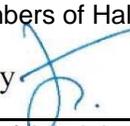


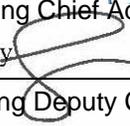
# HALIFAX

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

**Item No. 14.1.3**  
**Halifax Regional Council**  
**March 21, 2017**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed by   
\_\_\_\_\_  
John Traves, Acting Chief Administrative Officer

Original Signed by   
\_\_\_\_\_  
Jane Fraser, Acting Deputy Chief Administrative Officer

**DATE:** February 21, 2017

**SUBJECT:** **Case 20151: Amendments to the Halifax MPS, 31 and 33 Brewer Court,  
Halifax**

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## **ORIGIN**

Application by Banc Properties Limited to amend the Halifax Municipal Planning Strategy to enable the development of townhouses by development agreement at 31 and 33 Brewer Ct., Halifax.

## **LEGISLATIVE AUTHORITY**

Refer to Attachment B.

## **RECOMMENDATION**

It is recommended that Regional Council direct staff to:

1. Initiate the process to consider amendments to the Halifax Municipal Planning Strategy to alter the boundaries of the land use designations on the Generalized Future Land Use Map in the area of Brewer Court and the Stoneridge on the Park subdivision, Halifax; and
2. Follow the public participation program for municipal planning strategy amendments as approved by Regional Council on February 27, 1997.

## **BACKGROUND**

Banc Properties Limited has made application to enter into a development agreement with the Municipality to permit the development of a 6-unit townhouse and a semi-detached 2-unit dwelling on two existing lots off Brewer Court in Halifax. As the planning policies which enable townhouse dwellings by development agreement apply only to a portion of the site, in order for Council to be able to consider the proposal, the Halifax Municipal Planning Strategy (MPS) must be amended to apply these same policies over a larger portion of the site.

<b>Subject Site</b>	Composed of two lots: 31 and 33 Brewer Court, Halifax.
<b>Location</b>	Located within the Kelly Street Subdivision in Halifax. The subject site is surrounded by Walter Havill Drive, Ridgestone Court, Herbert Road and Osborne Street and fronts on Brewer Court
<b>Regional Plan Designation</b>	The subject site is designated Urban Settlement (US) under the Regional MPS.
<b>Community Plan Designation (Map 1)</b>	The subject site is located within the Halifax Mainland South Secondary Plan of the Halifax MPS and the following three land use designations apply to the site: <ul style="list-style-type: none"> <li>• the northeast portion of the property is designated Medium Density Residential (MDR);</li> <li>• the lands directly abutting Brewer Court are designated Low Density Residential (LDR); and</li> <li>• the southwest portion of the site is designated Residential Development District (RDD).</li> </ul>
<b>Zoning (Map 2)</b>	The portion of the site directly fronting Brewer Court is zoned R-2 (Two Family Dwelling), while the remainder of the site is zoned R-3 (Low Rise Apartment). The entire subject site falls under the Halifax Mainland Land Use By-law (LUB).
<b>Size of Site</b>	2,638 square metres (28,395 sq. ft.)
<b>Street Frontage</b>	The subject site has approximately 31 metres (102 ft.) of frontage on Brewer Court.
<b>Current Land Use(s)</b>	The site is vacant, and contains Nova Scotia Power and Halifax Water easements.
<b>Surrounding Use(s)</b>	The subject site is surrounded by predominantly residential uses: <ul style="list-style-type: none"> <li>• immediately lying to the north is Herbert Road developed with semi-detached dwellings;</li> <li>• to the northeast is a 3 storey apartment building accessed from Kelly Street;</li> <li>• to the immediate east is Brewer Court, a cul-de-sac of semi-detached 2-unit dwellings; and</li> <li>• to the south and southeast lies Ridgestone Court, developed with small lot single detached dwellings, and a portion of Walter Havill Drive that is developed with semi-detached 2-unit dwellings.</li> </ul>

### **MPS and LUB Context**

Under the Halifax Mainland South Secondary Planning Strategy, Policy 1.3.4 allows Council to consider townhouse style residential development within areas designated “Medium Density Residential” in accordance with the development agreement provisions of the *HRM Charter*. However, this policy does not apply to the portion of the subject site designated “Residential Development District”. Therefore, an amendment to the MPS is necessary to enable consideration of the proposed development.

### **History**

On May 28, 1987, the Council of the former City of Halifax approved the Mainland South Secondary Planning Strategy and its accompanying Generalized Future Land Use Map (GFLUM). The boundary between the LDR, MDR and RDD designations depicted on the GFLUM was set when the bulk lands in this area were undeveloped and prior to them being subdivided in their current form. At that time, it was practice for the land use designations to be applied generally and not necessarily follow property boundaries.

During the detailed review of the development agreement application, it was determined that the RDD designation boundary crosses through the subject site, and that the RDD policies do not enable consideration of the proposed development. Therefore, staff advise that an MPS amendment is required to better align the land use designations with property boundaries.

### **Proposal Details**

The applicant proposes to amend the GFLUM in the vicinity of 31 and 33 Brewer Court to apply the MDR and LDR designations to the subject site as follows:

- Amend the GFLUM boundary to coincide with the property boundary between the subject site and the Stoneridge on the Park subdivision;
- The “Residential Development District” (RDD) designation will be removed from the site, and the LDR and MDR designations will be extended to their respective portions of the subject site;
- The “Low Density Residential” (LDR) designation applied to the area of the subject site that fronts Brewer Court will remain in place as the applicant’s proposal for that portion of the site is a semi-detached 2-unit dwelling which is permitted in the LDR designation and the R-2 Zone;
- The “Medium Density Residential (MDR) designation proposed to be applied to the northwest portion of the site would enable consideration of the townhouse style development being proposed.

The boundary amendment will not extend to lots along Herbert Road or other lots on Brewer Court beyond the subject site nor change the designation of lots on Ridgestone Court or Osborne Street.

Regarding the progress of the current development agreement application, the review and revision process has been carried out along with public engagement in the form of an information mail out to area residents. If the initiation of the MPS amendment process is approved by Regional Council, a public information meeting will then be held. Given the work already completed on the proposal to date, it is likely that the application would move along through the process more quickly than other site-specific MPS amendments. Should Regional Council decide to amend the land use designation for the subject site, Community Council could then consider a development agreement in accordance with Policy 1.3.4 to allow the proposed 6-unit townhouse development.

### **DISCUSSION**

The Halifax MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in the former City of Halifax. While the MPS provides broad direction, Regional Council may consider MPS amendment requests to enable proposed development that is inconsistent with its policies. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. Amendments should be only considered within the broader planning context and when there is reason to believe that there has been a change to the circumstances since the MPS was adopted, or last reviewed.

### **Proposal Rationale**

Staff provide the following rationale in support of the proposed amendments:

- Policy 1.3.4 under Section X of the Mainland South SMPS, Residential Environments, enables townhouses in the MDR designation through the development agreement process. This policy

suitably fits with the applicant's proposal, but an adequate physical area to accommodate the proposal does not exist within the portion of the site that is currently designated MDR;

- The realignment of the GFLUM boundary as proposed would allow the site to be suitably developed to become an integral part of the urban fabric of that area rather than being maintained as a space that is neither a public open space or a visual amenity;
- The townhouse form permitted by Policy 1.3.4 is an appropriate transitional dwelling form between the existing apartment building to the east and the semi-detached dwelling forms on Herbert Road and Walter Havill Drive; and
- Policies IM 7 (ii) and 8 of the Mainland South SMPS address MPS amendment requirements and enable the GFLUM boundary adjustment request to be considered.

### **Review**

Unlike many other HRM MPSs, there is no policy in the Halifax MPS to allow a rezoning or development agreement that is permitted in one designation to be permitted in an abutting designation. Staff advise that, while the generalized application of the GFLUM boundary in this area has been appropriate to carry out the policy intent of the MPS, in consideration of the context of site circumstances and surrounding land uses, it is appropriate for the boundary to more closely align with property boundaries. Without amendment to the designation boundary, the development agreement request may not proceed.

### **Conclusion**

Staff have reviewed the proposed MPS amendment request and advise that there is merit to the request. Realigning the GFLUM boundary in this area would facilitate the consideration of a development agreement under the enabling policy set. Amending the designation boundary to align it with existing property lines is an appropriate means to address this situation and would serve to maintain the intent of the MPS. Therefore, staff recommend that Regional Council initiate the MPS amendment process.

## **COMMUNITY ENGAGEMENT**

Should Regional Council choose to initiate the MPS amendment process, the HRM Charter requires that Regional Council approve a public participation program. In February of 1997, Regional Council approved a public participation resolution which outlines the process to be undertaken for proposed MPS amendments which are considered to be local in nature. This requires a public meeting to be held, at a minimum, and any other measures deemed necessary to obtain public opinion.

The proposed level of community engagement is consultation, achieved through a public information meeting early in the review process, as well as a public hearing, before Regional Council may consider approval of any amendments.

Amendments to the Halifax South Secondary Planning Strategy will potentially impact the following stakeholders: local residents, property owners, community or neighbourhood organizations.

## **FINANCIAL IMPLICATIONS**

The HRM costs associated with processing this planning application can be accommodated within the 2016-2017 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 involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks

and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No additional concerns were identified beyond those raised in this report.

### **ALTERNATIVES**

1. Regional Council may choose to initiate the consideration of potential policy amendments that would differ from those outlined in this report. This may require a supplementary report from staff.
2. Regional Council may choose not to initiate the MPS amendment process. A decision of Council not to initiate a process to consider amending the Halifax Mainland South Secondary Planning Strategy is not appealable to the NS Utility and 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 Site Plan  
Attachment B: Legislative Authority

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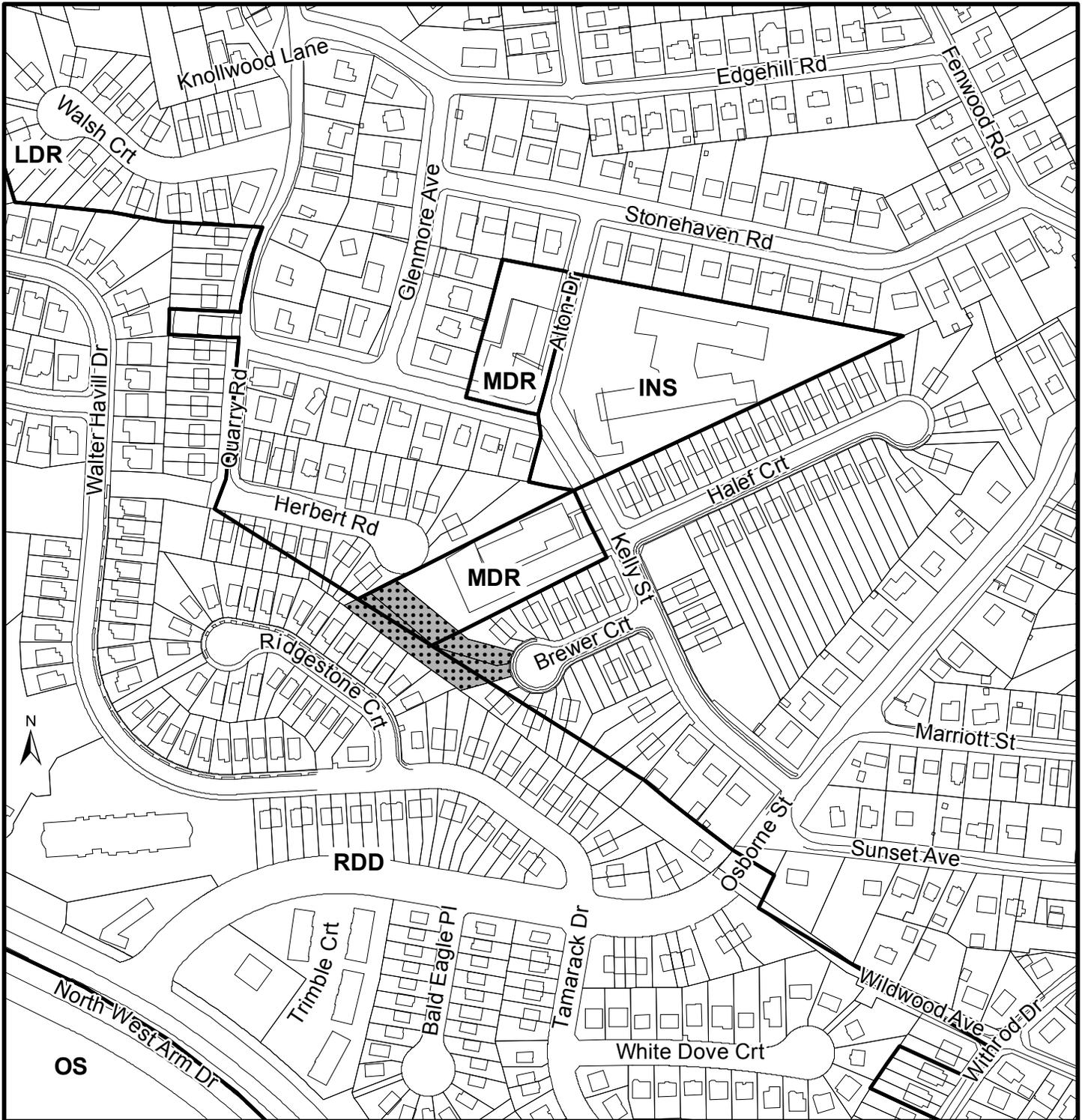
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Darrell Joudrey, Planner II, 902.490.4181

Report Approved by: \_\_\_\_\_  
Kelly Denty, Manager, Current Planning, 902.490.4800 \_\_\_\_\_

Report Approved by: \_\_\_\_\_  
Bob Bjerke, Chief Planner and Director, Planning & Development, 902.490.1627 \_\_\_\_\_

Original Signed



**Map 1 - Generalized Future Land Use**

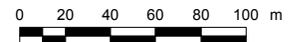
Kelly Street and Brewer Court  
Halifax



 Subject Area

**Designation**

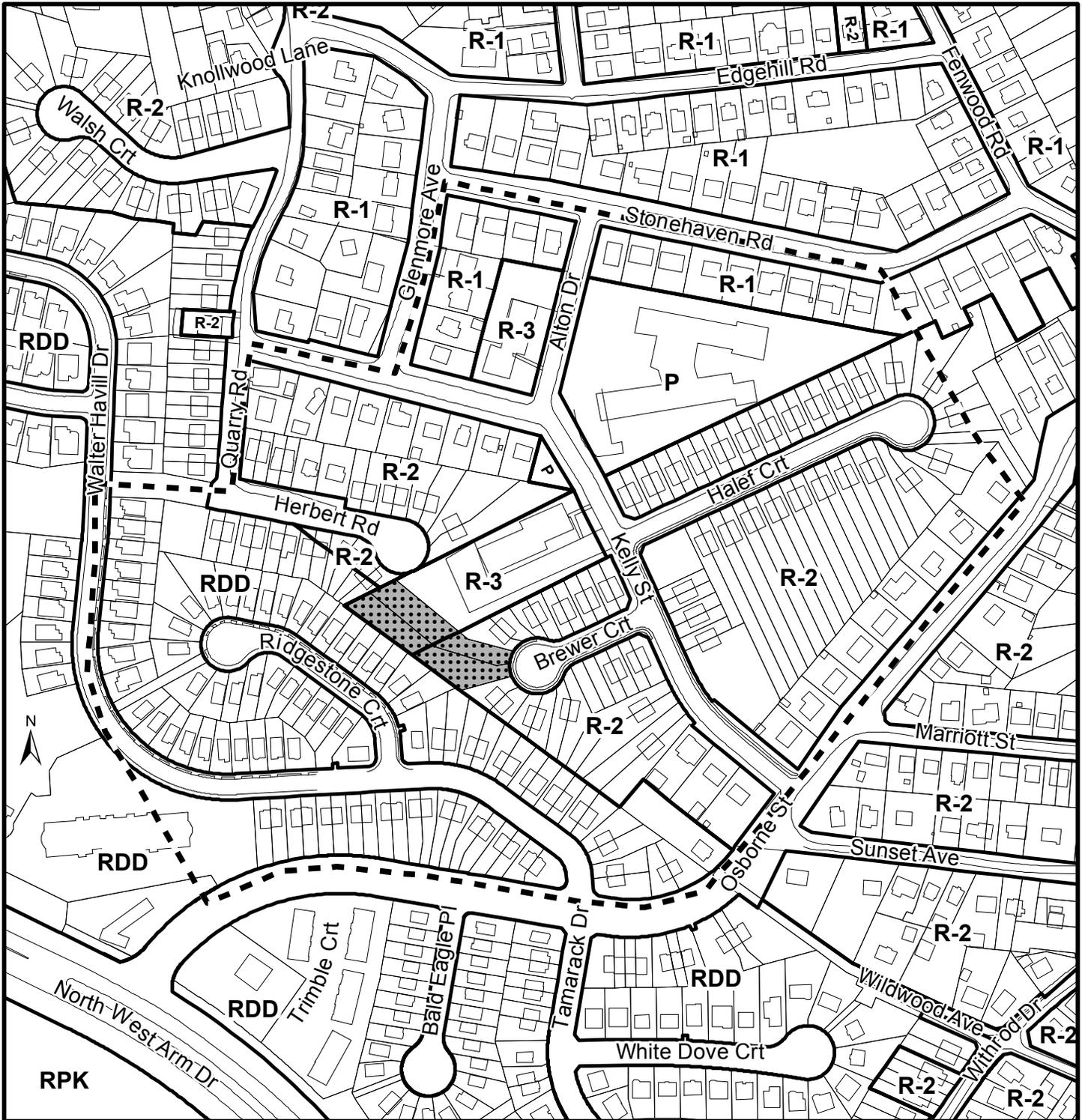
- LDR Low Density Residential
- MDR Medium Density Residential
- INS Institutional
- RDD Residential Development District
- OS Major Community Open Spaces



Halifax Plan Area  
Mainland South Secondary Plan Area

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.



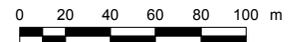
### Map 2 - Zoning and Notification

Kelly Street and Brewer Court  
Halifax

**HALIFAX**

-  Subject Area
-  Area of Notification

- Zone**
- R-1 Single Family Dwelling
  - R-2 Two Family Dwelling
  - R-3 Low-Rise Apartment
  - RDD Residential Development District
  - RPK Regional Park



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 Mainland  
Land Use By-Law Area



## **Attachment B – Legislative Authority**

### **Municipal Planning Strategy and Land Use By-law Amendments Initiated by Regional Council**

*Halifax Regional Municipality Charter, Part VIII, Planning and Development, including:*

#### **Planning documents reasonably consistent**

214 (1) Planning documents adopted after the adoption of a statement of provincial interest that applies within the Municipality must be reasonably consistent with the statement.

#### **Planning advisory committee**

215 (1) The Municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the Municipality.

(4) The purpose of a planning advisory committee or a joint planning advisory committee is to advise respecting the preparation or amendment of planning documents and respecting planning matters generally.

#### **Public participation program**

219 (1) The Council shall adopt, by policy, a public participation program concerning the preparation of planning documents.

(2) The Council may adopt different public participation programs for different types of planning documents.

(3) The content of a public participation program is at the discretion of the Council, but it must identify opportunities and establish ways and means of seeking the opinions of the public concerning the proposed planning documents.

220 (1) The Council shall adopt, by by-law, planning documents.

(4) The Council shall complete the public participation program before placing the first notice for a public hearing in a newspaper circulating in the Municipality.

#### **Purpose of municipal planning strategy**

228 The purpose of a municipal planning strategy is to provide statements of policy to guide the development and management of the Municipality and, to further this purpose, to establish

(a) policies that address problems and opportunities concerning the development of land and the effects of the development;

(b) policies to provide a framework for the environmental, social and economic development within the Municipality;

(c) policies that are reasonably consistent with the intent of statements of provincial interest; and

(d) specify programs and actions necessary for implementing the municipal planning strategy.

#### **Statements of policy in planning strategy**

229 (1) A municipal planning strategy may include statements of policy with respect to any or all of the following:

(a) the goals and objectives of the Municipality for its future;

(b) the physical, economic and social environment of the Municipality;

## Attachment B – Legislative Authority

- (c) the protection, use and development of lands within the Municipality, including the identification, protection, use and development of lands subject to flooding, steep slopes, lands susceptible to subsidence, erosion or other geological hazards, swamps, marshes or other environmentally sensitive areas;
- (d) stormwater management and erosion control;
- (e) in connection with a development, the excavation or filling in of land, the placement of fill or the removal of soil, unless these matters are subject to another enactment of the Province;
- (f) in connection with a development, retention of trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
- (g) studies to be carried out prior to undertaking specified developments or developments in specified areas;
- (h) the staging of development;
- (i) the provision of municipal services and facilities;
- (j) municipal investment for public and private development and the coordination of public programs relating to the economic, social and physical development of the Municipality;
- (k) non-conforming uses and structures;
- (l) the subdivision of land;
- (m) the use and conservation of energy, including the height and siting of developments;
- (n) measures for informing, or securing, the views of the public regarding contemplated planning policies and actions or bylaws arising from such policies;
- (o) policies governing
  - (i) land-use by-law matters,
  - (ii) amendment of the land-use by-law,
  - (iii) the acceptance and use of cash-in-lieu of required parking,
  - (iv) the use of development agreements,
  - (v) the establishment of comprehensive development districts,
  - (vi) the use of site-plan approval areas, including whether notice must be given to owners and tenants of property that is thirty metres or more from the applicant's property,
  - (vii) the establishment of transportation reserves,
  - (viii) the use of infrastructure charges,
  - (ix) the eligibility criteria for the establishment of a commercial development district including, without limiting the generality of the foregoing, the percentage increase in the taxable assessed value of the eligible properties, as defined in subsection 92C(1), within the proposed commercial development district and the period over which the increase in the taxable assessed value of the properties occurs;

## **Attachment B – Legislative Authority**

(p) the regulation or prohibition of development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);

(q) any other matter relating to the physical, social or economic environment of the Municipality.

(2) The Council shall include policies in the municipal planning strategy on how it intends to review the municipal planning strategy and land-use by-law.

### **No action inconsistent with planning strategy**

232 (1) The Municipality may not act in a manner that is inconsistent with a municipal planning strategy.

### **Adoption of land-use by-law or amendment**

234 (1) Where the Council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the Council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that enables the policies to be carried out.

### **Content of land-use by-law**

235 (1) A land-use by-law must include maps that divide the planning area into zones.

(2) A land-use by-law must

(a) list permitted or prohibited uses for each zone; and

(b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

(3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

(4) A land-use by-law may

(a) regulate the dimensions for frontage and lot area for any class of use and size of structure;

(b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;

(c) regulate the maximum area of the ground that a structure may cover;

(d) regulate the location of a structure on a lot;

(e) regulate the height of structures;

(f) regulate the percentage of land that may be built upon;

(g) regulate the size, or other requirements, relating to yards;

(h) regulate the density of dwelling units;

## Attachment B – Legislative Authority

- (i) require and regulate the establishment and location of off-street parking and loading facilities;
  - (j) regulate the location of developments adjacent to pits and quarries;
  - (k) regulate the period of time for which temporary developments may be permitted;
  - (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
  - (m) regulate the floor area ratio of a building;
  - (n) prescribe the fees for an application to amend a land-use by-law or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use by-law may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
  - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
  - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
  - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
  - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
  - (f) regulate the location of disposal sites for any waste material;
  - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
  - (h) regulate or prohibit the removal of topsoil;
  - (i) regulate the external appearance of structures;
  - (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
  - (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
  - (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
  - (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
  - (n) prohibit development or certain classes of development where, in the opinion of the Council, the

## Attachment B – Legislative Authority

- (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
- (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
- (iii) cost of maintaining municipal streets would be prohibitive;
- (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
- (p) prohibit development on land that
  - (i) is subject to flooding or subsidence,
  - (ii) has steep slopes,
  - (iii) is low-lying, marshy, or unstable,
  - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
  - (v) is known to be contaminated within the meaning of the *Environment Act*, or
  - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
- (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.

(6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

### **No appeal permitted**

263 The following are not subject to an appeal:

- (d) an amendment to a land-use by-law that is required to carry out a concurrent amendment to a municipal planning strategy.