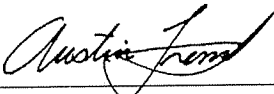


**Western Region Community Council
September 26, 2011**

TO: Chair and Members of Western Region Community Council

SUBMITTED BY: 
Austin French, Manager, Planning Services

DATE: September 8, 2011

SUBJECT: Case 16812: Rezoning Birch Bear Woods Subdivision, Lewis Lake

ORIGIN

At the February 28, 2011 meeting of Western Region Community Council, the following motion was passed:

MOVED by Councillor Lund, seconded by Councillor Rankin that the Western Region Community Council requesting that staff initiate the process to appropriately rezone properties within the Birch Bear Woods Subdivision generally bounded by St. Margaret's Bay Road, Lewis Lake, Birch Hill Lake and Holland Lake to reflect a low density residential development form.

RECOMMENDATION

It is recommended that Western Region Community Council:

1. Give First Reading to the proposed rezoning of Birch Bear Woods Subdivision, Lewis Lake, as provided in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed rezoning of Birch Bear Woods Subdivision, Lewis Lake, from the MU-1 (Mixed Use 1) Zone and the MRR-1 (Mixed Rural Residential 1) Zone, to the R-A (Residential) Zone, as provided in Attachment A of this report.

BACKGROUND

The Birch Bear Woods Subdivision is located off St. Margarets Bay Road in Lewis Lake. It extends southwest from St. Margarets Bay Road, along Birch Bear Run, and terminates at Big Hubley Lake Drive. It includes the following streets: Birch Bear Run, Beartooth Way, Grizzlybear Lane and Blackbear Circle (Map 1). The subdivision was developed in phases through as-of-right subdivision and development approval processes, and contains 116 single unit lots on almost 200 acres of land.

Designation and Zoning

Two zones are currently applied to the subdivision under the Land Use By-law for Planning District 1 & 3 (LUB) (Map 1). Approximately one third of the subdivision is zoned MU-1 (Mixed Use 1), with the remaining two thirds being zoned MRR-1 (Mixed Rural Residential 1).

The subdivision also has two corresponding land use designations under the Municipal Planning Strategy for Planning Districts 1 & 3 (MPS) with the MU-1 zoned portion falling within the Mixed Use "A" designation and the MRR-1 zoned portion within the Mixed Rural Residential designation (Map 2). Both of these designations support and encourage a wide variety of land uses, including low-density residential uses.

Proposal

The district councillor has advised staff that residents are concerned with the wide range of land uses permitted in the subdivision under the current zoning. As a result, a motion was passed by Western Region Community Council to request the rezoning of the subdivision.

The residents of Birch Bear Woods Subdivision are interested in having consistent land use policies and regulations throughout the subdivision. The Birch Bear Run Homeowners Association, on behalf of the residents, has considered the various residential zones permitted under the Land Use By-law for Planning Districts 1 & 3 (LUB), and requested that the R-A (Residential) Zone be applied throughout the subdivision (Attachment F).

DISCUSSION

The proposed rezoning to the R-A (Residential) Zone provides a reasonable and consistent response to the current situation, as other larger subdivisions in the Upper Tantallon and Hammonds Plains areas also have uniform zones. The proposed R-A (Residential) Zone will reflect the low-density residential nature of the development. The R-A Zone permits the following land uses, which will apply to the subdivision (Attachment D):

- Single unit dwellings;

- Auxiliary dwelling units which are small, secondary units within the larger dwelling;
- Day care facilities within dwellings;
- Business uses located within the dwelling unit; and
- Bed and breakfasts contained within the dwelling unit.

Municipal Planning Strategy (MPS) Policy

Council may consider rezoning the subdivision to a low-density residential zone, such as the R-A (Residential) Zone, within the Mixed Use and Mixed Rural Residential Designation without an amendment to the MPS. Other residential zones Council could consider include the R-1 (Single Unit Dwelling) Zone and the R-A1 (General Residential) Zone (Attachment D).

Generally, the MPS addresses existing scattered pockets of primarily residential development that fall within the Mixed Use and Mixed Rural Residential Designations. Such areas are characterized by adjoining and continuous residential development and an absence of commercial and/or resource land uses. Furthermore, it is predicted that residential growth in the area will increase over time within these two designations. Policies MRR-3 and MU-3 under the MPS provide provisions that allow Council to consider applying the residential zoning through the rezoning process. Staff's analysis of the proposed rezoning against the policies of the MPS is provided in Attachment C.

Halifax Watershed Advisory Board

The subject subdivision is near three lakes: Lewis Lake, Birch Hill Lake and Holland Lake. As the motion put forth by Western Region Community Council is for the rezoning of the subdivision to reflect its low-density form and nature, no adverse effects on the lakes are expected as the R-A Zone will provide for less intensive land uses than the current mixed use zoning. As a result, this application was not reviewed by the Halifax Watershed Advisory Board.

Conclusion

The proposed rezoning provides consistent land use regulations throughout the subdivision and is in keeping with both the MPS. Therefore, it is recommended that Council adopt the proposed rezoning.

BUDGET IMPLICATIONS

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

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 consultation. In accordance with Regional Council's Public Participation Program, a public information meeting was held on May 16, 2011. The minutes of the meeting are included as Attachment E.

Should Council decide to schedule a public hearing, property owners within the notification area shown on Map 1 will be notified of the hearing by mail. Notices will also be published in the local newspaper and posted on the HRM website. The proposed amendment and rezoning will potentially impact the following stakeholders: local residents, property owners, and community or neighbourhood organizations.

ALTERNATIVES

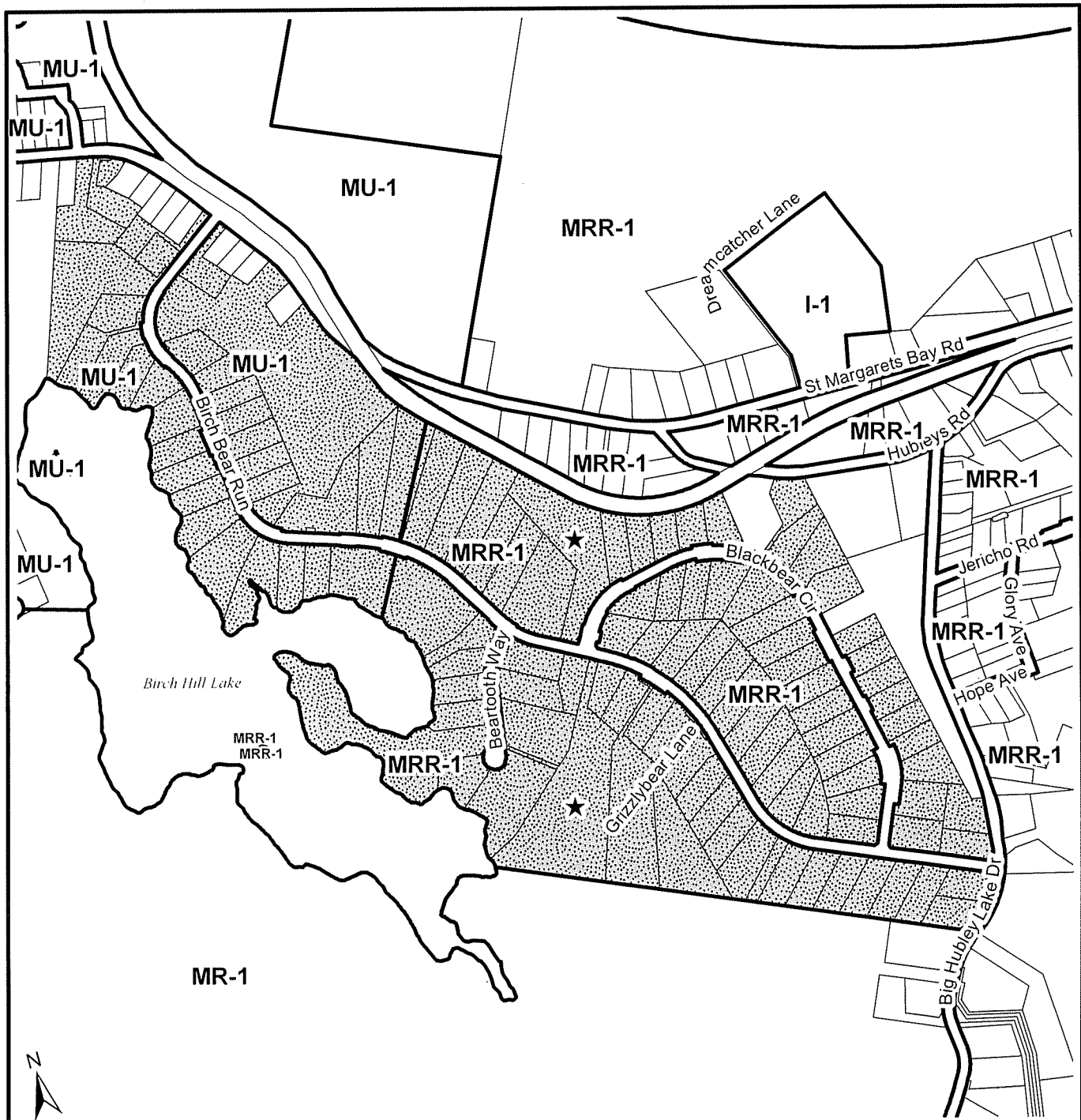
1. Council may choose to approve the proposed rezoning contained in Attachment A of this report. This is the recommended alternative.
2. Council may refuse the proposed rezoning, and in doing so, must provide reasons based on a conflict with the MPS policies.

ATTACHMENTS

Map 1	Location and Zoning and Notification Area
Map 2	Generalized Future Land Use
Attachment A	Proposed Amendments
Attachment B	Excerpt from the MPS for Planning Districts 1 & 3 – Policy
Attachment C	MPS for Planning Districts 1 & 3 – Review of Relevant Policies
Attachment D	Excerpt from the LUB for Planning Districts 1 & 3 – Regulation
Attachment E	Minutes from May 16, 2011 Public Information Meeting
Attachment F	Letter from Birch Bear Run Homeowners Association


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 : Dali H. Salih, Planner I, Planning Services, 490-1948



Map 1 - Location and Zoning

Birch Bear Woods Subdivision
Lewis Lake

 Area proposed to be rezoned to R-A (Residential)

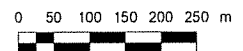
★ Parkland owned by HRM

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

Zone

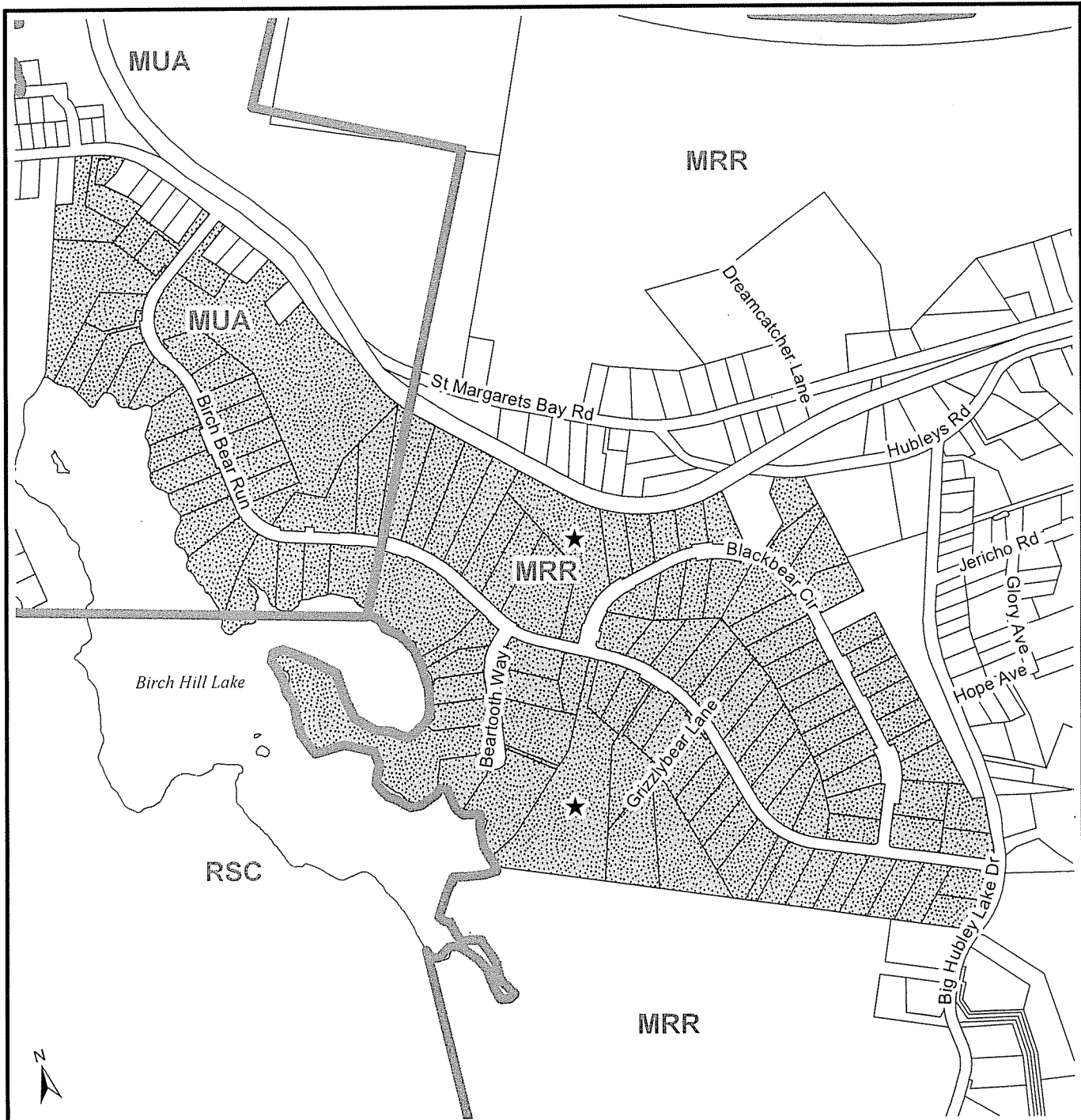
MRR-1 Mixed Rural Residential
MU-1 Mixed Use
MR-1 Mixed Resource
I-1 General Industrial

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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

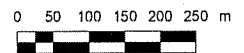


Map 2 - Generalized Future Land Use

Birch Bear Woods Subdivision
Lewis Lake



 Area proposed to be rezoned to R-A (Residential)



★ Parkland owned by HRM

Designation

MRR Mixed Rural Residential
MUA Mixed Use "A"
RSC Resource

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

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

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

ATTACHMENT A:
Proposed Amendments to the Land Use By-law for
Planning District 1 & 3

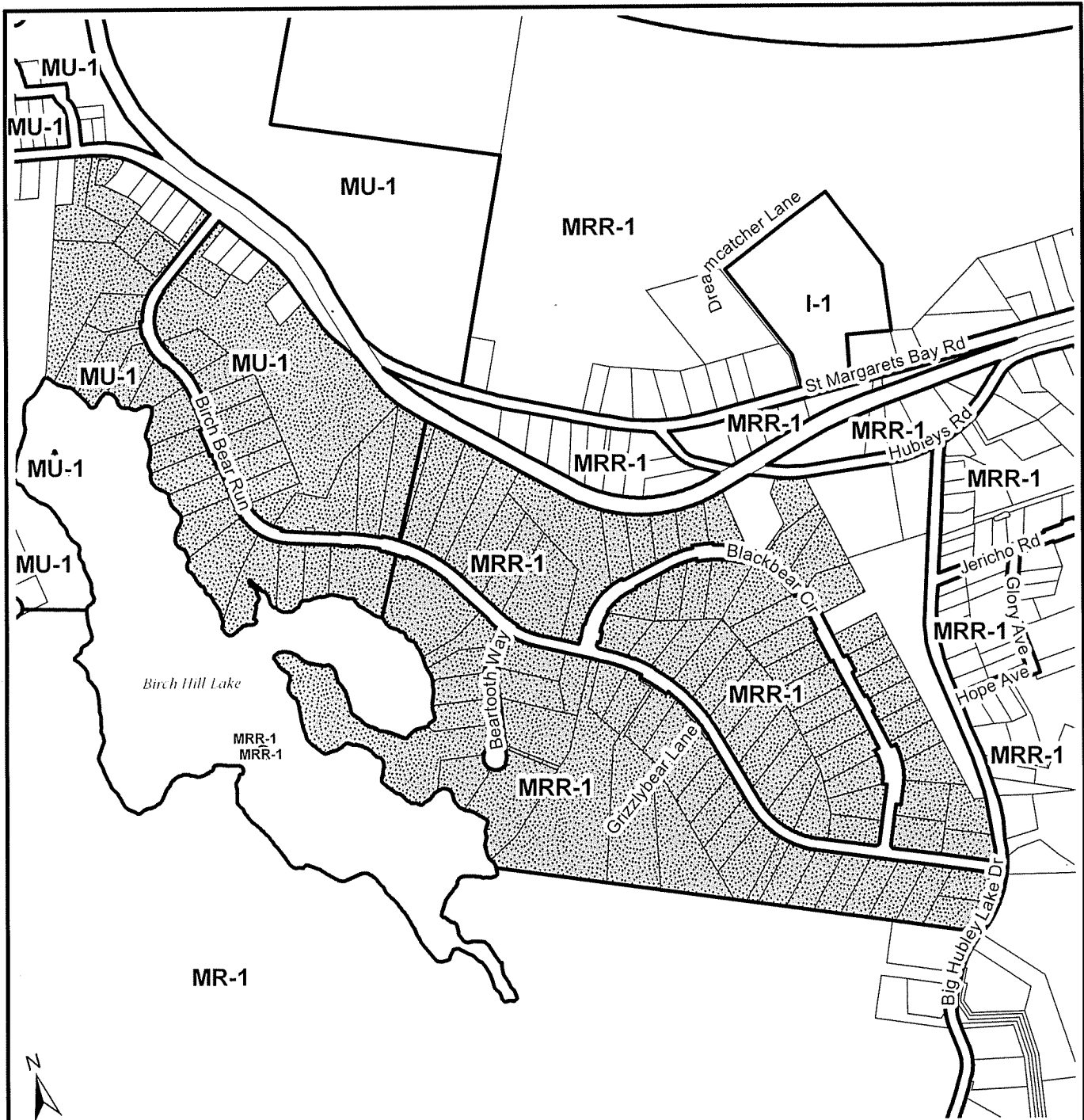
BE IT ENACTED by the Western Region Community Council of the Halifax Regional Municipality that the Land Use By-law for Planning Districts 1 & 3, as amended, is hereby further amended as follows:

1. By amending the zoning map, **Schedule A of Planning District 1 & 3**, by rezoning the properties of Birch Bear Woods Subdivision from the MU-1 (Mixed Use 1) Zone and the MRR-1 (Mixed Rural Residential 1) Zone to the R-A (Residential) Zone, as shown on Schedule A attached.

I HEREBY CERTIFY that the amendment to the Land Use By-law for Planning District 1 & 3, 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 _____, 2011.


GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this day of _____, 2011.

Municipal Clerk



Schedule A

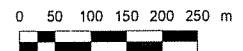
Birch Bear Woods Subdivision
Lewis Lake

 Area to be rezoned to R-A (Residential)

Zone

- MRR-1 Mixed Rural Residential
- MU-1 Mixed Use
- MR-1 Mixed Resource
- I-1 General Industrial

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

ATTACHMENT B:
**Excerpt from the Municipal Planning Strategy for
Planning Districts 1&3 – Policy**

SECTION II – Land Use Intent Objectives and Policies

Mixed Rural Residential Designation

Policy MRR-3: Notwithstanding Policy MRR-2, within the Mixed Rural Residential Designation, Council shall only consider applying more restrictive residential zoning by amendment to the land use by-law. In considering an amendment to the land use by-law for such a purpose, Council shall have regard for the provisions of Policy IM-9.

Mixed use “A” Designation

Policy MU-3: Within the Mixed Use "A" and "B" Designations Council shall only consider applying more restrictive residential zoning by amendment to the land use by-law. In considering an amendment to the by-law for such a purpose, Council shall have regard for the provisions of Policy IM-9.

SECTION IV – Implementation

Policy IM-9: 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 strategy, Council shall have appropriate regard to the following matters:

- a) that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulations;
- b) that the proposal is not premature or inappropriate by reason of:
 - i. the financial capability of the Municipality to absorb any costs relating to the development;
 - ii. the adequacy of on-site sewerage and water services;
 - iii. the adequacy or proximity of school, recreation or other community facilities;
 - iv. the adequacy of road networks leading or adjacent to or within the development; and
 - v. the potential for damage to destruction of designated historic buildings and sites.
- c) that in development agreement controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
 - i. type of use;

- ii. height, bulk and lot coverage of any proposed building;
- iii. traffic generation, access to and egress from the site, and parking;
- iv. open storage;
- v. signs; and
- vi. any other relevant matter of planning concern.

- d) that the proposed site is suitable with respect to the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding; and
- e) any other relevant matter of planning concern.
- f) 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-July 2, 2002 / E-17 August 2002)

ATTACHMENT C:
Municipal Planning Strategy for
Planning Districts 1&3 – Review of Relevant Policies

Section II – Land Use Intent Objectives and Policies

The request to appropriately rezone properties within the Birch Bear Woods Subdivision to reflect a low-density residential nature is consistent with Policy MRR-3 and MU-3 and Implementation Policy IM-9 of the Municipal Planning Strategy for Planning District 1 and 3 (MPS). Findings that support this position are as follows:

Mixed Rural Residential Designation

***Policy MRR-3:** Notwithstanding Policy MRR-2, within the Mixed Rural Residential Designation, Council shall only consider applying more restrictive residential zoning by amendment to the land use by-law. In considering an amendment to the land use by-law for such a purpose, Council shall have regard for the provisions of Policy IM-9.*

Mixed use “A” Designation

***Policy MU-3:** Within the Mixed Use "A" and "B" Designations Council shall only consider applying more restrictive residential zoning by amendment to the land use by-law. In considering an amendment to the by-law for such a purpose, Council shall have regard for the provisions of Policy IM-9.*

Staff Comments: Policies MRR-3 and MU-3 address existing scattered pockets of primarily residential development that fall within the Mixed Use and Mixed Rural Residential Designations. Such areas are characterized by continuous residential development and an absence of commercial and/or resource land uses. The MPS suggests that residential growth in the area will increase over time within these two designations.

Policies MRR-3 and MU-3 provide provisions that allow residents to receive residential zoning through the rezoning process in order to gain additional assurance regarding future land uses in the neighbourhood.

***Implementation Policy 9:** 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 strategy, Council shall have appropriate regard to the following matters*

Staff comment:

<p>a. <i>that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulations;</i></p>	<p>The existing subdivision was developed as-of-right in accordance with the applicable provisions of the Subdivision By-law and the area land use by-law.</p>
<p>b. <i>that the proposal is not premature or inappropriate by reason of:</i></p> <ul style="list-style-type: none"> i. <i>the financial capability of the Municipality to absorb any costs relating to the development;</i> ii. <i>the adequacy of on-site sewerage and water services;</i> iii. <i>the adequacy or proximity of school, recreation or other community facilities;</i> iv. <i>the adequacy of road networks leading or adjacent to or within the development; and</i> v. <i>the potential for damage to destruction of designated historic buildings and sites.</i> 	<p>The subdivision is existing, therefore the relevant HRM services are already being provided.</p> <p>The existing on-site sewer and water systems were established in accordance with provincial requirements.</p> <p>The subject lands are located in the established community of Lewis Lake and have adequate access to public schools and community facilities.</p> <p>There are no designated historic sites or buildings on or abutting the subject lands.</p>
<p>c. <i>that in development agreement controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i></p> <ul style="list-style-type: none"> i. <i>type of use;</i> ii. <i>height, bulk and lot coverage of any proposed building;</i> iii. <i>traffic generation, access to and egress from the site, and parking;</i> iv. <i>open storage;</i> v. <i>signs; and</i> vi. <i>any other relevant matter of planning concern.</i> 	<p>The proposed rezoning to the request R-A (Residential) Zone permits single unit dwellings, with the opportunity to create an auxiliary dwelling with an unrestricted interior access between the dwelling units. These lands uses are compatible with the primarily low-density residential nature of the surrounding area.</p> <p>Traffic in the subdivision or the regional street network will not be impacted by the rezoning of the subdivision. HRM Engineering did not require a Traffic Impact Statement/Study.</p>
<p>d. <i>that the proposed site is suitable with respect to the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding;</i></p>	<p>Existing development; rezoning the subdivision will not have any adverse effects on the nearby water bodies (Lewis Lake, Birch Hill Lake and Holland Lake) .</p>
<p>e. <i>any other relevant matter of planning concern; and</i></p>	<p>N/A</p>

f. 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-July 2, 2002 / E-17 August 2002)

N/A

ATTACHMENT D:
Excerpt from the Land Use By-law for
Planning Districts 1&3 - Regulations

PART 7: R-A (RESIDENTIAL) ZONE

7.1 R-A USES PERMITTED

No development permit shall be issued in any R-A (Residential) Zone except for the following:

Residential Uses

Single unit dwellings;
One auxiliary dwelling unit;
Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings;
Business uses in conjunction with permitted dwellings; and
Bed and breakfasts in conjunction with permitted dwellings.

Community Uses

Open space uses

7.2 R-A ZONE REQUIREMENTS: RESIDENTIAL USES

In any R-A Zone where uses are permitted as Residential 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	20 feet (6.1 m)
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)

7.3 OTHER REQUIREMENTS: BUSINESS USES

Where business uses are permitted in any R-A Zone, the following shall apply:

- a) Any business shall be wholly contained within the dwelling, which shall be the

- principle residence of the operator of the business.
- b) No more than three hundred (300) square feet (28 m²) of gross floor area of any dwelling shall be devoted to any business use.
 - c) No mechanical equipment shall be used except that which is reasonably consistent with the use of a dwelling and which does not create a nuisance by virtue of noise, vibration, glare, odour or dust or which is obnoxious.
 - d) No open storage or outdoor display shall be permitted.
 - e) No more than one (1) sign shall be permitted for any business and no such sign shall exceed four (4) square feet (.37 m²) in area and shall not exceed four (4) feet (1.2 m) in any one dimension.
 - f) Off-street parking space, in addition to those required for the dwelling, shall be provided according to the provisions of Section 4.27.

7.4 OTHER REQUIREMENTS: BED AND BREAKFASTS

Where any bed and breakfast is permitted in any R-1 Zone, the following shall apply:

- a) Any bed and breakfast shall be wholly contained within the dwelling which is the principle residence of the operator of the establishment;
- b) Not more than three (3) rooms may be let;
- c) No window display and not more than one (1) business sign shall be permitted and no such sign shall exceed two (2) square feet (0.2 m²) in area; and
- d) One off-street parking space in addition to that required for the dwelling shall be provided for each room to be let.

7.5 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-A Zone, the following shall apply:

- a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling which is the principal residence of the operator of the facility.
- b) No open storage or outdoor display shall be permitted.
- c) No more than one (1) sign shall be permitted for any day care facility and no such sign shall exceed four (4) square feet (.37 m²) in area, and shall not exceed four (4) feet (1.2 m) in any one dimension.
- d) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m²) of gross floor area devoted to any facility.

7.6 OTHER REQUIREMENTS: AUXILIARY DWELLING UNITS

Where auxiliary dwelling units are permitted in any R-A Zone the following shall apply:

- a) No more than thirty-five (35) per cent of gross floor area of any dwelling shall be devoted to the auxiliary dwelling unit.
- b) There shall be an unrestricted interior access between the dwelling units.

c) One off-street parking space shall be provided for each dwelling unit.

7.7 OTHER REQUIREMENTS: OPEN SPACE USES

In any R-A Zone where uses are permitted as Open Space Uses, no development permit shall be issued except in conformity with the following:

Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	30 feet (9.1 m)

7.8 EXEMPTION: OPEN SPACE USES

Notwithstanding the provision of Section 4.1(a) where uses are permitted as Open Space Uses, and where such uses involve no buildings or structures, no development permit shall be required.

PART 6: R-1 (SINGLE UNIT DWELLING) ZONE

6.1 R-1 USES PERMITTED

No development permit shall be issued in any R-1 (Single Unit Dwelling) Zone except for the following:

Residential Uses

Single 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; and
Bed and breakfasts in conjunction with permitted dwellings.

Community Uses

Open space uses

6.2 R-1 ZONE REQUIREMENTS: RESIDENTIAL USES

In any R-1 Zone where uses are permitted as Residential 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	20 feet (6.1 m)

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)

6.3 OTHER REQUIREMENTS: BUSINESS USES

Where business uses are permitted in any R-1 Zone, the following shall apply:

- a) Any business shall be wholly contained within the dwelling which shall be the principle residence of the operator of the business.
- b) No more than three hundred (300) square feet (28 m²) of gross floor area of any dwelling shall be devoted to any business use.
- c) No mechanical equipment shall be used except that which is reasonably consistent with the use of a dwelling and which is not obnoxious and which does not create a nuisance by virtue of noise, vibration, glare, odour or dust or which is obnoxious.
- d) No open storage or outdoor display shall be permitted.
- e) No more than one (1) sign shall be permitted for any business and no such sign shall exceed four (4) square feet (.37 m²) in area and shall not exceed four (4) feet (1.2 m) in any one dimension.
- f) One off-street parking space, other than that required for the dwelling, shall be provided for in accordance with Section 4.27.

6.4 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-1 Zone, the following shall apply:

- a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling which is the principle residence of the operator of the facility.
- b) No open storage or outdoor display shall be permitted.
- c) No more than one (1) sign shall be permitted for any day care facility and no such sign shall exceed four (4) square feet (.37 m²) in area, and shall not exceed four (4) feet (1.2 m) in any one dimension.
- d) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m²) of gross floor area devoted to any facility.

6.5 OTHER REQUIREMENTS: BED AND BREAKFASTS

Where any bed and breakfast is permitted in any R-1 Zone, the following shall apply:

- a) Any bed and breakfast shall be wholly contained within the dwelling which is the principle residence of the operator of the establishment;
- b) Not more than three (3) rooms may be let;

- c) No window display and not more than one (1) business sign shall be permitted and no such sign shall exceed two (2) square feet (0.2 m²) in area; and
- d) One off-street parking space in addition to that required for the dwelling shall be provided for each room to be let.

6.6 OTHER REQUIREMENTS: OPEN SPACE USES

In any R-1 Zone where uses are permitted as Open Space Uses, no development permit shall be issued except in conformity with the following:

Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	30 feet (9.1 m)

6.7 EXEMPTION: OPEN SPACE USES

Notwithstanding the provision of Section 4.1(a) where uses are permitted as Open Space Uses, and where such uses involve no buildings or structures, no development permit shall be required.

PART 8: R-A1 (GENERAL RESIDENTIAL) ZONE

8.1 R-A1 USES PERMITTED

No development permit shall be issued in any R-A1 (General Residential) Zone except for the following:

Residential Uses

- Single unit dwellings;
- One auxiliary dwelling unit;
- Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings;
- Business uses in conjunction with permitted dwellings; and
- Bed and breakfasts in conjunction with permitted dwellings.

Community Uses

- Open space uses
- Institutional uses

8.2 R-A1 ZONE REQUIREMENTS: RESIDENTIAL USES

In any R-A1 Zone where uses are permitted as Residential 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	20 feet (6.1 m)
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)

8.3 OTHER REQUIREMENTS: BUSINESS USES

Where business uses are permitted in any R-A1 Zone, the following shall apply:

- a) Any dwelling which is used for such purposes shall be the principal residence of the operator of the business.
- b) No more than three hundred (300) square feet (28 m²) of gross floor area of any dwelling nor more than seven hundred (700) square feet (65 m²) of gross floor area of any other structure shall be devoted to any business use.
- c) No mechanical equipment shall be used that is obnoxious and which creates a nuisance by virtue of noise, vibration, glare, odour, dust or air pollutants.
- d) No open storage or outdoor display shall be permitted.
- e) No more than one (1) sign shall be permitted for any business or facility and no such sign shall exceed four (4) square feet (.37 m²) in area and shall not exceed four (4) feet (1.2 m) in any one dimension.
- f) One off-street parking space, in addition to those required for the dwelling, shall be provided according to the provisions of Section 4.27.

8.4 OTHER REQUIREMENTS: BED AND BREAKFASTS

Where any bed and breakfast is permitted in any R-1 Zone, the following shall apply:

- a) Any bed and breakfast shall be wholly contained within the dwelling which is the principle residence of the operator of the establishment;
- b) Not more than three (3) rooms may be let;
- c) No window display and not more than one (1) business sign shall be permitted and no such sign shall exceed two (2) square feet (0.2 m²) in area; and
- d) One off-street parking space in addition to that required for the dwelling shall be provided for each room to be let.

8.5 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-A1 Zone, the following shall apply:

- a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling which is the principal residence of the operator of the facility;
- b) No open storage or outdoor display shall be permitted;
- c) No more than one (1) sign shall be permitted for any day care facility and no such sign shall exceed four (4) square feet (.37 m²) in area, and shall not exceed four (4) feet (1.2 m) in any one dimension.
- d) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m²) of gross floor area devoted to any facility.

8.6 OTHER REQUIREMENTS: AUXILIARY DWELLING UNITS

Where auxiliary dwellings are permitted in any R-A1 Zone the following shall apply:

- a) Deleted - (DMA).
- b) No more than thirty-five (35) per cent of gross floor area of any dwelling shall be devoted to the auxiliary dwelling unit.
- c) There shall be an unrestricted interior access between the dwelling units.
- d) One off-street parking space shall be provided for each dwelling unit.

8.7 OTHER REQUIREMENTS: INSTITUTIONAL USES

In any R-A1 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	The greater of ½ height of the main building, or 15 feet (4.6 m)
Maximum Lot Coverage	50 percent

8.8 OTHER REQUIREMENTS: OPEN SPACE USES

In any R-A1 Zone where uses are permitted as Open Space Uses, no development permit shall be issued except in conformity with the following:

Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	30 feet (9.1 m)

8.9 EXEMPTION: OPEN SPACE USES

Notwithstanding the provision of Section 4.1(a) where uses are permitted as Open Space Uses, and where such uses involve no buildings or structures, no development permit shall be required.

ATTACHMENT E:
Public Information Meeting Minutes – May 19, 2011

7:00 p.m.
Monday, May 16, 2011
St. Luke's United Church, St. Margarets Bay

IN ATTENDANCE: Dali H. Salih, Planner I, HRM Planning Services
Scott Leblanc, Planning Technician, HRM Regional Planning
Sharlene Seaman, Planning Controller, HRM Planning Services

Councillor Peter Lund

PUBLIC IN ATTENDANCE: Approximately 4

The meeting commenced at approximately 7:12 p.m.

1. Opening remarks/Introductions/Purpose of meeting – Dali Salih

Dali Salih opened the meeting by introducing herself as a Planner with Halifax Regional Municipality (HRM) Community Development in the Western Region. She introduced HRM staff and the Councillor present. She welcomed everyone and thanked them for coming.

She stated that the reason for the meeting was to review an HRM-initiated rezoning application, from a motion that was passed by Western Region Community Council. The motion is to appropriately rezone properties within the Birch Bear Woods Subdivision generally bounded by St. Margarets Bay Road, Lewis Lake, Birch Hill Lake and Holland Lake to reflect a low density residential development form.

She stated that the current zone is a mixed use development and the application is to down size it to a single unit dwelling zone. The purpose of tonight's meeting is to explain the policy and the planning process of rezoning. This meeting will give members of the public an opportunity to ask questions and give comment on the application.

2. Overview of planning process/Presentation of Proposal - Dali Salih

Ms. Salih showed a map of the boundaries and subdivision, as well as property lines. The subject area is located off St. Margarets Bay Road and it is within the St. Margarets Bay plan area (Planning Districts 1 & 3). It extends southwest from St. Margarets Bay Road, along Birch Bear Run, ending at Big Hubley Lake Drive in Hubley. It consists of Beartooth Way, Grizzlybear Lane and Blackbear Circle. Most of the properties in the subdivision are located within District 23 except for Big Hubley Lake Drive which falls under District 22. She showed an image of the subject area.

Ms. Salih noted that there are two different designations in Birch Bear Woods subdivision that guide future land uses under the Municipal Planning Strategy for Planning Districts 1&3 (MPS). The area surrounding Birch Bear Run and ending before Beartooth Way is designated Mixed Use "A" (MU-A), which recognizes the semi-rural nature of large parts of the Plan Area. The designation supports a wide range of residential, commercial, institutional and resource uses. The rest of the subdivision is designated Mixed Rural Residential (MRR). The designation is designed to bridge the gap between the ranges of land use and permits a number of residential and institutional uses, as well as small scale commercial operations.

She stated that the subdivision consists of two different zones under the Land Use Bylaw for Planning Districts 1 & 3 (LUB). The properties located north of Birch Bear Run are zoned MU-1 (Mixed Use-1), and the remaining properties are zoned MRR-1 (Mixed Rural Residential 1). She explained what both zones allow.

Ms. Salih stated that in terms of policy support, the MPS for Planning Districts 1 & 3 consists of Policies MRR-3 and MU-3, which state that within the Mixed Rural Residential Designation and the Mixed Use "A" Designation, Council shall consider applying more restrictive residential zoning by amendments to the Land Use Bylaw. These policies support the motion to rezone.

She stated that the rezoning process starts with an application. Staff does a preliminary review to ensure that the Municipal Planning Strategy allows the consideration of the request. If there is some level of policy support, staff proceeds with a Public Information Meeting (PIM). After the PIM, staff gathers feedback from the public, comments from other HRM departments and (in this case) Halifax Watershed Advisory Board because the subdivision is surrounded with watercourses. Along with the minutes from the PIM, a staff report is written, with recommendation to Council. This report will go forth to Western Region Community Council to set a date for a public hearing. This is another opportunity for the public to give comment. Council will, then, make a decision, based on all the information provided. Whether refused or approved, there will be a fourteen day (14) appeal period through the Nova Scotia Utility and Review Board.

3. Questions/Comments

Ms. Salih advised of the ground rules, gave her contact information and opened the floor for questions and comments.

Jolene Redmond, President of the Birch Bear Run Homeowners Association, advised that the residents had voted on the zoning for the subject area and they decided to change it from R-1 to R-A.

Trevor Creaser asked if Ms. Redmond meant R-A1.

She confirmed that the residents wanted R-A.

Mr. Creaser stated that the R-A zone includes auxiliary dwellings.

Ms. Redmond stated that those were the two zones they had narrowed it down to as there are many zones to choose from. The R-A zone seemed to be the zone that works for their subdivision. An email was sent out to all of the residents and the majority chose the R-A zone.

Councillor Lund asked the difference between R-A and R-1 zone.

Ms. Redmond stated that R-A allows residents to have an auxiliary dwelling for an in-law suite.

Terry Dalton, Birch Bear Woods, stated that he was not aware that the Birch Bear Run Homeowners Association existed. He asked the differences between the various zones and if it was public information.

Ms. Salih stated that the Land Use By-law for Planning Districts 1 & 3, including the various zones, can be found on the Planning Services website (www.Halifax.ca) and is public information. She advised that she would email him the information.

Mr. Dalton stated that he was expecting a chart to compare the various zones.

Ms. Salih stated that she was under the impression, due to Councillor Lund's motion, that the community had agreed on the R-1 zone. She was not aware that comparisons would have been needed. She noted the R-1 uses.

Mr. Dalton agreed that the zone was too restricted.

Councillor Lund asked if recreation centers would be included in the MU-1.

Ms. Salih stated that they were not included. She gave other examples.

Councillor Lund stated that he was asking because the adjacent fire hall might be reverted back to a recreation center.

Ms. Salih stated that the recreation center was under an MU-1 and is permitted as it is as of right.

Trevor Creaser, Birch Bear Run, noted that there were a few properties included in the Birch Bear Subdivision but are not included in the rezoning and wanted to know why. He stated that he is aware that it was a part of the original development.

Ms. Salih stated that those lots were applied for but never approved. Because of the GIS system, those lots were not included as planning went with the general boundaries.

Mr. Creaser stated that he believed there was a concept plan on file that shows that property included. He would like to see it included in the rezoning.

Ms. Salih stated that she would look into it.

Jeff Parks, Birch Bear Run, asked if the two lots that were not approved were actually denied or

did they just not reach the final stage.

Ms. Salih stated that because they did not have enough frontages, they never made it to the final stage of development.

Terry Dalton asked if the motion still stands or could it be changed, given that the motion was already made. He wondered if the process would have to begin again.

Ms. Salih stated that because this is the first stage, it can be looked into.

Councillor Lund stated that the motion cannot be changed now but he would propose it to be changed when it comes to the Public Hearing. This would avoid duplicating the process.

Dali Salih stated that the minutes would be attached to the report and they would specify the change requested by the Home Owners Association.

Terry Dalton asked if there were any restrictions to having a home office.

Ms. Salih stated that based on the current zone, there are no restrictions. However, after the rezoning, restrictions will be applied. The R-1 and the R-A zones differ and she would have to look into that.

Mr. Dalton stated that based on the effort towards environmental sensitivities and the Provinces commitment to sustainability, telecommuting should be a part of the effort. He feels that if a Bylaw does not recognize a zone, which includes a home office, it isn't following in the effort.

Jolene Redmond stated that a lot of the residents preferred the R-A zone because it would allow for a home office but not a mechanical shop. This offers "the little guy" an opportunity to survive without the Traffic congestion in the area.

Dali Salih stated that the home occupation, in general, does have a specific definition in the LUB and includes specific uses.

Terry Dalton asked if the assessment values would change.

Ms. Salih stated that she does not believe the rezoning would affect or change the assessment values.

Jeff Parks asked why HRM doesn't change the zone, when a developer applies for a subdivision, rather than going through the process afterwards.

Dali Salih stated that when the MPS was drafted, a designation was applied to certain areas and this governs all zones. They were applied to the different areas before the subdivision was constructed. When the developer applied, the proposal was as of right. The designations offer different uses but are designed to mark a transition from a residential form to commercial. There was envisioning for this area prior to any homes being constructed. When the subdivision was

built, all of the residential uses were as of right. The developer or HRM didn't look into rezoning as an option.

Mr. Parks repeated his question as he felt it was not answered. He asked why the process of rezoning would happen after the fact and not at that time.

Mr. Creaser stated that when a developer applies, it is up to them to make that change. HRM cannot make a developer do that.

Councillor Lund stated that he has asked the same question before because it takes a lot of taxpayer's money to go through these public processes.

Dali Salih stated that when a developer applies to build a property or a subdivision, the application is based on the designation or the zone and what it allows. The rezoning only comes about when the developer would like to build something specific and the zone does not support it. If the By-law allows that use, the developer can just apply. In this case, the Mixed Use Zone allows a variety of uses. It was applied for as of right.

Councillor Lund stated that the public can contact him or submit comments to him as well.

4. Closing comments

Ms. Salih asked for any other questions, gave her contact information and thanked everyone for attending the meeting.

5. Adjournment

The meeting adjourned at approximately 7:40 p.m.

ATTACHMENT F:

Birch Bear Run Homeowners Association

*"A friendly community working together for the benefit of all generations to
build a strong sense of community"*



**266 Birch Bear Run
Lewis Lake. NS B3Z 4B8**

June 14, 2011

Dali Salih
Community Development
Planning Services
PO Box 1749
Halifax, NS
B3J 3A5
Canada

Re: Rezoning Request from Birch Bear Woods Subdivision

Dear Ms. Salih,

To formally follow up the zoning change request made by Councillor Peter Lund on our behalf, I would like to put forth a formal request of change in zoning designation for Birch Bear Woods subdivision phases one through five.

Our subdivision is currently designated two different zones; starting from the main entrance of Birch Bear Run up to and including civic #286 we are zoned as MU1 - Mixed Use. From civic# 300 Birch Bear Run including Bear Tooth Way, Black Bear Circle and Grizzly Lane is zoned MRR-1 - Mixed Rural Residential.

After putting this to a vote, a majority voted to request a uniform R-A zoning designation throughout out subdivision. Therefore please accept our request of zoning change to R-A.

If anything further is needed please contact me accordingly.

Regards,

Jolene Redmond
Chairman and Treasurer
Birch Bear Run Homeowners Assoc.
(h) 876-2559
(c) 225-3127
the.redmonds@ns.sympatico.ca