

Halifax Regional Council
February 7, 2006
February 28, 2006

TO: Halifax Regional Council

SUBMITTED BY: Heather Ternoway
Heather Ternoway, Chair
District 12 Planning Advisory Committee

DATE: January 30, 2006

SUBJECT: Case 00709: Development Agreement - Former Texpark Site, Halifax

ORIGIN

District 12 Planning Advisory Committee meetings - January 16 and 23, 2006

RECOMMENDATION

The District 12 Planning Advisory Committee recommend that Halifax Regional Council:

1. Give Notice of Motion to consider the development agreement attached to this report and schedule a public hearing;
2. Approve the development agreement, included as Attachment A of the staff report dated December 16, 2005, with an amendment to **not approve clause 2.11** of the proposed development agreement which permits the use of the lands for interim parking prior to construction;
3. Require that the development agreement be signed within 120 days, or any extension thereof granted by Regional 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;
4. Discharge that portion of the existing Development Resolution for the MetroPark facility as it applies to the northwest portion of Lot 1A (PID# 41036088) which forms part of the proposal, to take effect upon the registration of the subject development agreement;
5. Subject to signing of the development agreement, approve the encroachments as shown on the Schedules of Attachment A of the staff report dated December 16, 2005. (Staff will bring this item back to Council at the appropriate time).

ATTACHMENTS:

Staff report dated December 16, 2005
Excerpt of District 12 minutes - January 23, 2006

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: Gail Harnish, Admin/PAC Coordinator, 490-4937

Extract of Draft minutes of the District 12 Planning Advisory Committee held on January 23, 2006.

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MOVED by Ms. Beverly Miller that the District 12 Planning Advisory Committee reject the staff recommendation as outlined in the staff report dated December 16, 2005. Having no seconder, the MOTION WAS LOST.

MOVED by Ms. Lucy Trull, seconded by Mr. Clary Kempton, that the District 12 Planning Advisory Committee recommend that Regional Council:

1. Give Notice of Motion to consider the development agreement attached to the staff report dated December 16, 2005 and schedule a public hearing;
2. Approve the development agreement, included as Attachment A to the staff report dated December 16, 2005;
3. Require that the development agreement be signed within 120 days, or any extension thereof granted by Regional 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;
4. Discharge that portion of the existing Development Resolution for the MetroPark facility as it applies to the northwest portion of Lot 1A (PID#41036088) which forms part of the proposal, to take effect upon the registration of the subject development agreement;
5. Subject to signing of the development agreement, approve the encroachments as shown on the Schedules of Attachment A (Staff will bring this item back to Council at the appropriate time).

Mr. Clary Kempton read into the record comments he had prepared discussing the proposed development, during which the following was noted:

- Halifax is comprised of a unique blend of architectural styles as well as a varied assortment of land uses.
- The proposed development corresponds with the following Central Business District Objectives and Policies:
 - Economic Objective: "The strengthening of the Halifax CBD as a dynamic focus of governmental, commercial, retail, residential and entertainment uses, and the appropriate development of the waterfront to promote the city as the major business and cultural centre of Atlantic Canada. "

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- Section 1.1.1: "The City shall seek, encourage and facilitate developments which respond positively to this concept and discourage those which respond negatively".
- Social Objective: "The creation of a lively, vibrant environment throughout the CBD which promotes and supports a wide variety of living, leisure and working activities throughout the day and evening."
- The Granville streetscape is in urgent need of restoration.
- Activity will be generated to the area by the condominiums, hotel, office space, conference centre, and retail space in the proposed development, which may be an incentive for other property owners in the area to restore their buildings.
- The proposed development is outside of restrictive viewplanes, is not adjacent to significant historic architecture, does not encroach on the citadel or waterfront, does not involve the demolition of any building, and complies with the intent of the MPS to bring a measured amount of growth and activity to the downtown core.

Mr. Kempton also showed photographs of the streetscape and distributed a newspaper article outlining a 9.8% decline in visitors to the Citadel. A copy of Mr. Kempton's written comments, with photographs and newspaper article, are on file.

Ms. Beverly Miller noted that the Committee must base their decision on policy, in particular whether the development would follow the Municipal Planning Strategy. Ms. Miller noted the following MPS sections and policies which could be interpreted as inconsistent with the proposed development:

- Section I - Basic Approach and Overall Objective for ongoing planning:
"The enhancement of the physical, social, and economic well-being of the citizenry of Halifax through the preservation, creation and maintenance of an interesting and livable city, developed at a scale and density which preserve and enhance the quality of life."
- Section II - City Wide Objectives and Policies - Heritage Objective (II-22):
"The conservation or rehabilitation of areas, streetscapes, buildings, features and spaces which mark the sequence of development in Halifax and which identify the CBD as the City's cultural and heritage centre."
- Section III - The Central Business District
 - Economic Policy (1.3.2): "The City should encourage new developments that integrate with existing industries, commercial enterprises and institutions."
 - Scale and Design Detail:

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- Objective: "A high quality of design and construction of buildings to reflect the architectural, heritage and topographical characteristics of the CBD."
- Policy 7.1: "The character of the CBD should be reinforced through the control of urban design details such as massing, texture, materials, street furniture and building lines."
- Policy 7.1.1: "The City shall generally retain the remaining street grid and City block pattern in the CBD."
- Policy 7.1.2: "The City shall encourage the architectural form and scale of new developments to be compatible with the block pattern and shall discourage those developments which do not respect it."
- Open Space: As per the MPS, the definition of open space includes circulation space. Accordingly, open space included in the proposed development would be contrary to Policy 5.1 and Policy 5.1.2.
- Heritage - Policy 6.2: "The city shall continue to make every effort to preserve or restore those conditions resulting from the physical and economic development pattern of Halifax which impart to Halifax a sense of its history, such as views from Citadel Hill, public access to the Halifax waterfront, and the street pattern of the Halifax CBD."
- Circulation - Policy 3.4.3: "which limits surface parking lots as an interim use to meet immediate needs."

A copy of Ms. Miller's written comments are on file.

Ms. Lucy Trull noted that the Municipal Planning Strategy requires clarification and is open to interpretation. She commented that the viewplane protection was put in place to protect certain views from the Citadel, not the entire view. Ms. Trull also noted that the element of added economic vibrancy and the residential component to the development were factors in her decision. She further commented that legislation regarding height and heritage issues were considered carefully and her decision was not based on personal preference, but rather based on legislation.

Councillor Dawn Sloane arrived at 7:15 p.m. Ms. Heather Ternoway, Chair, clarified the motion on the floor for the benefit of Councillor Sloane.

Ms. Ternoway noted that in reaching a decision on this application, consideration was given to policies and legislation, which are open to interpretation and in some cases conflicting. She indicated that there are questions surrounding certain definitions in these policies, such as "generally", "complimentary" and "vicinity" along with certain "should" clauses. Ms. Ternoway noted that the interpretation of the intent of the viewplane protection, in alignment with existing legislation, is not to protect a panoramic

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view from the Citadel, but certain viewplanes. She noted that she believes the proposed development enhances the architecture and heritage of Barrington Street through contrast. Ms. Ternoway commented that the MPS was written to allow for flexibility and interpretation. She further commented that the proposed development includes retail and residential aspects, which will encourage and attract people to work, live and visit downtown, as per current MPS policies and is in line with the Regional Plan. Ms. Ternoway indicated that there are many more significant factors contributing or detracting from tourism than this particular development.

Mr. Graham Gunn reiterated comments made by Mr. Kempton, Ms. Trull, and Ms. Ternoway regarding the non-clarity of the MPS. Mr. Gunn noted that Granville Street is not a heritage district and that he does not believe that this development will detract from the vision of the city, nor will it detract from the heritage of the downtown.

Ms. Miller commented that her decision was based on the MPS and from a long-term future point of view, not from a heritage point of view. She noted that the design is comparable to other examples of poorly designed tall buildings in Halifax, such as the Maritime Centre, Scotia Square, and the Fenwick building, all of which are on podiums with a greater set-back from the street than the proposed development. Ms. Miller indicated that the MPS was written after some of these tall buildings were built to protect against the same type of development. She further noted that she believes that there will be wind and shadow problems with the development.

Ms. Trull noted that discussions surrounding this development further clarify the need for Halifax to define a vision for the city and ensure clarity in policies and legislation so there will be no need to assess developments on a case by case basis. The Urban Design Plan or the Regional Plan are avenues for creating this clarification. Ms. Trull spoke in favour of preserving existing heritage while still allowing for different types of design. She further commented that designs for low yet poorly designed buildings are being seen as acceptable while designs for tall buildings are being criticized without looking at the merits of the design.

Councillor Sloane commented that within the downtown, the issue of height remains a contentious issue. She noted that the MPS is vague in order to be interpreted according to different scenarios, however, the same issues are being repeatedly discussed and need to be clarified. She also noted that it is possible to complement heritage with innovative designs. Councillor Sloane indicated that the proposed development follows the intent of the MPS in terms of the massing scale being divided into two towers, and will contribute to the economic conditions of the area. She agreed that there are concerns about the height of the proposed development and clarification is needed to

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deal with height of new developments. She further noted that the MPS was put together with the shared views of the community at the time it was written.

Ms. Ternoway indicated that the mandate of the District 12 PAC allows for public meetings regarding plan amendments only. The Committee is not permitted to hold a full public meeting for development applications, as it would be confusing the overall public participation process of Council. Ms. Ternoway indicated that the Committee has a responsibility to allow the development to go forward to Council for a public hearing to obtain proper public input.

Councillor Sloane noted that this proposed development is going before all members of Council, most of whom do not spend much time in the downtown core and that this development will have the greatest affect on people who live, work and play in the downtown core. She discussed subdivision developments that will have a greater impact on traffic and municipal services than the proposed development before the Committee. Councillor Sloane noted that in order to make the right decision for the community, Council must hear from the public.

It was clarified at this time that the motion on the floor is the staff recommendation appearing in the December 16, 2006 staff report.

The Committee discussed the use of the site as an interim parking lot as per Clause 2.11 of the development agreement attached to the staff report. The Committee agreed that allowing the use of the site for interim parking would be contrary to HRM's efforts to encourage the use of alternative transportation.

MOVED by Councillor Dawn Sloane, seconded by Ms. Beverly Miller, that the development agreement included as Attachment A to the staff report dated December 16, 2005 be amended to not approve clause 2.11 which permits the use of the lands for interim parking prior to construction.

During the debate on the amendment, the following was noted:

- The Committee could recommend to Council to set a time limit on the use of the site for interim parking.
- Clause 2.11 (d) reads "the interim parking use shall be permitted until such time as the building permit is issued and construction commences and may only be extended by resolution of Council...", which could possibly allow for the use of the site as a parking lot for several years.
- The applicant submitted information on a demand for monthly parking in the downtown.

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- Allowing the use of the site for interim parking would be contrary to the Regional Plan which promotes active transportation and alternative transportation.

THE MOTION TO AMEND WAS PUT AND PASSED UNANIMOUSLY.

THE MOTION, AS AMENDED, WAS PUT AND PASSED.