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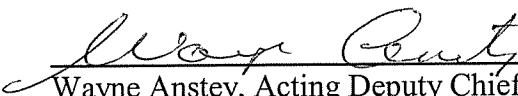
PO Box 1749
Halifax, Nova Scotia
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Halifax Regional Council
October 11, 2005

TO: Mayor Peter Kelly and Members of Regional Council

SUBMITTED BY:


Dan English, Acting Chief Administrative Officer


Wayne Anstey, Acting Deputy Chief Administrative Officer

DATE: September 28, 2005

SUBJECT: Case 00815: Municipal Planning Strategy and Land Use Bylaw
Amendment - 6193 Young Street at Windsor Street, Halifax

ORIGIN

1. September 28, 2004 - Regional Council approved proceeding with the amendment process to permit a gas station and food service operation;
2. January 18, 2005 - Regional Council refused the plan amendment request; and
3. June 29, 2005 - Revised request by Cantwell and Company, on behalf of Petro-Canada, to amend the Halifax Municipal Planning Strategy and Land Use Bylaw to permit a gas station, convenience store, and café.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Authorize staff to initiate the process to amend the Halifax Municipal Planning Strategy and Land Use By-law for the property situated at 6193 Young Street at Windsor Street, Halifax, as generally shown on Map 1 to allow for commercial uses by development agreement.
2. Instruct that the MPS amendment process include a public participation program in accordance with the Public Participation Resolution adopted by Halifax Regional Council in February, 1997.

BACKGROUND

Location, Designation and Zoning: The 2.5 acre property, is located at the corner of Young and Windsor Streets. This site is within an institutional designation on the Generalized Future Land Use Map and is zoned P (Park and Institutional) Zone (see Maps 1 and 2). The intent of these policies is to encourage institutional development. The area was rezoned (Case 4878) from Armed Forces Zone in 1985. The Armed Forces Zone contained no land use controls.

Previous Application: The applicant wished to construct a Petro-Canada gas station complex on this site. The proposed uses included an integrated gas bar, car wash, and convenience store. The request was to redesignate the property to “Commercial” on the Generalized Future Land Use Map and to rezone it to C-2 (General Business) Zone. That would have permitted the proposed uses by-right but the proposed MPS amendments were defeated by Council on January 18, 2005. In speaking against the application, members of Council made the following comments:

- “The 24-hour convenience store will create additional noise and traffic at all hours.
- The rules do not allow the public to have input where there is in-fill development next to a residential neighbourhood to address issues such as hours of operation.
- There is already a sufficient number of gas stations in the area.
- Not all accidents are reported, so the statistics provided by Police Services may not be accurate.
- Concern was expressed with the potential for short-cutting through the gas station.
- Safety concern was expressed with regard to the two access points.
- This development will create traffic, visibility and noise issues.
- Concern was expressed with environmental issues in the future with respect to the gas station.”

Amended Application: The applicant still wishes to build a Petro-Canada gas station complex. The new proposal is similar to the previous one except that no car wash is proposed. The new store format called “Neighbours” adds a café to the convenience store facility. Their proposal is outlined in Attachment B. Petro-Canada has also requested that the proposed use of the property be accommodated through a development agreement that would permit specific standards for landscaping and lighting to be controlled, for example.

Petro-Canada has also expressed a willingness to provide approximately \$25,000 of in-kind contributions for the development of a pocket park at Bayers Road and Windsor on HRM owned land. This has the support of staff.

History of the Property: The lands for the Petro-Canada complex were originally developed by the Canadian National Railway as a train marshaling facility in the early part of the 20th century. They were transferred to the Department of National Defense (DND) in the 1930's and developed

by CFB Halifax as an engineering yard. These lands were declared surplus by the Department of National Defence, and the buildings were demolished. HRM purchased a portion of the property to facilitate the Bayers/Young/Windsor Intersection realignment in 1997. In August 2003 Public Works and Government Services Canada issued a call for the purchase of the remainder of the original parcel. The lands were purchased by Petro-Canada. The realignment work was completed in late summer of 2004.

DISCUSSION

Site specific MPS amendments and policy reviews should generally only be considered where circumstances related to policies of a MPS have changed significantly. This request meets this test as these lands have become surplus to the needs of the Federal Government. The immediate area is zoned P (Park and Institutional) and C-3 (General Industrial). Sanitary sewer and domestic water services are available. The P (Park and Institutional) Zone would not permit the uses proposed by Petro-Canada.

Landscaping: A conceptual landscaping plan has been submitted (see Attachment B). A more detailed plan would form part of any development agreement.

Lighting: Petro-Canada says that the photometric study shows that the lighting intensity along the sidewalk of Young and Windsor, adjacent to the site, would be much less than a standard 40 watt light bulb and have a very narrow intensity field. The results of this study could also be part of any development agreement.

Pedestrian and Vehicle Traffic: Staff have carefully studied the intersection and do not see any need for a change in the physical geometry. Additional yellow crosshatching (painted islands) have been added at the beginning of the lanes and additional left turn arrows have been added.

Compatibility/Service: The use of the subject lands as a service station will be generally consistent with the scale of development in the surrounding neighbourhood. The immediate abutting properties are used for military and commercial purposes. Residential uses are on the opposite side of Windsor Street. Sanitary sewer and domestic water services are available, with the laterals having been installed during the intersection work.

Conclusion: Staff supported the earlier proposal. The approach being used here should produce a better designed and landscaped development. Therefore staff would continue to support changes to the policy framework to allow this commercial use. Although the original recommendation was to allow the proposed uses by-right, a development agreement approach may be warranted. This is not the same approach used, however, for other C-2 (General Business) or C-3 (Industrial) zoned properties along Young Street and Kempt Road area. In addition, consideration should be given to redesignating the adjacent commercial/industrial property. These options can

be discussed at a future public meeting should Council concur with the recommendations of this report.

BUDGET IMPLICATIONS

HRM may receive approximately \$25,000 of in-kind contributions to the development of a pocket park at Bayers Road and Windsor.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN:

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Proceed with the requested amendment. This is recommended for reasons described above.
2. Refuse the requested amendment. This is not recommended for the reasons outlined above.

ATTACHMENTS

Map 1: Generalized Future Land Use

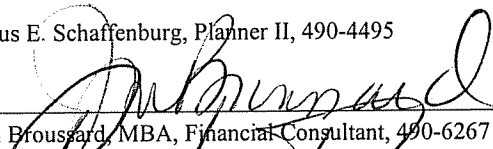
Map 2: Zoning and Notification Area

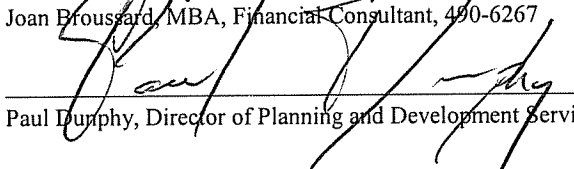
Attachment A: Extracts from the Municipal Planning Strategy and the Peninsula Land Use Bylaw

Attachment B: Submission of June 29, 2005 from Cantwell and Company Limited

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Angus E. Schaffenburg, Planner II, 490-4495


Financial Review by: 
Joan Broussard, MBA, Financial Consultant, 490-6267


Report Approved by: 
Paul Murphy, Director of Planning and Development Services




Map 1 - Generalized Future Land Use

6193 Young Street
Halifax

 Subject property

 Proposed pocket park

 New road alignment

Halifax Plan Area


Designation - Halifax Plan

| | |
|--------|--------------------------|
| RESENV | Residential Environments |
| COMM | Commercial |
| IND | Industrial |
| INST | Institutional |

Designation - Peninsula North

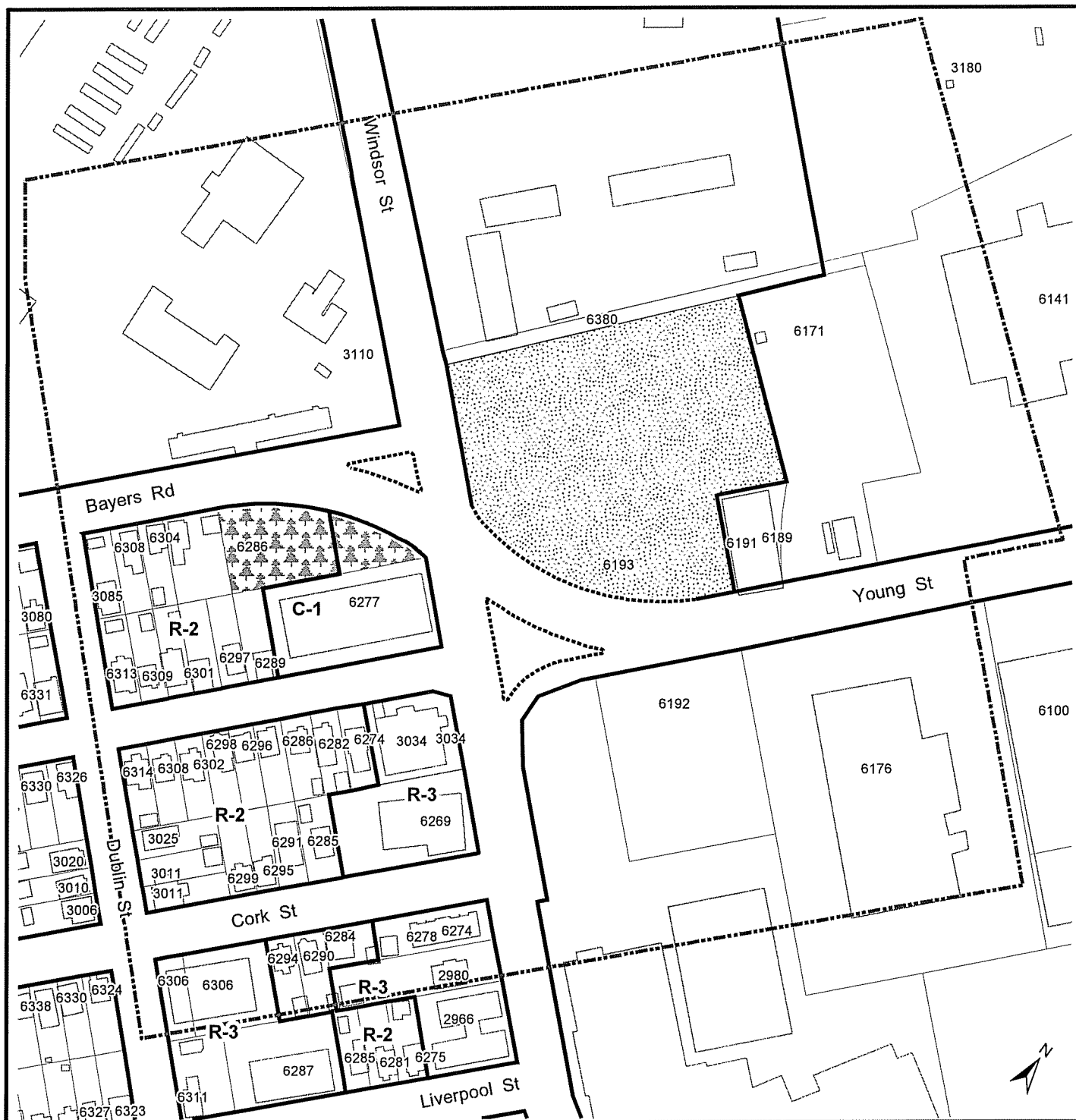
| | |
|-----|--------------------------|
| HDR | High Density Residential |
| MJC | Major Commercial |

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES

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

This map is an unofficial reproduction
of a portion of the Generalized Future
Land Use Map for the Halifax Plan Area.

HRM does not guarantee the accuracy
of any representation on this plan.



Map 2 - Location and Zoning

6193 Young Street
Halifax

-  Subject property
-  Area of notification

Halifax Peninsula By-Law Area



Proposed pocket park



New road alignment

Zone

- R-2 General Residential
- R-3 Multiple Dwelling
- C-1 Local Business
- C-2 General Business
- C-3 General Industrial
- P Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY

PLANNING AND
DEVELOPMENT SERVICES

0 20 40 m

This map is an unofficial reproduction
of a portion of the Zoning Map for the
Halifax Peninsula By-Law area.

HRM does not guarantee the accuracy
of any representation on this plan.

Attachment A

Extracts from the Municipal Planning Strategy and the Peninsula Land Use Bylaw

1. ECONOMIC DEVELOPMENT

Objective The development of the City as a major business, cultural, government, and institutional centre of Atlantic Canada, while enhancing its image as a place to live and work.

1.2.2 In considering new development regulations and changes to existing regulations, and development applications, the City shall give consideration of any additional tax revenues or municipal costs that may be generated therefrom.

3. COMMERCIAL FACILITIES

Objective The provision of commercial facilities appropriately located in relation to the City, or to the region as a whole, and to communities and neighbourhoods within the City.

3.1 The City shall encourage a variety of commercial centres to serve the variety of community needs and shall seek to do so under Implementation Policy 3.7. Provision shall be made for neighbourhood shopping facilities, minor commercial centres, shopping centres and regional centres.

3.1.1 Neighbourhood shopping facilities in residential environments should service primarily local and walk-in trade, and should be primarily owner-occupied. They shall be required to locate at or adjacent to the intersections of local streets rather than in mid-block. Neighbourhood shopping facilities may include one business, for example a corner store or a cluster of businesses. This policy shall serve as a guideline for rezoning decisions in accordance with Implementation Policies 4.1 and 4.2 as appropriate.

3.1.2 Minor commercial centres should service several neighbourhoods. They should locate along principal streets with adequate provision for pedestrian, transit, service and private automobile access. Parking provision should be allowed on surface lots servicing single businesses, as long as conditions preclude nuisance impact on adjacent residential areas. Access to any parking area from the principal street should be controlled. The City should define the geographic limits of minor commercial centres, and shall encourage contiguity of commercial or associated uses within those limits. Minor commercial centres should offer a wider range of services than neighbourhood shopping facilities including local office, restaurants, cinemas, health centres and multi-service centres.

Notwithstanding any other policy in the Municipal Planning Strategy or Secondary Planning Strategies, billboards advertising off-site goods and services shall be prohibited in Minor Commercial areas. This policy shall serve as a guideline in rezoning decisions in accordance with Implementation Policies 3.1 and 3.2 as appropriate.

3.1.2.1 Pursuant to Policy 3.1.2, the land use bylaw shall permit a limited range of motor vehicle repair facilities on sites formerly occupied by service stations in areas designated Minor Commercial on the Generalized Future Land Use map. The range of such uses shall be dependent upon their potential conflict with the surrounding commercial and residential uses in respect to intensity of use and visual, auditory or other off-site impacts that may be detrimental to surrounding areas.

3.1.3 Major commercial centres should service a market area comprising most or all of the City. These centres may include major offices and hotels, in addition to uses suggested for minor commercial centres. The City should encourage parking facilities in these centres to serve several businesses in order to limit nuisance impact. The City's policy for major commercial centres in all other respects should be identical to Policy 3.1.2.

5. INSTITUTIONS

Objective The enhancement of employment opportunities by encouraging existing and potential institutional uses in appropriate locations.

5.1 Unless clearly inappropriate for the good development of the City, existing regional and City-wide institutional facilities shall be encouraged to remain in their present locations and efforts shall be made to protect, maintain and upgrade them.

5.2 The City shall encourage institutional development of a major nature in those areas designated generally on Map 9. The City shall develop standards and boundaries which will protect neighbouring areas, especially residential areas, from encroachment and nuisance effects.

5.3 The City shall encourage institutional development of a major nature in those areas designated generally on Map 9. Pursuant to Policy 5.2, where such areas fall within the bounds of a designated area for detailed planning, the City shall resolve the exact nature of the desired land use pattern through the detailed area planning process.

15. GENERALIZED FUTURE LAND USE MAP

- 15.1 Map 9 shall be considered as the expression of intent of the City of Halifax for a future land use pattern based on the policies outlined heretofore.
- 15.2 The areas of future land use shown on Map 9 shall be determined primarily by the objectives and policies which correspond to the primary use shown. All other objectives and policies shall apply as appropriate, but shall be subordinate to the primary objectives and policies.

IMPLEMENTATION POLICIES

ZONING

- 3. Pursuant to the authority of Section 33 of the Planning Act, the City shall adopt the Zoning Bylaw, Mainland Area and the Zoning Bylaw, Peninsula Area, both of the City of Halifax substantially as they presently exist to further the objectives and policies of this Plan, except those bylaws shall first be revised according to the directions established by the detailed policies below.
- 3.1 Repealed 6 June 1990
- 3.1.1 The City shall review all applications to amend the zoning bylaws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.
- 3.2 For those areas identified in Section II, Policy 2.5.2 of this Plan, the City shall, pursuant to the authority of Section 33(2)(b) of the Planning Act, establish such development control regulations as are necessary to implement the policies of this Plan.

C-2 ZONE

GENERAL BUSINESS ZONE

56(1) The following uses shall be permitted in any C-2 Zone:

- (a) R-1, R-2, R-2T, R-2A, R-3, C-1 and C-2A uses;
- (b) Any business or commercial enterprise except when the operation of the same would cause a nuisance or a hazard to the public and except adult entertainment uses, junk yards and amusement centres;
- (c) Billboards not to exceed twenty-eight square meters (28 m²) in area and not to extend more than eight meters (8 m) above the mean grade on which it is situated.
- (d) Uses accessory to any of the foregoing uses.

P ZONE

PARK AND INSTITUTIONAL ZONE

67(1) The following uses shall be permitted in any P Zone:

- (a) public park;
- (b) recreation field, sports club, and community facilities;
- (c) a cemetery;
- (d) a hospital, school, college, university, monastery, church, library, museum, court of law, or other institution of a similar type, either public or private;
- (da) child care centre;
- (e) uses accessory to any of the above uses.



**Cantwell & Company
Consulting Ltd.**

Real Estate
Tourism
Management Consulting

Attachment B

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ross@cantwell-co.com

June 29, 2005

Mr. Angus Schaffenburg, Planner
Halifax Regional Municipality
P.O. Box 1749
Halifax, NS

Re: Reapplication for a Plan Amendment and Development Agreement Proposed Petro
Canada Station: Young and Windsor Streets, Halifax, NS Former Case 00702

Dear Mr. Schaffenburg

Please find the attached cheque for \$2,000 to cover the advertising costs associated with Petro Canada's re-application for a municipal plan amendment for the proposed Petro Canada station at Young and Windsor Streets.

In order to facilitate the production of your report to Regional Council to re-initiate the plan amendment process, I have enclosed a summary of the planning process to date.

Reason for Application

The subject property is currently zoned for Park and Institutional uses. This was appropriate when DND owned the property and operated an engineering yard. However, in 2003, the former engineering yard was decommissioned, and a portion of the property sold to HRM to the re-alignment of the Young Street Bayer's Road corridor. The remaining lands were then sold to Petro Canada for redevelopment. As a result, the institutional zoning for the site no longer makes sense. Petro Canada is requesting that the property be re-zoned for commercial use, which is consistent with other land uses along the adjacent Young Street corridor.

Summary of Past Activity

The following points provide a timeline of the planning and approvals process to date.

- Application for Plan Amendment, June 2004
- Reconstruction of the Intersection at Young and Windsor Streets. Late Summer 2004
- Public Information Session, October 27, 2004. Attended by 3 to 4 residents as well as councilor Murphy.
- Peninsula Community Council, November 15th, 2004. Peninsula Council approved the re-zoning and forwarded the project to regional council for approval.
- Regional Council, December 14th, 2004. Meeting cancelled, advertising for the public meeting not valid.
- 2nd Regional Council Meeting, January 18, 2005. Although only two people spoke against the proposal at Council, due to community concerns about the lack of control for the project (i.e., lack of a development agreement), landscaping, traffic and lighting issues, Regional Council voted against the project.

- Traffic Workshop with Community, March 2, 2005. In order to facilitate improvements to the intersection, Petro Canada's planning consultant (Cantwell & Company) organized a public workshop that allowed residents to provide ideas and input into changes that could improve the intersection. This workshop was attended by approximately 15 local residents, as well Councilor's Murphy and Fougere.
- June 29, 2005. Revised application for a plan amendment re-submitted.

Petro Canada's Revised Development Plan.

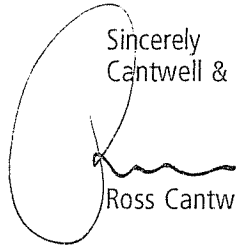
In response to the events of the past year, Petro Canada is now submitting a greatly revised development plan for the property. It includes the following changes:

1. *Removal of Car Wash.* Several neighbors were concerned about the noise and water (which they thought could freeze and cause ice) associated with the proposed car wash. As this was not a major component of the overall development, it has been dropped.
2. *New Store Format (Neighbour's Concept).* During the past few years, Petro Canada has been working on a new store format for its gas station's that adds a café that provides fresh and healthy fast food for people on the go (e.g., soups, salads, fresh sandwiches, etc). The result is a new store format called the "Neighbours" concept, which includes enhanced architectural features, such as a stone exterior. An example of a new Neighbours store is attached. Note that this image of the new Neighbors store does not depict the Young/Windsor site; it is a generic example of the new store format.
3. *Inclusion of Development Agreement.* Petro Canada's first application did not anticipate the use of a development agreement. Although we still question the need for this type of agreement, we recognize that several local residents were concerned about issues that the Land use Bylaw cannot regulate (e.g., lighting and landscaping). Therefore, for this application, Petro Canada has agreed to submit to a development agreement as part of the re-zoning process. We assume that the public hearings for the Plan Amendment and Development Agreement would proceed concurrently.
4. *Contribution to Pocket Park.* Local residents are interested in seeing the land on the southwest corner of the Young and Windsor intersection converted into a pocket park. HRM Park land planning is in agreement with this goal. Although the development of parks and open space is the responsibility of the Municipality, Petro Canada would like to be a good corporate citizen, and as such is prepared to contribute \$25,000 of in-kind construction value to the creation of this new pocket park. This might take the form of landscape architectural services, paying for fencing, landscaping, etc. This contribution would be included as a component of the development agreement.

We believe that this revised proposal provides the right balance between the desires of the developer (Petro Canada) and the concerns of the neighbourhood. The revised proposal includes a high quality gas bar and restaurant on this site that will provide a needed service to this portion of the city, while at the same time helping to create a needed recreational amenity for local residents, and generating new commercial property taxes for HRM. Petro Canada has now agreed that the development of the site can be regulated through a development agreement, thus providing a large amount of control over the sensitive issues of landscaping and lighting. As the current proposal is consistent with the commercial provisions of the area plan, and Petro Canada has been patiently working with the community on this project for more than a year, we urge council to approve this application.

Please let me know if you need answers to other questions. I can be reached at 497-7338.

Sincerely
Cantwell & Company Ltd.

A handwritten signature in black ink, appearing to read 'Ross Cantwell', is written over a large, hand-drawn oval. The signature is fluid and cursive.

Ross Cantwell, M.Sc. RE

cc: Francois Guillemette, Petro Canada
Councillor Patrick Murphy
Councillor Sheila Fougere

