



Subject: *Plan Update – Plan Changes and Request for First Reading*
To: CAO for Planning Advisory Committee, March 21, 2023
Date Prepared: February 27, 2023
Related Motions: PAC21(14), PAC21(5), PAC21(6), C21(23), C21(24), PAC21(26)
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Summary

Staff presented draft planning documents to Planning Advisory Committee (PAC) in September, 2022. Public consultation was held in November and subsequent direction was given by Council in December 2022 regarding the Agricultural (AR) Designation and Zone. Based on this consultation and Council direction, as well as additional edits to deal with various errors and omissions, the planning documents have been further amended. Planning staff are now requesting first reading of the East Hants Official Community Plan and authorization to schedule a public hearing.

Draft East Hants Official Community Plan Documents have been attached as Appendix A.

Financial Impact Statement

The Community Plan Update has been budgeted for in the Municipal Budget

Recommendation

That first reading is given to the amendments and that staff is authorized to schedule a public hearing.

Recommended Motion

Planning Advisory Committee recommends that Council:

- *authorize staff to give first reading to amendments to the East Hants Official Community Plan (Municipal Planning Strategy, Land Use Bylaw, and Subdivision Bylaw) as part of the ongoing Plan Update; and*
- *enable a public hearing and authorize staff to schedule a public hearing.*

Background

Planning staff presented a draft of the East Hants Official Community Plan to East Hants residents as part of the November 2022, community engagement sessions. Since November, Planning staff have removed the Agricultural Reserve (AR) Zone from the future planned area in response to Council Motion C23(22). In addition, staff have made minor changes to the Rural Use North (RU-2) Zone in response to a discussion with residents who attended the engagement sessions, staff have refined definitions and fixed numbering or grammatical issues, we have added provisions to allow for a marine industry use, and staff have responded to a request from Parks, Recreation, and Culture to amend the Subdivision Bylaw Law (SUB).

If PAC and Council are satisfied with the second draft of the East Hants Official Community Plan, staff recommend that first reading and authorization to hold a public hearing be given by Council. Once the draft documents have first reading, a mail out to all property owners in the future planned area will be initiated to let them know of their proposed zoning and to all property owners in the comprehensively zoned area whose zoning is proposed to change. The letters will also contain the date, time and location of the public hearing.

A copy of the East Hants Official Community Plan, showing new information added in green text, information to be deleted in red text with a strikethrough, and the black, bold, italicized script showing previous amendments, has been attached as Appendix A.

Discussion

The information below discusses changes that have been made to the draft East Hants Official Community Plan since November of 2022.

COUNCIL MOTION C23(22)

At their January 25, 2023, meeting of Council, the following motion was passed:

C23(22) Moved that Council direct staff to remove the AR (Agricultural Reserve) Designation in the unplanned area of East Hants from the Community Planning Review and replace it with RU-2 (Rural Use North) Zone Designation.

In response, the Agricultural Reserve (AR) Designation and Zone has been removed from the future planned areas of the Municipality. The AR Zone will be maintained on farmland in the comprehensively zoned portion of East Hants. In addition, the setback for land in common ownership is still proposed to be amended, as per the recommendation from the Agricultural Advisory Committee.

AMENDMENTS TO THE RURAL USE NORTH (RU-2) ZONE

As part of the discussions with residents during the November community engagement sessions, staff identified a few areas of the Rural Use North (RU-2) Zone that need further clarification. For example, ensuring that autobody shops and all types of mechanics are permitted as-of-right in the RU-2 Zone. Also, to permit accessory structures as the main use of a property.

MARINE INDUSTRY

East Hants has recently had an inquiry about the development of a marina and marine related industry in Walton. As a result, staff are recommending that the following definitions and regulations are added to the Land Use Bylaw to allow for this use to occur along the Bay of Fundy coastline.

Marine Service Industry means a use of land, wharves and buildings for the design, assembly, service, or sales of equipment which is utilized for aquatic business (including seafood processing), tidal power operations, research or recreational purposes, but does not include residential, or obnoxious uses, or a noxious industrial use.

Marina means a facility which is primarily used for the rental of berthing space for boats, but may include the rental of boats, storage of boats and equipment, marina supplies, fuel, fishing supplies and equipment, boat repair facilities, or a café or restaurant.

Marina and marine service industry uses are proposed to be added to the table of permitted uses for the Rural Use North (RU-2) Zone. As part of the Fundy Flood Risk Overlay (FF) Zone and the Fundy Erosion Overlay (FE) Zone the following provisions shall be added to allow for marinas and marine service industry uses in these zones.

Marina and Marine Service Industry

Where permitted by the underlying zone Marina and Marine Service Industry uses are permitted to be located up to the shoreline and are not subject to the floodproofing requirements of the Fundy Flood Risk (FF) Overlay Zone.

Marina and Marine Service Industry

Where permitted by the underlying zone Marina and Marine Service Industry uses are permitted to be located up to the shoreline and are not subject to the requirements of the Fundy Erosion (FE) Overlay Zone.

SHELTERS

The Land Use Bylaw currently does not have a definition of a shelter and with the lack of affordable housing in Nova Scotia there may come a point at which a shelter is required in East Hants. Therefore, staff are proposing that a definition of shelter use is added to the LUB and that the use is permitted in the Institutional Use (IU) Zone. Institutional Use (IU) Zone uses are permitted by site plan approval in all of the mixed use zones and are permitted as-of-right in all of the separated commercial zones, except the Regional Commercial (RC) Zone where site plan approval is required. IU Zone uses are permitted in the Two Dwelling Unit Residential (R2) Zone by development agreement.

Shelter Use means premises providing an individual with overnight sleeping accommodations, free of charge.

DRINKING ESTABLISHMENT

Staff recommends that the definition of drinking establishment minor and major be combined into one definition for a drinking establishment. The new proposed definition is more consistent with other Municipal jurisdictions.

Drinking Establishment means an establishment licenced as a beverage room, lounge, cabaret, or tavern by the Nova Scotia Liquor Licensing Board.

Drinking establishments are proposed to be permitted in the Village Core (VC), Mixed Use Centre (MC), Regional Commercial (RC), General Commercial (GC), and Rural Use North (RU-2) Zones as-of-right or through site plan approval if they close prior to 1 a.m.. If the drinking establishment proposes to be open after 1 a.m. a development agreement will be required.

MIXED USE CENTRE

Another proposed change is to the Mixed use Centre (MC) Zone to remove the term mixed-use capable; since all buildings in the Mixed Use Centre (MC) Zone are now required to have a commercial component on the ground floor. The second change is to allow the maximum number of units permitted, 42 to be spread throughout the building, instead of requiring 12 units to be located on the ground floor. With the requirement of commercial space on the ground floor, the ability to locate 12 units on the ground floor is greatly reduced.

RESIDENTIAL SOLAR FARMS

In response to an inquiry from a Developer on the ability to create a solar farm as part of residential development, staff are proposing amendments to the Land Use Bylaw that would permit a solar farm on residential neighbourhood zoned lands if the purpose of the solar farm is to support the electricity needs of the neighbourhood.

BOATHOUSES AND DOCKS

After consultation with the Municipal Solicitor, Planning staff are recommending additional changes to the definition of a boathouse, and are proposing updates to the zone provisions regarding boathouses and docks. The changes are intended to ensure property owners do not abuse the provisions and harm the riparian buffer around shorelines. The definition of boathouse is proposed to be amended to include attached decks. A new definition for dock is proposed to be added to the Land Use Bylaw. Regulations are proposed to be added to the Lakeshore Residential (LR) Zone and the Established Residential Neighbourhood (R1) Zone that would prevent docks from taking up the entire width of a shoreline, thereby removing the riparian area.

Dock means a structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other water-related recreational uses.

Boathouse means an accessory building erected abutting the shore of a navigable body of water, or on a dock and is designed and constructed to shelter boats, watercraft like canoes and kayaks, and associated marine accessories and equipment. A boathouse shall not contain a sleeping, living, cooking or sanitary facility and shall not be used for human habitation. A boathouse shall not contain any uses unrelated to the storage of boats and shall not be used to store automobiles and other related equipment. *A boathouse shall include attached decks.*

Boathouses and Docks

In the Lakeshore Residential (LR) Zone a maximum of one boathouse and one dock shall be permitted in accordance with the following provisions:

- a) **The area of the boathouse shall not exceed a total ground area of 65 m².**
- b) **Boathouses shall *only be used* for the storage of boats, watercraft like canoes and kayaks, and associated marine accessories and equipment.**
- c) **A boathouse shall have a maximum width of 7 m on the side that is most parallel to the shoreline.**
- d) **A dock shall have a maximum width of 3 m at the shoreline.**
- e) **A maximum of 25% of the shoreline frontage or up to 10 m of shoreline frontage, whichever is the lesser, may be used for a combination of the boathouse and dock.**

Grand Lake Properties

For R1 zoned properties bordering Grand Lake, the following shall apply:

- a) ~~One boathouse per property up to 65 m² in floor area is permitted for the storage of boats, watercraft like canoes and kayaks, and associated marine accessories and equipment.~~
 - i. *A maximum of one boathouse and one dock shall be permitted in accordance with the following provisions:*
 - ii. *The area of the boathouse shall not exceed a total ground area of 65 m².*
 - iii. *Boathouses shall only be used for the storage of boats, watercraft like canoes and kayaks, and associated marine accessories and equipment.*
 - iv. *A boathouse shall have a maximum width of 7 m on the side that is most parallel to the shoreline.*
 - v. *A dock shall have a maximum width of 3 m at the shoreline.*
 - vi. *A maximum of 25% of the shoreline frontage or up to 10 m of shoreline frontage, whichever is the lesser, may be used for a combination of the boathouse and dock.*
- b) Natural vegetation within 10 m of the normal high water mark of any lake shoreline is to remain undisturbed except to allow for the construction of docks, boathouses, *and walkways 1.8 m in width*. In addition, up to 35% of trees and underbrush may be removed to enable a filtered view of the lake. Nothing in this section shall prevent the removal of a dangerous or diseased tree.
- c) Zero Lot Line Development agreement provisions shall be inoperative.

REVOCATION OF DEVELOPMENT PERMIT

Planning staff propose adding a section to the LUB that would allow the Development Officer to revoke a development permit in certain situations. The text is consistent with the text used in the Halifax Centre Plan.

Revocation

The Development Officer may revoke a Development Permit if:

- a) *the development is not in accordance with:*
 - i. *this Bylaw,*
 - ii. *the plans associated with the approved development permit,*
 - iii. *an approved site plan, or*
 - iv. *an approved development agreement.*
- b) *the permit was issued based on incorrect information provided by the applicant when applying for the development permit; or*
- c) *the permit was issued in error.*

SUBDIVISION BYLAW AMENDMENT

The Parks, Recreation, and Culture Department has requested a change to the draft SUB. Under the current regulations, developers have to contribute open space with water frontage on any development over 5 lots, which has access to a watercourse. This requirement works well for useable water frontage; however, some of the recently proposed developments have minor watercourses and wetland water frontage, and staff would like some discretion on the type of land they are required to accept. Therefore, staff are proposing that Section 13.4 of the Subdivision Bylaw is amended to tie the type of water frontage the Development Officer accepts with how the Subdivision Bylaw defines useable land. If the land is not considered useable under Section 13.3 then the municipality does not have to take water frontage if the land is considered useable then the municipality has to take the water frontage.

Other amendments to the Subdivision Bylaw include adding dates and additional text to clarify when certain lands can be subdivided.

OTHER LAND USE BYLAW AMENDMENTS

As a result of further review of the draft Planning Documents, staff have made some proposed changes include grammar, numbering, and language. As well, site plan approval application forms, and the study format for the Funday Erosion Overlay (FE) Zone have been created and are included with the draft documents. Below are some additional changes proposed to be made to the LUB:

- Staff are recommending changes to the zoning boundaries for PID 45084548. The boundary is proposed to be adjusted to address the current land use of the property.
- Staff identified PID 45148475 has currently no zoning; therefore, do the property's location in the community of Macphees Corner staff are recommending that the property is designated and zoned Rural Use (RU).
- The definition of garage suite is also proposed to be updated in order to be in keeping with amendments that were proposed as part of the omnibus report, which permitted garage suites to be located in the front yard where there are no Municipal services.
Accessory Dwelling Unit, Garage Suite means an accessory dwelling unit built above a detached garage ~~and located behind the primary single unit dwelling or bed and breakfast.~~
- Under signage, an amendment is proposed to Section 4.8 to permit community entrance signs without requiring a development permit.
- Under the Village Core (VC) Zone the term multiple unit dwelling has been replaced with multiplex to be more consistent with the LUB definitions.
- Under Section 7.3.2 Requirements for Townhouse Dwellings the words ground floor is proposed to be added to the maximum lot frontage of each unit located on the ground floor for stacked townhouse units. Second-floor units would not require road frontage.
- Under Section 3.26 a provision has been added that will permit fire and emergency training facilities to be located adjacent a watercourse.
- Planning staff at the Provincial Department of Municipal Affairs and Housing have reviewed a draft of the proposed amendments to the East Hants Official Community Plan. Their staff has identified a number of smaller issues that should be addressed to make the Plan more consistent with the intent of the Municipal Government Act (MGA). The following are the issues that have been addressed:
 - Removed reference to fire pits under the campground regulations.
 - As part of the Omnibus Staff Report text amendments had been proposed that would require site plan approval work to be completed within two years of approval being issued. Planners at Municipal Affairs and Housing have indicated that the MGA does not enable the Municipality to include time limits within the regulations. Staff has consulted the Municipal Solicitor and he has indicated that text could be added to the letter of undertaking indicating the 2-year completion period. Staff have adjusted the policies and regulations in relation to site plan approvals.
 - Removed the request for information on the electricity proposed by agrivoltaics for the site plan approval process.
 - Added a policy to the Citizen Engagement Policies of the MPS outlining the engagement requirements with adjacent Municipalities.

MUNICIPAL PLANNING STRATEGY AMENDMENT

Updates are proposed to the Municipal Planning Strategy to ensure consistency with the items that may be considered by development agreement in the R2 Zone. No new items were added to the list.

STRATEGIC ALIGNMENT

Amendments to the East Hants Official Community Plan aligns with Council Strategic goal to build strong communities by “Ensure[ing] the East Hants official community plan is effective in managing changes in the community, reducing land use conflict and protecting both natural resources and community character.”

LEGISLATIVE AUTHORITY

The Municipality has Legislative Authority to create land use policies and regulations under Part 8 of the Municipal Government Act.

FINANCIAL CONSIDERATIONS

The Community Plan Update has been budgeted for in the Municipal Budget.

Attachments

Appendix A – Draft East Hants Official Community Plan

Conclusion

Planning staff have completed a second draft of the East Hants community plan based on Council direction, public consultation, and internal staff review. Staff are now recommending that first reading be considered.