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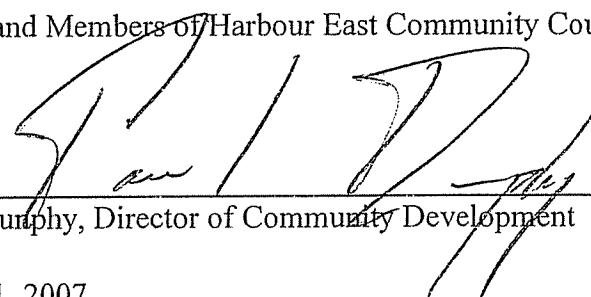
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Harbour East Community Council

June 14, 2007
July 5, 2007

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:


Paul Murphy, Director of Community Development

DATE: May 31, 2007

SUBJECT: Case 00998: Downtown Dartmouth Land Use By-law Amendment-
Limiting Institutional Uses

ORIGIN

At the January 4, 2007 meeting of Harbour East Community Council, Council requested staff to initiate a process to limit the type of institutional uses permitted in the Downtown Dartmouth Neighbourhood (DN) Zone.

RECOMMENDATION

It is recommended that Harbour East Community Council:

- (a) Give First Reading to the proposed amendment to the Downtown Neighbourhood (DN) Zone of the Downtown Dartmouth Land Use By-law as shown in Attachment "A", and schedule a public hearing; *June 14, 2007*
- (b) Approve the proposed amendments to the Downtown Dartmouth Land Use By-law as shown in Attachment "A" of this report.

BACKGROUND

On September 5, 2002 Council approved staff-initiated housekeeping amendments to Dartmouth's Land Use By-law. One of the amendments included the deletion of the words "in existence on the date this By-law comes into effect" in reference to institutional uses permitted within the Downtown Neighbourhood (DN) Zone. The same housekeeping exercise also approved a related LUB amendment to the definition of "Institutional Use" to include "registered non-profit societies".

Effectively, these two housekeeping amendments resulted in permitting registered non-profit organizations "by-right" as institutional uses in the DN Zone. Previously, only those registered non-profit organizations that were in effect prior to the effective date (Sept. 29, 2002) of the amendment were recognized as non-conforming uses.

Since the adoption of those housekeeping amendments, concern has been expressed by the community regarding the frequency and geographic concentration of registered non-profit organizations in the neighbourhoods within the DN Zone.

DISCUSSION

Downtown Dartmouth MPS states that the "Downtown Neighbourhood Designation" was established to recognize and protect the character of residential neighbourhoods surrounding the downtown business district. Within the designation, a Downtown Neighbourhood Zone would be established to control future development (Map 1). The goal of the Downtown Neighbourhood Zone as per subsection 9(1) of the Land Use By-law is "to protect the integrity and character of existing residential neighbourhoods by limiting the type, scale and design of new development, renovations, and home based businesses." When the Downtown Dartmouth MPS and LUB were initially adopted the DN zone permitted only existing industrial uses in addition to single-unit, two-unit and converted dwellings, bed and breakfasts in conjunction with single unit-dwellings, home based business uses, and public parks and playgrounds.

On September 5, 2002 Council approved housekeeping amendments to the Downtown Dartmouth Land Use By-law that included adding registered non-profit organizations¹ as a defined institutional use, and permitting new institutional uses in the Downtown Neighbourhood

¹ Registered non-profit organizations are not defined in the Land Use By-law, nor are they a type of land use. The purpose for which an organization/society may be incorporated is limited to the promotion of benevolent, philanthropic, patriotic, religious, charitable, artistic, literary, educational, social, professional, recreational, sporting, or any other useful object, but not for the purpose of carrying on any trade, industry or business.

Zone. The housekeeping amendments have resulted in unintended impacts on the stability of the DN Zone according to residents and Council.

To address the impacts from the 2002 housekeeping amendments, staff are recommending that new institutional developments should no longer be permitted in the Downtown Neighbourhood Zone as per Attachment "A". This approach would further the intent of the Plan to maintain/enhance the stability of residential neighbourhoods by limiting institutional uses. One of the stated objectives regarding residential neighbourhoods of the Downtown Dartmouth Plan is the protection and strengthening of the traditional character and stability of the downtown neighbourhoods that surround the downtown business district.

The proposed amendments would preclude future development of not only registered non-profit organizations within the DN Zone, but also any new institutional uses defined in the LUB. The amendments also recognize existing institutional uses and permit these uses to continue and expand subject to the conditions of the DN Zone.

Despite the amendments, institutional uses will continue to be a permitted use within four of the five other zones (the exception being the Park and Open Space Zone) of the Plan area. Therefore, the proposed amendments are consistent with the intent of the Plan by providing for the stability of the DN Zone, while not excluding institutional uses from the Plan area.

Affordable Housing

The Downtown Dartmouth Municipal Plan recognizes the need to encourage a variety of housing options to serve a diverse population. The proposed amendments will not exclude the development of new affordable housing arrangements within single-unit dwellings (excluding residential care facilities) in the DN Zone. This provision ensures both the maintenance of the form of the traditional development pattern of the existing residential neighbourhoods of the DN Zone, as well as providing for the accommodation of a variety of housing options in accordance with the intent of the Plan.

Public Information Meeting

A Public Information Meeting for this application was held on February 19, 2007. Minutes of this meeting are provided as Attachment "C" of this report. In summary, residents expressed their concerns with the concentration of institutional uses within the Downtown Neighbourhood Zone and were in agreement that no new institutional uses should be permitted in order to maintain neighbourhood stability.

As the proposed Land Use By-law text amendment affects the entire plan area, meeting notification was limited to a published newspaper advertisement and not via written notification

to all plan area property owners. Should Community Council decide to hold a public hearing, public notification of the hearing will proceed via newspaper advertisement.

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

1. Council may choose to approve the proposed amendment to the Land Use By-law. This is the recommended course of action.
2. Council may choose to refuse the proposed amendments to the Land Use By-law. Pursuant to Section 230(6) of the *Municipal Government Act*, Council is required to provide reasons to the applicant justifying this refusal, based on policies of the MPS.
3. Council may choose to alter the proposed amendment to the Land Use By-law. This may necessitate further report(s). In the event substantive revisions are requested, an additional public hearing may be required.

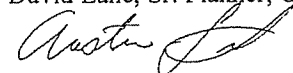
ATTACHMENTS

Map 1	Zoning Map of the Downtown Dartmouth Land Use By-law
Attachment "A":	Amendment to the Downtown Dartmouth Land Use By-law
Attachment "B":	Public Information Meeting Minutes - February 19, 2007

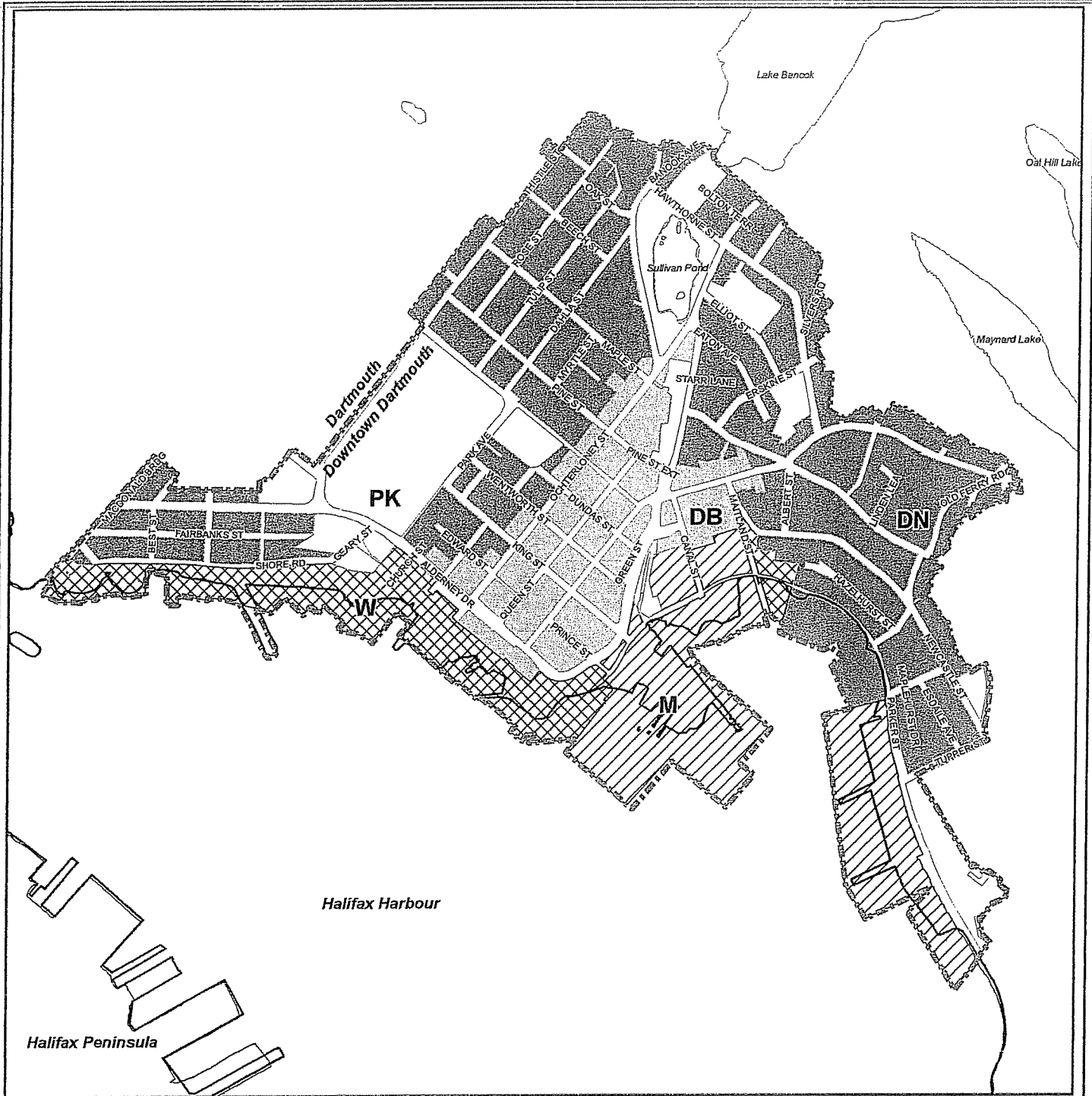
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: David Lane, Sr. Planner, Community Development 490-5719

Report Approved by:



Austin French, Manager of Planning Services, 490-6717








Map1
Zoning Downtown Dartmouth

Case 00998

Legend

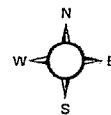
Zoning

-  DB - Downtown Business
-  DN - Downtown Neighbourhood
-  PK - Park and Open Spaces
-  M - Marine Business
-  W - Waterfront

HALIFAX

REGIONAL MUNICIPALITY

Community Development



0 62.5125 250 375 500 Meters

This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Land Use By-Law area.

HRM does not guarantee the accuracy of any representation of this plan.

Attachment "A"

Amendments to the Land Use By-law for Downtown Dartmouth

BE IT ENACTED by the Harbour East Community Council of the Halifax Regional Municipality that the Downtown Dartmouth Land Use By-law, is further amended as follows:

1. Subsection (2) of Part 9 shall be amended by inserting the words "in existence on the effective date of the amendment" after the words, "Institutional uses" in the list of Permitted Uses.
2. Subsection (2)(v) of Part 4 shall be amended by deleting the words "and registered non-profit societies" in the institutional use definition.

I HEREBY CERTIFY that the amendment to the Land Use By-law for Downtown Dartmouth as set out above, was passed by a majority vote of the Harbour East Community Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2007

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ___ day of _____, 2007

Jan Gibson
Municipal Clerk

Attachment "B"

PUBLIC INFORMATION MEETING
CASE 00998

DATE: February 19, 2007, 7:00 p.m.

LOCATION: Dartmouth High School Cafeteria

ATTENDANCE: David Lane, Planner
Hanita Koblents, Planner
Raylene MacLellan, Administrative Support
Gloria McCluskey, Councillor
Nineteen members of the public

Councillor McCluskey opened the meeting by thanking everyone for attending. She introduced David Lane and Hanita Koblents, Planners with HRM Planning Applications - Community Development. She explained the reason behind a Public Information Meeting (PIM) is to listen to what the public has to say about an application. The issue in question is the area has mostly residential homes, and non-profit housing should be spread through out the surrounding areas, not clumped into one area. Councillor McCluskey also explained that after this public information meeting a Public Hearing (PH) will be scheduled with the Community Council, and a notice will go out to the public and appear in the Herald two consecutive Saturdays before the PH.

Mr. Lane gave a brief background about himself, described the boundary of the Downtown Dartmouth Plan Area using a digital slideshow presentation with a map graphic. Mr. Lane showed three slide and explained the DN Institutional Uses. The plan talks about preserving the Downtown Neighbourhood Zone, but permits institutional uses including registered non-profit societies and this is the concern that was raised by the Councillor.

Ms. Koblents explained that institutional uses are permitted in both the DN (residential) and DB (business) Zones.

Gerry of Tulip Street inquired, what do we have to do to stop this. We don't want non-profit housing in our area.

Councillor McCluskey, stated that you need to watch for changes in your area. Notices are sent out to the residents of the area for Public Information Meetings, and Public Hearing Ads which are placed in the Herald as well.

Sue March of Tulip Street stated that everyone is too busy to watch for Ads to appear in the paper, and finds it hard to understand what the Ad is saying.

Roger of Pine Street asked if notices are placed in the paper every Saturday?

Councillor McCluskey confirmed that notices are placed in the Herald on Saturdays.

Jane of Victoria Road, stated that nobody knew that HRM was trying to eliminate these uses.

Ms. Koblents explained that the motion that is being put forward is to limit the types of Institutional Uses in the DN Zone.

Trevor Parsons of Tulip Street stated dissatisfaction with HRM's customer service when he was trying to find out information. He did not like how registered non-profits were included as institutional uses as a housekeeping amendment as a way to accommodate the Bide-A-Wile animal shelter instead of dealing with the Bide-A-Wile issue directly. He also commented that he would rather see low cost housing spread out.

Ms. Koblents apologized for the unsatisfactory customer service.

Mo Muise of Shore Road, commented that he would like to obtain a copy of the Staff Report for the 2002 housekeeping amendment.

Ms. Koblents replied that she would send him a copy and requested he forward his mailing address.

A member of the public from Tulip Street explained that she is trying to understand the definitions to the changes. Mentioned a homeowner renovation assistance program that she used 20 yrs. Ago to assist in purchasing her property, whereby the property was required to remain as single-unit dwelling. She opined the same restrictions do not apply to her neighbours who are free to apply for rezonings.

Ms. Koblents explained the difference between a Municipal Planning Strategy (MPS) and Land Use By-Law (LUB).

A Member of the public stated that the bottom line is that these uses are not good for the stability of the neighbourhood.

Ms. Koblents explained the permitted institutional uses of the plan area including schools, churches, fire halls, fire and police stations, libraries, residential care facility, hospital, and recreation and open space.

Member of the public commented that she is very upset that they poured a lot of money into their property as per HRM directions, and now HRM wants to change.

Trevor Parsons questioned the rationale of allowing all non-profits. He stated that the KKK could operate an office in the area under this provision of the LUB if they are registered as a non-profit..

Maureen, member of the public expressed concern regarding the varied differences of the permitted uses, and that she is not happy about the ownership of the non-profit housing. She is concerned that the non-profit housing are being permitted under the Institutional Uses.

Mr. Lane clarified the Land Use By-Law deals with the use of land, and a group home is a residential use, but not owner occupied.

Member of the public of Victoria Road commented, we elect Councillors to protect our interests, now the By-Law is changing our community again. This is not right.

Gerry, member of the public commented, they tried to stop the establishment of an Elizabeth Fry Society use in their neighbourhood..

Member of the public asked why would Council write the By-Law to change our neighbourhood?

Maura Donovan of Tulip Street commented that some non-profit housing are larger buildings are better than some of the slum-lord's apartment buildings. Neighbours should have a voice.

Member of the public from Victoria Road thanked Councillor McCluskey, then asked Mr. Lane if he has a vision for the plan area.

Mr. Lane explained that the vision is the community's; the Community Development Department is there to guide, facilitate, and implement that vision.

Member of the public of Victoria Road stated that there are two homes side by side that are not being looked after. We want a secure feeling leaving this meeting tonight. We want to see the non-profit spread out rather than see them placed in clusters in our area. We need help.

Mr. Lane explained the Community Development Department's commitment to transparency in the public process, and how vital a role citizens play in that process. He emphasized the importance of the attendees here tonight to voice their concerns. Mr. Lane explained that Planning not a stagnant process, but rather is always changing in response to many factors of society, culture, and economy. He mentioned that comments are being recorded for the record..

A member of the public stated that she didn't purchase her property to live beside non-profit housing.

Gerry, a member of the public commented that a few months ago Corrections Canada wanted to set up a "Home" in Dartmouth. He suggested that they locate in Halifax or by the Corrections Facility in Burnside.

Member of the public stated we want non-profit to go elsewhere.

Trevor Parsons stated that we pay our taxes and that he agreed that the deletion of permitted uses is the only option.

Member of the public voiced his opinion that the more complex the By-Law, the more chance of more non-profit ie; the KKK sliding in, and that his opinion should matter.

Ms. Koblents explained the process, and that Planners are trying to craft a solution for the change. It will take time to do the research to change the legislation. Then they will prepare a report with their recommendations to present to Council.

Drew Hall of Victoria Road mentioned the Moratorium on land subdivision in 2005 as part of the Regional Plan process. Is there a similar mechanism available to stop additional non-profit organizations establishments in our neighbourhood?

Ms. Koblents explained the first reading of a proposed Land Use By-Law amendment at Community Council will be the earliest opportunity to deny future development permit applications.

A member of the public voiced her opinion on behalf of her friend who is a property owner in this area, Unfortunately, he is away at sea. She stated that her friend has been approached on numerous occasions to sell his property.

A member of the public stated that a building permit was not recognized by HRM (not sure of the address)

Mr. Lane explained that registered non-profit organizations is a permitted use as an institutional use in the DN Zone. One option is to change this is to get the permitted use removed from the Land Use By-law. In addition, Mr Lane informed the audience via a digital presentation slide of other alternatives exist to provide control over the permitted uses of a zone including special requirements that the use must satisfy, requiring a development agreement for the use, or possibly require a rezoning.

Councillor McCluskey asked what option did the audience prefer to control the institutional uses in response to the four alternatives Mr. Lane provided.

Member of the public stated that this is depressing that the HRM can not do anything about these goings on.

Member of the public stated that in the past, we the people didn't have any opportunity to have a voice in any matter. She commented that her neighbourhood has suffered enough.

Mr. Lane explained that the same process used for the 2002 amendments is going to be used for these changes, and that the changes are legislated by Provincial Statutory Processes.

Trevor a member of the public commented that City staff had input into such an outrageous mistake, then asked why can't HRM make this a priority to remedy the problem.

Mr. Lane explained that HRM will do everything they can.

Member of the public inquired if the meeting will be a public record.

Francis Howard of North Street commented, that many promises were made to us. We kept to our part, but doesn't understand why the problem has not been resolved. It is not getting any better. We want security in our investments. We want to be secure with what HRM staff is doing to resolve this matter.

Councillor McCluskey, Mr. Lane, and Ms. Koblents agreed that one solution is to remove the ability of registered non-profit organizations as a permitted institutional use in the Downtown Neighbourhood Zone. We would be remiss if we didn't give you options.

Member of the public of High Street inquired about changing the zoning options when purchasing a house.

Ms. Koblents replied that is not standard practice.

Member of the public had some discussion about re-zoning versus development agreement ie: Marine Slips and how each is enabled.

Ms. Koblents explained that the Dartmouth Plan requires a development agreement for three or more residential units. There are also zone standards which are site-specific. Comments will be recorded and attached to the staff report.

Member of the public inquired if this applies to all. It was asked if the members of the public could take a vote on the options A to E.

Mr. Lane explained that this Public Information Meeting (PIM) was being held to discuss the issue of potential changes to the institutional uses permitted in the Downtown Dartmouth Plan Land Use By-law and to hear what the public has to say. A vote is not standard procedure in such a forum and would not be binding upon Staff nor Council.

Councillor McCluskey explained that the vote would not hold, but it would not hurt to see the vote for census purposes only.

A vote via a show of hands in response to each option presented took place.

14 members of the public voted for option A; 0 members of the public voted for option B; 2 members of the public voted for option C; 1 member of the public voted for option D, and 0 members of the public voted for option E.

Maureen Donovan stated that she is not in favour of an institutional use such as a fire department beside her property but finds a non-profit housing use to be much more compatible as a neighbour.

Ms. Koblents expressed the concentration of the non-profit uses appears to be the problem.

Councillor McCluskey reiterated what brought this on is there are too many non-profit housing uses concentrated in the area.

Councillor McCluskey thanked everyone for attending.

Meeting adjourned at 8:30 p.m.