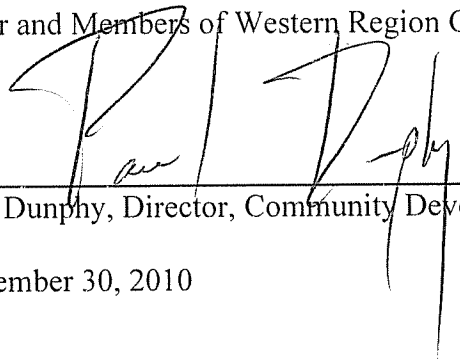


Western Region Community Council  
January 24, 2011

**TO:** Chair and Members of Western Region Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director, Community Development

**DATE:** November 30, 2010

**SUBJECT:** Case 16445: Rezoning – 651 Ketch Harbour Road, Portuguese Cove

**ORIGIN**

Application by Coastline Song Disciple Church to rezone 651 Ketch Harbour Road, Portuguese Cove, from the P-2 (Community Facility) Zone to the R-1 (Single Unit Dwelling) Zone.

**RECOMMENDATION**

It is recommended that Western Region Community Council:

1. Give First Reading to the rezoning of 651 Ketch Harbour Road, Portuguese Cove from the P-2 (Community Facility) Zone to the R-1 (Single Unit Dwelling) Zone, as identified in Attachment A of this report, and schedule a public hearing.
2. Approve the rezoning of 651 Ketch Harbour Road, Portuguese Cove from the P-2 (Community Facility) Zone to the R-1 (Single Unit Dwelling) Zone, as identified in Attachment A of this report.

## **BACKGROUND**

### **Proposal**

This case proposes the rezoning of a property located at 651 Ketch Harbour Road, Portuguese Cove (subject property) from the P-2 (Community Facility) Zone to the R-1 (Single Unit Dwelling) Zone in order to permit a single unit dwelling on the property.

### **The Subject Property**

The subject property has been home to a church since 1953, and as such, is zoned P-2 (Community Facility) by the Planning District 5 Land Use By-law (LUB) (Map 1). In 2005, the property was consolidated with adjacent lands to the south, which increased the size of the lot from 9,716 square feet to 14,264 square feet. This process also increased the property's frontage on Ketch Harbour Road from 113.51 feet to 166.51 feet. The subject property is designated 'Residential' by the Planning District 5 Municipal Planning Strategy (MPS) (Map 2).

## **DISCUSSION**

### **Plan Policy**

Policy RES-3 of the MPS provides the Community Council the ability to consider applying the R-1 Zone in areas designated 'Residential' (Attachment B).

### **Surrounding Zoning**

The community of Portuguese Cove is characterized by low density residential development. As shown on Map 1 of this report, the subject property is predominantly surrounded by R-1 zoned properties, with the exception of the church cemetery (to the rear) and its driveway which will retain the P-2 Zone.

### **Residential/Institutional Zones**

The P-2 Zone does not permit stand-alone residential uses, while the R-1 Zone does not permit institutional uses typically found in residential communities (i.e. churches).

In contrast, many other land use by-laws in the Municipality recognize certain types of institutional uses as important components within a residential community, and therefore permit these uses through low-density residential zoning. For example, a property zoned R-1 in Timberlea would also permit many institutional uses.

Although the approach taken through the LUB does not permit the subject property to be converted to a single unit dwelling through the current P-2 Zone, the MPS does contain policy enabling Council to consider applying the Single Unit Dwelling Zone.

### **Policy Intent**

As stated, policy RES-3 of the MPS enables Council to consider this rezoning request. Although the policy does not contain specific criteria for such requests, implementation policy IM-10 provides some guidance (Attachment B).

While the proposed zone is generally in keeping with the intent of the MPS and consistent with the existing development form and zoning in the community, staff have identified the following three points for discussion purposes:

**(1) Lot Size**

As the property is not serviced with central water and sewer services, the minimum lot size required by the existing zone (P-2) is 20,000 square feet (Attachment C). Although the subject property has an area of 14,264 square feet, the LUB permits a building erected on or before the LUB to be enlarged, reconstructed, repaired, replaced, rebuilt, or renovated provided certain LUB provisions are satisfied (Attachment C). The LUB was adopted in 1994, while the church has been on the subject property since 1953.

The proposed zone (R-1) contains the same 20,000 square foot minimum lot area requirement found in the P-2 Zone, however, the R-1 Zone permits a very limited range of uses compared to the P-2 Zone (Attachment C). Given the existing and proposed zones have the same minimum lot area requirement, and given the proposed zone is more restrictive in terms of land use, the deficiency in lot area does not pose concern related to rezoning or the ability to issue permits following a rezoning.

**(2) On-Site Sewage Disposal**

The applicant has undertaken a design for a new residential septic system on the subject property. Nova Scotia Environment has issued an approval for this new residential septic system. In the event the subject property was rezoned to R-1, this approval would be required prior to Municipal staff entertaining a permit application for a single unit dwelling.

**(3) Traffic/Access**

This portion of Ketch Harbour Road is owned and maintained by the Province. Through the rezoning process, the Municipality sought comment from Nova Scotia Transportation and Infrastructure Renewal (NSTIR) regarding the rezoning request. NSTIR has indicated the change in use from a church to a single unit dwelling does not raise concern from a traffic impact standpoint, although NSTIR has requested the existing access to the site is modified to ensure a clearly defined entrance. This issue will be addressed by NSTIR at the construction approval stage.

**Conclusion**

Given the subject property is located within an area designated for residential use, and given the predominant development pattern and zoning in the general area is low-density residential, staff recommended Western Region Community Council approve the rezoning of the subject property to R-1.

**BUDGET IMPLICATIONS**

The costs to process this planning application can be accommodated within the 2010/11 operating budget for C310 Planning & Applications.

## FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

## COMMUNITY ENGAGEMENT

The community engagement process incorporated with this case is consistent with the intent of the HRM Community Engagement Strategy. Community engagement included public consultation, which was facilitated through a public information meeting (PIM) held on October 20, 2010. A public hearing must be held by Western Region Community Council before they can consider approval of any amendments.

For the PIM, notices were posted on the HRM website, in the newspaper, and mailed to property owners with the notification area shown on Map 1. Attachment D contains a copy of the minutes from the meeting. Should Western Region Community Council decide to proceed with a public hearing for this case, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 1 will receive a mailed notification. The HRM website will also be updated to indicate notice of the public hearing.

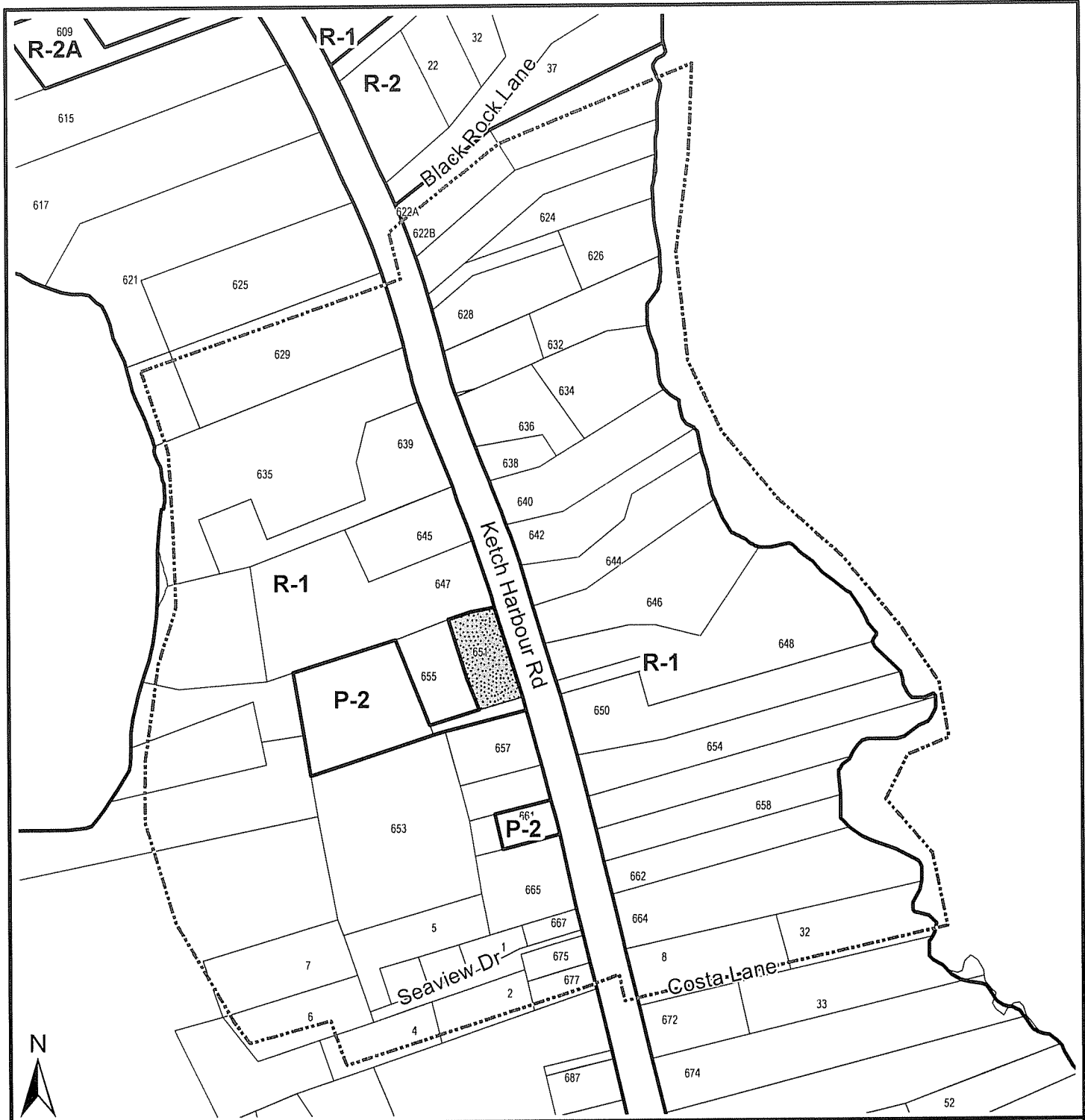
## ALTERNATIVES

1. Council may choose to proceed with the rezoning from P-2 (Community Facility) Zone to R-1 (Single Unit Dwelling) Zone. This is the staff recommendation for the reasons described above.
2. Council may choose to refuse the proposed rezoning, and in doing so, must provide reasons based on conflict with the MPS.

## ATTACHMENTS


Map 1:	Location and Zoning Map
Map 2:	Planning District 5 Generalized Future Land Use Map
Attachment A:	Amendment to the Land Use By-law
Attachment B:	Excerpts from the MPS
Attachment C:	Excerpts from the LUB
Attachment D:	Public Information Meeting Minutes





**Map 1 - Location and Zoning**

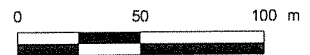
651 Ketch Harbour Road  
Portuguese Cove

 Area proposed to be rezoned from P-2 (Community Facility) to R-1 (Single Unit Dwelling)

Planning District 5  
(Chebucto) Plan Area

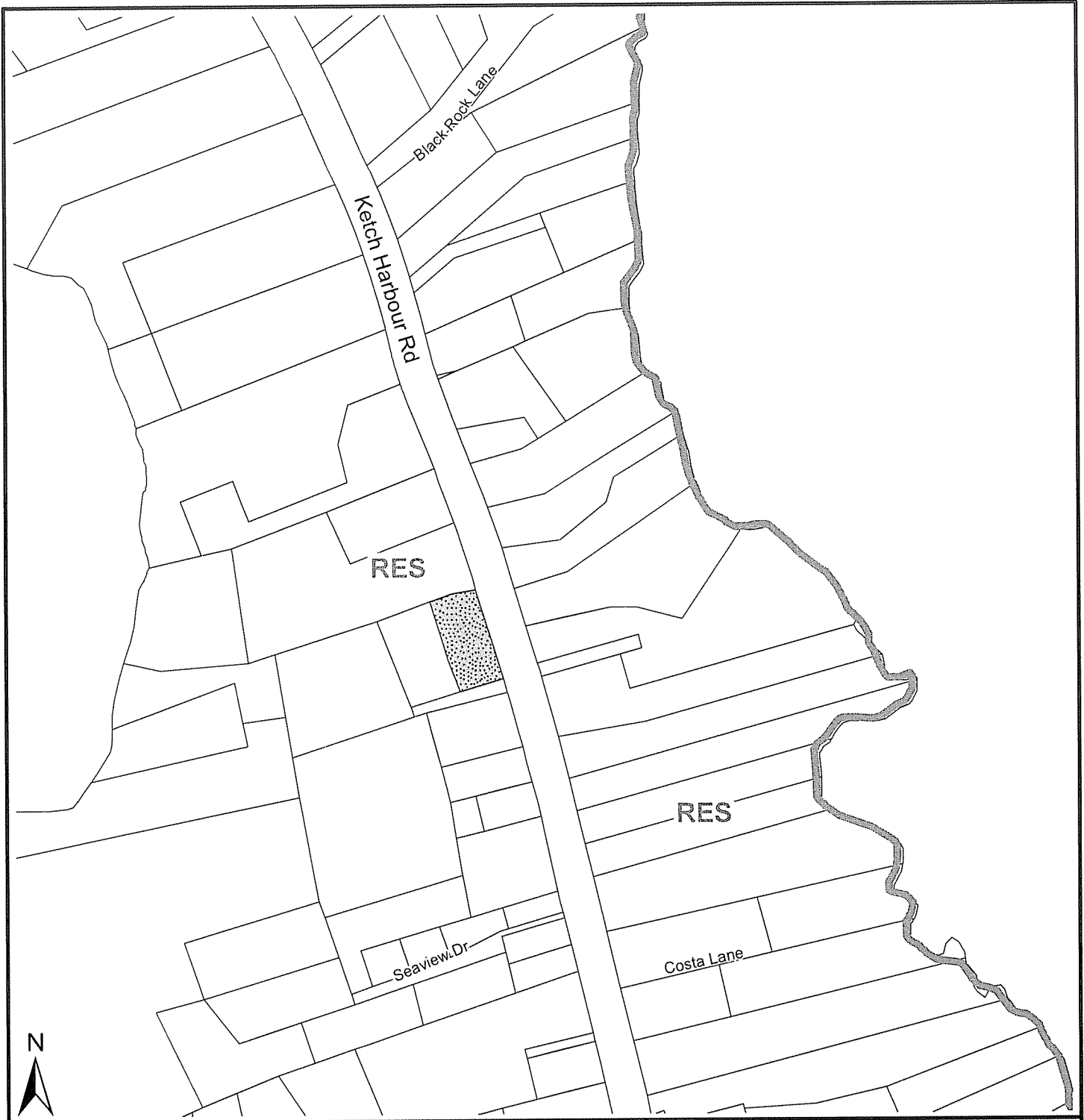
**Zone**

- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-2A Residential Home Occupation
- P-2 Community Facility




This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated

HRM does not guarantee the accuracy of any representation on this plan



**Map 2 - Generalized Future Land Use**

651 Ketch Harbour Road  
Portuguese Cove

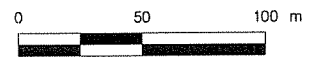
 Area proposed to be rezoned from P-2 (Community Facility) to R-1 (Single Unit Dwelling)

Planning District 5  
(Chebucto) Plan Area

**Designation**

RES Residential

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated

HRM does not guarantee the accuracy of any representation on this plan.

Attachment A  
Amendment to the Land Use By-law for Planning District 5 (Chebucto Peninsula)

BE IT ENACTED by the Western Region Community Council of the Halifax Regional Municipality that the Land Use Bylaw for Planning District 5 (Chebucto Peninsula) as enacted by the former Halifax County Municipality on the 5<sup>th</sup> day of December, 1994, and approved with amendments by the Minister of Municipal Affairs on the 9<sup>th</sup> day of February, 1995, which includes all amendments thereto which have been adopted by the Halifax Regional Municipality and are in effect as of the 17<sup>th</sup> day of April, 2010, is hereby further amended as follows:

1. By amending the Planning District 5 Zoning Map of the Land Use By-law as shown on the attached Schedule A.

I HEREBY CERTIFY that the amendment to the Land Use By-law for Planning District 5 (Chebucto Peninsula) as set out above, was passed by a majority vote of the Western Region Community Council of the Halifax Regional Municipality at a meeting held on the \_\_\_\_ day of \_\_\_\_, 2011.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2011.


\_\_\_\_\_  
Cathy Mellett  
Municipal Clerk





**Schedule A**

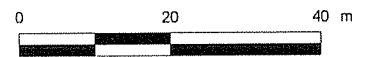
651 Ketch Harbour Road  
Portuguese Cove

 Area to be rezoned  
from P-2 (Community Facility)  
to R-1 (Single Unit Dwelling)

**Zone**

Planning District 5  
(Chebucto) Plan Area

R-1 Single Unit Dwelling  
P-2 Community Facility



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated

HRM does not guarantee the accuracy of any representation on this plan

**Attachment B**  
**Excerpts from the Planning District 5 MPS (Chebucto Peninsula)**

RES-3 Within the Residential Designation, it shall be the intention of Council to establish a single unit residential zone which permits single unit dwellings, existing two unit and mobile dwellings, open space uses, fishery support uses, day care facilities and certain limited home occupations of a limited size which are contained within the dwelling and operated by a resident of the dwelling, provided that controls are established on the scale of the business and that no signs, outdoor storage or display are permitted, in order to ensure that the home occupation is compatible with the residential environment.

- IM-10 In considering development agreements and amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:
- (a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;
  - (b) that the proposal is not premature or inappropriate by reason of:
    - (i) the financial capability of the Municipality to absorb any costs relating to the development;
    - (ii) the adequacy of on-site sewerage and water services;
    - (iii) the adequacy or proximity of school, recreation or other Community facilities;
    - (iv) the adequacy of road networks leading or adjacent to or within the development;
    - (v) pedestrian safety; and
    - (vi) the potential for damage to or for destruction of designated historic buildings and sites.
  - (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
    - (i) type of use;
    - (ii) height, bulk and lot coverage of any proposed building;
    - (iii) traffic generation, access to and egress from the site, and parking;
    - (iv) open storage;
    - (v) signs; and
    - (vi) any other relevant matter of planning concern.
  - (d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility of flooding.
  - (f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy p-79F", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)

Attachment C  
Excerpts from the Planning District 5 LUB (Chebucto Peninsula)

4.8 EXISTING BUILDINGS

Where a building has been erected on or before the effective date of this By-law, on a lot having less than the minimum frontage, area, or depth, or having less than the minimum setback or side yard or rear yard required by this By-law, the building may be enlarged, reconstructed, repaired, replaced, rebuilt, or renovated provided that:

- (a) the enlargement, reconstruction, repair or renovation does not further reduce the front yard or side yard that does not conform to this By-law; and
- (b) all other applicable provisions of this By-law are satisfied.

PART 20: P-2 (COMMUNITY FACILITY) ZONE

20.1 P-2 USES PERMITTED

No development permit shall be issued in any P-2 (Community Facility) Zone except for the following:

Institutional Uses

Educational institutions and uses;  
Denominational institutions and uses;  
Day care facilities;  
A single unit dwelling in conjunction with a day care facility;  
Fire and police stations;  
Government offices and public works;  
Hospitals, medical and veterinary clinics;  
Senior citizen housing;  
Public libraries, museums and galleries;  
Fraternal centres and halls;  
Community centres and halls;  
Recreation uses;  
Residential care facilities.

Open Space Uses

Public and private parks and playgrounds;  
Cemeteries;  
Historic sites and monuments;  
Marine related navigational aids.

20.2 P-2 ZONE REQUIREMENTS: COMMUNITY FACILITIES

In any P-2 Zone, where uses are permitted as Institutional Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	20,000 square feet (1858 m <sup>2</sup> )
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	½ the height of the main building
Maximum Lot Coverage	50 per cent

20.3 OTHER REQUIREMENTS: PARKING AREAS

- (a) No parking areas shall be permitted within any required side or rear yard.
- (b) All parking areas shall be demarcated and paved or otherwise treated with a stable surface which is treated in a manner to prevent the raising of dust and loose particles.

PART 6: R-1 (SINGLE UNIT DWELLING) ZONE

6.1 R-1 USES PERMITTED

No development permit shall be issued in any R-1 (Single Unit Dwelling) Zone except for the following:

- Single unit dwellings;
- Home occupations in conjunction with permitted dwellings;
- Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings;
- Fishery support uses;
- Open space uses;
- Existing two unit dwellings;
- Existing mobile dwellings.

6.2 R-1 ZONE REQUIREMENTS: RESIDENTIAL USES

In any R-1 Zone, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:

central sewer and water service	6,000 square feet (557.4 m <sup>2</sup> )
central sewer services/ on-site water	10,000 square feet (929 m <sup>2</sup> )

on-site services	20,000 square feet (1858 m <sup>2</sup> )
Minimum Frontage:	
central sewer and water services	60 feet (18.3 m)
central sewer services/ on-site water	75 feet (23 m)
on-site services	100 feet (32.84 m)
Minimum Front or Flankage Yard	20 feet (6.1 m)
Minimum Rear or Side Yard	8 feet (2.4 m)
Maximum Lot Coverage	35 per cent
Maximum Height of Main Building	35 feet (10.7 m)

### 6.3 OTHER REQUIREMENTS: OPEN SPACE USES

Where open space uses are permitted in any R-1 Zone, the following shall apply:

Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	30 feet (9.1 m)

### 6.4 OTHER REQUIREMENTS: HOME OCCUPATIONS

Where home occupations are permitted in any R-1 Zone, the following shall apply:

- (a) The home occupation shall be wholly contained within the dwelling which is the principal residence of the operator of the office.
- (b) No more than three hundred (300) square feet (28 m<sup>2</sup>) of gross floor area shall be devoted to any home occupation.
- (c) No materials or equipment which are obnoxious or create a nuisance by virtue of noise, vibration, smell or glare shall be used on the lot.
- (d) No open storage or outdoor display shall be permitted.
- (e) No sign shall be permitted to advertise the home occupation.
- (f) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m<sup>2</sup>) of floor area devoted to any home occupation. No portion of any parking space shall be located in any required side yard.

### 6.5 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-1 Zone, the following shall apply:

- (a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling which is the principle residence of the operator of the dwelling.
- (b) No open storage or display shall be permitted.



Attachment D  
Minutes from the Public Information Meeting

HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING  
CASE # 16445

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7:00 p.m.  
Wednesday, October 20, 2010  
William King Elementary, Herring Cove

**IN ATTENDANCE:** Miles Agar, Planner, HRM Planning Services  
Shanan Pictou, Planning Technician, HRM Planning Services  
Sharlene Seaman, Planning Controller, HRM Planning Services  
Councillor Steve Adams

Applicant, Neil Bergman  
Consultant, Les Carrie

**PUBLIC IN ATTENDANCE:** Approximately 3

---

The meeting commenced at approximately 7:00 p.m.

**1. Opening remarks/Introductions/Purpose of meeting - Miles Agar**

**Mr. Agar** opened the meeting by introducing himself as a planner for the Western Region of Halifax Regional Municipality (HRM).

He stated that HRM had received an application (Case # 16445) by Coastline Song Disciple Church to rezone 651 Ketch Harbour Road, Portuguese Cove, from P-2 (Community Facility Zone) to R-1 (Single Unit Dwelling Zone).

He noted that the purpose of the meeting was to identify to the public that Planning staff had received the application requesting a rezoning. He stated that he would identify the scope of the application as well as the planning process related to the particular request.

He welcomed any feedback, questions or comments from the public and stated that no decisions would be made at this point.

He introduced HRM staff, the applicants and the Councillor present. He gave the ground rules of the meeting.

## **2. Overview of Presentation of Proposal/planning process - Miles Agar**

Mr. Agar advised that Planning staff had received an application from the applicant. The rezoning would be considered at 651 Ketch Harbour Road from P-2 (Community Facility Zone), which is an institutional and open space zone to R-1 (Single Unit Dwelling Zone). He showed the location of the site. There is currently an institutional use for a church on the property. It is likely that the zone was put in place to reflect the church when the plan was adopted. He noted the P-2 and the R-1 zones. The P-2 zone permits a variety of institutional uses such as churches, educational institutions, as well as some open space uses. It does not permit stand-alone residential uses such as a single unit dwelling.

He spoke of the Municipal Planning Strategy (MPS) and advised that the property is within the Planning District 5 MPS. There is a map within that provides land use designations for all lands within the particular strategy. In this case, the properties all around the lake and the subject property are designated residential. The policy within the MPS, particularly policy RES-3 enables council to apply the R-1 zone within that residential designation. When making a decision of that nature, council will also have regard to the implementation policy, which contains general criteria associated with dealing with rezoning applications. One of the associated policies deals with conformance with the intent of the MPS.

He showed a site plan and stated that the lot itself has a considerable amount of frontage as it interfaces Ketch Harbour Road. There is approximately 165 feet of street frontage and as a whole, the property makes up 14, 264 square feet. There is an existing church on the site.

He stated that the application is dealing with a rezoning process. The application was received, reviewed and opened. No decisions would be made tonight. The purpose is to hear all comments and questions that the public might have. Staff will then conduct a review with all applicable Provincial and Municipal departments. At the end of that process, staff will formulate a report and provide a recommendation which will be forwarded to Western Region Community Council. There will be a Public Hearing (PH) after first reading, if Council chooses to hold a PH. They will make a decision after the hearing, either to approve or refuse. Both decisions are subject to an appeal process.

Mr. Agar then reiterated the overall rules and guidelines. He opened the floor for further questions.

## **3. Questions/Comments**

Donna Gourley asked if the septic tank and a pumping station on the plan was existing or for future use.

Mr. Agar stated that it is proposed for future use. The applicant has submitted an application to Nova Scotia Environment, including the design of the septic system. He understands that it has been approved by them.



Helen Serrao asked about the septic system on the church site.

Mr Agar showed the church site and the possible expansion in the event the property is rezoned. A single unit dwelling is potentially created by conversion of the existing church. He showed where the proposed septic system is located.

Duncan Macmillan asked about the septic system location.

Mr. Agar stated that the septic system is located in proximity to the driveway that leads to the graveyard.

Mr. Macmillan asked if the property is zoned for community uses and could be used for a hospital or a library.

Mr. Agar stated that existing zone is referred to as a community facility zone and could be used for an educational institution, denominational institutions, such as a church, daycare facility, a single unit dwelling in conjunction with a daycare facility, fire or police station, government offices, a hospital and libraries, amongst other uses.

Mr. Macmillan asked if that was the only property in the community that has that zone. He feels that if it is taken away, there wouldn't be any place for the children to gather.

Councillor Steve Adams stated that he is not sure if that is the only area with that zone.

Mr. Agar stated that the P-2 zone was applied to the property to reflect the existing use of the property as a church and the other as a graveyard.

Mr. Macmillan stated that if the property was to be rezoned, it would be gone and he would like to have a chance to see something in the community.

Donna Gourley asked if the zoning was implemented after the church was already there.

Mr. Agar advised that the MPS doesn't date back that far, so yes, they applied the P-2 zone to reflect the existing use that had taken place prior to the MPS being adopted.

Councillor Adams stated that this would be similar to having a home on a lot that was zoned something other than residential and HRM applied a residential zone to reflect what was on the property. This would make it legal, for lack of better terms.

Helen Serrao asked if the application was approved, would the structure have to be removed. She would like to see a building being used, not abandoned. She asked does the building have to be changed into a dwelling or rebuilt. She had always dreamed of living in an old church or school. She thinks it would be wonderful if the existing church could be used.

Mr. Agar stated that the planning department was only dealing with the rezoning at this time but if approved, any single unit dwelling is permitted. As long as the proposal meets that zone, it

could be a conversion of the church but they would have to meet the requirements, such as building codes and the Land use By-law. It could also be taken down.

Les Carrie introduced himself as the realtor for the property. He believes the building to be very sound and stated that the people who have looked at the site have had the intent to convert it to a dwelling. The biggest issue is that it takes about six months to go through this process and people just don't want to purchase in six months. They would like to purchase now. They did look at other uses on the site and no one showed interest so the only other alternative was to rezone. Donna Gorley asked about how the septic system would be handled because there are other lots in the area that drain into the ditches and she feels that it would be an issue.

Les Carrie stated that it is designed to handle a three bedroom home. This limits what can go on the property. He stated that the reason for the pump is because of the elevation of the church.

Neil Bergman stated that he is one of five directors within the church and he assured everyone that the profits can only go to charity. None of the five directors will gain profit. As a church, it is a charitable organization. One of the goals of trying to purchase the building was to take the coffee house approach. They tried this for a year but they noticed that the majority of the people stopping by were from outside the community.

#### **4. Closing comments/Adjournment**

Mr. Agar asked for any other questions, gave his contact information, and thanked everyone for attending the meeting.

The meeting adjourned at approximately 7:20 p.m.