



**WEST HANTS REGIONAL MUNICIPALITY REPORT**

Information <input type="checkbox"/>	Recommendation X	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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**To:** Members of Planning and Heritage Advisory Committee (PAC/HAC)

**Submitted by:** \_\_\_\_\_  
 Alex Dunphy, Planner

**Date:** December 14, 2023

**Subject:** WHLUB Map Amendment: PID 45226636, Halewood Drive, Falmouth; File # 23-24

**LEGISLATIVE AUTHORITY**

Municipal Government Act Section 210

**RECOMMENDATION**

Staff recommend that the PAC/HAC forward a positive recommendation by passing the following motion:

...that PAC/HAC recommends that Council give First Reading and hold a Public Hearing to consider amending Schedule A of the West Hants Land Use By-law to rezone PID 45226636 on Halewood Drive, Falmouth, from the Open Space (OS) zone to the Single Unit Residential (R-1) zone as shown in the report #23-24 to the Planning and Heritage Advisory Committee dated December 14, 2023.

**BACKGROUND**

Property X	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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A completed application was received from the Chief Administrative Officer of West Hants Regional Municipality on behalf of Council on September 20, 2023. The application was to rezone the subject lot from Open Space (OS) to Single Unit Residential (R-1) to allow the potential for residential development. This subject lot was identified as one of 19 parkland properties re-evaluated for divestment in the Parks and Open Space Plan.

In 2015, a Parks and Open Space Plan was completed by the Community Development Department. This report identified 20 parkland properties for potential divestment, however, the Municipality has since undertaken the development of one of these properties in collaboration with the West Hants Trails Association. After a more recent review and re-evaluation done by the Community Development Department, the 19 properties reviewed were deemed to have little to no potential as a parkland amenity and were recommended for divestment.

On October 26, 2021 Council approved the motion to:

APPROVE THE DIVESTMENT OF 17 MUNICIPALLY OWNED PARKLAND PROPERTIES AS RECOMMENDED IN THE WEST HANTS PARKS AND OPEN SPACES PLAN AND FURTHER THAT THE PROCEEDS OF SALE BE RECORDED IN A CAPITAL RESERVE ACCOUNT AND TO BE DIRECTED TO THE COMMUNITY FOR WHICH THE PROPERTY RESIDED OR THE PROCEEDS CAME FROM.

On August 21, 2023, Council approved the motion to:

THE CHIEF ADMINISTRATIVE OFFICER BE DIRECTED TO SUBMIT AN APPLICATION TO THE PLANNING AND DEVELOPMENT DEPARTMENT TO CONSIDER REZONING LANDS PREVIOUSLY IDENTIFIED AS SURPLUS, PID 45226636, 45045952, 45215290, 45221868, 45222254, 45218658, 45222049, 45236601 AND 45225018 TO PROVIDE OPPORTUNITY FOR RESIDENTIAL DEVELOPMENT.

## **DISCUSSION**

The subject lot is currently designated Residential on the Generalized Future Land Use Map (GFLUM) of the West Hants Municipal Planning Strategy (WHMPS) (Figure 1) and is within the Falmouth Growth Centre. The subject lot is zoned Open Space (OS) on Schedule A of the West Hants Land Use By-law (WHLUB) (Figure 2).

The subject lot was provided to the Municipality on December 21, 1990, as part of the subdivision file #34-90 and has been deemed in the Parks and Open Space Plan to have little potential to develop as amenity space due to the number of parks and open space parcels in the neighbourhood.

All properties surrounding the subject lot are designated Residential and zoned Single Unit Residential (R-1) zone. Adjacent properties are single unit dwellings, with other lots zoned Open Space (OS) located on Halewood Drive.

During the November 2, 2023 Public Information Meeting, staff were asked about the requirements for greenspace in subdivisions. In response to the question, staff consulted a Development Officer regarding the West Hants Subdivision By-law. The Development Officer confirmed that prior to approval for a final plan of subdivision, the applicant must provide either a transfer of land equal to 5% of the total area of lots to be approved or provide a sum of money equivalent to 5% of the market value of the lots to be approved. In the case of land transfer, once transferred to the Municipality, the land may be used for public use or as deemed appropriate by Council.

### ***Municipal Planning Strategy Review***

Policy 5.4.2 is the primary enabling policy to be considered for this application. This policy provides Council with the ability to consider rezoning to the Single Unit Residential (R-1) zone within the Falmouth Growth Centre. The Policy also includes criteria which must be considered in relation to the proposal. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria since:

- the subject lot is capable of being serviced by municipal water and sewer; and
- the proposed use will not conflict with adjacent existing uses.

Policy 16.3.1 establishes the general criteria that must be considered for all amendments to the West Hants Land Use By-law. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria as:

- the proposal is not considered premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated; and
- the Fire Chief, Development Officer, Manager of Building and Fire Inspection Services, Area Manager of the Nova Scotia Department of Public Works, and Public Works Engineering Division have no concerns which have not been addressed in this report.

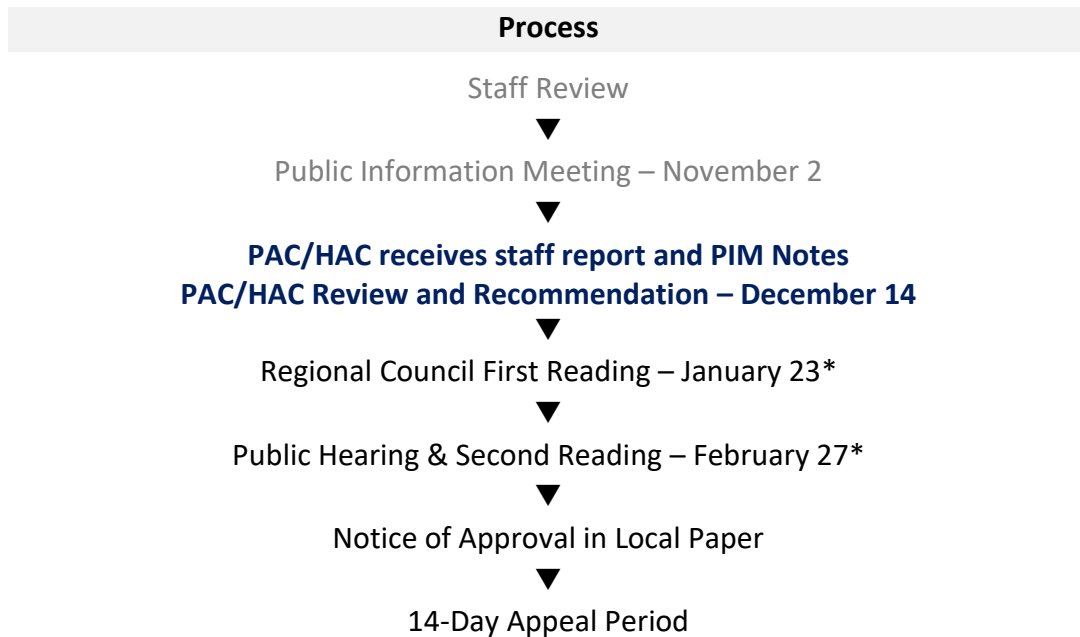
### **MUNICIPAL CLIMATE CHANGE ACTION PLAN**

The Municipal Climate Change Action Plan (MCCAP) Inland Flooding and Coastal Flooding maps do not show any risks of either inland or coastal flooding on the property.

Property owners are responsible for ensuring that their lot is suitable for the proposed uses.

### **NEXT STEPS**

As noted above, the proposed amendment has been considered within the context of the general policies of the WHMPS, and is consistent with the intent, objectives, policies and criteria of the WHMPS. As a result, it is reasonable to amend the zoning of PID 45226636 to the Single Unit Residential (R-1) zone.



\*anticipated dates; final dates set by Council

### FINANCIAL IMPLICATIONS

There are no financial implications to the Municipality or residents with regard to the filing of this report. However, the possible future sale of the subject property, following the rezoning, could generate Municipal revenue.

### ALTERNATIVES

In response to this application, the PAC/HAC may recommend that Council:

- hold First Reading and authorize a Public Hearing to approve the amendment as drafted or as specifically revised by direction of PAC/HAC;
- provide alternative direction, such as requesting further information on a specific topic.

### ATTACHMENTS

Figure 1 West Hants GFLUM Extract

Figure 2	West Hants Zoning Map Extract
Figure 3	West Hants Proposed Zoning Map Extract
Attachment A	Policy Summary for WHLUB Amendments
Attachment B	Public Information Meeting Notes

Report Prepared by: \_\_\_\_\_  
Alex Dunphy, Planner

Report Approved by: \_\_\_\_\_  
Sara Poirier, Director of Planning and Development

Figure 1 – West Hants GFLUM Extract

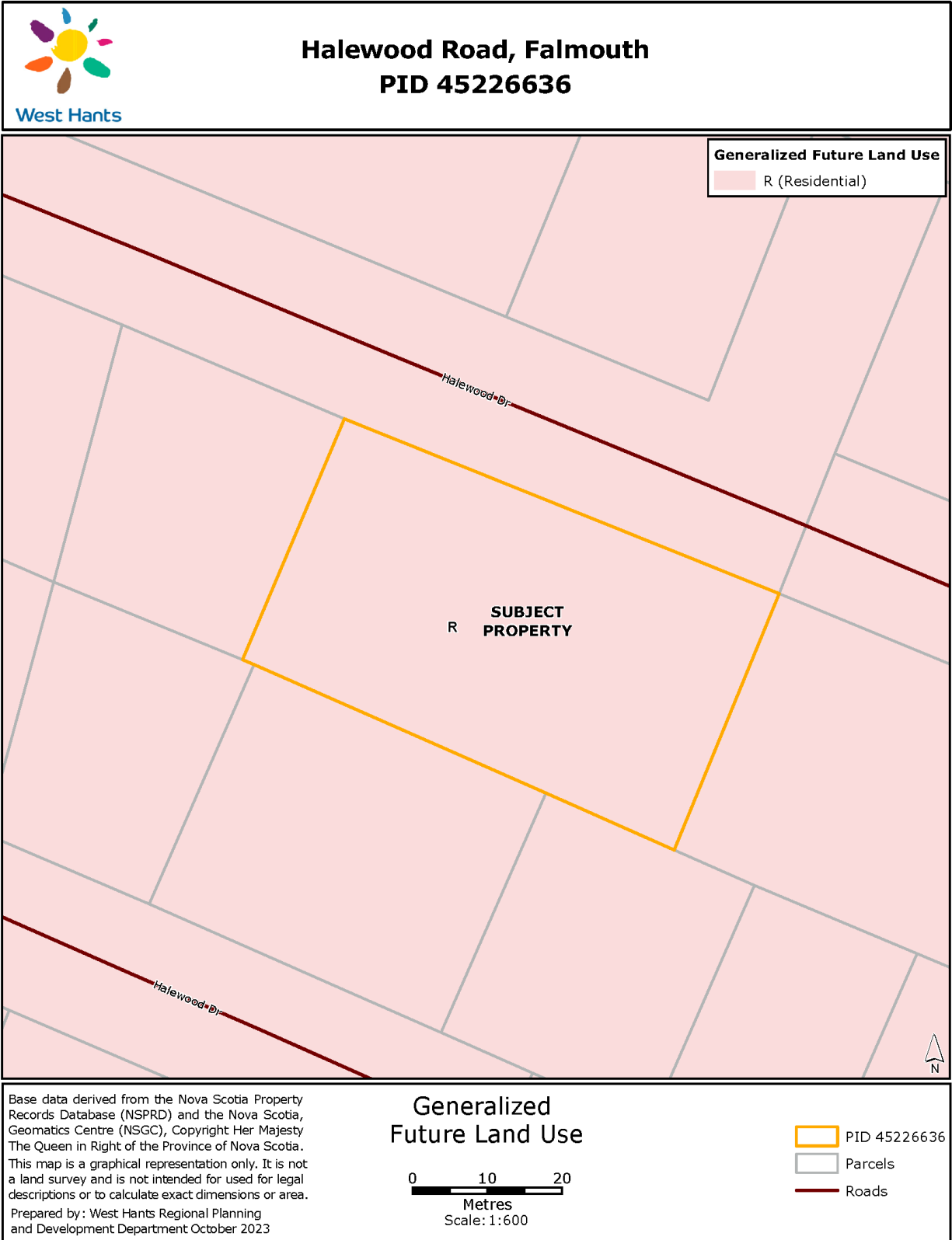
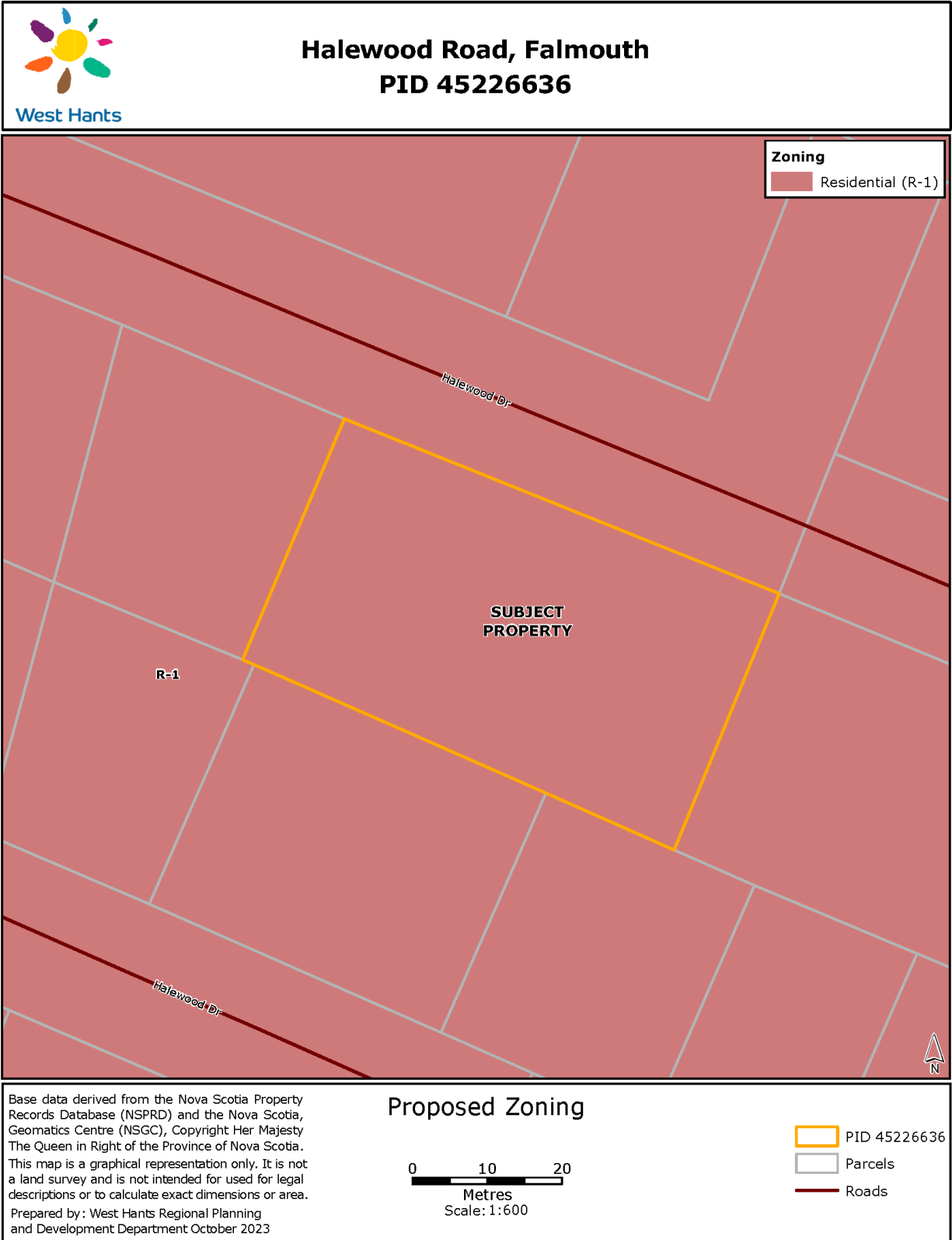


Figure 2 – West Hants Zoning Map Extract



Figure 3 – West Hants Proposed Zoning Map Extract



## Attachment A – Policy Summary for Amendments

<p><b>Policy 5.4.2</b> <i>It shall be the policy of Council to consider rezoning land within the Falmouth Growth Centre to Single Unit Residential (R 1) subject to the following:</i></p>	
<p><i>(a) the area to be rezoned is serviced, or is capable of being serviced, with municipal water and sewer; (Amendment WHMPS 14-01 Effective January 22, 2015)</i></p>	<p>The Public Works Engineering Division commented that the lot is capable of being serviced by Municipal water and sewer.</p>
<p><i>(b) the proposed use will not conflict with adjacent existing uses;</i></p>	<p>All surrounding properties to the subject lot are single unit residences, which matches the proposed zoning. The Development Officer commented that they have no concerns regarding conflict between the proposed use and adjacent existing uses.</p>
<p><i>(c) any other matter which may be addressed in a Land Use By-law; and</i></p>	<p>All relevant matters have been addressed in this report.</p>
<p><i>(d) Policy 16.3.1.</i></p>	<p>See Policy 16.3.1 below.</p>

<p><b>Policy 16.3.1</b> <i>In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:</i></p>	
<p><i>(a) whether the proposal is considered premature or inappropriate in terms of:</i></p>	
<p><i>(i) the adequacy of sewer and water services;</i></p>	<p>The Public Works Engineering Division commented that they had no concerns regarding the adequacy of municipal services for the proposed use.</p>
<p><i>(ii) the adequacy of school facilities;</i></p>	<p>The Director of Operations for the Annapolis Valley Regional Centre for Education has stated that projected capacity for student enrollment and student transportation appears sufficient to accommodate the proposed development.</p>

<p><i>(iii) the adequacy of fire protection and other emergency services;</i></p>	<p>The Manager of Building and Fire Inspection Services commented that they had no concerns regarding the adequacy of fire protection. The local Fire Chief commented that they also had no concerns.</p>
<p><i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i></p>	<p>The Area Manager of the Nova Scotia Department of Public Works commented that they had no concerns regarding the adjacent road network.</p>
<p><i>(v) the financial capacity of the Municipality to absorb any costs relating to the development.</i></p>	<p>There are no anticipated costs to the Municipality regarding this development.</p>
<p><i>(b) whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system;</i></p>	<p>The Public Works Engineering Division commented that the subject lot is capable of being serviced by Municipal water and sewer.</p>
<p><i>(c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i></p>	<p>The Area Manager of the Nova Scotia Department of Public Works commented that they had no concerns regarding the suitability of movement and traffic. There are no sidewalks present near the subject lot, however, the shoulder of Halewood Drive provides pedestrian access. There is no active rail line in the vicinity.</p>
<p><i>(d) the adequacy of the dimensions and shape of the lot for the intended use;</i></p>	<p>The Development Officer commented that they had no concerns regarding the adequacy of the dimensions and shape of the lot for the intended use.</p>
<p><i>(e) the pattern of development which the proposal might create;</i></p>	<p>The Development Officer commented that they had no concerns regarding the pattern of development which the</p>

	proposal might create. The proposed zoning matches the surrounding uses.
<i>(f) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, wetlands, and susceptibility of flooding;</i>	The subject lot slopes to the north and east. There is also a drainage ditch along Halewood Drive. No waterbodies or wetlands appear to be present on the mapping for the subject lot and there are no evident concerns in terms of steepness of grade, soil or geological conditions.
<i>(g) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations; and</i>	All Municipal, Provincial, and Federal regulations will have to be met.
<i>(h) any other matter required by relevant policies of this Strategy.</i>	All relevant matters have been addressed in this report.

**Attachment B – Public Information Meeting Notes**

**November 2 – 16, 2023**

**WHLUB Map Amendment: PID 45226636, Halewood Drive, Falmouth ; File # 23-24**

<b>Meeting date and time</b>	A Public Information Meeting was held on November 2, 2023 beginning at 6:01 p.m. The meeting was broadcast live on the Municipal Facebook page.
<b>Attending</b>	In attendance for the meeting: One (1) Chair: <ul style="list-style-type: none"><li>• Mayor Zebian</li></ul> Four (4) members of staff: <ul style="list-style-type: none"><li>• Planner Dunphy</li><li>• Planner Fredericks</li><li>• Planning Assistant Lake</li><li>• Director Poirier</li></ul> Approximately 30 members of the public.
<b>Applicant</b> CAO Mark Philips on behalf of Council <b>Property</b> PID 45226636, Halewood Drive, Falmouth	Planner Dunphy outlined the application to rezone the subject lot to the Single Unit Residential (R-1) zone.
<b>Comments</b>	Comments from the public could be submitted by mail, e-mail and telephone between November 2 –16, 2023. Staff received 2 phone calls and 4 written submissions during the comment period. The phone calls were regarding previous correspondence regarding the future of the subject lot’s zoning and interest in other available open space lots. 5 members of the public spoke during the Public Information Meeting. Staff and applicant responses are in purple. <ul style="list-style-type: none"><li>• Katherine Watton asked about public participation and how feedback is gathered for the file. <i>Alex responded by explaining the public participation process for planning applications.</i></li><li>• Rod Hunter asked why the lot is being rezoned and if there was a buyer. <i>Alex responded that the subject lot was identified as</i></li></ul>

surplus land and that an application was made by the CAO on behalf of Council.

Mayor Zebian then commented that Council receives individual parcels of land within subdivision developments, certain pieces have been deemed surplus and identified as potential for development. No discussions have taken place regarding a future owner of the lot. The rezoning of the property was initiated prior to the lot being put on the market. Rod then asked how many lots were planned to be developed.

Alex responded that this application is only for a rezoning to the Single Unit Residential (R-1) zone and that a separate process may permit further subdivision.

- Mark Smith commented that the other open space lots nearby are either unsafe due to sinkholes or would require a lot of work to be useable. Mark asked who is responsible for developing greenspace. Alex responded that it would be the responsibility of the Community Development department.

Mark then asked what would be done with the other open space lots.

Alex responded that there was no direction from Council in the application for additional greenspace development.

- Ann Dodge asked if there is any requirement for green space in Municipal subdivisions.

Alex responded that a Development Officer would determine what greenspace is required for subdivisions.

Ann then asked why the term manufactured home was used.

Alex responded that only existing manufactured homes would be permitted and that no new manufactured homes would be permitted on the lot.

Ann then commented that the greenspace is

	<p>beneficial to have and that they had been informed that it would stay as greenspace.</p> <ul style="list-style-type: none"> <li>Charlene Armstrong commented that they understood that the property would remain greenspace.</li> </ul>
<b>Adjournment</b>	The Public Information Meeting was adjourned at approximately 6:22 p.m.

### Public Email Responses Submitted for the Application

**November 14, 2023**

**From** Ann Dodge and Mark Smith

**To** Alex Dunphy

Dear Mr. Dunphy,

Please find attached a letter noting concern re the rezoning of property on Haleweek Drive in Falmouth.

Thank you,

Ann Dodge

*\*Letter Attached Below\**

**November 14, 2023**

**From** Rod & Julie Hunter

**To** Alex Dunphy

Further to the meeting of November 2nd 2023, our comments on the rezoning of the above property are as follows;

Mr. Dunphy we are sending this email to advise that we are against the rezoning of PID 45226636, Halewood Drive, Falmouth, from Open Space to Residential.

We have been residents of [ADDRESS REMOVED], which is directly behind the lot being requested for rezoning, for 15 years. At the time of purchase we were informed that this lot (PID 45226636) was a permanently designated “green space” and residences would not constructed on this lot. This was one of the main factors we took into consideration when we purchased our property on Halewood Drive. From conversations with other residents near this lot they were also informed that this was to be a permanent green space.

We fail to understand after such a long period of time why a change in position has been undertaken? Should other building lots be required there are several still available in the subdivision, as well Falmouth has numerous others building lots open.

From my understanding this lot has been “green” for over 20 years and in view of this many birds and wild animals have taken advantage of this even though it may be on sporadic and temporary bases.

This is a small space in the overall scheme of things and we are hopeful you will reconsider rezoning this lot to Residential and leave it as an open space so that it can be enjoyed by families in the area as well as the many birds and animals that visit this lot.

Thank you

Rod & Julie Hunter

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**November 14, 2023**

**From** George Armstrong

**To** Alex Dunphy

*\*Letter Attached Below\**

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**November 16, 2023**

**From** Nicole Dunlap-Benedict and Ryan Benedict

**To** Alex Dunphy

Good Morning Mr Dunphy,

Just a quick note to express how upset we are regarding the possibility of the rezoning of the above mentioned lot.

Our home, which is adjacent to the subject lot, was purchased in 2012. The west side of our house faces the green space (which is what it was called then) and in our living room we have a 7 foot picture window facing the green space. This window is larger than the other picture window in the living room facing the street. When first viewing the house to purchase, I was curious about this large window as most houses in subdivisions do not have a lot of windows on the sides, if any. The real estate agent told me that the builder adapted the house plans and added the big window plus another one on that side of the house because there would never be a neighbour there. Before putting in an offer on the house, I (Nicole) called the Municipality office to verify this was true because I wouldn't have wanted a house so open on one side in a subdivision without the trees there. I was told by the planning department that where it was

zoned a green space, it would stay a green space as this was important to have in growing subdivisions.

Years have gone by and we built a covered deck and gardens towards the green space to utilize the privacy we thought we would always have there. We even purchased the lot on the other side of our home in 2017 in order to build a garage and expand our property and again the green space factored into this decision to add onto this property instead selling and buying elsewhere where we would probably have less privacy.

As one of the original houses on this street, we have watched the homes go up around us, but the green space has remained a beautiful, natural wooded area for our subdivision. Neighbours walking by have frequently commented to us on how loud the singing birds are in there or that they saw deer coming out or that their kids love to watch the squirrels jumping from tree to tree.

We believe the green space offers a nice balance to our neighbourhood. More personally, we are concerned about our property value and how losing those trees will open up our home. Not only to potential neighbours but to the street as well.

We are opposed to the rezoning of this lot from “open space” to residential and disappointed that what we were told 11 years ago by the municipality about the importance of the green space in the subdivision seems to no longer hold true.

Yours truly,

Nicole Dunlap- Benedict

Ryan Benedict

183 Halewood Drive

Falmouth NS B0P 1P0

November 13, 2023

Mr. Alex Dunphy

West Hants Regional Municipality

76 Morrison Dr, P.O. Box 3000

Windsor NS B0N 2T0

RE: Consideration of Rezoning Lot # PID 45226636

Dear Mr. Dunphy,

My name is Mark Smith and my wife Ann Dodge and I live at [ADDRESS REMOVED] in Falmouth. The lot next to our home is under consideration for rezoning and this letter is to oppose rezoning of lot # PID 45226636. We attended the November 2<sup>nd</sup> public meeting along with members from our subdivision to voice our concerns about the rezoning of a wooded areas next to our home for development and this letter is to further express our opposition.

We moved into our home in December of 2003 and at that time we were the last available lot to be developed in the subdivision. Next to our home was a wooded area and it was a number of years before a local developer purchased the remaining land with intentions of developing building lots. In fact, we were told by the Municipality that we had to pay for a street light to be put on our street because at that time there were no intention to further develop the remainder of the subdivision, therefore it would be at our expense if we wanted a street light. We still pay a monthly a charge for our streetlight despite the fact the subdivision has now been fully developed.

When a local developer purchased the remaining land a few years later and began to develop new lots, my wife and I were approached by that individual and asked if we would support his petition to the Municipality to develop the lot next to ours as it had been designated as greenspace, and according to him, he was unable to access permission to build on the lot. We attended a public meeting at that time as well and were told by a representative from the Municipality that the lot next our home would **not** be re-zoned, and armed with that information, we believed the matter had been dealt with once and for all.

We were opposed to the lot being developed as we realized when we moved into our home that the wooded area served as home to a number of species of birds, raccoons, squirrels and other small wildlife. To this day it remains a safe space where children from the neighbourhood can play in and explore nature in their own community without fear of being encountered by strangers yet be surrounded by people they know from their neighbourhood. And as new subdivisions continue to emerge in Falmouth and the surrounding area, natural habitats continue to disappear and wildlife continue to be forced to find new spaces such as the wooded area our home that offer food, shelter, and safety. Other neighbours that have built homes beside and around the wooded area designed their homes with the understanding that it would never be disturbed.

Further down Halewood Drive at the bottom of the hill where a greenspace (or open space, or recreations space) was developed, (perhaps with the intention of trading off that space one day for the wooded lot next to our home or perhaps to meet a municipal bylaw given the number of homes in the subdivision), we have a major concern that is affecting property values and public safety. Sink holes have emerged beside and in front of the designated greenspace area and

homes in that area of the subdivision have been and continue to be negatively impacted, with our property values being adversely affected.

Two years ago, while out for a walk one evening my wife and I happened upon two young boys about to climb down into a sink hole to further explore on that designated greenspace. We were able to discourage them from continuing with their plan to enter one of the sink holes near the greenspace. Since then, that hole and many other have been filled with various materials.

It appears that little is being said publicly about the damage the sink holes have caused and a few neighbours have sold their homes near the sinks holes to get fair market value for their property before word gets out that there are places in the subdivision where purchasing a home would be a huge financial and safety risk.

The road near these spots continues to quietly be repaired by the Municipality, patching dips in pavement where it is clear the land underneath road has “disappeared”. However, as quickly as some areas are “fixed”, the ground continues to move on both sides of Halewood Drive.

Bylaws exist in developed areas to govern the designation of open space, or green space, or recreational space. The land at the bottom of the hill exists as the open space for our subdivision. Clearly there should be concerns about that land as the sink holes are all around it, making it unsafe for its designated purpose. The green space that is now being discussed for development should remain as is while additional land, safe land, be redesignated, including perhaps other lots that were noted on the map shared during the November 2 meeting.

Ann and I are community-minded citizens and appreciate the importance of growing the community. We fully understand that the housing market is at an all time high in our province with a need for more affordable housing everywhere. There are a number of young families living in our subdivision and it is wonderful to see the bicycles and scooters traveling up and down the road, however, there were other spaces identified on the map used on November 2<sup>nd</sup> to illustrate the areas under consideration for rezoning and we strongly believe that the wooded area under consideration on Halewood Dr should be protected and left as many of us have been assured over time by the Municipality it would.

Sincerely,

Mark Smith

Ann Dodge

**George W. Armstrong**  
**[ADDRESS REMOVED]**  
**Telephone: [NUMBER REMOVED]**

November 13, 2023

Alex Dunphy, Planner  
76 Morrison Drive, P.O. Box 3000,  
Windsor, NS, B0N 2T0  
Email: [adunphy@westhants.ca](mailto:adunphy@westhants.ca)

To Whom it May Concern:

I am submitting this brief correspondence for consideration regarding the rezoning of PID # 45226636. I would like to draw attention to two points of concern. The first is the potential loss of green space in my neighbourhood and how this seems counterintuitive when compared to the most recent direction of West Hants Council. The second point of concern centers on the fact that this lot does not have access to sewer.

On the first point I would like to draw your attention to some of the great things happening in our municipality. I have observed, over the past few years, a municipality willing to invest in the health and well being of its citizens. For example, the building of the West Hants Sports Complex and subsequent investment in programs for youth and seniors leaves me proud to be a part of this community. The building of sports fields, swimming pools, hiking trails, and other facilities too numerous to mention promotes the healthy lifestyles of West Hants citizens. Inasmuch as this council and municipality are moving in the right direction I can't help but wonder if taking away neighbourhood green space is changing the trajectory of an otherwise community focussed and healthy practice.

The second point of concern centers on what I learned, while building my house near the lot in question. Apparently the lower portion of Halewood Drive was developed by Brison Developments and the sewer pipe was installed  $\frac{1}{3}$  of the way down the street and not in front of this lot.. This fact seemed to initially escape many at Public Works until it was discovered that a lateral sewer pipe had been installed leading to my lot but none leading up the hill to the Green Space lot. Should the municipality rezone the lot in question and sell it for development who pays to have the sewer installed heading west up the hill? If the purchaser of the lot pays for this then it stands to reason that the asking price for the rezoned land will be greatly diminished. Should the municipality incur this cost then it begs the question: will the sewer be installed all the way to the top of the hill to connect with the line on ValleyView Drive? I know from my discussions with Municipal staff, at the time, that this type of work is very expensive. It may be the case that most of the potential financial benefit acquired from the sale of the land becomes lost to the cost of installing a new section of sewer line. This seems like a consideration worth noting.

Sincerely,  
George Armstrong  
cc: Mayor Abraham Zebian - Email: [azebian@westhants.ca](mailto:azebian@westhants.ca)