

HALIFAX & WEST COMMUNITY COUNCIL

MINUTES

April 22, 2013

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

STAFF: Ms. Karen Brown, Senior Solicitor  
Ms. Jennifer Chapman, Planner  
Ms. Dali H. Salih, Planner  
Mr. Brandon Silver, Urban Designer  
Mr. Kurt Pyle, Supervisor, Planning Applications  
Mr. Peter Bigelow, Manager of Public Lands Management  
Mr. Ted Aubut, Legislative Assistant

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## 1. CALL TO ORDER

The Chair called the meeting to order at 7:02 pm. in the Council Chamber at City Hall, 1841 Argyle Street, Halifax.

Community Council observed a moment of silence for the victims of the Boston bombings.

## 2. APPROVAL OF MINUTES – March 18, 2013 & April 9, 2013

**MOVED by Councillor Watts, seconded by Councillor Mason that the minutes of March 18, 2013 be approved, as presented. MOTION PUT AND PASSED.**

As for the minutes of April 9, 2013, Community Council requested the following changes:

- Clearly state, on page 1, that the meeting was not held in camera even though it was advertised as such
- Clarify, in paragraph 1 of page 5, that the consultant's presentation will be accompanied by a staff report addressing concerns raised by the community.

**MOVED by Councillor Watts, seconded by Councillor Mason that the minutes of April 9, 2013 be approved, as amended. MOTION PUT AND PASSED.**

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

### Deletions:

8.2.1 **Case 18062:** Appeal of the Development Officer's decision to approve a Variance at 4000 Prospect Road, Shad Bay

**MOVED by Councillor Watts, seconded by Councillor Adams that the agenda be approved, as amended. MOTION PUT AND PASSED.**

## 4. BUSINESS ARISING OUT OF THE MINUTES

### 4.1 Status Sheet Review

Mr. Peter Bigelow, Manager of Public Lands Management provided an update on item 9 of the status sheet, the creation of a Western Common Regional Park Implementation Committee. The municipal lands in question extend along the Prospect Road all the way to Timberlea and include several lakes and streams. He noted that Regional Council, in 2010, adopted a Wilderness Common Master Plan for these lands, which will be implemented over several decades. Currently, \$50,000 is budgeted per year for the project, the priority being the development of trails behind the Prospect Road

Community Centre. Given that the Master Plan is quite prescriptive, Mr. Bigelow believed that, at this early stage, an implementation committee was not required. He emphasized, however, that there will be a number of opportunities for local residents to comment on the future of these lands:

- As part of the Regional Plan 5 Year Review (RP+5) which promotes greenbelting around the urban centre. The Western Common would be an important component of this greenbelt;
- As part of the solid waste review on the future of the Otter Lake facility. This facility sits at the centre of the Western Common Regional Park; and
- As part of discussions around infrastructure for the Ragged Lake Business Park, located off the Prospect Road.

Deputy Mayor Rankin was disappointed that a mandate had not yet been drafted for the implementation committee. He believed it important to consult with the community, even at this early stage. He asked that staff provide him with a written update on this matter.

Councillor Mason, who sits on the Point Pleasant Park Advisory Committee, noted his interest in having a discussion at Regional Council about the governance of parks.

Community Council then reviewed other items on the status sheet.

Councillor Mason requested updates on Tennis Nova Scotia's proposal for a year-round tennis facility and on the Dockyard Clock at the foot of George Street, which has been removed for restoration.

**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 17599: Rezoning of 114 Hebridean Drive, Herring Cove**

A staff report dated February 28, 2013 was before Community Council.

The Chair reviewed the rules for public hearing before inviting staff to make a presentation on Case 17599.

Ms. Jennifer Chapman, Planner explained that Case 17599 is an application to rezone 114 Hebridean Drive, Herring Cove from the P-2 (Community Facilities) Zone to the F-1 (Fishing Industry) Zone in order to allow the development of a residential building with an accessory unit.

Ms. Chapman described the location, size and amenities of the subject property. She then provided a brief history of the property's use and zoning, noting that:

- The property was zoned V-2 (Herring Cove Village Centre) in 1995 to accommodate a post office
- The V-2 designation was eliminated in 2001 and the property was rezoned P-2 (Community Facilities) to reflect the post office use
- The post office is no longer operational, and P-2 zoning does not permit residential uses unless they are associated with a daycare.

Ms. Chapman explained that rezoning from P-2 to F-1 would enable the applicant to develop residential uses all the while preserving the fishing village character of the Herring Cove Village Centre. The F-1 Zone allows a variety of fishing related uses such as fish storage and sheds as well as residential uses. She believed this change to be compatible with surrounding land uses and recommended that Community Council approve the rezoning.

The Chair thanked Ms. Chapman for her presentation and asked members of Community Council if they had questions of clarification.

Councillor Adams wished to know if the proposed rezoning was consistent with the Municipal Planning Strategy (MPS).

Ms. Chapman replied that rezoning to F-1 is indeed consistent with the MPS because the latter promotes the preservation of the fishing village character of Herring Cove.

There being no further questions, the Chair invited the applicant to the microphone.

**Mr. Bruce MacEachern**, the applicant, noted that he wished to develop residential units on his property, and rezoning to the F-1 Zone would allow him to do that.

The Chair then invited residents for or against the proposal to the microphone.

**Mr. Peter Belham** of Hebridean Drive provided a brief history of the subject property, noting that it has always had a residential component. He wanted it to stay residential. If it is rezoned F-1, then the property owner could build, paint and repair vessels, make and sell buoys, and sell fish. He did not want these activities next door, preferring that the property be rezoned R-2. This would allow the applicant to build the residential units sought without permitting the fishing-industry activities cited.

**Ms. Heather Flemming** of Hebridean Drive indicated that the applicant does not have clear plans as to how he intends to develop the property. This concerned her because if the proposed rezoning is approved, then he could open an engine repair shop, which she did not want next to her house. Even if he chose not to develop fishing-related activities, there would be nothing stopping a future owner from doing so. This also concerned her. She preferred that the property be rezoned residential, and questioned

the relevance of the F-1 zone given that the Herring Cove community no longer has a viable fishing trade.

**Ms. Anne MacIsaac** of Hebridean Drive shares a driveway with the subject property, and wanted to ensure that rezoning would not impact access to her home. She echoed many of the concerns raised previously, namely:

- That the applicant wishes to rezone the property but has not developed a plan for the site;
- That the F-1 opens the doors to fishing-industry activities; and
- That the property was zoned residential before it became a post office

The Chair called three times for any additional speakers. There being none, she invited the applicant to respond to the points raised.

**Mr. MacEachern** clarified that he neither works in the fishing industry nor does he intend to develop fishing –related activities on the property. His goal is simply to improve the property by building a residence of some kind.

**MOVED by Councillor Watts, seconded by Councillor Mason that the hearing be closed. MOTION PUT AND PASSED.**

Community Council discussed the difference between the F-1 (Fishing Industry) Zone and the HCR (Herring Cove Residential) Zone, with staff noting the following:

- The F-1 Zone permits fishery support uses, like a boat shed and residential uses. It does not permit a fish processing plant.
- The HCR Zone permits single or two-unit dwellings as well as some, but not all, fishery support uses. Rezoning to HCR had been considered by staff, as outlined on page 5 of the report.
- The subject property is in the Herring Cove Village Centre, and the MPS promotes the fishing village character of the Village Centre.
- Neighbouring properties are zoned F-1, HCR and P-2 (Community Facility).

Councillor Adams wished to know how long it would take staff to explore the possibility of rezoning the property to HCR instead of F-1.

Mr. Kurt Pyle, Supervisor of Planning Applications indicated that it would take approximately six months. Upon receipt of a supplementary report from staff, Community Council would have to hold a second public hearing.

Mr. MacEachern, responding to Councillor Adams, indicated that a delay of four to six months would not be a problem as development has not begun.

**MOVED by Councillor Adams, seconded by Councillor Walker that Halifax & West Community Council request:**

- 1. A supplementary staff report exploring the possibility of rezoning 114 Hebridean Drive from the P-2 (Community Facility) Zone to the HCR (Herring Cove Residential) Zone, on the understanding that this will require a second public hearing**
- 2. That the re-evaluation of Case 17599 be at no additional expense to the applicant**

**MOTION PUT AND PASSED.**

**8.1.2 Case 16958: Rezoning of 2100-2102 Oxford Street, Halifax**

A staff report dated March 12, 2013 was before Community Council.

Ms. Dali Salih, Planner, delivered a presentation on Case 16958, an application by Cygnet Properties Limited to rezone 2100-2102 Oxford Street from the R-2 (General Residential) Zone to the C-1 (Local Business) Zone. The rezoning has been requested in order to convert an existing building into a commercial office space and to add a third storey to accommodate two residential units.

Referring to a map of the area, Ms. Salih explained that the property sits at the corner of Oxford and Oak streets in a predominantly residential neighbourhood. It houses a two-storey, mixed used building, with a commercial ground floor of approximately 5,200 square feet. The commercial component of the building, once used as an engine sale and repair shop, is vacant.

She then described the difference between the R-2 (General Residential) Zone and the C-1 (Local Business) Zone, noting that the latter allows various uses like a retail store, bank, office, hair salon or beauty parlour. She reminded Community Council that while the immediate neighbourhood is predominately R-2, there are many commercial spaces on Quinpool and Chebucto roads.

Ms. Salih drew attention to changes in the application since it was first filed in 2011. Initially, the applicant has wished to rezone the entire property to C-1, including an undeveloped adjacent lot, to construct a substantial addition to the commercial space. Following a series of public consultations, the applicant:

- Subdivided the property into two parcels: (1) the corner lot with the mixed-use building and (2) the undeveloped lot, which will soon house residential units. As a result of this change, there is no longer the possibility of constructing a 4 or 5 storey building.
- Applied for, and received, variances to the building on the corner lot
- Reduced the number of proposed residential units above the commercial space
- Reduced the number of proposed parking spaces from 22 to 6

- Signed a restrictive covenant agreement with the neighbourhood ensuring that the commercial space will not be used as a restaurant.

Ms. Salih reminded Community Council that the request before them is for a rezoning, not a development agreement. If approved, this means that the applicant can choose any use allowed under the C-1 Zone provided that the zone provisions are satisfied. Nevertheless, it is staff's opinion that the proposal is appropriate and compatible with the neighbourhood. She recommended that Community Council approve the rezoning.

The Chair thanked Ms. Salih for her presentation and invited members of Community Council to ask questions of clarification.

Councillor Watts wished to know how the restrictive covenant had materialized.

Ms. Salih explained that this arrangement came out of meetings between the applicant and neighbours, following the Public Information Meeting of June 2011. As the covenant is a civil matter not involving HRM, she suggested that the applicant speak to it in greater detail.

The Chair invited the applicant to the microphone.

**Mr. Bill Campbell** of Cygnet Properties explained that the proposed rezoning reflects the commercial history of the property, which housed a small grocery store as early as 1933 and, more recently, served as a motor repair shop. He believed that rezoning to C-1 was in keeping with this history, was consistent with intent of Municipal Planning Strategy and was compatible with surrounding neighbourhood. Mr. Campbell then outlined the changes that had been made to the project following public consultation, namely:

- Reducing the number of residential units above the commercial space
- Reducing the square footage of the commercial space
- Reducing the number of parking spaces
- Subdividing the property
- Building two residential units on the formerly undeveloped parcel
- Signing a restrictive covenant so that a restaurant does not occupy the commercial space.

At the request of Community Council, **Mr. Stephen Lane**, lawyer for Cygnet Properties, came to the microphone to answer questions about the covenant. He confirmed that it narrows the type of C-1 uses permitted; that it will take effect once the property is rezoned; and that it will remain in effect even if the property is sold to a third party.

There being no further questions, the Chair reviewed the rules for public hearings and invited residents, for or against the rezoning, to the microphone.

The Chair acknowledged receipt of correspondence from Simon and Vicki Roberts.

**Mr. Barbara Jollimore**, a long-time resident of Kline Street, explained that the neighbourhood is made up of single family homes. She wanted it to remain residential and for that reason did not support the rezoning of the property.

**Ms. Pamela Whalen** of Oxford Street indicated that she had strongly objected to the applicant's original plan, but was pleased with the revisions, including the construction of the townhouses. She remained concerned, however, with the state of the commercial building, noting that it is tagged with graffiti. She hoped this would be addressed sooner rather than later.

Ms. Whalen submitted photos of the graffiti to the Clerk.

The Chair indicated that HRM gives out free graffiti-cleaning kits. She encouraged the property owner to call 311 to find out about this service.

Mr. Campbell acknowledged the graffiti and indicated that the property owner has taken steps to clean up the property from time to time.

The Chair called three times for any other speakers; there being none, it was **MOVED by Councillor Watts, seconded by Councillor Walker that the public hearing be closed. MOTION PUT AND PASSED.**

**MOVED by Councillor Watts, seconded by Councillor Mason that Halifax & West Community Council approve the proposed rezoning of 2100-2102 Oxford Street, Halifax, from the R-2 (General Residential) Zone to the C-1 (Local Business) Zone, as contained in Attachment A of the staff report dated March 12, 2013.**

Councillor Watts appreciated the applicant's work with the community to address the concerns raised at the Public Information Meeting. She noted that the community was more comfortable with the revised proposal, which was more restrictive than the initial plan. The subdivision of the property was also positive. For residents who remained concerned, she encouraged them to participate in upcoming discussions of the Centre Plan as they will look at density issues on the peninsula. She concluded by expressing support for the rezoning.

The Chair asked the Solicitor to comment on the correspondence received from Mr. and Mrs. Roberts.

Ms. Karen Brown, Senior Solicitor clarified that the application is for a rezoning and not a development agreement. If the property is rezoned, then the applicant can choose from any of the commercial uses designated by the C-1 Zone.

**MOTION PUT AND PASSED.**

The meeting recessed at 8:22 pm. It resumed at 8:29 pm.

### **8.1.3 Case 17829: Land Use By-Law Amendment and Development Agreement for 3090 Oxford Street, Halifax**

The following were before Community Council:

- A staff report dated March 8, 2013 was before Community Council.
- Correspondence from Ms. Andrea D'Sylva dated April 10, 2013
- Correspondence from Mr. John T. Stuart dated April 15, 2013

Mr. Brandon Silver, Planner, delivered a presentation on Case 17829, an application by W. M. Fares Group to construct a five-storey, mixed use residential and commercial building at 3090 Oxford Street. To do this, the applicant has requested that the property be added to Schedule L of the Halifax Peninsula Land Use By-law to allow the development to proceed by way of a development agreement.

Mr. Silver explained that the vacant property, once home to a gas station, is located at the corner of Oxford Street and Bayers Road. The surrounding area has a variety of buildings and styles, including small restaurants and commercial spaces along Oxford Street. The property is currently zoned C2A (Minor Commercial).

He showed images of the proposed site plan, noting that the ground floor will be reserved for commercial use while upper floors will contain residential units. He explained that the building will be setback 5 feet from the property line with the exception of the rear, which will be setback 20 feet. All setbacks will be landscaped.

Mr. Silver indicated that a traffic impact study had been submitted, the results of which deemed acceptable by staff. He clarified that the underground parking garage will be accessed from Oxford Street, not Bayers Road.

Mr. Silver recommended that Community Council approve amendments to the land use by-law, as applying Schedule L to the site would allow for the consideration of the proposed development agreement. He believed this to be more desirable than as of right development.

The Chair thanked Mr. Silver for his presentation and invited members of Community Council to ask questions of clarification.

Councillor Watts wished to know how the shadow of the proposed building would affect neighbouring properties.

Mr. Silver replied that HRM had conducted a shadowing study which found that the five-storey building would not have a significant effect on the neighbourhood.

Councillor Watts asked staff to comment on the upper-storey setbacks.

Mr. Silver confirmed that the upper storeys fall back, breaking up the massing and supporting neighbourhood compatibility.

The Chair reviewed the rules for public hearings and invited residents, for or against the application, to the microphone.

**Mr. Cesar Saleh** of W.M. Fares Group indicated that the Public Information Meeting had been well attended. Since that time, he had followed-up with many residents and a few changes had been made to the plans. He described the high quality finishes and the setbacks, noting that both promote neighbourhood compatibility. He confirmed that the units will be condominiums, not apartments. He believed this to be an important addition to the neighbourhood, both in terms of lifestyle and price point, because there are few units like this in the surrounding area.

The Chair called three times for speakers; there being none, it was **MOVED by Councillor Walker, seconded by Councillor Adams that the public hearing be closed. MOTION PUT AND PASSED.**

**MOVED by Councillor Watts, seconded by Councillor Walker that Halifax & West approve the proposed land use by-law amendment as contained in Attachment A of the staff report dated March 8, 2013.**

Councillor Watts acknowledged that residents were concerned about the height of the building and the increased traffic that may result. However, the Public Information Meeting also revealed that the community supports quality development on this site. She felt that the project was in keeping with HRM's density goals and the size appropriate given that the lot is on the corner of two arterial roads.

**MOTION PUT AND PASSED.**

## **8.2 Variance Appeal Hearings**

### **8.2.1 Case 18062: Appeal of the Development Officer's decision to approve a Variance at 4000 Prospect Road, Shad Bay**

This matter was postponed to May 13, 2013.

## **9. CORRESPONDENCE, PETITIONS AND PRESENTATIONS**

### **91. Correspondence – NONE**

#### **9.2 Petitions**

##### **9.2.1 Nine Mile River Bridge Replacement**

Deputy Mayor Rankin presented a petition, with 914 signatures, requesting that a temporary bridge or another option be available during the St. Margaret's Bay Road Nine Mile River bridge replacement.

The petition was submitted to the Clerk, who agreed to circulate it to appropriate staff including Mr. Alex Quinn at Transportation & Public Works.

**10. REPORTS**

**10.1 Staff Reports**

**10.1.1 Case 17757: Application to Rezone 2728 Joseph Howe Drive, Halifax**

A staff report dated April 10, 2013 was before Community Council.

**MOVED by Councillor Walker, seconded by Deputy Mayor Rankin that Halifax & West Community Council give First Reading to the proposed rezoning of 2728 Joseph Howe Drive, Halifax, from the R-1 (Single Family) Zone to the R-2T (Townhouse) Zone as contained in Attachment A of the staff report dated April 10, 2013 and schedule a public hearing. MOTION PUT AND PASSED.**

The public hearing was scheduled for May 13, 2013.

**11. MOTIONS – NONE**

**12. ADDED ITEMS**

**13. NOTICES OF MOTION**

**13.1 Councillor Watts**

*Take notice that at the next regular meeting of Halifax & West Community Council, I intend to move a motion regarding the establishment of Planning Advisory Committees.*

**14. PUBLIC PARTICIPATION**

There were no questions or comments from the public.

**15. IN CAMERA**

**MOVED by Councillor Watts, seconded by Councillor Mason that Halifax & West Community Council convene in camera to discuss appointments to two advisory committees. MOTION PUT AND PASSED.**

Community Council convened in camera at 8:45 pm to deal with item 15.1.

**15.1 Personnel Matter**

**15.1.1 Citizen Appointments to Crosswalk Safety Advisory Committee and Regional Watershed Advisory Committee**

This matter was dealt with in private session.

At 8:58 pm, Community Council reconvened in public session to ratify the following:

**MOVED by Councillor Mason, seconded by Councillor Watts that Halifax & West Community Council:**

- 1. Appoint one citizen representative to the Crosswalk Safety Advisory Board**
- 2. Appoint one citizen representative to the Regional Watersheds Advisory Board**
- 3. Direct staff to release the name of each appointee after they have been notified.**

**MOTION PUT AND PASSED.**

**16. NEXT MEETING DATE – May 13, 2013 (City Hall)**

**17. ADJOURNMENT**

The meeting adjourned at 9:00 pm.

Ted Aubut  
Legislative Assistant