



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

Item No. 13.1.2
North West Community Council
July 12, 2021

TO: Chair and Members of North West Community Council

SUBMITTED BY: - Original Signed -
Kelly Denty, Executive Director of Planning and Development

- Original Signed -
Jacques Dubé, Chief Administrative Officer

DATE: June 17, 2021

SUBJECT: Case 23617: Upper Hammonds Plains Land Use Designation Review

ORIGIN

On December 14, 2020 North West Community Council passed the following motion:

Request a recommendation report outlining options for amending the Land Use By-law for the Upper Hammonds Plains designation area with the goal of mitigating conflict between allowable uses in the area.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council recommend that Regional Council:

1. Initiate a process to review and amend the land use policies and regulations under the Upper Hammonds Plains Land Use Designation within the Municipal Planning Strategy and Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville; and any other planning documents as necessary to mitigate conflict between allowable uses in the area; and
2. Follow the public participation program for municipal planning strategy amendments as approved by Regional Council on February 27, 1997.

BACKGROUND

In response to the growing concerns within the community of Upper Hammonds Plain with both the amount and type of development occurring in the area, Community Council has requested a staff report to consider changes to the Land Use Policies with the goal of mitigating conflict between potentially incompatible uses.

The Upper Hammonds Plains Community is a historic African Nova Scotian Community established in 1827. The ancestors of this Community were Black Refugees from Chesapeake, Virginia. They fought in the War of 1812 as freed refugees.¹ Early homesteaders supplemented their income with paid labour in forestry, farming and shipping.² The Upper Hammonds Plains Community had its own school and a volunteer Fire Department with a Department of African Nova Scotian Volunteer Fire Fighters.³ In 1970, the Upper Hammonds Plains Community Development Association was formed which continues to this day to be heavily engaged in the development of programs and services as envisioned by the Community.⁴ The Emmanuel Baptist Church is a focal point for the community providing refuge for the residents of Upper Hammonds Plains and a meeting place for people of various ethnic, cultural and denominational backgrounds.⁵

Community Land Use Regulations in this area were first introduced in the former Halifax County in 1974. At this time, By-law Number 24 was adopted and all areas within 500 feet of the main roads were zoned General Use. This included the Upper Hammonds Plains area. The General Use Zone was a very broad zone which permitted all uses with the exception of salvage yards and waste disposal sites. Salvage yards and waste disposal sites could be considered but only through a rezoning process and only after a public hearing.

Existing Land Use Regulations

In 1983, the former County of Halifax initiated a process to prepare a Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Beaver Bank, Hammonds Plains and Upper Sackville. This encompassed the area extending from Hammonds Plains and Upper Hammonds Plains to Upper Sackville. A Public Participation Committee was formed of representatives of all communities within the Plan Area. The process took approximately 4 years of committee and community meetings until the Municipal Planning Strategy and Land Use By-law were adopted in 1987. The Plan was reviewed and re-adopted again in 1999.

When the MPS and LUB were initially adopted, the Upper Hammonds Plains Community was a semi-rural community with a mix of land uses, including low-density residential development, resource and agricultural activities, and some small industrial operations. There were significant areas of undeveloped land in the community, and there had been no suburban-type residential development.

The Upper Hammonds Plains Land Use Designation was applied to the portion of the Upper Hammonds Plains Community as illustrated on (Map 1). Based on a collaborative planning approach with the Community, the following objectives were established for the Upper Hammonds Plains Designation:

1. encourage locally based labour-intensive jobs for local residents;
2. provide a wide range of housing types, sizes, prices and tenure arrangements; and
3. provide adequate community services and facilities to keep existing residents and attract those who have left the community.

¹ Diversity and Inclusion. (28 February 2018). Community Profiles. Halifax.ca.

² Diversity and Inclusion. (28 February 2018). Community Profiles. Halifax.ca.

³ Lieutenant Governor Community Spirit Award Entry Form

⁴ Lieutenant Governor Community Spirit Award Entry Form

⁵ Diversity and Inclusion. (28 February 2018). Community Profiles. Halifax.ca.

To carry out these objectives, the General Use (GU-1) Zone was applied to the Upper Hammonds Plains Land Use Designation (Map 2). The GU-1 Zone permits all land uses except those specifically prohibited (Attachment A – General Use Zone). Prohibited uses include Industrial Uses over 10,000 sq. ft., Commercial Entertainment Uses, Mobile Home Parks, Sanitary Landfill Sites and Dumps, Hazardous Waste Disposal Sites, and all C&D uses. The Upper Hammonds Plains Designation enables consideration of Industrial Uses over 10,000 sq. ft., and Commercial Entertainment Uses by rezoning. Mobile Home Parks may be considered by development agreement. Only Sanitary Landfill Sites and Dumps, Hazardous Waste Disposal Sites, and all C&D uses are entirely prohibited. The GU-1 Zone is currently applied to all properties within the Designation, except for a small area of Halifax Water owned lands which is zoned Protected Water Supply (PWS).

Where residents desire more restrictive residential zoning, the Upper Hammonds Plains Designation enables Council to consider rezoning properties to the Single Unit Dwelling (R-1) Zone or the Rural Residential (R-6) Zone. Currently, there are no properties in the designation which have been rezoned to a residential zone.

Changing Development Pattern

Since the MPS was adopted, the Upper Hammonds Plains Community has been under significant development pressure. From the period of 2005 – 2020, a total of 186 construction permits have been issued for mostly residential and some commercial/industrial developments. Seventy of those have been issued in the last three years. Initially, the type of residential uses being developed were single unit dwellings. In recent years, permits have been issued for low-rise multi unit dwellings and town house developments.

During the early 2000's there were a number of approved subdivisions in the Upper Hammonds Plains area as illustrated on Map 3 – Permits and Subdivisions. White Hills Run was one of the largest with a portion of that subdivision taking place within the Upper Hammonds Plains Designation. This subdivision is now complete, resulting in a suburban style residential development with single unit dwellings on large lots without any mixture of land use. There have also been some suburban-style infill subdivisions along Pockwock Road.

The Upper Hammonds Plains and the Hammonds Plains communities have been under Growth Control policies and regulations since 1999. No new public roads are permitted to develop in the Growth Control Areas under the Regional Subdivision By-law. However, subdivision development may continue along existing public roads and many of the existing lots along Pockwock Road have large amounts of frontage where new lots may be subdivided. These lots may take the form of regular lots along Pockwock Road or may be in the form of flag lots which extend into back land areas via long or shared driveways. Future development of these lots may take the form of townhouses or multiple unit dwellings together with commercial or industrial uses under the GU-1 Zone.

These changing development patterns along with the development of some car sales and repair businesses are creating concerns for the community based on conversations with community members, meetings with community groups, and information provided by the HRM African Nova Scotian Affairs Integration Office (ANSAIO). The GU-1 Zone permits residential, commercial, and industrial uses, with little requirement for buffering or separation between them, resulting in land use conflicts. There are also concerns with the use of the road right-of-way for parking when businesses have insufficient parking for their customers.

In addition to land use conflicts and development pressures, other community concerns were conveyed to Planning Staff in meetings with the Community Development Association in 2020. Some of these concerns were also conveyed to Planning Staff from ANSAIO and the local Councillor. The list of concerns expressed included the following:

- Pressure from developers seeking to purchase land from community landowners;
- Central water pressure in the community is low;

- The number and functionality of the fire hydrants in the community causing concerns for the adequacy of fire protection;
- Speeding traffic through the community causing concerns for community safety; and
- Increasing popularity of Pockwock Falls as a recreation destination is increasing the number of visitors and visitors are parking in the road-right-of way and at times blocking the road.

The conflicting land use issues and development pressures have given rise to a request to have the land use regulations under the Upper Hammonds Plains Land Use Designation reviewed. As such, the NWCC passed a motion on December 14, 2020 requesting this staff report.

DISCUSSION

The MPS is a strategic policy document that sets out the goals, objectives and direction for long-term growth and development in the Municipality. While the MPS provides broad direction, Regional Council may consider MPS amendment requests to enable proposed development that is inconsistent with its policies. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. Amendments should only be considered within the broader planning context and when there is reason to believe that there has been a change to the circumstances since the MPS was adopted, or last reviewed.

Rationale

Staff have reviewed the concerns communicated through ANSAIO, the local Councillor, and from the initial meetings between Planning Staff and community representatives. There is merit in the request to review the land use regulations developed under the Upper Hammonds Plains Land Use Designation. These regulations were developed with the community, in the 1980's, at a time when the emphasis was on the creation of economic development opportunities. However, there are land use conflicts arising from the lack of requirements for buffering or separation between residential, commercial, and industrial uses in the GU-1 Zone. Rapid development pressure is also creating community concerns for residents who wish to preserve the cohesiveness of this close-knit community. Given that the Upper Hammonds Plains Land Use Designation is the area where these land use conflicts and development pressure is arising, the policies and regulations of the Upper Hammonds Plains Land Use Designation should be reviewed.

Acknowledging that concerns within the Upper Hammonds Plains community exist beyond the scope of land use, staff anticipate that over the course of engaging with members of the community, they will receive feedback about issues that may not be addressed through changes to the MPS and LUB. Staff note that while that these concerns will be valid, addressing some of them will be beyond the scope of this specific initiative. Staff are recommending a process that focusses on the review of the land use policies and regulations so that amendments can be processed to minimize future land use conflicts. During this review, staff can bring forward any current service-related issues that are not related to zoning to the appropriate HRM business unit for follow-up. Further, staff will also bring forward any long-term issues with the revised land use regulations for Council's consideration in the form of a summary of feedback received via the public engagement planned for this project. However, to expedite the review of land use regulations, staff will need to focus on the review of the land use policies and regulations under the MPS and LUB.

Conclusion

Staff has reviewed the matter and advise that there is merit to the request to review the land use regulations under the Upper Hammonds Plains Designation for the Beaver Bank Hammonds Plains and Upper Sackville Municipal Planning Strategy, Land Use By-law and any other planning documents as necessary to mitigate conflict between allowable uses in the area. The regulations created under this Designation were designed to stimulate economic growth and development but are very open and need to be reviewed to prevent any future land use conflicts from arising, and ensure the land use policies reflect the desires of the community.

Staff, therefore, recommend that NWCC recommend that Regional Council initiate a process to review and amend the land use policies and regulations for the Upper Hammonds Plains Designation under the Municipal Planning Strategy and Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville as well as any other planning documents as necessary to mitigate conflict between allowable uses in the area.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2021-2022 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 involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

COMMUNITY ENGAGEMENT

Should Regional Council choose to initiate the MPS amendment process, the *HRM Charter* requires that Regional Council approve a public participation program. In February of 1997, Regional Council approved a public participation resolution which outlines the process to be undertaken for proposed MPS amendments which are considered to be local in nature. This requires a public meeting(s) to be held and any other measures deemed necessary to obtain public opinion.

The proposed level of community engagement is consultation, achieved through a public meeting(s), surveys, newsletter and conversations held with land-owners and residents. Depending the restrictions required for public safety during COVID-19, these public meetings and outreach activities may have to be held virtually on-line. A public hearing will also be held before Regional Council can consider approval of any amendments.

Staff has consulted with representatives of the Upper Hammonds Plains Community through ANSAIO to obtain suggestions for community engagement. It was suggested that the Municipality use a mix of public participation techniques to engage the community. In order to reach out to local residents and property owners, as well as those property owners who no longer live in the community, it is recommended that information be distributed to all affected community members via a multitude of methods. Public meetings may be beneficial to some members of the community, but it was noted that some members of the community may be more comfortable participating through phone calls and surveys. Individuals within the community have offered their assistance in connecting with members of the Upper Hammonds Plains community, and this assistance will be invaluable in hearing from as many people as possible.

The 1997 Public Participation Resolution provides sufficient scope to enable the development of a public participation strategy that meets the needs of the Community. Staff will work with ANSAIO and community representatives to develop an engagement program to ensure the community has clear information on the project, a chance to review and discuss if the land use policies and regulations under the Upper Hammonds Plains Designation are in keeping with their desire for future growth, and how those policies and regulations should be changed. This process will also provide an opportunity to receive feedback on other matters affecting the delivery of HRM Services for follow-up by the appropriate HRM business units.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications anticipated at this time.

ALTERNATIVES

1. NWCC may choose not to recommend that Regional Council initiate the MPS amendment process. A decision of Council not to initiate a process to consider amending the Upper Hammonds Plains Designation under the Municipal Planning Strategy and Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville is not appealable to the NS Utility and Review Board as per Section 262 of the HRM Charter.

ATTACHMENTS

Map 1 – Generalized Future Land Use

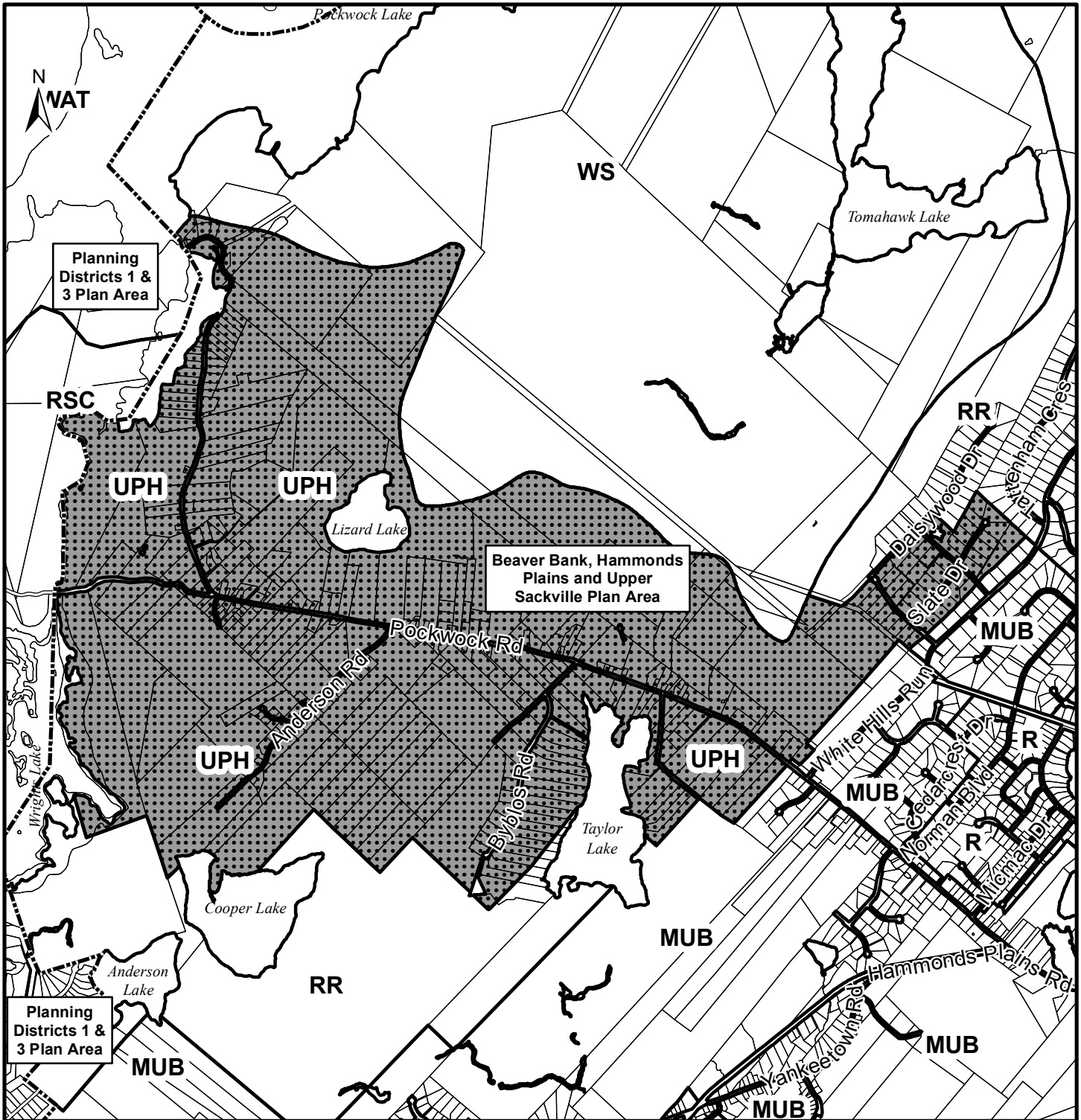
Map 2 – Zoning

Map 3 – Permits and Subdivisions

Attachment A – General Use (GU-1) Zone


A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Maureen Ryan, Planner III, Rural Policy and Applications 782.640.0592
Peter Nightingale, Planner II, Rural Policy and Applications 902.719.9478



Map 1 - Generalized Future Land Use

Upper Hammonds Plains

 Areas for Review

Designation - HPSBB

- MUB Mixed Use B
- R Residential
- RR Rural Resource
- UPH Upper Hammonds Plains
- WS Watershed

Designation - Planning Districts 1 & 3

- MUA Mixed Use A
- RSC Resource
- WAT Watershed

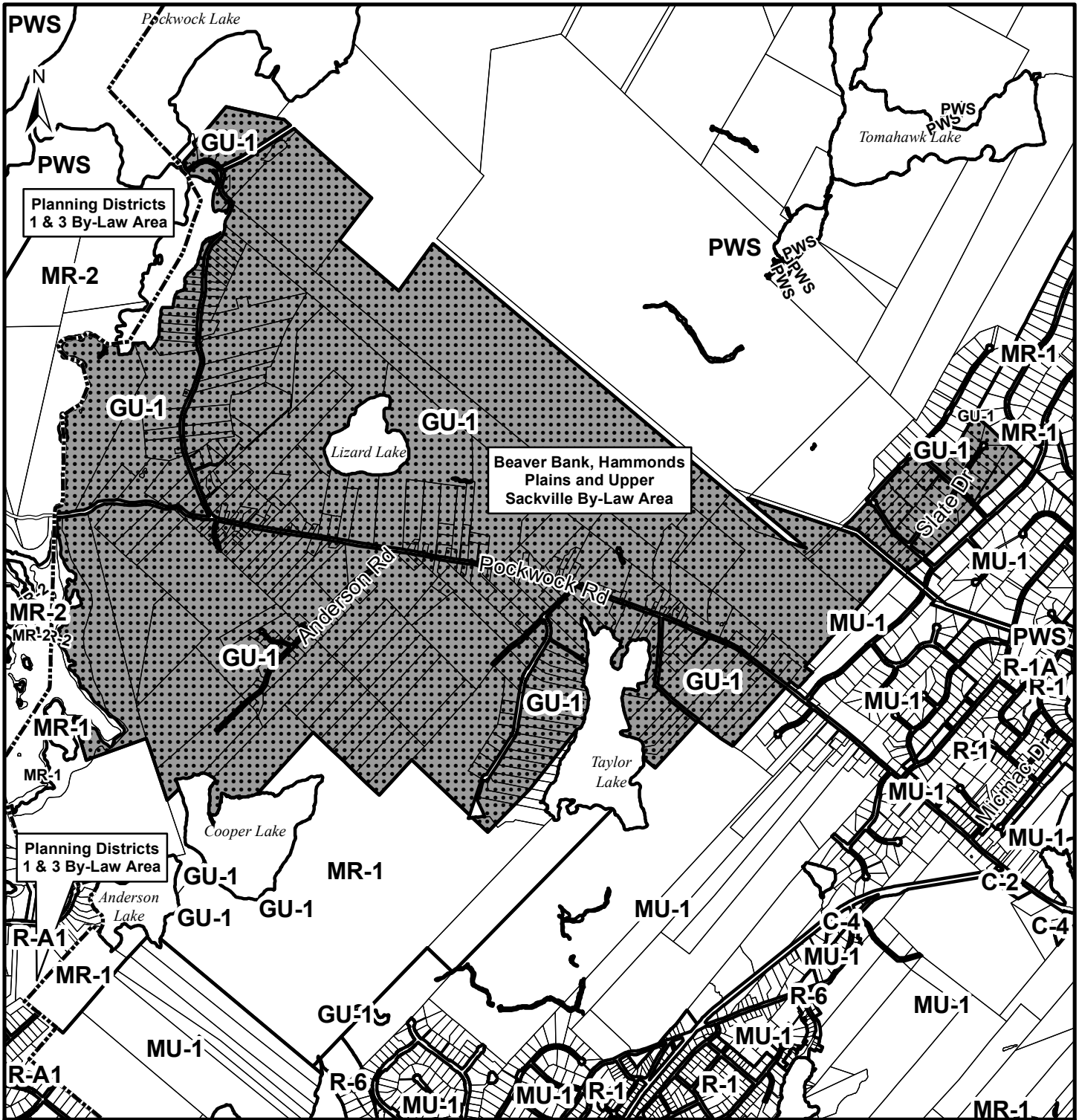
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0 250 500 750 1,000 m

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.

Beaver Bank, Hammonds Plains and Upper Sackville Plan Area



Map 2 - Zoning

Upper Hammonds Plains

 Areas for Review

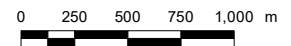
Zone - HPSBB

- C-2 General Business
- C-4 Highway Commercial
- GU-1 General Use
- MR-1 Mixed Resource
- MU-1 Mixed Use 1
- PWS Protected Water Supply
- R-1 Single Unit Dwelling
- R-6 Rural Residential

Zone - Planning Districts 1 & 3

- MR-2 Mixed Resource 2
- PWS Public Water Supply
- R-A1 General Residential

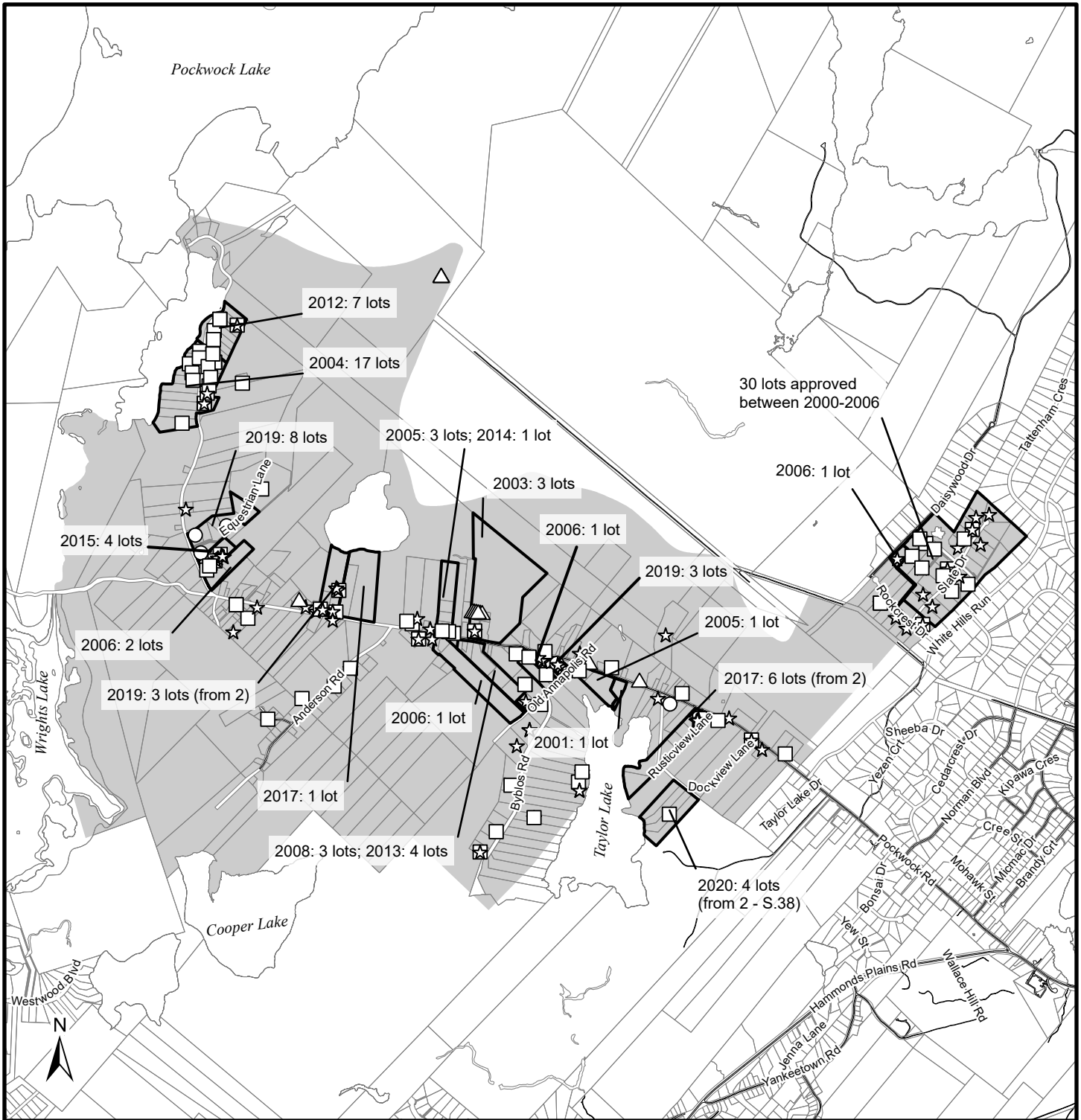
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This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

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

Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-Law Area

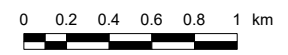


Map 3 - Permits and Subdivision (2000 - 2020)

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Upper Hammonds Plains (UPH)

- UPH Land Use Designation
- Approved Final Subdivisions
- High-density residential
- Low-density residential
- Commercial, industrial, or institutional
- Other



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.

Includes applications of the identified types available in the Halifax Regional Municipality GIS system: permits as early as 2005 and final subdivisions as early as 2003.

Attachment A

GU1 Zone from the Land Use By-law for Planning Districts 15/18/19

PART 15: GU-1 (GENERAL USE) ZONE

15.1 GU-1 USES PERMITTED

A development permit shall be issued for ALL USES in a GU-1 Zone **except for** the following:

3/18) Industrial Uses (including cannabis production facilities) (RC-Sep 18/18;E-Nov

over 10,000 sq. ft.

Commercial Entertainment Uses

Mobile Home Parks

Sanitary Landfill Sites and Dumps

Hazardous Waste Disposal Sites

C&D Materials Transfer Stations, C&D Materials Processing Facilities and C&D Materials Disposal Sites (RC-Sep 10/02; E-Nov 9/02)

15.2 GU-1 ZONE REQUIREMENTS: RESIDENTIAL USES

In any GU Zone, where uses are permitted as Residential uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	29,064 square feet (2700 m ²)
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	20 feet (6.1 m)
Minimum Rear or Side Yard	½ the height of the main building, but in no case shall it be less than 8 feet (2.4 m)
Maximum Lot Coverage	35 per cent
Maximum Height of Main Building	35 feet (10.7 m)

15.3 GU-1 ZONE REQUIREMENTS: SALVAGE YARDS

In any GU-1 Zone, where salvage yards are permitted no development permit shall be issued except in conformity with the following:

Minimum Lot Area	80,000 square feet (7432 m ²)
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	50 feet (15.2 m)
Minimum Rear or Side Yard	50 feet (15.2 m)
Maximum Lot Coverage for Structures and Storage	75 per cent

15.4 GU-1 ZONE REQUIREMENTS: OTHER USES

In any GU-1 Zone, no development permit shall be issued for uses other than residential uses and salvage yards except in conformity with the following:

Minimum Lot Area	29,064 square feet (2700 m ²)
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	15 feet (4.6 m)
Maximum Lot Coverage	50 per cent
Maximum Height of Main Building	35 feet (10.7 m)

15.5 OTHER REQUIREMENTS: SERVICE STATIONS

Where service stations are permitted in any GU-1 Zone, the provisions of Section 17.6 shall apply.

15.6 OTHER REQUIREMENTS: AGRICULTURE USES

Notwithstanding the provisions of Section 15.4, where any barn, stable or other building intended for the keeping of more than fifty (50) domestic fowl or ten (10) other animals is erected in any GU-1 Zone, no structure shall:

- (a) be less than fifty (50) feet from any side lot line;
- (b) be less than one hundred (100) feet from any dwelling or potable water supply except a dwelling or supply on the same lot or directly related to the agricultural use;
- (c) be less than three hundred (300) feet from any watercourse or water body;
- (d) be less than five hundred (500) feet from any residential (R-1) zone.

15.7 OTHER REQUIREMENTS: SALVAGE YARDS

Notwithstanding the provisions of Section 15.4, where any salvage yard is erected in any GU-1 Zone, the following shall apply:

- (a) Any materials associated with the salvage yard operation shall be contained within a building or otherwise enclosed by a fence, vegetation, or other means which provide a visual and physical barrier.
- (b) No outdoor storage shall be located within any required yard.
- (c) No salvage yard operation shall be located within five hundred (500) feet of a community facility use or a residential (R-1) zone.
- (d) No outdoor storage shall be located within three hundred (300) feet of a watercourse.

15.8 OTHER REQUIREMENTS: INDUSTRIAL USES

Where industrial uses are permitted in a GU-1 Zone, the provisions of Part 19 shall apply.

15.9 **OTHER REQUIREMENTS: CANNABIS PRODUCTION FACILITIES (RC-Sep18/18; E-Nov 3/18)**

- (a) **A cannabis production facility shall comply with the provisions of Section 19.2 and 19.3.**
- (b) **Where a lot containing a cannabis production facility abuts a lot**

- (i) zoned or used for residential purposes, or**
- (ii) that is used for a daycare, community centre, school, religious institution, public park or playground,**

such facility, including any building or outdoor area used as a cannabis production facility, shall be set back a minimum 230 feet (70 metres) from the abutting lot line.