

**POLICY DIVISION**  
**MEMORANDUM**

TO: Warden A. MacKenzie & Members of Council

FROM: J.M. Hanusiak, Policy Division

RE: Public Hearings, July 14, 1986

DATE: July 14, 1986

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Please be advised that the following Public Hearings are scheduled for this evening:

1. Application No. PA-CH/W-06-86-21 - Proposed amendments to the Municipal Planning Strategy and Land Use By-law for Cole Harbour/Westphal.
- 1(a). Application No. DA-CH/W-06-86-21 - Proposed development agreement between the Municipality of the County of Halifax and William Colin Walker to permit a feed store on Lot 2 of the Lands of Stanley T. Ritcey, located on the Cole Harbour Road at Cole Harbour.  
Please Note: The hearing of this particular application is conditional upon the approval of item No. 1.
2. Application No. RA-TLB-11-86-02 - Application by Blunden Construction Ltd. to rezone Lot "AX" of the Lands of Peter David, Susan Caldwell, and John F. Ciguere, located on the St. Margaret's Bay Road at Timberlea, from R-1(Single Unit Dwelling)Zone to R-4(Multi-unit Dwelling)Zone.
3. Application No. RA-CH/W-02-86-21 - Application by Kiel Developments to rezone a portion of the Lands of Gordon T. Eisener, located on the Cole Harbour Road at Cole Harbour, from R-1(Single Unit Dwelling)Zone to R-2 (Two Unit Dwelling) Zone - and - to rezone another portion the the Lands of Gordon T. Eisener, located on the Cole Harbour Road, from R-1(Single Unit Dwelling)Zone to C-2(General Business)Zone.

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25 June 1986

Mr. G. Kelly  
Municipal Clerk  
Municipality of the County of Halifax  
P. O. Box 300, Armdale  
Halifax, Nova Scotia  
B3L 4K3

Dear Mr. Kelly:

I am writing in regards to application No. PA-CH/W-04-86 and to advise that I feel that the application should be rejected by Council for the following reasons.

1. To allow such an amendment would severely weaken the intent and integrity of the Municipal Planning Strategy.
2. A number of years ago, the County sought the assistance of the area residents in formulating a Municipal Planning Strategy and Land Use By-law for Westphal/Cole Harbour. We certainly realize that these documents are not carved in stone and that changes will occur and perhaps should occur provided the proposed changes meet the intent of the Municipal Planning Strategy. However, to allow such an amendment, I feel, would contradict the intent, not to mention the community's loss of security and enjoyment which currently exist. In my opinion, this type of amendment would require a reassessment of the policies and intent of the Municipal Planning Strategy.
3. The residential policies of the Municipal Planning Strategy allow for, and the land use by-law provides for a limited amount of commercial uses in the residential zones. These uses do not impact adversely on the residential character of the neighbourhood, however a feed store operation would.
4. An integral part of the Municipal Planning Strategy is the Community Commercial Core and Highway Commercial which provide for various commercial uses. Within the areas having these designations, a feed store operation could develop as of right. Certainly, there are vacant commercial lands and/or space available which could accommodate a feed store operation.



Mr. G. Kelly

25 June 1986

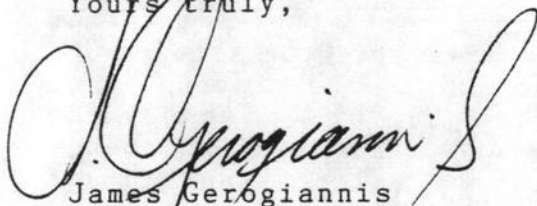
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5. Page 28 of the Municipal Planning Strategy talks about Land Use Intent. "The Residential A Designation" (which this site is located in) "recognizes the Plan Area's established community and constitutes the priority area for continuing residential development. The intention is to recognize the existing residential environment while providing for a variety of housing types and densities as the community continues to grow and evolve." In my opinion, to allow a feed store operation in a residential zone does not meet the intent of the Residential A Designation and would contradict Policy No. 29. To amend the Municipal Planning Strategy and its policies to allow for a feed store operation by means of a contract development agreement or any other means in a residential environment; then I feel that Council will have set a precedent. Council will then be hard pressed to refuse future applications for commercial developments in residential zones. In essence, Council will have created a general zone which would allow any type of development to occur.

In closing, while our Municipal Planning Strategy is not perfect, it has provided some protection, direction, and guidance and order to the growth of the Westphal/Cole Harbour area; and it would be a shame to see that destroyed.

Thank-you.

Yours truly,



James Gerogiannis  
R. R. #1, Broom Road  
Dartmouth, Nova Scotia  
B2W 3X7

cc: Councillor R. DeRoche

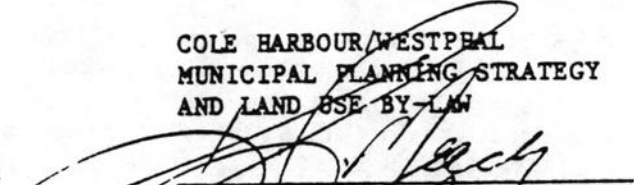
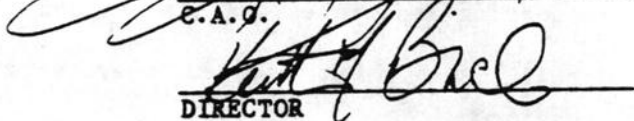


STAFF REPORT

TO: Planning Advisory Committee

COLE HARBOUR/WESTPHAL  
MUNICIPAL PLANNING STRATEGY  
AND LAND USE BY-LAW

BY: Dept. of Planning & Development

  
E.A.G.  
  
DIRECTOR

DATE: March 21, 1986

RE: APPLICATION NO. PA-CH/W-04-86

RECOMMENDATION

IT IS RECOMMENDED THAT NO AMENDMENT TO THE MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW FOR COLE HARBOUR/WESTPHAL, WHICH WOULD PERMIT A FEED STORE ON A LOT OWNED BY DALE WALKER, BE UNDERTAKEN AT THIS TIME.

INTRODUCTION

On March 3, 1986 PAC requested that staff prepare a report outlining alternative courses of action that might be taken in order to accommodate Mr. Dale Walker's request to establish a 2,400 square foot feed store on his property on the Cole Harbour Road. Mr. Walker's business primarily entails selling animal feed in bulk, in addition to the sale of supplies related to gardening. The business is now located in Dartmouth but has to be vacated in the near future.

In many respects this request is similar to the case of Mr. William Casavechia on the Caldwell Road.

The property to which he would like to relocate is situated in the Residential A Designation and is presently zoned R-1 (Single Unit Dwelling) Zone, (Map 1, p. 4). The designation does not allow for commercial uses other than local convenience, variety and food stores to a maximum of 1,500 square feet through the rezoning process.

The Residential A Designation constitutes the priority area for continuing residential development and for those uses which are supportive of residential environments.

Within the serviced portions of the designation the strategy recognizes that certain developments are required to serve and support residential uses. To this end small convenience stores, day care facilities and community uses may be accommodated by rezoning.

Within the unserved portions of the designation, where the Walker property is located\*, the plan does permit small businesses contained within a dwelling, but does not allow any other uses which are not permitted in serviced areas. Thus, even in those areas where there are larger lot sizes and greater separation distances, the designation is primarily devoted to supporting and protecting the residential environment.

Retail uses which include feed stores are permitted within the Highway Commercial or Community Commercial Designations which support a relatively wide range of commercial uses. Generally speaking, the Community Commercial Designation has been applied to land along the Cole Harbour Road while the Highway Commercial Designation is situated on Highway No. 7.

In order for Mr. Walker to establish his business, some form of plan amendment is necessary. There are a number of options available for Council to consider to achieve this end.

#### OPTIONS

1. The first option is to broaden the type and scope of commercial activity permitted within the Residential A Designation, In this case it would mean permitting either through the rezoning or the development agreement process, uses which serve a wider than strictly local market. In order to ensure that the amendments meet the needs of the particular proposal at hand it would also be necessary to increase the present size limit of 1,500 square feet for commercial uses in the designation to a maximum of 2,500 square feet.

It is recommended that the use of development agreements be the means by which this type of policy change be implemented as this process allows for a more site specific evaluation of individual proposals and provides the means to establish an appropriate level of control on each development. This is especially important within the Residential A Designation where protection of the residential environment is its primary objective.

An amendment of this nature would involve a review of the commercial philosophy of the planning strategy with a view toward justifying the location of larger commercial enterprises beyond the Cole Harbour Road and Highway No. 7 by development agreement. Such an amendment should establish that there is, in fact, a need for certain types of commercial activity beyond this area as well as explain how this expansion would be compatible with the predominant residential philosophy of the plan.

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\* The Municipal sanitary sewer ends approximately 200 feet from Mr. Walker's property and the Engineering and Works Department have indicated that his property is incapable of receiving this service. Municipal water ends approximately 100 feet from Mr. Walker's lot and although it is not connected to it, it may be possible to do so.

In order to limit the effects of the amendment it is further recommended that it only apply to those portions of the designation where municipal sanitary sewer is not available and which are generally located on the fringes of the urban community which is to a certain extent semi-rural in nature. Within these areas lot sizes are larger, there is an opportunity for the use of greater setbacks and there is a semi rural market in outlying areas which can be served by such operations as feed stores. The intent of the amendment therefore would be to accommodate commercial development which is oriented to a rural market. Apart from the necessary changes to the planning strategy and land use by-law, it would also be necessary to enter into a development agreement with Mr. Walker.

2. The second option is to amend the plan designation along the Cole Harbour Road to one which would permit a feed store. In this case the logical course of action would be to extend the Community Commercial Designation to the Walker property from where it now ends at Smith Avenue.

An amendment of this form would require making the necessary changes to the Generalized Future Land Use Map as well as justifying within the text of the plan as to why the designation is being extended to cover a largely residential area. In addition Mr. Walker's property would have to be rezoned from its present R-1 zoning to C-2 (General Business) Zone. Further to this the C-2 zone itself would require amendment as it is now only applicable to serviced areas and therefore its standards are geared to serviced lots (i.e. 6,000 square foot minimum lot area). A minimum standard for unserviced lots would have to be added.

Unlike the first option which would recognize that commercial uses may be appropriate in certain areas, this option would clearly establish the appropriateness of such development for whatever area was encompassed by the designation.

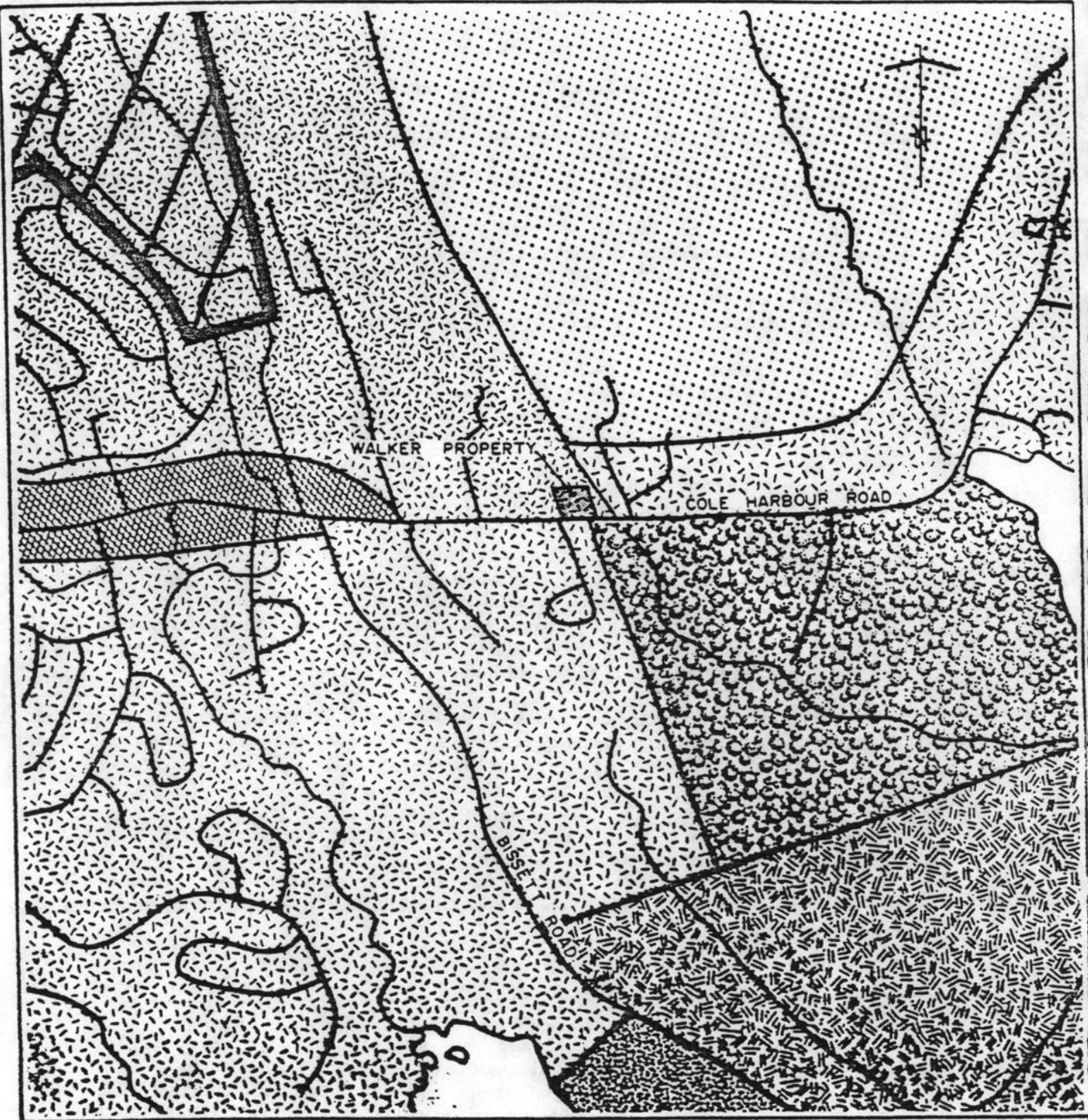
There is, however, very little to justify extending the Community Commercial Designation as all of the property between Smith Avenue and the Walker property is residential in nature, except for a commercial/ industrial operation across the street which has been in existence for a number of years.

#### CONCLUSION

Two alternatives have been outlined by which the Cole Harbour/Westphal municipal planning strategy might be amended so as to permit the development of a feed store on the Cole Harbour Road. In the past, situations like this have often resulted in an option to amend a planning strategy specifically for the property in question. As has been pointed out in previous reports where an amendment is tailored to a specific property, it must be demonstrated that it has some special characteristic that would justify allowing an exception on planning grounds. In this particular instance there is virtually nothing to show that this property meets this basic criteria. Staff do not see amending the plan specifically for Mr. Walker as an option.

Although, from a planning perspective, neither of the options presented are particularly attractive, if Council does proceed with this matter, option one would be the recommended course of action.





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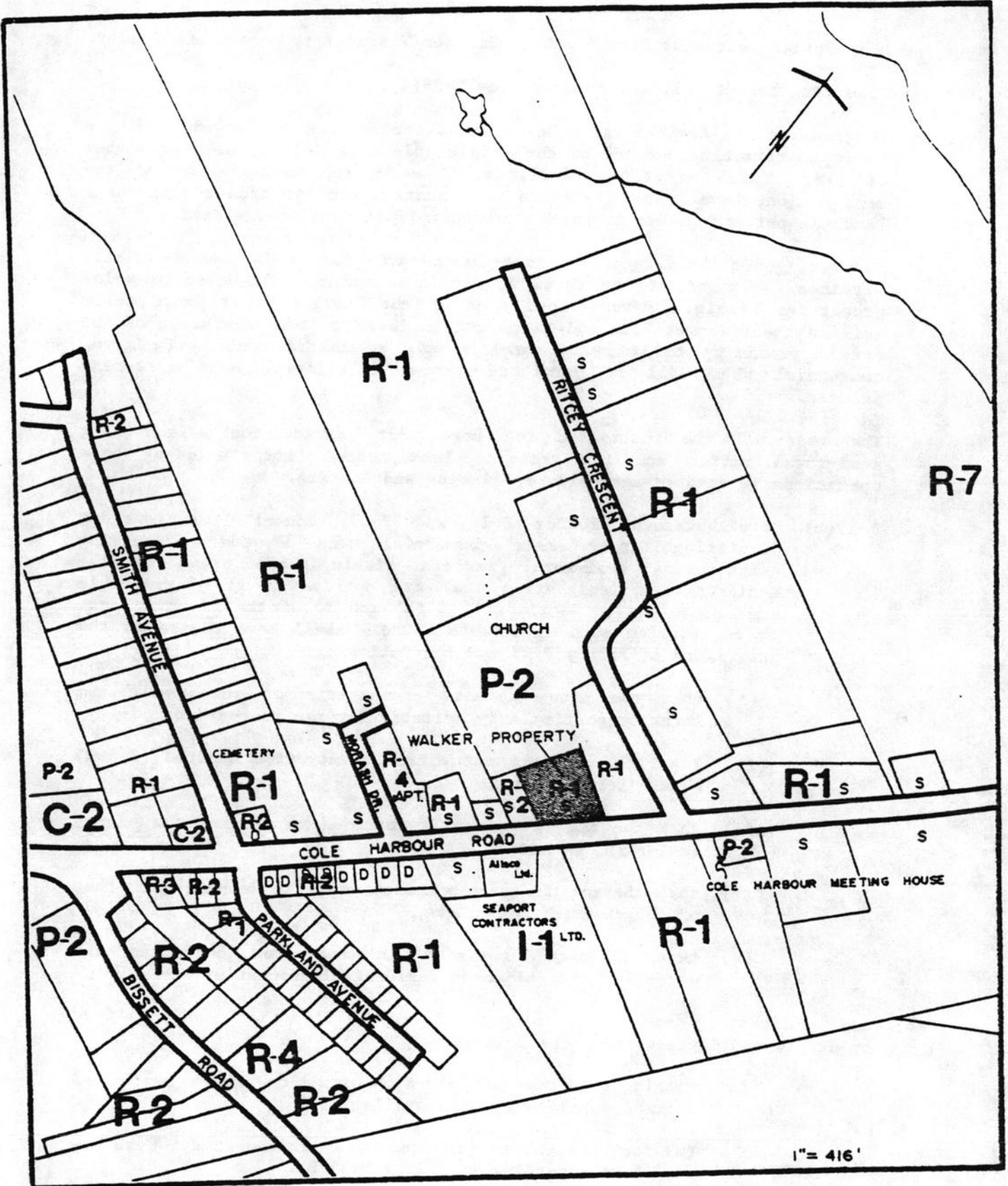


RESIDENTIAL "A" DESIGNATION

RESIDENTIAL "B" DESIGNATION

COMMUNITY COMMERCIAL DESIGNATION

SPECIAL AREA DESIGNATION





A BY-LAW TO AMEND THE MUNICIPAL DEVELOPMENT PLAN  
FOR COLE HARBOUR/WESTPHAL

The Municipal Development Plan for Cole Harbour/Westphal is hereby amended by:

- a) inserting immediately following Policy P-39(a) the following:

Portions of the Residential A Designation are located on the edges of the built up community outside of the serviceable area. Over the past number of years these areas, particularly those in the eastern end of the Designation, have been in a state of transition moving from a semi-rural land use pattern to one in which residential uses now predominate.

However, given the larger lot sizes in the area due to the use of on site services, vestiges of the rural environment remain. In order to allow properties within the unserved area of the Designation to more fully utilize their larger lots and to permit business to take advantage of the area's proximity to outlying rural areas, a limited number of larger commercial uses will be permitted through the development agreement process.

The uses will be restricted to those that service the neighbouring semi-rural market and its resource base economy and includes those operations related to agriculture, fishing and hunting.

P-39(b) Notwithstanding Policy P-30 and P-39, Council may consider permitting larger scale commercial uses devoted to serving neighbouring semi-rural markets within those areas of the Residential A Designation that are outside of the serviceable area according to Sections 33(2)(b) and 34 of the Planning Act. In considering such agreements Council shall have regard to the provisions of Policy P-93 and the following:

- (i) that the site exhibits characteristics which make the location particularly suitable for the proposed use;
- (ii) that the use does not exceed twenty-five hundred (2,500) square feet in area;
- (iii) that the use is primarily intended to service the nearby semi-rural market;
- (iv) that the use is at a scale which is in keeping with that of neighbouring uses; and
- (v) that adequate provision is made for buffering and screening from adjacent residential properties.

- b) and by inserting immediately following Policy P-92(i) the "uses permitted by development agreements", the following:

- (ii) within the Residential A Designation where municipal central services are not available:
  - (a) certain commercial uses to a maximum of 2,500 square feet according to Policy P-39(b).



A BY-LAW TO AMEND THE ZONING BY-LAW

FOR COLE HARBOUR/WESTPHAL

The Zoning By-law for Cole Harbour/Westphal is hereby amended by:

a) adding the following as clause (1) to Section 3.6:

- (1) Certain commercial uses of no more than 2,500 square feet in the unserviced portion of the Residential A Designation.

RE21

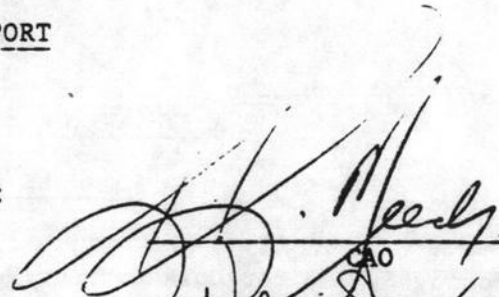

STAFF REPORT

TO: Planning Advisory Committee

FROM: Department of Planning & Development

DATE: May 26, 1986

APPLICATION NO. DA-CH/W-06-86-21

  
\_\_\_\_\_  
CAO  
  
\_\_\_\_\_  
MANAGER, POLICY DIVISION

Information

At a recent meeting, Planning Advisory Committee instructed staff to prepare amendments to the Cole Harbour/Westphal Municipal Planning Strategy and Land Use By-law to permit a wider range of commercial uses within the Residential A Designation.

Pursuant to those amendments is a proposed development agreement which would permit the establishment of a feed and related business on the lands of William Walker on the Cole Harbour Road.

R21 - "WALKERSFEED"

THIS AGREEMENT, MADE THIS DAY OF A.D., 1986

BETWEEN:

WILLIAM COLIN WALKER, of Dartmouth,  
Province of Nova Scotia, hereinafter called  
the "Developer".

OF THE FIRST PART

- and -

THE MUNICIPALITY OF THE COUNTY OF HALIFAX, a  
body corporate, hereinafter called the  
Municipality

OF THE SECOND PART

WHEREAS the Developer has good title to lands and premises known as Lot S.2 of the Lands of Stanley T. Ritcey, located on the Cole Harbour Road at Cole Harbour, said lands (hereinafter called the "Property") being more particularly described in Schedule "A" of this Agreement.

AND WHEREAS the Developer has requested that he be permitted to erect, construct or otherwise locate a building on the Property, separate and free-standing from the existing residential premises, and which said building is to be used for the purpose of selling animal feeds, garden and lawn supplies, and trapping and farm-related equipment.

WITNESS that in consideration of the sum of One Dollar (\$1.00) now paid by the Developer to the Municipality (the receipt of which is hereby acknowledged), the request to construct, erect or otherwise locate the building (hereinafter called the "Building") is agreed upon between the Developer and the Municipality, pursuant to Section 3.6 (L) of the ZONING BY-LAW FOR COLE HARBOUR/WESTPHAL and subject to the following terms and conditions:

1. That the use of the Building and that portion of the Property identified in Appendix "A" of this Agreement shall be restricted to the activities customarily associated with the sale of animal feeds and garden, trapping and farm-related supplies and equipment, including lawn mowers and lawn and garden tractors, but shall not for the purpose of this Agreement, include the sale of general farm machinery or vehicles.
2. That the Building shall be confined to an area on the Property defined by the following minimum yard requirements and as illustrated in Appendix "A" of this Agreement:

Minimum Front Yard (Property Line "A")	60 feet
Minimum Side Yard (Property Line "B")	40 feet
Minimum Rear Yard (Property Line "C")	35 feet
Minimum Side Yard (Property Line "D")	100 feet



3. That the building shall not exceed 35 thirty-five (35) feet in height.
4. That any additional buildings or structures to be used in a subordinate or accessory manner to the Building, shall be confined to an area on the Property defined by the minimum yard requirements of Section 2 of this Agreement.
5. That the minimum distance between the Building and any accessory or subordinate buildings or structures shall be at least eight (8) feet.
6. That the minimum distance between any accessory or subordinate building or structures shall be at least eight (8) feet.
7. That the combined floor area at grade of the Building and any accessory or subordinate buildings or structures and any area devoted to outdoor display shall not exceed twenty-five hundred (2,500) square feet.
8. That no outdoor display of any goods or materials for sale shall:
  - a. Be located within twenty (20) feet of Property Line "A".
  - b. Be located within the required side or rear yards.
9. That the Developers shall construct and maintain in good repair a parking area and driving aisle on that portion of the Property identified in Appendix "A" of this Agreement. It is agreed that the said parking area and driving aisle shall be treated so as to prevent the rising of dust and loose particles and shall be of a size and dimension to adequately accommodate a minimum of four (4) motor vehicles.
10. That the Developer shall stabilize that portion of the Property lying within one hundred and ten (110) feet of Property Line "B" with a quality seed or sod, save and except those areas devoted to the Building, parking area, or driving aisle.
11.
  - a. That one (1) ground sign shall be permitted on the Property for the purpose of identifying the activities permitted under Section 1 of this Agreement. It is agreed that the said sign shall not incorporate any flashing or moving illumination, or exceed fifteen (15) feet in height or exceed twenty-five (25) square feet on a single face.
  - b. That one (1) facial wall sign shall be permitted on the Building for the purpose of identifying the activities permitted under Section 1 of this Agreement. It is agreed that the said sign shall not incorporate any flashing or moving illumination nor exceed twenty (20) feet in length by three (3) feet in height.
12. Subject to the provisions of this Agreement, the Developer shall be bound by all by-laws and regulations of the Municipality as well as to any applicable statutes and regulations of the Province of Nova Scotia.
13. Upon breach by the Developers of any of the terms or conditions of this Agreement the Municipality, may, after thirty days notice in writing to the Developers of the breach, enter and perform any of the terms and conditions of the Agreement. It is agreed that all reasonable expenses whether arising out of the entry or from the performance of the terms and conditions may be recovered from the Developers by direct suit and shall form a charge upon the Property.

- 14. This Agreement shall run with the land and be binding upon the Developer's heirs, assigns, mortgagees, lessees, successors, and occupiers of the Property from time to time.
- 15. This Agreement shall be filed by the Municipality in the Registry of Deeds at Halifax, Nova Scotia, and shall form a charge or encumbrance upon the Property.
- 16. The Developer shall pay the costs of recording and filing all documents in connection with this Agreement.
- 17. The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not prejudice the validity or enforcement of any other provisions.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective parties on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 1986.

SIGNED, SEALED AND DELIVERED )  
 in the presence of )  
 )  
 \_\_\_\_\_ )  
 )

\_\_\_\_\_

William Colin Walker

SEALED, DELIVERED AND ATTESTED )  
 to by the proper signing )  
 officers of the Municipality )  
 of the County of Halifax duly )  
 authorized in that behalf in )  
 the presence of )  
 )  
 )  
 )  
 )  
 \_\_\_\_\_ )

MUNICIPALITY OF THE COUNTY OF HALIFAX

WARDEN

CLERK

ALL and singular that certain lot, piece, parcel or tract of land, situate, lying and being on the northern side of Cole Harbour Road, at Cole Harbour, in the County of Halifax, Province of Nova Scotia. Being Lot S2 as shown on a plan "Stanley T. Ritcey Subdivision", dated the 22nd day of May, by K. W. Robb & Associates Limited, Provincial Land Surveyors and which lot may be more particularly described as follows:

BEGINNING at an iron pipe set on the northern boundary of the Cole Harbour Road, which iron pipe marks the southeastern corner of Lot S1 as shown on said plan and is distant thirty-three (33') feet when measured at right angles, from the center-line of the said Cole Harbour Road;

THENCE to run along the eastern side line of Lot S1 on a bearing of north zero six degrees zero zero minutes east (N06°00'E) two hundred decimal zero feet (200.0') to an iron pipe set on the southern boundary line of lands of Stanley T. Ritcey;

THENCE to run along a portion of the southern boundary line of lands of Stanley T. Ritcey on a bearing of south seventy degrees zero zero decimal zero minutes east (S70°00.0'E) two hundred decimal zero (200.0') feet to an iron pipe which iron pipe forms the north-eastern corner of the lot herein described;

THENCE to run along the western boundary of lands of Stanley T. Ritcey on a bearing of south zero six degrees zero zero minutes west (S06°00'W) two hundred and one decimal zero six (201.06') feet to an iron pipe set on the northern boundary of the Cole Harbour Road and which iron pipe is distant thirty-three (33') feet, when measured at right angles, from the center-line of the said Cole Harbour Road;

THENCE to run along the northern boundary line of the Cole Harbour Road on a bearing of north sixty-nine degrees thirty-three decimal five minutes west (N69°33.5'W) two hundred decimal thirty-nine (200.39') feet to the place of beginning. The above described lot having been approved by the Halifax County Planning Board on the 3rd day of September A. D., 1969.

ALL bearings are magnetic A. D., 1958.

BEING a portion of the lands conveyed to Stanley Ritcey in 1898 and recorded in Halifax in Book 352, Page 202.

ALSO BEING the same lands and premises as conveyed in a deed from Stanley T. Ritcey to James Everett Mailman et ux Lucille M. Mailman, which deed is dated the 17th day of September, A.D., 1969 and recorded at the Registry of Deeds at Halifax in Book 2339 at Page 367.

Province of Nova Scotia  
County of Halifax

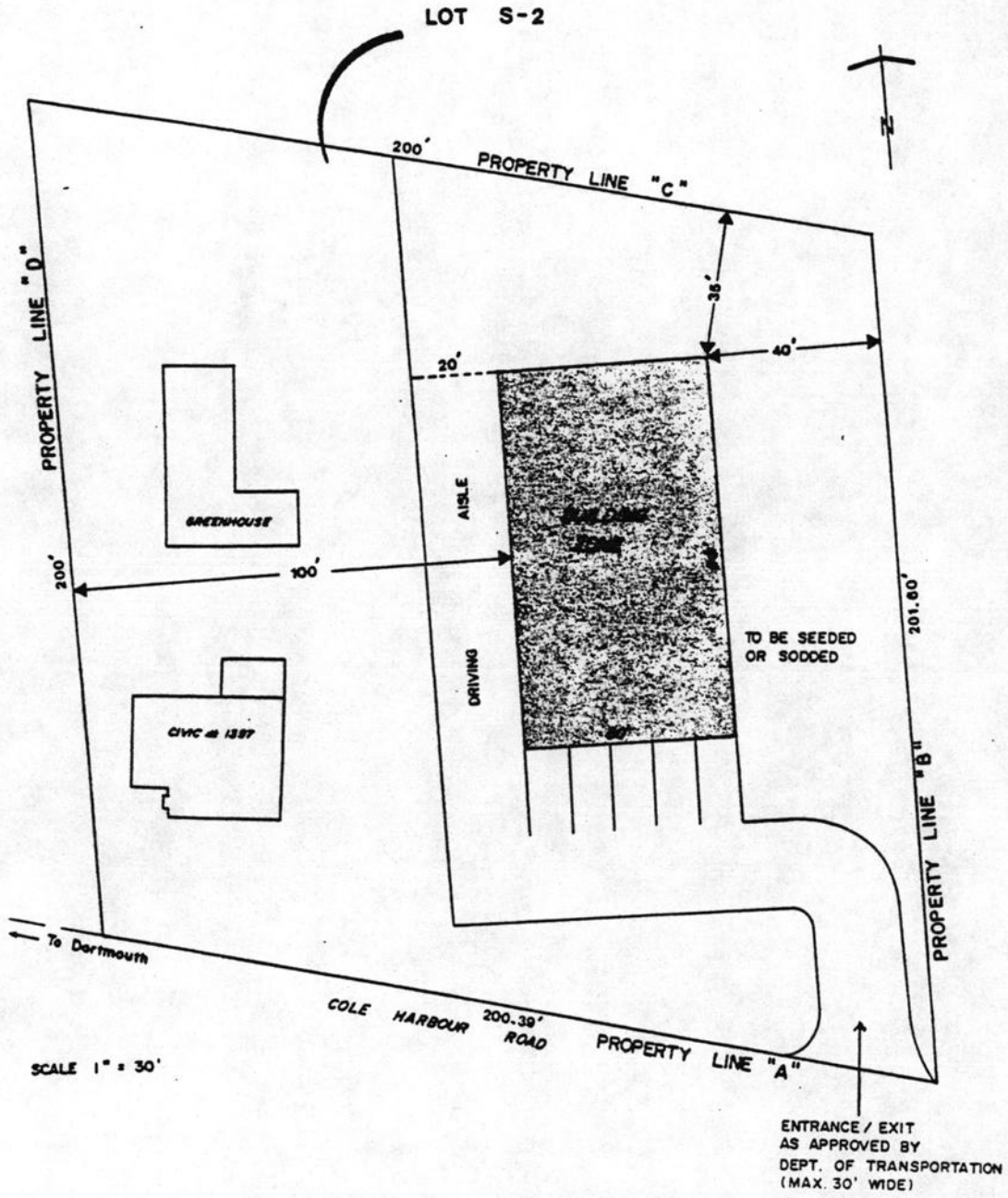
I hereby certify that the within instrument  
was recorded in the Registry of Deeds Office  
at Halifax, in the County of Halifax, N. S.  
at 11:32 o'clock A. M., on  
the 21 day of Dec.

A. D. 19 83 in Book Number 3786  
at Pages 913 - 915

*Robert N. Hocking*  
Registrar of Deeds for the Registration District  
of the County of Halifax.



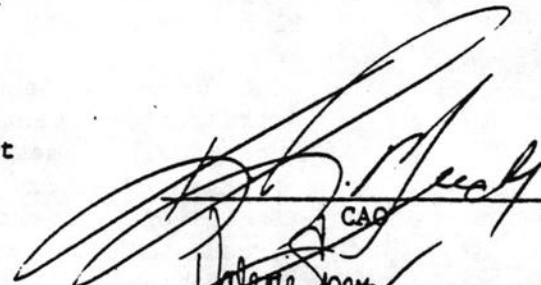
APPENDIX "A"



RA20

STAFF REPORT

TO: Planning Advisory Committee  
FROM: Department of Planning & Development  
DATE: April 28, 1986  
APPLICATION NO. RA-TLB-11-86-02

  
CAG  
MANAGER, POLICY DIVISION

RECOMMENDATION

THAT THE REQUEST TO AMEND THE TIMBERLEA/LAKESIDE/BEECHVILLE LAND USE BY-LAW BY REZONING LOT "AX" OF THE LANDS OF PETER DAVID AND SUSAN CALDWELL AND JOHN FREDERICK CIGUERE, LOCATED AT THE CORNER OF NICHOLSON DRIVE AND ST. MARGARET'S BAY ROAD AT TIMBERLEA FROM R-1 (SINGLE UNIT DWELLING) ZONE TO R-4 (MULTI-UNIT DWELLING) ZONE BE APPROVED BY MUNICIPAL COUNCIL.

Information

An application has been submitted by Blunden Construction to rezone the lands identified in Map 3 (p.4) to R-4 (Multi-Unit Dwelling) Zone. The purpose of the rezoning is to permit construction of a multi-unit dwelling. If developed to its maximum potential, the lot has the ability to accommodate an eleven unit apartment building.

Description

MPS:	Timberlea/Lakeside/Beechville
Area:	18,900 square feet
Dimensions:	As illustrated by Map 3 (p.4)
Features:	- Municipal sewer and water available. - Cleared corner lot sloping upward from St. Margaret's Bay Road. - Existing vacant structure (to be demolished).
Surrounding Land Uses & Zoning	As illustrated by Map 3 (p.4)

ANALYSIS

The municipal planning strategy for Timberlea/Lakeside/Beechville designates the property Residential. The

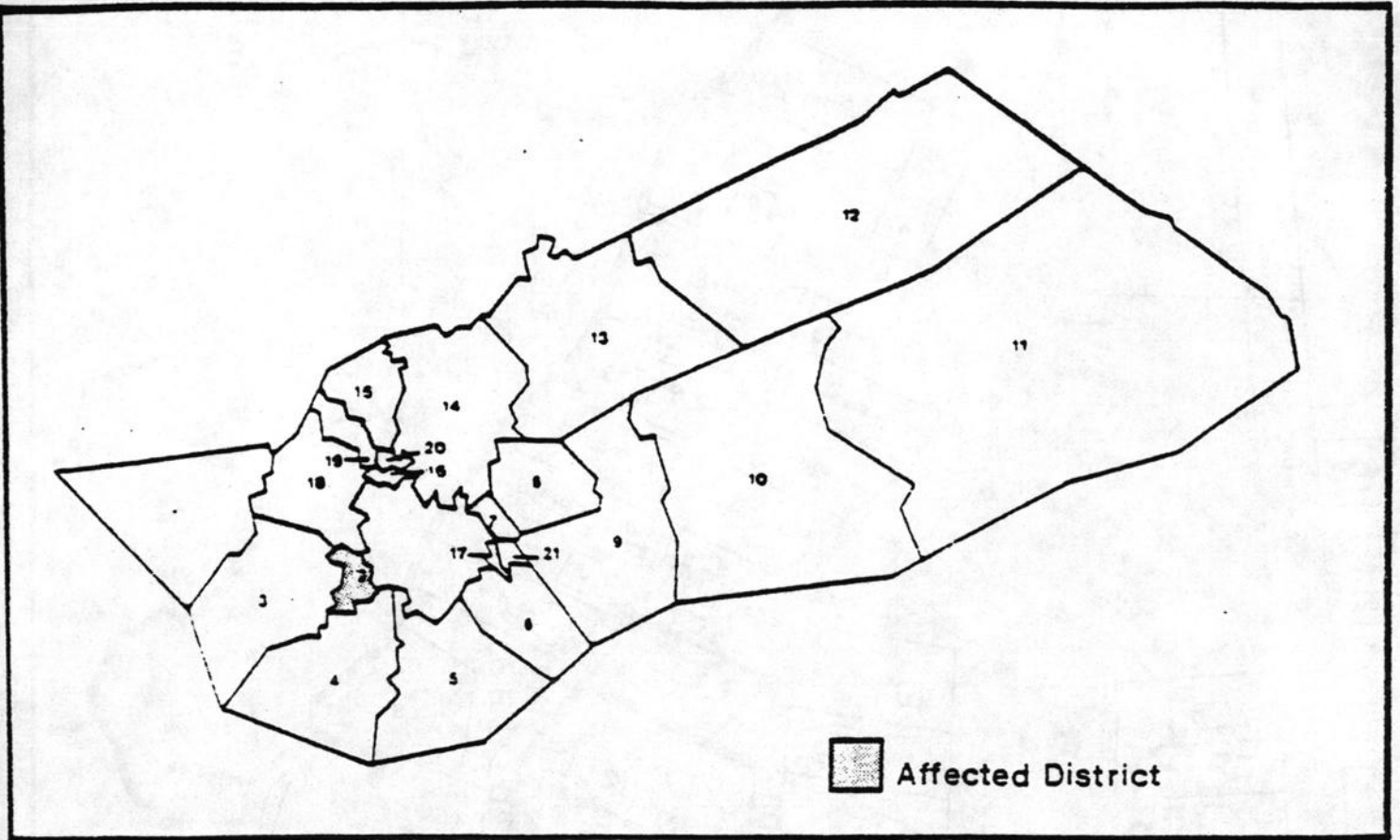
designation allows for the development of a variety of housing types, including multi-unit dwellings, by amendment to the land use by-law.

The proposed rezoning is in conformity with the planning strategy's intent to encourage a mixture of housing stock where central sewer and water services are available. The lot is located in an area which contains a variety of land uses, including a Green Gables and video outlet and an amusement arcade with associated apartment units. In addition, the lot is adjacent to a commercial designation. Therefore, the scale and pattern of development will not be adversely affected.

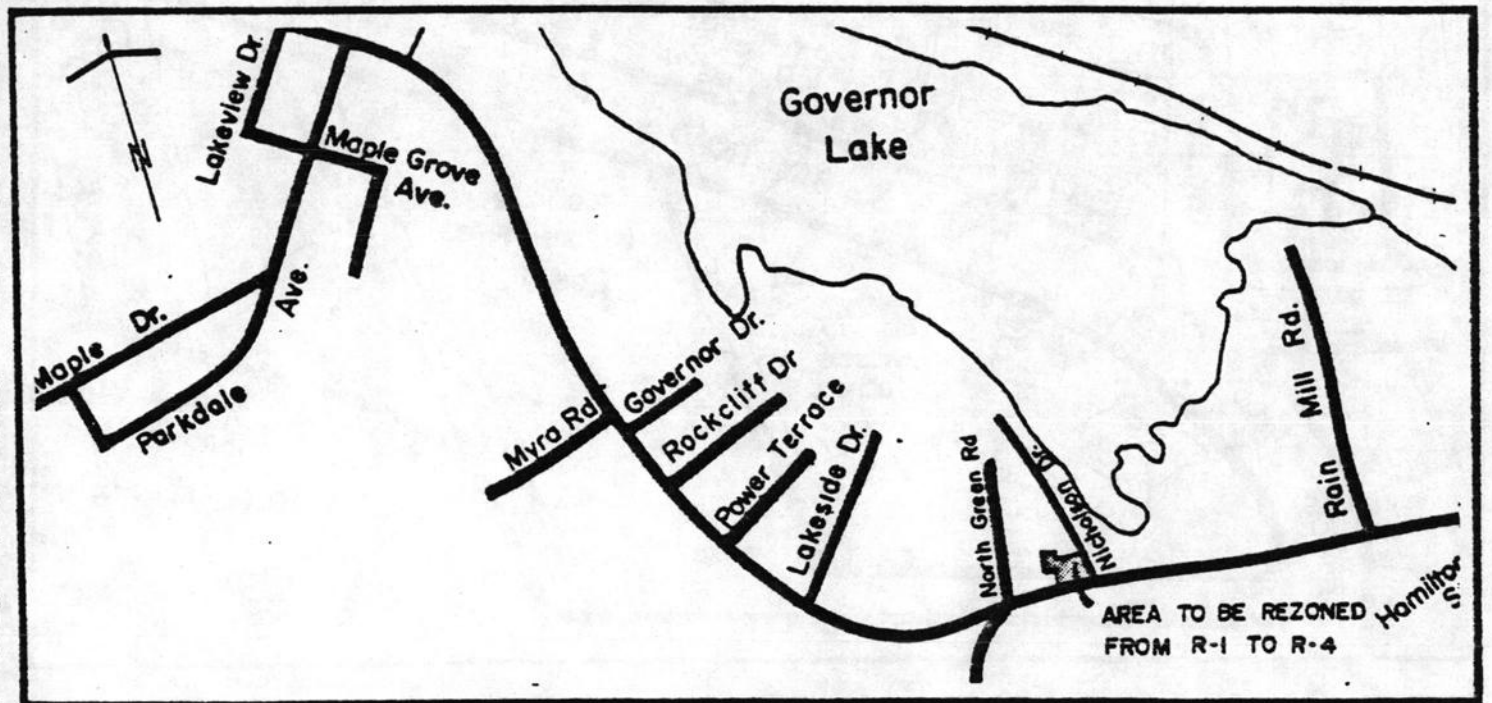
Lot "AX" has frontage on both St. Margaret's Bay Road and Nicholson Drive. The Department of Transportation has indicated that a suitable access can be obtained to St. Margaret's Bay Road. Nicholson Drive is a private right-of-way and therefore the Department of Transportation has no involvement in approving access to this "road". Because of its substandard condition, access to Nicholson Drive would not be appropriate. The applicant has indicated the intention to develop access on the St. Margaret's Bay Road.

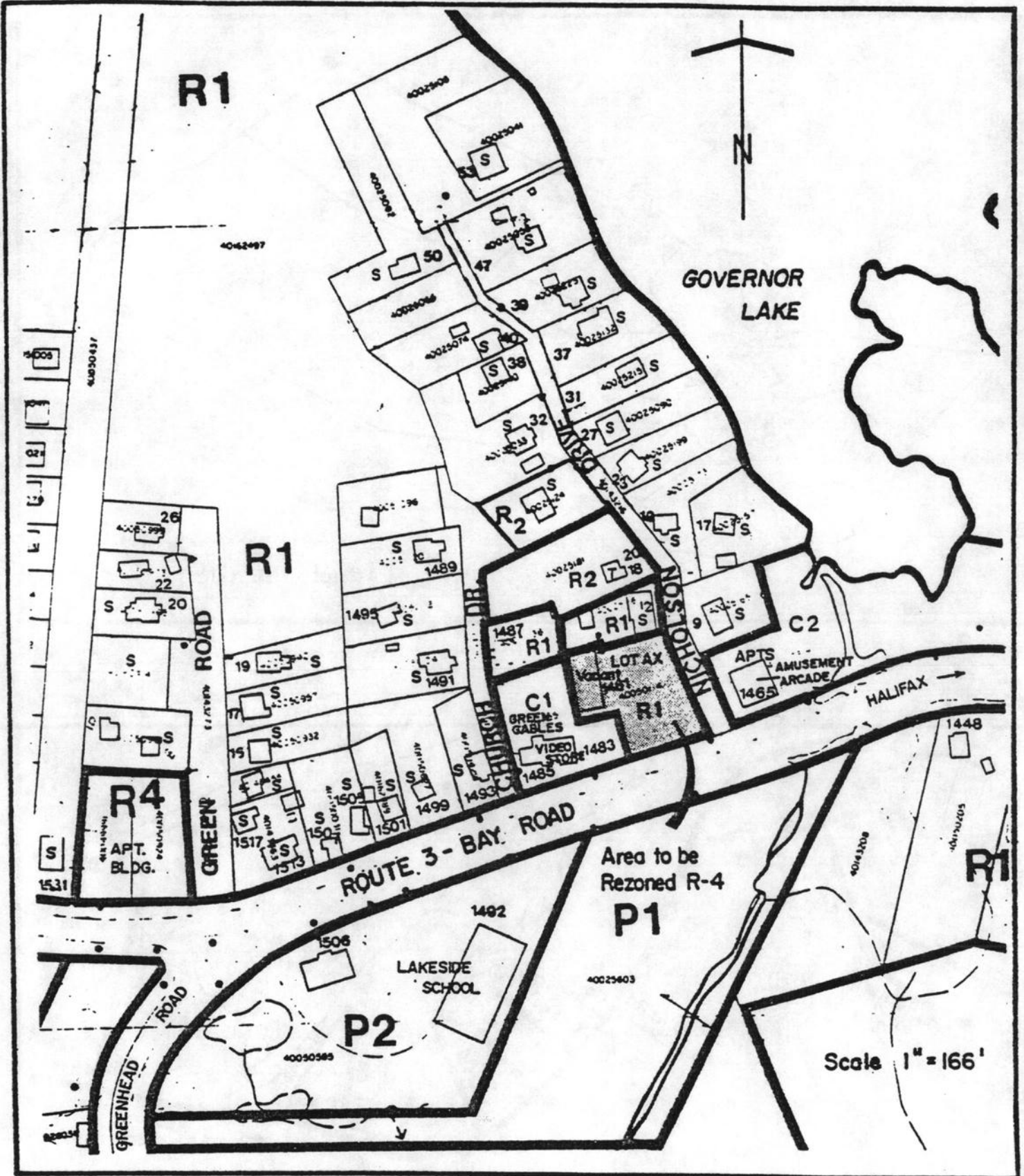
Sanitary sewer and water systems are capable of servicing the proposed development and there is sufficient capacity in area schools.

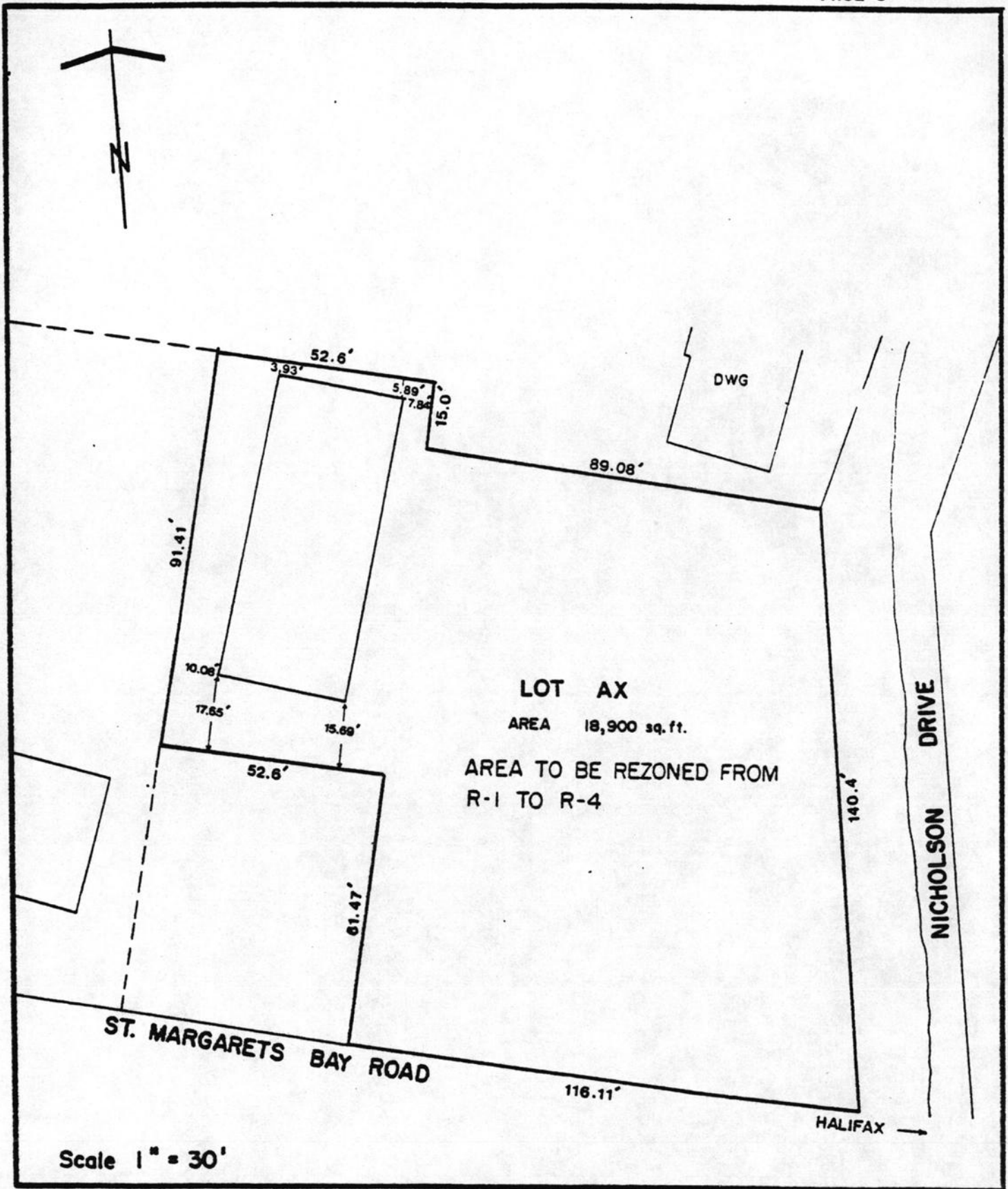




MAP 2





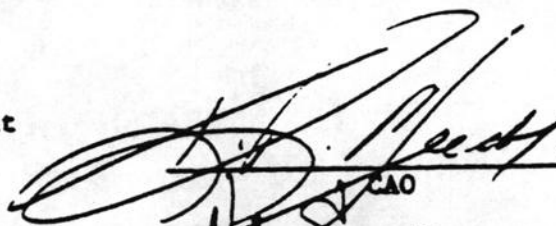



Scale 1" = 30'



STAFF REPORT

TO: Planning Advisory Committee  
 FROM: Department of Planning & Development  
 DATE: April 28, 1986  
 APPLICATION NO. RA-CH/W-02-86-21

  
 CAO  
  
 MANAGER, POLICY DIVISION

RECOMMENDATION

THAT THE REZONING OF APPROXIMATELY 7.4 ACRES OF THE LANDS OF GORDON T. KISENER, LOCATED OFF THE COLE HARBOUR ROAD AT COLE HARBOUR, FROM R-1 (SINGLE UNIT DWELLING) ZONE TO R-2 (TWO UNIT DWELLING) ZONE BE REJECTED BY MUNICIPAL COUNCIL.

THAT THE REZONING OF APPROXIMATELY 1.4 ACRES OF THE LANDS OF GORDON T. KISENER, LOCATED OFF THE COLE HARBOUR ROAD AT COLE HARBOUR, FROM R-1 (SINGLE UNIT DWELLING) ZONE TO C-2 (GENERAL BUSINESS) ZONE BE REJECTED BY MUNICIPAL COUNCIL.

Information

An application has been received on behalf of Mr. Gordon T. Kiserer to rezone the lands identified in Map 3 (p.5) to R-2 (Two Unit Dwelling) Zone. The purpose of the R-2 zoning is to facilitate the development of approximately 35 two unit dwellings on the 7.4 acre parcel.

The application further requests that a second area of land, of approximately 1.4 acres, be rezoned to C-2 (General Business) Zone as shown on Map 3 (p.5). The applicant has not stated the purpose for which this zone is being requested. However, approval of this portion of the application would result in an extension of the existing C-2 Zone on the front portion of the Kiserer property, to create a total area zoned C-2 of approximately 2.5 acres.

Description

MPS:	Cole Harbour/Westphal
Area:	7.4 acres to be rezoned R-2 (Two Unit Dwelling) Zone (Map 3, p.5)
	1.4 acres to be rezoned C-2 (General Business) Zone (Map 3, p.5)

Features:                   - relatively flat terrain  
                              - mature vegetation cover, predominantly  
                                  hardwoods  
                              - intermittent stream running through the  
                                  centre of the lands to be rezoned C-2  
                                  Zone and along the western edge of the  
                                  lands to be rezoned R-2 Zone

Surrounding Land           As illustrated by Map 3 (p.5)  
Uses & Zoning

ANALYSIS

Lands to be rezoned R-2:

The municipal planning strategy for Cole Harbour/Westphal designates this portion of the property "Residential A". Within this designation, priority is given to the continued development of single unit dwellings. Recognition is also given to the growth and evolution of the area's residential environments and the need for an eventual housing mix. Two unit dwellings may, therefore, be considered by amendment to the land use by-law.

Although the proposal would be compatible with surrounding development, it must be rejected due to insufficient sewerage capacities. Specifically, the Department of Engineering and Works has indicated that a section of the fourteen (14) inch sewer line along Beaufort Drive is laid at 0.68 per cent grade and can exceed capacity during wet weather conditions. Efforts to reduce inflow/ infiltration in the Merrimac/Beaufort Drive area have served to protect available capacity for previously planned developments (i.e. Silistria Drive, portions of Phases 10 and 11, N.S.H.C.). While the property can be developed with single unit dwellings, the Department cannot support any rezoning which will result in increased densities and rates of sewage flow.

Lands to be rezoned C-2:

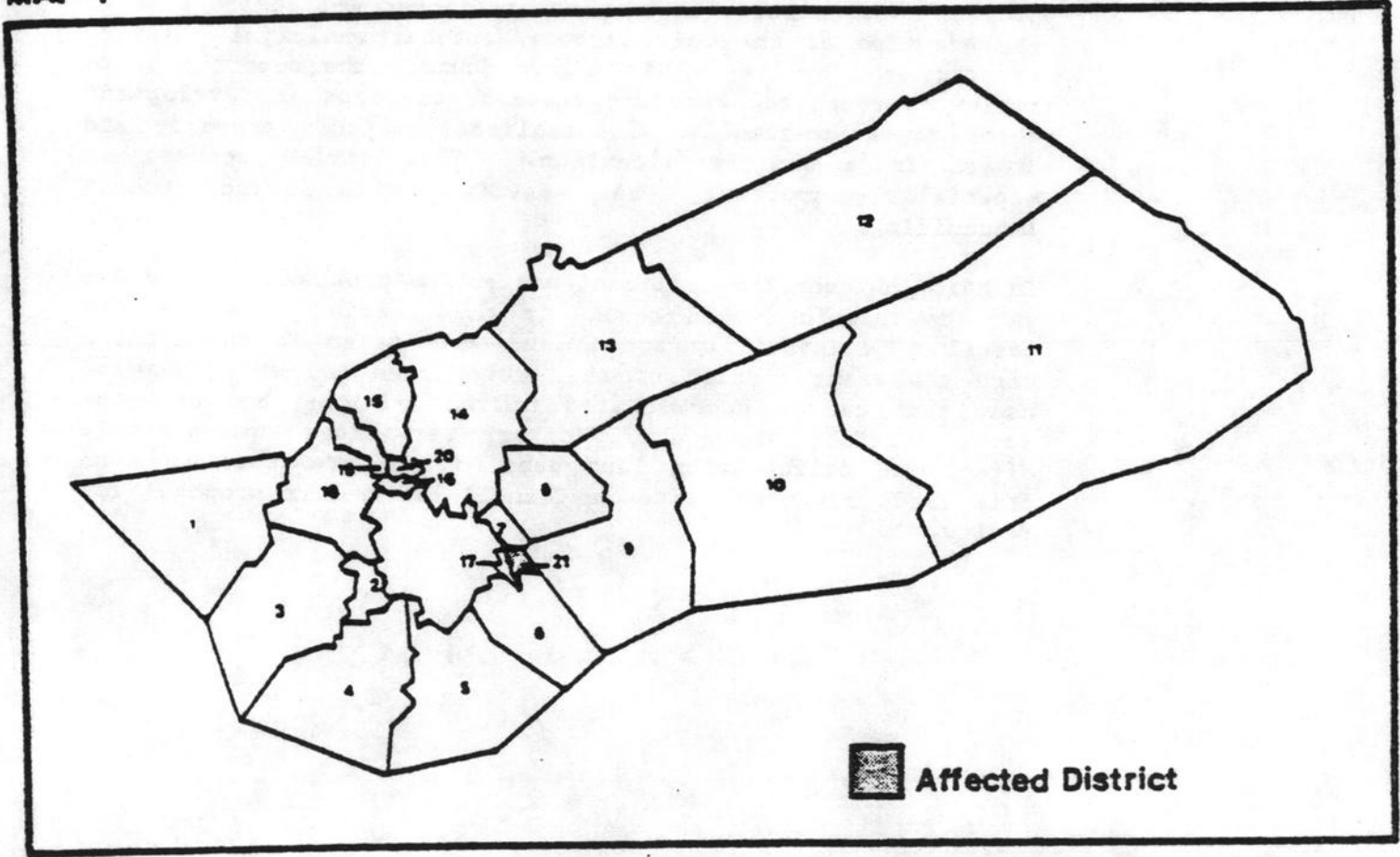
As illustrated by Map 3 (p.5), the front portion of the Eisener property is zoned C-2. The effect of the rezoning will be to enlarge the area of commercial zoning on the property from 1.4 acres to approximately 2.5 acres.

Although within the Community Commercial Designation the property was, along with many others, zoned R-1 at the time of the adoption of the Cole Harbour/Westphal municipal planning strategy and by-law. This allows Council the opportunity to review, through the rezoning process, the type of development which might eventually be established on this property and others in a similar situation. This review process is especially important when dealing with large vacant landholdings.

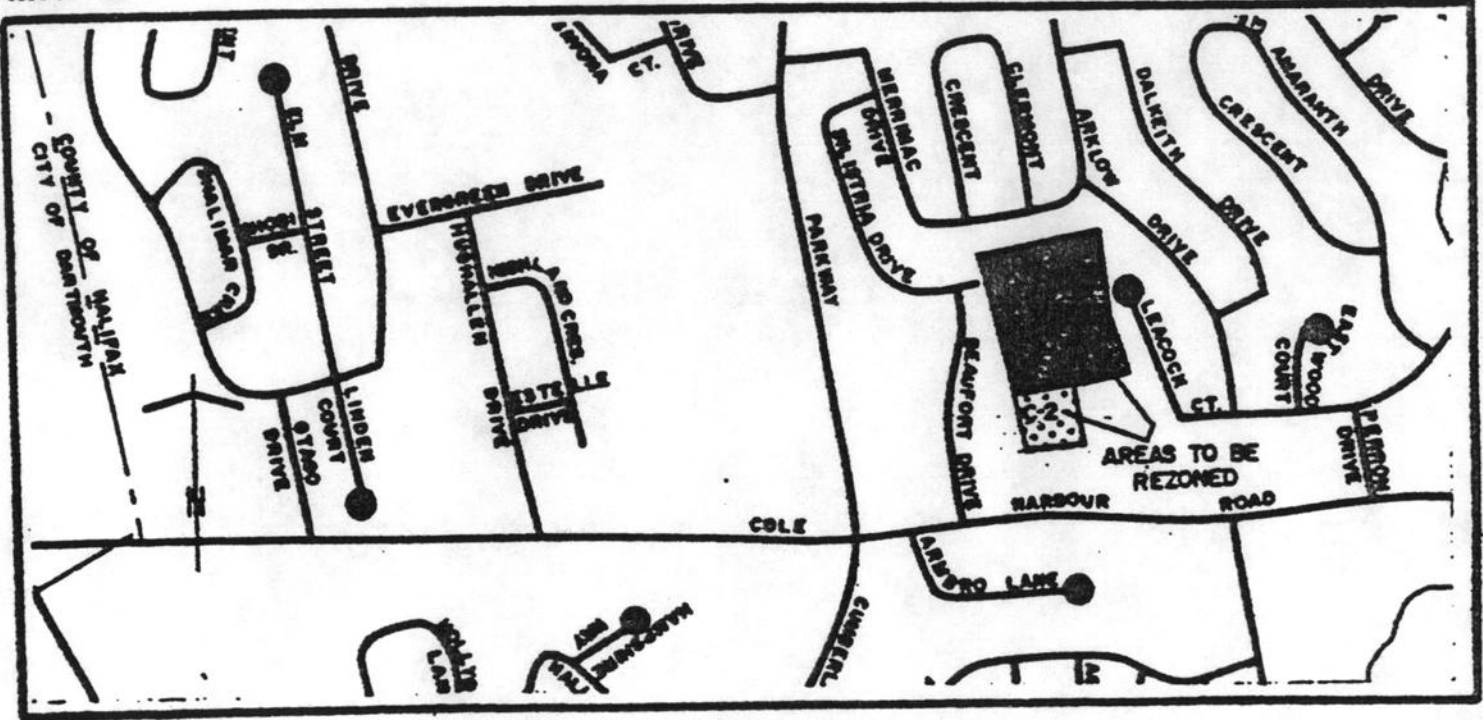
In this instance the applicant has put no proposal forward and yet the rezoning would result in the creation of a 2.5 acre parcel of commercially zoned land when taken in conjunction with the front portion of the lot. Given the wide range of uses that can be accommodated in the C-2 Zone and concerns about traffic, storm and sanitary servicing, and possible effects on neighbouring land uses, it is premature to zone this land until such time as Council has a firm proposal for review.



MAP 1



MAP 2





PUBLIC HEARING

JULY 21, 1986

PRESENT WERE: Warden MacKenzie  
Councillor Poirier  
Councillor P. Baker  
Councillor C. Baker  
Councillor Deveaux  
Councillor DeRoche  
Councillor Adams  
Councillor Bayers  
Councillor Reid  
Councillor Lichter  
Councillor Snow  
Councillor Merrigan  
Councillor MacKay  
Councillor McInroy  
Councillor MacDonald  
Deputy Warden Wiseman  
Councillor Mont

ALSO PRESENT: Mr. G.J. Kelly, Municipal Clerk  
Mr. R.G. Cragg, Municipal Solicitor  
Mr. J.M. Hanusiak, Planner

SECRETARY: Glenda Higgins

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Warden MacKenzie called the Public Hearing to order at 7 p.m. with the Lord's Prayer.

Mr. Kelly called the Roll.

APPOINTMENT OF RECORDING SECRETARY

It was moved by Councillor Snow, seconded by Councillor Poirier:

"THAT Glenda Higgins be appointed as Recording Secretary."  
MOTION CARRIED

APPLICATION NO. RA-SA-62-85-16 - APPLICATION BY PARDEEP MALIK AND TERRANCE HARLAND TO REZONE LANDS ON THE COBEQUID ROAD AT LOWER SACKVILLE FROM R-1 (SINGLE UNIT DWELLING) ZONE TO R-2 (TWO UNIT DWELLING) ZONE

Councillor MacKay declared a conflict of interest.

Mr. Hanusiak reviewed the staff report, advising the Planning Department recommends approval of this application.



QUESTIONS FROM COUNCIL

Deputy Warden Wiseman asked if the lots abutting the C-2 property on the corner of Cobequid Road and Glendale Drive are designated lots. Mr. Hanusiak advised the lots are designated, and they are of building size. Referring to the diagram contained in the staff report, Mr. Hanusiak informed the grey shaded areas are the lands of Pardeep Malik and the dotted lines show the intended subdivision. A solid line running through the cul-de-sac show how the lots presently exist. He outlined the size of the three lots on the cul-de-sac, informing they are all of appropriate building size.

Deputy Warden Wiseman asked if the lands noted as T. Harland have been incorporated into the development. Mr. Hanusiak informed the intention is in the future to go along the cul-de-sac at 60 foot intervals and subdivide because there is enough room for no more than four additional lots with frontage on the cul-de-sac.

SPEAKERS IN FAVOUR OF THIS APPLICATION

None

SPEAKERS IN OPPOSITION OF THIS APPLICATION

None

It was moved by Councillor Mont, seconded by Councillor DeRoche:

"THAT the rezoning of the Lands of Pardeep Malik, located on the Cobequid Road and the Lands of Terrance Harland and Elizabeth Harland located at 190 Cobequid Road, Lower Sackville from R-1 (Single Unit Dwelling) Zone to R-2 (Two Unit Dwelling) Zone be approved by Municipal Council."  
MOTION CARRIED UNANIMOUSLY

APPLICATION NO. SB-02-86 - PROPOSED AMENDMENTS TO THE MUNICIPALITY'S SUBDIVISION BY-LAW

Mr. Hanusiak reviewed the staff report dated June 2, 1986.

QUESTIONS FROM COUNCIL

None

SPEAKERS IN FAVOUR OF THIS APPLICATION

None

SPEAKERS IN OPPOSITION TO THIS APPLICATION

None

It was moved by Councillor DeRoche, seconded by Councillor Deveaux:

"THAT Municipal Council approve of the amendments to the Subdivision By-law for the Municipality of the County of Halifax as outlined in Appendix "A" of the staff report."  
MOTION CARRIED UNANIMOUSLY

APPLICATION NO. DA-SA-28-85-19 - PROPOSED DEVELOPMENT AGREEMENT FOR THE EXPANSION TO SACKVILLE MOBILE HOME ESTATES

Mr. Hanusiak identified the application, and reviewed the agreement. He informed there is an existing mobile home park at the site, which is licensed for 362 mobile home spaces. The proposed development agreement is to accommodate 159 new mobile home spaces. The area of land involved is approximately 27 acres, with a moderate to severe incline and a watercourse crossing the northeast corner of the property. Mr. Hanusiak stated Policy P-39 of the Plan permits expansions to existing mobile home parks on a contractual basis. He stated there is no item contained within the agreement that has not been reviewed to the satisfaction of all agencies and departments involved, most specifically the Departments of Planning and Development and Engineering and Works.

The agreement addresses two concerns, the first being the performance of the existing park in terms of the sewage outflow. With respect to this concern, before any mobile homes can be located in the expanded site, the developers must reduce the sewage flow to 40,000 gallons per day during dry weather periods and slightly more during wet weather periods. The Department of Engineering and Works feel if these figures are realized, the first phase of the proposed expansion can go in without difficulty to the central sewage system. The agreement also calls for continuous monitoring of the sewer and water system. The developer has agreed to supply all technical maps, sketches, and details on the proposed development, and after construction of the servicing infrastructure he will provide the Municipality with the as-built drawings and a declaration from a certified Engineer that the system is in place according to the approved plans. Mr. Hanusiak continued that if all goes well in the first phase with respect to sewage flows and occupancy, the developer will be in a position to begin the second phase - an additional 59 units. However, until that point in time, the onus is upon the developer to show a consistent level of performance acceptable to the Department of Planning and Development.

The second concern is the construction of roads. He noted in the agreement conditions regarding the design of the park streets, the minimum and maximum grades which must be achieved on the streets, the width of the streets, and all other road construction matters, including maintenance. He stated the street layout has been carefully examined by the Department of Planning to ensure there are no dangerous intersections or severe slopes that will pose as a hinderance to tenants in the winter. There are spots on the roadway which exceed the 10 percent slope standards recommended, but they are very short distances, and there are back-ups to every street.

Mr. Hanusiak next reviewed Section 3 of the development agreement, respecting plans, certificates, approvals, and permits. He also reviewed Section 4 - Sewage Flow Performance Standards. He stated this section is highly detailed and has been agreed upon by the Municipality and the park owner. He outlined Section 5 respecting Mobile Home Park Construction Standards and Requirements, noting the street lighting requirements in particular. He stated under the new Mobile Home By-law there is a requirement for street lighting to be in accordance with the Nova Scotia Power Corporation. He continued there is a provision for a recreation space, which he pointed out on the map. He stated it is approximately 1.4 acres of recreation space cleared and upgraded to the point of posing no danger or threat to the park tenants. He reviewed the lot size and frontage of the mobile home spaces, street construction, speed limits, signage requirements, and buffering. With regard to buffering, Mr. Hanusiak informed around the perimeter of the property there is a five foot buffer with natural vegetation. He continued to outline the development agreement.

#### QUESTIONS FROM COUNCIL

Councillor McInroy commented that the width of buffer area seems to be small. He asked Mr. Hanusiak to comment on this. Mr. Hanusiak replied he did not work on the original plan for this development, and the size of the buffer area also surprised him. An extension of the buffer area was recently discussed among planning staff, and if the developer will do so, the Department of Planning and Development will be supportive of it. He added there is a required setback from the property line of 20 feet. He stated there would be no difficulty with extending the buffer area to 10 feet if the developer can assure the vegetation is there. The lots are 40 feet in width and the units are set very close to the lot lines which push all open space to one side. If Mr. Havill can assure the room is there and the vegetation can be saved, it can be done.

Councillor McInroy asked if the buffer area as currently proposed will be part of the development; he asked for clarification that it will not be a separate parcel of land, and it will include maintenance. Mr. Hanusiak informed the development is for one lot with a number of mobile home spaces to be leased. The land owner has full control over the buffer space, and he will be responsible to maintain it in its natural condition.

Councillor MacDonald asked how far it is from the property lines on Loggen Road to the first mobile homes. Mr. Hanusiak informed it is approximately 20 feet and more in some areas. Councillor MacDonald clarified there is a five foot buffer area and 15 feet to the mobile. Mr. Hanusiak informed there are only one or two mobile homes that will be that close to the lines, although 20 feet is the required setback. The others will be approximately 40 feet. He concluded there is probably room to increase the five foot buffer.

Warden MacKenzie advised there were three items of correspondence received with respect to this application. Upon request, Mr. Kelly read the correspondence from the Sackville Advisory Board.



Councillor P. Baker asked if the 25 foot buffer referred to in the letter has been accomodated. Mr. Hanusiak informed the applicant has indicated there is at least 15 feet of existing vegetation there and in some areas there is more. He stated there is room to increase the buffer area. He stated there is a minimum setback requirement of 20 feet, and there is at least 15 feet of natural vegetation around the perimeter of the property, so there will be no problem with increasing the buffer requirements; however, 25 feet may be high - 15 feet may be a more reasonable expectation.

#### SPEAKERS IN FAVOUR OF THIS APPLICATION

Stan Havill, Developer and Don Mason, Engineer, spoke in favour of the application. Mr. Havill read over the letter he had circulated to Council respecting this, advising this land was purchased in 1958 with the intention of using it for a mobile home park. Before the original park was started, an affirmative petition from residents along the No. 1 Highway in Sackville was received, and it was subsequent to this that lands began to develop along Sunnyvale and Loggen Roads. People bought or built their homes knowing that Sackville Mobile Home Estates and Century Parks Mobile Home Parks development was on its way. Mr. Havill continued that if people are arguing against the expansion of the mobile home park on the basis of prejudice, it is not an acceptable reason in this country. People deciding to living in mobile homes have a right to live also, and it is their choice of housing and a way of life they choose. He continued that Councillor MacDonald wisely moved that this application advance to Council as he is representative of many mobile home dwellers in the Sackville area, as well as those living in houses. The Planning Advisory Board has done a great deal of work and had numerous public meetings in order to put quality regulations in place for mobile home parks as a protection to both the mobile home dwellers and the other dwellers in the various regions of Halifax County. He stated he wants to do a good job and maintain tidy and well serviced parks, and all designs, layouts, and engineering have been done thus far to the satisfaction of the Planning Department of the County of Halifax. With the stringent regulations this proposal will become a first-class mobile home park. He stated that mobile homes do not lower the value of homes in the area. He continued this project has been on the go for at least one year. He stated he has a list of people who are bonified buyers of mobile homes and have laid a deposit down. Havill Brothers presently have 37 qualified sales at this point in time, pending approval from Council for this development. People want to live in mobile homes in Sackville, and they should have this right. He continued the vacancy space in Halifax County is at 0 percent, and a mobile home park is the answer for this problem. He stated many people have been placed in mobile homes, who would not have homes today. He concluded he is willing to cooperate with the Municipality in every possible way.

Councillor MacDonald clarified that he moved that this matter be referred to Council because it is the Planning Advisory Committee's duty to bring such proposals to a Public Hearing. He stated Council makes the final decision, not him.

Councillor Deveaux stated that people have to live somewhere including mobile homes, and all requirements must be met before anything is approved. He commented on a letter submitted by Mr. Charles Passey. He asked if Mr. Mason could explain how the reduction in the sewer flow will take place before any construction begins. Mr. Mason responded that the Engineering and Works Department was approached some time ago about this, and they pointed out that some aspects of the trunk sewer to this property had excessive flows during storm water periods. Subsequently, the flow from the existing mobile home park was monitored confirming an excess of water after rainfall. Repairs and maintenance were done, including the repair of a major break in the sewer line near the river. Following these repairs, a program was set-up with the Engineering and Works Department whereby the entire system is checked for flow. It is expected to find a number of smaller variations that allow excessive water to get into the flow. The existing system has been put in recently and is made of PCB pipe, shaw-type manholes, etc.; the standards are equivalent to today's standards. Mr. Mason concluded the first stage was to monitor the lines with the flow metres, as recommended by staff, and he is now in the process of picking up other leaks and breaks that may be found. As of August 1, there will be access to an additional metre, which can monitor the flow on a permanent basis.

Councillor Deveaux asked if there is any indication the flow is decreasing since the repairs. Mr. Mason informed the metres used here are rare, and there are only two or three available for his use. He stated the flow has reduced substantially as a result of fixing the break which was very close to the manhole and was very difficult to detect.

Councillor Deveaux asked if there is any indication as to whether or not this system will be able to accommodate the flooding problems that have existed in the past and could exist in the future. Mr. Mason stated the proposed park will have a complete separate storm water system. It has been designed and approved by the Department of Engineering and Works. The system is subject to inspection during the construction, and it is also subject to approvals through staff here and Departments of the Environment and Health. The storm sewer system will be of a much higher calibre than any other system installed in any other previous mobile home park.

Mr. Mason stated that he had met with Mr. Passey and his wife a number of occasions, and he provided them with an outline of the proposed mobile home park. Mr. Passey expressed his interest for additional space close to his home. At that time, staff were approached about an amendment to one of the roads to be an additional 20 feet away from Mr. Passey's property, and it was carefully measured during the tree cutting process. Mr. Mason identified this parcel of land on a map, and he advised Mr. Passey's house is approximately 50 feet from the property line; there is an additional 20 feet with the buffer area. He continued that an effort was made to move the road making the lots deeper than the others and the minimum, and this was done with respect to Mr. Passey's wishes. With regard to sewage and the questions contained in Mr. Passey's letter, Mr. Mason informed the agreement requires an



annual permit and inspection so there will be continuous monitoring of the sewage and water system and the entire operation and maintenance of the mobile home park. The streets must be paved and curbed within three years of the beginning of the park. He continued the development will not interfere with the steep bank between the top of the hill and the last row of mobile homes. This area has taken some time to vegetate, and it will remain as is. He concluded the entire project is subject to the requirements of the Departments of the Environment, Health, and Planning and Development, so it will be continuously monitored. He expressed a positive attitude towards this continuous monitoring in order to maintain and retain a quality project with minimal environmental damage. There is a requirement for a level playing field for sports.

Councillor MacDonald asked what the distance is between the houses past Mr. Passey's on the sharp turn and the mobile home park. Mr. Mason felt these homes would be approximately 200 to 220 feet from the proposed development.

Councillor MacDonald commented most of the houses along the Loggen Road are adjacent to the existing park. He asked if the proposed park will be above many of the existing homes on Loggen Road. Mr. Mason replied to the west of Mr. Passey's house they are approximately four houses backing the proposed development. Beyond Mr. Passey's driveway the distance is approximately 150 feet to the street; this area is generally wooded.

Councillor MacDonald asked if the traffic will be using the Beaverbank Cross Road. Mr. Mason replied all traffic will be on the Beaverbank Cross Road, and there will be no traffic going toward the existing mobile home park.

#### SPEAKERS IN OPPOSITION TO THIS DEVELOPMENT AGREEMENT

Charles Passey, 95 Loggen Road, read through his letter as was circulated to Council expressing opposition to the development of an expansion to the existing mobile home park. He expressed concern about sewage flow, storm sewage systems, recreation space, and buffering. He circulated several photographs. He also addressed existing problems with housing children in the schools of Sackville. He concluded there must be other locations and alternatives to provide adequate housing for people who wish to reside in Sackville.

#### QUESTIONS FROM COUNCIL

Councillor P. Baker asked Mr. Passey if he was suggesting that mobile home dwellers cause social problems that conventional home dwellers do not cause. Mr. Passey informed he was not suggesting this. He stated the proposed development will bring an estimated population of 18 people per acre - a high density population in the trailer park, which will mean children will roam together looking for things to do, which are not necessarily right. In this instance, the only area these