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Item No. 10.1.1
Halifax and West Community Council
July 19, 2022
August 30, 2022

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: - Original Signed -
Kelly Denty, Executive Director of Planning and Development

DATE: June 16, 2022

SUBJECT: Case 24241: Rezoning of 4510 Prospect Road, Bayside

ORIGIN

Application by East Coast Evergreen Developments Inc.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to Schedule A – Zoning Map of the Land Use By-law for Planning District 4 (Prospect), as set out in Attachment A, to rezone 4510 Prospect Road, Bayside from the I-3 (Local Service) Zone to the RRE-1 (Rural Residential E-1) Zone and schedule a public hearing; and
2. Adopt the amendment to Schedule A - Zoning Map of the Land Use By-law (LUB) for Planning District 4 (Prospect), as set out in Attachment A.

BACKGROUND

East Coast Evergreen Development Inc. has applied to rezone 4510 Prospect Road, Bayside from the Local Service (I-3) Zone to the Rural Residential E-1 (RRE-1) Zone to allow the construction of a single unit dwelling. The existing Local Service (I-3) zoning allows a single unit dwelling but only in conjunction with a permitted I-3 land use. The applicant does not wish to have an I-3 land use on the property and is therefore requesting the site be rezoned to RRE-1.

Subject Site	4510 Prospect Road, Bayside - PID 40873515
Location	South side of Prospect Road with frontage onto Shad Bay
Regional Plan Designation	Rural Commuter (RC)
Community Plan Designation (Map 1)	Rural Residential E (RRE)
Zoning (Map 2)	Local Service (I-3)
Size of Site	0.37 hectares (0.92 acres)
Street Frontage	61.0 metres (200 feet)
Current Land Use(s)	Vacant
Surrounding Use(s)	Low density rural residential

Proposal Details

The applicant wishes to amend the Land Use By-law for Planning District 4 (Prospect) to rezone the subject property to allow the site to be developed with a single unit dwelling. The proposed single unit dwelling would need to meet the requirements of the RRE-1 Zone should the rezoning come into effect.

Enabling Policy and LUB Context

The subject site is designated Rural Residential E (RRE) under the Municipal Planning Strategy for Planning District 4 (MPS). This designation has been applied to this area and is intended primarily to support the growth of the low-density residential environment with its associated home business, resource and community facility uses. The proposed rezoning may be considered by Community Council in accordance with Policies RRE-2 and IM-11 of the MPS (Attachment B).

Policy RRE-2 allows Council to apply the RRE-1 (Rural Residential E-1) Zone on lands within the Rural Residential E designation. The zone is intended to permit the development of single unit dwellings, limited fishery support and aquaculture support uses, limited agricultural uses, institutional uses, home business uses and all existing businesses and all existing dwellings. To address compatibility concerns, provisions within the zone place controls on the size and location of fishery support, aquaculture support and agriculture uses, and on the size, location, outdoor display, use of signage, use of mechanical equipment and outdoor storage aspects of home business activities. Provisions within the Zone also stipulate that home business uses must be conducted by a resident of the dwelling. Attachment C contains excerpts from the LUB that include the RRE-1 Zone provisions.

Policy IM-11 contains general implementation policy criteria that Council must consider prior to amending the LUB, such as: the proximity and impact on schools, recreation or other community facilities, potential for damage or destruction of historic buildings or sites; and site suitability with respect to environmental considerations, such as the locations of watercourses.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, and letters mailed to property owners within the notification area. A total of 36 unique pageviews were recorded, but no public comments were received.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed LUB amendment. Should Community Council decide to proceed with a public hearing on this application, in addition to the published notices on the HRM Planning and Development Public Hearing Webpage, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail. The HRM Planning Application website will also be updated to indicate notice of the public hearing. The proposal will potentially impact local residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed rezoning that would apply to 4510 Prospect Road. Attachment B provides an evaluation of the proposed rezoning in relation to relevant MPS policies. Of the matters reviewed to satisfy the MPS criteria, the following have been identified for more detailed discussion.

Compatibility with Surrounding Uses and Community

The subject site is located within an established low-density residential coastal village environment. The existing property on 4510 Prospect Road, Bayside is vacant. The property was once part of a larger parcel that was zoned I-3 (Local Service) in 1995. The larger parcel has since been subdivided and the I-3 zoning remained with the lands after the subdivision process.

Permitted lands uses within the existing I-3 zoning are considered less compatible with the existing uses in the surrounding community than the proposed RRE-1 Zone, as shown below.

Permitted uses in the I-3 and RRE-1 Zones

I-3 (Local Service) Zone	RRE-1 (Rural Residential E-1) Zone
<ul style="list-style-type: none">• Single and two-unit dwellings in conjunction with permitted uses• Autobody shops and engine repairs• Welding, plumbing and heating, electrical, carpentry, sheet metal, black smithing, and other special trade contracting services and shops• Trucking, landscaping, excavating and paving services• Machine shop• Service shops• Wholesale bakeries• Laundromats• Boat shops• Existing salvage yard uses on PIDs 568162, 404822, 40067431 and 40258295• All existing dwelling units	<ul style="list-style-type: none">• Single unit dwellings• Home business uses• Open space uses• Institutional uses• Fishery support uses• Aquaculture support uses• Agricultural uses• Existing business uses• All existing dwellings

It should be noted that once a property is rezoned, any use permitted under the new zone could be established on the site, subject to meeting the form and use requirements of the LUB. Staff advise that while the intentions of the applicant are clear and not likely to change, this was not a factor in their evaluation of the relevant plan policies.

Coastal Setback

Because the subject site shares a boundary with the ordinary high-water mark of the Atlantic Ocean, the horizontal and vertical watercourse buffers of the Land Use By-law apply. Since the average positive slope

within 20 metres from the shoreline is 23%, the overall horizontal buffer under Section 4.19 of Planning District 4 Land Use By-law is 21.5 metres. The vertical watercourse buffer also applies to a dwelling within 3.8 metres elevation above Canadian Geodetic Vertical Datum on a lot abutting the coast of the Atlantic Ocean, under Section 4.19A of Planning District 4 Land Use By-law. The elevation at the horizontal watercourse buffer is 5 metres. It is not anticipated that applying these regulations would preclude construction of a home on this property.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The MPS seeks to support low density residential development along the Lighthouse Route of Highway 333 through the establishment of the RRE-1 Zone. Following Council approval, the development would be required to meet the provisions of the LUB, as well as any applicable provincial requirements, and secure all appropriate permits. Therefore, staff recommend that the Halifax and West Community Council approve the proposed LUB amendment.

FINANCIAL IMPLICATIONS

There are no financial implications. The HRM cost associated with processing this planning application can be accommodated with the approved 2022-2023 operating budget for Planning and Development.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the NS Utility and Review Board. Information concerning risks and other implications of adopting the proposed LUB amendment are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

As noted above, the site is located on the coast of the Atlantic Ocean. The LUB contains requirements related to coastal setbacks and elevations, to which the proposed development must adhere.

ALTERNATIVES

1. Halifax and West Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the NS Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to approve the proposed LUB amendment subject to modifications, and such modifications may require a supplementary staff report. A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

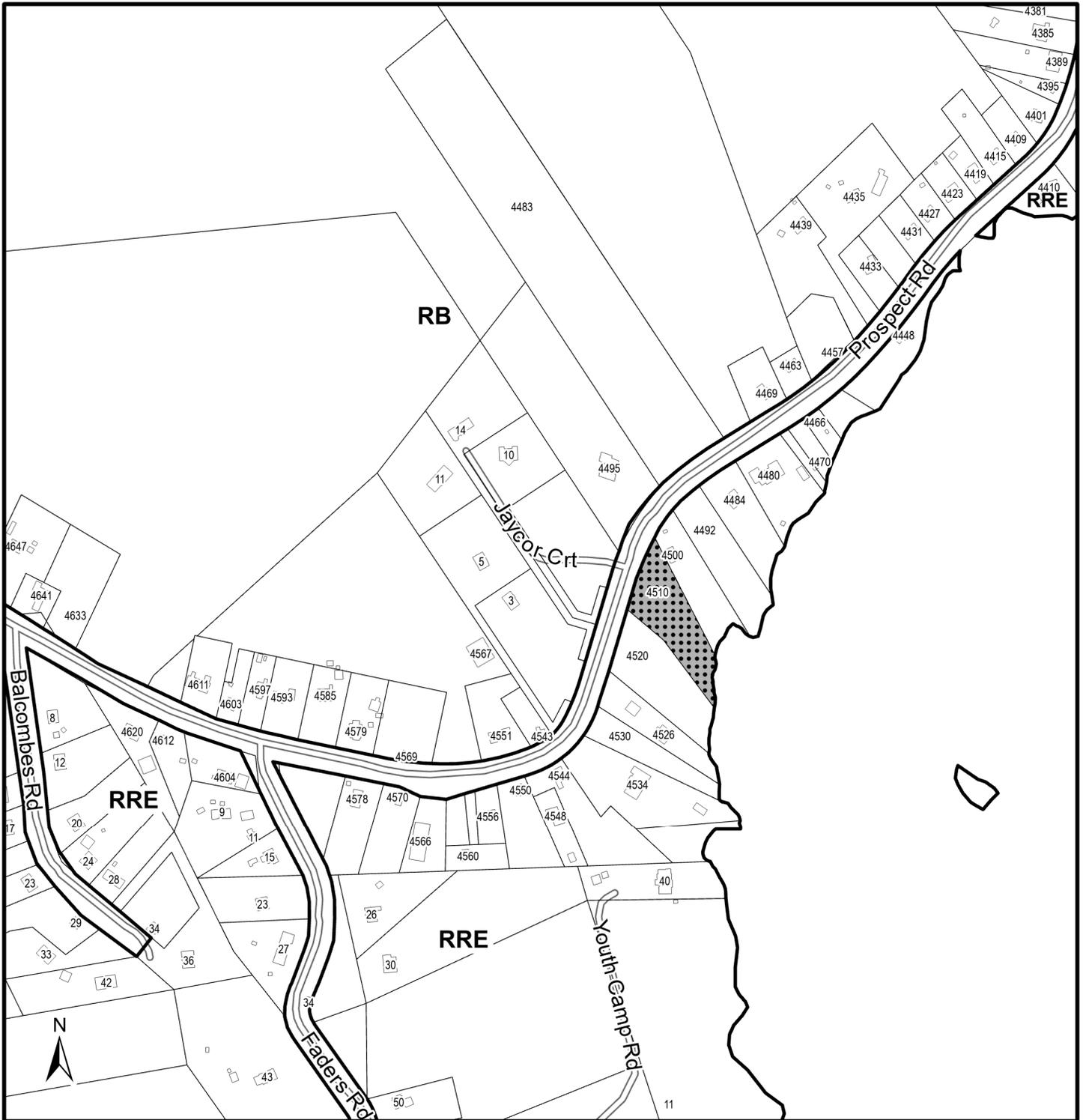
ATTACHMENTS

Map 1: Generalized Future Land Use
Map 2: Zoning and Notification Area

Attachment A: Proposed Amendments to LUB for Planning District 4 (Prospect)
Attachment B: Review of Relevant MPS Policies
Attachment C: Excerpts from the LUB

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Byungjun Kang, Planner II, 782.641.0856



Map 1 - Generalized Future Land Use

4510 Prospect Road,
Bayside

 Subject Property

Planning District 4
Land Use By-Law Area

HALIFAX

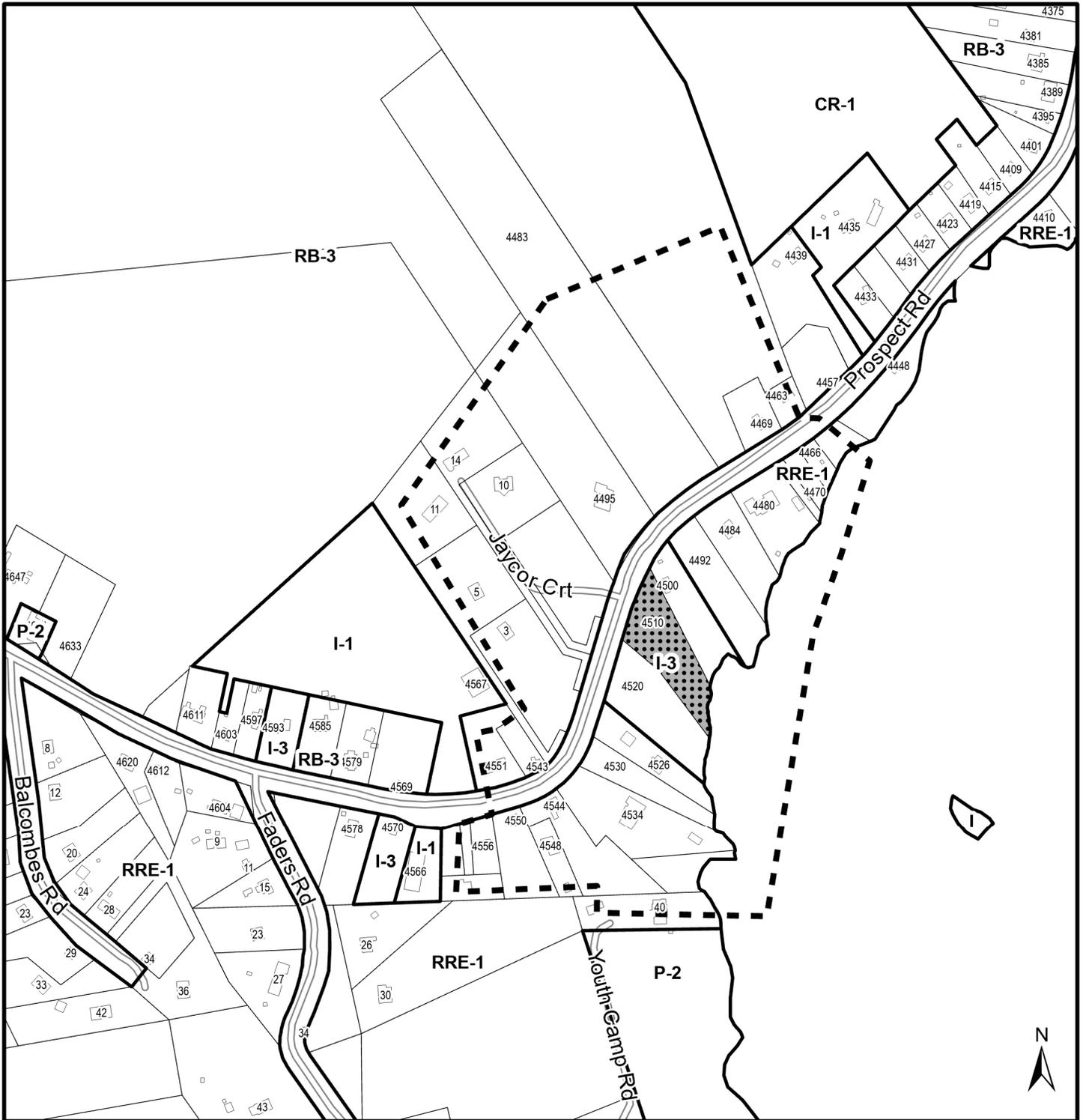


Designation

- RB Residential B
- RRE Rural Residential E

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

The accuracy of any representation on this plan is not guaranteed.



Map 2 - Zoning and Notification Area

4510 Prospect Road,
Bayside

-  Subject Property
-  Area of Notification

Planning District 4
Land Use By-Law Area

Zone

- RB-3 Residential B-3
- RRE-1 Rural Residential E-1
- I-1 Light Industry
- I-3 Local Service
- P-2 Community Facility
- CR-1 Commercial Recreation 1

HALIFAX



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Attachment A:

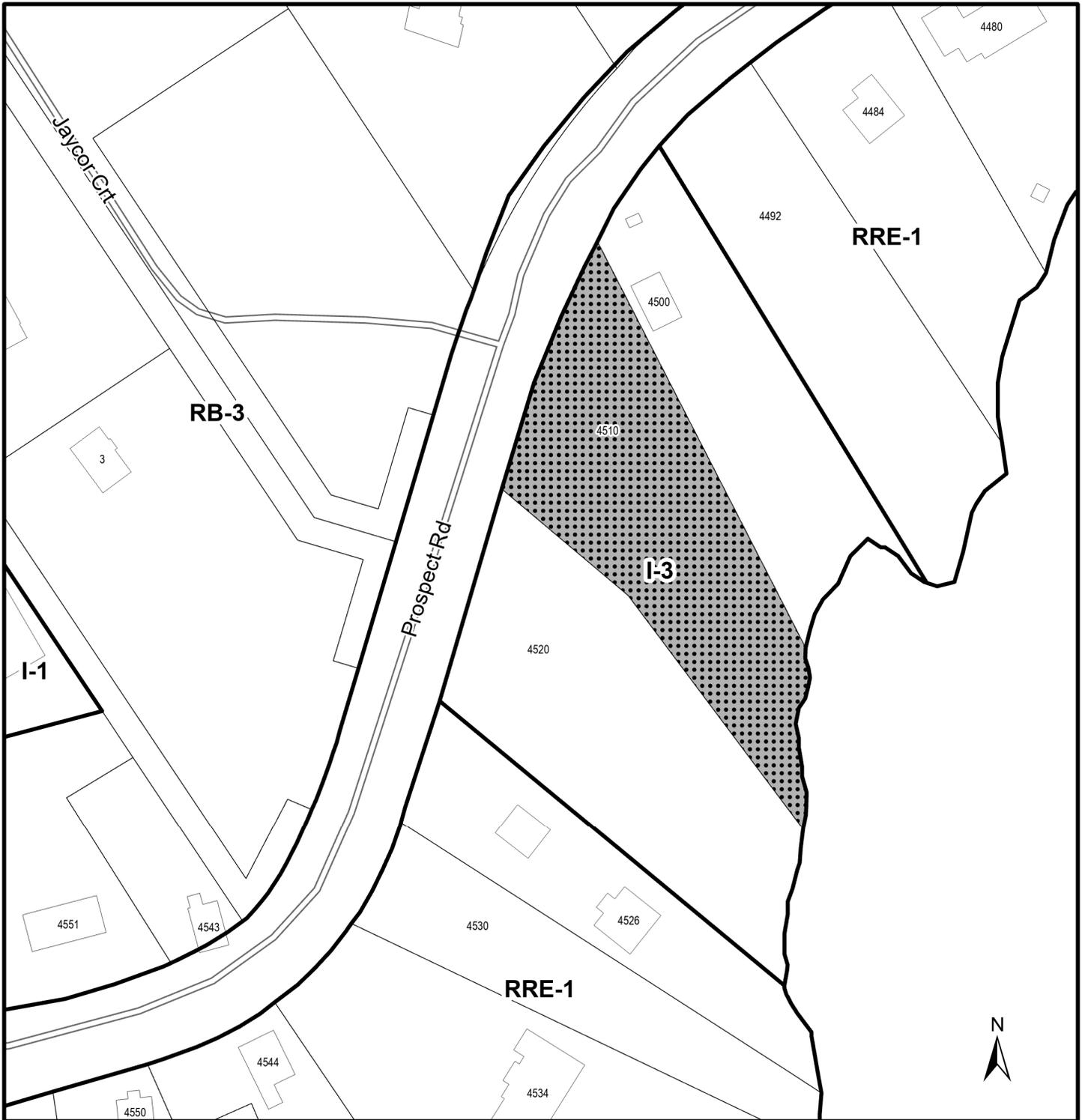
Proposed Amendment to the Land Use By-law for Planning District 4 (Prospect)

BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Planning District 4 (Prospect) is hereby amended as follows:

1. Amend Schedule A, the Zoning Map, by rezoning the property identified as 4510 Prospect Bay Road (PID 40873515) from the I-3 (Local Service) Zone to the RRE-1 (Rural Residential E-1) Zone, as shown on the attached Schedule A.

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax and West Community Council held on [DATE], 2022.

Iain MacLean,
Municipal Clerk



Schedule A

4510 Prospect Road,
Bayside

HALIFAX

 Area proposed to be rezoned from I-3 (Local Service) to RRE-1 (Rural Residential E-1)

Zone

- RB-3 Residential B-3
- RRE-1 Rural Residential E-1
- I-1 Light Industry



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

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Halifax Peninsula
Land Use By-Law Area

**Attachment B:
Review of Relevant MPS Policies**

Planning District 4 (Prospect)

Policy Number	Policy Provision	Staff Comment
RRE-1	<i>It shall be the intention of Council to establish the Rural Residential E Designation as shown on Map 1 - Generalized Future Land Use. This designation shall provide for the continuation of the low density rural residential environment by providing for a mix of low density residential, resource, home business and community facility uses.</i>	The proposed development, a low density rural residential use (a single unit dwelling), is consistent with intended lands uses of the RRE designation.
RRE-2	<i>Within the Rural Residential E Designation, it shall be the intention of Council to create a rural residential E-1 zone which permits the development of single unit dwellings, limited fishery support and aquaculture support uses, limited agricultural uses, institutional uses, home business uses and all existing businesses and all existing dwellings. In order to address compatibility concerns, provisions within the zone will place controls on the size and location of fishery support and aquaculture support and agriculture uses and on the size, location, outdoor display, use of signage, use of mechanical equipment and outdoor storage aspects of home business activities. Provisions within the zone will also stipulate that home business uses must be conducted by a resident of the dwelling.</i>	<p>The RRE-1 zone permits the development of single unit dwellings, which is suggested in the proposal.</p> <p>The existing zoning on the proposed site, the Local Service (I-3) Zone, permits the construction of single unit dwellings only in conjunction with other permitted industrial uses. The applicant wishes to have residential use only.</p> <p>Rezoning to RRE-1 Zone is the base zone of the Rural Residential E Designation and is therefore consistent with the intent of the MPS.</p>
IM-11	<i>In considering [...] amendments to the land use bylaw, in addition to all other criteria as set out in various policies of this Planning Strategy, Council shall have appropriate regard to the following matters:</i>	See below.
(a)	<i>that the proposal is in conformity with the intent of this Planning Strategy and with the requirements of all other municipal by-laws and regulations;</i>	See the staff comments on Policies RRE-1 and RRE-2 above.
(b)	<i>that the proposal is not premature or inappropriate by reason of:</i>	See below.
(i)	<i>the financial capability of the Municipality to absorb any costs relating to the development;</i>	The proposed development is not anticipated to incur any costs to the Municipality.

(ii)	<i>the adequacy of on-site sewerage and water services;</i>	<p>The applicant received an on-site septic approval from Nova Scotia Department of Environment and Climate Change on March 23, 2022. The proposed on-site septic system, a sand filter with a 2200 litres/day capacity, is adequate to service a single unit residential use with up to 6 bedrooms.</p> <p>The proposed site will be serviced with an on-site well.</p>
(iii)	<i>the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;</i>	<p>The nearest elementary school is a 5-minute drive, and the nearest community facility, Prospect Road Community Centre, is a 10-minute drive.</p> <p>The proposed site is in the catchment area of Atlantic Memorial Elementary School, Brookside Junior High, and Halifax West High. All three schools have enough capacity, according to the Halifax Regional Centre for Education in its school capacity report. Further, HRCE is aware of this rezoning application and have indicated they do not have any concerns or comments.</p> <p>The proposed development is one residential unit; therefore, it is not deemed to create any additional demands.</p>
(iv)	<i>the adequacy of road networks leading to or within the development; and</i>	<p>The proposed site is on a provincial collector highway, Highway 333, and the proposed development is one residential unit. A Traffic Impact Statement was not required given the nature of the request which is zoning from an Industrial zone to a Residential Zone. The anticipated development is minimal and adequacy of the road network is sufficient for the ranges of land uses permitted within the RRE-1 zone.</p>
(v)	<i>the potential for damage to or for destruction of designated historic buildings and sites.</i>	<p>There are no designated historic buildings or sites in the vicinity of the proposed site.</p>
(c)	<i>that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i>	<p>See below.</p>

(i)	<i>type of use;</i>	The proposed development, a low-density residential use, is compatible with nearby rural land uses, which is predominantly low-density residential with some local service and marine uses.
(ii)	<i>height, bulk and lot coverage of any proposed building;</i>	The proposed development must conform to the proposed RRE-1 zone requirements, which has height, bulk, and lot coverage requirements.
(iii)	<i>traffic generation, access to and egress from the site, and parking;</i>	No comments were made by the provincial Public Works department and HRM parking services.
(iv)	<i>open storage;</i>	Open storages are not proposed for this site. Outdoor storages are not permitted in the RRE-1 zone.
(v)	<i>signs; and</i>	Signs are not proposed for this site. Any signage must conform to Part 5 of Planning District 4 (Prospect) Land Use By-law.
(vi)	<i>any other relevant matter of planning concern.</i>	
(d)	<i>that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</i>	While the proposed site faces the ocean and has an average of 23% slope at the southeastern portion towards the ocean, the submitted site plan indicates that the proposed dwelling would stay at least 21.5m away from the ordinary high-water mark. A 21.5m distance is the minimum watercourse buffer required under clauses 4.19(1)(a) and (b) of Land Use By-law.
(e)	<i>Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.</i>	A subdivision process is not required for this proposed development.

Attachment C: Excerpts from the LUB

PART 28: I-3 (LOCAL SERVICE) ZONE

28.1 I-3 USES PERMITTED

No development permit shall be issued in any I-3 (Local Service) Zone except for the following:

Local Service Uses

Autobody shops and engine repairs

Welding, plumbing and heating, electrical, carpentry, sheet metal, black smithing, and other special trade contracting services and shops

Trucking, landscaping, excavating and paving services

Machine shop

Service shops

Wholesale bakeries

Laundromats

Boat shops

Salvage Yard Uses

Existing salvage yard uses on LIMS Nos. 568162, 404822, 40067431 and 40258295

Residential Uses

Single and two unit dwellings in conjunction with permitted uses

All existing dwelling units

28.2 I-3 ZONE REQUIREMENTS

In any I-3 zone where uses are permitted in accordance with Section 28.1, no development permit shall be issued except in conformity with the following:

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

28.3 OTHER REQUIREMENTS: LOCAL SERVICE USES

Where any use is permitted as a local service use, except existing salvage yards, the following shall apply:

- (a) The total gross floor area of all buildings on any lot which are devoted to local service uses shall not exceed two thousand (2,000) square feet (185.8 m²).
- (b) No materials or mechanical equipment shall be permitted which are obnoxious or which creates a nuisance.

- (c) Any storage associated with the local service use, with the exception of mobile equipment, shall be contained within a building or otherwise enclosed by vegetation or other means which provide an effective visual barrier.
- (d) Any area devoted to outdoor display shall be confined to a maximum of four hundred (400) square feet (37.2 m²) of contiguous display area.

28.4 OTHER REQUIREMENTS: EXISTING SALVAGE YARDS

Notwithstanding any other provisions within the I-3 Zone where expansion of existing salvage yards are permitted in an I-3 Zone, the following shall apply:

- (a) An existing salvage yard may be permitted to expand up to the limits of the existing lot.
- (b) The minimum front or flankage yard and rear and side yards must be fifty (50) feet (15.5 m).
- (c) Where no vegetative screening exists on a property, an effective screen consisting of either a solid fence or a combination of an earth berm and vegetative cover, a minimum height of eight (8) feet (2.3 m) must be erected.
- (d) A driveway, consisting of a minimum of twenty (20) feet (6.1 m) in width, must be constructed to the entrance of the fenced area of the salvage yard.

PART 19: RRE-1 (RURAL RESIDENTIAL E-1) ZONE

19.1 RRE-1 USES PERMITTED

No development permit shall be issued in any RRE-1 (Rural Residential E-1) Zone except for the following:

Residential Uses

Single unit dwellings

Home business uses

Community uses

Open space uses

Institutional uses

Resource Uses

Fishery support uses

Aquaculture support uses

Agricultural uses

Other Uses

Existing business uses

All existing dwellings

19.2 RRE-1 ZONE REQUIREMENT

In any RRE-1 Zone, where uses are permitted in accordance with Section 19.1, no development permit shall be issued except in conformity with the following:

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

19.3 OTHER REQUIREMENTS: HOME BUSINESS USES

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

- (a) Any home business shall be wholly contained within either the dwelling or an accessory building on the property which comprises the principal residence of the operator of the home business.
- (b) No more than fifteen hundred (1,500) square feet (139.4 m²) of the combined gross floor area of any structure shall be devoted to a home business use.

- (c) No materials or mechanical equipment shall be used which is obnoxious or creates a nuisance by virtue of noise, vibration, glare, odour or dust.
- (d) All outdoor display shall be confined to a maximum of thirty-six (36) square feet (3.3 m²) of contiguous display area which shall not exceed six (6) feet (1.8 m) in height.
- (e) No outdoor storage of materials, goods, supplies or equipment related to the operation of the business shall be permitted.
- (f) No more than one (1) sign shall be permitted for any home business and no such sign shall exceed four (4) square feet (0.4 m²) in area.
- (g) One (1) off-street parking space other than that required for the dwelling shall be provided for every three hundred (300) square feet (27.9 m²) of floor area devoted to any business or facility.

19.4 RRE-1 ZONE REQUIREMENTS: INSTITUTIONAL

Where institutional uses are permitted in the RRE-1 zone, no development permit shall be issued except in conformity with the provisions of the P-2 (Community Facility) Zone.

19.5 OTHER REQUIREMENTS: FISHERY SUPPORT USES

Notwithstanding the rear and side yard set back requirements of Section 19.2, where fishery support uses are permitted in any RRE-1 Zone, the following shall apply:

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

19.6 OTHER REQUIREMENTS: AQUACULTURE SUPPORT USES

Notwithstanding the rear and side yard set back requirements of Section 19.2, where aquaculture support uses are permitted in any RRE-1 Zone, the following shall apply:

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

19.7 OTHER REQUIREMENTS: AGRICULTURAL USES

In any RRE-1 Zone where agricultural uses are permitted, and where any barn, stable or other building intended for the keeping of more than one hundred (100) domestic fowl or twenty (20) other animals is erected, no such structure shall:

- (a) Exceed fifteen hundred (1,500) square feet (139.4 m²);
- (b) Be less than eight (8) feet (2.4 m) from any side lot line;
- (c) Be less than one hundred (100) feet (30.5 m) from a potable water supply except a supply on the same lot or directly related to the agricultural use;
- (d) Be less than thirty-two (32) feet (9.7 m) from any dwelling except a dwelling on the same lot or directly related to the agricultural use; or
- (e) Be less than twenty-five (25) feet (7.6 m) from any watercourse or waterbody.