

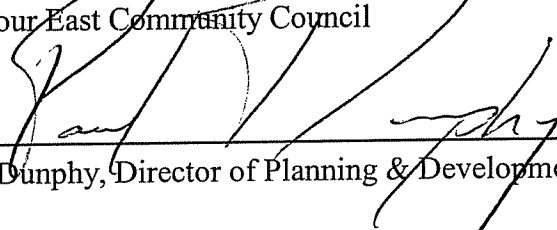
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Harbour East Community Council
May 25, 2005

TO: Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Planning & Development Services

DATE: May 11, 2005

SUBJECT: Case 00803 - Housekeeping Amendments - Dartmouth Land Use By-law

ORIGIN

Motion of Harbour East Community Council at its meeting of May 5, 2005 requesting that staff prepare a report "regarding the rezoning of the I-1 Zone - Light Industrial Zoned lands around 198 Waverley Road".

RECOMMENDATION

It is recommended that Harbour East Community Council:

- 1. Give First Reading to the proposed amendments to the Land Use Bylaw for Dartmouth provided in Attachment A of this report and schedule a public hearing;**
- 2. Approve the proposed amendments to the Land Use Bylaw for Dartmouth provided in this report.**

BACKGROUND

- 198 Waverley Road is occupied by Bus Boy/Perry Rand Compound Operations, a commercial bus repair/storage yard business. The property is one of five properties in this area zoned for light industrial purposes (see Map 1). Recent development history for the property is as follows:
- In February 2004, a Development Permit was issued to Bus Boy/Perry Rand Compound Operations to operate a commercial bus repair/storage yard at this address.
- HRM has since received a number of complaints from neighbouring residential property owners regarding the company's operating practices. Concerns have been expressed about starting and idling of diesel powered bus engines, shunting of buses within an outdoor parking compound for fueling and service and use of pneumatic and manual tools resulting in noise, vibration, emission of fumes and dust that, according to area residents, have impact on health and the enjoyment of private residential properties.
- In December 2004, a petition signed by a number of residents living in the area of Mic Mac Drive and abutting neighbourhoods was presented to Regional Council. The petition opposes operations at 198 Waverley Road and in general, expresses concern for potential land use conflict between industrial land uses in this area and existing residential land uses.
- Although the land use by-law prohibits any use deemed to be "obnoxious", it has been difficult to measure this for the purpose of proving whether the use is in violation of the land use by-law. Consequently, Legal Services filed charges against the Bus Boy/Perry Rand Compound with respect to violation of the HRM Noise By-law. The trial date is set for June 29, 2005.
- On May 5, 2005 Harbour East Community Council approved a motion requesting that staff prepare a report "regarding the rezoning of the I-1 Zone - Light Industrial Zoned lands around 198 Waverley Road".

MPS Policy and Zoning

198 Waverley Road is one of several properties in an area located to the north of Three Bridges Pond that have been designated Industrial and zoned I-1 Light Industrial by the Dartmouth MPS and Land Use By-law. The I-1 Zone restricts land use to the following permitted uses:

- warehousing and distribution;
- business or commercial enterprises except:
 - obnoxious uses and uses creating a hazard to the public; and
 - offices other than those permitted in the C-1 Zone
- industrial uses except:
 - obnoxious uses,

-
- uses creating a hazard to the public and
 - uses creating heat, humidity or glare.

The I-1 Zone is intended to permit range of light industrial and commercial within planned and serviced areas zoned for industrial purposes while prohibiting uses which are obnoxious by nature or operation. The land use by-law defines Obnoxious Use as follows:

“means a use which, from its nature or operation, creates a nuisance or is offensive by the creation of noise, vibration, glare, electrical interference, fire explosion hazard or by reasons of the emission of gas, fumes, dust oil, or objectionable odor, or by reason of the unsightly storage of goods, wares, merchandise, salvage matter, refuse matter, waste or other material.”

It is staff’s opinion, that if a permitted use in the I-1 Zone is operating in a manner that is deemed to be a nuisance or is offensive, legal prosecution is an available and appropriate recourse. However, Harbour East Community Council has expressed a desire to possibly rezone the I-1 zoned lands around 198 Waverley Road. The pros and cons of rezoning as an approach to mitigate the potential for residential/industrial land use conflict are discussed in the following section of this report and an alternative approach is offered for Council’s consideration.

DISCUSSION

Option #1 Rezoning

Policy IP-1 of the Dartmouth MPS enables Council to consider rezoning for any permitted use within the Industrial Designation without an MPS amendment. Depending on the zone applied, downzoning this area would effectively limit the development of new light industrial/business uses or expansion of existing industrial/business uses. However, this may have the unintended consequence of penalizing other existing businesses that have operated within a light industrial zoned area for several years without posing a land use conflict for adjacent residential uses. Concerns about residents in the area appear to be related specifically to 198 Waverley Road and not to other businesses in this area

Additionally, simply applying an alternative zone (the C-2 General Business Zone, for example) may not achieve the goal of reducing the potential for land use conflict between light industrial/business uses and residential uses. The C-2 Zone is general in its application, permitting many of the same uses as the I-1 Zone. Additionally, it does not require the same level of development standards (i.e. architectural design guidelines and landscape buffering) currently afforded by the I-1 Zone.

Option #2 Text Amendments to the I-1 Zone

The Dartmouth Planning Strategy and Land Use Bylaw have been in effect since September 1978. As is the case with any planning strategy and zoning bylaw, there is a need for amendments from time to time, to accommodate changes in circumstances and reflect practical experiences in day-to-day administration. On occasion, amendments are needed to refine the physical requirements for

development, correct omissions, clarify definitions and confusing clauses, and/or provide for consistency in wording between municipal land use by-laws.

Although the Land Use By-law affords architectural design control and requires that a landscaped buffer and screening for outdoor storage of freightage and trucking yards be provided for permitted uses, it does not acknowledge that certain outdoor light industrial/commercial uses pose potential land use conflict for neighbouring residential areas. Consequently, the current provisions of the I-1 zone could be amended in order to identify certain uses which are potentially obnoxious by nature and include a reasonable provision requiring such uses to be contained within a building in instances where a light industrial use is in close proximity to a residential use. This amendment option would be more effective in addressing the concerns expressed by residents than the rezoning option.

Conclusion:

The proposed text amendments provided in Attachment A reflect the second option identified above. This approach has been used in other HRM Land Use By-laws and reflect current administrative practices. The by-law amendments necessary to effect this are minor in nature and do not result in substantive changes to land use requirements. Rather, they generally reflect how staff has been interpreting the bylaw and introduce some requirements where they currently do not exist. The amendments are general to the I-1 Zone in scope and are not intended to be limited or specific to 198 Waverley Road (see Map 2 - I-1 Zone Properties).

BUDGET IMPLICATIONS:

There are no budget implications

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may choose to initiate the amendments to the Dartmouth Land Use By-law as shown in Attachment A. This is the recommended course of action.
2. Council may choose to request changes be made to the proposed amendments. This could result in further analysis and additional staff report(s)
3. Council may choose to reject the proposed amendments giving specific reasons. This alternative is not recommended as the proposed changes introduce some requirements needed in order to clarify current administrative practices and improve general land use compatibility.

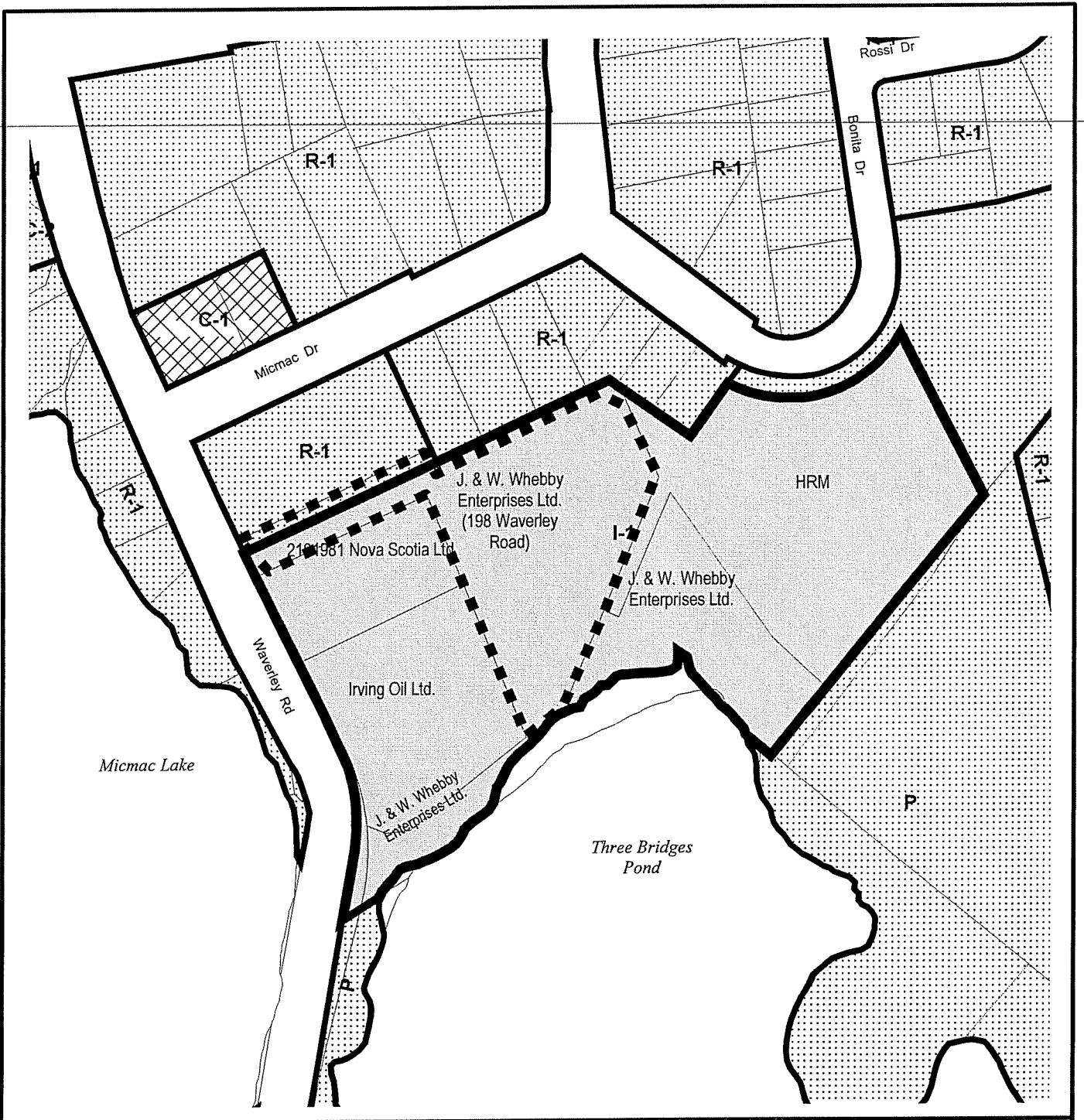
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4. Council may initiate the process to amend the zoning. This is not a recommended course of action for reasons noted above. This could result in further analysis and additional staff report(s)
 5. Council may choose to apply the proposed amendments on an 'area' or 'site specific' basis. This is also not a recommended course of action as the proposed provisions are intended to be applied generally to I-1 zoned areas.

ATTACHMENTS

- Map 1: Generalized Future Land Use and Zoning
198 Waverley Road and Abutting Light Industrial Lands
- Map 2: I-1 Zoned Properties within the Dartmouth Plan Area
- Attachment A: Proposed Amendments to Dartmouth Land Use By-law
- Attachment B: I-1 Zone - Light Industrial Zone
- Attachment C: C-2 Zone - General Business Zone
- Attachment D: C-3 Zone - General Business Zone

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by John MacPherson, Planner 490-5719



Map 1

Generalized Future Land Use & Zoning

Zone

- R-1 Single Family Residential Zone
- C-1 Local Business Zone
- C-2 General Business Zone
- I-1 Light Industrial Zone
- P Park Zone

Dartmouth MPS



Subject Area

198 Waverley Road

Designation



Commercial



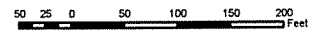
Industrial



Residential



HALIFAX
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This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area.

HRM does not guarantee the accuracy of any representation on this plan.

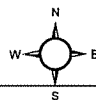


Map 2

**I-1 Zoned Properties
Within The Dartmouth
Plan Area**



I-1 Zoned Properties



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PLANNING AND
DEVELOPMENT SERVICES

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area.

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ATTACHMENT A
Amendments to the Dartmouth Land Use By-law

Adding the following to Section 41 (3):

- “(e) Where the proposed use is located within 250 feet of a residential, park, conservation or institutional zone, or existing residential use, all welding, fabrication, sandblasting, storage of commercial vehicles (excepting vehicle display courts) and automotive repair shall be fully contained within a building or other suitable structure designed to contain noise, odours, and dust.”**

Replacing Section 41(2) with the following:

“Buildings used for C-3 uses in an I-1 Zone shall comply with the requirements of a C-3 Zone, excepting that the provisions of 41 (3) (c) (ii), 41 (3) (d) and 41 (3) (e) shall apply where the property abuts a residential, park, conservation or institutional zone, or existing residential use.”

ATTACHMENT B
I-1 ZONE - LIGHT INDUSTRIAL ZONE

41. (1) The following uses only shall be permitted in an I-1 Zone:
- (a) C-3 uses as herein set out,
 - (b) industrial uses except:
 - (i) obnoxious uses,
 - (ii) uses creating a hazard to the public and
 - (iii) uses creating heat, humidity and glare.
- (2) Buildings used for C-3 uses in an I-1 Zone shall comply with the requirements of a C-3 Zone, *excepting that the provisions of 41 (3) (c) (ii) and 41 (3) (d) shall apply where the property abuts a residential or park zone or existing residential use. (Regional Council-October 2, 2001, Effective-October 31, 2001)*
- (3) Buildings used for I-1 uses in an I-1 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 square feet
 - (b) Lot coverage, maximum - 50%
 - (c)
 - (i) No area for parking, loading, storage or any other like purpose shall be permitted within the minimum front yard provided that this shall not prohibit the use of a portion of the front yard for such walks or driveways as may be necessary.
 - (ii) Yards shall be provided on each side and at the rear of buildings as provided by the Building By-laws of the City except, where the side or rear boundary of a site abuts a residential district, it shall have a minimum yard of 30 feet.
 - (d) Appearance
 - (i) All buildings shall be of good architectural design
 - (ii) All yards shall be landscaped, and the entire site and all buildings maintained in a neat, tidy manner including the trimming and upkeep of landscaped areas and the removal of debris and unsightly objects.
 - (iii) All storage, freightage or trucking yards shall be enclosed or completely screened by buildings, trees, landscaped features, or fences or a combination thereof.

ATTACHMENT C
C-2 ZONE - GENERAL BUSINESS ZONE

39. (1) The following uses only shall be permitted in a C-2 Zone:
- (a) R-1, R-2, R-3, C-1 and TH uses as herein set out;
 - (b) Business or commercial enterprises except:
 - (i) obnoxious uses and uses creating a hazard to the public and
 - (ii) offices other than those permitted in the C-1 Zone
 - (c) Uses accessory to the foregoing uses.
- (2) Buildings used for R-1, R-2, R-3, C-1 and TH uses in a C-2 Zone shall comply with the requirements of an R-1, R-2, R-3, C-1 or TH Zone respectively.
- (3) Buildings used for C-2 uses in a C-2 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 sq. ft.
 - (b) Height maximum - 3 storeys for a building with an office function as its primary function.
 - (c) Maximum Lot coverage - 100% if the requirements for 100% lot coverage in the Building Bylaws of the City of Dartmouth are met, except that a motel building or buildings shall occupy surface area of not more than one-third of the total area of the building lot.
 - (d) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building Bylaws of the City of Dartmouth.

ATTACHMENT D
C-3 ZONE - GENERAL BUSINESS ZONE

40. (1) The following uses only shall be permitted in a C-3 Zone:
- (a) C-2 uses as herein set out, excepting therefrom any residential uses;
 - (b) warehousing and distribution
- (2) Buildings used for C-3 uses in a C-3 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 square feet
 - (b) Height maximum - 3 storeys for a building with an office function as its primary function.
 - (c) Maximum Lot coverage - 100% if the requirements for 100% lot coverage in the Building Bylaws of the City of Dartmouth are met, except that a motel building or buildings shall occupy surface area of not more than one-third of the total area of the building lot.
 - (d) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building By-laws of the City of Dartmouth.