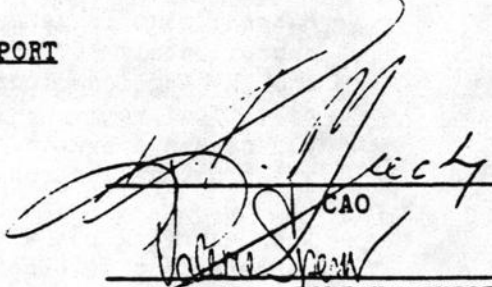


STAFF REPORT

TO: Planning Advisory Committee  
FROM: Dept. of Planning & Development  
APPLICATION NO. RA-24-37-86-01  
DATE: 1986 07 07

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

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RECOMMENDATION

IT IS RECOMMENDED THAT THE REQUEST TO ZONE MASONS POINT FROM G (GENERAL BUILDING) ZONE AND AN UNZONED STATUS TO R-5 (RURAL RESIDENTIAL) BE APPROVED BY MUNICIPAL COUNCIL.

Background

In October of 1985, the residents of Masons Point submitted a petition requesting a residential type of zoning. This petition was circulated by the representative of the Districts 1 and 3 Public Participation Committee for the area.

After discussions with the Department of Planning and Development, it was agreed to handle the matter through the Districts 1 and 3 municipal planning process, which could more readily provide the type of zoning requested.

Recently residents have requested that the petition be reactivated and Masons Point receive some interim zoning until the municipal planning strategy and land use by-law for the area are adopted. Specifically, they have asked that the Point be zoned to R-5 (Rural Residential) Zone. As was discussed in a previous report, the residents also requested that any zoning applied to their area exclude yacht and boat clubs. One reason for the request for zoning has been rumors circulating in the area regarding the possible establishment of a yacht club and/or a multiple unit dwelling.

Description

Lands to be zoned to R-5:  
Area: - Approximately 225 acres.  
Land Use: - As shown on Map 3, p.4.

ANALYSIS

Masons Point is generally residential in nature and includes approximately 100 homes, the retreat owned by the Jesuits, and the Anglican Youth Camp which has been inactive for the past few years. In addition, there are a number of businesses operating in conjunction with homes and a firm which makes electronic components.

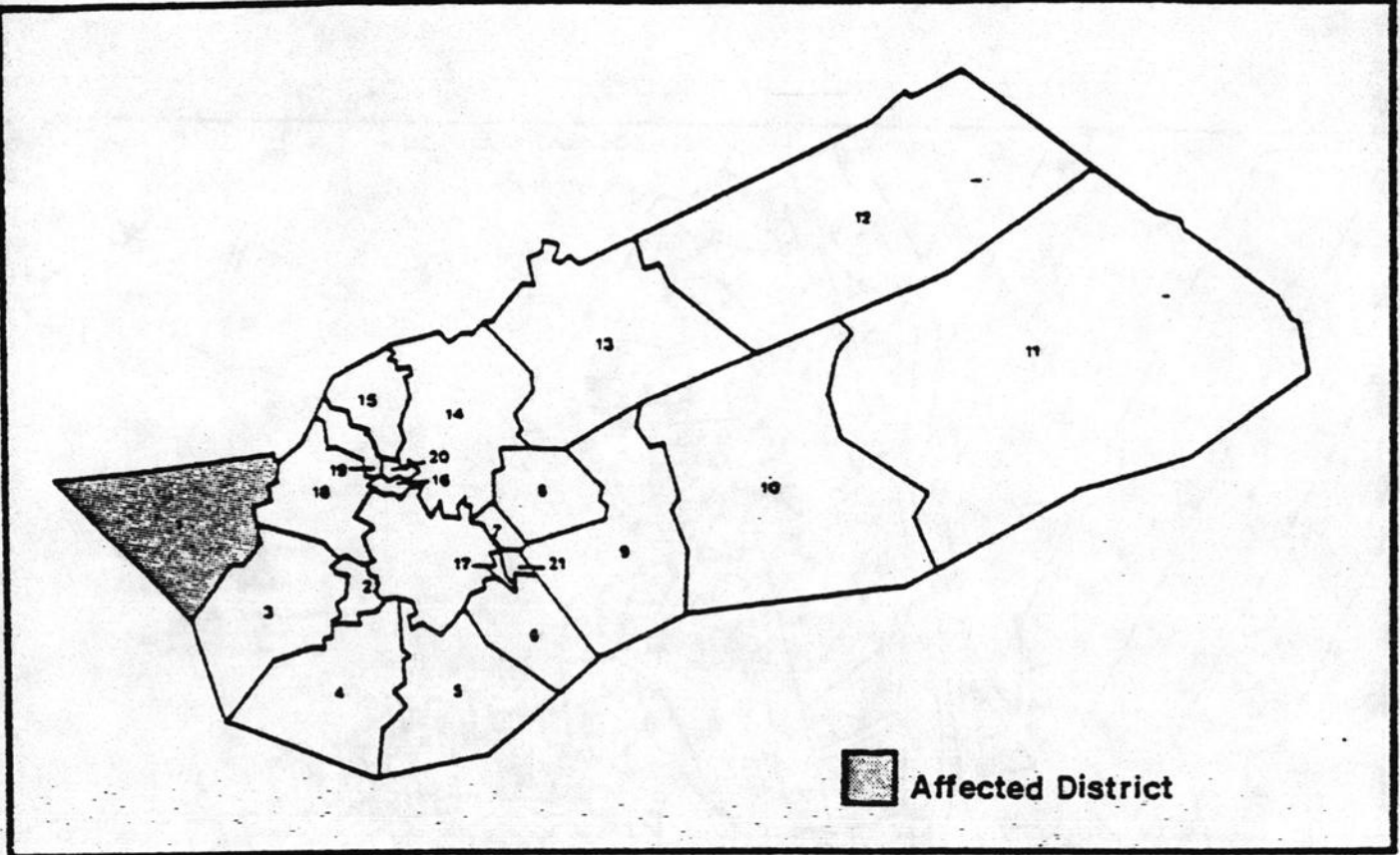
When carrying out a zoning or rezoning of this type, a major concern is that a non-conforming use could be inadvertently created, which would cause inconvenience and hardship to property owners.

The R-5 Zone reduces this possibility, as it permits all R-1 and R-2 uses, as well as existing mobile homes and existing commercial uses which are operating in conjunction with a dwelling. Although it is difficult to determine the number of home businesses because of their non-intrusive nature, it is suspected that there is a fairly large number of them. The zone offers these commercial uses the right to expand up to 10 per cent in area.

Further, those uses that do not fit the R-5 Zone have been left out of zoning. Specifically, it is recommended that the electronic component operation, which could be classified as light industrial under By-law 24, be left in an unzoned status (See Map 3, p.4).

In conclusion, it must be again pointed out that this is simply an interim zoning designed to offer area residents some form of protection until the Districts 1 and 3 municipal planning strategy is adopted by Municipal Council.

MAP 1

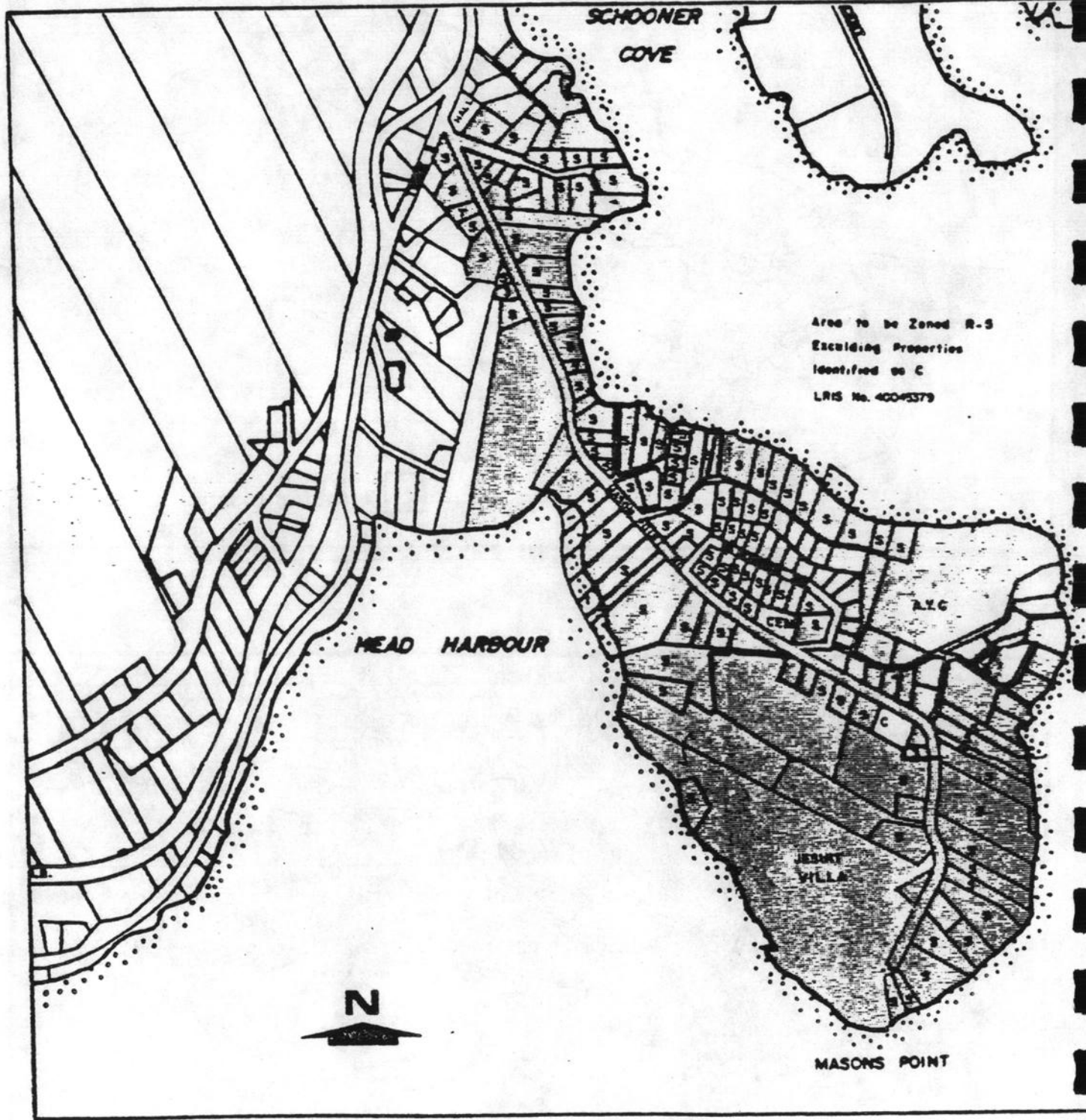


MAP 2





MAP 3





**COUNCIL SESSION**  
**SEPTEMBER 16, 1986**

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

ALSO PRESENT: Mr. K.R. Meech, Chief Administrative Officer  
Mr. D.D. Reinhardt, Deputy Municipal Clerk  
Mr. R.G. Cragg, Municipal Solicitor

SECRETARY: Glenda Higgins

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In the absence of Warden MacKenzie at commencement of the Council Session, Deputy Warden Wiseman called the meeting to order at 6:15 p.m. with the Lord's Prayer.

Mr. Reinhardt called the Roll.

Application No. DA-SA-12-86-20

Deputy Warden Wiseman informed she chaired the Public Hearing respecting this application, and she was later advised of a potential conflict of interest. At the direction of the Municipal Solicitor and her own solicitor, Deputy Warden Wiseman declared a conflict of interest with respect to this application for a development agreement.

APPOINTMENT OF RECORDING SECRETARY

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

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

APPROVAL OF MINUTES

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

"THAT the minutes of the August 5, 1986 Council Session be approved as circulated."  
MOTION CARRIED

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

"THAT the minutes of the August 19, 1986 Council Session be approved as circulated."  
MOTION CARRIED

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

"THAT the minutes of the August 25, 1986 Public Hearing be approved as circulated."  
MOTION CARRIED

AGENDA ITEMS

Councillor Randall - Need & Demand Survey, Public Housing, District 9

Councillor P. Baker - Department of Transportation

Councillor DeRoche - Ground Search

LETTERS AND CORRESPONDENCE

Nova Scotia Department of Education

Mr. Reinhardt read the letter from the Honourable Tom McInnis, Minister of Education.

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

"THAT the letter from Thomas J. McInnis, Minister of Education, be received."  
MOTION CARRIED

Canada Post Corporation

Mr. Reinhardt read the letter from David Richardson, Special Assistant to the Minister responsible for Canada Post Corporation, respecting the appointment of a new Postmaster for the Meaghers Grant Post Office.

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

"That this letter from David Richardson, dated September 3, 1986 be received."  
MOTION CARRIED

PLANNING ADVISORY COMMITTEE REPORT

Application No. F-732-86-01 - Undersized Lot Legislation - James Marriott Subdivision, Head of St. Margaret's Bay

Mr. Reinhardt reviewed the report.

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

"THAT Application No. F-732-86-01 be approved and that a public hearing be held on October 7, 1986 at 7 p.m."

MOTION CARRIED

Request from the Sackville Civic Status Review Committee to Erect Two Signs

Mr. Reinhardt read over the report, advising Council, for their information, that authorization was given by the Planning Advisory Committee for the Sackville Civic Status Review Committee to erect two signs on the Downsview Mall property and on the Fultz House property.

Councillor McInroy asked if permission had been obtained from the two property owners before this authorization was granted. Councillor DeRoche confirmed such permission was assured before any decision was made about this by the Planning Advisory Committee.

Application No. DA-EP/CB-34-86-06 - Development Agreement - Expansion of the Birchill Mobile Home Park, Caldwell Road, Eastern Passage

Mr. Reinhardt read over the report respecting this application.

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

"THAT Application No. DA-EP/CB-34-86-06 be approved and that a public hearing be held on October 27, 1986 at 7 p.m."

MOTION CARRIED

Secondary Planning Strategy - Sackville

Mr. Reinhardt reviewed the staff report respecting this matter.

Councillor Lichter informed the intent of his motion respecting this matter at the Planning Advisory Committee was that the Planning Advisory Committee support the request from Sackville to meet with Council - not that the Planning Advisory Committee meet with the residents of Sackville.

Councillor P. Baker suggested such a meeting would be worthwhile to follow-up on what the people want. He stated it appears the people do not know what they want, and it would only be fair to the residents of Sackville to have them meet with Council or the Planning Advisory Committee so it can be determined what they want and so the Municipality can show cooperation.



It was moved by Councillor McInroy, seconded by Councillor Merrigan:

"THAT Halifax County Council indicate to the Sackville Advisory Board that Council is prepared and desirous of meeting with them to discuss their matters of concern."

MOTION CARRIED

BUILDING INSPECTORS REPORT

James Atkins, Gaetz Brook

Mr. Reinhardt read the report respecting this application.

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

"THAT a lesser side yard clearance of four feet be approved for property located at Gaetz Brook for applicant James Atkins."

MOTION CARRIED

Craftec Construction, West Chezzetcook

Mr. Reinhardt reviewed the report.

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

"THAT a lesser front yard clearance of 40 feet be approved from the centre of Petain Station Road at West Chezzetcook for applicant Craftec Construction."

MOTION CARRIED

DIRECTOR OF DEVELOPMENT REPORT

It was moved by Councillor Eisenhauer, seconded by Councillor Adams:

"THAT the report of the Development Officer be received."

MOTION CARRIED

EXECUTIVE COMMITTEE REPORT

Request for District Capital Grant, District 2

Mr. Reinhardt read the request and the recommendation of the Executive Committee.

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

"THAT a District Capital Grant, District 2 be approved by Council in the amount of \$1,600 for the purpose of improvements to the soccer field at Timberlea Junior High School."

MOTION CARRIED

Resolution, re Tax Agreement - Pratt & Whitney Canada Inc.

Mr. Reinhardt read the report.

It was moved by Councillor Snow, seconded by Councillor C. Baker:

"THAT the Municipality approve of the Agreement dated January 18, 1985, between the Municipality, the Halifax County Industrial Commission, and Pratt & Whitney Canada Inc., and particularly Section 3 thereof providing by way of tax concession an exemption from taxes on manufacturing and processing machinery and equipment, Assessment Act 5.1(a)(vi), for a period of ten years commencing January 1, 1986;

AND THAT the Municipality request the Governor in Council to approve the said concession pursuant to the provisions of Section 14A of the Municipal Grants Act."

Councillor DeRoche asked if the resolution means the Municipality will be reimbursed by the Province for the loss of revenue. Mr. Meech clarified the motion means the Province will agree to give the Municipality the legal authority to provide the concession that was promised. The motion also means the Municipality will be in the position that the amount of the concession will not be translated as part of the uniform assessment for ability to pay. He clarified there will be no reimbursement or actual dollars coming from the Province.

Councillor DeRoche stated the only benefit of the resolution is that the assessment associated with that equipment will not show on the listing for assessment for the Municipality. Mr. Meech agreed.

Councillor DeRoche informed he was not aware that the Municipality had made such a commitment. He recalled the day the Pratt & Whitney offers were discussed and the only commitment made was to sell a certain number of acres to Pratt & Whitney for a set amount of money with the Municipality not being penalized with respect to tax revenues, and that the commitment with respect to the equipment was being made by the Province. He concluded he did not find the news respecting this pleasing.

Mr. Meech responded the taxes respecting equipment was a part of and incorporated into the final agreement that was agreed to by Council before Pratt & Whitney were formally advised of the Municipality's willingness to enter into an agreement. Councillor DeRoche stated he felt he was misled at the point in time when this was discussed because it was not what he understood he voted upon.

MOTION CARRIED

Property Exchange Between the Municipality and Harrietsfield Volunteer Fire Department

Mr. Reinhardt read the report.

It was moved by Councillor C. Baker, seconded by Councillor Fralick:

"THAT Municipal Council approve the relocation of the boundary line as shown in the plan and that the Municipality transfer Parcel B to the Harrietsfield Volunteer Fire Department in exchange for Parcel A."

MOTION CARRIED

LETTER, RE ANNEXATIONS AND/OR INCORPORATIONS

Mr. Reinhardt read the last paragraph of the letter from Sharyn G. Adams, Sackville Chamber of Commerce.

Councillor Lichter informed at the last meeting when this matter was discussed, his desire was to push the Province to agree to an arrangement whereby a two or three year period would be given for any area wanting to annex or incorporate, and following that two or three year period there would be a period of time, perhaps as much as ten years, when those who did not wish to annex or incorporate would remain with the Municipality in order to give some permanency. Councillor Lichter stated the Sackville Chamber of Commerce may not have been aware of this statement, but it was the spirit of the approach - to give everybody the freedom to seek the status desired. The Municipality cannot go on with the idea of doing something and maintaining the uncertainty that surrounds the existence of the Municipality. Councillor Lichter further stated that Mr. Meech's position paper "An Alternative Strategy to the Issue of Further Annexations and/or Incorporations" was discussed at a special meeting of Council, and it was not looked upon favourably by two MLA's who were present at the meeting. No strong approach has been made to the Province for any arrangement to have them freeze annexations and/or incorporations, although there was the discussion with the two MLA's out of five or six. He referred to Ms. Adams reference to "a clear message of disinterest", stating there was a clear message of interest - not disinterest. There was interest in giving the residents a period of time to complete their studies. He felt the Municipality owes no apology to anybody because nothing underhanded has been done. The Municipality is simply looking for permanency with a guarantee that an area can go on their own within a certain period of time. He continued that the study referred to in the letter will not be a lengthy one because the \$70,000 provided for the study will not last for more than six months - long before any commitment is going to be made by the Municipality or the Province to freeze annexations and/or incorporations.

Councillor MacDonald stated this matter was discussed at the last meeting of the Sackville Advisory Board, and the letter was addressed by himself and Deputy Warden Wiseman. He felt after the meeting, there was no opposition to it and those at the meeting were satisfied with the explanation given for the letter. He suggested it would be a good idea to have Mr. Meech respond to the letter. He felt perhaps the Sackville Chamber of Commerce did not understand all the implications involved.



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

"THAT the letter from Sharyn G. Adams, President, Sackville Chamber of Commerce, be received for information purposes and where the letter was addressed to Mr. Meech that he discharge the responsibilities of his own position and respond to the letter as he feels appropriate."  
MOTION CARRIED

APPOINTMENT TO THE BOARD OF DIRECTORS, UNITED WAY

Mr. Reinhardt read the letter from Allan C. Shaw, President of the United Way.

There were several nominations made to the Board which were declined, and there was some discussion about the problem in getting representatives from Halifax County to serve on the Board. Councillor Poirier and Councillor P. Baker both informed the timing of the meeting is not satisfactory. It is held near the end of the day in downtown Halifax, making it difficult to get through traffic, etc.

It was moved by Councillor McInroy, seconded by Councillor Fralick:

"THAT Councillor Eisenhower be appointed to represent the Municipality of the County of Halifax on the Board of Directors of the United Way of Halifax-Dartmouth Metro Area."  
MOTION CARRIED

Warden MacKenzie arrived at the Council Session and took over the chair.

RESOLUTION, RE FAMILY HOUSING UNITS

Councillor McInroy and Councillor Mont declared conflicts of interest.

Mr. Reinhardt read the letter from Mr. C.E. Schofield, Regional Manager for the Nova Scotia Department of Housing.

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

"THAT the Designation Letter and the resolution be signed by Municipal officials in order to finalize the two family units in Jeddore, the two family units in Hubbards."  
MOTION CARRIED

FUND RAISING, HALIFAX - ST. MARGARET'S ARENA ASSOCIATION - COUNCILLOR EISENHAUER

It was moved by Councillor Eisenhauer, seconded by Councillor Fralick:

"THAT this matter be referred to the Executive Committee in order to allow time for a meeting between the five area Councillors involved."

MOTION CARRIED

POLICE COMMITTEE REPORT

Mr. Reinhardt read the report from the Urban Services Committee respecting the Police Committee, advising there is a need for Council to appoint a new member to serve on the Committee to represent the western area of the Municipality.

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

"THAT Councillor Walker be appointed to represent the western portion of the Municipality on the Police Committee."

MOTION CARRIED

APPROVAL OF FUNDING, RE ROSS ROAD WATERLINE EXTENSION

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

"THAT the letter from the Minister of Municipal Affairs, the Honourable David Nantes, respecting Provincial Capital Assistance to undertake a waterline extension in the Ross Road area be received."

MOTION CARRIED

AMENDMENT, RE METROPOLITAN AUTHORITY ACT

Mr. Reinhardt read the letter from Mr. R. Mort Jackson, Executive Director of the Metropolitan Authority.

Warden MacKenzie advised this matter was before Council earlier and approved in principle.

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

"THAT the Council of the Municipality of the County of Halifax approve such proclamation bringing the said sections into force as of the 1st day of January, 1987, and request the Governor in Council to so order and declare by proclamation."

MOTION CARRIED

COLLECTIVE AGREEMENT, LOCAL 1083 COUNTY OUTSIDE WORKERS

Mr. Reinhardt read the memorandum from Mr. Fawson, Personnel Manager, respecting the collective agreement between the Municipality of the County of Halifax and CUPE 1083.

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

"THAT the collective agreement between the Municipality of the County of Halifax and CUPE 1083 be approved by Council effective January 1, 1986 to December 31, 1986."

MOTION CARRIED

LETTER, RE PROSPECT ROAD BUS SERVICE

It was moved by Councillor P. Baker, seconded by Councillor C. Baker:

"THAT the matter of Prospect Road Bus Service be deferred to the Executive Committee, and that Mr. Pike and Councillor P. Baker be invited to attend that meeting, and that a report respecting this matter be sent to the next Council Session."

MOTION CARRIED

AGENDA ITEMS

Councillor Randall - Need and Demand Survey, Public Housing, District 9

Councillor McInroy and Councillor Mont each declared a conflict of interest.

Councillor Randall felt there is a need for public housing in his district. He also felt there has been no need and demand survey carried out in this area for family housing. Therefore,

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

"THAT a letter be sent to the Nova Scotia Department of Housing requesting that a Need and Demand Survey be carried out to determine if there is a need for family housing in District 9."

MOTION CARRIED

Councillor P. Baker - Department of Transportation

Councillor P. Baker informed he brought this matter to Council some time ago asking that the traffic at the Prospect Connector be observed and considered for traffic lights. The Minister replied to that letter stating a survey would be undertaken. Councillor P. Baker informed he has not heard anything since, and he does not know if the survey was done. He stated the people are very concerned about this area, and with harness racing being considered for the area, there will be more traffic. Councillor P. Baker asked that a letter be sent to the Minister of Transportation asking if any decision has been made or if the study has been done with respect to the Prospect Connector.



This was agreed by Council.

Councillor DeRoche - Ground Search

Councillor DeRoche informed one week ago there were two small children lost in the Cole Harbour area. They were located and returned safely to their homes after a night-long search.

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

"THAT an expression of appreciation be extended to the Waverley Ground Search and Rescue and the Musquodoboit Harbour Ground Search and Rescue units for their efforts in this regard and to commend them for the service they provide to the residents of the Municipality."

Councillor Mont also expressed appreciation for the two rescue units, stating the two missing children are residents of his district. He asked that a letter of appreciation also be sent to Ralph Young of the County Rehab Centre who opened the kitchen facilities at the Rehab Centre in the middle of the night, providing food to the volunteers. He asked a letter also be sent to the management of Lockhart's in Cole Harbour for opening their store after hours to provide batteries for the searchers.

Councillor DeRoche and Councillor Randall agreed to amend the motion to read:

"THAT a letter of appreciation be extended to the Waverley Ground Search and Rescue and the Eastern Shore Ground Search and Rescue units for their efforts in this regard and that they be commended for the service they provide to the residents of the Municipality; also that letters be sent to Ralph Young of the Rehab Centre and Lockhart's of Cole Harbour expressing appreciation for opening their services to the searches after closing hours."

MOTION CARRIED

Mr. Meech - Application No. RA-SA-32-85-19 - Appeal by Three Star Developments Limited

Mr. Meech advised that Council was informed of the Municipal Board's decision to overturn Council's decision with respect to this application. The Board had directed that Council rezone the parcel of land to R-4 to comply with the Board's decision. Shortly after that action was taken, the residents of the surrounding area retained legal counsel and have initiated an appeal of the Board's decision through the courts. This raises the question of whether or not Council should have carried out the direction of the Board because there is provision in the Planning Act that allows an appeal of the Municipal Board decision only to the courts on the basis of law. He stated when the Board's direction was received by the Municipality there was no indication of any 30 day appeal period. Mr. Meech asked Mr. Cragg for his advice on this matter.

Mr. Cragg informed this matter does not involve the Municipality. The decision of the Municipal Board was handed down on July 24, and there was nothing unusual with the decision, and his order was not any different with the exception of the fact that he ordered Council to rezone the lands by a certain time. Mr. Cragg stated the rezoning was the Municipality's only involvement because the decision was the Board's. It was noted that the time factor was unusual in the Board's decision, and it was deferred from the first Council Session in order to allow Mr. Cragg and the planning staff to consider what the consequences would be. It was determined there were no consequences, after discussing it with the Board, and at the next Session of Council, the Municipality complied with the order of the Municipal Board, and nobody was made aware that there was an interested party wishing to appeal the decision of the Board. Mr. Cragg reviewed several sections of the Municipal Act respecting appeals to the Municipal Board. If there is to be an appeal undertaken and prosecuted to a conclusion and be successful, it must prove the Board erred on a question of law. The Municipality would not be involved as a party to the appeal because it only complied with the order of the Municipal Board.

Mr. Cragg continued that after being consulted by the Director of Development it was suggested that he not issue any permits if he is requested because the Municipality is now aware of the fact that the matter is before the courts, and after discussing the matter with the involved solicitors, Mr. Cragg was of the understanding that one solicitor will be seeking an injunction restraining the Municipality from issuing the permits, and the other solicitor will be seeking an order compelling the Municipality to issue the permits if and when they are requested. The Municipality can only abide by whichever order the court deems appropriate. The other solicitors are aware of the position of the Municipality and under the circumstances they accept that position.

There was much discussion respecting the appeal by the residents, as well as the decision and order of the Municipal Board. Mr. Cragg questioned the authority of the Board to order Council to comply with its order. The decision of the Board speaks for itself, overturning the decision of Council, rezoning the lands from R-1 to R-4. Mr. Cragg stated the decision of the Municipal Board stands, and he put no weight in the fact that the Board ordered Council to rezone the lands, and they did so. It was clarified that the Director of Development has been advised not to issue development permits for this land, and this has been done with the full knowledge of the appealant's solicitor. He felt there is no better way for the Municipality to deal with this matter during this interim period. It is an even stance while waiting for the judgement from the courts. He felt it is within the jurisdiction of the Municipality to recognize that an appeal has been launched, and that the permits will not be issued on that basis. Mr. Cragg stated the Municipality would be ensuring what is best for the public would be done with the decision of the Municipal Board in mind. It was the Municipal Board's decision that determined the rezoning, and the Municipality simply accepted the decision by complying with the order of the Board.

ADDITION OF ITEMS TO THE OCTOBER 7, 1986 COUNCIL SESSION

Councillor Snow - Transportation

Councillor P. Baker - Public Service Commission

Councillor Adams asked to have a copy of the recent traffic report from the Halifax-Dartmouth Bridge Commission sent to him. He stated a portion of it appeared in the newspaper, and he would like to have a copy of the full report. Warden MacKenzie agreed to look into the matter and forward a copy of such a report to Councillor Adams

Warden MacKenzie advised there was a reception for Rick Hansen in Musquodoboit Harbour earlier in the evening. Councillor Mont, Councillor Reid, Councillor Bayers, and Warden MacKenzie all attended. Although it was a bitter day, Rick Hansen arrived at Musquodoboit Harbour only about ten minutes late. There was a good turnout of people to greet him, and there was a fair number of donations made. Warden MacKenzie advised there has been approximately \$13,000 made from the Municipality, and he expressed appreciation to Council for their support to the Man in Motion World Tour and to the members of the Municipal Committee who worked with staff and the Provincial Committee to make this a success. He also thanked members of the press for following Rick Hansen from the far end of the County to now. The tour through the County was an overall success, and the organizers are very pleased with the participation of the Municipality of the County of Halifax.

IN CAMERA ITEM

It was moved by Councillor Fralick, seconded by Deputy Warden Wiseman:

"THAT Council go in-camera."  
MOTION CARRIED

Members of Council agreed to come out of Council.

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

"THAT Municipal Council adopt the recommendation of the Industrial Commission respecting the purchase of land at the Aerotech Industrial Park by Litton Systems Canada."  
MOTION CARRIED

ADJOURNMENT

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

"THAT this Session of Council adjourn."  
MOTION CARRIED



PUBLIC HEARING

SEPTEMBER 22, 1986

PRESENT WERE: Warden MacKenzie  
Councillor Poirier  
Councillor Fralick  
Councillor P. Baker  
Councillor C. Baker  
Councillor Deveaux  
Councillor DeRoche  
Councillor Adams  
Councillor Randall  
Councillor Bayers  
Councillor Reid  
Councillor Lichter  
Councillor Snow  
Councillor Merrigan  
Councillor MacKay  
Councillor McInroy  
Councillor Eisenhauer  
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 Deveaux, seconded by Councillor Adams:

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

APPLICATION NO. RA-CH/W-38-86-21

Mr. Hanusiak reviewed the staff report respecting this application, advising it is a request by Mr. Richard Murray to rezone Lot 209, Phase 1A of the Forest Hills Land Assembly, Cole Harbour from R-1 (Single Unit Dwelling) Zone to R-2 (Two Unit Dwelling) Zone. The purpose of the rezoning is to allow a basement apartment to be established in the existing single unit dwelling on the property. Mr. Hanusiak identified

the location of the property in question, noting it is directly adjacent to a number of two unit dwelling lots. Also the Municipal Planning Strategy allows Council to consider two unit dwellings in the Residential A designation. He concluded the Department of Planning and Development recommends approval of the rezoning based on the fact that there will be no enlargement or exterior alterations to the existing structure.

#### Questions from Council

Councillor DeRoche clarified that the application is for a rezoning, and the plan allows for a two unit dwelling by amendment to the Land Use By-law.

#### Speakers in Favour of this Application

Mr. Richard Murray, 35 Arlow Drive advised he is the owner of the property in question. He informed he has discussed this proposal with most of his neighbours, and he has at least two signatures on a statement of no objection to this development.

#### Questions from Council

Councillor McInroy asked Mr. Murray to identify the location of the homes of the neighbours who have signed the petition in relation to the proposed two unit dwelling. Mr. Murray informed one is to the left facing Arklow Drive, and the second is behind the property in question. The one behind is a pet care business, and the one to the left is a townhouse. Mr. Murray also advised he has talked to single unit dwelling owners as well. They also have no objections to this proposal.

Councillor Mont expressed concern about previous basement flooding in this area. Mr. Murray informed he did experience problems in the past, although there was very little water in the basement. The County has written anticipation of no further problems after digging the street up in two locations - one on the corner of Arklow and one on Perrin Drive. Two catch basins were put in, and there have been no problems since that time.

Mr. Kelly read a petition expressing no objection to the rezoning of 35 Arklow Drive from R-1 to R-2. It was signed by two people.

#### Speakers in Opposition to this Application

None.

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

"THAT the rezoning of Lot 209, Phase 1A of the Forest Hills Land Assembly, located at 35 Arklow Drive, Cole Harbour from R-1 (Single Unit Dwelling) Zone to R-2 (Two Unit Dwelling) Zone be approved by Municipal Council."  
MOTION CARRIED UNANIMOUSLY



APPLICATION NO. PA-EP/CB-11-85

Mr. Hanusiak began his presentation by notifying this matter has been before the Planning Advisory Committee on a number of occasions. Mr. Thomas Rehburg owns a property in Eastern Passage which is located in an R-2 zone on a serviced lot. In 1985 a development permit and a building permit were issued for a private car garage. Subsequent to the issuance of these permits, it was noted by the building inspector that the height of the garage exceeded the permitted 15 foot limit. It was later discovered that the upper portion of the private car garage was being turned into a residential dwelling unit. The matter was brought to the attention of the Planning Advisory Committee subsequent to prosecution being pursued against Mr. Rehburg. The Planning Advisory Committee considered a number of ways to accomodate Mr. Rehburg, as well as another property belonging to Mrs. Shannan Gladwin. Mrs. Gladwin's property contained a mobile home, and a second mobile dwelling unit was moved to the property without permission from Municipal authorities. According to Mrs. Gladwin, the second mobile home was there on a temporary basis.

Mr. Hanusiak advised the Planning Department does not recommend approval of any of the plan amendments or the development agreements required for this particular application. The amendment to the Municipal Planning Strategy for Eastern Passage/Cow Bay targets potential rental and living accomodations in the R-2 and R-3 zones where municipal water and sewer services are available. The amendment would allow Council to consider by development agreement a second dwelling unit on a property in the R-2 or R-3 zone separate from the existing dwelling unit. The requirements are based on maintaining an interrelationship between the two dwelling units as well as maintaining, to the greatest possible extent, existing zoning standards.

Mr. Hanusiak outlined the proposed amendments to the Municipal Development Plan for Eastern Passage/Cow Bay advising there could be a second dwelling unit a property zoned R-2 or R-3. The second dwelling unit must be separate and distinct from the existing dwelling unit; the County could not consider a third dwelling unit; that municipal water and sewer services shall be available; the lot cannot be subdivided so as to accomodate the second residential structure; sewerage and water services of the second unit shall be connected directly to those of main dwelling unit; the floor area devoted to the second residential unit shall not exceed that of a normally permitted accessory building, (i.e. 750 square feet) unless the second unit is a mobile home; where the second unit is a mobile dwelling or other temporary unit, the development agreement shall specify the time period during which the unit may remain on the property and the method by which the unit shall be removed; and all other standards of the zoning by-law applicable to the main building shall be met. The second amendment was an implementation directing the by-law to be amended to allow consideration of the development agreement. Mr. Hanusiak reviewed the amendment which would be required for the Zoning By-law, adding clause (j) to Part 3.6.



Questions from Council

Councillor Deveaux clarified if the amendments to the Municipal Planning Strategy and the Land Use By-law are approved, there would be a requirement for another public hearing for the development agreement. Mr. Hanusiak agreed, specifying it would be for Mr. Rehburg's or Mrs. Gladwin's individual situations.

Speakers in Favour of this Application

Thomas Rehburg, 78 Horne's Road informed he applied for a building permit for a garage in June, 1985, and the building inspector gave final approval for the garage which would clearly contain a bathroom. The carpenters were hired to construct the garage, and when returning from vacation found the building inspector had stopped construction on the building. There was a recreation room added to the upper floor of the garage. A petition signed by 22 residents of Horne's Road in favour of the development was submitted to the PAC. He stated the garage is assessed for \$5,000, and he pays the taxes on it.

Questions from Council

Councillor Deveaux asked if the petition which was presented at the Public Participation Session was available for circulation to Councillor. He supported Mr. Rehburg in that there was a petition circulated to the residents within one-quarter mile of his residence. Mr. Hanusiak informed the secretary to the Planning Advisory Committee would probably have possession of this petition.

Councillor Deveaux next clarified that Mr. Rehburg is assessed and pays taxes on the garage.

Councillor MacKay clarified that the building inspector stopped construction because Mr. Rehburg was having a dwelling unit built inside the garage - not for building the garage. Mr. Rehburg informed construction was stopped because the height of the garage exceeded the limit of 15 feet. Councillor MacKay was of the understanding that the height restriction and square footage restriction would still apply to any secondary dwelling. Mr. Hanusiak agreed the building is an accessory building per say, but the development agreement will allow Council to consider any height, square footage, etc. Councillor MacKay clarified it is the square footage of the floor area that falls within the perimeters of an accessory building.

Councillor McInroy asked if the building was intended to have a bathroom and a recreation room. Mr. Rehburg informed when he applied for the building permit, he planned to have a bathroom in it. There was no intention to build a house with a basement garage. He later decided to add the recreation room, and there is no intention for anybody to live in it, although Mr. Rehburg stated he and his wife would like to spend the odd night or the weekends there. It will not be rented.

Councillor MacDonald clarified that the amendment will allow a second dwelling unit to be built in the backyard of an R-2 or R-3 lot within the boundaries of the Eastern Passage/Cow Bay Municipal Planning Strategy. Mr. Hanusiak advised this will be the case, given all the conditions are adhered to.

Councillor MacKay asked what facilities are intended to be included within this building. Mr. Rehburg agreed the garage will be located beneath, there will be a recreation room and a washroom upstairs. It is not intended at any time to be used as a residence. Mr. Rehburg stated he would to have the recreation room for privacy for he and his wife. Councillor MacKay asked if there is any stove or 220 plug for a stove, if there is any plumbing for a kitchen sink, and if there is a bedroom. Mr. Rehburg replied there is no 220 volt plug or plumbing for a kitchen sink, although there is a bedroom partitioned off. Councillor MacKay asked if an accessory building cannot contain a washroom or a recreation room to be considered accessory. It must not have eating facilities. Mr. Hanusiak identified a dwelling unit from the Zoning By-law for Eastern Passage/Cow Bay as "one or more habitable rooms designed, occupied or intended for use by one or more persons as an independent and separate housekeeping establishment in which a kitchen, sleeping and sanitary facilities are provided for the exclusive use of such persons." Councillor MacKay stated that one of the three elements of a dwelling unit would have to be missing to exempt a building from being a dwelling unit. Mr. Rehburg does not need a change of amendment as proposed. He felt the only problem with this development is the height of the garage, and there should a change in the height of the permitted use rather than changing the entire by-law to permit second residential dwellings on a lot.

Mr. Hanusiak replied that at the time the development was ceased, there was plans for the second unit, and there was also the ability for kitchen facilities of some sort to be put there. There was a potential for this to become a second unit. Mr. Hanusiak advised he was not involved with this application for over a year, but when it was developed, there was an intention for a second dwelling unit. He felt the application would not have come to the public hearing stage if the Planning Advisory Committee did not feel it was necessary.

Councillor MacKay felt there could be many other such garages constructed around the Municipality with no intention for using them as dwelling units. He stated there are many height problems in his area, and if the by-law were changed to accomodate this problem, there would be many other requests to amend the by-law to accomodate others. He also questioned the need to amend the entire by-law to accomodate the height of accessory buildings.

Councillor DeRoche informed when this matter was brought before the Planning Advisory Committee, Members were given the impression that there was more involved in this situation than the height restriction. Height was the one factor that first caused the building inspector to investigate further, and on that further investigation, it was determined that according to the building codes the building could be used as a separate dwelling unit.



Speakers in Opposition to this Application

Clarence Lucas, Horne's Road advised he was involved with the planning of the Eastern Passage Municipal Development Plan as chairman. He stated a good many hours were spent working on the plan at a great cost to the taxpayers. Now there is an application for an amendment to this plan. He questioned how this application got so far when there is a Building Inspection Division that should enforce the height restriction in Eastern Passage. He wondered how Mr. Rehburg continued to build and get as far as he did after an order to cease construction had been issued. Mr. Lucas continued if this amendment is approved it will mean quite a change to the plan. Anybody with a parcel of land of any size and depth will be able to apply for the same thing and receive approval. This will mean two houses on a parcel of land - development will be moving backward instead of forward. Years ago when people had two dwellings on a single parcel of land, they were made to tear one down and mobile homes were required to be removed. Mr. Lucas informed he has three parcels of land with 90, 60, and 60 feet of land along the Cow Bay Road and 300 feet deep, and if this amendment is passed, he would apply for the same thing. He continued instead of making a decent place to live, development will lead to a Shantytown. Mr. Lucas felt Mr. Rehburg should have been made to take the top off the garage when it was noted he was exceeding the height restriction. Although, it is heard tonight this will not be used as living quarters, it will be in the future. He questioned what would happen then - if the Municipality would enforce the laws they are supposed to. Mr. Lucas concluded he is very much against this proposal for the large amount of time spent on the plan in Eastern Passage.

Questions from Council

Councillor Deveaux expressed appreciation on behalf of the residents of Eastern Passage to Mr. Lucas for his work on the Municipal Planning Strategy for the area. However, it has become evident throughout the Municipality that there are many request for changes, which are considered to be part of the process of planning. What Mr. Rehburg has constructed was not ill-intended, and to say that anybody will get approval for the same if this is approved is not true. There will be certain criteria that will have to be met before any other situation would be approved. Councillor Deveaux felt each circumstance is original and must be dealt with individually. Mr. Rehburg's development will not make a Shantytown out the surrounding area. Mr. Rehburg circulated a petition, and there was only one person from the area who was opposed and did not sign the petition.

Mr. Lucas informed Horne's Road is what should be considered; it is a residential area mostly zoned R-2, and the existing building is out of character with the rest of the homes. He stated if this is approved, it would have to be approved for the next person with the same proposal. He stated he is not in favour of this application, and there are others also not in favor. Many times the neighbours do not want to go against anybody.



Councillor Lichter clarified that Mr. Lucas realizes that Council is considering parcels of land that cannot be subdivided. If a parcel of land can be subdivided, they must take that route, and the revision to the Municipal Planning Strategy and the Zoning By-law would not apply to individuals when they can subdivide. Councillor Lichter asked what kind of buildings are being built in the Eastern Passage area in the R-2 zones. Mr. Lucas responded that single family dwellings and duplexes are being built here. Councillor Lichter felt from comments and a site visit that the majority of the homes in Eastern Passage are duplexes. Mr. Lucas agreed and added that the majority of the residents of the area do not want this type of development. Councillor Lichter asked why duplexes are built on those lots instead of building two separate homes if it were permissible. Mr. Lucas informed the economy predicts what sells, and at the present time duplexes are selling. Many people cannot afford single family dwellings. Councillor Lichter stated this application has been before the Planning Advisory Committee for well over a year. At one time, he had proposed that any developer with a parcel of land such as that in a R-2 zone would find it much cheaper and more marketable to build a duplex rather than two individual single family dwellings on the same lot. Mr. Lucas agreed, and Councillor Lichter felt it would be rare that such a request would come to Council with the need to enter into a development agreement to do so. Mr. Lucas agreed.

It was moved by Councillor Deveaux, seconded by Councillor C. Baker:

"THAT Application No. PA-EP/CB-11-85 be amended to accomodate the request put forth by Mr. Rehburg."

Councillor MacKay clarified when there is an R-2 zone with a semi-detached unit on it there has to be two separate services. Also once the building is constructed and the common wall is between the two units, two separate ownerships are created. Therefore, there is a separate lot on an R-2 zone with only one dwelling. He felt the second dwelling could also be put there if the guidelines of an accessory building are adhered to. Mr. Hanusiak informed the intent with the development agreement would be that the lot originated with a side-by-side duplex and the other unit, as hypothetically proposed, would constitute the third unit, which would not be permitted. He also added that each development agreement will have to come to a public hearing, and if Council does not like it, they can refuse it. Councillor MacKay felt it is ironic that an entire Municipal Planning Strategy would be amended to allow other permitted dwellings simply to accomodate somebody who has gone over a height restriction. According to Mr. Rehburg the only problem with the building is the height; it is not intended to be a second dwelling unit.

Councillor McInroy felt if this is passed Council would be only doing it to accomodate an existing building. If the building had not been started before appearing before the Planning Advisory Committee, this

would not be at the public hearing stage. He felt the proposed amendment is poor planning and dangerous with too many variables. He also felt somebody would take the amendment to the extreme and it would be accomplished because the amendment would allow it. Councillor McInroy reminded there is nobody enforcing development agreements, which would pose another problem with this amendment. He felt this application is not the process of planning, but the process of accomodating a request to which there is no other alternative. He concluded he would not support the motion.

Deputy Warden Wiseman also spoke strongly against the motion. There have been similar situations in Sackville recently, and in other cases the second storey on the garage had to be torn down. She also gave an example of illegal apartments in Sackville. She felt the reasoning behind support for this application was to encourage adequate rental accomodation; however, she felt this has been accomplished in all plan areas by means of R-4 zoning. She concluded this amendment would be totally contrary to the planning, and the effects on other areas would create extreme pressure for similar amendments, which are unnecessary.

Councillor Deveaux informed this issue has been active for over one year, and the original intent was to treat it in a site specific situation. However, the Planning Department have been opposed to this; he felt there appears to be a phobia as to why the Municipality should work site specifically. He felt Mr. Rehburg is not intending to break any rules or regulations. Certain criteria would have to be met, and he did not feel the Planning Department would be overcrowded with similar requests. People in the immediate area who would be the most affected have always shown the most opposition, but it does not appear to be the case in this situation. Councillor Deveaux concluded that Mr. Rehburg is only intending to improve his living standards for his wife and family.

MOTION DEFEATED

4 FOR  
16 AGAINST

APPLICATION NO. SB-01-86

Mr. Hanusiak reviewed the staff report advising this application would require an amendment to the Subdivision By-law as well as each of the Land Use By-laws. He stated in the unserviced areas, 100 feet of road frontage is normally required. However, there is difficulty with this in that along a public road a large parcel of land is developed with smaller lots and would like to leave a road entrance reserve to the large remaining Parcel A behind the smaller lots. Because only 66 feet of remaining road frontage would not be recognized as road frontage to the remaining Parcel A, there would be difficulty approving the lot adjacent to the road entrance reserve. The purpose of this amendment would be to allow the logical development of a parcel of land allowing the subdivision of another lot with the remaining 66 feet for a road entrance reserve. If this amendment is not passed, a developer would have to leave a potention road entrance reserve at 100 feet, and the remainder of the Parcel could not subdivide any more lots. In the



future when the road goes through, and the Department of Transportation requires only 66 feet of frontage, there is a remaining 34 feet left that cannot be developed and would have to be given to the two adjacent lots. Mr. Hanusiak informed this matter has been before the Planning Advisory Committee, and they felt it is a logical amendment to the Subdivision By-law and the Land Use By-laws. There would be a definition of road entrance reserve placed in the Subdivision By-law and the subsequent amendments to the Land Use By-laws would read: "Notwithstanding the lot frontage provisions contained in this By-law, a portion of a lot identified as a road entrance reserve shall meet the requirements of the provincial Department of Transportation." When the plan of subdivision is reviewed by the Department of Transportation, they would be asked to consider the proposed road reserve in terms of site stopping distances, but they would not be obliged to look at physical aspects to the road reserve itself. This application is to allow the developer to subdivide lots leaving a potential road reserve that meets with the site distance requirements of the Department of Transportation. Problems with grade and alignments would be repaired later. All subdivision plans would be stamped noting the Department of Transportation has reviewed the proposed road entrance reserve for compliance with site distance requirements only, and there are no guarantees it is feasible to build a road in this location which will meet the right-of-way, alignment, and gradient requirements.

#### Questions from Council

Councillor MacKay asked why the Department of Transportation would not be asked to consider grade and alignment at the subdivision stage. Mr. Hanusiak agreed with Councillor MacKay that this should be considered at once to avoid any possible problems in the future. However, most of the problems that do arise with respect to the building of the road can be adjusted through filling. The one thing that cannot be changed is the site stopping distance.

Councillor MacKay stated reserves are often left and if they are into a bank the developer cuts into the bank leaving adjacent property owners with embankments that he does not have to stabilize and the land eventually falls. The reverse can also happen and water runs onto other properties. He felt the Department of Transportation should give some type of preliminary overview before subdivision approval is granted. Mr. Hanusiak felt if there is no ability to put the road in, it will be considered by the Department of Transportation from the beginning. It will be clearly stamped on the subdivision plan that there will be no guarantees to the developer nor will there be any onus on the part of the Municipality to recognize the potential for the road entrance reserve. It will only have to meet the one requirement of the Department of Transportation in the initial stages of development.

Councillor MacKay clarified the adjacent house would have to be a minimum of 20 feet away from the edge of the road reserve entrance. Mr. Hanusiak informed this would be the case unless some form of minor variance is granted.



Speakers in Favour of this Application

Jeffery Kidson informed he is considering buying a lot adjacent to the proposed road entrance reserve. He clarified that the diagram shown in the staff report is only hypothetical and is not his actual case.

Speakers in Opposition to this Application

None

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

"THAT Council approve the amendments to the Subdivision By-law as outlined in Appendix A of the Staff Report."  
MOTION CARRIED UNANIMOUSLY

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

"THAT Council approve the amendments to the Land Use By-law for Sackville as outlined in Appendix B of the Staff Report."  
MOTION CARRIED UNANIMOUSLY

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

"THAT Council approve the amendments to the Land Use By-law as outlined in Appendix C of the Staff Report."  
MOTION CARRIED UNANIMOUSLY

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

"THAT Council approve the amendments to the Land Use By-law for Eastern Passage/Cow Bay as outlined in Appendix E of the Staff Report."  
MOTION CARRIED UNANIMOUSLY

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

"THAT Council approve the amendments to the Land Use By-law for Timberlea/Lakeside/Beechville as outlined in Appendix D of the Staff Report."  
MOTION CARRIED UNANIMOUSLY

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

"THAT Council approve the amendments to the Land Use By-law for North Preston, Lake Major, Lake Loon/Cherry Brook and East Preston as outlined in Appendix F of the Staff Report."  
MOTION CARRIED UNANIMOUSLY

ADJOURNMENT

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

"THAT this public hearing adjourn."  
MOTION CARRIED.

The public hearing adjourned at 8:15 p.m.

**POLICY DIVISION**  
**MEMORANDUM**

TO: Warden A. MacKenzie and Members of Council

FROM: Michael Hanusiak, Policy Division

RE: Public Hearings, September 22, 1986

DATE: September 22, 1986

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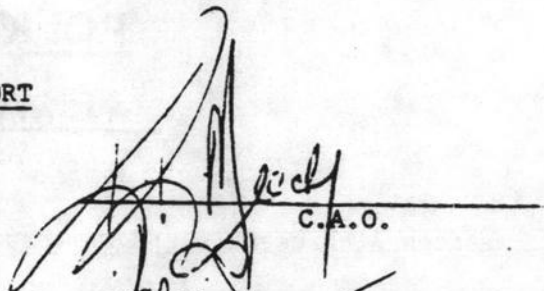
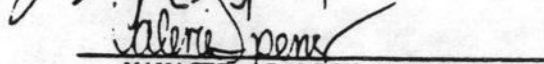
Please be advised that the following Public Hearings are scheduled for this evening:

1. Application No. RA-CH/W-38-86-21 - Application by Mr. Richard Murray to rezone lands at 35 Arklow Drive at Cole Harbour, from R-1(Single Unit Dwelling)Zone to R-2(Two Unit Dwelling)Zone.
  
- 2a. Application No. PA-EP/CB-11-85 - Proposed amendment to the Municipal Planning Strategy for Eastern Passage/Cow Bay to permit two dwelling units on a single lot.
- 2b. Proposed amendment to the Land Use By-Law for Eastern Passage/Cow Bay made pursuant to Application No. 2a.
  
- 3a. Application No. SB-01-86 - Proposed amendment to the Municipality's Subdivision By-Law regarding road reserves and lot approvals.
- 3b. Proposed amendments to the Municipality's five Land Use By-Laws made pursuant to Application 3a, as follows;  
  - ZA-SA-03-86 (Sackville)
  - ZA-CH/W-04-86 (Cole Harbour/Westphal)
  - ZA-EP/CB-05-86 (Eastern Passage/Cow Bay)
  - ZA-TLB-06-86 (Timberlea/Lakeside/Beechville)
  - ZA-LM-07-86 (Lake Major)

PLEASE NOTE: All matters being dealt with this evening will require the majority vote of the whole of Council.

STAFF REPORT

TO: Planning Advisory Committee  
FROM: Dept. of Planning & Development  
APPLICATION NO. RA-CH/W-38-86-21  
DATE: August 11, 1986

  
C.A.O.  
  
MANAGER, POLICY DIVISION

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RECOMMENDATION: THAT THE REZONING OF LOT 209, PHASE 1A OF THE FOREST HILLS LAND ASSEMBLY, LOCATED AT 35 ARKLOW DRIVE AT COLE HARBOUR, FROM R-1 (SINGLE UNIT DWELLING) ZONE TO R-2 (TWO UNIT DWELLING) ZONE BE APPROVED BY MUNICIPAL COUNCIL.

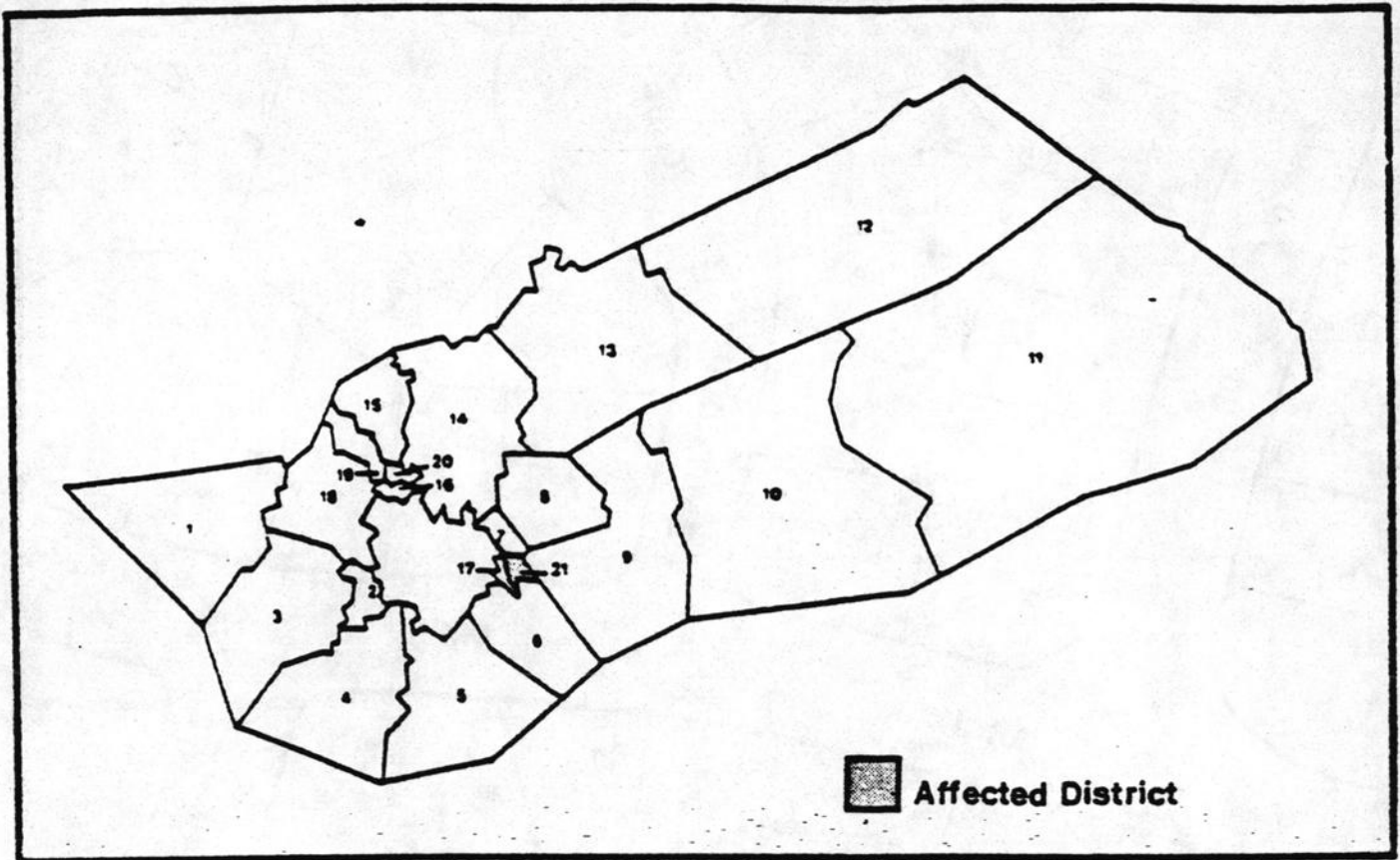
Information: An application has been received from Mr. Richard Murray to rezone the property identified in Map 3 (p.3) of this report to R-2 (Two Unit Dwelling) Zone. The purpose of the rezoning is to allow a basement apartment to be established in the existing single unit dwelling.

Analysis: The municipal planning strategy by Cole Harbour/Westphal designates this property Residential A. The designation provides for consideration of a variety of residential uses, including two unit dwellings, by amendment to the land use by-law. The Department of Planning & Development has no objections to this proposed rezoning, based on the property's adjacency to existing two unit dwellings and the fact that the basement apartment will not enlarge or alter the exterior of the building.

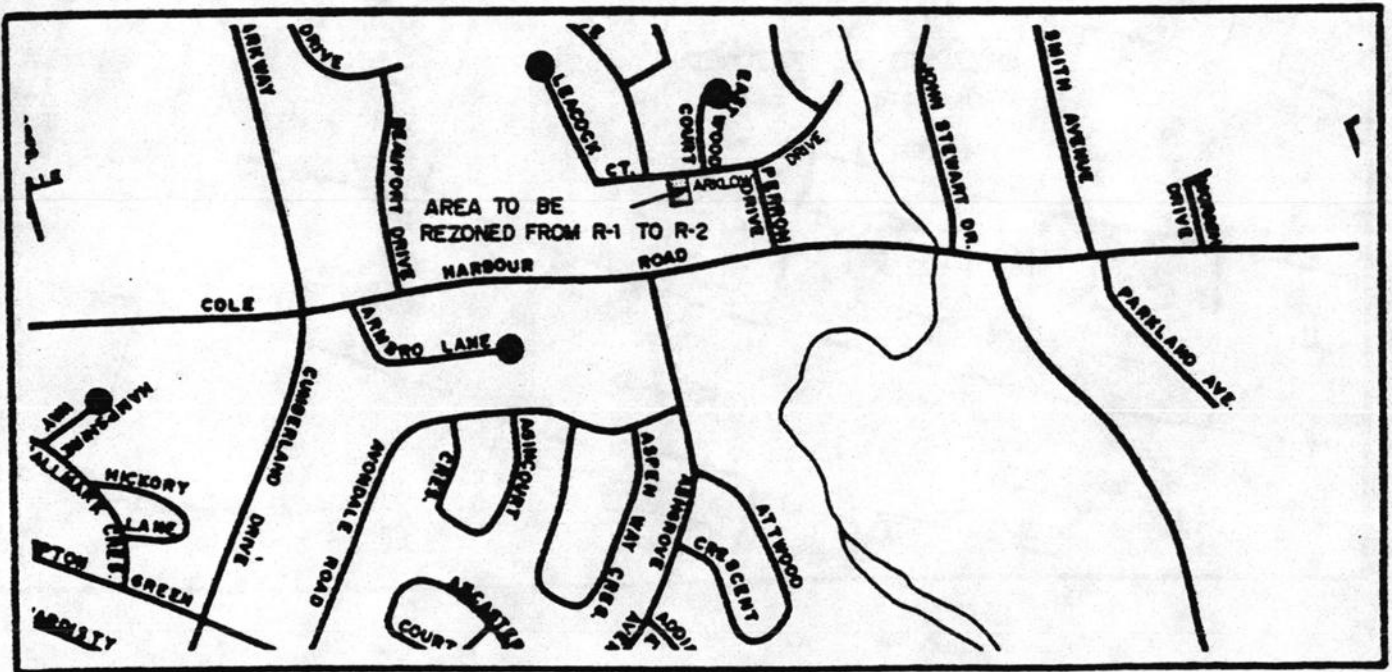
R7  
rmm



MAP 1



MAP 2



SURROUNDING LAND USE AND ZONING

MAP 3

