

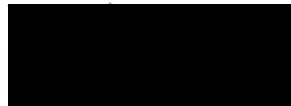


P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 10.1.1
Regional Centre Community Council
January 24, 2024

TO: Chair and Members of Regional Centre Community Council

SUBMITTED BY:



Jacqueline Hamilton, Executive Director of Planning and Development

DATE: November 20, 2023

SUBJECT: 2023-00462: Regional Centre LUB Annual Review 2023

ORIGIN

Staff initiated as part of Community Planning program to simplify and upkeep planning documents

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Regional Centre Community Council:

1. Give First Reading to consider approval of the proposed amendments to the Regional Centre Land Use By-law, as set out in Attachment A, to make minor amendments and schedule a public hearing; and
2. Adopt the proposed amendments to the Regional Centre Land Use By-law, as set out in Attachment A.

EXECUTIVE SUMMARY

The Regional Centre Land Use By-law (LUB) was first adopted in the Fall of 2019. The LUB was first reviewed to make several housekeeping amendments in the Fall of 2022 (Cases 24259 and 24260). As part of ongoing upkeep of the land use by-law staff are proposing minor housekeeping amendments to the LUB to improve administration.

Staff propose to amend 41 sections in the LUB based on feedback from the Municipality's development officers, land developers, and the general public. The purpose of the amendments is to ensure that the LUB is consistent with the *HRM Charter* and the Regional Centre Secondary Municipal Planning Strategy (MPS), to improve administration, fix formatting errors, and to address one of Regional Centre Community Council's directions passed on July 12, 2023.

BACKGROUND

The LUB was first adopted in the Fall of 2019 as Centre Plan Package A. The purpose of Package A was to implement a shorter and more predictable development review process for areas identified as appropriate for a higher density. The LUB was expanded to more areas and reviewed in its entirety in the Fall of 2021 with the adoption of Centre Plan Package B. Staff in Community Planning are focused on the continued maintenance of the Regional Centre MPS and LUB, which includes frequent feedback from residents, developers, development officers and planners.

The amendments proposed in this report are based on the feedback from both residents, experts, and staff. Some of the key aspects of the amendments include:

- revising provisions that create unintended barriers for residents wishing to develop;
- rewriting provisions to clarify the policy intent;
- allowing one vehicular access to a parking garage from a pedestrian-oriented commercial street (e.g., Lower Water Street) if there is no reasonable access;
- allowing more time to pay a public benefit contribution from a development permit stage to an occupancy certificate stage as per recent amendments to the *HRM Charter*;
- increasing minimum setbacks on Lower and Upper Water Streets by 1.5 metres to support a potential complete street project; and
- fixing a small number of spelling mistakes, formatting errors and cross-referencing issues.

COMMUNITY ENGAGEMENT

The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website. The engagement process is consistent with a website requirement as described in Clause 6(a) of the *Public Participation Administrative Order* which applies to general amendments.

A public hearing must be held by the Regional Centre Community Council before considering an approval of the proposed LUB amendments. The HRM website will be updated to indicate notice of the public hearing.

DISCUSSION

Based on the feedback received from residents, property owners and planners, staff identified 41 sections to be amended in the LUB, which can be grouped into 24 sets by topic. This part summarizes all the proposed amendments contained in Attachment A of this report.

Summary of Proposed LUB Amendments

24 sets of minor amendments are proposed as identified below. This section describes each set of amendment by summarizing the proposal, indicating which clause is proposed to be amended, explaining a gap in the existing provision, suggesting an alternative provision to fill in the gap, and referencing a provision in the *HRM Charter* or a policy in the MPS enabling the proposed amendment.

Exempting a limited access to a pedestrian-oriented street (Attachment A, Section 1)

- This amendment allows one garage door from a pedestrian-oriented commercial street if there is no reasonable access from another street.
- The existing provision allows one garage door from a pedestrian-oriented street if the pedestrian-oriented street provides the only way to access a public right-of-way (Queen's Marque).
- This amendment expands the exemption criteria from "the only way to access a public right-of-way" to "the only *reasonable* way to access a public right-of-way".
- Reasonability is to be determined by a development officer with advice from the Engineer. Relevant considerations would be determined by the development officer with advice from the Engineer which might include a sloping condition, road layout, traffic flow on a one-way street, traffic volume, and vehicle safety when entering and exiting a public right-of-way.
- MPS Policy UD-26(a) enables the LUB to control access to a property.

Allowing more commercial and institutional uses in HR zones (Attachment A, Section 2)

- This amendment allows local commercial, veterinary facility, and medical clinic uses in the HR-1 and HR-2 zones.
- The existing provision only permits local commercial, veterinary facility, and medical clinic uses in the HR-1 zone if it is on a corner lot. A veterinary facility also must be on a corner lot for the HR-2 zone.
- Staff received a few requests to consider allowing a medical clinic use in the HR zones because the use is institutional.
- Staff also heard during the Regional Plan Phase 4 engagement that more commercial uses in the HR zones would be beneficial to build a complete community. Recently, the trend has been to only build residential uses in the HR and COR zones.
- MPS Policies H-19 (b) specifies that, in the HR-1 zone, more intensive commercial uses are only permitted on corner lots. This policy does not apply in the HR-2 zone, nor does it apply to less intensive neighbourhood commercial uses.

Clarifying the conditions for short-term rental uses (Attachment A, Sections 2 to 4)

- This amendment clarifies the zones where short-term rental uses are permitted outside of the operator's primary residence.
- The existing provisions show both a solid dot (permitted without conditions) and a numbered circle (permitted with conditions) in 7 zones. A solid dot cannot coexist with a numbered circle in a same zone because a use in a zone is either permitted as-of-right or with a condition.
- Case 22423 amended LUB Table 1A to include solid dots and numbered circles, but not Tables 1B, 1C, and 1D; therefore, the short-term rental amendment is not effective in all zones.
- A short-term rental use is permitted in zones where a commercial tourist accommodation use is permitted: DD, DH, CEN-2, and COR zones.
- A short-term rental use is permitted in residential zones if the use is located in the operator's primary residence: CEN-1, ER-3, ER-2, ER-1, CH-2, CH-1, and HCD-SV.
- A short-term rental use is not permitted in zones that do not permit a residential use: CLI, LI, HRI, INS, UC-2, UC-1, DND, H, PCF, RPK, and WA.

- Regional Plan Policy S-43 enables the LUB to regulate short-term rental uses.

Allowing a shared underground parking structure (Attachment A, Section 5)

- This amendment allows an underground parking structure to cross a property line if both lots sharing the property line are under common ownership.
- The existing provision prohibits a main building to cross a property line, which includes an underground parking structure.
- Allowing an underground parking structure to cross the property lines leads to a more efficient use of parking spaces. This reduces the overall number of parking spaces required for development.
- This amendment has 2 conditions:
 - prohibiting an underground parking structure to cross a public road; and
 - accommodating for a development site on a steep slope.
- MPS Policy UD-26(h) enables the LUB to regulate the built form of parking structures.

Clarifying that a vinyl siding is permitted in certain zones (Attachment A, Section 6)

- This amendment clarifies that a vinyl siding is permitted in a CEN-1, COR, HR-2, HR-1, CLI, INS, UC-2, and UC-1 zone.
- The existing provision prohibits both vinyl siding and plastic to be used as an external cladding material in a DD, DH, and CEN-2 zone.
- The existing provision prohibits only plastic siding in a CEN-1, COR, HR-2, HR-1, CLI, INS, UC-2, and UC-1 zone.
- However, vinyl is a type of plastic cladding. Prohibiting a plastic cladding implies that vinyl is also prohibited. That is not the intention of the Centre Plan Package B.
- This amendment clarifies that a plastic cladding excludes vinyl siding.
- MPS Policy UD-12(a) enables the LUB to prohibit certain cladding materials.

Exempting a minimum setback for a garage door (Attachment A, Section 7)

- This amendment relaxes the minimum setback of a garage attached to a low-density dwelling use from 4.5 metres to the minimum setback of the zone where the use is.
- The existing provision mandates all vehicle entrances to a building to be at least 4.5 metres away from a streetline. This is to achieve a sufficient stopping sight distance for pedestrian safety.
- Some homeowners have expressed hardship because this provision applies to a garage door to a one-unit and two-unit dwelling.
- Engineering & Building Standards Division concluded that this provision was intended for a building with a heavier traffic volume, not necessarily for a low-density dwelling use.
- MPS Policy UD-9(l) enables the LUB to establish setbacks for accessory structures.

Allowing stepback encroachment of an attached structure and a window bay (Attachment A, Sections 8, 9, and 38)

- This amendment:
 - allows encroachment of a railing system, awning, and canopy up to 0.6 metres, and an unenclosed porch up to 2.0 metres from a setback, stepback, or separation distance;
 - introduces clarifying provisions for window bays that encroach on setbacks and stepbacks; and
 - reorganizes subsections to remove cross-references.
- The existing provision lists exemptions to a setback, stepback, or separation distance for certain minor structures, such as a patio, access ramp, fireplace, and awning.
- This amendment exempts a railing system, awning, canopy, and unenclosed porch from a setback, stepback, and separation requirements up to a certain distance. The Centre Plan has always intended to exempt those minor structures but lacked a LUB provision to implement the intention.
- This amendment also regulates a window bay to be restricted to a certain size and to have a minimum separation distance from other window bays.
 - This prevents the use of a window bay as an additional living space but for allowing additional light for smaller units.

- This also brings the window bay requirements consistent with other major Canadian municipalities, such as Edmonton and Montreal.
- This does not apply to a building in a heritage conservation district because more discussion is required with the Heritage Planning Team.
- This amendment reorganizes the entire section so readers do not have to refer to different subsections to know all the applicable regulations.
- Subsection 235(4) of the *HRM Charter* enables the LUB to regulate the size or other requirements relating to yards, subject to MPS Policy UD-9(g) that mandates the LUB to establish minimum setbacks for the areas of density or land use transition.

Clarifying rooftop feature regulations (Attachment A, Sections 10 to 13)

- This amendment clarifies that all building rooftop features are subject to Table 8 of the LUB regardless of the main building height and the setback requirements in other parts of the LUB.
- The existing provision indicates that a rooftop feature may exceed a maximum building height by a certain amount listed in Table 8.
- Some land developers have interpreted the clause as an increase to the maximum building height.
 - For example, if a maximum building height on a site is 90 metres, and a rooftop greenhouse may have a maximum height of 6 metres above roof, some were wondering if a 51-metre greenhouse is permitted on top of a 45-metre main building.
- This amendment clarifies that
 - the maximum height of a rooftop feature is as listed in Table 8 regardless of the main building height and the setback requirements; and
 - a rooftop feature is still not allowed to exceed view plane, Halifax Citadel rampart sightline, or waterfront view corridor requirements.
- Policy UD-7(a) enables the LUB to establish height exemptions for rooftop building features.

Adding rooftop features (Attachment A, Sections 14 and 15)

- This amendment
 - exempts window cleaning equipment from the overall building height requirement; and
 - increases the maximum height for an elevator enclosure from 5.5 metres to 6.0 metres.
- This amendment allows the window cleaning equipment to exceed the building height by unlimited height as the rooftop feature's height must be determined based on the safety standards.
- The amendment also increases the maximum height for an elevator enclosure by 0.5 metres to be consistent with a recent change to the industrial standards for clear height requirements in elevator shafts from 16 feet to 17 feet.
- Policy UD-7(a) enables the LUB to establish height exemptions for rooftop building features.

Exempting a shared housing with special care from having grade-oriented premises (Attachment A, Sections 16 to 20)

- This amendment exempts a shared housing with special care from a grade-oriented premise requirement.
- The existing provision requires all buildings in certain zones to have a grade-oriented premise on their ground floors for the full width of a streetwall.
 - Each grade-oriented premise requires an independent entrance that faces a streetline and is accessible by pedestrian.
- This provision applies to a shared housing with special care, which needs to control all pedestrian access points to serve the residents with cognitive, physical, or behavioural limitations.
- This amendment adds a shared housing with special care in the list of exempted uses to address a security concern arising from residents or visitors attempting to open an independent pedestrian entrance without proper supervision from professional staff in the premise.
- Policy UD-10(i) enables the LUB to establish requirements for grade-related dwelling units and grade-oriented premises to support human-scale design and streetscapes that are active and welcoming to pedestrians.

- The amendment is proposed because a shared housing use with special care is generally considered an institutional residential use. Because other institutional uses are already exempted, adding a shared housing with special care to the list of exemptions is not considered a substantial deviation from the policy intent.

Exemption to streetwall articulation for the CLI zone (Attachment A, Section 21)

- This amendment exempts a building in the CLI Zone from streetwall articulation and related requirements because the building typically contains a car-oriented business.
- There are 3 congregations of the CLI (Commercial Light Industrial) Zone in the Regional Centre: along Kempt Road, west of Windmill Road, and Pleasant Street near Woodside.
- The existing uses in the CLI Zone are car dealerships, drive-through restaurants, and truck rentals.
- Applying streetwall requirements on a car-oriented neighbourhood is deemed excessive.
- MPS Policy UD-11(a) enables the LUB to establish standards for streetwall articulation.

Correcting a spelling mistake (Attachment A, Section 22)

- This amendment corrects an invalid cross-reference.
- The existing provision states “Chapter VII” when the reference is actually for “Part VII” of the LUB.

Reducing tree requirements for parking lots (Attachment A, Section 23)

- This amendment reduces the minimum number of trees required for each raised landscaped area in an accessory parking lot from 2 to 1.
- The existing provision requires at least 2 trees for each landscaped island on a parking lot.
- Landscape architects expressed concerns about tree deterioration due to lack of nutrients, which depends on the soil condition of a site.
- This amendment reduces the mandatory number of trees from 2 to 1 and allow a professional landscape architect to determine the appropriateness of planting multiple trees.
- Policy UD-24(b) enables the LUB to establish landscaping requirements to support transitions between built forms and parking areas.

Exempting soft landscaping requirements on a small-scale flat-roofed addition (Attachment A, Sections 24 to 26)

- This amendment clarifies the exemption criteria for soft landscaping on flat roofs.
- The existing provision exempts a flat-roofed addition of less than 50.0 square metres in area.
- It is unclear if the provision applies to multiple flat-roofed additions of less than 50.0 square metres in total areas.
- This amendment clarifies that the provision is for contiguous flat-roofed additions, not total areas.
- This amendment also removes a requirement for the landscaping to be certified by a professional engineer because the National Building Code already covers structural integrity requirements.
- Policy UD-24(c) enables the LUB to regulate rooftop landscaping.

Exempting a screening requirement for a right-of-way (Attachment A, Section 27)

- This amendment exempts a screening requirement on an edge of a parking space used for accessing another property.
- The existing provision mandates screening of an off-street parking lot around the edges facing a residential or park zone with a fence, hedge, or wall that is at least 1.8 metres tall.
- However, some parking lots are being accessed only through an abutting property instead of being directly accessed from a public right-of-way.
- This amendment exempts a portion of the parking space’s edge from screening so the portion may be used for accessing the space.
- Policies UD-24(b) and UD-25(c) enable the LUB to establish landscaping and screening requirements for parking areas.

Exempting renovation work from providing a landscaped buffer (Attachment A, Section 28)

- This amendment exempts landscaped buffer requirements for all renovation work.

- The existing provision mandates a 2.5-metre landscaped buffer if a proposed development abuts a different zone.
- The existing provision applies to exterior renovations that alter the footprint or volume of a building, so development officers of the Municipality indicated that the provision is applied rather frequently.
- This is especially challenging for flag lots and through lots with narrower road frontage.
- MPS Policy UD-24(b) enables the LUB to regulate locations and types of buffers required but does not define specific land uses to be regulated.

Allowing denser placement of a wall-mounted bicycle rack (Attachment A, Sections 29 and 30)

- This amendment allows a wall-mounted bicycle rack such as a vertical rack or two-tier rack with a lift assist to be placed at half the separation distance for regular racks.
- The existing provision mandates bicycle racks to be at least 0.9 metres apart from one another in the direction of a bicycle's width.
- This works well with a standard U-shaped rack where each rack holds 2 bicycles. However, a vertical rack and two-tier rack with a lift assist holds only one bicycle.
- This results in inefficient spacing of bicycle racks. The manufacturer's specification for a vertical rack's spacing is 0.6 metres, which does not meet the 0.9-metre requirement despite being spacious.
- This amendment would reduce the minimum spacing requirement from 0.9 metres to 0.45 metres for a vertical rack and two-tier rack with a lift assist.
- MPS Policy UD-26(d) enables the LUB to establish a parking requirement for bicycles.

Correcting a spelling mistake (Attachment A, Section 31)

- This amendment corrects a spelling mistake.
- The existing provision in Clause 454(2)(c) states "and existing structure" instead of "an existing structure".

Allowing more time to pay a public benefit contribution (Attachment A, Sections 32 to 34)

- This amendment allows more time to pay for a bonus zoning public benefit contribution.
- The existing provision requires all public benefit contributions to be paid before a development permit is issued if it is money-in-lieu. Land developers expressed it to be a challenge because financing at a development permit stage is difficult. This topic was also discussed by Council during the Centre Plan adoption process.
- This amendment extends a payment deadline from a development permit stage to an occupancy certificate stage, but the contribution amount is still determined at the development permit stage.
- Similar amendments is being proposed to the suburban area under the interim density bonusing program outside of the Regional Centre in a separate report (MINORREV-2023-01049).
- This amendment also writes out a calculation method as a numeric equation for convenience.
- MPS Policy IM-15 enables the LUB to determine a deadline for when money-in-lieu is accepted.
- Amending the Building By-law, the Fees By-law, and Administrative Order 15 are not required because the Building By-law already allows a building official to withhold an occupancy certificate until the LUB requirements are satisfied.
- Because this amendment does not increase the rate of a public benefit contribution, it is consistent with clause 236A(3)(a) of the *HRM Charter*: "A new incentive or bonus zoning agreement, capital cost contribution agreement or local improvement charge may be created if the formulas and methods for calculating charges used in the agreement are the same as those in effect at the time this Section comes into force", which has been effective since November 9, 2023.

Clarifying the definition of a greenhouse (Attachment A, Section 35)

- This amendment clarifies that the majority of a greenhouse must be constructed using a transparent material on each side and a roof.
- The existing provision sets 2 conditions for a greenhouse: one uses a transparent material and contains a horticultural use.

- The term “primarily” has been interpreted as at least 50%, but development officers expressed challenge to enforce the provision without a specific percentage.
- This amendment clarifies that the term “primarily” is a supermajority of 80% to ensure that the main use of a greenhouse stays as a horticultural use.
- This amendment also acknowledges that a greenhouse may provide an accessory use to a horticultural use, such as having a potting bench, food processing table, and accessible washroom, to serve as a social space, support local food security, and foster community self-reliance.
- This is consistent with an urban agriculture policy under Policy EN-7, which encourages a rooftop greenhouse to provide additional opportunities for local food production.

Allowing a winery use (Attachment A, Section 36)

- This amendment allows the production and packaging of wine, up to 75,000 litres per year, in the zones where a micro-distillery use is permitted.
- This corrects the error of “wine” being excluded from both a micro-brewery and micro-distillery use.

Correcting an incorrect cross-reference (Attachment A, Section 37)

- This amendment corrects spelling errors, clause numbering, and inconsistencies to a reference to a provincial act from the “*Tourist Accommodation Regulation Act*”, which does not exist, to the “*Tourist Accommodations Registration Act*”.

Increasing minimum setbacks on Lower and Upper Water Streets (Attachment A, Sections 39 and 40)

- This amendment increases minimum front and flanking yard setbacks along Lower and Upper Water streets from Terminal Road to Historic Properties.
- The existing provisions do not require setbacks along Lower and Upper Water Streets, enabling developments to be built up to the front property line. This creates challenges to street design, further complicating the building and maintenance of streets and sidewalks.
- Water Street is one of the few remaining strategic corridors with no minimum setback requirements but is being considered for streetscaping. Other strategic corridors with setbacks include Portland Street, Gottingen Street, Quinpool Road, Robie Street, and Bayers Road.
- This amendment increases the minimum setbacks on Lower and Upper Water Streets between Terminal Road and Historic Properties up to 1.5 metres.
 - Public Realm: minimum setbacks provide space for landscaping, flower boxes, sandwich boards, benches, and café space, which improve the public realm.
 - Grading: setbacks help to manage grades between buildings and the street during construction.
- The minimum setback between Sackville Street to Prince Street (East) is not changing and the minimum setback between Duke Street and Historic Properties are increased only by 0.5 metres because of the existing heritage buildings.
- Increasing the maximum setback from Salter Street to Sackville Street from 1.5 metres to 4 metres;
- MPS Policy UD-22 enables the LUB to set minimum and maximum building setbacks that support pedestrian activity along a pedestrian-oriented commercial street.

Correcting a maximum streetwall height on Brunswick Place (Attachment A, Section 41)

- This amendment corrects inconsistent regulation on the maximum streetwall height of the Brunswick Place and its parking garage to be consistent with the MPS.
- The existing provision on Schedule 20 (maximum Streetwall Heights – Downtown Halifax Zone) sets the maximum streetwall height of PID 00149765, the Brunswick Place, as 18.5 metres, and PID 00149757, a parking garage, as 15.5 metres. This is a carry-over from when the property was zoned DH-1 under the Downtown Halifax LUB and is inconsistent with section 164 of the LUB which sets maximum height for the CEN-2 and CEN-1 Zone (generally 11 metres).
- This is inconsistent with Policy UD-10(c) which limits a maximum streetwall height to 11 metres except in the Downtown Halifax Zone. The subject sites are zoned CEN-2.
- MPS Policy UD-10 enables the LUB

- to establish minimum and maximum streetwall heights of between 8 and 11 metres except for the DH Zone; and
- to establish a maximum streetwall height of between 11 and 18.5 metres in the DH Zone.

Priorities Plans

Under Policy G-14A of the Regional Plan, this review was assessed against the objectives, policies and actions of the priorities plans, inclusive of the Integrated Mobility Plan, Halifax Green Network Plan, HalifACT, and Halifax's Inclusive Economic Strategy 2022-2027. Where conflict between MPS policy and priority plan policy exists, staff must weigh the specificity, age, and intent of each policy, and consider how they would be applied to a specific geographic context. Because the majority of the proposed amendments are housekeeping in nature, they are not inconsistent with the actions within the priority plans.

Project 2023-00718: Regional Centre Annual Plan Review 2024

On July 12, 2023, the Regional Centre Community Council directed the Chief Administrative Officer to consider relaxing requirements for internal conversions, office conversions and to consider policies to allow more forms of housing in ER zones. Staff have also identified other potential revisions that require a minor change to the MPS during this review process. Because both initiatives require changes to policy, they are not included in this report which is limited to minor LUB amendments.

Project 2023-01065: Housing Accelerator Fund Implementation

On October 12, 2023 the Government of Canada and HRM announced that they have reached an agreement to fast track 2,600 housing units over the next three years through the Housing Accelerator Fund (HAF). This work will help spur the construction of over 8,866 homes over the next decade. HRM successful application included a number of initiatives which are consistent with the ongoing Regional Plan review. This includes enabling additional housing options in low density residential areas, near universities and through internal conversions. Therefore, while larger policy changes would typically be brought forward during the Centre Plan 5-year review (2025-2026), staff will bring forward a number of policy amendments intended to fulfil some of the initial requirements of the HAF in the near future.

Conclusion

The Regional Centre LUB was reviewed in its entirety for the first time after its adoption in October 2021. Based on the feedback accumulated from various sources in the last couple of years, staff reviewed both the MPS and LUB to identify changes that are consistent with existing policies and can be implemented relatively quickly to improve administration and to better align with Council's intention in the MPS policy statements. Therefore, staff recommend that the Regional Centre Community Council approve the proposed LUB amendments.

FINANCIAL IMPLICATIONS

Undertaking this review process can be accommodated with the approved 2023-2024 operating 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 NS 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.

ALTERNATIVE

1. Regional Centre Community Council may choose to refuse one or more of the proposed LUB amendments, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Regional Centre Community Council may choose to approve the proposed LUB amendment subject to modifications, and such modifications may require a supplementary staff report. A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENT

Attachment A: Proposed LUB amendments

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: Byungjun Kang, Planner III, 782.641.0856

ATTACHMENT A

Proposed Amendment to the Regional Centre Land Use By-law

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

- 1 Clause 38(3) of the By-law is amended as shown in **bold** and ~~strikeout~~ by
- (a) repealing subclause 38(3)(b); and
 - (b) adding a new subclause 38(3)(c) immediately below the repealed subclause 38(3)(b).
 - (b) ~~there is no other streetline that permits both the garage door and associated ramp.~~
 - (c) **an alternative access from the pedestrian-oriented commercial street is necessary to mitigate potential conflict by reason of traffic generation, safe access to and egress from the motor vehicle parking space or internal off-street loading space.**

- 2 Amend Table 1A as shown in **bold** and ~~strikeout~~ by:
- (a) striking out “~~24~~” in Columns *DD*, *DH*, *CEN-2*, and *COR* of “short-term bedroom rental use”;
 - (b) striking out “●” in Column *CEN-1* of “short-term bedroom rental use”;
 - (c) striking out “~~24~~” in Columns *DD*, *DH*, *CEN-2*, and *COR* of “short-term rental use”;
 - (d) adding “●” in Column *HR-1* of “medical clinic use”;
 - (e) striking out “~~2~~” in Column *HR-1* of “local commercial use”, “veterinary facility use”, and “medical clinic use”; and
 - (f) striking out “~~2~~” in Column *HR-2* for “veterinary facility use”.

	DD	DH	CEN-2	CEN-1	COR	HR-2	HR-1
Short-term bedroom rental use	● 24	● 24	● 24	● 24	● 24	15 24	15 24
Local commercial use	●	●	●	●	●	3	2 3
Short-term rental use	● 24	● 24	● 24	24	● 24	24	24
Veterinary facility use	●	●	●		●	2 3	2 3
Medical clinic use	●	●	●	●	●	●	2 ●

- 3 Amend Table 1B by striking out “●” in Column *ER-3* of “short-term bedroom rental use” as shown in ~~strikeout~~:

	ER-3	ER-2	ER-1	CH-2	CH-1
Short-term bedroom rental use	● 24	15 24	15 24	24	24

- 4 Amend Table 1D by striking out “●” in Column *HCD-SV* of “short-term bedroom rental use” as shown in ~~strikeout~~.

	HCD-SV
Short-term bedroom rental use	● 24

- 5 Subsection 89(2) of the By-law is amended as shown below in **bold** by
- (a) adding “, except for an underground parking structure on abutting lots that are” immediately after “lot”; and
 - (b) adding new clauses 89(2)(a) and 89(2)(b).
- (2) A main building shall not be located on more than one lot, **except for an underground parking structure on abutting lots that are**
- (a) **under common ownership; and**
 - (b) **not protruding more than 0.6 metres above the average finished grade.**
- 6 Subsection 91(1) of the By-law is amended as shown below in **bold** and ~~strikeout~~ by
- (a) striking out “Subject to” and substituting “Except as provided in”; and
 - (b) adding “excluding vinyl siding” immediately after “plastic” in subclause 91(1)(b)(i).
- (1) ~~Subject to~~ **Except as provided in** Subsection 91(2), the following external cladding materials are prohibited in:
- (a) any DD, DH, or CEN-2 zone:
 - (i) vinyl siding,
 - (ii) plastic,
 - (iii) plywood,
 - (iv) unfinished concrete,
 - (v) exterior insulation and finish systems where stucco is applied to rigid insulation, and
 - (vi) darkly tinted or mirrored glass, except for spandrel glass panels; or
 - (b) any CEN-1, COR, HR-2, HR-1, CLI, INS, UC-2, or UC-1 zone:
 - (i) plastic **excluding vinyl siding**,
 - (ii) plywood,
 - (iii) unfinished concrete, and
 - (iv) darkly tinted or mirrored glass, except for spandrel glass panels.
- 7 Subsection 93(2) of the By-law is amended by adding “, except for a garage attached to a low-density dwelling use as provided in Subsection 232(1)” after “from the streetline” as shown below in **bold**:
- (2) Any motor vehicle entrance to any main building facing a streetline shall be required to be set back a minimum of 4.5 metres from the streetline, **except for a garage attached to a low-density dwelling use as provided in Subsection 232(1).**
- 8 Section 94 of the By-law is repealed.

9 Part V, Chapter 1 is amended by adding the following after repealed section 94 as shown below in **bold**:

General Requirement: Permitted Encroachments into Setbacks, Stepbacks, or Separation Distances

- 94.5 (1) All of the following structures may encroach into a required setback, stepback, or separation distance:**
- (a) a patio that is less than 0.6 metres in height, access ramps, walkways, lifting devices, uncovered steps, and staircases;**
 - (b) a sill, eave, gutter, downspout, cornice, chimney, fireplace, stove bump out, railing system, canopy, awning, or another similar feature, if an encroachment is no more than 0.6 metres;**
 - (c) a solar collector, if an encroachment is no more than 1.0 metre; and**
 - (d) a window bay that is no wider than 4.0 metres and is located no closer than 2.5 metres to any other window bay on an exterior wall of the main building, if an encroachment is no more than 1.0 metre.**
- (2) A portion of an enclosed porch may encroach into a required front or flanking setback, if the portion is**
- (a) in an ER-3, ER-2, ER-1, CH-2, or CH-1 zone;**
 - (b) at least 0.5 metres away from a streetline;**
 - (c) not greater than 4.0 square metres; and**
 - (d) one storey in height.**
- (3) A balcony or unenclosed porch may**
- (a) encroach into a required stepback, if it is facing a lot line that abuts an ER-3, ER-2, ER-1, CH-2, CH-1, PCF, or RPK zone, and attached to a main building that is above grade and is setback by**
 - (i) 8.5 metres for mid-rise buildings,**
 - (ii) 12.5 metres for tall mid-rise buildings, and**
 - (iii) 12.5 metres for high-rise buildings; or**
 - (b) subject to Section 96, encroach into a required setback, stepback, or separation distance, if an encroachment is no more than**
 - (i) 1.5 metres at the ground floor, and**
 - (ii) 2.0 metres at the second storey or above.**

- 10 Subsection 103(1) of the By-law is amended as shown below in **bold** and ~~strikeout~~
- (a) by striking out “shown on Schedule 3C, which are addressed in Subsection 103(7)” and replacing it with “provided in Subsections 103(7) to 103(9); and
 - (b) by adding “, even if the feature does not exceed the maximum height for the main building, except for a low-density dwelling use, cluster housing use, or main building in Young Avenue Sub-Area A as provided in Subsections 103(7) to 103(9)” after “the rooftops of any main building”.
- (1) Excluding any low-density dwelling uses, cluster housing uses, or any main buildings within the Young Avenue Sub-Area A (YA-A), ~~as shown on Schedule 3C, which are addressed in Subsection 103(7)~~ **provided in Subsections 103(7) to 103(9)**, Table 8 regulates the height, coverage, and setback of building features located on the rooftops of any main building, **even if the feature does not exceed the maximum height for the main building.**

11 Subsection 103(2) of the By-law is repealed.

12 Part V, Chapter 1 of the By-law is amended by adding a new section after repealed subsection 103(2) as shown below in **bold**:

(2.5) If Table 8 conflicts with

- (a) **a view plane, Halifax Citadel rampart sightline, or waterfront view corridor requirement in Part X, Part X prevails;**
- (b) **a maximum required building height in Schedule 15, Table 8 prevails; or**
- (c) **a minimum setback requirement in Part V, Table 8 prevails.**

13 Subsection 103(6) of the By-law is repealed.

14 Subsection 103(6) of the By-law is amended to amend Table 8 as shown below in **bold** and ~~strikeout~~ by

- (a) striking out “5.5 metres” and substituting “6.0 metres” in Column 1 of the feature *elevator enclosure*; and
- (b) adding “window cleaning platform” after the feature “staircase or staircase enclosure”.

Feature	Column 1 Maximum height above roof	Column 2 30% coverage restriction	Column 3 Minimum setback from roof edge facing front or flanking lot lines	Column 4 Minimum setback from roof edge facing side or rear lot lines
Elevator enclosure	5.5 metres 6.0 metres	●	3.0 metres	-
Window cleaning platform	Unlimited	●	-	-

15 Subsection 103(7) of the By-law is amended by striking out “and” at the end of Clause (i) as shown below in ~~strikeout~~:

- (i) a rooftop greenhouse; ~~and~~

16 Subsection 123(2) of the By-law is amended by striking out “or” at the end of clause (d), by striking out a period and substituting “; or” at the end of clause (e), and by adding a new clause (f) after clause (e) as shown below in **bold** and ~~strikeout~~:

(2) Subsection 123(1) shall not apply to:

- (a) a change of use;
- (b) a low-density dwelling use;
- (c) a religious institution use;
- (d) an emergency services use; ~~or~~
- (e) a cultural use; **or**
- (f) **a shared housing with special care use.**

17 Subsection 144(2) of the By-law is amended by striking out “or” at the end of clause (d), by striking out a period and substituting “; or” at the end of clause (e), and by adding a new clause (f) after clause (e) as shown below in **bold** and ~~strikeout~~:

(2) Subsection 144(1) shall not apply to:

- (a) a change of use;
- (b) a low-density dwelling use;
- (c) a religious institution use;
- (d) an emergency services use; ~~or~~
- (e) a cultural use; **or**
- (f) **a shared housing with special care use.**

18 Subsection 170(2) of the By-law is amended by striking out a period with “; or” at the end of clause (e), and by adding a new clause (f) after clause (e) as shown below in **bold** and ~~strikeout~~:

(2) Subsection 170(1) shall not apply to:

- (a) a change of use;
- (b) a low-density dwelling use;
- (c) a religious institution use;
- (d) an emergency services use;
- (e) a cultural use; **or**
- (f) **a shared housing with special care use.**

19 Subsection 189(2) of the By-law is amended by striking out “or” at the end of clause (d), by striking out a period with “; or” at the end of clause (e), and by adding a new clause (f) after clause (e) as shown below in **bold** and ~~strikeout~~:

- (2) Subsection 189(1) shall not apply to:
 - (a) a change of use;
 - (b) a low-density dwelling use;
 - (c) a religious institution use;
 - (d) an emergency services use;~~or~~
 - (e) a cultural use~~;~~ **or**
 - (f) **a shared housing with special care use.**

20 Subsection 206(2) of the By-law is amended as shown below in **bold** and ~~strikeout~~ by

- (a) striking out “or” at the end of clause (d);
- (b) striking out a period with “; or” at the end of clause (e); and
- (c) adding a new clause (f) after clause (e).

- (2) Subsection 206(1) shall not apply to:
 - (a) a change of use in any existing main building;
 - (b) a low-density dwelling use;
 - (c) a religious institution use;
 - (d) an emergency services use;~~or~~
 - (e) a cultural use~~;~~ **or**
 - (f) **a shared housing with special care use.**

21 Table 11 of the By-law is amended by striking out the black circles in the design requirements *Articulation for Streetwalls or Exterior Walls that Abut a Front or Flanking Yard and that are 64.0 Metres or Less in Width (Section 359)*, *Articulation for Streetwalls or Exterior Walls that Abut a Front or Flanking Yard and that are Greater than 64.0 Metres in Width (Section 360)*, *Corner Treatment (Section 361)*, and *Pedestrian Entrances Along Streetwalls (Section 363)*, and by striking out “①” in the design requirement *Side Wall Articulation (Section 362)* under Column *CLI Zone* as shown below in ~~strikeout~~.

Design Requirements	CLI Zone
Articulation for Streetwalls or Exterior Walls that Abut a Front or Flanking Yard and that are 64.0 Metres or Less in Width (Section 359)	●
Articulation for Streetwalls or Exterior Walls that Abut a Front or Flanking Yard and that are Greater than 64.0 Metres in Width (Section 360)	●
Corner Treatment (Section 361)	●
Side Wall Articulation (Section 362)	①
Pedestrian Entrances Along Streetwalls (Section 363)	●

22 Subsection 383(2) of the By-law is amended by striking out “In the event that” and substituting “If”, and by striking out “Chapter VII” and substituting “Part VII” as shown below in **bold** and ~~strikeout~~:

- (2) ~~In the event that~~ **If** the requirements under ~~Chapter VII~~ **Part VII** conflict with the requirements of this Chapter, the requirements of this Chapter take precedence.

- 23 Clause 417(2)(b) of the By-law is amended by striking out “two trees” and substituting “one tree” as shown in **bold** and ~~strikeout~~:
- (b) each raised landscaped area shall be delineated with curbs and shall contain a minimum of ~~two trees~~ **one tree** (Diagram 22) that are not shrubs, with a minimum base caliper of 50 millimetres; and
- 24 Section 418(1) of the By-law is amended by striking out “Subject to Subsection 418(2)” and substituting “Except as provided in Subsections 418(2) to 418(4)” as shown below in **bold** and ~~strikeout~~:
- (1) ~~Subject to Subsection 418(2)~~ **Except as provided in Subsections 418(2) to 418(4)**, soft landscaping shall be required on any main building with a flat roof or a flat-roofed addition within a DD, DH, CEN-2, CEN-1, COR, HR-2, or HR-1 zone, on no less than 40% of the combined portions of the roof that are flat.
- 25 Subsection 418(4) of the By-law is amended by adding “contiguous” after “less than 50.0” as shown below in **bold**:
- (4) The soft landscaping required under Subsection 418(1) shall not apply to a flat-roofed addition of less than 50.0 **contiguous** square metres in area.
- 26 Subsection 418(6) of the By-law is repealed.
- 27 Subsection 425(2) of the By-law is amended as shown below in **bold** and ~~strikeout~~ by
- (a) striking out a comma after “under Subsection 425(1)”;
- (b) striking out “if the lot line is required to have an L2 landscaped buffer under Subsection 427.” and substituting “to any portion of the lot that”;
- (c) adding new clauses (a) and (b).
- (2) The screening requirement under Subsection 425(1); shall not apply ~~if the lot line is required to have an L2 landscaped buffer under Section 427.~~ **to any portion of the lot that**
- (a) **is required to have an L2 landscaped buffer under Section 427; or**
- (b) **provides an access to an abutting lot.**
- 28 Section 426 of the By-law is amended by striking out “interior” in Clause (f), by adding “or” at the end of Clause (f), and by repealing Clause (g) as shown below in **bold** and ~~strikeout~~:
- (a) any development exempted from requiring a development permit in Section 9;
- (b) a change of use or tenancy in a structure;
- (c) accessory structures located in a DD, DH, CEN-2, CEN-1, COR, HR-2, HR-1, CLI, INS, UC-2, or UC-1 zone;
- (d) an addition to any main building less than 200.0 square metres in floor area;
- (e) low-density dwelling uses;
- (f) ~~interior~~ renovations; **or**
- (g) ~~exterior renovations that do not alter the footprint or volume of a building; or~~
- (h) temporary construction uses.

- 29 Subsection 453(2) of the By-law is amended as shown in **bold** by
- (a) striking out “no less than 0.9 metres apart” in clause (a);
 - (b) add new subclauses (i) and (ii) under clause (a);
 - (c) striking out “centred no less than 1.8 metres apart” in clause (b); and
 - (d) adding “, centred no less than 1.8 metres apart” after “(Diagram 26)” in clause (b).
- (2) Bicycle parking racks shall be required to be spaced:
- (a) ~~no less than 0.9 metre apart~~ in the direction of a bicycle’s width (Diagram 26),
 - (i) **at least 0.45 metres apart for a vertical rack or two-tier rack with a lift assist, or**
 - (ii) **at least 0.9 metres apart for other types of rack;** and
 - (b) ~~centered no less than 1.8 metres apart~~ in the direction of a bicycle’s length (Diagram 26), **centered at least 1.8 metres apart.**
- 30 Subsection 453(4) of the By-law is amended by adding “and two-tier racks with a lift assist” after “wall-mounted racks” as shown below in **bold**:
- (4) Excluding wall-mounted racks **and two-tier racks with a lift assist**, a space of 0.6 metre shall be required to be provided between bicycle parking spaces and any obstruction, on all sides (Diagram 26).
- 31 Clause 454(2)(c) of the By-law is amended by striking out “and” and substituting “an” as shown below in ~~strikeout~~:
- (c) for a change of use within ~~and~~ **an** existing structure; or
- 32 Section 473 of the By-law is amended as shown below in **bold** and ~~strikeout~~ by
- (a) striking out “minimum required” in the portion before clause (a);
 - (b) add “required under section 472” after “public benefit value” in the portion before clause (a);
 - (c) striking out “shall be” in the portion before clause (a) and substituting “is”;
 - (d) striking out “by multiplying Factor #1 by Factor #2 and then multiplying the product by Factor #3, where:” and substituting “using the following formula $PBV = 0.2(NFA - 2000)(BR)$ in which PBV = public benefit value in dollars, NFA = new floor area in square metres, BR = bonus rate in dollars per square metre as provided in Section 475”; and
 - (e) repeal clauses (a), (b), and (c).

473 In a DD, DH, CEN-2, CEN-1, COR, HR-2, or HR-1 zone, the ~~minimum required~~ public benefit value **required under section 472** shall be is calculated by multiplying Factor #1 by Factor #2 and then multiplying the product by Factor #3, where: **using the following formula**

$$PBV = 0.2(NFA - 2000)(BR)$$

in which

PBV = public benefit value in dollars

NFA = new floor area in square metres

BR = bonus rate in dollars per square metre as provided in Section 475

~~(a) Factor #1 is the new floor area in square metres that exceeds 2,000 square metres;~~

~~(b) Factor #2 is 0.20; and~~

~~(c) Factor #3 is the bonus rate, in dollars per square metre, as specified in Section 475.~~

33 Section 474 of the By-law is amended as shown in **bold** and ~~strikeout~~ by

(a) striking out “Any required public benefit shall be completed by the applicant.” and substituting “An applicant shall complete a public benefit as described in Section 472 before a certificate of occupancy is issued.”; and

(b) repealing clauses (a) and (b).

474 ~~Any required public benefit shall be completed by the applicant.~~ **An applicant shall complete a public benefit as described in Section 472 before a certificate of occupancy is issued.**

~~(a) for any money in lieu, prior to the development permit being issued; or~~

~~(b) for any on-site public benefit, by the deadline specified in the incentive or bonus zoning agreement.~~

34 Section 499 of the By-law is amended by adding a new subsection 499(47.5) after subsection 499(47) as shown in **bold**.

(47.5) Certificate of Occupancy means an occupancy permit as issued pursuant to B-201, the *Building by-law*, and the *Building Code Act* (Nova Scotia).

35 Subsection 499(100) of the By-law is amended by striking out “primarily of transparent materials,” and substitute “with at least 80% of transparent materials for each wall and a roof, and designed as shown in **bold** and ~~strikeout~~.”

(100) Greenhouse means a structure constructed ~~primarily of transparent materials,~~ **with at least 80% of transparent materials for each wall and a roof, and designed** for the protection and cultivation of plants, such as vegetables, fruits, herbs, sprouts, ornamental plants, and flowers.

36 Subsection 499(157) of the By-law is amended by striking out “wine and” as shown below in ~~strikeout~~:

(157) Micro-Distillery Use means a craft distillery primarily engaged in the production and packaging of less than 75,000 litres per year of liquor and spirits, other than ~~wine and~~ beer. The facility may include accessory uses, such as retail sale, wholesale, tours and events, and hospitality rooms where beverages produced at the facility can be sampled.

37 Subsection 499(225) of the By-law is amended as shown in **bold** and ~~strikeout~~ by

- (a) striking out “contains 4 or more bedrooms, that meets one or more of the following:” in the portion before subclause (i);
- (b) adding the new clauses (a) and (b);
- (c) striking out the semi-colon and substituting a comma in subclause (i);
- (d) striking out “tourist accommodation” and substituting “short-term rental” and striking out “in the *Tourist Accommodation Regulation Act*” and substituting “clause 2(e) of the *Tourist Accommodation Registration Act*, S.N.S., 2019, c. 9, as amended” in the portion after subclause (ii).

(225) Shared Housing Use means a use that ~~contains 4 or more bedrooms, that meets one or more of the following:~~

(a) contains at least 4 bedrooms; and

(b) satisfies one or more of the following conditions:

- (i) that are rented for remuneration as separate rooms for residential accommodation, or
- (ii) that are operated by a non-profit organization or a registered Canadian charitable organization that provides support services to the occupants of the shared housing use,

and includes Shared Housing with Special Care but does not include short-term rental, hotel, motel, or ~~tourist accommodation~~ **short-term rental** as defined in ~~the *Tourist Accommodation Regulation Act* clause 2(e) of the *Tourist Accommodations Registration Act*, S.N.S., 2019, c. 9, as amended.~~

38 Subsection 499(286) of the By-law is amended by striking out “Section 94” and substituting “Section 94.5” as shown in **bold** and ~~strikeout~~:

(286) Yard means an open area at ground level that is uncovered by any main building, except those structural and building features permitted in ~~Section 94~~ **Section 94.5**.

39 “Schedule 18: Minimum Front and Flanking Setbacks” of the By-law is amended by

- (a) striking out “0 metres” and substituting “1.5 metres” on the west side of Lower Water Street from Terminal Road to George Street;
- (b) striking out “0 metres” and substituting “1.5 metres” on the east side of Lower Water Street from Terminal Road to Sackville Street and from Prince Street to George Street;

- (c) striking out “0 metres” and substituting “1.5 metres” on the west side of Upper Water Street from George Street to the Historic Properties;
- (d) striking out “0 metres” and substituting “0.5 metres” on the east side of Upper Water Street from Duke Street to the Historic Properties; and
- (e) striking out “0 metres” and substituting “1.5 metres” on the east side of Upper Water Street from George Street to Duke Street

40 “Schedule 19: Maximum Front and Flanking Setbacks” of the By-law is amended by striking out “1.5 metres” and substituting “4.0 metres” on the east side of Lower Water Street from Salter Street to Sackville Street.

41 “Schedule 20: Maximum Streetwall Heights – Downtown Halifax Zone” of the By-law is amended by striking out PIDs 00149765 and 00149757.

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 Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 20_____.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 20_____.

Municipal Clerk