

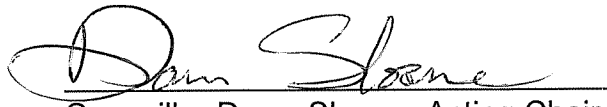


P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

10.2.2

Halifax Regional Council
April 22, 2003

TO: His Worship Mayor Peter Kelly and
Members of Halifax Regional Council

FROM: 
Councillor Dawn Sloane, Acting Chair
Peninsula Community Council

DATE: April 16, 2003

SUBJECT: **Case # 00540: Municipal Planning Strategy and Land Use Bylaw
Amendment - Corner of Chester Avenue and Connolly Street, Halifax**

ORIGIN

Peninsula Community Council April 14, 2003

RECOMMENDATION

That Peninsula Community Council:

1. Recommend that Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use Bylaw as contained in Attachment "A" of the April 2, 2003 staff report and schedule a public hearing for May 20, 2003.
2. Recommend to Regional Council that the amendments to redesignate the lands at Chester Avenue and Connolly Street, as set out in Attachment "A" of the report, to "Residential Environments" and to rezone to R-2T (Townhouse) Zone, be adopted.

PLEASE RETAIN FOR PUBLIC HEARING

BACKGROUND

This matter was before Peninsula Community Council as the result of a request on December 23, 2002 to amend the Halifax Municipal Planning Strategy and Land Use Bylaw to permit a townhouse development at the corner of Chester Avenue and Connolly Street, Halifax. Regional Council approved proceeding with an amendment process on March 4, 2003 and a public participation meeting was held on March 31, 2003.

DISCUSSION

Peninsula Community Council agreed with the staff recommendation and moved the matter forward to Regional Council for a public hearing.

BUDGET IMPLICATIONS

N/A

FINANCIAL MANAGEMENT/BUSINESS PLAN

N/A

ALTERNATIVES

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use Bylaw and schedule a public hearing for May 13, 2003.
2. Reject the recommendation of Peninsula Community Council and move a motion to take no further action in this regard.

ATTACHMENTS

1. April 2, 2003 staff report re Case 00540: MPS and LUB Amendment- Corner of Chester Avenue and Connolly Street

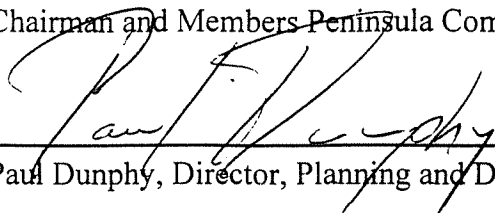
Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208. Report prepared by: Sherryll Murphy, Legislative Assistant 490-6517.

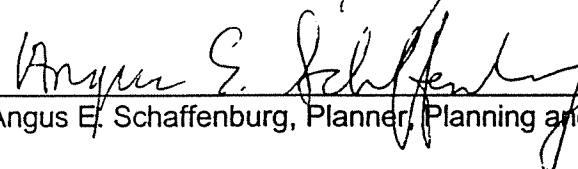


PO Box 1749
Halifax, Nova Scotia
B3J3A5 Canada

Peninsula Community Council
April 14, 2003

TO: Chairman and Members Peninsula Community Council

SUBMITTED BY: 
Paul Dunphy, Director, Planning and Development Services


Angus E. Schaffenburg, Planner, Planning and Development Services

DATE: April 2, 2003

SUBJECT: Case 00540: MPS and LUB Amendment - Corner of Chester Avenue and Connolly Street, Halifax

ORIGIN

1. Request of December 23, 2002 to amend the Halifax Municipal Planning Strategy and Land Use Bylaw to permit a townhouse development at the corner of Chester Avenue and Connolly Street, Halifax.
2. Regional Council on March 4, 2003 approved proceeding with the amendment process.
3. Public participation meeting held on March 31, 2003

RECOMMENDATION

It is recommended that Peninsula Community Council:

1. Recommend that Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use Bylaw as contained in Attachment "A" and schedule a public hearing for May 13, 2003;
2. Recommend to Regional Council that the amendments to redesignate the lands at Chester Avenue and Connolly Street, as set out in Attachment "A", to "Residential Environments" and to rezone to R-2T (Townhouse) Zone be adopted.

BACKGROUND

Location, Designation and Zoning: The 0.5 acre property, approximately 214 feet by 100 feet, is located at the corner of Chester Avenue and Connolly Street. This site is within an Institutional designation on the Generalized Future Land Use Map and is zoned P (Park and Institutional) Zone. The intent of these policies is to encourage institutional development. The area was rezoned (Case 4878) from Armed Forces Zone in 1985. The Armed Forces Zone contained no land use controls.

Synopsis of Proposed Development: The applicant wishes to build ten townhouses. If the property is rezoned they would have to be developed under the regulations of the townhouse zone. The Halifax Independent Elementary School will be built on the parcel immediately to the north of this site. The school use is permitted under the present zoning.

History of the Property: The lands for the townhouse development comprise a portion of the lands conveyed to the Federal Government (Department of National Defence) in 1955 in exchange for land at Windsor Park for the St. Catherine School site. These lands were declared surplus by the Department of National Defence and recently Canada Lands Limited, a federal Crown Corporation, after a proposal call, sold them to Chester Street Homes Limited. This parcel has remained in an undeveloped state as far as staff is aware.

On March 31, 2003 a public participation meeting (see Attachment "C") was held to discuss the proposal.

DISCUSSION

Site specific MPS amendments and policy reviews should generally only be considered where circumstances related to policies of a MPS have changed significantly. This test is met as these lands have become surplus to the needs of the Federal Government.

The townhouses will be generally consistent with the scale of development in the surrounding neighbourhood. The townhouses would have similar land use impacts to single detached or duplex dwellings. They should have a positive impact on the neighbourhood by extending the low rise residential development along Chester Street. Sanitary sewer and domestic water services are available. Space is available to accommodate the expected student population according to the Halifax Regional School Board.

HRM will receive 5% parkland dedication, as required under the Municipal Government Act, when subdivision of the parcel for townhouses is approved. Staff will determine at that time if land or cash-in-lieu will be taken.

Staff suggests that the most appropriate action would be to redesignate the property to "Residential Environments" on the Generalized Future Land Use Map and to rezone the property to a R-2T (Townhouse) Zone. The amendments are set out in Attachment "A".

As a housekeeping matter, in conjunction with this request, the existing residential properties along Chester Avenue and Connaught Avenue should be redesignated to "Residential Environments" on the Generalized Future Land Use Map. The Institutional designation is not appropriate for a group of residentially used and zoned properties. The properties are already appropriately zoned R-2 (General Residential). These amendments are also set out in Attachment "A".

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN:

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

ALTERNATIVES

1. Proceed with the requested amendment. This is recommended for reasons described above.
2. Refuse the requested amendment. This is not recommended for the reasons outlined above.

ATTACHMENTS

Map1: Proposed Changes to the Generalized Future Land Use Map
Map 2: Proposed Rezoning
Attachment A: Proposed Amendments to the Halifax Municipal Planning Strategy and Peninsula Area Land Use Bylaw
Attachment B: Extracts from the Planning Strategy and Peninsula Area Land Use Bylaw
Attachment C: Notes from Public Participation Meeting of March 31, 2003.

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

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



Map 1 - Generalized Future Land Use

Chester Avenue
Halifax

Designation

RESENV Residential Environments
INS Institutional

Halifax Plan Area

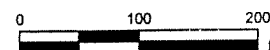


Subject site



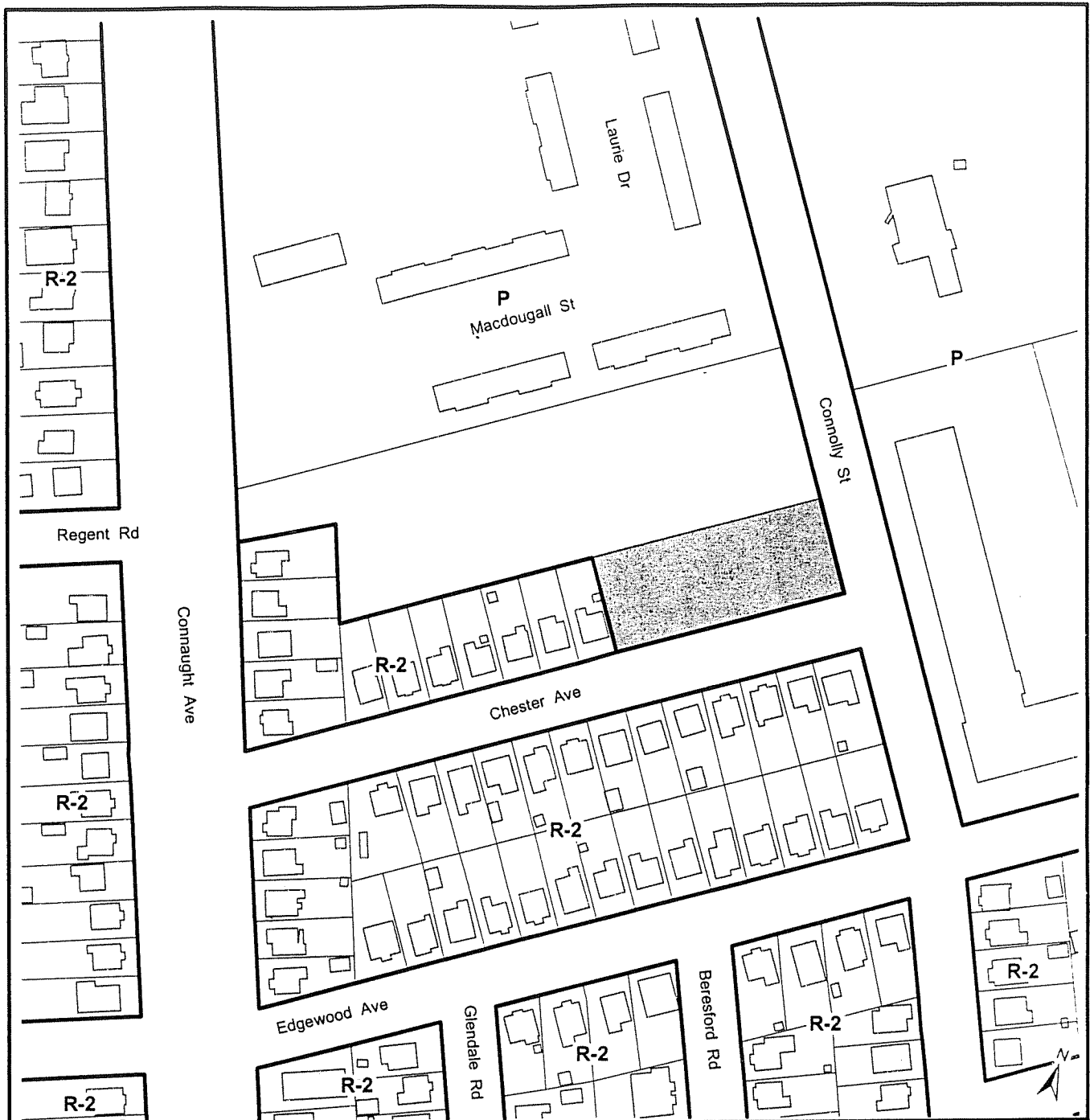
Area to be redesignated
from Institutional to
Residential Environments

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



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

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



Map 2 - Zoning

Chester Avenue
Halifax

Zone

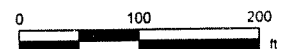
R-2 General Residential
P Park and Institutional

Halifax Plan Area



Area to be rezoned from
P (Park and Institutional)
to R-2T (Townhouse)

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-law Area.

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

Attachment A

Case 00540: Amendment to Halifax Municipal Planning Strategy

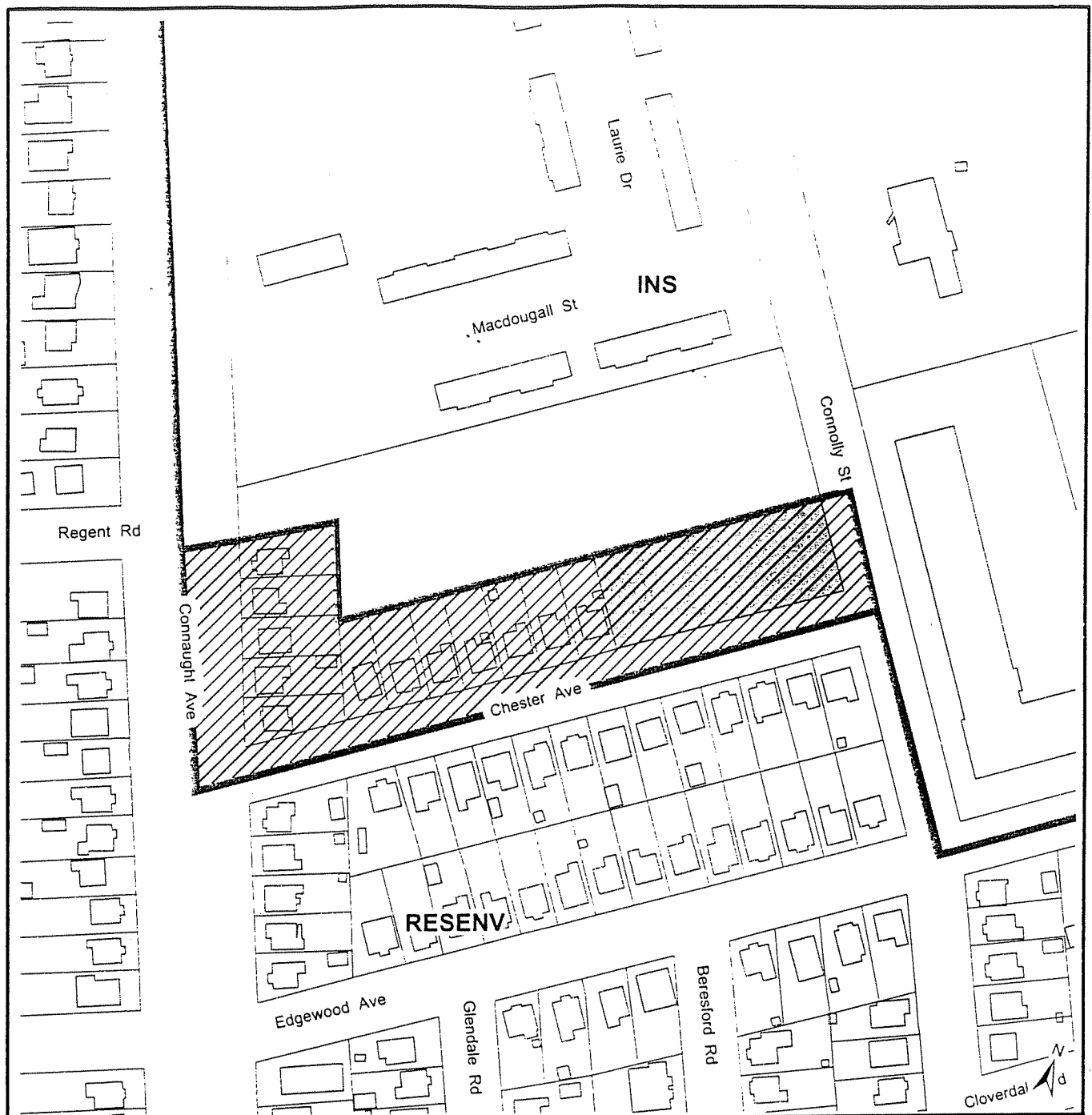
BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

1. Amend the Generalized Future Land Use Map (Map 9) by redesignating the property at Chester and Connolly to "Residential Environments" from "Institutional" as shown on Map 1 attached hereto and as shown as Block 1 on the Plan of Survey prepared by Thompson Conn Limited on December 19, 2002, which was approved by the Development Officer on February 21, 2003. In addition, amend the Generalized Future Land Use Map (Map 9) by redesignating the properties at Chester Avenue and Connaught Avenue to "Residential Environments" from "Institutional" as shown on Map 1 attached hereto.

I HEREBY CERTIFY that the amendment to the Municipal Planning Strategy for Halifax, as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2003.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2003.

Vi Carmichael, Municipal Clerk



Map 1 - Generalized Future Land Use

Chester Avenue
Halifax

Designation

RESENV Residential Environments
INS Institutional

Halifax Plan Area

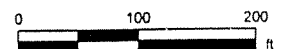


Subject site



Area to be redesignated
from Institutional to
Residential Environments

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



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

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

Case 00540: Amendment to Halifax Peninsula Land Use By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Peninsula Area Land Use By-law of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

1. Amend the Zoning Map ZM-1 by rezoning the property at the corner of Chester Avenue and Connolly Street to R-2T (Townhouse) Zone from P (Park and Institutional) Zone as shown on Map 2 attached hereto and as shown as Block 1 on the Plan of Survey prepared by Thompson Conn Limited on December 19, 2002, which was approved by the Development Officer on February 21, 2003.

I HEREBY CERTIFY that the amendment to the Peninsula Area Land Use By-law for Halifax, as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2003.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2003.

Vi Carmichael, Municipal Clerk



Map 2 - Zoning

Chester Avenue
Halifax

Zone

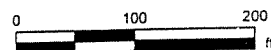
R-2 General Residential
P Park and Institutional

Halifax Plan Area



Area to be rezoned from
P (Park and Institutional)
to R-2T (Townhouse)

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-law Area.

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

Attachment "B" Extracts from the Municipal Planning Strategy and Land Use Bylaw

2. RESIDENTIAL ENVIRONMENTS

- Objective The provision and maintenance of diverse and high quality housing in adequate amounts, in safe residential environments, at prices which residents can afford.
- 2.1 Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.
- 2.1.1 On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhoods; and the City shall develop the means to do this through the detailed area planning process.
- 2.2 The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.
- 2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.
- 2.4.1 Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.
- 2.6 The development of vacant land, or of land no longer used for industrial or institutional purposes within existing residential neighbourhoods shall be at a scale and for uses compatible with these neighbourhoods, in accordance with this

Plan and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.

- 2.7 The City should permit the redevelopment of portions of existing neighbourhoods only at a scale compatible with those neighbourhoods. The City should attempt to preclude massive redevelopment of neighbourhood housing stock and dislocations of residents by encouraging infill housing and rehabilitation. The City should prevent large and socially unjustifiable neighbourhood dislocations and should ensure change processes that are manageable and acceptable to the residents. The intent of this policy, including the manageability and acceptability of change processes, shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.
- 2.8 The City shall foster the provision of housing for people with different income levels in all neighbourhoods, in ways which are compatible with these neighbourhoods. In so doing, the City will pay particular attention to those groups which have special needs (for example, those groups which require subsidized housing, senior citizens, and the handicapped).
- 2.9 The City shall actively seek to influence the policies and programs of other levels of government in order to implement the City's housing policies and priorities, and shall also actively seek taxation preference as one method of encouraging rehabilitation of existing housing stock.

5. INSTITUTIONS

- Objective The enhancement of employment opportunities by encouraging existing and potential institutional uses in appropriate locations.
- 5.1 Unless clearly inappropriate for the good development of the City, existing regional and City-wide institutional facilities shall be encouraged to remain in their present locations and efforts shall be made to protect, maintain and upgrade them.
- 5.2 The City shall encourage institutional development of a major nature in those areas designated generally on Map 9. The City shall develop standards and boundaries which will protect neighbouring areas, especially residential areas, from encroachment and nuisance effects.
- 5.3 The City shall encourage institutional development of a major nature in those areas designated generally on Map 9. Pursuant to Policy 5.2, where such areas

fall within the bounds of a designated area for detailed planning, the City shall resolve the exact nature of the desired land use pattern through the detailed area planning process.

15. GENERALIZED FUTURE LAND USE MAP

- 15.1 Map 9 shall be considered as the expression of intent of the City of Halifax for a future land use pattern based on the policies outlined heretofore.
- 15.2 The areas of future land use shown on Map 9 shall be determined primarily by the objectives and policies which correspond to the primary use shown. All other objectives and policies shall apply as appropriate, but shall be subordinate to the primary objectives and policies.

Peninsula Land Use Bylaw

R-2 ZONE

GENERAL RESIDENTIAL ZONE

- 35(1) The following uses shall be permitted in any R-2 Zone:
- (a) R-1 uses as hereinbefore set out;
 - (b) semi-detached or duplex dwelling;
 - (c) buildings containing not more than four apartments;
 - (d) (Deleted)
 - (e) (Deleted)
 - (f) uses accessory to any of the foregoing uses.

REQUIREMENTS

- 37 Buildings erected, altered, or used for R-1 and R-2 uses in an R-2 Zone shall comply with the following requisites:

	Lot Frontage Ft.	Lot Area Sq.Ft.	Side Yard Ft.
R 1 Uses	40	4000	4
duplex	50	5000	5
3-unit and 4-unit apartment building	80	8000	6
38	Front and Rear Yards - The requirements of Sections 29 and 30 inclusive above shall apply.		
39	Lot coverage - Maximum lot coverage shall be 35 percent.		
40	Maximum height - Maximum height shall be 35 feet.		

R-2T ZONE

TOWNHOUSE ZONE

- 43R(1) The following uses shall be permitted in any R-2T zone:
- (a) R-1 and R-2 uses;
 - (b) townhouse building;
 - (c) uses accessory to any of the foregoing uses.

SIGNS

- 43S No person shall in any R-2T zone erect, place or display any billboard or sign except those permitted in R-1 zones.

REQUIREMENTS

- 43T(1) Buildings erected, altered or used for R-1 or R-2 uses in an R-2T zone shall comply with the requirements of the R-1 and R-2 zones respectively.

43T(2) Buildings erected, altered, or used as a townhouse building shall comply with the following requirements:

- (a) Minimum lot frontage 18 feet per townhouse, plus 20 feet
- (b) Minimum lot area 1,800 sq.ft. per townhouse plus
2,000 sq.ft.
- (c) Maximum lot coverage 40 percent, provided that this
regulation shall be applied as if the
lot was subdivided into as many lots
as townhouses
- (d) Minimum side yard 10 feet
- (e) Minimum front yard 15 feet
- (f) Mean rear yard 20 feet
- (g) Maximum height 35 feet

43U

SUBDIVISION OF TOWNHOUSE BUILDING

- (a) A townhouse building may be subdivided so that each townhouse is on its own lot, provided that the minimum requirements of Section 43T(2) are met. Furthermore, no side yard shall be required along the common lot boundary dividing the townhouse building.
- (b) Notwithstanding Section 43T(2)(a), for townhouse buildings existing on the date of adoption of this provision, the townhouse building may be subdivided so that each townhouse is on its own lot, provided that each lot has at least 10 feet of frontage on a street. Furthermore, no side yard shall be required along the common boundary dividing the townhouse building.

ACCESSORY BUILDINGS

43V

An accessory building shall not require any side yard or rear yard if such building is located entirely within the rear yard of the lot on which such building is located. In the case of a corner lot at the rear of which (whether a lane intersects

or not) is a lot fronting on a street which flanks such corner lot, no accessory building on such corner lot shall project beyond the front yard of the lot in the rear, otherwise the accessory building shall be a minimum of 10 feet from the street line.

P ZONE

PARK AND INSTITUTIONAL ZONE

67(1) The following uses shall be permitted in any P Zone:

- (a) public park;
- (b) recreation field, sports club, and community facilities;
- (c) a cemetery;
- (d) a hospital, school, college, university, monastery, church, library, museum, court of law, or other institution of a similar type, either public or private;
- (da) child care centre;
- (e) uses accessory to any of the above uses.

Attachment "C" Notes from Public Participation Meeting of March 31, 2003

In attendance: Councillor Blumenthal
Angus Schaffenburg, Planner
Gail Harnish, Planning & Development
Austin Park, Developer

Mr. Angus Schaffenburg called the meeting to order at approximately 7:00 p.m. in Halifax Hall. He noted the meeting related to a plan amendment for the property at the corner of Connolly Street and Chester Avenue. Referencing a flow chart for the plan amendment process, he pointed out we are at the public meeting step. It is an opportunity for people to express their views on the project, ask questions, and ask us to seek more information. After this meeting, staff will prepare a report for the Peninsula Community Council who will forward it on with a recommendation to Regional Council. It is Regional Council who will hold the public hearing for this application.

Mr. Schaffenburg advised the property is at the corner of Chester Avenue and Connolly Street. It has been owned by the Department of National Defense for a number of years and was recently sold to Canada Lands. The proposal is to develop ten townhouses under the R-2T (Townhouse) Zone. The applicant has applied to redesignate the land from Institutional to Residential Environments and to rezone to R-2T (Townhouse) Zone. The R-2T Zone allows townhouses as well as R-2 uses which includes buildings containing up to four units, semi-detached or duplex buildings, or single unit dwellings.

Mr. Schaffenburg noted the other issue is the existing houses along Chester Avenue and Connolly Street are in the Institutional Designation. Since we are going through this plan amendment process, staff thought it wise to redesignate the houses to Residential Environments at the same time. When the original plan was done in 1978, the designations were much more generalized than we use today. There would be no change in zoning for the existing houses in the R-2 zone, just a change in the designation. The Institutional Designation does not fit houses zoned R-2.

Mr. Austin Park, developer, advised that when they purchased this land they looked at different options as to how to use this land. The Institutional zone allows them to put an institutional use on this site. The surrounding neighbourhood consists of all single family houses. When they acquired the land, they decided they wanted to keep the same format. The houses there are very modest - prefabricated housing built around the 2nd World War. They decided the townhouse format would be more fitting in that they could sell the homes at a price that would be more affordable for people wanting to live in that area. New single family houses are very expensive. Compared to the other houses in the area, they did not feel single family houses would be appropriate.

Mr. Park indicated the houses are being built to be sold - they are not being used for rental properties. They are hoping to get started with construction as soon as the permit process has been finished.

Ms. Jamie MacDonald, 6555 Chester Avenue, questioned why they felt single family homes would not be considered appropriate. She referenced a property on the corner of Chester Avenue and Connolly Street which sold within four days and a single family dwelling on Connaught Avenue which sold within one-two weeks.

Mr. Park responded because of the cost of constructing a new single family home. The land is very expensive. To buy the land and build a new single family home would push the price beyond what the market could afford. They feel the purchase price of a new home in that area would be too expensive. The homes in that area are fairly small and quite old.

Mr. Dave Faryniuk, 1122 Lucknow Street, commented he was not impressed with piece-meal zoning and did not understand why the City wants to do this kind of change in zoning. He questioned why the developer could not work within the R-2 zoning.

Mr. Schaffenburg responded the property is zoned Institutional. In order to develop residential on the property, the zoning has to be changed. Adjacent homes are zoned R-2. R-2 zoning is one option, however, the developer has requested R-2T zoning. The R-2T zone has some similarities in scale to R-2 and R-1 housing. In terms of whether adjacent areas would be rezoned to allow for townhouses, the area behind the property has been purchased and will be used for a school which is an institutional use. He was not aware of any other requests or applications in this area for townhouse zoning at this time.

Councillor Blumenthal asked that the developer show what the houses will look like and talk about the size and number of bedrooms.

Mr. Park referenced a sketch as a concept. New townhouses were built on Memorial Drive in Halifax and they are proposing to build a similar format. They are intending the units for family use and have options for two or three reasonable sized bedrooms.

Ms. Joanne Faryniuk, 1122 Lucknow Street, questioned what the differences are in terms of requirements for green space for the R-2 and R-2T zones.

Mr. Park advised that the townhouses will cover 38% of the lot. The balance will be green space.

Mr. Schaffenburg advised that the lot coverage requirement in the R-2 zone is 35% and 40% in the R-2T zone. Both zones have a 35' height restriction.

Mr. Park commented that they could substantially cover more of the lot if they were to develop an institutional use. They will save a lot more green space by building townhouses.

It was questioned whether there was any adjacent land that could be purchased to make the lots bigger.

Mr. Park responded that the balance of the land would be used for a school. There is no additional land they can purchase.

Mr. Daniel Walker indicated he was associated with the school on the adjacent property. As future neighbours of the property under construction, they appreciate the scale of the proposed project. It is not high density housing and they think it is quite appropriate for the neighbourhood they want to be a part of.

Mr. Walker advised that in terms of whether there would be extra land available, their anticipated use of the property for the school would not allow for an expansion of the townhouse development beyond its current boundary. There is no question of any extra land. As far as he could see, there is no other land that could be considered that is adjacent to that property.

Councillor Blumenthal questioned how much land would be left for the City.

Mr. Schaffenburg noted that the land dedication requirement under the Municipal Government Act is 5%. For this piece of property, that translates to a little more than 2000 sq.ft.

Councillor Blumenthal questioned whether it would be big enough for a playground.

Mr. Schaffenburg responded probably not. When they come in to subdivide, staff will have to look at the land dedication and then make a determination as to whether or not we take it as money or land. That negotiation would occur with our parkland planning staff.

Mr. Faryniuk stated it was his understanding that to get this rezoning, the developer would have to negotiate some kind of compensation to the City.

Mr. Schaffenburg indicated that the Institutional zone does not allow residential uses. The developer is asking the municipality to redesignate and rezone the land to R-2T. If the Municipality approves the MPS amendment/rezoning, we do not have any other bartering rights.

Mr. Faryniuk stated the City should be telling the developer that if they agree to change the zoning, they should be giving something in exchange, perhaps repairs to a sidewalk.

Mr. Schaffenburg advised that HRM will be requesting the developer to build a sidewalk in front of the townhouses. That will be one of the requirements of our Development Engineering staff. We are not able to ask for anything other than allowed for under the Municipal Government Act. Under this process, we can ask for 5% land dedication for parkland.

Ms. Jacqueline MacDonald, Chester Avenue, questioned whether the developer had anything to do with the school project in terms of the soccer field and the trees.

It was responded that they are two separate projects. Mr. Schaffenburg pointed out that the school is being developed under the existing institutional zoning which allows schools as-of-right so there is no requirement to go through any planning process with the Municipality.

The principal of the school was in attendance and offered to speak with individuals following the meeting.

Mr. Park commented they could put an institutional building on the site as-of-right but they thought there would be much less impact in terms of traffic if they built townhouses. Also, they can cover substantially more of the site with an institutional use as opposed to townhouses.

Councillor Blumenthal pointed out that this is just the first step of the process. The report will go to both Peninsula Community Council and Regional Council and there will be further opportunities for the people to speak either in favour or against the proposal.

Mr. Schaffenburg advised that the staff report becomes a public document once it is tabled with the Peninsula Community Council and copies of the report can be made available. Abutting residents and those on the mailing list will be notified at the time of the public hearing being held by Regional Council.

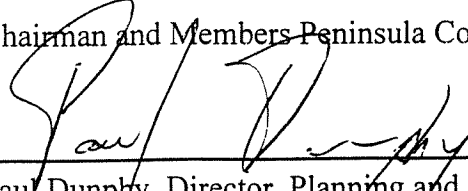
The meeting adjourned at approximately 7:25 p.m.

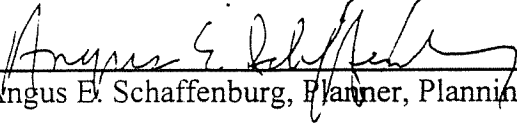
Peninsula Community Council
April 14, 2003

TO:

Chairman and Members Peninsula Community Council

SUBMITTED BY:


Paul Dunphy, Director, Planning and Development Services


Angus E. Schaffenburg, Planner, Planning & Development Services

DATE:

April 2, 2003

SUBJECT:

**Case 00451: Request for a MPS/LUB Amendment to Permit a Lounge
at 5576 Fenwick Street, Halifax**

ORIGIN

- . Request of February 20, 2002 to amend the Halifax Municipal Planning Strategy and Land Use Bylaw to permit a lounge at 5576 Fenwick Street (operating under the name "My Other Brother Darrell's").
- . Regional Council on March 18, 2003 approved proceeding with a site specific amendment process.
- . Public meeting held on March 31, 2003.

RECOMMENDATION

It is recommended that Peninsula Community Council recommend to Regional Council that:

No further action be taken on the request to amend the Halifax Municipal Planning Strategy and Land Use Bylaw for the property located at 5576 Fenwick Street, Halifax to permit a lounge.

BACKGROUND

Synopsis of Proposed Development: The property is located at 5576 Fenwick Street (operating under the name "My Other Brother Darrell's"). The applicant wishes to designate a portion (up to 600 square feet) of an existing licensed restaurant as a lounge area. This requires an amendment to the Halifax Municipal Planning Strategy and Land Use Bylaw. Under the Nova Scotia Alcohol and Gaming Authority regulations, a licenced restaurant, permitted within the present zone, is not allowed to sell alcoholic beverages except when purchased with a meal.

Location, Designation and Zoning: This site is within a Commercial Designation on the Generalized Future Land Use Map of the South End and is zoned RC-2 (Residential/Minor Commercial) Zone. The intent of the MPS policies is to limit commercial uses within the South End area to minor commercial uses. Lounges are not referenced in the policies for Minor Commercial Centres. This use is not permitted on this property as-of-right, by development agreement, or through a rezoning process. The only option is to request a plan amendment which would support this type of use in this area.

History of the Property: In August 1992 an application was received to rezone the subject property from RC-2 to C-2 (General Business) Zone in order to enable a lounge licence. Staff did not recommend the application. The application was withdrawn a day before the scheduled public hearing in December, 1992.

In a report dated October 10, 1990 staff had favoured permitting lounges in all minor commercial zones throughout the city where associated with, but subordinate to a restaurant. A second option identified at that time was to permit lounges only in residential-commercial designated areas. Special controls were suggested to ensure lounges remained subordinate to the principal use in order minimize land use impacts. Either of these options would have enabled the applicant's request to proceed. However, in 1991, Council approved plan and land use bylaw amendments to allow lounges of up to 600 square feet only within RC-2 Zoned areas along Spring Garden Road, and decided not to consider them within other minor commercial areas. Staff's recommendation on this current application is therefore consistent with previous staff reports and council decisions.

On March 31, 2003 a public meeting (see Attachment "D") was held to discuss site specific amendments to permit a lounge at 5576 Fenwick Street.

DISCUSSION

Site specific plan amendments and policy reviews should generally only be considered where circumstances related to policies of Council have changed significantly. In staff's opinion that

case has not been made. If Council feels that allowing lounges in conjunction with restaurants would not alter the character of minor commercial areas then a Halifax wide, or at least, South End wide amendment should be considered. Otherwise this process is likely to be repeated for similar requests elsewhere in the Peninsula area.

Most of the residents attending the public participation meeting on March 31, 2003 were not supportive of a lounge use. They felt there was enough activity in the area and that among other issues, an already difficult parking problem would be exacerbated. Petitions were also filed related to the meeting and are attached to Attachment "D".

Some residents also asked staff to look at the parking issue in general on Fenwick Street. Staff will report back to Peninsula Community Council on this specific request.

This report, as a result of the direction from Regional Council, provides two options for permitting a lounge at this property.

Option A: By-Right: Amendments adopted under this option would use the same land use controls as presently used for lounges in the RC-2 Zone in the Spring Garden Road plan area. The proposed provision would apply specifically to 5576 Fenwick Street and limit the area of the lounge to 600 square feet (Attachment "A").

Option B: Development Agreement: The development agreement approach allows control over more matters than a land use bylaw (Attachment "B"). This approach has a slightly longer approval process and the development agreement is appealable. Staff has placed the matters in the development agreement that the applicant generally stated he would adhere to during the public meeting process. There are limitations on hours of operation, entertainment and gaming machines, for example (see Attachment "C").

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN:

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

ALTERNATIVES

ALTERNATIVES

1. Refuse the requested amendment. This is recommended for the reasons outlined above.
2. Approve amendments that would allow the lounge use at 5576 through by-right as outlined in Attachment "A".
3. Approve amendments that would allow the lounge use at 5576 through development agreement as outlined in Attachment "B" and approve the draft development agreement in Attachment "C".

ATTACHMENTS

Map 1: Generalized Future Land Use

Map 2: Zoning

Attachment "A": Proposed Amendments to the Halifax Municipal Planning Strategy and Peninsula Area Land Use Bylaw

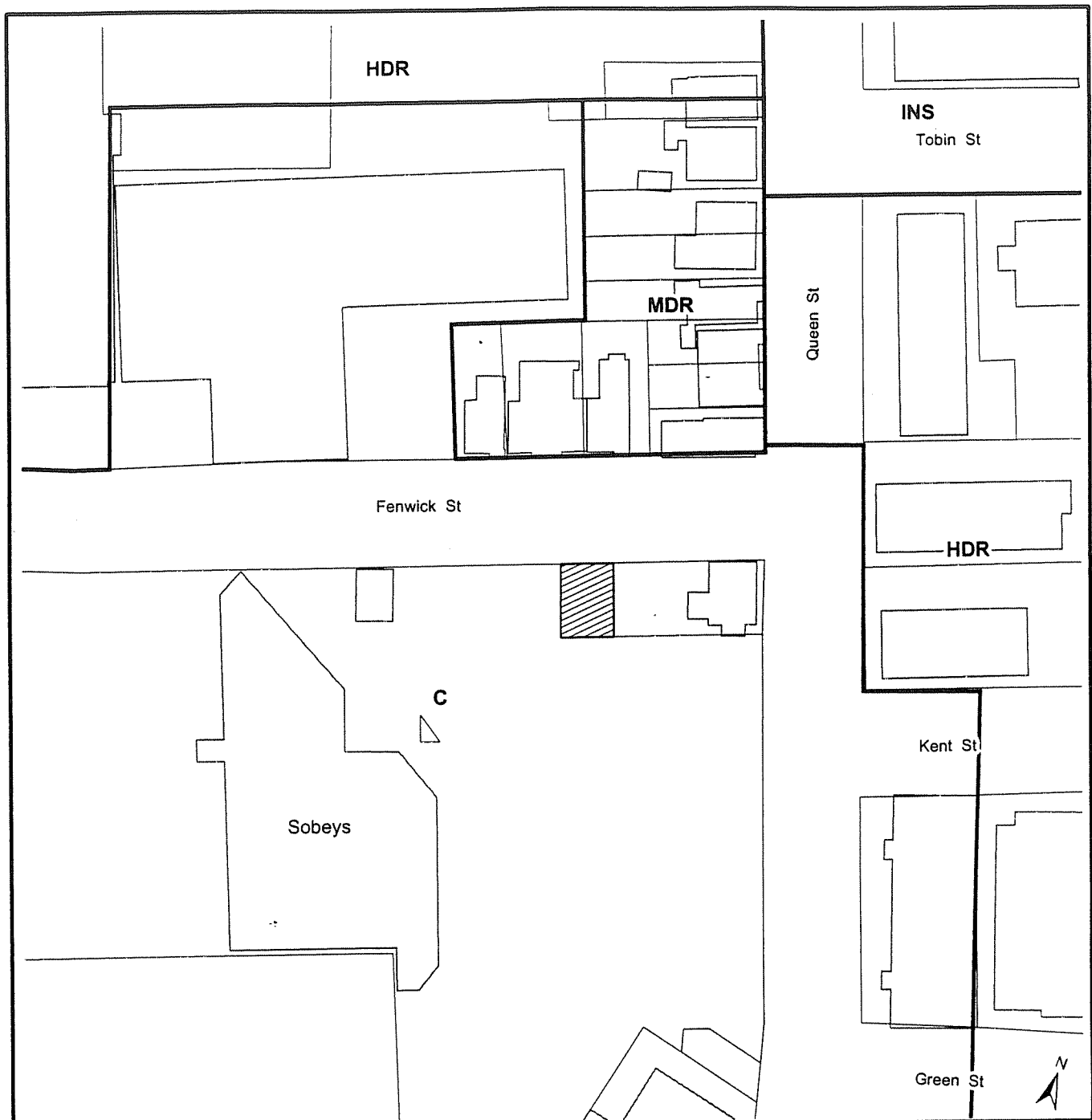
Attachment "B": Proposed Amendments to the Halifax Municipal Planning Strategy and Peninsula Area Land Use Bylaw

Attachment "C": Draft Development Agreement

Attachment "D": Notes from Public Participation Meeting of March 31, 2003 and copies of correspondence

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

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



Map 1 - Generalized Future Land Use

5576 Fenwick Street
Halifax



Subject property

Halifax Plan Area

Designation

C Commercial
MDR Medium Density Residential
HDR High Density Residential
INS Institutional

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES




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

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



Map 2 - Zoning

5576 Fenwick Street
Halifax

 Subject property

Halifax Plan Area

Zone

R-2A General Residential Conversion
R-3 Multiple Dwelling
C-2A Minor Commercial
RC-2 Residential Minor Commercial
P Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES

0 100
ft

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-law Area.

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

Attachment A: Case 00540: Amendment to Halifax Municipal Planning Strategy

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

Add a new Policy 7.6.5 immediately after Policy 7.6.4.1 as follows:

“For the property at Civic Number 5576 Fenwick Street (PID 40463788), in addition to the uses permitted by the zone the Land Use Bylaw shall also permit a lounge in association with a restaurant, provided that the intensity of use and impact on the character of the area shall be controlled through the Land Use Bylaw by limiting the size of the lounge and ensuring that it is subordinate to the associated restaurant.”

I HEREBY CERTIFY that the amendment to the Municipal Planning Strategy for Halifax, as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2003.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2003.

Vi Carmichael, Municipal Clerk

Attachment "A" Continued: Amendment to Halifax Peninsula Land Use By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Peninsula Area Land Use By-law of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:.

Peninsula Land Use Bylaw

Add a section DA to the RC-2 Zone (Residential/Minor Commercial Zone) that reads:

“a lounge in association with a restaurant at 5576 Fenwick Street (PID 40463788)”

Lounge - 5576 Fenwick Street

“48BF The seating area for the lounge shall be a maximum of 600 square feet and in no case shall the seating area for the lounge exceed the seating of the restaurant.”

I HEREBY CERTIFY that the amendment to the Peninsula Area Land Use By-law for Halifax, as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2003.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2003.

Vi Carmichael, Municipal Clerk

Attachment B: Case 00540: Amendment to Halifax Municipal Planning Strategy

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

Add a new Policy 7.6.5 immediately after Policy 7.6.4.1 as follows:

“For the property at Civic Number 5576 Fenwick Street (PID 40463788), in addition to the uses permitted by the zone the Land Use Bylaw shall also permit, by development agreement, a lounge in association with a restaurant, provided that the intensity of use and impact on the character of the area shall be controlled. The following matters shall be considered in reviewing any application:

1. The hours of operation are controlled to lessen the impact on the surrounding neighbourhood;
2. No video lottery terminals or gaming devices are permitted;
3. Live entertainment is not permitted; and
4. The lounge use shall not be greater than 600 square feet or greater than the area of the restaurant.

I HEREBY CERTIFY that the amendment to the Municipal Planning Strategy for Halifax, as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2003.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2003.

Vi Carmichael, Municipal Clerk

Attachment "B" Continued: Amendment to Halifax Peninsula Land Use By-law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Peninsula Area Land Use By-law of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

Peninsula Land Use Bylaw

South-End Development Agreements

"5576 Fenwick Street"

(P) permit a lounge in association with a restaurant in accordance with Policy 7.6.5."

I HEREBY CERTIFY that the amendment to the Peninsula Area Land Use By-law for Halifax, as set out above, was passed by a majority vote of the whole Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2003.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2003.

Vi Carmichael, Municipal Clerk

Attachment "C" Draft Development Agreement

THIS AGREEMENT made this day of , 2003,

BETWEEN:

ATEF KHOURY,

a body corporate, in the County of Halifax,
Province of Nova Scotia ("the Owner"),

OF THE FIRST PART

-and-

MCJ RESTUARANT LIMITED,

a body corporate, in the County of Halifax,
Province of Nova Scotia ("the Developer"),

OF THE SECOND PART

-and-

HALIFAX REGIONAL MUNICIPALITY,

a body corporate, in the County of
Halifax, Province of Nova Scotia
("the Municipality")

OF THE THIRD PART

WHEREAS Atef Khoury is the registered owner of lands located (5576 Fenwick Street, Halifax) and which said lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Lands");

AND WHEREAS Dan Joseph has requested that the Municipality enter into a Development Agreement to allow for a lounge in association with a restaurant on the Lands pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for Halifax;

AND WHEREAS the Peninsula Community Council for the Municipality approved this request at a meeting held on , referenced as Municipal Case Number 00451;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

PART 1: DEFINITIONS

Lounge: As defined and approved by the Nova Scotia Alcohol and Gaming Authority

PART 2: GENERAL REQUIREMENTS AND ADMINISTRATION

- 2.1 The Developer agrees that the Lands shall be subdivided, developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 2.2 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law of the Halifax Peninsula Area as may be amended from time to time.
- 2.3 Except as otherwise provided for herein, the subdivision of the Lands shall comply with the requirements of the Subdivision By-law of Halifax, as may be amended from time to time.
- 2.4 Pursuant to Section 2.2 and 2.3, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.
- 2.5 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 2.6 The Developer and each lot owner shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any lands owned by the Developer or lot owner.

- 2.7 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop and use the Lands in conformance with the site plans, design drawings, renderings and supporting technical documents, attached as the following Schedules to this Agreement:

Schedule "A"	Legal Description of the Lands of ATEF KHOURY , identified as Civic No 5576 Fenwick Street, Halifax.
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3.2 General Description of Land Uses

The use of the Lands permitted by this Agreement, in addition to the uses permitted under the zone and the provisions of the Peninsula Land Use Bylaw subject to its terms and as generally illustrated on Schedule "B", are the following:

- (a) the service of liquor without food purchase (lounge)

3.3 Detailed Provisions

1. The service of liquor without food purchase (lounge) within the main building subject to the following:
 - a) The hours of operation shall not exceed 11 a.m. to 12 a.m. (midnight).
 - b) No video lottery terminals or gaming devices shall be permitted.
 - c) Live entertainment shall not be permitted.
 - d) Approval of the Nova Scotia Alcohol and Gaming Authority shall be required.
 - e) The lounge area shall not exceed that of the restaurant, nor exceed in any case 600 square feet.
2. The service of liquor without food purchase (lounge) is permitted on any outside verandah, patio and deck adjacent to the main building subject to the following:
 - a) The hours of operation shall not exceed 11 a.m. to 12 a.m. (midnight).
 - b) Live entertainment shall not be permitted.

- c) Lighting used for the patios or decks must be extinguished by 12 a.m. (midnight) except those required for safety and security.
- d) Approval of the Nova Scotia Alcohol and Gaming Authority; and
- e) The lounge area shall not exceed that of the restaurant, nor exceed in any case 600 square feet.

PART 4: AMENDMENTS

- 4.1 The provisions of this Agreement relating to the following matters are identified as and shall be deemed to be not substantial and may be amended by resolution of the Community Council:

(a) hours of operation

- 4.2 Amendments to any matters not identified under Section 4.1 shall be deemed substantial and may only be amended in accordance with the approval requirements of the Municipal Government Act.

PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 5.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.
- 5.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 5.3 Upon the transfer of title to any lot, the owner thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.
- 5.4 Notwithstanding Section 5.4 or any transfer of title to a lot, the Developer shall continue to be responsible for the fulfilment of the Developer's covenants under this Agreement and any Subdivision Agreement entered pursuant to this Agreement.

PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

- 6.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within two days of receiving such a request.

- 6.2 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:
- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
 - (b) the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property and be shown on any tax certificate issued under the Assessment Act.
 - (c) the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
 - (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

Attachment "E" Notes from Public Participation Meeting - March 31, 2003

In attendance: Angus Schaffenburg, Planner
Gail Harnish, Planning & Development Services
Councillor Uteck (regrets)
Andrew McLeod
Dan Joseph

Mr. Angus Schaffenburg called the meeting to order at approximately 7:30 p.m. in Halifax Hall. He noted the meeting related to a request for an amendment to the Halifax Municipal Planning Strategy (MPS) and Land Use By-law (LUB) to permit a lounge at 5576 Fenwick Street. Referencing a flow chart for the plan amendment process, he pointed out we are at the public meeting step. After this meeting, staff will prepare a staff report for Peninsula Community Council who will forward it on with a recommendation to Regional Council. It is Regional Council who will hold the public hearing for this application.

Mr. Schaffenburg advised the property is located at 5576 Fenwick Street (operating under the name "My Other Brother Darrell's"). The applicant wishes to redesignate a portion of the existing licensed restaurant as a lounge area. This requires an amendment to the Halifax MPS and LUB. Under the Nova Scotia Alcohol and Gaming Authority regulations, a licensed restaurant is not allowed to sell alcohol except when purchased with a meal.

Mr. Schaffenburg indicated that on March 18, 2003, Regional Council directed that a site specific amendment be explored for 5576 Fenwick Street. Tonight we are seeking input from area residents on this request.

Mr. Schaffenburg advised that in the Residential/Minor Commercial zone along Spring Garden Road, lounges up to 600 sq.ft. are permitted by right. It is possible to develop a similar policy for this specific property that would allow a lounge. Alternatively, there is another technique called a development agreement which is an agreement between the Municipality and the property. It is registered on title on the property. Under the Municipal Government Act, a development agreement is allowed to provide greater regulation and allows for regulation of matters the LUB cannot regulate, ie., hours of operation.

Mr. Andrew McLeod stated they have been operating the business since 1997. The business has been there since 1992. They have had a great number of requests from regular patrons over the last number of years who would like to be able to have a drink without the requirement to order food. The business has become an institution in the South End neighbourhood. They serve a great number of customers in the South End. They have regular customers from all over.

Mr. Dan Joseph said they entered into the process since February of 2002. Three points salient to their request for an amendment are: (1) they are not making any changes to the facility; (2) they are not making any changes to menu; and (3) they agreed with their neighbours who signed a letter they circulated last February that they would not operate late hours, would not play live

entertainment, and are not interested in a VLT license. The application they made is simply a matter of extending a better product to customers who have come to enjoy the facility.

Mr. Joseph commented he could understand how some people would be upset with lounges there. They have grown their business on the quiet enjoyment of the neighbourhood. It is something they do not wish to disrupt. They feel there will be no noticeable difference at all to the neighbours and the local residents walking by or coming in for dinner. There will be no impact other than being able to serve a glass of wine or a beer without having to order food.

Mr. Dave Faryniuk, 1122 Lucknow Street, questioned whether the laundromat would stay the same. It was his understanding they are talking about a roof top patio.

Mr. McLeod stated they looked at the possibility and discussed that with their landlord. At this time, there will be no changes to the building.

Mr. Faryniuk countered they could proceed with the roof top patio at any time should they receive approval for the amendment.

Mr. Joseph responded it was his understanding that it is very limited as it relates to the development agreement. It is a maximum of 600 sq.ft. or 50% of their dining room. As Darrell's now sits, they would not be able to take advantage of the 600 sq.ft.

Mr. Faryniuk questioned whether they would be adverse to a lounge going into the new building on South Street.

Mr. McLeod responded they are here to discuss Darrell's which is a small dining room. There are several lounges in the area now and they have no problem with them being in operation.

Mr. Schaffenburg stated that with respect to the size and scale, either under the LUB or through a development agreement, it could be specified whether they would be allowed additional deck space or if it was to be limited to the building as it now exists. If they were to change that, there would have to be an amendment to the development agreement.

Mr. McLeod questioned whether the building would be considered larger if Darrell's put a bar on the roof.

Mr. Schaffenburg responded that if it is specified in the development agreement that the lounge is limited to the floor area now there, then it would be considered an increase to put a bar on the roof.

Mr. Faryniuk questioned whether Darrell's could put a bar on the roof without a development agreement.

Mr. Schaffenburg responded Darrell's would be permitted to put a bar on the roof if a provision was included in the LUB to permit that. If the lounge is restricted to a maximum of 600 sq.ft. or

50% of the restaurant, they would have to take out something else in order to put a bar on the roof.

Mr. Faryniuk noted that Darrell's put a deck out front, half ways out to the road.

Mr. Schaffenburg questioned whether Mr. Faryniuk was adverse to having something on the roof of Darrell's.

Mr. Faryniuk responded that it could be disconcerting to the older people in the two manors if there are people on the roof.

Mr. Schaffenburg indicated Mr. Faryniuk was wanting to see control over whether there is a roof top patio and questioned whether he would be in favour of it. Mr. Faryniuk responded no.

Ms. Joanne Faryniuk stated the wonderful neighbourhood Darrell's has developed in, along with the other residents of the building at the corner of Fenwick Street and Queen Street, is a direct result of the neighbours within that neighbourhood controlling what goes into that neighbourhood. In the past they have stood against lounges all along Fenwick Street, whether part of a bowling alley or a restaurant.

Ms. Faryniuk indicated there is a recommendation from staff to Regional Council not to go ahead with this, perhaps based on the experiences they have had in the past and the fact that others have not been successful in locating a lounge in this neighbourhood based on the residents of the neighbourhood standing up and saying no.

Ms. Faryniuk stated they are not in favour of a lounge under any conditions, whether it be a development agreement or a spot rezoning. They are not against the flower shop, Darrell's as a restaurant, the pizza parlor, the bakery, or the huge expansion of Sobeys. They are against lounges. They are between the Liquor Dome and Fenwick Towers and the St. Mary's Residence, and that is as close as they want to be to the sources of alcohol in the City of Halifax. They do not want a lounge on Fenwick Street. They are the reason this restaurant enjoys the quiet neighbourhood that it is and they are deeply opposed to a lounge and have been since the construction of Fenwick Towers.

Mr. David Brophy, 1158 Queen Street, stated that he wished to echo the previous speaker's comments. They have a lot of traffic from the downtown Liquor Dome and they certainly do not need any more. Darrell's would have no control after they open as to what will happen if people drink there. The owners of Darrell's might sell the place. He also questioned what control they would have over VLTs.

Mr. Schaffenburg responded the development agreement goes with the land so if the owners of Darrell's were to sell their restaurant in a couple of years time and there happened to be approval for a lounge, that approval goes with the property, so whoever purchased it would have the same restrictions. If there were restrictions imposed such as hours of operation and no live entertainment, those would remain.

Mr. Brophy stated he was still opposed to the request. He submitted a petition containing three pages of signatures opposed to the following "We the undersigned oppose changing the Municipal Planning Strategy to permit a lounge in association with a restaurant located at 5576 Fenwick Street (My Other Brother Darrell's Restaurant & The Missing Sock Laundromat)".

Mr. Brophy referenced the petition submitted in support of the request and noted some are renters and some have left the area. Some of the people are not established in the neighbourhood and they move on, so they do not have as much stake in the community.

Mr. Chris Beaumont, 5670 Fenwick Street, referenced the report with the recommendation by the Planning Department. In the report, it states the use is not permitted on this property as-of-right, by development agreement, or through the rezoning process. He asked for clarification as to why a development agreement was being discussed.

Mr. Schaffenburg responded that at the moment there is no ability to have a lounge. We are discussing changing the regulations so that there could be a lounge. Part of the change in regulations could lead to a development agreement.

Mr. Beaumont questioned why it says the lounge would not be permitted.

Mr. Schaffenburg explained because at this time there is no ability or enabling legislation in the LUB to permit a lounge. Some zones allow Council to consider additional uses through a development agreement. In this zone, there is no ability to consider a lounge either through a rezoning or the development agreement process.

Mr. Beaumont stated he was against the request and strongly supported the staff recommendation. An earlier application was turned down a decade ago. They do not wish to see this happen. It was mentioned that a development agreement could specify various things. He believed the current owners would respect what the agreement says but was not sure about future owners. Approval of this request could be the "thin edge of the wedge".

Mr. Schaffenburg noted that development agreements run with the land so the conditions would apply to any subsequent property owner.

Mr. Beaumont commented that lounges do not normally close by 12 midnight. Mr. Schaffenburg concurred that lounges can normally stay open until 2 a.m.

Mr. Beaumont expressed concern that future owners might come back and say the restriction was unreasonable and ask to stay open later.

Mr. Schaffenburg responded that a provision could be included in the development agreement to require that such a request be considered a substantial amendment and require a public hearing. Before the Liquor Licensing Board will hold a hearing, the person must provide proof of zoning approval from the Municipality that it is a permitted use and whatever conditions are include in

the development agreement, where there is one. Those conditions are included in the liquor license.

Ms. Rebecca Jamieson, 5670 Fenwick Street, stated she was strongly against the request for the same reasons expressed by the other speakers. She supported the staff recommendation and urged that it be upheld. In their neighbourhood they had long and not entirely pleasant experiences with development agreements. They start off as one thing and become something else. This is not something that endears this type of development agreement to the neighbourhood.

Ms. Jamieson indicated this is not the first time they had to come out on such short notice. The application was made in February of 2002 but they only heard about it a few days ago and have come out on short notice to protect what is rapidly diminishing as a family neighbourhood. The patrons of Darrell's enjoy that atmosphere which is fragile, and the residents do not want to see it further endangered. They are very concerned about the future.

Ms. Jamieson noted there is an existing serious parking problem at that end of Fenwick Street. The sidewalk extension in the summer time does not help. Reducing to one lane very frequently in the summer and the existing depth does not help the situation. Although Darrell's is a reasonably good neighbour and they do not have a problem with the existing business, they are concerned about expansion, noise and the serious problem they have with transients in the neighbourhood. They see these problems being exacerbated by this proposal.

Ms. Atherton, 1104 Lucknow Street, stated she strongly supported the staff recommendation for all the stated reasons. She could recall when stores were downtown and left. They have developed quite a cruise ship and tourist industry. She expressed concern that if they support a spot rezoning in a R-2A area there are no grounds for refusing another one. She felt it was a very bad precedent. A new apartment building is being built on the corner of Queen Street and Green Street. It has been suggested that the apartment building on South Street would like a lounge. She questioned whether this is good for a residential neighbourhood. She felt for the good of the City and the neighbourhood it is a more serious matter than may appear on the surface.

Mr. Faryniuk questioned the timeframe for the meeting. The letter was sent out on March 20th and notice only went in the window of Darrell's last Wednesday. He questioned whether the timeframe was legal.

Mr. Schaffenburg advised that all the timeframes were legally met, although we were not generous in the amount of notice given. Part of the reason for the length of time between the time of the application and this meeting had to do with internal staff resources processing the application.

Ms. Beverley Miller, 6182 South Street, indicated she wanted to build on Ms. Atherton's comments as a resident of another neighbourhood. The report says that if it is considered appropriate to permit a lounge at one location, the same ability should be extended to other parts of the South End plan area. It was her understanding there is another restaurant in this very

position just waiting to find out what the decision on this request will be. She felt that approval of this request would set an extremely dangerous precedent for this to happen in other areas. Plus, as somebody involved in planning issues for many years, this neighbourhood has been under a tremendous amount of stress. She was also concerned about what would happen with the restrictions such as hours of operation should the property be sold. She questioned whether the City or the Province controlled VLTs.

Mr. Schaffenburg responded the Province has that ability. If it is felt it is a land use that could have a negative impact, it could be controlled through the development agreement. The owners indicated they are not interested in having VLTs so they would presumably be willing to sign the development agreement.

Ms. Miller questioned who has the final say on VLTs.

Mr. Schaffenburg responded the Alcohol and Gaming Commission directly controls VLTs and makes decisions on where they can go. However, they do respect municipal by-laws and zoning.

Ms. Miller asked about hours of operation.

Mr. Schaffenburg responded that as a practice, the Alcohol and Gaming Commission has indicated they will adhere to what the Municipality has decided.

Ms. Atherton questioned what the next step was.

Mr. Schaffenburg advised that he will prepare a report for Peninsula Community Council which will include the submissions that have been made and the minutes of this meeting. The report will include a staff recommendation. Community Council will make a recommendation to Regional Council. The public hearing will be held by Regional Council. If it is the recommendation of Community Council that the request proceed with the development agreement, there would be a joint public hearing with Regional Council. Regional Council would hear the MPS and LUB amendments and Community Council would hear issues related to the development agreement. Approval of the development agreement would happen at a subsequent meeting of Community Council following approval of the MPS and LUB amendments by the Province.

Ms. Atherton questioned whether they would be kept advised of the progress. Mr. Schaffenburg advised that those on the mailing list would be notified of the public hearing held by Regional Council. The staff report once tabled with Community Council becomes public information and copies can be made available.

Mr. Faryniuk questioned if when a person is presenting their situation to Community Council whether the Planning Department does their presentation along with it. He referenced experiences at Community Council where the City did the presentation for the developer which he found a bit disconcerting and not at arm's length.

Mr. Schaffenburg advised that the Planning Department would present the staff report. He would prepare a staff report which would be signed by himself and the Director of Planning & Development. That report would go to Peninsula Community Council along with our recommendation.

Mr. Faryniuk commented they have had staff presenting the developer's side and when the Community Council voted against it the planner cried. They want the planner to be at arm's length.

Mr. Miller stated there is a letter from the developer that is more than one year old. There has obviously been negotiation between the developer and the Planning Department. The developer has given proof of neighbourhood support.

Mr. Schaffenburg responded that that is what was presented and is attached as part of the report.

Mr. Miller noted the names are more than a year old.

Mr. Schaffenburg stated that staff did not do our duty in carrying the application forward which is why they are a year old.

Mr. Miller noted that as mentioned, they found out about the request less than ten days ago. The appearance is that the Planning Department has already made up its mind.

Mr. Schaffenburg pointed out that the staff recommendation was not accepted by Regional Council. Staff did not do our duty in getting the request before Regional Council in a timely manner.

It was questioned when written comments were required. Mr. Schaffenburg responded it would be useful to have them within the week.

It was questioned what the radius was for notification. Mr. Schaffenburg responded 250'. The requirement under the Municipal Government Act is to place two notices of the public hearing in the newspaper. He volunteered to look at the area of notification.

Mr. Beaumont referenced the application by Mr. Tsmiklis on South Street for a taller building and noted that a large number of residents were unhappy because of the limited nature of the notification. At the time they made a strong recommendation that the notification area be increased so that people would get to know about things and have the opportunity to make their ideas and preferences known before they get too far into the process. He felt that was a good example of why the notification area should be increased.

Mr. Charlie Khoury, Fenwick Street, commented that those who support something usually do not show up. He felt there are hundreds of people in the area who would support the application.

Mr. Schaffenburg noted that is always an issue in any planning process. If you attend and provide your point of view, we can include it in the minutes but if you are silent there is really no way to judge whether the people are for or against something. Council, when it makes a decision, will have heard from many people and have to make up their own minds.

Mr. Khoury commented he respected everybody's decision here but as a resident of the area he found the noise from the snow plows at Sobeys more annoying than Darrell's. There are a lot more disturbances there than Darrell's. Buildings are being put up. That is just Halifax growing and questioned who they are to prevent it and why they should prevent it.

Mr. Faryniuk stated that the word "recommendation" has a weighted influence on Council. He felt that staff should give all the facts without a recommendation. Council should be the one who makes the decision. The staff report should indicate whether the request meets all the requirements, etc., but to include a recommendation influences Council.

Mr. Schaffenburg responded that the recommendation is a piece of information and staff is required to make a recommendation. Council likes some of the staff recommendations and acts on them but not others. Staff is obligated to provide a recommendation to Council. Staff is also obligated to provide all the facts, which is why we provide alternatives in the report. If it is a development agreement, staff has negotiated that agreement with the developer. If we have a disagreement with the developer on items in the development agreement, our tradition is that the development agreement the developer is willing to sign is tabled with Council but staff will not recommend those areas we do not agree with.

Mr. Faryniuk questioned why they should be able to present the other side.

Mr. Schaffenburg responded many areas are open to interpretation. Development agreements have the benefit of flexibility and control things that you cannot normally control in the LUB.

Mr. Faryniuk referenced an instance where they had a building that was too large for the lot which was recommended by the Planning Department and presented to Council. Although Council went against it, he did not feel staff should have made a recommendation.

Mr. Schaffenburg pointed out that staff does not make the decision. Regional Council in this instance will make the decision on whether or not to change the policy. The plan amendment process can be pulled at any time Regional Council decides to do that. If Regional Council decides they do not want to change the plan, that is their right and there is no right of appeal.

An individual referenced a situation where the development agreement stipulated there would be open space, no parking, and fourteen apartments. The agreement was signed and then the front yard was paved and people parked their cars there. When they plow the snow, they dump it in their neighbour's yard. The fourteen units were turned into sixteen units. When they went to the City they were told to hire a lawyer. Development agreements are only as good as the lawyers who will argue them in front of Council and the court. They live with this every day. They started with a single unit dwelling which was owned by four people and as a result of internal

conversions was turned into a condominium. That was great and they had 3.5 parking spaces. They then did internal conversions which resulted in thirteen units and still only 3.5 parking spaces.

Mr. Schaffenburg commented he was hearing the individual did not think the development agreement approach was worth pursuing for this request.

Mr. Rebecca Jamieson, 5670 Fenwick Street, questioned whether it was possible to get somebody from the City to look at the parking situation between Lucknow Street and Queen Street, regardless of this particular proposal.

Mr. Schaffenburg noted that is a separate issue. Parking on Fenwick Street has always been difficult.

Ms. Jamieson commented that every time more traffic comes into the neighbourhood it exacerbates the problem and it is particularly bad at that end of the street.

Mr. Schaffenburg questioned whether Ms. Jamieson felt a 600 sq.ft. restriction on the size of the lounge would increase the parking issue.

Ms. Jamieson responded it certainly would not decrease the problem. There is inadequate parking for the businesses that are there and to allow for one of the existing businesses to develop in a way that will increase their customers, will bring more people into the neighbourhood and that will bring cars and parking is a problem.

Ms. Miller referenced comments made earlier about the noise and said that is what makes their neighbourhoods "throw away neighbourhoods". It was being suggested "why can't they have noise?" Pretty soon anything can be put there and it is a dump. That is the same thing they hear over and over again. Either they are being very snooty or not permanent residents. If they have six student residences, then they should have fourteen. It is a never ending kind of thing. It is true those of them who live in this part of town have more aggravations but that is where they want to live and is why they have a MPS so that they can control things. You buy a property with certain expectations. In this case there are no lounges permitted.

Ms. Bev Cluett, resident of South End Halifax, stated they already live with as much noise as any human can be expected to live with and any more is unreasonable. They have many transient students.

Mr. Beaumont noted the development agreement route is attractive under some circumstances, however, the City lacks the mechanism to enforce them. Therefore he would have no confidence that a development agreement developed for this site would be enforced.

Ms. Atherton referenced the submission in support of the request. She indicated that she did stop at the grey house across the street and the supporters in that building are somewhat transient.

Mr. Joseph pointed out that the Alcohol and Gaming Commission are quite strict in their regulations, especially when regulations set out by the City are not being adhered to. There is never room to negotiate. They could not break them without having their liquor license pulled. As for bringing more people into the area, Darrell's is usually full everyday at lunch and supper. He did not expect there to be any increase in traffic. Most people come to Darrell's to eat. That is the primary reason they are there.

The meeting adjourned at approximately 8:30 p.m.

Request to amend the Halifax Municipal Planning Strategy and Land use Bylaw

We the undersigned **oppose** changing the Municipal Planning Strategy to permit a lounge in association with a restaurant located at 5576 Fenwick St. (My Other Brother Darrell's Restaurant & The Missing Sock Laundromat)

Name

Address

Mr VENISE, Joel	5456, Victoria Rd
No lounge in Residential Area	
Sophie Chapman	5456 Victoria Rd
(PLEASE NO NO TO LOUNGE) RESIDENTIAL AREA	
MRS. JOAN HANSEN	1115 Lucknow Dr.
Edward Hansen	" " "
Rebecca Fommerson	5670 Fenwick St.
Chen Bannett	" "
Charlotte Leurers	1135 Queen St.
Barry Furlotte	1243 Queen St.
Janet Boush	1239 Queen St.
Helen Rie	3241 South
Dean S Forbes	5547 INGLIS ST.
BIZ WOOD	1165 S. Park St
Butt More	1165 S. Park St.
MacKinnon	1182 S. Park St.
Jane MacLean	1101 South Park St

Request to amend the Halifax Municipal Planning Strategy and Land use Bylaw

We the undersigned **oppose** changing the Municipal Planning Strategy to permit a lounge in association with a restaurant located at 5576 Fenwick St. (My Other Brother Darrell's Restaurant & The Missing Sock Laundromat)

Name	Address	28 MARCH, 2003
D. Faryniuk	1122 Locknow St	
J. Cowlen	" "	" "
A. Faryniuk	" "	" "
J. P. Winter	1104 Locknow St	
Dine Lencade	1044 Town Rd.	
John HELMKE	5251 Green St.	
Marian Kennedy	5954 Green St.	
John T. Hawley	5643 Fenwick Street	
John	5662 Fenwick St.	
Anne Kennedy	5662 Fenwick St.	
Anne West	1161 South Park.	

29 MARCH, 2003	
Joan Bryson	1158 Queen St
Elizabeth Cluett	1158 Queen St.

Request to amend the Halifax Municipal Planning Strategy and Land use Bylaw

We the undersigned oppose changing the Municipal Planning Strategy to permit a lounge in association with a restaurant located at 5576 Fenwick St. (My Other Brother Darrell's Restaurant & The Missing Sock Laundromat)

31 March, 2003

Name

Address

K. Adams

21- 5222 Green St. Hfx

C Patabrooks

#50, 5222 Green St. "

Pat Barnaby

#38 5222 Green St Halifax N.S. B3H1N7

James P. Barnaby

#58 5222 Green St - Halifax N.S. B3H1N7

Shirley Nelson

5222 Green St.

Celeste Sweeney

5222 Green St.

Tad Byczko

5297 Kent St. phone 423-4780

Zenobia Byczko

5297 Kent St.

Daniel Byczko

1158 Queen St.

>>> "Chris C Spencer" <SPENCECC@gov.ns.ca> 04/02 2:04 pm >>>

I was unable to attend the public information meeting held on March 31, 2003 to discuss Case 00451, but wish to express my opposition to any change to the Land Use Bylaw in this regard. I am a residential homeowner on Fenwick Street with 2 children under age 5. It would not be fair to allow this type of establishment on our street as it would not only completely change the flavour of the neighborhood, but would present new risks and disruptive elements. These negative consequences would naturally arise from having increased traffic (pedestrian and vehicular) within the area (potentially at late hours), and from having that increased traffic source potentially under the effects of alcohol.

Patrons leaving any lounge late at night present an obvious noise disruption. Beyond this, there is an increased risk of theft and vandalism. Parking on our street is already extremely tight. Such a change would enhance this parking problem.

Furthermore, the value of my property could very well decline as a result of such negative impacts. Such a change would create a domino effect as related establishments begin to appear and attract other businesses and even residential tenants that seek out this type of neighbourhood. I pay a substantial amount in property taxes and feel that my concerns should be addressed.

Fenwick Street has historic value to HRM and that charm will be substantially altered if this change is allowed. There are ample opportunities already in place within the broader area to pursue this type of venture (eg Spring Garden Road).

I hope my remarks are taken as constructive and serve notice as to the serious implications at play.

Thank-you for considering my input.

Yours truly,
Chris Spencer
5660 Fenwick Street, Halifax

CC: Harnish, Gail



MCJ RESTAURANT LIMITED

5576 Fenwick Street
Halifax Nova Scotia
Canada B3H 1P8

Tel: 902 492 2344
Fax: 902 423 2789

1/6

April 10th, 2003

TO: Municipal Clerk's Office
ATTN: Vi Carmichael
PO Box 1749
Halifax, NS B3J 3A5

Per: Peninsula South Councillors Meeting Monday, April 14th, 7PM, Halifax Hall and
Agenda Item - Case Number 00451,
A request for an amendment to the Municipal Planning Strategy
to allow *Darrell's*TM Restaurant to operate '*a lounge in association with
a restaurant*' at 5576 Fenwick Street, Halifax, NS.

Dear Ms. Carmichael & Peninsula South Councillors:

Further to the ongoing process related to our request (Case Number 00451) for a zoning amendment for the building at 5576 Fenwick Street where we operate My Other Brother Darrell's Restaurant, please find attached the following documentation that we respectfully request be submitted to the Peninsula South Councillors for their meeting to be held this coming Monday, April 14th, 7PM in the Halifax Hall Room:

1

A copy of the Petition Cover Sheet prepared by the management at Darrell's and accompanying signature sheets. Please note that in addition to the 66 signatures on the sheets attached here, we submitted approximately 120 original signatures of this petition to Sue Uteck at the City Council Meeting held, Tuesday, March 18th. At the time of writing this letter our petition is still gathering signatures. We comfortably estimate greater than 200 signatures of support to date. We have estimated based on addresses provided that greater than 60% of these signatures represent Southend residents living in the direct community surrounding 5576 Fenwick Street. We also note that our facility draws loyal patronage from throughout the Halifax Peninsula area, drawing on both residential and office locations. Further, we note that our petition draws support from residents, and the working public from all over the greater HRM Municipality.

2

Further to the comments at the public hearing held on March 31st, 2003, regarding Case Number 00451, by an area resident that our Letter of Support from our adjacent neighbours was outdated as submitted in February 2002, we have revisited ALL of these neighbours, and again provide their dated signatures of support in the attached letter dated April 2nd, 2003.

In addition to the Letter of Support from ALL adjacent neighbours, and the Petition of Support signed by over 200 people thus far, we would like the Peninsula South Councillors and the Councillors of greater HRM to note the support expressed in the attached letters from:

- Charlie (Atef) Khoury – our landlord who both owns the building where we operate *Darrell's Restaurant* at 5576 Fenwick Street, and is our closest residential neighbour next door at 5568 Fenwick Street.
- Don Webster - Chairman of the Canadian Restaurant Foodservices Association and manager of The Fireside at 1500 Brunswick Street.
- Don Webster - Resident and homeowner at 5299 and 5301 Tobin Street.
- Luc Erjavec - Vice-President Atlantic Canada, Canadian Restaurant Foodservices Association.
- J.X. Renzi – Director Investigation & Enforcement, Nova Scotia Alcohol and Gaming Authority.

We respectfully request that you take note of the support identified in the documents discussed above and weigh this against the signatures and documents of residents contrary to our request for amendment as provided in the report prepared by Angus Schaffenburg dated April, 2nd, 2003. We note from the documents in Mr. Schaffenburg's report that of the 38 signatures and one letter provided, no more than a half dozen of the signatures provided represent residents within 250 feet of our business at 5576 Fenwick Street. We note from Mr. Schaffenburg's report that there were 6 residential addresses represented at the Public Hearing speaking about our request for a zoning amendment, and that none of these residents are directly adjacent to our property. We further note that much of the discussion was not about our request for amendment, but appeared to represent an opportunity for these residents to voice their complaints about the MPS Office processes, and their general discontent with any further commercial development in the Southend.

Please contact us at anytime with questions or requests for further documentation as required. We look forward to working through this zoning amendment process, and respectfully request your support for this amendment and the resulting improvement in service that will be afforded to our Southend and greater HRM customers.

Yours truly,



Andrew McLeod, President.
MCJ Restaurant Limited.
"My Other Brother Darrell's Restaurant"

MCJ Restaurant Ltd. – My Other Brother Darrell's Restaurant & The Missing Sock Laundromat
5576 Fenwick Street, Halifax, Nova Scotia, B3H 1P8
Tel: 902.492.2344
www.myotherbrotherdarrells.com



March 1st, 2003

To: Customers and Residential neighbors of *My Other Brother Darrell's Restaurant*
Per: Request for building zoning amendment from RC-2 to C-2, and,
Request for liquor licensee amendment to provide lounge seating.

Business &
Location: My Other Brother Darrell's Restaurant
Attn: Dan Joseph, Owner & General Manager
MCJ Restaurant Ltd., 5576 Fenwick Street, Halifax, Nova Scotia, B3H 1P8

Dear Customers and Neighbors,

Please see our poster board for a copy of the letter and supporting documents that we have submitted to the City of Halifax to request a zoning amendment for this building – 5576 Fenwick Street – to allow 'a restaurant in association with a lounge'. This will allow Darrell's Restaurant to serve alcoholic beverages to customers at a portion of our seating without the requirement to purchase a meal. In support of this zoning amendment request, we are gathering signatures on this petition from neighbors and customers to submit to City Council. We invite you to show your support by providing your signature and address below. Please feel free to contact us anytime in person or at 902-492-2344 with questions, comments or concerns. We thank you for your continued support. Management and Owners – Dan Joseph and Andrew McLeod.

<u>Name</u>	<u>Address</u>	<u>Work/School location</u>	<u>Contact #</u> (optional)
Ryan Duggan	5720 South St	SMU	444-5288.
Nick Mathers	1104 Tower Rd.	TRAVEL AGENCY	446-7725
Sasha Bitar	693 Hwy #2	DAL	883-8359.
Joe Faddoul	86 Brook S ^{Elmsdale}	DAL	409-8177
Antony Francis	3 Torrington	DAL	830 5123
Wancy Sabe	—	—	—
Raquel Nahas	1 Sandhurst	Dal	830-5036
Lana Dugmag	5157 Morris	SMU	425-0248
Hiba Al-Qishawi	6028 Lady Hammond Rd.	Dal	830-7922
Pnn Kilbride	1030 Southpark St	Restaurant	—
Matthew Manning))	446-7609
Dana Nakhro	108 Pleasant St.	Velvetolive	830-3489
Josh Labucki	5259 Inglis St	SMU	429-9091
KARIN GILCHRIST	1541 BARRINGTON	VELVET OLIVE	431-8858
Shannon Solomon	11-5547 Inglis St.	smu/Sobeys	431-6632.
Jennifer Mercer	211-1270 Hollis St.	SMU/Sobeys	423-7022
Sheri-Anne Taylor	47 Ross St.	Dal. F	445-9048.
Cathy Cole	47 Ross St.	B	445-9048.
Chrissy Purdy	Halifax NS	Dal	422-9286.
Nicole Kowell	Halifax NS	Dal	429-1521
Courtney Betts	Halifax NS	Dal	453-5283

<u>Name</u>	<u>Address</u>	<u>Work/School location</u>	<u>Contact #</u> <u>(optional)</u>
Katie Lockson	Halifax	Dal	—
Matt Payzant	Sackville	Dal	—
Molly Norman	Sackville	Dal	—
Gwen J. J. J. J.	Hfx	Hfx	—
Jason Hunt	Halifax	SMU	—
Vernon Smith	Halifax	SMU	—
Nike Kidd	Halifax	VIA RAIL	—
Phuong Ngy	Dart	SMU	—
Leroy Ph	Halifax	Dal	—
Chui McBride		HFX	—
Isabel O'Shea	Hfx	Dalhousie	—
	Halifax	Dalhousie	—
Katoffarm	Halifax	Dalhousie	—
B. Brown	Halifax	Halifax	—
Janet Rendell	Halifax	Halifax	—
Stephanie Mackay	Halifax	Halifax	—
W. J. J. J.	Hfx	QETI HSC	—
Leroy O'Sullivan	CB	CB	—
Matt Thwaites	Hfx	Lebanon + Q. J. J.	—
CYNTHIA GILLIS	HFX	SMU	—

⑦

<u>Name</u>	<u>Address</u>	<u>Work/School location</u>	<u>Contact #</u> <u>(optional)</u>
Leah Tinkham		Dal	425-7517
Lindsay Adam		Dal	423-4415
Andrea Huckins		Dal	429-7220
Kenna Graham		Dal	429-7220.
Paul Cunningham		Dal	431-0410
Jane Mulatz		Dal	431-9223
Zia Gallant		NSCC Halifax	431-6816
Mary-Anne Spott		Dal	422-0706
Heather Draves	1037 Lucknow St.	BIO, Dartmouth	420-1810
Cathy MacOrmic		ORegan's.	454-3479
Cynthia Shelswell		St. Mary's	423-9957.
Mike van Wif		"	431-8821
Mike Sloughessy		St. Mary's	444-5448
Laure Dempsey		" "	830-5326
Heidi Bennett		St. Mary's	431-2200
Dean Jones		"	431-2202
Erin Wilson		"	492-8880
A. Wilson		NSCC	444-2516 x 1
MIKE MERRIMEN		IWK	470-8130
Chris Neville		UNB	444-5384
Mark Neulls		WCB	422-5317

<u>Name</u>	<u>Address</u>	<u>Work/School location</u>	<u>Contact #</u> <u>(optional)</u>
Chris Reynolds	5415 Victoria Road	Dal	422-5168.
Annula Hayden	5415 Victoria Rd	Dal	422-8168
Jennifer Moore	1333 South Park St	Dal	425-3909
BOB MCARDAM	HILLARDS	Hfx	



April 2, 2003

To: Residential neighbours of *My Other Brother Darrell's Restaurant*

Per: Request to the City of Halifax for an amendment to the
Municipal Planning Strategy for the purpose of obtaining authorization
From The Nova Scotia Alcohol & Gaming Commission to designate a portion
of our restaurant as lounge seating

Business &
Location: My Other Brother Darrell's Restaurant
5576 Fenwick Street
Halifax, Nova Scotia
B3H 1P8

Dear Darrell's Neighbour:

My Other Brother Darrell's restaurant continues to enjoy loyal patronage from customers year round. We have listened to our customers' requests over the years and continue to refine our business and improve the service and products we offer. We have made significant capital investments in our business to speed up food service by increasing our kitchen output, create more seating year round with booth-style seating, and we now offer a seasonal outdoor deck area for our customers to enjoy the sun and quiet of our South End neighbourhood.

Our facility now boasts a history of over a decade of service to the community, and under the current ownership and management team, Darrell's is fast becoming recognized as a South End neighborhood 'institution' – a long-standing business known for consistency of service, food and beverage products.

Our customers have been very vocal in the past few years about their desire to come and enjoy a cold beer or a glass of wine at Darrell's, while enjoying the relaxed and casual atmosphere that we have fostered with our staff and location. To service this growing demand from our customers we must acquire an amendment to the Municipal Planning Strategy for our building and an amendment to our liquor license that would allow us to designate a portion of our restaurant as lounge seating.

Please find attached a copy of the letter and supporting documents that we will be submitting to the City of Halifax to request the necessary amendment. To complete this amendment request for the city, we require signatures from all of our immediate neighbors that clearly indicates they are aware of our request for a planning amendment, which if approved will be followed by a liquor license amendment request to acquire a lounge license for Darrell's.

These two amendments will allow us to meet the demands of our loyal customers, which include our neighbors, and continue to grow our business. These amendments will allow us to designate a portion of our seating, to service customers who wish to enjoy an alcoholic beverage without being required to order food from our menu. These amendments will not result in operating hours later than 12 midnight, as we wish to maintain the relaxed and enjoyable atmosphere with the consistent quality of our food, beverages and service that we have become known for.

Three items of concern to our neighbors that we have clearly documented in our application to HRM are as follows:

- We will NOT be operating late hours
- We will NOT be applying for any type of entertainment license
- Our business DOES NOT, and WILL NEVER operate VLT machines, whereas our business would suffer loss of customers, as many Halifax food and beverage locations have, due to the atmosphere created by VLT gambling addicts.

A copy of this letter signed by all of our neighbors will be submitted with our application to the City of Halifax for this Municipal Planning Amendment. If the amendment is approved, a copy of this letter will then accompany our application to the Nova Scotia Alcohol & Gaming Commission for the license amendment request for Darrell's to receive lounge seating.

Your support of these amendments is appreciated and the resulting new services that we can offer our customers. The result will be an improved level of service that will enhance our customers' ability to come out and enjoy our facility more often.

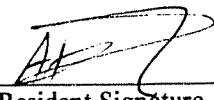
We look forward to continued growth and prosperity as business residents of this South End community. Thank you for your continued support.

Yours truly,

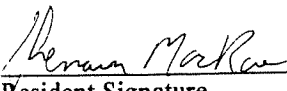
A handwritten signature in black ink, appearing to read 'Dan Joseph', with a stylized flourish at the end.

Dan Joseph
Owner and General Manager
My Other Brother Darrell's Restaurant

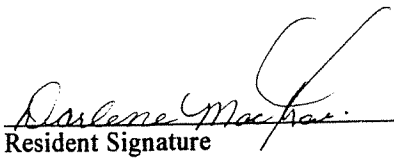
I, the undersigned, have read the documents herein contained, and support the request for amending of the Municipal Planning Strategy for a *lounge in association with a restaurant* for the building located at 5576 Fenwick Street.


Resident Signature
Atef Khoury
Print Name
April 07 03
Date

Atef Khoury (Landlord and Building Owner)
5568 Fenwick Street
Halifax, NS
B3H 1P8


Resident Signature
SHERMAN MAC RAE
Print Name
April 2nd 2003
Date

Sherman MacRae
1152 Queen St., #1
Halifax, NS
B3H 2S8


Resident Signature
Darlene MacRae
Print Name
April 02 2003
Date

Darlene MacRae
1152 Queen St., #1
Halifax, NS
B3H 2S8

Jackie Browker
Resident Signature
JACKIE BROWKER
Print Name
APRIL 7/03
Date

Jackie Browker
1152 Queen St., #4
Halifax, NS
B3H 2S3

Mike Spearman
Resident Signature
MIKE SPEARMAN
Print Name
03-04-02
Date

Mike Spearman
5571 Fenwick St., #1
Halifax, NS
B3H 1R1

Allan Sweet
Resident Signature
ALAN SWEET
Print Name
04-07-03
Date

Allan Sweet
5571 Fenwick St., #2
Halifax, NS
B3H 1R1

Jamie Prest
Resident Signature
Jamie Prest
Print Name
April 6/03
Date

Jamie Prest
5571 Fenwick St., #3
Halifax, NS
B3H 1R1

Troy James
Resident Signature
TROY JAMES
Print Name
04/06/03
Date

Troy James
5571 Fenwick St., #3
Halifax, NS
B3H 1R1



February 20th, 2002

To: Residential neighbours of *My Other Brother Darrell's Restaurant*

Per: Request to the City of Halifax for an amendment to the
Municipal Planning Strategy for the purpose of obtaining authorization
From The Nova Scotia Alcohol & Gaming Commission to designate a portion
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Our customers have been very vocal in the past few years about their desire to come and enjoy a cold beer or a glass of wine at Darrell's, while enjoying the relaxed and casual atmosphere that we have fostered with our staff and location. To service this growing demand from our customers we must acquire an amendment to the Municipal Planning Strategy for our building and an amendment to our liquor license that would allow us to designate a portion of our restaurant as lounge seating.

Please find attached a copy of the letter and supporting documents that we will be submitting to the City of Halifax to request the necessary amendment. To complete this amendment request for the city, we require signatures from all of our immediate neighbors that clearly indicates they are aware of our request for a planning amendment, which if approved will be followed by a liquor license amendment request to acquire a lounge license for Darrell's.

These two amendments will allow us to meet the demands of our loyal customers, which include our neighbors, and continue to grow our business. These amendments will allow us to designate a portion of our seating, to service customers who wish to enjoy an alcoholic beverage without being required to order food from our menu. These amendments will not result in operating hours later than 12 midnight, as we wish to maintain the relaxed and enjoyable atmosphere with the consistent quality of our food, beverages and service that we have become known for.

I, the undersigned, have read the documents herein contained, and support the request for amending of the Municipal Planning Strategy for a lounge in association with a restaurant for the building located at 5576 Fenwick Street.

Atef Khoury
Resident Signature

Atef Khoury
Print Name

Feb - 20 - 2002
Date

Atef Khoury (Landlord and Building Owner)
5568 Fenwick Street
Halifax, NS
B3H 1P8

Sherman MacRae
Resident Signature

SHERMAN MAC RAE
Print Name

Feb. 22 - 2002
Date

Sherman MacRae
1152 Queen St., #1
Halifax, NS
B3H 2S8

Darlene MacRae
Resident Signature

Darlene MacRae
Print Name

Feb. 22 2002.
Date

Darlene MacRae
1152 Queen St., #1
Halifax, NS
B3H 2S8

Jackie Browker
Resident Signature

JACKIE BROWKER
Print Name

Feb 20/02.
Date

Jackie Browker
1152 Queen St., #4
Halifax, NS
B3H 2S3

Wilfred Biggs
Resident Signature

Wilfred Biggs
Print Name

20 Feb. 2002.
Date

Wilfred Biggs
1152 Queen St., #2
Halifax, NS
B3H 2S3

Mike Spearman
Resident Signature

M. SPEARMAN
Print Name

02-02-20
Date

Mike Spearman
5571 Fenwick St., #1
Halifax, NS
B3H 1R1

Alan Sweet
Resident Signature

Alan Sweet
Print Name

Feb 21, 2002
Date

Allan Sweet
5571 Fenwick St., #2
Halifax, NS
B3H 1R1

Marc Robichaud
Resident Signature

Marc Robichaud
Print Name

Feb 20, 2002
Date

Marc Robichaud
5571 Fenwick St., #3
Halifax, NS
B3H 1R1

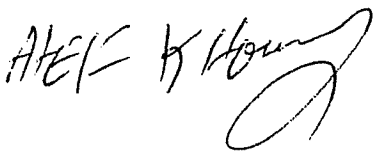
April 8, 2003

Darrell's c/o MCJ Restaurant Ltd.
5576 Fenwick Street
Halifax, Nova Scotia

Dear Mr. Joseph and Mr. McLeod:

I would like offer my family's (myself, Daad, Charlie, Melissa, and Christopher) support for your efforts to acquire zoning change for your location at 5576 Fenwick Street. We believe that this will help your business as well provide neighborhood residents with an establishment to enjoy a quiet drink without having to go to the downtown district. I also believe that the majority of customers go to Darrell's to enjoy your food menu rather than beverages and therefore I do not believe there will be any significant change to the business itself or to the neighborhood. Please do not hesitate to contact me at 425-3423 if you have any questions or if there is any other way I can lend my support.

Sincerely,

A handwritten signature in black ink, appearing to read 'Atef Khoury', with a large, stylized flourish at the end.

Atef Khoury



1500 Brunswick Street
Halifax, Nova Scotia
B3J 3X9

Phone: (902) 423-5995
Fax: (902) 425-5675

September 21, 2002

To Whom it may concern,

I'm writing on behalf of Mr. Dan Joseph. I would like to take this opportunity to personally commend Dan for the contribution he has made to the hospitality industry in Halifax over many years.

He has always taken great personal interest in his operations to be sure that his customers, staff and neighbors all have a positive experience. Great care is always taken to operate within the guidelines set by the various regulating bodies.

This individual takes this industry seriously and does a first rate job providing hospitality.

If I can be of any further service please do not hesitate to call.

Yours truly

Donald R. Webster

Chairman of the Board
Canadian Restaurant and Foodservices Association

APR. 25/03

To whom it may concern;

I am the home owner residing at 5301 Tobin St and I am writing in support of the Lounge application for My Other Brother Darrell's Restaurant located at 5576 Fenwick Street. This operation has been a great supporter of our community and is now part of our general fabric .

I trust the city will give this application approval as I am sure there will be no lack of support for Mr. Dan Joseph and his operation.

Yours truly,



5299 and 5301 Tobin Street

D. WEBSTER



Canadian Restaurant
and Foodservices
Association

Association canadienne
des restaurateurs
et des services
alimentaires

5121 Sackville Street
Suite 201
Halifax, Nova Scotia
B3J 1K1

Tel: (902) 425-0061
or 1-877-755-1938
Fax: (902) 422-1161
www.crfa.ca

March 13, 2003

Mayor Peter Kelly and Councillors
Halifax Regional Municipality
P.O. Box 1749
Halifax, NS B3J 3A5

Dear Mayor Kelly and Councillors:

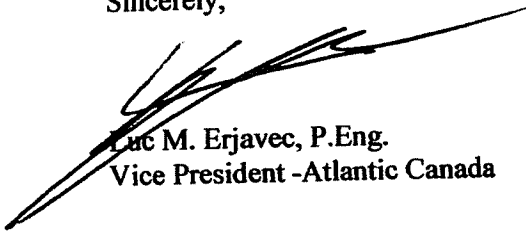
I am writing to Council in support of a request by MCJ Restaurant Ltd to amend the Municipal Planning Strategy for My Other Brother Darrell's Restaurant located at 5576 Fenwick Street, Halifax, Nova Scotia.

Upon careful review of the information submitted by the applicant, it is clear that the original request by the applicant was not given proper consideration or dealt with in a timely or professional manner by the Municipal Planning Strategy Office. The supporting documentation provided by the applicant addressed all of the requirements of such an application and yet staff failed to respond to the request for nearly 14 months. Only after an aggressive intervention by Councillor Uteck did staff respond to the request and reject the application in less than a week. Furthermore this rejection was conveyed to the applicant without any reasoning or rationale for the rejection of the application. One must question the validity of this rejection given that it was forthcoming only after pressure for action was applied by the local Councillor.

This case goes above and beyond the merits of the application of an amendment to the Municipal Planning Strategy. This case highlights the need for a complete overhaul of the processes at the Municipal Planning Strategy Office. It is unreasonable to force an entrepreneur to put their business plans on hold for over a year while they wait for a response from the bureaucracy on a relatively minor matter. (The ability of the operator to designate less than 600 square feet of his establishment as an area where customers can enjoy an alcoholic beverage without ordering food) Actions such as this are irrational, stifle investment in the region and frustrate entrepreneurs. Furthermore, the decision making process must be done in a professional manner with a high degree of transparency and accountability.

I trust upon review of the supporting evidence brought forward by the applicant that you will grant MCJ Restaurant a fair hearing that will lead to the requested amendment to the Municipal Planning Strategy.

Sincerely,



Luc M. Erjavec, P.Eng.
Vice President -Atlantic Canada



Alcohol and
Gaming Authority
Investigation
and Enforcement

PO Box 545
Alderney Gate
40 Alderney Drive
Dartmouth, Nova Scotia
B2Y 5Y8

Bus: 902 424-6092
Fax: 902 465-6557
Toll Free: 1-877-565-0556
E-mail: againvest@gov.ns.ca

March 17, 2003

Mr. Daniel R. Joseph
MCJ Restaurant Limited
My Other Brother Darrell's Restaurant
5576 Fenwick Street
Halifax, Nova Scotia B3H 1P8

Dear Mr. Joseph:

Re: My Other Brother Darrell's Restaurant

I wish to acknowledge receipt of your recent request with respect to the above-noted matter.

The file of *My Other Brother Darrell's Restaurant* has been reviewed and this correspondence will serve to confirm that no file material is held by the Alcohol and Gaming Authority with respect to complaints or allegations regarding violation of our regulations.

Trusting this is satisfactory.

Yours truly,

J.X. Renzi
Director
Investigation & Enforcement

JXR/dth

F:\WP\WPDOCS\LIQUOR\MyOtherBrotherDarrellsRestaurant\dar1703.wpd