



P.O. Box 1749
Halifax, Nova Scotia
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Item No.9.1

Halifax Regional Council

August 2, 2011

September 27, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Councillor Dawn Sloane, Chair, Peninsula Community Council

DATE: July 12, 2011

SUBJECT: Case 16376: MPS/LUB Amendments for the area bounded by Oakland Road, Bellevue Avenue, Inglis Street, and Beaufort Avenue

ORIGIN

Peninsula Community Council Meeting of July 11, 2011

RECOMMENDATION

That Halifax Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as provided in Attachment A and B of the June 8, 2011 staff report and schedule a public hearing.

BACKGROUND/DISCUSSION

At the July 11, 2011 meeting of Peninsula Community Council, a motion was passed recommending that Regional Council schedule a public hearing to consider amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as outlined in the June 8, 2011 staff report.

BUDGET IMPLICATIONS

The attached staff report addresses budget implications.

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

Not applicable with this report.

ALTERNATIVES

The attached staff report outlines Alternatives

ATTACHMENTS

Attachment 'A': June 8, 2011 staff report.

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: Sheilagh Edmonds, Legislative Assistant

Peninsula Community Council
July 11, 2011

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: Original Signed
Paul Dunphy, Director of Community Development

DATE: June 8, 2011

SUBJECT: Case 16376: MPS/LUB amendments for the area bounded by
Oakland Road, Bellevue Avenue, Inglis Street, and Beaufort Avenue

ORIGIN

- June 22, 2010 (Item 10.2.3) - Petition tabled at Regional Council
- August 3, 2010 - Information report tabled at Regional Council
- August 3, 2010 (Item 12.2) - Regional Council motion:

“MOVED by Councillor Uteck, seconded by Councillor Watts, that Halifax Regional Council:

1. Initiate the process to consider amending the South End Area Plan of the Halifax Municipal Planning Strategy and the Land Use Bylaw to reflect the character of the area bounded by Oakland Road, Bellevue Avenue, Inglis Street, and Beaufort Avenue (BARTIS); and
2. As part of the Municipal Planning Strategy, initiate a public participation program; and
3. That staff consider, as part of the report, the five amendments outlined in the submitted petition.”

RECOMMENDATION

It is recommended that Peninsula Community Council recommend that Regional Council:

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as provided in Attachment A and B of this report, and schedule a public hearing.
2. Approve the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as provided in Attachments A and B of this report.

EXECUTIVE SUMMARY

This report recommends amendments to the Halifax Municipal Planning Strategy (MPS) and the Halifax Peninsula Land Use By-law (LUB) to limit development and subdivision abilities in the area bounded by Oakland Road, Bellevue Avenue, Inglis Street and Beaufort Avenue in Halifax. The report originated with a petition from South End area residents, which raised issues concerning the lack of protection, under the current Halifax Peninsula LUB, for the subject area's established development and subdivision pattern. While the petition originally requested the consideration of five specific changes to the Halifax Peninsula LUB, staff also included a review of the permitted maximum height as part of the overall exercise to determine proper development and subdivision controls for the area.

The proposed amendments include a new, area-specific single-family dwelling zone, which is intended to more closely match the subject area's existing character in terms of minimum lot area, minimum frontage, front yard setback, and maximum permitted height. Staff is of the opinion that the proposed amendments are an appropriate response to the concerns raised in the June 22, 2010 petition to Regional Council.

BACKGROUND

Petition

At the June 22, 2010 meeting of Regional Council, Councillor Uteck submitted a petition containing 67 signatures in support of a list of five proposed amendments to the Halifax Peninsula LUB for the area bounded by Oakland Road, Bellevue Avenue, Inglis Street, and Beaufort Avenue, Halifax (see Map 1).

The five proposed amendments were as follows:

1. Require that a new right-of-way not be built within 30 feet of a property line where that property line runs along other privately owned residential properties.
2. Increase the minimum lot size from 4000 square feet to 5000 square feet.
3. Increase the minimum lot frontage from 40 feet to 50 feet. On the outside curve of a cul-de-sac, the minimum lot frontage would be increased from 25 feet to 30 feet.
4. Decrease the maximum lot coverage from 35% to 30%.
5. Require that the minimum depth of the front yard of a new residential building be the average of the front yard depths of the majority of residential buildings fronting on the same side of the same block in which the new building is to be constructed.

Initiation

In response to the June 22, 2010 petition, Regional Council instructed staff on August 3, 2010 to initiate a process to amend the Halifax MPS and the Halifax Peninsula LUB in order to consider suggested land use by-law amendments to limit development and subdivision abilities in the area bounded by Oakland Road, Bellevue Avenue, Inglis Street and Beaufort Avenue.

1017-1021 Beaufort Avenue

The initial concern which led to the petition was a proposal to consolidate and re-subdivide lands at 1017-1021 Beaufort Avenue to create 9 lots. It is important to note, however, that a tentative subdivision application for 1017-1021 Beaufort Avenue was received by Development Services on October 25, 2010 and deemed complete on November 8, 2010. As per Section 288(1) of the *Halifax Regional Municipality Charter*, an application for subdivision approval must be approved if the proposed subdivision is in accordance with the subdivision enactments in effect at the time a complete application is received by the Development Officer. Furthermore, Section 295 of the *HRM Charter* grandfathers a tentative plan of subdivision for two years following the date of approval, within which time the property owner must proceed to the final plan of subdivision stage to protect their subdivision rights.

Notwithstanding the above, a complete tentative subdivision application only protects a property owner in terms of anticipated changes to a subdivision by-law. The only way to protect a property owner from anticipated changes to a land use by-law relative to individual lot building construction is to apply and be issued a Development Permit on existing lots. Excerpts of the *HRM Charter* are included in Attachment C.

DISCUSSION

Review of Requested Changes

Planning Services has reviewed the requested changes contained in the June 22, 2010 petition. The following are staff comments on each of the suggested amendments to the Halifax Peninsula LUB:

1. Minimum Setback for New Rights-of-Way

Require that a new right-of-way not be built within 30 feet of a property line where that property line runs along other privately owned residential properties.

After review of the *HRM Charter*, it has been determined that the Municipality does not possess the authority to amend its land use by-law to require a minimum setback distance be established between new street right-of-ways and existing abutting residential property lines. The Municipality can nonetheless require through its Regional Subdivision By-law that new streets must have lots on both sides of the street, which would accomplish the same objective as is being sought by area residents.

However, the consideration of a site specific amendment to the Regional Subdivision By-law was not part of the direction given to staff by Regional Council on August 3, 2010. Moreover, site specific amendments to the Regional Subdivision By-law are not desirable, as they add to an ever increasing list of exceptions to what are intended to be uniform, region-wide subdivision regulations. The expanse of exemptions can lead to some confusion with citizens and this is a practice that staff would like to discourage as much as possible.

In any event, based on the existing lot pattern, the only lands that could potentially accommodate a new street in the subject area are those located at 1017-1021 Beaufort Avenue. As was stated earlier in the report, these lands are already the subject of a complete tentative subdivision application, which is grandfathered under the *HRM Charter*. An exercise to amend the Regional Subdivision By-law would therefore be pointless, and accordingly staff does not recommend this suggested amendment.

2. Increase in the Minimum Lot Area

Increase the minimum lot area from 4000 square feet to 5000 square feet.

Increasing the minimum lot area from the current requirement of 4000 square feet to a requirement of 5000 square feet will impact future subdivision ability on the properties identified on Map 3. However, the suggested change would not impact the ability of property owners to obtain a Construction Permit to build a single family dwelling on a lot in existence prior to May 11, 1995¹, as long as the lot area is at least 3,000 square feet in area and all other land use by-law requirements could be met. Due to the relatively large lots found in the subject area, as well as the broad support for this suggested change at the public information meeting, staff recommend that Council approve this amendment.

3. Increase in the Minimum Lot Frontage

Increase the minimum lot frontage from 40 feet to 50 feet. On the outside curve of a cul-de-sac, the minimum lot frontage would be increased from 25 feet to 30 feet.

Increasing the minimum lot frontage from the current requirement of 40 feet to a requirement of 50 feet, and increasing the allowable frontage on the outside of a curve from 25 feet to 30 feet, will impact future subdivision ability on the properties identified on Map 4. However, the suggested change would not impact the ability of property owners to obtain a Construction Permit to build a single family dwelling on a lot that was in existence prior to May 11, 1995², as long as the minimum lot frontage is at least 30 feet, or 25 feet of frontage on the outside curve of a cul-de-sac. Due to the relatively wide frontages found in the subject area, as well as the fact that this suggested amendment received broad support at the public information meeting, staff recommend that Council approve this amendment.

4. Decrease in the Maximum Lot Coverage

Decrease the maximum lot coverage from 35% to 30%.

“Coverage” is defined under the Halifax Peninsula Land Use By-law as:

¹ Date of Council approval of the land use by-law section on reduced lot size.

² *Ibid.*

“the combined area of land covered by all buildings on a lot, including land over which the buildings project, but excluding any area below the eaves of a roof. Portions of a building which are not covered by a roof such as unsheltered steps, verandah or deck are excluded from the combined area.”

A building footprint analysis has shown that decreasing the maximum lot coverage from 35% to 30% would immediately impact at least 6 properties (see Map 5). Staff is of the opinion that such a change will be problematic in the future, and may even cause hardship for some current or future property owners by preventing modest additions to existing dwellings, or the construction of an accessory building. Although the ability would exist to apply for a variance in the future, its approval cannot be guaranteed. Therefore, staff does not recommend decreasing the maximum lot coverage from 35% to 30%.

5. Minimum Depth of Front Yard

Require that the minimum depth of the front yard of a new residential building be the average of the front yard depths of the majority of residential buildings fronting on the same side of the same block in which the new building is to be constructed.

Currently, the minimum front yard setback requirement for the subject area is 15 feet. The only exceptions to this rule are two existing building line setbacks along Beaufort Avenue. The first building line setback affects Beaufort Avenue between Oakland Road and Regina Terrace and prescribes a setback of 50 feet. The second building line setback affects Beaufort Avenue between Regina Terrace and Inglis Street and prescribes a setback of 20 feet. Special building line setbacks were established under the Halifax Municipal Planning Strategy in 1978 to permit future street widening and supersede front yard setbacks when they exceed the prescribed minimum front yard setback under the land use by-law.³

In response to Council's instructions, Planning Services undertook a GIS analysis of existing front yard setbacks in the subject area. Approximate average setbacks were determined on a street by street basis and were mapped (see Map 6). Staff recommends that these established setbacks replace the uniform front yard setback currently in place. In addition, the front yard setbacks along Beaufort Avenue would now reflect the existing building line setbacks required under the Halifax MPS. For any future cul-de-sac that may be developed in the subject area, a minimum front yard setback of 15 feet is being recommended.

Existing structures within the new setbacks would become non-conforming structures and would be permitted to be replaced, repaired or expanded at their current setback. Provisions for limited encroachments into the required front yard setbacks are also being proposed to reduce potential hardships for current or future property owners that may have difficulty in complying with the recommended front yard setback requirements when building new decks, stairways, steps and

³ Transportation staff has confirmed that street widening is no longer being contemplated for Beaufort Avenue. Therefore it is anticipated that the special building line setbacks affecting Beaufort will be removed from planning policy during the next plan review process for the area.

access ramps. In some circumstances, a property owner may need to apply for a variance in order to allow for further encroachments into the front yard setback. It is important to point out that the approval of a future variance cannot be guaranteed.

Proposed Height Amendment

In addition to the changes requested by way of petition, staff investigated amending the height requirements for the area. Currently, the allowable height for the area is 35 feet, which is typical for an R-1 type zone. However, the land use by-law contains a specific definition of “height” for the South End area which requires that the building height be measured between the highest point of the building, exclusive of any non-habitable roof, and the mean grade of the finished ground adjoining the building between the building and the fronting street (see Attachment D). This results in permitting an ultimate building height in excess of 35 feet. Staff is of the opinion that this height measurement methodology is excessive for the subject area and should be amended. Staff recommends that the height be measured as the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building.

Proposed Approach

The existing R-1 Zone in the Halifax Peninsula LUB is the only single-family dwelling zone that is found on Peninsula Halifax. As such, it has been amended many times over the past 30 years to add exceptions for specific streets and neighbourhoods. To be clear about the provisions specific to the area, staff recommends that a new single-family zone be applied to the subject area. The new zone will carry forward all of the existing land use requirements which apply to the area, in addition to proposed amendments concerning minimum lot area, minimum frontage, and front yard setbacks. Changes to the maximum height will be dealt with through an amendment to the ZM-17 - Height Precincts Map.

Impacts on 1017-1021 Beaufort Avenue

Notwithstanding the fact that a complete tentative subdivision application has been submitted for the lands located at 1017-1021 Beaufort Avenue, the proposed lots do not meet the proposed land use by-law amendments relative to minimum lot area and minimum frontage (see Attachment B). According to Section 288(2)(b) of the *HRM Charter* (see Attachment C), an application for final subdivision approval must be refused if the proposed lots do not comply with a requirement of the land use by-law, unless a variance has been granted with respect to the requirement. Staff's interpretation of this section of the *HRM Charter* is that the subdivider of 1017-1021 Beaufort Avenue must have final approval of the new lots prior to Council's first notice of its intention to adopt the proposed amendments to the Halifax Peninsula Land Use By-law, if they want to fully preserve their subdivision rights. If the subdivider is successful in obtaining final approval of the lots prior to the Council's first notice of its intention to adopt the proposed amendments, they may then not be entitled to Development Permits for the construction of a single-family dwelling on lots that do not meet the new lot frontage and area requirements.

In dealing with active subdivision applications during the consideration of proposed land use by-law amendments, Council has the ability to consider grandfathering provisions. In this case, Council has the ability to enact the following grandfathering options:

- Option 1 Grandfathering the complete tentative subdivision application, which would allow lots to be created irrespective of when a notice for a public hearing would be published.
- Option 2 Grandfathering lots that have received final approval prior to the first notice of a public hearing being published. This provision would allow lots in existence on the day that a notice for a public hearing was published to be eligible for municipal permits, notwithstanding the fact that they would not be compliant with the new minimum lot area and minimum frontage.
- Option 3 None of the above. This would result in the Development Officer being unable to provide final subdivision approval of lots not compliant with the new minimum lot area and minimum frontage following the publication of the first notice for a public hearing. In addition, non-compliant lots that would have received final approval prior to the first notice of a public hearing would not be eligible for Development Permits unless variances were first issued.

Staff recommends Option 2, so that lots that have received final approval prior to the publication of the first notice for a public hearing will be able to receive Development Permits to allow for the construction of single-family dwellings on the undersized lots. This option has been included in the proposed amendments contained in Attachment B.

Conclusion

Staff has drafted amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law that will adequately address the concerns reflected in a petition tabled with Regional Council on June 22, 2010. As such, it is recommended that Regional Council adopt the proposed amendments, as contained in Attachments A and B of this report.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the 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

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a public information meeting held on September 29, 2010. A public hearing has to be held by Regional Council before it can consider the approval of any amendments.

For the public information meeting, notices were posted on the HRM website, in a local newspaper and mailed to property owners within the notification area as shown on Map 1. Attachment E contains a copy of the minutes from the meeting.

In the intervening time between the holding of the public information meeting and the completion of the staff report, many questions and comments were received by staff, either verbally or in writing. Area residents will now have the opportunity to study in detail the recommendations and proposed amendments contained in the staff report.

Should Regional Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area will be notified as shown on Map 1. Area residents will be able to forward comments in writing to the Clerk's Office prior to the public hearing or address Council verbally during the actual public hearing.

ALTERNATIVES

The following alternatives are identified in conjunction with this report for consideration by Regional Council:

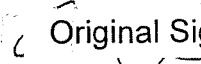
1. Regional Council may choose to approve the requested amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law, as contained in Attachments A and B of this report. This is the recommended course of action.
2. Regional Council may choose to refuse the requested amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law, as contained in Attachments A and B of this report. Regional Council is under no obligation to consider a request to amend its MPS and a decision not to amend this document cannot be appealed.
3. Regional Council may choose to either adopt certain amendments but not others outlined in this report, or alternatively request that additional amendments not identified in this report be made, in which case an additional staff report and public hearing may be required.

ATTACHMENTS

Map 1	Zoning and Location
Map 2	Generalized Future Land Use
Map 3	Properties Impacted by Potential Increase in Minimum Lot Area
Map 4	Properties Impacted by Potential Increase in Minimum Lot Frontage
Map 5	Properties Impacted by Potential Decrease in Maximum Lot Coverage
Map 6	Average Setbacks of Existing Residential Structures
Attachment A	Proposed Amendments to the Halifax MPS
Attachment B	Proposed Amendments to the Halifax Peninsula LUB
Attachment C	Excerpts of the <i>Halifax Regional Municipality Charter</i>
Attachment D	Excerpts from the Halifax Peninsula LUB
Attachment E	Minutes from the September 29, 2010 Public Information Meeting

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: Luc Ouellet, Senior Planner, 490-3689

 Original Signed

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



Map 1 - Zoning

South End Detailed Area Plan

 Subject area

Halifax Peninsula
Land Use By-Law Area

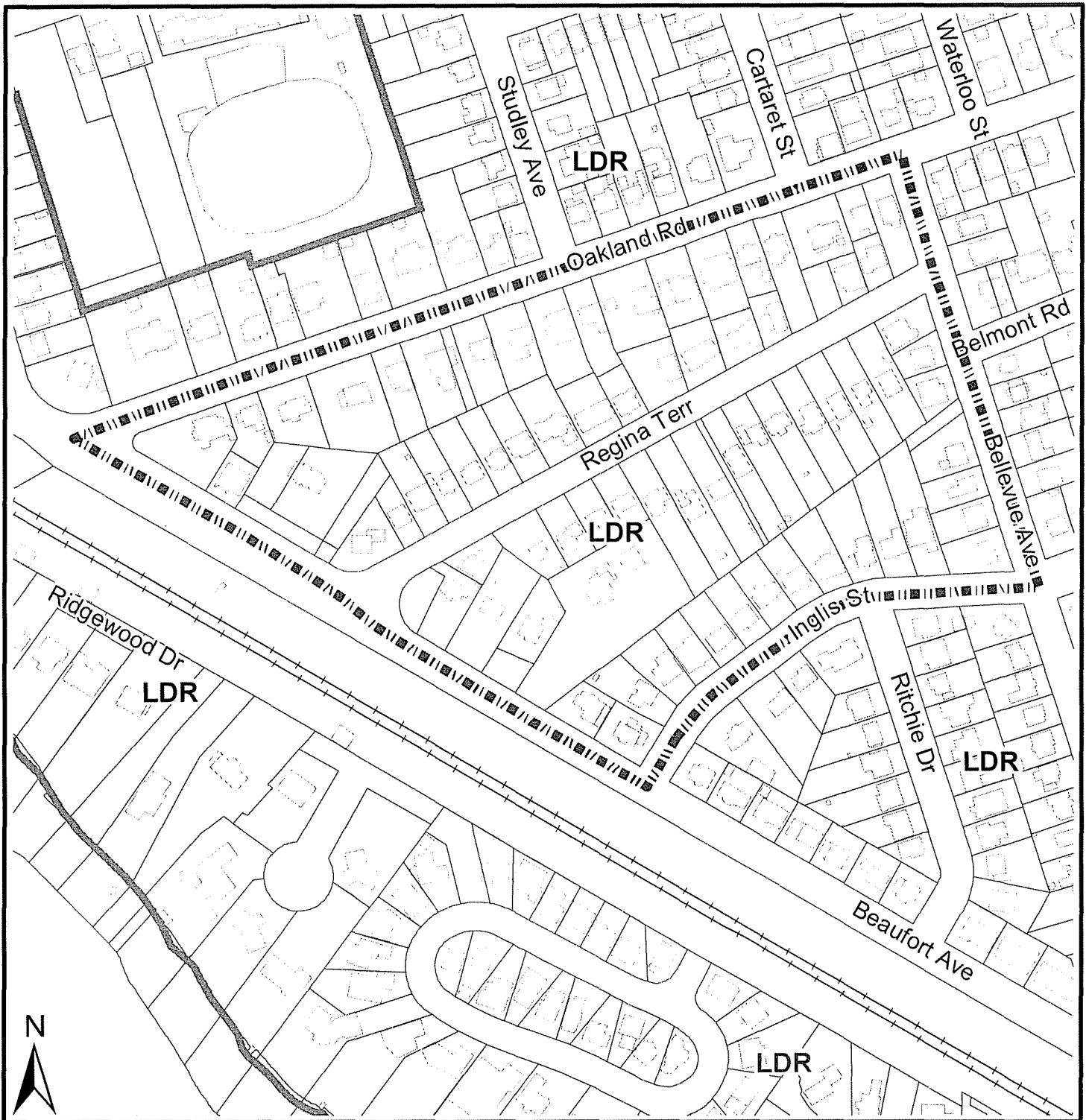
Zone

R-1 Single Family Dwelling
 R-2 General Residential
 U-1 Low Density University
 U-2 High Density University
 P Park and Institutional
 WA Water Access

0 50 100 m

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law Area.

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



Map 2 - Generalized Future Land Use

South End Detailed Area Plan

 Subject area

Halifax Plan Area
South End Detailed Area Plan

Designation

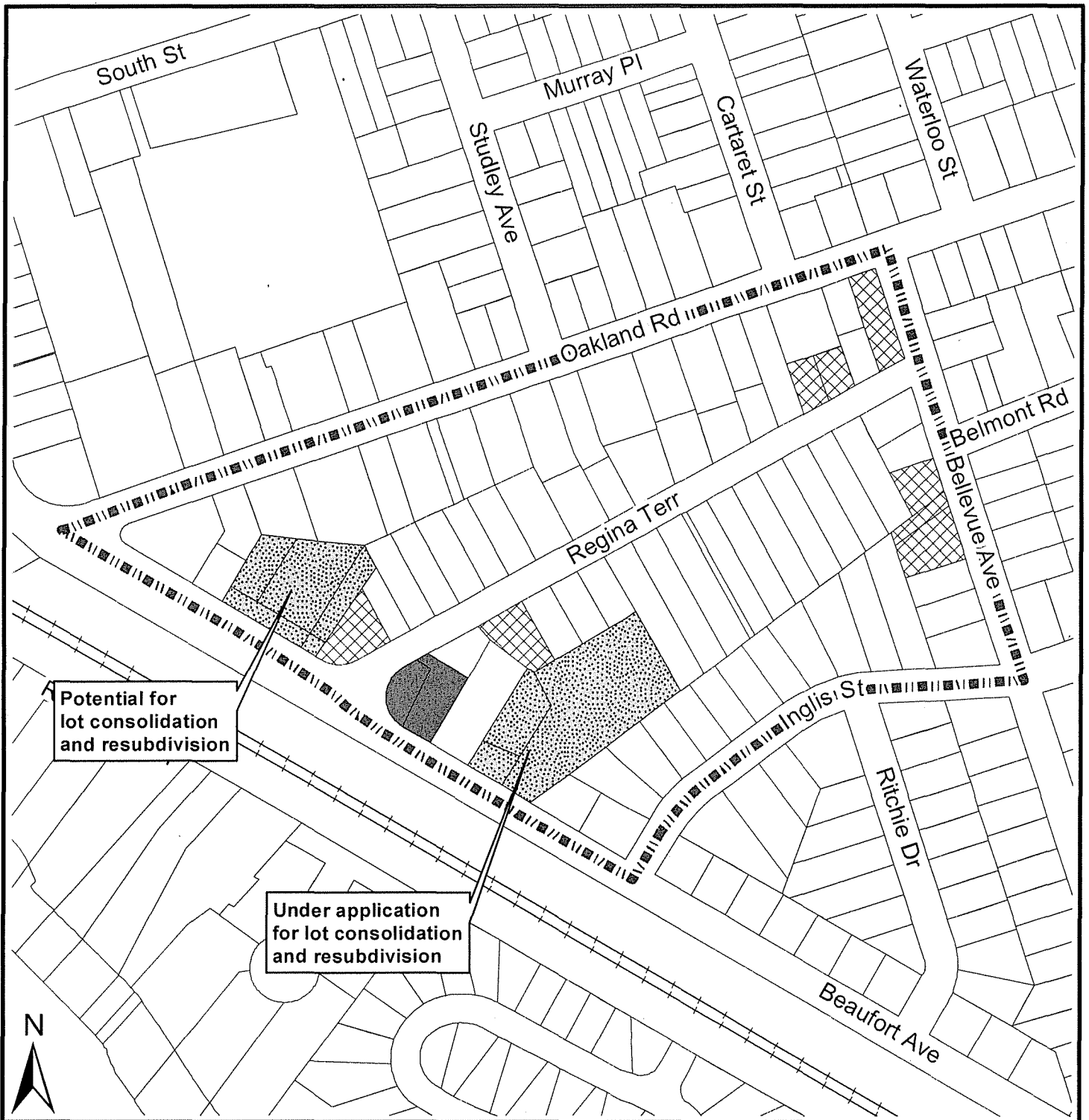
LDR Low Density Residential

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0 50 100 m

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan Area

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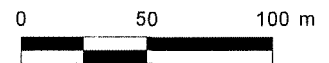


Map 3 - Properties Impacted by Potential Increase in Minimum Lot Area

South End Detailed Area Plan
Area 1

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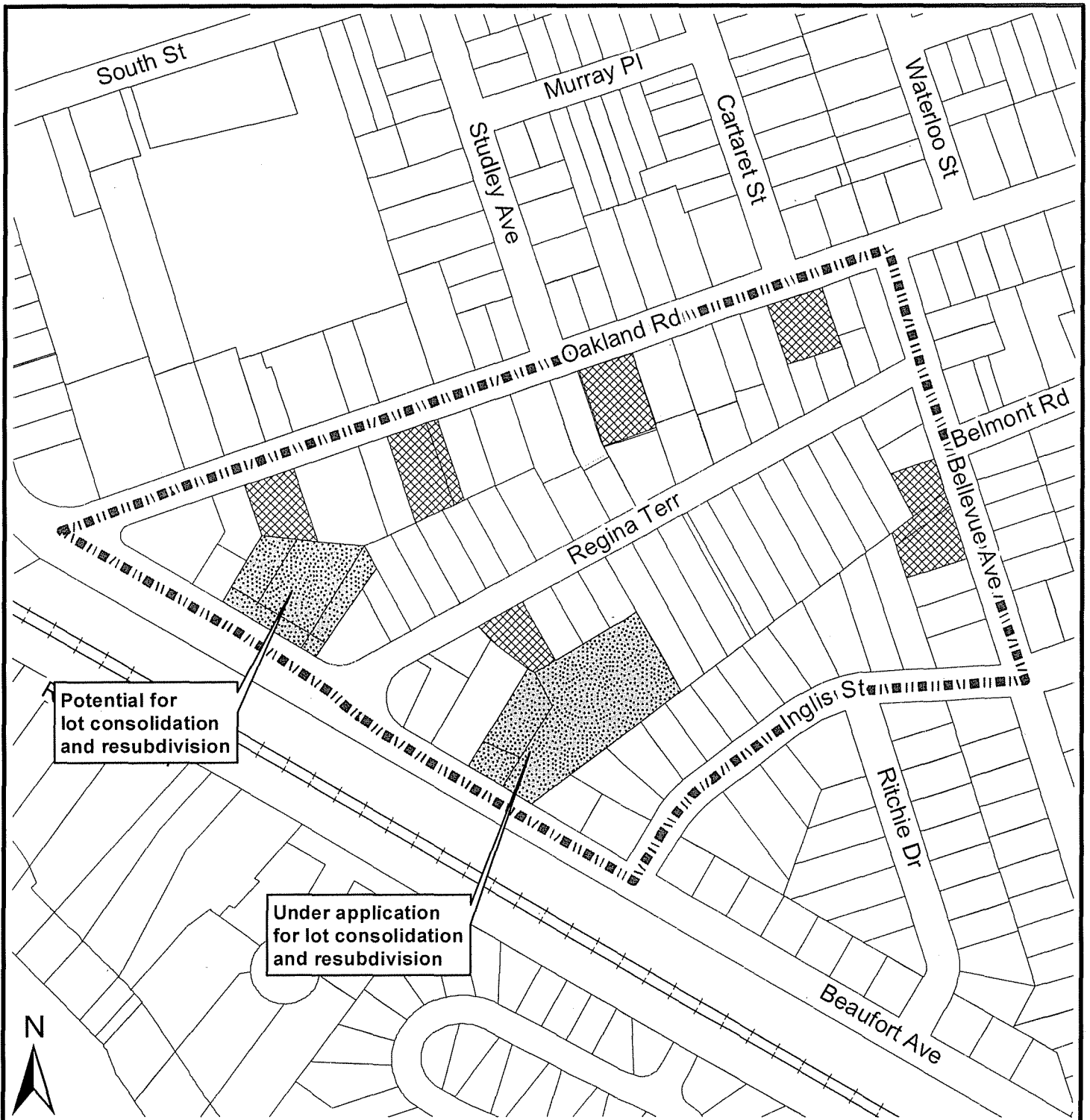
-  Properties with area of 8000-10000 square feet and lot frontage of > 80 feet
-  Properties with area of 12000-15000 square feet and lot frontage of > 120 feet



Halifax Plan Area
South End Detailed Area Plan

 Study area

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any representation on this plan

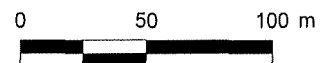


Map 4 - Properties Impacted by Potential Increase in Minimum Lot Frontage

South End Detailed Area Plan
Area 1

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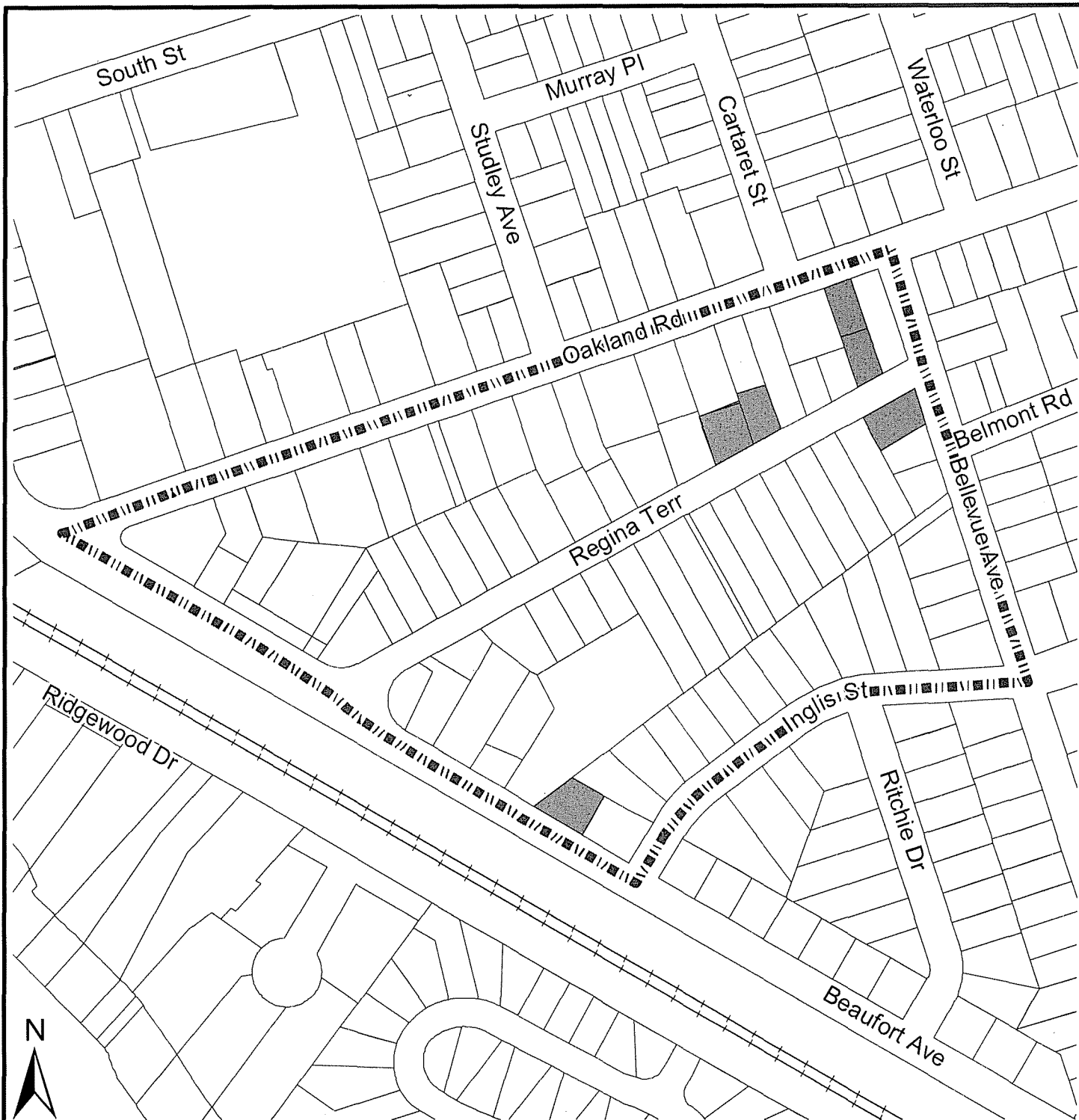
 Properties with lot frontage of 80-100 feet and lot area of > 8000 sq ft



Halifax Plan Area
South End Detailed Area Plan

 Study area

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any representation on this plan



Map 5 - Properties Impacted by Potential Decrease in Maximum Lot Coverage

South End Detailed Area Plan
Area 1

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COMMUNITY DEVELOPMENT
PLANNING SERVICES

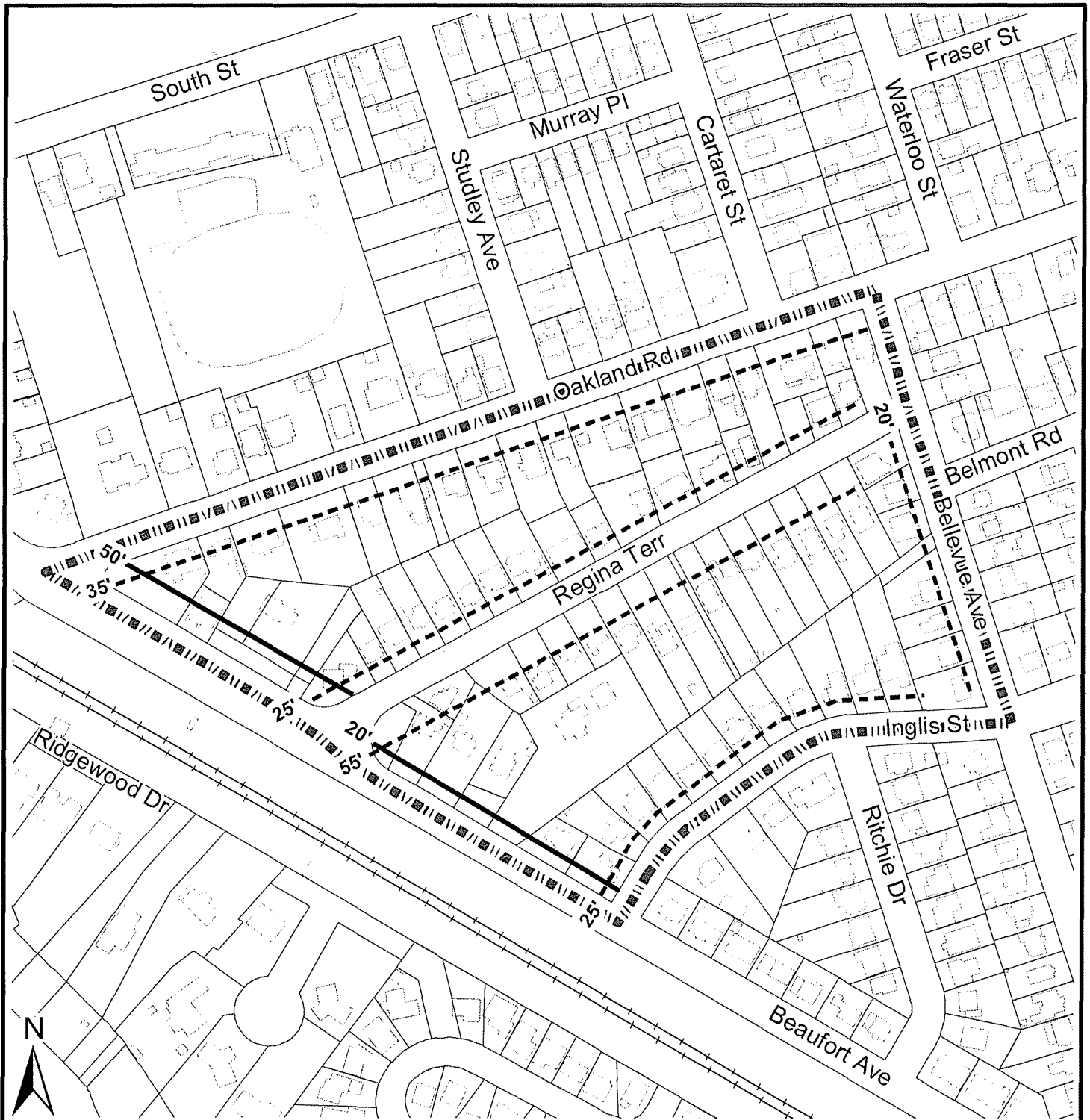
 Properties with lot coverage of 30%-35%

0 50 100 m


Halifax Plan Area
South End Detailed Area Plan

 Study area

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any representation on this plan

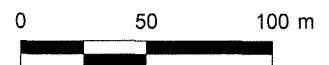


Map 6 - Average Setbacks of Existing Residential Structures

Halifax Peninsula Land Use By-Law

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-  Proposed delineation of average setback
-  Existing building line setback (50')



Halifax Peninsula
Land Use By-Law Area

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

Attachment A Proposed Amendments to the Halifax Municipal Planning Strategy

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Halifax is hereby amended as follows:

1. By adding the following policy after Policy 1.4.1.1:

Policy 1.4.1.2 The area bounded by Oakland Road, Bellevue Avenue, Inglis Street, and Beaufort Avenue contains a development pattern which is not closely aligned with the requirements of the R-1 (Single Family) Zone under the Halifax Peninsula Land Use By-law. In order to better reflect the existing character of the aforementioned area under the Halifax Peninsula Land Use By-law, the latter shall be amended to introduce an area-specific zone titled R-1A (Single Family A) Zone. While the R-1A Zone shall share similar permitted uses and requirements as the R-1 Zone, it shall differ in terms of minimum lot area, minimum lot frontage and front yard requirements.

2. By replacing Policy 7.0.1 with the following:

Policy 7.0.1 The Land Use By-law shall require that heights established by Policy 7.0, for properties zoned **R-1A and R-2A** and those referred to in Policy 7.4.2, be measured between the highest point of the roof and the mean grade of the finished ground adjoining the building.

3. By amending Map 2-1 (Height Precincts District 1) of the South End Area Plan, as shown in the attached Schedule "A".

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 Council of Halifax Regional Municipality held on the _____ day of _____, A.D., 2011.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this _____ day of _____, A.D., 2011.

Cathy Mellett

Municipal Clerk



Schedule A

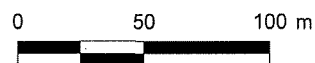
Halifax Municipal Planning Strategy

Area to be amended on Map 2-1 of the Halifax Municipal Planning Strategy, Section V, to indicate that the building height is to be interpreted as:



"Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building"

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Halifax Municipal Planning Strategy
South End Area Plan

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any representation on this plan

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

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

1. By adding the words “**R-1A Zone**” immediately below the words “R-1 Zone” within the “TABLE OF CONTENTS”.
2. By replacing Section 6(2A) with the following:

6(2A) For all R-1, **R-1A**, R-2, R-2A, R-2T and RC-1 zones, such accommodation shall consist of one separately accessible parking space at least 8 feet wide and 16 feet long for each dwelling unit.
3. By replacing Section 13(2) with the following:

13(2) No person shall in any R-1, **R-1A**, R-2 or R-3 Zone use any lot for the parking or storing of any boat, camper or trailer.
4. By replacing the first three lines of Section 13(3) with the following:

13(3) Notwithstanding the provisions of subsection (2) hereof, the owner or occupant of any dwelling unit or lot, building, or structure in any R-1, **R-1A**, R-2 or R-3 Zone may store or park:
5. By replacing Section 13(4) with the following:

13(4) Notwithstanding subsections (2) and (3) hereof, the owner or occupant of any dwelling unit or lot, building or structure in any R-1, **R-1A**, R-2 or R-3 Zone may park for the purpose of loading and unloading not more than either one boat, or one camper or one trailer at any one time on such lot.
6. By replacing the preamble to the table in Section 26D with the following:

26D The maximum residential gross floor area for dwellings within the R-1, **R-1A** and R-2 Zones shall be as follows:
7. By amending Section 17 by adding a row with the words “**Single Family Dwelling A Zone**”, “**R-1A**” and “**R-1A-V**” following the row containing the words “Single Family Dwelling Zone”, “R-1” and “R-1-V”.
8. By replacing Section 18 with the following:

18 The uses of buildings and land permitted by this by-law in such zones may be referred to as R-1, **R-1A**, R-2, R-2T, R-2A, R-3, RC-1, RC-2, RC-3, C-1, C-2, C-2A, C-2C, ~~C-2D~~ (RC-June 16/09; E-Oct 24/09), C-3A, C-3, C-5, C-6, P, B, U-1,

U-2, CFB, BCDD, CD-1, CD-2, CD-3, ICH, HZ (RC-June 16/09; E-Oct 24/09), RPK (RC-June 27/06; E-Aug 26/06), and WA (RC-May 1/07; E-July 21/07) uses, respectively.

9. By adding the following sections after Section 34I(2):

R-1A

SINGLE FAMILY A ZONE

34J(1) The following uses shall be permitted in any R-1A Zone:

- (a) a detached one-family dwelling house;**
- (b) the office of a professional person located in the dwelling house used by such professional person as his/her private residence;**
- (c) a home occupation;**
- (d) a public park or playground;**
- (e) church or church hall;**
- (f) a day care facility for not more than 14 children in conjunction with a dwelling;**
- (g) a special care home containing not more than ten persons including resident staff members;**
- (h) uses accessory to any of the foregoing uses.**

34J(2) No person shall, in any R-1A 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).

34J(3) No person shall, in any R-1A 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).

LOT, HEIGHT AND COVERAGE REQUIREMENTS

34K(1) Buildings erected, altered or used for R-1A uses in an R-1A Zone shall comply with the following lot, height and coverage requirements;

- (a) The minimum lot frontage shall be 50 ft. except when a lot faces on the outer side of a curve in the street, in which case the minimum frontage may be reduced to 30 ft.**

- (b) The minimum lot area shall be 5,000 sq. ft.
- (c) The maximum height shall be 35 ft.
- (d) The maximum lot coverage shall be 35 percent.

34K(2) A lot that was created and registered at the Land Registry Office by [INSERT DATE OF COUNCIL'S FIRST NOTICE OF ITS INTENTION TO ADOPT THIS SECTION] and has a minimum lot area of 4,000 sq. ft. and a minimum lot frontage of 40 ft., or 25 ft. for a lot facing on the outer side of a curve in the street, may be developed provided all other requirements of this by-law are met.

34K(3) Maximum height shall be measured as defined on map ZM-17.

YARD REQUIREMENTS

34L(1) The minimum front yard requirement shall be as shown on map ZM-22. In the case of lots fronting on a cul-de-sac, the minimum front yard requirement shall be 15 feet in depth.

34L(2) Every part of the required front yard shall be open and unobstructed by any structure except to permit uses or encroachments subject to the following provisions:

- (a) Uncovered decks, stairways, and steps not encroaching more than five (5) feet into the required front yard and not covering more than fifty (50) square feet in area; and,
- (b) Access ramps for the mobility disabled.

34M A rear yard shall be provided of not less than 20 feet in depth.

34N A side yard shall be provided on each side of the building of not less than 10 percent of the width of the lot, provided that the maximum width of any side yard need not exceed 6 feet and the provisions of this clause shall apply to both sides of the building.

34O In the case of a corner lot at the rear of which (whether a lane intersects or not) is a lot fronting on a street which flanks such a corner lot, the width of the side yard on the corner lot along the flanking street shall not be less than 6 feet nor less than half the depth of the front yard on the lot in the rear of such corner lot. This regulation shall not, however, where the provisions of clause 34N are complied with, reduce the buildable width of a corner lot to less than 26 feet.

BOARDERS AND LODGERS – BED AND BREAKFAST

34P(a) The keeping of not more than three boarders or lodgers in a one family dwelling house shall be permitted but no window display or sign of any kind in respect to the use permitted by this clause shall be allowed.

34P(b) The provision of the bed and breakfast accommodation shall not be permitted simultaneously with the keeping of boarders and lodgers.

SIGNS

34Q Within the R-1A Zone, it shall be unlawful to utilize any portion of the exterior of the building or other structure for the purpose of advertising or to erect or maintain any billboard or sign except:

- (a)** One sign board not exceeding six square feet in area appertaining to the sale or rent of the building or lot;
- (b)** One non-illuminated trespassing, safety, or caution sign not exceeding one square foot in size;
- (c)** One non-illuminated sign not exceeding one square foot in area, indicating the name and occupation, profession or trade of the occupant of the building;
- (d)** A bulletin board for a church or church hall;
- (e)** A sign not exceeding two square feet in size for any day care facility;
- (f)** One sign not exceeding two square feet in size which can be illuminated only by reflected light, for any bed and breakfast establishment.

DAY CARE FACILITIES

34R Where any building is erected, altered or used for a day care facility in an R-1A Zone, such building shall comply with the following requirements:

- (a)** Except for outdoor play space, any day care facility shall be wholly contained within a dwelling which is the principal residence of the operator of the facility;
- (b)** One off street parking space, other than that required for the dwelling, shall be provided. The required parking space shall be eight feet wide by sixteen feet long, and be exclusive of the front yard;

- (c) The day care facility shall be limited to a maximum of one full storey of the dwelling; this storey may be the basement;
 - (d) Only one day care facility shall be permitted to be located on any lot.
- 34S Notwithstanding the provisions of Sections 34J(1)(f) and 34R(a-c), a day care facility may be operated as an accessory use to a church or church hall. The parking provisions contained in Sections 6(6) and 6(7) would apply.

SPECIAL CARE HOME

- 34T Where any building is altered or used as a special care home in an R-1A Zone, such building, in addition to the requirements hereinbefore set out, shall comply with the following requirements:
- (a) 100 square feet of landscaped open space shall be provided for each person occupying such home;
 - (b) Recreational indoor space may account for 25% of the landscaped open space;
 - (c) The building is a minimum of 1000 feet distance from any other building used for or as a special care home;
 - (d) Parking requirements as contained in Subsection (8) and (9) of Section 6.

CONVERSIONS

- 34U Any residential building which was in existence on 14 October 1982 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);
 - (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

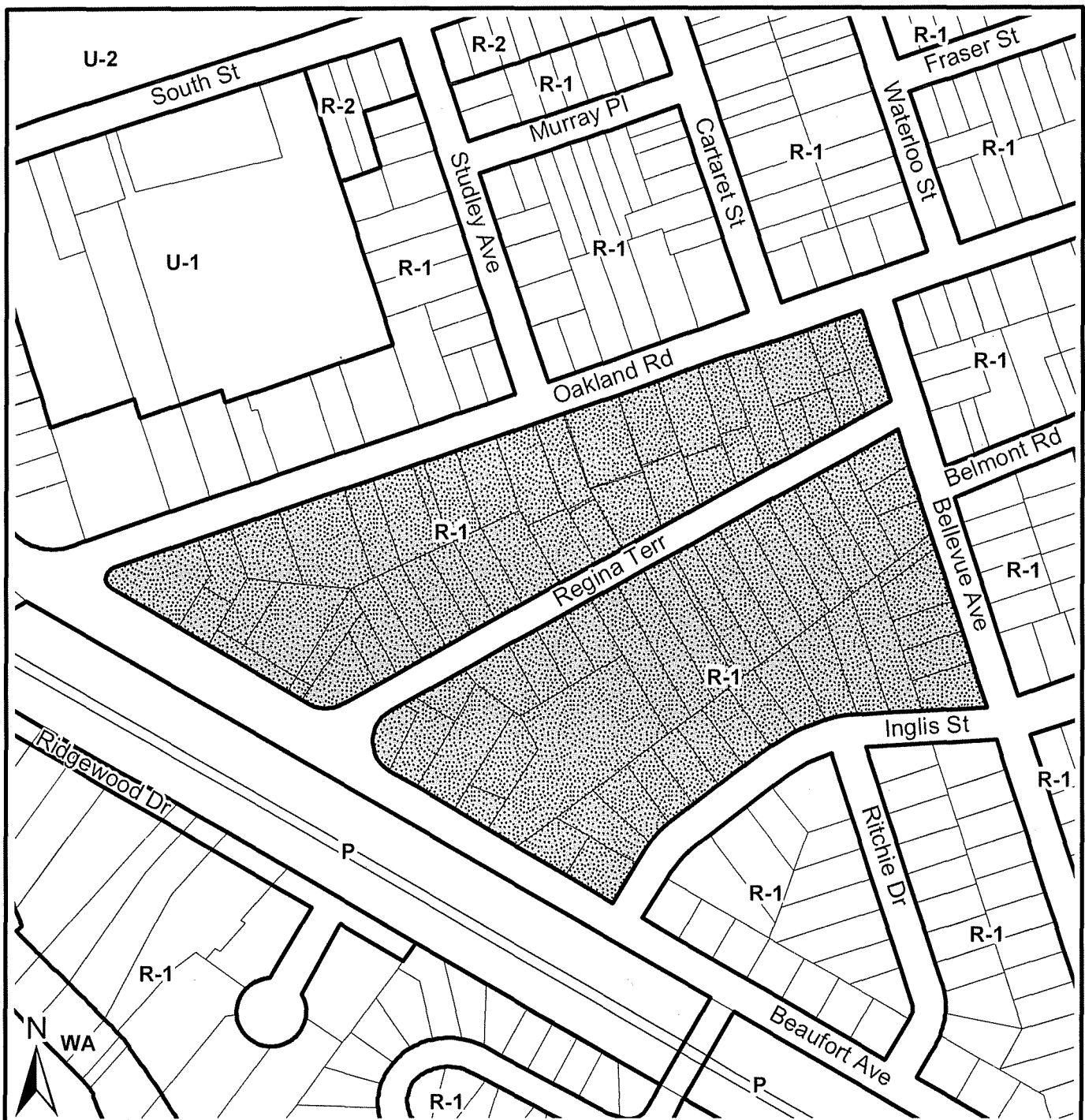
- (e) Where a conversion has occurred prior to September 17, 2005, there shall be no further increase in the number of bedrooms beyond that which is specified in (c) or (d); and,**
- (f) One separate accessible parking space at least 8 feet wide and 16 feet long per dwelling unit is provided.**

- 10. By amending Map ZM-1, as shown in the attached Schedule "B".
- 11. By amending Map ZM-17, as shown in the attached Schedule "C".
- 12. By adding a new map titled "ZM-22", as shown in the attached Schedule "D".

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 Council of Halifax Regional Municipality held on the _____ day of _____, A.D., 2011.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this _____ day of _____, A.D., 2011.

Cathy Mellett
Municipal Clerk



Schedule B

Halifax Peninsula Land Use By-Law

 Area to be rezoned from
R-1 (Single Family Dwelling)
to R-1A (Single Family Dwelling A)

Halifax Peninsula
Land Use By-Law Area

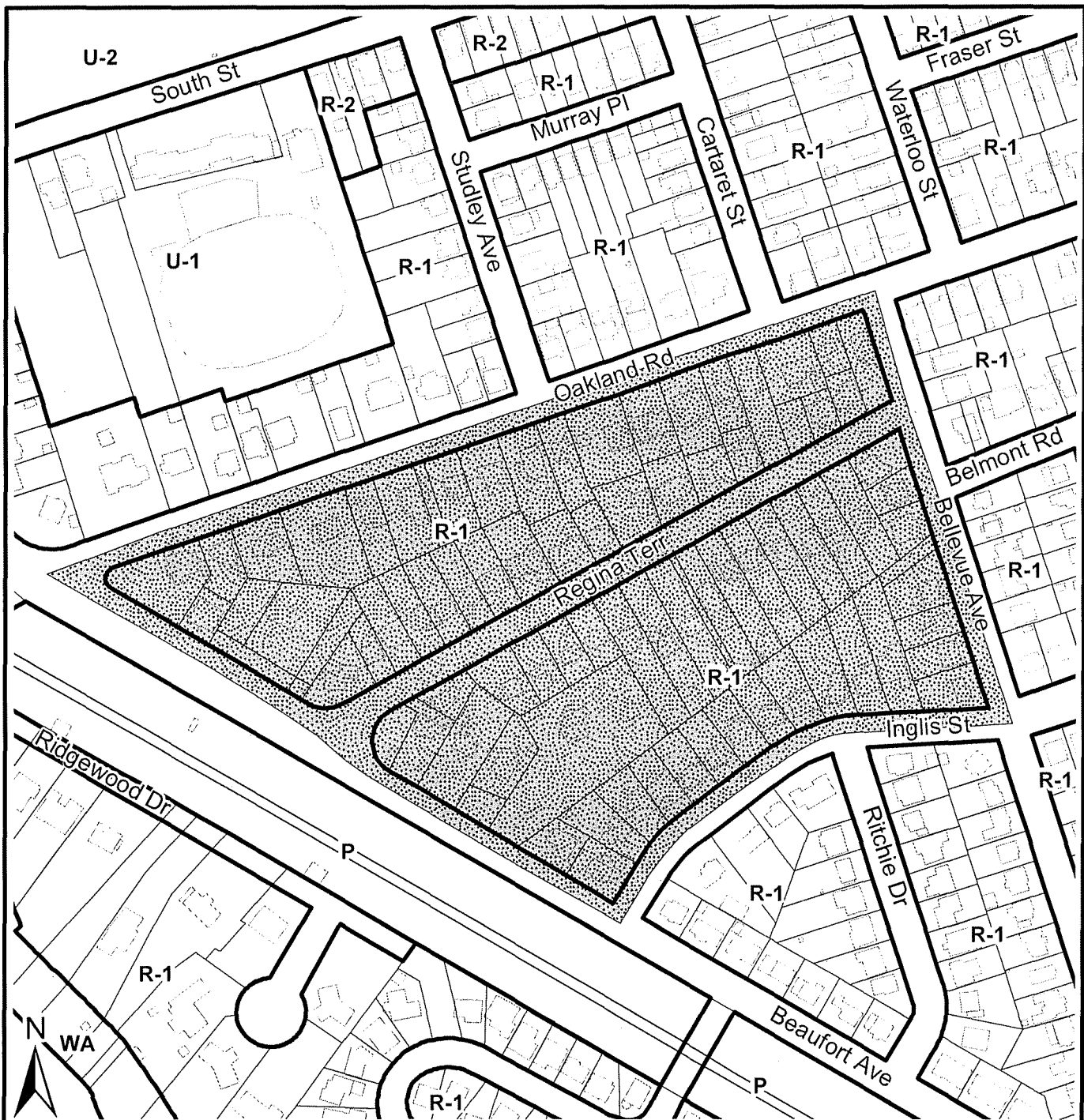
HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 50 100 m



This map is an unofficial reproduction of a
portion of the Zoning Map for the Halifax
Peninsula Land Use By-Law Area

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



Schedule C

Halifax Peninsula Land Use By-Law

Area to be amended on ZM-17 - Height Precinct Map to indicate that the building height is to be interpreted as "Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building"



Halifax Peninsula
Land Use By-Law Area

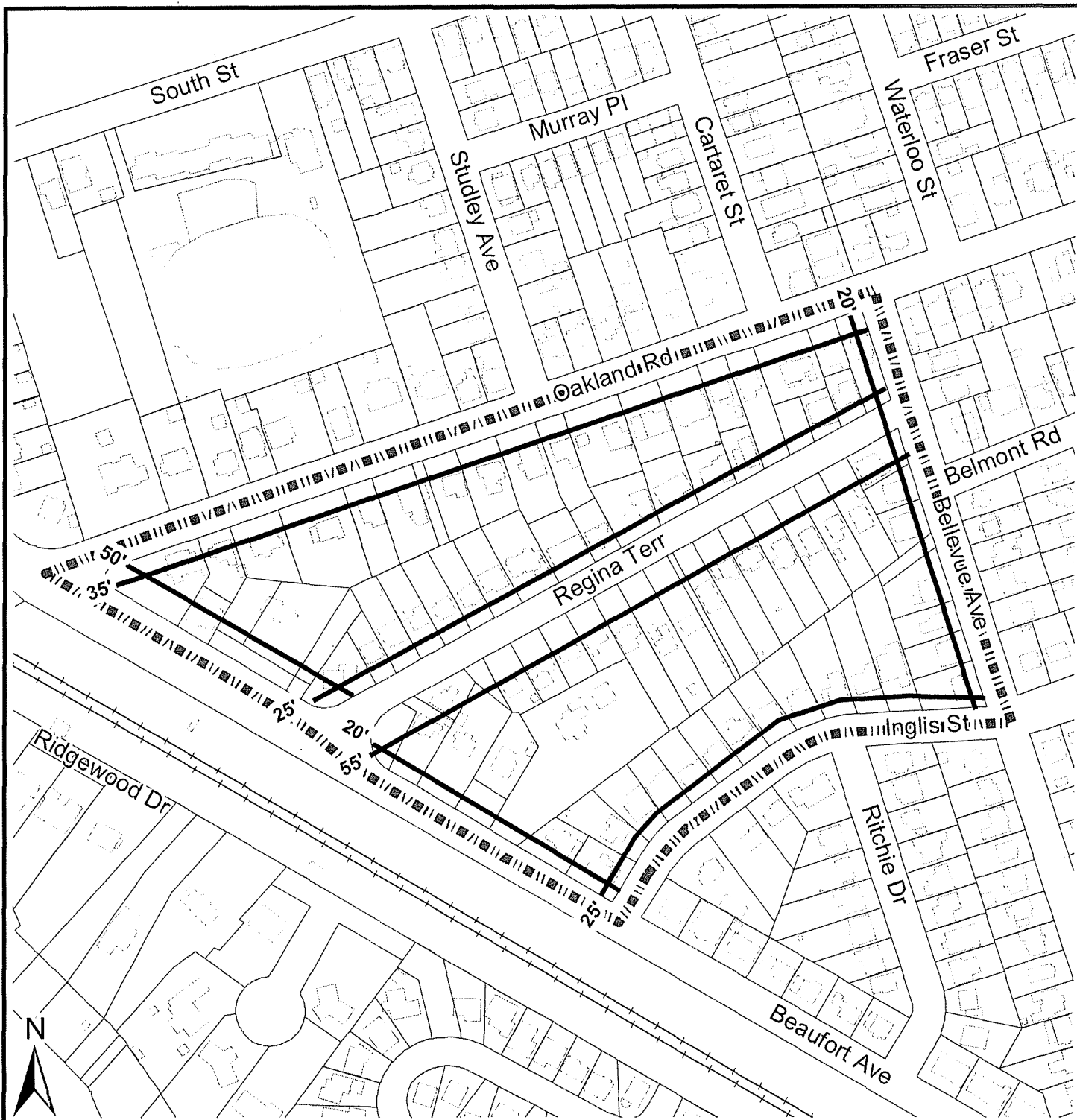
HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

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This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law Area

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

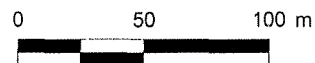


Schedule D

ZM-22 - Front Yard Setbacks on Existing Streets

 Minimum front yard setback

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PLANNING SERVICES



Halifax Peninsula
Land Use By-Law Area

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

Effective:

ZM-22_Setbacks

Limitations on granting subdivision approval

288(1) Subject to Section 295, an application for subdivision approval must be approved if the proposed subdivision is in accordance with the enactments in effect at the time a complete application is received by the development officer.

(2) An application for subdivision approval must be refused if

- (a) the proposed use of the lots being created is not permitted by the land-use by-law;
- (b) the proposed lots do not comply with a requirement of the land-use by-law, unless a variance has been granted with respect to the requirement;
- (c) the proposed lots would require an on-site sewage disposal systems, unless the owner has been granted an exemption from technical requirements by the Minister of Environment, or a person designated by that Minister;
- (d) the development officer is made aware of a discrepancy among survey plans that, where either claimant were completely successful in a claim, would result in a lot that cannot be approved;
- (e) the proposed access to a street does not meet the requirements of the Municipality or Her Majesty in right of the Province;
- (f) the proposed subdivision does not meet the requirements of the subdivision by-law and no variance is granted; or
- (g) the proposed subdivision is inconsistent with a proposed subdivision by-law or a proposed amendment to a subdivision by-law, for a period of one hundred and fifty days from the publication of the first notice advertising the Council's intention to adopt or amend the subdivision by-law. 2008, c. 39, s. 288.

Tentative plan of subdivision

295 Where a tentative plan of subdivision is approved pursuant to the subdivision by-law, a lot or lots shown on the approved tentative plan must be approved at the final plan of subdivision stage if

- (a) the lots are substantially the same as shown on the tentative plan;
- (b) any conditions on the approval of the tentative plan have been met;
- (c) the services required by the subdivision by-law at the time of approval of the tentative plan have been constructed and any municipal services has

been accepted by the Municipality or acceptable security has been provided to the Municipality to ensure the construction of the service; and

- (d) the complete application for final subdivision plan approval is received within two years of the date of the approval of the tentative plan. 2008, c. 39, s. 295.

“Height South-End and Peninsula Centre Areas” shall be the height shown on ZM-17, Height Map, said height being the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building between the building and the fronting street. Further, the permitted height may be exceeded to accommodate the top storey of a building if such storey extends through the maximum height permitted, provided that in the R-1 and R-2 Zones only the roof of the building may exceed the height permitted and no additional habitable space is created.

Public Information Meeting

Case 16376

September 29, 2010

In attendance: Luc Ouellet, Senior Planner

Shanan Pictou, Urban Design Technician

Gail Harnish, Planning Services

Regrets: Councillor Uteck

Call to order, opening comments

Mr. Luc Ouellet called the public information meeting (PIM) to order at approximately 7:00 p.m. in Halifax Hall.

Regional Council has initiated a process to amend the Halifax Municipal Planning Strategy (MPS) and the Peninsula Land Use By-law (LUB) based on a petition submitted by members of the community for the area bounded by Oakland Road, Bellevue Avenue, Inglis Street and Beaufort Avenue. The purpose of tonight's meeting is to identify the scope of the application and to receive feedback on issues and concerns. No decisions are being made tonight.

Proposal

As part of the petition and the motion passed by Regional Council, five issues were requested to be addressed:

- require that a new right-of-way not be built within 30' of a property line where that property line runs along other privately owned residential properties;
- increase the minimum lot size from 4000 to 5000 square feet;
- increase the lot frontage from 40' to 50'. On the outside curve of a cul-de-sac, the minimum lot frontage would be increased from 25' to 30'.
- decrease the maximum lot coverage (defined as the percentage of a lot covered by buildings) from 35% to 30%; and
- require that the minimum depth of the front yard of a new residential building be the average of the front yard depths of the majority of residential buildings fronting on the same side of the same block in which the new building is to be constructed.

Mr. Ouellet advised staff did a bit of analysis and, apart from the setback from the street, there are three properties outlined on the map that would be impacted by the proposed changes. The

two properties shown in red would lose their rights to subdivide if the minimum lot size is increased to 5000 square feet and the lot frontage is increased to 50'. He referenced a property shown in hatching which he has been told is the property that started the petition. It is a pretty large lot and there is some ability for them to run a cul-de-sac.

Mr. Ouellet also advised there could potentially be an impact if the maximum lot coverage is decreased from 35' to 30'. It could mean somebody would not be able to put an accessory building on their lot.

Planning process

Mr. Ouellet outlined the planning process:

- Council received a petition and initiated the planning process to consider amending the South End area of the Halifax MPS and Peninsula LUB and to get feedback from members of the public
- tonight we are holding the public meeting
- we will do a detailed staff review
- staff will prepare a staff report which will be tabled with Peninsula Community Council, who will make a recommendation to Regional Council
- Regional Council will decide whether or not to schedule a public hearing
- if they decide to proceed, a public hearing is held
- there is no ability to appeal the decision of Council for an MPS amendment, however, there is an ability to appeal the LUB amendments

Questions and comments

Mr. David Clarke noted there is a handout on the table which is entitled “Preserving the character of the BARTIS neighbourhood”. The map that HRM is using to define the region originally discussed is different from the original proposal. There is a map on the third page of the handout which describes the area that BARTIS had intended. It did not include Bellevue Avenue or Oakland Road and it does include the south part of Inglis Street.

This started off with the realization that the Oakland Road area is protected in the MPS and LUB. The way it is protected is to say this neighbourhood is characterized by large open areas and should be preserved in creating lots. If you look at the map on Page 3 there is no real difference with Oakland Road and Regina Terrace in the sense that the average lot size in the BARTIS area is 10,000 square feet and the average lot size on Oakland Road is 9,400 square feet. Both areas have an average street frontage of 66'. There is no particular reason why one should be highlighted in the MPS and the other is not. The character they are trying to preserve is already enshrined in the LUB for Oakland Road.

A map in the handout identifies three areas as being vulnerable. One of them is the same and two of them are different than identified by the planner. In particular the one they overlap on is highlighted in this document as to what it would look like if it was divided into ten lots through

as-of-right development. This is a character changing development. If those lots are subdivided into the size shown in this diagram, they are less than half the size of the average lots in the BARTIS area and would be a dramatic change to the character of the neighbourhood.

The next map shows what the same property would look like if the proposed amendments are implemented. While those lots are still small, at least they are more in keeping with the immediate neighbourhood and would be a better fit.

This proposal is not to stop development or prevent cul-de-sacs. It is so that if a cul-de-sac is created in there and properties are subdivided, it will be done in a way to help preserve the neighbourhood, which was the main goal of their efforts.

Mr. Ouellet advised that in terms of the area shown by staff, it is difficult for us to put something in the LUB where we have to list all the PIDs. We typically do it by street. This way a technician processing a permit or subdivision can quickly figure out which properties are in or not. As pointed out, the property at 1069 Beaufort Avenue may also be impacted. We were not sure if it had street frontage because there is a parcel at the front. It is for each property owner to figure out where they stand.

Mr. Allen Penney stated he thought the frontage was dealt with about 25 years ago with a special by-law amendment. That was based on a 30' development on Oakland Road which was half the right-of-way of the street which had nothing to do with a real lot. The quality of the area is what he was really concerned about. It seems that these by-laws are pushing for the quality to be maintained, as well as the by-law that was dropped when HRM was created. He was concerned about keeping the quality of the area.

Ms. Mary Brooks said she lived on a property that is on a lot where it shows it has no house but it has had a house there for sixteen years. She also owned the property next door to it which does not have a house but which she purchased in case she wanted to build a house for their retirement. Both these properties are affected. It is 6142 Oakland Road although on the map it looks like 6142 Regina Terrace.

Her concern was two-fold. She did not understand why the properties in the area bounded by Oakland Road, Bellevue Avenue, Beaufort Avenue, and Regina Terrace are included when the problem appears to be the area bounded by Regina Terrace, Bellevue Avenue, Beaufort Avenue and Inglis Street. She acquired her property knowing what her setback requirements would be, and knowing she would have 35% left to build a house on when she was ready to do so. If the maximum lot coverage is reduced to 30%, she believed it would render her investment in her future home to be extremely difficult. She did not see why a decision sixteen years ago should influence future developments when her current house covers 35% of the lot and meets the requirement. Does this mean her current house is no longer suitable for future habitation? She would like to argue that the maximum lot coverage not be reduced from 35% to 30%.

Mr. Ouellet advised the area delineated by the study was stated in the motion of Council.

Dr. Ian Beauprie said he did not think anyone in the planning process sticks up for trees, gardens and green space. There is always an incentive by Council to create more tax revenue and for developers to generate more profit. He thought the character of the Oakland Road neighbourhood was worth preserving. In addition to the BARTIS area, he thought the entire area south of South Street and west of Robie Street to the ravine deserved this special attention as well. He had a vested interest in not seeing dense infilling in his back yard but he did not think he should be special. He believed they all deserved to have a neighbourhood that is special and maintain its character because of its trees and open spaces.

Ms. Rosemary Nichols indicated she wished to echo what Mr. Beauprie just said in terms of preserving the neighbourhood. She asked what factors staff would look at during the staff review.

Mr. Ouellet responded the proposal is for an MPS amendment. Council usually looks to see if there is community support. If there is community support, then staff will most likely support that application. There have been five suggestions put forward which we will have to review in detail. We need to make sure the community is okay with those five issues, we will have to verify if the requested amendments are clear enough and enforceable, and then we will draft the proposed amendments. They may be very similar but they may change a bit. The development officer has to have a clear definition or clause. Any amendments approved by Council would be inserted into the MPS. As part of the process, staff will make a recommendation.

Ms. Nichols asked if community support was in part the number of people who stood up and said yes to the requested amendments. Mr. Ouellet responded yes.

Ms. Sarah Iversan stated she wished to echo what everybody in the neighbourhood said. They all bought into this neighbourhood because of its nature. She had a vested interest because she could see the two properties next to her which would make her property vulnerable and which would entirely change what her house is. They have seen things change already which they did not have control of in the neighbourhood and development that looks awful. It would be a shame for this to happen to this neighbourhood and they should not be considered any different than Oakland Road. The front lot size makes a big difference. She was in support of all the amendments but the front lot size is a big issue. They are seeing condominiums built in nice neighbourhoods.

Ms. Barb Shaw stated she was not totally against development, but she wanted to be sure all the standards and codes for building roads are followed. Not allowing an extra few feet may mean fire trucks cannot turn around, snow plows cannot do their job, and it can cause traffic problems depending on the street frontage. She was concerned about traffic and the standards of cul-de-sacs.

Mr. Ouellet indicated the Engineer can, upon request, vary the requirements of the Redbook. That falls outside of Planning.

Ms. Patricia Livingston stated she supported the five proposed amendments. She thought it was very important to preserve the integrity of the neighbourhood.

Mr. Ouellet encouraged everybody to figure out their lot coverage. The proposed amendment to reduce lot coverage could potentially impact every one of you and, before you agree to it, you need to pay special attention to that. They will be denied a building permit if they do not meet the lot coverage.

Mr. Mitch Brooks asked how lot coverage is calculated.

Mr. Ouellet advised that staff would update the web site to include that information. Anyone having questions on how their lot coverage is calculated should contact Development Services.

Ms. Jody Asbell-Clark indicated she was disturbed that an engineer could approve a variance on the engineering requirements without her having the opportunity for any say. If the house put up by Mr. Roth fell within the 35% lot coverage requirements, then the rest of them should not have anything to worry about.

Mr. B. Chauhan said he was not sure about the 30% rule. His neighbour's house shown in red on the map may be impacted. The property next door to them has just been bought. It is the second house on Bellevue Avenue from Inglis Street. They are waiting with bated breath to see what they will do. It is a tiny bungalow.

Mr. Ouellet confirmed the 35% lot coverage requirement applied to Bellevue Avenue. He cautioned a minor variance could be approved by Community Council in which case they could surpass the lot coverage requirements. The neighbours can appeal the decision of the development officer. There is a cost to that and a process which can take at least a month.

Ms. Bea Renton read into the record a letter from Karine Renton.

"My name is Karine Renton and I live at Halifax. My family has lived here continuously since 1936.

I am unfortunately unable to attend tonight's public information meeting to make this submission due to medical reasons. I have asked my daughter, Bea Renton, to speak on my behalf. It is my hope that she and her family will eventually live here.

I support the above noted proposed MPS/LUB amendments.

My home borders directly on two properties that are attempting to become a large scale, infill housing development. This development would have an adverse effect on my property value, and use and enjoyment of my home for the following reasons:

- increased traffic due to the proposed higher housing density, making it more difficult for me to safely access my property;
- a loss of privacy with more houses bordering my property;
- noise associated with road and housing construction for this development and increased density;
- alteration of the distinctive, historic streetscape of our neighbourhood which should be retained in its current configuration with only modest development that does not overpower the neighbourhood. The streetscape of this area have traditionally been developed in a particular style and density that will be significantly altered if these amendments are not adopted.

The proposed by-law amendments will address these concerns. They will maintain the character of the neighbourhood for everyone's present and future use and enjoyment. This is otherwise threatened by the potential for high density, infill development.

Thank you for the consideration of my submission".

An individual stated there is a mistake on the map. The Norwood property is shown but not the Brison property which is being joined together for development.

Mr. Ouellet responded he understood the two lots in question have not been consolidated yet.

Mr. Paul Doerwold and **Ms. Estelle Joubert** commented when they received the deed for their house thirteen months ago it was with some amusement that they read the cute wording that said "subject to the following restrictions that any building erected on the said lands be used for residential purposes only and which shall not be less than 1.5 storeys in height and shall be of neat and attractive design and cost not less than \$5,000 and that a suitable garage may be erected for the dwelling to which it belongs". It is this quaint description that is characteristic of the community they live in and are trying to protect. They supported the five proposed amendments.

Mr. Robert Nichols stated he supported the proposed amendments.

Ms. Laura Berry said she wished to go on record as supporting the amendments. Also, that the map is inaccurate and she understood the two properties would be joined to form a cul-de-sac with the potential for ten properties, which she was opposed to.

Mr. Ouellet noted we cannot show that on the map unless a lot consolidation has been approved. The map shows the current property lines and not potential future consolidations.

Mr. Louis Wolfson asked staff to explain what the BARTIS area is, and why those two properties are shown in red and the hatched area.

Mr. Ouellet advised the name BARTIS came from the community. Staff will be sticking with streets when considering the amendments. The two parcels shown in red have been identified because they can now be subdivided into two lots but could not if the proposed amendments are approved. For the area shown in hatching we have been told there is a plan to potentially run a cul-de-sac and create lots off of it. There could be other properties potentially affected by subdivision but we were not sure if they had street frontage so we would need to investigate a bit further.

Mr. Wolfson asked about the right-of-way in the back. Mr. Ouellet indicated he was not sure about right-of-ways in the area.

Mr. Wolfson asked what the by-law required for lot coverage on Oakland Road. Mr. Ouellet responded 35%.

Mr. Brian Guns commented he was shocked to see his property could be subdivided, and could vow it would not be subdivided as long as they lived on that property. He supported the five proposed amendments. They have had some experiences already in this neighbourhood. There is some assumption that common sense will prevail in terms of setbacks. On the south side of Regina Terrace there are considerable setbacks and it was to their surprise that a new house built on Regina Terrace has a 15' setback which is less than half the average. That started to make them worry about what could happen in the future. When the next proposal came along they started talking about it and felt they had to put up whatever fight they could to maintain what is left in terms of the density of buildings in that area.

Mr. Ouellet advised that if a subdivision plan is submitted for the property shown in hatching prior to first reading of these proposed amendments, then it is grandfathered under the old rules and their rights are preserved. The owner of the property shown in hatching is aware of this meeting and their rights. Even though the goal is to prevent that type of development, it could still occur.

Ms. Asbell Clark asked if the timeline applied to engineering variances.

Mr. Ouellet advised the Redbook governing engineering requirements in HRM does not fall under any land use planning regime. He was not sure if they applied for a variance for the property in question. It has to be a reasonable request and it is not approved all the time. There is no regime to appeal those decisions. It is a decision of the engineer and it is based on reasonable grounds.

Ms. Rosemary Nichols questioned to what level of detail the subdivision plan had to be in order to be grandfathered.

Mr. Ouellet responded he was not sure and would check with the development officer.

Ms. JoAnn Grindley stated she supported the petition.

Ms. Fay Lee said they lived there for more than thirty-five years, and they are delighted to see young people moving to their street. When they first looked at the house, they saw a lovely streetscape and a nice lot. They put in an offer and bought the house just after Christmas. It was great to have lived there all those years and they would like to live there for many more years. It is wonderful to have an area where you can grow vegetables and look out in the back yard and see peach trees. If they start getting things in their front yard, the entire character would change which is why they are not allowed to have the granny flats that were once proposed.

When they bought their house, the lot had to be 50' wide. When they extended their garage, their neighbour came over with her tape measure and measured the 6' requirement from the overhang. Unfortunately things can change. Nothing has changed for the better.

They have asked to retain what they have. Halifax is a beautiful city. There are some very interesting areas such as the Hydrostone. They strongly support the BARTIS proposal.

Her deed said they had to have a 6' right-of-way behind their property. If it was extinguished, nobody told her. There are many things that are unclear. They need absolute clarity before they make a decision of this kind.

Mr. Ouellet advised the Municipality does not enforce private covenants. Covenants are between the developer and the lot buyer.

Ms. Johanna Graham said she has lived there for five years and felt privileged to move into the area. They hope to keep living there for another forty years and hoped they could preserve the character of the neighbourhood. She was very much in favour of the proposal. She was also concerned about the right-of-way they were hearing about and would like more information on that.

Mr. Ouellet advised staff would not be providing any information on that issue. Right-of-ways are between property owners.

Mr. Dale Retallack said they moved there twenty-three years ago. He remembered when they first saw the property and looked at the back yard and saw nothing but trees. It was like Point Pleasant Park. If the infilling they were hearing about occurred, it would be like turning the South End residential area into a suburbia. It would be disastrous.

Ms. Beth Retallack stated she too was in favour of the proposed amendments.

Mr. Kostopoulos stated he built his house in 1972 next to a large property with a lot of beautiful trees. That property is now up for subdivision. He expressed concern the City does not have any by-law for tree protection. He would hate to see all those beautiful trees come down. He supported the five proposed amendments. He urged the City to create a tree by-law similar to the City of Toronto.

Mr. Ouellet advised the Municipality currently does not have the ability to do a tree by-law because it is not in the *Halifax Regional Municipality Charter*. He thought that was now being discussed in terms of changes.

Mr. Paul Bennett stated he appreciated trees just as much as the previous speaker and was very much in support of the five proposed amendments.

Ms. Jennifer Tsang, planning consultant, indicated she was speaking on behalf of the owners of the property shown in hatching and the property next door owned by the Brisons. Mr. Brison held a meeting in his home to speak with the immediate neighbours because he and his wife lived in the neighbourhood for years and care about it and want to be upfront with their neighbours and explain that they were contemplating a development of their property and the one next door.

As was mentioned, there are certain rights in place and they did explain that to some of the residents there. There are subdivision rights in place affecting these properties. At the time, they also talked about the possibility of seeking an amendment to the MPS and LUB to create a development on this land that would be more sensitive to the site and create something that would fit better with the character than the current subdivision rights allow. Even though the MPS amendment process is very long, onerous and expensive, it was the Brison's desire to go that route.

When this petition came forward, it seemed like an intent to prevent a development on these lands. That came as a surprise to her because of how willing and cooperative the Brisons want to be. Yes, they do have an application in front of HRM mainly to protect their rights given that this process has begun. It is a subdivision application under the current rules which is not the best or most beautiful design for this site.

The five amendments being requested by the neighbours are reasonable and are not out of the ordinary and, in fact, through some of the designs, they have met those in most instances. She would propose there is an alternative which is a development agreement. That is a site specific legal document that is entered into with the landowners and the Municipality and which has extensive consultation and allows for a site specific development which takes into account the trees, the slopes on the site, and the other houses around the property. It is more complex and takes longer.

There are instances when a variance to the engineering standards makes sense. Right now a cul-de-sac in this area has to have a right-of-way of 66', it has to have a sidewalk on one side of the street, and a curb and gutter which cuts up a lot of land and takes down a lot of trees. There are instances where a sidewalk would not make sense. This may be an instance where that is the case. You may have fewer homes but you will have a very wide road to service those five or six houses.

This is a complex planning issue that needs due consideration. Amending a LUB for five items is one approach. She did not think it is the best approach for this property. Every property owner would be affected and should fully consider what it means. It could prevent an accessory building or an enlargement. It affects everybody, whereas a development agreement affects certain properties. She would request that staff give further consideration to the development agreement option for that lot or the larger neighbourhood, rather than rushing through and dealing with five LUB amendments.

Ms. Gloria Sangalang stated she opposed the amendment to reduce the lot coverage from 35% to 30%. She thought the amendment was a bit unreasonable given that there are already many properties in the area with lot coverage and structures over 35%.

Mr. Robin Lee stated he supported the proposed by-law amendments because they need to protect the quality of the neighbourhood in which he lived for the past thirty-five years. He was concerned with the subdivision of lots and the infill that results from that. He was also concerned with respect to the preservation of the engineering criteria in the Redbook. He worried about the high density cul-de-sac so close to that accident prone corner of Inglis Street and Beaufort Avenue.

Ms. Nichols stated she was asked to speak in support of the five proposed amendments for her next door neighbours on Regina Terrace, who could not attend due to ill health.

Mr. Clarke said he paced off the Roth property which does seem to be in the 35%. If they are within the 35%, he would be astonished if anybody else is not but they should measure it.

In terms of the proposal by the advocate for the Brisons, he would propose that be pursued in parallel. Mr. Brison presented them with two alternatives; a ten house as-of-right development versus an eight house condominium project. They went away thinking maybe they should be working on something else. The amendments are designed to make the as-of-right development more tenable. They felt they would like to see a different as-of-right in place. Many of them agreed the condominium could be better than the existing as-of-right proposal.

Mr. Wolfson commented the strategy seems to be to block. He thought to clump all the BARTIS area together and reduce the lot coverage requirements from 35% to 30%, which would reduce the rights of property owners, is unacceptable. He was opposed to the lot coverage amendment. He thought this would reduce their resale value. A lot of these homes are older and need to have substantial work done to them. To reduce the lot coverage does not go in line with his vision as a property owner.

Dr. Beauprie said he thought his house covered 5 or 6% of his lot area and he understood the average in the neighbourhood was 10-15%, so a 30% lot coverage for most of them would be a monstrous addition. Reducing the lot coverage from 35 to 30% for the average neighbour would represent something very modest.

Ms. Iversan stated the amendment, whether or not it is modified, is critical because this will happen again and again. They are not dealing with just this one cul-de-sac. This neighbourhood will be ravished and they need to do something about it.

Mr. Allen Penney said he was concerned that four houses were missing from the map prepared by staff for Regina Terrace.

Mr. Ouellet advised the mapping is information from our GIS. What is important is the lot; houses may have changed. The footprints are attached so people will know where their house is, but they are not accurate. They are probably taken from aerial photography.

Mr. Penney stated the database has to be corrected. His house on Regina Terrace is over 30% and under 35% but it would be hard to extend it any more. It is an interesting borderline case but thought when you look at individual properties there are many properties that could be extended.

Ms. Johanna Graham asked if there are height restrictions.

Mr. Ouellet responded it is 35' but noted height calculations vary on the Peninsula. There are four different ways to calculate height on the Peninsula.

Ms. Lee commented she was not privy to the meeting Mr. Brison held because they did not back onto that area. They are here to discuss the BARTIS proposal. There have been proposals made to do different things with properties in the area, therefore, it is quite clear that if the BARTIS proposal is not accepted there will be other attempts in their area to subdivide and make changes that affect her. She continued to be very much in favour of the BARTIS proposal.

Mr. Paul Doerwold stated he understood their GIS technician was unable to show a property that is subject to this potential development and yet HRM has received a proposal to develop on the two lands which is under review. He was confused as to why the map could not be updated to reflect the reality.

Mr. Ouellet indicated subdivision and planning work in the same department but work in different sections. An individual has the right to apply for a subdivision until the time of first reading. What is being proposed tonight is five potential amendments. Ms. Tsang has indicated they submitted a subdivision application. He clarified it would be a consolidation and a subdivision at the same time.

Ms. Berry asked if the map here tonight would be the one the City uses to address these issues or whether there would be different mapping.

Mr. Ouellet indicated it could be the map used. At the end of the day, there are five proposed amendments. If the community supports the proposed amendments, staff will support them. He cautioned members of the public to calculate their lot coverage. He clarified the mapping would

not be updated in terms of footprints. Our mapping probably does not show most of the accessory buildings.

Ms. Shaw said she spoke to Mr. Brison about the condominium project and thought there are a lot of good things to be looked at. The condominium project is probably better for their neighbourhood and should perhaps be looked at.

Mr. Ouellet advised staff was directed by Regional Council to look at these proposed amendments. Mr. Brison can make an application.

Mr. Hugh Pullen stated this proposal does not affect him directly. He would be angry if the R-1 character of their neighbourhood changed specifically for a condominium development because that would change the character of the neighbourhood. He fully supported the proposed amendments.

Mr. Sandy Rutledge commented it seems we are trying to close the barn door after the horse is out because Mr. Brison has an as-of-right development. What we are trying to do tonight is prevent this development from taking place. Changing the LUB will affect everybody. There are only two properties eligible for subdivision; one of them where the owner is not interested in subdividing. He was not in favour of this development and would be affected more than most people if they take down all the trees. Amending the LUB is not going to prevent this development. They should be working with Mr. Brison who has an as-of-right development, and preserve as many trees and green space as possible. To change the LUB now is too late because he has an as-of-right development.

Ms. Lee commented she was not so directly affected. She was here because she lived on Regina Terrace where there are several properties where approaches were made and if the BARTIS amendments go through, the streetscape could be preserved.

Ms. Debora Carson stated they are not trying to prevent all development, just the kind of development that will negatively affect their neighbourhood.

Ms. Nichols said the other properties they are worried about are 6177 and 6169 Regina Terrace. If those two properties are sold to the same person for potential development, under the current by-law they would be able to put three houses where two houses currently sit. One of the ambitions of the proposed change is to avoid that potential situation which a number of people believe is a realistic opportunity.

Ms. Grindley commented they always seem to be fighting one development and as a neighbourhood seem to lose. They are trying to put something in place that is not piecemeal and will encompass everything.

Paul ...stated that if this development in behind is imminent, the amendments for this one development could be futile but, if the amendments proceed, they could be an architect for the

South End of Halifax and could be used to protect future developments. He continued to support the amendments.

Ms. Renton asked if staff would be looking at the issue of lot consolidation and how that could be addressed.

Mr. Ouellet responded it becomes very complex when you look at potential lot consolidation. Sometimes lot consolidation is done to allow for extension of houses. There could be an infinite amount of issues. He confirmed a small subdivision can go through in a matter of weeks. What matters is when the application is made. The intention of Council to consider is when the notice is published in the newspaper.

Ms. Graham said the point they have to consider is how their property values would be affected. When they moved to the area they were glad to move here from an area where the by-law seriously affected the enjoyment of their property. They were glad to move to a neighbourhood where they were confident nobody would triple the size of the property next door and put in student apartments for instance. If they keep the neighbourhood the way it is, it makes it more attractive to people interested in buying property in the area to know that their neighbours will not develop their property in a way that is unpleasant to them.

Ms. Livingston said she did not think they emphasized the issue of traffic enough and questioned if there would be a traffic study done.

Mr. Ouellet responded he did not know the level of detail required. That would be looked at by the engineer.

Mr. Gunn stated the point is not the number of vehicles that will be going into that subdivision; it is the interference with the traffic on Beaufort Avenue and Inglis Street. Sometimes the traffic gets backed up and there is a traffic jam. It is not just the internal traffic in the area.

Mr. Ouellet advised he would try to have the web page updated by Friday in terms of the definition of lot area. If people are interested in the subdivision process, he would encourage them to contact Development Services.

Adjournment

The meeting adjourned at approximately 8:50 p.m.