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**Item No. 13.1.2**  
**Halifax and West Community Council**  
**April 17, 2018**

**TO:** Chair and Members of Halifax and West Community Council

**SUBMITTED BY:** Original signed  
\_\_\_\_\_  
Steve Higgins, Acting Director, Planning and Development

**DATE:** March 7, 2018

**SUBJECT:** **Case 21076: Halifax Peninsula LUB Amendment (Rezoning) for 3834 Robie Street, Halifax, Peninsula.**

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**ORIGIN**

Application by Shelley Dickey Land Use Planning to rezone the lands at 3834 Robie Street from R-2 (General Residential Zone) to R-2A (General Residential Conversion Zone).

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to the Halifax Peninsula Land Use By-law, as set out in Attachment A, to rezone the lands at 3834 Robie Street from the R-2 General Residential Zone to the R-2A General Residential Conversion Zone, and schedule a public hearing;
2. Adopt the amendment to Map ZM-1 of the Land Use By-law for Halifax Mainland, as set out in Attachment A of this report.

## **BACKGROUND**

Shelley Dickey Land Use Planning, on behalf of Pang Investments Incorporated, has applied to rezone the property at 3834 Robie Street, Halifax, from R-2 (General Residential Zone) to R-2A (General Residential Conversion Zone). The rezoning would legitimize 2 additional units already in existence bringing the total number of permitted units in the building from 4 to 6.

<b>Subject Site</b>	3834 Robie Street
<b>Location</b>	Halifax Peninsula
<b>Regional Plan Designation</b>	Urban Settlement (US)
<b>Community Plan Designation (Map 1)</b>	Residential (RES) under the Halifax Municipal Planning Strategy
<b>Zoning (Map 2)</b>	R-2 (General Residential Zone)
<b>Size of Site</b>	743.22 sq. metres (8000 sq. feet)
<b>Street Frontage</b>	20.85 metres (64.41 feet) Robie St. 15.13 metres (49.64 feet) Basinview Dr.
<b>Current Land Use(s)</b>	6-unit apartment building
<b>Surrounding Use(s)</b>	<ul style="list-style-type: none"><li>• The dominant zoning is R-2, primarily low-rise, detached houses, many converted to double occupancy.</li><li>• Abutting the subject site are 3 R-2-compliant small apartment buildings up to 4 units.</li><li>• A large R-2T (Townhouse) Zone is across Robie St.</li></ul>

## **Proposal Details**

The major aspects of the proposal are as follows:

- The current building was constructed in the early 1960s as a 4-unit dwelling. Research indicates it was internally converted to a 6-unit apartment building in the late 1960s without municipal permits.
- The property is currently not compliant with R-2 Zone which permits a maximum of 4 units.
- The property is the subject of an ongoing zoning compliance process initiated by the HRM.
- The current rezoning application is proposed to bring the property into compliance by establishing the R-2A Zone.
- R-2A is a variant of the R-2 Zone that enables buildings built prior to September 1987 to be converted to small apartment buildings from 5 to 14 units.
- The building is proposed to be maintained in its current 6-unit configuration with no physical alterations noting that the R-2A zone includes restrictions on expanding the building.
- The subject property has road frontage on both Robie Street and Basinview Dr. This configuration also restricts future expansion of the building footprint and envelope.
- The current parking provisions comply with the Halifax Peninsula LUB and access to the parking spaces is from Basinview Dr.
- The existing building and site meet the requirements for the R-2A Zone.
- Development Engineering, Civic Addressing, and Halifax Water put forward no objections to the application.

## **Enabling Policy and LUB Context**

The subject site is designated Residential (RES) under the Halifax Municipal Planning Strategy. This allows a variety of residential unit types subject to specific policy criteria and zoning. Please see Attachment B for an analysis of all relevant policy as it applies to this subject site and application.

## **COMMUNITY ENGAGEMENT**

The community engagement process has been consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement on this file was consultation, achieved through providing information and seeking comments using the HRM website, signage posted on the subject site and post cards mailed to property owners within the notification area. A public information meeting was advertised in the newspaper and HRM website. This meeting was held on January 11, 2018 and was attended by two members of the public. Two additional phone comments were submitted as part of the public feedback.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed LUB amendment. Should Community Council decide to proceed with a public hearing, notification will be published in the newspaper and property owners within the notification area shown on Map 2 will be notified by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

## **DISCUSSION**

### **Compliance Process**

The R-2 Zone allows a maximum of 4 units on the subject property. The existing 6-unit building does not comply with the current zoning. There is no evidence that permits for the 5<sup>th</sup> and 6<sup>th</sup> unit were issued and there is no indication in the zoning history that permits could have been issued at the time the units were created in the late 1960's.

Under these circumstances, there are two alternatives available to the owner to resolve this lack of compliance:

1. The building must be altered to comply with the provisions in the existing R-2 zone; or
2. The zoning must be altered to comply with the conditions in the existing building.

Option 1 would require removal of two units thereby displacing residents and reducing the housing supply in the local area.

The owner has chosen option 2 above. Should this approach not be ultimately successful, staff will act to obtain compliance through option 1.

### **Building Configuration**

Research indicates the approved 4-unit building was internally converted to 6-units in the late 1960's. It does not appear there were any external modifications during that conversion and the building has existed in it's current state since that time.

One aspect of the R-2A Zone particularly pertinent to this application, is the requirement that 50% of the units measure over 800 square feet. Five of the 6 units exceed 900 square feet and contain 3 bedrooms. The sixth unit is over 600 square feet and contains 1 bedroom.

The upper floor units have small balconies in the rear and each unit has an exterior parking space accessed from Basinview Dr.

### **LUB Amendment Review**

Attachment B provides a detailed evaluation of the proposed rezoning in relation to relevant Halifax MPS and the Halifax Peninsula LUB.

Rezoning from R-2 to R-2A allows increased density through modification of existing building stock. The R-2A policy supports the establishment of small apartment buildings in older housing many of which were converted prior to 1987. This application would be the first use of the R-2A Zone in the immediate area.

This rezoning would authorize a use that has been in place for almost 50 years without alteration to the existing building while avoiding the forced displacement of tenants.

Part of the rationale for this application is based on the existing use and structure remaining unchanged from what has existed since the 1960's. In order to avoid any unintended consequences, staff analyzed whether applying the R-2A zone to this site might lead to the creation of additional 'by-right' development capacity which could allow future intensification and / or permit an expansion of the building footprint or volume. Staff advise this possibility is extremely unlikely. The R-2A Zone and the through-and-through lot configuration effectively prohibit expansion of the building footprint, height, or volume. Furthermore, the fixed building envelope combined with the requirement that 50% of the units exceed 800 square feet limit the capacity to increase the number of bedrooms or intensify the use through internal conversion. Staff advise there is very little risk of increased intensification on this property under the proposed R-2A zone.

### **Conclusion**

Staff reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the MPS and the existing building and lot comply with the R-2A Zone. The risk of further intensification is mitigated by the R-2A requirements.

Therefore, staff recommend that the Halifax and West Community Council approve the proposed LUB amendment.

### **FINANCIAL IMPLICATIONS**

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

### **RISK CONSIDERATION**

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

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

### **ALTERNATIVES**

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

**ATTACHMENTS**

Map 1: Generalized Future Land Use  
Map 2: Zoning and Notification Area

Attachment A: Proposed LUB Amendment  
Attachment B: Relevant MPS Policies and Land Use By-law Sections

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

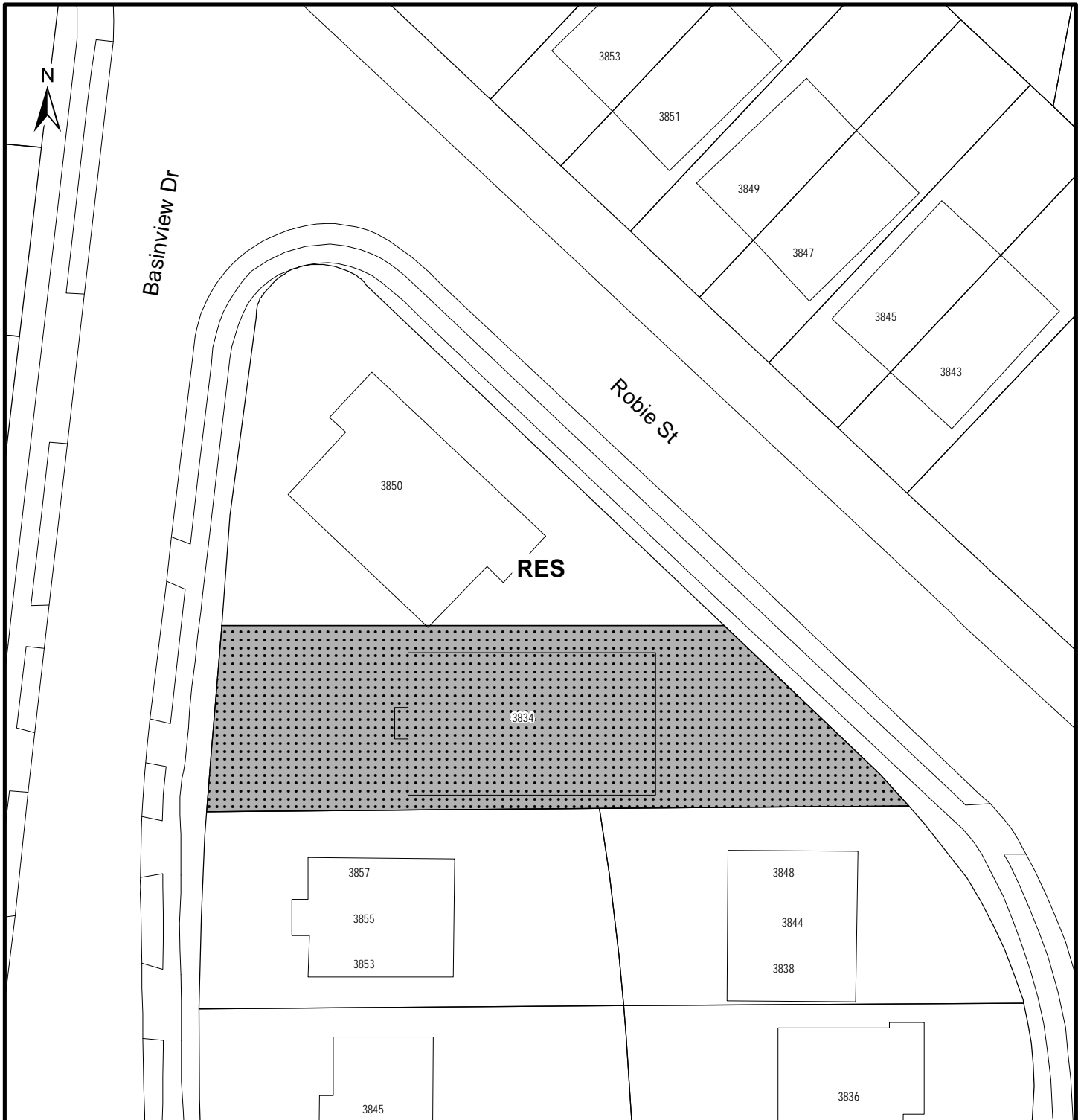
Report Prepared by: Scott Low | Planner II | Current Planning | 902.490.6373

Report Approved by: Original signed  

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Maggie Holm, Principal Planner, Urban Enabled Applications, 902.293.9496

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**Map 1 - Generalized Future Land Use**



3834 Robie Street  
Halifax

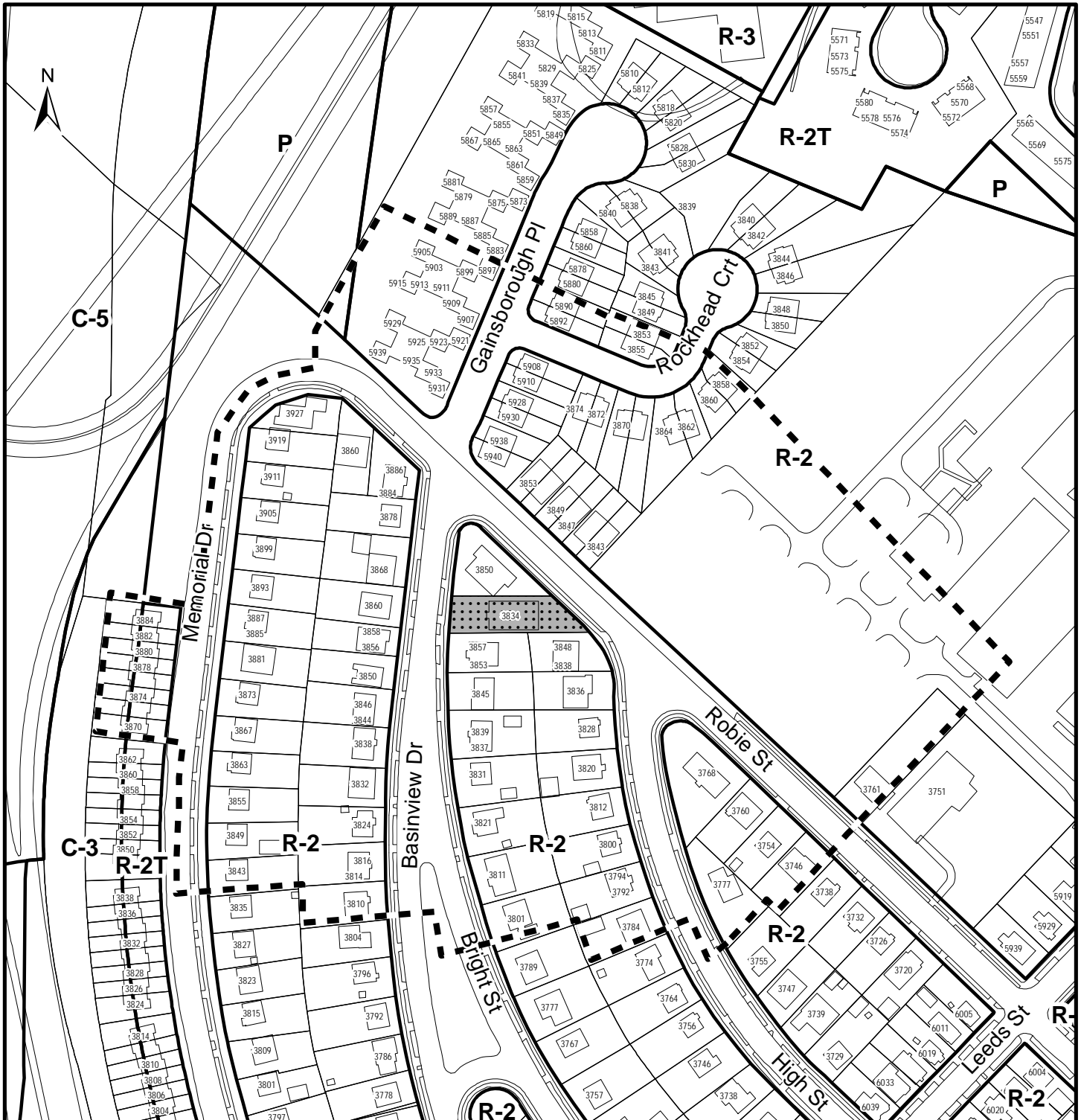
 Subject Site

**Designation**  
RES Residential Environments

Halifax  
Plan Area

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.



## Map 2 - Zoning and Area of Notification

3834 Robie Street  
Halifax

**HALIFAX**

-  Subject Site
-  Area of Notification

- Zone**
- R-2 General Residential
  - R-2T Townhouse
  - R-3 Multiple Dwelling
  - C-3 Industrial
  - C-5 Harbour-Related Industrial
  - P Park and Institutional



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.

Halifax Peninsula  
Land Use By-Law Area

**ATTACHMENT A**

**Proposed Amendment to the Land Use By-law for Halifax Peninsula**

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

1. Amend Map ZM-1, the Zoning Map, by rezoning the property identified as 3834 Robie Street, Halifax, from the R-2 (General Residential Zone) to the R-2A (General Residential Conversion Zone), as shown on the attached Schedule A.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Halifax and West Community Council of Halifax Regional Municipality held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GIVEN under the hand of the municipal clerk and under the Corporate Seal of the said Municipality this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Municipal Clerk






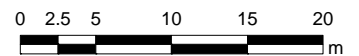
**Schedule A**

3834 Robie Street  
Halifax



**Zone**  
R-2 General Residential

 Area to be rezoned from R-2  
(General Residential) to R-2A  
(General Residential Conversion)



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

Halifax Peninsula  
Land Use By-Law Area

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

**Attachment B**  
**Relevant MPS Policies and Land Use By-law Sections**

**Halifax Municipal Planning Strategy**

**Section II – City-Wide Objectives and Policies**

**2. Residential Environments**

**Objective:** The provision and maintenance of diverse and high quality housing in adequate amounts, in safe residential environments, at prices which residents can afford.

<b>Policy</b>	<b>Comment</b>
<i>2.1 Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.</i>	This residential development proposal may be accommodated within the capacity of existing services.
<i>2.1.1 On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhoods; and the City shall develop the means to do this through the detailed area planning process.</i>	The subject site is located on the Peninsula and meets the qualification of retention of existing neighborhoods through rezoning as the building will continue in its current structural form within the neighbourhood as it has since the early 1960's.
<i>2.2 The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i>	<p>The rezoning application is located within a residential neighbourhood comprised of a mix of housing types and zones from R-1 single detached dwellings to R-2 and R-2T dwellings comprised of small apartment buildings and townhouses. This development will modestly increase unit density, however there is no proposed change to the existing housing stock.</p> <p>Gentle intensification by adding two legal secondary suites may meet neighbourhood needs for additional units and tenure types. Rezoning is not expected to alter the neighbourhood development pattern nor characteristics.</p> <p>Policy 3.1 was repealed June 1990; Policy 3.2 is not applicable.</p>
<i>2.3 The City shall investigate alternative means for encouraging well-planned, integrated development.</i>	The R-2 to R-2A application could be considered gentle intensification, a form of integrated development.

<p><i>2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.</i></p>	<p>The proposal does not seek to alter the existing residential character of the established neighbourhood. The units are currently rentals of an in-demand three-bedroom size for five of the six units, and the sixth unit is a single bedroom. No units will be lost because of rezoning. This building has been a six-unit residence since the 1960s corresponding to a form and tenure type that is stable and compatible within the neighbourhood context.</p>
<p><i>2.4.1 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.</i></p>	<p>This is the first property to apply for the R-2A zone in this neighbourhood. The introduction of R-2A zone may encourage more properties to apply for R-2A zone, and which has the potential to modestly change the community through intensification, but only for the existing stock of pre-1987 buildings.</p>
<p><i>2.5.1 The City views the neighbourhood as the foundation for detailed area planning. In the process of detailed area planning, residents shall be encouraged to determine what they consider to be their neighbourhoods, and to work with City Council and staff in arriving at an acceptable definition of their neighbourhood and a neighbourhood plan.</i></p>	<p>Neighbourhood consultation took place through a postcard mailout and with a public information meeting. Feedback from the public engagement informed this analysis.</p>
<p><i>2.7 The City should permit the redevelopment of portions of existing neighbourhoods only at a scale compatible with those neighbourhoods. The City should attempt to preclude massive redevelopment of neighbourhood housing stock and dislocations of residents by encouraging infill housing and rehabilitation. The City should prevent large and socially unjustifiable neighbourhood dislocations and should ensure change processes that are manageable and acceptable to the residents. The intent of this policy, including the manageability and acceptability of change processes, shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>This proposed intensification project does not displace existing housing and would permit two additional residential units which have been in existence since the 1960s. The R-2A zone allows for increased density through internal conversion of existing dwellings.</p> <p>The R-2 to R-2A rezoning anticipates modest scale redevelopment through intensification using existing building structures that date from 1987 or earlier. No dislocation is anticipated through this rezoning; in fact, a rejection of this application would displace two units of rental tenure as they would become non-conforming in the prevailing R-2 Zone.</p> <p>Policy 3.1 was repealed June 1990; Policy 3.2 is not applicable.</p>

<p><i>2.8 The City shall foster the provision of housing for people with different income levels in all neighbourhoods, in ways which are compatible with these neighbourhoods. In so doing, the City will pay particular attention to those groups which have special needs (for example, those groups which require subsidized housing, senior citizens, and the handicapped).</i></p>	<p>This additional two dwelling units proposed will provide an alternative housing type and tenure in the existing neighbourhood while retaining neighbourhood residential compatibility. Rental housing stock of three-bedroom size will be preserved with this rezoning. This is one of the policy purposes of the R-2A Zone.</p>
<p><i>2.11 For all residential uses the parking and storage of vehicles such as trailers, boats and mobile campers, shall be restricted to locations on the lot which create minimal visual impact from the street.</i></p>	<p>All parking requirements under the Land Use By-law applicable to the R-2A zone and general LUB provisions will be followed. There are currently seven parking stalls of adequate size and accessibility within the property for six units.</p>

## Implementation Policies

### General Amendments to the Zoning By-Law

Policy	Comment
4. When considering amendments to the Zoning By-laws and in addition to considering all relevant policies as set out in this Plan, the City shall have regard to the matters defined below.	As follows.
4.1 The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.	The application conforms to the Halifax Municipal Planning Strategy. A development application will lead to further review of By-law and regulatory compatibility.
4.2 The City shall review the proposal to determine that it is not premature or inappropriate by reason of:  i) the fiscal capacity of the City to absorb the costs relating to the development; and  ii) the adequacy of all services provided by the City to serve the development.	There is no cost to HRM.  Adequate services exist to for this subject site.

### Land Use By-Law: Halifax Peninsula

#### Definitions

Policy	Comment
"Converted Multiple Dwelling House" means a building located on a lot, both of which existed on September 17, 1987 and to which additions or conversions have occurred, resulting in a building containing a minimum of 5 and a maximum of 14 self contained dwelling units.	This definition is critical to the R-2A Zone (see 43AA(1)(b)) and extends the number of units above the R-2 maximum of 4 units. The subject site on the application pre-dates the 1987 cut-off period and has been internally converted prior to that date as well, likely in the late 1960s.

#### General Provisions

Policy	Comment
One Building Per Lot  7(1) Every building erected after the coming into effect of this by-law shall be located on a lot as defined in this by-law and in no case shall there be more than one building on one lot or one building on more than one lot except as otherwise provided in this by-law.	There is only one building on the subject site.
Parking  11B For the purposes of Section 9(a)(iii) each parking space for a motor vehicle must be separately accessible and measure at least 8 feet wide and 16 feet long.	The subject site has 6 units and the parking provided is for 7 spaces.

**Land Use By-Law: Halifax Peninsula**

**R-2A Zone**

**General Residential Conversion Zone**

<b>Policy</b>	<b>Comment</b>
<p><i>43AA(1) The following uses shall be permitted in any R-2A Zone:</i></p> <p><i>(a) R-1, R-2 and R-2T uses;</i></p> <p><i>(b) converted multiple dwelling house;</i></p> <p><i>(c) uses accessory to any of the foregoing uses.</i></p>	<p>3834 Robie St. qualifies for R-2A as it meets the "converted multiple dwelling house" test as it is internally converted to 6 units above the R-2 maximum of 4 units, and was constructed pre-1987.</p>
<p><b>INTERNAL CONVERSION</b></p> <p><i>43AI A building which was in existence on September 17, 1987 may be converted to R-1, R-2, or R-2A uses provided:</i></p> <p><i>i) there is no increase in building volume; and</i></p> <p><i>ii) in the case of R-2A uses fifty percent (50%) of the dwelling units contain a minimum of 800 square feet of floor area.</i></p>	<p>The current building is unchanged since initial construction in building volume.</p> <p>Five of the six units are above 800 square feet.</p> <p>Increasing unit density in the building may be feasible, but would entail converting five of the 3 bedroom units to 1 bedroom units, thereby lessening the total number of bedrooms and therefore lowering the intensity. Further internal conversion may not be able to achieve the 50% of units at the 800-square foot minimum.</p> <p>Further internal conversion appears economically unfeasible. Furthermore, it is not possible for this building to as an R-2A to expand the habitable envelope or footprint due to the R-2A Zone frontage, coverage, and height restrictions.</p>