



P.O. Box 1749
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Item No. 10.1.1
Halifax and West Community Council
August 3, 2016
September 13, 2016

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: June 27, 2016

SUBJECT: **Case 20265: Amendment to the I-3 (General Industrial) Zone under the
Halifax Mainland Land Use By-law**

ORIGIN

Application by WSP Canada Inc.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to the I-3 (General Industrial) Zone of the Land Use By-law for Halifax Mainland, as set out in Attachment A, to reduce the minimum watercourse setback requirement from 200 ft. to 65.62ft. (20m) and schedule a public hearing;
2. Adopt the amendment to the I-3 (General Industrial) Zone of the Land Use By-law for Halifax Mainland, as set out in Attachment A.

BACKGROUND

WSP Canada Inc. submitted an application on behalf of Banc Properties Ltd. to consider amending Section 50A(4) of the Halifax Mainland Land Use By-law (LUB) by reducing the minimum watercourse buffer requirement from 200 ft. (61m) to 65.62 ft. (20m). Banc Properties Ltd. owns 178.58 acres of land adjacent to the Bayer's Lake Business Park, which was acquired from HRM in March 2013.

Subject Site	PID 40048969
Location	Halifax Mainland
Regional Plan Designation	IP (Industrial Park), US (Urban Settlement)
Community Plan Designation (Maps 1A, 1B, & 1C)	IND (Industrial)
Zoning (Maps 2A, 2B, & 2C)	I-3 (General Industrial)
Size of Site	Approximately 72.27 hectares (178.58 acres)
Street Frontage	Approximately 50 ft.
Current Land Use(s)	Vacant
Surrounding Use(s)	The developed areas immediately surrounding the site are used predominantly for commercial and industrial purposes. The Bayer's Lake Business Park is located east and south of the site. The Birch Cove Lakes Regional Park is located to the north and there is a vacant, holding area west of the site.

Proposal Details

Banc Properties Inc. wishes to develop commercial uses at the subject property; however, the existing watercourse setback requirement under Section 50A(4) limits the extent of potential commercial development. The setback along Black Duck Ponds affects the extent of development at this site. As a result of the 200 ft. required buffer, the total area of developable land reduced by approximately 6 acres. In order to enable a larger development envelope at this site, WPS Canada Inc. is requesting to reduce the minimum watercourse setback requirement to 20m (65.62 ft.) by amending the Halifax Mainland LUB. When the 20m buffer is applied, the total developable area increases to a total of 176.24 acres. A comparison of the existing and proposed setback requirements on the subject property is shown on Attachment B.

History of Land Use Regulations in the Area

This property is located within the Bayer's Lake/Ragged Lake area, which was annexed by the City of Halifax from Halifax County Municipality in 1983. Following the annexation, the lands were designated Industrial and assigned I-3 (General Industrial) zoning. The lands could not be serviced with municipal sewer and water at the time; therefore, as-of-right industrial development utilizing on-site services was permitted. More stringent setback provisions were adopted in the zone to protect lakes and waterways on the basis that on-site sewage disposal systems posed a greater risk to water quality than properties which enjoyed piped sewage disposal services.

Relative Policy and LUB Context

The Regional MPS and Halifax MPS acknowledge that watercourses should be protected from development; however, the Halifax MPS does not advocate a more restrictive buffer in the areas designated as Industrial.

The Regional MPS, under Policy E-16, requires the retention of a minimum 20m riparian buffer along all watercourses throughout HRM. This regional policy is applied at the local level under Section 14QA(1) of

the Halifax Mainland LUB, which does not permit any development within 20m of the ordinary high-water mark of any watercourse. The Halifax Mainland LUB defines watercourse as “a lake, river, stream, ocean or other natural body of water”. A watercourse does not include a wetland area unless a surface stream flows through it. No excavation, vegetation removal of any kind is permitted within the riparian buffer.

A non-disturbance riparian cannot be varied under Section 250 of the Halifax Regional Municipality Charter (HRMC). The I-3 (General Industrial) Zone requires a setback of 200 ft. from any lake or watercourse and a variance for setbacks may be considered under Section 250 of the HRMC.

Attachment C provides excerpts of relevant Halifax MPS and Regional MPS policies.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed amendment. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Maps 2A, 2B, and 2C will be notified of the hearing by regular mail.

The proposal will potentially impact property owners of lands zoned I-3.

DISCUSSION

The proposed Land Use By-law amendments, as detailed in Attachment A, have been reviewed in accordance with all relative policies. Staff advise that a reduction in the minimum watercourse setback under the I-3 Zone to 20m is appropriate for areas within the serviceable boundary and is consistent with the Halifax MPS and Regional MPS.

The I-3 Zone was adopted in December, 1984. At that time, there were no regional watercourse buffer requirements. The City recognised the need to protect watercourses in the Bayer's Lake and Ragged Lake industrial park, particularly because only on-site sewer and water services were available, and other provisions to protect lakes and waterways applied in this area. Subsequently, the Regional MPS under Policy E-16 established a minimum riparian buffer of 20m (65.62 ft.) for all development. This requirement is reiterated under Section 14QA(1) of the Halifax Mainland LUB (see Attachment C). The relative policy under the Halifax MPS recognises that watercourses should be protected and maintained in industrially designated areas, but there is no reference to a 60.96m (200 ft.) setback. If deemed appropriate, a local MPS and LUB can establish a more stringent requirement than the Regional MPS. Council, therefore, has flexibility in determining an appropriate setback and buffer.

Staff recognise that there is a limited supply of land in areas that are undeveloped industrially designated. A reduction in the watercourse setback requirements would encourage better utilisation of the remaining undeveloped lands for industrial and commercial uses, pursuant to policies 4.2.1 and 4.3.1. The 60.96m (200 ft.) watercourse setback requirement was intended to protect the lakes, streams and other waterways from potential leakage and contamination from on-site sanitary sewage disposal systems. Section 50A(5) under the I-3 Zone of the Halifax Mainland LUB permits commercial and industrial uses with on-site sewer and water services. The majority of the undeveloped industrial lands are now located within the Urban Service Area boundary and are required to be serviced with municipal water and sewer services (see Map 3). Therefore, water contamination due to on-site septic disposal seepage is no longer a concern for most of these areas. A 20m buffer and setback as required for all other development under the Halifax MPS is appropriate.

While the majority of properties zoned I-3 under the Halifax Mainland LUB are now serviced with central sewer and water services, there are still seven lots located outside of the serviceable boundary (see Map 4). One such lot is situated north of the subject property, fronting Lacewood Drive, and six of the lots are located south of the subject property, fronting Evergreen Place and Prospect Road.

A more stringent watercourse setback requirement is not in place for industrial zones across the region. Most industrial developments are subject to the watercourse buffer and setback requirements established by the Regional MPS. However, the zones that have greater setback requirements, in all other cases, are located outside the serviceable boundary. To maintain the intent Policy 4.4 of the Halifax MPS to ensure the protection of waterbodies from on-site septic systems, staff recommend maintaining the existing 60.96m (200 ft.) setback requirement for those lots located outside the serviceable boundary.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the MPS. There are very few undeveloped properties left in the Bayer's Lake and Ragged Lake industrial areas. A reduction in the watercourse setback requirement for serviced lots, would allow for better utilization of the remaining industrially designated lands in keeping with Policy 4.2.1 of the Halifax MPS, while satisfying the minimum requirements under Policy E-16 of the Regional MPS. Therefore, staff recommend that the Halifax and West Community Council approve the proposed LUB amendment.

FINANCIAL IMPLICATIONS

The HRM cost associated with processing this planning application can be accommodated with the approved 2016/17 operating budget for C310 Urban & Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed LUB amendment are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed LUB amendment subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

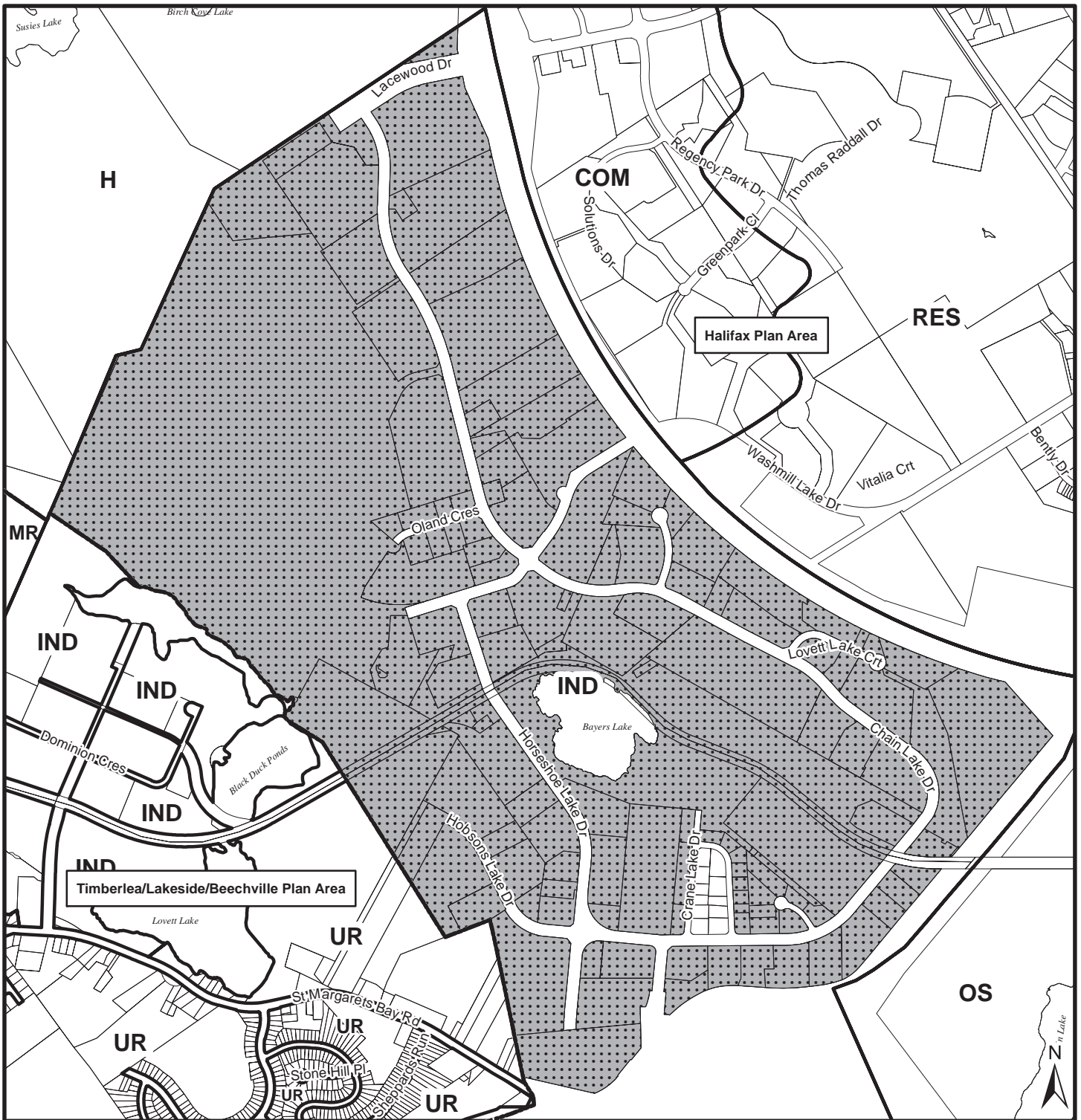
Map 1A, 1B, & 1C:	Generalized Future Land Use
Map 2A, 2B, & 2C:	Zoning and Notification Area
Map 3:	Serviceable Boundary
Map 4:	Unserviced Lands Zoned I-3
Attachment A:	Proposed Amendments to the Halifax Mainland LUB
Attachment B:	Effects of 200 ft. Setback and 20m Buffer
Attachment C:	Excerpts of the Regional MPS and Halifax MPS and Halifax Mainland LUB

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Stephanie Salloum, Planning Intern, 902.490.4553

Original Signed

Report Approved by: _____
Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1A - Generalized Future Land Use

HALIFAX

 Area Zoned I-3
Halifax Mainland

Halifax Designations
 RES Residential Environments
 COM Commercial
 OS Major Community Open Spaces
 IND Industrial
 H Holding Area

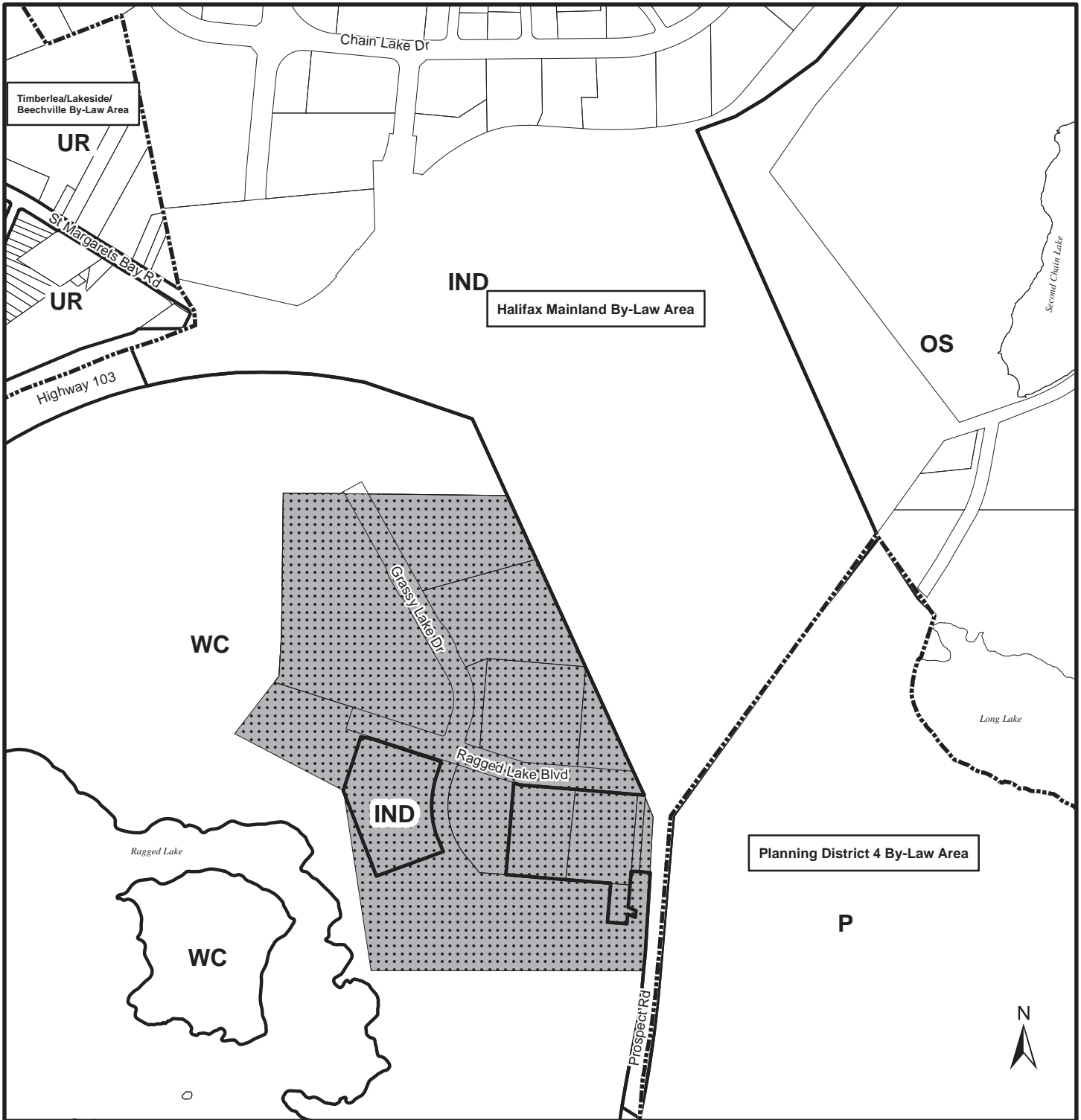
Timberlea/Lakeside/Beechville Designations
 MR Mixed Resource
 UR Urban Residential
 IND Industrial



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.


The accuracy of any representation on this plan is not guaranteed.

Halifax Plan Area



Map 1B - Generalized Future Land Use



 Area Zoned I-3
Halifax Mainland

Halifax Designations
 OS Major Community Open Spaces
 IND Industrial
 WC Western Common

Planning District 4 Designations
 P Park

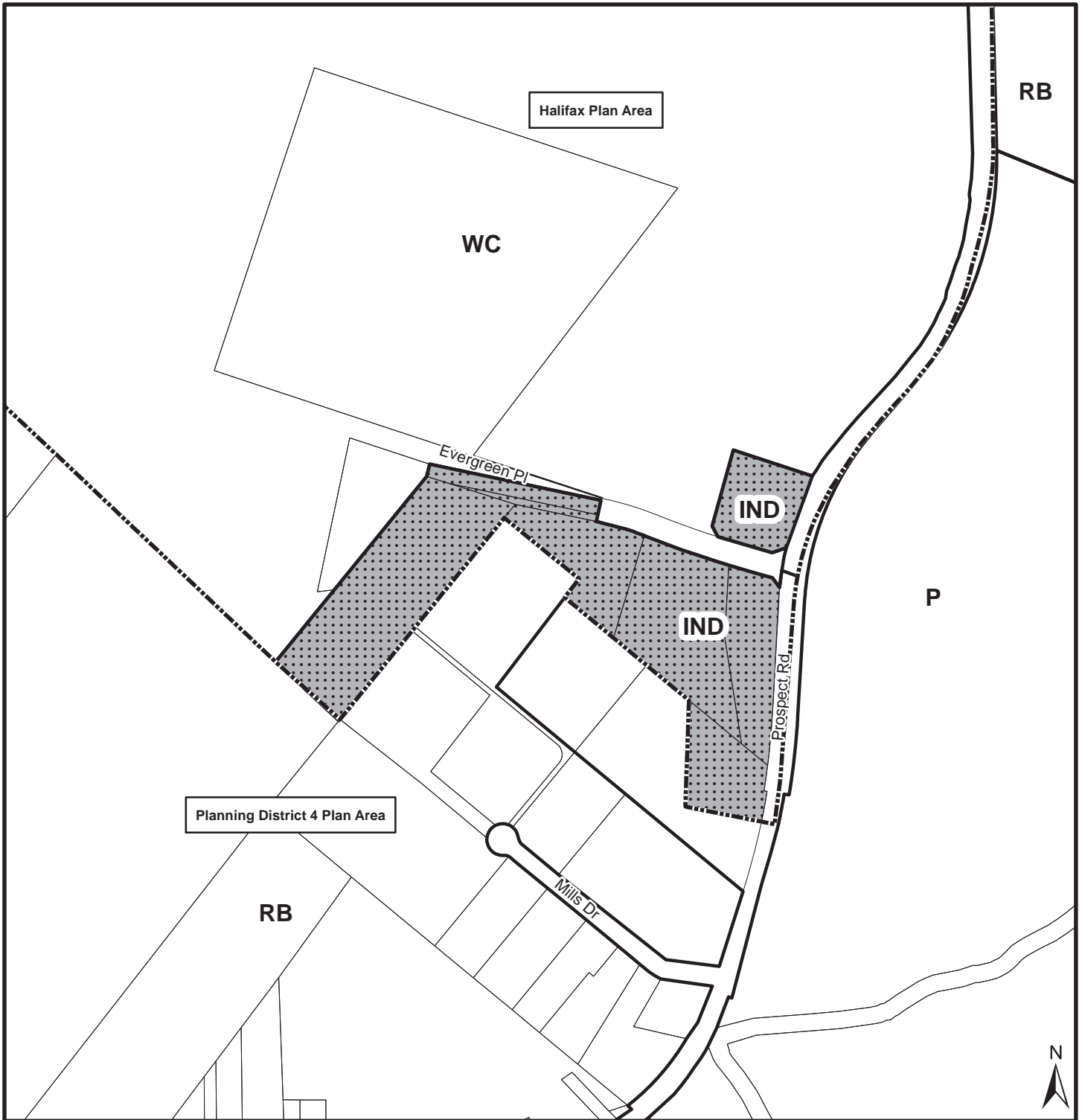


Timberlea/Lakeside/Beechville Designations
 UR Urban Residential

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Halifax Plan Area



Map 1C - Generalized Future Land Use

HALIFAX

 Area Zoned I-3
Halifax Mainland

Halifax Designation
 WC Western Common
 IND Industrial

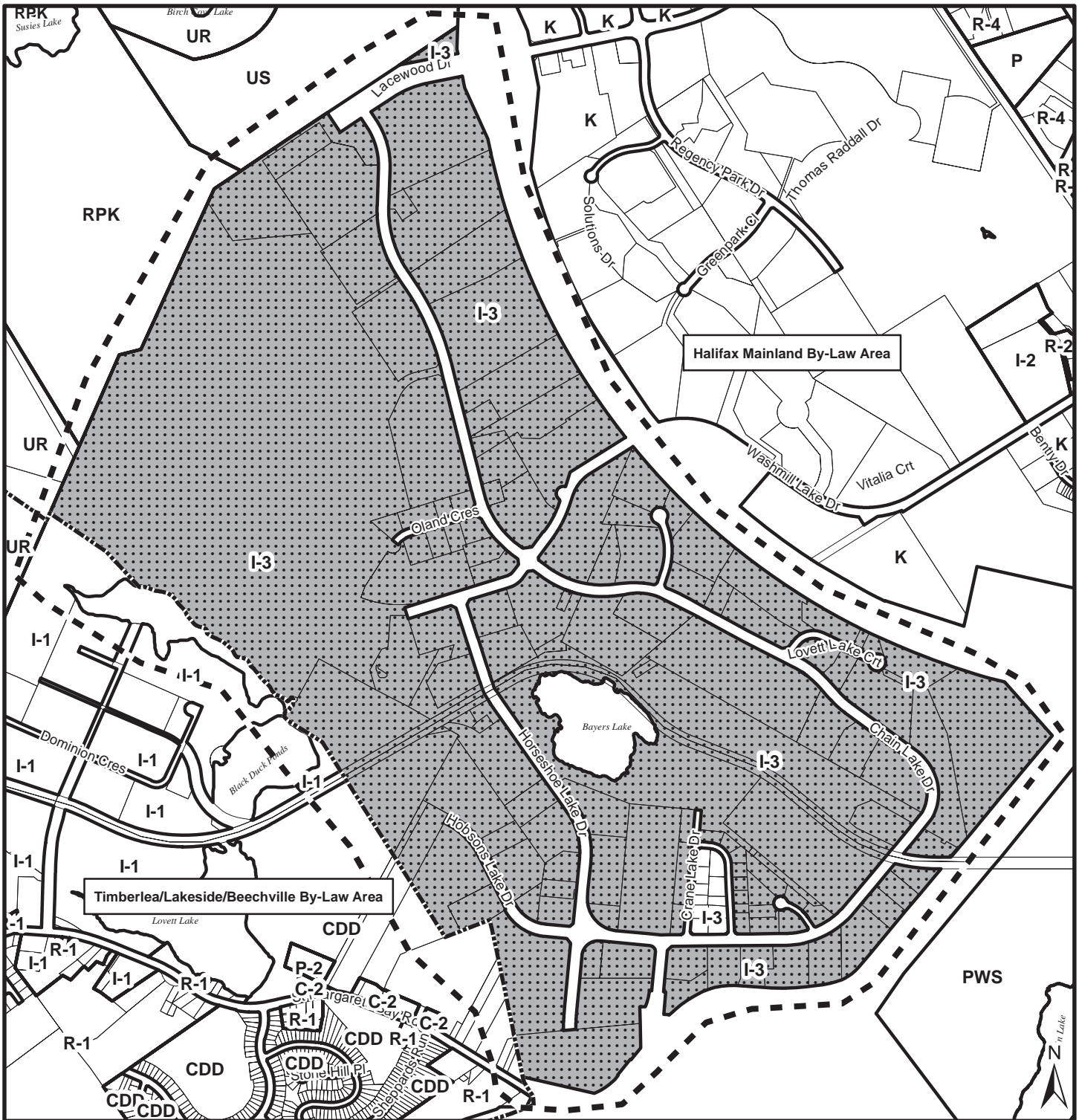


Planning District 4 Zones
 RB Western Common
 P Park

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.



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Halifax Plan Area



Map 2A - Zoning and Notification



-  Area Zoned I-3
-  Area of Notification

- Halifax Mainland Zones**
- R-2 Two Family Dwelling
 - R-4 Multiple Dwelling
 - UR Urban Reserve
 - US Urban Settlement
 - P Park and Institutional
 - RPK Regional Park
 - I-2 Radio Transmitter
 - I-3 General Industrial
 - PWS Protected Water Supply

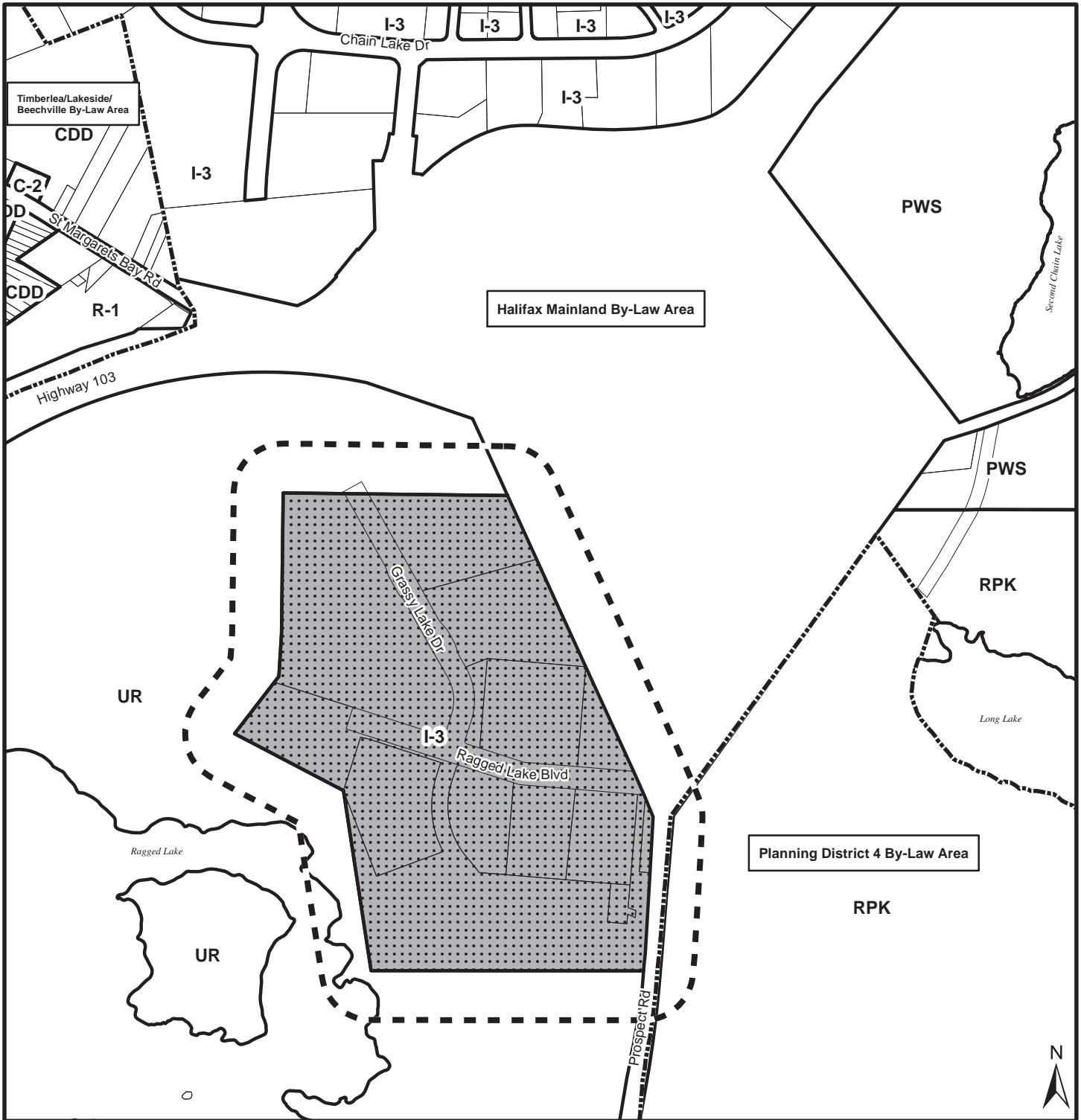
- Timberlea/Lakeside/Beechville Zones**
- R-1 Single Unit Dwelling
 - UR Urban Reserve
 - C-2 General Business
 - P-2 Community Facility
 - I-1 Light Industry
 - CDD Comprehensive Development District



Halifax Mainland
Land Use By-Law Area



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.



Map 2B - Zoning and Notification

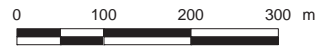


-  Area Zoned I-3
-  Area of Notification

- Halifax Mainland Zones**
- UR Urban Reserve
 - I-3 General Industrial
 - PWS Protected Water Supply
 - RPK Regional Park

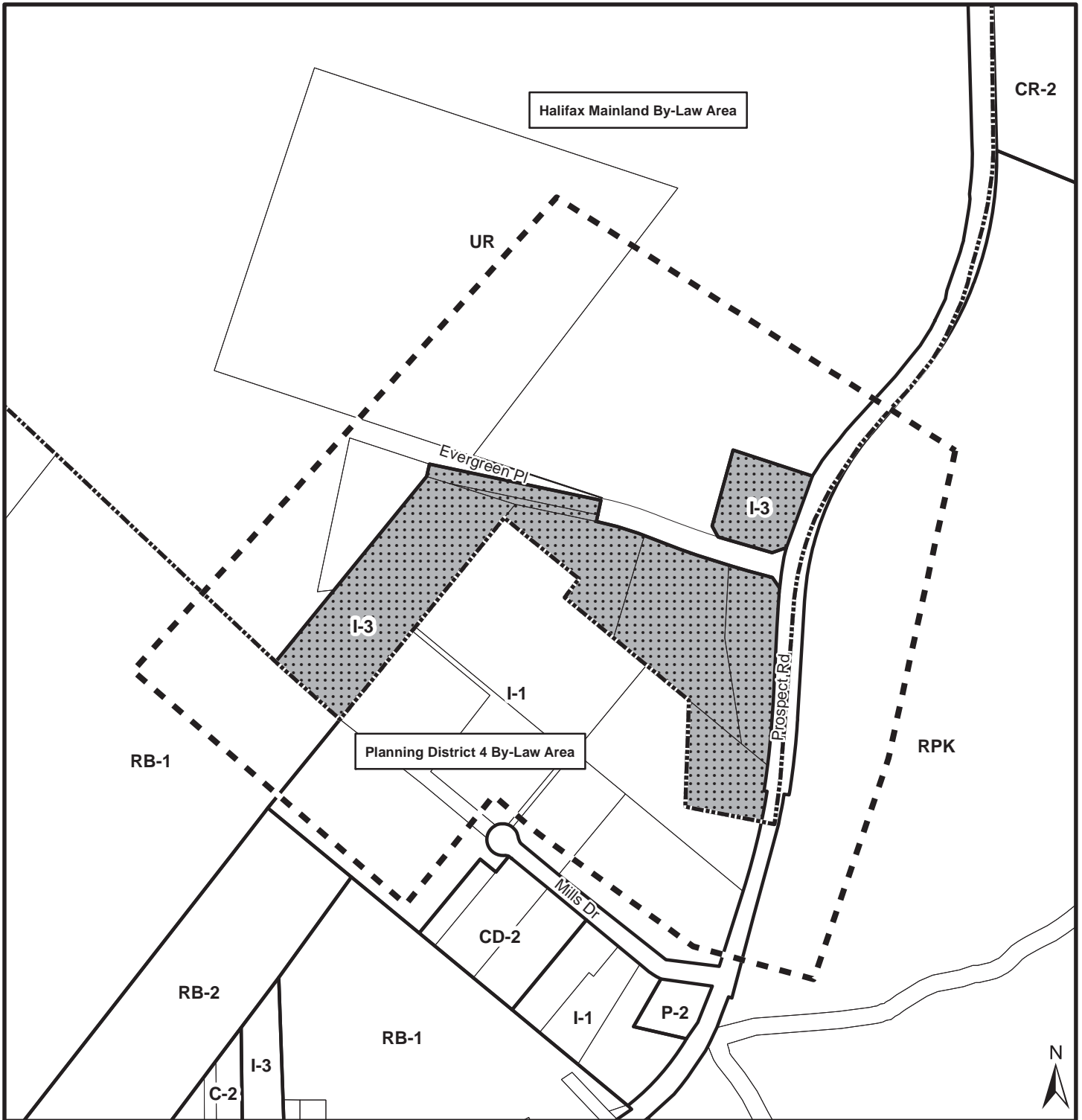
- Planning District 4 Zones**
- RPK Regional Park

- Timberlea/Lakeside/Beechville Zones**
- R-1 Single Unit Dwelling
 - C-2 General Business
 - CDD Comprehensive Development District






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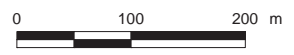
Map 2C - Zoning and Notification



-  Area Zoned I-3
-  Halifax Mainland
-  Area of Notification

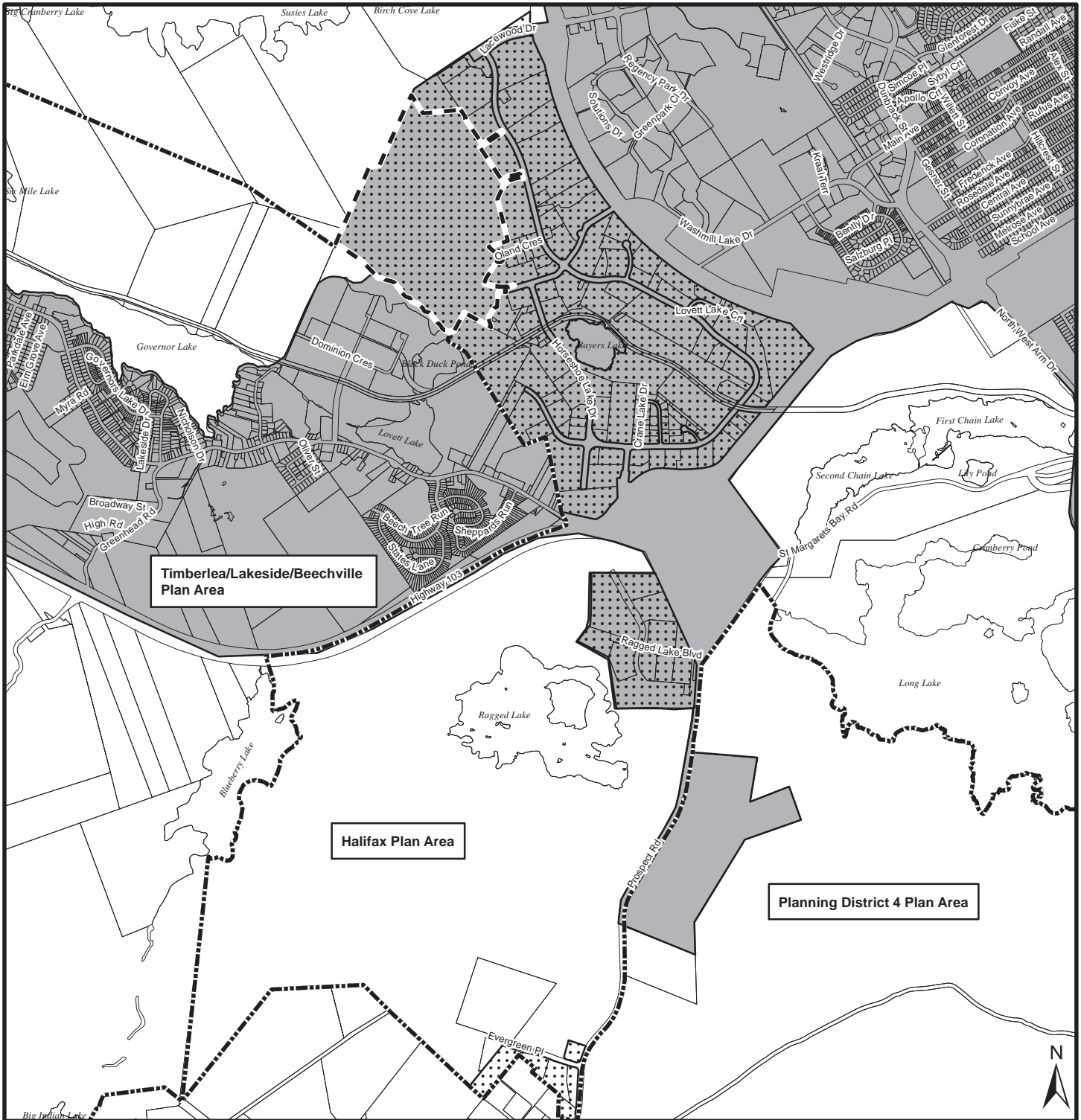
- Halifax Mainland Zones**
- UR Urban Reserve
 - I-3 General Industrial

- Planning District 4 Zones**
- RB-1 Residential B-1
 - RB-2 Residential B-2
 - C-2 General Business
 - I-1 Light Industry
 - I-3 Local Service
 - P-2 Community Facility
 - RPK Regional Park
 - CD-2 C&D Materials Processing Facilities
 - CR-2 Commercial Recreation 2



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Halifax Mainland
Land Use By-Law Area



Map 3 - Serviceable Boundary

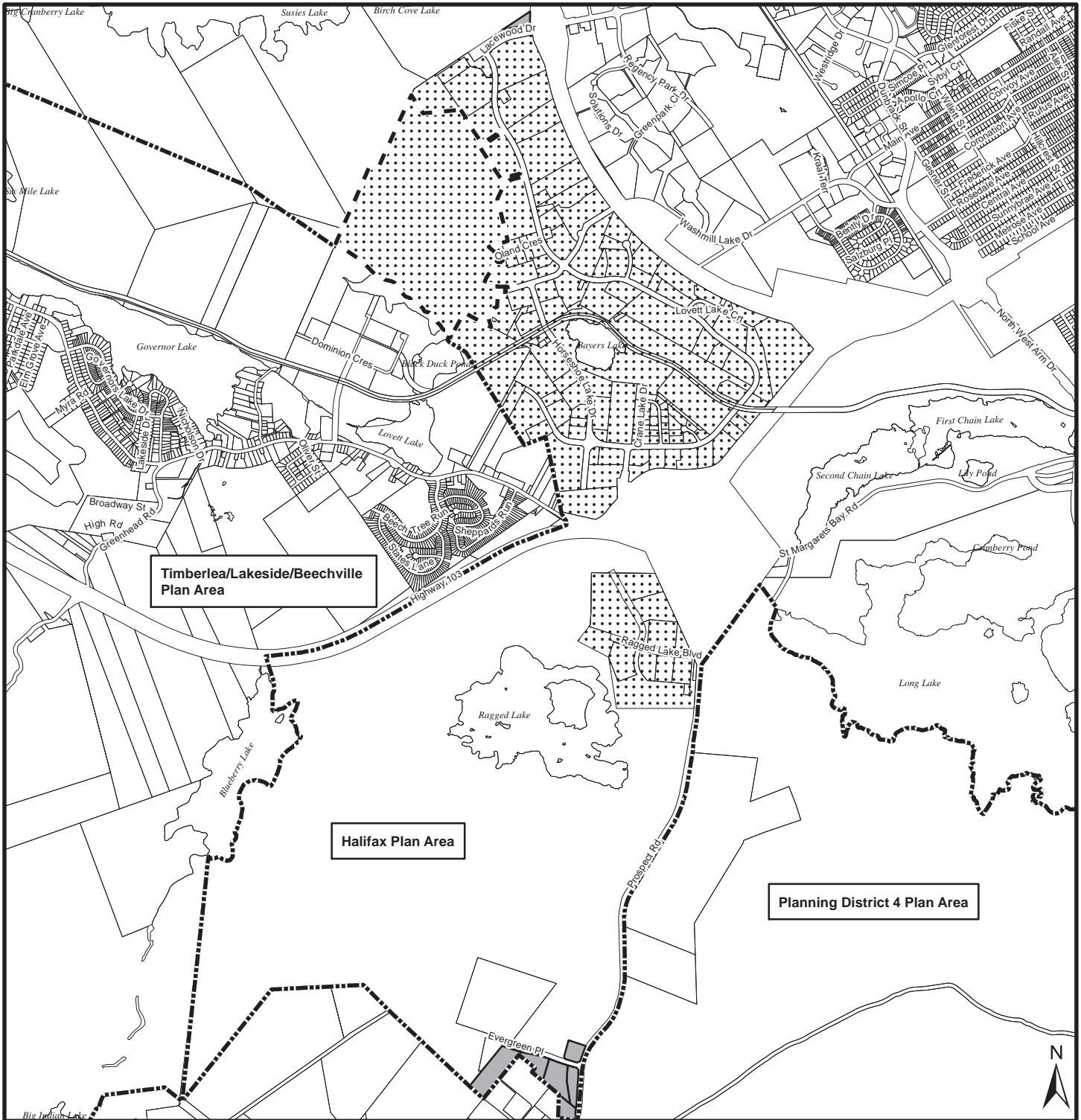


- Serviced Lands
- Area Zoned I-3
Halifax Mainland
- Subject Property






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Halifax Mainland
Land Use By-Law Area



Map 4 - Unserved Lands Zoned I-3 Halifax Mainland



-  Unserved Lands Zoned I-3 Halifax Mainland
-  Area Zoned I-3 Halifax Mainland
-  Subject Property



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Halifax Mainland
Land Use By-Law Area

Attachment A
Proposed Amendments to the Halifax Mainland Land Use By-law

BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Halifax Mainland Land Use By-law is hereby further amended as follows:

a) By repealing and replacing Section 50A(4) with the following:

50A (4) No development permit shall be issued except in conformity with the following:

- (a) No front, side or rear yards are required in an I-3 Zone;
- (b) Any development undertaken in an I-3 Zone serviced with on-site sewage disposal or water services shall be setback a minimum of 200 feet from the ordinary high water mark of any lake or watercourse;
- (c) Any development undertaken in an I-3 Zone serviced with city sewer or water services shall meet the watercourse setback and buffer requirements of Section 14QA of this by-law; and
- (d) Any use permitted in the I-3 Zone shall be set back a minimum of 30 feet from a collector roadway and 10 feet from all other roadways.

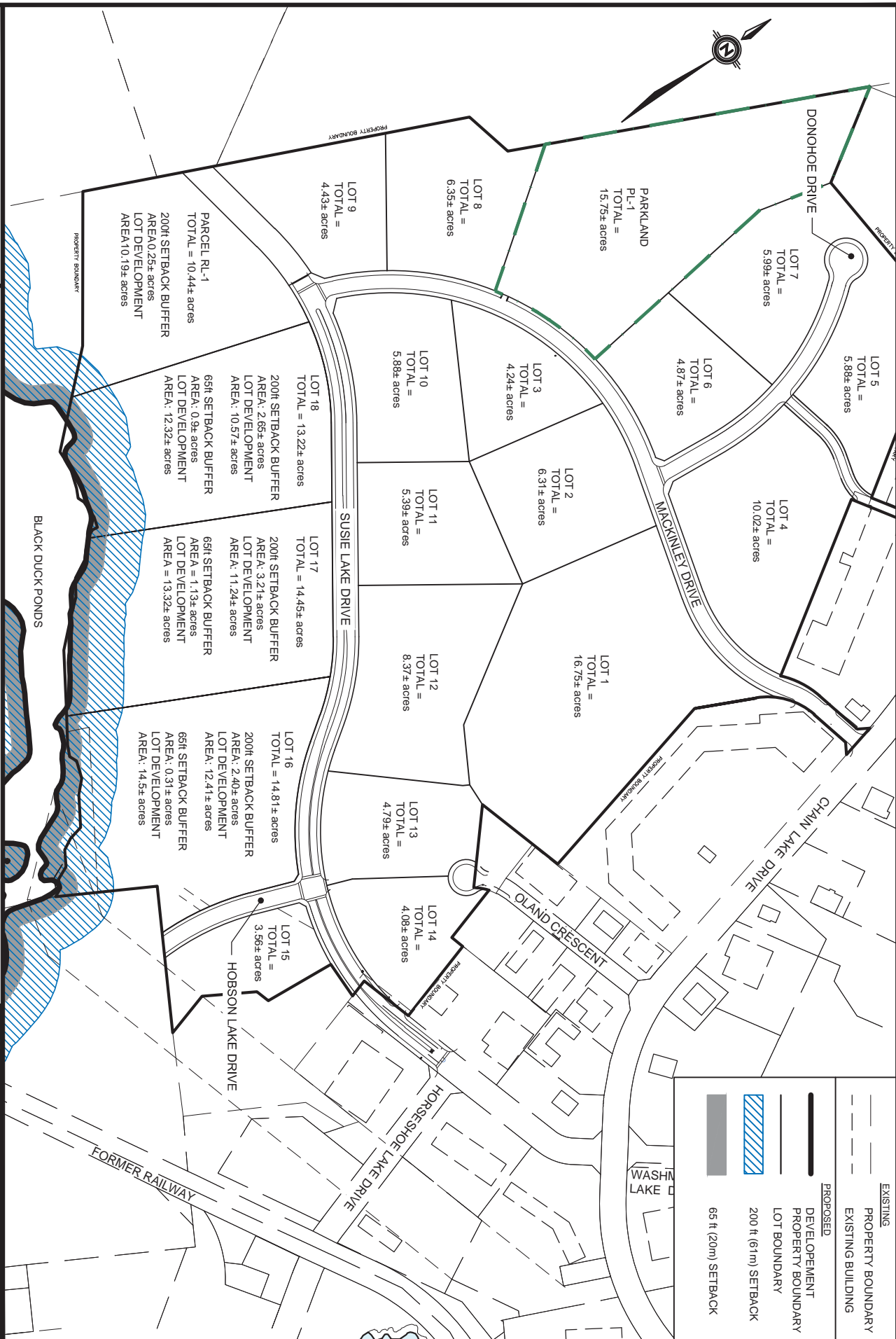
THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Halifax and West Community Council of Halifax Regional Municipality held on the _____ day of _____, 20__.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, 20__.

Municipal Clerk

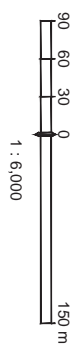


**SETBACK COMPARISON
BAYERS LAKE NORTHWEST CORNER
HALIFAX, NOVA SCOTIA**



	EXISTING PROPERTY BOUNDARY
	EXISTING BUILDING
	PROPOSED DEVELOPMENT PROPERTY BOUNDARY
	LOT BOUNDARY
	200 ft (61m) SETBACK
	65 ft (20m) SETBACK

SCALE



DATE: 15-JUNE-2016

Attachment C:
Review of Relevant Policies from the RMPS and Halifax MPS

Regional Municipal Planning Strategy (RMPS) Policy

E-16 HRM shall, through the applicable land use by-law, require the retention of a minimum 20 metre wide riparian buffer along all watercourses throughout HRM to protect the chemical, physical and biological function of marine and freshwater resources. Through a secondary planning process, the width of the riparian buffer may be increased. Lands designated Halifax Harbour on the Generalised Future Land Use Map (Map 2), industrial lands within the port of Sheet Harbour and lands within the Waterfront Residential (R-IC) Zone under the Shubinacadie Lakes Secondary Planning Strategy shall be exempted from the buffer requirement.

Development within the riparian buffer shall generally be prohibited but provisions may be made to permit water control structures, boardwalks, walkways and trails of limited width, fences, public road crossings, driveway crossings, wastewater, storm and water infrastructure, marine dependent uses, fisheries uses, boat ramps, wharfs, small-scale accessory buildings or structures and attached decks, conservation uses, parks on public lands and historical sites and monuments within the buffer. In addition, no alteration of land levels or the removal of vegetation in relation to development will be permitted.

EC-3 A Business/Industrial Sub-Designation shall be established on the Generalized Future Land Use Map (Map 2) and applied to all existing business/industrial parks, including Halifax International Airport, and proposed expansion areas. This sub-designation represents priority areas for an integrated mix of industrial, commercial, service and support uses. Corresponding land use regulations and development standards will be established under the applicable land use by-laws.

Halifax Municipal Planning Strategy (MPS) Policy

Policy 4.2.1: The City should encourage the maximum use by industry and supporting uses of lands designated for industrial development and should, where possible, discourage the development of conflicting land uses on these lands in recognition of the limited supply of this type of land within the City and the impediment to efficient industrial operation that may be created by competing activities.

Policy 4.3.1: A mixture of commercial, industrial and related enterprises shall be encouraged in the Bayers Lake and Ragged Lake areas. The development standards identified in Policy 4.4 shall ensure appropriate economic development of the lands, accommodating a broad range of industrial, commercial and related uses, and complementing the physical and environmental characteristics of the land.

Policy 4.4: Further to policy 4.3.1, the Land Use By-law shall require that:

Policy 4.4 Development Standards	Comment
<i>(a) sufficient and properly surfaced parking for employees and customers is provided;</i>	Not applicable
<i>(b) all open space areas including yards and setbacks are landscaped;</i>	Not applicable
<i>(c) loading and unloading areas are controlled in terms of location and screening in respect to their adjacency to collector roadways;</i>	Not applicable
<i>(d) the number and size of large signs advertising the business on the lot as well as signage for individual businesses are limited;</i>	Not applicable
<i>(e) billboards are prohibited;</i>	Not applicable
<i>(f) lakes, streams, and other waterbodies are protected by requiring a minimum setback of any</i>	See discussion section of report

development.	
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Policy 8.5: *The City shall establish standards, insofar as it has the power, for maintaining lake systems and their watersheds in a healthy state. These standards should address the infilling of lakes and their tributaries, the preservation of natural resources which are visually or ecologically complementary to those lakes and their tributaries, the control of discharges into lakes or tributaries resulting from public or private developments which would cause long-term degradation of the water quality, and the prevention of any other environmentally damaging effects.*

Halifax Mainland Land Use By-law (LUB)

2 “Watercourse” means a lake, river, stream, ocean or other natural body of water. (RC-Jun 25/14;E-Oct 18/14)

14QA(1) Watercourse Setbacks and Buffers (RC-Jun 25/14;E-Oct 18/14)

Section 14QA(1) Criteria	Comment
(a) <i>No development permit shall be issued for any development within 20m of the ordinary highwater mark of any watercourse.</i>	See discussion section of report
(b) <i>Where the average positive slopes within the 20m buffer are greater than 20%, the buffer shall be increased by 1 metre for each additional 2% of slope, to a maximum of 60m.</i>	See discussion section of report
(c) <i>Within the required buffer pursuant to clauses (a) and (b), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to a development.</i>	See discussion section of report
(d) <i>Within the required buffer pursuant to clauses (a) and (b), activity shall be limited to the placement of one accessory structure or one attached deck not exceeding a footprint of 20 m² or a combination of an accessory structure and attached deck not exceeding 20 m², fences, boardwalks, walkways and trails not exceeding 3 metres in width, wharfs, boat ramps, marine dependent uses, fisheries uses, conservation uses, parks on public lands, historic sites and monuments, and public road crossings, driveway crossings and wastewater, storm and water infrastructure, and water control structures.</i>	See discussion section of report
(e) <i>Notwithstanding clause (a), the required buffer for construction and demolition operations shall be as specified under the applicable CD Zone.</i>	Not applicable
(f) <i>Within the buffer required pursuant to clause (e), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to a development.</i>	Not applicable

50A(4) *No front, side or rear yards are required in an I-3 Zone; however, any development undertaken in an I-3 Zone shall be required to be set back 200 ft. from any lake or watercourse and any use permitted in the I-3 Zone shall be set back a minimum of 30 feet from a collector roadway and 10 feet from all other roadways.*

50A(5) *Sewage disposal and water services may be provided on site or off site in any manner consistent with the regulations of the Province of Nova Scotia, provided that no on-site sewer and water services shall be permitted on land inside the Development Boundary identified on Map II, Appendix "C" of the Halifax- Dartmouth Metropolitan Regional Development Plan.*