



P.O. Box 1749
Halifax, Nova Scotia
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Item No.14.1.5

**Halifax Regional Council
May 09, 2017**

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: _____
Brad Anguish, A/Chief Administrative Officer

DATE: March 31, 2017

SUBJECT: **Case 20232: Municipal Planning Strategy and Land Use By-law
amendments for 686 Bedford Highway, Halifax**

ORIGIN

Application by W.M. Fares Architects

LEGISLATIVE AUTHORITY

See Attachment E

RECOMMENDATION

It is recommended that Halifax Regional Council refuse to initiate the process to consider amendments to the Municipal Planning Strategy for Halifax and the Land Use By-law for Halifax Mainland to enable the development of a multi-unit residential building at 686 Bedford Highway, Halifax.

BACKGROUND

W.M. Fares Architects is applying to develop a multi-unit residential building located at 686 Bedford Highway, Halifax. As this proposal cannot be considered under existing policies, the applicant is seeking amendments to the Municipal Planning Strategy for Halifax (MPS) and the Land Use By-law for Halifax Mainland (LUB) to enable the proposal.

Subject site	686 Bedford Highway, Halifax
Location	West side of Bedford Highway, approximately 200 metres south of Fern Avenue and 400 metres north of Larry Uteck Boulevard
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Low Density Residential
Zoning (Map 2)	R-1 (Single Family Dwelling Zone)
Size of Site	8,779 square metres (94,500 square feet)
Street Frontage	Approximately 91 metres (300 feet), with an irregular front property line
Current Land Use(s)	Single Unit Dwelling
Surrounding Use(s)	<p>The property is surrounded on three sides (west side of Bedford Highway) by a single undeveloped parcel of land (Block E-R4) which is subject to a Development Agreement under the Wentworth and Bedford South Secondary Planning Strategies. This parcel is not currently eligible for development.</p> <p>A low-density residential neighbourhood is to the north. To the south and west, there is higher density development on Bedford Highway and Larry Uteck Boulevard. To the east lie water lots within the Bedford Basin and the CN Railway.</p>

Proposal Details

The applicant wishes to develop a multi-unit residential building at 686 Bedford Highway. To enable this form of development, the applicant has requested site-specific amendments to the MPS and LUB that would allow the site to be developed by development agreement (Attachment A).

MPS and LUB Context

Under the MPS, 686 Bedford Highway is designated Low Density Residential within the Bedford Highway Secondary Planning Strategy (BHSPS). Policy 1.4 permits single-detached housing on low-density residential properties, and as such, the property is zoned R-1 (Single Family Dwelling).

DISCUSSION

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in Halifax. While the MPS provides broad direction, Regional Council may consider MPS amendment requests to enable proposed development that is inconsistent with its policies. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. Amendments should be only considered within the broader planning policy context and when there is reason to believe that circumstances have changed since the MPS was adopted, or last reviewed.

Applicant Rationale

The applicant has provided the following rationale in support of the proposed amendment(s):

- The site characteristics, including the location, the lot size and frontage, steep grades, and separation from existing uses make it appropriate for a mid-rise, multi-unit residential building; and
- Substantial development in the surrounding area has occurred in recent years.

Attachment A contains the applicant's rationale.

Staff Review

Staff have reviewed the submitted rationale in the context of current policy, site circumstances and surrounding land uses and advise that there is there is not merit to the request for the following reasons:

Intent of current policy

As part of the Halifax Harbour Secondary Plan Initiative, the *Land Use Planning Study – Western Shore Bedford Basin*¹ was approved-in-principle by Regional Council on February 19, 2008. The study area covered the western shore of Bedford Basin from Hogans Point to the Waterfront Development Corporation's Bedford Waterfront Phase II, and was intended to make recommendations concerning future land use of the study area. Following public consultation, this study recommended high-density development for "bookends" of the Bedford Highway (Bedford Waterfront and the Chinatown area), and proposed that two smaller "nodes" could accommodate some mixed-use development. It was recommended that areas outside of the nodes should remain low density, stating "[i]t is important that continuous strip commercial developments not be permitted to take place all through the study area. The existing wooded and residential areas should continue to exist to maintain the special character of this length of Bedford Highway." The February 19, 2008 Motion of Regional Council directed staff to "commence the process to amend the Bedford Highway Secondary Planning Strategy and Land Use By-law, using the report's recommendations as a framework".

On January 11, 2011, Regional Council approved changes to the MPS and LUB which implemented the recommendations of the *Land Use Planning Study – Western Shore Bedford Basin*. The "node" concept envisioned in the study was implemented through BHSPS Policies 1.8 to 1.8.3, which permit mixed-use redevelopment (with buildings exceeding 35 feet) by development agreement at two strategic locations along the Bedford Highway: the intersection with Larry Uteck Boulevard, and at the north end of the Halifax Plan Area (Attachment B). These properties are identified in the LUB as Schedule "R" (Attachment C and Map 3).

The intent of the Schedule "R" policy is to limit larger mixed-use (residential/ commercial) buildings to specific areas of the Bedford Highway. Policy 1.8.1 states that to be considered for inclusion within Schedule "R", properties must have the Highway Commercial Designation, be zoned C-2B, and be immediately adjacent to lands currently under Schedule "R". The subject property does not meet any of these criteria.

During the approval process for Schedule "R" in 2011, Regional Council requested a supplementary report to address, among other things, a concern from the owner of 686 Bedford Highway that their lands should be considered for increased development opportunities as part of the amendments proposed at that time. The supplementary report² explained that the staff recommendation considered community concerns with multi-unit developments, coupled with the study's recommendations around preserving and promoting the corridor as a "scenic drive". The report suggests that any future application should be complementary to the conclusions and general direction of the *Land Use Planning Study – Western Shore Bedford Basin*.

As the policy's intent is to limit large mixed-used development to particular areas of the Bedford Highway, staff do not recommend proceeding with the applicant's request.

¹ <https://www.halifax.ca/regionalplanning/publications/documents/LandUsePlanningStudyWesternShoreBedfordBasin.pdf>

² <http://www.halifax.ca/council/agendasc/documents/110111ca81i.pdf>

Circumstances since current policy adoption

Circumstances have not changed significantly since the MPS policy was last reviewed for the area, and changes in the development pattern have occurred only to the extent envisioned by current policy. Since the Schedule “R” policies were adopted in 2011, North West Community Council has approved three development agreements for multi-unit residential buildings under the policy, and one additional building is proposed. Of the approved developments, one is currently under construction and none have been completed. The multi-unit residential development west of the subject site, located on and around Larry Uteck Boulevard, has proceeded according to the policies of the Wentworth and Bedford South Secondary Planning Strategies.

As the development activity that has occurred in the area has been anticipated by the current policy, the recommendations of the *Land Use Planning Study – Western Shore of Bedford Basin* remain relevant today. Given that the policy has successfully guided current development activity to strategic locations on the Bedford Highway, staff advise that the applicant's request for a change to the policy is premature.

Alternative approach

Currently, the Low-Density Residential designation and R-1 Zone permit only single unit dwellings on this site. If Regional Council wish to consider an alternative to the applicant's proposal, staff recommend that only development which meets the intent of the *Land Use Planning Study – Western Shore Bedford Basin* should be considered. This site may be an appropriate location for an alternative form of low-density development which would preserve the image of the area as a “scenic drive” and be compatible with the existing low-density development to the north.

If Regional Council chose to initiate an alternative, staff would consider:

- The recommendations of the *Land Use Planning Study – Western Shore Bedford Basin*;
- Alternative forms of low-density residential uses (including the design, height, lot coverage, and massing of proposed dwelling units);
- Preservation of green and open space, and the character of this section of the Bedford Highway;
- Proposed access, impact on traffic and servicing infrastructure; and
- The feedback received through community engagement initiatives.

Conclusion

Staff have reviewed the applicant's request, and advise that there is insufficient merit to proceed with the request. Guided by the recommendations of the *Land Use Planning Study – Western Shore Bedford Basin*, current policy directs high-density development to two specific “nodes” on the Bedford Highway. The policy envisions maintaining the low-density residential nature of the area to preserve the character of the Bedford Highway as a “scenic drive”. The subject site is not eligible for inclusion within Schedule “R”, and a site-specific policy to enable a multi-unit residential development on the subject site would be contrary to the intent of current policy. Therefore, staff recommend that Regional Council refuse to initiate the MPS amendment application process.

COMMUNITY ENGAGEMENT

Should Regional Council choose to initiate the MPS amendment process, the HRM Charter requires that Regional Council approve a public participation program. In February of 1997, Regional Council approved a public participation resolution which outlines the process to be undertaken for proposed MPS and LUB amendments which are considered to be local in nature. This requires a public meeting to be held, at a minimum, and any other measures deemed necessary to obtain public opinion.

The proposed level of community engagement is consultation, achieved through a public meeting early in the review process, as well as a public hearing, before Regional Council can consider approval of any amendments.

Amendments to the MPS and LUB will potentially impact the following stakeholders: local residents and property owners.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2017-18 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 MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. 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 additional concerns were identified beyond those raised in this report.

ALTERNATIVES

1. Regional Council may choose to initiate a process to consider amendments to the Municipal Planning Strategy for Halifax and Land Use By-Law for Halifax Mainland to enable alternative forms of low-density residential development for 686 Bedford Highway than can be considered under current policy, in a form of development which respects the recommendations of the *Land Use Planning Study – Western Shore Bedford Basin* (2008). In doing so, staff is directed to follow the public participation program for municipal planning strategy amendments as approved by Regional Council on February 27, 1997.
2. Regional Council may choose to initiate the consideration of amendments to the Municipal Planning Strategy for Halifax that would differ from those outlined in this report. This may require a supplementary report from staff.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning
Map 3:	Schedule R, Halifax Mainland Land Use By-law Area
Attachment A:	Applicant's Rationale
Attachment B:	Excerpts from the Municipal Planning Strategy for Halifax
Attachment C:	Excerpts from the Land Use By-law for Halifax Mainland
Attachment D:	Site Photographs
Attachment E:	Legislative Authority

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate Regional Council meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Leah Perrin, Planner II, 902.490.4338

Original Signed

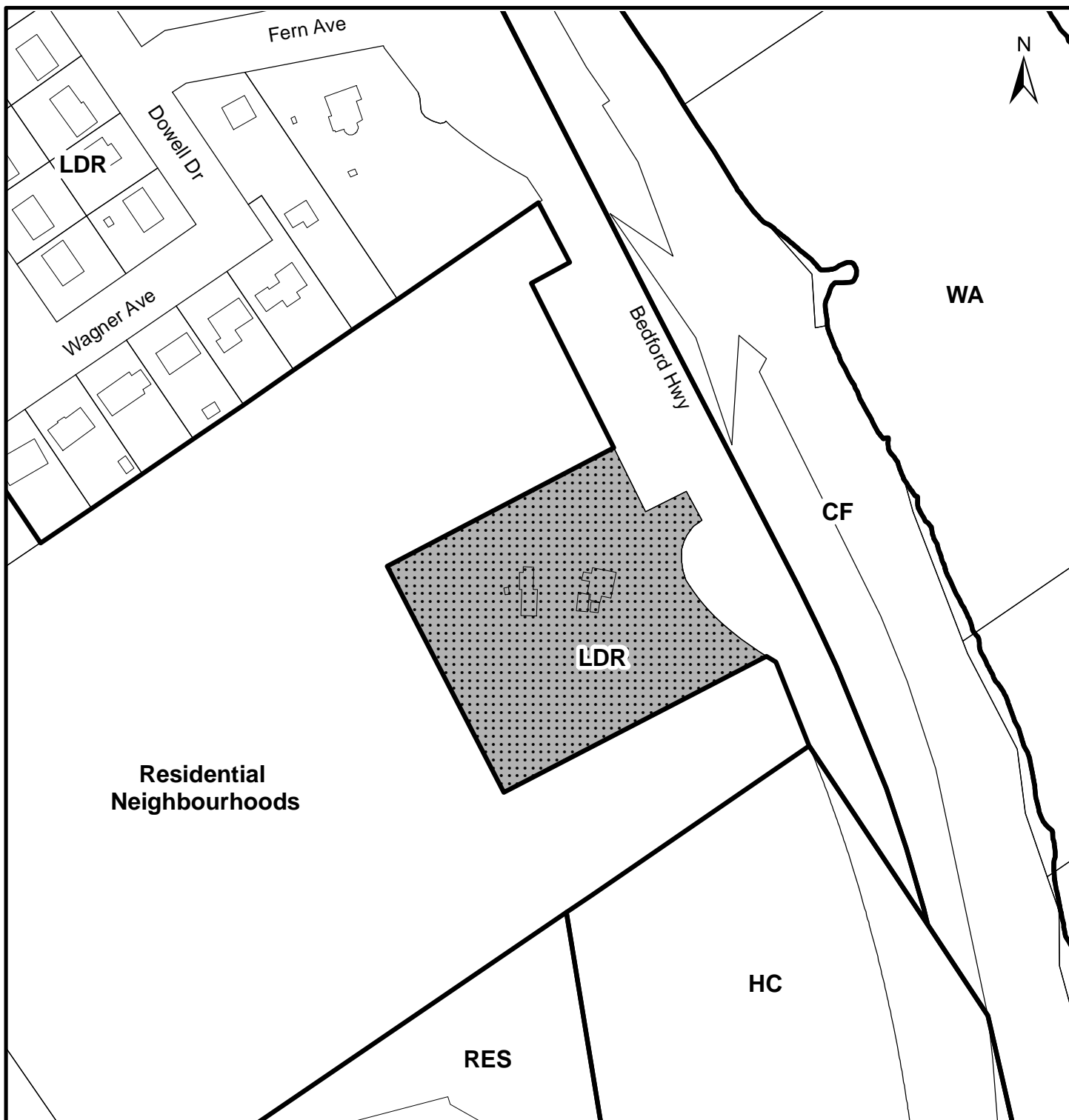
Report Approved by:

Kate Greene, Policy & Strategic Initiatives Program Manager, 902.225.6217

Original Signed by Director

Report Approved by:

Bob Bjerke, Chief Planner & Director, Planning and Development, 902.490.1627



Map 1 - Generalized Future Land Use

686 Bedford Highway
Halifax

 Subject Properties

Halifax Plan Area
Bedford Highway Secondary Plan Area
Wentworth Secondary Planning Strategy

Designation - Halifax Plan

RES Residential Environments
WA Water Access Area

Designation - Bedford Highway Secondary Plan

LDR Low Density Residential
CF Community Facilities
HC Highway Commercial

Designation - Wentworth Secondary Planning Strategy

Residential Neighbourhoods

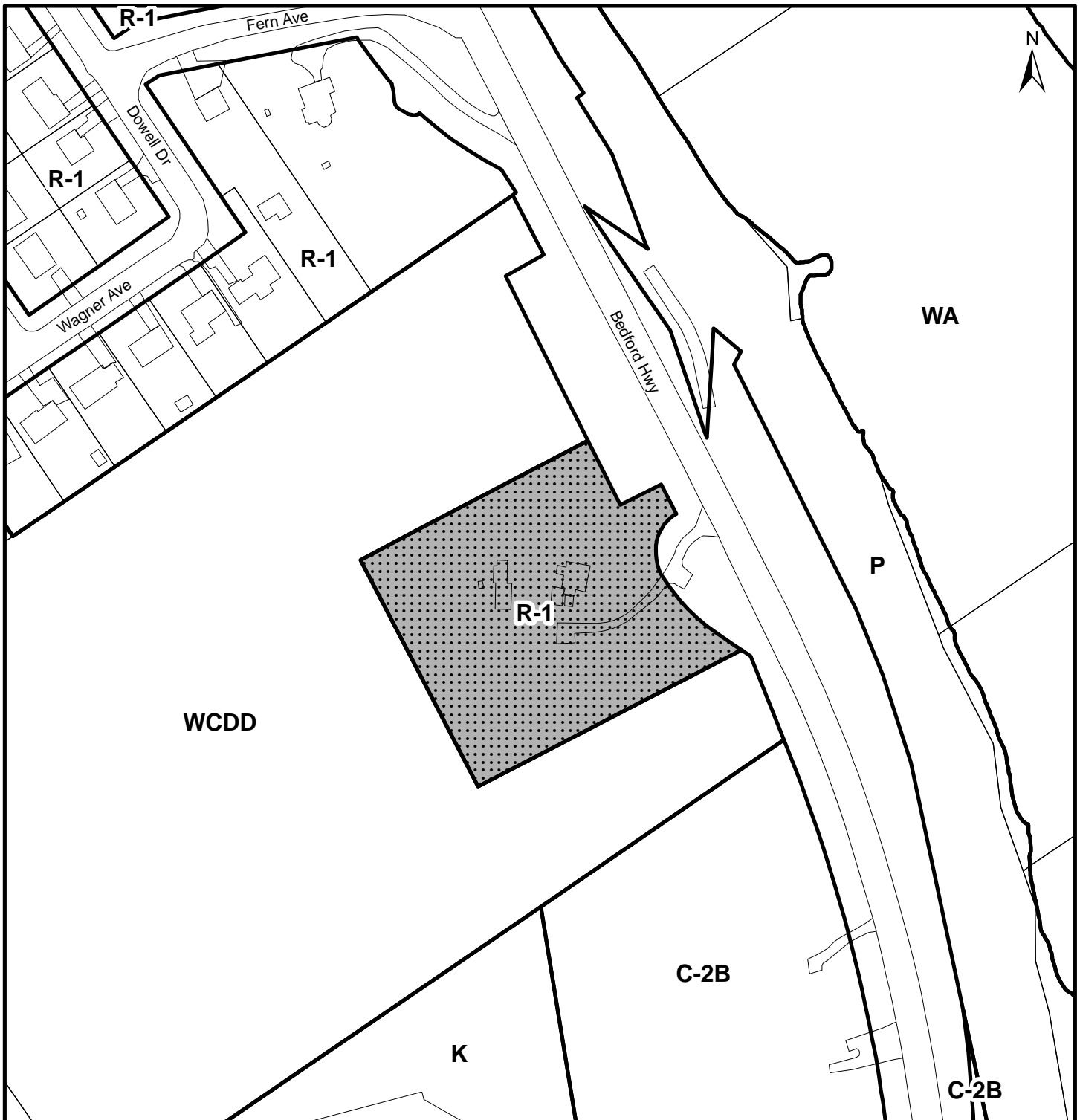
HALIFAX

0 20 40 60 m



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.



Map 2 - Zoning

686 Bedford Highway
Halifax


 Subject Property

Zone

R-1 Single Family Dwelling
C-2B Highway Commercial
K Schedule K
WA Water Access
WCDD Wentworth Comprehensive Development District

HALIFAX

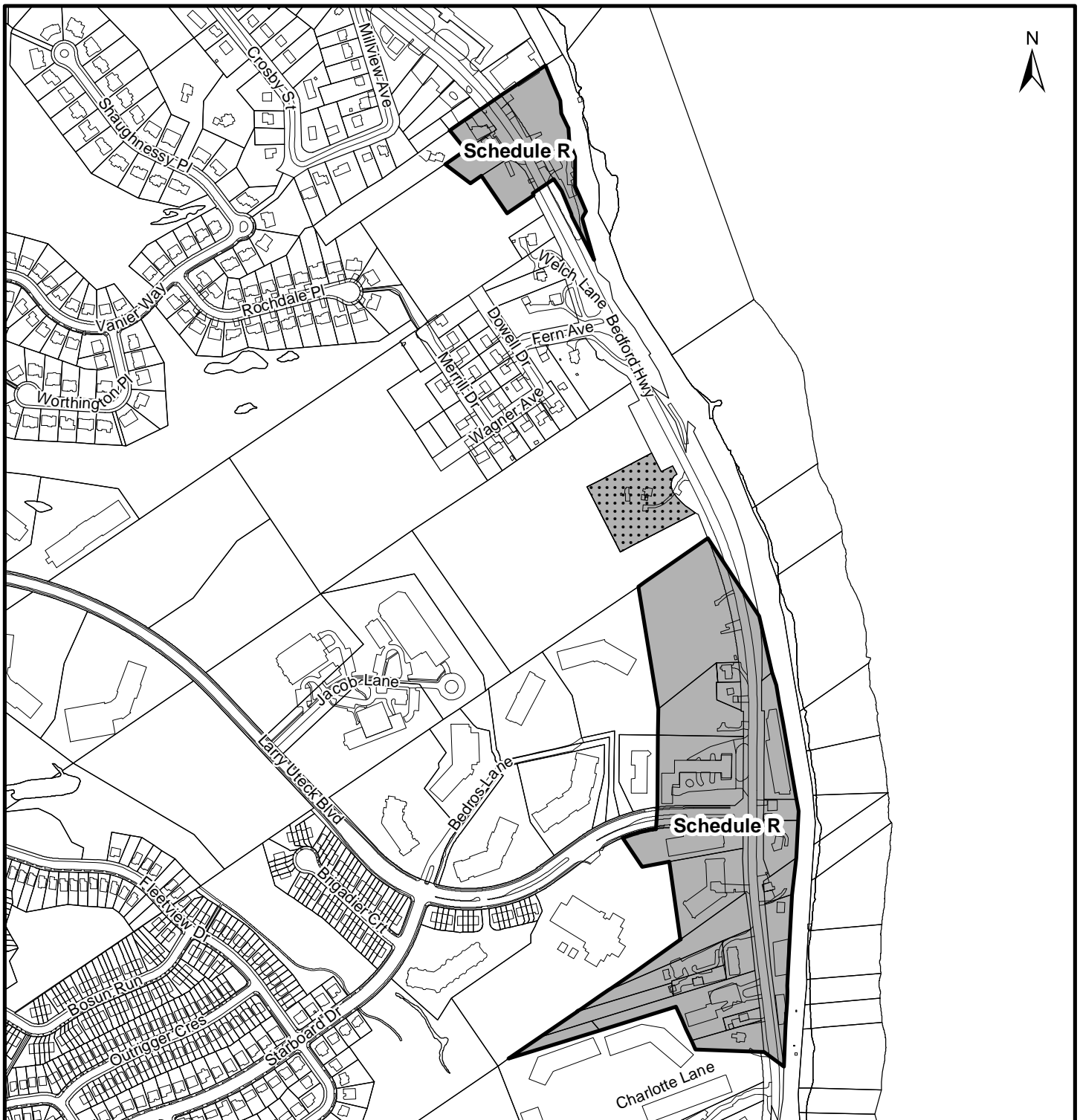
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This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

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



Halifax Mainland Land Use By-Law Area

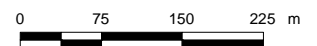


Map 3 - Schedule R

686 Bedford Highway
Halifax

HALIFAX

-  Subject Property
-  Schedule R



This map is an unofficial reproduction of a portion of the ZM-2 - Schedules and Secondary Plan Areas map.

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

Halifax Mainland Land Use By-Law Area

Attachment A: Applicant's Rationale



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March 17, 2017

Leah Perrin, PLANNER II
Urban Area Planning Policy Applications
Policy & Strategic Initiatives
Development Approvals
Planning and Development
HALIFAX
PO BOX 1749
Halifax, NS, B3J 3A5

Re: 686 Bedford Highway
Halifax, NS

Dear Ms. Perrin,

Please accept the enclosed as our request to amend the Municipal Planning Strategy (MPS) and enter into a development agreement with the Halifax Regional Municipality to allow the redevelopment of the subject site into a multiunit residential building.

1.0 Site Description:

The proposed site is 2.2 acres with 300-foot frontage along the Bedford Highway, and presently accommodates a vacated single-family dwelling. Adjacent are multi-unit residential buildings along Jacob Lane, Bedros Lane, Larry Uteck Boulevard, and the Bedford Highway; and single family dwellings along Fern and Wagner Avenues. The subject site is also in close proximity to bus stops, schools, stores, public amenities, parks and open space. Please refer to the attached site context map.

One of the unique characteristics of the site is the spatial separation from adjacent uses both horizontally and vertically, being surrounded by approximately 13.5 acres of a vegetative buffer from all 3 sides. It is our understanding that this buffer is part of the Bedford South/Wentworth Master Plan area, and that its density has been transferred by the owner, Emscote, to Neighbourhood B (southwest of this site). Coupled with significant increase in grade elevations from the Bedford highway, the existing buffers provide for spatial separations from adjacent uses ranging from 300 feet to 911 feet horizontally, and 123-foot elevation difference from the building immediately behind the subject site. To put this in perspective, the ground level of the existing 11-storey building on 56 Jacob Lane would be 12-storeys higher than the ground elevation of the subject site.

2.0 Justification for the Change:

We believe that the site characteristics including location, size, frontage, steep grades, and spatial separation with existing uses, in addition to the neighboring context which has seen substantial development in recent years, warrant consideration by both staff and Council as to the appropriate redevelopment of this 2.2-acre piece of land.

3.0 The proposal:

We believe that the most appropriate redevelopment of this site would be for one mid-rise form multi-unit residential building with a single access. We have opted not to include any building drawings until after Regional Council's initiation, however our team is committed to collaborating with HRM Staff to propose a building that is consistent in form, height, and density with recently approved adjacent cases, and one that is well designed, articulated, and sensitive to the neighborhood context.

We have extensive knowledge and skills in planning applications, and a proven track record of collaborating with HRM Staff, HRM Council, neighboring communities, and our clients to come up with successful projects that are well received. We have demonstrated this with the following projects, all of which were approved through the public process and are within walking distance from the subject site:

- 37 Larry Uteck Blvd.: Existing 4-storey multi-unit residential building
- 644 Bedford Highway: 7-Storey multi-unit residential building – 2018 Construction
- 827 Bedford Highway: Recently completed commercial building, The Avella
- 864 Bedford Highway: Existing 7-Storey multi-unit residential building – The Wyatt
- 1040 Bedford Highway: Play, Learn, Grow in Bedford Preschool and Family Center

In conclusion, we believe that the redevelopment of this site warrants consideration of a site-specific plan amendment and would benefit from the control measures of a development agreement. We look forward to collaborating with Staff, Council and the neighboring community.

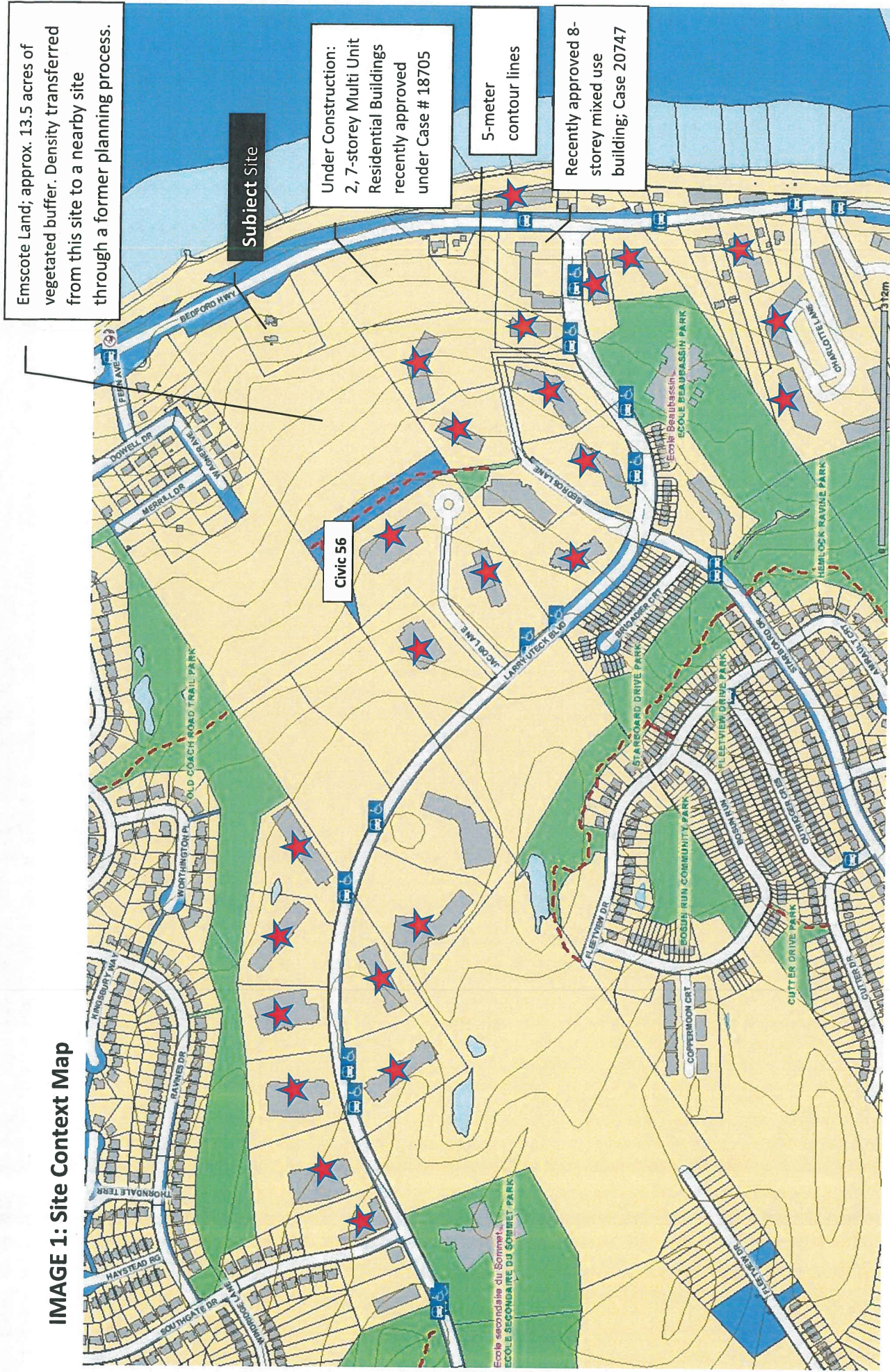
Yours truly,



Cesar Saleh, P.Eng.
W. M. Fares Architects

Cc. Councillor Tim Outhit
Wadih Fares, President

IMAGE 1: Site Context Map



 Existing Multi Unit Residential Buildings

Attachment B

Excerpt from the Municipal Planning Strategy for Halifax

SECTION VIII BEDFORD HIGHWAY SECONDARY PLANNING STRATEGY

1. RESIDENTIAL ENVIRONMENTS

...

- 1.3 For the purposes of this Bedford Highway Strategy, the City shall define "Residential Environments" as comprising three categories:

- (i) low-density residential;
- (ii) medium-density residential; and
- (iii) high-density residential.

- 1.4 Areas shown as low-density on the Generalized Future Land Use Map of this Bedford Highway Strategy shall be areas in which single-detached housing shall be permitted.

...

- 1.8 In order to promote investment in mixed use redevelopment within two specific nodes along the Bedford Highway, that being at the north end of the Halifax plan area and adjacent the intersection of the Bedford Highway and Larry Uteck Boulevard, and to prevent conflict between new and existing uses the Municipality may, through the land use by-law, identify areas that provide an opportunity for and will benefit from a mix of residential and commercial uses. In those areas identified in the land use by-law as Schedule "R", all mixed residential/commercial developments or residential developments that exceed 35 feet in height shall be considered by development agreement in accordance with Sections 242 to 245 and 249 of the Halifax Regional Municipality Charter and as illustrated on Map ZM-2. **(RC-Jan 11/11; E-Mar 12/11)**

- 1.8.1 In considering land use by-law amendments to allow inclusion of a specific property within Schedule "R", the lands must be within the Bedford Highway Secondary Plan area, designated Highway Commercial, zoned C-2B (Highway Commercial Zone) and be immediately adjacent to lands currently identified in the land use by-law as Schedule "R". **(RC-Jan 11/11; E-Mar 12/11)**

- 1.8.2 In considering development agreements pursuant to Policy 1.8, Council shall consider the following:

- (a) the relationship of new development to adjacent properties and uses; and, the mitigation of impacts on the amenity, convenience and development potential of adjacent properties through effective urban design and landscape treatment;
- (b) direct access to and sufficient frontage on Bedford Highway;
- (c) the architectural design of the building(s) including high quality building materials, articulation of and variation to the building(s) facades; and fine-grained architectural detailing;

- (d) the scale of the building(s) having regard for the retention of views of the Bedford Basin from public spaces including streets, and active transportation corridors;
- (e) safe vehicular and pedestrian access to the site and building(s);
- (f) the adequacy of vehicle and bicycle parking facilities;
- (g) the location of the majority of the vehicular parking below or to the side or rear of the building(s) with a minimal amount of parking accommodated in the front of the building(s) only where appropriate landscape measures along the street edge are provided;
- (h) the provision of both interior and exterior amenity areas and open space of a high quality, of a size and type adequate for the active and passive use of the residents;
- (i) the adequacy of the servicing capacity of the site;
- (j) the provision of appropriate buffering and landscape treatment;
- (k) the potential impact of shadowing on surrounding residential buildings beyond what currently exists;
- (l) demonstrated incorporation of Crime Prevention Through Environmental Design (CPTED) principles in the site and building design; and
- (m) the provision of active transportation linkages, where needed.

(RC-Jan 11/11; E-Mar 12/11)

1.8.3 Pursuant to Policy 1.8.1, where Commercial uses are proposed to be provided, Council shall consider the following:

- (a) commercial uses which comply with the C-1 (Local Business) Zone;
- (b) commercial uses on no more than the first and second floors or in stand alone buildings;
- (c) physical separation from abutting existing residential uses;
- (d) transparent and interactive facades along street frontages;
- (e) ground and fascia signage should be designed to complement the development and be consistent throughout the site;
- (f) adequate accommodation and screening of refuse/recycling, odours, mechanical equipment and service areas.

(RC-Jan 11/11; E-Mar 12/11)

Attachment C

Excerpt from the Land Use By-law for Halifax Mainland

R-1 ZONE

SINGLE FAMILY DWELLING ZONE

- 20(1) The following uses shall be permitted in any R-1 Zone:
- (a) a detached one-family dwelling;
 - (b) the office of a professional person located in the dwelling house used by such professional person as his private residence;
 - (ba) a home occupation;
 - (c) a public park or playground;
 - (d) a church and church hall;
 - (e) a golf course;
 - (f) a tennis court;
 - (g) a yacht or boat club;
 - (h) a public recreational centre;
 - (i) **a day care facility for not more than 8 children in conjunction with a dwelling (CCC-Apr 6/09;E-Oct 8/09)**
 - (j) a special care home containing not more than ten persons including resident staff members;
 - (k) uses accessory to any of the foregoing uses.
- 20(2) No person shall in any R-1 Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 20(3) No person shall in any R-1 Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

REQUIREMENTS

- 21 Buildings erected, altered or used for R-1 uses in an R-1 Zone shall comply with the following requirements:
- (a) lot frontage minimum 50 feet except when a lot faces on the outer side of a curve in the street, in which case the min. frontage may be reduced to 30 feet
 - (b) lot area minimum 5,000 square feet
 - (ba) Notwithstanding clause (b), the minimum lot area, for lots abutting an inland watercourse in the "**Mainland South Area**", shall be 6,000 square feet;
 - (c) lot coverage maximum 35 percent
 - (ca) height maximum 35 feet

- (d) floor coverage of living 950 square feet space, minimum
- (e) every building shall be at least 12 feet from any other building and at least 8 feet from the rear and both side lines of the lot on which it is situated and at least 20 feet from any street line in front of such building

ACCESSORY BUILDINGS

- (f) notwithstanding the provisions of clause (e), a carport or a detached or attached non-commercial garage may be located not less than 4 feet from the rear and both side lines of the lot on which it is situated and shall be located 8 feet from any other building
- (g) notwithstanding the provisions of clause (f), any accessory building shall not require any side or rear yard nor any setback from any other building if such building is located entirely within the rear yard of the lot on which such building is located; provided, however, that such accessory building shall not be closer than 15 feet to any street line.

BUILDINGS ON CORNER LOTS

- (h) where a building is situated on a corner lot, it shall be at least 10 feet from the flanking street line abutting such lot.

BOSCOBEL ROAD LOT SIZES

- (i) Notwithstanding the minimum lot area requirements specified in Section 21(b) and 21(ba), the minimum lot area requirement for lots abutting or including the wetland area between Boscobel Road and Purcell's Cove Road as specified on Schedule A, shall be one acre, excepting those lots existing on the date of adoption of this Section, and excepting civic number 290 Purcell's Cove Road.

BOARDERS AND LODGERS - BED AND BREAKFAST

- 22(a) The keeping of not more than three boarders or lodgers in a one family dwelling house shall be permitted, but no window display or sign of any kind in respect to the use permitted by this section shall be allowed.
- 22(b) The provision of the bed and breakfast accommodation shall not be permitted simultaneously with the keeping of boarders and lodgers.

SIGNS

- 23 The exterior of any building in an R-1 Zone shall not be used for the purpose of advertising or erecting or maintaining any billboard or sign except the following:
 - (a) one sign board not exceeding 6 square feet in size pertaining to the sale or rent of the building or lot;

- (b) one non-illuminated no-trespassing, safety, or caution sign not exceeding 1 square foot in size;
- (c) one non-illuminated sign not exceeding 1 square foot in area, indicating the name and the occupation, profession or trade of the occupant of the building;
- (d) one bulletin board for a church;
- (e) a sign not exceeding 2 square feet in size for a **day care facility (RC-Mar 3/09;E-Mar 21/09)**;
- (f) a non-illuminated sign not to exceed 6 square feet in size for a non-residential building.
- (g) One sign not exceeding two square feet in size which can be illuminated only by reflected light, for any bed and breakfast establishment.

DAY CARE FACILITIES

23A Buildings erected, altered or used for a **day care facility (RC-Mar 3/09;E-Mar 21/09)** shall comply with the following requirements:

- (a) Except for outdoor play space, any **day care facility (RC-Mar 3/09;E-Mar 21/09)** shall be wholly contained within a dwelling which is the principle residence of the operator of the facility;
- (b) One off street parking space, other than that required for the dwelling, shall be provided. The required parking space shall be eight feet wide by sixteen feet long, and be exclusive of the front yard.
- (c) The **day care facility (RC-Mar 3/09;E-Mar 21/09)** shall be limited to a maximum of one full storey of the dwelling; this storey may be the basement.
- (d) Only one **day care facility (RC-Mar 3/09;E-Mar 21/09)** shall be permitted to be located on any lot.

23B Notwithstanding the provisions of Sections 20(1)(i) and 23A (a-c) a **day care facility (RC-Mar 3/09;E-Mar 21/09)** may be operated as an accessory use to a church, church hall, or public recreation centre. The parking provisions contained in Sections 11(1) and 11 (2) would apply.

23C (Deleted)

SPECIAL CARE HOME

23D Where any building is altered or used as a special care home in an R-1 Zone, such building, in addition to the requirements hereinbefore set out, shall comply with the following requirements:

- (i) 100 square feet of landscaped open space shall be provided for each person occupying such home;

- (ii) recreational indoor space may account for 25% of the landscaped open space;
- (iii) the building is a minimum of 1,000 feet distant from any other building used for or as a special care home;
- (iv) parking requirements as contained in subsections (1) and (2) of Section 11.

...


SCHEDULE “R” (RC-Jan 11/11;E-Mar 12/11)

74 In an area designated Schedule “R”, any residential or commercial use shall be permitted which is permitted by the land use by-law designation of such area, provided that:

- (a) residential and commercial uses shall not exceed a height of thirty-five (35) feet;**
- (b) Council may, after a public hearing and by resolution, approve any specific development requested which would not otherwise be permitted by this by-law, provided that no approval shall be given inconsistent with Policies 1.8, 1.8.1, 1.8.2 and 1.8.3 of Part 1, Section VIII, of the Municipal Planning Strategy;**
- (c) approval by Council under Subsection (b) shall only be granted subject to the condition that the registered owner of the land upon which the development is to occur shall enter into an agreement with Council containing such terms and conditions as Council may direct;**
- (d) applications for amendments to agreements made pursuant to Subsection (b) may be made by Council after a public hearing if deemed necessary.**

Attachment D: Site Photographs





Mixed-use development (multi-unit residential/ commercial) under construction south of subject property

Existing driveway for the subject property

**Bedford Highway, looking south
(Staff photo, October 2016)**



Existing driveway for
the subject property

**Bedford Highway, looking north
(Staff photo, October 2016)**

Attachment E – Legislative Authority

Municipal Planning Strategy and Land Use By-law Amendments Initiated by Regional Council

Halifax Regional Municipality Charter, Part VIII, Planning and Development, including:

Planning documents reasonably consistent

- 214 (1)** Planning documents adopted after the adoption of a statement of provincial interest that applies within the Municipality must be reasonably consistent with the statement.

Planning advisory committee

- 215 (1)** The Municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the Municipality.

- (4)** The purpose of a planning advisory committee or a joint planning advisory committee is to advise respecting the preparation or amendment of planning documents and respecting planning matters generally.

Public participation program

- 219 (1)** The Council shall adopt, by policy, a public participation program concerning the preparation of planning documents.

- (2)** The Council may adopt different public participation programs for different types of planning documents.

- (3)** The content of a public participation program is at the discretion of the Council, but it must identify opportunities and establish ways and means of seeking the opinions of the public concerning the proposed planning documents.

- 220 (1)** The Council shall adopt, by by-law, planning documents.

- (2)** A by-law adopting planning documents must be read twice.

- (3)** Before planning documents are read for a second time, the Council shall hold a public hearing.

- (4)** The Council shall complete the public participation program before placing the first notice for a public hearing in a newspaper circulating in the Municipality.

- (5)** The notice for the public hearing is sufficient compliance with the requirement to advertise second reading of a by-law.

- (6)** Second reading must not occur until the Council has considered any submissions made or received at the public hearing.

- (7)** Only those Council members present at the public hearing may vote on second reading of the planning documents.

- (8)** The Council shall adopt planning documents, at second reading, by majority vote of the maximum number of members that may be elected to the Council.

Purpose of municipal planning strategy

- 228** The purpose of a municipal planning strategy is to provide statements of policy to guide the development and management of the Municipality and, to further this purpose, to establish

- (a) policies that address problems and opportunities concerning the development of land and the effects of the development;
- (b) policies to provide a framework for the environmental, social and economic development within the Municipality;
- (c) policies that are reasonably consistent with the intent of statements of provincial interest; and
- (d) specify programs and actions necessary for implementing the municipal planning strategy.

Statements of policy in planning strategy

229 (1) A municipal planning strategy may include statements of policy with respect to any or all of the following:

- (a) the goals and objectives of the Municipality for its future;
- (b) the physical, economic and social environment of the Municipality;
- (c) the protection, use and development of lands within the Municipality, including the identification, protection, use and development of lands subject to flooding, steep slopes, lands susceptible to subsidence, erosion or other geological hazards, swamps, marshes or other environmentally sensitive areas;
- (d) stormwater management and erosion control;
- (e) in connection with a development, the excavation or filling in of land, the placement of fill or the removal of soil, unless these matters are subject to another enactment of the Province;
- (f) in connection with a development, retention of trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
- (g) studies to be carried out prior to undertaking specified developments or developments in specified areas;
- (h) the staging of development;
- (i) the provision of municipal services and facilities;
- (j) municipal investment for public and private development and the coordination of public programs relating to the economic, social and physical development of the Municipality;
- (k) non-conforming uses and structures;
- (l) the subdivision of land;
- (m) the use and conservation of energy, including the height and siting of developments;
- (n) measures for informing, or securing, the views of the public regarding contemplated planning policies and actions or bylaws arising from such policies;
- (o) policies governing
 - (i) land-use by-law matters,
 - (ii) amendment of the land-use by-law,
 - (iii) the acceptance and use of cash-in-lieu of required parking,
 - (iv) the use of development agreements,
 - (v) the establishment of comprehensive development districts,
 - (vi) the use of site-plan approval areas, including whether notice must be given to owners and tenants of property that is thirty metres or more from the applicant's property,
 - (vii) the establishment of transportation reserves,
 - (viii) the use of infrastructure charges,
 - (ix) the eligibility criteria for the establishment of a commercial development district including, without limiting the generality of the foregoing, the percentage increase in the taxable assessed value of the eligible properties, as defined in subsection 92C(1), within the proposed commercial development district and the period over which the increase in the taxable assessed value of the properties occurs;
- (p) the regulation or prohibition of development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (q) any other matter relating to the physical, social or economic environment of the Municipality.

- (2) The Council shall include policies in the municipal planning strategy on how it intends to review the municipal planning strategy and land-use by-law.

Secondary Planning Strategy

- 231** (1) A municipal planning strategy may provide for the preparation and adoption of a secondary planning strategy that applies, as part of the municipal planning strategy, to a specific area or areas of the Municipality.
- (2) The purpose of a secondary planning strategy is to address issues with respect to a particular part of the planning area, that may not, in the opinion of the Council, be adequately addressed in the municipal planning strategy alone.

No action inconsistent with planning strategy

- 232** (1) The Municipality may not act in a manner that is inconsistent with a municipal planning strategy.

Adoption of land-use by-law or amendment

- 234** (1) Where the Council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the Council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that enables the policies to be carried out.

Content of land-use by-law

- 235** (1) A land-use by-law must include maps that divide the planning area into zones.
- (2) A land-use by-law must
- (a) list permitted or prohibited uses for each zone; and
 - (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.
- (3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.
- (4) A land-use by-law may
- (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
 - (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
 - (c) regulate the maximum area of the ground that a structure may cover;
 - (d) regulate the location of a structure on a lot;
 - (e) regulate the height of structures;
 - (f) regulate the percentage of land that may be built upon;
 - (g) regulate the size, or other requirements, relating to yards;
 - (h) regulate the density of dwelling units;
 - (i) require and regulate the establishment and location of off-street parking and loading facilities;
 - (j) regulate the location of developments adjacent to pits and quarries;
 - (k) regulate the period of time for which temporary developments may be permitted;
 - (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
 - (m) regulate the floor area ratio of a building;
 - (n) prescribe the fees for an application to amend a landuse by-law or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use by-law may

- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
- (b) regulate or prohibit the type, number, size and location of signs and sign structures;
- (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
- (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
- (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
- (f) regulate the location of disposal sites for any waste material;
- (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
- (h) regulate or prohibit the removal of topsoil;
- (i) regulate the external appearance of structures;
- (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
- (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
- (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
- (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
- (n) prohibit development or certain classes of development where, in the opinion of the Council, the
 - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) cost of maintaining municipal streets would be prohibitive;
- (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
- (p) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy, or unstable,
 - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
 - (v) is known to be contaminated within the meaning of the *Environment Act*, or
 - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
- (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.

- (6)** Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

No appeal permitted

263 The following are not subject to an appeal:

- (d) an amendment to a land-use by-law that is required to carry out a concurrent amendment to a municipal planning strategy.