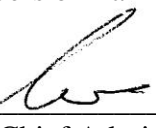


**Item No. 8.1**  
**Halifax Regional Council**  
**January 11, 2011**

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

**SUBMITTED BY:** Original Signed by   
Wayne Anstey, Acting Chief Administrative Officer

Original Signed by   
Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** December 10, 2010

**SUBJECT:** Case 01251: Amendments to Halifax Municipal Planning Strategy –  
Western Shore Bedford Basin

---

**SUPPLEMENTARY REPORT**

**ORIGIN**

August 17, 2010 motion of Regional Council:

“MOVED by Councillor Hum, seconded by Councillor Wile, that Regional Council defer a decision on Case 01251 pending a Staff Supplementary Report responding to the written correspondence received by Council and speakers' comments made during the Public Hearing.”

Motion put and passed.

**RECOMMENDATION**

It is recommended that Halifax Regional Council:

- (1) Approve the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Mainland Land Use By-law as provided in Attachments A and B of the staff report dated February 18, 2010, with the following modifications to Attachment A:

**RECOMMENDATIONS CONTINUED ON PAGE 2**

- (a) Replace subsection 1.7.2 (d) with the following: “the scale of the building(s) having regard for the retention of views of the Bedford Basin from public spaces including streetscapes, and active transportation corridors;”
- (b) Replace subsection 1.7.2 (g) with the following “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;” and
- (c) Replace subsection 1.7.3 (e) with the following: “ground and fascia signage should be designed to complement the development and be consistent throughout the site; and”.

### **EXECUTIVE SUMMARY**

On August 17, 2010, a public hearing was held for Case 01251 regarding proposed amendments to the Halifax Municipal Planning Strategy (MPS) and Halifax Mainland Land Use By-law (LUB) to implement the recommendations of the Land Use Planning Study – Western Shore Bedford Basin (LUPSWSB). Several concerns were raised by property owners who participated in the hearing, namely: the methods of notification / consultation for the project; the redesignation and rezoning of waterlots; infilling of the Bedford Basin; lack of consideration for upzoning of specific properties; and clarification of development agreement policy.

In response to these concerns, staff advise Council that notification and consultation for the project was sufficient, and that the treatment of waterlots was duly considered and it is appropriate to discourage infilling, for the foreseeable future. Staff do not recommend any changes to the proposed amendments to accommodate site specific requests for rezoning at this time, as it would not be in keeping with the recommendations of the LUPSWSB. However, staff are in favour of slight modifications to the proposed policies regarding development agreements, as a means to further clarify the policy without changing the intent.

### **BACKGROUND**

- As part of the Halifax Harbour Secondary Plan Initiative, RFP #06-035: Land Use Planning Study – Western Shore Bedford Basin (LUPSWSB), was awarded to O’Halloran Campbell Consultants Limited in April of 2006.
- The overall objective of the LUPSWSB was to make recommendations concerning the future land use of the study area. The process involved liaison with a Steering Committee comprised of HRM business units, extensive public consultation, document review, and assessment of existing conditions and future land use options, and was completed in January of 2008.
- A staff report dated February 5, 2008 went before Regional Council which included a summary of the recommendations of the LUPSWSB. Regional Council approved the following motion on February 19, 2008:

*"1. Regional Council approve-in-principle the findings and recommendations of the "Land Use Planning Study, Western Shore Bedford Basin", dated January 2008, and request staff to:*

*(a) Commence the process to amend the Bedford Highway Secondary Planning Strategy and Land Use By-law, using the report's recommendations as a framework; ..."*

- Staff opened Case 01251 and prepared a staff report dated February 18, 2010 that recommends a series of MPS and LUB amendments to implement the recommendations of the LUPWSBB.
- A public hearing was held before Regional Council on August 17, 2010. Four property owners spoke at the hearing, and six written submissions were received. Three of these submissions were from property owners who spoke at the hearing. Council requested staff prepare a supplementary report to address the concerns brought forward by the property owners.

## **DISCUSSION**

### **Public Consultation / Notification Process**

Several of the property owners who participated in the public hearing stated that they had no previous knowledge of Case 01251 or the preceding land use planning study. The following is a brief summary of the public consultation/notification that did occur as part of the process.

#### ***Land Use Planning Study - Western Shore Bedford Basin (LUPWSBB)***

- **Spring 2006** – A public and stakeholder contact list was prepared by the study consultant, O'Halloran Campbell Consultants Limited, in conjunction with staff and the area Councillor, which included resident groups, community interest groups, individuals, known developers, and corporate interests in the study area. The consultants contacted and interviewed the identified stakeholders.
- **October 2006** – Design Forum. Notification included an email invitation list of stakeholders, advertisements in two local newspapers, on two Saturdays, and posters placed in public venues. There were approximately 54 people in attendance, the majority of which were residents and/or property owners in the study area.
- There was newspaper coverage in the Halifax West / Clayton Park community newspaper following the Design Forum.
- **February 2007** – First Open House and Public Information Meeting. Notification included an email invitation list of stakeholders, advertisements in two local newspapers on two Saturdays, and posters placed in public venues. There were approximately 46 people in attendance, the majority of which were residents and/or property owners in the study area.
- **September 2007** – Second Open House and Public Information Meeting. Notification included an email invitation list of stakeholders, advertisements in two local newspapers on two Saturdays, and posters placed in public venues. The area Councillor's newsletter contained an article on the project (Fall/07).

***HRM Case 01251: Amendments to Halifax MPS – Western Shore Bedford Basin***

- **May 25, 2009** – Public Information Meeting. Notification included an advertisement in the local newspaper, and on the HRM website. There were 9 people in attendance, the majority of which were residents or representing property owners in the study area.
- **August 17, 2010** – Public Hearing held by Regional Council. Notification included advertisements in the local newspaper on two Saturdays prior to the hearing, and notices sent by mail to 158 property owners on July 28, 2010. Of those 158 property owners, 3 letters were returned as undeliverable, and 11 property owners responded, either by contacting staff with questions or for clarification, or by participating in the public hearing process.

In addition to the above direct consultative opportunities, information has been available on the HRM website throughout the process, including the entire LUSPWSBB since September, 2008; the project has been mentioned in the area Councillor's newsletter on several occasions; and information and reports related to the project have appeared on at least two Regional Council and two Chebucto Community Council agendas prior to the scheduling of a public hearing.

In speaking with a selection of the property owners who spoke at the public hearing, they have advised that they were not aware of the process until very recently, and therefore did not participate. Staff acknowledge that direct notification to every property owner in the study area was not conducted for each of the public consultation sessions; however, the consultant and staff attempted to reach as many members of the community as possible through the methods described above.

Requirements of both the legislated notification procedures within the Halifax Regional Municipality Charter and Regional Council's public participation program were met and exceeded during the HRM-led plan amendment process (Case 01251). Because the land use planning study was also prepared through a consultative process as part of this project, there has been much greater consultation and awareness than would otherwise be the case.

**Submission from Emscote Limited**

***Notification***

Emscote Limited indicated that insufficient notification was provided regarding the land use planning study and the ensuing proposed amendments. Staff are able to confirm to Council that Emscote was directly contacted as a stakeholder in July 2006 (telephone interview). Staff also understands that Emscote was on the consultant's email contact list for the study and was sent notification of the various consultation forums that were held throughout the process. We cannot, however, confirm that Emscote actually received the notifications or read the information. Records of the consultation forums indicate that representatives from Emscote were not in attendance.

***Proposed Amendments***

Emscote Limited has expressed concern with their parcel's rezoning and redesignation to the Water Access (WA) Zone and designation, and the loss of development rights associated with

this modification (refer to Maps 1 and 2).

#### Rezoning and Redesignation

Policy 5.1 of the existing Bedford Highway Secondary Planning Strategy states:

*“The City shall seek to preserve all areas of the Bedford Basin shore not required for railroad use as open space for public recreation purposes.”*

Consistent with this policy, one of the key recommendations of the LUPSWsBB is to discourage the infilling of waterlots to ensure the preservation of the shoreline and public views of the Bedford Basin.

Currently, there is very little as-of-right development ability for any waterlot owner in the study area. The existing zoning of the waterlots is P (Park and Institutional) and the existing land use designation is CF (Community Facility), which itself limits the type of development that can occur. The waterlots along this portion of the Bedford Highway are separated from the public street by the CNR lands, and cannot currently be accessed, unless approval is obtained for a grade-separated crossing of the rail right-of-way. In addition, even if the lots could be physically accessed, permits could not be issued for development of any existing parcel of land which does not have direct frontage on a public street. As well, many of these parcels do not have access to municipal services. Finally, the research conducted as part of the land use planning study indicates that the subject waterlot is a post-confederation waterlot, of which the Federal Government claims ownership. This matter will need to be resolved between the two parties.

Emscote Limited has advised that they own sufficient lands in the area between the Bedford Highway right-of-way and the CNR property to develop as-of-right; however, staff have not been provided with any survey plans or evidence of these land holdings, and Provincial mapping of property data conflicts with this claim (see Map 2). Regardless, the proposed amendments do not alter the existing designation or zoning of these lands; the lands remain P (Park and Institutional) together with any current as-of-right development potential.

#### Loss of Development Rights

Emscote Limited also owns a larger parcel of land across the Bedford Highway that falls within the Wentworth Secondary Plan Area. The WCDD (Wentworth Comprehensive Development District) Zone requires the property owner to enter into a development agreement prior to developing the lands. There are currently no proposed changes to either this secondary plan area or these lands.

Emscote Limited has indicated that they would like staff to consider transferring density from their water lot to their lands in the Wentworth Secondary Planning Strategy. This is not possible at this time, or advisable to Council for a number of reasons. Regional Council has the ability to adopt planning documents and amendments to planning documents that change or modify the development abilities of land. In this instance, the creation of the WA designation and zone is well supported by staff and the community, and Council is not obligated to provide any compensation for approving the proposed amendments.

Further, there is no mechanism in this area to consider the transfer of density. As such, it would be inappropriate to assign arbitrary density values to the lands and allow that density to be transferred to other areas. It would also be premature to consider allowing any additional density in the Wentworth Secondary Plan Area without a comprehensive review of both the servicing and land use/planning aspects of the community. Additionally, the proposed amendments include redesignating and rezoning twenty waterlots, and any perceived development rights that are being recognized on Emscote's waterlot would need to be provided to all waterlot owners in an equitable way.

Most importantly, there is no density associated with the water lot owned by Emscote Limited. Although lands within the Wentworth Secondary Plan Area have been assigned a maximum density of 20 persons per acre for the purpose of sewage flow calculations, the waterlot falls outside of this area, and has no density associated with it. The land is not serviced by HRM water or sewer services, and is not considered to be developable at this time. As such, there is no density value associated with the parcel, and thus no density to transfer.

The proposed amendments include a policy statement which encourages HRM to acquire the waterlots to establish a multi-use trail. If adopted, the proposed amendments will not have any negative impact on HRM's future ability to negotiate with Emscote to acquire the waterlot for these purposes.

The written submission from Emscote Limited indicates that their lands are being adversely affected by the proposed amendments. The proposed LUPWSBB will change the designation of the waterlots from CF (Community Facility) to Water Access and the zoning of the waterlots from P (Park and Institutional) to Water Access. The new designation and zone is similar to the direction Council chose to take for the North West Arm water lots and will create a disincentive for infill to take place. Given the other challenges with developing the waterlots described above, and given that this is the policy direction desired through the public consultation process for the study, staff advises that this is the appropriate course of action.

At some future point in time, with changes in circumstances regarding development matters for these properties, Council may choose to review the policies and regulations that are currently being proposed.

### **Submission from Sackville Rivers Association and Ms. Kinghorne**

Ms. Kinghorne, as well as the submission from the Sackville Rivers Association, expressed concerns with infilling of waterlots. As stated in the February 18, 2010 staff report, HRM has no ability to prohibit or regulate infilling as it falls within Federal and Provincial jurisdiction. Any property owner wishing to infill a waterlot must first receive approval from numerous departments of the senior levels of government. From the Municipality's perspective, the proposed amendments would come into effect only after the infill takes place and 'new land' is created. The proposed regulations are intended to discourage infilling by applying the WA zone and designation to any infilled lots, thus limiting their development.

The Sackville Rivers Association also requested that the staff report be sent to the Bedford Watershed Advisory Board (BWAB) and Halifax Watershed Advisory Board (HWAB). Staff

forwarded a copy of the February 18, 2010 staff report to these Boards for information purposes.

**Submissions from Mr. Bassil (544 Bedford Highway) and  
Quadra Engineering Ltd. (686 Bedford Highway)**

Two submissions were in relation to properties which are currently zoned R-1 (Single Family Dwelling Zone) and designated as LDR (Low Density Residential), specifically 544 Bedford Highway/1 Lodge Drive and 686 Bedford Highway (Map 1). There are no modifications to the designation or zoning of these lands proposed as part of the current amendment package before Council. However, the property owners have stated that they would like their lands to be considered for increased development opportunities, potentially as part of the proposed amendments.

The proposed amendments are intended only to implement the key components of the LUPSWBB. This study was a component of the Halifax Harbour Planning Initiative and, as such, was primarily meant to address future land use potential for the Bedford Basin shoreline area and lands between the shoreline and the Bedford Highway. The exercise was not intended to be a comprehensive review of the entire Bedford Highway Secondary Plan, nor a comprehensive review of the specific development potential of every property in the study area, particularly those properties on the western (inland) side of the Bedford Highway. The recommendations do include the proposed creation of two nodes of mixed use development in strategic locations that take advantage of existing uses and build on them (i.e. the area near the intersection of Larry Uteck Boulevard, and the section at the north end of the plan area near Clearwater and Downeast Mobility).

Through public consultation, the consensus of the community clearly indicated that those areas along the western side of Bedford Highway which contained existing low density residential development should retain their existing zoning. The community expressed concerns over several of the more recent multi-unit developments along this corridor, citing issues such as lack of sensitivity/compatibility to existing single detached development, impacts on views to the Basin, design elements and negative impacts on the environmental assets of the area. Other issues relate to traffic and access and infrastructure (water and sanitary sewer). Thus, in order to preserve and promote this corridor as an important “scenic drive”, the community felt that existing low density zoning should be retained in these areas.

Through recent discussions held with the consultants for the Land Use Planning Study, we can find no record indicating that specific contact was made with representatives of the two subject properties as part of said study. While it is acknowledged that these representatives may have made inquiries to certain HRM business units or Halifax Water over the past number of years, members of the study team and the consultants were not aware of such inquiries. Further, no formal development application has been received to date by HRM.

Staff reiterates, however, that we believe the public consultation program for the project and its associated advertising/notification, as described earlier in this report, was both extensive and adequate.

As such, staff **do not recommend** that Council consider any amendments at this time that would be contrary to the land use designations and zoning being proposed herein. To consider changing the designation or zone of either of the two subject properties would not be consistent with the LUPSWSB, Council's initiation of the current planning process, or staff's recommendation, and as such, would be inappropriate at this time.

Should Council wish to pursue any amendments of this nature, staff advises that Council should suspend the current plan amendment process and instruct staff to initiate a further public consultation program, followed by another public hearing at Regional Council.

Over the course of time, should circumstances change and should all issues related to the development of these properties be satisfactorily addressed, alternative land uses may be considered. This, however, would be subject to a separate plan amendment process with public consultation focused on the site in question. Any proposals would be considered on an individual basis and on their own merits, and should be complementary to the conclusions and general direction of the LUPSWSB.

### **Submission by Terrain Group Incorporated**

A submission by Terrain Group, representing several properties in the vicinity of the intersection of Larry Uteck Boulevard and Bedford Highway, agreed generally with the direction of the proposed amendments, but had suggestions as to policy structure and language. It is noted that this stakeholder participated in the LUPSWSB process.

Specifically, it is suggested that three of the subsections to the policy to allow Council to consider development agreements for mixed use development within the new "Schedule R" area could be reworded for clarity. Staff have considered this suggestion, and agree that rephrasing subsections 1.7.1 (d), 1.7.1 (g), and 1.7.2 (e) would bring more clarity and direction to the policy set without changing the intent. As such, staff prepared a revised motion including three recommended clarifications. All of the proposed changes concern policies to be considered regarding development agreements.

*Recommendation 1(a): Replace subsection 1.7.2 (d) with the following: "the scale of the building(s) having regard for the retention of views of the Bedford Basin from public spaces including streetscapes, and active transportation corridors;"*

- The purpose of this change is to make the policy more clear on the types of public spaces from which views are to be protected and make it abundantly clear that the purpose is to protect the public's view to the Bedford Basin.

*Recommendation 1(b): Replace subsection 1.7.2 (g) with the following "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;"*



- The main purpose of this change is to add flexibility when looking at the amount of parking which can be established in front of buildings. The proposed policy in the February 18, 2010 staff report specifies a maximum of 5 percent of parking can be placed in front and this may prove difficult to achieve in some projects.

*Recommendation 1(c): Replace subsection 1.7.3 (e) with the following: “ground and fascia signage should be designed to complement the development and be consistent throughout the site; and”*

- This change ensures higher quality design in signage by adding that signs must complement the architecture of the development.

### **BUDGET IMPLICATIONS**

The costs to process this planning application can be accommodated within the approved operating budget for C310 Planning & Applications.

### **FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

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

### **COMMUNITY ENGAGEMENT**

The community engagement process was consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation; staff reviewed the written and oral submissions to the public hearing, and held meetings with three of the parties who participated in the public hearing to gain a better understanding of their comments and concerns.

### **ALTERNATIVES**

1. Regional Council may approve the amendments in Attachments A and B of the February 18, 2010 staff report, with the revisions to Attachment A as outlined in the recommendation section of this report. This is the staff recommendation.
2. Regional Council may refuse the amendments in Attachments A and B as outlined in this report and the February 18, 2010 staff report.
3. Regional Council may choose to either adopt certain amendments but not others or alternatively request additional amendments in which case an additional staff report(s), further public consultation, and another public hearing may be required.

**ATTACHMENTS**

Map 1            Subject Properties  
Map 2            Detailed View

---

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.

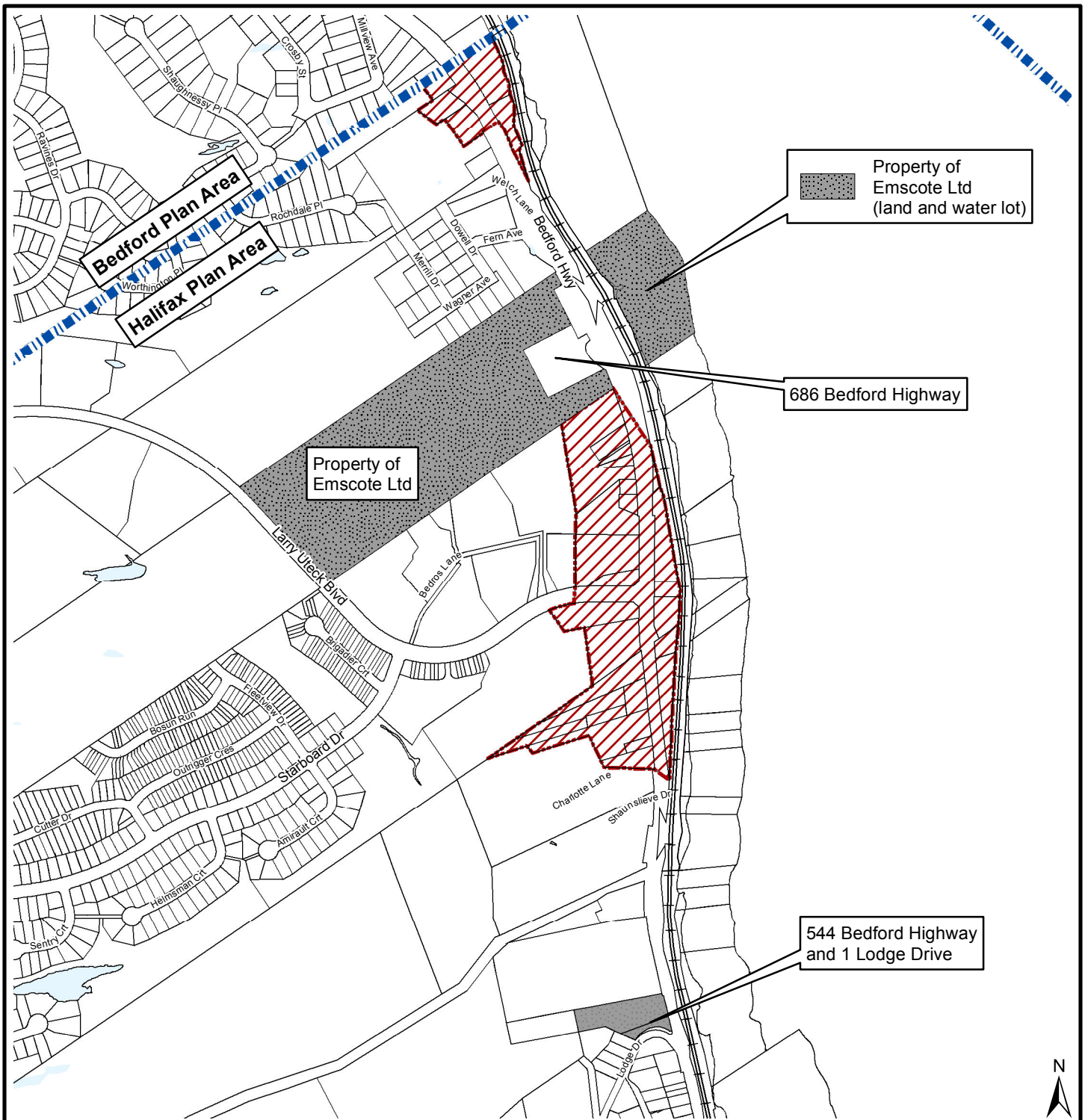
Report Prepared by:            Mackenzie Stonehocker, Planner I, 490-4793

Report Approved by:            \_\_\_\_\_  
Austin French, Manager of Planning Services, 490-6717

Report Approved by:            \_\_\_\_\_  
Paul Dunphy, Director of Community Development


---

Original Signed



## Map 1

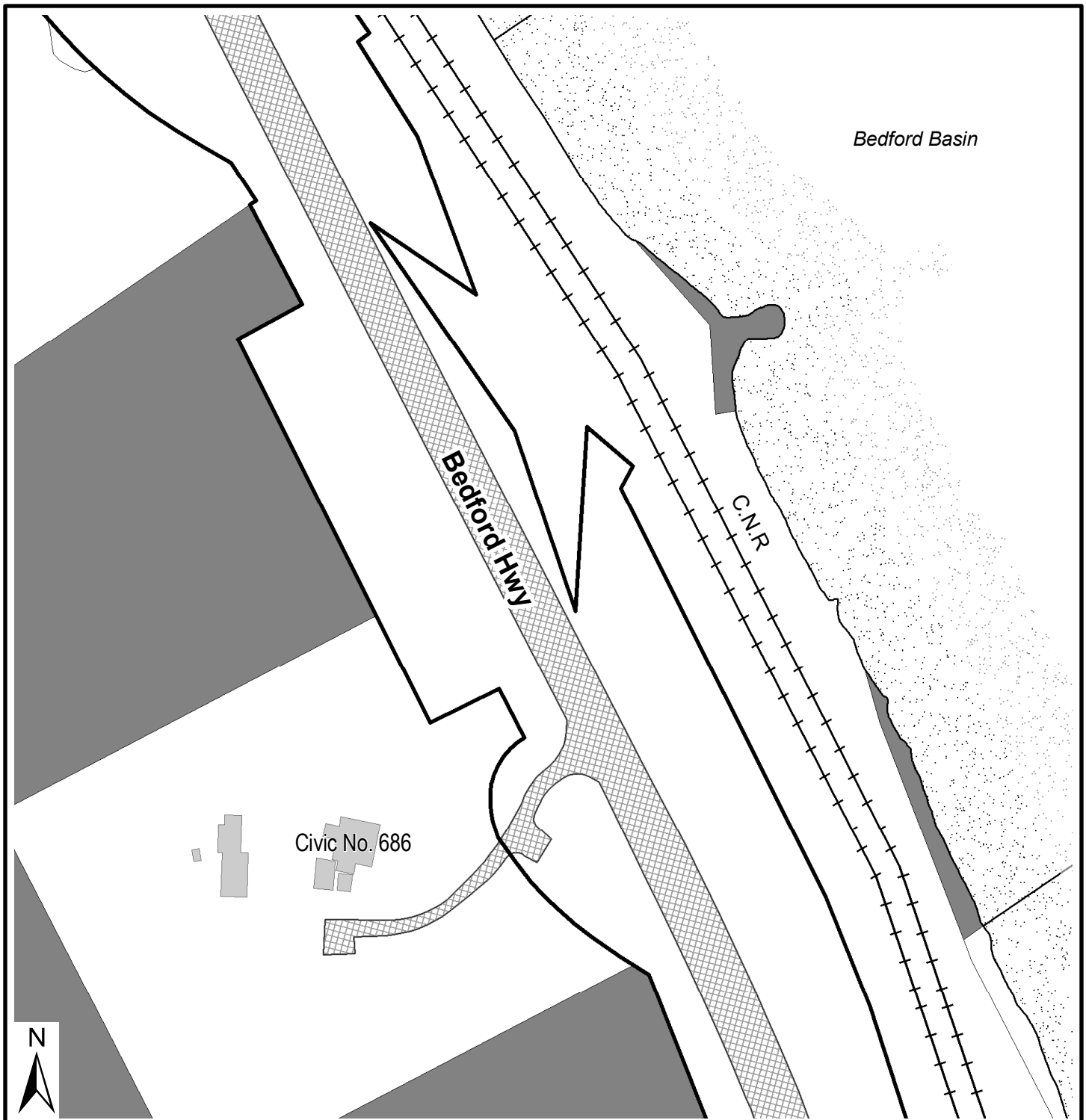
Bedford Highway  
Halifax

 Area of proposed Schedule R

Halifax Mainland  
Land Use By-Law Area




**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

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



## Map 2 - Detail

Bedford Highway  
Halifax

-  Lands of Emscote Limited
-  HRM road parcel
-  Extent of travelled way - Bedford Highway

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



Halifax Mainland  
Land Use By-Law Area

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