

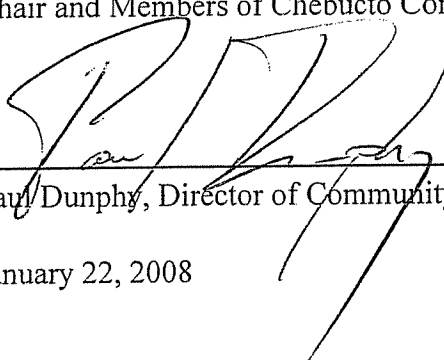


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Chebucto Community Council
February 4, 2008

TO: Chair and Members of Chebucto Community Council

SUBMITTED BY:


Paul Dunphy, Director of Community Development

DATE: January 22, 2008

SUBJECT: Child Care Centres in Residential Zones, Halifax Mainland

INFORMATION REPORT

ORIGIN

Motions of Chebucto Community Council and Regional Council.

BACKGROUND

At the October 15, 2007 Chebucto Community Council meeting, Council passed the following motion:

“MOVED by Councillor Walker, seconded by Councillor Hum that staff provide a report for Community Council’s next regular meeting on the process to amend the Land Use Bylaw for Mainland North in R-1 and R-2 zones as follows:

1. The owner must occupy the residence which has up to 14 children in the daycare;
2. There must be 500 feet between daycares;
3. If the daycare is not owner occupied or has more than 14 children, then a development agreement must be in place.

MOVED by Councillor Adams, seconded by Councillor Walker that the motion be amended to include Mainland South in addition to Mainland North. MOTION PUT AND PASSED.”

Following this, on January 8, 2008, Halifax Regional Council approved the following motion:

“MOVED by Councillor Hendsbee, seconded by Councillor Snow, that Halifax Regional Council:

- 1. Request staff to initiate a process to amend all HRM Land Use By-laws to establish a consistent definition that permits the provision of day care service for children 12 years of age and under;**
- 2. Direct staff to hold a Public Information Meeting regarding this issue in each of the three administrative regions of HRM; and**
- 3. Direct staff to, during the Public Information meetings for this matter, also consult and advise on appropriate requirements for home-based day care facility operators, as well as the scale and possible use of development agreements for these uses.**

MOTION PUT AND PASSED.”

DISCUSSION

With regard to the October 2007 motion of CCC, the issues of owner occupancy and scale of daycares, the use of development agreements and appropriate Land Use By-law (LUB) requirements will be explored as part of the region-wide process initiated by Regional Council. However, for Council’s information, staff have prepared some initial comments regarding the points raised in their motion.

Owner Occupancy

The current provisions for daycares (“child care centres”) within residential zones in the Halifax Mainland LUB, which may permit up to 14 children, indicate that the daycare shall be contained within a dwelling which is the principal residence of the “operator” of the facility. The term “operator” includes property owners, but does not require that the operator actually be the property owner. If Council wishes to require, in all cases, that the operator and property owner be one and the same, then staff could review and propose options for amending the LUB to clarify this.

As-of-Right versus Development Agreement

As indicated above, the Mainland LUB permits daycares of up to 14 children as-of-right. Larger daycares in residential zones are only permitted through the development agreement process. The LUB definition of “child care centre” includes only those centres which provide care for more than 6 children of any age or more than 8 children who are all school aged. Council may consider amending the LUB in order to reduce the number of children permitted as-of-right and amend or add definitions related to daycares.

Separation Distance Between Daycares

The issue of separation distances between daycares, as well as other land uses, has been explored in previous staff reports. Staff have consulted with officials from Service Nova Scotia and Municipal Relations on this matter. It was indicated that policies which stipulate separation distances between similar uses can be considered to interfere with business enterprise and may not, if challenged, hold up in court. One principle of zoning is that properties which are zoned similarly are subject to the same regulations. It may be more appropriate to implement the other options outlined in this report.

Conclusion

As per Regional Council's motion noted above, staff will hold Public Information Meetings in order to gather comments from the public on this issue.

BUDGET IMPLICATIONS

None. The costs to process the planning application initiated by Regional Council will be covered under the C310 operating budget.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

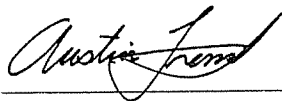
This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ATTACHMENTS

Attachment A Relevant Excerpts from the Halifax MPS and Mainland LUB

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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 : Paul Sampson, Planner, 490-6259



Report Approved by: Austin French, Manager, Planning Services, 490-6717

Attachment A

Relevant Excerpts from the Halifax MPS and Mainland LUB

HALIFAX MAINLAND LAND USE BY-LAW

DEFINITIONS

"Child Care Centre " means a building or part of a building in which services pertinent to a child's development, apart from the child's parent or guardian, are provided either for 7 or more children, not of common parentage, or for 9 or more children, not of common parentage, who are all school aged. A child care centre does not include a place such as hospital or school and does not include organized religious or recreational activities.

R-1 ZONE - SINGLE FAMILY DWELLING ZONE

20(1) The following uses shall be permitted in any R-1 Zone:

- (i) a child care centre for not more than 14 children in conjunction with a dwelling

CHILD CARE CENTRES

23A Buildings erected, altered or used for a child care centre shall comply with the following requirements:

- (a) Except for outdoor play space, any child care centre shall be wholly contained within a dwelling which is the principle residence of the operator of the facility;
- (b) One off street parking space, other than that required for the dwelling, shall be provided. The required parking space shall be eight feet wide by sixteen feet long, and be exclusive of the front yard.
- (c) The child care centre shall be limited to a maximum of one full storey of the dwelling; this storey may be the basement.
- (d) Only one child care facility shall be permitted to be located on any lot.

23B Notwithstanding the provisions of Sections 20(1)(i) and 23A (a-c) a child care centre may be operated as an accessory use to a church, church hall, or public recreation centre. The parking provisions contained in Sections 11(1) and 11 (2) would apply.

HALIFAX MUNICIPAL PLANNING STRATEGY

Section II - City-Wide Objectives and Policies

- 2.4.2 In residential neighbourhoods alternative specialized housing such as special care homes; commercial uses such as daycare centres and home occupations; municipal recreation facilities such as parks; and community facilities such as churches shall be permitted. Regulations may be established in the land use by-law to control the intensity of such uses to ensure compatibility to surrounding residential neighbourhoods.

Implementation Policies

- 3.20 In order to encourage the establishment of child care centres in a variety of locations to meet the varied needs of families, and to allow the consideration of the specific circumstances of an individual location, a child care centre which does not meet applicable land use bylaw regulations may be permitted by development agreement.
- 3.20.1 In considering approval of such development agreements, Council shall consider the following:
- a. for a child care centre located within a dwelling, alterations to the exterior of the building shall not be such that the building no longer appears to be residential in nature. This shall not prevent facilities for physically challenged children, or playground equipment to be erected on the property.
 - b. the hours of operation shall be such that adverse impacts of noise and traffic movements on adjacent residential uses are reduced.
 - c. parking shall be required on the site of the child care centre to accommodate the employees of the centre. Parking areas should, where necessary, be visually buffered from any adjacent residential uses by the use of fences, screening and/or landscaping as appropriate.
 - d. site design features, including landscaping, outdoor play space, parking areas and driveways shall be designed, sized and located to provide for the needs of the users of the facility, as well as to address potential impacts on adjacent residential uses.
 - e. vehicular access to and egress from the child care centre and pedestrian movement shall be accommodated in a manner which encourages safety.
 - f. signs for the child care centre shall be of a size, design and placement on the lot which reduces impacts on adjacent residential uses.
 - g. centres shall not be located so as to produce a concentration within a particular neighbourhood. In addition, only one centre with a licensed capacity of more than 14 children shall be permitted on any cul-de-sac.
 - h. all other relevant policies of the municipal planning strategy with particular reference to the Residential Environments section.

