

PENINSULA COMMUNITY COUNCIL
MINUTES

November 8, 2010

PRESENT: Councillor Jerry Blumenthal, Chair
 Councillor Dawn Sloane, Vice Chair
 Councillor Jennifer Watts
 Councillor Sue Uteck

STAFF: Ms. Karen Brown, Senior Solicitor
 Ms. Sheilagh Edmonds, Legislative Assistant

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1. CALL TO ORDER

The Chair called the meeting to order at 7:00 pm.

2. APPROVAL OF MINUTES – October 4, 2010

MOVED by Councillor Sloane, seconded by Councillor Watts that the minutes of October 4, 2010 be approved. MOTION PUT AND PASSED.

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

Addition:

12.1 Appointments to Standing Committees

There was general consensus to move up item 10.3.1 Election of Chair and Vice Chair to be dealt with immediately follow Additions and Deletions to the agenda.

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

As agreed during the Approval of the Order of Business, Community Council dealt with the Election of Chair and Vice Chair at this time.

10.3.1 Election of Chair and Vice Chair

MOVED by Councillor Uteck, seconded by Councillor Watts, that Councillor Sloane be nominated as Chair of Peninsula Community Council for 2011. MOTION PUT AND PASSED.

There were no further nominations, and Councillor Sloane was declared Chair.

Councillor Sloane assumed the Chair.

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that Councillor Watts be nominated as Vice Chair of Peninsula Community Council for 2011. MOTION PUT AND PASSED.

There were no further nominations, and Councillor Watts was declared Vice Chair.

4. BUSINESS ARISING OUT OF THE MINUTES

4.2 Status Sheet

4.2.1 Gross Floor Area Requirements, Halifax Peninsula Land Use By-law – Information Report

An Information Report dated October 22, 2010 was submitted.

Councillor Uteck requested that this item remain on the Status Sheet.

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 01214: Amendments to the Accessory Building Requirements of the Halifax Peninsula LUB (Joint Public Hearing with Chebucto Community Council)

First Reading of this matter was given at the September 13, 2010 meeting of Peninsula Community Council.

Chebucto Community Council gave First Reading to this matter at its July 5, 2010 meeting.

A report dated June 29, 2010 from the Chair of the District 12 Planning Advisory Committee with an attached staff report dated June 14, 2010 was before Community Council for consideration.

Mr. Richard Harvey, Senior Planner provided the presentation outlining longstanding issues with the existing Halifax Peninsula Land Use By-law regulations respecting accessory buildings and the amendments to the By-law that staff were recommending to address the issues.

Mr. Harvey and Mr. Andrew Faulkner, Development Officer responded to questions

The Chair reviewed the rules of procedure for public hearings and opened the hearing for anyone wishing to speak.

The Chair called three times for any speakers; there being none, it was **MOVED by Councillor Blumenthal, seconded by Councillor Watts that the public hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that the proposed amendments to the Halifax Peninsula Land Use By-law as provided in Attachment A of the June 14, 2010 staff report be approved. MOTION PUT AND PASSED.

8.1.2 Case 01339: Heritage Development Agreement – 5757 Inglis Street

First Reading of this matter was given at the September 13, 2010 meeting of Peninsula Community Council.

A supplementary staff report dated August 31, 2010 and a staff report dated August 4, 2010 were before Community Council for consideration.

Correspondence was submitted from: John and Catherine Lazier; and Gloria Hussain

Ms. MacKenzie Stonehocker, Planner, provided the staff presentation, outlining the application by W.M. Fares Group for lands of 3216761 Nova Scotia Limited for a development agreement to construct two additions and convert the existing municipally registered heritage property into a thirteen-unit residential building at 5757 Inglis Street, Halifax.

The Chair opened the hearing for those wishing to speak to this application.

Mr. Peter McCurdy, Halifax spoke in opposition to the proposal. Mr. McCurdy advised that the proposal was outmoded thinking and that the design was unsympathetic to the neighbourhood, which is one of the last heritage streetscapes. He expressed concern that the development would end up becoming student housing.

Mr. Miles Genest, Halifax spoke in opposition to the proposal. He advised that the proposed plan overwhelms the existing building and it diminishes and detracts from the heritage character of the house. Mr. Genest added that he believed it would have a significant impact on the adjacent properties.

Mr. Phil Pacey, representing Heritage Trust addressed the matter and requested that Community Council turn down this proposal. In his remarks he referred to Policy CH1(f) of the Regional Municipal Planning Strategy and noted that the proposed additions are not subordinate to the heritage building, adding that a nine-unit addition cannot be considered subordinate to a four-unit building. Mr. Pacey made reference to Section 43 AD 7 of the Land Use Bylaw and advised that it requires the area covered by additions to buildings in the R-2A zone not exceed the area of the existing building. He pointed out that the proposed addition is clearly too large to meet this requirement. In closing Mr. Pacey advised that the proposed addition would not be subordinate to the existing heritage building and he asked Community Council to turn down the application.

The Chair called three times for anyone else wishing to speak.

Mr. Cesar Saleh addressed Community Council on behalf of the developer, W. M. Fares Group and advised that since the staff presentation was so thorough, he would not give his own presentation but he wanted to highlight a couple of points. Mr. Saleh explained that when the current owners purchased the property in August 2008 it was in a dilapidated condition from being left vacant and vandalized. He pointed out that given the state of the building, in his view no one would want to pursue its redevelopment unless it made economic sense, and if not, it would have meant further deterioration or a complete loss. Mr. Saleh explained that following the public information meeting, they have responded to the concerns that were expressed as follows:

- With regard to the concern over height, the proposal was lowered by one floor and the number of units were reduced.
- The roof was redesigned to be more compatible with the existing dwelling.
- Developers have identified the concealed location of the three-stream refuse area and introduced a privacy fence along the entire property line.
- As a result of concern expressed about the existing trees, the Development Agreement has clear provisions to provide for protection of trees on the property.
- The asphalt parking surface will be replaced with cobble-stone or brick pavers; two areas of landscaping will be introduced at both sides of the driveway, and the existing rock wall and lilac bush will be retained.

In closing, Mr. Saleh advised that his client has listened to what the residents want and responded with real solutions.

There were no questions from Community Council.

MOVED by Councillor Blumenthal, seconded by Councillor Watts that the public hearing close. MOTION PUT AND PASSED.

MOVED by Councillor Uteck seconded by Councillor Blumenthal that Peninsula Community Council

- 1. Approve the Development Agreement contained in Attachment A of the staff report dated August 4, 2010 to allow for two additions and the conversion of the existing municipally registered heritage property into a thirteen unit residential building at 5757 Inglis Street; and**
- 2. Require that the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

Councillor Uteck advised that, as the Councillor for the area, she has dealt with this property since 1999 and this was her fifth attempt to work with a developer and neighbourhood to come up with a suitable application. She noted that the applicant has worked hard to make the changes that were requested by the neighbourhood.

Councillor Watts indicated that the application may not be an ideal proposal but she would support the motion given the economics and the state and history of the building. She added that she was a member of the Heritage Advisory Committee and when the Committee dealt with this application there was discussion around the question of what is subordinate, however, the Committee felt the proposal was a reasonable solution to an unfortunate situation. Councillor Watts noted that she was pleased to see that the proposal has been designed to reduce the impact from the streetscape; that existing trees would be maintained, and that the existing house would be maintained. Councillor Watts indicated that on a broader issue, she has some concern about the heritage development agreement process, and the potential for it to open up and allow something that might not normally be allowed.

On a point of information, Councillor Sloane noted that she had a letter from the James Hardie Building Products Inc. which stated that they would no longer be supporting their exterior product line in a number of Provinces, including Nova Scotia. She questioned if the developer had intended to use this product.

In response, Mr. Saleh advised that he was not aware of this information, but would look into it and, if correct, then he would substitute an equivalent or better product.

Ms. Stonehocker suggested that if Community Council wished, it could request clarification of this aspect on the Development Agreement schedules.

MOVED by Councillor Uteck, seconded by Councillor Watts that the motion be amended to clarify any reference on the schedules of 'Hardie Plank' be revised to read 'Hardie Plank or Similar'. MOTION PUT AND PASSED.

Prior to calling for the question on the motion, Councillor Uteck noted that the City of Halifax registered the house as a heritage property over the owner's objections, and at one point the house was offered to The Heritage Trust but was declined.

The amended motion now reads:

MOVED by Councillor Uteck seconded by Councillor Blumenthal that Peninsula Community Council

1. Approve the Development Agreement contained in Attachment A of the staff report dated August 4, 2010 to allow for two additions and the conversion of the existing municipally registered heritage property into a thirteen unit residential building at 5757 Inglis Street, with an amendment to the

schedules clarifying any reference to ‘Hardie Plank’ be revised to read ‘Hardie Plank or Similar’; and

2. Require that the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

MOTION PUT AND PASSED.

8.2 Variance Appeal Hearings

8.2.1 Appeal of the Development Officer’s decision to refuse an application for a Variance – 5516 Stairs Place, Halifax

A staff report dated October 25, 2010 was submitted.

Mr. Mike Cowper, Development Technician provided the staff presentation outlining the reasons why the Development Officer refused a variance request from the setback and lot coverage requirements of the Halifax Peninsula Land Use By-law to permit the construction of a carport and a shed at 5516 Stairs Place, Halifax.

Mr. Cowper advised that the applicant wants to build a carport and shed and this would increase the lot coverage to 41 % when the permitted maximum is 35% and would result in the proposal being approximately 2 feet from the boundary line and the required setback is 4 feet. He added that the variance was refused on the basis that it would be inconsistent with the intent of the land use bylaw, and that the difficulty experienced is general to the properties in the area.

Mr. Cowper responded to questions.

The Chair reviewed the Rules of Procedure for appeal hearings, and opened the hearing for those wishing to speak to this matter.

Ms. Virginia Fox, Halifax, indicated that she has lived near the property in question for over 35 years and during this time she has seen many changes to the Hydrostone neighbourhood. Ms. Fox advised that she was against the proposal, as she felt that many people buying in the Hydrostone wanted to live in the area but did not want the Hydrostone style of house as is. She added that people should not be buying homes in this area if they want to put additions on the homes.

Mr. Kevin Riles, KWR Approvals, Halifax, addressed Community Council and advised that he was representing Christine Thompson, the property owner. Mr. Riles provided a presentation outlining the proposed additions and explained how it has been designed to be sympathetic to the neighbourhood and respects the residential fabric of the area.

Mr. Riles submitted four letters from surrounding neighbours who expressed their support for Ms. Thompson.

Ms. Christine Thompson the appellant, addressed Community Council and advised that after 20 years of visiting friends who live in the Hydrostone, this year she had the opportunity to move into the neighbourhood. Ms. Thompson noted that she admired how her neighbours have cared for their properties and that she hired an architect for her project to ensure that the work on her home would be appropriate and harmonious for the area.

Mr. Robert Calnen advised that he lived on eastern side of property and had submitted a letter of support. Mr. Calnen pointed out that there will always be changes in neighbourhoods and that the changes have to be analysed to ensure they are reasonable. He added that he feels the proposal is quite reasonable, and noted that sheds are very common within the Hydrostone area.

The Chair called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor Uteck, seconded by Councillor Watts that the appeal hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Blumenthal, seconded by Councillor Uteck that Peninsula Community Council overturn the decision of the Development Officer and approve the variance. MOTION PUT AND PASSED.

8.2.2 Appeal of the Development Officer's decision to refuse an application for a Variance – 1234 Edward Street, Halifax

Councillor Uteck advised that she would recuse herself from this variance appeal hearing. She left her seat in Community Council.

A staff report dated October 25, 2010 was submitted.

Mr. Mike Cowper, Development Technician provided the staff presentation outlining the reasons why the Development Officer refused a request for a variance from the setback requirements of the Halifax Peninsula Land Use By-law to permit the conversion of the basement of a single unit dwelling to an apartment at 1234 Edward Street. Mr. Cowper noted that the existing dwelling is approximately 2 feet from the property line and the zone requires a setback of 5 feet for a duplex. He added that a 5 x 9 foot one-storey addition is proposed in order to gain access to the basement unit and this would increase the already nonconforming gross floor area. Mr. Cowper advised that the variance was refused based on the fact that the difficulty experienced in this situation is general to the properties in the area.

There were no questions from Community Council and the Chair opened the appeal hearing.

Mr. Allan Cocksedge, Halifax, addressed Community Council, noting that he was a resident of the street and he supported the Development Officer's decision. He advised that the character of the street is a mix of families and students and currently there is a good balance. However, he was concerned that overturning the Development Officer's decision would be precedent setting and upset the balance and lead to a deterioration of the street.

Ms. Peggy Walt advised that she has been a resident of Edward Street for 17 years. She noted that in her time living there, she has seen a deterioration of the street with houses being sold and taken over by students and this has resulted in problems with garbage and lack of respect in neighbourhood. Ms. Walt added that the property in question is currently rented to five women, and if the proposal were to proceed it would mean the addition of more students.

Ms. Irmgard Lenzer, a resident of the Edward Street addressed Community Council and advised that she was in agreement with the previous speakers. She explained that when she bought her home in the early 1980's, it was in a state of disrepair and she did a lot of work to keep it in the spirit in which it was built. Ms. Lenzer added that a number of residents on the street have maintained their homes in the same way, however she was dismayed at how some homes were not, and the property in question was such a property. She indicated that there have been problems with garbage, noise, calls to police associated with the property and this has destroyed the quality of life in the neighbourhood. Ms. Lenzer also noted that she was concerned with the proposed density of the property.

Ms. Barbara O'Shea, a resident of Edward Street, advised that she supported the Development Officer's decision. She noted that she has lived in her home for 30 years and during that time she has seen the character of the street change. Ms. O'Shea added that the street, presently, has a good balance of families and students but permitting this request would add to another multiple occupant dwelling that is not owner occupied and is not appropriate for the street.

Mr. Paul Evans, a resident of Edward Street, advised that he agreed with the Development Officer's decision. He expressed concern that the property in question was in very bad repair and that the property owner has not been a good neighbour. Mr. Evans advised that he was opposed to adding another unit.

Mr. Don Sinclair addressed Community Council and advised that he was a resident of Edward Street and, although he lived outside the notification area, he wanted to comment on this matter.

MOVED by Councillor Watts, seconded by Councillor Blumenthal that Mr. Sinclair be permitted to address Community Council on this matter. MOTION PUT AND PASSED.

Mr. Sinclair advised that he resided at his present home for eight years, and that he lives beside a dwelling with multiple tenants. He pointed out that there were only two feet separating the properties and this was not an issue when the house was occupied by a single family but now there were 15 students living in the dwelling. Mr. Sinclair pointed out that even though they are good tenants, it was still noisy due to the number of occupants. Mr. Sinclair indicated that 15 people living in one house has a significant impact on the amount of garbage that is generated and volume of traffic on the street.

Mr. Shiman Walt advised that he lived beside the property in question. Mr. Walt noted that the current tenants of the property are fine, but he has been subject to verbal abuse and obnoxious behaviour from other students who attend their parties. Mr. Walt added that he objects to anything that would add more students or apartments to this dwelling.

Mr. Geoff Keddy, addressed Community Council and advised that he was the architect for the proposal. Mr. Keddy explained that no addition was planned for the building, adding that plan is to create either a studio or a one bedroom unit. He pointed out that at one time there was a daycare in the building and he questioned if it could be used as a daycare again, if it does not get approval for an apartment. Mr. Keddy advised that from the street view the building is architecturally unattractive, and if the variance were approved, his client would be willing to make changes to the front to bring its Victorian architecture back to life. Mr. Keddy referred to comments about the tenants of the building and clarified that since his client has owned the property there has not been any issues with the tenants. He suggested that the previous owner may have had issues with the occupants of the building.

Mr. Alan Trenholm, the appellant addressed Community Council and in reference to an earlier comment, he advised that he did not see himself as an absentee landlord. He added that he has only owned the building a short time and the initial group of individuals he had renting did not work out, but he moved forward and got better tenants. Mr. Trenholm advised that, aesthetically, the house was ugly and appears to have had a distorted second floor addition approximately 40 years ago. He noted that his intention was to improve the look of the house and have it similar in appearance to the other houses in the neighbourhood. He pointed out that he lives around the corner from the property in question and when he bought it, it was also in a state of disrepair, but he made significant improvements. Mr. Trenholm suggested that the concern was not a question of being a student ghetto but a question of raising the scale of housing, and with his proposal it would mean one additional person to the dwelling. He noted that the amount of rental occupants on the street far outweigh the single family persons living on the street. Mr. Trenholm advised that he wanted to improve the building but he needed the additional revenue to do this. He also added that in his view this proposal would be the most suitable for the neighbourhood.

In response to a question by Councillor Blumenthal, Mr. Trenholm advised that he has owned the building for approximately a year and a half.

The Chair called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor Watts, seconded by Councillor Blumenthal that the appeal hearing close. MOTION PUT AND PASSED.**

In response to a question by Councillor Watts, Mr. Cowper concurred that the property was in a R-2 zone, and a daycare centre is a permitted use in this zone.

MOVED by Councillor Watts, seconded by Councillor Blumenthal that Peninsula Community Council uphold the Development Officer's decision to refuse the variance. MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence: None

9.2 Petitions; None

9.3 Presentations: None

10. REPORTS:

10.1 Staff:

10.1.1 Case 01356: MPS Amendment & Development Agreement – 2579 Windsor Street, Halifax

A supplementary staff report dated October 29, 2010 was submitted.

MOVED by Councillor Watts, seconded by Councillor Blumenthal that Peninsula Community Council:

- 1. Approve the development agreement contained in Attachment A of the October 29, 2010 staff report to allow for an office at 2579 Windsor Street, Halifax: and**
- 2. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED.

10.2 Committee Reports: None

10.3 Members of Peninsula Community Council:

10.3.1 Election of Chair and Vice Chair

This matter was dealt with earlier in the meeting; see page 3.

11. MOTIONS: None

12. ADDED ITEMS

12.1 Nominations to Standing Committees

This item had been dealt with at an In Camera meeting held earlier on this date and was now before Community Council for ratification.

MOVE by Councillor Uteck, seconded by Councillor Blumenthal that the following nominations be approved:

Standing Committees:

**Councillor Blumenthal – Transportation
Councillor Sloane – Administrative Committee; Appeals Committee
Councillor Watts – Environment & Sustainability
Councillor Uteck – Finance & Audit; Community Planning & Economic Development**

At Large Nominations:

**Councillor Blumenthal – Community Planning & Economic Development
Councillor Watts – Transportation
Councillor Sloane – Environment & Sustainability**

MOTION PUT AND PASSED.

13. NOTICES OF MOTION: None

14. PUBLIC PARTICIPATION:

Mr. Phil Pacey, Yukon Street addressed Community Council with regard to a report on the agenda of the Committee of the Whole meeting of November 9, 2010. He outlined his concerns with the staff report on the proposed convention centre, advising that in his view it did not form an accurate basis for any kind of approval.

15. NEXT MEETING DATE – December 13, 2010

16. ADJOURNMENT:

The meeting was adjourned at 9:00 p.m.

Sheilagh Edmonds
Legislative Assistant