



P.O. Box 1749  
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**Item No. 10.1.3**  
**Harbour East – Marine Drive Community Council**  
**March 3, 2016**

**TO:** Chair and Members of the Harbour East – Marine Drive Community Council

**SUBMITTED BY:** Original Signed  
\_\_\_\_\_  
Bob Bjerke, Chief Planner and Director, Planning and Development

**DATE:** January 12, 2016

**SUBJECT:** Case 20225: Rezoning – Kenyatta Drive, Eastern Passage

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**ORIGIN**

Application by Jill Comstock-Smith

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Harbour East – Marine Drive Community Council:

1. Give First Reading to the proposed rezoning, as contained in Attachment A of this report, to rezone land on Kenyatta Drive, Eastern Passage, from RA (Rural) to R-1 (Single Unit Dwelling), and schedule a public hearing; and
2. Approve the proposed rezoning, as contained in Attachment A of this report, to rezone land on Kenyatta Drive, Eastern Passage, from RA (Rural) to R-1 (Single Unit Dwelling).

## **BACKGROUND**

Jill Comstock-Smith, on behalf of Omarion Construction, is applying to rezone land on Kenyatta Drive in Eastern Passage from RA (Rural) to R-1 (Single Unit Dwelling). The applicant is currently constructing a subdivision off Caldwell Road (Kenyatta Drive) and wishes to develop two proposed lots under the urban R-1 Zone lot standard consistent with the rest of the development.

<b>Subject Site</b>	Portion of PID 40000887
<b>Location</b>	Kenyatta Drive, Eastern Passage
<b>Regional Plan Designation</b>	Urban Settlement, Rural Commuter
<b>Community Plan Designation (Map 1)</b>	Urban Residential (UR), Rural Area (RA) under the Eastern Passage/Cow Bay Municipal Planning Strategy (MPS)
<b>Zoning (Map 2)</b>	RA (Rural), R-1 (Single Unit Dwelling) under the Eastern Passage/Cow Bay Land Use By-law (LUB)
<b>Size of Site</b>	Approximately 1,676.1 square metres (18,041.7 square feet)
<b>Street Frontage</b>	Approximately 53.6 metres (176 feet) on Kenyatta Drive
<b>Site Conditions</b>	Relatively level vacant land
<b>Current Land Uses</b>	Vacant
<b>Surrounding Land Uses</b>	<u>North and South</u> : vacant land in the process of being developed for single unit dwellings <u>East</u> : vacant land <u>West</u> : low density residential development

### **Enabling Policy and Zoning Context**

Policy IM-6 enables Harbour East – Marine Drive Community Council to consider proposals to rezone land within one designation to a zone that is permitted within an abutting designation. The subject site abuts the UR Designation and R-1 Zone and, therefore, the proposal to rezone from the RA to R-1 Zone may be considered under this policy.

In 2015, the applicants built Kenyatta Drive as a public street after receiving approval for the subdivision plan. Map 3 shows the concept plan for the subdivision and indicates that most of Kenyatta Drive is zoned R-1 except for the area near the end of the cul-de-sac which is zoned RA. The R-1 Zone permits the development of single unit dwellings on lots with a minimum lot size of 557 square metres (6,000 square feet) that are serviced by central water and sewer. In contrast, the RA Zone permits the development of single unit dwellings on rural sized lots that must be a minimum of 4,645 square metres (50,000 square feet) in size.

### **Proposal**

The applicant is in the process of developing a new residential subdivision consisting of 13 single unit dwellings. The applicant wishes to rezone two proposed lots on Kenyatta Drive from RA to R-1 in order to allow the development of single unit dwellings according to the urban R-1 Zone lot standards. Map 3 shows the location of the proposed rezoning in relation to the proposed subdivision.

## **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the MPS. Attachment A contains the proposed rezoning that would allow the development of two proposed lots according to the urban R-1 Zone lot standards.

Attachment B provides an evaluation of the proposed rezoning in relation to relevant MPS policies. Of the matters reviewed to satisfy the MPS criteria, the following have been identified for more detailed discussion:

### **Urban Service Area**

The Urban Service Area was first digitally mapped as part of the adoption of the 2006 Regional Subdivision By-law. Prior to this, the service boundary map for the Eastern Passage area was hand drawn and formed part of the former Halifax County Subdivision Bylaw. Due to the drafting accuracy of the mapping, staff would utilize physical topography and technical advice when determining the precise location of the service boundary at the subdivision stage.

The subject site is located outside of the current digitally mapped Urban Service Area as shown in Schedule B of the Regional Subdivision Bylaw. However, the concept plan for the Kenyatta Drive subdivision was approved prior to the adoption of the 2006 Regional Subdivision By-law. At the time of concept plan approval (2006), staff interpreted the Urban Service Area to include the subject site because the area is at the top of a slope that allows waste water to drain by gravity.

### **Application of the R-1 Zone**

Kenyatta Drive is a new public street and it is serviced with both central water and sewer infrastructure. During initial phases of the subdivision process, both staff and the applicant had the understanding that all proposed lots, including the subject site, were located within the R-1 Zone. Upon closer review, staff determined that a portion of two proposed lots was in fact located within the RA Zone. These two proposed lots cannot be created because there is not sufficient land to meet the rural RA Zone lot standards. The proposed rezoning, therefore, would enable the recently constructed public street, and central services to be efficiently utilized and to ensure the entire subdivision is developed under the R-1 Zone requirements, subject to the urban lot standards.

## **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. The proposed rezoning would align the R-1 Zone and its urban lot standards with the interpretation of the Urban Service Area as per the approved 2006 concept plan and allow for the efficient use of existing infrastructure. Therefore, staff recommend that Harbour East - Marine Drive Community Council approve the proposed rezoning.

## **FINANCIAL IMPLICATIONS**

The HRM costs associated with the processing of this planning application can be accommodated within the approved 2015/2016 operating budget for C310 Planning & Applications.

## **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, signage posted on the subject site and letters mailed to property owners within the notification area shown on Map 2.

A public hearing must be held by Harbour East - Marine Drive Community Council before they can consider approval of the proposed rezoning. Should Harbour East - Marine Drive 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 will continue to be notified as shown on Map 2. The HRM website will also be updated to indicate notice of the public hearing.

The proposed rezoning will potentially impact the following stakeholders: local residents, and property owners.

### **ENVIRONMENTAL IMPLICATIONS**

No additional concerns were identified beyond those reviewed in this report.

### **ALTERNATIVE**

1. Harbour East - Marine Drive may choose to refuse the rezoning, and in doing so, must provide reasons why the rezoning does not reasonably carry on the intent of the MPS. A decision of Council to refuse the proposed rezoning is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

### **ATTACHMENTS**

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Map 3	Proposed Concept Plan
Attachment A	Proposed Amendments to the Eastern Passage/ Cow Bay Land Use By-law
Attachment B	Review of Relevant Municipal Planning Strategy Policies

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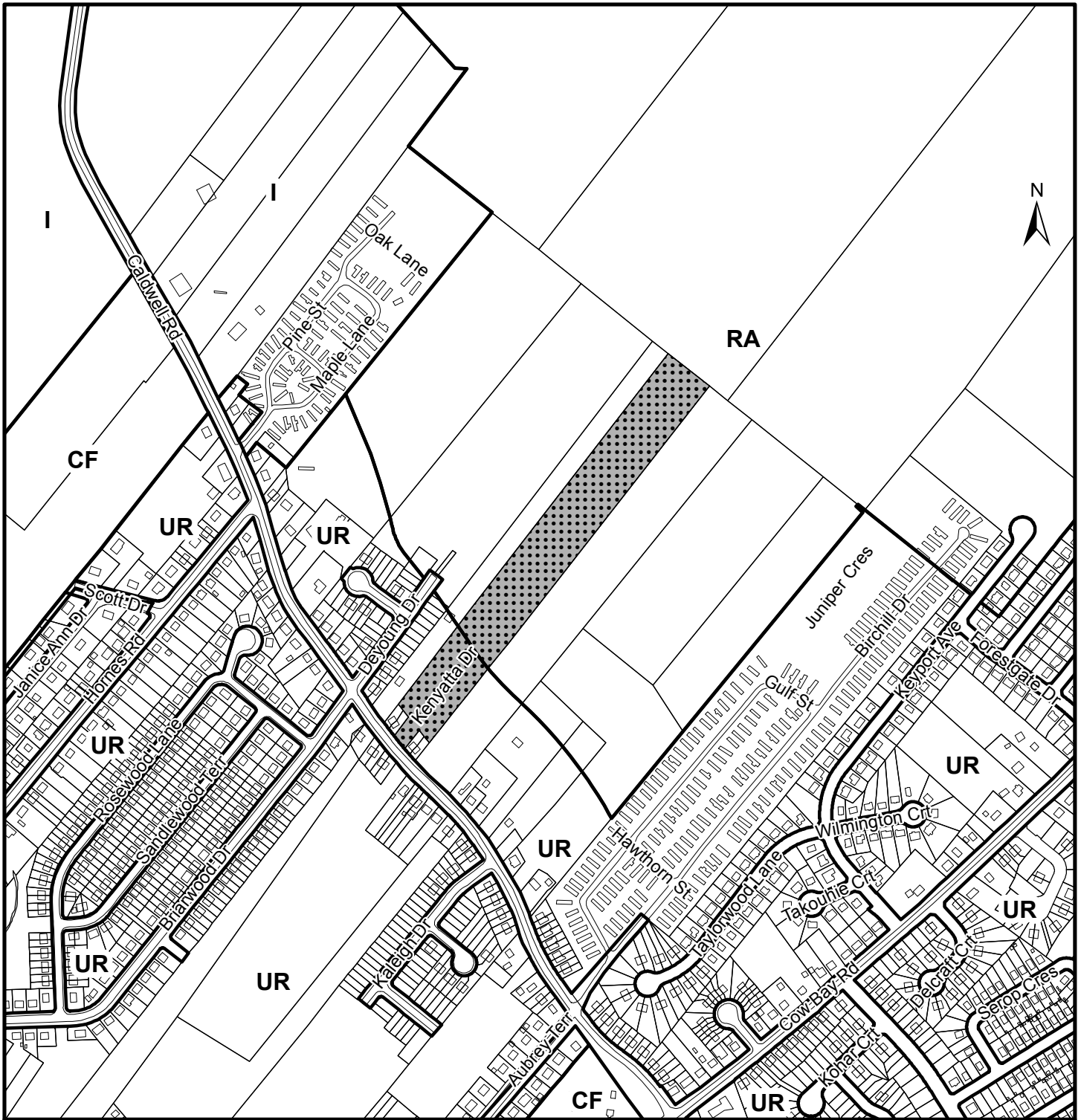
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Ben Sivak, Major Projects Planner, 902.490.6573

Original Signed

Report Approved by: \_\_\_\_\_  
Kelly Denty, Manager of Development Approvals, 902.490.4800

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


**Map 1 - Generalized Future Land Use**

Kenyatta Drive,  
Eastern Passage

**HALIFAX**



 Subject Property

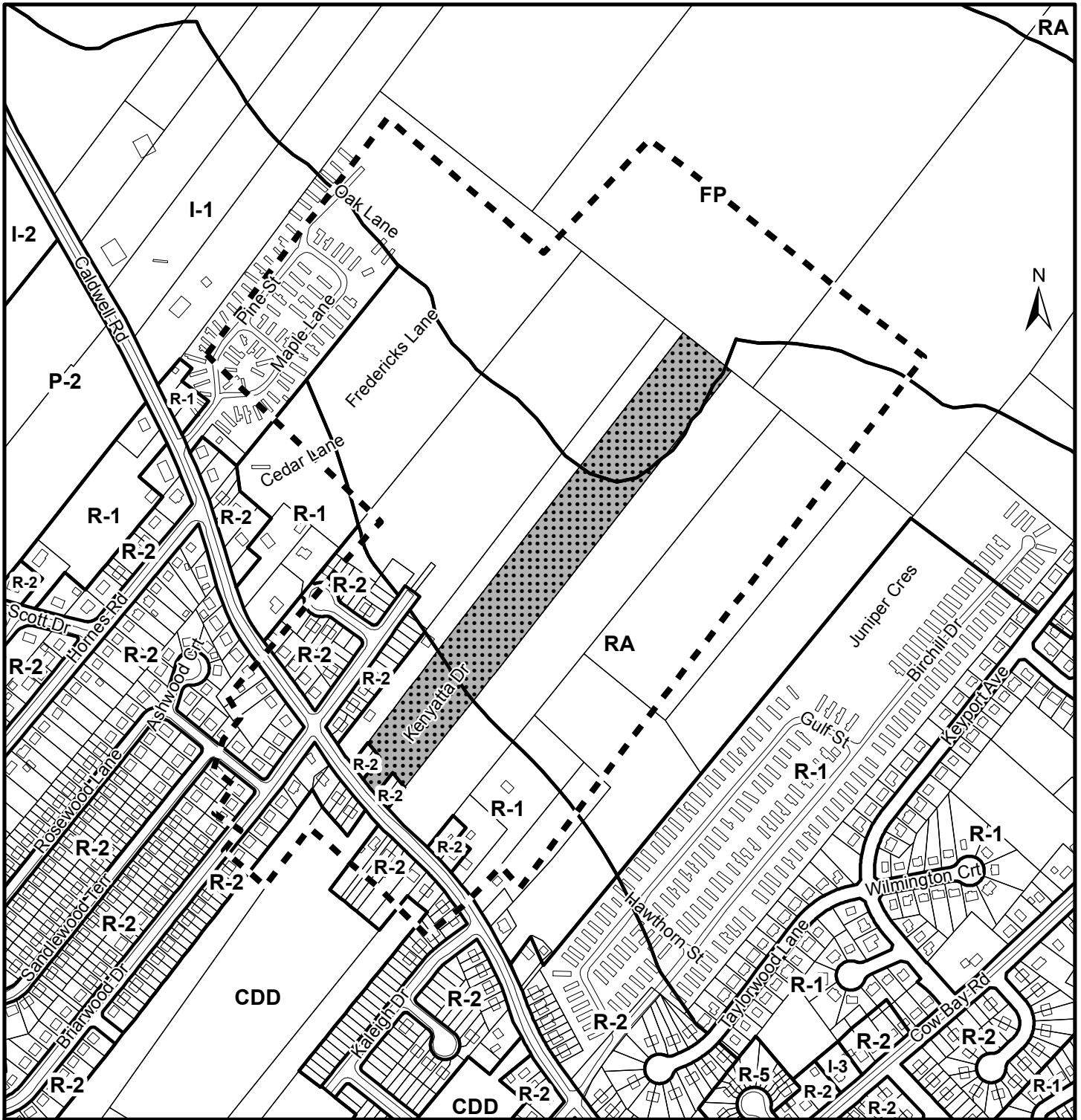
**Designation**

- UR Urban Residential
- RA Rural Area
- I Industrial
- CF Community Facility

Eastern Passage/Cow Bay  
Plan Area


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.



## Map 2 - Zoning and Notification

Kenyatta Drive,  
Eastern Passage

 Subject Property

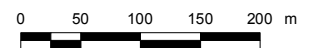
 Area of Notification

Eastern Passage/Cow Bay  
Plan Area

### Zone

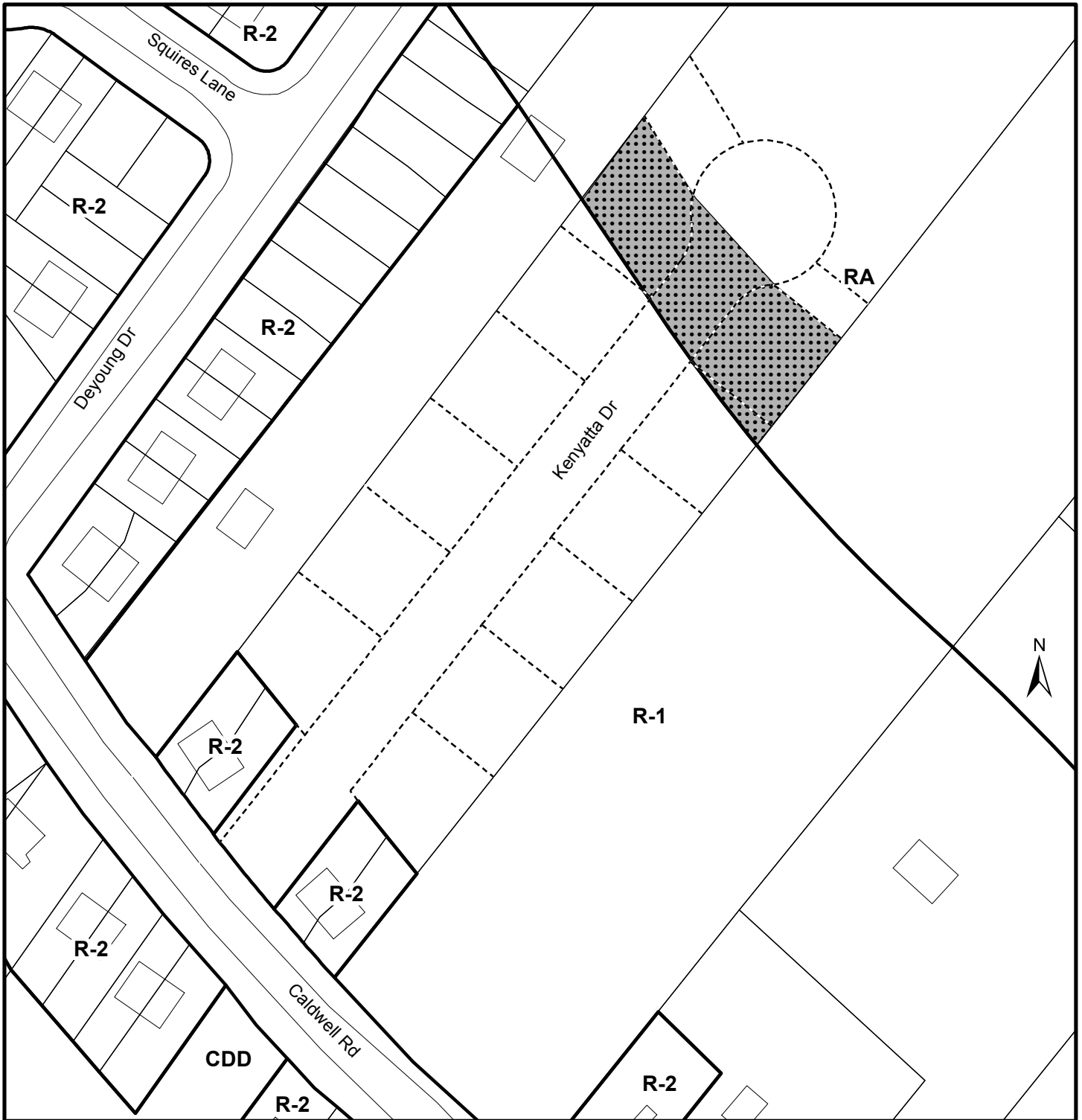
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-5 Townhouse Dwelling
- RA Rural Area
- C-1 Local Business
- I-1 Light Industry
- I-2 General Industry
- I-3 Local Service
- FP Floodplain

**HALIFAX**



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 3 - Proposed Concept Plan**

Kenyatta Drive,  
Eastern Passage

**HALIFAX**

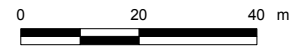
 Area to be rezoned from  
RA (Rural Area) to  
R-1 (Single Unit Dwelling)

 Proposed Concept Plan

Eastern Passage/Cow Bay  
Plan Area

**Zone**

- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- RA Rural Area
- CDD Comprehensive Development District



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

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**Attachment A**  
**Proposed Amendments to the Eastern Passage/ Cow Bay Land Use By-law**

BE IT ENACTED by the Harbour East-Marine Drive Community Council of the Halifax Regional Municipality that the Eastern Passage/ Cow Bay Land Use By-Law, as amended, is hereby further amended as follows:

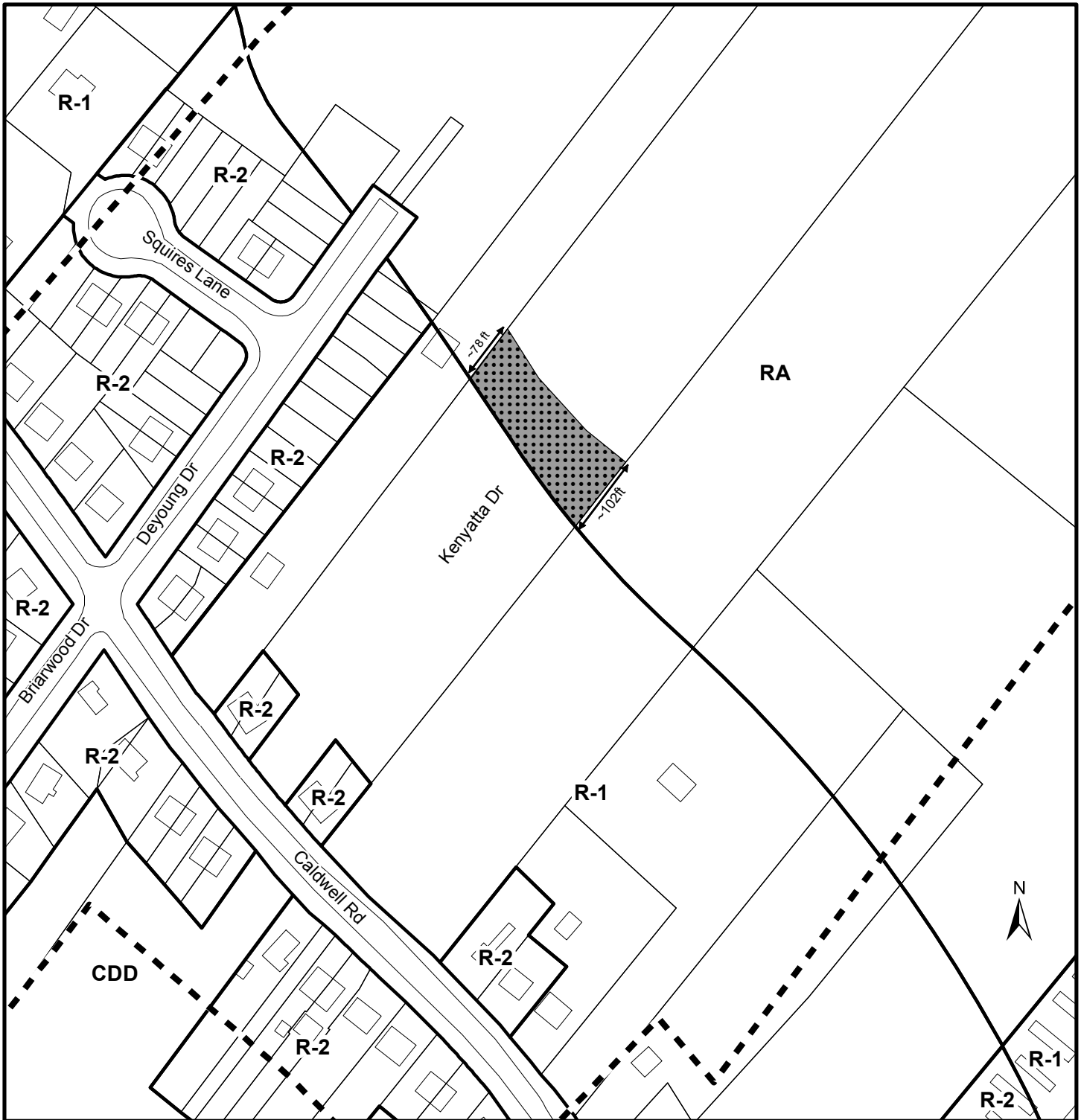
1. Amend Schedule A (Eastern Passage/ Cow Bay Zoning Map) by rezoning a portion of PID 40000887 located on Kenyatta Drive, Eastern Passage, from the RA (Rural) to the R-1 (Single Unit Dwelling) Zone, as shown on Schedule A of this Attachment.

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 Harbour East-Marine Drive 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 \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Municipal Clerk






**Schedule A**

Kenyatta Drive,  
Eastern Passage

**HALIFAX**

 Area to be rezoned from  
RA (Rural Area) to  
R-1 (Single Unit Dwelling)

Zone	
R-1	Single Unit Dwelling
R-2	Two Unit Dwelling
RA	Rural Area
CDD	Comprehensive Development District



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

Eastern Passage/Cow Bay  
Plan Area

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

**Attachment B**  
**Review of Relevant MPS Policies**

*IM-11 In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this planning strategy, Council shall have appropriate regard to the following matters:*

<b>Policy Criteria</b>	<b>Comments</b>
<i>(a) that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;</i>	The proposal is consistent with the intent of the Regional Plan and MPS to allow an urban form of development in areas where central services are available.  Please see the main body of the report for a discussion of the Urban Service Area.
<i>(b) that the proposal is not premature or inappropriate by reason of:</i>	
<i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i>	No additional costs are anticipated.
<i>(ii) the adequacy of sewerage and water services;</i>	Water and sewer services are adequate and are capable of servicing the subject site.
<i>(iii) the adequacy or proximity of school, recreation or other community facilities;</i>	There is adequate access to services located with Eastern Passage.
<i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i>	Staff reviews conducted as part of the subdivision process confirmed that the road network is adequate.
<i>(v) the potential for damage to or for destruction of designated historic buildings and sites.</i>	No historic sites or buildings are impacted.
<i>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i> <i>(i) type of use;</i> <i>(ii) height, bulk and lot coverage of any proposed building;</i> <i>(iii) traffic generation, access to and egress from the site, and parking;</i> <i>(iv) open storage;</i> <i>(v) signs; and</i> <i>(vi) any other relevant matter of planning concern.</i>	NA – not a development agreement
<i>(d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</i>	The proposed site is suitable for development.
<i>(e) Within any designation, where a holding zone has been established pursuant to “Infrastructure Charges - Policy IC-6”, Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the “Infrastructure</i>	NA

*Charges" Policies of this MPS. (RC-Jul 2/02;E-  
Aug 17/02)*