

operational marina in full compliance with municipal, provincial and federal requirements.

The proponents commenced marina operations last year, and no permits were issued by the Municipality; therefore, the Municipality is presently prosecuting Dockside Marina. At the same time, the plan does make provision for allowing marinas to be considered by Council by Development Agreements thus the report before Council has a Development Agreement attached thereto. The property is located within the Mixed Use B designation which allows a mix of uses and is in the Mixed Use 2 zone which permits all uses except for mobile home parks, apartments, senior citizen housing over 20 units, commercial entertainment uses, video arcades, campgrounds, marinas and other uses. Marinas are not permitted within the MU-2 zone by right which means that Dockside Marina could not just get a permit to allow the establishment of the marina - they must proceed by Development Agreement.

Policy 49 of the Municipal Planning Strategy sets out the criteria which Council must consider when considering the Development Agreement such as site suitability, impact on existing residential areas by virtue of noise, traffic. With respect to noise, the developer has agreed to make reasonable effort to stop halyards on boats from banging against the masts. There is also a landscape buffering plan and public safety has been addressed with the Canadian Coast Guard. General maintenance of the development is also addressed. With regard to the treatment of solid and liquid waste, the application was reviewed by the Department of Health. The developer will be required to be able to pump out boats which are equipped with holding tanks to the septic system. Architectural design was also addressed with regard to meeting provincial requirements. The application is being screened under the environmental impact assessment review process and their recommendations are included in the Development Agreement. Hours of operation were also addressed.

After all the above issues were addressed, Mr. Bain stated that staff has recommended that the Development Agreement be approved by Municipal Council.

QUESTIONS FROM COUNCIL

None

SPEAKERS IN FAVOUR

Mr. Lloyd Robbins, of the law firm Quackenbush & Thomson, spoke as a representative for Dockside Marina.

Mr. Robbins said he had been involved with Dockside Marina for about four months. He said that the Dauphinees are a family who have lived in the St. Margarets Bay area for over 200 years and are

not and did not deliberately attempt to flaunt the rules and regulations of the County or the authority of the County. He said development on the marina commenced in the early 80's and construction was started in earnest in the summer of 1987. At that time, there were no planning regulations and they were basically governed by By-Law 24 which did not require a development agreement. He suggested the error made was not understanding the importance and significance of planning regulations in the County. When the plan was adopted in 1988, they were not paying attention and did not realize what was happening. When they did understand that there was a plan in force in the County, they asked Councillor Fralick to approach the Planning Department to find out their status. At that time they were given a memorandum that indicated they were a legally conforming use but would need a Development Agreement to expand. A mistake was made in interpretation in that it referred to two lots of land, which was their entire parcel, and they felt as long as they did not buy more land, they could build the marina. At that point, financial commitments were begun with regard to development and equipment. Shortly after starting, they were approached by a Development Officer from the County who explained that they required a Development Agreement. Their understanding at that point was that this would be a fairly quick process but they did slow down plans. Being a seasonal activity, however, they were forced to make decisions. When the Development Agreement was not in place, they had to put finger piers out into the water. In September, 1990, a hearing was held before Council during which it was agreed that no more expansion would take place until a Development Agreement. At this time they delayed any activity but when October/November arrived and boats were still out on the finger piers and with commitments to boat owners and bankers they had to bring the boats ashore or risk losing the boats and being sued and losing the marina. He said it was an unfortunate set of circumstances and the County has reacted to that by starting the prosecution; however, there was no effort to deliberately flaunt the County - there is a belief in what is happening in the County and in planning.

Mr. Robbins then made reference to the Municipal plan previous to Policy 49 which recognizes that a marina is an asset to a community like St. Margarets Bay. Tourism and recreation are very important in this area. He noted that an environmental impact study had been carried out by a private consultant who will be speaking next on the environmental issues.

Mr. Robbins said that the plan does recognize the negative effects and the introduction to Policy 49 primarily deals with these negative effects on the immediate surrounding uses. He said that it is important to understand that while it would be nice to have a marina in a location where there was no surrounding residential uses, that would be probably an impossibility in the St. Margarets Bay region. One of the attributes a marina requires is a protective cove - one of the attributes that residential dwellers

like is to live in a protective cove. There is probably not a cove which has the isolation that would not have residential uses surrounding. In our case, there are very few residential uses - the property the building will be built on is over 100 acres with quite a large shore frontage, 500 feet on one side from the nearest residential use, the other side is Longards Cove and across that cove there are three or four residential uses.

Mr. Robbins said that in working with staff of the County, a great deal of consideration was put into protection of residential uses across Longards Cove.

He referred to 3.1 of the Development Agreement regarding uses permitted and noted it specifically excluded the development of a lounge. The storage barn and maintenance facility will be located near the rear of the property out of sight of adjacent properties.

He referred to 6.2 regarding the development of the parking lot including lighting of same. The lights will be arranged so as to divert light away from adjacent properties.

He referred to 7.2 dealing with dust control which provides for a stable surface treated to prevent the raising of dust and loose particles.

He referred to 7.3 dealing with finger piers which would be located east of the existing piers and away from Longards Cove.

He referred to 7.4 dealing with noise caused by boats and explained that halyards and other loose rigging will be secured in place so as to prevent them from striking against masts or other parts of the boats so as not to cause a disruption in the neighbourhood.

He referred to 8.5 dealing with operational hours which ensure that hauling of boats are not carried out 24 hours a day or late in the evening.

Mr. Robbins stated these were the main points he wished to address in his presentation.

QUESTIONS FROM COUNCIL

None

SPEAKERS IN FAVOUR

Mr. Scott McKnight, Land and Sea Environmental Consultants Ltd., Dartmouth, explained that he had been requested by Mr. Dauphinee to undertake some environmental reviews of his proposed project as well as to prepare some various statements and submissions to the various regulatory agencies.

He stated that one of the main problems that Mr. Dauphinee, like many laymen, has run into is the fact that there are a large number of regulations which apply to such an operation as a marina, such as land based aspects, water based aspects, operational such as garbage and solid waste, sanitary waste, other wastes such as crankcase oil and used gasoline. He noted that there has been a change in philosophy over the past five years - at one time it was let anything go, the sea will absorb anything and act as a great buffer. He said that people now recognize that the marine environment is very important and it is just as important to try to achieve and meet the necessary laws and regulations, not only the letter of the law but also the spirit of the law. Therefore, what Land and Sea Environmental Consultants had attempted to prepare for Dockside Marina and which they have agreed to implement, is a series of measures that will clearly ensure that the marina is fully operational and meets all criteria - for example, Canadian Law does not presently require ships to pump out their sanitary sewage, they can discharge it freely into the local waters. In a situation like St. Margarets Bay, there is a concern for sanitary sewage coming in affecting the water quality of the upper bay in particular. As a result, it was recommended that facilities be installed to allow the sewage to be pumped from the vessel and be treated in the proper sewage treatment facility on land. He said the same applied with garbage and solid waste - in many cases marinas operate without suitable facilities. Dockside Marina will ensure there are the proper facilities - for example, leaflets will be posted at the marina to encourage them to bring their garbage ashore and to promote recycling through the use of separate containers which can then be recycled through the SMART program.

He said that same applied to some of the other environmental regulations to ensure that they are met, not only in the full letter of the law but in the full spirit of the law and thereby ensure proper operation. He said it is not so much the environmental impact of the construction of the facility but the subsequent operation that the company will be ensuring. He said as well, certain permits would be required for shoreline construction, fuel tanks, etc. and the company will ensure that the marina acquires the proper permits and that they are fully up to date.

QUESTION FROM COUNCIL

None

SPREAKERS IN FAVOUR

Mr. Scott Hubley, St. Margarets Bay, stated he had heard what the previous speaker said concerning the environment and referred to page 5 of Staff Report, second paragraph, "provide sewage pumping facilities for boats equipped with holding tanks". He said it is not commonplace in this area to have holding tanks in boats. He then referred to 4.7 of the Development Agreement, "provide a

sewage pump out facility for all vessels" and proposed that as a courtesy to environment, sailors use the marina and not use the heads until they are underway and beyond Mink Island.

He then referred to 7.4 "the developer shall take reasonable efforts to ensure that any noise caused by boats on the property". He said that this should also include boats which are in the water and this should be made clear.

He then referred to hours of operation for boat maintenance services (8:00 a.m. to 6:00 p.m.) which are relatively short and perhaps Mr. Dauphinee might find he needs to operate longer. He encouraged him to do so for the sake of the business.

Mr. Hubley stated that, other than the points he raised above, he strongly endorsed the marina and felt it was long overdue for the community.

SPEAKERS IN FAVOUR

Mr. Timothy Davis, Argon's Welding, Seabright, stated that Dockside Marina has helped the company with work during these tough times by engaging them to erect steel framework for floaters and hopefully there will be more work for the company if approval is received. He said he agreed with the marina proposal and felt it would help to clean up the bay with regard to people throwing garbage overboard from boats.

SPEAKERS IN FAVOUR

Mr. Gordon VanDyke, Seabright, advised he was here as a boater and also a resident of the bay. He expressed concern about the sailing school. He said there was a school a few years ago which had a lot of problems and it eventually was moved to the marina; therefore, if there is no marina, there is nowhere for children to learn to sail. A base is required to set up a sailing school and Dockside Marina can provide that base.

He made another point that sailors like himself who are just day sailors, who are just barely able to go off the harbour entrance without getting seasick and scared, are forced - sometimes during the two worst times of the year - to make a dangerous transit to Chester to take his boat out. He said there are a lot of boaters in St. Margarets Bay like him who need this facility and this marina is very important because it can be gotten to without him having to risk his life.

He said that a previous speaker had talked about using heads. Mr. VanDyke felt he was absolutely right but it would be only good common courtesy and practice to use land based facilities when available.

He stated that the area of the bay is huge - miles of coastline and it was almost criminal that for a bay this size there is no marina. He said he was in favour of the marina, it was needed, long overdue and if not approved, it would be a shame and a loss.

QUESTIONS FROM COUNCIL

Councillor Deveaux said he did not have a question per se but pointed out that being a sailor himself, he knew what the term "heads" meant; however, it was clarified that "head" meant "toilet".

SPEAKERS IN FAVOUR

Mr. Don MacIntosh, St. Margarets Bay, advised that because of ill health, he retired and moved to the area, bought a power boat and had to tie the boat to a mooring down at Schooner Cove. He was required to park his car on the opposite side of the road from the cove, carry gas cans across the road down over an embankment, into a dinghy and row to the boat, then balance on the diving platform while trying to pour the gas into the hole. He thought this was very dangerous.

As well, he felt that getting gas from a gas station and transporting it in the back of a car was dangerous and wondered how many power boats in the bay area were being supplied with gas in that manner. Normally, 25-30 gals. of gas would be hauled at one time. He stated that carrying water was another problem.

He said that when Mr. Dauphinee put in this marina, it seemed to be the answer to everything. He said that there were so many advantages to having the marina, not only for himself because of his ill health, but for everybody even outside the bay area. He said that there was a government wharf in the area but it is usually crowded with boats. He said a marina is needed, with a repair facility for boats, a storage area, gasoline pumps and a good launch ramp. The launch ramp at the government pier is suicide to go up and down; he goes to Hubbards to get his boat in and out of the water and that is a shame, not being able to do it in St. Margarets Bay.

SPEAKERS IN FAVOUR

Don Bumstead spoke on behalf of the sailing school which he felt was one of the most important facilities that any bay could have. He said the sailing school has been in operation for 35 years and holds a fairly substantial record as far as the students who have been processed through the school. Some of these students have continued to work and strive for one of the finest sailing schools offered. For the last two years, the sailing school has been functioning from Dockside Marina and they are extremely thankful to the Dauphinees for allowing this and this is an ideal site. The

last two years, on average, 50 students have been processed per season and this year some of the finest instructors are available who are fully qualified and paid.

He said he could not think what the bay would be like without the sailing school or without a facility such as Dockside Marina. He urged all to consider every aspect of what is being said tonight and that it was most important for the facility to be approved and for the sailing school to continue as is. He heartily endorsed the marina.

SPEAKERS IN FAVOUR

Nancy Studley said she lives right across the cove from the marina and it does not bother her. She said she did not use the facility because she has her own wharf but they do not hear any noise and do not have any complaints about the marina.

She said she was a real estate agent and heard that there were complaints that the value of real estate would go down. She said this was untrue - that it would only go up. Instead of the old barns that used to be there, there will be a nice clubhouse and nice landscaping.

SPEAKERS IN FAVOUR

Glen Dexter, St. Margarets Bay, said he has sailed on the bay just about all his life. He said the sailing school is a key feature to the marina and it is critical that it be allowed to continue because of the good it will do for children. One of the key aspects of the school is the safety aspect of safe boating and also important is the fact that there has never been a facility on the bay and it has been a limiting factor to people who either have to sail to Chester or to Halifax.

He said having the facility on the bay would certainly be an asset to seniors. If the opportunity is lost to have this particular facility, there is not much land left in the bay that is undeveloped which could be used for a marina.

He stated there has been a lot of development in the bay area over the last few years and mentioned Haliburton Hills and Tantallon where there are a lot of families who have no access to the bay and this marina would provide that. He stated that St. Margarets Bay is a world class place to sail.

In terms of access, he said that as you see growth, a number of people who sail recreationally in the Halifax area sail in Halifax Harbour and as the commercial traffic in the harbour has increased with shipping and recreational traffic has increased, a foggy day in summertime can create very real problems and sooner or later a tragedy could occur in the harbour. This will mean that from a

recreational point, people will be denied access to the harbour and told to move to Mahone Bay or St. Margarets Bay.

He strongly urged approval of the facility.

SPEAKERS IN FAVOUR

Rick Southcott, Halifax, said his interest is a recreational one. He was not originally from this area and the only way he could get access for sailing is through a facility like Dockside Marina.

He said that people like himself, coming to St. Margarets Bay for recreational sailing, make an economic contribution to the area by buying gas, groceries and other sorts of provisions when using the area recreationally and he would be very disappointed if the facility had to close down. He strongly endorsed the marina.

SPEAKERS IN FAVOUR

Charlie Barnes stated his family had been associated with the bay for 100 years. He advised he also sold real estate and, speaking of lanyards, over the last four years some of the most expensive townhouses had been built at Regatta Point which is directly opposite the Armdale Yacht Club. This meant that townhouses in the city of Halifax were less than 100 yards from a well established yacht club and this did not bother somebody who was paying well over \$300,000 for their property.

He said he inspected the marina today and felt that it could not but increase the value of the marina property and the properties in the St. Margarets Bay area because this type of facility was lacking.

He stated that his children had taken sailing and that a sailing school was necessary. He said that these facilities make community life which means that something has been lacking. He said he would certainly take this facility over the dump that was offered last month.

SPEAKERS IN FAVOUR

Pat Zwicker, Tantallon, advised that he was a firefighter in the area and now Fire Chief. He expressed concern about the thousands and thousands of gallons of gas being hauled in the backs of cars and trucks which has been a threat to fire departments for years. He said the marina was one way to stop the danger on the highways; traffic is getting heavier and so there is more danger.

He said he enjoyed watching the children learning to sail at Dockside Marina. He also mentioned that there is nothing more beautiful than water with boats on it.

SPEAKERS IN FAVOUR

Neil Dauphinee, Dockside Marina, stated the fact that everybody is here tonight makes it evident that it is a community issue and he said he would try to confine his remarks to the relationship between Dockside Marina and the community. He said he would also try to answer some of the possible objections that neighbours may have.

He advised that he had been raised in the bay and land has been owned by his family for well over 200 years. Heritage was important. In 1988, in an effort to protect that heritage, zoning By-Laws were enacted and the reason for this hearing was to ensure that those By-Laws are properly enforced. Dockside Marina had worked with the Planning Department for over a year and it had been a long, frustrating process. He assured the staff of the Planning Department that if approval is received tonight, Dockside Marina will begin fresh and will work together to ensure that all things decided have been properly taken care of.

He said that because this is a community issue, all members should be considered and even though the project may benefit the community as a whole, individuals still have to be considered individually. The question to be raised is who will be more affected. Complaints have been received about noise from halyards flapping and wind blowing through the masts. He said that last year was a difficult year as it was a learning experience and it is felt that the noise from the halyards can be reduced to what is outlined in the Development Agreement.

Mr. Dauphinee brought to Council's attention that before Dockside Marina, the property was used for intensive farming and he pointed out that with the noise from farm animals the inlet would not have been all that quiet - the noise of halyards may be different. He also said that the ambience created by a pig farm was eliminated. He mentioned that there had been a complaint about not being able to see the view at Masons Point and pointed out if the property had been subdivided and two-story houses constructed, then the view would have been totally obliterated. He said that boats and a boatyard are considered by a lot of people to be aesthetically beautiful; however, it would be a matter of taste. The marina has agreed to plant a row of trees along the shore at Longards Cove which will eventually ease the pain of looking at boats over the winter months.

With regard to real estate and the possible negative value of same, Mr. Dauphinee stated the value of real estate has already been addressed by two professionals who state that the value will increase, if anything.

Another concern was expressed by a neighbour who had owned his property for over 40 years and now, in his retirement years, a

marina is being built and which he personally finds objectionable. He suggested that this gentleman's expectations were somewhat unreasonable because, up to five years ago, there were no restrictions on marinas; therefore, if this had been a major concern, he should have had it in the back of his mind for the rest of the time he owned the property. He said there is nothing that can be done to appease this gentlemen but pointed out that under a MU-2 zone there were a lot of worse alternatives which could have gone on the property.

Mr. Dauphinee advised he attempted to contact neighbours in the area by correspondence about a year ago. Unfortunately, some did not receive the letter sent out. He said he did receive communication from Mrs. Swim and thanked her in a letter for bringing forth her criticisms. He offered a tour of the facilities to her to try to alleviate her concerns but she never did contact him.

With regard to the sailing school, he admitted it was unfortunate about the placing of the trailer. He had not been on site at the time and investigated having it moved afterwards. The estimate for that was \$75 an hour starting from when it left its place of business. Also insurance would be raised to move the trailer in case there was any damage. Therefore, because the trailer was temporary, it was decided to start demolishing some of the derelict buildings rather than spend money on moving the trailer. As well, some of the boats that were under repair have since gone back in the water or been sold.

Mr. Dauphinee pointed out that there are more people affected than the immediate neighbours who have problems with sight and sound. There are also people who are in need of recreational and instructional facilities and certainly they are more affected and possibly as affected as the neighbours. There are also the people who will be eventually employed by the marina. There are also people who are equally affected through local business who rely on a strong local commerce and also those who, through age or health, who are in need of a marina facility and those who have lost loved ones in the fog because there is no facility in St. Margarets Bay for the Canadian Coast Guard. These people have to be considered as well as the immediate neighbours.

Mr. Dauphinee presented a petition with approximately 264 names signed by people in favour of the marina. This petition was held independently at a local establishment alongside a petition against the marina which did not get a single signature. This should be taken into consideration. The petition was left with the Municipal Clerk.

QUESTIONS FROM COUNCILLORS

Councillor MacDonald asked how many boats can be accommodated at the marina. Mr. Dauphinee advised that there were approximately 53 boats now and he estimated that the maximum would be 200.

Councillor MacDonald asked if there were any plans for expansion - would the facility last for awhile as is. Mr. Dauphinee replied there were no plans for expansion.

Warden Lichter noted that a package of letters had been distributed to Council prior to the meeting in favour of the project from Michael Ardene, John and Patricia Isnor, Gary Hurst, Harold Kempster, George F. Arnold and J. W. Arnold.

SPEAKERS IN OPPOSITION

Gordon Beanlands made his presentation on behalf of his uncle, Earl Beanlands, who was somewhat uncomfortable in a public speaking role. Mr. Earl Beanlands had previously forwarded a letter to Council dated July 26, 1991.

Mr. Beanlands said this was now the other side of the coin and submitted that everyone at some point in his life has been on the other side and had the cards stacked against them.

Mr. Beanlands made a point that his uncle was not against the sailing school. As far as he was concerned, it was not part of the issue and he does not mind the children in front of his property.

Mr. Beanlands reviewed the events leading up to the hearing. He said his uncle's property is in very close proximity to the point of land on which the proposed marina could be constructed, separated only by a narrow entrance to Longard's Cove, several hundred feet in width. He first became aware of the proposal the spring of last year when he was advised that a marina was being advertised at a Halifax boat show. He made inquiries at the County and was informed there was no record of such a development or an application therefor. Subsequently, he learned of prior correspondence between the County and the proponent in which it was noted that Dockside Marina was registered as a corporate entity in September, 1987. He said that this date was critical. The proponent contended that he had been operating a marina on the site since then and if this contention is correct, then the proposal would not be subject to the Land Use By-Law of August 26, 1988 under which marinas are on a list of exclusions.

Mr. Beanlands said that whether or not the proponent was actually operating a marina under the definition of the By-Law is a moot point at best and a misrepresentation of the situation at worst. He said his uncle has photographs showing that only one yacht was stored on the site in fall, 1987 along with a small motorboat belonging to the proponent and an old derelict boat. After meeting with the proponent in March, 1990, the staff of the Planning

Department felt that although the evidence for the existence of a marina in 1987 was not conclusive, there was "insufficient evidence to point to the contrary". At the same meeting, the proponent indicated his plans to develop a full-scale marina and was informed that no expansion could occur until a Development Agreement was approved by Council. He asked Council to bear in mind that at that time very little development had been undertaken on the site. All the facilities and changes in the photographs Mr. Beanlands circulated to Council happened since that date. He said that either the proponent did not take the warnings seriously or he decided to push ahead with the proposal in any case.

Notwithstanding whether or not the proponent was operating a marina in 1987, Mr. Beanlands stated he consistently and persistently proceeded to expand without planning approval after being specifically warned. Finger piers were constructed, gasoline storage facilities and a boat-hauling machine was assembled and used and a trailer put in place. 40 boats were hauled and stored last fall.

Mr. Beanlands said there were two fundamental approaches to planning - work cooperatively with staff and residents of the area to arrive at a mutually acceptable proposal or try to push it through. He said that unfortunately the proponent appears to have opted for the latter. He said that, granted, he circulated a flyer to a few of the local residents and talked to some about his plans; however, his intention for the project to be a "community project" reflects a certain irony given that the local residents in the immediate vicinity were adamantly opposed. The end result of this attitude adopted by the proponent is that the local residents did not trust him; therefore, the other approach based on cooperation is not really an option.

Mr. Beanlands submitted that the Planning staff found it difficult to work cooperatively with the proponent - in spite of repeated warnings not to proceed with expansion, he proceeded to expand which resulted in a recommendation to take the proponent to court to address the continuing violations. He said, in staff's words, "these actions constitute a wilfull and flagrant disregard of municipal regulations". He said he understood that a court case was currently pending.

Mr. Beanlands said that the manner in which the proponent has ignored the municipal planning requirements was an important consideration and he addressed the substantive issues related to the proposed development. He submitted that the key decisions to be made by Council will reflect how Policy P-49 is interpreted with regard to the potential for adversely affecting existing residential and community facility development by virtue of noise, visual intrusion and traffic congestion, the means by which solid and liquid waste will be treated and the hours of operation.

Mr. Beanlands believed that undue noise and visual intrusion will occur. He stated it was true that the site was obscured from the main highway but passing motorists would only see it for a few seconds anyway; however, the exposed nature of the point and lack of tree cover and its immediate proximity to longstanding homes meant that it could not be built without causing unacceptable noise and visual intrusion, which will last for the life of the development.

Mr. Beanlands said that a full scale marina would radically alter the landscape and the opportunity of the local residents to enjoy the amenities that attracted most of them to the area initially.

He said that the development would result in certain impacts. The scenic view plane of the majority of property owners would be disrupted including summer servicing and winter storage of a large number of boats, the large set of finger piers, gas facilities, boat cradle and restaurant and office complex. He said there was no opportunity to buffer any of these activities from the local residents because of the exposed nature of the site. The general and persistent noise level would interfere with the ability of the residents to enjoy a reasonable level of peace and quiet. As the site is so near and noise travels so clearly over water, the general level of noise associated with a marina operation and restaurant would represent a significant intrusion. Also, an unacceptable level of lighting in the area would result from requirements to light parking lots, boatyards and restaurant area and, by the Coast Guard's own requirements to put lights on that wharf they would be visible for two nautical miles. Light does travel well on the water as well.

He said that, furthermore, it is likely that the development will expand to become a major class operation. This was for two reasons - the fact that it will be the only such facility in the St. Margarets Bay area and significant opportunity to increase the profit margin by providing services that are only peripherally related to the main focus of the operation. He submitted that the first evidence of this has already been seen because there is a request in the development agreement to provide a 2 a.m. closing time for the restaurant. He suggested that not many boat owners have the energy to keep working on their boats until that hour. As well, if the restaurant does go in, there will be pressure to operate it year round because it will provide income over the winter months.

He said that some or all of these concerns are probably why the Municipality wisely specifically excluded marinas from the list of land use permitted by right in a Mixed Use 2 zone which applied to the area in question. He said that thanks to that provision, the residents of the area do have the opportunity to express their opposition to the proposed development agreement. In spite of the difficulties that the approach taken by the proponent has caused

the planning staff and the local people, the planning system works because it has ensured that he can talk to the Councillors, the decision makers, before a ruling is made on the project.

He said he would like to make three points in closing. 1) the proponent has demonstrated a total disregard to the planning requirements set out by the municipality. He submitted the proponent is hoping if planning permission is given tonight that it will legitimize the facilities that he has already illegally completed and thereby allow him to avoid any court case for past legal transgressions. Mr. Beanlands said he sincerely hoped that Council would not go along with that game plan, not because of vindictiveness but because there are rules to be followed and appropriate penalties for transgressing those rules - a matter of control and credibility. 2) Mr. Beanlands fully appreciated the Council's decision is not an easy one - this is a classic example of problems associated with many development projects - those who suffer the impacts are not those who gain from the benefits. Mr. Beanlands said that, to be pessimistic, the chances of stopping the project were not in his favour since previous similar situations have more often than not been decided in favour of the majority who stand to benefit. He said he and his uncle were optimistic Council would go against past trends and stop the development for the reasons presented. 3) he made it clear that the help and assistance of planning staff was appreciated. He said they were professionals who are called upon to deal with complex problems and he trusted their competence and said he and his uncle would be prepared to help in any way as the scenario unfolds.

QUESTIONS FROM COUNCIL

Councillor Richards said that obviously, as his concerns expressed, Mr. Beanlands would want little or no development on that particular site. He said the land is zoned MU-2 and wondered if Mr. Beanlands knew what the MU-2 provisions allowed for restaurant use as he appeared to have objections to the restaurant. Councillor Richards said he looked up what was allowed under MU-2 zoning and a restaurant was certainly one of those that was there by right, along with a number of other types of activities, in addition to residential properties that could be put there with none of these proceedings seen here this evening. He said that, in other words, the people of the community supported that in their proposal for the Municipal Development plan for that area; therefore, with that said, he hoped that Mr. Beanlands' arguments were that Council should just not look at certain parts of the application but, some things are allowed by right with the provision that other things can be done by development agreement.

Mr. Beanlands replied that if Councillor Richards read his submission made on behalf of his uncle, there is nowhere in the submission in which it says he is opposed to development of that site. He is opposed to a marina on that site for the reasons

expressed in the presentation. He said he understands the right of the proponent to develop his property; however, he felt his uncle would want some consultation as to what would be an acceptable, reasonable proposal to put on that land, it being a piece of land in such a strategic location. He said it is not the restaurant so much as the organization will operate the restaurant not to just service the marina facility (can be done with a coffee shop) but as an added source of income to a multi-faceted development which may be year-round, operating until 2:00 a.m.

SPEAKERS IN OPPOSITION

Karen Soltan, Chester, said her family had lived in the area for three generations. She said the area is well noted for the quality of its land, its sea and its people. She said there is a sensitive balance here which could be upset. She said her parents built their permanent home in 1984 in Tantallon and tried to disturb the environment as little as possible and respected the traditional land uses and observed the County By-Laws regarding land use and construction. She said that she was assured recently that regulations today are even more stringent; however, existence of Dockside Marina, in contravention of these laws, has caused doubt regarding these assurances.

She said her family was not against the sailing school and was not aware that it was even mentioned in the Development Agreement. She said that until the fall of 1989, the land appeared to be a family farm no longer in operation. Several boats were hauled out for storage that year and she heard by the grapevine that a marina was being constructed. Her family questioned the Councillor and the Planning Department. Since that time, the only information gathered about the development was through the County office and other involved government departments. No contact was made by any person connected with Dockside Marina. She said that surely the initiative should have rested with those who were disturbing the balance, not those being disturbed. Over the intervening months, correspondence was with the County as well as Departments of Fisheries, Environment, Health and Fitness, Lands and Forest and the Coast Guard concerning their jurisdiction.

Ms. Soltan said the developer must take a cynical view of County government to ignore its laws and force a public hearing, to apply for a development permit after the fact, to ignore the people most affected by the development and when, as a last resort, to solicit community support through flyers and posters distributed locally. During the past week, Dockside Marina had been calling itself in posters and flyers a local family business concerned with the local heritage. The flyer that was found in their mailbox last week was the first direct correspondence received from the proponent. Based on past experience with activities at the marina, it was felt that this was an attempt to project an image which has no basis in fact and give reason not to trust this attempt. According to Planning

Advisory Committee Staff Report of July 8, 1991, this is "a sparsely populated area" and exposure to the marina is "limited to a few residences". Indeed, these residences are few because the area affected is itself small and vulnerable. The Rules and Regulations under the Planning Act exist so that this type of development cannot be considered in isolation but rather as a part of the whole region.

She said that as a yachtsperson, she is aware of the potential environmental damage that can be created by pleasure boats and marinas as well as the present lack of legislation or enforcement of existing legislation to regulate these activities. She said she was also aware and not against the fact that St. Margarets Bay does need a marina but felt, however, that this was not the question being discussed at this time - the question was this particular Development Agreement. She said that part of the development agreement states that all environmental, health and other laws will be respected in the future use of the marina but the effect of these activities on the surrounding ecosystem were varied according to the nature of the area and cannot be predicted with any accuracy; however, the potential effects of such activities, as well as actual studies of marinas have been well documented.

She outlined her own concerns as to how the marina could potentially affect the local environment. There were no regulations in place in Nova Scotia for the use of holding tanks and pump out stations on a boat. Anybody who has sailed on a boat with a holding tank that is working would know the problems associated with using it, cleaning it and flushing it at a pump out station.

She noted that people who travel up the eastern seaboard of the United States or from the Great Lakes, where the holding tanks are required by law, stop using them when they get here because it is such a hassle. She said that bilge water is pumped directly overboard and is often contaminated with fuel, oil, grease and solvents. Regular maintenance of the boats would include many toxic and dangerous substances which, unless properly used and properly disposed of, can cause pollution problems. She also said that the pumping of fuel is only as safe as the person doing it, regardless of what technology is used, and frequent spills are common around a marina. Another concern was the disposal of litter and marinas and yacht clubs are a concentrated source of marine litter regardless of the availability of receptacles.

Ms. Soltan said her overall concern was that the marina would be a concentrated source of pollutants, noise and other disturbances, all of which would have a detrimental effect on a small sheltered cove. She said there are laws protecting the environment against spills and the improper use and disposal of potentially hazardous substances; however, they are notoriously difficult to enforce. In this case, the laws rely on the credibility of people and

corporations to respect them. She said her concern was that the past behaviour of the proponent has shown that he is willing to disregard the laws and leaves no reason to trust that he will not do so again in the future.

She stated, in conclusion, her concern with the present and future land and seas and was aware of the potential limitations of this small cove. She said she wished to protect the quality of life it offers. Council now has the opportunity to turn down the request for the Development Agreement and proceed with the pending court case and requested that, Council being the local representatives, take the opportunity to do so.

SPEAKERS IN OPPOSITION

Roly Swim said he lived directly across the cove from the proposed marina. He said that as an adversely affected neighbour, he objected to the proposed agreement for the following reasons. 1) lack of input as adversely affected neighbours 2) fear for his protection because of the aggressive and continuous development that has taken place without a development agreement and necessary permits. 3) it is evident that Planning Department has put much work into this proposed agreement but he said that the neighbours were only referred to as a few residents located directly across the cove who were exposed to the site. He said that in all fairness, they should have been approached regarding their concerns. He gave Dockside Marina some credit for a weak attempt to involve his family in planning as they had received a description of their private development plans asking for input saying they were very sensitive to the values of the neighbours and would continue to respect and enhance the community. He said, however, that he soon lost faith in their sensitivity and sincerity when he found he was the only neighbour to receive the request for input and, to make matters worse, after he and his wife had complied and sent a letter by registered mail stating some of their reasonable requests, they received no reply. Only after their second letter describing their loss of sleep caused by the clanging rigging and witnessing men urinating in view of their property, did they receive a letter in reply explaining that these were just some of the problems associated with a company in its early stages of development.

Mr. Swim referred to the trailer which was recently placed on the site blocking most of the view of the bay. He thought it was a reasonable request to have it moved back somewhat and offered to pay the \$75 an hour to have it moved. He said that he was very upset and felt that if the neighbours had just had a little bit of say in the matter, maybe a lot of the personal interferences could have been avoided. He said this was very important for everybody must live together and he was becoming quite frightened by all the disregard for the neighbour's values and shocked by the statement of the Planning Department earlier that it is the Department's

position that the marina's actions constitute a wilfull and flagrant disregard.

He said that because of the lack of cooperation of the unapproved development and the disregard for the regulations and the values of its neighbours, he cited fear and ill health. He said he felt he was a reasonable and considerate neighbour and expected to be treated likewise. He asked Council to consider his position in this matter which has had a detrimental effect on his quality of life.

QUESTIONS FROM COUNCIL

None

A package of letters in opposition had been distributed to Council members prior to the meeting from Roland Swim, Pat Swim, Earl S. Beanlands, M. Judith Soltan, M. Eileen Burns and Karen Soltan.

DECISION OF COUNCIL

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

"THAT, PENDING RESOLUTION OF SITE-SPECIFIC MATTERS TO THE SATISFACTION OF THE PLANNING ADVISORY COMMITTEE, THE PROPOSED DEVELOPMENT AGREEMENT BETWEEN THE MUNICIPALITY OF THE COUNTY OF HALIFAX AND ROBERT H. DAUPHINEE SR. AND DOCKSIDE MARINA INC. TO PERMIT THE CONSTRUCTION OF A MARINA AND SUPPORTING FACILITIES LOCATED OFF HIGHWAY 333, MACKEREL COVE, TANTALLON BE APPROVED BY MUNICIPAL COUNCIL".

Councillor Cooper said that the concerns he needed to address related to the effect the marina would have on the area and the diligence with which the Municipality controls and sees to the enforcement of the Development Agreement. He said he was basically in agreement with the marina but also, because of the past history of the development, he had concerns that particular attention should be given to see that everything is in order before permits are issued. This has been a long process to the point of having prosecution initiated and any of the concerns that gave rise to that must not be repeated.

Councillor Poirier said that it is interesting listening to this particular hearing and seeing all the people here who really need and want this marina and the small minority who are being so severely affected by it. She said there is no question that there is a need but did not know where else it could go. She said she was very familiar with this particular cove. As much as she knew the need of the boatowners and if she were a landowner, she would be devastated and it would be easy to put herself in the place of

the neighbours. She said these few people need some support behind them and with her experience and knowledge of the area, she could not vote in support because she would have to support the people who had been there for years and how much their lives would change.

Councillor MacDonald said he was disturbed by the lack of guidance by the proponent in not living up to the By Laws. He said he thought there were a lot of people in the area who had not been consulted at all. He said there was a need for a marina and at this point it probably could not be turned back. From this date on, the people would have to live with the marina should be consulted very closely and make the best of the situation. He said he supported it grudgingly but noted that there are By Laws that should be maintained but were flagrantly abused in this case and that he found this upsetting.

Councillor Harvey advised he believed that St. Margarets Bay should have and deserves a marina facility but he was not convinced that the facility described in the terms of the agreement was, in fact, the facility required or if it should be located in that area. He said he was disturbed and troubled by the manner in which the development reached Council. The agreement addressed a number of legitimate concerns of residents who are most affected. He said quite a bit was required of developer and referred to the agreement and specific articles therefrom.

Councillor Harvey said that his experience with the developer has been one of wilfull and flagrant disregard of Municipal regulations and to get his attention, it was necessary for the Municipality to go to the Supreme Court of the province. He wondered, therefore, if the developer will take reasonable efforts insofar as the Development Agreement is concerned. He asked if it would be necessary for the County to station a By Law officer at the marina to ensure that the agreement is carried out. If the agreement is approved, it may constitute a major positive development but it may turn out to be a nightmare that the Municipality will have a great deal of difficulty getting hold off again.

Councillor Harvey said he was not sure what a restaurant operating at 2:00 a.m. had to do with servicing boats on St. Margarets Bay. He stated that with the agreement as presented and with the track record in the past, he had real doubts about the motion.

Councillor Eisenhower said he also had problems. He said he was not convinced the proper siting was done and pointed out the problems with the trailer. He asked Mr. Crooks, the solicitor, if the items in the agreement are not conformed to, what would be the Municipality's ability to enforce the clauses in the agreement. Mr. Crooks replied that this was a difficult question to answer because there were so many things that could happen to cause concern. He said that the Development Agreement is an agreement between the developer and the Municipality and if the developer is

in breach of the agreement, the Municipality will have to remedy it and its remedy will be to seek enforcement of the agreement. Councillor Eisenhauer asked if it would be easier to enforce outside the agreement or inside and Mr. Crooks said it was preferred to be within.

MOTION CARRIED.

2. THAT THE COLE HARBOUR/WESTPHAL MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW BE AMENDED IN ORDER TO PERMIT A WIDER RANGE OF HOME OCCUPATIONS WITHIN RESIDENTIAL ZONES ESTABLISHED IN THE RESIDENTIAL A AND RESIDENTIAL B DESIGNATIONS AND THAT THE AMENDMENTS ATTACHED TO THIS REPORT AS APPENDICES "A" AND "B" BE APPROVED BY MUNICIPAL COUNCIL.

Mr. Jim Donovan, Planner, advised that this was an application by the Municipality to amend the Municipal Planning Strategy for Cole Harbour/Westphal in order to accommodate a wider range of home business uses within Residential A and Residential B designations. The application also included amendments to the Land Use By Law in the manner in which plan amendments will be implemented for residential zones R-1, R-2, R-3, R-7 and R-8. In addition, the R-6 and the R-6A zone will be clarified with respect to the current provisions on home businesses.

He said an application was made by Mr. and Mrs. Samuel White in July, 1990 to amend the planning strategy in order to permit a hairstyling salon to be established in conjunction with an R-1 zoned property owned by them in Cole Harbour. In August, 1990 the Planning Advisory Committee directed staff to draft the necessary planning By Law amendments and to proceed on the basis of a municipal application. Public participation was held in the Cole Harbour/Westphal community on June 20, 1991. Under the existing land use policies for Residential A and Residential B designations and the zoning provisions for the residential zones, the only forms of home businesses which were currently permitted were those related to professional offices and day cares for up to 14 children. Since the term "professional" was specifically defined as accountant, architect, barrister, chiropractor, dentist, engineer, land surveyor or physician, no other individual was permitted to establish a home business in the community. Under the current Land Use By Law requirements, professional offices are permitted but carry restrictions, such as size of floor area, parking, signage, open storage.

Mr. Donovan said that under the provisions of the current planning By Law, other forms of home businesses such as hair styling salons, business offices, art studios, may only be considered in areas which are not accessible to essential services through rezoning to a rural residential zone. Alternatively, a property owner must apply for a C-1 zoning in order to establish a business in a residential area. Home businesses have been the topic of

considerable discussion through Plan Review and a number of staff recommendations have been considered. One recommendation was to drop the term "professional" as it applies to professional offices in conjunction with home businesses. He said although this would expand the range of home businesses permitted, it would still restrict home businesses only to offices and, therefore, would not permit other forms of home businesses such as a hair styling salon. To permit a wider range of home businesses, staff was requested to examine the existing regulations in other municipal jurisdictions (Halifax, Dartmouth, Bedford) and found that the overall intent with respect to regulating home businesses in residential zones was to permit a broad range of home business uses - not to restrict these to a certain class of people such as professionals. He said, however, this intent was dependent on overall objectives to protect residential areas by ensuring that any home business is as inobtrusive as possible.

Mr. Donovan stated that the concerns identified relative to home businesses in Cole Harbour could be adjusted by providing a clearer definition of what a home business is and by establishing specific zone requirements which are aimed at maintaining the residential character of a neighbourhood. The proposed amendments recommended by staff were attached as Appendices A and B and he outlined what the amendments would accomplish.

With the restrictions and provisions by which any development permit would be issued, Mr. Donovan stated staff was comfortable that the overall intent of the planning strategy would be maintained and recommended approval.

QUESTIONS FROM COUNCIL

Councillor Adams asked Mr. Donovan how the wider permitted uses recommended would compare to areas such as Lake Major and Eastern Passage. Mr. Donovan said it compared to Lake Major but not Eastern Passage, although the wording was slightly different. He said the recommendation was similar to what was in place now in Sackville and Timberlea.

SPEAKERS IN FAVOUR

Mr. Samuel White, Caldwell Road, advised he was the gentleman in question and that he and his wife had decided to apply in the fall of 1989 for permission but did not formally apply until July, 1990. He said this seemed to be a difficult process but this stage has finally been reached and he wanted to thank the Planning Department for helping him in the process.

He said the proposed By Law, the way he read it, was certainly not without flaw but it satisfied his requirement. With regard to signage, he said he was not overly concerned as to whether or not he was permitted to have a sign on the house because it did not

serve as a medium for advertisement. He said that the current By Law still in effect, to allow certain professionals to carry on business, was rather discriminatory; therefore, the proposed By Law amendment would certainly satisfy him and open the area up to other people by providing a broader definition of professional.

SPEAKERS IN FAVOUR

Ms. Bev Woodfield, 8 Spence Drive, added her support in favour. She said the amendment was badly needed - there were a lot of people working in their homes such as crafts people and music teachers who would welcome the approval to make what they are doing legal. She said she was in favour of keeping the neighbourhood residential, but pointed out a minor opposition regarding the use of signs in front of homes.

SPEAKERS IN OPPOSITION

None

DECISION OF COUNCIL

Councillor Richards addressed the issue raised by both people in favour of the application - the use of signs. He said on page 8 of Appendix B (f), it stated that no more than one sign shall be permitted on any business and no such sign shall exceed two square feet in area. He said that was an acceptable arrangement; however, he wished to present an extension of that particular section to read that the sign must be affixed to the actual building itself.

Warden Lichter suggested that when the motion is presented, the mover and seconder could include that stipulation in the motion as he would require two motions - one dealing with the MPS amendment and Councillor Richards was referring to the By Law amendment. He said he could not deal with the By Law amendment until the MPS amendment was passed.

It was moved by Councillor Richards, seconded by Councillor Cooper:

"THAT THE MPS AMENDMENT BE APPROVED."

MOTION CARRIED UNANIMOUSLY.

It was moved by Councillor Richards, seconded by Councillor Cooper:

"THAT THE BY LAW AMENDMENT BE APPROVED SUBJECT TO A CHANGE IN APPENDIX B, SECTION (f) TO READ THAT THE SIGN MUST BE AFFIXED TO THE DWELLING".

MOTION CARRIED.

3. THAT THE APPLICATION BY TRI-LAKE DEVELOPMENTS LIMITED TO REZONE A PORTION OF THE LANDS LOCATED OFF OF THE COBEQUID ROAD, AT WINDSOR JUNCTION FROM I-3 (GENERAL INDUSTRY) ZONE TO R-1B (SUBURBAN RESIDENTIAL) ZONE, BE APPROVED BY MUNICIPAL COUNCIL

Mr. Jan Skora, Planner, advised that Tri-Lake had applied to rezone approximately 82 acres of land located along Bicentennial Drive off the Cobequid Road at Windsor Junction from I-3 to R-1B. He said the purpose of the application is to rezone a majority of the land presently zoned I-3 in order to provide for expansion of the existing Fall River Village residential subdivision. Only a small portion of the I-3 zone will be retained for future commercial and industrial development.

He said at the present time the land is undeveloped and covered with natural vegetation and no site related concerns which have been identified by staff. The base zone is R-1B (suburban residential). The property was initially zoned for industrial purposes in 1985 under provisions of By Law 24 and adopted by current Planning Strategy and Land Use By Law; however, because of economic conditions, the industrial portion of the original proposal was abandoned by the developer and a portion of this land is intended to be used for residential development. The proposed zoning boundary is based on a preliminary subdivision plan. Proposed rezoning is consistent with the general intention of the plan for planning Districts 14 and 17 and is suitable for the intended development. Staff, therefore, recommended that this rezoning be approved by Municipal Council.

QUESTIONS FROM COUNCIL

None

SPEAKERS IN FAVOUR

Paul Pettipas stated he knew of no opposition to this rezoning and that he was basically in attendance tonight as a courtesy should Council have any questions. He mentioned that it was stated that the developer decided, due to economic conditions, not to go industrial, but that was not Fall River Village. Fall River Village purchased the land from a company in Calgary and wants to make the land residential with a little bit of commercial land in conjunction with an overpass in the planning stages. The development will fall along the lines of Fall River Village with plenty of playground area. It will have water and will mean of the 349 lots, \$349,000 will be paid to the County in water hookup fees.

SPEAKERS IN OPPOSITION

None

DECISION OF COUNCIL

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

"THAT THE APPLICATION BY TRI-LAKE DEVELOPMENTS LIMITED TO REZONE A PORTION OF THE LANDS LOCATED OFF OF THE COBEQUID ROAD, AT WINDSOR JUNCTION FROM I-3 (GENERAL INDUSTRY) ZONE TO R-1B (SUBURBAN RESIDENTIAL) ZONE, BE APPROVED BY MUNICIPAL COUNCIL."

MOTION CARRIED UNANIMOUSLY

4. THAT THE APPLICATION BY W-FIVE HOLDINGS INCORPORATED TO ENTER INTO A DEVELOPMENT AGREEMENT WITH THE MUNICIPALITY TO PERMIT AN INCUBATOR MALL AT CIVIC NO. 1900, HIGHWAY NO. 7, IN EAST PRESTON, BE APPROVED BY MUNICIPAL COUNCIL.

Mr. Jim Donovan, Planner, advised that an application had been received from W-Five Holdings Inc. to enter into a Development Agreement with the Municipality to permit the development of a 6500 sq. ft. incubator mall in East Preston. He said the site of the development is 2.7 acres of a 9.5 acre parcel owned by the company located south of Highway 7, near the intersection of Glasgow Road. The parcel is covered with dense vegetation except for the 2.7 acre proposed development site which has been cleared. He illustrated the site, including Robinsons Brook, with slides.

He said that the property is situated within a Mixed Use designation for Lake Major planning area and zoned RS-1. The designation is intended to retain the traditional mix of rural land uses within the established communities of East Preston and North Preston. A wide range of residential, resource, institutional and small scale commercial developments are permitted as a right within the RS-1 zone; however, in order to protect the semi-rural environment of the area while providing for development of local business initiatives, the MPS specifically provides that service industries and general commercial developments in excess of 2000 sq. ft. can only be considered subject to a Development Agreement.

He said that Policy P-43 established specific criteria by which Development Agreements can be evaluated and provided the direction by which staff negotiated the Development Agreement attached to the Staff Report. The criteria include regard for the character and appearance of the proposed development and the overall suitability of the development site. In the opinion of staff, the proposed development of an incubator mall on the property is consistent with the general intent of the Lake Major Planning Strategy and will not negatively affect surrounding property. Under the terms of the agreement, development of the 2.7 acre site would be limited to a single story 6-unit incubator mall. An increase in floor area, however, of up to 10% could be considered by minor amendment subject to Council's approval and as assessment by the Department of Health of the disposal system. Due to the soil conditions in the area, there is a fair amount of organic material on the site

and there is a lot of underlying rock. The disposal field has some limited capacity; therefore, the agreement would limit the use of the building to a variety of commercial and service industrial uses that are considered to be non-intensive users of water. Furthermore, a written consent from the Department of Health would be required prior to the issuance of development permits for any permitted use or change of use thereafter. The developer has agreed to continuously monitor the flows going into the disposal system and to keep records for Department of Health purposes should the records be requested. Based on the analysis and subject to the terms and conditions of the Development Agreement, staff is recommending that it be approved.

QUESTIONS FROM COUNCIL

Councillor Cooper addressed the concern expressed regarding the use of water in the operations which would be located in the facility and said that garden facilities were allowed and asked if they were to be obtained within the unit of the building or would they be outdoors. He said he asked this question because a large nursery operation could be a fairly extensive user of water.

Mr. Donovan replied that garden facilities are permitted but only within the building - there are no provisions for outdoor activities other than temporary ones, such as flea markets. He said that a garden supply outlet would be permitted under the terms of the agreement but would be at the expense of another unit that could be accommodated in the building.

Councillor Cooper said that the development was proposed to be a phased development and asked what portion of the mall would be built initially. Mr. Donovan replied that the six unit 6500 sq. ft. incubator mall was the initial phase of the developer's overall plan to develop the 9.5 acre site. Later phases might involve a condominium industrial mall which has been discussed by the developer.

Councillor Eisenhower asked about financing and legal issues. He asked what should come first, approval of the zoning change or the agreement. Mr. Meech replied that it is hoped to have a proposal from the Industrial Commission for Council next Tuesday night on the funding aspects of the project.

Warden Lichter explained that the Public Hearing was in relation to the Development Agreement and the document being considered tonight was a planning one, not a financial one - the financial document is a solely separate issue.

Mr. Donovan referred to 1.1, 9.1, 9.7 of the Development Agreement related to financial issues and said that from the planning point of view the dollar figures do not enter into it; however, alternatively, a tentative funding arrangement requires the

Industrial Commission to become the owners of the 2.7 acre parcel and to protect that interest the agreement refers to the Conveyance Agreement that is to be entered into subject to approval of the funding by Council. He said that he was not sure whether or not the proposal could proceed without that funding; however, if it could, then that section would be irrelevant.

Councillor Eisenhauer asked if the Development Agreement could be approved subject to the other agreement being executed. Mr. Crooks advised that this was not necessary because the other agreement was not being approved - it was between the Industrial Commission and W-Five Holdings Inc. - and required separate consideration.

Councillor Adams referred to the letter from the Environment Department. He said the water course development should be completed by September 15, which is not that far away, and asked if provision could be made to extend this. Mr. Donovan explained that that date was put there because it was felt the developer was quite anxious to see the development proceed and finish and it was hoped to get this completed before the construction season is over so there is no chance of erosion and damage. The Department of Environment would have discretion on this to either extend or stay firm on this date. He did not see that there would be a problem in getting an extension.

Councillor Cooper referred to Schedule B and asked if this would be presented at the time the Industrial Commission presents its proposal to Council. Mr. Meech replied that the Industrial Commission would be seeking approval from Council for the advancement of the County's participation financially and be aware of the agreement that the Commission would be executing as a result of this proposed development.

Councillor Deveaux asked if the Development Agreement was approved but funding approval was not approved by Council, would this mean that the project would be delayed until funding was made available. Mr. Meech replied that if Council was not prepared to approve this participation based on the proposal that has been worked out, then at this point there would be no other alternative.

SPEAKERS IN FAVOUR

Mr. Matthew Thomas, Chairman, East Preston Ratepayers Association, referred to 1983 when the community development plan was approved. He said some of the recommendations that should take place within the Preston community were discussed at that time and drew attention to recreation and thanked Council for what has been achieved in this area. He also thanked Council for improvements in education.

He said that economic development was also included in the development plan and referred to the initiatives of W-Five Holding

to bring this proposal along. He said the community is very excited to know that somebody means business in the area of economic development. Four walls were required to carry on day-to-day operations of business and the mall would be required to do this. The mall would enhance the community, bring more traffic to the community and create necessary jobs. He said the County has an affirmative action program, commended the County for that and said that this proposal confirmed it. He said the community is beginning to be frustrated over the long time it has taken for this proposal to be approved and hoped that it would be approved tonight.

SPEAKERS IN OPPOSITION

None

DECISION OF COUNCIL

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

"THAT THE APPLICATION BY W-FIVE HOLDINGS INCORPORATED TO ENTER INTO A DEVELOPMENT AGREEMENT WITH THE MUNICIPALITY TO PERMIT AN INCUBATOR MALL AT CIVIC NO. 1900, HIGHWAY NO. 7, IN EAST PRESTON BE APPROVED BY MUNICIPAL COUNCIL.

MOTION CARRIED UNANIMOUSLY

5. THAT THE DEVELOPMENT AGREEMENT BETWEEN THE MUNICIPALITY OF THE COUNTY OF HALIFAX AND SHELL CANADA PRODUCTS LIMITED TO PERMIT THE CONSTRUCTION OF A RETAIL GASOLINE OUTLET AND CAR WASH LOCATED AT 977 AND 983 COLE HARBOUR ROAD BE APPROVED BY MUNICIPAL COUNCIL

Mr. John Bain advised that the property was presently zoned C-2, general business, and was located within the community commercial designation. This designation was the subject of a Plan Amendment some time ago which permitted retail gasoline outlets within the community commercial designation. A retail gasoline outlet is defined separately from a service station because it allows no general repair of automobiles. The proposed Development Agreement will permit a 1400 sq. ft. convenience store along with a 60' car wash and gasoline pumps. He referred to Policy P-53B which set out the criteria for the development agreement with site specific criteria dealing with site design, architectural design, maintenance and hours of operation. Also included were general criteria dealing with municipal services, traffic circulation and specific requirements such as a PUB licence, no outdoor display or storage and no general repair of automobiles.

He advised that this application did go to public participation and, through information received from the general public, Shell Canada has agreed to move the car wash and provision was made for a 50 sq. ft. ground sign with Shell Canada logo and below that a 70

sq. ft. service identification sign. No mobile or temporary promotional signs will be permitted. The Engineering Department has accepted the engineering requirements for the oil receptacles to prevent any oil products entering into the sewage system.

He advised that staff is of the opinion that this development does meet the criteria set out in Policy P-53B and recommended that the application be approved.

QUESTIONS FROM COUNCIL

Councillor Horne asked if Mr. Bain felt there would be any changes because of recent support for self serve and was this development going to be self serve. Mr. Donovan replied this could very well be a self serve but that the County would have no involvement in that.

SPEAKERS IN FAVOUR

Mr. Tom Dolan, Real Estate and Development representative for Shell Canada advised that Shell has been attempting to build this facility for 20 months. With reference to the car wash, he said there had been some concern on the location and it had been decided to move it to the side closest to Sobeys Mall in order to give minimum exposure to the residents. The convenience store size had been limited to 1400 sq. ft. and signage had been set with agreement that mobile signs would not be used. He advised that a buffer zone was planned for the back of the lot with shrubbery in appropriate areas along the side to make it aesthetically pleasing and deaden some of the noise for the neighbours in the back. He said the car wash would close at 9 p.m. and Shell has agreed to conform with all permits and By Laws.

Mr. Dolan advised that the properties at this time were in need of repair because the plan was to tear the buildings down but advised that calls had been received today from police indicating that breakins had occurred; therefore, Shell would like to begin proceeding with the development.

SPEAKERS IN OPPOSITION

None

DECISION OF COUNCIL

It was moved by Councillor Richards, seconded by Councillor Cooper:

"THAT THE DEVELOPMENT AGREEMENT BETWEEN THE MUNICIPALITY OF THE COUNTY OF HALIFAX AND SHELL CANADA PRODUCTS LIMITED TO PERMIT THE CONSTRUCTION OF A RETAIL GASOLINE OUTLET AND CAR WASH LOCATED AT 977 AND 983 COLE HARBOUR ROAD BE APPROVED BY MUNICIPAL COUNCIL.

PUBLIC HEARING

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August 12, 1991

MOTION CARRIED UNANIMOUSLY

ADJOURNMENT

It was moved by Councillor Deveaux, seconded by Councillor Adams at 10:05 p.m.

"THAT THE MEETING ADJOURN."

MOTION CARRIED.