

PENINSULA COMMUNITY COUNCIL
MINUTES

March 5, 2012

PRESENT: Councillor Jennifer Watts, Chair
Councillor Jerry Blumenthal, Vice Chair
Councillor Sue Uteck
Councillor Dawn Sloane

STAFF: Ms. Karen Brown, Senior Solicitor
Ms. Sheilagh Edmonds, Legislative Assistant

TABLE OF CONTENTS

1.	CALL TO ORDER.....	3
2.	APPROVAL OF MINUTES	3
3.	APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS.....	3
4.	BUSINESS ARISING OUT OF THE MINUTES	3
4.1	Business Arising	3
4.2	Status Sheet:	3
4.2.1	Information Report dated February 14, 2012 RE: Strategy to Sustain Minor Baseball on the Peninsula	3
5.	MOTIONS OF RECONSIDERATION	4
6.	MOTIONS OF RESCISSION.....	4
7.	CONSIDERATION OF DEFERRED BUSINESS	4
8.	HEARINGS.....	4
8.1	Public Hearings.....	4
8.1.1	Case 17108 Rezoning Lot H-1 on Windsor Street, Halifax	4
8.1.2	Case 17416: Lot Modification Development Agreement – 6212, 6214, 6216 Cedar Street and 1740, 1746 Walnut Street, Halifax ...	5
8.1.3	Case 16803 – Development Agreement in the Brunswick Street.... Heritage Area (Schedule HA-1) to allow for a multiple unit dwelling at 2569-2581 Brunswick Street, Halifax	7
8.2	Variance Appeal Hearings	10
8.2.1	Variance Appeal: #17453 – 6289 Jubilee Road, Halifax	10
9.	CORRESPONDENCE, PETITIONS & DELEGATIONS	12
9.1	Correspondence	12
9.2	Petitions.....	12
9.3	Presentations.....	12
10.	REPORTS	12
10.1	Staff	12
10.2	Committee Reports	12
10.3	Members of Community Council:.....	12
10.3.1	Interim Land Use Bylaw Changes for Schimidville – Councillor Sloane.....	13
11.	MOTIONS.....	13
12.	ADDED ITEMS	13
13.	NOTICES OF MOTION	13
14.	PUBLIC PARTICIPATION	13
15.	NEXT MEETING DATE	13
16.	IN CAMERA.....	13
17.	ADJOURNMENT	14

1. CALL TO ORDER

The Chair called the meeting to order at 7:01 p.m.

2. APPROVAL OF MINUTES

MOVED by Councillor Sloane, seconded by Councillor Uteck that the minutes of February 13, 2012 be approved. MOTION PUT AND PASSED.

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

There were no additions or deletions to the agenda.

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

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Business Arising: None

4.2 Status Sheet:

4.2.1 Information Report dated February 14, 2012 RE: Strategy to Sustain Minor Baseball on the Peninsula

An information report dated February 14, 2012 was submitted.

Councillor Sloane advised that she wanted to keep this item on the status sheet, as it does not answer her question.

Councillor Uteck advised that she was concerned that many of the items on the status sheet have been there for some time; some items have been on for years without any resolution, such as the court case in regard to the CN Property Maintenance item. She suggested that any item over nine months old on the status sheet, staff should contact the Councillor directly.

MOVED by Councillor Uteck, seconded by Councillor Sloane that staff be advised to contact the individual Councillors directly, in regard to any status sheet item over nine months old. MOTION PUT AND PASSED

Councillor Sloane advised that the issue regarding Peninsula Place has still not been resolved and the property owner is looking for some resolution. She asked for a status update on the physical operational change that will stop flooding, and for an update on legal issues.

5. **MOTIONS OF RECONSIDERATION – NONE**
6. **MOTIONS OF RESCISSION – NONE**
7. **CONSIDERATION OF DEFERRED BUSINESS – NONE**
8. **HEARINGS**
 - 8.1 **Public Hearings**

The Chair reviewed the Rules of Procedure for public hearings.

8.1.1 Case 17108 Rezoning Lot H-1 on Windsor Street, Halifax

First Reading was given at Peninsula Community Council's February 13, 2012 meeting.

A staff report dated January 18, 2012 was before Community Council for consideration.

Ms. Dali Salah provided the staff presentation on the application by the W.M. Fares Group, on behalf of 3224829 Nova Scotia Limited, to rezone Lot H-1 located across from the Connolly Street intersection, identified by PID No. 41118258, on Windsor Street in Halifax, from the R-2 (General Residential) Zone to the R-3 (Multiple Dwelling) Zone to allow for a multi-unit residential building.

In her presentation Ms. Salah advised that the applicant is requesting the rezoning because they want to construct a six-storey, 43-unit residential building on the site. She added that the driveway will be on Windsor Street and the building will have 29 underground parking spaces, and there will be an additional 16 surface parking spaces.

Ms. Salah responded to questions from Community Council.

In response to a question by Councillor Blumenthal, Ms. Salah advised that staff have not received any comments or concerns about this matter from the area residents.

The Chair advised that at this time, the applicant could present their proposal, if they wished.

Mr. Cesar Salah addressed Community Council advising that he was representing the applicant. Mr. Salah thanked staff for their report and indicated he had nothing further to add at this time, but that he was in attendance to answer any questions Community Council may have.

The Chair opened the public hearing and called three times for anyone wishing to speak to this matter; there being none, it was **MOVED by Councillor Uteck, seconded by Councillor Sloane that the public hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Blumenthal, seconded by Councillor Sloane that Peninsula Community Council approve the proposed rezoning of Lot H-1 on Windsor Street, Halifax, from the R-2 (General Residential) Zone to the R-3 (Multiple Dwelling) Zone to permit the development of a 43-unit residential building, as provided in Attachment A of the January 18, 2012 staff report.

Councillor Blumenthal noted that he was supportive of this application and believes the building will be a nice new addition to the area and will help promote densification of this area as well.

Councillor Sloane also noted that she was supportive of the application as it supports the principles of the Centre Plan in regard to increasing densification.

MOTION PUT AND PASSED.

8.1.2 Case 17416: Lot Modification Development Agreement – 6212, 6214, 6216 Cedar Street and 1740, 1746 Walnut Street, Halifax

Notice of Motion was given at Peninsula Community Council's February 13, 2012 meeting.

A staff report dated January 19, 2012 was before Community Council for consideration.

Ms. Dali Salah, Planner, provided the staff presentation on the application by Stewart Healy for the lands of Faye and Grant Morrison for a lot modification to permit a residential development on three properties located at 6212, 6214, 6216 Cedar Street and 1740/1746 Walnut Street, Halifax. She explained that the proposal cannot be enabled through the as-of-right development process as the proposed lot coverage and Gross Floor Area (GFA) exceed the requirements of the Halifax Peninsula Land Use By-law.

Ms. Salah advised that in May 2011 the applicant submitted a variance application to vary the lot coverage and GFA provisions under the Halifax Peninsula LUB on the subject properties, but the application was refused as the subject properties were created in May 2007 after the effective date of the Halifax Peninsula LUB (August 1978) and are not eligible for variance consideration.

Ms. Salah explained that the purpose of the proposal is to increase the lot coverage to 35.5% and the Gross Floor Area to 2280 square feet on the three subject properties, in order to build three single unit dwellings. The proposal also will include the removal of all existing structures on the properties.

There were no questions of clarification from Community Council.

The Chair invited the applicant to come forward at this time to provide comments to Community Council if they wished.

Mr. Stewart Healy, the applicant, addressed Community Council and indicated that the staff report did a great job in presenting his application, and that he was in attendance to respond to any questions.

The Chair then opened the hearing to anyone else wishing to address Community Council on this matter.

Mr. Kent Pottle, Halifax, indicated that he was a neighbour of the subject property, and addressed Community Council advising he had a couple of questions with regard to the project. He noted that, currently, in the area most of the permitted street parking is for only a few hours, and on the property there are four cars that rent parking and this project will increase the density of parking. Mr. Pottle questioned if there was any consideration being given to changing the parking designation on the local streets to allow parking throughout the day. Mr. Pottle also pointed out that in the diagrams of the project, a few of the downspouts are on the south side of building and drain towards an existing right-of-way which services his property and another property. He expressed concern that with a paved footing and drainage from new buildings that the right-of-way may end up saturated with water, which will then freeze in winter. Mr. Pottle questioned the construction timeline, because the easement services parking for two of the buildings on the property.

The Chair called three times for anyone else wishing to speak, there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Uteck that the public hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that Peninsula Community Council approve the proposed Development Agreement presented as Attachment A of the January 19, 2012 staff report; and require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

Councillor Uteck addressed the concern of lack of day-long parking on the street and encouraged the neighbourhood residents to contact her and she would be willing to assist in seeing what could be done to extend this through the day. With regard to the drainage issue concern, she advised that in 2002 a bylaw was passed, such that if one property impacts another in this regard, HRM can assist the property owner.

Councillor Uteck pointed out that this development agreement was passed in 2007 but the agreement expired. She advised that as the area councillor she has had no concerns or complaints submitted to her. Councillor Uteck indicated she supported the application and added that under the proposed Regional Centre Plan, this type of single family home is the type of development that is wanted on the Peninsula.

MOTION PUT AND PASSED.

8.1.3 Case 16803 – Development Agreement in the Brunswick Street Heritage Area (Schedule HA-1) to allow for a multiple unit dwelling at 2569-2581 Brunswick Street, Halifax

Notice of Motion was given at Peninsula Community Council's February 13, 2012 meeting.

A report dated January 23, 2012 was submitted from the Chair of the District 12 Planning Advisory Committee, with an attached staff report dated December 16, 2011.

A supplementary staff report dated February 14, 2012 was submitted.

Correspondence was submitted from:

- Mr. Phil Pacey, Heritage Trust
- Jason Ross
- Judy Haiven

Ms. Jillian MacLellan, Planner, provided the staff presentation on the application by Rayleen Hill, Architecture and Design, for lands of City of Halifax – Non-Profit Housing Society for development agreement to allow a 34 unit dwelling on Brunswick Street at 2569—2581 Brunswick Street, Halifax.

Ms. MacLellan advised that based on comments from the District 12 Planning Advisory Committee, the applicant has changed the unit mix so that 10 of the 34 units are two bedroom units, rather than only three of the 34 units being two bedroom. In this regard, Ms. MacLellan noted that to achieve this change some units will be expanded into a proposed basement thus the proposed grade will change slightly . She also pointed out that the development will not have parking, as it is felt that due to the urban locale and proximity of the development to transit, the development will not attract those who require a personal vehicle.

In concluding her remarks, Ms. MacLellan advised that a portion of the subject property is owned by HRM and HRM and Harbour City Homes are in negotiations to approve the sale but it is not finalized yet. She added that staff can proceed with a decision but that the proposed agreement will not be signed until the sale is final. For this reason, staff are recommending a timeline of 180 days for the development agreement to be signed by the property owner rather than the usual 120 days.

Staff responded to questions of clarification from Community Council.

The Chair invited the applicant to come forward at this time to provide remarks if she wished.

Ms. Rayleen Hill addressed Community Council and advised that she was the architect for the project. She noted that the project has been two and a half years in the making and she feels that the integrity of design is illustrated in the project. Ms. Hill added that she has been working on something that would be acceptable to everyone and that those involved in this project only want the best for this street.

Mr. Blair Beed, Halifax, expressed concern over the proposal and that the present buildings on the site would be torn down. He noted that at one time the buildings were considered for heritage registration, but unfortunately nothing ever happened. Mr. Beed pointed out that Brunswick Street has a policy with regard to heritage concerns and this is a situation whereby the Municipality could work with the owner and find land elsewhere to build houses, and sell the Brunswick properties to people that can afford to repair them. Mr. Beed requested Community Council support the District 12 Planning Advisory Committee's report.

Mr. Phil Pacey, Halifax, addressed Community Council and, referring to his written submission, noted that the first two points give Community Council all the reason it needs to turn down this proposal. Mr. Pacey provided historical information on the subject properties and advised that the buildings deserved to be saved. He noted that the information he submitted contained a petition signed by some of the tenants who currently live in the properties. Mr. Pacey reviewed policies 1.1 and 1.1.1 of the Peninsula North Secondary Planning Strategy citing that they encourage the retention and rehabilitation of these houses.

Ms. Beverly Miller, Halifax, requested that Community Council reject this application. She stated that it violates Policy 1.1 and 1.1.1 and Policy 9 of the Peninsula North Secondary Planning Strategy, and that she felt the staff report ignored these policies as there is no mention of attempting to retain or rehabilitate the houses. Ms. Miller also pointed out that there has been no input from the heritage planners, and no investigation to maintain the buildings or the impact on the neighbourhood. She noted that there has been no critique of the architectural plans. Ms. Miller recommended that the plans be sent back to the developer with a request that they provide proof that the buildings cannot be saved.

Mr. Alan Ruffman, Ferguson's Cove Road addressed Community Council and questioned whether the public hearing was legal because in the notification to the public the December 16, 2011 staff report was referenced, however a supplementary staff report has since been submitted and is before Community Council this evening for consideration. He added that the supplementary report notes that the developer is changing the number of two bedroom units from three to ten and this involves losing some of the basement space. Mr. Ruffman indicated that this was a significant change and that the advertisement should have reflected this change.

Mr. Ashley Morton, Halifax advised that his concern with the project was that there had been no analysis of the quality of building material and that the only references were to

the external building material. He suggested that there should be concern that these units may end up with mould or other issues down the road.

The Chair called three times for other speakers; there being none, it was **MOVED by Councillor Uteck, seconded by Councillor Blumenthal that the public hearing close. MOTION PUT AND PASSED.**

The Chair advised that, at this time the applicant could come forward and respond to any points if she wished.

Ms. Rayleen Hill addressed Community Council and clarified that with regard to the grade change on the site as a result of increasing the number of two bedroom units, there is already a significant grade on the property and they will not be excavating the site in any dramatic way to create the basement apartments. With regard to the comment on the quality of materials which will be used, Ms. Hill advised that the units will have high quality construction such as hydronic heating, R-26 walls, and vapour barrier. As well she noted that the projects which she works on, she is interested in having the units with dual aspects. In this regard, she noted each unit will get some sunlight and ventilation. She added that the Building Code requires that they offer two barrier-free units in the development as well.

Councillor Sloane asked the Solicitor to comment on Mr. Ruffman's remark regarding the legality of this hearing

Ms. Karen Brown, Senior Solicitor advised that in this case the change does not affect the density, but it is a change in the unit mix, and if this is the only change then there is no need to hold a new public hearing.

Ms. MacLellan confirmed that the number of units was remaining the same—34—and that the only change was that there were going to be more two-bedroom units within the 34 than originally planned.

In response to another question by Councillor Sloane, Ms. MacLellan explained that the properties are within a heritage area but it is not a heritage district. She added that if it were in a heritage district the application would have gone before the Heritage Advisory Committee. Ms. MacLellan noted that the application was reviewed by a heritage planner.

Councillor Sloane pointed out that the staff report and documentation on this application notes two different names associated with this application but used interchangeably, i.e. *City of Halifax Non-Profit Housing Society* and *Harbour City Homes*, and questioned why the name, *Harbour City Homes* was not used when it was brought forward to Community Council.

Ms. MacLellan explained that the property is currently registered in this name and that Harbour City Homes and City of Halifax Non-Profit Housing Society are the same entity.

MOVED by Councillor Sloane, seconded by Councillor Uteck, that Peninsula Community Council:

- 1. Approve an application for the City of Halifax Non-Profit Housing Society to enter into a development agreement for the properties at 2569-2581 Brunswick Street, Halifax as outlined in Attachment A of the February 14, 2012 Supplementary staff report; and**
- 2. Approve the proposed development agreement to allow a 34 unit dwelling on Brunswick Street, as outlined in attachment A of the February 14, 2012 staff report.**
- 3. Require the Development Agreement be signed by the property owner within 180 days, or any extension thereof granted by Community Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and any obligations arising hereunder shall be at an end.**

Councillor Sloane indicated that she was supportive of the application, and was pleased that the developer responded to the concern from the District 12 Planning Advisory Committee and created seven additional two-bedroom units.

Councillor Uteck indicated that she would support the application. She advised that the reality of these buildings is that they are very run down, with one building actually condemned. She noted that the applicant can apply for a demolition, so if Community Council were to turn this down, it would only be delaying the process.

Councillor Blumenthal indicated that he supported the application as the area needs homes that are affordable.

MOTION PUT AND PASSED.

8.2 Variance Appeal Hearings

8.2.1 Variance Appeal: #17453 – 6289 Jubilee Road, Halifax

A staff report dated February 6, 2012 was submitted.

Ms. Brenda Seymour, Development Technician provided a presentation outlining the reasons why the Development Officer refused a variance request to reduce the side yard setback, lot area and lot frontage to convert a two-unit dwelling to a three-unit dwelling at 6289 Jubilee Road, Halifax.

In her presentation, Ms. Seymour advised that the current legal use of the property is a two unit dwelling. She added that on June 9, 2008 a Minimum Standards Bylaw M100

complaint was received from a tenant at this address. The caller indicated there were three units. A site inspection by staff confirmed it had a third unit.

Ms. Seymour explained that on June 11, 2008, a Land Use Compliance file was opened for the illegal third unit, and in August 2008, in response to HRM's notice to comply, Cygnet Properties applied for a permit to renovate the three-unit building. She noted that the property is zoned R-2, which permits up to four units, however all requirements of the zone must be met in order to be considered for approval. Ms. Seymour advised that the permit was refused on August 28, 2008 as it did not meet the lot frontage, lot area and side yard setback. The permit was not appealed. On December 12, 2011 a variance application was received and on December 29, 2011 the Development Officer refused it for the following reasons:

- Further reduction to allow additional units would violate the intent of the By-law
- The difficulty experienced is general to the area.
- Some of the difficulty experienced can be attributed to intentional disregard for the requirements of the land use by-law.

In conclusion, Ms. Seymour advised that staff has reviewed all the relevant information in this case and the variance was refused as it was determined that the difficulty experienced results from an intentional disregard for the requirements of the land use bylaw. Also, the difficulty was found to be general to properties in this area and it defeats the intent of the bylaw.

Mr. Bill Campbell advised that he was representing the applicant, and that he and the applicant, Mr. Taylor would split the allotted time to give their presentation. Mr. Campbell advised that when the Peninsula Centre MPS was adopted in the early 1980's the standard for development in this medium density area of the City were these reduced lot sizes, adding that these lot-sizes are distinctly different from the balance of the Peninsula and that this application was a small variation to those standards. Mr. Campbell pointed out that the application is only one foot off of the frontage, 10 percent off of the lot area, and the building is placed such that it has a lot of open area around it, and has a small footprint on the property. Mr. Campbell noted that the building doesn't impinge on neighbouring properties and they have received letters of support from property owners on either side.

Mr. Campbell indicated that he did not agree with the view that the difficulty experienced is general to the area. He pointed out that in his view there are only about 25% of the lots that are between 3500 sq. ft. to 5000 sq. ft. that would be considered for such a variance. Mr. Campbell advised that there was no intentional disregard for the bylaw, noting that when notified by the inspector that the permit could not be issued due to the third unit, work was done and the unit was vacated in 2008 and not been used in violation of the land use bylaw.

Mr. Jim Taylor, the applicant, addressed Community Council and provided a history of the acquisition of the property and its use. He explained that he purchased the building

in 2002 and it was listed at the time as a three-unit building. He added that the illegal unit is a basement bachelor unit. In 2008 he evicted a tenant for non-payment and this person reported the property to the City. He was notified that the building did not meet code due to head-clearance issues of a beam. An engineer was hired and the beam was replaced and it was inspected and approved. Following this, about a week later he was notified that this unit was an illegal apartment.

Mr. Taylor advised that in checking past records on the building, he found out that in 1985 the building was renovated and 18 feet was added to the back of the building, and resulted in the creation of the basement bachelor apartment.

The Chair then invited anyone who received a notification letter and wished to address Community Council, to come forward to speak at this time.

The Chair called three times for speakers; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Uteck that the variance appeal hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Uteck, seconded by Councillor Sloane that Peninsula Community Council uphold the Development Officer's decision to refuse the variance at 6289 Jubilee Road, Halifax.

Councillor Uteck advised that she supported the Development Officer's decision in regard to this property because the health of the community is paramount. She noted that the owner has a very good property and has been a good landlord, but that there are probably many other illegal apartment units within the area and overturning the decision could be precedent setting.

MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence: None

9.2 Petitions: None

9.3 Presentations: None

10. REPORTS

10.1 Staff: None

10.2 Committee Reports: None

10.3 Members of Community Council:

10.3.1 Interim Land Use Bylaw Changes for Schmitville – Councillor Sloane

At Councillor Sloane's request, this matter was deferred to April's meeting.

11. MOTIONS: None

12. ADDED ITEMS: None

13. NOTICES OF MOTION - None

14. PUBLIC PARTICIPATION

Mr. Ashley Morton, Duffus Street addressed Community Council and indicated that with the recent transit strike, it has been apparent that the primary stakeholders are the transit employees and the employer, with the transit users not having a say. Mr. Morton advised that he understands the collective bargaining process, but this situation has illustrated to him that, in the decision-making around public transit, not a large enough role is played by the transit users collectively. Mr. Morton noted that recently he has become involved in developing a Transit Users Alliance with the idea of becoming a useful body for the transit users of the Municipality, and he issued a challenge to the Councillors to find places for this group to be included. He explained that it is very frustrating to know that he is part of a huge stakeholder in transit but feel powerless to influence decision making.

Councillor Uteck noted that Councillor Watts is the Vice Chair of the Transportation Standing Committee.

Councillor Watts asked Mr. Morton to provide her with his group's contact information.

15. NEXT MEETING DATE – April 16, 2012

MOVED by Councillor Uteck, seconded by Councillor Sloane that Community Council convene In Camera. MOTION PUT AND PASSED.

16. IN CAMERA

16.1 In Camera Minutes – May 9, 2011; June 13, 2011; and November 14, 2011

These were approved in the in camera session.

16.2 Personnel Matter:

16.2.1 Point Pleasant Park Advisory Committee and District 12 Planning Advisory Committee

Appointments were dealt with In Camera. Mr. Geoff O'Connor was appointed to the Point Pleasant Park Advisory Committee to fill a vacancy on the Committee; and Community Council provided recommendation to Regional Council for two appointees to the District 12 Planning Advisory Committee.

16.3 Legal Matter: Private and Confidential Information Report Re: Prosecution of Chickens Under the Halifax Peninsula Land Use By-law

Community Council dealt with this matter in camera and ratified the following motion.

MOVED by Councillor Uteck, seconded by Councillor Sloane that staff (Legal and Planning) prepare a supplementary staff report outlining options with regard to dealing with chickens under the Halifax Peninsula Land Use By-law, and report back to Peninsula Community Council. MOTION PUT AND PASSED.

17. ADJOURNMENT

The meeting adjourned at 9:23 p.m.

Sheilagh Edmonds
Legislative Assistant

The following information item was submitted.

Information Report dated February 14, 2012 RE: Strategy to Sustain Minor Baseball on the Peninsula (dealt with under 4.2 Status Sheet)