



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 10.1.1**  
**Harbour East - Marine Drive Community Council**  
**Special Meeting**  
**September 10, 2020**  
**November 12, 2020**  
**January 7, 2021**

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

**SUBMITTED BY:** *-Original Signed-*  
\_\_\_\_\_  
Kelly Denty, Director of Planning and Development

**DATE:** July 20, 2020

**SUBJECT:** Case 21813: Partial Rezoning of PID 41453945, Cow Bay

**ORIGIN**

Application by Silver Sands Realty Ltd.

**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 amendment to the Land Use By-law for Eastern Passage / Cow Bay, as set out in Attachment A, to rezone a portion of PID 41453945, Cow Bay from the P-2 (Community Facility) Zone to the RA (Rural Area) Zone and schedule a public hearing; and
2. Adopt the amendments to Schedule A, the zoning map of the Land Use By-law for Eastern Passage / Cow Bay, as set out in Attachment A.
3. Request a staff report identifying issues of increasing environmental concern around the Cow Bay Lake area including the setback regulations of Cow Bay Lake and Barrier Pond, a discussion on the existing P-2 (Community Facility) Zone and the range of permitted uses within the Special Area Designation of the MPS for Eastern Passage/ Cow Bay.

## **BACKGROUND**

Silver Sands Realty Ltd. is applying to rezone a portion of their lands (PID 41453945) on Cow Bay Road, Cow Bay. The subject property contains two zones. The P-2 (Community Facility) Zone is located along Cow Bay Lake and the RA (Rural Area) Zone along Cow Bay Road. The applicant wishes to construct a single unit dwelling in an area of their site that is zoned P-2 and has requested to do so by rezoning a portion of the P-2 zoned lands to RA under Policy SA-10 of the Eastern Passage/Cow Bay Municipal Planning Strategy (Attachment B).

|   |   |
|---|---|
| <b>Subject Site</b>                       | PID 41453945, Cow Bay Rd, Cow Bay   |
| <b>Location</b>                           | East of Cow Bay Lake, near the intersection of Cow Bay Road and Autumn Drive  |
| <b>Regional Plan Designation</b>          | RC (Rural Commuter)   |
| <b>Community Plan Designation (Map 1)</b> | SA (Special Area) under the Eastern Passage / Cow Bay Municipal Planning Strategy (MPS)   |
| <b>Zoning (Map 2)</b>                     | RA (Rural Area) and P-2 (Community Facility) under the Eastern Passage / Cow Bay Land Use By-law  |
| <b>Size of Site</b>                       | <ul style="list-style-type: none"><li>total site area is 4.09 hectares (10.11 acres)</li><li>area proposed for rezoning to P-2 is approximately 7174 square metres (1.8 acres) (Attachment A, Schedule A)</li></ul> |
| <b>Street Frontage</b>                    | 123.17metres (404.10 feet)  |
| <b>Current Land Use(s)</b>                | Vacant  |
| <b>Surrounding Use(s)</b>                 | Residential, HRM Parkland (Silver Sands Beach Park)   |

### **Proposal Details**

The applicant proposes to rezone a portion of the subject lot, approximately 1.8 acres, which is currently zoned P-2 (Community Facility) Zone to the RA (Rural Area) Zone to permit the construction of a single unit dwelling (Attachment A). This rezoning will allow a single unit dwelling to be built closer to the shoreline of Cow Bay Lake than what is currently possible based on the present location of the zoning boundary.

The P-2 Zone that currently applies to these lands allows a single dwelling unit in the desired location but only if it is in conjunction with a daycare operation. The applicant does not wish to build or operate a daycare and has therefore requested the rezoning to permit the dwelling without the daycare facility. The applicant's rationale for the rezoning is that the P-2 Zone enables land uses including a single unit dwelling in conjunction with a daycare, therefore the impact to the P-2 zoned lands would be lessened by rezoning to RA to a permit a more sensitive land use such as a single unit dwelling.

As part of this application, staff also considered rezoning the rest of the P-2 Zone to RA (Map 2). This was presented at the Public Information Meeting (PIM) held in January of 2019. Following the PIM, staff withdrew this approach and focused solely on rezoning a portion of the subject property (Attachment A).

### **Enabling Policy and LUB Context**

#### **Special Area Designation and Zoning**

The subject property is located within the Special Area (SA) Designation of the Eastern Passage/Cow Bay Municipal Planning Strategy (MPS). Since the 1982 inception of the Plan, the SA designation and the P-2 Zone were applied to the private lands along the shores of Cow Bay Lake adjacent to the Silver Sand Beach area, which includes the subject property. The SA designation seeks to identify important historical and environmentally significant lands within the designation. During the Plan's adoption, two zones were applied to the lands, the R-3 (Mobile Dwelling Zone) along Cow Bay Road and P-2 (Community Facility) Zone along the shores of Cow Bay Lake.

As part of a subsequent Plan review in 1998, the R-3 portion of the site was rezoned to the RA (Rural Area) Zone to support and maintain a high degree of rural character within the Cow Bay area. This was due to land use regulations that permitted the subdivision of smaller lots which had an impact on traditional ribbon-style development desired by the community. The new RA Zone list of permitted uses would be limited to uses that reflect a rural context. It also established larger lot sizes with wider frontages to better reflect the desired rural character of low-density residential development along rural transportation routes. This new zone was then generally applied throughout the unserved areas of Cow Bay and Eastern Passage. It was considered that the application of the RA Zone and the development of lower density land uses with larger lots was consistent with the protection of environmental and historically significant lands.

In 1982, Council adopted MPS policy SA-10 to recognize low density residential development in private ownership as being consistent with the goals of the MPS. The policy remains unchanged and in effect since its inception. Policy SA-10 indicates that "*within the Special Area Designation, Council shall zone lands held in private ownership for the purposes of permitting low density residential development community uses and facilities.*" The purpose of the policy is to permit a desirable rural development pattern while maintaining the environmental and historical significance of the area

The applicant has requested a rezoning based on the language of SA-10 that permits Council to consider rezoning a portion of the property zoned P-2 (Community Facility) to RA (Rural Area) Zone.

#### Environmental Protection and Watercourse Setbacks

During the 1998 Plan review, environmental concerns were identified by the community suggesting that the provisions in the MPS fell short of providing the desired level of protection to the natural environment. The Plan review resulted in the establishment of the Environmental Protection chapter in the MPS, the creation of Map 4, Environmental Constraints and the establishment of a 61 meter (200 feet) setback from coastal lands including Cow Bay Lake. However, during the adoption of the Regional Plan in 2006, the reference to Cow Bay Lake was inadvertently removed resulting in only a 30.5 meter (100 feet) setback now being applicable to the Cow Bay Lake area.

### **COMMUNITY ENGAGEMENT**

The community engagement process has been 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, letters mailed to property owners within the notification area (Map 2) and a Public Information Meeting held on January 31, 2019. Attachment C contains a copy of the summary of the meeting. The public comments received include the following topics:

- potential for environmental impacts to Cow Bay Lake and the shoreline given the changing environmental condition of the area;
- concerns with mistakes made to setback regulations in the LUB during the RP adoption that reduced the 61.0 metre (200 feet) setback from Cow Bay Lake to 30.5 m [100 feet];
- concerns that existing mapping fails to accurately show the sensitive environmental features of the site and its relationship to the water;
- concerns the site and surrounding areas tend to flood more frequently than in the past due to the migration and eroding of the Silver Sands Beach barrier;
- concern with all four properties being considered for rezoning from P-2 to RA;
- concerns that no environmental impact study was undertaken as part of the rezoning application;
- concerns with the changing nature of the wetlands and the increasing level of the highwater marks in the area;
- experienced shared indicating that the storm surge goes over Silver Sands Beach every year, not appropriate for building site; and,
- concerns that obtaining Municipal approvals would enable applicant to avoid Provincial approvals for septic.

A public hearing must be held by Harbour East – Marine Drive Community Council before they can consider approval of the proposed LUB 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 Map 2 will be notified of the hearing by regular mail. The HRM website will also be updated to indicate notice of the Public Hearing.

The proposal will potentially impact residents and property owners in the area.

**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 of the lands from P-2 to RA. 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.

Since the adoption of the MPS, the objectives in the Plan recognize the environmental sensitivities of the area along watercourses. The SA designation’s preamble and policies have remained relatively unchanged since 1982. The area “... *should be protected from indiscriminate development. The designation is intended to recognize that these are sensitive areas, which may provide a focus to the communities and beyond, and which are environmentally and historically significant.*” (Attachment B). The limited application of the proposed rezoning from P-2 to RA recognizes the sensitivity of this area and limits the placement of the proposed single unit dwelling to an area outside the existing established setback of 30.5 metres (100 feet) as well as the beyond the intended setback of 61 metres (200 feet) from the ordinary high-water mark.

Comparing Land Uses in the RA and P-2 Zones

When comparing the list of permitted uses between the RA and P-2 zones, the RA Zone uses are considered less intensive and consistent with the MPS intent to provide protection of these lands given the potential for land disturbance and environmental impact based on proximity to the watercourse. The difference in potential building mass between the two zones is also significant. The RA Zone contains a maximum lot coverage requirement of 35% while the P-2 Zone contains a maximum lot coverage requirement of 50%. The list of permitted uses for both zones are as follows:

| RA Zone  | P-2 Zone   |
|--|--|
| <ul style="list-style-type: none"> <li>• Single Unit Dwellings;</li> <li>• Existing mobile dwellings;</li> <li>• Mobile dwellings at Silver Court, Cow Bay;</li> <li>• Bed and breakfast establishments in conjunction with permitted dwellings;</li> <li>• Home business uses;</li> <li>• Forestry uses;</li> <li>• Agriculture uses;</li> <li>• Fishing and fishing related uses; and,</li> <li>• Open space uses excluding commercial recreation uses.</li> </ul> | <ul style="list-style-type: none"> <li>• Educational institutions and uses;</li> <li>• Denominational institutions and uses;</li> <li>• Day care facilities;</li> <li>• A single dwelling unit in conjunction with a day-care facility;</li> <li>• Senior citizen housing;</li> <li>• Existing residential care facilities;</li> <li>• Fire and police stations;</li> <li>• Government offices and public works except transportation maintenance yards;</li> <li>• Hospitals and medical clinics;</li> <li>• Public libraries, museums and galleries;</li> <li>• Fraternal centres and halls;</li> <li>• Community centres and halls;</li> <li>• Public and private parks and playgrounds;</li> <li>• Recreation uses excluding golf courses;</li> <li>• Cemeteries except crematoriums;</li> <li>• Day camps; and,</li> <li>• Historic sites and monuments.</li> </ul> |

Staff acknowledge that the RA Zone was implemented in 1998 after the 1982 adoption of the P-2 Zone and that the 1998 adoption of the RA Zone was to further Council's intent to apply protections to Cow Bay Lake. However, it stands that the proposed rezoning from P-2 to RA to permit the construction of a single unit dwelling (without a daycare), on lands located a distance from Cow Bay Lake that is consistent with MPS Policy, meets the intent of the MPS to protect environmentally and historically significant lands.

#### Setback Vulnerabilities and the Proposed Rezoning

As noted above, environmental protections within the MPS were adopted in 1998 in the form of setback requirements to Cow Bay Lake. This created a no building, non-disturbance area within 61.0 metres (200 feet) of the ordinary high-water mark. In 2006, this setback was inadvertently reduced to 30.5 metres (100 feet) setback with the adoption of the Regional Plan. However, in the spirit of the original policy intent of a 61 meter (200 foot) setback from the ordinary high-water mark, the applicant is seeking to rezone only the portion of the lands outside of the 61 meters (200 feet) setback (Schedule A). The southernmost extent of the proposed RA Zone boundary is to be located approximately 61 metres (200 feet) from the ordinary high-water mark. Should the rezoning to RA be approved, a new building envelope may be established at the setback requirement identified in MPS policy, despite the diminished setback created through the Regional Plan adoption in 2006. While the remaining P-2 zoned lands would retain their development potential, the likelihood of development under the P-2 regulations would be extremely low.

#### Staff Rationale to Recommend Approval

The application of the RA Zone and the development of lower density land uses with larger lots is consistent with the protection of environmental and historically significant lands. Staff also views the following as consistent with this intent:

- the list of permitted uses in the RA Zone is less intensive than the P-2 Zone;
- the configuration of the proposed rezoning request if approved, would provide a setback distance for construction of a structure of approximately 61 metres (200 feet) despite the reduction in the setback to 30.5 metres (100 feet) as inadvertently adopted under the 2006 Regional Plan; and,
- the rezoning would vastly reduce the potential for P-2 land uses to be constructed at this location.

Therefore, staff recommend the rezoning of a portion of these lands from P-2 to RA.

#### Staff Report for Future Planning Process

##### Coastal Elevations

Staff acknowledge that the coastal elevation requirement does not apply in this instance as the lands are not deemed to be "Coastal" as defined under the LUB. Therefore, regulation controlling the elevation for building a structure cannot be imposed without establishing enabling MPS policy. While the 61 metre (200 feet) distance from the zoning boundary edge maintains the intentional setback that was established in 1982 (and inadvertently reduced in 2006), there may be a need for the developer to create elevation through fill or other means. Any plans to address the elevation would have to be addressed at the permit stage. Conditions such as these cannot be imposed through the rezoning.

HRM's Energy and Environment staff have identified environmental hazards associated with development in the P-2 zoned areas within the Special Area Designation in Cow Bay. Of particular relevance are matters related to climate change such as sea-level rise, flooding, extreme precipitation, and storm surge. They note that overarching guidance with respect to environmental risks can be found within the Regional Plan and the Municipal Planning Strategy for Cow Bay.

##### Coastal Lands

Certain coastal lands within the plan area contain environmentally sensitive areas, such as salt marshes, steep slopes and rock cliffs and these areas are identified on Map 4 of the MPS. The subject site and the surrounding lands are identified as "Coastal Lands" on Map 4 of the MPS entitled 'Environmental Constraints'. Coastal lands outside of the sheltered area of Halifax Harbour, such as the Silver Sands Beach area, are under constant pressure from ocean wave and wind action and are continually eroding.

These areas present a hazard to development which is located too close to the water/land interface or the top of shoreline. A setback along the coast line has been provided to increase protection for structures from these hazards. This will help to lessen the costs to homeowners and the Municipality to spend future money to fortify the shoreline against the effects of coastal erosion. Further, Cow Bay Lake and Barrier Ponds form part of the buffer system for the Cole Harbour-Lawrencetown Coastal Heritage Park. Portions of the shoreline in these areas are also subject to potential erosion due to their minimal shelter from heavy wave action.

While staff acknowledge that these conditions exist, there is no corresponding enabling MPS policy and implementing regulation that provides Council with discretionary authority to apply restrictions on the basis of environmental protections on the shores of Cow Bay Lake. As mentioned, existing protections such as the setback requirement to Cow Bay Lake have been altered by way of an error in mapping that was created at the time of the 2006 adoption of the Regional Plan.

Therefore, it is recommended that Council direct staff to return to Council with a supplementary report with emphasis on the following:

- a review of P-2 policies to ensure that the P-2 Zone can be implemented without necessitating a rezoning of the RA lands to provide access to Cow Bay Road;
- a review of setback regulations and to fix existing errors regarding the labelling of Cow Bay Lake and Barrier Pond; and,
- a review of the list of permitted uses within P-2 Zone within the Special Area Designation to determine that those uses are appropriate given changing environmental conditions.

### **Conclusion**

Staff recommend that the Harbour East - Marine Drive Community Council approve the proposed LUB amendment to rezone a portion of the subject lands from P-2 to RA, noting the proposal is consistent with the relevant policies in the existing MPS and also consistent with the originally intended 61 m (200 ft) setback. Staff also recommend Council request a separate staff report regarding the review of environmental conditions and existing land use regulations pertaining to the setbacks provision and land uses currently permitted in the P-2 Zone of the Special Area Designation in Cow Bay.

### **FINANCIAL IMPLICATIONS**

The HRM cost associated with processing this planning application can be accommodated with the approved 2020-2021 operating budget for C310 Urban and 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**

Environmental concerns are discussed in the "Staff Report for Future Planning Process" section of this report.

## **ALTERNATIVES**

1. Harbour East – Marine Drive Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Harbour East – Marine Drive Community Council may choose to approve the proposed LUB amendment subject to modifications, and such modifications may require a supplementary report. A decision of Council to approve this proposed LUB amendment 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 Area

Attachment A: Proposed Amendment to the Land Use By-law for Eastern Passage/ Cow Bay  
Attachment B: Excerpts from Eastern Passage/Cow Bay MPS & Eastern Passage/Cow Bay LUB  
Attachment C: Minutes from the PIM

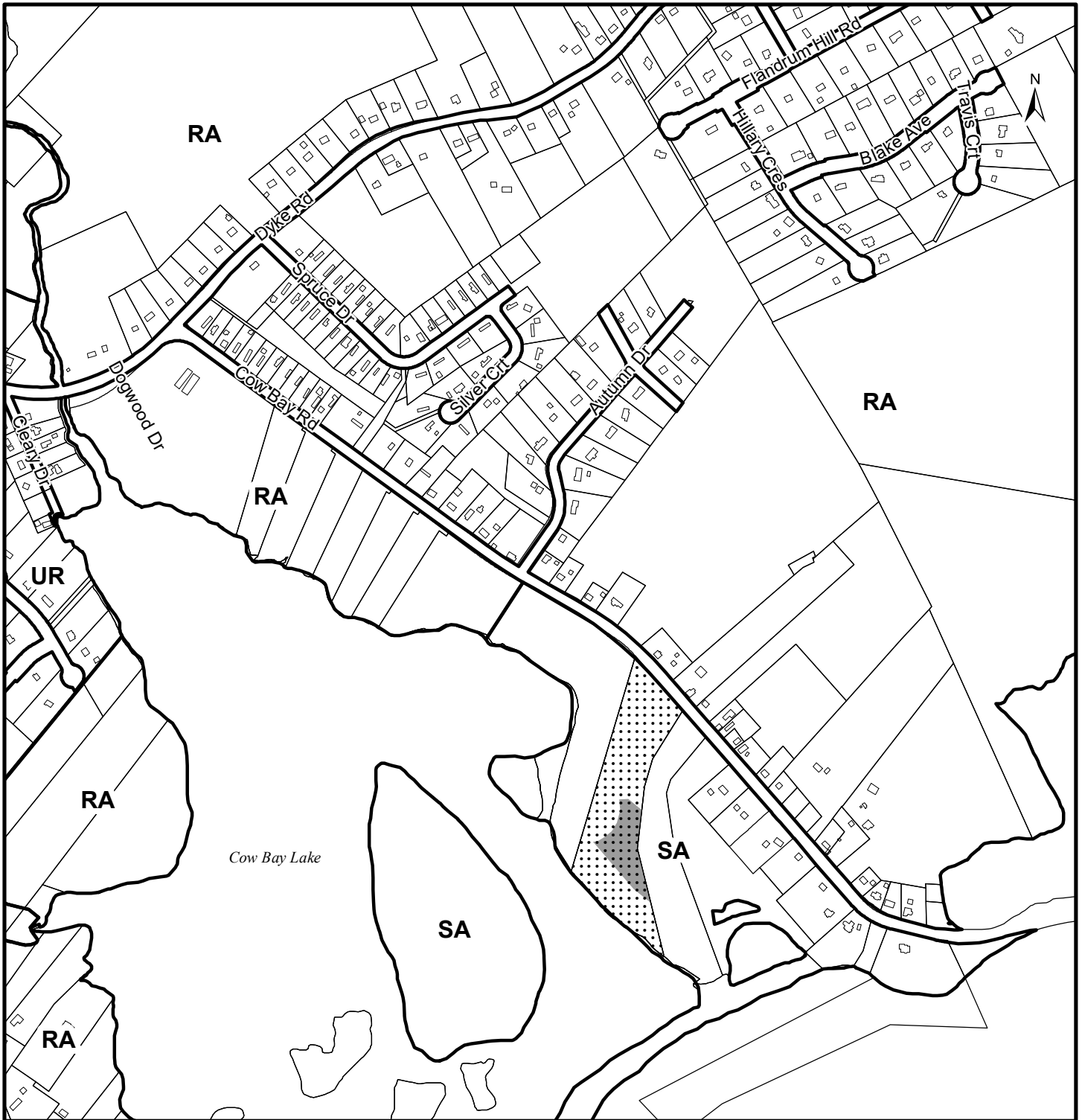
---

A copy of this report can be obtained online at [www.halifax.ca](http://www.halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Shayne Vipond, Planner III, 902.490-4335

Report Approved by: Steven Higgins, Manager, Current Planning, 902.490.4382



---



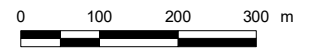
### Map 1 - Generalized Future Land Use

Cow Bay Road  
Cow Bay

**HALIFAX**

-  Subject Property
-  Area to be rezoned from P-2 to RA as requested by applicant

- Designation**
- UR Urban Residential
  - RA Rural Area
  - SA Special Area

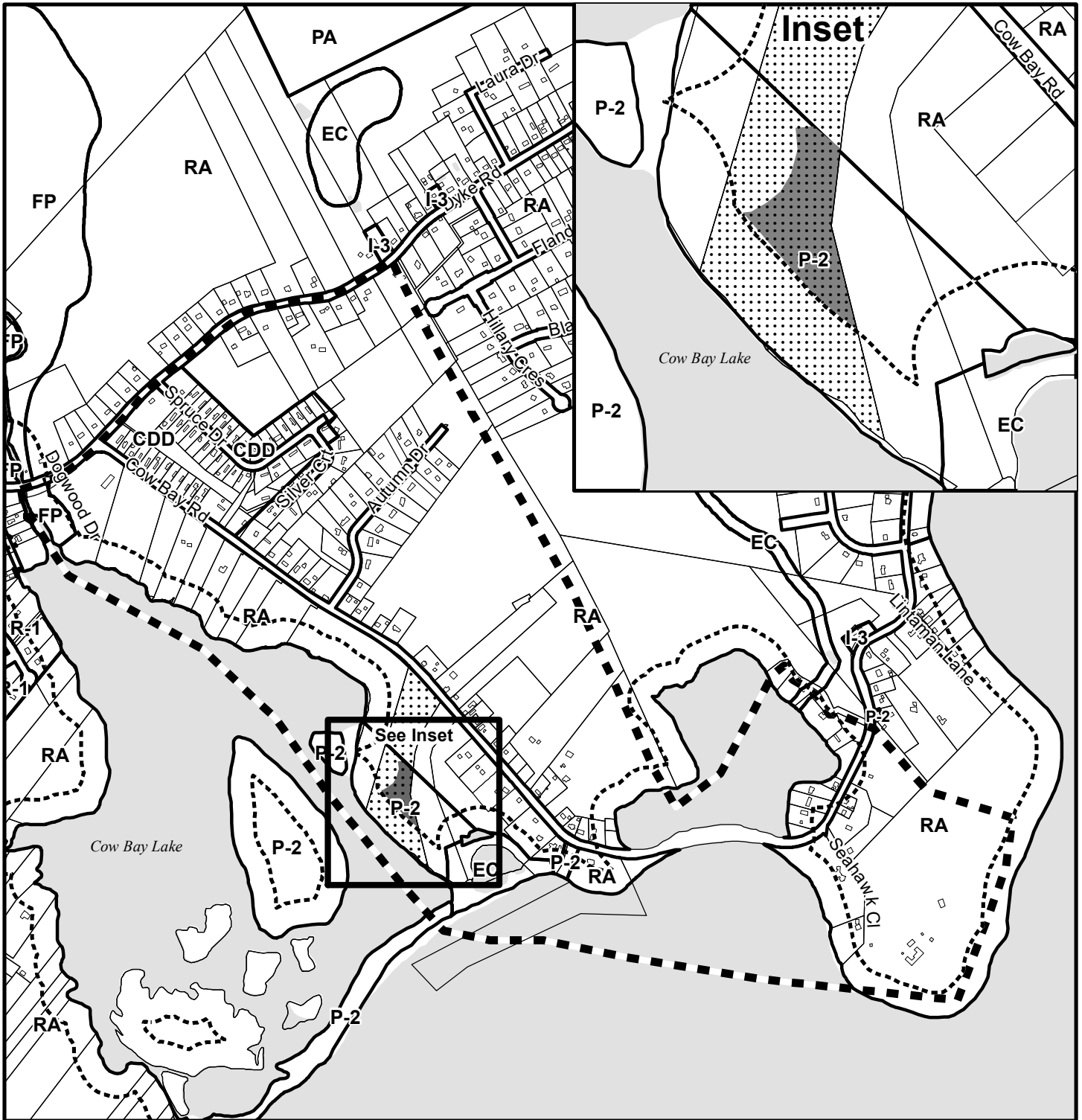


This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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





Eastern Passage/Cow Bay  
Plan Area





## Map 2 - Zoning and Notification

Cow Bay Road  
Cow Bay

-  Subject Property
-  Area to be rezoned from P-2 to RA as requested by applicant
-  Cow Bay / Atlantic Ocean 200ft Buffer
-  Area of Notification

Eastern Passage/Cow Bay  
Land Use By-Law Area

### Zone

- R-1 Single Unit Dwelling
- RA Rural Area
- CDD Comprehensive Development District
- EC Environmental Conservation
- FP Floodplain
- I-3 Local Service
- P-2 Community Facility

**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.

## ATTACHMENT A

### Proposed Amendment to the Land Use By-law for the Eastern Passage/ Cow Bay

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 is hereby further amended as follows:

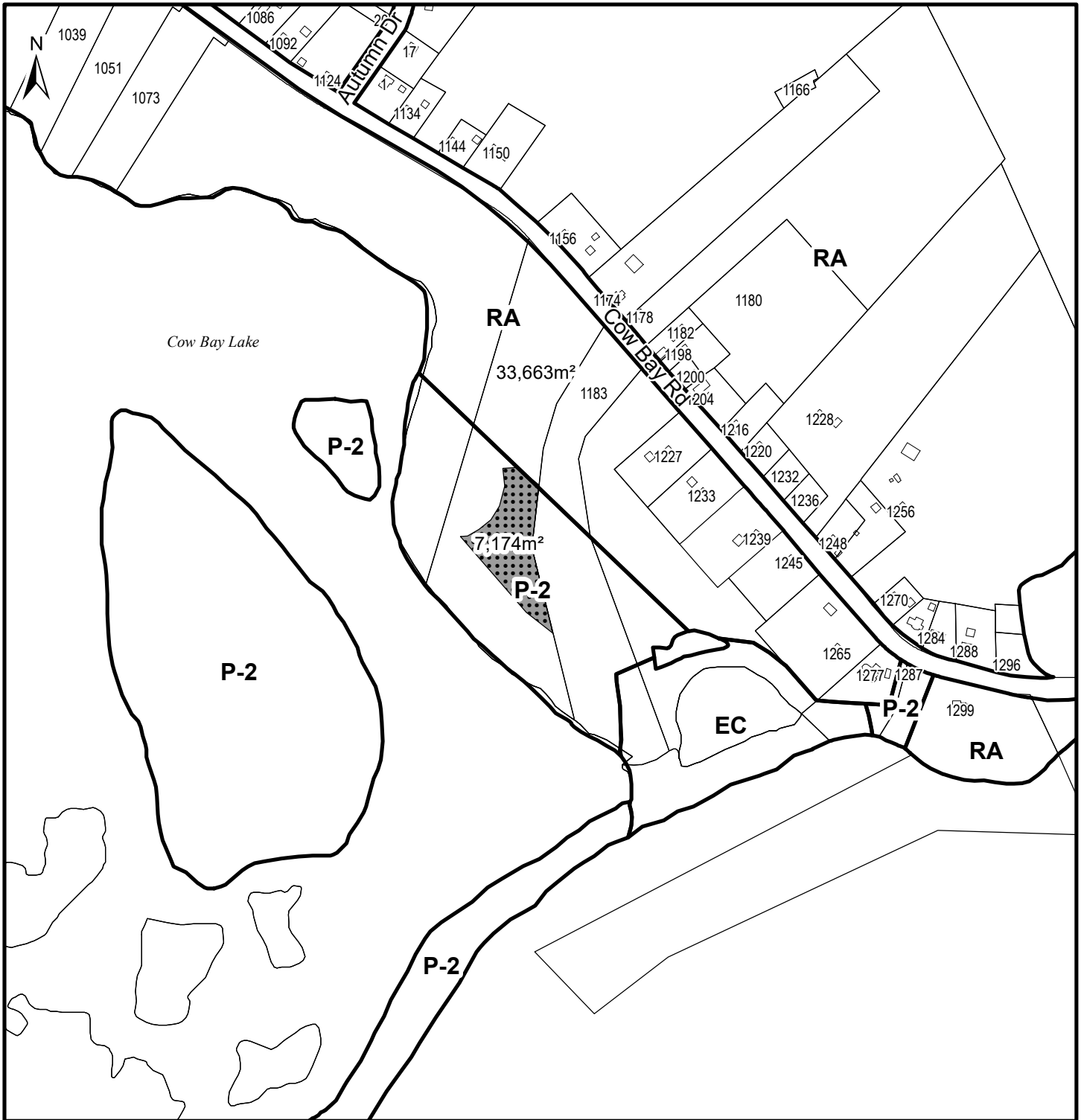
1. Schedule A of the Eastern Passage / Cow Bay Zoning Map shall be amended to rezone a portion of the property identified as PID 41453945 from the P-2 (Community Facility) Zone to the RA (Rural Area) Zone, as shown on the attached Schedule A.

I, Sherryll Murphy, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Harbour East – Marine Drive Community Council held on [DATE], 2020.

---


Sherryll Murphy

Municipal Clerk



**Schedule A**

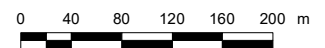
Cow Bay Road  
Cow Bay

 Area proposed to be rezoned from P2 (Community Facility) to RA (Rural Area) as requested by applicant

**Zone**

EC Environmental Conservation  
P-2 Community Facility  
RA Rural Area

**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.

Eastern Passage/Cow Bay  
Land Use By-Law Area

**Attachment B**  
**Review of Relevant Policies from the Eastern Passage/Cow Bay MPS and Eastern**  
**Passage/Cow Bay LUB**

**Municipal Planning Strategy:**

**Section III**

**Special Area Designation**

The Plan Area contains several areas which are environmentally and historically significant and which should be protected from indiscriminate development. These include both public and private lands which are both developed and undeveloped. A Special Area Designation has been applied to lands within the Plan Area which are environmentally significant, and which provide a focus to the Plan Area's communities and beyond.

| <b>Policy</b>  | <b>Comment</b>   |
|--|--|
| <i>SA-10 Within the Special Area Designation, Council shall zone lands which are held in private ownership for the purposes of permitting low density residential development community uses and facilities.</i> | The Rural Area (RA) zone is categorized as a Residential zone in the Eastern Passage / Cow Bay Land Use By-law. The portion of the subject site abutting Cow Bay Road is already zoned RA, therefore an extension of this zone to the limit that is proposed on the subject site is not expected to have a significant effect on the surrounding properties and conforms to the intent of the MPS. |

**Section IV**

**Implementation**

| <b>Policy</b>   | <b>Comment</b>   |
|---|--|
| <i>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:</i> | See below.   |
| <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>   | Policy SA-10 allows for low density residential development within the Special Area Designation. The surrounding properties south of Cow Bay Road are zoned RA (Rural Area), P-2 (Community Facility), and EC (Environmental Conservation), and designated Special Area. The EC zone exists to protect wetland areas identified on Map 4 and is not eligible for rezoning, however surrounding |

|   |   |
|---|---|
|   | <p>properties zoned RA and P-2 are eligible for the same rezoning request.</p> <p>Surrounding properties north of Cow Bay Road are zoned RA, designated Rural Area and currently permit single unit dwellings as permitted uses. The current proposal is in conformity with the intent of the MPS.</p>                          |
| <p><i>(b) that the proposal is not premature or inappropriate by reason of:</i></p>   |   |
| <p><i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i></p>                                     | <p>The proposed development does not impose any costs to the Municipality.</p>  |
| <p><i>(ii) the adequacy of sewerage and water services;</i></p>   | <p>It shall be confirmed that the necessary servicing regulations are satisfied at the permit stage.</p>  |
| <p><i>(iii) the adequacy or proximity of school, recreation or other community facilities;</i></p>  | <p>The proposal does not pose any significant demands for surrounding community facilities and schools.</p>   |
| <p><i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i></p>  | <p>Engineering staff have reviewed the application and have not identified any concerns with access.</p>  |
| <p><i>(v) the potential for damage to or for destruction of designated historic buildings and sites.</i></p>  | <p>N/A</p>  |
| <p><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></p> | <p>The development will be required to meet zone-specific requirements of the RA zone under the Eastern Passage / Cow Bay Land Use By-law.</p>  |
| <p><i>(i) type of use;</i></p>  | <p>A single unit dwelling is compatible with the surrounding uses and is a permitted use in the RA zone of the Eastern Passage / Cow Bay Land Use By-law.</p>   |
| <p><i>(ii) height, bulk and lot coverage of any proposed building;</i></p>  | <p>The development will be required to meet zone-specific requirements of the RA zone under the Eastern Passage / Cow Bay Land Use By-law.</p>  |
| <p><i>(iii) traffic generation, access to and egress from the site, and parking;</i></p>  | <p>The proposed development is expected to generate less traffic, access issues or parking demand than uses currently permitted as-of-right in the P-2 zone. Engineering staff have reviewed the application and have not identified any concerns with traffic generation, access to and egress from the site, and parking.</p> |
| <p><i>(iv) open storage;</i></p>  | <p>N/A</p>  |

|   |   |
|---|---|
| <i>(v) signs; and</i>   | N/A   |
| <i>(vi) any other relevant matter of planning concern.</i>  | No other planning matters have been identified.   |
| <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>   | Engineering staff have reviewed the application and have not identified any concerns with the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding. The area proposed for rezoning is located 61 metres (200 feet) from the ordinary high-water mark. |
| <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 Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i> | N/A   |

## Section II

### Environmental Protection

The establishment of an Environmental Constraints Map provides a basis on which to establish appropriate zoning standards to protect environmentally sensitive and significant features such as wetlands, watercourses and floodplains. No rezoning applications should be considered which would result in the loss or alteration of such features, unless it is clearly demonstrated that areas have been inappropriately included.

| <b>Policy</b>   | <b>Comment</b>  |
|---|---|
| EP-2 It shall be the intention of Council not to consider any rezoning application which will result in the development, excavation, infilling or alteration of any wetland, watercourse, water resource or floodplain, unless it is clearly demonstrated by detailed study that any such area, in whole or in part, does not meet any definition or fulfill such natural functions, as described in this planning strategy, or is otherwise not hazardous for development. | The rezoning from P-2 to RA will not result in the development, excavation, infilling or alteration of a wetland, watercourse, water resource or floodplain. All features related to a single unit dwelling such as well, septic, driveway, home and accessory buildings must be located within the area zoned RA. This area does not include a wetland or watercourse or the related environmental setbacks. |
| EP-7 It shall be the intention of Council, through the land use by-law, to establish a building setback and buffer of two hundred (200) feet for those coastal lands as shown on  | Rezoning the lands to RA will establish a zoning boundary that is separated from the watercourse by 61.0 metres (200 feet). This distance will provide additional separation from the maximum setback   |

|   |   |
|---|---|
| <p>Map 4 - Environmental Constraints. No structure, excavation, infilling or grade alteration shall be permitted to occur within the setback/buffer area and the retention of natural vegetation within the area shall be part of these requirements. The land use bylaw shall contain provisions to reduce this requirement to one hundred (100) feet for those lots in existence on the effective date of this planning strategy and if otherwise development would be prohibitive.</p> | <p>established in policy and additional protection to the watercourse (Cow Bay Lake). The area of the proposed rezoning is not a feature identified on Map 4. The area of the proposed rezoning is outside the coast lands identified on Map 4.</p> |
|---|---|

**Land Use By-law**

4.18 WATERCOURSE SETBACKS AND BUFFERS (RC-Jun 25/14;E-Oct 18/14)

- (1)
  - (a) No development permit shall be issued for any development within 61m of the ordinary highwater mark of the Atlantic Ocean, Cow Bay or Barrier Pond in the area as shown on Map 4 - Environmental Constraints of the Eastern Passage/Cow Bay Municipal Planning Strategy; 20m of the Cow Bay River north of Caldwell Road; 30m of the ordinary highwater mark of any other watercourse.
  - (b) Where the average positive slopes within the 20m buffer of the Cow Bay River, north of Caldwell Road, or the 30m buffer of any other watercourse, except Atlantic Ocean, Cow Bay or Barrier Pond, are greater than 20%, the buffer shall be increased by 1 metre for each additional 2% of slope, to a maximum of 60m.
  - (c) Within the required buffers pursuant to clause (a), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to development.
  - (d) Within the required buffer pursuant to clauses (a) and (b), activity shall be limited to the placement of board walks, walkways and trails not exceeding 3 metres in width, conservation uses, parks on public lands, historic sites and monuments, public road crossings and wastewater, storm and water infrastructure, and water control structures, within the required buffer of the Cow Bay River or Smelt Brook.
  - (e) Notwithstanding clause (a), the required buffer for construction and demolition operations shall be as specified under the applicable CD Zone.
  - (f) 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.
  
- (2) Notwithstanding subsection (1), where an existing residential main building is located within the required buffer, accessory structures, subject to meeting other requirements of this by-law, shall be permitted provided they are located no closer to the watercourse than the existing main building.
  
- (3) Where the configuration of any existing lot, including lots approved as a result of completed tentative and final subdivisions applications on file prior to August 26, 2006, is such that no main building could be located on the lot, the buffer distance shall be reduced to 30m of the ordinary high water mark of the Atlantic Ocean, Cow Bay Lake or Barrier Pond; or 15m of the ordinary highwater mark of any other watercourse.
  
- (4) Notwithstanding subsection (1), nothing in this by-law shall prohibit the removal of windblown, diseased or dead trees, deemed to be hazardous or unsafe.

- (5) Notwithstanding subsection (1), the selective removal of vegetation to maintain the overall health of the buffer may be authorized by the Development Officer where a management plan is submitted by a qualified arborist, landscape architect, forester or forestry technician.
- (6) Every application for a development permit for a building or structure to be erected pursuant to this section, shall be accompanied by plans drawn to an appropriate scale showing the required buffers, existing vegetation limits and contours and other information including professional opinions, as the Development Officer may require, to determine that the proposed building or structure will meet the requirements of this section.

#### 4.18A COASTAL AREAS (RC-Jun 25/14;E-Oct 18/14)

- (1) No development permit shall be issued for any dwelling on a lot abutting the coast of the Atlantic Ocean, including its inlets, bays and harbours, within a 3.8 metre elevation above Canadian Geodetic Vertical Datum (CGVD 28).
- (2) Subsection (1) does not apply to:
  - (a) any residential accessory structures, marine dependant uses, open space uses, parking lots and temporary uses permitted in accordance with this by-law; and
  - (b) lands within the area designated on the Generalized Future Land Use Map in the Regional Municipal Planning Strategy as Harbour.
- (3) Notwithstanding subsection (1), any existing dwelling situated less than the required elevation may expand provided that such expansion does not further reduce the existing elevation.
- (4) Every application for a development permit for a building or structure to be erected pursuant to this section, shall be accompanied by plans drawn to an appropriate scale showing the required elevations, contours and lot grading information to determine that the proposed building or structure will meet the requirements of this section.

#### PART 11: RA (RURAL AREA) ZONE (RC-Feb 19/98;M-Apr 27/98)

##### 11.1 PERMITTED USES

###### Residential Uses

Single Unit Dwellings

Existing mobile dwellings

Mobile dwellings at Silver Court, Cow Bay (HECC-Nov 2/00;E-Nov 26/00)

###### Business Uses

Bed and breakfast establishments in conjunction with permitted dwellings

Home business uses

###### Resource Uses

Forestry uses

Agriculture uses

Fishing and fishing related uses on lots which are located on a saltwater watercourse, or are located on Bissett Road, Cow Bay Road, or Dyke Road

###### Community Uses

Open space uses excluding commercial recreation uses



## 11.2 RA ZONE REQUIREMENTS

|                                 |                    |
|---------------------------------|--------------------|
| Minimum Lot Area                | 50,000 square feet |
| Minimum Lot Frontage            | 200 feet           |
| Minimum Lot Width               | 100 feet           |
| Minimum Front or Flankage Yard  | 20 feet            |
| Minimum Rear or Side Yard       | 8 feet             |
| Maximum Lot Coverage            | 35 percent         |
| Maximum Height of Main Building | 35 feet            |

## 11.3 OTHER REQUIREMENTS: BED AND BREAKFAST ESTABLISHMENTS

Where any bed and breakfast establishments are permitted in any RA Zone, the following shall apply:

- (a) Not more than three (3) rooms may be let;
- (b) No window display and not more than one (1) business sign shall be permitted and no such sign shall exceed four (4) square feet (0.4 m<sup>2</sup>) in area; and
- (c) One (1) off-street parking space in addition to that required for the dwelling shall be provided for each room to be let.

## 11.4 OTHER REQUIREMENTS: HOME BUSINESS USES

Where home business uses are permitted in any RA Zone, the following shall apply:

- (a) Any home business shall be wholly contained within the dwelling which is the principal residence of the business operator.
- (b) No accessory building shall be used for the storage or display of materials, goods, supplies or equipment related to the operation of the business.
- (c) In no case shall any home business use occupy more than three hundred (300) square feet (27.9 m<sup>2</sup>) gross floor area.
- (d) No mechanical equipment shall be used except that which is reasonably consistent with the use of a dwelling and which does not create a nuisance by virtue of noise, vibration, glare, odour or dust or which is obnoxious.
- (e) No outdoor storage or display of materials, goods, supplies, or equipment related to the operation of the business use shall be permitted.
- (f) No more than one (1) sign, which shall be affixed to the main dwelling, shall be permitted for any business and no such sign shall exceed two (2) square feet (0.2 m<sup>2</sup>) in area.
- (g) One additional off-street parking space, other than that required for the dwelling shall be provided for every one hundred and fifty (150) square feet (13.9 m<sup>2</sup>) of floor area devoted to any business.
- (h) No exterior alterations to the dwelling related to the business use shall be permitted except to meet fire safety, structural safety, or health regulations.
- (i) No retail operation shall be permitted except where retail is accessory to a business use which involves the production of goods or crafts or the provision of a service.

## 11.5 OTHER REQUIREMENTS: RESOURCE USES

In any RA Zone, where resource uses are permitted, the following shall apply:

- (a) For agricultural uses, no barn, stable, feedlot, or manure pile shall be located closer than fifty feet from any lot line or closer than 300 feet from any watercourse or potable water supply except for water supplies on the same lot. Greenhouse operations shall be limited to five (5) percent of the total lot area, to a maximum of 5000 square feet of gross floor area.
- (b) For forestry uses, no sawmill, open storage, or outdoor display shall be located closer than

fifty feet from any lot line nor closer than 100 feet from any dwelling except a dwelling located on the same lot. No more than 10 percent of the total lot area may be devoted to the sawmill use, inclusive of buildings, working areas and log/lumber storage.

## PART 23: P-2 (COMMUNITY FACILITY) ZONE

### 23.1 P-2 USES PERMITTED

No development permit shall be issued in any P-2 (Community Facility) Zone except for the following uses:

#### Institutional Uses

Educational institutions and uses;  
Denominational institutions and uses;  
Day care facilities;  
A single dwelling unit in conjunction with a daycare facility;  
Senior citizen housing;  
Existing residential care facilities;  
Fire and police stations;  
Government offices and public works except transportation maintenance yards;  
Hospitals and medical clinics;  
Public libraries, museums and galleries;  
Fraternal centres and halls;  
Community centres and halls.

#### Open Space Uses

Public and private parks and playgrounds;  
Recreation uses excluding golf courses (RC-May 15/01;E-Jun 23/01)  
Cemeteries except crematoriums;  
Day camps;  
Historic sites and monuments.

### 23.2 P-2 ZONE REQUIREMENTS: INSTITUTIONAL USES

In any P-2 Zone, where uses are permitted as Institutional Uses, no development permit shall be issued except in conformity with the following:

|                                |  |
|--------------------------------|--|
| Minimum Lot Area:              | central services 10,000 square feet (929 m <sup>2</sup> )<br>on-site services 30,000 square feet<br>(RC-Feb 19/98;M-Apr 27/98) |
| Minimum Frontage               | 125 feet (RC-Feb 19/98;M-Apr 27/98)  |
| Minimum Front or Flankage Yard | 30 feet (9.1 m)  |
| Minimum Rear or Side Yard      | 1/2 the height of the main building  |
| Maximum Lot Coverage           | 50 percent   |

### 23.3 P-2 ZONE REQUIREMENTS: OPEN SPACE USES

In any P-2 Zone, where uses are permitted as Open Space Uses, no development permit shall be issued except in conformity with the following:

|                                |                 |
|--------------------------------|-----------------|
| Minimum Front or Flankage Yard | 15 feet (4.6 m) |
| Minimum Rear or Side Yard      | 15 feet (4.6 m) |

### 23.4 EXEMPTION: OPEN SPACE USES

Notwithstanding Section 4.1(a), where uses permitted as Open Space Uses, and where such uses involve no buildings or structures, no development permit shall be required.

23.5 EXEMPTION: INSTITUTIONAL USES

Notwithstanding Section 23.2, where uses are permitted as Institutional Uses, a building may be exempted from a yard requirement in order to permit it to be joined to a building on an adjacent parcel and in this case, all other yard requirements shall apply.

23.6 EXEMPTION: EXISTING COMMERCIAL RECREATION USE

Notwithstanding the provisions of Section 23.1, a trap and skeet club shall be permitted on the property identified by *PID 00638247* and shall be permitted to expand, subject to compliance with the requirements of Section 23.2, but no other commercial recreation use shall be permitted on the property. (CHWEPCB-Sep 7/95;E-Oct 6/95)  
(HECC-May 11/09; E-May 30/09)

**Attachment C  
HALIFAX REGIONAL MUNICIPALITY  
Public Information Meeting  
Case 21813**

***The following does not represent a verbatim record of the proceedings of this meeting.***

---

**Thursday, January 31, 2019**

**7:00 p.m.**

**Eastern Passage Buffalo Club - 625 Cow Bay Rd, Eastern Passage, NS**

**STAFF IN**

**ATTENDANCE:** Megan Backos, Planner, Planner II, HRM Planning  
Shayne Vipond, Planner III, HRM Planning  
Thea Langille, Principle Planner, HRM Planning  
Steven Higgins, Manager of Current Planning, HRM Planning  
Holly Kent, Planning Technician, HRM Planning  
Tara Couvrette, Planning Controller, HRM Planning

**ALSO IN**

**ATTENDANCE:** Councillor, Bill Karsten, District 3  
Rob LeBlanc – Ekistics Plan and Design

**PUBLIC IN**

**ATTENDANCE:** Approximately: 61

---

The meeting commenced at approximately 7:00 p.m.

**Call to order, purpose of meeting – Megan Backos**

Ms. Backos introduced herself as the Planner and Facilitator for the application. They also introduced; Councillor Bill Karsten, Tara Couvrette – Planning Controller, Holly Kent - Planning Technician, and the Consultant, Rob Leblanc – Ekistics Plan and Design.

Case 21813 - Application by Ekistics on behalf of Silver Sands Realty Ltd. to rezone a portion of one property along Cow Bay Road from P-2 to RA to permit a single unit dwelling. Halifax Regional Municipality is considering expanding the area of rezoning to include the P-2 zoned portions of PIDs 41453937, 41459520 and 41459538 as well.

Ms. Backos explained; the purpose of the Public Information Meeting (PIM) is: a) to identify that HRM has received a proposal for the site; b) to provide information on the project; c) to explain the Planning Policies and the stages of the Planning Process; d) an opportunity for Staff to receive public feedback regarding the proposal. No decisions are made at this PIM.

**1. Presentation of Proposal – Ms. Backos**

Ms. Backos provided a brief introduction to the application and then made a presentation to the public outlining the purpose of the meeting, status of the application and the applicants request. Ms. Backos outlined the context of the subject lands and the relevant planning policies.

**2. Questions and Comments**

**Darren, Cow Bay** - would like to know when the wetlands map was done. **Ms. Backos** stated it came out of the Land Use Bylaw (LUB) which was mapped out in 2014. **Darren** – stated the wetlands don't stop where the map shows that is does. Suggested somebody go out and investigate it to see how far down they really go. **Ms. Backos** stated that is why she stated it was conceptual. It is from the LUB and at the time of permitting the applicant would be required to provide a survey plan of where the wetlands are and a delineated buffer drawn 30 metres from the edge of the wetland.

**Elizabeth Skid** – stated the reason it was zoned P-2 was because they weren't allowed to have it zoned

parkland. How many houses can be put on the lot that the applicant is rezoning? **Ms. Backos** today with the one lot, one. There is the potential it could be subdivided into another lot because of its size and this would allow one house per lot. There would be a review from NS environment to review the wetlands and make sure it would be suitable for another septic and well system. **Elizabeth** – so there is no possibility to put in a road and have more properties developed off that private road? **Ms. Backos** – no.

**Rick Osborne, Eastern Passage** – verified what property is up for rezoning and what HRM is asking to rezone. **Ms. Backos** explained what the applicant was asking for and what HRM was asking for from one of the slides used in her presentation. **Rick** believes it looks like a lot of wasted land when you look at the lot sizes around it and believes it should be zoned like the rest of the lots around it. Would like to make sure the residents are informed regarding future meetings. Also feels there should be a resident advocate that follows up with all the residents of any upcoming meetings. **Ms. Backos** explained that the public hearing meeting is a community council meeting and they happen monthly. Ms. Backos also explained all the ways to get information regarding any upcoming meetings. **Thea Langille** also provided clarification around how people are notified.

**Bill Falconer, Cow Bay** – stated the rezoning goes against the Eastern Passage / Cow Bay Municipal Planning Strategy (MPS) in particular, coastal lands, page 25 of the MPS. HRM and the residents both know that these lands flood and it has been known since 1978. This would suggest that we are making a bad and costly tax payer decision. What has changed to support such a decision? According to the most recent document that is online the setback is presently 61 metres. HRM is going to reduce the setback from 61 to 30 metres. This goes against the MPS coastal lands section NWB 418 1a. These lands now, more often than in the past, flood due to the Cow Bay Lake inlet and the Atlantic Ocean storm surge events. The setbacks were put in place to lessen the cost to homeowners and the municipality to spend future money to fortify the shoreline against the effects of coastal erosion. What makes you think it is safe to lift those setbacks now? HRM and the tax payers both know that the Silver Sands Beach is migrating north into the new development. Why has the councillor not shown due diligence by having a study commissioned to confirm the beach migration pattern, speed and location over the next 30-50-year cycle prior to any rezoning/amendment discussion. **Councillor Karsten** explained the process and needs residents to understand he is neutral and is not the planner on this application or an expert in planning. The councillor respects what Mr. Falconer is saying but staff are the experts in this field that will bring the report to council. Explained that this is a queasy judicial system and what that means. **Mr. Falconer** stated the issue is that they need representation at the council which should be you (Councillor Karsten). If you remain neutral who represents the residents of Cow Bay? **Councillor Karsten** stated how you get your voice across is through the mailout that was sent, secondly through this meeting and then again at the public hearing.

**Leigh Ireland, Autumn Dr.** - There was a mailout sent out in November however, it was received after the due date for comments to be sent in. What is taken from tonight as far as questions go. When will we be provided with answers if they can't be given here tonight. When will we be made aware of the meeting we can go to when the councillors are going to vote. **Ms. Backos** explained how the notification works.

**Bill Falconer, Cow Bay** – What has changed, with regards to the MPS, that enables us to simply rezone this? Does the rezoning comply with the MPS? **Ms. Backos** stated it does comply with the MPS because of the enabling policy SA 10. **Bill** – when was the policy SA 10 brought into effect? **Ms. Backos** – the MPS was written in 1992. **Bill** – the second question was regarding setbacks from 61 metres to 30 metres, Ms. MacIntyre said they were going to be reduced because of section 418 1a and in that section, there is a mistake in the language. When you read the MPS it says that it shall be the intent to extend the setback to 200 feet with the possibility of a reduction to 100 feet if the land was large enough to support a single-family dwelling. In this case the land is large enough to support a single-family dwelling so there should be no requirement to reduce the setback from 200 metres. There is also a simple spelling mistake in the Land Use Bylaw (LUB) that refers to the Atlantic Ocean, it says Cow Bay and Barrier Ponds. It should say Cow Bay Lake. It also references Map 4 which has nothing to do with the boundaries of Cow Bay. If you read that sentence verbatim it says that you would put a 61 metre boundary around Cow Bay. **Ms. Backos** stated the setback is 30 metres or 98.4 feet is the current requirement. If there are typos in the LUB, it would something that would have to be looked into. At this point we have to regulate based on the wording that is in the LUB. **Bill** – In the MPS it states in EP7 that the intent is to have a 200 foot setback on the Cow Bay Lake and the Barrier Ponds. My understanding is that that document (MPS) gets translated into an action document called the LUB. In the LUB it left the word lake out (Cow Bay Lake) so would this be a situation where some housekeeping of the document needs to be done. The other issue is you have identified the Barrier Ponds in the wrong position. You have them identified as Osborne Lake,

AKA the Barrier Ponds, but the Barrier Ponds are located within the SA area and the SA area is not around Osborne Lake. The SA area is where the Barrier Ponds are right in front of the Atlantic Ocean. **Ms. Backos** – that could be something that would potentially be looked into when the next amendment package goes. We cannot delay this planning application until the next amendment page goes to council. **Bill** – the problem is right now you are making decisions based on inconsistent information. You should have to resolve all those issues before you have a discussion about any new applications. The last question is about the beach migrating north. We will have a situation very similar to Chezzetcook. Why not have a study commissioned to confirm the beach migration pattern, speed and location over the next 30-50-year to protect not only the developer but the residents who may purchase that land. **Ms. Backos** explained how the research of Silver Sands beach would work and who would look into that. Regional Planning and the Environmental teams. **Bill** – there is no data right now that supports that the beach isn't moving and that the P2 lands don't flood. There is data to support that it is flooding and the beach is moving. **Mr. Higgins** explained what he does and how the process works **Bill** – If you make a decision based on bad data then the taxpayer inadvertently gets pulled into supporting the development because the data to support what's going on simply isn't there. Taxes payers will end up paying to fortify the beach. Currently we have nobody in the P2 zone so there are no issues and no concerns. Moving this forward in this direction will put an issue on table for taxpayers.

**John MacDonald, Autumn Dr.** – The properties, as they are zoned right now, will allow for a well and septic. If they split up the property would water and sewer come down through here? They do not want water and sewer. **Ms. Backos** – stated in the phone conversations with Mr. MacDonald she never made any comment of water service being brought into the area. **John** said he said that, not her, but it opened it up for him. **Mr. Higgins** stated servicing this land by sewer and water is not on the table under any circumstances under this application. **John** – if the water comes off the ocean like it did in Chezzetcook will you assume all the cost or will you stick it on the taxpayer like they did there.

**Derick, Cow Bay** – You stated it was your responsibility to respond to the applicant. Is it your responsibility to also recommend a larger sloth of rezoning? **Ms. Backos** explained why HRM requested a larger area of rezoning. The recommendation has not been made to council yet. At this it is being brought forth to the public and getting their information and feedback. **Mr. Higgins** spoke to expanding this application to include more property. **Derick** – wanted to know if the dark shaded area (on the map) was inside the 200-foot setback. **Ms. Backos** stated it would be outside of the 98.4-foot setback or (today's standard) even the 200-foot setback. **Derick** – In the P2 zone you can have a single-family dwelling with a daycare so how many daycares can be in that area. **Ms. Backos** – one per single family home.

**Ross Hartley, Cow Bay** – If you had 4/5 houses with that many daycares would those septic fields be able to support that? **Ms. Backos** – NS Environment, back when those lots were approved, would have had to be able to support those uses.

**Barbra Adams, MLA for Cole Harbour / Eastern Passage** – How often are the amendment packages done to correct housekeeping errors. **Ms. Backos** – wasn't sure what the schedule would be for that. **Ms. Langille** – it is done when the opportunity arises through resources. There is no clear schedule as to how frequently it is done. **Ms. Adams** – If a constituent has come to you, like Mr. Faulkner, and shown you issues that would change the documents intent, would that now be something that you would not do an amendment package for. Mr. Faulkner has been talking about this to you for over 10 months. Should this not be addressed before this application is put to council. **Ms. Langille** – There have been numerous conversations with Bill and HRM has done their best to put him in contact with the right people within HRM to discuss his concerns. All information will be put in front of council so that they can make the most informed decision. **Ms. Adams** – At the townhall that Bill and his daughter had they had a petition with 200 signatures opposed to this application. There has been nothing said here that would change her mind and she believes the same things goes for the residents. Until those issues can be addressed she isn't sure that the community would have the confidence that bringing a decision to council without that being answered and these amendments coming forward to council would be the prudent thing to do. Why can't that happen first. **Ms. Langille** advised they have to go with the policy that is in place when the application is received. **Ms. Adams** – feels that we have an obligation to the gentleman who brought forth the application but people are looking for answers to there questions as well. **Mr. Higgins** – stated there are a series of those questions that have been answered with different people Mr. Falconer has been connected with within HRM. There are still some that are outstanding and people are looking into it now. **Ms. Adams** – for clarification, if you receive a lot of feedback from a community that they are not in favor

of this what impact does that have on your recommendation to council. **Mr. Higgins** explained all information is presented to council so they are fully informed. Planning's recommendation is based on policy.

**Kim Gingell, Cow Bay** – concerns are that if the policy needs to be rewritten and why isn't it being done. Give council the information they need to make an informed decision.

**Rick Osborne** – has concerns that the process will not be followed and the residents will not be informed. Feels this may just go before council without anyone knowing. Feels Mr. Karsten should be sticking up for the residents. Wants residents to be informed by an advocate. **Ms. Backos** wanted to clarify that notification of the public hearing at community council will be mailed to everyone on the sign in sheet or who received notification of tonight's meeting and that Harbour East – Marine Drive Community Council will be the ones making a decision on this application.

**Public** – it bothers them that Barb has stood up, Bill with all the information has stood up, everything has been explained, and at every point you say, we can do that afterwards but it can't come before we consider this application for Rob LeBlanc. You're planning and you know it is flawed and nothing seems to matter. You have an agenda and a timeline and that is what you are going by.

**Theresa Kuhn, Cow Bay** – Would like a list of the specialists and their credentials that are weighing in of this application to be considered in the report that goes to council. Also, can any of the developable areas change with the zone change, can there be other uses added. **Ms. Backos** – explained the experts are the planners, development officers, development engineers, NS Environment. **Mr. Higgins** explained who reads the report and the steps it goes through before it goes to council. **Ms. Backos** - With regards to the developable area, the only uses that would be allowed currently are what is in the P2 zone and if rezoned it would only be the uses available in the RA zone. If there was a request to rezone to something different it would again have to go through this same process and the public participation process. Subdivision would be done as-of-right and would not require public notification. **Theresa** stated there is currently a driveway/roadway, what does that look like for people. **Thea Langille** explained they come out to the community to find out what the questions are.

**Darren, Cow Bay** – If you are putting the information out to us and the information is wrong, and we know it is wrong, especially where the wetlands are, and then the high-water mark. If the wetlands migrate further over that is going to push the high-water mark up. It is inaccurate information that is out there. When you take this and present this in your report are you going to present what we are telling you is fact or are you going to present something that is from 2014. **Ms. Langille** stated the map shown is a conceptual diagram that is being used for this meeting. More details would come at a later stage when they are going for a permit. The info provided tonight is part of the staff report that goes to council.

**Wendy, Cow Bay** – feels this meeting is a waste of time because so many of these issues go back many years and you are saying tell us more but aren't doing anything to address them. We hear you but we will send the issues onto somebody else. Doesn't feel that HRM is being honest with them (the community) because there is already construction going on and they are already building up that land and nobody has even voted on this application. HRM is going to put us on hold but not the developer and they think that is unfair.

**Will Filshie, Cow Bay** – has watched the beach deteriorate for over 50 years. When the storm surge comes over the beach, which it does every year, what does that do to the high-water mark in that lake? Has anyone done any assessments on that? **Ms. Backos** – stated the high-water mark in the LUB is a surveyed line which would be done by a surveyor. **Will** – would that be done at a certain time of year or would they look at a storm surge. It washes up over into the lake and then the lake rises. That land has been wet his entire life, 57 years. Why anybody would want to put a home there, I don't know. Has it been perk tested? You find out how quick the land drains. **Ms. Backos** stated the perk testing would be done at the time of permitting. **Will** – if they failed perk they wouldn't be able to develop there, right. **Ms. Backos** – if they were not able to develop a suitable sewer and well system on that property than no, they would not be able to develop. The lots that have been approved to date have been approved by NS Environment. **Will** – so they have been perk tested. **Ms. Backos** – the lots would have been at the time of subdivision. But at the time of building they would be required to have that approval again. **Will** – if it got rezoned it would be rezoned before the perk testing would be done, right. **Ms. Backos** – It would have been done in 2017 when these lots were created and then the rezoning would be approved

(potentially) and at the later date they would come in for their permit and that approval would have to come from NS Environment for sewer and septic. **Will** – is this undisturbed land? Has anything been pulled in here, have any trucks been in here? **Ms. Backos** has heard that there has been some clearing and infilling on this property. **Will** – Can you build a structure on undisturbed soil? **Ms. Backos** – you can build on it, yes. **Will** – Does it have to be a certain amount of time. If I bring 1000 pounds of rock in can I build on it right away? **Ms. Backos** – you wouldn't be able to build on it without the permit. **Will** – when were the tests done on these lots. **Ms. Backos** – the subdivision was approved in 2017. **Will** – has any more stuff been pulled into those lots since the approval? **Ms. Backos** – not sure how much as been infilled since that last test. They would need new approval from NS Environment before building the house.

**Public** - Why can't you get the right information together and change it now.

**Bill Falconer, Cow Bay** – Read verbatim what he got from the planning department with regards to when the Land Use By-law regulations begin to apply. That would be the restraints, the elevation constraints, the setbacks, they do not kick in until a permit is applied for. The significance of that is that if you buy a piece of land that is below the grade level, too close to the water, if there are trees in the way, you can remove the trees, you can infill, you can excavate. Until you apply for the permit you can pretty much do whatever you want. If you buy these lands and they don't meet the requirements it is possible that you simply fill it in and then go apply for the permit. He stated planning told him once the footings are poured there is a clear intent to develop. This is the point where the development and the construction permit must be approved and issues for the project. This is informed by section 4.1a in the LUB. If you read the LUB there is no reference to the pouring of footings. It seems to be an erroneous interpretation of the LUB. We have a nice LUB. When you look at our LUB it seems to strike a good balance between construction, safe development and it also strikes a good balance between environmental issues and the maintenance of environmentally sensitive land. The problem is we have an interpretation of the LUB that is somewhat erroneous and really should be addressed.

### **3. Closing Comments**

**Ms. Backos** thanked everyone for coming and expressing their comments.

### **4. Adjournment**

The meeting adjourned at approximately 8:50 p.m.