



P.O. Box 1749  
Halifax, Nova Scotia  
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**Item No. 13.1.1**  
**Harbour East – Marine Drive Community Council**  
**February 2, 2017**

**TO:** Chair and Members of Harbour East – Marine Drive Community Council

ORIGINAL SIGNED

**SUBMITTED BY:**

\_\_\_\_\_  
Bob Bjerke, Chief Planner and Director, Planning and Development

**DATE:** December 14, 2016

**SUBJECT:** Case 19755: Rezoning for 1 Research Drive, Dartmouth

**ORIGIN**

Application by CBCL Limited

**LEGISLATIVE AUTHORITY**

*See Attachment D.*

**RECOMMENDATION**

It is recommended that Harbour East – Marine Drive Community Council Community Council:

1. Give First Reading to consider approval of the proposed amendment to the Dartmouth Land Use By-law, as contained in Attachment A, to rezone certain lands in and near the Woodside Industrial Park in Dartmouth from the S (Institutional) Zone to the I-1 (Light Industrial) Zone, and schedule a public hearing; and
2. Approve the amendment to the Dartmouth Land Use By-law, as set out in Attachment A.

## **BACKGROUND**

CBCL Limited on behalf of Nova Scotia Innovation Corporation is applying to rezone the property located at 1 Research Drive and a portion of two adjacent properties to the north, from S (Institutional) to I-1 (Light Industrial), as shown on Map 1. The Dartmouth Municipal Planning Strategy (MPS) allows for such a rezoning to be considered, provided the proposal is consistent with MPS policy.

<b>Subject Site</b>	1 Research Drive, and portions of two adjacent properties to the north
<b>Location</b>	West of Woodside Industrial Park
<b>Regional Plan Designation</b>	Urban Settlement, Industrial Park
<b>Community Plan Designation (Map 1)</b>	IND- Industrial, R- Residential
<b>Zoning (Map 2)</b>	S (Institutional)
<b>Size of Site</b>	Approximately 47,071 square metres (11.6 Acres)
<b>Street Frontage</b>	Approximately 286 metres
<b>Current Land Use(s)</b>	Research offices and light manufacturing facility
<b>Surrounding Use(s)</b>	Nutritional supplement manufacturer, research offices, vacant land, animal shelter, mechanical fabrication facility

### **Proposal Details**

The applicant proposes to align the zone with the current use of the building as a research, office and manufacturing facility. Additionally, plans have been submitted and reviewed as part of this planning application, for a new lot and a 2275 square metre industrial facility, intended to someday serve as a business development incubator. The plans for the proposed building were submitted at staff's request, to ensure that the new lot could support a building that met land use by-law requirements. There is no immediate plan to construct the new building.

Portions of the two properties to the north, to the extent that they are currently zoned 'Institutional', are also proposed to be rezoned. These properties are currently split-zoned, and will remain so should the rezoning be approved. As the proposed rezoning abuts a Holding Zone, the allowable uses of which are limited to single family dwellings, conservation and park purposes, it serves to provide a buffer between the subject lands and the residential areas on Hastings, Clement and Lynn Drive.

### **History**

In February of 2015, the property owner requested and received a zoning confirmation letter from HRM for the adjacent property at 101 Research Drive, outlining that the property was zoned S (Institutional) under the Dartmouth Land Use By-law (LUB). The letter identified that the current use of that property as a research and office facility does not conform to the institutional zone, however the property does have non-conforming use status.

File research revealed that the institutional zoning of both properties was applied at the time of the adoption of the Dartmouth Municipal Plan in 1978. At that time, the properties were owned by the Province and were used as a laboratory. The institutional zoning was likely applied to the property as a result of the ownership and the use at that time.

### **Enabling Policy and LUB Context**

Land use within the Dartmouth MPS is guided by land use policy and the designations shown on the Generalized Land Use Map. As the illustration of the designations on the map is generalized, policy IP-1(b) of the MPS enables Council to consider rezoning applications to allow uses permitted within the adjacent designation provided that the policies of the MPS are not violated. While the portions of the two properties to the north of 1 Research Drive are designated R - Residential and zoned S – Institutional, staff advise that the proposal to rezone the lands for industrial use is reasonably consistent with the intent of the MPS for this area. In keeping with MPS policy, rezoning requests must be evaluated to ensure that they are compatible and consistent with the existing development form in terms of bulk and scale and use, be

capable of being serviced, and that the transportation network leading to the property be adequate. A full evaluation of all relevant policy is included as Attachment B.

## **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 'area of notification' as shown on Map 2, and a public information meeting held on January 28, 2016. Attachment B contains a copy of the minutes from the meeting. The public comments received include the following topics:

- potential effects of stormwater runoff;
- traffic increases through Fenwick Street and the adjacent residential communities to the north; and
- tree removal and potential environmental effects on watershed.

A public hearing must be held by Harbour East 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 areas of notification, as shown on Map 2, will be notified of the hearing by regular mail. The extension to the notification area resulted from feedback received at the public information meeting.

The proposal will potentially impact nearby businesses and residents.

## **DISCUSSION**

Staff have reviewed the proposal against all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed rezoning that would allow the use of the existing building as a research office to conform to the zoning requirements, and resolve the current non-conforming land use. This would also enable consideration of new uses permitted in the I-1 (Light Industrial) Zone to occupy vacant spaces in the building. Additionally, the proposed rezoning would allow for the potential of a new building, with similar uses to the existing, subject to review of the development proposal at permit stage.

As the submission included an indication of a desire to subdivide the property, staff requested that plans be submitted for the proposed development of the potential new lot. This was done to ensure that the proposed new lot could be developed in accordance with the regulations of the proposed zone. The applicant has indicated that there is no imminent construction planned for that proposed lot, and it should be noted that there are no conditions associated with a rezoning.

### **LUB Amendment Review**

Attachment B provides an evaluation of the proposed rezoning in relation to relevant MPS policies. Of the matters reviewed to satisfy the MPS criteria, the following have been identified for more detailed discussion:

#### **Compatibility of Use**

The proposed use is intended to be a continuation of the existing use. The existing building is used as a technology innovation centre, as support for business start-up and incubation, with associated light manufacturing at times. This use has been in place since the building was built in the 1960's, and is compatible with the adjacent Woodside Industrial Park to the southeast. The nearby residential communities to the north are separated by a wooded, low-lying area, with a watercourse and wetland, which is currently zoned H (Holding) Zone. The Holding Zone effectively limits development to single family homes and conservation uses, and as such, buffers the existing neighbourhoods from the Woodside Industrial Park and the subject site.

### Environmental Considerations

The regulations of the Industrial Zone will require any proposed building to be set back from watercourses and wetlands relative to their slope. There will undoubtedly be tree removal from the property at some point, but the increased hard-surface area is mitigated by Municipal Design Guideline requirements to balance pre and post-development stormwater amounts, with stormwater discharge to the municipal system. Stormwater is not permitted to be directed to adjacent properties.

### Traffic Considerations

The existing building may see increased traffic generation, should the occupancy increase, but that is the effect of its under-utilization of the building under the current zoning. The driveway for the proposed building will only be permitted from the public street on which the lot fronts, on Neptune Drive. The Traffic Impact Study provided in support of the application outlined that no traffic mitigation measures are required. The study has been reviewed and accepted by staff.

### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The proposed rezoning would resolve the current non-conformity of the existing use, and enable fuller occupancy of the existing building, and the potential for future development of the site. There are no concerns regarding the compatibility of the use, and no need for traffic mitigation. Therefore, staff recommend that the Harbour East- Marine Drive Community Council approve the proposed LUB amendment.

### **FINANCIAL IMPLICATIONS**

The HRM cost associated with processing this planning application can be accommodated with the approved 2016/2017 operating budget for C310 Planning & Development.

### **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 beyond those raised in this report.

### **ALTERNATIVES**

1. Harbour East- Marine Drive 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 LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Harbour East- Marine Drive 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

Attachment A: Proposed Amendment to the Dartmouth Land Use By-law  
Attachment B: Review of Relevant Policies of the Dartmouth MPS  
Attachment C: Public Information Meeting Minutes  
Attachment D: Legislative Authority

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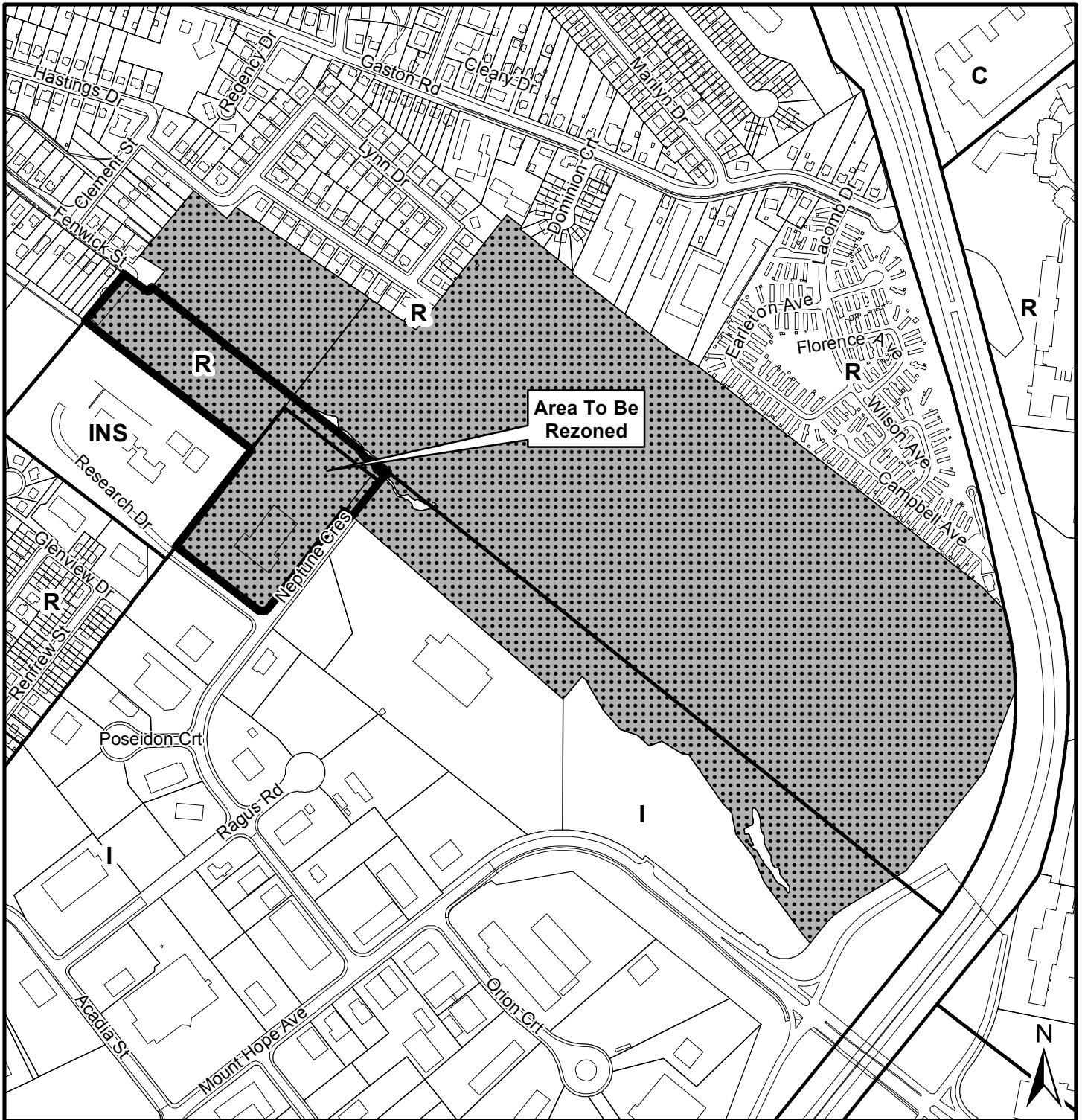
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Erin MacIntyre, Principal Planner, 902.490.6704

ORIGINAL SIGNED

Report Approved by: \_\_\_\_\_  
Kelly Denty, Manager, Current Planning, 902.490.4800

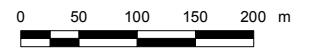
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


### Map 1 - Generalized Future Land Use

**HALIFAX**

Research Drive and Neptune Crescent,  
Dartmouth



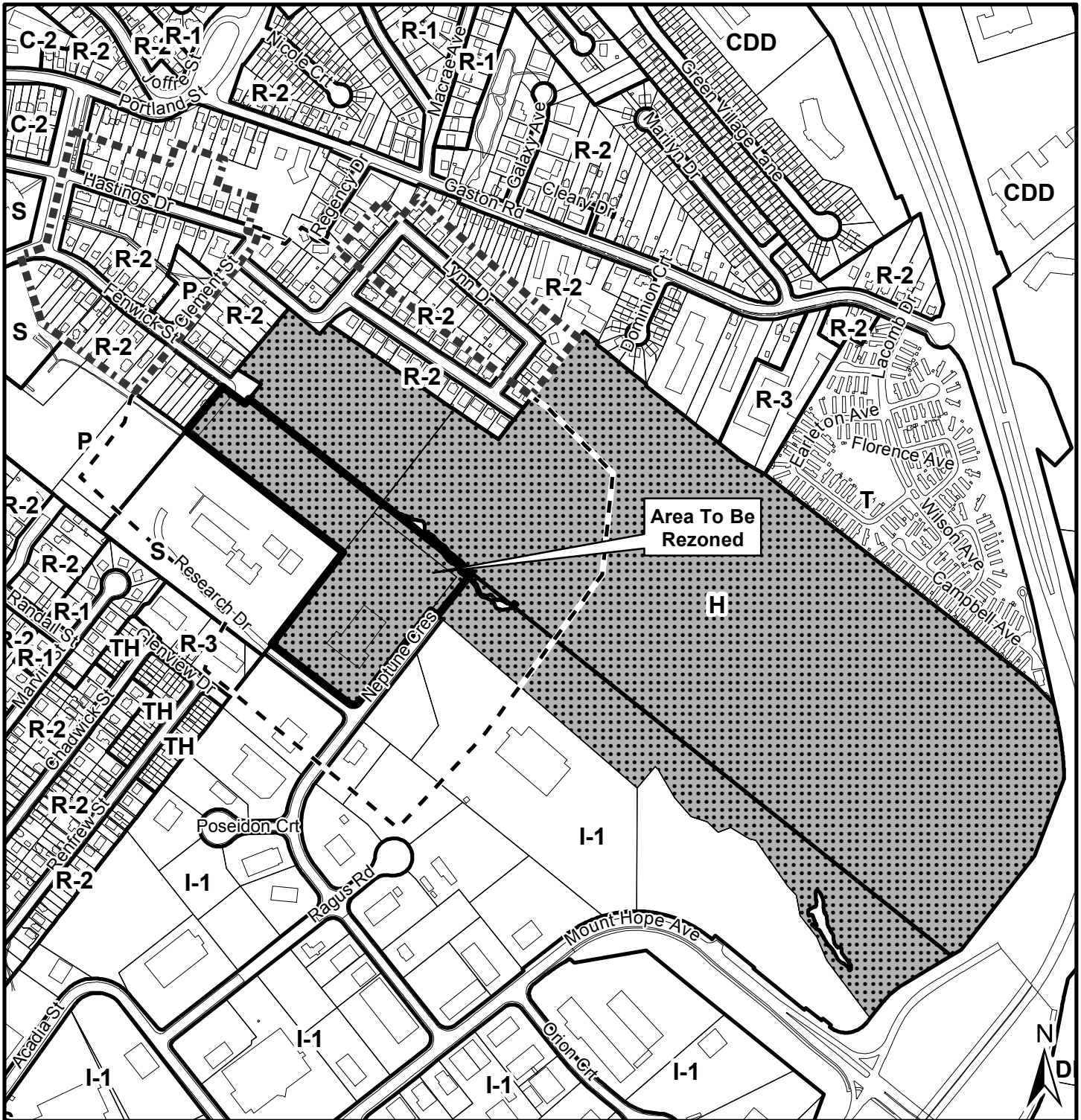
-  Area proposed to be rezoned from S (Institutional) to I-1 (Light Industrial)
-  Subject Properties

- Designation**
- R Residential
  - C Commercial
  - I Industrial
  - INS Institutional

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.

Dartmouth Plan Area



### Map 2 - Zoning and Notification

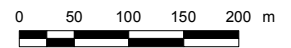
Research Drive and Neptune Crescent,  
Dartmouth

-  Area proposed to be rezoned from S (Institutional) to I-1 (Light Industrial)
-  Subject Properties
-  Area of Notification
-  Area of Notification - Extension

#### Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- TH Town Housing
- T Mobile Home Park
- C-2 General Business
- I-1 Light Industrial
- P Park
- S Institutional
- H Holding
- CDD Comprehensive Development District

**HALIFAX**



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

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

Dartmouth Plan Area

**ATTACHMENT A**

**Proposed Amendment to the Dartmouth Land Use By-law**

**BE IT ENACTED** by the Harbour East- Marine Drive Community Council of the Halifax Regional Municipality that the Dartmouth Land Use By-law is hereby amended as follows:

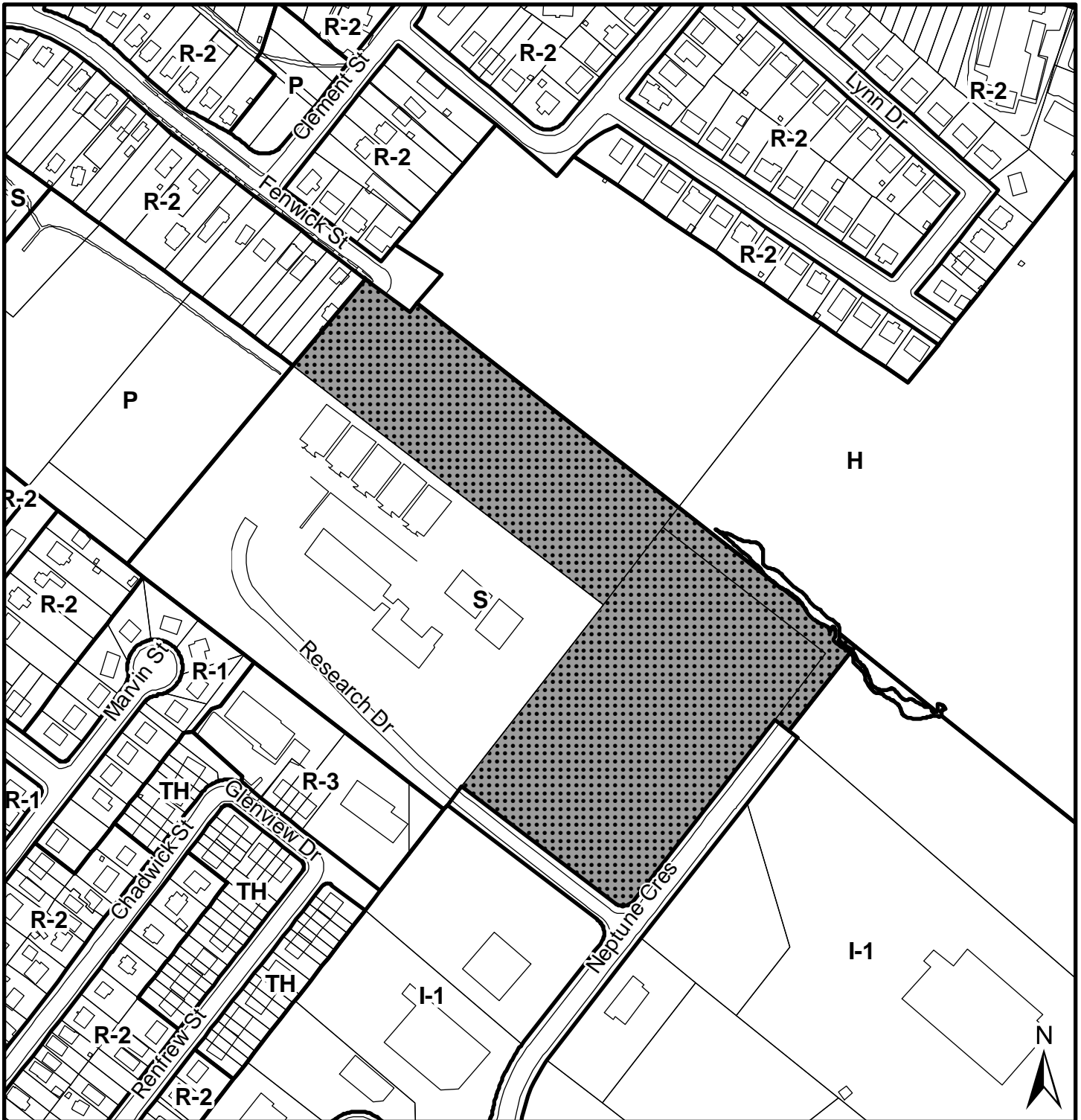
1. The Dartmouth Zoning Map is hereby amended by rezoning the lands at 1 Research Drive and a portion of the lands to the north of 1 Research Drive from the S (Institutional) Zone to the I-1 (Light Industrial) Zone, as illustrated on Schedule A attached to this Amending By-law.

THIS IS TO CERTIFY that the amendment to the Dartmouth Land Use By-law, as set out above, was duly passed by a majority vote of the Harbour East- Marine Drive Community Council of Halifax Regional Municipality held on the day of \_\_\_\_\_, 2016.

GIVEN under the hand of the municipal clerk and under the Corporate Seal of the said Municipality this \_\_\_\_ day of \_\_\_\_\_, 2016.


\_\_\_\_\_  
Municipal Clerk





**Schedule A**

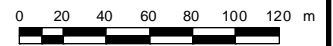
Research Drive and Neptune Crescent,  
Dartmouth

 Area to be rezoned from  
S (Institutional) to I-1  
(Light Industrial)

**Zone**

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- TH Town Housing
- I-1 Light Industrial
- P Park
- S Institutional
- H Holding

**HALIFAX**



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

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

**ATTACHMENT B:**  
**Review of Relevant Policies of Dartmouth MPS**

Applicable Policies	Staff Comments
<p><b>IP-1 (b)</b> <i>An area immediately adjacent a given generalized land use designation maybe considered for a zoning amendment to a use permitted within the adjacent designation without requiring a plan amendment, provided that the policies of this plan are not violated. (Excerpt)</i></p>	<p>The subject property is immediately adjacent the Industrial designation, and so is enabled for consideration of rezoning.</p>
<p><b>IP-1 (c)</b> <i>In considering zoning amendments and contract zoning, Council shall have regard to the following:</i></p>	
<p>(1) <i>that the proposal is in conformance with the policies and intent of the Municipal Development Plan;</i></p>	<p>The proposal is consistent with the Industrial designation and the intent of the policies of the Dartmouth MPS and the Regional Plan.</p>
<p>(2) <i>that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal;</i></p>	<p>The surrounding uses are industrial, and the proposed development form and use is compatible with the adjacent forms and uses.</p> <p>The land to the north of the subject property is zoned Holding and is vacant. Zone provisions are adequate to address any land use compatibility issues.</p>
<p>(3) <i>provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries;</i></p>	<p>The I-1 Zone requires that all yards be landscaped, and that the entire site and all buildings be maintained in a neat, tidy manner including the trimming and upkeep of landscaped areas and the removal of debris and unsightly objects. All storage, freightage or trucking yards must be enclosed or completely screened by buildings, trees, landscaped features, or fences or a combination thereof.</p> <p>The review of any proposed adjustments to existing driveways, or any new proposed driveways will occur at the permit stage in accordance with the Municipal Design Guidelines;</p>
<p>(4) <i>that the proposal is not premature or inappropriate by reason of:</i></p> <ul style="list-style-type: none"> <li>(i) <i>the financial capability of the City is to absorb any costs relating to the development;</i></li> <li>(ii) <i>the adequacy of sewer and water services and public utilities;</i></li> <li>(iii) <i>the adequacy and proximity of schools, recreation and other public facilities;</i></li> <li>(iv) <i>the adequacy of transportation networks in adjacent to or leading to the development;</i></li> </ul>	<p>No Municipal costs are anticipated;</p> <p>Halifax Water has commented on the proposal and advised that additional information on sewage generation and wastewater capacity. Any required upgrades will be identified at the building permit stage and will be the responsibility of the applicant.</p> <p>There are no anticipated impacts on the adequacy of schools, recreation or other public facilities.</p> <p>A Traffic Impact Statement was provided, and was reviewed and accepted by staff. Parking will be required in accordance with LUB and can be accommodated on site.</p>

<p>(v) <i>existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas;</i></p> <p>(vi) <i>preventing public access to the shorelines or the waterfront;</i></p> <p>(vii) <i>the presence of natural, historical features, buildings or sites;</i></p> <p>(viii) <i>create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain underutilized; or</i></p> <p>(ix) <i>the detrimental economic or social effect that it may have on other areas of the City.</i></p>	<p>Nova Scotia Environment reviewed the proposal, and indicated that any work within the wetland to the north of the property and/or the watercourse or work that will impact the wetland and/or watercourse should be done under an approval from NSE as per the Activities Designation Regulations.</p> <p>The LUB has a minimum 20 metre buffer from the edge of a watercourse, or from the edge of a wetland that is contiguous with a watercourse. The buffer will be established, and development prohibited within it, at permit stage.</p> <p>N/A</p> <p>No issues have been identified.</p> <p>No extensions to truck facilities or public services will be required to support the proposal. The proposal is for infill development, maximizing existing infrastructure.</p> <p>The proposal is expected to have a positive economic effect and have a neutral social effect.</p>
<p>(5) <i>that the proposal is not an obnoxious use;</i></p>	<p>The proposed use is consistent with the existing use of the property, which has not been deemed to be obnoxious. There have been no complaints on the property.</p>
<p>(6) <i>that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or nearby land uses and public facilities. Such controls may relate to, but are not limited to, the following:</i></p> <p>(i) <i>type of use, density, and phasing;</i></p> <p>(ii) <i>emissions including air, water, noise;</i></p> <p>(iii) <i>traffic generation, access to and egress from the site, and parking;</i></p> <p>(iv) <i>open storage and landscaping;</i></p> <p>(v) <i>provisions for pedestrian movement and safety;</i></p> <p>(vi) <i>management of open space, parks, walkways;</i></p> <p>(vii) <i>drainage both natural and sub-surface and soil-stability;</i></p> <p>(viii) <i>performance bonds.</i></p>	<p>N/A- Not a development agreement</p>
<p>(7) <i>suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors;</i></p>	<p>There is a slope at the rear of the property may impact the limits of development. The regulations of the Industrial zone will require any proposed building be set back from watercourses and wetlands relative to the slope. No other constraints were identified.</p>

<p><i>(8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council;</i></p>	<p>Questions and comments from the public were solicited through the HRM website, signage posted on the subject site, and a public information meeting.</p>
<p><i>(9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:</i></p> <ul style="list-style-type: none"> <li><i>(i) Council with a clear indication of the nature of proposed development, and</i></li> <li><i>(ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community;</i></li> </ul>	<p>Plans have been provided in support of the application, and provide a clear indication of the proposed development.</p> <p>The information submitted in support of the proposal was sufficient to allow assessment of the impacts of the development.</p>
<p><i>(10) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.</i></p>	<p>N/A</p>

## ATTACHMENT C

### Public Information Meeting Minutes

**HALIFAX REGIONAL MUNICIPALITY**  
**Public Information Meeting**  
**Case 19755/20235**

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**Thursday, January 28, 2016**  
**7:00 p.m.**

**South End Baptist Church, Dartmouth**

**STAFF IN**

**ATTENDANCE:**

Erin MacIntyre, Planner, HRM Development Approvals  
Laura Gillies, Planning Technician, HRM Development Approvals  
Cara McFarlane, Planning Controller, HRM Development Approvals

**ALSO IN**

**ATTENDANCE:**

Councillor Gloria McCluskey, District 5  
Justin Forbes, Consultant, CBCL Limited

**PUBLIC IN**

**ATTENDANCE:**

Approximately 23

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The meeting commenced at approximately 7:03 p.m.

#### **1. Call to order, purpose of meeting – Erin MacIntyre**

Ms. MacIntyre introduced herself as the Planner facilitating this application through the planning process; Councillor Gloria McCluskey, District 5; Justin Forbes, Consultant, CBCL Limited; and Laura Gillies (Planning Technician) and Cara McFarlane (Planning Controller), HRM Development Approvals.

Case 19755 – Request by CBCL Limited to rezone lands of Nova Scotia Innovation Corporation located at 1 Research Drive and Neptune Crescent in Woodside Business Park, Dartmouth from S (Institutional) Zone to I-1 (Light Industrial) Zone.

Case 20235 – Request by CBCL Limited to rezone lands of Clearwater Fine Food Incorporated located at 101 Research Drive in Woodside Business Park, Dartmouth from S (Institutional) Zone to I-1 (Light Industrial) Zone.

The Public Information Meeting (PIM) Agenda was reviewed.

The purpose of the PIM is: a) to identify to the community that HRM has received separate applications on the subject properties; b) to provide information/background on the proposals; c) explain the Planning Policies and Process; d) to provide the applicant an opportunity to present their proposal and answer questions; and e) to provide Staff and opportunity to receive public feedback regarding the application. This is purely for information exchange and no decisions are made at the PIM.

#### **2. Overview of Proposal – Erin MacIntyre**

Ms. MacIntyre provided a brief introduction to the two applications.

Ms. MacIntyre made a presentation outlining the status of the two applications and the rezoning request. She explained the site context of the subject lands; the proposal to rezone, subdivide and consolidate portions, and construct a new building; the site plan of the properties; relevant policies (IP-1B, IP-1C); and the rezoning process.

### **3. Presentation of Proposal – Justin Forbes, Consultant, CBCL Limited (Canadian British Consultants Limited)**

Mr. Forbes presented the proposal for the two separate properties and showed slides of the rezoning request to better reflect the current use of the buildings, the construction of a new building on the property located at Research Drive and Neptune Crescent, the site plans and conceptual layout for the subject properties, and development considerations.

### **4. Questions and Comments**

**Alan Adams, Lynn Drive** – There was a discrepancy with the plan that was mailed out in comparison to the presentation. Mr. Forbes mentioned a 30 foot buffer zone between property lines but there has always been a 50 foot greenbelt behind those properties. The owner of the land (Innovation Corporations) has promised all of the residents who attended a previous meeting that there would be absolutely no construction beyond the street into the swamp. That piece of land is a concern for many people at this meeting. **Ms. MacIntyre** explained that the two applications may be causing some confusion. She pointed out what parcels are being rezoned. The piece of land Mr. Adams is referring to is zoned H (Holding) Zone and is not available under Policy for rezoning. It forms part of the same property but it is not part of this rezoning application.

**Harvey Heaton, Lynn Drive** has some suspicions. Trees will have to be removed in order to construct the new building and parking lot. That area is used for drainage and the existing trees slow down the drainage. If the trees are removed, the water runoff will cause serious flooding issues for people on the back of Clement Street and possibly the bottom part of Lynn Drive. **Ms. MacIntyre** – When developing a lot, the regulation requires pre and post development stormwater flow balance and stormwater must be retained on-site. This will be part of a very high level review as part of the rezoning. **Mr. Heaton** – Dartmouth used to have two pristine lakes but things weren't mitigated and now they are ruined and the parkland has now been developed. HRM Planning does not live up to its promises to protect our area. He is concerned that rezoning may allow the owner to do extra on the property. **Ms. MacIntyre** – In terms of stormwater and environmental concerns, she will make sure that the criteria set out in the Policy are addressed. In terms of the rezoning and it being grandfathered, a non-residential, non-conforming use is completely frozen. The Development Officer will not issue an occupancy permit for a commercial use in an institutional zone. To allow a new leasehold tenant or have the ability to do any type of addition or major refresh of the building, the zoning needs to be changed.

**Bob Hallett, Fenwick Street** – His biggest concern is traffic. Who owns the road that goes to the research foundation? **Ms. MacIntyre** – It is privately owned (the driveway). **Mr. Hallett** – If the development goes in, will a road going into the property be required or would they come in through the industrial park? **Ms. MacIntyre** – Frontage is on Neptune Crescent (shown). The plan, at this point, is to have their driveway access onto Neptune Crescent and there is no proposal to change ownership, alignment or legal entity or lack thereof of the driveway. **Mr. Hallett** – There is no proposal to put an extension on Fenwick Street? **Ms. MacIntyre** – Not as

part of this proposal specifically.

**Bill Zebedee, Clement Street** – How many hectares of forest will be destroyed when constructing the new building and parking lot? **Mr. Forbes** – The concept plan has been designed to meet existing regulations. **Ms. MacIntyre** believes it would be approximately 1 hectare. **Mr. Zebedee** – If requirements are met, can the developer extend the private driveway from the parking lot, through the wooded area to Fenwick Street as of right? **Ms. MacIntyre** – If the plans met all the streets and services by-law, the street could be built as of right. **Mr. Zebedee** – If there is potential to access onto Fenwick Street, traffic would increase. **Ms. MacIntyre** – Conditions cannot be applied to a rezoning as is done with development agreements. Rezonings are tricky as staff presents the current plan but can change and would be approved if all requirements are met. **Mr. Zebedee** – An Environment Protection Assessment would have to be done due to possible stormwater issues.

**Mr. Zebedee** - In 2009, the Woodside Community Visioning and Penhorn/Woodlawn Community Visioning process wanted that area protected. There is a lot of beauty back there and needs to be protected by the Provincial Government.

**Helen Zebedee, Clement Street** has concerns about what will be done with the stormwater and the whole ecosystem because it is a sloped treed area feeding into a watershed. The amount of non-permeable surface going into that lot will be much greater than the surrounding neighbourhood. There is a lot of wildlife in that area possibly including cardinals and falcons which would shut down the development permanently. **Ms. MacIntyre** – These sort of issues will be considered. Stormwater is reviewed for any development.

**One resident** – Where is the brook located? **Ms. MacIntyre** – The solid line is the edge of the wetlands and the dashed line is the brook. **The resident** – What is the distance from the new lot to the brook? **Ms. MacIntyre** – A new lot will not be created. **The resident** – What is the distance from the existing parcel to the brook? **Ms. MacIntyre** – The watercourse setback has to be at least 20 metres from the edge of any watercourse based on a 20% slope within that 20 metres. One metre is added to every additional 2% slope.

**One resident** pointed out that trees can't be cut within that 20 metre buffer. Have any inquiries been made about the proximity to a wetland? He does not want the rules regarding the environment to become law because the rezoning was approved by HRM especially if the neighbourhood will be affected. **Ms. MacIntyre** – The Development Officer will deal with the environment issues at the time the permit application is received. **The resident** – Did anyone speak with the Department of Environment (DOE)? **Ms. MacIntyre** – It is a land use by-law requirement, therefore, the Development Officer would confer with other stakeholders that have legislation that is relevant. The Municipality deals with watercourse setbacks. The land use by-laws were changed with the adoption of the Regional Plan in 2006.

**Allan Myra, Clement Street** believes sewer lines in the area are at capacity. **Mr. Forbes** – The central connections would be going on Neptune Crescent.

**Margaret Moffatt, Hastings Drive** is concerned about traffic. Fenwick Street would become busier with a new building and sewer system. **Mr. Forbes** – The sewer and driveway are connecting to Neptune Crescent in this proposal.

**Roger Moore, Clement Street** – There is no requirement that the proposed concept plan remains the same? **Mr. Forbes** – There are regulations under the land use by-law which will regulate what can be done. This is a conceptual site layout which was prepared as requested by HRM. It may not look exactly like this but under the current regulations in the land use by-law, this is what the site could look like. There is a 30 foot setback from any residential zone.

**Mr. Adams** – Why rezone the property? **Ms. MacIntyre** – There is a regulation in the land use by-law that does not allow access to a property over lands that are not zoned to support that use. **Mr. Adams** asked about surveying tape that was placed in the area. **Stephen Dunn, speaking on behalf of a residence on Fenwick Street** explained that when a survey is being done, the whole lot has to be taped off. **Ms. MacIntyre** – A surveyor is legally permitted to be on anyone's property at any time due to the nature of their work.

**Wayde Hazelwood, Fenwick Street** is concerned about traffic. When 101 Research Drive is redeveloped into commercial, it will allow more tenants to fill the half empty building which will increase traffic on Fenwick Street. **Mr. Forbes** – No development is proposed for 101 Research Drive. It is expected that existing uses would remain the same. A Traffic Impact Statement (TIS) was included as part of the application. **Mr. Hazelwood** had a copy of the TIS but Fenwick Street wasn't necessarily included. **Ms. MacIntyre** will raise that issue. **Mr. Forbes** did not prepare the TIS but a transportation engineer did and will check to see if Fenwick Street was included. **Ms. MacIntyre** – The existing building has an occupancy load and traffic counts would have been considered at the time of the building being constructed. She will raise the issue with the Development Engineer.

**Al Wagner, Hastings Drive** – The water level along the walkway near the dam floods after three or four days of heavy rain. Drains will have to be installed to avoid backing up around surrounding properties.

**Francis Myra, Clement Street** – The area is very sensitive to excessive rainfall although it has been contained a bit better over the last few years. Her house requires a sump pump in the basement.

**Mr. Moore** would be quite happy to see the access coming out of the private driveway at Fenwick Street shut down versus having additional development on the second half of that property. Although, there is fear that if developed, that access could be shut down to the public but still be used privately to access Fenwick Street.

**Ms. Moffatt's** yard floods during rainy times along with two or three of her neighbouring properties.

**Mr. Dunn** – One possibility mentioned would be to close off the driveway and have that totally inaccessible other than the NSPI right of way. **Ms. MacIntyre** – There are two applications sequentially numbered. If the first was to go ahead, the access to the second would have to be closed and therefore unreachable. There was never a proposal to shut off the access, it is an issue of timing and how it works with Planning Policy.

**Mr. Hazelwood** – Can the residents ask for the access to be closed? **Ms. MacIntyre** – The public's ability in this process is to advise Council through the meeting and through this rezoning review. There are no conditions, other than meeting the requirements of the land use by-law, attached to a rezoning. **Mr. Hazelwood** – There is a security guard stationed there. **Ms. MacIntyre** is not sure if there are easements covering the public use of the access or not. **Mr. Dunn** – It is a NSPI right of way so there has to be access through there. **Ms. MacIntyre** – It may be solely to the benefit of NSPI.

**Brad Bradley, Hastings Drive** – Could the proposed building be built without rezoning? **Ms. MacIntyre** – The proposal to subdivide allows them to have another building. **Mr. Bradley** – No one has any idea of what is going in there. **Mr. Forbes** – The idea is for Innovations Corporation to have an incubator startup company. **Mr. Bradley** – What about commercial trucking? Trucks 5 tons or more are not permitted on residential roads. Neptune Crescent is zoned to handle



those types of commercial vehicles. **Ms. MacIntyre** – The TIS will be fully reviewed by the Development Engineer who will sit down and review it with HRM's Traffic and Right of Way division who are more connected with traffic control. She will make sure that comment is heard and understood by them.

**Mr. Heaton** commented on the fact that the HRM letter did not disclose who the two companies were. No one is forthcoming with information. **Ms. MacIntyre** – HRM's Policy is that an applicant is identified for the application and that is staff's contact. It is no secret who the landowner is. **Mr. Heaton** – Dartmouth residents are naturally suspicious of the landowner. It would be nice for these companies to give the neighbourhood something in return rather than just take away. **A resident** – This meeting is being held in order to receive information from Planning Staff. Staff is giving the best answers they can provide.

**Mr. Moore** – What is the notification area? Can adjustments be made? **Ms. MacIntyre** – In a serviced area, 250 feet is the standard for a mailout. **Councillor McCluskey** requested an extension for the public hearing mailout – Fenwick Street, Clement Street, Lynn Drive, Hastings Drive from Prince Arthur.

**Mr. Bradley** – Once rezoned, is it possible that development will creep further into the wetlands? **Ms. MacIntyre** – The Holding Zone won't allow it.

**Mr. Adams** – The proposed parking lot for the new building will be built on top of a fantastic array of trees planted by the original owner.

**Ms. MacIntyre** suggested that when residents receive the notice for public hearing that they read the staff report. If they have further questions or comments to attend the public hearing so they can be heard by Council. **Councillor McCluskey** mentioned that the public hearing would be solely for the rezoning and not the building.

**A resident** – HRM staff is doing their best to look out for us but we don't always agree on how it is being done. The residents fear what companies will be going in there and the feeling they can do whatever they want.

**Ms. Moffatt** is concerned about large trucks coming in and out at all hours of the day and shortcutting. It is the things that one does not perceive.

**Councillor McCluskey** – Is a development agreement a possibility? **Ms. MacIntyre** – The Dartmouth Municipal Planning Strategy is what informs us of the tool if one is available.

**A resident** – Does HRM control sewer, water and stormwater drainage? **Ms. MacIntyre** – HRM deals with water above ground and when it enters the system and goes underground, Halifax Water takes over.

**Mr. Hazelwood** read a statement from the TIS – “While the possibility of shortcutting through the parking lot exists, it does not seem to be an issue as complaints from residents on Fenwick Street do not appear to be prevalent.” **Ms. MacIntyre** will look into that.

**Mr. Moore** - In closing, the available studies will be posted to a Facebook Group called Save Eisner Cove Wetland.

## 5. Closing Comments

**Ms. MacIntyre** thanked everyone for coming and expressing their comments.

**6. Adjournment**

The meeting adjourned at approximately 8:33 p.m.

## ATTACHMENT D

### **Land Use By-law Amendments By Community Council**

The *Community Council Administrative Order*, subsection 3 (1) "Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council."

*Halifax Regional Municipality Charter* ("HRM Charter"),

30 (3) A community council may amend the land-use by-law of the Municipality applicable to the community with respect to any property in the community if the amendment carries out the intent of any municipal planning strategy of the Municipality applicable to the property and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.

HRM Charter, Part VIII, Planning and Development, including:

#### **Requirements for adoption of planning documents**

220 (1) The Council shall adopt, by by-law, planning documents.

(3) Before planning documents are read for a second time, the Council shall hold a public hearing.

#### **Amendment of land-use by-law**

225 (1) An amendment to a land-use by-law that

(a) is undertaken in accordance with the municipal planning strategy; and

(b) is not required to carry out a concurrent amendment to a municipal planning strategy,

is not subject to the review of the Director or the approval of the Minister.

(2) The procedure for the adoption of an amendment to a land-use by-law referred to in subsection (1) is the same as the procedure for the adoption of planning documents, but a public participation program is at the discretion of the Council and the amendment may be adopted by a majority of votes of the Council members present at the public hearing.

(3) Upon the adoption of an amendment to a land-use by-law referred to in subsection (1), the Clerk shall place a notice in a newspaper circulating in the Municipality stating that the amendment has been adopted and setting out the right of appeal.

(4) When notice of an amendment to a land-use by-law referred to in subsection (1) is published, the Clerk shall file a certified copy of the amending by-law with the Minister.

(5) Within seven days after a decision to refuse to amend a landuse by-law referred to in subsection (1), the Clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.

(6) Where the Council has not, within one hundred and twenty days after receipt of a completed application to amend a land-use by-law referred to in subsection (1), commenced the procedure required for amending the land-use bylaw by publishing the required notice of public hearing, the application is deemed to have been refused.

(7) Within seven days after an application to amend a land-use by-law, referred to in subsection (1), being deemed to be refused, the Clerk shall notify the applicant in writing that the application is deemed to have been refused and setting out the right to appeal.

(8) An amendment to a land-use by-law referred to in subsection (1) is effective when

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the amendment has been affirmed by the Board.

#### **Content of land-use by-law**

235 (1) A land-use by-law must include maps that divide the planning area into zones.

(2) A land-use by-law must

(a) list permitted or prohibited uses for each zone; and

(b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

(3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

(4) A land-use by-law may

(a) regulate the dimensions for frontage and lot area for any class of use and size of structure;

(b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;

(c) regulate the maximum area of the ground that a structure may cover;

(d) regulate the location of a structure on a lot;

(e) regulate the height of structures;

(f) regulate the percentage of land that may be built upon;

(g) regulate the size, or other requirements, relating to yards;

(h) regulate the density of dwelling units;

(i) require and regulate the establishment and location of off-street parking and loading facilities;

(j) regulate the location of developments adjacent to pits and quarries;

(k) regulate the period of time for which temporary developments may be permitted;

(l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;

- (m) regulate the floor area ratio of a building;
  - (n) prescribe the fees for an application to amend a land-use by-law or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use by-law may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
  - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
  - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
  - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
  - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
  - (f) regulate the location of disposal sites for any waste material;
  - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
  - (h) regulate or prohibit the removal of topsoil;
  - (i) regulate the external appearance of structures;
  - (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
  - (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
  - (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
  - (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
  - (n) prohibit development or certain classes of development where, in the opinion of the Council, the
    - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
    - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
    - (iii) cost of maintaining municipal streets would be prohibitive;
  - (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;

- (p) prohibit development on land that
    - (i) is subject to flooding or subsidence,
    - (ii) has steep slopes,
    - (iii) is low-lying, marshy, or unstable,
    - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
    - (v) is known to be contaminated within the meaning of the *Environment Act*, or
    - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
  - (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
  - (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.
- (6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

### **Appeals to the Board**

262 (1) The approval or refusal by the Council to amend a land-use by-law may be appealed to the Board by

- (a) an aggrieved person;
- (b) the applicant;
- (c) an adjacent municipality;
- (d) the Director.