



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 11.1.3

Halifax Regional Council
December 4, 2007

TO: Mayor Kelly and Members of Halifax Regional Council

A handwritten signature in cursive script, appearing to read "Dan English".

SUBMITTED BY:

Dan English, Chief Administrative Officer

A handwritten signature in cursive script, appearing to read "Wayne Anstey".

Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: September 12, 2007

SUBJECT: **Case 01054 - Amendments to all Municipal Planning Strategies -
Adult Daycares**

ORIGIN

At the July 5, 2007 Harbour East Community Council meeting, Council requested staff to initiate a process for the establishment of Adult Daycares by development agreement.

RECOMMENDATION

It is recommended that Regional Council:

1. Initiate a process to amend all the Municipal Planning Strategies and the corresponding Land Use By-laws to permit Adult Daycares; and
2. Direct staff to follow the public participation program as outlined in Attachment "A" of this report.

BACKGROUND

Adult daycares are presently deemed to be commercial uses and are permitted in most commercial areas. However, the preferred location and built form for such uses is residential rather than commercial. This led Harbour East Community Council to request staff to investigate options to permit these uses in areas other than commercial districts within the Dartmouth Plan Area.

DISCUSSION

Amendments to Municipal Planning Strategies (MPS) are not considered routine and while Council has the ability to amend an MPS, it is under no obligation to do so. Furthermore, the decision to amend or not to amend an MPS cannot be appealed. Requests for an MPS amendment are only considered when:

- a) there has been a change in circumstance since the Plan was adopted or last reviewed;
- b) there is a significantly different situation than what the Plan anticipated; or
- c) an error was made.

HRM's demographics are changing– the population is getting older. With an aging population, an increased demand for services that cater to seniors is expected. This demand can be expected to increase with time and the Municipality needs to be responsive to these pressures. Further to this, the Land Use By-laws are silent on the issue of short term care provisions for people with disabilities. Therefore, staff recommend that Regional Council consider amendments that would permit adult daycares throughout HRM, not just Dartmouth.

Adult daycares share many features and functions of childrens' daycares; hours of operation, land use impacts, and the type and level of services. They provide supervision to individuals who should not, for a variety of reasons, be left alone and require monitoring. The difference is that these services are offered to seniors and adults with disabilities instead of children.

Staff are reviewing existing childrens' daycare criteria, as shown in Attachment "B", to determine what criteria is applicable to adult daycares. Further, staff are reviewing how adult daycares are managed in other municipalities, which will help highlight issues and concerns that arise with these uses. Defining adult daycare is part of this process to ensure that they are not confused with other uses such as respite care facilities and residential care facilities.

Within HRM the different planning areas have different requirements for daycares. In general daycares are permitted as home occupations in all residential zones; however only Sackville, Dartmouth, Eastern Passage/ Cow Bay and Halifax permit them other than as home occupations. In these plan areas, daycares in residential districts may be considered by development agreement. Three of the districts, Eastern Shore East, Eastern Shore West and North Preston / Lake Major/ Lake Loon / Cherrybrook and East Preston, permit daycares as-of-right.

Unlike daycares for children, adult daycares do not require provincial licensing. Elements that are

covered by provincial licensing for childrens daycares may need to be addressed by the municipality when extending this service to adults. This could require different policies and/or approaches than what is currently used for childrens' daycares.

Public Participation:

Staff are proposing an alternative consultation process to the Public Participation Program adopted by Council in February 1997, as shown in Attachment "A". The MPS and LUB amendments would be region wide and it would be appropriate to consider a regional approach in this circumstance.

BUDGET IMPLICATIONS

None. The costs to process this HRM initiated amendment would 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.

ALTERNATIVES

1. Council may initiate the process to amend all Municipal Planning Strategies and Land Use By-laws to permit adult daycares. This is the recommended course of action.
2. Council may initiate the process to amend the Dartmouth Municipal Planning Strategy and Land Use By-law to permit adult daycares.
3. Council may refuse to initiate Municipal Planning Strategy amendments to permit adult daycares. This option is not recommended for the reasons stated in this report.

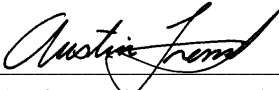
ATTACHMENTS


Attachment "A": Public Participation Program


Attachment "B": Excerpts from various Municipal Planning Strategies and Land Use By-laws

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.

Report Prepared by: Jennifer Chapman, Planner 490-3999

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

Financial Approval by: 
Catherine Sanderson, Senior Manager, Financial Services, 490-1562

Report Approved by: 
Sharon Bond, Acting Director, Community Development

**Public Participation Program
for Adult Day Cares**

Purpose:

To obtain public input on amendments to all Municipal Planning Strategies (MPS) and Land Use By-law's (LUB) to define and regulate Adult Day Cares.

Process:

In order to generate a comprehensive approach to define and regulate Adult Day Cares in HRM, staff recommend a single public participation program for the region. This process would allow the proposed amendments to be presented, discussed, and considered as a comprehensive package at a regional level.

Rationale:

An amendment to an individual MPS is currently a Regional Council issue, and the public participation process is generally handled on a community basis through discussions with individual communities and Community Councils as detailed in the Public Participation Program approved by Council in February 1997. Where the proposal is to amend all MPS's, it is not practical to hold discussions on a community or plan area basis. Therefore, staff recommends the public participation program be altered by Regional Council to ensure that the issue is addressed consistently throughout HRM. Nothing in this public participation program precludes Regional Council's ability to take other measures to obtain public opinion.

Proposed Steps:

Step 1: Consultation– Public Participation Meetings and Planning Advisory Committees

Public information meetings would be held in each of the three service regions of the municipality - East (Dartmouth-Eastern Shore), West (Halifax-Hubbards) and Central (Bedford/Sackville to Upper Sackville and Elmsdale). Staff would lead the meetings to first define adult daycares and then to generate discussion around policy and controls that could be used to manage this use. The two Planning Advisory Committees, through a joint session, would be invited to provide comments to staff following these public meetings.

Step 2: Regional Council

The results of the public participation program would be sent to Regional Council as part of the staff report detailing the proposed MPS and LUB amendments. Regional Council could require that:

- i) further information be provided; and/or
- ii) additional input be obtained prior to making any recommendation.

When Regional Council is satisfied with the proposed amendments to the various Municipal Planning Strategies and Land Use By-laws, Council would set the date for a public hearing and move 1st Reading on the proposed MPS/LUB amendments.

Attachment "B"

Excerpts from the Various Municipal Planning Strategies and Land Use By-law's

Dartmouth Municipal Planning Strategy and Land Use By-law

1. Day Nurseries

Day Nurseries are a necessary aspect of any community. They have been permitted, as of right, in Commercial, Industrial and Institutional Zones. Permitting day nurseries (other than home occupations) in areas designated Residential (Deleted-Reg.Council-July11/2000, Effective-Sept2/2000) on the Generalized land Use (G.L.U.) Map will make them accessible and convenient; at the same time it is necessary to reduce the impact of such development on residential and urban core areas, and to ensure their proper integration and compatibility with those areas. Day nurseries should be permitted in residential and urban core areas by Development Agreement, therefore, the merits of each proposed development can be considered individually, as they relate to the policies contained in this Municipal Planning Strategy.

Policy IP-2 *It shall be the intention of City Council to consider permitting the development of day nurseries (other than as home occupations) in Residential areas and areas designated (Deleted-Reg.Council-July11/2000, Effective-Sept2/2000) (outlined on Map 8a, 8b and the Generalized Land Use Map and amendments thereto) by development Agreement.*

It shall be the intention of City Council to allow only non-illuminated fascia signs on lands used for day nurseries.

It shall be the intention of City Council to require a site plan showing the proposed development including the location of buffers (fencing, hedges, screening) and the building.

In considering approval of such Development Agreements, Council shall consider the following matters:

- (a) compatibility of external appearance and scale of buildings with existing residential development;*
- (b) hours of operation;*
- (c) the criteria set out in Policy IP-1(c);*
- (d) parking; and*
- (e) buffers in the form of fences, screening and landscaping.*

(ma) DAY NURSERIES - a use of a property known as a day nursery school, kindergarten, play school or by any other such name, which for compensation or otherwise received children for temporary care or custody with or without educational purposes during all or part of the day, but does not include a nursery school or kindergarten conducted as part of a school, college, academy or other educational institution. (As amended by By-law C-618, Aug 21/87)

Sackville Municipal Planning Strategy and Land Use Bylaw

UR-15 Notwithstanding Policy UR-2, within the Urban Residential Designation, it shall be the intention of Council to consider medical clinics and larger day care facilities which are too extensive to be considered as a small business within a dwelling, 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 height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;
- (b) that site design features, including landscaping, outdoor play space where required, parking areas and driveways, are of an adequate size and design to provide for the needs of users of the facility, as well as to address potential impacts on adjacent development;
- (c) that controls on signage are appropriate with surrounding areas; (d) that the site is located in close proximity to a minor or major collector as defined on Map 3 - Transportation;
- (d) the impact on traffic circulation and, in particular, the suitability of access to and from the site;
- (e) the guidelines of the provincial licensing agency;
- (f) general maintenance of the development; and
- (g) the provisions of Policy IM-13.

2.17 DAY CARE FACILITY means a building, part of a building or other place, whether known as a day nursery, nursery school, kindergarten, play school or by any other name, the operator of which for compensation or otherwise receives, for temporary care or custody, on a daily or hourly basis, with or without stated educational purpose, during all or part of the day, apart from parents, more than three children not of common parentage and under ten years of age; but does not include a nursery school or kindergarten conducted as part of a school, college, academy or other educational institution where instruction is given in Grades Primary to VIII.

Eastern Passage/ Cow Bay Municipal Planning Strategy and Land Use Bylaw

UR-18 Notwithstanding Policy UR-17, within the Urban and Rural Area Designations, Council may consider medical clinics up to four (4) practitioners and day care facilities for four (4) children or more, according to the development agreement provisions of the Planning Act. In considering such agreements, Council shall have regard to the following:

- (a) that the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;
- (b) that site design features, including landscaping, outdoor play space where

required, parking areas and driveways, are of an adequate size and design to provide for the needs of users of the facility, as well as to address potential impacts on adjacent development;

- (c) that controls on signage are established which are appropriate with the surrounding area;
- (d) that sites shall have direct access onto either a minor or major collector road as defined on Map 3 - Transportation;
- (e) the impact on traffic circulation and, in particular, the suitability of access to and from the site;
- (f) the guidelines of any provincial licensing agency;
- (g) general maintenance of the development; and
- (h) the provisions of Policy IM-11.

2.14 DAY CARE FACILITY means a building, part of a building or other place, whether known as a day nursery, nursery school, kindergarten, play school or by any other name, the operator of which for compensation or otherwise receives, for temporary care or custody, on a daily or hourly basis, with or without stated educational purpose, during all or part of the day, apart from parents, more than three children not of common parentage and under ten years of age; but does not include a nursery school or kindergarten conducted as part of a school, college, academy or other educational institution where instruction is given in Grades Primary to VIII.

Halifax Municipal Planning Strategy and Land Use Bylaw

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.

"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.