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HALIFAX
REGIONAL MUNICIPALITY

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District 12 PAC - September 7, 2005
Peninsula Community Council - September 12, 2005
Chebucto Community Council - September 12, 2005

TO: Peninsula Community Council
Chebucto Community Council

SUBMITTED BY: Paul Dunphy, Director of Planning and Development Services

DATE: August 2, 2005

SUBJECT: **Case 00821: Amendment to the Halifax Peninsula Land Use Bylaw Respecting the definitions of "Dwelling" and "Rooming House"**

ORIGIN

- February 14, 2005 - the issue of dwelling units and rooming houses was raised during public participation
- March 7, 2005 - information report was tabled with Peninsula Community Council responding to the request on February 14th;
- April 11, 2005 - the issue of dwelling units and rooming houses was raised during public participation;
- June 13, 2005 - information report was tabled with Peninsula Community Council.

RECOMMENDATION

It is recommended that Peninsula Community Council and the Chebucto Community Council:

1. Give Notice of Motion to consider the proposed amendments to the Halifax Peninsula Land Use Bylaw (Attachment A), and schedule a joint public hearing of the Peninsula Community Council and the Chebucto Community Council; and

2. Approve the proposed amendments to the Halifax Peninsula Land Use Bylaw.

BACKGROUND

The purpose of this report is to introduce proposed amendments to the Peninsula Land Use Bylaw which are intended to limit the development of:

- Dwellings containing an excessive number of bedrooms; and
- Large dwellings on comparatively small lots;

within low and medium density neighbourhoods of Peninsula Halifax.

The focus of by-law amendments related to the first category is to deal with dwellings having a large number of bedrooms in what can be termed "quasi-rooming houses". The focus of amendments related to the second category is to address neighbourhood issues associated with the construction of so-called "monster homes" which are considered out of scale with housing forms typically associated with Peninsula neighbourhoods.

DISCUSSION

One of the foundations in planning policies adopted for the established neighbourhoods of the Halifax Peninsula is to maintain the character and stability of these areas. This is expressed through Municipal Planning Strategy (MPS) policies such as Policy 2.4 which states:

> *"... the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods."*

Many neighbourhoods on Halifax Peninsula have been experiencing significant pressure for re-development. The process of re-development often has a positive effect. Building additions and conversions of existing housing stock generally demonstrate pride and confidence by property owners to make investments and improvements to their properties in a way that maintains neighbourhood character and stability.

However, a recent trend to develop houses that are relatively large in comparison to their surroundings, and often with an excessive number of bedrooms, has emerged. This has prompted many peninsula residents to express serious concerns about the potentially negative effects that these forms of development may have on the character and stability of their neighbourhoods. A number of petitions have been submitted to both Peninsula and Chebucto Community Councils during the past two years concerning this issue.

In some instances, additions and conversions have resulted in dwellings being constructed that are twice the size of any surrounding houses. Such developments have been generally viewed by residents as being inconsistent with neighbourhood character. In some situations, homes having 12 or more bedrooms have been developed, resulting in household populations that greatly exceed those typically found on the Peninsula. Both building forms - the so-called "monster" home and the "quasi-rooming house" - are currently permitted under existing zoning regulations.

In respect to buildings containing a high number of bedrooms, these are commonly perceived as lodging or rooming houses. Most residents of established low density neighbourhoods have an expectation that rooming houses would be characterised similar to larger apartment buildings and developed in zones where such uses are permitted. However, buildings with large numbers of bedrooms are being established in all neighbourhood areas because they are currently defined as regular "dwellings" under the Land Use Bylaw.

This report introduces several overall amendments to the Halifax Peninsula Land Use Bylaw to address the emerging trend of out-of-character housing (Attachment A). If these are adopted, it is suggested that staff monitor their effectiveness in order to determine whether a further review is warranted. A more detailed review of Peninsula residential zoning regulations could be conducted within the context of the proposed Regional Plan.

Proposed Amendments

The attached land use bylaw amendments are intended to limit further development of relatively large houses and houses with an excessive number of bedrooms and fall under two categories:

1. Provisions to distinguish between housing types based upon their number of bedrooms; and

2. Provisions to regulate scale and size, beyond existing requirements on lot coverage, set backs and building height, in the form of maximum "Floor Area Ratio".

These two approaches are elaborated upon within the remainder of the report.

Maximum Number of Bedrooms

Housing with an excessive number of bedrooms generally takes two forms:

1. A high number of bedrooms within a single dwelling, sometimes in the order of 12 or more bedrooms.

2. A high total number of bedrooms within a dwelling distributed between individual dwelling units where more than one dwelling unit is permitted. A typical example is a dwelling with two dwelling units, each containing five bedrooms, for a total of ten bedrooms within the dwelling.

Houses with high number of bedrooms, whether the bedrooms are within one or distributed among several dwelling units, have greater impacts on surrounding neighbourhoods and services than more conventional houses typically found in Peninsula Halifax neighbourhoods. Additionally, as these houses are presently being constructed under the rules which currently apply to more conventional dwelling units, there are no specific requirements for developers to provide on-site parking, interior amenity space or other things that may usually be required in permitting rooming houses or apartment buildings. Consequently, the proposed by-law amendments would clearly distinguish between a traditional dwelling and what might aptly be described as a "rooming house", by using the number of bedrooms as a determinant.

Most of the peninsula neighbourhoods where out-of-character housing is occurring have zoning which permits up to four dwelling units to be established within a single house. This zoning was established in recognition that there are some relatively large houses on the Peninsula which provide opportunities for conversions to additional dwelling units in central locations without detracting from the character and stability of existing neighbourhoods.

Proposed Amendments

Buildings containing large numbers of bedrooms can be developed within one, two, three and four dwelling unit buildings. The attached by-law amendments would limit the total number of bedrooms permitted within any building containing up to four dwelling units (see Attachment "A"). With this:

- A Detached One Family Dwelling House would, by definition, be a use that contains no more than five bedrooms.

- A duplex, would be categorized as a dwelling having as many as six bedrooms spread between the two dwelling units.

- As semi-detached dwelling units may be located upon their own lots, and in many areas of the Peninsula, can be fairly large in size, it is proposed that they, also by definition, contain up to five bedrooms.

- Buildings with three dwelling units would be permitted to have a total of eight bedrooms and those with four dwelling units would be permitted to have a total of ten bedrooms.

In addition to distinguishing among the above categories, these new definitions create land use distinctions between the above categories and rooming houses and lodging houses. The meaning of "Rooming House" was previously the same as "Lodging House" which referred to situations where individual rooms are available for rent. A new "rooming house" definition creates a separate land use category for buildings that contain a high number of bedrooms, but which are not necessarily buildings where individual bedrooms are rented. With this, rooming houses are excluded from the R-1 and R-2 Zones and are permitted within the R-3 Zone, which is a higher density zone.

Existing Uses

Existing houses with more than the allowable number of bedrooms specified by the proposed amendments:

- will not be allowed to increase the number of bedrooms within the existing building envelope;
- will not be allowed to increase the number of bedrooms if the building is expanded; and
- will only be permitted to physically enlarge the building if there is no increase in the number of bedrooms, provided all other requirements for lot coverage and floor area ratio, etc., are met.

Charter of Rights and Freedoms

Some residents have suggested that the relationship of persons occupying such quasi-rooming houses should be regulated in the Land Use Bylaw. The Charter of Rights and Freedoms prohibits the Municipality from adopting by-laws which discriminate based upon such matters as relying on definitions of "family" and/or other relationships.

Floor Area Ratio Requirements

The Land Use Bylaw regulates the size of buildings by placing limits on height, building envelope (maximum lot coverage), and by establishing minimum setbacks from property lines. These are reasonable in limiting the physical size and separation of buildings. However, these requirements do not directly limit how large a building may be in relation to the lot upon which it is located. In response to concerns expressed by residents about large, out-of-character houses being constructed that may not contain an excessive number of bedrooms, maximum floor area ratio (FAR) requirements have been included with the attached by-law amendments.

Floor area ratio requirements are a zoning mechanism, in addition to lot coverage and building height, which are employed to control the size and intensity of a development. The amount of floor area determines how much living space, and as a consequence, how many dwelling units and bedrooms can "fit" into a building. To further illustrate this, two buildings with identical lot areas, building coverages and heights can have significantly different amounts of floor area if one has converted basement and attic space.

FAR is defined as the amount of floor area divided by lot area. Fore example, a building with 3,000 square feet of floor area on a 3,000 square foot lot would have a FAR of 1.0 (100%). A building with 1,500 square feet of floor area on a 3,000 square foot would have a FAR of 0.5 (50%).

FARs for dwellings are typically high in areas with relatively small lots; and low in areas with larger sized lots. For example, a 2,600 square foot house on a 3,500 square foot lot has a FAR of 0.74 (74%) while the same sized house on a 10,000 square foot lot has a FAR of 0.26 (26%). Based on this, if maximum FAR regulations were to be adopted, it would be sensible to scale the requirements

to allow for higher FARs on smaller lots and lower FARs on larger lots. Without this, the use of a uniformly high FAR requirement would enable very large, possibly out-of-character, houses on larger sized lots.

The settlement patterns on Peninsula Halifax are such that FARs are relatively high in comparison to other areas of HRM for typical houses and lots. For example, it is not uncommon for lots with less than 5,000 square feet to have dwellings with over 2,000 square feet of floor area. In attempting to determine what might be reasonable maximum FAR requirements, staff undertook a number of case study exercises. These entailed a review of real estate sales listings, building permit applications for average sized dwellings, relatively large sized dwellings that have been the subject of complaints to staff. *This research revealed that many houses that were the subject of complaints were found to have extremely high FARs (over 1.0 or 100%), even though their height and lot area coverages were well within the Land Use Bylaw requirements.*

The proposed by-law amendments in respect to maximum FAR specify a sliding scale so that as lot sizes increase, the FAR allowances decrease (see Attachment "A").

It should be noted that the maximum FAR requirements that are being proposed are likely extremely generous in most neighbourhood areas. Staff suggest that the ability to establish a 2,600 square foot dwelling on a lot of less than 3,500 square feet is not an onerous requirement and in fact it may not substantially limit many large dwellings that could be viewed as being out of character within a neighbourhood area. However, the proposed requirements do represent a starting point which may be refined as greater experiences are gained in considering development permit applications. In the event that certain seemingly reasonable proposals are denied under the FAR requirements, there is the ability for them to be considered through the variance process. A typical situation might involve a property owner seeking to establish a house that is in character with its surroundings, but has a hardship such as irregularly small sized lot.

Conclusions

The proposed amendments to the Land Use Bylaw will effectively limit the most extreme developments of relatively large dwellings and dwellings with an excessive number of bedrooms. However, we do not anticipate that these will resolve all of the problems that are associated with this form of housing. Likewise, these regulations may have a negative impact upon some housing that is not generally the subject of Council's concern. Based on this, it will be important to evaluate how the amendments work against actual development proposals and it should be expected that new amendments may be required in the near future.

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

The following alternatives may be considered by Peninsula Community Council:

1. Council may approve the proposed amendments to the Halifax Peninsula Land Bylaw. This is the recommended alternative.

2. Council may choose to reject some or all of the proposed amendments for certain areas of the Peninsula.

3. Council may choose to reject some or all of the proposed amendments and direct staff to return with further amendment proposals.

ATTACHMENTS

Attachment A - Proposed Amendments to the Halifax Peninsula Land Bylaw

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Richard Harvey, Planner II, 490-3691

Attachment "A"
Proposed Amendments to the Halifax Peninsula Land Use Bylaw

1. Within the Definitions Section, the following definitions are amended by adding the text shown in **bold** and deleting the text shown as ~~strikeout~~ as follows:

"Bedroom" means a room that is used or intended to be used for sleeping in.

"Detached One Family Dwelling House" means the whole of a dwelling house **comprised of a single dwelling unit**, occupied by not more than one family, **and containing five or fewer bedrooms; or six or more bedrooms where such number of bedrooms were established prior to _____ [Notice of Public Hearing].**

"Duplex Dwelling" means the whole of a dwelling house that is divided horizontally into two separate dwelling units, each of which has an independent entrance, **and contains six or fewer bedrooms within the whole of the dwelling house; or seven or more bedrooms where such number of bedrooms were established prior to _____ [Notice of Public Hearing].**

"Floor Area Ratio" means the gross floor area, in square feet, divided by the area of the lot, in square feet, and is expressed in a ratio of gross floor area to one square foot of lot area. The floor area ratio in each zone shall be deemed to apply only to that portion of such lot which is located within that zone."

"Gross Floor Area" means the aggregate of the area of all floors in a residential building, whether at, above or below grade, measured from the exterior faces of the exterior walls, or from the centre line of the common wall separating two buildings, and including the basement floor area where the basement ceiling height is 1.95 metres (6 ft. 5 in.) and has access to it with a ceiling height of 1.95 metres (6 ft. 5 in.), but excluding any open porch/verandah and unfinished attic, and area used for a private garage, parking and loading."

"Lodging or Rooming House" means ~~a dwelling house where lodgings are provided for hire, or a building in which persons are accommodated with sleeping apartments and includes hotels and apartment houses in which cooking is not done in the general apartments and where meals are not served to the occupants in a general dining room for a charge~~ **the whole of dwelling house comprised of a single dwelling unit in which four or more bedrooms are rented on an individual basis and/or secured through means such as locking devices, and may contain common rooms such as a living room.**

"Rooming House" ~~see "Lodging ....."~~ **means:**

(a) **A one family dwelling house, excepting that the number of bedrooms contained therein is six or more and that any number of said bedrooms are established on or following _____ [Notice of Public Hearing];**

(b) **A duplex dwelling, excepting that the number of bedrooms contained therein is seven or more and that any number of said bedrooms are established on or following _____ [Notice of Public Hearing];**

(c) **A semi-detached dwelling unit, excepting that the number of bedrooms contained therein is six or more and that any number of said bedrooms are established on or following _____ [Notice of Public Hearing];**

(d) **A dwelling house containing two dwelling units, other than (a) or (b) above, with seven or more bedrooms within the entire residential building, where any number of said bedrooms are established on or following _____ [Notice of Public Hearing];**

(e) **A dwelling house containing three dwelling units, with nine or more bedrooms within the entire residential building, where any number of said bedrooms are established on or following _____ [Notice of Public Hearing]; or**

(f) **A dwelling house containing four dwelling units, with eleven or more bedrooms within the entire residential building, where any number of said bedrooms are established on or following _____ [Notice of Public Hearing].**

"Semi-detached Dwelling" means the whole of a dwelling house that is divided vertically into two separate dwelling units, each of which has an independent entrance, **and each of which contains a five or fewer bedrooms or six or more bedrooms where such number of bedrooms were established prior to _____ [Notice of Public Hearing].**

2. Within the R-1 Zone, the following clause is amended by adding the text shown in **bold** and deleting the text shown as ~~strikeout~~ as follows:

CONVERSIONS - SOUTH END AND PENINSULA CENTRE

34E Any residential building which was in existence on 14 October 1982 within the "South End" and "Peninsula Centre Areas", with the exception of the "North West Arm Sub Area", may be permitted to convert to a maximum of 3 units, provided that:

(a) there is no increase in height or volume and that the external dimensions of the building have not changed since 14 October 1982;

(b) where a conversion is to two dwelling units, one of the dwelling units shall be a minimum of 1,000 square feet, and where the conversion is to three dwelling units, two of the dwelling units shall be a minimum of 1,000 square feet (the external dimensions of the building shall not be enlarged after the conversion); ~~and~~

(c) where the conversion is to two dwelling units, there shall be six or fewer bedrooms within the entire residential building;

(d) where the conversion is to three dwelling units, there shall be eight or fewer bedrooms within the entire residential building; and

(e) where a conversion has occurred prior to _____ [Notice of Public Hearing], there shall be no further increase in the number of bedrooms beyond that which is specified in (c) or (d); and,

(f) one separately accessible parking space at least 8 feet wide and 16 feet long per dwelling unit is provided.

3. Within the R-2 Zone, the following text shown in **bold** is added:

THREE AND FOUR UNIT BUILDING

43A(1) In addition to other R-2 Zone requirements, there shall be:

(a) Eight or fewer bedrooms within the whole of a three dwelling unit apartment house; and

(b) Ten or fewer bedrooms within the whole of a four dwelling unit apartment house.

4. The General Provisions Section is amended by adding the following text shown in bold:

MAXIMUM RESIDENTIAL GROSS FLOOR AREA

26D The maximum residential gross floor area for dwellings within the R-1 and R-2 Zones shall be as follows:

Lot Size	GFA Requirement
<3,500	The maximum GFA shall be a FAR of 0.75
>3,500 to 4,000	The maximum GFA shall be 2,625 sq. ft. or a FAR of 0.70, whichever is greater.
>4,000 to 4,500	The maximum GFA shall be 2,800 sq. ft. or a FAR of 0.65, whichever is greater.
>4,500 to 5,500	The maximum GFA shall be 2,925 sq. ft. or a FAR of 0.60, whichever is greater.
>5,500 to 7,000	The maximum GFA shall be 3,300 sq. ft. or a FAR of 0.55, whichever is greater.
>7,000 to 9,000	The maximum GFA shall be 3,850 sq. ft. or a FAR of 0.50, whichever is greater.
>9,000 to 11,000	The maximum GFA shall be 4,500 sq. ft or a FAR of 0.45, whichever is greater.
>11,000 to 13,000	The maximum GFA shall be 4,950 sq. ft. or a FAR of 0.40, whichever is greater.
>13,000	The maximum GFA shall be 5,200 sq. ft. or a FAR of 0.35, whichever is greater.

GFA: Gross Floor Area
FAR: Floor Area Ratio"