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Harbour East Community Council
July 5, 2007

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:


Sean Audas, Development Officer, Community Development

DATE: June 26, 2007

SUBJECT: Appeal of Site Plan Approval - 73 Prince Albert Road, Dartmouth

ORIGIN

This report deals with the appeal of the Development Officer's decision to approve an application for site plan approval of an Office/Hair Dresser and/or Daycare at 73 Prince Albert Road, Dartmouth.

RECOMMENDATION

It is recommended that Harbour East Community Council uphold the Development Officer's decision to grant site plan approval for a Office/Hair Dresser and/or Daycare at 73 Prince Albert Road, Dartmouth

BACKGROUND

Application:

An application was submitted for the approval of a Office/Hair Dresser and/or Daycare. The proposal is to occupy an existing dwelling which permit records indicate previously included an office. The zoning is Downtown Neighbourhood Zone (DN). In accordance with section 9(3) of the Downtown Dartmouth Land Use By-Law, additional use which may be considered through site plan approval are Downtown Business Uses along Prince Albert Road between Prince Albert Road and Pleasant Street. Appendix 1 is a copy of the permitted uses in the Downtown Neighbourhood Zone.

Site Plan Approval Process:

The procedure for approving a site plan is similar to the process for a variance which involves:

- review of the site plan against specific evaluation criteria outlined in the land use by-law;
- Development Officer determines whether the site plan meets the criteria;
- if the criteria are satisfied, all assessed property owners within 30 meters of the subject property are notified of the decision; and
- these owners have the right to appeal the Development Officer's approval and refer the matter to Community Council for a final decision.

Council Options:

The decision of the Development Officer has been appealed and the decision now rests with Community Council which can either:

- i) uphold the decision of the Development Officer;
- ii) make changes to the site plan; or
- iii) reject the site plan.

In evaluating the application for a site-plan approval, the Development Officer is required to approve the application unless the matters subject to site-plan approval do not meet the criteria set out in the Land Use By-Law, or the applicant fails to enter into an undertaking to carry out the terms of the site plan.

In considering an appeal, the Council may make any decision that the Development Officer could have made. In making its decision, Council's discretion is therefore not unlimited; rather, as with the Development Officer, the Council must approve the site plan unless the matters subject to site-plan approval do not meet the criteria set out in the Land Use By-Law, or the applicant fails to enter into an undertaking to carry out the terms of the site plan.

DISCUSSION

The submitted site plan was reviewed against the relevant site plan approval criteria contained in the Land Use By-Law for Downtown Dartmouth. The Development Officer has determined the proposal satisfies the relevant criteria outlined in the following table:

Criteria	Analysis
Maximum floor area of 5000 sqft	Applicant is re-using the existing building on the property. The floor area is less than 5000 sqft.
Abutting a residential use, required parking must be screened and landscaped to obstruct the view from adjacent residential properties.	Parking is not required for the re-use of an existing structure, however the rear of lot is currently fenced and landscaped. The owner will provide some additional fencing abutting the residence at 75 Prince Albert Road.
No outdoor storage or display is permitted.	Outdoor storage or display is not proposed with this application.
If the propose commercial use involves re-use of an existing structure, on site parking shall not be required	Existing building is being used, parking is not required.
Commercial signs are limited in size at a maximum of one sign per business premise.	No signs have been identified, required to meet Land Use By-Law provisions.
Site must be adequately maintained.	Applicant would like to be granted site plan approval in order to acquire a Building Permit to renovate and improve the existing building.

Appeals

The Development Officer has received 1 appeal which is attached to this report. The stated reason for appealing is summarized as follows:

- Fencing - Landscaping requirements
- Traffic concerns on Starr Lane
- How many children will be attending the day care

The appellant has outlined three main concerns with the application. There is an existing fence that surrounds much of the property at 73 Prince Albert Road. It is felt that this fence will screen parking on the site, however on site parking is not required for the re-use of an existing building. The existing areas of the lawn will remain landscaped. There is an existing driveway access from Prince

Albert Road. It is not anticipated that Starr Lane will be used for access to this property. The number of children attending the daycare will be subject to the licensing provisions through the Provincial Department of Community Services. This agency licenses day cares and the maximum number of children. Discussions with the owner indicate that the anticipated range is 20-25 children.

BUDGET IMPLICATIONS

There are no implications on the Capital Budget associated with this report.

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

- Council may uphold the decision of the Development Officer. This is the recommended course of action for the reasons stated in this report.
- Council may request changes to the proposal subject to preparation of a supplementary report. This is not a recommended course action.
- Council may reject the proposed site plan. This recommendation is not supported by the Development Officer since the proposal satisfies the relevant approval criteria.

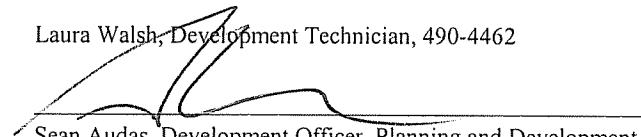
ATTACHMENTS

- Appendix 1 - Downtown Neighbourhood Zone list of permitted uses
- Appendix 2 - Approval letter
- Appendix 3 - Notice of appeal from Starr Lane

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: Laura Walsh, Development Technician, 490-4462

Report Approved by:


Sean Audas, Development Officer, Planning and Development Services, 490-4341

Appendix 1

DOWNTOWN NEIGHBORHOOD ZONE

9. (1) *PURPOSE:* *The goal of the Downtown Neighbourhood Zone 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.*
- (2) *PERMITTED USES:*
- Single Unit Dwellings
 - Two Unit Dwellings
 - Converted Dwellings
 - Bed and Breakfasts in conjunction with single unit dwellings
 - Home Business Uses
 - Public Parks and Playgrounds
 - Townhouse and multiple residential uses in existence on the effective date this By-law
 - Institutional uses (Deletion - HECC - Sept 5/02, Effective - Sept 29/02)
 - Accessory Uses
- (3) *ADDITIONAL USES WHICH MAY BE CONSIDERED THROUGH SITE PLAN APPROVAL:*
- Townhouse Dwellings
 - Neighborhood Commercial Uses
 - **Downtown Business Uses Along Prince Albert Road between Eaton Avenue and Pleasant Street**
- (4) *ADDITIONAL USES WHICH MAY BE CONSIDERED BY DEVELOPMENT AGREEMENT:*
- Multiple unit dwellings and townhouses on those sites noted on Schedule B.
 - Conversions of registered heritage properties to uses of land not permitted above.
 - Expansion of the St. Georges Tennis Club

Appendix 2



May 31, 2007

Dear Sir or Madame:

Re: Case No.13879- Site Plan Approval Application, Dartmouth, Nova Scotia.

As the Development Officer for the Halifax Regional Municipality, I have approved a request for site plan approval under Section 9(16) of the Land Use Bylaw for Downtown Dartmouth (refer to Attachment 1), as follows:

Location: 73 Prince Albert Road, Dartmouth.

Project Proposal: Convert Existing Dwelling to an Office/Hair Dresser and/or Daycare use

Pursuant to Section 232 of the Municipal Government Act, as an assessed property owner within 30 meters of the subject property you have the right to appeal the approval of this application. In order to appeal you must file notice, in writing, to the Development Officer on or before June 18, 2007. Permits will not be issued to the applicant until any appeal has been disposed of or the appeal period has expired.

If you have any questions or require clarification of any of the above, please call Laura Walsh at 490- 4462.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean Audas", written over a horizontal line.

Sean Audas, Development Officer
Halifax Regional Municipality

copy to: J. Gibson - Municipal Clerk.
Councillor Gloria McCluskey
James Holt- Supervisor, Building Officials

Appendix 3

Sean Audas
Development Officer
HRM

CASE # 13879 73 Prince Albert Rd, Dartmouth

Dear Mr Audas,

I would like to appeal the above Site Plan Approval based on insufficient information. While I do not have a disagreement in principle to a business at this site. I would like to seek further clarification re the fence/*parking*.

Is it their intention to move the fence back 3 feet from the existing one, and put in a landscape buffer, or do they plan to keep the existing fence as it is? Currently it is not opaque.

What are their plans re parking/traffic for the business. Starr Lane is quite small. and currently traffic is sufficient. We also have small children on the street, and any additional traffic would be of great concern to us.

Re the daycare proposal: how many children would be allowed on the property based on the square footage?

Yours truly
Jacinta and Peter Yorston
17 Starr Lane
Dartmouth
B2Y 4V7
462-7881

June 17/07

