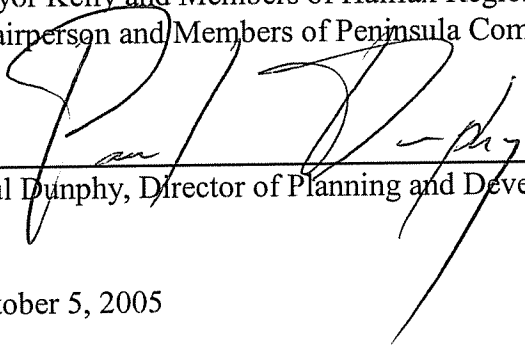


**Halifax Regional Council - October 11, 2005**  
**Peninsula Community Council - November 7, 2005**

**TO:** Mayor Kelly and Members of Halifax Regional Council  
Chairperson and Members of Peninsula Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Planning and Development Services

**DATE:** October 5, 2005

**SUBJECT:** Case 00605: Development Agreement - Midtown Tavern and Grill Ltd., 1684 Grafton Street, Halifax

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**INFORMATION REPORT**

**ORIGIN:**

1. July 12, 2004 public hearing and approval by Peninsula Community Council;
2. Council approval appealed to the Nova Scotia Utility and Review Board;
3. October 3, 2005 decision of Nova Scotia Utility and Review Board to reverse Community Council approval.

**BACKGROUND AND DISCUSSION:**

The Nova Scotia Utility and Review Board decided to reverse Peninsula Community Council's approval of a development agreement with Midtown Tavern and Grill Ltd. thereby allowing an appeal by Heritage Trust of Nova Scotia, Paul and Joyce McCulloch, Peninsula South Community Association and the Federation of Nova Scotian Heritage. The development agreement was to permit construction of a 17-storey hotel complex on the current site of the Midtown Tavern, at 1684 Grafton Street, in downtown Halifax.

Regional Council recently decided that planning applications involving projects located in the downtown are to be considered by Regional Council rather than by Peninsula Community Council. Therefore, staff have prepared this report for the information of both councils.

The Utility and Review Board heard this appeal over a 9-day period in May and June, 2005. It reviewed considerable testimony and considered the policies of the MPS prior to rendering a 115-page decision. A copy of the decision has been filed with the Municipal Clerk's office and can be viewed on-line via [www.canlii.org/ns/cas/nsuarb](http://www.canlii.org/ns/cas/nsuarb).

In making its decision, the Board concluded that Community Council's decision to approve the development agreement did not reasonably carry out the intent of the Halifax Municipal Planning Strategy as it relates to building height and scale and complementary architecture in terms of scale, proportion and massing. Specifically, and among other things, the Board found that:

- the proposed 17-storey hotel was not in keeping with an "overriding intent" of the Halifax MPS; "to protect the setting of the Citadel, and the views from the Citadel, by controlling the height and scale of buildings in its vicinity" (Sect. 210, pg 82) - on this point the Board observed that MPS Policy 6.3.1, which speaks to height controls in the vicinity of Citadel Hill contemplates a gradual increase in building heights away from Citadel Hill, but to; "jump from four storeys on Brunswick Street to 17 storeys in the adjacent block is in the Board's view, too severe an increase" (Sect. 223, pg. 83).
- the architectural design of the proposal; "with its relatively narrow 10-storey, sitting upon a broader 7-storey base, does not complement adjacent buildings "designated as being of historic significance or important to the character of the CBD"" (Sect. 262, pg 99).

It is worth noting that, based on the above findings, the Board did not find it necessary to further address or make findings upon other elements of complementary architecture raised by the appellants; "such as block pattern, texture, materials, colour and rhythm" as specified in Policy 7.2.1 of the MPS (Sect. 263, pg 100).

The Board will issue an order in respect to its decision in due course. Staff have reviewed the decision and find no reason to take issue with the Board's findings. The developer has the option of appealing the Board decision within a 30 day period.

**ALTERNATIVES:**

None at this time

**BUDGET IMPLICATIONS:**

None at this time

**FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:**

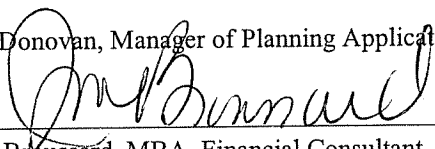
This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ATTACHMENTS:**

None

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

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