

DARTMOUTH CITY COUNCIL

MAY 23, 1991

LOCATION: CITY COUNCIL CHAMBERS

TIME: 7:30 P.M.

MEMBERS PRESENT: MAYOR SAVAGE
SARTO, THOMPSON,
MACFARLANE, BILLARD,
CONNORS, MCCLUSKEY,
PYE, WOODS, WALTON,
HAWLEY, GREENOUGH,
HETHERINGTON, RODGERS,
LEVANDIER

CITY SOLICITOR: M. MOREASH

PLANNING STAFF: J. LUKAN, PAT RICHARDS, ROGER WELLS, ED ATKINSON

PUBLIC HEARING - NEW M.P.S. AND LAND USE BY-LAWS

Mayor Savage reconvened the Public Hearing adjourned May 16th.

AUSTIN FRENCH - 39 LYNN DRIVE: He was not present this evening but has left a written submission.

TREVOR PARSONS, 16 TULIP STREET: As Ms. Forbes, 14 Rose Street, could not be present this evening, he read her letter concerning traffic problems in the Austenville Neighbourhood and the effect it has on this community. She did not feel that Maple and Thistle Streets should be designated collectors or arterials.

Mr. Parsons also expressed concern regarding the negative impact of traffic volumes in this neighbourhood and the inappropriateness of directing traffic via this route. He referred to the underutilization of Alderney Drive and the need to encourage people to use it rather than Thistle and Maple Streets. He felt if the volume of traffic through this neighbourhood isn't reduced, the neighbourhood will deteriorate. If the traffic is contained, people will move in a fix up the properties.

A question was posed to Mr. Parsons regarding the effectiveness of signs to control traffic through this neighbourhood. Mr. Parsons indicated they have been effective for the specified hours, but there has been no impact during the remainder of the day.

PETER MCINROY, BOYNE CLARKE representing Jachimowicz's Delcor Group:

Before Mr. McInroy began his two presentations, Ald. Connors declared a **conflict of interest**, as Mr. McInroy is one of his law partners. He removed himself from his seat and indicated that at any further stage of the meeting or debates, when this subject arises, he will remove himself during debate, discussion and decision.

The subject of Mr. McInroy's first presentation was a parcel of land off Prince Albert Road, Erskine, Thompson and Eaton Avenue. He left with the Planning Staff a copy of a letter, attaching maps of the area in question. He noted that the land in question is zoned in part R-4 and the balance C-2. He noted that the current M.P.S. breaks this parcel of land into two zoning designations. He referred to area 'C' on the map. One portion of land has been designated MU-3, which permits some residential and some commercial. The balance is R-2. A height restriction of three storeys has been placed on this MU-3 Zone, although other similar zones have a five storey height restriction.

He noted that with these two zones applying, it is hard to develop an integrated proposal for these lands. It is requested that both parcels be designated MU-3.

Secondly, it was requested that the three storey height restriction be reassessed. He referred to policies to encourage growth in the Downtown and the need for the Downtown to be able to compete, on an equal footing, with the Business Park, where the three storey restrictions were raised.

His second presentation related to 21 Lakecrest Drive, owned by Danny Khoury. The rectangular piece of land, containing 13,000 sq. ft. is in the vicinity of the Carter lands.

He noted that Mr. Khoury's land is presently zoned R-1 and he had previously applied to City staff for a rezoning to permit the construction of a nine unit apartment building. He was advised of the M.P.S. Review being conducted and the possibility that the Committee might consider a higher zoning on this land. The Committee did recommend an R-4 zoning. He noted that a similar zoning on the Carter lands had been previously objected to, but his client would like the R-4 designation retained. He argued that this zoning would make a sensible transition zone and no traffic problems are anticipated, due to quick access to arterial routes. He noted that staff did not suggest any change to the R-4 designation in their staff report.

In reply to a question from Ald. Sarto, it was noted that the maximum units for an R-4 Zone could not be constructed on this property, as it is only 13,000 sq. ft. Due to the lot size only 8 or 9 units would be permissible versus the 25 permitted in an R-4 Zone, if the lot size was sufficient.

JOHN YOUNG, representing Euro-Kan Investments Limited - He noted that this firm is the owner of Horizon Estates, a 16 storey apartment building, in the vicinity of Micmac Mall. He indicated that it is his client's desire to build one or two similar structures, in addition to some low-rise developments closer to Micmac Mall. While City staff has recommended an R-7 Zone, the M.P.S. is recommending an R-6 Zone. While site density isn't an issue, the height restriction of the R-6 Zone is. It would limit height to three storeys. He did not feel there is any particular reason to place a height restriction on this property, due to its location.

It was noted that the density permitted for an R-6 Zone is 40 units per acre, while a R-6 Zone permits 60 units per acre.

Staff was asked if there is anything, in terms of zoning, which would permit more height but still control density. Mr. Young noted that his client would be happy with an R-6 Zone, if the height restriction wasn't there. An R-6 (a) Zone was a suggestion.

MR. BOYNE of Boyne Clarke: Mr. Boyne presented a written submission dated May 16. He was representing MacCulloch & Company Limited, who owns approximately 26 acres of land on the shores of Lake MicMac. He outlined the history of these lands, noting that they are currently zoned H-Holding, which permits single family dwellings, as of right. If Council agrees with the M.P.S., which zones these lands Regional Park, which freezes the development of lands, the City should be prepared to buy them, he suggested. If the City is not prepared to buy them, he argued that the Zone should be left Holding.

He referred to the provisions in the Planning Act which specifies obligations of the municipality if such a re-zoning occurs.

In conclusion, he felt it was time that the City either allows the owners to use and develop these lands or buys them. Reference was made to the assessed value of the land being \$600,000, while appraisals have valued the land between \$1.4 to \$2 million.

PETER LESBIREL, 14 Guysborough Avenue, representing his father Mr. W.E. Lesbirel of 2 Beech Street: Mr. Lesbirel noted that his father has owned a parcel of land on the western side of Lake Micmac for 50 years, and even 32 years ago he was advised he couldn't use the land to build a cottage. He is now in his eighties and while restricted from using his land, he has yet to receive any money for the property.

~~MARKY MOIR~~
BOB MATTATALL, President Metro Signs: He noted that he submitted a written brief last week. He read this brief into the record.

Some questions were posed to Mr. Mattatall as to why submissions had only been made to the Review process now. Mr. Mattatall noted that his industry had not been consulted and the matter was not adequately advertised.

Several questions were asked of the Solicitor regarding whether the Section of the M.P.S. dealing with sign restrictions could be deleted, thereby lifting the freeze, while the matter is sent back to staff for further review.

Mr. Moreash confirmed that should Council decide not to include this provision in the Land Use By-law, a decision could be made to delete it and the freeze would be removed. This decision would have to be made at the end of the Public Hearing, however. This would not effect further procedures to debate the rest of the Land Use By-law. Should Council decide to delete the section, staff could sit down with representatives of the Sign Association of Canada to discuss the matter further.

Ald. Walton sought clarification on how hospitals fit with regard to the signage by-law. He wondered if they fit into the Commercial/Industrial category? The matter was taken under advisement.

Ald. McCluskey questioned the impact of removing this section, on the balance of the By-law. Mayor Savage noted that a deletion is not considered a change, so the impact should be minimal.

MAYOR SAVAGE: After the break at 9:10, he noted that since there are still many speakers on his list, tonight's meeting would be adjourned to recommence next Tuesday night, May 28, in lieu of a regular Council meeting.

STEPHEN MOIR, 38 Park Avenue: Mr. Moir is Chairman of the Downtown Dartmouth Residents Association. He noted that while there has not been a meeting of the entire Association on the M.P.S., the Executive have met. From this meeting it was apparent that the members support the establishment of a Heritage District. It was felt this designation would help retain a low density neighbourhood.

Concerns were expressed regarding the zoning proposed for the Del Holding properties, however. The residents had previously asked Council to maintain the R2-TH Zone on this land. It was also felt desirable that when plans do come in for this property, the area residents have an opportunity to review them, well in advance of any Public Hearing. It was felt that this approach should be applied to any Development Agreement process in the City.

It is felt that by promoting high density development in the Downtown area, the City is essentially promoting redevelopment of the area rather than improvement and maintenance of the existing structures, which would maintain the character of the neighbourhood.

In response to a question from Ald. Hetherington, Mr. Moir noted that not all residents in the area have been surveyed. Only the Executive had been polled.

ALASDAIR MCKAY, 35 Edward St.: Not present this evening, but a written submission, dated May 13th, has been left.

ROBERT MACKENZIE - 52 Glenwood: Mr. MacKenzie addressed the proposed zoning of the western side of Lake Micmac. Ald. Connors declared a conflict of interest and withdrew from his seat.

Mr. MacKenzie indicated that he was opposed to the Regional Park Zoning on these lands. He did not feel it was fair to the private landowners. These individuals are in the process of getting the Province to de-designate the lands, as the Province is refusing to purchase them.

He made reference to an April 30, 1991 meeting, in which there was discussion of the installation of a trunk sewer extension. He wondered if this sewer would be installed in/on the Regional Park lands. Mr. Lukan indicated no location has yet been selected.

Mr. MacKenzie wondered should it go through the lands, would it be considered a Permitted Use? It was noted that it is a legal question whether a pipeline is considered a land use. Should a pipeline be installed, one can't build on the easement or right-of-way, however. You could only park on the easement or right-of-way or landscape it, staff explained.

In conclusion, Mr. MacKenzie stated that the proposed zoning will lower the value of his family's lands and make it more unmarketable than in the past. He therefore strongly opposed the change in zoning from Holding to Park Land.

NOEL KNOCKWOOD of 15 Oakwood/10 Mitchell Streets: Mr. Knockwood indicated that he was spiritual leader of the Micmac Nation and member of the Grand Council of the Micmac Nation. He has been asked to speak to Council on behalf of the Friends of the Albro Lake Lands. His statement challenged the ownership of the lands and secondly related to the environment. He referred to several treaties supporting the Micmac claims to the ownership of such lands, Supreme Court decisions, etc. He concluded that before any development commences, the aboriginal rights and land claims should be settled.

His second statement concerned the environment. He read a presentation by Chief Seattle on this subject.

In conclusion, he asked Council to pay respect to the requests of the people they governed.

Ald. Pye wondered if it was possible to place a designation, similar to the Heritage District, on these lands. Mr. Wells felt it may be possible, but it would require research and further discussion.

Secondly, Ald. Pye questioned whether it would be possible for a citizen to come in during the Public Hearing process and recommend a designation or new zoning for parcels of land? Mr. Moreash replied that any member of public can come to Council, at any time, to propose an amendment to the M.P.S. and Land Use By-law. Similarly, they could request a designation of a parcel of land of particular historic or archaeological merit to be protected in a manner similar to heritage places, under the Historic Properties Act.

Mr. Knockwood indicated that he had no objection to the land being designated Heritage.

Ald. Rodgers referred to a letter dated May 23, from Mr. Clarke, Department of Housing, requesting that the lands be designated as zoned by Council on November 6, 1990. However the M.P.S. is recommending that the land be zoned R-11. In order to obtain a Development Permit, the proposal must meet the requirements of the previous zoning and the proposed R-11, Comprehensive Development. If this Plan isn't approved for an additional period of time, no progress can be made on this development.

Mr. Moreash confirmed that the Department of Housing would be caught by the freeze until the Review was completed by Council. However, whether the Crown is bound by the Planning Act and the City's Zoning Bylaws is questionable.

Mr. Lukan noted that should the process not be completed by mid August, when the 120 day freeze is over, the zoning goes back to the existing, i.e. R-1, R-2, R-3, TH and P and they could develop everything included in their original request. Because the Municipal Board made its decision during the freeze, they have been caught and cannot develop anything for the time being.

It would require a further notice of intent to impose any further freeze after the initial 120 days, Mr. Moreash stated.

Ald. Woods referred to the celebration, planned for this fall, to commemorate the Halifax Explosion. In light of the Micmac settlement destroyed by this event, he felt the Mayor should consider having a Micmac representative on the Planning Committee. The Mayor took this suggestion under advisement.

JUDITH CARTER, 14 CARTER ROAD: Ms. Carter indicated she was speaking on behalf of her mother and her sister. She expressed hers and their opposition to the land known as the Carter property being rezoned R-4 from R-1. She noted that until tonight, she had not been aware of anyone in the neighbourhood that supported this rezoning. She indicated her pleasure that the residents of Bareng Court have circulated a petition against this rezoning as well.

Ald. Connors apologized at the conclusion of Ms. Carter's presentation that he had not declared a **Conflict of Interest**, but he did not wish to interrupt her presentation. He noted that this conflict resulted from partners in his firm dealing with matters associated with this area.

TOM SWALES, 10 RAYMOND STREET: He presented a petition from residents in the area of Lakecrest Drive, who are opposed to the rezoning of R-1 lands to R-4. He referred to a similar proposal in March 1986 to rezone the lands to R-3, which was eventually denied. He noted that this area already has a drainage problem and R-4 development would contribute to making the problem worse.

He referred to the topography of the area. The elevation of the land in question is 30 feet higher than adjacent properties and would result in a building being potentially 76 feet higher than adjacent development. The privacy of homes, located on Lakecrest and adjacent streets would be adversely affected and property values subsequently lowered.

GARY BLACK, 22 LAKECREST DRIVE: Mr. Black indicated that his property is across the street from the Carter property. He felt the zoning on the opposite side of the street should remain R-1. He noted it is proposed to change the zoning on the opposite side of the street from R-7 to C-5. He was also opposed to this change.

RAYMOND MACDONALD: He was not present this evening, but had left a written submission.

PHOTIOS KERAMARIS, 46 Queen St.: He was not present but Mim Fraser indicated that he had asked her to speak on his behalf.

The next speaker was Brenda Gorman, who gave up her position to permit Ms. Fraser to make her presentation.

MS. MIM FRASER, 13 Slayter Street: She indicated she was on the Board of the Community Planning Association. She had the following items to address:

- 1) She referred to the fact that the process has taken such a longtime and although she had been on the original committee for the Downtown, due to a number of changes, she had not been a part of the Committee for some time, even though her name appears in the document.
- 2) Having been initially involved, she continued to receive notices of upcoming Public Meetings and Public Hearings, but was not notified of this Public Hearing.
- 3) She was concerned that there are items in the Plan which affect Residential Zones adversely. By Development Agreement, a wider variety of uses can be established in residential areas, than is currently the case. She felt these changes are "light years" from what people associate with R-1 and R-2 uses. She did not feel that City residents understand this situation.
- 4) She referred to Policy C-37 which makes reference to Metropolitan Place being an example of appropriate development for the area around the Bridgehead. In her attendance at previous meetings, she recalled mention being made of developing a Gateway to Dartmouth and matters associated with the Common lands, but nothing about Metropolitan Place being a positive model. She noted that even now it is difficult to find parking in this area and the Plan is encouraging expansion of the facility.
- 5) She noted that reference to the Common land is not included in the Plan's index. She felt if the Plan requires revision, cross-indexing will be useful. She identified areas where the Plan is in conflict with the recommendations of the Dartmouth Common Committee and the Provincial Common Act.

She noted that Policy HC-15 talks about promoting the expansion of the Bank of Nova Scotia Building, which is in conflict with another policy which discusses the acquisition of privately owned lands on the Common. She recalled that it was originally intended that the City could take back these lands, for addition to the Commons. She felt this matter required clarification.

She noted that a sentence is left incomplete in HC-14.

In the next section she noted that Dartmouth High is referred to as a 'use'. She argued it was not a 'use' but a 'building'.

She also expressed concern about the sentence construction associated with the definition in the Institutional Zone. She foresaw future legal problems resulting from these inaccuracies.

She also noted that policies previously adopted by Council are not reflected in this document, particularly those related to repatriation of the Common lands. No mention is made of the CN lands abutting Geary Street, for example. These lands were meant to make the linkage with the waterfront.

She noted that there was to be no expansion of publicly owned buildings in the Common boundary which reflects both Council's wishes and the Provincial Act. The M.P.S.'s policy is different.

She questioned how the City can pass an M.P.S. and Land Use By-law which is obviously in conflict with Provincial Legislation. Mayor Savage noted that Mr. Moreash will take this under advisement.

On motion of Ald. Pye and Levandier, the Public Hearing was recessed until May 28th.

The meeting adjourned on motion of Ald. Hetherington and Walton at 10:50 p.m.


Bruce S. Smith,
City Clerk Treasurer

City Council, May 23, 1991

ITEM:

Public Hearing, New M.P.S. and Land Use By-law, pages 1 - 9

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