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Item No. 10.1.1
Halifax and West Community Council
November 15, 2016
December 14, 2016

TO: Chair and Members of Halifax & West Community Council

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

DATE: August 21, 2016

SUBJECT: **RP16-02: Proposed amendment to the R-2P Zone to the Halifax Mainland Land Use Bylaw.**

ORIGIN

On November 18, 2013 Halifax and West Community Council passed the following motion:

"MOVED by Councillor Mosher and seconded by Councillor Watts that Halifax and West Community Council direct staff to initiate the amending process to clarify side yard set-backs for semi-detached dwellings within the R-2P Zone as outlined in Section 28 (AB)(1) and Section 28(AD) of the Halifax Mainland Land Use By Law. MOTION PUT AND PASSED"

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax & West Community Council:

1. Give First Reading to consider approval of the proposed amendments to the Land Use By-law for Halifax Mainland, as set out in Attachment A, to clarify the requirements for semi-detached dwellings within the R-2P Zone, and schedule a public hearing;
2. Adopt the amendments to the Land Use By-law for Halifax Mainland, as set out in Attachment A to clarify the requirements for semi-detached dwellings within the R-2P Zone.

BACKGROUND

On November 18th, 2013 Halifax and West Community Council directed staff to clarify the side yard setback for semi-detached dwellings in the R-2P (General Residential) Zone for the Halifax Mainland Land Use Bylaw (LUB). Currently, the LUB requirements for the R-2P Zone are referenced in both the R-2P Zone and the R-2 (Two-Family Dwelling) Zone. This cross reference creates confusion as the zone provisions reference two differing side yard setbacks for semi-detached dwellings of 5 feet and 8 feet. While staff have been administering a setback of 8 feet, the proposed LUB amendments would clarify that the side yard setback to be applied is 5 feet, consistent with the original intent of the R2-P Zone.

History

In 1986, staff reviewed the semi-detached dwelling requirements of the R-2P Zone. Specifically, the review examined the semi-detached dwelling definition, inconsistencies between zones, subdivision requirements and standards for additions to existing structures. At the time, it was determined that a 5 foot side yard was appropriate for semi-detached dwellings as it encouraged low density development. Council amended the R-2P Zone at that time, however, due to errors in drafting the amendments, conflicting side yard setback standards were adopted in the by-law.

Enabling Policy and LUB Context

The Halifax MPS does not contain specific policy for the R-2P Zone, but rather contains general policies that allow for residential development and the consideration of LUB amendments. Halifax and West Community Council may consider amending the R-2P Zone provided the amendments are consistent with the general residential policies set out in MPS policy (Attachment B).

The R-2P Zone allows for single unit dwellings, two unit dwellings, three and four-unit apartments, home occupations and a variety of institutional and recreation uses provided the lot frontage, area, and setback requirements are met. The R-2P Zone requires a range of lot frontages (40 - 60 feet) and areas (4,000 - 6,000 sq. ft.) depending on the type of use. The Zone also permits internal conversions for up to two units, and certain unit mix requirements when a property is located in the Mainland South Area. The R-2P zoned properties are primarily located:

- North of Fairview in the area of Mcfatridge Road, Ford Street and Randall Avenue. On the North side of St. Margaret's Bay Road near Crown Drive, Fenerty Road and Douglas Drive (Map 1);
- On the West side of Herring Cove Road between Dentith Road and Punch Bowl Road (Map 2); and
- On the East side of Herring Cove Road on Hartlen Avenue, Pinegrove Drive, Aldergrove Drive and Levi Street (Map 3).

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. Staff did not receive any comments.

A public hearing must be held by Halifax & West Community Council before they can consider approval of the proposed amendment. Should Community Council decide to proceed with a public hearing on this item, a notice will be published in the newspaper.

The proposal will potentially impact local residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant MPS policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed LUB amendments that would clarify the side yard setback for semi-detached dwellings in the R-2P Zone as being 5 feet.

Proposed LUB Amendments

Attachment A contains the proposed LUB amendments, the highlights of which include the following:

- Maintaining the 5 foot setback of Section 28 AB(1) for both semi-detached and duplex dwellings;
- Replacing Section 28AB (5) with the complete set of semi-detached dwelling requirements;
- Amending Section 28AD by removing the provisions that refer to the R-2 Zone for the semi-detached dwelling requirements, and placing all semi-detached dwelling provisions within the R-2P Zone; and
- Maintaining the requirements of Section 28AD that reference Accessory Buildings, Boarders and Lodgers, and Signs.

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

Zone Comparison

The R-2P Zone requirements for semi-detached dwellings are set out in the LUB in a table under Section 28 AB(1). However, section 28AD notwithstanding those requirements, and subsequently states that the requirements for semi-detached dwellings are to be that of the R-2 Zone. The difference in requirements is shown below:

	R-2P Zone	R-2 Zone
Front Yard Requirement	15 Feet	20 Feet
Side Yard Requirement	5 Feet	8 Feet
Rear Yard Setback	20 Feet	8 Feet

Information on file from the 1986 era amendments show that the intended requirements for semi-detached dwellings in the R-2P Zone are a front yard setback of 20 feet, a side yard setback of 5 feet and a rear yard setback of 8 feet. In the LUB, these requirements are currently distributed between both the R-2 and R-2P Zones making it challenging to clearly understand which requirements apply. The proposed amendment would clarify the original intent of the R2-P Zone.

Conclusion

Staff have reviewed the proposed amendments in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. While staff have been administering a setback of 8 feet, the proposed LUB amendments would clarify that the side yard setback is to be 5 feet, consistent with the original intent of the R2-P Zone. To provide greater clarity, the amendments would also consolidate the requirements for semi-detached dwellings entirely within the R-2P Zone. Therefore, staff recommend that the Halifax and West Community Council approve the proposed LUB amendments as contained in Attachment A.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the 2016-17 operating budget for C310 Urban and Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendation associated with 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 amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax & West Community Council may choose to approve the proposed LUB amendments subject to modifications. Such modifications may require further research and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax & West Community Council may choose to refuse the proposed LUB amendments, 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 development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1: R-2P Zoned Properties - Fairview
Map 2: R-2P Zoned Properties- St. Margarets Bay Road
Map 3: R-2P Zoned Properties- Spryfield

Attachment A: Proposed LUB Amendment
Attachment B: Review of Relevant MPS Policies

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

Report Prepared by: Stephanie A. Norman, Planner, 902-490-4843

Report Approved by: Original Signed

Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - R-2P Zoned Properties Fairview

Halifax



R-2P Zoned Properties

Halifax Mainland Land Use By-Law

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



Map 2 - R-2P Zoned Properties-St.Margaret's Bay Road

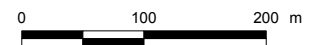
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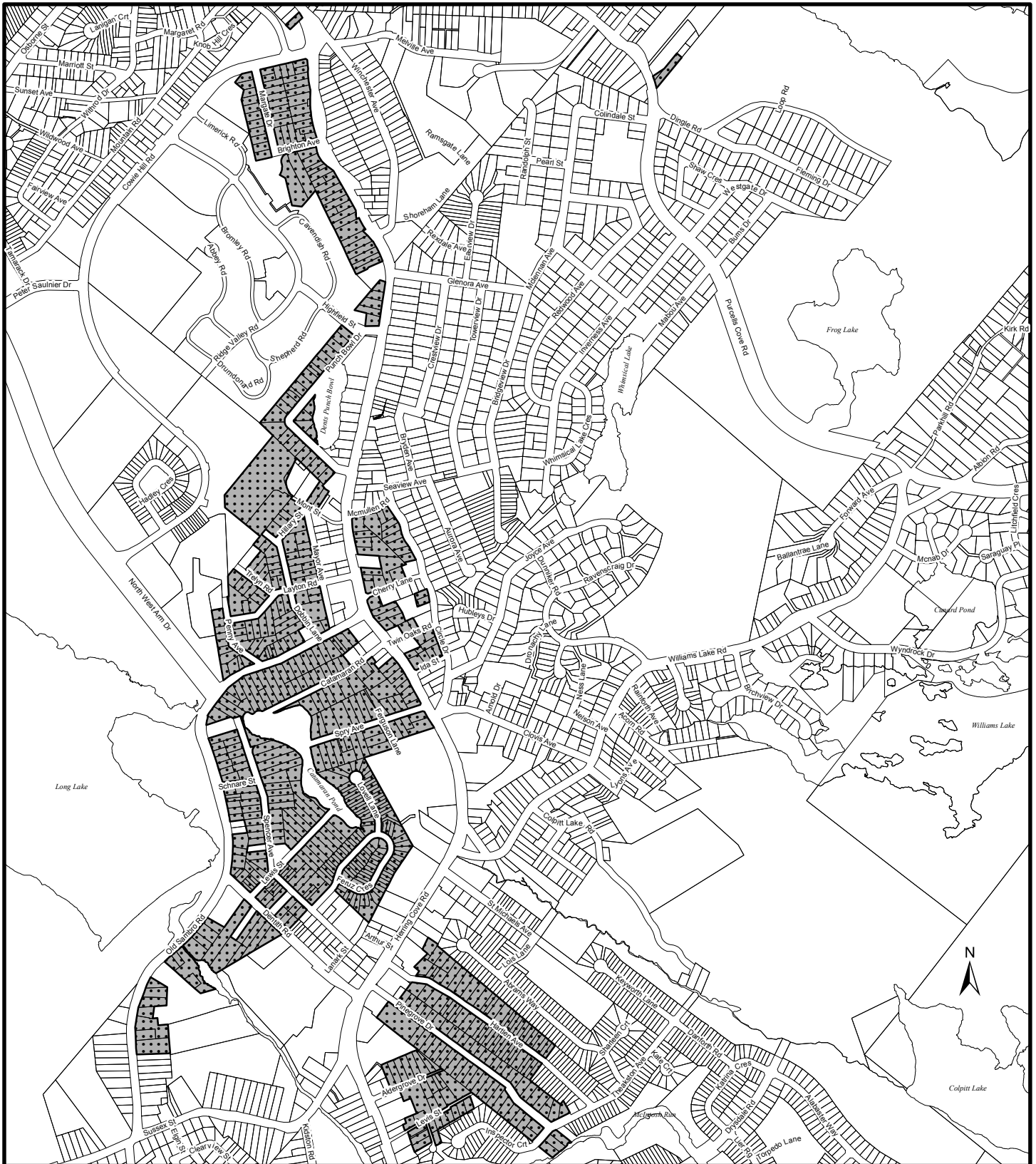


R-2P Zoned Properties

Halifax Mainland Land Use By-Law



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Map 3 - R-2P Zoned Properties-Spryfield

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Halifax



R-2P Zoned Properties



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

Halifax Mainland Land Use By-Law

Attachment A

Proposed Amendments to the Land Use By-law for Halifax Mainland

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland is hereby amended as follows:

1. Amend Section 28AB(5) by deleting text as shown in strike out and inserting text as shown in bold, as follows:

SEMI-DETACHED DWELLINGS

28AB (5)

~~A lot containing a semi-detached dwelling may be subdivided so that each unit is located on a separate lot provided that the lot for each unit contains a minimum frontage of 25 ft. and a minimum area of 2,500 sq.ft. No side yard shall be required along the common lot boundary dividing a semi-detached dwelling.~~

- (1) For each unit of a semi-detached dwelling, the minimum lot frontage shall be 25 feet, the minimum lot area shall be 2,500 square feet, and the maximum lot coverage shall be not greater than 35 percent.**
- (2) Every semi-detached dwelling shall be at least 12 feet from any other building and at least 8 ft. from the rear lot lines of the lot on which it is situated and at least 20 ft. from any street line in front of such dwelling.**
- (3) Where a semi-detached dwelling is situated on a corner lot, such dwelling and abutting such lot.**
- (4) Notwithstanding subsection (2) where a lot containing a semi-detached dwelling is to be or has been subdivided so that each unit is on its own lot, there shall be no setback required from the common lot boundary.**

2. Amend Section 28AD by deleting text as shown in strike out and inserting text as shown in bold, as follows:

28AD

Notwithstanding the provisions of Section 28AB, the requirements of Sections 26(f) **and to (g) (h)**, ~~(i)(2) and (3)~~, 27 and 28 ~~to 28B inclusive~~ above shall apply.

I HEREBY CERTIFY that the amendments to the Municipal Planning Strategy for Halifax Mainland, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of _____, 2016.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this _____ day of _____, 2016.

Municipal Clerk

Attachment B
Review of Relevant Policies from the Municipal Planning Strategy for Halifax

Policy Criteria	Staff Comment
<p>2. RESIDENTIAL ENVIRONMENTS Objective: The provision and maintenance of diverse and high quality housing in adequate amounts, in safe residential environments, at prices which residents can afford.</p>	
<p>2.1 Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.</p>	N/A
<p>2.2 The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</p>	Semi-detached dwellings are already permitted within the R-2P Zone so there is no change in development use or intensity. The proposed amendments are intended to clarify development standards.
<p>2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.</p>	It is not anticipated that the proposed amendments will jeopardize the stability of existing neighbourhoods.
<p>2.4.1 Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</p>	N/A
<p>2.7 The City should permit the redevelopment of portions of existing neighbourhoods only at a scale compatible with those neighbourhoods. The City should attempt to preclude massive redevelopment of neighbourhood housing stock and dislocations of residents by encouraging infill housing and rehabilitation. The City should prevent large and socially unjustifiable neighbourhood dislocations and should ensure change processes that are manageable and acceptable to the residents. The intent of this policy, including the manageability and acceptability of change processes, shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</p>	Semi-detached dwellings are already permitted within the R-2P Zone, as well as 3-4 unit dwellings. It is not anticipated that the proposed amendments will prompt wide scale redevelopment of existing neighbourhoods. Policy 3.1 was repealed on 6 June 1990.

Policy Criteria	Staff Comment
IMPLEMENTATION POLICIES AMENDMENTS TO THE ZONING BY-LAW	
3.1.1 The City shall review all applications to amend the zoning by-laws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.	
4.1 The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.	The proposed amendments conform with the MPS and other applicable HRM by-laws.
4.2 The City shall review the proposal to determine that it is not premature or inappropriate by reason of: i) the fiscal capacity of the City to absorb the costs relating to the development; and ii) the adequacy of all services provided by the City to serve the development.	N/A