



Municipality of the District of West Hants

STAFF REPORT #1

TO: West Hants Planning Advisory Committee
FROM: Jeanne Bourque, Planner
DATE: February 21, 2013
SUBJECT: Housekeeping Amendments to the West Hants Municipal Planning Strategy and Land Use By-law – Part 1

ORIGIN

Internal review by Staff

Through day-to-day work with the planning documents since their adoption in 2008, staff has identified a number of amendments which will correct minor errors and make clarifications in the *Municipal Planning Strategy (MPS)*, the *Land Use By-law (LUB)*, and *Schedule A* of the LUB, also known as the Zoning Map. Staff would like direction from the Planning Advisory Committee (PAC) on whether to proceed with these amendments.

BACKGROUND

Between 2001 and 2008, a comprehensive review was done of the four separate *Municipal Planning Strategies* and *Land Use By-laws* that cover West Hants. Over the past five years, staff has identified a number of housekeeping changes that should be made to the documents to correct errors and bring them up-to-date.

The proposed amendments are divided into four general categories: (1) References to Joint Planning Advisory Committee (JPAC), (2) Typographic, (3) Clarification of Intent, and (4) Zoning Map Corrections. This Staff Report deals with categories (1), (2), and (3). The attached exhibits contain the proposed amendments and note if the change or correction is to the MPS or LUB. Staff will submit report(s) to deal with amendments in category (4) at a future date.

PROPOSED AMENDMENTS

**EXHIBIT 1 - References to the Joint Planning Advisory Committee
MPS amendments Parts 1.3 and 1.4, Policy 4.14.1, and Policy 11.1.3.
*Delete references to JPAC and update***

With the dissolution of the Windsor-West Hants Joint Planning Advisory Committee (JPAC) and the joint planning department as of April 1, 2011, the Town of Windsor and the Municipality of West Hants established two separate planning departments. While each municipal unit had

their own separate planning documents, the *West Hants Municipal Planning Strategy* does make four references to the JPAC. In March 2011, staff advised West Hants Committee of the Whole that that these references would eventually have to be corrected. Exhibit 1 outlines the existing references and suggests alternate wording that will continue to support joint planning endeavours.

EXHIBIT 2 - Typographic

These are errors in typing, grammar, lettering and numbering. Staff has reviewed each one and determined that correcting them will have no impact on the content of the planning documents.

EXHIBIT 3 – Clarification of Intent

Exhibit 3 - Amendment #1

MPS Amendment Policies 5.3.2(a), 5.3.4(a), 5.3.7(b), 5.3.9, 5.4.2(a), 5.4.3(a), 5.4.4(b) (ii), 5.5.4(c), and 13.1.2

Addition of, “or capable of being serviced”, to policy covering municipal servicing required for rezoning or development agreements

A number of policies that allow Council to consider rezoning or development agreement applications in the Growth Centres include a criterion requiring that the property, “*is serviced with municipal water and sewer.*” The Municipal Planning Strategy states the intent that municipal services will eventually be provided to areas in the Growth Centres of Falmouth and Three Mile Plains, as growth occurs. Yet the actual wording of the policies could imply that municipal services must be installed to a property before rezoning could be considered. However, developers could not be expected to install municipal services to a property prior to approval being granted to develop it.

This is reinforced by the Subdivision By-law which stipulates that where new streets are proposed in a Growth Centre, sewer and water services must be installed when development takes place. Staff feels that it is advisable to clarify the language of the policies by adding the words, “*or capable of being serviced*”, so that they read, “*is serviced, or capable of being serviced, with/by municipal water and sewer.*” There is also one policy, 13.1.2, which refers to proposed institutional use in the Village or Hamlets that should be amended with this clarification.

Exhibit 3 - Amendment #2

MPS Amendment Policy 16.3.1

Addition of, “and other emergency services”

Policy 16.3.1 is a general policy that sets out issues which must be addressed when considering any application for development agreements or amendments to the *Land Use By-law*. Comments regarding fire protection services are solicited and reviewed as required in Policy 16.3.1, “... *Council shall consider (a) whether the proposal is considered premature or inappropriate in terms of (iii) the adequacy of fire protection:*” While not specifically required to by the policy, staff has found it very helpful to solicit comments from other emergency service

providers, such as Emergency Health Services and the RCMP, in the early stages of a large development. To formalize this and ensure that important comments are not missed, staff recommends adding the words, *“and other emergency services”* to Policy 16.3.1 (a) (iii).

Exhibit 3 - Amendment #3

LUB amendment Section 14.1 - Highway Commercial Permitted Uses

Removal of, “not on ground floor”, as it relates to office space in the Highway Commercial zone.

The Highway Commercial (HC) zone limits office uses to floors other than the ground floor. This restriction is a carry-over from older land use by-laws that attempted to make a strong distinction between the HC zone and General Commercial (GC) zone; i.e, the HC zone was intended for highway-related uses and the GC zone was a more general business zone, similar to what might be found in a downtown area. There have been several inquiries to locate uses such as real estate, legal or medical offices on the ground floor of buildings located in the Highway Commercial zone. Current permitted uses are quite broad and include a large variety of retail and commercial uses with which office uses would be compatible. Staff feels that offices on the ground floor of highway commercial buildings will not increase the impact that highway commercial uses have on neighbouring properties.

Exhibit 3 - Amendment #4

LUB Amendment Section 28.0 - Local Industrial Permitted Uses

Add, “in conjunction with a single unit dwelling”, to Local Industrial use “Self Storage Operations”

The LUB was recently amended to add *“Self Storage Operations”* to the list of permitted uses in several zones. MPS policy 5.7.4 guides Local Industrial (LI), and states that all permitted uses shall be in conjunction with a residential use. The words, *“in conjunction with a single unit dwelling”*, follows all of the other permitted uses in the Local Industrial, but were inadvertently left out of the new text when the amendment was made in 2011.

Exhibit 3 - Amendment #5

LUB amendment Section 34.1(b) and 34.3 - Dykeland Overlay

Delete the phrase “gross floor area” and replace with “building footprint”

The current wording of the LUB restricts the size of accessory buildings on dykelands to those having a *“gross floor area”* not greater than 500 ft² (46.45 m²) in size. The term *“gross floor area”* refers to the total area of all storeys of a building, not the amount of land that the building covers. In addition, the current definition of *“gross floor area”* excludes car parking areas within a building, potentially allowing a structure to be built that is larger than 500 ft² (46.45 m²). The MPS states that it is Council’s intent to preserve valuable agricultural lands and also limit the risk of flooding. This preservation is generally achieved by limiting the amount of land that is affected by development. In the case of structures, the amount of land that a building covers, or affects, is commonly referred to as the *“building footprint”*. In order to ensure that the LUB

clearly carries out the intent of policies in the MPS, staff recommends that the size restriction in Sections 34.1(b) and 34.3 of the LUB be changed to the “*building footprint*”.

Exhibit 3 - Amendment #6

LUB amendment Section 35.0 - Definitions

Add definition of “building footprint” to Section 35 of LUB.

As outlined in Amendment # 5 above, staff propose to substitute the term “*building footprint*” in references in Section 34.0 - Dykelands of the LUB. To ensure clarity of interpretation, a proposed definition for “*building footprint*” is contained in Exhibit 3.

PROCESS

The municipality’s public participation policy requires that Planning Advisory Committee hold a public information meeting prior to making a recommendation to Council regarding an amendment to the *Municipal Planning Strategy*. The public information meeting offers an opportunity to receive input from the public at an early stage, before the PAC recommendation is sent to Council. After the public information meeting is held, PAC makes its recommendation, at which time the amendments go to Council for First Reading. After the First Reading, Council holds a Public Hearing, followed by Second Reading (decision).

While the amendments are being brought to PAC in stages, staff recommend that one public information meeting be held only when all of the amendments have been considered by PAC

CONCLUSION

All of the amendments recommended by this report fulfill the intent of West Hants Municipal Planning Strategy and have no impact on remaining MPS and LUB text or schedules.

Respectfully submitted,


Jeanne Bourque
Planner

EXHIBIT 1

REFERENCES TO JOINT PLANNING ADVISORY COMMITTEE

(Words inserted are shown highlighted: words deleted are shown as strike-outs)

Amendment # 1

1.3 **Planning Background**

~~In 1970, West Hants and the Town of Windsor formed the Windsor West Hants Joint Planning Advisory Committee. Full time planning staff were hired in 1973 to prepare planning documents for both the Town and Municipality. West Hants has had four distinct Municipal Planning Strategies covering Falmouth, Upper Falmouth, Area One and Areas Two and Three.~~

Land use planning in West Hants began with the adoption of a Municipal Development Plan and Zoning By-law for Falmouth in 1976, followed by Area One in 1982. In 1989, planning documents were approved for the primarily agricultural area of Upper Falmouth. Planning reached the remainder of West Hants in 1994 when a Municipal Planning Strategy and Land Use By-law were adopted for Areas Two and Three.

Amendment # 2

~~1.4 Windsor West Hants Joint Planning~~

~~The Planning Advisory Committees of West Hants and Windsor together constitute the Windsor West Hants Joint Planning Advisory Committee (JPAC). The JPAC reviews planning issues and development proposals which will have a regional impact and any amendments to the policies and/or zone requirements for the Windsor West Hants Joint Industrial Park. The review of the West Hants Municipal Planning Strategies and supporting Land Use By laws was undertaken in conjunction with the review of the planning documents for Windsor. The policies of each unit's Municipal Planning Strategy are intended to complement those of the other unit.~~

Delete entire section and re-number subsequent sections.

EXHIBIT 1

REFERENCES TO JOINT PLANNING ADVISORY COMMITTEE

(Words inserted are shown highlighted: words deleted are shown as strike-outs)

Amendment # 3

4.14 Municipal/Town Boundary

It is the intention of Council to co-operate with the Town of Windsor in providing for development adjacent to the municipal boundary. Several residential areas in Windsor are located next to the boundary. These areas include Sunnyhill Drive, Campbell Avenue and Underwood Drive. Development in West Hants would be most easily accomplished by the extension of Town streets and services in these areas. Both Windsor and West Hants wish to encourage development in the serviced areas within and adjacent to the municipal boundaries. There are, however, two important considerations for both municipal units before permitting this to occur. First, it will be important to ensure that the existing road networks are capable of accommodating any increased traffic. Second, there must be agreement between the two units on responsibility for delivery and costs of municipal services to the new development.

Policy 4.14.1 It shall be the policy of Council to work with the Town of Windsor ~~through the Windsor-West Hants Joint Planning Advisory Committee~~ to provide a seamless delivery of services over municipal boundaries.

Amendment # 4

11.0 INDUSTRIAL PARK

11.1 Joint Industrial Park

Policy 11.1.3 It shall be the policy of Council, ~~in conjunction with the Joint Planning Advisory Committee~~, to assess the potential effects of continued commercial development in the Joint Industrial Park on the established commercial areas of the Town of Windsor and the Municipality of the District of West Hants.

EXHIBIT 2

TYPOGRAPHIC ERRORS

(Words inserted are shown highlighted; words deleted are shown as strike-outs)

Amendment # 1 MPS

Section numbering in Part 7 skips from 7.3 to 7.5. Correct this by renumbering Section 7.5 to 7.4, and Policies 7.5.1 and 7.5.2 to 7.4.1 and 7.4.2 respectively.

Amendment # 2 MPS

Sub-clauses in Policy 8.8.6 are out of order. Correct this by re-lettering sub-clause (f) to (e) and re-lettering the remaining sub-clauses sequentially.

Amendment # 3 MPS

Sub-clauses in Policy 8.10.5 are out of order. Correct this by re-lettering the first sub-clause (g) to (f) and re-lettering the remaining sub-clauses sequentially.

Amendment # 4 MPS

Policy 9.1.6 uses the correct zoning name, Resource Industrial, but the incorrect zoning code. Correct this by changing the zoning code from M-2 to M-1.

Policy 9.1.6 It shall be the intention of Council to consider rezoning land zoned General Resource (GR) to allow for commercial or industrial uses permitted in the Rural Commercial (RC) or Resource Industrial ~~(M-2)~~ (M-1) zones.....

Amendment # 5 MPS

Policy 13.3.1 uses the correct zoning name, Recreation Commercial, but the incorrect zoning code. Correct this by changing the zoning code from RecSC to RecC.

Policy 13.3.1 It shall be the policy of Council to establish a Recreation Commercial ~~(RecSC)~~ (RecC) zone which shall apply to existing commercial recreation facilities such as ski lodges and facilities, campgrounds, tennis and golf clubs, and similar uses which are open to the general public but are owned by private interests.

EXHIBIT 2

TYPOGRAPHIC ERRORS

(Words inserted are shown highlighted: words deleted are shown as strike-outs)

Amendment # 6 MPS

In Section 16.4 insert the word “in” between the words “out” and “the” in the last line.

16.4 Subdivision Control

*Subdivision includes the creation of one or more new lots, the consolidation of two or more existing lots and the adjustment of boundaries on existing lots. All subdivision in West Hants is controlled by the standards set out **in** the Subdivision By-law.*

Amendment # 7 LUB

In Section 5.1 (e), change the word “great” to “greater”.

Accessory Buildings and Structures

- 5.1 (e) *The maximum height of an accessory building shall not exceed 20 ft (6.10 m) except:*
- (i) where a specific zone expressly permits a **greater** height; or*
 - (ii) where a main building is 2.5 storeys in height or higher, the maximum height of an accessory building shall not exceed two-thirds (2/3) the height of the main building or 30 ft (9.14 m), whichever is less. (Amendment WHLUB 09-02 Effective January 1, 2010)*

Amendment # 8 LUB

Section 14.0 covers the Highway Commercial zone. Sub-section 14.4 uses the incorrect zoning code. Correct this changing GC to HC.

Access

- 14.4 *Entrance to and exit from properties zoned ~~GC~~ **HC** shall be restricted to not more than two driveways on any street or road. On a corner lot, access shall be restricted to not more than three driveways to the lot. Driveways shall meet Nova Scotia Department of Transportation and Public Works' requirements for commercial access.*

EXHIBIT 3 CLARIFICATION OF INTENT

(Words inserted are shown highlighted; words deleted are shown as strike-outs)

Amendment # 1 MPS

Insert the phrase, “*or is capable of being serviced,*” to policies 5.3.2 (a), 5.3.4 (a), 5.3.7(b), 5.4.2 (a), 5.4.3 (a), 5.4.4 (b)(ii), 5.5.4 (c), and 13.1.2.

Policy 5.3.2 It shall be the policy of Council to consider rezoning land within the Three Mile Plains Growth Centre to R-1 subject to the following:

- (a) *the area to be rezoned is serviced, **or is capable of being serviced,** with municipal water and sewer;*

Policy 5.3.4 It shall be the policy of Council to consider rezoning land within the Three Mile Plains Growth Centre to R-2 subject to the following:

- (a) *the area to be rezoned is serviced, **or is capable of being serviced,** with municipal water and sewer;*

Policy 5.3.7 It shall be the policy of Council to consider rezoning land within the Three Mile Plains Growth Centre to R-3 subject to the following:

- (b) *the lot is serviced, **or is capable of being serviced,** with municipal water and sewer;*

Policy 5.4.2 It shall be the policy of Council to consider rezoning land within the Falmouth Growth Centre to Single Unit Residential (R-1) subject to the following:

- (a) *the area to be rezoned is serviced, **or is capable of being serviced,** with municipal water and sewer;*

Policy 5.4.3 It shall be the policy of Council to consider rezoning land within the Falmouth Growth Centre to Two Unit Residential (R-2) subject to the following:

- (a) *the area to be rezoned is serviced, **or is capable of being serviced,** with municipal water and sewer;*

Policy 5.4.4 It shall be the policy of Council to consider proposals for comprehensively designed multiple residential developments in the Falmouth Growth Centre by development agreement subject to the following:

- (b) *the property:*
(ii) *is serviced, **or is capable of being serviced,** by both municipal water and sewer;*

EXHIBIT 3 CLARIFICATION OF INTENT

(Words inserted are shown highlighted; words deleted are shown as strike-outs)

Amendment # 1 (cont.) MPS

Policy 13.1.2 It shall be the policy of Council to consider new institutional uses by development agreement in any designation subject to the following:
*(b) the development is serviced, **or capable of being serviced**, by a potable water supply and either central sewer or an approved on-site sewage system;*

Amendment # 2 MPS

Insert the phrase, “*and other emergency services*”, immediately following the words, “*the adequacy of fire protection*”, in Policy 16.3.1 (a) (iii).

Policy 16.3.1 In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:

- (a) whether the proposal is considered premature or inappropriate in terms of:*
 - (i) the adequacy of sewer and water services;*
 - (ii) the adequacy of school facilities;*
 - (iii) the adequacy of fire protection **and other emergency services**;*
 - (iv) the adequacy of road networks adjacent to, or leading to the development; and*
 - (v) the financial capacity of the Municipality to absorb any costs relating to the development.*

Amendment # 3 LUB

Amend the permitted uses in Highway Commercial zone by deleting the words, “*not on the ground floor*”, immediately following the word, “*Offices*”, in Section 14.1 of the LUB.

- 14.1 The following uses shall be permitted in the Highway Commercial (HC) zone:*
- ~~Offices (not on the ground floor)~~*

EXHIBIT 3

CLARIFICATION OF INTENT

(Words inserted are shown highlighted; words deleted are shown as strike-outs)

Amendment # 4 LUB

Insert the phrase, “*in conjunction with a single unit dwelling*” after the permitted use, “*Self Storage Operations*”, in Section 28.1 of the LUB.

28.1 *The following uses shall be permitted in the Local Industrial (LI) zone:*

- *Self Storage Operations* ***in conjunction with a single unit dwelling*** (Amendment GC1LUB 11-01 Effective October 7, 2011)

Amendment # 5 LUB

In Sections 34.1 (b) and 34.3, replace the phrase, “*gross floor area*” with the phrase, “*building footprint*”.

34.1 *In areas shown as Dykeland on Schedule A of this By-law, no development permit shall be issued for any new building permitted in the underlying zone, except for:*

- (b) *accessory buildings, excluding accessory residential dwellings, having a ~~gross floor area~~ **building footprint** not greater than 500 ft² (46.45 m²) on lots of 5 acres (2.02 ha) or less in size existing as of April 18, 2001;*

34.3 *An accessory building permitted under subsection 34.1(b) may be enlarged, reconstructed, repaired or renovated provided all other applicable requirements of this By law are satisfied, but in no case shall the ~~gross floor area~~ **building footprint** of the building exceed 500 ft² (46.45 m²).*

Amendment # 6 LUB

In Section 35.0, add the following definition:

Building Footprint *is the outline of the total area of a lot or site that is surrounded by the exterior walls of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of a roof.*