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Item No. 8.1.2
North West Community Council
February 23, 2015
March 23, 2015

TO: Chair and Members of North West Community Council

SUBMITTED BY: Original signed

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: January 19, 2015

SUBJECT: **Case 19393 - Development Agreement to enable Commercial Recreation at 429 McMullin Road, Antrim**

ORIGIN

Application by Stephen Bowdridge (Scotia Trails ATV Excursions Ltd.)

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that North West Community Council:

1. Give Notice of Motion to consider the proposed development agreement, as contained in Attachment A of this report, to permit a commercial recreation use at 429 McMullin Road and to schedule a public hearing;
2. Approve the proposed development agreement as contained in Attachment A of this report to permit a commercial recreation use at 429 McMullin Road;
3. Require the development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end;

BACKGROUND

An application by Stephen Bowdridge has been submitted to enter into a development agreement at 429 McMullin Road, Antrim. The applicant is seeking to operate a business which would provide all terrain vehicle guided nature tours on the site.

Location, Designation, Zoning and Surrounding Land Use:

Subject Properties	429 McMullin Road (PID 40212656), PID 41253667 and PID 00520908 (Map 1, 2)
Location	Approximately 3 ½ kilometers east of Antrim Road and 1 ½ kilometers west of Lake Egmont Road (Map 3)
Lot Area	The total area of all 3 parcels is 113 hectares (280 acres)
Regional Designation	AG (Agricultural) and OS (Open Space and Natural Resource)
Community Designation	MU (Mixed Use) designation under the Municipal Planning Strategy (MPS) for Musquodoboit Valley / Dutch Settlement (Map 1)
Zoning	MU (Mixed Use) Zone under the Land Use By-law (LUB) for Musquodoboit Valley / Dutch Settlement (Map 2)
Surrounding Uses	The surrounding area is largely undeveloped. There are residential dwellings along McMullin Road. Residential development in the area is sparse, which is characteristic of the rural setting. Surrounding MU zoning allows a variety of uses. Attachment B.
Current Use	The property is currently used for personal recreation. Accessory storage buildings and a campfire area are currently in existence.

Enabling Policy

A business involving all terrain vehicle guided nature tours is considered a commercial recreation use under the Musquodoboit Valley/ Dutch Settlement LUB. The Musquodoboit Valley/ Dutch Settlement MPS enables Community Council to consider, within the Mixed Use designation, commercial recreation uses by development agreement. The proposal may be considered pursuant to Policies MU-5 and IM-10 of the Musquodoboit Valley/ Dutch Settlement MPS (Attachment C). The intent of the policies is to allow for commercial recreation development, provided such uses do not negatively affect the surrounding natural or residential environments.

Proposal

Schedule B (Attachment A) illustrates the proposed use of land for the commercial recreation use. The majority of the development is clustered on the south side of McMullin road, where the parking area is located. This is the primary gathering location where patrons arrive and depart from the site. This location includes the staging and orientation area where patrons become acquainted with the equipment and are given safety and operating instructions. Also in this location is an outdoor campfire area, portable washroom facilities and accessory buildings used to store the all terrain vehicles and other supporting equipment. The remainder of development consists of the trail network that is utilized for the nature tour. The trails illustrated on Map 3 are existing hunting and logging trails, however three additional areas have been identified to the north, west and east of the site for potential expansion.

DISCUSSION

The proposal has been reviewed relative to the applicable policies of Musquodoboit Valley/ Dutch Settlement MPS. Policy MU-5 sets out specific criteria for commercial recreation development, while Policy IM-10 includes general implementation criteria. The proposal is reasonably consistent with all applicable policies of the Musquodoboit Valley/ Dutch Settlement MPS.

The following matters, including some applicable criteria from policy MU-5, have been identified for more detailed discussion. A more detailed review of additional criteria is set out in Attachment C.

Potential Impact on the Natural Environment

Policy MU-5(a) requires that consideration be given to the potential impact of the proposed development on the natural environment and in particular, potential effects on watercourses. There are two watercourses (streams) on the site. A portion of the existing trail network on the site follows one of these watercourses for a distance of approximately 460 m (1,500 feet) within the 20m watercourse buffer. This is permitted under Section 4.19(1)(d) of the Musquodoboit Valley/ Dutch Settlement LUB, which permits trails not exceeding 3 m (9.8 feet) in width to be located within watercourse buffers. As per Section 3.4.3 of the proposed development agreement, prior to any new trail development a municipal development permit must be issued. Should any future trails necessitate the crossing of one of the existing watercourses, approvals from the NS Department of Environment are required. Further, through the permitting process, HRM can ensure that this requirement is fulfilled.

Reducing Potentially Adverse Effects on Nearby Residential Development

Policy MU-5(b) requires that Council have regard for the potential impact of noise and visual intrusion, traffic generation and littering. Further, Policy IM-10(c) requires that Council consider that controls are placed on the proposed development to reduce conflict with adjacent or nearby land uses. These items are discussed individually below:

Noise

Given the layout of the site and the requirements in the proposed DA for both hours of operation (Section 3.9) and setback of trail development from abutting properties (Section 3.4.4) it is not expected noise from the commercial recreation use would have an impact on the existing residential development in the area. Should problems or complaints arise, the issue would be addressed through Bylaw N-200 respecting noise.

Visual Intrusion

The area of the site where the development is concentrated (parking area) is not directly visible from any abutting property however it can be seen from McMullin Road. Additionally, the trail development is not visible from any abutting property given the existing vegetation on the site. It's also not anticipated any future trail development would be visible given the required setback stipulated in Section 3.4.4 of the proposed development agreement. To further ensure minimal visual intrusion, the proposed development agreement also requires that proposed lighting on the site be shielded and directed to driveways, parking areas and building entrances so as to divert light away from McMullin Road and adjacent properties (Section 3.6).

Traffic Generation

A traffic analysis was submitted by the Developer and accepted by the NS Department of Transportation and Infrastructure Renewal. The traffic analysis did not identify any potential significant impact to the existing transportation network. This is as expected given that the applicant intends to shuttle patrons to and from the site by bus resulting in fewer trips than if patrons arrived individually.

General Maintenance & Littering

Section 3.7.1 of the proposed development agreement requires the developer to keep all portions of the development in good repair, including parking areas and driveways, walkways, building and landscaping, etc. Litter control is also required, which the applicant has addressed by providing waste receptacles at the gathering point as well as on the trail network. Section 4.2 requires that waste shall be separated in accordance with By-law S-600 respecting Solid Waste Collection & Disposal and Section 4.3 requires waste be contained and fully screened from view from the street.

Proposed Buildings

No main buildings have been proposed in conjunction with the proposal, however as discussed above there are currently three supporting accessory buildings on the site that are intended to be used to store the all terrain vehicles and related equipment. These accessory buildings are all in existence legally with the appropriate municipal permits. The proposed development agreement allows for the continued use of these buildings and any other accessory buildings that may be needed to support the commercial

recreation uses in the future (Section 3.31(a)) provided the requirements of the Musquodoboit Valley/ Dutch Settlement LUB are satisfied (Section 3.4.1).

Hours of Operation

The hours of operation prescribed in the proposed development agreement are from 8am to 8pm each day (Section 3.9). While the business is intended to operate seasonally from May until October and have tours run between 9am to 5pm the additional hours set out in the proposed development agreement provide the applicant with flexibility should business conditions change. These hours also reinforce a daytime use of the property which helps ensure compatibility with existing residential development.

Open Storage

The development agreement requires that any refuse and recycling material be contained and screened from view (Section 4.3). It is not felt that a complete ban on open storage is warranted on this site given the site configuration and existing vegetation that naturally limits visual intrusion of the business. Additionally, for practical purposes it can be expected that the all terrain vehicles and related equipment will be contained within an accessory building to prevent weather damage and theft.

Signs

No specific signage has been proposed for the development at this time, however Section 3.8.1 of the proposed development agreement permits signage provided it meets the requirements of the Musquodoboit Valley/ Dutch Settlement LUB, with the exception that it shall only be eternally illuminated if illumination is requested.

Conclusion

The proposed development agreement is consistent with the Musquodoboit Valley/ Dutch Settlement MPS. It is recommended that North West Community Council approve the proposed development agreement (Attachment A) as identified in the recommendation section of this report.

FINANCIAL IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

The level of community engagement was consultation, achieved through a notification mailed to property owners within the notification area as shown on Map 3. Several phone calls were received expressing concern with enforcement and the potential for the trails to connect onto other properties.

A public hearing must be held by Community Council before they can consider approval of the Development Agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 3 will be notified of the hearing by regular mail.

The proposed development agreement will potentially impact local residents, property owners and adjacent businesses.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all relevant environmental policies contained in the MPS. No additional concerns were identified beyond those discussed in this report.

ALTERNATIVES

1. Community Council may choose to refuse the proposed Development Agreement as set out in Attachment A of this report and, in doing so, must provide reasons why the development agreement does not reasonably carry out the intent of the MPS. A decision of Council to reject this Development Agreement, with or without a public hearing, is appealable to the N.S Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Community Council may choose to approve the proposed Development Agreement subject to modifications. This may necessitate further negotiation with the Developer, a supplementary staff report and may require an additional Public Hearing. A decision of Council to approve this Development Agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning
Map 3:	Area of Notification
Attachment A:	Proposed Development Agreement
Attachment B:	Excerpts from the Musquodoboit Valley/ Dutch Settlement LUB
Attachment C:	Musquodoboit Valley/ Dutch Settlement Policy Evaluation

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Jacqueline Belisle, Planner I, Development Approvals 902.490.6704

Original signed

Report Approved by: _____
Kelly Denty, Manager, Development Approvals, 902.490.4800

**Attachment A
Development Agreement**

THIS AGREEMENT made this day of [Insert Month] , 2015,

BETWEEN:

[Insert Individual's name]
an individual, in the Halifax Regional Municipality,
in the Province of Nova Scotia (hereinafter called the
"Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 429 McMullin Road, Antrim and the properties identified as PID 41253667 and PID 00520908 and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a commercial recreation use on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies MU-5 and IM-10 of the Municipal Planning Strategy for Musquodoboit Valley/ Dutch Settlement and Section 3.16(a)(ii) of the Land Use By-law for Musquodoboit Valley and Dutch Settlement;

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on [Insert - Date], referenced as Municipal Case Number 19393;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.2 Applicability of Land Use By-law and Subdivision By-law

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Musquodoboit Valley and Dutch Settlement and the Regional Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other By-laws, Statutes and Regulations

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 19393:

Schedule A Legal Description of the Lands
Schedule B Site Plan – Plan Number 19393-01

3.2 Requirements Prior to Approval

3.2.1 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for the commercial recreation use permitted by this Agreement unless a Development Permit has been issued by the Municipality. No Development Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

3.3.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) Commercial Recreation (specifically an all-terrain vehicle guided nature tour);
- (b) Accessory Uses / Buildings associated with the commercial recreation use permitted under this agreement; and
- (c) Any uses permitted within the existing zone applied to the Lands subject to the provisions contained within the Land Use By-law for Musquodoboit Valley/ Dutch Settlement as amended from time to time.

3.4 Detailed Provisions for Land Use

Buildings

3.4.1 All buildings shall be sited in accordance with the Land Use By-law for Musquodoboit Valley/ Dutch Settlement as amended from time to time.

Trails

- 3.4.2 All existing trails shall be located as generally shown on Schedule B.
- 3.4.3 Any new trail(s) developed on the Lands shall require a Municipal Development Permit.
- 3.4.4 Any new trail(s) developed on the Lands shall be permitted within the areas identified as "Future trail area" on Schedule B, as well as outside the areas identified as "Future trail area" on Schedule B provided a minimum setback of 61 m (200 feet) is maintained from abutting properties which are not subject to this agreement.
- 3.4.5 The Developer shall provide directional signage to ensure patrons of the commercial recreation use remain on the Lands at all times.

3.5 Parking, Circulation and Access

- 3.5.1 The parking area shall be sited as generally shown on Schedule B.
- 3.5.2 The parking area shall provide a minimum of:
 - (a) Two (2) regular parking spaces; and
 - (b) One (1) mobility disabled space.
- 3.5.3 The parking area may provide one (1) space measuring 3.7m (12 feet) by 15.2m (50 feet) to accommodate a tour bus with adequate turning space.
- 3.5.4 The parking area shall be hard surfaced, gravelled or grassed.

3.6 Outdoor Lighting

- 3.6.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and shall be arranged so as to divert the light away from McMullin Road, adjacent lots and buildings.

3.7 Maintenance

- 3.7.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of buildings, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

3.8 Signs

- 3.8.1 All signage shall be accordance with the Musquodoboit Valley/ Dutch Settlement the Land Use By-law as amended from time to time.
- 3.8.2 Signs shall only be externally illuminated.

3.8.3 Directional signage shall be required as referenced under Section 3.4.5 of this development agreement. Directional signage shall have an area of no more than 0.5 m² (five (5) square feet).

3.9 Hours of Operation

3.9.1 The commercial recreation use shall be permitted to operate between the hours of eight (8:00) am and eight (8:00) pm each day

PART 4: STREETS AND MUNICIPAL SERVICES

Off-Site Disturbance

4.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer.

Solid Waste Facilities

4.2 The Lands shall include designated space for five (5) stream (refuse, recycling and composting) source separation services in accordance with By-law S-600 as amended from time to time.

4.3 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from the street.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

Erosion and Sedimentation Control and Grading Plans

5.2 Prior to the commencement of any onsite works on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall have prepared by a Professional Engineer and submitted to the Municipality a detailed Erosion and Sedimentation Control Plan. The plans shall comply with the *Erosion and Sedimentation Control Handbook for Construction Sites* as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this clause have been met and implemented.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

The following items are considered by both parties to be not substantive and may be amended by resolution of Council.

- (a) The granting of an extension to the date of commencement of construction as identified in Section 7.3.3 of this Agreement;
- (b) The length of time for the completion of the development as identified in Section 7.5.1 of this Agreement;
- (c) The hours of operation as identified in Section 3.9.1 of this agreement; and
- (d) A reduction in the trail setback identified in Section 3.4.4 of this agreement up to 30m (100 feet).

6.2 Substantive Amendments

Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

7.2 Subsequent Owners

- 7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.
- 7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within three (3) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this section, commencement of development shall mean issuance of a Development Permit
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1(a), if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

7.4. Completion of Development

Upon the completion of the whole development or complete phases of the development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Musquodoboit Valley/ Dutch Settlement as amended from time to time, as may be amended from time to time.

7.5 Discharge of Agreement

7.5.1 If the Developer fails to complete the development after five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement; or
- (c) discharge this Agreement.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

8.2 Failure to Comply

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 30 days written notice of the failure or default, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the

performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;

- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- (e) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Per: _____

MAYOR

Witness

Per: _____

MUNICIPAL CLERK

**Attachment B:
Excerpts from the Musquodoboit Valley/ Dutch Settlement LUB**

PART 2: DEFINITIONS

In this By-law the word "shall" is mandatory and not permissive. Words used in the present tense shall include the future; words used in the singular number shall include the plural and words used in the plural number shall include the singular. The word "used" shall include "intended to be used", "arranged" and "designed". All other words carry their customary meaning except for those defined hereinafter:

- 2.14 COMMERCIAL RECREATION USE means a building or lot or part of a building or lot used solely for commercial recreation or sport purposes and without limiting the generality of the foregoing, may include animal or vehicle racing tracks, rifle ranges, golf courses, miniature golf courses, amusement parks and centres, campgrounds, and drive-in theatres and may include any use which is accessory to the foregoing.

PART 3: ADMINISTRATION

3.16 USES CONSIDERED BY DEVELOPMENT AGREEMENT

Notwithstanding Section 3.15, certain uses which may not be listed as permitted uses in a zone may be considered in accordance with the development agreement provisions of the Planning Act. As provided for by Policies of the Municipal Planning Strategy for Musquodoboit Valley - Dutch Settlement Area, such uses are:

- (a) Within the Mixed Use Designation
- (ii) commercial recreation uses according to Policy MU-5;

PART 4: GENERAL PROVISIONS FOR ALL ZONES

4.19 WATERCOURSE SETBACKS AND BUFFERS (RC-Jun 25/14;E-Oct 18/14)

- (1) (a) **No development permit shall be issued for any development within 20m of the ordinary highwater mark of any watercourse.**
- (b) **Where the average positive slopes within the 20m buffer are greater than 20%, the buffer shall be increased by 1 metre for each additional 2% of slope, to a maximum of 60m.**
- (c) **Within the required buffer pursuant to clauses (a) and (b), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to a development.**
- (d) **Within the required buffer pursuant to clauses (a) and (b), activity shall be limited to the placement of one accessory structure or one attached deck not exceeding a footprint of 20 m² or a combination of an accessory structure and attached deck not exceeding 20 m², fences, boardwalks, walkways and trails not exceeding 3 metres in width, wharfs, boat ramps, marine dependent uses, fisheries uses, conservation uses, parks on public lands, historic sites and monuments, and public road crossings, driveway crossings and wastewater, storm and water infrastructure, and water control structures.**
- (e) **Notwithstanding clause (a), the required buffer for construction and demolition operations shall be as specified under the applicable CD Zone.**

- (f) **Within the buffer required pursuant to clause (e), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to a development.**

PART 5: SIGNS

5.8 GROUND SIGNS

No ground sign shall:

- (a) extend beyond a property line or project over a public right-of-way, daylighting triangle, or lot line;
- (b) be located less than ten (10) feet (3.0 m) from any street line or abutting lot line;
- (c) exceed a height of twenty-five (25) feet (7.6 m); or
- (d) exceed fifty (50) square feet (4.6 m²) of sign area on a single face or one hundred (100) square feet (9.3 m²) of sign area for both faces combined.

PART 8: MU (MIXED USE) ZONE

8.1 MU USES PERMITTED (RC-Jun 25/14;E-Oct 18/14)

No development permit shall be issued in any MU (Mixed Use) Zone except for the following:

Residential Uses

**Single unit dwellings
Mobile dwellings
Two unit dwellings
Multi-unit dwellings
Boarding and rooming houses
Bed and breakfast establishments**

Institutional Uses

**Day care facilities
Community centres and halls
Open space uses
Public parks, trails, picnic areas and campsites
Commercial uses accessory to a public park use
Museums, interpretive centres, and buildings associated with park development and maintenance
Historic sites and monuments**

Commercial Uses

**Convenience stores
Service and personal service shops
Craft shops
Entertainment uses
Commercial schools and gyms
Funeral establishments
Office uses
Kennels
Veterinary clinics
Recycling depots
Restaurants
Outdoor display courts for up to 10 units
Commercial accommodation uses**

Industrial Uses

Automotive repair outlets

Autobody shops

Service industries

Food processing and packaging uses

Trucking, excavation, landscaping and paving services

Welding, plumbing and heating, electrical, carpentry and other trade contracting services and shops

Light manufacturing and processing operations

Warehouses

General contracting, storage yards and services

Resource Uses

Agricultural uses

Intensive livestock operations

Greenhouses and nurseries

Forestry uses

Extractive facilities

Existing extractive facilities

Composting operations

Uses accessory to the foregoing uses

8.2 **MU ZONE REQUIREMENTS**

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

	<u>Central Services</u>	<u>On-site Services</u>
(a) Minimum lot area:		
Single unit and mobile dwellings	6,000 sq.ft. (557.4 m ²)	20,000 sq.ft. (1,858 m ²)
Two unit dwellings	7,000 sq.ft. (650.3 m ²) or 3,500 sq.ft.(325.2 m ²) per dwelling unit	20,000 sq.ft. (1,858 m ²)
Boarding and rooming houses	7,500 sq.ft. (698.8 m ²)	20,000 sq.ft. (1,858 m ²)
Service Stations	30,000 sq.ft. (2,787 m ²)	30,000 sq.ft. (2.787 m ²)
Keeping of Livestock	40,000 sq.ft. (3,716 m ²)	40,000 sq.ft. (3,716 m ²)
Forest		
Processing Operations	10 acres (4.0 ha)	10 acres (4.0 ha)
Other Uses	8,000 sq.ft. (743.2 m ²)	20,000 sq.ft. (1,858 m ²)
(b) Minimum Frontage:		
Two unit dwellings per dwelling unit	30 feet (9.1 m)	50 feet (15.2 m)
Service Stations	200 feet (61.0 m)	200 feet (61.0 m)
Other Uses	60 feet (18.3 m)	100 feet (30.5 m)
(c) Minimum Front or Flankage Yard:		
Open Space Uses	30 feet (9.1 m)	30 feet (9.1 m)
Other Uses	20 feet (6.1 m)	20 feet (6.1 m)
(d) Minimum Rear or Side Yard:		
Multi-unit dwellings	20 feet (6.1 m) or 1/2 the height of	20 feet (6.1 m) or 1/2 the height of

	the main building, which ever is greater	the main building, which ever is greater
Residential	8 feet (2.4 m)	8 feet (2.4 m)
Commercial/industrial	15 feet (4.6 m)	15 feet (4.6 m)
Open Space Uses	30 feet (9.1 m)	30 feet (9.1 m)
Other Uses	10 feet (3.0 m)	10 feet (3.0 m)
(e) Maximum Lot Coverage:		
Residential uses	35%	35%
Other uses	50%	50%
(f) Maximum height of main building:	35 feet (10.7 m)	35 feet (10.7 m)

8.3 OTHER REQUIREMENTS: COMMERCIAL USES

In any MU Zone, no development permit shall be issued for any commercial use except in conformity with the following:

- (a) Where any portion of any lot in any MU Zone is to be used for commercial uses, no parking and outdoor storage or outdoor display or sign shall be permitted within any side or rear yard where such yard abuts any lot containing a residential dwelling or any residential zone, except where a fence or other visual and physical barrier is provided.
- (b) Notwithstanding Section 8.3(a) above, where the abutting property is under the same ownership, no fence or other visual and physical barrier shall be required.

8.4 OTHER REQUIREMENTS: INDUSTRIAL USES

In any MU Zone, no development permit shall be issued for any industrial use except in conformity with the following:

- (a) The gross floor area devoted to all industrial uses shall not exceed more than ten thousand (10,000) square feet (929 m²).
- (b) Where any industrial use abuts another industrial or a commercial use, the abutting side yard requirement shall be fifteen (15) feet (4.6 m).
- (c) No outdoor storage shall be permitted in the front yard or within any required side or rear yard.
- (d) Any materials associated with an industrial use shall be contained within a building or otherwise enclosed by a fence, vegetation, or other means which provide a visual and physical barrier from abutting residential properties and the travelling public.
- (e) No outdoor display shall be located within ten (10) feet (3.1 m) of any front lot line or within any required side or rear yard.
- (f) No outdoor display shall be permitted in any yard where the yard abuts any residential or community use, except where a visual barrier is provided.
- (g) No parking or loading area shall be permitted in any required side or rear yard where the required yard abuts any residential or community use.
- (h) No portion of any building or structure associated with an industrial use shall be located within 50 feet of any watercourse or well except for a well located on the same lot.

8.5 OTHER REQUIREMENTS: KENNELS

In any MU Zone, no development permit shall be issued for any kennel except in conformity with the following minimum separation distances:

- | | | |
|-----|--|-------------------|
| (a) | From any lot line | 20 feet (6.1 m) |
| (b) | From any dwelling ¹¹ | 50 feet (15.2 m) |
| (c) | From any watercourse or well ¹² | 150 feet (45.7 m) |

8.6 OTHER REQUIREMENTS: FORESTRY PROCESSING USES

In any MU Zone, any building, structure, or stockpile associated with a forest processing operation shall satisfy the following minimum separation distances:

- | | | Sawmills under
1,000 sq.ft.
of GFA ¹³ | Sawmills over
1,000 sq.ft.
of GFA |
|-----|--|--|---|
| (a) | From any lot line | 15 feet (4.6 m) | 50 feet (15.2 m) |
| (b) | From any dwelling ¹⁴ or
residential zone | 50 feet (15.2 m) | 150 feet (45.7 m) |
| (c) | From any watercourse or
well ¹⁵ | 150 feet (45.7 m) | 150 feet (45.7 m) |

8.7 OTHER REQUIREMENTS: SERVICE STATIONS

Notwithstanding the provisions of Section 8.2, where any service station is erected in any MU Zone, the following shall apply:

- (a) No portion of any pump island shall be located closer than twenty (20) feet (6.1 m) from any street line.
- (b) The minimum distance between ramps or driveways shall not be less than thirty (30) feet (9.1 m).
- (c) The minimum distance from a ramp or driveway to a road intersection shall be fifty (50) feet (15 m).
- (d) The minimum angle of intersection of a ramp to a road line shall not be less than forty-five (45) degrees.
- (e) The width of a ramp shall be a minimum of twenty (20) feet (6.1 m) and a maximum of twenty-six (26) feet (7.9 m).

8.8 OTHER REQUIREMENTS: RECYCLING DEPOTS

In any MU Zone, where recycling depots are permitted, no outdoor storage related to the operation of a recycling depot shall be permitted.

8.9 OTHER REQUIREMENTS: ENTERTAINMENT USES

In any MU Zone, where entertainment uses are permitted, no development permit shall be issued except in conformity with the following:

- (a) The gross floor area of any building or structure to be used for an entertainment use shall not exceed fifteen hundred (2000) square feet (185.8m²).

¹¹ Except for a dwelling on the same lot

¹² Except for a well on the same lot

¹³ GFA = Gross Floor Area

¹⁴ Except for a dwelling located on the same lot

¹⁵ Except for a well located on the same lot

- (b) No outdoor storage or outdoor display shall be permitted.
- (c) No parking shall be permitted within any required side or rear yard except where a fence or other visual and physical barrier is provided within such yard in which case no parking shall be permitted within five (5) feet (1.5 m) of the side or rear lot line.

8.10 OTHER REQUIREMENTS: INTENSIVE LIVESTOCK OPERATIONS

In any MU Zone, where intensive livestock operations are permitted on the property, no development permit shall be issued except in conformity with the following:

- (a) Any building or structure associated with an intensive livestock operation shall meet the following setback requirements;

USE	From any dwelling ¹⁶ (ft./m)	From any public highway (ft./m)	From any watercourse (ft./m)	From any well ¹⁷ (ft./m)	Lot area (acre/ha)
Intensive Livestock Operation	500 (152.4)	150 (45.7)	150 (45.7 m)	150 (45.7 m)	10 (4.05 ha)

- (b) the minimum lot area for each manure animal unit, above thirty (30) units, shall be 23,000 square feet (2,136.7 m²) per unit in addition to the minimum lot area of 10 acres (4.05 ha).

8.11 OTHER REQUIREMENTS: KEEPING OF LIVESTOCK

In any MU Zone, where livestock is kept on the property, any building, structure, or manure pile associated with the keeping of livestock shall be a minimum of 150 feet (45.7 m) from any abutting residence, well, or watercourse.

8.12 OTHER REQUIREMENTS: GREENHOUSES AND NURSERIES

In any MU Zone, where greenhouse and nurseries are permitted on the property, no development permit shall be issued except in conformity with the following:

- (a) any building, structure, or use of land associated with either a greenhouse or nursery shall not be located within 150 feet (45.7 m) from any well except for a well located on the same lot.
- (b) No outdoor storage shall be located in any front or side yard.

8.13 OTHER REQUIREMENTS: EXTRACTIVE FACILITIES

In any MU Zone, where extractive facilities are permitted, no development permit shall be issued except in conformity with the following minimum separation distances:

- (a) minimum separation distances shall be as follows:
 From any lot line 100 feet (30.5 m)

¹⁶ Except for a dwelling located on the same lot.

¹⁷ Except a well located on the same lot.

From any dwelling except a dwelling located on the same lot 2,625 feet (800 m)

From any rural residential zone, Village Zone or mobile home park 2,625 feet (800 m)

From any watercourse or well except for a well located on the same lot 300 ft (91.4 m)

- (b) that any proposed facility shall not require access through a rural residential (RR-1) Zone or village (VIL) zone.

8.14 OTHER REQUIREMENTS: EXISTING EXTRACTIVE FACILITIES

Notwithstanding Section 8.13, the existing extractive facilities located on the property identified as LIMS No. 562983 in Upper Musquodoboit (owned by Dillman Enterprises (1995) Limited shall be exempt from subsection 8.13(a) of this by-law.

**Attachment C:
Musquodoboit Valley & Dutch Settlement Policy Excerpt and Evaluation**

Commercial Recreational Uses

Within the Plan Area there are a number of commercial recreational uses which serve both local and regional markets such as River Oaks Golf and County Club in Meaghers Grant. As a result of the attractive natural environment, accessibility, and relatively lower land prices, pressures may exist for additional commercial recreation proposals. Given the substantial number of lakes within the Plan Area, there is considerable potential for the development of water based recreational facilities.

While new commercial recreational uses can provide both local and regional benefits, the planning strategy seeks to ensure that such uses do not negatively affect either the natural or residential environments in which they may locate. Due to concerns with the potential for traffic generation, as well as the noise and litter often associated with such uses, there is a desire to establish a greater level of control over the site design and development of commercial recreational uses. Therefore, such uses should only be permitted by development agreement, in order to minimize the impact commercial recreational development may have on its surrounding environment.

Policy	
<i>MU-5 Notwithstanding Policy MU-2, within the Mixed Use Designation, Council may consider permitting commercial recreation uses according to the development agreement provisions of the Planning Act. In considering such an agreement, Council shall have regard to the following:</i>	
Policy Criteria	Comment
<i>(a) the potential impact of the proposed development on the natural environment and, in particular, potential effects on watercourses;</i>	The proposal is an outdoor use, specifically guided nature tours on all-terrain vehicles (ATVs). The proposal seeks to utilize an existing trail network with the potential to expand into three areas identified as “future trail area” on Map 4 (Schedule B). One of these areas would require the crossing of a watercourse. At which time approvals may be required by the NS Department of Environment under Division I of the Activities Designation Regulations made under Section 66 of the <i>Environment Act</i> .
<i>(b) that the proposal will not adversely affect nearby residential or community facility development by virtue of noise, visual intrusion, traffic generation and/or littering;</i>	<u>Noise</u> : The HRM By-law N-200 Respecting Noise classifies all-terrain vehicles as a “recreational vehicle” and prohibits their operation within 100 feet of a residence (excluding parking and storage on one’s own property). The nearest residence to the existing trail is ~460 feet. Section 3.4.4 of the proposed development agreement does not permit any new trail development within 61 m (200 feet) from any abutting property. Additionally, Section 3.9 of the proposed development agreement limits the hours of operation to between 8:00 am and 8:00 pm daily. <u>Visual intrusion</u> : The property is heavily vegetated and is configured in a manner where the staging area and accessory buildings are visible from McMullin Road but the trail network

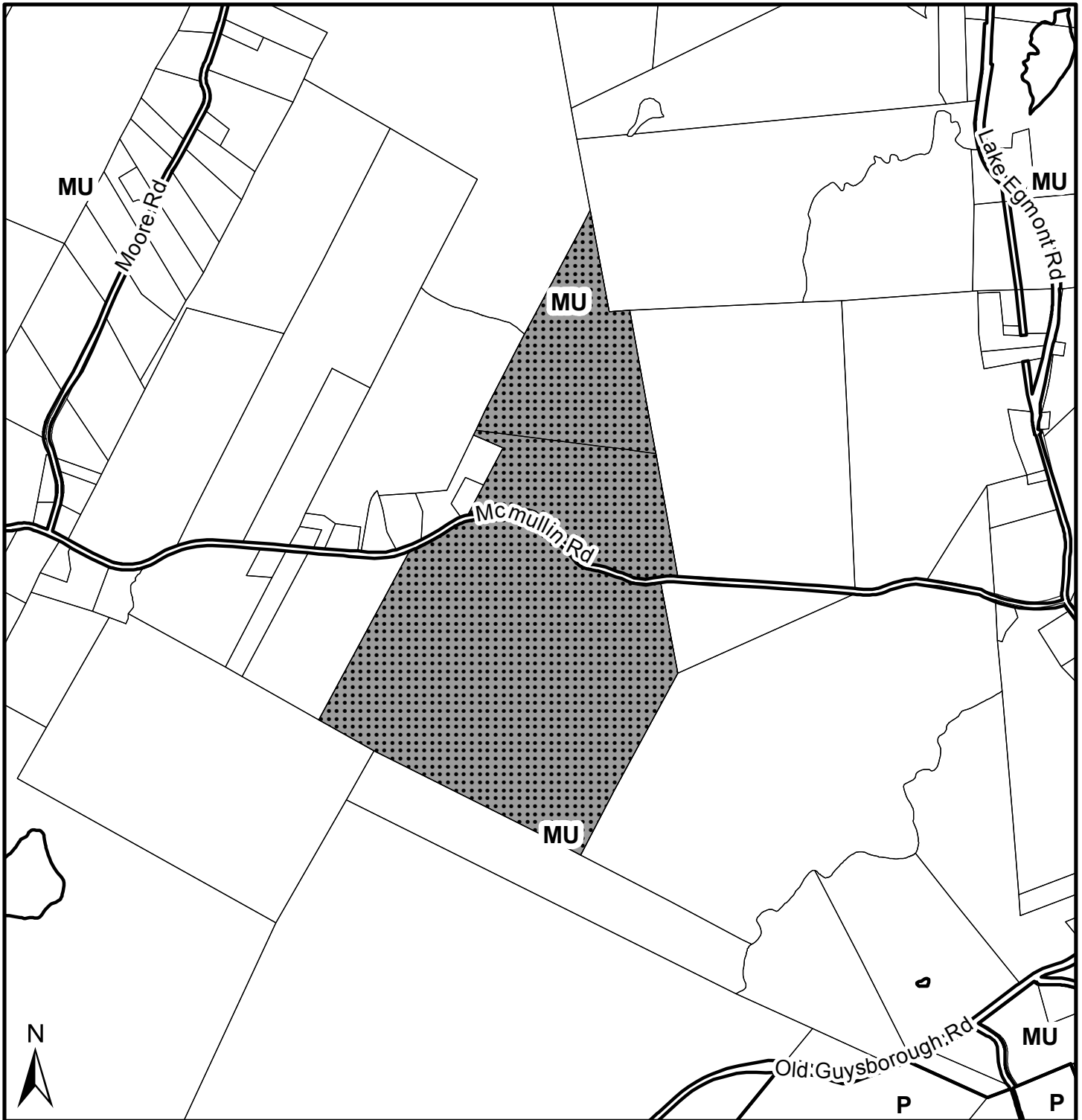
	<p>is only visible at the crossing points. As discussed above Section 3.4.4 of the proposed development agreement does not permit any new trail development within 6.1 m (200 feet) from any abutting property. While not proposed at this time, Section 3.8.1 of the proposed development agreement permits signage as per the Land Use By-law.</p> <p><u>Traffic generation:</u> A Traffic Impact Statement was provided and reviewed by the NS Department of Transportation and Infrastructure Renewal. The statement did not identify any potential significant impacts to the existing transportation network as a result of this proposed development.</p> <p><u>Littering:</u> Section 4.2 of the proposed development agreement requires five stream source separation ensure proper management of solid waste on the site. Locations for waste management are proposed at both the staging area as well as a stopping area on the existing trail</p>
<p><i>(c) the impact of the proposed use on the existing road network in terms of traffic generation and vehicular and pedestrian safety;</i></p>	<p>A Traffic Impact Statement was provided and reviewed by the NS Department of Transportation and Infrastructure Renewal. The statement did not identify any potential significant impacts to the existing transportation network as a result of this proposed development.</p>
<p><i>(d) that any rifle or gun ranges, amusement parks, vehicle or animal racing tracks shall not be located within one thousand three hundred and twenty (1,320) feet of the nearest residence;</i></p>	<p>For clarification this proposal is for guided nature tours on ATV's, not a vehicle racing track. The distance from nearest residence (458 McMullin Road) to the ATV trail is approximately 460 feet.</p>
<p><i>(e) the layout and design of the development;</i></p>	<p>At its nearest point the existing trail network is identified as approximately 150 feet from the outer property line. The areas identified as "future trail area" on Map 4 (Schedule B) are proposed to be setback 6.1 m (200 feet) from outer property lines. Section 3.4.4 of the proposed development agreement requires any new trail development to be setback 61 m (200 feet) from the outer property lines.</p> <p>Additionally, as the existing trail network on the property may provide an opportunity for trail users to potential wander outside the limits of the property Section 3.4.5 of the proposed development agreement requires directional signs to be placed on the property</p>
<p><i>(f) the general maintenance of the development;</i></p>	<p>Sections 3.7.1 and 4.2 & 4.3 of the proposed development agreement addresses general maintenance. All portions of the development</p>

	are to be kept in good repair, and five stream source separation is required to ensure proper management of solid waste on the site.
<i>(g) the provision of on-site services (water and sewage disposal system) for the proposed use;</i>	As an outdoor recreation use no on-site services are proposed or required as part of the proposed development agreement. The developer intends to provide portable toilets to accommodate human waste. Should the developer wish to install onsite services at a future time, the requirements of the Department of Environment would apply as they do in as-of-right development.
<i>(h) the requirement for any applicable federal or provincial approvals or requirements;</i>	The Nova Scotia provincial government has regulations regarding off-highway vehicles, watercourse crossings, and road crossings which are administered through the departments of Natural Resources, Environment, and Transportation respectively. Section 1.3.1 of the proposed development agreement clarifies that the Developer must comply with all Provincial and Federal Government regulations
<i>(i) the hours of operation; and</i>	Hours of operation are included as part of the proposed development agreement. Section 3.9 of the proposed development agreement limits the hours of operation to between 8:00 am and 8:00 pm daily.
<i>(j) the provisions of Policy IM-10.</i>	See below

Policy	
<i>IM-10 In considering development agreements or amendments to the land use bylaw, in addition to all other criteria as set out in various policies of this Planning Strategy, Council shall have appropriate regard to the following matters:</i>	
Policy Criteria	Comment
<i>(a) that the proposal is in conformity with the intent of this Planning Strategy and with the requirements of all other municipal by-laws and regulations;</i>	Policy MU-5 (above) provides for commercial recreation uses through the development agreement process.
<i>(b) that the proposal is not premature or inappropriate by reason of:</i>	...
<i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i>	No concerns were identified regarding potential financial implications for HRM.
<i>(ii) the adequacy of on-site sewerage and water services;</i>	As an outdoor recreation use no on-site services are proposed or required as part of the proposed development agreement. The developer intends to provide portable toilets to accommodate human waste. Should the developer wish to install onsite services at a future time, the requirements of the Department of Environment would apply as they do in as-of-right development.


<i>(iii) the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;</i>	As this proposal does not propose any additional residential units it is not expected to produce an impact on school, recreation or other community facilities.
<i>(iv) the adequacy of road networks leading to or within the development; and</i>	A Traffic Impact Statement was provided and reviewed by the NS Department of Transportation and Infrastructure Renewal. The statement did not identify any potential significant impacts to the existing transportation network as a result of this proposed development.
<i>(v) the potential for damage to or for destruction of designated historic buildings and sites.</i>	No historic buildings or sites have been identified on the property or in the surrounding area.
<i>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i>	...
<i>(i) type of use;</i>	The proposed development agreement permits ATV guided nature tours use, as well as any other use permitted by the underlying MU zone.
<i>(ii) height, bulk and lot coverage of any proposed building;</i>	No buildings are proposed as part of this application with the exception of accessory buildings to support the ATV nature tours use. All buildings are required to meet the requirements of the Land Use By-law
<i>(iii) traffic generation, access to and egress from the site, and parking;</i>	<p>A Traffic Impact Statement was provided and reviewed by the NS Department of Transportation and Infrastructure Renewal. The statement did not identify any potential significant impacts to the existing transportation network as a result of this proposed development.</p> <p>Section 3.5.2 and 3.5.3 of the proposed development agreement addresses parking and requires two regular parking spaces, one mobility disabled space and one larger space to accommodate a tour bus.</p>
<i>(iv) open storage;</i>	Section 4.3 of the proposed development agreement requires that all refuse and recycling materials shall be contained and screened from view of the street.
<i>(v) signs; and</i>	The proposed development agreement requires that all signs conform to the requirements of the land use by-law.
<i>(vi) any other relevant matter of planning concern.</i>	No other concerns have been identified at this time.
<i>(d) that and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding; and the proposed site is suitable with respect to the steepness of grades, soil</i>	Two watercourses have been identified on the property. A portion of the existing trail follows one of these watercourses for a distance of approximately 1,500 feet. This is permitted under Section 4.19(1)(d) of the Land Use By-law. With the exception of the future watercourse crossing discussed above the

	future trail areas are not in close proximity to these watercourses.
<i>(e) any other relevant matter of planning concern.</i>	No other concerns have been identified at this time.
<i>(f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02; E-Aug 17/02)</i>	No holding zone has been established and no additional lots are proposed in conjunction with this application.



Map 1 - Generalized Future Land Use

429 McMullin Road (PID 40212656)
and PIDs 41253667 & 00520908, Antrim

 Area of proposed development agreement

Musquodoboit Valley/Dutch Settlement
Plan Area

Designation

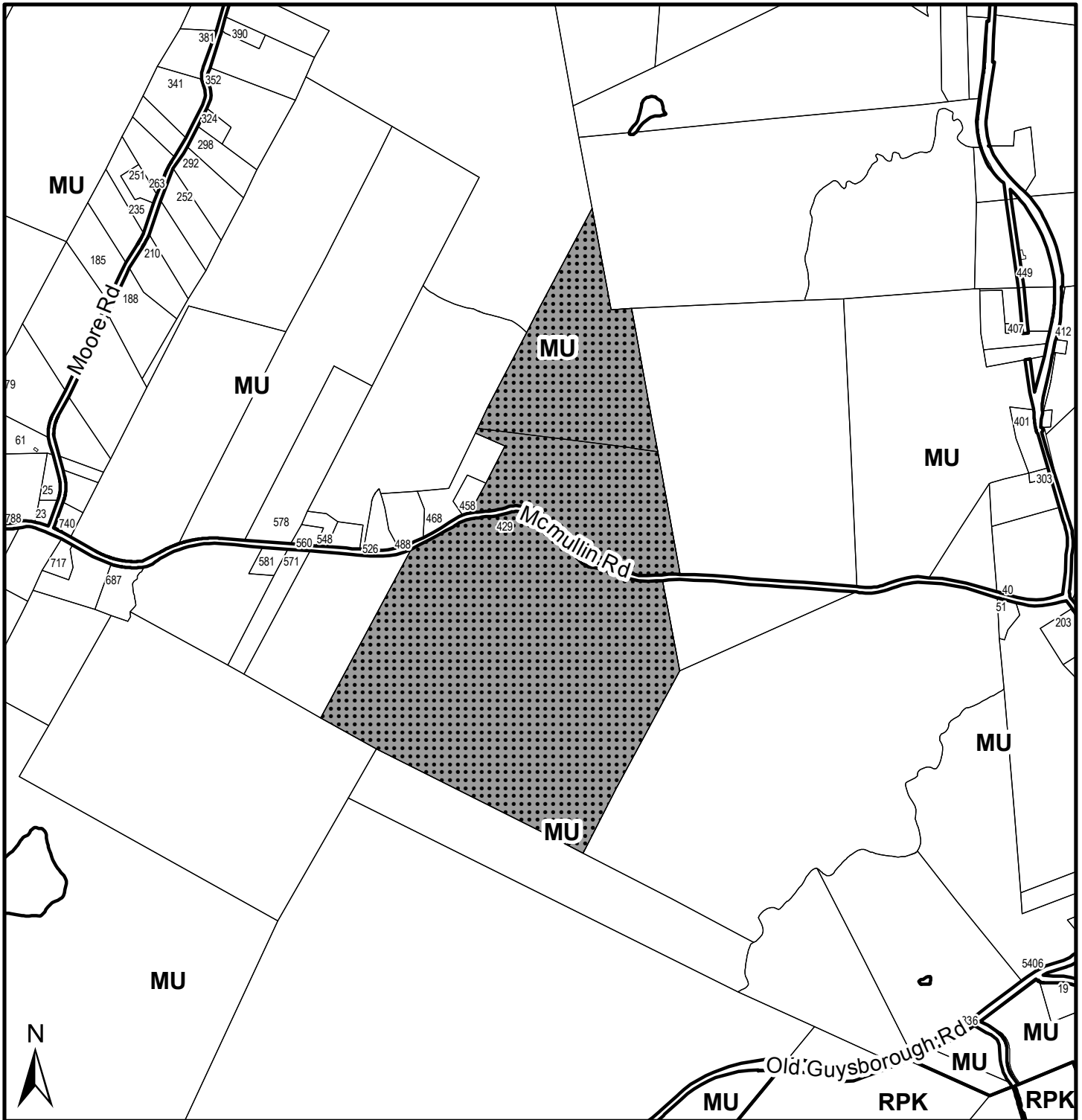
MU Mixed Use
P Park

HALIFAX




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

The accuracy of any representation on this plan is not guaranteed.



Map 2 - Zoning

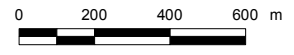
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 Area of proposed development agreement

Musquodoboit Valley/Dutch Settlement
Plan Area

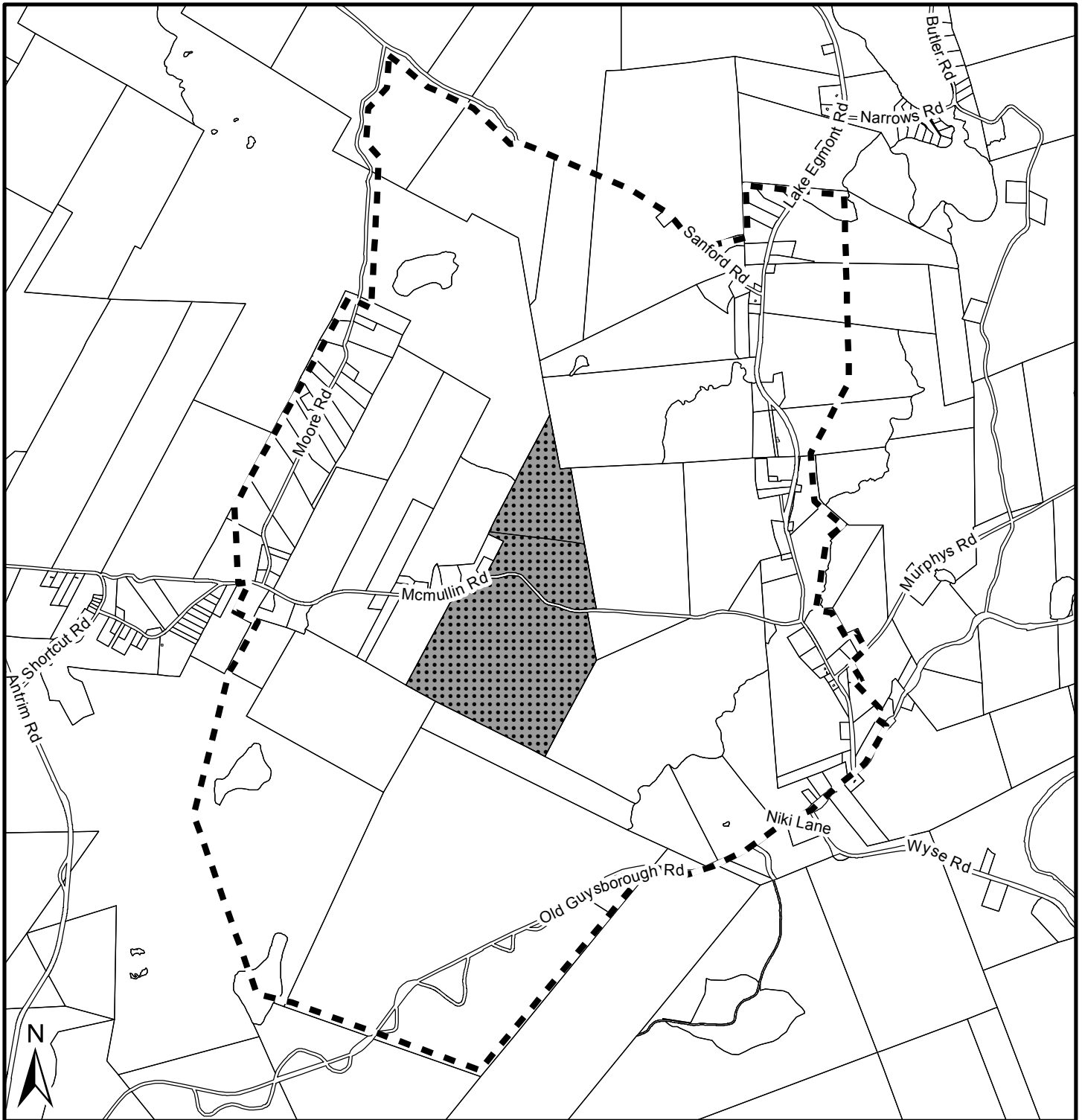
Zone	
MU	Mixed Use
RPK	Regional Park

HALIFAX




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Map 3 - Area of Notification

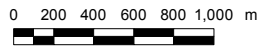
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 Area of proposed development agreement

 Area of notification

Musquodoboit Valley/Dutch Settlement
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