HALIFAX
REGIONAL MUNICIPALITY

PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
September 16, 2010

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: Paul Dunphy, Director of Community Development

DATE: September 1, 2010

SUBJECT: **Case 15841 - Group Homes, Dartmouth**

ORIGIN

On December 3, 2009 Harbour East Community Council approved the following motion:

> **"Moved by Councillor Karsten, seconded by Councillor Nicoll, that Harbour East Community Council request staff to initiate a planning process to address concerns related to group homes in the Dartmouth plan area through amendments to the Land Use By-law."**

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Give First Reading to the proposed amendments to the Dartmouth Land Use By-law, as set out in Attachment A of this report, and schedule a public hearing; and

2. Approve the proposed amendments to the Dartmouth Land Use By-law, as set out in Attachment A of this report.

BACKGROUND

Under the Dartmouth Land Use By-law (LUB), group homes are not specifically defined, therefore, the use is permitted as-of-right, as "a dwelling for not more than 10 persons, owned or operated by a voluntary non-profit organization", within the following zones:

- R-2 (Two Family Residential),
- R-3 (Multiple Family Residential-Medium Density),
- R-4 (Multiple Family Residential-High Density),
- C-1 (Local Business),
- C-1A (Neighbourhood Commercial),
- C-1B (Mixed Use Commercial,
- C-2 (General Business), and
- GC (General Commercial).

In 2009, Harbour East Community Council (HECC) passed a motion requesting that staff consider amendments to clarify municipal land use regulations for group homes and specifically address this use. HECC noted the importance of accommodating group homes in residential areas but expressed concern that the use may result in negative impacts on neighbourhood character and stability if not properly integrated into the community and regulated.

The resulting staff report recommended that HECC only consider minor changes to the Dartmouth LUB or the likelihood of new group homes would be negatively impacted. HECC passed a motion directing staff to open a case to consider permitting group homes by development agreement in the R-2 Zone. However, following further consideration and discussion between Council and staff, HECC rescinded their previous motion and requested that staff initiate a new planning process to consider amendments to the LUB which would establish more specific provisions for group homes but continue to permit the use as-of-right in the R-2 Zone.

Plan Policy

The housing objective of the Dartmouth MPS is "to provide for a high quality of mixed housing stock in sufficient numbers to meet the needs of people of all income groups and in a pleasant and safe environment"(Attachment B).There is no specific policy relative to group homes within the Dartmouth MPS.

The Dartmouth MPS places high importance on integrating all forms of medium and high density housing into existing residential and commercial areas. Any residential building in Dartmouth containing more than 2 dwelling units may only be approved by development agreement. Group homes are considered a single dwelling unit and therefore not subject to the development agreement provisions.

Although there is a need to incorporate special needs housing within existing neighbourhoods, the scale of the use should be generally consistent with other uses permitted in the zone. However, under current provisions up to 10 persons may reside in a group home in the R-2 Zone. Although possible,

it is rare that 10 persons would reside in any other form of housing permitted in the zone. According to census information from 2006, approximately 1% of households in Dartmouth North, Dartmouth South and Dartmouth Centre contained 6 or more persons [1].

Types of Group Homes

Services for Persons with Disabilities

According to the Nova Scotia Department of Community Services, Group Homes and Developmental Residences provide support programs for between 4 -12 people with intellectual disabilities, long-term mental illness, and/or physical disabilities within a residential setting [2]. These facilities are intended to promote development of inter-personal and community oriented skills as well as abilities for daily living activities. Group Homes and Developmental Residences are licensed and regulated under the *Homes for Special Care Act* and its associated Regulations and typically serve youth and young adults.

Group Homes and Developmental Residences are owned/leased and operated by non-government agencies. Many are not purpose built, and have been located within dwellings in existing neighbourhoods. One of the guiding principles for residential services programs for persons with disabilities is to foster community inclusiveness. The Province's *Report on Residential Services* identifies that it is important that persons with disabilities reside in well maintained residences that are reflective of the community and in locations that facilitate community inclusion. The report also indicates that, although larger residential care facilities house many persons with disabilities, these facilities were created to serve persons with ambulatory or semi-ambulatory needs rather than persons with major health or behavioural needs. Due to a lack of other forms of specialized housing in communities, such as group homes, many persons who would be better served in a group home are housed in a residential care facility and have a limited ability to gain greater independence within the community.

Children and Family Services, Community Residential Services

The Province of Nova Scotia also licenses group homes under the *Children and Family Services Act* as community based housing placements for children and youth who require emotional and/or behavioural support not provided in family foster care. This type of group home provides a venue where children and youth are supported and cared for in the community by adults in a family-like setting. All residential child care facilities licensed under the *Children and Family Services Act*, including Group Homes, undergo an annual review and licensing process to ensure quality care for the children in the facility. Professional staff are present at the home 24 hours a day and often provide support in areas such as life skills, education, treatment services and anger management.

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[1] Source: Nova Scotia Community Counts web page - data modelled from Statistics Canada, Census of Population, 2006.

[2] *Report of Residential Services*, NS Dept. Community Services - Services for Persons with Disabilities, June, 2008.

Small Options Homes
Small Option Homes are a form of community based assisted living that accommodate up to 3 residents. This form of housing is permitted in all residential areas and is not impacted by this planning application.

DISCUSSION

Although there is a need to incorporate group homes within existing neighbourhoods, two issues need to be addressed:

- the need for a clear and modern definition of a group home; and
- the need to ensure that the number of persons permitted in this form of housing is consistent with the number of persons that typically occupy the other residential uses permitted in the zone.

The scale of larger group homes rather than the use itself may be one of the primary sources of concern related to neighbourhood character, especially in instances where several group homes are located in close proximity to each other. Therefore, a critical component of the planning exercise is to determine the size of group homes that can be permitted as-of-right in the R-2 Zone.

Attachment A contains proposed amendments to the Dartmouth LUB that would result in the following changes:

1. **Introducing a specific definition for group homes** which acknowledges any such use which is licensed by the Province of Nova Scotia, regardless of whether it is operated by a business, not for profit organization or a government agency;

2. **Reducing the maximum number of residents** permitted in a group home, as-of-right, in the **R-2, C-1, and C-1A** zones **from 10 to 6**; and

3. **Increasing the number of residents** permitted as-of-right in a group home in the **R-3, R-4, C-1B, C-2 and GC** zones from **10 to 12** with the exception of **R-3, R-4**, and **C-1B** zoned properties that abut an R-1 or R-2 zoned property in which case the maximum will be **6** residents as-of-right.

The proposed amendments would accomplish the goals of this planning application by:
- continuing to enable group homes as an as-of-right use in all zones in which the use is currently permitted,
- limiting the scale and population of these homes to a scale that is consistent with other uses permitted in each zone, and
- establishing a modern definition for group homes that reflects current practices

The amendments would reduce the number of persons permitted in a group home within the R-2 Zone, but only to a degree that is consistent with the other residential uses permitted in the zone. It

should be noted that the number of persons permitted is applicable only to residents of the home and not employees.

No additional zoning provisions would be enacted for group homes beyond what is required for other forms of housing in recognition of their purpose and nature as a dwelling. Larger group homes will be permitted in zones, such as the R-3, R-4 and C-2 Zones, which already accommodate more than two dwelling units and a variety of commercial uses. In these zones, group homes will be permitted as-of-right for up to 12 residents except for R-3 and R-4 zoned properties that abut a R-1 or R-2 zoned property. The reason for this exception is that the only uses permitted as-of-right in the R-3 and R-4 zones are single and two unit dwellings with higher density housing only permitted by development agreement. Based on the previously discussed intention of maintaining neighbourhood character and scale of use, group homes will be permitted as-of-right on properties zoned R-3 or R-4 which abut an R-1 or R-2 zone but up to a maximum of 6 residents.

Conclusion
The proposed amendments will ensure that group homes continue to be permitted within low density residential areas as-of-right, and without the requirement of individual and discretionary planning applications. The amendments will also ensure that the scale of group homes is more consistent with the nature and character of low density residential environments in Dartmouth and that a modern and accurate definition will be established to describe the use. Therefore, staff recommend that Council approve the proposed amendments to the Dartmouth LUB as set out in Attachment A.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved operating budget for C310 Planning & Applications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting held on April 7, 2010. Council must also hold a public hearing prior to making a decision on the proposed amendments.

For the Public Information Meeting, notices were posted on the HRM website and in the newspaper. The Nova Scotia Department of Community Services was also advised of the meeting and sent representatives to the meeting. Attachment C contains a copy of the minutes from the meeting. Should Council decide to proceed with a Public Hearing on this application, in addition to the published newspaper advertisements, persons that the signed the sign-up sheet at PIM will be notified directly by mail.

The proposed amendments will potentially impact the following stakeholders: future group home operators and clients in Dartmouth, as well as local residents.

ALTERNATIVES

1. Council may choose to approve the proposed amendments to the Dartmouth 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 approve the proposed amendments to the Dartmouth Land Use By-law subject to changes. This may necessitate a second Public Hearing.

3. Council may choose to refuse the proposed amendments to the Dartmouth Land Use By-law set out in Attachment A of this report. This option is not recommended for reasons set out above.

ATTACHMENTS

Attachment A	Proposed Amendments to the Dartmouth Land Use By-law
Attachment B	Excerpt from the Dartmouth Municipal Planning Strategy
Attachment C	Excerpts from the Dartmouth Land Use By-law
Attachment D	Public Information Meeting Minutes

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 : Joseph Driscoll, Senior Planner, 490-3991

Report Approved by: Kelly Denty, Acting Manager of Planning Services, 490-6011

Attachment A: Proposed Amendments to the Dartmouth Land Use By-law

BE IT ENACTED by the Harbour East Community Council that the Dartmouth Land Use By-law, as enacted by the former City of Dartmouth on the 25th day of July 1978, as amended, is hereby further amended as follows:

1. The text of section 33 (1) (e) is deleted and replaced with the following text:

   A group home for not more than 6 residents,

2. Adding the following text immediately following section 1. (sa):

   (saa) Group Home means a building or place or part of a building in which accommodation, supervisory, educational, developmental, daily living and/or personal care services are provided or made available for more than 3 persons, and which facility is operated or licensed by the Province of Nova Scotia pursuant to the *Children and Family Services Act* or the *Homes for Special Care Act* or any other provincial legislation. A group home shall not include a hospital, sanatorium, residential care facility, jail, prison, reformatory or hostel.

3. Adding the following text immediately following section 34 (1) (d):

   (e) A group home for not more than 12 residents, provided that the subject property does not abut a property that is zoned R-1 or R-2.

4. Adding the following text immediately following section 39 (1) (c):

   (d) A group home for not more than 12 residents.

I HEREBY CERTIFY that the amendments to the Dartmouth Land Use By-Law as set out above, were passed by a majority vote of the Harbour East Community Council at a meeting held on the ____ day of _____, 2010.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this___ day of _____, 2010.

_____
Cathy Mellett, Municipal Clerk

Attachment B: Excerpt from the Dartmouth Municipal Planning Strategy

A series of objectives have been developed from the overall goal stated above.

TITLE	OBJECTIVE
Housing	to provide for a high quality of mixed housing stock in sufficient numbers to meet the needs of people of all income groups and in a pleasant and safe environment

Attachment C: Excerpts from the Dartmouth Land Use By-law

PART 3: R-2 (TWO FAMILY RESIDENTIAL) ZONE

33(1) The following uses only shall be permitted in an R-2 Zone:

(a) R-1 uses as hereinbefore set out,
(b) a semi-detached dwelling,
© a duplex dwelling,
(d) basement apartments added to single family dwellings so that each building contains only two families,
(e) a dwelling for not more than ten persons, owned or operated by a voluntary non-profit organization,
(f) any uses accessory to any of the foregoing uses.

33(2) Buildings used for R-1 uses in an R-2 Zone shall comply with the requirements of an R-1 Zone.

33(3) Buildings used for R-2 uses in an R-2 Zone shall comply with the following requirements:

(a) Lot area minimum - 5,000 sq. ft.
(b) Lot coverage maximum - 35%
© Side and rear yards shall be provided on each side and at the rear of a building as specified in the Building By-laws of the City.
(d) notwithstanding anything contained in this section, a lot in an R-2 Zone created by the subdivision of a lot containing two semi-detached dwellings shall be permitted, provided that each lot resulting from the subdivision and each individual dwelling unit complies with the following requirements:
    (I) Lot area minimum - 2,500 square feet
    (ii) Lot frontage minimum - 25 feet
    (iii) Lot coverage maximum - 35%
    (iv) compliance with the building by-laws of the City.

(e) ***Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC-Feb 8/05;E-Apr 23/05)***

33(4) Notwithstanding anything else in this by-law, the following zone requirements shall apply to all new lots that were approved after October 13, 2001:

(1) Zone Requirements:

Minimum Side Yard	***8 feet, and the side yard shall be reduced to zero (0) on the side being common with another dwelling unit***
Minimum Rear Yard	***10 feet***

(2) The maximum building eave projection into the minimum required side yard shall be 2 feet
(HECC-Nov 1/01;E-Nov 25/01)

33 (5) **Notwithstanding the frontage requirement of Section 33 (3), an existing semi-detached dwelling in existence as of the 25th of July, 1978, on a lot that having less than 50' of street frontage, may be subdivided so that each unit is on its own lot provided that all other requirements of this by-law are met.** ***(HECC - Sept 10/09; E - Oct 3/09)***

September 21, 1987

Legislation approved by the Minister of Municipal Affairs places additional restrictions on undersized residential lots (less than, 5,000 square feet in area and/or less than 50 feet of street frontage.) Please consult Planning staff for details.

Attachment D: Public Information Meeting Minutes

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 15841 Group Homes

7:00 p.m.
Wednesday, April 7, 2010
Alderney Gate Library, Helen Creighton Room

STAFF IN ATTENDANCE: Joseph Driscoll, Senior Planner, Planning Applications
Holly Kent, Planning Technician
Jennifer Little, Planning Controller

PUBLIC IN ATTENDANCE: 11

The meeting commenced at approximately 7:17 p.m.

Opening remarks/Introductions

Mr. Joseph Driscoll, Senior Planner, Planning Applications, called the meeting to order at approximately 7:17 p.m. in the Alderney Gate Library, Helen Creighton Room, 60 Alderney Drive, Dartmouth. Mr. Driscoll introduced Holly Kent, Planning Technician, HRM Planning Services and Jennifer Little, Planning Controller, HRM Planning Services.

Mr. Driscoll welcomed residents to the meeting and thanked them for attending. He advised that the purpose of the meeting is to share information with the residents and to receive feedback as well. No decisions will be made during this meeting.

Overview

Mr. Driscoll explained that this application has been initiated by Harbour East Community Council to consider amending the Dartmouth Land Use By-Law (LUB) to address concerns related to larger Group Homes in residential areas.

Mr. Driscoll explained that under the Dartmouth LUB, group homes are not specifically defined, and therefore, are permitted as-of-right within the R-2, R-3 (Multi Family Residential-Medium Density), R-4 (Multi Family Residential-High Density), C-1 (Local Business), C-2 (General Business) and GC (General Commercial) zones as "a dwelling for not more than 10 persons, owned or operated by a voluntary non-profit organization". He explained that the housing objective of the Dartmouth MPS is "to provide for a high quality of mixed housing stock in sufficient numbers to meet the needs of people of all income groups and in a pleasant and safe environment". There is no specific policy relative to group homes within the Dartmouth MPS, although high importance is given to integrating all forms of medium and high density housing into existing residential and commercial areas. He

explained that Group Homes provide valuable housing, education, social and daily living services to persons in need. Locating these homes within stable residential environments that are consistent with the character of the community is an important element of assisting persons that require additional care to adapt and function within the community. The purpose of this planning exercise is to consider whether or not new zoning provisions for group homes are warranted in order to ensure that this use is permitted in ideal locations and in a manner which conforms with the character of residential neighborhoods.

Mr. Driscoll explained the difference between zoning and development agreements and indicated that initially the request from Council was to permit group homes in the R2 Zone by development agreement only. Upon further consideration Council changed that request and asked for consideration of Land Use By-law amendments that may result in some changes to where and how group homes are permitted but also ensure that group homes continue to be permitted as-of-right.

Overview of Planning Process

Following tonight's public information meeting, a more detailed review of the application will take place. Staff will review the proposal, taking into consideration comments from residents at tonight's meeting. Staff will then bring forward a recommendation report to Harbour East Community Council.

Questions and Comments

Ms. Martine Olser, Chair of St. Paul's Home, explained that they have recently ran into issues when trying to find housing for young people in the Community. When looking for housing, they are looking for something that is sensitive to the needs in the Community as well as safe and secure housing for the young people in these homes.

Mr. Driscoll explained that this is part of the reason why HRM was hesitant about the development agreement approach. Within this process, HRM would like to ensure that Group Homes are still permitted in a low density residential zone in Dartmouth as-of-right. If development agreements were required for group homes, it may discourage future group homes from opening up.

Mr. Driscoll clarified that group homes are already allowed in all residential, and most commercial zones, as-of-right. An exception is the R-1 Zone which is the most restrictive zone. Therefore the only way to allow the use in new areas would be to permit the use in the R-1 Zone.

Ms. Olser explained that a similar amendment process was completed two years ago and asked why this issue is being brought forward again.

Mr. Driscoll explained that the previous process was related to the Downtown Dartmouth Plan Area. This new request, which deals with the portion of Dartmouth outside of the downtown,

originated from complaints that Councillors have received.

Ms. Linda Wilson, Executive Director Homebridge Youth Society, asked what kind of complaints the Councillors have been receiving.

Mr. Driscoll explained that he is not aware of the specific complaints since they were not submitted to staff but that his understanding is that the concerns originate with groups of younger group home residents being somewhat disruptive in areas with a concentration of several group homes.

Ms. Jackie Purcell, Nova Scotia Department of Community Services, explained that the Province of Nova Scotia already has definitions for Group Homes and explained that it is not only youth but also adults as well. She suggested that the language should be understandable to municipal staff, provincial staff as well as to the service providers. She explained that people use the term 'Group Home' for a variety of different things such as licenced Small Option Homes, homes for youth, homes for individuals with intellectual disabilities, homes for long term mental health disabilities and also just for seniors, therefore, staff will have to be careful with some of the language.

Mr. Driscoll explained that the wording of the definition will be important.

Ms. Purcell explained that these descriptions can be found on the Department of Community Services website.

Mr. Driscoll explained that from the Municipality's perspective, the definition and the number of people living in a group home is a planning issue and not an operational or licensing issue which is the Province's jurisdiction. However, he had contacted the Department of Community Services to ensure that they were aware of the meeting and could send representation and participate.

Mr. Mike Stepanizck explained that if the complaints received are from a particular place or specific operator, the other group homes shouldn't be all lumped together.

Mr. Driscoll explained that as of right now, any type of Group Home is permitted in Dartmouth under the current description. This description is not accurate in terms of the services provided today.

Mr. Stepanizck expressed concern with the current terminology only referencing "non-profit organizations" and the complications that this may cause.

Mr. Driscoll read an email that he had from someone who couldn't attend tonight's meeting:

Hello,

I just noticed that there is a public meeting tonight in regards to group

homes in residential areas. I would like to attend but unfortunately I have a prior commitment. I hope that maybe you may be able to relay my concern with the present by-law. I would like to bring your attention to the section of the by-law that says " a dwelling for not more than 10 persons, owned or operated by a voluntary non-profit organization". This statement is extremely antiquated as the government has contracted private, for-profit service providers to provide care to persons for disabilities for many years Every service provider, whether non-profit or for-profit, has to adhere to all government regulations and yearly inspections. This statement should be taken out of the by-law to reflect the up to date practice.

Thank you for your time

Sue Wyse
Director of Business Relations
Sunshine Personal Home Care

Ms. Carol Ann Brennan, Dartmouth, explained that her organization operates eight larger Group Homes and expressed concern with how each Group Home gets "painted with the same brush". She explained that her organization tries to ensure that the residents are respectful members of the neighbourhood. In terms of concentration in a small area, it is also not good for the group homes to be located very close together. Perhaps permitting group homes in the R-1 Zone as well would spread them out.

Mr. Driscoll explained that it is important to know if there are only problem s within certain areas but that there can only be on set of rules.

Ms. Barb MacEachern, Dartmouth, explained that she works for a Small Options Home and explained how it is different from a Group Home. The Small Options Home where she works contains only three people.

Mr. Driscoll explained that Small Options Homes with up to 3 residents are already permitted as-of-right in residential zones in Dartmouth and that this process is not looking at changing that.

Ms. Purcell added that for future contact, at the Department of Community Services website, more information can be found under the Family and Community Services.

An individual explained what a licenced Residential Care Facility is and mentioned how some people either require or would prefer to live in those environments as opposed to a Group Home.

Mr. Driscoll explained that the wording of the new definition will be important.

An individual mentioned that having proper definitions under the by-law might be more critical than the actual numbers.

At this time a review of the Downtown Dartmouth / Dartmouth plan area boundaries on the slide were reviewed.

Ms. Olsler explained that she doesn't understand how companies operate Group Homes at full capacity. Ten people living in one spot is not a great living environment and isn't feasible.

Ms. Cindy Donchue, Masonview Homes, explained that they have long term clients that may reside in a group home for 20 years. They are aging and it is difficult to arrange and have proper accessability. There will be significant changes within the next few years. She added that there are many service providers that are not-for-profit and many that are for-profit.

An individual expressed concern with the intent of the development agreement approach and that it will make the process harder and more costly.

Mr. Driscoll explained that the intent is to not use development agreements or make things more difficult but to provide clarity and maintain neighbourhood character.

A gentleman asked about unifying the definition across HRM.

Mr. Driscoll explained that in some cases that has happened however, there are 23 different plan areas and land use by-laws. Different communities have different preferences for how planning and development should be regulated. He reviewed a recent amendment that was approved by Council regarding the daycare definition in all Land Use By-Law. However this process is for Dartmouth only.

Ms. Brennan had concern with garbage pickup.

Closing Comments

Mr. Driscoll thanked the residents for expressing their comments and concerns.

Adjournment

The meeting adjourned at 7:55p.m.