

HALIFAX REGIONAL MUNICIPALITY

PENINSULA COMMUNITY COUNCIL MINUTES DECEMBER 12, 2005

PRESENT: Councillor Sheila Fougere, Chair
Councillor Patrick Murphy
Councillor Dawn Sloane
Councillor Sue Uteck

STAFF: Ms. Mary Ellen Donovan, Municipal Solicitor
Ms. Sherryll Murphy, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 7:05 p.m.

2. APPROVAL OF MINUTES - November 7, 2005

Councillor Murphy noted that comments he had made with regard to green space and reference he had made to correspondence from the Friends of the Public Garden and the Rhododendron Association regarding the establishment of a Green Space Board were not included in the minutes. He asked that the minutes be amended to include these comments.

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

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

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

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet

4.1.1 CN Property Maintenance

There was no information received regarding this matter. This matter will remain on the status sheet.

4.1.2 Safety at Seaview Park

Councillor Murphy noted that there were ongoing patrols at Seaview Park, however, no report has come forward in this regard.

The Clerk indicated that a report is anticipated for the January meeting of Community Council. This matter 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 00836 - Amendment to Existing Development Agreement - 5620 South Street, Halifax**

- This matter was given First Reading at the November 7, 2005 meeting of Peninsula Community Council. A previously circulated staff report dated October 20, 2005 was before Community Council.
- An e-mail dated December 7, 2005 from Jon Eppell, Halifax and a responding e-mail from Randa Wheaton (James), Planner, was distributed to Community Council.

Ms. Randa Wheaton, Planner, briefly reviewed the application by Amalthea Holdings Limited to amend an existing development agreement to permit a multiple residential development at 5620 South Street, Halifax, as contained in the October 20, 2005 staff report. Ms. Wheaton noted that the map included with the original report did not show the subject property and that the correct map had been circulated this evening. She went on to review the conditions retained and the changes to the existing agreement as set out in the Discussion section of the staff report. Ms. Wheaton indicated that staff was recommending approval of the application.

Rebecca Jamieson, Halifax

Ms. Jamieson addressed Community Council noting that the process for this particular development has been quite long. She commented that the current amendment is a significant improvement over previous proposals. Ms. Jamieson went on to point out that in order for HRM to continue to be a quality place to live, there is a need for By-laws which are clearly written and enforceable.

Ms. Jamieson referred to the need for timely consultation and notification and indicated that although area residents have asked on various occasions to see floor plans, these have not yet been produced. She pointed out that habitable rooms are a very important issue for this neighbourhood and HRM.

Concluding her comments Ms. Jamieson confirmed that if the property is sold before the present building is built, the future owner would be bound by the present development agreement.

The Chair called the following persons as found on the sign up sheet to come forward to speak.

Chris Beaumont, Halifax

Mr. Beaumont addressed Community Council indicating that:

- he was pleased to see that the amended Development Agreement retains the clause 2.2 (c) prohibiting the development from containing non-habitable rooms which could be converted into habitable rooms
- he would like to see Clause 2.2 (j) applied to all units
- Clause 2.2 (l) is not clear and is open to interpretation.

Mr. Beaumont recommended the following version of Clause 2.2 (l) to staff and Community Council: 'That no walls are permitted within the interior of a habitable room'.

Mr. Beaumont noted that it has been indicated that the proposal meets the density provisions, however, no floor plans have been provided. He suggested that the Development Agreement include a condition that no room exceed 400 feet in size.

Joanne Farnyiuk, Halifax

Ms. Farnyiuk addressed Community Council noting that her concerns were consistent and included:

- the impact of overhanging balconies on the residences below
- parking - although the development has met the parking requirements (60 spaces) there will be 210 residents most of which will have a car. Those that do not have a car will park on the street exacerbating an already difficult situation
- the need for a superintendent to be on site at all times

Dave Farnyiuk, Halifax

Mr. Farnyiuk indicated that he would like to see a floor plan in order to equate the apartments to the square footage. (i.e. What makes a one bedroom vs a studio.) He went on to reiterate that parking is an issue.

The Chair called for additional persons wishing to address Council in support of or against the proposal.

John Young, on behalf of the Applicant

Mr. Young addressed Community Council noting that the process had been long and at times frustrating for everyone involved. Mr. Young thanked all those who contributed to the process and noted that although the amendments are complex, they respond to the concerns. He went on to indicate that the issue of dens and an on-site superintendent are addressed in the Development Agreement. Mr. Young encouraged Community Council to approve the application so that the building can be built.

The Chair called three times for any additional persons wishing to speak in favour or against the proposal. Hearing none, it was **MOVED by Councillor Uteck, seconded by Councillor Sloane that the public hearing close. MOTION PUT AND PASSED UNANIMOUSLY.**

In response to a question from Councillor Uteck, Ms. Wheaton clarified that the balconies remained unchanged from the previous approval.

MOVED by Councillor Uteck, seconded by Councillor Murphy that Peninsula Community Council :

- 1. Approve the proposed amendment development agreement to permit a single multiple unit residential building at 5620 South Street, Halifax, as contained in Attachment B of the October 20, 2005 staff report.**
- 2. Require that the development agreement be signed and delivered within 120 days, or any extension thereof granted by Community Council on 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 UNANIMOUSLY.

8.2 Appeal Hearing

8.2.1 Appeal of the Decision of the Development to Approve a Variance of the Right Sideyard Setback - 5850 University Avenue, Dalhousie Life Science Research Institute

- A staff report dated December 7, 2005 was before Council.

Andrew Faulkner, Development Officer, briefly reviewed the basis for the Development Officer's decision to approve a variance for 5850 University Avenue to permit construction of the Life Science Research Institute as contained in the December 7, 2005 staff report.

Mr. Faulkner noted that the hearing has been delayed since September as the appellant and applicant have been in discussion over design. He went on to indicate that staff is recommending Community Council uphold the decision of the Development Officer to approve the variance.

In response to a question from Councillor Sloane, Mr. Faulkner indicated that as is the practice, the common property owner and in this case Condominium Corporation 130 was notified.

Councillor Sloane indicated that residents of Summer Gardens own their properties individually and pay taxes. She noted that she has been receiving calls from residents of that condominium concerned with regard to the notice given for this variance.

Providing further clarity, Ms. Mary Ellen Donovan, the Municipal Solicitor, noted that the practice of the Municipality has been to notify the condominium corporation owner as being the proper party, the owner of all the common interests, pursuant to the provisions of the Municipal Government Act.

The Chair called for persons wishing to speak in favour of or against the appeal.

Austin Park, the appellant

Mr. Park addressed Community Council expressing serious concerns regarding the project. He suggested that there were a number of area residents who were not aware of the application and questioned whether HRM's practice had legal standing. Mr. Park went on to indicate that this variance substantially eliminates the sunlight from his building at 5845 College Street. The building is a five storey building, however, it is 94 feet high. Mr. Park indicated that his building has experienced wind damage in the past as a result of its proximity to the Tupper Building. Mr. Park noted that the wind damage to his building will only increase with this new building.

Mr. Park pointed out that Dalhousie has indicated that it would be inconvenient to push their new building back on the lot, as it would eliminate some of their parking. Mr. Park indicated that he would pay the price for the variance.

Brian Malloy, co-owner of the building at 5845 College Street

Mr. Malloy noted that angle controls were in place when 5845 College Street was built and suggested that if these controls had not been in place, the building would likely have blocked the light from the buildings on Carleton Street. He suggested that the proposed pedway would remove the blue sky from a number of the units at 5845 College Street and suggested it be built underground. Mr. Malloy noted that the wind is very severe in this

area and damage to his building is such that the roof has had to be replaced ten (10) years before anticipated. He went on to indicate if the LSRI building is moved back, the wind impact will be reduced. Mr. Malloy noted that he planned to convert his building to condominiums within ten years and the location of the LSRI building will result in a loss of value. Mr. Malloy indicated that the building should be required to meet the angle controls.

Colin Latham, Chairman of Life Science Research Building

Mr. Latham addressed Community Council with regard to the variance application and the overall project noting the following:

- There has been no significant research space since the Sir Charles Tupper Building in 1967
- This proposal add 75,000 square feet of high quality research space for life sciences
- There is a significant amount of research in the life sciences carried out in HRM (in excess of \$100 million)
- The advantage of this particular space will be that it will allow HRM to attract world class educators and researchers
- These individuals will be educators for the next generation of medical practitioners and also are leading edge clinicians
- Residents of Halifax will have access to the highest quality health services in the region and in Canada
- The project employed a community representative and held a community meeting
- 30-40 people from the community attended including a number from the Summer Gardens condominiums
- The community input was responded to and resulted in modifications to the building designs

Concluding his remarks, Mr. Latham indicated that he believed the stakeholders have been responsible in both providing a high quality health care facility for the benefit of all residents of HRM and involving area residents and responding to their needs.

Steven Basset, Project Manager, LSRI

Mr. Basset addressed Community Council and reviewed the technical aspects of the building. Using drawings, he went on to note that in 1993 the Grace Maternity Hospital was adjacent to the Tupper Building and located very close to the lot line. Mr. Basset indicated that the building is five stories in height with a penthouse, 75 underground parking spaces and 24 above ground, the building size is 185 feet long running down College Street and approximately 80 feet deep. The floor area is approximately 100,000 square feet.

Mr. Basset indicated that the variance application dealt with angle control and setback . He indicated that there were a number of reasons that it is important that the new building stay in close proximity with the Tupper Building including:

- it is integral part of the medical services community and requires a strong link to the Tupper Building
- building services will be fed from the Tupper Building to the LSRI
- common loading facilities will be shared between the two buildings
- improve pedestrian linkages from University Avenue to College Street
- affords an opportunity to enhance green space on the east side of the building

Mr. Basset, using a drawing, illustrated the enhancement of green space from a south east view of the Tupper Building and the LSRI. He noted that the pedway will be safe and well lit.

Mr. Basset went on to advise that a ground level snow drift study has been undertaken. The results of the pedestrian wind study have indicated that wind comfort and safety results are appropriate for walking both winter and summer. Mr. Basset noted that an exhaust dispersion study had resulted in enhancements to the design of the building. Mr. Basset then turned to the findings of the shadow study noting that they indicate there is no significant impact on the appellant's building.

Geoff Lamb, Director of Facilities Management, Dalhousie

Mr. Lamb briefly provided further detail with regard to the findings of the shadow study reiterating that there is no impact on the 5845 College Street building. Mr. Lamb noted that there is some shadow effect, but no greater than when the Grace Maternity Hospital was on the site. He noted that the appellant's building was more impacted by shadow's created by the Tupper Building.

The Chair called three times for persons wishing to speak in favour or against the appeal.

Hearing none, it was **MOVED by Councillor Sloane, seconded by Councillor Murphy that the appeal hearing close. MOTION PUT AND PASSED UNANIMOUSLY.**

Councillor Sloane expressed concern that as the Councillor for the for the area she had not been not aware of this application until last week. She noted that she was pleased that a wind and shadow/sun study had been done.

MOVED by Councillor Sloane, seconded by Councillor Murphy that Peninsula Community Council uphold the decision of the Development Officer and allow the appeal.

Councillor Sloane again expressed concern regarding the notification and **MOVED, seconded by Councillor Uteck that the motion be amended to provide that approval be subject to the Solicitor confirming that there is no requirement for notification of individual condominium owners.**

The MOTION TO AMEND WAS PUT AND PASSED.

The question was then called on the amended motion as follows:

That Peninsula Community Council uphold the Development Officer's decision to approve the variance and to deny the appeal subject to the Municipal Solicitor confirming that there is no requirement for notification of individual condominium owners.

The MAIN MOTION WAS PUT AND PASSED UNANIMOUSLY.

8.2.2 Appeal of the Decision of the Development Officer to Refuse a Variance of the Gross Floor Area Ratio - 1064 Ridgewood Drive

- A staff report dated December 6, 2005 was before Community Council.

Mr. Andrew Faulkner, Development Officer, briefly reviewed the appeal of the Development Officer's decision to refuse a variance from the Gross Floor Area Ratio requirements of the Halifax Peninsula Land Use By-law to permit construction of a single unit dwelling as contained in the December 6, 2005 staff report. Mr. Faulkner indicated that staff is recommending that Community Council uphold the decision of the Development Officer.

Erla Laurie, Project Manager for the appellant

Ms. Laurie addressed Community Council advising that she had not been aware of the new Land Use By-law proposal at the time this project was being planned. She went on to indicate that she and her husband own three properties adjacent to 1064 Ridgeway Road and indicated that she had no objection to the proposal as a neighbour. Ms. Laurie reviewed the square footage of existing homes in the neighbourhood and noted that most of them were quite large. Ms. Laurie indicated that her clients required more than the five bedrooms permitted to meet the needs of the family.

Blair Miller, the appellant

Mr. Miller addressed Community Council noting that it was not intended that the changes to the By-law would apply to single family dwellings. He went on to indicate that the home he was proposing only occupied 19% of the full lot. Mr. Miller went on to indicate that he agreed with what HRM is trying to do relative to rooming houses, however, his proposal was for a single family dwelling that was in keeping with the neighbourhood.

Danny Chedrawe, neighbour

The Chair determined that Mr. Chedrawe was not eligible to speak with regard to this matter as he did not live within the area of notification.

MOVED by Councillor Sloane, seconded by Councillor Murphy that the appeal hearing close. MOTION PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Uteck, seconded by Councillor Sloane that Peninsula Community Council overturn the decision of the Development Officer and allow the appeal.

Councillor Uteck indicated that the changes to the Bylaw regarding Gross Floor Area were not intended to deter families from settling on the Peninsula.

MOTION PUT AND PASSED UNANIMOUSLY.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

9.3 Presentations

9.3.1 Closure of HRM Private Lane - June Street to Princess Place (Pierre Heelis)

Mr. Pierre Heelis, a resident of June Street, using a site plan described the public right of way between June Street and Princess Street. He noted that the right of way created a dead space behind four properties on June Street which attracts a significant amount of loitering. He indicated that his home has been vandalized a number of times in the four years he has lived on June Street. Mr. Heelis went on to note that he has spent approximately \$2,500 replacing windows and has had his home broken into twice with a

loss of \$2,000 in possessions. Mr. Heelis indicated that his neighbours have experienced similar problems.

Mr. Heelis went on to impress upon Community Council that all types of inappropriate activity occurs in the lane. He reiterated that loitering is a problem, and advised that condoms have been found in the lane, individuals defecate and dump illegally in the lane. Mr. Heelis noted that a vehicle had even driven down the lane to avoid the police.

Mr. Heelis requested, on behalf of the neighbourhood, that the lane be closed. He noted that there is disagreement as to whether the lane is a private or public space. Mr. Heelis indicated that he believed HRM was responsible for and owned the lane, however, HRM has denied this. Mr. Heelis noted that the lane is a public right of way and as such approval to close the lane lies with Council.

Mr. Heelis used a sketch to illustrate the type of gate which the neighbourhood would like to install on either end of the lane. Mr. Heelis went on to advise that once the closure has been accomplished the neighbourhood residents group will meet to discuss the development of a public space for the neighbourhood. The lane would then be gated and controlled by the neighbourhood providing an amenity where once there had been only a trouble area.

Mr. Heelis submitted a petition containing approximately 18 names supporting the closure of the public right of way between June Street and Princess Place. A copy is on file.

MOVED by Councillor Sloane, seconded by Councillor Uteck that staff provide a report regarding the ownership of the land and possible alternatives in terms of closure of the lane.

The Chair noted that if in fact this is a public right of way and closure is to be considered, the matter will have to be forwarded to Regional Council.

MOTION PUT AND PASSED UNANIMOUSLY.

10. REPORTS

10.1 Staff Reports

10.1.1 Schedule of 2006 Meetings

- A staff report dated December 6, 2005 was before Council for consideration.

MOVED by Councillor Sloane, seconded by Councillor Murphy that Peninsula Community Council approve the following meeting schedule for 2006:

**January 9, 2006
February 13, 2006
March 6, 2006
April 10, 2006
May 8, 2006
June 12, 2006
July 10, 2006
August 14, 2006
September 11, 2006
October 2, 2006
November 6, 2006
December 11, 2006**

MOTION PUT AND PASSED UNANIMOUSLY.

10.2 District 12 PAC

10.2.1 Case 00665: Rezone 5220 Morris Street, Halifax

- A December 1, 2005 report from the District 12 PAC, with attached November 14, 2005 staff report, was before Community Council.

Ms. Randa Wheaton, Planner, provided a brief overview of the application to rezone 5220 Morris Street, Halifax, as contained in the November 14, 2005 staff report. Ms. Wheaton noted that the District 12 PAC is recommending that Community Council reject the application while staff is recommending that Community Council approve the proposed rezoning.

Councillor Sloane noted that residents of the area are not in favour of the application as they are concerned with the continued erosion of their community. She further indicated that the District 12 PAC is not in favour because of the loss of commercial at ground level.

Recognizing both the position of the residents and that of the District 12 PAC, it was **MOVED by Councillor Sloane, seconded by Councillor Uteck that Peninsula Community Council give First Reading to the proposed rezoning of 5220 Morris Street from RC-3 (High Density Residential/Minor Commercial Zone) to C-2A (Minor Commercial Zone) as set out in Attachment A of the November 14, 2005 staff report**

and set January 9, 2005 as the public hearing date. **MOTION PUT AND PASSED UNANIMOUSLY.**

10.2.2 Harvey Street Parking Lot - Townhouses

- A December 1, 2005 report from the District 12 PAC was before Community Council.

Councillor Sloane noted that the recommendation contained in the District 12 PAC report will achieve what the residents have stated they wish to see developed on these lands.

MOVED by Councillor Sloane, seconded by Councillor Uteck that, as recommended by the District 12 PAC, staff prepare a report to rezone and redesignate the parking lot on Harvey Street associated with a federal office building located at 1256 Barrington Street, Halifax from R-2A to a zone and designation that would only allow townhouses to be developed on the site. MOTION PUT AND PASSED UNANIMOUSLY.

11. MOTIONS

11.1 Councillor Uteck - Exemption - Gross Floor Area Dwelling Requirements

- Notice of Motion regarding this matter was given at the November 7, 2005 meeting of Peninsula Community Council.

MOVED by Councillor Uteck, seconded by Councillor Murphy that staff provide a report outlining possible amendments regarding the continued use of the gross floor area requirements and the allowing for additional bedrooms in houses where the number of bedrooms is low in comparison to its total floor area. MOTION PUT AND PASSED UNANIMOUSLY.

12. ADDED ITEMS - None

13. NOTICES OF MOTION - None

14. PUBLIC PARTICIPATION

Hugh Pullen, Halifax

Mr. Pullen asked whether in the case of the variance relative to 1064 Ridgewood Drive it would not have been better to deal with the matter through a Development Agreement rather than a variance.

The Chair noted the two processes were very different and suggested that Councillor Uteck follow up with staff in this regard.

Chris Beaumont, Halifax

Mr. Beaumont, referring to agenda item 8.1.1, Case 00835, noted that Councillor Uteck had specifically asked whether the balconies were changed from what was originally approved, and staff advised they were not. In essence the Councillor was told that the balconies were overhanging under the previously approved proposal which is not correct. The plans indicate that the balconies were recessed. Mr. Beaumont indicated that staff should give accurate answers to questions.

Steve Tsmikilus, Halifax

Mr. Tsmikilus, using a sketch and referring to the overhanging balconies, clarified that the building has been moved back so as not to interfere with the adjacent buildings which would be most affected. He further indicated that the building is now only 60 feet wide rather than 80 feet wide. Mr. Tsmikilus indicated that attention was paid to the concerns expressed regarding the balconies.

15. **NEXT MEETING** - January 9, 2006

16. **ADJOURNMENT**

The meeting adjourned at 9:00 p.m.

Sherryl Murphy
Legislative Assistant