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MEMORANDUM

TO: Chair and Members of Districts 7 and 8 Planning Advisory Committee

FROM: Jennifer Chapman, Planner, Planning and Development

DATE: January 21, 2015

SUBJECT: Case 19595: R-2A (General Residential Conversion) Zone Amendments

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- September 23, 2013: Halifax and West Community Council (HWCC) passed a motion requesting a staff report detailing possible amendments to the Halifax Peninsula Land Use By-law (LUB) to implement bedroom limits and/or gross floor area limits in the R2A (General Residential Conversion) Zone.
 - June 4, 2014: Halifax and West Community Council request the staff report be expanded to include habitable room limits and other housekeeping amendments including but not limited to height, height precincts, and lot coverage.

Issues

Staff have been alerted to issues in the zone which would allow unlimited number of bedrooms in each unit. The intent of the zone is to allow for increased density on the site while maintaining the streetscape; changes to the zone are required to ensure that this happens. Staff are proposing to amend the R-2A Zone (Attachment A) to address these issues. Staff have reviewed the Halifax Municipal Planning Strategy (MPS) (Attachment B) and do not see any conflicts with what is proposed and the intent of the MPS.

History

The R-2A zone was adopted in October of 1982 in order to encourage residential infill in a manner that maintained the existing character of the neighbourhood. The zone permits additions to a building behind the existing building to increase density without impacting the integrity of the building and streetscape.

The zone was reviewed in 1987 to respond to issues raised by the public about additions that were characterized as overpowering the existing building, altering the character of the neighbourhood and not providing adequate open space on the lot. Amendments were adopted that limited the size of an addition to double the size of the footprint, restricting additions to the rear and sides of the existing building.

The zone has been amended since then to address issues related to existing buildings, accessory buildings and other housekeeping items.

Proposed Changes

The changes are largely to bring clarification to the R-2A zone (Attachment C), as well as to respond to known issues that currently exist within the zone. Below is a summary of the proposed changes with further discussion of key topics to follow.

- Footprint—clarify to apply to only one building at a time. Right now the definition of a footprint refers to all buildings on a lot; a building footprint should only apply to one building at a time. This change is to correct this definition.
- Fairview clause—move to general provisions. Currently there is a clause in the R-2A zone that indicates that lands that are currently subject to the Peninsula LUB in the Fairview area are actually governed by the Mainland LUB. As this is not a zone standard and is unrelated to the R-2A zone, this should be found in the general provisions.
- Reinforce the requirement for FAR (floor area ratio) to be applied to R-2 uses occurring in the R-2A zone. FAR is currently applied to R-2 uses, but it is unclear if FAR is meant to be applied to R-2 uses occurring in the R-2A zone. Staff are recommending adding language in the LUB to clarify that FAR should be applied to R-2 uses occurring in the R-2A zone.
- Clarifying the permitted size of the footprint of an addition is up to the same size as the footprint of the existing building.
- Maximum height of an addition is the same as of the main building, matching the roofline and pitch to a maximum height of 35 ft. Remove references to height in other clauses.
- Introduce maximum habitable room count of 5 habitable rooms per unit and 45 per lot
- Allow one existing unit to exceed limit of 5, up to 10 habitable rooms
- Allow one storage room per unit. Anything more is considered a habitable room
- Delete special conditions

Habitable Rooms

Staff are recommending adopting habitable rooms counts to address the issue of excessively large number of bedrooms per unit. Habitable rooms are defined in the Halifax Peninsula LUB as:

“...any room in a dwelling house, multiple dwelling, or dwelling unit, with the exception of bathrooms, storage spaces with no windows, or kitchens with a floor area of less than one hundred square feet. Combined or undivided living spaces with floor areas greater than four hundred square feet shall be deemed to be two habitable rooms.”

The term habitable room is clearer and easier to interpret and apply than bedroom, as it applies to every room except small kitchens and windowless storage rooms, which makes the zone less vulnerable to misinterpretation and misuse. Staff are also recommending that only one storage room per unit be exempted from the habitable room count to avoid the potential that storage rooms could be used as bedrooms.

The proposed amendments include limiting the number of habitable rooms to 5 per unit with an overall maximum of 45 habitable rooms per lot. The maximum number of units permitted within this zone is 14 units, so the proposed maximum per lot should encourage a mix of unit sizes, allowing for mostly 2

bedroom units. Furthermore, to permit the original home to remain unchanged, staff are recommending language that recognizes the existing dwelling unit be permitted with a maximum of 10 habitable rooms.

Height

Height is currently limited to the height of the existing building to a maximum height of 35 feet. This is then allowed to be increased through special conditions if the building is one storey less than those that surround it. Interpreting height in this case becomes problematic and permitted height then fluctuates based on development. Staff are recommending to permit height up to the height of the existing building and to match the pitch and roofline, to make it easier to interpret, make it less variable and to create a more cohesive streetscape.

Special Conditions

Currently there are three special conditions in the R-2A Zone. The first (discussed above) allows for an addition taller than the existing building if it is a full storey lower than the average number of stories that surround the site.

The second special condition permits a building to have an addition larger than the size of the existing building if the current footprint of the existing building is smaller than those in the immediate neighbourhood. The intent of the zone is to permit hidden density; density that occurs behind the existing building and has reduced impact on the street and the site. Permitting additions that are larger than the existing building has the potential to allow development that unsuitable for the site and may overpower the existing building.

The third condition allows for the addition to occur in the front yard, if the current building setback is greater than half the lot depth. At this time, the R-2A zone does not have design guidelines. There is a risk that development could proceed in a manner that would produce buildings out of scale and inconsistent with the surrounding area. Until design guidelines are introduced, staff do not recommend enabling building additions in the front yard.

Public Information Meeting

A public information meeting was held on November 26, 2014. The public voiced concern about the number of bedrooms, the potential for storage rooms to be converted to bedrooms, issues with R-2 uses occurring in the R-2A zone and concern over how height is interpreted and applied. The proposed changes are directed at responding to these concerns and to reduce any loopholes in the existing zone.

Input Sought

Staff are looking for comments about the proposed amendments.

Attachments:

Map 1: Zoning (South End)

Map2: Zoning (Peninsula North)

Attachment A: Proposed Amendments to the Halifax Peninsula Land Use By-law

Attachment B: Halifax MPS

Attachment C: R-2A Zone Halifax Peninsula Land Use By-law

Attachment A
Proposed Amendments To The
Halifax Peninsula Land Use By-Law

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

1. The definition of “Footprint” in Section 1, of the Land Use Bylaw, is amended, as shown below, by:

- a) deleting the word “all” and replacing it with the word “a”;
- b) deleting the letter “s” at the end of the first occurrence of the word “building”;
- c) adding the letter “s” at the end of the word “project”; and
- d) deleting the letter “s” at the end of the second occurrence of the word “building”;

"Footprint" means the area of ~~a all~~ buildings on a lot, including land over which the buildings projects, but excluding any area below the eaves of a roof, and any portion not covered by a roof, such as unsheltered steps, verandas or decks.

2. The Land Use By-law is amended, as shown below in bold, by adding the following section after Section 26 D:

FAIRVIEW AREA

26 E On lands identified as R-2AM on the Zoning Map, the provisions of the Halifax Mainland Land Use Bylaw shall apply.

3. The Land Use By-law is amended, as shown below in bold, by adding the following section after Section 43 AC:

43 AC(1) Buildings erected, altered or used for R-2 uses in an R-2A zone shall comply with the requirements of Section 26D.

4. Delete and replace subclause vii) of section 43AD, with the following:

- vii) Maximum Footprint of Addition The footprint of the addition shall be no greater in size than the **footprint of the** existing **main** building

5. Section 43 AD ix) is amended by deleting the words “Height of the existing building” and replacing with the following, as shown below in bold:

- ix) Maximum Height **The maximum height of an addition shall match the roof line and pitch of the existing building, as it existed as of (the date of the bylaw amendments), to a maximum height of 35 feet.**

6. Section 43AD is amended, as shown below in bold, by adding the following subclauses after subclause xii):

- xiii) Maximum Habitable Room Count** **There shall be a maximum of 5 habitable rooms per dwelling unit**

- xiv) Maximum Habitable Room Count per lot** **There shall be a maximum of 45 habitable rooms for any R-2A zoned property.**

xv) Notwithstanding Section 43 AD xiii) one unit, in existence as of (date of this bylaw amendment), may contain a maximum of 10 habitable rooms.

xvi) Storage Rooms **Notwithstanding the definition of a habitable room, a maximum of 1 storage room per unit will be exempt from the habitable room count. Any storage rooms in excess of one per unit will be considered a habitable room.**

6. The Land Use By-law, as shown below in ~~strikeout~~, is amended by deleting sections 43AE(1) and (2):

~~43AE(1) — Notwithstanding the provisions of this by-law, the following R-2A development is permitted except on corner lots:~~

SPECIAL CONDITIONS	DEVELOPMENT PERMITTED
(a) if the existing building is a full storey lower than the average number of storeys of the existing residential buildings containing R-1, R-2 or R-2A uses in the immediate neighbourhood;	the number of storeys may be increased to, but not exceed, the average number of storeys of the existing residential buildings in the immediate neighbourhood provided that the height of the building shall not exceed 35 ft.
(b) if the area of the ground covered by the footprint of an existing building is less than 60 percent of the average area of ground covered by the footprint of existing residential buildings;	the total area of ground covered by the footprint of an existing building may be increased to twice the average area of the ground covered by the footprint of existing residential buildings containing R-1, R-2 or R-2A uses in the immediate neighbourhood, provided that the lot coverage does not exceed 40 percent.
(c) if the existing building setback is greater than half the lot depth;	Additions may be constructed to the front of an existing building as outlined in Section 43AD(x) of this by-law.

~~(2) — The "immediate neighbourhood" shall consist of:~~

~~(a) if the building is located at mid-block, all existing residential buildings located on the four lots on each side, the lots in the rear which share the same lot line, and the corresponding lots on the opposite side of the street.~~

~~(b) if the building is located on a corner lot, all existing residential buildings located on the four lots immediately adjacent, the lots in the rear which share the same lot line, and the corresponding lots on the opposite side of the abutting streets.~~

7. The Land Use By-law is amended, as show below in strikeout, by deleting section 43AF:

~~43AF It is the responsibility of the applicant to provide all drawings, figures, calculations and any other information deemed necessary to demonstrate that the building in question is anomalous and deserves consideration under this section of the by-law.~~

7. The Land Use By-law, as shown below in strikeout, is amended by deleting the title before section 43AG:

~~R-2A CORNER LOTS~~

8. The Land Use By-law, as shown below in strikeout, is amended by deleting section 43AG:

~~43AG If an existing building on a corner lot is greater in height at the front of the building than the rear of the building an addition to the top rear portion of the building may be constructed provided the addition does not exceed the height of the front of the building or a maximum height of 35 ft., whichever is less.~~

9. The Land Use By-law, as shown below in strikeout, is amended by deleting the title before section 43AN:

~~FAIRVIEW AREA~~

10. The Land Use By-law is amended by deleting section 43AN, as shown below in strikeout:

~~Notwithstanding Sections 43AA to 43AF above, in the "Fairview Area", the provisions of Sections 9(a) and 28 BA to 28BD inclusive of the Mainland Area land use by-law, shall apply where the zone is identified as R-2AM on the Zoning Map.~~

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 Community Council of Halifax and West 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

**Attachment B:
Halifax Municipal Planning Strategy, Relevant Policies**

Section V: South End Area Plan

1.1.1.1 Forms of infill housing which shall be permitted in the South End include:

- (a) the interior conversion of existing structures;
- (b) additions to existing structures, either through infilling between existing structures or additions to the rear of existing structures;
- (c) building on vacant lots in the forms prescribed by this Section of the Plan; and
- (d) low-rise housing within the densities prescribed by this Section of the Plan.

1.1.1.2 The Zoning By-law shall further define elements of scale, proportion, setback and use consistent with the policies of this Plan to ensure compatibility with the districts and neighbourhoods.

Section XI: Peninsula North Secondary Planning Strategy

1.3.5 Notwithstanding the Medium Density Residential designation and Policy 1.3, certain properties within Area 7 of this Section shall be zoned as general residential conversion and townhouse to maintain the conformity of some existing developments and to allow limited redevelopment potential for other properties.

Attachment C: R-2A Zone
General Residential Conversion Zone

43AA(1) The following uses shall be permitted in any R-2A Zone:

- (a) R-1, R-2 and R-2T uses;
- (b) converted multiple dwelling house;
- (c) uses accessory to any of the foregoing uses.

43AA(2) No person shall in any R-2A Zone carry out, or cause or permit to be carried out any development for any purpose other than one or more of the uses set out in subsection (1).

43AA(3) No person shall in any R-2A Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

SIGNS

43AB No person shall in any R-2A Zone erect, place or display any billboard or sign except those permitted in R-1 Zones.

REQUIREMENTS

43AC Buildings erected, altered, or used for R-1, R-2 and R-2T uses in an R-2A Zone shall comply with the requirements of their respective zones, with the following exceptions:

	Lot Frontage (Ft.)	Lot Area (Sq. Ft.)	Side Yard (Ft.)	Lot Coverage %
i) R-1 uses	40	4000	4	40
ii) Duplex	40	4000	4	40
iii) 3-unit and 4-unit apartment building-	40	4000	4	40
iv) Semi-detached dwelling	50	5000	4	40

v) For any R-1, R-2 or R-2T uses constructed after 14 October 1982 in the "**South End Area**", the minimum front yard shall be the front yard of the majority of the residential buildings fronting on the same side of the same block in which the building is to be constructed. For the purposes of measuring, existing front yard dimensions shall be rounded to the nearest foot.

vi) Where there is no majority of buildings with the same front yard on the block, the minimum front yard shall be that of the residential building of the adjacent lot on either side of the proposed development which is closer to the street line; and where there is no residential building on either adjacent lot the minimum front yard shall be 10 feet.

R-2A USES

43 AD Buildings altered or used for R-2A uses in the R-2A zone shall comply with the following requirements:

- i) Dwelling Units 50% of the dwelling units shall be a minimum of 800 square feet in area
- ii) Minimum Lot Frontage 40 feet
- iii) Minimum Lot Area 4000 square feet
- iv) Minimum Side Yard for Additions 6 feet
- v) Minimum Rear Yard 20 feet
- vi) Maximum Lot Coverage 40%
- vii) Maximum Lot Coverage of Addition The area covered by an addition shall not exceed the area covered by the existing building
- viii) Additions and Structural Changes Permitted to the rear of the building and the rear two-thirds of the side of the building (See Sketch 1); and

Prohibited in any front, side or rear yard abutting a street (See Sketch 2).

- ix) Maximum Height Height of the existing building to a maximum height of 35 feet; and

Height shall be determined by the definition "Height" instead of the definition "Height South-End and Peninsula Centre"

- x) Minimum front yard Shall be the front yard of the majority of the residential buildings fronting on the same side of the same block in which the building is to be constructed. For the purposes of measuring, existing front yard dimensions shall be rounded to the nearest foot; and.

Where there is no majority of buildings with the same front yard on the block, the minimum front yard shall be that of the residential building of the adjacent lot on either side of the proposed development which is closer to the street line; and where there is no residential building on either adjacent lot the minimum front yard shall be 10 feet.

xi) Accessory Buildings *(deleted PCC/CCC-Nov 8/10;E-Nov 27/10)*

xii) Open Space **In the “South End Area”** for each dwelling unit which is 800 sq. ft. or greater, there shall be a minimum of 300 sq. ft. of open space;

In the “South End Area” for each dwelling unit which is less than 800 sq. ft., there shall be a minimum of 150 sq. ft. of open space and

Required open space shall not include “recreational open space”

R-2A SPECIAL CONDITIONS

43AE(1) Notwithstanding the provisions of this by-law, the following R-2A development is permitted except on corner lots:

SPECIAL CONDITIONS	DEVELOPMENT PERMITTED
(a) if the existing building is a full storey lower than the average number of storeys of the existing residential buildings containing R-1, R-2 or R-2A uses in the immediate neighbourhood; -----	the number of storeys may be increased to, but not exceed, the average number of storeys of the existing residential buildings in the immediate neighbourhood provided that the height of the building shall not exceed 35 ft. -----
(b) if the area of the ground covered by the footprint of an existing building is less than 60 percent of the average area of ground covered by the footprint of existing residential buildings;	the total area of ground covered by the footprint of an existing building may be increased to twice the average area of ground covered by the footprint of existing residential buildings containing R-1, R-2 or R-2A uses in the immediate neighbourhood, provided that the lot coverage does not exceed 40 percent. ----- Additions may be constructed to the front of an existing building as outlined in Section

<p>-----</p> <p>(c) if the existing building setback is greater than half the lot depth;</p>	<p>43AD (x) of this by-law.</p>
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(2) The "**immediate neighbourhood**" shall consist of:

(a) if the building is located at mid-block, all existing residential buildings located on the four lots on each side, the lots in the rear which share the same lot line, and the corresponding lots on the opposite side of the street.

(b) if the building is located on a corner lot, all existing residential buildings located on the four lots immediately adjacent, the lots in the rear which share the same lot line, and the corresponding lots on the opposite side of the abutting streets.

43AF It is the responsibility of the applicant to provide all drawings, figures, calculations and any other information deemed necessary to demonstrate that the building in question is anomalous and deserves consideration under this section of the by-law.

R-2A CORNER LOTS

43AG If an existing building on a corner lot is greater in height at the front of the building than the rear of the building an addition to the top rear portion of the building may be constructed provided the addition does not exceed the height of the front of the building or a maximum height of 35 ft., whichever is less.

PARKING

43AH For R-2A uses and for three and four unit apartment buildings;

i) one parking space shall be required for every two dwelling units, each of which is less than 800 square feet, and one parking space shall be required for each dwelling unit 800 square feet or greater; and

ii) shall not be located within the footprint of an R-2A use unless enclosed on all sides.

INTERNAL CONVERSION

43AI A building which was in existence on September 17, 1987 may be converted to R-1, R-2, or R-2A uses provided:

- i) there is no increase in building volume; and
- ii) in the case of R-2A uses fifty percent (50%) of the dwelling units contain a minimum of 800 square feet of floor area.

PENINSULA NORTH AREA #7 - SCHEDULE HA-1

43AK A building, excluding an accessory building or a registered heritage building, in existence on March 30, 1995 in "**Schedule HA-1**", may be converted into an apartment house provided that:

- (i) there is no increase in the height or volume of the building;
- (ii) the following features on the building facing the street(s) are not altered:
 - (a) the number, location, size and shape of the windows, bays and dormers;
 - (b) the size, shape and location of the entrance way including the door; and
 - (c) the size and location of any existing verandas, porches or stairways.
- (iii) at least one unit for every five units, or fraction thereof, in the converted building contains two or more bedrooms.

PENINSULA NORTH AREA #7 - SFD REQUIREMENTS

43AL A building erected, altered or used as a detached one-family dwelling house, in an R-2A zone in "**Peninsula North Area #7**", shall comply with the requirements of the R-1 Zone with the following exceptions:

- (1) Lot Frontage Minimum 30 feet
- (2) Lot area Minimum 3000 square feet
- (3) Side Yards 4 feet
- (4) Lot Coverage 40 percent

(5) The minimum front yard shall be the front yard of the majority of the residential buildings fronting on the same side of the same block in which the building is to be constructed. For the purposes of measuring, existing front yard dimensions shall be rounded to the nearest foot.

(6) Where there is no majority of buildings with the same front yard on the block, the minimum front yard shall be that of the residential building of the adjacent lot on either side of the proposed development which is closer to the street line; and where there is no residential building on either adjacent lot the minimum front yard shall be 10 feet.

PENINSULA NORTH AREA #6 - SFD REQUIREMENTS

43AM A building erected, altered or used as a detached one-family dwelling house, in an R-2A zone in "**Peninsula North Area #6**", shall comply with the requirements of the R-1 Zone with the following exceptions:

(1) Lot Frontage Minimum 20 feet

(2) Lot Area Minimum 2000 sq. ft.

(3) Side Yard Minimum 0 feet

(4) Maximum Lot Coverage 50 percent

(5) The minimum front yard shall be the front yard of the majority of the residential buildings fronting on the same side of the same block in which the building is to be constructed. For the purposes of measuring, existing front yard dimensions shall be rounded to the nearest foot.

(6) Where there is no majority of buildings with the same front yard on the block, the minimum front yard shall be that of the residential building of the adjacent lot on either side of the proposed development which is closer to the street line; and where there is no residential building on either adjacent lot the minimum front yard shall be 10 feet.

FAIRVIEW AREA

43AN Notwithstanding Sections 43AA to 43AF above, in the "Fairview Area", the provisions of Sections 9(a) and 28BA to 28BD inclusive of the Mainland Area land use by-law, shall apply where the zone is identified as R-2AM on the Zoning Map.