

PENINSULA COMMUNITY COUNCIL
MINUTES

February 9, 2009

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

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 7:03 p.m. in the Council Chamber, City Hall.

2. **APPROVAL OF MINUTES**

MOVED by Councillor Blumenthal, seconded by Councillor Sloane that the minutes of December 8, 2008 be approved. MOTION PUT AND PASSED.

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

Added:

- 12.1 Re-appointment to the Halifax Watershed Advisory Board
- 12.2 Information Report dated December 15, 2008 entitled, *Keeping of Fowl (Chickens)*

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

4. **BUSINESS ARISING OUT OF THE MINUTES / STATUS SHEET:**

4.1 **Status Sheet**

4.1.1 **Neighbourhood Downzoning**

No update. To remain on Status Sheet

4.1.2 **Presentation - Halifax Peninsula Community Health Board**

No update. To remain on Status Sheet

4.1.3 **Mitchell's Enviro Depot Update**

Councillor Sloane requested that staff from Legal Services follow up with proponent to discuss possible ways of speeding up the process. This item is to remain on the Status Sheet.

4.1.4 **CN Property Maintenance**

No update. To remain on Status Sheet

4.1.5 **Peninsula Place Flooding**

No update. To remain on Status Sheet

4.1.6 **By-law Regulations respecting the Keeping of Fowl**

An information report dated December 15, 2008 was submitted. This matter was discussed later in the meeting under item 12.2.

4.1.7 Litter Receptacles in the area of Robie/North/Agricola/Almon

No update. To remain on Status Sheet

5. **MOTIONS OF RECONSIDERATION:** None

6. **MOTIONS OF RESCISSION:** None

7. **CONSIDERATION OF DEFERRED BUSINESS:** None

8. **HEARINGS**

8.1 **Public Hearings:** None

8.2 **Variance Hearings:**

8.2.1 **Variance #15032 - 1405 Edward Street, Halifax - (Appeal of Development Officer's Decision to Refuse Variance)**

A staff report dated January 27, 2009 was submitted.

Mr. Andrew Faulkner, Development Officer outlined the report explaining the reasons he refused a request for variance from the requirements of the land use bylaw for the property at 1405 Edward Street. He advised of the following reasons:

- the neighbourhood is predominately characterized by single family homes and to allow a two unit dwelling on the property in question would violate the intention of the Municipal Planning Strategy;
- the difficulty experienced is general to the properties in the area because most dwellings in the neighbourhood have similar setbacks and frontages as the property in question;
- the present application is to resolve an old violation, however, the present owner is aware of this violation and continues to operate the dwelling as a rooming house and this continued use is intentional disregard for the land use bylaw.

The Solicitor reviewed the rules of procedure for appeal hearings, and the Chair opened the hearing.

Mr. Tim Moore addressed Community Council advising that he and his son owned the property in question. Mr. Moore noted that his son was studying overseas and was unable to be here tonight, and that he speaking on behalf of his son as well as himself. Mr. Moore advised that the property has been operated as a rooming house for 48 years, and when purchased from the previous owner five years ago, they were given a letter stating that it has always been a rooming house. He added that it has been owner-occupied since they bought the property and that there has been incredible support from the neighbours, and no complaints about the property. Mr. Moore pointed out that there are many properties on this street which are two flats or more and that they did not intentionally disregard the land use bylaw because since they have become aware of the problem, he and his son have been trying to resolve it.

The Chair called three times for any one else to speak on this matter; there being none it was **MOVED by Councillor Sloane, seconded by Councillor Blumenthal that the appeal hearing close. MOTION PUT AND PASSED.**

Councillor Uteck left the Chair to address this matter. Councillor Sloane assumed the Chair.

MOVED by Councillor Uteck, seconded by Councillor Blumenthal that the decision of the Development Officer be overturned and the variance be granted.

Speaking in support of her motion, Councillor Uteck advised that, when it comes to protecting the immediate neighbourhood she does not take this decision lightly. She noted that 10 of 22 property owners that received notification of this application live on abutting streets, or not within the area. Councillor Uteck added that the applicant does have the majority of neighbours onside, and the conversion does not change the footprint of the building, but it brings in the Gross Floor Area Ratio which the owner will have to comply with. She also advised that it will be owner occupied, the owners have addressed any problems immediately, and there has been no premise history on this property by the Regional Police.

Councillor Watts advised that she supported the motion but wanted to clarify that it in no way is condoning the rooming house situation.

MOTION PUT AND PASSED.

8.2.2 Variance #15083 - 5537 Cornwallis Street - (*Appeal of Development Officer's Decision to Refuse Variance*)

A staff report dated January 30, 2009 was submitted.

Correspondence dated February 9, 2009 was circulated.

Mr. Mike Cowper, Development Technician, presented the report outlining the reasons why the Development Officer refused a variance request from the minimum lot size, lot coverage, left yard setback, right yard setback and rear yard setback requirements of the Halifax Peninsula Land Use By-law to permit the construction of a mixed use building. Mr. Cowper advised of the following reasons:

- there would not be adequate separation of buildings from adjacent properties and this would violate the intent of the land use bylaw
- the proposed site is at the smaller end of the scale but it is not the smallest in the area, and is not in keeping with the scale of the developed commercial properties; the difficulty could be seen to be general to the property in the area.

Mr. Cowper noted that as no construction has occurred at this site, intentional disregard was not a consideration in refusing the variance.

Mr. Cowper responded to questions from Community Council, clarifying the following points:

- if Community Council refused the variance, the applicant could apply for a Development Agreement.
- the application was for retail space, but the zone would permit any type of commercial space.
- the Bylaw does not require parking for this use.
- Commercial has no minimum lot coverage provisions; there is a requirement for commercial to be separated from adjacent residential zones.
- the difference between this process and a Development Agreement is that a Development Agreement would enable more input from the community.

The Solicitor outlined the Rules of Procedure, and the Chair opened the Appeal Hearing.

Mr. Paul MacNutt, addressed Community Council and advised that he was the applicant for the variance. Mr. MacNutt explained that he has been looking for some time for an area to have a Live/Work situation. He explained that his intent is to live on the top two floors, rent out the second floor, and have his realtor business on the main floor. Mr. MacNutt noted that he has experience with similar projects, pointing out projects in the neighbourhood of Allen/Harvard Streets, and on Duncan Street. He advised that he worked with the neighbours of those areas to ensure the buildings worked with the area. Mr. MacNutt added that the project will cost approximately \$350,000-\$400,000 and he will be working with Mr. Hal Forbes to ensure it is compatible with the neighbourhood. He advised that the property is on a focal corner and he wants to ensure it is very attractive. Mr. MacNutt noted that although the lot is small, he has been very creative in the design and that it includes two parking spaces underneath the building.

Mr. Denis Morris, addressed Community Council and advised that he was opposed to the variance request. He noted that he owned four neighbouring lots, and in particular lots that abut the north and east boundaries of the applicant's lot. Mr. Morris expressed concern that his property value may be diminished, and of parking problems, noting that he is currently experiencing parking problems with his engineering business. Mr. Morris added that this matter was happening too fast and that he would like to have more time to review it with his lawyers.

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

Councillor Sloane spoke about the benefits of the concept of Live/Work, which is the idea in the applicant's proposal. She questioned whether Community Council could overturn the decision of the Development Officer but with the proviso that the two parties work out an acceptable solution.

In response, the Solicitor advised Community Council cannot direct the parties to work together. The Solicitor suggested that Community Council may want to consider deferring the matter at this time.

MOVED by Councillor Sloane, seconded by Councillor Blumenthal that this appeal hearing be deferred for one month. MOTION PUT AND PASSED.

8.2.3 Variance #15086 - 2280 Gottingen Street, Halifax (*Appeal of Development Officer's Decision to Approve Variance*)

A staff report dated January 29, 2009 was submitted.

Correspondence in support of the variance was submitted from the following:

- Anna Bottomley
- Shaun Carvery
- Carol Charlebois, Executive Director, Metro Non-Profit Housing Association

Ms. Brenda Seymore, Development Technician, provided a presentation on the application (approved by the Development Officer) of a variance of the right sideyard setback as a result of angle control requirements in the RC-3Zone of the Halifax Peninsula Land Use By-law to permit the construction of a 48-unit residential building at 2280 Gottingen Street, Halifax.

Ms. Seymore pointed out a typographical error in the report pertaining to a date. She referred to page 2, paragraph 2 and advised that the date should read November 28, 2008, and not 2007 as was printed.

The Solicitor outlined the rules of procedure for variance appeal hearings. The Chair opened the hearing.

Ms. Najat Chediac, Herring Cove Road addressed Community Council and advised that she was appealing the variance. She indicated that she owned a property next door and she had concerns about having a building on the same side as her entrance, and noted that it would block sun, air, and create a moisture problem. Ms. Chediac advised that four feet is not enough space for an entrance to a commercial property and that it should remain the original 20.8 ft. She noted that she did not have an opportunity to speak to a lawyer, and that she would like the variance refused.

Ms. Chediac responded to questions from Community Council.

Mr. Grant Wanzell, President of the Creighton Gerrish Development Association, addressed Community Council and advised that the Association was the title holder of this property. Mr. Wanzell advised that their request is to apply the minimum sideyard setback of 4 feet to the north end of the property. He explained that if they are required to have 24 ft. sideyard setback they will lose a 3-unit rowhouse from the proposed development. He noted that there are often no setbacks with properties on this street and that, in fact, the adjacent building is built on their property line, thus if there is an entrance to that building the only access would be across his property, but there is no right-of-way. He pointed out, though, that the property backs onto Gerrish Lane, and therefore there is access from the back of the property. Mr. Wanzell advised that there is also a right-of-way off Gerrish Lane that divides that property from another property even further to the north. Mr. Wanzell added that his proposed building would not be setting a precedent because most of the buildings in the area have minimal or no setbacks between properties, and building close to property line would be in character to the neighbourhood. He also advised that Gerrish Lane will be used for parking access at the back of the property keeping traffic congestion to a minimum.

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

MOVED by Councillor Sloane, seconded by Councillor Blumenthal that Peninsula Community Council uphold the Development Officer's decision to approve the variance.

Speaking in support of her motion, Councillor Sloane advised that there were three letters of support submitted on this matter. She added that this was a very exciting project for the area and it would bring in 48 units of affordable housing.

MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS:

9.1 Correspondence: None

9.2 Petitions - None

9.3 Presentations: None

10. REPORTS:

10.1 Staff Reports:

10.1.1 Report Re 2009 Meeting Schedule - Alternate Dates for Easter Monday and Thanksgiving Holidays.

A report dated December 9, 2008 was submitted from the Legislative Assistant.

The Chair noted that Peninsula Community Council's meeting of June 8, 2009 falls within the Federation of Canadian Municipalities meeting, and she requested the Legislative Assistant to reschedule the June meeting.

MOVED by Councillor Sloane, seconded by Councillor Watts that Peninsula Community Council approve the meeting schedule for 2009 as outlined in Attachment 'A' of the December 9, 2008 report; with the exception of the June 8, 2009 meeting which will be rescheduled. MOTION PUT AND PASSED.

10.1.2 Bloomfield Master Plan

A staff report dated January 26, 2009 was submitted.

A PowerPoint Presentation was submitted.

Mr. Peter Bigelow, Manager, Real Property Planning provided the presentation on the Bloomfield Master Plan. He advised that the Plan is a mix of publicly-owned and market-driven development which will result in a vibrant, mixed-use development and support community programs and quality public space. Mr. Bigelow advised that the recommended design option for the Bloomfield site optimizes the quality and quantity of both exterior and interior public space, architectural heritage retention, and economic viability. The recommended option is characterized by the following aspects:

- extend two new pedestrian streets through the site (Bloomfield Street and Fern Lane)
- large central public green square is created call Bloomfield
- community and arts oriented buildings along the new Bloomfield Street and surrounding the new public square will be created
- retain the commons and fielding buildings, creating a heritage precinct
- remove the 1970's school building

Mr. Bigelow responded to questions from Community Council.

Councillor Blumenthal indicated that he was very pleased to see this concept come forward and he noted the hard work of the residents of the area and the former Councillor, Patrick Murphy on this project. The Councillor added that he still has some concern about the proposed height of the project but was prepared to move the matter forward to Regional Council at this time, with an addition to the recommendation that the objective be achieved within one year.

MOVED by Councillor Blumenthal, seconded by Councillor Watts that Regional Council approve the Bloomfield Master Plan in principle, as the guideline and framework for the future planning and development of the Bloomfield property; and achieve the objective within one year.

Mr. Bigelow responded to further questions from Community Council.

Councillor Sloane recognized former Councillor, Patrick Murphy, who was in the public gallery and acknowledge his hard work on this project.

MOTION PUT AND PASSED.

Community Council recessed at 8:30 p.m. and reconvened at 8:35 p.m.

10.1.3 Case 01229: Discharging Agreement - 6054-56 Cunard Street, Halifax

A staff report dated January 13, 2009 was submitted.

Ms. Randa Wheaton, Senior Planner, reviewed the application by Gordon Dickie and Erin Brown to discharge the existing development agreement for 6054-56 Cunard Street, Halifax.

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

1. **Approve the discharging agreement, presented as Attachment A to the January 13, 2009 staff report, for lands located at 6054-56 Cunard Street, Halifax.**
2. **Require that the discharging agreement be signed within 120 days, or any extension thereof granted by Community Council on the 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.

10.2 Committee Reports: None

10.3 Members of Peninsula Community Council:

10.3.1 Councillor Watts: Street Cleaning

Councillor Watts advised that she's received comments from residents about how disturbing nighttime street cleaning can be, and questions as to whether this can be done during the daytime instead.

Mr. Don Pellerine, Superintendent, Streets addressed Community Council and advised that staff would look into this matter and report back. He indicated that there would be a number of issues to consider, and that it may be possible in some areas, but areas of schools, hospitals, or universities would be quite difficult.

Councillor Sloane asked that the report also address whether the smaller streets in her district, such as June Street and Church Street, which receive very little street cleaning, could have increased cleaning.

Mr. Pellerine advised that he would provide a report for Community Council's meeting next month.

11. MOTIONS: None

12. ADDED ITEMS:

12.1 Re-appointment to the Halifax Watershed Advisory Board

This matter was dealt with at an in camera session held earlier and was now before Community Council for ratification.

MOVED by Councillor Sloane, seconded by Councillor Blumenthal that Mr. David Ripley be reappointed to the Halifax Watershed Advisory Board as the District 14 representative, for one year term. MOTION PUT AND PASSED.

12.2 Information Report dated December 15, 2008 entitled, *Keeping of Fowl (Chickens)*

An information report dated December 15, 2008 was submitted.

Councillor Watts advised that she wanted the report moved to the regular portion of the agenda because she had some questions she wanted clarified.

Mr. Brian White, Planner 1, and Ms. MacKenzie Stonehocker, Planner I addressed Community Council and responded to questions.

MOVED by Councillor Watts, seconded by Councillor Sloane that the information report be tabled; and Councillor Watts meet with members of the community to receive feedback and come to Community Council in the future on this matter.

Councillor Sloane indicated that if, in future, a supplementary report is prepared she would like staff to address the question of whether a bylaw could be considered, even if on a temporary basis, in times of severe economic downturns in the economy, as a way of supporting those trying to find sustainable ways to live (e.g. backyard garden, or keeping of fowl). In addition, she suggested that if a supplementary report was prepared that staff also give consideration to how the *HRMbyDesign* Plan would impact on a Bylaw pertaining to this matter.

MOTION PUT AND PASSED.

13. **NOTICES OF MOTION**- None

14. **PUBLIC PARTICIPATION:**

Patrick Murphy, Halifax. Mr. Murphy expressed appreciation to Community Council for approving the Bloomfield Master Plan and moving it forward. He advised that he hoped there will be some good recreation sites in the proposal. Mr. Murphy added that he was concerned about the possibility the proposal may result in a wall of buildings along Almon Street. He suggested that there were opportunities for partnerships and noted that the Provincial Department of Health as a good opportunity for partnering. As well, he suggested approaching Heritage Trust to help restore the Commons building.

Louise Hanafan, Halifax. Ms. Hanafan advised that, until this time last year, she kept three hens in her backyard for eggs. She added that the chickens ate her kitchen scraps and unwanted insects in her yard. Ms. Hanafan advised that last year, former Councillor, Sheila Fougere presented two petitions to Community Council, and at that time she asked for the staff report, which was submitted today. She explained that the petition requested that bylaws be amended to allow residents to raise poultry with the exception of roosters on a small scale and for personal, noncommercial purposes. Ms. Hanafan noted that the report suggests that it is best to maintain status quo on this matter, however she felt that with the community working together there were solutions and she urged Community Council to work with citizens to create reasonable regulations that would consider health, safety, and neighbourhood liveability while allowing a few backyard chickens on the Peninsula.

Doug Boudreau, Halifax. Mr. Boudreau addressed Community Council in regard to the issue of sidewalk snowclearing in the north end of the City. Mr. Boudreau reviewed the challenges homeowners face in trying to keep the sidewalks clear, and suggested that having bylaw enforcement as a control over this matter was not a good use of the bylaw officer's time. He advised that this past Saturday he walked around his neighbourhood and less than 50% of the sidewalks were cleared in line with the 3 ft. width requirement. Mr. Boudreau added that he has spoken with his neighbours and they are supportive of the idea of using funds from the municipality's general revenue, to get professionals to clear the snow from sidewalks.

John Vangurp, Halifax. Mr. Vangurp spoke in support of allowing the raising of a couple of hens in residential areas on the Peninsula. In support of this idea he advised that there are four cities in Canada which permit this, and there are many cities in the United States that allow this activity. He added that if it is done correctly, there are no issues with backyard hens and he suggested that one year pilot project be carried out. Mr. Vangurp noted that Councillor Watts had suggested that a citizens committee be formed to look into this matter and he fully supported this idea. He also suggested that if anything is going to be done, that it should be carried out at the local community council level, and not at the Regional Council level.

A resident from Edinburgh Street addressed Community Council in regard to the information report on Keeping of Fowl and pointed out that the Bylaw does not specifically state that you can not keep fowl, but because it is not stated specifically, then it is a 'no go'. He added that it would be impossible to create a pilot project because it is not legal to do so.

Lisa Joans, Halifax. Ms. Joans advised that she was native of Montreal but that part of her attraction to the city of Halifax was in terms of how advanced it is in regard to the sustainability movement, and the way the landfill situation is dealt with, and the organic bins and recycling program. She added that Montreal does not have an organic bin program or the framework that Halifax has, and she encouraged the Municipality to continue to be a leading city in the sustainability movement.

Sam Austin, Halifax. Mr. Austin made reference to the comments raised in regard to the information report and advised that he was pleased that there is going to be further consideration of the matter. He also noted that if staff continue to use the same benchmark cities when doing research, HRM will never be on the cutting edge, and will simply be waiting until one of the benchmark cities enacts new legislation before it considers doing the same. He added that this issue provides the Municipality the potential to become a leader.

15. **NEXT MEETING** - March 9, 2009

16. **ADJOURNMENT**

The meeting adjourned at 9:15 p.m.

Sheilagh Edmonds
Legislative Assistant