

**PENINSULA COMMUNITY COUNCIL
MINUTES
July 10, 2006**

PRESENT: Councillor Sheila Fougere, Chair
Councillor Patrick Murphy
Councillor Dawn Sloane
Councillor Sue Uteck

STAFF: Ms. Donna Keates, Legal Council
Ms. Jennifer Weagle, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 7:04 p.m. in Council Chambers, City Hall, 1841 Argyle Street, Halifax.

2. APPROVAL OF MINUTES - June 12, 2006

MOVED by Councillor Uteck, seconded by Councillor Sloane, that the minutes of June 12, 2006 meeting of Peninsula Community Council, as distributed, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

DELETION:

8.2.1 Case No. 13017: Appeal of the Development Officer's decision to approve an application for a Variance - 1377 Robie Street, Halifax

ADDITION:

12.1 Building Communities Fund

MOVED BY Councillor Sloane, seconded by Councillor Murphy, 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 Public Participation - Survey Work - Inglis Street & Tower Road

A staff report dated June 16, 2006 on the above noted was before Community Council. This item will be removed from the status sheet.

4.1.2 Westmoor Co-Op Ltd. - Naming of Kenneth Walker Field

This item has a target completion date of August 14, 2006. This item to remain on the status sheet.

4.1.3 Harvey Street Parking Lot - Townhouses

No information received. This item to remain on the status sheet.

4.1.4 Closure of HRM Private Lane - June Street to Princess Place

No information received. This item to remain on the status sheet.

4.1.5 CN Property Maintenance

No information received. This item to remain on the status sheet.

5. MOTIONS OF RECONSIDERATION - None

6. MOTIONS OF RESCISSION

6.1 Councillor Sloane

“To rescind 8.2.1 with respect to the granting of a variance at 5562 Falkland Street on the basis of the MPS Policy 2.4, which reads “the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.””

Councillor Fougere commented that while she is appreciative of Councillor Sloane’s efforts on behalf of her constituents, a legal opinion was received on this matter from HRM Legal Services. Councillor Fougere read aloud the legal opinion, which stated that a variance refusal could not be reconsidered “as Community Council has ceased to have jurisdiction over the appeal upon the decision having been taken. “

7. CONSIDERATION OF DEFERRED BUSINESS

7.1 Case 00815: Halifax Municipal Planning Strategy and Land Use By-Law Amendments and Development Agreement - 6193 Young Street, Halifax

C This item was deferred from the June 12, 2006 meeting of Peninsula Community Council.

C A report dated May 5, 2006 on the above noted was before Community Council.

Mr. Angus Schaffenburg, Senior Planner, Planning and Development Services, reviewed the staff report with Community Council, commenting that the application is for a Petro Canada complex at 6193 Young Street, Halifax, and noting the following:

C The site is designated Institutional (I) under the Halifax Municipal Planning Strategy and zoned Park and Institutional (P) under the Halifax Peninsula Land Use By-law,

- C The proposed development would include a gas bar, a restaurant and convenience store, a drive-through, and extensive landscaping,
- C The proposal includes a commitment from the developer to provide \$25,000 or \$25,000 of in-kind contributions for the development of a pocket park at the corner of Bayers Road and Windsor Streets,
- C There are no specific height limits for the site, however, the developer would be responsible for meeting the angle and setback controls for the site.

Councillor Sloane assumed the Chair and Councillor Fougere took a seat in Council.

MOVED by Councillor Fougere, seconded by Councillor Murphy, that Peninsula Community Council recommend that Regional Council deny First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as contained in Attachments “A” and “B” of the staff report dated May 5, 2006 and not schedule a joint public hearing with Peninsula Community Council.

Councillor Fougere commented that applications for a Petro Canada facility on this site have previously come before Community Council and Regional Council. She indicated that although the developer did attempt to address concerns raised by residents, the majority of neighbouring residents are not in favour a 24/7 gas bar/restaurant in the area.

Councillor Murphy commented that through public consultation and submissions, it is very clear that many residents do not want a gas station on the site at this time. He acknowledged Petro Canada’s attempts to appease the neighbourhood by adding a restaurant, removing the car wash and reducing the proposed entry points to the site from four to two. Councillor Murphy noted concern with regard to the design of the intersection at Young and Windsor Streets.

Councillor Fougere indicated that she believes that a development agreement should be required for any in-fill development in a previously developed area, in order to allow for public input. She indicated that the proposed use is not compatible with the area and in consideration of neighbouring public buildings such as the Forum and Windsor Park, public space would be an appropriate use for the site.

MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Sloane, seconded by Councillor Murphy, to request a staff report re-evaluating the intersection at Young and Windsor Streets, Halifax, regarding pedestrian and driver safety issues raised through resident submissions and public consultation on this proposed development. MOTION PUT AND PASSED.

Councillor Fougere resumed the Chair and Councillor Sloane took her seat in Council.

7.2 Case No. 12902: Appeal of the Development Officer's decision to approve an application for a Variance - 5539 Cogswell Street, Halifax

- C This item was deferred from the June 12, 2006 meeting of Peninsula Community Council.
- C A draft minutes extract from the June 12, 2006 meeting of Peninsula Community Council along with the June 2, 2006 staff report were before Community Council.

Mr. Andrew Faulkner, Development Officer, Planning and Development Services, reviewed the staff report with Community Council, noting that this is an appeal of the Development Officer's decision to approve a variance from the GFAR and Lot Coverage requirements of the Halifax Peninsula Land Use By-law to permit construction of a single unit dwelling. Mr. Faulkner clarified the following:

- C Variance applications for 5539 and 5543 Cogswell Street, Halifax were presented at the June 12, 2006 meeting of Peninsula Community Council,
- C The variance application for 5543 Cogswell Street was approved,
- C The decision for 5539 Cogswell was deferred to this meeting to allow time for the owners and a neighbour to reach an agreement regarding their abutting properties,
- C The owners and the neighbour have not made progress with negotiations since the June 12, 2006 meeting and an agreement has not been reached.

Councillor Sloane advised that she has met with the property owners and the neighbour, and unfortunately the parties have not been able to come to an agreement. She noted that there are many questions remaining to be answered regarding the proposed development and she cannot support the approval of the variance without these questions being answered.

MOVED by Councillor Sloane, seconded by Councillor Murphy, that the decision of the Development Officer to approve the variance application for 5539 Cogswell Street, Halifax, be overturned and the variance application be denied.

At the request of Councillor Murphy, Councillor Sloane advised that issues discussed at the meeting between the property owners and the neighbour included the style of the proposed development, the amount of space between the houses and survey discrepancies.

MOTION PUT AND PASSED.

Councillor Uteck noted that correspondence was submitted to the members of Peninsula Community Council outlining seven points the property owners and the neighbour could not agree upon.

8. HEARINGS

8.1 Public Hearings - None

8.2 Appeal Hearings

8.2.1 Case No. 13017: Appeal of the Development Officer's decision to refuse an application for a Variance - 1377 Robie Street, Halifax

This item was deleted during the approval of the agenda. See item 3.

8.2.2 Case No. 12976: Appeal of the Development Officer's decision to refuse an application for a Variance - 6025 Lady Hammond Road, Halifax

C A staff report dated July 10, 2006 on the above noted was before Community Council.

Mr. Andrew Faulkner reviewed the report with Community Council, noting that this is an appeal of the Development Officer's refusal of a variance application to permit construction of a deck to zero lot line within the 25 foot front yard setback. Mr. Faulkner clarified the following:

- C The owner the above address, operating as Metro Pizza, inquired with Planning and Development Services regarding deck construction and was advised that a permit was not necessary for decks below 24 inches in height,
- C The property owner did not mention the commercial use of the deck in conversation with planning staff,
- C Commercial decks do require permits,
- C The mis-communication was realized and an Order to Comply was issued to stop work on the construction of the deck.

At the request of Councillor Murphy, Mr. Faulkner clarified that he does not believe that the mis-communication was an intentional disregard of the by-laws.

Councillor Fougere opened the appeal hearing and called for speakers.

Mr. Bassam Aawad, Owner, 6025 Lady Hammond Road, Halifax

Mr. Aawad addressed Community Council, advising the following:

- C He did not intentionally disregard the by-laws, and simply wishes to add a deck to his restaurant,
- C Upon his initial conversation with Planning staff, he was advised that the deck must be pushed back 18 inches to allow clearing of snow on the sidewalk,

- C He then dismantled the deck, and rebuilt it 18 inches from its initial location,
- C An inspector then attended the property and ordered the work stopped,
- C He did not act in bad faith and wishes to improve his business.

Councillor Fougere called three times for any further speakers.

Hearing none, it was **MOVED by Councillor Sloane, seconded by Councillor Uteck, that the appeal hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

MOVED by Councillor Murphy, seconded by Councillor Uteck, that the decision of the Development Officer to refuse the variance application be overturned and the variance application be approved.

Councillor Murphy commented on similar difficulties encountered by property owners in the area with regard to the set back requirements for the potential widening of Lady Hammond Road. He noted that the property owner has agreed in writing to demolish the deck if the widening goes forward. Councillor Murphy further noted that there were no objections received by neighbours, and the deck is already partially completed.

Councillor Sloane concurred with Councillor Murphy's comments and noted that the property owner has been cooperative to date and wishes to improve his business.

MOTION PUT AND PASSED UNANIMOUSLY.

8.2.3 Case No. 12977: Appeal of the Development Officer's decision to refuse an application for a Variance - 6924 Mumford Road, Halifax

- C A staff report dated July 4, 2006 on the above noted was before Community Council.

Mr. Andrew Faulkner, Development Officer, Planning and Development Services, reviewed the report with Community Council, noting that this is an appeal of the Development Officer's decision to refuse an application for a variance. Mr. Faulkner clarified the following:

- C The variance application is for a variance of the lot area from 8,000 square feet to 5,291 square feet; and the left side setback from 6 feet to 5 feet, to have the lot and building conform to the land use by-law requirements for a four unit dwelling,
- C A construction permit was issued in 1986 for the construction of a duplex, and the building has since been converted, without permit, to four rental units,
- C There are two errors in the Alternatives on page three of the July 4, 2006 staff report. The Alternatives should read as follows:

1. Council could uphold the decision of the Development Officer to **refuse** the variance. This is the recommended alternative.
2. Council could overturn the decision of the Development Officer and **approve** the variance.

Councillor Fougere opened the appeal hearing and called for speakers.

Mr. Tony Metledge, Halifax

Mr. Metledge addressed Community Council, noting the following:

- C He is representing the property owner, who is out of the country,
- C The appellant has owned the property since 1986 and the property is very well maintained,
- C The lot has ample parking, which will not be altered with the approval of the variance,
- C He has a map which indicates that a number of years ago, Mumford Road was widened, and the property owner lost 12 feet from the front of her property, which would have added approximately 1000 square feet to the lot area,
- C The rental units provide affordable housing which is needed in the area.

Councillor Fougere called three times for any further speakers.

Hearing none, it was **MOVED by Councillor Uteck, seconded by Councillor Sloane, that the appeal hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

Councillor Sloane assumed the Chair and Councillor Fougere took a seat in Council.

MOVED by Councillor Fougere, seconded by Councillor Murphy, that the decision of the Development Officer to refuse the variance application be overturned and the variance application be approved.

Councillor Fougere addressed Community Council, noting the following:

- C While she does not condone any intentional disregard of the law, the property has remained the same for the past 18 years without any complaints,
- C No objections were received from neighbours with regard to the variance application,
- C The building is on a large lot, in a busy area, on a busy street, with a 100 unit apartment complex across street, and two other larger apartment complexes on the same street,
- C While the property does not comply with the land use by-law requirements, it does fit with the rest of the neighbourhood,
- C A "slap on wrist" is deserved for the intentional disregard of the land use by-law.

Councillor Murphy commented that although there was clear intentional disregard for the by-law, he believes the property owner is a good landlord and neighbour and he supports Councillor Fougere's motion.

Councillor Sloane commented that the property owner did not have to pay the fee associated with the permit application since the building was illegally converted. She inquired of the Solicitor whether fees in such cases can be retroactively collected. The Solicitor directed the question to Mr. Faulkner, who advised that if the variance is approved, the property owner will have to pay costs associated with the application for an occupancy permit, have the building inspected by a building official, and meet fire and safety codes. Councillor Sloane commented that a process should be put in place to collect retroactive fees, since law-abiding citizens following the correct legal avenues pay the fees.

At the request of Councillor Sloane, Mr. Faulkner clarified that approving the variance will make the building legal and conforming. He noted that the use is permitted under the R-2 (General Residential) zoning of the property.

MOTION PUT AND PASSED UNANIMOUSLY.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence

9.1.1 Email dated July 4, 2006 re: Re-zoning Robie/Chestnut/Coburg/Jubilee

C Email correspondence from Ruth Allen dated July 4, 2006 was before Community Council.

Councillor Uteck indicated that Peninsula Community Council had stated to the public that after the approval of the Regional Plan, Neighbourhood Plans would be developed. She commented that this area of Robie/Chestnut/Coburg/Jubilee was to be completed first and she would like to know the time line associated with these plans.

Councillor Fougere commented that she recalls that eleven areas were identified for down-zoning, only one or two of which have been addressed, and that the down-zoning was deferred until the approval of the Regional Plan. She asked the legislative assistant to locate the Community Council report from two years ago identifying the areas.

MOVED by Councillor Uteck, seconded by Councillor Sloane, to request a staff report on the down-zoning of neighbourhoods through Neighbourhood Plans stemming from the Regional Plan. MOTION PUT AND PASSED UNANIMOUSLY.

9.2 Petitions - None

9.3 Presentations - None

10. REPORTS

10.1 Staff Reports

10.1.1 Case 00887: Development Agreement - 1747-1749 Beech Street, Halifax

C A staff report dated June 23, 2006 on the above noted was before Community Council.

MOVED by Councillor Uteck, seconded by Councillor Murphy, that Peninsula Community Council give Notice of Motion to consider the proposed development agreement, as described in Attachment "A" of the June 23, 2006 staff report, to permit a 28 children child care centre at 1747-1749 Beech Street, and to schedule a public hearing.

Councillor Uteck indicated that this application has received a great amount of support from the community. She commented on the sensitive timing of this matter and the need for the development agreement to be approved prior to the start of the school year. Councillor Uteck requested that the solicitor review options regarding how to move this matter forward prior to the start of the school year and advise the Councillors via email.

MOTION PUT AND PASSED.

10.1.2 Case 00912: Proposed Telecommunication Equipment and Shed, 3792 Novalea Drive, Halifax

C A staff report dated June 14, 2006 on the above noted was before Community Council.

Mr. Luc Ouellet, with the aid of diagrams, reviewed the staff report with Community Council, noting that this is an application by Telus Mobility for municipal comments on the placement of three antennas and a shed on the roof of the senior's complex located at 3792 Novalea Drive, Halifax. Mr. Ouellet advised the following:

C The senior's complex is a nine story structure,

C The proposal is for three antennas, each five feet in length, with attached tripods will be ten feet above the roofline,

C The equipment shed is proposed to be nine feet, one inch high, on a one foot, four inch platform,

C The antennas and shed will have a ten foot setback,

- C The existing rooftop electrical penthouse is larger than the proposed shed,
- C The federal government has control over all forms of telecommunication,
- C As policy, it is recognized that municipal authorities may have an interest in telecommunications matters and an opportunity is provided for review of proposals and input.

Councillor Sloane commented that some residents have voiced health concerns regarding radio waves from the antennas. At the request of Councillor Sloane, Mr. Ouellet advised that Industry Canada does not normally attend community meetings held by HRM discussing potential cellular antenna installation. He noted that staff were instructed not to entertain any questions regarding safety or interference of any nature. Councillor Sloane commented that she finds it distasteful that Industry Canada would not attend these meetings or entertain health questions. Councillor Sloane requested that Industry Canada and Telus Mobility be instructed to have representatives in attendance to answer questions at a public meeting on this matter, should Community Council wish for one to be held.

At the request of Councillor Murphy, Mr. Ouellet advised that notification of the proposal was sent to 485 adjacent property owners. Mr. Ouellet noted that the notification area is indicated with a broken line on Map 1 of the June 14, 2006 report. Councillor Murphy noted that he has received feedback against and in favour of the installation of the antennas. He indicated he would prefer to hold a public meeting on this matter prior to making a recommendation to Industry Canada.

MOVED by Councillor Murphy, seconded by Councillor Sloane, that Peninsula Community Council hold a public meeting regarding the proposed installation of three antennas and a shed at 3792 Novalea Drive, Halifax.

Councillor Fougere commented that concerns from residents have been consistently the same. She noted that the Municipality is being asked to comment on the aesthetics of the antennas and other concerns noted such as health and safety are regulated by the Federal Government. Councillor Fougere indicated that Community Council can pass on concerns from residents with the recommendation to Industry Canada. She noted the recommendation would be deferred until after the public meeting is held.

MOTION PUT AND PASSED.

10.1.3 Case 00906: Extension to Development Agreement Time Limit for 1270 Oxford Street, Halifax

- C A staff report dated June 14, 2006 on the above noted was before Community Council.

MOVED by Councillor Uteck, seconded by Councillor Sloane, that Peninsula Community Council amend the Development Agreement with Khaled Shaaban and Soad Tolbah, recorded on October 4, 2004, at the Registry of Deeds at Halifax as Document Number 7699477 in Book 7912, Pages 702-724, to extend the date for commencement of construction to October 4, 2008.

Councillor Uteck clarified that Mr. Danny Chedrawe is purchasing the property and wishes for an extension to allow time to complete the transaction, market the project, get financing in place and commence construction.

MOTION PUT AND PASSED UNANIMOUSLY.

10.2 District 12 PAC Reports

10.2.1 Case 00900: Discharge of Development Agreement, Jonathan McCully House, 2507 Brunswick Street, Halifax

C A report from District 12 PAC dated June 27, 2006, with attached staff report dated July 5, 2006 on the above noted was before Community Council.

MOVED by Councillor Sloane, seconded by Councillor Uteck, that Peninsula Community Council approve the Discharging Agreement attached as Attachment "A" of the staff report dated July 5, 2006, to discharge the existing development agreement of November 3, 1989, between Salter Street Films Limited and the City of Halifax. MOTION PUT AND PASSED.

10.2.2 Case 00875: Amend Development Agreement: 2303-19 Princess Place, 2368 June Street, and 5839 Cunard Street, Halifax

C A report from District 12 PAC dated June 27, 2006 with attached staff report dated June 12, 2006 was before Community Council.

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

- 1. by resolution, approve the non-substantive amendment to the Development Agreement formerly known as 5837 Cunard Street and 2372 June Street and now known as 2303, 2307, 2311, 2315, and 2319 Princess Place, 2368 June Street and 5839 Cunard Street as required for the approval of a landscape plan and of the masonry wall to be constructed on the Lands along the rear lot line of the lots fronting on Princess Place as detailed in the Amending Agreement appended as Attachment A to the report dated June 12, 2006; and**

2. **require that the Amending Agreement be signed and returned 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.

11. **MOTIONS** - None

12. **ADDED ITEMS**

- 12.1 **Building Communities Fund**

Councillor Uteck indicated that members of Peninsula Community Council partner for community projects that Community Council feel will be beneficial to the residents of Peninsular Halifax as a whole.

MOVED by Councillor Uteck, seconded by Councillor Murphy, that the following amounts be allocated from Peninsula Community Council's Building Communities Capital Fund:

1. **\$20,000 for lighting for the box lacrosse facility at Gorsebrook Junior High School; and**
2. **\$15,000 for rubber surfacing around playground equipment at the Halifax Commons.**

Councillor Fougere indicated that there is \$65,000 remaining to be allocated from the Building Communities Fund this year. She advised that Blair Blakeny, Coordinator, Capital Projects - Parks, will be in contact with Peninsula Community Council with potential projects.

MOTION PUT AND PASSED.

13. **NOTICES OF MOTION** - None

14. **PUBLIC PARTICIPATION**

There were no requests for public participation.

15. **NEXT MEETING**

It was agreed that no meeting of Peninsula Community Council would be scheduled for August. Councillor Fougere indicated that if there are any urgent development matters arising in the meantime, a special meeting could be scheduled when Council returns from break to be dealt with.

Councillor Uteck indicated that the public hearing for Item 10.1.1 Case 00877: Development Agreement - 1747-1749 Beech Street, Halifax will need to be held prior to the commencement of the school year. Councillor Fougere indicated that the Solicitor will review options and respond to the Councillors, and that the Municipal Clerk's Office will arrange a suitable date for the public hearing.

16. ADJOURNMENT

There being no further business, the meeting adjourned at 8:30 p.m.

Jennifer Weagle
Legislative Assistant