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Our Ref: 2014209:NRL

19 May 2020

Brittney MacLean  
Planner II – Urban Enabled Applications  
HRM Planning & Development  
PO Box 1749  
Halifax, NS B3J 3A5

Dear Ms. MacLean:

**Re: HRM Case #22624 at 2322-2324 Hunter Street – Planning Rationale**

On behalf of James (Tony) Thibault, applicant for Case # 22624, we have prepared the following planning rationale in support of Mr. Thibault's revised application for a Development Agreement at the above noted property.

## **SUMMARY OF APPLICATION**

### **Application History**

This application was originally submitted only for an Agreement to enable the commercial conversion described below. This application received detailed Team Review by HRM staff (letter dated December 20, 2019), and the initial staff opinion was supportive. This application was also reviewed by PAC, but did not advance to public engagement. This rationale letter is part of a revised application which maintains the commercial conversion, and further includes internal modifications to divide an existing residential unit into two smaller apartments. The result is a fully residential building containing 6 dwelling units, compared to the 5 units originally proposed.

### **Existing Conditions**

The property is a ±5,376ft<sup>2</sup> lot improved with a two-storey mixed use building containing four residential apartments (one 2-bedroom and two 1-bedroom units on the upper floor, and one 6-bedroom unit occupying portions of the ground floor and basement). Additionally, there is a commercial storefront (occupying 1,152ft<sup>2</sup> of space, split evenly between the ground floor and basement) taking up the entirety of the ground level front façade. A paved driveway is located along the north side of the lot and leads to a paved lot in the rear of the property containing six 8ft x 16ft parking spaces.

Under the R-2 General Residential zone currently applied to the property, the existing conditions are legally non-conforming on account of both the commercial use, as well as the number of residential units relative to required lot area and yard dimensions. The Halifax Municipal Planning Strategy allows for consideration of changes to legally non-conforming properties by Development Agreement.

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### **Proposed - Commercial Conversion**

Recently, the longstanding tenant of the commercial unit decided to permanently close their business and retire. Given the size and configuration of the commercial space, the lack of off-street customer parking, and the neighbourhood context and location relative to local commercial centres, residential use of this space is a more sensible option compared to continuation of the non-conforming commercial use under a new tenant.

This application therefore proposes to convert the current commercial unit to a new 3-bedroom residential apartment.

### **Proposed - Residential Unit Rationalization**

Aside from the existing commercial space, the ground floor and basement of the building is occupied by a single, sprawling dwelling unit containing six bedrooms. This is an inefficient and idiosyncratic configuration that has resulted over the years as the use of the building has evolved and piecemeal interior modifications have been made. Further, this unit contains partial kitchen facilities in the basement, creating a compliance issue under the Halifax Land Use By-law which defines a dwelling unit as having only one kitchen.

The disruption and construction activity that would occur on the ground level and basement for conversion of the vacant commercial unit is an opportunity to rationalize the residential use on these floors. Accordingly, this application proposes to divide the current 6-bedroom unit into two separate units; a 4-bedroom unit contained largely on the ground floor with a secondary bathroom located in the basement, and a 1-bedroom unit contained entirely in the basement. In addition to producing a better unit configuration, this also rectifies the compliance issue associated with the existing secondary kitchen, which would otherwise have to be mitigated by removing those facilities and further impairing the function of the existing apartment.

### **Proposed – Building Exterior Modifications**

The bulk of the proposal deals with changes to the interior of the building. That notwithstanding, minor modifications to the exterior front façade are proposed as part of the commercial conversion. These entail the enclosure of approximate 12ft<sup>2</sup> of exterior space currently occupied by the recessed commercial entryway to bring that area into plane with the rest of the facade, and changes to fenestration and cladding to match the rest of the building. The purpose of this work is to relocate primary access for the new residential unit to an existing entry door on the north side of the building, and eliminate the commercial character of the ground floor front façade.

Aside from these nominal changes, no further exterior modifications are proposed to either the building or the site design. The location and provision of off-street parking and access driveways will remain as-is, and no changes to existing yard sizes, lot coverage, height, or massing is proposed.

## **POLICY ANALYSIS**

The previous Team Review identified the following policies as relevant in the consideration of the application. Below we identify each policy statement and provide corresponding planning rationale for the proposal. The subject of this application is an existing non-conforming property, therefore analysis of alignment with policy should also consider how the proposal compares with existing conditions. Accordingly, the focus of the rationale is whether the proposed development is more consistent with policy than the existing conditions it would replace, with the appropriateness of the proposal in and of itself being the secondary consideration.

### **Halifax MPS – Section XI Peninsula North Secondary Planning Strategy**

#### **Policy 1.1**

*To foster stable residential areas and to preserve the character of Peninsula North, the retention and rehabilitation of structurally sound housing units shall be encouraged.*

**Rationale:** The proposal is for an existing building which will be retained with the majority of existing housing units untouched. Additional residential units will be added through the repurposing of existing floor space; conversion of the existing legally non-conforming commercial area, and rationalization of one overly large unit into two smaller units. Overall the modifications proposed

will result in a residential multi-unit property that is better aligned with existing neighbourhood character, as well as current demographic needs and market conditions. This improves the viability of the entire property and supports the retention of all dwelling units going forward.

**Policy 1.1.1**

*Where redevelopment is proposed for sites with structurally sound housing units, the retention and rehabilitation of such existing units and the integration of new structures with these shall be encouraged.*

**Rationale:** A new unit is added through conversion of existing commercial space, and an existing obsolete unit will be rehabilitated and rationalized into two, more functional units. No loss of existing residential units is proposed in this application. Overall, the residential use of the building will be maintained and slightly expanded, changing from 4 units containing 10 bedrooms in the current configuration, to 6 units containing 12 bedrooms. No new structures are proposed as part of this application.

**Policy 1.3**

*In areas shown as medium-density residential on the Generalized Future Land Use Map of Section XI, residential development in the following forms shall be encouraged:*

- (i) *Single family dwelling;*
- (ii) *Duplex housing*
- (iii) *Semi-detached housing; and*
- (iv) *Buildings containing three or four units.*

**Rationale:** The proposal will replace an existing commercial use with a 5th residential unit, and reorients floor space to create a new 6th unit through subdivision of an existing unit. The conversion of the commercial space to residential is a 1-to-1 exchange for a use that is both reflective of the neighbourhood's residential character, and less intensive in terms of servicing and traffic impact.

The proposed internal division which creates the 6th residential unit represents a lower number of bedrooms, and equivalent level of density compared to a commercial conversion-only scenario. This is demonstrated further in the rationale for Policy 2.2, which directly addresses the issue of intensity.

Regarding external conditions, the proposal makes no significant change to site design or building massing, resulting in a renewed structure that is identical in character to the existing building containing four units.

**Halifax MPS – Section II: City-Wide Objectives and Policy**

**Policy 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.*

**Rationale:** The proposal allows for modest accommodation of residential growth on the Peninsula through reuse of existing floor area.

While the proposal adds two dwelling units, it requires only four (4) additional fixtures: 2 bathtub/showers, 1 sink, and 1 laundry machine. This is a minor increase which should be easily supported by existing services, and is partially offset by the elimination of commercial uses on the property. For this same reason, traffic impact is expected to be comparable or lower to the existing conditions, and sufficient off-street parking is available for the residential units proposed.

**Policy 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.*

**Rationale:** The proposal increases dwelling unit count on the Peninsula through rationalization and rehabilitation of a poorly designed residential unit in the existing residential building, Further, conversion of the legal non-conforming commercial use to residential increases the compatibility with the existing neighbourhood, which is similarly made up of exclusively residential buildings.

**Policy 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.*

**Rationale:** There are two questions to examine relative to this policy statement, 1) does the revised application represent a different intensity of use compared to the property as it currently exists or the previous application which received positive staff review, and 2) do the changes proposed by the application relate to the needs and character of the existing neighbourhood?

First, the revised application maintains the conversion of commercial space to residential use, which represents a decrease in land use intensity. This is particularly true as it relates to traffic, which is the most significant potential neighbourhood impact in this case, given the general lack of other exterior modifications in the proposal. This letter is not a Traffic Impact Statement nor is its author a qualified Transportation Engineer. However we have had preliminary discussions with qualified transportation professionals on this proposal and they note that, in general, residential dwellings are assigned much lower trip generation rates as compared to retail uses of a similar floor area in the Institute of Transportation Engineers Trip Generation Manual.

HRM staff review of the previous application held that the proposal represented a lower level of intensity compared to the existing conditions. This revised application adds another dwelling unit through rationalization of existing floor area, however, this is effectively a net-neutral change in residential intensity due to the reduction in total bedrooms. The table below compares the existing conditions, original application, and revised application in terms of land use intensity:

Scenario	Existing Conditions	Commercial Conversion Only (Original Application)	Commercial Conversion plus Unit Subdivision (Revised Application)
Commercial Floor Area	1,152ft <sup>2</sup>	0ft <sup>2</sup>	0ft <sup>2</sup>
Residential Unit Mix	2 x 1BR 1 x 2BR 1 x 6BR	2 x 1BR 1 x 2BR 1 x 3BR 1 x 6BR	3 x 1BR 1 x 2BR 1 x 3BR 1 x 4BR
Total Bedrooms	10	13	12 <sup>1</sup>
Total Habitable Rooms <sup>2</sup>	17 Apt. #1 = 3 Apt. #2 = 3 Apt. #3 = 3 Apt. #4 = 8	22 Apt. #1 = 3 Apt. #2 = 3 Apt. #3 = 3 Apt. #4 = 8 Apt # 5 = 5	22 Apt. #1 = 3 Apt. #2 = 3 Apt. #3 = 3 Apt. #4 = 6 Apt # 5 = 5 Apt # 6 = 2
Intensity <sup>3</sup>	138 persons per acre	179 persons per acre	179 persons per acre

<sup>1</sup> After dividing off the new 1 BR unit, one of the former bedrooms in the remainder of the large apartment will become a living room.

<sup>2</sup> Per Halifax Peninsula Land Use Bylaw definition, which states: Habitable Room means any room in a dwelling house, multiple dwelling, or dwelling unit, with the exception of bathrooms, storage spaces with no windows, or kitchens with a floor area of less than one hundred square feet. Combined or undivided living spaces with floor areas greater than four hundred square feet shall be deemed to be two habitable rooms. Further to this, we note: the existing kitchen in Apartment #1 is less than 100ft<sup>2</sup>; Apartment #5, created through commercial conversion, contains a combined living room and kitchen of less than 400ft<sup>2</sup>, and; Apartment #6, created through division of #4, contains a combined living room and kitchen of less than 400ft<sup>2</sup>.

<sup>3</sup> The Halifax Municipal Planning Strategy does not specifically define “intensity” nor does the Halifax Peninsula Land Use Bylaw. In residential land use contexts, density is customarily synonymous with intensity. The Peninsula LUB regulates residential density through its defined “Population Density” metric, measured in persons per acre. We have therefore adopted this as our measure of intensity, which allots one person to a dwelling unit for each “Habitable Room” therein.

Based on the Land Use Bylaw definitions, the revised application represents the same level of residential intensity as the original. Given that the original application was deemed by staff to be a reduction of land use intensity compared to the current residential/commercial mixed-use conditions, it follows that this revised application should as well.

Secondly, the revised application represents a built form and land use that is well within the existing character and intensity of the current neighbourhood. Hunter Street contains a mix of residential typologies, ranging from single-detached homes to low-rise apartment buildings with more than 20 units. The majority of lots are developed with 2 to 4 unit residential buildings, and all properties are either 2 or 3 storeys in height. Given that the scale and massing of the existing building will be maintained, and that use of the property will be converted to match the exclusively residential nature of other properties on the street, the proposal would improve the consistency of the property with the character of its surroundings.

Furthermore, the revised application presents a broader residential unit mix that better matches the demographic profile of the area. This is illustrated in the table below which shows the distribution of households by size in the local Dissemination Area according to the 2016 Census, compared against the current and proposed unit mix by corresponding bedroom count:

Households by Size (n=205)	Distribution of Households in Local Area	Current Unit Mix	Proposed Unit Mix
1 Person	44%	50%	50%
2 Persons	34%	25%	17%
3 Persons	15%	0%	17%
4 Persons	7%	0%	17%
5+ Persons	2%	25%	0%

*Figures may not add to 100% due to rounding.*

Finally, we note this policy references two implementation policies: 3.1 and 3.2. These were repealed in 1990 and 2019, respectively, and are therefore not applicable.

#### **Policy 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.*

**Rationale:** Aside from the subject property, Hunter Street is exclusively residential but contains a broad variety of housing types as previously discussed. The commercial conversion proposed in this application will increase the building’s consistency with existing land use patterns, and compatibility with the neighbourhood. Visually, the proposal will maintain the external appearance and scale that has existed on the property for decades. Furthermore, the creation of two new residential units through internal modifications will improve the availability of housing stock and increases the variety of unit types available in the building with no enlargement of the structure required.

#### **Policy 2.10**

*For low and medium density residential uses, controls for landscaping, parking and driveways shall ensure that the front yard is primarily landscaped. The space devoted to a driveway and parking space shall be regulated to ensure that vehicles do not encroach on sidewalks.*

**Rationale:** The proposal maintains existing conditions with respect to treatment of the front yard, location of parking, and location and number of driveways. Parking provision is adequate at 1 space per unit, and its use will be regulated through Development Agreement provisions. The potential for neighbourhood conflicts will be lower without the additional traffic generated by a commercial use on the property.

**Policy 2.11**

*For all residential uses the parking and storage of vehicles such as trailers, boats and mobile campers, shall be restricted to locations on the lot which create minimal visual impact from the street.*

**Rationale:** Parking is proposed to remain at the rear of the property, where it is currently located and already screened by existing fencing and vegetation. Aside from the driveway itself, there are no parking or vehicle circulation areas visible from the street.

**Halifax MPS – Section II City-Wide Objectives and Policy**

**Policy 3.14**

*Council may, by development agreement, permit a non-conforming use to be changed to another less intensive non-conforming use, or permit the structure in which such a use is located to be altered or expanded, provided that:*

- a) *the layout and design of the property shall be complementary to the fabric of the neighbourhood, and this shall be achieved through attention to a variety of factors including, but not limited to, the following, on which Council shall specify conditions to be met in the development agreement:*
  - (i) architectural design;*
  - (ii) the size, location, and landscaping of courts, open spaces, and yards;*
  - (iii) location of primary and secondary entrances to the building; and*
  - (iv) size, location, and design of fences.*
- b) *vehicular activity, particularly parking and loading, shall be controlled so as not adversely to affect the neighbourhood in terms of traffic flow and nuisance;*
- c) *facilities for parking, loading, vehicular access, outdoor display, and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and to ameliorate existing problems, through attention to factors including but not limited to:*
  - (i) location;*
  - (ii) surface treatment;*
  - (iii) storm drainage;*
  - (iv) access from the street; and*
  - (v) screening, buffering, and landscaping.*
- d) *except where specific benefits to the neighbourhood can be demonstrated, all additions to a building, all off-street parking and loading areas, and all outdoor display and storage areas shall be set back from the street line by the more restrictive of:*
  - (i) the minimum setback of the existing building; or*
  - (ii) the mean setback of the buildings on the adjacent properties on either side; or*
  - (iii) the minimum setback specified for the zone in which the use is located.*
- e) *except where specific benefits to the neighbourhood can be demonstrated, additions to the structures on the property shall not:*
  - (i) further encroach upon the minimum side and rear yards stipulated for the zone in which the property is located; or*
  - (ii) result in the total lot coverage or building height exceeding the maximum stipulated for the*

- zone in which the property is located;*
- f) any outdoor lighting or sign illumination shall be directed away from, or screened from, adjacent residential properties;*
  - g) no bulk refuse containers shall be visible from the street or from the immediate neighbourhood;*
  - h) no additional lot area shall be used for outdoor storage, and measures shall be taken to screen any outdoor storage areas from the street and immediate neighbourhood;*
  - i) with regard to on-site advertising for commercial or industrial uses:*
    - (i) where the property is located in a residential zone, no additional advertising surface area or illuminated signage shall be added; and*
    - (ii) in all other cases, such advertising shall not exceed the limits prescribed for the zone in which the property is located.*
  - j) in the case of commercial and industrial operations in residential zones, the following additional considerations shall also apply:*
    - (i) there shall be a demonstrable improvement to the neighbourhood;*
    - (ii) existing conditions resulting in noise, dust, vibration, odour, and emissions shall be required to be ameliorated where these cause a nuisance or hazard; and*
    - (iii) operating hours shall be restricted to prevent nuisance.*
  - k) No subdivision of the lot shall have occurred subsequent to the time of the adoption of this section.*

**Rationale:** only parts a), b), c), d), e), and g), are applicable. The less intensive nature of the non-conforming use proposed in this application has been established in the rationale for Policy 2.2, above.

- a) Very few exterior changes to the property are proposed, and those that are (enclosure of commercial entryway and changes to cladding and fenestration) will better reflect the residential character of the neighbourhood compared to the property as it exists today.
- b) Parking and access will not be changed from the current provision, and the elimination of commercially-generated traffic will lessen the opportunities for adverse impacts to the neighbourhood.
- c) Parking and access will not be changed from the current provision, and the elimination of commercially-generated traffic will lessen the opportunities for adverse impacts to the neighbourhood.
- d) The minor addition proposed will maintain the minimum front yard setback of the existing building. Parking and access will not be changed from the current provision, and the elimination of commercially-generated traffic will lessen the opportunities for adverse impacts to the neighbourhood.
- e) The minor addition proposed is not related to the side or rear of the structure, and not change to lot coverage will result.
- g) Refuse will continue to be stored in bin located at the rear of the property, visually screened from the street by the existing building, and from abutting properties by existing fencing and vegetation.

#### **Policy 4**

*When considering amendments to the Zoning By-laws and in addition to considering all relevant policies as set out in this Plan, the City shall have regard to the matters defined below.*

**Rationale:** Not Applicable – introductory statement to policies 4.1 and 4.2, listed below.

**Policy 4.1**

*The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.*

**Rationale:** The property is an existing legal non-conforming use and will be converted to a less intense non-conforming per the existing Policy 3.14. Other matters of conformance can be addressed in the provisions of the Development Agreement, and the application of the building code during the construction permitting process.

**Policy 4.2**

*The City shall review the proposal to determine that it is not premature or inappropriate by reason of: (i) the fiscal capacity of the City to absorb the costs relating to the development; and (ii) the adequacy of all services provided by the City to serve the development.*

**Rationale:** HRM should not expect to bear added costs associated with this proposal. Furthermore, the Regional Plan identifies existing central urban locations to be the most fiscally efficient location to accommodate growth. It is reasonable to expect marginal, if any, increase in service consumption given the total elimination of commercial land use, and comparatively modest increase in residential density over existing conditions.

**PLANNING ADVISORY COMMITTEE RESPONSE**

On March 9, 2020 the Halifax Peninsula Planning Advisory Committee reviewed the previous version of this application which only proposed the conversion of the commercial unit resulting in a five unit residential building. They have not yet reviewed the six unit building proposal that is the subject of this letter. We look forward to their commentary following review of this revised application, however much of their commentary on the initial application remains relevant. Below we have provided responses to the considerations noted in the recommendation made to Halifax & West Community Council via their March 16, 2019 memorandum:

**Consideration:** *Accessibility Needs - The Committee had concerns about accessibility to the entrances of the units.*

**Response:** Incorporating barrier-free design is challenging within existing buildings; a finalised plan for accessibility as part of the proposed renovations is not completed at this time. However the applicant is discussing accessibility requirements with HRM building officials and working with them on site to understand the regulations and how they can best be accommodated. This matter will be addressed through the Development Agreement provisions and Construction Permitting process, as appropriate.

**Consideration:** *Solid Waste Management, in particular waste pick up and location of bins - The Committee was not sure if sufficient provisions were made for solid waste management.*

**Response:** The proposed six unit building will continue to qualify for municipal curb-side pickup, therefore it is intended that solid waste will be handled in the same fashion as it is currently. In particular, refuse bins are stored in the rear of the lot to visually screen them from the street and neighbouring properties. Typically, a building resident assumes responsibility for curbside placement and retrieval of the bins in exchange for discounted rent, however the landlord maintains ultimate responsibility if such an arrangement cannot be found.

**Consideration:** *The furnace room have separate access and not be accessed through a unit - The Committee was concerned that the proposed plan indicated that the entrance to the furnace room could only be made through one of the units.*

**Response:** Unfortunately there is no feasible solution to establish independent access to the furnace room. Where planning policy strongly encourages the retention and rehabilitate existing structures and housing units, it is inevitable that such design trade-offs will result.



While the proposed furnace room access is not ideal, it is merely a continuation of the existing condition. To our knowledge this situation has always existed, and the applicant has attempted to mitigate the arrangement over the time they've owned the building by installing a fire-rated enclosure consisting of double-layered 5/8 inch drywall over the previously exposed stud walls and floor joists.

Additionally, as noted in the Discussion Section of the memorandum, the Committee was speculatively concerned about decreased unit size under a six unit scenario, compared to the five unit proposal they reviewed at the time. We can provide the following commentary and look forward to their comments upon review of this revised proposal.

**Response:** We are unclear if the Committee's concern on unit size is specific to the unit types (bedroom count) or physical floor area of each unit, or perhaps both. Regardless, we note that none of the three existing upper floor apartment units will be modified, and the commercial conversion obviously represents a new unit to the building that requires no reduction to any of the existing residential space. The only reduction in unit size associated with this proposal results from the division of the 6-bedroom unit into a 1-bedroom unit and a 4-bedroom unit. Generally speaking, all units are similar or larger in area compared to typical unit sizes in new construction, and the provision of 3 and 4 bedroom units represents a more functional apartment size for larger families compared to the existing 6-bedroom configuration.

## CONCLUSION

Based on the foregoing, we believe the application provides superior consistency with HRM policy in comparison to the property as it exists today. Furthermore, we believe the revised application shows an equivalent conformance to the intent of HRM policies as the original, which received positive staff support.

Yours truly,

TURNER DRAKE & PARTNERS LTD.

**Original Signed**

**NEIL R. LOVITT, LPP, MCIP, CPT**  
Vice President  
Planning & Economic Intelligence Unit