

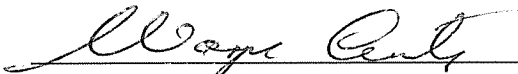
Halifax Regional Council
April 14, 2009

TO: Mayor Kelly and Members of Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: March 16, 2009

SUBJECT: Case 01130 - MPS/LUB Amendments/Development Agreement - Mayor Avenue, Halifax

ORIGIN

Request by Olympia Developments Inc. to amend the Halifax Municipal Planning Strategy (MPS) and Halifax Mainland Land Use By-law (LUB) to allow townhouse style residential buildings by development agreement within the Mainland South Secondary Area Plan, and to enter into a development agreement for a 15 unit townhouse style development at 21 and 23 Mayor Avenue, Halifax.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Authorize staff to initiate the process to consider amending the Halifax MPS and Halifax Mainland LUB to permit, by development agreement, townhouse style residential development; and
2. Request staff to follow the public participation program as approved by Council in February 1997.

BACKGROUND

Property Information

The subject lands consist of five vacant parcels totalling approximately 24,000 square feet in area. The lots are located between Mayor Avenue, Dobbin Lane, Old Sambro Road, and Layton Road, in Halifax (refer to Map 1). Three of the properties have frontage on Mayor Avenue, while the other two properties abut Dobbin Lane, which is not a public street and cannot be used as street frontage for development purposes. The surrounding neighbourhood contains a mix of housing types ranging from single detached dwellings to low-rise multiple unit residential buildings.

These properties are zoned R2-P (General Residential) under the Halifax Mainland (LUB) and are designated as MDR (Medium Density Residential) under the Mainland South Secondary Plan (refer to Map 2).

Proposal

Olympia Developments Inc. originally requested that the properties be rezoned to permit a three storey, 24 unit apartment building. A public information meeting (PIM) was held on June 11, 2008. Residents in attendance were concerned with the proposal of a three storey apartment building, but were generally in favor of townhouse style development as an alternative (refer to PIM minutes, Attachment A). The ability to develop townhouses that can be subdivided and held in separate ownership is limited in this location by a lack of frontage on public streets. As a result, the applicant is now proposing townhouse style buildings with common ownership.

The current application is for an amendment to the Halifax MPS and Halifax Mainland LUB to allow, by development agreement, townhouse style residential developments in the MDR designation within the Mainland South Secondary Plan Area. Approval by Regional Council of the above amendment would enable the Chebucto Community Council to consider a development agreement for the applicant's properties on Mayor Avenue.

DISCUSSION

As per Policy 1.1.2 of the MPS, townhouses are a permitted form of residential development in the Mainland South Secondary Plan Area, and specifically, are permitted within the MDR designation as per Policy 1.3 (refer to Attachment B).

Within the MDR designation, there are two zones that permit townhouse dwellings: the R-2T (Townhouse) Zone; and the R-3 (General Residential and LowRise Apartment) Zone. Rezoning to R-2T is most appropriate when each individual townhouse unit has direct frontage and driveway access onto a public street. Alternatively, rezoning to R-3 permits a townhouse style residential development that does not require frontage for each townhouse. However, the R-3 Zone would allow a variety of developments to proceed, including new low-rise apartment buildings. This range of development possibilities can make rezoning to R-3 undesirable as a method of enabling this form of townhouse development.

By requiring a development agreement in an instance such as this where the requirements of the R-2T Zone cannot be met, there is greater ability to ensure that developments address compatibility with existing neighborhoods and provide the proper design of shared elements.

Amendments to the MPS are not considered routine and while Council has the ability to amend an MPS, it is under no obligation to do so. However, as the MDR designation permits townhouses, it is reasonable for Council to proceed with an MPS amendment to enable townhouse development by development agreement where direct access from each unit to a public street is not provided.

BUDGET IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the proposed operating budget for C310.

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

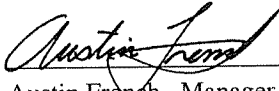
1. Regional Council may choose to authorize staff to initiate the process to amend the Halifax MPS and Halifax Mainland LUB. This is the staff recommendation.
2. Regional Council may choose to refuse the request for the amendment. There is no appeal process and Council is under no obligation to consider a request to amend the Municipal Planning Strategy.

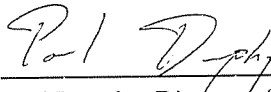
ATTACHMENTS

| | |
|--------------|---|
| Map 1 | Location and Zoning |
| Map 2 | Generalized Future Land Use |
| Attachment A | Minutes of June 11, 2008 Public Information Meeting |
| Attachment B | Excerpt from Halifax MPS |

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.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: Patricia Hughes, Planner, Community Development, 490-1948

Report Approved by: 
Austin French, Manager of Planning Services, 490-6717

Report Approved by: 
Paul Dunphy, Director of Community Development



Map 1 - Location and Zoning

21-23 Mayor Avenue
Halifax



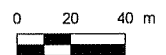
Subject area

Zone

Area of notification

- R-2P General Residential
- R-3 Low-Rise Apartment
- C-2A Minor Commercial
- RDD Residential Development District

Halifax Mainland
Land Use By-Law Area



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


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



Map 2 - Generalized Future Land Use

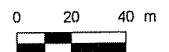
21-23 Mayor Avenue
Halifax



 Subject area

Designation

- LDR Low Density Residential
- MDR Medium Density Residential
- C Commercial
- RDD Residential Development District



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan Area.

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

Halifax Plan Area

**Attachment A
Public Information Meeting
Case 01130
June 11, 2008**

In attendance: Councillor Adams
Patricia Hughes, Planner, Planning Applications
Luc Ouellet, Planner, Planning Applications
Gail Harnish, Planning Services
Mr. Randhawa
Rick Grant

Opening remarks, introductions, purpose of meeting

Ms. Patricia Hughes called the public information meeting (PIM) to order at approximately 7:00 p.m. at the Captain William Spry Centre. The purpose of the meeting is to discuss an application to rezone properties on Mayor Avenue.

Overview of planning process

Ms. Hughes displayed a map showing the five properties being proposed to be rezoned from R-2P (General Residential) to R-3 (General Residential and Low-Rise Apartment Zone). The R-2P zone allows for single, two unit, and apartment buildings up to four units. The R-3 zone basically allows the same uses except it also allows apartment buildings up to four storeys, which is what the applicant is hoping to do on these lots. There are provisions in the R-3 zone related to setback from property lines, etc.

Ms. Hughes reviewed the rezoning process:

- we received an application
- staff did a preliminary review
- we are now holding the PIM
- staff will do a detailed review of the application
- we will prepare a staff report with a recommendation which is tabled with Chebucto Community Council
- Community Council will either reject the application or schedule a public hearing
- the public hearing is held
- there is an appeal period

Presentation of proposal

Mr. Rick Grant pointed out the area of Mayor Avenue and Dobbin Lane on the map. There are five lots which they would consolidate into one lot. Dobbin Lane no longer exists, therefore, they cannot develop the lots abutting it. Because of the size of the lot, it requires a change to a higher density use. The property owner needs a higher use to utilize the properties effectively and appropriately for everybody concerned. The R-3 zoning would make this property consistent and

compatible with the properties adjacent to and around it. In terms of why now, financially it is now a good time for Mr. Randhawa to invest in it.

Mr. Grant indicated HRM has met and exceeded the requirements in the infrastructure as outlined in 6.1 of the Mainland South Secondary Planning Strategy in terms of sanitary sewer. Initially when this plan was done, they were not met, but they are now and can be addressed. The time is right. The need for multi-unit buildings in the City is now starting to increase and particularly out here. There are people who want to move out here. At the same time, there has been a decrease in building multi-unit buildings except for the big condominium buildings.

Mr. Grant noted in terms of what to build, they considered a twenty-four unit building that covers the lot. It is sunk down and blends in. However, Mr. Randhawa said he is open and willing to listen to suggestions for another type of multi-unit use.

Mr. Grant indicated in terms of value to the neighbourhood, this is approximately a \$2,000,000 project. It is a financial investment in the community. With this project being developed, development in that unique little neighbourhood would be complete. Not a lot of other development can happen here. On the lower part of Mayor Avenue, that is the biggest lot there and would give everybody living in the neighbourhood a sense of a final product.

Mr. Grant stated the developer is open and willing to work with Councillor Adams and staff based on your suggestions and options, to look at the best use of the property. As a single lot, it requires a multi-unit use. It is very important to Mr. Randhawa that this property be developed so it is a worthwhile property for him and all the residents in the area.

Questions and comments

Mr. Doug Organ questioned where the sewer line was put in.

Mr. Grant responded he was referencing the main sewer line they would connect in to along the Herring Cove Road.

Mr. Organ commented there is a lot of swamp. They put in a lot of fill there but it would need a lot more. One fellow went down 16' with his backhoe.

Mr. Grant responded they would have to look at that as they started to develop.

Mr. Michael Harvey asked for clarification on the comment that Dobbins Lane did not exist.

Mr. Grant responded when he went in to see about the land, the City said it is not there.

It was commented they said Trelyn Road did not exist either because it is a private road but it does exist. Dobbins Lane on all the maps goes straight through.

Ms. Hughes indicated when our Engineering department looked at the application, they told him he could not use Dobbins Lane for an access point.

Mr. Harvey said he did not agree with the comment that the proposed building would fit in with the adjacent properties. In terms of the comment that they need more multi-unit buildings, he referenced six roads in the LeMarchant Farms subdivision which has six apartment buildings. He felt they have enough apartment buildings for the small area they have. He was not opposed to the property being developed, however, he and his family did not want to see another apartment building. If someone wanted to put in duplexes or townhouses, he could see that happening.

Mr. Harvey referenced the comment made about the financial impact. Yes, it is a \$2,000,000 building for the developer but not for the neighbours. Having a multi-unit building around single residential homes can impact the peace of those buildings. A lot of people want to build single family homes but do not want to be around big apartment buildings. This could negatively affect their property values. He did not think the proposed building would blend in.

Mr. Harvey commented there are small kids in the area and they have no playgrounds or curbs. They are being asked to take on twenty-four more families on their narrow roads. He was told the City was concerned about those roads are not up to standard.

Mr. Harvey said he was born on Trelyn Road and still lived there. He and his family wanted to see development. There is a big parcel of land behind his house. They want to see nothing more than to see buildings like Kline Heights in their area. He thought they have enough multi-unit buildings in the area now.

Ms. Donna Harvey indicated there is an issue about the sewer and water being up to standard and the catch basins. They cannot get a catch basin on their road so she was wondering how the City can pave the way for a developer but residents cannot get drains. Her basement floods every time they have a lot of rain. She wondered why there is money for a developer but not for individual residents.

Councillor Adams noted if something is there, there is capacity in the sewer system to handle what comes from it. In terms of water, it means drinking water. That has nothing to do with the stormwater run-off. The ballots are being prepared to send to the community to look at concrete gutter and paving in that area. It will give a rough estimate of how much it will cost. The water has always been there. The sewer completed was with respect to the Roaches Pond upgrades. A lot of that was paid for by Mr. Armoyan. The force main from the old Holly School Road side down to about a half kilometre was done for increased sewer capacity because of the new treatment plant in Herring Cove. It has nothing to do with money.

Ms. Harvey said she was a little confused about the assumption the land is there and that Dobbin Lane is not available so they must have a multi-unit building. As far as she was concerned, the zoning there now means the land can be used.

Mr. Grant clarified three lots on Mayor Avenue could be used.

Ms. Harvey pointed out the developer bought the land but it does not mean the land has to be rezoned or that they have to put up a multi-unit building.

Mr. Grant clarified it is a request for a rezoning and the multi-unit building because of existing

conditions.

Mr. Organ questioned whether the lots could be consolidated so they could build townhouses with access off Mayor Avenue.

Ms. Hughes noted there could possibly be other configurations.

Mr. Derek Spellner stated there are enough apartment buildings in Spryfield. For some reason they are having a hard time getting the value for their property and they are so close to the Halifax Mainland. Houses further out in Timberlea are getting \$50,000 - \$70,000 more for their property. An apartment building is not going to help a homeowner get their value. They all want to see development. Duplexes and townhouses usually will bring up the area. Everyone is talking about improving Spryfield and he did not think apartments would do that.

Mr. Grant noted the developer is open and wants to listen to their suggestions. He wants to develop that land and this is one option.

Mr. Organ said he would like to see other options.

Ms. Lisa Gallant questioned whether Mr. Randhawa planned on making arrangements with the City to have Mayor Avenue opened up.

Mr. Grant said he did not think they would ever see Mayor Avenue opened up again.

Ms. Gallant stated she strongly felt they do not need another multi-unit building in their neighbourhood.

Mr. Danny Page questioned whether the existing sewer and storm sewer line was capable of handling twenty-four more units. That was built in the early 1970s.

Councillor Adams noted that houses usually do not add extra in terms of storm sewer. They would have to look at the capacity of the sanitary sewer. If a proposal is put forward for x number of units, it would go to Engineering and they would determine the capacity. The proposal has to satisfy all the different parameters, including things such as traffic. Now it is law to separate stormwater from sewer for new homes.

An individual stated there has been flooding for years. He has been complaining about there being no storm sewer system. There is nothing there. He has to pump the water out of his basement into the road.

An individual said the sanitary sewer was put there in the early 1970s and it is not very big. At that part of Mayor Avenue, it is probably down about 20'.

Mr. Grant concurred. He pointed out the City will look at that aspect when an application is made. The developer has to meet the City's standards in terms of sewer and sanitary. They can connect in to the system down at the lower part where the lines were put in the Old Sambro Road. There is a difference in the two parts of the road.

Ms. Hughes noted that if the property is rezoned, the City would not be able to issue a building permit if it was determined the sewer system could not handle the development.

An individual stated she always considered that area as wetland and was surprised anybody could build on that land. The water starts on Layton Road and the culvert goes under it. When they get a lot of rain, the culvert cannot handle it and the water comes across that land. There are bulrushes and frogs there.

Ms. Hughes noted the issue was mentioned by the Building Official as part of our internal review. They will have to get a geotechnical report done before they can proceed to let us know the condition of the soil.

Mr. Hugh Fraser said he understand the developer would be able to construct that building by right if the property is rezoned. He questioned if they could put pressure on the City to upgrade the servicing to the lot once the application is approved.

Ms. Hughes clarified they could build a building up to four storeys, as of right, if the rezoning is approved. In terms of upgrades, it would not be something we would be doing because of the rezoning application. It is not our intention to create a situation where the City would have to do the upgrades.

Mr. Fraser noted there was infilling of the property. Any survey done at this point would be extremely inaccurate to the original use of that property. He asked if that infilling would have been done with some kind of permit.

Ms. Hughes advised there are certain areas of HRM where you need a Topsoil Permit but did not know if that was the case for this area. The Province has some requirements related to wetlands.

Mr. Fraser questioned whether there was any survey done by the City prior to this meeting in terms of its original use.

Ms. Hughes responded no. It is the applicant's responsibility to provide the City with reports certifying that it is safe to build there.

An individual asked for clarification that if they received approval to rezone the property, the developer has the right to build a multi-unit building.

Ms. Hughes confirmed that was the case, provided they met the requirements of the Land Use By-law and the Building Code. Tonight they are talking about a twenty-four unit building. However, it could be for a building with twenty-two or twenty-six units provided it met the requirements of the zone.

Mr. Spellner questioned what the maximum number of units for that lot could be.

Ms. Hughes responded she did not think there is a maximum. You can only go four storeys high and have 50% lot coverage. However, there are open space requirements. For every unit, they are required to have 175 sq.ft. of open space. Often that requirement requires them to shrink the size

of the building.

Mr. Grant indicated in discussions with staff it was determined the maximum number of units was twenty-four.

Mr. Harvey noted people knew water flowed through there. Water flows behind properties on Mayor Avenue, goes to Layton Road, and probably flows through the middle of this property, out to Catamaran Road, and to the Old Sambro Road. He questioned if they would have water problems on Layton Road with no place for water to go if this property is developed.

Ms. Hughes advised at the time they apply for permits they will have to show how much water flows on the site.

Mr. Harvey indicated if something gets built and water stops running, then people on Layton Road will have to worry about that.

Mr. Grant noted their questions are extremely important. The questions will be answered as part of anything they apply for.

Councillor Adams pointed out that if the rezoning is approved, it still has to go through Engineering. If the building changes the water flow, then the City is liable. You cannot divert water onto somebody else's property. The City has to be confident that whatever is built will not adversely affect adjoining residents or that it will not increase water flows.

An individual questioned what formal process they should take if they want to express their concerns.

Mr. Grant suggested they could put their concerns in writing to the Planning department.

An individual commented a development took place on a road that her mother lived on. There was a long consultation process with the residents and what was built is not that bad to look at. The road shrank with the approval of the City and her mom could barely back her car out of her driveway. The City's answer was to post no parking zones.

An individual questioned the difference between the R-2P and R-3 zone. The difference appeared to be low rise apartment buildings.

Ms. Hughes responded yes and confirmed the R-3 zone permits more density.

It was questioned whether the developer was willing to drop his application to rezone the land to R-3 and go with something permitted in the R-2P zone that will fit into the community.

Mr. Randhawa said he could only use two lots. He confirmed it would be rental units if he built an apartment building and that he would retain ownership. The only way you could put in townhouses and still use that property and access Mayor Avenue would be to combine all five lots and put up townhouses and rent them. The number would come down from twenty-four to sixteen.

An individual stated that would look better from the resident's point of view. He understood he could not access all those lots but he could combine those lots into a better looking multi-unit building.

Ms. Hughes clarified each townhouse would need 18' of frontage and 1800 sq.ft. and would have to have access to Mayor Avenue. We will talk to Development Services about the options.

Mr. Fraser questioned whether the developer has the right to get access onto those lots from Dobbin Lane.

Ms. Hughes advised they cannot consider it as frontage because it is not classified as a public street.

Mr. Grant noted it goes way back to when the County had a lot of private roads. There were things the City inherited in 1969 that did not fit. It is like a private road. Technically you have to chain off a private road one day a year.

Ms. Hughes commented she thought it was City owned. Our Engineering department looked at it and did not have an interest in upgrading it.

Mr. Harold Clowater said he used to own land on Hilary Street. Before he bought that land, he made inquiries and was told it would be Hilary Street right through to the Old Sambro Road. Now he was learning tonight they have a landlocked piece of land.

Ms. Hughes advised that she would get input from Engineering and would include comment in the staff report. For this application, the developer was told he could not use that road for access.

An individual questioned why Mayor Avenue was closed. It was responded because of the traffic volume. A traffic survey showed there were over 100 cars between 6 and 7 o'clock.

Ms. Sarah Organ commented with all the traffic coming out on the corner of the street, she could not see putting a \$2,000,000 apartment building there.

An individual questioned whether there would be any underground parking. Mr. Grant responded no.

Mr. Harvey stated he wanted the developer to know they were not opposed to having that land developed. They need some nice looking buildings in the area and need to bring people into the area. He would fight a R-3 zone because it meant an apartment building. R-2P zoning gives the residents what they would like to see built in there.

Mr. Grant thanked members of the public for providing input. Everything they said would be carefully reviewed and considered, along with input from City staff.

An individual said she felt they have enough density there already from multi-unit family buildings. She could not see a four storey building there. There are at least three single storey houses next to it and could not see a four storey building towering over them. That would be such

an invasion to the enjoyment of their property.

Mr. Grant noted they were proposing a three storey building.

An individual pointed out the R-3 zone would allow them to put up a four storey building if the property was rezoned.

The meeting adjourned at approximately 8:05 p.m.

Attachment B
Excerpt from Halifax MPS

Part II, Section X Mainland South Secondary Planning Strategy:

1.1.2 *Forms of residential development which may be permitted in Mainland South are:*

- (a) conversions;*
- (b) detached dwellings;*
- (c) semi-detached dwellings;*
- (d) duplex dwellings;*
- (e) townhouses; and*
- (f) apartments.*

1.3 *In areas designated as "Medium-Density Residential" on the Generalized Future Land Use Map, detached dwellings, semi-detached dwellings, duplex dwellings, townhouses and apartments containing a maximum of four units two of which must be family-type, shall be permitted and neighbourhood commercial uses may be permitted pursuant to Policies 2.1.1 and 2.1.2 of this Plan.*

1.3.1 *In areas designated as "Medium-Density Residential" on the Generalized Future Land Use Map Council may zone to permit apartments provided that their height is limited to a maximum of four storeys and in assessing such rezonings Council shall consider compatibility with the existing neighbourhoods and the adequacy of municipal infrastructure.*