

Item No. 10.1

**Halifax Regional Council
August 22, 2023**

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Cathie O'Toole, Chief Administrative Officer

DATE: July 7, 2023

SUBJECT: **Region Wide Approach to Shared Housing**

SUPPLEMENTARY REPORT

ORIGIN

On May 23, 2023, the following motion of Regional Council regarding Item 12.3 was put and passed:

THAT Halifax Regional Council:

1. Defer item 12.3 Region Wide Approach to Shared Housing to a future meeting of Regional Council and direct the Chief Administrative Officer (CAO) to provide a supplementary staff report with amendments to the Secondary Municipal Planning Strategies and Land Use By-law's that would effectively extend the timeline for commencement of construction to those properties with existing development permits to allow them to continue with this use until completion of construction and schedule a public hearing.

LEGISLATIVE AUTHORITY

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

An Act to Amend Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter, Respecting Housing, S.N.S. 2022, c. 13, ss. 13-14, as follows:

13 (1) Notwithstanding the *Halifax Regional Municipality Charter*, an applicable municipal planning strategy or any by-law, policy or practice of the Halifax Regional Municipality, where the Halifax Regional Municipality Council is considering adopting or amending a planning document, the Council may not refer the matter to a community council for a recommendation prior to the council's decision on the matter.

(2) Subsection (1) ceases to have effect three years from the date it comes into force.

14 (1) Notwithstanding the *Halifax Regional Municipality Charter*, an applicable municipal planning strategy or any by-law, policy or practice of the Halifax Regional Municipality, where the Halifax

Regional Municipality Council is considering any planning decision under Part VIII of the Act or a community council is considering any planning decision it is empowered to make under the policy establishing the community council, the Council or community council may not refer the matter to a planning advisory committee or any other advisory committee of the Council for a recommendation prior to the Council's or the community council's decision on the matter.

(2) Subsection (1) ceases to have effect three years from the date it comes into force.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Adopt the proposed amendments to the Secondary Municipal Planning Strategies for Bedford and Planning Districts 8 and 9 and Land Use By-laws for Beaver Bank/ Hammonds Plains/ Upper Sackville; Bedford; Cole Harbour/ Westphal; Eastern Passage/ Cow Bay; Halifax Mainland; North Preston/ Lake Major/ Lake Loon/ Cherry Brook/ East Preston; Sackville Drive; Sackville; and Timberlea/ Lakeside/ Beechville, as set out in Attachments A and B (as revised) of the staff report dated April 19, 2023, to perform minor housekeeping amendments related to shared housing and tiny homes and to remove the Senior Citizens Housing land use from the Beaver Bank/ Hammonds Plains/ Upper Sackville Land Use By-law; and
2. Give First Reading and schedule a public hearing to consider the proposed amendments to the Secondary Municipal Planning Strategy and Land Use By-law for Beaver Bank/ Hammonds Plains/ Upper Sackville, to establish Senior Citizens Housing use as an existing use on specified lots, as set out in Attachments A & B of this report; and
3. Adopt the proposed amendments to the Secondary Municipal Planning Strategy and Land Use By-law for Beaver Bank/ Hammonds Plains/ Upper Sackville, to establish Senior Citizens Housing use as an existing use on specified lots, as set out in Attachments A & B of this report.

BACKGROUND

Since 2022, Regional Council has considered amendments to the Municipality's Secondary Municipal Planning Strategies (SMPs) and Land Use By-laws (LUBs) to permit shared housing as a use.

In the Beaver Bank/ Hammonds Plains/ Upper Sackville (BB/HP/US) Plan Area, the MU-1 Zone has included "Senior Citizens Housing" as a permitted use, defined with the BB/HP/US LUB as "*housing designed for occupation by senior citizens*". This definition has proven to be problematic, given that the Municipality does not have the power to explicitly regulate to whom a residential dwelling (of any kind) is rented or sold. As a result, some permits issued for this use have resulted in the creation of multi-unit dwellings in a zone that otherwise only permits single and two-unit residential dwellings. With the adoption of Shared Housing as a permitted use in the MU-1 Zone, staff recommended removing Senior Citizens Housing as a use, so that the BB/HP/US LUB would be consistent with all other municipal LUBs, and to better carry out the intent of the MPS to prohibit multiple unit dwellings in the Mixed Use designation.

Table 1 summarizes the timeline for amendments associated with the region wide approach to shared housing and its impact in the BB/HP/US Plan Area.

Table 1: Timeline

| Date | Milestone | Outcome |
|----------------------|--|---|
| July 12, 2022 | 1 st reading of Region Wide Approach to Shared Housing Report | Regional Council gives first reading on amendments to all LUBs to include Shared Housing uses, with an amendment to allow "Senior Citizens Housing" use to remain |

| | | |
|----------------------------------|---|--|
| | | within the MU-1 zone of the BB/HP/US LUB for a limited period of time. |
| July 2022 | Letters sent out to applicants | Letter mailed to all applicants with an active application or an issued permit for Senior Citizens Housing outlining the decision of Council, and an anticipated timeline for staff to return to Council to begin the process of removing the Senior Citizens Housing use in the MU-1 zone. |
| August 9, 2022 | Public hearing & 2 nd reading of Region Wide Approach to Shared Housing Report | Motion put and passed. All LUBs are amended to include Shared Housing uses. "Senior Citizens Housing" use is still permitted within the MU-1 zone in BB/HP/US LUB. |
| July 2022- April 2023 | Discussions with applicants | On-going discussions with applicants about the MU-1 zone and anticipated dates to return to Council. |
| April 25, 2023 | 1 st reading of Region Wide Approach to Shared Housing Report | Regional Council gives first reading on amendments to remove "Senior Citizens Housing" use from MU-1 zone of BB/HP/US LUB. |
| April 27, 2023 | Publication of intention to hold a public hearing to remove "Senior Citizens Housing" use from MU-1 zone (first notice) | With the publication of the notice of the public hearing, development permits can no longer be issued for Senior Citizens Housing in the MU-1 zone, pursuant to Subsection 261(3) of the <i>HRM Charter</i> . No development permits for the use can be issued by the Development Officer for 150 days from the date of notice of the hearing as it is inconsistent with the proposed LUB. |
| May 23, 2023 | Public hearing & 2 nd reading of Region Wide Approach to Shared Housing Report | Motion deferred. Request from Council to return with a supplementary report outlining options to extend the timeline for the commencement of construction of all issued permits for Senior Citizens Housing use within the MU-1 zone. |

On May 23, 2023, a public hearing was held regarding the proposed amendments to remove Senior Citizens Housing use from the MU-1 Zone. This amendment was part of a larger list of amendments proposed within the Region Wide Approach to Shared Housing report¹ to Regional Council.

During the hearing, several property owners who received development permits for Seniors Citizens Housing proposals voiced concerns that they would not be able to apply for and receive buildings permits, and commence construction within the 12-month timeline that is required by Clause 253(3)(b) of the *Halifax Regional Municipality Charter*, which reads:

(3) A non-conforming use in a structure is deemed to exist at the date of the first publication of the notice of intention to adopt or amend a land-use by-law if

(a) the structure containing the non-conforming use was lawfully under construction and was completed within a reasonable time; or

(b) the permit for its construction or use was in force and effect, the construction was commenced within twelve months after the date of the issuance of the permit and the construction was completed in conformity with the permit within a reasonable time.

¹ A link to the April 19, 2023 Regional Council report can be found [here](#)

Speakers outlined to Regional Council that they required more than 12 months to begin the construction of their projects, based on several constraints, such as availability of tradespeople, the timelines for issuing permits, and the scale and phasing of construction projects. Upon hearing from all speakers during the public hearing and discussion and clarification from staff, Regional Council made a motion² to defer the entire item and requested a supplementary report to “extend the timeline for commencement of construction to those properties with existing development permits to allow them to continue with this use until completion of construction”.

This supplementary report responds to the motion from Regional Council on May 23, 2023. The proposed amendments and information surrounding the concerns from members of the public and Regional Council are outlined in greater detail in the Discussion section below.

DISCUSSION

Staff is recommending that Council adopt the current amendments that were deferred on May 23, 2023. These amendments include amendments for the Beaver Bank, Hammonds Plains, and Upper Sackville Plan Area, as well as amendments for other Plan Areas as described in Recommendation #1. Staff is further recommending Council give First Reading to adopt *seperate* amendments for Beaver Bank, Hammonds Plains, and Upper Sackville to provide additional time to begin construction for all property owners with an active development permit for Senior Citizens Housing use within the MU-1 zone, as contained within Attachments A and B of this report.

Establishing Existing Permitted Senior Citizens Housing Uses

At the time of publishing Regional Council’s intention to amend the BB/HP/US LUB, 25 permits had been issued for Senior Citizens Housing use within the MU-1 zone. Table 2 (below) outlines the full list of properties with a permit issued for the use prior to publication of the intent to amend the LUB.

During debate following the close of the public hearing, Regional Council indicated a desire to allow the applicants who have an active development or construction permit for Senior Citizens Housing use within the MU-1 zone more time to start construction. Regional Council moved to defer the main motion until a supplementary report was prepared, outlining options on how to extend the amount of time permitted to begin construction of Senior Citizens Housing use, beyond 12 months. This was seen as important for housing availability, and an opportunity to spread out the amount of disruption and road closures experienced in the area due to regular construction processes, and a way to ease pressure on labour supply with more trades people available for each individual construction job in the area. Furthermore, the majority of permits are located within the Beaver Bank and Hammonds Plains Growth Control Areas, as identified within Schedule J of the Regional Subdivision By-law³. As there is no subdivision associated with any of the proposed applications, the developments are able to proceed, however, spreading out the timeline for construction of the projects in the area may help to reduce the amount of added pressure on the road networks and infrastructure in the area.

² A link to the Minutes of the meeting on May 23, 2023 can be found [here](#)

³ A link to the Subdivision By-law can be found [here](#) and a link to Schedule J can be found [here](#)

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Table 2: List of issued permits for Senior Citizens Housing use within the MU-1 Zone of the BB/HP/US LUB (April 2022-April 27, 2023)

| Parcel ID (PID #) | Civic Address** | Number of Units |
|--|---------------------------|-------------------------|
| 40531329 | 232 Pockwock Rd. | 74 |
| 41052978 | 324 Beaver Bank Rd. | 240 |
| 41515677 | 352 Beaver Bank Rd. | 74 |
| 41517525 | 328 Beaver Bank Rd. | 120 |
| 00423103 | 6-18 (even) Ariss Gate | 7 |
| 00461137 | 24-38 (even) Sasa Ln. | 8 |
| 41233677 | 171 Appaloosa Run | 71 |
| 41486309 | 415 Lucasville Rd. | 4 |
| 00346874 | Hammonds Plains Rd. | 57 |
| 00423343 | Pockwock Rd. | 296 |
| 00468447 | Galloway Dr. | 424 |
| 41100603 | 251-253 Pockwock Rd. | 105 |
| 40118648 | 925 Windgate Dr. | 98 |
| 40123614 | Service road/ Webber Lake | 92 |
| 40161713 | 398 Beaver Bank Rd. | 76 |
| 41464512 | Lucasville Rd. | 64 |
| 41521618 | 1647 Hammonds Plains Rd. | 47 |
| 41521626 | 1531 Lucasville Rd. | 46 |
| 41521634 | Lucasville Rd. | 46 |
| 41521642 | Lucasville Rd. | 34 |
| 41521659 | Lucasville Rd. | 46 |
| 41521667 | Lucasville Rd. | 46 |
| 41522574 | Hammonds Plains Rd. | 36 |
| 41522590 | Hammonds Plains Rd. | 8 |
| 41522566 | Hammonds Plains Rd. | 98 |
| | | 2217⁴ |
| <i>**Not all properties have yet been assigned a civic number. Civic numbers will be assigned as the properties are developed.</i> | | |

Proposed Amendments

Proposed amendments to the BB/HP/US SMPS and LUB are outlined in Attachments A and B. To allow for additional time for construction for active permits for a Senior Citizens Housing use within the MU-1 zone of the BB/HP/US LUB, staff propose to amend the LUB to include “Existing Senior Citizens Housing Uses” as a permitted use in the zone and include the list of specific properties associated with the permits as an appendix. By doing this, Senior Citizens Housing use is deemed to already exist on these specified properties and would no longer be subject to the non-conforming requirement to commence construction within 12 months as it will be a permitted use.

It's important to note that until the proposed amendments are adopted by Council, the requirement to commence construction for all active permits within the 12-month timeline remains in effect.

Approval of Original Motion

Upon deferring the motion on May 23, 2023, all other proposed amendments included in the report and amendment package were also deferred. As the motion was deferred and not defeated, the first notice

⁴ The total number of units is fewer than identified in Table 1 of the staff report dated April 19, 2023. Upon a detailed review of all permit applications issued between April 2022 and April 27, 2023, it was identified that some properties were issued both development and construction permits for the same development.

advertising the Council's intention to amend the by-laws that took place on April 27, 2023 is still in effect. As outlined in the *Charter*, Council has 150 days to pass any proposed amendments to a LUB, otherwise the requirements of the LUB will revert to the original status. As it is Council's intention to remove the Senior Citizens Housing use from all LUBs, the amendments contained within the original report need to be passed by September 24, 2023, to ensure that no further permits for Senior Citizens Housing use can be issued.

Passing the original motion from May 23, 2023 to adopt the proposed amendments removing the Senior Citizens Housing use from the MU-1 Zone will not change any circumstances for the applicants with an active permit for Senior Citizens Housing use, as the permits listed in Table 1 were issued prior to April 27, 2023 (the date of publication for the public hearing).

Conclusion

As outlined in the report dated April 19, 2023, the proposed amendments to remove Senior Citizens Housing use from the BB/HP/US LUB brings the by-law into alignment with all other LUBs. The associated amendments in Attachments A and B of the April 19, 2023 report enable shared housing uses within the newly created R-1C zone in the BB/HP/US LUB, remove outstanding building requirements, and resolve small errors and omissions within several Secondary Municipal Planning Strategies and LUBs, helping to facilitate clearer administration of municipal policy and regulation.

The proposed amendments in Attachments A and B of this report establish Senior Citizens Housing use as an existing use on specific parcels identified within this report, which would provide additional time for developers to begin the construction process for their projects. The amendments may provide the opportunity for the proposed Senior Citizens Housing projects to be built within the communities in a way that reduces the overall disruption to the surrounding communities, while attempting to increase the availability of tradespeople to undertake work on a building permit application, document preparation and on the projects themselves when construction commences. All proposed amendments within this report are aligned with existing policies and are intended to implement previous Council direction.

FINANCIAL IMPLICATIONS

No financial implications are associated with the staff recommendations. The HRM costs associated with the SMPS and LUB amendment process can be accommodated within the 2023/24 Planning & Development operating budget with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed SMPS and LUB amendments. SMPS amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments or choosing an alternative to the recommendation are contained within the Discussion section of this report.

COMMUNITY ENGAGEMENT

With respect to the Region Wide Approach to Shared Housing report, comprehensive public engagement was previously undertaken as a part of the planning processes for the Regional Plan Review, Shared Housing amendments, and Carriagewood Estates Development Agreement process, consistent with the intent of the HRM Community Engagement Strategy.

Since the amendments for shared housing were approved by Regional Council, staff have met and corresponded with several property owners and their representatives in the BB/HP/US plan areas. No further community engagement was completed as part of this report for housekeeping amendments.

At the time of issuance of all active permits for Senior Citizens Housing use in the MU-1 zone, the use was permitted in the zone, as all permits were issued prior to the date of publication to remove the use from the MU-1 zone. As such, no public engagement was required to issue a permit for a permitted use. The proposed option presented to Regional Council to extend the timeline for construction of all active permits for Senior Citizens Housing use will require an amendment to the SMPS and LUB. However, given that the use proposed to be established as existing on the specific sites listed within this report are permitted to be built, the public hearing that would follow the passing of first reading for the proposed supplementary amendments will still provide the public and members of the associated communities an opportunity to provide feedback to staff and Regional Council.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

Regional Council may choose to:

1. Modify the proposed amendments to the SMPSs and LUBs as set out in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted and may require a supplementary staff report incorporating the proposed changes. A decision of Council to approve or refuse the proposed SMPS amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter. A decision of Council to approve or refuse the proposed LUB amendments without a municipal planning strategy amendment is appealable to the N.S. Utility and review Board as per Section 262 of the Charter.
2. Refuse the proposed amendments to the SMPSs and LUBs for shared housing or other housekeeping items as attached to this staff report. If Council selects this option and adopts the current amendments deferred on May 23, 2023, then the 12 month timeframe for construction will apply. A decision of Council to approve or refuse the proposed SMPS amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter. A decision of Council to approve or refuse the proposed LUB amendments is appealable to the N.S. Utility and review Board as per Section 262 of the Charter.

ATTACHMENTS

Attachment A Supplementary Municipal Planning Strategy Amendments
Attachment B Supplementary Land Use By-Law Amendments
Attachment C Answers to Questions of Clarification

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: Matthew Conlin, Planner III –Planned Growth, , Planning & Development 902.719.9547

Attachment A
Proposed Secondary Municipal Planning Strategy Amendments

Proposed Amendments to the Beaver Bank/ Hammonds Plains/ Upper Sackville SMPS

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Beaver Bank, Hammonds Plains and Upper Sackville is hereby amended as follows:

1. Amend Section II by inserting the text shown in **bold** immediately after Policy P-9, as follows:

P-9A Notwithstanding Policy P-8, Senior Citizens Housing use shall be permitted within the MU-1 (Mixed Use 1) zone, on specified parcels of land, as listed in Appendix A-1 of the Land Use By-law. All Senior Citizens Housing uses listed within Appendix A-1 shall be deemed to be an existing use and permitted to continue to operate with the same amount of dwelling units or less, as listed within the Appendix.

2. Amend Section II by inserting the text shown in **bold** immediately after Policy P-12, as follows:

P-12A Notwithstanding Policy P-11, Senior Citizens Housing use shall be permitted within the MU-2 (Mixed Use 2) zone, on specified parcels of land, as listed in Appendix A-1 of the Land Use By-law. All Senior Citizens Housing uses listed within Appendix A-1 shall be deemed to be an existing use and permitted to continue to operate with the same amount of dwelling units or less, as listed within the Appendix.

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted Municipal Planning Strategy amendment was passed at a meeting of the Halifax Regional Council held on the **XXth** day of **XXX 2023**.

Iain MacLean
Municipal Clerk

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Attachment B Proposed Land Use By-Law Amendments

Proposed Amendments to the Beaver Bank/ Hammonds Plains/ Upper Sackville LUB

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Land Use By-law for Beaver Bank, Hammonds Plains, and Upper Sackville is hereby amended as follows:

1. Amend Part 2: DEFINITIONS, by adding a definition of “EXISTING SENIOR CITIZENS HOUSING” as section 2.25A after section 2.25 EXISTING and before section 2.26 FISHING USE, as shown in bold below:

2.25A EXISTING SENIORS CITIZENS HOUSING means housing designed for occupation by senior citizens, located on those properties listed in Appendix A-1.

2. Amend Part 4: GENERAL PROVISIONS FOR ALL ZONES, section 4.9, shown below in **bold**, by inserting the text “or “A-1” ” after the text “Unless otherwise identified in Appendix “A” “, as follows:

4.9 EXISTING USES

Unless otherwise identified in Appendix "A" **or “A-1”**, where uses are permitted as existing uses within a zone, they shall be considered as fully conforming uses and as such are permitted to expand, resume operation if discontinued, or be replaced, or rebuilt if destroyed, on the lot which they occupied on the effective date of this By-law.

3. Amend Part 13: MU-1 (MIXED USE) 1 ZONE, section 13.1, under the heading Residential Uses shown below in **bold**, by inserting the text “existing” before the text “Senior citizens housing” and inserting the text “on properties listed within Appendix A-1” after the text “Senior citizens housing”, as follows:

No development permit shall be issued in any MU-1 (Mixed use) Zone except for the following:

Residential Uses

Single unit dwellings

Two unit dwellings

Shared housing use

Bed and Breakfast

Existing Senior Citizens housing on properties listed in Appendix A-1

Existing multiple unit dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Business uses in conjunction with permitted dwellings

4. Amend Part 14: MU-2 (MIXED USE TWO) ZONE, section 14.1, under the heading MU-2 USES PERMITTED shown below in **bold**, by inserting the text “Existing Senior Citizens Housing on properties listed within Appendix A-1” after the text “All uses permitted in the MU-1 Zone”, as follows:

14.1 MU-2 USES PERMITTED

No development permit shall be issued in any MU-2 (Mixed Use Two) Zone except for the following:

All uses permitted in the MU-1 Zone

Existing Senior Citizens Housing on properties listed in Appendix A-1

All uses permitted in the C-4 Zone

All uses permitted in the I-1 (Mixed Industrial) Zone

Composting operations (see section 4.29)

Cannabis production facilities

5. Amend the Appendix section as shown below by inserting the text shown in **bold** following Appendix A, as follows:

APPENDIX A-1: Existing Senior Citizens Housing Uses

An Existing Senior Citizen Housing Use that was issued a development permit for Senior Citizens Housing prior to the effective date of this Appendix shall only be a permitted use for those properties listed below.

Any expansion or alteration of an Existing Senior Citizen Housing use may only be considered if the number of dwelling units does not exceed the Total Number of Dwelling Units listed for the property below.

| USE | PID | Total Number of Dwelling Units |
|--------------------------------|-----------------|---------------------------------------|
| Senior Citizens Housing | 40531329 | 74 |
| Senior Citizens Housing | 41052978 | 240 |
| Senior Citizens Housing | 41515677 | 74 |
| Senior Citizens Housing | 41517525 | 120 |
| Senior Citizens Housing | 00346874 | 57 |
| Senior Citizens Housing | 00423343 | 296 |
| Senior Citizens Housing | 00468447 | 424 |
| Senior Citizens Housing | 40118648 | 98 |
| Senior Citizens Housing | 40123614 | 92 |
| Senior Citizens Housing | 40161713 | 76 |
| Senior Citizens Housing | 41464512 | 64 |
| Senior Citizens Housing | 41521618 | 47 |
| Senior Citizens Housing | 41521626 | 46 |
| Senior Citizens Housing | 41521634 | 46 |
| Senior Citizens Housing | 41521642 | 34 |
| Senior Citizens Housing | 41521659 | 46 |
| Senior Citizens Housing | 41521667 | 46 |
| Senior Citizens Housing | 41522574 | 36 |
| Senior Citizens Housing | 41522590 | 8 |
| Senior Citizens Housing | 00423103 | 7 |
| Senior Citizens Housing | 00461137 | 8 |
| Senior Citizens Housing | 41233677 | 71 |
| Senior Citizens Housing | 41486309 | 4 |
| Senior Citizens Housing | 41100603 | 105 |
| Senior Citizens Housing | 41522566 | 98 |

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted Land Use By-Law amendment was passed at a meeting of the Halifax Regional Council held on the [redacted] day of [redacted] 2023.

Iain MacLean
Municipal Clerk

Attachment C Answers to Questions of Clarification

The following questions were asked during the May 23, 2023, meeting of Regional Council:

Timelines for Construction

Question: Why are there two seemingly competing timelines involved in this situation – a 12-month timeline to begin construction, and a 24-month timeline to complete construction?

- Pursuant to Section 253 of the *HRM Charter*, the 12-month timeline within which construction must commence is one of three conditions that must be met in order for a non-conforming use in a structure or a non-conforming structure to be deemed to exist prior to a LUB amendment being considered by Council, and to establish that the structure or use in the structure is non-conforming. The three conditions are as follows:
 - A permit for the use in the structure or the structure must be issued and active ('in force and effect'), and:
 - for "use in a structure", be a permit for "its construction or use", and
 - for a structure only, be a permit for "its construction";
 - The construction must commence within twelve months of the permit issuance; and
 - The construction must be completed in conformity with the permit and within a reasonable time.

- Pursuant to Subsection 6(2)¹ of the By-Law B-201 *Respecting the Building Code*, the 24-month timeline refers to the standard expiration of a building permit, which applies to all building permits issued by the Municipality.
 - The expiration of a building permit related to the completion of construction, rather than commencement.
 - Renewal of a building permit may be considered by the Municipality, on a case-by-case basis.

Commencement of Construction

Question: There is no clear definition of "commencement of construction" outlined in the Charter, in relation to s. 253 (3)(b), and the 12-month timeline to commence construction of a project. How has HRM established that laying the footings & foundations of a structure is the "commencement of construction"?

- When considering the "commencement of construction", one of the factors in the caselaw that is considered is whether the property owner has poured the footings and foundations of a structure.
- This interpretation is supported by a 1998 case², establishing that site preparation procedures (blasting, moving of on-site materials, etc.) did not fall within the meaning of commencement of construction.
 - Staff interpretation from the case: As the construction of the actual structure must be underway for construction to have commenced, then the laying of a foundation or pouring footings for a structure would be the first step in the creation of a structure.
- A 2003 case³ re-enforces this interpretation, outlining that site preparation activities were a preliminary step to the actual act of beginning the construction of a structure.
- This interpretation is also supported by the definition of "Construct" within the *Nova Scotia Building Code*, defined as follows:

¹ A Link to the By-Law B-201 *Respecting the Building Code* can be found [here](#)

² *Armoyan Properties Ltd. (Re)*, [1998] NSURBD No. 5 (*Armoyan Properties*)

³ *Nova Scotia (Attorney General) v Spence*, [2003] NSJ No 511, 2004 NSSC 18

“Construct” means to do anything in the erection, installation, extension, relocation, material alteration or material repair of a building and includes the installation of a factory made building fabricated or moved from elsewhere.

Definitions

Question: With respect to Shared Housing with Special Care use, involving individual dwelling units with multiple bedrooms, does each room need to be rented out?

- Since introducing the use in 2022, staff have identified that the definition for Shared Housing with Special Care requires further clarification to remove any ambiguity regarding the intention of the use. These changes will be brought forward to Regional Council within a future report.
- In the interim, Planning staff have confirmed that individual rooms are not required to be rented out within a dwelling unit associated with a Shared Housing with Special Care use that contains multiple bedrooms.
- The intention of the use is to provide an inclusive option for people who require accommodations designed to provide a higher level of care, which could be for one individual, multiple individuals, or a family unit. It is important to note, all permit applications must still be reviewed by Planning staff to ensure compliance with all Municipal requirements before a permit can be issued.