



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

Item No.
Halifax and West Community Council
May 30, 2017

TO: Chair and Members of Halifax and West Community Council

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

DATE: April 24, 2017

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

ORIGIN

On October 4, 2016 Regional Council passed the following motion:

MOVED by Councillor Mason, seconded by Councillor Watts

THAT Halifax Regional Council refer this matter to the Halifax & West Community Council for consideration.

LEGISLATIVE AUTHORITY

See Attachment E

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to the Land Use By-law for Halifax Peninsula regarding the development of lots fronting along Young Avenue, as set out in Attachment A, and schedule a public hearing; and
2. Adopt the amendments to the Land Use By-law for Halifax Peninsula, as set out in Attachment A.

BACKGROUND

Young Avenue, in Halifax's South End area, is considered a unique and prominent residential streetscape characterized by many large estate lots which contain houses of notable architectural quality and size. Recent development activity on the street has included demolition of several notable houses of historic significance to allow for the as-of-right subdivision of lots. As a result, there is concern that the well-established character of Young Avenue will be lost as more longstanding homes are demolished, lots are subdivided, and new dwellings constructed.

In response to these concerns, Regional Council directed staff to present options to protect the character and form of Young Avenue. On October 4, 2016, Regional Council considered a staff report which outlined options to protect this streetscape, including potential changes to the Land Use By-law for Halifax Peninsula (LUB) related to the minimum lot standards and possible protections through heritage legislation.¹ Staff recommended amendments to the LUB, enabled through existing policies in the Municipal Planning Strategy for Halifax (MPS), which would protect the existing lot pattern by limiting subdivision opportunities. Regional Council directed that the matter be referred to Halifax and West Community Council so that the proposed LUB amendments may be considered.

Location	Young Avenue, Halifax
Subject Properties	All lots that front on Young Avenue (excludes 5712 Inglis Street, which fronts onto Inglis Street and has Young Avenue street frontage only on its flankage/ side yard)
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Low-Density Residential
Zoning (Map 2)	R-1 (Single Family)
Current Land Use(s)	Detached dwellings (some converted to contain multiple dwelling units); South End Tennis Club
Surrounding Use(s)	Primarily low and medium density residential, some high density uses as well as institutional uses

Proposal Details

Staff propose amendments to the R-1 (Single Family) Zone for properties with frontage on Young Avenue. These amendments would limit future subdivision opportunities, with the intent of protecting what remains of the historical lot pattern. The proposed changes include:

- An increase in the required minimum lot frontage to 80 feet (24.4 m) of continuous street frontage;
- An increase in the required minimum lot size to 8,000 square feet (743.2 sq. m.);
- An increase in the required minimum lot width to 80 feet (24.4 m);
- An increase to the required minimum lot depth to 100 feet (30.48 m); and
- An increase in the maximum required side yard setback to 10 feet (3.048 m).

Enabling Policy and LUB Context

Under the MPS, Young Avenue is designated Low-Density Residential within Section V, the South End Area Plan. Section V contains detailed policy direction, and specifically, Policy 1.4.1 designates Young Avenue as family-type housing accommodation, with new development in detached single-family dwellings. City-Wide Policies in Section II, policies 2.2 and 2.4 of the Residential Environments section indicate an intent to retain the existing character and development pattern of predominately stable residential neighbourhoods. Section V Policy 1.1.1.2 states that the "*Zoning By-law shall further define elements of scale, proportion, setback and use consistent with the policies of this Plan to ensure compatibility with the districts and neighbourhoods.*"

¹ October 4, 2016 Regional Council Report: <http://www.halifax.ca/council/agendasc/documents/161004ca14111.pdf>

The LUB regulates development on Young Avenue through the R-1 Zone. The minimum lot size and lot frontage is 4,000 square feet and 40 feet, respectively, and the maximum lot coverage is limited to 35 percent. The size of dwellings in the R-1 Zone is also subject to maximum gross floor area requirements, which limit the maximum size of dwellings based on lot size using a floor area ratio (FAR). Under the South End Area Plan, single detached dwellings in the area which existed on October 14, 1982, are permitted to be internally converted to a maximum of three residential units. These internal conversions cannot increase the height or volume of the building, and there are additional criteria regarding unit size, bedroom count and parking provisions.

Presently, no policy or regulations are specific to Young Avenue; however, the MPS and LUB have applied different regulations to areas with unique patterns of development. For example, larger lot standards are required in the Northwest Arm Sub Area where large lots are common, and smaller lot standards are applied in older neighbourhoods with small lots within the Peninsula North Area Plan. For lots zoned R-1 on Atlantic, Brussels, and McLean Streets, near Young Avenue, alternative height and lot coverage standards have been applied to maintain a particular pattern of development.

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 by providing information and seeking comments through the HRM website, letters mailed to property owners within the notification area (Map 2), and a public information meeting (PIM) held on November 2, 2016. Attachment D contains a copy of the minutes from the meeting. A petition from residents was also presented to Regional Council on October 4, 2016, in support of LUB amendments. At the PIM and in writing to staff, residents expressed concerns regarding as-of-right subdivision of properties in the study area. To address these concerns, members of the public requested changes to the LUB including:

- Increasing the minimum side yard setback from 6 feet to 10 feet;
- Increasing the proposed minimum lot size to 12,000 square feet; and
- Increasing the proposed lot depth to a minimum of 150 feet.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed LUB amendments. Should Community Council decide to proceed with a public hearing on this matter, 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 proposed amendments will potentially impact local residents and property owners.

DISCUSSION

Staff have reviewed all relevant policies and advise that the proposed LUB amendments are reasonably consistent with the intent of the MPS. Attachment A contains the proposed amendments to the LUB that will implement the policies of the MPS in regards to compatibility of new development with the existing neighbourhood.

LUB Amendment Review

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

Lot Size Requirements

Analysis of the lots on Young Avenue shows that the current R-1 Zone standards do not reflect the average size of lots on the street (Attachment C). The average lot area and lot frontage are significantly larger than the minimum lot area and lot frontage required under the R-1 Zone. As a result, existing lots could be subdivided, existing homes demolished, and additional new houses constructed on smaller lots. When this

analysis was conducted in fall 2016, 20 lots on Young Avenue had the potential for re-subdivision under the current R-1 Zone standards (Map 3).

MPS policy encourages retaining the existing residential character of predominantly stable neighbourhoods, and speaks to the Municipality's intention to ensure new development is compatible with these neighbourhoods. Therefore, staff recommend adopting changes to the lot standards for Young Avenue, which would limit opportunities for further subdivision of existing large lots.

The proposed amendments would increase the minimum required lot area from 4,000 square feet to 8,000 square feet, and the required lot frontage from 40 feet in total to 80 feet of street frontage on Young Avenue. Requiring 80 feet of frontage on Young Avenue would help to maintain a regular lot form with continuous frontage. This would also mean lots would not be able to use frontage on intersecting streets (such as Atlantic Street) to meet the required 80 feet, as the current regulations allow. Additionally, the proposed LUB amendments would increase the minimum lot width to 80 feet and minimum lot depth to 100 feet, to maintain a lot pattern in keeping with the character of the street.

Side Yard Setback Requirements

The side yard setback requirement in the R-1 Zone is 10% of the lot width, to a maximum of 6 feet. The intent of this requirement is to ensure sufficient distance is provided between dwellings to allow for privacy and daylight penetration. Larger dwellings on larger lots typically have greater side yard setbacks: as shown in Attachment C, the average side yard setback on Young Avenue is greater than the minimum requirement. Staff therefore recommend that the side yard setback requirement be increased from 10% of lot width to a maximum of 6 feet, to a maximum of 10 feet. For an 80 foot wide lot, this would mean a side yard setback requirement of 8 feet. This change would be in keeping with the greater setback found on the street, and provide adequate side yards on larger lots.

Implications for Existing Lots

As many existing lots (vacant and developed) within the Young Avenue area will not meet the requirements of the proposed LUB amendments, staff have considered the ways that the development rights of these properties would be affected by the proposed amendments. The intent of the proposed changes is to protect the existing lot pattern by limiting future subdivision opportunities, but not to place undue burden on existing development. To avoid unintended impacts on existing development, staff have included a "grandfathering" provision in the proposed LUB amendments found in Attachment A. "Grandfathering" would allow a vacant lot in existence *prior to the date of the first publication of Council's notice of its intention to amend the LUB* to be developed with a dwelling even if it does not meet the minimum requirements of the amended zone. It also means that any single unit dwelling on a lot created before this date, that does not meet the requirements of the R-1 Zone but has at least 40 feet of lot frontage and 4,000 square feet of lot area will become a conforming structure.

Staff also note that both developed and undeveloped lots created before May 11, 1995 are also "grandfathered", as the LUB already reduces the lot frontage and lot area requirements to 30 feet and 3,000 square feet, respectively, for single family residential uses. This provision would allow a vacant lot approved prior to 1995 to be developed with a dwelling even if it does not meet the minimum requirements of the zone. It also means that any single unit dwelling on a lot created before May 11, 1995, that does not meet the requirements of the R-1 Zone but has at least 30 feet of lot frontage and 3,000 square feet of lot area will be a conforming structure. This provision does not apply to lots developed with dwellings which have been converted to more than one dwelling unit.

If a grandfathering provision is **not** adopted, there will be different implications for developed and undeveloped lots. For **developed lots**, the *HRM Charter* considers existing dwellings on lots that do not meet the zone requirements to be non-conforming structures provided they are lawfully permitted at the date of the notice of intention to adopt amendments to the land use by-law. In general, existing non-conforming residential structures may continue to exist and may be repaired or altered under certain conditions (refer to Section 254 of the *HRM Charter*, Attachment E). For **undeveloped or vacant lots** (that did not exist prior to May 11, 1995) which do not meet the proposed lot frontage and area requirements,

the proposed LUB changes could prevent future development, if there are no “grandfathering” provisions included.

On December 22, 2016, HRM approved a final subdivision plan for four existing lots within the Young Avenue study area and four adjacent lots on McLean Street. Using the existing provisions of the LUB, four lots were subdivided to create nine lots with frontage on Young Avenue and three lots with frontage on McLean Street. Six dwellings were demolished on these properties in 2016, including two on Young Avenue, and the land is currently vacant. If Council includes the recommended grandfathering provisions, the newly created lots will be able to be developed with a dwelling even though they would not meet the proposed minimum lot size requirements.

If Council does not include grandfathering provisions, unless a construction permit is in force and effect, any vacant lots that do not meet the proposed minimum lot frontage and lot area requirements will not be eligible to obtain permits for dwellings. Section 253(2)(b) of the *HRM Charter* states: “A non-conforming 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 the permit for its construction 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.” This means that provided construction commences within one year and is completed within a reasonable time, the *HRM Charter* protects the rights of a property owner to construct a dwelling with a permit for construction, even after amendments to the LUB have been adopted which would not allow the proposed development. The dwellings would be considered non-conforming structures. If construction does not commence within twelve months, or is not completed within a reasonable time, the non-conforming provisions would not apply. As of the writing of this report, the property owner has obtained Development Permits on the nine lots with frontage on Young Avenue under the existing R-1 Zone provisions of the LUB. If the property owner were to obtain permits for the construction of single unit dwellings before the first notice of intention to adopt the LUB amendments is published, the provisions of the *HRM Charter* regarding non-conforming structures would apply.

Districts 7 & 8 Planning Advisory Committee

On November 28, 2016, the Districts 7 & 8 Planning Advisory Committee (PAC) recommended LUB amendments for lot frontage, lot area, lot width and lot depth, as presented by staff at the meeting, be approved. The PAC was also supportive of an increase in the minimum side yard setback from 6 feet to 10 feet.

Conclusion

Unless grandfathering provisions are made in the LUB to recognize existing lots, both developed and vacant, many lots will not meet the new lot frontage, area, width and depth requirements. Although dwellings on existing developed lots are protected by the non-conforming provisions of the *HRM Charter*, this protection is limited. Furthermore, the nine newly-created lots could remain vacant for some time, or the property owner may request a site-specific approval to enable appropriate development. Therefore, staff recommend that lots that exist on the date of the first publication of the notice of intention to amend the LUB continue to follow the existing R-1 Zone provisions regarding lot size and lot frontage.

Staff have reviewed all relevant policy criteria and advise that since the LUB does not reflect the predominant lot pattern on Young Avenue, the LUB should be amended to implement the intent of the MPS. The proposed LUB amendments as outlined in Attachment A would help to ensure that any subdivision for new lots on Young Avenue is compatible with the character of the existing neighbourhood. Therefore, staff recommend that the Halifax and West Community Council approve the proposed LUB amendments.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning process can be accommodated with the approved 2017/18 operating budget for C320 Policy and Strategic Initiatives.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. The proposed LUB amendments 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 amendments subject to modifications. Such modifications may require further review by staff and may require a supplementary report or another public hearing. A decision of Council to approve the proposed LUB amendments 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 refuse to approve the proposed LUB amendments, and in doing so, must provide reasons why the proposed amendments do not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendments is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

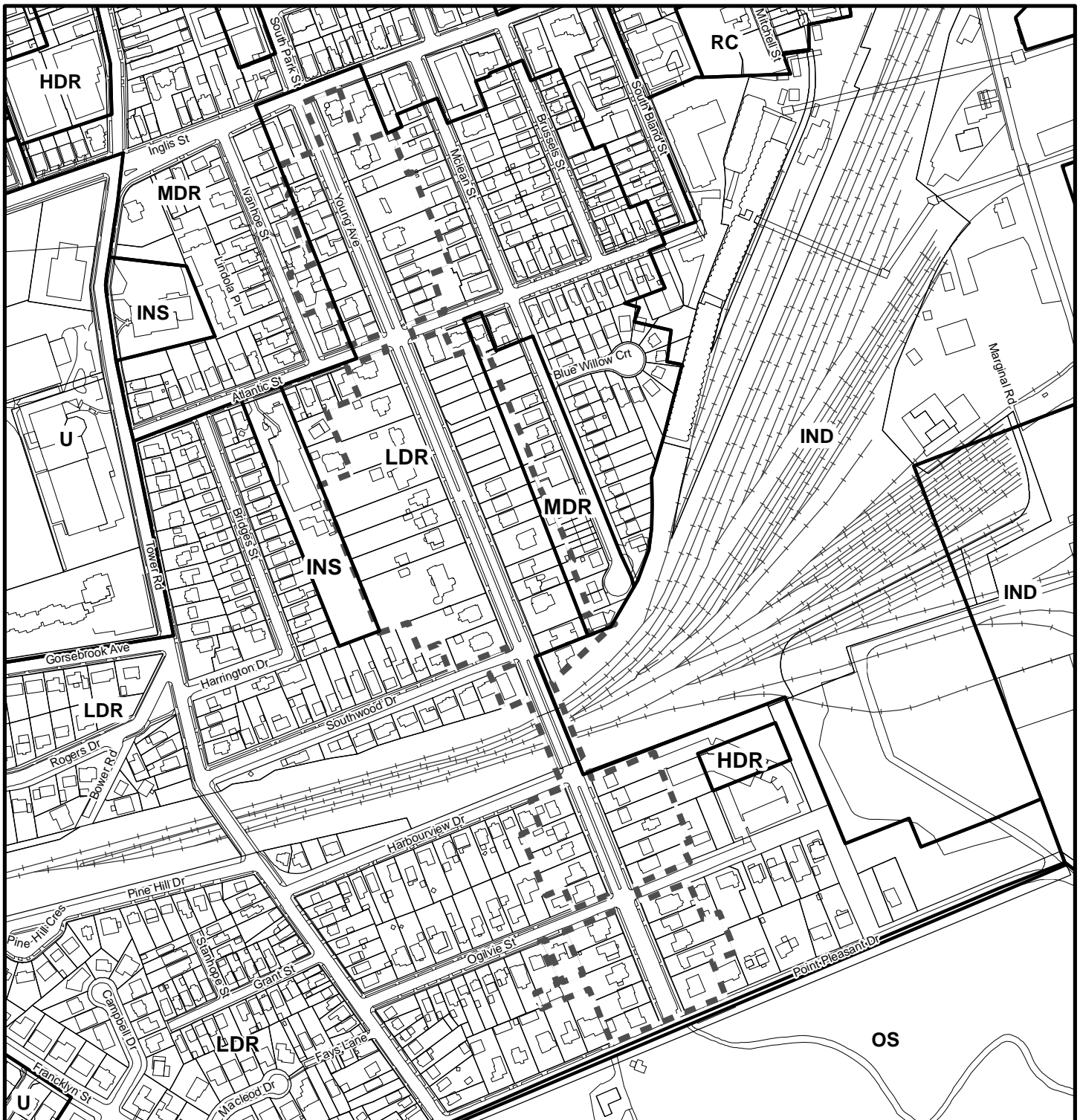
ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Map 3:	Lots with Subdivision Potential (Fall 2016)
Attachment A:	Proposed LUB Amendments
Attachment B:	Review of Relevant MPS Policies
Attachment C:	Young Avenue Lot Analysis
Attachment D:	Public Information Meeting Notes – November 2, 2016
Attachment E:	Legislative Authority

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


Report Prepared by: Leah Perrin, Planner II, 902.490.4338

Report Approved by: Original signed by:
Kate Greene, Policy and Strategic Initiatives Program Manager, 902.225.6217



Map 1: Generalized Future Land Use

Young Avenue
Halifax

 Study Area

Halifax Peninsula
Plan Area

Designation

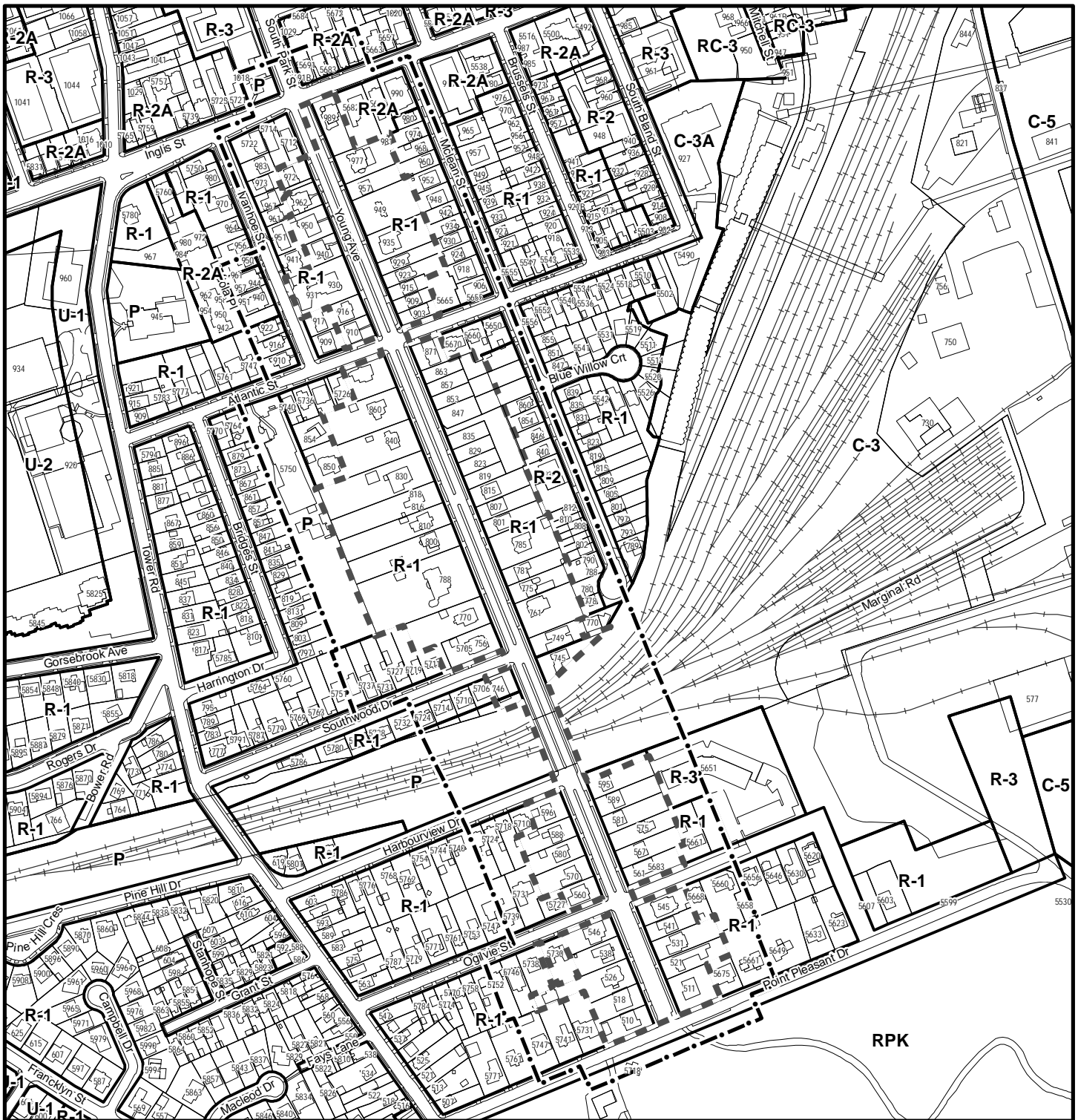
LDR	Low Density Residential
MDR	Medium Density Residential
HDR	High Density Residential
IND	Industrial
INS	Institutional
RC	Residential - Commercial Mix
U	University
OS	Open Space

HALIFAX

0 80 160 m


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

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



Map 2: Zoning and Notification Area

Young Avenue
Halifax

 Study Area

 Notification Area

Halifax Peninsula
Plan Area

Zone

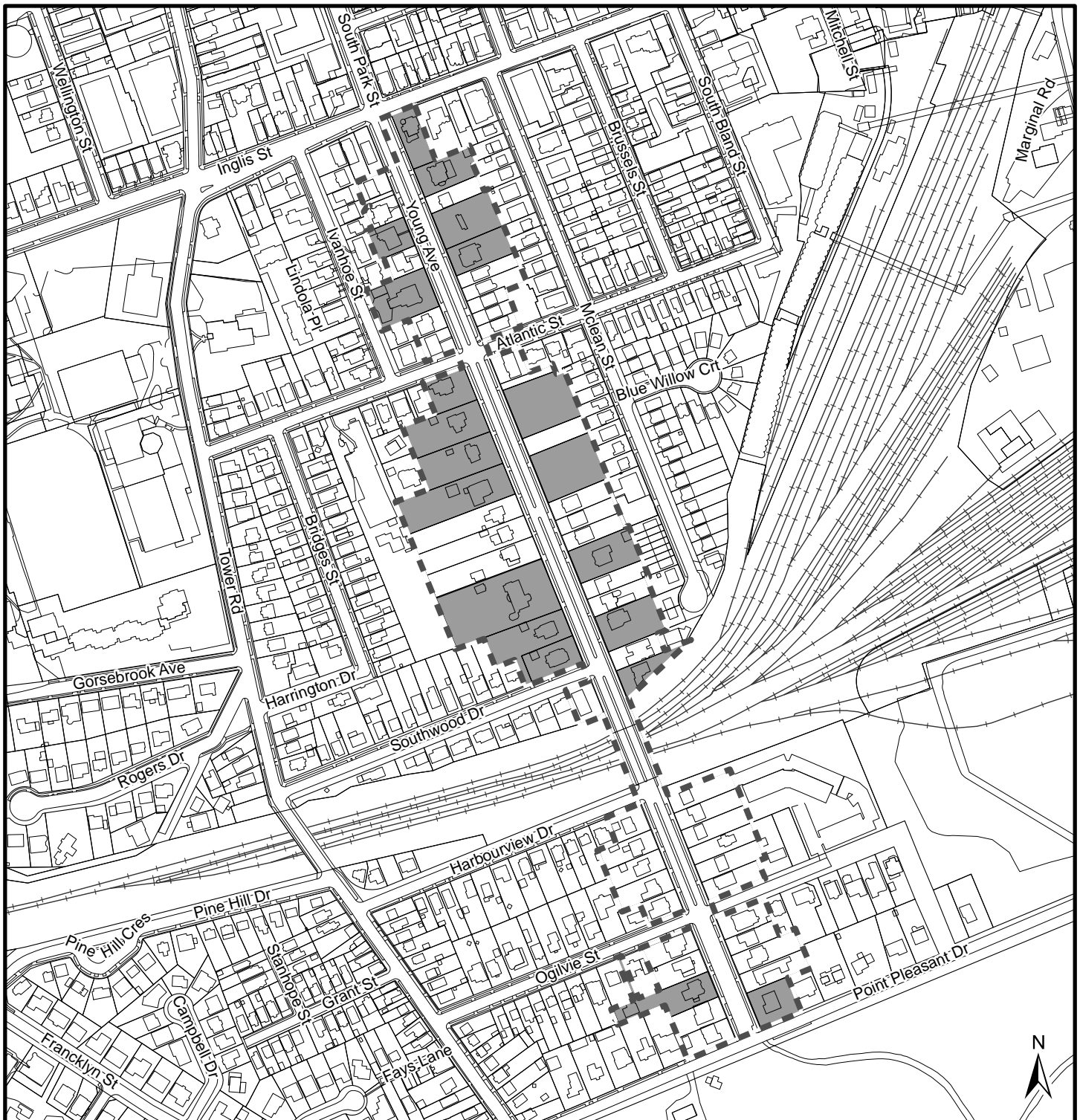
R-1	Single Family Dwelling
R-2	General Residential
R-2A	General Residential Conversion
R-3	Multiple Dwelling
RC-1	Neighbourhood Commercial
RC-3	High Density Residential Minor Commercial
C-3	Industrial
C-3A	Business Service
C-5	Harbour-Related Industrial
U-1	Low-Density University
U-2	High-Density University
RPK	Regional Park

HALIFAX

0 80 160 m

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

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Map 3 - Lots with Subdivision Potential (Fall 2016)

HALIFAX

Young Avenue
Halifax



Study Area



Lots with Area > 8,000 sq ft
& Frontage > 80 ft

0 80 160 m



Halifax Peninsula
Plan Area

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

Attachment A

Amendments to the Land Use By-law for Halifax Peninsula

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

1. Amend the "TABLE OF CONTENTS" by adding the words "**ZM-24 Young Avenue**" following "ZM-23 Wind Energy Zoning".
2. Adding the following section after Section 28 and before the words "With the exception of those streets" in Section 29:

28A(1) LOT SIZE - YOUNG AVENUE

Notwithstanding the lot frontage and lot area requirements of Section 28, for those properties with frontage on Young Avenue, within the bounds of the area shown on Map ZM-24, the following requirements shall apply:

Lot frontage minimum	80 ft. (24.4 m) of lot frontage on Young Avenue
Lot area minimum	8,000 sq. ft. (743.2 sq. m)
Lot width minimum	80 ft. (24.4 m)
Lot depth minimum	100 ft. (30.48 m)

28A(2) EXISTING LOTS – YOUNG AVENUE

Notwithstanding Subsection 28A(1), for those properties with frontage on Young Avenue, within the bounds of the area shown on Map ZM-24, a lot that was created prior to [INSERT DATE OF COUNCIL'S FIRST NOTICE OF ITS INTENTION TO ADOPT THIS SECTION] and has a minimum lot area of 4,000 sq. ft. and a minimum lot frontage of 40 ft., may be developed provided all other requirements of this by-law are met.

28A(3) SIDE YARD SETBACKS – YOUNG AVENUE

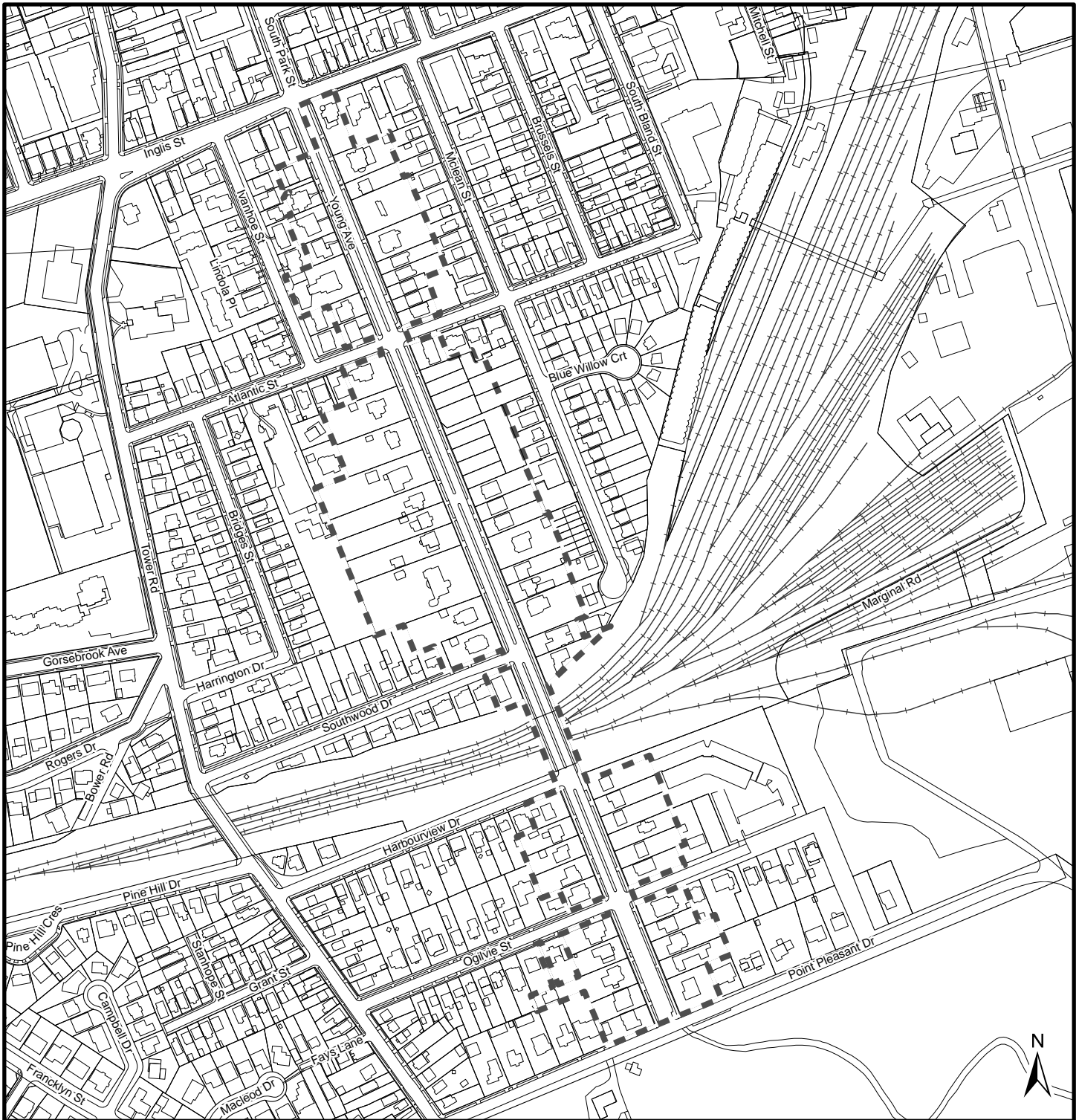
For those properties with frontage on Young Avenue, within the bounds of the area shown on Map ZM-24, a side yard shall be provided on each side of the building of not less than 10 percent of the width of the lot, provided that the maximum width of any side yard need not exceed 10 feet (3.048 m) and the provisions of this subsection shall apply to both sides of the building.

3. The Land Use By-Law is amended by adding a new map titled "ZM-24 Young Avenue", as shown in the attached Schedule A.

I HEREBY CERTIFY that the amendments to the Halifax Peninsula Land Use By-law, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of , 2017.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this day of , 2017.


Municipal Clerk




Schedule A: ZM-24 Young Avenue

Halifax

HALIFAX

 Young Avenue Area

0 80 160 m



Halifax Peninsula
Plan Area

The accuracy of any representation on
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Attachment B

Excerpts from the Municipal Planning Strategy for Halifax: Policy Evaluation

Section II - City-Wide Objectives and Policies – 2. Residential Environments	
Objective: <i>The provision and maintenance of diverse and high quality housing in adequate amounts, in safe residential environments, at prices which residents can afford.</i>	
Policy Criteria	Comment
<i>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>	The South End Area Plan provisions allow existing single detached dwellings to be internally converted to a maximum three residential units, provided requirements are met. As this is considered compatible infill with the neighbourhood, the proposed amendments to the Halifax Peninsula Land Use By-law (LUB) will not remove this ability for dwellings on Young Avenue. Allowing for additional dwelling units in existing buildings can encourage retention of larger dwellings on Young Avenue, which may be difficult to maintain over time.
<i>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>	
<i>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>	The proposed LUB amendments will not change the residential uses that are permitted under the R-1 Zone.
<i>2.3 The City shall investigate alternative means for encouraging well-planned, integrated development.</i>	Not applicable.
<i>2.3.1 The City should restrict ribbon development which does not conform to the policies of this document and should seek ways to remove any such development which may become obsolete.</i>	
<i>2.3.2 Ribbon development along principal streets should be prohibited in order to minimize access points required by local traffic.</i>	
<i>2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.</i>	<p>Recently, residents have expressed concerns about current and potential future development activity on Young Avenue that is permitted under the current LUB regulations. Staff reviewed the existing pattern of development on Young Avenue and determined that the average lot size is significantly larger than the minimum required lot area of 4,000 square feet and 40 feet of lot frontage. As a result, existing lots could be subdivided, existing homes demolished, and additional new houses constructed on smaller lots.</p> <p>The proposed LUB amendments are intended to help to preserve the lot pattern, scale and existing residential character of Young Avenue by limiting the subdivision opportunities of larger lots.</p>

<p><i>2.4.1 Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>Increasing the lot frontage and lot area required for new lots would limit the subdivision potential on Young Avenue, which is intended to help to preserve the character of the neighbourhood.</p>
<p><i>2.4.2 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>Not applicable.</p>
<p><i>2.5 The City shall prepare detailed area plans for predominantly unstable neighbourhoods or areas. The priorities and procedures by which the City shall prepare these plans shall conform to the official City report entitled Areas for Detailed Planning and subsequent amendments which may be made by the City thereto as set forth in Part III, Section I of this document.</i></p>	<p>The South End Area Plan was prepared as per the direction of this section (see policy review below).</p>
<p><i>2.5.1 The City views the neighbourhood as the foundation for detailed area planning. In the process of detailed area planning, residents shall be encouraged to determine what they consider to be their neighbourhoods, and to work with City Council and staff in arriving at an acceptable definition of their neighbourhood and a neighbourhood plan.</i></p>	<p>At the time of the adoption of the South End Area Plan, no specific provisions were included for the Young Avenue area. Recently, area residents have drawn attention to Young Avenue as an area deserving of special requirements due to its distinctive character.</p>
<p><i>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></p>	<p>The proposed LUB amendments would limit the subdivision opportunities of larger lots, in order to protect the scale of the existing neighbourhood. The existing South End Area Plan allows existing single unit dwellings to be converted into a maximum of 3 units, which is intended to encourage rehabilitation of the existing house stock.</p>

Section V: South End Area Plan Policies

Objective: *The maintenance of the South End as vital inner-city neighbourhoods with a broad mix of family and non-family housing accommodation.*

Policy Criteria	Comment
<i>1.1 Residential neighbourhoods shall be maintained and expanded by encouraging retention and rehabilitation of existing structures and units and by permitting new stock through infill and complementary redevelopment.</i>	The proposed LUB amendments would limit the subdivision potential of existing lots, to encourage the retention of existing structures.
<i>1.1.1 Several forms of infill housing shall be encouraged by the City as appropriate to the diverse physical characteristics of the individual districts and neighbourhoods.</i>	Under the R-1 Zone provisions, existing single unit dwellings in the South End Area are eligible to be converted to a maximum 3 units provided certain requirements are met.
<i>1.1.1.1 Forms of infill housing which shall be permitted in the South End include: (a) the interior conversion of existing structures; (b) additions to existing structures, either through infilling between existing structures or additions to the rear of existing structures; (c) building on vacant lots in the forms prescribed by this Section of the Plan; and (d) low-rise housing within the densities prescribed by this Section of the Plan</i>	Policies 1.1.1.1(b)-(d) are not applicable in this case.
<i>1.1.1.2 The Zoning By-law shall further define elements of scale, proportion, setback and use consistent with the policies of this Plan to ensure compatibility with the districts and neighbourhoods.</i>	The proposed LUB amendments will apply modified R-1 Zone standards for the Young Avenue area in order to ensure new development is compatible with the existing pattern of development.
<i>1.1.2 Residential redevelopment shall be permitted in the areas designated pursuant to this Plan and may be encouraged elsewhere provided it is consistent with the policies of this Plan.</i>	All properties on Young Avenue are designated and zoned for residential use.
<i>1.2 Residential uses should be buffered from non-residential uses which are inappropriate to a stable, healthy, enjoyable living environment.</i>	Not applicable
<i>1.3 The City shall encourage the retention and creation of family-type housing accommodation in the South End.</i>	Not applicable
<i>1.4 For the purposes of this Plan, the City shall further define residential environments as comprising three categories: (i) Low-Density Residential; (ii) Medium-Density Residential; and (iii) High-Density Residential.</i>	Young Avenue is designated Low-Density Residential.
<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>	The ability to convert an existing single detached dwelling to a maximum of three units will continue to be permitted.
<i>1.4.1.1 In low-density residential areas conversion of existing housing stock shall be permitted, provided that: (i) a maximum number of dwelling units in any</i>	

<p><i>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><i>(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</i></p> <p><i>(iv) where the conversion is to three units (that is, adding two units), two of the three units shall be family-type dwelling units.</i></p>	
<p><i>1.8 The City shall revise its zoning by-laws to provide that through-block development shall not be permitted for residential uses.</i></p>	<p>Not applicable.</p>

Implementation Policies	
<p><i>3.1.1 The City shall review all applications to amend the zoning by-laws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.</i></p>	<p>Policy 2.4 encourages the retention of the existing residential character of predominantly stable neighbourhoods, and speaks to the Municipality's intention to ensure new development is compatible with these neighbourhoods. The proposed LUB amendments are intended to maintain the existing lot pattern on Young Avenue, to retain the character of the area.</p>
<p><i>3.2 For those areas identified in Section II, Policy 2.5.2 of this Plan, the City shall, pursuant to the authority of Section 33(2)(b) of the Planning Act, establish such development control regulations as are necessary to implement the policies of this Plan.</i></p>	<p>The South End was identified as an area for detailed planning under Section II, Policy 2.5.2. The South End Area Plan was subsequently adopted pursuant to this policy.</p>

Attachment C: Young Avenue Lot Analysis

Note: This analysis was completed prior to the subdivision of 4 lots within the study area, approved December 22, 2016. Please refer to Map 3 for the lots as they existed in fall 2016.

Number of lots in study area (Map 3):	64
Number of lots with >8000 sq. ft. lot area, > 80 ft. lot frontage (could be subdivided under current regulations)	20

<u>Lot Area</u>	Study Area	Inglis St. to CN rail cut	CN rail cut to Point Pleasant Dr.
(in Square feet, rounded)			
Average	13,066	14,379	10,628
Median	10,179	9,836	10,305
Minimum	4,644	4,644	7,116
Maximum	51,437	51,437	19,803

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

<u>Side Yard Setback</u> (approximate)	Study Area	Inglis St. to CN rail cut	CN rail cut to Point Pleasant Dr.
(in Feet, rounded)			
Average	12	14.5	8
Median	8	8	7
Min	0.5	0.5	0.5
Max	77	77	23.5

**HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting Notes
Case 20854**

The following does not represent a verbatim record of the proceedings of this meeting.

Wednesday, November 2, 2016

7:00 p.m.

Citadel High School (Portia White Atrium)

STAFF IN

ATTENDANCE:

Leah Perrin, Planner II, HRM Planning & Development
Kelly Denty, Manager – Current Planning, HRM Planning & Development
Kate Greene, Program Manager – Policy & Strategic Planning, HRM Planning & Development
Miles Agar, Principal Planner – Urban Plan Amendments, HRM Planning & Development
Holly Kent, Planning Technician, HRM Planning & Development
Cara McFarlane, Planning Controller, HRM Planning & Development

ALSO IN

ATTENDANCE:

Councillor Waye Mason, District 7

PUBLIC IN

ATTENDANCE:

Approximately 55

The meeting commenced at approximately 7:01 p.m.

1. Call to order, purpose of meeting – Leah Perrin

Ms. Perrin introduced herself as the Planner and Facilitator for the application; Councillor Mason, District 7; and Kelly Denty, Kate Greene, Miles Agar, Holly Kent and Cara McFarlane, HRM Planning & Development Staff.

Case 20854 - HRM-initiated application for amendments to the Halifax Peninsula Land Use By-law (LUB) to protect the character and form of Young Avenue, Halifax.

The purpose of the Public Information Meeting (PIM) is to: a) identify the proposal site; b) look at the proposed LUB amendments; d) explain the process from the Municipal Planning Strategy (MPS) that allows this to be considered; and f) receive public feedback and input regarding the proposal that will be used to prepare the staff report and go forward with this application. No decisions are made at this PIM.

2. Presentation of Proposal – Leah Perrin

Ms. Perrin - Reviewed the planning process;

- Presented the proposal outlining four changes (lot area, lot frontage, lot width and lot depth) to the Halifax Peninsula LUB for the Young Avenue area to maintain its character and large

- estate lots;
- Presented maps and aerial photos of the area; and
- Gave a brief explanation of the existing policy (Policy 1.1.1.2) within the Halifax MPS – South End Area Plan and the R-1 (Single Family) Zone in the Halifax Peninsula LUB.

3. Public Comments / Concerns

One resident - What would be the time frame if this application was approved?

- How do the changes affect the existing plan as it is now?

Ms. Perrin - Public Hearing may be February 2017 at the earliest

- Any lots that exist/developed today are protected under the HRM Charter.
- Recommendation to Halifax and West Community Council may include grandfathering existing applications.

Paul Cunningham, Young Avenue - Full support of proposal to avoid unsightly and clear cut lots

Cynthia Fox, Bedford - Have to protect the heritage component of the Young Avenue area, and all of HRM, as it is part of the tourist draw to this area.

- Current applications need to be stalled until this proposal is approved.

Peter Fillmore, Dublin Street - Fully supports the proposal.

- Wondered what type of development is permitted on lot 25 and the adjacent lot under this new proposal if approved.

Ms. Perrin - Currently an active subdivision application on that property

- If permits not approved before a decision on this proposal, that is where the aforementioned recommendation of grandfathering may come into play.
- May be a policy that would allow it to be done by development agreement.
- Ultimately, the use of the property is not changing.

Ward Skinner, Victoria Road - In favour of the proposal

- Concerned that change may be too late and other areas in the South End may be threatened.
- Need to look for ways to protect existing heritage homes and areas

Ms. Perrin - The draft copy of the Centre Plan contains a chapter relating to culture and heritage

- Young Avenue identified as a potential cultural landscape

Angel Moore, Chestnut Street - Minimum sideyard setback not be less than 10 feet for an 80 foot lot

- Minimum lot size not be less than 12,000 square feet and 150 feet deep
- Would be more consistent with the LUB petition signed by majority of Young Avenue residents along with other citizens and supporters
- Petition to maintain the character of the neighbourhood tabled by Councillor Mason
- Young Avenue legislation - the minimum depth of most lots 180 feet or more
- Would help prevent the erosion of property depth

Ms. Perrin - Comments by email and petition received to that effect

Peggy Cunningham, Young Avenue - Appreciates work Councillor Mason and Staff have done to date

- Concerned about subdivision plans already filed
- Encouraged Planning Staff to take action to make the community aware of what is happening

in neighbourhood

- Need controls on developers that go against city rules

Ms. Perrin - Current application is as-of-right subdivision which does not require public notification

Paul Cunningham - Concerned that developer will submit plan with no community or Council input

Ann Boswick, Point Pleasant Drive - In favor of this application

- Believes property owners next to a home being demolished would be notified
- Against the development and haven't heard anything back from HRM
- Is there a way to stop any development until proposed application goes through
- Suggest HRM put up some information billboards to make community aware

Ms. Perrin - If no provisions are made for grandfathering at the time of LUB amendments, existing subdivision applications may go through

Jim Bissell, Brussels Street - In favor of the recommendations

- HRM should be able to issue a moratorium on approving subdivisions (inconsistent with present character) while change is being considered

Mr. Agar - Current legislation is the HRM Charter

- HRM does not have interim development controls

William Breckenridge, Heritage Advisory Committee – Schmidville is going through a Heritage Conservation District

- Encouraged everyone to write to Council to move forward with Conservation District in Young Avenue area
- Asked if there is a provision for coach housing, lots that face two streets
- Heritage and historical point was under beautification movement in 19th century and was to have these open spaces
- Doesn't agree with five foot setbacks

Ms. Perrin - Allowed one dwelling per lot

- Could look at in the future

Ms. Boswick mentioned that in May 2016, Toronto put through a new process for demolishing in heritage communities.

Ms. Cunningham - In April 2016, legal action was submitted to HRM and Planning Staff by Young Avenue group for this LUB amendment

- Six months later, the developer still has the right to subdivide and demolish properties
- Citizens are extremely frustrated with the process
- Hopes planning department and chief planner will take some action
- Consider a moratorium be put on this development

Alan North, Young Avenue, Director of Young Avenue Heritage District Conservation Society - This Society filed the formal application in April 2016 with up to 800 supporters

- Application rejected by HRM because of an error made by Planner
- A recent staff report has overruled that
- Everything in the petition was consistent with MPS
- Young Avenue legislation (no longer in place) prescribed no other intrusions closer than 180 feet to Young Avenue
- Maintain 180 foot lot depth; 150 feet would be accepted
- Developers build to maximum lot coverage
- Proposed sideyard is inconsistent with scale and character of the street

- Do not grandfather any subdivision applications as the legal action has already been submitted

Ms. Fox - Her neighbourhood is dealing with the same issues

- Need high density in Peninsula but not in these kinds of arrangements
- Stop allowing current rules to go ahead without placing moratoriums
- Encouraged residents to voice opinion

Ms. Moore - Concerned about what the developer can do with additional purchased lots

Ms. Perrin - Suggested contacting Development Services

- Developer can consolidate but zone would not change

Ms. Boswick - Legally, Planning Staff made an error in April 2016, potential changes should date back to the time of residents' submission

- Residents may have to put an injunction against HRM Planning because of the error in order to stop development
- Is a neighbour notified if the home next to them is being demolished
- Do Staff check on properties

Ms. Denty - Permit is needed to demolish a Heritage property to make sure certain controls are in place

- Property has to be in safe condition
- HRM does not have the Staff to check properties, it is complaint driven

Penelope Russell, Summer Street - Concerned on the comment that development currently permitted is 40 feet frontage with 4,000 square feet and one dwelling

- Implied that lots on McLean Street may come into play before the LUB amendments may be adopted in February 2017
- Developer purchased McLean Street property after legal action was submitted
- Wants to positively acknowledge the progress that has been made and hopes Staff feel same frustration as residents

Ms. Perrin - Understands that the subdivision application submitted by developer includes some lots on McLean Street (back onto demolished property)

- McLean Street lots are zoned R-2 and not included under LUB amendments

4. Closing Comments

Ms. Perrin thanked everyone for coming and expressing their comments.

5. Adjournment

The meeting adjourned at approximately 8:15 p.m.

Attachment E – Legislative Authority

Excerpts from the Halifax Regional Municipality Charter

Land Use By-law Amendments By Community Council

The *Community Council Administrative Order*, subsection 3 (1) “Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council.”

Halifax Regional Municipality Charter (“HRM Charter”),

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

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

Requirements for adoption of planning documents

- 220 (1)** The Council shall adopt, by by-law, planning documents.
- (3)** Before planning documents are read for a second time, the Council shall hold a public hearing.

Amendment of land-use by-law

- 225 (1)** An amendment to a land-use by-law that
- (a) is undertaken in accordance with the municipal planning strategy; and
 - (b) is not required to carry out a concurrent amendment to a municipal planning strategy, is not subject to the review of the Director or the approval of the Minister.
- (2)** The procedure for the adoption of an amendment to a land-use by-law referred to in subsection (1) is the same as the procedure for the adoption of planning documents, but a public participation program is at the discretion of the Council and the amendment may be adopted by a majority of votes of the Council members present at the public hearing.
- (3)** Upon the adoption of an amendment to a land-use by-law referred to in subsection (1), the Clerk shall place a notice in a newspaper circulating in the Municipality stating that the amendment has been adopted and setting out the right of appeal.
- (4)** When notice of an amendment to a land-use by-law referred to in subsection (1) is published, the Clerk shall file a certified copy of the amending by-law with the Minister.
- (5)** Within seven days after a decision to refuse to amend a landuse by-law referred to in subsection (1), the Clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.
- (6)** Where the Council has not, within one hundred and twenty days after receipt of a completed application to amend a land-use by-law referred to in subsection (1), commenced the procedure required for amending the land-use bylaw by publishing the required notice of public hearing, the application is deemed to have been refused.
- (7)** Within seven days after an application to amend a land-use by-law, referred to in subsection (1), being deemed to be refused, the Clerk shall notify the applicant in writing that the application is deemed to have been refused and setting out the right to appeal.

- (8) An amendment to a land-use by-law referred to in subsection (1) is effective when
- (a) the appeal period has elapsed and no appeal has been commenced; or
 - (b) all appeals have been abandoned or disposed of or the amendment has been affirmed by the Board.

Content of land-use by-law

235 (1) A land-use by-law must include maps that divide the planning area into zones.

- (2) A land-use by-law must
- (a) list permitted or prohibited uses for each zone; and
 - (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.
- (3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.
- (4) A land-use by-law may
- (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
 - (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
 - (c) regulate the maximum area of the ground that a structure may cover;
 - (d) regulate the location of a structure on a lot;
 - (e) regulate the height of structures;
 - (f) regulate the percentage of land that may be built upon;
 - (g) regulate the size, or other requirements, relating to yards;
 - (h) regulate the density of dwelling units;
 - (i) require and regulate the establishment and location of off-street parking and loading facilities;
 - (j) regulate the location of developments adjacent to pits and quarries;
 - (k) regulate the period of time for which temporary developments may be permitted;
 - (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
 - (m) regulate the floor area ratio of a building;
 - (n) prescribe the fees for an application to amend a land use by-law or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use by-law may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
 - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
 - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
 - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
 - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
 - (f) regulate the location of disposal sites for any waste material;
 - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
 - (h) regulate or prohibit the removal of topsoil;
 - (i) regulate the external appearance of structures;

- (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
- (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
- (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
- (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
- (n) prohibit development or certain classes of development where, in the opinion of the Council, the
 - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) cost of maintaining municipal streets would be prohibitive;
- (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
- (p) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy, or unstable,
 - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
 - (v) is known to be contaminated within the meaning of the *Environment Act*, or
 - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
- (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.

- (6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

Variance

- 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 bylaw,
 - or
 - (ii) a variance was granted for the lot at the time of subdivision approval.

Non-conforming structure or use

- 253 (2)** A non-conforming structure, non-conforming use of land or non-conforming use in a structure, may continue if it exists and is lawfully permitted at the date of the first publication of the notice of intention to adopt or amend a land-use by-law.

- (3) A non-conforming 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 non-conforming structure was lawfully under construction and was completed within a reasonable time; or
 - (b) the permit for its construction 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.
- (4) 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, and the use was permitted when the permit for the structure was granted and the use was commenced upon the completion of construction.
- (5) This Act does not preclude the repair or maintenance of a nonconforming structure or a structure containing a non-conforming use.
- (6) A change of tenant, occupant or owner of any land or structure does not of itself affect the use of land or a structure.

Non-conforming structure for residential use

- 254** (2) 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
 - (iii) 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
 - (iv) all other applicable provisions of the land-use by-law except minimum frontage and area are satisfied.
- (3) A non-conforming structure, that is not located in a zone permitting residential uses and not used primarily for residential purposes, may not be rebuilt or repaired, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance with the land-use by-law, and after the repair or rebuilding it may only be occupied by a use permitted in the zone.

Limitations on granting development permit

- 261** (1) A development permit must be issued for a proposed development if the development meets the requirements of the land-use by-law, the terms of a development agreement or an approved site plan.
- (2) Where a land-use by-law is amended or a development agreement is approved or amended, a development permit for a development pursuant to the amendment or the agreement may not be issued until
- (a) the appeal period has elapsed; or
 - (b) all appeals have been abandoned or disposed of or the decision of the Council has been affirmed by the Board.
- (3) A development permit that is inconsistent with a proposed land-use by-law or a proposed

amendment to a land-use by-law may not be issued for one hundred and fifty days from the publication of the first notice advertising the Council's intention to adopt or amend the by-law.

- (4) Where the proposed land-use by-law or by-law amendment has not come into effect after the expiry of one hundred and fifty days from the publication of the first notice advertising the Council's intention to adopt or amend the by-law, the development officer shall issue the development permit if the proposed development meets the requirements of the land-use by-law.

Appeals to the Board

- 262 (5) The approval or refusal by the Council to amend a land-use by-law may be appealed to the Board by
- (a) an aggrieved person;
 - (b) the applicant;
 - (c) an adjacent municipality;
 - (d) the Director.