

Councillor Rawding noted there will be many R-2 units abutting the rear of each other in the centre of this development. He asked how they will be sloped so water does not sit or pool in the back. He inquired about drainage requirements to accommodate this. Mr. Porter informed the final design has not been completed yet. From the appearance of the topography, it appears that portion of the drainage will be accommodated on the back of the lots along the common rear lot boundary by a swail or ditching system, and at the appropriate point will discharge into the pipe system along the road. Councillor Rawding asked if this will be wholly enclosed with drainage tile. Mr. Porter informed because this area is mainly bedrock, it is intended to carry out the grading on the individual lots so a swail is created along the common rear lot line. This will accommodate the rear lot drainage. He advised this will be an open ditch that will be landscaped or treated in the same manner as the backyard.

Councillor Eisenhauer stated he has not been impressed with the development of Bedford Hills Subdivision. He stated the entrance is not satisfactory. He questioned as to who owns the lots on both sides of the entrance point to this development. From the gallery, Mr. MacCarthy informed on the concept plan, the lot on the St. Margaret's Bay Road, abutting Lot 54 of the development, is owned by the Armoyan Group Limited. However, due to a legal mix-up some years ago, a home was built on that lot. Steps have been taken to switch lots with that individual. The lot on the other side of the entrance to the development is owned by the Armoyan Group Limited.

Councillor MacDonald inquired about the slope of the land in question. Mr. Porter informed there is some difference in elevation. From the rear lot line adjacent to Highway 3 to the lake is probably a difference of 30 feet. The design of the streets, lot grading, etc. will be such that there will be a step down situation towards the lake. He informed to the lake shore there is a difference of 30 feet. A house would not be placed right on the shore, so the difference in slope to the location of a house on the lots abutting the lake would be approximately 20 feet. Councillor MacDonald indicated this is his concern because he now has three such homes in his district, and they have caused problems with drainage. He expressed concern that the homes along the lake in this new development would continually flood every time it rains. He suggested that Councillor Rawding keep a sharp eye out for this type of problem.

Councillor DeRoche asked if this development will be placing a fair reliance on the Provincial Department of the Environment to ensure the protection of the lake during development. Mr. Porter stated there are two ways to protect this lake: 1) to take the initiative and responsibility yourself, and 2) to leave the concerns to the adjacent residents who will be concerned about the quality of water in the lake. He stated this must be approached in this manner before the Provincial Department of the Environment can be depended upon to take action. He stated often their involvement and action only takes place after complaints from the residents. He clarified that if these precautions are not taken, a complaint will probably be lodged. He also stated he expects to see officials of the Provincial Department of

the Environment there at some stage during the development. Councillor DeRoche stated it should be up to the engineering consultants to ensure the proper protections are in place, rather than depending on the Department of the Environment. He stated he does not share the confidence of efficiency and effectiveness of the Department of the Environment. Mr. Porter agreed the initial action must be taken by the builder or the designer.

Councillor Deveaux asked if Porter-Dillon staff is working with Halifax County engineering staff on the storm drainage design. Mr. Porter informed it has yet to be reviewed in detail by County staff, but it will be done. Councillor Deveaux noted there is no official by-law or policy at this point, but working with Mr. Sheppard and his staff is helpful. Mr. Porter informed he and his staff are working with Mr. Sheppard toward evolving some of the storm drainage policy, and he stated they are well aware of the requirement and what they would like to have in terms of control. He stated it is Porter-Dillon's intent to execute proper controls in this subdivision, whether the new County regulations and policies are in effect or not.

Mr. John Hollier, informed he is a contractor in the Timberlea area, and he has been building in the area for approximately four years. He stated there is a definite need for lower priced housing in the Timberlea area. He noted from records of the Multiple Listing Service there are approximately 88 active listings on R-1 homes in the Timberlea area; there are only three listings for R-2 homes in this area. He stated these figures show the need for two unit development in this area.

Mr. Hollier also stated if a percentage of this type of land is made available so this type of housing can be made available to the public market, he would be interested in the purchase of those lots for the building of homes in that area.

Questions from Council

None

Speakers in Opposition to this Application

None

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

"THAT the request to amend the Timberlea/Lakeside/Beechville Land Use By-law, by rezoning a portion of the lands owned by the Armoyan Group Limited (and now or formerly by Myrtle Johnson), located between Highway No. 3 and Governor Lake, Lakeside, from an R-1 (Single Unit Dwelling) Zone to an R-2 (Two Unit Dwelling) Zone be approved by Municipal Council."

MOTION CARRIED UNANIMOUSLY

RA-CH/W-06-87-07 - REQUEST FOR ADVENTURE SPORTS LIMITED TO REZONE THE BACK PORTION OF LOT 4, GORDON CROSS SUBDIVISION LOCATED AT 802 HIGHWAY NO. 7 AT COLE HARBOUR FROM R1-A (SINGLE UNIT DWELLING) ZONE TO C-4 (HIGHWAY COMMERCIAL) ZONE

Mr. Wishart identified this application and the location of the land in question, noting the front portion of this land is zoned C-4 while the rear portion is zoned R1-A. He noted this has been done to a number of properties in the area to allow for the review of proposed business expansions through the rezoning process. He noted the property in question is now used for the sale and service of recreation type vehicles and equipment.

Mr. Wishart noted that in 1982 a development permit was issued to Adventure Sports Limited for the re-location of a service garage on the lot. This garage was located in the R1-A portion of the lot; thus recent application for an expansion to the service garage was not issued due to the garages inconsistency with the Land Use By-law.

Mr. Wishart stated the Department of Planning and Development has reviewed this application and is recommending approval of it. He stated this application will not create any increase in traffic, and the surrounding land use of the area is commercial by zoning or by land use. He stated the entire property is now being used for the commercial operation in terms of the storage of recreation vehicles. He concluded the proposed rezoning is in keeping with the plans intent to recognize and appropriate zone acceptable commercial uses within the Highway Commercial Designation.

Questions from Council

None

Speakers in Favour of this Application

George Goodrick informed this zoning was required for the trailer operation initiated in 1982. The property was since rezoned creating a problem because with increased volume of sales it was necessary to expand facilities. A permit was issued in 1982 to locate the service garage in an area which now is a R1-A zone. The expansion is for an additional section to the existing service garage, which cannot be completed with th existing zoning.

Questions from Council

Councillor MacKay noted Mr. Goodrick was of the understanding this property was zoned commercial when it was purchased. He asked if it was in deed commercial. Mr. Goodrick informed it was the listing for the sale of property. However, the rezoning was approved at approximatley the same time. The property was purchased in May, 1982. Councillor MacKay noted this was when the Municipal Planning Strategy for the area was adopted. Mr. Goodrick informed a development permit was issued to relocate the service facility and put the other buildings on the property.

Speakers in Opposition to this Application

None

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

"THAT the rezoning of the back portion of Lot 4 of the Gorden Cross Subdivision, located at 802 Highway No 7, Westphal, from R1-A (Single Unit Dwelling) Zone to C-4 (Highway Commercial) Zone be approved by Municipal Council."

Councillor DeRoche stated the property was purchased in coincidence with the adoption of the Municipal Development Plan. At that point in time the projection was that C-4 zoning would apply to a certain depth of the property from the highway, and from there it would be zoned residential. The Committee was not aware at the time that this property was changing hands. He felt it appropriate to indicate that Mr. Goodrick has operated his business at this location and at another parcel of land to the east of the land in question for a number of years, and it has not constituted any difficulty or problems within the area; he is considered to be a good corporate citizen.

Councillor DeRoche stated when Mr. Goodrick purchased this property it had been a private residence. The home remained on the property, and Mr. Goodrick was induced by the County Social Services Department to accommodate a family in that residence because they had no other place to go. Councillor DeRoche informed that Mr. Goodrick accommodated that family beyond what was considered reasonable. He noted when the family was accommodated elsewhere, the home was closed as a residence. He asked the support of Council for the approval of this application.

MOTION CARRIED UNANIMOUSLY

ADJOURNMENT

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

"THAT this public hearing adjourn."
MOTION CARRIED

TO: DEPUTY WARDEN AND MEMBERS OF COUNCIL

RE: PUBLIC HEARINGS - MAY 25, 1987

1. DA-CHW-12-86-21 - Proposed Development Agreement between the Municipality and Hardman Fund Limited Partnership to permit a drive thru service at the existing Arby's Restaurant located at 1038 Cole Harbour Road.

Note: This application requires a majority vote of Councillors present for approval.

2. RA-TLB-46-86-02 - Application by Armoyan Group Limited to rezone approximately 6.2 acres of land located off of Highway No. 3 at Timberlea from R-1 (Single Unit Dwelling) Zone to R-2 (Two Unit Dwelling) Zone.

Note: This application requires a majority vote of all of Council for approval.

3. RA-CHW-06-87-07 - Request by Adventure Sports Limited to rezone the back portion of Lot 4, Gordon Cross Subdivision located at 802 Highway No. 7 at Cole Harbour from R-1A (Single Unit Dwelling) Zone to C-4 (Highway Commercial) Zone.

Note: This application requires a majority vote of all of Council for approval.

MEMORANDUM

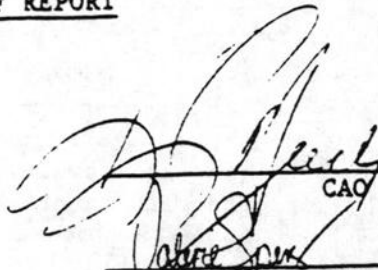
TO: PLANNING ADVISORY COMMITTEE
FROM: Dept. of Planning & Development
DATE: April 27, 1987
APPLICATION NO. DA-CH/W-12-86-21

As per Council's request at the Tuesday, April 21, 1987 Council session, Clauses 5(d) and (e) of the above referenced Development Agreement have been amended to reflect the approval of the "Arby's" corporate sign which will be approximately 76 square feet and the information sign below which will be approximately 32 square feet.

Similarly, Appendix "A" has been amended to show the further extension of the gabian wall to protect the bank between the restaurant and the Royal Bank as well as the relocation and addition of one reserved parking space for the mobility disabled.

STAFF REPORT

TO: Planning Advisory Committee
FROM: Dept. of Planning & Development
DATE: April 13, 1987
APPLICATION NO. DA-CH/W-12-86-21



CAO

DIRECTOR, PLANNING & DEVELOPMENT

RECOMMENDATION

THAT THE DEVELOPMENT AGREEMENT BETWEEN THE MUNICIPALITY OF THE COUNTY OF HALIFAX AND THE HARDMAN FUND LIMITED PARTNERSHIP, FOR AN EAT-IN AND FAST FOOD TAKE-OUT RESTAURANT AT THE CORNER OF COLE HARBOUR ROAD AND ARMBRO LANE, COLE HARBOUR BE APPROVED BY MUNICIPAL COUNCIL.

Information

Attached is a proposed development agreement between the Municipality of the County of Halifax and the Hardman Development Fund Limited Partnership, to permit the existing Arby's restaurant, located at the corner of Cole Harbour Road and Armbro Lane, to expand its operations to include a drive-thru and take-out service. The necessity for a development agreement stems from Policy P-53 of the Cole Harbour/Westphal municipal planning strategy.

ANALYSIS

The Department of Planning and Development has no objections to a drive-thru and take-out operation being established at this location. The addition of a drive-thru service to the existing restaurant will not have a significant effect upon adjacent properties. The lot's topography and configuration necessitates the construction of a six foot high Gabian wall at the rear of the property. This wall, coupled with an earth embankment behind it, will help to screen the drive-thru and mitigate against negative effects, such as car lights and noise, on the adjacent neighborhood.

The owners have, however, requested that they be permitted to exceed the 25 square foot per sign standard of the Cole Harbour/Westphal Land Use By-Law. The owners have proposed to erect two signs (see Figure 1, p.5), one measuring approximately 7'5" by 10'4" or 76 square feet and the second measuring 4'0" by 8'1" or 32 square feet, both of which would be erected on one supporting structure. The larger sign would be the standard design used for all Arby's outlets, i.e. the hat and "Arby's" name. The smaller sign would provide more specific information concerning the restaurant operation itself.

The agreement does not endorse this request as the proposed Arby's Logo sign is three times the size permitted under the land use by-law. While appreciating the importance of corporate identity, the size of sign being requested by Arby's would be incompatible with other signage in the area and significantly contrary to the standards in the land use by-law. The agreement does, however, permit the Arby's logo sign to be increased by twelve per cent (28 square feet). The second sign must meet the by-law's standard of twenty-five square feet.

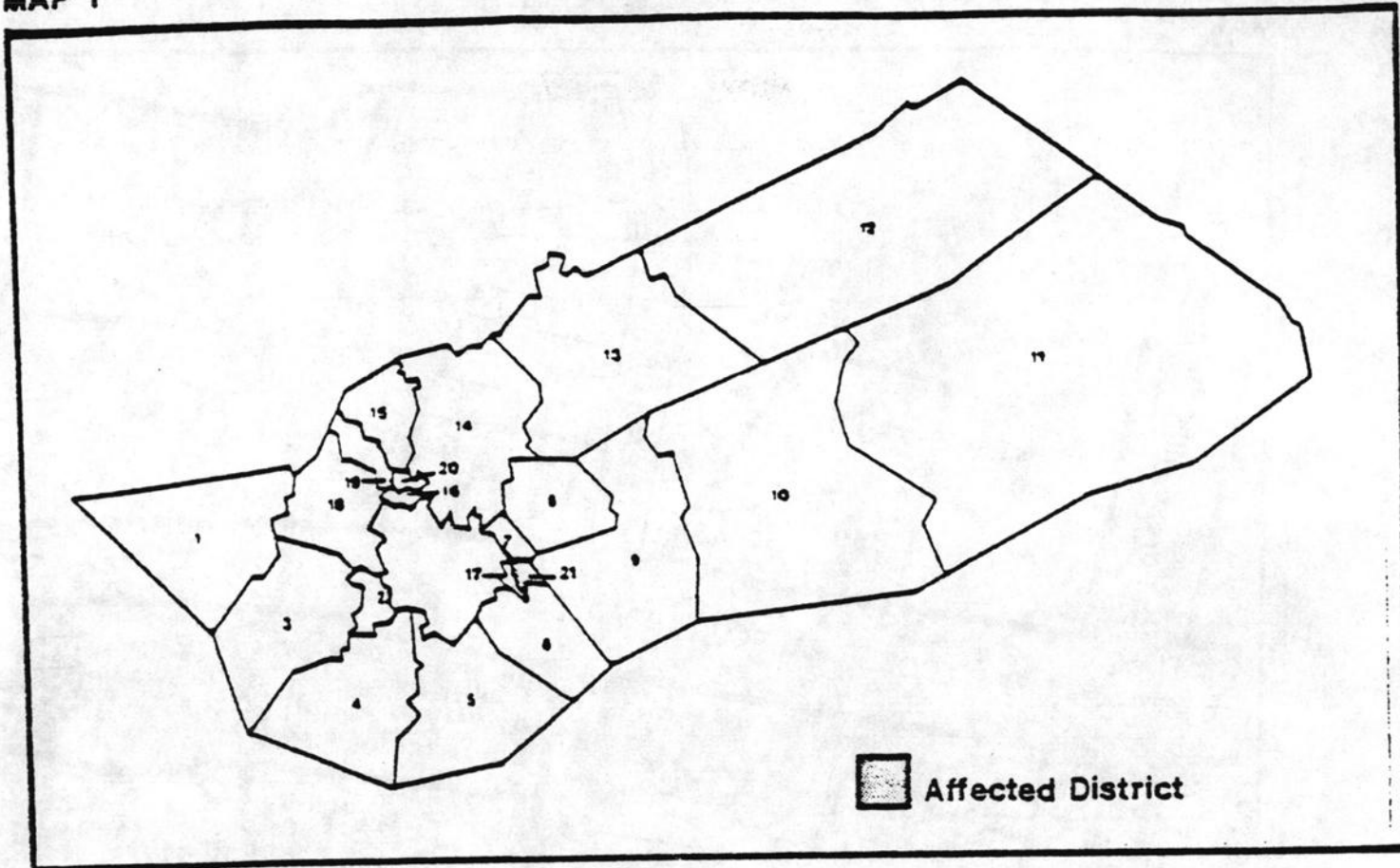
The owners have requested that they be permitted to construct an access onto Armbro Lane in order to facilitate a more efficient means of traffic flow on the lot. The development agreement does not endorse this request, however. A recent amendment to the municipal planning strategy expresses concern with commercial enterprises gaining access to local residential streets and states that where access to such uses can be gained via collector roads such as the Cole Harbour Road, there should be no access to a local street. In this case, the Department of Transportation has approved the proposed development based on its access to the Cole Harbour Road.

It should be noted that the Hardman Group have appealed the amendments to the land use by-law which would implement the plan amendment. However, the proposed agreement does not conflict with these amendments.

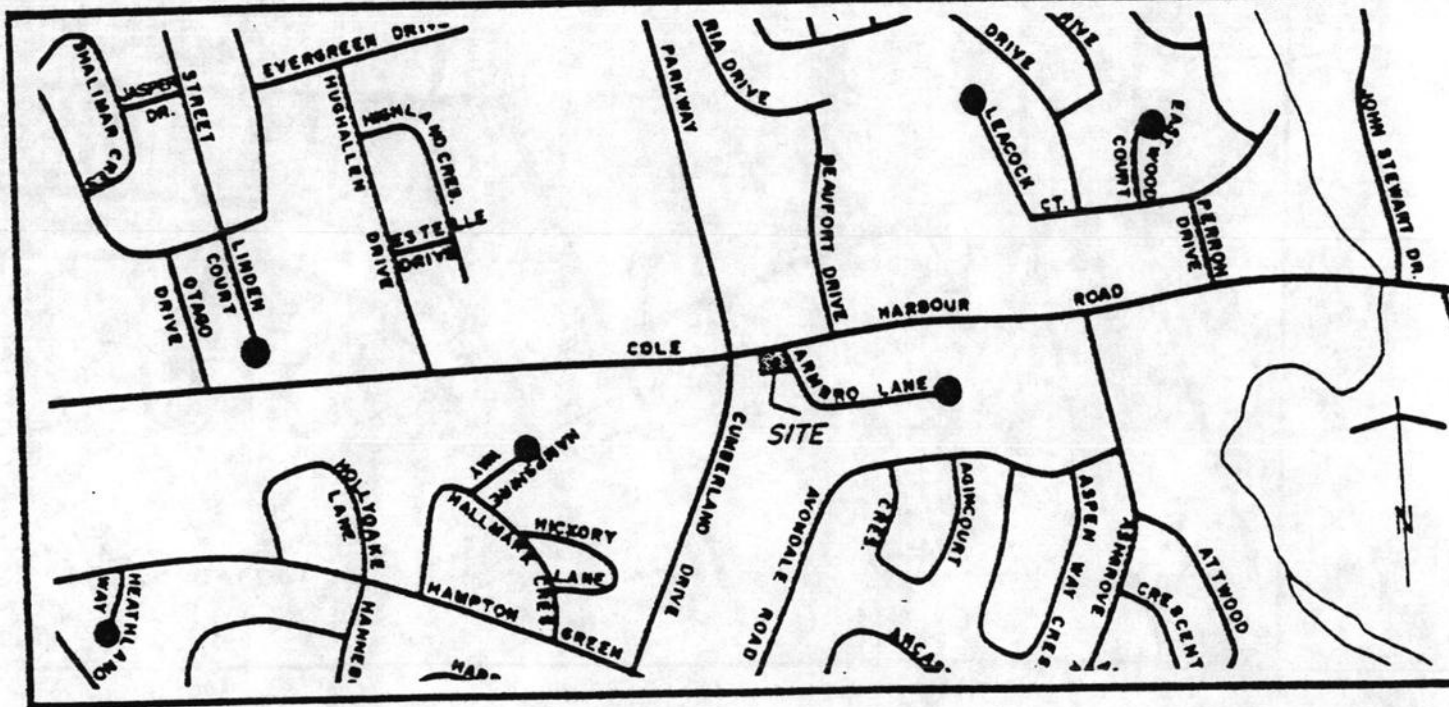
Clauses 2-12 of the attached agreement specifically address concerns for adequate parking, refuse storage, hours of operation, and effective buffering from the adjacent neighbourhood.

MAP 1

DISTRICT PLAN AND KEY PLAN

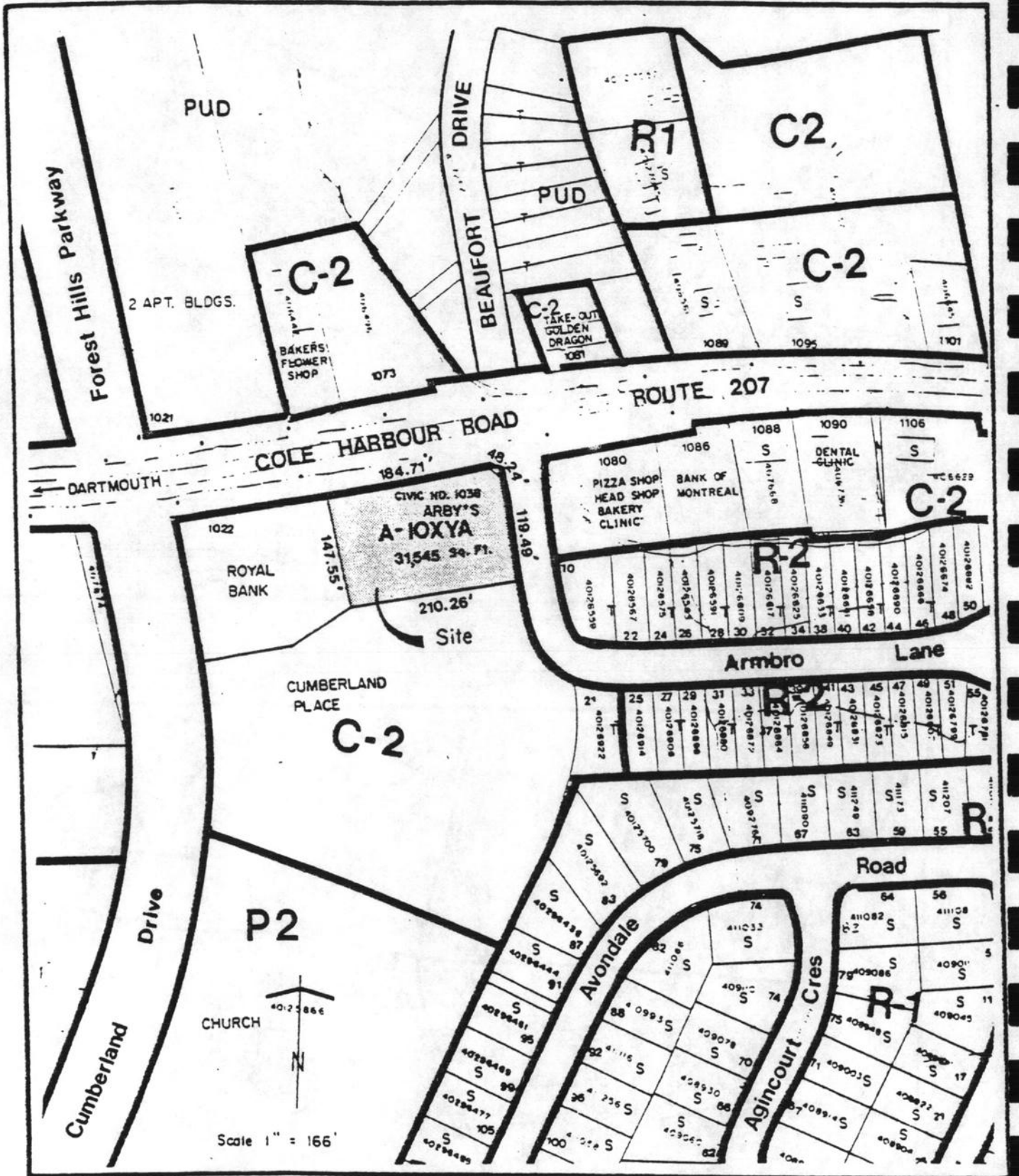


MAP 2

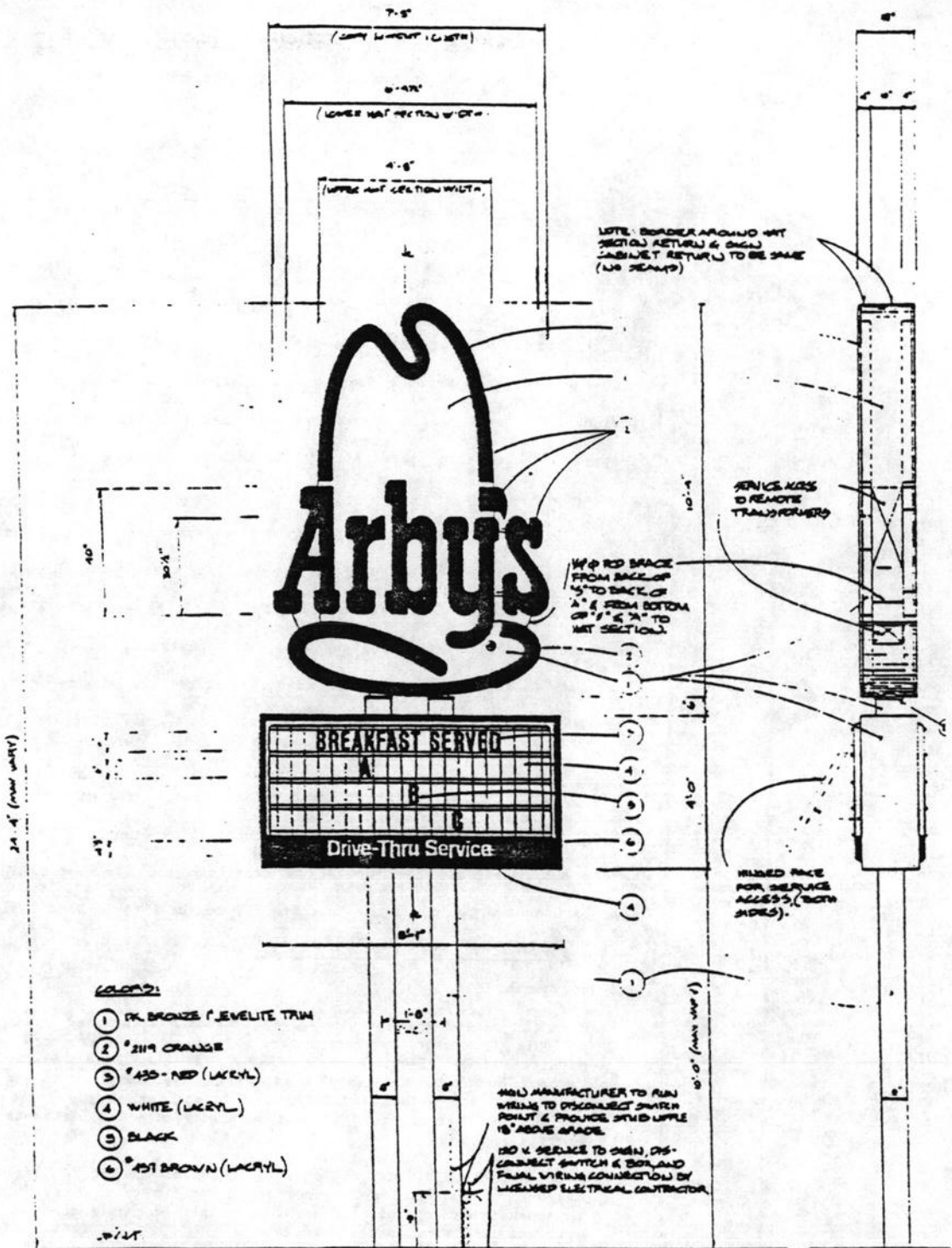


MAP 3

SURROUNDING LAND USES AND ZONING



PROPOSED ARBY'S SIGN



NOTE: FOUNDATION DETAIL TO BE PROVIDED BY INSTALLATION FIRM AND TO COMPLY TO EXISTING SIGN CONDITION, WINDOW REQUIREMENTS & LOCAL GOVERNING CODES.

NOTE: ALL ELECTRICAL WIRING BY SIGN MANUFACTURER AND ELECTRICAL CONTRACTOR TO COMPLY TO EXISTING LOCAL GOVERNING CODE.

STR. A10 / FRONT ELEVATION
SCALE: 1/8" = 1'-0"

SIDE ELEVATION
SCALE: 1/8" = 1'-0"

THIS AGREEMENT MADE THIS DAY OF A.D., 1987

BETWEEN:

THE HARDMAN DEVELOPMENT FUND LIMITED PARTNERSHIP, a
Limited Partnership, under the Laws of the Province of
Nova Scotia; (hereinafter called the "Owner")

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 Owner has good title to lands and premises known as Lot A-10XYA of the lands of the Hardman Group Limited Subdivision, located on the Cole Harbour Road at Cole Harbour, in the County of Halifax, Province of Nova Scotia, wherein said lands (hereinafter called the "property") are more particularly described in Schedule "A" of this Agreement;

AND WHEREAS the Owner requests that it be permitted to approve a proposal from a tenant of the Building, namely the Saunderson Food Company Limited, of Halifax, Nova Scotia, operating as "Arby's" restaurant (hereinafter called the "Restaurant"), to construct, erect or otherwise establish a sign, a drive-thru lane, a drive-thru window and take-out operation (hereinafter collectively referred to as the "Drive-thru");

WITNESS that in consideration of the sum of one dollar (\$1.00) now paid by the Owner to the Municipality (the receipt of which is hereby acknowledged), the request to establish the "Drive-thru" is agreed upon between the Owner and the Municipality pursuant to Section 3.6(d) of the Zoning By-law for Cole Harbour/Westphal and subject to the following terms and conditions:

1. That the use of that portion of the Building identified in Appendix "A" of this Agreement be restricted to, in addition to the activities permitted under Section 16.1, PART 16 of the Zoning By-law for Cole Harbour/Westphal, the uses customarily associated with an "Arby's" restaurant and without limiting the generality of the foregoing shall include an "over-the-counter take out" service and a "drive-thru window" service.
2. That the design of the parking lot, number of spaces, loading space, and drive-thru lane on the Property shall conform to the layout identified in Appendix "A" of this Agreement and shall be constructed in accordance with the following specifications:
 - (a) The surface of the parking lot, loading space and drive-thru lane shall be paved with asphalt and the limits of the parking lot shall be defined by a concrete curb measuring at least six (6) inches in height.

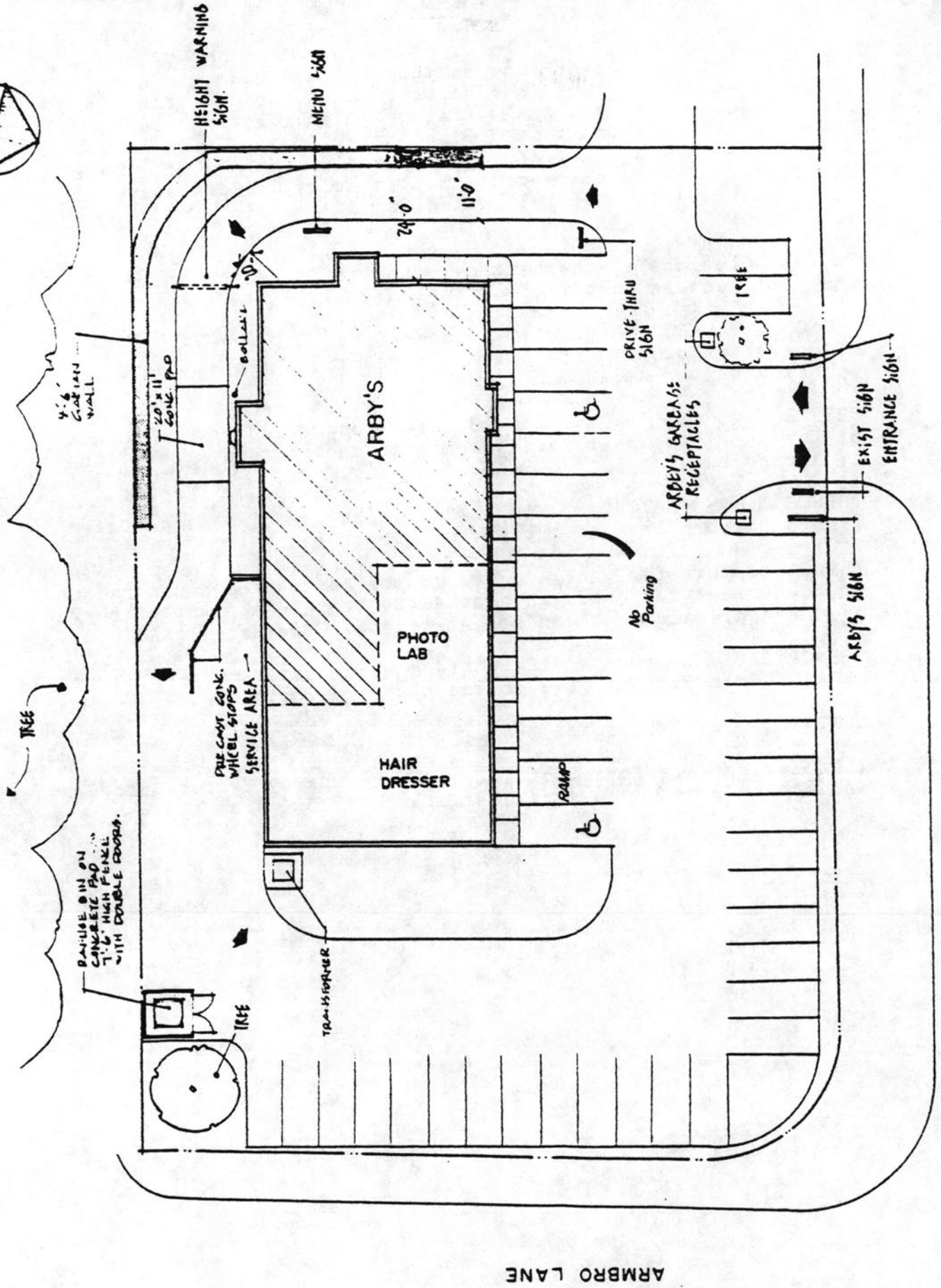
- (b) The location and dimensions of the point of vehicular ingress and egress to and from the Property shall be as specified on Appendix "A" of this Agreement, or as directed by the Department of Transportation for the Province of Nova Scotia, but no access points shall be permitted on Arbro Lane.
 - (c) Lights used for the illumination of the parking lot, loading space and drive-thru lane shall be arranged so as to divert light away from adjacent properties.
3. (a) That the alterations to the southernmost wall of the Building shall be permitted for the purpose of providing a "drive-thru window" service provided that such alterations do not result in a further increase to the height size, or general volume of the Building; and
(b) Notwithstanding sub-clause (a), the "take-out window" identified in Appendix "A" of this Agreement, may protrude from the existing main wall of the Building for a maximum distance of two (2) feet.
 4. That the Owner shall erect or otherwise locate an industrial-sized refuse bin as specified in Appendix "A" of this Agreement. It is agreed that the refuse bin shall be enclosed with a wooden fence or other visual barrier of at least six (6) feet in height and that the gate or the said fence or barrier shall be locked to prevent unauthorized access.
 5. That the Owner shall be permitted to erect, install, or otherwise locate one (1) "Arby's" ground sign as identified in Appendix "A" of this Agreement which shall conform to the following specifications:
 - (a) The sign and sign installations shall be constructed in compliance with the Building By-law of the Municipality and all fire prevention and electrical codes;
 - (b) The sign shall not incorporate any flashing or moving illumination;
 - (c) The ground sign shall not exceed a height of twenty-five (25) feet.
 - (d) The area of the "Arby's" Logo sign shall not exceed 77 square feet of sign area on a single face or 154 square feet of sign area of both faces combined; and
 - (e) Any other sign on the ground sign supporting structure shall not exceed 33 square feet of sign area on a single face or 66 square feet of sign area of both faces combined.
 6. That the Owner shall be permitted to erect install or otherwise locate the "menu display and order-box" for the Restaurant as specified in Appendix "A" of this Agreement. It is agreed that the said menu display and order-box shall not exceed six (6) feet in height nor be of a type or design that incorporates any flashing or moving illumination.
 7. That the Owner hereto agrees to construct, erect or otherwise locate a six foot high Gabian wall as identified in Appendix "A" of this Agreement.
 8. That the Owner shall maintain the Property in a neat and tidy condition, including the provision of waste receptacles as shown in Appendix "A" of this Agreement.
 9. Subject to the provisions of this Agreement, the Owner shall maintain the design and lay-out of the parking lot and Building on the Property as approved by the Municipality through the issuance of Municipal Development Permit No. 79360.
 10. That the "drive-thru and take-out window service" shall not operate between 12:01 a.m. and 6:59 a.m., wherein the Owner shall provide an appropriate means for blocking the drive-thru lane during non-hours of operation.

11. That upon the signing of this Agreement by the parties, the Municipality may, with the mutual agreement of the Owner, amend any or all of the stated conditions by a majority vote of Municipal Council.
12. For the purposes of this Agreement, all words shall carry their customary meaning except those defined under Part 2 of the Zoning By-law for Cole Harbour/Westphal wherein such words shall carry the meaning defined therein.
13. Subject to the provisions of this Agreement, the Owner shall be bound by all by-laws and regulations of the Municipality as well as by applicable statutes and regulations of the Province of Nova Scotia.
14. Upon breach by the Owner of any of the terms or conditions of this Agreement the Municipality may, after thirty days notice in writing to the Owner 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 Owner by direct suit and shall form a charge upon the Property.
15. This Agreement shall run with the land and be binding upon the Owner's heirs, assigns, mortgagees, lessees, successors, and occupants of the Property from time to time.
16. 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.
17. The Owner shall pay the costs of recording and filing all documents in connection with this Agreement.
18. 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.
19. That notwithstanding clause 11, due to unforeseen circumstances, variances from certain requirements of this Agreement may be granted by the Development Officer, provided that such variance is minor in that it does not violate the intent of this Agreement and it does not result from the intentional disregard of the requirements of this Agreement. Variances may be considered for the following:
 - (a) a five (5) per cent variance for any requirement of Appendix "A", providing that any other necessary approvals are received.
 - (b) notwithstanding sub-clause (a), the variance shall not apply to any sign area requirements.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 1987.

SIGNED, SEALED AND DELIVERED) in the presence of) _____) _____) _____) 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) _____) _____)) per _____) THE HARDMAN GROUP) DEVELOPMENT FUND LIMITED PARTNERSHIP) _____) _____) MUNICIPALITY OF THE COUNTY OF) HALIFAX) _____) WARDEN) _____) CLERK
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APPENDIX "A"



Scale 1" = 30'

COLE HARBOUR ROAD

ARM BRO LANE

LOT A-10XYA

ALL that certain lot of land on the southern side of Cole Harbour Road in the district of Cole Harbour, County of Halifax, Province of Nova Scotia being Lot A-10XYA on a plan (Servant, Dunbrack, McKenzie & MacDonald Limited Plan Number 13-452-0) of survey of Lots A-10XYA and A-10XYB Subdivision of Lot A-10XY, Lands Conveyed to The Hardman Group Limited Colby Village signed by Robert A. Daniels, N.S.L.S. dated May 16th, 1986, and described as follows:

BEGINNING on the southern street line of Cole Harbour Road at the northwestern corner of Lot A-10XYB;

THENCE S $14^{\circ} 33' 00''$ E, 147.55 feet along the eastern boundary of the said Lot A-10XYB to its intersection with a northern boundary of Lot A-6AX;

THENCE N $76^{\circ} 15' 33''$ E, 210.26 feet along said norther boundary of Lot a-6AX to its intersection with the western street line of Armbro Lane;

THENCE N $12^{\circ} 25' 00''$ W, 119.49 feet along said western street line of Armbro Lane to a point of curvature;

THENCE northwesterly on a curve to the left which has a radius of 30.00 feet for a distance of 48.24 feet to a point of curvature on the aforesaid southern street line of Cole Harbour Road;

THENCE S $75^{\circ} 27' 00''$ w, 184.71 feet along said southern street line of Cole Harbour Road to the place of beginning.

CONTAINING 31,545 square feet.

ALL bearings are Nova Scotia Coordinate Survey System Grid Bearings and are referred to Central Meridian, $64^{\circ} 30'$ West.

STAFF REPORT

TO: Planning Advisory Committee
 FROM: Dept. of Planning & Development
 DATE: 1987 03 09
 APPLICATION NO. RA-TLB-46-86-02

[Handwritten Signature]
 CAO
[Handwritten Signature]
 DIRECTOR, PLANNING & DEVELOPMENT

RECOMMENDATION

THAT THE REQUEST TO AMEND THE TIMBERLEA/LAKESIDE/BEECHVILLE LAND USE BY-LAW, BY REZONING A PORTION OF THE LANDS OWNED BY THE ARMOYAN GROUP LIMITED (AND NOW OR FORMERLY BY MYRTLE JOHNSON), LOCATED BETWEEN HIGHWAY NO. 3 AND GOVERNOR LAKE, TIMBERLEA, FROM AN R-1 (SINGLE UNIT DWELLING) ZONE TO AN R-2 (TWO UNIT DWELLING) ZONE BE APPROVED BY MUNICIPAL COUNCIL.

Information

An application has been submitted by Alderney Consultants Ltd., on behalf of the Armoynan Group Limited, to rezone portions of a property identified in Map 3 (p4) from an R-1 (Single Unit Dwelling) Zone to an R-2 (Two Unit Dwelling) Zone. The lands are presently vacant and the applicant has stated that the intention of the owner is to construct approximately 29 semi-detached dwellings as shown in the concept plan in Figure 1 (p5).

Description

MPS: Timberlea/Lakeside/Beechville.
 Area: Approximately 6.2 acres.
 Dimensions: See Map 3 (p4) for graphic representation.
 Features: Treed and sloping from Highway No. 3 to Governor Lake.
 Surrounding Land Uses
 Uses & Zoning: See Map 3 (p4).

ANALYSIS:

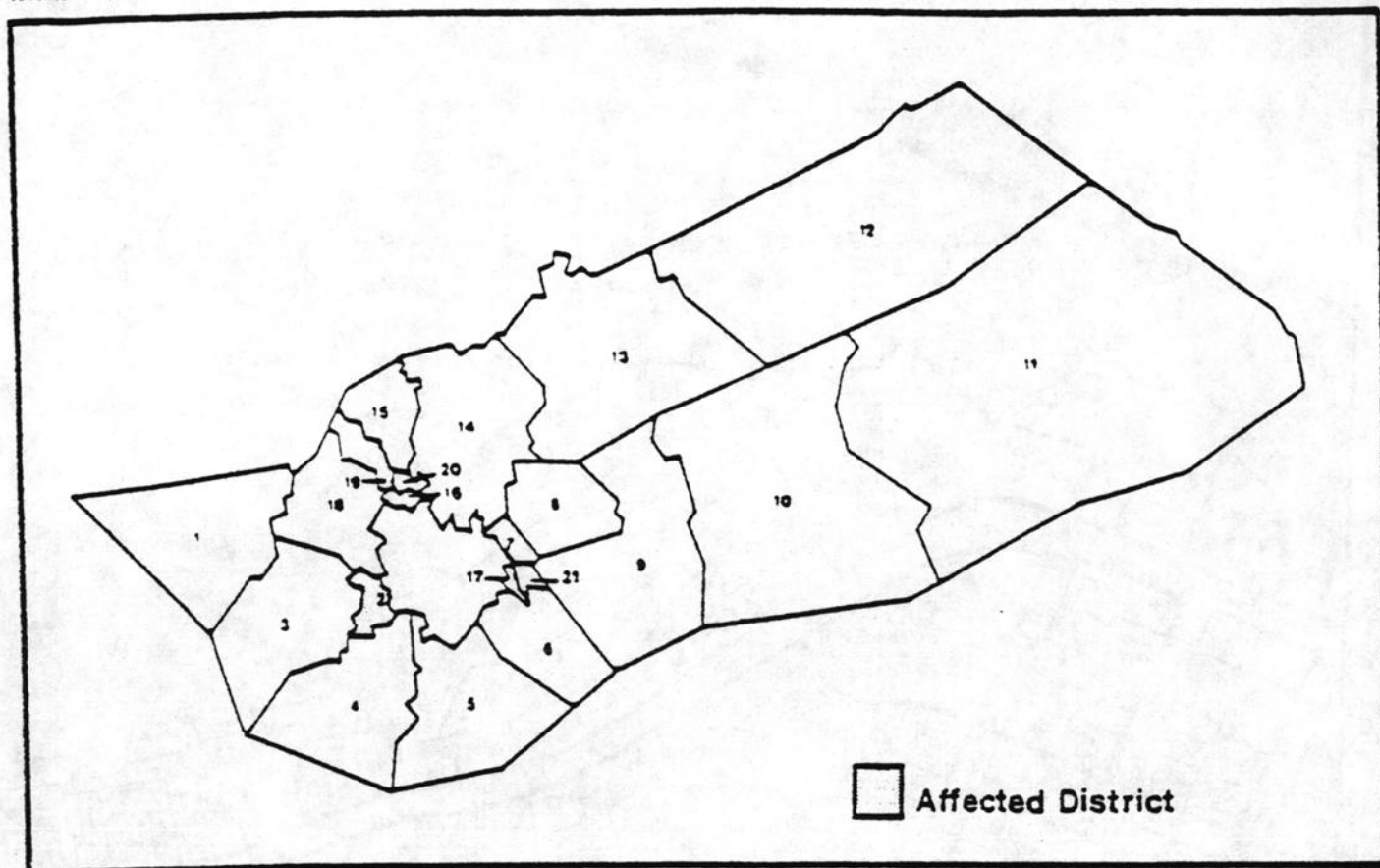
The municipal planning strategy designates the area as Residential. The intent of this designation is to protect low density residential development, as well as to encourage a housing mix. Therefore, rezoning to permit two unit dwellings may be considered provided that their scale and location are not inconsistent with existing neighbourhoods. In light of the demand for affordable housing in the metropolitan area, and the increasing popularity of semi-detached dwellings, further development of this housing type can be anticipated.

The characteristic housing type adjacent to the proposed rezoning is the single unit dwelling, although Timberlea Trailer Park is located to the west of the site (Map 3, p4). Concerns have been expressed by residents in the past that the concentration of a great number of two unit dwelling alters the appearance of a neighbourhood and contributes to a lowering of property values on adjacent properties. However, the lands proposed to be rezoned in this instance are located within the central part of the property. As a result, no two unit dwellings will face any existing dwelling, and only three of the proposed lots will abut any portion of an existing residential lot (see Figure 1, p5).

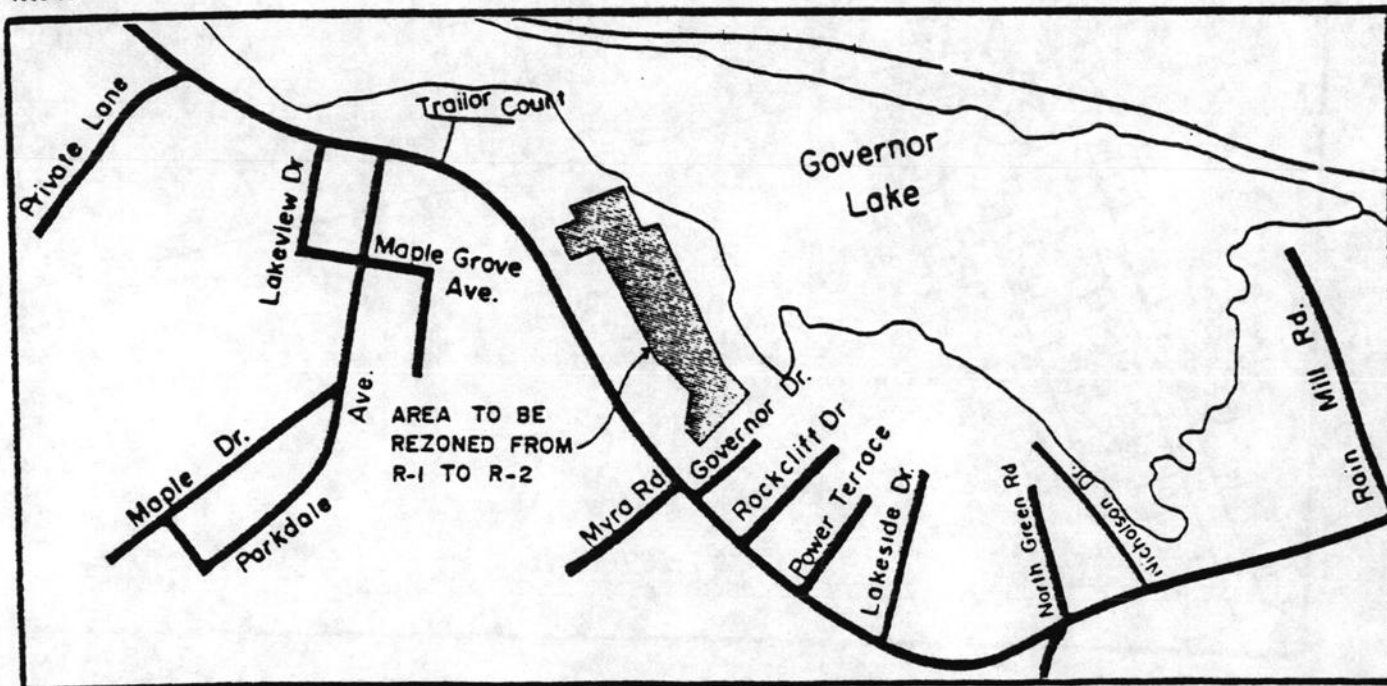
The technical aspects of the proposal have received favorable comments from the applicable municipal agencies. Specifically, the proposed development is well within the design capacity of the Timberlea/Lakeside/Beechville sewer system, and the Halifax County/Bedford District School Board has indicated that area schools could handle any increase in the number of children resulting from this development.

A general concern is that of the proximity of high density residential development to lakes. However, in this case the developer has proposed to build only single unit dwellings on the lake front and has indicated that all lot areas will be greater than the required minimum size (see Figure 1, p5).

MAP 1

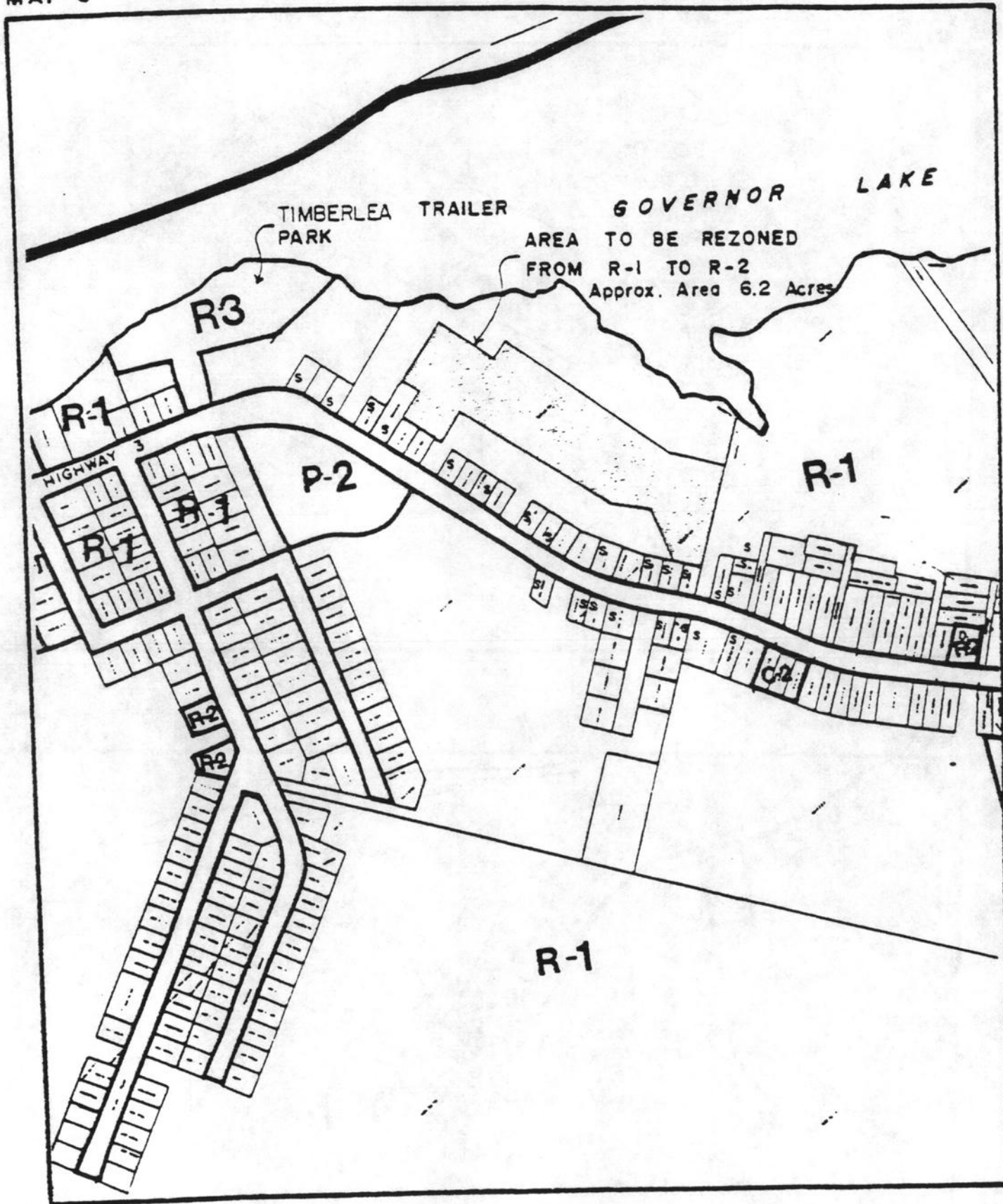


MAP 2



SURROUNDING LAND USE AND ZONING

MAP 3



STAFF REPORT

TO: Planning Advisory Committee
FROM: Dept. of Planning and Development
APPLICATION NO. RA-CH/W-06-87-07
DATE: March 23, 1987

K. S. Wilson
CAO
Robert Spink
DIRECTOR, PLANNING & DEVELOPMENT

RECOMMENDATION:

THAT THE REZONING OF THE BACK PORTION OF LOT 4 OF THE GORDEN CROSS SUBDIVISION, LOCATED AT 802 HIGHWAY NO. 7 AT WESTPHAL, DISTRICT 7, FROM R1-A (SINGLE UNIT DWELLING) ZONE TO C-4 (HIGHWAY COMMERCIAL) ZONE BE APPROVED BY MUNICIPAL COUNCIL.

Information:

An application has been submitted by Adventure Sports Limited to rezone the back portion of Lot 4 of the Gordon Cross Subdivision identified on Map 3 (p.4) from R-1A (Single Unit Dwelling) Zone to C-4 (Highway Commercial) Zone.

The purpose of the rezoning is to permit an expansion to an existing service garage, which is located on the rear portion of Lot 4.

The Cole Harbour/Westphal planning strategy designates the entire property "Highway Commercial". The Highway Commercial Designation provides for the establishment of a Highway Commercial Zone to permit extensive outdoor display and sales facilities, commercial recreation uses and general retail development. An R-1A Zone, however, was applied to the rear portion of some lots within the Highway Commercial Designation to allow for a review of proposed business expansions through the rezoning process. In this manner, Council has the opportunity to evaluate the appropriateness of proposed developments that are within the Highway Commercial Designation and adjacent to residential areas.

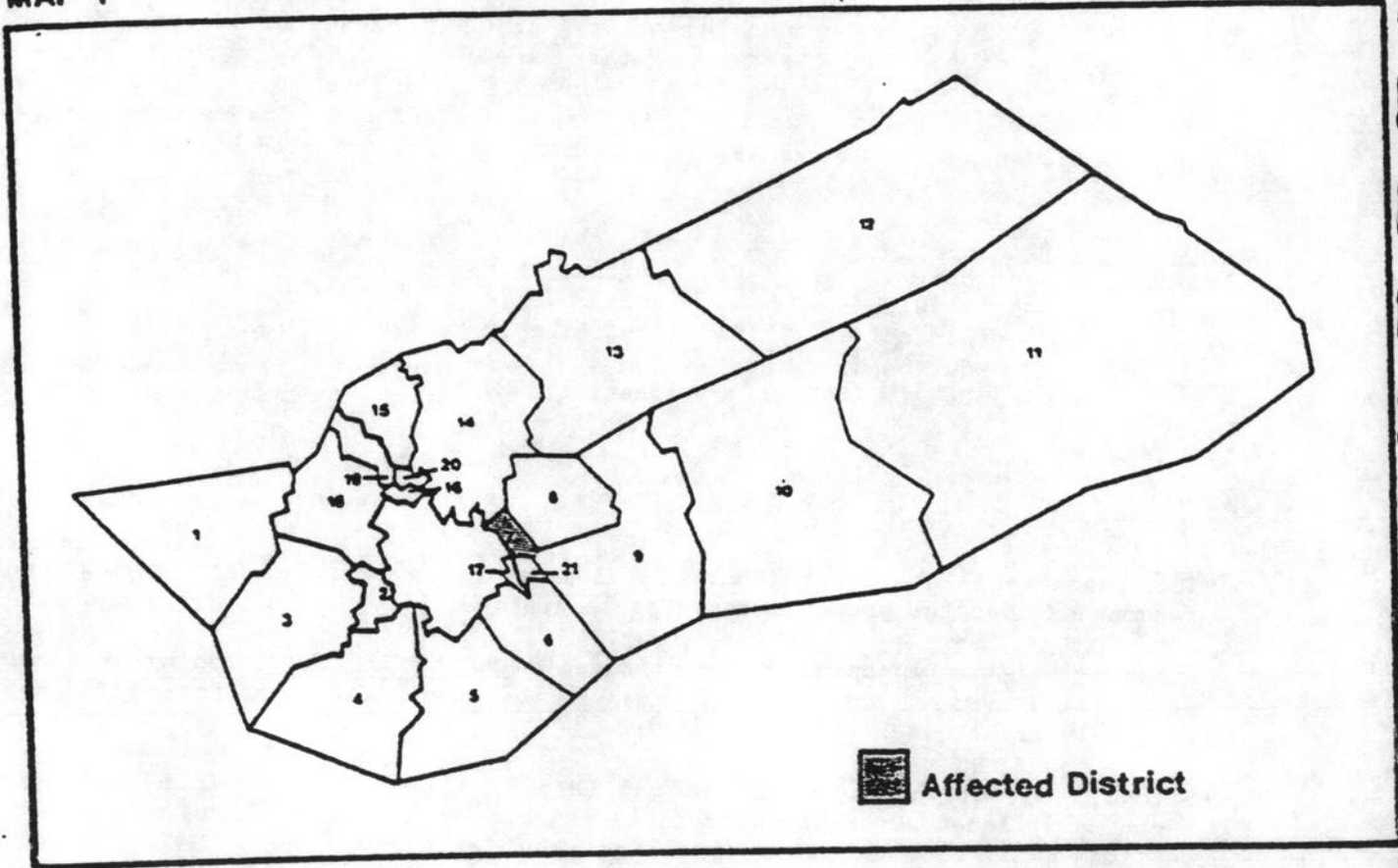
As shown on Map 3 (p.4), the front portion of Lot 4 is zoned C-4 (Highway Commercial) and is used for recreation vehicles sales and services, while the rear portion of the lot is zoned R-1A (Single Unit Dwelling).

The characteristic housing type adjacent to the proposed rezoning is the single unit dwelling, although Timberlea Trailer Park is located to the west of the site (Map 3, p4). Concerns have been expressed by residents in the past that the concentration of a great number of two unit dwelling alters the appearance of a neighbourhood and contributes to a lowering of property values on adjacent properties. However, the lands proposed to be rezoned in this instance are located within the central part of the property. As a result, no two unit dwellings will face any existing dwelling, and only three of the proposed lots will abut any portion of an existing residential lot (see Figure 1, p5).

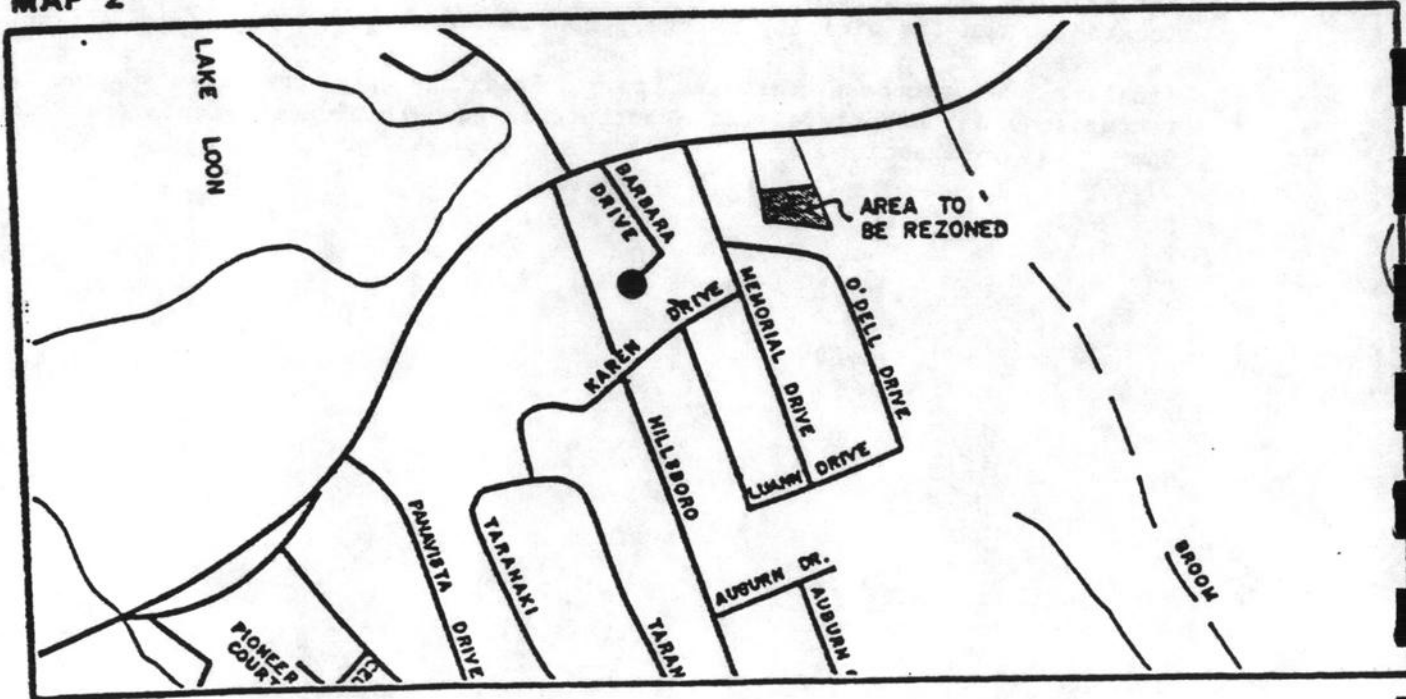
The technical aspects of the proposal have received favorable comments from the applicable municipal agencies. Specifically, the proposed development is well within the design capacity of the Timberlea/Lakeside/Beechville sewer system, and the Halifax County/Bedford District School Board has indicated that area schools could handle any increase in the number of children resulting from this development.

A general concern is that of the proximity of high density residential development to lakes. However, in this case the developer has proposed to build only single unit dwellings on the lake front and has indicated that all lot areas will be greater than the required minimum size (see Figure 1, p5).

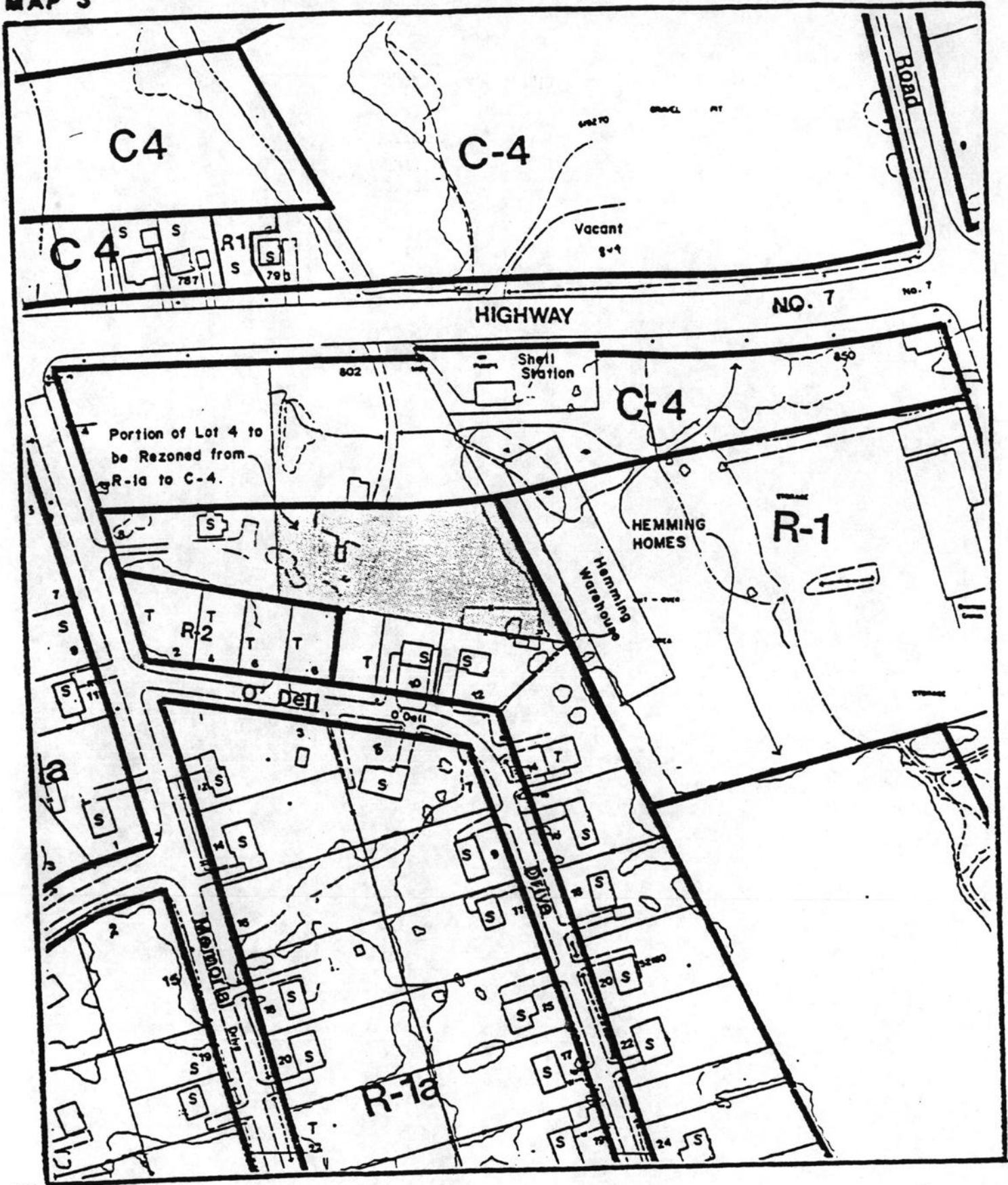
MAP 1



MAP 2



MAP 3



Surrounding Land Use and Zoning.

M I N U T E S & R E P O R T S

O F T H E

S E C O N D Y E A R M E E T I N G S

O F T H E

F O R T Y - S E C O N D C O U N C I L

O F T H E

M U N I C I P A L I T Y O F T H E C O U N T Y O F H A L I F A X

J U N E C O U N C I L S E S S I O N

T U E S D A Y , J U N E 9 a n d 1 6 , 1 9 8 7

&

C O M M I T T E E O F T H E W H O L E

J U N E 2 9 , 1 9 8 7

&

P U B L I C H E A R I N G S

J U N E 8 , 1 9 8 7

June Council Session 1987

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PUBLIC HEARING

JUNE 8, 1987

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

ALSO PRESENT: Mr. G.J. Kelly, Municipal Clerk
Mr. R.G. Cragg, Municipal Solicitor
Mr. B. Butler, Planner

SECRETARY: Glenda Higgins

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

Mr. Kelly called the Roll.

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

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

Warden MacKenzie reviewed the proceedings for the public hearings.

RA-CH/W-45-85-07 - APPLICATION BY DARTMOUTH SALVAGE LIMITED TO REZONE A PORTION OF THE LANDS OF DARTMOUTH SALVAGE LIMITED, LOCATED OFF BROOM ROAD AT WESTPHAL FROM R-7 (RURAL RESIDENTIAL) ZONE TO R-1 (SINGLE UNIT DWELLING) ZONE

Mr. Butler reviewed the staff report respecting this application. He noted the Cole Harbour/Westphal municipal planning strategy designates the property Residential "B" which constitutes a secondary area for

residential development. The strategy, therefore, provides for restrained development on these lands by establishing a zone with an 80,000 square foot minimum lot size requirement.

The strategy does, however, recognize that it is reasonable to allow residential development on lots having less than 80,000 square feet, providing it can be shown that the physical and environmental characteristics of the area will not be adversely affected.

Mr. Butler indicated that the applicant has submitted a tentative plan of subdivision. The subdivision application requests approval of 29 lots with an average lot area of approximately 44,000 square feet. Only 26 of the proposed lots, however, are zoned R-7.

Mr. Butler continued the presentation informing the Departments of Health and the Environment have recommended approval of the applicant's tentative plan of subdivision. The lot sizes will ensure adequate protection of surrounding land uses and nearby watercourses. The departments have indicated that drilled wells in the area may exhibit high levels of iron, manganese, etc., and they have recommended that all wells be tested after four to six weeks of normal use. Water quality problems can be rectified through on-site chemical or filter treatment. Mr. Butler stated the Department of the Environment has also stated that erosion and sediment control measures must be implemented during and after development begins.

Mr. Butler informed the lots are positioned such that it will be possible to adequately setback structures from the small stream that crosses the property. The Nova Scotia Department of Transportation has advised that the proposed road layout appears to meet all their requirements. The road reserves have been provided to allow coordination of road systems with future road systems of neighbouring lands. Also the Halifax County-Bedford District School Board has indicated they would have no difficulty accomodating additional students which may be generated from this development.

Mr. Butler concluded the presentation informing a 20 foot embankment located along the south western boundary of the property provides a natural buffer for the existing four or five residential lots which abutt the proposed singe unit residential development, and it has been determined that a cash-in-lieu of land donation will be made for parkland in the approximate amount of \$18,000. He recommended approval of the application for rezoning.

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 Adams:

"THAT the rezoning of a portion of the lands of Dartmouth Salvage Limited, located off Broom Road at Westphal, from R-7 (Rural Estate) Zone to R-1 (Single Unit Dwelling) Zone, be approved by Municipal Council."

MOTION CARRIED UNANIMOUSLY

RA-SA-04-87-16 - APPLICATION BY MR. LESTER CROWELL TO REZONE LOT B-D OF THE LANDS OF LESLIE H AND THERESE STYMEST, LOCATED AT 382 OLD SACKVILLE ROAD, SACKVILLE FROM R-1 (SINGLE UNIT DWELLING) ZONE TO R-2 (TWO UNIT DWELLING) ZONE

Mr. Butler reviewed the staff report respecting this rezoning application. He informed the Department of Engineering and Works have indicated that adequate water and sewer services are available to accomodate the proposal. The lot has approximately twice the area required by the land use by-law, and there will be sufficient off-street parking for the two units. He informed the second unit will be contained within the basement of the existing dwelling, meaning there will be no change to its exterior. He recommended approval of the rezoning application.

Questions from Council

None

Speakers in Favour of this Application

Leslie Crowell, 382 Old Sackville Road, informed he is the applicant for this rezoning, and he would like to put an apartment in his basement for his daughter. He stated this would provide her with independent living status, but she would still be living with her parents.

Questions from Council

Councillor MacDonald inquired about the size of the lot. Mr. Crowell informed the lot in question is approximately 180 feet x 160 feet. He informed it will provide parking for approximately 12 vehicles if necessary. The size of the lot will not infringe on anyone's personal enjoyment of their land in the surrounding subdivision.

Speakers in Opposition to this Application

None

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

"THAT the rezoning of Lot B-D of the lands of Leslie H and Therese Stymest, located at 382 Old Sackville Road, Sackville, from R-1 (Single Unit Dwelling) Zone to R-2 (Two Unit Dwelling) Zone be approved by Municipal Council."

MOTION CARRIED UNANIMOUSLY

ADJOURNMENT

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

"THAT this Public Hearing adjourn."
MOTION CARRIED

COUNCIL SESSION

JUNE 9, 1987

PRESENT WERE: Warden MacKenzie
Councillor Rawding
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 Eisenhower
Councillor MacDonald
Councillor Wiseman
Deputy Warden Mont

ALSO PRESENT: Mr. K.R. Meech, Chief Administrative Officer
Mr. G.J. Kelly, Municipal Clerk
Mr. R.G. Cragg, Municipal Solicitor

SECRETARY: Glenda Higgins

Warden MacKenzie called the Council Session to order at 6:10 p.m.

Mr. Kelly called the Roll.

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

"THAT Glenda Higgins be appointed Recording Secretary."

MOTION CARRIED

APPROVAL OF MINUTES

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

"THAT the minutes of the Council Session, April 21, 1987 be approved as circulated."

MOTION CARRIED

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

"THAT the minutes of the Joint Council Session, April 28, 1987 be approved as circulated."

MOTION CARRIED

It was moved by Councillor Bayers, seconded by Councillor Rawding:

"THAT the minutes of the Joint Council Session, May 4, 1987 be approved as circulated."

MOTION CARRIED

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

"THAT the minutes of the meeting of the Committee of the Whole, May 5, 1987 be approved as circulated."

MOTION CARRIED

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

"THAT the minutes of the Council Session, May 5, 1987 be approved as circulated."

MOTION CARRIED

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

"THAT the minutes of the Public Hearings, May 11, 1987 be approved as circulated."

MOTION CARRIED

EMERGENCY AGENDA ITEMS

Councillor Deveaux - Water Rate Hikes, City of Dartmouth

Councillor Rawding - Man in Motion Tour

Councillor C. Baker - Department of Transportation
- Department of Lands and Forests

Deputy Warden Mont - Nova Scotia Society for the Prevention of Cruelty

LETTERS AND CORRESPONDENCE

Department of Education

Mr. Kelly advised this item of correspondence is in response to a resolution from Council requesting amendments to the Education and Municipal Acts with respect to the levying of school area rates.

Councillor P. Baker asked the Municipal Solicitor for his interpretation of the letter from the Minister of Transportation. He noted the promptness of this letter in response to Council's resolution. Councillor P. Baker informed he was told by the School Board that trustees and the ratepayers of an area have the authority to levy a school area rate, provided they have 30 in attendance at the

meeting when the rate is set. He stated he questioned this at the School Board level, and Mr. Gillis informed him that they do have this authority. However, another member of the School Board staff did not agree, and Councillor P. Baker was advised to bring this to Council and have a letter sent to the appropriate authority at the Provincial level. He stated there is confusion as to who can levy or approve this rate.

Councillor Rawding stated at any trustees meetings he has attended with a quorum of 30 the budget was voted upon; the trustees did not set a rate, although they considered how much one cent would generate. Many times they were very careful not to set the area rate. He stated the budget is submitted to the School Board, and the rate is set by the Board and Council.

Councillor Merrigan stated his interpretation is that if the budget is reasonable, the School Board cannot turn it down. He suggested a copy of the response from the Minister of Education be sent to Mr. Gillis, requesting his interpretation. He felt the School Board can only assure that what the school trustees are asking for is acceptable; if it is not, the School Board can reject the budget and the rate.

Mr. Cragg agreed with the response from the Minister of Education. He stated Sections 57 of the Education Act, Section 141 and Section 226 of the Municipal Act are applicable to this matter. Section 57 of the Education Act says with a quorum of 30 ratepayers, if 70 percent agree a sum of money should be expended for a certain purpose, the request is submitted to the School Board. If the School Board determines the request is compatible with the education program being supplied by the Board, the request will be submitted to Council. By virtue of Section 141 of the Municipal Act, Council may make an expenditure; however, this is qualified by Section 226 of the Municipal Act, which says Council shall levy by an area rate the sums required to be raised by an area rate pursuant to the Education Act. Mr. Cragg summarized that when 70 percent of 30 members of ratepayers group determine that a certain amount is required, and the request is placed before the School Board, and the School Board determines it is a proper request, the Board can request that Council shall levy an area rate.

Councillor P. Baker expressed hoped that this matter will be pursued. He felt the school area rate is a double taxation, which is not fair to the taxpayers. He stated Halifax County has the only School Board in the Province of Nova Scotia that uses this authority. He stated the matter will be presented at the Union of Nova Scotia Municipalities.

Councillor Merrigan asked for clarification of Mr. Cragg's opinion. Mr. Cragg informed according to the Education Act the School Board can say no to the area rate, but there are provision in the Education Act which the request must adhere to; they are supplementary services or programs to extend the School program operated by the School Board in the school section, or education programs or services in addition to those included in the school program, or cultural or recreational activities related to the school program. If the School Board decides the request of 70 percent of the ratepayers falls within one of the

three areas, it is submitted to Council with a request that Council mandatorily levy the area rate. If the School Board determines it does not fall within these three areas, the request is turned down and Council never hears of it.

Councillor Wiseman stated the three areas given as guidelines are so broad it is very difficult for the School Board to turn down a request. She informed Halifax County Council objected to changes in the Education and Municipal Acts to make it mandatory for Council to approve these rates, once the School Board has approved them. However, Halifax County is the only municipal unit with school trustees; therefore, Halifax County is the only municipal unit that can apply these area rates. She stated Halifax County, therefore, has very little impact on the Provincial government in this respect. She again clarified that the School Board can reject a request for an area rate if it falls outside of the guidelines, and they are so broad that very little can be refused.

There was much discussion concerning the School Board's approval of requests for school area rates. It was confirmed if the request falls within the three areas, which are very broad, the School Board must accept it, and the School Board shall request of Council, who shall then levy the area rate.

Councillor C. Baker indicated the older people without children in the schools object to the school area rates. He suggested there should be a maximum area rate set. He stated there are five different schools in his area, and he would not mind the school area rates if they were kept to a minimum.

Councillor DeRoche suggested the only alternative for Halifax County is to either cause change to the existing legislation or cause a discontinuation of having Boards of Trustees. Mr. Cragg stated he would not answer whether or not there should be school trustees. He stated they feel they serve a purpose, and they are provided for in the legislation.

Councillor MacDonald indicated he would not agree to taking school area rates off altogether. He stated in the Sackville area the school area rates are very useful, providing crosswalk guards, librarians, etc. He stated these rates can be too high, and they should be limited. Councillor Deveaux also stated he would be reluctant to eliminate the school area rate altogether, although it should be limited.

Following much discussion, Councillor Merrigan proposed a resolution that the Municipal Solicitor be asked to write a letter to the Minister of Education asking him to clarify problems Halifax County Council has with respect to the guidelines Boards of Trustees have when preparing the budgets. He stated the guidelines are so broad, the School Board really does not have any authority. Warden MacKenzie informed Council has already requested the Minister to amend the Act to allow the area rates. A letter was also written to the Union of Nova Scotia

Municipalities, and Warden MacKenzie suggested there will not be much support from the Union because there are no other municipal units in the Province that can levy the area rates.

Mr. Cragg informed the Minister's letter states area rates can be set only if the School Board approves of the purpose for which they are to be raised and mandatorily submits them to Municipal Council. He agreed with the comments of the Minister in this respect.

Following much discussion,

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

"THAT this item of correspondence be received."
MOTION CARRIED

Department of Education

Mr. Kelly advised this letter is in response to Council's correspondence and resolution with respect to the proposed regional library funding formula. He noted the letter refers to recommendations in the report and the resulting phase-in of the formula are the first steps towards equalizing regional library funding across the Province. Also, the letter informed it is hopeful the formula will be in place very soon, and the Libraries Act specifies population figures used are to be those of the last official census of Statistics Canada, which are now from the 1986 census.

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

"THAT this item of correspondence be received."
MOTION CARRIED

Halifax County-Bedford District School Board

Mr. Kelly reviewed this letter, advising the Sheet Harbour Primary School building was declared surplus to the use of the Board, and by resolution of Council it will be turned over to the Municipality to be disposed of.

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

"THAT Halifax County Council receive the Sheet Harbour Primary School building from the School Board;

ALSO THAT through the Property Manager for Halifax County, it be determined if any community groups in the area are interested in procuring this building on a lease agreement."

Councillor MacKay stated there was a recent incident in the community of Sackville whereby a surplus school was taken over by the County, and the furnace was removed. He stated this caused a major expense to the seniors who now occupy this building. He advised he recently heard the heaters and lights were removed from some of the portable schools. He