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Item No. 16.1
Halifax and West Community Council
May 15, 2018

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: ORIGINAL SIGNED
Kelly Denty, Acting Director, Planning and Development

ORIGINAL SIGNED
Jacques Dubé, Chief Administrative Officer

DATE: April 9, 2018

SUBJECT: **Case 20151: Amendments to the Halifax MPS and associated development agreement for 31 and 33 Brewer Court, Halifax**

ORIGIN

- Application by Banc Properties Limited
- On March 21, 2017, Regional Council passed the following motions to initiate the MPS amendment process:

THAT Halifax Regional Council:

1. Initiate the process to consider amendments to the Halifax Municipal Planning Strategy to alter the boundaries of the land use designations on the Generalized Future Land Use Map in the area of Brewer Court and the Stoneridge on the Park Subdivision, Halifax; and
2. Follow the public participation program for Municipal Planning Strategy amendments as approved by Regional Council on February 27, 1997.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Halifax Municipal Planning Strategy (MPS) as set out in Attachment A of this report, to align the Mainland South Generalize Future Land Use Map (GFLUM) boundary with the property boundary and to extend the existing designations to said boundary at lands off Brewer Court, Halifax, and schedule a joint public hearing; and
2. Approve the proposed amendments to the Halifax Municipal Planning Strategy, as set out in Attachment A of this report.

It is further recommended that Halifax and West Community Council:

3. Give Notice of Motion to consider the proposed development agreement, as set out in Attachment B of this report, to permit a 6-unit townhouse and a semidetached dwelling at lands off Brewer Court, Halifax. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1.

Contingent upon the amendment to the Halifax Municipal Planning Strategy being approved by Regional Council and becoming effective pursuant to the requirements of the *Halifax Regional Municipality Charter*, it is further recommended that Halifax and West Community Council:

4. Approve the proposed development agreement to permit a 6-unit townhouse and a semidetached dwelling at lands off Brewer Court, which shall be substantially of the same form as contained in Attachment B of this report;
5. Require the agreement be signed by the property owner within 120 days or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Banc Properties Limited has applied to enter into a development agreement to permit a 6-unit townhouse and a semi-detached dwelling on two existing lots off Brewer Court in Halifax. This proposal may be considered under existing MPS policies for a portion of the site. However, the Mainland South Generalized Future Land Use Map (GFLUM) boundary applies three different designations to portions of these properties and only one of the three allows the proposal to be considered through the development agreement process. Therefore, amendments to the Halifax Mainland plan are required to enable the proposal.

Subject Site	Composed of two lots: 31 and 33 Brewer Court.
Location	Located within the Kelly Street Subdivision in Halifax. The subject site has public road frontage on Brewer Court and is surrounded by Walter Havill Drive, Ridgestone Court, Herbert Road and Osborne Street.
Regional Plan Designation	The subject site is designated Urban Settlement (US) under the Regional MPS.
Community Plan Designation (Map 1)	The subject properties lie within the Halifax Municipal Planning Strategy (MPS). However, three different designations exist within the subject site: <ul style="list-style-type: none"> • The northeast portion of the property falls within the Halifax Mainland South Secondary Plan Area, and is designated Medium Density Residential (MDR); • The lands directly abutting Brewer Court also falls within the Halifax Mainland South Secondary Plan Area, and is designated Low Density Residential (LDR);

	<ul style="list-style-type: none"> The southwest portion of the site is designated Residential Development District (RDD).
Zoning (Map 2)	The portion directly fronting on Brewer Court is zoned R-2 (Two Family Dwelling), while the remainder of the site is zoned R-3 (Low Rise Apartment). The entire subject site falls under the Halifax Mainland Land Use By-law (LUB).
Size of Site	2,638 square metres (28,395 sq. ft.)
Street Frontage	The subject site has approximately 31 metres (102 ft.) of frontage on Brewer Court.
Current Land Use(s)	The site is vacant, and is encumbered by Nova Scotia Power and Halifax Water easements.
Surrounding Use(s)	<p>The subject site is surrounded by predominantly residential uses:</p> <ul style="list-style-type: none"> To the north is Herbert Road developed with semi-detached units; To the northeast is a 3-storey apartment building accessed off Kelly Street; To the immediate east is Brewer Court, a cul-de-sac of semi-detached dwelling units; To the south and southeast lies Ridgestone Court, developed with small lot single detached dwelling units, and a portion of Walter Havill Drive that is developed both sides with semi-detached dwelling units.

Proposal Details

The applicant proposes to re-align the existing GFLUM boundaries located at 31 and 33 Brewer Court to align with the property boundaries and extend the MDR and LDR designations to the edge of the RDD boundary. A development agreement would then be applied to the property in accordance with applicable MDR policies. The major aspects of the proposal are as follows:

- Shift the GFLUM boundary to align with property boundaries between the subject site and the Stoneridge on the Park subdivision;
- Apply the MDR designation to the northeast portion of the site to enable the proposed townhouses;
- Apply a development agreement to the property to permit a 6-unit townhouse and a semi-detached unit on the two existing lots; and
- Create access to the development from Brewer Court over a private driveway.

MPS and LUB Context

The MPS designation boundaries were established prior to the creation of the lot fabric in this area and they do not align with the current property boundaries (see Schedule A).

The front portion of the site at 31 Brewer Court is designated Low Density Residential (LDR) while the rear is designated Medium Density Residential (MDR).

The front portion of the site at 33 Brewer Court is designated LDR, the rear has a small portion within the MDR designation, and the balance is designated RDD. The RDD designation was established to allow the development to the southwest on Ridgestone Court, Walter Havill Drive and beyond.

The proposal would:

- re-designate the rear portion of 33 Brewer Court from RDD to MDR to allow the proposed townhouses; and,
- re-designate the balance of 33 Brewer Court from RDD to LDR to align with the proposed semi-detached dwelling

Approval Process

The approval process for this application involves two steps:

- a) First, Regional Council must consider and, if deemed appropriate, approve the proposed amendments to the MPS; and
- b) Second, Halifax and West Community Council must consider and, if deemed appropriate, approve a proposed development agreement.

A public hearing is required prior to a decision on both matters and may be held at the same time for the MPS amendments and the proposed development agreement. However, the proposed MPS amendments are under the jurisdiction of Regional Council, while the development agreement is under the jurisdiction of the Halifax and West Community Council.

In the event Regional Council approves MPS amendments, Halifax and West Community Council may decide on the proposed development agreement subsequent to the MPS amendments coming into effect. A decision on the MPS amendments is not appealable to the Nova Scotia Utility and Review Board (Board). However, the decision on the proposed development agreement is appealable to the Board.

COMMUNITY ENGAGEMENT

The community engagement process has been 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 through 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 information meeting held on April 27, 2017. Attachment D contains a copy of the minutes from the meeting. The public comments received included the following topics:

- Impact on existing traffic issues both on Brewer Court and Kelly Street;
- On street parking on Brewer Court;
- HRM protective services will have difficult time accessing townhomes due to parking on street;
- Proposed semi-detached dwelling too close to existing dwelling;
- Increased density and townhouse form not appropriate;
- Perception that the subject site would be permanently held as green space; and
- Construction related issues.

A public hearing must be held by Regional Council before they can consider approval of the proposed MPS amendments. Should Regional 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 proposal will potentially impact local residents and property owners.

DISCUSSION

The Halifax MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in Municipality. While the intention of the MPS is to provide broad direction, Regional Council may consider site-specific MPS amendment requests to enable proposed development which is inconsistent with its policies, or in instances where existing designation boundaries do not follow property boundaries. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests.

The following paragraphs review the rationale and content of the proposed MPS amendments, as well as the associated development agreement.

Proposed MPS Amendments

Staff considered the existing MPS policy context and considered several policy approaches when drafting the proposed MPS amendments. Attachment A contains the proposed MPS amendments, and a summary of the proposed amendments are as follows:

- Shift the designation boundary such that it follows the property boundary between the subject site and Stoneridge on the Park;
- The RDD designation will be removed from the site, and the LDR and MDR designations will be extended to their respective portions of the subject site;
- The LDR designation on the area of the subject site that fronts on Brewer Court will remain in place as the applicant's proposal is a semi-detached dwelling unit on that portion of the site and is enabled by the LDR designation; and
- The MDR designation applied to the northeast portion of the site will enable the townhouse style development being proposed.

Of the matters addressed by the proposed MPS amendments, the following has been identified for detailed discussion.

Procedural Approach

Historically, MPS designation boundary corrections or realignments have been carried out as amendments to the MPS. At the time the Mainland South Generalize Future Land Use Map (GFLUM) was established in this area it was recognized as "general" or conceptual and boundary alterations were not sought to adjust these boundaries as development proceeded and new property lines were established. However, due to increased accuracy and other advancements in digital mapping, it is no longer good planning practice to allow these inconsistencies to remain. Staff recommend these alterations be completed as part of the development process whenever opportunities arise.

Proposal Rationale

Staff provide the following rationale in support of the proposed amendments:

- Policy 1.3.4 under Section X of the Mainland South SMPS, Residential Environments, enables townhouses in the MDR designation. This policy fits with the applicant's proposal but the site must provide adequate physical area to accommodate the proposal by shifting the boundary;
- Following the realignment of the designation boundary, the subject site may then be developed as an integral part of the urban fabric rather than a space that is neither a public open space or a visual amenity;
- The townhouse form permitted by Policy 1.3.4 is an appropriate transition between the existing apartment building to the east and the semi-detached dwellings on Herbert Road and Walter Havill Drive to the west;
- Policies IM 7 (ii) and IM 8 of the Mainland South SMPS speak to plan amendment requirements and enable the designation boundary adjustment to be considered; and
- Without a legal amending the designation boundary the development agreement request may not proceed.

Proposed Development Agreement

Attachment B contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- Permitted uses are a 6-unit townhouse and semi-detached dwelling;
- A landscape plan is required;

- The combined private driveway and service easement meets HRM requirements;
- Fencing is to be provided to screen 29 Brewer Court from the proposed private driveway;
- Architectural requirements are included;
- Changes to the parking and landscaping measures and building materials are identified as non-substantive amendments; and
- Changes to the time of commencement and time of completion are identified as non-substantive amendments.

The attached development agreement will permit a 6-unit townhouse, a semi-detached dwelling unit, a private driveway and associated parking subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the proposed MPS criteria as shown in Attachment A, the following have been identified for detailed discussion.

Traffic

A Traffic Impact Statement submitted in support of this application shows that trip generation rates from peak morning and evening hours for this proposal will be low and not materially impact traffic on the adjacent road network. This TIS has been accepted by HRM Traffic Services.

Townhouse Dwellings Permitted

Policy 1.3.4 in Section X of the Mainland South SPS permits townhouse dwelling types in the Medium Density Residential environment. This policy provides for diversity in the housing mix and addresses the dichotomy between these housing forms.

Conclusion

Staff have reviewed the application and the existing policy context and advise that the MPS should be amended to align the designation boundaries with the property boundaries to enable the proposed development agreement. The townhouse form is suitable in terms of height, materials and scale within the immediate mix of single detached, semi-detached and apartment housing forms. As an infill proposal the townhouses provide an alternative form of housing and effective use of existing municipal service capacity. Council should note that subdivision regulations for townhouses can not be met due to insufficient frontage on a public street. Therefore, there is no capacity for further subdivision of the townhouse property.

Staff recommend that the Halifax and West Community Council recommend that Regional Council approve the proposed MPS amendments.

FINANCIAL IMPLICATIONS

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Development Agreement. The administration of the development agreement can be carried out within the approved 2018/2019 budget with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the Nova Scotia Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

The Halifax and West Community Council may choose to recommend that Regional Council:

1. Modify the proposed amendments to the MPS for Halifax, as set out in Attachment A 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 Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the proposed amendments to the MPS for Halifax. A decision of Council to approve or refuse the proposed amendments is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.

Upon the MPS amendment coming into effect, Halifax and West Community Council may:

1. Choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement 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 MPS Amendments
Attachment B:	Proposed Development Agreement
Attachment C:	Halifax MPS Policy Analysis
Attachment D:	Public Information Meeting (PIM) Summary

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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