



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

**Item No. 13.1.1**  
**North West Community Council**  
**July 9, 2018**

**TO:** Chair and Members of North West Community Council

**SUBMITTED BY:** Original Signed  
\_\_\_\_\_  
Kelly Denty, Acting Director, Planning and Development

Original Signed  
\_\_\_\_\_  
Dave Reage, Acting Chief Administrative Officer

**DATE:** June 18, 2018

**SUBJECT:** Case 21564: Rezoning of 65 Halfway Lake, Hammonds Plains

**ORIGIN**

Application by Nicolette Nicholas.

**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 Beaver Bank, Hammonds Plains and Upper Sackville, as set out in Attachment A, to rezone 65 Halfway Lake, Hammonds Plains from the R-1 (Single Unit Dwelling) Zone to the R1-A (Auxiliary Dwelling) Zone and schedule a public hearing; and
2. Adopt the amendment to the Land Use By-law for the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area, as set out in Attachment A.

## **BACKGROUND**

Nicolette Nicholas is applying to rezone 65 Halfway Lake Drive from the R-1 (Single Unit Dwelling) Zone to the R-1A (Auxiliary Dwelling) Zone to permit an auxiliary dwelling unit within the existing dwelling.

<b>Subject Site</b>	65 Halfway Lake Drive, Hammonds Plains
<b>Location</b>	West of Halfway Lake, near the Intersection of Halfway Lake Drive and Kipawa Crescent
<b>Regional Plan Designation</b>	Rural Commuter
<b>Community Plan Designation (Map 1)</b>	Residential
<b>Zoning (Map 2)</b>	R-1 (Single Unit Dwelling) Zone
<b>Size of Site</b>	0.47 hectares (1.16 acres)
<b>Street Frontage</b>	35 meters (115 feet)
<b>Current Land Use(s)</b>	Single Unit Dwelling, Auxiliary Dwelling Unit & Accessory Structure
<b>Surrounding Use(s)</b>	Residential Uses

### **Proposal Details**

The applicant recently purchased 65 Halfway Lake Drive, Hammonds Plains which contains a single unit dwelling, an auxiliary dwelling unit, and an accessory structure. The applicant believed that the necessary HRM approvals were obtained by the previous property owner; however, a recent land use compliance case determined that the auxiliary dwelling unit was not approved by HRM, nor does the property conform to the R-1 (Single Unit Dwelling) Zone. As such, the applicant has applied to rezone the property to the R-1A (Auxiliary Dwelling) Zone in order to bring the 70.4 square metre (758 square foot) auxiliary dwelling unit into conformance.

### **Enabling Policy and LUB Context**

The subject site is located within the Residential Designation of the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area Municipal Planning Strategy (MPS). The designation recognizes the suburban character of low-density residential subdivisions on local roads, and aims to preserve this low-density environment by restricting new residential development to single unit dwellings. This application can be considered in accordance with Policy P-37 of the MPS, which allows Council to consider auxiliary dwelling units via rezoning to the R-1A Zone.

The subject property is zoned R-1 which permits new single unit dwellings, bed & breakfasts, and offices and day care facilities in conjunction with permitted dwellings. The R-1A Zone permits R-1 uses, in addition to auxiliary dwelling units as per Section 7.3 (See Attachment C). An auxiliary dwelling unit is defined as “a self-contained dwelling unit within a single unit dwelling which is secondary to the main residential use of the property and does not exceed forty (40) percent of the gross floor area of the main structure”.

## **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, postcards mailed to property owners within the notification area, and a public information meeting, which was held on Monday, May 7, 2018. Attachment D contains a copy of the minutes from the meeting. The public requested clarification on the following topics:

- The number of boarders at the subject property;
- If the property could become a boarding house;
- If the application will alter the use of the existing accessory structure; and
- If the application will impact the designation and/or zoning of nearby properties.

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 June 8, 2018, the North West Planning Advisory Committee (PAC) recommended that the application be approved. A report from the PAC to Community Council will be provided under separate cover.

### **DISCUSSION**

Staff has 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 Land Use By-law amendment that would bring the existing auxiliary dwelling unit into conformance with municipal requirements.

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:

#### **Compatibility of Proposed Use**

The properties surrounding the subject lot are located in the Residential Designation and the R-1 Zone, and contain single unit dwellings. As such, they too are eligible to submit an application under Policy P-37.

Although the property would be afforded all development rights of the R-1A Zone, the applicant has indicated the dwelling's front façade and exterior appearance will not be altered if the subject application is approved. The intent of the application is to merely bring what exists into conformance with the LUB. The proposed dwelling and auxiliary unit would meet the setback and building height requirements of the R-1A Zone which are identical to those in the R-1 Zone. Further, the proposed auxiliary dwelling unit is less than 40 percent of the dwelling's gross floor area. Staff advise that the consideration of an auxiliary dwelling unit on the subject property is compatible with the surrounding low density residential neighbourhood.

#### **Boarding and Rooming House**

The Land Use By-law for the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area defines a rooming and boarding house as *"a dwelling in which the proprietor supplies either room or room and board, for monetary gain, to more than three (3) but not more than six (6) persons, exclusive of the owner of the building or members of his family, and which building is not open to the general public."*

Boarding and rooming houses are not permitted in the R-1 or R-1A Zone. An HRM Compliance Officer inspected the subject lot and determined it was not being used for such purposes. The applicant has indicated that she intends to supply rooms to a maximum of three persons, exclusive of members of her family. Given that this is fewer than the threshold of more than 3 persons as stated in the definition of Boarding and Rooming House, no compliance issues are anticipated.

#### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. An auxiliary unit dwelling is suitable for the subject property and compatible with the surrounding low density residential neighbourhood. Therefore, staff recommend that the North West Community Council approve the proposed rezoning as set out in Attachment A.

## **FINANCIAL IMPLICATIONS**

The HRM cost associated with processing this planning application can be accommodated with the approved 2018-2019 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
Attachment A:	Proposed LUB Amendment
Attachment B:	Review of Relevant MPS Policies
Attachment C:	Excerpt from the LUB
Attachment D:	Public Information Meeting Minutes

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jesse Morton, Planner II, 902.490.4844

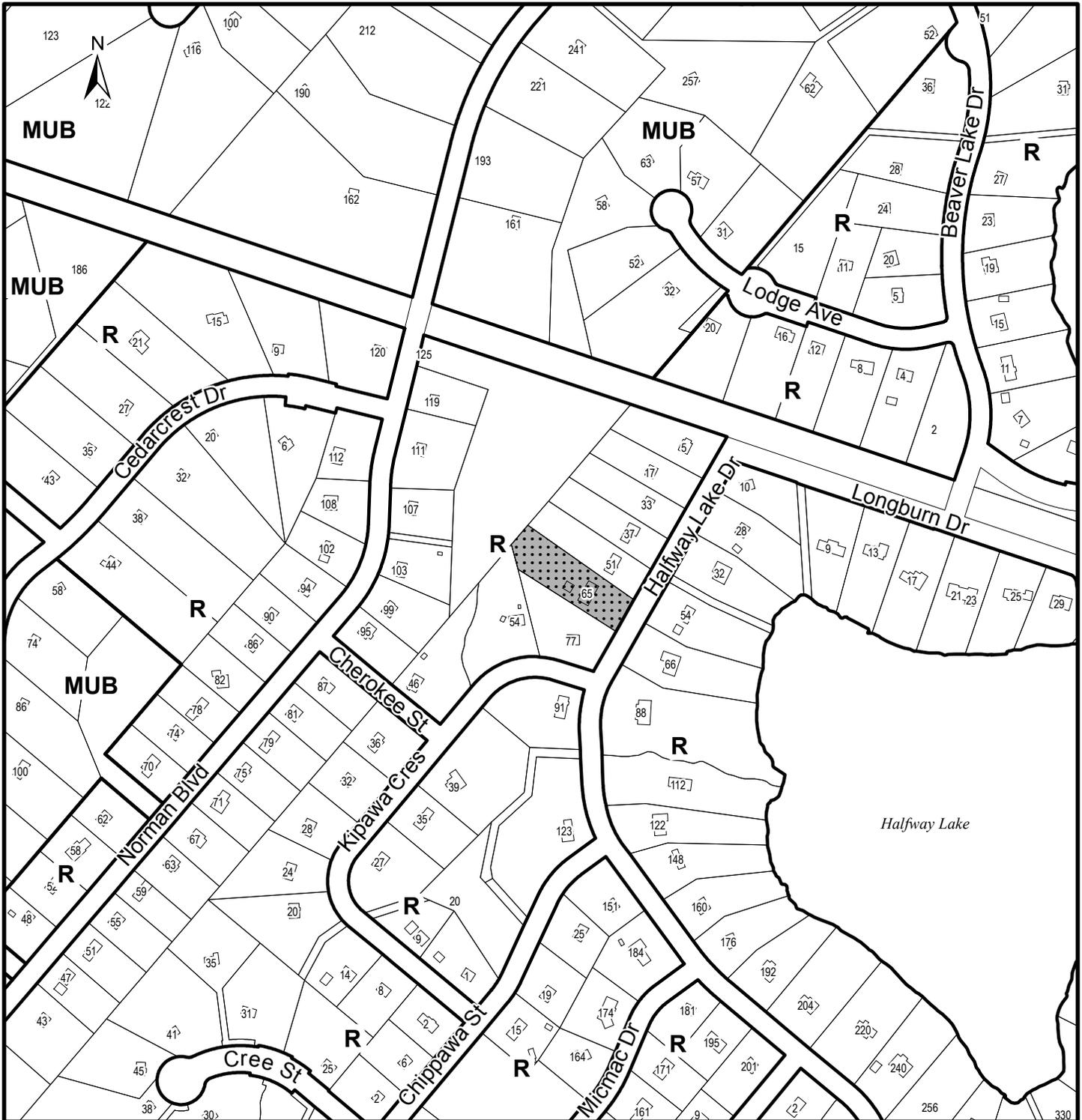
Original Signed

Report Approved by:

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Carl Purvis, Acting Manager of Current Planning, 902.490.4797

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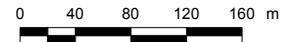
**Map 1 - Generalized Future Land Use**

65 Halfway Lake Dr.  
Hammonds Plains



Subject Property

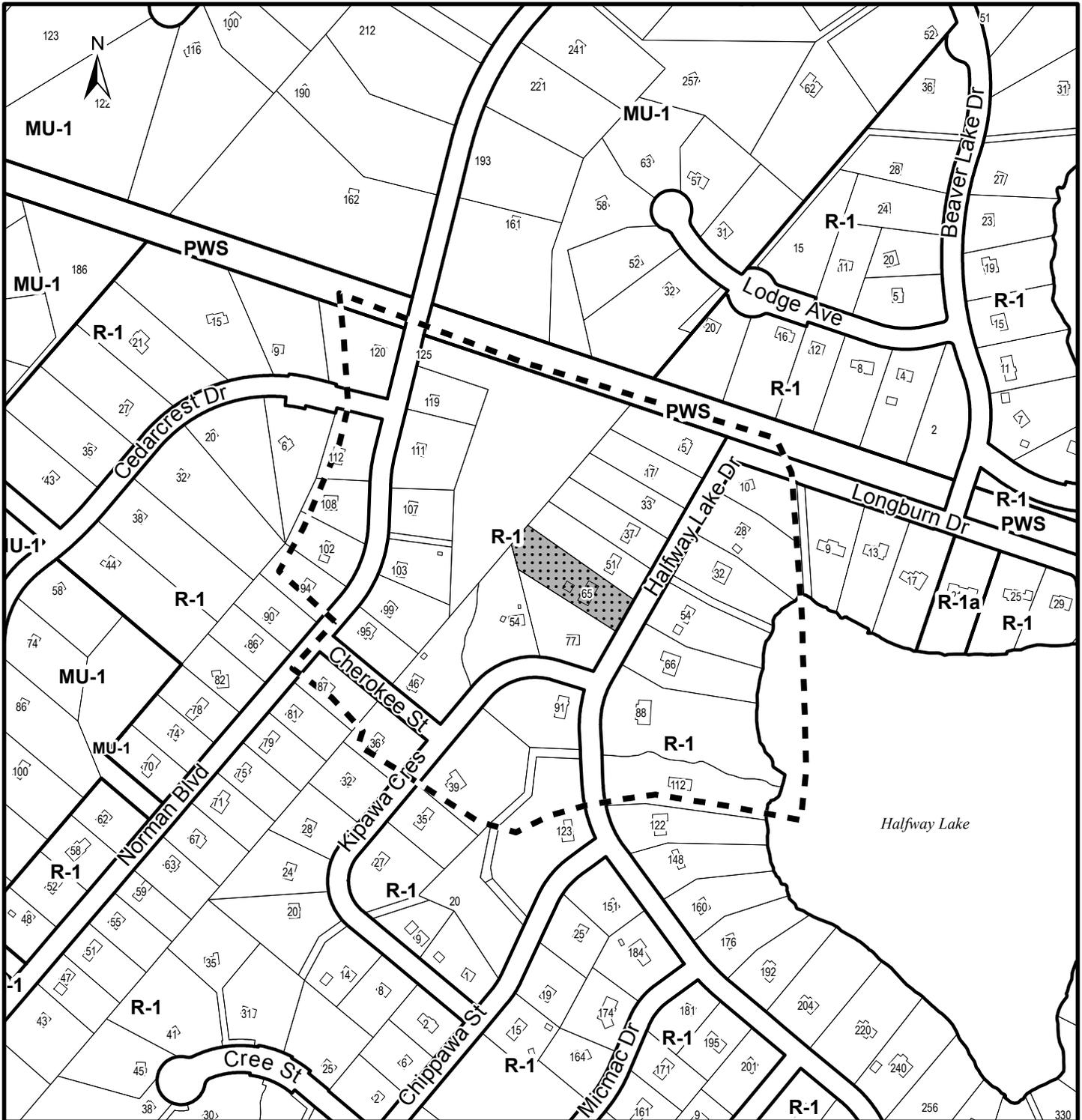
**Designation**  
R Residential  
MUB Mixed Use B



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.

Beaver Bank, Hammonds Plains and Upper Sackville Plan Area



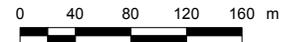
**Map 2 - Zoning**

65 Halfway Lake Dr.  
Hammonds Plains

**HALIFAX**

-  Subject Property
-  Area of Notification

- Zone**
- R-1 Single Unit Dwelling
  - MU-1 Mixed Use 1
  - PWS Protected Water Supply



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.

Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-Law Area

**ATTACHMENT A:**

**Proposed Amendment to the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville**

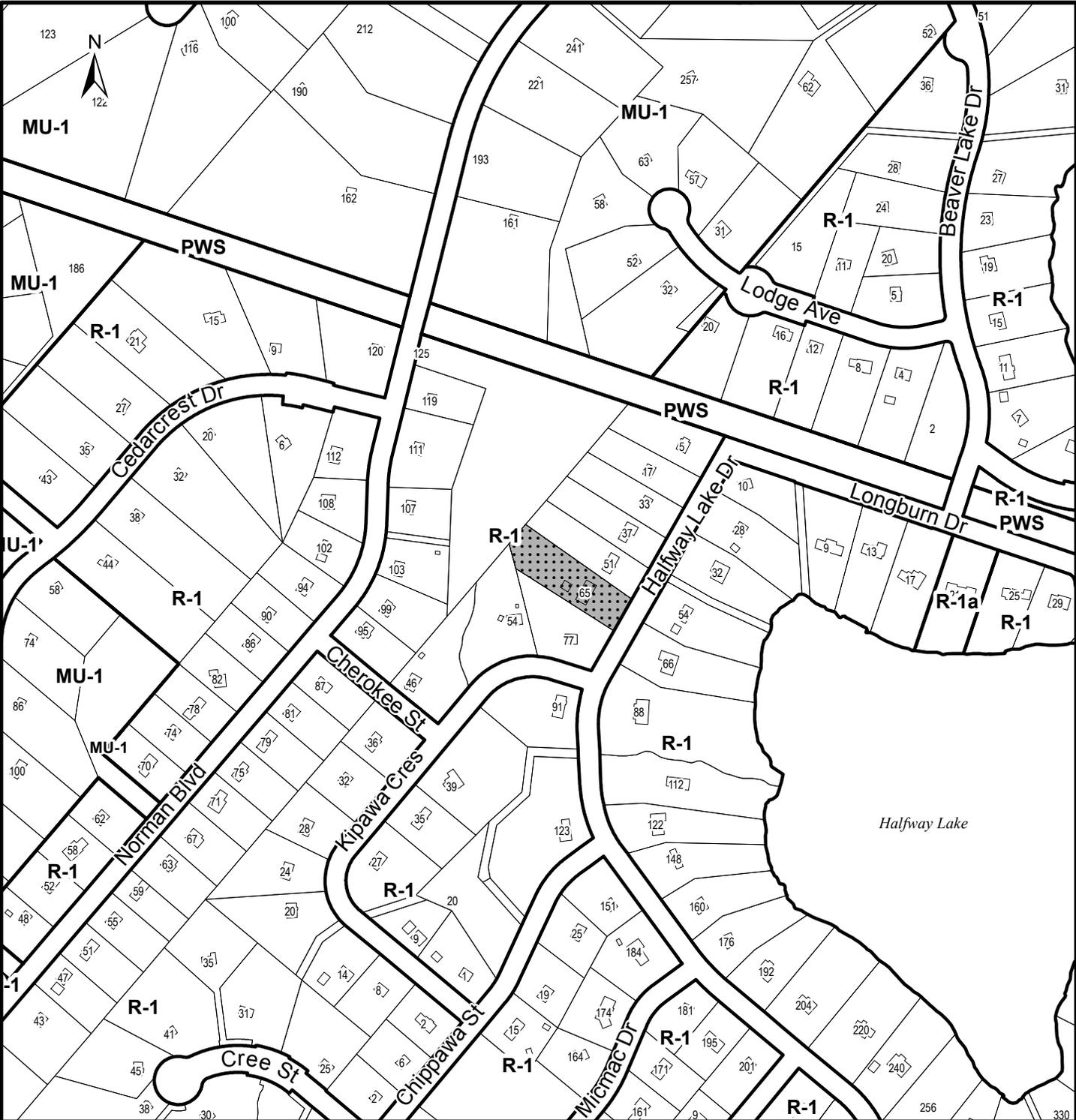
**BE IT ENACTED** by the North West Community Council of the Halifax Regional Municipality that the Land Use By-law for the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area is hereby further amended as follows:

1. The Zoning Map (Zoning Schedule 1-B) of the Land Use By-law for the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area, shall be amended by rezoning 65 Halfway Lake Drive, Hammonds Plains, from the R-1 (Single Unit Dwelling) Zone to the R-1A (Auxiliary Dwelling) Zone, as illustrated in Schedule A attached hereto.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the North West Community Council of Halifax Regional Municipality held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GIVEN under the hand of the municipal clerk and under the Corporate Seal of the said Municipality this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Municipal Clerk



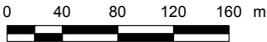
**Schedule A**  
 65 Halfway Lake Dr.  
 Hammonds Plains



 Area to be Rezoned from R-1 (Single Unit Dwelling) to R-1A (Auxiliary Dwelling)

**Zone**

R-1	Single Unit Dwelling
MU-1	Mixed Use 1
PWS	Protected Water Supply



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.

Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-Law Area

**ATTACHMENT B**  
**REVIEW OF RELEVANT MPS POLICIES**

Policy	Comment
<i><b>P-37</b> Within the Residential Designation, it shall be the intention of Council to consider permitting auxiliary dwelling units by rezoning to the Auxiliary Dwelling Unit (R-1A) Zone with regard to the following:</i>	
<p>(a) the maximum gross floor area of any auxiliary dwelling unit shall not exceed forty (40) percent of the gross floor area of the dwelling;</p> <p>(b) there shall be no more than one (1) entrance along the front wall of the dwelling;</p> <p>(c) the power meter for the auxiliary dwelling unit shall not be located on the front facade of the building;</p> <p>(d) one off-street parking space shall be provided for any single unit dwelling containing an auxiliary dwelling unit; and</p> <p>(e) the provisions of Policy P-137.</p>	Staff reviewed the application and clauses (a) through (d) have been satisfied. Specifically, the auxiliary dwelling unit comprises less than 20% of the dwelling's gross floor area; only one entrance is present on the dwelling's front wall; only one power metre exists on the front façade; and the property contains sufficient area for parking. Final confirmation of compliance will be completed at the permit stage.
<i><b>P-137</b> In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:</i>	
(a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;	Policy P-37 allows for the consideration of new auxiliary dwelling units within the Residential Designation, through the rezoning process. The criteria listed in Policy P-37 (See Above) exist to reduce the impacts that auxiliary dwelling units have on the surrounding residential environment. The surrounding properties are zoned R-1, designated Residential, and eligible for the same rezoning request. The current proposal is in conformity with the intent of the MPS.
(b) that the proposal is not premature or inappropriate by reason of:	
(i) the financial capability of the Municipality to absorb any costs relating to the development;	The proposed development does not impose any costs to the Municipality.
(ii) the adequacy of central or on-site sewerage and water services;	Existing on-site services support both the single unit dwelling and auxiliary dwelling unit. It shall be confirmed that the necessary servicing regulations are satisfied at the permit stage.
(iii) the adequacy or proximity of school, recreation or other community facilities;	The proposal does not pose any significant demands for surrounding community facilities and schools.
(iv) the adequacy of road networks leading or adjacent to or within the development; and	The road network leading to the proposed development is sufficient.
(v) the potential for damage to or for destruction of designated historic buildings and sites.	N/A
(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:	
(i) type of use;	The proposed use is compatible with the surrounding uses and would meet the requirements of the R-1A Zone.

<i>(ii) height, bulk and lot coverage of any proposed building;</i>	The dwelling's exterior will not be modified if this application is approved; the proposed development meets the requirements of the R-1A Zone.
<i>(iii) traffic generation, access to and egress from the site, and parking;</i>	Engineering staff have reviewed the application and have not identified any concerns with access.
<i>(iv) open storage;</i>	N/A
<i>(v) signs; and</i>	N/A
<i>(vi) any other relevant matter of planning concern.</i>	The dwelling's front façade resembles that of a single unit dwelling, and the dwelling's exterior will not be modified; therefore, the subject lot's character will be compatible with that of the surrounding neighbourhood.
<i>(d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</i>	N/A
<i>(e) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy P-81", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i>	N/A

**ATTACHMENT C:**  
**Excerpt from the Land Use By-law**

**PART 7:            R-1A (AUXILIARY DWELLING UNIT) ZONE**

**7.1            R-1A USES PERMITTED**

No development permit shall be issued in any R-1A (Auxiliary Dwelling Unit) Zone except for the following:

**Residential Uses**

Single unit dwellings;  
Auxiliary dwelling units;  
Day care facilities for not more than seven (7) children in conjunction with permitted dwellings; and  
Offices in conjunction with permitted dwellings  
Bed & Breakfasts  
Open space uses

**7.2            R-1A ZONE REQUIREMENTS: RESIDENTIAL USES**

In any R-1A Zone where uses are permitted as Residential Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:	on-site services	29,064 square feet (2700 m <sup>2</sup> )
	central water	12,000 square feet (1118 m <sup>2</sup> )
	central sewer	10,000 square feet (929 m <sup>2</sup> )
Minimum Frontage:	on-site services	100 feet (30.5 m)
	central sewer	75 feet (23 m)
Minimum Front or Flankage Yard		20 feet (6.1 m)
Minimum Rear or Side Yard		8 feet (2.4 m)
Maximum Lot Coverage		35 per cent
Maximum Height of Main Building		35 feet (10.7 m)

**7.3            OTHER REQUIREMENTS: AUXILIARY DWELLING UNITS**

Where auxiliary dwelling units are permitted in any R-1A Zone, the following shall apply:

- (a) the maximum gross floor area of any auxiliary dwelling unit shall not exceed (40) per cent of the gross floor area of the dwelling.
- (b) there shall be no more than one (1) entrance along the front wall of the dwelling;
- (c) the power meter for the auxiliary dwelling unit shall not be located on the front facade of the dwelling; and
- (d) one (1) off-street parking space shall be provided for any auxiliary dwelling unit.

**7.4            OTHER REQUIREMENTS: BED AND BREAKFASTS**

Where a bed & breakfast is permitted in any R-1 Zone, the following shall apply:

- (a) The bed & breakfast shall be wholly contained within the dwelling which is the principle residence of the operator of the establishment;
- (b) Not more than three (3) rooms may be let;
- (c) No window display and not more than one (1) business sign shall be permitted and no such sign shall exceed two (2) square feet (0.2 m<sup>2</sup>) in area; and

- (d) One off-street parking space in addition to that required for the dwelling shall be provided for each room to be let.

#### 7.5 OTHER REQUIREMENTS: OPEN SPACE USES

In any R-1A Zone, where open space uses are permitted, no development permit shall be issued except in conformity with the provisions of Part 22.

#### 7.6 OTHER REQUIREMENTS: OFFICE USES

Where offices are permitted in any R-1A Zone, the following shall apply:

- (a) Any office shall be wholly contained within the dwelling which is the principle residence of the operator of the office.
- (b) No individuals who are not residents in the dwelling shall be employed in the office.
- (c) No more than twenty-five (25) per cent of the gross floor area shall be devoted to any office, and in no case shall any office occupy more than three hundred (300) square feet (28 m<sup>2</sup>).
- (d) No open storage or outdoor display shall be permitted.
- (e) **Not more than one (1) business sign shall be permitted and no such sign shall exceed two (2) square feet (0.2 m<sup>2</sup>) in area. The height of the sign shall be restricted to eight (8) feet or less and not be attached to a dwelling. (RC-Jun 30/09;E-Sep 5/09)**
- (f) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m<sup>2</sup>) of floor area devoted to any office.

#### 7.7 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-1A Zone, the following shall apply:

- (a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling, which is the principle residence of the operator of the facility.
- (b) No open storage or outdoor display shall be permitted.
- (c) **Not more than one (1) business sign shall be permitted and no such sign shall exceed two (2) square feet (0.2 m<sup>2</sup>) in area. The height of the sign shall be restricted to eight (8) feet or less and not be attached to a dwelling. (RC-Jun 30/09;E-Sep 5/09)**
- (d) One off-street parking space, other than that required for the dwelling, shall be provided.

**HALIFAX REGIONAL MUNICIPALITY**  
**Public Information Meeting**  
**Case 21564**

*The following does not represent a verbatim record of the proceedings of this meeting.*

**Monday, May 7, 2018**  
**7:00 p.m.**

**Madeline Symonds Middle School (cafeteria) - 290 White Hills Run, Hammonds Plains, NS**

**STAFF IN**

**ATTENDANCE:** Jesse Morton, Planner, HRM Planning  
Thea Langille, Principle Planner, HRM Planning  
Alden Thurston, Planning Technician, HRM Planning  
Tara Couvrette, Planning Controller, HRM Planning

**ALSO IN**

**ATTENDANCE:** Nicolette Nicholas – Applicant/Owner

**REGRETS:** Councillor, Matt Whitman, District 13

**PUBLIC IN**

**ATTENDANCE:** Approximately: 5

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The meeting commenced at approximately 7:03 p.m.

**Call to order, purpose of meeting – Jesse Morton**

Mr. Morton introduced himself as the Planner and facilitator for the application. He also introduced: Thea Langille – Principle Planner with HRM; Tara Couvrette – Planning Controller; Alden Thurston - Planning Technician; and the Applicant/Owner – Nicolette Nicholas.

Case No. 21564, Application by Nicolette Nicholas to rezone the subject property from the R-1 Zone to R-1A Zone to permit an auxiliary dwelling unit.

Mr. Morton explained that the purpose of the Public Information Meeting (PIM) is to: a) identify that HRM has received a proposal for the site; b) provide information on the project; c) explain the Planning Policies and the stages of the Planning Process; d) collect public feedback regarding the proposal. No decisions are made at this PIM.

**1a) Presentation of Proposal – Mr. Morton**

Mr. Morton provided a brief introduction to the application and then made a presentation to the public outlining the purpose of the meeting, status of the application and the applicant's request. Mr. Morton outlined the context of the subject lands and the relevant planning policies.

**1b) Presentation by Nicolette Nicholas, Applicant / Land Owner**

Ms. Nicholas explained the reason for the application.

## 2. Questions and Comments

**Daphne Carter, Halfway Lake Dr.**, asked if this application would permit the auxiliary dwelling unit, or the unit plus other boarders. **Ms. Nicholas** stated that it was for the unit and one boarder; seven people in total live in the house and auxiliary unit (four family members and one boarder in the main dwelling, and a couple in the auxiliary unit). **Ms. Carter** asked staff if the application's approval will be for the auxiliary unit, or can the property owner rent to other people and/or have other boarders. **Mr. Morton** explained this application is only for the consideration of the auxiliary unit. Compliance staff originally visited the property because they thought it may contain a rooming and boarding house, but they determined the number of residents / renters were permitted. There was no rooming or boarding house based on the definition in the Land Use Bylaw. What does not comply is the presence of a ground floor auxiliary dwelling unit.

**Dave Wheaton, Halfway Lake Dr.**, wanted to know if this rezoning would only apply to this house, and if it would change the use of the accessory structure behind the house. **Mr. Morton** explained the rezoning would only alter the use of the home, as the difference between the R-1 Zone and the R-1A Zone is that an auxiliary dwelling unit is permitted. **Mr. Wheaton** wanted to know if the rezoning of this property would have any effect on the houses in the subdivision, as they are all R-1. The people who purchased their homes knew it was all R-1 and wanted it to stay as a residential R-1 neighbourhood. **Mr. Morton** stated the broader area is a residential designation, which will remain, and that the other properties will maintain their original R-1 zoning. Other residents in the R-1 Zone can apply to get an auxiliary unit (i.e., rezone to the R-1A Zone) but these applications would only be considered on a case by case basis.

**Ms. Nicolette Nicholas, Applicant**, wanted to know how this would affect her and the neighbours' taxes. **Mr. Morton** explained that the application would change the assessment of her property only, and that her taxes could increase. **Mr. Morton** couldn't state what the change may be, but offered to provide her with the correct department's contact information.

## 3. Closing Comments

**Mr. Morton** thanked everyone for coming and expressing their comments.

## 4. Adjournment

The meeting adjourned at approximately 7:27 p.m.