



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Western Region Community Council  
March 2, 2010

**TO:** Chair and Members of Western Region Community Council

**SUBMITTED BY:**

A handwritten signature in black ink, appearing to read "Austin French".

Austin French, Acting Director of Community Development

**DATE:** February 12, 2010

**SUBJECT:** Case 01318: Rezoning Request, Sandy Cove Road Area, Terence Bay

### **SUPPLEMENTARY REPORT**

#### **ORIGIN**

- HRM-initiated application to rezone certain lands located in the Sandy Cove Road area of Terence Bay, from the P-3 (Conservation) Zone to the MU-1 (Mixed Use 1) Zone.
- October 9, 2009 staff report to WRCC.
- November 23, 2009 motion of Western Region Community Council (Item 8.1) requesting additional information.

#### **RECOMMENDATION**

**It is recommended that Western Region Community Council:**

1. Approve the rezoning of those portions of 287, 305, and 315 Sandy Cove Road, as well as those portions of PID # 40874141 and 00480251, which are currently zoned P-3 (Conservation) to the MU-1 (Mixed Use 1) Zone.

## **BACKGROUND**

A staff report dated October 9, 2009 was before the Western Region Community Council (WRCC) for a public hearing on November 23, 2009. During subsequent deliberations on the application by Council, concerns were raised about the potential impact of the rezoning on an existing right of way leading to a neighbouring lighthouse and coastal pathway. The following motion was put and passed:

*MOVED BY Councillor Rankin, seconded by Councillor Lund that the Western Region Community Council defer the matter pending a Supplementary Report providing clarification on the following:*

- 1. Confirmation of the public access area to the lighthouse and coastal pathway with clear identification of those boundaries with a map to include PID numbers, clear property boundaries and the location of the lighthouse (aerial photograph requested);*
- 2. Means to ensure the public access would be maintained in perpetuity to the lighthouse and coastal pathway;*
- 3. Clarification on whether the Crown right of way through the area (access to lighthouse and coastal pathway) gives entitlement to the public to use that right of way;*
- 4. Identification of wetland areas, such as the saltwater bog, for conservation;*
- 5. Possibility of rezoning the portion of property identified as the access to the lighthouse and coastal pathway to conservation zone.*

## **DISCUSSION**

The following responses to Council's motion correspond to the order in which they are listed:

### **Item 1 - Property Mapping**

Map 1, attached to this report, identifies property boundaries, parcel identification (PID) numbers, and the lighthouse. This information is overlaid on a 2004 aerial photograph of the area. Map 2 provides a graphical illustration of the property and zoning boundaries and depicts the right of way to the lighthouse.

### **Items 2 and 3 - Status of Existing Right of Way**

The right of way in favour of the Crown is shown on Map 2. It exists to allow federal government employees access to service the lighthouse. There is no prescribed public access privilege for the right of way and the Canadian Coast Guard may choose to limit access to their property.

Legal Services has advised that since HRM is not a party to the Crown's right of way, it has no ability to ensure that a right of public access is maintained in perpetuity to the lighthouse and to any pathway that may be located along the coast.

#### **Item 4 - Wetland Areas**

Based on available mapping and aerial photography, staff was unable to identify any wetlands in the area. It should be noted that the presence of wetlands alone would not justify the maintenance of the P-3 Zone as MPS policy provides that the zone should apply only to Crown lands, not to the privately owned lands that are the subject of this application.

#### **Item 5 - Maintenance of Conservation Zone on Right of Way**

The lands containing the Crown right of way are proposed to be rezoned to MU-1. The right of way over the property is an interest held by the Crown for access to the lighthouse and it does not exist as a separate parcel of land. The status and use of the right of way is established through legal documents and will not be impacted by the zone applied to it. Therefore, maintaining the P-3 Zone over the right of way corridor will serve no practical purpose and would conflict with the intent of the MPS for Planning District 4, which states that the zone is only to be applied to Crown lands.

Through a process separate from the rezoning request, the Municipality's Real Property Planning section may pursue acquisition of a public right of way to the lighthouse and coastal area should Council so request. The application of the MU-1 Zone to these lands will have no affect relative to the use an staff recommend that Council approve the rezoning requests.

#### **BUDGET IMPLICATIONS**

The costs to process this planning application can be accommodated within the approved operating budget for C310.

#### **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

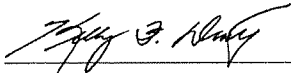
1. Council may approve the proposed rezonings. This is the recommended course of action.
2. Alternatively, Council may choose to reject the proposed rezonings. Pursuant to section 225(5) of the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal based on the policies of the MPS.

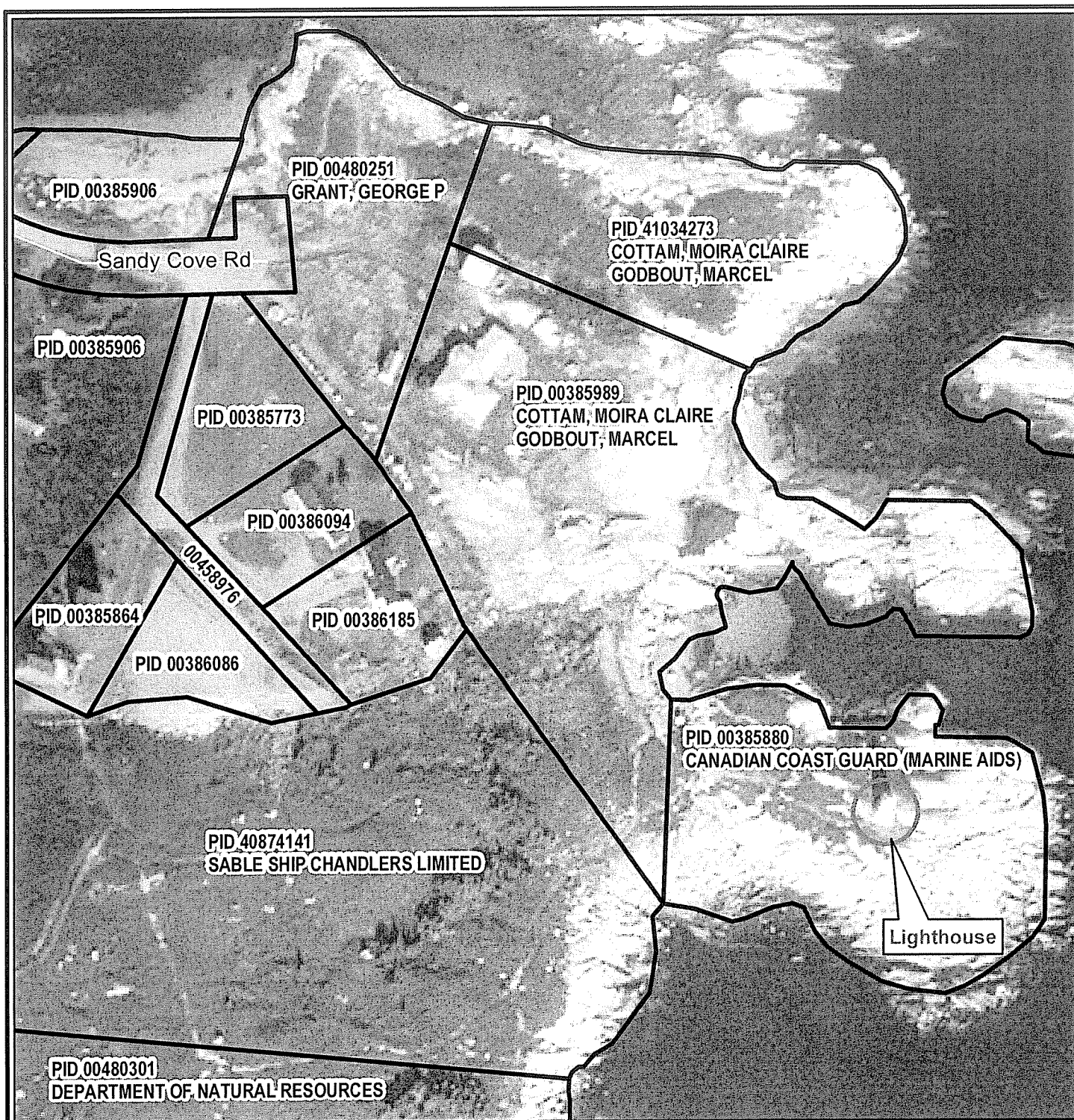
### ATTACHMENTS

Map 1           Aerial Photograph - September 2004  
Map 2           Location and Zoning (Detail)

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 :           Luc Ouellet, Planner I, 490-4911

  
Report Approved by:           Kelly Denty, Acting Manager of Planning Services, 490-6011

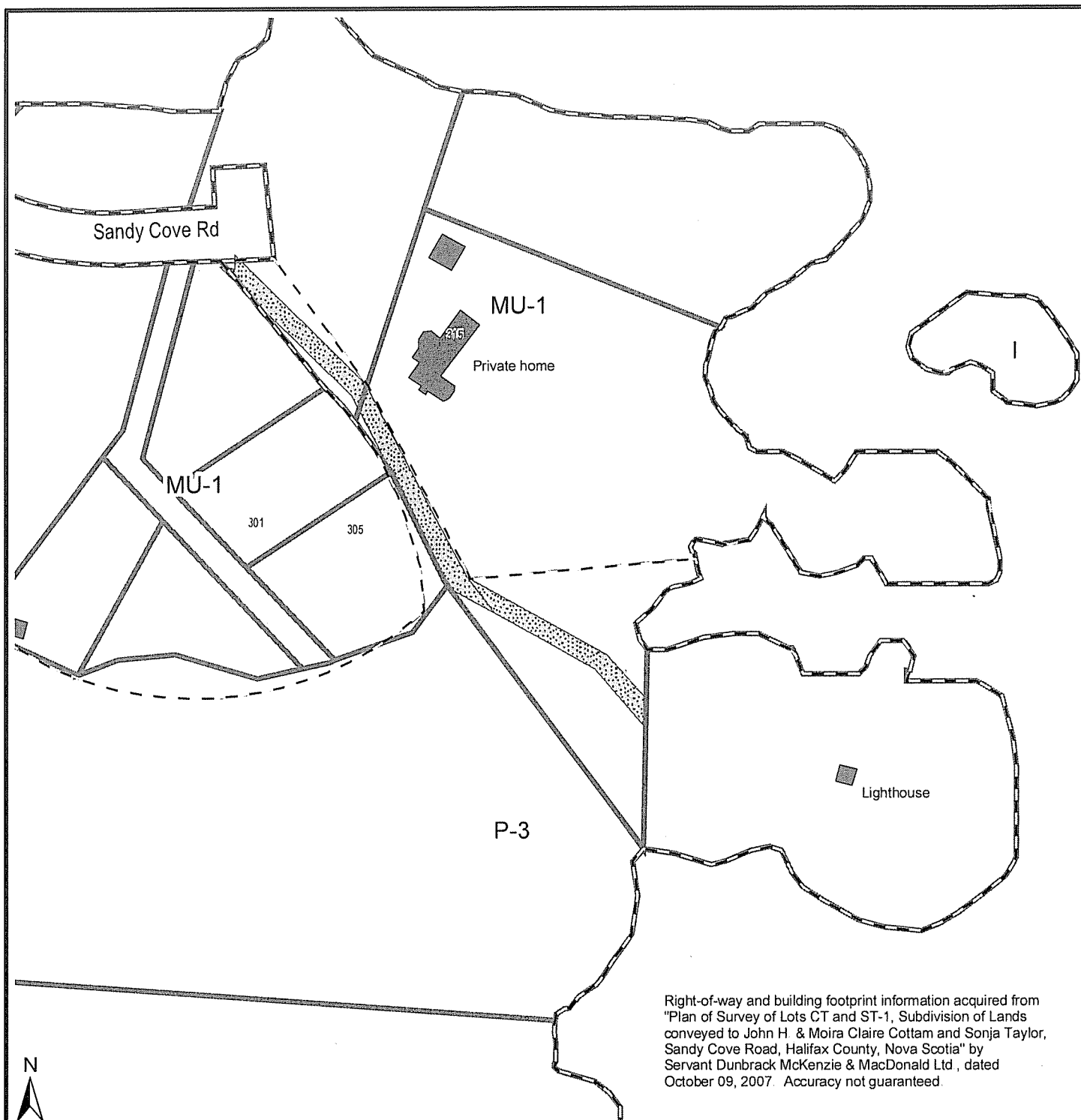


## Map 1 - Aerial Photograph, September 2004

Sandy Cove Road  
Terence Bay

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES




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



## Map 2 - Location and Zoning (Detail)

Sandy Cove Road  
Terence Bay

Planning District 4  
(Prospect) Plan Area

-  Right-of-way to lighthouse
-  Property boundary
-  Zone boundary

### Zone

- MU-1 Mixed Use 1
- P-3 Conservation
- I Island

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

0 20 40 m

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.