



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 13.1.3
Harbour East-Marine Drive Community Council
April 4, 2019

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

Original Signed

SUBMITTED BY:

Kelly Denty, Director of Planning and Development

Original Signed

Jacques Dubé, Chief Administrative Officer

DATE: March 13, 2019

SUBJECT: **Case 22059: Dartmouth Land Use By-law Amendment (Rezoning) for 24 Hester Street, Dartmouth.**

ORIGIN

Application by Anne Guy.

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 24 Hester Street, Dartmouth from the R-1 (Single Family Dwelling) Zone to the R-2 (Two Family Residential) Zone and schedule a public hearing;
2. Adopt the amendment to the Land Use By-law for Dartmouth, as set out in Attachment A.

BACKGROUND

The property owner has applied to rezone 24 Hester Street, Dartmouth from the R-1 (Single Family Dwelling) Zone to the R-2 (Two Family Residential) Zone of the Dartmouth Land Use Bylaw (LUB).

Subject Site	24 Hester Street, Dartmouth
Location	North side of Hester Street, east of Henry Street
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Residential
Zoning (Map 2)	R-1 (Single Family Dwelling) Zone
Size of Site	636.37 square metres (6,850 square feet)
Street Frontage	15.85 metres (52 feet)
Current Land Use(s)	Two Unit Dwelling (Non-conforming)
Surrounding Use(s)	Mix of low density residential, commercial, and institutional uses.

Proposal Details

The applicant proposes to rezone the subject property from its existing R-1 Zone to the R-2 Zone to reflect the current land use, and enable the construction of an addition to the dwelling. The existing duplex dwelling received municipal approval to construct on October 1st, 1971. At that time the property was zoned R-2, which permitted two-unit dwellings. In 1981, the subject property and surrounding neighbourhood were rezoned to the R-1 Zone as part of a North End improvement project. This rezoning resulted in the use on the property being classified as “non-conforming”. The applicant has recently applied for a construction permit to build an addition to the dwelling, however, as per Section 256 of the HRM Charter, a non-conforming use in a structure cannot be “*expanded or altered so as to increase the volume*”, and therefore the permit was not approved. The applicant has requested to rezone the property to reflect the existing use and which would allow for the construction of the building addition.

Enabling Policy and LUB Context

The subject property is designated Residential under the Dartmouth Municipal Planning Strategy (MPS). The Residential designation is an all encompassing residential designation that allows Council to consider any rezoning application to another residential zone provided that applicable policy criteria is met to carry out the intent of the MPS. Implementation Policy IP-1(c) of the MPS provides Community Council with specific criteria to consider when evaluating any rezoning request (Attachment B).

The R-1 Zone permits single unit dwellings, home occupations, and various institutional and recreational uses. The R-2 Zone permits R-1 uses, semi-detached dwellings, duplex dwellings, basement apartments within a single unit dwelling, and group homes of not more than 6 persons.

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 a notification area of 400 feet. Of the seventy (70) postcards mailed there were no responses received.

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

The proposal will potentially impact local residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the Dartmouth MPS. Attachment A contains the proposed rezoning which would allow the addition to the existing two-unit dwelling.

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 has been identified for more detailed discussion:

Built Form and Use

As demonstrated in the chart below, the built form requirements of the R-1 Zone compared to the R-2 Zone are the same. Additionally, the rezoning would not add additional density, as the use on the property is already a two-unit dwelling and has been for over 40 years. The surrounding neighborhood consists primarily of residential uses which are predominately low density, and the proposal does not differ in built form or use from the present development pattern.

LUB Requirement	R-1 Zone	R-2 Zone
Lot Area	5,000 square feet	5,000 square feet
Lot Frontage	50 feet	50 feet
Lot Coverage	35%	35%
Building Height	No requirement	No requirement
Front Yard Setback	Mean of existing setbacks on street	Mean of existing setbacks on street
Side/Rear Yard Setbacks	As per Building Code	As per Building Code

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 bulk and scale of the development is compatible with the surrounding area and the existing low density residential uses, and any addition to the building would be required to meet the R-2 Zone requirements and continue to be compatible with the surrounding area. As this is an existing two-unit dwelling there are no concerns regarding traffic or municipal services. Therefore, staff recommend that the Harbour East-Marine Drive Community Council approve the proposed 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 development agreement. The administration of the proposed development agreement can be carried out within the approved 2019-2020 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 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 staff 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

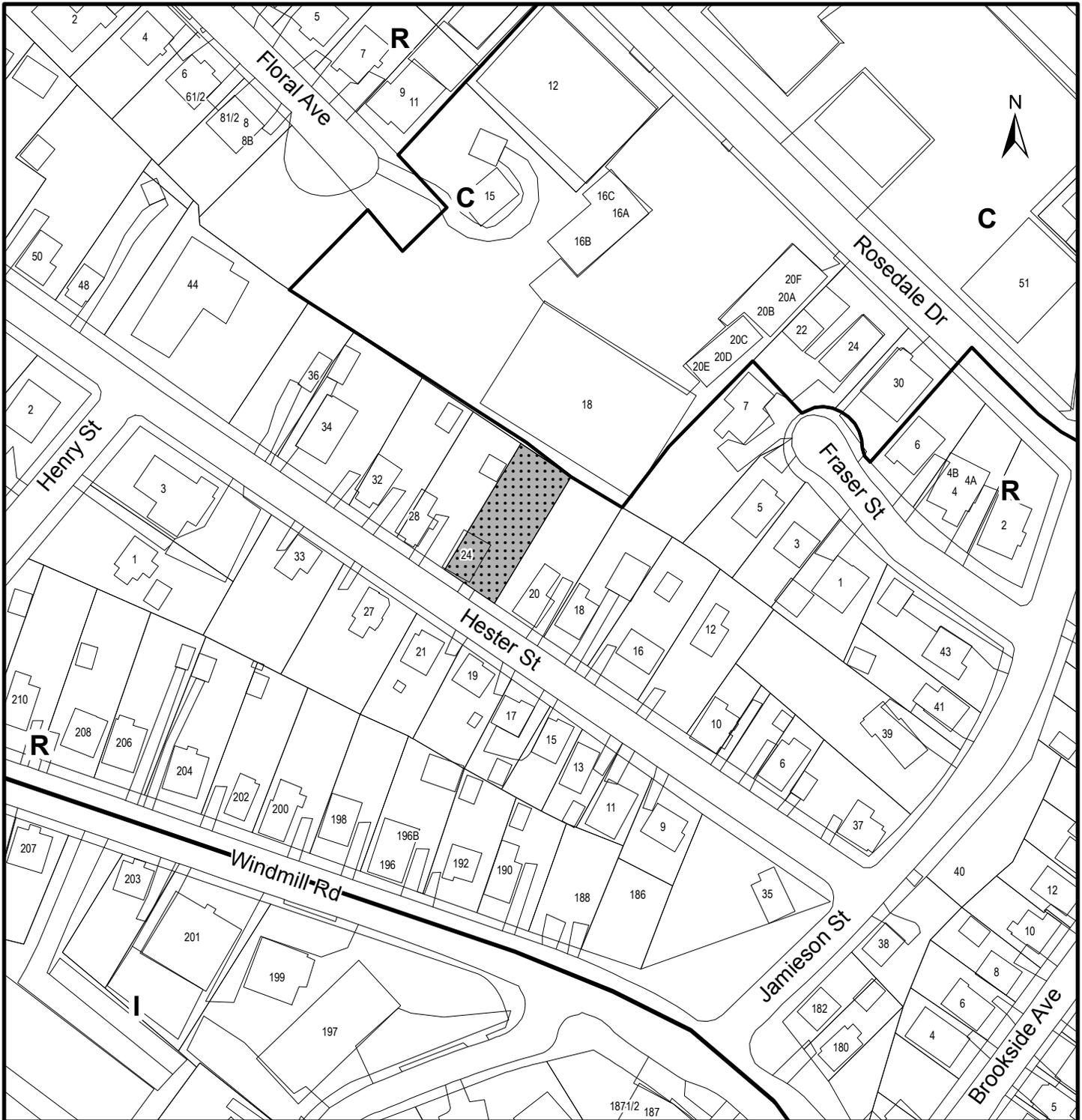
Attachment A: Proposed Amendment to the Land Use By-Law for Dartmouth
Attachment B: Review of Relevant Dartmouth MPS Policies

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: Dean MacDougall, Planner II, 902.490.4193

Original Signed

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



Map 1 - Generalized Future Land Use

24 Hester Street
Dartmouth

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 Subject Property

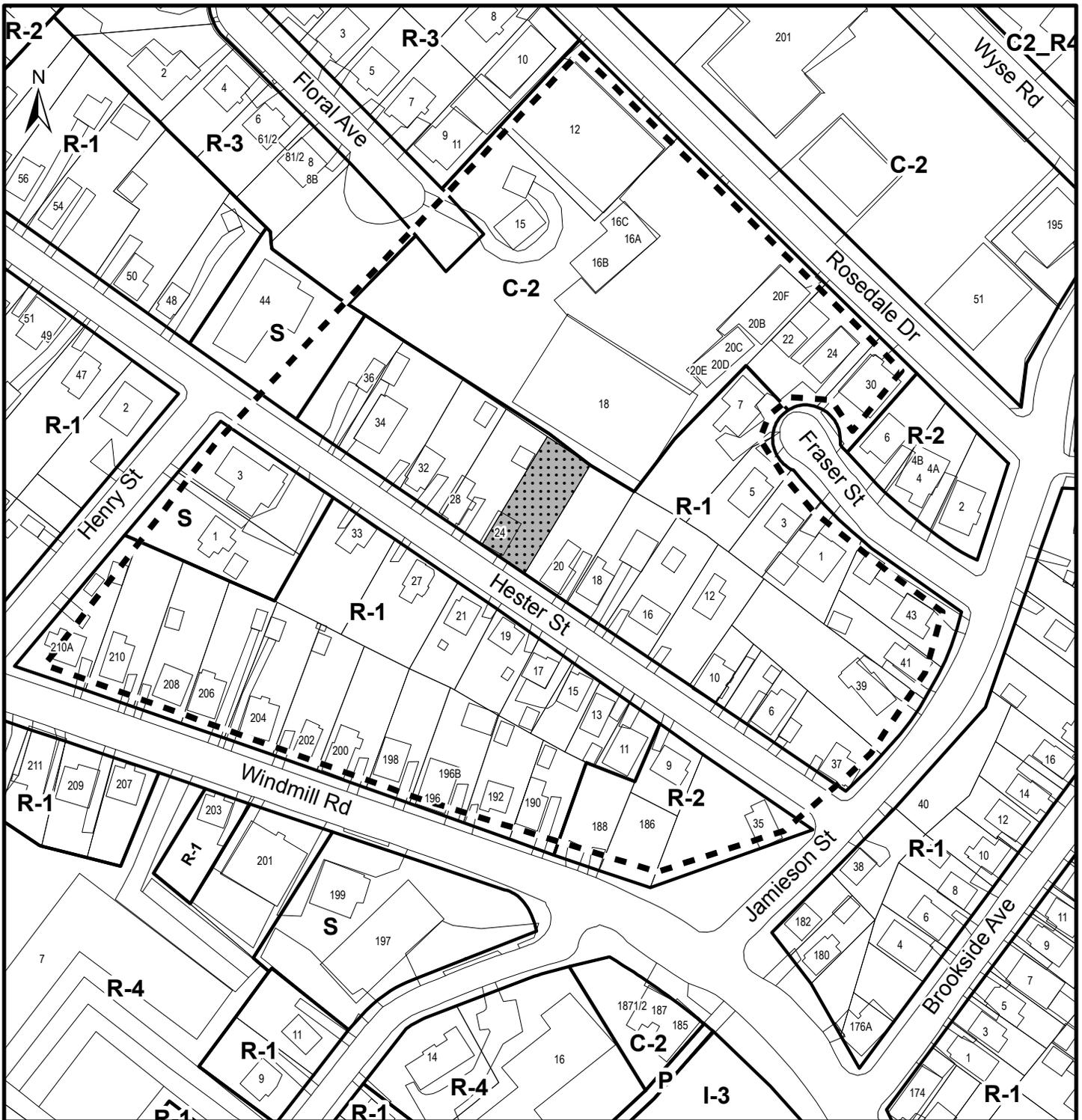
Designation
 R Residential
 C Commercial
 I Industrial



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

24 Hester Street
Dartmouth

-  Subject Property
-  Area of Notification

Dartmouth
Land Use By-Law

Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- R-4 Multiple Family Residential (High Density)
- C-2 General Business
- I-3 Harbour-Oriented Industrial
- P Park
- S Institutional

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

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ATTACHMENT A

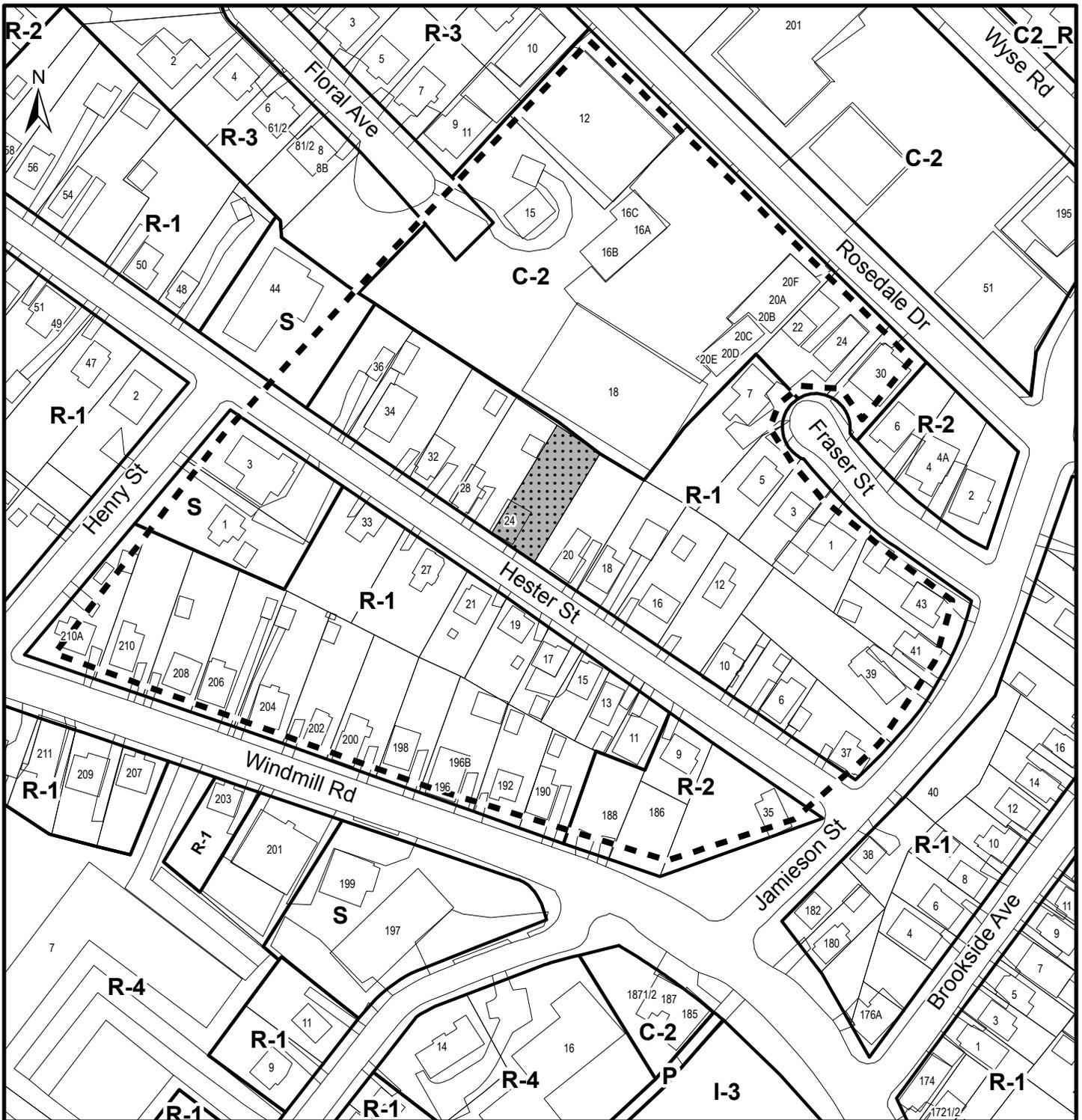
Proposed Amendment to the Land Use By-law for Dartmouth

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 Map Schedule A - Zoning Map, be it in paper or digitized form, whichever is applicable at the time this amendment is adopted, by rezoning the property identified as 24 Hester Street, Dartmouth, from the R-1 (Single Family Residential) Zone to the R-2 (Two Family Residential) 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.

I, Kevin Arjoon, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Harbour East-Marine Drive Community Council held on [DATE], 2019.

Kevin Arjoon
Municipal Clerk



Schedule A

24 Hester Street
Dartmouth

 Area to be rezoned from R-1 (Single Family Residential) to R-2 (Two Family Residential)

- Zone**
- R-1 Single Family Residential
 - R-2 Two Family Residential
 - R-3 Multiple Family Residential (Medium Density)
 - R-4 Multiple Family Residential (High Density)
 - C-2 General Business
 - I-3 Harbour-Oriented Industrial
 - P Park
 - S Institutional

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

Implementation Policies

Policy	Staff Comment
<p>Policy IP-1 <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 lands are designated for residential use and the intent of the residential designation is to allow for stable growth within Dartmouth. This proposed rezoning from R-1 to R-2 complies with the intent of the policies within the MPS.</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 surrounding neighborhood consists of a mix of residential, commercial, and institutional zoning. The residential uses are predominately low density (single and two-unit dwellings) with several low-rise apartment buildings located throughout. The bulk and scale of the development is consistent with the surrounding area as it matches the existing low density residential use and form.</p> <p>Currently the property is a two-storey dwelling with a peaked roof having a full shed dormer on one side and smaller shed dormer on the other. The proposal is for the expansion of the smaller shed dormer to the entire length of the dwelling. If the rezoning is successful the property owner could complete other renovations and additions that would be permitted under the regulations of the R-2 Zone of the Dartmouth Land Use Bylaw. The built form requirements of the R-1 and R-2 zone are the same and therefore any development under a future as-of-right scenario would continue to be compatible and consistent with the adjacent existing development form.</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>Provisions exist within the Dartmouth LUB which address landscaping, screening, etc. Any development on the site would be subject to these requirements of the LUB.</p>
<p><i>(4) that the proposal is not premature or inappropriate by reason of:</i></p>	<p>There are no financial costs/risks to the City.</p>

<i>(i) the financial capability of the City is to absorb any costs relating to the development;</i>	
<i>(ii) the adequacy of sewer and water services and public utilities;</i>	No concerns have been identified by Halifax Water regarding sewer or water systems. The property is an existing two-unit dwelling and no changes are proposed to the water/sewer connections.
<i>(iii) the adequacy and proximity of schools, recreation and other public facilities</i>	There are schools nearby that can accommodate students from grades Primary through 12. There are several parks with varied recreational opportunities within walking distance of the site. The Dartmouth Sportsplex is also located nearby.
<i>(iv) the adequacy of transportation networks in adjacent to or leading to the development;</i>	The property is serviced by an existing street network with connections to Wyse Road and Windmill Road via local streets. The existing driveway accesses conforms to municipal standards and traffic volumes are not anticipated to change. Additionally, HRM Engineering has not identified issues regarding the adequacy of the roads in the area.
<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>	No potential dangers have been identified. Any development must conform with HRM and Provincial standards regarding site grading and stormwater management as well as minimize impacts on adjacent properties. This is confirmed at the building permit stage.
<i>(vii) the presence of natural, historical features, buildings or sites;</i>	The site is location within area of elevated archaeological potential; however, excavation is not required for this proposal.
<i>(viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized;</i>	This is considered an infill development utilizing existing services and facilities.
<i>(ix) the detrimental economic or social effect that it may have on other areas of the City.</i>	The proposal is for a residential use and will not have a detrimental economic or social effect on other areas of the City.
<i>(5) that the proposal is not an obnoxious use;</i>	The proposal is for a residential use and, therefore, not an obnoxious use. The use is not changing.

<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"><i>(i) type of use, density, and phasing;</i><i>(ii) emissions including air, water, noise;</i><i>(iii) traffic generation, access to and egress from the site, and parking;</i><i>(iv) open storage and landscaping;</i><i>(v) provisions for pedestrian movement and safety;</i><i>(vi) management of open space, parks, walkways;</i><i>(vii) drainage both natural and sub-surface and soil-stability;</i><i>(viii) performance bonds.</i>	<p>The rezoning process does not allow for the use of agreements or other legal devices.</p>
<p><i>(7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock out-croppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors.</i></p>	<p>The site is suitable and appropriate for residential development.</p>