

being able to handle subdivision applications will rest with staff. He said it has been suggested that a deferral be put in place until the next public hearing scheduled for the following Monday with the intention that during that time staff will look at the scope of the advertisement that was placed for this hearing and to see if items, that are identified by council as being of a concern, can be covered under the scope of that advertisement. He said if they can, then they would be recommended at that meeting. If they cannot then council should be asked to make a decision at that time for approval or rejection. He said if it is rejected then the county would be operating without process for subdivision approvals. He said if the county continued it would run the risk of legal action. He said if the items as identified by staff and council can be addressed, then a recommendation would come forward at the following Monday's public hearing. He said he is asking council to identify for staff items that they would like to see addressed.

Councillor Merrigan said he feels there has to be time taken, in consultation with the public, to deal with this whole proposal. He said he feels the county should be saying to staff to look at this and see what is the bear minimum that the county can live with so that it can continue to operate. He said at the same time saying "let's set up a mechanism to review this whole by-law". He said he feels there should be a report from staff outlined what they feel have merit and what is the minimum requirement that council can pass based on the advertisement.

Councillor Snow said he feels that this whole package should be put aside and the county should start over. He said if council passes any part of this, without a complete grandfather clause for any developer who has started his subdivision, he feels will be putting them out of business. He said he feels council should vote against this and come up with something better.

Councillor Hendsbee said he feels it is important that all the input that has been received be brought together to provide amendments for this proposal. He said he would like to see decision deferred to a later time and have an advertisement placed for a public hearing and the municipality adopt the DOT standards as required for the county to do work in the meantime.

Deputy Mayor Cooper said it was the intention that if, during investigations between now and next Monday, there was a possible way for that to be done it would be identified for under the present advertisement and would be so recommended. If not, then council would have the option of rejecting this and requesting that a complete new process be done.

Councillor Hendsbee said he feels it is necessary to move forward but not too fast forward. He said he would suggest that the

document be tabled for broader consultation.

Deputy Mayor Cooper said the county is in the position that come April 1st the county has these difficulties and it is being recommended that decision be deferred to Monday so that the investigations can be made. He said staff has indicated that the option of redoing and calling a complete new process is one area they will look at. He said they will also need the time to look at the present application and if the county can adopt the standards that are presently being used under that. He said they are basically asking for the time between now and next Monday night to do that investigation.

Councillor Reid asked if, legally, can the municipality do what is being suggested. He said he feels the only solution now is to have a motion, call it, defeat it and Monday night have a simplified suggested manner in which the county can get a process in place that will all it to process subdivision applications as quickly as possible. He said he does not feel there is any way that this can be altered in a minor manner that will satisfy the concerns that have been expressed.

Ms. Fitzner said it is difficult to deal piece meal whether something, if it is taken out, can be done within the present notice or not until you know what that item is and assess it in relation to the others to determine if what is being proposed is a similar scheme or not. She said if it is a totally different scheme chances are no the council can't probably go ahead and approve or adopt it with the present notice that is in place. She said it is an option council has to defer and go through that process to clarify some points or whatever. She said the other options tonight are to either reject or to approve and that would have the effect, if it were rejected, of the process to be begun. She said the benefit of deferring is to clarify and gather information and bring it back.

Councillor Reid said the speakers have a concern with the major change that the county has included in this document. He said the suggested changes may not be minor and as a result council cannot deal with it.

Deputy Mayor Cooper said in his opinion the changes needed would be major.

Councillor Reid said if the county placed an advertisement in the next couple of days council could deal with it within three and a half weeks.

Deputy Mayor Cooper said it has been suggested that the earliest the advertisement could be ready would be Friday in order to allow the proper discussion of what should be in it.

Discussion ensued as to when this item would be brought back to council for discussion.

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

'THAT THIS BE DEFERRED TO MONDAY, APRIL 3, 1995"

MOTION CARRIED

ADJOURNMENT

It was moved by Councillor Merrigan:

"THAT THE MEETING BE ADJOURNED"

MOTION CARRIED

MINUTES & REPORTS
OF THE
FIRST YEAR MEETINGS
OF THE
FORTY-FIFTH COUNCIL
OF
HALIFAX COUNTY MUNICIPALITY
APRIL COUNCIL SESSION
TUESDAY, APRIL 4 & 18, 1995
&
PUBLIC HEARINGS
APRIL 3, 10 & 24, 1995
&
COMMITTEE OF THE WHOLE
APRIL 4, 5, 6, 10, 18 & 19, 1995

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PUBLIC HEARING

April 3, 1995

PRESENT WERE: Mayor Ball
Councillor Meade
Councillor Rankin
Councillor Fralick
Councillor Mitchell
Councillor Bates
Councillor Hendsbee
Councillor Levy
Councillor Dooks
Councillor Smiley
Councillor Reid
Councillor Naugle
Councillor Merrigan
Councillor Brill
Councillor Snow
Councillor Giffin
Councillor Hache
Councillor Scratch
Councillor Harvey
Councillor Sutherland
Councillor Turner
Deputy Mayor Cooper

ALSO PRESENT: Dale Reinhardt, Deputy Municipal Clerk
Julia Horncastle, Recording Secretary
Karen Fitzner, Municipal Solicitor

=====
The meeting was called to order with the Lord's Prayer. Ms.
Dempsey Crossman called roll.

APPOINTMENT OF RECORDING SECRETARY

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

'THAT JULIA HORNCastle BE APPOINTED AS RECORDING
SECRETARY"

MOTION CARRIED

COUNCIL DELIBERATION - FILE NO. SB-09-94 - PROPOSED AMENDMENTS TO
THE SUBDIVISION BY-LAW (ROADS)

Mr. Reinhardt read out the names of the Councillors that had been
present at the March 27, 1995 public hearing as they would be the
only Councillors allowed to vote on the issue.

Councillor Harvey indicated that he had been in attendance for only part of the public hearing and asked if he was still eligible to vote.

Ms. Fitzner confirmed that Councillor Harvey could not vote as he had not been in attendance for the full public hearing.

Mr. Bill Butler addressed council. He said the original public hearing to approve amendments to the subdivision by-law, relative to roads, was held on March 27, 1995. He said at that hearing council heard numerous representations which raised concerns about the amendments. Council indicated to staff that staff should go back and review possible options to present at tonight's meeting; however, no specific direction was provided as to what to look at in terms of that package. He said one suggestion that was put forward was that only those portions of the amendments absolutely necessary to maintain the status quo should be approved. Under this scenario the municipality would simply continue to review and approve new roads pursuant to the same standards and specifications that the Department of Transportation has been using prior to April 1, 1995.

He said in consultation with the municipal solicitor they have determined that augmenting the package that council reviewed on March 27th would constitute a major change if that was all council wished to approve. He said that could not occur without holding another public hearing. He said they have, since last Monday, contacted staff at the Department of Municipal Affairs who have expressed, in their opinion, that the changes to the Planning Act which essentially would transfer approval authority from DOT to the municipality can be interpreted to automatically confer the necessary approval authority without making amendments to the subdivision by-law. He said this interpretation of the legislation would allow the municipal engineer to approve new road pursuant to the Blue Book specifications as well as other related policies and procedures that the Department of Transportation follows. He said these standards would not need to be formally endorsed by resolution of this council.

He said municipal staff are not in full agreement or entirely comfortable with this interpretation but, in the short term, would be prepared to follow that direction in order to keep the subdivision approval process going. He said they would encourage council to, as soon as possible, approve amendments to the subdivision by-law that would clearly indicate the authority that the municipality now has over roads. He said should council not be prepared to approve the package that was considered at the March 27, 1995 meeting, staff has prepared alternative amendments that would be necessary to maintain status quo i.e. only those amendments that would be necessary to indicate that new roads are now the responsibility of the municipality.

He said until such time as council approves new municipal specifications, the engineer would continue to review and approve roads pursuant to those existing Department of Transportation specifications, policies and procedures. He said it is staff's opinion that council should make a decision with respect to the package of amendments that were at the March 27, 1995 public hearing. He said a decision should be made to either accept or reject them. He said they might be approved with minor changes but any significant changes, to that package, could not be approved tonight. He said should council not approve those amendments of last week, staff would recommend that, tonight, council declare it's intention to hold a public hearing on May 1, 1995 to consider the amendments outlined in Appendix A.

He said these amendments are the bare minimum necessary to maintain the status quo and to be very clear that the transition has occurred. He referenced the first page numbers 1, 2, 3 and 4. He said they are putting in the fact that the municipality and Department of Transportation are now responsible for roads. He said number 5 is similar. Number 7 simply indicates that where a plan is stamped it should indicate that the street is owned by the County. He said in number 8 the words "or the municipality". He said the most significant change occurs in number 11 which refers to acceptance requirements. He said all staff is doing here is being clear, because the county has never had to accept roads before, that there are certain requirements if this happens.

He said if the municipality is going to take a road six copies of the final plan with the entire municipal street shown, drainage rights of way outlined in red, road reserves in yellow and easements outlined in green must be submitted to the municipality. He said that is the same procedure as followed by the Department of Transportation at the present time. He said the municipality wants the road legally conveyed with clear title. He said the developer would be responsible for all registration costs associated with the municipality taking over the road. He said those changes are the ones required to maintain the status quo.

Councillor Hendsbee referenced section 11H. He asked if there had been discussion with regards to easements of the power corporation, CNR Railways, MT&T etc.

Mr. Butler said they will review that course of action between now and May 1st. He said it is his understanding that the Department of Transportation takes over roads although each telephone pole has an easement and various service easements within a right of way. He said to his knowledge those are not regarded as legal encumbrances. He said he would anticipate that the municipality would continue much the same. He said what the municipality is really looking for is that if the road right of

way is going to be transferred there is no other private party who may have some kind of a charge or lien on that particular piece of property.

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

'THAT COUNCIL REJECT THE PROPOSAL OF MARCH 27, 1995'

Councillor Sutherland said he would be in support of the motion but he would like ask if the municipality proceeds with subdivision regulations.

Mayor Ball said first he would suggest council vote on the motion that is on the floor and then look at setting a public hearing for May 1, 1995 and, at the same time, make a recommendation for a council session to look at the establishment of a committee.

Councillor Scratch asked what happens to street paving without this by-law.

Mayor Ball said at the present time the municipality would be in absence of a policy.

Councillor Scratch said she is talking of new subdivisions that are being crated as of April 1, 1995 that require paving.

Mr. Butler said the only streets that would require paving would be in the serviceable areas which is the current practice and policy of the Department of Transportation.

Mayor Ball said according to the province they will be responsible for the road network between Musquodoboit Harbour and the Tantallon turnoff. He said there are areas between those two points that are not really in a serviced area.

Mr. Butler said if they are outside the serviced boundary the county will not be responsible for the street paving.

Councillor Scratch asked if the serviceable area of the water service districts included.

Mr. Butler said staff had suggested that paving be required in water service districts in the package of March 27th. He said all the municipality is going to do is continue what the Department of Transportation has done and the Department of Transportation does not require paving in water service districts.

Councillor Scratch said she has some concerns that the taxpayers of the municipality will incur and expense that they need not.

Mayor Ball said until a policy is developed, the only alternative is that council could take the initiative that there would be no subdivision approvals in those areas.

Councillor Scratch asked if it would be possible to look at passing a subdivision law and then looking at amendments.

MOTION CARRIED

It was moved by Councillor Rankin, seconded by Councillor Giffin:

'THAT A PUBLIC HEARING BE HELD ON MAY 1, 1995 TO CONSIDER AMENDMENTS AS OUTLINED IN THE APPENDIX A"

MOTION CARRIED

It was moved by Deputy Mayor Cooper, seconded by Councillor Scratch:

'THAT A COMMITTEE BE ESTABLISHED WITH REPRESENTATION BY STAFF AND PROFESSIONAL ORGANIZATIONS I.E. SURVEYORS, ENGINEERS AND CONTRACTING ORGANIZATIONS TO SET GUIDELINES FOR THE SUBDIVISION BY-LAW"

MOTION CARRIED

RA-F&S-05-93-14 - APPLICATION BY JOHN AND KAREN GILLIGHAN TO REZONE A 4.6 ACRE LOT, SITUATED AT THE INTERSECTION OF HIGHWAY NO. 2 AND BURROWS DRIVE IN WELLINGTON, FROM C-2 (COMMUNITY COMMERCIAL) ZONE TO R-6 (RURAL RESIDENTIAL) ZONE

Mr. Paul Morgan made the staff presentation. He said the applicants property is in the community of Wellington on Highway No. 2 at the entrance to the Kendlemark Subdivision. He referenced pages 7 and 8 of the staff report of October 18, 1994. He said the property is just under five acres. He said the applicants purchased the property last year and have subsequently built a residence on it. He said they had proposed to build a garage for the purpose of storing and repairing vehicles. He said Mr. Gillighan works on vehicles for a hobby. He said the applicants also wanted to build a barn for the keeping of two horses.

He said this lot is zoned community commercial which does not permit the keeping of horses therefore requested the R-6 (Rural Residential Zone). He proceeded to show council slides of the property. He said this property and the surrounding areas of Planning Districts 14 and 17 are within a Rural Residential designation. He said it has been applied to lands that have a somewhat semi rural characteristic. He said there are predominantly houses but there are some community facilities, limited resource uses and home businesses. He said the R-6 zone

permits these activities by right. He said agricultural uses are permitted as are fire mills. He said the C-2 zone is more intended for the community centre designation. It was not really intended for the residential designation. He said the C-2 zone permits commercial uses of considerable range in building up to 10,000 square feet in floor area. He said in the opinion of staff this is consistent with the policies for this area.

He said the report states that the R-6 zone restricts the maximum floor area of a barn to one thousand square feet. Subsequent to the tabling of this report, there were amendments undertaken to the R-6 zone. He said at the present time barns up to two thousand square feet are permitted provided the property has an area exceeding 120,000 square feet. He said the Gilligan's property does. He said if a larger barn was to be constructed the zone puts more stringent requirements on. There has to be a minimum 150 foot setback from any of the property lines. Any manure storage area has to be set back a minimum of 300 feet from a watercourse or the potable water supply on an abutting lot. He said it is the opinion of the planning department that the application is consistent with the policies for the areas and therefore recommend approval.

QUESTIONS FROM COUNCIL

Councillor Scratch referenced page 3. She said there is a suggestion that the stable might have to be moved from the location. She asked if the stable was staying in the location as indicated on the map.

Mr. Morgan said the site plan shows the approximate location. He said the Gillighan's were aware that should this application be approved there might be some adjustment to satisfy the Department of Health and to comply with the County by-law requirements.

Councillor Scratch asked where the wet area is located.

Mr. Morgan said the wet area is generally in close proximity to Burroughs Drive.

Councillor Snow asked if the Councillor for the area been made aware of the application.

Mr. Morgan said Councillor Peters was aware of it and would have gotten a copy of the report.

Councillor Hendsbee asked if there has been any indication where the horse may be allowed or permitted to run on the property. He asked if there were to be fences on the property a certain distance from the water and the adjacent properties.

Mr. Morgan said the municipal by-law does not try to regulate

where the horses run on the property. He said there is a restriction that any waste storage areas have to be 300 feet from a watercourse. He said there are no requirements for fencing in the by-law but presumably initiative will be taken to install fencing so that the horse is not running free on other people's property.

Councillor Hendsbee said he is concerned with the smell and he would like to know if there is going to be any provision made for the management of manure piles to ensure that they do not offend the neighbours.

Mr. Morgan said there is a Dangerous and Unsightly Premises By-law in effect but, to his knowledge, the Land Use By-law does not contain any stipulations with regards to smell. He said the 300 foot setback should be adequate to minimize this.

Mayor Ball asked how many horses was being talked about. Mr. Morgan said two.

Deputy Mayor Cooper referenced the parkland and asked what the intended use was for that piece of municipal parkland.

Mr. Morgan said at this time he had no information on this.

Deputy Mayor Cooper asked if there was a requirement that those parklands be protected.

Mr. Morgan said if the parkland does become developed and the municipality wanted to preclude the horses from entering the parkland, a barrier could be installed.

Deputy Mayor Cooper asked if there was anything under the present municipal by-laws to prevent the use of that parkland by the horse.

Mr. Morgan said there was not.

Mayor Ball said it has been the general standing policy of the Recreation Department not to develop the piece of parkland where is almost surrounded by houses. He said they have taken this approach because it becomes a gathering place and a nuisance to the neighbourhood.

Councillor Scratch asked if the Animal Defecation By-law applies in this district.

SPEAKERS IN FAVOUR

Ms. Karen Gillighan addressed council. She said the problem with water that may appear on the property appears primarily in winter months on one corner of the property that is surrounded by

Burroughs Drive and Highway 2. She said it is mainly because of the way the roads were built. She said that is at the opposite end of the property from where they plan to build the barn and stable. She said a question was also raised about the location of the stable. She said they are probably going to locate it in the middle of the property which is more than 300 feet from any of the boundaries of their property. She said their property is primarily forested at the present time and they plan to keep it that way. She said they will probably clear a small amount of land in the centre of the property which will be used for paddock and riding area. She said the perimeters of the property will remain forested. She said where the parkland meets their property is actually almost a corner and that is an area where they do not plan to have fencing for the horse. She said they have over five hundred feet of foot frontage on highway no. 2 which is not in the subdivision. She said no part of their property is on the subdivision lands except a small portion on Burroughs Drive where the mailboxes are located. She said most of the property is on Highway no. 2.

She said the current zoning on the property is C-2 which allows for a lot more flexibility in building structures and usage. She said their home is already built. She said the property including the home has been assessed at \$225,000. and, as a result, it is unlikely that they are going to be building any structures that are going to be an eyesore to the community. She said it is her intention to keep the property up.

Councillor Hendsbee asked if there had been any thought given to how she would be addressing the smell from manure if it becomes a nuisance.

She said a manure pile would be located close to the stable. She said with the stable being located within three hundred feet of any boundary lines would limit the smell. She said there is also a boundary of trees. She said they also plan to construct a cement block with a side wall where they will store the manure. She said people come and take the manure for use in their gardens so disposal has not been a problem.

Ms. Joyce Benvie addressed council. She said she was the adjacent property owner to the Gillighans. She said she would prefer to have an R-6 adjoining her property than a C-2. She said would not like to see someone move in and set up a video store. She said they are in a heavily wooded area and she does not foresee a problem with regards to offensive smells. She said most of the properties are one acre or more.

SPEAKERS IN OPPOSITION

No speakers in opposition.

DECISION OF COUNCIL

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

'THAT THIS APPLICATION BE APPROVED'

MOTION CARRIED

ADOPTION OF REVISED MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW FOR PLANNING DISTRICTS 1 AND 3

Mayor Ball said decision had been deferred on this pending more input on seven particular areas. He said therefore tonight's meeting would be dealing only with those seven proposed amendments that were duly advertised. He said the Municipal Planning Strategy itself cannot be addressed.

Councillor Giffin said Mrs. Earl's property borders district 1 and 3 and there was a right of way that has since moved off a map that was there before. He said he would hope there would be some way that the municipality could address that without having to hold up this.

Mayor Ball said it is his understanding that Mrs. Earl's problem is not associated with the Municipal Planning Strategy.

Ms. Corser said what had happened was that there was a plan prepared and when Mrs. Earl purchased her property in the early 1970's it showed an access or service road to provide access to the Stillwater Lake area. She said it remained on the Department of Transportation plans until the last year or two. When Sobeys started developing in the area the Department of Transportation made a decision to remove the plans for that road or move it off the map and discontinue the plans for that road. She said she and Mrs. Earl have spoken with the subdivision engineer with the Department of Transportation and he indicated that yes, Mrs. Earl should have been contacted when they were removing this road from the plan because she is directly affected by the roads removal. She said the Department of Transportation is now looking at it and they are hoping to be able to provide her with access from the Hammonds Plains Road. She said staff feels there is nothing related to the 1 and 3 plan review that can give her some resolution at this point. She said she is hoping to have correspondence from DOT and have the situation resolved.

Councillor Giffin said he feels it is the responsibility of the municipality to ensure that Mrs. Earl's property does not become land locked and not leave her to fight this out with the Department of Transportation. He said he feels the county has to get involved as well.

Mayor Ball said it has nothing to do with the planning strategy

of district 1 and 3. He said he would try to set up a meeting with the Minister of Transportation and see how a resolution can be brought about.

Ms. Corser said council held a public hearing originally on the consideration of the adoption of the revised MPS and Land Use By-law for districts 1 and 3 on January 23, 1995. During the course of that hearing there were a number of submissions that were received by council. She said council deferred making a decision on that evening such that staff could look further at the issues that were raised. Staff was directed to respond to the submissions and forward a recommendation to the Municipal Planning Advisory Committee. Municipal Planning Advisory Committee reviewed the submissions on February 13, 1995 and it was a recommendation, by staff, on each.

She said the memorandum dated March 10th outlines the recommendations of the Municipal Planning Advisory Committee on each of the submissions.

She said the first item was Bowater Mersey. She said in their submission they raised concerns with the wording in the proposed text in the draft MPS which supported an assessment of exiting water resources in the plan area towards a course of action of watershed protection. She said they were concerned that watershed protection would translate into restrictions on forestry activities in the area. She said they indicated they were opposed to any designation of land which would impede forest harvesting activities. She said the policy contained in the planning strategy which supports an assessment of water resources in the plan area is actually a policy approved as part of the original MPS in 1988. She said it is carrying forward. She said staff would maintain that some level of protection should be provided to every watershed but such protection should also recognize the existing and future activities in the watersheds. She said the level of restriction or control would have to be determined in relation to the level of protection and ultimately the water quality.

She said the proposed MR-2 (mixed use) zone which would be applied to all the lands North of Highway 103 would not involve any increased restriction on resource related activities from what is currently permitted. She said the MR-2 zone would allow for the continuation of forest harvesting. The only change between the existing zoning that is on that land, which is MR-1, and the proposed MR-2 zone is an increase in the minimum lot size for new development. She said the proposed increased lot size which was reviewed at the last meeting is 100,000 square feet which is intended to provide for large lot, low density development in this area. She said this would be in keeping with the overall intent of the resource designation which currently applies there. She said the intent being to promote resource

related development such as forestry.

She said in Bowater's submission there was no objection to this increased minimum lot size. She said staff recommended to Municipal Planning Advisory Committee and that Committee to Council that the text, as contained in the revised draft as presented on January 23, 1995, as it applies to the land North of Highway 103, be maintained. She said this is basically status quo.

She said the second item deals with ASC Residential Properties Limited. She said they made a request to have all of their lands within Planning District 1 and 3 included within the Mixed Use A designation and the Mixed Use 1 zone. She said their total land holdings in this area are approximately 1800 acres. Some of those lands, to the South, closer to where the shopping centre is developed, are already within the Mixed Use 1 zone and Mixed Use A designation. In the revised Planning Strategy and Land Use By-law presented to council in January the ASC lands were proposed to be included within the proposed MR-2 (mixed resource) zone which would have required the increased minimum lot size of 100,000 square feet.

She said ASC objected to this and requested that their lands be zoned for residential purposes and removed from the resource designation. Public input received during the early phases of this plan review process indicated a concern by residents to protect the natural environment in the backland areas North of Highway 103, in particular to protect the natural resources in this area.

Planning Advisory Committee supported the creation of the new zone in this area with an increased lot size keeping with the objectives of the resource designation. She said the Planning Advisory Committee also recognized that there may be future demand for new residential development in this area and therefore they further directed staff to provide a mechanism for the consideration of more intensive development at some future point. A new MR-2 zone was applied to these lands. All of the lands North of Highway 103. It was agreed by the Planning Advisory Committee that a development agreement option would be an appropriate means of development control for future development on lots smaller than one hundred thousand square feet. That area of the ASC lands which had received final subdivision approval was zoned for residential development. The remainder of the lands was zoned MR-2. During the ASC presentation to council, in January, they outlined a number of studies which had been prepared prior to and during the acquisition of the lands. That acquisition took place over a period of approximately two years.

Following the hearing, staff was provided with these studies which they reviewed. Overall the studies indicated generally

that the site is suitable for residential development. Staff would note; however, that without a site specific development agreement, the Westwood Hills Subdivision, as it is presently proposed, could be subject to any amount of change given an as of right situation. She said this is what ASC is requesting. She said while staff have concerns about the overall scale of this development, and in particular the lack of a second access to the development, it is recognized that ASC acquired the lands and undertook detailed site planning with an understanding of certain development rights. She said it is the recommendation of Staff and the Municipal Planning Advisory Committee that the ASC lands, as shown on Map 1 of the staff report dated March 10, 1995, be designated Mixed Use A and zoned Mixed Use 1.

She said the third item deals with two submissions. Firstly, a concern was raised with respect to the new R1-E zone over the minimum lot size proposed. This is the new zone that would allow for the keeping of horses for personal use. The minimum lot area proposed was 100,000 square feet. The concern raised by residents was whether or not this would be large enough of an area in situations where you have a horse stable and a house. She said staff reviewed this further and there are no hard and fast rules as to what limits are best. She said after consulting a model land use by-law prepared by the province which suggested a minimum of 20,000 square feet of land area for one livestock. She said given that the minimum lot size for a dwelling is 20,000 square feet in all the other zones, they are adding 80,000 square feet for a horse. Staff feels that this is adequate.

She said the second concern raised related to the proposed R1-E zone as well. This concern was whether or not the proposed setback of 100 feet from a well was consistent with provincial standards. She said the provincial department of agriculture marketing does have guidelines for this. She said they are however, designed for intensive agricultural uses which are defined as 30 or more animals. She said in these cases they recommend 100 metres or 328 feet be maintained from the livestock to the well.

She said in reviewing existing standards within the Land Use By-law, for this area, the proposed setback of 100 feet would actually be more stringent than in any of the other zones throughout this plan area where agricultural uses are permitted. Staff are satisfied that the standards, as previously recommended in January, are appropriate. Municipal Planning Advisory Committee has also recommended that no further amendment to the draft of the MPS or Land Use By-law, as presented in January, would be necessary.

She said item four also raises two points. The first deals with the removal of sailboat masts and rigging during storage in conjunction with marinas. The second part deals with a

requirement for a review mechanism for development agreements to ensure that the terms originally agreed to are still appropriate for the development. The outdoor storage associated with the marina would be subject to a development agreement and Municipal Planning Advisory Committee is therefore recommending that a new provision be added to Policy MRR-7 and MU-9 requiring that the removal of masts and rigging for winter storage be required. This would be applied to all new development agreements negotiated from this point on for marinas. With respect to reviewing the development agreements she said council could impose such a requirement although council cannot impose unilateral changes to an existing agreement. Any changes would have to be agreed to by the developer and by council. The Planning Advisory Committee is; therefore, not recommending any further amendment in this regard with respect to a review mechanism for development agreements.

The fifth matter was a request made by a councillor to bring the parking standards for beverage rooms, lounges and taverns in line with the standards now used for full service restaurants. Given that the demands for these uses are not expected to differ significantly, it is the recommendation of staff and PAC that the standards used for full service restaurants be adopted for beverage rooms, lounges and taverns. This would be a requirement for twenty parking spaces per 1,000 square feet.

She said item six deals with the removal of a property. She said Appendix B recognizes business that were legally in existence at the time the plan was approved but do not conform to the zone in which they are now located. When a business ceases it may be removed from the Appendix. The business at 289 Masons Point Road has ceased and the owners have requested that it be removed from Appendix B. The property is currently zoned R1-A. This zoning would not change. This amendment is supported by staff and PAC.

She said the final item came to staff's attention immediately following the public hearing on January 23rd. She said a submission had been made by the Three Brooks Residents Association to have the lands of that development rezoned for MRR-1 (mixed rural residential) zone to an R-1. She said in their submission they included the area of the Three Brooks Subdivision. They also included three parcels of land not owned by Three Brooks. The owners of these properties do not wish their lands to be zoned R-1 but wish to retain the mixed use zoning. After this came to staff's attention, a meeting was held with the developer of Three Brooks and the map was adjusted accordingly. She indicated the map in the staff report. She said staff and PAC would recommend that the lands identified on the attached map remain zoned MRR-1.

Councillor Meade referenced the 100,000 square foot lot with regards to the Bowater Mersey lands. He asked if there was also

a 100 foot setback for housing included.

Ms. Corser said another amendment that was proposed, in January, was applied to the resource designation and in addition to the minimum lot sizing increase to 100,000 square feet the new zone would also require that 100 foot setback be maintained around all lakes and watercourses in that area. She said that would be maintained on all the lands in the resource designation. It would not apply to lands outside the resource designation.

Councillor Meade referenced the ASC residential properties. He asked if it would be a minor or major amendment to ask for the 100 foot setback to be applied on Wright's Lake and Coon Pond.

Ms. Corser said the policy states that until such time as an assessment of water resources can be conducted to determine the extent and nature of any water problems occurring in the area North of Highway 103 it shall be the intention of council to establish a minimum building setback from lakes and streams of 100 feet except for boat houses, boat docks, and exiting hunting and fishing camps. She said clarification may be needed in the wording of the policy.

Ms. Fitzner said notice may have to be given.

Ms. Corser said the preamble to the policy and the policy itself was part of the document advertised originally. She said there is nothing in the policy or the preamble that states that it couldn't apply. She clarification may be all that is needed.

Councillor Giffin said normally the Department of Health regulations allow a horse to be kept on 20,000 square feet provincially. He asked if staff was recommending 80,000.

Ms. Corser said staff had recommended 100,000 for a lot to keep a horse for personal use but you could also have a house there. The person who raised the concern thought that that may not be enough room. She said there is a model land use by-law that the province has developed and it specifically says that minimum of 20,000 square feet is appropriate for one animal unit.

Councillor Giffin asked what about those that are in districts 1 and 3 now and do have kept horses for years and may not comply to this 80,000. He asked if they were going to be grandfathered.

Ms. Corser said the R1-E is a new zone. It has never been applied in this plan area before. She said most of this plan area, with the exception of a few sections, you can have as many horses as you like. She said if this is approved and somebody wants to keep a horse in a residential designation, they will have to come in to council and apply for the R1-E. At that time they will have to meet that requirement of 100,000 square feet to

get that R1-E zone to keep a horse. If they have a horse now and their lot is smaller than 100,000 square feet then they are grandfathered. She said the Cambrian Cove area is actually the only area that it is recommended that it be applied through the plan review process because there has been a request by a land owner to have the R1-E zone applied. She said there is not where else, at this point, that they are recommending that it be applied. It would come in on a site by site basis for council's review and public hearing.

Councillor Hendsbee asked would a development agreement allow for any variance at all. He asked if an agreement allow for a variance of less than 100 feet.

Ms. Corser said through a development agreement process basically, unless otherwise stated, anything is open for negotiation. If they could establish to the county that there was merit in letting them come closer to the lake yet adequate protection was provided to the lake then the 100 feet could be reduced. She said in a development agreement it may be determined that more than 100 feet is needed.

SPEAKERS IN FAVOUR

Ms. Berit Pittman, Masons Point, addressed council. She Bowater Mersey informed her that no land in Indian Lake, Sandy Lake, and Wrights Lake will be sold. She said they are selling a piece of land along Hammonds Plains and East of Hammonds Plains for a total of approximately 100 acres. She said she has spoken to camp owners who are in favour of the new lot sizes. She said they had a concern about the setback from Wright's Lake. She said she would personally like to see the setback be 100 metres. She asked if Atlantic Shopping Centres changed their plan, for the development, is it then open to a development agreement.

Ms. Corser said not in the area that is zone MU-1.

Ms. Pittman said there has been concern expressed with regards to storm sewer runoff in the area and she would like council to take note of that when they do a development agreement for subdivision. She asked if the agreement that has been signed with the marina every get renegotiated or does it remain as negotiated the first time.

Mayor Ball said it is his understanding that a development agreement is in place and if they wish to come and amend that agreement, and it becomes a major amendment, then it can be brought to council. He said outside of this, unless they are in violation of the agreement, the agreement is in place and there is nothing the municipality can do.

SPEAKERS IN OPPOSITION

Mr. Michael Kelly, Head of St. Margaret's Bay, addressed council. He said he is concerned about the subdivision going in. He said there is proposed to be eight hundred wells and septic systems put in an area surrounded by lakes. He said the initial part of this land was crown land. He asked where the 66 foot right of way for ASC properties was located. Mayor Ball said it would be a road reserve that either accessed that property or provides an access to crown land that would be in behind this land.

Ms. Corser said there is a plan of subdivision with the Planning Department that shows a right of way to the lands.

Mr. Kelly said another point was that there was only one access. He said Highway 213 has no heavy vehicles. He said with eight hundred people with at least one car per household will cause a serious problem. He said he does not understand why the county can't have an internal water system with laterals put in. He said there has to be some way the county can look at this.

Councillor Giffin said where the road comes down from the development it is a single road but it comes into a very large parking area which has two accesses to the highway.

Mayor Ball said the arena association accommodated the access for ASC properties for an exchange of land and money.

Deputy Mayor Cooper asked Mr. Kelly if he knew what consideration the province received in exchange for the land.

Mayor Ball said that is not an issue at this time. The issue of the land exchange is between the Sobey's Group and the Government.

Mr. Kelly said he is concerned about the subdivision, the water quality, the traffic problems, and the fact that there is only one access and egress.

He said he is concerned with the proposal to the masts off the yachts. He said he believes that people have a right to their concerns but the idea of taking the masts out of yachts can pose a major problem.

Mr. Mark Leeman, district 3, addressed council. He said he wished to speak on the ASC residential properties section of the amendments. He said he has learned that ASC has received their exemption for their 1800 hundred parcel within the MR-2 zone. He said he feels it is very important for the plan to be implemented in it's original form as any exemptions may set a precedent for any future development. He said he feels this is a chance for the county to take a leadership role in the area of responsible environmentally friendly development.

Councillor Fralick asked how long he had lived in the district.

He replied he had lived in the district for 27 years.

Councillor Giffin asked where Mr. Leeman resided in district 3. Mr. Leeman said he lived on Indian Point Road on a one acre lot.

Councillor Giffin said there were certain rights before the plan came in.

Ms. Charlene Davis, district 1, addressed council. She said her concerns were with regards to the 100,000 square feet to contain a horse. She said she feels this is way too much land. She said more sanitary conditions can be met on a smaller lot where a land owner can clean up manure daily thus eliminate flies etc. She said she would like council to reconsider the lot size being proposed. She said she feels that a 40,000 square foot lot would provide more than enough room for a barn and turn out area.

Councillor Fralick confirmed that Ms. Davis owned a stable which is located on a piece of property that is less than an acre in size.

Ms. Pat Swim addressed council. She said she was addressing the item dealing with the masts and rigging on boats. She said she feels this needs amendment. She said she feels that the words "winter storage" should be deleted and simply an indication that sailboat masts and rigging should be taken down for storage. She said it had be alluded to that this by-law would be accepted for new marinas but she would like to know if when new boats come into an existing marina does this by-law come into effect.

Mayor Ball said it is his understanding that any marina that is in existence operates based on a development agreement that the county has. He said he does not know if that development agreement limits the number of vessels allowed on the property.

Ms. Corser said there are two developments in effect in districts 1 and 3 dealing with marinas. She said they restrict where the boats can be kept but there is nothing in the criteria for a development agreement that says there is a restriction on the number.

Ms. Swim asked if there was a new boat brought into an exiting marina, for storage, would the masts and rigging have to come down if this by-law was adopted.

Ms. Corser said the two in effect now have negotiated an agreement with council and if they bring in more boats, and it is in keeping with the provisions in the current agreement, there is nothing more that can be done. She said this would be for a new marina or if the existing agreements were amended perhaps council could look at it at that time.

Ms. Swim said she would like to stress that she would like to have the word "winter" removed and have it just say storage.

Councillor Fralick asked if it would be a minor or major change if the word winter was changed to just reflect storage.

Ms. Fitzner said the storage of boats has been raised in the notice and in the amendment proposed therefore it could be something that could be addressed tonight.

Mr. Howard Epstein addressed council on behalf of the Soil and Water Conservation Society. He said he would request council defer making a decision in order to readvertise in order to specifically advertise a point that did not come before council.

Councillor Hendsbee he said this issue could be referred to the PAC Committee as a future plan amendment.

Mr. Epstein said what he wishes to talk about would not effect the other issues being addressed at this meeting.

Deputy Mayor Cooper said if a submission was made and a recommendation for a text and policy change is it not appropriate that people be given the opportunity to address it.

Ms. Fitzner said she is not aware that there was something separate dealt with that notice has not been given of. She said if it is deferred and it is opened up for issues to be looked at again then an opportunity should have been given for anyone who had a concern to be able to address council. She said what has been given notice of are these specific seven.

Ms. Corser said an item was raised by the Soil and Water Conservation Society at the public hearing. She said in the report that went to PAC, dated February 6th, staff gave an overview of the submission and Mr. Mandaville made a presentation at the hearing an followed up with a written submission. She said, at that time, staff proposed some wording and a policy to carry out the intend of the submission. PAC, after discussing it at their regular meeting, made the decision not to recommend it. She said the report of PAC, attached with the February 6th report, would have then gone to the next council session. There was no further discussion on the matter at that time and subsequently the ad was prepared.

Mr. Epstein said he is not suggesting that anything improper was done but he is saying there is an unfairness in the process. He said when the matter goes to PAC the proponent has no opportunity to make a presentation.

Mayor Ball reiterated that it could not be addressed at this meeting as only seven items had been advertised.

Ms. Angela Veith addressed council. She said she recently purchased a house in Boutilier's Point. She said she would like to see the By-law amended so that the acreage for allowing a horse is changed from 2.5 acres to 1.0 acre.

Councillor Meade asked her if she lived in the residential zone because if her property was not in the residential zone she would be allowed to own a horse. He informed Ms. Veith that Ms. Corser would confirm the zoning and inform her as to whether or not she would be permitted to keep a horse on her property.

Ms. Corser said the Boutilier's Point Road, from where it leave Highway #3 to where it comes out at the water and branches off at Stephens Road, is zoned MRR-1 with a couple of pieces zoned MU-2 which does allow for the keeping of horses.

DECISION OF COUNCIL

Councillor Fralick said considerable time has been spent on this plan review and it has been well advertised. He said there has been open houses.

1. Bowater Mersey Paper Company Ltd.

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

"THAT COUNCIL APPROVE THE TEXT CONTAINED IN THE ORIGINAL DRAFT PLANNING STRATEGY. LANDS LOCATED NORTH OF HIGHWAY NO. 103, WITH THE RESIDENTIAL DESIGNATION, WOULD BE ZONED MR-2 (MIXED RESOURCE 2) ZONE.

MOTION CARRIED

2. ASC Residential Properties Ltd.

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

'THAT THE LANDS OF ASC RESIDENTIAL PROPERTIES LTD. (AS SHOWN ON MAP 1 OF THE STAFF REPORT DATED MARCH 10, 1995) BE INCLUDED WITHIN THE MIXED USE A DESIGNATION AND MU-1 (MIXED USE 1) ZONE. FURTHER THE RECOMMENDATION INCLUDE A 100 FOOT SETBACK FROM WRIGHT'S LAKE AND COON POND"

Mayor Ball said he would like to have it noted, for the record, that the Municipality has attempted to put a 100 foot setback in place on previous occasions and have been rejected by the Province.

MOTION CARRIED

3. Bob Buchanan/Councillor Merrigan

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

"THAT COUNCIL APPROVE THE TEXT CONTAINED IN THE ORIGINAL DRAFT LAND USE BY-LAW WHICH WOULD REQUIRE A MINIMUM LOT SIZE OF 100,000 SQUARE FEET WITHIN THE R-1E (RESIDENTIAL ESTATE) ZONE, AND A MINIMUM SETBACK OF 100 FEET FROM A POTABLE WATER SUPPLY (WELL)."

MOTION CARRIED

4. Pat and Roland Swim

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

'THAT A PROVISION BE INCLUDED WITHIN THE DRAFT PLANNING STRATEGY (POLICIES MRR-7 AND MU-9) TO REQUIRE THAT STORAGE OF MARINE CRAFT INCLUDE THE REMOVAL OF MASTS AND RIGGING (THIS RECOMMENDATION WAS AMENDED TO DELETE THE WORD "WINTER" AS PROPOSED IN THE STAFF RECOMMENDATION)"

MOTION CARRIED

5. Councillor Scratch

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

"THAT COUNCIL APPROVE THE INCLUSION OF A REVISED PARKING PROVISION WITHIN THE LAND USE BY-LAW FOR LOUNGES, TAVERNS AND BEVERAGE ROOMS WHICH WOULD REQUIRE THAT 20 PARKING SPACES BE PROVIDED PER 1,000 SQUARE FEET OF GROSS FLOOR AREA"

MOTION CARRIED

6. Berit Pittman on behalf of Mr. and Mrs. Omar Viau

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

'THAT COUNCIL APPROVE THE REMOVAL OF THE PROPERTY AT 289 MASONS POINT ROAD (LRIS # 40045379) FROM APPENDIX "B" OF THE DRAFT LAND USE BY-LAW"

MOTION CARRIED

7. Stacey Wentzell on behalf of Mrs. Idella Hubley

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

'THAT COUNCIL APPROVE THE REVISION OF THE DRAFT ZONING

MAP TO EXCLUDE THE LAND OF IDELLA P. HUBLEY, CHRISTOPHER D. MORRIS, AND KEVIN AND CATHY HUBLEY FROM THE R-1 (SINGLE UNIT DWELLING) ZONE. THE ABOVE NOTED PROPERTIES WOULD REMAIN ZONED MRR-1 (MIXED RURAL RESIDENTIAL) ZONE."

MOTION CARRIED

Mr. Butler said there is a policy which states that it is the intention to establish a 100 foot setback on all lands North of Highway No. 103.

Mayor Ball asked if that policy could be introduced with the exception of the motion made by Councillor Meade brought forward in Number 2.

Mr. Butler asked if this policy would now include the Sobey's land as they are now under the designation.

Deputy Mayor Cooper said if council had the intention of putting that policy in place for all the lands North of Highway No. 103 and it was not brought up in any of the discussions then he would suggest that this had not been a fair hearing. He said this is a major item which was left out of the discussion.

Mayor Ball said every member of council was given a copy of the Municipal Planning Strategy and the Land Use By-law for their perusal and understanding. He said no one from council, during the whole public hearing, said anything in reference to it.

Deputy Mayor Cooper said if it had been adopted it should have been brought up in discussion and it should have been brought up in any discussion relating to the ASC properties saying it was the intention of council to have that setback.

Mayor Ball asked if the policy was in planning districts 1 and 3 previous to this review. Mr. Butler said it had not been.

Mayor Ball said council approved the seven items and the next step would have been to approve the documents incorporating the amendments. He asked if, in proving those document, would council not therefore be approving that policy. Mr. Butler replied that it would be.

Deputy Mayor Cooper asked if the policy would apply to all ASC properties.

Ms. Fitzner said what is being said is that the policy is there, in place, in the MPS, and the requirement, under the Planning Act, is when you adopt a policy in an MPS you would concurrently adopt a Land Use By-law provision which would enact it.

Mayor Ball said this policy can only be applied to districts 1 and 3 within the purview of this Planning Strategy.

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

"THAT THE POLICY BE IMPLEMENTED"

MOTION CARRIED

Deputy Mayor Cooper referenced the item brought forward by Mr. Epstein. He said that was not one of the concerns that was brought back to council and according to the minutes of the public hearing all concerns were to be addressed and brought back to council. He said the concerns went as far as PAC. He said the items of concur of council were not brought directly back to council and there is an item that was not addressed in the minutes of the public hearing yet council has it here tonight.

Mayor Ball said with regards to Mrs. Hubley a community association requested the change in the zone without the knowledge of those the two property owners. He said that mistake was recognized and brought forward before the MPS would have been implemented. He said if it had not been then, technically, the municipality would have to go through a rezoning process in order to fix that mistake. He said all council has done is to maintain the same zone, for the Hubley's, that they had previous to tonight.

Mayor Ball referenced the Soil and Water Conservation Society item. He said the items went to PAC and that Committee recommended seven items to council to have a public hearing on. He said council approved that public hearing.

Ms. Corser said in consultation with the Soil and Water Conservation Society staff developed a policy that is fairly general. It would be something that could be implemented at some point in the future. She said it has been worded in such a way that council would have the opportunity to look at designating the resources to carry this out. She said the policy that went to PAC said "intention of council to cooperate with the Department of the Environment to establish lake carrying capacities, for lakes within the plan area, and to establish appropriate development controls which are intended to preserve the long term quality of lakes". She said it was very general with no time frame attached but it was a policy that could be acted on at some point in the future.

Councillor Meade said Mr. Mandaville referenced a 300 metre setback from lakes and streams etc. He said that is 1,000 feet. He said there are many lakes and streams etc. in district 1 and if this distance is what is approved there would be no more development in district 1.

Ms. Corser said the 1,000 feet is not a setback but a zone of sensitivity. She said this is saying establish appropriate densities in that 1,000 feet so that you could have development but, once you establish what water quality you want in your lake, then you establish the density of development around your lake particularly within the zone of sensitivity.

Councillor Meade asked who would be doing all these studies as there are approximately fifty lakes in district 1.

Mayor Ball asked if the lakes stretched into Hants County. Councillor Meade confirmed that they did.

Councillor Hendsbee asked if it would be to the best advantage of the municipality to defer decision on the full plan to allow an opportunity for this issue to be heard or to pass it at tonight's meeting and go through the amendment process.

Mayor Ball said in his opinion council should deal with the MPS and Land Use By-law in order to have it on the books and staff can come back with a report as to any policy change that might be necessary to possibly accommodate the Soil and Water Conservation Society's proposal and whether or not the municipality could get it done.

Councillor Bates said this should have been treated the same as the other seven items in that it would go back to staff and come back to council. He said it was requested to be brought back to council but really it has not come back to be discussed with the other items.

Mayor Ball said it did go to PAC and PAC did not forward it on to council because they obviously recommended against it. He said it did come to council because a public hearing date was set by council on the seven items that were there and, in the staff report, it is obvious that staff and the PAC did not recommend this particular item. He said council approved that when it approved the public hearing date for the seven items. He said; therefore, council concurred with the recommendation of PAC.

Councillor Reid said a recommendation against can be brought forward the same as a recommendation for would be brought forward. He said a recommendation against was not brought forward to be given a chance to deal with that point that PAC turned down.

Deputy Mayor Cooper said it had been a specific item brought to council. It had been referred back and went as far as PAC. He said it council never had an opportunity to consider arguments made on that particular recommended policy. He said council never had an opportunity to hear anyone on that concern. He said the general public had no opportunity to address that concern if

it had been brought through. He said council should have at least had the opportunity to say "we will have these seven item not including that one".

Councillor Merrigan said a public hearing was made and council heard concerns. Staff was asked to go back and make certain recommendations. He said the Soil and Water Conservation Society had had an opportunity to speak at the public hearing. He said if council, at that public hearing, wanted it to be part of the plan they should have suggested something to staff or suggested to PAC that it wanted the plan drawn up and brought forward with this included. He said he feels the process was correct in that anyone who wanted to speak had the opportunity to speak.

Councillor Fralick said they have had extensive studies and open houses. They have advertised and he feels the issues have been addressed.

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

'THAT COUNCIL APPROVE THE MUNICIPAL PLANNING STRATEGY FOR DISTRICT 1 AND 3'

MOTION CARRIED

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

'THAT COUNCIL APPROVE THE LAND USE BY-LAW, INCLUDING THE AMENDMENTS, FOR PLANNING DISTRICTS 1 AND 3'

MOTION CARRIED UNANIMOUSLY

It was moved by Councillor Sutherland, seconded by Deputy Mayor Cooper:

'THAT THE ISSUE RELATING TO THE SOIL AND WATER CONSERVATION SOCIETY BE REFERRED BACK TO STAFF, THROUGH PLANNING ADVISORY COMMITTEE, WITH A REPORT COMING BACK TO COUNCIL'

MOTION CARRIED

ADJOURNMENT

It was moved by Councillor Meade:

"THAT THE MEETING BE ADJOURNED"

MOTION CARRIED