




P.O. Box 1749
Halifax, Nova Scotia
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Item No. 11.2.1 (i)
Halifax Regional Council
February 24, 2015

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original signed by 

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

DATE: February 2, 2015

SUBJECT: Tantallon Crossroads MPS and LUB Amendments

ORIGIN

On January 21, 2015, North West Community Council approved the following motion:

"North West Community Council recommends that Halifax Regional Council direct staff:

1. *To initiate a process to consider amendments to the District 1 & 3 Municipal Planning Strategy and the District 1 & 3 Land Use By-law to address three land use requests as follows:*
 - a) *In the Village Residential Zone, to allow places of worship, and possibly other community buildings, exceeding the maximum building footprint and with distinctive architectural features;*
 - b) *In the Village Gateway Zone, to add the Atlantic Superstore property to Schedule N to be consistent with policies governing adjacent properties; and*
 - c) *In the Village Gateway Zone, to expand the list of permitted uses within Schedule P to include other uses comparable to uses existing on the date of its adoption.*
2. *To follow the Public Participation Program for the MPS amendment process as approved by Council in February 1997."*

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII – Planning and Development

RECOMMENDATION

It is recommended that Regional Council direct staff to initiate the process to consider amendments to the District 1 & 3 Municipal Planning Strategy and the District 1 & 3 Land Use By-law as set forth in the January 21, 2015 motion of North West Community Council.

BACKGROUND

At its meeting on July 22, 2014, Halifax Regional Council adopted Municipal Planning Strategy (MPS) and Land Use By-Law (LUB) Amendments for Planning Districts 1 and 3 for Tantallon at the Crossroads (Case 16424). The amendments affected the area south of Highway 103 from Hubley Mill Lake to the dam and as far south as the mouth of the East River. The intent was to retain and enhance the character of a coastal village, and included measures to encourage compatible buildings and land uses, foster appropriate architectural design, respect cultural heritage and orient new development to pedestrians.

Since that time, North West Community Council and staff have identified elements of the new MPS and LUB provisions which would benefit from further refinement. These fall under two headings:

1. **Community Buildings in the Village Residential Zone:** In mid-December 2014, staff refused a permit for a church proposal on the north side of Hammonds Plains Road at Scholars Drive. The proposal exceeded the requirements of the Village Residential Zone which limits buildings to a maximum footprint of 3,200 square feet, limits height to 35 feet, and applies architectural requirements. The site is close to a school which is already much larger than the proposed 13,050 sq. ft. church footprint. Direct access to the church would be possible without adding traffic to low-density residential streets. Other large community buildings and several public properties already exist along the north side of Hammonds Plains Road, together with a former school building on the north side of French Village Station Road. Exempting community buildings in this area from some of the restrictions applied to size and design warrants consideration.
2. **Other Issues from the Public Hearing:** Immediately following adoption of the new MPS and LUB provisions for Tantallon at the Crossroads, Regional Council had requested a supplementary report on concerns raised at the Public Hearing regarding specific properties, including:
 - a) Vic and Beruta Heniss requested retention of their former MU-2 zoning to enable expansion and diversification of their existing light industrial and commercial uses, to help compensate for what they believe are limited residential development opportunities due to a power line easement.
 - b) Choice Properties REIT/Loblaw Companies Ltd. requested opportunities for future expansion by development agreement for the Superstore property, as were accorded to neighbouring properties.

Accordingly, on October 7, 2014 staff provided an Information Report (Attachment A), which recommended that no adjustments be made to the new MPS and LUB provisions at the time.

DISCUSSION

Community Buildings in the Village Residential Zone

An argument can be made for allowing exceptions to building footprint, design and height for places of worship and schools. These uses are rarely able to be designed with small building footprints because they require a large sanctuary, auditorium or gym on a single level, typically with a high ceiling. As a result, multiple storeys are not a viable solution to compensate for limited building footprint. One possible solution would be to allow such buildings on large lots with large frontages on the north side of Hammonds Plains Road or the north side of French Village Station Road. Some specific design and height provisions may also be appropriate to accommodate the distinctive form and function of large community buildings.

Other Issues from the Public Hearing

Choice Properties REIT/Loblaw Companies Ltd. (Superstore) Property: As noted in the October 7, 2014 Information Report (Attachment A), this was not included in Schedule N, yet is located between two properties (Cobalt and Canadian Tire) that do fall within that Schedule. Schedule N enables expansion of existing large nonconforming structures, provided that any expansion is consistent with the new design requirements. The reasons set forth in the October 7th report would support adding the Superstore property to Schedule N.

Heniss property: As noted in the October 7, 2014 Information Report, the owner of this property wishes to revert to their former MU-2 zoning to enable expansion and diversification of their existing light industrial and commercial uses, to help compensate for what they believe are limited residential development opportunities due to a power line easement. Whilst staff do not feel MU-2 zoning to be appropriate for the reasons provided in that report, staff would be willing to consider expanding the list of permitted uses within Schedule P to include other uses comparable to those already existing on the property. The aim would be to avoid any additional impact on neighbouring properties and water features.

FINANCIAL IMPLICATIONS

There are no financial implications. This report aims to address three outstanding concerns in the same community, using a single public meeting and public hearing, for effective use of community and staff time. The suggested amendments can be addressed within the current Planning and Development operational budget.

COMMUNITY ENGAGEMENT

Staff concurs with North West Community Council's recommendation that a single Public Information Meeting and Public Hearing could consider amendments addressing all of the above items, following the standard public consultation process.

Accordingly, should Regional Council direct staff to proceed, a Public Information Meeting would be held, as mandated by the Public Participation Program for the MPS amendment process as approved by Council in February 1997. A Public Hearing would also be required. All three requests would be considered at the same public meeting and public hearing.

ENVIRONMENTAL IMPLICATIONS

Staff will consider the findings of The Tantallon Watershed Servicing Study and any other relevant environmental factors. These will be noted in the staff report back to Regional Council.

ALTERNATIVES

1. Regional Council may choose to refuse to consider one or more of the amendments recommended in this report. A decision of Council to refuse to consider any plan amendment is not appealable.
2. Regional Council may choose to consider the amendments recommended in this report. This would necessitate a public hearing. The decision of Regional Council after the public hearing would not be appealable.

ATTACHMENTS

Attachment A: September 17, 2014 Information Report: Follow-Up to Case 16424 – Tantallon Crossroads Plan Review

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Marcus Garnet, Senior Planner 902.490.4481

Report Approved by: _____
Carl Purvis, Supervisor, Community Planning 902.490.4797

Report Approved by: _____
Bob Bjerke, Chief Planner 902.490.1627

Attachment A
September 17, 2014 Information Report:
Follow-Up to Case 16424 – Tantallon Crossroads Plan Review



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

Item No. 8
Halifax Regional Council
October 7, 2014

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by Director

SUBMITTED BY:

Jane Fraser, Director, Planning & Infrastructure

DATE: September 17, 2014

SUBJECT: Follow-Up to Case 16424 – Tantallon Crossroads Plan Review

INFORMATION REPORT

ORIGIN

July 22, 2014 Regional Council Motion approved requesting a supplementary report on concerns raised during the Tantallon Crossroads Plan Review public hearing with regard to three properties owned by Loblaws, Canadian Tire, and Mr. Vic Heniss.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII – Planning and Development

BACKGROUND

At its meeting on July 22, 2014, Halifax Regional Council conducted a public hearing for Case 16424 – Municipal Planning Strategy (MPS) and Land Use By-Law (LUB) Amendments for Planning Districts 1 and 3 – Tantallon at the Crossroads. The staff recommendation was approved.

In the course of the hearing, concerns were raised on behalf of three commercial property owners as to the impact of the proposed amendments on their development rights. Following adoption of the amendments after the public hearing, Regional Council approved a motion requesting a supplementary report on the concerns raised with regard to three properties, specifically those owned or operated by Vic and Beruta Heniss, Choice Properties REIT/Loblaw Companies Ltd., and Canadian Tire. Each is discussed in turn below.

DISCUSSION

1. **Request to delete the Heniss properties (5434-5444 St. Margarets Bay Road) from the Tantallon Crossroads Coastal Village Designation, and revert to the former MU-2 Zoning**

The MU-2 (Mixed Use) Zone dates from 1995, and was intended to allow a very wide scope of activities, including residential, commercial and service industrial uses typical of rural areas. Property owners Vic and Beruta Heniss are concerned that future opportunities for business diversification or expansion on

these lots will be negatively affected by the new Village Centre zoning and Schedule P. They wish to retain their longstanding MU-2 zoning by having the boundary of the Tantallon Crossroads Coastal Village Designation (Schedule L) moved eastward to exclude their properties (Attachment A). Staff were made aware of this request during the planning process, and raised the idea with a representative of the St. Margarets Bay Stewardship Association which served as the steering committee for the project.

It can be argued that the Indian River, the dam and the curve in Highway 3 form a natural edge for the Tantallon Crossroads Coastal Village Designation to the south of the highway, visually affirming the boundary recently adopted in the July 22, 2014 Regional Council motion. On the north side of the highway the boundary is located several properties to the west of the river, reflecting the study area identified in the plan review initiation report submitted to Regional Council for September 21, 2010. Mr. and Mrs. Heniss contend that the river need not form the boundary on the south side of the highway, given that it does not do so on the north side.

Instead of moving the boundary, staff sought to provide for future uses consistent with the new Coastal Village Designation, by adding Schedule P which allows the fabrication, maintenance, repair, sales and service of boats, trailers, docks, decks, rafts, slipways and ramps; storage of materials used for on-site fabrication, maintenance and repair; and storage of boats or trailers. Mr. and Mrs. Heniss feel that the list of uses in Schedule P is still too restrictive, especially as they envisage selling their property as a commercial or industrial site in the foreseeable future.

A comparison between the new VG zoning coupled with Schedule P, and the former MU-2 zoning, is provided in Attachment C. The new zoning regulations afford considerable development opportunities on the Heniss property and, in some respects, greater opportunities than the previous. For example, the VG zone permits up to 12 apartment or townhouse units on a property. Except for public housing for seniors, this was not permitted by the MU-2 zone. The VG zone also permits commercial buildings with footprints of up to 6,000 sq. ft. and a height of up to 35 feet, which would allow for substantially more gross floor area than the maximum 7,500 square feet permitted by the MU-2 zone.

On the basis of the issues raised at the public hearing, staff has met with the property owners to clarify their concerns and the opportunities and constraints posed by the new zoning. Mr. and Mrs. Heniss would like to explore any opportunity to expand the list of permitted commercial and industrial uses provided in Schedule P.

2. Suggestion to include the Choice Properties REIT/Loblaw property (5178 St. Margarets Bay Road) in Schedule N

This is the property occupied by the Superstore. Abutting properties to the east and west fall within the new Schedule N, which enables additional expansion of existing large nonconforming structures, provided that any expansion is consistent with the new design requirements.

In selecting properties to include in Schedule N, staff sought to identify parcels that were already subject to a development agreement. Due to minor inconsistencies in data records, the neighbouring Canadian Tire property was included even though it was not subject to such an agreement. The wording around Schedule N does not actually require the presence of a development agreement, so staff decided to retain Canadian Tire in the Schedule to avoid making a substantive change after First Reading. Like the Canadian Tire parcel, the Superstore parcel is not currently subject to a development agreement, but unlike the Canadian Tire land, the Superstore land is not included in Schedule N.

Staff has discussed this with the consultant planner who represented Choice Properties REIT/Loblaw at the Public Hearing. If, at some time in the future, Superstore were interested in undertaking a major expansion, it could request a plan amendment to add its parcel to Schedule N with a view to enabling a development agreement. In the meantime, under the new zoning regulations Superstore can still add

new buildings in front of its parking, and can do a minor expansion of its existing building under the new provisions for nonconforming structures.

3. Concern that Canadian Tire (5130 St. Margarets Bay Road) was not adequately consulted throughout the planning process

The representative of Canadian Tire suggested that direct consultation and open dialogue with that company could have resulted in a more thorough and well thought-out plan that balanced both community and commercial objectives. Municipal staff notes that all landowners had opportunities to attend four community forums and meetings in addition to the Public Hearing. Sessions were advertised through local groups including the Chamber of Commerce and, in the case of the Public Information Meeting, by mail to landowners. Several commercial stakeholders contacted municipal staff and expressed their concerns well before the public hearing was advertised. Staff worked with them in an effort to accommodate their needs. Canadian Tire had the same opportunities to raise any concerns early in the project, as had the other landowners.

As acknowledged verbally by the representative for the property during the Public Hearing, contrary to his written submission, Canadian Tire has, in fact, been included in Schedule N. This Schedule offers considerable scope for expansion by development agreement, as already described in Item 2 above.

FINANCIAL IMPLICATIONS

There are no immediate financial implications arising from this report.

COMMUNITY ENGAGEMENT

This report concerns issues raised in community engagement which has already taken place in connection with Case 16424. Details of that engagement are provided in the June 5, 2014 staff report for that case.

Should Council decide to consider any amendments to the MPS or LUB which it adopted on July 22 as a result of the concerns voiced at the Public Hearing and discussed in this report, a new Public Information Meeting and Public Hearing would be required.

ATTACHMENTS

Schedule L: Tantallon Crossroads Coastal Village Designation
Schedules M, N, O and P: Tantallon Crossroads Coastal Village
Attachment A: E-mail from Mr. Vic Heniss received on February 25, 2013
Attachment B: Land Use By-Law Excerpt – Schedule P
Attachment C: Heniss Property Uses – Comparison Between MU-2 Zone & VG Zone With Schedule P
Attachment D: MPS Excerpts – Schedule N

**Follow-Up to Case 16424 –
Tantallon Crossroads Plan Review
Council Report**

- 4 -

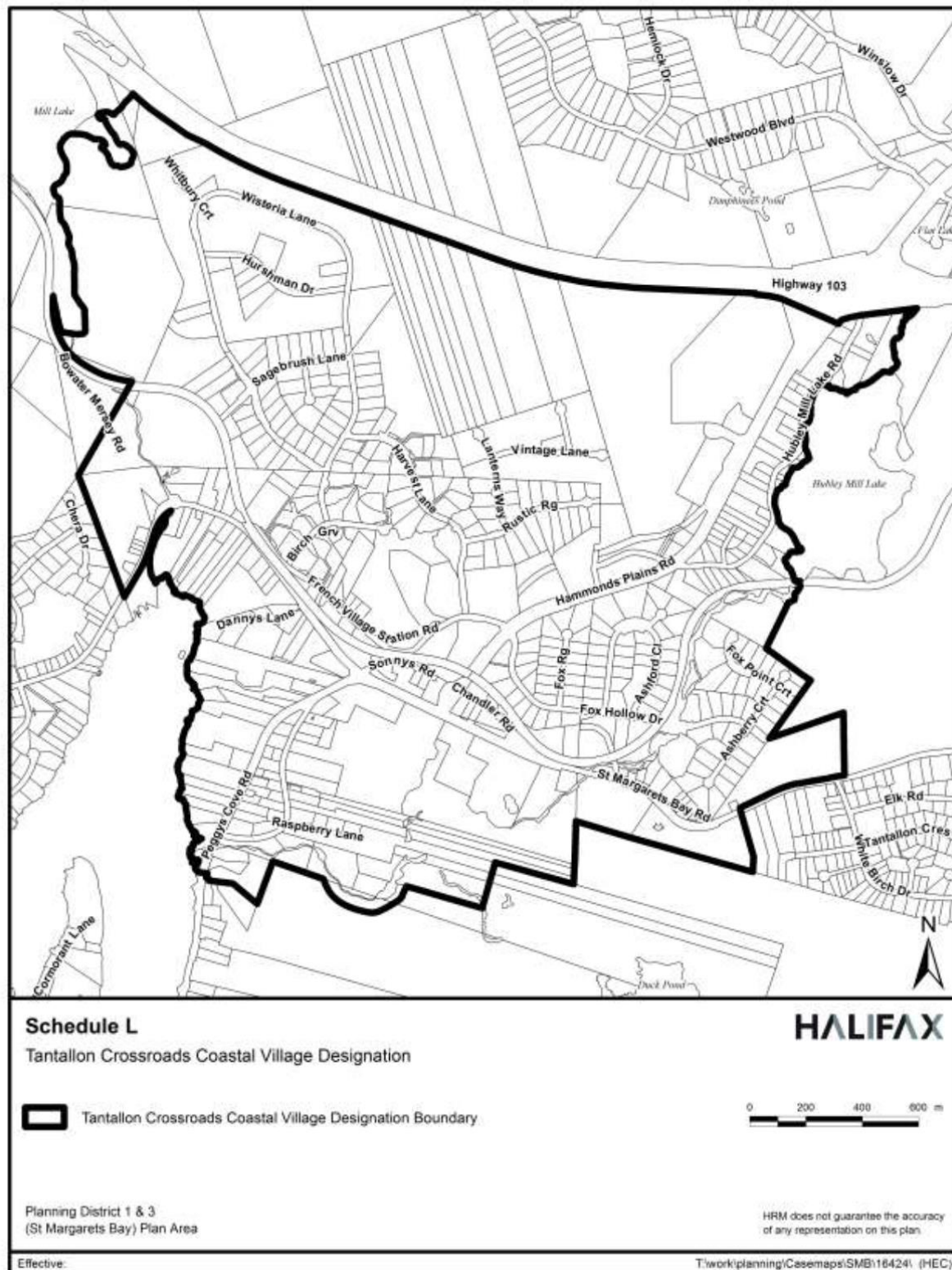
October 7, 2014

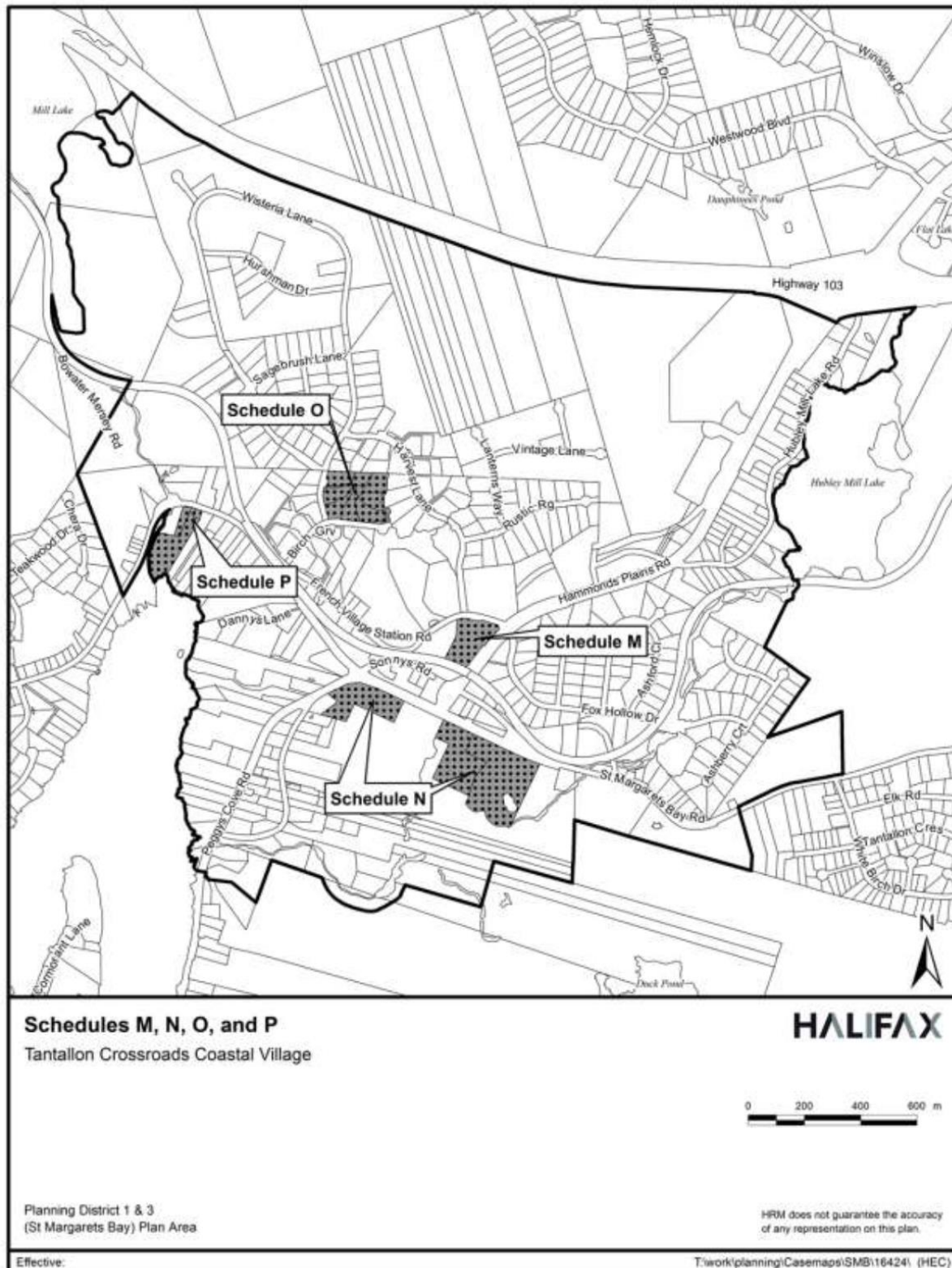
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

Report Prepared by: Marcus Garnet, Senior Planner 902-490-4481

Report Reviewed by: Brad Anguish, Director, Community & Recreation Services, 490-4933

Report Approved by: Bob Bjerke, Chief Planner, Planning & Infrastructure 902-490-1627





Attachment A

E-mail from Mr. Vic Heniss received on February 25, 2013

From: [REDACTED]
Sent: February-25-13 9:45 AM
To: Whitman, Matt; Garnet, Marcus
Cc: Campbell, Melody; Heniss
Subject: 5434 SMB Rd

Gentlemen,

We would like to be excluded from the Coastal Village Gateway. We are presently operating a Marine Construction business. Our present activities involve the following:

- 1) Office and storage buildings
- 2) Steel fabrication
- 3) Concrete precast fabrication
- 4) Material storage
- 5) Assembly of Marine components (floating docks, gangways, etc)
- 6) Automotive and Mechanical maintenance of Trucks and Heavy Equipment

Future Activities on this site (long range planning)

- 1) Trailer fabrication and retail sales/service
- 2) Recreational boat storage (Sales and Service)
- 3) Recreational vehicle Sales and service
- 4) Retail sales

Note: the property shares its' boundary with NSPC at this time with an easement that allows for the High Tension power lines to cross our property.

These lines have been in place for years and the property is suitable for industrial/commercial use only. Approximately 40% of the land is directly impacted by the presence of the NSPC power lines. Across the street there is a large Daycare facility as well as professional offices.

I invested in the property 10 years ago for this reason and would like to have the existing potential of MU2 zoning prevail.

Sincerely,

Vic Heniss

Polaris Marine Services Limited
www.polarismarineservices.com
(902)820-3100 Fax(902)821-3000

**Attachment B
Land Use By-Law Excerpt – Schedule P**

11B.2 OTHER PERMITTED USES

The following properties may also have the following uses:

...

(b) On the lands identified on Schedule P:

(i) Subject to the conditions set forth in clause (ii), permitted uses shall also include:

- a) Storage of materials used for on-site fabrication, maintenance and repair of boats, utility or recreational trailers, docks, decks, rafts, slipways and ramps;
- b) Fabrication, maintenance, repair, sales and service of boats, utility or recreational trailers, docks, decks, rafts, slipways and ramps;
- c) Storage of boats provided that masts are removed; and
- d) Storage of utility or recreational trailers.

(ii) The uses set forth in clause (i) shall be allowed only where all components, equipment, vehicles and vessels undergoing fabrication, under repair, awaiting servicing or being stored, are screened from neighbouring properties and from the public roadway by:

- a) a buffer at least 6 metres (20 feet) wide with evergreen vegetation; or
- b) a 1.8 m (6 ft) high closed-board fence; or
- c) a 1.8 m (6 ft) high evergreen hedge.

Attachment C

Heniss Property Uses – Comparison* Between VG Zone with Schedule P & MU-2 Zone

	VG – Village Gateway with Schedule P		MU-2 – Mixed Use	
	Permitted Uses	Prohibited Uses	Permitted Uses	Prohibited
<u>Residential</u>	<p>Single unit Dwellings; Two unit dwellings; Multiple unit dwellings up to 12 units; Townhouse Dwellings up to 12 units; Existing Mobile dwellings</p> <p>** Maximum building footprint 558 sq. m (6000 sq. ft.); may be exceeded by development agreement</p>	<p>New mobile dwellings; Multi-unit and townhouses exceeding 12 units</p>	<p>Single unit dwellings; Two unit dwellings; Mobile Dwellings; Senior citizen (public) housing under 20 units</p>	<p>Mobile home parks, Multi-unit dwellings or Senior citizen (public) housing over 20 units except by development agreement</p>
<u>Commercial</u>	<p>Banks and financial institutions; Commercial entertainment uses; commercial recreation uses; craft shops; farmers markets; medical clinics; offices; personal service shops; restaurants; retail stores; service shops; existing service stations; tourist accommodations; traditional uses; veterinary clinics Schedule P would allow a Marina</p> <p>** Maximum building footprint 558 sq. m (6000 sq. ft.)</p>	<p>Drive-thrus; adult entertainment ; drive-in theatres; drive-in restaurants; commercial uses that involve dry cleaning fluids; motor vehicle dealerships; adult bookstores; sex-aid shops</p>	<p>All commercial uses except what is prohibited.</p> <p>**Development Agreement required for all commercial development or expansions with a combined gross floor area greater than 697 sq. m (7500 sq. ft.)</p>	<p>Commercial entertainment uses, Campgrounds, or Marinas, except by development agreement</p>
<u>Resource</u>	<p>Greenhouses</p> <p>** Maximum building footprint 558 sq. m (6000 sq. ft.)</p>	<p>Not permitted in zone; except greenhouses</p>	<p>All Resource Uses except what is prohibited</p>	<p>Intensive agricultural uses except by development agreement; Extractive uses or fish processing plants except by development agreement; Sawmills and forestry industrial mills over 278.7 sq. m (3,000 sq. ft.) GFA</p>

Follow-Up to Case 16424 –
Tantallon Crossroads Plan Review
Council Report

	VG – Village Gateway		MU-2 – Mixed Use	
	Permitted Uses	Prohibited Uses	Permitted Uses	Prohibited
<u>Industrial</u>	Schedule P: Fabrication, maintenance, repair, sales and service of boats, trailers, docks, decks, rafts, slipways and ramps; Storage of materials used for on-site fabrication, maintenance and repair; Storage of boats or recreational trailers	Extractive facilities; bulk storage; composting; fabrication/storage except as set forth in Schedule P	Traditional uses and service industries ** Development Agreement required for all industrial development or expansions with a combined gross floor area greater than 697 sq. m (7500 sq. ft.)	Industrial uses; Salvage yards
<u>Community Uses</u>	Institutional uses (educational, denominational, day care, residential care, fire, police, public works, hospital, nursing home, public library, museum, gallery, community centre, hall), recreational or open space use, public transit terminal ** Maximum building footprint 558 sq. m (6000 sq. ft.); may be exceeded by development agreement for institutional buildings	Any use not listed	Any ** Development Agreement required for all commercial development or expansions with a combined gross floor area greater than 697 sq. m (7500 sq. ft.)	None

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* It should be noted that these two zones are different approaches to land use regulations. The MU-2 specifically prohibits defined uses and all other uses are permitted. The VG Zone lists permitted uses and all other uses would be prohibited.

** The VG Zone allows for 558 sq. m (6000 sq. ft.) of footprint to a maximum height to 35 feet. This would potentially enable a building of 2229 sq. m (24,000 sq. ft.) of gross floor area (GFA). The MU-2 only provides for a maximum 697 sq. m (7500 sq. ft.) of GFA, but a development agreement could enable that to be exceeded. Also, it should be noted that the VG Zone allows multiple non-residential buildings. On the Heniss properties staff estimate that up to 15 non-residential buildings could be considered subject to meeting applicable zoning criteria.

**Attachment D
MPS Excerpts – Schedule N**

Much of the Village Centre Sub-Designation is currently characterized by large shopping plazas and large-format retail oriented to front yard parking. This format is not consistent with the vision for a coastal village. Most of these properties are subject to development agreements which were enabled by policies which are now superseded by the Village Centre Sub-Designation. To enable these properties to respond to future market opportunities in a manner which is more consistent with the vision for a coastal village, provisions should be included to enable these development agreements to be modified subject to conditions.

CV-7 Within Schedule N as shown on Map 2, Council shall only consider development agreements, or amendments to existing development agreements, provided that:

- (a) For new buildings:
 - (i) front yard setbacks, building footprints and building heights do not exceed the maximum for the Village Centre Zone;
 - (ii) facades are located parallel to the public street and include display windows, awnings and entry doors facing the public street;
 - (iii) walkways connect the façade entry doors to existing or approved walkways on the same property without the need for pedestrians to cross parking areas, vehicle lanes or drive-through lanes;
 - (iv) no surface parking, drive-through, circulation lane, fuel pump, recharging station or loading bay is located between the public roadway and the building façade; and
 - (v) the provisions of Policy CV-6;
- (b) For expansions to existing buildings:
 - (i) the expansion includes elements that reduce the average front yard setback or that increase the height of the building;
 - (ii) the building includes a façade with display windows, awnings and entry doors oriented to the public street;
 - (iii) the expansion does not add new surface parking, drive-through lanes, circulation lanes, fuel pumps, recharging stations or loading bays between the public street and the building façade; and
 - (iv) the provisions of Policy CV-6.