

HALIFAX AND WEST COMMUNITY COUNCIL
MINUTES

October 7, 2013

PRESENT: Councillor Linda Mosher, Chair
Councillor Waye Mason, Vice-Chair
Deputy Mayor Reg Rankin
Councillor Jennifer Watts
Councillor Stephen Adams
Councillor Russell Walker

STAFF: Ms. Karen Brown , Solicitor
Mr. Liam MacSween, Legislative Assistant

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1. CALL TO ORDER

Councillor Mosher called the meeting to order at 6:02 pm, in the Community Multi – Purpose Room at the Captain William Spry Community Centre, 16 Sussex St, Spryfield.

2. APPROVAL OF MINUTES – NONE

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 Adams, seconded by Councillor Walker that the agenda be approved as presented. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet Review

Deputy Mayor Rankin requested that the Clerk follow on the following Status Sheet Items:

- 4.1 Slaunwhite Request to allow further subdivision of land without road frontage in Terence Bay
- 14.1 Access and Trail Development in the Hemlock Ravine Park Area

5. MOTIONS OF RECONSIDERATION – NONE

6. MOTIONS OF RESCISSION – NONE

7. CONSIDERATION OF DEFERRED BUSINESS – NONE

8. PURCELL'S COVE SERVICING FEASIBILITY STUDY – Staff Report and Presentation by the Consultant, CBCL Ltd.

The following Documentation was before Halifax and West Community Council:

- An Information report dated September 5, 2013.
- A report from CBCL Ltd. entitled Planning and Engineering Feasibility Study – Purcell's Cove Road Servicing, Halifax – Final Report dated July 4, 2013.
- A presentation entitled - Planning and Engineering Feasibility Study for Purcell's Cove Road Servicing, dated October 7, 2013.

Correspondence submitted from: John Wesley Chisolm, Kwan and Doreen Wong, David Woodhall, Steve Baker, Frances Dorsey, John and Belinda Preston, Catherine MacKinnon, Gary Upham, Christie Cashman, Priscilla Murray Liz Richardson and Richard John, Leila Shaw, Paul Cashman, Julien Delarue, Laurel Harrington, Sandra MacMurray and Paula Musial, Burkhard Plache, Ingrid H. Plache, Michael Coughlan, Martha Learey, Anne Gillies, Jennifer Oxner-Fifield, Elaine Bennett, Gordon Check, Kim Velcoff, Robyn Whyte, Lana Schabloski, Michael Drinkwater, Timmothy Scarfe Johanna Lunn, Sally Trower, Alex Rhineland, Kevin French

MOVED by Councillor Adams and seconded by Councillor Walker that the Halifax and West Community Council recommend to Halifax Regional Council that the Purcell's Cove Servicing Feasibility Study be tabled and that Community Council endorse this unanimously.

Mr. David Lane, Senior Planner, Planning Services, provided background information on the Purcell's Cove Servicing Feasibility Study and introduced Mr. Gordon Smith, Senior Land Use Planner, CBCL Consulting Ltd.

Mr. Smith gave a presentation to Halifax and West Community Council entitled "Planning and Engineering Feasibility Study for Purcell's Cove Road Servicing".

Mr. Smith advised that the scope of the study was to assess and determine the feasibility of providing central sewer services on Purcell's Cove Road. The study looked at things like zoning, future land use, and generalized future land use. Mr. Smith remarked that the Suitability Analysis was utilized to determine where development would be likely to occur.

Mr. Smith outlined the public consultation process which was implemented during the study. He commented that community stakeholders expressed concerns that planning for centralized services were being manipulated to a desired outcome and that further development in the area could possibly affect woodlands and wildlife.

Mr. Smith provided background information on the Suitability Analysis undertaken by CBCL with respect to further development in the area. He noted that the area is not designated as a growth area and that the public was not willing to provide feedback on suitable spaces for proposed development.

Mr. Smith referenced the Traffic Analysis that was undertaken as part of this project and noted that the Purcell's Cove and Herring Cove roads are currently over capacity at the A.M. peak time and that current conditions at the P.M. peak time are meeting operational requirements. Mr. Smith remarked that if future development were to take place, by 2018, wait times at the A.M. peak could increase by 15 minutes with a queue line of 950 meters.

Mr. Smith addressed the manner in which water services would be provided to the area based on Halifax Water's design specifications. He went on to note that sanitary sewer and water services would have to be designed so that they can be subdivided at a later date if required and that costs for implementing these services would be borne by the homeowner. Mr. Smith noted that the overall estimated construction cost for Area 1 central servicing would range from \$19.8 to \$24 million; Area 2 central servicing cost would cost approximately \$12 million dollars.

Mr. Smith advised that depending on cost sharing and servicing options, as outlined in the report, and assumptions based on the possibility of future development, the per lot cost to homeowners for central servicing would range between \$10,000 and \$73,000. Mr. Smith also commented that if HRM decided to proceed with further development in the area, further engineering services would be required.

Councillor Watts requested clarification on the number of lots that were used in determining the costs associated with the study.

Mr. Smith replied that the study utilized data supplied by HRM on existing lots. The study looked at existing zoning and planning information and that the report authors subdivided the lots under the current framework to obtain estimates on costing and the type of material needed to provide centralized services under the roads and up to the property line.

Deputy Mayor Rankin inquired as to whether or not Mr. Smith was asked to provide costs for the traffic consequences to the Purcell's Cove area as outlined in the Traffic Assessment portion of the study and whether or not this was included in the Terms of Reference in relation to the feasibility study.

Mr. Smith stated that the Terms of Reference did not include reporting on the potential costs of the Traffic Analysis.

Councillor Adams addressed concerns raised by residents regarding large pipes located on Blue Stone Road. Councillor Adams stated that the pipes are going to be used for upgrades at the Eastern Passage Sewage Treatment facility and the area in which they are located is being used as a holding zone. Councillor Adams stated the By-Law enforcement officials are currently investigating the use of this location as a holding zone.

Councillor Adams commented that it was Regional Council that initiated the Purcell's Cove Servicing Feasibility Study process and that Regional Council is the body that will make the ultimate decision on this process. Councillor Adams stated that he confirmed this with the Municipal Clerk and Legal Services and asked that the Solicitor comment on this matter

Karen Brown, Solicitor, agreed with Councillor Adams assessment and stated that given that Regional Council initiated the process that it must go back to Regional Council to be concluded.

The question was put and the **MOTION WAS PUT AND PASSED**

The Community Council recessed for a break at 6:44 p.m.

The Community Council reconvened at 6:49 p.m.

9 HEARINGS

9.1 Variance Appeal Hearings

9.1.1 Case 18756 – Appeal of Variance Refusal, 5691 Bilby Street, Halifax

The following documents were before Community Council

- A staff report dated September 23, 2013
- Correspondence from Allan Offman, dated October 1, 2013.

The Chair invited staff to present case 18756.

Mr. Andrew Faulkner, Development Officer described the property, noting that it is a single unit dwelling zoned R-2 (General Residential) near Agricola Street. On May 1, 2013 the owner was issued a building permit to convert the building into three units. During an inspection one month later, HRM found that the structure had been raised three feet to accommodate a basement apartment. The increase in height was deemed contrary to the permit and the Halifax Peninsula Land Use By-law. As a result, a Stop Work Order was issued.

Shortly thereafter, the property owner filed a request for variances to relax the minimum lot area, lot frontage, and left side setback requirements to allow the construction on the three unit dwelling to continue. This was brought to Halifax and West Community Council on August 8, 2013 and Halifax and West Community Council upheld the Development Officer's recommendation to refuse the appeal. The applicant then filed another request for a variance appeal to relax the minimum lot area, lot frontage, and left side setback requirements to allow construction of a two unit dwelling at this location and this is the matter that is currently before Halifax and West Community Council.

Mr. Faulkner stated that the Development Officer has recommended that this appeal be refused. The Development Officer believes that the structure is not in keeping with the character of the community. Furthermore, Mr. Faulkner remarked that the Development Officer believed that there was an intentional disregard for the requirements of the land-use by-law, with respect to increasing the height of an existing building, on the part of the applicant.

As there were no questions for Mr. Faulkner, the Chair invited the applicant to the microphone to speak.

Mr. Allan Offman of 6319 Cornwall Street explained that it was an unintentional error on his part with respect to increasing the height of the dwelling and that there was no will to circumvent the intention of the permit. Mr. Offman stated that he has attempted to rectify the situation by pursuing the various channels of the development process, and that over the past four months no further construction has taken place on the site.

Mr. Offman remarked that in this case, as a single family dwelling, he is well within the height restrictions as set forth in the land-use by law and believed that it was acceptable to increase the height of the structure without a variance request. Mr. Offman stated that parking on this property is not an issue and that there is little consistency with respect to the height of buildings in the area and referenced three high-rise buildings in close proximity.

Mr. Offman stated that he believes many of the issues with his application are due to the lot size requirements for parking. Mr. Offman commented that this property does not meet the current requirement for parking but other two unit dwellings on the street also do not meet the requirements in this regard. Mr. Offman reiterated that there was no intention of disregarding the permit on his part and asked for Community Council's approval in allowing the variance.

As there were no questions for the applicant from members of Halifax and West Community Council, the Chair called invited property owners within 30 meters of the subject property to the microphone.

Ms. Sandy Fitzpatrick of 6319 Cornwall Street introduced herself as the property owner at 5691 Bilby Street. Ms. Fitzpatrick stated her interest in urban core development and that this was part of the rationale for undertaking the project on her property. Ms. Fitzpatrick commented that larger developments in the area make her variance application miniscule in comparison and the effect of larger developments will adversely impact the character of her neighbourhood.

Ms. Fitzpatrick stated that the construction taking place on her property is in keeping with the character of the neighbourhood and was done so to enhance and strengthen the overall character of the neighbourhood. Ms. Fitzpatrick noted that she has lived in the area for a long time and wanted to complete this project for her brother so that he could live in the area again. Ms. Fitzpatrick noted that any oversight of the building permit on her part was unintentional and she would be excited to continue the work on her property if permitted.

Ms. Janice Gillespie, 2865-2863 Agricola St, stated that she had no problem with the addition of a third story on the property and that she has known the developer's family for years. Ms. Gillespie noted that her only concern was whether or not the backyard of

the property was going to be converted to a parking lot. Ms. Gillespie was assured by the property owners and through her participation at the August 8, 2013 meeting of Halifax and West Community Council that this would not happen. Mr. Gillespie gave her support to the applicants.

Ms. Colleen MacNeil property owner at 5697 Bilby Street, immediately adjacent to the subject property stated that she strongly supports the Development Officer's opinion in his refusal of the three variances and expects by-laws to be enforced.

Ms. Lynn Fitzpatrick of 5691 Bilby St. introduced herself as one of the co-owners of the subject property. Ms. Fitzpatrick stated that she believes that Mr. Offman did not intentionally disregard the building permit. Ms. Fitzpatrick noted that she does not think the construction that has taken place on her property is in any way detrimental to the character of the neighbourhood. Ms. Fitzpatrick commented that her intention was to make the dwelling a nice place for her brother and other tenants to live.

The Chair called three more times for speaker, there being none it was **MOVED by Councillor Mason and Seconded by Councillor Walker that the variance appeal hearing be closed. MOTION PUT AND PASSED.**

Councillor Watts, in accordance with Administrative Order 1, put the following motion on the floor

MOVED by Councillor Watts and Seconded by Councillor Mason that Halifax and West Community Council allow the appeal and thereby approve the variance as requested.

Councillor Watts stated that she believes that Mr. Offman did not intentionally disregard the building permit or the requirements of the land use by-law. Councillor Watts also commented that the project at 5691 Bilby Street received a significant amount of support by neighbours.

MOTION PUT AND PASSED.

The appeal of the Variance was granted. The Development Officers recommendation was not be approved.

9.1.2 Case 18392 – Appeal of Variance Approval – 5684 West Street, Halifax

The following documents were before Community Council:

- A staff report dated September 23, 2013
- Correspondence from James Ennis, dated October 7, 2013.

The Chair invited staff to present case 18392.

Mr. Sean Audas, Development Officer for the Western Region gave a presentation on Case # 18392 and noted that development permit was issued to permit the construction of a four story, 24 unit apartment building. Mr. Audas stated that the proposal met all requirements in terms of Angle Controls under the Land Use By-Law (LUB).

Mr. Audas indicated that the applicant has requested a revised building design which requires the relaxation of the angle controls in some areas of the buildings to allow the third and fourth stories to be in line with lower stories, accommodate the inclusion of balconies and allow corners in the front section of the building. Mr. Audas commented that he did not believe that the applicant intentionally disregarded the land use by law in this matter, as a development permit was already issued and no construction was undertaken at the site prior to the filing of the application.

Mr. Audas gave a visual presentation of properties surrounding the proposed development site, illustrating different uses of the neighbourhood.

Mr. Audas concluded that the Variance in this case should be granted given that the proposal does not conflict with the statutory criteria.

Councillor Watts requested an explanation of the potential impact of people living on the Harris Street side of the property if the variance is approved.

Mr. Audas stated that the fourth story and a section of the third story will be brought back between 5 and 6.5 feet and balconies could protrude through the view planes if they are open on three sides.

As there were no further questions for Mr. Audas from members of Halifax and West Community Council, the Chair invited the appellants to the microphone to speak.

Ms. Margaret Anderson of 5683 Harris Street stated that she met with Development Officers to learn more about the variance process. Ms. Anderson acknowledged that angle controls are very important as they help to preserve light and livability in the area. Ms. Anderson suggested that the proposed development would negatively affect her property as well as other property owners on her street. Ms. Anderson noted that she believed that the existing by-law should be enforced.

Ms. Heather Breeze who lives at the property behind Ms. Anderson stated that she agrees with Ms. Anderson's statement. Ms. Breeze stated that by-laws are in place to protect property owners and that the developer and architect created the problem by designing the property outside of the by law requirements for the area. Ms. Breeze indicated that Halifax and West Community Council should not approve the applicant's request for a variance.

Mr. Robin Stewart property owner at 5687 and 5689 Harris Street commented that he purchased these properties in 2003 with the intention of them being used as income properties. Mr. Stewart stated that he had lived in the building previously and is

considering moving back as part of his retirement plans. Mr. Stewart stated that the proposed development is not unique to the area.

The Chair noted that no further appellants to speak and invited the applicant to the microphone.

Mr. Patrick White, Project and Construction Officer for Atlantic Developments, stated that the purpose of the variance application was to simplify the design of the exterior of the building, particularly on the third and fourth floors. Mr. White commented that the building will be modified from an automotive repair to multi-function family use building.

Mr. White advised that the allowable density for this lot is 65 people and that the current plan for this building is for 48 people. The number of windows and number of balconies will not be changed as a result of the variance and the number of people using the balconies will be unchanged as well. Mr. Smith noted that the balconies on the fourth floor will be five feet further away and the amount of sunlight for neighbouring properties will be unaffected if the variance is approved.

Mr. Marc Guillemette of Michael Napier Architecture stated that he is speaking on behalf of his client Lawrence White of Sherwood Enterprises, the property owner. Mr. Guillemette reiterated points that Mr. Smith spoke to previously with regard to the purpose of the variance application. Mr. Guillemette stated that light quality on Harris Street and Agricola Street will not be affected and that angle controls have been relaxed on similar projects to help add to the vibrancy of the community and downtown core.

The chair asked members of Community Council if there were any questions for clarification. There being none, it was **MOVED by Councillor Adams and seconded by Councillor Walker, that the variance hearing be closed. MOTION PUT AND PASSED.**

Councillor Watts in accordance with Administrative Order 1 put the following motion on the floor:

MOVED by Councillor Watts and seconded by Councillor Mason that Halifax and West Community Council allow the appeal and thereby refuse the request for a variance.

Councillor Watts commented that she believes the proposed development is a vibrant and important contribution to the area. Councillor Watts stated that the motion is not to say no to the development going forward but rather that in this instance, the angle controls need to be respected so that property owners in close proximity to the development will not be negatively affected.

MOTION PUT AND DEFEATED.

The variance request was approved. The Development Officers recommendation is upheld.

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

10.1 Correspondence - None

10.2 Petitions - None

10.3 Presentation - None

11. REPORTS

11.1 Staff

11.1.1 Case 17413: MPS/LUB Amendments for 16 Mills Drive, Goodwood (First Reading and recommendation for joint public hearing with Regional Council)

A staff reported dated August 28, 2013 was before Community Council.

MOVED by Councillor Adams and seconded by Councillor Walker that Halifax and West Community Council recommend that Halifax Regional Council

- 1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy (MPS) and the Land Use Bylaw (LUB) for Planning District 4 as set out in Attachments A and B of the August 28, 2013 staff report and schedule a public hearing; and**
- 2. Approve the proposed amendments to the MPS and LUB for Planning District 4, as contained in Attachments A and B of the August 28, 2013 staff report.**

MOTION PUT AND PASSED.

12. MOTIONS - None

13. ADDED ITEMS- None

14. NOTICES OF MOTION - None

15. PUBLIC PARTICIPATION

Ms. Wendy MacDonald from District 12, suggested that there has been a lack of public engagement by residents, bus riders and public of District 12 respecting the proposed

Lacewood Terminal site. Ms. MacDonald provided several suggestions to Halifax and West Community Council with regard to this subject:

- To request a staff report outlining community engagement on the Lacewood Terminal site; as well as a traffic study on the Lacewood thoroughfare.
- To inquire about the Urban Forest Master Plan in relation to the proposed Lacewood Terminal site.
- Inquire about the former Northcliffe site as an alternate location for the Lacewood Terminal.

Ms. MacDonald stated that taxpayers should not bear the \$8 million burden of constructing a new Terminal site if other options are available.

Mr. John Cascadden of Hatchet Lake, commented that citizens have not yet been contacted by HRM staff regarding the Western Common Regional Park Implementation plan.

Mr. Cascadden also noted that the Provincial Regulations that HRM are required to adhere to regarding Solid Waste have not been put on the website.

The Chair noted that staff will be informed of this and the regulations will be posted to the Solid Waste website and the Shape Your City portal.

Mr. Cascadden also noted that he would like to see Regional Council discuss the Public Engagement process with respect to Solid Waste at a future meeting.

16. NEXT MEETING DATE - October 28, 2013, Council Chamber, City Hall

17. ADJOURNMENT

The meeting adjourned at 8:00 p.m.

Liam MacSween
Legislative Assistant

INFORMATION ITEMS