

To: **Antigonish Planning Advisory Committee
Antigonish County Council**

From: **Planning Staff (EDPC)**

Date: **January 29, 2013**

Reference: **Amendments to the Municipal Planning Strategy and Land Use By-law for the Antigonish Planning Area to reinforce that development within the Gateway Commercial Zone be reasonably consistent with design guidelines described in the *Gateway to Antigonish: Strategic Master Plan*.**

Application by Trada Inc. to rezone part of a property located in Beech Hill, Antigonish County (PID 10108116) from Rural Development (RD-1) to Gateway Commercial (GC-1) to allow the construction of a service station, touchless car wash, and fast food restaurant with drive through.

Recommendation:

That Council **approve:**

- 1.) the proposed amendments to the Municipal Planning Strategy and Land Use By-law to more clearly implement the design guidelines of the *Gateway to Antigonish: Strategic Master Plan* in the Gateway Commercial Zone, and;
- 2.) the rezoning of an approximately two (2) hectare portion of a property located in Beech Hill, Antigonish County (PID 10108116), owned by John Kell, from Rural Development (RD-1) to Gateway Commercial (GC-1) to allow the construction of a service station, touchless car wash, and fast food restaurant with drive through.

Analysis of First (Text) Amendment:

The purpose of this amendment is to give the Municipal Planning Strategy (MPS) authority to implement the concepts of the *Gateway to Antigonish: Strategic Master Plan* (as adopted in principle by Council on March 15, 2011). The preamble to the Gateway Commercial (GC-1) Zone (written before the gateway master plan was adopted) now states, “[i]n the event that Council decides to adopt a gateway strategy for these areas in the future, any additional requirements contained within that strategy will be incorporated within the Gateway Commercial Zone requirements.” As written, the MPS and LUB clearly express the intention of Council that future development in the Gateway Commercial (GC-1) Zone should conform to the *Gateway to Antigonish: Strategic Master Plan*. Unfortunately, the documents do not currently give Council

the legislative authority necessary to enforce that intention. Without this amendment, this situation may become a problem if a developer does not voluntarily conform to the Master Plan.

This amendment would give Council the authority to require future development to conform to the design guidelines contained in the *Gateway to Antigonish: Strategic Master Plan*. Specifically it would include adding a Policy to the Municipal Planning Strategy providing support for design guidelines to be included in the Land Use By-law for the Gateway Commercial (GC-1) Zone. Subsequently, the Land Use By-law (LUB) would be amended to add a Special Provision requiring conformance to the design guidelines contained in the *Gateway to Antigonish: Strategic Master Plan*. Since the Master Plan was only adopted in principle, the Special Provision would only require that the development proposal be reasonably consistent with the *Gateway to Antigonish: Strategic Master Plan*, as determined by the Development Officer.

Summary of Second (Rezoning) Amendment:

- Designation: Residential
- Zoning: Rural Development (RD-1)
- Area: Approximately 2.0 ha, 5.0 acres (area to be rezoned)
- Site Visit: December 2, 2012

Trada Inc. has applied on behalf of Somerled Properties Inc. to rezone a portion of the above referenced property (owned by John Kell) for the purpose of building a service station, touchless car wash, and fast food restaurant with drive through. The total property is approximately two (2) hectares (5 acres)

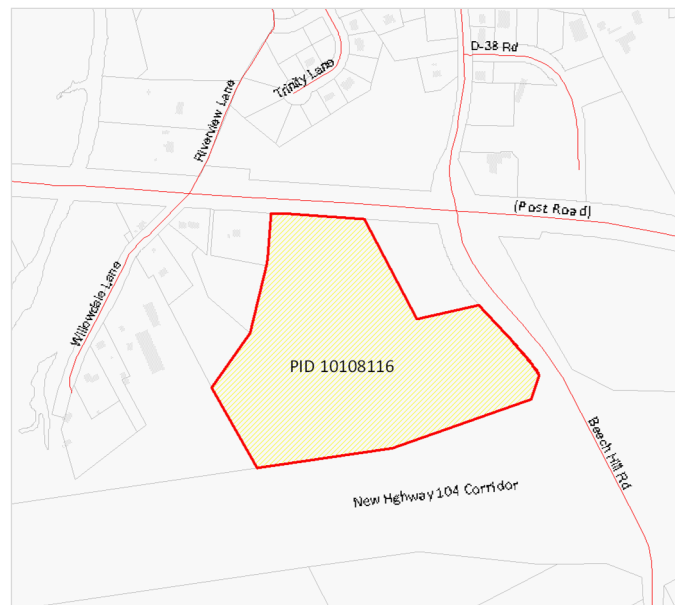


Figure 1: Site Map

in area and extends between the old (Post Road) and new Highway 104 corridors. The site is highly visible to west-bound traffic exiting Highway 104 at Beech Hill Road and is currently vacant and cleared of trees. This location falls squarely within the study area of the *Gateway to Antigonish: Strategic Master Plan*. In the Plan the site is designated for commercial and mixed use development (See Appendix ‘A’), and constitutes part of the “Beech Hill Road Mixed-Use Village,” one of several component sites integral to the Master Plan’s overall vision (Appendix ‘B’). Currently the property is designated Residential, and zoned Rural Development (RD-1).

Analysis of Second (Rezoning) Amendment:*Designation:*

The property is currently designated Residential on the Generalized Future Land Use Map of the MPS (Appendix 'C'). This designation, however, dates from before adoption of the *Gateway to Antigonish Strategic Master Plan* and is contrary to the concepts expressed in it. In the Plan, the portion of the property under consideration is intended for commercial development accessed from Beech Hill Road and feeding into a larger mixed use (commercial combined with residential) development to the West (shown in Appendices 'A' and 'B'). To address circumstances such as this, where a re-designation is desired, Policy 28 of the Municipal Planning Strategy states, "[a]reas immediately adjacent to a given future land use designation on the Future Land Use Map may be rezoned to any zone permitted in the adjacent designation without a Strategy amendment provided that all other policies of the Strategy are satisfied." Since the property abuts a commercial designation, this policy makes it possible to re-zone the property in question to a commercial zone (i.e the Gateway Commercial (GC-1) Zone) without an amendment to the MPS. It is the opinion of Planning Staff that this rezoning achieves a desirable outcome in that it is a step towards achieving the vision of the *Gateway to Antigonish Strategic Master Plan*. Even apart from the Plan, the rezoning will create continuity in the area surrounding the Beech Hill Road exit from Highway 104. Land parcels north of the property (around the intersection of Post Road and Beech Hill Road) and south of the property (on the southern side of the new Highway 104 corridor) are already designated Commercial (See Appendix 'C'). The designation also exists to the East on the other side of Beech Hill Road. Permitting commercial uses on this portion of land would connect the areas already designated Commercial and encourage development of a continuous area of commercial development around the exit from Highway 104 at Beech Hill Road.

Rezoning:

The property is currently zoned Rural Development (RD-1), which is the rural base zone for the Antigonish Fringe planning area. It does not permit any of the proposed uses and makes no provisions to address any highway oriented development. It is the opinion of Planning Staff that the best alternative to this zone to allow the proposed uses would be the Gateway Commercial (GC-1) Zone. This zone is specifically intended for use along the new and remnant Highway 104 corridors to address all highway oriented commercial development. Policy 9(e) of the MPS sets out the criteria to be met for property to be rezoned Gateway Commercial (GC-1), and Policy 31 of the MPS sets out the criteria for amending the LUB (the rezoning process). For reference, these criteria for rezoning are completely listed as Appendices 'D' and 'E.' The following is a brief summary of the relevant criteria and their application to the proposed development.

Is the development compatible with neighbouring uses? Currently the land surrounding the property in question is undeveloped. Since the rezoning is consistent with the *Gateway to Antigonish Strategic Master Plan*, Planning Staff do not feel the proposed development will conflict with future land uses if carried out in accordance with that document. In addition, the Gateway Commercial Zone requires the location of the buildings and the configuration of the development to be subject to site plan approval. One of the requirements of the site plan approval process is the provision of vegetative and landscaping buffers to mitigate potential for conflict with neighbouring land uses.

Will the development create traffic problems? The proposal is not anticipated to create any traffic problems. Another requirement of the Gateway Commercial Zone (Policy 9(c)) is that “all new development must comply with the Access Management Strategy of the Department of Transportation concerning the Highway 104 By-pass.” This consideration ensures that vehicular access to the development will be located at a suitable distance from nearby intersections and highway ramps. In written correspondence with Planning Staff, the Area Manager of the Department of Transportation and Infrastructure Renewal advised that the road network adjacent to the access was adequate to support the development. He qualified this by stating that before access approval would be granted, the developer would be required to carry out a traffic impact study. Based on the findings of this study, the developer might be required to carry out upgrades to the road network to support the proposed uses.

Is the site adequately serviced? The site is currently not serviced by central water or sewer. In written correspondence with Planning Staff, the Municipal Clerk of the Municipality advised on behalf of the Public Works Department that water and sewer service upgrades are necessary for the development to take place. However, he also advised the following:

It is anticipated that Municipal Council will give favourable consideration to a proposed Local Improvement By-Law and the necessary funding to complete the infrastructure upgrade that will allow this development to proceed. Municipal Council has already given approval for the design phase of the upgrade and barring any unforeseen circumstances, construction should begin as the weather permits in the spring of 2013.

From this response, it is apparent that the Municipality feels the proposed development, while not currently adequately serviced, *will* be adequately serviced upon completion of upgrades planned for completion in the spring of 2013.

Is the Municipality financially capable of absorbing costs associated with the development? In the previously mentioned correspondence with the Municipal Clerk of the Municipality, he

expressed no concern over the potential costs of the development, noting that the funding for the servicing upgrades was expected to be approved by Council independent of this rezoning.

Is the development appropriate based on the suitability of the proposed site and the potential for erosion, sedimentation, or contamination? Based on a December 2nd site visit, the portion of the property to be rezoned is relatively level, stable, and elevated from surrounding lands (See Figure 2).



Figure 2: Site Terrain

The site does not appear to represent high risk for contamination of watercourses by erosion and sedimentation during the construction process. However, to mitigate any such risk, the developer should comply with Nova Scotia Environment’s guidelines for controlling erosion and sedimentation on construction sites (*Erosion and Sedimentation Control Handbook for Construction Sites*, published in 1988). Compliance typically requires the preparation, implementation and monitoring of an erosion and sedimentation control plan by a qualified person. In addition, a geotechnical field review of construction should be carried out by a professional engineer in accordance with 2.1.1.5 of the Nova Scotia Building Code Regulations.

Site Plan Approval:

In addition to the rezoning process, the Gateway Commercial Zone offers extensive control over proposed developments through the site plan approval process. This process requires that before a Development Officer issues a Development Permit, they must be satisfied that the developer’s site plan meets the criteria set out in the Land Use By-law. Unlike a development agreement, it does not involve a legal contract, but instead consists of a site plan that the developer has agreed in writing to carry out. The breadth of control given to the site plan approval process is explained in the following quotation from the preamble to the Gateway Commercial Zone: “[t]hrough the use of the site plan approval process, Council will establish landscaping, buffering, signage, storage, design and lighting requirements.” Thus the site plan approval process is given broad control over the site design of proposed development. For reference, the evaluation criteria for site plan approval are included as Appendix ‘E.’

With that said, the site plan approval process is not authorized by the Municipal Government Act (MGA) to regulate specific matters such as building design, parking lot design, or other aesthetic design considerations. In general it is limited to regulating where things will be located on the site, not specifics like their function or appearance. These specific details are

often important concepts of the *Gateway to Antigonish: Strategic Master Plan*. The text amendment proposed by this Staff Report is intended to resolve this issue by allowing Planning Staff to regulate the specific details of the Design Guidelines found in the Master Plan apart from the Site Plan Approval process.

Design Guidelines:

If approved by Council, the following is a general summary of what will be required by the “Special Provision for Design Guidelines” of the LUB in order to comply with the *Gateway to Antigonish: Strategic Master Plan*. In the words of the Master Plan, “[d]esign guidelines add dimensions of aesthetic standards to ensure that the look of the development fits the Community’s vision for the Gateway Area” (page 39). As a general summary, the design guidelines of the plan address the site, buildings, and signage of future development.

Regarding the site, Planning Staff will be looking for main buildings to be located at the front of the lot (nearest the street), pedestrian walkways to link the development with public streets, and parking areas that are designed with landscaped and treed islands at the end of rows. Parking areas will be encouraged to minimize surface water runoff through use of permeable paving and rain gardens. Sidewalks should incorporate a treed strip to separate pedestrians from vehicular traffic.

Regarding the buildings, Planning Staff will be looking for a recognizable traditional building style, minimum of 1.5 storey building height, high quality authentic exterior materials (ideally wood, metal, brick or stone), and a pedestrian-oriented façade (including high percentage of glass, prominent entries, and varied surfaces through use of window mullions, awnings, and recessed windows and doors.) Buildings will be encouraged to feature architectural lighting illuminating the first storey storefront at night.

Regarding signage, Planning Staff will be looking for signage to be incorporated into the building design as a continuous sign band above the first storey façade, awning signs, and/or signs protruding from the façade. Signage design should be consistent with the buildings’ traditional style and should therefore not consist of freestanding, animated or flashing signs. Signage should be lit by spotlights or goose-neck lighting. Back-lit or internally lit signage will be discouraged. Signage should be constructed of high quality materials consistent with those used for the buildings.

Conclusions:

Planning Staff are of the opinion that the proposed text amendments to implement the design guidelines of the *Gateway to Antigonish: Strategic Master Plan* in the Gateway Commercial (GC-1) Zone conform to the intents of the Municipal Planning Strategy and will improve Council’s

ability to require development to comply with the Master Plan. Staff therefore recommend that Council **approve** the proposed text amendments to the *Municipal Planning Strategy for the Antigonish Planning Area* and associated *Antigonish County Planning Area Land Use By-law*.

The opinion of Planning Staff is that the proposed rezoning is in conformance with the intents of the *Municipal Planning Strategy for the Antigonish County Planning Area* and with the *Gateway to Antigonish: Strategic Master Plan* and with the requirements of all other Municipal By-laws and regulations. Staff therefore recommend that Council **approve** the rezoning of a portion of a property located in Beech Hill, Antigonish County (PID 10108116) to allow the construction of a service station, touchless car wash, and fast food restaurant with drive through.

A By-law to Amend the *Municipal Planning Strategy for the Antigonish County Planning Area*

The *Municipal Planning Strategy for the Antigonish County Planning Area* is hereby amended as follows by inserting the text indicated below:

1) To be inserted:

Policy 9(f) It shall be the policy of Council to require that all new development within the Gateway Commercial (GC-1) Zone be reasonably consistent with the *Gateway to Antigonish: Strategic Master Plan*.

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 for the Municipality of the County of Antigonish on _____, 2013.

Given under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this ____ day of _____, 2013.

Alan J. Bond
Municipal Clerk

A By-law to Amend the *Antigonish Planning Area Land Use By-law*

The *Antigonish Planning Area Land Use By-law* is hereby amended as follows by inserting the text indicated below:

- 1) To be inserted:

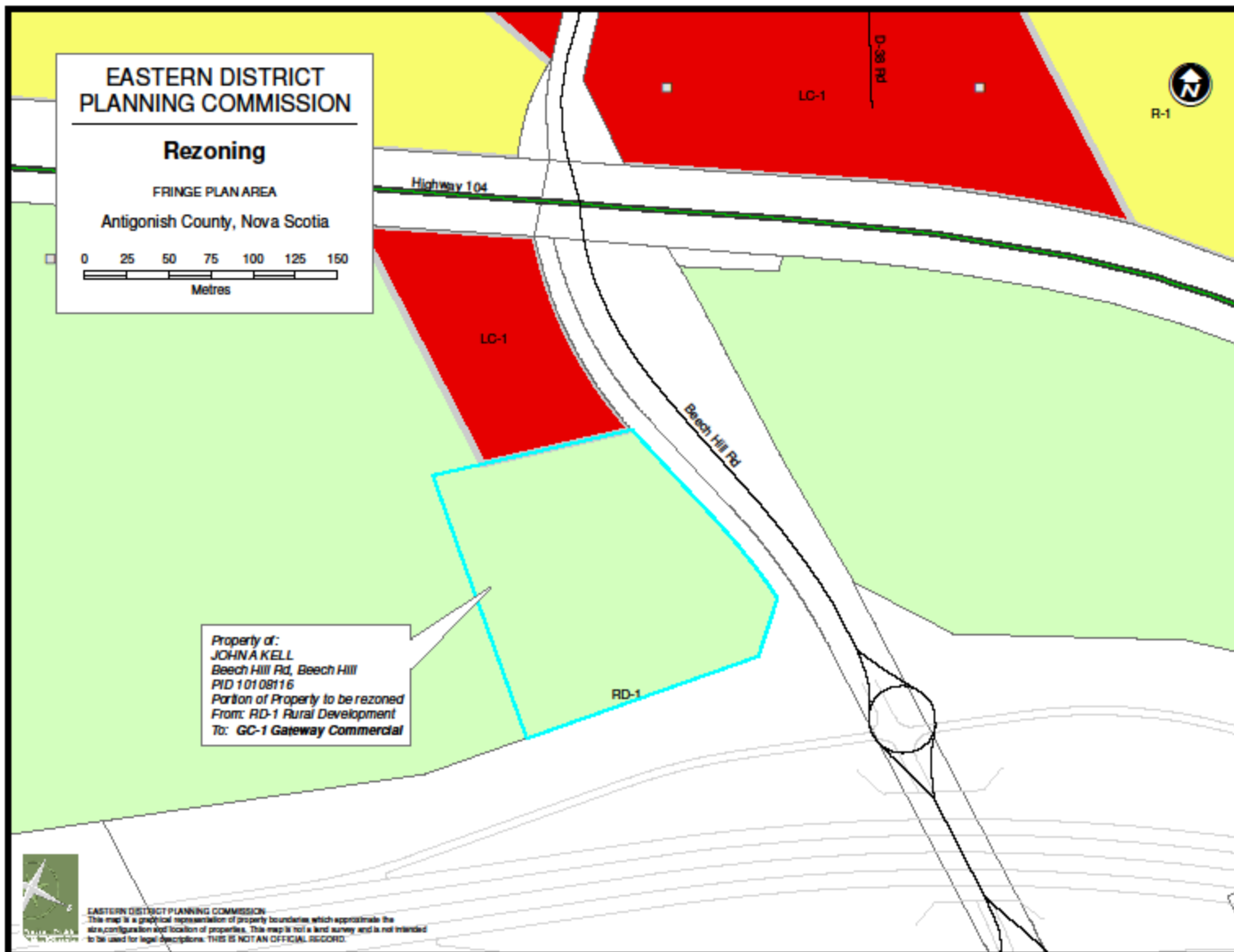
Special Provision- Design Guidelines

- 8) No development permit for new structures or additions shall be issued in a GC-1 Zone unless approved by the Development Officer as being reasonably consistent with the *Gateway to Antigonish: Strategic Master Plan*.

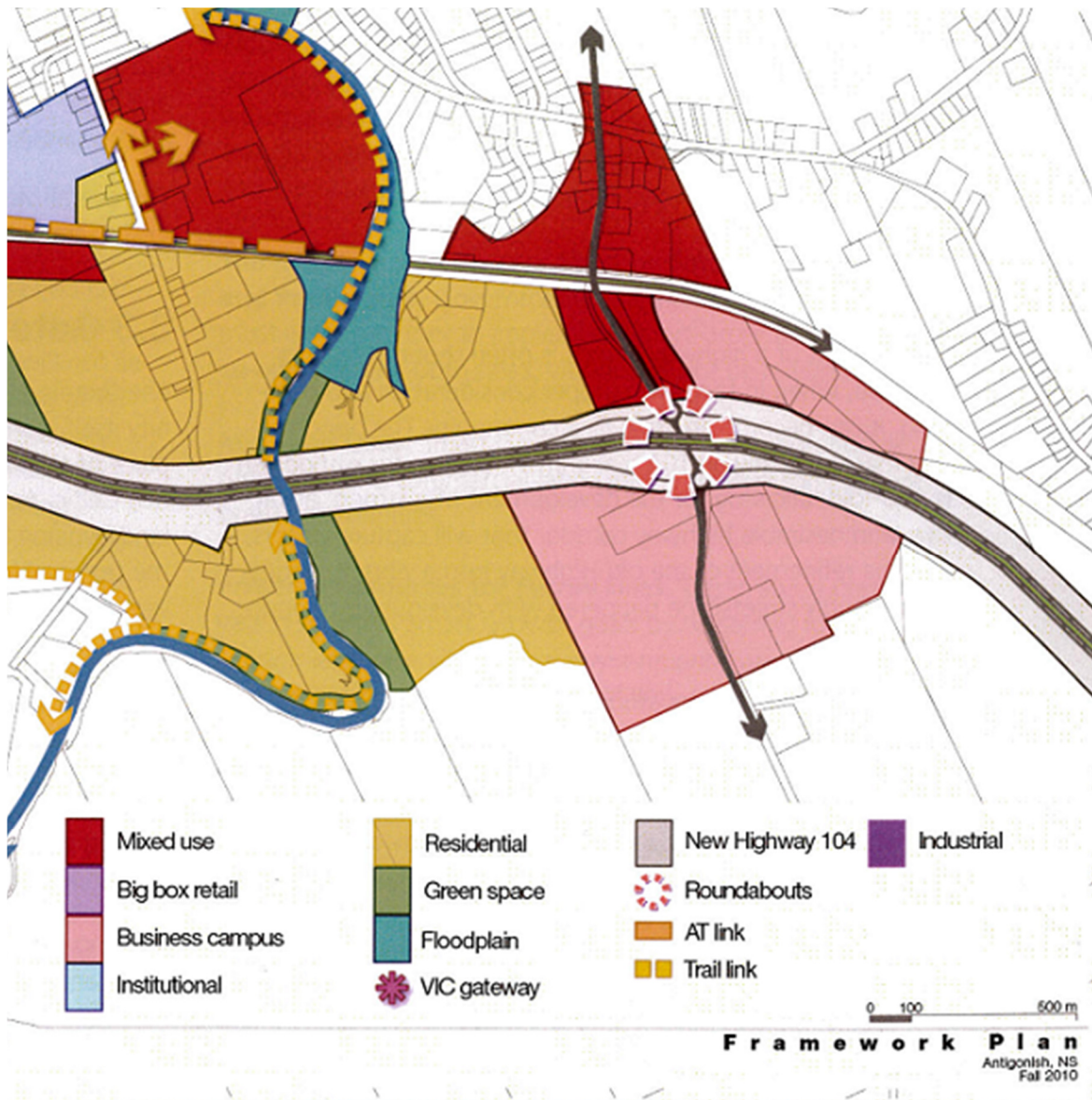
This is to certify that the By-law, of which this is a true copy, was duly passed at a duly called meeting of the Council for the Municipality of the County of Antigonish on _____, 2013.

Given under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this ____ day of _____, 2013.

Alan J. Bond
Municipal Clerk



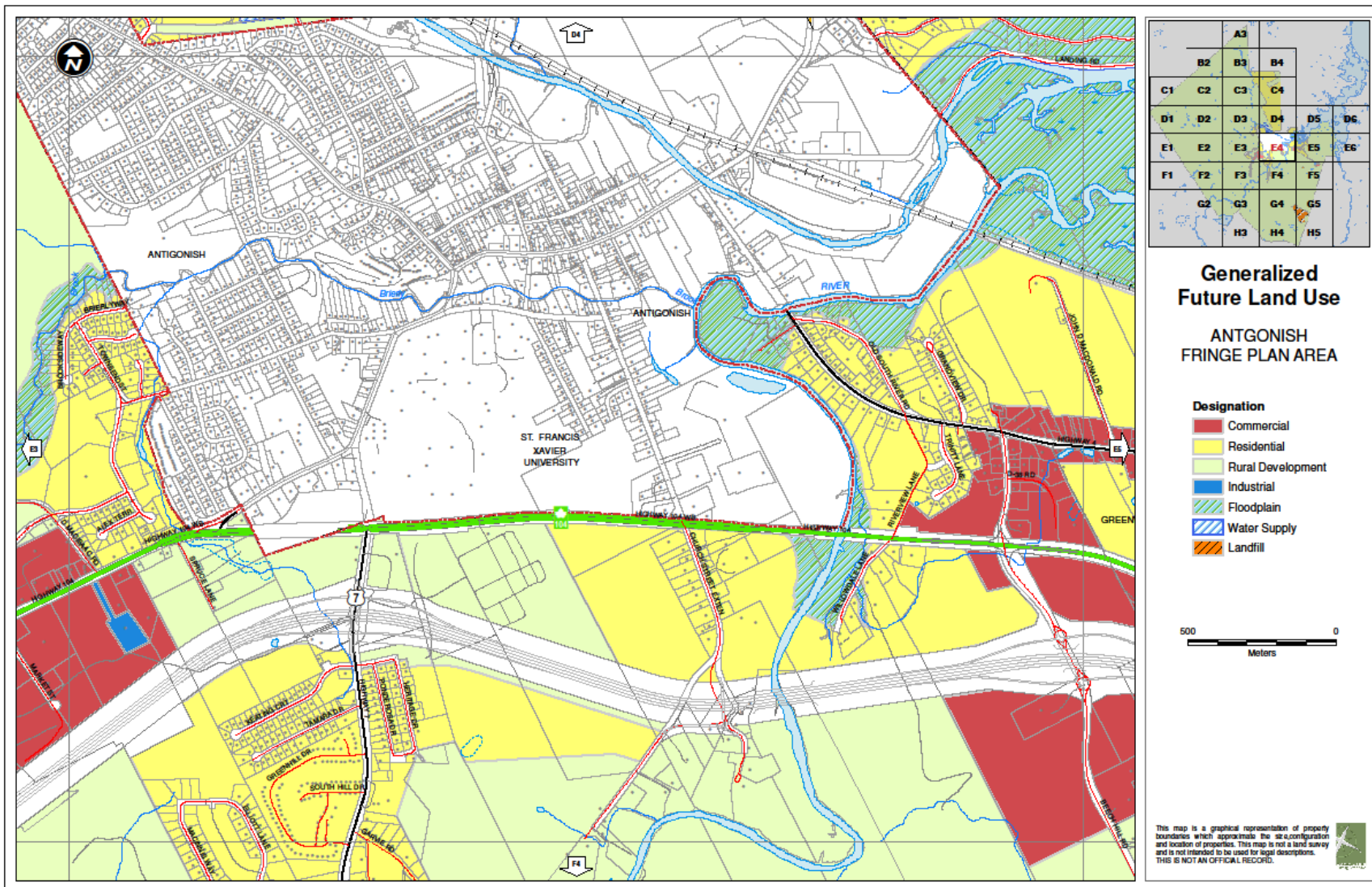
Appendix 'A': Basic land-use map (Framework Plan) as shown on page 24 of the Gateway to Antigonish: Strategic Master Plan



Appendix 'B': Concept plan for the Beech Hill Road Mixed-Use Village as shown on page 30 of the Gateway to Antigonish: Strategic Master Plan



Appendix 'C': Generalized Future Land Use Map



Appendix 'D': Summary of Evaluation Criteria for Rezoning to the GC-1 Zone

Policy 9(e)	
It shall be the policy of Council to permit rezonings to the Gateway Commercial (GC-1) Zone in areas designated Commercial subject to the following criteria:	
(a) the proposed development is compatible with adjacent uses with respect to scale and use;	Complies (See Staff Report)
(b) the location of the proposed development does not create any major traffic problems;	Complies (Subject to traffic impact study for access approval - NSTIR Area Manager comments November 26)
(c) the lot on which the proposed development is sited is adequately served by a centralized sewer system and/or centralized water system or if on-site services are to be used, these services are adequate for the GC-1 Zone;	Will comply (Service upgrades expected in Spring 2013 – Mun. of Antigonish CAO comments November 28)
(d) the proposal conforms to the site plan approval criteria expressed in the Land Use By-law;	Proposal not yet at design stage. Will be required to comply.
(e) the proposal conforms to any goals and policies expressed in any gateway strategy Council may wish to adopt and which applies to the given property;	Proposal not yet at design stage. Will be required to comply.
(f) the proposal meets the implementation criteria listed in Policy 31(a)	Complies (see Appendix 'E')

Appendix 'E': Summary of Evaluation Criteria for Amendment of Land Use By-law

Policy 31(a)	
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 for the following matters:	
(a) That the proposal is in conformance with the intents of this Strategy and with the requirements of all other Municipal By-laws and regulations;	Complies (Staff Review)
(b) That the proposal is not premature or inappropriate by reason of the following:	
(i) the financial capability of the Municipality to absorb any costs relating to the proposal;	Complies (no concerns raised - Mun. of Antigonish Municipal Clerk in comments November 28)
(ii) the adequacy of sewer and/or water services to support the proposal;	Will comply (Service upgrades expected in Spring 2013 - Mun. of Antigonish Municipal Clerk comments November 28)
(iii) the adequacy and proximity of school, recreation and other community facilities;	Complies
(iv) the adequacy of road networks, in, adjacent to, or leading to the development and the adequacy of proposed accesses and parking facilities;	Complies (Subject to traffic impact study for access approval - NSTIR Area Manager comments November 26)
(v) the potential for the contamination of abutting watercourses or the creation of erosion or sedimentation as a result of the development as determined by a qualified person from the appropriate government department;	Complies (See Staff Report)
(vi) suitability of the proposed site in terms of steepness of grades, soil and geological conditions, marshes, swamps or bogs as determined by a qualified person from the appropriate government department and proximity of highway ramps and railway rights-of-way.	Complies (See Staff Report)

Appendix 'F': Summary of Evaluation Criteria for Site Plan Approval

<p>Part 12 Gateway Commercial (GC-1) Zone</p> <p>Special Provision- Site Plan Approval</p>
<p>(4) No development permit for new structures or additions shall be issued in a GC-1 Zone unless a Site Plan has been approved by the Development Officer.</p>
<p>(5) The following evaluation criteria shall apply to any development undertaken pursuant to Section (4):</p>
<p>(a) that landscaping of not less than five (5) feet [1.5 m] in height and a twenty (20) foot [6.1 m] wide grassy landscaped buffer be installed and maintained along the common lot line where the commercial use abuts an existing residential use or the new Highway 104 right-of-way;</p>
<p>(b) a planting strip of not less than 10 feet [3.0 m] is provided along the entire frontage of the property save and except the location of a driveway not exceeding 20 feet [6.1 m] in width;</p>
<p>(c) that the existing vegetation, where possible and deemed practical, be retained so as to lessen and reduce any adverse impact on abutting properties or the surrounding neighbourhood;</p>
<p>(d) that natural and landscaped buffering be installed where the commercial use abuts the Highway 104 By-pass so as to maintain the visual integrity of the landscape for passing motorists;</p>
<p>(e) that any outdoor storage of equipment or material not for sale not be located in the front yard of any property and otherwise shall be contained within a fenced and screened storage area and shall not be visible from any public road or adjacent lot;</p>
<p>(f) that loading facilities are located at the rear of the main structure;</p>
<p>(g) that the parking and loading facilities are designed so as to minimize any adverse impact on surrounding properties;</p>
<p>(h) that the main building, where possible, is located at the front of the lot;</p>
<p>(i) that the proposed walkways and other pedestrian access be located and designed so as to encourage pedestrian traffic flow from other properties and be laid out to effectively connect with off-site sidewalks or paths;</p>
<p>(j) that the type and location of outdoor lighting is designed to light the structure, driveways and any pedestrian access with minimum light directed at or spilled onto neighbouring properties;</p>
<p>(k) that storm and surface water protection plans are provided;</p>
<p>(l) any other evaluation criteria as may be specified in any gateway strategy Council adopts and which applies to the given area.</p>

(6) A Site Plan prepared in accordance with Sections (4) and (5) shall indicate:
(a) the location of existing or proposed structures on the site;
(b) the location of existing or proposed off-street parking or loading facilities;
(c) the location and width of existing and proposed driveway accesses to public roads;
(d) the type, location and height of any walls, fences, hedges, trees, shrubs or groundcover as well as any retained natural vegetation;
(e) any existing and proposed grade alteration and/or any storm or surface water control infrastructure;
(f) the location of existing and proposed walkways and the type of surfacing material;
(g) the type and location of existing and proposed outdoor lighting;
(h) the location and type of any facilities and enclosures for the storage of garbage and other waste materials;
(i) the location of existing and proposed easements;
(j) the type, number and size of existing and proposed signs and sign structures.
(7) The process for granting the Site Plan Approval follows the same process as the Variance Procedure subject to Section 236 of the <i>Municipal Government Act</i> .