

HARBOUR EAST COMMUNITY COUNCIL
MINUTES

April 5, 2012

PRESENT: Councillor Jackie Barkhouse, Chair
Councillor Lorelei Nicoll
Councillor Gloria McCluskey
Councillor Darren Fisher, Vice Chair
Deputy Mayor Bill Karsten
Councillor Jim Smith

STAFF: Mr. Joshua Judah, Solicitor
Ms. Jennifer Weagle, Legislative Assistant

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1. CALL TO ORDER

The Chair called the meeting to order at 6:02 p.m., with the Invocation led by Deputy Mayor Karsten.

2. APPROVAL OF MINUTES – March 1, 2012

MOVED by Deputy Mayor Karsten, seconded by Councillor McCluskey, that the Harbour East Community Council minutes of March 1, 2012 be approved as circulated. MOTION PUT AND PASSED.

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

MOVED by Councillor Smith, seconded by Councillor Nicoll, that the order of business be approved, as circulated. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES/STATUS SHEET

4.1 Status Sheet

4.1.1 Sculpture Park - Dartmouth Waterfront

No update. This item will remain on the status sheet.

4.1.2 Project 1286: Dartmouth Main Street Plan Review

This item is anticipated to come forward for the May 3, 2012 Harbour East Community Council meeting. This item will 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 17443: Clayton Developments, Rezoning of Colby South, Phase II

Notice of Motion was given at Harbour East Community Council's March 1, 2012 meeting.

A Staff report dated February 7, 2012 was before Community Council.

An Information report from Dartmouth Lakes Advisory Board dated January 12, 2012 was before Community Council.

The following correspondence was before Community Council:

- Correspondence from Jenifer Tsang, Sunrose Land Use Consulting, dated January 18, 2012
- An email from Colin Reilly dated March 28, 2012.
- An email from Bruce Paddon dated April 4, 2012.
- An email from Jenifer Tsang dated April 5, 2012 (circulated at the meeting).

Mr. Mitch Dickey, Planner, Community & Recreation Services, presented the staff report on the application by Clayton Developments to zone lands at the end of Astral Drive in Colby South Phase II from R-7 (Rural Estate) to R-1 (Single Unit Dwelling).

Responding to questions from Councillor Nicoll regarding servicing of Parkway Drive, Mr. Dickey indicated that some of the current properties have on site septic systems and there has been talk in recent years for these properties to be serviced through a private wastewater treatment system. Community Council last discussed the issue in 2004, at which time it was determined that these lands are outside the service boundary, and there is no capacity in the system to bring these lands in. Although Clayton Developments are building the road extension, they are not building any homes on it. Additional homes would require a pumping station or lift station to handle the additional capacity, which would be too expensive.

Mr. Dickey indicated on the map the location of the 3.7 acres of proposed parkland. Mr. Dickey noted that there is a possibility of a Shearwater Flyer Trail connection on the property, and also the possibility of a future HRM playground on the site.

At the request of Deputy Mayor Karsten, Mr. Dickey indicated the location of the adjacent land owner that has expressed concerns with the road reserve.

At the request of Councillor McCluskey, Mr. Dickey clarified that the majority of the lands proposed for parkland are high and dry and well suited for parkland. Mr. Dickey also clarified that people that buy the lakefront lots will own rights to the lake, although with the buffer set back and the steep slope at the edge of the lake, the buffer around the lake would be about 25 - 30 metres.

The Chair opened the public hearing to anyone wishing to address Community Council on this matter.

Mr. Vincent Reilly, 46 Parkway Drive, Dartmouth, noted concerns with regard to the extension of Parkway Drive, commenting that the developer may use the extension as a cut through for large trucks to save mileage during construction. He noted that the street is not wide enough, safe enough, or thick enough for this use. The street is 21 feet from

one edge of the pavement to the other, and there are no sidewalks, and he does not believe that two large trucks would be able to pass each other on the street. There are more than one school bus stops on the street, and he has safety concerns about the truck traffic that the extension will generate. He has concerns that the street, which has been paved for 20 years, will be damaged by the heavy truck traffic and HRM will have to pay to have it repaved. He has reviewed By-law T400 respecting truck routes, and cannot find a solution. He noted that he would have no problem with the extension if the developer agreed to use normal truck routes.

Mr. Kevin Neatt, Associate Planner, Clayton Developments, addressed Community Council regarding the parkland, noting that there will be some water access. He indicated that Clayton Developments are deeding a 25 acre parcel outside of the subdivision by-law process, which provides access for HRM along the brook to facilitate a future connection to the Shearwater Flyer Trail. With respect to truck traffic, Mr. Neatt noted that Clayton Developments are happy to take direction from the HRM Traffic Authority on this matter.

The Chair called three times for any further speakers. Hearing none, it was **MOVED by Councillor McCluskey, seconded by Councillor Fisher, that the public hearing be closed. MOTION PUT AND PASSED.**

Councillor Nicoll noted that she is pleased to hear that Clayton Developments are open to working with the Traffic Authority regarding the issue of truck traffic, as she shares Mr. Reilly's concerns.

MOVED by Councillor Nicoll, seconded by Deputy Mayor Karsten, that Harbour East Community Council approve the proposed land use by-law amendment as set out in Attachment A of the February 7, 2012 staff report and on Figure 2 of the February 7, 2012 staff report, to apply the R-1 zone within Phase II of Colby South. MOTION PUT AND PASSED.

Councillor McCluskey left the meeting at 6:34 p.m.

8.2 Variance Appeal Hearings

8.2.1 Case 17477: Appeal of Variance Refusal, 17 Ainslie Crescent, Eastern Passage

A staff report dated March 12, 2012 was before Community Council.

Ms. Brenda Seymour, Development Technician, presented the report to Community Council for Case 17477, which is an appeal of the Development Officer's decision to refuse a variance request for 17 Ainslie Crescent, Eastern Passage.

Mr. Rob Richmond, Applicant, 17 Ainslie Crescent, indicated that he has had site visits from a traffic engineer, Nova Scotia Power, and the Halifax Water Commission,

none of whom had any issue with the proposal. He argued that his interpretation of the Land Use By-law (LUB) is that a corner lot is at the intersection of two streets and that his property is not a corner lot, it is on a curve. Mr. Richmond noted that the proposed site is behind an existing fence line and should not pose any visual issues to the neighbourhood. Street access would be by the existing driveway, which he feels is more safe to traffic in the area. He clarified that two neighbours approached him thinking that the proposed structure would come out to the curb, however, the structure would be inside the fence line, not the curb line. Mr. Richmond advised that the purpose of the proposed shed is to store his motorcycle. He suggested that if his variance is not allowed, pursuant to s.12(14)(b) of the LUB, which sets out that corner lots are entitled to two driveways, he plans to construct a second driveway to store his motorcycle in a covered trailer.

Mr. Wayne Pitman, 24 Ainslie Crescent, directly across from the Applicant. He submitted a petition signed by seven residents of Ainslie Crescent opposed to this variance application. He is opposed to the proposed variance as it will affect property owners on the north side of Ainslie Crescent. Mr. Pitman noted that the Applicant's measurements in his appeal letter does not match his discussions over the years with Mr. Richmond's spouse, who has indicated that they planned to access the garage from across the street. He noted that the proposal will affect parking on the north end of the street, which is already limited. He also commented that a second driveway on the Applicant's property would be close to a fire hydrant. Mr. Pitman requested that if the variance is approved, that the Applicant not be permitted to open up the fence to use it as an access point from the garage. He also requested that if the variance were approved HRM obtain something in writing that "Safety would not be a concern as the current driveway would be utilized to enter and exit the property."

Mr. Andrew Faulkner, Development Officer, clarified that HRM owns the property from the curb to the fence.

Mr. Peter Degrace, 15 Ainslie Crescent, addressed Community Council, noting that he lives in the other half of the duplex attached to the Applicant's home. Mr. Degrace inquired whether the flankage applies just to the structure of the home, or also to the outbuildings. He noted that when he purchased the property he reviewed the covenants on the property, and doesn't remember outbuildings being discussed. He feels that when someone buys a property, they should be able to add an outbuilding. Mr. Degrace also inquired how many residents signed the petition, noting that he was not approached to sign the petition.

The Chair called three times for any further speakers. Hearing none, it was **MOVED by Councillor Nicoll, seconded by Deputy Mayor Karsten, that the public hearing close. MOTION PUT AND PASSED.**

Councillor Smith, noted that while this is a difficult decision, the land use by-law was developed with input from the community. He noted that allowing this variance would

set a precedent for other properties in the neighbourhood to do the same, which would change the look and feel of the neighbourhood.

MOVED by Councillor Smith, seconded by Deputy Mayor Karsten, that Harbour East Community Council uphold the Development Officer's decision to refuse the variance at 17 Ainslie Crescent, Eastern Passage.

Responding to questions of clarification from Deputy Mayor Karsten, Mr. Faulkner clarified that restrictive covenants are a private agreement between the developer and the property owner. He noted that restrictive covenants cannot relax the Land Use By-law rules, but can add to them, and they mainly affect aesthetic matters such as the placement of clothes lines and satellite dishes. He further clarified that restrictive covenants are not enforceable by HRM or legally binding.

Deputy Mayor Karsten requested that staff look into whether the subject property is defined as a corner lot, given that a corner lot would have the capability of having a second driveway.

Mr. Joshua Judah, Solicitor, discussed that a common problem when people buy land is that they don't know what is in the Land Use By-law and zoning of their property. He noted that purchasers can obtain a zoning confirmation letter from HRM.

MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence - None

9.2 Petitions

A petition submitted by Mr. Wayne Pitman, signed by seven (7) residents of Ainslie Crescent opposed to the variance application for Case 17477 was submitted during the variance appeal hearing for Item 8.2.1.

9.3 Presentations - None

10. REPORTS

10.1 Staff Reports

10.1.1 Case 17170: Amendments to the Development Agreement at 61 Athorpe Drive, Dartmouth, regarding Temporary Signage

A staff report dated March 7, 2012 was before Community Council.

MOVED by Councillor Fisher, seconded by Councillor Nicoll, that Harbour East Community Council give Notice of Motion to consider the proposed amending agreement as set out in Attachment A of the March 7, 2012 report and schedule a public hearing. MOTION PUT AND PASSED.

The public hearing will be scheduled for the May 3, 2012 Harbour East Community Council meeting.

10.1.2 Case 17634: Non-Substantive Amendment to the Development Agreement for 185 Windmill Road, Dartmouth

A staff report dated March 9, 2012 was before Community Council.

Community Council waived hearing the staff presentation.

Responding to questions of clarification from members, Mr. Dickey advised that to meet provincial building code regulations, the developer is seeking to change some of the ground floor commercial space previously approved for this development to a one bedroom or bachelor barrier-free, accessible apartment. He noted that this proposed additional unit would be on the ground floor since there is no elevator in the building, and there will be no expansion to the footprint of the building. Mr. Dickey further advised that a wheelchair ramp will be constructed on the back of the building, and the accessible unit will have its own entrance. He clarified that with this amendment to the development agreement there will be a total of six apartments in the building.

Councillor Smith noted concern that the proposed unit will be very small.

MOVED by Councillor Smith, seconded by Councillor Fisher, that Harbour East Community Council:

- 1. Approve, by resolution, the proposed amending development agreement for 185 Windmill Road, as set out in Attachment A of the March 9, 2012 report, to permit conversion of ground floor commercial space to a barrier free residential unit; 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.

10.1.3 Case 17308: Kings Wharf Development Agreement Amendments

A supplementary staff report dated March 16, 2012 was before Community Council.

Community Council waived hearing the staff presentation.

MOVED by Deputy Mayor Karsten, seconded by Councillor Nicoll, that Harbour East Community Council:

- 1. Approve, by resolution, the Stage 2 development agreement for King's Wharf, as shown in Attachment A of the March 16, 2012 report;**
- 2. Require the Stage 2 Development 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;**
- 3. Approve, by resolution, the discharge of the Original Stage 2 Development Agreement that applies to the Lands, as shown in Attachment B of the March 16, 2012 report, to take effect upon the registration of the new development agreement.**

MOTION PUT AND PASSED.

10.2 Members of Council - None

10.3 Boards & Committees - None

11. MOTIONS

11.1 Councillor Fisher – Dartmouth Greenway Canal

“To request a staff report with regard to clarification of the budget implications of motion approved at the November 10, 2011 HECC meeting (Item 9.3.1) with regard to the presentation by the Shubenacadie Canal Commission on the Dartmouth Canal Greenway project.”

Councillor Fisher withdrew this motion from the agenda. This matter was dealt with in the 2012/13 budget.

12. ADDED ITEMS - None

13. NOTICES OF MOTION - None

14. PUBLIC PARTICIPATION

Ms. Anne Norton, 47 Thistle Street, Dartmouth, addressed Community Council, noting that she is relatively new to Dartmouth, recently purchasing her house on Thistle Street. She advised that she was in her backyard when a golf ball came into her yard from the Brightwood Golf Course and hit her family pet. Her pet has undergone three months of intensive medical care, which has been expensive and upsetting, and the pet will never be the same. Ms. Norton also advised that a golf ball hit her roof when she was on a ladder against the house and it scared her and she fell off the ladder, injuring her knee. She showed members a bag of golf balls that she had collected from her property. She has tried to speak to representatives from Brightwood Golf Course about this problem to no avail. Ms. Norton noted that this is a safety issue that should be taken seriously by Brightwood as a business, and that HRM should take responsibility to find a resolution for the issue. She suggested that Brightwood should put up sufficient nets to keep the golf balls from her and her neighbours' yards. Ms. Norton indicated that she has researched requirements in other cities, and HRM needs to do something about this situation. She suggested that just because it has always been like this is not an acceptable reason to let it continue, and asked for Community Council's support.

MOVED by Councillor Smith, seconded by Councillor Nicoll, that Harbour East Community Council forward these concerns to staff for a response, with regard to any legalities or opportunities to resolve this issue. MOTION PUT AND PASSED.

15. NEXT MEETING DATE – May 3, 2012

The next Harbour East Community Council meeting is scheduled for Thursday, May 3, 2012 at 6:00 p.m. in the Chamber at 90 Alderney Drive, Dartmouth.

Deputy Mayor Karsten commented that there has been some confusion regarding an issue related to parkland for the King's Wharf Development that has recently arose. He asked for Community Council's indulgence to entertain discussion on the matter at this time, to which Community Council agreed.

Deputy Mayor Karsten suggested that, although Councillor McCluskey is not in attendance, he believes that it is her understanding that the issue of parkland at the King's Wharf Development would be dealt with at a special Community Council meeting next week. He asked for clarification from staff on this matter.

Mr. Kurt Pyle, Supervisor, Planning Applications, Eastern Region, noted that the issue involves the recognition of parkland under the existing development agreement. Staff and the developer have been discussing the issue and plan to meet to find a resolution, although staff will not be in a position to have a report ready for next week. The issue will also involve discussions with the Province. Staff would be in a position to hold a special meeting in late April or early May, 2012.

MOVED by Deputy Mayor Karsten, seconded by Councillor Nicoll, that Harbour East Community Council request a staff report with regard to concerns with parkland at the Kings Wharf Development (Case 17308) and that a special

meeting be scheduled at the earliest possible opportunity to address these concerns. MOTION PUT AND PASSED.

16. ADJOURNMENT

The meeting was adjourned at 7:27 p.m.

Jennifer Weagle
Legislative Assistant