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Item No. 10.1.1
North West Community Council
November 20, 2017
December 11, 2017

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Acting Director, Planning and Development

DATE: October 10, 2017

SUBJECT: **Case 20907: Amendment to the R-6 (Rural Residential) Zone of the Sackville Land Use By-law to permit pet care facilities in conjunction with a dwelling.**

ORIGIN

Application by Samantha Lowe.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that North West Community Council:

1. Give First Reading to consider approval of the proposed amendment to the Land Use By-law for Sackville, as set out in Attachment A, to allow pet care facilities in conjunction with permitted dwellings under the R-6 (Rural Residential) Zone and schedule a public hearing;
2. Adopt the amendments to the Land Use By-law for Sackville, as set out in Attachment A.

BACKGROUND

Samantha Lowe is applying to permit a pet care facility including a pet run at the properties at and near 96 Walker Service Road, Lower Sackville (called the subject site). The subject site has been used for agricultural purposes by TOC Farms and Bowlin Farms for many years. Agricultural uses are permitted as-of-right on the subject site, but pet care facilities are currently not defined or recognised in any zones of the Sackville Land Use By-law (LUB). Therefore, the applicant is seeking amendments to the Sackville LUB to allow pet care facilities in conjunction with permitted dwellings.

Subject Site	96 Walker Service Road, Lower Sackville (PID 40259731) 94 Walker Service Road, Lower Sackville (PID 40113300) PID 40070518 PID 40160566 PID 41026840 PID 40292484
Location	Lower Sackville
Regional Plan Designation	US (Urban Settlement) and RC (Rural Commuter)
Community Plan Designation (Map 1)	RR (Rural Residential) under the Sackville Municipal Planning Strategy (MPS)
Zoning (Map 2)	R-6 (Rural Residential) under the Sackville Land Use By-law (LUB)
Size of Site	A cumulative area of approximately 58.8 acres
Street Frontage	A cumulative frontage of 959.5 feet along Walker Service Road
Current Land Use(s)	Residential, Agricultural, Pet Care Facility
Surrounding Use(s)	Residential, Agricultural

Proposal Details

The applicant proposes to amend the R-6 Zone of the Sackville LUB to allow pet care facilities in conjunction with permitted dwellings. The major aspect of the proposal is to allow a pet care facility to permit the daytime care of dogs.

Enabling Policy and LUB Context

The subject site is designated Rural Residential under the Sackville Municipal Planning Strategy (MPS) and zoned R-6 (Rural Residential) under the Sackville Land Use By-law (LUB). Pet care facilities are currently not permitted under the R-6 Zone; however, an application to consider pet care facilities in conjunction with a dwelling may be considered under Policy RR-2 and the intent of the Rural Residential designation under the MPS. Policy RR-2 and the intent of the Rural Residential designation allow Council to consider other forms of residential development that are compatible with the traditional mix of low density residential and resource uses found in the area.

The Rural Residential Designation establishes the R-6 (Rural Residential) Zone and most properties zoned R-6 are within the Rural Residential Designation. Notwithstanding, there are several R-6 zoned properties within the Urban Residential designation. The proposal is being considered under the Rural Residential policies, but staff have also considered the intent of the Urban Residential Designation to ensure there are no conflicts. The intent of the Urban Residential Designation is to preserve existing residential development and allow for future residential development. Furthermore, the Urban Residential Designation allows for consideration of uses associated with single unit dwellings that are appropriate for the residential environment.

Current Land Use

The authorised use of the subject site is single unit dwelling and agricultural use for a family farm. In 2016, HRM staff became aware that Bowlin Farms Doggy Adventures was operating out of PIDs 40259731 and 40070518 without a permit. The property owner was advised to apply for a development permit. However, the permit could not be issued as pet care facilities are not permitted under the R-6 Zone. An application to amend the LUB was submitted to resolve the compliance issue and allow the pet care facility to expand to other properties owned by the Bowlin family in the future.

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, notification published in the April 8, 2017 newspaper, postcards mailed to property owners within the notification area. Only positive comments were received from two property owners regarding the following:

- the proposal would not impact surrounding residential properties in terms of noise and traffic; and
- the business provides a service for people in the area.

A public hearing must be held by North West 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 website will also be updated to indicate notice of the public hearing.

The proposal will potentially impact local residents and property owners.

North West Planning Advisory Committee

On May 3, 2017, the North West Planning Advisory Committee (PAC) recommended that the application be approved with consideration of other R-6 zoned properties that would be eligible for the proposed use and the maximum number of animals cared for at a time. The proposed amendments address PAC's concerns by including minimum lot area and setback requirements and limiting the number of pets permitted by lot size to ensure pet care facilities would not be developed in denser, urban residential neighbourhoods.

PAC also requested that more residents be notified about the proposal for the hearing than those who were sent postcard notifications (Map 2). PAC suggested that staff notify all properties owners that would be eligible for the proposed use and those abutting the eligible properties. Staff explored expanding the notification area to all R-6 zoned properties that meet the minimum lot area under the proposed amendments, but this would incur significant mailing costs at the applicant's expense. Further, staff advise that the proposed provisions minimize the potential of the proposed use occurring in other areas. A report from the PAC to Community Council will be provided under separate cover.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed LUB amendments that would allow pet care facilities in conjunction with permitted dwellings under the R-6 Zone.

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 have been identified for more detailed discussion.

Existing Requirements for Pet Care Facilities

Pet care facilities have been addressed differently across HRM's various land use by-laws. Today, a wider range of services are being offered for domestic animals compared to when many of the by-laws were established. These services include the keeping of pets temporarily, during the daytime. Our LUBs, generally, do not distinguish between these types of services. Most of our LUBs permit agricultural uses and kennels for the keeping of animals. However, these uses also include the breeding and overnight keeping of animals for commercial purposes.

In previous applications for kennels, the community expressed great concern for the breeding of dogs and as such, kennels were deemed inappropriate in various residential areas. Where there is enabling policy,

applications for pet care facilities have, in many cases, been approved as kennels through the development agreement process. More recently, however, amendments to the municipal planning strategy and land use by-law to permit pet care facilities have been approved in Lawrencetown and in Planning Districts 14 & 17 (Shubenacadie Lakes). Staff recognise that pet care facilities are different from kennels and agricultural uses as they do not include the breeding and overnight keeping of animals.

Pet Care Facilities in Planning Districts 14 & 17 – An Example

In 2009, Harbour East Community Council and Marine Drive, Valley and Canal Community Council approved amendments to the R-6 (Rural Residential) Zone of the Land Use By-law for Planning Districts 14 & 17 to permit pet care facilities in conjunction with permitted dwellings. Pet care facilities were defined to differentiate them from kennels. Furthermore, provisions for pet care facilities were added to the zone including minimum lot frontage, lot area, gross floor area and setback requirements. A similar approach is proposed for the current application.

Compatibility of Use

Most R-6 zoned properties in Sackville are within established residential areas (see Map 3). Properties adjacent to the subject site are used predominantly for low density residential and resource purposes; however, a few multiple unit residences do exist in proximity to the site. The R-6 Zone also permits limited commercial uses, in conjunction with single unit dwellings, and agricultural uses. The structures typically used for pet care facilities are similar to structures constructed for farm operations. The key compatibility concerns include:

- establishing pet care facilities in denser residential areas;
- allowing too many pets, which can result in noise complaints;
- contaminating watercourses; and
- constructing large buildings for the keeping of pets within a residential neighbourhood.

To address the compatibility concerns, the proposed amendments include permitting pet care facilities in conjunction with permitted dwellings as a home-based business, provided they meet requirements for the following:

- minimum lot area and frontage;
- lot coverage;
- separation from residential dwellings;
- setback from the street;
- setback from watercourses; and
- number of pets permitted.

The proposed requirements are consistent with those for residential and resource uses within the R-6 Zone. Approximately 1,300 lots are zoned R-6 in Sackville (refer to Maps 3 and 4). Only 200 of these properties meet the proposed minimum lot area requirement for pet care facilities, and many would face difficulties meeting setback requirements. The proposed requirements are intended to prevent the development of pet care facilities in denser residential neighbourhoods. Where there is sufficient land area and appropriate separation distances, the proposed use is compatible with the rural residential context.

The proposed amendments also allow a pet care facility to operate on a lot abutting the principal dwelling. This provision respects the applicant's request to permit the existing 40 dog operation and to give them the ability to expand in the future, without requiring lot consolidation and taking away their subdivision exemptions. While this provision benefits the applicant, staff were concerned this could create pet care facility developments in denser residential neighbourhoods. Upon further review, staff advise that it is highly unlikely that smaller properties, especially within the Urban Residential Designation, would run a pet care facility on lots abutting the principal dwelling since most of these lots are in separate ownership.

Number of Pets Permitted

There is no limit to the number of farm animals allowed under the R-6 Zone. The maximum number of dogs permitted for a pet care facility under the LUB for Lawrencetown and Districts 14 & 17 is twelve (12) dogs.

Furthermore, the minimum lot area for pet care facilities under the Rural Residential zones of the LUBs for Lawrencetown and Districts 14 & 17 is 80,000 square feet. These standards have been used to develop the proposed amendments to the R-6 Zone under the Sackville LUB.

The subject site is comprised of six properties, two of which have single family homes. The properties are all owned by the Bowlin family and have been used for the family farm for years. The subject site is relatively large when compared to the majority of lots zoned R-6. The applicant currently has approximately 40 dogs and wants the option to expand her business if the opportunity arises. The proposed amendments allow 40 dogs on the property they are already operating from and allows them to expand the business in the future. There is sufficient land area on properties that abut the principal dwelling to accommodate more pets.

Daytime Care

Pet Care Facilities offer the temporary care of pets during the daytime. Adding a definition to the LUB is recommended to distinguish a pet care facility from a kennel and to confirm it is for the daytime care of pets and does not include breeding and overnight boarding.

Outdoor Pet Run

The proposed amendments include requirements for an outdoor fenced pet run. Any area for the pets to run will therefore require a development permit. Staff can then ensure the area is secured appropriately from adjacent residential properties.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the MPS. Pet care facilities in conjunction with permitted dwellings offer another form of residential use under the R-6 Zone and are compatible with the mix of single unit residential, limited commercial, and resource uses of the neighbourhood. Therefore, staff recommend that North West Community Council approve the proposed LUB amendment.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2017/2018 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 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.

ALTERNATIVES

1. North West Community Council may choose to approve the proposed LUB amendment subject to modifications. Such modifications may require further discussion with the applicant and may require a supplementary report or another public hearing. 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*.

2. North West 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*.

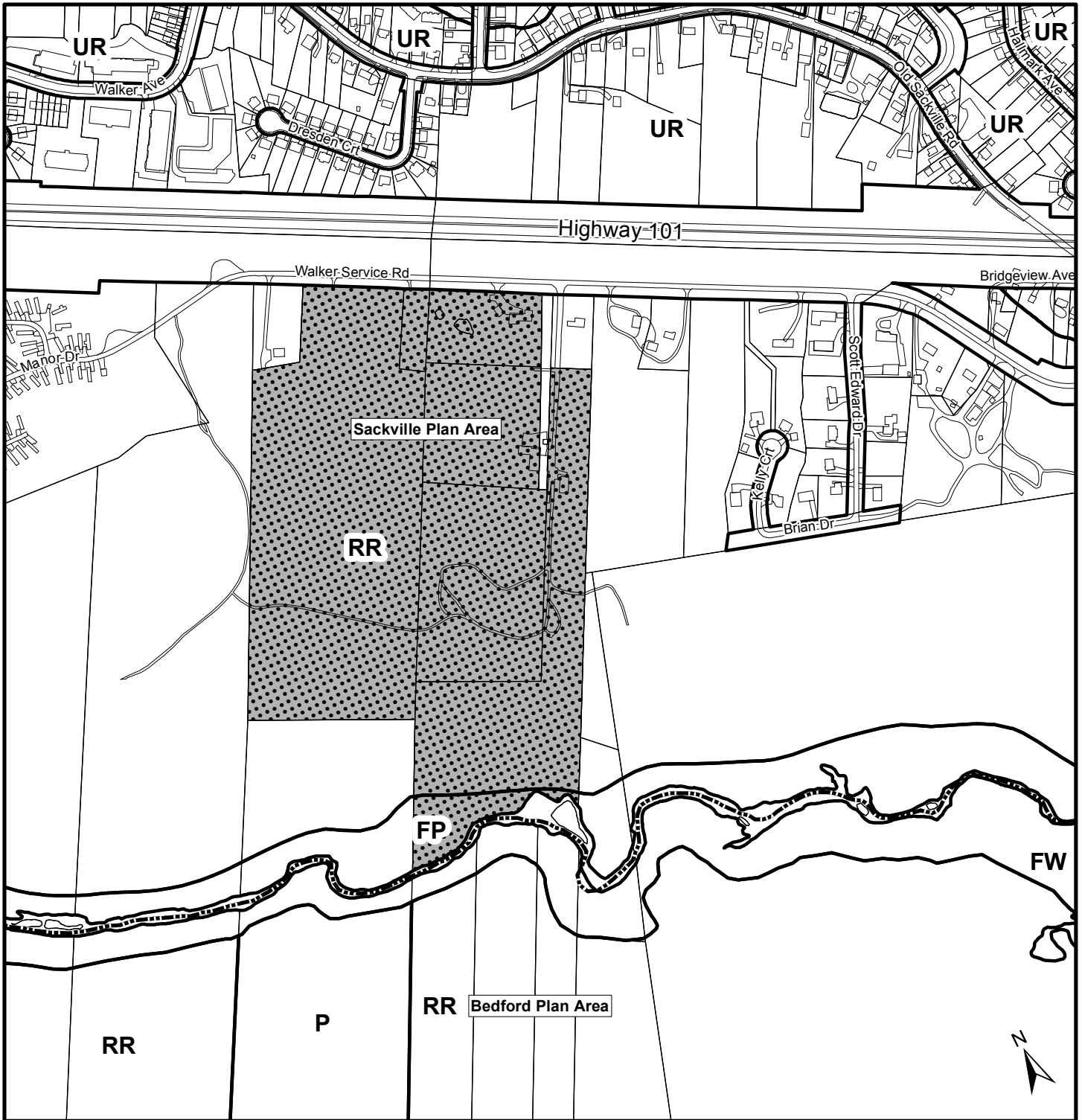
ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Map 3:	R-6 Zoned Properties in the Sackville Land Use By-law Area
Map 4:	R-6 Properties within UR Designation
Attachment A:	Proposed LUB Amendment
Attachment B:	Review of Relevant 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.


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Report Approved by: Original Signed
Carl Purvis, Program Manager, Current Planning, 902.490.4797



Map 1: Generalized Future Land Use

96 Walker Service Road
Sackville

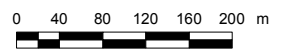
 Subject Properties

Sackville Designations

- UR Urban Residential
- RR Rural Residential
- FP Flood Plain

Bedford Designations

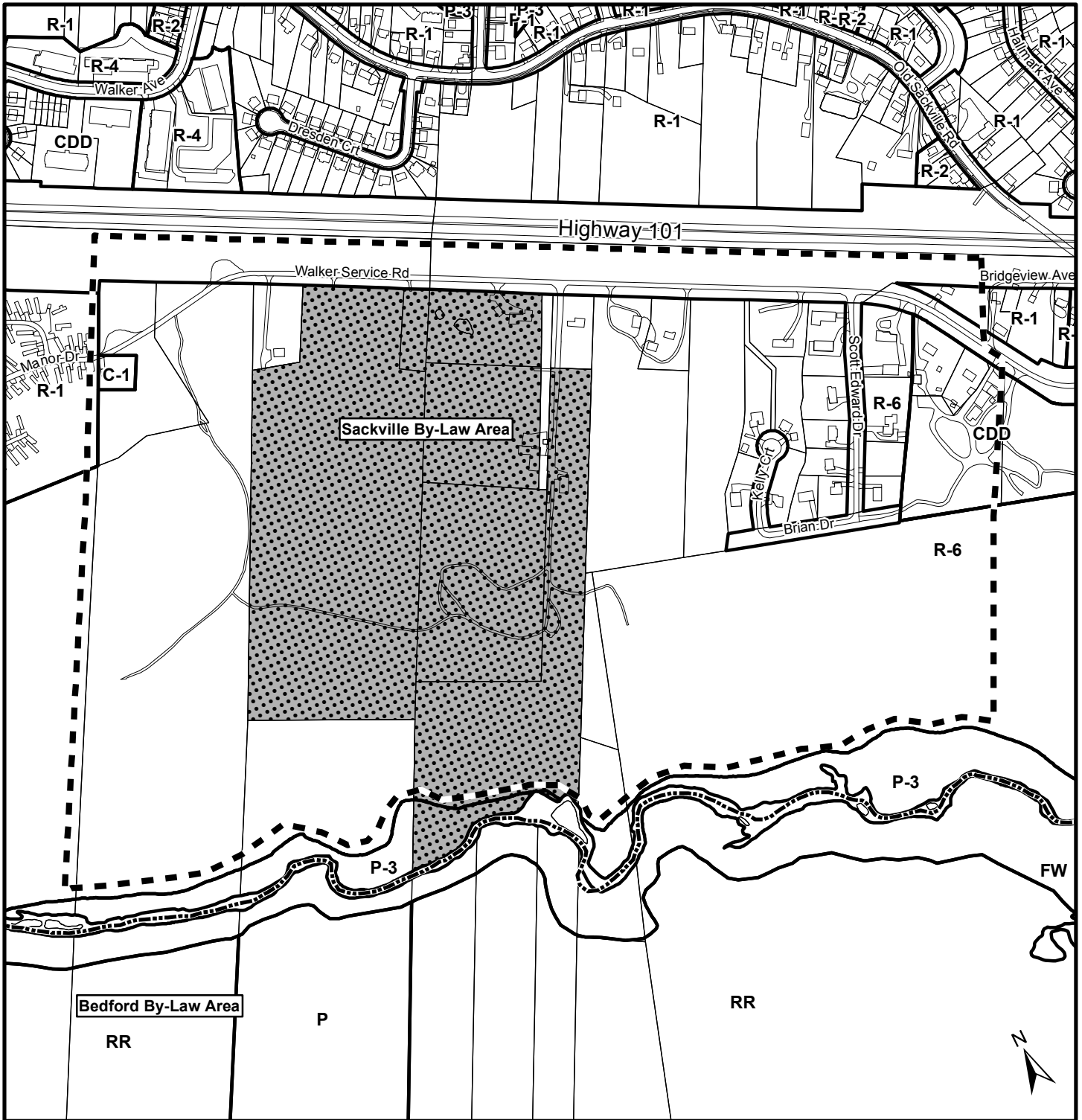
- RR Residential Reserve
- P Park and Recreation
- FW Floodway



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 2: Zoning & Notification

96 Walker Service Road
Sackville

 Subject Properties

 Notification Area

Sackville Land Use
By-Law Area

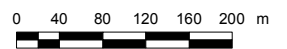
Sackville Zones

- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-4 Multiple Unit Dwelling
- R-6 Rural Residential
- C-1 Local Business
- P-1 Open Space
- P-3 Floodplain
- CDD Comprehensive Development District

Bedford Zones

- RR Residential Reserve
- FW Floodway
- P Park

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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.



Map 3: R-6 Zoned Properties in the Sackville Land Use By-Law Area

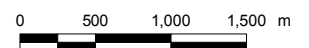
96 Walker Service Road
Sackville

-  Subject Properties
-  Sackville Community Plan Area
-  R-6 Zoned Lands

Sackville Land Use
By-Law Area

30 August 2017

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



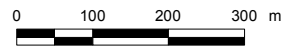
Map 4: R-6 Properties within UR Designation

Sackville

 R-6 zoned properties

Designations

- UR Urban Residential
- RR Rural Residential



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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Sackville Plan Area

ATTACHMENT A

Proposed Amendments to the Sackville Land Use By-law R-6 Zone

BE IT ENACTED by the North West Community Council of the Halifax Regional Municipality that the Sackville Land Use By-law is hereby further amended as follows:

1. Add the following two definitions after Section 2.56 under Part 2, the definition for Personal Service Use:

PET CARE FACILITY means a facility, including a pet run, for the temporary care or boarding of domestic pets for gain or profit, but shall not include the overnight boarding of pets, a kennel or sale of such animals.

PET RUN means a fenced outdoor area where pets are permitted to roam in association with a pet care facility.

2. Amend Section 12.1 by adding “**Pet care facility in conjunction with permitted dwellings**” to the list of permitted Residential Uses, immediately below “Business uses in conjunction with permitted dwellings” and before “Resource Uses”.
3. Add the following section immediately after Section 12.7:

12.8 OTHER REQUIREMENTS: PET CARE FACILITIES

Notwithstanding the provisions of Section 12.2, where a pet care facility is permitted in any R-6 Zone, the following shall apply:

(a) **Any building or structure intended for use as a pet care facility may be located on a lot which directly abuts or is directly across a private road or private right-of-way from the lot containing the principal dwelling.**

(b) **Minimum lot area: 80,000 square feet (7,432 square metres)**

For the purposes of this section, where the pet care facility operates on more than one lot, lot area is defined as the cumulative lot area of all lots used for the pet care facility, including the lot containing the principal dwelling.

(c) **Minimum frontage: 100 feet (30.5 metres)**

(d) **Pet Density: 7 pets per acre (4,047 square metres)**

For the purposes of this section, where the pet care facility operates on more than one lot, the pet density is calculated based on the cumulative area of all lots used for the pet care facility, including the lot containing the principal dwelling.

(e) **Any building or part thereof intended for use as a pet care facility shall conform to the following requirements:**

(i) **Minimum front or flankage yard: 100 feet (30.5 metres)**

(ii) **Minimum side and rear yard: 50 feet (15.2 metres)**

(iii) **Maximum lot coverage: 35 percent**

- (iv) a minimum distance of 100 feet (30.5 metres) shall be maintained for any pet run from any dwelling or potable water supply that is not located on the same lot as the principal dwelling;**
- (v) a minimum setback of 200 feet (91.4 metres) shall be maintained for any pet run from any watercourse;**
- (vi) a minimum setback of 20 feet shall be maintained for any pet run from the streetline;**
- (vii) any pet run shall be completely enclosed by a fence having a minimum height of 1.8 metres and including any gate constructed in the same manner and height as the enclosure.**

I HEREBY CERTIFY that the amendments to the Sackville Land Use By-law, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of , 2017.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this day of , 2017.

Municipal Clerk

ATTACHMENT B
REVIEW OF RELEVANT MPS POLICIES

The subject site is designated Rural Residential under the Sackville Municipal Planning Strategy. The proposal can be considered under Policy RR-2 and the intent of the Rural Residential designation.

Relevant Policy	Comment
Section III – Land Use Intent Rural Residential Designation	
<p><i>The intent of the Rural Residential Designation is to recognize the semi-rural character of the areas designated, particularly their traditional mix of low density residential and resource uses. In order to accommodate other uses which are compatible with the surrounding neighbourhood, it shall be the intent of the planning strategy to consider, by amendment to the land use by-law, other forms of residential development and local commercial uses. Residential care facilities, larger day care facilities, bed and breakfast establishments and salvage yards will be considered by development agreement.</i></p>	<p>The proposal meets the intent of the Rural Residential (RR) designation. The designation supports low density residential, community commercial, and agricultural (resource uses). The intent of the RR designation allows for consideration of other forms of residential development and commercial uses through amendments to the LUB provided they are compatible with the RR neighbourhood. Pet care facilities in conjunction with a dwelling is a land use that can be compatible with low density residential development provided there are restrictions to ensure compatibility, The Rural Residential designation allows agricultural uses and Pet Care Facilities require an outdoor area for pets to run, similar to an area that would be used for the traditional breeding and handling of animals for agricultural purposes. The proposed use is compatible with the traditional mix of low density residential and agricultural uses permitted in the zone.</p>
Preamble for Rural Residential Designation	
<p><i>...This area has been designated as Rural Residential, which is intended to reflect the existing residential environment by permitting a mix of single unit residential and resource uses while acknowledging the need to accommodate other forms of residential development and compatible local commercial uses.</i></p>	<p>The proposed pet care facility in conjunction with a dwelling is consistent with the existing low density neighbourhood with resource uses. The subject site has existing dwellings on two of the properties. TOC Farms and Bowlin Farms have been operating from the properties for several years. Pet care facilities offer a less intensive operation than a traditional farm but also require a large outdoor area for the animals to run. The proposed use is compatible with the</p>

	traditional RR mix of low density housing and agricultural uses.
Policy RR-2	
<i>Within the Rural Residential Designation, it shall be the intention of Council to establish a rural residential zone, which permits single unit dwellings, most community facility uses, agricultural, fishing, forestry and open space uses. In addition, the land use by-law shall provide for limited business and day care uses within a dwelling where such is compatible with the rural nature of the area. In addition, the zone shall control parking and the number and size of signs, and prohibit open storage and outdoor display.</i>	The proposal can be considered as an amendment to the rural residential (R-6) zone. A pet care facility in conjunction with a dwelling can be considered as another form of residential development under the list of residential uses permitted in the R-6 zone. The proposal includes adding specific requirements in the zone for pet care facilities to ensure the use is limited and compatible with the rural residential character of the neighbourhood. Proposed amendments to the zone include requirements for fencing, minimum lot area and frontage, pet density, and setbacks from dwellings and watercourses to address compatibility concerns. Furthermore, the proposed requirements aim to prevent compatibility concerns for smaller lots within and close to the serviceable boundary.
Section III – Land Use Intent Urban Residential Designation	
<i>The intention of the Urban Residential Designation is to protect the residential environment of the community while allowing for a variety of housing types and other uses which are compatible with continuing residential development. Within this designation, single unit dwellings, as well as those associated activities which are typical and appropriate to the existing residential environment shall be permitted...</i>	While the Rural Residential (RR) Designation establishes the R-6 (Rural Residential) Zone, there are several R-6 zoned properties within the Urban Residential (UR) designation. Most of these properties do not meet the minimum lot area required for pet care facilities in the proposed amendments and it would be difficult to meet setback requirements. These requirements protect the urban residential environment. In addition, it is unlikely that pet care facilities would develop on properties within the UR designation using abutting properties to meet the lot area requirement. The majority of these properties are held in separate ownership.