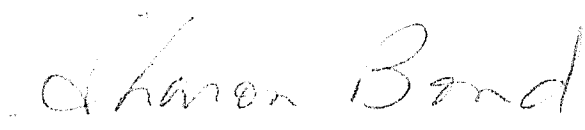




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Peninsula Community Council - January 14, 2008
Chebucto Community Council - January 7, 2008

TO: Chair and Members of the Peninsula Community Council
Chair and Members of the Chebucto Community Council

SUBMITTED BY: 
Sharon Bond, Acting Director, Community Development

DATE: December 17, 2007

SUBJECT: Amendments to the Halifax Peninsula Land Use By-law Gross Floor Area Requirements

INFORMATION REPORT

ORIGIN

Motion of Peninsula Community Council, June 11, 2007, Added Item 12.1

BACKGROUND

The gross floor area requirements were adopted as amendments to the Halifax Peninsula Land Use By-law in September 2005 by the Peninsula and Chebucto Community Councils. They were part of an amendment package that was introduced to address the emergence of what have commonly been referred to as “quasi-rooming houses.” These are large houses with a high number of bedrooms, relative to their surroundings. Although they may appear to be actual rooming houses, they are difficult to differentiate within a zoning context from other housing types because the building functions as a single housekeeping unit.

“Quasi-rooming houses” within low density neighbourhoods have been cited as being problematic by residents surrounding them largely because of:

- the relatively large size of these buildings that may, following the construction of an addition, fill the full building envelope permitted by the Land Use By-law with regard to height and lot coverage; and
- the social problems that can occur with such a significant number of residents living within a single house, which may include noise generation, insufficient parking, and garbage storage.

There are numerous by-law, enforcement, and educational measures that have helped mitigate the impact of such housing. From a zoning perspective, the amendments introduced in 2005 had two components:

1. Bedroom Counts

The recent amendments contained land use distinctions that defined housing types based upon the number of bedrooms they contained. For example, a single family detached dwelling was defined as having a maximum of five bedrooms and as such was differentiated from a rooming house, which was defined as having more than five bedrooms. With this, rooming houses are only permitted in higher density zones on the Peninsula and thus are no longer allowed in most established neighbourhood areas. This is a provision that cannot be relaxed through a “variance” procedure.

2. Gross Floor Area Requirements

Gross floor area requirements were implemented to address the issue of houses that were being built to the full envelope permitted by the Land Use By-law, through lot coverage and height requirements. These measures regulate the amount of habitable floor area that may be contained within a building relative to the size of a lot. For example, the amount of floor area that is permitted on a 4,000 square foot lot is a factor of 0.70 (4,000 x 0.70), or 2,800 square feet. The gross floor area requirements may be relaxed through a variance application that may ultimately be decided, if appealed, by Community Council following a public hearing.

DISCUSSION

Coupled with factors such as a declining university enrollment and enhanced by-law enforcement measures, the 2005 amendments resulted in a halt in the establishment of “quasi-rooming houses.” However, there have been some negative consequences:

1. The land use definitions respecting the number of bedrooms have posed some challenges for property owners wishing to establish houses with more than five bedrooms that are clearly not “quasi-rooming houses.” However, it is estimated by Development Staff that there have only been two such instances since the adoption of the amendments.

2. The gross floor area requirements have presented difficulties for many projects, that again, have clearly not been “quasi-rooming houses.” This has resulted in situations where improvement projects have been abandoned, modified to comply with the requirements, or resulted in variance applications. The concern with this is the potential that the requirements may act as a disincentive to property owners wishing to make improvements to their properties. In many cases, based upon observations of the statements made at variance hearings, such improvements are often desired to accommodate growing families, which are recognized as being important for Peninsula Halifax in light of factors such as declining school enrollments.

Due to the issues associated with the gross floor area requirements, Peninsula Community Council has twice asked for information about the impact of the requirements and recommendations on changing them, once on December 12, 2005 and most recently on June 11, 2007 (which is now the subject of this report).

In 2006, in response to the December 12, 2005 motion, staff recommended that the gross floor area requirements be removed as a regulation in the Land Use By-law. The rationale for this was that it was the land use by-law definitions respecting the number of bedrooms that addressed the “quasi-rooming house” issue. Without the financial incentive to establish large houses, that being the number of bedrooms that results in correspondingly higher rents, there was no longer such a substantial issue with construction of relatively large houses.

The District 12 Planning Advisory Committee agreed with the recommendation to remove the gross floor area requirements. However, the Chebucto and Peninsula Community Councils did not support this largely due to their concern that there was insufficient experience to date with the regulations so as to support their removal.

In 2007 Peninsula Community Council has requested information about the nature of the gross floor area variance applications that have been considered since the introduction of these regulations. Attachment “A” contains a list of variances for individual properties and provides considerable information about the relationship of the gross floor area requirements with the reality of desired housing improvements. Also of interest is that in all but one instance, the variance applications were either approved by the Development Officer on the basis that the application was consistent with amount of floor area that is found in the surrounding area, or was approved by Community Council when they were appealed.

Staff continue to support our 2006 conclusions that the gross floor area requirements have little bearing on the establishment of “quasi-rooming houses.” However, we do recognize that there may be potential issues with houses that could be built to the full height and lot coverage envelopes provided by the Land Use By-law if the regulations were to be removed. In most, but not all, low density neighbourhood areas, such housing would be out-of-scale with its

surroundings. For this reason, we recommend that the gross floor area provisions be modified to align with the following principles:

1. The gross floor area requirements are currently designed with “quasi-rooming houses” in mind, thus with a focus solely upon habitable space. Prospective amendments should concentrate upon overall building volume so that features such as attached garages are included, but basements that are largely below grade are omitted as part of the requirements.
2. The gross floor area requirements currently have a sliding scale so that larger properties are not necessarily permitted to have equally correspondingly larger floor areas. Prospective amendments should provide a uniform floor area ratio for all property sizes, with the objective being to prevent houses from being built to the full height and lot coverage envelopes (see Figure 1), unless this is what defines the character of a particular neighbourhood area. Information from Attachment “A” is helpful in establishing where adjustments to the requirements may be advisable.

Neighbourhood Issues and HRMByDesign

There have been community groups and individuals that have closely followed by-law amendments that have been intended to address quality-of-life issues on the Peninsula. Rather than simply present any finalized recommendations to Council, public consultation should occur that includes an explanation of current regulations, block-by-block analysis as needed, and discussions about the impact of any possible future amendments. This would be accomplished through the use of graphic illustrations, such as the one shown above.

This type of analysis is anticipated as an outcome of HRMbyDesign. The HRMbyDesign project will create a physical vision and framework for the downtown and surrounding neighbourhoods. Although the workplan is currently focussed on the downtown, recommendations and discussion of neighbourhood design issues will be forthcoming. This is the time in which the gross floor area requirements should be considered. In the interim, staff will continue to monitor the existing gross floor area requirements.

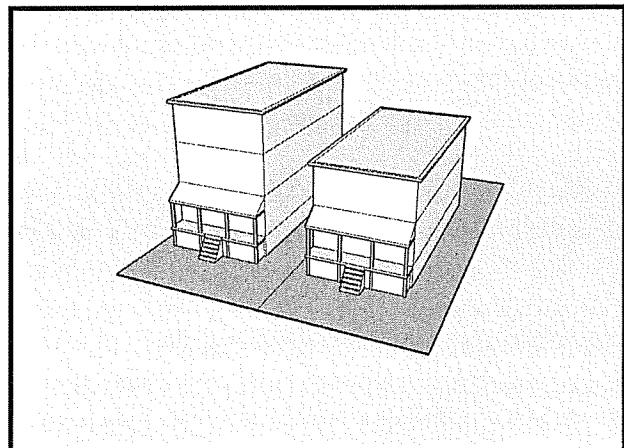


Figure 1, Comparison of Possible Houses

(left) A house built to 35% lot coverage and 35 feet in height, without a gross floor area requirement

(right) A house built to 35% lot coverage, with a gross floor area of 0.70, thereby limiting height to 25 feet

BUDGET IMPLICATIONS

None.

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. Community Council could pursue possible amendments to the gross floor area requirements by directing staff conduct public participation following the completion of the Downtown Halifax part of the HRMbyDesign project. This is the recommended alternative.
2. Community Council could direct staff to completely remove the gross floor area requirements from the Land Use By-law, which a relatively simple task. This is not the recommended alternative, but it would be supported by staff on the basis that the 2005 "bedroom count" amendments address the "quasi-rooming house" issue.
3. Community Council could decide to retain the existing gross floor area requirements. This is not recommended for the reasons contained in this report.

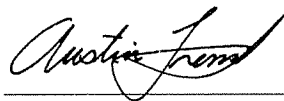
ATTACHMENTS

Attachment "A" Gross Floor Area Variance Applications, October 25, 2005 to June 15, 2007

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 : Richard Harvey, Senior Planner, 490-3800

Report Approved by:



Austin French, Manager, Planning Services, 490-6717

Attachment "A", Gross Floor Area Variance Applications, October 25, 2005 to June 15, 2007

Variance Application Address	Permitted Floor Area (sq. ft.)	Application Floor Area sq. ft.	No. of Bdrms	No. Of Houses in Surrounding Area	Surrounding Area Floor Area Range sq. ft.	Surrounding Area Floor Area Average sq. ft.	Approvals	Refusals	Process Time (days)*
1. 3667 Leaman St.	2800 (3066 Exist.)	5271	4	16	1800 - 3800	2539	③		40
2. 5979 Kane St.	4500	5909	4 unit dwelling	15	n/a	n/a	①		61
3. 5562 Faulkland St.	1969 (3021 Exist.)	3397	n/a	22	1070 - 4680	2371	②		60
4. 1591 Chestnut St.	2800	3202	4	15	2937 - 8073	4273	①		28
5. 2385- 87 Clifton St.	3300 (4230 Exist.)	4878	3	19	1592 - 21,904 (18 unit)	4686	①		34
6. 6301 Coburg Rd.	2925 (3670 Exist.)	3760	5	13	n/a	n/a	①		49
7. 6544 Berlin St.	2800	3241	4	18	1196 - 3888	2578	①		53
8. 977 Young Ave.	5374	10964	3 condo units	15	n/a	n/a	①		120
9. 1165/1171 Waterloo St.	4320	6767	5	16	2034 - 6912	3473	②		67
10. 6676 Second St.	2688	2842	3	17	n/a	n/a	①		53
11. 6498 London St.	2738	2751	4	18	n/a	n/a	①		22
12. 1646 Oxford St.	3850	4169	3	12	2551 - 7557	5048	①		39
13. 5539 Cogswell St.	1500	3100	n/a	7	2300 - 4800	3886		⑥	90

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14. 5543 Cogswell St.	1500	4,000	n/a	7	2300 - 4800	3886	②		61
15. 1760 Oxford St.	2925	3191	5	15	1249 - 2239 (Footprints)	1576 (Footprint)	①		41
16. 6331 Norwood St.	2475	2740	3	20	n/a	n/a	①		21
17. 6153 Murray Place	3000	4204	n/a	13	2025 - 5182	2970	②		78
18. 882 Marlborough Ave.	3630	4204	n/a	13	n/a	n/a	①		51
19. 6355 Liverpool St.	2369	2600	2	21	n/a	n/a	①		22
20. 6327 Duncan St.	2400	2589	n/a	21	n/a	n/a	①		34
21. 538 Young Ave.	4500	5022	5	12	3675 - 8624	5341	①		47
22. 6495 Young St.	2850	3388	4	18	2625 - 2955	2821	①		72
23. 1064 Ridgewood Dr.	6265	8580	5	5	3000 - 6500	4195	③		48

* From date of application to final decision

Approvals

- ① Approved by Development Officer, no appeal
- ② Approved by Development Officer, appealed, decision of Development Officer upheld
- ③ Refused by Development Officer, appeal, decision of Development Officer overturned

Refusals

- ④ Refused by Development Officer, no appeal
- ⑤ Refused by Development Officer, appeal, decision of Development Officer upheld
- ⑥ Approved by Development Officer, appealed, decision of Development Officer overturned