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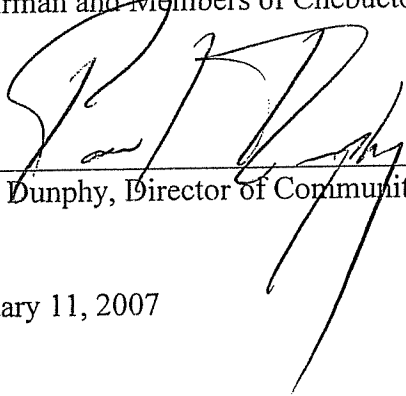


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
February 5, 2007

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY:


Paul Dunphy, Director of Community Development

DATE: January 11, 2007

SUBJECT: Case 00916: Rezoning of 65, 73 and 75 Kearney Lake Road

ORIGIN

Application by Fares Miller to rezone property at 65 Kearney Lake Road from R-1 (Single Family Dwelling) to R-2 (Two Family Dwelling) Zone and properties at 73 and 75 Kearney Lake Road from R-1 (Single Family Dwelling) to R-2T (Townhouse) Zone.

RECOMMENDATION

It is recommended that Chebucto Community Council:

1. Give First Reading of the proposed rezonings and schedule a public hearing.
2. Approve the rezoning of 65 Kearney Lake Road, Halifax, as shown on Map 1, from R-1 (Single Family Dwelling) Zone to R-2 (Two Family Dwelling) Zone.
3. Approve the rezoning of 73 and 75 Kearney Lake Road, Halifax, as shown on Map 1, from R-1 (Single Family Dwelling) Zone to R-2T (Townhouse) Zone.

BACKGROUND

The subject properties are located within the R-1 (Single Family Dwelling) Zone (see Map 1) and are designated Residential Environments under the Generalized Future Land Use Map for Halifax (see Map 2). Both 65 and 73 Kearney Lake Road are each occupied by a single detached dwelling unit, while 75 Kearney Lake Road is currently vacant.

Various uses occur in close proximity to the lots that are the focus of this rezoning application, these include multiple dwelling uses and minor commercial uses. Across the Kearney Lake Road, the properties face the backyards of single family dwellings fronting on Broadholme Lane.

The proposal is to demolish the existing single detached dwellings and to construct two semi-detached dwelling units at 65 Kearney Lake Road, four townhouse dwelling units at 73 Kearney Lake Road, and three townhouse dwelling units at 75 Kearney Lake Road (refer to Attachments "A", "B" and "C"). As this proposal involves a rezoning, it is important to note that Attachments "A", "B" and "C" are provided for illustration purposes only and that the proposal could undergo changes at the detailed design (permitting) stage.

DISCUSSION

1. Municipal Planning Strategy Policies

The Residential Environments designation is an all-encompassing residential designation which allows Council to consider any rezoning application to another residential zone, as long as the intent of the Municipal Planning Strategy is met. In its evaluation of this application, staff has identified four policies that Council should pay special attention to, these are listed in Attachment "D". The policies speak to the compatibility of the proposed development, in terms of use, intensity and scale, with the existing residential neighbourhood.

Overall the proposal is in keeping with the surrounding neighbourhood, especially when taking into account the fact that two large multi-family buildings are located on the abutting lots to the north and to the east of the subject properties. In addition, the proposed rezonings will have little impact on the properties located across the Kearney Lake Road, as these lots are mostly accessed from Broadholme Lane instead of the Kearney Lake Road and are heavily treed, which provides an adequate buffer from both the Kearney Lake Road and the subject properties.

The only concern that staff has with this application is on its potential impact on the single family dwelling located at 69 Kearney Lake Road. However, staff is reassured by the following facts:

- Both the R-2 and R-2T Zones have the same maximum height (35 feet) as the R-1 Zone;
- The R-2 Zone has the same maximum lot coverage (35%) as the R-1 Zone;
- The R-2T Zone possesses only a slightly higher (40%) lot coverage than the R-1 Zone; and
- The side yard setbacks are equal or greater in the R-2 and R-2T Zones as they are in the R-1 Zone.

Therefore, staff feels that the proposal meets the intent of the MPS.

2. Concerns from the Public Information Meeting

A number of concerns were raised at the Public Information Meeting, which are addressed as follows:

a) Traffic and Safety Issues

The proliferation of driveways along the Kearney Lake Road is an issue of concern to staff. Currently there are three driveways serving the subject properties, one for each lot. The applicant proposes a common driveway with two accesses to service the townhouses to be located at 73 and 75 Kearney Lake Road, and two separate driveways to service the semi-detached units to be located at 65 Kearney Lake Road. It is the opinion of staff that the additional driveway at civic number 65 will result in negligible impacts on the Kearney Lake Road.

Safety concerns were raised by both local residents and the area Councillor, in relation to the proposed driveway locations on the Kearney Lake Road. However, stopping site distance tests conducted on-site concluded that standard sight stop distances can be achieved in all four locations.

Prior to the issuance of permits on the subject properties, the applicant will have to submit a detailed construction staging plan. The staging plan will include but not be limited to: construction access & egress, material delivery, lane closures, lane encroachments, working hours and temporary signing. HRM will also require a plan to deal with mud tracking on Kearney Lake Rd. Lane closures or lane encroachments will not be permitted during peak traffic hours.¹ In all cases, any and all construction staging shall be done in accordance with the latest edition of the Nova Scotia Department of Transportation's Temporary Workplace Traffic Control Manual.

b) Tree Preservation

A number of residents have expressed concern that some of the trees located at the back of the properties under application should be preserved in the event that these properties were successfully rezoned. Unfortunately, there is no ability under the Municipal Government Act for Council to require tree preservation in the course of a rezoning process. While the applicant has publicly stated that his client will preserve as many trees as possible, there is no way for staff to enforce this commitment.

¹ As defined by HRM Traffic Services

Conclusion

Staff feel that the proposal satisfies the applicable policies of the Municipal Planning Strategy (Attachment "D"). As such, it is recommended that Chebucto Community Council approve the application to rezone 65, 73 and 75 Kearney Lake Road.

Public Information Meeting / Area of Notification

A Public Information Meeting for this application was held on October 16, 2006. Minutes of this meeting are provided as Attachment "E" of this report. Should Community Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 3 will be sent written notification.

BUDGET IMPLICATIONS

There are no budgetary implications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

1. Council may approve the application to rezone 65, 73 and 75 Kearney Lake Road. This is the recommended course of action.
2. Alternatively, Council may choose to reject the proposed rezonings for 65, 73 and 75 Kearney Lake Road. Pursuant to Section 210(5) of the Municipal Government Act, Council must provide reasons for this refusal, based on the policies of the MPS. This alternative is not recommended as staff is satisfied that the proposed rezonings are consistent with the policies and intent of the MPS.

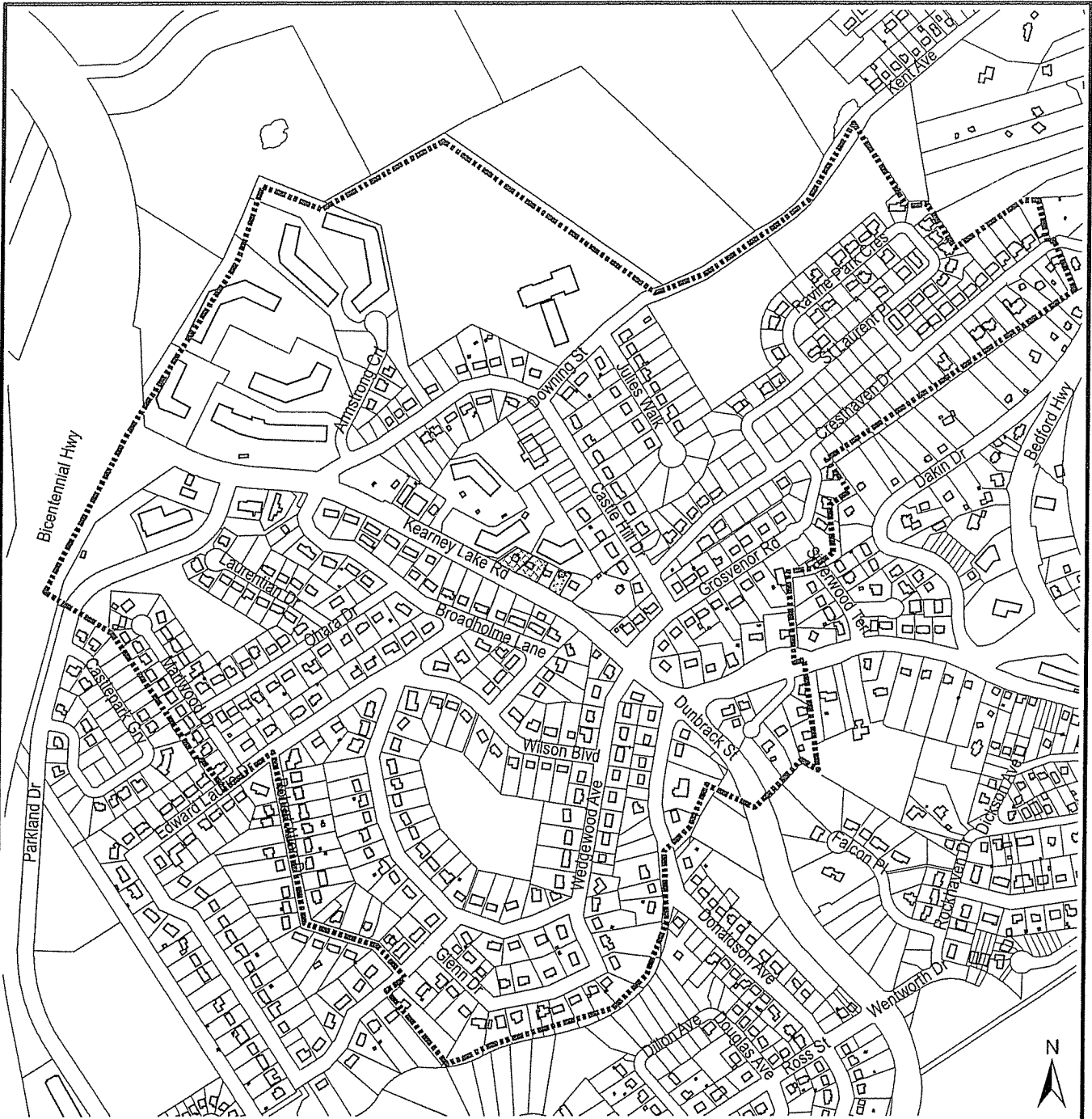
ATTACHMENTS

Map 1	Zoning and Location
Map 2	Generalized Future Land Use
Map 3	Area of Notification
Attachment "A"	Site Plan (Plan # 0091600006)
Attachment "B"	Front Elevation of Proposed Units (Plan # 0091600004)
Attachment "C"	Rear Elevation of Proposed Units (Plan # 0091600005)
Attachment "D"	Excerpts from Halifax MPS
Attachment "E"	Minutes from the October 16, 2006, Public Information Meeting

A copy of this report can be obtained online at <http://www.halifax.ca/commcounc/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.



Report Prepared by: Luc Ouellet, Planner I, 490-3689

Report Approved by: Austin French, Manager of Planning Services, 490-6717




Map 1 - Location and Zoning
 Kearney Lake Road
 Halifax

Halifax Mainland
 Land Use By-Law Area

-  Area to be rezoned from R-1 to R-2
-  Area to be rezoned from R-1 to R-2T

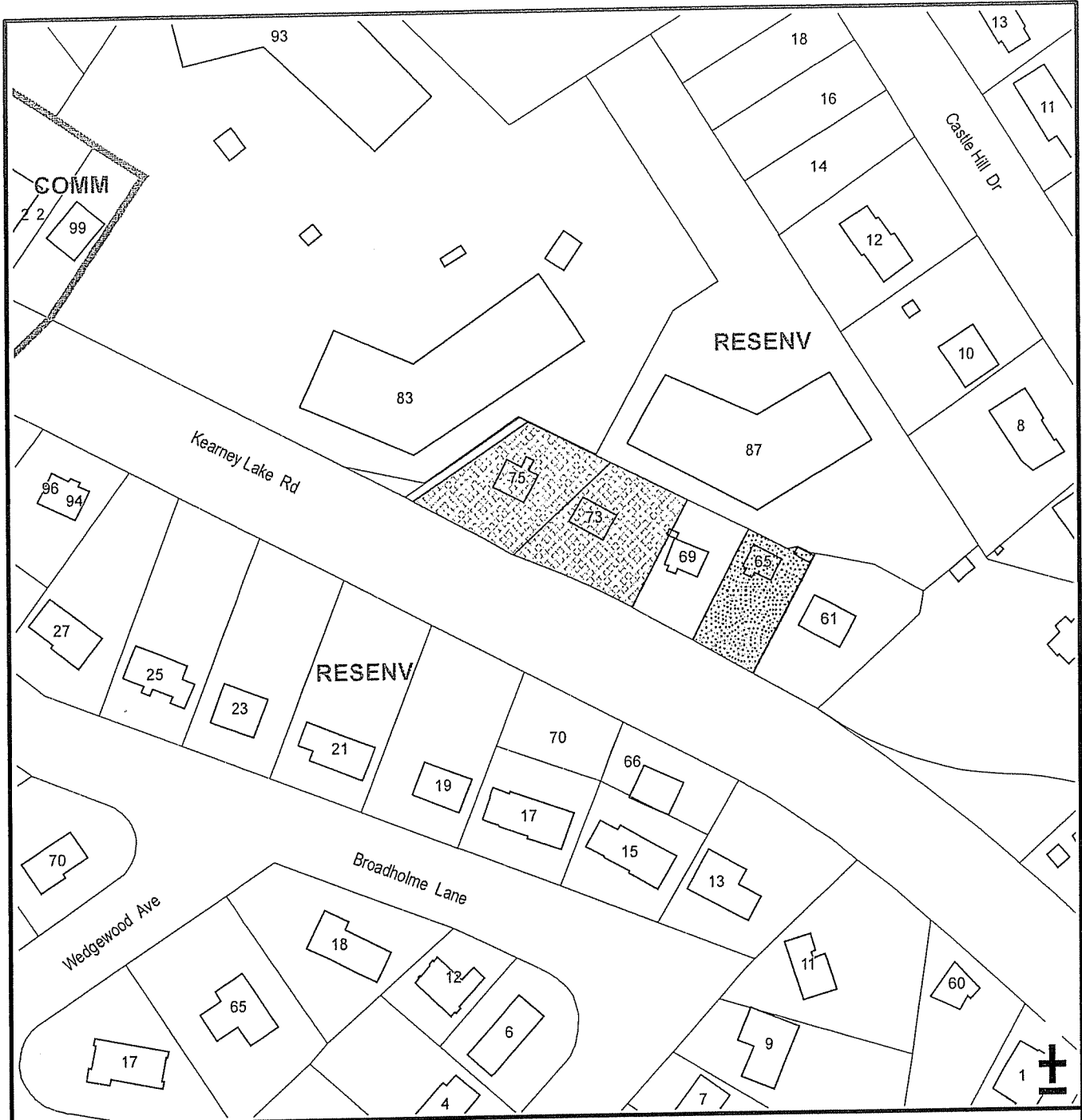
- Zone**
- R-1 Single Family Dwelling
 - R-4 Multiple Dwelling
 - C-2A Minor Commercial
 - P Park and Institutional

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This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area.

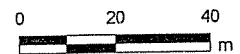
HRM does not guarantee the accuracy of any representation on this plan.



Map 2 - Generalized Future Land Use
Kearney Lake Road
Halifax

-  Area to be rezoned from R-1 to R-2
-  Area to be rezoned from R-1 to R-2T

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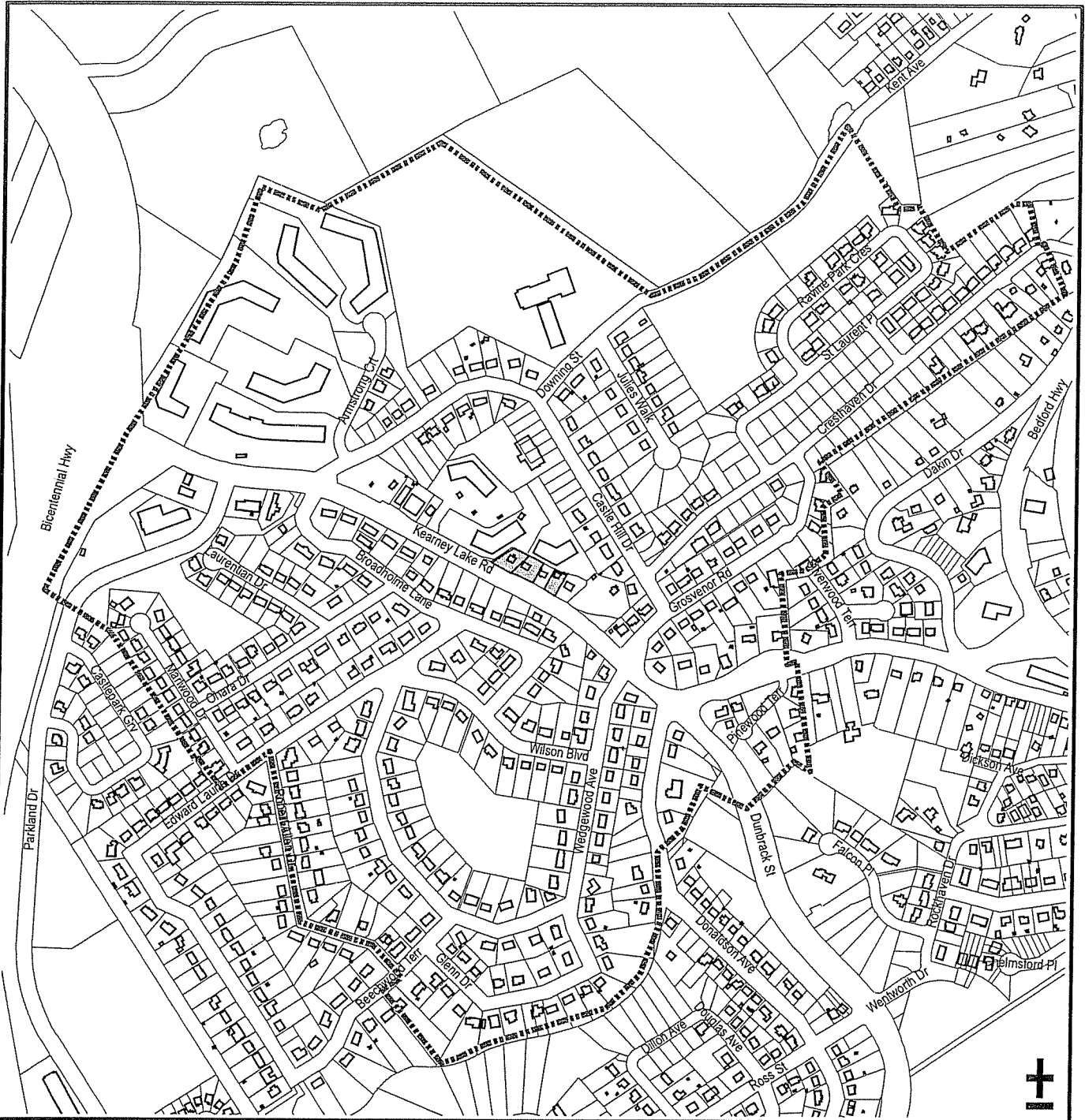
This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan area.

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



Designation

RESENV Residential Environments
COMM Commercial

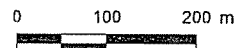
Halifax Plan Area



Map 3 - Area of Notification
 Kearney Lake Road
 Halifax

-  Subject property
-  Area of notification

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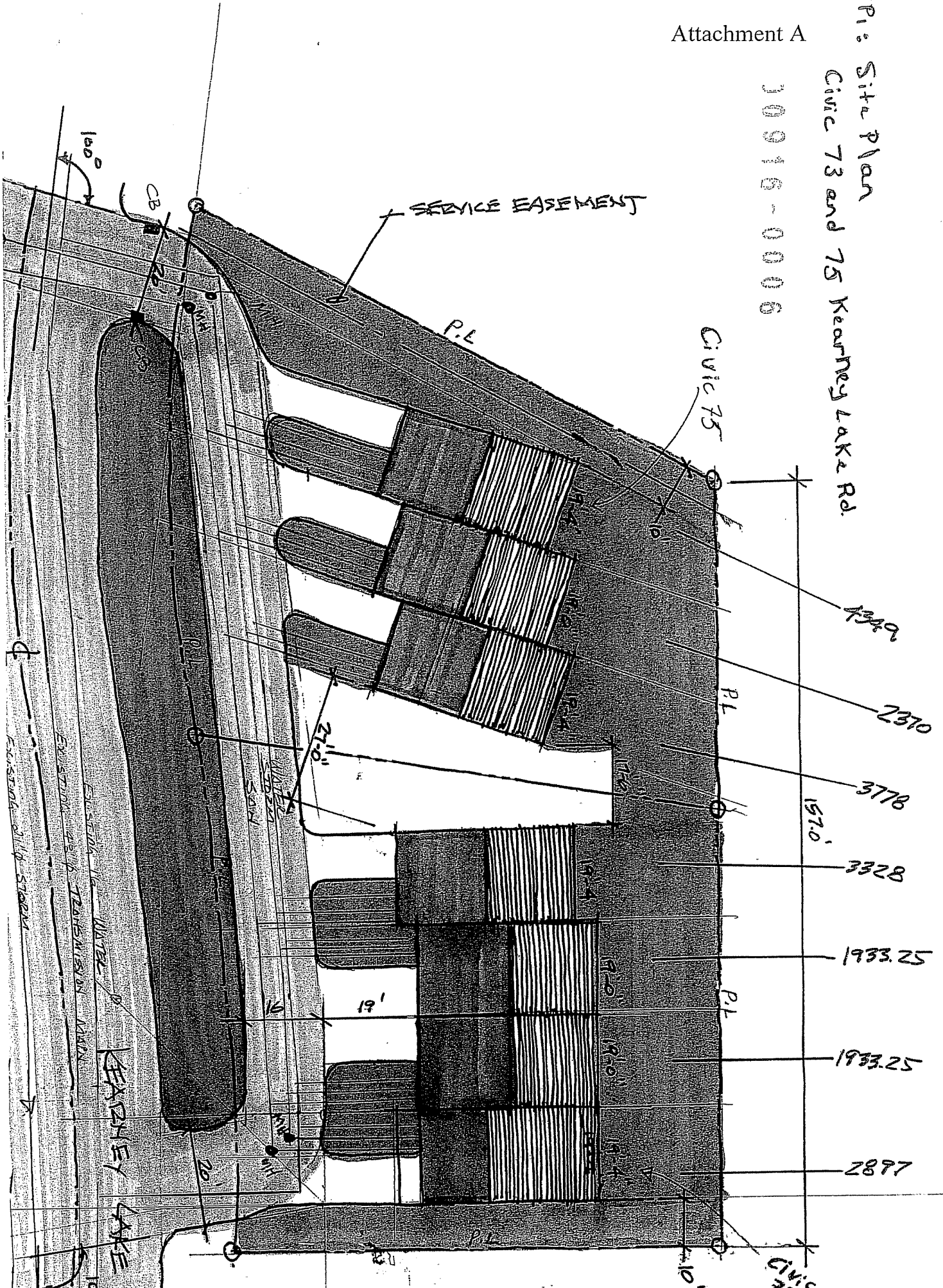
Halifax Mainland
 Land Use By-Law Area

HRM does not guarantee the accuracy of
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Attachment A

SP1: Site Plan
Civic 73 and 75 Kearney Lake Rd.

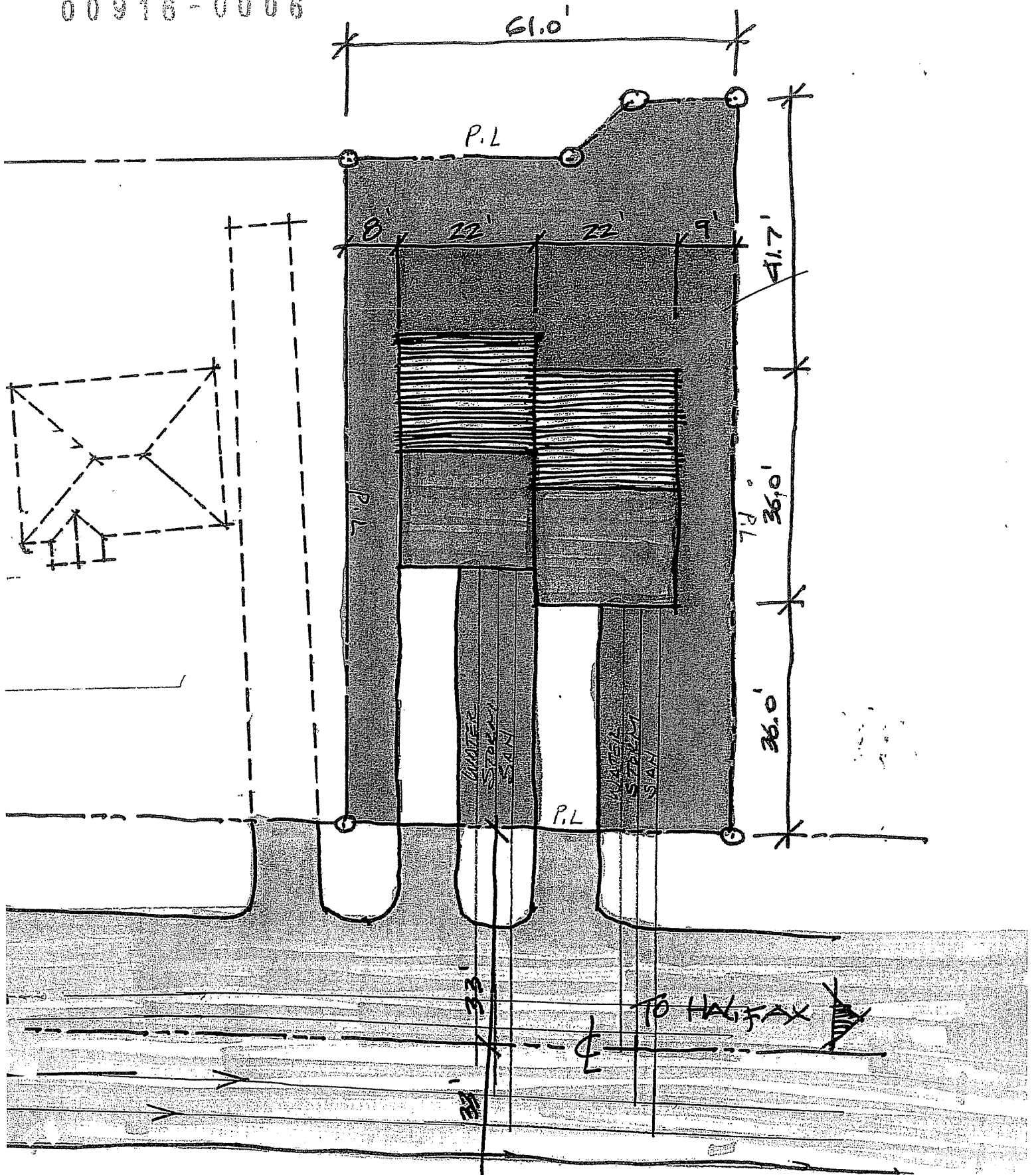
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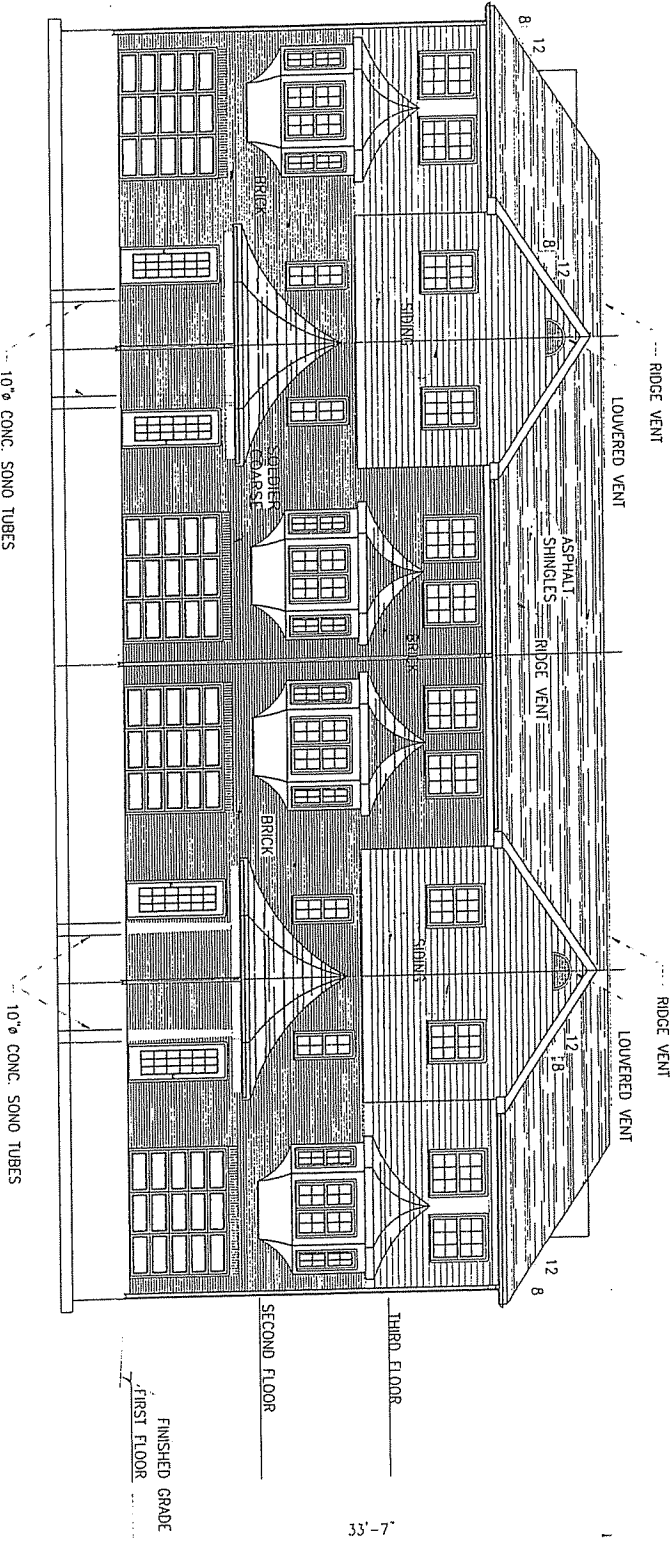


SP2: Site Plan

Civic 65 Kearney Lake Road

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

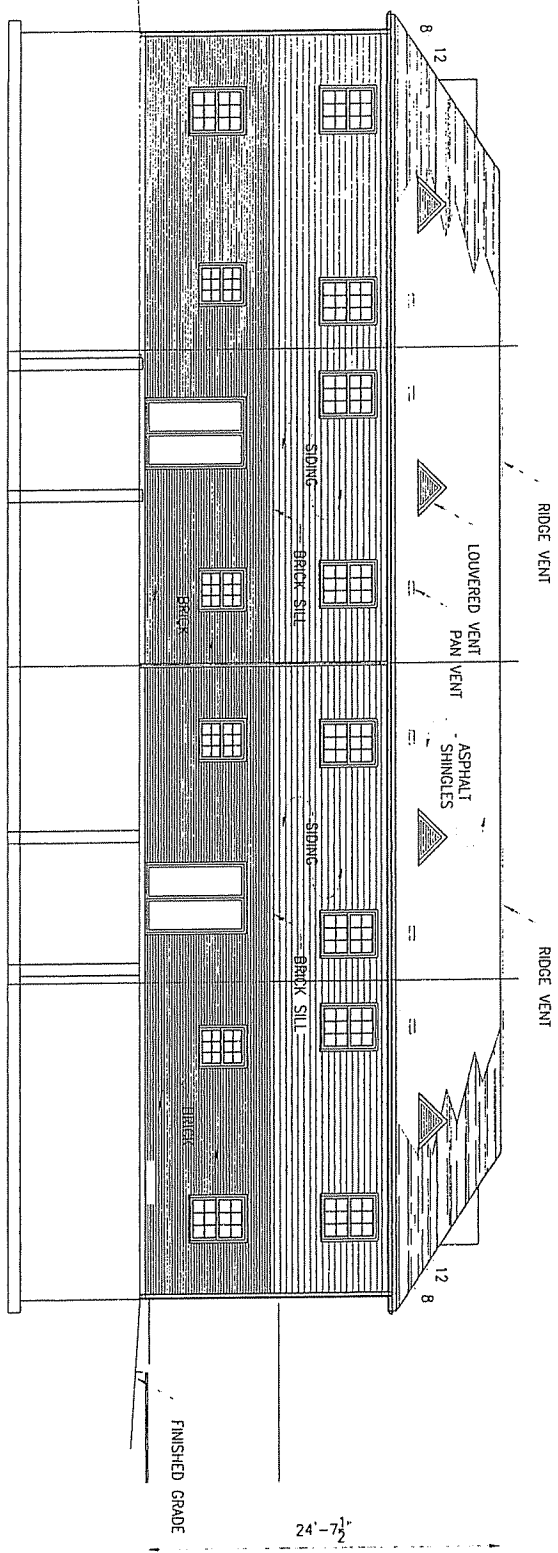
HALIFAX REGIONAL
MUNICIPALITY

OCT 13 2006

PLANNING SERVICES
WEST END MALL OFFICE

0091600004

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REAR ELEVATION

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

HALIFAX REGIONAL MUNICIPALITY
 OCT 13 2006
 PLANNING SERVICES
 WEST END MALL OFFICE

009160005

<p>PARSONS MILLER ARCHITECTS CONSULTANTS PLANNERS 1000-1000 W. 10th Ave.</p>	
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Attachment "D" Excerpts from Halifax MPS

Policy 2.2 (Part II, Section II City-Wide Policies):

The integrity of existing residential neighbourhoods shall be maintained by requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.

Policy 2.4 (Part II, Section II City-Wide Policies):

Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.

Policy 2.7 (Part II, Section City-Wide Policies):

The City should permit the redevelopment of portions of existing neighbourhoods only at a scale compatible with those neighbourhoods. The City should attempt to preclude massive redevelopment of neighbourhood housing stock and dislocations of residents by encouraging infill housing and rehabilitation. The City should prevent large and socially unjustifiable neighbourhood dislocations and should ensure change processes that are manageable and acceptable to the residents. The intent of this policy, including the manageability and acceptability of change processes, shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.

Policy 3.1.1 (Part II, Implementation Policies):

The City shall review all applications to amend the zoning bylaws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.

Attachment E **Minutes from the October 16, 2006, Public Information Meeting**

Public Information Meeting
Case 00916
October 16, 2006

In attendance: Councillor Hum
 Luc Ouellet, Planner, Planning Services
 Gail Harnish, Planning Services
 Cesar Saleh, Fares Miller

Mr. Luc Ouellet called the public information meeting (PIM) to order at approximately 7:05 p.m. at the Halifax West High School.

Mr. Ouellet referenced the handout, noting the second page contains a fact sheet which quickly explains the proposal and some of the planning regulations that apply to the area. The next page contains the rezoning process, which he reviewed:

- tonight we are at the third step which is the PIM
- following this meeting, staff will do a detailed review of the application by using MPS policy and the comments provided tonight
- the application is circulated to internal and external departments/agencies for comment
- Planning Services will prepare a report, which includes a staff recommendation, that will be tabled with Chebucto Community Council
- Council will review the report and decide if they want to proceed to schedule a public hearing. They can reject it at this stage. If they decide to proceed, they will schedule a public hearing and people will be notified by mail and newspaper ads.
- following the public hearing, Council will make a decision to either approve or reject the application
- any decision of Council can be appealed

Mr. Ouellet noted the last two pages include the permitted uses in the R-1 (Single Family Dwelling) Zone, the R-2 (Two-Family Dwelling) Zone, and the R-2T (Townhouse) Zone. At present, the lots are zoned R-1. The application is to rezone one property to R-2 and the other two properties to R-2T.

Mr. Cesar Saleh stated they are the designers behind the concept for the site. He also lived and worked in the area. He circulated copies of the elevations. The applicant owns these three parcels and wants to see the best use of the land. They ran a few studies; one for similar type housing and one for higher density. In their opinion, this is the best use for that site.

Mr. Saleh advised they are proposing two blocks of townhouses (one of three and one of four), and a semi-detached dwelling similar to what is across the street from this site. The townhouses are staggered to protect the mass. The area of each townhouse is 750 sq.ft. They would be a

combination of brick and siding. The elevation at the back is 24'. You would see three storeys from the front and two from the back. There is a 8' difference in the elevation of the site.

Mr. Saleh said they want to rezone the lots to R-2 and R-2T. They meet all the requirements of the LUB such as access points, density, and height. This is the beginning of the process. They are here to hear what the residents have to say.

Ms. Gerry Deal questioned whether they had any drawings of the duplex at 65 Kearney Lake Road.

Mr. Saleh responded the drawing he passed around is for the set of four townhouses. The two unit building would be half that. They would be similar in design. It is a semi-detached building with two units attached to each other side by side. Each has its own parking and each would be sold separately. The condominium that would own this would share the responsibility for maintaining this driveway.

Ms. Joyce Richards, 66 Kearney Lake Road, said her main concern had to do with landscaping.

Mr. Saleh indicated he spoke to the client, JRT Developments, before he came to the meeting. He builds high end homes. Right across the corner on Castle Hill Drive, he has four homes under construction. It is in his best interest to save as many trees as possible. Trees are very valuable in terms of marketing the site.

Ms. Phyllis Linder stated the trees are absolutely beautiful and did not know why we have to insist on cutting down what is beautiful in their city to put up a building they don't need. She questioned how high the building would be.

Mr. Saleh responded the height would be less than the height of a single family dwelling which, according to the land use by-law, could be 35'.

Ms. Linder expressed concern that their view would be cut-off. All their balconies are private and they do not need blinds.

Mr. Saleh indicated the ground elevation at the back is 24'.

Ms. Linder noted there is a house there now but it is only one storey high.

Ms. Saleh indicated the house in front of them has a foreclosure sign on it. It's not even habitable. Anybody can demolish that and build a house that is 35' high. This lot can be subdivided into four single family dwellings.

Ms. Nellie Ellen said she backed onto the lot. She questioned how wide the easement is and the width of the required space between the three unit building and the property at 83 Kearney Lake Road.

Mr. Saleh responded the distance between the townhouse and the property line is 10'. He pointed out the Water Commission easement. They can come to the easement but cannot build on it.

Ms. Ellen commented she thought the trees are on the easement.

Mr. Saleh confirmed they could not build on the easement.

Ms. Millie MacCormack said she lived on the ground floor level of the condominium and would be impacted by the development. She accepted that. She questioned what would be at the back of the property and whether there would be a deck on the back of the building.

Mr. Saleh responded there is a minimum setback from the back of the townhouse to the property line. It is 25' from the back of the townhouses to the property line. These are townhouses to be sold. The same way she needs her privacy, if they market townhouses, they have to market that as well. There would be a 6' high decorative fence. There is a 5' high deck at grade at the back of the townhouses. This townhouse (pointed out) is two storeys in the back so from the kitchen you open the patio door and step into your backyard. There will be a fence in the back as well as to separate each unit from the adjacent units.

Mrs. Harvey said she lived in the little house in the middle. She asked if the fence would be extended down along either side of the property. Mr. Saleh responded yes.

Mrs. Harvey questioned whether the fence would be near the two property lines. Mr. Saleh responded it has to be within their client's property.

Mrs. Harvey said she was also concerned if this project goes forward because the Kearney Lake Road is extremely busy. The speed limit is only 50 kms but it seems like a raceway. She questioned whether there are any measures being planned to control traffic. There will be a lot of vehicles during construction.

Mr. Saleh responded there are regulations to control traffic during construction, mostly at the beginning of the process.

Ms. Harvey expressed concern about being able to access and exit their driveway during construction and did not want to have to ask them to move their vehicles.

Mr. Saleh stated his client is a very decent person and is a general contractor and a project manager by trade. He will make sure she is comfortable.

Mrs. Harvey questioned how close to the property line these buildings would come.

Mr. Saleh responded there is 10' between this townhouse and the property line (pointed out). On the other side there is 8'.

Mrs. Harvey commented that's their driveway. There is a little greenbelt there.

Mr. Saleh responded that would be untouched. He cannot build within 8' of the proposed townhouses. There will be fences coming down either side. Privacy for them is important as well.

Mrs. Harvey questioned whether there is going to be any blasting.

Mr. Saleh responded there will be minimal blasting. This land slopes up. They are following the topography. That is why the first level will be completely underground.

Mrs. Harvey asked about the small units on the other side.

Mr. Saleh responded they are of the same topography and elevation. There are guidelines to follow if there is blasting.

Ms. Marilyn Turner indicated she too was concerned about blasting. She questioned whether rezoning from R-1 to R-2 and R-2T would devalue their property.

Mr. Ouellet responded that in planning terms, staff does not discuss value. To say this might increase or decrease the value of their property is not something they would know and be able to communicate with the public. They have been asked to review a rezoning application. They usually take into consideration things such as the impact of traffic, existing infrastructure, and how it would fit in the community, but valuation is not something they evaluate.

Mr. Saleh said from his experience, knowing what is there now and what he knew of the clients, this will improve the area and not decrease it. These townhouses will probably range from \$225,000 to \$250,000.

Ms. Lori Bennett stated the whole landscape is bedrock. In order to do the first floor, they will have to blast. They were concerned about damage to their homes and wondered what they would do in that case.

Mr. Saleh responded there are guidelines to follow if there is blasting. A third party company is hired to monitor the levels of blasting. There has been development close to that site; two four unit buildings, a twelve unit building, and three condominium buildings in the back.

An individual indicated she had a condominium elsewhere and when they built a new condo next to it, they brought people in to look and see if there were any existing cracks just in case there was damage.

Mr. Saleh responded that is something that has to be done. The company goes inside a certain area and they inspect the homes before and after.

The individual questioned if they would be notified. Mr. Saleh responded they would be notified by the consulting company if blasting is required.

Ms. Robyn Deacy indicated the R-2 zone in the Fairview area allows a maximum of four units. They are looking for R-2 and R-2 zoning which means they can have more than two units.

Mr. Ouellet advised this area falls outside the Fairview area plan so the two extra units would not apply. Zoning varies throughout HRM.

Ms. Deacy questioned why they were looking for two separate zones.

Mr. Saleh responded a semi-detached building falls under the R-2 zone. Townhouses have their own zone.

Mr. Dan Fawson questioned whether the design could change after the property is rezoned.

Mr. Ouellet confirmed the design could change after the property is rezoned. Most of the time, applicants stick to their design but once the property is rezoned, you cannot force them to stick to it. They have to meet the requirements of the land use by-law.

Mr. Saleh stated they are a design company that has been in operation for over twenty years. Whenever they get involved with a project, their reputation is on the line. The development will look like what is in front of you or even better. The market dictates a certain quality.

Ms. Allen questioned who JRT Developments is.

Mr. Saleh responded it is John Alphonse. He lives in the area and has four homes under construction on Castle Hill Drive.

Ms. Deal questioned how far back from Kearney Lake Road the place next to her would be in relation to her house.

Mr. Saleh responded that it is 46' from the front of the house to Kearney Lake Road. The townhouse is 9' from the property line. Her house is probably 8' from the property line.

Ms. Deal indicated she had a stone wall between her house and the lot and questioned what would happen to that.

Mr. Saleh responded it would have to be assessed.

Ms. Deacy questioned how deep the lot is. Mr. Saleh advised the lots are 113' deep.

Mr. Stanley Vaughan questioned what the side yard requirements were. Mr. Ouellet confirmed it was 8' for R-1, R-2 and R2-T lots.

Mr. Chris Lamb questioned whether there was going to be a buffer zone of trees. That is one of the reasons why they moved there. There are so many trees down in behind in the backyards of the condominiums.

Mr. Saleh responded any trees bordering this property would remain untouched. There is a 25' back yard and mature trees that would benefit the project.

Mr. Lamb questioned whether the company would have to have insurance if there is blasting.

Mr. Saleh advised that whenever there is blasting required, HRM requires a third party consultant to monitor the levels of the blasting.

Mr. Lamb questioned how long the project would take and whether it would all be done at once or in phases.

Mr. Saleh advised the project would be done all at once. It is a significantly small project, and estimated the construction would take about five months.

Mr. Lamb questioned whether they would work through the winter.

Mr. Saleh responded it was hard to tell. They are still at the beginning of the process. This is a non as-of-right process which takes time. There will be a second meeting which is the public hearing.

An individual questioned whether there was any point in objecting.

Mr. Saleh responded that is her right.

Mr. Ouellet advised planning staff will evaluate the application against planning criteria. It also depends on the comments from the public. We have to evaluate what is allowed in the current and the new zoning. It depends on why you would be objecting and that is why they would be reviewing all the comments. When it goes to Community Council, the councillors will listen to their comments.

It was questioned which Council would hear the application.

Mr. Ouellet responded a staff report will be tabled with Chebucto Community Council, of which there are five members. Following tonight's meeting, staff will circulate the file to different agencies and departments. We will also look at the minutes from tonight's meeting and will evaluate those comments. Council will either decide to hold a public hearing or reject it but the applicant can appeal that to the Review Board. If Council follows through the public hearing process, people will again receive a notice. Those who want to speak at the public hearing will be given five minutes to do so. Council will also entertain written submissions. After the public hearing is closed, Council will make their decision.

Mr. Dale Schwartz questioned the distance from the building to the Kearney Lake Road.

Mr. Saleh responded 10'. The minimum setback requirement from a single family dwelling is 8'.

An individual stated the bedrock in the area is atrocious. This will be sitting right in front of him. The traffic on the Kearney Lake Road is horrific which they will be adding to.

Ms. Caroll deFrahan indicated she lived in a corner unit on the second floor. Her balcony faces the back yard with a line of trees which she was concerned about. She strongly felt this will go through. They have gone this far. They will probably start in the spring when it is easy to dig. She was concerned the construction would affect the landscape of their area. She knew it would be noisy. The traffic is horrific. Kearney Lake Road has a double yellow line and people cross it all the time. Grosvenor Road is just south of that. There is a lot of traffic. If you have to slow down to get into the driveway she hoped the City is working with them to slow down the traffic. There will be a major accident. She heard it once in the past six years and did not want that to happen again. There are a lot of near misses.

Mr. Don Brown questioned whether they would be using the existing water and sewer connections.

Mr. Saleh responded they are in the early stages of the process. They have not done any engineering design yet. They know there is sufficient capacity in the Kearney Lake Road but they are not sure if what is inside the pipe is sufficient.

Mr. Ouellet responded these matters are usually dealt with at the permit stage, although Engineering will review it prior to that. Engineering will review it to see if the services are adequate. They will look at the laterals at the permitting stage.

Councillor Hum noted there were questions on the process such as blasting and traffic. There is a Blasting By-law. She did not have the criteria but was sure the regulations would be included in the staff report if this project proceeds or at the next public meeting. Also, they are available on the HRM web page.

Councillor Hum indicated the issue regarding traffic has been raised previously through various emails and correspondence from local residents. She received some information today from Ken Reaschor who indicated they have not been consulted yet but would have to be consulted regarding the impact on traffic in terms of exiting and accessing driveways.

Councillor Hum indicated the Kearney Lake Road is considered an arterial road. Speed bumps are a part of the short-cutting study on Flamingo and Bayview but they are not permitted on Kearney Lake Road.

The meeting adjourned at approximately 8:00 p.m.

