

To: **Chéticamp Area Advisory Committee
Inverness Planning Advisory Committee
Inverness County Council**

From: **Planning Staff (EDPC)**

Date: **February 22, 2013**

Reference: **Application by Raymond Deveau to amend the *Chéticamp Municipal Planning Strategy* and *Chéticamp Land Use By-law* to allow construction of a marina and boat storage and service facility on properties in Chéticamp, Inverness County (PIDs 50206127, 50206143).**

Recommendation

That Council **approve** the proposed amendments to the *Chéticamp Municipal Planning Strategy* (MPS) and *Chéticamp Land Use By-law* (LUB) to:

- Amend the preamble to the Mixed Use (MU) Zone in the MPS to reflect that the Chéticamp Development Commission no longer owns the land zoned Mixed Use (MU), and to update the permitted uses in Policy 4-2 to allow development of a marina and boat storage and service facility within the Zone;
- Amend the text of Part 14 of the LUB (Mixed Use [MU] Zone) to permit marinas and marina facilities and boat storage and servicing facilities, and to establish a 1.83 metre (6 foot) setback from the ordinary high water mark, and;
- Amend the Zoning Map of the LUB so that the boundary of the Mixed Use (MU) Zone follows the lot lines of the subject property.



Figure 1: Site Context

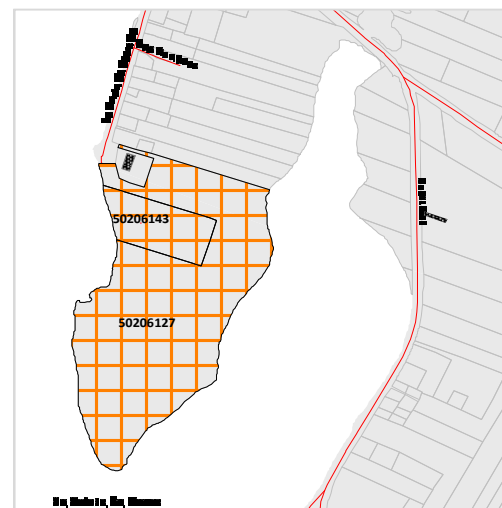


Figure 2: Lot Boundaries

Summary of Proposal:

Designation: Mixed Use, Urban Residential
 Zoning: Mixed Use (MU) Zone, Residential General (R-1) Zone
 Area: 17 ha; 42.1 acres (2 properties)
 Site Visit: August 30, 2012

Information:

The applicant, Raymond Deveau, has applied to amend the Chéticamp MPS and LUB to allow consideration of a marina and boat storage and service facility. The proposed development will involve use of a large-scale marine travel lift to lift vessels out of the water and estimated on-shore storage of up to 500 vessels on La Pointe du Havre, Chéticamp. The site consists of two properties totalling approximately 17 hectares (PIDs 50206127, 50206143). These properties

are owned by Beatrice Deveau, Marie Andree Gingras & Chéticamp Realty Ltd., and Beatrice Deveau & Marie Andree Gingras respectively.



Figure 3: Existing storage of one boat

The site is presently zoned Mixed Use (MU), a zone in which the LUB permits a variety of tourism-related, residential, and industrial uses including “recreational uses, storage facilities for pleasure boats, and research facilities related to the fishery or marine industry.” The property makes up the southern half of La Pointe du Havre, and is presently vacant, except for one area which has been used to store a boat (Figure 3), a cube van body, and assorted scrap material. The site is low-lying and mostly treed with mixed scrub growth, with the exception of a tidal marsh (Figure 4) located on the western side of the property. Some of the property has been cleared for trails that loop around the point, opening up numerous views over the bay to the East



Figure 4: Tidal marsh looking north-east



Figure 5: Commercial fishing boats stored south-east of site

of the site and over Chéticamp Harbour to the West. Adjacent neighbouring uses on La Pointe du Havre include single family dwellings and a Department of Fisheries and Oceans building with adjoining Emergency Health Services (EHS) garage. Relevant to this application, on-shore storage of fishing boats can be seen across the bay south-east of the site on the property of Chéticamp Boat Builders (Figure 5).

Analysis:

The present development situation in relation to the Mixed Use (MU) Zone was not anticipated during the drafting of the MPS. The preamble that currently introduces the Zone refers heavily to the Chéticamp Development Commission, an organization that no longer exists. At the time the MPS was written, the land under consideration was owned by the Development Commission. Other projects by the Commission included a fisheries museum and associated waterfront boardwalk. The preamble states, “[t]his area has great potential for development, both as an expansion to the adjacent residential area and an extension of the waterfront facilities currently being developed by the [Development] Commission. As such, the mixed use area would permit low and medium density residential development, tourism related facilities and recreational uses.” From this it is apparent that the MPS anticipated that the Development Commission would oversee future development and that this development would likely be oriented toward residential, tourism, or recreation uses. Now that the Development Commission no longer owns the land, it is reasonable that Council consider different development scenarios that might also benefit the community.

Given the history of Chéticamp as a working harbour community, it is the opinion of Planning Staff that waterfront development that makes functional use of the harbour (as opposed to development that merely takes advantage of the view) represents a valid and valuable alternative to other land uses. These uses should be considered favourably, especially if they may provide support for the local economy beyond the tourist season. The Mixed Use (MU) Zone encompasses a significant portion of waterfront property and therefore significant development potential for uses beyond those currently considered by the MPS. The fact that the site is located south of the Cabot Trail also means it is less visible to automobile traffic than

other waterfront sites in the centre of Chéticamp, making it even more suitable for functional marine-based uses.

With that said, the proposed amendments will not significantly alter the intent of the MPS. The proposed uses are very similar to those already permitted as of right in the Mixed Use (MU) Zone. Policy 4-2 of the *Chéticamp Municipal Planning Strategy* states that: “It shall be the policy of Council to establish in the Land Use By-law a Mixed Use (MU) zone and to permit the following *and similar types of uses*: [...] public recreational uses, storage facilities for pleasure boats, research facilities related to the fishery or marine industry [...]” (emphasis added). These permitted uses are similar to, but do not include the applicant’s proposed uses of marina and boat storage and servicing. The proposed marina, while definitely intended as a recreational use, may not be entirely public, depending on management. The proposed boat storage and servicing is intended to store (and service) all kinds of vessels, not only pleasure boats. The term “research facilities related to the fishery or marine industry” is vague, but does seem similar to the proposed uses. It is not clear what physical form the original authors thought this would take, whether merely office space or perhaps wharves and associated marine infrastructure. Regardless, it does seem to mean a development that makes functional use of the harbour. The proposed development, while not interested in research, will make functional use of the harbour for the fishery or marine industry. Based on these considerations, the proposed uses are indeed similar to those currently permitted. However, despite this similarity, land uses cannot be interpreted as “similar types of uses” if specifically permitted in another zone. Marinas are specifically permitted in the Waterfront (W) Zone, boat fabrication and repair is specifically permitted in the Rural Industrial (RI-1) Zone, and the Mixed Use (MU) Zone specifies that storage facilities for *pleasure* boats are permitted. Therefore, an amendment is necessary to permit the proposed development of a marina and boat storage and service facility for commercial and pleasure boat.

While significantly different from those currently existing on La Pointe du Havre, the proposed uses should not conflict with them as per the provisions currently made in the MPS. Compatibility of uses in the Mixed Use (MU) Zone is addressed in Policy 4-5 of the MPS, which states, “[i]t shall be the policy of Council to require landscaping and buffering between residential uses and non-residential uses to minimize any land use conflicts.” This suggests that Council was aware of the fact that the MPS would permit a wide variety of uses in the Mixed Use (MU) Zone and were confident that landscaping and buffering would sufficiently address the issue of compatibility. A transition in building use and scale already exists in the difference between neighbouring single-family dwellings and the noticeably larger Emergency Health Services garage and Department of Fisheries and Oceans building directly adjacent to the properties under consideration. In addition, since the on-shore storage of commercial fishing

boats can be seen from the site, it does not seem likely that allowing the storage of types of boats other than the currently permitted pleasure boats will represent significant potential for land use conflict.

The on-shore boat storage that can be seen from the site is an accessory use to Chéticamp Boatbuilders, an establishment located on Chemin Hache. Boat fabrication and repair facilities are permitted as of right in the Rural Industrial (RI-1) Zone. The preamble to this zone states that the existing uses to be zoned Rural Industrial (i.e. Chéticamp Boatbuilders), “[...] cause little hardship to the surrounding residential development [...]” With this in mind, Planning Staff are of the opinion that permitting the storage and servicing of commercial boats in the Mixed Use Zone is reasonable and would not cause significant conflict with neighbouring land uses.

The proposal will involve dredging a portion of the low-lying western side of the properties to create the marina and allow the removal of vessels from the water. Conducting work or building structures below the ordinary high water mark of coastal water bodies requires a permit from the Nova Scotia Department of Natural Resources. The Department of Fisheries and Oceans may also need to be consulted if the work will significantly affect fish habitat or involve any coastal infilling. Planning Staff feel this future consideration by the appropriate government agencies is sufficient to address environmental concerns related to the alteration of the coastline to construct wharves, marina infrastructure, and boat ramps.

Another part of this amendment is the requirement of a 1.83 metre (six foot) setback from the ordinary high tide mark for all other structures in the Mixed Use (MU) Zone consistent with the same setback required in the Waterfront (W) Zone). This setback is alluded to in the preamble to the zone in the MPS, but not implemented in the LUB. The following is the reference to the setback found in the preamble, “A separation distance from the shoreline will be established to limit structures from being built to the water’s edge. Although it will not alone help preserve the landscape along the waterbody or protect the waterbody, it will provide a balance between the desire for development and the need to protect the natural environment.” This part of the proposed amendment will simply carry out the original intent of the preamble of the MPS, implementing the same distance requirement as currently required in the Waterfront (W) Zone.

In addition to the text amendments required to allow the proposed uses, the applicant also wishes to rezone a portion of one of the subject properties. As shown in Figure 5, the Zone boundary currently bisects one of the properties under consideration (PID 50206127), dividing the property between the Residential General (R-1) Zone and the Mixed Use (MU) Zone. As the Zone boundaries follow the Designation boundaries, the portion to be rezoned is also designated Residential (as shown in Appendix ‘B’). In provision for just such a situation, Policy

A-19 of the MPS makes the following provision for rezoning land that is designated for a different land use:

Areas immediately adjacent to a given land use designation on the Generalized Future Land Use Map may be considered for rezoning to a use which is similar in nature to the given designation without requiring an amendment to this strategy, provided that the intention of all other policies of the strategy are satisfied.

The proposed rezoning would take advantage of this Policy to change the boundary of the Zone to follow the northerly boundary of the properties under consideration such that the entire site would be zoned Mixed Use (MU). Rezoning land constitutes an amendment to the LUB, for which Policy A-3 of the MPS lays out criteria for consideration. A summary table of these criteria and their applicability to this rezoning is included as Appendix 'C' of this report.

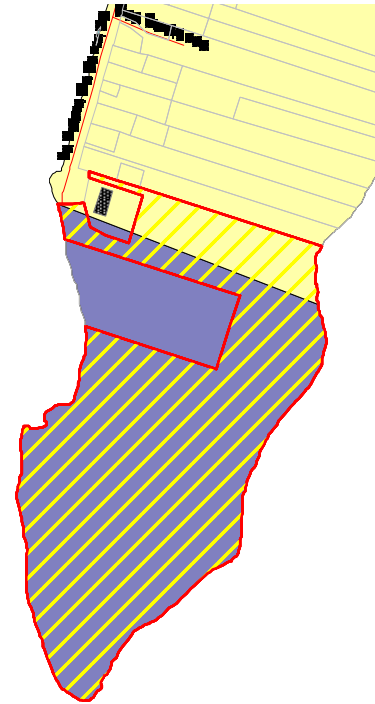


Figure 5: Zone boundary bisecting property. Purple is Mixed Use (MU) Zone, yellow is Residential General (R-1) Zone.

Policy A-18 of the MPS addresses the procedure for making amendments to the MPS. The policy states that, “[s]trategy amendments shall require the approval of the Minister of Municipal Affairs [now Service Nova Scotia and Municipal Relations] and shall be carried out in accordance with the provisions of the Municipal Government Act.” In addition, as per Section 208 of the *Municipal Government Act*, the proposed amendments to the MPS and LUB will be subject to review by the Provincial Director of Planning. Therefore, the procedure for amending the LUB described in Section 210 of the same Act will not apply to these amendments.

Conclusions:

The opinion of Planning Staff is that the proposal is in conformance with the intents of the *Chéticamp Municipal Planning Strategy*. Staff therefore recommend that Council **approve** the text and map amendments of the *Chéticamp Municipal Planning Strategy* and the *Chéticamp Land Use By-law* to:

- Amend the preamble to the Mixed Use (MU) Zone in the MPS to reflect that the Chéticamp Development Commission no longer owns the land zoned Mixed Use (MU), and to update the permitted uses in Policy 4-2 to allow development of a marina and boat storage and service facility within the Zone;

- Amend the text of Part 14 of the LUB (Mixed Use [MU] Zone) to permit marinas and marina facilities and boat storage and servicing facilities, and to establish a 1.83 metre (6 foot) setback from the ordinary high water mark, and;
- Amend the Zoning Map of the LUB so that the boundary of the Mixed Use (MU) Zone follows the lot lines of the subject property.

These amendments will allow the development of a marina and boat storage and servicing facility on properties located in Chéticamp, Inverness County (PIDs 50206127 and 50206143) owned by Beatrice Deveau, Marie Andree Gingras & Chéticamp Realty Ltd., and Beatrice Deveau & Marie Andree Gingras respectively.

A By-law to Amend the *Chéticamp Municipal Planning Strategy*

The *Chéticamp Municipal Planning Strategy* is hereby amended as identified in bolded text below:

MIXED USE

~~Guided by the Chéticamp Development Commission, the~~ The land surrounding La ~~Point~~ **Pointe** du Havre in the southern portion of Chéticamp Proper is planned for a wide variety of developments. This area has great potential for development, both as an expansion to the adjacent residential area and an extension of the ~~waterfront facilities currently being developed by the Commission~~ **various existing waterfront uses that characterize the Chéticamp Harbour. Due to the great potential of the area for various uses, Council does not wish to limit potential uses to one specific type (i.e. tourism, residential, or industrial). It does, however, wish to encourage future uses that make use of the area's waterfront location.** As such, the mixed use area would permit **marinas, fishery and marine uses**, low and medium density residential development, tourism related facilities and recreational uses. Higher density residential development will be permitted through the rezoning of lands to Multiple Family (R-3). Light industrial fabrication facilities would be permitted through the use of development agreements.

The Mixed Use zone would only be permitted within the 'Mixed Use' designation and encompass the area surrounding La Pointe du Havre. ~~At the present time, the majority of the land is leased to the Commission and is unserviced and inaccessible by automobile. The Commission is planning to install servicing and roads as development warrants.~~ A separation distance from the shoreline will be established to limit structures, **except those associated with uses specifically requiring water access (such as marinas or wharves)**, from being built to the water's edge. Although it will not alone help preserve the landscape along the waterbody or protect the waterbody, ~~it~~ **the separation distance** will provide a balance between the desire for development and the need to protect the natural environment. Buffering and landscaping standards will be established between residential and non-residential uses to ensure that conflicts between uses will be minimized.

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

Given under the hand of the Chief Administrative Officer and under the corporate seal of the said Municipality this ____ day of _____, 2013.

Joe O'Connor
Chief Administrative Officer

A By-law to Amend the Chéticamp Land Use By-law

The *Chéticamp Land Use By-law* is hereby amended as identified in bolded text below:

PART 14 - MIXED USE (MU) ZONE

1. No development permit shall be issued in a Mixed Use (MU) Zone except for one or more of the following uses:

- Single detached dwellings
- Semi-detached and duplex dwellings
- Converted dwellings up to two units
- Multiple unit dwellings up to and including four (4) units
- Motels, hotels, rental cabins and campgrounds
- Institutional uses
- Community and cultural centres
- Professional offices
- Recreational uses
- **Marinas and marina facilities**
- ~~Storage facilities for pleasure boats~~
- **Boat storage and servicing facilities**
- Research facilities related to the fishery or marine industry

GENERAL LOT REQUIREMENTS

2. In any Mixed Use Zone, no development permit shall be issued except in conformity with the following:

	Municipal Sewer Services	Municipal Sewer - Multiple Unit and Semi-Detached Dwellings	On-Site Services
Minimum Lot Area	7,500 ft ²	4,000 ft ² / unit	29,000 ft ² *
Minimum Lot Frontage	50 ft	50 ft	50 ft
Minimum Front Yard	25 ft	25 ft	25 ft
Minimum Side Yard	10 ft	10 ft	10 ft
Minimum Rear Yard	20 ft	25 ft	25 ft
Maximum Height of Main Building	35 ft	35 ft	35 ft

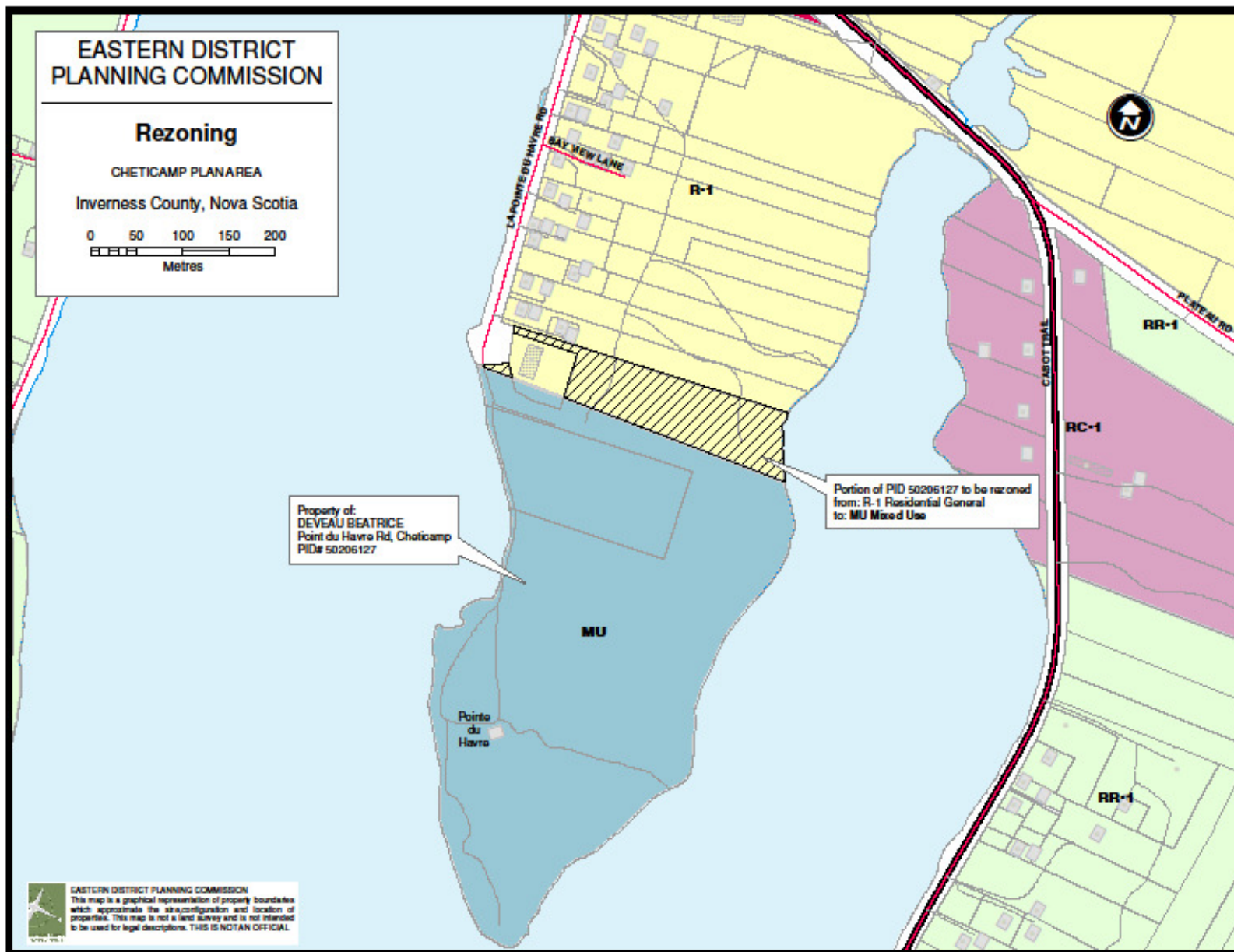
Minimum High Tide Setback	6 ft	6 ft	6 ft
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* Subject to Dept. of Environment Requirements

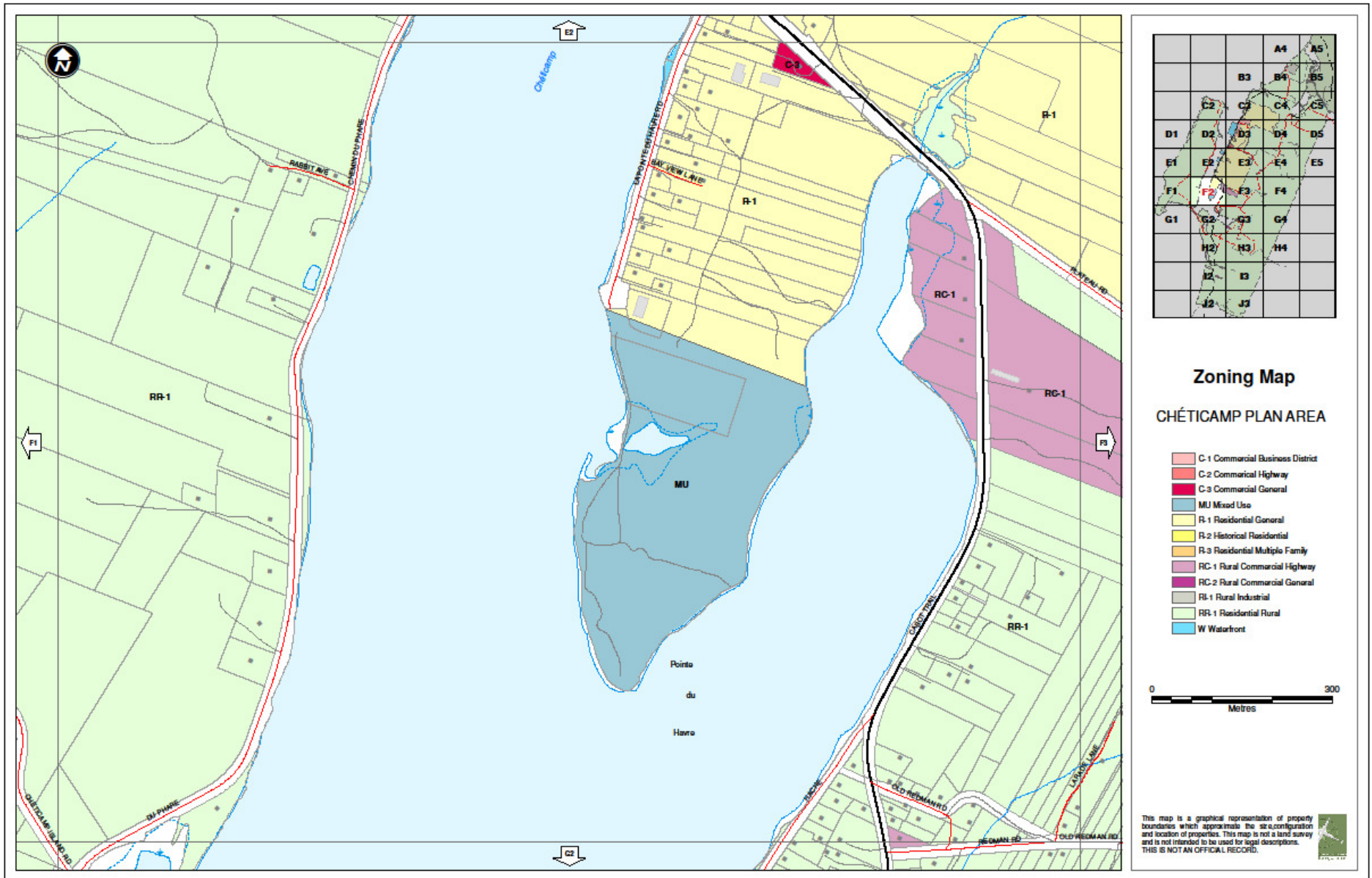
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Given under the hand of the Chief Administrative Officer and under the corporate seal of the said Municipality this ____ day of _____, 2013.

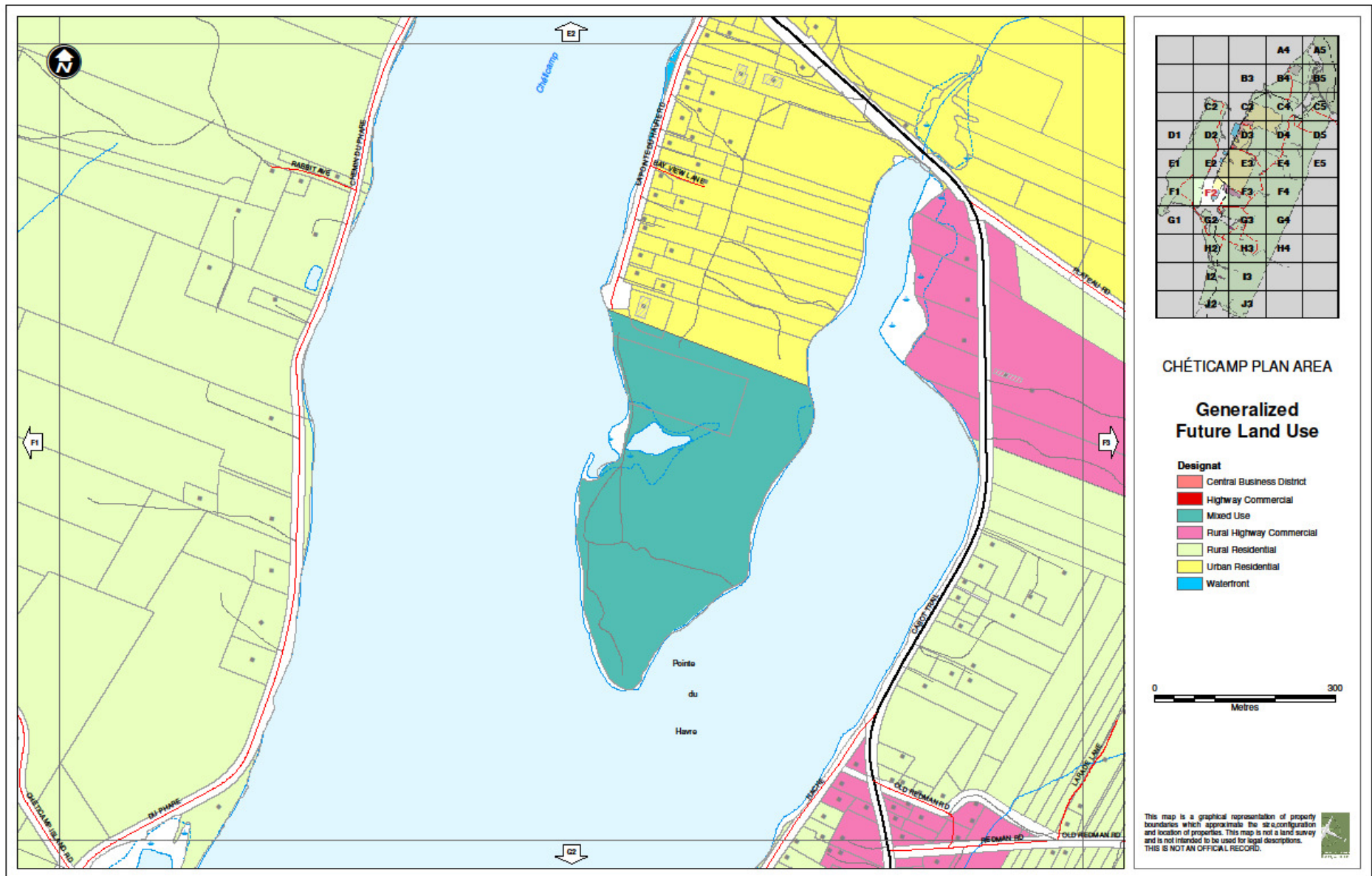
Joe O'Connor
Chief Administrative Officer



Appendix 'A': Section F2 of the Current Zoning Map of the Chéticamp Plan Area



Appendix 'B': Section F2 of the Generalized Future Land Use Map of the Chéticamp Plan Area



Appendix 'C': Criteria for Amendment to the Land Use By-law

POLICY A-3 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 and with the requirements of all other municipal By-laws and regulations;	Meets criteria
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;	Meets Criteria
ii. the adequacy of sewer services and utilities or if services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems;	Meets Criteria
iii. the adequacy and proximity of school, recreation, and any other community facilities;	Meets Criteria
iv. the adequacy of road networks in, adjacent to, or leading to the development; and	Meets Criteria
v. the potential for the contamination of watercourses or the creation of erosion or sedimentation;	Meets Criteria
c) The controls in the Land Use By-law reduce conflict with any other adjacent or nearby land use by reason of:	
i. type of use;	Addressed in Land Use By-law
ii. emissions including air and water pollutants and noises;	Not Addressed in Land Use By-law
iii. height, bulk, and lot coverage of the proposed building;	Addressed in Land Use By-law
iv. traffic generation, access to and egress from the site and parking;	Parking Addressed in Land Use By-law, Access by NSTIR
v. open storage;	Addressed in Land Use By-law
vi. signs; and	Addressed in Land Use By-law
vii. similar matters of planning concern.	None Identified
d) Suitability of the proposed site in terms of steepness of grades, and/or location of watercourses.	Meets Criteria