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Item No. 10.1.1
Halifax and West Community Council
July 10, 2018

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: -Original Signed-

Kelly Denty, Acting Director, Planning & Development

-Original Signed-

Jane Fraser, A/Chief Administrative Office

DATE: April 26, 2018

SUBJECT: **Case 21599: Rezoning, 6048 Stairs Street, 6042 Stairs Street, 6038 Stairs Street, 6034 Stairs Street, 6054 Stairs Street, 6055 Livingstone Street and 6031 Livingstone Street, Halifax**

ORIGIN

Application by Shelley Dickey Land Use Planning.

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 the proposed amendment to the Halifax Peninsula Land Use Bylaw, as set out in Attachment A of this report, to rezone lands at 6048 Stairs Street, 6042 Stairs Street, 6038 Stairs Street, 6034 Stairs Street, Halifax from R-2 to C-3; and 6054 Stairs Street, 6055 Livingstone Street and 6031 Livingstone Street, Halifax, from C-2 to C-3, and schedule a public hearing;
2. Adopt the amendment to the Halifax Peninsula Land Use Bylaw as set out in Attachment A.

BACKGROUND

Shelley Dickey Land Use Planning on behalf of Dynamic Properties Company Ltd. has applied to rezone 7 abutting properties from the R-2 (General Residential) and C-2 (General Business) zones to the C-3 (Industrial) Zone as a preliminary step towards developing a motor vehicle dealership and service facility. Civic addresses and PID numbers for these properties are listed below and the subject site can be described as the majority of the block bounded by Kempt Road, Livingstone Street, Massachusetts Avenue and Stairs Street. The location is part of the Kempt Road commercial corridor which is primarily occupied by automotive service and sales businesses.

Subject Site (7 properties)	6054 Stairs Street, Halifax 6048 Stairs Street, Halifax 6042 Stairs Street, Halifax 6038 Stairs Street, Halifax 6034 Stairs Street, Halifax 6055 Livingstone Street, Halifax 6031 Livingstone Street, Halifax	PID 00152868 PID 00152876 PID 00152884 PID 00152892 PID 00152900 PID 00152827 PID 00152819
Location	Halifax Peninsula city block between Stairs Street, Livingstone Street, Kempt Road, and Massachusetts Avenue	
Regional Plan Designation	US (Urban Settlement)	
Community Plan Designation (Map 1)	IND (Industrial)	
Zoning (Map 2)	R-2 (General Residential) Zone C-2 (General Business) Zone C-3 (Industrial) Zone	
Size of Site	58,501 square feet	5435 square metres
Street Frontage	Stairs Street 199.6 feet Livingstone Street 374.5 feet Kempt Road 106.8 feet Massachusetts Ave. 230.1 feet	60.84 metres 114.15 metres 32.55 metres 70.14 metres
Current Land Use	Two commercial buildings and surface parking	
Surrounding Use	Kempt Road corridor is industrial and commercial Across Massachusetts Avenue is residential	

Proposal Details

The application proposes to rezone 7 lots to establish the C-3 (Industrial) Zone throughout the proposed development site. Those 7 lots are then proposed to be consolidated to a single lot which would be developed as an automotive dealer and service facility. The applicant has provided a conceptual site plan that illustrates the proposed building location, parking and driveway access points (Attachment C).

The proposal includes the following major components:

- 20,400 square foot commercial/light industrial building
- Showroom, offices, and 10 automotive service bays
- 7,000-square foot basement for additional vehicles and storage
- 76 exterior surface stalls for inventory, staff, and customer parking
- 3 driveways servicing the site (reduced from 7 on the existing lots)

Enabling Halifax MPS Policy, Regional Plan, and LUB Context

Both the Regional Plan and Halifax MPS designate the entire subject site as IND (Industrial). City Wide Policies 4.2, 4.3 and 4.5 in Section II of the Halifax MPS provide direction relative to compatibility of uses. The Policy Review in Attachment B provides a comprehensive analysis of the planning rationale compared to relevant Halifax MPS policies.

COMMUNITY ENGAGEMENT

The community engagement process was 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 and a postcard mailed to property owners within the notification area. A public information meeting was considered based on community response to the above. No comments were submitted to staff from any of the 103 mailout recipients. Therefore, a public information meeting was deemed unnecessary.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

Halifax Peninsula Planning Advisory Committee

On April 23, 2018, the Halifax Peninsula Planning Advisory Committee (PAC) recommended that the application be approved with concerns related to stacked zoning and pedestrian activity not being mentioned in the TIS. A report to Community Council from the PAC will be provided under a separate cover.

DISCUSSION

Land Use History

Staff researched the use of the subject property utilizing the Nova Scotia Land Registry and permitting records. Evidence gathered suggests these properties and this block in general have been in transition from residential to commercial and light industry (specifically automotive uses) for more than 40 years. The following bullets provide a high-level summary of the lots in question:

- Provincial land title records indicate the properties currently zoned R-2 held residential uses beginning in the 1890s;
- The last confirmed residential use was August 2000 when demolition permits were issued for two of these properties. These properties are now vacant;
- 6031 Livingstone St. was occupied as a combined residence and motor vehicle service and sales centre as early as 1977 (Simm's Auto Sales Ltd.); and,
- The current IND (Industrial) designation has been in effect on the properties in question since May of 1987.

There are three other lots within the subject block that are already zoned C-3 but are not part of the current development proposal. Two are vacant and are held by the owner of the lots proposed for rezoning and the other lot is owned by different party. The lot under separate ownership is currently used as a restaurant and the applicant has not indicated any current plans for the future use of the other two parcels.

Traffic Impact Study

A Traffic Impact Statement (TIS) provided by the applicant found that the proposed motor vehicle dealership was "not expected to have any significant impact on adjacent intersections, streets, or the regional road network". This assessment was deemed acceptable by the Development Engineer.

As the proposal is for a motor vehicle dealership and service facility within a heavily-used commercial and industrial traffic corridor along Kempt Rd., pedestrian activity was not prioritized for analysis.

Enabling Policy and LUB Context: Rezoning of R-2 Lots

The principal issue with respect to zoning relates to the residentially zoned properties (R-2). The applicant seeks consolidated C-3 zoning throughout the subject lands to accommodate the proposed use, maximize future potential and align with the predominant zoning in the area. The portions of the subject lands zoned C-2 and C-2/3 zoned can accommodate the proposed motor vehicle dealership development as-of-right.

However, the R-2 zone properties cannot be used for commercial purposes. The R-2 properties are currently vacant and used for surface parking.

Stacked Zoning

If approved, this proposal would change the underlying zone throughout the subject lands to the C-3 (Industrial Zone) which would enable any permitted use in that zone. This includes a range of commercial and industrial uses as well as all uses permitted in the R-1, R-2, R-2T, R-3, C-1, or C-2 Zones (see Attachment B).

The applicant has applied in good faith for this zoning change based on the intention to develop a commercial building for an automobile showroom which is generally consistent with the both the predominant zoning in the area and the surrounding commercial uses. Staff reviewed the application and engaged the public in this context.

Council should note that changes in development trends and market conditions will occur over time and could lead to a desire for different uses at this location in the future. If the proposed rezoning were approved, any land uses that comply with the C-3 Zone could be established without further Council approval or additional public engagement. For example, if the proposed rezoning were approved, development of the property under the R-3 (Multiple Dwelling) zone would be permitted by-right on the property in question. Approval of the proposed rezoning cannot be conditional on the development of only an automotive showroom and service facility. This situation occurs in every case where rezoning is contemplated as a planning mechanism and Council should remain cognizant of this circumstance during consideration of the application.

Notwithstanding the potential for alternative uses on the property as of right, that potential already exists throughout the surrounding area and staff see no particular elevated risk of undesired consequences associated with consolidation of C-3 zoning at this location.

Industrial Designation

Policy guidance for this application can be found in the Halifax MPS, Part 4. Industries:

4.2 Industrial development which is not harbour-related shall be located in specified industrial areas with defined boundaries generally as shown on Map 9. These industrial areas should be separated and buffered from residential areas and shall be located on or adjacent to the principal street network.

The proposed rezoning of the C-2 zoned property to C-3 is consistent with the policy intent of locating industrial activity within the area currently set out in the MPS for industrial use. The predominant zoning in the area is already C-3 and the predominant, firmly established land use is the automotive industry.

The R-2 zoned portion of the subject site is isolated from other residential-only zones within this Industrial designation. The continued presence of that low density residential zoning in this area is inconsistent with the current pattern of uses and zones in the area. Rezoning these lots from R-2 to C-3 is consistent with policy 4.2 above.

The entire subject site meets the test of adjacency to a principal street network with good connections to the MacKay Bridge, the Windsor Street Interchange the provincial highway system through both Massachusetts Ave. and Kempt Rd.

4.3 The City should foster industrial activities compatible with the residential areas of the City.

Any attempt to utilize these vacant R-2 zoned properties for low-density residential purposes at this location would conflict with the abutting industrial and commercial land uses. The R-2 zoning is incompatible with the industrial designation and redevelopment for commercial or industrial use is in keeping with the intent of the MPS.

Conclusion

Staff reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the Halifax MPS. Rezoning all properties to C-3 (Industrial) aligns the zoning with the industrial designation as specified in the citywide policies of the Halifax MPS. Rezoning facilitates development compatible with the commercial character of the neighbourhood while avoiding incompatibilities with legacy R-2 lots. The subject site is buffered from the nearest residential concentration by major streets and medians. Rezoning mitigates the potential for land use conflict.

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

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed rezoning. The administration of the rezoning can be carried out within the approved 2018-2019 C310 Planning Applications budget and with existing resources.

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 amending development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVE

1. Halifax and West Community Council may choose to refuse the proposed amendment to Halifax Peninsula Land Use Bylaw, 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 Land Use Bylaw 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 approve the proposed LUB amendment subject to modifications, and such modifications may require may require a supplementary report. 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*.

ATTACHMENTS

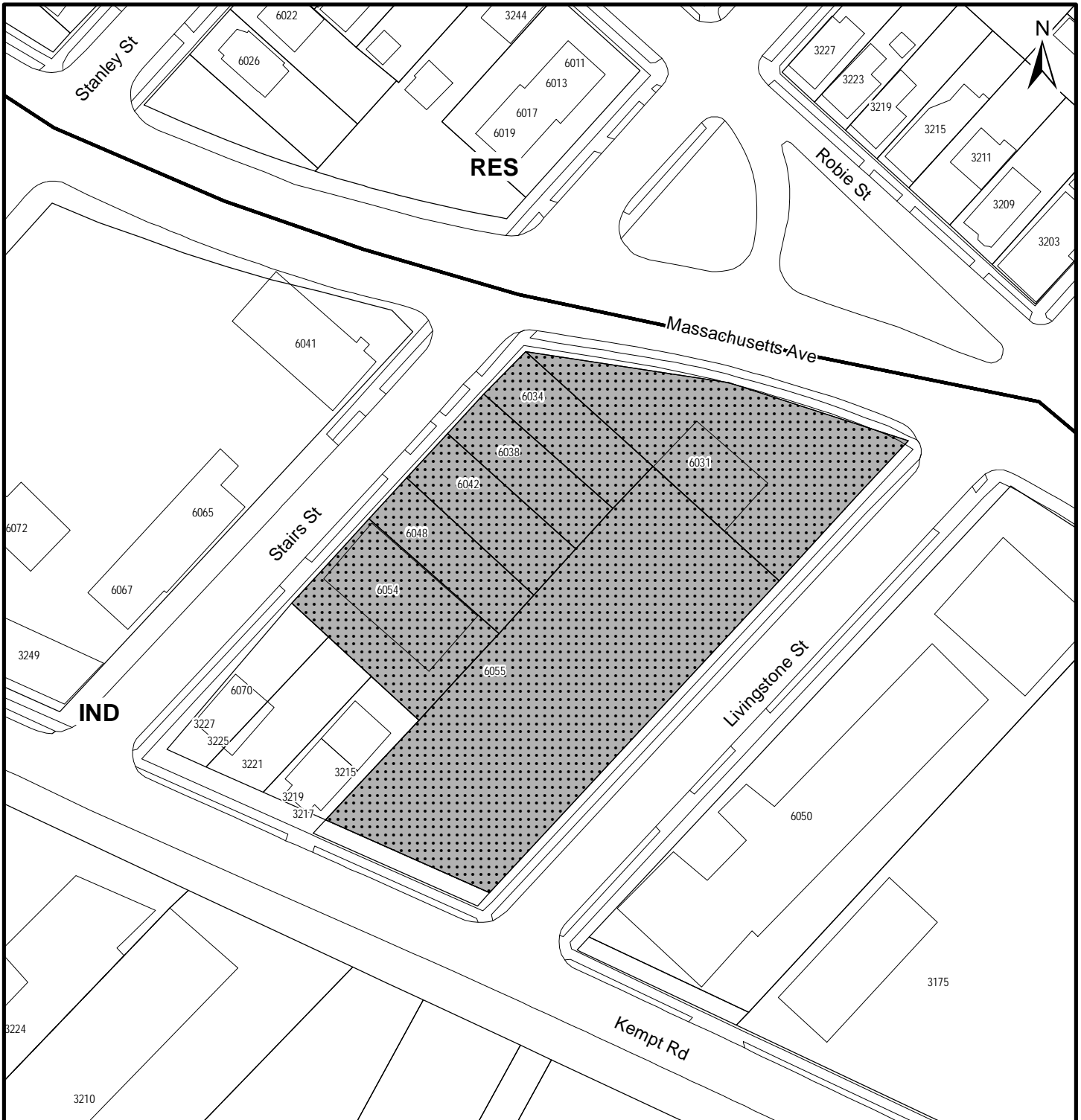
Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Amendment to the Halifax Peninsula Land Use Bylaw
Attachment B:	Review of Relevant Policies of the Halifax MPS and Halifax Peninsula Land Use Bylaw

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: T. Scott Low, Planner II, Current Planning, 902.490.6373

Original Signed

Report Approved by: Steven Higgins, Manager, Current Planning, 902.490.4382



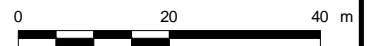
Map 1 - Generalized Future Land Use
 6054, 6048, 6042, 6038 & 6034 Stairs Street
 and 6055 & 6031 Livingstone Street
 Halifax

HALIFAX

 Subject Site

Designations

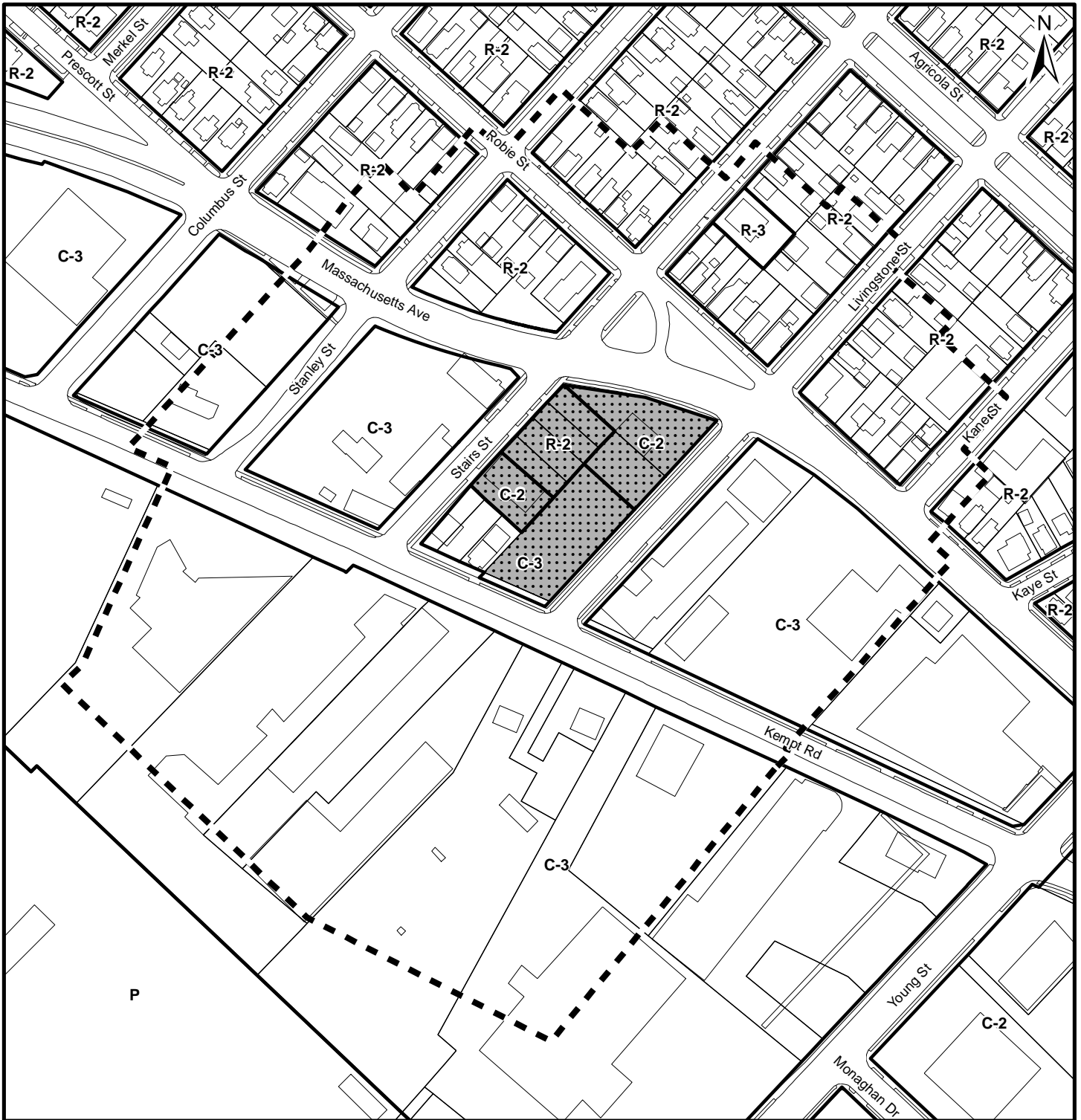
RES Residential Environments
 IND Industrial



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.



Halifax
 Plan Area



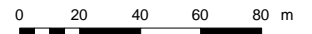
Map 2 - Zoning & Notification

6054, 6048, 6042, 6038 & 6034 Stairs Street
 and 6055 & 6031 Livingstone Street
 Halifax



-  Subject Site
-  Area of notification

- Zone**
- R-2 General Residential
 - R-3 Multiple Dwelling
 - C-2 General Business
 - C-3 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 Halifax Peninsula Land Use Bylaw

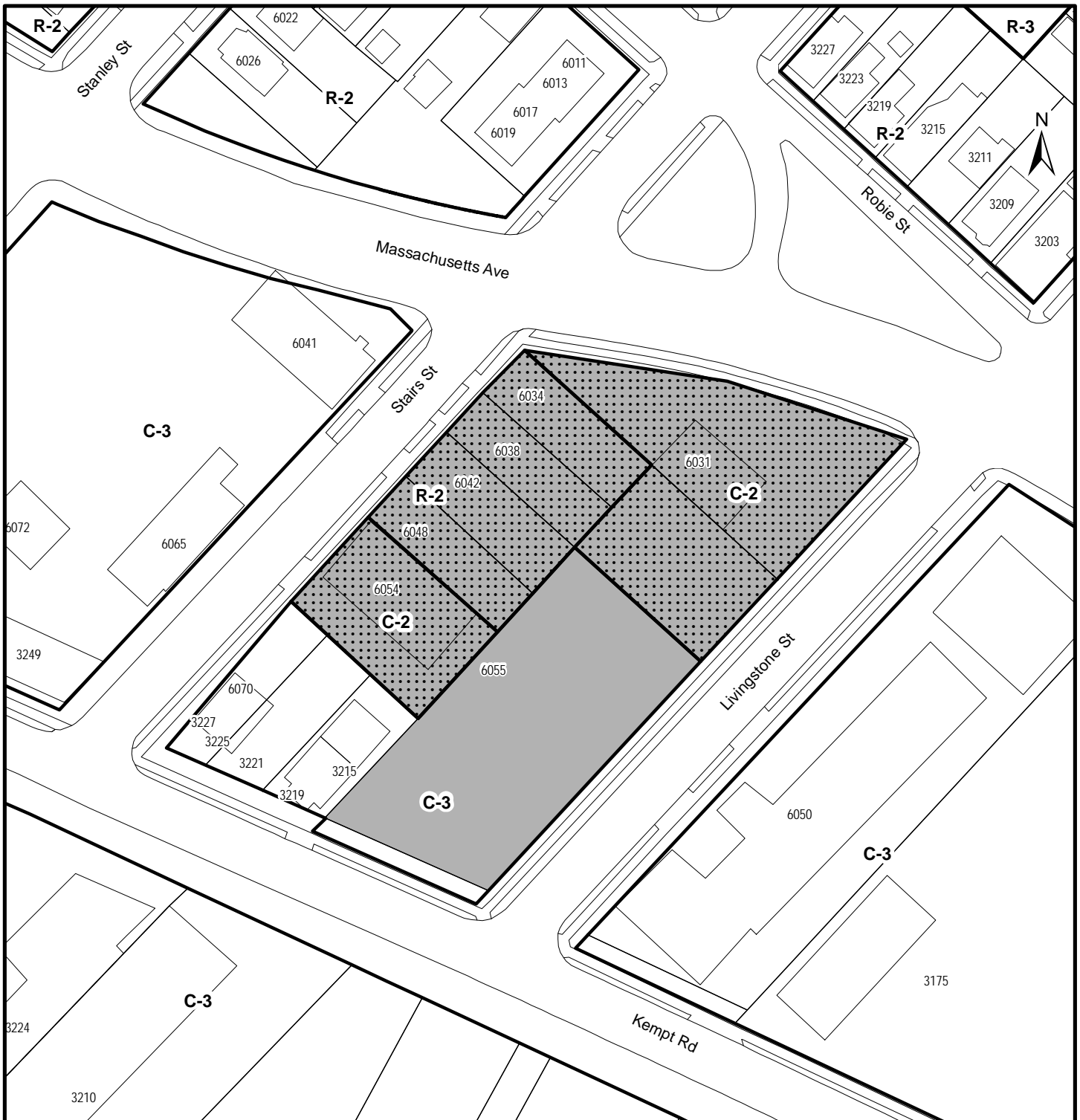
BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Halifax Peninsula Land Use Bylaw is hereby further amended as follows:

1. Amend Map ZM-1, the Zoning Map, by rezoning the properties identified as 6048 Stairs Street, 6042 Stairs Street, 6038 Stairs Street, and 6034 Stairs Street, all in Halifax from the R-2 (General Residential) Zone to the C-3 (Industrial) Zone; and 6054 Stairs Street, 6055 Livingstone Street, and 6031 Livingstone Street, Halifax from the C-2 (General Business) Zone to the C-3 (Industrial) 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__.



Municipal Clerk



Schedule A

6048, 6042, 6038 & 6034 Stairs Street
 6054 Stairs Streets and 6055 & 6031 Livingstone Street
 Halifax



-  Subject Site
-  Area to be Rezoned from R-2 (General Residential) Zone and C-2 (General Business) Zone to C-3 (Industrial) Zone

- Zone**
- R-2 General Residential
 - R-3 Multiple Dwelling
 - C-2 General Business
 - C-3 Industrial



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 B

Review of Relevant Policies of the Halifax MPS and Halifax Peninsula LUB

Halifax Municipal Planning Strategy (MPS) Section II - City Wide Objectives and Policies	
Applicable Policy	Staff Comment
<p>Part 1: Economic Development Objective: The development of the City as a major business, cultural, government, and institutional centre of Atlantic Canada, while enhancing its image as a place to live and work.</p>	
<p>Policy 1.7 The City should establish land-use regulations that promote the development of high quality commercial, industrial, and residential areas.</p>	<p>The existing R-2 lots on the site do not appear to have been used in a residential capacity for decades and are now a surface parking lot. Redeveloping these properties for residential uses may create land use conflict with the existing commercial and industrial uses in the area. The development pattern of the Kempt Road corridor serves the automotive sector and lowers the potential for R-2 redevelopment of high quality.</p>
<p>Part 4: Industries Objective: The enhancement of the employment opportunities by encouraging existing and potential industrial uses in appropriate locations</p>	
<p>Policy 4.1 On the Peninsula, along the harbour's edge, only those industries which are harbour-related should be encouraged and allowed to grow. Areas for such development to occur shall be designated on the basis of existing uses, possible alternative uses and compatibility with residential areas, major community facilities, and the transportation network as shown on Map 9. <i>(RC-Jun 16/09; E-Oct 24/09)</i></p>	<p>The subject site is not located on the harbour's edge, but entirely inland.</p>

<p>Policy 4.2 Industrial development which is not harbour-related shall be located in specified industrial areas with defined boundaries generally as shown on Map 9. These industrial areas should be separated and buffered from residential areas and shall be located on or adjacent to the principal street network.</p>	<p>The Industrial designation applies to these properties regardless of existing zoning. The subject site is fully within the defined boundaries set aside for industrial use.</p> <p>Four lanes of traffic on Massachusetts Ave. and the median from the fork with Robie St. provide separation and buffering of the Industrial designation from nearby residences.</p> <p>The street network test is met by Kempt Rd. and Massachusetts Ave. both leading to Highway 111 interchanges facilitating heavy vehicle movement into the industrial area without necessarily impacting residential streets.</p>
<p>Policy 4.2.1 The City should encourage the maximum use by industry and supporting uses of lands designated for industrial development and should, where possible, discourage the development of conflicting land uses on these lands in recognition of the limited supply of this type of land within the City and the impediment to efficient industrial operation that may be created by competing activities.</p>	<p>The proposal for a car dealership meets the intent of the Industrial designation and policies in the Halifax MPS. Residential uses in this context have the potential to conflict with industrial uses. The proposed automotive sales and service facility is not considered heavy industry, and includes a retail component.</p> <p>The C-3 Zone is appropriate for the proposed use; however, the Industrial designation and C-3 zone do not limit the type of industrial activity allowed on site to automotive services.</p> <p>Rezoning all properties to the C-3 zone is in keeping with the Industrial designation.</p> <p>Notwithstanding, the C-3 zone is a stacked zone allowing for residential uses.</p>
<p>Policy 4.3 The City should foster industrial activities compatible with the residential areas of the City.</p>	<p>The use of zoning creates separation and buffering applicable to this proposal by rezoning residential properties to be compatible with abutting and adjacent C-2 and C-3 properties.</p> <p>Additionally, Massachusetts Ave. creates a physical divide from the residential properties to the north.</p>

<p>Policy 4.3.1 A mixture of commercial, industrial and related enterprises shall be encouraged in the Bayers Lake and Ragged Lake areas. The development standards identified in Policy 4.4 shall ensure appropriate economic development of the lands, accommodating a broad range of industrial, commercial and related uses, and complementing the physical and environmental characteristics of the land.</p>	<p>The subject site is not located in the areas specified herein.</p>
<p>Policy 4.4 Further to Policy 4.3.1, the Land Use By-law shall require that:</p> <ul style="list-style-type: none"> (a) sufficient and properly surfaced parking for employees and customers is provided; (b) all open space areas including yards and setbacks are landscaped; (c) loading and unloading areas are controlled in terms of location and screening in respect to their adjacency to collector roadways; (d) the number and size of large signs advertising the business on the lot as well as signage for individual businesses are limited; (e) billboards are prohibited; and (f) lakes, streams, and other waterbodies are protected by requiring a minimum setback of any development. 	<p>The Halifax Peninsula LUB contains such requirements to be applied at the permitting stage.</p>
<p>Policy 4.5 The City shall encourage industrial development in those areas, designated generally on Map 9, within the context of policies 4.1 to 4.4. In those areas which have been designated for detailed area planning, the City shall resolve the exact nature of the desired land use pattern through the detailed area planning process.</p>	<p>The Industrial designation is a direct encouragement of potential land use, with zoning per lot enabled by the GFLUM map and policy. The R-2 lots are legacy residential zoning amongst an industrial pattern of land use on this block and along the industrial corridor.</p> <p>See comments relative to policy 4.1 and policy 4.4 above.</p>

Implementation Policies	Comment
Policy 3.1.1 The City shall review all applications to amend the zoning by-laws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.	The current R-2 parcels within the site appear to have been transformed into commercial space for decades. There are no habitable structures on the properties. The entirety of the site is within the Industrial (IND) designation.
Policy 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.	Considered below.
Policy 4.1 The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.	The capacity to rezone is enabled and the Industrial designation is the intent of the MPS. This application is an attempt to make the Zoning match the Designation for all the lots under consideration. By-law compliance will be handled at the development permit phase.
<p>Policy 4.2 The City shall review the proposal to determine that it is not premature or inappropriate by reason of:</p> <p>i) the fiscal capacity of the City to absorb the costs relating to the development; and</p> <p>ii) the adequacy of all services provided by the City to serve the development.</p>	<p>Rezoning should not incur costs on the municipality.</p> <p>At the development permit phase, the proposed reworking of existing driveways may incur alteration of municipal sidewalks, and will be determined independent of, and subsequent to, the rezoning application.</p>

C-3 ZONE

INDUSTRIAL ZONE

- 60(1) The following uses shall be permitted in any C-3 Zone:
- (a) R-1, R-2, R-2T, R-3, C-1 and C-2 uses;
 - (b) any industrial enterprise except when the operation of same would cause a nuisance or a hazard to the public and except junk yards.
- 60(2) No person shall in any C-3 Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 60(3) No person shall in any C-3 Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).
61 No front, side, or rear yards are required for C-2 or C-3 uses in a C-3 Zone.

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

- 62 Buildings erected, altered, or used for R-1, R-2, R-2T, R-3, C-1 and C-2 uses in a C-3 Zone shall comply with the requirements of their respective zones.