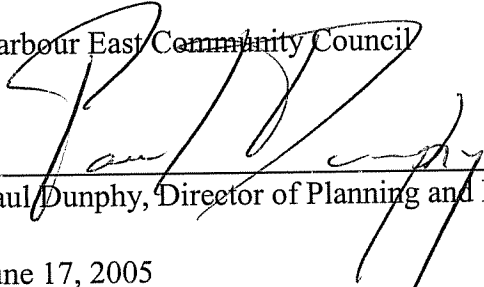




PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Harbour East Community Council**  
**July 7, 2005**

**TO:** Harbour East Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Planning and Development Services

**DATE:** June 17, 2005

**SUBJECT:** **CASE 00470 - Discharge of Development Agreement (proposed Silver Sands Golf Course), Cow Bay Road, Cow Bay**

**ORIGIN:**

Application by Silversands Realty Limited to discharge the development agreement which applies to PID's 40127433 and 40127623 (proposed Silver Sands Golf Course), Cow Bay Road, Cow Bay.

**RECOMMENDATION:**

It is recommended that Harbour East Community Council approve the discharge of the development agreement registered against PID's 40127433 and 40127623 in Cow Bay, by entering into the discharging agreement shown as Attachment A to this report.

**DISCUSSION:****Background:**

- The subject parcels of land (PID's 40127433 and 40127623) are located within the community of Cow Bay along the south-west side of the Cow Bay Road. In particular, PID 40127433 is a 39.2 hectare (97 acres) parcel of land which is linear in shape, runs along Cow Bay Road from the outfall of the Cow Bay River to the barrier beach known as Silver Sands Beach. The parcel of land identified as PID 40127623 is Moses Island which is approximately 9.7 hectares (24 acres) in size and located within Cow Bay Lake (*Refer to Map 1*).
- The subject properties are designated Rural Residential and Special Area and zoned RA (Rural Residential), P-2 (Community Facility) and EC (Environmental Conservation) under the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-law (*Refer to Maps 1*).
- In 2001, Harbour East Community Council entered into a development agreement with Silversands Realty Ltd. to permit an 18 hole golf course and tourist cottage resort. The property remains undeveloped to date.
- In 2003, Harbour East Community Council approved the discharge of a portion of the original development agreement for Silver Sands Realty Ltd. for lands located adjacent to the causeway between Cow Bay and Barrier Pond in Cow Bay. In addition, Council, approved a rezoning from P-2 Zone to the R-A Zone to permit the construction of a residential dwelling.
- In 2003, HRM acquired the Silver Sands Beach and a portion of the headland including a public easement connecting these two parcels from Silver Sands Realty Ltd. These acquisitions ensures continued provide public access to Silver Sands Beach, accommodates 20 public parking spaces and provided a new location for the moose monument.
- In 2005, Silver Sands Realty Limited filed an application to amend the MPS for Eastern Passage/Cow Bay to relax subdivision growth controls applicable to the Rural Area Zone from the current restriction of one lot per year per area of land to five lots per year per area of land; and reduce the minimum lot frontage for lots in the Rural Area Zone from 200 to 125 feet. The applicant intended to obtain approval of relaxed subdivision standards, and discharge the current development agreement in favour of developing a residential subdivision. The requested amendments were not initiated by Regional Council.

- Silver Sands Realty Limited has now abandoned plans to develop the golf course and tourist cottage resort and wishes to subdivide and develop the property for residential purposes in accordance with the provisions of the Land Use By-law and Subdivision By-law.

#### ANALYSIS:

Under the provisions of the Municipal Government Act, a Council may discharge an agreement by resolution, whereupon the provisions of the land use by-law will apply to any future development of the property. The subject properties are designated Rural Residential and Special Area and once discharged would be subject to the RA (Rural Residential) Zone, P-2 (Community Facility) Zone and EC (Environmental Conservation) Zone under the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-law. An overview of the three zones follows:

#### (RA) Rural Area Zone

The RA Zone implements a community land use objective of retaining the well-established rural character within the Cow Bay area. The R-A Zone permits limited residential development, resource uses and open space uses and is intended to balance subdivision development with environmental protection objectives. Consequently, when the MPS documents were last reviewed (April 1998):

- a limit was placed on the rate of new subdivision development occurring within the Rural Area Designation of one lot per year per parcel of land until such time as municipal services can be efficiently provided;
- the RA Zone establishes a minimum lot size of 50,000 square feet;
- 200 feet of road frontage is required for new lots; and
- a minimum setback distance of 200 feet from the high water mark of the Atlantic Ocean, Cow Bay Lake or Barrier Pond is established.

#### (EC) Environmental Conservation Zone and (P-2) Community Facility Zone

The MPS applies a Special Area designation to a portion of the site in recognition of the environmental and historical significance of the Silver Sands Beach and headland. The Silver Sands Beach contributes to the generally sensitive environment of Cow Bay Pond, which is an important habitat, particularly for larger birds such as the osprey. Given the provincial interest in acquiring other sensitive areas, such as the Cole Harbour salt marsh as part of the Coastal Heritage Park, the MPS suggests that similar consideration should be given to the Cow Bay Pond area. The EC Zone and P-2 Zone have been applied to these areas in recognition of this generally sensitive environment and as a result limit permitted uses generally to a range of institutional uses, conservation uses, passive recreation uses, historic sites and monuments.

The request to discharge the existing development agreement would result in zoning that is consistent with the typical land use pattern of the area and is in accordance with MPS goals of protecting the community's rural character and sensitive lands from indiscriminate development.

The draft discharging agreement is attached to the report (see Attachment A). If approval by the Community Council is granted, this document will be executed and registered at the Registry of Deeds.

**BUDGET IMPLICATIONS:**

There are no budget implications.

**FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES:**

1. The application could be approved, as recommended by staff.
2. Community Council could choose not to discharge the development agreement. This is not recommended.

**ATTACHMENTS:**

Map 1: Location Map, Future Land Use Designation and Zoning

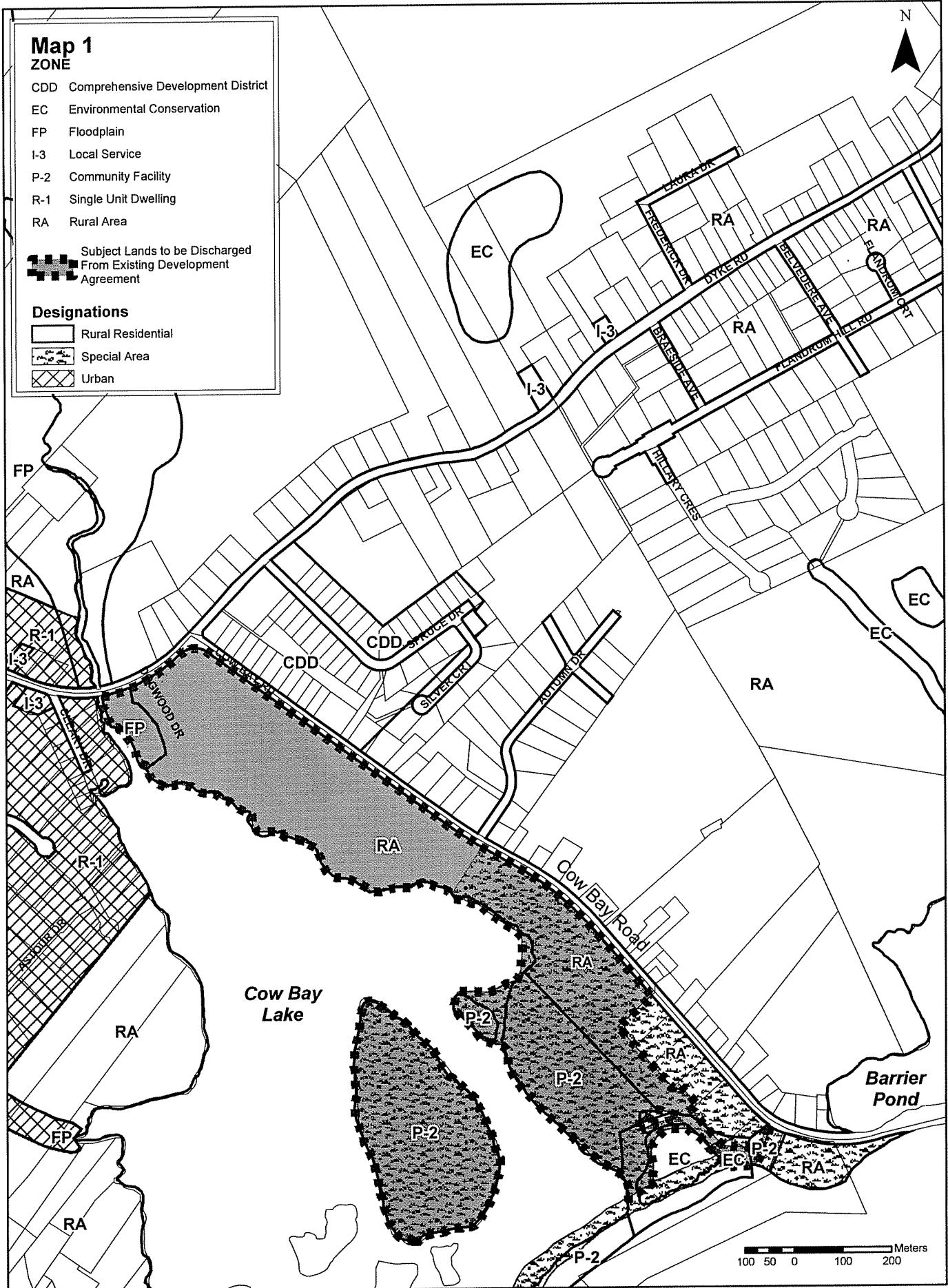
Attachment A: Proposed Discharging Agreement

Attachment B: Pertinent LUB Requirements

Attachment C: Pertinent Subdivision By-law Requirements

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: John MacPherson, Planner, 490-5719



**Attachment A  
Discharging Agreement**

**THIS DISCHARGING AGREEMENT MADE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D.,  
2005.**

**BETWEEN:**

**Silver Sands Realty LTD.**  
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

**HALIFAX REGIONAL MUNICIPALITY,**  
a body corporate, in the County of Halifax, Province of Nova Scotia  
(hereinafter called the "Municipality")

OF THE SECOND PART

**WHEREAS** the Developer is the registered owner of certain lands located within Cow Bay, and which said Lands are more particularly described in Schedule "A" to this Agreement and referenced as PID# 40127433 and 40127623 (hereinafter called the "Lands");

**AND WHEREAS** the Municipality entered into a development agreement with the Developer which was recorded at the Registry of Deeds in Halifax on March 13, 2002 as Document Number 10108 in Book Number 6989 at Pages 832 to 874 (the said development agreement, hereinafter referred to as "the Agreement");

**AND WHEREAS** the Municipality previously approved a request to discharge a portion of the Agreement, and which said Lands are more particularly described in Schedule "A-1" to this Agreement known as the headlands at a meeting of Harbour East Community Council held on July 10, 2003 referenced as Municipal Case Number 00539, which said Discharging Agreement was recorded at the Registry of Deeds in Halifax on October 21, 2003 as Document Number 46586, in

Book Number 7511, at Pages 499-503;

AND WHEREAS the Harbour East Community Council approved this request at a meeting held on July 7, 2005 referenced as Municipal Case Number 00810;

THEREFORE at the request of the property owner, the Parties agree to discharge the Property from the Agreement in its entirety;

AND WHEREAS, pursuant to the procedures and requirements contained in the Municipal Government Act, the Harbour East Community Council approved this request by resolution at a meeting held on July 7, 2005;

WITNESS that in consideration of the sum of one dollar (\$1.00) now paid by the Developer to the Municipality (the receipt of which is hereby acknowledged), it is agreed that the Property is hereby discharged from the Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2005.

SIGNED, SEALED AND DELIVERED  
in the presence of

Per: \_\_\_\_\_

SEALED, DELIVERED AND  
ATTESTED to by the proper  
signing officers of Halifax Regional  
Municipality duly authorized  
in that behalf in the presence  
of

Per: \_\_\_\_\_

SILVER SANDS REALTY LTD.

) Per: \_\_\_\_\_

) Per: \_\_\_\_\_

\_\_\_\_\_  
HALIFAX REGIONAL MUNICIPALITY

) Per: \_\_\_\_\_


MAYOR

) Per: \_\_\_\_\_




MUNICIPAL CLERK

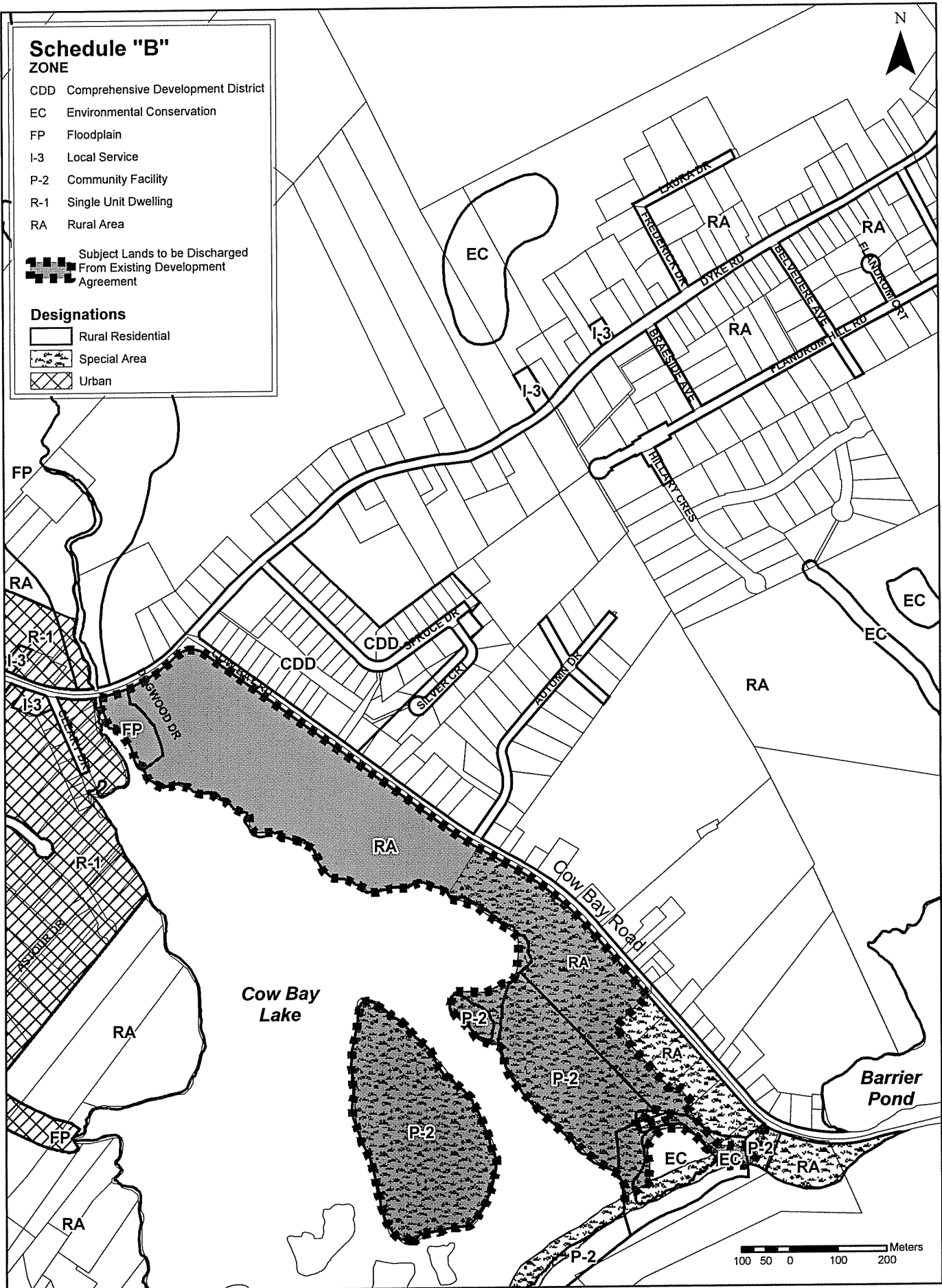
**Schedule "B"**  
**ZONE**

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

 Subject Lands to be Discharged From Existing Development Agreement

**Designations**

-  Rural Residential
-  Special Area
-  Urban





**Attachment B****PART 11: RA (RURAL AREA) ZONE - (RC - February 19, 1998 / M - April 27, 1998)****11.1 Permitted Uses**

Residential Uses:     Single Unit Dwellings  
                           Existing mobile dwellings  
                           Mobile dwellings at Silver Court, Cow Bay (HECC-Nov2/00,  
                           Effective-Nov26/00)

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
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Minimum Rear or Side Yard	8 feet
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Maximum Lot Coverage	35 percent
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Maximum Height of Main Building	35 feet
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**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-May15/01, Effective-June23/01)  
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> )
	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 L.I.M.S. No. 638247 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-Sept7/95, E-Oct6/95)

**PART 24A: EC (ENVIRONMENTAL CONSERVATION) ZONE - (RC-February 19, 1998 / M - April 27, 1998)**

24A.1      EC USES PERMITTED

Conservation uses  
Passive recreation uses  
Historic sites and monuments

24A.2      EC ZONE REQUIREMENTS

Minimum Lot Area:    10,000 square feet

Minimum Lot Frontage      100 feet

24A.3      OTHER REQUIREMENTS: INFILLING

For any parcel of land which is zoned EC, no infilling, excavation, alteration of grade or removal of vegetation shall be permitted. The construction of boardwalks or the placement of walking/hiking trails shall be permitted provided that no infilling or alteration of grade takes place other than the placement of piles or the placement of trails on top of existing grade.

**Attachment C****HALIFAX REGIONAL MUNICIPALITY****SUBDIVISION BY-LAW****PART 13: Public Streets and Highways and Private Roads**

- 13.16 On any parcel of land within the Eastern Passage/Cow Bay Plan Area which is zoned RA (Rural Area), the subdivision of new lots shall be limited to one per calendar year. Notwithstanding, any tentative or final subdivision application, which was deemed to be complete by the Development Officer on or before the date of the first public hearing advertisement for this amendment, shall be eligible to receive final approval pursuant to the lot area and lot frontage requirements which were in effect at that time. Where an approval granted pursuant to this section lapses after two (2) years, any subsequent application shall conform to the current requirements of this by-law. (RC - January 27, 1998 / M - April 27, 1998)