

HALIFAX REGIONAL MUNICIPALITY

HARBOUR EAST COMMUNITY COUNCIL MINUTES JANUARY 10, 2002

PRESENT: Councillor John Cunningham, Chair
Councillor Harry McInroy
Councillor Ron Cooper
Councillor Brian Warshick
Councillor Condo Sarto
Councillor Bruce Hetherington
Councillor Jim Smith

STAFF: Mr. Barry Allen, Municipal Solicitor
Ms. Julia Horncastle, Assistant Municipal Clerk

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1. INVOCATION

The meeting was called to order at 7:00 p.m. with the Invocation.

2. APPROVAL OF MINUTES - December 6 and 18, 2001

MOVED by Councillor Sarto, seconded by Councillor Hetherington, that the minutes of December 8 and 16, 2001 be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

MOVED by Councillor Hetherington, seconded by Councillor McInroy, that the Order of Business be approved. MOTION PUT AND PASSED UNANIMOUSLY.

4. BUSINESS ARISING FROM THE MINUTES - NONE

5. MOTIONS OF RECONSIDERATION - NONE

6. MOTIONS OF RESCISSION - NONE

7. CONSIDERATION OF DEFERRED BUSINESS - NONE

8. PUBLIC HEARINGS

8.1 Case 00374 - Application by Can-Euro Investments Ltd. to enter into a development agreement to permit additional units within their apartment building located at 7 Horizon Court, Dartmouth

- A report prepared for Mr. Paul Dunphy, Director of Planning and Development, dated November 28, 2001, on the above noted, was before Community Council.

Mr. Kurt Pyle, Planner, with the aid of overheads, presented the staff report advising Can-Euro Investments Ltd. wishes to convert four of its two bedroom apartment units into eight one bedroom units noting, the proposed conversions would not result in any exterior changes to the building.

In response to Councillor Smith, Mr. Pyle advised there are 115 on site parking spaces and there are 55 off street parking spaces located along Horizon Court, noting not all the spaces are used as there are a number of tenants who do not own a vehicle.

Councillor Cunningham called three times for those wishing to speak either in favour of or in opposition to the amendment. Hearing none, the following motion was placed.

MOVED by Councillor Hetherington, seconded by Councillor Sarto, that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Hetherington, seconded by Councillor Sarto, that Harbour East Community Council:

- 1. Approve the development agreement, attached to the staff report dated November 28, 2001, as Attachment "I", to allow for 124 apartment units within the Horizon Estates apartment building located at 7 Horizon Court, Dartmouth; and,**
- 2. Require the development agreement be signed within 120 days or any extension thereof granted by Community Council on request of the applicant from the date of final approval by Community Council and any other bodies as necessary whichever approval is later, including applicable appeal periods, otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

In response to Councillor Cooper, Mr. Pyle advised an occupancy permit had been issued.

MOTION PUT AND PASSED UNANIMOUSLY.

8.2 Case 00413 - Application for a Substantial Amendment to the Development Agreement for the Home Depot Project, Baker Drive, Dartmouth

- A staff report prepared for Mr. Paul Dunphy, Director of Planning and Development Services, dated November 22, 2001, on the above noted, was before Community Council.
- A memorandum from Mr. Mitch Dickey, Planner, dated January 10, 2002, on the above noted, was circulated to Community Council.

Mr. Mitch Dickey, Planner, with the aid of overheads presented the staff report noting, should Community Council feel that a pylon sign is more acceptable than a roof sign, the amendments in the memorandum dated January 10, 2002 be included as part of the Community Council approval.

In response to Councillor McInroy, Mr. Dickey advised there is no signage proposed for the

car dealership.

In response to Councillor Warshick, Mr. Dickey advised an autobody shop would be permitted in conjunction with the car dealership. It could not be approved as a stand alone use.

Councillor Warshick expressed concern that a paint or body shop may pose environmental concerns for the nearby pond. In response, Mr. Dickey advised these would be operated inside the building and there would be no concerns with storm water facilities. He noted that wording can be included to note that accessory uses to the car dealership would have to be contained inside the building.

In response to Councillor Sarto, Mr. Dickey confirmed that a paint shop or autobody shop would not be permitted as a stand alone use but would only be allowed in conjunction with a car dealership.

Councillor Cooper noted the report does not say that the amendment for the pylon signage would be a major amendment. In response, Mr. Barry Allen, solicitor, advised that there is always a risk that someone may claim that their opportunity to speak was infringed which may result in a slow down of the process if someone chose to take it to the courts.

In response to Councillor Cooper, Mr. Dickey advised the signs would be approximately 388 sq. ft.

In response to Councillor Smith, Mr. Dickey advised there is a provision in the Dartmouth Sign By-law to prevent the use of a flashing sign.

Councillor Cunningham called for those wishing to speak either in favour of or in opposition to the proposal.

Ms. Margo Cantwell

Ms. Margo Cantwell, EDM, speaking in favour of the proposal, advised the proposal is for a car dealership which is a low traffic generator which will have a low impact on the traffic patterns in the area. She advised EDM would prefer approval be given for the pylon sign.

Councillor Cunningham called three times for any additional speakers. Hearing none, the following motion was placed.

MOVED by Councillor Hetherington, seconded by Councillor McInroy, that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Hetherington, seconded by Councillor Cooper, that Harbour

East Community Council:

1. **“That the amending development agreement as outlined in Attachment 1 to the staff report dated November 22, 2001 be approved, with the two modifications as outlined in Attachments 1 and 2 to the memorandum dated January 10, 2002.**
2. **Require that the Amending Agreement be signed within 120 days or any extension thereof granted by Community Council on request of the applicant from the date of final approval by Community Council and any other bodies as necessary whichever approval is later, including applicable appeal periods, otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

Councillor Hetherington advised the sign is a necessary requirement of the business in maintaining market value. The Councillor advised he had received no opposition to the proposal from the area residents.

In response to Councillor Hetherington, Mr. Dickey advised the Department of Transportation reviews all sign proposals, noting they require signs to have a 33 foot setback.

MOTION PUT AND PASSED UNANIMOUSLY.

8.3 Case 00373 - Application by Silver Sands Realty Limited for a development agreement to permit a 18-hole golf course and 34 tourist cottages adjacent to Cow Bay Lake and by HRM to amend the definition of an open space use in the Eastern Passage/Cow Bay Land Use By-Law

- A report from the Harbour East Planning Advisory Committee dated December 13, 2001, on the above noted, was before Community Council.
- A report prepared for Mr. Paul Dunphy, Director of Planning and Development Services, dated December 4, 2001, on the above noted, was before Community Council.

Ms. Thea Langille-Hanna, Planner, with the aid of overheads, presented the staff report.

Ms. Langille-Hanna noted that the section relative of open spaces in the Land Use By-law for Eastern Passage/Cow Bay the wording would be amended such that *“For the purpose of defining open space uses in accordance with Policy RA-4(a) of the Eastern Passage/Cow Bay Municipal Planning Strategy, golf courses shall be deemed as open space uses”*.

Ms. Langille-Hanna noted the developer has requested that the date of registry of the agreement be dated to the date of the staff report which is December 4, 2001.

Councillor McInroy noted concern has been expressed with regards to the seasonal use of the cottages as they can be used year round but not as a permanent residence. In response, Ms. Langille-Hanna advised the proposal is that the cottages would not be permanent residences, noting there would be difficulty in enforcing the length of stay. She stated there are clauses within the development agreement to prevent them from becoming permanent residences.

In response to Councillor McInroy as to what impact designating the golf course as open space would have on the parkland dedication. In response, Community Council was advised it would have a minimal effect on the parkland dedication.

Councillor McInroy clarified that it was within the purview of the Community Council to make the approval retroactive to the date of the staff report.

In response to Councillor Warshick, Community Council was advised the cottages will have kitchens but the accommodation within the club house will not have kitchens. On further question, Community Council was advised that the tax receipt will be under the jurisdiction of Revenue Canada and once an assessment is made HRM would have to respond to that amount.

In response to Councillor Warshick, Community Council was advised the developer is looking at alternate methods of irrigation of the fairways as it will not be possible to make withdrawals from the groundwater to irrigate them.

In response to Councillor Cooper, Community Council was advised the cottages cannot be subdivided individually, they would be in clusters and would be owned by a condominium corporation. Ms. Langille-Hanna advised there is a provision in the development agreement that clearly states that the cottages cannot be subdivided.

Councillor Cooper suggested the definition of tourist cottage be amended to remove the words "for year round".

Councillor Cunningham called for those wishing to speak either in favour of or in opposition to the proposal.

Mr. Ged Stonehouse

Mr. Ged Stonehouse, Stonehouse Marketing, advised the purpose of the cottages is to complement the golf course and it is not the intention of the developer that these be for year round use, noting there are no cottages proposed for the island. He advised one of the methods of irrigation of the course would be the collection of ground water. He advised the

development will create 30-40 jobs during construction and on an ongoing basis.

Ms. Elizabeth Kwindt

Ms. Elizabeth Kwindt, 1228 Cow Bay Road, reading from prepared text, expressed concern with water problems that may arise and that 25% of the cottages will be located near the lake. She noted the bluff to the beach is continuously eroding and at some point may need extensive stabilization.

Mr. Bill Falconer

Mr. Bill Falconer expressed concern with water and sewer for the property. He stated it is his opinion that the proposal has grown in scope and the public was not fully aware of what was planned for the area. He advised the beach is eroding and the lake is prone to tidal surges which may wash sewage into the lake. He suggested the retention ponds be closely monitored. He expressed concern that the development may force water and sewer to be extended into the area which may be expensive for the residents.

Mr. Bob Taylor

Mr. Bob Taylor, Dartmouth, received clarification that written confirmation will be a requirement as to whether or not an environmental assessment will be needed, nothing this requirement will have to be met prior to the issuance of any permits. It was further clarified that parkland dedication is required but the final configuration will come after the final approval is given, nothing this will be done in conjunction with Recreation Services as well as appropriate provincial and federal agencies.

Mr. Donald Hudak

Mr. Donald Hudak, 37 Green Bay Drive, reading from prepared text, stated that there is still room for changes to the proposal prior to approval by Community Council. He noted the development is in an environmentally sensitive area. He expressed concern with use of the lake if a walkway is built connecting the mainland and the island.

Mr. Reg Jones

Mr. Reg Jones, Dartmouth, noted there are still a number of questions that need to be answered and expressed concern with what is being put forward. He stated the cottages should be for rental and not ownership.

Mr. Rob LeBlanc

Mr. Rob LeBlanc, architect for the project, noted that the septic will have to be designed to provincial requirements and these will be monitored throughout the life of the golf course.

Councillor Cunningham called three times for any additional speakers. Hearing none, the following motion was placed.

MOVED by Councillor Hetherington, seconded by Councillor Sarto, that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor McInroy, seconded by Councillor Hetherington, that the Harbour East Community Council:

- 1. Approve the Land Use By-Law amendment detailed in Attachment B of the staff report dated December 4, 2001;**
- 2. Subject to approval of the Land Use By-Law amendment and expiration of the appeal period or an appeal of the amendment, approve the development agreement to allow a 18-hole golf course and 34 tourist cottages adjacent to Cow Bay Lake as described in Attachment A of the staff report dated December 4, 2001;**
- 3. Require the development agreement to be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval of said agreement by Council and any other bodies as necessary, whichever is later, including applicable appeal periods. Otherwise, this approval shall be void and any obligations arising hereunder shall be at an end.**

Without a vote being taken, the following amendment was placed:

MOVED by Councillor McInroy, seconded by Councillor Hetherington that the definition of tourist cottage be amended to remove the words “for year round”. The amended definition would now read “*Tourist Cottage means a building or structure designed and built as an independent and separate housekeeping establishment with separate culinary and sanitary facilities, provided for the exclusive use of temporary occupancy and not permanent human habitation*”. Further, the effective date being the date of the staff report, December 4, 2001.

Councillor McInroy noted that concerns have been addressed and all approvals will be subject to approval being received in writing from other levels of government prior to the issuance of any permits.

Councillor Cooper expressed concern with the maintenance and storage facility which may have the potential to contain two floors as it is proposed to be 35 feet high. He noted it does not state that that area is limited to storage.

In response to Councillor Cooper, Community Council was advised the access to the cottages would be by way of driveway or private road, noting the access would not be built to public road standards. On further question, Community Council was advised these driveways would have to be built to a standard to accommodate emergency vehicles and have been reviewed by the development engineer.

Councillor Hetherington requested that when the tax receipt is issued, legal ensures that the 5% requirement as part of the development agreement is deducted.

Councillor Cooper suggested photos be taken of the property to provide a history prior to any work being undertaken.

MOTION PUT AND PASSED

**MOVED by Councillor McInroy, seconded by Councillor Cooper that the reference to “groups and clusters” be removed and replaced with the word “clusters” only.
MOTION PUT AND PASSED UNANIMOUSLY.**

The motion as amended was now before Community Council for consideration:

MOVED by Councillor McInroy, seconded by Councillor Hetherington, that the Harbour East Community Council:

- 1. Approve the Land Use By-Law amendment detailed in Attachment B of the staff report dated December 4, 2001;**
- 2. Subject to approval of the Land Use By-Law amendment and expiration of the appeal period or an appeal of the amendment, approve the development agreement to allow a 18-hole golf course and 34 tourist cottages adjacent to Cow Bay Lake as described in Attachment A of the staff report dated December 4, 2001;**
- 3 the definition of tourist cottage be amended to remove the words “for year round”. The amended definition would now read “*Tourist Cottage means a building or structure designed and built as an independent and separate housekeeping establishment with separate culinary and sanitary facilities, provided for the exclusive use of temporary occupancy and not permanent human habitation*”;**

4. the effective date being the date of the staff report, December 4, 2001;
5. the reference to “groups and clusters” be removed and replaced with the word “clusters” only;
6. Require the development agreement to be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval of said agreement by Council and any other bodies as necessary, whichever is later, including applicable appeal periods. Otherwise, this approval shall be void and any obligations arising hereunder shall be at an end.

MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor McInroy, seconded by Councillor Hetherington, that relative to the negotiations for the parkland in unity with the Moose it is requested that pedestrian access be relocated away from the bluff and HRM access be granted for maintenance of the Silver Sands Beach area. **MOTION PUT AND PASSED UNANIMOUSLY.**

9. **CORRESPONDENCE, PETITIONS AND DELEGATIONS**

9.1 **Petitions - None**

10. **REPORTS - NONE**

11. **MOTIONS - NONE**

12. **ADDED ITEMS - NONE**

13. **NOTICES OF MOTION - NONE**

14. **PUBLIC PARTICIPATION**

No speakers.

15. **NEXT MEETING**

The next meeting is scheduled for Thursday, February 7, 2002 at 7:00 p.m.

16. ADJOURNMENT

MOVED by Councillor Hetherington, seconded by Councillor Sarto that the meeting be adjourned at 10:00 p.m. MOTION PUT AND PASSED UNANIMOUSLY.

**Julia Horncastle
Assistant Municipal Clerk**