

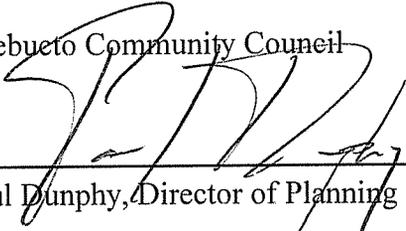
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PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Chebucto Community Council  
October 2, 2006

**TO:** Chebucto Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Planning & Development Services

**DATE:** September 18, 2006

**SUBJECT:** **Case 00871: Amendment to Development Agreement, Lot C-301B  
Osborne Street, Stanley Park/Stoneridge Subdivision, Halifax**

**ORIGIN**

Application by W.M. Fares and Associates to amend the development agreement for Stanley Park / Stoneridge on the Park to allow a land use change on parcel C-301B Osborne Street (next to Tim Hortons) from a 2-storey commercial building to residential townhouses.

**RECOMMENDATION:**

It is recommended that Chebucto Community Council:

1. Give Notice of Motion to consider an application by W.M. Fares and Associates to amend the development agreement for Stanley Park/ Stoneridge on the Park Subdivision, Halifax, and schedule a public hearing;
2. Approve the amending development agreement, included as Attachment A of this report, to permit a land use change on parcel C-301B Osborne Street from a 2-storey commercial building to residential townhouses;
3. Require that the development agreement be signed within 120 days, or any extension thereof granted by Regional Council on request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

The subject site (see Map 1) is approximately 1.7 acres in area and is currently vacant. It lies immediately east of the Tim Horton's site at the corner of Osborne Street and Northwest Arm Drive, Halifax.

In 1995, the development agreement for Stanley Park subdivision (parts of which are now referred to as Stoneridge on the Park) was amended to allow a two-storey commercial building to be constructed on this site with a gross floor area of up to 26,400 square feet of retail space and 11,200 square feet of office space. The agreement also required that parking spaces for users of the sportsfield nearby on Tamarack Drive be provided within the parking lot of the commercial building on the subject property. The original agreement for Stanley Park was approved in 1990 and proposed residential uses for the site (a mix of singles and townhouses).

## **The Proposal**

- 21 condominium townhouses grouped within 4 (townhouse) buildings surrounding an internal private driveway off Osborne Street (refer to Schedules "B" and "C" of Attachment A) ;
- Construction of a six-foot high wooden fence along the perimeter of the site between the back yards of the townhouses and the abutting development;
- Off-site improvements to the parking lot of the sportsfield site on Tamarack Drive.

The draft development agreement is included as Attachment A.

## **DISCUSSION**

The proposed townhouses provide an acceptable transition between the abutting commercial development (Tim Horton's) and the single unit dwellings on Bald Eagle Place. The proposed fencing between the townhouses and abutting development will reduce the potential for land use conflicts.

The population density of the proposed townhouses is equivalent to that of the approved commercial development. The proposed driveway location is acceptable. As such, there will be no impact on municipal services or traffic in the area.

Staff feel that the improvements to the existing parking lot of the sportsfield on Tamarack Drive is a more desirable situation than that proposed under the existing agreement, which would have required park users to walk a considerable distance from the subject site to the sportsfield.

**Public Comment:**

A public information meeting was held on April 13, 2006. The minutes of the meeting are included as Attachment B. The area of property owner notification (by mail) is shown on Map 1.

**BUDGET IMPLICATIONS**

None.

**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**

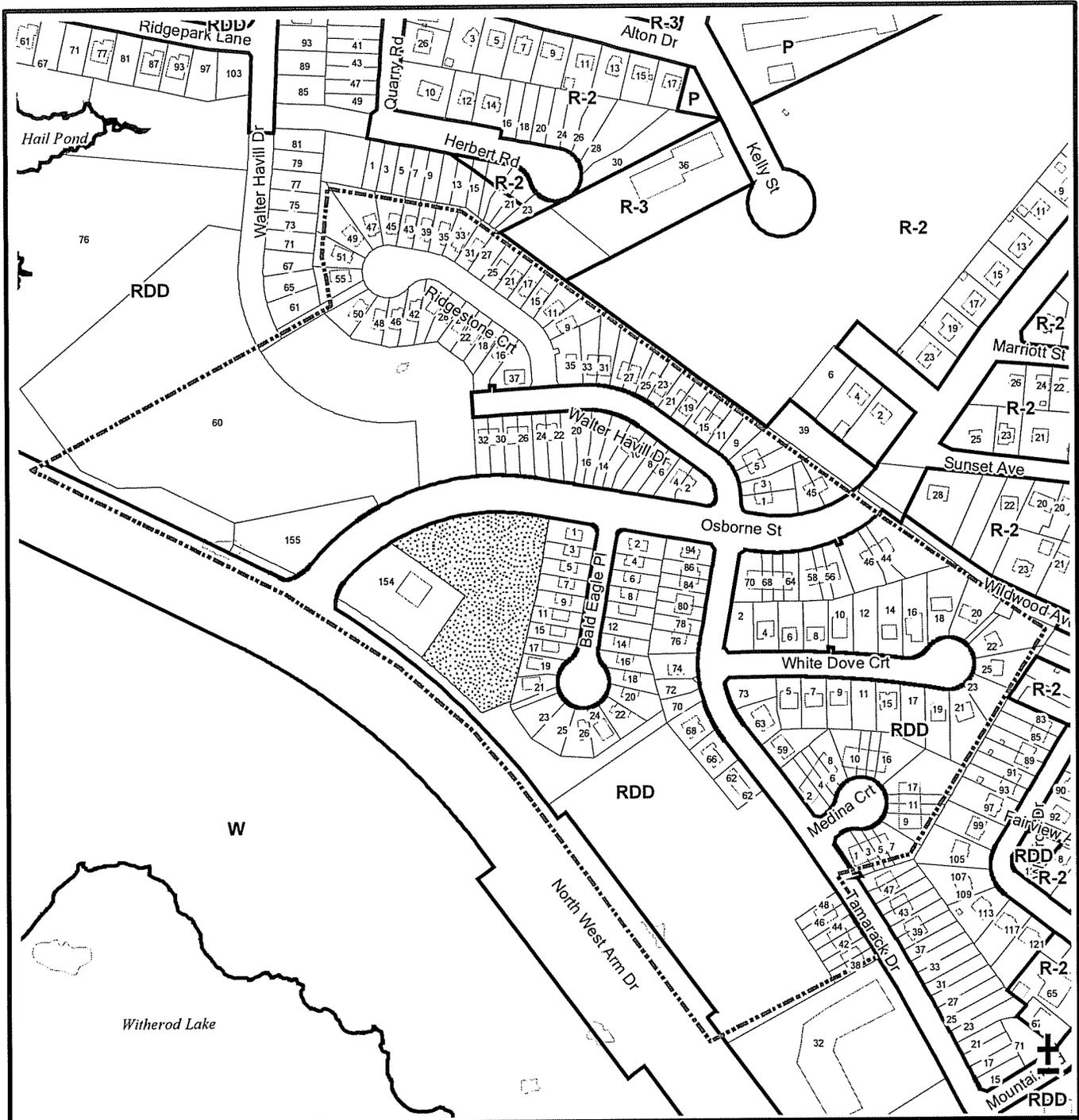
1. Council may approve the amending development agreement. This is the recommended course of action.
2. Council may refuse to amend the existing development agreement. This alternative is not recommended for the reasons described above.
3. Council may choose to approve the amending development agreement with modifications which are acceptable to the applicant. Such modifications may require further negotiations with the applicant and/or revisions to the attached amending agreement.

**ATTACHMENTS**

Map 1	Zoning and Area of Notification
Attachment A	Draft Development Agreement with:
Schedule "B"	Site Plan (Plan #00871-001)
Schedule "C"	Front/Rear Elevations (Plan #00871-002)
Attachment B	Minutes of Public Information Meeting, April 13, 2006

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Paul Sampson, Planner I, Planning and Development Services, ph.490-6259



Map 1 - Location and Zoning

Osborne Street  
Halifax

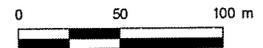
-  Subject area
-  Area of notification

Halifax Mainland By-Law Area

**Zone**

- R-2 Two Family Dwelling
- R-3 Low Rise Apartment
- RDD Residential Development District
- W Watershed

**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING AND  
DEVELOPMENT SERVICES



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

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



#00582), the said agreement being recorded at the Registry of Deeds at Halifax in Book 7475 at pages 395 - 397 (hereinafter called the " Fourth Amending Agreement");

AND WHEREAS an amendment to the Existing Agreement and First Amending Agreement was subsequently approved by Chebucto Community Council on April 10, 2006 (Municipal Case #00852), and has been subsequently appealed to the N.S. Utility and Review Board;

AND WHEREAS the Developer has requested a further amendment to the First Amending Agreement and the Existing Agreement;

AND WHEREAS the Chebucto Community Council for the Municipality approved this request at a meeting on the     day of     , 2006, referenced as Municipal Case Number 00871;

THEREFORE in consideration of the benefits accrued to each party from covenants herein contained, the parties agree as follows:

1. Notwithstanding plans P200/20332, 20333 and 20334 of the Existing Agreement/First Amending Agreement and clauses 3(a) through 3(d), clause 5 and clauses 8(a) through 8(d) of the First Amending Agreement, the commercial site on the south side of Osborne Street known as lot C-301B (PID# 41079542) shall be developed with not more than 21 residential townhouses which are substantially in conformance with Schedules B (Plan #00871-001) and C (Plan #00871-002) attached hereto, said Schedules forming part of the Existing Agreement. The transfer of population density from commercial to residential uses on lot C-301B shall be equivalent to 70 persons (21 units at 3.35 persons / unit) and shall not reduce the residential density allotments elsewhere within the development. Driveway access shall meet the requirements of By-law S-300.
2. Clauses 6 (a) and (b) of the First Amending Agreement shall be replaced with the following:
  - “6 (a) There shall be a minimum setback of 20 feet between the residential townhouses on lot C-301B and the rear of the single family dwelling lots on Street A (Bald Eagle Place).
  - 6 (b) The Developer shall construct a minimum six-foot high opaque wooden fence along the property lines between the residential townhouses and the abutting development (single family dwellings on Street A, commercial development at the intersection of Osborne Street and Northwest Arm Drive and the trail abutting Northwest Arm Drive).”

3. Clauses 8 (a) through (d) of the First Amending Agreement shall be replaced with the following:
- “8. The developer agrees, at its own expense, to carry out improvements to the parking area of the municipal sportsfield site fronting Tamarack Drive which are satisfactory to the Municipality. These improvements shall include, but are not limited to, preparation of sub-base, asphalt, parking space delineation, additional guard rails and reconfiguration of existing ones and installation of concrete pad and fence enclosure for a portable toilet within the parking area. The developer agrees to submit to the Development Officer a site plan and detailed cost estimates for this work prior to the issuance of a Development Permit. These improvements shall be completed prior to the issuance of an occupancy permit for any of the townhouses. However, an occupancy permit may be issued provided that the developer supplies a security deposit in the amount of 120 percent of the estimated cost to complete the improvements. The security deposit shall be in the form of a certified cheque or letter of credit issued by a chartered bank to the Development Officer. Should the developer not complete the improvements within twelve months of issuance of the occupancy permit, the Municipality may use the deposit to complete the work as set out above. The security deposit or unused portion of the security deposit shall be returned to the developer upon completion of the work and its certification.”

All other terms and conditions of the Existing Agreement and the First Amending Agreement shall remain in full force and effect. This Amending Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED ) **YOUSSEF AND AUGUSTUS GHOSN**

in the presence of: )

per: \_\_\_\_\_ )

per: \_\_\_\_\_

per: \_\_\_\_\_ )

per: \_\_\_\_\_

Sealed, Delivered and Attested )  
by the proper signing officers of )  
Halifax Regional Municipality )  
duly authorized on that behalf )  
in the presence of )

**HALIFAX REGIONAL MUNICIPALITY**

per: \_\_\_\_\_

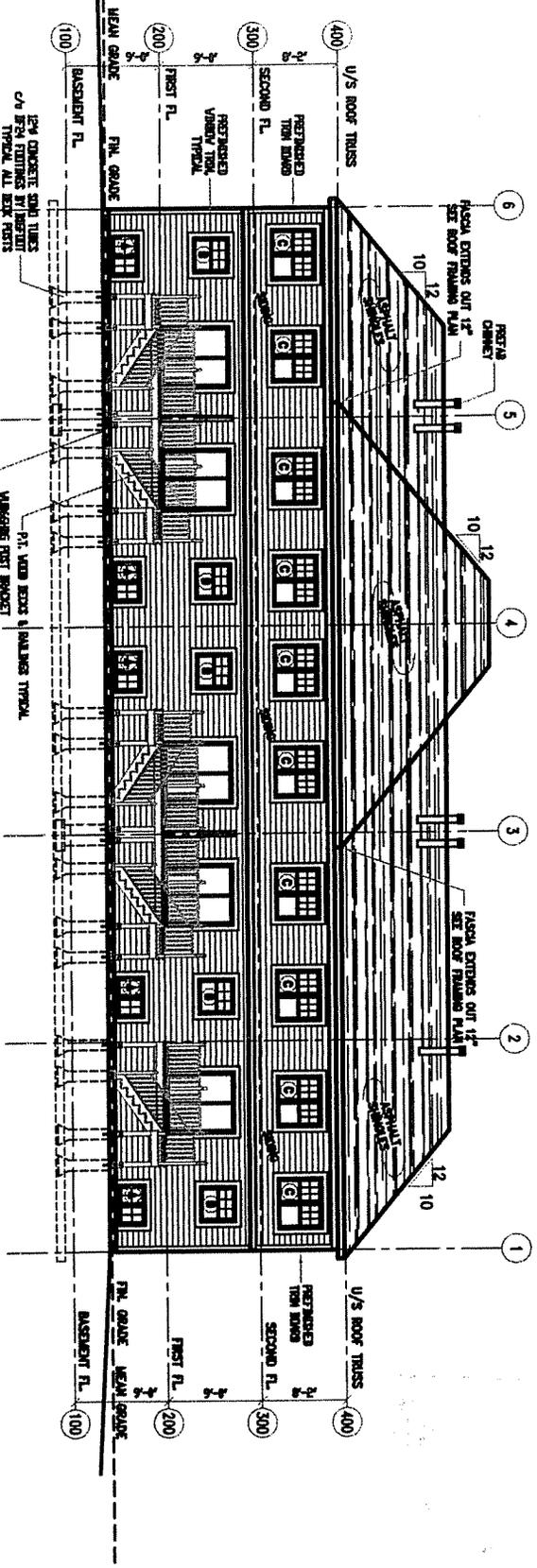
MAYOR

per: \_\_\_\_\_ )

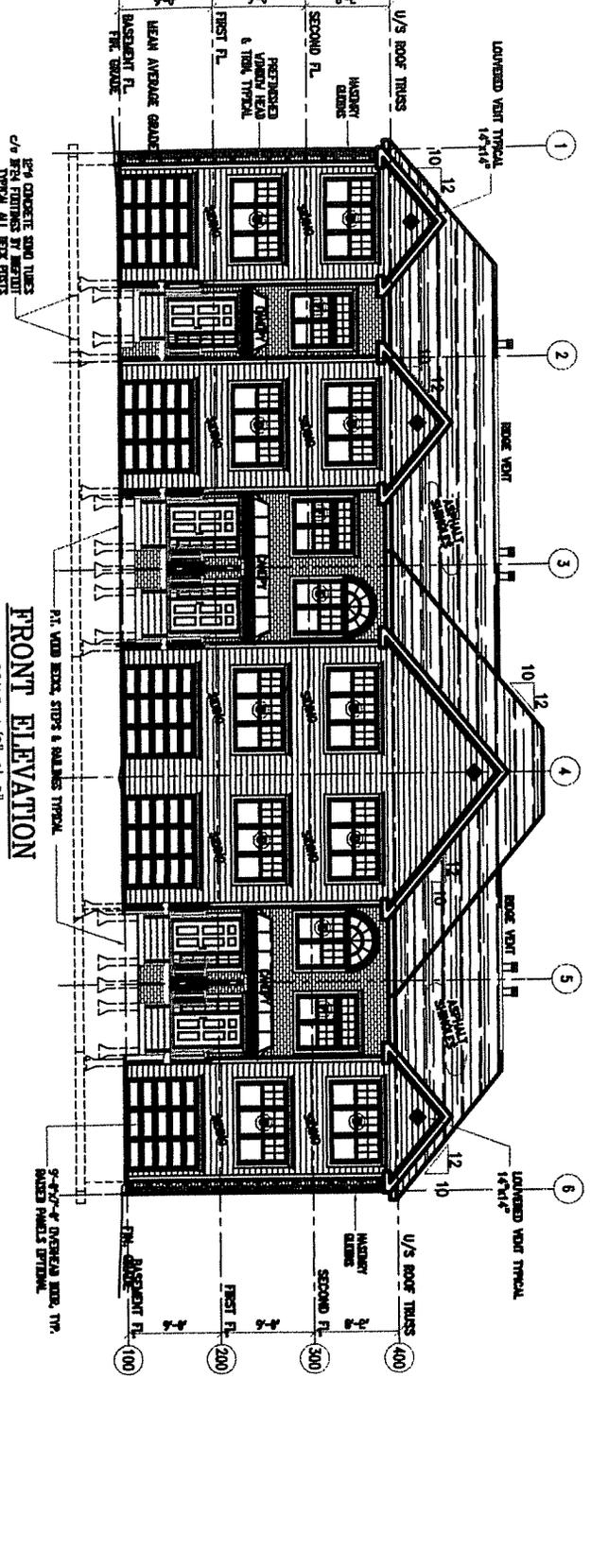
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MUNICIPAL CLERK





**REAR ELEVATION**  
SCALE: 1/8"=1'-0"



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

Schedule "C" - Front/Rear Elevations (Plan #00871-002)

PROJECT: 2004-20 DATE: 07/05/2006 SHEET: A1	
TITLE: BUILDING ELEVATIONS	REVISIONS NO. DATE DESCRIPTION
SCALE: 1/8"=1'-0"	CHECKED:
DRAWN:	PROJECT:

**Attachment B**

**Public Information Meeting  
Case 00871  
April 13, 2006**

In attendance: Councillor Mosher

Paul Sampson, Planner, Planning & Development Services

Gail Harnish, Planning & Development Services

Cesar Saleh, W.M. Fares & Associates

**Mr. Paul Sampson** called the public information meeting (PIM) to order at approximately 7:05 p.m. at the Captain William Spry Centre.

Mr. Sampson advised the application is to amend a development agreement. The development agreement dates back to the original Stanley Park approval. There were various amendments to the development agreement over the years. In 1995, there was an amendment which allowed for commercial development next to Tim Hortons. This site was retained by the original owner, North American Real Estate.

Mr. Sampson indicated the development agreement has no expiry in a sense. It is still valid and it allows for an "L" shaped two storey commercial building on the site. He pointed out the location of the Tim Hortons on a map. It is a two storey building which allows retail space on the ground floor and office space on the second storey. The original agreement allowed for about 37,000 square feet of commercial floor area. The second storey was substantially smaller than the first storey.

Mr. Sampson advised the agreement allowed for parking on this site to be utilized for the sportsfield over on Tamarack Drive. In 1994, it was negotiated that there be 20 parking spaces along the parking lot along Northwest Arm Drive for people who wanted to go to the sportsfield. They thought the parking lot off Tamarack would be overflowed, so they allowed for twenty day time spaces for park use. On the weekends when retail uses are closed, it allowed for the entire parking lot to be used for the sportsfield. Our Parks Planning staff looked at that recently and did not see that as a valid solution for parking at the sportsfield. The current parking at the sportsfield could be upgraded, paved and marked with painted lines so that the spaces are better utilized. A lot of cars end up on the street that could be in the lot if they had average sized parking spaces.

**Mr. Cesar Saleh**, W.M. Fares & Associates, stated they are bringing this forward on behalf of their client.

Mr. Saleh indicated the site is now designated for commercial. When their client came to them it had a development agreement that allowed a commercial plaza. The commercial concept they were working with had a 26,000 sq.ft. footprint with 11,000 sq.ft. of office space above which

would need twenty-four parking spaces. The plaza and the parking pretty much consume the site. They gave the concept to their client who did marketing and was not successful in getting a long-term client.

Mr. Saleh advised their client came back to them to see what kind of residential development they could put on the site. The proposal they are putting forward today is for four blocks of townhouses for a total of twenty-one individual townhouses. This proposal leaves a lot of room for green and open space which he pointed out on the plan.

Mr. Saleh stated the coverage of the site is much less than the commercial coverage of the site. He displayed the site development plan. He pointed out the proposed look of the townhouses. Each one of them has its own garage. It is the typical townhouse with brick and siding and a pitched roof.

Mr. Saleh indicated the original development agreement specified about twenty parking spaces on the commercial site which were to be dedicated parking spaces for the sportsfield that is around the corner. In lieu of that, they are proposing to go to the park that is adjacent to the sportsfield and to gravel, pave and line it. As a result of that, they can maximize the existing lot and add five more parking spaces.

Mr. Saleh reviewed the merits of the proposal compared to what they could have done as-of-right. The proposed townhouse use is more compatible with the adjacent use when you consider the use in the backyard of these townhouses is consistent with what exists.

Mr. Saleh indicated the proposed use generates a lesser amount of traffic flow and traffic trips than a commercial use. For the commercial plaza, a minimum of 100 parking spots would be required to satisfy the land use by-law. The trips generated from the twenty-one townhouses is significantly less.

Mr. Saleh stated the proposed use generates less noise and lighting than the commercial use. The architectural features of the building are in harmony with the adjacent uses. It provides residential with twenty-one families. It is ownership. There would be 23% lot coverage with the townhouses whereas the commercial building would cover 36% of the site. Once you provide the 104 required parking spaces, there is no room for landscaping on the site. They feel this proposal is more suitable for the community. It is more marketable for the client to put townhouses there than to put a commercial building there.

Mr. Saleh indicated the commercial building would have a 20' setback from the abutting properties on Bald Eagle Place. The same setback would be maintained with the townhouses. The other thing that the existing agreement mentions is that the developer would construct a 6' high fence along the property line. That was to lessen the impact of the commercial building. The commercial building had a driveway at this location here (pointed out) and it came straight

in and acted as a loading area for the commercial use, so the entire space would have been asphalted with a 6' high fence to reduce the impact of noise, etc.

Mr. Sampson questioned whether members of the public felt the 6' high fence would be needed or wanted if the townhouses are put there.

Mr. Saleh indicated they would be putting a 6' high fence there.

**Ms. Brenda Roscoe** questioned what type of fence it would be.

Mr. Saleh responded it would be a nice fence and would not be a chain link fence. A chain link fence would not work well for marketing.

**Mr. Marc Boutilier** questioned on which side the 20' fence is going to be built. Some of the homes already have a wooden privacy fence.

Mr. Saleh pointed out the property line where the fence would go. He assumed that where there was an existing fence, that the fence would complete the existing fence.

Mr. Boutilier questioned whether it was possible to have it a foot from the line.

Mr. Saleh responded that was a possibility. Whatever they put there is good for them and the neighbour. The project has to be marketed and the fence would be a minimum requirement.

**Mr. Chuck Carter** questioned when the fence would be built and when they would start construction. He expressed concern that a lot of debris would be going into their back yards. Also, he had two small children who loved to go into the back yard.

Mr. Saleh responded there would be a temporary fence put up during construction. The permanent fence would go up at the end of construction as part of the landscaping.

**Ms. Roscoe** questioned whether the temporary fence would reduce the amount of dust going onto their property. Mr. Saleh responded he did not think so.

**Mr. William Roscoe** questioned whether they are going to be filling the foundations. Mr. Saleh responded the garage is part of the basement.

**Mr. Roscoe** stated they are more than happy to have this proposed development as opposed to a Needs store.

**Ms. Roscoe** questioned whether they would be using dynamite.

Mr. Saleh responded he did not think so. It is slab on grade. There is no basement. There are regulations that dictate blasting regulations.

**Mr. Dave Evans** said they are all relieved there is no commercial going there so they are ready to look at whatever they put up other than commercial. They are right on the cul de sac. He questioned whether the fence would surround the whole walkway.

Mr. Saleh responded they are required to negotiate a development agreement for the site. If they are building these townhouses to sell, they cannot leave it open.

Mr. Sampson indicated that between this property and North West Arm Drive, there is a strip of land next to the Tim Hortons that runs up to a HRM park. There is a partial walkway along here (pointed out). Eventually that would be completed right up to the walkway that exists now off the cul de sac.

**Ms. Roscoe** questioned when they proposed to break ground. Mr. Saleh responded as soon as this process is finished, probably towards the end of summer.

**Ms. Donnie MacIntyre** referred to the park area by the sportsfield and indicated they are proposing there would be about twenty parking spaces. When there is a tournament on the weekend, parking is very much at a premium. Any efforts in the parking would certainly be appreciated because it does congest Tamarack Drive quite a bit and also in the court.

Mr. Saleh responded people are now parking haphazardly. They lined it up and found they could add five more parking spaces. They could not stretch it more because there are some trees. There is a big swale there.

Councillor Mosher indicated it was incumbent on them to talk to the homes abutting where the new proposed parking spots are to see what they want. She would like them to write the sportsfield users and ask them what they think about giving up the spots.

Councillor Mosher noted it was said there was a 20' buffer between Bald Eagle Place and the proposed townhouses. It was her understanding that when you buffer like uses to like uses the buffer would be 20' but in this instance felt there should be at least a 30' buffer because it is not the same density.

Mr. Sampson responded that when you have residential homes backing onto each other, there is no requirement for a buffer in terms of trees.

Councillor Mosher stated that when people bought their homes, it was with the knowledge it would be commercial. She wanted to make sure the number one concern was for the homes on Bald Eagle Place. She would like to see plans to buffer out noise.

Mr. Sampson responded one option could be a larger setback of the building. There are no trees now on this property.

Councillor Mosher indicated they could have a commercial building that would be much quieter and would not impact somebody in the evening. It would be important to know when this comes to Council what they are going to do to protect the privacy of the residents on Bald Eagle Place. The people who buy these townhouses will call at least twice a week to complain about the noise from the Tim Hortons' property. She questioned whether it could be included in the development agreement that this is a noisy area.

Mr. Sampson questioned whether they felt they needed a fence.

Councillor Mosher responded they need something. She got a lot of calls about the number of cars on North West Arm Drive, loud music and mufflers.

Councillor Mosher said it seemed to her that the residents seem to be quite agreeable to having the townhouses. It is up to her to go with what the residents want and to foresee potential risks. This would boost the value of homes on North West Arm Drive. She wanted to see a proper buffer with Bald Eagle Place. She asked about the density.

Mr. Sampson advised that prior to the application, they went through the pre-application process which is similar to a detailed inquiry and they ran it by engineering staff. This is the equivalent density to what would have been in the commercial building. They looked at the size of the commercial building and basically said that this amount of population density would equate. It is hard to compare residential versus commercial but this is similar.

Councillor Mosher commented this development has been contentious because of the many amendments. It was approved in 1991 with amendments in 1995 and there was new ownership. She asked that that be delineated in the report.

Mr. Sampson indicated the response he got at the time was that this would not change the overall density population but would double check on that.

Councillor Mosher questioned whether they would follow the Noise By-law and not start construction before 7 a.m. That is not the case in Stoneridge where they start at 6:30 and 6:45 a.m.

Mr. Sampson responded the development agreement does not exempt anybody from the Noise By-law, and in that case would encourage anybody to call HRM.

**Mr. Boutilier** questioned whether they are going to construct anything to separate the new homes from the Tim Hortons' property.

Mr. Sampson responded that was a good question and noted Councillor Mosher was trying to address that. It may be that they need to put a fence there, particularly along the line where the drive-thru is.

An individual stated the problem is not Tim Hortons but rather their patrons. The proposed development will buffer them from that.

An individual questioned whether the homes on Bald Eagle Place would be shown as backing onto the plan.

An individual encouraged that they keep the noise and dust down and do not do too much blasting.

The meeting adjourned at approximately 7:45 p.m.