

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF: An appeal under Section 262(3) of the Halifax Regional Municipality Charter, SNS 2008, c 39, as amended

NOTICE OF PLANNING APPEAL OF:

John Tawil

TAKE NOTICE that John Tawil, property owner, hereby appeals from the Decision made by Halifax and West Community Council (“**HWCC**”), dated November 22, 2021, at a meeting November 16, 2021, respecting an Application to Amend Map ZM-1, the Zoning Map of the Land Use Bylaw (“**LUB**”) for Halifax Mainland, to rezone vacant lands at 48 and 50 Old Sambro Road, Halifax, (the “**Site**”) from the R-2P (General Residential) Zone to the R-3 (General Residential and Low-Rise Apartment) Zone.

In its Decision, HWCC denied the Application for rezoning to enable the development of a four-storey building on the Site, in compliance with the R-3 Zone. The Decision does not reasonably carry out the intent of the Halifax Municipal Planning Strategy and Mainland South Secondary Planning Strategy (collectively the “**MPS**”), on the following grounds:

- (a) The Site is designated as “Medium-Density Residential” on the Generalized Future Land Use Map by policy, and can be considered for a rezoning to R-3 subject to meeting the Implementation policies.
- (b) The Site meets all the policy criteria for rezoning in the MPS.
- (c) The reasons provided for the Decision related to lack of accuracy around watercourse setback requirements and the health of the watershed are speculative, premature and not grounded in the MPS policies which govern the rezoning application.
- (d) The LUB provides controls around built form, density and development near a watercourse. Any development that occurs on the site will be required to meet all requirements in the R-3 Zone related to the watercourse setbacks in the Land Use Bylaw.
- (e) The Decision was contrary to the recommendations and advice of the Executive Director of Planning and Department of Halifax Regional Municipality.
- (f) Such further grounds as may appear on a review of the Record.

A copy of a letter dated November 22, 2021, by the Municipal Clerk is attached hereto. In it, the Municipal Clerk advised of the outcome of the Council Meeting, the reasons for the Decision and the Appellant's right of appeal.

AND TAKE NOTICE that the Appellant will request that the Nova Scotia Utility and Review Board pursuant to its powers under Section 267(1)(c) of the **HRM Charter** allow his appeal and order the HWCC to approve the Amendments to the Land Use Bylaw Map ZM-1 and rezone the Site to R-3.

DATED at Halifax Regional Municipality, Nova Scotia, this 30th day of November 2021.



Nancy G. Rubin, Q.C.
Stewart McKelvey
Barristers & Solicitors
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Halifax, NS B3J 3N2
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nrubin@stewartmckelvey.com
Solicitor for the Appellant

Undertakings

The Appellant hereby agrees to pay the costs of advertising the Notice of Public Hearing for the Appeal.

The Appellant and Solicitor further undertake to keep the list of names and addresses of owners, which will be provided, confidential, and not disclose it to any person nor use it for any purpose not related to this planning appeal. The Appellant and Solicitor further undertake to dispose of the personal information at the conclusion of this matter.



Nancy G. Rubin, Q.C.
Stewart McKelvey
Solicitor for the Appellant

REGISTERED MAIL

November 22, 2021

WM Fares Group
3480 Joseph Howe Dr / Suite 500
Halifax, NS B3L4H7

CANADA POSTES POST CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION canadapost.ca		
Address	Adresse	CONFIRMATION DE LA LIVRAISON postescanada.ca		
City / Prov. / Postal Code	Ville / Prov. / Code postal	or/ou 1 888 550-6333		
Declared Value Valeur déclarée	\$	CPC Tracking Number Numéro de repérage de la SCP RN 388 298 046 CA		
33-086-584 (17-12)				

Re: Case 22890: Land Use By-Law amendment for 48 and 50 Old Sambro Road, Halifax

This is to advise of the outcome of Case 22890 that was before Halifax and West Community Council on Tuesday, November 16, 2021. As stated in the motion below, the application to rezone the lands at 48 and 50 Old Sambro Road, Halifax from the R-2P (General Residential) Zone to the R-3 (General Residential and Low-Rise Apartment) Zone was denied by Halifax and West Community Council for the following reasons:

- The lack of accuracy around watercourse setback requirements due to the slope of the site
- the environmental implications regarding health of the watersheds

MOVED by Councillor Cuttell, seconded by Councillor Cleary

THAT Halifax and West Community Council give First Reading to consider approval of the proposed amendment to the Land Use By-law for Halifax Mainland, as set out in Attachment A of the staff report dated November 1, 2021, to rezone the lands at 48 and 50 Old Sambro Road, Halifax from the R-2P (General Residential) Zone to the R-3 (General Residential and Low-Rise Apartment) Zone, and schedule a public hearing.

MAIN MOTION PUT AND DEFEATED.

Pursuant to Section 262(2) and 264(d) of the *Halifax Regional Municipality Charter*, you may appeal a decision of Council to the Nova Scotia Utility and Review Board. An appeal must be served within fourteen days after the date of written notice of Council's decision to refuse the application.

Please feel free to contact me with any questions, or for further information.

Regards,



Iain MacLean
Municipal Clerk

cc: Halifax and West Community Council
Jennifer Chapman, Planner III
Cara McFarlane, Planning Processing Coordinator
Meg MacDougall, Solicitor