

**Marine Drive, Valley and Canal Community Council
May 30, 2012**

TO: Chair and Members of Marine Drive, Valley and Canal Community Council



SUBMITTED BY: _____
Brad Anguish, Director, Community and Recreation Services

DATE: May 22, 2012

SUBJECT: **Case 17517: Land Use By-law Amendments – Larger Accessory Buildings**

ORIGIN

December 6, 2011 motion of Marine Drive, Valley and Canal Community Council (Item 3.1)

“Moved by Councillor Dalrymple, seconded by Councillor Hendsbee that Marine Drive, Valley and Canal Community Council request staff to initiate the process to increase footprint and height requirements for personal service accessory buildings in the Musquodoboit Valley and Dutch Settlement non-serviced areas.”

RECOMMENDATION

It is recommended that Marine Drive, Valley and Canal Community Council:

1. Give First Reading to the proposed amendments to the Musquodoboit Valley and Dutch Settlement Land Use By-law as shown in Attachment A, and schedule a Public Hearing; and
2. Approve the proposed amendments to the Musquodoboit Valley and Dutch Settlement Land Use By-law as shown in Attachment A.

BACKGROUND

On December 6, 2011, Marine Drive, Valley, and Canal Community Council directed staff to initiate the planning process to enable the development of larger accessory buildings on larger lots in the non-serviced areas of the Musquodoboit Valley and Dutch Settlement plan area. Accessory buildings, intended for accessory or subordinate purposes to the main building, are controlled under the General Provisions of the Musquodoboit and Dutch Settlement Land Use By-law (LUB). The provisions regulate height, location on the lot (setbacks) and building footprint. In order to change any of these provisions, the LUB must be amended by Community Council.

Land Use By-law Provisions

Section 4.12 (Attachment B) of the Musquodoboit Valley and Dutch Settlement Land Use By-law (LUB) outlines the restrictions applied to detached accessory buildings. Among other requirements, detached accessory buildings shall not:

- (i) be used for human habitation;
- (ii) be used for the keeping of livestock except where agriculture is a permitted use;
- (iii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line;
- (iv) exceed twenty-five (25) feet in height;
- (v) exceed seven hundred and fifty (750) square feet in any RR-1 or VIL Zones; and
- (vi) be built within eight (8) feet (2.4 m) of a dwelling unit or twelve (12) feet (3.7 m) of any other main building.

If an accessory building is attached to the main building, the requirements associated with the main building apply. As such, the LUB allows it to be built to the same height as the permitted dwelling and to the same setbacks from lot lines as the dwelling. The maximum permitted area of the dwelling and the attached accessory building are controlled by the maximum lot coverage for the applicable zone. This report focuses solely on detached accessory buildings.

DISCUSSION

The requested amendments for larger detached accessory buildings were initiated by Community Council in response to citizen demands for greater height and larger building footprints in non-serviced areas. Before reviewing current regulations for accessory buildings, it is important to understand the function of such buildings.

Function of Accessory Buildings

Residential accessory buildings are primarily built as garages for the storage of motor vehicles as well as for those items that are not particularly desirable to store within a dwelling, such as lawn mowers, sports and recreation equipment, and garden tools. Similarly, accessory buildings that are accessory to commercial, industrial or resource uses provide storage essential but subordinate to those uses.

A comprehensive review of the size regulations of detached accessory buildings must be based upon the concept that accessory buildings should be developed to enable their use for purposes that are naturally incidental and subordinate to function secondarily to the principle building and to provide for the storage of items associated with the main use. Staff's review focuses on three issues associated with larger accessory buildings as follows:

Height of Detached Accessory Buildings

The current permitted height of an accessory building is 25 feet measured from the established grade¹ to the highest point of the roof. Some municipalities permit accessory buildings to be no taller than the height of the main dwelling or building while other locales determine the height by establishing a maximum wall height and roof pitch.

Staff recommends that accessory buildings should not be greater than the height of the main dwelling where the accessory building is subordinate to the main dwelling. This would apply within the VIL (Village) and RR-1 (Rural Residential) zones where residential development is the dominant land use. Controlling the overall height and bulk of accessory buildings needs to be balanced with aesthetic opportunities, such as providing for steeper pitched roofs. This permits increased bulk, but at the same time allows residents to match roof pitches with their house for aesthetic purposes. Allowing accessory buildings to be built to the same height as the main dwelling presents the possibility that buildings could be built to the maximum height utilizing a flat roof, thus creating the potential for a bulky structure. If the main dwelling height is less than the current maximum, the accessory building could be built to a maximum height of 25 feet. Staff is of the opinion that buildings having roofs with a pitch of 4:12 or less should be permitted a maximum wall height of 16 feet measured from the established grade to the bottom of the soffit.

For accessory buildings or structures associated with commercial, industrial or resource uses, staff believes that they should not be controlled by aesthetics (proportion, height, bulk), but rather the function or usefulness of the building. In the MU (Mixed Use) Zone where a broad range of uses is supported and encouraged, residential development is an important component of the land use pattern but it is not a dominant condition. The MU Zone permits accessory buildings limited to a height of 25 feet but staff believe that such buildings should be permitted to be the same height as the main building.

Size of Detached Accessory Buildings

Under the Musquodoboit Valley and Dutch Settlement plan area, only those accessory buildings within the VIL (Village) and RR-1 (Rural Residential) Zones are restricted to a maximum permitted floor area of 750 square feet. The Land Use By-law also regulates lot coverage separately for all buildings on the site. Some municipalities restrict building size through lot coverage by applying maximum gross floor areas to main buildings and accessory structures. Staff believes that accessory buildings should be of a lesser scale than the dwelling and that the footprint of the building should be proportionately smaller than the dwelling footprint, especially if the maximum height is now the same as the dwelling.

¹ The established grade is the average elevation of the finished surface of the ground where it meets the exterior of the building.

Staff recommends that within the VIL (Village) and RR-1 (Rural Residential) zones the building footprint of an accessory building should be based upon lot size as follows:

- i) For lots less than 40,000 square feet, in area, an accessory building should not exceed 80% of the footprint of the main dwelling up to a maximum of 2,000 square feet. If this percentage yields a footprint area less than the current maximum, the accessory building can be built to the maximum footprint area of 750 square feet; and
- ii) For lots more than 40,000 square feet, in area, the accessory building footprint may be increased by 5% of the total lot area up to a maximum of 4,500 square feet.

Setbacks

The current setback requirements for detached accessory buildings are generally considered adequate for the existing height and size of such buildings in the VIL and RR-1 Zones. However, with the proposed increase in height and floor area potentially matching those of the highest roofline of the dwelling (i.e., 26 to 35 feet) staff believe that the setbacks from property lines should be increased in order to locate these larger buildings further away from property boundaries and the main dwelling to minimize compatibility issues. Staff is of the opinion that the rear and side yard setbacks and the setback distance from the dwelling in the VIL and RR-1 Zones should be increased to one half the height of the accessory building. The proposed increase will create a proportional setback so that potential impacts of larger and taller buildings are minimized.

Conclusion

Staff is of the opinion that the proposed LUB amendments for detached accessory buildings are consistent with the intent of the Municipal Planning Strategy for Musquodoboit Valley and Dutch Settlement within non-serviced areas. Therefore, staff recommends that Marine Drive, Valley and Canal Community Council approve the proposed amendments as outlined in Attachment A of this report.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved 2012/13 operating budget for C310 Planning Applications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

An information report outlining the status of the application was presented at the February 22, 2012 Council meeting. Council received feedback from four residents during the "Public Participation" component of their meeting. The feedback was in support of larger accessory

buildings, provided the buildings were reasonably sized and did not interfere with their neighbour's enjoyment of their property.

The local Councillor deemed that a public information meeting was not necessary as a result of the comments received at the Council meeting as well as other feedback he received from his residents.

A public hearing will be held by Council before they can consider approval of any applications. Should Council decide to proceed with a Public Hearing on this application, in addition to the published newspaper advertisements information will be posted on the HRM website.

The proposed land use by-law amendments will potentially impact the following stakeholders: property owners.

ENVIRONMENTAL IMPLICATIONS

None identified.

ALTERNATIVES

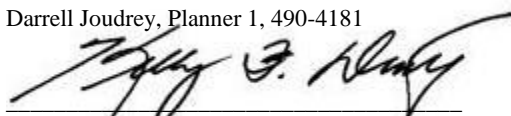
1. Council may choose to approve the proposed amendments to the Musquodoboit Valley and Dutch Settlement Land Use By-law, as set out in Attachment A of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amendments to the Musquodoboit Valley and Dutch Settlement Land Use By-law as set out in Attachment A of this report, subject to modifications. This may require an additional public hearing.
3. Council may choose to refuse the proposed amendments to the Musquodoboit Valley and Dutch Settlement Land Use By-law, as set out in Attachment A of this report and in doing so, must provide reasons based on a conflict with MPS policies.

ATTACHMENTS

Attachment A	Proposed Amendments to the Musquodoboit Valley and Dutch Settlement LUB
Attachment B	Excerpts from the Musquodoboit Valley and Dutch Settlement LUB

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Darrell Joudrey, Planner 1, 490-4181



Report Approved by: Kelly Denty, Acting Manager, Development Approvals, 490-4800

**Attachment A:
Proposed Amendments to the Musquodoboit Valley and Dutch Settlement LUB**

BE IT ENACTED by the Marine Drive, Valley and Canal Community Council of the Halifax Regional Municipality that the Musquodoboit Valley and Dutch Settlement Land Use By-law as adopted by the former Halifax County Municipality on the 19th day of February, 1996, A. D. and approved by the Minister of Municipal Affairs on the 3rd day of May, 1996, A. D. which includes all amendments thereto which have been adopted by the Municipality and approved by the Minister as of the 7th day of February, 2009, is hereby further amended as follows:

1. By deleting clauses (iv), (v) and (vi) of subsection (a) of section 4.12 and inserting the following new clauses after clause (iii):
 - (iv) **exceed the height of the main dwelling, or 25 feet, whichever is greater, in any VIL or RR-1 Zone or the height of the main commercial, industrial or resource building in any MU Zone;**
 - (v) **exceed a maximum wall height of 16 feet (4.88 m), measured from the established grade to the underside of the soffit, for any accessory building having a roof pitch of 4:12 or less on any lot without central cervices in any VIL or RR-1 Zone;**
 - (vi) **exceed 80% of the footprint of the main dwelling, up to a maximum of 2000 square feet (185.81 square m) or 750 square feet (69.68 sq. m), whichever is the greater, on lots that are less than 40,000 square feet in area;**
 - (vii) **exceed 5% of the total lot area up to a maximum of 4500 square feet (418.06 sq. m), whichever is the greater, on any lot without central cervices and greater than 40,000 square feet in area in any VIL or RR-1 Zone; and**
 - (viii) **be built closer to any side, rear lot line or dwelling than eight (8) feet (2.4 m) or one half the height of such accessory building or structure, whichever is greater, on any lot without central cervices in any VIL or RR-1 Zone or closer than 12 feet (3.7 m) of any other main building.**

I HEREBY CERTIFY that the amendments to the Musquodoboit Valley and Dutch Settlement Land Use By-law as set out above, were passed by a majority vote of the Marine Drive, Valley and Canal Community Council held on the ____ day of _____, 2012.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2012.

Cathy Mellet
Municipal Clerk

**Attachment B:
Excerpt from Musquodoboit Valley and Dutch Settlement Land Use By-law**

4.12 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (i) be used for human habitation except where a dwelling is a permitted accessory use;
 - (ii) be used for the keeping of livestock except where agriculture is a permitted use;
 - (iii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 1. common semi-detached garages may be centred on the mutual side lot line; and
 - 2. fish sheds and boat sheds may be built to the lot line which corresponds to the high watermark; and
 - 3. where an area of land is proposed to be subdivided and an existing accessory building is less than one hundred and four (104) feet (31.7 m) from any side or rear lot line forming a boundary of the proposed lot, the minimum side yard requirement for the accessory building may be reduced to two (2) feet (0.6 m).
 - (iv) exceed twenty-five (25) feet (7.6 m) in height;
 - (v) exceed seven hundred and fifty (750) square feet (69.7 m) in any RR-1 or VIL Zones;
 - (vi) be built within eight (8) feet (2.4 m) of a dwelling unit or twelve (12) feet (3.7 m) of any other main building.
- (b) Notwithstanding anything else in this By-law, drop awnings, clothes poles, flag poles, garden trellises, fences and retaining walls shall be exempted from the requirements under Subsection (a) of this Section.