

SUPPLEMENTAL REPORT

Prepared For:	Planning Advisory Committee
Submitted by:	Jason Fox, Director of Planning & Development
Date:	June 20, 2017
Subject:	Municipal Planning Strategy and Land Use By-law Amendments to establish the Neighbourhood Institutional (P4) Zone and apply it to several institutional uses located in established residential neighbourhoods.

Recommendation

That Council approve amendments to the Municipal Planning Strategy and Land Use By-law to establish the Neighbourhood Institutional (P4) Zone and apply it to several institutional uses located in established residential neighbourhoods, generally as outlined in a May 3, 2017 Staff Report, with minor changes as described in this report.

Background

This report is intended to provide supplemental information related to a May 3, 2017 Staff Report which recommended in favour of establishing the Neighbourhood Institutional (P4) Zone and applying it to several institutional uses located in established residential neighbourhoods throughout Truro. That report was presented to the Planning Advisory Committee (PAC) at a meeting held on May 8, 2017. At that meeting PAC heard from a number of residents in the Philip Street area who expressed concern about the proposed P4 Zone and the broad range of institutional uses that it would permit. In light of the residents' concerns, PAC members deferred making a decision and requested that Planning Staff report back to the Committee at the June meeting after investigating how other Nova Scotian municipalities regulate institutional uses. PAC also requested that all property owners included in the new P4 Zone be notified of the proposed amendments and invited to participate in the amendment process. Since the May meeting, Planning Staff have sent out a letter to all the property owners affected by the proposed P4 Zone and Staff have been in contact with several other Nova Scotian municipalities to review how they regulate institutional uses in their jurisdictions.

Analysis

Planning Staff conducted a review of the zoning by-laws and institutional zone regulations for the following Nova Scotian Municipalities: Bridgewater, Kentville, Wolfville, Antigonish, Amherst, Port Hawkesbury, Halifax Regional Municipality (HRM), Kentville, New Glasgow, Stellarton, Pictou, Westville, and Trenton. With the exception of Amherst, HRM, New Glasgow and Westville, Planning Staff also spoke directly to development officials for each of these municipalities to discuss issues related to regulating institutional uses. A summary of each municipality's approach to institutional uses is attached to this report as Appendix A.

The review of other municipalities revealed a few interesting things. First, it became apparent that Truro is fairly unusual in Nova Scotia in that we have so many small churches. Even more unusual is how most of these churches are located within established low density residential areas. Most municipalities have just a few churches and these are typically located in commercial areas in the downtown core or along major streets. Issues related to the expansion or redevelopment of these small neighbourhood churches is, therefore, a problem largely unique to Truro.

The second thing the review of other municipalities revealed is how most jurisdictions in Nova Scotia generally share a common approach to regulating institutional uses. The typical approach involves establishing a specific institutional zone and applying it to both new and existing institutional uses. HRM actually has several different land use by-laws and several different approaches to institutional uses. Within HRM, some of the by-laws are similar to others around the province, but the land use by-laws for Downtown Halifax and Downtown Dartmouth, for example, do not have institutional zones. In Downtown Halifax, institutional uses such as places of worship and halls are listed as permitted uses in residential zones. In Downtown Dartmouth, institutional uses are permitted only in commercial zones. In the rest of Dartmouth, there is an institutional zone but most of the smaller churches are zoned residential and the residential zone permits a broad range of institutional uses including places of worship and associated halls; schools, colleges, universities, libraries, art galleries, and museums; public parks and playgrounds; tennis clubs, quoit clubs, lawn bowling clubs, archery clubs, and golf clubs. Within HRM there are a variety of different approaches to regulating institutional uses, but some, such as the land use by-law for Sackville takes the same approach as Truro and many other Nova Scotian communities.

Also revealed by the review of other municipalities is that the definition of ‘institutional uses’ varies throughout the province. For the most part all definitions included government uses, recreation uses, educational uses, health care, places of worship, and emergency services. Relative to the other municipalities, Truro’s Institutional (P3) Zone is pretty average in terms of the range and intensity of permitted uses. The notable exception is that Truro includes “correctional facilities” within its institutional zone.

After reviewing all the other municipalities, the only jurisdiction that seemed to offer a unique approach to the regulation of institutional uses was HRM in its Downtown Halifax By-law. Wolfville has indicated that they were considering moving in a similar direction as Downtown Halifax and they are looking at adding places of worship and some of the less intensive uses as permitted uses in the residential zones. Wolfville would require that more intensive uses such as medical centres, day cares, medical clinics, or private schools have commercial zoning.

This approach could be adopted in Truro but it does not really apply to our unique situation. In Truro there are 11 churches and one RCMP dispatch centre that are situated in low density residential areas. It is likely that one or more of these institutional uses will be the subject of a change of use proposal in the next few years and it is important that the Town plan for the future of these parcels. This includes having land use regulations in place that acknowledge and permit the existing institutional uses but also accommodate a reasonable range of reuse options. By adopting the same approach as the Downtown Halifax by-law, the Town would accommodate the existing churches, but redevelopment options would be limited to low density residential uses. Neighbouring land owners would likely applaud this approach since it would minimize the risk of having an incompatible land use next door. There is, however, a need to consider what happens if these former institutional uses are not suitable or viable to be redeveloped as a low density residential. In these instances, the former institutional buildings may be left vacant, become derelict, and contribute to neighbourhood decay. It is far better that the Town adopt policies and regulations that enable and encourage reinvestment in, and redevelopment of, these properties. This approach, however, must incorporate appropriate approval processes to ensure that any redevelopment and reuse proposals are compatible with surrounding uses and that reasonable measures are taken to address the concerns of neighbouring property owners.

This approach was the basis for the proposed Neighbourhood Institutional (P4) Zone. Rather than limit redevelopment opportunities, the P4 Zone is designed to allow a range of institutional and residential uses that are unlikely to generate land use conflicts with surrounding low density residential uses. The draft amendments also include policies allowing for more intensive institutional and residential uses by development agreement. This will ensure that more intensive uses are vetted as part of a public planning process designed to protect neighbouring property owners from incompatible development.

The proposed amendments also resolve another significant issue related to the Town’s failure to comply with its own planning policies and the Municipal Government Act of Nova Scotia. The Truro Alliance Church located at 29 and 37 Philip Street is currently zoned General Residential (R3). In accordance with Policy I-11 of the Town of Truro Municipal Planning Strategy (MPS), existing institutional uses in residential zones are to be zoned Institutional (P3). By having the existing church zoned R3 the Town is acting in a manner that is inconsistent with

its MPS. A municipality is not permitted to act in a manner that is inconsistent with its MPS by Section 217(1) of the Municipal Government Act. The Alliance Church is, therefore, fully within its rights to request a rezoning to the current Institutional (P3) Zone and the Town is not in a position to deny the request.

Revisions to Proposed Amendments

In response to residents' concerns regarding the broad range of uses that would be permitted in the proposed Neighbourhood Institutional (P4) Zone, Staff are proposing that some of the more intensive uses be removed or be permitted only by development agreement. Residents and PAC members also expressed concern about the definitions of the proposed uses and wanted further clarification. In response, Staff have prepared the following table which lists the permitted uses in the proposed P4 Zone and provides a definition in cases where the meaning of the use category may not be obvious.

Uses Permitted as-of-right in the Proposed Neighbourhood Institutional (P4) Zone	
Community Gardens	
Commercial School	A commercial school is a school operated by an individual or company for gain or profit, providing instruction in a primary or secondary curricula of the Province of Nova Scotia. It may also offer instruction in a specific trade, skill or service such as secretarial skills, vocational skills, aviation, banking, commercial arts, automobile driving, language, modelling, business, hairdressing, beauty, culture, dancing and music schools.
Day Care Centres	A day care centre is a place where four or more pre-school children are cared for on a temporary daily basis without overnight accommodation but does not include a school.
Educational	An educational use is any building use designated for instruction, including public and commercial schools and nursery schools.
Office & Professional Uses	An office and professional use is a building or part thereof in which the principal or main use is the provision of professional services to the public.
Places of Worship	
Playgrounds	
Single Detached Dwellings	
Societies	<i>Not defined. Interpretation:</i> A non-profit organization incorporated under the Societies Act of Nova Scotia. A society may promote any benevolent, philanthropic, patriotic, religious, charitable, artistic, literary, educational, social, professional, recreational or sporting or any other useful object, but not for the purpose of carrying on any trade, industry or business.
Sports Fields and Courts	
Two Unit Dwellings	
Walkways & Trails	
Cultural Facilities	A cultural use is a use such as a museum, library, or art gallery (new addition)

Uses Permitted with Conditions in the Proposed Neighbourhood Institutional (P4) Zone	
Community Homes	<p>A community home is a community based group living arrangement, in a single housekeeping unit, for up to a maximum of seven (7) individuals, exclusive of staff and/or receiving family, with social, emotional, legal, mental and/or physical handicaps or problems, that is developed for the well being of its residents through self-help, professional care, guidance and supervision unavailable in the resident's own family, an institution or in an independent living situation. A community home is licensed, funded or approved by the Province of Nova Scotia.</p> <p><i>Special Conditions include requirements such as: the community home must be located at least 250 m (820 ft) from any other community home or residential care facility; and that there be a minimum floor area and outdoor amenity space per resident.</i></p>

Uses Permitted by Development Agreement in the Proposed Neighbourhood Institutional (P4) Zone	
Community Centres	
Health Care	<i>Not defined. Interpretation:</i> hospitals, clinics, medical centres, private clinics
Governmental	<i>Not defined. Interpretation:</i> government administration offices, public utilities
Homes for Special Care	A home for special care is a building wherein nursing care or room and board are provided to individuals incapacitated in some manner for medical reasons but does not include a hospital. Homes for special care shall not include the uses of a tourist establishment
Recreational Facilities	<i>Not defined. Interpretation:</i> recreational facilities that are enclosed in a structure or include ancillary structures such as rinks, swimming pools, gymnasiums
Residential Care Facilities	A residential care facility is a community-based group living arrangement, in a single housekeeping unit, for eight (8) or more individuals, exclusive of staff and/or receiving family, with social, legal, emotional, mental and/or physical handicaps or problems, that is developed for the well being of its residents through self-help, professional care, guidance and supervision unavailable in the resident's own family, an institution or in an independent living situation. A Residential Care Facility is licensed, funded or approved by the Province of Nova Scotia.
Multiple Unit Dwellings (3+ units)	
Townhouses	

At the May PAC meeting, a number of people expressed concern about fraternal organizations and private clubs being included in the category 'society' and therefore permitted in the Institutional (P3) and proposed Neighbourhood Institutional (P4) Zones. 'Private Clubs', although not defined, are actually a separate use category which is only listed as permitted in the Downtown Commercial (C1), Limited Commercial (C2), General Commercial (C4), Adult Entertainment (C5), and Commercial Industrial (M2) Zones. Service clubs, private clubs, and fraternal organizations would not, therefore, be permitted in the P3 or P4 Zone since these would arguably fall under the category of 'private clubs'.

Notification of Affected Property Owners

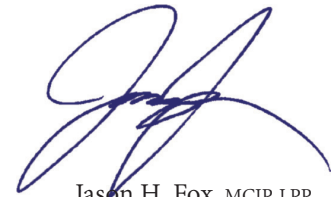
When the proposed Neighbourhood Institutional (P4) Zone was first presented to the Planning Advisory Committee (PAC) back at their May 8, 2017 meeting, the 14 property owners included in the new P4 Zone were not notified of the proposed zone change. This was a conscious decision made by Planning Staff. The initial proposal for the new P4 Zone was essentially to take the existing Institutional (P3) Zone requirements and add some new residential uses to the list. The initial proposal was, therefore, effectively adding redevelopment options to the affected properties and not placing any new restrictions. Planning Staff made the determination that such notification would only be warranted if development options were being restricted by the proposed amendments. It is also noted that the Town is not obligated to directly notify affected property owners of a zoning change or land use by-law amendment.

At the May 8, 2017 meeting, PAC members and the public expressed concern that these owners were not notified. Also, it is now expected that PAC will likely limit the range of permitted uses in the new P4 Zone. In light of the concerns expressed at the meeting and considering the potential impact of the revised amendments, Planning Staff mailed out notification to the 14 affected property owners on June 12, 2017.

Conclusion

With this report, Planning Staff have responded to the requests for additional information brought forward at the May 8, 2017 Planning Advisory Committee Meeting. These requests included: a review of other municipalities and their approaches to regulating institutional uses; clarification on the definitions of uses permitted in the existing and proposed Institutional Zones; and individual notification of affected property owners. Planning Staff believe that the proposed Neighbourhood Institutional (P4) Zone, as set out in the Staff Report dated May 3, 2017, will address Truro's unique challenges with respect to the reuse and redevelopment of small neighbourhood institutional uses. PAC may wish to further restrict the list of permitted uses in the proposed P4 Zone in order to ensure that neighbouring properties are not unduly impacted by incompatible land use proposals. Staff believe that PAC should use their discretion in modifying the list of permitted uses, and provided the range of uses includes a reasonable range of redevelopment options, these modifications would not undermine the intent of the original amendments.

Respectfully Submitted

A handwritten signature in blue ink, appearing to read 'J. H. Fox', with a stylized flourish extending to the right.

Jason H. Fox, MCIP, LPP
Director of Planning & Development

Appendix A

A permitted use shown in green indicates the use is not in this municipality's list of Institutional Zone permitted uses, but it is included in Truro's Institutional (P3) Zone

A permitted use shown in red indicates the use is not included in the list of permitted uses in Truro's Institutional (P3) Zone

Municipality	Approach to Regulating Institutional Uses	Institutional Zone Permitted Uses
Bridgewater	<p>Same general approach as Truro. Typical Institutional Zone applied to all institutional uses including small churches in residential areas. Institutional Uses in commercial zones not included, but listed as permitted uses in the commercial zones.</p> <p><i>Comments:</i> <i>They do have a few small churches located in low density residential areas. No issue with conversions at this time.</i></p> <p><i>Had an old church in the downtown area converted to medium density through a rezoning. No issues.</i></p>	<ul style="list-style-type: none"> • <i>Cemeteries</i> • Clinics • Clubs & Fraternal Organizations • Community Centres • Courthouses • <i>Cultural Facilities</i> • Daycares & Nursery Schools • Educational Uses • Emergency Services • <i>Exhibitions</i> • Fire Halls / Stations • <i>Food Banks</i> • Hospitals • Incidental, Occasional or Temporary Markets • Institutional Uses • Libraries • Nursing Homes • Places of Worship • Residential Care Facilities, Homes for Special Care, or Group Homes • <i>societies</i> • <i>recreational facilities</i> • <i>sports fields and courts</i> • <i>correctional facilities</i>
Kentville	<p>Same general approach as Truro. Typical Institutional Zone applied to all institutional uses including small churches in residential areas. Institutional Uses in commercial zones not included, but listed as permitted uses in the commercial zones.</p> <p><i>Comments:</i> <i>No Issue, no small churches in residential areas.</i></p>	<ul style="list-style-type: none"> • Any uses permitted in a Park (P) Zone, subject to the (P) Zone requirements • Churches, places of worship and religious institutions • Government buildings • Homes for Special Care, Group Homes and Nursing Homes • Hospitals • <i>Cemeteries</i> • Libraries, museums, and art galleries • Fire and Police Stations • Any uses accessory to any of the foregoing uses. • <i>emergency services</i> • <i>societies</i> • <i>medical centres/clinics</i> • <i>correctional facilities</i> • <i>day care centres</i>

Municipality	Approach to Regulating Institutional Uses	Institutional Zone Permitted Uses
<p>Wolfville</p>	<p>Same general approach as Truro. Typical Institutional Zone applied to all institutional uses including small churches in residential areas. Institutional Uses in commercial zones not included, but listed as permitted uses in the commercial zones.</p> <p><i>Comments:</i> <i>Not an Issue, very few churches/institutional uses outside of the downtown core or main street area. They are moving away from the idea of having a traditional institutional zone and instead having uses such as medical clinics and private schools zoned commercial (since they are effectively commercial uses) and day care centres zoned residential since they fit into the residential areas.</i></p>	<ul style="list-style-type: none"> • <i>cemeteries</i> • churches, religious institutions and places of worship • church halls and public halls • community centres • <i>compost facilities</i> • <i>cultural facilities</i> • daycare facilities • educational institutions (public and private) • emergency services • fire stations • government legislative buildings • hospitals • libraries • medical clinics • <i>museums and art galleries</i> • nursing homes • police stations • post offices • private non-profit clubs • public works building • rectories, manses and staff residences associated with uses permitted in this section • residential care facilities • <i>societies</i> • <i>recreational facilities</i> • <i>sports fields and courts</i> • <i>correctional facilities</i> • <i>community homes (up to 7 individuals)</i>
<p>Antigonish</p>	<p>Same general approach as Truro. Typical Institutional Zone applied to all institutional uses including small churches in residential areas. Institutional Uses in commercial zones not included, but listed as permitted uses in the commercial zones.</p> <p><i>Comments:</i> <i>Not an Issue, very few churches/institutional uses outside of the downtown core or main street area.</i></p>	<ul style="list-style-type: none"> • <i>art centres, galleries and museums</i> • churches (subject to R1 requirements) • community centres • government, <i>business and professional offices</i> • hospitals • institutional uses • libraries • private clubs and fraternal organizations • religious institutions and <i>cemeteries</i> • schools • senior and nursing homes (subject to R3 requirements) • universities and community colleges and associated structures and uses. • <i>recreational facilities</i> • <i>sports fields and courts</i> • <i>correctional facilities</i> • <i>day care centres</i> • <i>medical centres/clinics</i> • <i>emergency services</i> • <i>societies</i>

Municipality	Approach to Regulating Institutional Uses	Institutional Zone Permitted Uses
Trenton	<p>All towns share a common land use by-law and consequently the same general approach to regulating institutional uses. Their approach is generally the same as Truro. Typical Institutional Zone applied to all institutional uses including small churches in residential areas. Institutional Uses in commercial zones not included, but listed as permitted uses in the commercial zones. Oddly, the zone permits “personal services” (e.g: hair salon, estheticians, massage therapy).</p> <p><i>Comments:</i> No issue with conversion of old churches or other institutional uses. They have very few churches/institutional uses outside of the downtown core or main street areas.</p>	<ul style="list-style-type: none"> • ambulance services • <i>cemeteries</i> • churches or other places of worship • clinics and medical offices • colleges • commercial schools • community centres • community gardens • community homes • <i>cultural uses</i> • day care • day care (residential) • <i>dormitories</i> • enriched seniors residences • fire stations • <i>food banks</i> • hospitals • libraries • <i>museums</i> • nursing homes • <i>personal care</i> • police stations • post offices • private and public schools • public buildings • residential care facilities • senior citizen housing • seniors residential complex • special care facilities • universities
Stellarton		<ul style="list-style-type: none"> • <i>recreational facilities</i> • <i>sports fields and courts</i> • <i>correctional facilities</i> • <i>societies</i>
Westville		
New Glasgow		
Pictou		

Municipality	Approach to Regulating Institutional Uses	Institutional Zone Permitted Uses
<p>Amherst</p>	<p>Same general approach as Truro. Fairly typical Institutional Zone, allows a range of uses but does not include medical centres/ health care uses or societies. It does allow funeral homes.</p> <p><i>Comments:</i> No issue with neighbourhood scale institutional uses or conversions.</p>	<ul style="list-style-type: none"> • Any use permitted in an Open Space Zone • Religious institutions • Schools • Group care facilities • Libraries, Museums and Art Galleries • Non-residential day care centres • Community centres • <i>Funeral homes</i> • Recreational Uses • Public Buildings <ul style="list-style-type: none"> • <i>recreational facilities</i> • <i>correctional facilities</i> • <i>medical centres/clinics</i> • <i>health care</i> • <i>emergency services</i> • <i>societies</i>
<p>Port Hawkesbury</p>	<p>Same general approach as Truro with a traditional Institutional Zone allowing broad range of uses. All churches and small institutional uses in residential areas are zoned institutional.</p> <p><i>Comments:</i> Port Hawkesbury has had at least one church in a residential area cease operation in the past few years. That building was redeveloped as a residential use (2 units). No issues with the conversion.</p>	<ul style="list-style-type: none"> • Any use permitted in an Open Space (O1) Zone subject to the O1 Zone requirements • Churches, places of worship and religious institutions • Colleges, universities and schools • Day care centres • Fire and police stations • Government offices and facilities • Nursing homes and senior citizen housing subject to the Residential Multiple Unit (R3) • Hospitals • Libraries, <i>museums and art galleries</i> • Private clubs • <i>Public utilities</i> • Any institutional use which is incorporated under the Societies Act Ch. 286, R.S.N.S. 1967, or any other private statute of incorporation <ul style="list-style-type: none"> • <i>recreational facilities</i> • <i>correctional facilities</i> • <i>medical centres/clinics</i> • <i>community homes (up to 7 individuals)</i>

Municipality	Approach to Regulating Institutional Uses	Institutional Zone Permitted Uses
HRM	<p>Variety of approaches.</p> <ul style="list-style-type: none"> In Downtown Halifax there is no Institutional Zone. Land Use By-law Permits churches and church halls in all residential zones. <i>This approach limits redevelopment options for Church properties to remain a place of worship or be converted to a residential use.</i> In Downtown Dartmouth existing institutional uses are permitted in the downtown commercial zone but not in residential areas. Dartmouth - traditional institutional zone but most smaller churches are zoned residential. <i>Residential zone permits places of worship and associated halls; schools, colleges, universities, libraries, art galleries, and museums; public parks and playgrounds; tennis clubs, quoit clubs, lawn bowling clubs, archery clubs, golf clubs.</i> Sackville - traditional institutional zone approach 	<p>Permitted uses for Sackville</p> <ul style="list-style-type: none"> Educational institutions and uses Denominational institutions and uses Day care facilities <i>A single unit dwelling in conjunction with a daycare facility</i> Fire and police stations Government offices and public works Hospitals and medical clinics Public libraries, museums and galleries Private club and lodge Community centres and halls Residential care facilities Public and private parks and playgrounds Recreation uses <i>Cemeteries</i> <i>Day camps</i> <i>Historic sites and monuments</i> <i>A single unit dwelling in conjunction with a cemetery, excluding a mobile dwelling</i> <i>correctional facilities</i> <i>societies</i>