

**Item No. 11.1.6**

**Halifax Regional Council  
February 5, 2008**

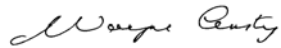
**TO:** Mayor Kelly and Members of Halifax Regional Council



**SUBMITTED BY:**

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Dan English, Chief Administrative Officer



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Wayne Anstey, Deputy Chief Administrative Officer - Operations

**DATE:** January 22, 2008

**SUBJECT:** **Case 01076: Amendments to the Beaver Bank, Hammonds Plains and Upper Sackville MPS and LUB**

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**ORIGIN**

An application by Wendy Gillespie and Del Clarke to amend the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Beaver Bank, Hammonds Plains and Upper Sackville to enable Council to consider applications for pet care facilities (kennels) through the development agreement process.

**RECOMMENDATION**

It is recommended that Regional Council:

1. Initiate a process to amend the Municipal Planning Strategy and Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville to enable Council to consider proposals for kennels through the development agreement process; and
2. Request that Staff follow the public participation program approved by Council in February 1997.

## **BACKGROUND**

### **Proposal**

Wendy Gillespie and Del Clarke are the owners of Pampered Paws Inn, a pet oriented business operated in conjunction with a dwelling, located at 1725 Hammonds Plains Road. Staff issued a permit for the Inn, in accordance with the LUB, to permit a bed and breakfast that caters to individuals travelling with their pets. The permit issued for the Inn clearly stated that the keeping of dogs overnight, except associated with the Inn, was not permitted under the current zoning. However, the owners now operate a dog care facility in addition to an Inn on the property which offers both day and overnight care of dogs.

In June 2007, as a result of a complaint received by staff, a Notice to Comply to cease the dog care facility was issued as a kennel is not a permitted use on the property. Uses involving the boarding or care of dogs fall under the definition of a kennel:

*Kennel means a building or structure used for the enclosure of more than two dogs which are kept for the purposes of commercial breeding or showing or for commercial boarding with or without veterinary care.*

In response, Ms. Gillespie and Mr. Clarke submitted a proposal to amend the MPS and LUB to establish a definition for “pet care facilities” and enable consideration of this new use by development agreement.

### **Plan Policy**

With the exception of most residential subdivisions, the majority of developed land in the plan area falls under one of the three mixed use designations: Mixed Use A (Beaver Bank and Windsor Junction), Mixed Use B (Hammonds Plains and Lucasville) and Mixed Use C (Upper Sackville). The subject property is designated Mixed Use B (MU-B) under the MPS.

The mixed use designations permit a range of residential, commercial, light industrial and resource development. The MPS identifies a desire to permit a greater diversity of land uses within the mixed use designations than elsewhere within the plan area while also reducing the potential for land use conflicts between this range of uses, such as kennels.

### **Zoning Provisions**

Within the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area, indoor kennels are permitted within the Highway Commercial (C-4) and Mixed Use 2 (MU-2) Zones and kennels are permitted within the Mixed Resource (MR-1) and General Use (GU-1) Zones.

The MR-1 and GU-1 Zones are primarily applied to large properties in the Upper Hammonds Plains area and are intended to accommodate resource uses that are unsuitable for more developed portions of the plan area. There has been some residential development on GU-1 and MR-1 zoned lands in the White Hills subdivision but restrictive deed covenants are applied to these residential lots to prevent their use for any business purpose.

There are only 20 properties within the plan area that are zoned C-4 and while there are a

significantly greater number of MU-2 zoned properties, these are almost exclusively located in Upper Sackville, not Hammonds Plains. The subject property is zoned Mixed Use 1 (MU-1) Zone under the LUB which does not permit kennel operations.

### **Other Current Applications**

On January 8, 2008 Regional Council initiated a process to consider amending the Halifax MPS and Peninsula LUB to enable consideration of dog care facilities in conjunction with residential dwellings by development agreement (Case 01095). During the discussion for this case, staff identified that other similar cases may come forward in the future and suggested it may be appropriate to consider the issue comprehensively through a region wide approach. Members of Council noted that because many plan areas accommodate the use now it is not necessary to undertake a region wide initiative.

### **DISCUSSION**

Generally, MPS amendments should only be considered where factors related to MPS policies have changed significantly. Ms. Gillespie and Mr. Clarke contend that the MPS did not envision the growth in the popularity of pet care facilities or the evolution of the industry from a focus on kennelling dogs in enclosures for extended periods, to the more recent and popular focus on supervised socialization of dogs in a less confined environment. Further, the owners believe that the growing demand for the service would be most appropriately accommodated through the development agreement process in areas zoned for mixed use development.

In addition to the subject property, several other kennel facilities have opened in HRM within the last few years. The majority of kennels or pet care facilities in HRM are located in either urban commercial/industrial areas or less densely populated rural residential or mixed use areas. Staff are unaware of any other kennel facility within the plan area.

A large portion of the plan area is comprised of suburban residential development and the demand for kennel facilities will likely increase along with the growing residential population. It is also important to note that there is a wide range of commercial uses permitted in the mixed use zones including full service restaurants, banks, cinemas, welding shops and trucking and excavation services.

The applicants propose that HRM establish a new use and definition for "pet care facilities". Staff are of the opinion that there is no benefit or rationale for establishing a separate definition for pet care facilities in this plan area. As part of Case: 01095, Council initiated the process to consider the establishment of a new use/definition for residential dog care facilities in the Peninsula LUB. In Halifax the boarding of animals is permitted in the General Business (C-2) and Industrial (C-3) Zones but, unlike most plan areas, the Peninsula LUB does not contain a specific definition for kennel. Since the subject property in that case is designated and zoned for residential use it is important to consider a new, carefully defined definition for the use.

Most HRM land use by-laws, including the Beaver Bank, Hammonds Plains and Upper Sackville LUB, define kennels as buildings used for commercial breeding, boarding and/or showing of 2 or

more dogs. The applicants contend that the nature of their operation provides a more social and dog oriented focus that differs significantly from traditional kennels and is more accurately depicted as a pet care facility. However, staff are of the opinion that while the applicants operation may provide a level of service that differs from traditional kennels, the land use characteristics and potential impacts are not substantially different to warrant establishment of a separate definition from a municipal land use perspective.

While the MPS does enable applications to rezone to the C-4 Zone, the rezoning process cannot address potential land use conflicts to the same degree or on such a site specific basis as the development agreement process. Furthermore, the C-4 Zone permits a wide range of intensive commercial uses. Therefore, staff are of the opinion that the development agreement process would be a more effective approach for managing the potential land use impacts of kennels than through the rezoning process. The development agreement approach would allow Council to establish eligibility and evaluation criteria for kennel operations and consider applications on a site by site basis.

### **Conclusion**

In order to accommodate the existing and future demand for dog care services in the plan area while minimizing the potential for associated land use impacts, staff recommend that Council initiate the process to amend the MPS to enable applications for kennels within the Mixed Use A, B and C designations through the development agreement process. If Council initiates the process to consider amendments to the MPS there will be an opportunity for the public to comment on the merits of the proposal. Council would have the discretion to either approve or refuse any proposed MPS amendments.

### **BUDGET IMPLICATIONS**

None. The HRM costs associated with processing this application can be accommodated within the approved 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 choose to initiate the MPS amendment process. This is the recommended course of action.
2. Council may choose not to initiate the MPS amendment process. Council is under no obligation to initiate a process to amend an MPS or to adopt requested amendments.

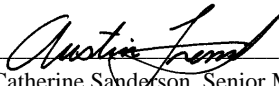
## ATTACHMENTS


None

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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