HALIFAX
REGIONAL MUNICIPALITY

PO Box 1749
Halifax, Nova Scotia
B3J 3A5, Canada

Item No. 10.2.1
Halifax Regional Council
February 9, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Councillor Stephen D. Adams, Chair, Western Region Community Council

DATE: February 2, 2010

SUBJECT: Case 01175: MPS/LUB Amendment, Fergusons's Cove, Chebucto Peninsula

ORIGIN

The February 2, 2010 Western Region Community Council meeting.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Give First Reading to the proposed amendments to the Municipal Planning Strategy and Land Use By-Law for Planning District 5 (Chebucto Peninsula) as contained in Attachment A of the report dated January 12, 2010 and schedule a joint public hearing with Western Region Community Council; and

2. Approve the proposed amendments to the Municipal Planning Strategy and Land Use By-Law for Planning District 5 (Chebucto Peninsula) as contained in Attachment A of the report dated January 12, 2010.

BACKGROUND

As outlined in the staff report dated January 12, 2010, attached as Attachment 1 to this report.

DISCUSSION

As outlined in the staff report dated January 12, 2010, attached as Attachment 1 to this report.

BUDGET IMPLICATIONS

As outlined in the staff report dated January 12, 2010, attached as Attachment 1 to this report.

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

As outlined in the staff report dated January 12, 2010, attached as Attachment 1 to this report.

ATTACHMENTS

1. Staff report dated January 12, 2010.

A copy of this report can be obtained online at http://www.halifax.ca/council/agendasc/cagenda.html then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Chris Newson, Legislative Assistant, 490-6732

HALIFAX
REGIONAL MUNICIPALITY

PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Western Region Community Council
February 2, 2010

TO: Chair and Members of Western Region Community Council

SUBMITTED BY: Paul Dunphy, Director of Community Development

DATE: January 12, 2010

SUBJECT: **Case 01175: MPS/LUB Amendment, Ferguson's Cove, Chebucto Peninsula**

ORIGIN

- Request by Lisa and Andrew Wash of 145 Ferguson's Cove Road to amend the Municipal Planning Strategy and Land Use By-law for Planning District 5 (Chebucto Peninsula) to allow for the keeping of horses on their residential property;
- Initiation of MPS/ LUB amendments by Regional Council on October 28, 2008.

RECOMMENDATION

It is recommended that Western Region Community Council:

1. Give First Reading to the proposed rezoning of 145 Ferguson's Cove Road from R-2a (Residential Home Occupation) Zone to R-2b (Residential Equine) zone as contained in Attachment "B" and schedule a joint public hearing with Regional Council;

2. Recommend that Regional Council give First Reading to the proposed amendments to the Municipal Planning Strategy and Land Use By-law for Planning District 5 (Chebucto Peninsula) as contained in Attachment "A" and schedule a joint public hearing with Western Region Community Council; and

3. Recommend that Regional Council approve the proposed amendments to the Municipal Planning Strategy and Land Use By-law for Planning District 5 (Chebucto Peninsula) as contained in Attachment "A".

BACKGROUND

Site Location/ Description

The subject property is located at 145 Ferguson's Cove Road along the western shore of Halifax Harbour at Ferguson's Cove, which lies to the northwest of the York Redoubt National Historic Site (Refer to Maps 1 and 2 and Attachment "C"). The property is 1 acre in size and contains a single unit dwelling, a cat boarding facility (The Cat's Inn) which is operated from an accessory building, and a stable to the rear of the property which houses one horse and one pony. Abutting the stable is a fenced paddock. The property slopes downward toward Ferguson's Cove from its highest elevation at the rear of the site.

Proposal

The property owners, Lisa and Andrew Wash, are requesting the ability to allow for the keeping of the two horses on their property for personal use. This application was made in response to a complaint received by staff regarding the keeping of horses, which is not permitted under the Land Use By-law (LUB) for the subject property. In April 2008, a Notice to Comply to remove the horses was issued by staff. Ongoing investigation for land use compliance has continued while this application has been processed. In early October of 2009, the applicants removed the horses from the property to a site outside of HRM.

As part of their request, the applicants have submitted a petition with signatures of area residents who are in support of their application. This petition and other submissions in support of the proposal are included as Attachment E.

Designation and Zoning

The subject property and surrounding community are designated Residential on the Generalized Future Land Use Map of the Municipal Planning Strategy (MPS) for Planning District 5 and are zoned R-2a (Residential Home Occupation). The Residential Designation envisages a predominantly single unit residential environment while allowing various related land uses. The designation has been applied to the communities of Ferguson's Cove, East Pennant, Williamswood, Harrietsfield, portions of Herring Cove as well as various lands adjacent to the provincial highway network, including Old Sambro Road, Herring Cove Road and Ketch Harbour Road.

Currently, the R-2a zone permits single and two unit dwellings, daycare facilities, home occupations, bed and breakfasts, fishery support uses and accessory uses. As horses are included in the LUB definition of "livestock", whether or not they are "kept for commercial purposes" and livestock is considered to be an agricultural use, horses are prohibited in the R-2a zone.

Residentially designated properties which contained livestock at the time of adoption of the MPS were placed within the R-6 (Rural Residential) zone. "Restricted agricultural uses" are currently permitted within the R-6 zone, which is found primarily within the Rural "A" Designation of the MPS. The Rural "A" Designation has been applied to the outlying coastal portions of the Plan

Area, including Bald Rock, Sambro Creek, Duncan's Cove, Long Cove, West Pennant, and lands surrounding the village of Ketch Harbour and between Ketch Harbour and Sambro Head.

Proposed Amendments to the MPS and LUB

Staff have drafted proposed amendments to the MPS and LUB for Council's consideration (refer to Attachment "A"). Highlights include:

- the creation of new MPS policies (RES-18 and RES-19) and a new LUB zone (R-2b - Residential Equine Zone);
- permitted uses include those in the R-2a (Residential Home Occupation) Zone and the keeping of up to two horses only;
- limited to the community of Ferguson's Cove;
- provides for the rezoning of the subject property from R-2a to the R-2b Zone and the possible future rezoning of other properties;
- requires specific zone standards for minimum lot size and setbacks of any stable from property lines and adjacent dwellings, potable water supplies and watercourses;
- reduction of the minimum lot size and side yard requirement for the subject property due to it's particular circumstances.

Process

The proposed MPS and LUB amendments (Attachment "A") are under the jurisdiction of Regional Council while the proposed rezoning (Attachment "B") is under the jurisdiction of Western Region Community Council (WRCC). A public hearing may be held at the same time for both the MPS/LUB amendments and rezoning. In the event that Regional Council approves the MPS/LUB amendments, WRCC may only make a decision on the proposed rezoning following the coming into effect of the MPS/LUB amendments.

DISCUSSION

Despite the designation of Ferguson's Cove as "Residential", the community is rural or semi-rural in character, as opposed to suburban. As this community is similar in character to communities within the Rural "A" Designation, it is reasonable for Council to proceed with an amendment to the MPS to consider allowing a limited number of horses on residential properties within Ferguson's Cove.

Staff have contacted the N.S. Departments of Agriculture and Environment as part of the review process. Staff of those departments have confirmed that there is no current legislation which regulates the keeping of two horses for personal use on a residential property nor any required setbacks from water supplies (wells) or watercourses for such animals or structures containing them. However, there was some concern expressed in this particular case with regard to the small lot size and the inability to regulate the storage and handling of manure. The province has Manure Management Guidelines which provide recommendations on management practices for

agricultural livestock operations. The applicants have reviewed these guidelines and indicate that they meet or exceed these guidelines.

The zone standards proposed by staff (refer to Attachment "A"), which include minimum lot size and setbacks from property lines, adjacent dwellings, water supplies and watercourses, are similar to existing standards applied to small scale livestock operations in other parts of HRM. However, the applicant's property does not meet two of these standards (refer to Attachment C). The stable does not meet the proposed 20 foot side yard on one side (approx. 2 feet instead) and the lot area, at approximately 1 acre, is below the minimum proposed by approximately 0.38 acre. Staff propose that Council provide for a reduction to these specific requirements for the following reasons:

- the stable abuts a cemetery at this location, therefore it will not impact on adjacent dwellings;
- the applicants have indicated that since they feed the horses hay instead of relying on the horses grazing on pasture, a larger lot size is not necessary for feeding purposes;
- potential contamination, if any, resulting from mis-management would likely impact the applicant's own well first, since the well is located downslope of the stable and paddock area. Therefore, it is in the interest of the applicant to employ accepted manure handling and management practices;
- only two horses are permitted as opposed to small-scale livestock operations with more animals;
- this case has undergone public consultation and no issues have been identified for this particular property through the staff review and public consultation process.

Public Participation/Area of Notification

A public information meeting (PIM) for the proposed development was held on January 12, 2009. The minutes for the PIM are included as Attachment D.

Should Council decide to schedule a public hearing, property owners within the notification area shown on Map 1 and persons who registered at the PIM will be notified of the hearing by mail. Public notices will also be posted in the local newspaper and on the HRM website.

Conclusion

It is the opinion of staff that the proposed MPS and LUB amendments set out in Attachment "A" and rezoning of 145 Ferguson's Cove Road (Attachment "B") are appropriate. The proposed amendments are specific to the Ferguson's Cove community and any future applications for rezoning would involve public consultation and require a public hearing and decision of Community Council. Staff recommend that Regional Council approve the proposed amendments.

BUDGET IMPLICATIONS

The HRM costs associated with processing 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 choose to approve the proposed amendments to the MPS and LUB as contained in Attachments "A" and "B". This is the recommended approach.

2. Council may choose to modify the proposed amendments to the MPS and LUB as contained in Attachments "A" and "B". If this alternative is chosen, specific direction regarding the requested modifications and amendments is required. Substantive amendments may require another public hearing be held before approval is granted.

3. Council may refuse the proposed amendments. Regional Council is under no obligation to consider a request to amend its MPS and a decision not to amend the MPS cannot be appealed.

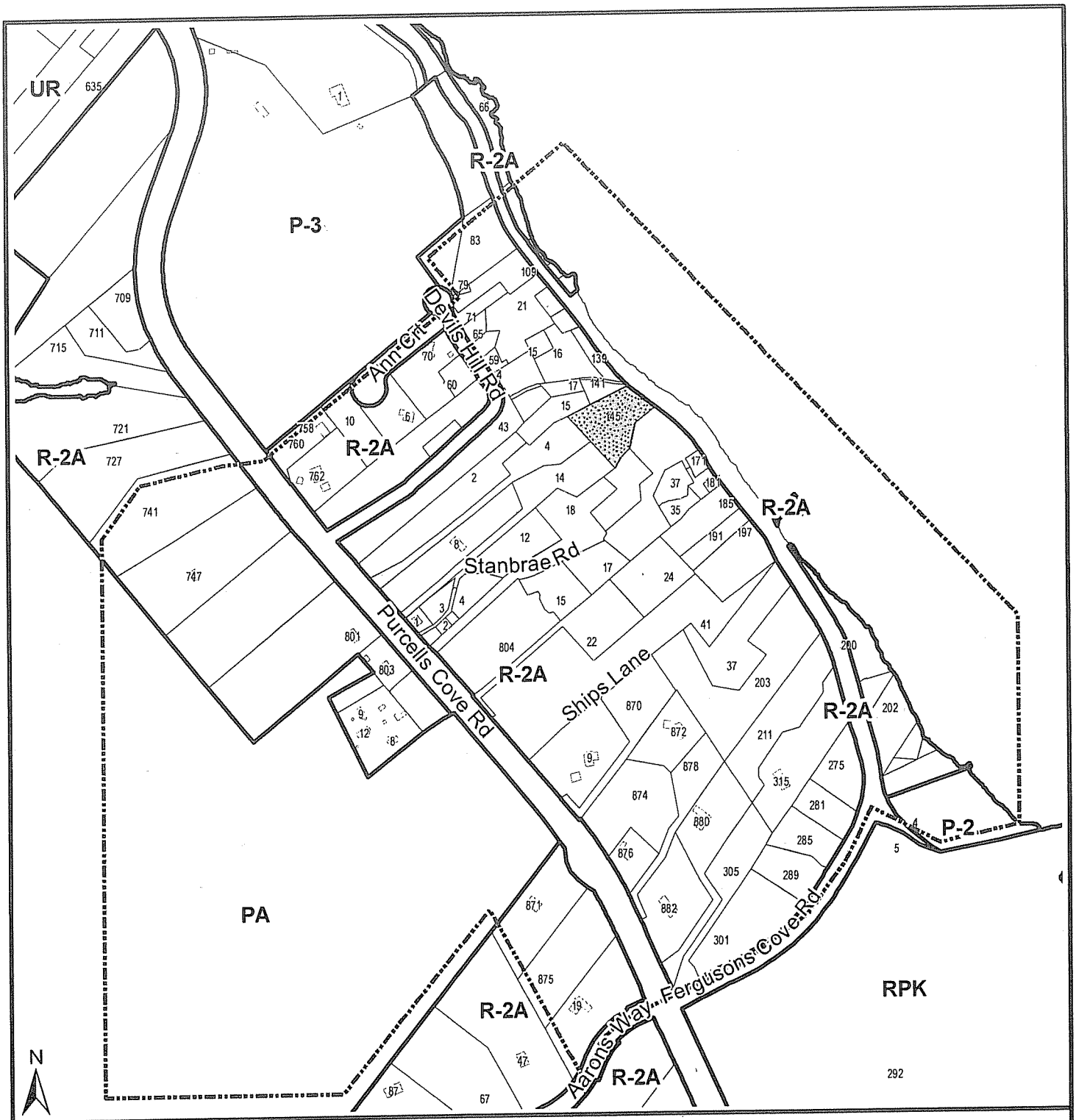
ATTACHMENTS

Map 1	Location and Zoning
Map 2	Generalized Future Land Use
Attachment A	Proposed Amendments to the MPS and LUB for Chebucto Peninsula
Attachment B	Proposed Amendment (Rezoning) to the LUB for Chebucto Peninsula
Attachment C	Site / Plot Plan
Attachment D	Public Information Meeting – Minutes from January 12, 2009
Attachment E	Petition and Submissions Relating to the Proposal

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: Paul Sampson, Planner I, 490-6259

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



Map 1 - Location and Zoning

145 Fergusons Cove Road
Fergusons Cove

Area proposed to be rezoned from R-2A (Residential Home Occupation) to R-2B (Residential Equine)

Area of notification

Planning District 5
(Chebucto Peninsula) Plan Area

Zone

R-2A	Two Unit Dwelling
P-2	Community Facility
P-3	Park
RPK	Regional Park

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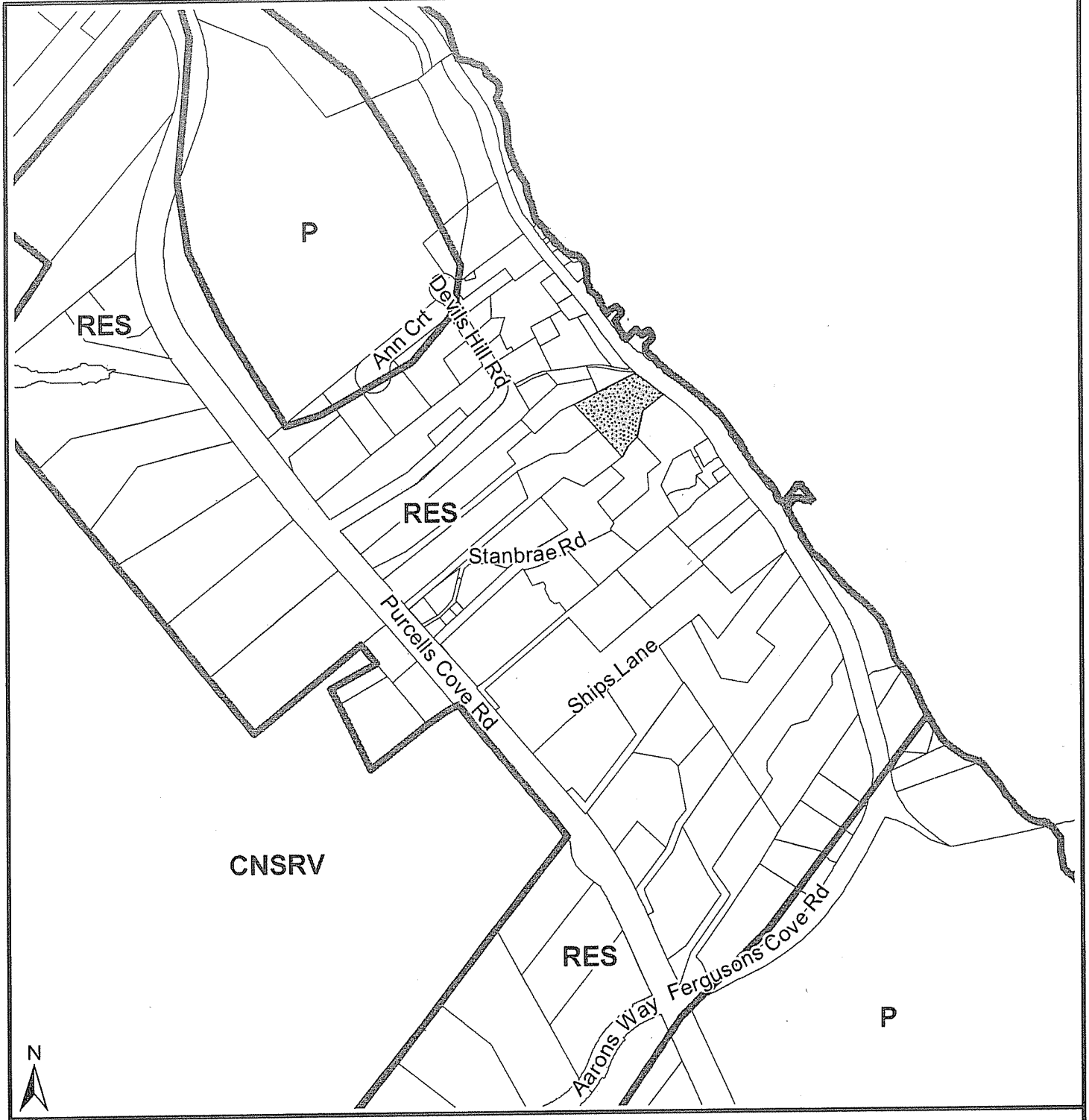
PLANNING SERVICES

0 50 100 150 m

This map is an unofficial reproduction of a portion of the Zoning Map for the Planning District 5 Plan Area.

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



Map 2 - Generalized Future Land Use

145 Fergusons Cove Road
Fergusons Cove

Area proposed to be rezoned from R-2A (Residential Home Occupation) to R-2B (Residential Equine)

Planning District 5
(Chebucto Peninsula) Plan Area

Designation

RES	Residential
P	Park
CNSRV	Conservation

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COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 50 100 150 m

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Planning District 5 Plan Area.

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ATTACHMENT "A"
PROPOSED AMENDMENTS TO THE MPS & LUB FOR CHEBUCTO PENINSULA

HALIFAX REGIONAL MUNICIPALITY
A BY-LAW TO AMEND THE MUNICIPAL PLANNING STRATEGY FOR PLANNING DISTRICT 5 (CHEBUCTO PENINSULA) - CASE #01175

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Planning District 5 (Chebucto Peninsula) is hereby amended as follows:

1. **By adding the following preamble and policies after policy RES-17 in the section entitled Residential Designation of the Municipal Planning Strategy for Planning District 5 (Chebucto Peninsula):**

The Keeping of Horses: Ferguson's Cove

Within the community of Ferguson's Cove, there is general support for the ability to keep a limited number of horses on residential properties. The community is semi-rural in nature and it is felt that the keeping of up to two horses for personal use on the same lot as a dwelling is desirable, provided there is adequate lot area for the dwelling, horses and any associated stable or barn and that there is adequate setbacks of any stable or barn from adjacent dwellings, potable water supplies and watercourses. The creation of a new zone and the rezoning process on a case-by-case basis is the most appropriate method of allowing for horses on residential properties. However, it is recognized that the property at 145 Ferguson's Cove Road (PID # 40079840), due to its particular circumstances such as slope of land, water supply location and abutting land uses, may be exempted from some of the zone requirements.

RES-18 Within the Residential Designation, for that area of Ferguson's Cove to the east of Purcell's Cove Road, it shall be the intention of Council to establish a Residential Equine zone which permits uses found within the Residential Home Occupation zone as well as the keeping of up to two horses for personal use in conjunction with permitted dwellings. In order to address compatibility concerns, this zone shall require adequate lot sizes and setbacks of buildings which house animals from property lines and adjacent dwellings, potable water supplies and watercourses. In considering amendments to the schedules of the Land Use By-law to a Residential Equine zone, Council shall have regard to the following:

(a) that any stable, barn or other building to be used for the keeping or sheltering of animals be adequately separated from adjacent residences, wells and watercourses;
(b) that lots proposed to be used for the keeping of horses be of an adequate size so as to allow for a stable or barn and associated paddock area as well as residential uses on the same lot; and
(c) the provisions of policy IM-10.

RES-19 Notwithstanding policy RES-18, due to the particular circumstances of the property at 145 Ferguson's Cove Road (PID # 40079840) such as slope of land, water supply location and abutting land uses, the minimum required side yard abutting non-residential uses and vacant lots shall be 2 feet and the minimum lot area shall be 40,000 square feet (3,716 sq.m.).

2. **By adding the following clause after clause (a) (iii) of Policy IM-8 in the section entitled Implementation of the Municipal Planning Strategy for Planning District 5 (Chebucto Peninsula):**

(iv) the keeping of up to two horses for personal use in conjunction with permitted dwellings according to Policies RES-18 and RES-19.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2010.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____day of _____, A.D., 2010.

_____
Municipal Clerk

PROPOSED AMENDMENTS TO THE LUB FOR CHEBUCTO PENINSULA

HALIFAX REGIONAL MUNICIPALITY
A BY-LAW TO AMEND THE LAND USE BY-LAW FOR PLANNING DISTRICT 5
(CHEBUCTO PENINSULA)

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Land Use By-law for Planning District 5 (Chebucto Peninsula) is hereby amended as follows:

1. **By adding the following new zone, PART 8A: R-2b (RESIDENTIAL EQUINE) ZONE, as follows:**

PART 8A: R-2b (RESIDENTIAL EQUINE) ZONE

8A.1 R-2b USES PERMITTED

No development permit shall be issued in any R-2b (Residential Equine) Zone except for the following:

Uses permitted in the R-2a zone;
The keeping of up to two horses for personal use in conjunction with permitted dwellings

8A.2 R-2b ZONE REQUIREMENTS: R-2a (RESIDENTIAL HOME OCCUPATION) USES

Where R-2a uses are permitted in any R-2b Zone, the provisions of Part 8 (R-2a zone) shall apply.

8A.3 OTHER REQUIREMENTS: KEEPING OF UP TO TWO HORSES FOR PERSONAL USE IN CONJUNCTION WITH PERMITTED DWELLINGS:

Notwithstanding Sections 8A.2, 4.9 and 4.13 (a) (vii), where up to two horses are kept for personal use in conjunction with permitted dwellings in any R-2b Zone, the following shall apply:

(a) A stable, barn or other building to be used for the keeping of horses shall be constructed, located or otherwise placed on the same lot as the main dwelling and shall:

(i) not be located in any front yard;
(ii) have a minimum rear or side yard of 20 feet (6.1 m);
(iii) be located a minimum of 100 feet (30.5 m) from any dwelling or potable water supply except a dwelling or potable water supply located on the same lot; and

(iv) be located a minimum of 200 feet (61 m) from any watercourse.

(b) The minimum lot area shall be 40,000 square feet (3,716 sq. m.) for the first single animal and an additional 20,000 square feet (1,858 sq. m.) for the second animal.

(c) Notwithstanding Section 8A.3, Sub-sections (a) and (b), for the property identified as 145 Ferguson's Cove Road (PID #40079840), the minimum required side yard abutting non-residential uses and vacant lots shall be 2 feet and the minimum lot area shall be 40,000 square feet (3,716 sq.m.).

2. **By adding the following new zone title** "PART 8A: R-2b (RESIDENTIAL EQUINE) ZONE" **to the Table of Contents immediately following PART 8;**

3. **By adding the following new Residential zone symbol** "R-2b" **and title** "Residential Equine Zone" **to Section 3.1 (PART 3: Zones and Zoning Maps) immediately following "R-2a Residential Home Occupation Zone";**

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2010.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____day of _____, A.D., 2010.

_____

Municipal Clerk

ATTACHMENT "B"
PROPOSED 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) is hereby amended as follows:

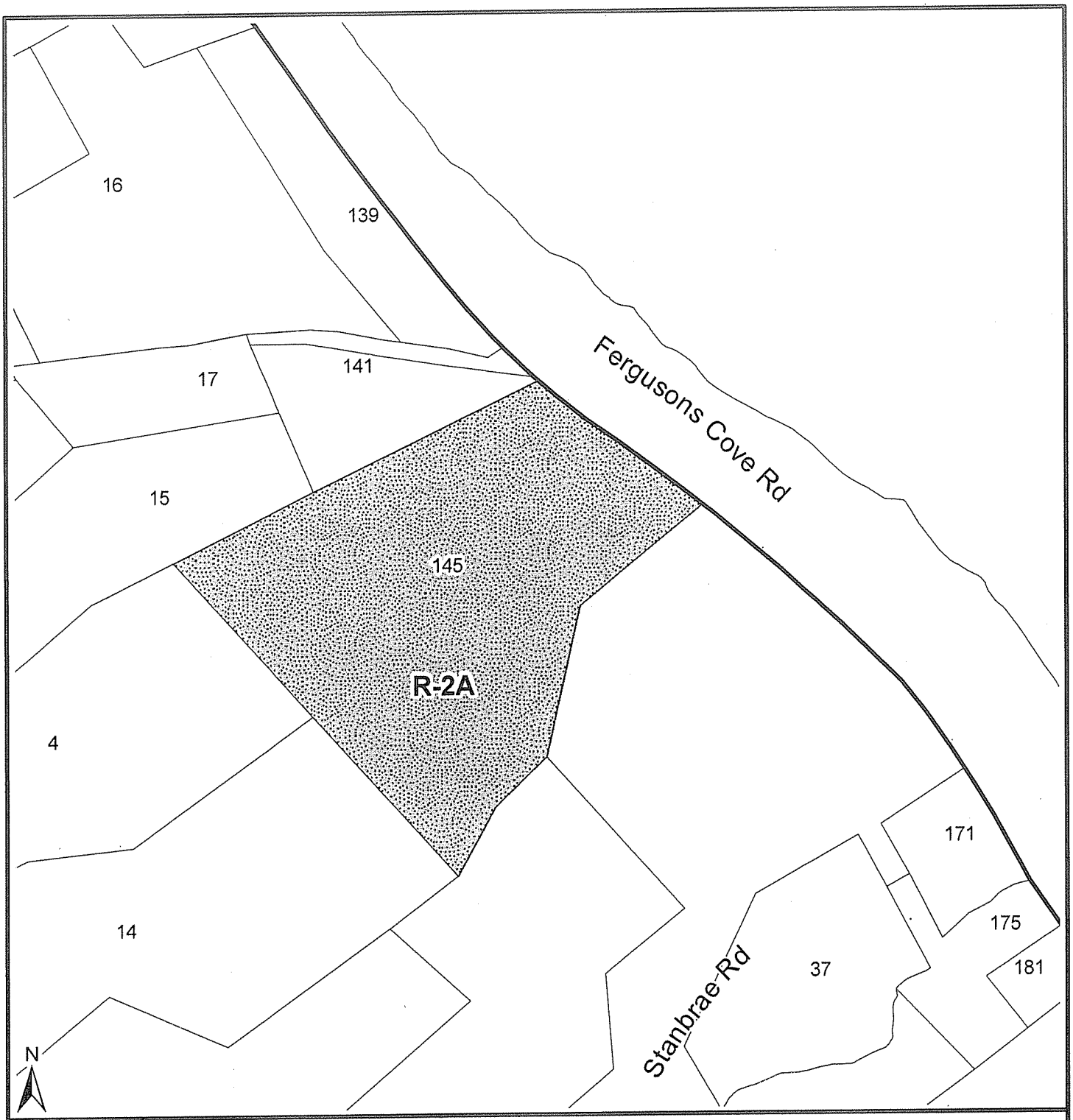
1. **Amend Schedule "A" (Planning District 5 Zoning Map) by rezoning Civic No. 145 Ferguson's Cove Road (PID# 40079840) from R-2a (Residential Home Occupation) zone to R-2b (Residential Equine) zone as shown on Schedule A attached.**

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2010.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____day of _____, A.D., 2010.

_____

Municipal Clerk



Schedule A

145 Fergusons Cove Road
Fergusons Cove

Area (PID 40079840) to be rezoned from R-2A (Residential Home Occupation) to R-2B (Residential Equine)

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COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 20 40 m

This map is an unofficial reproduction of a portion of the Zoning Map for the Planning District 5 Plan Area.

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

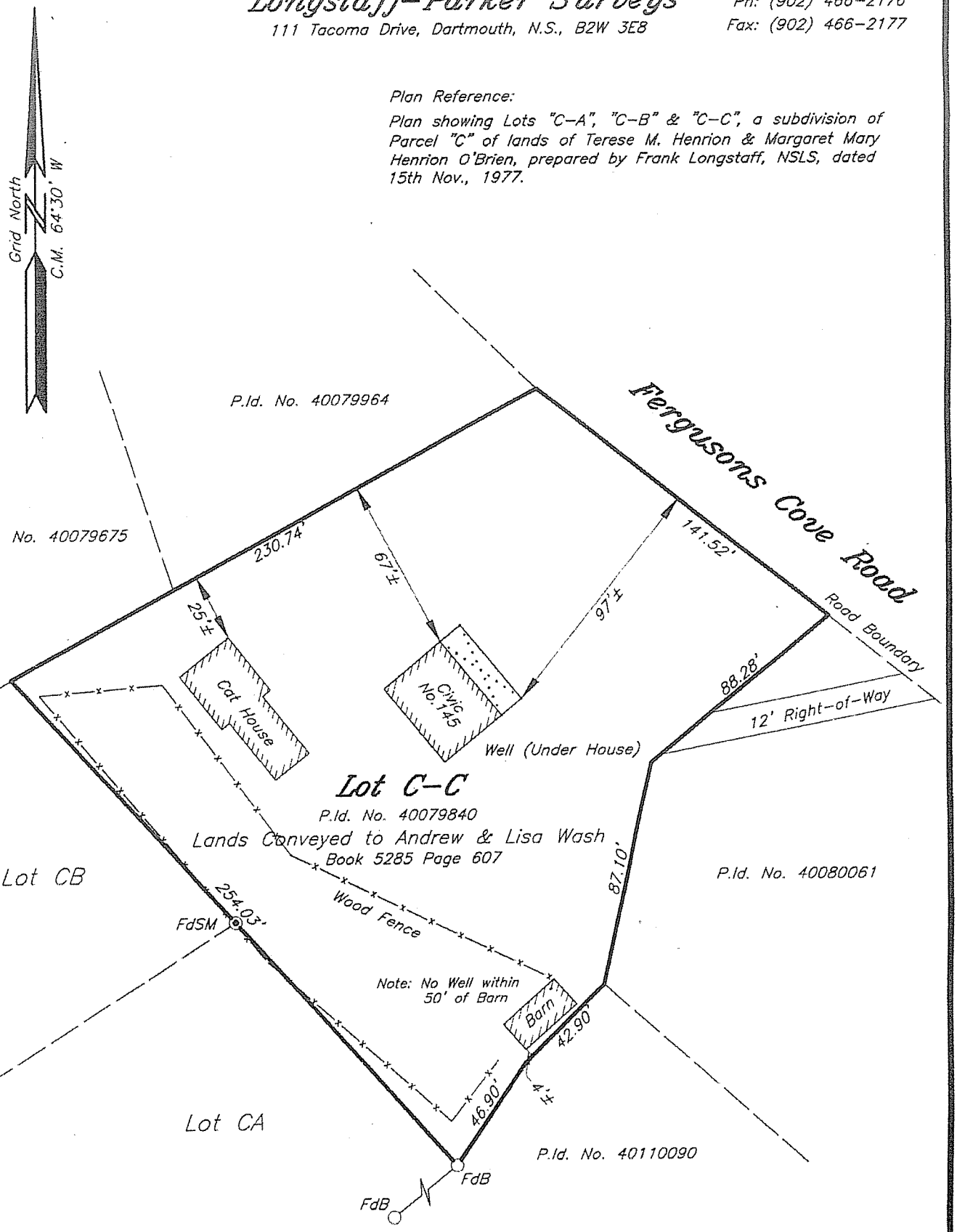
Zone

Planning District 5
(Chebucto Peninsula) Plan Area

R-2A Two Unit Dwelling

Longstaff–Parker Surveys
111 Tacoma Drive, Dartmouth, N.S., B2W 3E8
Ph: (902) 466–2176
Fax: (902) 466–2177

Plan Reference:
Plan showing Lots "C–A", "C–B" & "C–C", a subdivision of Parcel "C" of lands of Terese M. Henrion & Margaret Mary Henrion O'Brien, prepared by Frank Longstaff, NSLS, dated 15th Nov., 1977.



Certified To: Andrew Thomas Wash & Lisa Dawn Wash

RE: Location of Dwelling on Lot C–C, at 145 Fergusons Cove Road, Ferguson Cove, Halifax County, Nova Scotia.

Surveyor's Location Certificate

To assure accuracy and original copies this plan must bear the embossed survey stamp of Frank Longstaff, N.S.L.S.

ATTACHMENT D
Minutes of Public Information Meeting

Public information meeting: Case 01175, January 12, 2009

In attendance: Councillor Adams
Paul Sampson, Planner
Shanan Pictou, Planning Technician
Gail Harnish, Planning Services
Lisa and Andrew Wash, Applicants

Call to order and Opening comments

Mr. Paul Sampson called the public information meeting (PIM) to order at approximately 7:00 p.m. at the Captain William Spry Centre. We are here tonight to discuss an application by Lisa and Andrew Wash of Fergusons Cove to amend the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Planning District 5 (Chebucto Peninsula) to allow for the keeping of horses on a residential property.

Background information and Overview of planning process

Mr. Sampson advised HRM staff were made aware that there were horses on the property at 145 Fergusons Cove Road. The zoning of the property does not allow the keeping of horses or any kind of agricultural uses. Staff notified the owners and they made an application to amend the MPS. An amendment to the MPS is required in order to allow horses to be kept on this property. Regional Council agreed to initiate the process to consider amending the MPS.

Mr. Sampson noted the property at 145 Fergusons Cove Road is about one acre in size and has a single family dwelling and a business use. It has the Cat's Inn and one horse and a pony there. They also have a stable and a paddock area to the rear. The property slopes down the back of the hill to Fergusons Cove to the harbour. He showed some pictures of the site.

Mr. Sampson indicated the R-2A (Residential Home Occupation) Zone is residential so it exists not only in Fergusons Cove but in other communities in the plan area as well. The plan area runs from this area south down to West Pennant. There are various residential communities that have the Residential Designation under the MPS and have R-2A zoning which is a general residential zone. It is applied to various communities close to the urban core and the highway networks. The keeping of horses is however permitted in other communities in the plan area under the Rural A Designation and R-6 zone. One of the key questions we want answered is "Should the keeping of horses be allowed in Fergusons Cove?" Some of the factors to be considered are:

- Fergusons Cove is semi-rural in nature as opposed to a suburban kind of area
- Fergusons Cove has similar characteristics to other communities in this plan area down to Sambro and Pennant that do allow horses under their zoning

Mr. Sampson reviewed some options to be considered:

- Council could permit horses on properties as-of-right. That means anybody could have them where the zoning allows for them.
- Council could require a rezoning in each case so there would be a case by case review by Western Region Community Council. That is referred to as restrictive agricultural uses.
- Council could limit it to this community or open it to the whole plan area and say within any residential designation the property owner can apply to rezone or allow the use by right.
- Council could leave things as they are and not amend the MPS and LUB.

Mr. Sampson advised following this meeting, there will be a detailed review of the application. A report will be tabled with the Western Region Community Council which will then be forwarded to Regional Council. If Regional Council decides to proceed, they will schedule a public hearing, following which they will decide whether or not to amend the MPS. There is no appeal of that decision. If it is decided a rezoning is the way to proceed after the MPS is amended, then Western Region Community Council would be responsible for making the decision(s).

Questions and comments

Mr. Roger Field, abutting property owner, asked what was meant by a detailed review of the proposal.

Mr. Sampson responded it is a staff and community review at this point. In any application where there is a proposed amendment to the MPS, we send the proposal to various Provincial departments as well as departments within HRM for comment.

Mr. Field indicated they could see them at this time of year because there are no leaves on the trees. They have had a chance to observe how they take care of the property and paddock and they think it is an enhancement to the community to have those horses there. Their property is impacted by the presence of the paddock and the horses and they think it is a positive thing in the community and they hope an amendment could be made to allow them to continue what they are doing.

Mr. Alan Ruffman referenced the proposal description on the fact sheet as well as the options presented and questioned whether staff has made a recommendation on one of them at this point.

Mr. Sampson responded the proposal by the applicant is to allow the horses to remain. The purpose of tonight's meeting is to discuss the options. The only recommendation at this point is to initiate the process to consider an amendment. The options are for discussion purposes.

Ms. Lorraine Field referenced the second option which is to allow consideration of rezoning to R-6 on a case by case basis. She questioned if the property would remain zoned R-6 if it was rezoned.

Mr. Sampson advised the zoning remains, once a property is rezoned, unless the new purchaser applies to have the zoning changed back. In most cases, a new owner would not want to rezone it back. The R-6 zone does allow for single family dwellings and a lot of uses that the R-2A zone allows, but it allows additional uses as well.

Mr. Andrew Wash questioned whether the R-6 zoning would limit it to just horses, or could somebody have pigs for instance.

Mr. Sampson advised the R-6 zone allows other uses. He read into the record Section 9.5 from the LUB:

"9.5 OTHER REQUIREMENTS: RESTRICTED AGRICULTURAL USES
(a) No more than fifty (50) fowl and/or ten (10) of any other animal being confined to a barn or other structure shall be permitted.
(b) No more than seven hundred and fifty (750) square feet (70 m_2) of floor area of any structure shall be used for retail uses accessory to agriculture uses."

Mr. Ruffman questioned whether the policies in the MPS allow for consideration of a rezoning to R-6 in the Fergusons Cove area.

Mr. Sampson responded no.

Mr. Ruffman said he agreed their area is more like a rural area, however, they are being charged urban rates even though they are essentially a rural area. He was concerned because everybody in Fergusons Cove is on a drilled or dug well so percolation into the groundwater is of concern to everybody. That concern was not addressed in the report to Council. He noted he did write a letter wherein he expressed concern about every property in Fergusons Cove having the right to keep animals, as he was concerned about the effect on the groundwater. He would much rather see an option specific to this property and which has a sunset on the sale of this property. He questioned if it was possible to have a rezoning or a change to the MPS that allows two horses to be kept on this property only and that it sunsets with the sale of the property.

Mr. Sampson responded yes to the first question but no to the question of the sunset suggestion. He presented some of the options but there are others. For instance, we could create another zone similar to the R-2A zone which would allow a limited number of animals, say two to five, and Council could require a rezoning each time. Also, the R-2A zone could be amended to allow for a limited number of animals.

Mr. Wash noted Councillor Hendsbee raised the issue of animal waste affecting wells. The waste produced from their horses is removed twice daily and urine is not a concern. They have about eight places that want it and two other places they can take it to. Councillor Hendsbee lives in an area where this is a concern because they have a huge quantity of animals.

Ms. Cindy Vanderzwaag, two doors down, commented she would not have known the horses were there had they not told her. They are very well managed. There is no sign of them from the Fergusons Cove Road other than she could see the barn. She saw the horses as pets and not for agricultural use. Also, they are not keeping them for profit.

Mr. Sampson noted everything is defined in the LUB. An agricultural use may be defined as the keeping of animals or livestock.

Ms. Vanderzwaag said she did not see a major farm coming into a person's home.

Ms. Sheila Stevenson, on the other side of the cemetery from the applicants, commented one of the things that excited her about them being in the neighbourhood is that she considered them to be primary producers of this agricultural use, in a province that only produces 10% of its food. Horse manure is a very valuable item and makes a valuable fertilizer. She liked the idea they are doing their part to contribute to increasing the sustainability in Nova Scotia. She was supportive of an amendment taking place.

Mr. James Campbell, abutting landowner, indicated having horses in the backyard is a delight. It is great to see them and for his kids to have them around. He supported making a change.

An individual questioned why they could not make a new zone with a sunset clause. They were on a dug well.

Mr. Sampson noted standards are put in place, ie., minimum lot size and minimum setbacks, which treat everyone the same and are standards which everybody has to comply with. Even development agreements run with the land. If a property with a development agreement is sold, then the new purchaser has to abide by the agreement. We have no mechanism to put in place that says it ceases to exist once a sale happens. We have no way of tracking sales. It is not possible for HRM to enforce that. The only sunset clause he could think of is when HRM allows a timeframe for construction to begin within an agreement and that timeframe lapses.

Mr. Field questioned whether a rezoning that is changing the zone is the only option, and whether we can grant an exemption to the zoning that is specific to the current use.

Mr. Sampson responded zoning is our way of allowing for this. Do members of the public feel Council should allow one property on a case by case basis or should everybody have the same option?

Mr. Wash referenced the proposal fact sheet and indicated the majority of the properties on the map would not support this use.

Mrs. Wash noted you would have to have a certain amount of acreage to support this use. She was expecting to see provision for one single property and not the whole area like was done in 1995.

Mr. Sampson indicated that is what we are here to discuss. Council can make a change just for this one property. Their property however is similar to other one acre properties so it is more so putting a provision in place to allow it and a process. It may be that the next person has to apply for a rezoning, for example, and would have to meet certain criteria. Council could make it restrictive or open it up. Rezoning on a case by case basis means everybody would have to apply and go through a public process.

Mr. Jim Glazebrook, abutting property, commented most people in the community support their existence and they would like to see it go ahead. The first option resolves the problem. It allows the status quo and anybody wanting to do the same thing would have to apply. The standard has already been established by the applicants in terms of what is and is not acceptable. The residents are very happy with the existing condition of the horses and would like to see it stay that way. Anybody who wants it should have to apply and have a public meeting.

Mr. Sampson clarified he thought the last speaker was referring to the second option.

An individual noted HRM has many unique communities. If somebody wants horses, they should expect to go through a public meeting process.

Mr. Ruffman indicated he believed the applicants were asking for the change to be specific to their property. He would feel comfortable if staff created a new zone that would allow through policy an application that would allow the keeping of pets on a certain size property.

Ms. Vanderzwaag commented she lived in the community with a pig which escaped the eyes of enforcement. She would be uneasy about R-2A zoning allowing more than one pig or more than two horses. She did not know what an unreasonable number is. There is at least nineteen properties that are over an acre in size that could make an application. She would be comfortable with the second option with a revised zone. Also, she was comfortable with each person coming to Council and at some point Council might have to recommend it is inappropriate to have another one.

Mr. Tim Hardy said he supported a change to allow the applicants to keep their horses. He thought something close to the second option makes the most sense for the community. He did not see a lot of people applying to keep horses but thought it would be okay if more people were interested.

Mr. Sampson noted the second option is more restrictive than the R-6 zone.

Mr. Hardy commented a more restrictive number of animals would be fine.

Ms. Field questioned whether it was possible to change the first option.

Mr. Sampson responded they could put a requirement in the zone which, if it cannot be met, meant they could not have animals. It would mean the public would not have a say in each individual case.

An individual asked how the effects on groundwater would be considered.

Mr. Sampson responded he did not believe we could put a requirement in the LUB to require a groundwater assessment. That might be something we could look at as part of a rezoning process but did not think we could put it in the zone.

Mr. Ruffman referenced an incident in Fergus, Ontario, where Dow Chemical, was creosoting telephone poles. There was a fair amount of spillage which was tracked to 20 kms away. If something went wrong, then the whole community of Fergusons Cove would be looking for services similar to Herring Cove. Groundwater is a real concern no matter what you do. It is not just for two horses. It will ride with the land and will outlast any of them and their wells.

Mr. Wash noted there are many hoofed animals in the area, such as deer, racoon, and coyotes, which leave animal feces on their land. They felt anybody else wanting animals should have to ask as well.

Ms. Lara Ryan indicated if this is approved by Council, they should create some guidelines around the care and use of their animals and properties and should use those of the applicants as the guideline. The cat hotel is immaculate. There may already be a best practice built in.

Mr. Sampson pointed out the LUB cannot regulate things like regular maintenance.

Mr. Wash noted the SPCA is always there as a tool when things go wrong.

Mr. Field referenced the second option and noted there was a suggestion of possibly some other Provincial guidelines having to be met.

Mr. Sampson indicated he would be looking into that.

An individual commented groundwater issues would be a concern anywhere there are agricultural animals.

An individual questioned whether it was possible to use a development agreement.

Mr. Sampson responded it is possible.

An individual said she thought as a community they want guidelines that allow flexibility. It makes no sense to go to an agricultural zone. She wanted to speak in favour of the request by the applicants but was trying to figure out some other way they could write it to work for everyone as a community.

Mr. Sampson noted another option is to create a restrictive zone. He did not think a development agreement would solve the problem. In a LUB they can put in a lot of requirements such as lot size, setbacks, maximum building sizes, etc. What they cannot do in a development agreement is include things like standards of care and maintenance standards the Municipality would not be able to enforce. Development agreements give us a lot of control over things like design of buildings but not things like the care people give to animals.

Ms. Sharon Glazebrook indicated reference was made to a permitting process which she felt would allow them to address some of the concerns and allow there to be inspections. They would have to meet some criteria in order to get a permit.

Mr. Sampson responded we typically issue permits under our LUBs and our Building By-law for land use and building standards. HRM does not have the ability to deal with licensing and health standards, etc.

Ms. Sandra Watts Wilson said she supported the application to have two horses but would have concerns if her neighbour had fifty pigs. She would like to see some restrictions.

Mr. Stan Hatfield commented he has seen a lot of changes and agreed with what everybody said about the applicant's care of animals. He lived at the bottom level at sea level, so he was concerned about the drainage from groundwater as it would end up in his well. He had no problem with them having two horses. He has seen first hand the damage that could be done from a goat, so he would be concerned with it being left wide open so that anybody could have a goat or any kind of destructive animal. He did not want to look out his back window and see a goat. Noise is not a concern in this instance but groundwater is a real concern. He questioned whether mice can be brought in with hay.

Mr. Wash said they have seen more rats than ever but thought it has to do with the green bins. They checked with a farmer who said they would not typically find a mouse come with hay. If anything, they could see a snake.

Mr. Campbell asked if there was any strength in writing letters of support.

Mr. Sampson advised members of the public could send him letters or emails, and he would include them with the report as written submissions.

Mr. Wash stated it was important for them to be community members so they do not feel they get their approval and have a barrier in the community. Their intention is to merely do it as softly and quietly as they are doing without disruption. The first thing they spoke about was wells. They have used the manure as compost for vegetables which they have fed to the horses. They are not doing anything other than for their own pleasure. Having the horses has made their property quieter as there is a peacefulness.

Mr. Ruffman asked about the timing of the next step.

Mr. Sampson responded it is difficult to say. He could not say for sure when, but definitely in 2009.

An individual asked if there is an appeal process.

Mr. Sampson responded only if it is decided to take the rezoning route.

An individual commented presumably this exercise is underway because somebody complained, and asked if they were allowed to know who complained.

Mr. Sampson confirmed HRM did receive a complaint that horses were on the property. We are unable to advise who made the complaint.

Councillor Adams indicated any one having concerns about the matter should not hesitate to contact either Paul Sampson or himself, and it can be kept anonymous if they wish.

Mr. Wash stated they decided years ago to make their own business on their property. With that huge commitment, they are at their property seven days a week, and are for the most part at home. Because the business is on their property, they are there to monitor what goes on there daily. They do their rounds at night with lights and flashlights.

Adjournment

The meeting adjourned at approximately 8:15 p.m.

Case 01175 - Attachment E
Petition and Submissions Relating to the Proposal

April 25th, 2008

We the undersigned would support the proposed M.P.S. amendment to the property located at 145 Ferguson's Cove Road. Owned by Lisa and Andrew Wash to be rezoned from R-2A to R-6 to facilitate the ownership of one horse and one pony.

Name	Address	Phone Number	Signature
Laurie Alexander			17 [illegible]
John Doucet			47 [illegible]
Colin Wilson			15 [illegible]
Tim Hardy			17 [illegible]
Agnes Cheill			7 [illegible]
Jim Glazebrook	[illegible] rae Rd		J Glazebrook
Sharon Glazebrook			[illegible]
Jacob Glazebrook			[illegible]
Jared Glazebrook			[illegible]
Andrea Glazebrook	35 "		[illegible]
Lucy Glazebrook	" " "		7 [illegible]
[illegible] Stevenson			[illegible]
Stephen Archibald			[illegible]
James Campbell			[illegible]
[illegible] MacNeill			[illegible]
Angie McLeod			[illegible]
[illegible]			[illegible]
Ruth Dawson			177

April 25th, 2008

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Name Signature	Address	Phone Number
Scott Wiener		
Tracy Wiener		

25/04/2008

From: Sheila Stevenson
To: <sampsop@halifax.ca>
Date: 22/01/2009 1:44 pm
Subject: Case # 01175 MPS amendment, Fergusons Cove

Hello.

Having attended the public meeting on Jan 12, 2009, we are writing in support of an amendment that is site specific, allowing the Wash family to keep a horse and pony on that residential property.

Sheila Stevenson and Stephen Archibald

Fergusons Cove
Nova Scotia
B3V 1G4

From: "Arlene Sibley"
To: <sampsop@halifax.ca>
Date: 16/01/2009 11.30 am
Subject: case#01175- Lisa and Andrew Wash

Mr Sampson,

Thank you for your presentation Monday evening regarding the application by Andrew & Lisa Wash of 145 Ferguson's Cove Rd. to amend the MPS & LUB for District 5 to allow for the keeping of 2 pet horses on their property.

I reside at [redacted] which abuts the Wash's property. I am new to the neighbourhood, but in the 2 short years that I have known the family I can honestly say that you could not ask for nicer neighbours. I have visited both the Cat's Inn and the Stable in which Barney and Candy reside, and they honestly do work endlessly to maintain the cleanest property for family, pets and their cat clients. We have also allowed them to have the horse and pony graze on our upper field and I must say there is something very calming and peaceful about watching a horse graze either on our property on in the paddock which we can see out our kitchen window. They are beautiful pets owned and cared for by equally beautiful people.

I did want to also make a comment on the issue of horse manure. Two points were made at Monday night's meeting. Firstly, I concur that we should be thankful that this product can be reused as a natural fertilizer for the soil thereby assisting in the enrichment of our Provinces generally poor soil quality/quantity, and helping support efforts to make local agriculture more self sustaining by growing our own produce. The Wash's themselves commented on how quickly it returned fresh produce.

Secondly the concern about well water and ground water contamination from animal waste. Most, if not all, home owners and farmers use fertilizer whether for small gardens or large scale produce operations.

One can only conclude that these practices would also impact groundwater. I am not suggesting that these concerns are not valid, simply that we keep some perspective as to the minuscule amount of waste generated by these 2 horses when compared with what certainly has been going on for many years with gardens/lawns etc .. in our community and throughout HRM. The fastidious nature in which the Wash's maintain their property make this even less a concern, in my opinion. I feel very confident that the Wash's have done the thorough research required to ensure the safety and well being of their neighbours as well as their own family.

After listening to the overwhelming support of neighbours, I too would support a change to the by law, please place me officially on the record as supporting Lisa and Andrew Wash in their effort to amend the District 5-MPS & LUB and allow for the keeping of 2 pet horses.

Should you require any other comments, or have any questions, please free to contact me

Thank you,

Arlene Sibley

From: James Campbell
To: Paul Sampson
Date: 13/01/2009 4:23 pm
Subject: case#01175- Lisa and Andrew Wash

Hello Mr.Sampson,

Thank you for your presentation last evening regarding the application by Andrew & Lisa Wash of 145 Ferguson's Cove Rd. to amend the MPS & LUB for District 5 to allow for the keeping of 2 pet horses on their property.
As a neighbour of the Wash's for about 18 years and an abutting landowner, I can tell you the nature in which the Wash's operate the Cat's Inn cat boarding facility as well as manner in which they care for their 2 pet horses could not be of a higher standard. Their attention to the welfare of the animals, their property and consideration for neighbours and the neighbourhood is an example we would all to well to try and emulate.
The time and effort the Wash family put into their cat boarding business, as well as their pet horses, make it abundantly clear they do not do things in a half hearted manner. After listening to the overwhelming support of neighbours at last night's information meeting, my sentiments appear to be echoed by many in the area.

The brief time the horses have been a neighbour of mine has been a delight for my family and myself. I sincerely hope Barney and Candy will continue to be my neighbours well into the future.

By way of this email please place me officially on the record as supporting Lisa and Andrew Wash in their effort to amend the District 5-MPS & LUB and allow for the keeping of 2 pet horses.

Should you require any other comments, or have any questions, please free to contact me

Thank you,

James Campbell

January 12th, 2009

Stephen Adams, Councillor
District 18, Halifax Regional Municipality
P.O. Box 1749
Halifax, NS B3J 3A5

Re: Letter of Support for Case # 01175
· Proposed amendment to MPS for Planning District 5

Dear Councillor Adams,

I am a resident of District 18, civic address [redacted] Fergusons Cove.

Please consider this correspondence a formal Letter of Support for case #01175- Andrew and Lisa Wash's proposed amendment to the Municipal Planning Strategy and land use by law for Planning District 5 to allow them to keep horses within the residentially designated area of Fergusons Cove.

I have been a neighbour of Lisa and Andrew Wash for more than 15 years. I know them well, both professionally and personally and hold them in high regard. The Washs have consistently demonstrated exemplary property and household animal care. Their horses do not negatively affect the neighbourhood in any way. I strongly support their proposed amendment.

Sincerely,

Laurie Alexander
[redacted]
Fergusons Cove
NS [redacted]

cc: Paul Sampson, HRM City Planner