | Proposed Study Area |
| Attachment A: | Previous Planning Applications Involving the Subject Site |
| Attachment B: | Excerpts from the MPS |
| Attachment C: | Excerpts from the LUB |

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: Miles Agar, Planner 1, Community Development, 490-4495


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

Report Approved by: _____
Paul Dunphy, Director of Community Development



Map 1 - Location and Zoning

286-290 Herring Cove Road
Halifax

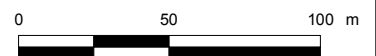
 Subject site

Halifax Mainland
Land Use By-Law Area

Zone

- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- C-1 Local Business
- C-2A Minor Commercial
- P Park and Institutional
- RDD Residential Development District

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PLANNING SERVICES



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

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



Map 2 - Generalized Future Land Use

286-290 Herring Cove Road
Halifax

- Subject site
- Wetland (as identified by applicant on site plan)

Halifax Plan Area
Mainland South Secondary Plan Area

Designation

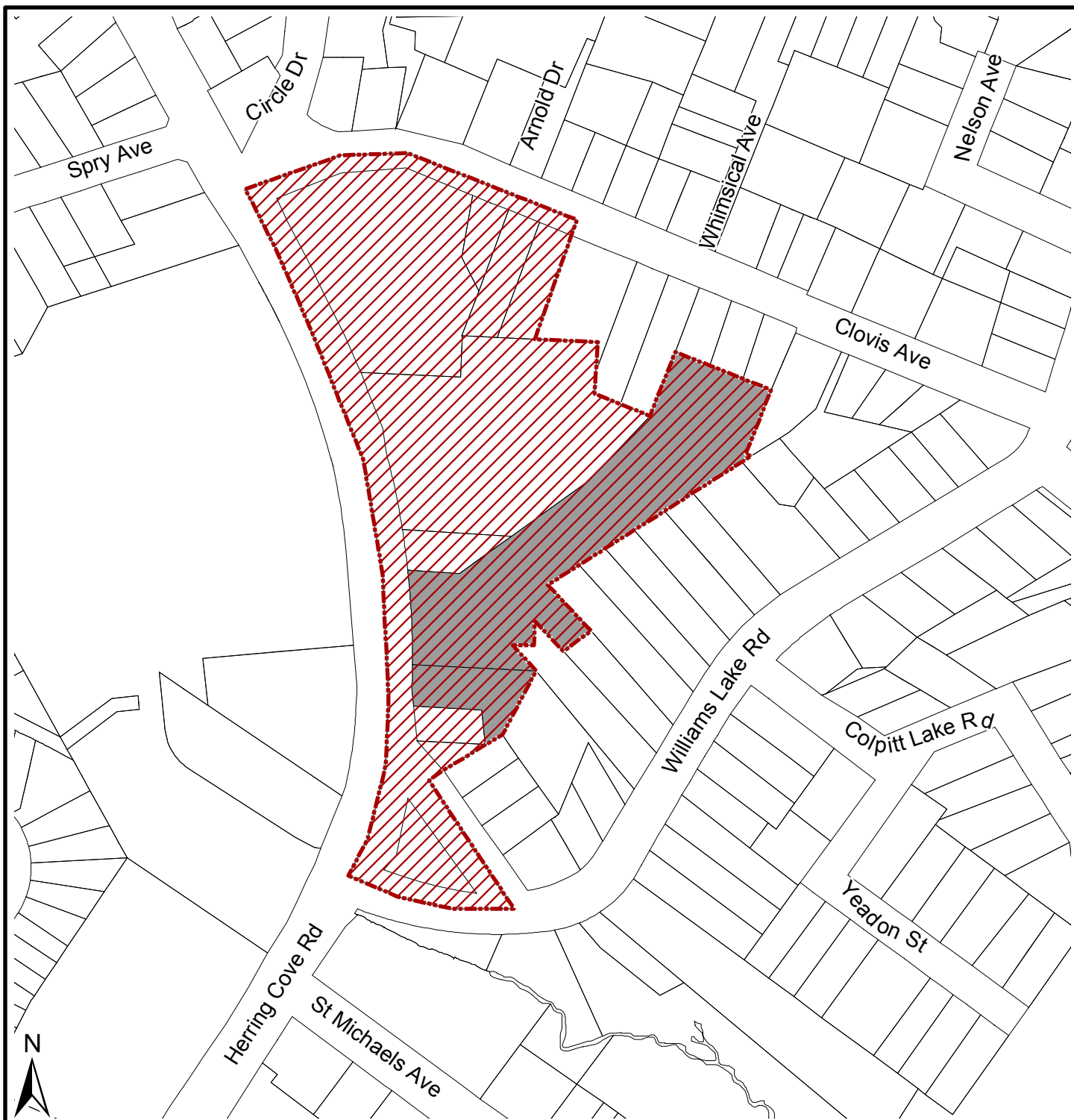
- LDR Low Density Residential
- MDR Medium Density Residential
- C Minor Commercial
- IN Institutional
- RDD Residential Development District

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COMMUNITY DEVELOPMENT
PLANNING SERVICES





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

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Map 3 - Proposed Study Area

Herring Cove Road
Halifax

-  Subject site
-  Proposed study area

Halifax Plan Area
Mainland South Secondary Plan Area

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Attachment A:
Previous Planning Applications Involving the Subject Site

Case 2804

Date of Application: Application received sometime in 1973.

Description: Application for a rezoning of 284-286 Herring Cove Road from R-2 to C-1 to permit a beverage room on the site.

Staff Recommendation: Staff recommended refusal of the application.

Council Decision: Council refused request on March 15, 1973.

Appeal: No appeal was launched.

Case 2898

Date of Application: Application received sometime in 1973.

Description: Application for a rezoning of 284-286 Herring Cove Road from R-2 to R-4 to permit a 41-unit, 4-storey apartment building.

Staff Recommendation: Staff recommended refusal of the application.

Council Decision: Council refused request on August 30, 1973.

Appeal: No appeal was launched.

Case 3455

Date of Application: Application received May 3, 1977.

Description: Application for a rezoning of 286 Herring Cove Road from R-2 (Two-Family Dwelling) Zone to R-4 (Multiple-Dwelling) Zone & lot consolidation to permit a 30-unit, 3-storey apartment building.

Staff Recommendation: Staff recommended refusal of the application.

Council Decision: Council refused request on November 17, 1977

Appeal: No appeal was launched.

Case 3935

Date of Application: Application received October 31, 1980.

Description: Application for a consolidation and contract development for 282-286 Herring Cove Road to permit a 48-unit apartment building. The properties were zoned R-2 at the time.

Staff Recommendation: Staff recommended refusal of application.

Council Decision: n/a

Appeal: n/a

Special Note: On May 7, 1981 the developer cancelled the application.

Case 4731

Date of Application: Application received October 16, 1985.

Description: Application for a contract development at 286-288 Herring Cove Road to permit a 51-unit apartment building.

Staff Recommendation: Staff recommended approval of the application.

Council Decision: Council refused request on December 12, 1985.

Appeal: The developer appealed Council's decision to the Nova Scotia Municipal Board. The Board rejected the appeal and thus upheld Council's decision in April 1986.

Case 5250

Date of Application: Application received January 26, 1987.

Description: Application for a contract development to permit a 40-unit apartment building at 286-288 Herring Cove Road.

Staff Recommendation: Staff recommended approval of the request.

Council Decision: n/a

Appeal: n/a

Special Note: Case cancelled on March 19, 1987 due to the advertisement of the adoption hearing of the Mainland South Secondary Planning Strategy.

Case 6140

Date of Application: Application received June 5, 1990.

Description: Application for Plan amendment (redesignation) and rezoning of 286-290 Herring Cove Road to permit the development of a commercial mall. The requested designation and zone were C (Minor Commercial) and C-2 (General Business) respectively.

Staff Recommendation: Staff recommended refusal of the application.

Council Decision: Council refused request on March 18, 1991.

Appeal: No appeal was launched.

Attachment B:
Excerpts from the MPS

1. RESIDENTIAL ENVIRONMENTS

- Objective The development and maintenance of Mainland South as a predominantly residential area with a diverse mixture of family and non-family housing.
- 1.1.1 "Residential Environments" in terms of this secondary strategy means:
- (a) Low-Density Residential;
 - (b) Medium-Density Residential;
 - (c) High-Density Residential;
 - (d) Residential Development District.
- 1.1.2 Forms of residential development which may be permitted in Mainland South are:
- (a) conversions;
 - (b) detached dwellings;
 - (c) semi-detached dwellings;
 - (d) duplex dwellings;
 - (e) townhouses; and
 - (f) apartments.
- 1.2 In areas designated "Low-Density Residential" on the Generalized Future Land Use Map, which are predominantly single-family dwellings in character, residential development consisting of detached (single-family) dwellings shall be permitted, and neighbourhood commercial uses may be permitted pursuant to Policies 2.1.1 and 2.1.2 of this Plan.
- 1.2.1 In areas designated "Low-Density Residential" on the Generalized Future Land Use Map, which are predominantly two-family dwellings in character, residential development consisting of detached (single-family) dwellings, semi-detached dwellings and duplex dwellings shall be permitted, and neighbourhood commercial uses may be permitted pursuant to Policies 2.1 and 2.1.2 of this Plan.

7. ENVIRONMENT

- Objective Identify and protect environmentally sensitive and ecologically valuable natural features.

- 7.1 Environmental sensitivity shall be considered as of the degree of susceptibility of natural areas to deleterious effects of urban development. Areas of high sensitivity are identified on the Environmental Sensitivity Maps. These maps shall be used as general resource documents in evaluating zone changes and contract development applications.
- 7.1.1 Pursuant to Policy 7.1 the following features are used to identify such areas:
- (a) tree cover - 40 percent and greater in density;
 - (b) exposed bedrock;
 - (c) wetlands and streams;
 - (d) slopes - 16 percent and greater.
- 7.1.2 Lands within 100 feet of the water's edge of any water body shall be considered to be environmentally sensitive and the Land Use By-law shall require a higher standard for new single-family lots adjacent to watercourses.
- 7.2 The Environmental Sensitivity Map may be used in assessing the effects of capital work to be undertaken by the City.
- 7.3 Where development proposals are being considered through rezoning or development agreement, the City shall protect environmentally sensitive areas.
- 7.4 The City shall require setbacks for new development adjacent to lakes, watercourses or waterbodies for the purposes of maintaining and enhancing a high quality lakes and waterways system for development considered pursuant to Policy 1.5.1.
- 7.4.1 The City shall undertake an analysis of flooding along the McIntosh Run and prepare suitable policy and regulatory controls to protect the watercourse.
- 7.4.2 Pending the completion of the study outlined in Policy 7.4.1, the City shall amend its Land Use By-law to require a setback for all new development of one hundred feet from the McIntosh Run.
- 7.5 Environmentally sensitive areas in public ownership should be preserved in their natural state and utilized for limited park and recreation uses.

7.6

The City shall attempt to minimize using salt on streets in areas where contamination of groundwater and wells is likely or apparent, and to accomplish this shall identify areas subject to potential contamination as a result of salt use.

Attachment C:
Excerpts from the LUB

R-2 ZONE

TWO-FAMILY DWELLING ZONE

- 24(1) The following uses shall be permitted in any R-2 Zone:
- (a) all R-1 Zone uses;
 - (b) a semi-detached dwelling;
 - (c) a duplex dwelling;
 - (d) (Deleted)
 - (e) (Deleted)
 - (f) in the "**Fairview Area**", conversions of existing buildings used for institutional purposes to a maximum of 4 units, provided that the height and floor area of the building are not increased.
 - (g) uses accessory to any of the foregoing uses.
- 24(2) No person shall, in any R-2 Zone, carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1)
- 24(3) No person shall, in any R-2 Zone, use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1)
- 24(4) (Deleted)
- R-1 USES IN R-2 ZONE**
- 25 Buildings erected, altered or used for R-1 uses in an R-2 Zone shall comply with the requirements of an R-1 Zone.
- 25A (Deleted)

REQUIREMENTS

- 26 Buildings erected, altered or used for R-2 uses in an R-2 Zone shall comply with the following requirements:
- (a) Lot frontage minimum 50 feet except when a lot faces on the outer side of a curve in the street, in which case the minimum frontage may be reduced to 30 feet
 - (b) Lot area minimum 5,000 square feet
 - (ba) Notwithstanding clause (b), the minimum lot area for lots abutting an inland watercourse in the "**Mainland South Area**", shall be 6,000 square feet;
 - (c) Lot coverage maximum 35 percent
 - (ca) The maximum height shall be 35 feet
 - (d) Floor coverage of 900 square feet living space, minimum
 - (e) Every building shall be at least 12 feet from any other building and at least 8 feet from the rear and both side lines of the lot on which it is situated and at least 20 feet from any street line in front of such building;

ACCESSORY BUILDINGS

- (f) Notwithstanding the provisions of clause (e), a carport or a detached or attached non-commercial garage may be located not less than 4 feet from the rear and both side lines of the lot on which it is situated and shall be located 8 feet from any other building;
- (g) Notwithstanding the provisions of clause (f), any accessory building shall not require any side or rear yard nor any setback from any other building if such building is located entirely within the rear yard of the lot on which such building is located; provided, however, that such accessory building shall not be closer than 15 feet to any street line.

BUILDINGS ON CORNER LOTS

- (h) Where a building is situated on a corner lot, it shall be at least 10 feet from the flanking street line abutting such lot;

SEMI-DETACHED DWELLINGS

- (i) Notwithstanding the provisions of other requirements:
- (1) For each unit of a semi-detached dwelling, the minimum lot frontage shall be 25 feet, the minimum lot area shall be 2,500 square feet, and the maximum lot coverage shall be not greater than 35 percent.
 - (2) Every semi-detached dwelling shall be at least 12 feet from any other building and at least 8 ft. from the rear and side lines of the lot on which it is situated and at least 20 ft. from any street line in front of such dwelling.
 - (3) Where a semi-detached dwelling is situated on a corner lot, such dwelling and accessory buildings or uses shall be at least 10 feet from the flanking street line abutting such lot.
 - (4) Notwithstanding subsection (2) where a lot containing a semi-detached dwelling is to be or has been subdivided so that each unit is on its own lot, there shall be no setback required from the common lot boundary.

DAY NURSERY

- (j) (Deleted)
- (k) (Deleted)

BOARDERS AND LODGERS

- 27 The keeping of not more than three boarders or lodgers in an R-2 Zone shall be permitted, but no window display or sign of any kind in respect to the use permitted by this section shall be allowed.

SIGNS

- 28 The exterior of any building in an R-2 Zone shall not be used for the purpose of advertising or erecting or maintaining any billboard or sign except the following:
- (a) one sign board not exceeding 6 square feet in size pertaining to the

sale or rent of the building or lot;

- (b) one non-illuminated no-trespassing, safety, or caution sign not exceeding one square foot in size;
- (c) one non-illuminated sign not exceeding one square foot in area, indicating the name and the occupation, profession or trade of the occupant of the building;
- (d) one bulletin board for a church.
- (e) A sign not exceeding two square feet in size for a **day care facility**. (RC - Mar 3/09; E - Mar 21/09)

DAY NURSERY - ADDITIONAL CHILDREN PROVISION

28A (Deleted)

28B (Deleted)