



**HARBOUR EAST-MARINE DRIVE COMMUNITY COUNCIL
SPECIAL MEETING
MINUTES
January 7, 2021**

PRESENT: Councillor David Hendsbee, Chair
Councillor Becky Kent, Vice Chair
Councillor Trish Purdy
Councillor Sam Austin
Councillor Tony Mancini

STAFF: Claire Gillivan, Solicitor
Carl Purvis, Urban and Rural Planning Applications Program Manager
Thea Langille, Principal Planner
Shayne Vipond, Planner III
Simon Ross-Siegel, Legislative Assistant
Liam MacSween, Legislative Support

The following does not represent a verbatim record of the proceedings of this meeting.

The agenda, reports, supporting documents, and information items circulated are online at halifax.ca.

The meeting was called to order at 6:01 p.m. and adjourned at 7:23 p.m.

1. CALL TO ORDER

Councillor Hendsbee, Chair called the meeting to order at 6:01 p.m.

2. APPROVAL OF MINUTES – December 16, 2020 (Special Meeting)

MOVED by Councillor Mancini, seconded by Councillor Purdy

THAT the minutes of December 16, 2020 be approved as circulated.

MOTION PUT AND PASSED.

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

Additions: None

MOVED by Councillor Mancini, seconded by Councillor Purdy

THAT the agenda be approved as circulated.

MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES – NONE

5. CALL FOR DECLARATION OF CONFLICT OF INTERESTS – NONE

6. MOTIONS OF RECONSIDERATION – NONE

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS – NONE

9. NOTICES OF TABLED MATTERS – NONE

10. HEARINGS

10.1 PUBLIC HEARINGS –6:00 p.m.

10.1.1 Case 21813: Partial Rezoning of PID 41453945, Cow Bay

The following was before Community Council:

- A staff recommendation report dated July 20, 2020
- A staff presentation dated November 12, 2020
- Correspondence from Angela Grachelli, Brent Darbyson, Bill Falconer, Mike Gingell, Theresa Kuhn, Scott Forbes, Sam White

This matter was deferred by Harbour East – Marine Drive Community Council on November 12, 2020.

Shayne Vipond, Planner III provided a presentation on Case 21813. The proposal is for a partial rezoning of the subject property from P-2 (Community Facility) to RA (Rural Area) to allow for the construction of a single unit dwelling. A copy of the presentation is on file.

In response to a question from Community Council, Vipond noted that the full list of RA zone uses would be permitted on the subject property should the partial rezoning be approved. In response to a follow up question, Vipond confirmed that the proponent could not build within the proposed 200-foot setback from the watercourse located on site.

Vipond clarified staff's position that the current P-2 zoning remaining on the subject property is generally inconsistent with the intent of the Municipal Planning Strategy. Vipond advised that the recommended supplementary report will address the environmental concerns related to setback regulations around Cow Bay Lake and Barrier Pond.

With respect to the environmental considerations associated with the application, Vipond clarified that community engagement and consultation with other orders of government will be conducted by staff and addressed in the supplementary staff report if approved by Community Council. Vipond further noted that internal discussions have been held with HRM's Energy and Environment team to ensure work on this matter is consistent with the ongoing work being undertaken on the Regional Plan.

In response to a follow up question, Vipond noted that staff will be able to address the history of the subject property in the supplementary report if approved.

The Chair opened the public hearing and invited the applicant to provide a presentation on Case 21813.

Rob Leblanc, of Fatham Studios, speaking on behalf of the applicant Silver Sands Realty, provided an oral presentation on Case 21813. Leblanc noted that when the applicant had purchased the property it, was quite larger and was originally intended to be a golf course. Leblanc advised that several years ago, the property was bisected into two lots, with two different zoning designations. The development potential for the lot in question is restricted by a wetland and is currently zoned P-2 which can host community facilities. Leblanc noted that the rezoning proposal is to allow for a construction of a single-family home on the lot which contains the wetland. Leblanc noted that the requested RA zoning allows for a less intensive form of development than the currently permitted under the current P-2 zoning. Leblanc concluded by noting availability to respond to questions from Community Council should they arise.

The Chair read the rules of procedures with respect to public hearings and invited the registered speakers to address Community Council.

Tracey Falconer, of Cow Bay, inquired as to whether documentation from community members, many of whom are experts in environmental science, recommending against development on the subject property due to the environmental impacts on the freshwater lake and the natural movement of the beach was considered when bringing the application forward. Falconer cited concerns with frequent storm surges, erosion, and the impact of drainage and flooding on abutting properties if development on the subject property is permitted.

Bill Falconer, of Cow Bay, raised concerns respecting the potential infilling of the wetland and a requirement of HRM to install 3.8-meter vertical barriers mitigate coastal flooding. Falconer advised that this flooding was demonstrated to HRM's planning department and noted that it occurs on an annual basis. Falconer questioned as to whether the applicant or HRM staff have assessed this when determining if it's a safe area to develop single family dwellings on the property. Falconer further noted that there have been negative impacts on existing properties from infilling on the property which has already taken place and inquired if it will be addressed.

The Chair noted that all registered speakers have had an opportunity to address Community Council and invited the applicant to briefly respond to points raised during the public hearing.

Rob Leblanc advised that the issue of freshwater lake and movement of the beach is addressed in the watercourse setback requirements on the lot that the applicant is requesting the rezoning. Leblanc clarified that the current zone is not a conservation zone and permits a much more intense form of

development that was is being proposed. Leblanc reiterated the applicant's intention to move from a more intensive use to a less intensive use for the subject property.

MOVED by Councillor Kent, seconded by Councillor Austin

THAT the public hearing close.

MOTION PUT AND PASSED.

MOVED by Councillor Kent, seconded by Councillor Purdy

THAT Harbour East-Marine Drive Community Council:

- 1. Adopt the amendments to Schedule A, the zoning map of the Land Use By-law for Eastern Passage / Cow Bay, as set out in Attachment A of the staff report dated July 20, 2020; and**
- 2. Request a staff report identifying issues of increasing environmental concern around the Cow Bay Lake area including the setback regulations of Cow Bay Lake and Barrier Pond, a discussion on the existing P-2 (Community Facility) Zone and the range of permitted uses within the Special Area Designation of the MPS for Eastern Passage/ Cow Bay.**

In response to questions from Community Council, Vipond advised of the 2007 Supreme Court decision which establishes Cow Bay Lake as brackish, and noted that despite this decision, it is still classified as a fresh water body. Vipond clarified that the 3.8 Meter coastal elevation requirement does not apply to the subject property as it is not the ocean. Vipond explained that protections for Cow Bay Lake can be achieved by the proposed 200-foot set back requirement and that this will be explored in the supplementary report process, if approved by Community Council.

In response to a follow up question, Vipond noted that the development of structures on the subject property would be on an "as of right basis", meaning what is permitted in the zone and subject to the permitting process. Vipond noted that there are several criteria in the permitting process that the developer must adhere to such as grading and stormwater management. Vipond stated that Council cannot be as restrictive in this regard because this application is not being conducted as a Development Agreement. Vipond further noted that grades and alterations between two private entities it is typically a civil matter of which HRM is not involved.

Thea Langille, Principle Planner added that HRM's new lot grading By-law will apply to future development on the subject property. This includes protections for erosion and sedimentation control which come into effect during the permitting process.

In response to a question from Community Council, Vipond stated that it is inherent in staff's mandate to look at the suitable application of land uses for the area and this will be addressed in the supplementary report. Vipond clarified that if approved by Community Council, a notice of approval ad will be published with a 14-day appeal period to follow. Anyone wishing to appeal will need to contact the Nova Scotia Utility Review Board.

MOTION PUT AND PASSED.

10.2 VARIANCE APPEAL HEARING – NONE

11. CORRESPONDENCE, PETITIONS & DELEGATIONS

11.1 Correspondence

Simon Ross-Siegel, Legislative Assistant noted that correspondence was received for item 10.1.1. This correspondence was circulated to members of Harbour East-Marine Drive Community Council.

For a detailed list of correspondence received refer to the specific agenda item.

11.2 Petitions – NONE

11.3 Presentations – NONE

12. INFORMATION ITEMS BROUGHT FORWARD – NONE

13. REPORTS – NONE

14. MOTIONS – NONE

15. IN CAMERA (IN PRIVATE)

15.1 Approval of In Camera (In Private) Minutes – December 16, 2020

This matter was dealt with in public session. The following motion was passed:

MOVED by Councillor Mancini, seconded by Councillor Purdy

THAT the In Camera (In Private) Minutes of December 16, 2020 be approved as circulated.

MOTION PUT AND PASSED.

16. ADDED ITEMS – NONE

17. NOTICES OF MOTION – NONE

18. DATE OF NEXT MEETING – February 4, 2021

19. ADJOURNMENT

The meeting was adjourned at 7:23 p.m.

Liam MacSween
Legislative Support