

HARBOUR EAST COMMUNITY COUNCIL

MINUTES

September 10, 2008

PRESENT: Councillor Bill Karsten, Chair  
Councillor Andrew Younger  
Councillor Harry McInroy  
Councillor Gloria McCluskey  
Councillor Jackie Barkhouse

REGRETS: Councillor Jim Smith

STAFF: Ms. Jennifer Chapman, Planner  
Ms. Karen MacDonald, Solicitor  
Ms. Julia Horncastle, acting Municipal Clerk  
Ms. Sandra T. Riley, Legislative Assistant

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**1. CALL TO ORDER**

The Chair called the meeting of Harbour East Community Council to order at 6:01 p.m.

**2. APPROVAL OF MINUTES - August 07, 2008 and August 28, 2008**

**MOVED BY Councillor McCluskey, seconded by Councillor McInroy, that the minutes of Harbour East Community Council August 07, 2008 and August 28, 2008 (Special Meeting), as presented, be approved. MOTION PUT AND PASSED**

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

**MOVED BY Councillor Younger, seconded by Councillor McInroy, that the Order of Business, as presented, be approved. MOTION PUT AND PASSED**

**4. BUSINESS ARISING OUT OF THE MINUTES**

**4.1 STATUS SHEET**

Councillor Younger advised that HECC has been waiting for a report on the Accessible Playgrounds in Dartmouth for over two years. A report was again requested of Staff for the October meeting of HECC. Councillor Karsten requested that the Clerk check with Capital Projects for a report for the next agenda or at least an acknowledgement of the report. This report was originally requested by the HECC on June 29, 2006.

Councillor McCluskey requested that Staff provide a report on the outstanding Status Sheet item 'Nuisance Complaint' for the October meeting of HECC. This request was originally made in February of 2007.

**5. MOTIONS OF RECONSIDERATION - NONE**

**6. MOTIONS OF RESCISSION - NONE**

**7. CONSIDERATION OF DEFERRED BUSINESS - NONE**

**8. HEARINGS -**

**8.1 PUBLIC HEARING (S)**

**8.1.1 Case 01083 - Development Agreement - Commercial Plaza, Cole Harbour/Westphal**

- A Staff Report dated July 16, 2008 was before Council.

Ms. Jennifer Chapman, Planner, using overheads, gave a brief overview of the Report to Council.

Councillor Karsten called for any questions of clarification from the Council.

In response to Councillor McCluskey, Ms. Chapman gave clarification that there will be a walkway built over the watercourse rather than through the buildings. She also advised that there is efficient sewer capacity for this development if developed as-of-right.

Councillor Barkhouse stated that she would like to be assured that there are no capacity issues at the Eastern Passage plant.

In response to Councillor McCluskey's enquiry as to where the drive through would be located, Ms. Chapman informed the Committee that it would be up to the Applicant, but would be brought back to Council for review first.

Councillor Karsten opened the floor for any speakers for or against the proposal. As there were none, the following motions were passed.

**MOVED BY Councillor McCluskey, seconded by Councillor Younger, to close the public hearing. MOTION PUT AND PASSED**

**MOVED BY Councillor McInroy, seconded by Councillor Younger, that Harbour East Community Council:**

1. **Approve the development agreement, as contained in Attachment A to the July 16, 2008 report; and**
2. **Require that the development agreement be signed within 120 days, or any extension thereof granted by 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.**

**MOTION PUT AND PASSED**

**8.1.2 Case 01139: Development Agreement - 6 Admiral Street**

- A Staff Report dated May 15, 2008 was before Council.

Ms. Jennifer Chapman, Planner, gave overview with an overhead presentation.

Councillor Karsten enquired about the reference 3.8.4 (b) of '70 small trees'.

Ms. Chapman clarified that small trees referred to trees of 150 -250 mm, stating that it was further defined in the development agreement.

As there were no further questions of clarification from Council, the Chair opened the floor to the members of the public for or against the development agreement.

Mr. Les Peknik, 1 First Street, enquired as to which direction the sewer would be going. Staff clarified that the water main upgrades are going along Admiral and Major Streets.

As no further speakers came forward, the following motions were passed:

**MOVED BY Councillor McCluskey, seconded by Councillor Barkhouse, to close the public hearing. MOTION PUT AND PASSED**

**MOVED BY Councillor Younger, seconded by Councillor McCluskey, that Harbour East Community Council:**

- 1. Approve the development agreement as contained in Attachment A to the May 15, 2008 report to permit a senior's long-term care facility at 6 Admiral Street, Dartmouth, and**
- 2. Require that the development agreement be signed within 120 days, or any extension thereof granted by 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.**

Councillor Younger spoke to the water and sewer issue, stating that Halifax Water has looked at this and there will be some upgrades as part of the development agreement.

He further clarified that there are also 45 large trees included in this development, and that most of them would be retained down the back slope. He advised that most comments he had heard of the development were positive.

**MOTION PUT AND PASSED**

### **8.1.3 Case 01170: Amendment to Portland Hills Development Agreement**

- A Report dated July 17, 2008 was before the Council.

Mr. Joseph Driscoll, Planner with Community Development gave Council an overview of the report. Mr. Driscoll advised the Council that since the proposal was submitted, there has been a change to ownership. He clarified that the owner is the same principle, but is no longer under Edgewater Investments Inc. and is now under 4340973 Canada Inc. The name would have to be changed on the Development Agreement if Council saw fit to approve it.

The Chair opened the floor for the following points of clarification:

- The Phase 1 of Portland Hills was developed under the H-3/H-3B Policies rather than the Morris-Russell Lake Secondary Plan
- There is an extra unit in the building; discovered, after zoning request, that the unit was being rented, after transfer from old company to the new company
- Site is not owned by Clayton Group Co., though Clayton brought forward the amendment to rectify the number of units situation. Approval was given for a 40-unit building with a guest suite rather than a 41-unit building

Having finished points of clarification, Councillor Karsten called three time for members of the public for or against the application. As no members spoke, the following motions were passed:

**MOVED BY Councillor Younger, seconded by Councillor Barkhouse, to close the public hearing. MOTION PUT AND PASSED**

**MOVED BY Councillor Younger, seconded by Councillor McInroy, that Harbour East Community Council:**

- 1. Approve the proposed amending development agreement to permit development of one (1) additional dwelling unit at 74 Bellbrook Crescent, as set out in Attachment A of the July 17, 2008 report; and**
- 2. Require the agreement be signed and delivered within 120 days, or any extension thereof granted by Harbour East Community Council on request of the applicant, from the date of final approval of said agreement by Harbour East Community Council and any other bodies as necessary, whichever is later, including any appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.**

Councillor McInroy commented that this might be setting a precedent for multi-unit buildings, but would not be setting one for extra units in Portland Hills. He advised approving an extra unit just for use by visitors is not a concept that will work. He remarked that there would be no way to find out whether the unit was being used wrongfully unless there is something illegal taking place or fire, etc.

Councillor McCluskey enquired as to whether there will be site specific zoning to make this type of illegal renting legal or will they be forced to tear down. Mr. Driscoll advised that it has to come into compliance either through an amendment to the agreement or through action taken by HRM.

### **MOTION PUT AND PASSED**

Councillor McCluskey stated that an additional unit in the development is not a big concern. The issue is that the space is being illegally used.

## **8.2 VARIANCE HEARING (S)**

### **8.2.1 Appeal of the Development Officer's decision to grant an application for a Variance (#14759) at 265 Caldwell Road , Dartmouth, NS**

Mr. Sean Audas, Development Officer, gave a brief overview of the variance 14759 and the attached correspondence from neighbours to the property.

Councillor Karsten called for any questions of clarification from the Council.

Councillor McCluskey received clarification from Mr. Audas that the shed was built on the

property prior to receiving a permit.

Councillor McInroy advised that the permit should depend on the intended purpose of the shed or it's potential use.

Councillor Younger pointed out that if the shed was placed along the side of the house a variance would not be needed.

Councillor Karsten opened the variance hearing to members of the public residing within 30 metres of the property.

**Mr. Ed Banks** - 265 Caldwell Road; Owner - stated that he contacted the City and was told that under 240 sq. ft he did not need a building permit. He stated that he was not aware that he would need one to build a shed in the front of his house. He advised the Council of his health issues and the need for the shed to be built in its present location. He remarked that it is a struggle for him to get his machinery up and down the property, and this is why he has applied for the variance to allow the shed in front of his home. He stated his surprise at having his neighbours going door to door canvassing against his variance application.

**Mr. Garnett Hannam** -259 Caldwell Road, submitted correspondence, dated August 05, 2008, that was an attachment to this variance. He reiterated the letter and stated that he is against the variance. He remarked that he understands that Mr. Banks has health problems, but this is no reason to have an unsightly building in the front of the property. He advised that the appropriate location for accessory buildings is in the back of the home.

**Jocelyn Hyck** - 258 Caldwell. Ms. Hyck , who lives across the street from Mr. Banks, advised that the shed is the first things she sees when she goes to work in the morning. She remarked that Mr. Banks has a very nice home, but the shed is like a wart on the front of his house. She commented that she does not think it is in an appropriate location. She advised that she, too, understands Mr. Banks difficulty and health problems, but feels the location is wrong.

Councillor Karsten gave the third and final call for members of the public for and against and the following motion was passed:

**MOVED BY Councillor Younger, seconded by Councillor McCluskey, to close the variance hearing. MOTION PUT AND PASSED**

Councillor McCluskey asked Karen MacDonald, Solicitor, whether it would be possible to state that the shed can remain as long as the resident is there, but if the property is sold, that the shed must be removed. Ms. MacDonald informed her that this can not be made a condition as the variance goes with the specific address not to the property owner. It would be up to the new property owner.

**MOVED BY Councillor McInroy, seconded by Councillor Younger, that Harbour East Community Council overturn the Development Officer's decision and not approve the variance. MOTION PUT AND PASSED**

**9. CORRESPONDENCE, PETITIONS AND PRESENTATIONS**

**9.1 Correspondence - None**

**9.2 Petitions - None**

**9.3 Presentations - None**

**10. REPORTS**

**10.1 STAFF REPORTS**

**10.1.1 Case 01006: Dartmouth Municipal Planning Strategy and Land Use By-Law Amendment - Heritage Properties**

A Staff Report dated July 15, 2008 was before the Committee.

**MOVED BY Councillor Younger, seconded by Councillor McCluskey, that Harbour East Community Council recommend that Regional Council:**

- 1. Give first reading to the proposed amendments to the Dartmouth Municipal Planning Strategy and land use By-Law as shown in Attachment A and B, and schedule a public hearing. MOTION PUT AND PASSED**

This motion will not be going forward to Regional Council until after it goes to the Heritage Advisory Committee meeting of September 24, 2008.

**11. MOTIONS - None**

**12. ADDED ITEMS - None**

**13. NOTICES OF MOTIONS - None**

**14. PUBLIC PARTICIPATION - None**

**15. NEXT MEETING**

The next meeting of the Harbour East Community Council is scheduled for October 02, 2008.

**16. ADJOURNMENT**

The meeting adjourned at 7:46 p.m.

Sandra T. Riley  
Legislative Assistant