

HALIFAX REGIONAL MUNICIPALITY

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**PENINSULA COMMUNITY COUNCIL  
MINUTES**

**September 8, 2008**

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

**STAFF:** Ms. Karen Brown, Senior Solicitor  
Ms. Sheilagh Edmonds, Legislative Assistant

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1. **CALL TO ORDER**

The Chair called the meeting to order at 7:06 p.m.

2. **APPROVAL OF MINUTES**

**MOVED by Councillor Sloane, seconded by Councillor Fougere that the minutes of the special meeting of August 5, 2008 be approved. MOTION PUT AND PASSED.**

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

Additions:

- 12.1 Tar Spot (Councillor Fougere)
- 12.2 Illegal Fence on HRM Property (Councillor Fougere)

**MOVED by Councillor Uteck, seconded by Councillor Sloane that Peninsula Community Council schedule a special meeting Tuesday, September 16, 2008 to hear the variance appeal regarding 1375 Edward Street. MOTION PUT AND PASSED.**

**MOVED by Councillor Fougere, seconded by Councillor Sloane that the order of business as amended be approved. MOTION PUT AND PASSED.**

4. **BUSINESS ARISING OUT OF THE MINUTES / STATUS SHEET:**

4.1 **Status Sheet:**

4.1.1 **Neighbourhood Downzoning**

No update was provided. This item is to remain on the Status Sheet.

4.1.2 **Councillor Uteck - Review of Gross Floor Area Ratio Requirements**

Councillor Uteck advised that this item could be removed from the Status Sheet.

4.1.3 **Presentation - Halifax Peninsula Community Health Board**

No update was provided. This item is to remain on the Status Sheet.

4.1.4 **Mitchell's Enviro Depot Update**

No update was provided. Councillor Sloane requested staff provide a status report for the next meeting.

4.1.5 **CN Property Maintenance**

No update was provided. This item is to remain on the Status Sheet.

#### **4.1.6 Peninsula Place Flooding**

Councillor Sloane advised that an update will be provided to Council at the In Camera session scheduled for tomorrow. This item is to remain on the Status Sheet.

#### **4.1.7 By-law Regulations respecting the Keeping of Fowl**

No update was provided. This item is to remain on the Status Sheet.

#### **4.1.8 Staff to add actuary to the list of occupations for Home Based Businesses**

An information report submitted to Peninsula Community Council on May 12, 2008 had been recirculated.

**MOVED by Councillor Uteck, seconded by Councillor Sloane that this item be placed on the next regular agenda. MOTION PUT AND PASSED.**

#### **4.1.9 Litter Receptacles in Area of Robie/North/Agricola/Almon**

Councillor Murphy advised that the issue of litter and the inappropriate number of litter receptacles in the areas of Agricola, North, Almon, and Robie Streets has been a long standing issue and he was not pleased with the recent staff response. He added that, with the new businesses in this area and increased traffic, additional litter receptacles are required. Councillor Murphy noted that he wanted a staff report and was going to add this item to the status sheet.

**MOVED by Councillor Uteck, seconded by Councillor Sloane that staff provide a report on the adequacy of litter receptacles in the areas of Agricola, North, Almon, and Robie Streets and if additional receptacles could be installed. MOTION PUT AND PASSED.**

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 01133: Development Agreement, 6117 Jubilee Road, Halifax**

A staff report dated July 23, 2008 was before Community Council for consideration.

Notice of Motion for this matter was given at a special meeting of Peninsula Community Council held on August 5, 2008.

Mr. Richard Harvey, Senior Planner, reviewed the application by Peter March to permit a

child care centre with a maximum of 28 children at 6117 Jubilee Road, Halifax, and responded to questions from Community Council.

In response to a question by Councillor Uteck, Mr. Harvey confirmed that a maximum of 18 children will be permitted to use the rear yard play area at any one time. Mr. Harvey also confirmed that the applicant was aware that there would be no special on-street parking for employees of the daycare.

The Chair opened the hearing and called three times for anyone wishing to speak to this matter; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Fougere that the public hearing close. MOTION PUT AND PASSED.**

**MOVED by Councillor Uteck, seconded by Councillor Fougere that Peninsula Community Council:**

1. **Approve the development agreement, as contained in Attachment "C" of the July 23, 2008 staff report.**
2. **Require that the development agreement be signed and delivered 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.**

#### **8.1.2 Case 01113: Land Use By-law Amendment and Development Agreement for 5552 Kaye Street, Halifax**

A staff report dated June 17, 2008 was before Community Council for its consideration.

First Reading of this matter was given at a special Peninsula Community Council meeting held on August 5, 2008.

A letter dated August 22, 2008 from Mary L. Evans was submitted.

Mr. Brian White, Planner 1 outlined the application by Michael Napier Architecture, on behalf of 3223041 Nova Scotia Limited, to amend Schedule "Q" of the Halifax Peninsula Land Use By-law to permit, by development agreement, a seven-storey, mixed-use commercial residential building at 5552 Kaye Street, Halifax. In his presentation, he noted the following points:

- the property is zoned C-2 Major Commercial and, therefore, has a high degree of development potential with a few limitations relative to building height and use; but has more restrictive requirements for the residential component.

- the proposal is a seven-storey, mixed-use building; corner lot of about ½ acre; 135 ft. frontage on Kaye Street; 104 ft. frontage on Isleville Street;
- 18,000 sq. ft. of commercial and office space in the first two stories
- a five-storey, 30-unit apartment building is set back and above the commercial space.
- underground parking for 50 spaces
- landscaping on second storey and rooftop terraces
- residential portions of the building in this zone (C2 Major Commercial) is required to meet the R-3 controls

In response to a question by Councillor Murphy, Mr. White explained that if the project was to adhere to the Land Use Bylaw, under the C2 zone, 'as-of-right' a commercial building could be built on the site at least 80 ft. high and could be higher if it were set back from the street. In response to a further question, Mr. White noted that at the public information meeting, concern was expressed that the original proposal for 25 parking spaces would not be adequate, so the developer has agreed to build a second level of underground parking, resulting in a total of 50 spaces.

In response to a question by Councillor Sloane, Mr. White advised that the sketch illustrating the south elevation shows a blank wall because that was the request of the landowners behind the site.

The Chair opened the hearing for anyone wishing to speak to this matter.

Mr. Bernie Vaughn, Kaye Street, spoke in support of the proposal. In his comments he advised that the proposal would meld in with the neighbourhood area of the hydrostone market and park, and the amenities it will provide would be advantageous to the people who live the area.

There Chair called three times for anyone else wishing to speak to this matter; **there being none, it was MOVED by Councillor Uteck, seconded by Councillor Sloane that the public hearing close. MOTION PUT AND PASSED.**

Councillor Murphy stepped down from the Chair to address this matter. Councillor Uteck assumed Chair.

**MOVED by Councillor Murphy, seconded by Councillor Sloane that Peninsula Community Council:**

1. **Approve the proposed amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law to include the subject lands in Schedule Q as presented on Map 2 of the June 17, 2008 staff report;**
2. **Approve the proposed development agreement as contained in Attachment "A" of the June 17, 2008 staff report to allow for a mixed-use development; and**
3. **Adopt the amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law as presented on Map 2.**

*And,*

1. **Approve the proposed development agreement as contained in Attachment "A"; and**
2. **Require that the development agreement be signed and returned within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community Council or 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.**

In moving the motion, Councillor Murphy noted that the residents of Sullivan Street have been putting up with a lot of new construction in the area, and he hoped that the developer and HRM's inspection division will be very vigilant when carrying out traffic control of this project, and in mitigating any noise and truck traffic.

Councillor Murphy assumed the Chair.

#### **8.2 Variance Hearings:**

##### **8.2.1 Variance Appeal - 3121 Agricola Street**

A staff report dated August 28, 2008 was submitted.

Ms. Liz Scott, Development Technician, outlined the reasons staff refused the application for a variance from the requirements of the land use bylaw for the property at 3121 Agricola Street. In her comments, she advised that there are three units in the building but HRM's records show that the legal use of the building is as a duplex.

Ms. Scott responded to questions from Community Council.

In response to a question by Councillor Fougere, Ms. Scott confirmed that this is an existing condition, with a new owner, and there is no change to the building footprint, i.e. it is to legalize the property as purchased.

The Chair opened the hearing.

Mr. Michael Sim addressed Community Council and advised that he was the applicant and he lived in the building in question. Mr. Sim explained that he was not aware the property was zoned as a duplex when he purchased it. He added that the third unit is a wheelchair accessible apartment which was modified by the previous owner for the current tenant who has been renting since 2006. Mr. Sim advised that he spoke to two neighbours and they have signed letters indicating they have no problem with the third unit. He noted that he also has documents showing that his property was significantly different in terms of the size and shape, and that the address of the third unit is on Kaye Street which has more frontage than the other two units which face Agricola Street. Mr. Sim noted that he has done some research on wheelchair accessible apartments and there is a large need for these type of residences in the city, and pointed out that the Nova Scotia Government



provides up to \$24,000 in funding to landlords and residential owners to convert their units into wheelchair modified living spaces.

Mr. Sim submitted letters in support of his application from the following:

- Barry Atkinson
- Len Leblanc and Tatiana Enikeeva-Comeau
- Vicky and David Terrio

The Chair called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor Fougere, seconded by Councillor Sloane that the variance appeal hearing close. MOTION PUT AND PASSED.**

Councillor Murphy stepped down from the Chair and Councillor Uteck assumed the Chair.

Councillor Murphy advised that he did not believe there was any wrongdoing on the part of the property owner, and indicated his support for the applicant's variance request.

**MOVED by Councillor Murphy, seconded by Councillor Fougere that the decision of the Development Officer be overturned and the request for variance from the requirements of the land use bylaw for property at 3121 Agricola Street be granted. MOTION PUT AND PASSED.**

Councillor Murphy assumed the Chair.

### **8.2.2 Variance Appeal - 2434 Clifton Street**

A staff report dated August 27, 2008 was submitted.

Mr. Andrew Faulkner, Development Officer, outlined the reasons why he refused the request for a variance from the lot area and gross floor area requirements of the Halifax Peninsula Land Use Bylaw for the conversion of a single unit dwelling to a two unit dwelling at 2434 Clifton Street.

There were no questions from Community Council.

The Chair opened the variance hearing.

Ms. Alison Bidwell, the appellant addressed Community Council, read and submitted her remarks in support of her application. She advised that she canvassed her neighbours and collected 41 signatures from 34 houses in the area in support of her application; one resident declined to sign the petition and one resident advised that they would only support the application if the house was going to be owner-occupied. Ms. Bidwell advised that she intended to live in the planned lower apartment. Ms. Bidwell pointed out that without approval, an option for her with a house this size was for student rental but she would rather not do this as it would have a very negative impact on the quiet, family-oriented neighbourhood. She noted that her proposal maintains the balance of single-family and dual family residences in the area and creates the possible future opportunity for smaller families to own and live in the neighbourhood.

There were no questions of clarification from Community Council.

The Chair called three times for additional speakers; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Uteck that the appeal hearing close. MOTION PUT AND PASSED.**

**MOVED by Councillor Fougere, seconded by Councillor Uteck that the decision of the Development Officer be overturned, and the variance from the lot area and gross floor area requirements of the Halifax Peninsula Land Use Bylaw for the conversion of a single unit dwelling to a two unit dwelling be granted.**

Speaking in support of the motion, Councillor Fougere submitted to the Legislative Assistant, information containing the signatures of residents in the area that Ms. Bidwell had canvassed and who signed their support for her variance request. Councillor Fougere advised that she supported granting the variance for the following reasons:

- it does not change the footprint of the building
- it is compatible with the general character of the neighbourhood
- there is local concurrence
- the proposal is in keeping with the intent of the Regional Plan in terms of intensifying but keeping the character of the neighbourhood.

**MOTION PUT AND PASSED.**

### **8.2.3 Variance Appeal - Isleville Street (PID 00161398)**

A staff report dated August 20, 2008 was submitted.

Ms. Brenda Seymour, Development Technician outlined the reasons why the request for variance from the lot area, lot frontage, right, left and rear sideyard setback requirements of the Halifax Peninsula Land Use Bylaw to construct a two-unit dwelling at PID 00161398 Isleville Street was refused by staff.

There were no questions of clarification from Council.

The Chair opened the hearing for those wishing to speak on the matter.

Mr. Kevin Reedy, Dartmouth advised that he owned the building at 5543 Almon Street, which abuts the proposal. Mr. Reedy asked Community Council to uphold the variance refusal by the Development Officer. He noted that the property in question is being used as a parking lot for the appellant's other building which is 5549 Almon Street.

Mr. Samir Metlej, Halifax, advised that he was the applicant and was appealing the refusal. He explained that he received approval for a three-storey commercial building which would have a footprint of 50 percent lot coverage, with 0 ft. rear yard, 0 ft. left side yard, 0 ft. right side yard and the entire front yard would be paved. Mr. Metlej added that he was now proposing a two-storey residential building that would occupy approximately 40 percent of the land, and this would entail a 4 ft. rear yard. He noted that providing the 4 ft. set-back would enable the immediate neighbour to be able to continue the use of their windows

without their view being blocked. Mr. Metlej also noted that he was proposing a 4 ft. left side yard as opposed to 0 ft. with the commercial building; and the front would have 25 percent used for two parking spots and the rest would be landscaped. Mr. Metlej pointed out that key advantages of a residential building over a commercial building is that the lot would be clean, landscaped, and permanent residents would be a deterrent to crime, and a residential building versus a commercial building would be an overall benefit to the neighbourhood.

In response to a question by Councillor Murphy, Mr. Metlej advised that he also owned 5549 Almon Street; however, the property referred to by the other speaker was owned by his father and not him.

Mr. Terrance Blizzard, Almon Street spoke in support of the variance request. He added that he would prefer the proposed residential building instead of a commercial building as it will provide green space, paved parking, trees and flowers; whereas a commercial building will result in noise and exhaust fumes from large trucks. Mr. Blizzard advised that he has lived in the area for the last 10 years and the piece of land under consideration is not landscaped or paved, and has garbage strewn in it and he felt that anything that could be done to the lot would be an improvement and that residential over commercial would be better appreciated.

The Chair called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Uteck that the appeal hearing close. MOTION PUT AND PASSED.**

Councillor Murphy stepped down from the Chair to address the issue. Councillor Uteck assumed the Chair.

Councillor Murphy advised that he would support staff's recommendation to refuse the variance. He indicated that the proposed building was too large to meet the minimum requirements of the Land Use Bylaw. He added that a residential development would be nice but it would have to be one unit.

**MOVED by Councillor Murphy, seconded by Councillor Fougere that Peninsula Community Council uphold the decision of the Development Officer to deny the variance. MOTION PUT AND PASSED.**

Councillor Murphy assumed the Chair.

#### **8.2.4 Variance Appeal - 6175 Charles Street**

A staff report dated August 28, 2008 was submitted.

Mr. Mike Cowper, Development Technician, outlined the reasons for staff refusing an application for a variance of the minimum lot area requirements, minimum lot frontage requirements, minimum left and right side yard setback of 6175 Charles Street to enable the conversion of a single-unit dwelling into a two-unit dwelling.

There were no questions of Community Council.

Mr. David Pate, the appellant addressed Community Council and using photographs and sketches reviewed his proposal. Mr. Pate advised that there would be no construction required, as he wanted to convert the existing finished basement into an apartment for son while he studies at Dalhousie University. He noted that he would like to retain the option to use it as an income apartment once his son is finished university. Mr. Pate, referring to photographs noted that the basement already has its own gate and entranceway. He added that this work will not change the character of the house or the neighbourhood and he submitted three letters of support from adjacent residents.

There were no questions from Community Council.

The Chair called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Fougere that the appeal hearing close. MOTION PUT AND PASSED.**

**MOVED by Councillor Fougere, seconded by Councillor Uteck that the decision of the Development Officer be overturned and the variance application of the minimum lot area requirements, minimum lot frontage requirements, minimum left and right side yard setbacks for 6175 Charles Street be granted.**

Speaking in support of the motion, Councillor Fougere advised that the building was in an area where there is mixed uses. In addition, she noted that the footprint of the building will not change in any way; it already has a separate entrance; it backs on a multi-unit apartment building, and the neighbours have no difficulty with the proposal.

**MOTION PUT AND PASSED.**

**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 01132: Development Agreement, 2889/2891 Oxford Street, Halifax**

A staff report dated August 14, 2008 was submitted.

**MOVED by Councillor Fougere, seconded by Councillor Sloane that Peninsula Community Council give Notice of Motion to consider the proposed development agreement, as described in Attachment 'B' of the August 14, 2008 staff report to permit a change to a non-conforming use at 2889/2891 Oxford Street, Halifax, and to schedule a public hearing for October 20, 2008. MOTION PUT AND PASSED.**

**10.2 Committee Reports:** None

**10.3 Members of Peninsula Community Council:** None

11. **MOTIONS:** None

12. **ADDED ITEMS:**

**12.1 Tar Spot (Councillor Fougere)**

Councillor Fougere requested a staff report on the problem of Tar Spot—a fungus infecting maple trees on the Peninsula. She explained that this issue is causing great distress among residents, as it causes the leaves become discoloured and fall off the trees prematurely. Councillor Fougere added that a number of Public Service Announcements have gone out advising the residents to rake and compost the leaves as soon as possible to try and stop the spread of the fungus. She noted that this is at least the second year the problem has happened and it is spreading rapidly. Councillor Fougere advised that she would like staff to report back on what their plan is to clear these infected leaves off public property in HRM's parks and ground and street right-of-way, so that these leaves won't blow around and gravitate onto private property. She pointed out that if HRM does not clean up its share of the infected leaves the problem will continue to persist.

**MOVED by Councillor Fougere, seconded by Councillor Sloane that staff provide a report on whether there is a plan in place to clear away the leaves infected with Tar Sport from HRM's parks and grounds and street right-of way. MOTION PUT AND PASSED.**

**12.2 Illegal Fence on HRM Property (Councillor Fougere)**

Councillor Fougere advised that a fence has been constructed on HRM Property at the playground at the former Chebucto School, which is currently occupied by the Muslim Academy. She explained that a chain link fence with a gate, constructed between a fence belonging to the Muslim Academy and a fence that is shared between HRM and a property owner next door on Chebucto Road. Councillor Fougere noted that this fence has not been constructed with any permission from HRM (no application has been given for an encroachment license) and parks and grounds staff have not constructed the fence. She asked that the report address whether this fence is impeding the work of HRM Parks and Grounds staff in terms of the maintenance they provide to the public site, adjacent to the Maritime Muslim Academy; and if the fence is in the way, that it be removed; if the fence is not in the way and is serving a useful purpose, then staff request the Muslim Academy apply for an encroachment license and proper signage be erected on the fence indicating that it is not a private playground it is owned by HRM and is open to the public. Please investigate and follow up with a report back to Community Council.

**MOVED by Councillor Fougere, seconded by Councillor Sloane that staff investigate and follow up with a report back to Community Council. MOTION PUT AND PASSED.**

13. **NOTICES OF MOTION:** None

14. **PUBLIC PARTICIPATION:**

No one came forward to address Community Council during public participation

**15. NEXT MEETING** - October 20, 2008 (regular); September 16, 2008 (special)

**16. ADJOURNMENT**

The meeting adjourned at 8:45 p.m.

Sheilagh Edmonds  
Legislative Assistant