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**Item No. 10.1.1**  
**Halifax Regional Council**  
**February 16, 2010**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

Dan English, Chief Administrative Officer

Wayne Anstey, Deputy Chief Administrative Officer – Operations

**DATE:** January 25, 2010

**SUBJECT:** Case 01356: MPS Amendment & Rezoning – Windsor Street, Halifax

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**ORIGIN**

Application by Living Benefits Atlantic Limited

- To amend the Peninsula North Secondary Planning Strategy of the Halifax Municipal Planning Strategy to change the designation for 2579 and 2581-83 Windsor Street from Medium Density Residential to Minor Commercial to allow consideration of a rezoning of 2579 Windsor Street from General Residential (R-2) to Minor Commercial (C-2A).

**RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Authorize staff to initiate the process to consider amending the Peninsula North Secondary Planning Strategy to allow for commercial uses on the north side of Windsor Street between Willow and North Streets; and
2. Direct staff to follow the public participation program as approved by Council in February 1997.

## **BACKGROUND**

HRM has received a two-part application from Living Benefits Atlantic Limited:

- To change the designation of 2579 Windsor Street (lands of J. Corrigan Collins) and 2581-83 Windsor Street (lands of Todd A. Bookholt and Joy L. Suttle); and
- To rezone 2579 Windsor Street.

Living Benefits Atlantic Limited wishes to rezone 2579 Windsor Street from General Residential (R-2) to a commercial zone to allow the existing building to be legally used as an insurance office (Map 1). The office is not a permitted use, but has been in operation at this location for approximately one year. The land use compliance issue is proceeding through a separate process with Development Services.

The property is currently designated Medium Density Residential in Area 3 of the Peninsula North Secondary Planning Strategy (SPS) in the Halifax Municipal Planning Strategy (MPS) (Map 2). The Medium Density Residential designation does not contemplate a rezoning to a commercial zone. Before a rezoning to a commercial zone can be considered by Peninsula Community Council, the lands must be redesignated to a commercial designation, under which policy criteria would be available to evaluate the proposed rezoning (Attachment A).

### **Subject Properties**

- The applicant proposes to redesignate 2579 Windsor Street (PID 00145805), as well as rezone the property to a commercial zone which would allow an office. The property has approximately 33 feet of frontage on Windsor Street and a lot area of approximately 2600 square feet. The building on the lot is a typical house for this area.
- 2581-83 Windsor Street (PID 00145797) links the above property with the existing Minor Commercial properties on the corner of North and Windsor Streets.

### **Surrounding Land Uses**

The subject properties are in a mixed commercial-residential neighbourhood (see Table 1 below), which centres on Windsor, North and Gladstone Streets. At the southeast end of the block in question, there are two offices: Sigma Insurance, and the Quackenbush, Thomson & Robbins law office. Sigma Insurance is a legal non-conforming use, which has been located at 2567-69 Windsor Street since the early 1970s. Next door, Quackenbush, Thomson & Robbins Barristers and Solicitors has been located at 2571 Windsor Street since a development agreement for offices (and adjacent parking) was approved through Schedule C in 1991.

At the northwest end, there is another office (Centum mortgage / Century 21 realty), followed by Sobeys and the Gladstone Professional Centre on the opposite side of North Street, all with Minor Commercial zoning and designation.

| <b>Table 1. Properties on Windsor Street between Willow and North Streets</b> |                      |               |                            |   |
|---|----------------------|---------------|----------------------------|---|
|   | <i>Civic Address</i> | <i>Zoning</i> | <i>Designation</i>         | <i>Current Use</i>  |
| <b>North side of Windsor Street</b>   |                      |               |                            |   |
|   | 2567-69              | R-2           | Medium Density Residential | Sigma Insurance office (non-conforming)                           |
|   | 2571                 | R-2           | Medium Density Residential | Quackenbush, Thomson & Robbins law office (development agreement) |
|   | PID 00145649         | R-2           | Medium Density Residential | Parking for #2571 (DA)  |
|   | 2579                 | R-2           | Medium Density Residential | Living Benefits office  |
|   | 2581-83              | R-2           | Medium Density Residential | Two residential units   |
|   | 2587-89              | C-2A          | Minor Commercial           | Centum mortgage / Century 21 realty office                        |
| <b>South side of Windsor Street</b>   |                      |               |                            |   |
|   | 2570                 | R-2           | Medium Density Residential | Church  |
|   | 2590                 | C-1           | Medium Density Residential | Apartment building  |

**DISCUSSION**

**Peninsula North Secondary Planning Strategy**

In the early 1990s, this area underwent a detailed planning process which resulted in the Peninsula North Secondary Planning Strategy (SPS). During the detailed area planning process, the property owners on the north side of Windsor Street petitioned to be rezoned to the Minor Commercial (C-2A) Zone. At that time, staff recommended that the Medium Density Residential designation and General Residential (R-2) zoning be applied, and ultimately, Council chose not to rezone this block.

Part of the rationale for this decision was that the existing commercial uses had options for future expansion (Attachment A):

- Implementation Policy 3.14 (regarding non-conforming uses) allows expansion of Sigma Insurance to be considered.
- Site-specific Policy 10.4 permits amendments to the development agreement for the Quackenbush, Thomson & Robbins law office.

### **Considering a plan amendment**

Amendments to the MPS are not considered routine and while Council has the ability to amend an MPS, it is under no obligation to do so. However, in this case, the Peninsula North SPS does not appear to effectively manage the commercial uses around North and Windsor Streets.

While the block in question is generally zoned and designated for residential uses, it is not a typical residential street for the Peninsula North area. Three of the five buildings are used commercially. 2579 and 2581-83 Windsor Street form an island of residential zoning between commercial uses on a collector road. Further, the existing residential designation has not resulted in a corresponding increase in residential uses.

The concentration of commercial uses near Windsor and North Streets has existed for decades, and Willow Street was acknowledged as the “clearly definable boundary for the Windsor-North Street commercial area” in a 1991 staff report. While the rezoning of this block to C-2A was not approved in 1993, the staff report did state that “commercial could also be appropriate, but if there is to be a change in designation and zoning, then all of the properties along the [north] side of Windsor Street between North and Willow Streets should be included”.

The commercial policies in the Peninsula North SPS aim for “a variety of appropriately located commercial facilities to serve the needs of both the resident and working populations of Peninsula North and the City as a whole”. Collector roads, such as Windsor and North Streets, are a reasonable location for these commercial services, and the longstanding presence of businesses such as Walker’s Electric, Sigma Insurance, Sobeys and the Quackenbush, Thomson & Robbins law office supports this view.

### **Conclusion**

While the application was received from the owners of 2579 and 2581-83 Windsor Street, staff feel it is reasonable to consider the redesignation of the rest of the north side of Windsor Street between North and Willow Streets.

To acknowledge the longstanding concentration of commercial uses near Windsor and North Streets, staff recommend that Regional Council initiate the process to consider amending the

Peninsula North Secondary Planning Strategy to allow for commercial uses on the north side of Windsor Street between North and Willow Streets.

**BUDGET IMPLICATIONS**

The HRM costs associated with processing this planning application can be accommodated within the approved operating budget for C310.

**FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

This report complies with the Municipality’s Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES**

1. Regional Council could authorize staff to initiate the process to consider amending the Peninsula North Secondary Planning Strategy to allow for commercial uses on the north side of Windsor Street between Willow and North Streets. This is the recommended action.
2. Alternatively, Regional Council could authorize staff to initiate the process to consider amending the Peninsula North Secondary Planning Strategy to allow for commercial uses on only a portion of the north side of Windsor Street between Willow and North Streets, specifically 2579 and 2581-83 Windsor Street. As discussed above, this is also a reasonable action.
3. Regional Council could choose not to initiate the process to consider amendments to the Peninsula North Secondary Planning Strategy. Council is under no obligation to consider a request to amend its MPS and a decision not to initiate the process cannot be appealed.

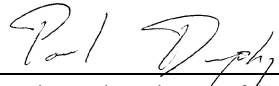
**ATTACHMENTS**

- |              |  |
|--------------|--|
| Map 1        | Location and Zoning                    |
| Map 2        | Generalized Future Land Use            |
| Attachment A | Relevant Policies from the Halifax MPS |

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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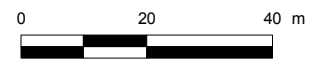


**Map 1 - Location and Zoning**

North side of Windsor Street  
between Willow and North Streets  
Halifax

**Zone**

- R-1 Single Family Dwelling
- R-2 General Residential
- R-3 Multiple Dwelling
- C-1 Local Business
- C-2 General Business
- C-2A Minor Commercial
- P Park and Institutional



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

HRM does not guarantee the accuracy of any representation on this plan.


Halifax Peninsula  
Land Use By-Law Area



## Map 2 - Generalized Future Land Use


2579 and 2581-83 Windsor Street  
Halifax

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

 Area proposed to be redesignated from MDR (Medium Density Residential) to MNC (Minor Commercial)

### Designation

MDR Medium Density Residential  
HDR High Density Residential  
MJC Major Commercial  
MNC Minor Commercial

0 20 40 m  


This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

HRM does not guarantee the accuracy of any representation on this plan.

Halifax Plan Area  
Peninsula North Secondary Planning Strategy



**Attachment A:**  
**Relevant Policies from the Halifax MPS**

**Peninsula North Secondary Planning Strategy – Commercial Facilities**

- Objective      A variety of appropriately located commercial facilities to serve the needs of both the resident and working populations of Peninsula North and the City as a whole.
- 2.1      Minor commercial centres shall be medium-scale commercial areas within walking or easy vehicular distance to several neighbourhoods, offering a variety of retail goods, services and activities to the surrounding neighbourhoods.
- 2.2      In areas designated as minor commercial centres, commercial centres, commercial uses serving more than one neighbourhood shall be permitted. They shall include such uses as retail shops, rental services, household repair shops, personal services, offices, specified entertainment uses, institutions, restaurants, service stations, community centres, but shall not include billboards. Medium-density residential uses shall also be permitted.
- 2.2.1    In areas designated as minor commercial centres, a mix of residential and commercial uses in one structure should be encouraged and the land use by-law shall permit this. Residential uses shall be encouraged to locate in commercial buildings provided that the following conditions are met:
- (i)      that residential uses are located above the first floor;
  - (ii)     there is a maximum of four dwelling units;
  - (iii)    there is separate access at the ground level;
  - (iv)    provision of one parking space for every unit of two or more bedrooms and for every four or less bachelor and one bedroom units.
- 2.2.2    Notwithstanding the medium density residential designation and Policy 1.3 the property at the southwest corner of North and Windsor Streets, zoned commercial immediately prior to the adoption of this Section, shall be zoned to a local business zone in order to limit the intensity of commercial development. *[This policy refers to 2590 Windsor Street, currently occupied by an apartment building, but previously an Irving Station.]*
- 2.2.3    Notwithstanding the Minor Commercial designation and Policy 2.2, certain commercial uses shall be zoned as general business in order to maintain conformity. More specifically, Civic 5663-69 and 5562-68 Cornwallis Street and 2223 North Park Street shall be zoned as general business.

2.2.4 The land use by-law shall include provisions for the Minor Commercial zone, which require building setbacks and the buffering of any on-site parking areas, to protect residential areas from the impact of adjacent commercial uses.

**Peninsula North Secondary Planning Strategy – Generalized Future Land Use Map**

10.4 Council may, by development agreement, permit an amendment to the existing agreement at 2571 Windsor Street to permit the structure to be altered, and or expanded and the use changed provided that:

- (a) no subdivision of the lot shall have occurred subsequent to the time of the adoption of this section;
- (b) the layout and design of the development shall be complementary to the fabric of the neighbourhood, and this shall be achieved through attention to a variety of factors including, but not limited to, the following, on which Council shall specify conditions to be met in the development agreement:
  - (i) architectural design;
  - (ii) scale;
  - (iii) the size, location, and landscaping of courts, open spaces, and yards;
  - (iv) location of primary and secondary entrances to the building; and
  - (v) size, location, and design of fences.
- (c) vehicular activity, particularly parking and loading, shall be controlled so as not to adversely affect the neighbourhood in terms of traffic flow and nuisance;
- (d) facilities for parking, refuse collection, loading, vehicular access, outdoor display, and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and the street and to ameliorate existing problems, through attention to such factors as:
  - (i) loading;
  - (ii) surface treatment;
  - (iii) storm drainage;
  - (iv) access from the street; and
  - (v) screening, buffering, and landscaping.
  - (vi) the effects of any outdoor lighting or sign illumination on adjacent residential properties shall be minimized;

- (v) existing conditions resulting in noise, dust, vibration, odour, and emissions shall be required to be ameliorated where these cause a nuisance or hazard;
- (vi) operating hours may be restricted beyond the provisions of Ordinance 121 to prevent nuisance; and,
- (vii) with regard to on-site advertising any changes shall not create undue impact on the residential character of the neighbourhood.

**City-wide Policies – Implementation**

3.14 Council may, by development agreement, permit a non-conforming use to be changed to another less intensive non-conforming use, or permit the structure in which such a use is located to be altered or expanded, provided that:

- a) the layout and design of the property shall be complementary to the fabric of the neighbourhood, and this shall be achieved through attention to a variety of factors including, but not limited to, the following, on which Council shall specify conditions to be met in the development agreement:
  - i) architectural design;
  - ii) the size, location, and landscaping of courts, open spaces, and yards;
  - iii) location of primary and secondary entrances to the building; and
  - iv) size, location, and design of fences.
- b) vehicular activity, particularly parking and loading, shall be controlled so as not adversely to affect the neighbourhood in terms of traffic flow and nuisance;
- c) facilities for parking, loading, vehicular access, outdoor display, and outdoor storage shall be designed to avoid any adverse effects on adjacent properties and to ameliorate existing problems, through attention to factors including but not limited to:
  - i) location;
  - ii) surface treatment;
  - iii) storm drainage;
  - iv) access from the street; and
  - v) screening, buffering, and landscaping.
- d) except where specific benefits to the neighbourhood can be demonstrated, all additions to a building, all off-street parking and loading areas, and all outdoor display and storage areas shall be set back from the street line by the more restrictive of:

- i) the minimum setback of the existing building; or
  - ii) the mean setback of the buildings on the adjacent properties on either side;  
or
  - iii) the minimum setback specified for the zone in which the use is located.
- e) except where specific benefits to the neighbourhood can be demonstrated, additions to the structures on the property shall not:
  - i) further encroach upon the minimum side and rear yards stipulated for the zone in which the property is located; or
  - ii) result in the total lot coverage or building height exceeding the maximum stipulated for the zone in which the property is located;
- f) any outdoor lighting or sign illumination shall be directed away from, or screened from, adjacent residential properties;
- g) no bulk refuse containers shall be visible from the street or from the immediate neighbourhood;
- h) no additional lot area shall be used for outdoor storage, and measures shall be taken to screen any outdoor storage areas from the street and immediate neighbourhood;
- I) with regard to on-site advertising for commercial or industrial uses:
  - i) where the property is located in a residential zone, no additional advertising surface area or illuminated signage shall be added; and
  - ii) in all other cases, such advertising shall not exceed the limits prescribed for the zone in which the property is located.
- j) in the case of commercial and industrial operations in residential zones, the following additional considerations shall also apply:
  - i) there shall be a demonstrable improvement to the neighbourhood;
  - ii) existing conditions resulting in noise, dust, vibration, odour, and emissions shall be required to be ameliorated where these cause a nuisance or hazard;  
and
  - iii) operating hours shall be restricted to prevent nuisance.
- k) No subdivision of the lot shall have occurred subsequent to the time of the adoption of this section.