



P.O. Box 1749
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Item No. 10.1.1
Halifax and West Community Council
First Reading February 5, 2019
March 7, 2019

TO: Chair and Members of Halifax and West Council

-Original Signed-

SUBMITTED BY: _____
Kelly Denty, Director of Planning and Development

-Original Signed-

Brad Anguish, Acting Chief Administrative Officer

DATE: November 14, 2018

SUBJECT: **Case 22019 – Residential Conversions in the South End and Peninsula Centre Detailed Plan Areas**

ORIGIN

On August 7, 2018, the following motion was PUT and PASSED by Halifax and West Community Council:

That Halifax and West Community Council request that staff prepare a recommendation report for Community Council's consideration to clarify the application of sections 34E and 43E of the Halifax MPS relative to internal conversions of residential buildings, including the required amendments to the Halifax Peninsula LUB.

LEGISLATIVE AUTHORITY

Sections 220 and 225 of the *Halifax Regional Municipality Charter*, SNS 2008, c 39, Part VIII, Planning and Development (*Charter*).

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendments to the Halifax Peninsula Land Use By-law, as set out in Attachment A, and schedule a public hearing;
2. Adopt the amendments to the Land Use By-law for Halifax Peninsula, as set out in Attachment A.

BACKGROUND

The Halifax Municipal Planning Strategy (MPS) includes several Detailed Area Plans (DAPs). Within the DAP, the nature of the desired land use pattern is determined. Two of these Detailed Plan Areas (DPAs) – South End and Peninsula Centre – are the subject of this report, and are shown on Maps 1A-4B, attached.

The Halifax Peninsula Land Use By-law (LUB) allows residential conversions in several zones. A residential conversion is the alteration of a residential building to increase the number of principal dwelling units. For example, converting an existing single unit dwelling into a small apartment building with four dwelling units would be a residential conversion. At issue are the requirements for residential conversions in the R-1, R-1A and R-2 zones in the South End and Peninsula Centre DPAs. The relevant provisions are LUB Sections 34E (R-1 zone), 34U (R-1A zone) and 43E (R-2 zone).¹

Current R-1 and R-2 Conversion Standards

Section 34E is part of the R-1 zone standards, and applies only to the South End and Peninsula Centre DPAs. It allows residential conversions to up to three dwelling units if the dwelling being converted existed on October 14, 1982 (date standard), and hasn't been enlarged since that date. There are no requirements for dwellings to meet current lot standards. Non-conforming lots and structures that meet the date standard qualify for more units. However, Section 34E requires that any new units be constructed inside the original building envelope without adding any additional height or volume, and requires minimum sizes for the post-conversion unit mix.

Section 43E is part of the R-2 zone standards, and also applies only to the South End and Peninsula Centre DPAs. It applies to both residential conversions and new construction, and includes minimum lot areas, side yards and frontages. Existing undersized lots and non-conforming structures are not eligible for additional units under section 43E, nor can lots that meet the minimum area and frontage requirements for fewer units add more units without meeting its minimums. There is no date standard under section 43E.

Present Interpretation of Standards

The interpretation and current application of Section 34E is that properties zoned either R-1 or R-2 can obtain additional units under the requirements of section 34E. The minimum lot size and frontage standards in 43E are not applied to conversions in the R-2 zone if the dwelling to be converted meets the requirements of Section 34E (date standard, no additional height or volume, minimum unit size). There is an ambiguity between the text of Sections 34E and 43E that has been interpreted in favour of the applicant. Section 34E applies to the properties located in the R-1 zone. Section 43E applies to properties located in the R-2 zone. The difficulty relates to 35(1)(a) which permits, in the R-2 zone, R-1 uses. One of those R-1 uses is internal conversions allowed by section 34E. The question is whether Section 34E should apply only to properties in the R-1 zone or whether any properties in the South End or Peninsula Centre DPAs (those in the R-2 zone) can rely on Section 34E if they meet its criteria. The full text of LUB Sections 34E, 34U and 43E can be found in Attachment C.

Since 1984, the approach taken by staff has been to allow conversions under the more permissive provisions in section 34E if possible, even if the development in question is an R-1 use (single unit dwelling) in an R-2 zone.

For example, for a three-unit conversion from an existing single unit dwelling, the 43E standard requires a minimum lot size of 5,000 square feet and minimum frontage of 45 feet. However, the section 34E standard would permit up to three units if the original dwelling existed on October 14, 1982, regardless of whether the lot meets current lot size and frontage minimums.

¹ The only lots zoned R-1A in the Halifax Peninsula By-law area are located in the South End Detailed Plan Area. An amendment to the conversion provision for the R-1A zone (LUB section 34U) is included in this amendment package to prevent a situation where ambiguity could allow a property owner to rely on section 34U in any situation where the property in question is not zoned R-1A.

An example of how this difference affects the number of allowable units by conversion is shown on the table below as "Property X", a real property in the Peninsula Centre DPA.

Property X:	
Detailed Plan Area:	Peninsula Centre
Zone:	R-2
Lot area:	3,168 square feet
Lot frontage:	32 feet
Built before October 14, 1982:	Yes

LUB Requirements (3 units):	Required by Section 34E	Required by Section 43E
Minimum lot area:	None	5,000 square feet
Minimum frontage:	None	45 feet
Minimum unit size:	2 units at least 1,000 square feet	2 units at least 800 square feet
Date standard:	October 14, 1982	None
Total allowable units:	3	1

Ultimately, property X was legally converted to 3 dwelling units.

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. At the time this report was prepared, staff had not received any public comment on the proposed amendment.

The proposal will potentially impact owners of properties zoned R-2; they will no longer be entitled to use the more permissive conversion criteria in section 34E of the Halifax Peninsula LUB. Residents and property owners in the R-2 zone would benefit from a more stable residential environment with residential density that is increasing at a slower rate.

Halifax and West Community Council must hold a public hearing before it can consider approving the proposed LUB amendment. Should Community Council decide to proceed with a public hearing on this application, notification will be provided in published newspaper advertisements and on the HRM Planning Applications website.

Halifax Peninsula Planning Advisory Committee

The Halifax Peninsula Planning Advisory Committee (HPPAC) discussed this application at its meeting on Monday, November 26, 2018. After hearing a presentation on the application from planning staff, HPPAC recommended that Halifax and West Community Council approve the proposed amendments to Sections 34E and 34U of the Halifax Peninsula Land Use By-law.

HPPAC also recommended that Halifax and West Community Council direct staff to undertake additional community engagement relating to the proposed amendments.

A very significant percentage of properties in the South End and Peninsula Centre are either in or within a short distance of the R-1, R-1A or R-2 zones. Since the proposed amendments were initiated by Halifax and West Community Council, it was not possible to require affected property owners to place signs on their properties, as would be the case with a typical planning application. A Public Information Meeting would have involved most of the residents of the affected DPAs, which would have made it difficult to share information or receive feedback in any meaningful way. Therefore, staff felt that providing information and soliciting feedback on the Planning Applications website was a suitable proxy for holding a Public Information Meeting.

Members of the public had the option of attending the Halifax Peninsula Planning Advisory Committee, and will also have the opportunity to provide comment directly to the Halifax and West Community Council at a public hearing. Staff also continue to be available to receive feedback and answer questions from the public prior to any public hearing.

DISCUSSION

The question referred to staff from the Halifax and West Community Council queries whether the existing interpretation and application of the LUB conversion provisions are in accordance with the intent of the MPS and the DAPs for the South End and Peninsula Centre. Staff have reviewed the relevant policies and advise that amending the LUB would improve conformity with existing policy in addition to providing added clarity in implementation. Therefore, amendments to the LUB conversion provisions to clarify their application are included within this report. Attachment A contains the proposed amendments. Attachment B provides an evaluation of the proposed rezoning in relation to relevant MPS and DAP policies.

The different treatment of residential conversions in the drafting of the R-1 and R-2 zone standards seems to have been intentional, and was a reflection of the built form and lot fabric that existed on the Halifax Peninsula at the time (1981). Staff reports accompanying the proposed South End and Peninsula Centre DAPs advocated for protecting the character and stability of established residential neighbourhoods in both the R-1 and R-2 zones while also increasing residential density and maintaining sufficient housing for families.

Staff also recognized differences in the existing lot fabric and built form in the two DPAs. Existing single unit dwellings in what would be zoned R-2 tended to be larger, and were built on larger lots. In parts of the DPAs that were ultimately zoned R-1, the existing single unit dwellings and lots were smaller, and neighbourhoods were more built-out. If more density was going to be possible in R-1 areas while also protecting existing neighbourhoods, it would happen largely within the existing built form, not with new construction.

The conversion rules were reactive to this existing built form and lot fabric. Providing opportunities for increasing density in Peninsula Centre and the South End was a goal of the DAPs; the policy response was to allow more units on smaller lots compared to the rest of Halifax Peninsula, in both the R-1 and R-2 Zones. The R-2 Zone standards requiring larger lots for more units and allowing additional height and volume were seen as appropriate means to discourage overcrowding with multiple units on small lots. It appears that the more permissive R-1 standards were intended to be an exception that reflected the reality of the existing built form and lot fabric. Because existing dwellings in the R-1 areas tended to be smaller, there was limited opportunity for residential conversions within existing building envelopes in R-1 areas. This resulted in a situation where there was a built-in control against proliferation of additional units in established residential neighbourhoods.

By applying 34E to single unit dwellings in R-2 zoned areas, the application of 43E is limited to dwellings that were originally constructed as at least two units, if the dwelling being converted meets the requirements of Section 34E (date standard, no additional height or volume, minimum unit size). There is no indication in the policy or in available staff reports that this was the intention.

Challenges

Altering the application of the LUB conversion provisions could present challenges for property owners, residents, staff and the Halifax and West Community Council. Those challenges could include the following:

More Variance Requests

Section 250 of the *Charter* provides a mechanism for property owners to apply to the Development Officer for a variance from the requirements of a land use by-law. It says:

250 (1) A development officer may grant a variance in one or more of the following terms in a development agreement, if provided for by the development agreement, or in land-use by-law requirements:

- (a) percentage of land that may be built upon;*
- (b) size or other requirements relating to yards;*
- (c) lot frontage or lot area, or both, if
 - (i) the lot existed on the effective date of the by-law, or*
 - (ii) a variance was granted for the lot at the time of subdivision approval.**

If the Halifax and West Community Council approves the proposed amendments, there could be an increase in the number of applications for variances from the minimum lot size and frontage requirements of section 43E. Under Subsection 250 (1) of the *Charter*, the Development Officer will decide whether to grant or refuse the variance; applicants or property owners within a set distance may appeal the Development Officer's decision to the Halifax and West Community Council. Therefore, the number of variance appeals before Community Council may also increase.

Processing these variance applications would consume staff resources, which could slow down as of right development approvals, both for the variance requested and other applications in the approvals queue.

Non-Conformity

If the Halifax and West Community Council approves the proposed amendments, the dwellings in R-2 zones that have already been converted under section 34E will be legal non-conforming structures with a residential purpose, and will have the rights conveyed by Section 254 of the *Charter*:

- 254 (1) Where a non-conforming structure is located in a zone that permits the use made of it and the structure is used primarily for residential purposes, it may be:*
- (a) rebuilt, replaced or repaired, if destroyed or damaged by fire or otherwise, it is substantially the same as it was before the destruction or damage and it is occupied by the same use;*
 - (b) enlarged, reconstructed, repaired or renovated if
 - (i) the enlargement, reconstruction, repair or renovation does not further reduce the minimum required yards or separation distance that do not conform with the land-use bylaw, and*
 - (ii) all other applicable provisions of the land-use by-law except minimum frontage and area are satisfied**

Under Section 34E, converted dwellings cannot be enlarged in either height or volume or other external dimensions. As such, rendering these structures non-conforming would create a new right to enlarge the existing structure, in accordance with the limitations in section 254 of the *Charter*. *Charter* section 257 makes it clear that it is not possible for HWCC to over-ride these *Charter* rights by adding language to its LUB as the section only allows a relaxation of the restrictions rather than making the restrictions more stringent. The full text of *Charter* section 257 is included within this report as Attachment C.

Slowing Density

The proposed amendment would temper increasing residential density in the South End and Peninsula Centre Detailed Plan Areas. While increasing density can create challenges for existing residential neighbourhoods, it can also provide substantial benefits. More density means more customers for local businesses, and it makes central services more affordable by adding users and ratepayers to existing infrastructure. It makes refuse collection, policing and other emergency services more efficient. It provides housing alternatives for residents, and gives more people the option of living closer to where they work and shop, thereby reducing vehicle dependency and increasing walkability and rates of physical activity on the population level. It makes streets and open spaces livelier, and increases property values, along with property tax revenue. Community services, education, recreation programs and health care are all more

efficient to deliver in dense areas. Further, the nature of this added density is of a relatively low impact to the existing built form and character of the Peninsula neighbourhoods. Reducing barriers to this form of 'hidden' density is amongst the goals of the pending Centre Plan.

While the Detailed Area Plans written in 1981 do not seem to have intended section 34E to apply to properties in the R-2 Zone, the Halifax Peninsula has changed substantially since then. Further, improved planning practices have led to a deeper understanding of the advantages of more density. The South End and Peninsula Centre detailed plan areas are the residential core of Halifax's downtown, and continue to see high and rising demand for housing. Leveraging the existing commercial and recreational amenity and municipal infrastructure in these areas makes financial sense and is in accordance with the planning direction of the Centre Plan.

Changing the application of the LUB conversion provisions could slow as-of-right densification on the Halifax Peninsula. However, density could continue to increase through planning applications, including applications for rezoning and development agreements.

Decreasing Housing Affordability

Concordant with tempering densification could be the deterioration of housing affordability in the South End and Peninsula Centre plan areas. The proposed amendment could constrain the supply of new housing while demand for housing in these areas remains high. The units that are typically being created under section 34E are smaller units, and are often more affordable than larger units or units in buildings that offer more amenities. Since housing price is at least partly dependant on supply, constraining housing supply could have the effect of raising prices.

However, as noted above, housing supply could continue to increase through planning applications including rezoning and development agreements notwithstanding a decision to change the LUB conversion provisions.

The South End and Peninsula Centre DAPs strike a balance between adding more dwelling units and respecting stable neighbourhoods while considering existing built form and lot fabric. Continuing to allow property owners of dwellings in the R-2 zone to add units under Section 34E could strain existing neighbourhoods by permitting additional units in dwellings that would otherwise remain as one or two units, and thereby change the character of their neighbourhoods. Clarifying that sections 34E and 34U apply only to properties in the R-1 and R-1A zones is consistent with this balance and the intent of the policies in the South End and Peninsula Centre Detailed Area Plans, and is, therefore, supported by staff.

FINANCIAL IMPLICATIONS

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

RISK CONSIDERATION

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

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed LUB amendment subject to modifications. Such modifications may require further discussion and may require a supplementary report or another public hearing. A decision of Community Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to direct staff to provide new zone standards for LUB sections 34E and 34U that address concerns such as parking, open space, and changing neighbourhood character. This option could require amendments to the Halifax Municipal Planning Strategy and the Detailed Area Plans for South End and Peninsula Centre.
3. Halifax and West Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

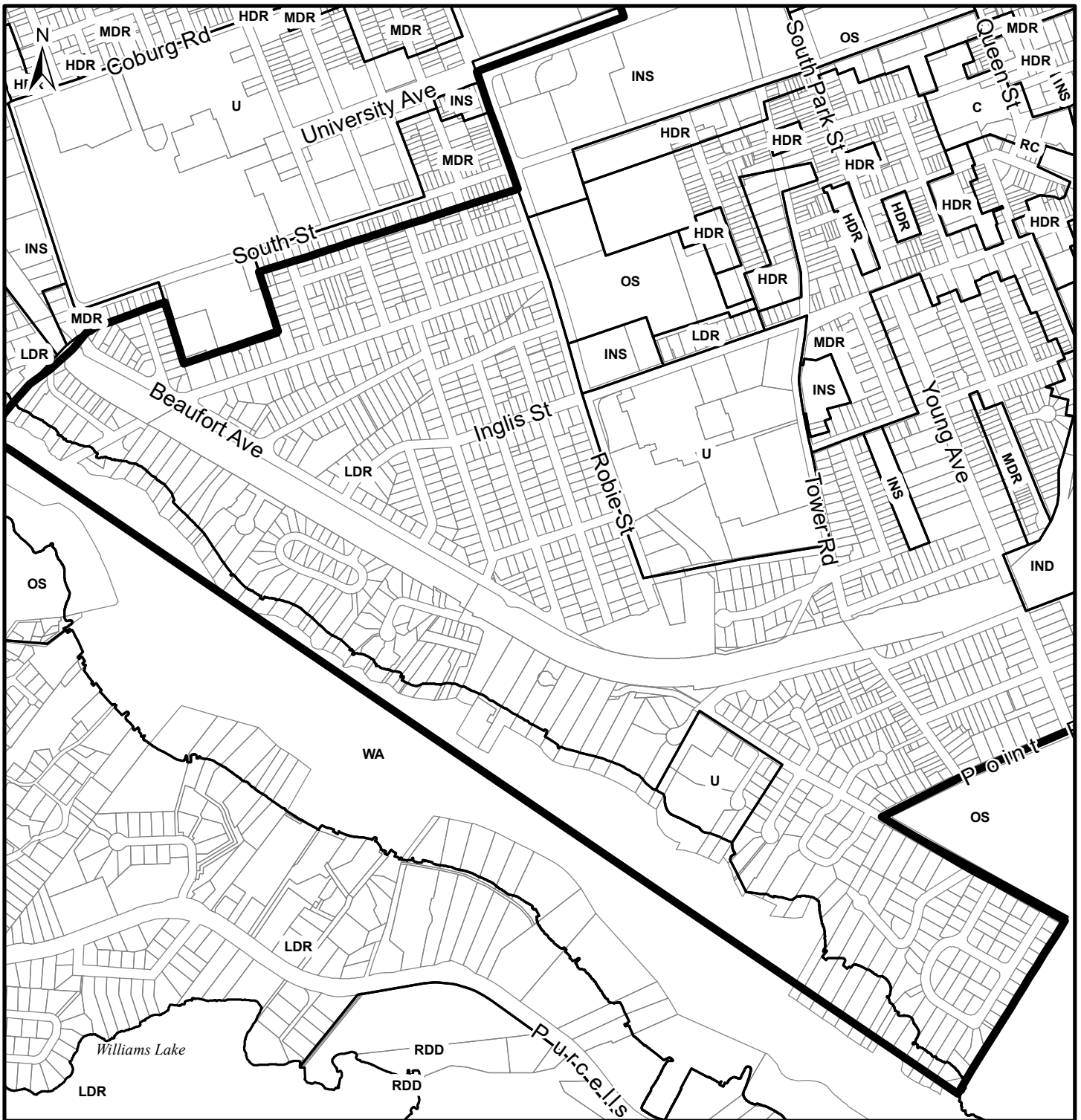
ATTACHMENTS

Map 1A:	Generalized Future Land Use Map - South End Detailed Plan Area A
Map 1B:	Generalized Future Land Use Map - South End Detailed Plan Area B
Map 2A:	Zoning Map – South End Detailed Plan Area A
Map 2B:	Zoning Map – South End Detailed Plan Area B
Map 3A:	Generalized Future Land Use Map – Peninsula Centre Detailed Plan Area A
Map 3B:	Generalized Future Land Use Map – Peninsula Centre Detailed Plan Area B
Map 4A:	Zoning Map – Peninsula Centre Detailed Plan Area A
Map 4B:	Zoning Map – Peninsula Centre Detailed Plan Area B
Attachment A:	Proposed Land Use By-law Amendment
Attachment B:	Review of Relevant Policies from the Halifax Municipal Planning Strategy
Attachment C:	Relevant Sections of the <i>Halifax Regional Municipality Charter</i> and Halifax Peninsula Land Use By-law


A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jamy-Ellen Klenavic, Planner 2, 902.490.2665

Report Approved by: Steven Higgins, Manager, Current Planning, 902.490.4382



**Map 1A - Generalized Future Land Use
South End Detailed Plan Area**

 South End
Detailed Plan Area Boundary

Designation

- C Commercial
- HDR High Density Residential
- INS Institutional
- LDR Low Density Residential
- MDR Medium Density Residential
- OS Open Space
- RC Residential - Commercial Mix
- RDD Residential Development District
- U University
- WA Water Access Area

HALIFAX




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

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

Halifax Plan Area



**Map 1B - Generalized Future Land Use
South End Detailed Plan Area**

 South End
Detailed Plan Area Boundary

- Designation**
- C Commercial
 - HDR High Density Residential
 - IND Industrial
 - INS Institutional
 - LDR Low Density Residential
 - MDR Medium Density Residential
 - OS Open Space
 - RC Residential - Commercial Mix
 - U University
 - WA Water Access Area

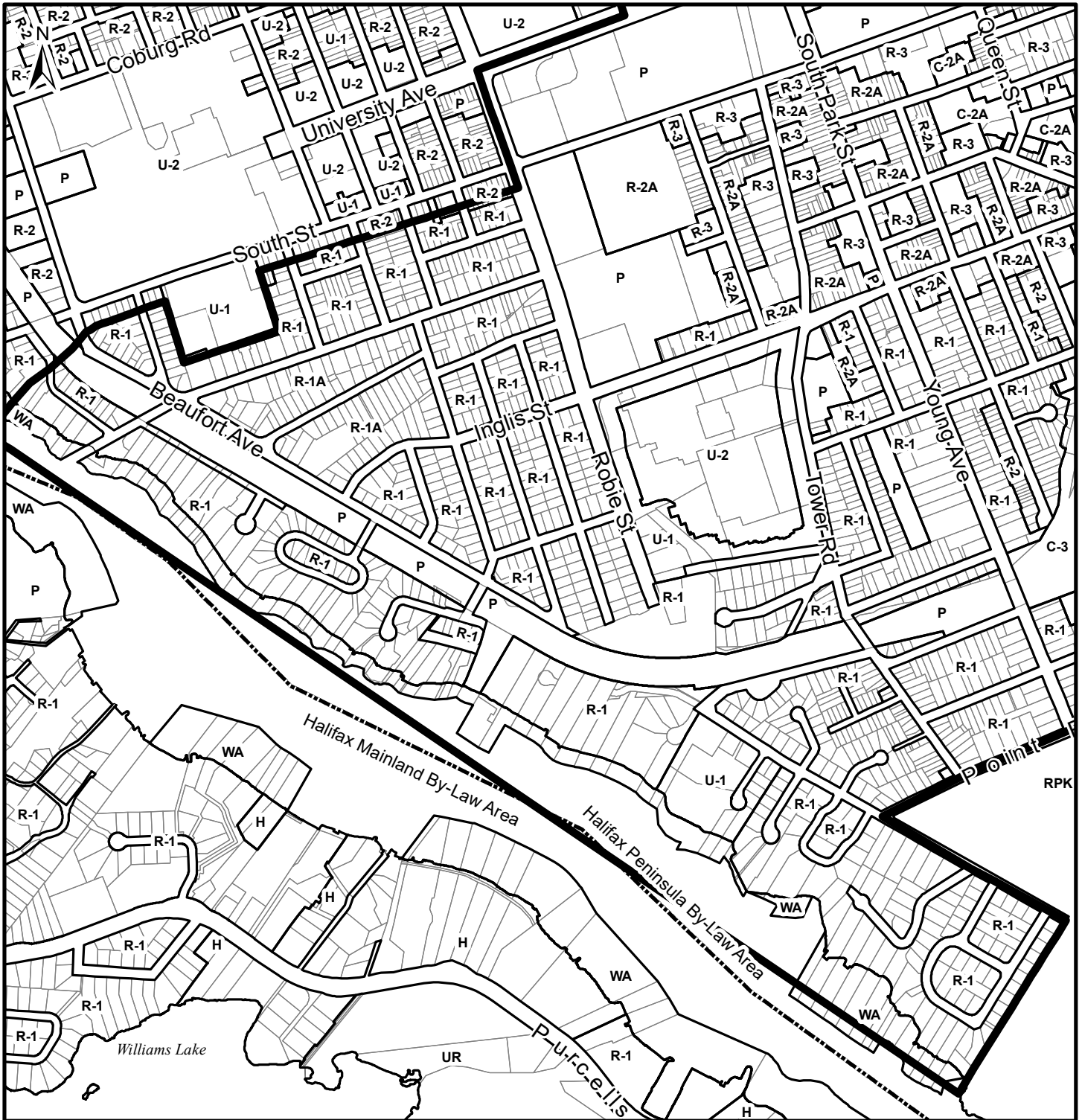
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Halifax Plan Area



Map 2A - Zoning
South End Detailed Plan Area

 South End
 Detailed Plan Area Boundary

Halifax Peninsula
 Land Use By-Law Area

**Zone - Halifax Peninsula
 By-Law Area**

- C-2A Minor Commercial
- C-3 Industrial
- P Park and Institutional
- R-1 Single Family Dwelling
- R-2 General Residential
- R-2A General Residential Conversion
- R-3 Multiple Dwelling
- U-1 Low-Density University
- U-2 High-Density University
- WA Water Access

**Zone - Halifax Mainland
 By-Law Area**

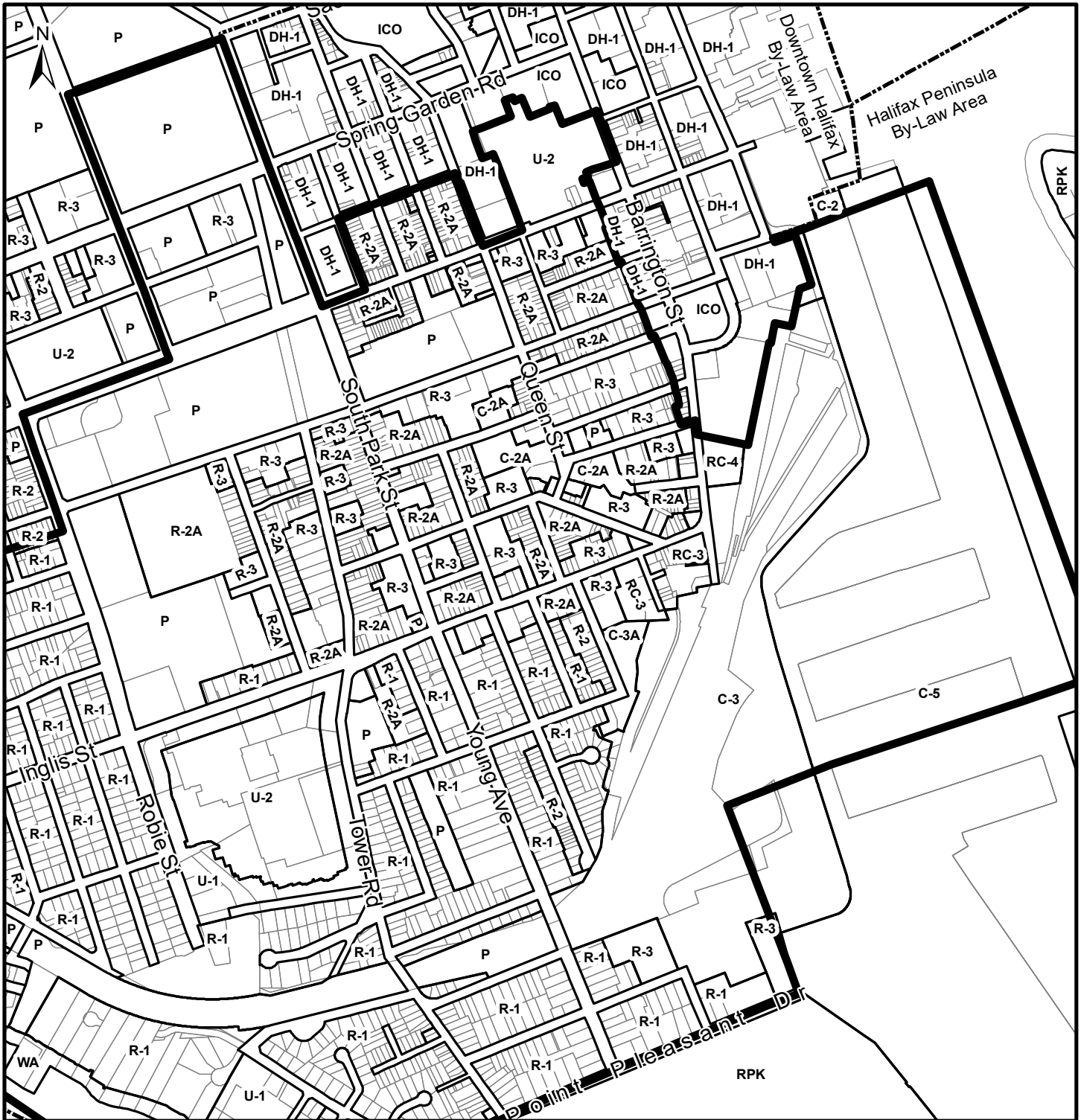
- H Holding
- P Park and Institutional
- R-1 Single Family Dwelling
- UR Urban Reserve
- WA Water Access

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Map 2B - Zoning
South End Detailed Plan Area

 South End Detailed Plan Area Boundary

Halifax Peninsula
 Land Use By-Law Area

**Zone - Halifax Peninsula
 By-Law Area**

- C-2A Minor Commercial
- C-3 Industrial
- C-3A Business Service
- C-5 Harbour-Related Industrial
- P Park and Institutional
- R-1 Single Family Dwelling
- R-2 General Residential
- R-2A General Residential Conversion
- R-3 Multiple Dwelling
- RC-3 High Density Residential Minor Commercial
- RC-4 South Barrington Residential/Minor Commercial
- U-1 Low-Density University
- U-2 High-Density University

**Zone - Downtown Halifax
 By-Law Area**

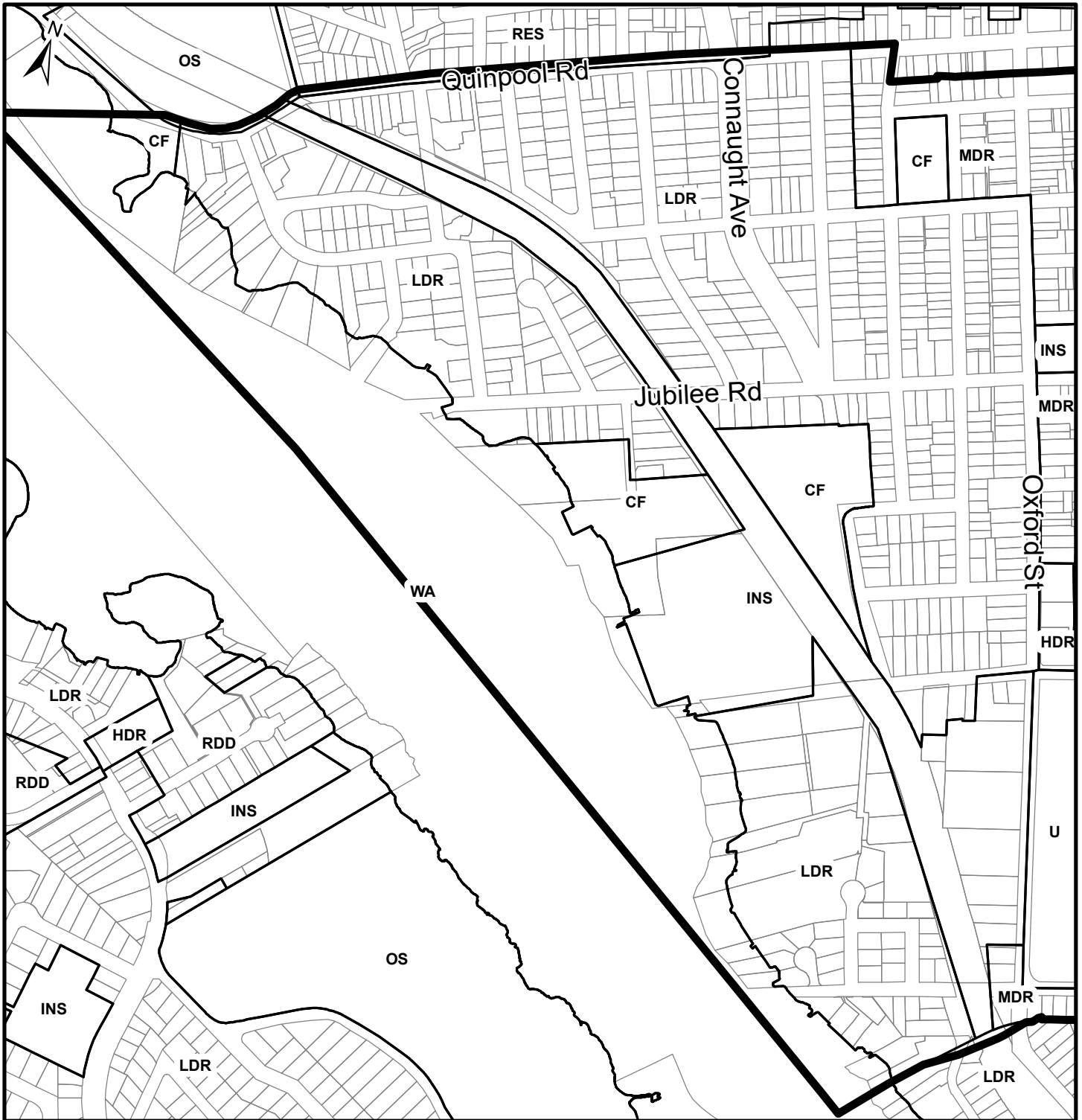
- DH-1 Downtown Halifax
- ICO Institutional, Cultural and Open Space

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**Map 3A - Generalized Future Land Use
Peninsula Centre Detailed Plan Area**

 Peninsula Centre
Detailed Plan Area Boundary

Designation

- CF Community Facilities
- HDR High Density Residential
- INS Institutional
- LDR Low Density Residential
- MDR Medium Density Residential
- OS Open Spaces
- RDD Residential Development District
- RES Residential Environments
- U University
- WA Water Access Area

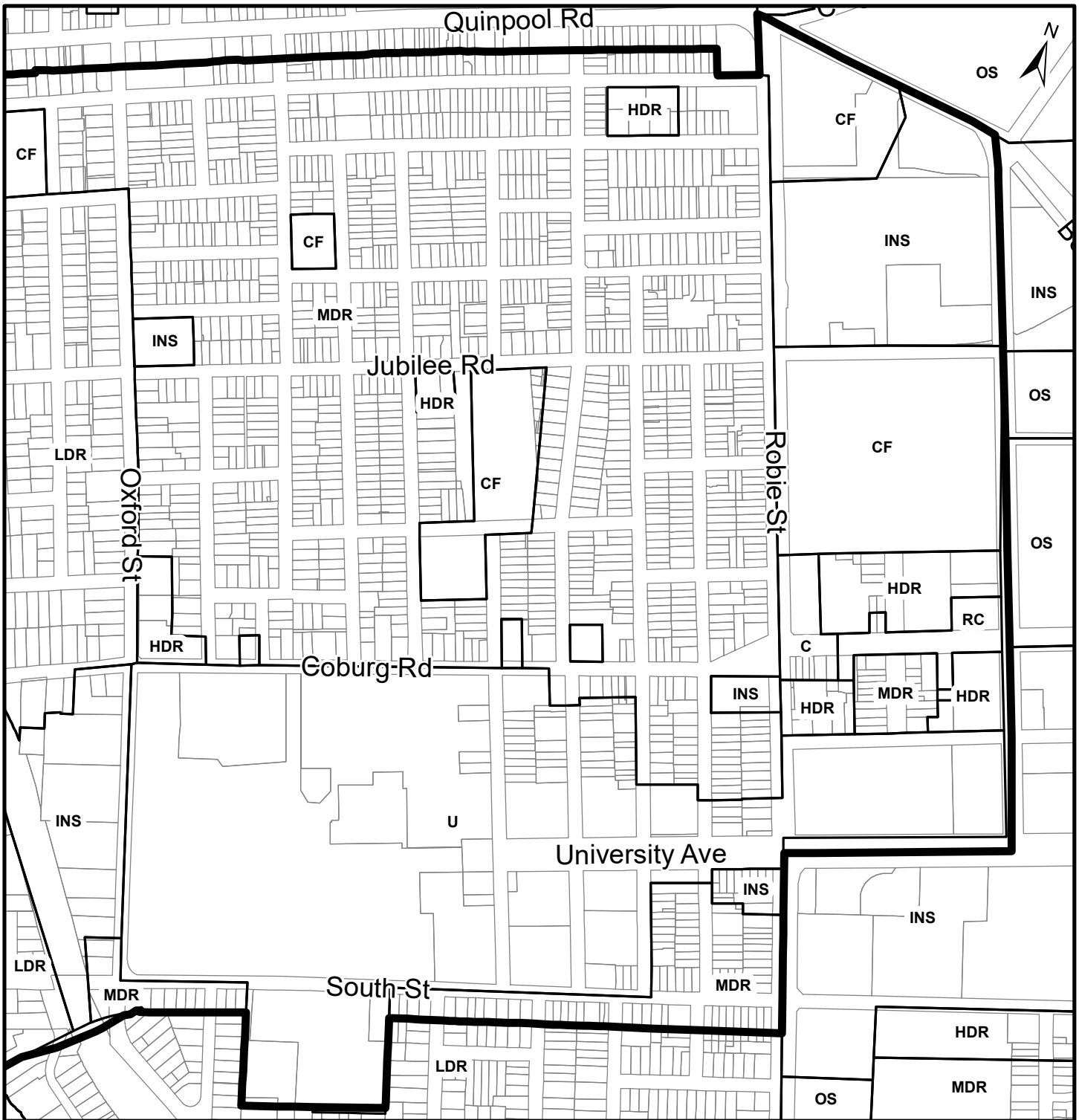
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Halifax Plan Area



**Map 3B - Generalized Future Land Use
Peninsula Centre Detailed Plan Area**

HALIFAX

 Peninsula Centre
Detailed Plan Area Boundary

Designation

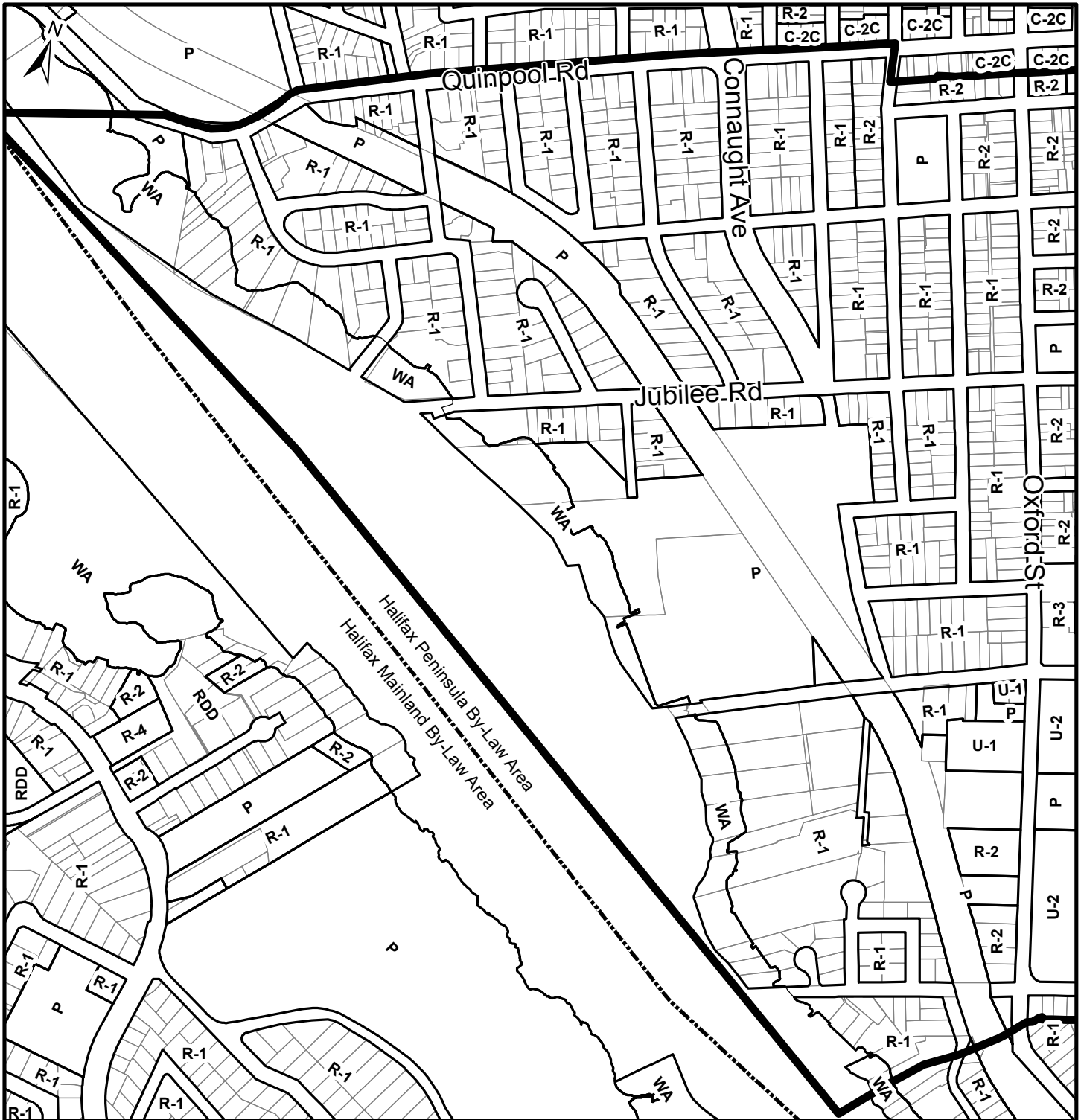
- C Commercial
- CF Community Facilities
- HDR High Density Residential
- INS Institutional
- LDR Low Density Residential
- MDR Medium Density Residential
- OS Open Space
- U University
- RC Residential - Commercial Mix



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Halifax Plan Area



Map 4A - Zoning
Peninsula Centre Detailed Plan Area

HALIFAX



Peninsula Centre Detailed Plan Area Boundary

Zone - Halifax Peninsula By-Law Area

- C-2C Minor Commercial - Quinpool Road
- P Park and Institutional
- R-1 Single Family Dwelling
- R-2 General Residential
- R-3 Multiple Dwelling
- U-1 Low-Density University
- U-2 High-Density University
- WA Water Access

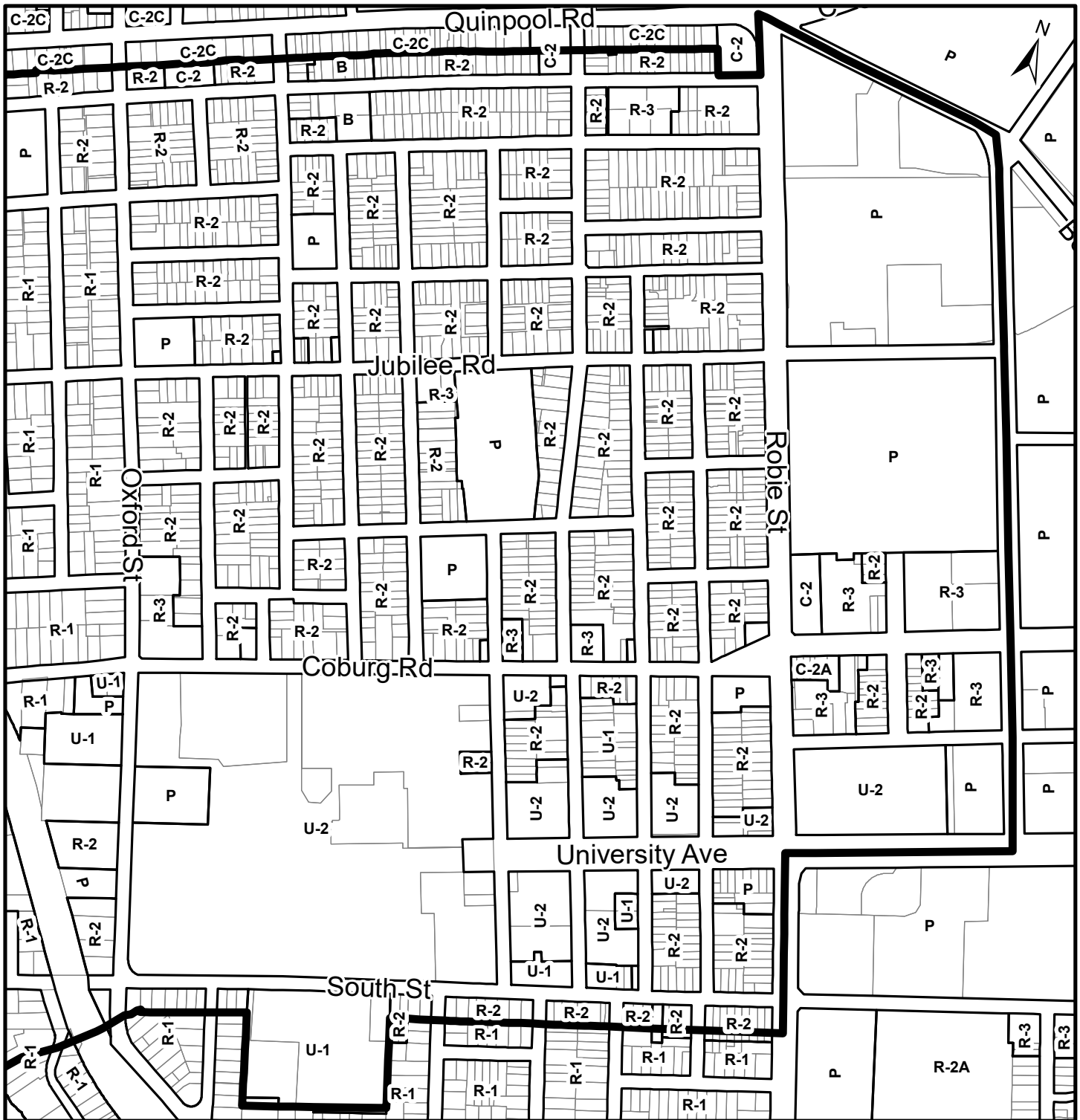
Zone - Halifax Mainland By-Law Area

- P Park and Institutional
- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-4 Multiple Dwelling
- RDD Residential Development District
- WA Water Access


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Halifax Peninsula Land Use By-Law Area



Map 4B - Zoning
Peninsula Centre Detailed Plan Area

 Peninsula Centre
 Detailed Plan Area Boundary

Halifax Peninsula
 Land Use By-Law Area

**Zone - Halifax Peninsula
 By-Law Area**

- B Bakery
- C-2 General Business
- C-2C Minor Commercial - Quinpool Road
- P Park and Institutional
- R-1 Single Family Dwelling
- R-2 General Residential
- R-2A General Residential Conversion
- R-3 Multiple Dwelling
- U-1 Low-Density University
- U-2 High-Density University

HALIFAX



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Attachment A
Proposed Amendments to the Land Use By-law for Halifax Peninsula

BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Peninsula, is hereby further amended as follows:

- 1 The heading to Section 34E shall be amended by adding the text shown in bold below:

CONVERSIONS – R-1 ZONE IN SOUTH END AND PENINSULA CENTRE

2. Section 34E shall be amended by adding the text shown in bold below:

34E Any residential building which was in existence on 14 October 1982 within the "South End" and "Peninsula Centre Areas", **and which is located within the R-1 Zone**, 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.

3. The heading to Section 34U shall be amended by adding the text shown in bold below:

CONVERSIONS IN THE R-1A ZONE

4. Section 34U shall be amended by adding the text shown in bold below:

34U Any residential building which was in existence on 14 October 1982 **and is located within the R-1A Zone** 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 separate accessible parking space at least 8 feet wide and 16 feet long per dwelling unit is provided.

5. Clause 35(1)(a) shall be amended by adding the text and comma shown in bold below:

- 35 (1) The following uses shall be permitted in any R-2 Zone:
 - (a) R-1 uses as hereinbefore set out, **except for conversions in accordance with section 34E;**
 - (b) semi-detached or duplex dwelling;

I HEREBY CERTIFY that the amendment to the Land Use By-law for Halifax Peninsula as set out above, was passed by a majority vote of the maximum number of members that may be elected to Halifax and West Community Council, at a meeting held on the ***** day of *****, 20**.**

GIVEN under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this _____ day of _____, A.D., **20**.**

Kevin Arjoon
Municipal Clerk

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

SECTION II CITY-WIDE OBJECTIVES AND POLICIES

PART 2: RESIDENTIAL ENVIRONMENTS	
Policy	Staff Comment
<p><i>Policy 2.1</i> <i>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.</i></p>	<p>Permitting residential conversions in dwellings provides opportunities for increasing residential density on the Halifax Peninsula.</p>
<p><i>Policy 2.2</i> <i>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.</i></p>	<p>Policy 3.1 – Repealed Policy 3.2 – N/A</p>
<p><i>Policy 2.4</i> <i>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.</i></p>	<p>Existing language in LUB section 34E prevents exterior changes to existing buildings to accommodate more dwelling units. This is to ensure that the character of existing neighbourhoods is protected.</p> <p>However, the proposed amendment would allow dwellings in the R-2 zone that were converted under 34E to access extra height and volume under section 254 of the <i>Halifax Regional Municipality Charter</i> if the requirements of the LUB are met.</p>
<p><i>Policy 2.4.1</i> <i>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.</i></p>	<p>Policy 3.1 – Repealed Policy 3.2 – N/A</p>
<p><i>Policy 2.4.2</i> <i>In residential neighbourhoods alternative specialized housing such as special care homes; commercial uses such as daycare centres and home occupations; municipal recreation facilities such as parks; and community facilities such as</i></p>	<p>The proposed change could limit opportunities to develop special care homes in the R-2 zone that could be permitted as a three-unit dwelling under the current interpretation of LUB Section 34E.</p>

<i>churches shall be permitted. Regulations may be established in the land use by-law to control the intensity of such uses to ensure compatibility to surrounding residential neighbourhoods.</i>	
<i>2.4.2.1 Pursuant to 2.4.2 the land use by-law may regulate the number, size, height, illumination and location of signs.</i>	Not applicable – the proposed amendment would not change any existing provisions relating to signs.
<i>Policy 2.6 The development of vacant land, or of land no longer used for industrial or institutional purposes within existing residential neighbourhoods shall be at a scale and for uses compatible with these neighbourhoods, in accordance with this Plan and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i>	Policy 3.1 – Repealed Policy 3.2 – N/A
<i>Policy 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.</i>	Policy 3.1 – Repealed Policy 3.2 – N/A
<i>Policy 2.8 The City shall foster the provision of housing for people with different income levels in all neighbourhoods, in ways which are compatible with these neighbourhoods. In so doing, the City will pay particular attention to those groups which have special needs (for example, those groups which require subsidized housing, senior citizens, and the handicapped).</i>	A permissive approach to allowing residential conversions increases diversity of housing options. Internal conversions can be an effective way to increase housings stock and affordability. It is anticipated that smaller units would be created in older houses and would be more affordable.
<i>Policy 2.9 The City shall actively seek to influence the policies and programs of other levels of government in order to implement the City's housing policies and priorities, and shall also actively seek taxation preference as one method of encouraging rehabilitation of existing housing stock.</i>	N/A
<i>Policy 2.10</i>	The proposed amendments would require the application of the parking, open space and lot

<p><i>For low and medium density residential uses, controls for landscaping, parking and driveways shall ensure that the front yard is primarily landscaped. The space devoted to a driveway and parking space shall be regulated to ensure that vehicles do not encroach on sidewalks.</i></p>	<p>coverage requirements in LUB section 43E to be applied to South End and Peninsula Centre residential conversions in the R-2 zone.</p> <p>Section 34E does not have any requirements for parking, open space and lot coverage, however the general provisions in the Halifax Peninsula Land Use By-law do apply.</p>
<p><i>Policy 2.11 For all residential uses the parking and storage of vehicles such as trailers, boats and mobile campers, shall be restricted to locations on the lot which create minimal visual impact from the street.</i></p>	<p>LUB Sections 34E and 34U do not regulate location of parking. However, limiting the application of sections 34E and 34U to R-1 and R-1A exclusively should have the effect of making residential conversions in the R-2 zone less available due to the consequential effect of requiring less parking to accommodate conversions to three units.</p>
<p>Part 9: Transportation</p>	
<p>Policy</p>	<p>Staff Comment</p>
<p><i>Policy 9.4 The transportation system within residential neighbourhoods should favour pedestrian movement and discourage vehicular through traffic in both new and existing neighbourhoods. A pedestrian system that utilizes neighbourhood streets and paths to link the residents with the commercial and school functions serving the area will be encouraged.</i></p>	<p>The proposed amendments are not expected to affect transportation systems.</p>

<p>SECTION V - SOUTH END DETAILED AREA PLAN</p>	
<p>Policy</p>	<p>Staff Comment</p>
<p><i>1.4.1 Areas shown as "Low-Density Residential" on the Future Land Use Map of this Plan shall be regarded as areas for family-type housing accommodation. All new residential developments in these areas shall be detached single-family dwellings.</i></p>	<p>Under the Halifax Peninsula Land Use By-law, residential conversions to more than one unit are only possible in dwellings that existed on October 14, 1982; any new housing in the LDR designation was strictly single unit dwelling. It is not possible to build a new dwelling with more than one unit in the LDR designation.</p>
<p><i>1.4.1.1 In low-density residential areas conversion of existing housing stock shall be permitted, provided that:</i></p> <p><i>(i) a maximum number of dwelling units in any building shall be three;</i></p> <p><i>(ii) family-type dwelling units shall be at least 1,000 square feet in floor area;</i></p>	<p>Reflects the intention expressed in Municipal Planning Strategy for increased residential population on the Peninsula.</p> <p>Allows conversions to increase residential density without disturbing established neighbourhoods – focus on “gentle density”.</p> <p>Internal conversions should be permitted only when they are in accordance with the existing</p>

<p>(iii) where the conversion is to two units (that is, adding an additional dwelling unit), one of the units shall be a family-type dwelling unit; and</p> <p>(iv) where the conversion is to three units (that is, adding two units), two of the three units shall be family-type dwelling units.</p>	<p>character of a neighbourhood, and where existing dwellings are sufficiently large to be split into multiple units without changing the building envelope.</p>
<p>1.4.2 Areas shown as Medium-Density Residential on the Future Land Use Map of this Plan shall be regarded as residential environments which provide a mix of family and non-family dwelling units in buildings of not more than four storeys. For such areas, the City shall amend its Zoning By-law in accordance with Policies 1.4.2 to 1.4.2.3 inclusive. In any building a minimum of 50 percent of the units shall be family-type dwelling units.</p>	<p>Generally, describes the kind of neighbourhoods Council envisioned for the MDR designation and establishes the requirement that at least 50% of new units be family-type dwelling units.</p>
<p>1.4.2.1 The forms of infill housing permitted in Medium-Density Residential Areas shall include:</p> <p>(a) interior conversion;</p> <p>(b) additions to existing structures;</p> <p>(c) infilling between existing structures; and</p> <p>(d) small-scale development on vacant lots.</p>	<p>Interior conversions are intended to be permitted in the MDR designation.</p>
<p>1.4.2.2 In Medium-Density Residential areas, family-type dwelling units shall be a minimum of 800 square feet.</p>	<p>This provision provides guidance for Policy 1.4.2, which requires that at least 50% of new units (in new or converted dwellings) be “family type dwelling units”. The effect of this requirement is to prevent the proliferation of small units.</p>
<p>1.4.2.3 In Medium-Density Residential areas, the City shall not permit any building to be converted or added to such that more than 14 dwelling units are contained within the building.</p>	<p>Larger multi-units are permitted by Development Agreement in some parts of the Peninsula By-law area and are not affected by the LUB sections under discussion.</p>

SECTION VI - PENINSULA CENTRE DETAILED AREA PLAN	
Policy	Staff Comment
<p>1.1.3 The forms of infill housing permitted in Peninsula Centre shall include:</p> <p>(a) interior conversion;</p> <p>(b) additions to existing structures;</p> <p>(c) filling-in-between existing buildings; and</p> <p>(d) building on vacant lots.</p>	<p>Residential conversions being considered in this report are considered a type of infill housing which provides opportunities for “gentle density” - modest increases to residential density while maintaining character of established neighbourhoods.</p> <p>The general effect is to encourage retention of existing housing stock while allowing for an increase in housing stock with an emphasis on</p>

	family housing opportunities where circumstances are appropriate, given the character of the area.
1.1.4 For the purposes of this Plan, the concept of compatibility shall be deemed to require that infill housing projects are compatible with and enhance the existing development context of a neighbourhood. The City shall use as a guideline in considering rezonings, zoning amendments or contract agreements the key principle of not significantly changing the character of an area when reviewing infill housing proposals.	R-2 zones in the Halifax Peninsula LUB area are primarily low density residential areas, with up to four-unit apartment buildings permitted as of right if the lot standards in the by-law are met. However, the intention in the Municipal Planning Strategy was to ensure that dwellings with more than two units not be permitted unless the lot was of a sufficient size to provide adequate open space and parking facilities to accommodate more units.
1.1.5 Without limiting the generality of Policy 1.1.4 above, the City shall, in reviewing proposals for compatibility with the surrounding area, have regard for the relationship of the proposal to the area in terms of the following: (a) land use; (b) scale and height; (c) population density; (d) lot size, lot frontage, setback, lot coverage and open space; and (e) service requirements, including parking.	Not applicable - LUB sections 34E, 34U and 43E are as of right and not contingent on establishing "compatibility" with the existing neighbourhood.
1.1.6 Further to Policy 1.1.5 above, existing development standards will be assessed against their capacity to achieve the policies of this Detailed Area Plan with respect to infill housing and with respect to preservation of existing housing. Existing development standards will be amended as necessary to implement the policies of this Plan.	Allowing internal conversions is seen as a way to preserve the existing built form and lot fabric while making increasing density realistic and affordable.
1.4.1 The City shall, for areas designated as low-density residential on the Future Land Use Map of this Plan, amend its Zoning By-law to provide for interior conversions only of any residential building in existence on the date of adoption of this Plan to convert to a maximum of three units, provided that any such unit is a minimum of 1,000 square feet, that the building does not increase in height or volume, and that one parking space per unit is provided with a requirement that there shall be no parking in the front yard.	This is intended to only apply to those properties that are designated LDR, not MDR designation. There are no lot standards required to be included in the LUB.
1.5 Areas shown as medium-density residential on the Future Land Use Map of this Plan shall be regarded as family-oriented neighbourhoods	Generally, describes the kind of neighbourhoods Council envisioned for the MDR designation.

<p><i>which provide a mix of predominantly family housing units in single-family dwellings, semi-detached dwellings, duplexes, and, where appropriate, rowhousing and buildings which, through conversions or additions, provide apartment accommodation.</i></p>	<p>Focus of any population increase is to maintain “neighbourhood character”– attempt to encourage population growth while maintaining existing, stable neighbourhoods.</p> <p>The Intent is to encourage “family-style housing” by requiring a proportion of new dwelling units in the R-2 zone to be larger (a minimum of two bedrooms).</p>
<p><i>1.5.2 For those areas designated as medium-density residential on the Future Land Use Map of this Plan, the City shall amend its zoning by-laws to permit interior conversions of or additions to existing buildings to permit up to a maximum of four dwelling units, provided that two family-type dwelling units are provided for each non-family-type dwelling unit, and provided that:</i></p> <p><i>(a) this provision shall apply only to buildings existing on the date of adoption of this By-law;</i></p> <p><i>(b) one unit shall be permitted where the lot size is less than 3,300 square feet; two units where the lot size is between 3,300 and 5,000 square feet; three units where the lot size is between 5,000 and 6,000 square feet; and a maximum of four units where the lot size is greater than 6,000 square feet;</i></p> <p><i>(c) 300 square feet of open space shall be provided per family-type unit and 50 square feet of open space per non-family-type unit;</i></p> <p><i>(d) for buildings with more than two units, one parking space shall be provided per family-type unit and one parking space shall be provided for every two non-family-type units;</i></p> <p><i>(e) no parking shall be permitted in front yards; and</i></p> <p><i>(f) no part of the addition, if any, shall exceed the height of the existing structure.</i></p>	<p>Construction and conversions are permitted on smaller lots with less street frontage in the South End and Peninsula Centre DPAs than in other parts of the Halifax Peninsula by-law area. This policy clearly requires properties in the Medium Density Residential Designation to meet specific lot size, open space and parking requirements, and specifically allows additions to accommodate additional units. While this provision is purportedly limited to existing buildings (ie: conversions), there are no similar lot standards in the Detailed Area Plan relating to new construction, so it is possible to have the same zone standards apply to new construction and conversions, as is the case with LUB Section 43E.</p> <p>This policy does not contemplate allowing conversions in the Medium Density Residential Designation under the LUB Section 34E standards.</p>

<p>1.5.3 For areas designated as medium-density residential on the Future Land Use Map of this Plan, the City shall amend its zoning by-laws, specifically the standards for lot size and lot frontage, to accord with the characteristic measurements of a lot in the area.</p>	<p>The policy response to existing lot fabric in areas to be zoned R-2 was to decrease minimum lot sizes for two and multi-unit dwellings (conversions, new construction and additions) compared to what was required in the rest of Halifax Peninsula, exclusive of the South End Detailed Plan Area.</p>
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IMPLEMENTATION POLICIES	
Policy	Staff Comment
<p><i>Policy 3.1.1</i> 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.</p>	<p>The proposed amendment is consistent with Policy 2.4 (see 2.4 above).</p>
<p><i>Policy 4.</i> When considering amendments to the Zoning By-laws and in addition to considering all relevant policies as set out in this Plan, the City shall have regard to the matters defined below.</p>	
<p><i>Policy 4.1</i> The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.</p>	<p>Staff are satisfied that the proposed amendment is generally in conformance with the intent of the Municipal Planning Strategy, and both the Detailed Area Plans for Peninsula Centre and the South End.</p>
<p><i>Policy 4.2</i> The City shall review the proposal to determine that it is not premature or inappropriate by reason of:</p>	
<p><i>i) the fiscal capacity of the City to absorb the costs relating to the development; and</i></p>	<p>Staff have not identified any costs to the municipality relating to the proposed amendments.</p>
<p><i>ii) the adequacy of all services provided by the City to serve the development.</i></p>	<p>The Halifax Peninsula area is provided with central services; the proposed amendment would act to slow down the densification of residential areas on the Peninsula and therefore relieve the acceleration of demand on existing municipal services. However, increasing density also increases the number of ratepayers paying for existing infrastructure, and the proposed amendments would slow adding density to the Peninsula.</p>

Attachment C: Relevant Sections of the *Halifax Regional Municipality Charter and Halifax Peninsula Land Use By-law*

1. *Halifax Regional Municipality Charter*

Section 257:

257 (1) A municipal planning strategy may provide for a relaxation of the restrictions contained in this Part respecting non-conforming structures, nonconforming uses of land and non-conforming uses in a structure and, in particular, may provide for

- (a) the extension, enlargement, alteration or reconstruction of a non-conforming structure;
- (b) the extension of a non-conforming use of land;
- (c) the extension, enlargement or alteration of structures containing non-conforming uses, with or without permitting the expansion of the non-conforming use into an addition;
- (d) the reconstruction of structures containing non-conforming uses, after destruction;
- (e) the recommencement of a non-conforming use of land or a non-conforming use in a structure after it is discontinued for a continuous period in excess of six months;
- (f) the change in use of a non-conforming use of land or a non-conforming use in a structure, to another non-conforming use.

(2) The policies adopted in accordance with this Section must be carried out through the land-use by-law and may require a development agreement.

2. *Halifax Peninsula Land Use By-law*

Section 34E:

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.

Section 34U:

CONVERSIONS

34U Any residential building which was in existence on 14 October 1982 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 separate accessible parking space at least 8 feet wide and 16 feet long per dwelling unit is provided.

Section 43E:

PENINSULA CENTRE AND SOUTH END AREA

43E Notwithstanding the provisions of Sections 37 to 43, buildings erected, altered or used for R-1 or R-2 uses in the R-2 Zone in the "Peninsula Centre" and "South End Areas" shall comply with the following requisites:

- (a) Minimum Minimum Lot Frontage Lot Area Side Yards (Feet) (Sq.Ft.) (Feet) R-1 30 N/A
4 Duplex 33 3,300 5 Semi-detached dwelling 50 5,000 5 Three Unit Building 45 5,000 6
Four Unit Building 60 6,000 6
- (b) UNIT MIX: (i) duplexes or semi-detached dwellings shall contain at least one unit of a minimum of 800 sq.ft.; (ii) 3 or 4 unit apartment buildings shall contain at least two units of a minimum of 800 sq.ft.
- (c) Lot coverage: Maximum lot coverage shall be 35 percent.
- (d) Parking and Open Space: For each unit which is 800 sq.ft. or greater, one parking space at least 8 feet wide and 16 feet long and 300 sq.ft. of open space shall be required, and for dwelling units less than 800 sq.ft., one parking space at least 8 wide and 16 long shall be required for each two dwelling units, and 50 sq.ft. of open space for each unit.
- (e) Maximum Height: The maximum height shall be 35 ft.
- (f) A rear yard shall be provided of not less than 20 ft. in depth. (PCC/CCC-Nov 8/10;E-Nov 27/10)
- (g) (deleted PCC/CCC-Nov 8/10;E- Nov 27/10)
- (h) Semi-detached building: 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.