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Item No. 13.1.2
North West Community Council
May 14, 2018

TO: Chair and Members of the North West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Acting Director, Planning and Development

Original Signed

Jacques Dubé, Chief Administrative Officer

DATE: April 19, 2018

SUBJECT: **Case 20976: MPS and LUB Amendments for Civic 65 and 79 Shore Drive and
PID 40018079, Bedford.**

ORIGIN

- Application by Kathleen O'Donovan, on behalf of Bedford Bay Limited.
- July 18, 2017, Regional Council initiation of the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) amendment process.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Bedford Municipal Planning Strategy and Land Use By-law as set out in Attachments A and B of this report and schedule a Public Hearing; and
2. Approve the proposed amendments to the Bedford Municipal Planning Strategy and Land Use By-law as set out in Attachments A and B of this report.

BACKGROUND

Kathleen O'Donovan, on behalf of Bedford Bay Limited, is applying to develop lands at the southwestern end of Shore Drive, Bedford, with single unit dwellings. As the proposal cannot be considered under existing planning policy, the applicant is seeking amendments to the Bedford Municipal Planning Strategy (MPS) and Land Use By-law (LUB).

Subject Site	65 and 79 Shore Drive and PID 40018079 (Crown-owned water lot), Bedford.
Regional Plan Designation	Harbour
Community Plan Designation (Map 1)	Commercial under the Bedford MPS.
Zoning (Map 2)	CGB (General Business District) Zone under the Bedford LUB
Size of Subject Site	65 and 79 Shore Drive are two lots, which combine to create 6,833.8 square metres (73,561 square feet); PID 40018079 is a Crown owned water lot that has been partially infilled.
Street Frontage	23.6 metres (77.4 feet)
Current Land Uses	Vacant and one single unit dwelling (formerly a commercial boatyard and two single unit dwellings).
Surrounding Uses	Located along the Bedford Basin, the subject site is immediately adjacent to single unit dwellings on Shore Drive and the CN railway line. Townhouses and multi-unit dwellings are located south of the subject site on Waterfront Drive. An existing walking trail located to the southwest, along the CN property, provides pedestrian access from Waterfront Drive to the subject site.

Proposal Details

The applicant wishes to construct an extension to the public street and subdivide the property at 65 and 79 Shore Drive into six lots as shown on Attachment C. As proposed, each lot will be developed with a residential single unit dwelling. This can be accommodated by re-designating and rezoning the subject properties from Commercial to Residential and CGB (General Business District) to RSU (Single Dwelling Unit).

With respect to the property identified as PID 40018079 (Crown-owned water lot), the applicant has indicated they will seek to establish a leasing agreement with the Crown. If successful, the applicant may explore opportunities to use the property in conjunction with the proposed development of 65 and 79 Shore Drive.

MPS and LUB Context

Under the Bedford MPS and LUB, the subject site is designated Commercial and zoned General Business District (CGB). The Commercial Designation contemplates a range of commercial uses, regulated by the LUB using five commercial zones (Attachment D). In general, mixed-use and residential uses are not envisioned within the Commercial Designation, except on specific sites in the Mainstreet Commercial Zone and on the south corner of the Bedford Highway and Moirs Mill Road. The CGB Zone permits: general business uses such as offices; banks; restaurants; retail stores; personal services; hotels and motels; and institutional uses (Attachment E). No residential uses are permitted in this zone.

Residential development adjacent to the subject site on Shore Drive is designated Residential and zoned Residential Single Dwelling Unit (RSU). The RSU Zone permits single detached dwellings, neighbourhood parks, special care facilities for up to 10 residents, accessory uses, and ten specific existing two-unit dwellings (Attachment E).

Approval Process

The approval process for this application requires that Regional Council consider and, if deemed appropriate, approve proposed amendments to the Bedford MPS and LUB. A decision on the proposed MPS and LUB amendments is not appealable to the Nova Scotia Utility and Review Board. If the proposed MPS and LUB amendments are approved by Regional Council, the applicant may proceed with an application to subdivide 65 and 79 Shore Drive for residential single unit dwellings.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy, the *HRM Charter*, and the Public Participation Program approved by Council on February 25, 1997. The level of community engagement was consultation, achieved by providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public meeting held on September 26, 2017. Attachment F contains a copy of the notes from the meeting. Comments received during consultation included the following topics:

- Coastal inundation;
- Traffic impact;
- Pedestrian connectivity between the proposed development site and Waterfront Drive; and
- Proposed use of the water lot (PID #40018079).

A public hearing must be held by Regional Council before they can consider approval of the proposed MPS and LUB amendments. Should Regional Council decide to proceed with a public hearing on this application, property owners within the notification area shown on Map 3 will be notified by regular mail in addition to the published newspaper advertisements.

The proposal will potentially impact local residents and property owners.

DISCUSSION

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in the Municipality. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. In this case, amending the Bedford MPS to allow for single unit dwelling development on the subject site would result in greater alignment with the surrounding low density residential zoning. The following discussion reviews the rationale and content of the proposed MPS and LUB amendments.

Proposed MPS and LUB Amendments

Staff considered the existing MPS policy context in drafting the proposed MPS and LUB amendments. Attachments A and B contain the proposed MPS and LUB amendments. A summary of the proposed amendments are as follows:

- Re-designate 65 and 79 Shore Drive and PID 40018079, Bedford, from Commercial to the Residential Designation; and
- Re-zone 65 and 79 Shore Drive and PID 40018079, Bedford, from CGB (General Business District) to the RSU (Single Dwelling Unit) Zone.

Of the matters addressed by the proposed MPS and LUB amendments, the following have been identified for detailed discussion:

Appropriateness of Designation and Zoning

The current Commercial Designation and CGB Zone were applied to the subject site during its previous use as a commercial boatyard. The boatyard no longer exists. The commercial uses permitted under the current commercial zoning may be considered incompatible with the residential nature of Shore Drive.

Although not permitted under the current Commercial Designation and zoning, the proposed residential single unit development does align with objectives of the Bedford MPS, specifically the Residential Designation. It accomplishes this by encouraging residential development in an area where the municipality can economically provide services. Further, as the subject site is located at the end of a street developed primarily with low density residential dwellings, the proposed development contributes to the preservation of the character of an existing residential neighbourhood.

Traffic Impact

Traffic has been identified as a primary point of discussion through the planning process for this application. A traffic impact statement was submitted as part of the planning application. The statement concludes that the number of site generated trips, both to and from the proposed development site, is not expected to significantly impact levels of performance on Shore Drive or other streets and intersections in the area. Staff have reviewed the traffic impact statement and concur with the findings.

Pedestrian Connectivity

Non-vehicle trips to and from the site are accommodated via an existing trail located along the neighbouring CN Rail property, connecting the site with Waterfront Drive and the Bedford Waterfront. Provided the subject application is approved, as part of the subdivision permitting process, HRM staff will explore opportunities to relocate the existing trail from the CN Rail property to the subject site and along neighbouring properties to the south.

Use of PID 40018079 (Crown Water Lot)

During the public meeting held on September 26, 2017, some participants expressed concern regarding public access to PID# 40018079. The subject property is a Crown owned water lot. Prior to 2010, the water lot was utilized as a private commercial boatyard. During this time, some infilling of the lot occurred. As proposed, the applicant has indicated they are seeking a lease agreement with the Crown for private use of the property.

Re-designation and Rezoning of Crown Water Lot

As per MPS Policy E-17(a) and Part 3, Section 4(f) of the Bedford LUB (see Attachments D and E), the CGB Zone has been applied to the infilled portion of PID 40018079. As stated in the recommendation section of this report, staff advise that Council approve the re-designation and rezoning of 65 and 79 Shore Drive and PID 40018079 to enable residential single unit dwelling development. This approach is consistent with the intent of the MPS and LUB, ensuring compatible zoning and development standards are applied to the subject water lot.

Coastal Inundation

Provided the request to re-designate and rezone the subject lands is approved by Council, development of the proposed development site will be subject to all applicable requirements of the Bedford LUB. Part 5, Section 21A, of the Bedford LUB contains requirements for development in coastal areas. In brief, these requirements seek to mitigate the potential impact that coastal inundation and storm surge events may have on human safety and property.

In 2014, Regional Council adopted a revised version of the Regional Municipal Planning Strategy (RMPS). As part of this process, Regional Council adopted policy E-22 (Attachment D), which creates controls for areas susceptible to coastal inundation. This is achieved by managing development on lands that are lower lying and prohibiting certain uses, such as residential uses, within these lower elevations. Under the original 2006 Regional Plan, residential uses were prohibited to occur in the lower elevations, except for residential uses located within the Harbour Designation, which were allowed. However, in the 2014 RMPS the

reference to the Harbour Designation was removed, which meant that all residential uses were prohibited within the lower elevations.

During the planning application process for Case 20976, staff identified an error in the Bedford LUB related to the above noted requirements. Within the Bedford LUB, and other applicable LUB's, amendments that would remove the reference exempting residential uses located within the Harbour Designation, were not included. The absence of such amendments represents an error and were intended to be included as part of Attachment E of the January 14, 2014, staff report titled *RP+5: HRM Regional Municipal Planning Strategy*. As the subject site falls under the Harbour Designation, the LUB still exempts these lands, and the applicant can not be required to meet the restrictions around residential use in lower elevations.

Planning Staff are drafting a separate staff report for Community Council which outlines the above noted error and potential solutions. The staff report is anticipated to be tabled with the North-West Community Council, Halifax and West Community Council and Harbour East-Marine Drive Community Council in the spring of 2018.

As shown on Attachment C, the applicant has also been advised of this requirement, and has proposed to develop the subject site in accordance with new elevation requirement, keeping the residential uses above the low-lying elevations, and meeting the current requirements.

Environmental Implications

As PID 40018079 was previously developed as a commercial boat yard, there are concerns with respect to potential soil contamination of the subject site. The applicant has undertaken an environmental assessment of the site to determine if there are any concerns related to soil contamination. Staff have advised the applicant that the site would be subject to all applicable provincial regulations regarding contaminated sites.

North West Planning Advisory Committee

On June 7, 2017, the North West Planning Advisory Committee (PAC) recommended that the application be approved with no conditions or considerations. A report from the North West PAC will be provided to Community Council under separate cover.

Conclusion

Staff have reviewed the application and the existing policy context. Following this review and for reasons outlined in this report, staff advise that the Bedford MPS and LUB should be amended to re-designate and re-zone 65 and 79 Shore Drive and PID 40018079, to allow for single unit residential development. If approved, the proposed MPS and LUB amendments will result in greater alignment with the surrounding low density residential zoning. Therefore, staff recommend that North West Community Council recommend that Regional Council approve the proposed MPS and LUB amendments.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2018/2019 operating budget for C320 Policy and Strategic Initiatives.

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.

ENVIRONMENTAL IMPLICATIONS

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

ALTERNATIVES

The North West Community Council may choose to recommend that Regional Council:

1. Modify the proposed amendments to the Bedford MPS and LUB, as set out in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the proposed amendments to the Bedford MPS and LUB. A decision of Council to approve or refuse the proposed amendments is not 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
Map 3	Notification Area
Attachment A	Proposed MPS Amendments
Attachment B	Proposed LUB Amendments
Attachment C	Conceptual Site Plan
Attachment D	Excerpt from the Bedford MPS and Regional MPS
Attachment E	Excerpt from the Bedford LUB
Attachment F	Public Meeting Notes

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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