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

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Acting Director, Planning and Development

Original Signed

Dave Reage, Acting Chief Administrative Officer

DATE: June 18, 2018

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

ORIGIN

Application by Nicolette Nicholas.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council:

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

BACKGROUND

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

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

Proposal Details

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

Enabling Policy and LUB Context

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

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, postcards mailed to property owners within the notification area, and a public information meeting, which was held on Monday, May 7, 2018. Attachment D contains a copy of the minutes from the meeting. The public requested clarification on the following topics:

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

A public hearing must be held by North West Community Council before they can consider approval of the proposed LUB amendment. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposal will potentially impact local residents and property owners.

North West Planning Advisory Committee

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

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed Land Use By-law amendment that would bring the existing auxiliary dwelling unit into conformance with municipal requirements.

Attachment B provides an evaluation of the proposed rezoning in relation to relevant MPS policies. Of the matters reviewed to satisfy the MPS criteria, the following have been identified for more detailed discussion:

Compatibility of Proposed Use

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

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

Boarding and Rooming House

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

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

Conclusion

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

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2018-2019 operating budget for C310 Urban and Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed LUB amendment are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. North West Community Council may choose to approve the proposed LUB amendment subject to modifications. Such modifications may require further discussion with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. North West Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed LUB Amendment
Attachment B:	Review of Relevant MPS Policies
Attachment C:	Excerpt from the LUB
Attachment D:	Public Information Meeting Minutes

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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