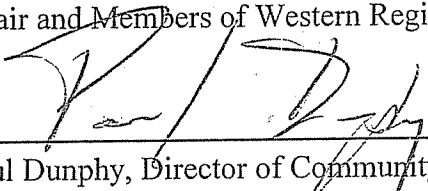




PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Western Region Community Council
October 26, 2009

TO: Chair and Members of Western Region Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: October 9, 2009

SUBJECT: Case 01318: LUB Housekeeping Amendments, Sandy Cove Road Area,
Terence Bay

ORIGIN

HRM-initiated application for housekeeping amendments on lands located in the Sandy Cove Road area of Terence Bay, to rezone them from the P-3 (Conservation) Zone to the MU-1 (Mixed Use 1) Zone.

RECOMMENDATION

It is recommended that Western Region Community Council:

1. Give First Reading of the proposed rezoning of those portions of 287, 305, and 315 Sandy Cove Road, as well as those portions of PID # 40874141 and 00480251, which are currently zoned P-3 (Conservation) to the MU-1 (Mixed Use 1) Zone and schedule a public hearing.
2. Approve the rezoning of those portions of 287, 305, and 315 Sandy Cove Road, as well as those portions of PID # 40874141 and 00480251, which are currently zoned P-3 (Conservation) to the MU-1 (Mixed Use 1) Zone.

BACKGROUND

It has come to the attention of staff that zoning errors occurred when the Planning District 4 (Prospect) Municipal Planning Strategy (MPS) and Land Use By-law (LUB) was originally adopted on December 12, 1994. At the time, portions of five properties were zoned P-3 (Conservation) (see Map 1). The P-3 Zone was designed to be applied to crown land and limits uses to public parks, trails, historic sites and monuments, aids to marine navigation, existing hunting and fishing camps, and existing cemeteries. As all five properties were under private ownership at the time the P-3 Zone was incorrectly applied in these instances.

Recently, the property owner of PID # 40874141 was denied municipal permits to construct a single unit dwelling on his 13.46 acre parcel of land due to the presence of the P-3 Zone. To permit the construction of a single unit dwelling, a rezoning to the adjacent base zone (MU-1) is required. Other similar problems could arise in the future for the other four property owners if the zoning is not corrected.

DISCUSSION

Three of the five subject properties are designated both Conservation and Mixed Use, while the other two properties are only within the Mixed Use Designation (see Map 2). All five properties, however, have P-3 and MU-1 split zoning.

The Conservation Designation and P-3 Zone were intended to only apply to crown lands, and should not have been applied to any portion of the subject properties. Policy CONS-8 of the MPS provides Council with the ability to rezone P-3 (Conservation) lands to a residential, mixed use or resource zone in a situation where crown lands are transferred to private ownership. As the lands were always in private ownership they should be rezoned from P-3 to the abutting, MU-1 Zone.

Public Information Meeting/Notification Area

The public information meeting was waived in consultation with the area Councillor. Should Community Council decide to proceed with a public hearing, in addition to published newspaper advertisements, property owners in the immediate area will be individually notified as shown on Map 1.

Conclusion

As the proposed LUB housekeeping amendments are in keeping with the intent of the Planning District 4 (Prospect) MPS, staff recommend approval of the proposed rezonings.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved operating budget for C310. Budget availability has been confirmed by Financial Services.

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

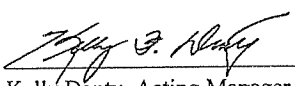
1. Council may approve the proposed rezonings. This is the recommended course of action.
2. Alternatively, Council may choose to reject the proposed rezonings. Pursuant to Section 225(5) of the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal based on the policies of the MPS.

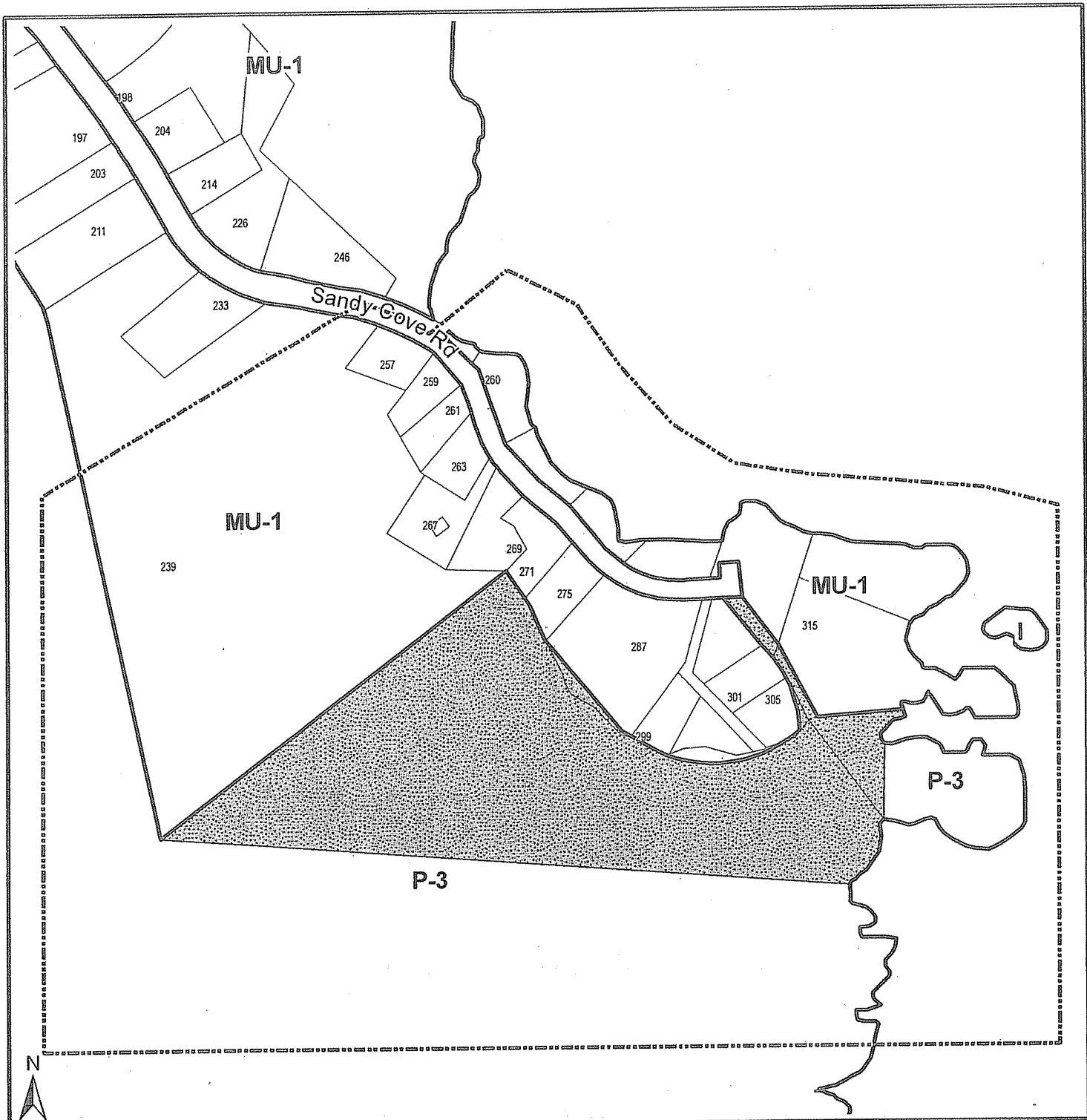
ATTACHMENTS

Map 1	Zoning and Area of Notification
Map 2	Generalized Future Land Use
Attachment A	Amendments to the Planning District 4 LUB
Attachment B	Excerpts from the Planning District 4 MPS
Attachment C	Excerpts from the Planning District 4 LUB

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 : Luc Ouellet, Planner I, 490-3689


Report Approved by: 
Kelly Denty, Acting Manager of Planning Services, 490-6011



Map 1 - Location and Zoning

Sandy Cove Road
Terence Bay

 Area proposed to be rezoned from P-3
(Conservation) to MU-1 (Mixed Use 1)


 Area of notification

Planning District 4
(Prospect) Plan Area

Zone

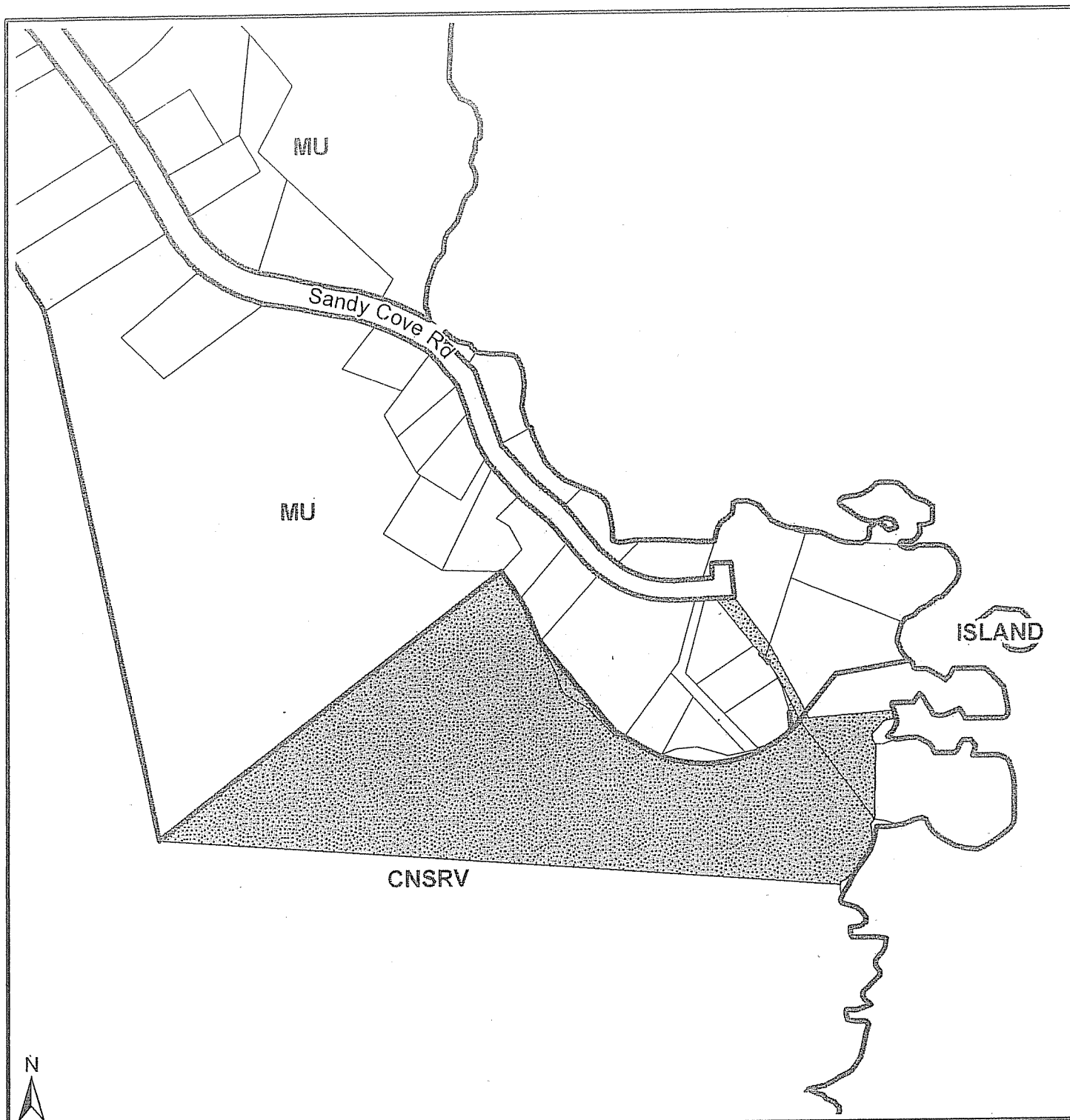
MU-1 Mixed Use 1
P-3 Conservation
I Island

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 20 40 60 80 100 m



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

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



Map 2 - Generalized Future Land Use

Sandy Cove Road
Terence Bay


 Area proposed to be rezoned from P-3
(Conservation) to MU-1 (Mixed Use 1)

Planning District 4
(Prospect) Plan Area

Designation

MU Mixed Use
CNSRV Conservation
ISLAND Island

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 20 40 60 80 100 m


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.

Attachment A Amendments to the Land Use By-law for Planning District 4

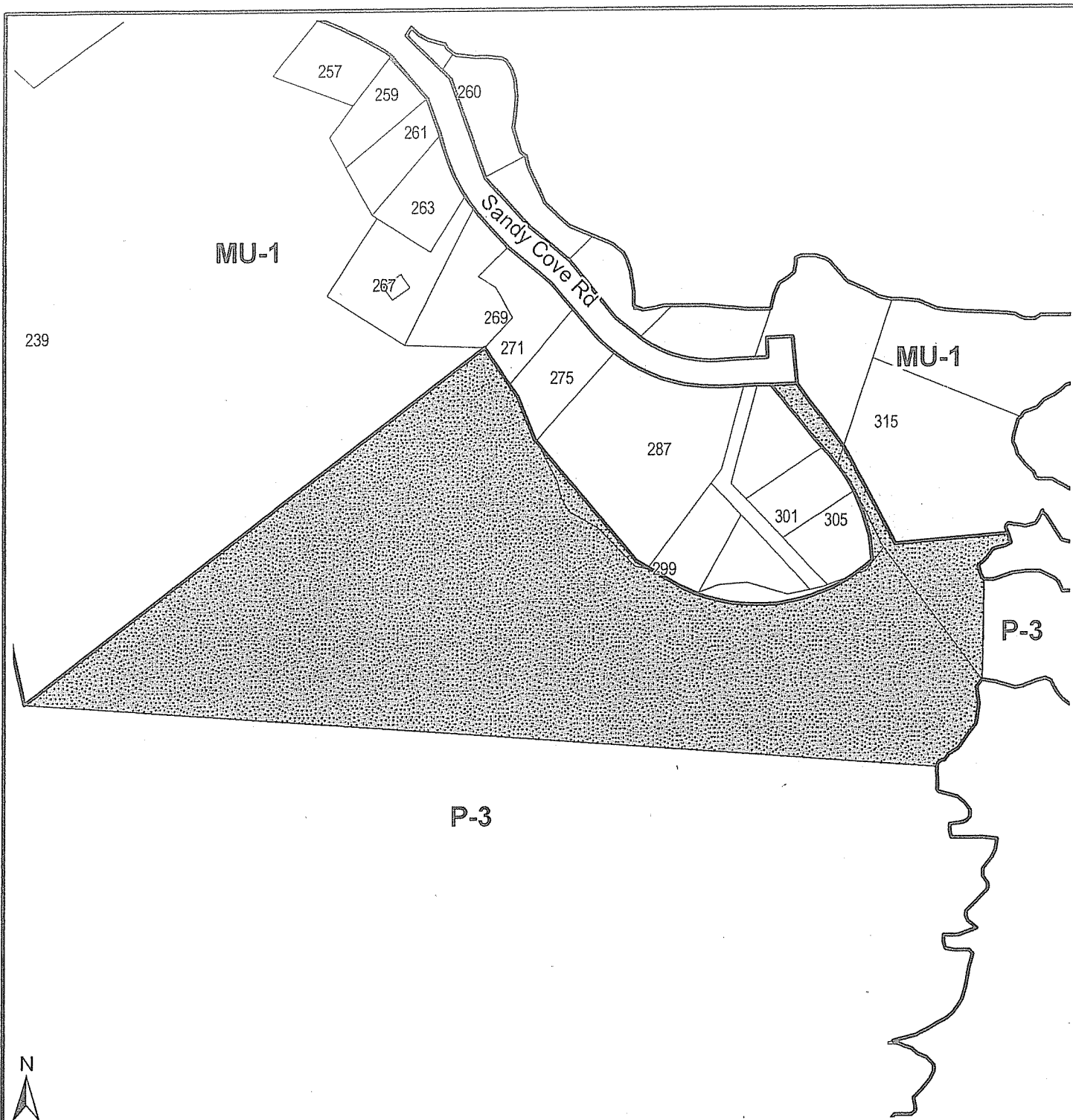
BE IT ENACTED by the Western Region Community Council of the Halifax Regional Municipality that the Land Use By-law for Planning District 4 is hereby amended as follows:

1. By amending the Planning District 4 Zoning Map as shown on Schedule A:

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Western Region Community Council of Halifax Regional Municipality held on the ____ day of _____, 2009.


GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, 2009.

Municipal Clerk



Schedule A

Sandy Cove Road
Terence Bay

 Area to be rezoned from P-3
(Conservation) to MU-1 (Mixed Use 1)


Planning District 4
(Prospect) Plan Area

Zone

MU-1 Mixed Use 1
P-3 Conservation
I Island

HALIFAX
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COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 20 40 60 80 m



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

Attachment B

Excerpts from the Planning District 4 MPS

Mixed Use Designation

The primary intent of the Mixed Use Designation is to provide support for the continued growth of a diversity of residential, resource, and home business uses and small scale commercial outlets. To this extent, this designation will support the development of a wider mix of low density residential land uses, fishery uses which support the activities of the individual fisherman, limited agricultural uses, home business uses which can be operated from a dwelling unit or accessory building and small scale commercial outlets which provide goods and services to the local residents and tourists. This designation shall also provide for the consideration of a wide variety of non-residential land use activities through either a development agreement or rezoning process and with public input.

MU-1 It shall be the intention of Council to establish the Mixed Use Designation as shown on Map 1 - Generalized Future Land Use. Within this designation, it shall be the intention of Council to support the development of a diversity of residential, resource, home business uses and a limited range of small scale commercial outlets.

MU-2 Within the Mixed Use Designation, it shall be the intention of Council to create the mixed use 1 zone which permits the development of single unit dwellings, two unit dwellings, craft shops, bed and breakfast outlets, convenience stores, limited fishery support uses, limited agricultural uses, home business uses and all existing businesses and all existing dwellings. In order to address compatibility concerns, provisions within the zone will establish controls on the size and location of fishery support, agricultural support and existing aquaculture support uses and existing fish processing plants and on the size, location, open storage and outdoor display, signage and parking for craft shops, bed and breakfast outlets, convenience stores and home business uses. In addition, provisions within the zone will place controls on the use of mechanical equipment for home business uses and require that homes businesses and bed and breakfast outlets be operated by a resident of the dwelling.

Conservation Designation

The Conservation Designation has been applied to the Plan Area's crown lands, in order to establish policies for their conservation and future management. The Conservation Designation is primarily intended to maintain these lands for wilderness recreation and open space purposes and to preserve sites which are of significant ecological and archaeological value. This designation shall also support the development of low impact land uses which are mutually compatible with the objectives for conservation.

This extensive and undeveloped public land base is significant, given the proximity of this vast wilderness resource to urban development. Provincial crown lands comprise approximately 23,040 acres or fifty percent of the land area within Planning District 4. When combined with the adjacent crown land properties in Planning District 5 (Chebucto Corridor), these lands form one of the largest freehold crown areas in the Province (37,060 acres). Since these lands have not been leased for any form of development, they remain undiminished and provide an important recreational resource and wildlife reserve area.

One of the larger holdings within the Plan Area is known as the Pennant Corridor. This 13,000 acre parcel of land is situated to the east of Highway No. 333, extending from the southern boundary of the Long Lake Provincial Park down to the Atlantic Ocean. In addition to the numerous lakes, these lands provide public access to approximately 15 miles of the Atlantic Coast line which is a rapidly diminishing public resource within Nova Scotia. This Corridor is traversed by numerous trails extending from the undeveloped Long Lake Provincial Park in the north to the Atlantic Ocean in the south. These trails provide great opportunity for back country wilderness hiking and are highly complementary to the future development of the Long Lake Provincial Park.

Planning District 4 also contains several other large parcels of crown land which provide significant value for the retention of open space, protection of heritage resources and the preservation of scenic areas having high wilderness potential.

These include lands north of the Whites Lake and Shad Bay communities, lands along the Prospect Peninsula, numerous islands and lands within the western region of Planning District 4. These lands contribute to the maintenance of a rural community which is highly valued within the coastal areas of Planning District 4 and provide recreational opportunities which will be needed to support long term future growth.

The environmental integrity of the lands within Planning District 4 have also been protected due to the presence of this vast amount of undeveloped crown land. As a result, these lands provide important habitat for a wide variety of wildlife which include deer, moose, beaver, mink, osprey, bald eagle and many other species. The various lakes also have valuable fishing potential despite the general destruction by acid rain on Nova Scotia lakes and waterways. These are valuable features which are highly unique within a growing metropolitan area and should be preserved for present and future generations.

The crown lands also support an area which has been recognized for its significant ecological value to Nova Scotia. This site of ecological interest is situated on the south side of the West Dover community. This undeveloped 450 acre parcel of land was identified by the United Nations' International Biological Program (IBP)¹ as an ecosystem of dry heath barrens and bogs which are worthy of international attention. According to this group of biologists, the site contains relic arctic alpine species which are rarely experienced in the southern regions of Canada. At present approximately seventy-five per cent of this site is owned by the province of Nova Scotia. The remaining twenty-five per cent of the West Dover IBP site is owned by private individuals.

Another coastal barrens system which is of particular importance to the residents of Planning District 4 is located on the western side of the Prospect Peninsula, extending from Indian Point in the south up to but excluding the Seligs Road development. This land area is commonly referred to by the community as Prospect High Head. According to the Prospect Peninsula Residents Association

¹ The United Nation's International Biological Program (I.B.P.) was established in the early 1970s to identify unique ecological sites, preserve samples of the world's ecosystems, maintain biological and genetic diversity, measure man-made changes in ecosystems, and to reserve unique areas for educational and demonstration purposes.

(PPRA), the area is comprised of, "a complex of small bogs and crowberry barrens, glacial erratics and granite outcrops", which are highly sensitive to disturbance. This area also provides an, "important migratory stop-over for Wimbrel, a nesting ground for willet and blue heron, a feeding area for osprey and an overwintering area for many other bird species."²

Prospect High Head also contains features which are of historical and cultural significance to the area. Specifically, the site supports some old granite stone foundations and walls which provide insight into how the early settlers of Prospect lived. The magnificent rocky shores also stand in testimony to the various shipwrecks which were encountered along this southern coast of Nova Scotia during the 19th century. One in particular, which is often recounted by local residents and historians throughout Nova Scotia is the shipwreck of the HMS Fantome which sunk off of Prospect High Head in 1814. These features together with the ecological significance and sensitivity of these barrens, make this site worthy for inclusion within the Conservation Designation. This is not possible for the entire site, however, since approximately fifty per cent of the lands are privately owned.

In addition to sites of significant ecological interest, the Conservation Designation also supports one of the most significant archaeological sites within the Province of Nova Scotia. This site is located within the Bayview Subdivision, upon lands which were acquired by the Municipality to provide protection. It supports an Indian burial mound which has been dated as being 2300 to 2400 years old. This site has provided insight into the burial ritualism practised by the Adena related culture which originated from the Ohio Valley.

To date, this ancient indian burial site is only the second site found within the Northeastern portion of North America, which depicts the type of burial practised by the Adena related culture. The first site was discovered in New Brunswick (The Augustine Site) which has been declared a National Historic Site by the National Historic Sites and Monuments Board. This site has been assigned protective status in accordance with the Nova Scotia Special Places Protection Act which will be later discussed. The agency responsible for the protection of this site, the Nova Scotia Museum, plans to eventually erect a granite stone monument in recognition of the historical value of this burial mound.

CONS-1 It shall be the intention of Council to establish a Conservation Designation as shown on Map 1 - Generalized Future Land Use. Council shall encourage the province to retain these lands for wilderness recreation and open space purposes and for the preservation of sites which are of significant ecological and archaeological value and for the development of low impact uses which are mutually compatible.

CONS-2 Within the Conservation Designation, it shall be the intention of Council to establish a conservation zone which permits the development of hiking trails, public parks, historic sites and monuments, aids to marine navigation and existing hunting and fishing camps and existing cemeteries.

² Sue Browne, Submission made to the Nova Scotia Museum requesting designation of Prospect High Head as an ecological reserve in accordance with the Special Places Protection Act, on behalf of the Prospect Peninsula Residents Association, August 9, 1992.

There are certain limited situations in which crown land transfers are carried out in order to improve crown land holdings in a particular area or where crown land is leased for resource development purposes. In order to accommodate such transfers which are in the public interest, provisions for the establishment of residential or mixed use or resource zoning on lands which are transferred into private ownership as part of a crown land exchange shall be considered. Provisions will also be made for the application of a resource zone to lands which have been leased for resource development purposes and for the application of a conservation or preservation zone to lands which are transferred into public ownership.

CONS-8 Notwithstanding Policy CONS-2, within the Conservation Designation, it shall be the intention of Council to consider the application of a residential, mixed use or resource zone, by amendment to the schedules or the land use by-law. In considering any amendment, Council shall have regard for the following:

- (a) that the residential or mixed use zone to be applied shall be the same zone as that of the nearest residentially or mixed use zoned property within the Plan Area;
- (b) that the resource zone to be applied does not abut any residential or mixed use zoned property within the Plan Area;
- (c) that the property to be rezoned is part of a crown land exchange within the Plan Area or has been leased by the province for resource development purposes;
- (d) the potential impact of the crown land transfer or lease on habitat and the overall integrity of the entire crown land holding; and
- (e) the provisions of Policy IM-11.

Implementation Policies

IM-11 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:

- (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 on-site sewerage and water services;
 - (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;
 - (iv) the adequacy of road networks leading 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 development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.

Attachment C

Excerpts from the Planning District 4 LUB

PART 20: MU-1 (MIXED USE 1) ZONE

20.1 MU-1 USES PERMITTED

No development permit shall be issued in any MU-1 (Mixed Use 1) Zone except for the following:

Residential Uses

Single unit dwellings

Two unit dwellings

Auxiliary dwelling unit within single unit dwellings

Home business uses

Community Uses

Open space uses

Commercial Uses

Craft shops

Bed and breakfast outlets

Convenience stores

Resource Uses

Fishery support uses

Existing aquaculture support uses

Existing fish processing plants of Northland and Terence Bay Fisheries

Agricultural uses

Other Uses

Existing business uses

All existing dwellings

Composting operations (see section 4.29) (MC-February 26, 1996 / E-March 28, 1996)

20.2 MU-1 ZONE REQUIREMENT

In any MU-1 Zone, where uses are permitted in accordance with Section 20.1, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	20,000 square feet (1858.1 m ²) per dwelling unit
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Minimum Frontage	100 feet (30.5 m)
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Minimum Front or Flankage Yard	30 feet (9.1 m)
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Minimum Rear Yard
or Side Yard

15 feet (4.6 m) or 0.0 feet (0.0 m) from the
side being common with another dwelling
unit.

Maximum Height of Main
Building

35 feet (10.7 m)

20.3 OTHER REQUIREMENTS: HOME BUSINESS USES

Where home business uses are permitted in any MU-1 Zone the following shall apply:

- (a) Any home business shall be wholly contained within either the dwelling or an accessory building on the property which comprises the principal residence of the operator of the home business.
- (b) No more than seven hundred and fifty (750) square feet (69.7 m²) of a dwelling may be devoted to a home business activity and the home business use may not exceed one thousand (1,000) square feet (92.9 m²) within an accessory structure.
- (c) No materials or equipment shall be used which is obnoxious or creates a nuisance by virtue of noise, vibration, glare, odour or dust.
- (d) All outdoor storage of materials, goods, supplies or equipment related to the operation of the business shall not exceed fifteen (15) percent of the floor area devoted to the home business and in no case shall it be unsightly.
- (e) All outdoor display shall be limited to a contiguous area of fifty (50) square feet (4.6 m²) and shall not exceed six (6) feet (1.8 m) in height.
- (f) No more than one (1) sign shall be permitted for any home business and no such sign shall exceed three (3) square feet (0.3 m²) in area.
- (g) One (1) off-street parking space other than that required for the dwelling shall be provided for every one hundred and fifty (150) square feet (13.9 m²) of floor area devoted to any home business.

20.4 OTHER REQUIREMENTS: CRAFT SHOPS AND CONVENIENCE STORES

Where craft shops and convenience store uses are permitted in any MU-1 Zone, the following shall apply:

- (a) No more than two thousand (2,000) square feet (185.8 m²) of the gross floor area of all combined structures shall be used for any craft shop or convenience store.

- (b) No materials or mechanical equipment shall be used which is obnoxious or creates a nuisance by virtue of noise, vibration, glare, odour or dust.
- (c) All outdoor storage or materials, goods, supplies or equipment related to the operation of a craft shop or convenience store shall be limited to an area of three hundred (300) square feet (27.9 m²) and shall be screened from any adjacent residential uses.
- (d) All outdoor display shall be limited to one hundred (100) square feet (30.5 m²).
- (e) No more than one (1) sign shall be permitted for any craft shop or convenience store and no such sign shall exceed sixteen (16) square feet (1.5 m²) of sign area on a single face or thirty-two (32) square feet (3.0 m²) for both faces combined.

20.5 OTHER REQUIREMENTS: FISHERY SUPPORT USES

Notwithstanding the rear and side yard set back requirements of Section 20.2, where existing fishery support uses are permitted in any MU-1 Zone, the following shall apply:

- (a) The combined gross floor area of all buildings directly related to the fishery support use shall not exceed three thousand (3,000) square feet (278.7 m²).
- (b) All fish and boat sheds shall be set back a minimum of eight (8) feet (2.4 m) from the rear and side lot lines, unless the lot line corresponds to the high water mark.
- (c) All fish and boat sheds may be built to the lot line which corresponds to the high water mark.

20.6 OTHER REQUIREMENTS: EXISTING AQUACULTURE SUPPORT USES

Notwithstanding the rear and side yard set back requirements of Section 22.2, where aquaculture support uses are permitted in any MU-1 Zone, the following shall apply:

- (a) The combined gross floor area of all fish sheds, boat sheds, hatcheries, tanks, vats and pounds directly related to the aquaculture support use shall not exceed three thousand (3,000) square feet (278.7 m²).
- (b) All fish sheds, boat sheds, hatcheries, tanks, vats and pounds shall be set back a minimum of eight (8) feet (2.4 m) from the rear and side lot lines, unless the lot line corresponds to the high water mark.
- (c) All fish sheds, boat sheds, hatcheries, tanks, vats and pounds may be built to the lot line which corresponds to the high water mark.

20.7 OTHER REQUIREMENTS: EXISTING FISH PROCESSING PLANTS OF NORTHLAND FISHERIES AND TERENCE BAY FISHERIES

The existing fish processing plants of Terence Bay Fisheries (LIMS No. 386854) and Northland Fisheries (LIMS Nos. 384834 and 40501124) shall be a permitted use and any future development shall be subject to the following requirements:

- (a) No exhaust freezer fan or any outdoor machinery directly related to the fish processing plant, whether or not such machinery is attached to any building or structure shall be permitted in any side or rear yard which abuts a residential use(s) and/or vacant lot(s).
- (b) The yard requirements for any fish processing plant shall be waived for any yard which abuts the coastal shoreline.

20.8 OTHER REQUIREMENTS: AGRICULTURAL USES

In any MU-1 Zone where agricultural uses are permitted, and where any barn, stable or other building intended for the keeping of more than fifty (50) domestic fowl or ten (10) other animals is erected, no such structure shall:

- (a) Exceed five hundred (500) square feet (46.4 m²);
- (b) Be less than eight (8) feet (2.4 m) from any side lot line;
- (c) Be less than one hundred (100) feet (30.5 m) from a potable water supply except a supply on the same lot or directly related to the agricultural use;
- (d) Be less than sixteen (16) feet (4.9 m) from any dwelling except a dwelling on the same lot or directly related to the agricultural use; or
- (e) Be less than twenty-five (25) feet (7.6 m) from any watercourse or waterbody.