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Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 10.1.1
Halifax and West Community Council
October 14, 2014

TO: Chair and Members of Halifax and West Community Council

Original Signed

SUBMITTED BY: _____
for: Brad Anguish, Director of Community and Recreation Services

DATE: August 29, 2014

SUBJECT: **Case 19340: Discharge of Development Agreements – 3055 Agricola Street, Halifax**

ORIGIN

Application by Labatt Brewing Company Limited.

LEGISLATIVE AUTHORITY

HRM Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Approve, by resolution, the discharge agreement as contained in Attachment A to this report, to allow for the discharge of three development agreements applied to 3055 Agricola Street, Halifax; and
2. Require the discharging agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Labatt Brewing Company Limited is the owner of Oland's Brewery which is located at 3055 Agricola Street, Halifax and is bounded by Agricola, Russell, Isleville and Young Streets (Map 1). Oland's Brewery has been operating on the property since 1905. There are three development agreements applicable to the property which were approved under planning policy conditions that no longer exist. The applicant wishes to discharge these agreements to allow the property to be fully regulated under the current policy and zoning requirements.

Location, Designation, Zoning, and Surrounding Land Uses

The subject property is:

- located within Area 5 of the Peninsula North Secondary Plan of the Halifax Municipal Planning Strategy;
- designated Industrial under the Halifax Municipal Planning Strategy (MPS) as shown on Map 1;
- zoned C-3 (Industrial) under the Halifax Peninsula Land Use By-law (LUB) as shown on Map 2; and
- adjacent to low and high density residential, industrial and commercial uses.

Zoning History

At the time of the adoption of the MPS in 1978, 11 areas of the former City of Halifax were identified for detailed planning. This list formed the basis for secondary plans that were undertaken in the years to follow. The approach that was taken in most of these areas was to allow a modest degree of development to occur while secondary plans were being prepared. In the interim, any substantial projects were to be considered by development agreement, subject to certain policy criteria and the overall objectives and policies of the MPS. The 11 areas where this approach was applied were included in Schedule C and Peninsula North was included as one of these areas.

The Peninsula North Secondary Plan for area 5, which includes the subject property, was approved in 1994. With its adoption, Schedule C was removed, and the subject property was designated and zoned for industrial use. Prior to 1994, three development agreements were applied to the property to enable expansions to the operation as follows:

- Case 3832 – allowed for an addition to the aging and fermenting building (Registered September 1980);
- Case 5053 – allowed for the development of a bottle sorting plant and pallet elevator (Registered October 1986); and
- Case 6723 – allowed for the development of two grain silos (Registered October 1993).

Discharge of Development Agreements

The *Halifax Regional Municipality Charter* provides Council with a mechanism to discharge development agreements. Part VIII, Clause 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The Charter does not require a public hearing for the discharge of an agreement or a portion thereof. A development agreement may be discharged by resolution of Community Council.

Planning Advisory Committee

Given the limited scope of the application, this matter was not referred to the Districts 7 and 8 Planning Advisory Committee.

DISCUSSION

Staff has reviewed the discharge request and has determined that it is consistent with the MPS policies for the Halifax MPS. As part of the detailed plan review process for Peninsula North, an industrial designation and zoning (C-3 Zone) were applied to the subject property. As Schedule C no longer applies to the property, there is no policy support for the existing development agreements. Further, all development on the property, including those portions permitted through the development agreement are currently permitted under the existing C-3 Zone.

The proposed discharge would enable the subject property to be developed in accordance with the land use provisions of the existing underlying C-3 Zone. Therefore, staff recommends that Community Council discharge the three existing development agreements through the discharging agreement as presented in Attachment A.

FINANCIAL IMPLICATIONS

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through the HRM website and responses to inquiries. A public information meeting or a public hearing is not required, nor is it the practice to hold such meetings for discharging development agreements. The decision to discharge a development agreement is made by resolution of Community Council.

The proposed discharge will have no impact on local residents, property owners or other stakeholders as the existing zoning allows for the uses that were permitted by the existing development agreements.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified

ALTERNATIVES

1. Halifax and West Community Council may choose not to discharge the existing development agreements and therefore, development on the property would remain subject to the conditions of the development agreements. This is not recommended.

ATTACHMENTS

Map 1 Generalized Future Land Use

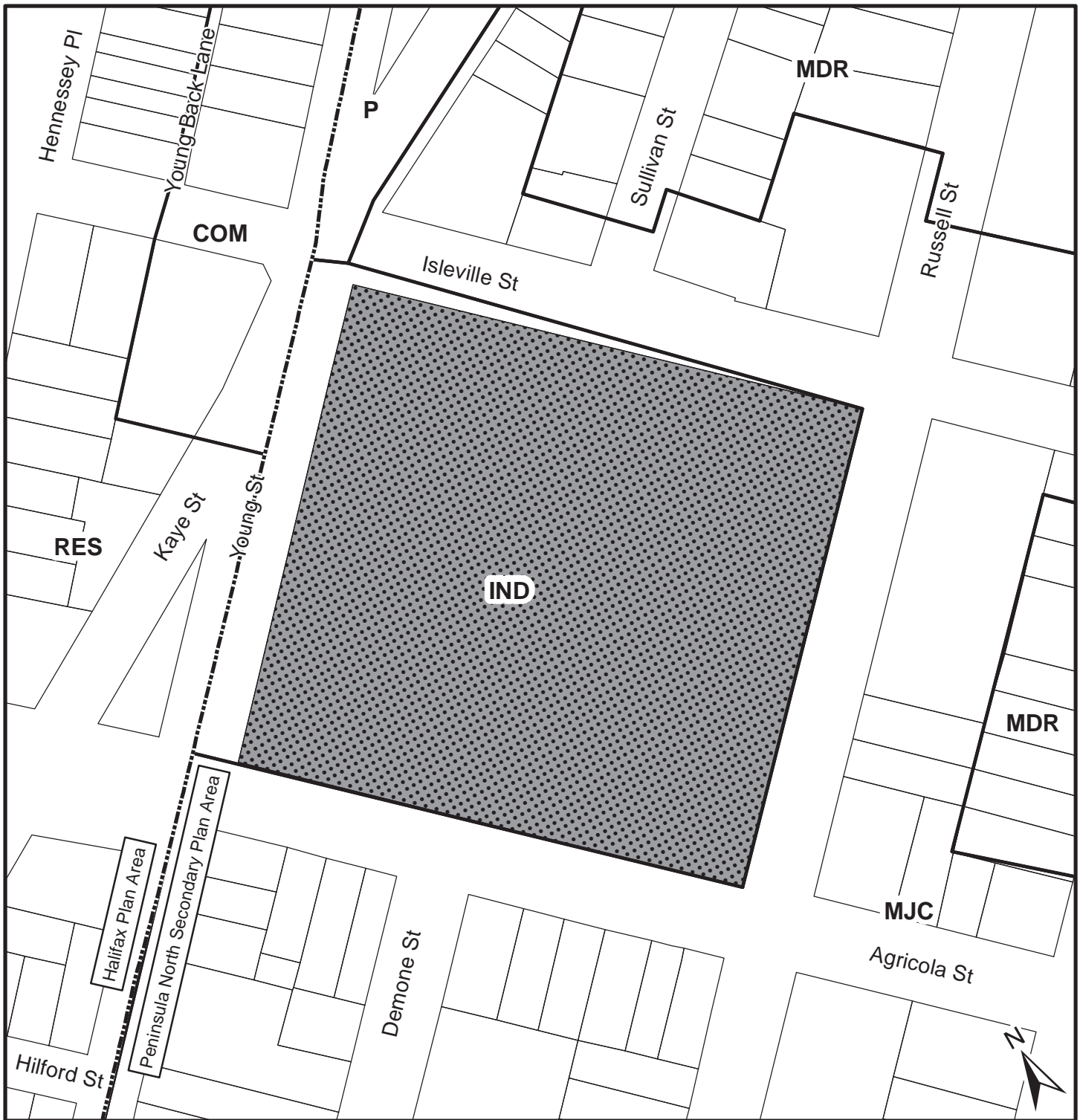
Map 2 Zoning

Attachment A: Proposed Discharging Agreement

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.


Report Prepared by: Jillian MacLellan, Planner, Development Approvals, 490-4423

Report Approved by: Original Signed
Kelly Denty, Manager Development Approvals, 490-4800



Map 1 - Generalized Future Land Use

3055 Agricola Street
Halifax

 Area of existing
development agreements
to be discharged

Halifax Plan Area
Peninsula North Secondary Plan Area

Designation - Halifax

RES Residential Environments
COM Commercial

Designation - Peninsula North

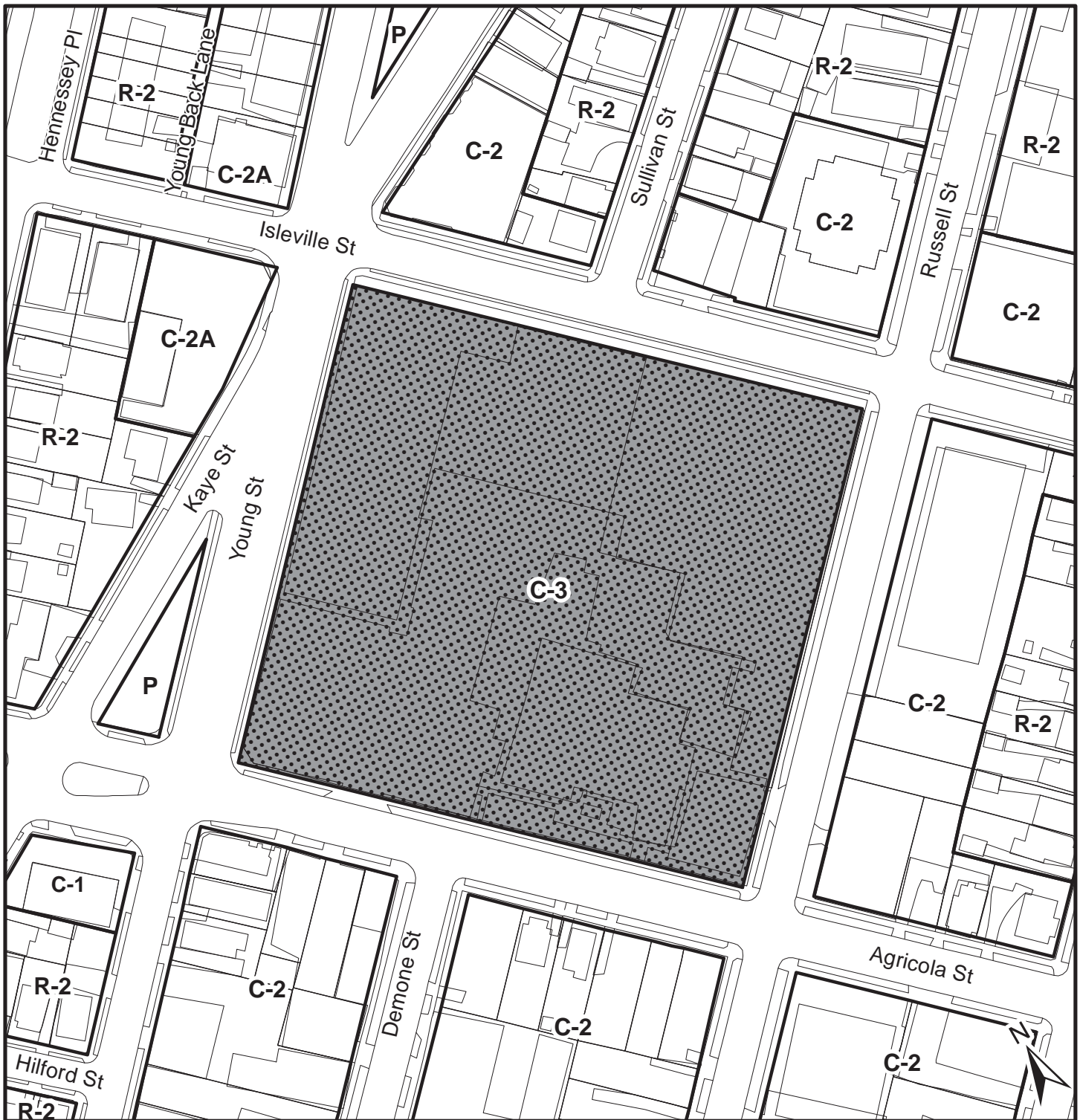
MDR Medium Density Residential
MJC Major Commercial
IND Industrial
P Park and Institutional

HALIFAX

0 20 40 m

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

3055 Agricola Street
Halifax

HALIFAX



Area of existing
development agreements
to be discharged

Zone

- R-2 General Residential
- C-1 Local Business
- C-2 General Business
- C-2A Minor Commercial
- C-3 Industrial
- P Park and Institutional

0 20 40 m

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 Discharging Agreement**

THIS DISCHARGING AGREEMENT made this day of **[Insert Month]** , 2014,

BETWEEN:

[Insert name here],
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 3055 Agricola Street, PID 00004531, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipality entered into a development agreement to allow for the addition to the building on the lands (referenced as Municipal Case Number 3832), the said agreement being recorded at the Land Registry Office in Halifax on October 17, 1980 as Document # 42941 (hereinafter called the "First Existing Agreement");

AND WHEREAS the Developer and the Municipality entered into a second development agreement to allow for the construction of a bottle sorting plant and pallet elevator (referenced as Municipal Case Number 5053), the said amending agreement being recorded at the Land Registry Office in Halifax on October 24, 1986 as Document # 70275 (hereinafter called the "Second Existing Development Agreement");

AND WHEREAS the Developer and the Municipality entered into a third development agreement to permit the installation of two grain silos (referenced as Municipal Case Number 6723), the said amending agreement being recorded at the Land Registry Office in Halifax on October 15, 1993 as Document # 43042 (hereinafter called the "Third Existing Agreement");

AND WHEREAS the Developer has requested that these development agreements be discharged to enable the development of the Lands to be subject to the Land Use By-law for Halifax Peninsula;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 19340;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

1. The aforementioned development agreements, referenced as Municipal Case Number 3832, Municipal Case Number 5053, and Municipal Case Number 6723 are hereby discharged and shall no longer have any force or effect.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in
the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

SIGNED, DELIVERED AND ATTESTED
To by the proper signing officers of Halifax
Regional Municipality, duly authorized in that
Behalf, in the presence of:

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK