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Item No. 10.1.1
Halifax and West Community Council
First Reading June 26, 2018
July 30, 2018

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: *-Original Signed-*

Kelly Denty, Acting Director, Planning and Development
-Original Signed-

Jacques Dubé, Chief Administrative Officer

DATE: May 22, 2018

SUBJECT: **Case 21439: Halifax Mainland Land Use Bylaw amendment to add lounges as a permitted use in the C-2C (Dutch Village Road Mixed Use) Zone**

ORIGIN

Application by Troy Arseneault.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider the proposed amendment to the C-2C (Dutch Village Road Mixed Use) Zone of the Halifax Mainland Land Use By-law, as set out in Attachment A of this report, to add lounges to the list of permitted uses, and schedule a public hearing;
2. Adopt the amendment to the C-2C (Dutch Village Road Mixed Use) Zone of the Halifax Mainland Land Use By-law, as set out in Attachment A.

BACKGROUND

Troy Arsenault, owner of The Anchor restaurant, has applied to add lounges to the list of permitted uses in the C-2C (Dutch Village Road Mixed Use) Zone. He currently owns The Anchor restaurant and would like to be able to continue alcohol service after the closure of the kitchen around 10 PM. This would require a provincial liquor licence for a lounge which is not a permitted use in the C-2C Zone.

Enabling Policy and LUB Context

Halifax Municipal Planning Strategy

Policy 2A.2.1 in the Halifax MPS establishes the C-2C zone based on a range of use categories identified as "...multi-unit residential, retail, office uses, restaurants, personal service uses, institutional uses, community facilities and related commercial uses that service the local community." This zone is applied in a limited area within the commercial designation of the Fairview Area Secondary Planning Strategy (Map 1). Lounges could be added to the bylaw within the category of related commercial uses that service the local community.

Plan Dutch Village Road

Plan Dutch Village Road (PDVR) was adopted by Regional Council, October 4, 2014. PDVR provided an update to the Commercial policy section of the Fairview secondary plan in the Halifax MPS. The goals of the plan were to enhance the commercial character of the area, create a defined commercial node and to allow for a built form that is better integrated with the neighbourhood. Through this process the C-2C Zone was created which included a broad list of uses. Lounges were not included in the list of permitted uses at that time but the policy does speak to permitting commercial uses that serve the community.

Halifax Mainland Land Use Bylaw

The C-2C Zone permits: all R-2 and R-2TA uses; retail and rental stores excluding, motor vehicle dealers and motor vehicle repair; and adult entertainment uses; health clinic; appliance and small scale repair shops; personal service uses; bowling alley; a theatre; a service station; offices; a bank and other financial institutions, excluding drive-throughs; a restaurant, excluding drive-throughs; community facilities; commercial recreation uses; day care facility; apartment house; micro breweries; coffee roasteries; ferment-on-premises facility; brew pub; institutional uses; government or public buildings; existing R-1 uses; and any use accessory to any of the foregoing uses.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public workshop held on February 22, 2018. Attachment B contains a copy of the notes from the meeting. The public comments received include the following topics:

- Concerns about noise associated with loading;
- Providing new opportunities for people to stay in the area;
- Bringing people and businesses to the area; and
- Concerns over noise late at night.

Most of the comments were about existing business operations and the applicant has agreed to investigate different loading times to respond to these concerns.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed LUB amendment. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the

notification area shown on Map 2 will be notified of the hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposal will potentially impact local businesses, local residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the MPS. Attachment A contains a proposed Land Use Bylaw amendment that would add lounges to the list of permitted uses in the C-2C Zone.

Provincial Regulation

The Province currently regulates licensing of alcohol under the *Liquor Control Act*. The *Liquor Control Act* provides for classes of license including a lounge license which permits the sale of liquor by the glass and beer and wine by the open bottle, glass or other container.

Below are the key aspects of the provincial regulations regarding lounges:

- A business must have a license for an eating establishment (restaurant) to be eligible for a lounge license;
- Minimum of 25% of the customer area must be for a restaurant;
- Establishment must function as an eating establishment for a minimum of 5 hours a day;
- Live entertainment is permitted in both restaurants and lounges;
- Maximum hours lounges and restaurants are permitted to sell alcohol is between 10 am to 2 am;
- Public consultation is required for consideration of the application of a lounge application;
- Province may impose conditions on license to ensure the quiet enjoyment of neighbouring properties; and
- If a complaint is received regarding the quiet enjoyment of property, further conditions may be imposed on the license, or the license may be revoked.

The provincial regulations provide the proactive approach to respond to issues and concerns that may come up with these types of uses. Additionally, the Province treats restaurants and lounges largely the same, as a lounge is only permitted within a restaurant.

Land Use By-law Amendment Review

Attachment C provides an evaluation of the proposed Land Use Bylaw amendment in relation to relevant MPS policies. The following items have been identified for further discussion.

Area of Application

The C-2C zone has limited application and only exists within the PDVR area within the commercial node defined by the MPS. The proposed zoning change would only impact property within this area (Map 1).

The concept of a change to permitted uses for the entire C-2C zoning area provides for balanced distribution of commercial opportunity while allowing the provincial licencing regulations to respond to any operator or site-specific issues. The Province has broad authority to regulate licensed establishments in response to impacts on the quiet enjoyment of adjacent property.

Furthermore, through the public consultation process, residents noted the most equitable approach was one in which all the property owners would be subject to the same land use provisions.

Conclusion

Staff reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the MPS. The policy speaks to creating a defined commercial node, supporting small

business and allowing commercial uses that serve the local community. Expanding the list of permitted uses to include lounges is consistent with this intent.

Staff recommend that the Halifax and West Community Council approve the proposed LUB amendment.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2018-2019 operating budget for C310 Urban and Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed LUB amendment are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed LUB amendment subject to modifications. Such modifications may require further discussion with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter.
2. Halifax and West Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1: Generalized Future Land Use
Map 2: Zoning and Notification Area
Map 3: Lands Zoned C2-C

Attachment A: Amendment to the Land Use Bylaw for Halifax Mainland
Attachment B: Public Workshop Meeting Notes
Attachment C: Review of Relevant MPS Policies

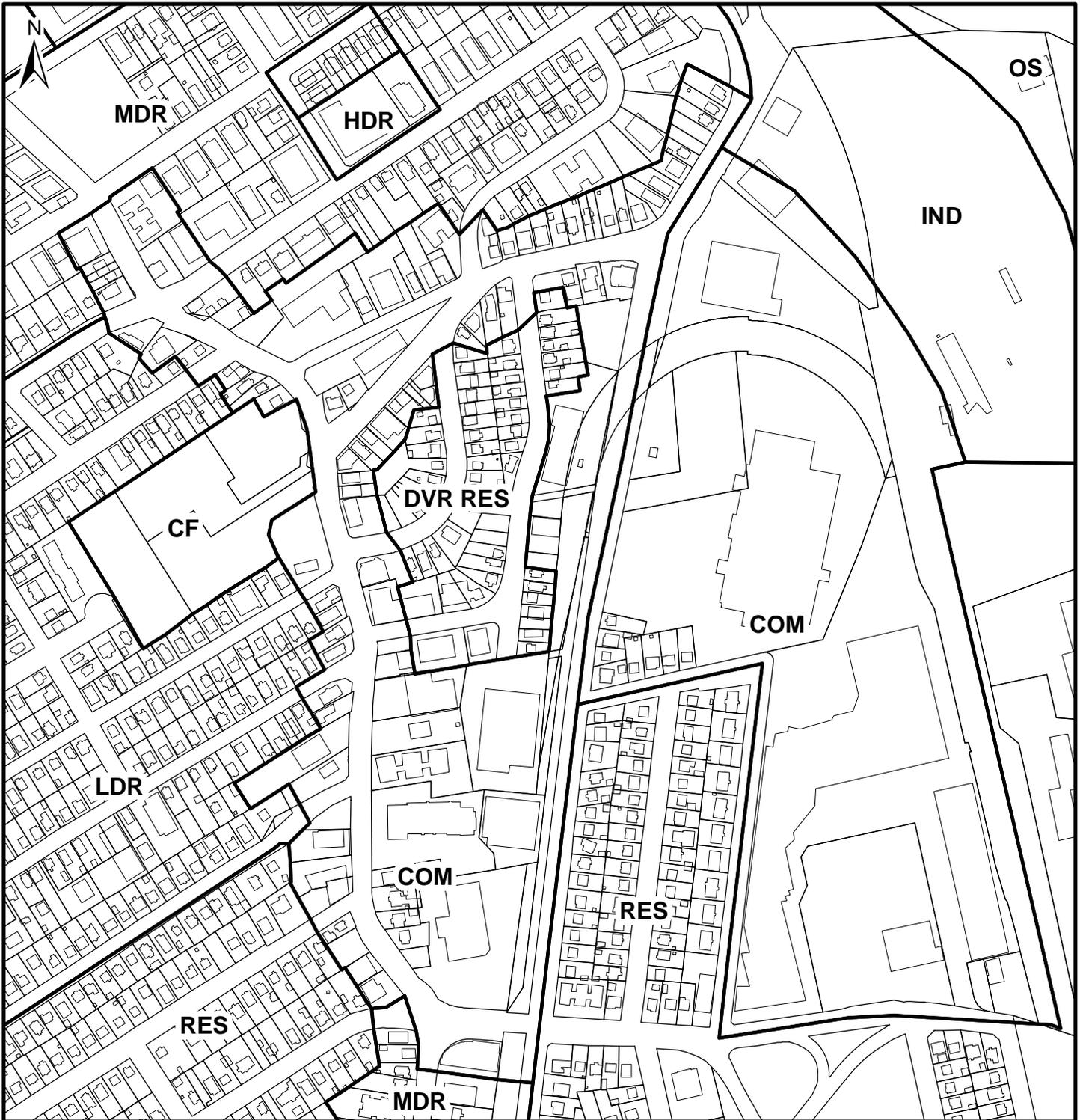
A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jennifer Chapman Planner III, Urban Enabled Applications 902.490.3999

-Original Signed-

Report Approved by:

Steve Higgins, Manager of Current Planning, 902.490.4382



Map 1 - Generalized Future Land Use

Dutch Village Road/ Joseph Howe Drive Area
Halifax

HALIFAX

Designations

RES	Residential Environments
DVR RES	Dutch Village Road Residential
LDR	Low Density Residential
MDR	Medium Density Residential
HDR	High Density Residential
COM	Commercial
IND	Industrial
OS	Major Community Open Spaces
CF	Community Facilities



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

The accuracy of any representation on this plan is not guaranteed.

Halifax Plan Area
Fairview Secondary Plan Area



Map 2 - Zoning and Notification

Dutch Village Road/ Joseph Howe Drive Area

Halifax

 Area of Notification

Zones - Halifax Mainland

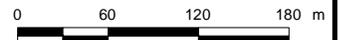
- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2AM General Residential Conversion
- R-2P General Residential
- R-2TA Dutch Village Road Townhouse
- R-3 Low-Rise Apartment
- R-4 Multiple Dwelling
- R-4A Dutch Village Road Multi Unit Zone
- RC-1 Neighbourhood Commercial
- C-2A Minor Commercial
- C-2C Dutch Village Road Mixed Use
- P Park and Institutional

Zones - Halifax Peninsula

- R-2 General Residential
- C-2 General Business
- C-3 Industrial
- P Park and Institutional

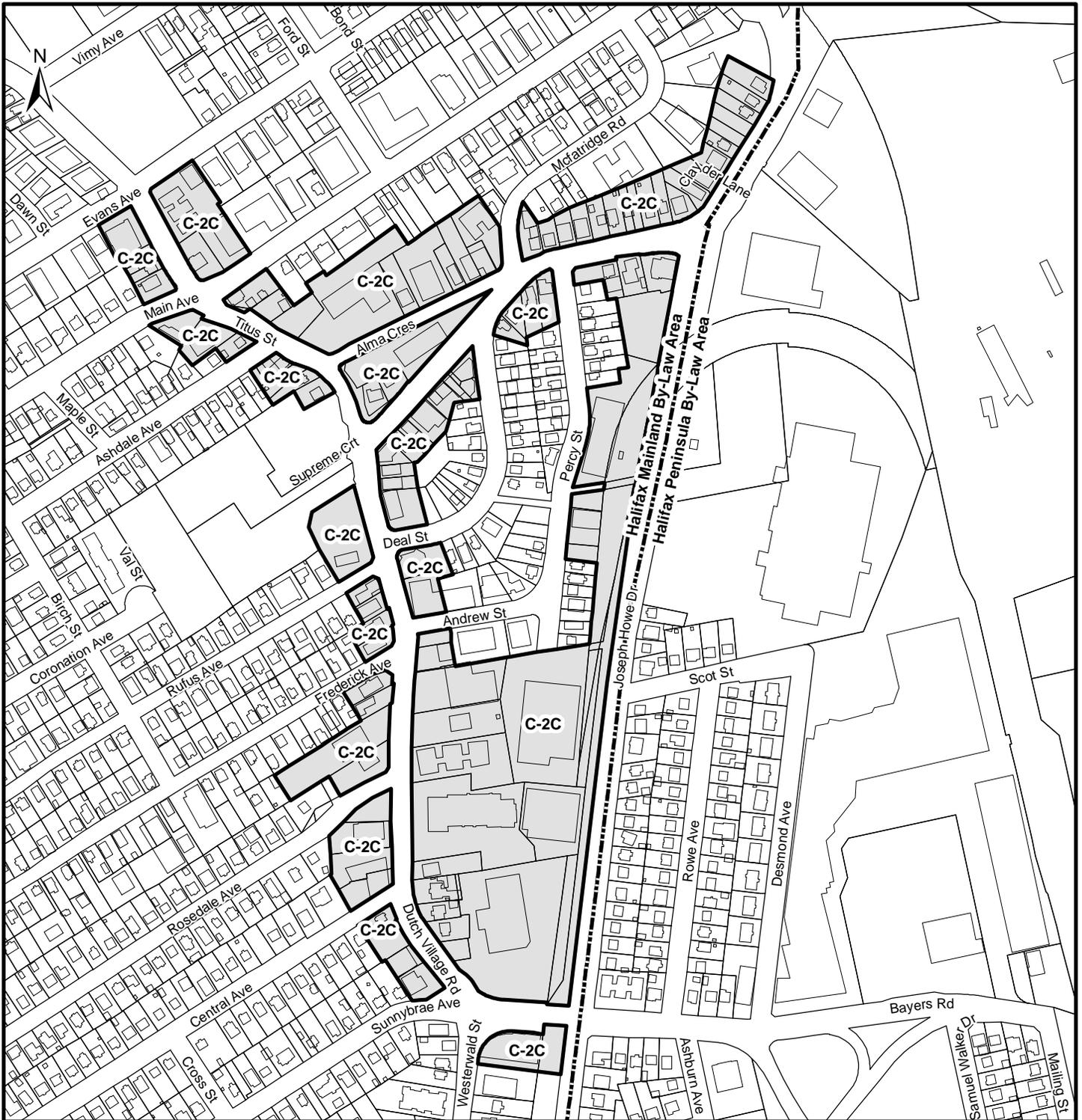
Halifax Mainland
Land Use By-Law Area

HALIFAX



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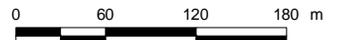
**Map 3 - Lands Zoned C-2C
(Dutch Village Road Mixed Use Zone)**

Dutch Village Road/ Joseph Howe Drive Area
Halifax

-  Lands Zoned C-2C (Dutch Village Road Mixed Use Zone)
-  By-Law Area Boundary

Halifax Mainland
Land Use By-Law Area

HALIFAX



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Attachment A

Amendments to the Land Use Bylaw for Halifax Mainland

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland is hereby further amended as follows:

1. Adding a new definition as shown below, directly after the definition for "Lot Line":

"Lounge" means an establishment licensed as a lounge under the authority of the Liquor Control Act.

2. Adding the following subclause to Section 38BA(1) and renumbering as required:

(t) lounges;

I HEREBY CERTIFY that the amendments to the Halifax Mainland Land Use By-law, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of , 20__.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this day of , 20__.

Municipal Clerk

**Attachment B:
Public Workshop Meeting Notes**

**HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting
Case 21439**

The following does not represent a verbatim record of the proceedings of this meeting.

Thursday, February 22, 2018

7:00 p.m.

**Our Lady of Lebanon Maronite Catholic Church Hall,
3844 Joseph Howe Drive, Halifax, NS**

STAFF IN

ATTENDANCE: Jennifer Chapman, Planner, HRM Planning
Dean MacDougall, Planner, HRM Planning
Holly Kent, Planning Technician, HRM Planning

ALSO IN

ATTENDANCE: Councillor, Russell Walker, District 10
Troy Arsenault, Applicant

PUBLIC IN

ATTENDANCE: Approximately: 11

The meeting commenced at approximately 7:00 p.m.

Call to order, purpose of meeting – Jennifer Chapman

Ms. Chapman introduced herself as the Planner and Facilitator for the application. Then also introduced; Councillor Russell Walker, Dean MacDougall - Planner, Holly Kent - Planning Technician, and Troy Arsenault - Applicant.

Case 21439 - Application by Troy Arsenault add lounges to the list of permitted uses in the C-2C (Dutch Village Road Mixed Use) Zone in the Halifax Mainland Land Use Bylaw.

Ms. Chapman explained; the purpose of the Public Information Meeting (PIM) is: a) provide information on the request; b) to explain the Planning Policies and the stages of the Planning Process; d) an opportunity for Staff to receive public feedback regarding the proposal. No decisions are made at this PIM.

1. Presentation of Proposal – Ms. Chapman

Ms. Chapman provided a brief introduction to the application and then made a presentation to the public outlining the purpose of the meeting, status of the application and the applicants request. Ms. Chapman outlined the context of the study area and the relevant planning policies.

1b. Presentation by Troy Arsenault, Applicant

Mr. Arsenault provided some background on his business and explained why he is involved with this application.

2. Table Discussion

Attendees were seated at two tables for discussion. Three questions were presented (with comments summarized):

What do you like about the proposal?

- Already microbreweries in C-2C zone
- Neighbour is a lounge already
- Endorse/encourage new businesses
- Growing the neighbourhood by allowing the existing residents to invest in it (local residents opening up commercial businesses)(e.g. Agricola and Gottingen Streets)
- More diverse business/retail options (local options that are close – don't have to go downtown)
- Attract new businesses and foot traffic
- Area is growing/more people within walking distance- this type of business is missing
- Support existing local owners in this growth
- Other agencies will take care of noise/drunks (Police, Alcohol and Gaming)
- This could be a major attraction and help encourage people to move to neighbourhood
- This is needed in the area – there is a demand for it
- Need to support change
- It will bring people/business to the community and more people is better for all businesses

What are your concerns?

- Hours of operation are a concern
- It is a busy street already
- Delivery hours (noise/traffic/etc.)
- Noise of patrons/business
- Language of patrons
- Parking problems
- Losing out on vibrancy by not having it
- Hurts small businesses by not having it
- Property rights issues – public urination, smoking, etc.
- Public drunkenness
- Noise
- Understanding what “lounge” means as a use – could be confused for something else
- Hours of operation – open until 2am?
- Not doing this would be a mistake – could lose residents/businesses – could discourage further businesses from opening here
- Unnecessary constraint by not allowing a lounge license

What are your top 2 concerns and how can those be addressed?

- Technology for parking
- Signage for parking area
- Designated smoking area
- Limit time of deliveries to Early AM and alcohol delivery is later
- Use driveway in the area
- Individual basis for consideration of lounges
- No loading zones in AM
- Get doorbell/intercom for deliveries

Additional comments:

- Community is growing and we want to keep business in our community
- Multi-cultural area – there are a lot of different businesses but no bars close
- Parking is available in front of girl guides, in front of business and across the street
- Business is there already
- Hours of operation not a concern

3. Closing Comments

Ms. Chapman thanked everyone for coming and expressing their comments.

4. Adjournment

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

Attachment C: Review of Relevant MPS Policies

Halifax MPS - Section VII (Fairview Area Secondary Planning Strategy) <u>Plan Dutch Village Road</u>	
<i>Policy Criteria:</i>	<i>Staff Comment:</i>
<p><u>Objective</u> The lands around Dutch Village Road are a commercial area that services the larger Fairview community. Maintaining the vibrancy of the area by planning for redevelopment and rehabilitation will ensure success for the community. To create a commercial node that better balances development pressures with the needs of the community requires policies that address land use, external appearance of structures (built form), and urban design in a comprehensive manner. The goals for Plan Dutch Village Road are to:</p> <ol style="list-style-type: none"> 1. Maintain and encourage the retention of local businesses through zoning regulations; 2. Create greater predictability of built form through an as-of-right process; 3. Create development that is respectful of the community; 4. Allow commercial development along all parts of Dutch Village Road; 5. Ensure new development transitions appropriately to low density residential neighbourhoods within the Dutch Village Road study area; 6. Create new buildings that are better integrated with neighbourhood; 7. Require site design that creates livable and walkable communities; 8. Generate a more defined commercial node; 9. Regulate the lands under one By-Law (Mainland Land Use By-Law); and 10. Permit consideration of high-rise development in Area A. 	<p>The proposal is to expand the list of permitted uses to include lounges. Lounges are areas of restaurants that are permitted to sell alcohol without selling food. This is consistent with the policy objectives, especially the following:</p> <p>The proposal encourages the retention of local businesses through zoning and allows commercial development along all parts of Dutch Village Road. The proposal contributes to further defining the commercial node around Dutch Village Road.</p>
<p>2A.2. Lands located on Joseph Howe Drive, Dutch Village Road, Titus Street and Alma Crescent shall be designated as Commercial. This designation is intended to provide for a variety of commercial and residential uses that service the needs of the broader Fairview community. The designation will introduce controls on the external appearance of structures. The designation will permit development of a height and scale up to a mid-rise form through an as of right process. However, high-rise buildings may be considered subject to a development agreement process within Area A (Plan Dutch Village Road Overview Map).</p>	<p>Lands are located within the Commercial designation.</p>

<p>2A.2.1. The Halifax Mainland Land Use Bylaw shall be amended to create a commercial zone (Dutch Village Road Mixed Use Zone) that permits multi-unit residential, retail, office uses, restaurants, personal service uses, institutional uses, community facilities and related commercial uses that service the local community. To encourage the retention of small scale, local businesses, and to reduce the impact of new commercial uses on low density residential environments, retail uses will have a limited ground floor area in Area D. Parking shall not be permitted in the front yard, but instead is encouraged below ground, or otherwise internal to a building. The Dutch Village Road Mixed Use Zone will permit low-rise (buildings up to 11 metres) to mid-rise buildings (buildings taller than 11 m to 25 m), but will not permit single unit residential buildings.</p>	<p>Lounges are related commercial uses that service the local community. They are small scale businesses that frequently service the surrounding residential community. Providing these uses in the area, expands the types of services that are available to the community, increasing it's livability.</p>
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