

PENINSULA COMMUNITY COUNCIL
MINUTES

February 13, 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

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1. CALL TO ORDER

The Chair called the meeting to order at 7:00 p.m.

2. APPROVAL OF MINUTES

MOVED by Councillor Sloane , seconded by Councillor Blumenthal that the minutes of January 9, 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.

Councillor Sloane advised that she would like to add the item, Interim Land Use Bylaw Changes for Schmidville to Community Council's next agenda.

MOVED by Councillor Blumenthal, seconded by Councillor Sloane 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:

Information reports were submitted in regard to the following status sheet items:

Information Report dated January 24, 2012 RE: LeMarchant Street at South Street – Request to Consider a Partial Street Closure Retaining Pedestrian Access Only.

Information Report dated November 16, 2011 submitted to the January 10, 2012 Regional Council RE: Crosswalk and Crosswalk Controls: Barrington Street at Young Street and Devonshire Avenue at Young Street.

Information Report date January 26, 2012 RE: Interim Land Use By-Law Changes Schmidville

The Chair questioned if Community Council wanted any items removed from the Status Sheet. No items were to be removed.

5. MOTIONS OF RECONSIDERATION – None

6. MOTIONS OF RESCISSION – None

7. CONSIDERATION OF DEFERRED BUSINESS – None

8. HEARINGS

8.1 Public Hearings: None

8.2 Variance Appeal Hearings:

8.2.1 Variance Appeal: #17322 – 3360 Agricola Street, Halifax

A staff report dated February 3, 2012 was submitted.

Correspondence was submitted from Heather Salsman and Janet Maybee.

Mr. Sean Audas, Development Officer, provided a presentation outlining the reasons he refused a variance for the front and side yard setback requirements of the Halifax Peninsula Land Use Bylaw at 3360 Agricola Street, Halifax. Mr. Audas advised that the variance request was for 0 feet setback from the front yard and 0 setback from the side yard; and the zoning requirements are 10.3 feet for a front yard setback and 4 feet for a side yard setback. Mr. Audas explained that last August construction on a deck was started and staff presented an 'Order to Comply' to the property owner on August 22, 2011. The owner applied for the deck on September 1, 2011 and on September 7, 2011 staff advised that it did not meet the setback requirements. He added that the owner applied for a variance on October 18, 2011, but continued with construction and finished the deck.

With regard to his decision to refuse the variance, Mr. Audas advised that it was determined that the requested variance violated the intent of the Land Use Bylaw, and noted that a slight reduction to the front yard may have been considered as some of the adjacent dwellings are quite close to the sidewalk. However, an entire reduction was not supported because the whole setback is being reduced. Mr. Audas also pointed out that Municipal Operations staff has advised that the steps pose a hazard for maintenance equipment. He added that they recognize there are many other properties with existing steps within the right-of-way, however they do not wish to perpetuate the situation. Also, Mr. Audas pointed out that a side yard setback is typical in residential settings to provide adequate separation of buildings to maintain access, safety and privacy and to reduce this setback entirely is felt to violate the intent of the land use by-law.

Mr. Audas added that the application was also determined to result from intentional disregard for the requirements of the land use by-law, as permits were not obtained and the project continued without approval or permits.

Mr. Audas responded to questions from Community Council.

The Chair outlined the rules of procedure for variance appeal hearings. She opened the hearing and called for the applicant to come forward. The applicant was not present to address Community Council on this matter.

The Chair then invited those who received notification and wished to speak on this matter, to come forward.

Ms. Heather Salsman, addressed Community Council advising that she lived next door to the property in question. Ms. Salsman indicated that she had a number of concerns with the deck, in regard to safety, privacy and trespassing. She explained that the deck covers most of the front lawn and as a result, visitors and service people such as the oil delivery person have cut a path across her lawn to access the house. Ms. Salsman advised that she contemplated erecting a fence for privacy, however, she determined that a fence between her property and the deck would not provide any privacy as the fence would not be high enough to provide an appropriate separation between the properties.

Ms. Janet Maybee advised that she lived near the property and received notification of the hearing. Ms. Maybee indicated she supported the Development Officer's decision to refuse the variance. She expressed concern of the impact on property values if the deck were allowed to remain, and that the property owners went ahead and finished construction of the deck even after a stop work order was issued.

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

MOVED by Councillor Blumenthal, seconded by Councillor Sloane that Peninsula Community Council uphold the Development Officer's decision to refuse the Variance.

In response to a question by Councillor Blumenthal with respect to the legal status of the deck, Mr. Audas advised that staff will be referring the matter to the Legal department for prosecution under the By-law.

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

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

A staff report dated January 18, 2012 was submitted.

MOVED by Councillor Blumenthal, seconded by Councillor Sloane that Peninsula Community Council give First Reading to 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 and schedule a public hearing.

Councillor Blumenthal noted that at the Public Information Meeting concerns were expressed with regard to traffic with this project and he requested staff to provide comment.

Ms. Dali Salih, Planner, advised that the applicant was required to submit a traffic impact statement and this was reviewed by staff, and that staff concluded that the traffic impact from this project would be minimal.

Councillor Uteck noted that a rezoning to R-3 includes many other uses than apartments and condominiums and advised that the neighbours of this project need to be aware of this aspect.

In response, Ms. Salih advised that during the Public Information Meeting, staff explained all the uses that would be permitted in the R-3 zone. In response to another question by Councillor Uteck, Ms. Salih advised that the configuration of the building could change, but it would be restricted by the density requirements.

MOTION PUT AND PASSED.

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

A staff report dated January 19, 2012 was submitted.

MOVED by Councillor Uteck , seconded by Councillor Sloane that Peninsula Community Council move Notice of Motion to consider approval of the proposed Development Agreement presented as Attachment A, and schedule a Public Hearing.

For clarification, Councillor Uteck advised that this application for lot modification had already received a building permit but it expired. She added that as area Councillor she waived the Public Information Meeting and noted that she has not received any concerns, and felt it should go directly to a public hearing .

MOTION PUT AND PASSED.

10.2 Committee Reports:

10.2.1 District 12 PAC: 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

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.

Councillor Sloane advised that at the Planning Advisory Committee meeting, the committee members were not comfortable with the idea that there were only going to be three, two-bedroom units and that concern was expressed that the buildings, although not registered heritage buildings, were older and would be demolished. She added that she met with the architect of the project and Harbour City Homes and was pleased to learn that they are considering putting in more two-bedroom units in the complex. Councillor Sloane advised that, in light of this information, she was prepared to move this matter to a public hearing.

MOVED by Councillor Sloane, seconded by Councillor Blumenthal that Peninsula Community Council give Notice of Motion to consider 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 and schedule a public hearing.

Ms. Jillian MacLellan, Planner responded to questions.

In response to a question by Councillor Uteck, Ms. MacLellan concurred that the buildings could be demolished as-of-right.

In response to a question by the Chair, Ms. MacLellan advised that none of the buildings are registered as heritage properties, but are within the Brunswick Street Heritage District. She added that it is through these policies that the building is required to have certain architectural features that complement the existing heritage buildings in the area, and that this would be done through a Development Agreement.

MOTION PUT AND PASSED.

- 11. MOTIONS: None**
- 12. ADDED ITEMS: None**
- 13. NOTICES OF MOTION: None**

14. PUBLIC PARTICIPATION

No one came forward to address Community Council during Public Participation.

15. NEXT MEETING DATE

The Chair advised that the March meeting is during the March Break week, and she questioned if any members had planned to be away.

Councillor Sloane noted that all members had planned to be in attendance but that there may be members of the public who would be away.

MOVED by Councillor Sloane, seconded by Councillor Uteck that the March 12, 2012 meeting be rescheduled to March 5, 2012. MOTION PUT AND PASSED.

16. IN CAMERA - None

17. ADJOURNMENT

The meeting adjourned at 7:37 p.m.

Sheilagh Edmonds
Legislative Assistant

The following information reports were submitted:

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3. Information Report date January 26, 2012 RE: Interim Land Use By-Law Changes Schmidville