



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No.
Halifax and West Community Council
January 17, 2017

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed
Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: December 5, 2016

SUBJECT: **Case #20854 – HRM-initiated application to consider amendments to the Halifax Peninsula Land Use By-law to protect the character and form of Young Avenue, Halifax.**

INFORMATION REPORT

ORIGIN

October 4, 2016 Motion of Regional Council:

“MOVED by Councillor Mason, seconded by Councillor Watts

THAT Halifax Regional Council refer this matter to the Halifax & West Community Council for consideration. MOTION PUT AND PASSED.”

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (“HRM Charter”), 30 (3) “A community council may amend the land use by-law of the Municipality applicable to the community with respect to any property in the community if the amendment carries out the intent of any municipal planning strategy of the Municipality applicable to the property and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.”

HRM Charter; Part VIII, Planning and Development, including sections 225 and 235

Halifax Municipal Planning Strategy

Administrative Order Number 48, the Community Council Administrative Order

BACKGROUND

Young Avenue, in Halifax’s South End area, is considered a unique and prominent residential streetscape characterized by many large estate lots which contain houses with notable architectural qualities and

size. As a result of recent development activity on the street, which has included the demolition of several notable houses of historic significance, there is concern that the well-established character of Young Avenue will be lost as more longstanding homes are demolished, lots are subdivided, and new dwellings constructed.

In response to these concerns, Regional Council requested staff to present options to protect the character and form of Young Avenue. On October 4, 2016, Regional Council considered a staff report which outlined options to protect this streetscape, including potential changes to the Land Use By-law related to lot size and lot frontage and possible protections through heritage legislation (Attachment A). Staff recommended amendments to the Halifax Peninsula Land Use By-law, enabled through existing policies in the Halifax Municipal Planning Strategy, which would protect the existing lot fabric by limiting subdivision opportunities. Regional Council directed that the matter be referred to Halifax and West Community Council so that the proposed land use by-law amendments may be considered.

DISCUSSION

Since the October 4th Regional Council meeting, staff have initiated the process for consideration of the amendments to the Halifax Peninsula Land Use By-law as outlined in the October 4, 2016 Regional Council report (Attachment A).

There are several steps required before changes to the land use by-law can be adopted (Attachment B). These include:

- Public consultation;
- Consideration and recommendation from Districts 7 & 8 Planning Advisory Committee (PAC);
- Completion of a staff report, which includes recommendation on proposed LUB amendments;
- First reading at Halifax and West Community Council;
- Public hearing at Halifax and West Community Council;
- Decision by Halifax and West Community Council on LUB amendments; and
- A 14 day appeal period – NS Utility and Review Board.

Public consultation has been underway for several weeks. A petition signed by 561 members of the public was received by Regional Council on October 4, 2016 in support of land use by-law changes to reflect the character of Young Avenue. The petition requested amendments to the LUB which would require a minimum lot width of 80 feet and a side yard setback of 10 feet. These requests will be considered by staff and addressed in the upcoming staff recommendation report to Community Council.

A webpage has been posted on the HRM website with details of the proposed changes (<http://www.halifax.ca/planning/applications/Case20854details.php>). A Public Information Meeting was held on November 2nd, 2016, and Districts 7 & 8 Planning Advisory Committee reviewed the proposed changes on November 28, 2016.

Staff is currently preparing a recommendation report to Community Council, and anticipates this report will be presented to Community Council for consideration in early 2017.

FINANCIAL IMPLICATIONS

There are no financial implications. The HRM costs associated with the land use by-law amendment process can be accommodated within the approved 2016/17 operating budget with existing resources.

P.O. Box 1749
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B3J 3A5 Canada

Item No. 14.1.11
Halifax Regional Council
October 4, 2016

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by

Jacques Dubé, Chief Administrative Officer

Original Signed by

Jane Fraser, Acting Deputy Chief Administrative Officer

DATE: September 26, 2016

SUBJECT: Options to protect the character and form of Young Avenue, Halifax

ORIGIN

On May 10, 2016 Regional Council passed the following motion:

MOVED by Councillor Mason, seconded by Councillor Hendsbee

THAT Halifax Regional Council request a staff report recommending best options to establish protections to the heritage and character of historic Young Avenue, including but not limited to:

1. Changes to the Land Use By-law related to lots size, coverage, frontage and dwelling count;
2. Establishing a Heritage Conservation District or Heritage Streetscape.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter ("HRM Charter"), 30 (3) "A community council may amend the land-use by-law of the Municipality applicable to the community with respect to any property in the community if the amendment carries out the intent of any municipal planning strategy of the Municipality applicable to the property and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes."

HRM Charter, Part VIII, Planning and Development, including section 235:

Halifax Municipal Planning Strategy

The *Heritage Property Act*, R.S. N. S. 1989, c. 199

Administrative Order Number 48, the Community Council Administrative Order.

RECOMMENDATION

It is recommended that Halifax Regional Council refer this matter to the Halifax & West Community Council for consideration.

BACKGROUND

Young Avenue is a prominent residential boulevard in the south end of the Halifax peninsula which commences at Inglis Street, running south and terminating at the prominent entry gates of Point Pleasant Park. The street was constructed in the late 19th century, and was envisioned as a grand avenue to connect the Public Gardens to Point Pleasant Park. As a result of provincial legislation governing residential development in the street's early years, the streetscape is characterized by several large estate houses notable for their architectural qualities and size, as well as some smaller scale development from the 1970's and later.

Recent development activity on Young Avenue, including the demolition of several notable dwellings of historic significance, has affected the unique character of the streetscape. There is concern that more of the character will be lost as longstanding homes are demolished, lots are subdivided, and new dwellings constructed. Regional Council has therefore directed staff to investigate options to protect the existing character and built form of the street.

Past Regulation

Since its construction, Young Avenue has been treated as a unique streetscape. *An Act relating to Young Avenue in the City of Halifax* (s 1896, c.28), established in 1896 by the Provincial Legislature, proclaimed it desirable to "*beautify said avenue... provided certain class and style of houses are built*". The Act set out provisions to ensure residential development of the street took place in a specific form. In 1907, the Act was repealed but its provisions were moved into the 1907 *Halifax City Charter*.

In the 1930s the *Halifax City Charter* included similar provisions to the provincial legislation, but also permitted the conversion of existing residences to a maximum of four residential units. This legislation regulated the minimum cost, design, appearance and setbacks of the buildings, but did not regulate the size of lots. Given the significant cost of the buildings required by both the *Act relating to Young Avenue* and the early versions of the *Halifax City Charter* it is likely that the subdivision of these estates was not contemplated at that time. The provisions did not form part of the 1963 *Halifax City Charter*.

Existing Municipal Planning Policy and Land Use By-law Regulations

Under the existing Halifax Municipal Planning Strategy ("MPS"), Young Avenue is designated Low-Density Residential within the South End Area Plan. Section V, South End Area Plan Objectives and Policies, outlines detailed policy direction, and specifically, policy 1.4.1 designates Young Avenue as family-type housing accommodation in detached single-family dwellings. Presently no policy exists addressing the unique residential development on Young Avenue, however it is notable that in 2011 and 2015 new policy and Land Use By-law standards were adopted which acknowledged another unique residential area in the south end located between Oakland Road, Bellevue Avenue, Inglis Street and Beaufort Avenue.

City-Wide Policies 2.2 and 2.4 of the Residential Environments section of the MPS indicate a desire to preserve the existing character and development pattern of predominately stable residential neighbourhoods. Section V policy 1.1.1.2 enables zoning within the Land Use By-law to "*further define elements of scale, proportion, setback and use consistent with the policies of this Plan to ensure compatibility with the districts and neighbourhoods.*"

The Halifax Peninsula Land Use By-law regulates development on Young Avenue, and all of the properties are zoned R-1 (Single Family Residential Zone) (Attachment B). The minimum lot size and lot frontage is 4,000 square feet and 40 feet, respectively, and the maximum lot coverage is limited to 35 percent. The size of dwellings in the R-1 Zone is also subject to maximum gross floor area requirements,

which limits the FAR (floor area ratio) of dwellings based on lot size. Under the South End Area Plan, single detached dwellings in the area which existed on October 14, 1982, are permitted to be internally converted to a maximum of three residential units. These internal conversions may not increase the height or volume of the building, and there are additional criteria regarding unit size, bedroom count and parking provisions.

On November 27, 2012 Regional Council adopted Administrative Order 48 establishing the Community Councils and delegating them certain authorities. One of the authorities that was delegated by Council was the authority to amend the land-use by-law applicable to the community if the amendment carries out the intent of any municipal planning strategy. The *HRM Charter* provides that, when such a delegation is made the "community council stands in the place and stead of the Council".

Heritage Property Protection

The *Heritage Property Act* provides municipalities with tools to designate and protect buildings, structures, streetscapes, cultural landscapes, areas and districts of historic, architectural or cultural value. In this instance there are three options which Council could initiate: (1) individual heritage registrations for specific buildings, (2) a streetscape designation for the street, or (3) the establishment of a heritage conservation district (HCD). All of these tools have been used to protect heritage in HRM.

DISCUSSION

Amendments to the Halifax Peninsula Land Use Bylaw

The current regulations under the Halifax Peninsula Land Use By-law for the Young Avenue area do not reflect the majority of the built form of the street. Initial analysis of the lot fabric (Attachment A) shows that the average lot areas and lot frontages are significantly larger than the minimum lot area and lot frontage required under the R-1 Zone. Under the current Land Use By-law regulations, 19 lots on Young Avenue have the potential for re-subdivision. There is concern for maintaining the traditional form and character of the Young Avenue streetscape as significant change may result from the demolition of existing dwellings and subdivision to enable additional residential construction.

To better implement the policies of the MPS, particularly with regard to preservation of the existing character of neighbourhoods and pattern of development, staff recommends adopting changes to the lot standards for the Young Avenue area. These changes and their intent are summarized as follows:

- Increase the minimum required lot area and lot frontage to 8,000 square feet and 80 feet, to better reflect the character of the street; and
- Add a requirement for lot area being a minimum lot width of 80 feet and a minimum length of 100 feet, which will address the concern that the development of flag lots may create a pattern of development that does not preserve the predominant development pattern of the street.

The size of dwellings is sufficiently addressed by the existing 35 percent maximum lot coverage requirement and the current maximum residential gross floor area requirements; no changes are proposed to these provisions. Proposed amendments to the R-1 Zone would be in keeping with the intent of the MPS, and serve to better protect the character of Young Avenue.

Staff is of the opinion that a municipal planning strategy amendment is not required and, accordingly, if amendments to the land use by-law are going to be considered, the matter should be referred to the Halifax & West Community Council for its consideration.

Options for Use of Tools enabled by the Heritage Properties Act

As outlined in the Background section there are three heritage tools which could help preserve the character of Young Avenue: (1) individual heritage registrations for specific buildings, (2) a streetscape designation for the street, or (3) the establishment of a heritage conservation district.

1. Individual heritage registrations may be warranted for many buildings on Young Avenue; however, the process would take 6-8 months once staff have identified which buildings have the most heritage value. Once a property is designated as a municipal heritage property, owners must request permission to make a substantial alteration or to demolish. If Council denies such a request, section 18 of the *Act* permits the owner to undertake the substantial alteration or demolition three years after the date of the application, but not more than four years after the date of the application. This section of the *Act* limits the long term protection of the building from inappropriate alterations and demolition.
2. Streetscape designations are very similar to individual heritage registrations, except that part of the scoring process to determine if there is adequate heritage value considers the context of the whole street. Therefore, a summary of the heritage value and character defining elements for each property on the street would need to be created before the heritage advisory committee could evaluate each of the buildings. The timeline for the process for adoption of a designation would be similar to that of individual registrations, but with the added work of researching the context of the whole street. With this tool each building within streetscape would be subject to Section 18 of the *Act* which allows owners to proceed with a substantial alteration or demolition 3 years after the date of the applications, but not more than four years after the date.
3. The third option provided under the *Heritage Property Act* would be the creation of a Heritage Conservation District. This process involves the creation of a public participation program, the creation and approval by the Minister of a background study outlining the heritage values of the proposed district and rationale for the boundary, establishment of a stakeholder steering committee, creation of a Conservation Plan and Bylaw for the area, and public hearing before Council could adopt the Plan and Bylaw. The creation and adoption of an HCD could potentially take between one and two years to conclude, however, it currently provides the Municipality with greater options with respect to substantial alteration and demolition control than are provided with individual registrations

While each of these tools could assist in the protection of the character of Young Avenue they would not offer significantly more protection at this time than the described amendments to the Land Use By-law.

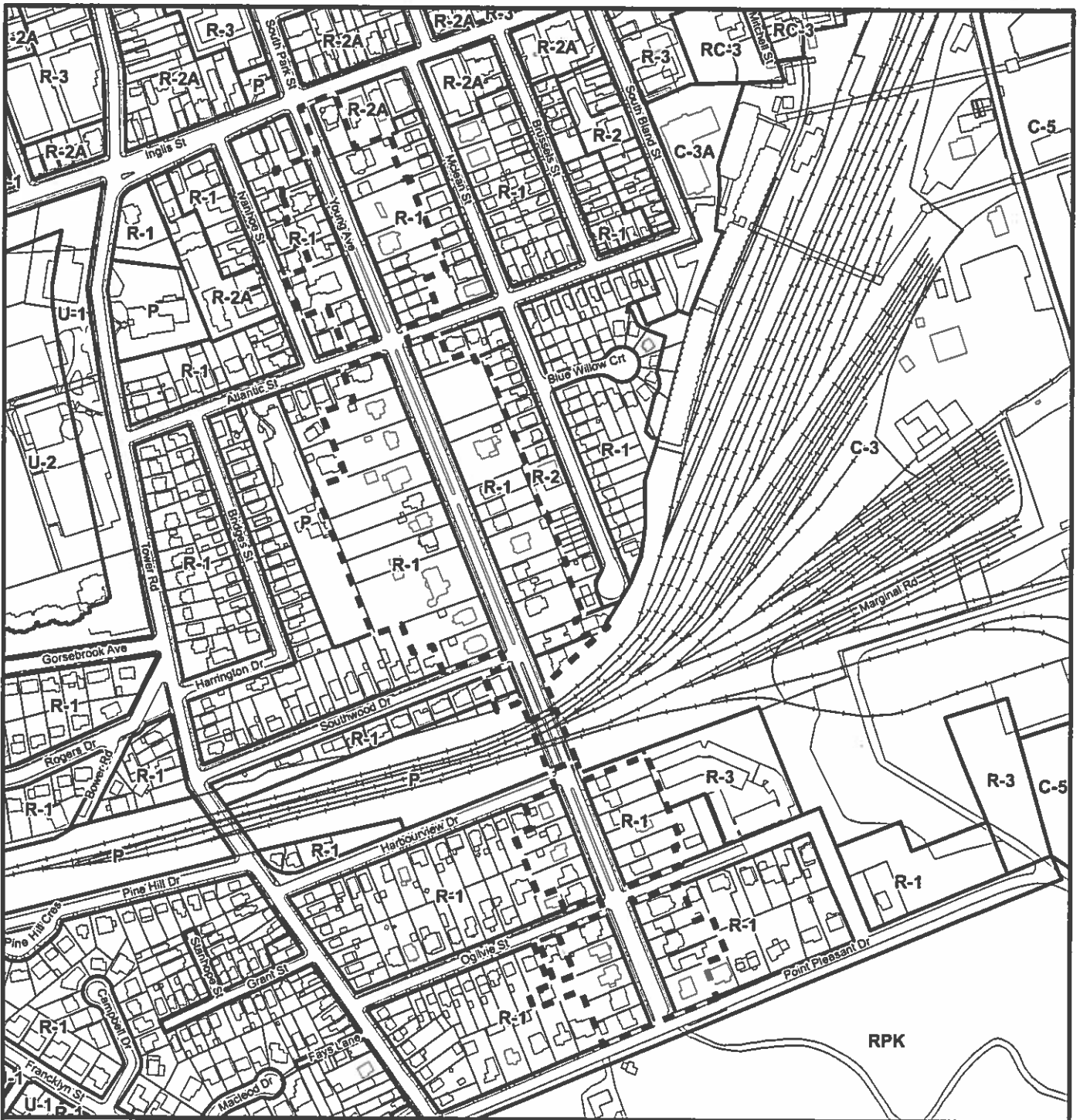
A heritage conservation district could provide permanent protection from demolition and inappropriate alterations to the properties on Young Avenue, however the process to create a Conservation District typically takes between one and two years. Additionally, policy in the Downtown Halifax MPS identifies the "Historic Properties" area for consideration as the next Heritage Conservation District once the Old South Suburbs is completed. The creation of a Heritage Conservation District typically includes other tools such as financial and land use incentives, and the creation of specific design guidelines which would apply to the entire district. There is no additional policy prioritizing any other future Heritage Conservation Districts.

Conclusion

The proposed amendments to the R-1 Zone outlined in this report are an extension of the policy in the Halifax Municipal Planning Strategy which aims to protect the character of residential neighbourhoods. The advantage of amending the Land Use Bylaw is that it is a significantly shorter process than the adoption of a heritage conservation district, and would still enable the preservation of the current lot fabric, and thus the unique character of this area. If these amendments are going to be considered, the matter should be referred to the Halifax & West Community Council for consideration.

COMMUNITY ENGAGEMENT

The proposed level of community engagement would be consultation, achieved through a public meeting, as well as a public hearing, before Community Council can consider approval of any amendments.



Map 1 - Study Area Location & Zoning

Young Avenue
Halifax

 Study Area Boundary

Downtown Halifax
Plan Area

Zone	
R-1	Single Family Dwelling
R-2	General Residential
R-2A	General Residential Conversion
R-3	Multiple Dwelling
RC-3	High Density Res. Minor Comm.
C-3	Industrial
C-3A	Business Service
U-1	Low-Density University
U-2	High Density University
RPK	Regional Park
P	Park and Institutional

HALIFAX



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.

Attachment A: Analysis of Lot Fabric on Young Avenue

Total number of lots in study area:	64
Number of lots with ≥8000 sq. ft. lot area and 80 ft. lot frontage (could be subdivided under current regulations)	19

Lot Area	Study Area	Inglis St to Railway cut	Railway cut to Point Pleasant Dr.
(in Square Feet, rounded)			
Average	13,066	14,379	10,628
Median	10,179	9,836	10,305
Min	4,644	4,644	7,116
Max	51,437	51,437	19,803

Lot Frontage	Study Area	Inglis St to Railway cut	Railway cut to Point Pleasant Dr.
(in Feet, rounded)			
Average	75	81	64
Median	66	71	62
Min	40	40	50
Max	170	170	108

Attachment B: Excerpt from the Halifax Peninsula Land Use By-law

R-1 ZONE - SINGLE FAMILY ZONE

27(1) The following uses shall be permitted in any R-1 Zone:

- (a) a detached one-family dwelling house;
- (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) church or church hall;
- (e) a day care facility for not more than 14 children in conjunction with a dwelling; (RC-Mar 3/09;E-Mar 21/09)
- (f) a special care home containing not more than ten persons including resident staff members;
- (g) uses accessory to any of the foregoing uses.

27(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).

27(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

28 Buildings erected, altered or used for R-1 uses in an R-1 Zone shall comply with the following requirements:

- Lot frontage minimum 40 ft. except when a lot faces on outer side of a curve in the street, in which case the minimum frontage may be reduced to 25 ft.
- Lot area minimum 4,000 sq.ft.
- Height maximum 35 ft.
- Lot coverage maximum 35 percent

HEIGHT AND LOT COVERAGE - ATLANTIC, BRUSSELS AND MCLEAN STREETS

For those properties zoned R-1 on Atlantic Street (east 5660 Atlantic Street), Brussels Street and McLean Street, the maximum permitted height shall be the height shown on ZM-17 and such height shall be determined by the definition "Height" instead of the definition "Height South- South-End and Peninsula Centre" and the maximum lot coverage shall be 30 percent.

LOT COVERAGE - PENINSULA WEST AREA 1

For those properties zoned R-1 within Peninsula West Area 1, the maximum lot coverage shall be 30 percent.

29 With the exception of those streets shown on the attached building line plan, a front yard shall be provided of not less than 15 feet in depth. In the case of those streets shown on the "Building Line Plan" (see appendix), the front yard requirements shall be as indicated on that plan.

30 A rear yard shall be provided of not less than 20 feet in depth.

31 A side yard shall be provided on each side of the building of not less than 10 percent of the width of the lot, provided that the maximum width of any side yard need not exceed 6 feet and the provisions of this clause shall apply to both sides of the building.

WESTMOUNT SUBDIVISION AREA

31A In the Westmount Subdivision, the front yard shall be identified as that yard that is adjacent to the city street, and the rear yard as that yard that is adjacent to the walkway. (PCC/CCC-Nov 8/10;E-Nov 27/10)

CORNER LOT - YARD REQUIREMENT

32 In the case of a corner lot at the rear of which (whether a lane intersects or not) is a lot fronting on a street which flanks such corner lot, the width of the side yard on the corner lot along the flanking street shall not be less than 6 feet nor less than half the depth of the front yard on the lot in the rear of such corner lot. This regulation shall not, however, where the provisions of the next preceding clause are complied with, reduce the buildable width of a corner lot to less than 26 feet. *(PCC/CCC-Nov 8/10;E-Nov 27/10)*

BOARDERS AND LODGERS - BED AND BREAKFAST

33(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 clause shall be allowed.

33(b) The provision of the bed and breakfast accommodation shall not be permitted simultaneously with the keeping of boarders and lodgers.

SIGNS

34 Within the said district, it shall be unlawful to utilize any portion of the exterior of the building or other structure for the purpose of advertising or to erect or maintain any billboard or sign except:

- (1) One sign board not exceeding six square feet in area appertaining to the sale or rent of the building or lot.
- (2) One non-illuminated trespassing, safety, or caution sign not exceeding one square foot in size.
- (3) One non-illuminated sign not exceeding one square foot in area, indicating the name and occupation, profession or trade of the occupant of the building.
- (4) A bulletin board for a church or church hall.
- (5) A sign not exceeding two square feet in size for any day care facility *(RC-Mar 3/09;E-Mar 21/09)*
- (6) 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

34A Building erected, altered or used for a day care facility shall comply with the following requirements:

- (a) Except for outdoor play space, any day care facility 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 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 shall be permitted to be located on any lot *(RC-Mar 3/09;E-Mar 21/09)*

34B Notwithstanding the provisions of Sections 27(1)(e) and 34A (a-c) day care facility may be operated as an accessory use to a church or church hall. The parking provisions contained in Sections 6(6) and 6(7) would apply. *(RC-Mar 3/09;E-Mar 21/09)*

SPECIAL CARE HOME

34D 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 1000 feet distance from any other building used for or as a special care home;
- (iv) parking requirements as contained in Subsections (8) and (9) of Section 6.

CONVERSIONS - SOUTH END AND PENINSULA CENTRE

34E Any residential building which was in existence on 14 October 1982 within the "South End" and "Peninsula Centre Areas", with the exception of the "North West Arm Sub Area", may be permitted to convert to a maximum of 3 units, provided that:

- (a) there is no increase in height or volume and that the external dimensions of the building have not changed since 14 October 1982;
- (b) where a conversion is to two dwelling units, one of the dwelling units shall be a minimum of 1,000 square feet, and where the conversion is to three dwelling units, two of the dwelling units shall be a minimum of 1,000 square feet (the external dimensions of the building shall not be enlarged after the conversion);
- (c) where the conversion is to two dwelling units, there shall be six or fewer bedrooms within the entire residential building;
- (d) where the conversion is to three dwelling units, there shall be eight or fewer bedrooms within the entire residential building; and
- (e) where a conversion has occurred prior to September 17, 2005, there shall be no further increase in the number of bedrooms beyond that which is specified in (c) or (d); and,
- (f) one separating accessible parking space at least 8 feet wide and 16 feet long per dwelling unit is provided.

NORTHWEST ARM SUB-AREA

34F(1) In the North West Arm Sub-Area the following additional requirements shall apply to lots which abut the Northwest Arm. R-1 uses shall be required to have a minimum lot area of 743.2 square metres (8,000 square feet) and a minimum distance of 9 metres (30 feet) between main buildings. This section shall not apply to lots 6 and 7 of the Thornvale Subdivision as shown on Plan P200/7591 filed in the Municipality's Community Development Department as Case No. 3356. (RC-May 1/07;E-July 21/07) (PCC/CCC-Nov 8/10;E-Nov 27/10)

OAKLAND ROAD LOT SIZES

34G Notwithstanding the minimum lot frontage requirement specified in Section 28, the minimum lot frontage requirement for lots fronting on Oakland Road, between Robie Street and Beaufort Avenue shall be 50 feet, excepting those lots in existence on 14 May 1992.

PENINSULA NORTH AREA

34H Notwithstanding Section 28 and Section 31, a building erected, altered, or used as a detached one-family dwelling house, office of a professional person or home occupation in an R-1 Zone in the "Peninsula North Area" shall comply with the following requirements:

- (1) Lot Frontage minimum 30 feet
- (2) Lot area minimum 3,000 square feet
- (3) Height maximum 35 feet
- (4) Lot Coverage maximum 35 percent
- (5) Side Yards 4 feet

FRONT YARD SETBACKS - PENINSULA NORTH AREA

34I(1) Notwithstanding the provisions of Section 29, for any R-1 use constructed after 03 June 1993 in the "Peninsula North Area" the minimum front yard shall be the front yard of the majority of residential buildings fronting on the same side of the same block in which the building is to be constructed. For the purposes of measuring, existing front yard dimensions shall be rounded to the nearest foot;

34I(2) Where there is no majority of buildings with the same front yard on the block, the minimum front yard shall be that of the residential building on the adjacent lot on either side of the proposed

development which is closer to the street line; and where there is no residential building on either adjacent lot the minimum front yard shall be 10 feet.

Land Use By-law Amendment

- Complete application received
- Preliminary review of proposal
- Public Information Meeting
- Recommendation from Planning Advisory Committee
- Detailed review of proposal
- Staff report (includes recommendation on proposed LUB amendments)
- First reading at Community Council
- Public hearing at Community Council
- **Decision by Community Council on LUB amendments**
- 14 day appeal period – NS Utility and Review Board
- Subdivision or building permit applications when changes are in effect

***Estimated time to final decision:
7 months***

***Estimated time is based on a typical case;
however, delays may occur at any step.***