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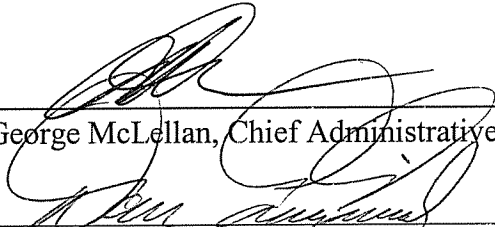


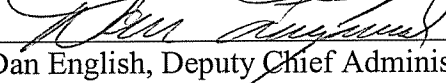
PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Halifax Regional Council  
May 24, 2005

**To:** Mayor Kelly and Members of Regional Council

**Submitted by:**

  
George McLellan, Chief Administrative Officer

  
Dan English, Deputy Chief Administrative Officer

**Date:** May 13, 2005

**SUBJECT:** Case # 00788 - Amendments to the Eastern Passage/Cow Bay  
Municipal Planning Strategy and Land Use By-law

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**ORIGIN**

Application by the Halifax Region Municipality to amend the Municipal Planning Strategy and Land Use By-law for Eastern Passage/Cow Bay to exempt properties at Fisherman's Cove from a requirement to have direct access to Shore Road and to modify the list of permitted uses in the C-2 (General Business) Zone at this location (see Map 1).

**RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. **Initiate the process to amend the Municipal Planning Strategy and Land Use By-law for Eastern Passage/Cow Bay to remove the requirement for direct vehicular access to Shore Road for sites in Fisherman's Cove and to modify the list of permitted uses at this location; and**
2. **Request staff to follow the public participation program as approved by Council in February, 1997.**

**BACKGROUND****The Proposal:**

Fisherman's Cove in Eastern Passage is a unique pedestrian-oriented enclave of small scale local businesses replicating the character of a working fishing village. This area is an important part of the local tourist industry (see Map 1).

Recently, requests for development permits in this area have been refused on the basis of an existing requirement for any permitted use to gain direct access to Shore Road. As most businesses in Fisherman's Cove gain access directly from a government wharf, the requirement for access from Shore Road cannot be met. This has prompted a reevaluation of the Eastern Passage/Cow Bay Municipal Planning Strategy (MPS) and Land Use By-law (LUB) as they apply to this area.

Staff feel that the current by-law requirement is the result of an oversight that occurred when the MPS and LUB were drafted. Given the uniqueness of businesses at Fisherman's Cove, staff feel that limited commercial development should be permitted at this location without requiring direct access to a public street.

**MPS Policy and Zoning:**

The subject area is designated Village Commercial and zoned General Business (C-2) Zone in the MPS and LUB. Policy COM-2 of the MPS (Attachment A) establishes the C-2 Zone along with the requirement in the LUB that any permitted use in the C-2 Zone have direct access to either Main, Cow Bay or Shore Roads.

A review of the Municipal Planning Strategy for Eastern Passage/Cow Bay was undertaken in 1998. A number of amendments were made to the MPS were made at that time, including a revision to the existing zoning at Fisherman's Cove (Resource Zone to General Business (C-2) zone) to better reflect the existing commercial nature of the area. Through the review process, the need for a detailed planning exercise was identified and set out in MPS Policy COM-3 (Attachment A). The study was intended to establish how further development of this area (in addition to Quigley's Corner and the Marshland Boardwalk) could better integrate into the community. Due to budget constraints and competing municipal priorities this study has not been undertaken.

**DISCUSSION**

Amendments to the MPS are not routine applications in the way that rezoning and development agreement applications are. The Municipal Government Act contemplates applications for rezoning and development agreements and sets out procedures for a municipality to follow, including provisions for an appeal of Council decisions. While there is an ability for Council to amend its MPS, it is under no obligation to do so. Therefore the decision to amend or not to amend cannot be appealed. Nonetheless, the decision to amend can be justified if the proposal is consistent with the overall intent and vision for the area and if changing circumstances warrant a further review of the policy. Other considerations for change concerning this application include:

- 1) the benefit to the community by revising existing policy,
- 2) impacts to the integrity of MPS by making such a change; and
- 3) community acceptance of the proposal

It should be noted that the requirement for direct access to Shore Road as referred to in MPS Policy COM-2 (Attachment A) restricts development of sites that are otherwise afforded development rights under the General Business (C-2) Zone. An excerpt of the LUB requirements is provided in Attachment B. Since the LUB is intended to carry out policies of the MPS, staff concludes that the lack of a provision pertaining to access for Fisherman's Cove was an oversight. Moreover the issue of access was likely intended to be addressed through the detailed planning exercise referred to previously (Policy COM-3, Attachment A).

Concern has been expressed that removing the requirement for direct access could potentially, lead to land parcel consolidations for the purpose of developing the Fisherman's Cove waterfront for residential purposes. Residential development would not be compatible with the traditional form of small scale commercial development that is encouraged in this area under the MPS. Staff feels that had the detailed planning exercise been completed, it would have identified a number of permitted uses within the C-2 zone that are incompatible with the existing development in Fisherman's Cove. Since the MPS clearly states that further development should reflect the character of a local fishing village, staff would also seek to restrict residential uses and other incompatible commercial uses from locating along the waterfront at this location.

In conclusion, staff feel that, on the basis of the preceding analysis it would be appropriate for Council to authorize initiation of the municipal planning amendments in order to clarify the existing MPS and LUB provisions respecting access for developments at Fisherman's Cove.

### **BUDGET IMPLICATIONS**

None

### **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 initiate the process to consider MPS amendments as outlined in this report. This is the recommended alternative.
2. Council may choose to refuse to initiate amendments to the MPS. A decision by Council to approve or refuse an application to amend its MPS is final and is not subject to appeal to the NS Utility and Review Board.

**ATTACHMENTS**

Map 1- Zoning & Location Map

Map 2- Generalized Future Land Use Map

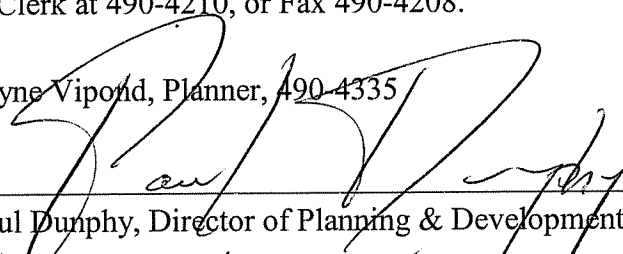
Attachment A -- Relevant Municipal Planning Strategy Policies

Attachment B -- Relevant Land Use By-law Regulations

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.

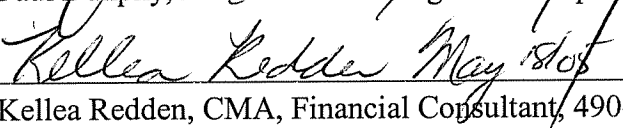
Report Prepared by: Shayne Vipond, Planner, 490-4335

Report Approved by: \_\_\_\_\_

  
Paul Dunphy, Director of Planning & Development Services

Report Reviewed by: \_\_\_\_\_

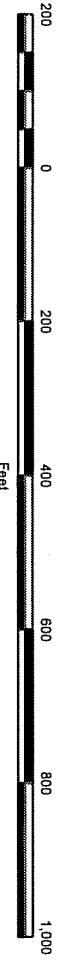
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Kellea Redden, CMA, Financial Consultant, 490-6267



**Map 1 - Zoning & Location Map**

Fisherman's Cove  
Eastern Passage



 Subject Properties



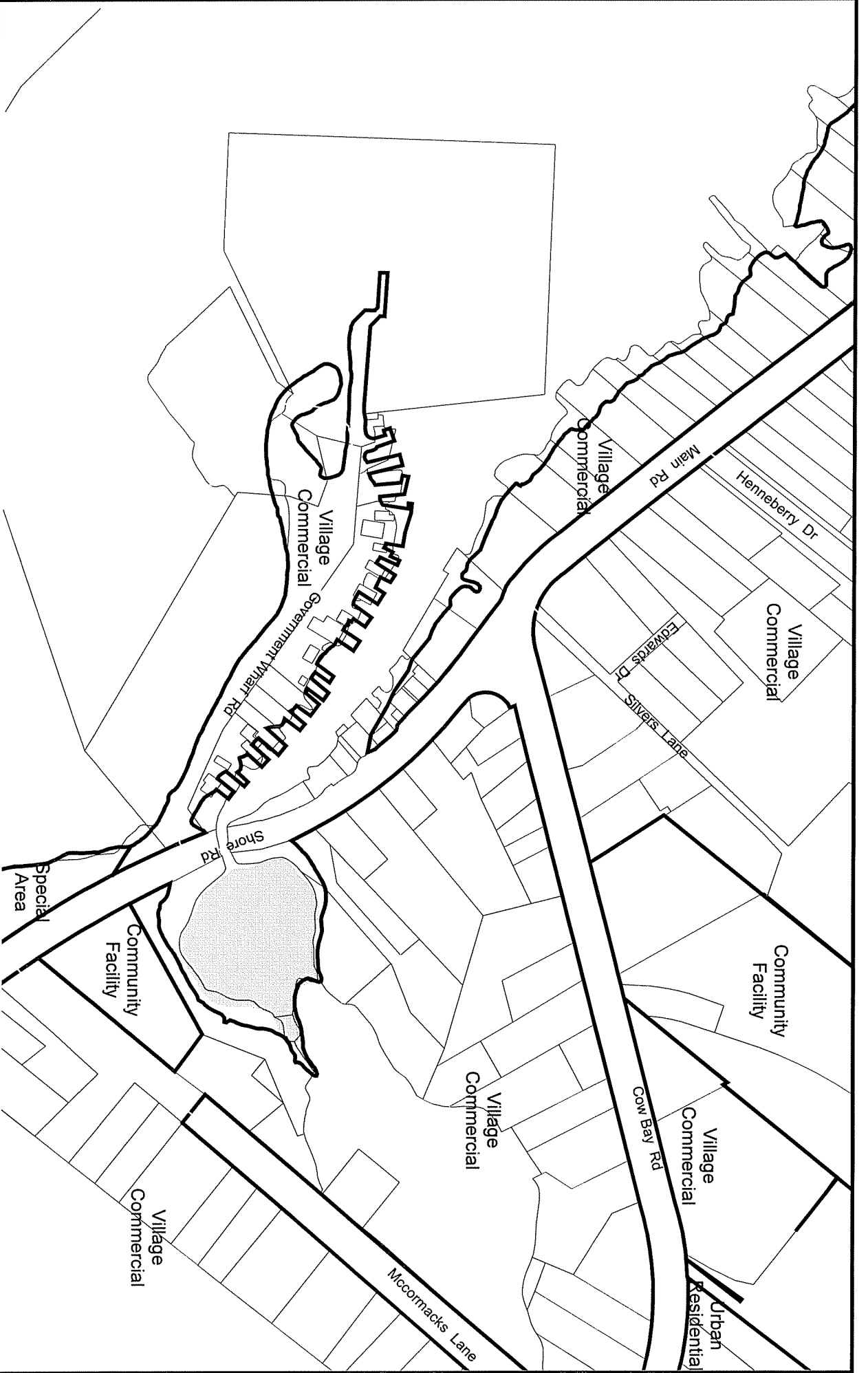
**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING AND  
DEVELOPMENT SERVICES

HRM does not guarantee the accuracy  
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11 April 2005

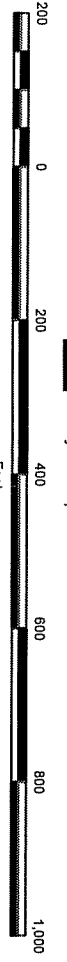
Case 00788

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**Map 2 - Generalized Future Land Use Map**

Fisherman's Cove Eastern Passage



Subject Properties



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

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**Attachment A**  
**Relevant Municipal Planning Strategy Policy**

The fishing industry still holds a strong presence in Eastern Passage, a factor that recently attracted a tourism development called Fisherman's Cove. Located on the waterfront, Fisherman's Cove replicates the flavour and character of a working fishing village, and has spurred the local tourist industry. Although the existing designation of Special Area has been granted, the types of uses permitted within the applied MR-2 (Fishing Industry) Zone should be considered for all waterfront lands within the commercial zone. As such, the community commercial designation and the C-2 (General Business) Zone should be applied to this portion of the special area designation. The permitted uses for the C-2 (General Business) Zone should be expanded to include both new tourist related activities and marine related uses.

- COM-1 It shall be the intention of Council to establish a Community Commercial Designation, as shown on Map 1 - Generalized Future Land Uses and to encourage that lands within the designation be developed in a manner appropriate to the growth of a local business and service focus for the Plan Area.
- COM-2 It shall be the intention of Council to establish a C-2 (General Business) Zone within the Land Use By-Law and apply it to the Community Commercial Designation. The C-2 (General Business) Zone shall permit general commercial uses, as well as residential and community uses. The permitted uses shall reflect the traditional waterfront uses and promote tourist related activities. Development shall be subject to specific size, scale, building placement, building design and construction, landscaping, signage and parking controls, ***and all commercial uses and multiple residential unit dwellings must have direct access to either Main, Cow Bay or Shore Roads*** (emphasis added).

Detailed Planning Exercise

The community has expressed concerns relating to issues that require review from a broad group of experts. The concerns include, but are not limited to, pedestrian safety within the commercial zone, traffic flows along Main, Cow Bay and Shore Roads, the lack of parking within the commercial zone, and the integration of Quigley's Corner, Fisherman's Cove and the Marshland Boardwalk within the commercial zone. A detailed planning exercise is warranted to examine these issues.

- COM-3 It shall be the intention of Council to direct staff to undertake a detailed planning and urban design exercise for the area designated Community Commercial within Eastern Passage. The planning exercise will examine such issues as pedestrian circulation, parking, tree planting, and other streetscape elements to integrate Quigley's Corner, Fisherman's Cove and Marshland Boardwalk. (RC-Apr28/98, M-July 15/98)

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**Attachment B**  
**Relevant Land Use By-law Regulations**

PART 14: C-2 (GENERAL BUSINESS) ZONE

14.1 C-2 USES PERMITTED

No development permit shall be issued in any C-2 (General Business) Zone except for the following:

Commercial Uses

Retail Stores  
Art galleries, studios and workshops  
Food, grocery and variety stores  
Service and personal service shops  
Offices  
Commercial schools  
Banks and other financial institutions  
Restaurants, drive-ins, take-out restaurants, outdoor cafe and tea rooms  
Entertainment uses to a maximum of 1600 square feet of floor area devoted to public use  
Theatres and cinemas  
Funeral parlours  
Veterinary hospitals and kennels  
Taxi and bus depots  
Parking lots  
Service stations  
Re-cycling depots  
Motels, inns, bed & breakfast establishments, and tourist cottage developments  
Day care facilities  
Display courts  
Shopping Plazas and Malls  
Bicycle rental outlets  
Fish markets  
Tourist information centres  
Mini-storage warehouse  
Dwelling units located in the same building as commercial shall not to exceed 50% of the gross floor area and not to be located fronting on a street on the first floor  
Boat charter service  
Boat or yacht club  
Marina  
Small Scale Fishing Operations



Residential Uses

- Single unit dwellings
- Two unit dwellings
- Townhouse dwellings
- Multiple unit dwellings up to a maximum of twelve (12) units including apartments
- Boarding and rooming houses
- Home business uses in conjunction with permitted dwellings

Community Uses

- Institutional uses
- Open space uses

14.2 LOT AND YARD REQUIREMENTS: COMMERCIAL AND INSTITUTIONAL USES, MULTIPLE UNIT DWELLINGS, AND BOARDING AND ROOMING HOUSES

Minimum Lot Area:	4000 square feet
Minimum Lot Frontage:	50 feet
Front/Flankage Yard:	4 feet except for 25 foot daylighting triangle on corner lots.
Minimum Rear Yard:	40 feet
Minimum Side Yard:	4 feet on one side, 20 feet on the other
Maximum Lot Coverage:	50 percent
Maximum Building Height:	35 feet

14.3 BUILDING SIZE REQUIREMENTS

For any new, renovated or expanded commercial or institutional buildings in the C-2 Zone, the following shall apply:

Maximum Building Footprint:	7500 square feet
Maximum Gross Floor Area:	15,000 square feet

14.4 OTHER REQUIREMENTS: COMMERCIAL USES

For any commercial uses permitted in the C-2 Zone, the following shall apply:

- (a) Any area devoted to open storage or outdoor display shall not exceed fifty (50) percent of the lot area.

- (b) No open storage or outdoor display shall be permitted within ten (10) feet (3 m) of any lot line.

14.12 PARKING LOTS AND DRIVEWAY ACCESS REQUIREMENTS FOR  
COMMERCIAL USES AND MULTIPLE RESIDENTIAL UNIT DWELLINGS

Where parking for more than four (4) vehicles is required, the following shall apply:

- (a) Parking shall not be permitted in any required front yard.
- (b) No more than one driveway access per lot shall be permitted for every fifty feet of lot frontage, except that corner lots may have one access per street, and service stations may have only two accesses.
- (c) Parking spaces and driving aisles may be located no closer than 4 feet from any wall of a building. Raised sidewalks or landscaping shall be provided in this area.
- (d) *Access shall be directly from Main Road, Shore Road or Cow Bay Road* (emphasis added).