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Harbour East Community Council  
March 5, 2009

**TO:** Chair and Members of Harbour East Community Council

**SUBMITTED BY:** Sharon Bond  
Sharon Bond, Acting Director of Community Development

**DATE:** February 16, 2009

**SUBJECT:** Group Homes by Development Agreement

**ORIGIN**

At the December 16, 2008 meeting of Harbour East Community Council, staff was requested to prepare a report advising whether group homes can be taken out of the R-2 standard and considered by development agreement.

**RECOMMENDATION**

It is recommended that Harbour East Community Council:

1. Initiate the process to consider amending the Land Use By-law for Dartmouth as per Option 1 contained in this report to address group home uses.

## **BACKGROUND**

The housing objective of the *Dartmouth Municipal Planning Strategy* is “to provide for a high quality of mixed housing stock in sufficient numbers to meet the needs of people of all income groups and in a pleasant and safe environment.” One of those groups is individuals with disabilities, who require care provided in a group home. The benefits of providing for group homes in stable neighbourhoods of a residential nature are well recognized. However, certain aspects of group homes (maintenance, size, etc.) have come to the attention of Harbour East Community Council (HECC).

### ***Request***

HECC has requested that staff consider the impacts of permitting group homes by development agreement for those lands zoned R-2.

### ***Existing MPS Policy***

There is no policy intent or statement contained in the *Dartmouth Municipal Planning Strategy* (MPS) referring to “group homes”; the Housing section (p. 30, MPS) discusses *Housing for Seniors and Other Special Populations*. However, there are no policies addressing special populations except for relaxed parking requirements for populations requiring barrier free living specific to Lakecrest Drive (Policy H-12).

Although not addressed as a “group home” *Housing for Women in Transition* (p. 39, MPS) is identified as a population seeking somewhat specialized residential requirements and Policies H-19 and H-20 allows for this use to be considered by development agreement on Victoria Road and Albro Lake Road. Policy H-20 contains development agreement criteria that might be a model for a development agreement for group homes.

### ***Existing Land Use By-law Provisions***

At present, group homes are permitted in the R-2 (Two Family Residential) Zone as “a dwelling for not more than ten persons, owned or operated by a voluntary non-profit organization” under the Dartmouth Land Use By-law (LUB). No definition is given in the LUB for “Group Home(s)”; nor is the use addressed specifically throughout the documents.

By reason of being permitted under the R-2 Zone the “group home” use is permitted in the following zones that permit R-2 uses: R-3 (Multiple Family Residential - Medium Density), R-4 (Multiple Family Residential - High Density), C-1 (Local Business), C-2 (General Business) and GC (General Commercial) Zones.

Currently, residential living environments of up to 3 residents are allowed in all residential neighbourhoods throughout HRM; this allows small option homes but not licensed group homes as they have a minimum of four clients and, at least, one full time live-in staff.

***Other Municipal Regulations***

Whether provincially licensed or unlicensed, group homes must be in compliance with regulations of HRM building and fire safety codes, *Land Use By-laws* and any other applicable By-laws (e.g. *By-law M-100 Respecting Standards for Residential Occupancies*, *By-law N-200 Noise By-law*) or requirements (e.g. Dangerous and Unsightly Premises provisions of the *Halifax Regional Municipality Charter*, Part 15). These requirements ensure good management practices regarding minimum levels of building and property maintenance and safety when enforced.

***Provincial Regulations***

The Province licenses group homes (community based residential facilities) under the *Homes for Special Care Regulations*. These regulations contain provisions for maintenance and care of the property. Group home facilities are also established and licensed under the *Children and Family Services Regulations*.

**DISCUSSION**

Group homes are generally recognized in most planning jurisdictions throughout Canada and the Canadian courts as residential uses. Permitting group homes as an R-2 zone use in the Dartmouth LUB allows them as a residential use in all residential zones with the exception of R-1, TH (Town Housing) and T (Mobile Home Park). The ability to locate group homes in a stable residential home type neighbourhoods is important for their success.

The LUB definition of “family” does not permit the as-of-right development of group homes as a residential use; hence the use of the description “a dwelling unit for not more than ten persons, owned or operated by voluntary non-profit organization”. The absence of a definition or any referral to “group homes” contributes to vagueness and uncertainty of the LUB in that regard. Whether group homes are to be permitted under current provisions or through development agreement, staff recommend that the term “group home” be defined within Dartmouth’s LUB to clarify Councils intent.

***Group Homes by Development Agreement***

The advantage of a development agreement over an as-of-right permitted use is that they provide the means for achieving greater regulation and benefits than otherwise available through the permitting process. At present, the only residential use required to be considered by a development agreement is multiple-family development.

If group homes were to be permitted by development agreement evaluative criteria would have to be developed to determine the fit or compatibility of each application to enter into an agreement for a group home. Comprehensive policy underlying group homes by development agreement would have to be designed to address issues and concerns raised by citizens while being consistent with the vision of the Dartmouth MPS. Like a LUB, a development agreement is for land uses themselves rather than for the occupants or the character of the occupants of uses; tenancy or tenants cannot be regulated.

Requiring group homes to be considered by development agreement in the R-2 zone could relegate them to multiple-unit or commercial zoned areas where they could be developed without public process as most wish to remain low profile. The recognized beneficial residential form for group homes is not multiple-unit or commercial areas but stable residential home type neighbourhoods.

### ***Options***

Staff are of the opinion that a development agreement for a group home within the R-2 zone would have a negative impact on the establishment of new group homes. If Council wishes to apply more controls to group homes, staff have identified 2 amendment options under the land use by-law which HECC can consider and approve:

#### Option 1: Define "Group Home" and Limit to Licensed Facilities

Define "group home" under Dartmouth's LUB to clarify Council's intent. The newly added definition could allow only provincially licensed ones that would have the benefit of established associated regulations but retain the number of persons now allowed. This would ensure some group homes would continue to occur without public process in predominantly residential neighbourhood and subject to the provincial regulations enabled through the licensing process.

#### Option 2: Same as Option 1 plus Limit the # of Residents

In addition to Option 1, Council could limit the number of persons in a group home permitted as-of-right. The provincial regulations establish group homes for 4 to 12 persons; the LUB currently limits the number to 10, but this number could be adjusted to a lower number of persons per home. The number of persons could also be limited by prescribing the square footage required for a bedroom for one person in a group home. All areas and zones where group homes are currently permitted as R-2 use would remain the same except for the number of persons. This option would ensure that group homes were still permitted in residential neighbourhoods but the number of residents per dwelling unit is limited, the property would meet certain requirements and be more in keeping with the residential character.

If Council wishes a higher degree of control as provided through the development agreement (DA) process, new plan policy would be required to establish the ability for a DA. Staff have identified two DA options for Council's consideration:

#### Option 3: Group Homes by DA on R-2 Lots

Require all group homes to be considered by Development Agreement on properties zoned R-2 which could control site development details and specific maintenance issues. In addition, Council could also adopt a new definition of group home that would require them to be provincially licensed. This approach would continue to allow homes to be located on R-3, and R-4 zone properties and in certain commercial zones as-of-right. However, this option would require group home operators to go through a public process that no other residential use is required to except multiple-units. Staff are concerned that this option could marginalise group homes to the areas where the agreement would not be required.

Option 4: Larger Group Homes by DA on R-2 Lots

In addition to Option 3, Council could set a number of persons in a group home beyond which a development agreement is required. Under this option, larger group homes would be subject to a development agreement while smaller homes would continue to be permitted as-of-right. The agreement would control site development, address maintenance issues and the number of residents would be limited to be more appropriate to the character of the neighbourhood. Despite allowing smaller group homes to proceed as-of-right, this option (like Option 3) could potentially locate group homes away from the beneficial urban residential form they seek.

Conclusion:

The general purpose of group homes is to provide certain groups or individuals with a beneficial environment where they can seek help or assistance. To require a group home within the R-2 zone to proceed by development agreement would provide Council with a higher degree of land use control but could significantly impact the likelihood of a new group home in such areas. Staff recommend that HECC consider LUB amendments, rather than the development agreement option, if additional controls for group homes is deemed necessary. Of the LUB options provided, staff recommend Option 1 be considered by HECC for implementation.

If neither LUB option provides HECC with the necessary level of control, staff recommend Option 4 as it permits smaller groups homes to continue as-of-right in the R-2 zone while larger ones subject to a development agreement.

**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**

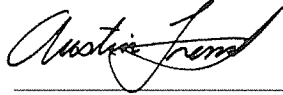
1. Council may choose to proceed with the amendments to the Dartmouth Land Use By-law as outlined in Option 1. This is the recommended approach for the reasons stated in the report.
2. Council may choose to proceed with the amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as outlined in the other options or any combination that Council chooses.
3. Council may choose to take no action at this time.

**ATTACHMENTS**

None.

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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