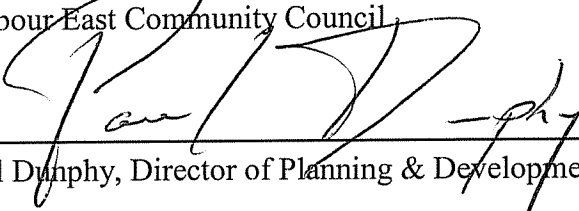


**Harbour East Community Council**  
**September 8, 2005**

**TO:** Harbour East Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Planning & Development Services

**DATE:** August 17, 2005

**SUBJECT:** Institutional Uses - Dartmouth Plan Area

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## **INFORMATION REPORT**

### **ORIGIN**

Motion of Harbour East Community Council at their meeting of April 7, 2005 that staff provide a report regarding the possibility that institutional uses such as churches, schools, medical centres, family centres, day cares and non-profit facilities which locate in residential areas be required to do so by Development Agreement in the Dartmouth Plan Area.

### **BACKGROUND**

Recognizing that residential communities are well served by having certain institutional uses in close proximity, the Dartmouth MPS supports local and regional institutional uses within the residential designation (Attachment A). As a result, certain institutional uses (churches, church halls, schools, colleges, universities, libraries, art galleries, museums) are permitted as-of-right in all the residential zones in Dartmouth(Attachment B).

However, potential conflicts may arise when institutional uses are located adjacent to residential uses, due to traffic, noise, lighting, etc. For this reason, Harbour East Community Council has asked staff to examine options for exercising greater control on the location of institutional uses, specifically to determine whether it would be more appropriate to permit institutional uses in the residential areas only by development agreement, instead of as-of-right.

In Dartmouth, institutional uses are those permitted in the S (Institutional) Zone, and include:

- P (Park) uses;
- Sports clubs, either public or private;
- Public or private community purpose buildings;

- Hospitals, schools, colleges, universities, masteries, churches, libraries, museums, art galleries, and other institutions of a similar nature; and
- Uses accessory to any of the foregoing uses.

Medical centres and day care centres are not listed as institutional uses in the Dartmouth Plan Area and the MPS already contains policy requiring development agreements for these uses in residential areas (although day cares using less than 25% of the home are permitted as home occupations).

If located in the "S" Zone, institutional uses must be on lots no smaller than 5,000 square feet, but may have up to 50% lot coverage. When located in the residential zones however, they are held to the same requirements as a single unit home: minimum lot size 5,000 square feet, and 35% lot coverage. In addition to the zone requirements, the Land Use Bylaw contains general requirements to ensure that specific uses have, for example, the appropriate number of parking spaces, regardless of the zone they are located in.

## **DISCUSSION**

For the purposes of identifying a preferred way to accommodate institutional uses in residential neighbourhoods in Dartmouth, a review of how these are handled in the residential designations of other HRM Plan Areas was carried out (Table 1 below, and Attachment C).

As shown below, nine other plan areas were reviewed, and the majority of these, including those adjacent to the Dartmouth Plan area (Cole Harbour/Westphal and Eastern Passage/Cow Bay), require a rezoning prior to allowing an institutional use to locate in a residential area. The MPS policies of these areas basically recognize the benefits to residential communities of having certain institutional uses nearby, while acknowledging that potential conflicts may arise due to traffic, parking, noise, etc. Requiring a rezoning prior to permitting such uses allows Council the discretion to evaluate whether a proposed site is suitable, and contains requirements within the zone to mitigate potential conflicts (e.g. lot size, buffering, landscaping, etc.). Only Lawrencetown requires a development agreement prior to permitting an institutional use to locate within the Lawrencetown Designation, while in Halifax and Dartmouth, several institutional uses such as churches, halls, etc. are permitted as-of-right in the R-1 zone.

Plan Area	As-of-Right	Rezoning	Development Agreement	Notes
8 & 9				Generally, large institutional uses are not permitted in the residential designation
Beaver Bank, Hammonds Plains and Upper Sackville		x		
Bedford		x		
Chebucto		x		
Cole Harbour/Westphal		x		
Dartmouth	x			
Downtown Dartmouth	x			
Eastern Passage/Cow Bay		x		
Halifax	x			'Major' institutional - only permitted in designated areas (not in residential areas)
Lawrencetown			x	

Table 1. Institutional Uses in Residential Designation

Discretionary approval by requiring a rezoning may be all that is required to assure compatibility of an institutional use with adjacent residential. Requiring a development agreement allows Council greater control of the final product, but in many cases may not do more than a series of adequate zone provisions. Development agreements are more costly from a municipal perspective in terms of staff time required, and also pose added cost to the applicant, which in the case of an institutional use, is likely to be a non-profit organization with a community service objective.

**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.

**ALTERNATIVES**

1. Request HRM Regional Council to initiate an amendment to the Dartmouth MPS to consider institutional uses in the Residential Designation by *development agreement only*.
2. Request HRM Regional Council to initiate an amendment to the Dartmouth MPS to consider institutional uses in the Residential Designation by *rezoning only*.
3. Keep the status quo and monitor the issue. If concerns continue to arise, reconsider proceeding with Options 1 or 2.

**ATTACHMENTS**

- Attachment A: Policies of the Dartmouth MPS  
Attachment B: R-1 Zone, Dartmouth Land Use Bylaw  
Attachment C: Review of other HRM Plan Areas on Institutional Uses in Residential Areas

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: Hanita Koblents, Planner, 490-4181

**Attachment A**

**Excerpt from the Dartmouth MPS**

Table 4							
Reserve	Urban Core	Institutional	Park & Open Space	Industrial	Commercial	Residential	← General Land Use Classification  Land Use  ↓
●	<i>Deleted-Reg.Council-July11/2000, Effective-Sept2/2000</i>				●	●	Single
●						●	Duplex
						●	Low Density Multiple
						●	Medium Density Multiple
						●	High Density Multiple
						●	Mobile Homes
					●	●	Neighbourhood Con. Stores
						●	Home Occupations
					●	●	Retail Trade
					●	●	Service Commercial
					●	●	Regional Commercial
					●	●	Local Office
				●	●	●	General Office
					●	●	Tourist Commercial
					●	●	Warehousing/Distribution
					●	●	Light Industrial
					●	●	Harbour Oriented Industrial
					●	●	General Industrial
●			●	●	●	●	Local Parks/Rec. Facilities
●		●	●	●	●	District Parks/Rec. Facilities	
●		●	●	●	●	City Parks/Rec. Facilities	
●		●	●	●	●	Regional Parks & Facilities	
●		●	●	●	●	Watershed	
●		●	●	●	●	Environmental Protection Area	
●		●	●	●	●	Local Institutional	
●		●	●	●	●	City/Regional Institutional	
●		●	●	●	●	Utilities	

*(As amended, By-law C-475, Sept 20/83)*

**Attachment B**  
**Excerpt from the Dartmouth Land Use Bylaw**

**R-1 ZONE - SINGLE FAMILY RESIDENTIAL ZONE**

- 32. (1) The following uses only shall be permitted in an R-1 Zone:
  - (a) Single family dwellings;
  - (b) churches or church halls;
  - (c) schools, colleges, universities, libraries, art galleries, and museums;
  - (d) public parks and playgrounds;
  - (e) tennis clubs, quoit clubs, lawn bowling clubs, archery clubs, golf clubs;
  - (f) yacht and boating clubs located within 200 feet of the shore of a lake or Halifax Harbour;
  - (g) uses accessory to any of the foregoing uses;
  
- (2) Buildings used for R-1 uses in an R-1 Zone shall comply with the following requirements:
  - (a) Lot area minimum - 5,000 square feet
  - (b) Lot coverage maximum - 35 %
  - (c) Side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building By-laws of the City.
  - (d) ***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, 2005 E - April 23, 2005)***

**32(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  
Minimum Rear Yard 8 feet***

**2. *The maximum building eave projection into the minimum required side yard shall be 2 feet***

***(Harbour East Community Council-November 1, 2001, Effective-November 25, 2001)***

## Attachment C

### Review of Other HRM Plan Areas Re: Institutional Uses in Residential Areas

#### *Cole Harbour/ Westphal (CHW)*

In this Plan Area, institutional uses are permitted in the P-2 (Community Facility) Zone as long as the zone requirements are met ( minimum lot size:10,000 sf; frontage:100'; front yard:30'; side/ rear yard:1/2 height of main building; maximum lot coverage: 50%). However, the MPS recognizes good reasons for institutional uses to locate in residential neighbourhoods and that such potentially 'high volume uses' can be designed, located and scaled to be integrated with residential areas. Policy UR-14 allows Council to permit community facility uses in residentially designated areas by *amendment to the land use by-law*, provided a number of criteria are satisfied. This approach allows Council the discretion to ensure that a proposal will not conflict with adjacent land uses, but does not require the negotiation of a development agreement.

#### *Eastern Passage/ Cow Bay*

A similar approach is taken in the Eastern Passage Cow Bay Plan Area. Here, the MPS also permits the consideration of most institutional uses in residential neighbourhoods by amendment to the land use by law, but requires development agreements for some types of institutional uses (residential care facilities, medical clinics, day cares, fraternal halls and community centres) recognizing that more site specific controls may be warranted in such instances.

#### *Downtown Dartmouth*

In the secondary planning strategy for Downtown Dartmouth, institutional uses are permitted in virtually all zones (Neighbourhood, Business District, Waterfront, and Marine Business) except the Park and Open Space zone, with no special requirements.

#### *Chebucto Peninsula*

Policy RES-7 of the MPS for Chebucto Peninsula allows Council to consider a rezoning within the residential designation to the "Community Facility" zone, provided certain criteria are met:

- (a) the compatibility of the community facility with adjacent and surrounding residential areas;
- (b) the adequacy of the parking area, its separation, landscaping or buffering as related to the protection of adjacent residential properties;
- (c) the effect on local traffic patterns, including ingress and egress, and impact of traffic on a residential area;
- (d) the adequacy of water and sewerage services; and
- (e) the provisions of Policy IM-10 (general implementation criteria)

#### *Bedford*

In Bedford, all new proposals for institutional uses within virtually any land use designation, require rezoning before a development permit is issued according to Policy S-3. The MPS directs Council to evaluate the rezoning based on general implementation criteria (Policy Z-3) dealing with such issues as compatibility, buffering, safe access, and adequacy of services like sewer, water, etc.

*Lawrencetown*

Policy P-7 of the MPS for Lawrencetown permits the establishment of institutional uses in residential areas subject to the negotiation of a development agreement (municipally owned institutional uses are not subject to this requirement). Council is directed to have regard to a number of criteria, including:

- (a) that the site exhibits characteristics which make the location particularly suitable for the proposed use;
- (b) that adequate separation distances are maintained from low density residential and that landscaping measures are carried out to reduce the visual effects of the proposed use;
- (c) the means by which solid and liquid waste will be treated;
- (d) that the architectural design & scale of any building(s) are compatible with nearby land uses;
- (e) the potential for adversely affecting nearby residential development;
- (f) the impact of the proposed use on traffic volume and the local road network, as well as traffic circulation in general, sighting distances and entrance to and exit from the site;
- (g) the general maintenance of the development;
- (h) the effects of the development on the natural environment as contained in a report from the appropriate Federal or Provincial Authority;
- (i) the effects of the development on heritage resources as shown on Map 3; and
- (j) the provisions of Policy P-61 (general implementation policy)

*15, 18, & 19*

In this plan area, certain institutional uses are permitted to locate in the Residential Designation, via land use bylaw amendment, recognizing such uses have potential conflicts due to traffic, parking and noticeable differences in appearance and scale. The P-2 (Community Facility) zone contains landscaping requirements to help ensure compatibility with adjacent residential development. In considering any amendments to the land use by-law to permit new community facility uses within the Residential Designation, Council shall have regard to the following:

- (a) the potential for adversely affecting adjacent residential development;
- (b) the impact of the proposed use on traffic volume and the local road network, as well as traffic circulation in general, sighting distances and entrance to and exit from the site;
- (c) preference for a site which is provided with sidewalks, or adequate pedestrian walkways, as well as street lighting;
- (d) that the facility provide a local community service;
- (e) that the architectural design, including the scale of any building and its exterior finish are compatible with adjacent land uses, as may be more particularly described in the Land Use By-law;
- (f) that the lot meets the lot standards of the P-2 (Community Facility) Zone; and
- (g) the provisions of Policy P-137.