



**Subject:** *Motion C24(138): Rezoning and concept plans*  
**To:** CAO for Planning Advisory Committee, January 21, 2025  
**Date Prepared:** January 9, 2025  
**Related Motions:** C24(138)  
**Prepared by:** Rachel Gilbert, Manager of Planning  
**Approved by:** John Woodford, Director of Planning and Development

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### Summary

This staff report addresses motion C24(138) 'Moved that staff look at circumstances surrounding the rezoning of land'. Planning staff will be making improvements to the communication with the public regarding concept plans.

### Financial Impact Statement

There is no financial impact to improving communication with the public regarding the use of concept plans with rezoning applications.

### Recommendation

Direct staff to improve communication to the public regarding the impact from rezoning applications.

### Recommended Motion

Planning Advisory Committee recommends that Council direct staff to improve communication to the public as outlined in this staff report.

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## Background

Last year Council passed motion C24(138) 'Moved that staff look at circumstances surrounding the rezoning of land'. This motion was passed due to frustrations from the public arising from concept plans being presented during rezoning applications and then a development being constructed which differs from the concept plan. This may be due to the developer changing their plans for the property or the land being sold and a different developer building on the property.

Policy IM10 states that "Council may require the submission of a detailed site plan, or subsequent studies as part of any Official Community Plan amendment...". Policy IM20 states that "Council shall consider if the proposed development is shown on a professionally drawn site plan as being in compliance with the applicable sections of the Subdivision Bylaw, with the following matters of the Land Use Bylaw...". The submission of a site plan enables council to consider the development using a list of policy criteria in the Municipal Planning Strategy.

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## Discussion

The Land Use Bylaw includes a variety of zones and each zone has regulations permitting the land uses and the physical requirements for developing on the property. These physical requirements can include, but vary in each zone, setbacks from property boundaries, height limits, maximum building sizes, etc. Some zones have a more detailed list of requirements which may include landscaping, location of parking, boundary screening, amenity space, etc.

### As-of-right development

As-of-right development refers to a development which is permitted by the land use bylaw and in these cases the developer has to meet the requirements for that zone. For an as-of-right development the applicant will submit a permit application and the development officer will review their plans to make sure they comply with the land use bylaw requirements. The majority of development in East Hants is permitted as-of-right.

### Site Plan Approval

The land use bylaw also has some types of development which require Site Plan Approval. Examples of where site plan approval is required includes, but is not limited to, developments in the Village Core (VC) Zone and Mixed Use Centre (MC) Zone; campground development; non-conforming uses and/or structures. Site Plan Approval applications are administered by a Development Officer and include a review process, using criteria as set out in the land use bylaw. The developer submits a site plan to demonstrate they meet the requirements of the land use bylaw. Once this site plan has been approved by the development officer it's sent to property owners within 30 metres of the application property. The development is carried out in accordance with the site plan and if the developer wants to alter their proposed development they would need to submit a new application for Site Plan Approval.

### Development Agreement

A Development Agreement is a contract between the municipality and the developer. The process for a development agreement application includes community engagement with questionnaires and a public hearing is held at the end of the process. In most cases a site plan is submitted with a development agreement application and if approved by Council that site plan will be appended to the approved development agreement. The developer constructs their development in accordance with the site plan. Substantial changes to the development agreement require a new application be submitted which would include the same level of community engagement as the initial application. Unsubstantial changes to the development agreement does require an application to amend the development agreement but does not require community engagement or a public hearing.

### Rezoning application

If a property owner has plans which are not permitted by the land use bylaw, either as-of-right or through site plan approval, or is not enabled by the municipal planning strategy through a development agreement application, they may decide to submit an application to rezone the property. The rezoning process as set out in the municipal planning strategy and also the Municipal Government Act (MGA) and includes public engagement with a survey and may include a public information meeting with the final step being a public hearing. Information regarding the application is also included on the municipal website. The public has therefore been given an opportunity to review details of the application.

If Council approves a rezoning application the property owner is then able to develop their property in accordance with the regulations in the land use bylaw, at the time they decide to develop their property, which could be either as-of-right or site plan approval. In some cases a development agreement application is needed in addition to the rezoning. The regulations in the land use bylaw sets out the elements by which the development can be approved. The site plan submitted with a rezoning application has no bearing on whether the development officer permits the development - the development officer will approve the development based on the regulations that council approved to be included in the land use bylaw. The development officer cannot refuse to issue a permit or approve site plan approval if the site plan differs from the site plan submitted with a rezoning application.

The frustrations occur where the public see a site plan during a rezoning application and do not fully understand that the plan should be considered a concept only and should not be relied upon to consider the specific impacts to them. The public may not also consider that if a property is sold following a rezoning the new property owner may have different plans for the property. There is no legislative framework to compel the developer to build as per the site plan submitted with the rezoning application.

### OPTIONS FOR CONSIDERATION

Planning staff have identified the following options which may addresses some of the concerns around the use of site plans in rezoning applications.

Option	Pro's	Con's
Enable developments more widely through Development Agreements.	<ul style="list-style-type: none"><li>• This would give more certainty to the public and Council about what is being permitted.</li><li>• The developer has to build as per the site plan that Council approved.</li><li>• The approved development agreement remains with the property as it's registered at the land registry.</li></ul>	<ul style="list-style-type: none"><li>• This would generate additional work for staff in the planning &amp; development (P&amp;D) department. The additional work may impact timelines for other planning projects and timelines for planning applications.</li><li>• This would generate additional reports for Council to review.</li><li>• This would add costs and approval requirements for developers and property owners.</li><li>• In the 2016 Plan Review Council tried to move away from requiring many DA's for the reasons noted above.</li></ul>
Greater use of Site Plan Approval.	<ul style="list-style-type: none"><li>• Information on what has been approved by the Development Officer is added to the public website so the</li></ul>	<ul style="list-style-type: none"><li>• Site Plan Approval is already required for many of the zones which the public have raised concerns about which includes: multi-unit residential;</li></ul>

	<p>public would have a greater understanding on what development has been approved.</p> <ul style="list-style-type: none"> <li>• This is a less time-consuming process overall for P&amp;D staff and can be processed more quickly than a development agreement.</li> </ul>	<p>village core; mixed-use centre; and regional commercial.</p> <ul style="list-style-type: none"> <li>• This would generate additional work for staff in the P&amp;D department.</li> <li>• This would add costs and approval requirements for developers and property owners.</li> <li>• If a change in zone triggers a site plan approval process this would not mean the site plan submitted matches the one submitted with the rezoning application.</li> </ul>
Not require site plans be submitted with rezoning applications.	This would remove the current frustrations as there would be no initial site plan that the public base their understanding of what is being developed on the property.	<ul style="list-style-type: none"> <li>• Policies in the Municipal Planning Strategy should be amended as there are some which have criteria for considering site plans submitted with a rezoning application.</li> <li>• It can be difficult to visualize what development can occur on a property so having no site plans may make considering the impact more challenging.</li> </ul>
Better communication from the municipality that the site plan should be considered a concept only.	<ul style="list-style-type: none"> <li>• This would strengthen the message to the public which would hopefully help in greater understanding on the use of the concept plan.</li> <li>• No cost or staff resources associated with this.</li> </ul>	<ul style="list-style-type: none"> <li>• There may still be some people that do not understand the messaging around the use of concept plans but staff hope this will be very limited.</li> </ul>

### Improve Communication to public

Staff already include in staff reports and presentations that the actual development following a rezoning may differ from the site plan submitted with the rezoning application. Since motion C24(138) was moved by Council staff have added additional text to some presentations. Also, in the drafting of this report staff have identified additional improved communication to the public that staff could implement:

- Adding additional bullet point to presentations indicating that the actual development and the developer may be different than the current site plan and developer.
- Add note to webpage for the planning application and also to the questionnaire/letter that:
  - The actual site plan and developer may be different than the current site plan and developer.
  - The developer will have to comply with the requirements of the land use bylaw at that time.
- Provide the public with information on the maximum height, floor area, setbacks (where relevant) for the proposed zone.

Other than improved communications, planning staff do not recommend any of the additional options outlined above. Changes to the regulations to have greater use of development agreements and/or site plan approval has a potential staffing resource impact and will add further permitting requirements for developers. Even if a site plan approval

application is required following a rezoning, the site plan submitted would not have to match the one for submitted with a rezoning.

Staff do not recommend removing the requirement for the submission of a site plan with a rezoning application. This may have a consequence of making it more challenging to understand the potential impacts of the proposed rezoning.

#### STRATEGIC ALIGNMENT

Excellence in the delivery of municipal services is one of the Core Values in the Strategic Plan. Improvements to communication to indicate that site plans should be considered as a concept only would improve the current delivery of information to the public.

#### LEGISLATIVE AUTHORITY

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

#### FINANCIAL CONSIDERATIONS

There is no quantifiable increase in cost to any of the options outlined in this report. However, should Council choose to an increase in the use of development agreements and/or site plan approvals there is a potential additional staffing workload impact to this change.

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## Alternatives

There are three alternatives for Council to consider but staff do not recommend moving forward with these:

1. Greater use of development agreements to provide more certainty to the public of the specifics of an approved development.
2. Greater use of site plan approvals to provide more certainty to the public of the specifics of an approved development.
3. Remove the requirement for an applicant to submit a site plan with a rezoning request application.

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## Attachments

There are no attachments to this report.