

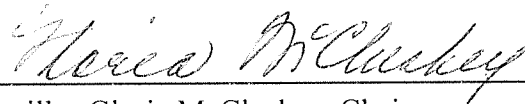


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 11.3.1

**Halifax Regional Council
March 23, 2010**

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Councillor Gloria McCluskey, Chair
Harbour East Community Council

DATE: March 4, 2010

SUBJECT: Case 15788: Amendment to Regional Subdivision By-law

ORIGIN

The meeting of Harbour East Community Council held on March 4, 2010.

RECOMMENDATION

Harbour East Community Council recommends that Regional Council:

1. Give First Reading to the proposed amendment to the Regional Subdivision By-law as shown in Attachment A of the report dated January 28, 2010 and schedule a public hearing; and
2. Approve the proposed amendment to the Regional Subdivision By-law as shown in Attachment A of the report dated January 28, 2010.

DISCUSSION

Harbour East Community Council considered this matter at their March 4, 2010 meeting.

BUDGET IMPLICATIONS

As outlined in the attached staff report dated January 28, 2010.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

As outlined in the attached staff report dated January 28, 2010.

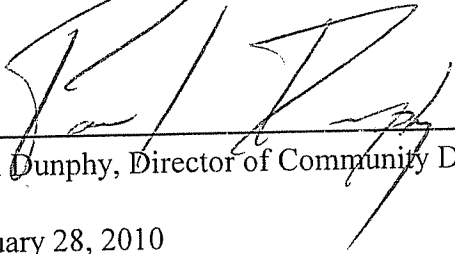
ATTACHMENTS

Staff report dated January 28, 2010.

Harbour East Community Council
March 4, 2010

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:


Paul Dunphy, Director of Community Development

DATE:

January 28, 2010

SUBJECT: Case 15788: Amendment to Regional Subdivision By-law

ORIGIN

On November 12, 2009, Harbour East Community Council (HECC) passed the following motion:

"Moved by Councillor Barkhouse and seconded by Councillor Karsten, that Harbour East Community Council direct staff to initiate the amendment process for the Regional Subdivision By-law to allow a reduction in the frontage requirements for serviced lots within the jurisdiction of Harbour East Community Council that have more than one dwelling on an area of land."

RECOMMENDATION

It is recommended that Harbour East Community Council recommend that Regional Council:

1. Give First Reading to the proposed amendment to the Regional Subdivision By-law as shown in Attachment A and schedule a public hearing; and
2. Approve the proposed amendment to the Regional Subdivision By-law as shown in Attachment A of this report.

BACKGROUND

The Regional Subdivision By-law was adopted in 2006 in conjunction with the Regional Plan and it outlines the general subdivision requirements for the municipality. Within the Regional Subdivision By-law there are provisions that apply to the Eastern Region that allow for the relaxation of subdivision requirements for older lots that have two or more main buildings. These include sections 40(4) and 65. Section 40(4) allows the relaxation of the lot area in subdivisions where there are two or more main buildings on a serviced property and applies to the entire municipality. Section 65, which only applies to the Dartmouth Plan Area will allow the relaxation of lot frontage in the case where there are two or more main buildings on a serviced lot that existed prior to January 1, 1967.

Proposal

Harbour East Community Council is requesting an amendment to the Regional Subdivision By-law to allow a similar requirement as Section 65 for all serviced lots within the jurisdiction of Harbour East that have two or more existing dwellings on a lot prior to a certain date. HECC request is in response to staff receiving inquiries from property owners within the older developed areas of Eastern Passage and Cole Harbour to permit the dwellings on their property to be subdivided into separate ownership.

Location and Designation

- Serviced Areas of Districts 4, 7 and 8 (See Map 1).
- The subject areas are within the Cole Harbour /Westphal Plan Area and Eastern Passage / Cow Bay Plan Area.
- The subject areas are designated Urban Settlement under the Regional Plan.

DISCUSSION

The proposed amendment, as outlined in Attachment A, is consistent with the applicable planning strategies and staff anticipated that the amendment will effect only a few properties within the plan areas for Cole Harbour/Westphal and Eastern Passage/Cow Bay as:

- (i) the amendment only applies to properties where there are two or more dwellings¹ on a lot that existed prior to the adoption of the local Land Use By-law;
- (ii) the majority of the development in both areas occurred after municipal regulations limited one main building to a property; and

¹ Dwelling is defined as a building or part of a building, occupied or capable of being occupied as a home or residence by one or more persons, and containing one or more dwelling units but shall not include a hotel, a motel, apartment hotel or hostel within both Land Use By-laws for both plan areas.

- (iii) the amendment will only effect lots with full services (sewer and water).

The proposed amendment should have no effect to municipal services as it will not allow the creation of new developable lots. Further, the amendment will only apply to cases where the property has existed prior to June 22, 1992 which is the effective date for the Eastern Passage /Cow Bay Land Use By-law.

Public Participation

A Public Information Meeting (PIM) held January 11, 2010 at the Alderney Gate Library. Staff presented information concerning the application and a question and answer period followed. The meeting was attended by two members of the public, both from the Sunset Acres Subdivision in Westphal. The main concern expressed dealt with the creation of flag lots through this amendment. Staff explained this amendment will only be applicable to older lots where there are two or more dwellings that existed prior to June 22, 1992 and will not open the door to the creation of new developable lots. Minutes from the PIM are contained in Attachment C of this report.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved operating budget for C310.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

1. Council may choose to approve the proposed amendment to the Regional Subdivision By-law, as shown on Attachment A. This is the staff recommendation.
2. Council may choose to approve the proposed amendment to the Regional Subdivision By-law subject to modifications. This may require a second public hearing.
3. Council may choose to refuse the proposed amendment to the Regional Subdivision By-law. If refused, the existing standards will continue to apply within the referenced areas.

ATTACHMENTS

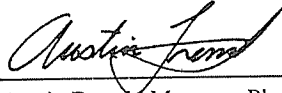
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|---------------|---------------------------------------------------------------|
| Map 1: | Area Effected by Amendment to the Regional Subdivision By-law |
| Attachment A | Proposed Regional Subdivision By-law Amendment |
| Attachment B: | Applicable Sections for the Regional Subdivision By-law |

Attachment C:

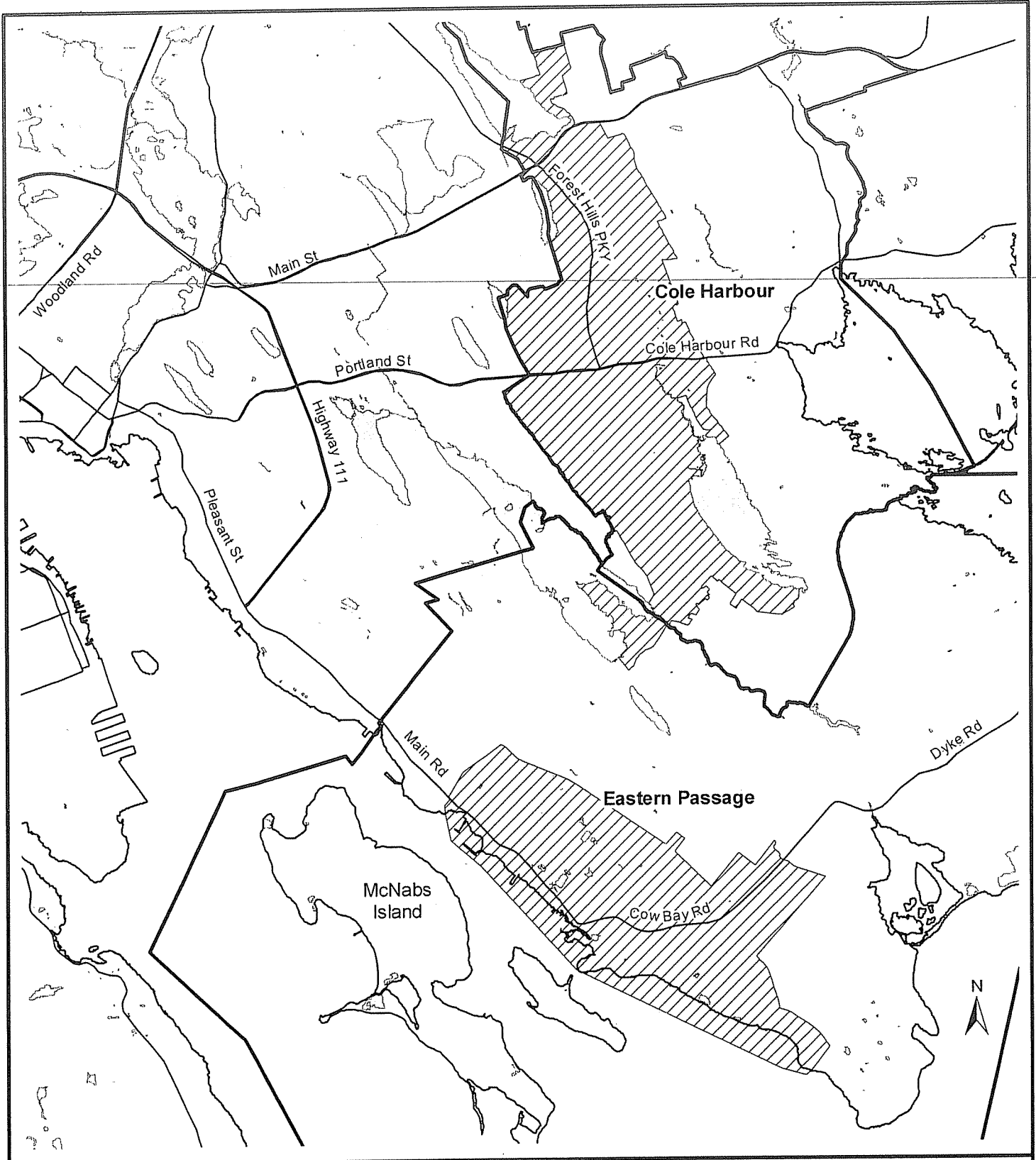
January 11, 2010 Public Information Meeting Minutes

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 : Jillian MacLellan, Planner 1, (902)-490-3999



Report Approved by: Austin French, Manager, Planning Services, 490-6717



Map 1 - Area Effected by Amendment to the Regional Subdivision Bylaw

-  Plan Area Boundary
-  Area to be Amended

HALIFAX
 REGIONAL MUNICIPALITY
 COMMUNITY DEVELOPMENT
 PLANNING SERVICES



HRM does not guarantee the accuracy of any representation on this plan.

Attachment "A"
Proposed Regional Subdivision By-law Amendment

BE IT ENACTED by Regional Council of the Halifax Regional Municipality that the Regional Subdivision By-law as enacted by the Halifax Regional Municipality on the 27th day of June, 2006 and approved by the Minister of Municipal Affairs on the 26th day of August, 2006 as amended, is hereby further amended as follows:

Eastern Passage/Cow Bay Plan Area and Cole Harbour/Westphal Plan Area

Same Number of Fewer Lots Than There Are Dwellings

47(A) Within the Eastern Passage/Cow Bay Plan Area and Cole Harbour/Westphal Plan Area, where an area of land contains more than one dwelling which was built or placed prior to June 22, 1992 the Development Officer may approve a final plan of subdivision showing the same number or fewer lots than there are dwellings provided that each lot:

- (a) has a separate right-of-way to a public street or highway;
- (b) has a minimum width of 6.1 metres;
- (c) is serviced by a separate sanitary sewer system and a separate water distribution system; and
- (d) has been reviewed by the Development Engineer, Building Inspector and the Development Officer is notified in writing that they will have no objection to the proposed subdivision.

I HEREBY CERTIFY that the amendment to the Regional Subdivision By-law as set out above, was passed by a majority vote of the Halifax Regional Council at a meeting held on the ____ day of _____, 2010

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2010

Municipal Clerk

Attachment B
Applicable Sections of the Regional Subdivision By-law

Relaxation of Lot Frontage and Area Requirements

~~40(4)~~ Notwithstanding the lot area requirements of sections 7 and 31, where an area of land contains more than one main building, the Development Officer may approve a final plan of subdivision showing the same number or fewer lots as there are buildings, provided that each proposed lot is approved by the Department of the Environment and Labour or the Engineer, with respect to servicing and the Building Inspector, with respect to spatial separation.

Former City of Dartmouth Plan Area

Same Number or Fewer Lots Than There Are Main Buildings

65 Within the former City of Dartmouth Plan Area and notwithstanding section 32, where an area of land contains more than one main building which was built or placed prior to January 1, 1967, the Development Officer may approve a final plan of subdivision showing the same number or fewer lots than there are main buildings provided that each lot:

- (a) has a separate right-of-way to a public street or highway,
- (b) has a minimum width of 6.1 m; and
- (c) is serviced by a separate sanitary sewer system and a separate water system.

Attachment C
Jan 11, 2010 Public Information Meeting Minutes

PUBLIC INFORMATION MEETING
CASE 01358 - REGIONAL SUBDIVISION BY LAW AMENDMENT
EASTERN PASSAGE / COW BAY AD COLE HARBOUR/WESTPHAL PLAN AREAS

January 11, 2010

Alderney Library, Dartmouth
7:00 p.m.

STAFF IN

ATTENDANCE: Jillian MacLellan, Planner
Cathy Spencer, Development Officer
Holly Kent, Technician
Jennifer Little, Planning Controller

OTHER: Councillor Jackie Barkhouse, District 8
Councillor Lorelei Nicoll, District 4
Councillor Gloria McCluskey, District 5
Councillor Bill Karsten, District 7

**MEMBERS OF
THE PUBLIC:** 2

PRESENTATION/ OVERVIEW

Ms. Jillian MacLellan, Planner, Planning Applications, called the meeting to order at approximately 6:59 p.m. in the Alderney Gate Library, Helen Creighton Room, 60 Alderney Gate, Dartmouth.

Ms. MacLellan welcomed residents to the meeting and thanked them for attending . She introduced Cathy Spencer, Development Officer, Holly Kent as the Planning Technician and Jennifer Little as the Planning Controller. Ms. MacLellan also introduced Councillor Jackie Barkhouse, District 8; Councillor Lorelei Nicoll, District 4; Councillor Gloria McCluskey, District 5 and Councillor Bill Karsten, District 7.

Ms. MacLellan explained that the purpose of the meeting is to discuss a proposed amendment to the Regional Subdivision By-law to allow the relaxation on lot frontage requirements where there is more than one main building existing on a lot, within the serviced areas of Eastern Passage and Cole Harbour. She reviewed the application process, noting that the public information meeting is an initial step, whereby HRM reviews and identifies the scope of the application and seeks input from the neighborhood. Public feedback will be considered when staff prepares its recommendation. The application will then be brought forward to Community Council which will hold a public hearing at a later date, prior to making a decision on the amendment.

Ms. MacLellan viewed a slide of examples of sections of the Regional Subdivision By-law that deal with subdividing properties with one or more main buildings as well as a slide showing the areas that will be effected by this amendment. These areas within the jurisdiction of Harbour East. She explained that this amendment will only allow the frontage to be reduced where there are two or more main buildings on a lot. This will not apply to a property where there is a house and a shed or garage on the property and will only apply to buildings which have existed prior to the adoption of the land use by-laws for the planning areas.

Ms. Cathy Spencer, Development Officer explained that she was familiar with three different situations in Dartmouth that have been approved over the last 10 - 15 years. One of these situations, they ended up with no frontage and has a right away on to Waverley Road; one of the other situations, there had been 20 feet of frontage because the property owner chose to keep a parcel of land, so that they could own connecting to the road; and the third situation it got reduced to 32 feet of frontage.

QUESTIONS AND COMMENTS

Councillor Karsten asked when this application will be brought forward to Harbour East Community Council.

Ms. MacLellan explained that the first reading will be in February 2010.

Mr. Ron Decker, O'Dell Drive, asked what the current minimum frontage is for a lot.

Ms. MacLellan explained that it depends on the Plan Area and the zoning of the lands.

Mr. Decker explained that he lives in the Cole Harbour Westphal area.

Ms. Spencer explained that the minimum frontage is 60 feet of frontage and 6000 square feet for servicing water. However, there is a provision in the Regional Subdivision By-law that allows it to be reduced by 10%. She added that a couple of years ago, in the Westphal area, there was an amendment which now prohibits the flag lot.

Councillor McCluskey asked how many lots like this are currently around?

Ms. Spencer explained that there are approximately 2-3 in Eastern Passage that could use this provision. She added that it is mostly in the older areas and explained that Woodside has a few.

Councillor Karsten added that there may potentially be some around Caldwell Road, Dartmouth.

CLOSING COMMENTS

Ms. MacLellan thanked everyone for coming and sharing their comments and questions.

MEETING ADJOURNMENT

Meeting adjourned at approximately 7:08 p.m.