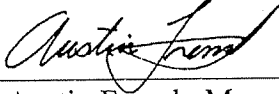




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Harbour East Community Council  
September 15, 2011

**TO:** Chair and Members of Harbour East Community Council

**SUBMITTED BY:**   
Austin French, Manager of Planning Services

**DATE:** September 1, 2011

**SUBJECT:** Land Use By-law Amendment – Higher Accessory Buildings

**ORIGIN**

June 9, 2011 Harbour East Community Council meeting (Item 10.1.2)

*MOVED by Councillor Barkhouse, seconded by Councillor Fisher, that Harbour East Community Council request a staff report on the viability and impact of higher accessory buildings on larger lots in the serviced area of Eastern Passage. MOTION PUT AND PASSED.*

**RECOMMENDATION**

It is recommended that Harbour East Community Council not initiate a land use by-law amendment application to consider larger accessory buildings on larger lots in the serviced area of Eastern Passage and Cow Bay.

## **BACKGROUND**

On August 6, 2009, Harbour East Community Council (HECC) requested that staff initiate a planning process to consider larger accessory buildings on larger lots in Cole Harbour/Westphal and the Eastern Passage/Cow Bay non-serviced areas. The request was in response to demands for greater height and larger building footprints. In August 2011, HECC approved amendment to the Eastern Passage/Cow Bay Land Use By-law (LUB) respecting the total size, height and setbacks of accessory buildings in any residential zone located outside the Urban Service Area. On June 9, 2011, HECC requested information on the viability and potential impacts of permitting larger accessory buildings on larger serviced lots within the Eastern Passage/Cow Bay plan area. At present, only the community of Eastern Passage contains serviced lots (both sanitary sewer and water) and as such are located within the Urban Service Area of HRM.

### *Provisions for Accessory Buildings*

The height of accessory buildings in the community of Eastern Passage is regulated under the Land Use By-law for Eastern Passage/Cow Bay. Requirements for height vary between residential properties located inside and outside the Urban Service Area:

- Inside Urban Service Area – Accessory are not permitted to exceed 15 feet (4.6 m) in height and 750 square feet (69.7 m<sup>2</sup>) in total area. The minimum lot area of a single unit dwelling is only 6,000 square feet and most serviced lots are close to the minimum lot area requirement due to land costs and land use by-law standards.
- Outside Urban Service Area - Accessory buildings are permitted to be as tall as the main building although may not contain a footprint that exceeds 80% of the footprint of the main dwelling up to a maximum of 1,250 square feet (116.13m<sup>2</sup>) or 750 square feet (69.68 m<sup>2</sup>), whichever is the greater. The minimum lot area of a single unit dwelling is 30,000 square feet and most serviced lots for such uses are typically larger due to the Department of Environment standards for on-site specific systems.

## **DISCUSSION**

### *Accessory Buildings in HRM*

Upon review of LUB requirements throughout the municipality, it is evident that a maximum height of 15 feet (4.6 m) and total area of 750 square feet (69.68 m<sup>2</sup>) are common requirements for accessory buildings located inside the Urban Service Area. Attachment A contains the current maximum permitted height and size of accessory buildings in the Urban Service Area. Staff attributes these common height and area requirements to the fact that residential properties located within the Urban Service Area have greater potential for generating nuisance due to their increased proximity with adjacent properties.

While the majority of LUB's examined limit residential accessory buildings to the above noted standard, the Sackville LUB does allow for taller accessory buildings. The option for taller accessory buildings was intended to compensate for steep grades in the Sackville area; however, the same regulations also apply to level properties. Attachment B contains the accessory building requirements for Sackville.

Within the Sackville plan area, taller residential accessory buildings are permitted to exceed 15 feet (4.6 m), up to a maximum height of the main dwelling or 22 feet (6.7 m), whichever is less, provided the following conditions are satisfied:

- the walls are 12 (3.6 m) feet tall or less;
- the side and rear setbacks are increased accordingly; and
- the property is at least 40,000 square feet (3,716 m<sup>2</sup>) in area.

As larger residential properties are less common in the Urban Service Area, requirements for taller accessory buildings in Sackville typically correspond with larger lots located in un-serviced portions of the Sackville plan area. Further, Eastern Passage and Sackville are now recognized as growth centres under the Regional Plan. Therefore, the potential for future subdivision of larger serviced lots into smaller lots is higher due to the availability and cost of land in these areas which may result in future land use impacts occurring over time.

#### *Conclusion*

A maximum height of 15 feet (4.6 m) and total area of 750 square feet (69.68 m<sup>2</sup>) for accessory buildings is a common requirement of land use by-laws located inside the Urban Service Area. Staff attributes these common height and area requirements to the fact that residential properties located within the Urban Service Area have greater potential for generating nuisance due to their increased proximity with adjacent properties. Staff does not view the land use by-law requirements for accessory buildings in serviced areas of Eastern Passage as unique or different from requirements in other communities located inside the Urban Service Area. Further, the current standards address the potential for land use impacts in the future as these larger lots develop. For these reasons, Staff does not recommend that Harbour East Community Council initiate a land use by-law amendment application to consider higher accessory buildings on larger lots in the serviced area of Eastern Passage.

#### **BUDGET IMPLICATIONS**

If initiated by Council the costs to process this planning application can be accommodated within the proposed 2011/2012 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**

Any amendment to the Eastern Passage / Cow Bay Land Use By-law would involve community engagement and the engagement process will be consistent with the intent of the HRM Community Engagement Strategy, the *Halifax Regional Municipality Charter*, and the Public Participation Program approved by Council on February 25, 1997.

The proposed level of community engagement is consultation, achieved through a public meeting early in the review process, as well as a public hearing before Community Council can consider approval of any amendments.

The proposed land use by-law amendments will potentially impact the following stakeholders: local residents and property owners on or adjacent larger serviced lots.

**ALTERNATIVES**

1. Council may choose not initiate a land use by-law amendment application to consider larger accessory buildings in Eastern Passage and other communities located within the HRM Urban Service Area. This is staff's recommended approach.
2. Council may choose to initiate a land use by-law amendment application to consider larger accessory buildings in Eastern Passage and other communities located within the HRM Urban Service Boundary.
3. Council may choose to request Regional Council to initiate a land use by-law amendment application to consider larger accessory buildings in all HRM land use by-laws within the HRM Urban Service Area.

**ATTACHMENTS**

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|--------------|---|
| Attachment A | Summary of Residential Accessory Building Regulations – Serviced Regions of HRM |
| Attachment B | Excerpt from the Sackville Land Use By-law                                      |

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

Report Prepared by: Tyson Simms, Planner, Community Development, 869-4747

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

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**Attachment A**  
**Summary of Residential Accessory Building Regulations – Serviced Regions of HRM**

Land Use By-law	Residential Zones located within the Urban Service Area*	Maximum accessory building permitted	
		Height (feet)	Area (square feet)
<i>Urban Plan Areas</i>			
Dartmouth	R-1, R-1M, R-1A, R-2, R-3, R-4, TH and T	15	650
Downtown Dartmouth	Any downtown neighbourhood zone	15	650
Halifax (Mainland Area)	R-1, R-2, R-2P, R-2T, R-2AM, R-3, R-4 and RC-1	One storey or 14	No limit
Halifax (Peninsula Area)	R-1, R-2, R-2T, R-2A, R-3, RC-1, RC-2, and RC-3	One storey or 14	No limit
Downtown Halifax	DH-1	16.4	253
<i>Suburban Plan Areas</i>			
Bedford	RSU, RTU, RMU and RTH	15	750
Cole Harbour/Westphal	R-1a, R-1, R-2, R-3, R-4 and R-5	15	750
<b>Eastern Passage/Cow Bay</b>	<b>R-1, R-1A, R-2, R-3, R-5</b>	<b>15</b>	<b>750</b>
Lake Major / North Preston	RS**	No limit	No limit
Sackville***	R-1, R-1-0, R-2, R-3, R-4, R-5, R-6 and R-6A	15 (up to 22 or main height of building)	750
Timberlea/Lakeside/Beechville	R-1, R-1A, R-2, R-3 and R-4	15	750
* Residential zones located within the Urban Service Area as of August 30, 2011.			
** The RS zone is a Mixed Use zone – not a residential zone – so accessory buildings in the RS zone are not subject to the same limits as a conventional residential zone.			
*** In the Sackville Plan Area, accessory buildings can exceed the maximum height requirement of 15 feet provided they can satisfy conditions of Section 4.11(c) of the Sackville By-law. Condition 4.11 (c)(vi) of the By-law requires that the accessory building be located on a lot with an area equal to or greater than 40,000 square feet. As developed lots with an area of 40,000 square feet are a rarity within the Urban Service Area, this exemption to the maximum height requirement of 15 feet is intended for larger un-serviced residential lots.			

**Attachment B**  
**Excerpt from the Sackville Land Use By-law**

**SECTION 4.11: 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 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. in any Residential Zone buildings or structures which are accessory to residential uses shall not be located closer to any side or rear lot line than four (4) feet (1.2 m);
    2. common semi-detached garages may be centred on the mutual side lot line;
    3. boat houses and boat docks may be built to the lot line when the line corresponds to the high water mark; and
    4. accessory buildings and structures in a P-2 (Community Facility) Zone shall not be built closer to any side or rear lot line than eight (8) feet (2.4 m) or one half the height of such building or structure, whichever is the greater.
  - (iii) exceed fifteen (15) feet (4.6 m) in height in any Residential Zone except for accessory resource related buildings uses in an R-6 (Rural Residential) Zone;
  - (iv) exceed seven hundred and fifty (750) square feet (70 m<sup>2</sup>) in any Residential Zone except for accessory resource related buildings in an R-6 (Rural Residential) Zone; nor
  - (v) be built within eight (8) feet (2.4 m) of the main building in any Residential Zone or twelve (12) feet (3.7 m) in any other zone.
- (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 of Subsection (a) above.
- (c) Notwithstanding section 4.11(a)(ii), 4.11(a)(iii) and 4.11(a)(v), **an accessory building** or structure, excluding boat houses, in any Residential Zone **may exceed fifteen (15) feet where all of the following conditions can be met:**
- (i) the height does not exceed the height of the main building or twenty-two (22) feet, whichever is less;
  - (ii) the side walls of the building do not exceed a height of 12 feet;
  - (iii) side and rear yards for the building are no less than required in Section 4.11(a)(ii) or (½) the height of the accessory building, whichever is greater
  - (iv) the building is located no less than required in Section 4.11(a)(v) or one half (½) the height of the accessory building height from the main building or any other building, whichever is greater
  - (v) the building or structure is not located in the required front yard;
  - (vi) the lot shall have a minimum area of 40,000 square feet (3,716 m<sup>2</sup>);
  - (vii) all other applicable provisions of this By-law are met. (NWCC-July 10/03;E-July 12/03)