

Case 21813

Proposed Rezoning P-2 (Community Facility) to RA (Rural Area) Zone

Harbour East – Marine Drive
Community Council

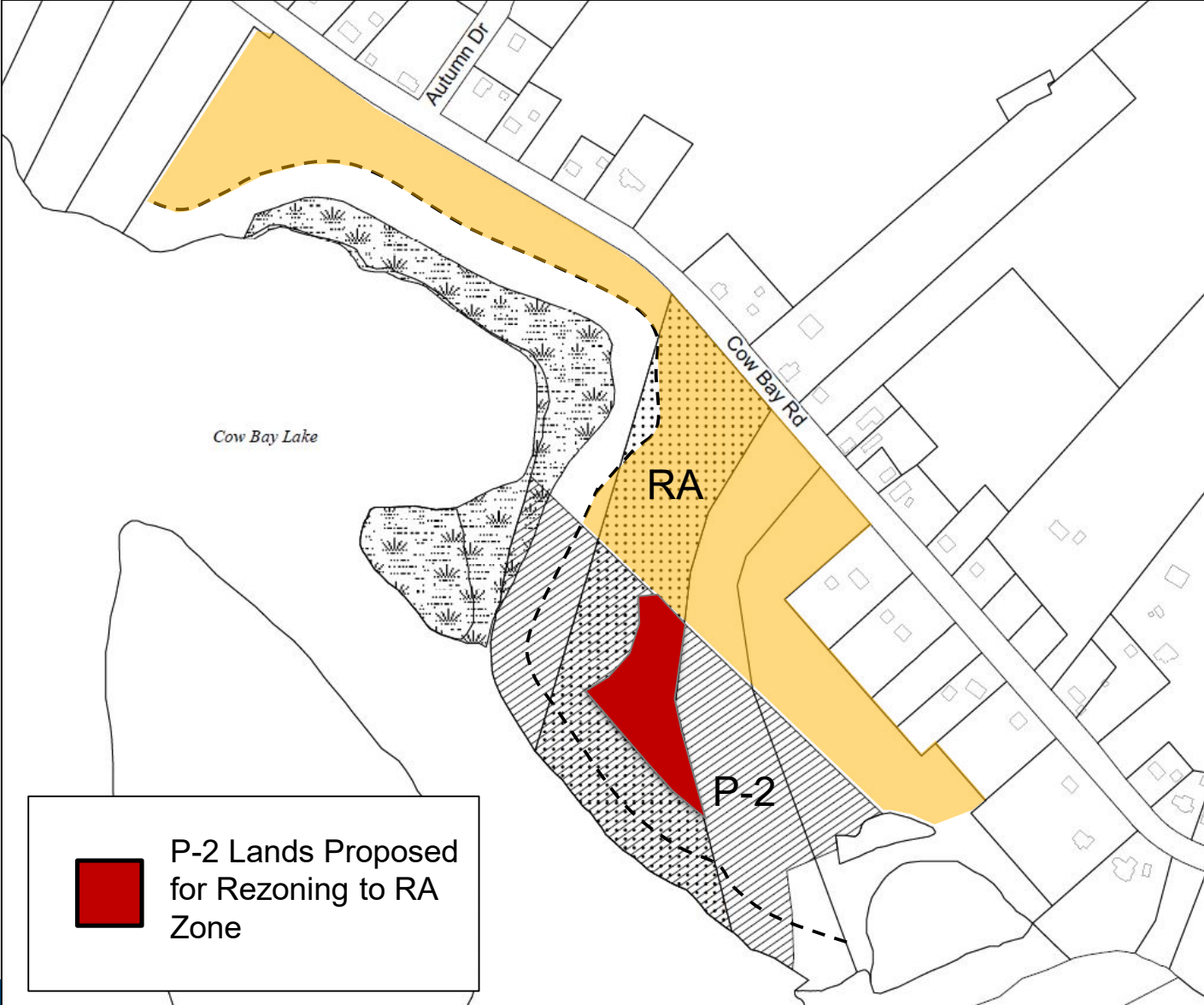
December 7, 2021

Applicant Proposal

Applicant: Ekistics Plan + Design

Location: PID 41453945, Cow Bay Rd, Cow Bay

Proposal: to rezone a portion of PID 41453945 from the P-2 Zone to the RA Zone to permit a single unit dwelling.



Site Context

PID 41453937, Cow Bay Rd, Cow Bay



General Site location



Subject property 



Cow Bay Road



**AREA OF PROPOSED
REZONING**



Developable land for a single unit dwelling without rezoning (RA Zone)

Developable land for a single unit dwelling with rezoning (RA Zone)

Policy & By-law Overview

Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-law

- **Zone**
 - RA (Rural Area) Zone
 - P-2 (Community Facility) Zone
- **Designation**
 - Special Area
- **Existing Use**
 - Vacant
- **Enabling Policy**
 - SA-10 of the Eastern Passage/Cow Bay MPS

Policy Consideration

Enabling Policy SA-10: Within the Special Area Designation...

Special Area Designation applied to lands within the Plan Area which are environmentally and historically significant.

“Council shall zone lands which are held in private ownership for the purposes of permitting low density residential development, community uses and facilities.”

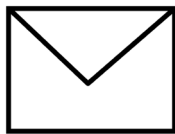
Application History

- Application initially expanded to include all P-2 lands in the immediately area
- After Public Information Session (Jan 21, 2019) and further analysis, HRM reduced the scope to the original request - rezone a portion of lands at PID 41453945.

Public Engagement Feedback

- Level of engagement completed was consultation achieved through a mail out notification and a public open house (**January 21, 2019**)
- Feedback from the community generally included the following:
 - environmental sensitivity and impacts to Cow Bay Lake, Silver Sands Beach and area;
 - reduction of setback regulations to 30.5 m (100 feet) from Cow Bay Lake;
 - water levels and storm surge --building site inappropriate.

Notifications
Mailed



165

Meeting
Attendees



61

Unique
Webpage
Views



1012

Letters/Emails
Received



45 (4 persons)
37 (1 person)

Comparison RA and P-2 Zones Uses

RA Zone:

- Single Unit Dwellings;
- Existing mobile dwellings;
- Mobile dwellings at Silver Court, Cow Bay;
- Bed and breakfast establishments in conjunction with permitted dwellings;
- Home business uses;
- Forestry uses;
- Agriculture uses;
- Fishing and fishing related uses; and,
- Open space uses excluding commercial recreation uses.

P-2 Zone:

- **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;**
- Public and private parks and playgrounds;
- Recreation uses excluding golf courses;
- **Cemeteries except crematoriums;**
- Day camps; and,
- Historic sites and monuments.

Staff Rationale to Recommend Approval

- MPS recognizes environmental and historical significance of the area...**directs** the rezoning of low density residential development on privately held lands;
- RA Zone...less intensive than P-2 zone permitted land uses;
- Errors during adoption of the 2006 Regional Plan resulted in a reduced setback from ordinary highwater mark from 200 ft (60m) to 100 ft (30m.);
- Location of the lands proposed for rezoning complies with the original 200 ft setback; and,
- If approved the rezoning disincentivizes the development of a more intensive uses in the P-2 zone given the reduced land area there.

Supplementary Report for Future Planning Process

- 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;
- setback regulations and to fix errors regarding the labelling of Cow Bay Lake and Barrier Pond; and,
- list of permitted uses within P-2 zone within the Special Area Designation to determine that those uses are appropriate given changing environmental conditions.

Staff Recommendation

Staff recommend that Harbour East – Marine Drive Community Council:

1. Approve the proposed rezoning to the Eastern Passage/Cow Bay LUB as set out in Attachments A of the staff report dated July 20, 2020; and
2. Request a supplementary report identifying issues of increasing environmental concern around the Cow Bay Lake area and a discussion on existing P-2 (Community Facility) Zone within the Special Area Designation of the MPS for Eastern Passage/ Cow Bay.

HALIFAX

Thank You

History

- **1982, inception of Plan - MPS policy SA-10 to recognize low density residential development in private ownership** as being consistent with the goals of the MPS.
- **1998, environmental protections** were adopted in the form of **setback requirements to Cow Bay Lake**. This created a no building, non-disturbance area within **61.0 metre (200 feet) of the ordinary high-water mark**.
- **2006, this setback was inadvertently changed to 30.5 metre (100 feet) setback with the adoption of the Regional Plan** by removing the word “Lake” from “Cow Bay Lake”.
- **2007, Supreme Court Decision** determined that **Cow Bay Lake** is a **fresh water body** (Coastal Elevations Policy does not apply to Freshwater bodies).

Watercourses and Wetlands

- **Watercourse Setbacks**

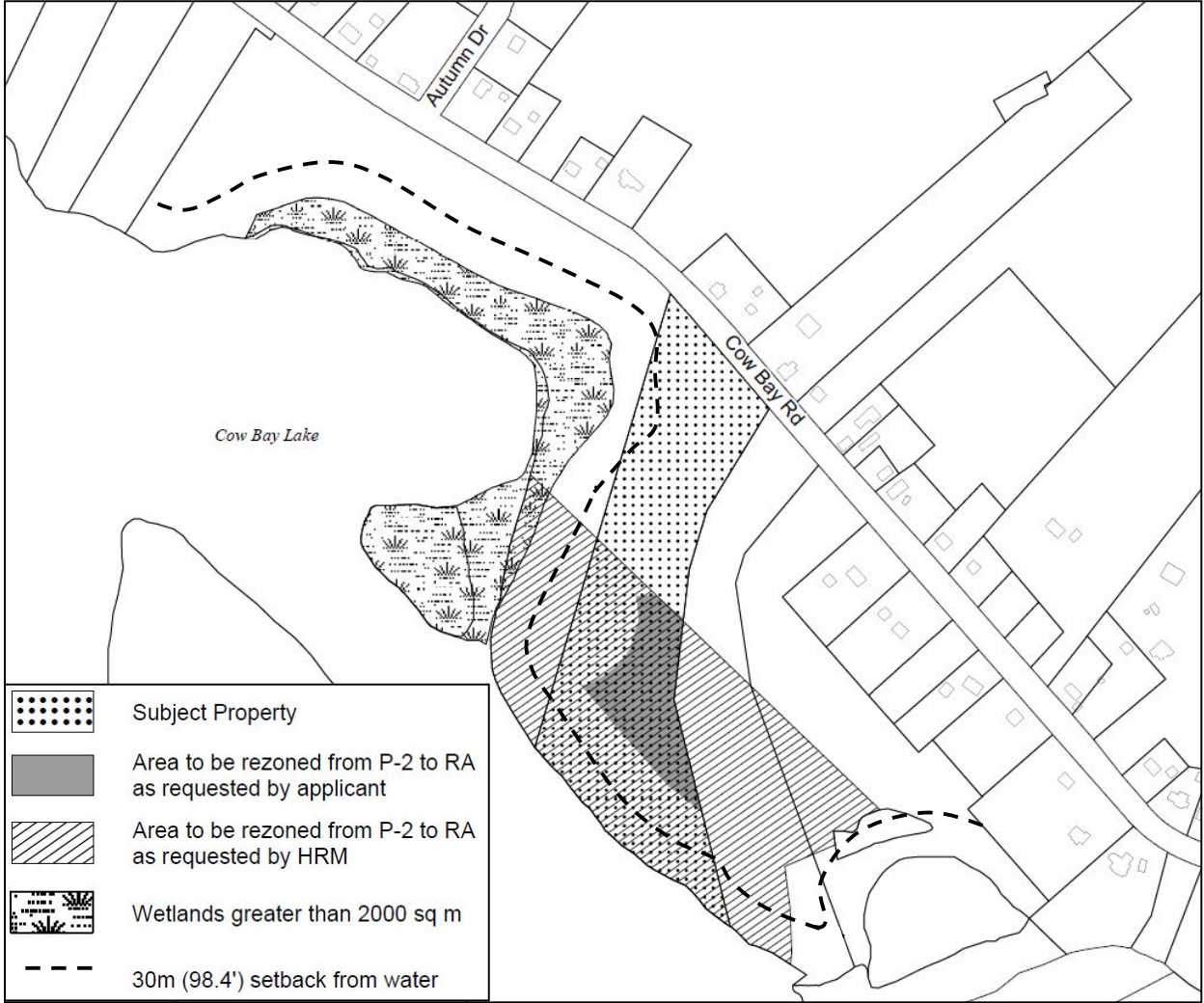
- Eastern Passage/Cow Bay Land Use By-law Section 4.18(1)(a)
- Restricts development within a 30m (98.4') buffer around Cow Bay Lake

- **Wetlands**

- Eastern Passage/Cow Bay Land Use By-law Section 4.31
- No development permitted in wetlands identified in Land Use By-law
- If abutting a watercourse, 30m (98.4') buffer required to start from wetland's edge

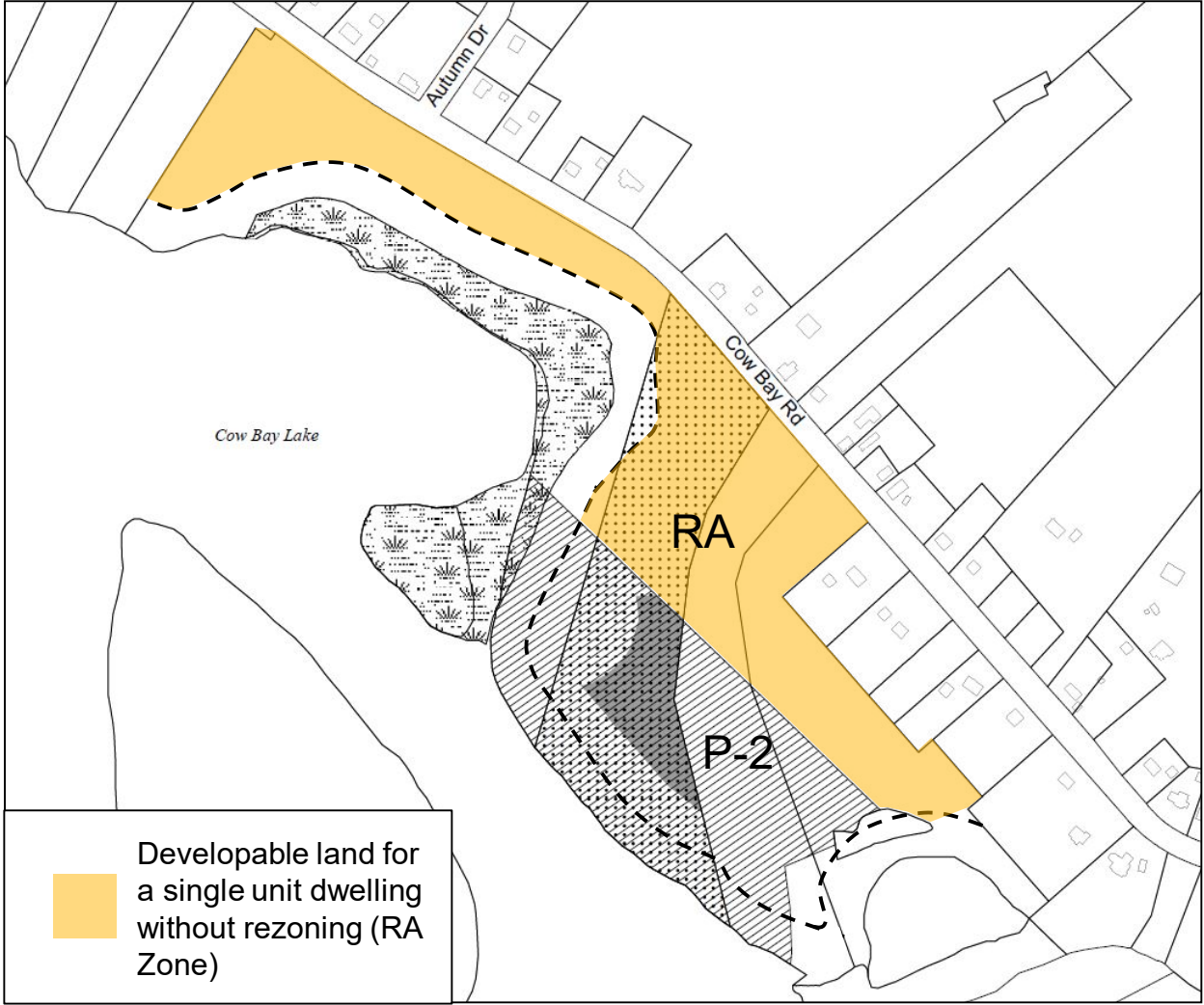
- **These regulations apply whether or not this rezoning is approved**

Constraints

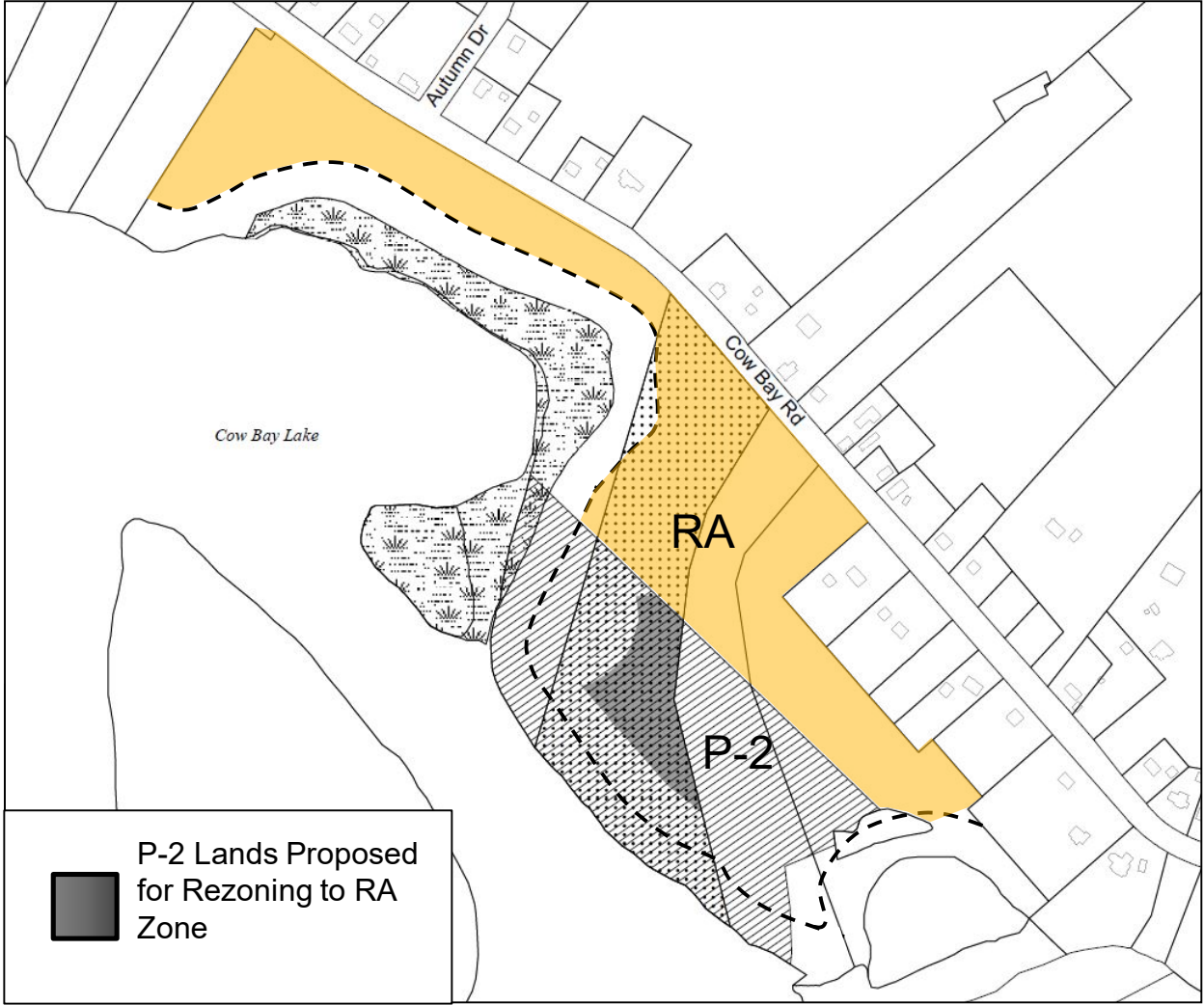


Map of identified wetlands and watercourse buffer

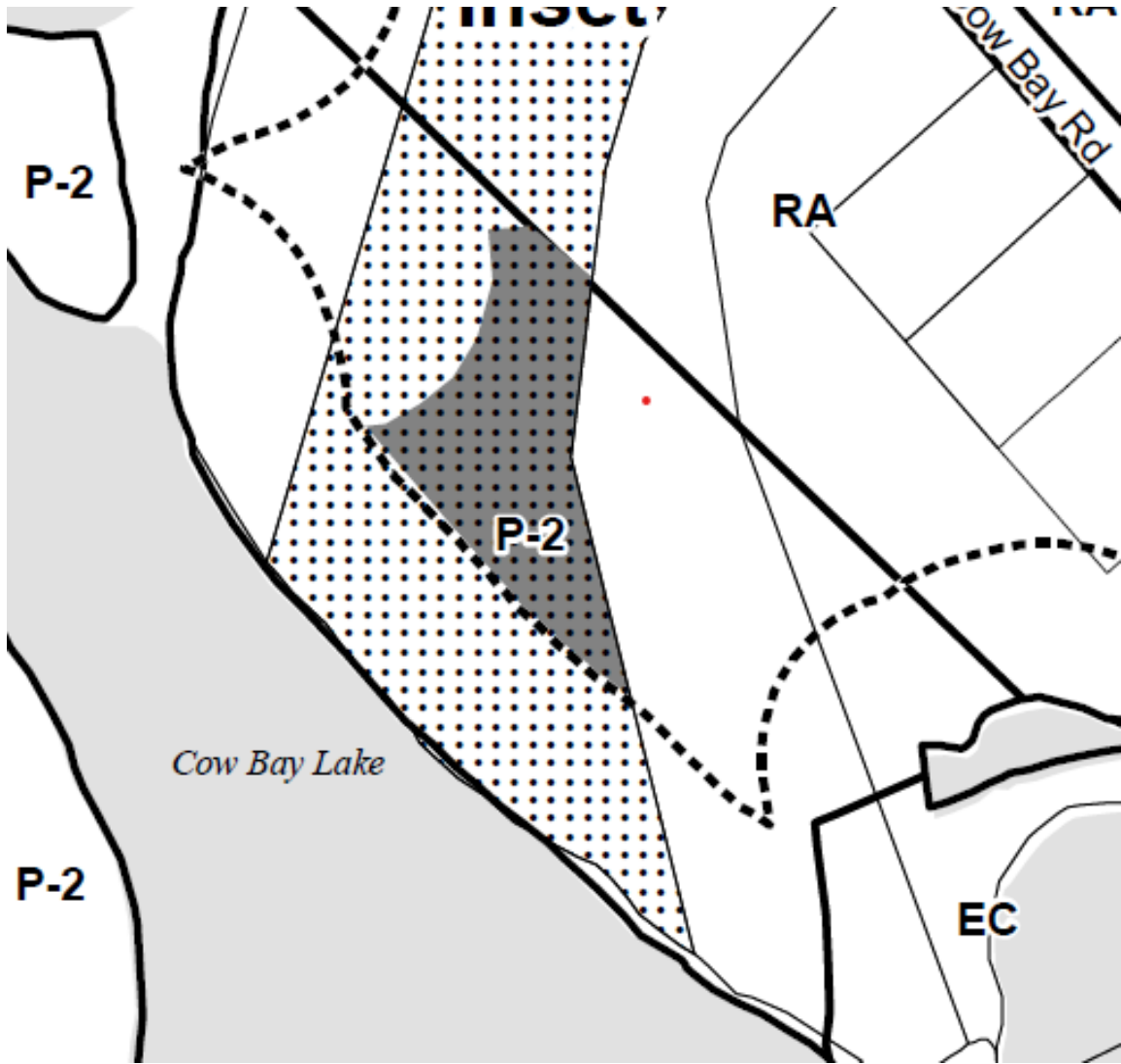
Developable Area – No Rezoning



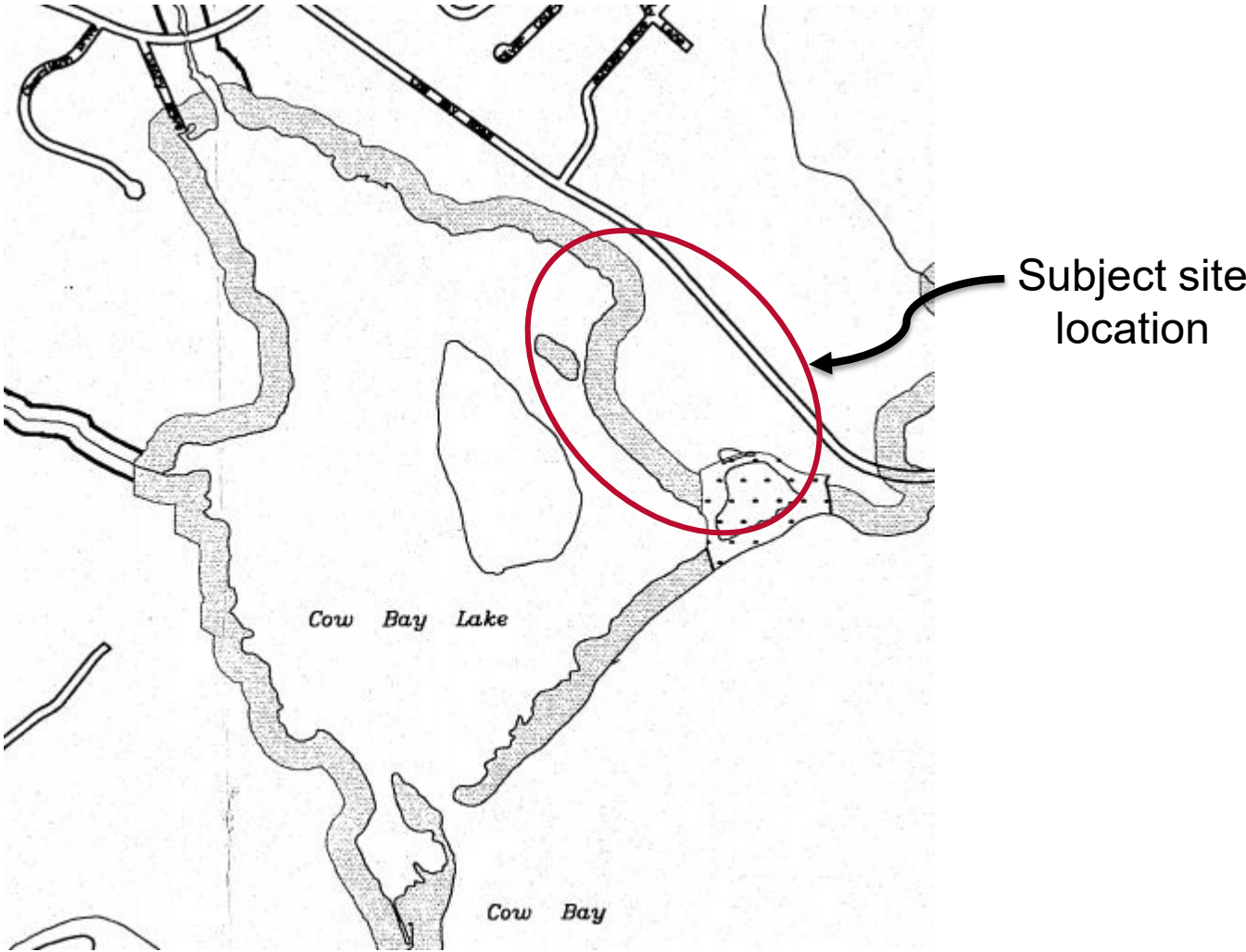
Developable Area – No Rezoning



Developable Area – With Rezoning



Map 4 – Environmental Constraints



Excerpt of Map 4 – Environmental Constraints