



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

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: May 15, 2017

SUBJECT: Case 20156: Rezoning - Lands at Lynn Road and Elizabeth Drive, Halifax

ORIGIN

Application by DePint Developments Ltd. to rezone lands at Lynn Road and Elizabeth Drive, Halifax to enable the development of two semi-detached dwellings.

LEGISLATIVE AUTHORITY

See Attachment D.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give first reading to consider the proposed amendment to the Land Use By-law for Halifax Mainland, as set out in Attachment A, to rezone lands at Lynn Road and Elizabeth Drive from the R-1 Zone to the R-2 Zone and schedule a public hearing.
2. Adopt the proposed amendment to the Land Use By-law for Halifax Mainland. as set out in Attachment A.

BACKGROUND

DePint Developments Ltd. is applying to rezone lands at Lynn Road and Elizabeth Drive, Halifax.

Subject Site	A through lot between Lynn Road and Elizabeth Drive (Map 2)
Location	South of Chocolate Lake, West of Herring Cove Road in Mainland Halifax
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Low Density Residential (LDR) Mainland South Secondary Plan (SPS)
Zoning (Map 2)	R-1 (Single Family Dwelling) Zone under Halifax Mainland Land Use By-law
Size of Site	725.74 square metres (7,811.8 square feet)
Street Frontage	18.29 m (60.0 feet) at Lynn Road; 18.28 m (59.98 feet) at Elizabeth Drive
Current Land Use(s)	Lands are currently vacant except for a fence, an HRM easement (for laying down sewers/drains, water/gas pipes, wire conduits and utility poles) on the north lot. There is an existing structure on the south lot that will be demolished to make way for the proposed dwellings.
Surrounding Use(s)	<p>The surrounding area is comprised mainly of residential uses. Surrounding land uses include:</p> <ul style="list-style-type: none"> • South – abutting lot also owned by the applicant and single detached dwellings bounded by Bermuda Avenue and Mayo Street; • West – several streets of single detached homes, encircling Havill Park and bounded by Lynn Road, Bermuda Avenue and Stone Haven Road; Slightly southwest there are a number of R-2 zoned enclaves: • North - single detached residential on both sides of Lynn Road and Elizabeth Avenue; • East - single unit dwellings north of Withrod Drive and two unit dwellings south of Withrod Drive. <p>In the general area surrounding the lands are a number of small scale parks including Chocolate Lake Park, approximately 380 metres to the northeast.</p>

Proposal Details

The applicant currently owns the abutting R-2 zoned lot to the south of the subject site and proposes to develop two, semi-detached dwelling on the combined properties, in keeping with the requirement of the R-2 Zone. Currently, the subject site may not be efficiently developed due to limitations presented by an easement in favour of HRM that includes a walkway with associated fencing, as well as a communications line (Bell Aliant) easement crossing the property. In addition, the topography of the site contains some steeply sloped areas that are difficult to develop while respecting the easements. While the development potential of the land is substantially diminished to the point where a dwelling could not be situated on the lands, the site may contribute to providing sufficient lot area when combined with the abutting lot to the south to enable the development of two semi-detached dwellings (4 dwelling units).

The major aspects of the proposal are as follows:

- A total of one property is proposed to be rezoned to R-2, Two Family Dwelling;
- Under the standards of the R-2 Zone, permitted dwellings could be a maximum 35 feet in height;
- Dwellings could share a common private driveway as per the standards of the R-2 Zone; and

- Should Council approve the proposed rezoning application, the development of any dwellings would be considered through the separate as-of-right permitting process.

Enabling Policy and LUB Context

Objectives and policies from the Mainland South Secondary Planning Strategy and provisions from the Halifax Mainland LUB enable Community Council to consider this proposal. Policy 1.1.2 permits semi-detached dwelling development. More specifically, Policy 1.2.1 permits detached, semi-detached and duplex dwellings in the Low Density Residential designation (see Map 1) currently applied to the subject lands. Attachment B contains objectives and policies from the Mainland South SPS relevant to this development proposal.

Approval Process

The approval process for this application requires that Council consider and, if deemed appropriate following a public hearing, approve amendments to the Halifax Mainland LUB to rezone the subject site. A decision on the proposed LUB amendments is appealable to the Nova Scotia Utility and Review Board.

If the proposed LUB amendment is approved by Council, the applicant may proceed with the proposed development in accordance with the requirements of the Halifax Mainland LUB.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area. The public comments received include the following topics:

- High density not appropriate for area;
- Traffic volume already at high levels;
- Loss of pedestrian path connecting through from Lynn Road to Elizabeth Drive;
- Four small, units crowded on the site not compatible with the area;
- Management of waste for four units sharing driveway problematic; and
- This encroachment will redefine the R-1 Zone protection currently enjoyed by homeowners.

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

The proposal will potentially impact local residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. The proposed area to be rezoned is shown on Attachment A. The two proposed semi-detached dwellings would be located on the abutting lot to the south. The subject site, mostly encumbered by easements and not capable of being significantly developed, will serve to provide additional lot area to meet the lot area requirements of the LUB to enable the development of two semi-detached dwellings.

LUB Amendment Review

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

Semi-detached and Duplex Dwellings Permitted

Policy within the Residential Environments section of the Secondary Planning Strategy permits two unit residential dwelling types in the Low Density Residential environment. Following land use policy such as this, treating single detached dwellings and two unit dwelling types as low density residential development, provides for diversity in the housing mix and addresses the dichotomy between these housing forms.

Zoning Regulations Maintained

The proposed rezoning of the subject site would result in the development of the lands being subject to all LUB regulations including minimum lot area requirements, setbacks, lot frontage, lot coverage and height requirements. Zoning regulations help to encourage stability and maintain prevalent character and integrity of residential neighbourhoods. The density of the proposed residential development is no greater than the standard contained within the zone but, because the developable area is proposed to be achieved by adding the area of the subject site to the existing R-2 zoned lands, the resulting development is more compact.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. Objectives and Policy under the Mainland SPS establish the Low Density Residential designation, and others, as a means to develop the area with a diverse mix of housing. Policy 1.2.1 permits various forms of residential dwellings such as semi-detached and duplex dwellings in the Low Density Residential designation subject to maintaining LUB regulations for two unit dwellings that perpetuates existing character and integrity of the neighbourhood. Therefore, staff recommend the Halifax and West Community Council approve the proposed LUB amendment.

Community Council should note that this proposal is a request for rezoning, not a development agreement; therefore, should Community Council approve the proposed rezoning, the lands would be permitted to be developed for any use permitted under the R-2 Zone provided that the LUB provisions are satisfied. For clarification, should the applicant decide to develop the lands with any other use permitted under the R-2 Zone, an additional planning process would not be required.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2017-18 operating budget for C310 Urban and Rural Planning Applications.

RISK CONSIDERATION

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

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

Halifax and West Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

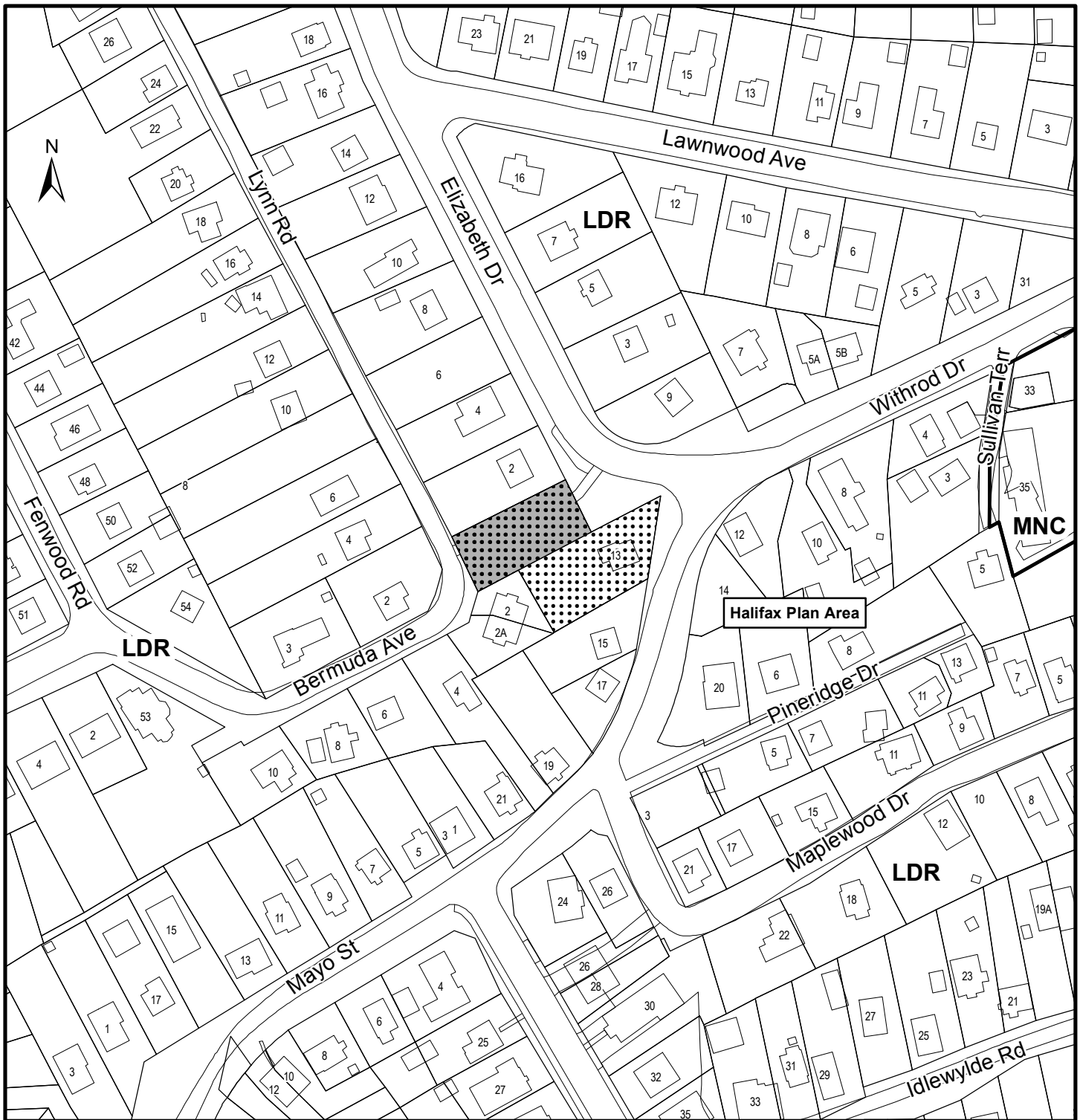
Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Amendment to the Land Use By-law for Halifax Mainland - Schedule A
Attachment B:	Mainland South SPS Relevant Policy Excerpts
Attachment C:	Review of Relevant Sections of the Halifax MPS
Attachment D:	Legislative 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: Darrell Joudrey, Planner II, 902.490.4181


Original Signed


Report Approved by: _____
Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

Lynn Road, Elizabeth Drive, & Withrod Drive,
Halifax

 Area proposed to be rezoned
from R-1 (Single Family Dwelling)
to R-2 (Two Family Dwelling)

 Area of Development

Halifax Plan Area
Mainland South Secondary Plan Area

Designation

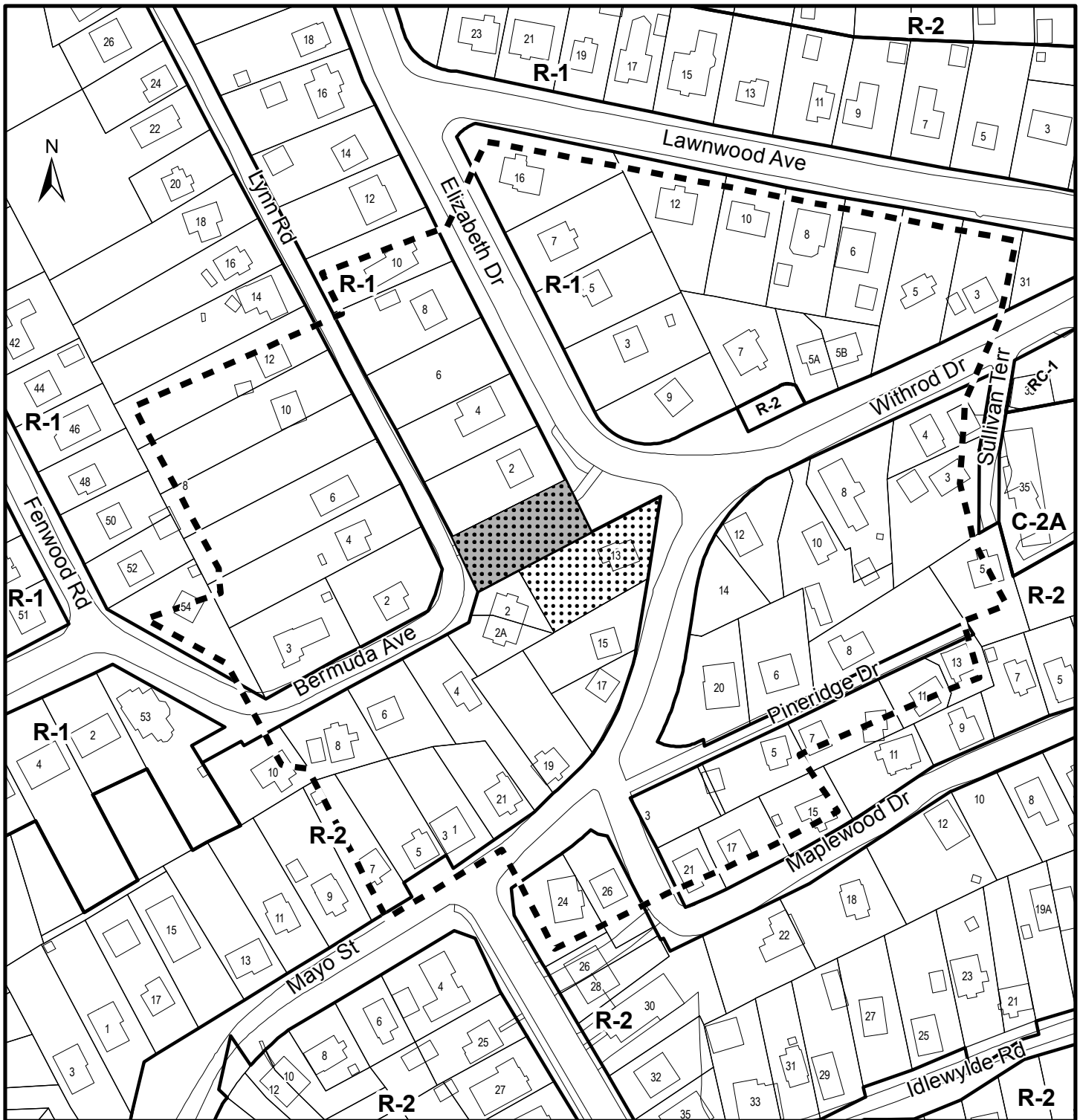
LDR Low Density Residential
MNC Minor Commercial

HALIFAX

0 20 40 60 m

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


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





Map 2 - Zoning and Notification

Lynn Road, Elizabeth Drive, & Withrod Drive,
Halifax

HALIFAX

 Area proposed to be rezoned
from R-1 (Single Family Dwelling)
to R-2 (Two Family Dwelling)

 Area of Development

 Area of Notification

Halifax Mainland Land Use By-Law

Zone

R-1 Single Family Dwelling
R-2 Two Family Dwelling
C-2A Minor Commercial

0 20 40 60 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.

ATTACHMENT A

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

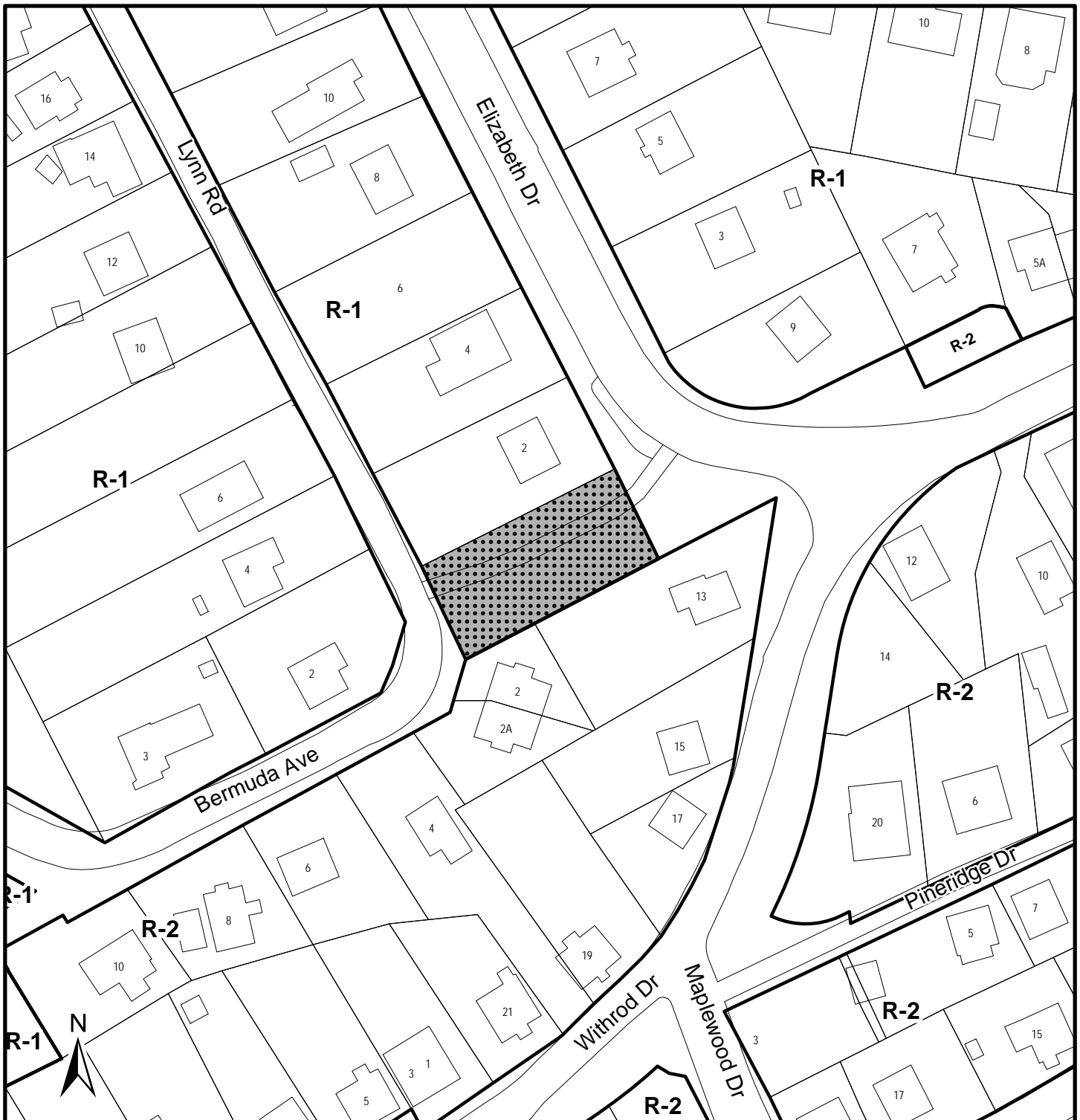
BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland is hereby further amended as follows:

1. Amend Map ZM-1, the Zoning Map, by rezoning the property identified as PID 40595977 on Lynn Road and Elizabeth Drive, Halifax, from the R-1 (Single Family Dwelling) Zone to the R-2 (Two Family Dwelling) Zone, as shown on Schedule A of this Attachment.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Halifax and West Community Council of Halifax Regional Municipality held on the _____ day of _____, 20__.


GIVEN under the hand of the municipal clerk and under the Corporate Seal of the said Municipality this ____ day of _____, 201__.

Municipal Clerk



Schedule A

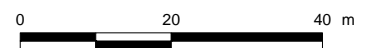
Lynn Road, Elizabeth Drive, & Withrod Drive,
Halifax

 Area proposed to be rezoned
from R-1 (Single Family Dwelling)
to R-2 (Two Family Dwelling)

Zone

R-1 Single Family Dwelling
R-2 Two Family Dwelling

HALIFAX



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.

Halifax Mainland
Land Use By-Law

**Attachment B:
Mainland South SPS Relevant Policy Excerpt**

1. RESIDENTIAL ENVIRONMENTS

Objective: The development and maintenance of Mainland South as a predominantly residential area with a diverse mixture of family and non-family housing.

1.1.1 "Residential Environments" in terms of this secondary strategy means:

- (a) Low-Density Residential;
- (b) Medium-Density Residential;
- (c) High-Density Residential;
- (d) Residential Development District.

1.1.2 Forms of residential development which may be permitted in Mainland South are:

- (a) conversions;
- (b) detached dwellings;
- (c) semi-detached dwellings;
- (d) duplex dwellings;
- (e) townhouses; and
- (f) apartments.

1.2.1 In areas designated "Low-Density Residential" on the Generalized Future Land Use Map, which are predominantly two-family dwellings in character, residential development consisting of detached (single-family) dwellings, semi-detached dwellings and duplex dwellings shall be permitted, and neighbourhood commercial uses may be permitted pursuant to Policies 2.1 and 2.1.2 of this Plan.

1.6 The City shall maintain zoning regulations which encourage stability and maintenance of the prevalent character and integrity of residential neighbourhoods.

1.7 It is the intent of the City to encourage energy efficient and energy conserving residential development and may adopt regulatory controls through the Land Use By-law in order to further this intent.

1.8 The Land Use By-law shall permit the reconstruction of any non-conforming residential building existing on the date of adoption of this Strategy to the original size and density in the event that said building is destroyed by fire or otherwise.

2. COMMERCIAL

Objective: A variety of commercial and business uses in convenient and accessible locations to serve the area and the City, compatible with adjacent residential neighbourhoods.

2.1 The forms of commercial development provided for shall include neighbourhood commercial uses, minor commercial uses and major commercial centres.

2.1.1 Neighbourhood commercial uses are local convenience establishments providing services and the sale of convenience goods intended for the daily needs of immediate neighbourhoods, and shall be regulated in terms of size and type by the Land Use By-law.

2.1.2 Except as provided in the Residential Development District for neighbourhood and convenience centre commercial uses, the City may consider new neighbourhood commercial uses in residential designations only through a rezoning process to a neighbourhood commercial zone and provided that the use is located at, or near, a City street intersection.

4. RECREATIONAL

Objective: The provision of recreation facilities in Mainland South at the same level as obtained throughout the City.

4.1 Recreational facilities may comprise indoor or outdoor areas providing opportunities for active and passive recreation.

4.2 The City shall encourage passive recreational uses adjoining the McIntosh Run shoreline including public walkways and bicycle trails along the flood plain area and related environmentally sensitive areas reserved for public use. Such uses should be integrated with adjacent recreational and institutional uses, where considered appropriate.

4.3 The City shall seek to secure passive recreational areas along the McIntosh Run by such means as acquisition through open space dedication as part of the subdivision process or through purchase.

4.4 The City shall continue to seek public access to the Northwest Arm from and including the Edmonds Grounds to the City limits at Purcell's Cove. Such access may include pedestrian or limited vehicular access, and consist of existing and future parks, streets and other public land and rights-of-way. Continuous access along the Arm shall be a priority. However, exceptions to this may be considered based upon detailed consideration of site conditions and the acceptability of alternative means of maintaining a continuous open space system in accordance with Policy 4.6.

4.5 Pursuant to Policy 4.4, the City shall continue to seek control of portions of the pathway fronting on the Northwest Arm through acquisition or dedication of land as part of the land subdivision process.

4.6 The City shall develop a strategy for and seek to establish a continuous passive or active recreational open space system in the Mainland

5. TRANSPORTATION

Objective: Sufficient, effective, and efficient transportation to serve the Mainland South area and the City.

5.1 The City shall pursue completion of the widening and realignment of the Herring Cove Road between the Armdale Rotary and the City limits to improve traffic flow.

5.2 The City shall seek to minimize through traffic on local residential streets.

5.3 The City shall maintain pedestrian crosswalks on arterial and collector streets, and should ensure, provide, and maintain overhead illuminated signs at uncontrolled zebra crosswalks, particularly in commercial and high-density residential areas.

5.4 The City shall continue to review its existing street design standards and construction standards to account for particular neighbourhood characteristics and constraints.

5.5 In considering capital projects in the Mainland South area with respect to street improvements, the City shall give priority to those public streets serving:

- (a) as public transit routes;
- (b) commercial or industrial uses;
- (c) high-density residential areas;
- (d) as direct access to public recreation uses, community facilities and public schools; and
- (e) as local streets.

6. MUNICIPAL SERVICES

Objective: Adequate sanitary and storm water disposal systems to maintain environmental quality.

6.1 The City shall continue to improve and upgrade sanitary and storm sewer infrastructures in accordance with City standards.

6.1.1 The City shall continue measures for the reduction of infiltration in sanitary sewers with specific regard to connections of roof and foundation drains to sanitary sewers.

6.2 The City shall discourage the practice of disposing uncontrolled and unmanaged storm water directly into inland lakes and waterways.

6.2.1 The City shall investigate alternative measures for flooding and drainage control, and erosion and sedimentation control with regard to the disposal of storm water, and shall develop appropriate regulations or legislation to implement such measures.

Attachment C
Review of Relevant Sections of the Halifax MPS

SECTION X MAINLAND SOUTH SECONDARY PLANNING STRATEGY - OBJECTIVES AND POLICIES	
1. <u>RESIDENTIAL ENVIRONMENTS</u>	
Objective: The development and maintenance of Mainland South as a predominantly residential area with a diverse mixture of family and non-family housing.	
1.1.1 "Residential Environments" in terms of this secondary strategy means:	Staff Comment
(a) Low-Density Residential;	The request to rezone lands located within the Low Density Residential (LDR) designation of the Generalized Future Land Use Map (GFLUM) is enabled through detailed polices of the Mainland South SMPS in accordance with the city wide policies of the Halifax MPS. These city wide policies seek to permit redevelopment of portions of existing neighbourhoods at a compatible scale by means of infill or rehabilitation.
(b) Medium-Density Residential;	NA
(c) High-Density Residential; and	N/A
(d) Residential Development District.	N/A
1.1.2 Forms of residential development which may be permitted in Mainland South are:	
(a) conversions;	N/A
(b) detached dwellings;	N/A
(c) semi-detached dwellings;	The applicant's request is to rezone from R-1 to R-2 to enable semi-detached dwelling units in accordance with the LUB zone provisions.
(d) duplex dwellings;	N/A
(e) townhouses; and	N/A
(f) apartments.	N/A
1.2.1 In areas designated "Low-Density Residential" on the Generalized Future Land Use Map, which are predominantly two-family dwellings in character, residential development consisting of detached (single-family) dwellings, semi-detached dwellings and duplex dwellings shall be permitted, and neighbourhood commercial uses may be permitted pursuant to Policies 2.1 and 2.1.2 of this Plan.	The application seeks to zone to R-2 to permit two-family or semi-detached dwelling units with no associated neighbourhood commercial uses as part of the request.
1.6 The City shall maintain zoning regulations which encourage stability and maintenance of the prevalent character and integrity of residential neighbourhoods.	The zoning provisions and regulations will be administered in accordance with the Halifax LUB. As these regulations provide clear and objective attributes that have been applied uniformly within the plan area under the LUB the prevalent character and integrity will be maintained.
1.7 It is the intent of the City to encourage energy efficient and energy conserving	Any energy efficient and conservation regulations established under the LUB will be required at

	residential development and may adopt regulatory controls through the Land Use By-law in order to further this intent.	permitting application stage. Any energy efficiency or sustainable building principles proposed by the developer will meet the requirements of all By-laws and Building Codes.
1.8	The Land Use By-law shall permit the reconstruction of any non-conforming residential building existing on the date of adoption of this Strategy to the original size and density in the event that said building is destroyed by fire or otherwise.	N/A
2. <u>COMMERCIAL</u>		
Objective: A variety of commercial and business uses in convenient and accessible locations to serve the area and the City, compatible with adjacent residential neighbourhoods.		
2.1	The forms of commercial development provided for shall include neighbourhood commercial uses, minor commercial uses and major commercial centres.	Policy 1.2.1 above establishes that neighbourhood commercial uses are subject to this Policy.
2.1.2	Except as provided in the Residential Development District for neighbourhood and convenience centre commercial uses, the City may consider new neighbourhood commercial uses in residential designations only through a rezoning process to a neighbourhood commercial zone and provided that the use is located at, or near, a City street intersection.	Policy 1.2.1 above establishes that neighbourhood commercial uses are subject to this Policy.
5. <u>TRANSPORTATION</u>		
Objective: Sufficient, effective, and efficient transportation to serve the Mainland South area and the City.		
5.1	The City shall pursue completion of the widening and realignment of the Herring Cove Road between the Armdale Rotary and the City limits to improve traffic flow.	N/A
5.2	The City shall seek to minimize through traffic on local residential streets.	The applicant submitted a Traffic Impact Statement showing morning and evening peak hours of vehicle trips per hour generated by the proposed additional 4 dwelling units. Since the number of trips anticipated to be generated by the 4 units are low and the existing traffic volumes on Withrod Drive are moderate, no noticeable impact on adjacent roads and intersections is expected.
5.3	The City shall maintain pedestrian crosswalks on arterial and collector streets, and should ensure, provide, and maintain overhead illuminated signs at uncontrolled zebra crosswalks,	N/A

	particularly in commercial and high-density residential areas.	
5.4	The City shall continue to review its existing street design standards and construction standards to account for particular neighbourhood characteristics and constraints.	N/A
5.5	In considering capital projects in the Mainland South area with respect to street improvements, the City shall give priority to those public streets serving:	
	(a) as public transit routes;	N/A
	(b) commercial or industrial uses;	N/A
	(c) high-density residential areas;	N/A
	(d) as direct access to public recreation uses, community facilities and public schools; and	N/A
	(e) as local streets.	N/A

IMPLEMENTATION POLICIES

ZONING

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. (see following below)

SECTION II CITY-WIDE OBJECTIVES AND POLICY

RESIDENTIAL ENVIRONMENT

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.	Well-designed infill on vacant space enabled by the proposed rezoning can make a positive contribution to environmental quality and residential amenity creating more mixed and sustainable communities. Proposals permitted under the requested R-2 zone for well designed, high quality new homes on sites suitable for infill development should be considered positively. Infill development proposals should demonstrate they broadly respond to density ranges while taking into account local character and transportation capacity. Small scale infill development opportunities are critical in encouraging the sensitive renewal and intensification of existing residential areas.
-----	--	---

AMENDMENTS TO THE ZONING BY-LAW

4.	When considering amendments to the Zoning By-laws and in addition to considering all relevant policies as set	
----	---	--

	out in this Plan, the City shall have regard to the matters defined below.	
4.1	The City shall ensure that the proposal would conform to this Plan and to all other City by-laws and regulations.	The proposal enabled by the requested rezoning will conform to the intent of this Plan and to the provisions and standards of all applicable By-laws and regulations.
4.2	The City shall review the proposal to determine that it is not premature or inappropriate by reason of:	
	i) the fiscal capacity of the City to absorb the costs relating to the development; and	There is no cost to the Municipality related to this proposed development as all costs will be borne by the developer.
	ii) the adequacy of all services provided by the City to serve the development.	Adequate municipal services exist to serve the proposed development.
4.3	More specifically, for those applications for amendments to the zoning bylaw in Mainland South as defined on Map 1, the City shall require an assessment of the proposal by staff with regard to this Plan and the adopted <i>Land Development Distribution Strategy</i> , and that such assessment include the potential impacts of the proposal on:	
	(a) the sewer system (including the budgetary implications);	Halifax Water has reviewed this application and has no concerns regarding the existing sewer capacity to serve this proposal. The developer shall determine if the existing laterals may serve the dwelling unit. The extension of sewage laterals from the existing main to this proposal will be at cost to the developer.
	(b) the water system;	Halifax Water has reviewed this application and has no concerns as to the provision of water to this proposal. The proposal is subject to a Regional Development Charge (RDC) for the additional units.
	(c) the transportation system (including transit);	Halifax Transit serves Withrod Drive by Route 14 and Routes 19, 20 and 32 serve nearby Herring Cove Road. A Traffic Impact Statement submitted in support of this application was accepted by Development Engineering that states the impact of this proposal will not be noticeable on adjacent streets, intersections or the regional street network.
	(d) existing public schools;	The HRSB must provide placement for all eligible students within it's districts.
	(e) existing recreation and community facilities;	Parkland Planning has reviewed this application and advises that there are sufficient open spaces, trails and recreation amenities to serve this proposal.
	(f) the provision of police and fire protection services; and	Fire Protective Services has reviewed this application and they have no concerns in regards to this proposal. The adequacy of Police services are a matter for Regional Council to determine.
	any other matter deemed advisable by Council prior to any final approval by City Council.	N/A

Attachment D – Legislative Authority

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 landuse 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.

Appeals to the Board

- 262 (1)** 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.