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**ITEM NO. 10.1.1**  
**HARBOUR EAST MARINE DRIVE COMMUNITY COUNCIL**  
**August 2, 2018 First Reading**  
**September 6, 2018 Second Reading**

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

Original Signed

**SUBMITTED BY:**

\_\_\_\_\_  
Kelly Denty, Director, Planning and Development

Original Signed

\_\_\_\_\_  
Jacques Dubé, Chief Administrative Officer

**DATE:** July 3, 2018

**SUBJECT:** **Case 21548: Amendment to the Dartmouth Land Use By-Law to rezone lands at 4 Fernhill Drive, Dartmouth**

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**ORIGIN**

Application by Shelley Dickey Land Use Planning, on behalf of LakeCity Employment Services Association, to amend the Dartmouth Land Use By-Law to rezone lands at 4 Fernhill Drive, Dartmouth, from R-2 and R-3 to C-2.

The subject site is currently owned by Halifax Regional Municipality. By motion dated July 18, 2017, Regional Council agreed to sell the subject lands to LakeCity Employment Services Association under the authority of Administrative Order 50 and the *Halifax Regional Municipality Charter*.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

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

1. Give First Reading to consider approval of the proposed amendment to the Land Use By-law for Dartmouth, as set out in Attachment A, to rezone property at 4 Fernhill Drive, Dartmouth from R-2 and R-3 to C-2, and schedule a public hearing.
2. Adopt the amendment to the Land Use By-law for Dartmouth, as set out in Attachment A.

## **BACKGROUND**

Shelley Dickey Land Use Planning is applying to rezone lands at 4 Fernhill Drive, Dartmouth from R-2 (Two Family Residential) and R-3 (Multiple Family Residential – Medium Density) to C-2 (General Business). The applicant represents LakeCity Employment Services Association, which intends to use the subject site to support and expand its existing use at 368 Windmill Road, being the manufacturing and finishing of furniture, and the retail sale of furniture, operated as LakeCity Woodworkers.

LakeCity Employment Services Association is a non-profit association.

<b>Subject Site</b>	4 Fernhill Drive, Dartmouth
<b>Location</b>	South side of Fernhill Drive, close to the corner of Fernhill Drive and Windmill Road.
<b>Regional Plan Designation</b>	US (Urban Settlement)
<b>Community Plan Designation (Map 1)</b>	C (Commercial) and R (Residential)
<b>Zoning (Map 2)</b>	R-2 (Two Family Residential) and R-3 (Multiple Family Residential – Medium Density)
<b>Size of Site</b>	2,029 square metres (21,844 square feet)
<b>Street Frontage</b>	27 metres (90 feet)
<b>Current Land Use(s)</b>	Vacant
<b>Surrounding Use(s)</b>	<ul style="list-style-type: none"><li>- Low density residential to the north-east;</li><li>- Medium density multi-unit residential and low-density residential to the north;</li><li>- Commercial uses including LakeCity Woodworkers at 386 Windmill Road to the south west;</li><li>- Medium density, multi-unit residential at 378 Windmill Road to the south east.</li></ul>

### **Property History**

The subject site is currently owned by Halifax Regional Municipality. In 2014, Regional Council declared the subject site surplus, and assigned it to the Community Interest category of Administrative Order 50. In 2016, HRM issued a Call for Submissions from parties interested in purchasing the subject site, and received one response, from LakeCity Employment Services Association, in February of 2017.

On July 18, 2017, Regional Council held a public hearing to discuss the proposed sale of the subject site to LakeCity Employment Services Association, as required by section 63 of the *HRM Charter*. Following the hearing, Regional Council passed the following motion approving the sale of the subject site to LakeCity Employment Services Association:

*THAT Halifax Regional Council:*

*1. Approve the sale of PID 41079807, Lot A-1A, 4 Fernhill Drive, Dartmouth to the Lake City Employment Services Association as per the terms and conditions outlined in Table 1 of the staff report dated May 30, 2017; and*

*2. Authorize the Mayor and Municipal Clerk to enter into an agreement of purchase and sale with Lake City Employment Services Association as per the terms and conditions outlined in Table 1 of the staff report dated May 30, 2017.*

Table 1 referenced in the motion makes the sale contingent upon:

- Rezoning the subject site to permit the proposed use; and
- Consolidating the subject site with 386 Windmill Road.

### **Proposal Details**

The applicant proposes to rezone the subject site to support and, potentially, expand the LakeCity Woodworkers enterprise at 386 Windmill Road. The major aspects of the proposal are as follows:

- LakeCity Employment Services Association has no immediate plans to develop the subject site;
- Immediate use would be to support the existing use at 386 Windmill Road by providing an area for staff parking and outdoor storage; and
- Future development would be limited to uses permitted in the C-2 (General Commercial) Zone in the Dartmouth Land Use By-Law.

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

This application is enabled by MPS Policy IP-1 (b), which states:

*Zoning amendments may be considered for any permitted use within each generalized land use category without a plan amendment provided that they do not conflict with the policies of this plan.*

*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.*

As shown on Map 1, the subject site is designated C (Commercial) and R (Residential) on the Generalized Future Land Use Map (Map 9) of the Dartmouth Municipal Planning Strategy. The portion of the subject site designated Commercial can be considered for rezoning to C-2 because the C-2 zone is included in the Commercial designation (first paragraph cited above). The portion of the subject site designated Residential can be considered for rezoning to C-2 because it is adjacent to lands that are designated Commercial (second paragraph cited above).

The C-2 (General Commercial) Zone permits a range of commercial and residential uses, including any uses that are permitted in the R-1, R-2, R-3, TH and C-1 zones, and any other business or commercial enterprises except:

- Obnoxious uses and uses creating a hazard to the public; and
- Adult entertainment, pawn shop and cabaret uses.

C-2 uses in the C-2 zone are not limited with respect to height unless the primary use is an office. The maximum permitted lot coverage is 100%.

There are no mandatory setbacks from the property line in the C-2 zone. However, section 15 (i) of the Dartmouth Land Use By-Law requires a landscaped buffer between any new commercial uses and property zoned or used for residential or institutional uses. The landscaped buffer must be at least 20 feet wide unless a fence of at least 6 feet in height is incorporated into the buffer, in which case the buffer can be reduced to 10 feet wide. No parking or open storage is permitted within the required buffer.

### **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 and postcards mailed to property owners within the notification area. The public comments received included the following topics:

- Venting of fumes from furniture finishing at existing LakeCity Woodworkers enterprise at 386 Windmill Road creates a nuisance; and

- Supportive comments relating to the positive social impact of LakeCity Employment Services Association

The proposal will potentially impact:

- Neighbouring property owners and residents;
- Participants in programming at LakeCity Employment Services Association

A public hearing must be held by Harbour East - Marine Drive Community Council before it 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 notification area shown on Map 2 will be notified of the hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

## **DISCUSSION**

Staff have reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the Municipal Planning Strategy for Dartmouth. Attachment A shows the proposed rezoning that would allow a future expansion of the LakeCity Woodworkers business, after the subject site has been consolidated with 386 Windmill Road.

### **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:

#### **Nuisance Odors**

During community engagement, staff received comment from a neighbouring property owner that the existing furniture finishing activities at 386 Windmill Road vent odors that can sometimes create a nuisance. In response to this concern, staff followed up with the applicant and requested additional information regarding the furniture finishing activities. The applicant confirmed that LakeCity Woodworkers uses solvent based stains, sealers, lacquers and paints in an externally ventilated finishing room. This process complies with accepted industry standards for ventilation and ensures the occupational health and safety of its employees.

Given that the finishing of furniture is an integral component of the business operation and noting that the operators are required to ventilate the work area for the protection of employees, there would appear to be no alternative other than to acknowledge that nuisance odors will occasionally exist.

#### **Stacked Zoning**

If approved, this proposal would change the underlying zone to C-2 (General Commercial Zone) which would enable any permitted use in that zone. This includes a variety of commercial uses, in addition to uses permitted in the R-1, R-2, R-3, and TH zones.

Council should note that the changes in the 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-2 zone could be established without further Council approval or additional public engagement. This situation occurs in every case where rezoning is contemplated as a planning mechanism and Council should remain cognizant of this circumstance during the consideration of this 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 the rezoning to C-2 in this location.

## **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 is enabled by Policy IP-1 (b) of the MPS, and meets the criteria in MPS Policy IP-1(c). It would provide an opportunity for the expansion of an existing social enterprise, and development of a site that is currently vacant. 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 2018-2019 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.

## **ALTERNATIVE**

1. 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*.
2. Harbour East – Marine Drive Community Council may choose to approve the proposed LUB amendment subject to modifications, and such modifications 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 LUB Amendment
Attachment B:	Review of Relevant Dartmouth MPS Policies

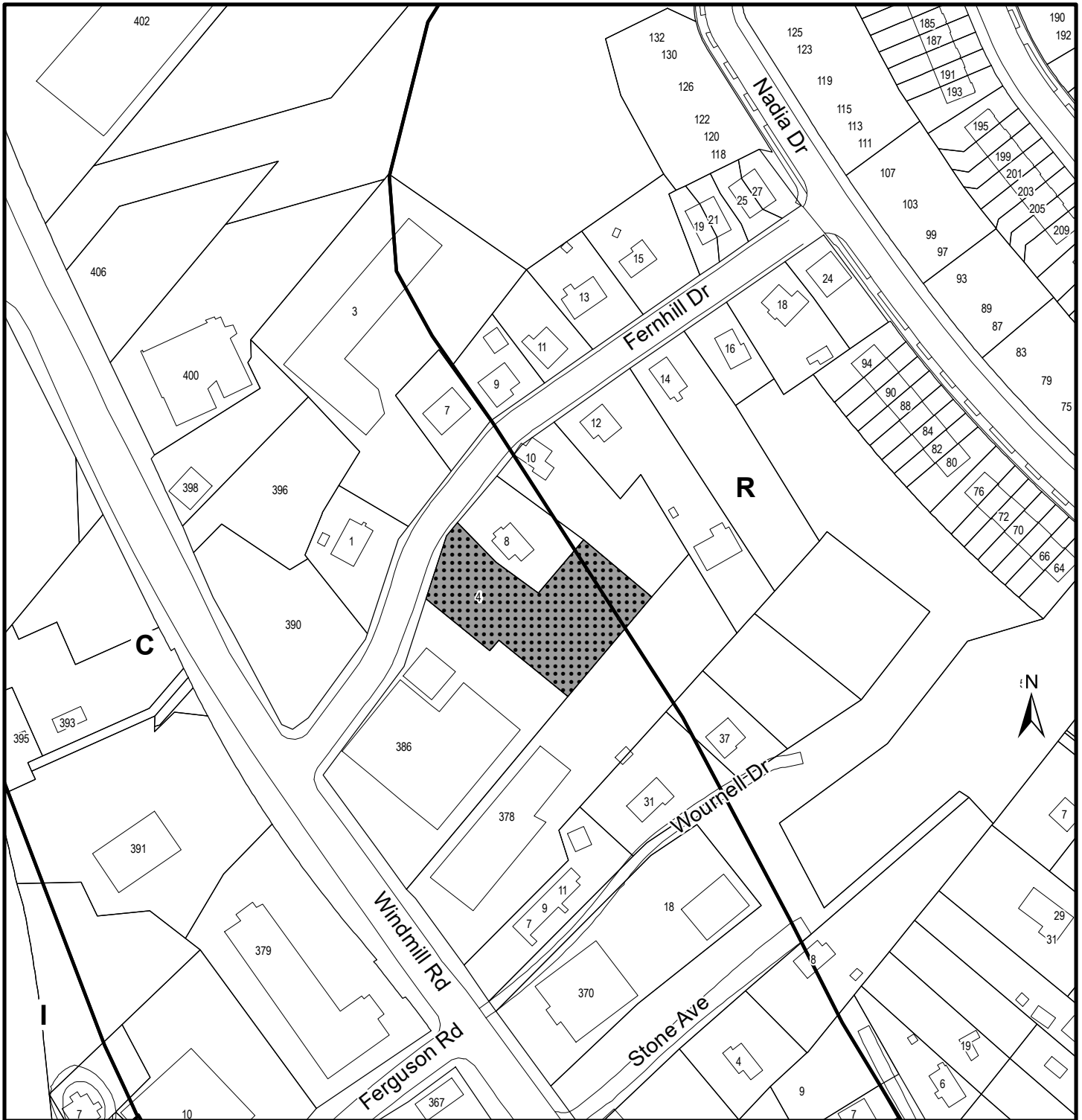
Report Prepared by: Jamy-Ellen Klenavic, Planner II, Urban Enabled Applications, 902.490.2665

Original Signed

Report Approved by:

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Steven Higgins, Manager, Current Planning, 902.490.4382


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### Map 1 - Generalized Future Land Use

4 Fernhill Drive,  
Dartmouth

**HALIFAX**

 Subject Property

#### Designation

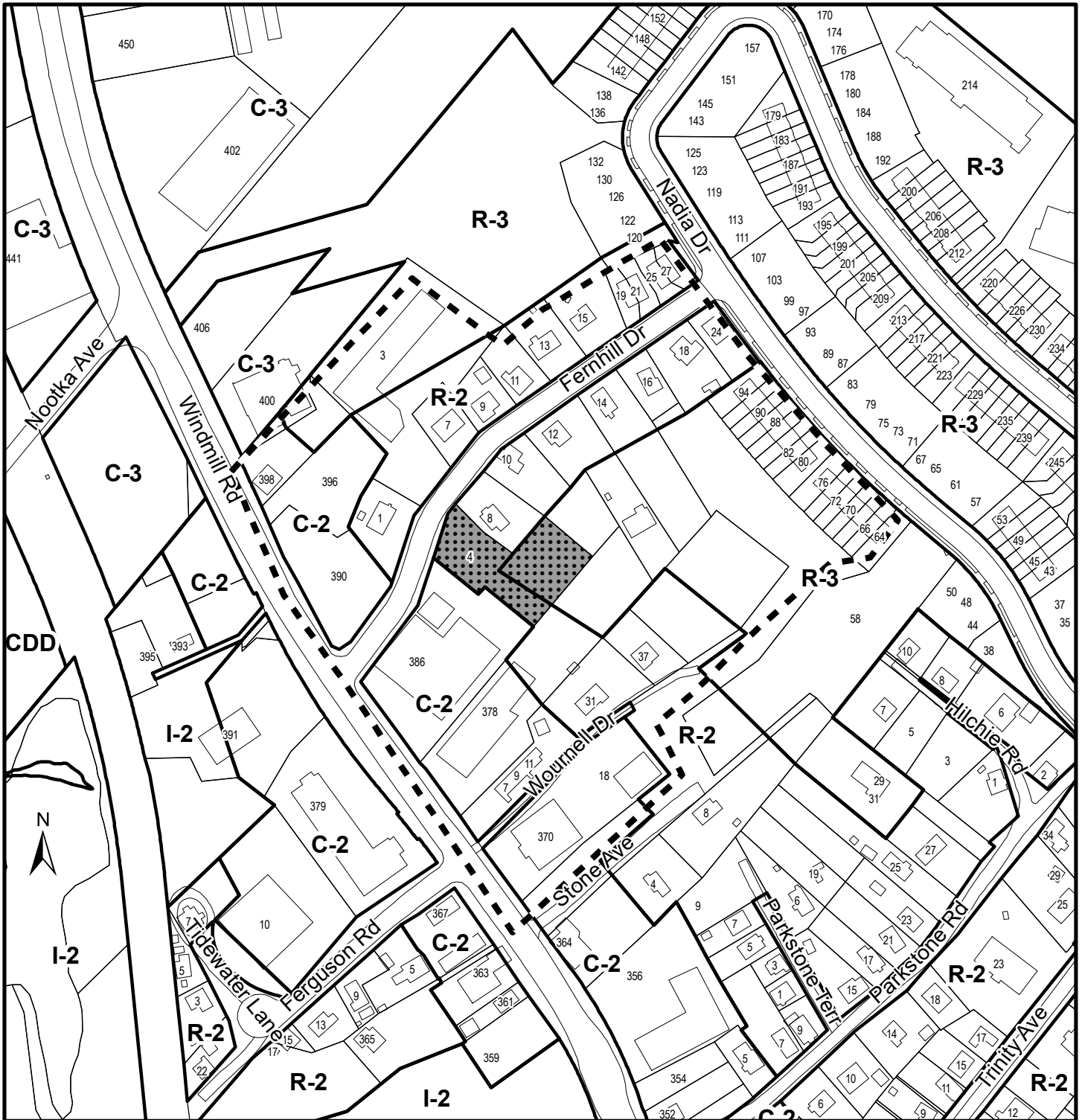
R Residential  
C Commercial  
I Industrial



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.



Dartmouth Plan Area



### Map 2 - Zoning and Notification

4 Fernhill Drive,  
Dartmouth

**HALIFAX**

-  Subject Property
-  Notification Area

- Zone**
- R-2 Two Family Residential
  - R-3 Multiple Family Residential (Medium Density)
  - C-2 General Business
  - C-3 General Business
  - I-2 General Industrial
  - CDD Comprehensive Development District



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

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Dartmouth Plan Area



**ATTACHMENT A**

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

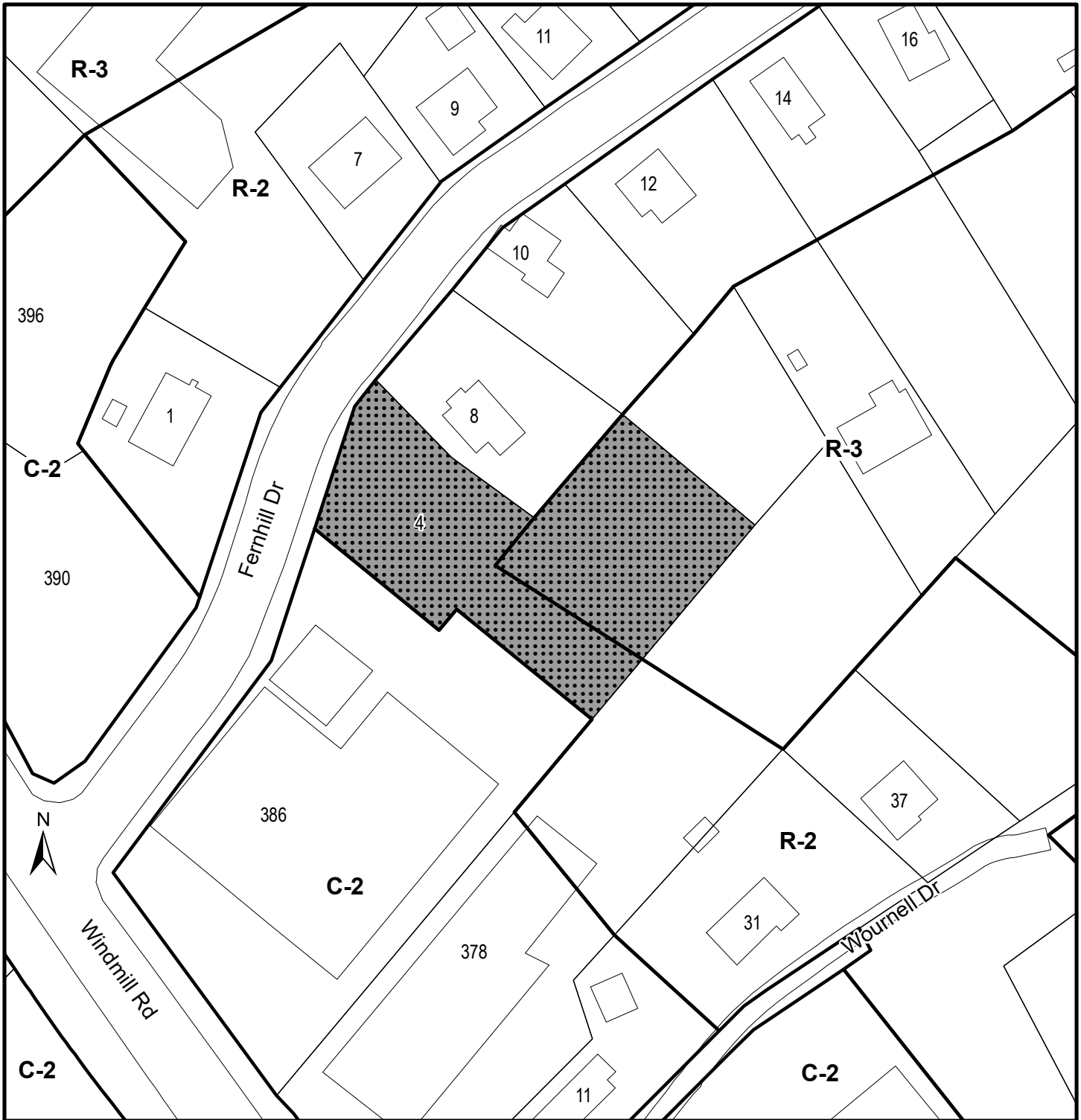
BE IT ENACTED by the Harbour East – Marine Drive Community Council of the Halifax Regional Municipality that the Land Use By-law for Dartmouth is hereby further amended as follows:

1. Amend Schedule A, the Zoning Map, by rezoning the property identified as 4 Fernhill Drive from the R-2 (Two Family Residential) Zone and the R-3 (Multiple Family Residential) Zone to the C-2 (General Business) Zone, as shown on the attached Schedule A.
2. Amend the Table of Contents, Section 4: Scheduling, to include the above map reference.
3. Amend Section 4: Scheduling by inserting the map schedule attached hereto.

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 Harbour East – Marine Drive 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**

4 Fernhill Drive,  
Dartmouth

**HALIFAX**

 Area to be Re-zoned  
from R-2 and R-3 to C-2

**Zone**

- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- C-2 General Business



This map is an unofficial reproduction of  
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area indicated.

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Dartmouth Plan Area

**Attachment B**  
**Review of Relevant Dartmouth MPS Policies**

<b>Implementation Policies</b>	
<b>Policy</b>	<b>Staff Comment</b>
<p><b>Policy IP-1 (b) (excerpt)</b></p> <p><i>Zoning amendments may be considered for any permitted use within each generalized land use category without a plan amendment provided that they do not conflict with the policies of this plan.</i></p> <p><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.</i></p>	<p>Majority of subject site is designated Commercial on the Dartmouth MPS Map 9 (Generalized Future Land Use). The C-2 zone is zone permitted in the designation, and rezoning does not require an amendment to the MPS.</p> <p>A small portion of subject site designated Residential on Dartmouth MPS Map 9 (Generalized Future Land Use). Rezoning to C-2 without a plan amendment possible as it is immediately adjacent to property designated Commercial in accordance with this policy.</p>
<p><b>Policy IP-1 (c)</b></p> <p><i>In considering zoning amendments and contract zoning, Council shall have regard to the following:</i></p>	
<p><i>(1) that the proposal is in conformance with the policies and intent of the Municipal Development Plan;</i></p>	<p>The requested amendment (rezoning) is enabled by IP-1 (b) of the Dartmouth Municipal Planning Strategy.</p>
<p><i>(2) 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 applicant has indicated that there is no immediate intention to develop the subject site other than for staff parking and outdoor storage supporting the existing commercial use (LakeCity Woodworking) at 386 Windmill Road.</p>
<p><i>(3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries;</i></p>	<p>Section 15 (i) of the Dartmouth Land Use By-Law requires that new commercial uses adjacent to residential or institutional zones and uses provide landscaped buffer of at least 20 feet wide; width of required buffer can be reduced to 10 feet with the addition of a fence that is at least 6 feet high.</p> <p>No parking or outdoor storage can take place within the required landscaped buffer.</p>
<p><i>(4) that the proposal is not premature or inappropriate by reason of:</i></p>	
<p><i>(i) the financial capability of the City is to absorb any costs relating to the development;</i></p>	<p>The property owner is responsible for all costs associated with developing the subject site.</p>
<p><i>(ii) the adequacy of sewer and water services and public utilities;</i></p>	<p>No specific concerns were raised in Halifax Water's review.</p>

	The property owner will be required to provide evidence that there is capacity in the exiting wastewater system at the building permit stage, and may be required to upgrade the wastewater system, at its expense, if no capacity exists.
<i>(iii) the adequacy and proximity of schools, recreation and other public facilities</i>	N/A
<i>(iv) the adequacy of transportation networks in adjacent to or leading to the development;</i>	<p>Fernhill Drive is a local street; Windmill Road is a major collector.</p> <p>4 Fernhill Drive is serviced by a concrete sidewalk that extends from the intersection of Fernhill Drive and Windmill Road to within approximately 10 metres (33 feet) of the south property line of the subject site.</p> <p>The subject site is serviced by the following Halifax Transit Accessible Bus Stops:</p> <ul style="list-style-type: none"> <li>(1) #8521, located on the west side of Windmill Road, north of the intersection of Fernhill Drive and Windmill Road; and</li> <li>(2) #9053, located on the east side of Windmill Road, south of the intersection of Fernhill Drive and Windmill Road.</li> </ul>
<i>(v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas;</i>	N/A
<i>(vii) the presence of natural, historical features, buildings or sites;</i>	No concerns. The subject site is currently vacant.
<i>(viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized;</i>	No concerns. The subject site is an infill lot adjacent to existing commercial and residential uses.
<i>(ix) the detrimental economic or social effect that it may have on other areas of the City.</i>	Staff have not identified any detrimental social or economic effects that may arise from the proposed rezoning.
<i>(5) that the proposal is not an obnoxious use;</i>	Staff are satisfied that the existing use at 386 Windmill Road is not obnoxious, and that any expansion of this use would not be obnoxious, so long as the property owner and tenants continue to follow regulations and best practices relating to venting fumes from the furniture finishing business.

<p><i>(6) 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 near by land uses and public facilities. Such controls may relate to, but are not limited to, the following:</i></p> <ul style="list-style-type: none"> <li><i>(i) type of use, density, and phasing;</i></li> <li><i>(ii) emissions including air, water, noise;</i></li> <li><i>(iii) traffic generation, access to and egress from the site, and parking;</i></li> <li><i>(iv) open storage and landscaping;</i></li> <li><i>(v) provisions for pedestrian movement and safety;</i></li> <li><i>(vi) management of open space, parks, walkways;</i></li> <li><i>(vii) drainage both natural and sub-surface and soil-stability;</i></li> <li><i>(viii) performance bonds</i></li> </ul>	<p>Staff are not proposing any legal devices or agreements; future development would have to comply with the Dartmouth Land Use By-Law.</p>
<p><i>(7) 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>No concerns. Future development must comply with the requirements of the Dartmouth Land Use By-Law.</p>