

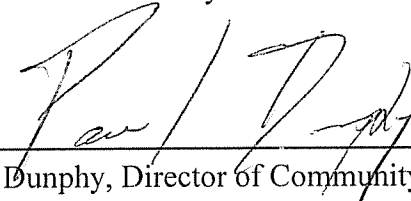
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Chebucto Community Council - December 1, 2008
Peninsula Community Council - December 8, 2008

TO: Peninsula Community Council
Chebucto Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: November 18, 2008

SUBJECT: **Case 00484 - Amendments to the Halifax Municipal Planning Strategy and Land Use By-laws Respecting Through Lots**

INFORMATION REPORT

ORIGIN

Regional Council, Motion on June 18, 2002¹

BACKGROUND

In 2002, Regional Council was concerned with the construction of apartment buildings on through lots and requested that staff recommend amendments to prevent such development throughout Halifax Peninsula and Halifax Mainland. This regulation currently applies only in the South End Secondary Plan Area of Halifax Peninsula. A public information meeting was subsequently held, at which there was little support for the requested amendments.

¹ Although Case 00484 was initiated by Regional Council, this Information Report is directed to the Peninsula Community Council and Chebucto Community Council as its subject matter is specific to these community councils.

DISCUSSION

In the South End Secondary Plan Area of Halifax Peninsula, apartment buildings are prohibited on through lots (Attachment "B", Figure 1, Lot Types). This was found to be a particular issue during the adoption of the South End Detailed Area Plan in 1982. The intent of this regulation is to:

- prevent several lots from being amassed for a single development, which could lead to a disruption of the normal pattern of development which includes the presence of open space at the middle of a block; and
- preclude unattractive service-oriented features, such as parking garage entrances and garbage receptacles, from facing a street.

At the time of the request, two apartment buildings on through lots had been identified as having unattractive street fronts.²

In 2002 Councillor Mosher suggested that the through lot restriction should apply to the remainder of the Halifax Peninsula and the Halifax Mainland. On June 18, 2002 Regional Council initiated a process to review this matter.

On June 26, 2003 a public information meeting was held. Property owners of lots that would be impacted by the amendments were specifically invited to attend. At the meeting there was no support for the potential amendments (Attachment "A"). Some speakers noted that the impact of the service side of a building facing a street could be addressed through other means. Staff agree with this position.

There does not appear to be a reason to pursue amendments in isolation at this time. A significant amount of time has passed since this case was initiated and staff intend to close the file. This matter can be reconsidered as future detailed areas plan reviews are undertaken or as the regulations for apartment development are specially assessed.

BUDGET IMPLICATIONS

None.

² Case No. 5840, Committee of the Whole Report, May 17, 1989 and Planning Advisory Committee Supplementary Report, August 22, 1989

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

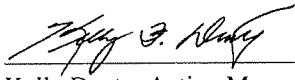
This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ATTACHMENTS

Attachment "A" Case 00484 - Restricting Apartment Buildings on Through Lots, Public
Information Meeting Minutes
Attachment "B" Figure 1, Lot Types

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Richard Harvey, Senior Planner, 490-5637

Report Approved by: 
Kelly Denty, Acting Manger of Planning Services, 490-6011

Attachment "A"
Case 00484 - Restricting Apartment Buildings on Through Lots
Public Information Meeting Minutes
June 26, 2003

In attendance: Gary Porter, Planner
Gail Harnish, Planning & Development Services

Mr. Gary Porter called the public information meeting to order at approximately 7:00 p.m. in Halifax Hall, noting the purpose was to discuss possible amendments to the Halifax Municipal Planning Strategy (MPS) and Land Use Bylaw (LUB) that would prohibit apartment development on through lots.

Mr. Porter reviewed the MPS amendment process. The request has been initiated by Regional Council. It has taken a bit over a year to get from the initiation stage to this point. In between, staff did some work to find out how many properties this amendment would affect. This is an amendment to the Land Use Bylaw for both Mainland and Peninsula, so the amendment will be reviewed by Chebucto Community Council and Peninsula Community Council as well as two planning advisory committees. It will go to all those groups to make a recommendation prior to going to Regional Council for a decision.

Mr. Porter advised that the proposal, if it is approved, will add this policy (from the handout) to the MPS which says high density development will not be permitted on through lots. A similar provision now applies to the South End of the City. Essentially this amendment would take out the words "South End" and the provision would apply to the entire Peninsula and Mainland areas of the City. He went on to present the definitions from the LUB for a corner lot and a through lot. He referenced a map generated by GIS which outlines all the properties that meet the criteria that had the zoning, the minimum lot frontage, frontage on more than one street, and were not corner lots. The lots that would be most affected are identified in red. They are either vacant or do not have an apartment building. There are approximately 32 of them. There are also a number of other lots colored in blue such as the Halifax Shopping Centre and Post Offices which are seen as long-term uses. The lots coloured in yellow are lots that meet the criteria but already have an apartment building but are exempted from this requirement because they were there before the LUB came into effect.

Mr. Peter Polley questioned the rationale behind the proposed amendment.

Mr. Porter advised that staff was directed by Council to pursue the amendment. There was no reason given. The same question was raised when this provision was first put in the by-law. The South End plan was adopted in 1982. There was an amendment made in 1989 which provided greater certainty. When the sentence was added, one of the councillors asked about the rationale. The person doing

the amendment did some research and found that there was no particular discussion, although there seems to be two reasons: (1) they did not want to “blockbust” - putting a barrier in the middle of the lot to expand from one lot to another, and (2) if you have a building on a through lot one tends to be the front and one tends to be the back. There was some concern that the back side of the building be on the same side of the street as everybody else, particularly an apartment building in an area with a lot of single family dwellings. Councillor Mosher agreed with that rationale and put forward a motion that it apply throughout Halifax.

Mr. Polley questioned whether there was a recent series of problems which is driving this across the whole City.

Mr. Porter responded he was not aware of any. Staff was directed to initiate the process and that is what we are doing. Part of his research will be to try and determine if there are any complaints. He was personally not aware of any but would follow-up.

Mr. Polley proceeded to provide examples verbally and by way of sketch where this type of amendment would prohibit development where he did not think it was intended to:

- Gainsborough Place which fronts on the bridge;
- the south end of Barrington Street (in the area of Inglis Street) where Peninsula Place was built;
- a site in the City where there are single family dwellings, a warehouse, a portion of land which was landlocked with limited access; and
- a piece of land they purchased from the City about two years ago on the corner of Barrington Street and Cornwallis Street. If the amendment is approved, they will sue the City because they bought the land and marketed it as an apartment building site. The land would be worthless if the amendment is approved. There is no other way to develop this piece of land because they are not allowed to access Barrington Street.

Mr. Polley expressed concern that the amendment is intended to deal with housekeeping items such as dumpsters and landscaping. Implementing something like this across the board will prevent some good development on the Mainland and Peninsula which it should not.

Mr. Louis Lemoine questioned why Councillor Mosher was not in attendance to explain the rationale and to defend the proposal. He did not feel the proposal was justifiable. If the issue is primarily an aesthetic one, then there are simpler ways to deal with it than doing a plan amendment, either through a development agreement or the implementation of design guidelines.

Mr. Porter questioned whether the amendment should be worded to state that developments on through lots should proceed by way of development agreement.

Mr. Lemoine stated this needs to be thought about a lot more carefully because there will be some negative consequences that he did not think were intended.

Mr. Eric Thompson advised that they own three acres of land on Roy Street that would be affected by this amendment. Right now there is a little house on the property. They bought acreage around it for investment reasons which would be affected by this proposal.

Mr. Porter noted that only one of the lots is shown as having met the criteria, however, he had not been aware they owned the lots next door as well. With respect to the lot on Roy Street, the simple solution might be to have frontage on two different streets, subdivide into two and have frontage on each street.

Mr. Thompson questioned whether they would be notified if the amendment proceeds.

Mr. Porter responded yes, and indicated they would be added to the mailing list. We are only required to have one public information meeting but it may be beneficial if there are some middle grounds to come back and see what the reaction is.

Mr. Lemoine stated the proposal should be killed now. This is a waste of HRM resources and his tax dollars. Staff is busy and are under-staffed. They cannot get their approvals in a timely fashion and cannot get anybody to return their phone calls.

Mr. Thompson stated that Councillor Mosher should be in attendance.

Mr. Porter advised that the councillors do attend most of the time. Councillor Mosher had another commitment. It is difficult to coordinate everything.

Mr. Lemoine commented the proposal is frivolous and did not see the justification.

Mr. Michael Napier, architect, said this is typical of somebody trying to do something overly simplistic for killing a problem that is probably not there. There are so many easier ways of dealing with it. The fact that there has been some crummy developments in the past does not mean future proposals should be stamped out. They should come up with more inventive ways to deal with things.

Mr. Andrew Murphy, owner of property on Gottingen Street, indicated he thought he was okay.

Mr. Porter advised there are exemptions which apply to the commercial area on Gottingen Street so a commercial building there would not be affected.

Mr. Murphy stated that real estate is a long term investment. It is at least twenty-five years. Some of those people have owned these lots for a number of years and will not be able to develop them with the highest and best use. This proposal is not good for investors nor is it good for this City as a whole to go forward to our business community with arbitrary changes like this. Also, it transfers a lot of power to the person with a corner lot.

Mr. Lawrence White referenced an instance last year in the South End where they ran into this restriction. There were frustrations expressed in a meeting with staff and the development officer and it was felt there were other ways to deal with the problems that the amendment was put into effect to deal with. They were advised of ways to get around the by-law so that they did not have a through lot. He expressed concern that staff are trying to apply this restriction throughout the City when a year ago members of staff were expressing displeasure with the restriction. He agreed that certain developers create some animosity by, for example, storing garbage outside.

Mr. White questioned whether he had a count on how many of the developments are considered unsightly.

Mr. Porter responded no. He suspected only a small fraction of them were. The only one he heard complaints about is the building that runs between Church Street and Queen Street. The church street side was not as well kept and the neighbours did not like it. He thought that was where this rule started.

Mr. White questioned the timing of the meeting. He spoke to several people about the meeting tonight who were not aware of it and could not attend because it was before the extra long weekend.

Mr. Porter noted there are always times when it is inconvenient for people. Life goes on.

Mr. White stated this appears to be a heavy handed way of dealing with a problem.

Mr. Porter encouraged written submissions which would be attached to the staff report to show Council what the feeling is.

Mr. White said he understood there is a problem with backside appearance but felt there are ways to deal with that.

Mr. Polley indicated he could give more examples of where this proposed amendment would create problems that maybe was not intended but felt staff got the gist of what he was trying to say. If the problem is dumpsters there should be other ways to deal with that, whether through by-law enforcement or minimum standards where tickets could be issued for leaving an old mattress on a set of flats, for instance. Usually they can do something if there is a dumpster left next to the street. There could be a requirement to put up a 5' high opaque coloured fence as a buffer when the proposed

building was abutting a residential property. If the problem is with dumpsters, then there should be a requirement that they be camouflaged so as to obscure them from view and require them to be fully landscaped. If it is a problem with driveway access going between the two, there are other ways of getting around it like subdividing a lot in half.

Mr. Porter commented he did not necessarily think the problem was with the access to the building. He felt it is more aesthetics because one side gets treated better than the other. Perhaps this can be dealt with in a better way.

Mr. Polley said that he thought in most zones you have to have a front door facing the front street that you're addressed on.

Mr. Porter advised that the front is determined to be on the street where you get your principle access.

Mr. Napier referenced a corner lot on Young Street and Inglis Street. The yard requirements are based on which side you front on. In order to have the 20' rear yard, for instance, if you want to front it on Young Street, they would have required a 20' yard in the back and because it is narrow it would have affected the shape of the house.

Mr. Polley stated they cannot try to legislate what things look like.

Mr. Porter suggested the rear facade must look like the front side.

Mr. Polley suggested that buildings fronting on through lots must have complementary styles of any portion facing the street as they do on the "formal" front end.

Mr. Porter suggested the site plan approval process may be another possibility to explore. That is half ways between as-of-right and a development agreement. We can put certain conditions in the by-law that the development officer has certain opportunities to approve design based on certain criteria. The development agreement is good in that it provides an opportunity to decide what is right and looks good but the downside is that the development agreement takes nine months and that affects time schedules. That is possibly not a practical solution.

Mr. Polley referenced their lot on Barrington Street and Cornwallis Street. They are on the fringe and border the Brunswick Comprehensive Development District. The chances of getting a development agreement approved with any form of density compared to what they have as-of-right is bare to none given the well organized anti-development group that exists in that neighbourhood. To require them to go through the development agreement process is "handing them to the sharks".

Mr. White commented that some of the through lots existed because it was a laneway going to the main lot to a street in behind. The other situation is that you could have a corner property that holds

your use for ransom. If you have a large lot you can still have a back of the building look facing the street if they turn the front of the building in the center.

Reference was made to the Sackville Drive Secondary Land Use By-law which seems to be an effective way of dealing with appearances and controlling garbage, storage and parking.

Mr. Lemoine stated he felt this could be very easily resolved with urban planning design guidelines.

Mr. Polley indicated an example was shown of subdividing a lot parallel to a street to create two lots so that it is not a through lot. In a situation like Mr. White mentioned, if you have this 10-12' wide piece of land, it is a liability but in a lot of cases that piece of land will be zoned R-3. If you are between two R-2 lots you might be perfectly willing to subdivide that and give it to the neighbour but under the Subdivision By-law you could not do that because you are not allowed to create smaller than a R-1 or R-2 lot and you cannot do the subdivision and consolidate because that little strip would be R-3 and the adjacent lot would be R-2. You would have to go through a rezoning.

Mr. Porter commented that if you wanted to add R-2 and use it for an R-3 use, you would have a problem. R-3 zoning allows R-2 uses. He thought they could do a lot consolidation. He did not think it would be a problem as long as the use is permitted by the zones on the property.

Mr. Porter noted there does not seem to be any support for the proposed amendment based on the comments made at this meeting.

Mr. Lemoine commented he thought the small turnout was not indicative of support for or against the amendment because it is a nice night but felt it was worth noting that nobody in attendance spoke in support of the proposal.

Mr. Porter advised that the report would not be finished until the end of the summer. He would be talking to Councillor Mosher tomorrow about the results of the meeting.

The meeting adjourned at approximately 8:50 p.m.

Attachment "B"

Figure I, Lot Types

