

**PENINSULA COMMUNITY COUNCIL
MINUTES
August 14, 2006**

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

STAFF: Ms. Karen MacDonald, Legal Counsel
Ms. Jennifer Weagle, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 7:04 p.m. in Council Chambers, City Hall, 1841 Argyle Street, Halifax.

2. APPROVAL OF MINUTES - July 10, 2006

MOVED by Councillor Sloane, seconded by Councillor Murphy, that the minutes of July 10, 2006 meeting of Peninsula Community Council, as distributed, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

ADDITION:

12.1 Case 00839: Development Agreement - 6273 Quinpool Road, Halifax

DELETION:

8.2.1 Case No. 13178: Appeal of the Development Officer's decision to refuse an application for a Variance - 1377 Robie Street, Halifax

CORRECTION:

8.1.1 Case **00887**: Development Agreement, 1747 - 1749 Beech Street, Halifax (child care centre)

MOVED BY Councillor Uteck, seconded by Councillor Murphy, that the agenda, as amended, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet

4.1.1 Case 00912: Proposed Telecommunication Equipment and Shed, 3792 Novalea Drive, Halifax

No information received. This item to remain on the status sheet.

4.1.2 Email dated July 4/06 re: Re-zoning Robie/Chestnut/Coburg/Jubilee

No information received. This item to remain on the status sheet.

4.1.3 Case 00815: Halifax MPS and LUB Amendments and Development Agreement, 6193 Young Street, Halifax

No information received. This item to remain on the status sheet.

4.1.4 Correspondence from Westmoor Co-Op Ltd. dated March 4, 2006 re: Kenneth Walker Field

No information received. This item to remain on the status sheet.

4.1.5 Harvey Street Parking Lot - Townhouses

No information received. This item to remain on the status sheet.

4.1.6 Closure of HRM Private Lane - June Street to Princess Place

No information received. This item to remain on the status sheet.

4.1.7 CN Property Maintenance

No information received. This item to 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 00887: Development Agreement, 1747 - 1749 Beech Street, Halifax (child care centre)

C This matter was given First Reading at the July 10, 2006 meeting of Peninsula Community Council. A previously circulated staff report dated June 23, 2006 with draft minutes extract from the July 10, 2006 meeting was before Community Council.

Mr. Luc Ouellet, Planner, Planning and Development Services, briefly reviewed the application by Janette March to enter into a development agreement to expand an existing child care centre at 1747-1749 Beech Street, Halifax, from 14 children to a maximum of 28 children, as contained in the June 23, 2006 staff report. Mr. Ouellet noted that in an attempt to address concerns about potential noise impact associated with the increase in the number of children utilizing the outdoor play space, the applicant has indicated that children will regularly be taken to the Sir Charles Tupper School playground during after school hours, which is common practice by daycare centres. He noted, however, that a provision for this playground use could not be included in the Development Agreement since the school property is not owned by Ms. Marsh.

Responding to questions of Councillor Murphy, Mr. Oulette advised that, regarding traffic concerns, children in the afterschool program will be walking from school, and most traffic to and from the daycare will occur at pick up time, which will not coincide with the end of the school day at Sir Charles Tupper School.

Responding to questions of Councillor Uteck, Ms. Karen MacDonald, Solicitor, advised that under the *Day Care Act*, all daycare centres must abide by the By-Laws of the Municipality and it would not be necessary to include reference to By-Law N-200 Respecting Noise in the Development Agreement. Ms. MacDonald further concurred with Mr. Oulette's comments regarding not including a provision in the Development Agreement for the use of the playground, noting that HRM cannot bind the school as it is not a party to the Agreement.

The Chair opened the public hearing and, reading from the sign up sheet, called for speakers.

Dr. Alec Allen, Halifax

Mr. Allen indicated that he resides next to the daycare centre. He indicated that he had provided a written submission requesting several additions to the Development Agreement, including hours of operation, reference to the Noise By-Law, and provisions regarding the playground use. He indicated that he does not have issue with Ms. March's operation, however, he is concerned that her attempts to address noise concerns are not binding to her or future owners of the property, and he wishes to have them included in the Development Agreement. He indicated that there are currently ten children enrolled in the daycare centre, and this Agreement will allow 28, which is a significant increase in children, resulting in increased traffic in the neighbourhood.

Ms. Jeanette March, Property Owner

Ms. March clarified that there are currently 14 children enrolled at the centre. She indicated that although the maximum allowable would be 28 children, her plan involves having 24 children enrolled, and requested the maximum of 28 to allow lea way. Ms. March advised that she has

not received any reports of noise complaints. She indicated concern with restricting the hours of use and the number of children in the backyard, noting that a daycare centre requires flexibility to offer outdoor recreation programs and other programs for the children, without which she would be denied a license to operate the centre. Ms. March advised that another senior citizen neighbour has been very supportive of the centre, and volunteers once a week.

The Chair called three times for any further speakers in favour or against the application. Hearing none, it was **MOVED by Councillor Sloane, seconded by Councillor Uteck, that the public hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.**

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

1. **Approve the development agreement, as contained in Attachment "A" to the June 23, 2006 staff report,**
2. **Require that the development agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED.

Councillor Uteck requested that the agreement be signed tomorrow, in order for the approval process to be completed in time for the start of the school year.

8.2 Appeal Hearings

8.2.1 Case No. 13178: Appeal of the Development Officer's decision to refuse an application for a Variance - 1377 Robie Street, Halifax

This matter was deleted from the agenda during the approval of the agenda (see Item 3).

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

9.3 Presentations - None

10. REPORTS

10.1 Staff Reports

10.1.1 Case 00915: Non-Substantive Amendment to Development Agreement: 2633 Gladstone Street, Halifax

C A staff report dated July 31, 2006 on the above noted was before Community Council.

Mr. Paul Sampson, Planner, Planning and Development Services, reviewed the report with Community Council, advising that this is an application to amend the Development Agreement for Gladstone Ridge to allow for interior and exterior changes to the building design and landscaping/driveway layout of the six-storey, multiple-unit building/site located at 2633 Gladstone Street, Halifax. Mr. Sampson noted that while the development is not licensed by the province as assisted living for seniors, it is being marketed toward a senior lifestyle.

At the request of Councillor Sloane, the architect of the development advised that all suites in the building are designed to be wheelchair accessible.

At this time, Councillor Sloane assumed the Chair and Councillor Fougere took a seat in Council.

MOVED by Councillor Fougere, seconded by Councillor Murphy, that Peninsula Community Council approve the amending Development Agreement, as contained in Attachment A of the July 31, 2006 staff report, to allow for changes to the building design and landscaping/driveway layout of the six-storey, multiple-unit building/site at 2366 Gladstone Street, Halifax.

Councillor Fougere noted that she is looking forward to the completion of this development, which will be an improvement to the area.

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Fougere resumed the Chair and Councillor Sloane took her seat in Council.

10.2 District 12 PAC Reports - None

11. MOTIONS - None

12. ADDED ITEMS

12.1 Case 00839: Development Agreement - 6273 Quinpool Road, Halifax

- C A Supplementary Report dated August 14, 2006, along with staff reports dated June 13, 2006 and May 19, 2006 were before Community Council.

Mr. Luc Ouellet, Planner, Planning and Development Services, reviewed the reports with Community Council.

At this time, Councillor Sloane assumed the Chair and Councillor Fougere took a seat in Council.

Councillor Fougere indicated that this matter has been before Peninsula Community Council and Regional Council several times, and a joint public hearing was held on this matter. She advised that this is the final step in the approval of the Development Agreement.

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

1. **Approve the development agreement, as contained in Attachment "A", to permit a lounge use at 6273 Quinpool Road, Halifax.**
2. **Require that the development agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, 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 UNANIMOUSLY.

Councillor Fougere resumed the Chair and Councillor Sloane took her seat in Council.

13. **NOTICES OF MOTION** - None

14. **PUBLIC PARTICIPATION**

Ms. Sharon Earle, Halifax

Ms. Earle inquired why developers were permitted to list for sale condominiums on Cunard Street between June and Princess Streets in Halifax, prior to construction of the condos. She indicated that the sidewalk in front of the development has been closed for the past nine months and that she understands that there was no permit issued for such a closure. Ms. Earle noted concern for pedestrians in this area, and indicated that she believes the area is becoming too densely populated. She commented that there are historic homes in the area

that are being overshadowed by larger developments, and suggested that the lot should be used for a space that would be beneficial to the community.

Councillor Fougere indicated that Community Council does not have jurisdiction to control what land is sold to whom. She indicated that the development is allowed under development agreement with community consultation, which has taken place.

Councillor Sloane indicated that the developers do have a permit to close the sidewalk, which has been closed for two months, and that construction of the condos will commence shortly. The Councillor requested that staff install a temporary sidewalk at this location.

Mr. Alan Hayman, Halifax

Mr. Hayman indicated that he is the property owner of a building adjacent to 1377 Robie Street, which was the subject of an appeal hearing scheduled for this evening, but was deleted from the agenda because of a notification error. The appeal hearing for 1377 Robie Street will be heard at the September 11, 2006 meeting of Peninsula Community Council. Mr. Hayman indicated that he is seeking clarification as to the authority of Community Council to overturn the decision of a development officer. Mr. Hayman distributed and reviewed copies of sections 235-237 of the *Municipal Government Act* (MGA) with Community Council. Mr. Hayman further reviewed the discussion section of the appeal report dated August 8, 2006, which outlines the decision of the development officer to refuse the variance.

Mr. Hayman commented that in order for Community Council to overturn the decision of the development officer, it will have to find as a matter of fact that the variance does not violate the intent of the land-use by-law and that the difficulty experienced is not general to the properties in the area. He indicated that the development officer has already found and informed Community Council to the contrary, which was the reason for his rejection of the variance application.

Councillor Fougere advised that Peninsula Community Council acts as the body of appeal for variance appeals. She indicated that this matter will be referred to legal for clarification.

Councillor Uteck indicated that in the 1986/87 decision of the Supreme Court of Nova Scotia (SCNS) regarding Bishops Landing, it was decided that HRM required housekeeping amendments to the Land-Use By-Laws. She commented that further decisions by the SCNS in 1993 and 2002 also directed HRM to address housekeeping amendments. Councillor Uteck requested that legal services be requested to undertake these housekeeping amendments to the Land-Use By-Laws.

Councillor Murphy requested that this discussion also be referred to Paul Dunphy, Director of Planning and Development, for his information.

Ms. Beverly Miller, Halifax

Ms. Miller thanked Community Council for the quick response in having remedied the matter of blocked access to the foot of South Street.

Ms. Miller indicated that one year ago, the Peninsula South Community Association sent a letter to the Director of Financial Services, Ms. Dale MacLennan, to review the possibility of a having a different taxation rate for properties where the owner is not ordinarily resident. Ms. Miller indicated that they had not received a response to their request and asked that it be followed-up with Financial Services.

Councillor Fougere indicated that at the last meeting of Regional Council, the proposal to go public with the proposed tax reform and seek public consultation was deferred to the September 5, 2006 meeting of Regional Council, and will be discussed a that time.

Councillor Uteck indicated that the letter from the Peninsula South Community Association was reviewed by the taxation review committee. Ms. Miller indicated that she will forward a copy of the letter to the Clerk to be distributed to members of Community Council, for their information.

15. NEXT MEETING

The next meeting of Peninsula Community Council is scheduled for September 11, 2006.

16. ADJOURNMENT

There being no further business, the meeting adjourned at 7:58 p.m.

Jennifer Weagle
Legislative Assistant