

Halifax and West Community Council
June 10, 2013

TO: Chair and Members of Halifax and West Community Council

Original Signed

SUBMITTED BY: Brad Anguish, Director of Community and Recreation Services

DATE: May 1, 2013

SUBJECT: Case 17599: Rezoning of 114 Hebridean Drive, Herring Cove

SUPPLEMENTARY REPORT

ORIGIN

- Application by Morah, Ronald and Bruce MacEachern
- April 22, 2013 motion at Halifax and West Community Council:

“MOVED by Councillor Adams, seconded by Councillor Walker that Halifax & West Community Council request a supplementary staff report exploring the possibility of rezoning 114 Hebridean Drive from the P-2 (Community Facility) Zone to the HCR (Herring Cove Residential) Zone, on the understanding that this may require a new first reading and a second public hearing.”

LEGISLATIVE AUTHORITY

HRM Charter; Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider the proposed rezoning of 114 Hebridean Drive, Herring Cove, from the P-2 (Community Facility) Zone to the HCR (Herring Cove Residential) Zone, as set out in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed rezoning of 114 Hebridean Drive, as set out in Attachment A of this report.

BACKGROUND

The property owners of 114 Hebridean Drive in Herring Cove submitted a request to rezone their property from the P-2 (Community Facility) Zone to the F-1 (Fishing Industry) Zone to allow the development of a two unit dwelling. A staff report dated February 28, 2013 recommended in favour of the proposed rezoning from P-2 (Community Facility) Zone to the F-1 (Fishing Industry) Zone. The existing P-2 zoning does not permit a two unit dwelling; however, Policy VVC-4 of the Municipal Planning Strategy for Planning District 5 enables the consideration of the F-1 Zone in this area. The F-1 Zone permits two unit dwellings.

The Halifax and West Community Council (HWCC) held a public hearing on April 22, 2013 to consider the proposed rezoning. At this meeting, Council made a motion directing staff to explore the possibility of considering the HCR (Herring Cove Residential) Zone rather than the F-1 Zone. The HCR Zone permits two unit dwellings but limits the development of fishing related uses.

The staff report dated February 28, 2013 describes the history, location, land use designations and zoning in greater detail, while this supplementary report responds to Council's April 22nd motion.

DISCUSSION

Staff reviewed the proposed development of a two unit dwelling in the staff report dated February 28, 2013 and determined that the F-1 Zone best maintained the intent of the MPS relative to preserving the fishing village character of Herring Cove. The F-1 Zone was applied to lands within the Village of Herring Cove in 2001, through MPS and LUB amendments to implement portions of the Herring Cove Area Settlement and Servicing Strategy. The intent of the zone is to support the maintenance of the fishing industry within the Herring Cove Area and it was applied to the lands within the Village Centre designation. At the same time, the applicant's lands were zoned P-2 (Community Facility) Zone to reflect the existing land use in existence at the time, a post office.

While the F-1 and P-2 zones form the predominant zoning within Herring Cove Village area, the HCR Zone was applied to the residential lands surrounding the Village (Map 2). The subject property abuts HCR zoned properties and Policy IM-6 enables Council to consider the application of an abutting zone. The HCR Zone is a predominantly residential zone that also permits fishery support uses. This zone would limit the fishing and commercial uses to fishery support uses and home occupations, while still allowing the residential uses such as the proposed two unit dwelling.

The HCR Zone

The MPS discusses the importance of preserving the fishing village character of Herring Cove. Policy VCC-1 creates the Village Centre Designation to encourage the retention of the fishery and preservation of the physical character of Herring Cove, while Policy VCC-4 establishes the F-1 (Fishing Industry) Zone as part of the implementation of this policy. However, the subject property is immediately adjacent to lands zoned HCR and the surrounding land use is

predominantly residential. The HCR Zone limits fishing and commercial uses to fishery support uses and home occupations, while still allowing the residential uses such as a two unit dwelling. The HCR Zone allows fishery support uses which would permit the storage of fishing equipment, boats and the sale of an individual's catch, but not retail operations. Placing the HCR Zone on the subject property would still allow for the preservation of the fishing industry in Herring Cove which would maintain the intent of Policy VCC-1.

The HCR Zone requires residential uses have a minimum lot area of 929 sq.m. (10,000 sq. ft.) and 22.8 m (75 ft.) of frontage per dwelling unit. The zone permits a maximum of two residential units. Should the proposed rezoning be approved, the subject property meets the zone standards for all the permitted uses except for the residential frontage requirements for two unit dwellings. Under the HCR Zone requirements, a two unit dwelling would require 45.7 m (150 ft.) of lot frontage, but the subject property only has 36.6m (120 ft.) of frontage. The LUB includes provisions to enable the development of lots that were created prior to the creation of the By-law in 1994, given that they may not meet the requirements established by the By-law. As the subject property was created in 1972, provided all other requirements of the HCR Zone are met, a permit may be issued for the proposed two unit dwelling.

Summary

In summary, the request by Community Council to consider applying the HCR Zone rather than the F-1 Zone is consistent with the intent of relevant MPS policies (Attachment B). Accordingly, staff recommends approval of the proposed rezoning from the P-2 Zone to the HCR Zone.

FINANCIAL IMPLICATIONS

There are no financial implications. The cost to process this application can be carried out within the approved 2013/14 operating budget for C310 Planning and Applications.

COMMUNITY ENGAGEMENT

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

The level of community engagement was information sharing, achieved through the HRM Website and responses to inquiries. The local councillor for the area was consulted and the Public Information Meeting was waived due to the fact that this application is a return to a previously permitted use.

Halifax and West Community Council held a public hearing for this application, on April 22, 2013 and published advertisements in the newspaper and notified property owners within the notification area, as shown on Map 2. Should Halifax and West Community Council decide to proceed with another public hearing for this revised request, in addition to the published newspaper advertisements, property owners within the notification area will be notified as shown on Map 2.

The proposed rezoning will potentially impact the local residents and property owners.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all relevant environmental policies contained in the MPS documents. Please refer to Attachment B of this report for further information.

ALTERNATIVES

1. Approve the proposed rezoning, as contained in Attachment A. This is the staff recommendation. A decision of Council to approve this land use by-law amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM* Charter.
2. Refuse the proposed rezoning and, in doing so, must provide reasons why the LUB amendment does not reasonably carry out the intent of the MPS. This is not recommended. A decision of Council to reject this land use by-law amendment, with or without a public hearing, is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM* Charter.
3. Council may choose to proceed with the rezoning to the F-1 (Fishing Industry) Zone. A decision of Council to approve this land use by-law amendment 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
Map 2:	Zoning and Notification
Attachment A:	Amendment to the Land Use By-law for Planning District 5
Attachment B:	Excerpts from the Planning District 5 MPS and Policy Evaluation
Attachment C:	Excerpts from the Planning District 5 LUB

Staff Report:

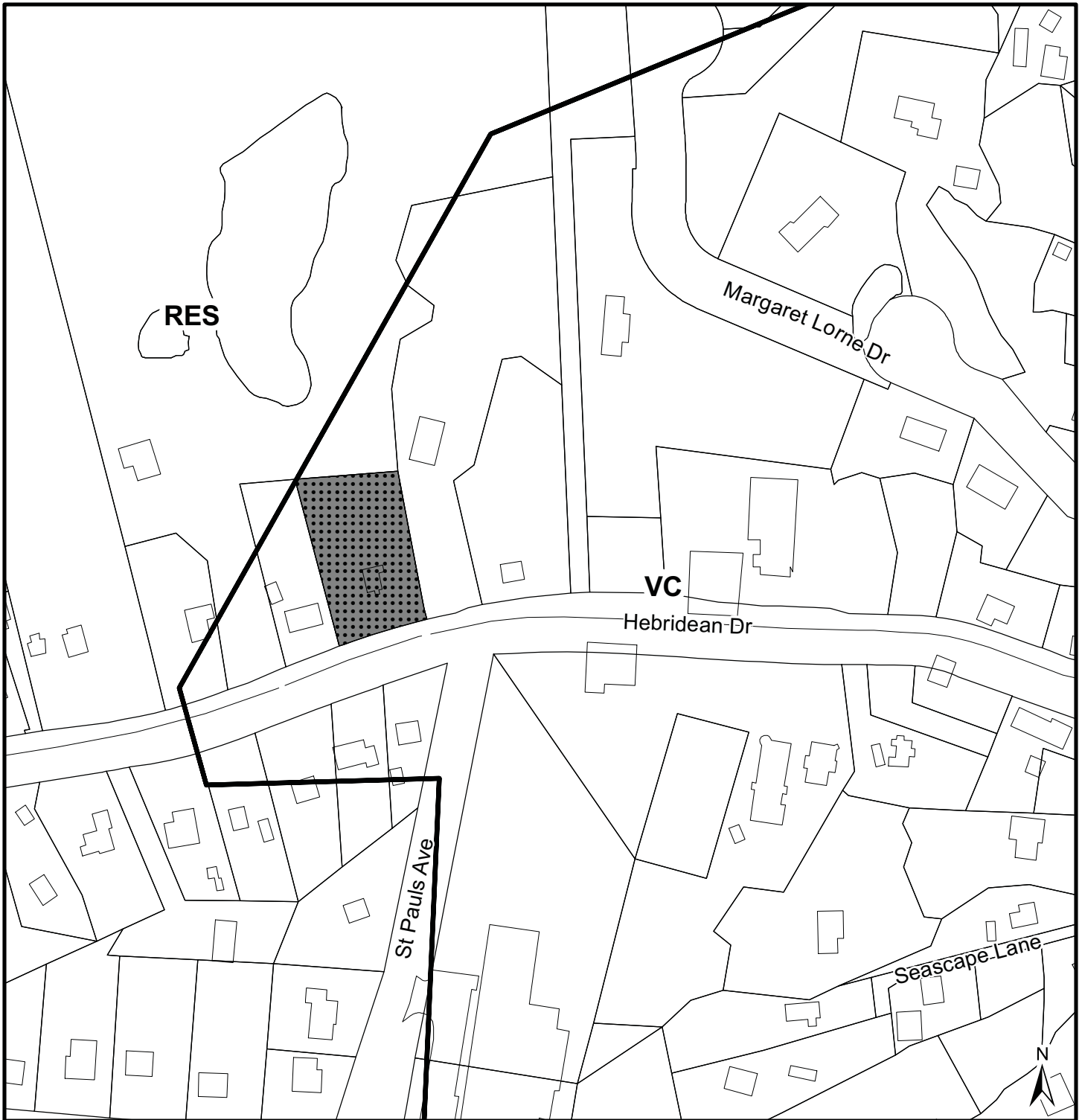
www.halifax.ca/Commcoun/west/documents/Case17599RezoningHebrideanDrive_000.pdf

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 : Jennifer Chapman, Planner 1, 490-3999


Original Signed


Report Approved by:  Kelly Denty, Manager Development Approvals, 490-4800



Map 1 - Generalized Future Land Use

114 Hebridean Drive
Herring Cove

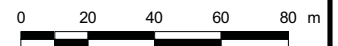
 Subject area

 Area of notification

Planning District 5
(Chebucto Peninsula) Plan Area

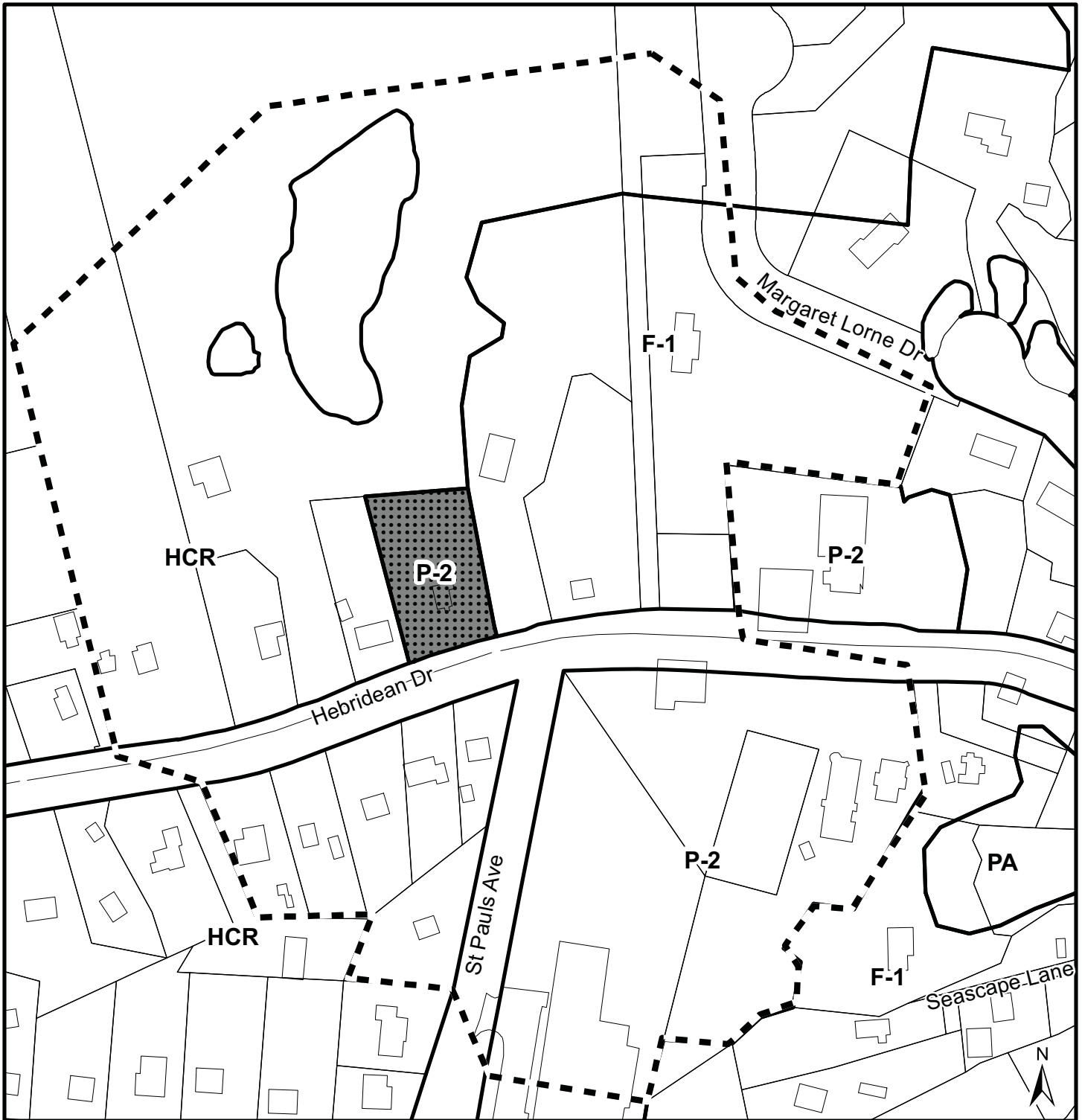
Designation

RES Residential
VC Village Centre



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



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



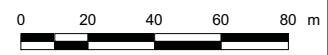
Map 2 - Zoning and Notification

114 Hebridean Drive
Herring Cove



 Subject area
 Area of Notification
 Planning District 5
 (Chebucto Peninsula) Plan Area

Zone
 HCR Herring Cove Residential
 F-1 Fishing Industry
 P-2 Community Facility
 PA Protected Area



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.
 HRM does not guarantee the accuracy of any representation on this plan.

Attachment A
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 Bylaw for Planning District 5 (Chebucto Peninsula) as enacted by the former Halifax County Municipality on the 5th day of December, 1994, and approved with amendments by the Minister of Municipal Affairs on the 9th day of February, 1995, which includes all amendments thereto which have been adopted by the Halifax Regional Municipality and are in effect as of the 29th day of October, 2011, is hereby further amended as follows:

1. By amending the Planning District 5 Zoning Map of the Land Use By-law as shown on the attached Schedule A.

I HEREBY CERTIFY that the amendment to the Land Use By-law for Planning District 5 (Chebucto Peninsula) as set out above, was passed by a majority vote of the Western Region Community Council of the Halifax Regional Municipality at a meeting held on the ___ day of ___, 2013.


GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ___ day of _____, 2013.

Cathy Mellett
Municipal Clerk



Schedule A

114 Hebridean Drive
Herring Cove

 Rezoning from P2 to HCR

Zone

- HCR Herring Cove Residential
- F-1 Fishing Industry
- P-2 Community Facility
- PA Protected Area

Planning District 5
(Chebucto Peninsula) Plan Area



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

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

Attachment B:
Excerpts from the Planning District 5 MPS and Policy Evaluation

- VCC-1 It shall be the intention of Council to establish a Village Centre Designation in Herring Cove as shown on the Generalized Future Land Use Map (Map 1). Within the Herring Cove village centre, Council shall encourage the retention of the fishery and preservation of the physical character of Herring Cove.
- RES-2A Within the Herring Cove portion of the Residential Designation, it shall be the intention of Council to establish a Herring Cove Residential Zone which encourages retention of the low density character of the area through appropriate lot sizes. The zone shall permit low density residential uses as well as limited home business uses, fishery support uses and open space uses. The zone shall include appropriate restrictions on all permitted uses. The zone shall also provide for uses as listed in Appendix B and Appendix C of the Land Use By-law.**
- IM-6 Providing that the intentions of all other policies are satisfied, Council may, for the purpose of providing for the development of similar uses on properties which abut one another, consider development agreements or amendments to the land use by-law within a designation to provide for the development of uses which are uses permitted by the zone on the abutting property within the abutting designation, as shown on the Generalized Future Land Use Map (Map 1), except where commercial or industrial zones abut residential (R-1, R-2, R-2a) zones.

	Policy Criteria	Comment
	<i>See VCC-1, RES-2A and IM-6</i>	The MPS discusses the importance of preserving the fishing village character of Herring Cove. Policy VCC-1 creates the Village Centre Designation in to encourage the retention of the fishery and preservation of the physical character of Herring Cove, while Policy RES-2A establishes the HCR (Herring Cove Residential) Zone. The HCR Zone permits fishery support uses which would permit the storage of fishing equipment, boats and the sale of an individual's catch, but not retail operations. This Zone would still allow for the preservation of the fishing industry within Herring Cove and would maintain the intent of Policy VCC-1.

IM-10 In considering development agreements and amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:

	Policy Criteria	Comment
(a)	<i>that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations</i>	The proposal has been considered in accordance with policies Policy VCC-1, RES-2A and IM-6 (see above)
(b)	<i>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 increase in costs is anticipated.
	<i>(ii)the adequacy of on-site sewerage and water services;</i>	The subject property is serviced with municipal water and sewer.
	<i>(iii)the adequacy or proximity of school, recreation or other Community facilities;</i>	There are currently schools within proximity, as well as recreation areas and facilities (Herring Cove Provincial Park) within the vicinity of the proposed development.
	<i>(iv)the adequacy of road networks leading or adjacent to or within the development;</i>	No concerns were raised regarding the ability of the road network to accommodate the proposed uses under the HCR Zone.
	<i>(v)pedestrian safety; and</i>	While there are no sidewalks in this area, the proposed use will not impact pedestrian safety.
	<i>(vi)the potential for damage to or for destruction of designated historic buildings and sites.</i>	Staff are not aware of any such buildings or features on the lands.
(c)	<i>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>	Fishery support and residential uses are exist in the community and designated as such for this area in the MPS.
	<i>(ii)height, bulk and lot coverage of any proposed building;</i>	Any proposed building with have to comply with the requirements of HCR Zone.
	<i>(iii)traffic generation, access to and egress from the site, and parking;</i>	Limited effect on traffic, adequate parking on site, access and egress via existing driveway. Staff have not identified any concerns with the driveway access for the proposed use.
	<i>(iv)open storage</i>	The LUB requirements regulate this issue.
	<i>(v)signs; and</i>	No signage required for a two unit dwelling but any future use would have to comply with the LUB requirements.
	<i>(vi)any other relevant matter of planning concern.</i>	No other matters identified.

	Policy Criteria	Comment
(d)	<i>that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility of flooding.</i>	Site is suitable for development. The lands do not have any known watercourse or wetlands. The lands have a gentle slope and can support development.
(f)	<i>Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy p-79F", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i>	NA

Attachment C:
Excerpts from the Planning District 5 LUB

PART 11: HCR (HERRING COVE RESIDENTIAL) ZONE

11.1 HCR USES PERMITTED

No development permit shall be issued in any HCR (Fishing Village Residential) Zone except in conformity with the following:

- Single unit dwellings;
- Two unit dwellings;
- Existing mobile dwellings
- Fishery support uses;
- Home occupations in conjunction with permitted dwellings;
- Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings;
- Open space uses;
- Bed and Breakfast uses not exceeding three bedrooms in conjunction with permitted dwellings;**
- Recreation uses. (RC-Feb 13/01;E-May 5/01)**

11.2 HCR ZONE REQUIREMENTS

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

Minimum Front or Flankage Yard	20 feet
Minimum rear or Side Yard	8 feet (2.4 m)
Maximum Lot Coverage	35 per cent
Maximum Height of Main Building	35 feet (10.7 m)
Minimum Lot Area	
Full Central Services:	10,000 square feet (929 square metres) per
dwelling unit	
Onsite Service(s):	30,000 square feet (2787 square metres) per
dwelling unit	
Minimum Lot Frontage	75 feet (22.9m) per dwelling unit
(RC-Feb 13/01;E-May 5/01)	

11.3 OTHER REQUIREMENTS: HOME OCCUPATIONS

Where home occupations are permitted in any HCR Zone, the following shall apply:

- (a) any home occupation shall be wholly contained within the dwelling which is the principle residence of the operator of the home occupation.

- (b) No more than three hundred (300) square feet (28 m²) of gross floor area shall be devoted to any home occupation.
- (c) No open storage or outdoor display shall be permitted.
- (d) One (1) facial wall sign, not exceeding two (2) square feet (.2 m²) in size, shall be permitted to advertise the home occupation and shall be constructed of wood.
- (e) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet of floor area devoted to any home occupation.

11.4 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any HCR Zone, the following shall apply:

- (a) With the exception of outdoor play space, any facility shall be wholly contained within the dwelling.
- (b) No open storage or outdoor display shall be permitted.
- (c) One facial wall sign, not exceeding two (2) square feet (.2 m²) in size, shall be permitted to advertise the day care facility, and shall be constructed of wood.

11.4A OTHER REQUIREMENTS: BED AND BREAKFAST USES

Where bed and breakfast uses are permitted in any HCR Zone, the requirements of subsection 8.7 shall apply. (RC-Feb 13/01;E-May 5/01)

11.5 EXEMPTION: EXISTING MULTI-UNIT DWELLING

Notwithstanding Section 11.1, the multi-unit dwelling on Lot LIMS Number 40075772 shall be a permitted use within the HCR Zone subject to the requirements of Section 11.2.

11.6 OTHER REQUIREMENTS: FISHERY SUPPORT USES

- (a) Where fishery support uses are permitted in any HCR Zone, the following shall apply:

Minimum Side Yard	8 feet (2.4 m)
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- (b) Notwithstanding the provisions of Section 4.1, where uses are permitted as fishing support uses in an HCR Zone, no development permit shall be required.

PART 19: F-1 (FISHING INDUSTRY) ZONE

19.1 F-1 USES PERMITTED

No use shall be permitted in any F-1 (Fishing Industry) Zone except for the following:

Fishing Uses

Fish houses and sheds;
Boat and equipment manufacturing, sales and service;
Wharf storage buildings;
Fishery Uses including fish and aquaculture processing operations which do not involve reduction.

Commercial Uses

Fish and shellfish wholesale and retail stores;
Wholesale and retail outlets, supply sales directly related to the fishing or aquaculture industry, for fish and fish products;
Charter boat services.

Residential Uses

Residential uses permitted in the VR (Fishing Village Residential) Zone.

19.2 F-1 ZONE REQUIREMENTS

No uses in any F-1 (Fishing Industry) Zone shall be permitted except in conformity with the following:

Minimum Lot Area

Full Central Services:	10,000 square feet (929 square metres) per dwelling unit
Onsite Service(s):	30,000 square feet (2787 square metres) per dwelling unit
Minimum Lot Frontage	75 feet (22.9m) per dwelling unit (RC-Feb 13/01;E-May 5/01)

19.3 OTHER REQUIREMENTS: FISHERY SUPPORT USES

- (a) Where fishery support uses are permitted in any F-1 Zone, the following shall apply:
Minimum Side Yard 8 feet (2.4 m)
- (b) Notwithstanding the provisions of Section 4.1, where uses are permitted as fishery support uses in an F-1 Zone, no development permit shall be required.

19.4 OTHER REQUIREMENTS: RESIDENTIAL USES

Where residential uses are permitted in any F-1 Zone, the provisions of Part 11 (VR Zone) shall apply, with the exception of Lot LIMS Number 390302 (Portuguese Cove), which shall meet the requirements of Part 7 (R-2 Zone).

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:

Institutional Uses

Educational institutions and uses;
Denominational institutions and uses;
Day care facilities;
A single unit dwelling in conjunction with a day care facility;
Fire and police stations;
Government offices and public works;
Hospitals, medical and veterinary clinics;
Senior citizen housing;
Public libraries, museums and galleries;
Fraternal centres and halls;
Community centres and halls;
Recreation uses;
Residential care facilities.

Open Space Uses

Public and private parks and playgrounds;
Cemeteries;
Historic sites and monuments;
Marine related navigational aids.

20.2 P-2 ZONE REQUIREMENTS: COMMUNITY FACILITIES

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	20,000 square feet (1858 m ²)
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	½ the height of the main building
Maximum Lot Coverage	50 per cent

20.3 OTHER REQUIREMENTS: PARKING AREAS

- (a) No parking areas shall be permitted within any required side or rear yard.
- (b) All parking areas shall be demarcated and paved or otherwise treated with a stable surface which is treated in a manner to prevent the raising of dust and loose particles.

2.24 FISHERY SUPPORT USE means any use which is designed to support the individual fishery operations and includes boat and equipment storage and maintains his own gear,

and shall include aquaculture support uses and the sale of an individual fisherman's catch, but does not include a retail or wholesale outlet for fish and fish products, or a fish processing plant except a smokehouse, lobster pound, or an operation where a fisherman himself, or his or her crew, processing their own catch.