

# **Sporting Mountain Plan Area**

## **Municipal Planning Strategy**

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**Amended by P.A.C. – October 22, 1996**

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**Approved Richmond County Council – May 20, 2010**

## **Preamble**

A Municipal Planning Strategy and Land Use By-law is a document which enables municipalities to assume the primary authority for planning within their respective jurisdictions, consistent with their urban or rural character through the adoption of municipal planning strategies, land-use By-laws and subdivision By-laws consistent with the policies and regulations of the Province. The process which Council has established to create this plan and By-law is a consultative process which has ensured the right of the public to have access to information and participate in the formulation of these documents. This process has also ensured that the public's right to be notified and heard before decisions are made has been respected.

This document reflects the rural character of the planning area in that it allows traditional uses of land to continue without changing the manner in which they operate. Sporting Mountain is a rural area adjacent to the Bras d'Or Lake with an abundance of wildlife and is rich in natural beauty and natural resources such as gravel, minerals and forests. This type of environment is not compatible with intensive heavy industrial development. Therefore the over-riding principle of this plan and By-law is to protect the environment of Sporting Mountain (specifically water sources) by excluding heavy industrial uses from the area and by establishing controls on medium industrial land uses. The document does not impact on commercial, residential, agricultural, resource (including gravel pits), or recreational uses. These principles have been established as a result of lobbying efforts directed at Richmond County Council.

On 9 March, 1993, a group of residents of the Sporting Mountain area met in the community hall at St. George's Channel to discuss a proposal for a treatment facility to process oil-contaminated soil on the mountain at Thibeauville. The process itself involved hauling in loads of the soil by truck, spreading it out over a designated site and treating it with bacterial agents to decompose the organic elements of the oil: once those elements were deemed at safe levels, the soil would be stockpiled near the site, and new loads would be brought in to repeat the process. Since the site in question was located near the headwaters of the False Bay brook system, and since the system fed into a promising coastal aquaculture development, several people involved with that industry expressed alarm about the possibility of oil-contaminated run-off ruining their investment. Those concerns were shared by others, who feared a possible negative impact on tourism, on recreational use of the land, and upon the region's water supply.

One lesson which was learned by the communities opposed to the oily soil remediation facility was that the municipality did not have any direct land use controls in place, that is, there was no zoning. Therefore Richmond County Council was convinced that the zoning of Sporting Mountain was appropriate and necessary.

## CHAPTER 1 - SETTING

### 1. Introduction

This Municipal Planning Strategy for the Sporting Mountain Plan Area has been prepared for the Council of the Municipality of the County of Richmond according to the provisions of the Planning Act, 1989, Chapter 346, Revised Statutes of Nova Scotia. This plan was pre-determined by Richmond County Council to deal with only industrial development and specifically to address the concerns of the community regarding pollution emitting industries.

Although prepared under the guidance of the Municipality's Planning Advisory Committee, in keeping with a similar process used in St. Peters, an Area Advisory Committee was established and given the responsibility for the actual preparation of the documents and public participation. The plan area is generally compassed by the land from Cleveland along the Richmond/Inverness border to West Bay; along West Bay to Roberta; from Roberta along Scotts River, to the intersection of the Oban Road; along the Oban Road to the limits of the St. Peters Plan Area; along Highway 104 to the grant limits of Grand Anse; and along Kempt Road (Route 4) to Cleveland. Details of the Plan Area boundaries are outlined on the Context Map (page 3) and the Generalized Future Land Use Map (Map 1).

This Municipal Planning Strategy is intended to guide the decisions of Council with respect to regulating development within the Sporting Mountain Plan Area. The goal of this Strategy is to reflect the aspirations of the citizens by providing an environment which protects and enhances the existing community while encouraging economic growth. The policies adopted by Council in this document are intended to foster this goal. The implementation of these policies is carried out in several ways, the most important being the Land Use By-law. It establishes the specific zones, lists the permitted uses and appropriate lot standards as well as presents the general standards applicable throughout the Plan Area. Maps referred to in the policy statements are included in this document and constitute part of this Strategy.

In adopting this Strategy, Council is not committed to undertake any project described herein, but is prevented from undertaking 'any development within the scope of this planning strategy in a manner inconsistent or at variance therewith.'<sup>1</sup> It is intended, therefore, that the actions of Council reflect priorities set out in this Strategy.

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<sup>1</sup> The *Planning Act*, Section 45



# Regional Context Map



## 2. Goals

This Municipal Planning Strategy details the methods and procedures formulated and formally adopted by Council for the purpose of organizing industrial development and land use activity within the Sporting Mountain Plan Area. Through the policy statements in this Strategy, the following goals for the Plan Area are clarified and implemented:

- To prepare land-use planning controls that will meet the direction of Richmond Council to produce a “one-issue” plan and By-law the function of which will be to regulate and prohibit industrial development.
- To control industrial land use and development in a manner that will preserve, protect and enhance both the natural and built environments of the community.
- To set policies which direct industrial development to appropriate locations within the county.

## 3. Physical Setting

The Province of Nova Scotia is divided into nine geographical regions which are further subdivided into districts and units. The Sporting Mountain area of Richmond County is found along with its sister unit, the East Bay Hills, in the Fault Ridges district of the Avalon Ridges region.<sup>2</sup> The Sporting Mountain unit is a ridge of highland that forms the centre of Richmond County. This oblong structure runs approximately southwest to northeast and is divided by a long fault, running lengthwise through the entire mountain from Cape George south west to Lower River Inhabitants. This has resulted in erosion acting differently on the two sides of the mountain and causing the north and southeast sides to be steeper than the south and southwest sides.<sup>3</sup> The composition of both sides of the mountain differ greatly in terms of rock type, history, and porosity.

Many areas of Cape Breton are older than the mainland of Nova Scotia and date as far back as 600 million years. Fossils found represent the oldest specimens in Nova Scotia. From this, it has been concluded that Cape Breton, Europe and Africa are products of the Avalon crust created during the Cambrian period. Approximately 450 million years ago, part of this crust drifted toward North America.

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<sup>2</sup> Nova Scotia *Natural History of Nova Scotia* Volume Two, Theme Regions 1989

<sup>3</sup> Sexton, Alan J. *Geology of the Sporting Mountain Areas, Southeastern Cape Breton Island, Nova Scotia*, 1982 (Unpublished Thesis)

On the northwest side of the Sporting Mountain fault, we find various types of granitic and volcanic rock; and on the southeastern side, we find sandstone, mudstone, and limestone. To the west, we find deposits of gypsum, limestone, and salt.<sup>4</sup>

Approximately 20 thousand years ago, glaciers scrapped over the land moving rock and soil from one area and deposited it into another. When the ice receded, Sporting Mountain was covered with a thick layer of glacial till.

Much of this till is clay; however, throughout the clay the remains of old river beds and streams that flowed off the surface of the melting glacier can be found.

On the northwest side of the mountain, the ancient granitic and volcanic rocks are extremely solid and do not conduct water easily. However, overtime, they have developed smaller fractures running at right angles from the main fault; and it is through these fractures that fluids may travel unimpeded. Proof of these underground conduits maybe seen at several well-frequented springs along the road between Roberta and West Bay, where some of the best water in Richmond County can be found, 365 days of the year.

On the southeast and southwestern sides of the mountain, the sandstone and limestone are much more porous and water is actually able to travel through these rocks with very little difficulty. Of course, the entire mountain is covered with clay; and clay makes an excellent liner, however we find the liner broken because of meandering streams that flowed from the edges of the retreating glacier. Today, these ancient stream beds exist as underground conduits of gravel, channelling fluids away from the top of our mountain.

The rock types are very different on either side of Sporting Mountain, and each side has an interesting and unique geological history. Regardless of which side we are discussing, substances placed at the top of the mountain will have no trouble reaching the bottom. The clay overburden will not serve as a liner because ancient stream beds lie buried within this clay, providing underground channels through which water can easily flow.

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<sup>4</sup> Donovan and Grantham *Geological highway Map of Nova Scotia* Second Edition, 1989.

## CHAPTER 2 - LAND USE POLICIES

Development in Sporting Mountain has produced a community in which a wide variety of uses are located throughout the Plan Area. It is the opinion of the community that this development pattern is desired and should be permitted to continue. Therefore one designation, 'General Development' will encompass the entire Sporting Mountain Plan Area.

***Policy 1 It shall be the policy of Council to designate the entire Sporting Mountain Plan Area as 'General Development'.***

The base zone – General Development (G-1) Zone – in the plan area shall permit a significant range of uses ranging from residential to light-intensity industrial uses. The purpose of this zone is to only exclude heavy industrial uses which are considered obnoxious and to regulate medium-intensity industrial uses. Larger medium-intensity industrial uses may be considered in the plan area subject to rezoning criteria established in Policy 5.

***Policy 2 It shall be the policy of Council to establish a General Development (G-1) Zone and permit within the zone all uses with the exception of heavy industrial uses which are considered obnoxious, or which present an environmental threat, or which receive or treat hazardous product. The zone will also not permit Larger medium-intensity industrial uses.***

The large amount of undeveloped land within the Sporting Mountain Plan Area creates a setting in which potential activities such as non-obnoxious medium-intensity industrial uses and expansions to these uses may be accommodated. These will be permitted uses within a Resource Industrial (RD-1) Zone. Local employment opportunities may be created, benefitting the entire community. However, given the proximity to the Bras d'Or Lake, care should be taken to ensure the environmental integrity of the area. Areas will not be pre-zoned for these uses, but will be permitted by a rezoning from the General Development (G-1) zone subject to criteria designed to ensure the uses are not obnoxious nor are uses which potentially present an environmental threat. The criteria are also intended to direct these uses to appropriate locations which will have the least negative impact on the existing development and the environment. Special requirements in terms of setbacks shall apply to non-residential and non-commercial uses within the zone.

***Policy 3 It shall be the policy of Council to establish a Resource Industrial (RD-1) Zone and permit within the zone the following and similar types of uses: larger medium-intensity industrial uses and residential and commercial uses related to the above uses as well as all other uses permitted in the G-1 zone.***

**Policy 4** *It shall be the policy of Council to establish special requirements for medium-intensity industrial uses including requirements pertaining to building size and height, setback requirements from the Bras d'Or Lake and limits to the number of main buildings on a lot to minimize the potential for land use conflicts.*

As discussed in the Physical Setting Section of this document water quality is an extremely important issue because surface water from the Mountain is the primary water supply for the communities of Roberta, the Points, St. Georges Channel, Dundee, Seaview, Oban, Grand Anse, Thibeaudeau, River Bourgeois and Black River for which there is no alternate supply. Water quality is also an economic resource which requires protection and as such an over-riding criteria when considering any rezoning request will be an assessment on the potential impacts on water quality in both watercourses and the groundwater. Rezoning shall be required when establishing new medium-intensity industrial uses or to allow expansion beyond 4,000 square feet of existing medium-intensity industrial uses.

**Policy 5** *It shall be the policy of Council to consider amendments to the Land Use By-law to allow for the rezoning of lands from a General Development (G-1) Zone to a Resource Industrial (RD-1) Zone. In considering such amendments, Council shall have regard to the following:*

- (a) that the proposed development will not, by way of emissions of odour, dust, smoke, noise, or vibration disrupt or detrimentally effect or have the potential to detrimentally affect abutting or nearby land uses, nor be a use characterized by producing wastes that have the potential to contaminate soils or watercourses or be incompatible by reason of traffic generation, appearance or outdoor storage;*
- (b) the potential impact on the quantity and quality of groundwater resource from both increased demand and possibility of contamination;*
- (c) the suitability of the site in terms of geological conditions.(i.e. grades, soil, locations of watercourses, marshes and swamps);*
- (d) the adequacy of the public road in which it fronts to accommodate any increased traffic generated by the proposed development;*
- (e) That the proposed development is not located within 325 feet of the Bras d'Or Lakes;*

- (f) the use shall not adversely affect the existing residential or natural character or threaten the surrounding residential area as a result of physical characteristics of the development or the characteristics of the use and associated activities; and***
- (g) the proposal is consistent with the criteria to amend the Land Use By-law, Policy A-5 and A-7.***

### *Industrial Development*

Sporting Mountain is a rural area adjacent to the Bras d'Or Lake with an abundance of wildlife and is rich in natural beauty. This type of environment is not compatible with intensive industrial development. Indeed, the Municipality has already zoned an area to accommodate such development and to ensure the continued viability of this industrial area heavy industrial uses should be directed to the Point Tupper Heavy Industrial Park. Accommodations must be made for existing uses. No rezoning provisions will be established to accommodate further intensive industrial uses.

**Policy 6** **It shall be the policy of Council to recognize all existing medium intensity industrial uses in the Plan Area as permitted uses, however Council shall not permit heavy industrial uses in the Plan Area.**

## **CHAPTER 3 - GENERAL POLICIES**

### *General Development Standards*

Development standards apply to the physical development which occurs within the Plan Area. These standards are intended to provide for the orderly and safe development of the community while achieving optimum use of municipal services.

**Policy 7** ***It shall be the policy of Council to establish, in the Land Use By-law, minimum lot size and yard requirements (by reference to the Richmond County Subdivision By-law) and maximum height restrictions for each industrial use, which may vary from zone to zone.***

## CHAPTER 4 -IMPLEMENTATION

### *General*

The Municipal Planning Strategy for the Sporting Mountain Plan Area is the prime policy document providing the framework by which the future growth and development of the Plan Area shall be encouraged, controlled and coordinated. The policies of the Strategy will be implemented through a variety of means, but generally through the powers of Council as provided by the Planning Act, the Municipal Act and other statutes as may apply.

***Policy A-1 In addition to employing specific implementation measures, it shall be the policy of Council to maintain a program of ongoing planning through the Richmond Planning Advisory Committee and Sporting Mountain Area Advisory Committee. Such a program shall include aspects of public information and participation, further study respecting such matters as the drafting or revision of Municipal By-laws which deal with planning issues and any other issues which Council may suggest.***

***Policy A-2 In order that development control decisions may be based on expert advice beyond that which the Planning Advisory Committee is able to supply, applications for amendment of the Land Use By-law shall be directed to the District Planning Commission and provincial government agencies such as the Departments of Transportation and Communications and Environment for their information and comment, as may be required.***

### *Strategy Amendments*

***Policy A-3 Chapters 1 to 4 of this Strategy and all associated maps constitute the official Municipal Planning Strategy for the Sporting Mountain Plan Area. An amendment to this Strategy shall be required:***

- (a) where any policy intent is to be changed;***
- (b) where a desired amendment to the Land Use By-law does not conform to the Generalized Future Land Use Map; and can be shown to be desirable through studies;***
- (c) where detailed area plans are desired to be incorporated into this Strategy;***
- (d) where the Strategy is in conflict with applicable provincial land use policies or regulations;***

- (e) where policies of this Strategy are altered to coincide with policies of other planning strategies; or***
- (f) where the boundaries of the Plan Area are altered to coincide with boundaries of future Plan Areas.***

***Policy A-4 In considering amendments to the Municipal Planning Strategy it shall be the policy of Council to give full weight and consideration to:***

- (a) a report requested from the District Planning Commission with a recommendation regarding the appropriateness and desirability of the amendment when balanced against the Goals of this Strategy as defined in Chapter 1;***
- (b) the Planning Advisory Committee and the Area Advisory Committee to considerations of the Planning Commission report;***
- (c) refer the matter to the appropriate individual government departments or other independent agencies where special expert advice is required or deemed to be required by the Area Advisory Committee;***
- (d) comply with all legal requirements concerning amendments to the Municipal Planning Strategy as set out in the Planning Act; and***
- (e) require the applicant to pay the cost for advertising with respect to public notice as provided for in the Planning Act.***

#### *Amending the Land Use By-law*

The principal mechanism by which land use policies in the Municipal Planning Strategy are implemented is the Land Use By-law. The Land Use By-law sets out zones, permitted uses and development standards within the zones and shall reflect the policies of the Municipal Planning Strategy (as required by the Planning Act). It is expected that the By-law will be amended from time to time, although in conformity with the Strategy. Examples of situations which might create a need to amend the Land Use By-law include:

- a request by an individual to have the By-law amended (e.g. a map amendment or text amendment);
- a motion by a member of Council to amend the By-law; or
- a change in the Strategy

Should Council consider amending the Land Use By-law, it must fully examine the implications of the change and the amendment must comply with all other legal requirements as set out in the Planning Act. Before Council will consider any application for a rezoning change a clear graphic proposal must be presented for examination. By requiring such a proposal Council, staff, the Planning Advisory Committee and the Sporting Mountain Area Advisory Committee, and the public will be able to examine the application more clearly. The applicant will also benefit from this, as it will be necessary to give full forethought to what they wish to do, and to have proper plans prepared. This requirement shall be mandatory, and no application may proceed without it.

***Policy A-5 In considering Land Use By-law amendments it shall be Council's policy to:***

- (a) require a clear proposal which shall show in graphic terms:***
  - (i) the locations of the subject property, to scale, showing lot dimensions, area and street frontages;***
  - (ii) the means by which the site is to be serviced by sanitary and storm sewers (if applicable), and water services;***
  - (iii) the proposed location of all driveways and parking areas;***
  - (iv) areas that are to be landscaped and/or buffered; and***
  - (v) the proposed location of all buildings on the site.***
- (b) request a report from the District Planning Commission;***
- (c) request the Richmond Planning Advisory Committee and the Sporting Mountain Area Advisory Committee to consider the report prepared by the Planning Commission with respect to Policy A-7 (Criteria for Amendment to the Land Use By-law), and any other policies of this Strategy which affect the proposed amendment;***
- (d) refer the matter to the appropriate individual government departments (as identified in this Strategy) and appropriate external independent agencies where special expert advice is required;***
- (e) comply with all legal requirements concerning amendments to the land Use By-law as set out in the Planning Act; and***
- (f) require the applicant to pay the cost for advertising with respect to public notice as provided for in the Planning Act.***

**Policy A-6** *The following shall be considered by amendment to the Land Use By-law:*

- (a)** *rezoning from General Development (G-1) to Resource Industrial (RD-1) according to Policy 5.*

**Policy A-7** *In considering amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this strategy, Council shall have regard to the following matters:*

- (a)** *That the proposal is in conformity with the intent of this Strategy.*
- (b)** *That the proposal is not premature or inappropriate by reason of:*
  - (i)** *the financial capability of the Municipality to absorb any costs relating to the development;*
  - (ii)** *the adequacy of the municipal sewer services and utilities or if services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems;*
  - (iii)** *the adequacy of road networks in, adjacent to, and leading to the development; and*
  - (iv)** *the potential for the contamination of water courses or the creation of erosion or sedimentation.*
- (c)** *That the proposal conforms to the requirements contained in the Land Use By-law relating to the following:*
  - (i)** *the type of use;*
  - (ii)** *the height of any proposed building; and*
  - (iii)** *similar matters of planning concern.*
- (d)** *Suitability of the proposed site in terms of steepness of grades, and/or location of watercourses.*

*Advertising and Public Hearing Dates*

**Policy A-8** *Further to Policy A-4 and A-5 where a public hearing is being convened requiring advertising the ads for such hearings shall be at least two columns wide and further with respect to the date of the public hearing, no hearing shall be held ten days prior to nor ten days after the 25th of December.*

*Richmond County Subdivision By-law*

**Policy A-9** *Notwithstanding the exemption provisions contained in the Richmond County Subdivision By-law which come into effect when a Municipal Planning Strategy and Land Use By-law are adopted by a Council, it shall be the policy of Council to have the Subdivision By-law apply in its entirety to this plan area.*

*Municipal Development Officer*

**Policy A-10** *In accordance with the Planning Act, it shall be the policy of Council to continue the services of the Municipal Development Officer of the Rural Cape Breton District Planning Commission who shall administer the Land Use By-law and shall, where appropriate, grant development permits.*

*Minor Variances*

**Policy A-11** *In addition to the general powers granted in the Planning Act, the Act also empowers the Municipal Development Officer to grant 'minor variances' from the Land Use By-law. Specifically, the Municipal Development Officer may vary the percentage of land that may be built on, the sizes of yards, courts and other open spaces, lot frontage, and lot area. Should the Municipal Development Officer grant a minor variance, he/she must serve notice of this action in accordance with the Planning Act. Anyone served with such notice may appeal to Council.*

### *Annual Meetings*

The purpose of the Municipal Planning Strategy is to guide the decisions of Council with respect to the regulation of industrial development within the Sporting Mountain Plan Area. In order to maintain a healthy rapport between the Municipality and the various local agencies that serve the community, Council shall encourage proper monitoring of these documents through annual discussions with the community.

***Policy A-12 It shall be the policy of Council that the Rural Cape Breton District Planning Commission hold an annual meeting with the Sporting Mountain Area Advisory Committee to discuss and review the Municipal Planning Strategy and Land Use By-law for the Sporting Mountain Plan Area, so as to monitor the changing needs of the community for the required five year Plan Review.***

***Policy A-13 In accordance with the provisions of the Planning Act, the Municipal Planning Strategy may be reviewed when either the Council deems it advisable or when requested by the Minister of Municipal Affairs but in any case shall be reviewed not later than five years from the date of its coming into force or from the date of its last review.***