




PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 9.1

Halifax Regional Council
January 13, 2009
February 3, 2009
February 24, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Councillor Stephen D. Adams, Chair, Western Region Community Council

DATE: January 13, 2009

SUBJECT: Case 01157: MPS and LUB Amendments, Planning Districts 1 & 3 (St. Margarets Bay)

ORIGIN

Western Region Community Council meeting of January 13, 2009.

RECOMMENDATION

The Western Region Community Council recommend that Halifax Regional Council:

1. Give First Reading to the proposed amendments to the Municipal Planning Strategy and Land Use By-law for Planning Districts 1 and 3 as contained in Attachments "A" and "B" of the staff report dated November 26, 2008 and schedule a public hearing.
2. Approve the proposed amendments to the Municipal Planning Strategy and Land Use By-law for Planning Districts 1 and 3 as contained in Attachments "A" and "B" of the staff report dated November 26, 2008.

DISCUSSION:

As outlined in the November 26, 2008 staff report.

BUDGET IMPLICATIONS

As outlined in the November 26, 2008 staff report.

ALTERNATIVES

As outlined in the November 26, 2008 staff report.

ATTACHMENTS:

1. Staff report dated November 26, 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: Melody Campbell, Legislative Assistant, 490-6517.

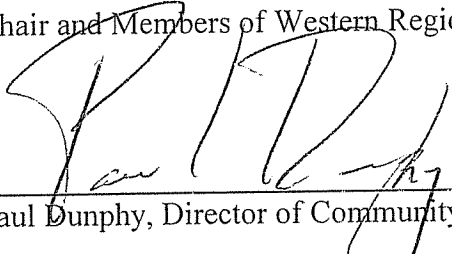


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Western Region Community Council

January 13, 2009

TO: Chair and Members of Western Region Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: November 26, 2008

SUBJECT: Case 01157: MPS and LUB Amendments, Planning Districts 1 & 3
(St. Margarets Bay)

ORIGIN

April 29, 2008 motion of Regional Council directing staff to initiate the process to amend the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for St. Margarets Bay (Planning Districts 1 & 3) to address large scale commercial development.

RECOMMENDATION

It is recommended that Western Region Community Council recommend Regional Council:

1. Give First Reading to the proposed amendments to the Municipal Planning Strategy and Land Use By-law for Planning Districts 1 and 3 as contained in Attachments "A" and "B" and schedule a public hearing; and
2. Approve the proposed amendments to the to the Municipal Planning Strategy and Land Use By-law for Planning Districts 1 and 3 as contained in Attachments "A" and "B" of this report.

EXECUTIVE SUMMARY

Over the past decade steady growth has taken place in the St. Margarets Bay area. As development has occurred, it has become apparent that the flexible planning policies and land use regulations that once served the rural resource economy of the area no longer reflect the more suburban commercial development pressures faced by the community. In particular, the development potential in Mixed Use designations and zones within the St. Margarets Bay plan area allow "by-right" large scale commercial/industrial development that potentially would not reinforce the traditional rural character of the community. Staff was asked to investigate measures to control large scale commercial and industrial development. Staff recommend that Council amend the MPS and LUB for Planning Districts 1 & 3 (St. Margarets Bay) to include new policy and development criteria to control, by development agreement, large scale commercial and industrial development as outlined in this report.

BACKGROUND

In the ten-year period from 1996 to 2006 the area around Highway 103 at Exit 5 including Upper Tantallon, has seen a 54% increase in population. This development pressure recently came to the public's attention via an application to amend the LUB's commercial signage requirements (Case # 01110) for a proposed 36,000 square foot Canadian Tire store. This case was a topic of concern for the community drawing attention to the lack of design guidelines for commercial development within the mixed use zones throughout the plan area. Where a review of the MPS is not anticipated until community visioning is completed in 2010 staff are recommending amendments to regulate, by development agreement, all commercial and industrial development greater than 697 square metres (7500 square feet) of gross floor area¹ (GFA) within the Mixed Use zones.

Designation and Zoning

Mixed Use zones apply to the predominant land uses fronting on the major transportation routes throughout the plan area. Approximately 18,736 acres (15.5%) of the land base in Planning Districts 1 & 3 (St. Margarets Bay) is designated Mixed Use and 16,065 acres (13.5%) of the land is zoned Mixed Use (MU-1, MU-2) (See Map 1).

Regional Plan and Community Visioning

Significant growth in the area was recognized in the Regional MPS and consequently the area surrounding Exit 5 on Highway 103 was designated as a Rural Commuter Centre. This

¹GROSS FLOOR AREA means the aggregate of the floor areas of a building above and below grade, measured between the exterior faces of the exterior walls of the building at each floor level but excluding car parking areas within the building; and for the purpose of this clause, the walls of an inner court shall be deemed to be exterior walls.

designation not only acknowledges the residential and commercial growth in the area but also the public investment in new and expanded infrastructure and amenities such as:

- Highway 103 (a provincial twinned highway to Halifax completed in 2007);
- Sir John A MacDonald High School (constructed in 2006);
- Tantallon Public Library (opened in 2001); and
- St. Margarets Centre (recreational complex built in 1988 and expanded in 2004).

On March 18, 2008, Regional Council approved a Community Vision program for the entire municipality. The Upper Tantallon area is scheduled to begin a community visioning exercise in 2009. Community Visioning will result in an action plan to achieve the overall objectives for future community vision and identified community priorities. The vision and action plan may include an intent to carry out a review of land use policy, however the visioning process will not include a comprehensive review of land use policy. The community vision documents are intended to help guide subsequent community plan reviews.

DISCUSSION

MPS POLICY

The current MPS and Land Use By-law for Planning Districts 1 & 3 (St. Margarets Bay) was adopted in 1994, however, the Mixed Use designation policies and land use by-law has not changed since the community's first MPS in 1988. The intent of the mixed use designation and zones is to accommodate, by-right, a significant variety of land uses including residential housing types, homes businesses, commercial operations, and a range of light industrial uses. The flexibility inherent in the MU zone(s) was appropriate to allow large tracts of large to develop where resource based economies and rural entrepreneurship were important to the growth of the community.

Although the MPS has not been amended since 1995, the once rural residential character of the community has become significantly more suburban in the post municipal amalgamation period with ongoing growth of the residential commuter population and new commercial retail development. Residents have valid concerns regarding the inappropriateness of some development. The St. Margarets Bay MPS and LUB have no maximum building area controls and limited design guidelines for commercial development, with the exception for those land uses covered by a development agreement process such as: senior citizen housing, multiple unit dwellings, new mobile home parks, commercial entertainment, video arcades, campgrounds and marinas, crematoriums, extractive facilities, and intensive agricultural uses. Notwithstanding these land uses, most commercial development within the mixed use zone can occur by-right through the permitting process. Moreover, within the mixed use zones there are limited requirements relating to design or character of development. This lack of size control and design criteria has been identified by residents as a major concern, and they have expressed a desire for

Council to exercise more control over development in the mixed use zones through the development agreement process.

Land use incompatibility was also a concern voiced by the public. Land use incompatibility can be socially divisive and create barriers to new investment in the community by discouraging existing land owners from investing in and enjoying their properties.

When staff examine compatibility between different land uses we make a determination on the degree of impact and the ability to mitigate those impacts through land use controls and site planning. Staff believe that good design criteria controlled through the development agreement process can mitigate issues such as; environmental concerns, design and scale compatibility, site planning, basic land use interdependence, nuisance factors and other issues.

Development Scale

Staff have considered many possibilities in recommending a size threshold from which the development agreement process would be applicable. In recommending that all commercial / industrial development greater than 697m² (7500 sq. ft.) proceed by agreement staff note that the community retains a great deal of “by-right” development potential. Staff have reviewed typical commercial / industrial development size and note that 697m² represents an appropriate size threshold that would allow development scaled to serve the local community through the efficient by right permit process. Typical commercial or industrial land uses of 697m² or less include; banks, restaurants, and neighbourhood convenience stores, bakeries, craft shops, coffee shops, tourist accommodations, rental shops, light manufacturing, and service repair shops. In contrast, large format commercial buildings usually represent national or regional retail chains for groceries, building supplies, retail consumer goods, and pharmacies all of which are scaled to serve multiple communities. The proposed amendments will require only commercial or industrial developments larger than 697m² to follow the development agreement process.

Development Agreements

Development Agreements (DA) are legal contracts between the property owner and the Municipality that can be viewed as site specific Land Use By-laws. DAs contain development standards that are negotiated within the context of policy found in the Municipal Planning Strategy (MPS) and the applicable sections of the Municipal Government Act (MGA). A development agreement has the ability to do the following:

- relax the LUB and the Subdivision Bylaw requirements;
- attach to the land and stays with it even after a sale of the property;
- offer Council more direct control over development by controlling building design, hours of operation, landscaping, maintenance, etc.

The advantage of the development agreement process is the opportunity for public participation, and the ability for staff to negotiate site specific criteria to regulate the development. The

disadvantage is that development agreements can be time consuming which can be costly to both HRM and the applicant.

Staff regard the concern over uncontrolled development within the plan area as localized to the St. Margarets Bay / Tantallon area and not widespread throughout the plan area. However, the mixed use zones are particularly generous in having minimal controls on commercial or industrial development. Staff believe that proposed amendment represents a balanced approach by continuing to allow local scale commercial and industrial development by-right and requiring large format development to proceed through the development agreement process.

Public Information Meeting

A Public Information Meeting for this application was held on June 3, 2008. Minutes of this meeting are provided as Attachment "C" of this report. The majority of the speakers voiced their concerns over land use compatibility, particularly in proximity to residential areas and the need for specific design and architectural requirements including signage to make new stores consistent with rural character of the community. There was support for development agreement controls on large scale commercial and industrial development. Concerns were also noted regarding the environmental sustainability of current site development practices. The public also discussed the importance of the local tourism industry relative to the perception of a negative change in the rural character of community.

Should Council decide to hold a public hearing, in addition to published newspaper advertisements, members of the public who attended the Public Information Meeting will receive written notification.

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. Council may choose to approve the proposed amendments to the MPS and LUB as contained in Attachment "A" and "B". This is the recommended course of action.

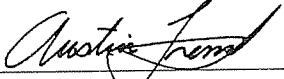
2. Council may choose to alter the proposed amendments to the MPS and LUB contained in Attachment "A" and "B". This may necessitate further report(s). In the event revisions are requested an additional public hearing may be required.
3. Council may choose to refuse the proposed amendments to the MPS and Land Use By-law.

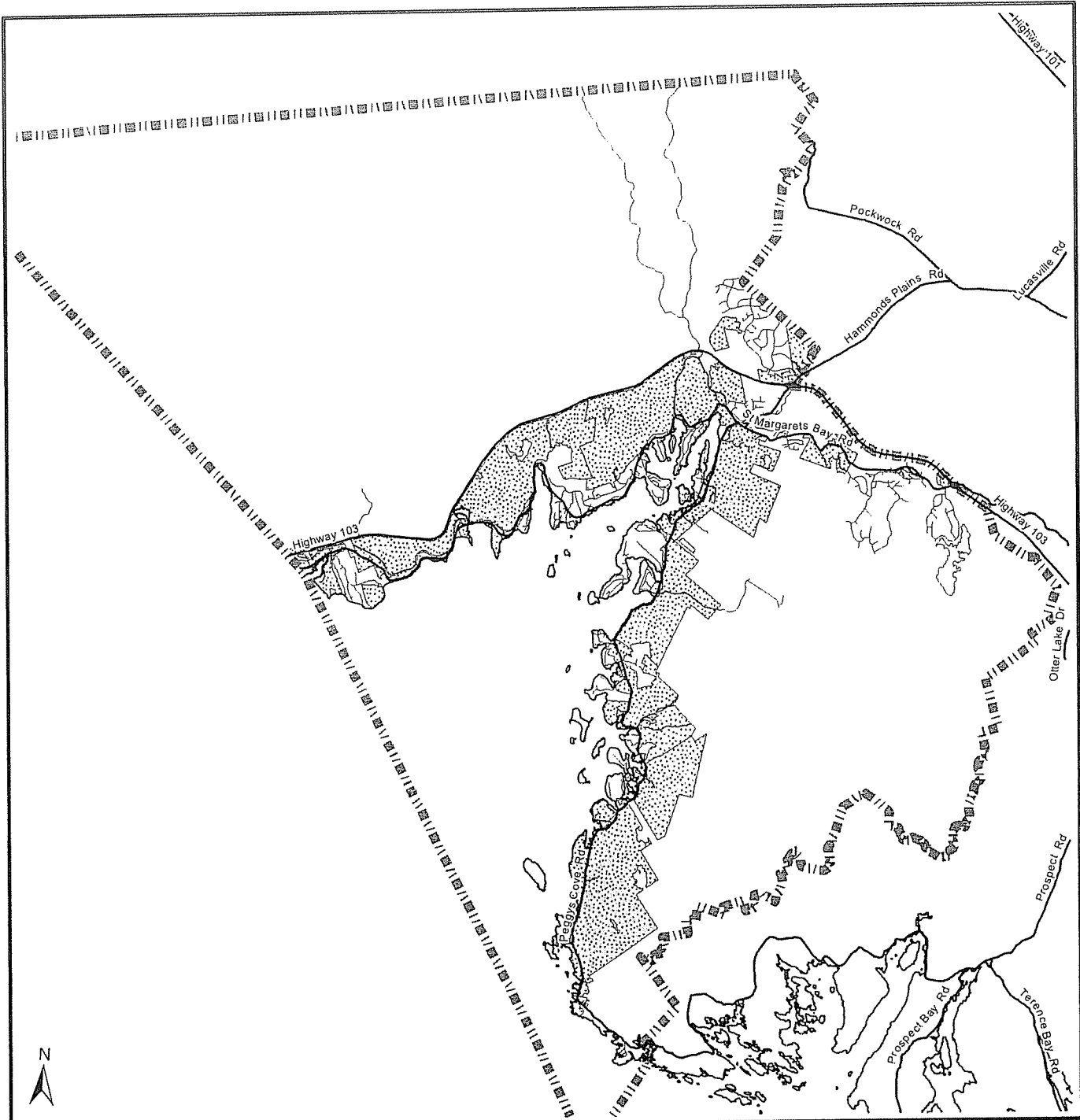
ATTACHMENTS

Map 1	Location of Mixed Use Zone(s) in Planning Districts 1 & 3 (St. Margarets Bay)
Attachment "A"	Amendments to the Planning Districts 1 & 3 (St. Margarets Bay) MPS
Attachment "B"	Amendments to the Planning Districts 1 & 3 (St. Margarets Bay) LUB
Attachment "C"	Mixed Use Zone Requirements from the Planning Districts 1 & 3 (St. Margarets Bay) LUB
Attachment "D"	Minutes from the June 3, 2008, Public Information Meeting

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 : Brian White, Planner I, 490-4793

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



Map 1 - Location of Mixed Use Zones

**Planning Districts 1 & 3
(St. Margarets Bay) Plan Area**

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Planning Districts 1 & 3 (St. Margarets Bay) Plan Area

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

Zone

Planning Districts 1 & 3
(St. Margarets Bay) Plan Area

- MU-1 (Mixed Use 1) or MU-2 (Mixed Use 2) Zone

ATTACHMENT A
Amendments to the Municipal Planning Strategy for
Planning Districts 1 & 3 (St. Margarets Bay)

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Planning Districts 1 & 3 (St. Margarets Bay) is hereby amended as follows:

- 1. By adding the following text to policy MU-2 immediately following the words “C & D Material Operations,” in the section entitled Mixed Use Designation of the Municipal Planning Strategy for Planning Districts 1 & 3 (St. Margarets Bay):**

...commercial and industrial developments greater than 697 square metres (7,500 square feet) of GFA on any one lot,...

- 2. By adding the following preamble and policy after policy MU-16 in the section entitled Mixed Use Designation of the Municipal Planning Strategy for Planning Districts 1 & 3 (St. Margarets Bay):**

In the ten-year period from 1996 to 2006 the area around Highway 103 at Exit 5 including Upper Tantallon, has seen a 54% increase in population and is designated as a growth centre in the Regional Plan. The population growth coupled with public investment in community facilities, educational institutions, and public highways has created commercial development pressures in this community. Residents have expressed concern with the “by-right” commercial growth that is occurring. Residents desire future commercial development, especially large format, to be planned in a comprehensive manner, and remain in the growth centre rather than spreading out along the Bay. Furthermore, there is a need to balance this growth with the traditional character of the built form in St. Margarets Bay.

The traditional building style, character and scale of development in the area is typified by simple wood frame homes and fishing industry buildings with gabled and pitched roofs and wood shingle siding. Large format commercial and industrial buildings are typically designed with large blank walls without articulation and which do not reinforce the traditional character of the built form in St. Margarets Bay. As such, new commercial and industrial developments and expansions greater than 697 square metres (7,500 square feet) gross floor area on any one lot, may only proceed through the development agreement process.

MU-16(A)

Notwithstanding Policy MU-2, within the Mixed Use “A” and “B” Designations, Council shall only consider new commercial and industrial developments or expansions to existing uses resulting in a

combined gross floor area greater than 697 square metres (7500 square feet) on any one lot according to the development agreement provisions of the *Municipal Government Act*. In considering such development agreements, Council shall have regard to the following:

- (a) the architectural design of building(s) that reinforce the style, character and scale of the area's traditional built form;
- (b) building height, massing, and scale;
- (c) adequate separation distances from residential uses;
- (d) controls on signage that reinforce the rural character of the area;
- (e) site illumination to reduce, where possible, the unnecessary illumination of surrounding properties including reasonable limitations on the hours of illumination;
- (f) the retention of significant features such as any significant wildlife habitat, important scenic vistas, historic buildings, cultural landscapes, mature forest, and other elements that typify the rural character of the area;
- (g) landscaping features which may be designed to enhance the visual amenity of the building or to mitigate visual impacts;
- (h) the provision of public access to traditional trails, recreation or parkland areas and lake or coastal frontages;
- (i) the general maintenance of the development; and
- (j) any other matter relating to the impact of the development upon surrounding uses or upon the general community, and the provisions of policy IM-9.

2. By adding the following text after Part (ix) of Policy IM-8 in the section entitled Implementation of the Municipal Planning Strategy for Planning Districts 1 & 3 (St. Margarets Bay):

- (x) commercial and industrial developments or expansions exceeding a combined total of more than 697 square metres (7,500 square feet) of gross floor area on any one lot according to policy MU-17.

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 Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2009.

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

Julia Horncastle
Acting Municipal Clerk

ATTACHMENT B
Amendments to the Land Use By-Law for
Planning Districts 1 & 3 (St. Margarets Bay)

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Land Use By-law for Planning Districts 1 & 3 (St. Margarets Bay) is hereby amended as follows:

1. By inserting the following text immediately following Section 3.6 clause (p):

(q) Commercial and or industrial uses within the Mixed Use "A" and "B" Designations, with a combined gross floor area greater than 697 square metres (7500 square feet).

2. By inserting the following text immediately following Part 12.1 MU-1 USES
PERMITTED Commercial Uses Not Permitted

All commercial development or expansions with a combined gross floor area greater than 697 square metres (7500 square feet).

3. By inserting the following text immediately following Part 12.1 MU-1 USES
PERMITTED Industrial Uses Not Permitted

All industrial development or expansions with a combined gross floor area greater than 697 square metres (7500 square feet).

4. By inserting the following text immediately following Part 13.1 MU-1 USES
PERMITTED Commercial Uses Not Permitted

All commercial development or expansions with a combined gross floor area greater than 697 square metres (7500 square feet).

5. By inserting the following text immediately following Part 13.1 MU-1 USES
PERMITTED Industrial Uses Not Permitted

All industrial development or expansions with a combined gross floor area greater than 697 square metres (7500 square feet).

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 Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2009.

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

Julia Horncastle
Acting Municipal Clerk

ATTACHMENT C
Mixed Use Zone Requirements from the Land Use By-Law for
Planning Districts 1 & 3 (St. Margarets Bay)

PART 12: MU-1 (MIXED USE 1) ZONE

12.1 MU-1 USES PERMITTED

A development permit may be issued for all uses in any MU-1 (Mixed Use) Zone, except for the following:

Residential Uses Not Permitted

Mobile home parks
Multi-unit dwellings
Senior citizen housing over 20 units

Commercial Uses Not Permitted

Commercial entertainment uses
Campgrounds
Marinas

Resource Uses Not Permitted

Agricultural uses, Intensive
Extractive facilities
Sawmills and industrial mills related to forestry over 3,000 square feet

Industrial Uses Not Permitted

Industrial uses but excepting traditional uses and service industries
Salvage yards

Construction and Demolition Materials Operations Not Permitted

C&D Materials Transfer Stations
C&D Materials Processing Facilities
C&D Materials Disposal Sites (RC - September 10, 2002 / E - November 9, 2002)

12.2 MU-1 ZONE REQUIREMENTS

EXCEPT AS OTHERWISE PROVIDED FOR IN THIS PART, no development permit shall be issued in any MU-1 Zone 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	20 feet (6.1 m)
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)

12.3 OTHER REQUIREMENTS: COMMERCIAL USES INCLUDING COMMERCIAL USES ASSOCIATED WITH A RESIDENTIAL USE.

Where uses are permitted as Commercial Uses in any MU-1 Zone, the following shall apply:

- (a) No portion of any lot shall be used for the collection and storage of refuse unless the refuse containers are screened.
- (b) No portion of any parking space within the MU-1 Zone shall be permitted within any required side or rear yard, except where a fence or other visual and physical barrier is erected.

12.4 OTHER REQUIREMENTS: OPEN STORAGE AND OUTDOOR DISPLAY

Notwithstanding the provisions of 12.2, where any portion of any lot in any MU-1 Zone is to be used for open storage or outdoor display, the following shall apply:

- (a) Any area devoted to open storage shall not exceed fifty (50) per cent of the lot area.
- (b) No open storage shall be permitted within any required front yard.

- (c) No outdoor storage or outdoor display shall be permitted within any yard in an MU-1 Zone where such yard abuts any residential or institutional use, except where a fence or other visual and physical barrier is provided within the abutting yard.

12.5 OTHER REQUIREMENTS: SERVICE STATIONS

Notwithstanding the provisions of Section 12.2, where any service station is erected in any MU-1 Zone the following shall apply:

- (a) Minimum Lot Area 30,000 square feet (2,787 m₂)
- (b) Minimum Frontage 150 feet (45.7 m)
- (c) No portion of any pump island shall be located closer than ten (10) feet (3 m) from any street line.
- (d) No portion of any canopy shall be located closer than five (5) feet (1.5 m) from any street line.
- (e) The minimum distance between ramps or driveways shall not be less than thirty (30) feet (9.1 m).
- (f) The minimum distance from a ramp or driveway to a road intersection shall be fifty (50) feet (15 m).
- (g) The minimum angle of intersection of a ramp to a road line shall be forty-five (45) degrees.
- (h) The width of a ramp shall be a minimum of twenty (20) feet (6.1 m) and a maximum of twenty-six (26) feet (7.9 m).

12.6 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) Be less than twenty five (25) feet (7.6 m) from any side lot line;
- (b) Be less than three hundred (300) feet (91.5 m) from potable water supply except a supply on the same lot or directly related to the agricultural use;

- (c) Be less than one hundred (100) feet (30.5 m) from any dwelling except a dwelling on the same lot or directly related to the agricultural use; or
- (d) Be less than three hundred (300) feet (91.5 m) from any watercourse or water body.

12.7 OTHER REQUIREMENTS: FORESTRY USES

In any MU-1 Zone where forestry uses are permitted, the following shall apply:

- (a) No more than three thousand (3,000) square feet (278.7 m²) of gross floor area of all structures on any lot shall be used for a sawmill or other industrial mill related to forestry.
- (b) No sawmill or other industrial mill related to forestry shall be located less than twenty five (25) feet (7.6 m) from any lot line nor less than one hundred (100) feet (30.5 m) from any dwelling except a dwelling located on the same lot or directly related to the forestry use.

12.8 OTHER REQUIREMENTS: INSTITUTIONAL USES:

In any MU-1 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	The greater of ½ height of the main building or 15 feet (4.6 m)
Maximum Lot Coverage	50 per cent

12.9 OTHER REQUIREMENTS: SERVICE INDUSTRIES, TRANSPORTATION FACILITIES AND MAINTENANCE AND CONSTRUCTION YARDS

Notwithstanding the provisions of Section 12.2 where uses are permitted as service industries, transportation facilities and maintenance and construction yards in any MU-1 Zone, the following shall apply:

Minimum Front Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	25 feet (7.6 m) except where any such use abuts another such use or a commercial use in which case the abutting side or rear yard requirement shall be fifteen (15) feet (4.6 m).
Minimum Separation Distance Between Accessory Buildings	15 feet (4.6 m)

12.10 OTHER REQUIREMENTS: OPEN SPACE USES

In any MU-1 Zone where uses are permitted as Open Space Uses, no development permit shall be issued except in conformity with the following:

Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	30 feet (9.1 m)

12.11 EXEMPTION OPEN SPACE USES

Notwithstanding the provision of Section 4.1(a) where uses are permitted as Open Space Uses, and where such uses involve no buildings or structures, no development permit shall be required.

12.12 MARINA

Notwithstanding Section 12.1, a marina shall be permitted within the MU-1 Zone on properties in Hacketts Cove identified by LIMS Property Numbers 513150, 513143, 513135, 513127, 513085, 513119, and 40034688.

12.13 REDUCED AREA AND FRONTAGE REQUIREMENT

The lot area and frontage requirements of this Section 12.2 shall not apply to those parcels of land located off the Station Road in Hubbards identified as LIMS Numbers 4023830, 40024671, 40024788, 40235756, 40024689, 40024838, 40024911, 40235749, 40235731, and 40024663, but for the purposes of this Section, the minimum lot dimensions shall be as determined by the Department of Health, and there shall be no frontage required.

12.14 OTHER REQUIREMENTS: RECYCLING DEPOTS

In any MU-1 Zone, where recycling depots are permitted, no open storage related to the operation of a recycling depot shall be permitted.

PART 13: MU-2 (MIXED USE) ZONE

13.1 MU-2 USES PERMITTED

A development permit may be issued for all uses in any MU-2 (Mixed Use) Zone, except for the following:

Residential Uses Not Permitted

Mobile home parks
Multi-unit dwellings
Senior citizen housing over 20 units

Commercial Uses Not Permitted

Commercial entertainment uses
Campgrounds
Marinas

Resource Uses Not Permitted

Agricultural uses, intensive
Extractive facilities
Sawmills and industrial mills related to the forestry over 3,000 square feet
Fish processing plants

Industrial Uses Not Permitted

Industrial uses but excepting traditional uses and service industries
Salvage yards

Construction and Demolition Materials Operations Not Permitted

C&D Materials Transfer Stations
C&D Materials Processing Facilities
C&D Materials Disposal Sites

13.2 MU-2 ZONE REQUIREMENTS

EXCEPT AS OTHERWISE PROVIDED FOR IN THIS PART, no development permit shall be issued in any MU-2 Zone 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	20 feet (6.1 m)
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)

13.3 OTHER REQUIREMENTS: COMMERCIAL USES INCLUDING COMMERCIAL USES ASSOCIATED WITH A RESIDENTIAL USE.

Where uses are permitted as Commercial Uses in any MU-2 Zone, the following shall apply:

- (a) No portion of any lot shall be used for the collection and storage of refuse unless the refuse containers are screened.
- (b) No portion of any parking space within the MU-2 Zone shall be permitted within any required side or rear yard, except where a fence or other visual and physical barrier is erected.

13.4 OTHER REQUIREMENTS: OPEN STORAGE AND OUTDOOR DISPLAY

Notwithstanding the provisions of 13.2, where any portion of any lot in any MU-2 Zone is to be used for open storage or outdoor display, the following shall apply:

- (a) Any area devoted to open storage shall not exceed fifty (50) per cent of the lot area.
- (b) No open storage shall be permitted within any required front yard.
- (c) No outdoor storage or outdoor display shall be permitted within any yard in an MU-2 Zone where such yard abuts any residential or institutional use, except where a fence or other visual and physical barrier is provided within the abutting yard.

13.5 OTHER REQUIREMENTS: SERVICE STATIONS

Notwithstanding the provisions of Section 13.2, where any service station is erected in any MU-2 Zone the following shall apply:

- (a) Minimum Lot Area 30,000 square feet (2787 m²)
- (b) Minimum Frontage 150 feet (45.7 m)
- (c) No portion of any pump island shall be located closer than ten (10) feet (3 m) from any street line.
- (d) No portion of any canopy shall be located closer than five (5) feet (1.5 m) from any street line.
- (e) The minimum distance between ramps or driveways shall not be less than thirty (30) feet (9.1 m).
- (f) The minimum distance from a ramp or driveway to a road intersection shall be fifty (50) feet (15 m).
- (g) The minimum angle of intersection of a ramp to a road line shall be forty-five (45) degrees.
- (h) The width of a ramp shall be a minimum of twenty (20) feet (6.1 m) and a maximum of twenty-six (26) feet (7.9 m).

13.6 OTHER REQUIREMENTS: AGRICULTURAL USES

In any MU-2 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) Be less than twenty five (25) feet (7.6 m) from any side lot line;
- (b) Be less than three hundred (300) feet (91.5 m) from a potable water supply except a supply on the same lot or directly related to the agricultural use;
- (c) Be less than one hundred (100) feet (30.5 m) from any dwelling except a dwelling on the same lot or directly related to the agricultural use; or

- (d) Be less than three hundred (300) feet (91.5 m) from any watercourse or water body.

13.7 OTHER REQUIREMENTS: FORESTRY USES

In any MU-2 Zone, where forestry uses are permitted, the following shall apply:

- (a) No more than three thousand (3,000) square feet (278.7 m²) of gross floor or of all structures on any lot shall be used for a sawmill or other industrial mill related to forestry.
- (b) No sawmill or other industrial mill related to forestry shall be located less than twenty five (25) feet (7.6 m) from any lot line nor less than one hundred (100) feet (30.5 m) from any dwelling except a dwelling located on the same lot or directly related to the forestry use.

13.8 OTHER REQUIREMENTS: INSTITUTIONAL USES

In any MU-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	The greater of ½ height of the main building or 15 feet (4.6 m)
Maximum Lot Coverage	50 per cent

13.9 OTHER REQUIREMENTS: SERVICE INDUSTRIES, TRANSPORTATION FACILITIES AND MAINTENANCE AND CONSTRUCTION YARDS

Notwithstanding the provisions of Section 13.2, where uses are permitted as service industries, transportation facilities and maintenance and construction yards in any MU-2 Zone, the following standards shall apply:

Minimum Front Yard	30 feet (9.1 m)
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Minimum Rear or Side Yard	25 feet (7.6 m) except where any such use abuts another such use or a commercial use in which case the abutting side or rear yard requirement shall be fifteen (15) feet (4.6 m).
Minimum Separation Distance Between Accessory Buildings	15 feet (4.6 m)

13.10 OTHER REQUIREMENTS: OPEN SPACE USES

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

Minimum Frontage or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	30 feet (9.1 m)

13.11 EXEMPTION: OPEN SPACE USES

Notwithstanding the provision of Section 4.1(a) where uses are permitted as Open Space Uses, and where such uses involve no buildings or structures, no development permit shall be required.

13.12 OTHER REQUIREMENTS: RECYCLING DEPOTS

In any MU-2 Zone, where recycling depots are permitted, no open storage related to the operation of a recycling depot shall be permitted.

13.13 OTHER REQUIREMENTS: GROCERY STORES

In any MU-2 zone, the roof of a grocery store, which has a main floor area of 60,000 square feet or greater, may exceed the permitted height provided that:

- a) such projection(s) above the permitted height occupies an area of not more than 10 percent, in total, of the area of the main floor area of the building.
- b) such projections shall be a maximum of 50 feet in height
- c) no additional habitable space is created.

ATTACHMENT D

Case 01157 - Public Information Meeting: June 3, 2008

In attendance: Councillor Gary Meade
Kelly Denty, Supervisor, Planning Applications
Patricia Hughes, Planner, Planning Applications
Brian White, Planner, Planning Applications
Maria Jacobs, Planner, Regional & Community Planning
Holly Kent, Planning Technician
Gail Harnish, Planning Services

Opening remarks, introductions, purpose of meeting

Mr. Brian White called the public information meeting (PIM) to order at approximately 7:00 p.m. at the Sir John A MacDonald High School. Tonight's public meeting is regarding an application by HRM to amend the Municipal Planning Strategy (MPS) for Planning Districts 1 & 3 (St. Margarets Bay) with regard to implementing development controls for large scale commercial developments.

Overview of community visioning

Ms. Maria Jacobs provided an overview of the community visioning process and how Upper Tantallon fits into the process. As a direct result of the Regional Plan, fifty growth centres were designated based on a number of factors:

- potential for development
- development impact
- services provided in the surrounding area

Ms. Jacobs advised one of the tools for implementation of the Regional Plan is the community visioning process. Last year, Regional Council approved the pilot projects for the Bedford Waterfront, Fall River, and Musquodoboit Harbour. We found that the pilot was successful in its mandate to engage the community. We prepared a multi-year plan to undertake community visioning in additional centres. This year, community visioning was approved for the Penhorn Mall area, Spryfield, and Middle Sackville. Concurrent with the 2008 visioning program, watershed studies will be carried out in a number of rural areas. In 2009, we can include several rural growth centres.

Ms. Jacobs noted one of the things we found during the pilot project is that we need to undertake the watershed studies before starting a community visioning program. Therefore, we are planning to initiate the watershed study for the St. Margarets Bay plan area later this year. Once the

watershed study is completed and we have the results, we will start the community visioning program in the Tantalion area.

Ms. Jacobs advised community visioning has been defined as a process of developing consensus among residents and other stakeholders on what the community should look like, feel like and be like 5, 10, 20 years into the future. The community will have a say on how it proceeds with visioning boundaries and its relationship to the surrounding communities. It does not have a single focus; it is multi faceted. For example, it will look at:

- the make-up of the community
- sense of where and how the community interacts
- health, safety and quality of life
- parks and other environmental issues
- the places where we meet and gather
- local culture and heritage
- economic development
- children, youth, families, seniors and singles
- housing and life stages
- transit and roads

Ms. Jacobs advised through the community visioning process, the community is not expected to make decisions about specific development proposals. The ideas from the visioning process can be implemented later through the community planning process which produces a legal document and design guidelines for the area. As well, the area's vision and action plan will be included in the business planning and capital budget process. The visioning will be implemented in phases; short-term, medium-term, and long-term. The vision and action plans for the last three communities can be viewed on the HRM web site.

Overview of planning process

Ms. Patricia Hughes advised the application we are discussing tonight is Case 01157. On April 29, 2008, Regional Council initiated this process to amend the MPS for more immediate action in terms of large format commercial development within the Mixed Use Designations of the St. Margarets Bay plan area. There was not an applicant per say. It was largely due to residents raising concerns with their councillors. Knowing that community visioning was coming, staff was asked to look at an interim approach because we have to wait for the watershed study.

Ms. Hughes noted there are pressures for development in the area and Council asked us to look at a control for large format commercial development in the Mixed Use Designations; something that we can implement immediately and offer some control. Because this is an MPS amendment, it is a bit different than the Land Use By-law (LUB) amendment discussed last month related to signage.

Ms. Hughes provided an overview of the planning process:

- the process began with the motion of Regional Council
- tonight we are at the public meeting
- we will go back and do a detailed review of the application
- we will prepare a staff report which will be tabled with Western Region Community Council
- Community Council will forward its recommendation to Regional Council
- if Regional Council wishes to proceed, it will schedule a public hearing, or it will reject the application
- following the public hearing, Regional Council will make a decision
- if the amendments are approved, they are forwarded to the Province for review
- the amendments take effect upon placement of the notice of approval ad

Ms. Hughes advised most of the development in this area can proceed as-of-right through the development approval process, which does not require approval of Council. Much of the land in the St. Margarets Bay plan area is zoned Mixed Use. The Mixed Use 1 and 2 Zones are very similar; one allows fish plants and the other does not. Rather than list what is permitted, the LUB lists what is not permitted. She displayed the list of residential, commercial, resource, and industrial uses not permitted as well as C&D operations not permitted.

Ms. Hughes noted the LUB does have some controls. It includes requirements relative to wetlands and watercourses (setbacks and buffers); coastal areas; parking and signage; building setbacks, height and lot coverage; and outdoor display and open storage. We have been hearing from residents lately that they may not be enough. People are talking about building design and the character of development. Those type of things are not addressed in the LUB. When the document was written, it was a semi-rural area and promoted the continuation of rural uses that existed at the time.

Ms. Hughes indicated there are several ways in terms of how we can achieve more control over development:

- site plan approval
- amendments to the LUB
- rezoning
- development agreement

Ms. Hughes noted these tools all have advantages and disadvantages and the first three are probably not the tool to achieve development control. The development agreement is what was suggested to us by many and we believe it is the best tool to control development as an interim measure. Development agreements are legal contracts between the developer and HRM. The development standards are negotiated between HRM and the property owner. It does not

necessarily follow the provisions of the LUB or the Subdivision By-law and is looked at on a site specific way. It stays with the land and offers Council more direct control over development. However, it can be time-consuming and costly to the Municipality and the developer. Each development agreement goes through a public process which includes a public meeting and a public hearing.

Ms. Hughes indicated some of the things to be considered are:

- should we consider a development agreement for large scale commercial developments?
- where should development agreements be required?
- for what types of development should we require a development agreement?
- what kind of policy criteria should we look at?

Ms. Hughes advised the advantages of development agreements are:

- they are site specific
- they involve public participation
- they encourage negotiation

Ms. Hughes noted the drawbacks to development agreements are:

- they are time-consuming and costly to the developer and HRM
- they can discourage development, as there is no guarantee they will be approved

Ms. Hughes indicated in terms of where development agreements will be required, the motion of Council suggested the Mixed Use Designation. That is the only designation under the MPS where it is really needed. The other designations do not allow large scale commercial development. We have heard from various residents about where it should be located; either throughout the St. Margarets Bay plan area or specifically focus around the Upper Tantallon area.

Ms. Hughes displayed maps of the plan area pointing out the various designations. If we do an amendment to the MPS, it makes more sense to do it by designation.

Ms. Hughes noted we are looking for feedback on the size of commercial development which should proceed by way of development agreement. It is important to strike a balance. If you require very small developments to go by development agreement, it can cause problems for the smaller businesses and the family run businesses trying to get off the ground.

Ms. Hughes advised that in terms of the policy in the MPS to allow the development agreement to be considered, it generally states what aspects Council shall consider when approving a development agreement. The wording often used is "when considering a development agreement, Council shall have regard to the following:

- impact on adjacent uses
- landscaping and open space
- compatibility with the existing neighbourhood
- building design/architecture
- high quality exterior construction materials
- lighting
- traffic generation and circulation
- proximity to growth centre and major transportation collectors
- pedestrian amenities
- streetscape design
- parking and signage
- solid and liquid waste
- impact on the natural environment
- impact on water sources and stormwater management”

Ms. Hughes indicated it is important to achieve a bit of a balance. If we require various studies, then it discourages development but we want to ensure there are some controls for what the residents are looking for. We have been mandated by Council to find an interim measure.

The meeting was opened to public participation.

Ms. Ella McQuinn, St. Margarets Bay Stewardship Association, thanked Council for voting to get the process going. She thought it was essential to create an interim solution to do a long range plan which is a vision for the future. They have done a bit of visioning on their own to fill in that gap. In late March, they did a weekend together and came up with a position paper that started with a visioning paper, which is available on their web site.

Ms. McQuinn stated they think development agreements are good. There is no perfect solution but it is an interim solution. Any delays or onerous requirements on a developer will simply be short term and this will lead to a much longer term guaranteeing our vision on what the community wants. Yes, it will put an onus on the developer to do more than they want to but it is very much in the short term and is needed in the interim. It is a good thing.

Ms. McQuinn said her sense is that the whole watershed of St. Margarets Bay is primarily designated Mixed Use so she would recommend that we look at the entire St. Margarets Bay plan area as an interim solution. As for the size, they have had a group working on this and looked at other regions and it seems to make sense somewhere in the range of 7500 to 10,000 sq.ft. That would be beneficial given the historical development in this area has been much smaller than that. She applauded the Municipality for undertaking the watershed study.

Ms. McQuinn noted in terms of what the development agreement policy should include, the things listed on the list are great. She assumed those are the headers and the essence for what would be considered under them.

Mr. Leon Kentridge, Glen Haven, retired planner and architect, said he has been giving some advice to the Stewardship Association. He thought staff gave a terrific presentation. It was very clear and well organized, with particularly good graphics.

Mr. Kentridge indicated he thought 7000 sq.ft. would be a good size to use as the cut-off. A 3500 sq.ft. size building would be similar to a Needs store. The Lawtons store on North Street is 5000 sq.ft. He was not aware of a 10,000 sq.ft. pharmacy and could not see something of that size. If you have two different uses allowed in a complex, it would be quite unusual that 7000 would be sufficient. When the standards are drawn up, he thought it was important to say there will be one building allowed per site even if there is a severance.

Mr. Kentridge said he did not think it was a hardship to a developer not to be able to develop as-of-right. It is a normal situation for developers to know they have to go through a rezoning and any prudent developer buying land would include a provision in the purchase and sale agreement to require that they get approval for a rezoning before buying it.

Mr. Kentridge stated he thought this standard should apply to all the lands designated Mixed Use. A great deal of this land in his view is quite unsuitable because of the topography. Somebody could go in as-of-right and make major topographical changes. Until the study is done in 2009, it would be inappropriate to leave this open opportunity on lands with steep slopes in many cases.

Mr. Kentridge noted most points have been covered in terms of guidance to developers. He thought we should be looking for a building that has an appearance that fits in with the local architecture which includes the materials, colours, and roofline. You would have a standard for the height of the building, the setbacks, and lighting that does not create a nuisance for the neighbourhood, but the height of the lighting is modest to fit in with the character of the area and should be to a standard that existing neighbours are screened properly. Then we go into the question of a properly landscaped site with proper pedestrian walkways.

Mr. Kentridge indicated it was mentioned there is an agreement between HRM and the applicant but thought it would be appropriate for the neighbour to be consulted as well.

Mr. Kentridge said he thought agreements should be required for 7,000 sq.ft. and above.

Mr. Gordon Davis, Allen Heights, said he would like to echo the remarks from the previous two speakers. He asked for confirmation that any use was permitted except for those on the list.

Mr. White confirmed the zone permits any use excepting for the exceptions listed in the zone.

Mr. Davis indicated in terms of visioning, he would like to see all commercial development in the area confined to a geographical area defined to the Crossroads so that we can create a commercial hub in the plan area. There is nothing stopping somebody from putting up a 2000 sq.ft. building and setting up a wreck yard in the Mixed Use Zone.

Mr. White clarified salvage yards are not a permitted use in the Mixed Use Zone.

Mr. Davis said it is what the land is used for, not the size of the building, that should define whether or not a development agreement is required. Certainly there should be consultation with the neighbours and surrounding area.

Mr. Carl Breckinridge, Upper Tantallon, indicated he built a house about six years ago. After he built his house, a few of them became concerned when a construction company moved in and built a house and a large construction yard. Four property owners went forward and asked for a rezoning. They were assured they could change the zoning back anytime they wanted to. Since that time, they have had more development along Peggys Cove Road. He was concerned about the possibility of a slow commercial creep down the Peggys Cove Road. He would argue for anything over 5000 sq.ft. requiring a development agreement. Also, he was a bit concerned about the Crossroads suggestion.

Mr. White clarified that moving forward with the proposal would not necessarily mean there will no longer be any applications for commercial development; they will still come in but there will be an additional step, a new discretionary approval process for developers to go through.

Mr. John McCracken, Allen Heights, questioned why there are so many salvage yards along St. Margarets Bay Road if the zoning does not permit them. The visioning process has been outlined which is probably a three year process. Parallel to that happening and probably what has brought many of them here tonight is the St. Margarets Square development. They have at least one big box store (Canadian Tire) who wants to build a 38,000 sq.ft. store in front of their noses which none of them knew nothing about because it is an as-of-right development. A neighbour would be allowed to build a pig farm in the Mixed Use Zone if they wanted to. It shows how archaic the zoning laws are in this Municipality. He asked staff to explain about the possibilities of these development agreements taking place while the visioning process is going on. Development is taking place and the heavy equipment and lighting is there, and the application to amend the signage by-law is already happening. How will these development agreements halt that process?

Mr. White advised the permits currently in the system will not fall under the development process should Council approve the proposed amendments through this amendment process.

Mr. McCracken noted it was being said that nothing from tonight will be retroactive and, in particular, will not have an impact on Canadian Tire.

Mr. White advised what we are proposing is a new discretionary approval process that includes public involvement. HRM cannot retroactively remove property rights. All municipalities are obligated to issue a development permit if someone meets the requirements of the LUB.

Mr. McCracken asked about the status of the signage amendments.

Ms. Hughes advised there was a public hearing held on May 26th and Community Council approved an amendment to the LUB. We are now in the appeal process. The amendment was essentially to limit ground signs to one per lot and to limit the facial signs to a maximum of 6% of the area of the wall to which they are affixed.

Ms. Kathy MacDonald, Tantallon, indicated she did not attend the public hearing for the amendments to the signage requirements but she heard about it. It was her understanding the community did not want an amendment to the sign by-law but Community Council amended the by-law to increase the signage. If the community is voicing their concerns about big box stores and if the Council has the power to make what they think is the decision and are not speaking for the community, that is why people do not come out because they feel their voices are not being heard. If the Council does not listen to the public, where do they stand?

Mr. White responded this is not a question Planning staff can answer. It is a democratic process and elected officials make the decisions.

Mr. Richard Learmonth, St. Margarets Village, commented he was interested in the mixed use. It is a residential community which was set up fifteen years ago. The contractor put in roads and said it would be a residential area. He has been there now for eleven years and it is still classified as a mixed use zone. He questioned why the zoning was not automatically changed to R-1. If it was, then they would not have to go to the community and hold a public hearing. We have to do development agreements and live up to them. That way the community can get involved, not whether or not they want it.

Mr. White advised there is a policy in the MPS that allows residents to make application to rezone their property. In fact, in the past six months we rezoned Westwood Hills from Mixed Use to RA-1. There is a specific policy but it has to be done in context of community consensus because it is a downzoning and removal some property rights. The policy is there to allow the rezoning to be considered but it does not happen automatically.

Mr. Marc Adams, Halliburton Heights, just outside the study area, referenced the comment about the democratic process and stated there was not enough consultation for the signage amendments. They had an initial briefing meeting where the issue was brought to light and then the next time he got an opportunity was at the public hearing where the staff recommendations were brought forward, and it was approved by Community Council by the end of the evening.

Mr. Adams noted they have the same issue in terms of the development agreement. The public meeting is being held now and the next opportunity for input is at the public hearing. At that time, it is either approved or rejected. There is no advance notice of the recommendations so that people have a chance to speak to their councillor and other stakeholders well in advance of the hearing. At the public hearing for the sign by-law amendments, they did not feel satisfied they were heard. He would like to see more advance opportunity of what is presented at the hearing so they can prepare their recommendations or address the political or administrative channels.

Mr. Adams questioned whether a development agreement could expand the permitted uses to those currently excluded.

Mr. Luc Ouellet, referencing the Ingramport project, noted that development was one of the uses not permitted under the zone but the policies permitted consideration of it through the development agreement process. Some of the excluded uses are permitted by development agreement if there is consideration for them specified in plan policy. Multi-family buildings are usually done by development agreement in this plan area.

It was questioned what kind of enforcement there is for this issue. Wetlands disappearing before the development occurs is a common occurrence in any area.

Mr. White noted the infill of wetlands is outside the jurisdiction of the Municipality and is enforced by the Provincial and Federal governments. The Municipality has a Land Use Compliance section and we do take people to court for land use violations.

It was questioned what kind of monitoring we do.

Ms. Hughes advised that generally HRM does conduct monitoring, the majority of responses are a complaint-driven basis. If we get a call from a person indicating somebody is not meeting the requirements of an agreement, the Municipality does follow-up. Development agreements give us more to work with, and include a section on rights and remedies.

An individual stated he would recommend the trigger for a development agreement be less than 10,000 sq.ft. Also, he did not necessarily agree development agreements are a detriment to developers. If a developer is concerned about serving the community they are entering, they should want to know how the community will receive them and the development agreement will give them that comfort.

Mr. Dorman Skinner noted under the development agreement provisions, they are supposed to take into consideration reduced conflict with adjacent or nearby land use and traffic generation. The developers coming into St. Margarets Bay are increasing the traffic in what is considered a R-1 zone on both sides of the Hammonds Plains Road. There will be more traffic including trucks going through this area.

Mr. Skinner indicated when they rezoned Westwood Hills, the homeowners got together to have their properties rezoned. That was because the majority of the people moved in there and developed their properties as residential. The restrictions of the R-1 zone limit them. They build these big houses and come out there to grow and develop. What changes will be done to their zoning to allow them to grow? R-1 zoning on the Hammonds Plains Road is not doing it.

Mr. Skinner commented all this planning and development is great for the community but it is hurting the residential people by increasing the traffic. He questioned what can be done to help them be more included in the area. It is more commercial than residential. What will help their properties fit into the atmosphere?

Mr. White questioned whether he was talking about the Beaver Bank, Hammonds Plains, Upper Sackville plan area.

Mr. Skinner responded they are hurting the residential area.

Mr. White questioned if he was suggesting the development agreement should be extended to residential properties.

Mr. Skinner responded yes, if the area changes so much.

Mr. White noted staff are here with a very specific mandate from Regional Council.

Ms. Heather Perks, Highland Park Chairperson, noted she lived outside the area in question but received notification in the mail. She said she was confused about the differences between land use zoning and covenants, and questioned whether covenants over-ride the land use and zoning.

Mr. White advised covenants are private civil matters. The land use by-law becomes effective when you apply for a permit for development such as a shed, a house, or a commercial building. The Development Officer will refer to the LUB to determine whether or not the proposal conforms to the LUB for use, setbacks, heights, etc. For instance, if the LUB permits you to have a horse, we would issue a permit. However, the covenants on your deed may not permit you to keep farm animals. Unless HRM held the covenant then this would be of no specific consequence to the Municipality you decide to break the covenant.

Ms. Parks indicated people walk along the Hammonds Plains Road and safety has to be a number one issue. The purpose of having a larger commercial district is to bring people from other communities there, and therefore the traffic and safety issue will increase. She felt there should be tighter guidelines for development agreements. It was a little disturbing to her that Council could over-ride anything being proposed. She believed in protecting the watershed area and protecting our flora and fauna.

An individual from Hacketts Cove referred to Part 12.12 on the last page of the handout which says "Notwithstanding Section 12.1 a marina shall be permitted within the MU-1 Zone on properties in Hacketts Cove ...". He questioned if there is existing permission for a marina to exist in Hacketts Cove and where in Hacketts Cove it is permitted. A marina brings traffic. He questioned if any controls could be put on it.

Ms. Kelly Denty advised the policy is specific to certain properties which indicates an interest in developing a marina on them. Councillor Meade is not aware of which property(ies) is referenced in the policy. New marinas can only occur by development agreement if it is not on the site of one of the property numbers referenced in the LUB. In terms of controls, it would have to meet the requirements of the LUB such as setbacks and height.

The individual stated he did not think a lot of residents of Hacketts Cove were aware of this and they would like to know where this is, when they applied, and when the permission was given.

Mr. Doug Miller, Seabright, an architect, a planner, sometimes a developer, and a resident, said he watched himself carefully when the Crossroads issue topic came up. He talked to the Stewardship Committee on the basis that he was in a difficult position to come forward because he was a partner with the Fares Group and this was happening in his backyard. The reason he decided to come forward tonight was that he tried to initially instill the notion that the people of St. Margarets Bay would not let them get away with the normal asphalt big box. When he was doing the preliminary sketch for the Credit Union, he felt they were bang on from the standpoint of what they wanted to contribute to the community. He has always been a strong believer in development agreements. His clientele certainly risked money. They entered into a purchase and sale agreement and if it does not happen, the sale collapses.

Mr. Miller said he stayed away from talking to the newcomers and talked to the oldtimers. There is a strong sense of environmental stewardship with those people. It seemed to him that to allow any MU-1 land use during an interim period by way of development agreement would suit them just fine. The interim cannot stay interim forever. There is a program with an interim policy which means there will eventually be a resolution and a well thought out new community specific set of policies. He got the strong feeling that the people living around the Bay have a notion of scale and quality and environmental stewardship along their roadway, which he was sure would come out of the visioning program, so the interim policy means even more in terms of stopping unsupported development while they have the opportunity to look at the whole project.

Mr. Miller stated it was his understanding of the Regional Plan policy that there was a very strong impetus, given Sobey's, the 102, and the announcement by the Transit Authority, that the Crossroads would be a future urban development centre. It would seem appropriate that not only a watershed study but also a potential servicing study be done in this next process to see what that growth centre concept might be.

Mr. White noted one of the application requirements through the development agreement process is that the developer provide a traffic impact study, which currently does not happen under the as-of-right process.

Mr. Peter Lund said he supported having development agreements and also creating limitations on the size of buildings. What he was not hearing tonight is limiting the size of clear-cutting as part of these large developments. The first thing that shocked him was the vastness of how much land was clear cut and how much land was cut and filled. There should be consideration that if any development will take up a certain amount of hectares that an environmental impact assessment be required, which should be vetted through HRM and the Department of the Environment. One of the things that concerned him is that in destroying hectares of land, you not only destroy the habitat for species but also impact groundwater and subsequently impact the waters of St. Margarets Bay. He would like to see some kind of consideration to requiring environmental assessments for developments over a certain size.

Ms. Denty advised there were amendments being considered by the Legislature relative to clear-cutting prior to its closing. HRM had asked for amendments relative to clear-cutting. We have to follow up with the Province to see what amendments were made. Additionally, we have requirements for watercourse setbacks under the Regional Plan.

Mr. White noted an environmental assessment is in many respects a legal term. These assessments are required by the Provincial and Federal governments. The *Municipal Government Act* does not allow the Municipality to require environmental assessments.

Mr. Doug Poulton, Glen Haven, indicated he and his wife owned the White Sales Bakery. His biggest concern is tourism which is a big factor for this area, especially in July and August, which should be taken into consideration. When they have tourists raving about how beautiful the views are, they do not want something that will take away from that. They need some sort of limitations on what can go on those lots. They like the area as it is and do not want to see it become a commercial conglomeration.

Mr. Poulton commented in a rural area they have limited resources. One of the biggest things is the lack of transportation. As for schools in five to ten years time, they just went through that vision. They were bursting at the seams with all the growth that was taking place. They need to consider tourism, heritage, and problems with transportation. He would like to think St. Margarets Bay is different from Fall River and Musquodoboit Harbour based on those principles.

Mr. White indicated he believed most of the points raised would be considered as part of community visioning.

Ms. Beth McGee, Seabright, stated this is the opportunity to jump start the visioning process, and was in favour of the development agreement as proposed. She asked for clarification on what the watershed study would entail.

Ms. Denty responded those are being dealt with through the Regional and Community Planning section. She encouraged Ms. McGee to contact Maureen Ryan. Essentially, the purpose of the study is to get what the capacity is for development and look at areas that could be developed and how it would impact the capacity in the long-term. It is essentially a capacity study.

Ms. McGee asked how far the study would extend.

Ms. Denty responded the entire St. Margarets Bay watershed. A slide of the area was displayed. It relates to the growth areas in the Regional Plan.

Ms. McGee asked that the study look at all the watershed areas.

Ms. Barbara Way thanked staff for the time and effort put into the presentation. She noticed on the Hammonds Plains Road they are starting to count cars. She suspected that means the road will be enlarged in the next year or so. She asked how HRM defined commercial entertainment for this area and whether it included private clubs, strip clubs, or casinos.

Ms. Hughes advised the LUB defines commercial entertainment as “any building or part of a building used for a beverage room, nightclub, cabaret, or other similar use, and video arcades”.

Ms. Way referenced an earlier comment about cutting down all the trees and said she would like to see some protection against that. People are asking for something that is to scale and beautiful and not overwhelming. She asked if Mr. Pryce could share any feedback relative to the Canadian Tire store.

Mr. Nick Pryce indicated they gave a presentation at the public hearing for the sign by-law amendments in terms of Canadian Tire making significant changes in terms of design. Today is about the community. He was here to represent Canadian Tire and as a professional planner.

Mr. Pryce stated development agreements are fine but it is important that there be clear and strong criteria, so that when someone wants to do a commercial development they understand what they are looking for. The criteria is very open ended. Some people want a maximum limit on the size of the building. Design is very objective. You need to look at creating design guidelines so that a developer knows what they want. Development agreements take time and they are an expensive process. They do deter developers, particularly when there is not strong criteria. A 5000 square foot store is a small store. You are looking at twelve to eighteen months from the beginning to end and there are significant costs upfront and there is uncertainty at the end of the day.

Mr. Jim Fletcher said he would like to congratulate the whole process of getting this vision going next year and looking at requiring a development agreement for this year, and to the people in this room for encouraging that decision being made. He totally supported a development agreement at this time, recognizing it is at least an interim measure. He felt it should apply to any development within the Mixed Use A and B in Planning Districts 1 & 3. Whether it should apply for a 6,000 or 10,000 sq.ft. building, he did not know. He felt the easiest way would be for it to be based on the square footage of the development and the height. Anything over 20' if it is commercial and it should apply to any individual parcel.

Mr. Fletcher said he would challenge Canadian Tire to put a LEED building on the site. Lighting should be controlled in a development. The original state of the land should be preserved as much as possible. Also, that the building is durable and based on a fifty year cycle as opposed to the five to ten years for box stores.

Ms. Shelley Webb, Hacketts Cove, indicated she and her husband lived there for close to thirty years. People who live in St. Margarets Bay have a sense of place. Other people have lived here much longer than they have. They have to have control over the development in this area to protect their quality of life to keep this as a very enlightened destination for tourists. In terms of tourism, last year the Province generated about 1.3 billion dollars in revenue. She had it on the best authority from Destination Halifax that approximately 57% of that 1.3 billion dollars in revenue flowed through HRM. That is not small change. For Council, tourism is not a particularly important economic driver, which she thought was short-sighted. Nevertheless, in HRM governance, there is not a senior officer or staff position to her knowledge that carries tourism anywhere in their title, but the revenues suggest they should have some recognition.

Ms. Webb questioned whether given the rather comprehensive process that will be involved in the water study and the timeframe on the chart, there was any possibility this could be accelerated for their area. Do they have to wait until 2009 to begin the community visioning process?

Mr. White responded yes. That was the decision of Council.

Ms. Webb questioned whether if in the meantime other major developers put forth proposals, they could have some assurance they would not be arbitrarily approved.

Mr. White indicated the proposal through this process is to require development agreements. Until then, it is as-of-right.

Ms. Webb commented she thought it was generally acknowledged, even in the planning department, that they are dealing with an antiquated by-law. She would urge Council and staff to give very serious thought to any applications that come in before the development agreement process is put into place.

Ms. Webb said she would like to see a requirement for very environmentally friendly buildings, such as LEED standards. We have to exercise reasonable controls. She would like to challenge the comment they went through a democratic process. Council is there to carry out the wishes of the people to the fullest extent possible and she did not believe they saw a democratic process for the signage amendments. She thought there was an abuse of authority given to Council. No one in the community was anxious to see that amendment passed.

Ms. Gina Byrne, Halliburton Hills, asked for confirmation the watershed surveys have to be done over two seasons.

Mr. White indicated he did not have that information.

Ms. Byrne noted there is a three year process to have the visioning done. The Sackville Drive vision plan has been in place for twelve years and was never considered part of the visioning exercise. It is number eight on the list for being included and Tantallon is nowhere on the list for implementing a visioning plan. Just because they have a vision plan does not mean it will ever be implemented. Community visioning is not a streetscape per say. A lot of them come with huge capital budgetary requirements. Council makes that decision. A visioning plan may not be implemented for several years.

Mr. White concurred it is ultimately Council who makes the decision.

Ms. Byrne recommended this should include all of District 23 and not just the St. Margarets Bay plan area. She did not think there was enough advertisement for this meeting, and then it will go to a public hearing.

Mr. White noted there could be hurdles on things to be administered through the visioning process. Many of them may have district-wide changes; some may be localized.

Ms. Byrne expressed concern it might take a long time and might never get implemented. How can we implement those changes to the planning strategy policies?

Mr. White noted doing something of a wider scope would further delay the process. We would have to do a lot more research and work and more consultation. We have been given a mandate by Regional Council to put in place land use controls fairly quickly. We have done a lot of research and we believe this method of implementation is the fastest way to address the concerns of the community.

Ms. Byrne asked if it would be up to Council to decide what the landscaping should look like in a development agreement.

Mr. White advised it is planning staff who negotiates with the developers in terms of an appropriate landscaping plan.

Ms. Byrne questioned if it can be enforced.

Mr. White responded yes, it is a legally binding contract. If the developer does not do the plantings required, HRM can go in through the various remedies and put those plants in, and we can require bonding for the project.

Ms. Byrne said she would suggest an immediate change should be to require development agreements and would recommend them for anything 10,000 sq.ft. and over. She also suggested they look at changing the zoning by-law to include all of District 23.

Ms. Sherry Johnson, Seabright, Director on the Board for the Chamber of Commerce, commented the meeting the other night was quite a disappointment. The people spoke unanimously and yet an amendment was passed. As a member of the Chamber, they represented 175+ businesses and their employees, and she remembered being part of the public forum the Stewardship Association held in March, so they could find a definitive way to set a plan in motion. She remembered the night and many people stayed at home because of the weather but they filled the house nonetheless. What was happening in Westwood Hills out of concern for commercial development infringing on their residential zoning was a testament to the development they see coming in terms of box stores and large developments that are not pleasing to the eye. When you think of a village, you do not think of box stores and buildings made of things you see in a metropolitan area. She thought they have to look at it as a village and find a way to create that same village atmosphere.

Ms. Johnson, referring to various areas in B.C., indicated they found a pleasant way to integrate the commercial community with the residential community. It is inevitable that commercial development will follow a four lane highway. She would like to see buildings that reflect the buildings that are already at the Crossroads. Cedar siding or cement board that looks like cedar siding or gable roofs. What they need in the area is professional office space.

Ms. Sheila Keating agreed they should proceed with the development agreement process as an interim solution, and felt requiring a development agreement between 5,000 and 10,000 sq.ft. was reasonable. In terms of the development agreement, she agreed they should establish criteria, and they should look at signage, height, architecture, site lighting, community amenities, quality of the materials, and the context. She did not want the area to become a victim of urban sprawl. She questioned how long the process would take, and whether they could forward additional comments prior to the public hearing. She urged that they continue to sit down with Canadian Tire and map out something brand new that is not a box store.

The meeting adjourned at approximately 9:20 p.m.