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**Western Region Community Council  
September 20, 2010**

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

**SUBMITTED BY:**

Paul Duffhy, Director of Community Development

**DATE:** September 3, 2010

**SUBJECT:** Case 16282: Discharge of a Development Agreement - 5250 St. Margarets Bay Road, Upper Tantallon

**ORIGIN**

Application by Tantallon Veterinary Hospital Limited to discharge the existing development agreement for 5250 St. Margarets Bay Road, Upper Tantallon, and retain the existing MU-2 (Mixed Use) Zone.

**RECOMMENDATION**

It is recommended that Western Region Community Council:

1. By resolution, approve the discharging agreement, presented as Attachment A to this report, for lands located at 5250 St. Margarets Bay Road, Upper Tantallon.
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**

In 1991, the former Halifax County Municipality entered into a development agreement (original agreement) with Douglas Waller to permit lounge facilities in conjunction with the Two Gulls Restaurant located at 5250 St. Margarets Bay Road in Upper Tantallon (subject property). In 1996, the Municipality discharged the original agreement and entered into a new development agreement (existing agreement) with Elk Road Holdings Limited. The existing agreement enabled an expansion of the lounge.

Elk Road Holdings Limited has recently sold the subject property to Tantallon Veterinary Hospital Limited. The new owner intends to convert the existing building on the subject property to a veterinary hospital.

### **Location/Designation/Zoning**

The subject property is:

- located at the southwest corner of the St. Margarets Bay Road / Peggys Cove Road intersection (Maps 1 and 2);
- designated Mixed Use A under the Municipal Planning Strategy for Planning Districts 1 and 3 (MPS) - (Map 2);
- zoned MU-2 (Mixed Use) Zone under the Land Use By-law for Planning Districts 1 and 3 (LUB) - (Map 1); and
- identified by the LUB as being partially covered by a wetland.

## **DISCUSSION**

### **Land Uses Permitted by Agreement**

In addition to including a clause which discharged the original agreement, the existing agreement includes specific provisions related to land use and does not allow uses permitted by the MU-2 Zone. As the existing agreement does not specifically allow for a veterinary hospital, the applicant has requested to discharge the existing agreement and retain the MU-2 Zone, which would permit the proposed use.

### **Clarification of Previous Discharge**

The existing agreement is the document which references the original agreement has been discharged. By discharging the existing agreement, some confusion may be created regarding the original agreement's relevance. Therefore, the proposed discharging agreement (Attachment A) clarifies the original agreement has been discharged, while also expressing the applicant's intent to discharge the existing agreement.

### **Council's Ability to Discharge**

The *Halifax Regional Municipality Charter* provides Council the authority to discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. Although the property owner has requested the existing agreement be discharged, the existing agreement also includes a clause which enables Council to

discharge the agreement, by resolution, in the event the use of the property for a lounge has been discontinued for more than one (1) year. The applicant has indicated that Rylan Jack's Pub and Eatery, which was the last restaurant/lounge to have operated on the subject property, was discontinued more than two (2) years ago, thereby giving Council the authority to discharge the existing agreement with or without the consent of the property owner.

### **MPS Policy**

The subject property is designated MU-A (Mixed Use A) by the MPS (Map 2). The MPS identifies both the Mixed Use-A and Mixed Use-B designations as areas intended to support the continuation of the existing diverse land use pattern (Attachment B). This intent is carried forward through the application of a Mixed Use 1 and Mixed Use 2 Zone (Attachment B). In the case of the subject property, the existing MU-2 Zone supports a variety of land uses, including a veterinary hospital (Attachment C).

### **Existing Wetland**

Schedule J of the LUB identifies wetlands larger than 2000 square metres located within Planning Districts 1 and 3. This schedule indicates a portion of a wetland is located within the southwestern portion of the subject property. The developed portions of the subject property are focussed within the norther and eastern section of the subject property. In the event Council chooses to discharge the existing agreement, the subject property would continue to be regulated by the LUB, which includes a provision restricting development of any kind within a wetland identified on Schedule J (Attachment C).

### **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 are recommending Western Region 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.

**ALTERNATIVES**

1. Council could choose to enter into a discharging agreement and allow the lands to revert to the existing MU-2 Zone. This is the recommended alternative.
2. Council could choose not to discharge the existing development agreement. Therefore, development on the property would continue to be subject to the conditions of the existing agreement.

**ATTACHMENTS**

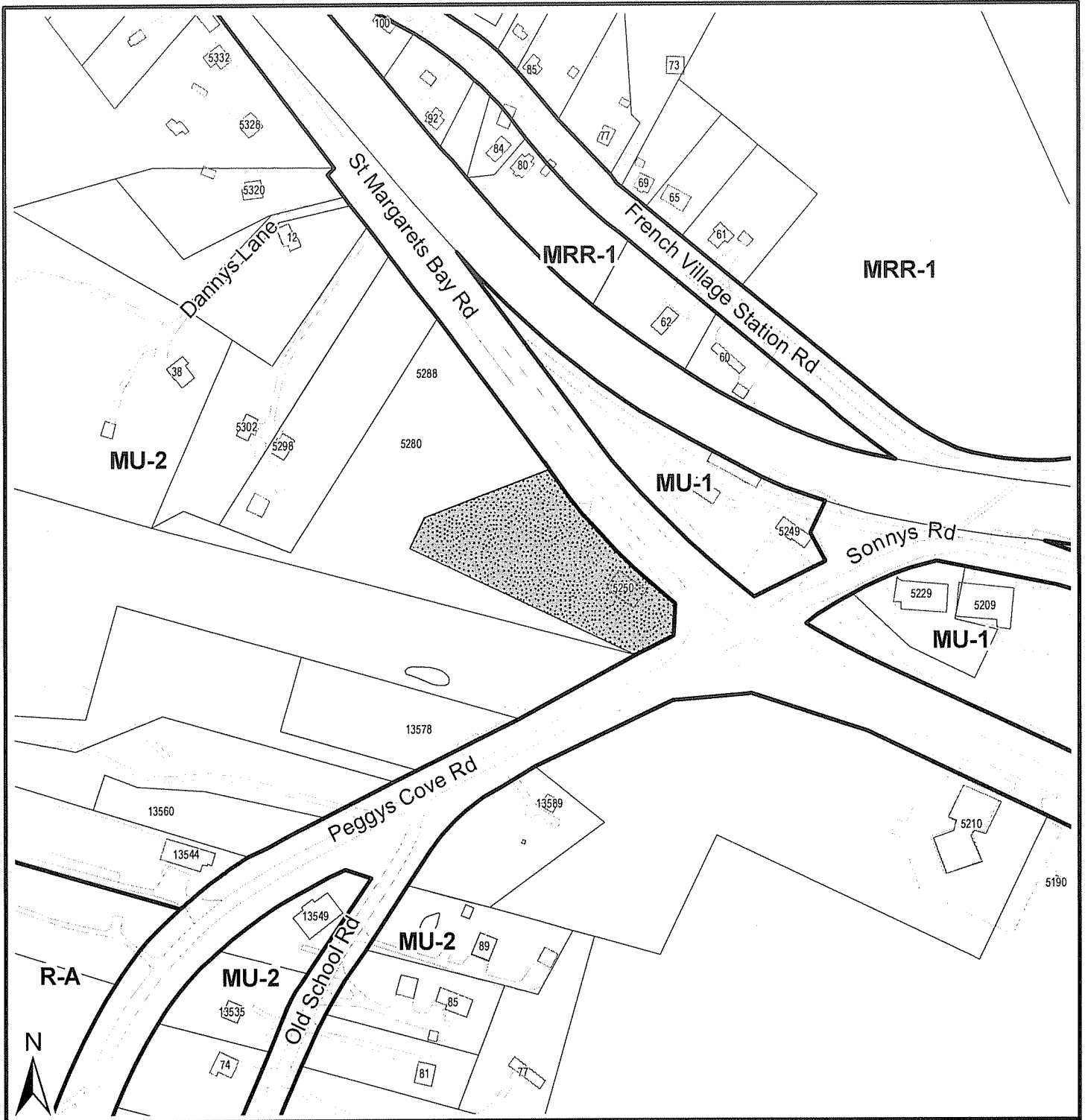
Map 1	Location and Zoning Map
Map 2	Generalized Future Land Use Map
Attachment A	Proposed Discharging Agreement
Attachment B	Excerpts from the Planning Districts 1 and 3 MPS
Attachment C	Excerpts from the Planning Districts 1 and 3 LUB

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 : Miles Agar, Planner 1, Community Development, 490-4495

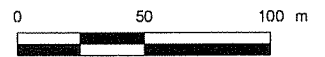



Report Approved by: Austin French, Manager, Planning Services, 490-6717



### Map 1 - Location and Zoning

5250 St. Margarets Bay Road  
Upper Tantallon



 Area of development agreement proposed to be discharged

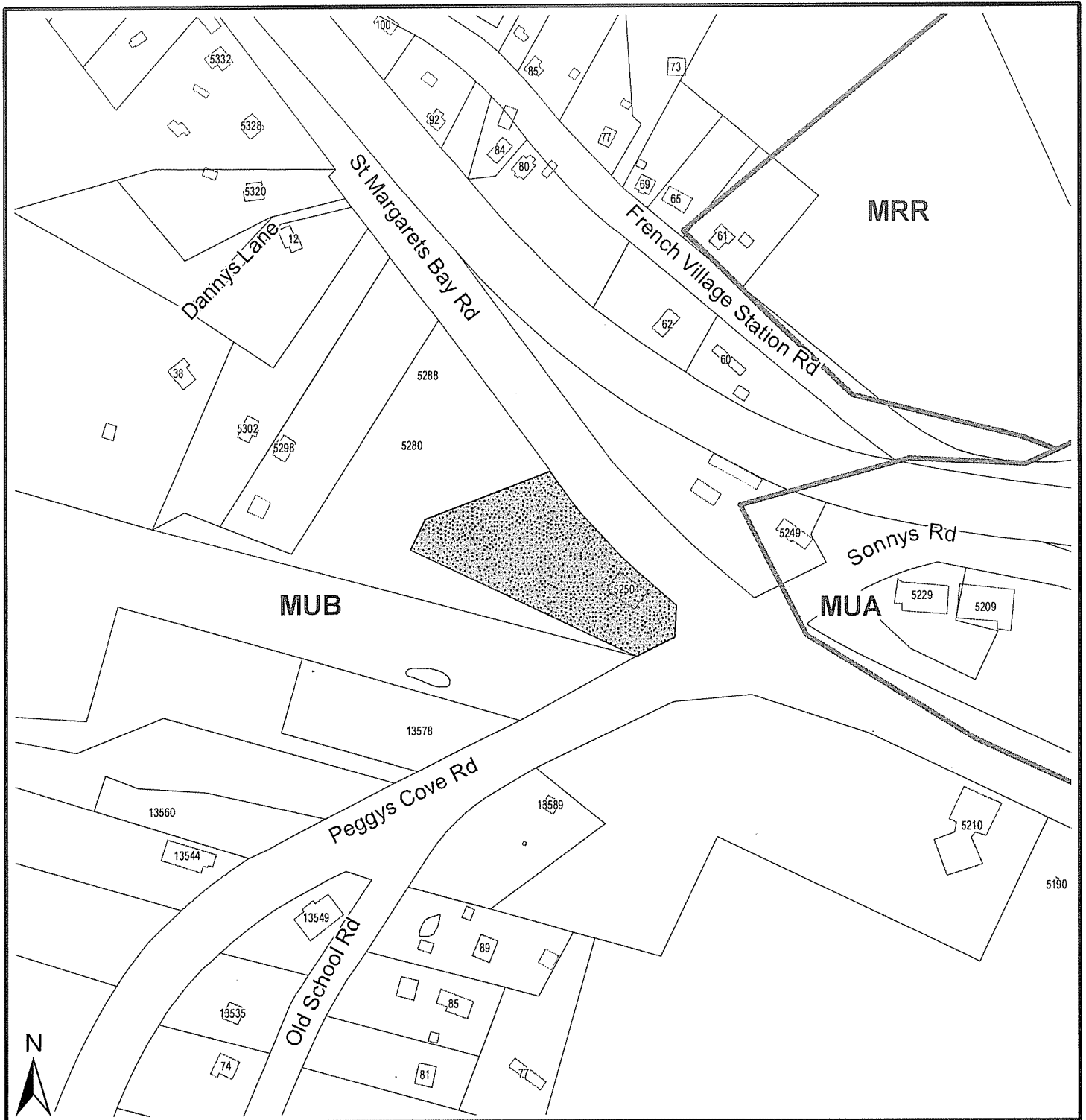
#### Zone

- R-A Residential
- MRR-1 Mixed Rural Residential
- MU-1 Mixed Use 1
- MU-2 Mixed Use 2

Planning Districts 1 & 3  
(St. Margarets Bay) Plan Area

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.

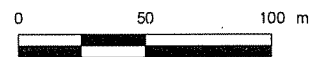


**Map 2 - Generalized Future Land Use**

5250 St. Margarets Bay Road  
Upper Tantallon



 Area of development agreement proposed to be discharged



Planning Districts 1 & 3  
(St. Margarets Bay) Plan Area

**Designation**

- MRR Mixed Rural Residential
- MUA Mixed Use "A"
- MUB Mixed Use "B"

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.



*Regional Municipality Charter*, the Western Region Community Council of the Municipality approved this request by resolution at a meeting held on [INSERT - date], referenced as Municipal Case Number **16282**;

WITNESS that it is agreed that the Lands is hereby discharged from the Former Agreement and the Existing Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

SIGNED, SEALED AND DELIVERED ) TANTALLON VETERINARY  
in the presence of ) HOSPITAL LIMITED  
)  
per \_\_\_\_\_ ) per: \_\_\_\_\_  
)

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

SEALED, DELIVERED AND )  
ATTESTED to by the proper )  
signing officers of Halifax Regional )  
Municipality duly authorized )  
in that behalf in the presence ) **HALIFAX REGIONAL MUNICIPALITY**

per \_\_\_\_\_ ) per: \_\_\_\_\_  
) **MAYOR**

per \_\_\_\_\_ ) per: \_\_\_\_\_  
) **MUNICIPAL CLERK**



**Attachment B**  
**Excerpts from the Planning Districts 1 and 3 MPS**

- MU-1 It shall be the intention of Council to establish a Mixed Use "A" and a Mixed Use "B" Designation as shown on the Generalized Future Land Use Map (Map 1). Within the designations it shall be the intention of Council to support the continuation of the existing diverse land use pattern characterized by a mixture of residential development, commercial activity, community facilities, traditional industries and resource uses. The Mixed Use "A" and "B" Designations will differ only in their treatment of fish processing plants.
- MU-2 Within the Mixed Use "A" and "B" Designation, it shall be the intention of Council to establish a Mixed Use 1 and Mixed Use 2 Zone respectively which permits all uses with the exception of mobile home parks, multi-dwellings, senior citizen housing containing over twenty (20) units, commercial entertainment uses, video arcades, campgrounds, marinas, intensive agricultural uses, extractive uses, sawmills and industrial mills related to forestry over three thousand (3,000) square feet, penal institutions, industrial uses excepting traditional uses, including telecommunication towers, hazardous waste disposal or storage sites, sanitary land fill sites, C & D Material Operations (RC - September 10, 2002 / E-November 9, 2002), commercial and industrial developments greater than 697 square metres (7,500 square feet) of GFA on any one lot, (RC - February 24, 2009/ E-April 25, 2009), and salvage yards. The Mixed Use 1 Zone shall permit fish processing plants and the Mixed Use 2 Zone shall not. Standards shall be contained in the land use by-law for non-residential uses, including controls on outdoor storage and display, parking, buffering and setbacks.

**Attachment C**  
**Excerpts from the Planning Districts 1 and 3 LUB**

4.32 SCHEDULE J - WETLANDS MAP

Every application for a development permit shall be accompanied by plans, drawn to an appropriate scale, showing the location of all wetlands identified on Schedule J attached to this by-law, within and adjacent to the lot. Notwithstanding any other provision of this by-law, no development of any kind shall be permitted within any such wetland. (RC-Jun 27/06; E-Aug 26/06)

PART 13: MU-2 (MIXED USE) ZONE

13.1 MU-2 USES PERMITTED

A development permit may be issued for all uses in any MU-2 (Mixed Use) Zone, except for the following:

Residential Uses Not Permitted

Mobile home parks  
Multi-unit dwellings  
Senior citizen housing over 20 units

Commercial Uses Not Permitted

Commercial entertainment uses  
Campgrounds  
Marinas  
All commercial development or expansions with a combined gross floor area greater than 697 square metres (7500 square feet). (RC-Feb 24/09;E-Apr 25/09)

Resource Uses Not Permitted

Agricultural uses, intensive  
Extractive facilities  
Sawmills and industrial mills related to the forestry over 3,000 square feet  
Fish processing plants

Industrial Uses Not Permitted

Industrial uses but excepting traditional uses and service industries

Salvage yards

All industrial development or expansions with a combined gross floor area greater than 697 square metres (7500 square feet). (RC-Feb 24/09;E-Apr 25/09)

Construction and Demolition Materials Operations Not Permitted

C&D Materials Transfer Stations

C&D Materials Processing Facilities

C&D Materials Disposal Sites