

HALIFAX REGIONAL MUNICIPALITY

PENINSULA COMMUNITY COUNCIL MINUTES MAY 12, 2003

PRESENT: Councillor Sheila Fougere, Chair
Councillor Jerry Blumenthal
Councillor Dawn Sloane
Councillor Sue Uteck

STAFF: Mr. Barry Allen, Municipal Solicitor
Ms. Sherryll Murphy, Legislative Assistant

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Peninsula Community Council

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1. **CALL TO ORDER**

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

2. **APPROVAL OF MINUTES - April 1, 2003 (Special Meeting) and April 14, 2003 (Regular Meeting)**

MOVED by Councillor Blumenthal, seconded by Councillor Sloane that the minutes of the special meeting of Peninsula Community Council held on April 1, 2003 and the regular meeting of Peninsula Community Council held on April 14, 2003 be approved, as distributed. MOTION PUT AND PASSED UNANIMOUSLY.

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

Councillor Sloane noted that a hearing relating to the appeal of the Development Officer's decision to approve a variance at 1014-1018 Barrington Street was to have been held this evening. She noted that talks between the property owners were ongoing and that the applicant was proposing to undertake a structural integrity review. The Councillor requested that the matter be deferred pending the outcome of the structural integrity review, **to which Community Council agreed.**

Additions:

12.1 Appointment to District 12 PAC

12.2 Planning Status for Applications Currently in Process in District 12

MOVED by Councillor Blumenthal, seconded by Councillor Uteck that the agenda, as amended, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

4. **BUSINESS ARISING OUT OF THE MINUTES**

4.1 **Status Sheet**

4.1.1 **Petition - Peninsula Community Council re Comprehensive Planning Process for University Avenue**

- A staff report dated April 24, 2003 prepared for Paul Dunphy, Director, Planning and Development Services, was before Community Council for consideration.

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that Peninsula Community Council not proceed with the request for a comprehensive planning process to regulate major development along University Avenue between Tower Road and Seymour Street.

Councillor Sloane noted that she believed area residents were concerned with the number of developments proceeding in the area and wanted to monitor these developments.

MOTION PUT AND PASSED.

4.1.2 Petition - Peninsula Community Council re Comprehensive Planning Process for Ecole Beaufort

- A staff report dated May 5, 2003 prepared for Paul Dunphy, Director of Planning and Development Services, was before the Community Council for consideration.

Councillor Uteck, noting that Ecole Beaufort has not been turned over to the municipality and that it appears that the school may be put back into service, suggested that a comprehensive planning process was premature.

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that Peninsula Community Council take no action with respect to initiating an amendment to the Municipal Planning Strategy for the Ecole Beaufort school site, 1589 Walnut Street.
MOTION PUT AND PASSED.

4.1.3 Disposal of Snow by Contractors

Mr. Rick Paynter addressed the matter referring to the Information Report distributed at the previous meeting of Community Council and noting that, as a result of that report, Councillor Blumenthal has requested further clarification of where private contractors may dispose of snow. Mr. Paynter went on to explain that Halifax Regional Municipality has two disposal sites, but because of its own capacity limitations it is reluctant to open up to these up due to the large volume of contractors. Mr. Paynter noted that staff has not ventured into providing advise to contractors and suggested that the contractors and those for whom they are removing snow should make arrangements for the disposal of snow.

A brief discussion ensued and **it was agreed that** this item be removed from status sheet.

4.1.4 Traffic and Safety Concerns - Jubilee Road

Councillor Uteck noted that staff has issued a response and went on to list the action taken to date and action to be taken in the future in response to the concerns of area residents. The

Councillor indicated that the Traffic Authority is reluctant to take any further steps. Based upon staff's response, Councillor Uteck withdrew her request for a further report.

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 00561 - Application to Consider a Development Agreement for the Atlantic News, 5660 Morris Street**

- A previously distributed staff report dated March 25, 2003 prepared for Paul Dunphy, Director of Planning and Development Services, was before Community Council for consideration.
- An e-mail dated April 28, 2003 from Frank LeTourneau in favour of the proposal was circulated to members of Community Council.

Mr. Kevin Barrett, Heritage Planner, briefly reviewed the report and, utilizing photos, illustrated, the property in question. Mr. Barrett went on to note that staff is recommending approval of the development agreement to permit a fifty nine (59) inch high exterior sign at the Atlantic News, 5560 Morris Street, Halifax. Mr. Barrett then responded to questions from members of Council.

Councillor Fougere called for persons wishing to speak in favour or against the application.

Mr. Steven Gerard, the applicant, addressed Community Council noting that he and his wife had determined a number of years ago that word of mouth advertising would not be enough to carry the Atlantic News through the next decade. Thus they had decided to give the business more of a face in the market. Mr. Gerard noted that Ms. Graham was subsequently contacted and a logo chosen.

Michelle Gerard, applicant, noted that their business has experienced growth over the last few years. She stressed that it was now necessary to attach a physical presence to the building.

Ms. Laura Graham, Designer, advised that approximately five years ago a logo for Atlantic News had been developed and used in a number of ways. The image of a man and a dog is an effective and cheerful logo which has become identifiable with the Atlantic News. The sign builds on the profile of the logo, is tasteful, and fits in with the neighbourhood in the same way that the store does.

The Chair called three times for persons wishing to speak in favour of or against the proposal. Hearing none, it was **MOVED by Councillor Sloane, seconded by Councillor Blumenthal that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.**

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

- 1. Approve the development agreement, presented as Attachment I of the March 25, 2003 staff report, to permit a fifty-nine(59) inch interior sign at 5560 Morris Street, Halifax.**
- 2. Require that 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 is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED UNANIMOUSLY.

8.1.2 Case 00455 - Application for a Development Agreement at 1252-56 Hollis Street

- A previously distributed staff report dated March 17, 2003 prepared for Paul Dunphy, Director, Planning and Development Services, was before Community Council for consideration.

Ms. Holly Richardson, Planner, briefly reviewed the report and noted that the Heritage Advisory Committee, as well as staff, have recommended that Peninsula Community Council approve the development agreement.

The Chair called three times for persons speaking favour of or against the proposed development. Hearing none, it was **MOVED by Councillor Uteck, seconded by Councillor Sloane that the public hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

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

- 1. Approve the development agreement presented as Attachment V of the March 17, 2003 staff report, to enable a third storey addition to an existing two-storey apartment building at 1252-1256 Hollis Street.**
- 2. Require that 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 is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED UNANIMOUSLY.

8.2 Variance Hearings

8.2.1 Appeal of Development Officer's Decision to approve a Variance at 1014-1018 Barrington Street, Halifax - Case No 3037933

Consideration of this matter was deferred during the setting of the agenda.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

9.3 Delegations - None

10. REPORTS - None

11. MOTIONS - None

12. ADDED ITEMS

12.1 Appointment to District 12 PAC

- This matter was added to the agenda during the setting of the agenda.

- A memorandum dated May 8, 2003 from Sherryll Murphy, Legislative Assistant , was before Community Council for consideration.

MOVED by Councillor Sloane, seconded by Councillor Uteck that Maureen Strickland be appointed to the District 12 Planning Advisory Committee for a term of two years.

12.2 Planning Status for Applications Currently in Process in District 12

Councillor Uteck noted that concern has been expressed by the development community that, with the formation of the District 12 Planning Advisory Committee, progress on proposals already in the queue should not be impeded. The Councillor noted that in communication with the Municipal Solicitor she had been advised that since the process has already been initiated relative to these applications, they should not be required to go through the Planning Advisory Committee.

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that planning applications which are currently in process in District 12 will not be reviewed by the newly appointed District 12 Planning Advisory Committee. MOTION PUT AND PASSED.

13. NOTICES OF MOTION

14. PUBLIC PARTICIPATION

Councillor Fougere advised that Residential Property Tax Exemption program applications are now available for residents requiring such an exemptions.

Tania Li, Jubilee Road

Ms. Li addressed Community Council making the following points:

- Referring to accident and collision statistics on Jubilee Road, Ms. Li pointed out that these statistics had been provided by the Traffic Authority. Ms. Li requested that these be included in the minutes of this meeting, **to which Community Council agreed.** (Please see Attachment A)
- Requested the criteria utilized in terms of collisions and asked what is considered an acceptable level of collisions
- Requested clarification that as indicated in the February 10, 2003 report curb extensions will be installed on Beech Street and Cambridge Street.

- Noted that residents had been promised in writing that a safety audit at the junction of Jubilee and Oxford would be undertaken and requested that this audit be confirmed. The Chair noted that Ms. Li had received a response relative to her item #2.

Councillor Uteck advised that she would follow up with regard to the safety audit and, at the request of the Chair, confirmed that she would follow up directly with Ms. Li.

Mr. Stewart Grossert, LeMarchant Street

Mr. Grossert addressed Community Council in opposition to a building permit which has been issued for 6199 Coburg Road. In his comments, Mr. Grosser made the following point:

- Expressed concern re creeping development. The building covered approximately 70% of the property when Mr. Grossert moved to the neighbourhood
- Since that time the storage facility has increased in size and when the drugstore was destroyed by fire it was rebuilt to cover 90-95% of the property
- Building is now undergoing further development
- Concerned that the neighbors were not advised of this further development
- The lack of parking is not acceptable given the existing traffic congestion on the street
- Does not agree with additions to an already non-conforming building

Mr. Grossert submitted correspondence dated May 1, 2003 directed to Andrew Faulkner, Development Technician, which provided additional detail to his concerns.

Ann Noreen Norton, Coburg Road

Ms. North addressed Community Council in opposition to the development permit at 6199 Coburg Road. Her address included the following comments:

- She reiterated the previous speakers recollection of the history of the property
- The neighbors have never been made aware of changes on the property
- At the time the structure was re-built as a pharmacy it was permitted to be pulled ahead by eight feet to the property line. Location of the building has caused many accidents. From an assessment point of view, the courts have found that she had been disadvantaged as a result of this building because of it being pulled forward
- Would like staff to provide a written report
- In situations like this one before a development permit is signed the Development Officer should visit the site
- Showed photos depicting how close the building in question is to her property
- Stressed that the neighbors to this property have a right to the enjoyment of their property

- The property has been granted a variance, is a non conforming use, the footprint has changed, and the entire length of building is now being raised
- The proposed changes to the building will prevent the neighbors from enjoying their back yards

Owen Carrigan, Coburg Road

Mr. Kerrigan addressed Community Council in opposition to the development permit at 6199 Coburg Road. Mr. Kerrigan made the following comments during his presentation:

- The immediate neighbourhood is facing a quality of life issue with this proposed development
- The Development Department is issuing permits without examining the whole situation
- Expressed concern that the structure which is there now is illegal. The variance was granted without any public meeting
- Now a permit has been issued to modify an illegal usage
- This situation is not an isolated incident and Mr. Kerrigan described a situation on Seymour Street involving an illegal rooming house
- No member of staff ever came to look at that house
- The Halifax Regional Municipality must say stop to this type of development
- A stop work order should be issued. The appropriate municipal staff should visit the site and prepare a report including the history of the property to determine if the permit should be issued.

Paul Brody, Coburg Road

Mr. Brody addressed Community Council in opposition to the development permit at 6199 Coburg Road. Mr. Brody's comments included the following:

- The proposed further development of this property violates the spirit and the letter of the law
- The structure covers 90% of the lot
- The store contained within the structure is the source of most of the litter in the neighbourhood
- Now is the time to stop this development and require the structure to be scaled back to cover only 45% of the land area

Hugh Pullen, Oakland Road

Mr. Pullen addressed Community Council in opposition to the development permit for 6199 Coburg Road. In his address, Mr. Pullen made the following points:

- Noted that the Municipal Planning Strategy addressed conversions on Coburg Road and set out a specific prohibition on height and volume
- However, the MGA (which supercedes the Municipal Planning Strategy) does not reflect the intent of Land Use Bylaw and the Municipal Planning Strategy. There appears to be a disconnect between the use of the structure and the structure itself
- Agree that Halifax Regional Municipality pressed for staff and pressed for time, however, he does not believe this is fair. The law must reflect human conditions.

Mr. Andriopoulos, Lemarchant Street

Mr. Andriopoluous addressed Community Council in opposition to the development permit for 6199 Coburg Road. Mr. Andriopoulos expressed concern regarding the lack of parking noting that the area is a heavy traffic area and that there would be no parking on the street immediately adjacent to the site.

Duncan Armstrong, Coburg Road

Mr. Duncan Armstrong, Coburg Road addressed Community Council in opposition to the development permit for 6199 Coburg Road. Mr. Armstrong:

- Expressed complete unhappiness that this building is permitted to proceed as it is
- Reiterated that 90% of the lot is covered and noted this would not be allowed in other circumstances
- Expressed concern that there is no parking on the lot, nor is there parking on the street immediately adjacent
- Is unable to understand, given the history of the property, why this development permit was issued
- Stressed that this structure will now loom over the adjacent properties and cut off all the morning sunshine enjoyed by these properties
- Cannot understand how this can be legally allowable, when it is so disallowable in terms of common sense

The Chair requested that Mr. Audas, Development Officer for Halifax, briefly respond to the concerns expressed, noting that the more complex issues should be dealt with in an information report at a later date.

Mr. Sean Audas, Development Officer, noted that the property in question is 6199 Coburg Road. The development permit was issued based upon the only allowable expansion of the building within the existing footprint. Mr. Audas noted that he has reviewed the file and would be meeting with Ms. Norton to discuss this situation.

Mr. Audas noted that under the existing legislation, the Municipal Government Act, the building is no longer a non conforming use, but only a non conforming structure. A non conforming structure is permitted to increase providing that it does not further encroach, in this case go beyond the height requirements of the zone. Mr. Audas indicated that the proposal does not exceed those requirements and no additional units were being developed, so the proposal meets the requirements of the RC-1 zoning on the property.

Referring to the issue of rooming houses, Mr. Audas noted that staff has been working with the Councillor for the area and a newly hired Community Standards Officer to address the issue of illegal rooming houses. Mr. Audas invited residents to contact him regarding any illegal rooming houses of which they may be aware.

Councillor Uteck noted that staff was aware of the rooming house identified by Dr. Kerrigan and advised that she would follow up with staff on this particular situation.

Ms. Beverly Miller, South Street

Seeking to understand the apparent disconnect between the Municipal Government Act and the Municipal Planning Strategy, Ms. Miller asked for clarification regarding this issue.

In response, Mr. Barry Allen, Municipal Solicitor, advised that there are provisions in the Municipal Government Act that allow changes to be made in non conforming buildings. In fact, when you have non conforming buildings, in some respects, you have rights to develop which are over and above that which is normally found in the Land Use Bylaw. To that extent there is a conflict. It is not a case where the Municipal Planning Strategy which has been developed by Municipal Council is contrary to the Act, but that the Act allows things to happen in addition.

Seeking further clarification, Ms. Miller asked if, with the changes in the Municipal Government Act, certain parts of our Municipal Planning Strategy has become inoperative. She went on to indicate that she would like to know what exactly the problem is and then ask this Community Council to take steps to address that problem. Ms. Miller noted that it appears that the Municipal Planning Strategy is outdated and we have no protection under the strategy.

Mr. Allen indicated that the Municipal Government Act is Provincial legislation which, in effect, overrides the local planning legislation. The resolution to this issue is to request an amendment to the Municipal Government Act.

A further discussion ensued with Mr. Jim Donovan, Manager, Planning Applications, noting that a report regarding this particular application has been requested. Mr. Donovan noted that the legislative basis for the decision of the Development Officer will be rolled into the report. In addition, the report will address the discrepancy in terms of what the expectations were when the Municipal Planning Strategy was developed under the previous legislation and the

impact of the current legislation. Mr. Donovan clarified that staff would restrict its report to the issue of expansion rights under the legislation as it relates to non conforming structures. Mr. Donovan went on to note that the use is not in question, it is not a non conforming use. He noted that the issue is how the building has been allowed to expand and what is proposed at the present time.

Mr. Donovan noted that Community Council may see the need for changes after analyzing the staff report and if Community Council can clearly identify what it wants in terms of tightening up the non conforming use provisions of the Land Use Bylaw, staff can take the necessary action. In conclusion, Mr. Donovan committed to bringing the report back for the next meeting of Peninsula Community Council to be held on June 9, 2003.

With the permission of Community Council, **Ann Noreen Norton** addressed Council a second time noting that residents of the area had asked for a stop work order at 6199 Coburg Road. She went on to note that a previous Development Officer had issued an occupancy permit after the building was unoccupied for one year. The Development Officer had assured residents that only the store would occupy the building and the only thing the space immediately adjacent to her property would ever be used for was storage. Referring to Section 241 (1) (a), Ms. North noted that this provision stated that the structure which a non conforming use occupies may not be 'expanded or altered so as to increase the volume of the structure capable of being occupied'.

15. NEXT MEETING - Monday, June 9, 2003

16. ADJOURNMENT

There being no further business, the meeting adjourned at 8:40 p.m.

Sherrill Murphy
Legislative Assistant

Halifax Regional Municipality
 TRAFFIC SERVICES
 July, 2002

FIVE YEAR COLLISION HISTORY AT INTERSECTIONS ON JUBILEE ROAD

Intersection	TOTAL COLLISIONS BY YEAR (With injury collisions shown in brackets)					
	1997	1998	1999	2000	2001	5 yr Total
Pryor	1					1
Dunevegan						
Fairfield						
Bloomingtondale	1	1				2
Connaught	3 (1)	3 (1)	3 (2)	1	4 (1)	14 (5)
Rosebank						
Beech						
Cambridge		•	3 (1)	1		
Oxford	5 (1)	14 (6)	12 (3)	6 (3)	11 (2)	48 (15)
Larch				1 (1)		1 (1)
Preston	3 (3)	3 (1)	3 (1)	3	3	15 (5)
Chestnut				1		1
Walnut			1			1
Garden						
Vernon	5 (1)	10 (3)	4 (1)	9 (4)	7 (2)	35 (11)
Henry		1		2		3
Edward				2 (1)		