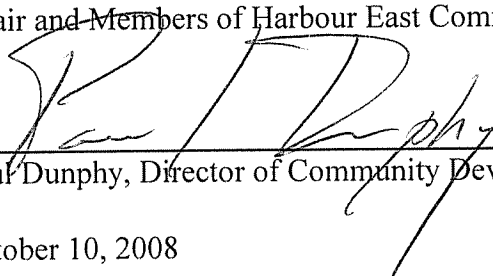


10.1.2

Harbour East Community Council
November 6, 2008

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: October 10, 2008

SUBJECT: **Case 01135: Dartmouth LUB Amendments - Pawn Shops and Cabarets**

ORIGIN

On January 10, 2008, Harbour East Community Council (HECC) requested that staff initiate a process to consider amending the Dartmouth Land Use By-law (LUB) to prohibit cabarets and pawn shops within the C-2 (General Commercial) Zone on Wyse Road.

On August 28, 2008, HECC passed a motion to expand the scope of the request to include the C-2 Zone across the entire Dartmouth plan area.

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

At the January 10, 2008 meeting of HECC, Council requested that staff initiate a process to consider amendments to the Dartmouth LUB that would prohibit the establishment of new pawn shops and cabarets within the C-2 Zone on Wyse Road. It is staff's understanding that this request originates from concern regarding the land use characteristics and potential impacts associated with cabarets and pawn shops. On August 28, 2008, HECC broadened the scope of the request to consider the amendments across the entire Dartmouth plan area.

C-2 Zone

The C-2 Zone in Dartmouth currently permits any business or commercial use except adult entertainment uses, larger offices, and obnoxious or hazardous uses. Therefore, cabarets and pawn shops are currently permitted in all areas zoned C-2.

The C-2 Zone is primarily located along major commercial collector streets including:

- Wyse Road
- Windmill Road
- Prince Albert Road
- Portland Street
- Main Street
- Pleasant Street

These streets have a largely commercial character in the areas zoned C-2 and, although portions of most of these streets also contain residential uses, they are typically not located within the C-2 Zone.

In addition to the C-2 zones along these major streets there are also several properties that are spot-zoned C-2 throughout the plan area and which are located in areas primarily zoned for other uses such as residential neighbourhoods. As well, many of the commercially zoned areas along the major collector streets are directly adjacent to or in close proximity to existing residential neighbourhoods.

Pawn Shops and Cabarets

Pawn shops are second hand retailers where goods are pawned, traded or sold to the operator and resold to the public. Due to the specific nature of their operations, pawn shops are often perceived to be more incompatible with residential neighbourhoods than other retail uses. There are five Dartmouth businesses listed under the heading "pawnbroker" in the 2008-2009 phone book.

Cabarets are a licensed establishment which, according to the Nova Scotia Alcohol and Gaming Division, features high quality live entertainment and is permitted to serve liquor until 3:30 AM seven days a week ¹. Cabarets are typically large scale establishments with a capacity to

¹ NS Alcohol and Gaming website. www.gov.ns.ca/snsmr/paal/lwd/paal200.asp Accessed October 9, 2008

accommodate 400 or more people². The Nova Scotia Alcohol and Gaming Division has indicated that there are no active cabaret licenses in Dartmouth.

Downtown Dartmouth

The Downtown Dartmouth Municipal Planning Strategy (MPS) and LUB identify that the proliferation of certain uses, such as pawn shops, is not desired within the Downtown Dartmouth Business District. The planning documents for Downtown Dartmouth indicate a desire to encourage a broad mix of commercial land uses. However, the plan also establishes a desire to restrict specific uses whose characteristics do not contribute towards the vision of the Downtown Dartmouth plan. As a result, new cabarets and pawn shops are not permitted within the Downtown Dartmouth plan area.

DISCUSSION

Many streets with C-2 zoning serve as major collector roads and are in close proximity to residential neighbourhoods. As such, the C-2 Zone serves as a commercial service area for both the adjacent residential areas and the broader region. As a result, the type and size of commercial uses within the C-2 Zone varies. While the C-2 Zone is intended to enable a broad range of commercial uses, staff are of the opinion that its close proximity to established residential neighbourhoods warrants restriction of specific uses which, by reason of their characteristics, may impose impacts which are particularly incompatible with existing residential uses. However, care should be taken to maintain the C-2 zoned areas as diverse commercial corridors where a variety of retail, entertainment and service uses continue to be permitted.

Staff have prepared proposed amendments to the Dartmouth LUB which would restrict the development of new cabarets and pawn shops in the C-2 Zone. These amendments are included in this report as Attachment A. The amendments are intended to reduce the potential for land use conflicts with established residential neighbourhoods through the selective restriction of specific uses while maintaining the overall flexible nature of the C-2 Zone. Under the amendments, there is no form of restriction proposed for other types of bars, restaurants or retailers and existing pawn shops are permitted to continue operating subject to the non-conforming use provisions set out in the *Municipal Government Act*. Further, specific exemptions are included to continue to allow second hand books, antique, clothing and sports card stores as permitted uses.

The proposed amendments would allow new pawn shops and cabarets in the Light Industrial (I-1) and General Industrial (I-2) Zones, neither of which are typically located adjacent to residential neighbourhoods. Staff recommend that Council approve the proposed amendments as set out in Attachment A of this report.

² NS Alcohol and Gaming website. www.gov.ns.ca/lwd/agd/liquor.asp Accessed October 9, 2008

Public Information Meeting

A Public Information Meeting (PIM) was held on September 8, 2008. Minutes from the PIM are attached to his report as Attachment B. Residents that attended the meeting generally identified concern with existing and past cabaret and pawn shop uses and indicated support for the proposed amendments due to concern regarding the potential for additional pawn shops and cabarets within the C-2 Zone. If Council decides to schedule a public hearing regarding this application, notices advertising the hearing will be placed in the newspaper and persons that signed the sign-up sheet at the PIM will be contacted directly by mail.

BUDGET IMPLICATIONS

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

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

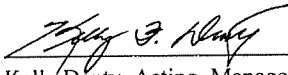
1. Council may choose to approve the proposed amendment to the Dartmouth Land Use By-law as set out in Attachment A of this report. This is the recommended course of action.
2. Council may choose to refuse the proposed amendments to the Dartmouth Land Use By-law set out in Attachment A of this report. This option is not recommended for reasons set out above.

ATTACHMENTS

Attachment A: Proposed LUB Amendments
Attachment B: 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, 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 of the Halifax Regional Municipality that the Dartmouth Land Use By-law, which was adopted by the Council of the former City of Dartmouth on the 25th day of July 1978, as amended, is hereby amended as follows:

1. By adding the following definition for “Cabaret”, to Part I: Definitions immediately following the definition for “(h) Building Line”:

(ha) CABARET - means any establishment holding a Cabaret Licence issued by the Province of Nova Scotia.

2. By adding the following definition for “Pawn Shop”, to Part I: Definitions, immediately following the definition for “(af) Registered Plan”:

(afa) PAWN SHOP - means any establishment where goods of any sort may be pawned, traded or exchanged, and includes a building or part of a building where used merchandise, substances, articles or things are offered or kept for sale. This excludes used bookstores, antique stores, sports card shops, used clothing stores, and the sale of used bicycles as an accessory function to a new bicycle shop or repair shop.

3. By adding the following text, immediately following s. 39. (1) (b) (iii):

(iv) cabarets
(v) pawn shops

4. By adding the following text, identified in bold, immediately following s. 41. (1) (b) (iii):

(c) cabarets
(d) pawn shops

5. By adding the following text, identified in bold, immediately following s. 42. (1) (b):

(c) cabarets
(d) pawn shops

I HEREBY CERTIFY that the amendments to the Dartmouth Land Use By-law, as set out above, were duly passed by a majority vote of the Harbour East Community Council at a meeting held on the ___ day of _____, 2008.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this ___ day of _____, 2008.

Julia Horncastle, Acting Municipal Clerk

Attachment B: Public Information Meeting Minutes

**HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 01135 - Amend C-2 Zone on Wyse Road, Dartmouth**

**7:00 p.m.
Monday, September 8, 2008
Northbrook Community Centre**

STAFF IN

ATTENDANCE: Joseph Driscoll, Planner, Planning Applications
Holly Kent, Planning Technician
Councillor Gloria McCluskey, District 5
Councillor Jim Smith, District 9
Jennifer Little, Planning Controller

PUBLIC IN

ATTENDANCE: 25

The meeting commenced at approximately 7:03 p.m.

1. Opening remarks/Introductions/Purpose of meeting

Councillor Smith welcomed residents to the meeting and thanked them for attending. He explained that this application will not effect existing businesses and that they were in attendance to listen to residents concerns and comments regarding new cabarets and pawn shops being established in C2 Zones in Dartmouth. He introduced Joseph Driscoll as the Planner, Holly Kent as the Planning Technician and Jennifer Little as the Planning Controller.

Mr. Joseph Driscoll, Planner, Planning Applications, called the meeting to order at approximately 7:03 p.m. in the Northbrook Community Centre (Gymnasium), 2 Chapman Street, Dartmouth.

Mr. Driscoll noted that Councillor Younger, Councillor Karsten and Councillor Barkhouse have sent their regrets that they were unable to attend tonight's meeting. 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.

2. Overview of Possible Issues and Considerations

The initial request was made to look at pawn shops and cabarets on Wyse Road and to consider restricting them. Harbour East Community Council expanded the request to include all C-2 zones across Dartmouth. Mr. Driscoll explained that a potential amendment to the LUB could include: 1) new definitions for "Cabarets" and "Pawn Shops"; 2) to restrict cabarets and pawn shops in the C2-Zone; 3) How to recognize existing pawn shops. Mr. Driscoll explained what the current uses and definitions of a cabaret and pawn shop are and reviewed what is permitted in a C-2 zone. He added that C-2 zones are typically located adjacent residential neighborhoods.

Mr. Driscoll explained that if existing pawn shops are recognized as "existing uses", they can be

stopped and restarted; can be restarted if destroyed and a structure can be expanded. If they are recognized as non-conforming uses, they can not be restarted if stopped 6 or more months; can not be rebuilt if 75% of the structure has been destroyed and an expansion of the structure is not permitted.

3. Overview of Planning Process

After the public information meeting this evening, a more detailed review of the application will take place. Staff will negotiate the proposal, taking into consideration comments from residents at tonight's meeting. Staff will then bring forward a recommendation report to Council who will hold a public hearing for an opportunity for further public input. There will be an appeal process following Council's decision through the Nova Scotia Utility and Review Board.

4. Questions and Comments

Councillor McCluskey asked what zoning currently allows pawn shops and cabarets?

Mr. Driscoll explained that they are currently permitted in C2 and C3 zones.

Councillor Smith stated for the record that he had received three phone calls from local residence who are in favor of restricting pawn shops and cabarets. One person also preferred the status quo.

Councillor McCluskey added that there are cabarets on Portland Street that are not good for the community.

Mr. Troy Perrin, 17 Russell Street explained his experiences with living nearby a beverage room and noted his concern of allowing beverage rooms in and around a residential area.

Mr. Warren Wright, 29 Pleasant Street, is against allowing pawn shops and cabarets in his neighborhood.

Mr. Gerry Brown, 21 Wallace Street explained that he is part of the neighborhood watch group. He noted his concern with allowing cabarets and pawn shops in his area and the possible future home invasions that could take place if these uses were permitted.

Ms. Marilyn Swaffer, 165 Wyse Road, explained past negative experiences with living beside a cabaret.

Ms. Katalin Ohlsson, 5 Russell Street requested to view the map of the C2 zones in Dartmouth.

Mr. Driscoll reviewed the zoning map indicating where the C2 zones are and added that he could email residence a copy of this map if requested. He explained that Cabarets and Pawn Shops are currently restricted in Downtown Dartmouth.

Ms. Ohlsson questioned if new pawn shops can be opened under the current by-law.

Mr. Driscoll confirmed that if someone applied and it met the current zoning requirements, they

would be issued a permit with the exception of Downtown Dartmouth where it is already prohibited.

Trevor Zinck, 10 Sea King Drive, asked a question about changing a liquor license to allow a cabaret.

Mr. Driscoll explained that there are two different processes, they would have to apply for a change in their license through the Province of Nova Scotia which would require a public hearing. Pending approval, they could switch to a cabaret under the existing C2 zone.

Mr. Brown asked what the time frame would be for these possible amendments.

Mr. Driscoll explained that the public hearing would typically be in 3-4 months.

Ms. Ohlsson asked when the initial application was put forward.

Mr. Driscoll explained that it was during the winter months.

Ms. Ohlsson questioned why it took so long to have a public information meeting.

Mr. Driscoll reviewed the application process. He explained that there was another application put forward prior to this request to restrict adult entertainment.

Ms. Barb Perrin, 17 Russell Street noted her concern with the increase in prostitution in her area.

Councillor McCluskey suggested that she contact the Community Police Officer.

Mr. Peter Richard, 6 Faulkner Street asked what status of existing pawn shops and cabarets would have in the C2 and C3 zones.

Mr. Driscoll explained that Council may list them as a non permitted use in the area around Mr. Richards residence. The by-law is set up such that commercial use in a more intense commercial zone permits all the uses in the lower ones. Mr. Driscoll explained permitted uses in a C3 zone. He added that by eliminating these uses in a C2 zone it will eliminate this permitted use in a C3 zone by default. He explained that it should be considered that by eliminating permitted uses in the C2 zone and possibly the C3 zone, should a correspondent change be made to allow cabarets and pawn shops in the I1 or the I2 zones.

Mr. Richard questioned the future of pawn shops in the Downtown Dartmouth, Burnside and Cole Harbour areas.

Mr. Driscoll explained that new pawn shops are not permitted in the Downtown Dartmouth plan area and if the amendment discussed tonight is passed, then no new pawn shops will be opened in the C2 and C3 zones in Dartmouth.

Ms. Joanne Oostveen, Dartmouth, Cole Harbour Weekly News, asked for clarification of what will happen to the existing pawn shops.

Mr. Driscoll explained that there are two options that could potentially happen:

- 1) Non-conforming uses can not be restarted if stopped 6 or more months; can not be rebuilt if 75% of the structure has been destroyed; the structure can't be expanded.
- 2) Existing uses can be expanded, stopped and restarted.

Ms. Oostveen questioned if existing pawn shops and cabarets were advised of this meeting.

Mr. Driscoll explained that notification of this public information meeting was advertised in the Chronicle Herald. There may be a notification sent by mail to notify them of the public hearing.

5. Closing Comments

Mr. Driscoll thanked everyone for attending. He encouraged anyone with further questions or comments to contact him.

6. Adjournment

The meeting adjourned at approximately 7:50 p.m.