

Halifax and West Community Council
March 18, 2013

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed
Brad Anguish, Director of Community and Recreation Services

DATE: February 28, 2013

SUBJECT: Case #17599: Rezoning of 114 Hebridean Drive, Herring Cove

ORIGIN

Application by Morah, Ronald and Bruce MacEachern

LEGISLATIVE AUTHORITY

HRM Charter; Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider the proposed rezoning of 114 Hebridean Drive, Herring Cove, from the P-2 (Community Facility) Zone to the F-1 (Fishing Industry) Zone, as set out in Attachment A and schedule a public hearing; and
2. Approve the proposed rezoning of 114 Hebridean Drive as set out in Attachment A.

BACKGROUND

The property owners of 114 Hebridean Drive in Herring Cove are seeking approval to rezone their property from the P-2 (Community Facility) Zone to the F-1 (Fishing Industry) Zone to allow the development of a two unit dwelling. The existing P-2 zoning does not permit a two unit dwelling; however, Policy VVC-4 of the Municipal Planning Strategy for Planning District 5 enables the consideration of the F-1 Zone in this area. The F-1 Zone permits two unit dwellings.

Location, Designation, Zoning and Surrounding Land Uses

The subject property is generally described as follows:

- is located at 114 Hebridean Drive in Herring Cove and contains a single unit dwelling;
- approximately 2,601.3 sq. m. (28,000 sq. ft.) in size;
- approximately 36.6 m (120 ft.) of public road frontage on the Herring Cove Road;
- is serviced with central sewer and water services;
- designated Village Centre under Municipal Planning Strategy (MPS) for Planning District 5 (Map 1);
- zoned P-2 under the Land Use By-law (LUB) for Planning District 5 (Map 2); and
- adjacent to lands zoned HCR (Herring Cove Residential) Zone to the north and east and to lands zoned F-1 Zone to the west. The area is largely residential with a mix of institutional uses and some small commercial properties.

History

The subject property has had a variety of uses in the past and the proposal is to return to a land use which was previously permitted. Below is a brief review of the land use history of the subject property:

- 1995: Application to rezone from the R-2 (Two Unit Dwelling) Zone to the V-2 (Herring Cove Village Centre) Zone to enable a post office and a single dwelling unit.
- 2001: Herring Cove Area Settlement and Servicing Strategy (Project 00098) resulted in the removal of the V-2 Zone and the subject property was zoned P-2 Zone to reflect the existing land use in existence at the time, a post office.

The P-2 Zone does not permit residential uses unless they are associated with a daycare. Application of the P-2 Zone in 2001 resulted in the existing single unit dwelling becoming a non-conforming use. The post office is no longer in operation and the property owners (applicant) wish to remove the existing building and replace it with a single dwelling with a smaller secondary dwelling unit (defined as a two unit dwelling) and the F-1 Zone would enable this to occur.

DISCUSSION

The MPS discusses the importance of preserving the fishing village character of Herring Cove. Policy VCC-1 creates the Village Centre Designation in order to encourage the retention of the fishery and preservation of the physical character of Herring Cove, while Policy VCC-4

establishes the F-1 Zone as part of the implementation of this policy. Staff are recommending the application of the F-1 Zone to this property, to further implement Policy VCC-1.

Staff reviewed the proposed rezoning relative to the applicable policies in the MPS for Planning District 5. Specifically, an evaluation of the proposal against Policies VCC-4 and Policy IM-10 has been completed and is presented in Attachment B. Upon review of the MPS, it is the opinion of Staff that the proposal meets the intent of the relevant MPS policies. While the proposal is consistent with policy, Staff identifies the following items for a more detailed discussion.

Compatibility

The MPS states the importance of maintaining the fishing industry within the Herring Cove Village Centre and has identified that this is to be achieved through the application of the F-1 Zone which permits fishing uses, commercial uses related to the fishery and residential uses. This zone has been applied to all of the lands within the Village Centre Designation, except for lands used for institutional purposes. As the property is no longer used for institutional purposes, rezoning it to F-1 would be in keeping with the intent of the Village Centre Designation. The uses permitted in the F-1 Zone, including the proposed two unit dwelling, are compatible with the surrounding land uses in the area.

F-1 Zone versus HCR Zone

The F-1 Zone was applied to the lands in 2001, through MPS and LUB amendments to implement portions of the Herring Cove Area Settlement and Servicing Strategy. The intent of the zone is to support the maintenance of the fishing industry within the Herring Cove Area and it was applied to the lands within the Village Centre designation. At the same time, the HCR Zone was applied to the residential lands surrounding the Centre.

The F-1 Zone allows a variety of fishing related uses such as fish storage and sheds, wharf storage buildings, fish processing and fish and shellfish retail and wholesale operations. This zone also permits residential uses. These fishing related uses and residential uses support maintaining a fishing community within the Village Centre Designation.

As the lands are immediately abutting HCR Zoned properties, staff could apply this zone through Policy IM-6 which enables Council to consider the application of an abutting zone. The HCR Zone is a residential zone that also permits fishery support uses. This zone would limit the fishing and commercial uses to fishery support uses and home occupations, while still allowing the residential uses.

However, to further the intent of the Village Centre Designation, it is the opinion of staff that the subject property be rezoned to the F-1 Zone rather than the HCR Zone.

F-1 Zone Standards

The F-1 Zone requires that residential uses have 929 sq.m. (10,000 sq. ft.) of lot area and 22.8 m. (75 ft.) of frontage per dwelling unit. Should the proposed rezoning be approved, the subject property meets the zone standards for all uses permitted except for the residential lot frontage requirements. The proposal is to develop a two unit dwelling which, under the F-1 Zone requirements, would require 45.7 m. (150 ft.) of lot frontage, however, the subject property only

has 36.6 m. (120 ft.) of frontage. The LUB includes provisions to enable the development of lots that were created prior to the creation of the By-law in 1994, given that they may not meet the requirements established by the By-law. As the subject property was created in 1972, provided all other requirements of the F-1 Zone are met, a permit may be issued for the proposed two unit dwelling.

Heritage Advisory Committee

Policy VCC-6 states that the Heritage Advisory Committee (HAC) is to be involved as a commenting and advisory agency with respect to capital improvements, by-law amendments and development agreements made in the Herring Cove Village Centre. This application is a by-law amendment, however, the proposal does not have any heritage property implications as the existing building is not a registered heritage property. Furthermore, the application is for a rezoning, and as such, there is no ability to consider specific development requirements beyond the requirements of the LUB.

Under By-law H-200, the *Heritage Property By-law*, the HAC's authority is limited to advice to the Council respecting applications for heritage agreement, development agreements or *amendments to a Land Use By-law which may affect a registered heritage property* or amendments to a Municipal Planning Strategy affecting heritage policies. As the rezoning request does not affect a registered heritage property, the application was not reviewed by the HAC and staff further advise that this approach is consistent with the intent of Policy VCC-6.

Summary

In summary, the proposal to apply the F-1 Zone to enable the development of a two unit dwelling at 114 Hebridean Drive is consistent with the intent of relevant MPS policies (Attachment B). Accordingly, staff recommend the approval of the proposed rezoning from the P-2 Zone to the F-1 Zone.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2012/13 operating budget for C310 Planning & Applications.

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. The local councillor for the area was consulted and the Public Information Meeting was waived due to the fact that this application is a return to a previously permitted use.

Should Halifax and West Community Council decide to proceed with a public hearing for this application, in addition to the published newspaper advertisements, property owners within the notification area will be notified as shown on Map 2.

The proposed rezoning will potentially impact the local residents and property owners.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all relevant environmental policies contained in the MPS documents. Please refer to Attachment B of this report for further information.

ALTERNATIVES

1. Approve the proposed rezoning, as contained in Attachment A. This is the recommended course of action as the proposed rezoning meets the intent of the Municipal Planning Strategy for Planning District 5.
2. Refuse the proposed rezoning. Pursuant to Section 245 (6) of the *Halifax Regional Municipality Charter*, Council must provide reasons to the applicant justifying this refusal, based on policies of the Municipal Planning Strategy for Planning District 5.
3. Council may choose to proceed with the rezoning to the HCR (Herring Cove Residential) Zone. This is not the staff recommendation and would require a new first reading and second Public Hearing.

ATTACHMENTS

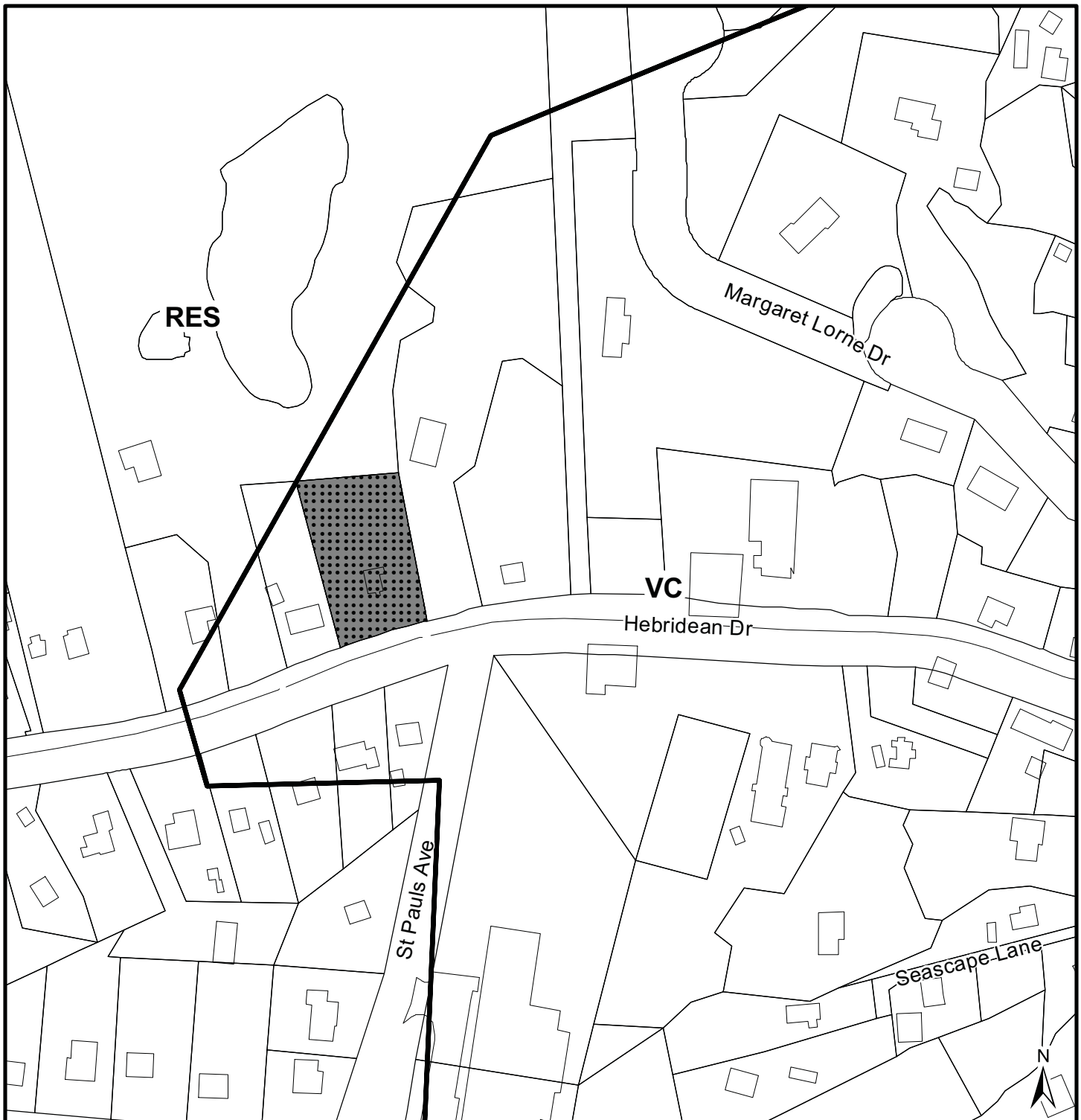
Map 1:	Generalized Future Land Use Map
Map 2:	Zoning and Notification
Attachment A:	Amendment to the Land Use By-law for Planning District 5
Attachment B:	Excerpts from the Planning District 5 MPS and Policy Evaluation
Attachment C:	Excerpts from the Planning District 5 LUB

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: Jennifer Chapman, Planner 1, 490-3999

Original Signed

Report Approved by:  Kelly Denty, Manager Development Approvals, 490-4800



Map 1 - Generalized Future Land Use

114 Hebridean Drive
Herring Cove



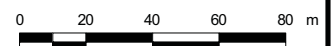
Subject area

Planning District 5
(Chebucto Peninsula) Plan Area

Designation

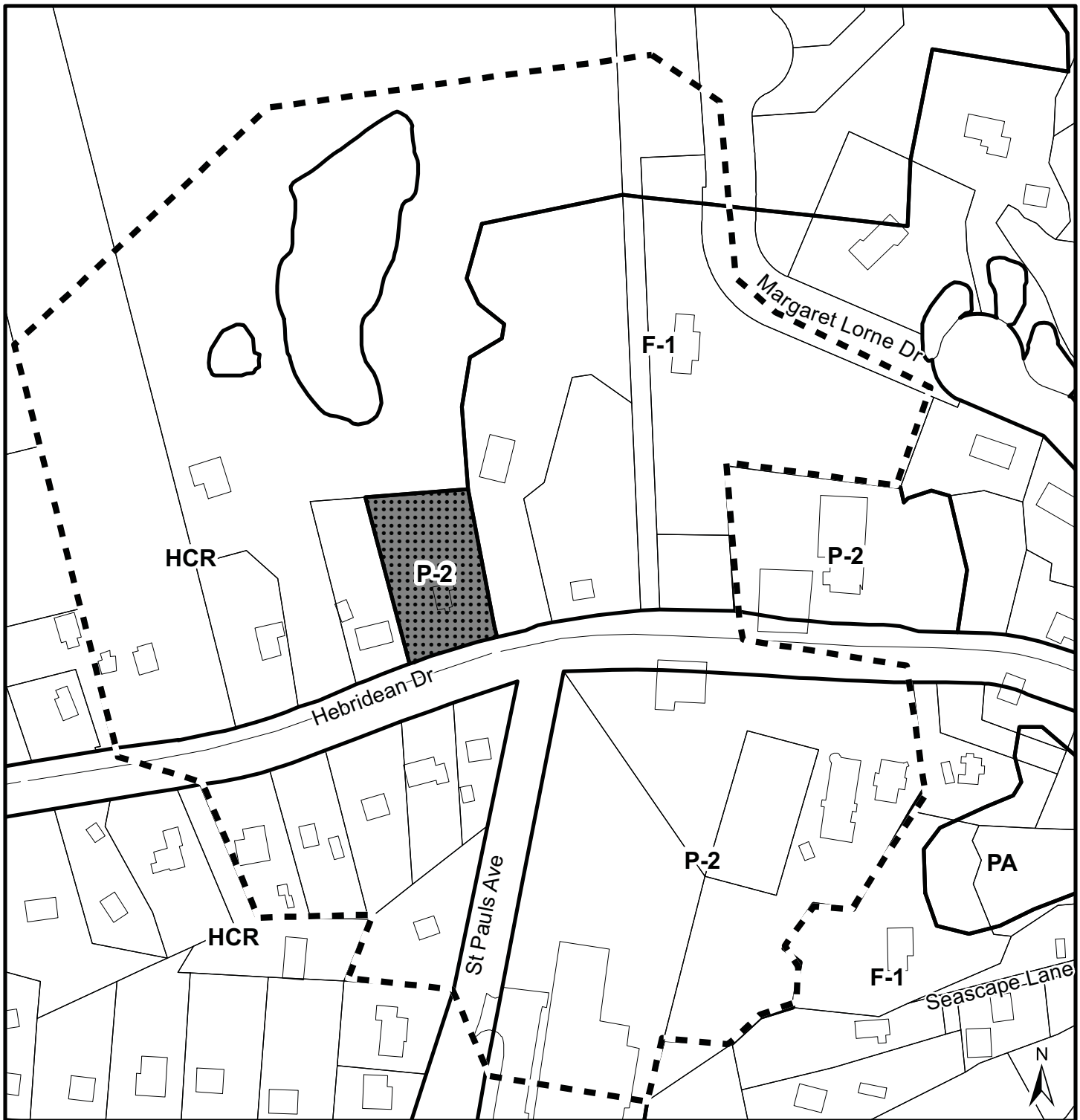
RES Residential
VC Village Centre

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


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



Map 2 - Zoning and Notification

114 Hebridean Drive
Herring Cove

 Subject area

 Area of Notification

Planning District 5
(Chebucto Peninsula) Plan Area

Zone

HCR Herring Cove Residential
F-1 Fishing Industry
P-2 Community Facility
PA Protected Area

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0 20 40 60 80 m

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

BE IT ENACTED by the Western Region Community Council of the Halifax Regional Municipality that the Land Use By-law for Planning District 5 (Chebucto Peninsula) as enacted by the former Halifax County Municipality on the 5th day of December, 1994, and approved with amendments by the Minister of Municipal Affairs on the 9th day of February, 1995, which includes all amendments thereto which have been adopted by the Halifax Regional Municipality and are in effect as of the 29th day of October, 2011, is hereby further amended as follows:

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

I HEREBY CERTIFY that the amendment to the Land Use By-law for Planning District 5 (Chebucto Peninsula) as set out above, was passed by a majority vote of the Western Region Community Council of the Halifax Regional Municipality at a meeting held on the ____ day of ____, 2013.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of ____, 2013.

Cathy Mellett
Municipal Clerk



Schedule A

114 Hebridean Drive
Herring Cove



Rezoning from P2 to
F-1

Zone

HCR Herring Cove Residential
F-1 Fishing Industry
P-2 Community Facility
PA Protected Area

Planning District 5
(Chebucto Peninsula) Plan Area

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

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

Attachment B:
Excerpts from the Planning District 5 MPS and Policy Evaluation

- VCC-1 It shall be the intention of Council to establish a Village Centre Designation in Herring Cove as shown on the Generalized Future Land Use Map (Map 1). Within the Herring Cove Village Centre, Council shall encourage the retention of the fishery and preservation of the physical character of Herring Cove.
- VCC-4 Within the Herring Cove Village Centre Designation, it shall be the intention of Council to establish a fishing industry zone in keeping with the zoning established in 1974. **This zone shall permit fishery uses, marine related uses, residential uses as permitted under the Herring Cove Residential Zone, existing uses as identified in Appendix C of the Land Use By-law, and shall also include architectural requirements to encourage the maintenance of the fishing village character. (RC-Feb 13/01;E-May 5/01)**

In addition, this zone shall be applied to an existing fish processing plant within the Residential Designation, in Portuguese Cove.

	Policy Criteria	Comment
	<i>See VCC-1 and VCC-4</i>	The MPS discusses the importance of preserving the fishing village character of Herring Cove. Policy VCC-1 creates the Village Centre Designation in order to encourage the retention of the fishery and preservation of the physical character of Herring Cove, while Policy VCC-4 establishes the F-1 Zone as part of the implementation of this policy. Applying the F-1 Zone at 114 Hebridean Drive furthers this intent of preserving the fishing village character within this Designation.

- IM-10 In considering development agreements and amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:

	Policy Criteria	Comment
(a)	<i>that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations</i>	The proposal has been considered in accordance with Policies VCC-1 and VCC-4 (see above).
(b)	<i>that the proposal is not premature or inappropriate by reason of:</i>	
	<i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i>	No increase in costs is anticipated.

	Policy Criteria	Comment
	<i>(ii)the adequacy of on-site sewerage and water services;</i>	The subject property is serviced with municipal water and sewer.
	<i>(iii)the adequacy or proximity of school, recreation or other Community facilities;</i>	There are currently schools within proximity, as well as recreation areas and facilities (Herring Cove Provincial Park) within the vicinity of the proposed development.
	<i>(iv)the adequacy of road networks leading or adjacent to or within the development;</i>	No concerns were raised regarding the ability of the road network to accommodate the proposed uses under the F-1 Zone.
	<i>(v)pedestrian safety; and</i>	While there are no sidewalks in this area, the proposed use will not impact pedestrian safety.
	<i>(vi)the potential for damage to or for destruction of designated historic buildings and sites.</i>	Staff are not aware of any such buildings or features on the lands.
(c)	<i>that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i>	
	<i>(i)type of use;</i>	Fishery and residential uses exist in the community and designated as such for this area in the MPS.
	<i>(ii)height, bulk and lot coverage of any proposed building;</i>	Any proposed building would have to comply with the requirements of the F-1 Zone.
	<i>(iii)traffic generation, access to and egress from the site, and parking;</i>	Limited effect on traffic, adequate parking on site, access and egress via existing driveway. Staff have not identified any concerns with the driveway access for the proposed use.
	<i>(iv)open storage</i>	The LUB requirements regulate this item.
	<i>(v)signs; and</i>	No signage required for a two unit dwelling but any future use would have to comply with the LUB requirements.
	<i>(vi)any other relevant matter of planning concern.</i>	No other matters identified.
(d)	<i>that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility of flooding.</i>	Site is suitable for development. The lands do not have any known watercourse or wetlands. The lands have a gentle slope and can support development.

	Policy Criteria	Comment
(f)	<i>Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy p-79F", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i>	NA

Attachment C:
Excerpts from the Planning District 5 LUB

PART 11: HCR (HERRING COVE RESIDENTIAL) ZONE

11.1 HCR USES PERMITTED

No development permit shall be issued in any HCR (Fishing Village Residential) Zone except in conformity with the following:

Single unit dwellings;
Two unit dwellings;
Existing mobile dwellings
Fishery support uses;
Home occupations in conjunction with permitted dwellings;
Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings;
Open space uses;
Bed and Breakfast uses not exceeding three bedrooms in conjunction with permitted dwellings;
Recreation uses. (RC-Feb 13/01;E-May 5/01)

11.2 HCR ZONE REQUIREMENTS

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

Minimum Front or Flankage Yard	20 feet
Minimum rear or Side Yard	8 feet (2.4 m)
Maximum Lot Coverage	35 per cent
Maximum Height of Main Building	35 feet (10.7 m)
Minimum Lot Area	
Full Central Services:	10,000 square feet (929 square metres) per
dwelling unit	
Onsite Service(s):	30,000 square feet (2787 square metres) per
dwelling unit	
Minimum Lot Frontage	75 feet (22.9m) per dwelling unit
(RC-Feb 13/01;E-May 5/01)	

11.3 OTHER REQUIREMENTS: HOME OCCUPATIONS

Where home occupations are permitted in any HCR Zone, the following shall apply:

- (a) any home occupation shall be wholly contained within the dwelling which is the principle residence of the operator of the home occupation.

- (b) No more than three hundred (300) square feet (28 m²) of gross floor area shall be devoted to any home occupation.
- (c) No open storage or outdoor display shall be permitted.
- (d) One (1) facial wall sign, not exceeding two (2) square feet (.2 m²) in size, shall be permitted to advertise the home occupation and shall be constructed of wood.
- (e) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet of floor area devoted to any home occupation.

11.4 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any HCR Zone, the following shall apply:

- (a) With the exception of outdoor play space, any facility shall be wholly contained within the dwelling.
- (b) No open storage or outdoor display shall be permitted.
- (c) One facial wall sign, not exceeding two (2) square feet (.2 m²) in size, shall be permitted to advertise the day care facility, and shall be constructed of wood.

11.4A OTHER REQUIREMENTS: BED AND BREAKFAST USES

Where bed and breakfast uses are permitted in any HCR Zone, the requirements of subsection 8.7 shall apply. (RC-Feb 13/01;E-May 5/01)

11.5 EXEMPTION: EXISTING MULTI-UNIT DWELLING

Notwithstanding Section 11.1, the multi-unit dwelling on Lot LIMS Number 40075772 shall be a permitted use within the HCR Zone subject to the requirements of Section 11.2.

11.6 OTHER REQUIREMENTS: FISHERY SUPPORT USES

- (a) Where fishery support uses are permitted in any HCR Zone, the following shall apply:

Minimum Side Yard	8 feet (2.4 m)
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- (b) Notwithstanding the provisions of Section 4.1, where uses are permitted as fishing support uses in an HCR Zone, no development permit shall be required.

PART 19: F-1 (FISHING INDUSTRY) ZONE19.1 F-1 USES PERMITTED

No use shall be permitted in any F-1 (Fishing Industry) Zone except for the following:

Fishing Uses

Fish houses and sheds;

Boat and equipment manufacturing, sales and service;

Wharf storage buildings;

Fishery Uses including fish and aquaculture processing operations which do not involve reduction.

Commercial Uses

Fish and shellfish wholesale and retail stores;

Wholesale and retail outlets, supply sales directly related to the fishing or aquaculture industry, for fish and fish products;

Charter boat services.

Residential Uses

Residential uses permitted in the VR (Fishing Village Residential) Zone.

19.2 F-1 ZONE REQUIREMENTS

No uses in any F-1 (Fishing Industry) Zone shall be permitted except in conformity with the following:

Minimum Lot Area

Full Central Services:	10,000 square feet (929 square metres) per dwelling unit
Onsite Service(s):	30,000 square feet (2787 square metres) per dwelling unit
Minimum Lot Frontage	75 feet (22.9m) per dwelling unit (RC-Feb 13/01;E-May 5/01)

19.3 OTHER REQUIREMENTS: FISHERY SUPPORT USES

- (a) Where fishery support uses are permitted in any F-1 Zone, the following shall apply:
Minimum Side Yard 8 feet (2.4 m)
- (b) Notwithstanding the provisions of Section 4.1, where uses are permitted as fishery support uses in an F-1 Zone, no development permit shall be required.

19.4 OTHER REQUIREMENTS: RESIDENTIAL USES

Where residential uses are permitted in any F-1 Zone, the provisions of Part 11 (VR Zone) shall apply, with the exception of Lot LIMS Number 390302 (Portuguese Cove), which shall meet the requirements of Part 7 (R-2 Zone).

PART 20: P-2 (COMMUNITY FACILITY) ZONE20.1 P-2 USES PERMITTED

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

Institutional Uses

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

Open Space Uses

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

20.2 P-2 ZONE REQUIREMENTS: COMMUNITY FACILITIES

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

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

20.3 OTHER REQUIREMENTS: PARKING AREAS

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