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Item No. 10.1.1
North West Community Council
July 15, 2024 Public Hearing
June 17, 2024 First Reading

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY: _____

Jacqueline Hamilton, Executive Director of Planning and Development

DATE: May 23, 2024

SUBJECT: PLANAPP-2024-00177: Rezoning of 749 Windgate Drive, Beaver Bank

ORIGIN

Application by UPLAND Planning + Design, on behalf of Horsepower Auto Repair Inc.

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 749 Windgate Drive, Beaver Bank from MU-1 (Mixed Use 1) to I-1 (Mixed Industrial) and schedule a public hearing; and
2. Adopt the amendment to the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville, as set out in Attachment A.

BACKGROUND

UPLAND Planning + Design, on behalf of the property owner, has applied to rezone 749 Windgate Drive, Beaver Bank from MU-1 (Mixed Use 1) to I-1 (Mixed Industrial) to allow for an automotive repair and sales business use.

Subject Site	749 Windgate Drive (PID 40373276)
Location	North side of Windgate Drive, east of Rivendale Drive
Regional Plan Designation	Rural Commuter (RC)
Community Plan Designation (Map 1)	Mixed Use A (MU-A) under the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy
Zoning (Map 2)	Mixed Use 1 (MU-1) under the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law
Size of Site	9,105.43 m ² (2.25 acres)
Street Frontage	Approximately 60.87 m (199.72 ft)
Current Land Use(s)	Storage of machinery/materials and administrative office for the previous construction business
Surrounding Use(s)	Automotive repair, low density residential, warehouse

Proposal Details

The applicant proposes to rezone the property from Mixed Use 1 (MU-1) to Mixed Industrial (I-1), to accommodate an automotive repair and sales business use. The proposed automotive repair and sales business use is proposed to utilize the existing buildings on the subject site. The applicant's proposed site plan is provided for information purposes (Attachment B).

It is important to note that if the proposed rezoning is approved, the proposed development and site layout (Attachment B) could change at the permitting stage. The exact layout of any new use would be reviewed at that time to ensure conformance with the land use by-law requirements, such as setbacks and visual barriers between residential and industrial uses.

Enabling Policy and LUB Context

The subject property is designated Mixed Use A (MU-A) under the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy (MPS) and zoned Mixed Use 1 (MU-1) under the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law (LUB). Policy P-28 of the MPS enables the consideration of new industrial uses through a land use by-law amendment in the Mixed Use A designation, subject to several compatibility criteria and the provisions of Policy P-137.

If approved, the Mixed Industrial (I-1) zone would permit a number of different uses as-of-right, namely:

- Any manufacturing, processing, assembly or warehousing operation which is not obnoxious and which is conducted and wholly contained within a building
- Service industries
- General contracting storage yards and services
- Transport facilities and maintenance yards
- Heavy machinery sales and service
- Building materials outlets
- Greenhouses
- Existing asphalt plants
- Trucking, landscaping, excavating and paving services
- Communication transmission stations
- Commercial and office uses accessory to permitted industrial uses
- Cannabis production facilities
- Agriculture uses
- Forestry uses
- Composting operations
- Any commercial use permitted under Section 16.1 (C-2 zone)
- Single unit dwellings, shared housing use and mobile dwellings in association with permitted industrial and resource uses

The application is being considered pursuant to the applicable policies of the Beaver Bank, Hammonds Plains and Upper Sackville MPS and Regional MPS. A review of the relevant policies is contained in Attachment C.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and the Public Participation Administrative Order (2023-002-ADM). The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, and 68 letters mailed to property owners within the notification area shown on Map 2.

The HRM website received a total of 123 unique pageviews over the course of the application, with an average time spent on the page of 45 seconds. The public comments and concerns received include the following topics:

- Support for the application, given the proximity of similar uses.
- Opposition to the application over concerns regarding noise, speeding, lack of sidewalk infrastructure, and ongoing traffic issues along Windgate Drive.

A public hearing must be held by North West Community Council before they can consider approval of the proposed rezoning. Should Community Council decide to proceed with a public hearing on this application, in addition to the advertisement on the HRM webpage, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact nearby residents and property owners.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the Beaver Bank, Hammonds Plains and Upper Sackville MPS. Attachment A contains the proposed rezoning that would allow a variety of light industrial uses, commercial uses, and some resource uses. Attachment C 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:

Land Use Compatibility and Appropriateness of Rezoning

The subject site is bordered by both MU-1 zoned properties to the west and I-1 zoned properties to the east. Additional properties directly across the street from the subject site are also zoned I-1. The existing uses located on the nearby I-1 zoned properties are similar in both scale and nature to the proposed use on the subject site, making the proposed rezoning compatible with the existing community, per Policy P-28(a).

Further, as the site layout and use could change at the permitting stage, the I-1 zone contains regulations to limit the nature and scale of the permitted uses through controls placed on outdoor storage, setbacks, and outdoor display/parking or loading areas where adjacent to a residential or community use. Further, larger setbacks and/or visual barriers are required which are intended to reduce nuisances, i.e., noise, dust or smell, for adjacent properties used for residential or community use, as required in Policy P-28(b).

Additionally, the proposed rezoning complies with Policy P-28(f), which does not allow rezoning from a residential zone (R-1 or R-6) to an industrial zone (I-1).

Traffic

A Traffic Impact Statement (TIS) dated March 1, 2024 was reviewed by staff and deemed acceptable. Policy P-28(c) requires the consideration of the impact of the new industrial use would have on traffic circulation. Concerns were raised by the public regarding the existing and future traffic conditions along Windgate Drive. The TIS submitted demonstrated that the proposed use would result in a minimal increase in daily trips.

Regional Plan and Priorities Plans

In accordance with Policy G-14A of the Halifax Regional Plan, this planning application was assessed against the objectives, policies and actions of the priorities plans, inclusive of the Integrated Mobility Plan, the Halifax Green Network Plan, HalifACT, and Halifax's Inclusive Economic Strategy 2022-2027. While these priority plans often contain policies which were originally intended to apply at a regional level and inform the development of Municipal Planning Strategy policies, there are still components of each plan which can and should be considered on a site-by-site basis. Where conflict between MPS policy and priority plan policy exists, staff must weigh the specificity, age, and intent of each policy, and consider how they would be applied to a specific geographic context. In this case, no Priorities Plans policies were identified as relevant to this application.

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. The proposed rezoning conforms with the intent of the applicable policies and is in an area with other industrial zoned lots. Therefore, staff recommend that North West Community Council approve the proposed rezoning (Attachment A).

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2024-2025 operating budget for Planning and Development.

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 rezoning are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVE

1. North West Community Council may choose to refuse the proposed rezoning, 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 rezoning is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

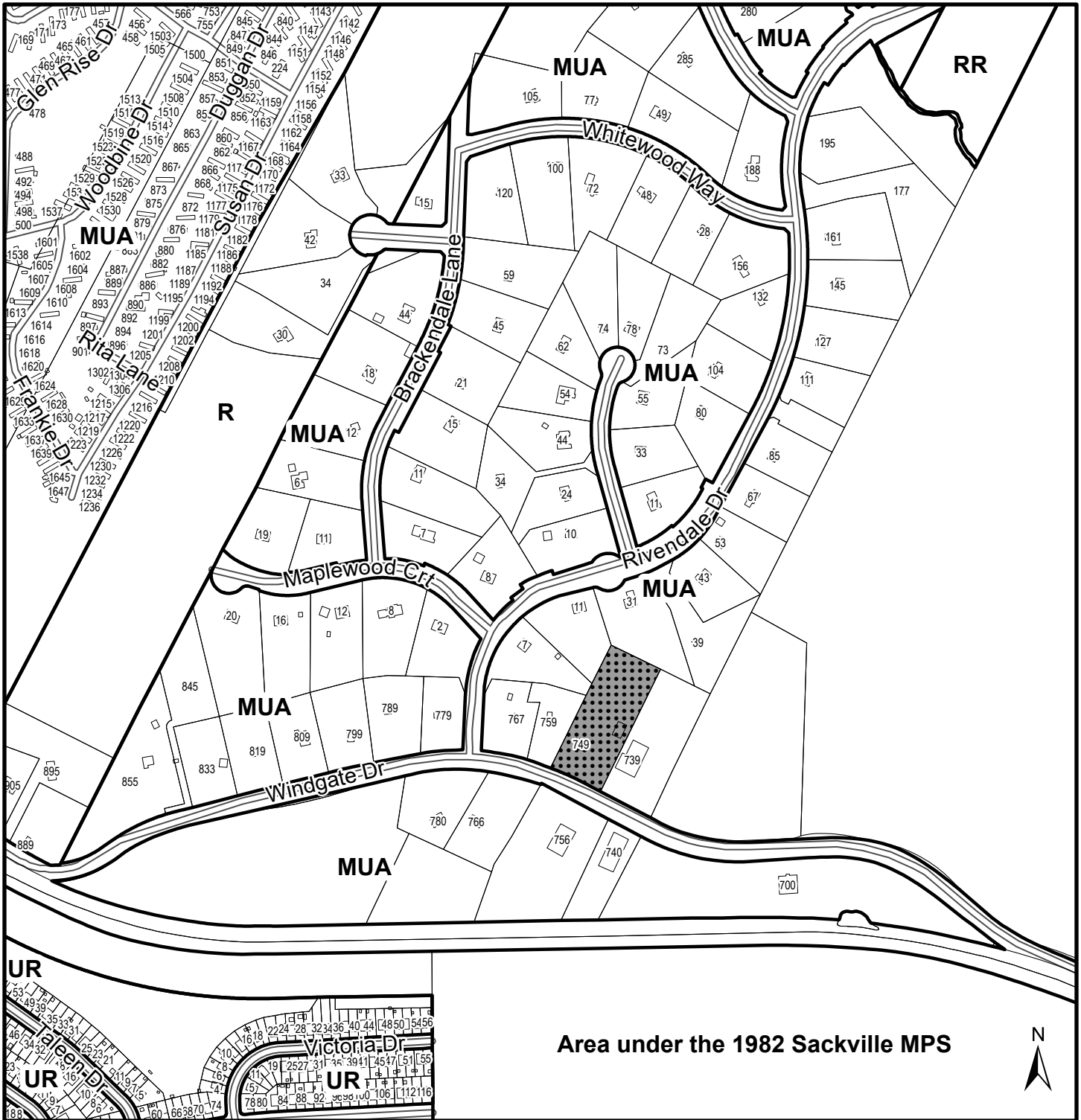
ATTACHMENTS

Map 1: Generalized Future Land Use
Map 2: Zoning and Notification Area

Attachment A: Proposed LUB Amendment
Attachment B: Proposed Conditions Site Plan
Attachment C: 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.

Report Prepared by: Alex Wilson, Planner II – Rural Policy & Applications, 902.719.9248



Area under the 1982 Sackville MPS



Map 1 - Generalized Future Land Use

749 Windgate Drive, Beaver Bank.

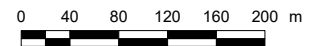
HALIFAX

 Subject Property

BBBPUS

Designation

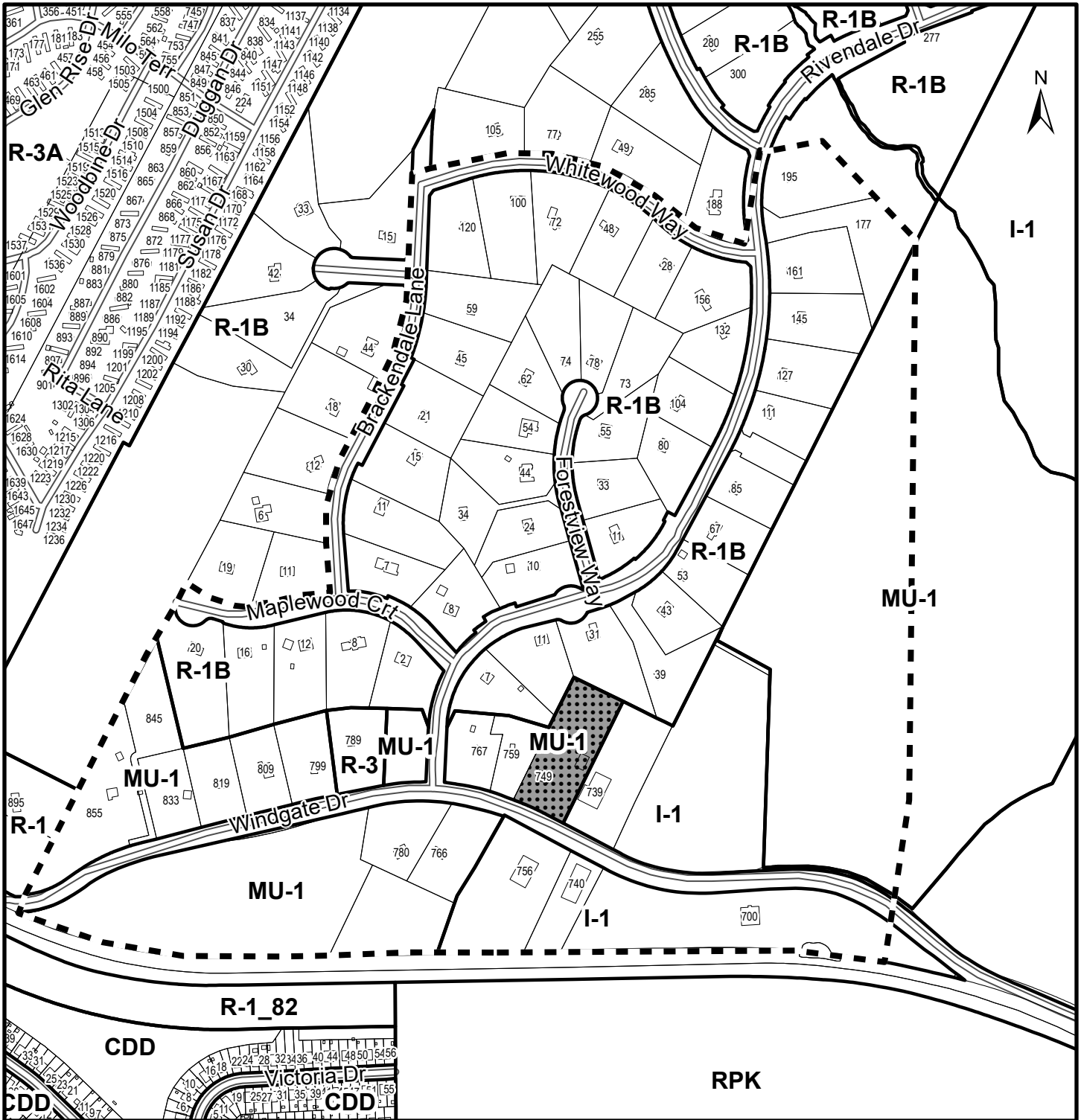
- R Residential
- UR Urban Residential
- RR Rural Resource
- MUA Mixed Use A



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 and Notification Area

749 Windgate Drive, Beaver Bank.

 Subject Property

 Area of Notification

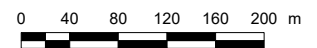
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Beaver Bank, Hammonds Plains
and Upper Sackville Plan Area

Zone

- I-1 Mixed Industrial
 - R-1 Single Unit Dwelling
 - R-3 Mobile Unit Dwelling
 - R-1B Auxiliary Dwelling with Home Business
 - R-3A Mobile Home Park
 - MU-1 Mixed Use 1
 - CDD Comprehensive Development District
 - RPK Regional Park
 - R-1_82 Single Unit Dwelling
- (Under the 1982 Land Use By-law)

HALIFAX



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

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ATTACHMENT A

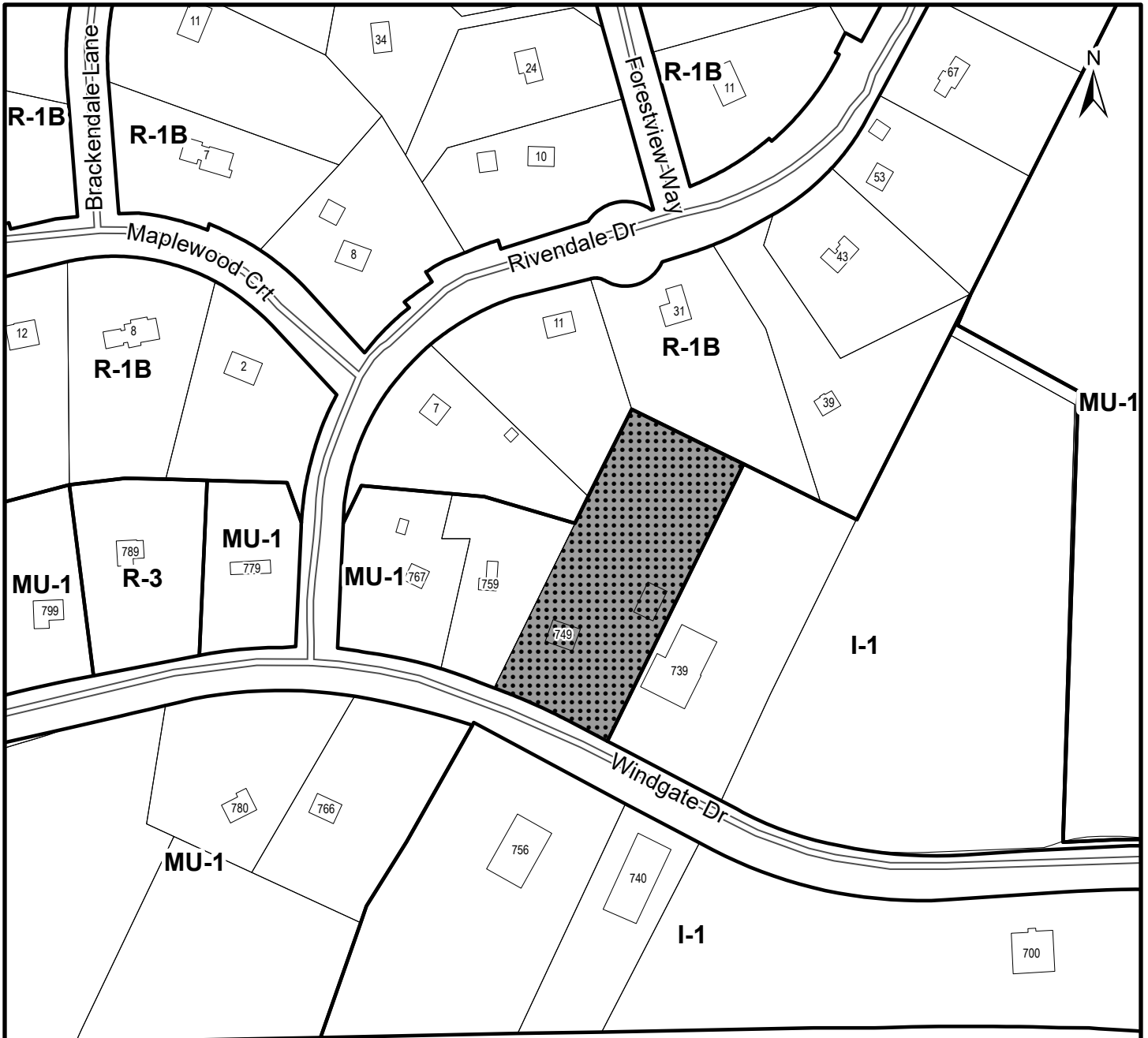
Proposed Amendment to the Land Use By-law for the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area

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

1. Amend Zoning Schedule 1-C by rezoning 749 Windgate Drive, Beaver Bank (PID 40373276) from the MU-1 (Mixed Use 1) zone to I-1 (Mixed Industrial) zone, as shown on Schedule A, attached hereto.

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the North West Community Council held on [DATE], 2024.

Iain MacLean
Municipal Clerk



R-1_82	RPK
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Schedule A

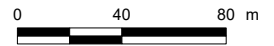
749 Windgate Drive, Beaver Bank

Area to be rezoned from MU-1 to I-1

BBHPUS

Zone

- I-1 Mixed Industrial
- R-1 Single Unit Dwelling
- R-3 Mobile Unit Dwelling
- R-1B Auxiliary Dwelling with Home Business
- MU-1 Mixed Use 1
- CDD Comprehensive Development District
- RPK Regional Park
- R-1_82 Single Unit Dwelling (Under the 1982 Land Use By-law)



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 Peninsula
Land Use By-Law Area

Attachment B - Proposed Conditions Site Plan



749 WINDGATE DRIVE
PID: 40373276
Lot Area: 2.25 acres

ISSUE 01
ISSUE 02
ISSUE 03
ISSUE 04
ISSUE 05
ISSUE 06
NOTES

STAMP

PROJECT 230510
749 WINDGATE DRIVE

TITLE
PROPOSED CONDITIONS SITE PLAN

NORTH

SCALE 1:20

DRAWING # L1

Attachment C – Review of Relevant MPS Policies

Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy	
MIXED USE DESIGNATIONS	
<u>Industrial Development – Mixed Use A and B Designations</u>	
Policy	Staff Comments
<p>Policy P-28 <i>Notwithstanding the provisions of Policy P-8, it shall be the intention of Council to establish a I-1 (Mixed Industrial) Zone in the land use by-law which permits light industrial and service industries, resource uses, limited scale general commercial uses, and residential uses in association with industrial and resource related uses. The zone shall establish controls on site design details such as outdoor storage and display, parking and loading areas. Any obnoxious operation which produces wastes which cannot be treated by an on-site sewage disposal system, or involves hazardous materials, shall not be permitted within the zone. This zone shall be applied to existing industrial uses. In considering amendments to the schedules of the land use by-law to permit new industrial uses in the Mixed Use A and B Designations, Council shall have regard to the following:</i></p>	
<p><i>(a) the potential for adversely affecting adjacent residential and community facility development by virtue of either the nature or scale of the proposed industrial operation;</i></p>	<p>SATISFIED. The I-1 zone has controls in place related to permitted uses, yard setbacks, lot coverage, and buffering from adjacent residential and community uses. The existing buildings currently meet the setback and lot coverage requirements of the Land Use By-law (LUB) and will be further evaluated at the permitting stage to ensure all requirements under the I-1 zone are satisfied.</p>
<p><i>(b) that the use is not obnoxious and does not create a nuisance for adjacent residential or community facility development by virtue of noise, dust or smell;</i></p>	<p>SATISFIED. The I-1 zone has controls in place regarding locating parking and/or loading areas adjacent to residential or community uses. Residential uses are located adjacent to the subject site on the northern and western sides. Any parking and/or loading areas proposed to be adjacent to the northern and western sides of the subject site will be subject to the setback and/or visual barrier requirements as per the I-1 zone regulations in the Land Use By-law. This would be further evaluated at the permitting stage.</p>

<i>(c) the impact of the industrial use on traffic circulation and in particular sighting distances and entrance and exit to the site;</i>	SATISFIED. The Traffic Impact Statement (TIS) was reviewed and accepted by HRM Development Engineering.
<i>(d) that the use can be serviced with an on-site sewage disposal system and does not involve the use of dangerous chemicals;</i>	SATISFIED. The subject site contains an existing on-site septic system and a certificate of installation has been provided as part of the application. The Province regulates safe storage of used oil through its Guidelines for Storage of Used Oil.
<i>(e) that the industrial operation shall not require access through a R-1 (Single Unit Dwelling) or R-2 (Two Unit Dwelling) Zone;</i>	SATISFIED. The industrial operation does not require access through a R-1 (Single Unit Dwelling) or R-2 (Two Unit Dwelling) zone.
<i>(f) that no rezoning from a R-1 (Single Unit Dwelling) Zone or a R-6 (Rural Residential) Zone to a I-1 (Mixed Industrial) Zone shall be considered; and</i>	SATISFIED. The site is currently zoned MU-1 (Mixed Use 1). A rezoning from a R-1 (Single Unit Dwelling) or R-6 (Rural Residential) zone is not proposed.
<i>(g) the provisions of Policy P-137.</i>	See below.

IMPLEMENTATION

Policy P-137
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;</i>	SATISFIED. The Mixed Industrial (I-1) zone is intended to permit non-obnoxious service and light industrial manufacturing uses in a manner compatible with residential and community facility uses. The subject site had previously been utilized for the storage of machinery and materials for a construction business use. The properties located directly across the street and adjacent to the subject site on the eastern boundary are zoned I-1. Rezoning the subject site to I-1 would be generally in conformity with the intent of this Plan and other applicable municipal by-laws and regulations.
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<p><i>(b) that the proposal is not premature or inappropriate by reason of:</i></p> <ul style="list-style-type: none"> <i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i> <i>(ii) the adequacy of central or on-site sewerage and water services;</i> <i>(iii) the adequacy or proximity of school, recreation or other community facilities;</i> <i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i> <i>(v) the potential for damage to or for destruction of designated historic buildings and sites.</i> 	<ul style="list-style-type: none"> (i) SATISFIED. There are no expected costs to the Municipality relating to rezoning this site. (ii) SATISFIED. The proposed development will be serviced with municipal water services and an on-site septic system. (iii) SATISFIED. The proposal is to rezone the subject site to an industrial zone which is more restrictive in terms of residential development than the current mixed-use zone. The types of uses permitted by the proposed zone is not anticipated to affect the adequacy of schools, recreation, or other community facilities. (iv) SATISFIED. The Traffic Impact Statement (TIS) submitted has determined that the existing road network servicing the development is adequate. (v) N/A. There are no identified historic buildings or sites.
<p><i>(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></p> <ul style="list-style-type: none"> <i>(i) type of use;</i> <i>(ii) height, bulk and lot coverage of any proposed building;</i> <i>(iii) traffic generation, access to and egress from the site, and parking;</i> <i>(iv) open storage;</i> <i>(v) signs; and</i> <i>(vi) any other relevant matter of planning concern.</i> 	<ul style="list-style-type: none"> (i) SATISFIED. The I-1 zone permits service industry uses which would include an auto repair shop. The subject site is bordered by an existing I-1 zoned property on the eastern side, and directly across the street from several additional existing I-1 zoned properties. Additionally, there are site controls on the type of uses are established in the I-1 zone, for example, parking and outdoor storage setback requirements. <p>Note that the site layout could change at the permitting stage, which would be evaluated against the regulations contained within the I-1 zone.</p> <ul style="list-style-type: none"> (ii) SATISFIED. The I-1 zone does not limit proposed buildings in terms of height. The proposal intends to utilize the existing buildings on site, which includes a single storey building with a detached garage. This is consistent with the surrounding land uses. Controls regarding lot coverage are established in the I-1 zone.

	<p>Note that the site layout could change at the permitting stage, which would be evaluated against the regulations contained within the I-1 zone.</p> <p>(iii) SATISFIED. Controls on the location, setback/buffering, and number of parking stalls required are established in the Land Use By-law. The Traffic Impact Statement (TIS) was reviewed and accepted by HRM Development Engineering.</p> <p>(iv) SATISFIED. No open storage is proposed as part of this application. The I-1 zone contains regulations on buffering industrial uses from adjacent residential and community uses, which will be evaluated at the permitting stage, should it be proposed.</p> <p>(v) SATISFIED. No additional signage is proposed as part of this application. The Land Use By-law contains signage requirements that any future request would be evaluated against, should it be proposed.</p> <p>(vi) None identified at this time.</p>
<p><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></p>	<p>SATISFIED. The subject site appears to be relatively flat that has previously contained a similar type of use. There are no identified watercourses or wetlands on site.</p>
<p><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.</i></p>	<p>N/A. The subject site is not located in a holding zone.</p>

Regional Municipal Planning Strategy

URBAN RESERVE DESIGNATION

Rural Settlement Designations – Rural Commuter Designation

Policy	Staff Comments
<p><i>S-5 The Rural Commuter Designation shall be established on the Generalized Future Land Use Map (Map 2) to encompass those areas within commuting distance of the Regional Centre that are heavily influenced by low-density residential development. The intent for this designation is to:</i></p> <ul style="list-style-type: none"><i>• to protect the character of rural communities and conserve open space and natural resources by focussing growth within a series of centres, as shown on Settlement and Transportation Map (Map 1);</i><i>• support the delivery of convenience services to the surrounding settlement area;</i><i>• control the amount and form of development between centres; and</i><i>• protect the natural resource base and preserve the natural features that foster the traditional rural community character.</i>	<p>SATISFIED. Commercial and industrial zones, such as the Mixed Industrial (I-1) zone, supports the delivery of convenience services to the surrounding settlement area. While the subject site is not located in a growth centre, any change in land use or zone to the site would be occurring on an already-developed property.</p>
<p><i>G-14A In considering development agreements or amendments to development agreements, or any proposed amendments to the Regional Plan, secondary planning strategies, or land use by-laws, in addition to the policies of this Plan, HRM shall consider the objectives, policies and actions of the priorities plans approved by Regional Council since 2014, including:</i></p> <ul style="list-style-type: none"><i>(a) The Integrated Mobility Plan;</i><i>(b) Halifax Green Network Plan;</i><i>(c) HalifACT;</i><i>(d) Halifax’s Inclusive Economic Strategy 2022-2027; and</i><i>(e) any other priority plan approved by Regional Council while this policy is in effect.</i>	<p>SATISFIED. The objectives, policies, and actions in the Priorities Plans outlined in G-14A do not appear to impact or be affected by this proposal.</p>