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Item No. 10.1.1ii
North West Community Council
June 12, 2023
June 26, 2023

TO: Chair and Members of North West Community Council

SUBMITTED BY: - Original Signed -
Kelly Denty, Executive Director of Planning and Development

DATE: May 2, 2023

SUBJECT: **Case 23247: Amendments to the Sackville Drive Land Use By-law
Regarding the Measurement of Building Height**

SUPPLEMENTARY REPORT

ORIGIN

April 17, 2023 motions of North West Community Council:

1. MOVED by Councillor Russell, seconded by Councillor Outhit
THAT North West Community Council adopt the amendments to the Land Use By-law for Sackville Drive, as set out in Attachment A of the staff report dated March 15, 2023.
2. MOVED by Councillor Russell, seconded by Councillor Outhit
"That North West Community Council defer Item 10.1.1 'Case 23247: Amendments to the Sackville Drive Land Use By-law Regarding the Measurement of Building Height' pending a supplemental staff report investigating notwithstanding Section 27 (a) and (b), for parcels of land within the PR and PC zones which have lot frontage on Sackville Drive, the height of the main building may, alternatively, be measured from the highest point of the roof (pursuant to Section 27 (c)) to the 'established grade' surrounding the building, provided that along any adjoining R1 or R2 zone:
 1. *The setback of the main wall from any side or rear lot line that abuts the R1 or R2 zone is no less than 7.62 metres (25 feet),*
 2. *A 2 metres setback is required above the height of 30 feet for no less than 80% of the façade length, and*
 3. *A 2-metres-tall opaque barrier is established along the shared property lot line."*MOTION TO DEFER PUT AND PASSED.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION ON PAGE 2

RECOMMENDATION

It is recommended that North West Community Council:

1. Adopt the amendments to the Land Use By-law for Sackville Drive, as set out in Attachment A of the staff report dated March 15, 2023.

BACKGROUND / DISCUSSION

On April 17, 2023, North West Community Council held a public hearing on Case 23247: Amendments to the Sackville Drive Land Use By-law (LUB) regarding the measurement of building height. Following the public hearing, North West Community Council put the motion on the floor that "North West Community Council adopt the amendments to the Land Use By-law for Sackville Drive, as set out in Attachment A of the staff report dated March 15, 2023". North West Community Council then deferred the motion and requested alternative amendments to the Sackville Drive LUB as set out in the Origin section of this Supplementary Report.

Staff have reviewed the motion to defer and have adjusted the proposed Land Use By-law Amendments. The adjusted Land Use By-law Amendments are included as Attachment A of this Supplementary Report, to clarify and achieve Council's intent in the motion to defer of April 17, 2023.

The specific adjustments are as follows:

- section 27 d) 2) and 27 d) 3) were clarified to specify that the 2 metre stepback above a height of 30 feet is not required if the main wall is already set back the combined distance of 9.62 metres (7.62m + 2m); and
- Clause 27 d) 3) includes more detail and options, such that an 'opaque barrier' will now include an "opaque fence, vegetative screen or a combination of both natural and man-made materials which will form an effective year-round screen".

The above-noted adjustments to the proposed Land Use By-law Amendments are substantive in nature. As such, if Council wishes to consider the Land Use By-law Amendments attached to this report, a First Reading and new public hearing are required.

North West Community Council's original motion from April 17, 2023 is on the floor for Council's consideration. In the event that the Council wishes to consider the proposed Land Use By-law Amendments as attached to this report, Council must first vote on the April 17, 2023 deferred motion. If that motion is defeated, Council may then make the following motion:

THAT North West Community Council give First Reading to consider approval of the proposed amendments to the Land Use By-law for Sackville Drive regarding building heights and setbacks from property lines, as set out in Attachment A of the staff report dated May 2, 2023, and schedule a public hearing.

The proposed changes to the Land Use By-law (LUB) are only applicable to parcels of land within the PR and PC zones which have lot frontage on Sackville Drive. In those instances, the height of the main building may be measured from the highest point of the roof to the 'established grade' surrounding the building, provided that there are appropriate setbacks, stepbacks and opaque screening in locations abutting R-1 and R-2 zoned lots. As the proposed amendments now provide for these protective measures in the vicinity of abutting residential lots, staff advise that the adjusted amendments to the LUB for Sackville Drive, as contained in Attachment A of this report (dated May 2, 2023), also carry out the intent of the MPS.

For more information, please see the March 15, 2023 staff report at the following link:

<https://cdn.halifax.ca/sites/default/files/documents/city-hall/community-councils/230417nwcc1011.pdf>

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, including a narrated powerpoint presentation describing potential LUB amendments and illustrating building modelling, and a mailout of approximately 1,350 letters to property owners and residents within the notification area seeking feedback. More information on the results of the community engagement process is contained within the staff report dated March 15, 2023.

FINANCIAL IMPLICATIONS

There are no financial implications. The Municipality will be responsible for costs associated with processing this planning application. All costs will be accommodated within the approved 2023-2024 budget for Planning and Development.

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

1. North West Community Council may choose to approve the proposed LUB amendments as outlined in this staff report. In doing so, 1st Reading and a public hearing is required. If Council chooses this alternative, then Council must first vote on the April 17, 2023 deferred motion. If that motion is defeated, Council may then make the following motion:

THAT North West Community Council:

- a) *Give First Reading to consider approval of the proposed amendments to the Land Use By-law for Sackville Drive regarding building heights and setbacks from property lines, as set out in Attachment A of the staff report dated May 2, 2023, and schedule a public hearing.*
- b) *Adopt the amendments to the Land Use By-law for Sackville Drive, as set out in Attachment A of the staff report dated May 2, 2023.*

A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

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

ATTACHMENTS

Attachment A: Proposed Amendments to the Land Use By-law for Sackville Drive

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

Report Prepared by: Paul Sampson, Planner II, 902.717.8125

ATTACHMENT A

Proposed Amendments to the Land Use By-law for Sackville Drive

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

1. Part 2, the definition of '**Height**' shall be amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in bold, as follows:

Height as applied to any building means the vertical distance of the highest point of the roof above the ~~mean~~ **established** grade of the ~~curbs of all streets~~ **the street line** adjoining ~~abutting~~ the building or the mean grade of the natural ground so adjoining, if such grade of the ground is not below the grade of the curb.

2. Section 27 shall be deleted in its entirety by deleting the text shown in ~~strikeout~~, and inserting the text as shown in bold, as follows:

Height Regulations

27 ~~Intentionally deleted~~ The height regulations of this Bylaw shall not apply to church spires, water tanks, elevator enclosures, silos, flagpoles, television or radio antennae, solar panels, ventilators, skylights, chimneys or clock towers and other architectural elements.

3. Section 27 (a) shall be amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in bold, as follows:

27 (a) The height of a building in all zones shall be not more than 50ft (15.24m) in height measured from the established grade ~~at along the front property lot line~~ **or street line**.

(b) On corner lots where there is a difference in established grade on each lot frontage at the street line, the height requirement shall be measured from the street frontage with the lower grade.

~~(c) On lots where there is a difference in established grade, the height requirement shall be measured from the lower grade.~~

(c) Notwithstanding Section 27 (a) ~~the aforementioned~~, chimneys, antennae, flag poles, belltowers, spires, steeples, vents, **water tanks, elevator enclosures, silos, solar panels, skylights, clock towers, parapets** or other roof or building appurtenances extending from the surface of a roof shall not be measured in calculating building height; however, such appurtenances shall not: 1) be habitable living space **and**, 2) ~~extend more than ten (10) feet above the building height~~. Further, any such building appurtenance shall be integrated with the architectural treatments of the buildings and roof structure.

(d) **Notwithstanding Sections 27 (a) and (b), for parcels of land within the PR and PC zones which have lot frontage on Sackville Drive, the height of the main building may, alternatively, be measured from the highest point of the roof [pursuant to Section 27 (c)] to the 'established grade' surrounding the**

building, provided that along any adjoining R-1 or R-2 zone property boundary:

1) the setback of the main wall of the building from any side or rear lot line that abuts the R-1 or R-2 zone is no less than 7.62 metres (25 feet);

2) A further 2 metre stepback beyond the main wall is required above a height of 30 feet for no less than 80% of the façade length, unless the main wall setback is at least 9.62 metres from any adjoining R-1 or R-2 zone property line; and

3) A 2 metre tall opaque fence, vegetative screen or a combination of both natural and man-made materials which will form an effective year-round screen is established along the shared property lot line.

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the North West Community Council on the *** day of *****, 2023.

Iain MacLean
Municipal Clerk