

## **COMMITTEE OF THE WHOLE (WORKING SESSION) – FEBRUARY 2, 2009**

### **DRAFT GROUP HOMES LAND USE STUDY FILE 15.34.4**

#### **Recommendation**

The Commissioner of Planning recommends:

1. That the Draft report, "Land Use Study on R1V Old Village Residential Zone and Policies Governing Group Homes – Preliminary Discussion Paper", January 2009, be RECEIVED; and,
2. That Council give further direction with respect to the next steps to establish an updated "Type 1" group homes policy for the City of Vaughan.

#### **Economic Impact**

There is no significant economic impact associated with the conduct of this study, as it is being carried out by City staff.

#### **Communications Plan**

Consultation with agencies and other levels of government and municipalities have taken place. Further consultation will be undertaken with citizens and service providers should Council direct staff to proceed with establishing additional group home policies.

A Public Hearing will be held on any new Official Plan policies and amendments to the zoning by-law.

#### **Purpose**

The purpose of this report is to inform Council on the work to date and to obtain direction for staff to proceed with the next steps.

#### **Background - Analysis and Options**

In the spring of 2007 the City received enquiries respecting the potential for Group Homes to be established in existing stable low density residential neighbourhoods (notably the R1V-Old Village Residential zone).

Specifically, the following concerns were raised regarding Group Homes:

- The use could compromise the character of the neighbourhood;
- The use could strain existing infrastructure
- The use may present safety concerns (traffic, etc.)

In June 2007 Council directed staff to undertake a limited land use study on Group Homes.

On June 11, 2007, Council enacted an Interim Control By-law (By-law 193-2007) to allow completion of the study. Subsequently, in order to allow for a reasonable amount of construction to proceed without jeopardizing the objectives of the land use study, on July 9, 2007 Council amended By-law 193-2007 by passing By-law 264-2007. This exempted single family detached dwellings/additions up to a maximum of 500 sq. m GFA.

Policy Department work continued on this complex subject into the spring of 2008. On June 11, 2008, Council passed By-law 138-2008, which extends the Interim Control By-law for a period of one year to allow additional research and consultation with agencies and other levels of government and municipalities.

The in-house study reviewed the wide range of agencies, including municipalities that deliver and/or regulate group homes of various types. It was determined that numerous pieces of legislation form an overall structure that is group home policy in Ontario. While "Type 1" group homes are permitted uses in residential areas, a range of approaches have been used to regulate group homes with varying levels of success. One main area of concern has been the issue of the Charter of Rights and Freedoms which has been used by some service providers to protect what they see as their right to provide group home facilities to their client group(s).

Of note are the difficulties encountered by the Town of Markham in establishing group homes policies and regulations. Markham adopted both an Official Plan Amendment (OPA 97 and a Zoning By-law (by-law 72-91) in 1991. OPA policies included definitions of types of group homes, number of residents, separation distances from each other, and caps on numbers of group homes. Markham's approach was "typical" of other municipalities' group home policies at the time. The Ministry of Municipal Affairs and Housing objected to these policies citing Charter of Rights issues. Vaughan Council directed that City staff wait until the outcome of Markham's policies in order to provide direction for Vaughan. All efforts to resolve the issues failed and in 2004 Markham repealed both OPA 72-91 and By-law 72-91. Markham continues to be without any policies, regulations or licensing of group homes.

Furthermore, the City of Vaughan's experience has been that when Council adopted group home policies in 2001 (By-law 70-2001), the section on "Type 1" group homes was contested by the Reena Foundation. This section was subsequently deleted from the by-law until the issues could be resolved. No further action had been taken since November 2002.

Mindful of the sensitivity of the subject, staff considered several possible options for group home policies/regulation which are outlined as follows:

- Status Quo
- Include group homes polices as part of "special needs" housing policies in the new city-wide Official Plan
- Include a "Type 1" Group Home - definition in By-law 1-88 and identify where they may be permitted
- Include a "Type 1" Group Home definition in By-law 1-88 and identify where they may be permitted with specific regulations (e.g.: separation distances; number of residents; parking requirements)
- Negotiate Memorandum of Understanding with service providers on agreed standards
- Registration of group homes – of use to Fire Department, keeping track of locations
- Apply site plan control to group homes (site/design/architectural treatment to be in keeping with surrounding area)

The draft Study "Land Use Study on R1V Old Village Residential Zone and Policies Governing Group Homes – Preliminary Discussion Paper" is completed (Attachment 1). Section 6.0 of the

report describes in greater detail the possible options noted above. It is expected that the next steps can proceed immediately and the study completed in the Fall 2009.

#### **Relationship to Vaughan Vision 2020/Strategic Plan**

This report is consistent with the priorities previously set by Council. The necessary resources to complete the study are available through the Policy Planning Department.

#### **Regional Implications**

There are no regional implications of this study at this time.

#### **Conclusion**

"Type 1" group homes and their control is a complex subject area involving numerous agencies and regulators, including municipalities. "Type 1" group homes are legal land uses, permitted by provincial policies in all residential zones in the City of Vaughan, but may be subject to such controls as (municipal) licensing and locational criteria. Should Council direct the pursuit of additional "Type 1" group home policies, Staff will proceed with the next steps to obtain further feedback on the preliminary options respecting the update to the City's "Type 1" Group Homes policies. This would include at least one public meeting, as required and consultation with "Type 1" group home providers.

#### **Attachments**

1. Draft "Land Use Study on R1V Old Village Residential Zone and Policies Governing Group Homes – Preliminary Discussion Paper" January 2009

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**LAND USE STUDY ON THE R1V OLD VILLAGE  
RESIDENTIAL ZONE AND POLICIES GOVERNING  
GROUP HOMES**

PRELIMINARY DISCUSSION PAPER

prepared by the

Policy Planning Department  
City of Vaughan

January 2009

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## Executive Summary

In June 2007, Vaughan Council directed staff to undertake a limited land use study respecting properties zoned R1V Old Village Residential Zone and the City's policies governing group homes. The study stemmed from concerns raised by residents of properties zoned R1V to ensure the character of their neighbourhood is maintained. On June 11, 2007, Vaughan Council enacted an Interim Control By-law (By-law 193-2007, as amended) to allow completion of the study.

Vaughan's Comprehensive Zoning By-law 1-88 currently contains definitions and general provisions for "Correctional or Crises Care Group Home" and an "Institutional Care Facility". This type of group home accommodates persons in conflict with the law, drug and alcohol dependencies, and shelters for homeless and victims of violence. They are commonly and generally referred to as a "Type 2" group home. In accordance with Council's direction, this study does not focus on this type of group home.

This study focuses on the type of group home that is intended to accommodate persons who are primarily developmentally challenged by reason of their emotional, mental social or physical needs and who require supervision in a group living environment. Such living arrangement typically operates out of a single housekeeping unit (one kitchen), is licensed or funded under Federal or Provincial Government legislation and in most cases, accommodates between three to ten persons. This type of group home, which is sometimes referred to as a "Type 1" group home, is not defined or regulated by Zoning By-law 1-88.

In 1999, Vaughan Council provided direction to undertake a review in respect of land use policies, zoning by-laws and registration requirements for the regulation of Group Homes and Custodial/Penal Group Homes. A consultant was retained, who prepared a report entitled "City of Vaughan Proposed Group Home

Strategy”, dated February 2001, which recommended definitions and regulations for both Type 1 and Type 2 group homes (Appendix A). On February 12, 2001, Council enacted a zoning by-law (By-law 70-2001) to implement the study's recommendations.

However, By-law 70-2001 was objected to by a number of group home providers, primarily led by the Reena Foundation. On June 11, 2001, Vaughan Council resolved to modify the by-law by deleting the definition and provisions related to the Type 1 group home in return for the objections to be withdrawn and the City undertaking further discussions with the group home providers. By-law 70-2001 was subsequently approved by the Ontario Municipal Board by Board Order 1500 on September 17, 2001 (Appendix B). The City was unable to resolve the issues of the group home providers and no further action has been taken since November 2002.

In response to Council's direction of June 2007 regarding the current group home study, the Policy Planning Department has developed a preliminary discussion paper on group homes, dated January 2009. In addition to identifying the background information as described above, this document identifies: the related regulatory framework related to both the R1V Old Village Residential Zone and group homes, including Provincial Statutes, and Regional and local policies and regulations; and recent experiences of other municipalities of regulating group homes; and, preliminary options and analysis and those which are suggested for further consideration and consultation.

Of note are the difficulties encountered by the Town of Markham in establishing group homes policies and regulations. Markham adopted both an Official Plan Amendment (OPA 97 and a Zoning By-law (by-law 72-91) in 1991. OPA policies included definitions of types of group homes, number of residents, separation distances from each other, and caps on numbers of group homes. Markham's approach was “typical” of other municipalities' group home policies at the time.

The Ministry of Municipal Affairs and Housing objected to these policies citing Charter of Rights issues. All efforts to resolve the issues failed and in 2004 Markham repealed both OPA 72-91 and By-law 72-91. Markham continues to be without any policies, regulations or licensing of group homes.

Notwithstanding the experiences noted above, several possible options have been reviewed, as follows:

- Include group homes policies as part of “special needs” housing policies in the new Official Plan
- Status Quo
- Include a “Type 1” Group Home definition in By-law 1-88 and identify where they are permitted
- Include a “Type 1” Group Home definition in By-law 1-88 with specific regulations (e.g.: separation distances; number of residents; parking requirements)
- Registration of group homes – of use to Fire Department, keeping track of locations, etc.
- Apply site plan control to group homes (site/design/architectural treatment to be in keeping with surrounding area)

Having conducted research and consulted staff from relevant City departments, the Region of York, the Ministry of Municipal Affairs and Housing and other municipalities, there appears to be grounds for proceeding with creating a definition for a “Type 1” group home and to regulate them, to some degree, in the City’s Comprehensive Zoning By-law. This opinion is based on the following:

- group homes are recognized by the Provincial Government in statute and their related programs and allow for municipalities to licence them;
- the Regional Official Plan policy that supports an equitable distribution of group homes;

- the use is distinguished from a typical residence in that there is a level of supervised care and staff support as well as statutory and program requirements which must be met; and,
- most municipalities surveyed have definitions and regulations associated with this type of group home.

Upon review of the existing zoning standards that apply to the R1V Zone, such standards appear to be effective in maintaining the historical pattern of large lot development and maintaining the character of the area that are unique enclaves within the broader community.

It is suggested that any new definitions or regulations for group homes be applied City-wide and not just to properties zoned R1V. The preliminary options that could be applied on a City-wide basis and subject to further consultation and consideration include the following:

1. As additional policy support, it would be ideal to establish related policy in the City's Official Plan prior to applying any regulation at the zoning stage. Therefore, group home policies could be part of a City-wide and comprehensive, special needs housing policy.
2. Include a definition in the Zoning By-law for a group home (Type 1), similar to the definition provided in the Municipal Act, and identify where they are permitted, e.g. zones where residential use is permitted. The definition of "Family" in the Zoning By-law would also be revised to exclude group homes. This would clearly identify a group home as a distinct use.

Providing a definition in the Zoning By-law would result in recognizing the use and clearly setting out the rules and expectations of the municipality.

Additional regulations, such as separation distances, licensing and parking requirements may also be explored for the purpose of consultation and feedback as identified in Section 7.0 of this discussion paper (Conclusions).

On June 11<sup>th</sup>, 2008, the Interim Control By-law (ICB) was extended for a period of up to one year (June 11, 2009 - as amended by By-law 138-2008), to allow the completion of the study.

Presentation of this discussion paper before a Committee of the Whole Working Session is intended to provide an opportunity to discuss preliminary options and to provide staff with direction on how to proceed. Should Council wish to pursue one or more of the options, staff would develop the details for implementation (e.g. prepare a draft by-law) and make it available for further discussion and consultation prior to proceeding to a Public Hearing as required by the Planning Act.

Therefore, it is recommended that this preliminary discussion paper titled "Land Use Study on the R1V Old Village Residential Zone and Policies Governing Group Homes", prepared by the Vaughan Policy Planning Department, dated January 2009, be received by the Committee of the Whole (Working Session) for further discussion and direction.

## 1.0 BACKGROUND

### 1.1 Council Direction

On June 11, 2007 Council approved the following recommendation contained in a report on Group Homes (Minute No. 110):

1. THAT Staff initiate a limited land use study respecting properties zoned R1V Old Village Residential, and the City policies governing Group Homes, and report back to a future Committee of the Whole meeting, outlining the results of the study, including recommendations pursuant to the Planning Act, to ensure the character of affected residential neighbourhoods is maintained.
2. THAT an Interim Control By-law applicable to properties zoned R1V Old Village Residential be forwarded to Council for enactment, to provide six months in which to complete the land use study.

The Interim Control By-law (193-2007) was enacted on June 11, 2007. Under the Interim Control By-law, no building permits were allowed to be issued. As a result, a number of residents expressed concern that the Interim Control By-law was too restrictive and did not allow for construction projects within the municipal application process to proceed. In response to these concerns, Policy Planning staff, with the assistance of the City's Legal Services Department and the Building Standards Department, prepared an amending by-law that had the effect of allowing for a reasonable amount of construction to proceed without jeopardizing the objectives of the land use study. On July 19, 2007, Council passed the amending by-law (264-2007), which exempts single family detached dwellings/additions up to a maximum total of 500 sq.m GFA. On June 11, 2008, Council passed By-law 138-2008, which extends the Interim Control By-law for a period of up to one year, to allow additional research and consultation.

## 1.2 Basis

The June 11, 2007 report on group homes indicated that a number of enquiries had been received from local residents respecting the potential for group homes to be established in stable low density residential neighbourhoods where large lots exist under the R1V Old Village Residential Zone. The specific concerns raised were the following:

- The use could compromise the character of the neighbourhood;
- The neighbourhoods are established areas of quiet residential uses and a higher intensity use could strain existing infrastructure;
- It is the City's objective to maintain the historical pattern of large lot development for residential uses in these areas due to their unique character;
- The City needs to protect and recognize these areas as important historical components and unique enclaves within the broader community; and
- The City should secure the integrity of the streetscape, including safety concerns (traffic, drop-off/pick-up congestion) and excessive strain on the City's park system.

In light of the concerns identified, a limited land use study was recommended to update the City's policies applicable to properties zoned R1V in the context of potential private interest in developing or redeveloping such properties as group homes.

The June 11, 2007 report indicates that the study would not include review of locations for "*Correctional or Crises Care Group Home*" or an "*Institutional Care Facility*" (as defined in By-law 1-88). The City of Vaughan's Comprehensive Zoning By-law 1-88 already contains definitions and zoning provisions for these facilities, which are identified in Section 2.6.2 of this discussion paper. This type

of group home (to accommodate persons who are in conflict with the law, with drug and alcohol dependencies, shelters for homeless or for victims of family violence) is referred to by a previous study on group homes for the City of Vaughan in 2001 (see Section 1.3 below) and by some municipalities as a “Type 2” group home.

This land use study focuses on the type of group home that is generally intended for the accommodation of persons who are primarily developmentally challenged by reason of their emotional, mental, social or physical needs and who require a supervised, group living arrangement. Such living arrangement operates from a single housekeeping unit (one kitchen), is licensed or funded under Provincial or Federal Government legislation and in most cases, accommodates between three to ten persons. This type of group home (referred to as a “Type 1” group home by some municipalities) is currently not defined in By-law 1-88.

### 1.3 Previous Study on Group Homes for the City of Vaughan

At the Committee of the Whole meeting on September 21, 1999, the Committee requested preliminary information on planning policies and regulations which could be established with respect to group homes.

On October 12, 1999, Council directed Staff to undertake a review of land use planning policies in the municipality or any defined area(s) thereof in respect of the regulation of Group Homes and Custodial/Penal Group Homes. Council also directed that by-laws be enacted to regulate the registration and renewal of registration of Group Homes (and the fees thereof) and to prohibit any unlicensed person from owning or operating a Group Home.

Direction to undertake the study was, in part, a response to community concerns that were raised regarding two group homes that were in close proximity to one another on the same street. Property maintenance and parking complaints were raised together with a lack of City policy. Also at that time, the Salvation Army

W.P. Archibald Centre, which was located on the east side of Dufferin Street (north of Centre Street), proposed to relocate their penal/custodial group home to the west side of Dufferin Street. As a result, concerns were raised by the community.

A consultant was retained by the City to undertake a policy review and study of group homes, including recommendations with respect to appropriate policies and zoning by-laws for group homes.

The consultant reviewed existing provincial legislation and a number of municipal practices and standards that were in place at that time. Various types of group homes and their intensity, location and spatial separation were also considered. On December 6, 1999, Council resolved that the preliminary report entitled "Review of Group Homes – Official Plan and Zoning By-law Provisions", dated November 23, 1999, prepared by the consultant, be received and that the matter proceed to a Public Hearing in January 2000.

At the Public Hearing on January 24, 2000, Council heard deputations from group home operators in the City of Vaughan and concerned residents on the issues raised in the consultant's report. Council also received written submissions from group home operators and home builders. On January 31, 2000, City Council endorsed the Committee's resolution that the Public Hearing be received and that the issues identified be addressed by Staff and the City's consultant in a final report to the Committee of the Whole.

The consultant prepared a report entitled "City of Vaughan Proposed Group Home Strategy", dated February 2001, which recommended establishing a group home policy primarily through the adoption of definitions and regulations in the zoning by-law.

Among the recommendations, the consultant determined that differentiating between group homes for mentally and physically challenged persons (Type 1

group home) and those who are in conflict with the law, with drug and alcohol dependencies and shelters for homeless or for family violence (Type 2 group home), appeared necessary and appropriate. The Type 2 group home requires a higher degree of programming and are more transient in nature and not in keeping with a typical neighbourhood, whereas the consultant determined that the Type 1 group home may operate similarly to other residences in the neighbourhood.

On February 5, 2001, the Committee of the Whole received and endorsed the findings, conclusions and recommendations contained in the consultant's report ("City of Vaughan Proposed Group Home Strategy", dated February 2001), and that the proposed amendments to the Zoning By-law and a by-law regulating registration affecting group homes be brought forward to Council for enactment.

On February 12, 2001, Council adopted Zoning By-law 70-2001, which proposed to establish definitions of various group home types together with regulations, including location criteria, separation distances, parking requirements and size. This by-law was subsequently objected to by a number of group home providers, led primarily by the Reena Foundation.

On June 11, 2001, Council resolved to agree to modify By-law 70-2001 (which had been appealed to the Ontario Municipal Board) to respond to the concerns of the Reena Foundation, in return for the objections to the by-law being withdrawn and the City undertaking further discussions with Reena and other group home providers.

On June 20, 2001, the Ontario Municipal Board approved By-law 70-2001 in a modified form. The by-law established zoning regulations with respect to "Correctional or Crises Care Group Homes" ("Type 2") and established a definition of an "Institutional Care Facility". The provisions with respect to "Type 1" group homes for the disabled, the elderly and children pursuant to the Child and Family Services Act, were deleted from the by-law. By-law 70-2001, as

modified by the Ontario Municipal Board, was incorporated into the City's Comprehensive Zoning By-law 1-88. The definitions and provisions for a Correctional Crises Care Facility and an Institutional Care Facility are identified in the Zoning section of this report (2.6.2). A copy of the OMB approved By-law 70-2001 is attached (Appendix B).

Following the Board's decision in June 2001, the affected parties endeavoured to pursue discussions with respect to Type 1 group homes and to report back in 2002. The study's consultant and City staff held a series of roundtable consultation meetings in November 2001 and January 2002 with an advisory group consisting of group home providers and ratepayers representatives.

In a report to Committee of the Whole (June 11, 2002), staff identified three options for direction to proceed with regulating a Type 1 Group Home, as follows:

1. Enact a zoning by-law
2. Memorandum of Understanding (MOU)
3. Await Town of Markham OMB Hearing.

The zoning by-law was intended to establish regulations for Type 1 Group Homes. The MOU was an attempt at establishing a "protocol" for regulating group homes. It would not be legally binding, as in a zoning by-law, but would represent the undertaking of both group home operators and the City in their treatment of group homes. At the time, the Town of Markham's proposed policies and regulations for group homes was proceeding to the Ontario Municipal Board. The ultimate disposition of their policies at the OMB was seen as being useful in assessing the legal merits and options for Vaughan.

At a Special Committee of the Whole meeting (Closed Session) on June 11, 2002, the Committee approved the following:

*“1) That staff proceed with a Memorandum of Understanding and that the matter be revisited after a two year monitoring period; and  
2) That the report of the Commissioner of Planning, dated June 11, 2002, be received.”*

The MOU was not supported by the group home operators. In November 2002, the City’s consultant identified the challenges and potential objections of pursuing either a MOU or zoning by-law and recommended awaiting the outcome of the Markham appeal to provide direction. In light of not being able to resolve objections from the Ministry of Municipal Affairs and Housing and the Reena Foundation, in 2004 the Town of Markham repealed their proposed regulation on group homes (Official Plan and Zoning By-law Amendment (see Section 5.0 – Recent Experience in Markham). No further action has been taken on the regulation of group homes by the City of Vaughan since November 2002.

## 2.0 Regulatory Framework

### 2.1 General

The Government of Ontario has been pursuing the goal of community based human services programming and de-institutionalization for more than twenty five years. The purpose of pursuing such a goal is to provide citizens which require special residential services and support (who face developmental or physical disabilities, and social or economic challenges) to receive that support in a community rather than an institutional setting.

In a report entitled “Consultation Regarding the Transformation of Developmental Services” prepared for the Ministry of Community and Social Services in February 2006, it indicates that in the 1960’s, the province had 16 residential institutions for 6000 developmentally challenged adults and few community based supports. By the mid 1980’s there were a number of programs that promoted independent living within the community. In 1987, the provincial

government committed to closing all the remaining institutional facilities within 25 years. By 2006, only 3 of the province's original 16 residential institutions for adults with developmental disability remain (Huron Regional Centre in Orillia, Rideau Regional Centre in Smiths Falls, and Southwestern Regional Centre in Chatham-Kent). It is anticipated that by the spring 2009, Ontario will have completed the move from an institutional-based service system to a community based service system.

Provincial Policy Guidelines (not mandatory) as outlined in the "Ontario Group Homes Resource Manual, 1983", provided, at that time, a recommended approach for implementing the Provincial group home policy in municipal Official Plans and zoning by-laws as follows:

Official Plans:

- 1) provide a definition of group homes;
- 2) indicate that group homes are a permitted use in all zoned residential areas that permit residential uses;
- 3) provide a mechanism to prevent undue concentration of group homes in specific areas by requiring a reasonable separation distance between such facilities, or provide for any other relevant zoning provisions where it is not practical to specify separation distances (as in the case of certain rural municipalities); and
- 4) provide for the continuation of any existing group homes not meeting the requirements of the zoning by-law.

Zoning By-law(s):

- 1) be consistent with the Official Plan in terms of definition;
- 2) permit group homes in all zoned areas that permit residential uses, and;
- 3) prescribe minimum separation distances between facilities in urban areas, or make other suitable separation provisions in rural municipalities.

This method of regulation has been applied in past years at the municipal level through Official Plan policy and Zoning provisions (see Section 3.0 - Policies and Practices of Other Municipalities).

### 2.1.1 Defining Group Homes

A review of the various provincial legislation/regulations and municipal by-laws in the Greater Toronto Area indicate that there is no one universal or consistent definition and application of "group home". Rather, there appears to be a number of different types of group homes that fall under various provincial ministries and their respective statutes, programs and services. Further, changes to statutory references that are made from time to time over the years has made it challenging for municipalities who attempt to define or categorize group homes. For example, in a discussion paper on Foster Homes, prepared by the City of Mississauga Planning and Building Department, dated May 2001, staff recognized the need to update and re-define it's group home types due to changes in provincial statutes over the years.

Group home studies conducted by municipalities in the 1990's, including Markham and Caledon, identified 12 different types of group homes licensed or approved by three different Ministries at that time. The applicable Ministries (under their current names) included: the Ministry of Health and Long-Term Care; the Ministry of Community Safety and Correctional Services; and Ministry of Community and Social Services.

In 2003, the Provincial Government established the Ministry of Children and Youth Services. They administer certain sections from various statutes or Acts, including but not limited to, the Child and Family Services Act; Ministry of Community and Social Services Act; and the Ministry of Correctional Services Act.

There are a number of programs offered by the respective provincial ministries for those who require special needs and who are not able to live at home. Residential services are provided by a number of service providers who are licensed and/or funded by provincial ministries, such as the Ministry of Children and Youth Services and the Ministry of Community and Social Services. Services include respite care (in-home and outside the home), community supports and residential services in the form of, among others, group homes and foster homes.

The relevant Provincial Ministry contracts with community agencies to provide services and supports for those with a developmental disability. These agencies must comply with ministry legislation, policies and guidelines, including quality of care. For example, a group home program under the Ministry of Community and Social Services is regulated by the Development Services Act. The owner shall comply with laws and regulations, such as the requirements of the building code, electrical safety code and fire code. In addition to the requirements of providing for the needs of the residents, the owner must ensure, among others, that the facility is inspected annually by the fire department, provide annual service of heating equipment, and provide an indoor and an outdoor recreational area that is maintained in a safe and sanitary condition.

The Development Services Act contains a definition of “group home” as follows:

“group home means a home providing staff-supported residential accommodation in a group setting for persons with a developmental disability, other than a facility listed in Schedule 1” (Schedule 1 identifies the 3 remaining provincial institutional facilities as Huronia Regional Centre in Orillia, Rideau Regional Centre in Smiths Falls, and Southwestern Regional Centre in Chatham-Kent).

The Municipal Act contains a definition for group homes to provide clarity to its provisions for municipalities who choose to register group homes by means of a business licensing by-law. This allows municipalities to collect a fee and to obtain

owner/contact information of the group home service provider. The policies/conditions respecting the municipal registration of group homes that were contained in the Municipal Act R.S.O. 1980, have since been replaced with Section 163 “Restrictions re: group homes” of the Municipal Act, 2001. The Municipal Act’s definition of a group home and provisions for licensing are outlined under Subsection 2.4 of this discussion paper.

A review of zoning by-laws for some municipalities in the GTA indicate that the definitions and regulations for group homes can vary greatly, as summarized in Section 3.0 of this discussion paper.

## 2.2 Provincial Policy Statement (2005)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land and supports the provincial goal to enhance the quality of life for the citizens of Ontario.

Under Section 1.1 of the PPS “Managing and Directing Land Use to Achieve Efficient Development and Land Use Pattern”, one of the policies identified in support of sustaining healthy, liveable and safe communities includes:

“1.1.1 f): improving accessibility for persons with disabilities and the elderly by removing and/or preventing land use barriers which restrict their full participation in society”.

Section 1.4.3 b) of the PPS states:

“Planning authorities shall provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents of the regional market area by:

- b) permitting and facilitating:
  - 1. all forms of housing required to meet the social, health and well-being requirements of current and future residents, including special needs requirements;”

The PPS defines “special needs” as:

“any housing, including dedicated facilities, in whole or in part, that is used by people who have specific needs beyond economic needs, including but not limited to, needs such as mobility requirements or support functions required for daily living. Examples of special needs housing may include, but are not limited to, housing for persons with disabilities such as physical, sensory or mental health disabilities, and housing for the elderly.”

This section of the PPS establishes the requirement for municipalities to facilitate housing and facilities for people with special needs requirements. The primary purpose of a group home is to assist in the social rehabilitation of residents who because of mental and physical challenges and social or economic reasons, are not yet able to live independently. Although it is not explicitly named, a group home would appear to fall within definition of special needs housing under the PPS. However, the PPS offers no further direction on how to provide for such housing.

### 2.3 Planning Act

Section 3 “Policy Statements” of the Planning Act requires that, in exercising authority that affects a planning matter, shall be consistent with the policy statements issued by the Province. This includes the related policies contained in the Provincial Policy Statement (PPS)

Under Part V of the Planning Act - “Land Use Controls and Related Administration”, Section 35 (2) - “No distinction on the basis of relationship”,

requires that when an authority passes a zoning by-law, interim control by-law or a site plan control by-law, such by-laws cannot distinguish the relationship (related or unrelated) between persons occupying a building, including the occupancy or use as a single housekeeping unit.

This section of the Planning Act stems from one of the amendments made to the Planning Act in 1989, under Bill 128. The effect of Bill 128, from the perspective of group homes, was to prevent any provisions in municipal zoning by-laws which might otherwise use the definition of “family” to restrict unrelated persons from occupying a dwelling unit in the form of a group home.

#### 2.4 Municipal Act

Under Section 163 of the Municipal Act “Restrictions re: group homes” municipalities may require registration of group homes through the use of a business licensing by-law. The registration process provides that each group home must register with the Municipality and provide basic ownership information and contact persons. For clarity, a definition for group homes is also contained in the Act.

Specifically, Section 163 of the Municipal Act states the following:

“(1) A municipality shall not pass a business licensing by-law for group homes unless there is in effect in the municipality a by-law passed under section 34 of the Planning Act that permits the establishment and use of group homes in the municipality.

(2) A business licensing by-law for group homes may prohibit a person from carrying on a business of a group home without a license and may provide for the following conditions, but shall not provide for any additional conditions concerning the operation of the group home:

1. The by-law may require the payment of license fees
2. The by-law may require a licensee or an applicant for a license to give the municipality such information as the municipality considers appropriate concerning the business name, ownership and method of contacting the licensee or applicant.”

#### Definition

(3) In this section, “group home” means a residence licensed or funded under a federal or provincial statute for the accommodation of three to 10 persons, exclusive of staff, living under the supervision in a single housekeeping unit and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being.”

The City of Vaughan does not have a business licensing by-law for group homes. The City’s Comprehensive Zoning By-law 1-88 contains definitions and provisions for two types of group homes (“Correctional and Crises Care Group Home Facility” and “Institutional Care Facility”). In accordance with the Municipal Act , a business licensing by-law could be applied to these group home types, since the Zoning By-law permits their establishment and use. However, a business licensing by-law cannot be applied to a “Type 1” group home (the type of group home subject to this study) in the City of Vaughan since the Zoning By-law does not explicitly permit the establishment and use of such group homes.

The City’s consultant for the previous study on group homes initially indicated that it may be advisable to pass a business licensing by-law for group homes to assist the City in regulating and monitoring them, e.g. to ensure separation distances are met.

## 2.5 Regional Municipality of York

### 2.5.1 Official Plan

The York Region Official Plan (2005) contains a number of housing policies with the primary objective of promoting “an integrated community structure and design that ensures a broad mix and range of lot sizes, unit sizes, housing forms, types and tenures that will satisfy the needs of the Region’s residents and workers”.

Subsection 4.3 “Housing” of York Region’s Official Plan contains a number of policies related to the provision, location and equitable distribution of housing for seniors, non-profit housing and group homes. The specific policies are as follows:

“13. To locate housing specifically geared to senior citizens in close proximity to human and community services, public transit and employment.

14. To support the distribution of housing provided by community-based groups such as municipal non-profit and private non-profit and cooperative groups equitably throughout the Region based on household distribution, taking into account need, accessibility to employment opportunities, services and facilities.

15. To support a mixture of market and rent-geared-to-income units in non-profit housing developments.

16. To prevent an over-concentration of non-profit housing in any one particular neighbourhood.

17. To support an equitable distribution of group homes and rooming, boarding and lodging houses to serve the needs of the community.”

Policies #'s 16 and 17 provide a policy basis for the City to take measures for ensuring the distribution of group homes is equitable, such as including a minimum distance separation requirement between group homes in the zoning by-law, provided the distance prescribed was reasonable. However, such measures may be subject to appeal based on Charter of Rights issue, etc., (see Section 5.0, "Recent Experience in Other Municipalities").

### 2.5.2 Domiciliary Hostels and Lodging Houses

The Region of York does not have a program or service specifically for group homes.

The Region does provide a program and service for "domiciliary hostels and lodging houses", which is aimed at providing "a place of board or lodging maintained and operated for the care of persons in need and requiring supervision of their activities of daily living." York Region subsidizes the stay of approximately 300 eligible residents of the 774 residents staying in domiciliary hostels and lodging homes. For most residents, the hostel is their permanent residence and offer a community housing alternative to institutional care.

However, such facilities are not considered group homes. According to the Region, a lodging home may contain persons who have social, emotional, drug/alcohol issues, but it is not a requirement in order to qualify to reside in these homes and is distinct from a group home. Agencies can come into the lodging home and provide certain services to the residents, typically elderly persons, who need some type of assistance but are not at a state where they should be in a nursing home.

In order to enter into an Agreement with York Region, the operators must have a license either as a "Home for Special Care" under the Ministry of Health and Long-Term Care or as a "Lodging House" under the York Region Lodging House

By-law. The legislative authority for the Region to regulate lodging houses is the Municipal Act, 2001. These facilities must meet the local municipal Zoning, Fire Code, Building Code and Public Health requirements and operators must provide proof of insurance.

It does not appear there are any such Regional facilities located within the City of Vaughan. The City's Comprehensive Zoning By-law 1-88 does not contain definitions nor provisions specifically for "domiciliary hostels and lodging houses".

## 2.6 City of Vaughan

### 2.6.1 Official Plans

The R1V Old Village Residential Zone can be found in the communities of Kleinburg (OPA 601 as amended by OPA 633), Woodbridge (OPA 240), Maple (OPA 350) and Thornhill/Concord (OPA 210), as shown on the attached maps. Such properties are designated "Low Density Residential" in their respective Community Plans whereby single family detached units are permitted. As indicated in the City's previous study on group homes ("City of Vaughan Proposed Group Home Strategy", dated February 2001), the City considers "Type 1" group homes (the type subject to this study) as a form of "family" and not subject to any further regulations than that of any other residential development.

A review of each Community Plan indicates that there are no policies explicitly addressing the provision of group homes. As indicated in the City's previous study on group homes, Official Plan policies could serve to establish basic planning objectives of accommodating group homes within the City in a manner which provides integration with existing neighbourhoods while ensuring that the size, scale and distribution of such facilities is compatible with the neighbourhood.

It may be appropriate to establish policies for group homes, possibly as part of a comprehensive set of policies for social housing in general, and incorporated into the City's new Official Plan. Therefore, if additional group home policies and regulations were to be implemented by Vaughan, it may be appropriate to apply such measures city-wide and not just to properties zoned R1V Old Village Residential.

The R1V Zone represents older established neighbourhoods that are characterized by original large lots and/or having historical, architectural and landscape value. The Community Plans, particularly for Thornhill/Concord (OPA 210) and Maple (OPA 350), recognizes these areas as an important historical component and unique enclaves within their broader communities and contain policies that require all development to be consistent with and protect the overall character of the area.

#### 2.6.2 Zoning By-law 1-88 – Definitions and Provisions for Group Homes

The City of Vaughan's Comprehensive Zoning By-law 1-88 currently contains two definitions related to group homes, which are as follows:

"24b. CORRECTIONAL OR CRISES CARE GROUP HOME – Means a single detached dwelling unit occupied by not less than three, and not more than ten persons exclusive of staff, who live as a single housekeeping unit and require residential, sheltered, specialized or group care and which is licensed, approved or supervised by the Province of Ontario under any general or specific Act, and which shall be maintained and operated primarily for:

- Persons who have been placed on probation under the Young Offenders Act, the Probation Act; the Criminal Code (Canada) as amended or any act passed to replace the foregoing Acts;

- Persons who have been released on parole under the Ministry of Correctional Services Act or Parole Act (Canada) as amended or any act passed to replace the foregoing Acts;
- Persons who have been charged under the Young Offenders Act;
- Persons who require emergency care and transient or homeless persons;
- Persons requiring treatment and rehabilitation for addiction to drugs and alcohol;

A CORRECTIONAL OR CRISES CARE GROUP HOME does not include an INSTITUTIONAL CARE FACILITY.

63a. INSTITUTIONAL CARE FACILITY – Means a Correctional or Crises Care Group Home containing 11 or more residents, exclusive of staff. Without limiting the generality of the foregoing and Institutional Care Facility may include a “halfway house”, a homeless shelter or a shelter for domestic abuse or such other institution as an emergency residence for persons referred by a hospital, court or government agency.”

Section 3.30 of By-law 1-88 contains general provisions for a Correctional or Crises Care Group Home, including the following:

- separation distances of 1000m between each facility and 2000m if located in an A Agricultural Zone
- separation distance from any residential zone, elementary or secondary school is 300m
- require a minimum GFA of 23 sq.m per resident
- permitted only in a free-standing, single use building
- only permitted on a lot that is located on an arterial road
- minimum parking spaces shall be 1 space per staff member plus one space for every two residents.

A “*Correctional or Crises Care Facility*” is permitted in a C2 General Commercial Zone, C6 Highway Commercial Zone, C7 Service Commercial Zone, EM1 Prestige Employment Area Zone and A Agricultural Zone within the “Rural Area – General” and “Employment Area” defined in OPA 400, as amended.

There are no general provisions contained in By-law 1-88 for an “*Institutional Care Facility*” as defined nor is the use permitted in any zone.

There is no definition of “Institutional Use” in By-law 1-88. However, there are a number of institutional types of uses identified in By-law 1-88 that have definitions and that are permitted in certain zone categories. For example a “nursing home” is defined and is permitted in a C1 Restricted Commercial Zone.

### 2.6.3 As-of-Right Zoning

Under the City of Vaughan’s Comprehensive Zoning By-law 1-88, the R1V Old Village Residential Zone permits a single-family detached dwelling. By-law 1-88 defines “Family” as follows:

“Means one (1) or more persons living in a dwelling unit as a single and non-profit housekeeping unit and includes roomers and/or boarders, but in no case shall the number of roomers and boarders exceed two (2) in total.”

The definition of “Family” does not distinguish between related and unrelated persons and is in accordance with the Planning Act.

Therefore, a group home, other than those defined in the By-law (e.g. *Correctional or Crises Care Facility*), is a permitted use in all residential zone categories and zones that permit residential use under By-law 1-88, including the R1V Zone, and would fall within the definition of “family” provided that it is a non-profit housekeeping unit.

Given the above, should Vaughan decide to introduce a new definition and provisions for a “group home” (the type of group home subject to this study), it may be appropriate to re-define “Family” to specifically identify the exclusion of group home use. In doing so, it would clearly identify a group home as a distinct use.

2.6.4 Existing Group Homes in Vaughan

The City of Vaughan does not have any formal records for group homes in terms of number, location and type of group homes within its municipal boundary. However, the known locations of the group homes are identified on a map attached hereto as Figure 1.

The Enforcement Services Department advises they have one file on record regarding a group home in Vaughan, which stems from a resident inquiring as to whether or not the use is permitted. It was found that the use is permitted by Zoning By-law 1-88 and is regulated by the Province. Group homes are subject to the same property standard requirements as any other residential property.

2.6.5 R1V Old Village Residential Zone

There are a total of 1214 lots zoned R1V Old Village Residential Zone in Vaughan, which are located in the residential communities of Thornhill, Concord, Maple, Woodbridge and Kleinburg. The chart below shows the breakdown of the number of lots and the percentage of the total number of lots zoned R1V Zone for each community:

<u>Community</u>	<u>Number of R1V Zoned Lots</u>	<u>Percentage of Total</u>
Thornhill:	706	58%
Maple	314	26%
Concord	149	12%

Woodbridge	29	2.5%
Kleinburg	16	1.5%
Total	1214	100%

Figures 2 to 6 attached shows the location of lots zoned R1V Old Village Residential in the respective community in the City of Vaughan.

The R1V Old Village Residential Zone was established to provide zone requirements that maintain the historical pattern of large lot development. Compared with standards for smaller lots in other residential zone categories, the R1V Zone has a relatively large frontage requirement, greater setbacks and lower lot coverage requirements. The current R1V Zone standards are as follows:

- minimum lot area: 845 sq.m
- minimum lot frontage: 30 m
- maximum lot coverage: 20% (2 storeys); 23% (1 storey)
- maximum building height: 9.5 m (2 storeys); 7.0 m (1 storey)
- minimum rear yard: 7.5 m
- minimum interior side yard: 1.5 m
- minimum exterior side yard 9.0 m

The minimum parking requirement for a single family detached dwelling is 3 parking spaces per dwelling for lots greater than 11.0 m frontage (2 parking spaces for lots less than 11.0 m frontage).

As mentioned previously, the type of group home that is subject to this study is currently a permitted use in all residential zone categories and zones that permit residential use under By-law 1-88, including the R1V Zone, and would fall within the definition of “family” provided that it is a non-profit housekeeping unit.

#### 2.6.6 Severances, Lot Sizes and Character of R1V Zone

With respect to land severances and lot size, Section 2.1 Adjacent Uses, in OPA 94 (the City's Land Severance Policy) speaks to having regard to compatibility of the proposed size, shape and use of the lot to be created with the present and potential uses in the adjacent area. Further, Section 3.1 Infilling, indicates "Infilling which economizes the use of urban areas without disturbing the existing pattern of development or perpetuating the undesirable pattern of development or prejudicing the layout of future development may be acceptable." Recent severance proposals within the R1V Zone have tested these policies (e.g. Official Plan and Zoning Amendment Applications, File OP.07.007 and Z.07.043, to create five lots from two lots on Waymar Heights Boulevard, Woodbridge), which ran into strong opposition from local residents.

In a final technical report prepared by the Butler Group for the Town of Caledon's Group Home Policy Study in 1988, the consultant indicates that the trend for group homes at that time seemed to be for the most part, toward relatively small residences.

Generally, R1V zoned lots are larger than most other residential zoned lots in an urban setting, with a minimum frontage of 30m and a minimum lot area of 845 sq.m as required by Zoning By-law 1-88. Similarly, dwellings within the R1V Zone tend to be, or have the potential to be, larger compared to dwellings in most other residential zones in an urban setting. As a result, the land values and taxation is relatively high and may be too cost restrictive for group home operators to establish and/or operate a group home in an R1V Zone. The relatively low number of group homes in the R1V Zone (approximately 10% of all group homes in Vaughan) would appear to support this argument and reflect this trend to establishing in smaller residences.

As indicated in Subsection 2.6.1, the R1V Zone represents older established neighbourhoods that are characterized by original large lots and/or having

historical, architectural and landscape value. The Community Plans recognizes these areas as an important historical component and unique enclaves within their broader communities and contain policies that require all development to be consistent with and protect the overall character of the area.

Some of the R1V zoned lots are located within a Heritage Conservation District. For example, Brooke Street, Elizabeth Street, Mill Street, Centre Street and Old Jane Street, are located in the Thornhill Heritage Conservation District. The overall goal of the District is to effect the protection and conservation of the heritage attributes of Thornhill. The guidelines in the Thornhill Heritage Conservation District Plan speak to compatibility with the existing historic character and scale of the area, in terms of architectural style, building design and materials, massing, bulk, setbacks, and landscaping.

#### 2.6.7 Ontario Building Code and Ontario Fire Code

The Ontario Fire Code (OFC) and Ontario Building Code (OBC) applies to group homes. Regardless of licensing and/or funding provisions, group home owners/operators must comply with both Codes, which are administered and enforced by their respective departments within a municipality. Building and Fire Code enforcement officials may inspect buildings, however, the statutory responsibility to comply resides with the owner/operator.

Under the OBC and OFC, buildings are classified by the principal occupancy for which the building is being used. Although group homes are not a defined term under the OBC, they may be classified as either a residential occupancy (Group C) or as a care and treatment occupancy (Group B, Division 2) depending on a number of factors, including the ability of its residents to evacuate in case of an emergency. There is also a Group B, Division 3 care occupancy “in which persons receive special or supervisory care because of cognitive or physical limitations, but does not include a dwelling unit”.

According to the Office of the Fire Marshall Guideline TG-01-2003, on Group Homes, the B3 care occupancy was introduced in 1997 and sets safety standards to facilities where long term care or ongoing special or supervisory care is provided to people with physical or cognitive impairments. Group homes are not classified as a Group B3 occupancy by default as under Division B, Article 3.1.2.5 of the OBC, they may be classified as a residential occupancy (Group C) depending on the characteristics of the facility. For example, care facilities with not more than 10 residents and not more than 2 who require assistance in evacuation, and which operate as a single housekeeping unit, may instead conform to the requirements for Group C residential occupancies (OBC standards for a dwelling unit apply).

Once the occupancy of such a facility is determined by municipal staff at the building permit application stage, the appropriate requirements from both the OBC and OFC can then be applied. Some Code requirements for Group B occupancy could include, among others, corridor width specifications, application of a particular class of fire sprinkler systems, emergency exits and fire separation methods.

In August 2005, the Fire Marshall's Office issued new requirements under Ontario Regulation 450/05, Development Services Act (DSA), that applies to group homes for adults who have a developmental disability. These include:

- group homes regulated by the DSA must retain records of inspections of fire protection equipment for a period of two years;
- group homes regulated by the DSA must provide non-combustible ashtrays where smoking is permitted;
- group homes regulated by the DSA must conduct monthly fire drills;
- residential and health care occupancies must comply with standard CAN/CSA-Z305.12-98 for the storage, handling and use of portable oxygen systems.

### 3.0 Policies and Practices of Other Municipalities

A review of group home policies and zoning standards from a number of municipalities within the Greater Toronto Area and beyond was undertaken, including Toronto, Markham, Richmond Hill, Newmarket, Stouffville, Brampton, Mississauga, Hamilton, Burlington, Milton, Guelph, Waterloo, Oakville, Barrie, London, Windsor and Kingston. Each of the municipality's zoning provisions for group homes are attached as Figure 7, including general definitions, permitted zones, number of residents, separation distances and registration requirements.

The following summarizes the policies and zoning regulations for group homes in other municipalities:

- Many of the municipalities surveyed conducted studies and established policies on group homes prior to 2002. Some of the past studies included a task force/advisory committees/technical steering committees (e.g. Markham/ Caledon).
- Most municipalities use a two-tier (or more) approach with at least two group home categories, such as Type 1 group homes (accommodating developmentally challenged) and Type 2 group homes (accommodating persons who are in conflict with the law, with drug and alcohol dependencies, shelters for homeless or for victims of family violence, etc.).
- Standards and regulations (e.g. separation distances) vary amongst municipalities. Most municipalities use separation distances ranging from 120 m to 800 m.
- Most municipalities that have regulations/standards for group homes in their zoning by-law also recognize the use in their Official Plan.

- Definition of group home and levels of group homes varies based on number of persons accommodated. Some have “mini group home” or “auxiliary group home” for 3 to 5 persons or less than 6; (some have no policies for less than 6) Other names/classification are used for accommodation of more persons, e.g. 5 to 10 persons. These include “group home”; “special needs”, “supportive lodging”, “residential care”, etc.
- Type 1 group homes (for developmentally challenged) are permitted in residential zones in the form of single family and multi-family units.
- Permission of group home use usually extends into the agricultural /rural areas.
- Very few municipalities have parking requirements specifically for the group home use.
- About half of the municipalities surveyed have registration requirements.

As indicated on the attached municipal comparison chart (Figure 3), the Town of Markham’s proposed Official Plan and Zoning By-law for the establishment of group home policy were repealed in June 2004. For more information on this, see Section 5.0 below, “Recent Experience in Markham”.

#### 4.0 Consultation

To date, the Policy Planning Department has consulted with:

- Vaughan Staff, including Planning Department, Building Standards (Zoning and Code), Legal Services, Finance Department, By-law Enforcement, Fire Department;
- York Region, Community Services and Housing Department;
- Other Municipalities in terms of updated information/policies;

- Ministry of Municipal Affairs and Housing;

Should Council wish to pursue the regulation of a Type 1 group home (e.g. amendment to Zoning By-law 1-88), a Public Hearing will be required in accordance with the Planning Act. Further consultation may be required thereafter.

#### 5.0 Recent Experience in Markham

The Town of Markham was consulted with respect to the outcome of their group home policies, which were appealed by the Ministry of Municipal Affairs and Housing. In 1989, the Town of Markham embarked on a study to establish group home policies. The study included the establishment of a Task Force with the purpose of making recommendations to Markham Council respecting community needs and attitudes towards group homes and appropriate policies and procedures relating to group homes.

As a result of the Task Force recommendations, Markham Council adopted group home policies through an Amendment to the Official Plan (OPA 97) and Zoning By-law (By-law 72-91) in March 1991. Policies included definitions for various types of group home, e.g. auxiliary group homes, group home, correctional group home, crises care facility; maximum number of persons; locational criteria; separation distance requirements (300m to 1000m depending on type); capping the number of group homes per population (1 per 2500 population per Ward and for Correctional Group Homes, 4 in total and one per electoral ward). Markham's proposed group home policies were fairly typical of other municipal group home policies that had been established at that time.

Group home providers and the Ministry of Municipal Affairs and Housing objected to Markham's policies, citing Charter of Rights issues. In the face of an appeal from the Ministry and failed attempts to resolve the issues, Markham repealed OPA 97 and By-law 72-91 relating to group homes in June 2004. There has been

no further action to replace the policies and municipal registration is not required. Markham remains without any policies/regulations/licensing of group homes.

## 6.0 Options and Analysis

A number of options are available to the City with respect to addressing the absence of the “Type 1” group home policies. The options listed below can be applied to either the R1V Zone only or City-wide.

- a) *Status Quo – no policies in the Official Plan or definition or regulations in the Zoning By-law. No registration required. Subject to current residential policies.*

Group homes are subject to rules and regulations that are established under the respective statutes/acts, e.g. Development Services Act, and are subject to the requirements of the Ontario Building Code and Ontario Fire Code. The Ministry of Municipal Affairs and Housing advises that that the Provincial Policy Statement speaks to the providing housing for people with “special needs”; that group homes are part of a continuum of housing types; and; that the authority/jurisdiction by municipalities to regulate group homes is questionable.

This option would be supported by the service providers and may not be supported by some residents and ratepayers associations.

- b) *Include a definition of Type 1 Group Home in By-law 1-88 (similar to Municipal Act or Development Services Act definitions, with or without identifying the number of persons being accommodated) and identify where they are permitted, e.g. in all residential zones or zones where residential use is permitted. The definition of “Family” may need to be redefined to specifically exclude a group home.*

This would clearly define and recognize the use and identify where group homes are permitted. By doing this, it may also allow the City to exercise its option in the future to proceed with a licensing by-law for group homes. Limiting the number of residents to 10 or less would be consistent with the definition of group home provided in the Municipal Act for the purposes of municipal registration through a business licensing by-law. Such restriction would also be in keeping with the residential occupancy classification of the Ontario Building Code.

This option may be subject to objection from the service providers based on jurisdiction and Charter issues, particularly if a maximum number of persons is prescribed.

- c) *Provide definition of Group Home Type 1 and identify where they are permitted (same as Option b., above) together with a number of regulations, such as locational criteria, separation distances, limit the number of residents, parking requirements, etc. (similar to the previous City's Group Home Study recommendations in 2002).*

This addresses the same issues as Option b) above, with increased likelihood of an appeal from service providers. The previous City of Vaughan Group Home study (2002) attempted to do this and was unsuccessful.

- d) *Pursue the Memorandum of Understanding (protocol/guidelines).*

Although this option has good intentions for a cooperative approach, it may not be legally enforceable and requires agreement from all service providers, the City and the ratepayer associations. The previous attempt in 2002 at establishing such an agreement failed since the guidelines were not fully supported by either the service providers or the ratepayers associations. Jurisdictional and Charter issues may remain and render this option void.

- e) *Pursue general group home policies as part of other special needs housing policies in the City's new Official Plan.*

The scope of this exercise may depend on whether any regulations are contemplated for group homes at the Zoning level. Provided they are, Official Plan policies would establish basic planning objectives of accommodating group homes within the City in a manner which provides integration with existing neighbourhoods while ensuring that the size and scale of such facilities is compatible with the neighbourhood. Without any regulations applied at the zoning level, the policies for group homes would be permissive and generic at best, possibly as part of a set of comprehensive policies for social housing and the more "institutional" type uses.

- f) *Pursue registration of group homes through a licensing by-law.*

This option may require the recognition of the use in the zoning by-law as a pre-requisite. This would allow the City to keep a formal record of the location of group homes in the City. Licensing may be beneficial as a safety measure, whereby the Fire Department would know where the group homes are located for the mandatory annual inspection.

This option was previously not supported by the service providers, cited as being redundant/onerous – onus is on service providers to meet the rules as set out in Acts/Codes (e.g. Development Services Act, Ontario Fire Code).

- g) *Require group homes to be subject to site plan control as per Section 41 of the Planning Act.*

The purpose of this option would be to ensure that the site design aspects and architectural treatment of new construction is in keeping with the character of the neighbourhood it is located within. An amendment to the City's site plan control Official Plan and By-law (OPA 200, as amended by OPA 553 and OPA 658 and

By-law 228-2005, as amended by 134-2007, respectively) would be required. This option would be most effective/influential on detached dwellings (particularly new construction), with less impact on existing units, particularly within semis and townhouses, and no impact on an apartment building if permitted within a unit.

This option may have minimal impact on existing development. There is potential for objection from service providers (Charter issues, cost, timing, etc.) and may be deemed as somewhat redundant as residential development is currently subject to existing applicable development policies and regulations in the Official Plan and Zoning By-law, and/or Heritage policies and guidelines if applicable.

## 7.0 Conclusions

The multiple and complex regulatory and jurisdictional aspects of group homes, together with the various terminology used for defining and regulating group homes and potential Charter of Rights issues, make it challenging for a municipality to regulate them in terms of land use. Most of the existing policies and regulations for group homes in surrounding municipalities were established during the 1980's and early 1990's. More recent attempts to regulate group homes by municipalities appears to have become increasingly more difficult, as seen in recent experiences in the Town of Markham (Official Plan & Zoning By-law for Group Homes

Notwithstanding the above, there appears to be grounds for a municipality to define and regulate a group home use to ensure the character of a residential neighbourhood is maintained. This includes:

1. The Province of Ontario recognizes group homes as a use. Planning Guidelines for group homes were issued by the Province in 1980 ("Ontario Group Home Resource Manual, 1983"), which outlines how a municipality can change its official plan and zoning by-law to permit group homes in residential areas. The Municipal Act and the Development Services Act

provide a definition for a group home for the purposes of licensing at the municipal level.

2. The Region of York's Official Plan contains a policy that supports "an equitable distribution of group homes and rooming, boarding and lodging houses to serve the needs of the community". This appears to provide a basis for allowing a municipality to include a minimum distance separation requirement between group homes in the zoning by-law, provided the distance prescribed was reasonable. Overconcentration appears to be a common issue of concern reflected in group home studies conducted for municipalities.
3. A group home appears to differ from a typical residential dwelling in that it must be licensed by the Federal or Provincial Government and there is a primary/intended purpose of providing a level of care, supervision and "staff support" to its inhabitants. The operators of a group home must meet statutory and program requirements, e.g. conduct mandatory fire inspections, provide amenity space, etc. Also, the Building Standards Department requires a "change in use" permit (not zoning) when converting from a dwelling to a group home use when two or more require assistance in an emergency.
4. Most of the municipalities surveyed recognize a group home use through either Official Plan policies and/or zoning by-laws, including definitions, maximum number of persons allowed, and separation distances in order to avoid an overconcentration. Vaughan has established definitions and regulations in the Zoning By-law for "Type 2" group homes, including "Correctional or Crisis Care Group Home" and "Institutional Care Facility".

Council's direction for this study was to conduct a limited land use study on a particular group home type (for the developmentally challenged) for properties within the R1V Zone. Upon review of the existing zoning standards that apply to

the R1V Zone, such standards appear to be effective in maintaining the historical pattern of large lot development and maintaining the character of the R1V areas that are unique enclaves within the broader community. However, this does not preclude the introduction of group home applications into the R1V Zone.

If the City wishes to establish a definition and regulations for Type 1 group homes, it should be applied City-wide and not just for properties that are zoned R1V Old Village Residential.

The following identifies options that would be applied on a City-wide basis and subject to further consultation and consideration:

**1. Pursue Option b)** – include a definition in the Zoning By-law for a group home similar to the definition provided in the Municipal Act and identify where they are permitted, e.g. zones where residential use is permitted. The definition of “Family” in the Zoning By-law would also be revised to exclude group homes. This would have the effect of clearly identifying a group home as a distinct use.

Additional regulations, such as separation distances, licensing and parking requirements may also be explored for the purpose of consultation and feedback. For example, licensing may employ a more formal means of recording and notifying Fire and Rescue of the locations of group homes. This would ensure that any required fire safety measures/inspections/monitoring is conducted on group homes at the municipal level.

Pursuing Option b) would result in recognizing the use and clearly setting out the rules and expectations of the municipality.

**2. Pursue Option e)** – establish general group home policies as part of special needs housing policies in the New Vaughan Official Plan. As additional policy support, it would be ideal to establish related policy in the City’s Official Plan prior

to applying any regulation at the zoning stage. Therefore, group home policies could be part of a City-wide and comprehensive, special needs housing policy.

Furthermore, given that the R1V Zone permits residential use in the form of single family detached dwellings only, *Option g), requiring site plan control*, could be exercised as a stand alone option or in combination with Options b) and/or e). Site Plan Control is a planning tool that can be used to assist in ensuring that the existing character of the residential neighbourhood is maintained. However, this option would be effective for new construction only.

The Policy Planning Department recommends that this Discussion Paper be received by Committee of Council for discussion/comments. Should Council wish to proceed with any of the options identified, staff will develop and further refine the option(s) for implementation, subject to further consultation and consideration. Should an Amendment to the Zoning By-law be required, a Public Hearing in accordance with the Planning Act will be required. The Interim Control By-law associated with this study will expire on June 11, 2009, which will allow sufficient time to complete the study and to implement one or more of the option(s).