

CENTRAL COMMUNITY COUNCIL
MINUTES

January 14, 2013

PRESENT: Councillor Brad Johns, Chair
Councillor Tim Outhit, Vice-Chair
Councillor Barry Dalrymple
Councillor Matt Whitman
Councillor Steve Craig

STAFF: Ms. Kirby Grant, Solicitor
Mr. Kurt Pyle, Supervisor Planning Applications and Heritage
Ms. Jillian Maclellan, Planner
Mr. Quentin Hill, Legislative Assistant

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1. CALL TO ORDER

Councillor Johns called the meeting to order at 7:06 in the cafeteria of Tantallon Elementary School, Upper Tantallon.

2. APPROVAL OF MINUTES – December 13, 2012

MOVED by Councillor Outhit, seconded by Councillor Whitman that the December 13, 2012 minutes be approved as presented. MOTION PUT AND PASSED.

3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

MOVED by Councillor Outhit, seconded by Councillor Whitman that the agenda be approved as presented. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet/Councillor Update

Council requested this matter be deferred until the next Community Council meeting.

5. MOTIONS OF RECONSIDERATION – NONE

6. MOTIONS OF RESCISSION – NONE

7. CONSIDERATION OF DEFERRED BUSINESS – NONE

8. HEARINGS

8.1 Public Hearings

8.1.1 Case 17362- Development Agreement – 5210 St. Margaret’s Bay Rd., Upper Tantallon

A staff report dated November 15, 2012 was before Community Council.

Council received correspondence from the following residents:

- Ms. Heather Cochrane, Halifax
- Ms. Susan McRae, Halifax
- Mr. Greg Zwicker, Dartmouth
- Ms. Eleanor Lindsay, Seabright
- Mr. Robert Ziegler, St. Margaret’s Bay
- Mr. Vic Heniss, Upper Tantallon
- Mr. Walter Regan, Lower Sackville

- Dr. Petra Mudie, Halifax
- Ms. Pamela Donoghue, Halifax
- Mr. Peter Lund, Tantallon
- Mr. David Wimberly, Halifax
- Mr. Robert Cervelli, Tantallon
- Dr. Gordon and Ms. Holly Clifford
- Mr. Robert Mussett, St. Margaret's Bay
- Mr. David Lewis, Halifax

Ms. Jillian Maclellan, HRM Planner, delivered staff presentation on Case 17362 Development Agreement for 5210 St. Margaret's Bay Rd., Upper Tantallon.

Ms. Maclellan advised that the community and HRM staff had been working on a visioning process to establish local land use policies and zoning for the area over the past several years. She advised that the project was initiated by Regional Council on September 21, 2010. She noted that draft Land Use By-laws (LUB's) for the area would be going to Council later in the year. She advised that since Council had not approved the draft policies, current policies would be used for Case 17362.

A discussion on the presentation ensued with staff responding to questions of clarification from Council.

The Chair reviewed the Rules of Procedure for Public Hearings. He called for those wishing to speak for or against Case 17362: Development Agreement – 5210 St. Margaret's Bay Rd., Upper Tantallon.

Mr. Greg Zwicker, Genivar, advised that he was presenting on behalf of the applicant. He noted restrictions on developing the site. He indicated that there were two easements on the property in favour of Nova Scotia Power which cannot be moved. He advised that the easement restrictions reduced the amount of land his client could work with. Mr. Zwicker noted that through consultation with the community they came up with a revised site plan with reduced parking and drive- thru being moved to the rear and side of the building. He advised that the development currently met or exceeded current Land Use By-laws. Some features described by Mr. Zwicker included: property easier to walk through than to drive through, Crime Prevention through Environmental Design (CPED) certified, buildings redesigned to fit in the Tantallon area using traditional building materials in the community. He noted inclusion of an amenity area on the property, with seating and interpretive panels describing the area. He stated there would not be any billboards placed on the site and the project would use the existing Irving sign for signage.

Ms. Trudy Curley advised she was the Destination Coordinator for Bluenose Coast Tourism Association. She stated that she was acting on behalf of St. Margaret's Bay Tourism Association. Ms. Curley noted that she was involved in the crossroads visioning process over the past couple years. She urged Council to defer the proposal as it had been presented by staff and the developer due to the negative impact on the

crossroads and coastal village. She advised that the community had worked hard to plan a future direction and a guided development that reflects the values of the area. She noted that Nova Scotia is considered exotic in many parts of the world. She stated that visitors wanted a unique experience when they come to Nova Scotia. Ms. Curley suggested that driving through the Tantallon Crossroads to Peggy's Cove provides one of those experiences. She pointed out the importance of tourism to the economy of rural areas, with 500,000 visitors to Peggy's Cove in the past year. Ms. Curley noted that Council could, under current Land Use By-laws, consider extenuating circumstances through the planning process. She suggested that draft by-laws created by the community and HRM staff were stuck in process and thus could be considered the extenuating circumstance.

Ms. Cathy Crouse, advised she was presenting in her capacity as the Chair of Chester to Chebucto Transportation Working Group. She noted that the working group wanted to address the impacts of transportation in the area. She suggested that the proposal attempted to address some of their concerns regarding active transportation. She questioned how the development could accommodate active transportation with drive-thrus on the property. She wanted to see the draft by-laws to better understand how the development would affect traffic in the area.

Mr. Robert Ziegler, Tantallon, advised that he was Chair of the St. Margaret's Bay Stewardship Association. He stated that this group were not anti-development and that development could be beneficial. Mr. Ziegler expressed gratitude for changes Genivar made in the proposal after hearing from the community. He suggested there were still gaps remaining between the proposed development and the proposed By-laws. He said the Mixed Use-16 (MU-16) development agreement criteria were put into place to stop the development of big box stores and strip malls in the area. He advised that clause J of the MU-16 bylaw states "Council shall consider any other matter relating to the impact of the development upon surrounding uses or upon general community." He suggested that if Council permitted the development, it would mean that four years of community consultation would be lost and the community would have to live with a development that was not wanted. He requested that Council postpone the decision. He hoped that the developer would meet with the community and the Coastal Planning Advisory Committee to resolve the remaining issues with the development.

Mr. Mike Murphy, Boutlier's Point, advised he was the interim Chair of the St. Margaret's Bay Coastal Planning Advisory Committee (SMBCPAC). He noted that a motion passed by the Western Community Council did not allow the proposed development to be reviewed by SMBCPAC. He stated that the visioning process really helped the community define a vision and direction for the area. He suggested that the process had been slow and not having the draft LUB's implemented puts the community in a bind. He suggested the visioning process takes the community in the direction it wants to go and the development proposal was going in the opposite direction of what the community had recommended. He advised that the key to the area is the corner where the development is being planned and people know its prominence to the area. He asked Council to consider the principles in the proposed LUB's.

Mr. James Fryday advised that he supported the recommendations that came from the local groups and committees through the visioning process. He provided the history of how the visioning process took place. Mr. Fryday noted that on April 23, 2012 the St. Margaret's Bay Coastal Planning Advisory Committee (SMBCPAC) terms of reference and mandate were enacted by the Western Community Council. He stated that in September 2012, the SMBCPAC met for their first meeting but were not asked to review the proposed development. He recommended that Council should adjourn making a decision on the proposed development until the SMBCPAC can review it and make a recommendation. He advised that Western Community Council agreed that applications which began before the inception of the planning committee should be exempt from the SMBCPAC. Mr. Fryday claimed that the motion made by Western Community Council contradicted the terms of reference of the SMBCPAC.

Mr. David Wimberly, St. Margaret's Bay, advised that he was speaking on his own accord. He requested that Council set aside this application until a future date. He noted that he had been involved with the community visioning. Mr. Wimberly advised that through the visioning process with HRM staff, the community felt that they were going to be protected from developments that were not in the best interest of the community until the proposed LUBs came into effect.

Ms. Ella McQuinn, Seabright, noted that she was involved through the St. Margaret's Bay Stewardship Association and through the visioning process as a resident. She stated that the community is one that values collaboration and had come together through a combined vision on the future of the area. She acknowledged Genivar for responding to the community and changing their design. Ms. McQuinn said the development was close to having it right but that it still was not at the place where the community felt it should be. She advised that clause MU 16-Clause J specifically states that other considerations play a role in deciding the agreement. She requested that Council defer the matter until it can be dealt with appropriately using the vision and the draft by-laws that will be coming forward to Council.

Councillor Johns asked in what specific areas the proposed development did not meet the community expectation.

Ms. McQuinn responded that the drive-thru was an issue and the walkability of the development was missing. She noted the trails on the conceptual drawings but questioned if they connected to other trails in the area. She suggested that there were landscaping issues and requested that the natural features remain intact. She stated there were still issues in relation to backlit signs and requested that signs be lit with low level lighting.

Ms. Tam Hill, stated that the development does not have a main street feel and the buildings should be closer to the front of the property. She advised that the parking and the building locations needed to be reviewed.

Ms. Shelia Keating, St. Margaret's Bay, advised that she contributed to the community response report to the project that was distributed to Council. She noted that the architectural design of the proposed development were not consistent with buildings in the area and with the visioning plan. She noted that there are a number of buildings in the area that are complimentary to the character of the area without compromising their function. She suggested that only using certain aspects of architecture from the area and applying it to buildings does not fit consistently with the area.

Ms. Ellen Helmechy, Stillwater Lake, and president of St. Margaret's Bay Chamber of Commerce addressed Community Council. Ms. Helmechy stated that she owned a business right across from the proposed development. She advised that she was speaking on behalf of the Chamber. She indicated that the Chamber is not telling Genivar what or how to develop, but were pleased they were responding some to some the community concerns. She noted that they are not against "big box stores" but would prefer that stores take up the same look and feel of the community. She noted frustration that the draft bylaws were not in place for this development as they had went forward in 2011. She stated had the proposed land use bylaws been adopted then the community and developer would not be in situation they were in. She urged Central Community Council to deny the proposal as she felt it was the right thing to do for all the work the community had done.

Honourable Denise Peterson-Refuse, Member Legislative Assembly, addressed Council. She noted that she was honoured to be part of the visioning process. She recognized the developer for working on trying to make the project fit the community. She commented that it was unfair for the community's plans to be held back because the proposed LUB's were not put forward. She requested that Community Council take into consideration the work that was done by the community.

Mr. Peter Lund, former HRM Councillor for the area. Mr. Lund provided background on the matter for the members of Council. He noted that none of the Councillors on the current Community Council were involved in the visioning process that had taken place in 2007. He stated the Western Community Council had accepted the Community visioning document in 2010 and it had been passed onto Regional Council. He advised that the LUB's were supposed to be passed a year prior. He agreed that the development agreement should be delayed. He wanted to have Council meet with the community association and the developer to see how the development agreement deviates from the existing elements. He noted that the re-facing of the Irving station was a positive aspect of the development.

Ms. Zar Demalter, pharmacist owner of the Tantallon Shoppers Drug Mart addressed Council. She stated she was excited about the proposed development. She advised the current location of her store was inadequate to serve residents of the area properly. She noted that the larger building would allow them to expand services and products for their customers. She advised that a new location allowed them to compete. Ms. Demalter advised that this development would create new jobs in the area, with new positions coming to the new and expanded businesses and in the building of the property. Ms

Demalter presented Council with a petition containing 571 signatures in support of the proposed development.

Ms. Jeanie Mustaine, St. Margaret's Bay and member of St. Margaret's Bay Coastal Planning Advisory Committee addressed Council. She noted that due to its location the property value was worth more than the monetary value placed on it was significant to the area. She agreed with previous speakers that the impact of the development will cause irrevocable damage to the community if the By-laws that the community worked on are ignored. She requested the developer position the parking at the rear of the property.

The Chair stated that all who had signed up on the speakers list had spoken. He requested any others who wished to speak to come forward.

Mr. Geoff Leboutier, Glen Haven, noted that the majority of points he wanted to make were addressed by many of the previous speakers. He added that the community played a major role in building the municipal planning strategy for the area. He stated that Council should not approve the development until it met the community views on design.

Ms. Pam Couille, stated that HRM has a wonderful visioning process. She stated that it is a matter of accepting the work and process that the community worked through. She noted that the LUB's being held up in process was not the fault of the community. She explained that she was not anti-development and was pleased to see that there were others interested in the matter who were in favour of the development.

Ms. Eileen Coady, St. Margaret's Bay, advised that as a tourist she understands the value of good development that reflects the community. She noted that if the development is done properly and fits in the community, it would be welcome and visitors would know the area has pride. She noted that "big box" stores around the world have been capable of making their stores fit into the look, culture and feel of the community. She stated that the current development proposal did not give the sense of belonging in the community and hoped that the developers could be culturally creative and make changes to make it fit.

Ms. Katherine Ziegler, Upper Tantallon, she expressed desire for the main street design over a small area. She noted there are a group of Dalhousie students who are working on a design for the area that was due to be completed in April. She noted there was not a main street area in Tantallon. She stated that a main street would include sidewalks for pedestrian safety. She urged Council to deny the development agreement so that Genivar could take another look at the proposal and design it around the community.

Mr. Jim Coawardine, Seabright, suggested the reason Tantallon does not have a main street is because of density. He noted that the community needed downtown area but needed more density and people to achieve that.

Mr. Dave Wilson, Indian Point, suggested it was difficult for the developer to know under what rules to build in the community. He stated that he felt the developer had worked hard to make the project fit under the current rules. Mr. Wilson said he felt it was unfair to the developer to accommodate every single wish that requested. He said the developer was working under the current by-laws and should not have to try and anticipate what they can or cannot do under future proposed by-laws.

Mr. Richard Hesprey, Indian Harbour, stated that the drive-thru appears narrow in the drawings, but noted that they actually have to be fifteen feet which was larger than presented.

Ms. Carol Evans, Whynotts Point, stated that there should be seniors housing on the site. She advised that incorporating seniors housing in the development was brought up at a number of community meetings.

The Chair called three times for any other speakers to come forward. Hearing none it was **MOVED by Councillor Outhit, seconded by Councillor Craig to close the public hearing. MOTION PUT AND PASSED.**

The Chair called for the proponent to come forward and address the comments made during the public hearing.

Mr. Greg Zwicker, Genivar indicated that Cobalt had worked hard to find common ground with the community. He stated that they had redrawn the site plan forty-one times. He advised he did not know how much longer the developer could wait to develop the site. He noted that Cobalt was introduced a number of measures that were not required and had never been undertaken in developments in the area. He stated that they were trying to find a balance between a client who has owned the property for many years with concerns of the community. He stated some of the requests such as moving the buildings and placing the parking in the back were not possible due to the site restrictions. He noted that they are proposing a development under the current rules and have worked very hard at addressing the community concerns.

Councillor Outhit asked if the drive-thru was required for the economic viability for the development.

Mr. Zwicker stated that the drive-thru was requested by the client for them to complete the development. He noted that the drive-thru was a service to those in the community who could not get out and walk into a business. He advised that one of the drive-thrus would be a bank and would not have a large number of vehicles coming and going through it. He noted that the drive-thru was something that was permitted use under the current zoning. Mr. Zwicker advised that the Department of Transportation would not allow the development agreement to have a high traffic coffee shop on the property.

MOVED by Councillor Whitman, seconded by Councillor Craig to defer a decision on Case 17362 until the February 11, 2013 North West Community Council meeting to better understand information submitted and heard at the public hearing and request a supplementary staff report to clarify and address questions from Council.

Councillor Dalrymple stated that there was a tremendous amount of documentation for and against the proposal. He noted that proper review of the material was necessary to make a proper decision on the development. He also requested to know more on the visioning process that had taken place in the area.

Councillor Outhit requested a staff report on the development agreement. He requested the staff report include a legal opinion regarding whether Council can consider proposed Land Use By-law. The Councillor requested a status update on the proposed LUB. He asked that staff report include how the proposed LUB would affect the proposed development. He requested that the minutes from the Western Community Council be reviewed relative to the mandate of the St. Margaret's Bay Coastal Planning Advisory Committee. Councillor Outhit encouraged the community and Genivar to get together and work on some of the outstanding issues.

Councillor Craig requested that the report comment on the extenuating circumstances around the project, could Community Council deny the application as had been expressed at the public hearing. He noted that under the current rules it was apparent that the developer had adhered to the requirements.

MOTION PUT AND PASSED.

- 9. CORRESPONDENCE, PETITIONS & DELEGATIONS- NONE**
- 10. REPORTS- NONE**
- 11. MOTIONS**
- 12. ADDED ITEMS**
- 13. NOTICES OF MOTION**

Council recessed at 9:55 p.m. and resumed at 10:00 p.m.

14. PUBLIC PARTICIPATION

Mr. Ross Evans, Pockwock Road, noted there were problems at the intersection at the corner of Pockwock Road. He stated there were two accidents at the corner in recent weeks. He advised there is a crosswalk is never cleared of snow after a snow storm. He requested that an overhead light be placed over the crosswalk.

Councillor Whitman advised that he would look into the shovelling at the crosswalk at Pockwock Road. He noted that there needed to be street lights placed at the Pockwock Road as it was an unsafe section of the road.

Mr. Peter Lund, asked why there was no traffic lights at the corner of Glen Arbor and Hammonds Plains Road. He asked if HRM staff completed the report on the Bowater Mersey Lands and that the North West Community Council should follow up on that report.

Councillor Whitman advised that staff is waiting until paving season (Spring 2013) as it had missed the target date of being in place by September.

The Chair noted that the Bowater Mersey Land issue is on the Council status sheet and that the report would be brought forward at a future Community Council.

15. NEXT MEETING DATE – January 29, 2013

16. ADJOURNMENT

The meeting was adjourned at 10:12 p.m.

Quentin Hill
Legislative Assistant