

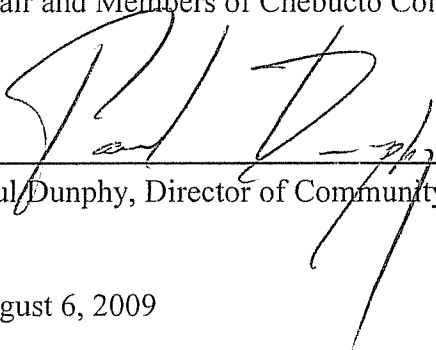


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
September 14, 2009

TO: Chair and Members of Chebucto Community Council

SUBMITTED BY:


Paul Dunphy, Director of Community Development

DATE: August 6, 2009

SUBJECT: ³ Case 01272: Rezoning of 4 Tremont Drive, Halifax

ORIGIN

Application by Mr. Douglas Choo to rezone 4 Tremont Drive from the R-1 (Single Family Dwelling) Zone to the R-2 (Two-Family Dwelling) Zone, to permit a duplex dwelling.

RECOMMENDATION

It is recommended that Chebucto Community Council:

1. Give First Reading to the proposed rezoning and schedule a public hearing.
2. Approve the rezoning of 4 Tremont Drive from the R-1 (Single Family Dwelling) Zone to the R-2 (Two-Family Dwelling) Zone.

BACKGROUND

The subject property, 4 Tremont Drive (PID 40884827), is located on the south side of Tremont Drive approximately 1 kilometer north of Mount Saint Vincent University and is zoned R-1 (Single Family Dwelling) Zone in the Halifax Mainland Land Use By-law. The property is 12,552 square feet in area and is undeveloped.

The applicant is requesting a rezoning from the R-1 (Single Family Dwelling) Zone to the R-2 (Two-Family Dwelling) Zone in order to build a duplex dwelling.

DISCUSSION

The property is a flag-shaped lot situated on a side slope and abuts the rear yards of R-1 zoned properties at 6,8 and 10 Tremont Drive and the rear yards of C-2A (Minor Commercial) zoned properties at 272, 274, 276 Bedford Highway. The property also abuts a 2 acre undeveloped parcel also zoned R-1 but without any road frontage. The neighbourhood context includes various uses in close proximity to 4 Tremont Drive including a multiple unit dwelling at 11 Forest Hill Drive and minor commercial uses on the Bedford Highway. The land use designation is Residential Environments in the Halifax MPS (Map 2).

Municipal Planning Strategy Policy

The Residential Environments designation is an all-encompassing residential designation which allows Council to consider a rezoning application to any of the residential zones within the LUB, as long as the intent of the Municipal Planning Strategy is met. Staff have identified four policies (Attachment "B") that were considered in evaluating this proposal. The policies all generally relate to the compatibility of the proposed development, in terms of use, intensity and scale, with the existing residential neighbourhood.

The proposed building has been evaluated against the R-2 Zone and staff have determined that the building is capable of meeting the applicable requirements. The LUB requirement for buildings used for R-1 and R-2 uses are fundamentally the same with regard to height, lot coverage and setbacks and, therefore, staff do not anticipate any issues relative to incompatibility.

The buildings used for R-1 and R-2 uses must comply with the following requirements:

- minimum lot frontage of 50 feet
- minimum lot area of 5,000 square feet
- maximum lot coverage of 35 %
- maximum height of 35 feet
- minimum of 950 square feet living space for R-1 uses and 900 square feet for R-2 uses

The R-2 Zone does allow for a more intense residential use, however, the lot size of 12,552 square feet is more than double the minimum 5,000 square foot requirement. This, together with the lot configuration, work to mitigate the intensity of the use.

Overall, the proposal is in keeping with the surrounding neighbourhood, especially when taking into account the diversity of uses found within the immediate vicinity and specifically the commercial uses located along the Bedford Highway. Therefore, staff feels that the proposal meets the intent of the MPS.

Public Information Meeting/Area of Notification

A Public Information Meeting for this application was held on June 15, 2009. Minutes of this meeting are provided as Attachment "C" of this report. A number of concerns were raised at the Public Information Meeting, which are addressed as follows:

Architectural Compatibility

During the meeting some concern was raised over the architectural compatibility of the proposed duplex design. The applicant has an architectural background and has designed the proposed dwelling in a modern aesthetic using exterior materials such as glass and concrete fibre panels that are more commonly found in commercial construction. Policy does require that Council consider the "*characteristics of the neighbourhood*" with regard to compatibility of the proposed rezoning. However, there is no specific or unique architectural character to the Tremont neighbourhood. Furthermore, architectural aesthetics and urban design are not specifically addressed in either policy or the land use by-law, therefore, the evaluation of the proposal's architectural merit is beyond Council's purview.

Precedence

A number of residents have expressed concern that this rezoning would create a precedent that would allow for additional rezonings within the Tremont Drive neighbourhood. Council is not held to considerations of precedent and should Council approve the proposed rezoning, it would only establish a precedent in so much as the exact same conditions (location, site conditions, abutting uses, etc.) would have to be met in deciding subsequent cases with similar issues or facts.

The proposed rezoning satisfies the applicable policies of the Halifax MPS (Attachment "B"). As such, it is recommended that Chebucto Community Council approve the rezoning application.

Should Community Council decide to hold a Public Hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 1 will be sent written notification.


BUDGET IMPLICATIONS


The HRM costs associated with processing this planning application can be accommodated within the approved C310 operating budget.



Map 1 - Location and Zoning

4 Tremont Drive
Halifax

 Property proposed to be rezoned from R-1 (Single Family Dwelling) to R-2 (Two-family Dwelling)

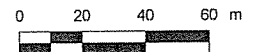
 Area of notification

Halifax Mainland
Land Use By-Law Area

Zone

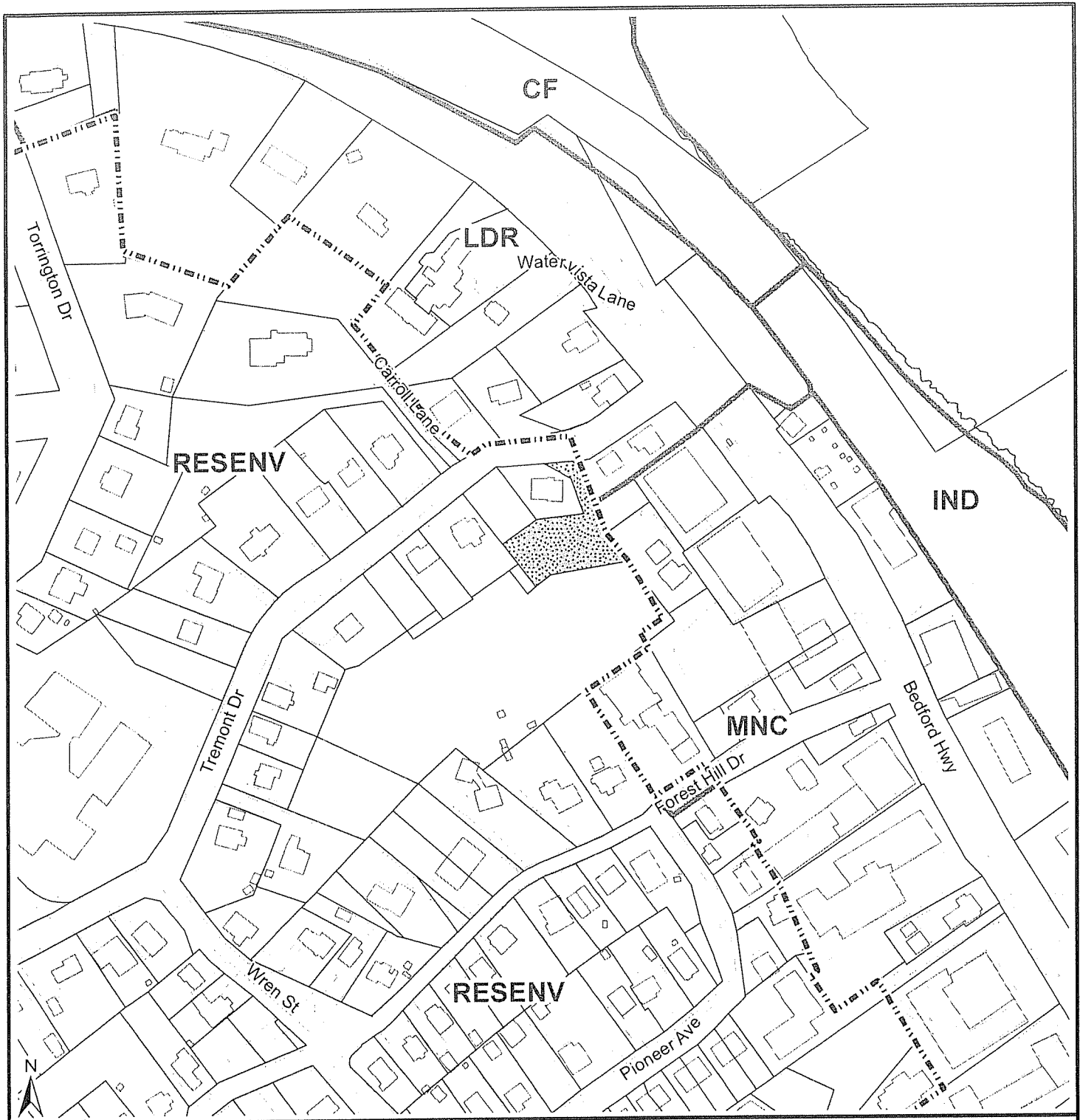
- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-4 Multiple Dwelling
- C-2A Minor Commercial
- I-1 General Industrial
- P Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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

4 Tremont Drive
Halifax



Property proposed to be rezoned
from R-1 (Single Family Dwelling)
to R-2 (Two-family Dwelling)

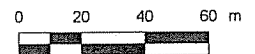
Halifax Plan Area
Bedford Highway Secondary Plan Area

**Designation
Halifax MPS**

RESENV Residential Environments

**Designation
Bedford Highway SPS**

- LDR Low Density Residential
- MNC Minor Commercial
- CF Community Facility
- IND Industrial



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

Attachment "A"
Amendments to the Land Use By-Law for
Halifax Mainland LUB

BE IT ENACTED by the Chebucto Community Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Mainland is hereby amended as follows:

1. **By amending Map ZM-1 as shown on Map 1:**

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Chebucto Community Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2009.


GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 2009.


Acting Municipal Clerk



Map 1 - Location and Zoning

4 Tremont Drive
Halifax

 Property proposed to be rezoned from R-1 (Single Family Dwelling) to R-2 (Two-family Dwelling)

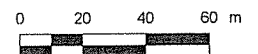
 Area of notification

Halifax Mainland
Land Use By-Law Area

Zone

- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-4 Multiple Dwelling
- C-2A Minor Commercial
- I-1 General Industrial
- P Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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.

Attachment "B"
Excerpts from Halifax MPS

Part II, Section II City-Wide Policies

Policy 2.2: *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: *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: *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.*

Part II, Implementation Policies

Policy 3.1.1: *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 "C"
Minutes - Public Information Meeting
Case 01272

7:00 p.m. Monday, June 15 2009, Keshen Goodman Library

STAFF IN ATTENDANCE: Brian White, MCIP, Planning Applications
Shanan Pictou, Planning Technician
Alana Hines, Planning Controller

ALSO IN ATTENDANCE: District 16 Councillor, Debbie Hum
Mr. Douglas Choo, Applicant

PUBLIC IN ATTENDANCE: Approximately 10 persons

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

1. Opening Remarks/Introductions/Purpose of Meeting

Brian White introduced himself as a Planner from HRM and introduced Alana Hines, Planning Controller and Shanan Pictou, Planning Technician. Mr. White indicated that the minutes from the meeting are being recorded.

Mr. White reviewed the meeting agenda, purpose of the meeting, policy context and zoning.

2. Presentation of Proposal

The application is to Rezone 4 Tremont Drive from the current zone R-1 (Single Family) to R-2 (Two Family). The rezoning would enable application for a semi-detached building.

Mr. Douglas Choo, applicant, wanted to share with everyone that this is a family project, he's not a developer. He likes this site and wants to build his first home here. He stated that he would really like his parents to live next to him and in his culture this is quite common. He'd like to share a home with his parents but have privacy at the same time, and this is why he is making application to rezone to R-2 so that the home would have 2 kitchens and it would share the yard. He stated he like's the site because it is private and showed a site plan and what he envisioned the yard to look like (handout). Mr. Choo reviewed the hand out he brought.

3. Questions/Comments

Robb Jarvis asked if rezoning to an R2 will it allow 4 units to be in any area and said he use to live in an R-2 area on the Peninsula. Mr. White said that R2 zoning is different on the Peninsula. R2 on the Peninsula would allow you to do 4 units, on the Mainland only duplex units are permitted.

Patsy Jarvis said she fears that the green treed area would become R-2 and it would open it up to be developed into R-2. Mr. White said that property is currently zoned R-1. Ms. Jarvis said yes, but if this was allowed this would open the door for other areas to rezone. Mr. White said two points of clarification. It is currently zoned R-1 but has no access. If a person wanted to put a single family home there and they have the right to do that provided they had access. That same owner could come in and cut down all the trees because the Municipality doesn't have any authority to say the trees have to stay. However, this property is not part of this application.

Pete Stubbs asked by allowing this lot to be rezoned to R-2 would it be easier for this treed lot to be rezoned as well. Mr. White said that property as it stands today has no access to allow development. He doesn't want to speculate on how the owner might be able to get access to that property. Notwithstanding, the way policy works, Council has the right and ability to examine every request for a rezoning in it's particular circumstance.

Robb Jarvis said listening to what Mr. Choo wants to do he is sympathetic to that, on the other hand, he is concerned that R-2 is going to start creeping in to the R-1 neighbourhood. So he is concerned about precedence. Mr. White, indicated that Planning Staff deal with this sort of application on a frequent basis and maintaining the integrity of existing residential neighbourhoods is very important in his analysis. For example, if an applicant wanted to rezone their property mid-block surrounded by R-1 properties, then that could be seen as breaking up the integrity of the residential neighbourhood and likely would not be favoured. This particular property abuts the minor commercial area along the Bedford Highway, and perhaps a slight increase in density is an appropriate where residential abuts that commercial zone. Mr. Jarvis said that he hopes that Mr. White's associates think the same way as him 3 years from now, as he is concerned that down the road, Mr. White won't be here and someone thinks differently. Mr. White said that the continuity in all of this is the MPS planning policy and it directs what gets done, not individual opinion.

Barbra Clow said even though this property is on the Bedford Highway, zone commercial it is not all commercial, there are some residences along here. Ms. Clow ask what happens if he sells, what happens to the property. Mr. White said to be fair, ownership issues are no different from R2 to R1 properties. That is anyone can say they want to rent their house out and they can do it.

Chris Tyler said that he doesn't believe that Mr. White's last point is correct, from his experience, as there was a case in Forrest Hills that was rented out to something like 12 groups and the rooming house bylaws do not protect those citizens from that. This is an issue for Council to review. Mr. Tyler also asked if HRM has control over grading and excavation. Mr. White said HRM has grading by-laws. Mr. Tyler wanted to say for the record that he is pleased that this is brought forth and his concerns are not so much about this particular applications but its implications on the property

behind it. Mr. Tyler doesn't want to see a change in the character of the area (single family). Mr. Tyler further said he likes the proposal, it is well designed and would suite very well.

A resident asked if someone wanted to make an access to the forest area what could they do. Mr. White said that since the owner is here, he would like to reserve answering this and said that access to this property is going to be difficult to address from a municipal standpoint and an engineering perspective.

Barbara Clow asked about the excavation of the site, how much blasting or digging will be taken place. Mr. Choo said his understanding is there shouldn't be too much to do and really he doesn't want to have to do too much. The site is already cleared. Someone asked about blasting. Mr. Choo said he hopes that there will be no blasting. Mr. White indicated that HRM has a blasting by-law that would have to be adhered to should this become the case.

Mr. Choo plans to build a slab on grade.

Calla Shank-Hogue, owner of the undeveloped property, asked about the structure height and what happens at the back of the home. Mr. Choo said the back yard will be leveled off and plans to have a grass area. He is going to put a fence up but the slopped area. With respect to the height the maximum he can build is 35 feet and doesn't plan to go over that height restriction.

Ms. Shank-Hogue also asked what the zoning was in the 1940's. Councillor Debbie Hum said that she believed it was R2 in the former County Days; Mr. White to confirm. Ms. Shank-Hogue believes that what Mr. Choo is trying to do with his property is within the character of the neighbourhood already as Forest Hill Drive is zoned R-2 and there was R-2 zoning in this area in the past.

Ms. Shank-Hogue asked why her property (the green lot) is zoned R-1, with no access, when the subdivision was created in the 40's why would they have created a lot zoned R-1, which she pays taxes for (utility services) that she cannot receive without access because there is no access. Mr. White said he can only speculate that potentially the Developer back then may have intended there to be a cul-de-sac on that property with lots, but this is pure speculation.

Lynda Tyler said that Mr. Hogan owned that many many years ago and doesn't know if he ever intended to develop it, but he sold all the lots along the street and so much so that he didn't leave any access. Mr. White said, today, it would be rather unusual for a developer to leave behind that much property unless forced to do so. Ms. Shank-Hogue said the reason for her question is that she had a surveyor to look at this property because she wanted to understand her boundary lines and believes there are many encroachments on her property and because of the number of adjoiningers to the property it would cost thousands of dollars to have the survey conducted and since she has no plans to do anything right now with the property she opted not to do anything with it. She asked if the property lines are moving does she have to pay for a survey. Mr. White said the survey would be her cost, the Municipality does not get involved in civil matters.

Mr. White said he realizes Ms. Shank-Houge has concerns surrounding the survey but this is not part of the rezoning application and the purpose of this meeting. Ms. Shank-Houge said it does, because the boundary lines are moving every time there is a development. Mr. White said that the Municipality does not get involved in civil matters such as she described. He also stated that he understood that there is a high penalty for moving survey markers and your lawyer is responsible for registering your deeds and survey against your property. It's every land owners duty to ensure their survey is proper and the Municipality does not get involved in this.

Mr. Jarvis said that he lives in a traditional neighbourhood and what is being proposed is a very contemporary structure and this is out of character for the neighbourhood. Mr. White said he needs to clarify for everyone that architecture is absolutely not a consideration with the application brought forth tonight. The only material matter is whether it is R1 or R2 zoning. Mr. Jarvis said he wants to make the comment that as residents they want to preserve the character of the neighbourhood.

Mr. Choo reviewed the last page of his handout at the request of one of the residents. One residents asked about rock movement on the property as the rocks are close to his property and house. Mr. Choo said he doesn't know at this time if he will be moving the rocks.

Someone asked about when Mr. Choo would be starting. Mr. Choo said if everything goes well he'd like to start this fall.

4. Closing Comments

Mr. White said the next steps is to prepare a staff report and the minutes from this meeting will be a part of that report and will be available to the public once it goes to Community Council where it will get 1st reading and a public hearing will be held and a notice will be sent out with the details of the day and time.

Mr. White thanked everyone for coming.

5. Adjournment

The meeting adjourned at approximately 7:49 p.m.