

HALIFAX

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Item No. 14.1.4
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 20662: Amendments to the Regional MPS, the Regional Subdivision By-law and the Sackville LUB, First Lake Drive and Settlers Lane, Lower Sackville**

ORIGIN

Application by Ms. Linda Williams to amend the Regional Municipal Planning Strategy, the Regional Subdivision By-law and the Sackville Land Use By-law to permit the subdivision and development of her lands on First Lake Drive and Settlers Lane, Lower Sackville, for residential purposes.

LEGISLATIVE AUTHORITY

Refer to Attachment C.

RECOMMENDATION

It is recommended that Halifax Regional Council direct staff to:

1. Initiate the process to consider amending the Regional Municipal Planning Strategy, the Regional Subdivision By-law and the Sackville Land Use By-law, to permit residential development and an extension of the municipal water service boundary on the lands identified as PID #41404096 and PID #40507824 in Lower Sackville, and;
2. Follow the public participation program for municipal planning strategy amendments that was adopted by Regional Council on February 27, 1997.

BACKGROUND

The applicant, Ms. Linda Williams, is applying to amend the Regional Municipal Planning Strategy (MPS) and Sackville Land Use By-law (LUB) to permit subdivision and residential development on the lands (subject site) identified as PID# 41404096 and PID# 4050782 (Map 1). An amendment to the Regional Plan is necessary because the site is designated Open Space and Natural Resource and zoned RPK (Regional Park). In addition, the applicant is also applying to amend the Regional Subdivision By-law to adjust the municipal water service boundary to include the entire site.

Subject Site (Map 1)	PID #41404096 and PID #40507824
Regional Plan Designation (Map 1)	Open Space and Natural Resource Rural Commuter (portion of property)
Community Plan Designation (Map 2)	Urban Residential under the 1982 Sackville Municipal Planning Strategy (MPS)
Zoning (Map 3)	RPK (Regional Park) under the Sackville Land Use By-law (LUB)
Property Size	4.04 hectares (10 acres)
Street Frontage	155m (508 ft) along First Lake Drive 134m (440 ft) along Settlers Lane 40m (131 ft) along Cobequid Road
Site Conditions	Vacant. A portion of the site is intersected by an HRM property (PID #40507824) measuring approximately 900 square metres (9,687 square feet) which serves as a drainage course.
Current Land Use(s)	Vacant
Surrounding Land Use(s)	North: Sackville Lakes Provincial Park; South: Single unit residential properties; and, a portion of the Sackville Lakes Provincial Park; East: Single unit residential properties; and, West: Sackville Lakes Provincial Park

Proposal

The applicant proposes to re-designate and re-zone the subject site to allow for subdivision and residential development similar to that of the neighboring properties. The applicant is also seeking an amendment, to the Regional Subdivision By-law, to extend the municipal water service boundary to include the entire site (Map 3). Currently, a majority of the site is located within the municipal water service boundary. The major aspects of the proposal are as follows:

- Re-designate the site from Open Space and Natural Resource to Rural Commuter under the Regional Municipal Planning Strategy (Regional Plan);
- Re-zone the site from RPK (Regional Park) to R-6 (Rural Residential) under the Sackville Land Use By-law (LUB); and
- Extend the municipal water service boundary to include all portions of the site.

Transfer of Crown Land

In 1968, lands located near the subject site were privately owned by the Williams family. In September of that year, the family was approached by representatives of Eastside Holdings to purchase rights to conduct logging activity on the subject lands. In the course of transferring these rights, the family unknowingly transferred ownership of the lands to Eastside Holdings. Ownership of the lands was later transferred to the Crown and most recently served as part of the Sackville Lakes Provincial Park. In 2013, the Government of Nova Scotia authorized the Minister of Natural Resources to issue a deed to convey the subject lands back to the Williams family. In 2014, the lands were officially deeded to Ms. Linda Williams. The subject lands are identified as PID #41404096 and are referenced on Maps 1, 2 and 3.

Regional Plan Policy

Under the Regional Plan, the subject site is designated Open Space and Natural Resource and a small portion is designated Rural Commuter. The Open Space and Natural Resource designation is intended to be applied to publicly owned lands, such as federal parks, provincial parks, provincial park reserves, non-designated provincial parks, and regional park lands owned by HRM (Attachment A). The zone permits recreation uses, park uses and other uses as provided by the existing secondary planning strategies for these areas (Attachment B). Council may apply the RPK Zone within the Open Space and Natural Resource and Rural Commuter designations, but only to lands held in public ownership. Given the subject site was publicly owned until 2014, the zoning and designations were reflective of that status. However, now that the lands are privately owned, zoning for public uses is no longer appropriate for the subject site.

HRM Property (PID #40507824)

The Williams property is currently intersected by an HRM owned property, identified as PID #40507824 and Parcel K, measuring approximately 942.5 square meters (10,145 square feet) in area. The property serves as a drainage course, directing water south from the Sackville Lakes Provincial Park to First Lake Drive. Based on a preliminary review, it appears ownership of the subject property may have been transferred from the Crown to the Municipality as part of the transfer of the First Lake Drive right-of-way. The property is currently publically owned, however, HRM staff are investigating the current ownership and determining whether the property may be recommended as surplus. While we do not have clarity on the ownership at this point, the applicant is seeking to move forward with the process. Should public ownership of the lands be retained, the lands could be easily excluded from the scope of this application. In the interest of time and given the circumstances of the application, staff advises that it is prudent to move forward with initiating the amendment process for both properties. It is anticipated that more information regarding the ownership of the lands will be available prior to Council making a formal decision on the amendment request.

DISCUSSION

Municipal Planning Strategy Amendments

The Regional Plan and Sackville MPS are strategic policy documents which set out the goals, objectives and direction for long term growth and development of the Municipality. While the intention of the planning documents is to provide broad direction, Regional Council may consider MPS amendment requests to enable proposed development which is inconsistent with their 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.

Rationale

The applicant has provided the following rationale for the consideration of the proposed amendments:

- The transfer of ownership from the Crown to the Williams family represents a significant change in circumstance since the Regional MPS, Sackville MPS and Sackville LUB were adopted. As such, the subject lands, which are currently designated and zoned for public purpose, should be re-designation and re-zoned to reflect the current private ownership; and,
- The municipal water service boundary (Map 4), as shown on Schedule B of the Regional Subdivision By-law, does not include a portion of the subject lands. Prior to the transfer in ownership of the subject site from the Crown to the Williams family, this portion formed part of the Sackville Lakes Provincial Park. If the subject lands had remained in private ownership, it is very likely that the municipal service boundary would have extended to all portions of the subject site.

Staff Review

Staff has reviewed the submitted rationale in context of the site circumstances and surrounding land uses. Staff advise there is strong merit to considering the proposal to re-designate and re-zone PID #41404096 to: reflect the property's private ownership; to allow for residential development; and to consider a minor amendment to the municipal water service boundary as outlined by the applicant.

Further, pending the outcome of a real property technical review of PID #40507824, whereby the property may be deemed surplus and transferred to private ownership, staff recommend that Regional Council give consideration to the same amendments specified for PID #41404096.

Should Regional Council decide to initiate the MPS amendment process, in addition to public consultation on the matter, staff's further review of the request would consider a number of items, including:

- A review of the Regional MPS;
- A review of the Sackville MPS;
- A review of the Sackville LUB;
- A review of the Regional Subdivision By-law;
- A review of the ownership of PID #40507824; and
- A real property technical review of PID #40507824 by HRM Real Estate.

Conclusion

Staff have reviewed the proposal and advise that there is merit to the request. The amendments to the Regional Plan, the Regional Subdivision By-law and the Sackville LUB would correct the planning regulations applicable to the site and replace them with those that are appropriate for lands under private ownership which would enable the lands to be developed for residential purposes. Therefore, staff recommend that Regional Council initiate the MPS amendment process.

COMMUNITY ENGAGEMENT

Should Council choose to initiate the MPS amendment process as outlined in this report, or to enable an alternative proposal, the *HRM Charter* requires that Council approve a public participation program when considering any amendment to an MPS. 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 be held, at a minimum, and any other measures deemed necessary to obtain public opinion.

The proposed level of community engagement would be consultation, achieved through a public meeting and/or public workshop early in the review process, as well as a public hearing before Regional Council could consider approval of any amendments.

Amendments to the MPS and LUB would potentially impact the following stakeholders: local residents, property owners, community or neighbourhood organizations, business owners, other HRM business units, and other levels of government.

FINANCIAL IMPLICATIONS

The HRM costs associated with this planning application can be accommodated within the approved 2016-2017 operating budget for C310 Urban & Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed amendments to a Municipal Planning Strategy. Such amendments are at the discretion of Regional Council and are not subject to appeal to the Nova Scotia Utility and Review Board. Other information about the risks and other implications of adopting any amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified at this time.

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 MPS is not appealable to the NS Utility and Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1	Regional Plan Generalized Future Land Use
Map 2	Generalized Future Land Use
Map 3	Zoning
Map 4	Municipal Water Service Boundary
Attachment A	Excerpt from the Regional Municipal Planning Strategy (MPS)
Attachment B	Excerpt from the Sackville Land Use By-law (LUB)
Attachment C	Legislative Authority

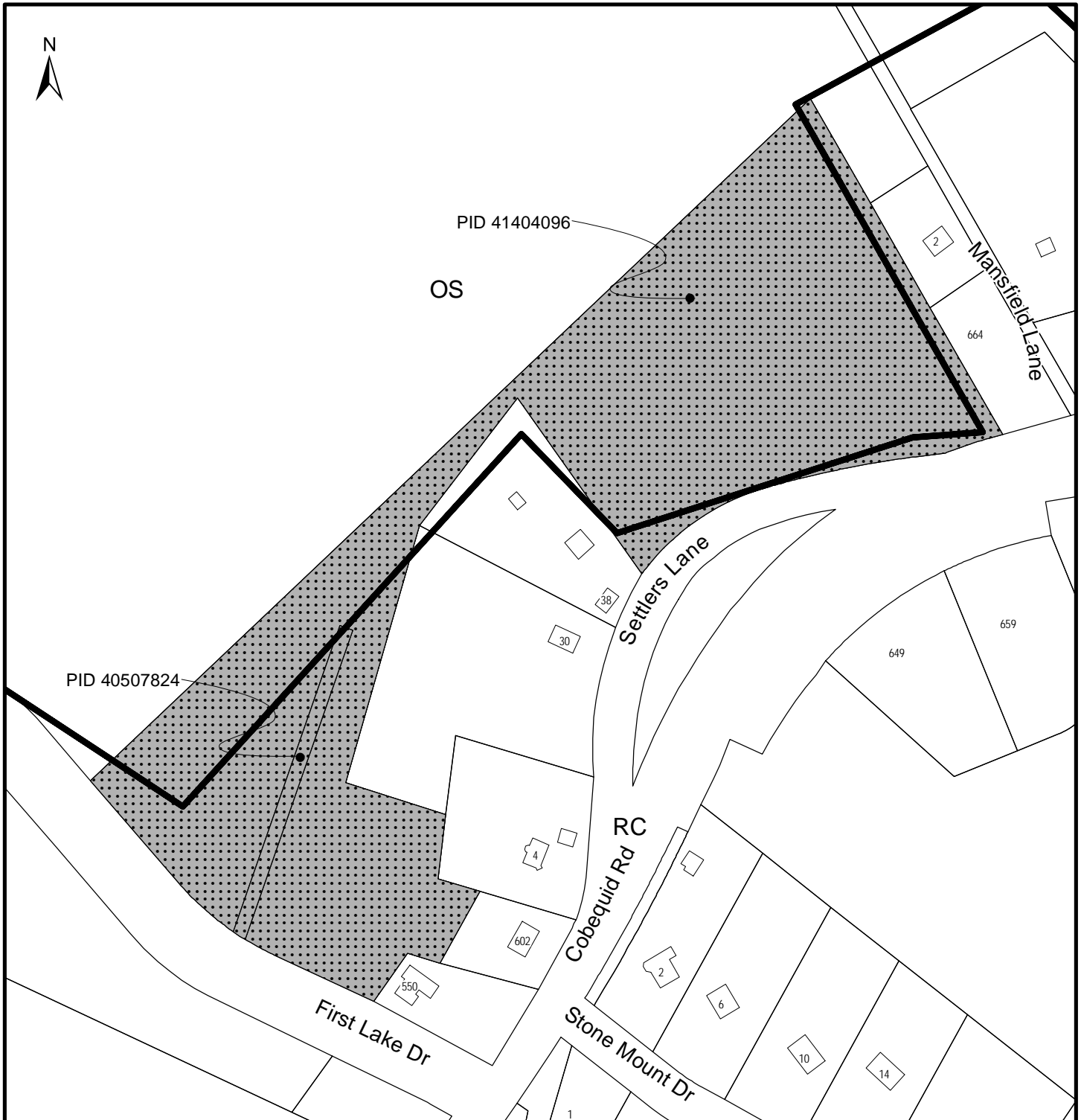
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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

Original Signed



Map 1 - Regional Plan Generalized Future Land Use

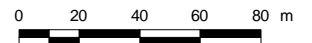
PIDs 41404096 & 40507824
Lower Sackville

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 Subject Sites

Designation

- RC Rural Commuter
- OS Open Space and Natural Resources



This map is an unofficial reproduction of a portion of the Regional Plan Generalized Future Land Use Map.

The accuracy of any representation on this plan is not guaranteed.

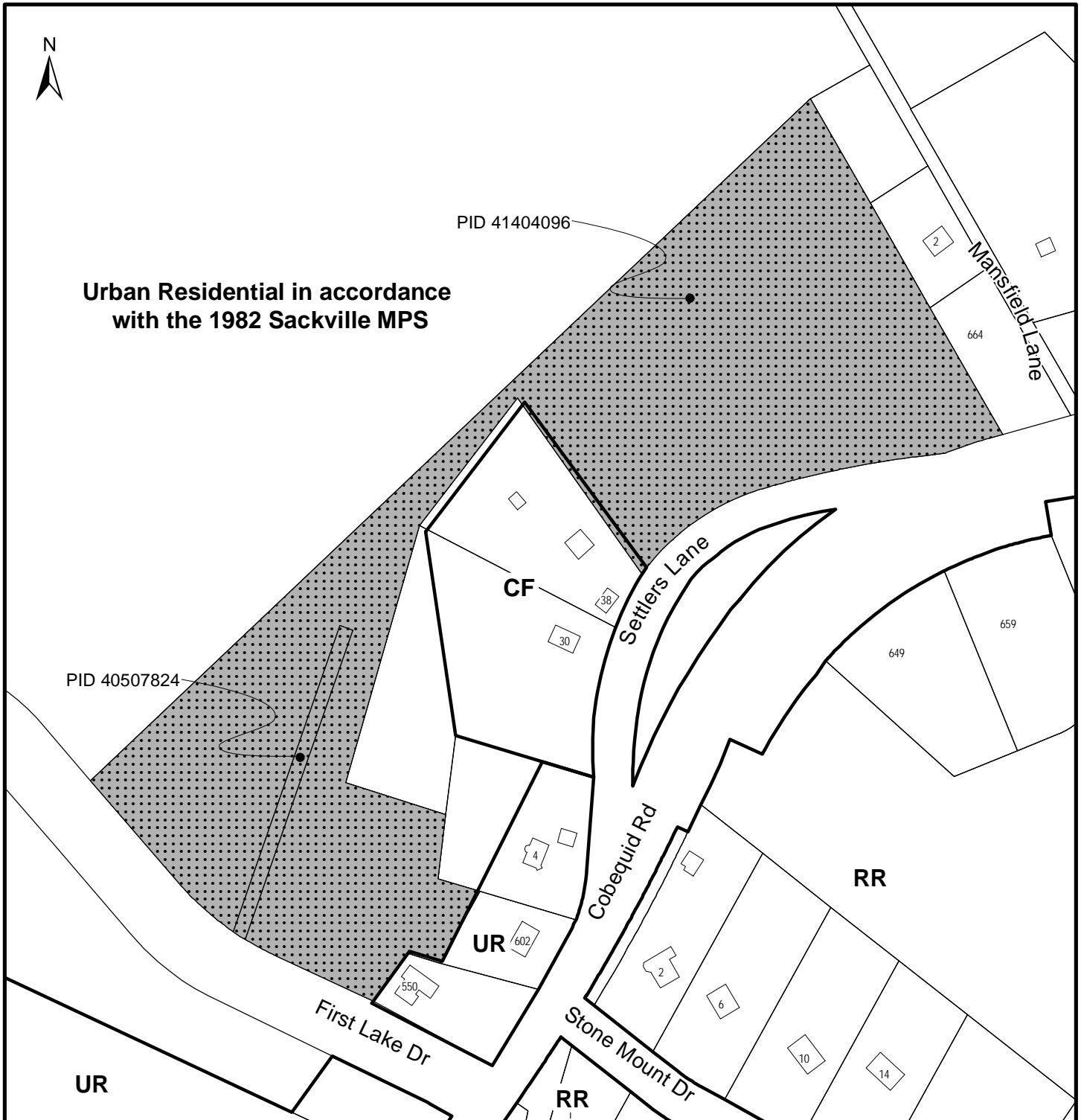
Regional Plan



**Urban Residential in accordance
with the 1982 Sackville MPS**

PID 41404096

PID 40507824



Map 2 - Generalized Future Land Use

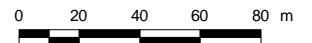
PIDs 41404096 & 40507824
Lower Sackville

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 Subject Sites

Designation

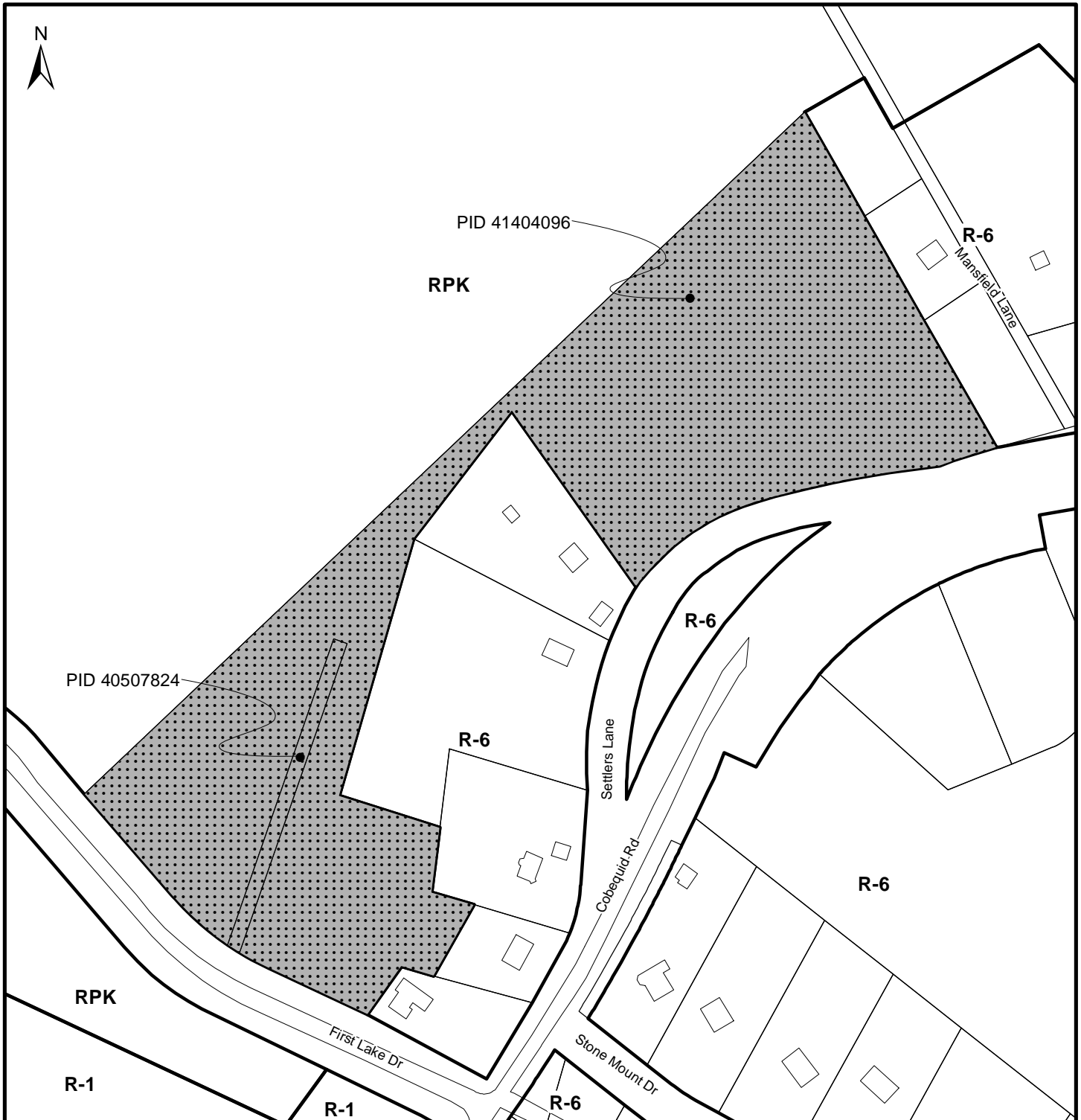
- RR Rural Residential
- CF Community Facility
- UR Urban Residential



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.


Sackville
Plan Area



Map 3 - Zoning

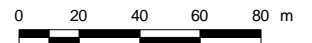
PIDs 41404096 & 40507824
Lower Sackville

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 Subject Sites

Zone

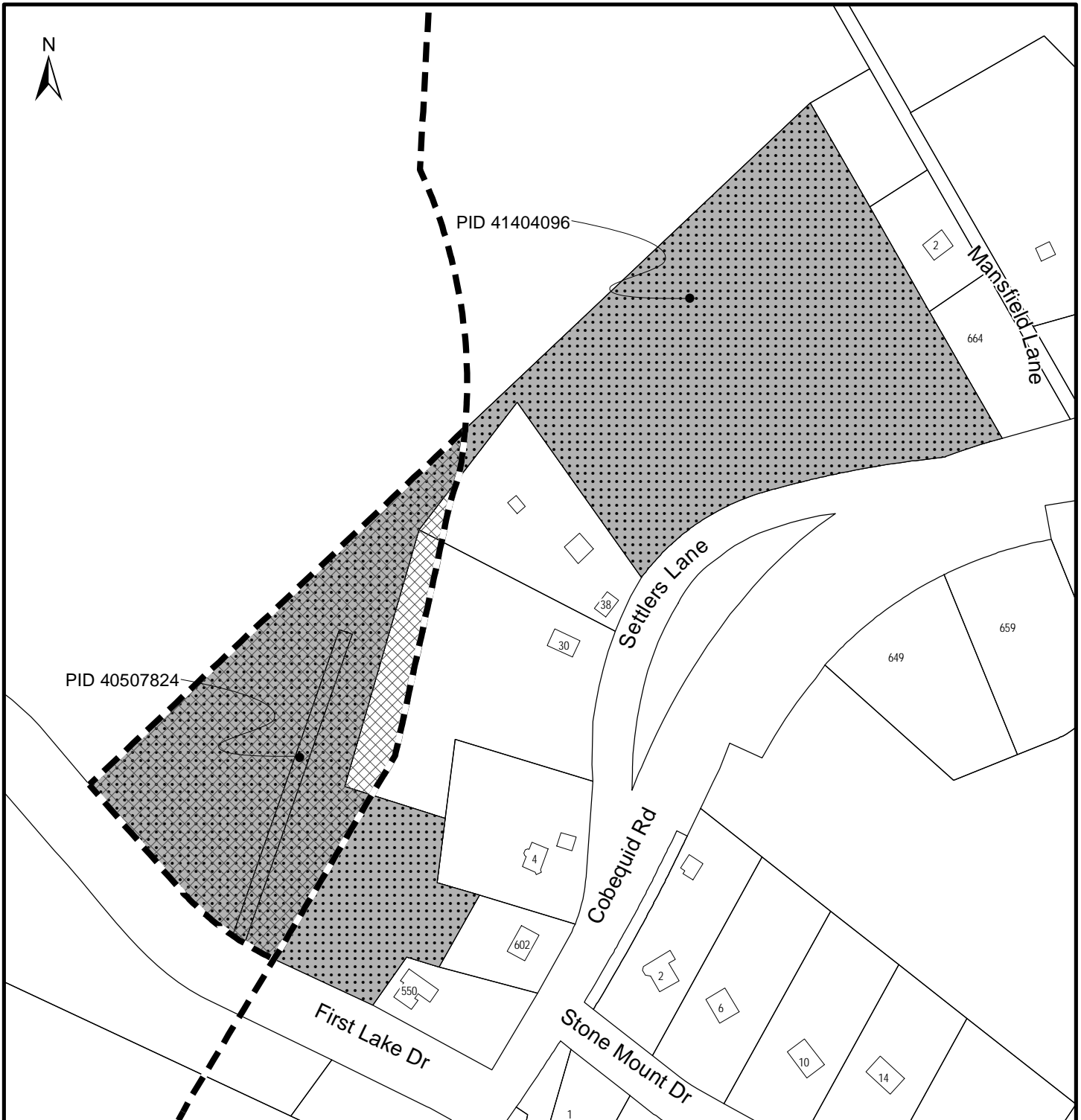
- R-1 Single Unit Dwelling Zone
- R-6 Rural Residential Zone
- RPK Regional Park Zone



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.




Sackville Land Use
By-Law Area

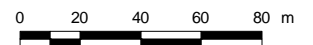


Map 4 - Municipal Water Service Boundary

PIDs 41404096 & 40507824
Lower Sackville

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-  Subject Sites
-  Municipal Water Service Boundary
-  Proposed Municipal Water Service Boundary Extension



Sackville
Plan Area

The accuracy of any representation on
this plan is not guaranteed.

Attachment A

Excerpt from the Regional Municipal Planning Strategy (MPS)

- E-4 Within all designations, HRM shall establish a Regional Park Zone under the land use by-law. This Zone shall generally be applied to all existing Federal Parks, Provincial Parks, Provincial Park reserves, non-designated Provincial Parks and Regional Park lands owned by HRM. This Zone shall permit recreation uses, park uses and other uses as provided by the existing secondary planning strategies for these areas. The Zone shall be applied to future lands acquired by HRM, the Province or the Federal Government for a Regional Park, upon delineation of the park boundaries.

Attachment B
Excerpt from the Sackville Land Use By-law (LUB)

PART 22A: RPK (REGIONAL PARK) ZONE (RC-Jun 25/14;E-Oct 18/14)

RPK USES PERMITTED

22A.1 No development permit shall be issued in any RPK (Regional Park) Zone except for the following:

- Recreation uses
- Conservation uses
- Uses accessory to the foregoing uses

RPK ZONE REQUIREMENTS

22A.2 In any RPK Zone, no development permit shall be issued except in conformity with the following:

- | | |
|---------------------------------|---|
| Minimum Front or Flankage Yard: | 20m |
| Minimum Side or Rear Yard: | 20m |
| Maximum Lot Coverage: | 50% for lots less than 4 ha in area, or
5% for lots 4 ha or more in area |

Attachment C – 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 C – 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;

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(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;

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- (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

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- (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.