

## **TOWN OF ROCKY HARBOUR**

### **DEVELOPMENT REGULATIONS AMENDMENT No. 3, 2022**

**Change of land use zone of an area in the vicinity of Route 430, between Harbour Drive and Shear's Lane, from Residential (RES) to Mixed Development (MD)**

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**As approved by Council 12 October 2023**

**HMJ Consulting Limited**

**Project 22-005**

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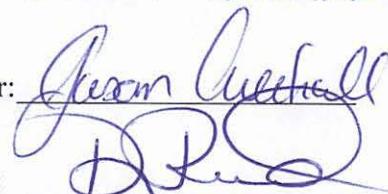
## **RESOLUTION TO ADOPT; CLERK'S & MCIP CERTIFICATE**

Under the authority of Section 16 of the *Urban and Rural Planning Act 2000*, the Town Council of Rocky Harbour adopts Amendment Number 3, 2022, to the Development Regulations for 2013-2023.

Resolved by the Town Council of Rocky Harbour on the 8<sup>th</sup> day of August, 2023.

Signed and sealed this 7<sup>th</sup> day of November, 2023

Mayor:



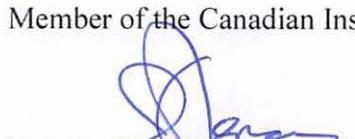
Clerk:



### **MCIP Certificate**

I certify that the attached Amendment Number 3, 2022 to the Development Regulations document has been prepared in accordance with the requirements of the *Urban and Rural Planning Act, 2000*.

Member of the Canadian Institute of Planners

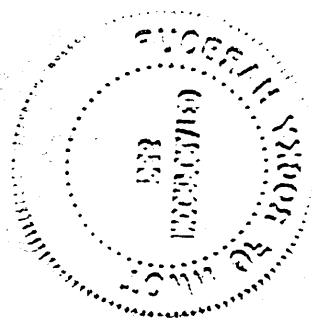


Jens Jensen, P.Eng., MCIP

Date: 17<sup>th</sup> day of November, 2023



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## ***COUNCIL RESOLUTION TO APPROVE; CLERK'S CERTIFICATE***

WHEREAS the Town Council of Rocky Harbour under the authority of Sections 16, 17, and 18 of the *Urban and Rural Planning Act 2000* adopted the proposed Amendment Number 3, 2022, to the Development Regulations for 2013-2023, on the 8<sup>th</sup> day of August, 2023, gave notices of their intention to so do by advertisements in the *West Coast Wire*, a newspaper circulating in the Municipal Planning Area, on the 16<sup>th</sup> and 23<sup>rd</sup> days of August, 2023, appointed a commissioner to hold the required public hearing at 7:00 pm on the 31<sup>st</sup> day of August, 2023, and considered the report of the commissioner appointed by Council,

Now under the authority of Section 23 of the *Urban and Rural Planning Act 2000*, the Town Council of Rocky Harbour approves without revision the said Amendment Number 3, 2022, to the Development Regulations for 2013-2023.

Resolved by the Town Council of Rocky Harbour on this 12<sup>th</sup> day of October, 2023.

Signed and sealed this 7<sup>th</sup> day of November, 2023

Mayor:



(Council Seal)

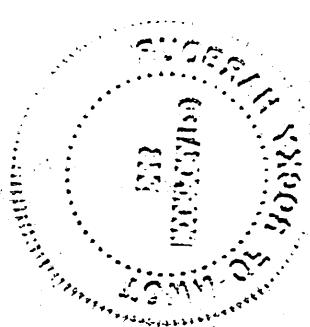
Clerk:



Registry stamp filled in by MAPA when the document is registered:

Development Regulations/Amendment	
<b><u>REGISTERED</u></b>	
Number	<u>4245-2023-004</u>
Date	<u>30 Nov 2023</u>
Signature	<u>JPSAmmond</u>

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1952 SINGAPORE GOVERNMENT

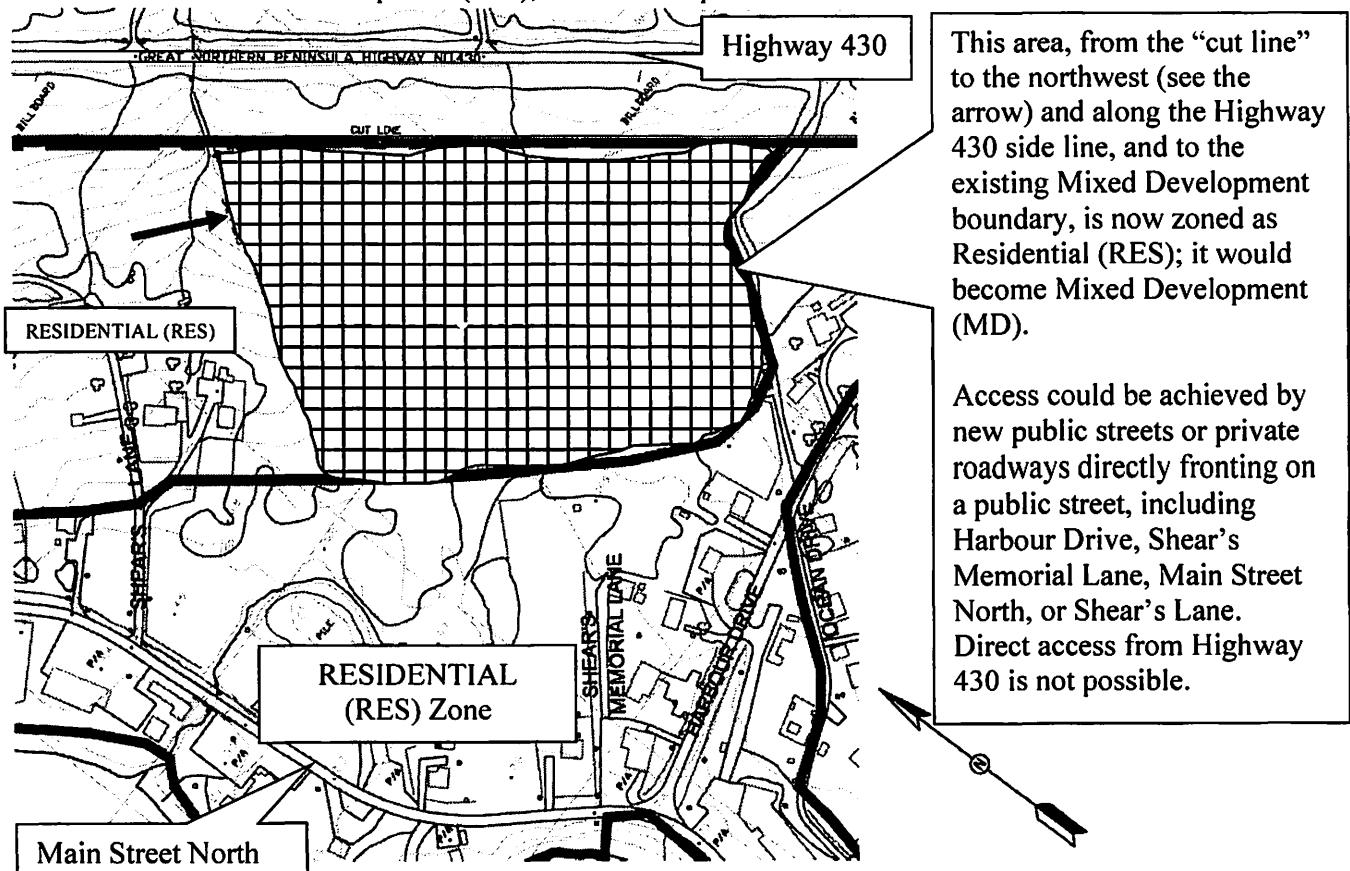
## TOWN OF ROCKY HARBOUR - DEVELOPMENT REGULATIONS FOR 2013-2023

### AMENDMENT No. 3, 2022

#### BACKGROUND

The Town Council of Rocky Harbour has adopted an amendment to its Development Regulations. The Municipal Plan is to be amended concurrently in like fashion.

Council has been considering opportunities for economic development for which the current Municipal Plan and Development Regulations may be overly restrictive. An undeveloped area alongside Highway 430, lying between Shear's Lane and Harbour Drive, has excellent exposure to the travelling public on that highway. As such, tourism related development such as motels and retail trade may be attracted to the area, and some of those classes of development may not be permissible under the current planning documents. Council wishes to have planning policies that would provide a broader degree of flexibility there than is possible in the area shown below on a part of the official Map 2 in the Development Regulations. The appropriate new land use zone would be Mixed Development (MD), as will be explained later.



A planning policy analysis prepared by Council's professional planning consultant, Mr. Jens Jensen, P.Eng., MCIP, HMJ Consulting Limited, is presented next, followed by a statement of Council's plans for public consultation and notes on the permitting process which would apply to specific development applications which would follow after the amendment comes into effect.

## PLANNING POLICY ANALYSIS

Council is attracted to the potential for appropriate developments which will enhance and strengthen the local economy while respecting valued amenities of surrounding owners. With that in mind, the Mixed Development designation in the Municipal Plan and the corresponding land use zone of Mixed Development (MD) are seen to be appropriate. The permitted and discretionary uses are as shown in the Use Zone Table in the Development Regulations:

ZONE TITLE	MIXED DEVELOPMENT (MD)	(ROCKY HARBOUR)
<b>Permitted Use Classes</b> - (see Regulation 89)	Single dwelling, double dwelling, recreational open space.	
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90)	Assembly, special care institutional, all other residential uses, all Group D business uses; mercantile uses, service stations excluding repair or storage of vehicles.	

Council intends the proposed amendment (together with the concurrent amendment to the Municipal Plan) to enable approval of the classes of development which are potentially permissible in the Mixed Development (MD) zone. The change of zone of the subject area to Mixed Development enables a broader range of possibilities, and possibly at larger scales, for development than is possible in the existing Residential (RES) zone. Note that industrial group uses would not be allowable, other than for the class of service stations. Council has the ability to control approvals other than for the low-density residential classes (single and double dwelling) and recreational open space, thus providing for detailed case by case consideration and opportunity for public comment on each discretionary development.

Making amendments must satisfy an important requirement in the Municipal Plan. Section 2.3

speaks about ad hoc amendments by saying:

*"The Municipal Plan may be amended at any other time, in whole or in part, for legitimate reasons that may have been unforeseeable at the time it had initially been drafted. Any such amendment must be consistent with the Municipal Plan as the amendment will be read together with and become part of the Municipal Plan."*

The next parts of this analysis reviews policies in the Municipal Plan to ensure that the amendment is warranted, beginning with satisfaction of the policy in Section 2.3 that requires review of the reason for the amendment and its consistency with the rest of the Municipal Plan, and is followed by more detailed considerations.

### **Reason for the Amendment**

The policy stated above includes the requirement that the amendment be "legitimate" and "unforeseeable".

Council is continually seeking opportunities for economic development, including identifying undeveloped areas which could accommodate useful and beneficial forms of land use. As the amendment potentially benefits the local economy without significantly adversely affecting nearby lands, the reason can be said to be legitimate.

The reason for the amendment can be said to be unforeseen. When the Municipal Plan for 2013 – 2023 was being researched and prepared during 2012 and 2013, the circumstances of the community had changed considerably since its predecessor Municipal Plan for 1994 – 2004 was being composed. At that time (1994), the northern cod moratorium had just taken effect, with near-catastrophic impacts on the provincial economy. By 2013, the gloomy forecasts of 1994 were slowly easing for some communities, including Rocky Harbour whose economic base was not totally dependent on the fishery. The current Municipal Plan summarizes the change from 1994 to 2013 concerning commercial land uses in its Section 4.1, as follows (note the bold font added for emphasis):

*More recently, with the development of the Viking Trail and the creation of the National Park, relatively new areas have developed in relation to the access roads leading off the Viking Trail, which is a limited access highway, along West Link Road and Harbour Drive. A number of residential subdivisions have been created in vacant lands in the core, such as Shears Village Lane and Parsons Lane.*

*The commercial focus of the Town has begun to shift from the waterfront to the access*

*roads off the Viking Trail. Development on West Link Road in particular includes a hotel and industries as well as a service station at its intersection with the Viking Trail. The commercial development along Main Street has been actually mixed with residential properties for many years, and it is unlikely that there will be a substantial change in that regard in the future. There are very fine opportunities along the shoreline for viewpoints, public open space and waterfront walking trails, in particular in the area of the wharf at the end of Harbour Drive.*

The look forward in 2013 recognized the shifting in geographic focus of the major commercial developments which were beginning to predominate. There was little opportunity for large scale commercial development along the waterfront as Main Street North and South was (and still is) almost continuously built up. Subsequent interest in commercial development at larger scale led to amendments to the Municipal Plan and Development Regulations in 2016 to facilitate large scale mercantile and industrial uses in areas along West Link Road. The lots fronting on that road have now been largely developed, and the back lands in that designation have little exposure to the street, and thus more likely will be of interest to industrial uses, as is intended in that designation of Industrial/Commercial.

The specific area affected by this amendment in 2022 is clearly attractive in that respect as it has excellent visibility from Highway 430, a positive feature for any form of development of interest to the travelling public.

The continued interest in substantial commercial development following the 2016 amendment was not foreseen even when that change was made. Indeed, Council will in the foreseeable future be engaged in a comprehensive review of the Municipal Plan and Development Regulations as a positive economic development trend continues; it is expected that a significant matter for discussion will be the availability of land for commercial development.

### **Consistency with Municipal Plan**

The planning goals and objectives in the Municipal Plan are set out in Section 5.2, in which the following parts are relevant (the significant points related to this amendment in each are bolded and underlined):

#### ***A) Growth and Urban Structure***

***Goal:*** ***To provide for orderly growth and development within the community.***

**Objectives:**

- *Council will undertake to use this Municipal Plan to guide its exercise of powers and responsibilities for the provision of services, the allocation of land uses, and the general development of the community.*
- *Land uses will be allocated so as to encourage economic development and to preserve and enhance positive features reflecting the heritage and amenities of the community, while also recognizing natural constraints and limitations, in order to improve quality of life in the community and protect life and property, and to minimize effects on the natural environment.*
- *Compact development of the community will be promoted, in order to provide municipal services to properties as efficiently as possible.*

**C) Employment and Economic Development**

**Goal:** *To encourage institutional, commercial and industrial activities that will meet the community's employment needs and provide needed goods and services, and in particular to press for strengthening the economic base and employment opportunities in the Town and surrounding communities.*

**Objective:**

- *To monitor developments concerning the fishery, the National Park, and other economic sectors, with a view to representing the community promptly and responsibly on points affecting investment, government regulation, environmental impact and community development.*
- *To provide for flexibility and rapid response to development proposals, particularly those related to small business startups and expansions, so as to facilitate business development.*
- *To designate sufficient lands suitably located and serviced for commercial and industrial development, to achieve an adequate land base for economic development and a more efficient land use pattern.*

Considering the foregoing, the amendment is clearly consistent with the Municipal Plan in that:

1. The amendment acts to encourage economic development while not materially impacting the surrounding area.
2. The designation change reflects a compact infill between existing developments and requires no additional municipal services.
3. There is an unforeseen general shortage of land for commercial development in the community, and this change will help address that issue.

### **Conformance with Development Concept for the Municipal Planning Area**

The Section of the Municipal Plan which follows the statements of goals and objectives is the development concept, in Section 6.1. It presents a general view of the community's development pattern followed by policies specific to the various land use designations set out in the Municipal Plan, as well as policies applicable to all areas in the community. In its opening lines, Section 6.1 says "*...the need to proactively accommodate growth for tourism and other commercial and industrial development is becoming clear and in fact represents the economic future of the community.*" The question of whether the specific area affected by this amendment is suitable is addressed next.

### **Changing the Designation to Mixed Development**

The existing Municipal Plan for 2013 – 2023 includes land use designations that are appropriate for various areas. The difference between the current Residential designation and that of Mixed Development is important, in that both permit certain developments in common, but the scope of discretionary development types and the conditions pertaining to them are very different.

The Residential designation, which is applied to large areas, including the subject area, is devised with the following policies stated in Section 6.2.2 (2) and (3)—some words are bolded and underlined for emphasis:

2. *Land designated Residential shall be developed primarily for single and double dwelling residential uses. Uses permitted as of right will comprise single dwelling, double dwelling, and recreational open space uses. Other types of development may be considered as discretionary uses, comprising general assembly uses except for passenger, catering, and amusement uses; all other Division 1 residential uses, including home businesses and subsidiary apartments in any type of residential development; medical and professional; and, personal service uses. The non-residential uses which may be permitted by way of discretionary approval are subject to evaluation of the applications, which shall give primacy to the residential role of the area. Council*

*will consider the impact of the bulk and scale of proposed discretionary uses to ensure that development does not adversely affect the residential character and amenity of the area and that provision is ensured for adequate space for on site parking and loading, and where needed that buffering is provided.*

*3. Residential growth shall be accommodated in approved comprehensive subdivisions and through the orderly infilling of already serviced areas in the community, to ensure the efficient use of available lands. New development and subdivisions shall be serviced with public streets and extensions of the municipal central water and sewer systems.*

The clear intention is that non-residential uses must not “...*adversely affect the residential character and amenity of the area...*” as said in (2) and that the general form of new developments will be either infill amongst existing lots or by way of conventional, fully serviced residential subdivisions. The scope and scale of commercial developments are intended to be modest and benign. In order to provide for more flexibility in developing non-residential land uses and to better fulfill the economic development objective, the Municipal Plan includes the Mixed Development designation.

Section 6.2.1 details the policies applicable to the Mixed Development areas, as follows:

*As said in the historical sketch given earlier in this document, the focus of the initial settlement pattern of the community was naturally the harbour and the fishery infrastructure that grew up on the waterfront. Immediately inland was the principal commercial street along which retail and service establishments were located, together with the primary public services such as the post office, municipal building, and churches. That shoreline area is still characterized as a mixture of residential and commercial development, and is expected to continue in that way for the foreseeable future.*

*Almost the entire length of Main Street, North and South, from the fish plant at the southwest end and almost to the Town boundary just beyond Spring Lane at the other end, is therefore designated as Mixed Development. The residential uses there may over time be superseded by commercial development, but this is not foreseeable within the ten year span of the proposed Municipal Plan.*

The map shown in the Background statement shows how the areas inland from the waterfront include lands along a number of side streets out from Main Street. A couple of paragraphs later in the Section, the general policies are set out for the Mixed Development Area, as follows in which key phrases are bolded and underlined for emphasis:

*As Mixed Development areas have the potential to accommodate small business startups in existing buildings, and redevelopment of existing larger commercial and light*

*industrial buildings to other uses, great flexibility is needed in the ability of Council to promptly consider approval of applications for non-residential uses related to economic development and non-traditional residential uses. It is the intention of Council to permit a wide variety of development types, while ensuring the amenity and safety of existing residential uses.*

*The following policies will guide the growth and development of the Mixed Development area:*

1. *The Mixed Development areas are established as indicated on the Future Land Use Maps.*
2. *Development of these lands for single and double dwelling residential uses as well as recreational open space will be permitted as of right. Assembly, special care institutional, all other residential uses, all Group D business and personal service uses, and mercantile uses may be permitted as discretionary uses provided public safety and the amenity of established residential uses are protected.*
3. *Small scale business uses may be permitted to occupy a minor part of a residence.*
4. *Commercial uses must be compatible in scale and appearance to surrounding residential uses. Commercial uses will be limited to those that will not be a hazard or nuisance to residences and will be separated an adequate distance from adjoining residences.*
5. *New public uses may be permitted provided they respect residential amenity, safety and privacy. Public uses include religious, educational, and community or government services.*
6. *Recreational open space uses such as public parks and playgrounds are permitted, provided that the amenity and privacy of nearby residential dwellings will be taken into consideration.*
7. *All new development and all new lots created shall have direct frontage onto a publicly-maintained road or in the case of a new subdivision shall have frontage on a road being constructed under the terms of a development permit issued by Council. All infrastructure which is intended to be conveyed to the Town shall be designed and constructed to modern engineering standards. The costs of providing services to any new subdivision development shall be the responsibility of the developer.*

Section 6.3.3 further addresses servicing requirements as follows:

### ***6.3.3 Servicing Requirements***

*All buildings located in the Residential, Mixed Development and Industrial/Commercial designations and that have or are required to have plumbing systems will be required to connect to the municipal water and sewer system. This requirement does not apply, at Council's discretion, to buildings in the Industrial/Commercial designations. This requirement also does not apply to redevelopment of uses on lots that are not serviced by the municipal water and sewer system unless Council determines the development should not be permitted unless it connects to the municipal water and sewer system.*

*With the exception of land uses associated with agriculture, forestry, saw milling, mineral workings or other resource or similar uses for which street frontage would be unnecessary or undesirable, all buildings shall have motor vehicle access to a publicly owned and maintained road, unless other policies and requirements of this Plan specify otherwise.*

Any infrastructure including water, sewer and street services which would be developed by any party needs to satisfy Development Regulations as follows:

Requirement for satisfactory services in any location:

#### ***9. Permit Not to be Issued in Certain Cases***

*Neither a permit nor approval in principle shall be issued for development within the Planning Area when, in the opinion of the Authority, it is premature by reason of the site lacking adequate road access, power, drainage, sanitary facilities, or domestic water supply, or being beyond the natural development of the area at the time of application unless the applicant contracts to pay the full cost of construction of the services deemed necessary by the Authority and such cost shall attach to and upon the property in respect of which it is imposed.*

Streets in any location:

#### ***58. Street Construction Standards***

*A new street may not be constructed except in accordance with good engineering practice and in particular to the Municipal Water, Sewer and Road Specifications promulgated by, and as amended from time to time by, the Department of Municipal Affairs.*

Streets and services in a new subdivision, a number of Regulations as follows:

**71. Services to be Provided**

*No permit shall be issued for the development of a subdivision unless provisions satisfactory to the Authority have been made in the application for a supply of drinking water, a properly designed sewage disposal system, and a properly designed storm drainage system.*

**72. Payment of Service Levies and Other Charges**

*No permit shall be issued for the development of a subdivision until agreement has been reached for the payment of all fees levied by the Authority for connection to services, utilities and streets deemed necessary for the proper development of the subdivision, and all service levies and other charges imposed under Regulations 13 and 14.*

**81. Engineer to Design Works and Certify Construction Layout**

(1) *Plans and specifications for all water mains, hydrants, sanitary sewers, storm sewers and all appurtenances thereto and all streets, paving, curbs, gutters and catch basins and all other utilities deemed necessary by the Authority to service the area proposed to be developed or subdivided shall be designed and prepared by or approved by the Engineer. The design shall conform to good engineering practice and in particular to the Municipal Water, Sewer and Road Specifications promulgated by, and as amended from time to time by, the Department of Municipal Affairs. Such designs and specifications shall, upon approval by the Authority, be incorporated in the plan of subdivision.*

(2) *Upon approval by the Authority of the proposed subdivision, the Engineer shall certify all work of construction layout preliminary to the construction of the works and thereupon the developer shall proceed to the construction and installation, at his own cost and in accordance with the approved designs and specifications and the construction layout certified by the Engineer, of all such water mains, hydrants, sanitary sewers and all appurtenances and of all such streets and other works deemed necessary by the Authority to service the said area.*

**82. Developer to Pay Engineer's Fees and Charges**

*The developer shall pay to the Authority all the Engineer's fees and charges for the preparation of designs and specifications and for the layout and supervision of construction; such fees and charges being percentages of the total cost of materials and labour for the construction and installation of all works calculated in accordance with*

*the Schedule of Fees recommended by the Association of Professional Engineers of Newfoundland and in effect at the time the work is carried out.*

The *Municipal Water, Sewer and Road Specifications* are provided by the provincial government. These include pro forma documents which would be used in public procurement and could be attached as conditions on an approval of a private development in order to ensure proper standards of construction of infrastructure. They include greatly detailed technical specifications. They can be found on the provincial government website at:  
<https://www.gov.nl.ca/ti/mi/mwsr>

In summary, an applicant for a specific development would need to demonstrate that their developments would be properly accessed with good quality streets and supplied with appropriate services. Where available, developments must be connected to municipal water and sewer services. In the event that they desire to use private systems, Council has full control over whether and how such servicing would be acceptable, and provincial government regulations concerning use of private wells and sewage disposal systems must be followed.

The key points drawn from the above affecting developments in the subject area concern support of economic development initiatives, respect for established residential areas, and construction of water, sewer, street and other infrastructure services.

Section 6.3.6 concerns visual effects of development, as follows:

*Where a proposed development is of a size or nature that could in any way have negative effects beyond the boundaries of the site upon which it is located (such as the creation of noise, smoke, dust, fumes or unsightliness), Council may hold an advertised public briefing to ensure interested persons are aware of the potential effects of the proposal and that their concerns are taken into consideration before any decision is made on a development application, whether or not the proposed use is permitted as of right.*

**Screening through such means as retention of original trees and other plant growth or erection of fences or any other measures to render off-site effects acceptable will be required.**

Non-residential development on the subject lands would mostly impact the existing residential development along Shear's Lane to the northwest. Council's view is that this can be addressed when dealing with the specifics of a proposed development by way of requiring a substantial treed buffer strip along the "cut line" shown on the map in the Background statement. In other directions, the area abuts Route 430, and an area already designated as Mixed Development, and an undeveloped area. In those other areas, the impact on the provincial highway (430) is practically nil, and the adjacent Mixed Development area is already largely commercial in

nature.

### **Summary and Conclusion**

The development concept for the municipal planning area, the reasons for the amendment, and the specific policy requirements are clear. Although the Mixed Development designation gives recognition to the value of residential amenities, it is anticipated that there will be new commercial uses of substantial scale and wide variety. In considering such applications, Council will assess the potential negative effects on neighboring owners and residents. Matters of scale, appearance, external lighting, noise, dust, hours of operation and the like are to be taken into account. However, in contrast to the policies for the Residential designation, a broader potential for commercial developments is clearly stated, though there is no entitlement to industrial development and applications for commercial development will be evaluated as discretionary uses.

Changing the land use zone of the subject lands from Residential (RES) to Mixed Development (MD) to reflect the policies of the Municipal Plan can be viewed as an appropriate shift of the existing boundary between the two in that general area. The amendment is compatible with the overall goals and objectives of the Municipal Plan.

### **PUBLIC CONSULTATION**

The Town of Rocky Harbour conducted a public consultation process to present the proposed amendments and hear the views of the public. A flyer which gives a synopsis of the amendment and the reason for it was publicized as follows:

- A poster at the Rocky Harbour Post office,
- Postings on the municipal Facebook and the municipal website,
- Posters sent through the post office to all residential and business postal boxes within the Rocky Harbour postal code.

The notices indicated that the full draft amendment was available on request and that Council was calling for comments on the proposed amendment before finalizing the draft. A clear two week period from the date of postings to closing (2 through 16 December, 2022) was provided for submissions to be received. Copies of the draft were sent on request as hard copy or as a pdf by email. Several submissions were received and considered by Council.

## **STEPS TO LEAD TO A PERMIT**

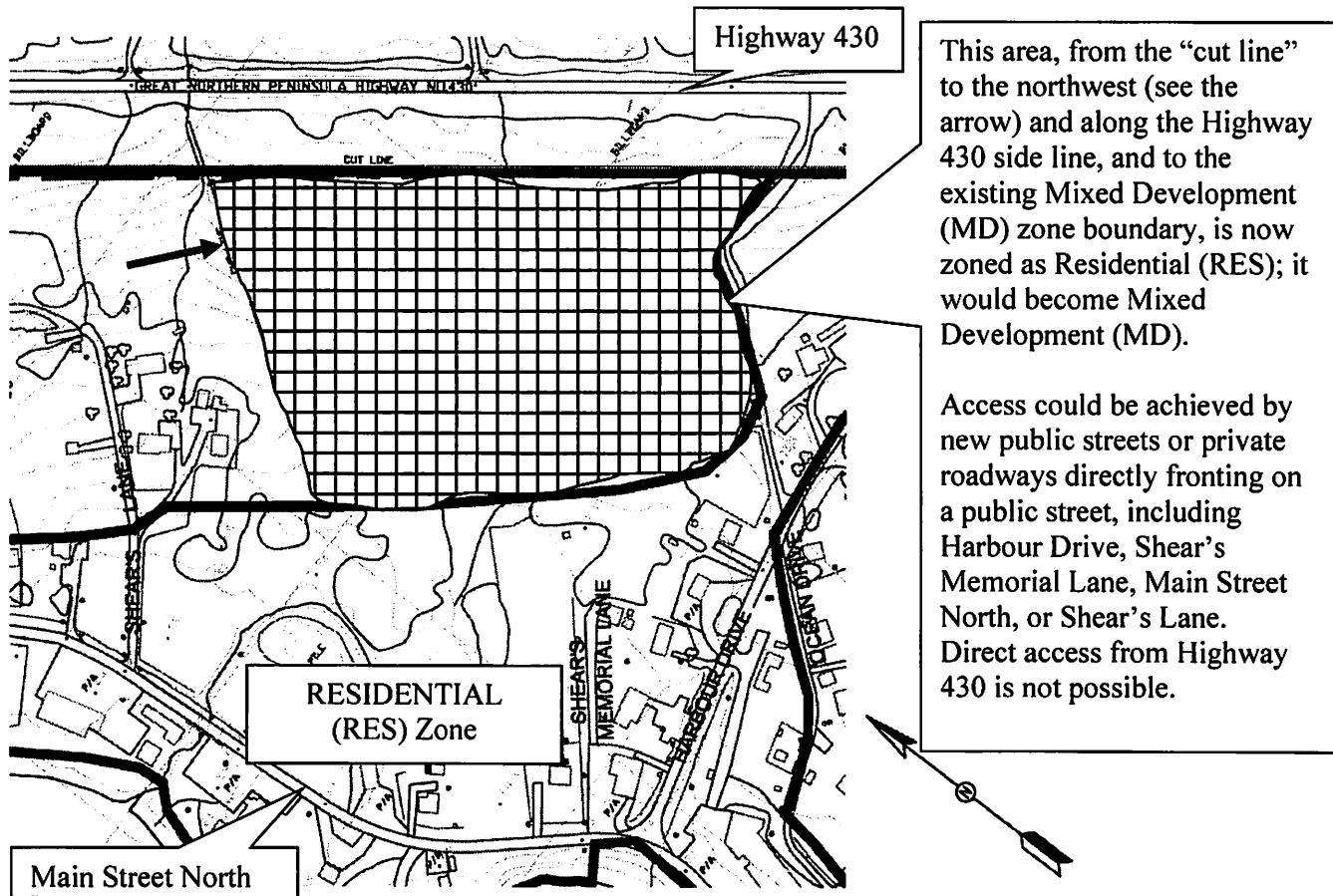
When the amendment and the concurrent amendment to the Municipal Plan come into legal effect, they will only make the subject area land use zone to be Mixed Development (MD). At that point, any proponent needs to make an official application to Council with the details of their proposed development. Council's approval of an application is subject to the Municipal Plan and the requirements of the Development Regulations, which state the conditions which an application must satisfy. The permit would only be approved if the conditions were satisfied.

## THE AMENDMENT

The actual amendment to the Development Regulations, is shown below. As noted in the Background section of this amendment, a concurrent amendment to the Municipal Plan is involved. There are no changes to the text of the Development Regulations; only the land use zone of the subject lands on Map 2 is changed.

### AMENDMENT 3 – 2022 TO THE DEVELOPMENT REGULATIONS FOR 2013 – 2023

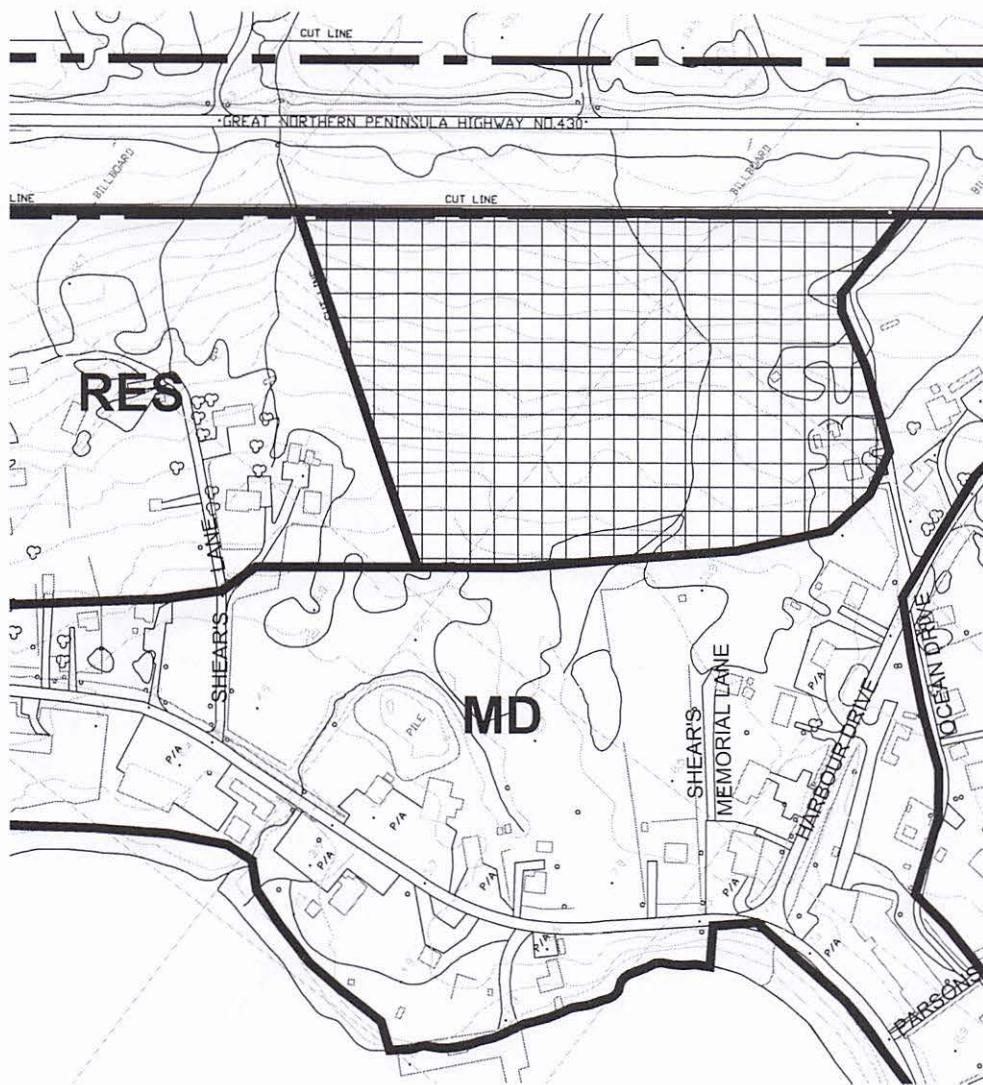
The area shown below on a part of the Development Regulations Land Use Zoning Map 2, is changed from Residential (RES) to Mixed Development (MD):



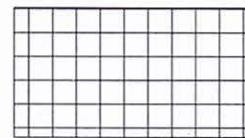
Note: a separate map showing the above has been prepared for the registry in the format required by the Department of Municipal and Provincial Affairs.

# TOWN OF ROCKY HARBOUR DEVELOPMENT REGULATIONS AMENDMENT No. 3-2022

Map 2, Land Use Zoning is amended as shown:



AREA MARKED:



IS CHANGED FROM  
RESIDENTIAL (RES) ZONE TO  
MIXED DEVELOPMENT (MD)  
ZONE.

0 50 100 150 200 m  
SCALE 1:4000 @8½" X 11"

I, a Member of the Canadian Institute of Planners, MCIP Seal:  
certify that this Map showing Amendment  
Number 3, 2022 to the Development Regulations  
has been prepared in accordance with the  
requirements of the Urban and Rural Planning  
Act, 2000

Jens Jensen, P.Eng., MCIP.

Dated 17 November 2023



Development Regulations/Amendment  
**REGISTERED**

Number 4245-2023-004

Date 30 NOV 2023

Signature Jens Jensen

TOWN OF ROCKY HARBOUR

Dated at Rocky Harbour this 7th day of  
November A.D. 20 23

Mayor, Town of Rocky Harbour

Clerk, Town of Rocky Harbour

COUNCIL SEAL



REV 1 APPROVED BY COUNCIL 12 OCT 2023

TOWN OF  
ROCKY HARBOUR  
DEVELOPMENT REGULATIONS  
LAND USE ZONING  
2013 - 2023  
MAP 2

AMENDMENT No. 3-2022

