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Western Region Community Council
February 22, 2010

TO: Chair and Members of Western Region Community Council

SUBMITTED BY:

A handwritten signature in black ink, appearing to read "Austin French", written over a horizontal line.

Austin French, Acting Director of Community Development

DATE: February 8, 2010

SUBJECT: Case 15850: Rezoning, Prospect River Court, Prospect

ORIGIN

HRM initiated application to rezone lands located along Prospect River Court, Prospect from P-3 (Conservation) to RA-1 (Residential A-1) Zone.

RECOMMENDATION

It is recommended that Western Region Community Council:

1. Give First Reading of the proposed rezoning of those portions of 23, 27, 31, 35 and 39 Prospect River Court which are currently zoned P-3 (Conservation) to the RA-1 (Residential A-1) Zone and schedule a public hearing.
2. Approve the rezoning of those portions of 23, 27, 31, 35 and 39 Prospect River Court, as shown on Map 2 of this report, from the P-3 (Conservation) Zone to the RA-1 (Residential A-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) were adopted on December 12, 1994. At that time, portions of five properties in the MacDonald Lake area were zoned P-3 (Conservation) (see Map 1 and 2). The P-3 Zone is to be applied only to Crown lands and is intended to be reserved for conservation purposes. In 1992, the Crown entered into an agreement with MacDonald Lake Developments to sell portions of 23, 27, 31, 35 and 39 Prospect River Court. This transfer of ownership indicates that all five properties were privately held at the time the P-3 Zone was adopted in 1994. Therefore, the P-3 Zone should not have been applied to any portion of the subject properties.

Recently, the property owner of 27 Prospect River Court (PID # 41032764) was denied municipal permits to construct an addition to a single unit dwelling due to the presence of the P-3 Zone. To permit the construction of an addition, rezoning to the adjacent base zone (RA-1) is required. Other similar problems could arise in the future for owners of 23, 31, 35 and 39 Prospect River Court if the zoning is not corrected.

DISCUSSION

27 Prospect River Court, Prospect

In November 2009, HRM received a construction permit application for a single unit dwelling at 27 Prospect River Court. Upon review of the application, staff identified that the waterside portion of the subject property, in addition to portions of four neighbouring properties (23, 31, 35 and 39 Prospect River Court) were zoned P-3 (Conservation). Further, HRM has determined that the existing single unit dwelling is located approximately 135 feet (41 metres) within the P-3 Zone.

Transfer of Ownership

Staff have determined that the P-3 Zone was applied in error to the subject lands during the adoption of the MPS and LUB in December of 1994. Prior to the adoption of the MPS and LUB, in December of 1992, the Crown entered into an agreement with McDonald Land Developments to sell the subject lands. Subsequently, the extent of the P-3 zoning continued to be unidentified by staff during applications for subdivision in 2001 and development in 2002.

Policy Analysis

Currently, the subject lands are designated as Conservation (see Map 1) and Zoned P-3 (Conservation) Zone. Both the Conservation Designation and P-3 (Conservation) Zone are intended to be applied only to lands in Crown ownership. The 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 archeological value. As such, the P-3 Zone limits uses to public parks, trails, historic sites and monuments, aids to marine navigation, existing hunting and fishing camps, and existing cemeteries.

Policy CONS-8 of the MPS for Planning District 4 (Prospect) provides Council with the ability to consider the application of a residential zone within the Conservation Designation by amendment to the schedules of the land use by-law. In considering such amendments, Council shall have regard that the residential zone to be applied shall be the same zone as that of the nearest residentially zoned property within the Plan Area. In this case, the nearest residential property is zoned RA-1.

Public Information Meeting

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 2.

Conclusion

As the proposed LUB amendment is in keeping with the intent of the MPS, staff recommend approval of the proposed rezoning.

BUDGET IMPLICATIONS

The costs to process 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

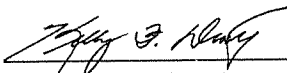
1. Western Region Community Council may approve the proposed rezonings. This is the recommended course of action for the reasons outlined above.
2. Alternatively, Western Region Community Council may choose to reject the proposed rezonings. Pursuant to Section 225(5) of the *Halifax Regional Municipality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

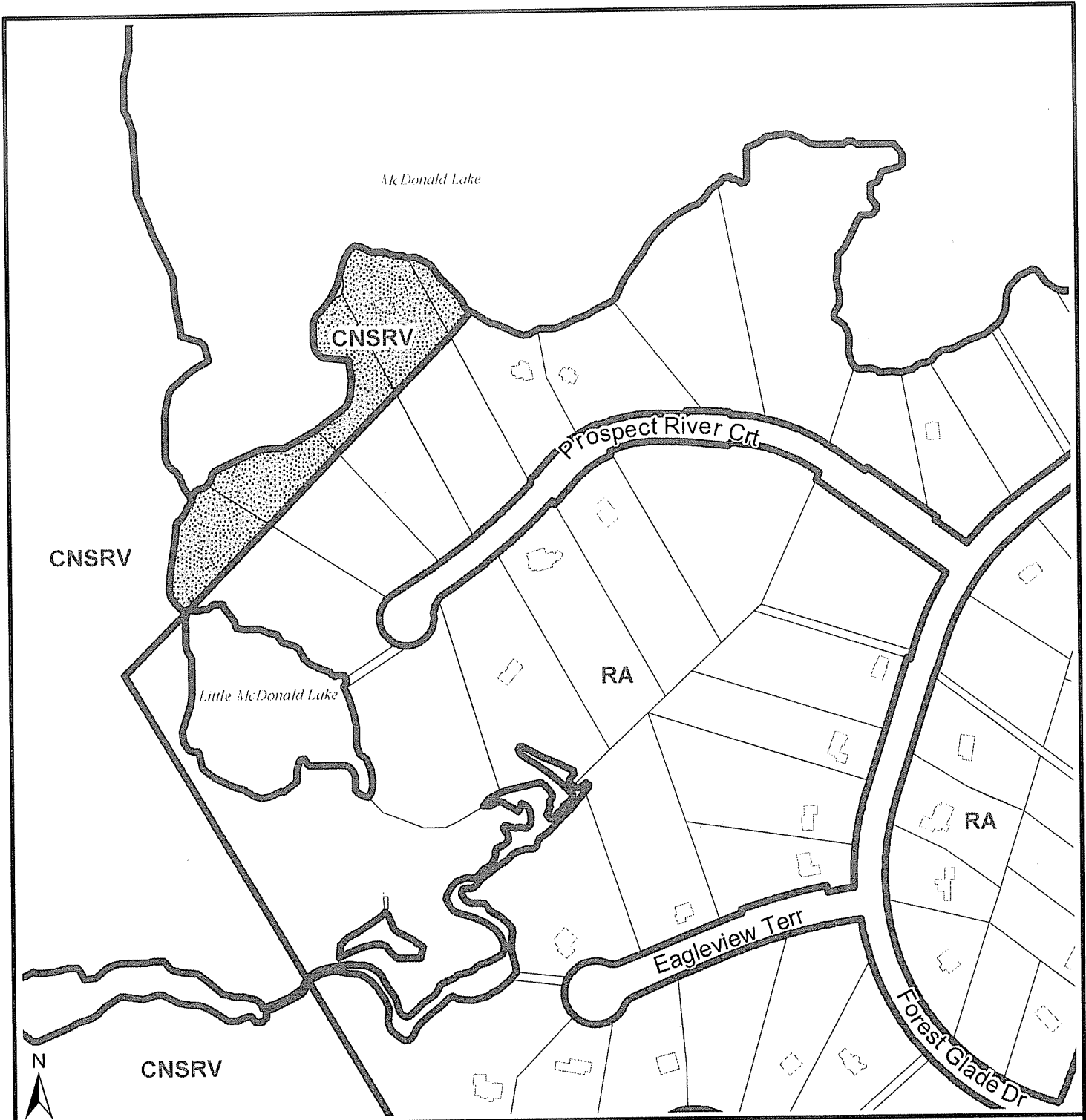
ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Location and Zoning
Attachment A	Amendments to the Planning District 4 LUB
Attachment B	Excerpt 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 : Tyson Simms, Planner, 869-4747


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



Map 1 - Generalized Future Land Use

Prospect River Court
Hatched Lake

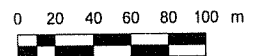
 Area to be rezoned from P-3 (Conservation) to RA-1 (Residential A-1)

Planning District 4
(Prospect) Plan Area

Designation

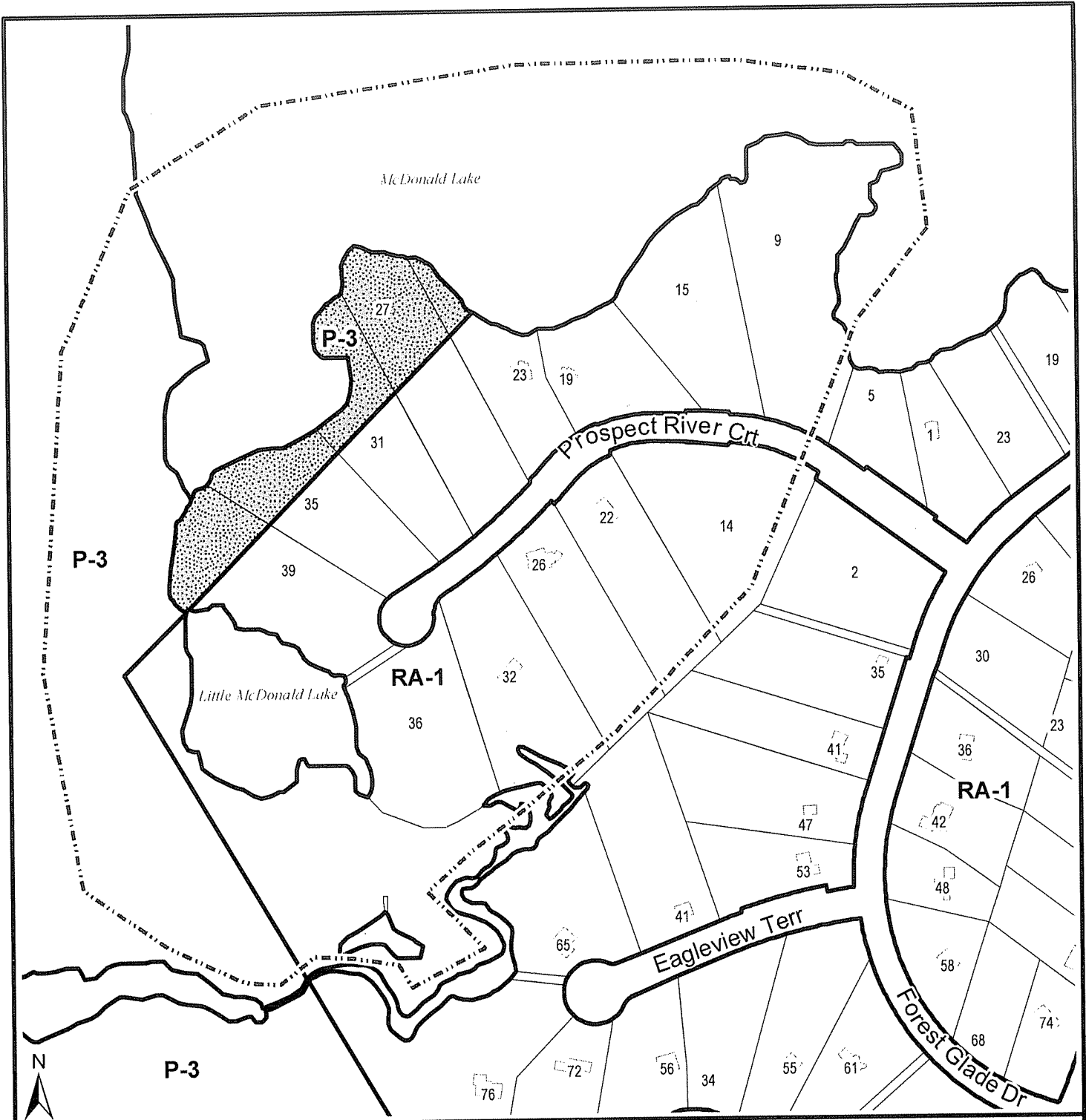
RA Residential "A"
CNSRV Conservation

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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 - Location and Zoning

Prospect River Court
Hatchet Lake

 Area proposed to be rezoned
from P-3 (Conservation)
to RA-1 (Residential A-1)

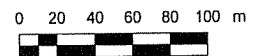
 Area of notification

Planning District 4
(Prospect) Plan Area

Zone

RA-1 Residential A-1
P-3 Conservation

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

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Attachment A

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

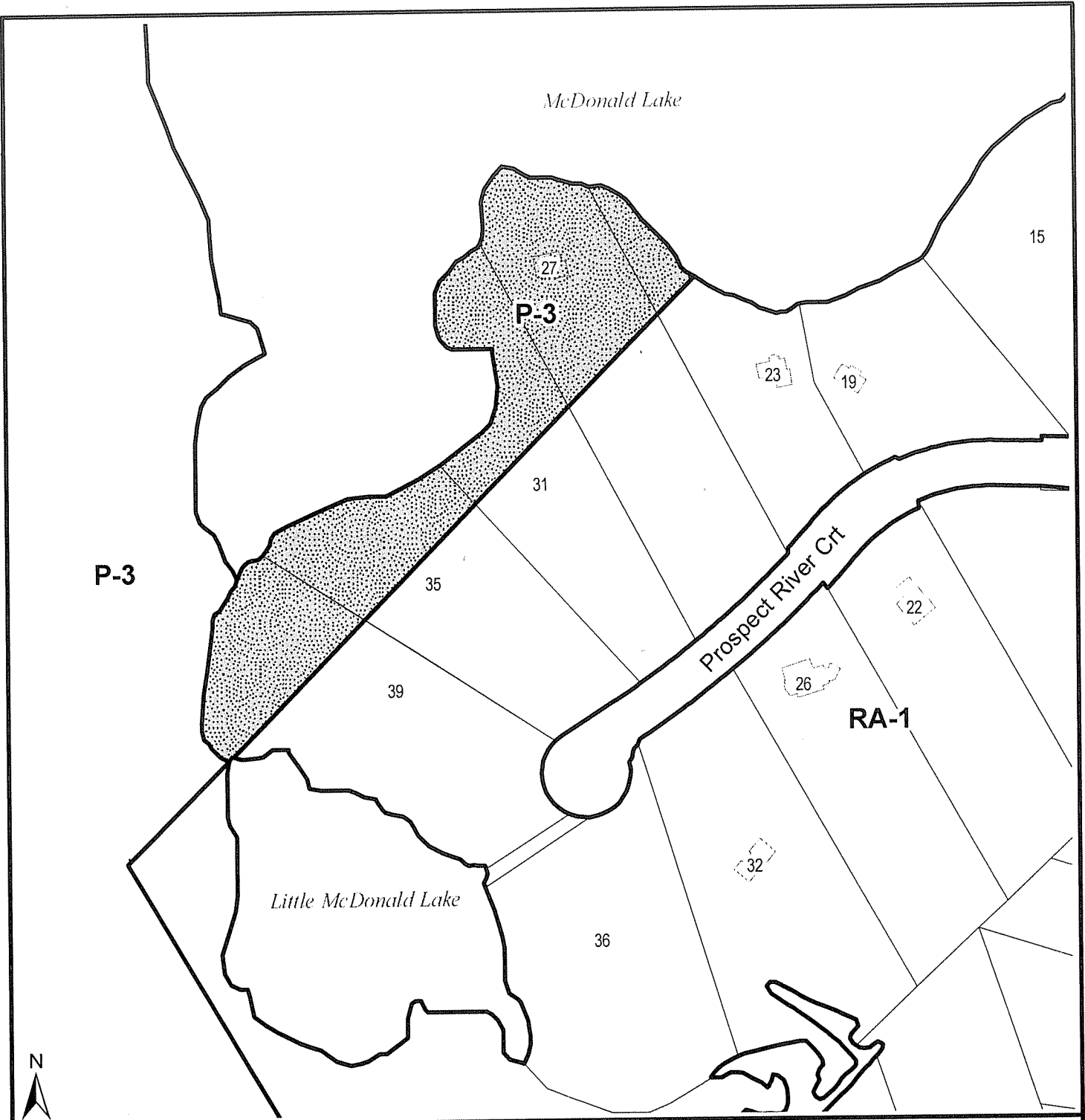
BE IT ENACTED by the Western Region Community Council of the Halifax Regional Municipality that the Land Use By-law for Planning District 4 is hereby amended as follows:

1. The Planning District 4 Zoning Map shall be amended by rezoning portions of 23, 27, 31, 35 and 39 Prospect River Court from the P-3 (Conservation) Zone to the RA-1 (Residential A-1) Zone, as illustrated 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 _____, 2010.


GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, 2010.

Municipal Clerk



Schedule A

Prospect River Court
Hatchet Lake

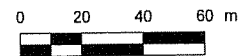
 Area to be rezoned from P-3 (Conservation) to RA-1 (Residential A-1)

Zone

RA-1 Residential A-1
P-3 Conservation

Planning District 4
(Prospect) Plan Area

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PLANNING SERVICES



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 Municipal Planning Strategy for Planning District 4

CONSERVATION DESIGNATION

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.

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

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.
- (e) 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-July 2, 2002 / E-August 17, 2002)

Attachment C

Excerpts from the Land Use By-law for Planning District 4

PART 31: P-3 (CONSERVATION) ZONE

31.1 P-3 USES PERMITTED

No development permit shall be issued in any P-3 (Conservation) Zone except for the following:

Conservation Uses

Public parks
Trails
Historic sites and monuments
Aids to marine navigation
Existing hunting and fishing camps
Existing cemeteries

PART 6: RA-1 (RESIDENTIAL) ZONE

6.1 RA-1 USES PERMITTED

No development permit shall be issued in any RA-1 (Residential A-1) Zone except for the following:

Residential Uses

Single unit dwellings
Home business uses

Community Uses

Open space uses

Other Uses

Existing business uses
All existing dwellings

6.2 RA-1 ZONE REQUIREMENT

In any RA-1 Zone, where uses are permitted in accordance with Section 6.1, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	20,000 square feet (1858.1 m ²)
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Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear Yard or Side Yard	15 feet (4.6 m)
Maximum Height of Main Building	35 feet (10.7 m)

6.3 OTHER REQUIREMENTS: HOME BUSINESS USES

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

- (a) Any home business shall be wholly contained within the dwelling which is the principal residence of the operator of the home business.
- (b) No more than twenty-five (25) percent of gross floor area shall be devoted to any business use, and in no case shall any home business use occupy more than three hundred (300) square feet (27.9 m²).
- (c) No mechanical equipment shall be used except that which is reasonably consistent with the use of a dwelling and such equipment shall not be obnoxious or create a nuisance by virtue of noise, vibration, glare, odour or dust.
- (d) No outdoor display or outdoor storage of materials, goods, supplies, or equipment related to the operation of the business shall be permitted.
- (e) No signage shall be permitted.
- (f) 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.