

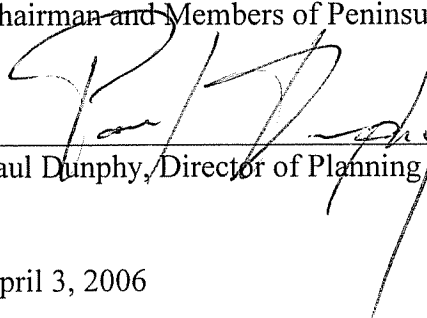


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Peninsula Community Council
April 10, 2006

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY:


Paul Dunphy, Director of Planning and Development Services

DATE: April 3, 2006

SUBJECT: Gerrard Lodge - Surveys for Development Agreements

INFORMATION REPORT

ORIGIN

This report is submitted in response to Status Sheet Item 10.2.1 which originates from a request at the regular Peninsula Community Council meeting on September 12, 2005.

BACKGROUND

Council approved a development agreement for an addition to the Gerard Lodge building at 1226/1230 Barrington Street in 2004. The addition was completed in 2005 and, subsequently, the District 12 PAC expressed concerns with regard to the distance between the rear of the new addition and the existing building on the adjacent property.

At the regular meeting Peninsula Community Council on September 12, 2005, Council requested a staff report on the following two recommendations from the District 12 PAC:

- (a) that a full survey on the Gerrard Lodge property be carried out;
- (b) as a working practice, rely on surveys instead of site plans for all developments requiring DAs within District 12

DISCUSSION

Staff re-examined the project records and determined the permit was in order and the building is in compliance with the Development Agreement. It was also noted that a surveyor's location certificate indicating compliance was received during the construction process.

However, the approved permit and the location certificate indicated a distance in excess of four feet between the rear of the Gerrard Lodge addition and the adjacent property boundary. Site inspections indicated only about two feet between the Gerrard Lodge addition and a staircase attached to the adjacent building. There are only two possible explanations for the apparent discrepancy:

- the original surveyor's location certificate was incorrect; or
- the staircase on the adjacent building encroaches on the Gerrard Lodge property.

In response to PAC concerns and Community Council's request, a second survey of the property was conducted by HRM survey staff. That survey confirms the addition is located in conformance with the approved permit and that a staircase on the adjacent building does encroach on the Gerrard Lodge property.

Historic property encroachments are a matter of civil property law and their existence does not create a violation of municipal regulations. Setback requirements are always defined based on a distance from the building to the property line. However, had this encroachment been identified earlier in the process, it is reasonable to assume that the requirements in the Development Agreement may have been structured differently to provide a separation distance that respected the property line and the adjacent building.

This circumstances that led to this situation are highly unusual and the risk of additional similar situations is minimal. However, the risk can essentially be eliminated by implementing minor changes to HRM's DA application requirements. Staff have consulted with the PAC and, in response to Council's resolution of September 12, 2005, our administrative practice now requires specific confirmation of lot size and any encroachments from a surveyor at the time of application.

BUDGET IMPLICATIONS

There are no budget implications associated with this report.

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

This report is presented for information only. There are no alternatives presented for Council's consideration

ATTACHMENTS

None

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: Steven Higgins - Planning and Development Coordinator (490-4422)