

**North West Community Council**  
**January 22, 2009**

**TO:** North West Community Council

**SUBMITTED BY:**

  
Ann Merritt, Chair  
North West Planning Advisory Committee

**RE:** Case 01195 - Rezoning of 92 Beaver Bank Road, Sackville

**DATE:** January 9, 2009

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**ORIGIN**

North West Planning Advisory Committee meeting - January 8, 2009

**RECOMMENDATION**

The North West Planning Advisory Committee recommend that North West Community Council:

- (a) Give First Reading to the proposed rezoning of 92 Beaver Bank Road from R-1 (Single Unit Residential) Zone to P-2 (Community Facility) Zone and schedule a public hearing; and
- (b) Approve the rezoning of 92 Beaver Bank Road from R-1 (Single Unit Residential) Zone to P-2 (Community Facility) Zone as illustrated in Attachment D of the staff report dated December 9, 2008.

**ATTACHMENTS**

Staff report dated December 9, 2008

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Gail Harnish, Admin/PAC Coordinator, 490-4937

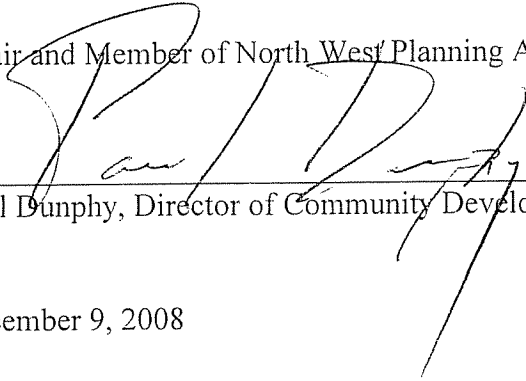
Report reviewed by: Ann Merritt, Chair, North West PAC



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

North West Planning Advisory Committee  
January 7, 2009

**TO:** Chair and Member of North West Planning Advisory Committee

**SUBMITTED BY:**   
Paul Dunphy, Director of Community Development

**DATE:** December 9, 2008

**SUBJECT:** Case 01195 - Rezoning of 92 Beaver Bank Road, Sackville

**ORIGIN**

An application by Mr. Tim Little and Mr. Wendell Aulenback, on behalf of Sackville Independent Baptist Church, to consider rezoning 92 Beaver Bank Road in Sackville from R-1 (Single Unit Residential) to P-2 (Community Facility) to allow for an addition to the rear of the existing church.

**RECOMMENDATION**

It is recommended that North West Planning Advisory Committee recommend that North West Community Council:

- (a) Give First Reading to the proposed rezoning of 92 Beaver Bank Road from R-1 (Single Unit Residential) Zone to P-2 (Community Facility) Zone and schedule a public hearing; and
- (b) Approve the rezoning of 92 Beaver Bank Road from R-1 (Single Unit Residential) Zone to P-2 (Community Facility) Zone as illustrated in Attachment D.

## **BACKGROUND**

The subject property, 92 Beaver Bank Road, contains a church, which is a non-conforming use of land in accordance with the applied R-1 (Single Unit Dwelling) Zone. The Municipal Government Act (MGA) states that a non-conforming use of land may not be extended beyond the limits that the use legally occupies. A rezoning to P-2 is required to enable any future expansion of the church.

The subject property is generally described as follows:

- the church on the property is a non-conforming use;
- the church consists of two levels (basement and main floor), with a combined floor area of roughly 3, 573 square feet;
- located on the western side of Beaver Bank Road, having 28,600 square feet of area, with 229 feet of frontage on Beaver Bank Road (Map 1);
- designated Urban Residential (UR) under the Sackville Municipal Planning Strategy (MPS). Adjacent property to the south is designated Community Commercial (CC) and Flood Plain (FP) under the Sackville MPS (Map 1);
- zoned R-1 (Single Unit Residential) Zone under the Sackville Land Use Bylaw (LUB) (Map 2);
- serviced with municipal water and sewer;

**History:** The Sackville Independent Baptist Church has been located at the subject property for several decades. A construction permit was issued in 1993 for an addition to the church. At the time, the R-1 Zone permitted institutional uses. In 1993-94 the Sackville MPS was reviewed, with a new MPS adopted in mid 1994. The new MPS resulted in amendments to the Sackville LUB, which removed institutional uses from the list of permitted uses in the R-1 Zone. As a result, the church became a non-conforming use.

**Proposal:** The applicant has applied to rezone the property from R-1 to P-2 to enable the construction of a two level addition (main level and basement) at the rear of the existing church. The addition is proposed to create 1,184 square feet (110 square metres) of floor area (Map 3).

**Enabling Policy:** The rezoning request can be entertained by Council, subject to the consideration of policies UR-14 and IM-17 of the Sackville MPS (Attachment A).

## **DISCUSSION**

The following is an evaluation of the proposed rezoning in relation to applicable policies of the Sackville MPS (Attachment A).

### **Policy Intent:**

The subject property is designated Urban Residential (UR), which recognizes the importance of the single unit dwelling environment, as well as supportive activities and land uses. In order to facilitate the social and physical integration of supporting land uses with the community, the UR designation (Policy UR-14) enables institutional and other community supporting uses to locate in residential

neighbourhoods, subject to the rezoning process (Attachment A). Furthermore, Policy IM-17 enables Council to consider applying an appropriate zone in cases where a use has been rendered non-conforming through a planning process (Attachment A). In the opinion of Staff, the proposal meets the intent of the relevant policies.

**Other Related Issues:**

Compatibility with Adjacent Land Uses: Properties to the south of the subject property are developed with commercial uses (Car Wash and Tim Horton's), with properties the east and west established as residential neighbourhoods. The rear yards of several residential properties to the west abut the church property. Based on the size of the proposed addition, parking at the rear of the property is unlikely to be required. However, if parking is required at the rear, the typical operating pattern of the church will unlikely create a conflict with abutting land uses.

Adequate Municipal Services: The subject property is within the municipal service boundary for Sackville. A sewage generation analysis was conducted by a professional engineer, which considered the potential sewage flow impact of this rezoning application. HRM Development Engineering is in agreement with this analysis. Halifax Water has indicated that the proposal will have an insignificant impact on the demand for water.

Traffic and Access: A Traffic Impact Statement (TIS) has been prepared by a professional engineer to address this rezoning application. HRM Development Engineering is satisfied with the findings of the TIS. Concerns are present regarding the traffic capacity of Beaver Bank Road, however, given that the church is an existing use, and the majority of traffic generated at this site is at an off-peak time for Beaver Bank Road (as illustrated in the TIS provided), Development Engineering is of the opinion that the small expansion to the church and reconfiguring of the parking lot will have no discernable effect on traffic patterns in the area.

Stormwater and Drainage: Potential stormwater and drainage impact on adjacent lands will be addressed through detailed design during the permit process.

Contaminated Soils: The church experienced a fuel oil spill in the recent past and has taken measures to remediate the matter by working with a Site Professional and Nova Scotia Environment (NSE). The applicant intends to continue working with NSE prior to undertaking development, in order to ensure that provincial requirements are satisfied.

**Public Information Meeting:** A Public Information Meeting (PIM) was held on November 12, 2008. No members of the public were in attendance. Should Council decide to proceed with a public hearing on this application, in addition to published newspaper advertisements, property owners in the immediate area will be individually notified, as shown on Map 2. This is the notification area that was used for the PIM.

**Conclusion:** The proposed rezoning to P-2 reasonably satisfies the applicable policies of the Sackville MPS (Attachment A). Furthermore, the proposed rezoning will reestablish the church as a conforming land use. Staff did not identify any issues that would suggest this proposal is

inappropriate. It is recommended that North West Community Council approve the rezoning application for 92 Beaver Bank Road.

### **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 proceed with the rezoning from R-1 (Single Unit Residential) Zone to P-2 (Community Facility) Zone. This is the staff recommendation for reasons described above.
2. Council may choose to refuse the proposed rezoning, and in doing so, must provide reasons based on a conflict with MPS policies.

### **ATTACHMENTS**

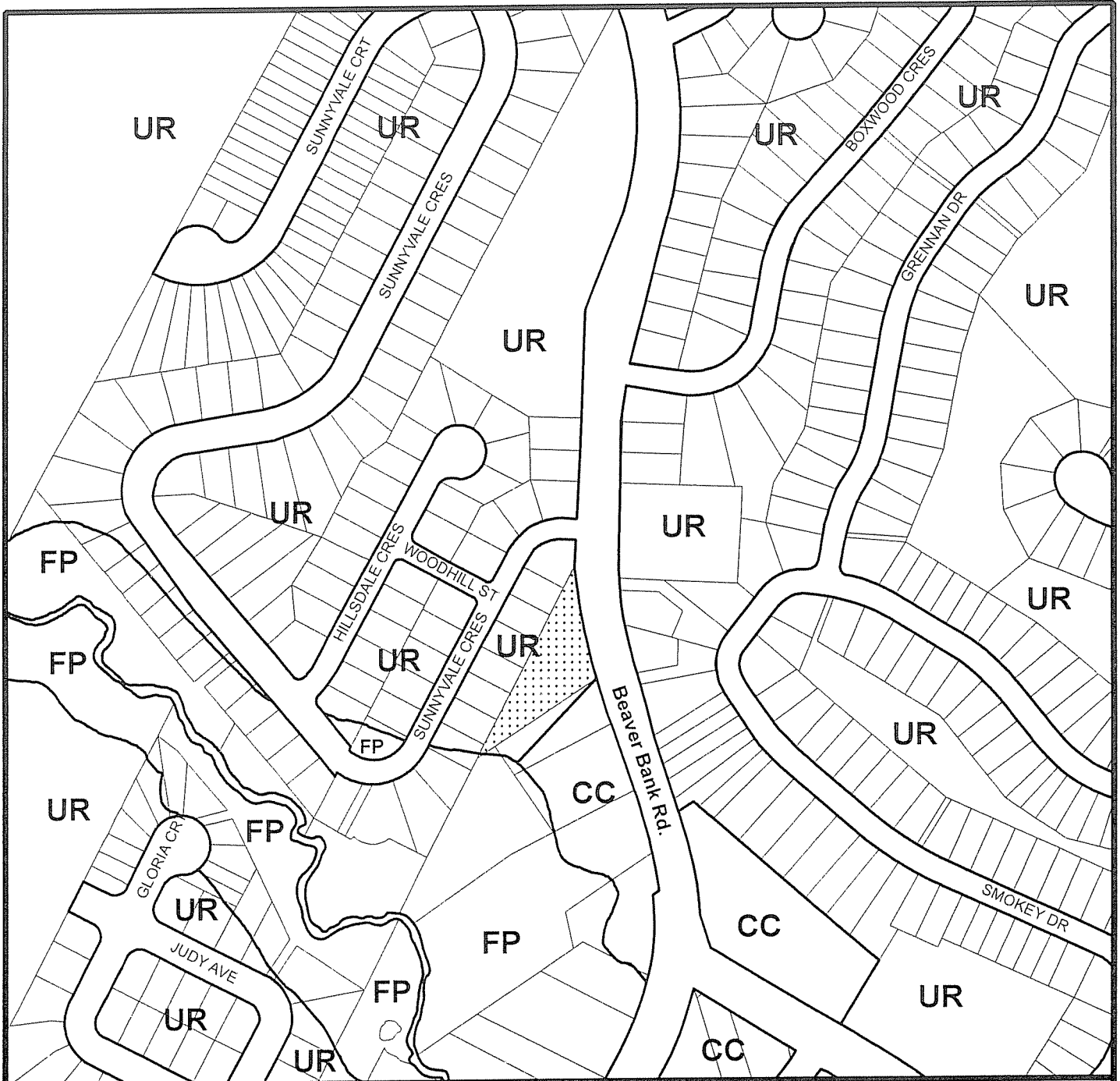
Map 1:	Generalized Future Land Use Map
Map 2:	Zoning Map
Map 3:	Proposed Addition
Attachment A:	MPS Policies
Attachment B:	LUB Requirements for R-1 (Single Unit Dwelling) Zone
Attachment C:	LUB Requirements for P-2 (Community Facility) Zone
Attachment D:	Amendments to the Land Use By-law for Sackville

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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: Miles Agar, Planner 1- Planning Applications: Community Development 869-4262



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



Map 1  
Generalized Future Land Use

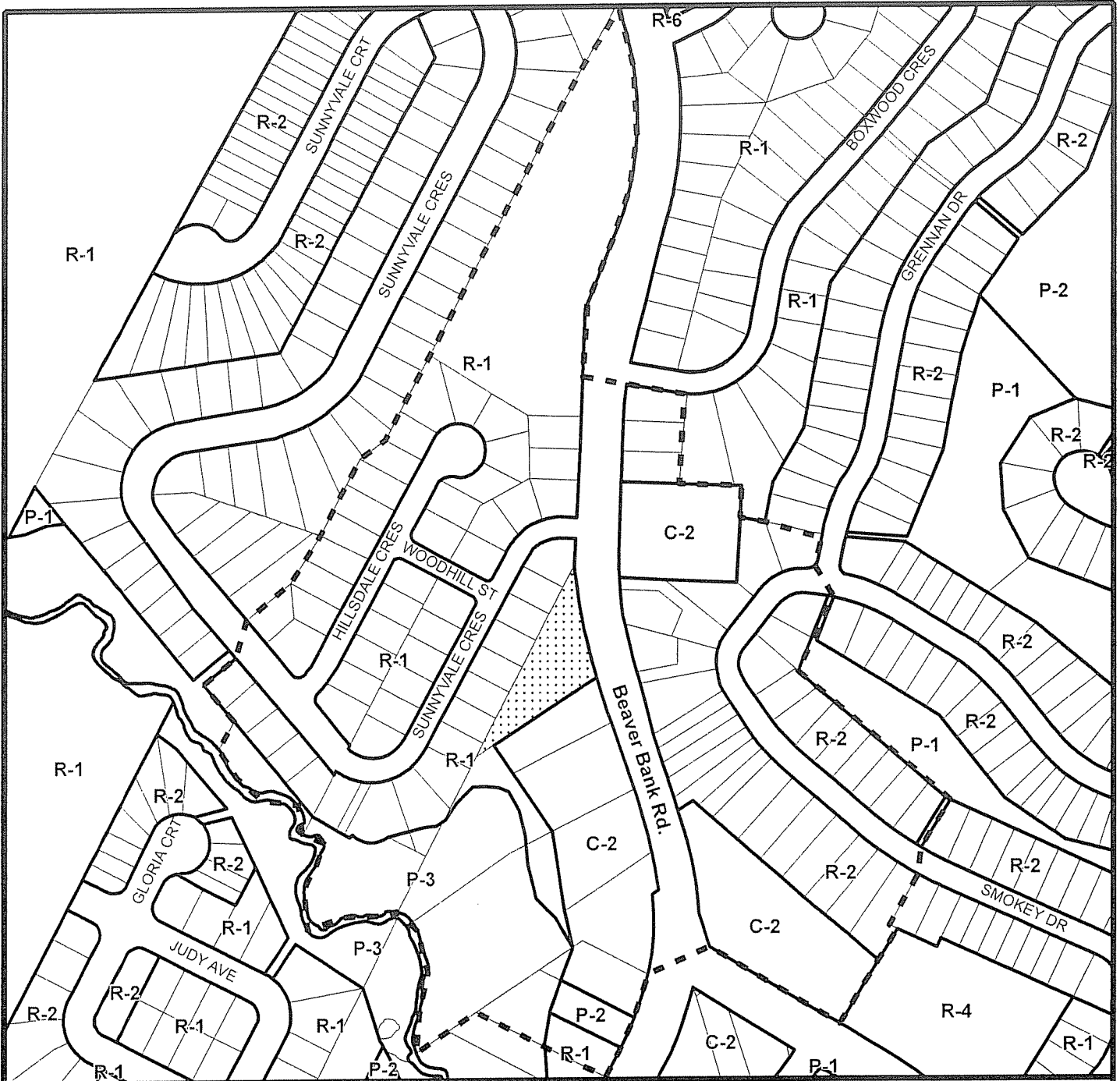


**Subject Property**

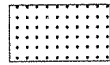
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- UR Urban Residential Designation
- CC Community Commercial Designation
- FP Floodplain Designation





Map 2  
Zoning



**Subject Property**



**Notification Area**

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Planning Services



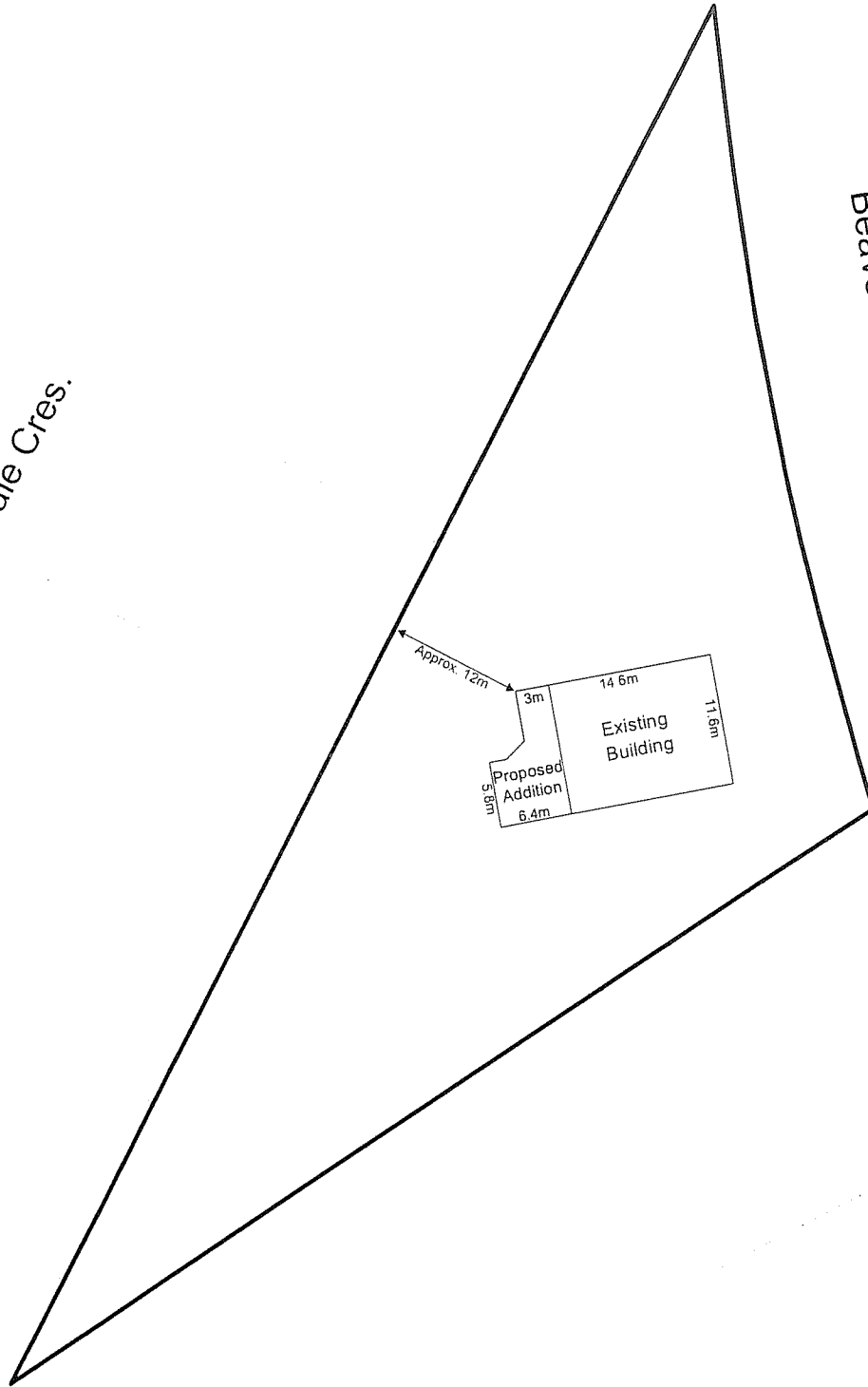
- R-1 Single Unit Dwelling Zone
- R-2 Two Unit Dwelling Zone
- R-4 Multiple Unit Dwelling Zone
- C-2 Community Commercial Zone

- P-1 Open Space Zone
- P-2 Community Facility Zone
- P-3 Floodplain Zone



Sunnyvale Cres.

Beaver Bank Road



Map 3  
Site Plan



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Planning Services



Attachment A

UR-14 Notwithstanding Policies UR-2 and RR-2, within the Urban Residential and Rural Residential Designations, it shall be the intention of Council to establish a community facility zone which permits a variety of community related uses such as schools, churches, hospitals, government offices, community centres and recreation uses. Council may consider permitting new community facility uses by amendment to the land use by-law and with regard to the provisions of Policy IM

- IM-13 In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this planning strategy, the Sackville Community Council shall have appropriate regard to the following matters:
- (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;
  - (b) that the proposal is not premature or inappropriate by reason of:
    - (I) the financial capability of the Municipality to absorb any costs relating to the development;
    - (ii) the adequacy of sewer and water services;
    - (iii) the adequacy or proximity of school, recreation and other community facilities;
    - (iv) the adequacy of road networks leading or adjacent to, or within the development; and
    - (v) the potential for damage to or for destruction of designated historic buildings and sites.
  - (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) type of use;
    - (ii) height, bulk and lot coverage of any proposed building;
    - (iii) traffic generation, access to and egress from the site, and parking;
    - (iv) open storage;
    - (v) signs; and
    - (vi) any other relevant matter of planning concern.
  - (d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding;
  - (e) any other relevant matter of planning concern; and
  - (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.

IM-17 Where uses exist which would become non-conforming with respect to the Planning Act, and which are unlikely to become conforming and further, where such uses do not interfere with adjacent uses, such uses may be zoned to permit the existing use of the property.

Attachment B

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

NOTE: The Municipal Development Plan and Zoning By-law for Sackville approved on May 14, 1982, as amended, remains in effect for land owned by the Nova Scotia Department of Housing and Consumer Affairs shown on Map 1, Generalized Future Land Use Map in accordance with Ministerial amendments made on June 16, 1994. Any development of these lands is subject to the 1982 Plan and By-law.

6.1      R-1 USES PERMITTED

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

Residential Uses

Single unit dwellings

Existing mobile home parks

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Business uses in conjunction with permitted dwellings

Bed and breakfasts

Community Uses

Open space uses

Attachment C

PART 20: P-2 (COMMUNITY FACILITY) ZONE

20.1 P-2 USES PERMITTED

No development permit shall be issued in any P-2 (Community Facility) Zone except for the following uses:

Institutional Uses

Educational institutions and uses

Denominational institutions and uses

Day care facilities

A single unit dwelling in conjunction with a daycare facility

Fire and police stations

Government offices and public works

Hospitals and medical clinics

Public libraries, museums and galleries

Private club and lodge

Community centres and halls

Residential care facilities ~~constructed and maintained by a public housing authority~~  
(NWCC-May 26/08;E-Jun 14/08)

Open Space Uses

Public and private parks and playgrounds

Recreation uses

Cemeteries

Day camps

Historic sites and monuments

A single unit dwelling in conjunction with a cemetery, excluding a mobile dwelling

20.2 P-2 ZONE REQUIREMENTS: INSTITUTIONAL USES

In any P-2 Zone, where uses are permitted as institutional uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:	central services	6,000 square feet (558 m <sup>2</sup> )
	on-site services	20,000 square feet (1858.1 m <sup>2</sup> )
Minimum Frontage:	central services	60 feet (18.3 m)
	on-site services	100 feet (30.5 m)

Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard building	½ the height of the main
Maximum Lot Coverage	50 per cent

20.3 P-2 ZONE REQUIREMENTS: OPEN SPACE USES

In any P-2 Zone, where uses are permitted as open space uses, no development permit shall be issued except in conformity with the provisions of Part 19.

**Attachment D**  
**Amendment to the Land Use By-law for Sackville**

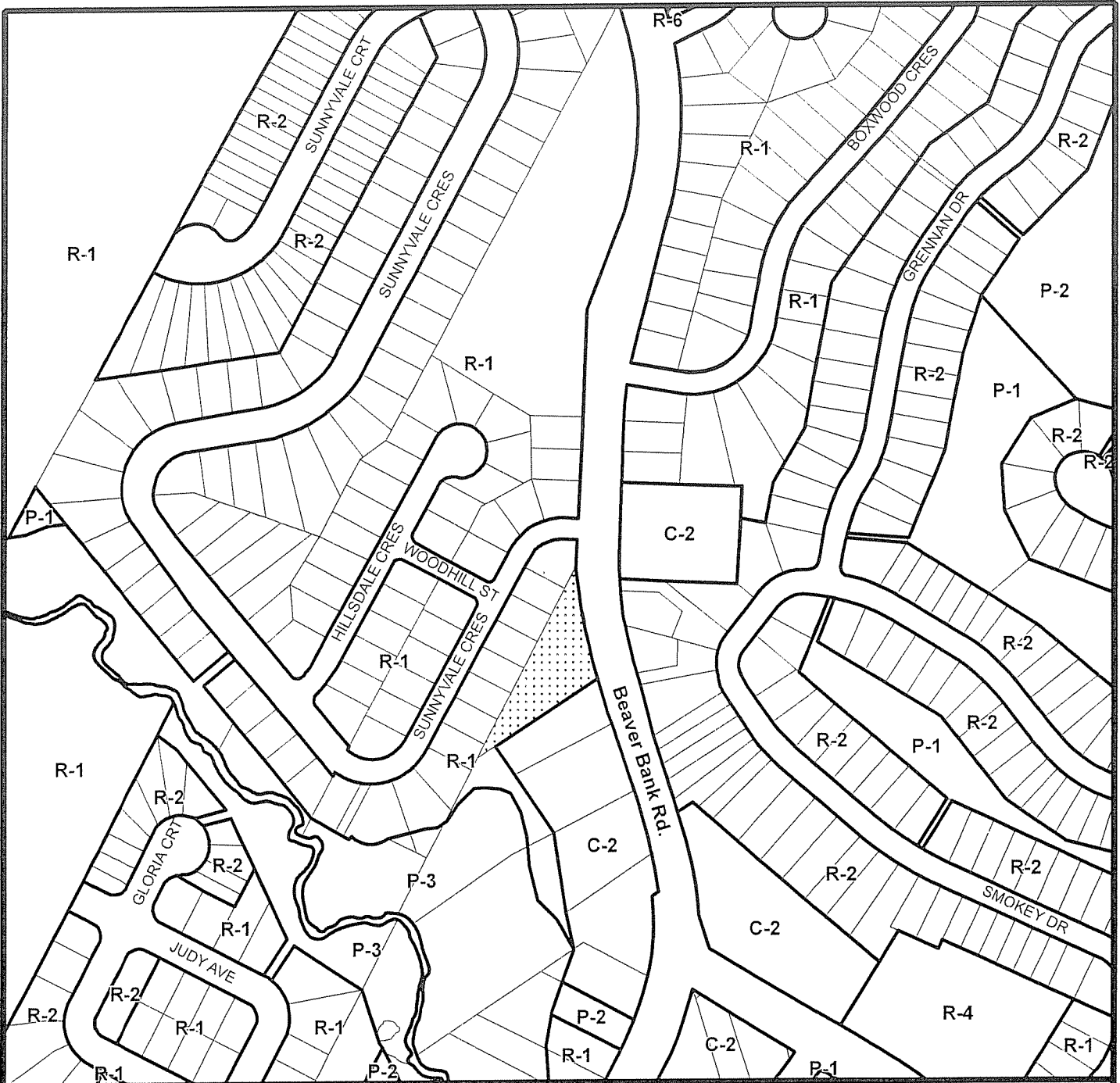
BE IT ENACTED by the North West Community Council of the Halifax Regional Municipality that the Land Use Bylaw of Sackville as enacted by the Halifax County Municipality on the 5<sup>th</sup> day of April, 1994 which includes all amendments thereto which have been approved by the Regional Municipality and are in effect as of the 11<sup>th</sup> day of October, 2008, is hereby further amended as follows:

1. Map 1A of the Land Use By-law shall be amended as shown in the attached Schedule "A".

I HEREBY CERTIFY that the amendment to the Land Use By-law for Sackville as set out above, was passed by a majority vote of the North West Community Council of the Halifax Regional Municipality at a meeting held on the \_\_\_\_ day of \_\_\_\_, 2009.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Julia Horncastle  
Municipal Clerk



Schedule A  
Zoning



Area to be Rezoned  
from R-1 to P-2

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- R-1 Single Unit Dwelling Zone
- R-2 Two Unit Dwelling Zone
- R-4 Multiple Unit Dwelling Zone
- C-2 Community Commercial Zone

- P-1 Open Space Zone
- P-2 Community Facility Zone
- P-3 Floodplain Zone

