

HALIFAX REGIONAL MUNICIPALITY

DISTRICT 12 PLANNING ADVISORY COMMITTEE January 23, 2006 MINUTES

PRESENT: Heather Ternoway, Chair
Beverly Miller
Clary Kempton
Lucy Trull
Councillor Dawn Sloane
Graeme Gunn

ABSENT: Mia Rankin

STAFF: Paul Sampson, Planner
Richard Harvey, Planner
Jennifer Weagle, Legislative Assistant
Sherryl Murphy, Legislative Assistant

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1. **CALL TO ORDER**

The Chair called the meeting to order at 6:33 p.m. in the Media Room, First Floor, City Hall.

2. **APPROVAL OF ORDER OF BUSINESS**

MOVED by Ms. Beverly Miller, seconded by Ms. Lucy Trull, that the agenda, as distributed, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

3. **REPORTS**

3.1 **Case 00709: Development Agreement - Former Texpark Site, Halifax** {Paul Sampson}

The Chair clarified the following:

- C This is a continuation of the January 16, 2006 meeting.
- C No new presentations will be accepted.
- C Information that was covered through presentations and questions at the January 16th meeting will not be re-addressed.
- C Remaining questions of clarification shall be asked first, followed by the motion, debate on the motion, and the vote.
- C Committee members will be given five minutes to speak during debate, with the opportunity to speak again, and the Chair will keep track of the speakers' order.
- C The Committee shall consider all presentations, information and opinions put before the Committee as well as all relevant policies and legislation.

The Chair discussed correspondence received from Mr. Howard Epstein dated January 17, 2006. She advised that in his correspondence, Mr. Epstein addressed a comment made by the Chair at the public information session in favour of the proposal. Mr. Epstein requested that, as a result of this public statement, the Chair step back from any further District 12 PAC involvement with this matter. The Chair advised that she had consulted HRM Legal Counsel and reviewed a recent Supreme Court of Nova Scotia decision regarding a similar situation. The Chair noted that she was advised by HRM Legal Counsel that, in consideration of the recent legal precedent and providing she listened to all the information with an open mind and considered all the presentations, submissions and reports put before the Committee, she is able to conduct the meeting fairly and in an unbiased manner. The Committee agreed to proceed in this manner.

Ms. Lucy Trull requested clarification regarding underground wiring, to which Mr. Paul Sampson, Planner, advised that all above ground wiring including electrical and

telecommunication wiring will be moved underground in the block including Blowers Street/Granville Street/Sackville Street/Hollis Street. Mr. Sampson further noted that there is a possibility that street lights may also be replaced as part of the proposal.

Ms. Beverly Miller indicated that on the diagrams included with the staff report, no scale and only some elevation measurements were included. Ms. Anne Muecke, United Gulf Developments Limited (United Gulf) clarified that the proposal is 320 feet long.

Ms. Heather Ternoway requested clarification of measurements involving the level of the various podium setbacks. Ms. Muecke clarified that the various setbacks are between eight and twenty-five feet. It was further clarified that the measurements of the separation between the towers is 70 feet at the widest point, and 42 feet at the shortest.

Ms. Trull requested further details regarding the rooftop garden. Mr. Sampson clarified that clause 2.3(c) of the Development Agreement (appearing at page 15 of the staff report) details the landscaping of the rooftop garden. Mr. Sampson further noted that clause 2.3(c) also states that the "space shall be used by building occupants and their guests only and will be accessible for occasional private functions on a limited, seasonal basis". Mr. Sampson further indicated that wind study results indicated that wind speeds at the rooftop garden will be higher than at the sidewalk level.

Ms. Trull further inquired whether the developer explored any other opportunities for the rooftop space. Mr. Louis deMontbrun, United Gulf, clarified that the roof includes skylights in the pool area. He further noted that the rooftop garden will be bordering on living space, which limits the use of the space.

Ms. Miller inquired whether pedestrians will be able to see any of the rooftop garden from street level, to which Mr. Sampson clarified that most of the garden will not be visible from street level. He noted that the Municipal Planning Strategy deals with rooftop landscaping in consideration of rooftops being visible from other buildings. Mr. Sampson further indicated that the usability of the rooftop area, which may involve further wind testing, is at the discretion of the developer.

MOVED by Ms. Beverly Miller that the District 12 Planning Advisory Committee reject the staff recommendation as outlined in the staff report dated December 16, 2005. Having no seconder, the MOTION WAS LOST.

MOVED by Ms. Lucy Trull, seconded by Mr. Clary Kempton, that the District 12 Planning Advisory Committee recommend that Regional Council:

- 1. Give Notice of Motion to consider the development agreement attached to the staff report dated December 16, 2005 and schedule a public hearing;**

2. **Approve the development agreement, included as Attachment A to the staff report dated December 16, 2005;**
3. **Require that the development agreement be signed within 120 days, or any extension thereof granted by Regional Council on request of the applicant, from the date of final approval by 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;**
4. **Discharge that portion of the existing Development Resolution for the MetroPark facility as it applies to the northwest portion of Lot 1A (PID#41036088) which forms part of the proposal, to take effect upon the registration of the subject development agreement;**
5. **Subject to signing of the development agreement, approve the encroachments as shown on the Schedules of Attachment A (Staff will bring this item back to Council at the appropriate time).**

Mr. Clary Kempton read into the record comments he had prepared discussing the proposed development, during which the following was noted:

- C Halifax is comprised of a unique blend of architectural styles as well as a varied assortment of land uses.
- C The proposed development corresponds with the following Central Business District Objectives and Policies:
 - C Economic Objective: "The strengthening of the Halifax CBD as a dynamic focus of governmental, commercial, retail, residential and entertainment uses, and the appropriate development of the waterfront to promote the city as the major business and cultural centre of Atlantic Canada. "
 - C Section 1.1.1: "The City shall seek, encourage and facilitate developments which respond positively to this concept and discourage those which respond negatively".
 - C Social Objective: "The creation of a lively, vibrant environment throughout the CBD which promotes and supports a wide variety of living, leisure and working activities throughout the day and evening."
- C The Granville streetscape is in urgent need of restoration.
- C Activity will be generated to the area by the condominiums, hotel, office space, conference centre, and retail space in the proposed development, which may be an incentive for other property owners in the area to restore their buildings.
- C The proposed development is outside of restrictive viewplanes, is not adjacent to significant historic architecture, does not encroach on the citadel or waterfront, does

not involve the demolition of any building, and complies with the intent of the MPS to bring a measured amount of growth and activity to the downtown core.

Mr. Kempton also showed photographs of the streetscape and distributed a newspaper article outlining a 9.8% decline in visitors to the Citadel. A copy of Mr. Kempton's written comments, with photographs and newspaper article, are on file.

Ms. Beverly Miller noted that the Committee must base their decision on policy, in particular whether the development would follow the Municipal Planning Strategy. Ms. Miller noted the following MPS sections and policies which could be interpreted as inconsistent with the proposed development:

- C Section I - Basic Approach and Overall Objective for ongoing planning:
"The enhancement of the physical, social, and economic well-being of the citizenry of Halifax through the preservation, creation and maintenance of an interesting and livable city, developed at a scale and density which preserve and enhance the quality of life."
- C Section II - City Wide Objectives and Policies - Heritage Objective (II-22):
"The conservation or rehabilitation of areas, streetscapes, buildings, features and spaces which mark the sequence of development in Halifax and which identify the CBD as the City's cultural and heritage centre."
- C Section III - The Central Business District
 - C Economic Policy (1.3.2): "The City should encourage new developments that integrate with existing industries, commercial enterprises and institutions."
 - C Scale and Design Detail:
 - C Objective: "A high quality of design and construction of buildings to reflect the architectural, heritage and topographical characteristics of the CBD."
 - C Policy 7.1: "The character of the CBD should be reinforced through the control of urban design details such as massing, texture, materials, street furniture and building lines."
 - C Policy 7.1.1: "The City shall generally retain the remaining street grid and City block pattern in the CBD."
 - C Policy 7.1.2: "The City shall encourage the architectural form and scale of new developments to be compatible with the block pattern and shall discourage those developments which do not respect it."
 - C Open Space: As per the MPS, the definition of open space includes circulation space. Accordingly, open space included in the proposed development would be contrary to Policy 5.1 and Policy 5.1.2.
 - C Heritage - Policy 6.2: "The city shall continue to make every effort to preserve or restore those conditions resulting from the physical and economic development pattern of Halifax which impart to Halifax a sense of

- its history, such as views from Citadel Hill, public access to the Halifax waterfront, and the street pattern of the Halifax CBD.”
- C Circulation - Policy 3.4.3: “which limits surface parking lots as an interim use to meet immediate needs.”

A copy of Ms. Miller’s written comments are on file.

Ms. Lucy Trull noted that the Municipal Planning Strategy requires clarification and is open to interpretation. She commented that the viewplane protection was put in place to protect certain views from the Citadel, not the entire view. Ms. Trull also noted that the element of added economic vibrancy and the residential component to the development were factors in her decision. She further commented that legislation regarding height and heritage issues were considered carefully and her decision was not based on personal preference, but rather based on legislation.

Councillor Dawn Sloane arrived at 7:15 p.m. Ms. Heather Ternoway, Chair, clarified the motion on the floor for the benefit of Councillor Sloane.

Ms. Ternoway noted that in reaching a decision on this application, consideration was given to policies and legislation, which are open to interpretation and in some cases conflicting. She indicated that there are questions surrounding certain definitions in these policies, such as “generally”, “complimentary” and “vicinity” along with certain “should” clauses. Ms. Ternoway noted that the interpretation of the intent of the viewplane protection, in alignment with existing legislation, is not to protect a panoramic view from the Citadel, but certain viewplanes. She noted that she believes the proposed development enhances the architecture and heritage of Barrington Street through contrast. Ms. Ternoway commented that the MPS was written to allow for flexibility and interpretation. She further commented that the proposed development includes retail and residential aspects, which will encourage and attract people to work, live and visit downtown, as per current MPS policies and is in line with the Regional Plan. Ms. Ternoway indicated that there are many more significant factors contributing or detracting from tourism than this particular development.

Mr. Graham Gunn reiterated comments made by Mr. Kempton, Ms. Trull, and Ms. Ternoway regarding the non-clarity of the MPS. Mr. Gunn noted that Granville Street is not a heritage district and that he does not believe that this development will detract from the vision of the city, nor will it detract from the heritage of the downtown.

Ms. Miller commented that her decision was based on the MPS and from a long-term future point of view, not from a heritage point of view. She noted that the design is comparable to other examples of poorly designed tall buildings in Halifax, such as the Maritime Centre, Scotia Square, and the Fenwick building, all of which are on podiums with a greater set-

back from the street than the proposed development. Ms. Miller indicated that the MPS was written after some of these tall buildings were built to protect against the same type of development. She further noted that she believes that there will be wind and shadow problems with the development.

Ms. Trull noted that discussions surrounding this development further clarify the need for Halifax to define a vision for the city and ensure clarity in policies and legislation so there will be no need to assess developments on a case by case basis. The Urban Design Plan or the Regional Plan are avenues for creating this clarification. Ms. Trull spoke in favour of preserving existing heritage while still allowing for different types of design. She further commented that designs for low yet poorly designed buildings are being seen as acceptable while designs for tall buildings are being criticized without looking at the merits of the design.

Councillor Sloane commented that within the downtown, the issue of height remains a contentious issue. She noted that the MPS is vague in order to be interpreted according to different scenarios, however, the same issues are being repeatedly discussed and need to be clarified. She also noted that it is possible to complement heritage with innovative designs. Councillor Sloane indicated that the proposed development follows the intent of the MPS in terms of the massing scale being divided into two towers, and will contribute to the economic conditions of the area. She agreed that there are concerns about the height of the proposed development and clarification is needed to deal with height of new developments. She further noted that the MPS was put together with the shared views of the community at the time it was written.

Ms. Ternoway indicated that the mandate of the District 12 PAC allows for public meetings regarding plan amendments only. The Committee is not permitted to hold a full public meeting for development applications, as it would be confusing the overall public participation process of Council. Ms. Ternoway indicated that the Committee has a responsibility to allow the development to go forward to Council for a public hearing to obtain proper public input.

Councillor Sloane noted that this proposed development is going before all members of Council, most of whom do not spend much time in the downtown core and that this development will have the greatest affect on people who live, work and play in the downtown core. She discussed subdivision developments that will have a greater impact on traffic and municipal services than the proposed development before the Committee. Councillor Sloane noted that in order to make the right decision for the community, Council must hear from the public.

It was clarified at this time that the motion on the floor is the staff recommendation appearing in the December 16, 2006 staff report.

The Committee discussed the use of the site as an interim parking lot as per Clause 2.11 of the development agreement attached to the staff report. The Committee agreed that allowing the use of the site for interim parking would be contrary to HRM's efforts to encourage the use of alternative transportation.

MOVED by Councillor Dawn Sloane, seconded by Ms. Beverly Miller, that the development agreement included as Attachment A to the staff report dated December 16, 2005 be amended to not approve clause 2.11 which permits the use of the lands for interim parking prior to construction.

During the debate on the motion, the following was noted:

- C The Committee could recommend to Council to set a time limit on the use of the site for interim parking.
- C Clause 2.11 (d) reads "the interim parking use shall be permitted until such time as the building permit is issued and construction commences and may only be extended by resolution of Council...", which could possibly allow for the use of the site as a parking lot for several years.
- C The applicant submitted information on a demand for monthly parking in the downtown.
- C Allowing the use of the site for interim parking would be contrary to the Regional Plan which promotes active transportation and alternative transportation.

THE MOTION TO AMEND WAS PUT AND PASSED UNANIMOUSLY.

THE MOTION, AS AMENDED, WAS PUT AND PASSED.

The Chair called a recess at 8:05 p.m.

The meeting reconvened at 8:18 p.m.

3.2. Case 00866: Amendment to the Halifax Peninsula Land Use Bylaw Respecting Gross Floor Area Requirements {Richard Harvey}

- C A staff report dated January 5, 2006 was before the Committee.

Mr. Richard Harvey addressed the Committee and reviewed the staff report. Mr. Harvey noted that amendments to the Peninsula Land Use By-Law (LUB) made in October 2005 regarding the number of bedrooms that a house may contain was a specific measure to address the problem of differentiating between rooming houses and regular dwellings. Mr. Harvey clarified that the amendments to the LUB regarding gross floor area (GFA) requirements, were to be made to establish what might be a reasonable square footage for

a house depending on the property size. Mr. Harvey advised that staff believe that the GFA measures should be removed on the following basis:

- C All inquiries received by the Planning Services to establish houses with a high number of bedrooms have been averted by the bedroom regulations, rather than the GFA requirements.
- C The GFA requirements are not regulations that are readily understood or accepted by the overall community.
- C The GFA regulations have served to thwart seemingly reasonable redevelopment in some instances involving older or unique neighbourhood characteristics.

Mr. Harvey noted that, after experience with the GFA requirements since October 2005, these measures may be more appropriate to particular neighbourhoods or streets. An opportunity to do so will be through the implementation of area plans through the Regional Plan.

Further to questions of the Committee, Mr. Harvey advised the following:

- C He does not have on hand any quantitative data regarding the number or type of variance applications involving the GFA requirements. He can obtain this information if it is so desired by the Committee.
- C The variance applications received to date have been exclusively for owner occupied properties, from residents wishing to make a reinvestment in their properties such as additions, converting attic space, etc.
- C There have been some instances of property owners changing the plans for the redevelopment of their properties, rather than going through the appeal process.
- C Variance applications are based on technical merits, through assessment of surrounding properties. If the floor area of the applicant property is larger than the surrounding properties, the variance is denied. Recourse of the denial of a variance application includes substantial information gathering, such as a petition of support from neighbours, and the appeal of the variance denial is brought before the appropriate Community Council.
- C Variance applications are considered on technical merits and are denied if the property does not meet such technical merits.
- C There have been three variance hearings with others being considered.
- C Peninsula Community Council has requested further information regarding the number of bedroom requirements, which is currently being undertaken.

Councillor Sloane noted that she would not want to see developers taking advantage of the removal of the GFA requirements and proceed with construction or redevelopment of houses into "monster-houses" on the Peninsula.

Ms. Miller noted that changes to the GFA of a building are specific to the life of the building, not specific to the particular property owner. She further noted that the amendments have only been implemented for four months, and perhaps making changes after reviewing qualitative and quantitative data after one year or more of implementation would be more appropriate. Ms. Miller indicated that many property owners have been asking for this legislation for several years.

MOVED BY Mr. Clary Kempton, seconded by Councillor Sloane, that staff provide a supplementary report with quantifiable data concerning the impact of the gross floor area requirements. MOTION PUT AND PASSED.

It was requested that the supplementary report include the number and type of variation applications that have been made since the GFA amendments were adopted to the Peninsula Land Use Bylaw in October 2005.

4. PUBLIC PARTICIPATION - GENERAL PLANNING ISSUES

There were no requests to present relative to general planning issues.

5. STATUS UPDATES

5.1 Monthly Status Updates - Planning Applications

The monthly status sheet was reviewed and discussed by the Committee, with the following action requested:

- C **Project Case #00484 - Amend Halifax MPS/LUB to restrict apartment development on through lots**

It was requested that an update be obtained on this case for the next meeting.

- C **Project Case #00745 and #00746 - To permit hotel, multi-unit residential and retail uses on Salter Street**

It was requested that an update be obtained on these cases for the next meeting.

5.2 Decisions of Community Council

The decisions from the January 9, 2006 meeting of Peninsula Community Council were reviewed by the Committee.

5.3 Review of District 12 PAC Status Sheet

The status sheet was reviewed by the Committee, with the following action requested:

C Harvey Street Parking Lot - Townhouses

It was requested that an update on this item be obtained for the next meeting.

C PAC for District 11

The Chair will write a letter to Councillor Murphy encouraging him to form a PAC for District 11.

C District 12 PAC Checklist

Ms. Miller will request that Ms. Harnish provide her with a copy of the checklist used by the Heritage Advisory Committee. Ms. Miller will use this checklist as a guideline to compile a District 12 PAC checklist for evaluating planning applications.

C District 12 PAC input on Regional Plan

Ms. Ternoway has received feed back on the Regional Plan from Mr. Kempton and Ms. Miller. She will forward Mr. Kempton and Ms. Miller's comments to Committee members for their review and additional input and request that they respond to Ms. Ternoway by January 27, 2006.

C Gerrard Lodge

It was requested that an update on this item be obtained for the next meeting.

5.4 Update - Grand Parade/Province House/Birks Site Public Lands Planning Advisory Committee

Mr. Graham Gunn has been appointed as the District 12 PAC representative on this Committee. Mr. Gunn advised that the last meeting was cancelled and the next meeting will be held on February 8, 2006.

5.5 Update - Spring Garden/Queen Street Area Public Lands Planning Advisory Committee

Ms. Ternoway advised that the Spring Garden & Queen Street Joint Public Lands Study Public Consultation is taking place from Monday, January 23, 2006 to Friday, January 27, 2006 at City Centre Atlantic at the Mezzanine on Dresden Row. She noted that an agenda time table is available on the Capital District website. She further advised that an open house will be held on Thursday, January 26, 2006 from 7:00-9:00 p.m. at the Dalhousie School of Architecture auditorium at 5410 Spring Garden Road, Halifax.

Councillor Sloane will email to Committee members the website address for the "blog" website for the Spring Garden and Queen Street Joint Public Lands Study.

6. ADDED ITEMS - none

7. ELECTION OF CHAIR AND VICE-CHAIR

Ms. Heather Ternoway was re-elected as Chair, and Ms. Beverly Miller was re-elected as Vice-Chair.

8. NEXT REGULAR MEETING DATE

The next regular meeting of the District 12 Planning Advisory Committee will be held on Monday, February 27, 2006 at 6:30 p.m. in the Trophy Room, 2nd Floor, City Hall.

9. ADJOURNMENT

There being no further business, the meeting adjourned at 9:35 p.m.

Jennifer Weagle
Legislative Assistant