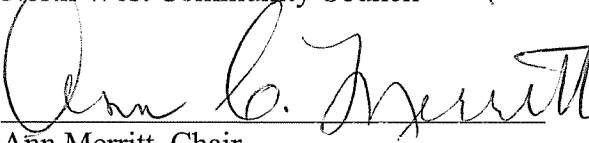


North West Community Council
November 27, 2008

TO: North West Community Council

SUBMITTED BY: 
Ann Merritt, Chair
North West Planning Advisory Committee

RE: Case 00790: Flag Lot Development - Bedford

DATE: November 6, 2008

ORIGIN

North West Planning Advisory Committee meeting - November 5, 2008

RECOMMENDATION

The North West Planning Advisory Committee recommend that North West Community Council recommend that Halifax Regional Council:

1. Give First Reading to the proposed amendments to the Bedford Municipal Planning Strategy and Land Use By-law as set out in Attachment A of the report dated October 24, 2008, and schedule a public hearing; and
2. Approve the proposed amendments to the Bedford Municipal Planning Strategy and Land Use By-law as set out in Attachment A of the report dated October 24, 2008.

ATTACHMENTS

Staff report dated October 24, 2008

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Gail Harnish, Admin/PAC Coordinator, 490-4937
Report reviewed by: Ann Merritt, Chair, North West PAC

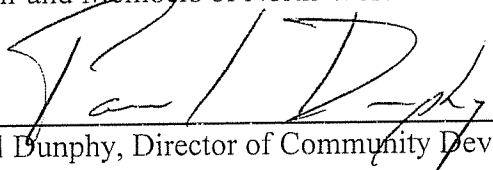


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

North West Planning Advisory Committee
November 5, 2008

TO: Chair and Members of North West Planning Advisory Committee

SUBMITTED BY:


Paul Dunphy, Director of Community Development

DATE:

October 24, 2008

SUBJECT:

Case 00790: Flag Lot Development - Bedford

ORIGIN

- March 24, 2005 motion of North West Community Council.
- October 25, 2005 motion of Regional Council to initiate the plan amendment process.

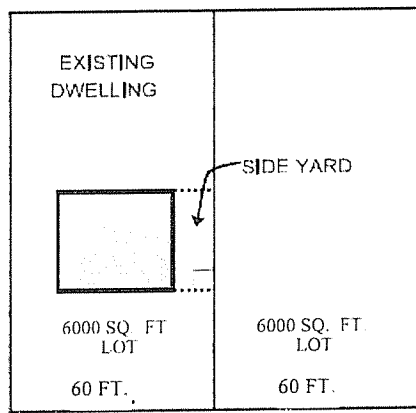
RECOMMENDATION

It is recommended that **North West Planning Advisory Committee recommend that North West Community Council:**

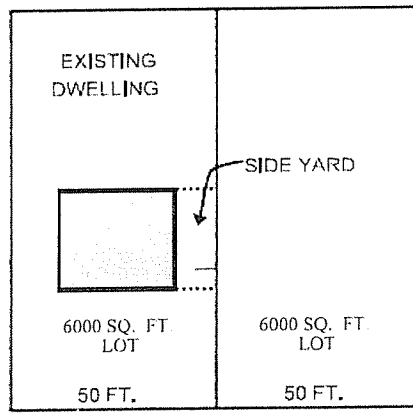
1. **Recommend that Regional Council** give First Reading to the proposed amendments to the Bedford Municipal Planning Strategy and Land Use By-law as set out in Attachment A, and schedule a public hearing; and
2. **Recommend that Regional Council** approve the proposed amendments to the Bedford Municipal Planning Strategy and Land Use By-law as set out in Attachment A.

BACKGROUND

In Bedford, lots in the Residential Single Dwelling Unit (RSU) or Residential Two Dwelling Unit (RTU) zones are generally required to have a minimum of 60 feet of street frontage and a minimum of 6,000 square feet of lot area. For lots which existed on October 9, 1991 the Land Use By-law permits a frontage reduction to 50 feet.



Standard Lot Configuration

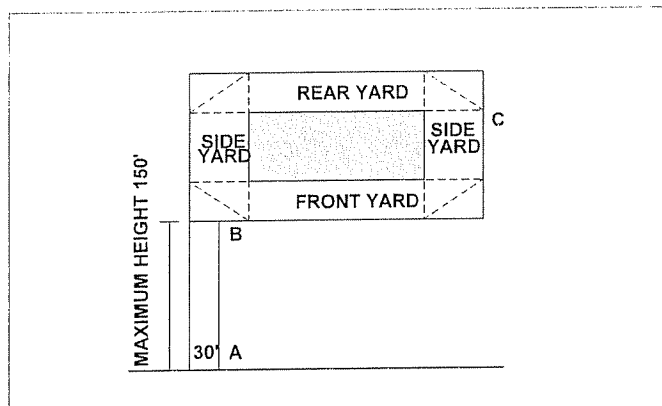


Reduced Frontage for Existing Lots

In cases where lots contain more than sufficient land area, the ability to subdivide may be hampered due to a lack of lot frontage or the placement of existing buildings. The use of flag lots may provide options in these cases.

The Bedford Land Use By-law (LUB) defines a flag lot as follows:

Flag Lot - means a lot shown on an approved plan of subdivision the configuration of which resembles the figure below where the "Pole" A to B section of the lot cannot exceed one hundred and fifty (150) feet in length and shall be a minimum width of thirty (30) feet and where the "C" portion of the flag lot excluding the "pole" shall contain the required minimum lot area specified in the applicable zone. The "pole" shall also be excluded for the purpose of calculating front, rear, and sideyard setbacks. Minimum yard requirements must be achieved within the "C" portion of the flag lot as illustrated in the diagram.



In Bedford, flag lots may be considered by Council through the development agreement process. Policy R-27 of the Bedford Municipal Planning Strategy (MPS) enables Council to consider applications for infill development within the Residential Designation as a means of facilitating efficient use of municipal infrastructure.

Approximately 160 properties in Bedford meet the minimum frontage and area requirements to qualify for consideration under Policy R-27 although only eight flag lots have been created under the policy in the last 17 years. To be eligible for consideration under the flag lot policy, the property must meet all applicable zoning standards for two lots except that one of the lots may have as little as 30 feet of frontage. As a result, only properties with a minimum of 90 feet of frontage, a minimum of 15,000 square feet in size and in existence prior to the date of the implementation of the MPS (October 9, 1991) qualify for flag lot development.

In other communities, flag lot development is regulated through the as-of-right development process established in the Subdivision By-law and according to zone standards set out in the applicable Land Use By-law. Under this approach, the width of the "pole" must be at least as wide as the minimum frontage required by the zone at the street, but at a depth of 20 feet from the street the pole can be reduced to 20 feet in width.

Concern has been expressed by North West Community Council (NWCC) and the North West Planning Advisory Committee (NWPAC) that the requirements of Policy R-27 may be insufficient to ensure that flag development does not negatively impact upon the character of existing neighbourhoods. At the request of NWCC, staff opened a planning case to review the flag lot policies set out in the Bedford MPS. Following this, Regional Council approved initiation of the process to consider amendments to the Bedford MPS.

DISCUSSION

There are three standard approaches by which the development of flag lots may be regulated:

- as-of-right zoning;
- site plan approval; and
- development agreement.

Attachment D provides a brief overview of each of these approaches; the development agreement process is the method used in Bedford.

Based on staff's experience, the main concern regarding flag lot development is the potential impact on neighbourhood character. Staff are of the opinion that neither the site plan approval or the application of as-of-right zoning would be effective in mitigating land use impacts or maintaining neighbourhood character. The development agreement approach is the most effective tool in this regard.

Both NWPAC and NWCC have expressed concern that the existing flag lot policy may not be sufficient to ensure the stability of neighbourhood character. Staff concur and have identified the following measures to enhance Policy R-27:

- **Increase Minimum Lot Size:** An small increase in the minimum lot size of the flag lot will help to provide more flexibility with the siting of a new house. Staff recommend the minimum lot size be increased from 6,000 to 7,000 square feet.
- **Limit Dwelling Types:** Because of their configuration, flag lots have more challenging access issues and should be limited to single or two unit dwelling development. Where two unit dwellings are considered, policy should also consider the provision of adequate outdoor amenity space.
- **Restrict Water Lot Infill:** The policy should specify that, on water lots, the area created as a result of infilling is not be included in the minimum lot area or yard requirements.
- **Enhanced Design Requirements:** More detailed architectural requirements should be established for flag lots. Currently, a flag lot dwelling is required to not exceed the average height and footprint of its abutting properties. In order to better reflect neighbourhood impacts, staff suggest that the area to be considered be expanded to the immediate neighbourhood. Additionally, staff suggest the management of wall openings (i.e., windows and doors) so that the dwelling's impact on surrounding properties is further mitigated.
- **Enhanced Buffering, Screening and Landscaping Requirements:** The policy should be enhanced to ensure appropriate buffering, screening or landscaping is provided and maintained.
- **Limiting Permitted Uses:** Under the current MPS there is nothing to prevent a property owner from requesting a flag lot in combination with another land use permitted by development agreement such as an auxiliary dwelling unit. Staff are suggesting that where a flag lot is enabled, other additional land uses should not be permitted.

To assist in maintaining existing streetscape and front yard setbacks, staff have proposed a new policy which would allow the creation of lots which may have as little as 40 feet of frontage by development agreement provided the property meets all other criteria for the consideration of a flag lot. Under this approach, issues such as building location, size, height, and design would be considered. The newly created lot would be located adjacent to rather than behind existing residential properties, which better reflects the characteristics of most neighbourhoods. Further, a reduction in the side yard shared between the proposed and remainder lot could be considered while the yard setbacks to any adjacent properties would be maintained or increased.

Public Information Meeting

NWPAC held a Public Meeting on January 12, 2006 to receive public input regarding the issue of flag lot development. At the meeting, support for and against flag lot development and the existing policy was expressed. Concerns focussed on neighbourhood character, the potential to create flag lots by infilling pre-confederation water lots on Shore Drive, and whether the creation

of flag lots is appropriate for two unit dwelling and townhouse development. The potential negative economic impact that any change in policy could cause for property owners that qualify for flag lot development under the existing policy was also identified as an issue at the meeting. Minutes of the meeting are attached to this report as Attachment B.

Conclusion

Restricted infill options in Bedford limit the Municipality's ability to maximize the use of existing infrastructure. Further, the existing policies do not adequately address the needs of the community in mitigating the impact of flag lot development in existing neighbourhoods. Staff believe that considering flag lot proposals by development agreement is an effective manner of controlling infill development. A revised policy set with enhanced eligibility and evaluation criteria would enable infill development within existing residential areas while also protecting the character of those neighbourhoods. Further, the ability to create a limited number of lots with reduced frontage would allow an alternate infill housing form which is in keeping with neighbourhood character. Staff recommend that Council adopt the proposed amendments to the Bedford MPS and LUB, as set out in Attachment A.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved operating budget for C310.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may choose to approve the proposed amendments to the MPS. This is the recommended course of action.
2. Council may choose to refuse the proposed amendments to the MPS. Council is under no obligation to amend the policies contained in the MPS.
3. Council may choose to approve the proposed amendments to the MPS subject to revisions. This may necessitate a second public hearing.

ATTACHMENTS

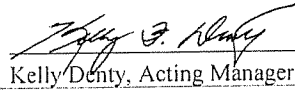
Map 1:	Properties in Bedford with Potential for Flag Lot Development
Attachment A:	Proposed MPS and LUB Amendments
Attachment B:	NWPAC Public Meeting Minutes - January 12, 2006

Attachment C: Applicable Policies of the Bedford MPS
Attachment D: Options to Regulate Flag Lot Development

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: Andrew Bone, Senior Planner, Community Development, 869-4262

Report Approved by:



Kelly Denty, Acting Manager, Planning Services 490-6011



Properties with Potential for Flag Lot Development



Map 1
Properties in Bedford with Potential for Flag Lot Development



Aug. 20, 2007

HRM does not guarantee the accuracy of any base map information on this map.

T:\Repmaps\Planadm\00790\Map1.mxd (AKT)



Attachment A: Proposed MPS and LUB Amendments

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

1. By deleting the text identified in ~~strikeout~~ and adding text identified in bold in Policy R-27 as follows:

Policy R-27:

It shall be the intention of Town Council to consider applications to infill within existing residential areas. Infilling shall be encouraged to enable efficient use of municipal infrastructure. Town Council shall permit reduction of lot frontage requirements for subdivision of lots **within the Single Unit Dwelling (RSU) and Two Unit Dwelling (RTU) Zones** which existed prior to **October 9, 1991** ~~the adoption of this strategy~~, provided the existing land uses are in conformance with the zoning on the property. Infilling activity within existing residential neighbourhoods **and zoned Single Unit Dwelling (RSU) or Two Unit Dwelling (RTU) Zones** shall be regulated through provisions in the Land Use By-law **permitting a reduction to 50 feet of frontage for existing lots**. Council shall permit the creation of flag lots by development agreement **within the Single Unit Dwelling (RSU) and Two Unit Dwelling (RTU) Zones where a property cannot be subdivided by under the Land Use By-law**. Such development agreements shall require that:

- the application for a development agreement shall include the specifications for the building envelope for the proposed dwelling such that the new dwelling **is in keeping with the bulk, scale and shall not exceed** the average height and building footprint of the existing dwellings ~~which abut~~ **in the immediate neighbourhood of** the vacant lot;
- the minimum rear yard separation distances between the proposed new dwelling and the existing dwellings shall be 40 feet;
- minimum front, side and rear yards shall be provided in accordance with the zone requirements
- minimum lot area **for the flag lot** shall be ~~6,000~~ **7000** sq. ft.; and;
- the lot must be located within an area which is zoned **single (RSU Zone) or two-unit (RTU Zone)** dwellings ~~for residential land use~~;
- **on any lot adjacent to a watercourse or body of water, no area of land which has been infilled shall be included in the minimum lot area or minimum yard setback required under this policy or the Land Use By-law;**
- **the application shall include provisions for visual screening, such as fencing and tree retention, to manage potential impact on adjacent residential properties;**
- **controls related to the design of the new dwelling, such as the management of wall openings (i.e., windows and doors) are established to ensure that it is compatible with that of the surrounding residential environment;**

- **no application to create a new lot for the development of a two unit dwelling shall be considered on any lot which abuts a property that is zoned RSU and which is undeveloped or contains a single unit dwelling;**
- **where a proposal includes a two unit dwelling, the application shall include adequate outdoor amenity space such as decks, patios or other open space;**
- **the creation of a flag lot shall not be in combination with any other development agreement option permitted under the Plan, including but not limited to Policy R-8, auxiliary dwelling units; and**
- **consideration of limiting home based businesses due to the configuration of the lot.**

2. By inserting the following new policies after Policy R-27:

Policy R-27 A

Further, where a property is eligible for consideration for a flag lot under Policy R-27, Council shall consider applications to create lots with reduced frontage that do not meet the definition of flag lot set out in the Land Use By-law through the development agreement application process. In considering applications for development agreements, Council shall have regard for the following:

- the application for a development agreement shall include the specifications for the building envelope for the proposed dwelling such that the new dwelling is in keeping with the bulk, scale and average height and building footprint of the existing dwellings which are in the immediate neighbourhood of the vacant lot;
- the road frontage of the existing lot shall be less than 120 feet and greater than or equal to 90 feet.
- minimum lot area of any new lot shall be 6,000 sq. ft.;
- minimum road frontage of any new lot shall be 40 feet;
- minimum front and rear yards shall be provided in accordance with the zone requirements;
- minimum side yards adjacent to any lands that are not subject the agreement shall be provided in accordance with zone requirements;
- minimum side yards not adjacent to existing lots may be reduced provided that applicable building code requirements are met;
- on any lot adjacent to a watercourse or body of water, no area of land which has been infilled shall be included in the minimum lot area or any minimum yard setback required under this policy or the Land Use By-law;
- the application shall include provisions for visual screening, such as fencing and tree retention, to minimize potential impact on adjacent residential properties;
- controls related to the design of the new dwelling such as the management of wall openings (i.e., windows and doors) are established to ensure that it is compatible with that of the surrounding residential environment;
- no application to create a new lot for the development of a two unit dwelling shall be considered on any lot which abuts a property that is zoned RSU and which is undeveloped or contains a single unit dwelling;

- where a proposal includes a two unit dwelling, the application shall include adequate outdoor amenity space such as decks, patios or other open space;
- the creation of a reduced frontage lot shall not be in combination with any other development agreement option permitted under the Plan, including but not limited to Policy R-8, auxiliary dwelling units; and
- consideration of limiting home based businesses due to the configuration of the lot.

Policy R-27 B

Where a development agreement has been entered into for a flag lot prior to the adoption of this policy, Council may consider amendments to the agreement in consideration of Policy R-27 or R-27A.

THIS IS TO CERTIFY that the amendments to the Bedford Municipal Planning Strategy, as set out above, were passed by a majority vote of Halifax Regional Council at a duly called meeting on the _____ day of _____, 2008.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this _____ day of _____, 2008.

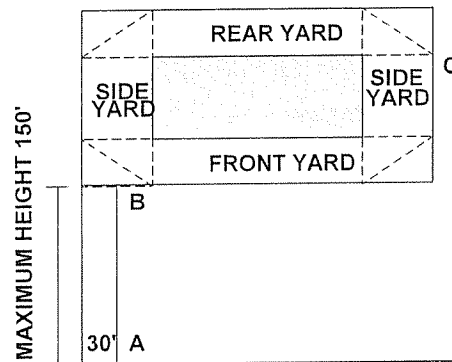
Julia Horncastle
Acting Municipal Clerk

Proposed Land Use By-law Amendments

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

1. By deleting the text identified in strikeout and adding text identified in bold in Part 2: Definitions, as follows:

Flag Lot - means a lot shown on an approved plan of subdivision the configuration of which resembles the figure below where the "Pole" A to B section of the lot cannot exceed one hundred and fifty (150) feet in length and shall be a minimum width of thirty (30) feet and where the "C" portion of the flag lot excluding the "pole" **and any land area created by infilling a water body** shall contain the required minimum lot area specified in the **zone development agreement**. The "pole" **and any area which has been infilled** shall also be excluded for the purpose of calculating front, rear, and sideyard setbacks. Minimum yard requirements must be achieved within the "C" portion of the flag lot as illustrated in the diagram.



2. By adding the following text after the words "R-27" in Part 4, Section 3:

"R-27A, R-27B,"

3. By adding the following text after the words “(Policy R-27)” in Part 4, Section 3, Clause a) iv):

"and the creation of lots with reduced frontage (Policy R-27A)"

THIS IS TO CERTIFY that the amendments to the Bedford Land Use By-law, as set out above, were passed by a majority vote of Halifax Regional Council at a duly called meeting on the _____ day of _____, 2008.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this _____ day of _____, 2008.

Julia Horncastle
Acting Municipal Clerk

Attachment B: NWPAC Public Meeting Minutes - January 12, 2006

NORTH WEST PLANNING ADVISORY COMMITTEE
PUBLIC MEETING

January 12, 2006

PRESENT: Mr. Joel Matheson, Chair
Mr. Walter Regan
Mr. George Murphy
Ms. Ann Merritt
Mr. Warren Hutt
Mr. David Grace
Ms. Gloria Lowther

REGRETS: Councillor Len Goucher
Ms. Barb Grant

STAFF: Mr. Andrew Bone, Planner I
Ms. Sheilagh Edmonds, Legislative Assistant

1. Call to Order

The Chair called the meeting to order at 7:00 p.m. in the Cafeteria of Basinview Drive Community Elementary School, 273 Basinview Drive, Bedford.

2. Case 00790 - Proposed Amendments to the Municipal Planning Strategy and Land Use By-law for Bedford relative to flag lot provisions

A report dated October 12, 2005, originally submitted at the October 25, 2005 meeting of Halifax Regional Council was submitted.

Mr. Andrew Bone, Planner 1, provided a presentation outlining why staff was considering amendments to the Bedford Municipal Planning Strategy and Land Use Bylaw as it relates to flag lots. Mr. Bone began his presentation with an explanation of a Flag Lot; and referring to Policy R-27, he elaborated on what the Bedford Municipal Plan presently permits in regard to Flag Lots. Mr. Bone reviewed the options staff are considering. In his remarks, Mr. Bone advised that as a result of concern expressed at a Public Hearing held in March 2005 concerning a flag lot on Shore Drive, Community Council passed a motion for staff and the North West Planning Advisory Committee to review this matter.

Mr. Bone advised that staff are not recommending removal of the policy, recognizing that there are some planning advantages to flag lots, but are proposing a combination of the policies that would maintain flag lots and ensuring better protection to surrounding neighbours. He suggested aspects the Committee may want to consider are: zoning, i.e. permit only R-1 zoning. Mr. Bone noted that, at the present time, technically, a semi-detached building or townhouse could be placed on a flag lot if it met the requirements. Mr. Bone pointed out that putting a 'cap' on flag lots in a particular area may be worthwhile to consider in the policy. Mr. Bone advised that infilling may also be a consideration for the policy, explaining that a number of water lots along Shore Drive are pre-confederation and, as such, if they receive approval from Department of Fisheries and Oceans, then they are permitted to infill. Mr. Bone noted the possibility of someone infilling their water lot to create extra land, and then submitting an application for a flag lot.

In concluding his remarks, Mr. Bone advised that this matter is not a large problem, adding that staff have only received three or four applications over the past 10 years. He noted that when an application does come up though, it creates significant discussion in the community. Mr. Bone added that once he completes a thorough analysis on the exact number of flag lots which would meet the minimum requirements, he believed it would be significantly lower than the potential 267 lots which are shown on the maps. For purposes this evening, he suggested a more realistic number is approximately 160.

The following comments were put forward by Committee members and members of the public:

Mr. George Murphy (NWPAC Member) advised that he was supportive of the Development Agreement approach to flag lot applications, and he was also supportive of addressing in the policy the issue of infilling of water lots in attempt to create additional land for a Flag Lot.

Mr. David Grace (NWPAC Member) indicated he did not support flag lots.

Susan O'Boyle, addressed the Committee and advised that she was a real estate agent in the area. Ms. O'Boyle advised that she was very surprised to hear of the potential to create approximately 160 additional flag lots and she suggested the general public is unaware of this aspect. Ms. O'Boyle advised that the mapping made available to the public by staff should note which properties have flag lot potential. She also suggested that future meeting notices which staff provide to the newspaper should be more descriptive. Ms. O'Boyle advised that the ad for this meeting was quite vague.

Mr. Hugh MacPherson, Bedford, addressed the Committee and advised that he bought his home on First Avenue in 1972 and, at that time, he also purchased the lot behind his house, and which fronted on Second Street. Mr. MacPherson noted that he purchased the additional lot for a retirement investment; however, Second Street has now been closed. He advised that he was now looking toward retirement and, with a landlocked piece of property, he questioned how the proposed recommendation would impact him. Mr. MacPherson pointed out the low turnout of concerned people at this meeting, therefore, he suggested staff maintain status quo.

A gentleman addressed the Committee and indicated that he was a resident of Sackville. He advised that he was attending the meeting for information purposes, noting that he owns a piece of property in Sackville which he was considering for application for a flag lot.

5. Adjournment

There being no one else wishing to speak, the Chair thanked members of the public and staff and the meeting adjourned at 8:30 p.m.

Sheilagh Edmonds, Legislative Assistant

Attachment C: Applicable Policies of the Bedford MPS

RESIDENTIAL OBJECTIVE

To make provision for a choice of housing types; to make provision for construction of affordable housing; to provide for preservation of the character of existing neighbourhoods in their present form; to permit residential development to occur in areas where the Town can economically provide services; to consider the need for permanent buffers and/or separation distances where residential uses abut incompatible land uses; to encourage the provision of housing for those with special needs; to provide for a mix of housing types in new developments consistent with the trend in starts in Bedford since 1980; to plan for provision of supporting neighbourhood infrastructure such as schools, parkland and commercial facilities; and, to encourage development that would be designed to suit the natural terrain minimizing negative impacts to the natural environment.

Efficient Use of Land

Policy R-27 explains Council's intention to consider applications to infill within existing residential areas in order that municipal infrastructure may be used more efficiently. Provisions will be included within the Land Use By-law to permit subdivision of wider existing lots to permit infilling provided there is not a non-conforming land use. Policy R-28 permits infill development on existing lots which do not meet the requirement of having frontage on a street, but which do have access via an easement or other instrument to a public street.

Policy R-27:

It shall be the intention of Town Council to consider applications to infill within existing residential areas. Infilling shall be encouraged to enable efficient use of municipal infrastructure. Town Council shall permit reduction of lot frontage requirements for subdivision of lots which existed prior to the adoption of this strategy, provided the existing land uses are in conformance with the zoning on the property. Infilling activity within existing residential neighbourhoods shall be regulated through provisions in the Land Use By-law. Council shall permit the creation of flag lots by development agreement. Such development agreements will require that:

- the application for a development agreement shall include the specifications for the building envelope for the proposed dwelling such that the new dwelling shall not exceed the average height and building footprint of the existing dwellings which abut the vacant lot;
- the minimum rear yard separation distances between the proposed new dwelling and the existing dwellings shall be 40 feet;
- minimum front, side and rear yards shall be provided in accordance with the zone requirements
- minimum lot area shall be 6,000 sq. ft.; and,
- the lot must be located within an area which is zoned for residential land use

Attachment D: Planning Review Approaches

1. **As-of-right Zoning:** This approach would involve permitting flag lot development by right, subject to meeting lot standards and zoning requirements set out in the Land Use By-law.
2. **Site-Plan Approval:** Under this approach the Development Officer and the developer negotiate certain elements typically regulated through development agreements such as the location of buildings, landscaping and fencing. However, other elements that a development agreement can control, such as building height and architectural design, cannot be regulated through site plan approval.
3. **Development Agreement:** This is the current approach and ensures a public process, final decision of Council, and the ability for staff to negotiate a variety of issues including landscaping, fencing/buffering, building size and design.