

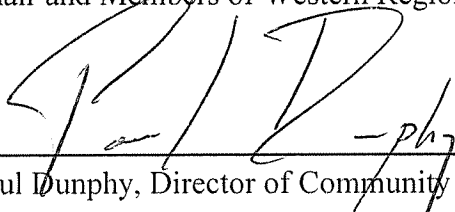


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**Western Region Community Council
March 23, 2009**

TO: Chair and Members of Western Region Community Council

SUBMITTED BY:



Paul Dunphy, Director of Community Development

DATE: March 2, 2009

SUBJECT: Home Occupations in Accessory Buildings - Districts 1 & 3

INFORMATION REPORT

ORIGIN

January 26, 2009 motion of Western Region Community Council

BACKGROUND

Council requested information regarding the use of accessory buildings for home occupations in the Planning Districts 1 and 3 (St. Margarets Bay) and Hammonds Plains, Beaver Bank and Upper Sackville plan areas. Specifically, Council requested that staff review the provisions in R-1, R-1A and other similar low density residential zones in other areas of HRM.

This report examines the current provisions in all of HRM's land use by-laws (LUBs) regarding the use of accessory buildings for home occupations in low density residential zones, and also includes a discussion of policy related to home occupations for Planning Districts 1 and 3 and Hammonds Plains, Beaver Bank and Upper Sackville.

DISCUSSION

Current Land Use By-law Regulations Across HRM

At this time, there is no uniform approach within HRM regarding the use of accessory buildings for home occupations, however, there are some commonalities. The use of accessory buildings for home occupations is generally prohibited in zones that only permit single unit dwellings. Alternatively, zones that permit a wider variety of uses generally also permit the use of accessory buildings for home occupations.

The following table provides a summary of the various land use by-law provisions across HRM relative to the use of accessory buildings for home occupations:

Table 1

LUB Area	Regulations
<ul style="list-style-type: none"> • Bedford • Cole Harbour/Westphal • Eastern Passage/Cow Bay • Halifax Peninsula • Halifax Mainland • Sackville • Timberlea, Lakeside, Beechville 	<ul style="list-style-type: none"> • The use of accessory buildings for home occupations is prohibited in all residential zones.
<ul style="list-style-type: none"> • Hammonds Plains, Beaver Bank and Upper Sackville • Lawrencetown • Planning Districts 1 and 3 (St. Margarets Bay) • Planning District 4 (Prospect) • Planning District 5 (Chebucto Peninsula) • Planning Districts 14 and 17 (Shubenacadie Lakes) 	<ul style="list-style-type: none"> • The use of accessory buildings for home occupations is prohibited in low density residential zones. • The use of accessory buildings for home occupations is permitted in higher density residential zones and mixed use zones.
<ul style="list-style-type: none"> • Eastern Shore (East) • Eastern Shore (West) • Musquodoboit Valley/Dutch Settlement • North Preston, Lake Major, Lake Loon/Cherry Brook and East Preston 	<ul style="list-style-type: none"> • Residential zones tend to permit a variety of uses; there are no typical suburban residential zones. • The use of accessory buildings for home occupations is permitted.
<ul style="list-style-type: none"> • Dartmouth_ • Downtown Dartmouth • Planning Districts 8 and 9 (Lake Echo/Porters Lake) 	<ul style="list-style-type: none"> • The use of accessory buildings for home occupations is permitted in all residential zones.

Planning Districts 1 and 3 and Hammonds Plains, Beaver Bank and Upper Sackville

Although these are two separate, distinct, plan areas, the policy and land use by-law requirements relating to home occupations are similar. The intent of the Residential designation in both areas is to protect residential uses from incompatible uses. This designation has been applied primarily to larger suburban residential subdivisions on local streets. Within the Residential designations, limits are placed on home occupations to ensure that they remain non-obtrusive and do not detract from the residential environment. Specifically, the Municipal Planning Strategy (MPS) for Planning Districts 1 & 3 states:

"... As well, home business uses will be limited in size, shall not involve outdoor display or storage and shall be entirely contained within the dwelling. These conditions will serve to ensure that home businesses will remain compatible with the residential environment in which they exist."

Similarly, the MPS for Hammonds Plains, Beaver Bank, and Upper Sackville states:

"Offices and day care facilities shall be permitted, but shall have no signs, outdoor storage or display, and shall be entirely contained within the dwelling. The above conditions are designed to ensure that no aspect of the use will detract from the residential environment."

As a result, in the Residential designations for both plan areas, home occupations are limited to a maximum floor space of 300 square feet, and are not permitted to be located in accessory buildings. This applies to the R-1 (Single Unit Dwelling), R-2 (Two Unit Dwelling), R-A (Residential), and R-1E (Residential Estate) zones in Planning Districts 1 and 3, and the R-1 (Single Unit Dwelling), R-2 (Two Unit Dwelling), and R-1A (Auxiliary Dwelling Unit) zones in Hammonds Plains, Beaver Bank, and Upper Sackville.

The planning strategies do acknowledge the importance of larger home businesses within the plan area, and in designations that allow a greater variety of uses, the provisions for home occupations are relaxed. For example, both the RA-1 (General Residential) Zone in Planning Districts 1 and 3 and the R-6 (Rural Residential) Zone in Hammonds Plains, Beaver Bank, and Upper Sackville permit home occupations to be located in accessory buildings.

As well, the planning strategies do provide some other alternatives. In Planning Districts 1 and 3, policy RD-5 allows Council to consider approving larger home occupations in residential areas by development agreement. This provides an opportunity to those with growing businesses, while ensuring that the use will not be incompatible with the existing neighbouring uses. As well, both plan areas have extensive areas that are designated for mixed use, which can accommodate residents who wish to operate larger business on their properties.

Physical Constraints

Council was also concerned that properties with steep grades may be at a disadvantage if they are unable to construct an attached garage on their property. There are a variety of factors that can be physical barriers to locating a dwelling or accessory building on a property. However, residents with larger dwellings or an attached garage are not inherently at an advantage, as home occupation are not permitted to exceed 300 square feet of floor space.

Conclusion

The current by-law provisions for the use of accessory buildings for home occupations are generally consistent throughout HRM. The planning strategies for both Planning Districts 1 and 3 and Hammonds Plains, Beaver Bank, and Upper Sackville both require that home occupations be located entirely within the dwelling in low density residential zones, and allow home occupations to be located in accessory buildings in more rural, or mixed use zones. No further action is needed at this time. Should Community Council request further action be taken, staff advise that an amendment to the MPS may first be required.

BUDGET IMPLICATIONS

None.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

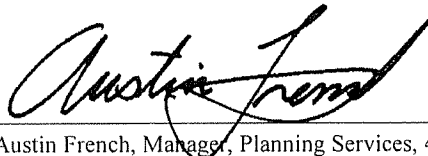
This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ATTACHMENTS

Attachment A: Excerpts from the Planning Districts 1 and 3 (St. Margarets Bay) MPS
Attachment B: Excerpts from the Hammonds Plains, Beaver Bank, and Upper Sackville MPS

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.

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Attachment A

Excerpts Planning Districts 1 and 3 (St. Margarets Bay) MPS

- RD-1 It shall be the intention of Council to establish a Residential Designation as shown on the Generalized Future Land Use Map (Map 1). Within the designation it shall be the intention of Council to support and protect the residential environment.
- RD-2 Within the Residential Designation, it shall be the intention of Council to establish a single unit dwelling zone which permits single unit dwellings, open space uses as well as day care facilities, bed and breakfast establishments, and home businesses of a limited size in conjunction with a permitted dwelling and existing uses. Provisions of the land use by-law shall ensure that no aspect of the accessory use will detract from the residential nature of the designation.
- RD-5 Notwithstanding Policies RD-2 and RD-3, within the Residential Designation, Council shall only consider permitting larger home business uses in a dwelling and/or an accessory building according to the development agreement provisions of the Planning Act. In considering such an agreement, Council shall have regard to the following:
- (a) that the property which is being used for the home business purpose contains the principal residence of the operator of the business;
 - (b) that no mechanical equipment is used except that which is reasonably consistent with the use of a dwelling and which does not create a nuisance by virtue of noise, vibration, glare or odour;
 - (c) that there is no open storage or outdoor display;
 - (d) the provision of adequate parking facilities;
 - (e) signage; and
 - (f) the provisions of Policy IM-9.

Attachment B

Excerpts from Hammonds Plains, Beaver Bank, and Upper Sackville MPS

- P-33 It shall be the intention of Council to establish a Residential Designation as shown on the Generalized Future Land Use Maps. Within this designation, it shall be the intention of Council to support and protect the existing low density residential environment.
- P-34 Within the Residential Designation, it shall be the intention of Council to establish a residential zone which permits single unit dwellings, existing two unit and mobile dwellings, open space uses, offices and day care facilities operated by a resident of the dwelling, bed & breakfasts, as well as activities related to traditional arts and crafts and domestic arts, provided that controls are established on the scale of the business and that no signs, outdoor storage or display are permitted, in order to ensure that the external appearance is compatible with the residential environment.