




PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 10.2.1

Halifax Regional Council
March 24, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
for Councillor Sue Uteck, Chair
Peninsula Community Council

DATE: March 13, 2009

SUBJECT: Case 01095 - MPS/LUB Amendments - Pet Care Facilities

ORIGIN

Peninsula Community Council meeting of March 9, 2009.

RECOMMENDATION

Peninsula Community Council recommends that:

Halifax Regional Council approve a site-specific amendment to the MPS/LUB and the proposed development agreement, as outlined in Attachment B of the December 15, 2008 staff report.

BACKGROUND/DISCUSSION

This matter was dealt with at the March 9, 2009 meeting of Peninsula Community Council. A report dated February 27, 2009 was submitted from the District 12 Planning Advisory Committee, with an attached staff report dated December 15, 2008.

Staff provided a presentation on the matter and responded to questions from Community Council. Subsequently, a motion was passed approving the 3rd option listed in the Alternatives section of the staff report (dated December 15, 2008).

BUDGET IMPLICATIONS

Please refer to the attached staff report (dated December 15, 2008).

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


Please refer to the attached staff report (dated December 15, 2008).

ATTACHMENTS

Attachment 'A' - District 12 Planning Advisory Committee report dated February 27, 2009
Attachment 'B' - Staff report dated December 15, 2008

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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:



Sheilagh Edmonds, Legislative Assistant



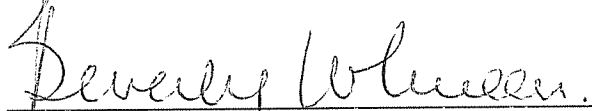
PO Box 1749
Halifax, Nova Scotia
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ATTACHMENT 'A'

Peninsula Community Council
March 9, 2009

TO: Peninsula Community Council

SUBMITTED BY:


Beverly Miller, Vice-Chair
District 12 Planning Advisory Committee

DATE: February 27, 2009

SUBJECT: Case 01095 - MPS/ LUB Amendments - Pet Care Facilities

ORIGIN

District 12 Planning Advisory Committee meetings - January 22 and February 26, 2009

RECOMMENDATION

The District 12 Planning Advisory Committee recommend that Peninsula Community Council recommend that Regional Council:

Support the staff recommendation to refuse to amend the Halifax Municipal Planning Strategy and Peninsula Land Use By-law, as contained in Attachment A of the report dated December 15, 2008, to allow for pet care facilities as home occupations within detached one family dwellings on the Peninsula by development agreement.

DISCUSSION

The Committee feels the proposed amendments to the Municipal Planning Strategy and Land Use By-law, as written, are not sufficient to meet the concerns that have been raised such as noise, odours, separation distances between facilities and neighbouring properties, and the number of animals. There is concern about protecting the quality of a neighbourhood and that the proposed amendments could result in a use that could potentially disrupt a stable residential neighbourhood.

ATTACHMENT

Staff report dated December 15, 2008

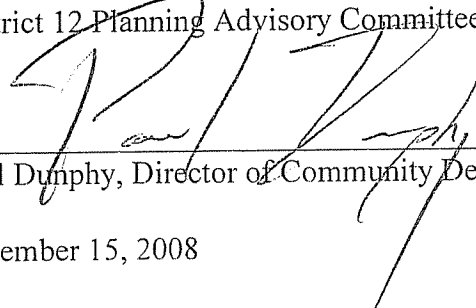
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.



PO Box 1749
Halifax, Nova Scotia
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District 12 Planning Advisory Committee
January 22, 2009

TO: District 12 Planning Advisory Committee

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: December 15, 2008

SUBJECT: **Case 01095 - MPS/LUB Amendment and Development Agreement, Pet Care Facility, 6430 Oak Street, Halifax**

ORIGIN

- Application by Janet Chernin of Canine Casbah, 6430 Oak Street, Halifax, to amend the Peninsula Land Use By-law to allow dog care facilities to be permitted in conjunction with residential dwellings;
- June 25, 2007 recommendation of District 12 PAC that the Halifax MPS/LUB be amended to allow pet care facilities by development agreement instead of by amending the LUB;
- July 9, 2007 refusal by Peninsula Community Council to amend the LUB and recommendation that Regional Council initiate amendments to the MPS/LUB;
- January 8, 2008 decision by Regional Council to initiate amendments to MPS/LUB;
- Public meeting of May 8, 2008.

RECOMMENDATION

It is recommended that the District 12 Planning Advisory Committee recommend that Peninsula Community Council recommend that Regional Council:

- Refuse to amend the Halifax Municipal Planning Strategy and Peninsula Land Use By-law, as contained in Attachment A of this report, to allow for pet care facilities as home occupations within detached one family dwellings on the Peninsula by development agreement.

EXECUTIVE SUMMARY

Regional Council has initiated amendments to the Halifax Municipal Planning Strategy (MPS) and Peninsula Land Use By-law (LUB) to consider pet care facilities in residential zones through the development agreement process. As part of this process, Council is to consider a specific request in order to allow for the continuance of an existing facility at 6430 Oak Street, Halifax which is not currently permitted by the LUB.

Currently, pet care facilities on the Peninsula are generally permitted in major commercial and industrial zones. Throughout the remainder of HRM, they are also permitted in some mixed use, rural and agricultural zones. On the Peninsula, there is an abundance of appropriately zoned land to meet the demand for these facilities. Research of other Canadian municipalities has shown that these facilities are generally not permitted within urban residential areas.

Existing MPS objectives and policies call for maintaining the integrity, stability and character of low-rise residential areas. Limited commercial uses are accommodated in these areas, provided their intensity is controlled so that they are compatible with, and do not conflict with, the character of the residential neighbourhoods. Given the small lot sizes prevalent within residential neighbourhoods on the Halifax peninsula, there is a high potential for land use conflicts to result. The development agreement process cannot mitigate against the small lot sizes to effectively address the issues and concerns related to these facilities. Should Council approve pet care facilities by development agreement, then any future noise complaints resulting from such facilities could prove to be difficult or impossible to enforce through HRM's Noise and Animal Control By-laws and Council may not have the ability to refuse future development agreement proposals as a result. Due to these factors, an amendment to the MPS to allow such facilities is not recommended as it would run counter to its intent. Therefore, staff recommend refusal of the proposed MPS/LUB amendments. There is no appeal of a refusal or approval of an MPS amendment.

If Regional Council decides to hold a public hearing, the appropriate MPS/LUB amendments are contained in Attachment "A". A proposed development agreement for Peninsula Community Council's consideration at 6430 Oak Street, Halifax, is contained in Attachment "B" should the MPS/ LUB amendments be adopted. A joint public hearing can be held.

BACKGROUND

At the January 8, 2008 meeting of Regional Council, the following motion was approved:

"MOVED by Councillor Fougere, seconded by Councillor Sloane, that Regional Council initiate a process to amend the Halifax Municipal Planning Strategy and Peninsula Land Use By-law to consider pet care facilities in residential zones through the development agreement process."

This motion stemmed from an application by Janet Chernin of Canine Casbah, 6430 Oak Street, Halifax, to amend the Peninsula Land Use By-law to allow dog care facilities to be permitted in conjunction with residential dwellings in urban residential neighbourhoods in order to permit continuation of her existing business (Case #00918). Ms. Chernin has operated her business involving the care and boarding of dogs out of her dwelling for approximately 13 years. In 2005, upon learning of the business, staff determined that the use was not permitted by the Land Use By-law and a Notice to Comply to cease the operation was issued. Staff have proceeded to file charges in Provincial Court and a trial date has not been set yet. Despite the land use violation, the business has continued to operate.

The following is a brief chronology of the events following the original application:

- October 2006: Public Information Meeting held re: LUB amendment application (Case #00918);
- May 2007: Staff Report recommends refusal of application;
- June 2007: Peninsula Community Council (PCC) sets date for public hearing;
- June 2007: District 12 Planning Advisory Committee recommends that PCC request that Regional Council: 1.) initiate amendments to the MPS to allow pet care facilities through the development agreement process, and 2.) initiate a process to develop a by-law which deals with the licensing of such facilities;
- July 2007: PCC holds Public Hearing; PCC refuses LUB amendment and passes motion requesting Regional Council to initiate 1.) MPS amendment process and 2.) separate by-law process re: licensing of such facilities;
- July 2007: Letter sent to applicant re: right to appeal PCC decision to NSUARB (planning process ends);
- December 2007: Staff report recommends that Regional Council refuse to initiate MPS amendment (Case #01095);
- January 2008: Regional Council initiates MPS amendment/ development agreement (new planning process begins). Council does not initiate separate by-law process re: licensing;
- May 2008: Public Meeting held re: MPS amendment/ development agreement.

Land Use Regulation of Pet Care Facilities:

HRM:

In general, most land use (zoning) by-laws do not contain a separate definition of animal or pet care facilities, but classify such land uses as kennels or vet clinics. In HRM, kennels are typically not permitted in urban residential areas and, to some degree, in urban commercial areas. Generally, they are restricted to major commercial, industrial, agricultural or rural residential zones where the outdoor activity of dogs and other animals would have less impact on, and would be located further from, surrounding residential areas. Vet clinics, on the other hand, are generally permitted in most urban commercial as well as industrial zones, but typically do not involve any outdoor activity.

Halifax Peninsula zoning:

The LUB does not specifically define “kennel” or “pet care facility”, but these facilities are permitted in the C-2 (General Business) and C-3 (Industrial) zones as generic “commercial enterprises”. Generally, these zones are found on the peninsula in the downtown and port areas, in a large portion of the northern peninsula (including portions of Robie, Agricola, Gottingen, North, Isleville, Almon, and Young Streets, Lady Hammond Road and all of Kempt Road) and on sites in the western peninsula (including the shopping centres) (refer to Map 3).

Other Municipalities Across Canada:

Staff reviewed land use regulations of 15 municipalities of various sizes across Canada to determine whether such facilities are permitted in urban residential areas and how they are regulated. The municipalities which were reviewed are:

St. John’s, NL	Kitchener, ON	Hamilton, ON	Calgary, AB	Vancouver, BC
Kingston, ON	Toronto, ON	Winnipeg, MB	Edmonton, AB	Victoria, BC
Ottawa, ON	Brock, ON (Township)	Saskatoon, SK	Whitehorse, YT	Kelowna, BC

- None of the above noted municipalities allow pet care facilities or the keeping of animals as a home occupation within urban residential areas, with the exception of Kingston and Victoria.
- In the case of Kingston, the home occupation section of the LUB prohibits the outdoor enclosure of animals, but does not specifically prohibit the keeping of animals indoors. Also, overnight stays (boarding) are not permitted. Kingston staff are not aware of any existing facilities.
- In the case of Victoria, kennels are prohibited as home occupations, but the LUB does not define “kennel”, so a few pet care facilities have been permitted in the past, but have been very limited in scope and subject to the requirements of their Noise By-law. As a result, due to neighbourhood noise complaints, these facilities have closed. Most facilities in Victoria now locate in industrial areas.
- One municipality, Winnipeg, allows pet care facilities in some residential areas as a “Conditional Use”. A conditional use is an administrative process which includes public (neighbourhood) input. The municipality has received only one such application and set strict conditions on the use (6 dogs maximum, no overnight stays, hours limited to weekdays only, no outdoor activity, no open windows or doors, etc.). However, there was neighbourhood opposition, so the applicant withdrew the request.

- Two municipalities, Kitchener and Brock, have adopted separate by-laws which deal with the licensing and regulation of dog daycares. However, in both cases, the LUB does not permit these facilities in residential zones.

Synopsis of Proposal:

This proposal involves amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use By-law (LUB) to allow for the consideration of pet care facilities within detached one family dwellings on the Peninsula through the development agreement process. As part of the amendment request, Council is being asked to consider a development agreement for the existing facility on Oak Street.

Location, MPS Designation and Zoning:

The subject property is located at the intersection of Oak and Kline Streets, Halifax (refer to Maps 1 and 2). The site is approximately 2,790 square feet in area and contains a detached one family dwelling. The site is designated Residential Environments on the Generalized Future Land Use Map and is zoned R-2 (General Residential).

The MPS and LUB amendments that are necessary to accommodate the Oak Street proposal include the following (refer to Attachment A):

- new MPS Implementation Policy to enable the development agreement process for pet care facilities as a form of home occupation anywhere on the Halifax Peninsula, similar to that which exists for child care centres; and
- new LUB definition of “Residential Pet Care Facility” which allows for the temporary care or boarding of up to twelve dogs or cats.

The proposed development agreement includes the following provisions for the pet care facility at 6430 Oak Street (refer to Attachment B):

- care / boarding of up to twelve dogs, not including those of the operator;
- hours for dog drop-off/ pick-up restricted to early morning and late afternoon;
- outdoor activity generally prohibited between 11pm and 7am;
- outdoor activity area limited to rear yard; area must be surrounded by 6 ft. privacy fence;
- maximum floor area of 850 square feet and confined to one level of dwelling, except that accessory buildings may be used for storage purposes; and
- limitation on business sign.

Comparison to As-of-Right Home Occupations:

The proposed pet care facility would differ from traditional home occupations which are permitted as-of-right on the Peninsula in the following ways:

- home occupations do not permit the keeping of animals;
- the use of outdoor (backyard) space and accessory buildings is prohibited;

- home occupations are only permitted up to 400 square feet (versus 850 square feet for pet care facilities); and
- the ability to have an employee as part of the operation is prohibited.

Other Current Applications Involving Kennels

Regional Council has recently dealt with the issue of pet care facilities or kennels in other parts of HRM, albeit in more rural settings. Council approved an amendment to the MPS/LUB for Beaverbank, Hammonds Plains and Upper Sackville on September 16, 2008 to allow for the Pampered Paws kennel/ dog boarding operation at 1725 Hammonds Plains Road (Case #01076). Western Region Community Council approved the development agreement on October 28, 2008. Recently, staff have also opened Case 01155 at the request of Marine Drive, Valley and Canal Community Council (MDVCCC) to consider amendments to where and how kennels are permitted in Planning Districts 14 and 17, Planning Districts 8 and 9, and Lawrencetown plan areas.

Timing of process relative to Pampered Paws Inn, Hammonds Plains

Questions have arisen as to the timeframes involved in this application versus the Pampered Paws kennel/ dog boarding operation at 1725 Hammonds Plains Road, west of Pockwock Road (Case #01076), which was initiated at roughly the same time but has already been approved by Council.

The circumstances between the two cases are very different. Some of the key differences between the two cases are:

- this process (Canine Casbah) began as an LUB amendment which was refused PCC, who then recommended the MPS amendment/ DA process. Therefore, this is the second planning process involved;
- the characteristics of the communities are very different. In the case of Pampered Paws, the area is more rural in nature with large lot sizes and the property is zoned and designated as Mixed Use;
- Staff were able to support the Pampered Paws application as it was in keeping with the land use designation, there was clear rationale for the MPS amendment and a limited amount of land available for such uses within that plan area;
- in the present case (Canine Casbah), it was necessary to conduct research across Canada to verify whether other municipalities permit similar operations within urban residential areas for comparison purposes.

DISCUSSION

Residential Environments: Intent of the MPS:

The Halifax MPS, through the Residential Environments objectives and policies, calls for maintaining the integrity, stability and character of low-rise residential areas (refer to Attachment C). Limited commercial uses are accommodated in these areas, provided their intensity is controlled

so that they are compatible with, and do not conflict with, the character of the residential neighbourhoods. As such, residential zones in Halifax currently permit, in addition to dwellings, a variety of business uses and care facilities such as home occupations, bed and breakfasts, child care centres and special care homes.

Is an Amendment to the MPS Warranted?:

Generally, MPS amendments should only be considered where conditions related to the intent of MPS policies have changed significantly. As outlined in the Background section, there is an abundance of properties within the Peninsula and other areas of HRM in which the current zoning (major commercial, industrial, rural and agricultural) permits pet care facilities as-of-right. Many of these are located within and surrounding the urban core. On the Halifax peninsula, this zoning is generally found in the downtown and the northern and western areas of the peninsula. The commercially zoned areas of the Peninsula include numerous residential dwellings, so the “in-home” environment of pet care facilities could be fostered and maintained in these locations.

Staff use the term “pet care facilities” in this report and in the draft MPS/LUB amendments. However, such facilities are, essentially, kennels. Although many would contend that there are differences between pet care facilities and traditional kennels, the land use impacts of these facilities, such as noise and odours, are essentially the same. Despite the growth in the popularity of these facilities and the evolution of the industry from kennelling dogs to the more recent and popular focus on supervised socialization of dogs in a home-like environment, there is still ample opportunity for these uses to be established within non-residential areas. Given the small lot sizes prevalent within residential neighbourhoods on the Halifax peninsula, there is a high potential for land use conflicts to result. Due to these factors and the current MPS policies which call for controls on the intensity of home occupations to ensure neighbourhood compatibility, an amendment to the MPS to allow such facilities is not warranted and would run counter to its intent.

Lack of Effectiveness: Development Agreements

Although it has been suggested that pet care facilities would be appropriately accommodated through the development agreement process within urban residential areas, the agreement process cannot effectively address the issues and concerns related to these facilities. Apart from the range of land use by-law regulations which can be applied to such facilities through as-of-right zoning, the only additional regulatory tools which can be utilized in a development agreement of this nature are the control of hours of operation and maintenance of a commercial business. The draft agreement (Attachment B) contains limitations on the hours for dog drop-off and pick-up as well as outdoor activity. However, while these clauses may be acceptable to Ms. Chernin, they are difficult or impossible to enforce by staff. Furthermore, the agreement cannot enforce or address the key issues related to these facilities, such as noise, odours, staffing levels and training, quality of care and facility cleanliness. Therefore, while Ms. Chernin’s current facility may be of a high standard and result in no complaints from nearby residents, future facilities, including this one if Ms. Chernin sells

the property to another operator, may be of a much lesser quality and result in complaints. Staff acknowledge as well that there may be existing illegal facilities currently in operation which may come forward for development agreement approval in the event that Council approves the MPS/LUB amendments.

Lack of Enforceability - Other HRM By-laws:

If Council enables pet care facilities by development agreement, then any future noise complaints resulting from such facilities could prove to be difficult or impossible to enforce through HRM's Noise and Animal Control By-laws. The ability to prosecute would likely be greatly reduced, since these facilities would, in effect, be sanctioned by the agreement. Nonetheless, in the event that the proposed amendments and the subject development agreement are approved and there is a future breach of the agreement, such as noise after 11 pm, then staff would seek prosecution as a result of the breach.

Limitations on Council's Ability to Refuse Future Facilities:

As indicated above, staff are concerned with the potential standards of future facilities and resultant land use conflicts. To provide Council with the ability to approve the Oak Street facility, it was necessary for staff to draft MPS criteria which could accommodate Ms. Chernin's operation, even though it is felt that this criteria is not rigorous enough. Because of the site constraints of this location, such as the small lot size and the close proximity of the outdoor play area to neighbouring properties, it is very difficult to address potential conflicts and nuisance issues .

Staff have drafted the MPS/LUB amendments and development agreement (Attachment A) for Council as an alternative to the staff recommendation. Should Council approve these amendments, it is important to note that there would be very little basis by which future proposals could be refused. If Council were to refuse a development agreement application which met the MPS criteria, then it is likely that Council's decision could be overturned at the NSUARB.

Comparison to Child Care Centres:

It has been suggested that the need for pet care facilities is similar to that of child care centres and that such facilities should be permitted by development agreement in a similar fashion. Currently, the Halifax MPS and LUB permit as-of-right child care centres for up to 14 children within dwellings and allows for larger child care centres through the development agreement process. It is important to note, however, some of the key differences and issues between these land uses. Child care centres, as defined in the LUB, are regulated and licensed by the Province and are subject to periodic inspections and stringent requirements. There is a much greater demand and need for child care services than for pet care facilities in residential neighbourhoods as the public has come to expect and require supervised child care within or close to their neighbourhoods. The same is not true for pet care facilities. It should also be noted that there have been issues and complaints with regard to child care centres in residential areas, most notably in the Mainland area of Halifax, which may result in changes to how these uses are regulated by the LUB.

Conclusion:

Staff recommend refusal of the proposed MPS/LUB amendments and development agreement as there is currently an abundance of appropriately zoned land available to accommodate such facilities. Furthermore, Council is advised that there are potentially irreversible ramifications which may negatively impact upon the character and stability of residential neighbourhoods on the Peninsula should Council approve the proposal.

Public Comments / Notification Area

A public information meeting was held on May 8, 2008. Minutes of the meeting are included as Attachment D. Comments received during the information meeting were largely in favour of Ms. Chernin's current operation and the development agreement proposal. There were also comments related to the need for a by-law which deals with licensing of facilities. Council chose not to pursue the creation of a licensing by-law.

The notification area which was utilized for the public information meeting is indicated on Map 2. If Council decides to hold a joint public hearing with PCC regarding this application, property owners within this area will be notified. As well, ads will be placed in a local newspaper (Chronicle Herald) as per the public participation requirements of the *Municipal Government Act*.

Written submissions are included as Attachment E.

BUDGET IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved operating budget for C310.

There are no budget implications associated with the processing of the Development Agreement. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved budget with existing resources.

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. Refuse the requested amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use By-law. Regional Council is under no obligation to consider a request to amend its MPS and a decision not to amend the MPS cannot be appealed. This is the recommended course of action.

2. Approve the proposed amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use By-law (Attachment A) and the proposed development agreement (Attachment B).
3. Approve a site-specific amendment to the MPS/LUB and the proposed development agreement (Attachment B). This is not recommended as staff feel there are no unique site or land use planning characteristics which would warrant an amendment for this particular site.
4. Approve the proposed MPS/LUB amendments and development agreement with changes. This may require further negotiations between staff and the Developer.

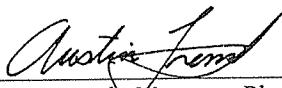
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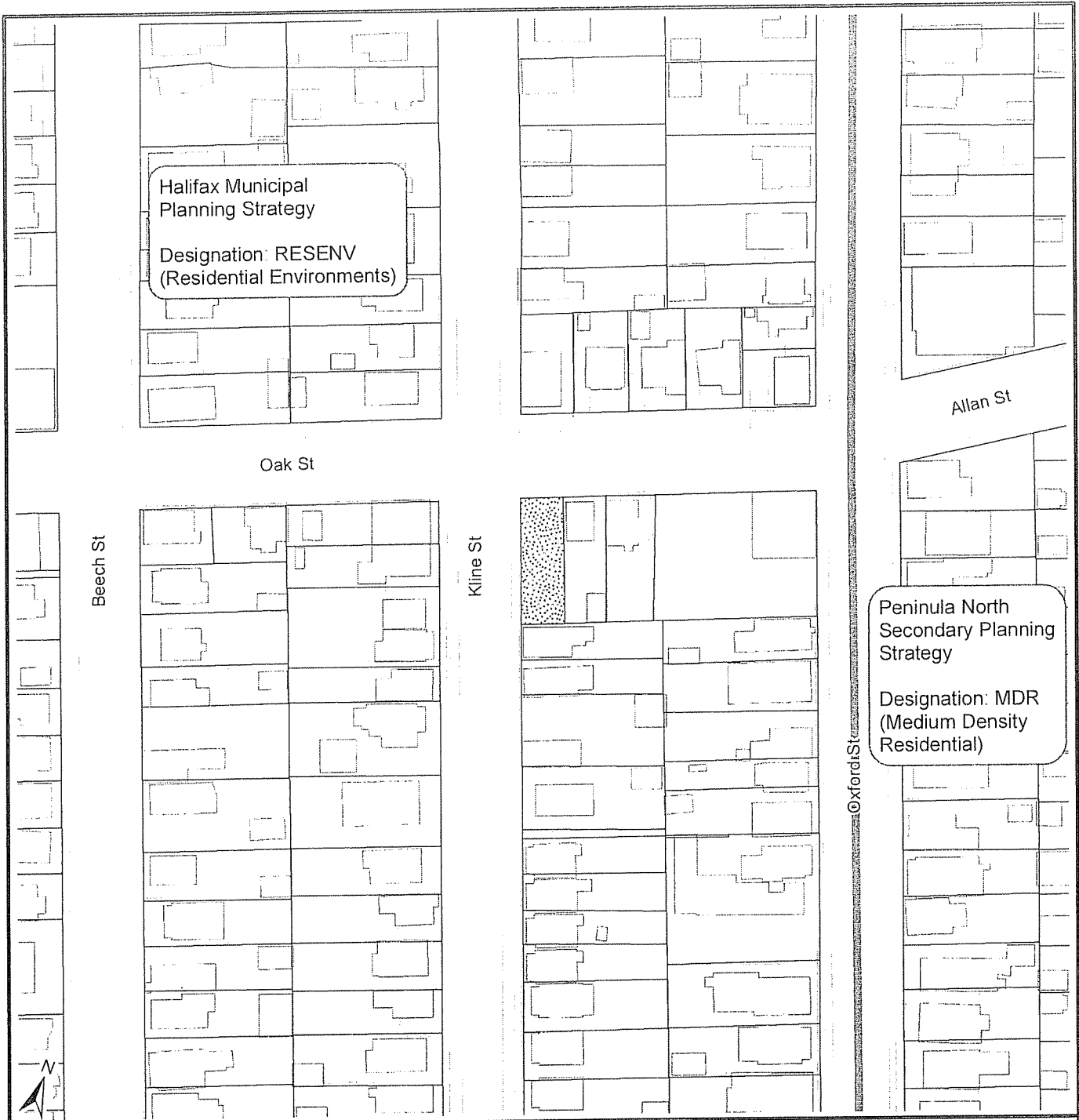
- Map 1 Generalized Future Land Use Map
- Map 2 Location / Zoning and Area of Notification
- Map 3 Zones Allowing Pet Care Facilities
- Attachment A Proposed Amendments to the Halifax MPS and LUB
- Attachment B Proposed Development Agreement with Schedules
- Attachment C Most Relevant Excerpts from MPS/LUB
- Attachment D Minutes from May 8, 2008 Public Meeting
- Attachment E Written Submissions

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: Paul Sampson, Planner I, Community Development, 490-6259


Report Approved by:


Austin French, Manager, Planning Services, 490-6717



Map 1 - Generalized Future Land Use

6430 Oak Street
Halifax

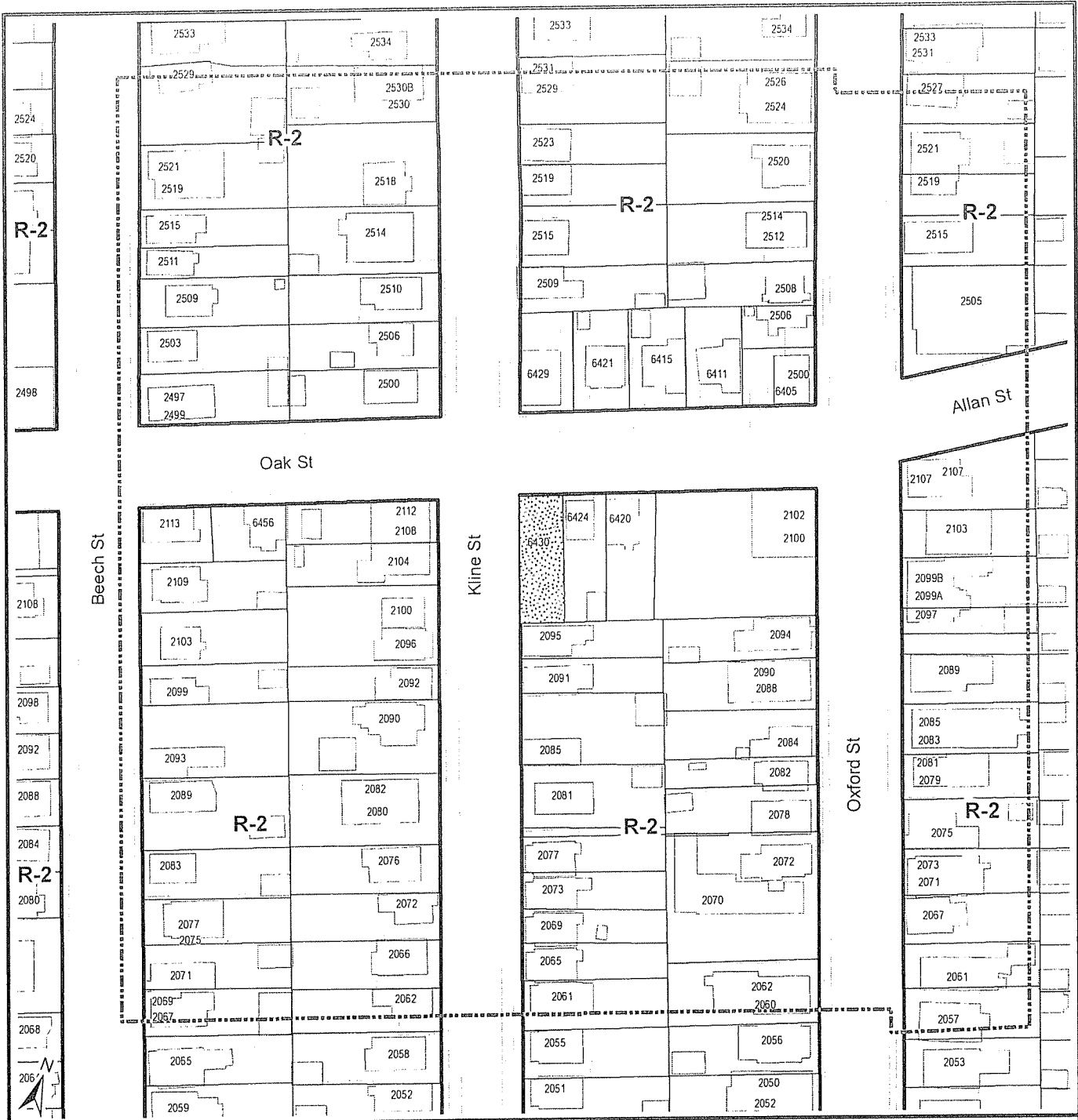
 Subject area

Halifax Plan Area
Peninsula North Secondary Planning Strategy



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan Area



HRM does not guarantee the accuracy of any representation on this plan



Map 2 - Location and Zoning

6430 Oak Street
Halifax



-  Subject area
-  Area of notification

Zone
R-2 General Residential

Halifax Peninsula
Land Use By-Law Area

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law Area

HRM does not guarantee the accuracy of any representation on this plan



**Map 3 - Zones Allowing Pet Care Facilities (Kennels)
Halifax Peninsula**



 Selected zone

Halifax Peninsula
Land Use By-Law Area

Zones (shown) which allow kennels:

- C-2 General Business
- C-2D General Business - Spring Garden Road
- C-3 General Industrial

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law Area

HRM does not guarantee the accuracy of any representation on this plan.

ATTACHMENT A

PROPOSED AMENDMENTS TO THE HALIFAX MPS AND LUB

**HALIFAX REGIONAL MUNICIPALITY
A BY-LAW TO AMEND THE HALIFAX MUNICIPAL PLANNING STRATEGY
CASE #01095**

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

1. Add the following Implementation Policies immediately following policy 3.21:
 - 3.22 Further to Policies 2.4, 2.4.1, 2.4.2 and 2.4.2.1 of Section II of this Plan, the City may permit, by development agreement, the establishment of residential pet care facilities within detached one family dwelling houses in the Peninsula area.
 - 3.22.1 In considering approval of such development agreements for residential pet care facilities, Council shall consider the following:
 - a) that limitations be placed on the number of pets (dogs, cats) permitted within the facility, and in no case shall the number of pets exceed twelve, exclusive of those of the operator;
 - b) the hours of operation (for pet drop-off / pick-up and outdoor socialization/play) shall be such that adverse impacts of noise and traffic movements on adjacent residential uses are minimized;
 - c) that limitations are placed on the floor area devoted to the pet care facility within the dwelling;
 - d) the lot on which such facility may be operated shall be of a size which allows for adequate separation distance between the facility and abutting properties;
 - e) that any outdoor activity area associated with such facility be restricted to dogs only, be located within the rear yard, be enclosed by a solid, view-obstructing fence and be adequately set back from abutting residential properties;
 - f) a maximum of one employee, in addition to the operator of the facility, may be permitted;

- g) signs for the facility shall be of a size, design and placement on the lot which reduces impacts on adjacent residential uses;
- h) all other relevant policies of the municipal planning strategy with particular reference to the Residential Environments section.

THIS IS TO CERTIFY that the amendments to the Halifax Municipal Planning Strategy, as set out above, were passed by a majority vote of Halifax Regional Council at a duly called meeting on the _____ day of _____, 2009.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this _____ day of _____, 2009.

Julia Horncastle
Acting Municipal Clerk

**HALIFAX REGIONAL MUNICIPALITY
A BY-LAW TO AMEND THE HALIFAX PENINSULA LAND USE BY-LAW
CASE #00971**

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Peninsula Area Land Use By-law of Halifax as enacted by City Council of the City of Halifax on the 30th day of March, 1978 and approved by the Minister of Municipal Affairs on the 11th day of August 1978 as amended, is hereby amended as follows:

1. Add the following new definition, in alphabetical order, to Section 1:

“**Residential Pet Care Facility**” means a home occupation within a detached one family dwelling house, which is the principal residence of the operator of such facility, for the temporary care or boarding of not more than twelve dogs or cats for gain or profit, but shall not include the breeding or sale of such animals.”

2. Add section 99(13) to the Halifax Peninsula Land Use By-law as follows:

“**99(13) Residential Pet Care Facilities**”

Council may, by development agreement, pursuant to Section II and the Implementation Policies of the Municipal Planning Strategy, permit a residential pet care facility in accordance with Implementation Policies 3.22 and 3.22.1”

THIS IS TO CERTIFY that the amendments to the Peninsula Land Use By-law, as set out above, were passed by a majority vote of Halifax Regional Council at a duly called meeting on the _____ day of _____, 2009.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this _____ day of _____, 2009.

Julia Horncastle
Acting Municipal Clerk

ATTACHMENT B

THIS AGREEMENT made this _____ day of _____, 2009,

BETWEEN:

JANET WILMA CHERNIN,
an individual, in the Halifax Regional Municipality,
Province of Nova Scotia (hereinafter called the

"Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 6430 Oak Street, Halifax (PID # 00023713) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for a pet care facility in conjunction with a single-unit residential dwelling on the Lands pursuant to the provisions of the *Municipal Government Act* and pursuant to the provisions of the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law;

AND WHEREAS the Halifax Peninsula Community Council, at a meeting held on _____, 2009, approved the said agreement to allow for a pet care facility in conjunction with a single-unit residential dwelling on the lands (referenced as Municipal Case Number 01095) subject to the registered owner of the lands described herein entering into this agreement;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.2 Applicability of Land Use By-law and Subdivision By-law

Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Halifax Peninsula Land Use By-law and the Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other By-laws, Statutes and Regulations

Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and the Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

1.4 Conflict

Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and the Subdivision By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

Where the written text of this agreement conflicts with information provided in the Schedules attached to this agreement, the written text of this agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any lands.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

- 2.1 All words unless otherwise specifically defined herein shall be as defined in the Halifax Peninsula Land Use By-law and Subdivision By-law.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer agrees to develop and use the lands for a detached one family dwelling house and residential pet care facility in a manner, which, in the opinion of the Development Officer, is generally in conformance with Schedule B attached to this agreement and filed in the Halifax Regional Municipality as Case Number 01095.

The Schedules are:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan

3.2 General Description of Land Use

The use(s) of the Lands permitted by this Agreement are the following:

- (a) A Residential Pet Care Facility (for dogs), as illustrated on Schedule B and set out in this Agreement; and
- (b) Any use permitted within the existing zone applied to the Lands subject to the provisions contained within the Halifax Peninsula Land Use By-law as amended from time to time.

3.3 Detailed Provisions for Land Use

3.3.1 Notwithstanding Section 16B, clauses 1, 3, 4, 6, 7 and 11 of the Peninsula Land Use By-law, the developer agrees that the residential pet care facility shall comply with the following:

- a) the number of pets (dogs) being cared for shall not exceed twelve, excluding those under the personal ownership of the developer;
- b) the hours of operation for pet drop-off and pick-up shall be limited to between 7:00am and 9:30am and between 4:00pm and 6:30pm;
- c) outdoor activity (dog socialization/play) shall be prohibited between the hours of 11:00pm and 7:00am;

- d) the facility shall occupy no more than 850 square feet of gross floor area of the dwelling and shall be confined to one storey of the dwelling. This storey may be the basement. Accessory buildings may be used for storage purposes for the facility;
- e) a maximum of one employee, in addition to the operator of the facility, may be permitted. The facility shall be staffed at all times with either the operator or employee on-site during all periods that dogs are being boarded on the Lands;
- f) the outdoor activity area (for dog socialization/play) shall be fully enclosed by a minimum 6 foot high solid view-obstructing fence with secure gates. Such outdoor activity area shall only be permitted in the rear yard;
- g) one non-illuminated advertising sign shall be permitted up to one square foot in area indicating the name of the facility;
- h) the facility shall otherwise comply with the provisions of Section 16B (Home Occupations) of the Land Use By-law.

3.3.2 Development Permit

The Developer agrees to obtain a Development Permit with the Municipality in accordance with Section 6.3.

4.0 AMENDMENTS

4.1 Substantive Amendments

Amendments to any matters not identified under Section 4.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Municipal Government Act*.

4.2 Non-Substantive Amendments

The following items are considered by both parties to be non-substantial matters and may be amended by resolution of Regional Council:

- (a) the granting of an extension to the date of commencement of the land use (pet care facility) as identified in Section 6.3.1 of this agreement;
- (b) the length of time for the completion of the use as identified in Section 6.3.3 of this agreement;

5.0 ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

5.1 Enforcement

The Developer agree that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees allow for such an inspection during any reasonable hour within one day of receiving such a request.

5.2 Failure to Comply

If the Developer fail to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:

- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy; and/or
- (b) the Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the development agreement, whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants or remedial action, shall be a first lien on Lands and be shown on any tax certificate issued under the *Assessment Act*.
- (c) the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the use of the Lands shall conform with the provisions of the Land Use By-law; and/or
- (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the *Municipal Government Act* or Common Law in order to ensure compliance with this Agreement.

6.0 REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

6.1 Registration

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds or Land Registration Office for Halifax, Nova Scotia and the Developer shall incur all cost in recording such documents.

6.2 Subsequent Owners

- 6.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the lands which is the subject of this Agreement until this Agreement is discharged by the Council.
- 6.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

6.3 Commencement of Use

- 6.3.1 In the event that the use (pet care facility) on the Lands has not commenced within two years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of the land use.
- 6.3.2 For the purposes of this section, commencement shall mean the issuance of a Development Permit for the Residential Pet Care Facility.

6.4 Completion of Use

Upon the completion of the land use or portions thereof, or within/after ten years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office, whichever time period is less, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement, on the condition that for those portions of the land use that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Halifax Peninsula, as may be amended from time to time.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2009.

SIGNED, SEALED AND DELIVERED in
the presence of

JANET WILMA CHERNIN

Per: _____

Per: _____

SEALED, DELIVERED AND ATTESTED
to by the proper signing officers of Halifax
Regional Municipality duly authorized in that
behalf in the presence of

=====

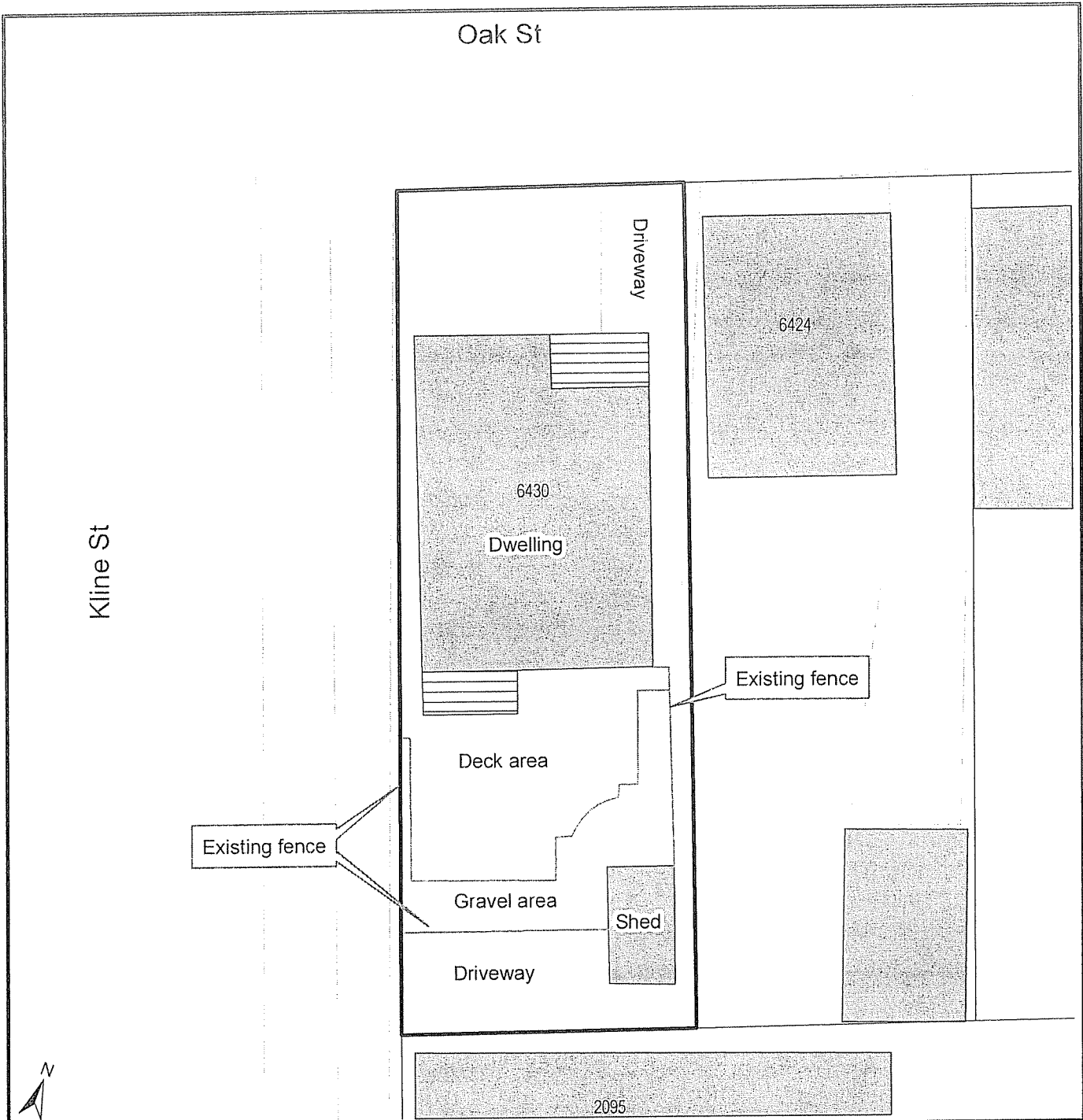
HALIFAX REGIONAL MUNICIPALITY

Per: _____

Mayor

Per: _____


Municipal Clerk



Schedule B - Site Plan

6430 Oak Street
Halifax



 Subject property

Halifax Peninsula
Land Use By-Law Area

HRM does not guarantee the accuracy of
any representation on this plan.

ATTACHMENT C

Most Relevant Sections of Municipal Planning Strategy and Land Use By-law:

HALIFAX MUNICIPAL PLANNING STRATEGY - SECTION II (CITY-WIDE):

2. RESIDENTIAL ENVIRONMENTS

- Objective The provision and maintenance of diverse and high quality housing in adequate amounts, in safe residential environments, at prices which residents can afford.
- 2.1 Residential development to accommodate future growth in the City should occur both on the Peninsula and on the Mainland, and should be related to the adequacy of existing or presently budgeted services.
- 2.1.1 On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhoods; and the City shall develop the means to do this through the detailed area planning process.
- 2.2 The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.
- 2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.
- 2.4.1 Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.
- 2.4.2 In residential neighbourhoods alternative specialized housing such as special care homes; commercial uses such as daycare centres and home occupations; municipal recreation facilities such as parks; and community facilities such as churches shall be permitted. Regulations may be established in the land use bylaw to control the intensity of such uses to ensure compatibility to surrounding residential neighbourhoods.

- 2.4.2.1 Pursuant to 2.4.2 the land use bylaw may regulate the number, size, height, illumination and location of signs.

LAND USE BY-LAW - HALIFAX PENINSULA:

HOME OCCUPATIONS - BED AND BREAKFAST

- 16B Where home occupations are permitted under this by-law, such home occupation shall comply with the following:
- (1) No person who is not a resident of the dwelling unit shall be the proprietor of, or shall be employed in, a home occupation;
 - (2) Only one home occupation shall be permitted per lot;
 - (3) Such home occupation shall be confined to one storey of the dwelling and shall not occupy more than 50 percent of the floor area of such storey to a maximum of 400 gross square feet;
 - (4) No interior or exterior alterations or additions shall be permitted not normally associated with a dwelling;
 - (5) Except for articles manufactured on the premises, no stock in trade shall be displayed or sold on the premises;
 - (6) The home occupation shall be conducted in such a way that it shall not be apparent from the outside of the dwelling that it is used for anything other than a residence, and the home occupation shall be conducted entirely within the dwelling unit;
 - (7) There shall be no display of goods visible from the outside, or outside storage of equipment or materials, or use of an accessory building in connection with the home occupation;
 - (8) Only one commercial vehicle, not exceeding 6,000 pounds gross vehicle weight, shall be parked on the premises in connection with the home occupation;
 - (9) The commercial vehicle permitted under Clause (8) may contain the name, address, telephone number and occupation, profession or trade of the proprietor of the home occupation, which information shall be non-illuminated;
 - (10) The home occupation shall not create any noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, traffic, or any such similar nuisance not normally associated with a dwelling;
 - (11) Without restricting the generality of the foregoing, the preparation and sale of food, the keeping of animals, adult entertainment uses, and taxi stands, shall be deemed not to be home occupations;
 - (12) Notwithstanding subsection (3), a bed and breakfast establishment shall occupy not more than three bedrooms as sleeping rooms for guests;

- (13) Notwithstanding subsection (11), the preparation of food may be permitted within a bed and breakfast establishment for sale to the guests of the bed and breakfast only;
- (14a) The owners of every building hereafter erected or altered for use as a bed and breakfast establishment shall therein or upon such lands appurtenant thereto, provide and maintain accommodation for the parking or storage of motor vehicles for use by the guests of such bed and breakfast;
- (14b) Such accommodation shall consist of one parking space at least eight feet wide by sixteen feet long for a bed and breakfast establishment which contains one or two sleeping rooms, exclusive of the front yard;
- (14c) Such accommodation shall consist of two parking spaces at least eight feet wide and sixteen feet long for a bed and breakfast establishment which contains three sleeping rooms, exclusive of the front yard.

R-1 ZONE
SINGLE FAMILY ZONE

- 27(1) The following uses shall be permitted in any R-1 Zone:
- (a) a detached one-family dwelling house;
 - (b) the office of a professional person located in the dwelling house used by such professional person as his private residence;
 - (ba) a home occupation;
 - (c) a public park or playground;
 - (d) church or church hall;
 - (e) a child care centre for not more than 14 children in conjunction with a dwelling;
 - (f) a special care home containing not more than ten persons including resident staff members;
 - (g) uses accessory to any of the foregoing uses.

CHILD CARE CENTRES

- 34A Building erected, altered or used for a child care centre shall comply with the following requirements:
- (a) Except for outdoor play space, any child care centre shall be wholly contained within a dwelling which is the principle residence of the operator of the facility;

- (b) One off street parking space, other than that required for the dwelling, shall be provided. The required parking space shall be eight feet wide by sixteen feet long, and be exclusive of the front yard.
- (c) The child care centre shall be limited to a maximum of one full storey of the dwelling; this storey may be the basement.
- (d) Only one child care facility shall be permitted to be located on any lot.

SPECIAL CARE HOME

34D Where any building is altered or used as a special care home in an R-1 Zone, such building, in addition to the requirements hereinbefore set out, shall comply with the following requirements:

- (i) 100 square feet of landscaped open space shall be provided for each person occupying such home;
- (ii) recreational indoor space may account for 25% of the landscaped open space;
- (iii) the building is a minimum of 1000 feet distance from any other building used for or as a special care home;
- (iv) parking requirements as contained in Subsections (8) and (9) of Section 6.

R-2 ZONE

GENERAL RESIDENTIAL ZONE

35(1) The following uses shall be permitted in any R-2 Zone:

- (a) R-1 uses as hereinbefore set out;
- (b) semi-detached or duplex dwelling;
- (c) buildings containing not more than four apartments;
- (d) (Deleted)
- (e) (Deleted)
- (f) uses accessory to any of the foregoing uses
- (g) **The reconstruction of an apartment building containing 12 or fewer dwelling units at the South-East corner of Creighton and Buddy Daye Streets (PID 40877292) (RC-Aug 1/06;E-Aug 12/06)**

ATTACHMENT D

Public Information Meeting: Case 01095 - Pet Care Facilities, May 8, 2008

In attendance: Councillor Fougere
Paul Sampson, Planner
Gail Harnish, Planning Services

Regrets: Councillor Sloane

Opening remarks, introductions, purpose of meeting

Mr. Paul Sampson called the public information meeting (PIM) to order at approximately 7:00 p.m. in Halifax Hall. The purpose of the meeting is to discuss proposed amendments to the Halifax Municipal Planning Strategy (MPS) to allow pet care facilities through the development agreement process.

Mr. Sampson explained a development agreement is a legal contract between the property owner and HRM which outlines the rules and regulations for a particular type of land use. It is a common tool that HRM uses to regulate land use outside a land use by-law (LUB).

An individual asked for confirmation that the agreement is attached to the property and not the land owner.

Mr. Sampson confirmed this, noting agreements can be discharged in the future as well. It applies to the current owner and any successive owner(s) and runs with the land.

Mr. Sampson advised the proposal is to put policy in the MPS where none exists now and to develop criteria, so that any future application would have to go through the development agreement process and would need to get Council approval. In this case, we would deal with Oak Street as part of the proposal and hold a joint public hearing.

Overview of planning process

Mr. Sampson reviewed the planning approval process, following tonight's meeting:

- staff will prepare a report and a development agreement
- the report will be tabled with the District 12 Planning Advisory Committee
- the PAC's recommendation will be forwarded onto Peninsula Community Council
- Community Council will forward a report and recommendation to Regional Council
- Regional Council will either decide to schedule a joint public hearing or they will reject the application
- if they decide to proceed, the public hearing is held
- following the public hearing, Regional Council will make its decision
- if the amendments are approved by Regional Council, they are forwarded to the Province for review

- once the amendments are in effect, Community Council will make a decision on the development agreement
- there is an appeal process for the development agreement

Mr. Sampson read into the record the proposed definition of a residential pet care facility. "Residential pet care facility means the accessory use of a single-family (or duplex/semi-detached?) dwelling unit, which is the principal residence of the operator of such facility, for the temporary care or boarding of not more than ten domestic animals for gain or profit, but shall not include the raising, breeding or sale of animals."

Mr. Sampson reviewed the proposed policy criteria which could be included in the MPS:

- care for up to ten domestic pets
- dwelling unit type (single family, semi-detached, duplex, flats)
- principal residence of the business operator
- minimum lot size (2500 sq.ft)
- maximum floor area (850 sq.ft)
- limited to one storey of the dwelling
- maximum one employee
- outdoor activity area (6' high fence, not in front yard)
- limited exterior signage
- hours of operation

Mr. Sampson reviewed some of the potential issues for discussion:

- dwelling unit type (single dwelling unit only?)
- the type of pet (dogs and cats only?)
- the hours of operation
- means of ensuring compatibility with a residential neighbourhood

Mr. Sampson noted this is being considered not only for Janet Chernin's facility but for all other potential locations as well. We are required by legislation to hold this public meeting because it is an amendment to the MPS.

Mr. Sampson noted there was a proposal previously considered by Peninsula Community Council in the summer of 2006. Community Council held a public hearing and rejected the application. They took the advice of the PAC that an amendment to the MPS and the development agreement process was the better way to go. The former process was to allow it through the LUB.

Questions and comments from the public

Ms. Roma Dingwill questioned how long the process would take and when they could expect resolution.

Mr. Sampson responded it is hard to say but would guess in the fall. Following this meeting, he will work on the staff report. Once the report is completed, the development agreement has to be negotiated. The PAC and Community Council meet once a month, and then Community Council would forward its recommendation to Regional Council.

An individual said she thought there was resolution at a meeting in 2006.

Mr. Sampson responded the PAC thought the development agreement process would be better. That requires an amendment to the MPS which requires Regional Council approval. Earlier this year, Regional Council approved this process. We have gone through the one process and are now going through the second process.

Councillor Fougere explained one of the reasons we are going through this process is because the last one would have allowed anybody on the Peninsula to open a pet care facility under the provisions of the LUB in a residential area. We thought this was a good recommendation from the PAC so that if someone wanted to open up a pet care facility they would have to enter into a development agreement with the Municipality. This would allow them some control over where, when and how.

Mr. Sampson noted this process would allow Council to look at them on a case by case basis. Council would not be obligated to enter into each application. It would require a public meeting for each application and the neighbours would be invited to provide input.

Ms. Anne Thergood said she understood Ms. Chernin has been in operation since 1995.

Ms. Janet Chernin stated since December of 1995. The only criteria she got from the Clerk was that she could not have a kennel run.

Mr. Sampson clarified Ms. Chernin's operation is not legal as it does not comply with the LUB. Council approval is needed.

An individual stated there are issues that should have been resolved at the time of the original inquiry. She questioned whether there was some way to grandfather Ms. Chernin, given she has been operating her business in the neighbourhood with no complaints.

Councillor Fougere advised it has been determined by HRM that the operation is not legal. There is a legal proceeding going on in tandem with this process. This process is trying to legalize her operation and any other similar request.

Ms. Chernin said she believed the Municipal Clerk she spoke with did not know you had to look under the bed and breakfast by-law to find the four things you cannot do as an inhouse operation.

Councillor Fougere noted the purpose of tonight's meeting is to get feedback for the benefit of Council. Do you want to see a facility like this in just single detached dwellings? Would it be okay in other types of dwellings?

Ms. Adina MacRae indicated the raising of animals would not be permitted in such a facility under the current proposal, and questioned how staff would define the raising of animals. She also questioned why they were only permitting one employee.

Mr. Sampson advised this wording is similar to wording used to prevent kennel operations in residential areas. It is a pet care facility and not a kennel. It is making it clear it is not a kennel operation.

Ms. Chernin suggested deleting the reference to raising of animals from the definition.

Ms. Sampson noted at some point you have to draw the line between what is a residential use and what is a commercial use and what has to be located in a commercial zone. Areas on the Peninsula like Quinpool Road or Robie Street which have commercial zoning are areas with commercial businesses or operations.

Ms. Chernin questioned whether there is a similar provision for child care.

Councillor Fougere advised child care is governed by Provincial legislation. There is a limit on the number of children you can have in a day care under the LUB. This is similar to home occupations which have limitations on employees coming and going.

Mr. Sampson indicated it goes back to what is reasonable in a residential area. For most home businesses you cannot have an employee. The exceptions are what is called "professional persons". Those are traditional professions that operate out of dwellings. This was a definition that dates back to the old City of Halifax rules.

Mr. Ken Walker, Bedford, questioned whether this is strictly for the Peninsula and not HRM as a whole, and that other areas would have to go through a similar process.

Mr. Sampson advised there was a suggestion to look at this across the Municipality and Council decided to let the Peninsula go on its own and if there is a demand for it elsewhere, then perhaps Community Council would bring it forward for other plan areas in their jurisdiction.

Councillor Fougere commented that different parts of HRM are different and that is why Community Councils are there.

Ms. Chernin said she thought it would be a more straight forward process for other areas.

Mr. Sampson noted there is an application for one in Hammonds Plains. That is for only one property and not for the entire plan area.

Ms. Sampson noted these are currently operating in commercial and industrial zones but this one would allow a proposal in a residential zone. It would be considered on a case by case basis by Community Council.

Ms. Chernin stated it should be considered on a case by case basis. Her business might be successful but somebody else could move into her house and not be suited for that.

Councillor Fougere questioned whether there is an opportunity in the development agreement to have an automatic discharge upon the sale of the property.

Mr. Sampson responded no, but noted the current owner could apply for the discharge of the agreement prior to selling the property. Development agreements are a common mechanism across the Province and run with the land. The rules are put in the development agreement to ensure everybody has to follow them.

Ms. Bena Karol commented it is not an easy job to look after dogs and you have to have a lot of experience. If Ms. Chernin sells her property, and somebody else moves in with no experience, who is going to make sure this person capable of doing that?

Mr. Sampson responded that is a good question because the agreement is in place. The rules in the agreement have to be abided by. That is something Council will have to consider.

Councillor Fougere noted day cares are legislated under the Province and there is a licensing regiment that requires operators to be qualified. There are no similar regulations in place for pet care facilities. This is about the use of land. There is an opportunity to put it in the Animal Care By-law but at this point that is not something on anybody's radar. HRM has the power to license but it is not a business the Municipality would typically be in.

Mr. Sampson indicated it was a recommendation of the PAC as well to look at licensing of facilities. That report went to Community Council and Regional Council and so far Regional Council has only initiated this process to require development agreements.

Councillor Fougere noted that businesses are also not licensed, and questioned whether that is a business the Municipality wants to get into.

Ms. Karol questioned why they could not require that the person show they are experienced when they apply.

Mr. Sampson responded it is not something that can be addressed in a development agreement. The licensing is not related to land use. There is a separate process available if Council wants to go there.

An individual commented it is probably not needed now but once this starts up, you will have trouble if you do not have people experienced with animals.

An **individual** questioned whether it would be considered a commercial property if Ms. Chernin is given approval for a doggie day care.

Mr. Sampson responded no. The residence is still residential, however, the ability to operate a pet care facility exists on that property.

An **individual** questioned whether Ms. Chernin would be allowed to operate a bed and breakfast.

Mr. Sampson advised any residentially zoned property in Halifax can operate a bed and breakfast, a home occupation, and a day care up to fourteen children. You can obtain approvals for those uses through the as-of-right permitting process and do not require Council approval.

Ms. Morrison questioned whether Ms. Chernin needs to have the permission of all her neighbours for this to operate. Mr. Sampson responded no.

Ms. Chernin stated she checked with her neighbours to see if they had any problem with it and they said no and she built the privacy fence.

Ms. Morrison questioned what would happen if one or two neighbours were against the proposal.

Councillor Fougere responded Community Council would listen to the balance.

Ms. Chernin referenced the type of dwelling unit and indicated she did not think it would be a good idea for that type of facility where you share a wall. In older homes, the walls are not as insulated and dogs will occasionally bark so there could be a potential noise problem.

Ms. Chernin indicated she did not have an issue with limiting the hours of operation. Normally her dogs are dropped off between 8 and 9 a.m. and picked up between 5 and 6 p.m. There should be provision to occasionally allow somebody to come at 6:30 p.m. if there are special circumstances.

Mr. Sampson questioned whether this type of facility should only be allowed in single family dwellings or other types of dwellings as well.

An **individual** said she felt it should be left open and should be the neighbour's call.

Mr. Sampson noted there may be more issues with ownership versus rental if the use is expanded beyond single family dwellings.

An **individual** noted that may be precluded by the landlord.

Ms. Dingwill said she felt the use should only be permitted in single family dwellings, as you may end up with substantial problems in a duplex or a semi-detached dwelling down the road.

Ms. Chernin suggested it may be okay in another type of dwelling unit if there is a development agreement and the neighbour gives permission.

An individual suggested it needs to be looked at on a case by case basis.

Ms. Chernin questioned what is meant by “means of ensuring compatibility with residential neighbourhood”. She rebuilt her fence to be 6' high. She questioned if there had to be specific things in place to require that animals be properly contained or if there had to be a privacy or mesh fence.

Mr. Sampson responded it is how it relates to any of the criteria listed.

Ms. Chernin stated it would be a priority to require a full privacy fence as opposed to a chain link or mesh fence. That would reduce the chances of dogs barking.

An individual indicated there should be provisions to address odor control. Ms. Chernin has perfected it. She found hay and grass did not work; pea gravel is good.

Ms. Chernin noted she did some research and bought cedar plantings. She had pits made where it is pea gravel which is routinely washed out so there is no odor. The cedar helps reduce the smell. The neighbours would be affected if the droppings are not picked up on a timely basis.

Ms. Joan Sinden indicated she was not in favour of having more than one doggie day care in one neighbourhood, and questioned whether there is a way to regulate that. She was walking her dog last night and there are two houses together with a huge 6' high fence. There was a pack of dogs at the front window. Two families got together and built a huge compound.

Mr. Sampson responded Legal has advised we cannot do that. There would have to be separate agreements for each property. The same issue was raised with child care centres. There is nothing the Municipality can do to prevent that. The rules have to be applied fairly to everyone. Also, we cannot require that the business be run by the owner of the property.

Ms. Chernin commented the renter is beholden to the rules of their lease.

An individual questioned whether this proposal would allow for overnight stays.

Mr. Sampson responded yes.

Ms. Chernin suggested once this development agreement goes forward and somebody else makes application, they can propose to the Municipality that there has to be some guidelines as to the function and operation of the said facility.

Ms. Thurgood stated it bodes that the City needs a by-law to encompass animal welfare.

Ms. Sampson advised the licensing would be a separate issue for Council to debate.

The meeting adjourned at approximately 8:00 p.m.

CASE 01095
ATTACHMENT E

To whom its concerned (dated 01 May 2008)

I am a Special Constable with the NSSPCA and have been for four years. I was invited to Ms Chernin's house/business for a meeting and at that time I was going to look around her business. I was invited for 1300 hrs and I showed up intentionally at 1100 hrs.

While there I inspected the premises and found it to be of a much higher standard than prescribed by the CVMA. All of her personal animals appeared to be in good health and the one that was there as a client was as well. All animals appeared to have a good relationship with Ms. Chernin and the overall premise was very clean.

My assessment of her animal husbandry practices is that there is no concern from my perspective.

Sean Kelly
Special Constable



To Whom It May Concern:

May 7, 2008

I have known Janet Chernin for 15 years. I am a neighbor; I live at 2026 Oxford St. I walk my dog daily by her house and have always been impressed at how well maintained her property is and how quiet the dogs are. I have also used her dog sitting services in the past and found them to be exemplary; her home is clean and perfectly suited to a daycare for dogs. At one time, I enjoyed dropping my dog off at Janet's. Her convenient location made the whole process quick and easy and within walking distance. My dog was particularly rambunctious and difficult to manage on walks. Janet told me it was too hard to care for him in light of this and I stopped bringing him to her. She was pleasant and professional and I was glad for the candor. I have and would again recommend her services to anyone looking for a good daycare for their animal. My son has also helped out over the years with dog minding and walking. He can also attest to the kindness and care shown to all the dogs. I think her business has been a success because of her innate love of dogs. She is a natural dog caregiver and all dogs should be so lucky to spend their days in a home designed for their enjoyment. I do hope and certainly the dogs are hoping that she will be able to continue to care for them for years to come. Please allow Janet Chernin to keep her daycare open.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Thompson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Holly Thompson

Paul Sampson - Case #01095

From: Paula Lee <[REDACTED]>
To: <sampsop@halifax.ca>
Date: 16/05/2008 3:12 PM
Subject: Case #01095

Some comments regarding establishing pet care facilities in residential areas. I live on Beech Street which is fairly close to the specific residence at 6430 Oak Street.

- should definitely be for single family dwellings only
- should be limited to regular business hours of approximately 8:00 a.m to 5:00 p.m.
- should be restricted to cats and dogs only

Hope it helps.

Paula Lee

Paul Sampson - Residential Pet Care Facilities

From: maggie [REDACTED]
To: <sampsop@halifax.ca>
Date: 17/05/2008 7:31 AM
Subject: Residential Pet Care Facilities

I was unaware of the public info meeting of May 8th, however I would like to voice my support of HRM's consideration of pet care facilities in residential neighbourhoods in general, and the proposed facility at 643- Oak Street in particular. I support some restrictions on the number of animals in residence at a time - 10 seems a reasonable number - and also the time spent outside the building in the yard; dogs bark when they're fenced, and I'd rather see them walked around the neighbourhood. I am a neighbour of Janet's and would like to add that I've never been bothered by her business. In fact, it's a delight to see her out and around with different dogs. She provides a much-needed service - it's hard to find dog-care on the Halifax peninsula.

Please do keep me informed of future meetings,

Maggie Haywood
6456 Oak Street

Paul Sampson - Case #01095

From: Bob Allison <[REDACTED]>
To: <sampsop@halifax.ca>
Date: 18/05/2008 10:53 AM
Subject: Case #01095

Mr. Sampson,

As I said at a public meeting some time ago, I have no problems Ms. Chernin's pet care facility at 6430 Oak St. It is well managed, clean and quiet. Unless you know it's there, there are no obvious indications that it's a business (like a nearby Hair Salon). I wish some of my neighbour's dogs were as well behaved.

Bob Allison

Bob Allison
2519 Kline Street
Halifax, NS
B3L 2X6
([REDACTED])