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Marine Drive, Valley and Canal Community Council
June 24, 2009
Harbour East Community Council
July 2, 2009

TO: Chair and Members of Marine Drive, Valley and Canal Community Council,
and Harbour East Community Council

SUBMITTED BY: Denise Schofield
Denise Schofield, Acting Director of Community Development

DATE: June 5, 2009

SUBJECT: **Case 01155 - Amendments to Planning Districts 14 & 17 Land Use
By-law: Pet Care Facilities**

ORIGIN

On July 8, 2008, Regional Council initiated a process to consider amending the Municipal Planning Strategies and Land Use By-laws for Planning Districts 14 & 17 (Shubenacadie Lakes) and Lawrencetown to reconsider where and under what conditions kennels are permitted.

RECOMMENDATION

It is recommended that both Marine Drive, Valley, and Canal Community Council and Harbour East Community Council:

1. Give First Reading to the proposed amendments to the Land Use By-law for Planning Districts 14 & 17 (Shubenacadie Lakes), as set out in Attachment A of this report, and schedule a joint public hearing; and
2. Approve the proposed amendments to the Land Use By-law for Planning Districts 14 & 17 (Shubenacadie Lakes), as set out in Attachment A of this report.



BACKGROUND

The initial request for amendments came from Marine Drive, Valley and Canal Community Council (MDVCCC) who asked staff to undertake a public consultation process to consider where kennels may be located within the Lawrencetown plan area and the Planning Districts 14 & 17 (Shubenacadie Lakes) plan area. Due to public input on the requested amendments and the differences between the two plan areas, the application has been split into two separate cases. Therefore, this report shall only focus on amendments for the Planning Districts 14 & 17 (Shubenacadie Lakes) plan area.

Existing MPS/LUB Requirements

When the original land use by-law (LUB) for the Shubenacadie Lakes communities was adopted in 1988, there was relatively little market for boarding facilities for dogs. A traditional definition of kennel was used to broadly encompass both boarding and commercial breeding. Strong community concerns existed relative to dog breeding. Therefore, the ability to create new kennels was strictly limited. Only in the commercially designated areas round the Highway 102 and 118 interchange area could they be considered, through the development agreement process. No applications were ever received.

Public Consultation:

Staff held one public information meeting in the Shubenacadie Lakes plan area to obtain public input. The minutes are included as Attachment B to this report. Primary discussion centred on the following:

Pros:

- Doggy day cares generally supported & seen as reasonable use; and
- Benefit of providing local 'in community' pet care

Cons:

- Concern over barking,
- Need for round the clock supervision,
- Need for buffering from other homes,
- Areas with smaller lots more sensitive to noise issues

DISCUSSION

The plan area is largely rural in nature, with relatively concentrated areas of suburbanisation. This rural nature is reflected in plan policy and land use regulations, which permit extensive livestock and resource uses, as well as home businesses, outside of the suburban subdivisions.

Proposed Approach

Given the existing policy and zoning framework, staff feel that the boarding of pets in the more rural areas of the plan area is in keeping with the existing range of as-of-right permitted uses. The R-6 (Rural Residential) and R-7 (Rural Estate) zones are generally applied to larger parcels of land in the northern portion of the plan area, away from the more suburban communities of

Waverley and Fall River. These are appropriate zones in which to allow pet boarding, as they already permit a wide range of uses, including resource uses such as farming, forestry and the keeping of farm animals.

Implementing a change to allow pet boarding is best achieved by amending the land use by-law as follows:

- Add a new definition for pet care facilities (including cats);
- Allow boarding of up to 12 animals in a pet care facility, in conjunction with the operator's home;
- Alter the kennel definition, to mean boarding of more than 12 animals, but to continue to encompass breeding activities; and
- Create lot size and setback requirements that ensure substantial buffering from adjacent properties.

The cap of 12 animals at one time is suggested, to keep any such operation at a relatively small scale, even though there are no limits on the number of farm animals that can be kept in the R-6 and R-7 zones.

The amendments would not give any additional opportunity for allowing the breeding of dogs. Existing land use policy will still limit this opportunity, along with the ability to board more than 12 pets, to the commercial area around the Highway 102/118 interchange, through the development agreement process.

Noise Concerns

The single largest issue of concern about dog boarding is the potential for noise. By-law N-200 (Noise By-law) provides the best mechanism for dealing with any noise issue that may arise. Currently, the by-law lists "persistent barking, calling, whining or the making of any similar persistent noise-making by an animal" as an activity that is prohibited at all times. By-law staff have the ability to write summary offence tickets, with fines starting at \$300 for the first offence. However, requiring substantial setbacks from adjacent properties and homes will provide a high degree of protection.

Approval Process

Since the proposed amendments would only effect the Land Use By-law, rather than the Municipal Planning Strategy as initially thought, Community Council would be the approval body rather than Regional Council. Despite the majority of Planning Districts 14 & 17 being situated within the jurisdiction of Marine Drive, Valley, and Canal Community Council, a small portion of the plan area fall within District 6 (East Dartmouth) and District 9 (Albro Lake - Harbourview). Therefore, adoption of any amendments would require a joint public hearing and approval by both community councils.

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 amendment to the Planning Districts 14 & 17 Land Use By-law as set out in Attachment A of this report. This is the recommended course of action.
2. Council may choose to refuse the proposed amendments to the Planning Districts 14 & 17 Land Use By-law set out in Attachment A of this report and in doing so, Council must provide reasons for the refusal based upon a conflict with MPS policies. This option is not recommended for reasons set out above.

ATTACHMENTS

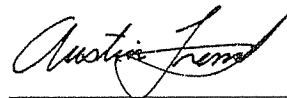
Attachment A: Amendments to the Land Use By-law for Planning Districts 14 & 17

Attachment B: Public Information Meeting Minutes - Shubenacadie Lakes

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.

Report Prepared by : Mitch Dickey, Planner, 490-5719

Report Approved by:



Austin French, Manager of Planning Services, 490-6717

Attachment A
Amendments to the Land Use By-law
for Planning Districts 14 & 17

BE IT ENACTED by the Marine Drive, Valley and Canal Community Council and the Harbour East Community Council of the Halifax Regional Municipality that the Land Use By-law for Planning Districts 14 & 17 is hereby amended as follows:

1. By replacing the existing definition for kennel as follows:

“2.38 KENNEL means a building or structure used for:

a) the keeping of more than two dogs or cats which are kept for the purposes of commercial breeding or showing;

b) the boarding, with or without veterinary care, of more than twelve dogs or cats.”

2. By adding the following new definition:

“2.58 APET CARE FACILITY means a facility for the temporary care or boarding of not more than twelve dogs or cats for gain or profit, but shall not include the breeding or sale of such animals.”

3. By adding the following to the list of R-6 Zone Permitted Residential Uses in Section 10.1:

“Pet care facilities in conjunction with a permitted dwelling”

4. By adding the following new section:

“10.8 OTHER REQUIREMENTS: PET CARE FACILITIES

(a) Notwithstanding the provisions of Section 4.5, no pet care facility shall be permitted unless the following requirements are satisfied:

- | | |
|-------------------------------|--|
| (i) minimum lot area: | 40,000 square feet (3716 m²) |
| (ii) minimum frontage: | 100 feet (30.5 m) |

(b) Any building or part thereof intended for use as a pet care facility shall conform to the following requirements:

- | | |
|---|---|
| (i) maximum gross floor area: | 1,000 square feet (92.9 m²) |
| (ii) minimum front
or flankage yard: | 100 feet (30.5 m) |
| (iii) minimum side and rear yard: | 50 feet (15.2 m) |
| (iv) a minimum distance of 200 feet (30.5 m) shall be maintained for any
outdoor pet run from any dwelling or potable water supply that is not | |

located on the same lot.

- (v) a minimum distance of 200 feet (91.5 m) shall be maintained for any outdoor pet run from any watercourse.
- (vi) Any outdoor pet run or area where pets are permitted to roam shall meet all requirements of this section.”

5. By adding the following to the list of R-7 Zone Permitted Residential Uses in Section 11.1:

“Pet care facilities in conjunction with a permitted dwelling”

6. By adding the following new section:

“11.8 OTHER REQUIREMENTS: PET CARE FACILITIES

- (a) Notwithstanding the provisions of Section 4.5, no pet care facility shall be permitted unless the following requirements are satisfied:
 - (i) minimum lot area: 80,000 square feet (3716 m²)
 - (ii) minimum frontage: 100 feet (30.5 m)
- (b) Any building or part thereof intended for use as a pet care facility shall conform to the following requirements:
 - (i) maximum gross floor area: 1,000 square feet (92.9 m²)
 - (ii) minimum front or flankage yard: 100 feet (30.5 m)
 - (iii) minimum side and rear yard: 50 feet (15.2 m)
 - (iv) a minimum distance of 200 feet (30.5 m) shall be maintained for any outdoor pet run from any dwelling or potable water supply that is not located on the same lot.
 - (v) a minimum distance of 200 feet (91.5 m) shall be maintained for any outdoor pet run from any watercourse.
 - (vi) Any outdoor pet run or area where pets are permitted to roam shall meet all requirements of this section.”

I HEREBY CERTIFY that the amendments to the Land Use By-law for Planning Districts 14 & 17, as set out above, were duly passed by a majority vote of the Marine Drive, Valley and Canal Community Council and the Harbour East Community Council at a meeting held on the ___ day of _____, 2009.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this ___ day of _____, 2009.

Julia Horncastle, Acting Municipal Clerk

**Attachment B: Public Information Meeting Minutes
Shubenacadie Lakes**

**HALIFAX REGIONAL MUNICIPALITY
PUBLIC MEETING
CASE NO. 01155 - Kennel Provisions**

**7:00 p.m.
Thursday, September 18, 2008
Waverley Fire Hall**

STAFF IN

ATTENDANCE: Leticia Smillie, Planner, HRM Planning Services
Miles Agar, Planner, HRM Planning Services
Cara McFarlane, Planning Controller, HRM Planning Services

ALSO IN

ATTENDANCE: Councillor Krista Snow, District 2

PUBLIC IN

ATTENDANCE: Approximately 13

The meeting commenced at approximately 7:08 p.m.

1. Opening Remarks/Introductions/Purpose of Meeting - Leticia Smillie

Ms. Smillie introduced herself as the Planner taking the application through the planning process; Thea Langille, Supervisor of HRM Planning Services, Central Region; Miles Agar and Cara McFarlane, HRM Planning Services, Central Region; and Councillor Krista Snow, District 2.

The agenda, purpose of the meeting and planning process were reviewed.

2. Presentation of Proposal

The Planning Districts 14/17 Land Use By-law (LUB) defines kennels as a building or structure used for the enclosure of more than two dogs which are kept for breeding, showing or boarding for commercial purposes. This would include uses such as a breeder raising and selling their puppies, someone who charges a fee for boarding and the service of dog daycares.

The Municipal Planning Strategy (MPS) for Planning Districts 14/17 provide a very limited opportunity for new kennels (the areas were shown on the screen).

A development agreement was explained to the public. Clauses in the development agreement would include limitations on the size of a kennel, buffering to adjacent properties, etc.

Under the policy, the limitations are in place to recognize that there could be a potential nuisance for kennels and the development agreement option is being used to tightly control where kennels would be permitted.

Ms. Smillie is not aware of any kennels that have gone through this process; therefore, any kennels in existence today in this area are either grandfathered or operating without a permit.

In order for Council to consider the possibility of allowing kennels to a broader area than what is currently allowed, the MPS for Planning Districts 14/17 would have to be changed to create new policies. There are some reasons why this would be reasonable to consider. Circumstances may have changed from when the plan was originally written and it may be reasonable to permit kennels in certain areas under certain conditions with certain controls. Also, many kennel operations have evolved from the long term stay in cages and have moved more toward supervised social environments of pet care facilities. This may not have been a type of care that the community thought of when the current policies were adopted.

Lawrencetown and Shubenacadie are not alone in looking at the issues of kennels. This issue was brought before council for the Hammonds Plains area and more opportunities for kennels are now available for that plan area. Council has also been looking at this issue in Peninsular Halifax.

There is a resident located on Holland Road who is interested in having a kennel operation if these policies changed. If council decides to open up the potential for new kennels, this operation would have to meet the criteria of new kennel policies.

3. Questions/Comments

What are the characteristics of a good kennel?

Joanne Pullin, Fletchers Lake, believes the following makes a good kennel: the second best thing to someone coming into your home to look after your pet; love and care should be provided for your pet; there should be plenty of room to avoid overcrowding and an inside play area available; the business should be clean and hygienic; and barking should be kept to a minimum (if it continues the dog(s) should be brought inside). Socialized dogs make better citizens.

One resident believes that it is a great idea to have your dogs remain in the community rather than traumatizing them by taking them to a kennel further away.

Terri Henson, Waverley, asked if the number of dogs at a business would be considered. Ms. Smillie said the number of dogs would be one of the controls that would be looked at based on feedback from the public. Staff will talk to people at the Canadian Kennel Club (CKC) and some experts in the field to get an ideal ratio. Ms. Henson suggested looking at some existing business to get some ideas of what has worked/not worked for them.

Councillor Snow suggested following the format for the Pampered Paws Inn application that was approved by Regional Council. Ms. Smillie said it would be fine as long as this community agreed

with what was done. In that case, a new policy was created to allow kennels, by development agreement, in certain areas. There are a series of requirements to be considered.

Ms. Pullin asked if this would open it up so the whole plan area could apply for a kennel. Ms. Smillie explained that this is what needs to be considered. In the Hammonds Plains case, only certain designations (Mixed Use) were included.

Councillor Snow asked what differs with this process compared to the other application. Ms. Smillie mentioned that this application is at the beginning of the process and staff is looking for public feedback. Mr. Agar mentioned that although there has been a recent change in another plan area, Planning Districts 14/17 has its own unique qualities thus the reason for this meeting to identify any qualities within the plan area and to discuss the type of provisions the public would like to see to potentially enable the use of kennels. These provisions may be slightly or dramatically different than what was done through a public process in a different plan area.

Ms. Henson mentioned that presently dogs are treated differently and the demand for dog daycares are in every community. There should be some flexibility but on a case by case scenario.

Alan Hartling, Halifax, asked if it is HRM's intent to make the rules and definitions for all the plan areas uniform. Ms. Smillie said that the policy documents are developed by the residents of that area. This issue has been looked at in a number of plan areas and there may be some common things (definition of kennels, putting in more standards in terms of square footage to the number of dogs, etc.) that may be changed.

Mr. Hartling feels a kennel should include the following characteristics: cleanliness; attentiveness of the staff; dog barking control; the neighbours needs should be addressed; amount of time the dogs spend outside unsupervised; what measures are being taken to buffer noise from the neighbours. Each situation should be looked at for its own merits, pluses or minuses, based on what is available.

A resident asked if buffering means between properties or residences. Ms. Smillie said it depends on what is trying to be prevented. In this case, the buffering would be to reduce the noise (probably to an adjacent dwelling).

A resident is concerned if the business was to be sold in the future. Who owns and operates the business is a big factor. Ms. Smillie explained that the challenge is to find a way to regulate the use as the owner cannot be regulated.

If this was the case, Mr. Hartling would like to see it treated as a new business on a trial basis rather than it being grandfathered as an existing business.

Ms. Pullin mentioned that if she did sell her business a poll of the neighbours should happen after a certain period of time or a review of the business every five years be done. Could this be included as a clause in the development agreement? Ms. Smillie explained that a development agreement is carried with the land and any conditions within that agreement would have to be met.

Ms. Pullin said that the other safety net already in place for any neighbour and dog owner would be animal control enforcement.

Ms. Pullin said that kennels used to be thought of as puppy mills. Kennel owners that didn't keep the facilities clean were not appreciated. No one wants these types of businesses in their communities. Mr. Agar mentioned that dog daycares are perceived differently than kennels. Maybe staff should look at enabling some slightly different definitions. Ms. Pullin would like to see the two differentiated. Distinguish between kennels and socializing dogs. Businesses have to be held accountable. She would like the opportunity to have her business inspected annually. Councillor Snow feels strongly about this as well if it can be done legally.

A resident asked if it is possible to split the definitions of kennels and dog daycares with their own set of rules. One for dog daycare kennels, one for long term boarding kennels, and one for breeding kennels. Mr. Agar said staff can investigate that option.

Councillor Snow asked if there were three different definitions for kennels, would the land owner have to go through the public process. Ms. Smillie said a zone could be created to allow the kennels as of right as long as criteria is met. Ms. Langille said another plan approval tool called a site plan approval process is available. Conditions are prescribed within a land use by-law that someone has to meet. This is issued through the development officer. A notification of that permit is circulated to the area residents. Staff will have to look at the best solution.

Councillor Snow asked about smaller lots. Ms. Leticia suggested maybe allowing the larger lots as of right and consider the smaller properties through development agreement.

Ms. Henson is looking for flexibility and mentioned that the definitions will have to be worded very carefully.

4. Closing Comments

Ms. Smillie thanked everyone for coming and sharing their comments and concerns.

5. Adjournment

The meeting adjourned at approximately 8:00 p.m.