LLOYD R. ROBBINS
LLOYD ROBBINS LAW INCORPORATED
5 ROCKHAVEN DRIVE
HALIFAX NOVA SCOTIA
B3M 1Z8

O: 902 443 1445
[redacted]

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Jennifer Chapman
Planning and Development
Halifax Regional Municipality
Halifax Nova Scotia
B3J 3A5

Re:Zoning amendment 207 Greenhead Road PId's
Case Number 22617

Dear Ms Chapman

The attached Application is made pursuant to Lakeside Timberlea policy HR-20 and or HR-22.

The application is made to legalize extensions that were made to a legal non-conforming commercial garage on the property.

PId 00404566 is zoned R-3 but assessed commercially. The commercial garage is on this property. PID 40501561 is next door it is zoned P-2. [redacted] The two PID's have been used as one since before 1987. The applicant will be doing a de facto consolidation of the two PID's as part of this process.

It is the applicant's submission that both properties were incorrectly zoned and are not in accordance with the MPS. The purpose of this application is to bring the two properties into compliance with the MPS as should have been done when the plan was adopted. The fact that both properties are mis zoned was known to HRM. The garage property is zoned Commercially not residentially which it would be based on its zoning. The house PID is zoned community use which it should not be given that residential is not allowed in the P-2 zone unless there is a daycare. As is discussed later the failure of HRM to zone the properties in accordance with the MPS at the time the plan was passed and the subsequent failure to correct the zoning despite knowledge that the zoning was wrong as evidenced by the assessment is now resulting in a double penalty to the applicant. He cannot remedy the problem without going through a planning process which will take

more than a year. [redacted] This should not happen; this application should be viewed as a housekeeping application which would mean an expedited process given the highest priority. This being the case it is requested that the process be expedited.

In the following paragraphs the Planning argument will be developed.

The MPS at p. 58 Existing Commercial and Industrial Uses. recognizes that the settlement pattern of Lakeside has characteristics of a mixed-use settlement pattern. The mixing of commercial and residential uses exists throughout the community and the pattern has become part of the intrinsic character of Lakeside prior to 1982 when planning first came to Lakeside.

Three categories of existing commercial uses were identified:

1. a number of existing commercial and industrial uses located in residential areas, which do not involve serious land use conflicts.

2. a mixture of residential, commercial and industrial uses along Highway No. 3.

3. a number of commercial uses are situated in areas where commercial zoning is not appropriate by reason of inadequate access, small lot sizes or location on local streets.

For all three categories policies were identified for their continued existence. Policy UR-20 which established the C-3 zone was established for the first category. Policy UR-21 was established for the second category and policy UR-22 for the third category.

The applicant not wishing to set up an adversarial application has made this application under both policy UR-20 and UR-22. Having applied under both it is the applicant's submission that policy UR-20 should apply.

The applicants property does not fit the definition applied to policy UR-22.

1. It is not on an undersized lot the applicant's property once consolidated is almost an acre in size with over 180 feet. This is well in excess of the C-3 requirements.

2. The lots when combined have 180 feet of frontage on a minor collector not a local street. Local street is one of the criteria for application of UR-22.

3. The applicant's property was not in a residential neighbourhood when the zoning was firs applied and is still not.

    a. The land across the road is vacant crown land.
    b. The lots to the east and west are residential but are owned by the applicant. It is noted that the property to the east PID 40501561 which

is residential is the original location of the family garage. It is no longer used. However, when the zoning was implemented there would have been two garages in the neighborhood the one that is subject of the application and the applicant's father's garage. In other words, the neighbourhood was commercial not residential.

c. The lot two doors to the west is the Legion, not a residential use, Beyond that the land is vacant.

d. There is a mobile home park to the rear. It is focused away from the garage and is buffered by trees and a privacy fence. In 1982 it would have been vacant.

In other words there is " no serious land use conflict" which is the under pinning for the application of Policy UR-20 not UR-22..

In our discussions you suggested that the C-3 zone only applies on the Bay Road. You are correct that it has been applied on the Bay Road. You have referred to background history of the Zone to substantiate your position. I have reviewed both Mr Donovan's presentation to council during the 1992 Plan review and a document entitled "Existing uses: Timberlea/Lakeside/ Beechville Consolidation Package September 10th, 1990. There is reference to the Bay road in Mr Donovan's presentation and the various documents in the consolidation document, however it is respectfully submitted that these are background information for Council but are not part of the legal document the MPS which was voted on by Council. There is nothing in the explanation for Policy UR-20 or UR-22 that suggests that the C-3 zone only applies on the Bay Road.

It has also been suggested that the C-3 zone cannot apply because the Zone will not be used in the future for new uses. The applicant's user existed before the policy it is not a new use the application seeks to bring the zoning bylaw in conformity with the MPS which is a legal requirement of the Municipal Government act. This fact is important the zone should be evaluated in accordance with what was there when the zoning was first input in place.

The applicant is requesting the C- 3 zone because it is the correct zone to bring the property in compliance with the MPS. The existing use met all requirements of the zone at the outset and still does. and the existence of two main uses is expressly permitted in the C-3 zone.

Additionally it is the most practical solution both in terms of time and money. There will be no development agreement required which will shorten the approval time and avoid the cost of a surveyed site plan.

As has been discussed time is critical to the applicant. As a result of the Court order he is not permitted to use the two additions to the non-conforming use. This reduces his number of bays and hoists from 4 to 2. This is a serious concern; he is having to turn away business which will result in lost revenue. [redacted] The normal process which could be in excess of a year will cause serious stress

In conclusion in considering whether to apply policy UR-20 or UR-22 I would ask you not only to take into account the applicants argument with respect to the MPS policies but also the practical effect of your decision particularly given that an argument could be made that both PID's have been mis zoned since the adoption of the plan . While it is accepted that the applicant is the author of his own misfortune and it was proper to charge him for building without a permit, if the property had been zoned correctly at the outset the solution would now be simple, he could apply for a development / building permit and get on with business. It is respectfully submitted in this circumstance the Municipality should do everything it can to expedite the process and give it priority, the applicant having paid his fine should not have an additional penalty due to what could be characterized as an inadvertent omission by HRM. This application is truly housekeeping.

Respectfully submitted

Lloyd Robbins.