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Item No. 10.1.1
Harbour East-Marine Drive Community Council
June 9, 2022
July 13, 2022

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

-Original Signed-

SUBMITTED BY: _____
Kelly Denty, Executive Director of Planning and Development

DATE: April 25, 2022

SUBJECT: Case 24022: Partial rezoning of 2143 and 2155 Cow Bay Road, Cow Bay

ORIGIN

Application by Eric Bannerman et al.

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 consider approval of the proposed rezoning of a portion of 2143 and 2155 Cow Bay Road, Cow Bay (PID 41498981 and PID 41498973), from the P-2 (Community Facility) Zone to the RA (Rural Area) Zone in the Eastern Passage/Cow Bay Land Use By-law, as set out in Attachment A, and schedule a public hearing;
2. Adopt the amendment to the Eastern Passage/Cow Bay Land Use By-law, as set out in Attachment A.

BACKGROUND

Eric Bannerman et al., are applying to rezone a portion of the property at 2155 Cow Bay Road, Cow Bay (PID 41498973). The subject property is subject to two zones. The P-2 (Community Facility) Zone is located along the Atlantic Ocean and the RA (Rural Area) Zone is located along Cow Bay Road. The applicant wishes to construct a single unit dwelling in the area of the property 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 RA-2 of the Eastern Passage/Cow Bay Municipal Planning Strategy.

Lands to the south of the Bannerman property at 2143 Cow Bay Road have similar conditions as both are split zoned RA and P-2. Accordingly, after some consultation with staff, the owners of these lands have requested they join the rezoning process as well. Therefore, staff have expanded the rezoning application to include 2143 Cow Bay Road (PID 41498981) as well as 2155 Cow Bay Road, Cow Bay (PID 41498973) (Maps 1 and 2).

Subject Site (Maps 1 and 2)	A portion of PID 41498973 and 41498981, Cow Bay Road
Location	East side of Cow Bay Road within proximity to Rainbow Haven Provincial Park
Regional Plan Designation	Rural Commuter
Community Plan Designation (Map 1)	Rural Area in the Eastern Passage/Cow Bay Municipal Planning Strategy
Zoning (Map 2)	P-2 (Community Facility) Zone in the Eastern Passage/Cow Bay Land Use By-law
Size of Site	1.2 Hectares (2.9 Acres) and 1.3 hectares (3.3 acres), respectively
Street Frontage	67 metres (220 ft) and 58 metres (190 feet), respectively
Current Land Use(s)	Vacant land (former recreational camp)
Surrounding Use(s)	Single family residential to the north, Cow Bay to the east and vacant lands to the south and to the west

Proposal Details

The applicant proposes to rezone approximately 0.37 hectares (0.92 acres) of 2155 Cow Bay Road, which is currently zoned P-2 (Community Facility) 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 situate closer to the shoreline of the Atlantic Ocean than what is presently possible. The P-2 Zone that currently applies to these lands does permit a single dwelling unit but only in conjunction with a daycare. The applicant does not wish to build or operate a daycare and has therefore requested the rezoning.

Upon receiving notification of the rezoning application, owners of 2143 Cow Bay Road, which abut 2155 Cow Bay Road to the south, indicated their interest in also having their property rezoned in a similar fashion. Given the conditions are very similar between the two properties, this rezoning application has been expanded to include both 2143 and 2155 Cow Bay Road. Accordingly, the proposal has been modified from the initial application and is now a request to rezone a portion of 2155 Cow Bay Road (0.37 hectares) and 2143 Cow Bay Road (0.33 hectares) from P-2 to RA (Attachment A Schedule A).

Enabling Policy and LUB Context

The properties are designated Rural Area (RA) under the Eastern Passage/Cow Bay Municipal Planning Strategy (MPS). The RA designation contemplates low density residential development as the predominant land use in the designation. MPS Policy RA-2 establishes the RA Zone with the list of suitable lands uses, and the relative scale of development within the RA Zone. The RA Zone is applied in order to support the continuation of the existing rural environment through a limited list of permitted uses to reflect a rural context. It establishes larger lot sizes with wider frontages to better reflect the desired rural character of low density residential development along rural transportation routes. This zone was 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 is consistent with rural character.

The P-2 lands that are the subject of the rezoning application were previously occupied with the Rainbow Haven Children's Camp which began in the 1920's. Originally, the use was permitted under the former County of Halifax By-law 24 and later adopted as a P-2 Zone at the time of adoption of the Eastern Passage/ Cow Bay MPS in 1982 which was later carried through and reflected in the current MPS Policy. It should be noted that all physical structures associated with the camp have been demolished. The portions of the subject properties currently proposed for rezoning are vacant.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information on the HRM website, signage posted on the subject site and information letters mailed to property owners within the notification area. A total of 12 information letters were mailed within a 300 metre radius of the property boundary. Staff received one phone call and one email both for clarification from residents that did not own any of the P-2 zoned properties in this area. There was an email dialogue with the land owner of the P-2 zoned lands abutting the subject properties to the north. This land owner did not object to the rezoning but did share concern about drainage issues and was told that drainage issues would be reviewed during the permit process and that drainage could not be a condition of the rezoning. Between January and April of 2022 there were 70 unique views of the planning webpage having an average of 2:10 minutes.

A public hearing must be held by Harbour East-Marine Drive Community Council before they can consider approval of the proposed rezoning. Should Community Council decide to proceed with a public hearing on this application, 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 could potentially impact residents and property owners.

DISCUSSION

Staff has reviewed the proposal rezoning relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed rezoning from P-2 to RA that would apply to portions of 2143 and 2155 Cow Bay Road. 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.

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 can be considered less intensive and would better implement 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 is as follows:

RA (Rural Area) Zone	P-2 (Community Facilities) Zone
<ul style="list-style-type: none">• 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;	<ul style="list-style-type: none">• 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;

<ul style="list-style-type: none">• Fishing and fishing related uses; and,• Open space uses excluding commercial recreation uses.	<ul style="list-style-type: none">• 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.
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Further, the access (such as a driveway) from Cow Bay Road to the P-2 Zone technically forms part of the land use. Therefore, the driveway can only go through a zone within which a land use is listed as a permitted use. Since the list of permitted land uses in the RA Zone is not consistent with the permitted uses between the two zones, a driveway access for a P-2 use cannot cross the RA Zone. This limits the ability to develop on the P-2 zoned portions given the majority of the land uses are not permitted in the RA Zone. Since driveway access is a requirement in order to achieve a development permit to authorize a land use, any development plan contemplating an institutional use on these properties cannot be realized.

Differences with P-2 zoned lands to the North

The lands situated to the north on 15 and 21 Rainbow Haven Drive (PIDs 40582579 and 41353293) (Maps 1 and 2) are also split zoned with both containing RA and P-2 zoned portions of their properties. However, unlike the lands proposed for rezoning to the south, both of these lots have a legal means of access as follows:

1. PID 40582579 - a small assisted care living facility is currently operating there. The driveway pre-existed the establishing of the RA Zone and is therefore authorized as non-conforming despite crossing RA zoned lands and,
2. PID 41353293 - the P-2 zoning on these lands is configured to connect directly to a public street, therefore legal access can be achieved.

Coastal Setback

A portion of the area proposed for rezoning from P-2 to RA is identified as Coastal Lands on Map 4 - Environmental Constraints. Rezoning the lands to RA will not result in a reduction of the required setback of 61.0 metres (200 feet) from the ordinary high watermark of the watercourse (ocean). In addition, Coastal Elevation criteria as set out in the LUB also applies (Attachment B).

Staff Rationale to Recommend Approval

The application of the RA Zone and the development of lower density residential land uses is consistent with the intent of the MPS. Further, institutional land uses are the prominent land use permitted in the P-2 Zone. As there is an inability to achieve a legal driveway access over the RA zoned lands to service institutional land uses on the P-2 zoned lands staff consider the rezoning to RA Zone to be appropriate. Therefore, staff recommend the rezoning of a portion of these lands from P-2 to RA.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. A development plan for most land uses permitted in the P-2 Zone cannot be achieved. The rezoning from P-2 to RA is consistent with the intent of RA Designation. Therefore, staff recommend that the Harbour East-Marine Drive Community Council approve the proposed rezoning on portions of 2143 and 2155 Cow Bay Road from P-2 to RA as shown on Attachment A-Schedule A.

FINANCIAL IMPLICATIONS

There are no financial implications. The HRM cost associated with processing this planning application can be accommodated with the approved 2022-2023 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

No environmental implications are identified. The area is subject to the required setback of 61.0 metres (200 feet) from a residential dwelling to the ordinary high watermark of the Atlantic Ocean, as well as the Coastal Elevation criteria as set out in the LUB. These setbacks are under review relative to the Regional Plan review and the Provincial Coastal Protection Act process. While the setbacks are currently being considered, the completion dates of these processes have not been finalized. The LUB regulations effective at the time of permit application will be implemented as part of the permit approval process.

ALTERNATIVES

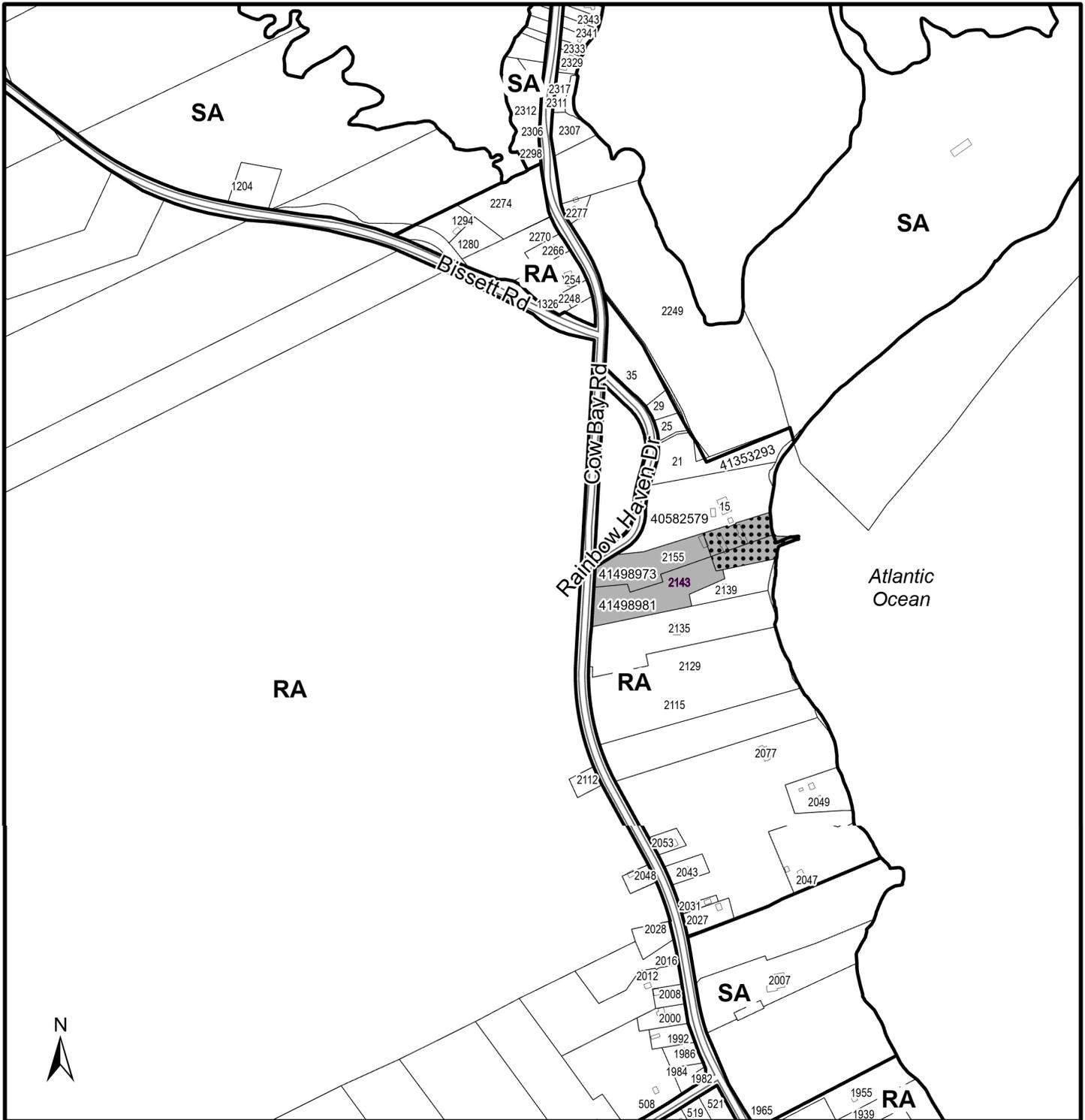
1. Harbour East - Marine Drive Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. 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 staff 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 LUB Amendments
Attachment B:	Review of Relevant MPS Policies
Attachment C:	Excerpts from the MPS and LUB

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

Report Prepared by: Shayne Vipond, Planner III, Rural Policy and Planning Applications
902.237.5395



Map 1 - Generalized Future Land Use
 PID #41498973 and PID #41498981 Cow Bay Rd,
 Cow Bay

HALIFAX

 Subject Area

 Area proposed to be rezoned
 from P-2 (Community Facility)
 to RA (Rural Area) Zone

Designation

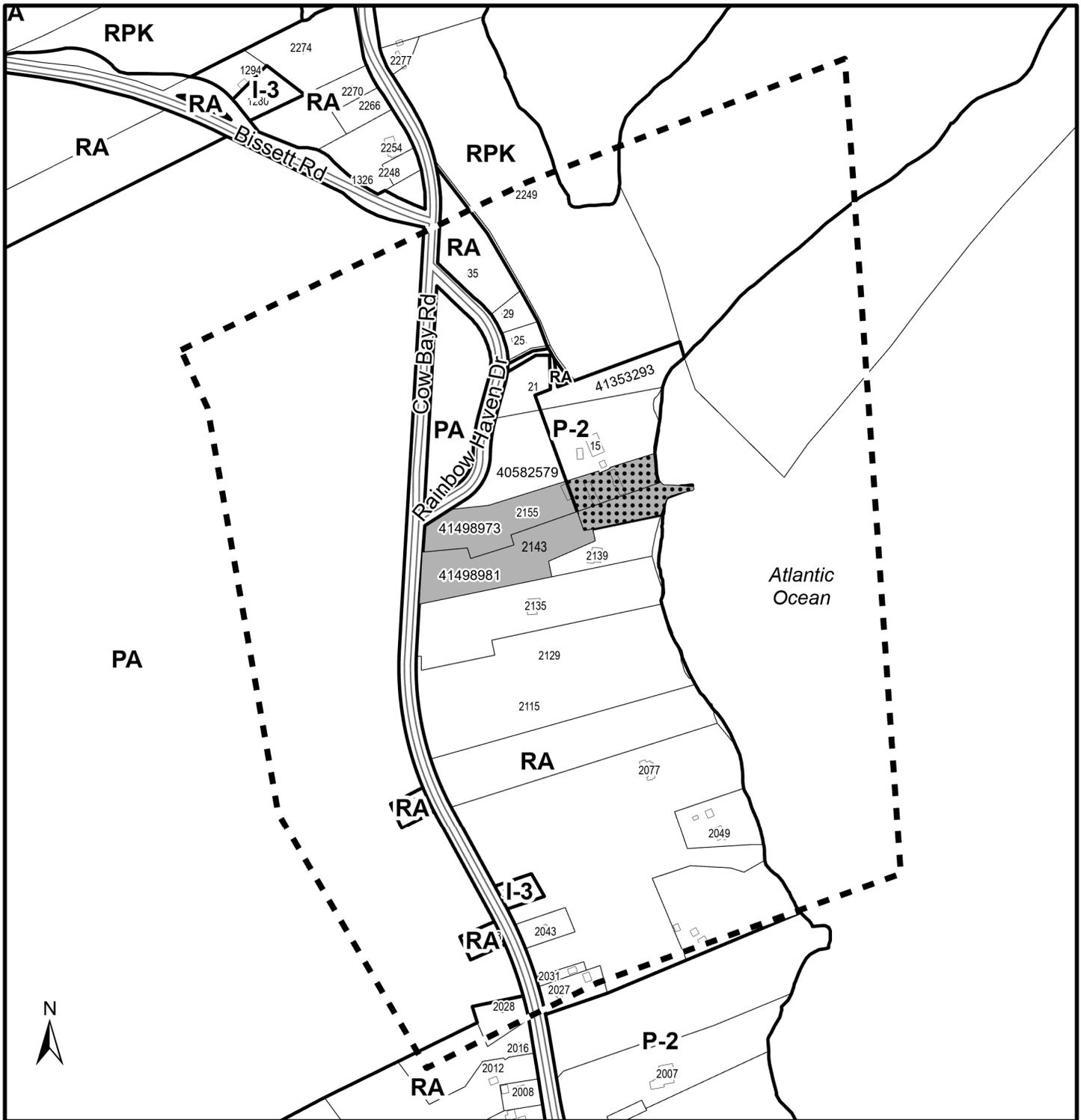
RA Rural Area
 SA Special Area



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 Area

PID #41498973 and PID #41498981 Cow Bay Rd,
Cow Bay

HALIFAX

-  Subject Area
-  Area proposed to be rezoned from P-2 (Community Facility) to RA (Rural Area) Zone
-  Area of Notification

- Zone**
- RA Rural Area
 - I-3 Local Service
 - P-2 Community Facility
 - PA Protected Area
 - RPK Regional Park



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 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:

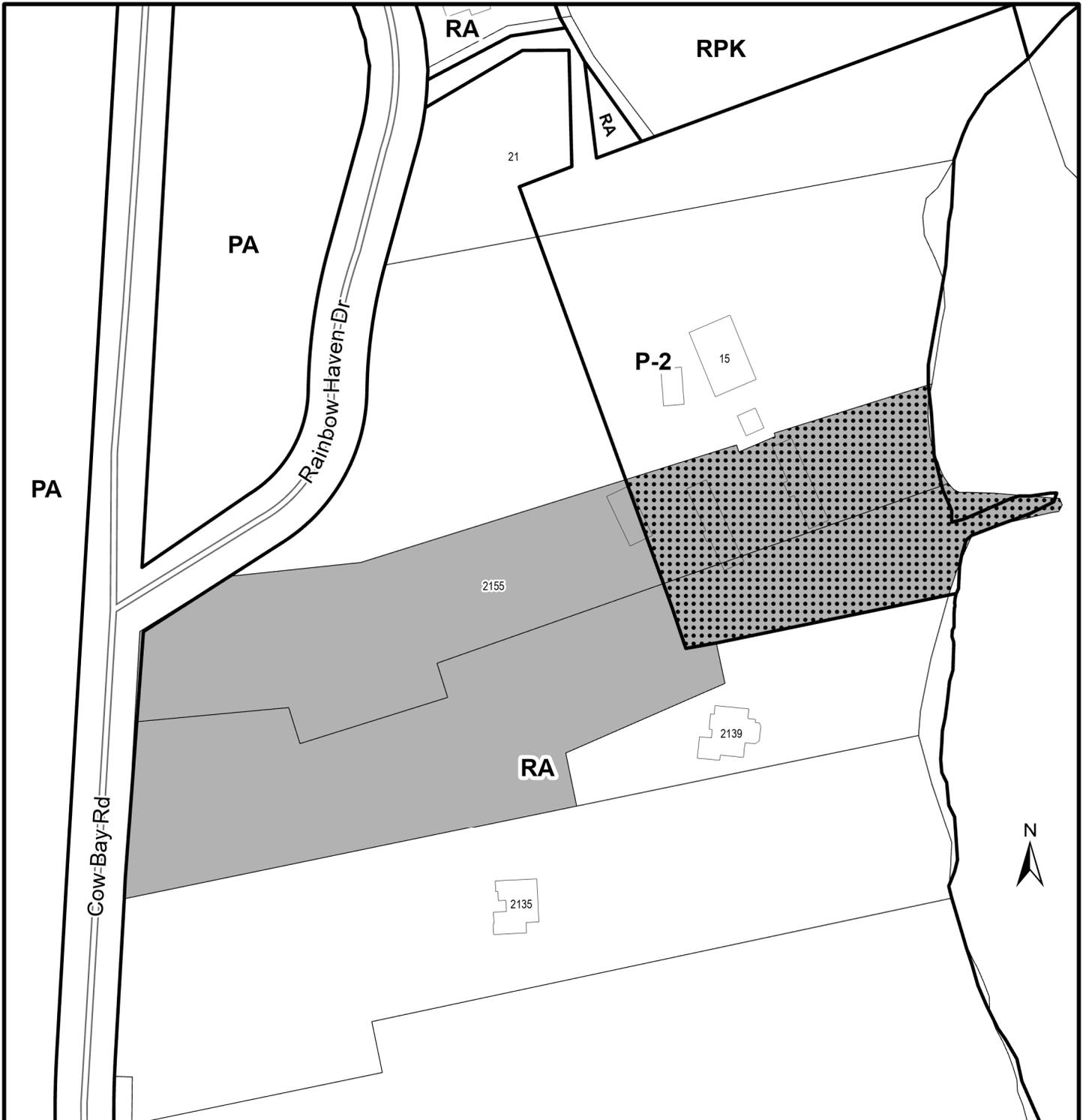
1. Amend Schedule A - Eastern Passage / Cow Bay Zoning Map to rezone a portion of the properties identified as 2155 Cow Bay Road (PID 41498973) and 2143 Cow Bay Road (PID 41498981) from the P-2 (Community Facility) Zone to the RA (Rural Area) Zone, as shown on the attached Schedule A.

I, Iain MacLean, 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], 2022.

Iain MacLean

Municipal Clerk

Attachment A - Schedule A



Schedule A

PID #41498973 and PID #41498981 Cow Bay Rd,
Cow Bay

 Subject Area

 Area to be rezoned from
P-2 (Community Facility)
to RA (Rural Area) Zone

Zone

- RA Rural Area
- P-2 Community Facility
- PA Protected Area
- RPK Regional Park



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

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Eastern Passage/Cow Bay
Land Use By-Law Area

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

Municipal Planning Strategy:

- UR-17 Notwithstanding Policies UR-2 and RR-2, within the Urban Residential and Rural Area Designations, it shall be the intention of Council to establish a community facility 1 zone which permits a variety of community related uses, such as schools, churches, senior citizen housing, fire and police stations, hospitals, public libraries, museums, galleries, open space uses, government offices and public works. Medical clinics, daycare facilities, fraternal halls and centres, community halls and centres, transportation maintenance yards and crematoriums will not be permitted within this zone. Council may consider permitting new community facility 1 uses, within these designations, by amendment to the land use by-law and with regard to the provisions of Policy IM-11.
- RA-2 It shall be the intention of Council to establish a Rural Area Zone for lands within the Rural Area Designation which permits single unit dwellings, home businesses, agriculture uses, forestry uses, and fishing related uses in certain areas. The zone will establish minimum lot sizes requirements of 50,000 square feet in area and 200 feet of road frontage for new lots. The zone shall place restrictions on non-residential uses. It shall further be the intention of Council not to consider any rezoning or zone amendment applications which could result in lesser lot sizes or frontages than the Rural Area Zone requires.

Section IV

Implementation

Policy	Comment
<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 RA-2 enables low density residential development within the Rural Area (RA) Designation through the establishment of the RA Zone. The subject properties are designated Rural Area and the surrounding properties are zoned RA. The current proposal is in conformity with the intent of the MPS.
<i>(b) that the proposal is not premature or inappropriate by reason of:</i>	

<i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i>	The proposed development does not impose any costs to the Municipality.
<i>(ii) the adequacy of sewerage and water services;</i>	It shall be confirmed that the necessary servicing regulations are satisfied at the permit stage.
<i>(iii) the adequacy or proximity of school, recreation or other community facilities;</i>	The proposal does not pose any significant demands for surrounding community facilities and schools.
<i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i>	Engineering staff have reviewed the application and have not identified any concerns with access. Legal Driveway Access within the development over the RA portion of the lands to service institutional land uses on the P-2 zoned lands cannot be achieved
<i>(v) the potential for damage to or for destruction of designated historic buildings and sites.</i>	N/A
<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>	Any development will be required to meet the specific requirements of the RA zone under the Eastern Passage/Cow Bay Land Use By-law.
<i>(i) type of use;</i>	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. The P-2 zone that currently applies to these lands does permit a single dwelling unit but only in conjunction with a daycare. The applicant does not wish to build or operate a daycare and has therefore requested the rezoning which is consistent with the intent of policy from the land use perspective.
<i>(ii) height, bulk and lot coverage of any proposed building;</i>	The development will be required to meet specific requirements of the RA zone under the Eastern Passage/Cow Bay Land Use By-law.
<i>(iii) traffic generation, access to and egress from the site, and parking;</i>	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.

<i>(iv) open storage;</i>	N/A
<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 Land Use By-law requires a 61 metres (200 feet) setback from the ordinary high-water mark (Atlantic Ocean) and a 3.8 metre elevation above Canadian Geodetic Vertical Datum.
<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.

Policy	Comment
<i>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</i>	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.

<p><i>described in this planning strategy, or is otherwise not hazardous for development.</i></p>	
<p><i>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 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.</i></p>	<p>A portion of the area proposed for rezoning from P-2 to RA is identified as Coastal on Map 4 - Environmental Constraints. Rezoning the lands to RA will not result in a reduction of the required setback of 61.0 metres (200 feet) from the ordinary high watermark of the watercourse (ocean) or the and a 3.8 metre elevation above Canadian Geodetic Vertical Datum.</p>

Attachment C
Relevant Excerpts from the Eastern Passage/Cow Bay LUB

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 m²) 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 m²) 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 m²) 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 m²) 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 ²) on-site services 30,000 square feet (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*)