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Item No. 10.1.3
Halifax and West Community Council
December 11, 2019

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY:

-ORIGINAL SIGNED-

Kelly Denty, Director of Planning and Development

DATE: September 27, 2019

SUBJECT: **Case 22314: Application by Jason Wong, to rezone lands at 3850 Robie Street, Halifax from the R-2 (General Residential) zone to the R-2A (General Residential Conversion) zone.**

ORIGIN

Application by Jason Wong.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to the Halifax Peninsula Land Use By-law, as set out in Attachment A, to rezone the lands at 3850 Robie Street from the R-2 (General Residential) Zone to the R-2A (General Residential Conversion) Zone, and schedule a public hearing;
2. Adopt the amendment to Map ZM-1 of the Halifax Peninsula Land Use By-law, as set out in Attachment A of this report.

BACKGROUND

Jason Wong has applied to rezone 3850 Robie Street, Halifax from R-2 (General Residential) zone to R-2A (General Residential Conversion) zone. There are currently 4 dwelling units in the building and rezoning from R-2 to R-2A will allow the legal occupancy of two additional units with no changes to the exterior of the building.

Subject Site	3850 Robie Street
Location	Southern corner of Basinview Drive and Robie Street, Halifax Peninsula
Regional Plan Designation	(US) Urban Settlement
Community Plan Designation (Map 1)	(RES) Residential
Zoning (Map 2)	(R-2) General Residential
Size of Site	Approximately 675 sq. m (7260 sq. feet)
Street Frontage	Approximately 40 m (130 ft.) on Robie Street, and approximately 26 m (85 ft.) on Basinview Drive
Current Land Use(s)	4-unit apartment building
Surrounding Use(s)	Surrounding the site is R-2 (General Residential) zoned development, in the form of single detached style dwellings, duplex, and multiple unit buildings. Abutting the property is a similar building which has recently rezoned to the R-2A.

Proposal Details

The applicant has requested to rezone from R-2 to R-2A to authorize 2 additional units within the 4-unit apartment building. The major aspects of the proposal are as follows:

- A 6-unit dwelling is not compliant with the R-2 zone, which permits a maximum of 4-units;
- The existing building is now lawfully occupied as a four-unit dwelling but was previously configured and occupied as 6 units. The additional 2 units could be re-established through a relatively straightforward renovation to add kitchen facilities and alter other routine building components;
- The R-2A zone requires 50% of the units in a building be at least 800 square feet in size;
- The R-2A zone has strict standards relative to building envelope, additions, and alterations; and
- The intent of the applicant is to maintain the building in the existing configuration but re-establish the two additional units.

Background

An occupancy permit permitting four units on the subject property was issued in December of 1963. At a subsequent unknown date, two additional units were created without municipal approval. In response to a municipal compliance case, the present owners removed two units in 2015. The structure is presently lawfully occupied as a four-unit building.

The neighbouring property at 3834 Robie Street is similar in form, size, and unit count having also been unlawfully converted from a 4 to 6 unit building after its original approval. Recently, this property was rezoned to the R-2A zone legalizing the two additional units (Case 21076). The success of the neighbouring rezoning motivated the applicant to request the R-2A zone be applied to their property in a similar manner.

Enabling Policy and LUB Context

The subject site is designated Residential (RES) under the Halifax Municipal Planning Strategy. The Residential designation enables varied types of residential building forms subject to specific policy and the requirements of the applicable residential zone. Implementation Policy 3.1.1 allows for the consideration of LUB amendments and rezoning requests. It requires any proposed rezoning be reviewed for conformity with policy 2.4 of Section 2, Residential Environments which promotes neighbourhood stability and the retention of building stock.

The site is currently zoned R-2 (General Residential) zone and this application seeks to rezone the subject property to R-2A (General Residential Conversion) zone to allow an internal conversion under section 43A1 of the Halifax Peninsula LUB. Attachment B contains a detailed analysis of the relevant policy related to this application.

COMMUNITY ENGAGEMENT

The community engagement process was 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, signage posted on the subject site, and a postcard mailout requesting comments and feedback from property owners within the notification area. Feedback was received from 2 property owners in the notification area and included the following topics:

- Support for continuation of the 6-unit form. The resident was unaware of extra units prior to the compliance order and the two extra units had not caused any issues;
- Question regarding the long-term occupation versus AirBnB;
- Question regarding low income housing; and
- Question regarding exterior yard maintenance.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed LUB amendment. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposal will potentially impact residents and neighbouring property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed rezoning that would allow the change between the R-2 and R-2A zone.

The R-2 zone allows a maximum of four units in the building. The 1963 occupancy permit allows a maximum of four units. Notwithstanding the regulations and permit, the building is spatially configured for six units. However, in order to comply with the existing zoning and occupancy permit, two of the six have been vacated and have been rendered incapable of being occupied independently thorough removal of the kitchen facilities.

Under these circumstances there are two alternatives available:

1. Retain the existing R-2 zone which would require the permanent retention of the structure as a four-unit building; or
2. Rezone the property to the R-2A zone which would permit lawful re-establishment of the two additional units.

LUB Amendment Review

Attachment B contains a full review of the proposed rezoning in relation to the policies of the Halifax MPS.

Rezoning from R-2 to R-2A would enable the lawful re-establishment of two additional units within the existing building without material alteration of the exterior. This would be consistent with the City Wide, Residential Environments policies in the MPS. These policies seek to maintain the integrity of existing

residential neighbourhoods and recognize that differences between residential areas contribute to the richness of Halifax as a city.

The MPS also encourages a variety of housing types, supports maintenance of neighbourhood stability and intends to limit changes to those that are compatible with the existing neighbourhood. 3850 Robie Street is part of an established neighbourhood and is at the transition point of several different types of development with varying characteristics of age, design, and scale.

North of the property is a series of condominium, duplex, and townhome dwellings with an NSCC campus to the east. A typical residential R-2 neighbourhood containing single unit and up to four-unit dwellings exists to the south and west. The present mix of housing types has created a unique and diverse neighbourhood fabric within which the building at 3850 Robie Street has existed since the 1960's.

The applicant has stated they intend to retain the current form to comply with the R-2A Internal Conversion requirements. The use of the building will remain residential and is not expected to impact the integrity of the existing neighbourhood as there is limited capacity for new or more intense development. Permitting a six unit building at this location will contribute to the available housing stock near a post secondary education centre, close to transit lines and within a building which has been a part of the established neighbourhood fabric without exterior modification or expansion.

Zone Comparisons

The R-2A zone allows R-1 (Single Family), R-2 (General Residential), R-2T (Townhouse) and converted multiple dwelling house uses. A Converted Multiple Dwelling House, as defined by the Halifax Peninsula LUB, is permitted to have up to 14 units.

The R-2A zone includes requirements on unit size and limits modifications to the building, restricting the unit capacity of a conversion. The R-2A zone enables internal conversions in buildings which existed prior to September 17, 1987 to R-1, R-2, and R-2A uses. The provisions in section 43A1 of the R-2A zone state that a building may be converted provided there is no increase in building volume and, for R-2A uses, fifty percent (50%) of the dwelling units must be a minimum of 800 square feet. In the existing building, the four occupied units are 805 square feet and the two unoccupied units are 805 and 535 square feet. With the previously noted requirements on unit size and the inability to expand the volume of the building, the capacity for the building to house additional units beyond the requested 6 is limited. However, it could be achieved through modification to the interior of the building provided at least 50% of the units remain at 800 sq. ft or larger. Any modification to the building would be required to meet the National Building Code of Canada.

In the R-2A zone, additions are possible in the rear and the rear two thirds of the side of the building, however additions are prohibited in any front, side or rear yard abutting a street. The subject site has frontage on three sides and additions are prohibited in any front, rear, or side yard abutting a street. As a result, substantial additions are unlikely.

New as-of-right development would be restricted to single detached, duplex, 3 or 4-unit apartments, semi-detached dwellings, or R-2T townhomes. New buildings erected for R-2 uses in the R-2A zone would need to comply with the requirements of Section 26D which sets out Gross Floor Area Requirements. Modification or future intensification of the site is not anticipated due the restrictions in the R-2A zone.

Halifax Planning Advisory Committee

On August 26, 2019 the Halifax Planning Advisory Committee (PAC) recommended that the application be approved. A report from the PAC to Community Council will be provided under separate cover.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The rezoning will contribute to the available rental market in the area without material modification to the building exterior and with limited disruption to the surrounding neighbourhood. The requirements of the R-2A zone limit the possibilities of future intensification on the site.

Therefore, staff recommend that the Halifax and West Community Council approve the proposed LUB amendment.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2019-2020 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 amendment are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVE

1. 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*.
2. Halifax and West Community Council may choose to approve the proposed LUB amendment subject to modifications, and such modifications may require a supplementary staff report. A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification Area
Attachment A	Proposed Amendment to the Land Use By-law for Halifax Peninsula
Attachment B	Review of Relevant MPS Policies

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.

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



Map 1 - Generalized Future Land Use

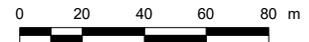
3850 Robie Street,
Halifax

HALIFAX

 Subject Property

Designation

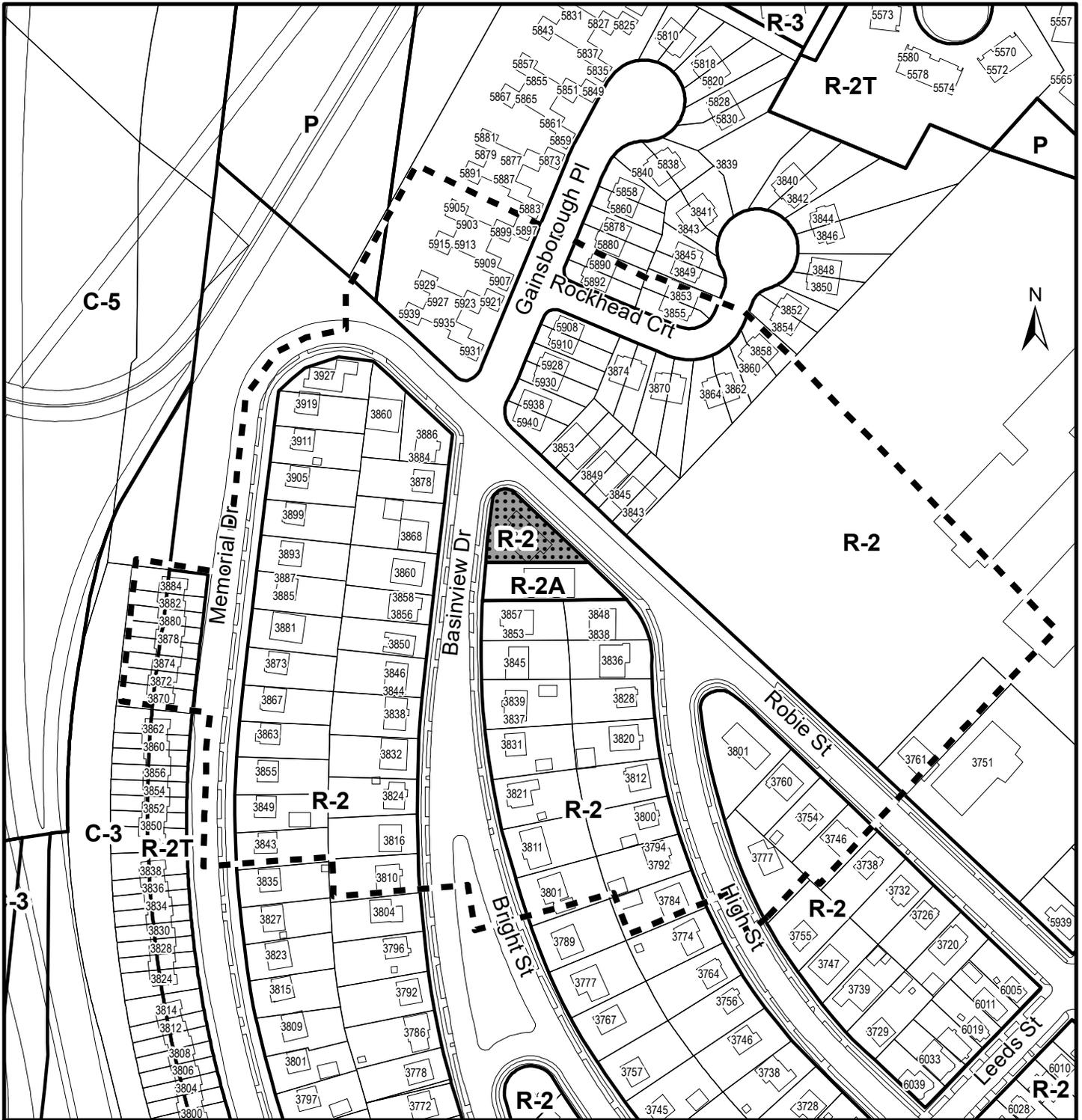
- IND Industrial
- INS Institutional
- RES Residential Environments



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 2 - Zoning and Notification

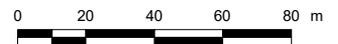
3850 Robie Street,
Halifax

HALIFAX

-  Subject Property
-  Area of Notification

Zone

- C-3 Industrial
- C-5 Harbour-Related Industrial
- P Park and Institutional
- R-2 General Residential
- R-2A General Residential Conversion
- R-2T Townhouse
- R-3 Multiple Dwelling



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

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Halifax Peninsula
Land Use By-Law Area

ATTACHMENT A

Proposed Amendment 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. Amend Map ZM-1, the Zoning Map, by rezoning the property identified as 3850 Robie Street, Halifax, from the R-2 (General Residential) Zone to the R-2A (General Residential Conversion) Zone, as shown on the attached Schedule A.

I, Kevin Arjoon, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax and West Community Council held on [DATE], 201[#].

Kevin Arjoon
Municipal Clerk



Schedule A
 3850 Robie Street,
 Halifax

HALIFAX

 Area rezoned from R-2 to R-2A

Zone
 R-2 General Residential
 R-2A General Residential Conversion



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

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Halifax Peninsula
 Land Use By-Law Area

Attachment B - Review of Relevant Policies from the Halifax MPS

SECTION II CITY-WIDE OBJECTIVES AND POLICIES

Part 2: Residential Environments	
Policy	Staff Comment
<p><i>Policy 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.</i></p>	<p>This request is expected to be accommodated within the existing budgeted services and is expected to be accommodated within the existing services for the area.</p>
<p><i>Policy 2.1.1 On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhoods; and the City shall develop the means to do this through the detailed area planning process.</i></p>	<p>This rezoning will enable rehabilitation, retention, and infill within the building which has been in existence since pre-1970. This building is within an established and sought-after neighbourhood due to its proximity to the College and location in the North End. The current zone allows a maximum of four units, however at some point in the buildings history it was converted to house six units. Recently the building has been operating as a 4 unit building with the two excess units inactive and uninhabited. Permitting these two units will contribute to the available housing stock in the area and near a post secondary education centre, NSCC.</p>
<p><i>Policy 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.</i></p>	<p>The existing residential neighbourhood is primarily R-2, single detached style homes and home's which have been converted into 2 to 4 units. Two neighbouring buildings are of a similar design and composition, with the direct neighbouring property having successfully applied for the R-2A zone. The use of the building will remain residential and the neighbourhood, as stated above, is home to several multi-unit dwellings of various intensities. Neighbouring this property is a building that recently underwent the same zoning request and contained a similar mix of units and square footage. At the intersection of Robie Street and Gainsborough Place, there is a large multi-unit development which contributes to the varied residential pattern in the neighbourhood. Other than enabling two existing, unoccupied, units this proposal is not expected to impact the integrity or differ the use from the existing residential neighbourhood.</p> <p>Policy 3.1 – Repealed June 6, 1990 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>This property is at the transition point of several different neighbourhood types with varying characteristics of age, design, type, and scale. To the north of the property is a series of duplex dwellings along with stacked/side by side townhomes. To the east of the property is the NSCC technology campus and parking area, a large footprint building and paved parking surface. To the south and west of the property is an established residential R-2 neighbourhood, with units ranging from single's to up to four units. The building within the proposed zone has been in existence since approximately the 1960's and will be retained. The building, under the R-2A (internal conversion) zone, is not able to be modified beyond a strict set of standards within the zoning bylaw. This zone allows conversions to occur within the existing residential footprint, additions to the rear of the building (prohibited in any front, side or rear yard abutting a side street), and the maximum height may only be that of the existing roof line and pitch to a maximum height of 35'. Given the size of the lot, orientation of the building, and requirements of 43 AD of the LUB, there is no capability to support an addition to the building.</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 June 6, 1990 Policy 3.2 – N/A</p> <p>Recently, the R-2A zone was added into the neighbourhood through a similar application for the neighbouring property. The amount of change which could occur is limited on this due to its orientation, existing size, setbacks, and zoning requirements. The zone does not permit any additions on through lots. The building can increase density through internal conversion, however, given the size of the lot, orientation of the building, and requirements of 43 AD of the LUB, there is a very limited capability to support an addition to the building.</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 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></p>	<p>Applicant has not specified that such a use would be a part of the dwelling. However, any such use would be held to the standards of the land use by law.</p>
<p><i>Policy 2.4.2.1</i> <i>Pursuant to 2.4.2 the land use by-law may regulate the number, size, height, illumination and location of signs.</i></p>	<p>Would be regulated by land use by law.</p>

<p><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></p>	<p>Policy 3.1 – Repealed June 6, 1990 Policy 3.2 – N/A</p> <p>This land is not vacant, former industrial, institutional. This policy is not applicable to this site.</p>
<p><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.</i></p> <p><i>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></p>	<p>Policy 3.1 – Repealed June 6, 1990 Policy 3.2 – N/A</p> <p>The rezoning on this property would not create an opportunity for massive redevelopment of the neighbourhood or dislocation of residents. The rezoning from the R-2 to R-2A zone would increase the options for infill housing as it would allow the creation of additional units within the neighbourhood.</p>
<p><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></p>	<p>This rezoning will allow two, or more, additional units to become available to the rental market in the neighbourhood. This will foster additional housing options for varied income levels in an existing building which can accommodate the additional usage through interior modification.</p>
<p><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></p>	<p>N/A</p>

<p><i>Policy 2.10</i> <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>The property will be required to meet the standards as set out in the by-law. Parking plan provided shows that the parking area does not encroach on the sidewalks. Engineering has indicated the driveway/parking is acceptable for continued use.</p>
<p><i>Policy 2.11</i> <i>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>The parking area has been shown on the provided site plan. Any storage of vehicles will be confined to the space provided. Visual impact from Robie Street would be limited, from Basinview Drive the impact will remain unchanged.</p>
Part 9: Transportation	
Policy	Staff Comment
<p><i>Policy 9.4</i> <i>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 subject site is within walking distance of the NSCC IT campus, within 10 min walk of several major bus routes, and the area is well serviced by sidewalks to the north and west of the property.</p>
IMPLEMENTATION POLICIES	
Policy	Staff Comment
<p><i>Policy 3.1.1</i> <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.</i></p>	<p>The application is consistent with Policy 2.4 (see 2.4 above).</p>
<p><i>Policy 4</i> <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.</i></p>	<p>See below.</p>
<p><i>Policy 4.1</i> <i>The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.</i></p>	<p>The proposal conforms to this plan and applicable by-laws and regulations.</p>

<p><i>Policy 4.2</i> <i>The City shall review the proposal to determine that it is not premature or inappropriate by reason of:</i></p>	
<p><i>i) the fiscal capacity of the City to absorb the costs relating to the development; and</i></p>	<p>No cost is anticipated to impact the municipality. Any work associated with the proposal is anticipated to fit within the approved municipal budget.</p>
<p><i>ii) the adequacy of all services provided by the City to serve the development.</i></p>	<p>Departmental circulation has been completed with no concerns at this time. The area is adequately serviced by City services.</p>