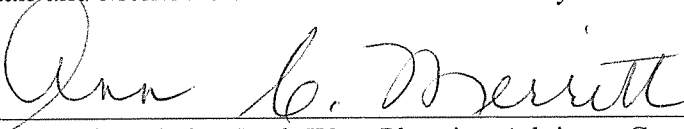


North West Community Council
March 7, 2011

TO: Chair and Members of North West Community Council

SUBMITTED BY: 
Ann Merritt, Chair, North West Planning Advisory Committee

DATE: February 9, 2011

SUBJECT: **Case 16704 - Discharge of Development Agreement at 991 Windgate Drive, Beaver Bank**

ORIGIN

North West Planning Advisory Committee meeting – February 10, 2011

RECOMMENDATION

It is recommended that North West Planning Advisory Committee recommend that North West Community Council:

1. By resolution, approve the discharging agreement, presented in Attachment A of this report, for lands located at 991 Windgate Drive, Beaverbank.
2. Require the discharging agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND/DISCUSSION

At its meeting on February 10, 2011 the Committee reviewed the proposed discharge of a Development Agreement for 991 Windgate Drive, Beaver Bank. The Committee is recommending discharge of the agreement.

BUDGET IMPLICATIONS

None associated with this report.

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

As per the staff report dated January 13, 2011.

ALTERNATIVES

1. Council could choose to enter into a discharging agreement and allow the lands to revert back to the MU-1 (Mixed Use 1) Zone. This is the recommended alternative.
2. Council could choose not to discharge the existing development agreement. Therefore, development on the property would remain subject to the conditions of the Development Agreement.

ATTACHMENTS

Staff report dated January 13, 2011.

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/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: Donna Honeywell, 490-4937



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

North West Planning Advisory Committee
February 2, 2011

TO: Chair and Members of North West Planning Advisory Committee

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

DATE: January 13, 2010

SUBJECT: Case 16704 - Discharge of Development Agreement at 991 Windgate Drive, Beaver Bank

ORIGIN

Application by Joy Jewer and Jack Macaloney to discharge the Development Agreement for 991 Windgate Drive, located at the north east corner of Beaver Bank Road and Windgate Drive, Sackville (PID # 40116626).

RECOMMENDATION

It is recommended that the North West Planning Advisory Committee recommend that North West Community Council:

1. By resolution, approve the discharging agreement, presented in Attachment A of this report, for lands located at 991 Windgate Drive, Beaverbank.
2. Require the discharging agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

On June 12, 2001, North West Community Council entered into a development agreement with Alison and Thomas Malley to permit the construction of a miniature golf course at 991 Windgate Drive, Beaver Bank, pursuant to policy P-27 of the Beaver Bank, Hammonds Plains, Upper Sackville Municipal Planning Strategy (MPS). The course measured approximately 25,500 sq. ft. (.58 acre) and located along the eastern half of the property. An existing municipally registered heritage building, located along the western half of the property, was divided into two components, one for the residential use of the proprietors and the second for commercial uses related to the operation of the mini-golf course and a tea room. In 2002, the agreement was amended to permit the serving of liquor. In 2006, the agreement was amended to permit the installation of two ground signs and to extend the hours of operation. In December of 2008, the current owners established the Black Crow Pub. The pub ceased operation in March of 2010.

Location/Designation/Zoning

The subject property (PID #40116626) is:

- located at 991 Windgate Drive, Beaver Bank. (Maps 1 and 2);
- 4,552 m² (49,000 ft²) in total area with approximately 120 m (393 ft) of road frontage;
- designated Mixed Use A (MU-A) under the Beaver Bank, Hammonds Plains, Upper Sackville Municipal Planning Strategy (MPS) (Map 1);
- zoned MU-1 (Mixed Use 1) Zone under the Beaver Bank, Hammonds Plains, Upper Sackville Land Use By-law (LUB) (Map 2); and
- a municipally registered heritage building and the site served as the Beaver Bank Post Office from 1863 until 1962.

DISCUSSION

The owners have indicated that they no longer wish to operate the pub component of their property. Rather, they are seeking to discharge the development agreement and revert the existing building into a two unit dwelling. Two unit dwellings are listed as a permitted residential use in the MU-1 Zone under the Beaver Bank, Hammonds Plains, Upper Sackville LUB (Attachment B).

Once officially discharged, the agreement would have no force or effect and the property would be subject to the underlying MU-1 Zone regulations of the Beaver Bank, Hammonds Plains, Upper Sackville LUB and the Heritage Property By-law (H-200). Discharging the development agreement on the subject property does not create conflict with the MPS. Additionally,

discharging the development agreement will have no affect on the municipal heritage designation which has been in place since September 17th, 1985.

Resolution of Council

A public hearing is not required to discharge the development agreement. Council may discharge the development agreement by resolution of Council. Staff is recommending North West Community Council approve the application to discharge the development agreement in question.

Public Information Meeting

No public information meeting was held. Such meetings are not typically held for applications to discharge a development agreement.

BUDGET IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities, and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the agreement can be carried out within the approved budget with existing resources.

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 is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through the HRM Website and responses to inquiries. A public information meeting is not required for a discharging agreement nor is a public hearing. The decision to discharge a development agreement is made by resolution of Council.

The proposed discharge will potentially impact the following stakeholders: local residents, and property owners.

ALTERNATIVES

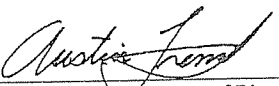
1. Council could choose to enter into a discharging agreement and allow the lands to revert back to the MU-1 (Mixed Use 1) Zone. This is the recommended alternative.
2. Council could choose not to discharge the existing development agreement. Therefore, development on the property would remain subject to the conditions of the Development Agreement.

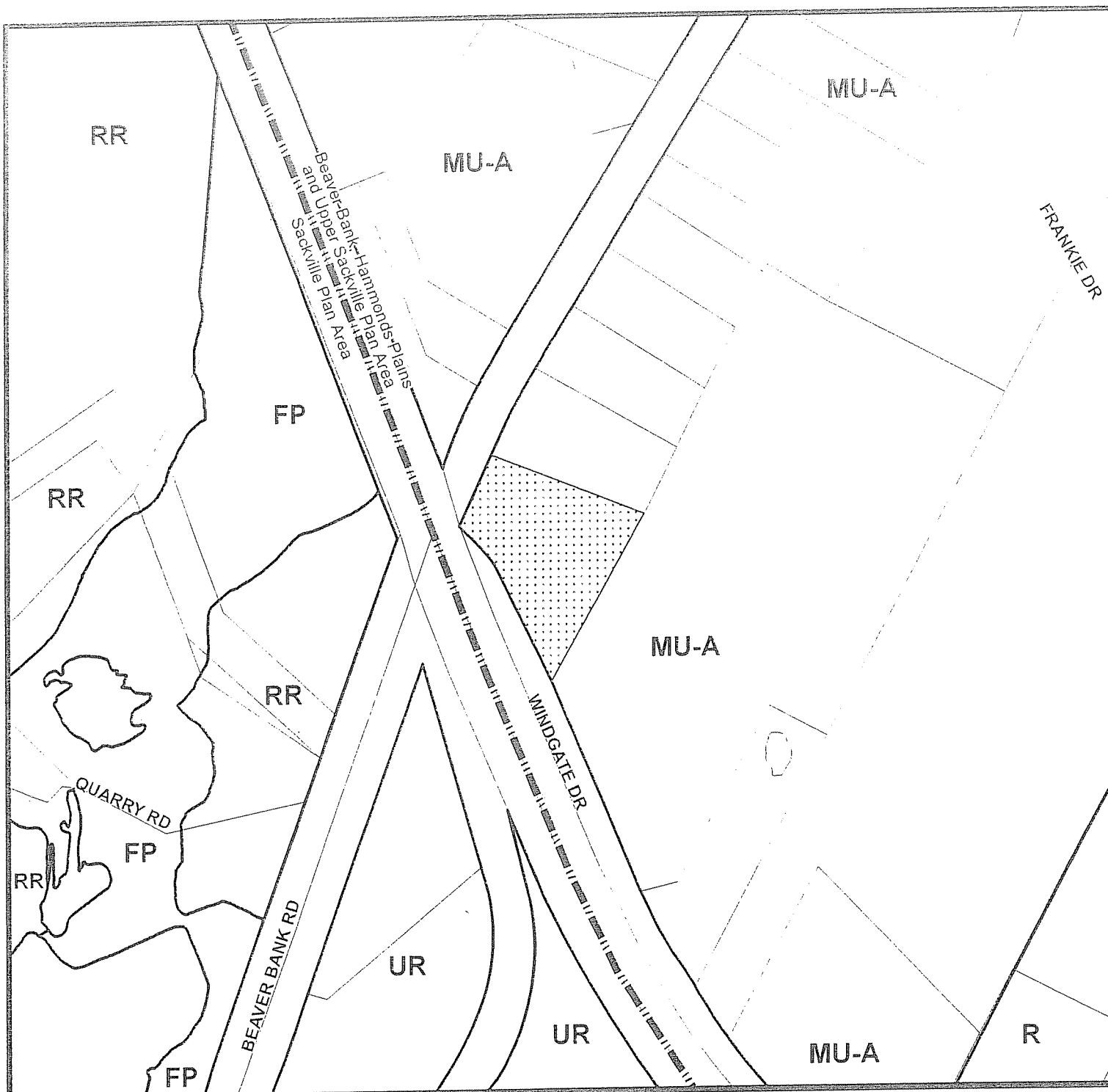
ATTACHMENTS

Map 1	Generalized Future Land Use Map
Map 2	Zoning Map
Attachment A	Discharging Agreement
Attachment B	MU-1 (Mixed Use 1) Zone

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/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 : Tyson Simms, Planner 1, Community Development, 869-4747

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



Map 1 Generalized Future Land Use



Existing Development Agreement

Beaver Bank, Hammonds Plains
and Upper Sackville Plan Area

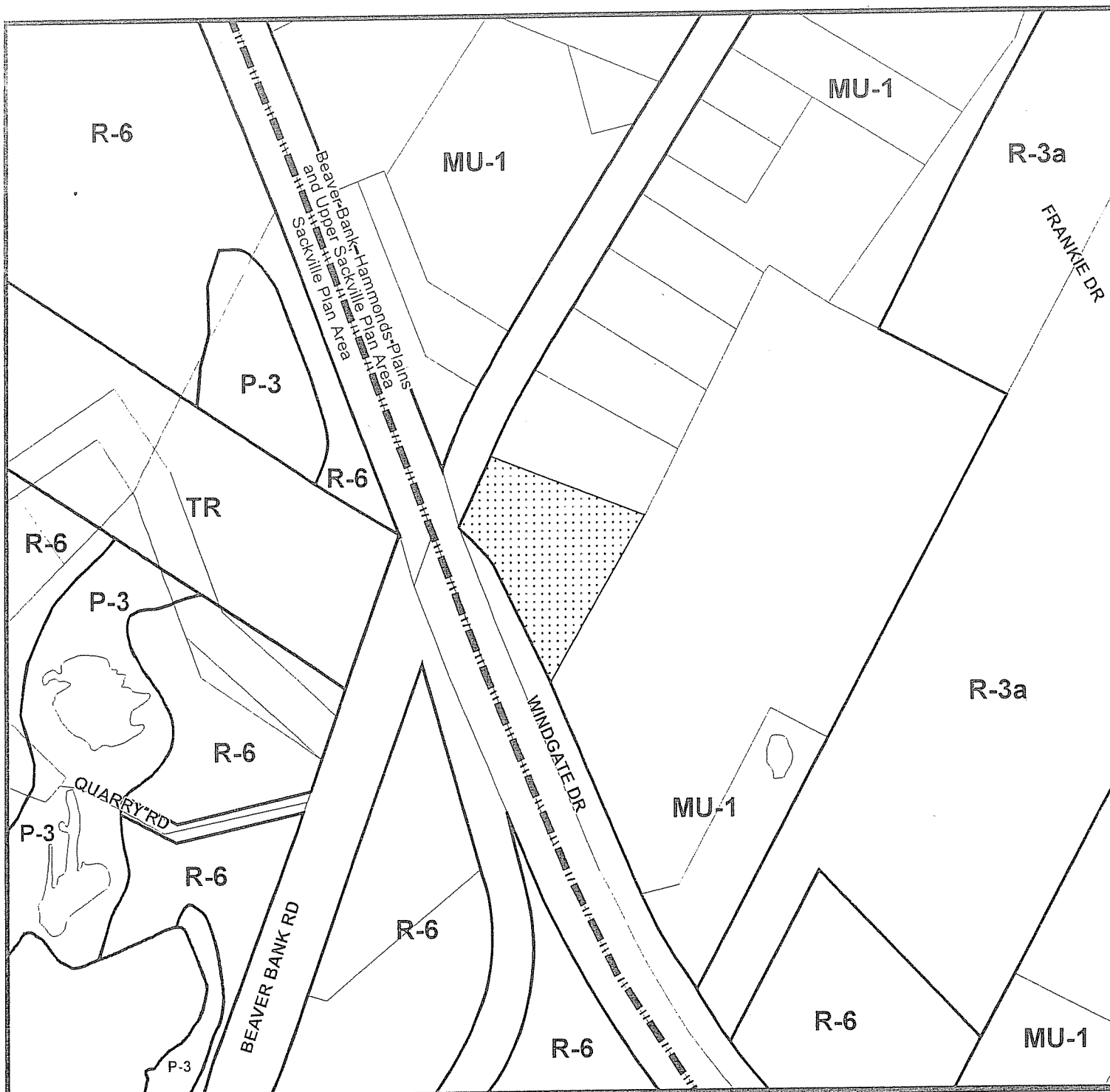
MU-A Mixed Use A Designation
R Residentail Designation

Sackville Plan Area

UR Urban Residential Designation
RR Rural Residentail Designation
FP Floodplain Designation

HALIFAX
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Community Development
Planning Services





Map 2 Zoning



Existing Development Agreement

Beaver Bank, Hammonds Plains and Upper Sackville Plan Area

R-3a Mobile Home Park Zone
R-6 Rural Residential Zone
MU-1 Mixed Use 1 Zone

Sackville Plan Area

R-6 Rural Residential Zone
P-3 Floodplain Zone
TR Transportation Reserve Zone

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Community Development
Planning Services



ATTACHMENT A

THIS DISCHARGING AGREEMENT made this day of [Insert Month], 2011,

BETWEEN:

(INSERT REGISTERED OWNER NAME)
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

and

HALIFAX REGIONAL MUNICIPALITY
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer entered into a development agreement with Halifax Regional Municipality, June 12, 2001, to allow for the construction of a mini-golf course, related commercial uses and a tea room at Lot 991 Windgate Drive located along the north east corner of Windgate Drive and Beaver Bank Road, Beaver Bank, and which agreement was recorded at the Land Registry on June 29, 2001 in Halifax as Document #21847 (hereinafter called the "Agreement");

AND WHEREAS the Developer has requested that the Agreement be discharged.

AND WHEREAS, pursuant to the procedures and requirements contained in the Halifax Regional Municipality Charter, the North West Community Council of the municipality approved this request by resolution at a meeting held on, 2011, referenced as Municipal Case Number #16704;

AND WHEREAS the Lands have been registered as a municipal heritage property pursuant to the provisions of the Municipalities Heritage Property By-law;

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

1. The Agreement is hereby discharged and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with all applicable provisions and requirements of the Beaver Bank, Hammonds Plains, Upper Sackville Land Use By-law, as amended from time to time.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2011.

SIGNED, SEALED AND DELIVERED
in the presence of:

(Insert Registered Owner Name)

Per: _____

Per: _____

SEALED, DELIVERED AND ATTESTED
to by the proper signing officers of Halifax
Regional Municipality, duly authorized in
that behalf, in the presence of:

HALIFAX REGIONAL
MUNICIPALITY

Per: _____
Mayor

Per: _____
Municipal Clerk

ATTACHMENT B

PART 13: MU-1 (MIXED USE) 1 ZONE

13.1 MU-1 USES PERMITTED .

No development permit shall be issued in any MU-1 (Mixed Use) Zone except for the following:

Residential Uses

Single unit dwellings

Two unit dwellings

Boarding and rooming houses

Bed and Breakfast

Senior citizens housing

Existing mobile dwellings

Existing multiple unit dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Business uses in conjunction with permitted dwellings

Other Uses

Institutional uses, except fire and police stations

Open space uses

Commercial uses permitted in the C-2 (General Business) Zone

Trucking, landscaping, excavating and paving services

Agriculture uses

Forestry uses and wooden furniture manufacturing

Composting operations (see section 4.29)

13.2 MU-1 ZONE REQUIREMENTS: RESIDENTIAL USES

In any MU-1 Zone, no development permit shall be issued for residential uses except in conformity with the provisions of Section 11.2.

13.3 MU-1 ZONE REQUIREMENTS: OTHER USES

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

Minimum Lot Area	29,064 square feet (2700 m ²)
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	15 feet (4.6 m)
Maximum Lot Coverage for Structures	

and Storage	50 per cent
Maximum Height of Main Building	35 feet (10.7 m)

13.4 OTHER REQUIREMENTS: BUSINESS AND DAY CARE USES

- (a) With the exception of outdoor display provisions, where business uses and day care facilities in conjunction with a dwelling are permitted in any MU-1 Zone, the provisions of Section 11.3 and Section 11.4 shall apply.
- (b) Outdoor display shall not be permitted:
 - (i) within 10 feet of the front lot line or within the required side yard;
 - (ii) within any yard which abuts an adjacent residential use, except where a visual barrier is provided;
 - (iii) shall not exceed 200 square feet.

13.5 OTHER REQUIREMENTS: COMMERCIAL USES

Where commercial uses are permitted in any MU-1 Zone, the following shall apply:

- (a) The gross floor area devoted to all commercial uses on any lot shall not exceed two thousand (2,000) square feet.
- (b) No open storage or outdoor display shall be permitted.
- (c) The parking lot shall be demarcated and paved or otherwise maintained with a stable surface which is treated in a manner to prevent the raising of dust and loose particles.
- (d) Except where any commercial use abuts another commercial use in an MU-1 Zone, no portion of any parking space shall be located within any required side yard.
- (e) Where any commercial use abuts another commercial use in the MU-1 Zone, the abutting side yard requirement shall be eight (8) feet.

13.6 OTHER REQUIREMENTS: AGRICULTURE USES

- (a) Notwithstanding the provisions of Section 13.3, where any barn, stable or other building intended for the keeping of more than fifty (50) domestic fowl or ten (10) other animals is erected in any MU-1 Zone, no structure shall:
 - (i) be less than fifty (50) feet from any side lot line;
 - (ii) be less than one hundred (100) feet from any dwelling or potable water supply except a dwelling or supply on the same lot or directly related to the agricultural use;
 - (iii) be less than three hundred (300) feet from any watercourse or water body;
 - (iv) be less than five hundred (500) feet from any residential (R-1, RR-1) zone.
- (b) No more than two thousand (2,000) square feet of floor area of all structures on any lot shall be used for a retail use accessory to agriculture uses.

13.7 OTHER REQUIREMENTS: FORESTRY AND WOODEN FURNITURE MANUFACTURING

Where forestry uses and wooden furniture manufacturing are permitted in any MU-1 Zone, the following shall apply:

- (a) No more than two thousand (2,000) square feet of gross floor area of all structures on any lot shall be used for a sawmill, other industrial mill related to forestry, wooden furniture manufacturing, or retail use accessory to the above uses;
- (b) No sawmill or other industrial mill related to forestry shall be located less than fifty (50) feet from any lot line nor less than three hundred (300) feet from any dwelling except a dwelling located on the same lot or directly related to the above use;
- (c) Any area devoted to open storage shall not be permitted within any required front or side yard and shall not exceed twenty-five (25) per cent of the lot area.

13.8 OTHER REQUIREMENTS: INSTITUTIONAL USES

Where institutional uses are permitted in any MU-1 Zone, the provisions of Part 22 shall apply.

13.9 OTHER REQUIREMENTS: TRUCKING, LANDSCAPING, EXCAVATING AND PAVING SERVICES

Where trucking, landscaping, excavating and paving services are permitted in a MU-1 Zone, the following shall apply:

- (a) No development permit shall be issued for any use unless a dwelling is located on the lot.
- (b) The total gross floor area of all structures on any lot devoted to the above uses shall not exceed two thousand (2000) square feet.
- (c) No materials or mechanical equipment which is obnoxious or which creates a nuisance by virtue of noise, vibration, smell or glare shall be used on the lot.
- (d) With the exception of aggregate resources, any materials associated with the above uses shall be contained within a building or otherwise enclosed by a fence, vegetation, or other means which provide a visual and physical barrier.
- (e) Any area devoted to open storage shall not be permitted within any required front or side yard line and shall not exceed twenty-five (25) per cent of the lot area.
- (f) One off street parking space, other than that required for the dwelling shall be provided for every three hundred (300) square feet of floor area used by the above use.
- (g) No product stockpile or processing activity associated with the above uses shall be located within one hundred (100) feet of a watercourse.

13.10 EXEMPTION: EXISTING MOBILE HOME PARKS

Notwithstanding Section 13.1, Timber Trails Mobile Home Park, LIC Number 40203622, shall be a permitted use to the extent to which it is in existence on the effective date of this by-law.

13.11 EXEMPTION: EXISTING COMMERCIAL RECREATION USES

Notwithstanding Section 13.1, Woodhaven Campground, LIC Number 425389, and Pin-Hi Golf Course, LIC Number 425512, and Atlantic Playland, LIC Number 40203648 and 40203630, shall be permitted uses to the extent to which they are in existence on the effective date of this By-law.