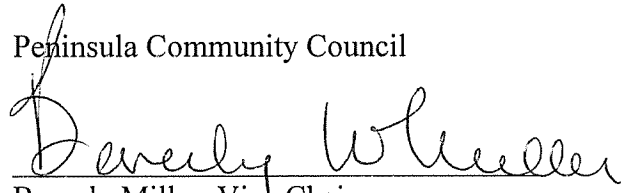


Peninsula Community Council
March 6, 2006

TO: Peninsula Community Council

SUBMITTED BY:


Beverly Miller, Vice Chair
District 12 Planning Advisory Committee

DATE: February 28, 2006

SUBJECT: Case 00877 - Halifax Port Authority Development Agreement

ORIGIN

District 12 Planning Advisory Committee meeting - February 27, 2006

RECOMMENDATION

The District 12 Planning Advisory Committee recommend that Peninsula Community Council:

1. Give Notice of Motion to consider the proposed development agreement (Attachment A of the staff report dated February 15, 2006), and schedule a public hearing;
2. Approve entering into the proposed development agreement to allow for the establishment of the non-harbour related industrial uses described within the proposed agreement;
3. Require that the agreement be signed within 120 days, or any extension thereof granted by Council on the request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever approval is later, including applicable appeal periods; otherwise, this approval will be void and obligations arising hereunder shall be at an end.

ATTACHMENT:

Staff report dated February 15, 2006

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Gail Harnish, Admin/PAC Coordinator, 490-4937

District 12 PAC
February 27, 2006

TO: District 12 Planning Advisory Committee

SUBMITTED BY:


Paul Dunphy, Director of Planning and Development

DATE: February 15, 2006

SUBJECT: Case 00877 - Halifax Port Authority Development Agreement

ORIGIN

Application from Halifax Port Authority.

RECOMMENDATION

It is recommended that Peninsula Community Council:

1. Give Notice of Motion to consider the proposed development agreement (Attachment A), and schedule a public hearing;
2. Approve entering into the proposed development agreement to allow for the establishment of the non-harbour related industrial uses described within the proposed agreement;
3. Require that the agreement be signed within 120 days, or any extension thereof granted by Council on the request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever approval is later, including applicable appeal periods; otherwise, this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

On August 3, 2006, Peninsula Community Council approved a development agreement with the Halifax Port Authority to allow several non-harbour related industrial uses within existing buildings on its lands (see Map 1) as follows:

1. Immigration Annex: A micro-brewery (Garrison Brewery);
Bakery/cafe; and
Offices and art studios/workshops (many of which have existed for several years but are not in conformance with the Land Use Bylaw).
2. Pier Shed 21: An art school (a new second campus of the Nova Scotia College of Art and Design;
A restaurant; and
Offices and art/studio workshops.

Following the approval, the HPA expressed a concern to staff that by entering into the development agreement it could be ceding some of its rights as a federal crown corporation. While deliberations about this matter ensued, the 120 days within which Council requires that a development agreement be signed by a Developer, expired; making it void. Council is therefore requested to consider the application for the development agreement again, but with the following changes:

- The inclusion of clauses to indicate that the HPA is not ceding any of its crown corporation rights by entering into the development agreement;
- A broadening of the allowable uses within the Immigration Annex space that was previously identified for a Bakery/café use, on the basis that the HPA is of the opinion that this specific land use limitation is too restrictive.

DISCUSSION

Information about the proposal and analysis of the Municipal Planning Strategy is contained in the original staff report (Attachment B).

Analysis of the Proposed Changes

The HPA's proposal to include language about its rights may be found in Part 7 of the proposed development agreement, with cross-references to Part 6. The proposed clauses are simply statements that identify that the HPA has specific rights as a crown corporation; they do not inhibit the municipality's jurisdiction over land use planning and development control as they relate to the proposed development.

The proposed broadening of the land use definition for “bakery/café” relates to a section of the Immigration Annex that is to be shared with a micro-brewery. The previous definition was:

“Bakery/café means premises within which bread, pastries, and other similar goods are produced, and may be shipped off site or sold on premises.”

The new proposed definition is:

“Bakery/cafe means premises within which baked goods or other foods, including prepared meals, are produced and shipped off-site and/or sold at the premises, but does not include a full-service restaurant.”

In considering this change, it is appropriate to review the following policy of the Municipal Planning Strategy:

- “4.1.1.1 Council may consider the development of non-harbour related commercial and industrial use in areas designated “Industrial” and zoned harbour related uses only by development agreement provided that the long term intent of these areas for harbour industrial uses is preserved. In considering such developments Council shall ensure that the proposed use:
- a) is not detrimental to the port or other harbour related industries;
 - b) will generate only a level of vehicle trips that can be reasonably accommodated on the present city street system; and
 - c) that the long term intent that the area be used for harbour related uses is preserved.”

Staff conclude that the proposed change is relatively minor in scope and still relates favourably to the above conditions.

Public Participation Meeting

Given the relatively minor scope of the changes being proposed since the original development agreement was considered, a public information meeting was not held.

BUDGET IMPLICATIONS

None.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

The following alternatives may be considered by Peninsula Community Council:

1. Council may approve the development agreement. This is the recommended alternative.
2. Council may choose to reject the proposed agreement giving specific reasons. This alternative is not recommended, as staff advise the proposed agreement satisfactorily complies with the policies and intent of the MPS.

ATTACHMENTS

Map 1 - Zoning

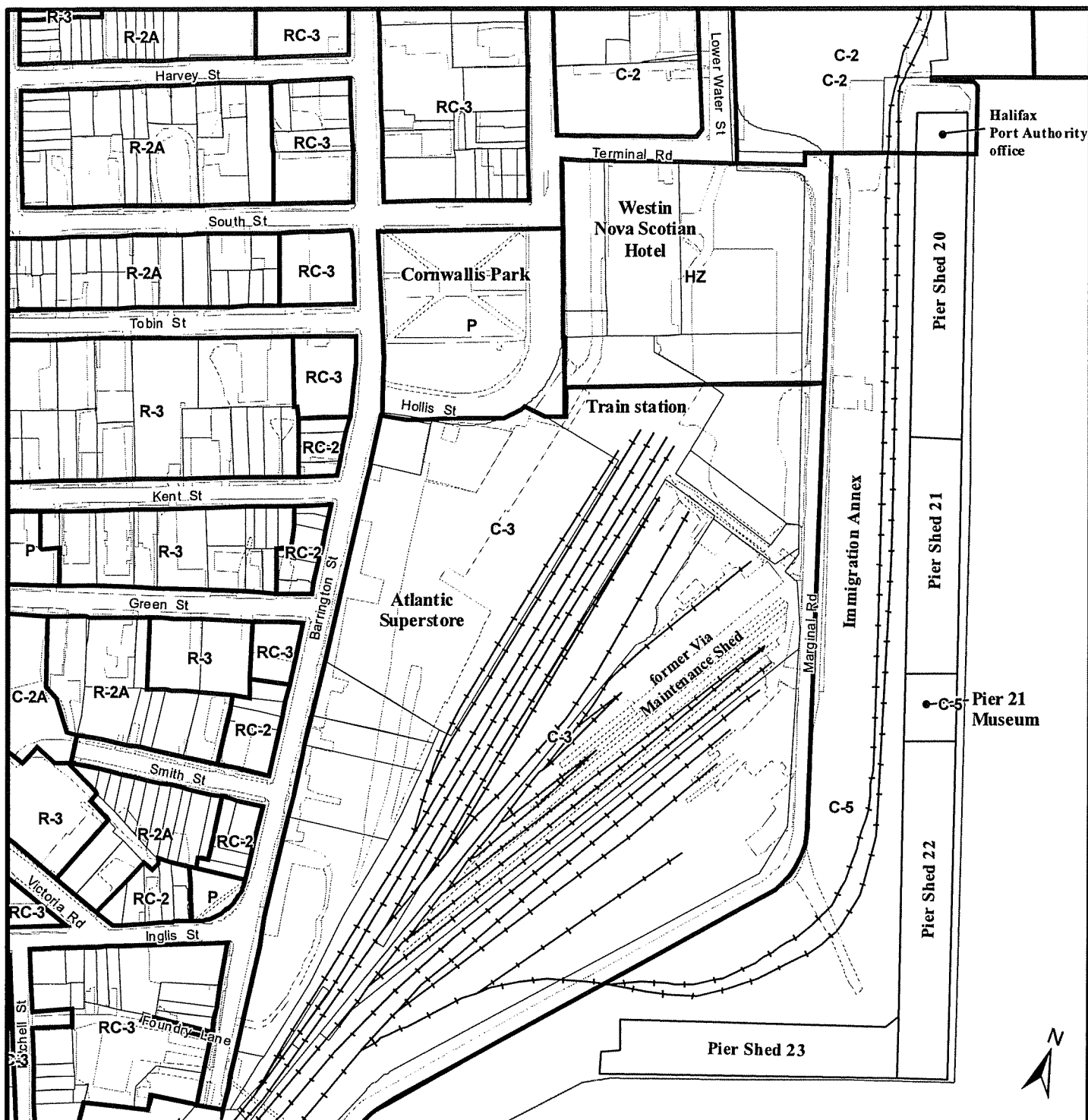
Attachment A - Proposed Development Agreement

Attachment B - Original Staff Report (without Attachments)

Attachment C - Original Public Participation Meeting Minutes

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Richard Harvey, Planner II, 490-3691



Map 1 - Zoning

Marginal Road
Halifax

Halifax Peninsula
Land Use By-Law Area

Zone

R-2A	General Residential Conversion
R-3	Multiple Dwelling
RC-2	Residential Minor Commercial
RC-3	High Density Residential Minor Commercial
C-2	General Business
C-3	Industrial
C-5	Harbour-related Industrial
HZ	Hotel
P	Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES

0 20 40 60
m

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law area.

HRM does not guarantee the accuracy of any representation on this plan.

Attachment "A" - Proposed Development Agreement

THIS AGREEMENT made this day of , 2006,

BETWEEN:

HALIFAX PORT AUTHORITY
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,
a body corporate, in the County of
Halifax, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located on Marginal Road, a private road owned by the developer (PID 00483024), Halifax, Nova Scotia, and which said lands are more particularly described in Schedule 'A' to this Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for several non-harbour related industrial uses, pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for the former City of Halifax;

AND WHEREAS the Peninsula Community Council approved this request at a meeting held on _____, referenced as Municipal Case Number 00877;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

PART 1: DEFINITIONS

Arcade means the area between the Pier Shed 21 and Immigration Annex buildings that may be completely or partially covered by a roof along the length of these buildings, and which is fully open at either end to provide passage of pedestrians and vehicles.

Art school means a post secondary educational institution that is licenced by the Province of Nova Scotia, which is comprised of classrooms; workshops for the fabrication of art; laboratories; exhibition halls; administrative suites; libraries; and/or; common areas and amenities for students, instructors, and administrators; but which shall not include residences.

Art workshop/studio means premises within which sculptures, paintings, photographs, furniture, crafts, apparel, or other forms of arts or crafts are produced or displayed, and may be sold to the public.

Bakery/café means premises within which baked goods or other foods, including prepared meals, are produced and shipped off-site and/or sold at the premises, but does not include a full-service restaurant.

Existing means the date in which this development agreement is approved by the Peninsula Community Council.

Micro-brewery means premises within which alcoholic and non-alcoholic beverages are produced and shipped offsite or sold on the premises, but not sold for consumption at the premises; and may include a retail store for the sale of brewery related merchandise and tours of the premises.

Office means a building or part thereof, designed, intended or used for: The practice of a profession; The carrying on of a business; or where not conducted on the site thereof, the administration of an industry; but shall not include a retail commercial use, any industrial use, clinic, financial institution, or place of assembly.

PART 2: GENERAL REQUIREMENTS AND ADMINISTRATION

2.1 General Conditions

- 2.1.1 The lands shall be subdivided, developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 2.1.2 Except as otherwise provided for herein, the development and use of the lands shall comply with the requirements of the Land Use By-law for Halifax Peninsula, as may be amended from time to time.

- 2.1.3 Pursuant to Section 2.1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.
- 2.1.4 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 2.1.5 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any lands owned by the Developer or lot owner.
- 2.1.6 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules

- 3.1.1 The Developer shall develop and use the Lands in conformance with the site plans, design drawings, renderings, and supporting technical documents, attached as the following Schedules to this Agreement:
- | | |
|--------------|--|
| Schedule "A" | Legal Description of the Lands of Halifax Port Authority, identified as Property Identification number (PID) 00483024. |
| Schedule "B" | Site Plan |

3.2 Permitted Uses

- 3.2.1 The use of the lands permitted by this Agreement shall be:
- (a) An art school occupying a maximum of 70,000 square feet of gross commercial floor area within the building referred to as "Shed 21" and as shown on Schedule "B";
 - (b) Restaurant(s) occupying a maximum of 7,000 square feet of gross floor area

- within the building referred to as Shed 21 as shown on Schedule "B";
- (c) Art workshops/studios within the remaining gross commercial floor area within the building referred to as "Shed 21" as shown on Schedule "B";
- (d) A micro-brewery and bakery/café occupying a combined maximum of 10,000 square feet of gross commercial floor area within the building referred to as "Immigration Annex" as shown on Schedule "B";
- (e) Offices and art workshops/studios within the remaining gross commercial floor area within the building referred to as "Immigration Annex" as shown on Schedule "B";
- (f) Periodic public assembly events and any temporary extension of any the adjacent uses that are permitted by this Agreement, such as the installation of seating associated with the bakery, within the arcade area referred to in 3.3.1 (b), between the Immigration Annex and Pier Shed 21 buildings and to the North of the Immigration Annex building; and
- (g) Any accessory uses to the foregoing.

3.2.2 The Development Officer may approve minor changes in gross floor areas occupied by the uses identified in 3.2.1.

3.3 Building Alterations and Additions

3.3.1 The following alterations and additions to the existing buildings shall be permitted:

- (a) "Shed 21" may be enlarged through the construction of a new facade on its land side (that which faces the "Immigration Annex"), which may extend beyond the current face of the building by a maximum of six (6) metres;
- (b) An arcade, or any section or part thereof, may be constructed between "Shed 21" and the "Immigration Annex", which may be periodically closed to general vehicular traffic through gates or other similar means;
- (c) A silo associated with the micro-brewery, of a maximum height of 45 feet may be constructed to the North of the "Immigration Annex"; and,
- (d) Any other alterations may be permitted that in the opinion of the Development Officer are minor nature, in that they do not alter the overall style of the buildings, except as identified above.

3.3.2 No structural alterations shall be permitted which, in the opinion of the Development Officer, would preclude the buildings from being converted to a use permitted by the Harbour Related Industrial (C-5) Zone of the Halifax Peninsula Land Use Bylaw.

3.4 Parking

- 3.4.1 Prior to the issuance of any development permit pursuant to this Agreement, the developer shall submit a Parking Plan and Report, that is acceptable to the Development Officer, which identifies the location of parking areas and the number of spaces required for each use permitted by this Agreement and any existing or anticipated uses that are subject to the Harbour Related Industrial (C-5) Zone.
- 3.4.2 Prior to the occupancy of any building or premise by any tenant or land use permitted by this Agreement, the Developer shall have established any parking areas and parking spaces identified within the Parking Plan and Report pursuant to 3.4.1.

3.5 Signs

- 3.5.1 Signs shall be permitted pursuant to the requirements of the Land Use Bylaw.

3.6 General Maintenance

- 3.6.1 The developer shall maintain and keep the buildings and site in good repair and condition.

3.7 Applicability of Other Development Agreements

- 3.7.1 This Agreement shall be separate from any other Development Agreements that are applicable to the Lands, namely those for the Pier 21 Society and RCR Catering Limited.

PART 4: AMENDMENTS

4.1 Non-Substantive and Substantive

- 4.1.1 The provisions of this agreement relating to the following matters are identified as, and shall be deemed to be, not substantive and may be amended by resolution of the Community Council:
 - (a) Changes to the land uses; their location identified on Schedule "B"; and related gross floor area size specifications identified in 3.2.1.
- 4.1.2 Amendments to any matters not identified under 4.1.1 shall be deemed to be substantive and may only be amended in accordance with the adoption of development agreement requirements of the Municipal Government Act.

PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

5.1 Registration

- 5.1.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.

5.2 Effect of Conveyances

- 5.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.

5.3 Discharge

- 5.3.1 In the event that any of the requirements of this agreement are not undertaken as per its specifications, the Municipality may, by resolution of Council, discharge this Agreement, whereupon this Agreement shall have no further force or effect.
- 5.3.2 In the event that construction of the project has not commenced within one year from the date of approval of this Agreement by the Municipality, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction. For the purposes of this section, "commencement of construction" shall mean the issuance of a development permit.
- 5.3.3 Upon the completion of the development or portions thereof, or within two years from the date of approval of this Agreement, whichever time period is less, Council may review this Agreement, in whole or in part, and may:
- (a) Retain the Agreement in its present form;
 - (b) Negotiate a new Agreement; or
 - (c) Discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

6.1 Conditions

- 6.1.1 Subject to the provisions of 7.1.1, the Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within one day of receiving such a request.
- 6.1.2 Subject to the provisions of 7.1.1, if the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:
- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
 - (b) The Municipality may enter onto the Property and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the development agreement, whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants or remedial action, shall be a first lien on the Property and be shown on any tax certificate issued under the Assessment Act.
 - (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
 - (d) In addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

PART 7: FEDERAL RIGHTS AND OBLIGATIONS

7.1 Rights and Obligations

- 7.1.1 The Municipality confirms that it recognizes that entering onto this Agreement, the Halifax Port Authority is not ceding any of its right in respect to the Crown lands.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF:

)	HALIFAX PORT AUTHORITY
)	
)	
)	
)	
per: _____)	per: _____

Sealed, Delivered and Attested)	HALIFAX REGIONAL MUNICIPALITY
by the proper signing officers of)	
Halifax Regional Municipality)	
duly authorized on that behalf)	per: _____
in the presence of:)	MAYOR
)	
)	
per: _____)	per: _____
		MUNICIPAL CLERK

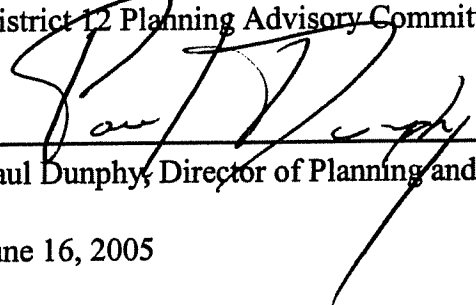
Attachment B - Original Staff Report (without Attachments)



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

District 12 Planning Advisory Committee
June 27, 2005

TO: District 12 Planning Advisory Committee

SUBMITTED BY: 
Paul Dunphy, Director of Planning and Development

DATE: June 16, 2005

SUBJECT: Case 00787- Halifax Port Authority Development Agreement

ORIGIN

Application from Halifax Port Authority for a development agreement.

RECOMMENDATION

It is recommended that the District 12 Planning Advisory Committee recommend that Peninsula Community Council:

1. Give Notice of Motion to consider the proposed development agreement (Attachment B), and schedule a public hearing;
2. Approve entering into the proposed development agreement to allow for the establishment of the non-harbour related industrial uses described within the proposed agreement;
3. Require that the agreement be signed within 120 days, or any extension thereof granted by Council on the request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever approval is later, including applicable appeal periods; otherwise, this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Site, Surroundings and History

The subject site is located in the South End of Halifax (Map 1) and is sometimes referred to as the “Seawall” district. It is characterized by long, two-storey Pier Sheds that extend along the harbour’s edge having loading doors and platforms along their length and large, steel frame interiors. The site is currently managed by the Halifax Port Authority (HPA), a federal Crown corporation.

The Pier Sheds were originally used to warehouse goods being transferred to and from ships. Between 1928 and 1971, Pier Shed 21 and the adjacent Immigration Annex were points of entry for immigrants to Canada and during the Second World War, as a transfer terminal for military personnel. This entire area is historically industrial in character, with railway yards to its East, active industrial port activity to its South and the former Nova Scotia Power plant immediately North.

The demise of the original uses of the Pier Sheds and Immigration Annex stemmed from the advent of cargo containers and the decline of immigration by ship. Part of Pier Shed 21 is now an immigration museum. All or parts of Pier Sheds 20, 21, and 22 currently receive cruise ships. Pier Shed 21 currently houses seasonal kiosks and stalls offering retail and other services to the passengers and the south end of Pier Shed 22 contains a seasonal restaurant. Other sections of the Pier Sheds are largely vacant or used for storage. The immigration Annex is currently occupied by a police office, professional offices and artisan workshops and studios.

Application

The development agreement application is to establish several non-harbour related industrial and commercial uses within the following two buildings:

1. Immigration Annex: A micro-brewery;
Bakery; and
Offices and art studios/workshops (many of which have existed for several years but are not in conformance with the Land Use Bylaw).
2. Pier Shed 21: An art school (a new second campus of the Nova Scotia College of Art and Design;
A restaurant; and
Offices and art/studio workshops.

These uses are proposed to be permitted through a development agreement enabled under Municipal Planning Strategy (MPS) policy which provides for the establishment of non-harbour related industrial uses.

Although the intention is to retain the existing Pier 21 and Annex buildings, there are several physical changes to the buildings that are proposed with this application, as follows:

- A proposed seven metre extension and new facade for Pier Shed 21, on the street side of the building (toward the Immigration Annex). This would allow tenants to temporarily or permanently expand their premises and where necessary, to install stairs, ramps and loading bays;
- An arcade, in the form of a transparent roof between the Pier Shed and Immigration Annex to be open at either end, which will allow for continued vehicular traffic, but which may be closed off to traffic for special events including the arrival of a cruise ships; and
- A 45 foot high stainless steel silo at the north end of the Immigration Annex for the proposed micro-brewery.

With the establishment of the proposed non-harbour related industrial and commercial uses, the HPA plans to reconfigure and expand its cruise ship facilities, including the establishment of berthing facilities at Pier Shed 23.

The HPA's long term plan for the Seawall is to establish a new "Arts and Cultural District". The plan is to incorporate a much broader mixture and intensity of uses through the introduction of new buildings and facilities alongside expanded cruise ship facilities. This however, will be the subject of a future application to Regional Council in which the HPA will request amendments to the Municipal Planning Strategy in order to establish a new district designation. The HPA intends to make application after further analysis, studies and conceptual designs have been undertaken in order to support a proposed redesignation.

DISCUSSION

Zoning and Municipal Planning Strategy

The subject site is located within the Harbour Industrial Related (C-5) Zone, which generally permits uses that are dependant upon the harbour, including the cruise ship facilities that dominate this site (see Map 1). The C-5 Zone reflects the intent of the Industrial Section of the City Wide Policies of the MPS, which in Policy 4.1 states that, "On the Peninsula, along the harbour's edge, only those industries which are harbour-related should be encouraged and allowed to grow."

Following Policy 4.1, there is an exception to the exclusively harbour industrial intent of the zoning, through Policy 4.1.1.1 which states:

- "4.1.1.1 Council may consider the development of non-harbour related commercial and industrial use in areas designated "Industrial" and zoned harbour related uses only by development

agreement provided that the long term intent of these areas for harbour industrial uses is preserved. In considering such developments Council shall ensure that the proposed use:

- a) is not detrimental to the port or other harbour related industries;
- b) will generate only a level of vehicle trips that can be reasonably accommodated on the present city street system; and
- c) that the long term intent that the area be used for harbour related uses is preserved.”

This policy has been used on two previous occasions to allow for the establishment of the restaurant, at the south end of Pier Shed 22 and the Pier 21 Museum.

Public Information Meeting

A public information meeting was held on May 19, 2005 (Attachment A). Most of the discussion focussed on clarifying the proposal. There were seemingly no outright objections; but there was a concern raised about the retention of the lands and buildings for possible future industrial uses. This matter is addressed in this report.

Review of Policy 4.1.1.1

In this application the most important considerations are the overall intent of the MPS and in particular, the criteria of Policy 4.1.1.1, which are reviewed as follows:

a) Not Detrimental to Port or Other Harbour-related Industries

Land use activities on most other C-5 Zoned lands are truly industrial, typified by shipyards and shipping terminals. The uses being proposed in this application would be viewed as being detrimental to those activities under other circumstances. However, as the subject site is primarily used for cruise ship facilities, staff suggest that a range of non-harbour related industrial and commercial uses could be established without being detrimental to port or harbour-related industries. In fact, the uses being contemplated through this application may arguably be complementary to the cruise ship business by providing passengers with amenities and a broader experience of arrival and departure. This is similar in some respects to airports which typically contain a wide array of services and facilities alongside industrial activities.

b) Level of Vehicle Trips Can Be Reasonably Accommodated on Present Street System

In support of the application, a traffic impact study was prepared by BA Group Transportation Consultants on behalf of the HPA. It has projected that the proposal will generate an additional 30 additional vehicles arriving and departing the site during peak morning and afternoon periods. Based upon this and other analysis, the consultants have concluded the present street system can accommodate the anticipated level of traffic that will be generated from the site. Staff agree with these conclusions.

It is expected that some students may use public transit in travelling to and from the proposed college campus. Although this matter is not the subject of a particular policy criteria, staff note that there is no direct transit service to this site. However, there is bus service within the vicinity of Cornwallis Park, which is within Metro Transit's guidelines as an acceptable walking distance from the proposed development. Discussions about extending transit service to the site may be a possibility, depending upon the routing possibilities and the actual demand once the proposed development is fully established.

It is also expected that some regular users and visitors may travel to the site by automobile. The consultant's report has projected an expected number of parking spaces that will be required and has identified the availability of existing and future parking spaces on the site and surrounding area. The report indicated that the observed peak use of parking spaces was 240 and that the additional number of parking spaces required by the proposed uses is approximately 55. Further to this, the HPA has designated existing parking areas that can accommodate a total of 490 spaces.

c) Long Term Intent for the Area to be Used for Harbour Related Uses is Preserved

The proposed building conversions do not diminish the capability of HPA to receive cruise ships; in fact the HPA expects the cruise ship business to increase into the future. In support of this, it plans to renovate Pier Shed 23 for additional berthing and passenger facilities. Although proposed changes to the exterior of Pier Shed 21 and the Immigration Annex will accommodate new uses proposed under this application, they are not of nature that would prevent the buildings from being reconverted back into harbour related industrial uses, particularly cruise ship related facilities, in the future.

Staff conclude that the proposed uses within this application are consistent with Policy 4.1.1.1. However, it should be noted that any further broadening of the range or intensity of non-harbour related uses will likely need to be considered through the implementation of a new MPS district designation. The rationale for this is that apart from Policy 4.1.1.1, consideration needs to be given to the wider objectives of the MPS that at this time do not contemplate the type of mixed use "Arts and Cultural District" within the current Industrial Designation and the C-5 Zone.

Proposed Development Agreement

The proposed development agreement applies specifically to the non-harbour industrial uses that are to occupy the Immigration Annex and Pier Shed 21. The previous development agreements for the seasonal restaurant and Pier 21 Museum remain in place. Highlights of the proposed agreement are:

- The uses identified within this report - an art school (NSCAD); art workshops and studios; offices; a micro-brewery; a bakery; and a restaurant would be permitted;

- Modifications to the existing Pier Shed 21 and Immigration Annex buildings would be permitted provided such changes do not preclude reconversion to harbour related industries;
- Requirements for a parking plan that provides for the development of spaces as identified in the HPA's consultants' report.

BUDGET IMPLICATIONS

None.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

The following alternatives may be considered by Peninsula Community Council:

1. Council may approve the development agreement. This is the recommended alternative.
2. Council may choose to reject the proposed agreement giving specific reasons. This alternative is not recommended, as staff advise the proposed agreement satisfactorily complies with the policies and intent of the MPS.

ATTACHMENTS

Map 1 - Reference Map with Zoning
Attachment A - Public Participation Meeting Minutes
Attachment B - Proposed Development Agreement

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Richard Harvey, Planner II, 490-3691

Attachment C - Original Public Information Meeting Minutes
Case 00787
May 19, 2005

In attendance: Councillor Sloane
Richard Harvey, Planner, Planning & Development Services
Gail Harnish, Planning & Development Services
Ron Taylor, Halifax Port Authority

Mr. Richard Harvey called the public information meeting (PIM) to order at approximately 7:00 p.m. in the South Pavilion of Pier 21.

Mr. Harvey advised the request was for a development agreement by the Halifax Port Authority. A development agreement is a contract between the Municipality and the property owner. He briefly reviewed the development agreement process:

- a formal application has been submitted
- tonight we are holding the PIM
- there is a detailed review of the application
- a draft development agreement is negotiated and a staff report is prepared by Planning Services
- the report is tabled with the District 12 Planning Advisory Committee who will make a recommendation
- the staff report and the Planning Advisory Committee recommendation is tabled with Peninsula Community Council who will decide whether or not to hold a public hearing. They can reject it or schedule a public hearing.
- Community Council will make a decision following the public hearing
- there is the potential for an appeal to the N.S. Utility and Review Board

Mr. Harvey pointed out Cornwallis Park, Westin Hotel, and Marginal Road on a map. The area we are looking at concerns the Immigration Annex and the Pier 21 shed (pointed out). The zoning is C-5 (Harbour Related-Industrial). He displayed the list of permitted uses in the C-5 zone, noting it allows for a wide variety of uses dependent on the harbour, ie., bulk product, container and general cargo storage and handling, as well as other industrial uses in which marine vessels and direct access to salt water are necessary, etc.

Mr. Harvey noted that the municipal planning strategy (MPS) contains policies that provide some explanation as to the application of zoning. The MPS indicates that on the Peninsula, along the harbour's edge, only those industries which are harbour-related should be encouraged and allowed to grow. However, there is a policy which allows Council to consider development which is non-marine related industrial by way of development agreement. There are three primary considerations in evaluating a development agreement such as this. Council shall ensure that the proposed use:

- is not detrimental to the port or other harbour related industries;
- will generate only a level of vehicle trips that can be reasonably accommodated on the present city street system; and
- that the long term intent that the area be used for harbour related uses is preserved.

Mr. Harvey indicated there are two uses on this site that have been considered and approved by Council through this policy: a restaurant and the museum. Both uses have a development agreement for them.

Mr. Ron Taylor advised they are talking about the area comprised of the Immigration Annex and Shed 21. He pointed out the area of the annex building which is occupied by a variety of artists, designers, and crafts people. He also pointed out the former Via maintenance building which has been converted into an interpretative centre, noting it is not part of the discussion this evening. The sheds are primarily used for the cruise industry. They accept about 200,000 cruise passengers each summer and there are a variety of amenities and services to offer to them.

Mr. Taylor summarized their development objectives:

- expand and enhance cruise ships, visitor facilities and services
- establish a new art district - a catalyst to growth in the arts and crafts industry
- create new jobs and economic benefits
- be financially self-sufficient and sustainable in the long-term
- be a source of civic pride for Halifax and Nova Scotia in a new waterfront destination

Mr. Taylor summarized their guiding principles:

- people first - this is your place
- inclusive process
- smart growth principles
- 24/7 year round - for the people that work here as well
- sustainable development approach
- accommodate busses
- financially self-sufficient

Mr. Taylor indicated in their design they would consider:

- views/access to the water
- new gateways/pedestrians and greater public open spaces
- appropriate street parking and public transportation system
- safe, secure and comfortable
- design appearance

Mr. Taylor indicated that in developing the implementation strategy over the past 1.5 years, they looked at a wide range of program components. Since the last meeting they have been trying to understand which of them made sense (Program - Visitor District):

- Marquee port of call destination
- new homeport terminal
- multi-model transportation hub
- visitor centre/services
- shops, restaurants and quick cuisine
- exhibition centre
- venue for festivals and special events

Mr. Taylor summarized the Program - Art District:

- expand place for artists to work
- diverse workplace accommodation for artists
- sharing bus facilities and equipment
- introduce permanent exhibit and sales area for the working artists
- film/media/broadcasting
- education and training

Mr. Taylor stated they are committed to undertaking a full plan for the entire area and have been working in cooperation with HRM to do that and will be doing so in the coming months. In the shorter term, they have some more immediate needs which they are requesting to move forward on relative to Shed 21 and the Annex building.

Mr. Taylor pointed out an area of yellow and grey which is currently used for marine related activity; the annex which is currently a work place and a sales area for the people such as artists and designers; the purple area which was a maintenance area; and an area that is currently unoccupied.

Mr. Taylor indicated they are looking to introduce into that program the following:

- an art college
- more artist workshops and galleries which will accommodate their current waiting list
- a component of light industrial/sales area
- offices
- ancillary retail restaurants and quick cuisine

Mr. Taylor pointed out the areas on a plan where the various uses were proposed to locate.

Mr. Taylor indicated that if they look at that based on the location and the uses, the only area which may be impacted is transportation and access. They have engaged a partnership with a prominent transportation expert. In terms of transportation:

- the proposed new uses will have a minimal impact on traffic/parking
- it is estimated there will be less than thirty cars per hour during peak times
- there will be less than 150 parking spaces required to accommodate the proposal

Mr. Taylor advised that in terms of their transportation strategy:

- it will create a new internal street
- onstreet parking
- safe and efficient cruise/tour parking
- it will maintain drop-off points for Sheds 20 and 21, and 23
- weather protected public transit stop in anticipation of an extended HRM public street

Mr. Taylor indicated they are proposing to introduce the movement of traffic through the site this way (pointed out) and will incorporate onstreet parking.

Mr. Taylor advised the other consideration is the impact the traffic will have on the number of people on the site. They are proposing to:

- extend the City sidewalk system throughout the site
- designate pedestrian crosswalk areas
- introduce covered access points for public access
- new gateways

Mr. Taylor pointed out an area where they created a gateway last fall, indicating they are committed to continuing that Festival Street concept along the entire linear of the project.

Mr. Hugh Pullen, Halifax, President of South End Community Association, referenced the fact sheet circulated by HRM staff and indicated there was no reference by Mr. Taylor to the micro-brewery in his presentation.

Mr. Pullen commented he thought this was a foot in the door for a much larger project that encompasses this whole area. He questioned whether this area is still going to be an industrial area and whether CN would still deliver cargo to this area. They are taking about two separate and different uses for this land; one for heavy industrial and the other related to the artistic and cultural industry. This land was built by the people of the community. It was built as an industrial area. Are we getting out of the industrial use on the port?

Mr. Pullen questioned whether CN has been asked for their opinions. They deliver cargo here and it is the end of their rail line.

Mr. Pullen indicated they should consider the whole system. This is a really valuable idea but he felt they should think this whole thing through. He questioned what tax revenue this proposal would generate and how it would help the taxpayers of the City.

Mr. Pullen questioned how security concerns would effect this proposal given the nature of the world we live in.

Mr. Pullen commented this is probably one of the few areas where a tour bus could be parked. He understood it is a difficult thing in the tour bus business for people to be able to stay overnight.

Mr. Pullen said he felt it was a very ambitious program.

Mr. Harvey indicated that Mr. Taylor referenced light industrial uses in his presentation. They have a tenant in mind for this portion (pointed out) which is a micro-brewery. It is one in which there would be beer manufactured onsite and there may be tours as well as consumption of beer.

Mr. Harvey pointed out an area on the map which is the general industrial zone which is not pursuant to this particular development agreement application. There is no ability to consider anything under the general industrial uses on this site. The planning policies that he highlighted are solely for the lands zoned C-5.

Mr. Harvey advised that CN has not been approached yet for any commentary which was a good point. With regard to the tax base, he considered that a general comment.

Mr. Pullen noted the presentation by Mr. Taylor related to a very small portion.

Mr. Harvey noted that in the first half of Mr. Taylor's presentation he indicated there would be a very large and ambitious redevelopment project for all the lands. They are expecting that type of application will require more than a rezoning and will require a new district and new policies to be put in place. It will include transportation and cultural analysis, etc. In the interim, they have this criteria that allows for consideration of some non-marine related industrial by way of development agreement.

Mr. Taylor commented that this development is consistent with the mandate of the Port Authority. The commitment is to create business. 500 sq.ft. sheds today do not employ a lot of people. They have seasonal cruise ship activity but for the rest of the year the sheds are not used. They did careful analysis to make sure the sheds are not under-utilized. The arts is an important industry. The Greater Partnership has identified the cultural area as needing growth. If the North Atlantic is to become an

important cruise destination, it is missing one thing - it does not have the quality ports of call. The cruise industry is telling them they need to improve this port of call. Everything they do in this project is underlying growth in the economy. All of that helps HRM.

Mr. Taylor indicated the reason they did not talk about individual tenants is because they did not think it was appropriate to do so. A micro-brewery is being considered. Also, it has been announced as a site for NSCAD. The other tenants like ancillary restaurants have not been selected yet.

Mr. Taylor advised that in terms of CN, they have been very careful to ensure that nothing they do interferes with their activities. Their track remains and they will have no impact on the container terminal. They expect that improvements to the road will help traffic move through the site better. They are actually doubling the number of tour bus spots and creating an offsite storing area for busses. They are prepared to accommodate a considerable growth in cruise ship activity.

Mr. Paul Caskey commented the proposal sounds wonderful. As a newcomer to Halifax and Nova Scotia in general, he was really happy to hear their recognition for arts and culture.

Mr. Tim Leary, Halifax, asked for confirmation that they are considering a development agreement and that it involves a zoning change.

Mr. Harvey confirmed that it was a development agreement but the zoning would not change. It would be a contract regarding the use of these particular areas. If the development agreement is discharged, then the uses revert to what is permitted in the zone.

It was questioned whether they were talking about tenants in the existing buildings. He asked if they were talking about demolition of buildings or if they are talking about continuing the uses in the building and then modifying the exterior and the streetscapes, etc. He questioned whether the process to determine the proponents, besides NSCAD, has been determined.

Mr. Taylor responded there is an existing building which he pointed out. There is no demolition being proposed. It is their intention, even in the long-term, to preserve the important heritage things about the site. The application tonight is specific to the buildings. Their intention is to preserve the industrial nature.

Mr. Taylor said they want to continue to build on what the annex is today. There are artists, woodworkers, and a wide range of people, who are creative. They have a waiting list of forty people. They will work with the existing community. One of the most important things is to preserve the integrity and the sense of community that exists today.

Mr. Andrew Tervis commented what they see today is rather ambitious. He questioned where they stood in relation to a CBC production facility.

Mr. Taylor concurred they have an ambitious plan. There is a lot of talk about them being in discussion with CBC and other similar tenants. Their ambitious plan is continuing. What they have tonight is a small piece of it. The larger plan will take twelve - fourteen months. They want to do this in the spirit of what these buildings are. This is a first step. They do not want to be perceived as the thin edge. They held two other meetings to share their thoughts.

Jeremy... commented he has been there since the late 1980s. A lot of things have changed. The old pier area is more or less empty. He referred to a time when they were displaced from a building and through a series of negotiations the Port decided they would take care of them and renovate that building. He questioned whether there is anything else they can do to preserve that building. They also managed to maintain some unanimity. The cruise ship industry came out of nowhere and has had an enormous impact.

An individual indicated the main attraction of the area is the harbour. He questioned whether there is a potential to use glass walls to introduce the sense of connectivity so they can see through on ground level to the harbour.

Mr. Taylor responded their commitment is to open up the view corridors and, where possible, to give access. They will introduce some barbed fence through a security barrier where people can look out. As they get into the larger project, they will be opening up areas which will be an opportunity for plazas. They will also be introducing uses in this building which will be able to take advantage of the views of the water. They will be careful to locate the ancillary restaurants in areas which will have access and views to the water.

An individual asked about visual access.

Mr. Taylor responded one of the things they will look at doing at the end of this shed (pointed out), is to open up about three bays so that there is a big plaza that sits right on the water.

Mr. Anthony Black, Halifax, questioned whether it would be a place for local residents as well as for tourists, is it for the local residents working here, or a local destination in terms of the artists who work here and tenants who are selected to get those spots. If that is going to be a face of Halifax, not only to the people who live in Halifax but also to the tourists, there has to be a selection process to decide what face they need to put on this community.

Mr. Taylor responded there could be a place in here for artists who just want to do their work and not interface with the public. Artists in the annex could take advantage of having showing places to sell their goods.

It was commented that this is a place for the people of Halifax. Artists do not want to be in isolation. They want to be a part of a community.

Mr. Taylor indicated it was meant to respond to their needs as an artist. In terms of the selection process, it will be a jury process. The jury will be made up of artists and professionals. They want to create an economy for artists. There is no way he would let inferior art effect the quality of the artists across the street.

Mr. George Hilchie noted the proposal for a plaza is quite a large area and asked how that would effect the workings of the pier itself.

Mr. Taylor responded the open area is meant to do several things. When the cruise ships come in, they can't handle all the people in one place. They are splitting that into Sheds 20 and 22 so that they can accommodate more passengers simultaneously. They need to be able to split that and their ability to handle the busses and the ground transportation to service them. They are opening up those areas to receive more passengers and to accommodate servicing of the ships. If people want fresh water or lobster, they need to be able to accommodate that. This is a year round place. They want to be sure when there are not cruise ships that the place is active and lively which is one of the reasons they want to create open plazas. All through the centre, there are people there.

Mr. Hilchie questioned whether they would lose more open pier space.

Mr. Taylor responded no. The entire pier will remain secure and a working pier.

Councillor Sloane thanked members of the public for attending. This is very important because it is a part of the City. That is going to expand into something that will be truly unique. This is the first phase of it. She urged that people email her with any comments.

The meeting adjourned at approximately 8:30 p.m.