

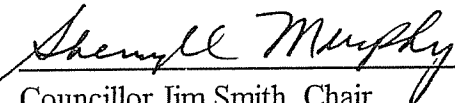


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
January 10, 2006

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


Councillor Jim Smith, Chair
Harbour East Community Council

DATE: January 6, 2006

SUBJECT: **Case 00851 - Amendments to the Dartmouth MPS and LUB - Adult Entertainment**

ORIGIN

Meeting of Harbour East Community Council held on January 5, 2006.

RECOMMENDATION

Harbour East Community Council recommends that:

1. Halifax Regional Council give First Reading to proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use Bylaw as provided in Attachments A and B of the December 29, 2005 staff report and schedule a public hearing.
2. Approve the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use Bylaw as provided in Attachment A and B of the December 29, 2005 staff report.

DISCUSSION

Harbour East Community Council considered this matter at their January 5, 2005 meeting and approved the recommendation found above.

BUDGET IMPLICATIONS

N/A

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

N/A

ATTACHMENTS

1. Staff report dated December 29, 2005

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: Sherryll Murphy, Legislative Assistant

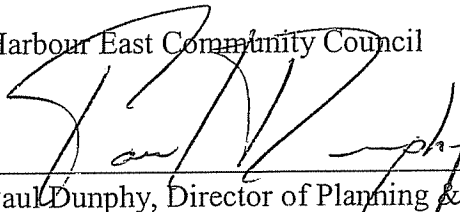


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

10.1.1

Harbour East Community Council
January 5, 2006

To: Harbour East Community Council

Submitted by: 
Paul Dunphy, Director of Planning & Development Services

Date: December 29, 2005

Subject: Case # 00851 - Amendments to the Dartmouth MPS and LUB - Adult Entertainment

ORIGIN

Application by Halifax Regional Municipality to amend the Municipal Planning Strategy and Land Use Bylaw for Dartmouth to prohibit adult entertainment night clubs as of right in the City of Dartmouth.

RECOMMENDATION

It is recommended that Harbour East Community Council:

- (1) Recommend that Regional Council give First Reading to the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use Bylaw as provided in Attachments "A and B", and schedule a public hearing;
- (2) Approve the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use Bylaw as provided in Attachments "A and B".

EXECUTIVE SUMMARY

On November 15, 2005 Regional Council passed a resolution requesting that staff follow the public participation policy and enter into a planning process to amend the Dartmouth MPS and LUB to prohibit adult entertainment cabarets “as of right” in Dartmouth. In the process of reviewing this request, staff identified additional amendments which are consistent with this request and these have been included in the proposed amendments attached to this report. The four proposed amendments are described below.

Adult Cabaret

Of principal concern is the ability to open an adult entertainment cabaret under the General Business (C-2) zone “as of right,” without requiring a public planning process to evaluate each proposal independently. It was thought that land should not be rezoned for this type of use so that each future application would require an appropriate evaluation and decision of Council.

The proposed amendments require Community Council to hold a public hearing before any future adult cabarets are located in Dartmouth. The amendments contain criteria for Community Council to consider with respect to where such businesses may be located, including consideration of the impact upon nearby properties and proximity to sensitive community uses such as schools and places of worship. The amendments propose that adult cabarets be regulated by development agreement rather than rezoning. This allows Council to have an additional level of site specific control over issues of concern such as the size and nature of signage, entrances, parking and hours of operation etc.

Adult Massage Parlours

Dartmouth currently regulates adult entertainment massage parlours via the Massage Parlour (C-4) zone. There are currently no C-4 zones in Dartmouth. The attached amendments propose that adult massage parlours also be regulated by development agreement rather than rezoning. The new policy criteria for considering adult massage parlours will be the same as the new policy applied to adult cabarets. This policy is more stringent than Dartmouth’s current policy for adult massage Parlours and will also allow site specific regulation of signage etc.

Home Occupations

As with all Land Use Bylaws, the Dartmouth Land Use Bylaw allows limited commercial activity in residential zones. These are known as “home occupations”. Unfortunately the Dartmouth Land use Bylaw does not specifically prohibit adult entertainment uses as home occupations. As a result an adult entertainment massage parlour was allowed to open as a home occupation prior to amalgamation. The proposed amendments will prohibit adult entertainment uses as a home occupation.

Gender

Dartmouth’s definitions of adult entertainment include reference to being entertained by “members of the opposite sex”. This distinction has been updated to refer to “persons” so that any club or massage parlour can be categorized as providing adult entertainment regardless of the gender of the customer and entertainer/masseuse.

DISCUSSION

MPS Policy and Zoning

The Dartmouth MPS and LUB permit the location of Adult Cabarets in the General Business (C-2) Zone in the Dartmouth LUB under the general classification of “business or commercial enterprise” (Attachment C). Massage Parlours are specifically regulated through the Massage Parlour (C-4) Zone in the LUB (Attachment C). In contrast, the Downtown Dartmouth LUB does not permit adult entertainment uses (Attachment D), while the Halifax LUB and Bedford LUB administer these uses either in a specific zone or by way of development agreement (Attachment E and F).

Adult Cabarets and Massage Parlours

An Adult Cabaret is a for profit commercial establishment such as a nightclub, bar, or restaurant that features live performances by individuals who are hired to display nudity or partial nudity in a sexually oriented business. This is distinct from erotic material that is presented in the performance of a play, drama, or ballet as a form of expression or the communication of an idea.

At present, there is one commercial enterprise in Dartmouth that can be classified as an Adult Cabaret. A second one has received Municipal permits and is currently carrying out renovations. The proposed amendments will make both businesses non-conforming uses. They will be allowed to continue operation, but will not be permitted to reopen if they close for more than six months. There are also restrictions on their ability to expand their buildings or reconstruct the buildings if they are destroyed.

In contrast, Massage Parlours are premises where a massage, body rub, or similar activity is performed outside of treatment normally performed for medical or therapeutic reasons. This form of treatment is usually under the supervision or direction of a physician or health care professional. Massage Parlours are considered a form of adult entertainment.

Retail

Adult retail in Dartmouth is currently permitted in the C-2 zone. These uses are varied within Dartmouth. The selling of erotic material such as video and erotic paraphernalia can entail a large or small proportion of a retail business. The number of retail outlets that specialize in the selling of erotic material does not appear to be widespread in Dartmouth. This function is interspersed in the business community and does not appear to have a high profile at this time. Therefore, no recommendation to provide restrictions on retail is presented in this report.

Proposed MPS Policy

Adult Cabaret and Massage Parlours can generate a high level of pedestrian and vehicular activity and noise that can impact adjacent surroundings. In addition, it is generally felt that their presence close to public institutions is inappropriate. As a result, distance separation from more sensitive land uses such as residences and schools is considered appropriate. The requirement for a development agreement are considered necessary to ensure adequate impact mitigation even if an appropriate site has been approved. To facilitate this objective, it is proposed to delete the Massage Parlour (C-4)

zone from the Dartmouth LUB. Accordingly amendments to the Dartmouth MPS and LUB are proposed so that all future applications for Adult Cabarets and Massage Parlours are required to:

- obtain a development agreement;
- locate in areas that have a Commercial or Industrial designation in accordance with the Dartmouth Generalized Future Land Use Map; and
- be evaluated in accordance with an expanded list of evaluation criteria as identified in proposed Policies IP-12 and IP-13 of the Dartmouth MPS (Attachment A, Section 5).

Siting and Evaluation Criteria

Siting regulations are also proposed that would require a physical distance separation from an Adult Cabaret or Massage Parlour to a more sensitive type of land use. Ultimately, should Council approve this proposal, these uses will not be permitted within proximity to the following uses:

- any residential use
- any school
- library
- park
- playground or other recreational facility
- place of worship
- public and semi-public gathering place (Attachment A -- Section 5)

Technically, this regulation can be employed either in a new zone or through a development agreement. However, there is a distinct advantage in processing an application by a development agreement instead of a new zone. A more comprehensive list of site specific regulations can be specified in a development agreement than in a zone.

Location of Adult Cabarets and Massage Parlours

The proposed amendments allow Council to restrict Adult Entertainment venues to areas designated as either the Commercial or Industrial on the Dartmouth Generalized Future Land Use Map for Dartmouth. Alternatively Council may wish to allow them only in Industrial areas. This would further ensure that they are not close to residential or other sensitive uses.

Public Information Meeting

A public information meeting was held on November 30, 2005 at the Dartmouth High School. The minutes of the PIM are provided in Attachment G. Community attendees were strongly in favour of regulating future adult entertainment venue applications.

Halifax, Sackville and Sackville Drive Municipal Planning Strategies and Land Use By-laws

An analysis of all of HRM's Municipal Planning Strategies and Land Use By-laws was undertaken to understand how adult entertainment uses are administered in different areas throughout the municipality. As a result, a minor inconsistency between the Halifax MPS and the Peninsula LUB was noted. Further, a specific lack of reference in the Sackville MPS and Sackville Drive MPS were identified. These issues can be addressed in greater detail in a staff report should Council so request.

Conclusion

The proposed amendments to the Dartmouth MPS and LUB are warranted to enable the regulation of Adult Cabarets and Massage Parlours in Dartmouth. The proposed MPS and LUB amendments provided in Attachments A and B are intended to provide a basis for an applicant to satisfy criteria set out in a development agreement on all future Adult Cabaret and Massage Parlour applications in Dartmouth.

BUDGET IMPLICATIONS

There are no budget implications.

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

The following alternatives are identified:

1. Council may choose to approve MPS amendments as outlined in this report. This is the recommended alternative.
2. Council may choose to refuse the amendment to the MPS. A decision by Council to approve or refuse an application to amend its MPS is final and is not subject to appeal to the NS Utility and Review Board.
3. Council may choose to only consider applications for Adult Cabarets and Massage Parlours within rather than both Industrial and Commercial designations. If Council chooses this option, staff will identify the changes which need to be made to the attached amendments.

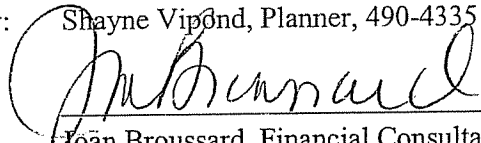
ATTACHMENTS

Attachment A:	Proposed Amendments to the Dartmouth Municipal Planning Strategy
Attachment B:	Proposed Amendments to the Dartmouth Land Use By-law
Attachment C:	Relevant Dartmouth Municipal Planning Strategy Policies and Land Use Provisions
Attachment D:	Relevant Downtown Dartmouth Land Use Provisions
Attachment E:	Relevant Halifax Land Use Provisions
Attachment F:	Relevant Bedford MPS Policies
Attachment G:	Minutes of Public Information Meeting

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: Shayne Vipond, Planner, 490-4335

Financial Review:



Joan Broussard, Financial Consultant, 490-6267

ATTACHMENT A**PROPOSED AMENDMENTS TO THE DARTMOUTH
MUNICIPAL PLANNING STRATEGY**

The Municipal Planning Strategy for Dartmouth is hereby amended by:

1. **Revising Chapter 5 - Commercial by deleting reference to Section (4) and replacing it with the following:**

“(4) Adult Cabarets and Massage Parlours - Adult entertainment uses such as Massage Parlours and Adult Cabarets have received considerable attention in the Dartmouth area. Due to the nature of these commercial enterprises and the effects that these establishments could have on adjacent commercial operations and residential neighbourhoods, these uses require specific guidelines for their proper site function and location.”

2. **Revising Chapter 5 - Commercial by deleting reference to Policy C-10 and replacing it with the following:**

“Policy C-10 It shall be the intention of Council to permit Adult Cabarets and Massage Parlours in areas designated Commercial on the Generalized Future Land Use Map (Map 8a and 9) through development agreement in accordance with Policies IP-12 and IP-13”.

3. **Revising Chapter 5 - Commercial by deleting Policy C-11 in its entirety.**

4. **Revising Chapter 6 - Industrial by adding the following after Policy M-9:**

“Adult Cabarets and Massage Parlours

Adult Cabarets and Massage Parlours - Adult entertainment uses such as Massage Parlours and Adult Cabarets have received considerable attention in the Dartmouth area. Due to the nature of these commercial enterprises and the effects that these establishments could have on adjacent commercial operations and residential neighbourhoods, these uses require specific guidelines for their proper site function and location.

Policy M-10 It shall be the intention of Council to permit Adult Cabarets and Massage Parlours in areas designated Industrial on the Generalized Future Land Use Map (Map 8a and 9) through development agreement in accordance with Policies IP-12 and IP-13”.

5. Revising Chapter 11 - Implementation by adding a new section under "Development Agreements" as follows after Policy 1P-11:

"5. Adult Cabarets and Massage Parlours

Adult Cabarets and Massage Parlours require specific measures to reduce impacts to neighbouring properties. Adequate buffering must be provided to ensure privacy to more sensitive uses. Land use regulation requirements regarding lot size, lot coverage, sideyards and setbacks are required to meet regulations set out in the underlying zone within which the use is proposed. Further, in order to ensure that Council has appropriate control over site planning for this form of development, Adult Cabarets and Massage Parlours shall only be considered by development agreement.

Policy IP-12 Land use regulations requirements regarding lot size, lot coverage, sideyards and setbacks are required to meet regulations set out in the underlying zone within which the use is proposed and subject to a development agreement in accordance in accordance with Policy IP-13.

Policy IP-13 Pursuant to Policy IP-12, the Council shall consider the following prior to approving any development agreement for an Adult Cabaret or a Massage Parlour on the property:

- (a) the type and nature of any proposed commercial use, in terms of its compatibility and effect to the surrounding residential neighbourhood and its effects on the transportation network;
- (b) the type and nature of any proposed commercial use in terms of its compatibility and effect to the surrounding commercial area in which it is intended to be located;
- (c) without restricting the generality of the foregoing this use shall not be permitted within proximity to any residential use or any school, library, park, playground or other recreational facility, or place of worship, public and semi-public gathering place;
- (d) the compatibility of the building's size, height, and external design with that of adjacent buildings;
- (e) the adequacy of buffering, screening and landscaping;
- (f) the adequacy of controls regulating such items as hours of operation;

- (g) no outdoor storage or display is permitted, except for items such as fuel storage tanks, electrical transformers and refuse containers;
- (h) adequate site maintenance;
- (i) not more than one Adult Cabaret shall be permitted in one building;
- (j) not more than one Massage Parlour shall be permitted in one building;
- (k) Signage, for the purpose of advertising for a Adult Cabaret or a Massage Parlour use shall be limited to one sign, and shall only bear the name of the Adult Cabaret or Massage Parlour. All other controls shall be in accordance with the provisions of the development agreement;
- (l) the adequacy of the amount and location of parking, access, the amount of traffic generation and the impact on the adjacent street network;
- (m) the adequacy of municipal services; and,
- (n) any other matters, including criteria listed in Policy IP-1(c) that concern potential impacts that the proposed development may have on the surrounding area.

ATTACHMENT B**PROPOSED AMENDMENTS TO THE DARTMOUTH LAND USE BY-LAW**

The Land Use By-law for Dartmouth is hereby amended by:

- (1) In Part 1, section 1 (za) delete the words “members of the opposite sex” and replace with the word “persons”.
- (2) Insert new subsections in Part 1, Section 1 as follows:

“(aq) ADULT CABARET”: means any premises or part thereof, whether public, semi-public, or private, wherein is provided the opportunity to feel, handle, touch, be in the presence of, or be entertained by the nude body of another person, or to observe, or view any such activity. Nothing in the definition of "adult cabaret" shall be construed to apply to the presentation, showing, or performance of any play, drama, or ballet in any theatre, concert hall, fine arts academy, school, institution of higher education, or other similar establishment as a form of expression of opinion or the communication of ideas or information.

(ar) “ADULT ENTERTAINMENT USE” means any premises or part thereof which is to provide services appealing to or designed to appeal to erotic or sexual appetites or inclinations, and includes adult cabarets and massage parlours.

When used in relation to adult entertainment use, the following shall apply:

- (i) **"Services"** means activities that are designed to appeal to erotic or sexual appetites or inclination" and includes:
 1. Services of which a principal feature or characteristic is the nudity or partial nudity of any person. For the purposes of this clause "partial nudity" shall mean less than completely covered or opaquely covered:
 - (a) human genitals or human pubic region;
 - (b) human buttocks; or
 - (c) female breast below a point immediately above the top of the areola.
 2. services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy", or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

- (3) Adding to Part II Section 18 the following new subsection:

“18P Notwithstanding any other provision of this By-law, Adult entertainment uses shall be permitted only by Development Agreement in accordance with policies IP-12 and IP-13 in areas designated Commercial and Industrial on the Generalized Land Use Map . ”

- (4) Amending Part II Section 23 (k) by adding the following new subsection to Section (k):

“(ix) adult entertainment uses”

- (5) Amending Part III Section 39 (C-2 Zone), Section 40 (C-3 Zone), Section 41 (I-1 Zone), and Section 42 (I-2 Zone) by adding the following new subsections:

“Section 39 1 (b) (iii)	except Adult Entertainment uses
Section 40 1 (a) (i)	except Adult Entertainment uses
Section 41 1 (a) (i)	except Adult Entertainment uses
Section 42 1 (a) (i)	except Adult Entertainment uses”

- (6) Amending Part III by deleting section 40A. in its entirety.

ATTACHMENT CRELEVANT DARTMOUTH MUNICIPAL PLANNING STRATEGY
POLICIES AND LAND USE PROVISIONSMUNICIPAL PLANNING STRATEGY

COMMERCIAL

- (4) Massage Parlours - Massage Parlours have caused considerable attention to be drawn to them recently in the Metro area and indeed nation wide. Due to the nature of this commercial enterprise and the effects such establishments have on adjacent commercial operations the use requires special attention and guidelines for its location.

Policy C-10 It shall be the intention of City Council to establish a zone in the Zoning By-law to regulate massage parlours.

Policy C-11 In considering applications for rezoning to such a zone, City Council shall consider the following list of criteria in addition to the rezoning criteria stated in the implementation section of this plan.

- (a) This zone shall only be permitted in areas designated commercial on Map 9 (generalized land use map);
- (b) The potential impact on neighbouring properties;
- (c) The potential impact on the commercial area as a whole;
- (d) The potential impact on any public, semi-public, or institutional uses located in the general area; and
- (e) Without restricting the generality of the foregoing, this zone shall not be permitted within 300 feet of the nearest property line of any land in any residential zone or any school, library, park, playground or other recreational facility, any church, convent, synagogue or similar place of worship.

LAND USE PROVISIONS

Part 1, section 1 (za) MESSAGE PARLOUR - includes any premises or a part thereof, by whatever name designated where a massage, body rub, alcohol rub, bath or similar activity is performed, offered, advertised, or solicited by members of the opposite sex in pursuance of a trade, calling, business, or occupation or which is equipped or arranged so as to provide such activity, but does

not include any premises or part thereof where treatment is routinely offered or performed for the purpose of medical or therapy and is performed or offered by or under the supervision or direction of a physician, chiropractor, osteopath, physiotherapist, under the laws of the Province of Nova Scotia. (As amended by By-law C-383, Sept 19/80)

Part II General Provisions

18A The following types of development shall be considered by DEVELOPMENT AGREEMENT as set out in the Municipal Planning Strategy (Policy IP-2, IP-3, and IP-4).

Day nurseries (other than home occupations) in areas designated residential or urban core on the Generalized Land Use Map (Map 8a and 9).

Residential development of existing undersized lots with insufficient frontage in areas designated residential or urban core on the Generalized Land Use Map (Map 8a and 9).
(As amended by By-law C-618, Aug21/87)

C-2 ZONE - GENERAL BUSINESS ZONE

39. (1) The following uses only shall be permitted in a C-2 Zone:

- (a) R-1, R-2, R-3, C-1 and TH uses as herein set out;
- (b) Business or commercial enterprises except:
 - (i) obnoxious uses and uses creating a hazard to the public and
 - (ii) offices other than those permitted in the C-1 Zone
- (c) Uses accessory to the foregoing uses.

(2) Buildings used for R-1, R-2, R-3, C-1 and TH uses in a C-2 Zone shall comply with the requirements of an R-1, R-2, R-3, C-1 or TH Zone respectively.

(3) Buildings used for C-2 uses in a C-2 Zone shall comply with the following requirements:

- (a) Lot area minimum - 5,000 sq. ft.
- (b) Height maximum - 3 storeys for a building with an office function as its primary function.
- (c) Maximum Lot coverage - 100% if the requirements for 100% lot coverage in the Building Bylaws of the City of Dartmouth are met, except that a motel building or buildings shall occupy surface area of not more than one-third of the total area of the building lot.
- (d) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building Bylaws of the City of Dartmouth.

- (e) Additional Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W".
(RC - Feb 8, 2005 E - April 23, 2005)

C-4 ZONE - MASSAGE PARLOUR ZONE

40A. (1) The following uses shall be permitted in any C-4 Zone:

- (a) C-2 uses as herein set out; and
- (b) massage parlours

(2) Buildings used for C-4 uses in a C-4 Zone shall comply with the following requirements:

- (a) Lot area - minimum 5,000 square feet;
- (b) height - maximum - 3 storeys for a building with an office function as its primary function;
- (c) maximum lot coverage - 100%, if the requirements for 100% lot coverage in the Building By-laws of the City of Dartmouth are met;
- (d) if lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building By-laws of the City of Dartmouth.
- (e) Additional Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC - Feb 8, 2005 E - April 23, 2005)

(3) Not more than one Massage Parlour shall be permitted in one building.

(4) Signs, for the purpose of advertising a Massage Parlour shall:

- (a) be limited to one sign for each Massage Parlour;
- (b) advertise only the name of the Massage Parlour;
- (c) be not larger than 20 square feet;
- (d) be attached upon and parallel to the front of the building in which the use is being carried on;
- (e) be the only advertising visible or audible on the outside of the building.

(As amended by By-law C-383, Sept19/80)

ATTACHMENT D

RELEVANT DOWNTOWN DARTMOUTH LAND USE PROVISIONS

DOWNTOWN BUSINESS DISTRICT ZONE

10. (2) PERMITTED USES:

Commercial Uses: Any retail, business, office, entertainment or service use *excluding*, automotive service and repair outlets, vehicle sales, outdoor display courts (HECC - Sept 5/02, Effective- Sept 29/02) and drive-through establishments, cabarets, *adult entertainment*, pawn shops, secondhand shops, (HECC-Mar6/03, E-Mar30/03) and any obnoxious use.

ATTACHMENT E

RELEVANT HALIFAX AND BEDFORD LAND USE PROVISIONS

C-6 ZONE

ADULT ENTERTAINMENT ZONE

66A(1) The following uses shall be permitted in any C-6 Zone:

- (a) C-2 uses as hereinbefore set out;
- (b) An adult entertainment use;

66A(2) No person shall in any C-6 Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).

66A(3) No person shall in any C-6 Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1), provided that in any one building only one adult entertainment use shall be permitted.

REQUIREMENTS

66B No front, side, or rear yards are required for C-6 uses in C-6 Zones.

ADULT ENTERTAINMENT USES

66C No development permit shall be issued for an adult entertainment use within 300 ft. of the nearest property line of any land in any Residential Zone, or any school, library, park, playground or other recreational facility, any church, convent, synagogue or similar place of worship, or another adult entertainment use;

SIGNS

66D Signs, for the purpose of an adult entertainment use shall:

- (a) be limited to one sign for each adult entertainment use;
- (b) advertise only the name of the adult entertainment use;
- (c) be not larger than 12 square feet;

- (d) be attached upon and parallel to the front of the building in which the use is being carried on;
- (e) be the only advertising visible or audible from the outside of the building.

66E A sign permitted under the provisions of Section 66D may be illuminated, provided it does not constitute a nuisance or hazard to the public.

C-2 USES IN C-6 ZONE

66F Buildings erected, altered, or used for C-2 uses in a C-6 Zone shall comply with the requirements of the C-2 Zone as detailed in Sections 56 to 59 inclusive.

ATTACHMENT F

RELEVANT BEDFORD MPS POLICIES

Adult Entertainment Use

- (1) means any premises or part thereof in which is provided services appealing to or designed to appeal to erotic or sexual appetites or inclinations but shall exclude massage parlours.
- (2) when used in relation to adult entertainment use, the following shall apply:
- a) "To provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have corresponding meanings;
 - b) "Services" include activities, facilities, performances, exhibitions, viewing and encounters;
 - c) "Services designed to appeal to erotic or sexual appetites or inclination" includes:
 - i) services of which a principal feature or characteristic is the nudity or partial nudity of any person. For the purposes of this clause "partial nudity" shall mean less than completely and opaquely covered: - human genitals or human pubic region; - human buttocks; or, - female breast below a point immediately above the top of the areola.
 - ii) services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.
3. The Municipal Planning Strategy provides that the following shall be dealt with by Development Agreement in accordance with Residential Policies R-8 to R-17, R-27 and R-28; Commercial Policies C-4, C-5, C-7 to C-15, C-18, C-20, C-29A, C-31 to C-32; Waterfront Policies WF-20 to WF-23; Industrial Policies I-2, I-4 and I-7; Institutional Policy S-7 ; Environmental Policies E-4 to E-8, E-11, E-14 and E-45; and Implementation Policy Z-2.
- a) Within the Residential Designation on the Generalized Future Land Use Map, a development agreement may be considered for the following uses:
 - c) Within the Commercial Designation on the Generalized Future land use Map, a development agreement may be considered for the following uses:
 - i) office buildings in the Sunnyside area and within the CSC Zone which are in excess of the permitted height specified by the zone (Policy C-4);
 - ii) new shopping centres (Policy C-5);
 - iii) drinking establishments outside of the areas identified in Policy C-30 (Policy C-31);
 - iv) *adult entertainment uses (Policy C-32);*
 - v) multi-purpose convention centre (Policy C-18);
 - vi) highway commercial uses (Policy C-6).
 - vii) senior residential complexes (Policy C-7)
 - viii) residential dwelling units in excess of 50% of the gross floor area of a commercial/residential mix use building located at 1091-1095 Bedford Highway (C-21); and

- ix) new multiple unit dwellings or renovations and expansions to existing multiple unit dwellings within the CMC Zone (C-21 (a)). (RC-July 8/03; E-August 16/03)

Policy C-32: It shall be the intention of Town Council to consider applications for adult entertainment uses in areas designated Commercial on the Generalized Future Land Use Map through the development agreement provisions contained in Policy Z-3 and subject to the following criteria:

- a) the proposed use is not situated within 1,500 feet of the nearest property line of any land in any residential zone, or any school, library, park, playground or other recreational facility, any church, convent, synagogue or similar place of worship;
- b) signs shall be limited to one per business; advertise only the name of the business; be no larger than 12 square feet, be attached upon and parallel to the front of the building in which the use is being carried on; and be the only advertising visible on or audible from the outside of the building;
- c) not more than one adult entertainment establishment is permitted in any one building; and,
- d) the proposed use is located on an arterial or collector street.

ATTACHMENT G

HALIFAX REGIONAL MUNICIPALITY
PLANNING SERVICES - ALDERNEY GATE
PUBLIC INFORMATION MEETING
CASE 00851 - ADULT ENTERTAINMENT IN DARTMOUTH PLAN AREA

November 03, 2005

7:00 p.m.

Dartmouth High School, Dartmouth

Staff: Shayne Vipond, Planner
Sean Audas, Development Officer
Samantha Charron, Administrative Support

Other: Local Councillor, Andrew Younger
Local Councillor, Gloria McCluskey

**Members of
the Public:** Approximately 100 people

The meeting commenced at approximately 7:00 p.m.

INTRODUCTIONS/OPENING COMMENTS

Councillor Younger and McCluskey welcomed residents to the meeting and thanked them for attending. They were in attendance to listen to resident's concerns and comments regarding adult entertainment establishments in the Dartmouth area.

Mr. Vipond also welcomed residents and thanked them for attending. He introduced himself as the planner assigned to this case and explained the reason for this evening's meeting is to listen to resident's comments and concerns regarding adult entertainment use in the community. He explained Regional Council has passed a resolution requesting that staff undertake a planning process to explore the possibility of creating a new zone to regulate adult entertainment venues. He explained that there are examples of this form of regulation in the municipality. In the Halifax area a new zone has been created for this type of use and in the Bedford area they regulate this use by way of development agreement. He went into detail describing the requirements and criteria considered by development agreement in Bedford and explained requirements that must be met in the Halifax area to meet the C-6 zone.

Mr. Vipond explained that staff is not prejudging this issue or its outcome. He stated resident's comments and feedback would be greatly appreciated to better help staff formulate an opinion and recommendation to be presented to Council by way of report.

Mr. Vipond explained there would be three important factors to be considered in this case that would be like a guideline, for staff to create new regulation for this type of use. The first would be that we would recommend not pre-zoning existing land areas, the second would be requiring location criteria for a specific use and the third would be to require a site development criteria by way of development agreement.

Mr. Vipond then described all aspects of the elements to be considered and suggested this would be a good time to hear from residents and asked them to come forward with their comments and concerns. He suggested the more residents that speak to this issue, the better understanding staff will have.

Councillor Younger described the current permit application status for the Little Nashville and suggested the Alcohol and Gaming Authority have the last say.

QUESTIONS AND COMMENTS

Nick Pryce asked if the municipality could put a moratorium in place, until the Regional growth plan has been adopted, to limit the situations such as the one we are in at the moment with the adult entertainment issue.

Councillor Younger explained if this amendment application was brought forward there would be a moratorium in place following the advertisement for the Public Hearing. He stated the advertisement is what triggers the moratorium until Council has an opportunity to make a decision.

Nick Pryce asked if this application would be moving forward before the end of December 2005.

Mr. Vipond responded he anticipated that a report could be drafted and presented to Council for first reading sometime in December 2005.

Susan Christensen stated she is not happy with x-rated presence in the community. She suggested this type of use attracts negative behaviour. She suggested the municipality should work towards supporting establishments that promote family values and morals.

Mr. Vipond clarified the zoning for the area. He wanted to make sure residents understood this meeting is to address future applications regarding adult entertainment. The decision for the Little Nashville application had already been made and the focus should really be taken off that particular establishment for this evening's meeting and placed on the possibility of future applications.

Residents questioned why this process is necessary at all. They suggested this should be a moot point and the planning department should just change the zoning to protect the communities best interests.

Councillor Younger explained there is a process that has to be followed. He suggested the purpose of this meeting is to deal with future applications that apply to adult entertainment. He stated Little Nashville did apply before this process started. This means they will be grandfathered to adhere to the current requirement applicable to the current C-2 zoning.

Susan Jones asked if the zoning would be changed from C-2 to C-6 in the area, if the Little Nashville application for adult entertainment was approved.

Mr. Vipond explained the existing zoning and how the establishment would be affected if the proposed amendments are approved and what the creation of a new zone specifically for this type of use would mean if that were the recommended course of action.

Susan Jones asked if her understanding was correct, that no-one else would be able to come into the local community with a C-6 application proposal and be approved to run under this use.

Mr. Vipond explained the new C6 zone will not apply to any land in particular; only once the use is applied for and approved.

Susan Christensen asked if this will give residents more authority and control over these types of establishments in their communities.

Mr. Vipond replied that community council would have more control.

Brian Appal stated he is very happy with his community now and would not like to see the Little Nashville application approved. He suggested the community of Dartmouth North to outsiders looks like a seedy and rough neighbourhood currently. He stated if this type of use is allowed it will cause an even worse stigma on the community. He asked the planning department to do what they can to keep adult entertainment uses out of their neighbourhood.

Guy Eastabrook suggested when the Village Gate was occupied by an adult entertainment venue, he resided next door and there were always troubles and commotion going on outside at all hours of the night. He stated he does not see how this establishment could be appropriate for this location and stated he would like to see this proposed C-6 zone approved and only applicable to areas where children would never be exposed to them.

Mr. Vipond described the criteria for the possible creation of the new zone.

Doug Rigby commented he is in support of the new zone being created but asked what adjustments will be made to the C-2 zone to restrict applications like the one submitted by Little Nashville.

Mr. Vipond indicated if the new zone is created it will eliminate adult entertainment uses from the C-2 zone altogether.

Jennifer Guitard asked if staff could describe what they consider an obnoxious use (Reg 39(1)(b)(i) from the Dartmouth LUB). She stated in her opinion adult entertainment uses should be considered an obnoxious use.

Sean Audas read the definition for obnoxious use from the Dartmouth By-Law relating to the general business zone.

Doris MacKaracher suggested the paraphernalia and noise related to adult entertainment should be, in her opinion, considered an obnoxious use.

Mike Owen asked if the current zoning allows this application. He would like to know what his elected council members plan to do.

Councillor Younger suggested there have been letters of concern sent to the Alcohol and Gaming Authority by himself, Councillor McCluskey and local MLA, Jerry Pye requesting the consideration of the communities displeasure for this type of establishment in their community. He advised residents they could pick up a copy of these letters at the back of the meeting room on their way out if they were interested.

MLA Jerry Pye explained the application process when applying for a liquor license through the Alcohol and Gaming Authority and stated the only way this application would be considered for review is if the Alcohol and Gaming Authority send the letters submitted to the Utility and Review Board. He suggested this is the only option of the application being denied at this point. Mr. Pye stated this neighbourhood is under revitalization. He went on to talk about neighbourhood initiatives recently taken to promote a healthier and safer community for everyone. He suggested this type of establishment would only contribute a negative presence in this community. He stated his letter submitted to the Utility and Review Board pointed out the lack of appropriate planning that was taken to prevent an establishment such as this in their community and suggested to them it is their responsibility now to protect neighbourhoods and communities from intrusive establishments that provide adult entertainment. He then gave a brief update on the application for the Little Nashville.

Councillor McCluskey stated when Downtown Dartmouth had these types of establishments there was a negative impact on the entire community. She stated it brought undesirables and unlawful behaviour into the community which required an increased policing. It also deterred small shop and business owners from this area. She stated Councillors and residents need to make their presence known against issues like this and do everything possible to put a stop to it.

Von, a member of the community watch program, suggested the Little Nashville in its present state is deplorable. He stated he has personally seen violence, drugs and hookers having public sex on their property and does not see how an adult entertainment use will help the ongoing problems. He commented the neighbourhood children will be exposed to unnecessary indecent, disgraceful behaviour with this type of establishment and stated it needs to end.

Nick Pryce stated this site has potential for the community and suggested the developer should look into other uses that would be more appropriate for this area.

Susan Christensen suggested the people visiting these establishments are troubled people with addictions and other problems. She suggested they need help to clean their lives up, not have access to another establishment that may contribute to their problems.

Kevin Johnson, local minister from the community, suggested family values need to be promoted. He stated Jerry Pye's comments regarding neighbourhood revitalization were accurate and suggested there has been an abundance of community effort put into providing the local children with a healthy protected neighbourhood. He feels by allowing this establishment in their community it only promotes behaviour that destroys lives and families and feels residents need to take whatever steps necessary to prevent this from happening.

David Porter asked what type of signage this establishment plans on having. He suggested children walking by will be exposed to an indecent portrayal of young women. He then asked for clarification of the proposed C-6 zone.

Andrew Younger explained the proposed C-6 zoning.

Sean Audas then explained how the C-6 zoning was written into the Halifax Land Use By law and the regulations that accompany it.

An unknown residents suggested noise, one of the regulations Mr. Audas pointed out, should be an issue addressed currently at the Little Nashville location. Residents all agreed noise is an ongoing problem.

Councillor Younger suggested the only way to deal with this issue is to inform local authorities over and over.

MLA Jerry Pye informed residents that the owner of the property was approached and asked if he would like to discuss with community members a more suitable use for the property.

Kevin Richardson suggested Downtown Dartmouth and North Dartmouth have legitimate concerns that seem to have been ignored in the past. He suggested the community's concerns need to be considered seriously, like other communities across HRM. He then asked the Councillors to have a united front against this type of use and not create a C-6 zone but ban them entirely from the municipality.

A brief discussion followed where residents agreed the Alcohol and Gaming Authority need to be advised of the negative response this application has received from community members.

Karl Nightingale suggested he is in support of the new C-6 zone, to prevent the future possibilities of this type of use in the community. He is concerned for the safety of young women and girls in

the neighbourhood and suggested this type of establishment may try to recruit young women in the local area.

Another brief discussion followed about how high schools are being targeted for girls. One resident suggested the location being used for bowling lanes or a pool hall.

Brian Appal reiterated the neighborhood residents are trying to clean up their community. He stated the schools, family centre and daycare should not be exposed to an establishment like that and feels they will be effected if this application is approved. He is appalled consideration is even being given to the application.

Unknown residents wanted to thank HRM staff and Council for hosting this meeting and imitating this case for residents to comment to.

Residents asked about hours of operation for Little Nashville if the application is approved.

Mr. Audas stated the hours of operation would be a licensing issue. The Land Use By-Law does not provide a mechanism in which to regulate this. He informed residents this could be addressed within a development agreement.

Mr. Vipond described the procedure a Municipal Planning Strategy amendment follows. He informed residents once a decision is made by Council it is not appealable.

Susan Christensen reiterated the importance of people standing up for one's beliefs. She feels the family values and morals in the community must be considered by the body making the decision for this application.

An unknown resident suggested if an x-rated zone must be created, then why not move it to an industrial area away from the city.

Mr. Vipond explained the proposed new zoning for an adult entertainment use would not apply to any lands. Land owners would be able to apply for rezoning to this new zone if they met criteria.

MLA Jerry Pye suggested the previous comments of an x-rated zone are uncomprehensible. He suggested these type of establishments should not be allowed to operate within our municipality.

Mr. Vipond and Mr Audas both indicated that if a use was considered a legal use the municipality does not have the authority to ban it outright.

Brain Appal stated he is glad to have this opportunity to voice his opinion and hear the communities views on this issue. He stated if nothing else we as a community have made it very clear this type of use is not welcome in our neighborhood.

Councillor Younger, Councillor McCluskey and Mr. Vipond thanked everyone for attending.

MEETING ADJOURNMENT

Meeting adjourned at approximately 8:45 p.m.