



Subject: *Subdivision By-law Review*
To: CAO for Planning Advisory Committee, July 16, 2013
Date Prepared: July 11, 2013
Related Motions: C13(83), C13(114), C13(130), C13(131)
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Approved by: John Woodford

Summary

Planning and Development Staff have conducted a review of the Subdivision By-law, with the intent of updating terms and references, ensuring proper metric and imperial conversions, and to simplify the document for easier interpretation.

Financial Impact Statement

There are no immediate financial impacts associated with the adoption of this report.

Recommendation

That the Planning Advisory Committee recommend that Council give Second Reading to proposed amendments to the MPS, LUB and SUB related to the Subdivision By-law Review.

Recommended Motion

That the Planning Advisory Committee recommend that Council:

- *Give Second Reading to proposed amendments to the MPS, LUB and SUB related to the Subdivision By-law Review.*

Background

Planning and Development Staff have conducted a review of the Subdivision By-law (SUB). The purpose of the review is to update terms and references contained in the document, to reduce the number of “notwithstanding” clauses to allow for easier interpretation, and to remove requirements that are repetitious. For the most part the majority of proposed changes are administrative in nature and do not change the intent of the document. Proposed changes that will impact the intent of the document have been outlined on the following pages. When reviewing the proposed amendments, note that text that is red with a strikeout is proposed to be deleted and text in green is proposed to be added. Text that is black and bold with or without a strikeout are from previous amendments.

MPS Section 10: Subdivision and Transportation

Section 10 of the Municipal Planning Strategy (MPS), sets out the policies to be followed when developing regulations for the Subdivision By-law. Proposed major changes to the Section 10 include the amendment of policies that permit the subdivision of lots in the Regional Commercial (C4) Zone, in Elmsdale, on private roads and right-of-way easements, as long as the road or right-of-way easement is built to Municipal standards for paved roads. The objective in amending these policies was to simplify the policies and to add the Village Core (C6) Zone to the policy which should have been addressed during the SUB review that took place in 2008.

Street Paving

Policy Goal

Higher standards required for public roads

Council's goal is to encourage urbanization within Growth Management and Growth Reserve Areas of the Municipality while attempting to ensure the rural character of outlying areas is maintained. This shall, in part, be achieved by adopting a minimum standard for new subdivision roads built to public road standards in the Growth Management and Growth Reserve Areas to accommodate future Municipal Infrastructure.

Policy Statements

- P10-8 Council shall require all new subdivision roads in the Growth Management and Growth Reserve Areas be built to public road standards as specified in the Municipal ~~Transportation Specifications~~ Standards for paved roads.
- P10-9 Council shall require that all new subdivision roads be paved, within the Growth Management Areas, ~~that have both Municipal sanitary sewer and to water supply infrastructure~~ and **Growth Reserve Areas except in the Regional Commercial (C4) Zone in Elmsdale and Village Core (C6) Zone.** The cost of paving shall be the responsibility of the developer prior final subdivision approval.
- P10-10 ~~Notwithstanding Policy P10-13(a), a development permit may be issued for Regional Commercial (C4) uses in the Regional Commercial Growth Management Area, for lots fronting on a private road provided the road is built to public road standards and paved by the developer. Such private roads shall be included on the site plan in accordance with Appendix G of the Land Use By-law.~~
- Council shall permit lot subdivisions in the Regional Commercial (C4) Zone in Elmsdale, and Village Core (C6) Zone on private roads and right-of-way easements provided that the private road and right-of-way easement are built to Municipal Standards for paved roads. Such private roads shall be included on the site plan in accordance with Appendix G of the Land Use By-law.
- ~~P10-10a Notwithstanding Policy P10-10, and further to Policy P9-51a, a development permit may be issued in the Regional Commercial (C4) Zone in District 2 for lots accessed by right-of-way easement provided a traveled surface used to access the lot is constructed within the right-of-way easement, and said traveled surface is constructed to a standard specified in the Municipal Transportation Specifications. Such specifications shall require a minimum of a two-lane paved traveled surface with sufficient distinction between the edge of the traveled surface and adjacent parking areas.~~
- P10-10b Further to Policy P10-10a, Council shall permit lot subdivisions resulting in the creation of more than two lots which do not have frontage on a public or private road, provided all said lots are accessible by a right-

of-way easement. Council makes this provision in recognition that it will allow for greater flexibility in the development and use of commercially zoned lands resulting in a more efficient land use pattern.

P10-11 Administration procedures, in relation to road paving requirements, including required time periods for paving, shall be specified in the Municipal Transportation ~~Specifications~~ Standards.

~~P10-12 Council shall review, within six (6) months of adopting this document, the need for a charge to off-set future paving costs in the Growth Reserve Area.~~

Another update of note to Section 10 includes deleting the provisions for Street Improvement Petition. There is already a standalone by-law, A By-law Respecting Charges for Local Improvements, which provides residents with a petition option for having their street paved/improved.

Street Improvement Petition

~~Street Improvement By-law a mechanism for public involvement~~

Policy Goal

~~It is a goal of Council to provide a means for the citizens of East Hants to activate a process of having necessary road improvements undertaken as per the Municipality's Street Improvement By-law.~~

Policy Statements

~~P10-16 Council shall consider requests by petition made by property owners as outlined in the Street Improvement By-law to have their loose surface streets paved and otherwise improved.~~

SUB Part 9: General Requirements

The objective of amending Part 9 of the SUB is to reduce the number of notwithstanding clauses so that the document flows better and the intent is straightforward. Appendix B and E of the SUB has been deleted and instead of referring to lot frontage and lot area requirements in the Appendix, Part 9 now refers to these requirements in the LUB and to the minimum lot requirements from Nova Scotia Environment. This amendment will allow Council and Nova Scotia Environment to make changes to the minimum lot requirements without having to make changes to the Subdivision By-law.

- 9.2 a. ~~Where a Land Use By-law is in effect, In areas of the Municipality where minimum lot and frontage requirements of the Land Use By-law are in effect~~ **In areas of the Municipality where minimum lot and frontage requirements of the Land Use By-law are not in effect** ~~a~~ All lots for which approval is requested shown on a final plan of Subdivision and the remainder lot, if any, for which no approval is requested, shall meet the **applicable** requirements for minimum lot area and lot frontage contained in ~~said Appendix B of this By-law, as contained in Appendix E of this By-law~~ **the Land Use By-law, unless otherwise specified in this by-law.**
- ~~aa.b.~~ ~~Where a Land Use By-law is not in effect~~ **In areas of the Municipality where minimum lot and frontage requirements of the Land Use By-law are not in effect, all lots for which approval is requested shown on a final plan of Subdivision and the remainder lot, if any, for which no approval is requested, shall meet Nova Scotia Environment's minimum lot area requirements and minimum frontage requirements. require a 20,000 square feet (1858 square metres) minimum lot area and a 100 feet (30 metres) minimum lot frontage; all proposed lots for which approval is requested on a final plan of Subdivision within 75 feet (23 metres) of a watercourse require a minimum lot area of 40,000 square feet (3716 square metres) and a minimum width of 150 feet (46 metres).**
- b. ~~Notwithstanding the lot area and frontage requirements contained in subsections 9.2(a) and (aa), where an authorized person of from Nova Scotia Environment and Labour has assessed the proposed lots shown on a final plan of Subdivision and approved the proposed lots for the installation of on-site sewage disposal systems, such lots shall be deemed to meet the lot area requirements contained in this Appendix B of this By-law, provided all other requirements of these regulations are met.~~
- c. **Notwithstanding the lot area and frontage requirements contained in subsection 9.2(b), in areas of the Municipality where minimum lot and frontage requirements of the Land Use By-law are not in effect, a**

parcel of land containing less than the required frontage and area may be approved by the Development Officer. Such parcels shall be marked "Not for Development" on the final plan of Subdivision.

Two of the changes to Part 9 include the rewriting of the requirements that allow lots to be developed on private roads and right-of-way easements in the Regional Commercial (C4) Zone in Elmsdale, and Village Core (C6) Zone. Another change is the deletion of the requirements for a Subdivider that owns water lots or an island lot to own a parking stall. In some circumstances the Subdivider may be renting a parking stall from an organization or an individual, or they may be using a public facility.

The final change in this section enables undersized lots to be created in un-zoned areas of the Municipality to be used for non-development purposes such as garden plots.

Part 10: Lot Access and Transportation Requirements

Infrastructure and Operations is requesting that a change be made to part 10.13 of the by-law as follows:

- 10.13 a. No more than 100 lots and a remainder shall be serviced by a single road access to a collector or arterial street ~~within Growth Management and Growth Reserve Areas.~~

This restriction was originally added in part due to concerns about the continued expansion of Elmwood Subdivision without a second entrance. The change was seen as most relevant in urbanizing areas. However, larger rural subdivisions are also now being developed and similar traffic and safety concerns can arise as they develop using only one entrance. In fact, in the development agreement that permitted the Cottage Country development at Long Lake, a second access provision was added to alleviate these concerns.

Part 13: Open Space Requirements

A few changes of note are proposed to Part 13 of the Subdivision By-law. Planning Staff consulted with Recreation and Culture and have developed the following proposed amendments in order to enhance the quality and diversity of open space the Municipality receives.

The first change is to Section 13.3.a which enables the Municipality to accept land that is not only good for recreational purposes but can be used for conservation purposes. Below are the proposed amendments:

- 13.23. Further to Sections 13.1 ~~and 13.4(1)-2.~~ land to be transferred to the Municipality shall be useable for recreational and/or ~~conservation other leisure-related public~~ purposes, and shall meet the following definition of "useable" land:
- a. is capable of ~~supporting use for~~ one or more of:
 - ~~i. passive recreational uses such as walking and/or hiking trails, walkways, and passive park areas;~~
 - ~~ii. active recreational facilities and~~ uses such as sports fields and ~~other~~ playgrounds; ~~and~~
 - ii. passive recreational opportunities such as walkways, hiking trails and natural and generally undeveloped park areas; and
 - iii. ~~an~~ conservation and, where appropriate, interpretation of environmentally sensitive ~~area~~ or a significant natural areas or features ~~to be used for interpretive purposes, as determined to be acceptable by the Municipality;~~

Due to concerns expressed at June PAC, that accepting 'conservation lands' could mean the Municipality received undesirable/undevelopable parcels of land, Section 13.3aiii was changed to add "as determined to be

acceptable by the Municipality”. This will ensure any land obtained for conservation value will be at the discretion of the Municipality as determined by the Trails and Open Space Coordinator.

The second change of note is to Section 13.3.e which increases the frontage requirements for open space parcels so that the open space is easy to access for residents and provides visibility from adjoining streets to ensure safety of park users. The goal of the change is to avoid receiving parkland that is tucked in behind residential lots and is not easy to access.

- e. is accessible ~~by~~ to all residents within the Subdivision through direct road frontage or through access to a ~~public subdivision~~ road by a right-of-way easement, consistent with the following conditions:
 - i. In areas of the Municipality where minimum lot and frontage requirements of the Land Use By-law are in effect, the minimum road frontage or width of the right-of-way easement must meet the minimum lot frontage requirements for the corresponding zone;
 - ii. In areas of the Municipality where minimum lot and frontage requirements of the Land Use By-law are not in effect, the minimum lot frontage requirement is 100 feet (30.5 metres);
 - iii. where the minimum lot frontage requirements set out in the preceding subsections prove difficult to incorporate into the subdivision plan, the Subdivider may seek to negotiate a reduction in the road frontage standard where it may be possible, on balance and in the opinion of the Municipality, to maintain consistency with the spirit and purpose Section 13.3; and
 - iv. open space parcels used for active recreation shall have sufficient road frontage to maintain visibility from adjoining streets to ensure safety of park users.

The next change is to Section 13.4 which adds the Bay of Fundy Shoreline and watercourses over 1.6 feet or greater in width to the provision regarding open space dedication along waterways.

- 13.34 ~~Notwithstanding~~ Further to Section 13.23, where the land being subdivided abuts a lake, the Bay of Fundy Shoreline or a watercourse 1.6 feet (0.5 m) or greater in width and where the Subdivision results in six (6) lots or more (5 lots and a remainder or more), a portion of the lands transferred to the Municipality under Section 13.1 and 13.2 shall meet all of the following criteria:
- a. ~~a portion of the lands being~~ transferred lands shall provide at least one point of access to the shoreline, which is useable for water-based recreational ~~uses~~ activities;
 - b. transferred lands must have access to a public or private road through a right-of-way easement in favour of the Municipality or through direct road frontage; and
 - c. transferred lands must have a minimum of 45.7 metres (150 feet) of direct frontage ~~on the lake~~ for every 1500 feet (457 metres) of total lake or Bay of Fundy Shoreline or watercourse frontage to be subdivided.

Other Changes

Other changes to the SUB include requesting that plans of subdivision and engineered drawings are supplied to the Development Officer in both hard and digital copies. All measurements have been provided for in both metric and imperial measurements. The reference in the MPS, LUB, and SUB to General Commercial (C4) zoned lands in District (2) Elmsdale has been changed to simply refer to General Commercial (C4) zoned lands in Elmsdale. This is to ensure that if the Districts are renumbered or the boundaries are changed that the planning documents will not be out of date.

Public Participation

Staff are following applicable public participation policies in the MPS while conducting this review. An ad was placed in the Weekly Press indicating that the application was under review. A public information meeting was advertised and conducted on June 11, 2013 with no issues being raised by members of the public. The public hearing is being advertised for two consecutive weeks prior to the hearing in conformance with the MGA.

Conclusion

Planning staff have prepared amendments to the Subdivision By-law that will simplify the document and allow for straightforward interpretation. Changes have also be requested from Council related to undersized lots and Infrastructure and Operations is requesting a change regarding a second access to subdivisions with more than 100 lots outside of GMA/GRA's. Staff are now recommending that the amendments be given second reading.

Recommendation

That the Planning Advisory Committee recommend that Council give Second Reading to proposed amendments to the MPS, LUB and SUB related to the Subdivision By-law Review.