


Item No. 10.1.2
Halifax Regional Council
February 21, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer, Operations

DATE: January 25, 2012

SUBJECT: **Case 16644, Proposed amendments to the Halifax Municipal Planning Strategy and Halifax Mainland Land Use By-Law to allow the expansion of funeral services uses on Herring Cove Road and to allow the development of Crematoriums.**

ORIGIN

An application was made by J. Albert Walker Funeral Home.

RECOMMENDATION

It is recommended that Halifax Regional Council

1. Initiate the process to consider amending the Halifax Municipal Planning Strategy (MPS) and the Halifax Mainland Land Use By-Law (LUB) to redesignate and rezone 147 Herring Cove Road;
2. Initiate the process to consider amending the Halifax MPS and the Halifax Mainland LUB to permit a crematorium as an accessory use to funeral services use; and
3. Direct staff to follow the public participation program approved by Council in February 1997.

BACKGROUND

Proposal:

The J Albert Walker Funeral Home (Walkers) has been located at 149 Herring Cove Road since 1962. The building on the property is comprised of the funeral home and three apartments on the second floor. Over the years, the scope of funeral services has become more diverse and expansive. Walkers would like to expand the existing building on to the neighbouring property at 147 Herring Cove Road.

As part of the proposed expansion, Walkers would like to develop a crematorium. Walkers' has stated that since the 1980's, the rate of cremations in the HRM region has increased from less than 10% to nearly 85%. Funeral service providers must continuously find methods of providing this service in ways that are convenient, economic, and adaptable for the various religious and personal requests of their clients. To provide this higher level of service to their customers and to adapt their business to the changing funeral services market, Walkers would like to have the ability to offer on-site crematorium services. Therefore, Walkers are requesting that 147 Herring Cove Road be redesignated and rezoned and that the Halifax Mainland LUB be amended to permit crematorium services as an accessory use to a funeral service use.

Requested Amendments:

To allow the requested application, Council would have to consider approving the following amendments:

- i) Redesignating and Rezoning of 147 Herring Cove Road:
 - amending the designation of the property at 147 Herring Cove Road from Medium Density Residential to Commercial, under the Mainland South Secondary Plan; and
 - rezoning the property from R-2P (General Residential) to C-2A (Minor Commercial) to permit the expansion of an existing funeral services use located at 149 Herring Cove Road.

- ii) Permitting crematoriums services:
 - amending the Mainland South Secondary Plan and the Halifax Mainland LUB to permit crematoriums in association with funeral service uses within the C-2A (Minor Commercial) Zone and all zones that permit C-2A uses.

Subject Area:

The subject area comprises of two existing lots as described below:

	<u>149 Herring Cove Road</u>	<u>147 Herring Cove Road</u>
<i>Lot Area</i>	24,675 sq ft	6,695 sq ft
<i>Zone</i>	C-2A (Minor Commercial) Zone	R-2P (General Residential) Zone
<i>Designation</i>	Commercial Designation	Medium Density Residential Designation
<i>Current Use</i>	Funeral home & 3 residential units	Single unit dwelling

Surrounding Area:

The surrounding area is mainly residential (see Map 1). There is a mix of single, two-unit and multiple unit residential uses in the area. The Melville Professional Center and a convenience store are located on the opposite side of Herring Cove Road. To the rear of the subject area is the Cowie Hill Development, an approximately 30 acre development which consists of townhouse clusters.

Medium Density Residential Designation:

The property at 147 Herring Cove Road is designated Medium Density Residential, which as-of-right supports medium density residential development such as two-unit dwellings and townhouse and multiple unit development not exceeding 4 units. The designation supports the consideration of larger scale townhouse and multiple unit development though a development agreement.

The C2-A (Minor Commercial) Zone:

Funeral Services are permitted in the Halifax Mainland Land Use By-Law through the C2-A Zone. The policy supporting the C-2A Zone in the Mainland South Secondary Plan, encourages a range of uses that provide services to the neighbourhood. The C-2A Zone permits a variety of uses including laundromats, gas stations, daycares and restaurants.

DISCUSSION

Redesignating and Rezoning of 147 Herring Cove Road:

Before an amendment to the MPS can be considered, circumstances should have changed which would necessitate an amendment to policy and the land use regulations. Since the Secondary Plan for Mainland Halifax was adopted in 1987, funeral services have become a more broad and expansive type of service. The neighbouring funeral services use (Walkers) at 149 Herring Cove Road, would like to grow and expand its services to accommodate the current needs of the market. Through the redesignation and rezoning of 147 Herring Cove Road, Walkers could grow as they need, while remaining in the neighbourhood that has supported the use for 50 years.

Policy 3.1.2 of the city wide policies MPS for Halifax, discuss the locating of minor commercial zones. The policy discusses the placement of the zone on principal streets and encourages the contiguity of commercial or associated uses within limits defined by the city. The Herring Cove Road is a principal street within the plan area. In the Herring Cove Road Community Development and Streetscape Planning Project, which was submitted to HRM by Ekistic Planning and Design in 2005, it is discussed that Minor Commercial zones should be concentrated to intervals along Herring Cove Road. The area encompassing 149 and 147 Herring Cove Road is included as one of the proposed intervals.

The proposed expansion of the designation and the proposed rezoning is requested to allow the consolidation of 147 Herring Cove Road with 149 Herring Cove Road, to allow the expansion of the existing funeral home. The consolidated lot would be 31, 370 square feet, which is comparable with other C-2A lots in the area. It is important to note that through simply redesignating and rezoning the property, one is not obliged to consolidate the properties nor use the property exclusively for the expansion of the existing funeral home. Any use within the C-2A Zone could be permitted. 147 Herring Cove Road is located near two intersections along Herring Cove Road, amongst established

commercial uses. Staff believes there is merit to consider this application and share this information through formal public consultation.

Permitting Crematoriums Services in Association with Funeral Service Use:

As part of the expanded funeral services, the applicant would like the ability to provide on-site cremation services. Cremation has become a regular component in providing funeral services. To accommodate consumer demand, there has been a trend of funeral service providers to provide on-site cremation services. By offering on-site cremation services, funeral service providers can give more efficient service through cost and time savings; it allows the funeral service provider more adaptability to cater to the specific needs of clients; and overall, it provides more control to the funeral service provider.

In Nova Scotia, the use of crematorium equipment is regulated by the province. The regulations require such facilities to be monitored and maintained to the provinces specifications. The Province does not require setback requirements from neighbouring uses nor do they apply a certain land use to the function. It is the responsibility of the land use authority, in this case HRM, to determine where the use should be permitted.

Within HRM, there is not a consistent approach concerning how crematoriums are dealt with. In some planning areas, crematoriums are permitted as-of-right in conjunction with funeral homes or cemeteries. Crematoriums have been permitted in commercial zones within the Dartmouth and Halifax Peninsula Planning Areas, due to the “commercial use” definition it is more expansive than in other By-Laws. The definition for a “commercial use” in the Halifax Mainland LUB, does not permit a crematorium. In others, crematoriums are permitted only through a development agreement process.

In determining if crematoriums should be considered in conjunction with funeral services, a review of uses considered in the C2-A Zone, which now permits funeral services, needs to be undertaken. Further to this, staff must also analyze if the use is appropriate in areas where the C2-A Zone currently exists. The subject properties, 147 and 149 Herring Cove Road, are within a residential area and there are currently residential uses within the existing building. By initiating this application, staff can share this information with the public through public consultation and review the proposal in greater detail.

BUDGET IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities, and obligations imposed under or incurred in order to satisfy the terms of this agreement. The administration of the agreement can be carried out within the approved budget with existing resources.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

Amendments to a Municipal Planning Strategy involve community engagement consistent with the intent of the HRM Community Engagement Strategy, the *Halifax Regional Municipality Charter* and the Public Participation Program approved by Council on February 25, 1997.

The proposed level of community engagement is consultation, achieved through public meetings held as part of the MPS amendment process, as well as a public hearing, before Regional Council can consider approval of any MPS amendments or rezonings.

ALTERNATIVES

1. Council may choose to initiate the MPS and LUB amendment process for both the redesignation and rezoning of 147 Herring Cove Road and the allowance for crematoriums in in association with a funeral service use. This is the recommended course of action.
2. Council may choose to initiate the MPS and LUB amendment process for only the redesignation and rezoning of 147 Herring Cove Road. This alternative is not recommended for the reasons outlined in this report.
3. Council may choose not to initiate the MPS and LUB amendment process. A decision not to amend the MPS cannot be appealed. This alternative is not recommended for the reasons outlined in this report.

ATTACHMENTS

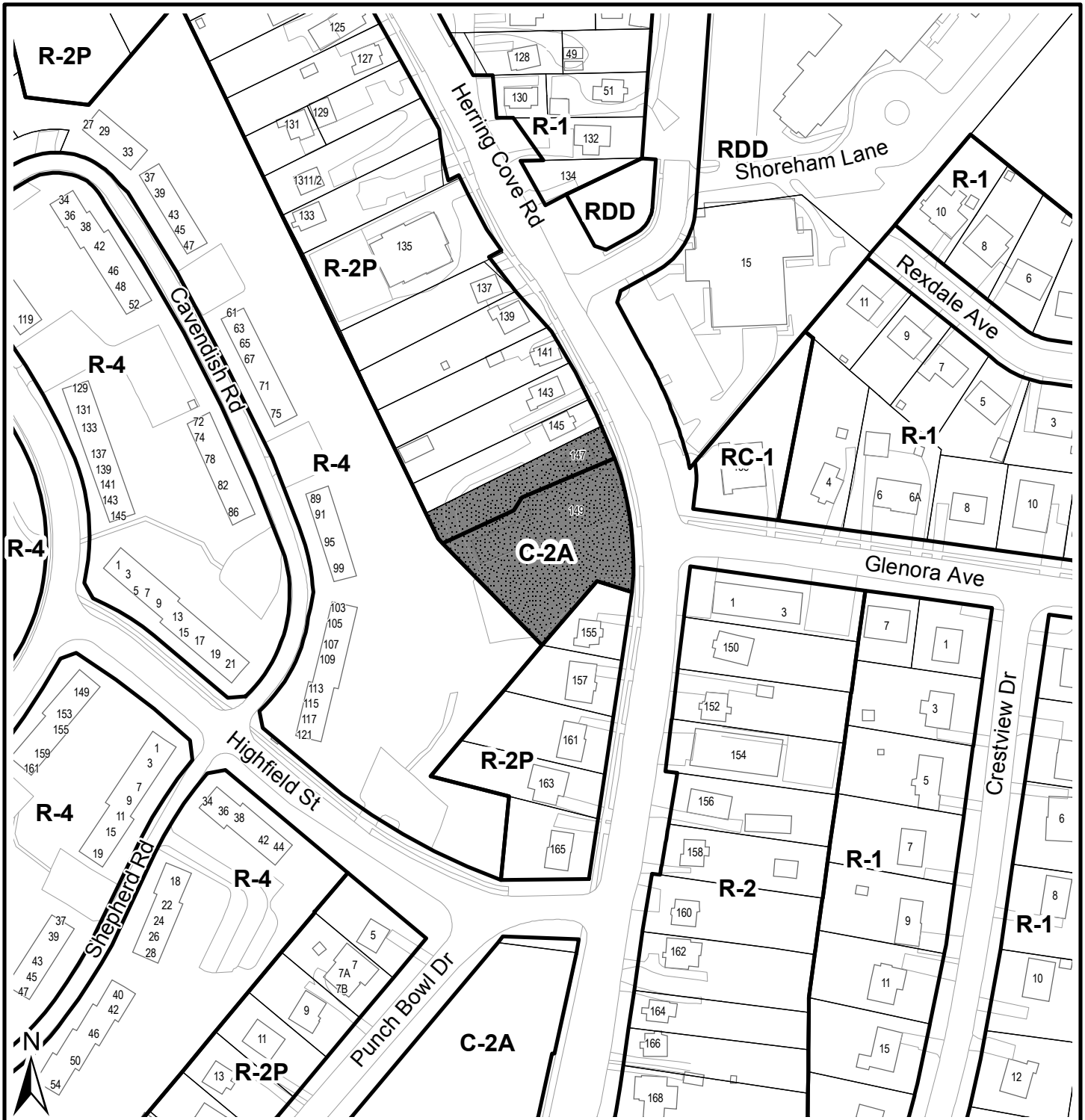
Map 1	Location and Zoning
Map 2	Designation
Attachment A	C-2A Zone from the Halifax Mainland Land Use By-Law

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

Report Prepared by: Jillian MacLellan, Planner I, 490-4423

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Austin French, Manager of Planning Services, 490-6717

Report Approved by: _____
Phillip Townsend, Director, Planning and Infrastructure, 490-7166



Map 1 - Location and Zoning

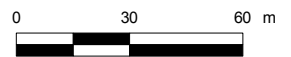
147-149 Herring Cove Road
Halifax

 Subject area

Zone

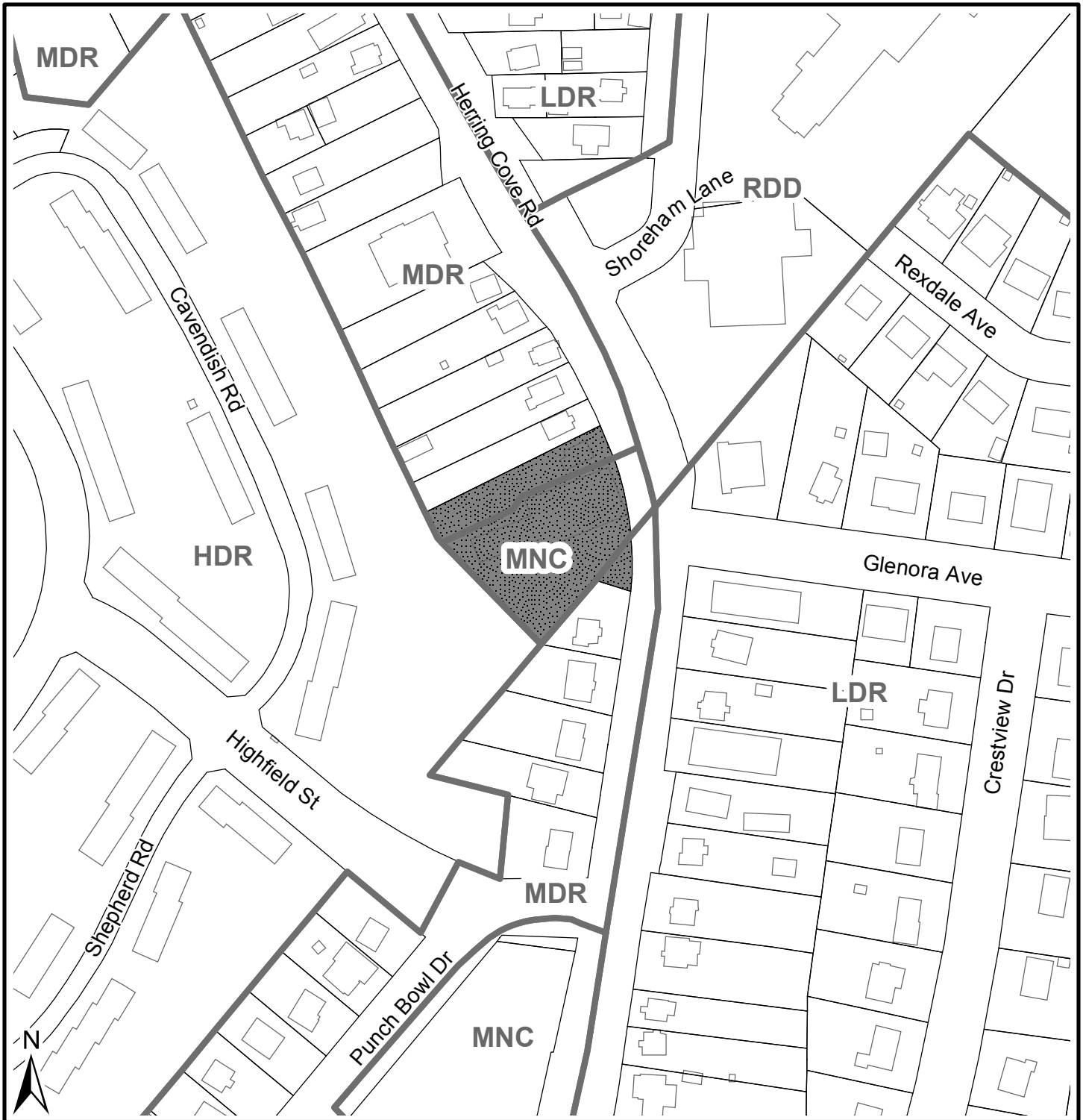
- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- R-4 Multiple Dwelling
- RC-1 Neighbourhood Commercial
- C-2A Minor Commercial
- RDD Residential Development District

Halifax Mainland
Land Use By-Law Area



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

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



Map 2 - Generalized Future Land Use

147-149 Herring Cove Road
Halifax

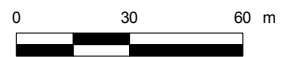
 Subject area

Designation

LDR Low Density Residential
MDR Medium Density Residential
HDR High Density Residential
MNC Minor Commercial
RDD Residential Development District

Halifax Plan Area
Mainland South Secondary Plan Area

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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

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

Attachment A
C-2A Zone from the Halifax Mainland Land Use By-Law

C-2A ZONE
MINOR COMMERCIAL ZONE

- 38A(1) The following uses shall be permitted in any C-2A Zone:
- (a) R-1, R-2, R-2P, R-2T, R-2AM, R-3 and C-1 uses;
 - (b) stores for the purpose of retail trade and rental excepting:
 - (i) motor vehicle dealers;
 - (ii) motor vehicle repair shops which such shops are not primarily engaged in providing service station facilities; and
 - (iii) adult entertainment uses
 - (c) radio, television, and electrical appliance repair shops;
 - (d) watch and jewellery repair shops;
 - (e) a store for the purpose of personal service including shoe repair shops, barber and beauty shops, dry cleaners, self- service laundries, funeral services, and excepting massage parlours, adult entertainment uses and amusement centres;
 - (f) (Deleted)
 - (g) a motion picture theatre;
 - (h) a service station;
 - (i) offices;
 - (j) a bank and other financial institutions;
 - (k) a restaurant;
 - (l) community facilities;
 - (la) billboards not to exceed twenty-eight square meters (28m²) in area and not to extend more than eight meters (8m) above the mean grade on which it is situated;
 - (lb) commercial recreation use
 - (lc) recycling depots, bingo hall, pool hall and motor vehicle repair shops in the
 - (i) auto body shops; and
 - (ii) those engaged in the repair of trucks or other vehicles in excess of a gross weight of 6,000 pounds.
 - (ld) Motor Vehicle Sales in the Bedford Highway area
 - (ld) **day care facility (RC-Mar 3/09;E-Mar 21/09)**
 - (m) any use accessory to any of the foregoing uses.

38A(2) No person shall in any C-2A Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).

38A(3) No person shall in any C-2A Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

R-1, R-2, R-2P, R-2T, R-2AM AND R-3 USES IN C-2A ZONE

38B(2) Buildings erected, altered or used for R-1, R-2, R-2P, R-2T, R-2AM and R-3 uses in a C-2A Zone shall comply with the requirements of their respective zones.

HEIGHT

38C The height of any building in a C-2A Zone shall not exceed 35 feet. In the "Bedford Highway Area" notwithstanding Section 38B (2) no uses shall exceed 35 feet in height.

SIGNS

38D(1) (a) Any persons carrying on a business may place upon and parallel to the front of the building a non-illuminated signboard not exceeding 3 feet in height and limited to the space immediately above the ground floor store windows extending the length of such front and appertaining solely to the ownership of the business conducted therein. For each foot that the building face upon which the said signboard is placed is setback from the street line, 05 feet may be added to the height of such signboard to a maximum of 8 feet. In no case shall a sign be permitted by this section, to exceed 300 square feet.

(b) Any person carrying on a business may place upon the building, a non-illuminated signboard not exceeding 3 feet in height and 300 square feet in area or 2 non-illuminated signboards, each of which does not exceed 3 feet in height and a total of 300 square feet in area and appertaining solely to the ownership of the business conducted therein.

38D(2) Illuminated signs may be erected provided they do not constitute a nuisance or hazard to the public.

38D(3) A single signboard (illuminated or otherwise) may be placed upon and perpendicular to the front of a building for the purpose of identifying the proprietor or nature of the business permitted therein. Such signboards shall be located immediately above the ground floor windows and shall not exceed 12 square feet (1.12 square meters) in area on a single surface. A maximum of two such signboards shall be permitted for any building regardless of the number of uses contained therein.

SETBACKS FROM RESIDENTIAL ZONES

38E(1) Any building used for C-1 or C-2A purposes in a C-2A zone shall be set back a minimum of 20 feet from a rear lot line and 12 feet from a side lot line where such lot line abuts a residential zone.

LANDSCAPING ALONG STREET LINE

38E(2) Any C-1 or C-2A use in a C-2A Zone shall provide a minimum 4 foot strip of landscaped open space, raised or otherwise protected, along that part of the street line not required for the curb cut or pedestrian entrance.

38F(1) In the "**Bedford Highway Area**" one vehicle access point shall be permitted to the Highway for each lot with 100 feet of frontage or less and two vehicle access points shall be permitted for lots with frontage greater than 100 feet.

38F(2) For the purposes of Subsection (1), the vehicle access point shall not exceed 35 feet in width and shall be defined by curbing, planting, or a similar device that will not obstruct the view of traffic.

FAIRVIEW AREA

ACCESS

- 38G(1) Stores shall front on Dutch Village Road, Titus Street or Alma Crescent only. There shall be no commercial display of goods for sale on the side or rear of any buildings.
- 38G(2) Vehicular access to commercial uses and parking areas shall be from Dutch Village Road, Titus Street or Alma Crescent. Access from side streets is also permitted provided that the minimum distance from an abutting residential zone to the point of access shall be 5 feet.
- 38G(3) Driveways and parking areas for C-1 or C-2A uses in a C-2A Zone shall be set back a minimum distance of 5 feet from a rear lot line adjacent to a residential zone and a side lot line adjacent to a residential zone and be screened by a fence having a minimum height of 5 feet. The 5 foot setback area is to be landscaped and where a transparent fence is to be used, the landscaped setback area must provide solid visual screening on a year-round basis to a minimum height of 5 feet at maturity.

PARKING MAINLAND SOUTH AREA

- 38H(1) Notwithstanding Section 9(d) the following parking requirements shall apply to Minor Commercial uses in the "**Mainland South Area**":
- (i) 3 spaces per 1,000 sq.ft. of office space;
 - (ii) 4 spaces per 1,000 sq.ft. of retail/service store space;
 - (iii) 8 spaces per 1,000 sq.ft. of restaurant space; and
 - (iv) parking shall not be permitted within 3 feet of the street line and parking areas for commercial uses must be paved.
- 38H(2) In the "**Mainland South Area**" no vehicular access shall be obtained through a side or rear yard adjacent to a residential zone.

SETBACKS FROM RESIDENTIAL ZONE

- 38H(3) Buildings erected, altered, or used for commercial purposes in a C-2A Zone shall be set back a minimum of 20 ft. from a rear lot line and 12 ft. from a side lot line adjacent to a residential zone.
- 38H(4) Yard areas required pursuant to Section 38H(3) shall be landscaped.

(previous Section 38I(1) - Rescinded)

MOTOR VEHICLE REPAIR

- 38I A lot containing a motor vehicle repair shop in the "**Mainland South Area**" shall:
- (a) have an opaque fence a minimum of five feet in height abutting any residential zones;
 - (b) have lighting facilities, if provided, directed away from any abutting residential zones;
 - (c) have enclosed any commercial refuse container in a structure which screens them from the street and abutting residential zones;
 - (d) not have outdoor storage of inoperative motor vehicles, boxes, crates or any other materials; and
 - (e) provide a minimum of a 6 foot strip of landscaped open space, raised or otherwise protected, along that part of the street line not required for the curb cut or pedestrian entrance.

38J MOTOR VEHICLE SALES

No area of the lot greater than 10,000 square feet shall be used for the parking and display of motor vehicles including manoeuvring areas.

38J MOTOR VEHICLE REPAIR SHOPS

Notwithstanding Section 38A(1)(b)(ii), motor vehicle repair shops, excluding those which service or repair motor vehicles in excess of 6000 pounds or auto body shops or auto paint shops, may be permitted provided that:

- (a) They are located on a site which has a valid occupancy permit for a service station or the most recent valid occupancy permit is for a service station.
- (b) An opaque fence having a minimum height of five feet is constructed abutting any residential zone.
- (c) Lighting facilities, if provided, are directed away from any abutting residential zone.
- (d) Any commercial refuse container is enclosed in a structure which screens it from the street and abutting residential zones.
- (e) There is no outdoor storage of inoperative motor vehicles, boxes, crates or any other materials.
- (f) There is landscaped open space; raised or otherwise protected, having a minimum width of six feet along that part of the street line not required for the curb cut or pedestrian entrance.