

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

From: **Planning Staff (EDPC)**

Date: **May 18, 2023**

Reference: **Concurrent Omnibus mapping amendments to the Generalized Future Land Use Map in the Town of Antigonish Municipal Planning Strategy and to the Zoning Map in the Town of Antigonish Land Use By-law.**

- a. **Braemore Avenue (PID 10096295) property from the Higher Order Residential Neighbourhood Designation to the Community Use Designation and rezoned from the Higher Order Residential Neighbourhood (RN-2) Zone to the Institutional (I) Zone.**
Portion of a property (PID 10027274) from the Residential Neighbourhood to the Higher Order Residential Neighbourhood Designation and rezoned from the Residential Neighbourhood (RN-1) Zone to the Higher Order Residential Neighbourhood (RN-2) Zone.
- b. **Church Street portions of properties from the Residential Neighbourhood Designation to the Mixed-Use Designation and rezoned from Residential Neighbourhood (RN-1) Zone to Downtown Mixed-Use (MU-1) Zone.**
- c. **West Street property (PID 01222025) from the Higher Order Residential Neighbourhood Designation to the Community Use Designation and rezoned from the Higher Order Residential Neighbourhood (RN-2) Zone to the Institutional (I) Zone.**

Recommendation:

That Antigonish Town Council **approve** the proposed mapping amendments to the Generalized Future Land Use Map in the Town of Antigonish Municipal Planning Strategy and also approve the Zoning Map amendments in the Town of Antigonish Land Use By-law which are required to carry out the intent of the concurrent amendments to the municipal planning strategy for properties on Braemore Avenue, Church Street and West Street as depicted on the attached maps.

Information:

The Municipal Planning Strategy and Land Use Bylaw for the Town of Antigonish were adopted by Council February 18, 2020, received Provincial approval April 14, 2020 and were advertised and came into effect May 7, 2020. Over the last three years in which staff have administered the plan and by-law there have been limited requirements for amendments. Staff completed a Development Agreement for 23 Main Street but the rest of the amendments have been

housekeeping amendments related to issues which have arisen with the administration of the planning documents. This included a number of Omnibus amendments in February 2022 related to the definition of Height, the Number of Building on a Lot, and Restrictions on Permitted uses within the Moderate Risk Floodplain (MF) Overlay Zone bringing the land use by-law provision in line with the Policy. At the same time staff completed a concurrent mapping amendment to the Generalized Future Land Use Map and zoning map for 156 College Street changing the designation on the property from “Community Use” to “Higher Order Residential Neighbourhood” and rezoning the property Higher Order Residential Neighbourhood (RN-2) zone from the Open Space (OS) in keeping with the amended designation.

The following proposed amendments are similar to the later. In each case the intent is to restore the designation and/or the zone to what it had been in the previous municipal planning strategy and land use bylaw or to the present document’s equivalent designation and/or zone.

Amendments to the Town’s policies with respect to land use development as contained in the Municipal Planning Strategy are at the prerogative of Council but do require review by the Provincial Director of Planning in accordance with Section 208(1) of the *Municipal Government Act*. In this instance the provincial review is limited to determining whether or not the amendments (a) appear to affect a provincial interest; (b) may not be reasonably consistent with an applicable statement of provincial interest; or (c) appear to conflict with the law. If the review determines that there is a provincial interest at stake the document then would require approval by the Minister. In most cases amendments to municipal land use policy do not require Ministerial approval. Similarly, an amendment to a land-use by-law that is required to carry out a concurrent amendment to a municipal planning strategy is subject to the same provincial review. In neither instance is there an appeal of these types of decision to the Nova Scotia Utility and Review Board.

Analysis:

Braemore Avenue

The property on Braemore Avenue is presently owned by High-Crest Enterprises Limited and was previously owned by the Town of Antigonish. In the old plan it was part of the school property and zoned institutional on the 2003 zoning maps. On the later 2008 zoning map the property is zoned is still designated Institutional but zoned Residential (R-3) Multiple Density.

	Description
Current Designation:	Higher Order Residential Neighbourhood
Current Zoning:	Higher Order Residential Neighbourhood (RN-2)
Proposed Designation:	Community Use
Proposed Zone:	Institutional (I) Zone
Total Lot Area:	7284.3 sq meters
Identification (PID):	10096295
Site Visit:	May 17, 2023

Presently the owners of the property would like to have the property redesignated back to the equivalent of the old Institution Designation and Institutional zone to allow for the possibility of a Community Use development on the property. The property which is presently vacant is zoned Higher Order (RN-2) Residential Neighbourhood Zone. The RN-2 Zone supports a variety of housing alternatives for senior citizens, small families, and starter housing for newly formed households or newcomers in Town that are not ready to own but does not support the same variety of Institutional uses permitted in the zone. Specifically, “Health Care Services” are permitted in the Institutional Zone but not in the Higher Order Residential Neighbourhood zone. The property however has retained its institutional character in that it is surrounded on three sides by both the Community Use Designation and the Institutional (I) Zone.

The Community Use Designation and the Institutional Zone permits “Health Care Services” which are defined as: *“**Health Care Services** means an establishment primarily engaged in providing outpatient health care to the public without overnight accommodation. Typical uses include, but are not limited to, medical professionals such as dentists, chiropractors, osteopaths, physicians or occupational therapists.”*

Also, the present RN-2 zone allows for multi-unit dwellings over six units by development agreement. The abutting property provisions (ADM-15) for development agreements states: *“Council may consider applications for the following types of development agreements in any zone except for properties zoned High Risk Floodplain (HR) Zone: ...d) The development of uses that are permitted within the zone and designation on an abutting property pursuant to Policy ADM16...”*

Staff therefore are also recommending the abutting designation on the portion of property which is owned by the Town as a spur off of Braemore Drive also be redesignated and rezoned to allow for the continued possibility of apartment building development by development agreement.

Staff are therefore recommending the redesignation and rezoning of this property.

Church Street

The properties on Church Street are owned by a variety of owners and all of these properties are subject to either the High-Risk Floodplain designation and/or the Moderate Risk Floodplain overlay. The properties are also designated and zoned residential. In the old plan all of these properties were zoned with the Downtown Commercial (C-1) Zone as well as portions were zoned Conservation (O-2) Zone by the river. Along this side of Church Street

	Description
Current Designation:	Residential Neighbourhood
Current Zoning:	Residential Neighbourhood (RN-1) Zone
Proposed Designation:	Mixed Use
Proposed Zone:	Downtown Mixed Use (MU-1) Zone
Total Lot Area:	7284.3 sq meters
Identification (PID):	01264696, 01227917, 01227909, 01227891, 01227883 and 01227875
Site Visit:	May 17, 2023

there are a variety of professional office uses including “The Warehouse” which has a variety of retail, residential and professional offices, an Insurance Office, a single unit dwelling, a vacant lot and a medical centre.

Staff received an application from the owners of the medical clinic at 40 Church Street to build a small expansion to the existing building which would increase the buildings footprint. While the property is impacted by the various flood zones in the plan there would be opportunity to make the expansion with suitable flood proofing of the building applied. Unfortunately, all of the commercial buildings along this portion of Church Street are legal non-conforming uses given the residential zoning on these properties. There is no policy support or direction in the Municipal Planning Strategy to make this commercial area legal non-conforming and given the former Downtown Commercial designation and zoning it is apparent this was an oversight.

Section 241 (1) of the *Municipal Government Act* states: “Where there is a nonconforming use in a structure, the structure may not be (a) expanded or altered so as to increase the volume of the structure capable of being occupied, except as required by another Act of the Legislature; (b) repaired or rebuilt, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance with the land-use by-law and after the repair or rebuilding it may only be occupied by a use permitted in the zone.”

Staff are therefore recommending the redesignation and rezoning of these properties.

West Street

The property on West Street is presently owned by Saint Francis Xavier University. In the old plan a portion of the property was designated Institution and Conservation designations. The zoning on the property was Institutional (1) Zone, Conservation (O-2) Zone and Residential First Density (R-1) Zone at the top Northwest corner of the property between the Highland Drive and Fairview Street accesses to the

	Description
Current Designation:	Higher Order Residential Neighbourhood
Current Zoning:	Higher Order Residential Neighbourhood (RN-2) Zone
Proposed Designation:	Community Use
Proposed Zone:	Institutional (I) Zone
Total Lot Area:	3.24 hectares
Identification (PID):	01222025
Site Visit:	May 17, 2023

property. The property has two small university out buildings on the property as well as two parking areas. The parking area in the South of the property is located behind the St. Francis Xavier University Association of University Teachers building at 42 West Street. The property has a stream that runs across the property from east to west and is tree covered to the west.

Staff have recently reviewed a number of properties in and around the Town of Antigonish with

respect to the possibility of a “nursing home” being permitted. Of those properties, one 3.2-hectare (8.0 acre) property is located in the Town of Antigonish (PID 01222025) is presently owned by Sait Francis Xavier University. This property is zoned Higher-Order Residential Neighbourhood (RN-2) Zone which, as the name suggests permits a number of higher density residential and community supportive facilities. For example, religious institutions and schools are permitted subject only to site plan approvals. Office and Professional Services are permitted by development agreement and the zone also permits a Home for Special Care as of right.

The land use by-law has two definitions of relevance related to the provision of seniors housing:

Special Care (Residential Care Facility, Home for Special Care or Group Home) means a community-based group living arrangement, in a single unit, for 3 or more individuals, exclusive of staff and/or receiving family, with physical and/or intellectual disabilities, that is developed for the well-being of its residents through self-help, professional care, guidance and supervision unavailable in the residents’ own family, an independent living situation, or facility. Where a single unit is located in a detached dwelling and consists of 3 or fewer individuals, excluding staff whether residents or not, the use is a single unit dwelling.

Special Care (Nursing Home) means a building wherein nursing care and room and board are provided to individuals incapacitated in some manner for medical reasons. This use does not include a hospital.

Therefore, staff have concluded that a Special Care (Nursing Home) which is specifically mentioned as permitted in all three mixed use zones and the Institutional zone is not permitted in the Higher-Order Residential Neighbourhood (RN-2) Zone. Under the old zoning however, senior and nursing homes were permitted in the Institutional Zone subject to R3 zone requirements which primarily related to lot size and setback requirements. Under the new Municipal Planning Strategy and Land Use Bylaw, Special Care (Nursing Home, Residential Care Facility) are permitted in the zone but subject to a site plan approval process which would address all aspects of the site development including building location, landscaping or similar visual barriers, parking, access to the property, site design which promotes active transportation, stormwater management, location of amenity areas and other similar matters of site design.

Policy ADM17 of the Municipal Planning Strategy states: Council shall permit certain types of development by site plan approval, which is a negotiated process similar to the development agreement but typically requires less involvement of Council.

Staff are therefore recommending the redesignation and rezoning of this property.

Statements of Provincial Interest:

The purpose of the Statements of Provincial Interest (SPI) is to protect the common public interest and encourage sustainable development in municipalities. The SPI are policy statements adopted

by the provincial government under the powers of the Municipal Government Act (MGA s.193). They are set out in Schedule “B” of the MGA and came into effect on April 1, 1999. Legislation requires that municipal planning documents are “reasonably consistent” with the SPI. As such, the following comments are offered with respect to consistency of the proposal with the SPI:

1. Drinking Water: The proposed amendments do not impact the provision of drinking water.
2. Flood Risk Areas: Neither the Braemore Avenue nor the West Street properties amendments are located in flood risk areas. The Church Street properties as a group are located within the High-Risk Floodplain designation and/or the Moderate Risk Floodplain overlay zone however the boundaries of these designations and underlying zones are not changed by the amendments.
3. Agricultural Land: Not considered agricultural land or impacting agricultural lands.
4. Infrastructure: Makes use of existing municipal services with no demand for new municipal infrastructure.
5. Housing: Both areas (Braemore Avenue and West Street) while removed from the Higher Order Residential Neighbourhood (RN-2) zone retain the possibility of residential development through abutting designation provisions in the Municipal Planning Strategy.

The proposed amendments are reasonably consistent with the SPI.

Conclusion and Recommendation:

In the opinion of staff, the proposed mapping amendments to the Generalized Future Land Use Map in the Town of Antigonish Municipal Planning Strategy and also approve the Zoning Map amendments in the Town of Antigonish Land Use By-law which are required to carry out the intent of the concurrent amendments to the municipal planning strategy for properties on Braemore Avenue, Church Street and West Street as depicted on the attached maps are required to address changes made as a part of the plan review which failed to take into consideration the existing ownership and or use of the specific lands,

It is therefore recommended that Town Council approve the proposed amendments as per the attached appendices.

EASTERN DISTRICT PLANNING COMMISSION

Proposed Redesignation

TOWN OF ANTIGONISH PLAN AREA

ANTIGONISH

Antigonish County, Nova Scotia



Property of:
HIGH-CREST ENTERPRISES LIMITED
Braemore Ave., Antigonish
PID: 10096295

To be redesignated
from: Higher Order Residential Neighbourhood
to: **Community Use**

Property of:
TOWN OF ANTIGONISH
Braemore Ave., Antigonish
PID: 10027274

Hatched part of property to be rezoned
from: Residential Neighbourhood
to: **Higher Order Residential Neighbourhood**



EASTERN DISTRICT PLANNING COMMISSION
This map is a graphical representation of property boundaries which approximate the size, configuration and location of properties. This map is not a land survey and is not intended to be used for legal descriptions. THIS IS NOT AN OFFICIAL RECORD.

THE HEIGHTS RD

HF

RN-2
10096295

10027274
BRAEMORE AVE

XAVIER DR

WEDGEWOOD DR

NORTHVIEW DR

HILLSIDE DR

SILVERWOOD DR

MAPLE DR

**EASTERN DISTRICT
PLANNING COMMISSION**

Proposed Rezoning

TOWN OF ANTIGONISH PLAN AREA

ANTIGONISH

Antigonish County, Nova Scotia



Property of:
HIGH-CREST ENTERPRISES LIMITED
Braemore Ave, Antigonish
PID: 10096295

To be rezoned
from: RN-2 Higher Order Residential Neighbourhood
to: **I - Institutional**

Property of:
TOWN OF ANTIGONISH
Braemore Ave, Antigonish
PID: 10027274
Hatched part of property to be rezoned
from: RN-1 Residential Neighbourhood
to: **RN-2 Higher Order Residential Neighbourhood**



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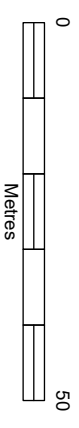
EASTERN DISTRICT PLANNING COMMISSION

Proposed Redesignation

TOWN OF ANTIGONISH PLAN AREA

ANTIGONISH

Antigonish County, Nova Scotia



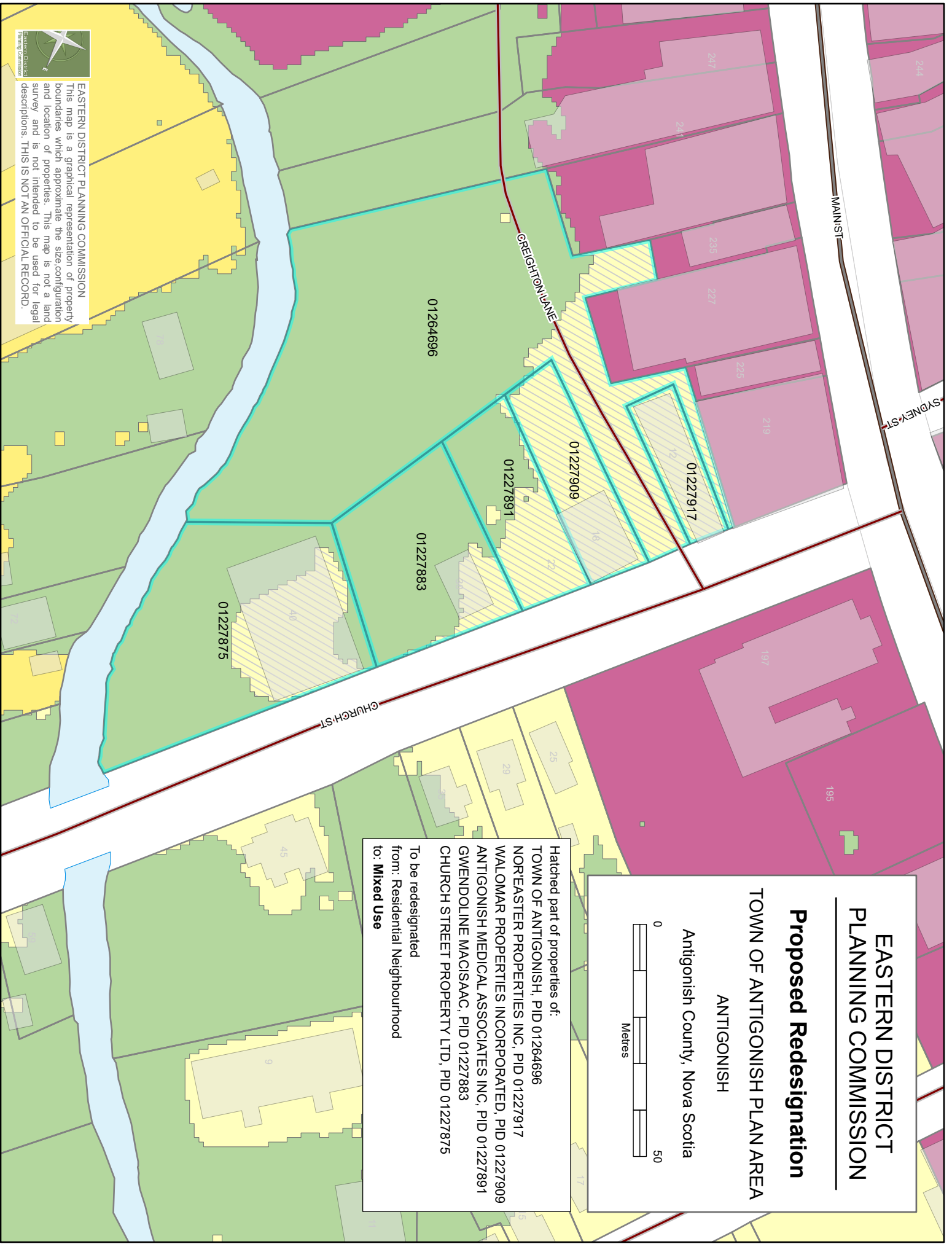
Hatched part of properties of:

TOWN OF ANTIGONISH, PID 01264696
NOREASTER PROPERTIES INC., PID 01227917
WALOMAR PROPERTIES INCORPORATED, PID 01227909
ANTIGONISH MEDICAL ASSOCIATES INC., PID 01227891
GWENDOLINE MACISAAC, PID 01227883
CHURCH STREET PROPERTY LTD, PID 01227875

To be redesignated
from: Residential Neighbourhood
to: **Mixed Use**



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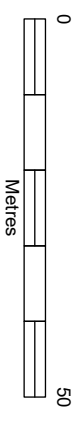
EASTERN DISTRICT PLANNING COMMISSION

Proposed Rezoning

TOWN OF ANTIGONISH PLAN AREA

ANTIGONISH

Antigonish County, Nova Scotia



Hatched part of properties of:

TOWN OF ANTIGONISH, PID 01264696
NOREASTER PROPERTIES INC., PID 012227917
WALOMAR PROPERTIES INCORPORATED, PID 012227909
ANTIGONISH MEDICAL ASSOCIATES INC., PID 012227891
GWENDOLINE MACISAAC, PID 012227883
CHURCH STREET PROPERTY LTD, PID 012227875

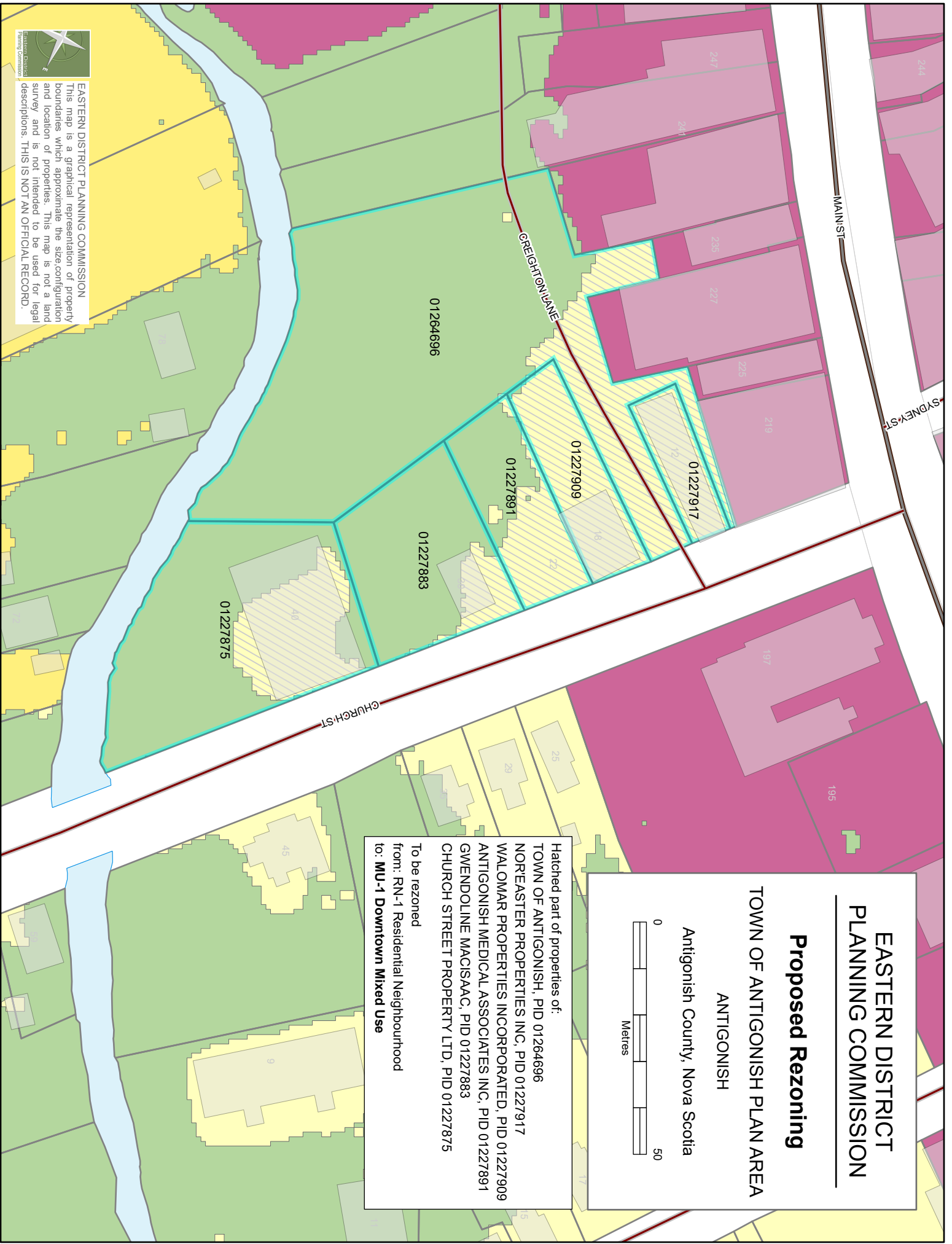
To be rezoned

from: RN-1 Residential Neighbourhood

to: **MU-1 Downtown Mixed Use**



EASTERN DISTRICT PLANNING COMMISSION
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EASTERN DISTRICT PLANNING COMMISSION

Proposed Redesignation

TOWN OF ANTIGONISH PLAN AREA


ANTIGONISH

Antigonish County, Nova Scotia

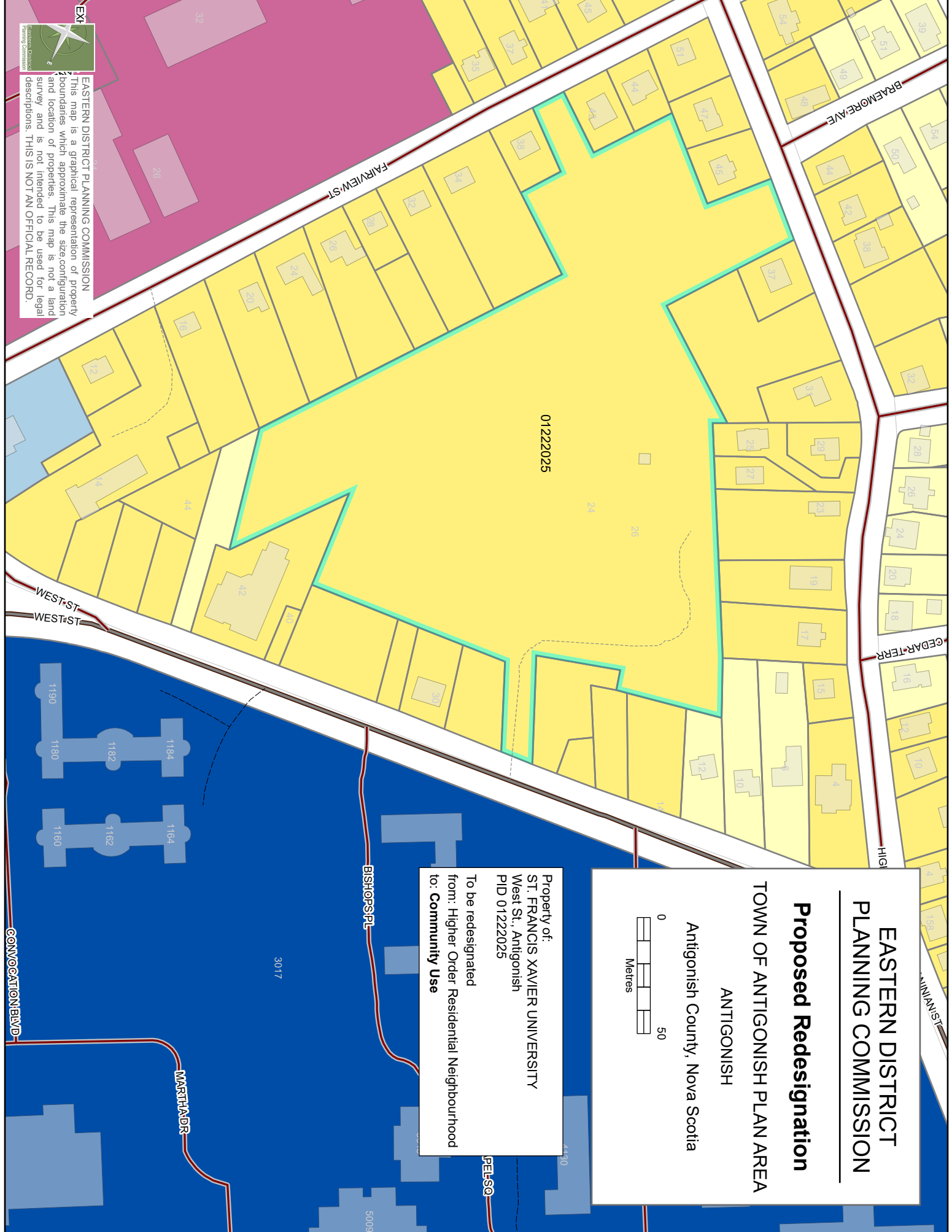


Property of:
ST. FRANCIS XAVIER UNIVERSITY
West St., Antigonish
PID 01222025

To be redesignated
from: Higher Order Residential Neighbourhood
to: **Community Use**



EASTERN DISTRICT PLANNING COMMISSION
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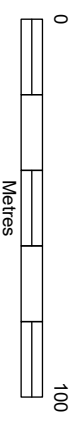
EASTERN DISTRICT PLANNING COMMISSION

Proposed Rezoning

TOWN OF ANTIGONISH PLAN AREA

ANTIGONISH

Antigonish County, Nova Scotia



Property of:
ST FRANCIS XAVIER UNIVERSITY
West St, Antigonish
PID 01222025

To be rezoned
from: RN-2 Higher Order Residential Neighbourhood
to: **I - Institutional**

EASTERN DISTRICT PLANNING COMMISSION
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