

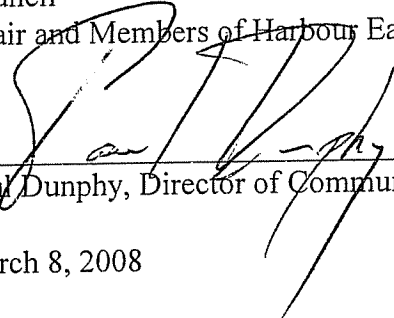
Item 10.1.3



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Marine Drive, Valley and Canal Community Council - March 26, 2008
Harbour East Community Council - April 3, 2008

TO: Chair and Members of Marine Drive, Valley and Canal Community Council
Chair and Members of Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: March 8, 2008

SUBJECT: Case 01091 - Accessory Building Height

ORIGIN

On October 30, 2007, Marine Drive, Valley and Canal Community Council (MDVCC) passed a motion requesting that staff investigate alternatives for amending the height provisions for accessory buildings within that portion of Planning Districts 14 and 17 plan area under the jurisdiction of Harbour East Community Council (HECC) and zoned Suburban Residential (R-1B) Zone.

RECOMMENDATION

It is recommended that Marine Drive, Valley and Canal Community Council and Harbour East Community Council:

1. Give First Reading to the proposed amendments to the Land Use By-law for Planning Districts 14 and 17 as provided in Attachment A of this report and schedule a joint public hearing.
2. Approve the proposed amendments to the Land Use By-law for Planning Districts 14 and 17, as provided in Attachment A of this report, to amend the accessory building height provisions for all areas under the jurisdiction of Harbour East Community Council and within the Suburban Residential (R-1B) Zone.

BACKGROUND

At the March 8, 2007 meeting of MDVCC, as a result of difficulty experienced by a resident, Council requested staff to initiate a planning process to consider amending the accessory building requirements of the Land Use By-law for Planning Districts 14 & 17 (Shubenacadie Lakes) to permit heights greater than 15 feet in the R1-A (Single Unit Dwelling) Zone. MDVCC and HECC share jurisdiction over the Shubenacadie Lakes plan area and amendments to the LUB must be considered by both Councils at a joint public hearing.

Both Councils approved the amendments proposed by staff for the R-1A Zone at a joint public hearing on December 6, 2007. In addition, as a result of a motion by HECC to extend the proposed amendments to the R-1B Zone, MDVCC requested that staff consider extending the proposed amendments to all areas zoned R-1B and under the jurisdiction of HECC. HECC requested that the proposed amendments be extended to the R-1B Zone out of concern that large, two storey accessory buildings are often not compatible with one story dwellings from a scale and residential character perspective in the portion of the plan closest to the urban area of Dartmouth.

Extending the proposed amendments to the R-1B Zone, where the maximum height of accessory buildings is already 25 feet, would establish a more restrictive standard by limiting the height of accessory buildings to that of the main building. The R-1B Zone is the predominant residential zone within the plan area, the vast majority of which falls under the jurisdiction of MDVCC. MDVCC did not extend First Reading of the proposed amendments to the R-1B Zone because it was felt that the current standard was appropriate for the more mixed suburban/rural environment in MDVCC's portion of the plan area. However, MDVCC did request that staff investigate alternatives for amending the height provisions for accessory buildings within the portion of the Planning Districts 14 and 17 plan area within the R-1B Zone and under the jurisdiction of Harbour East Community Council (HECC).

DISCUSSION

Amending the LUB to limit the height of accessory buildings to 25 feet or the height of the main dwelling would establish a more restrictive standard within the subject area of the R-1B Zone. For example, a property owner with a 20 foot tall dwelling can currently build a 25 foot tall accessory building. Under the proposed amendments the height of the accessory building would be limited to 20 feet - the height of the main building. The amendments would also ensure that accessory buildings are ancillary to the main use of the property as a residence by limiting the height to no more than that of the main building.

The proposed amendments would be consistent with amendments recently approved by HECC and MDVCC at a joint public hearing for the R-1A Zone. This approach would provide a height

limit that would vary according to the height of the main building. The proposed amendments would provide a more flexible height restriction than in the nearby residential portions of the abutting Dartmouth plan area where accessory buildings are limited to a height of 15 feet and an area of 650 square feet. Furthermore, the proposed amendment would not effect the height of an attached garage which is considered part of the main dwelling and can therefore be built to a height of 35 feet.

Conclusion

The proposed amendments set out in Attachment A would establish a more restrictive height provision for the portion of the plan area under the jurisdiction of HECC than what is currently in place for dwelling less than 25 feet in height. The amendments would also ensure that from a scale perspective, accessory buildings remain secondary to the main use of the property as a residence. Staff are of the opinion that it is reasonable to limit the height of accessory buildings, within this portion of the R-1B Zone adjacent the more restrictive zoning in the Dartmouth plan area, to the height of the main building and recommend that Council approve the proposed amendments set out in Attachment A.

BUDGET IMPLICATIONS

None. The costs to process this application can be accommodated under the approved C310 operating budget.

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. Council may choose to amend the Land Use By-law for Planning Districts 14 and 17 to establish a new maximum height provision for portions of the R-1B Zone under the jurisdiction of HECC. This is the recommended action. Staff have included the proposed amendments as Attachment A.
2. Council may choose not to amend the Land Use By-law for Planning Districts 14 and 17. This is not the recommended course of action.

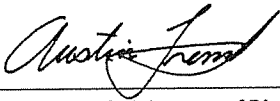
ATTACHMENTS

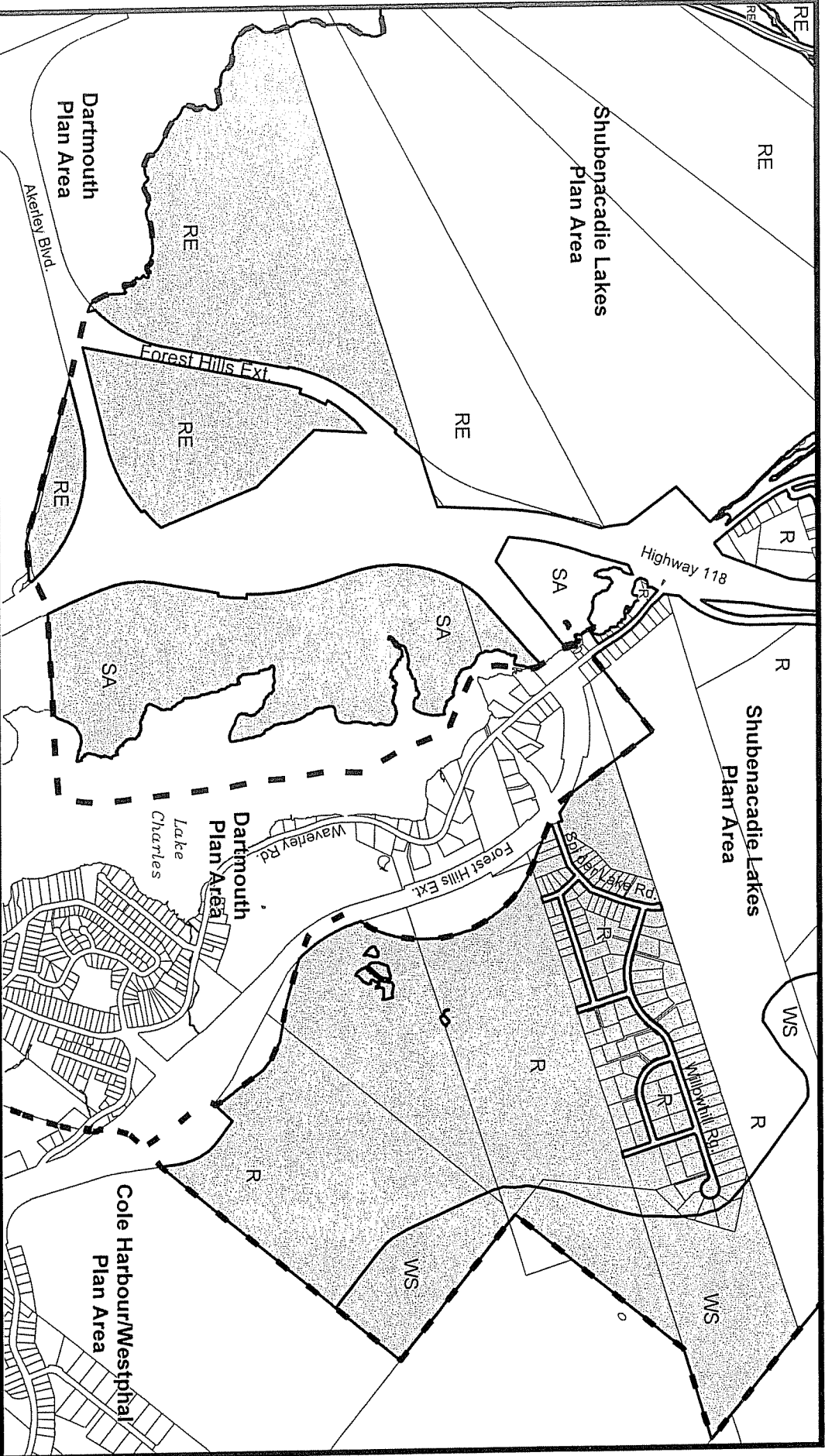
- Map 1 Generalized Future Land Use Map for the portion of Planning Districts 14 and 17 plan area under the jurisdiction of HECC
- Map 2 Zoning Map for the portion of Planning Districts 14 and 17 plan area under the jurisdiction of HECC

- Attachment A Proposed amendments to the Land Use By-law for Planning Districts 14 and 17
- Attachment B LUB Requirements for Accessory Buildings

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Joseph Driscoll, Planner, 869-4262

Report Approved by: 
Austin French, Manager of Planning Services, 490-6717

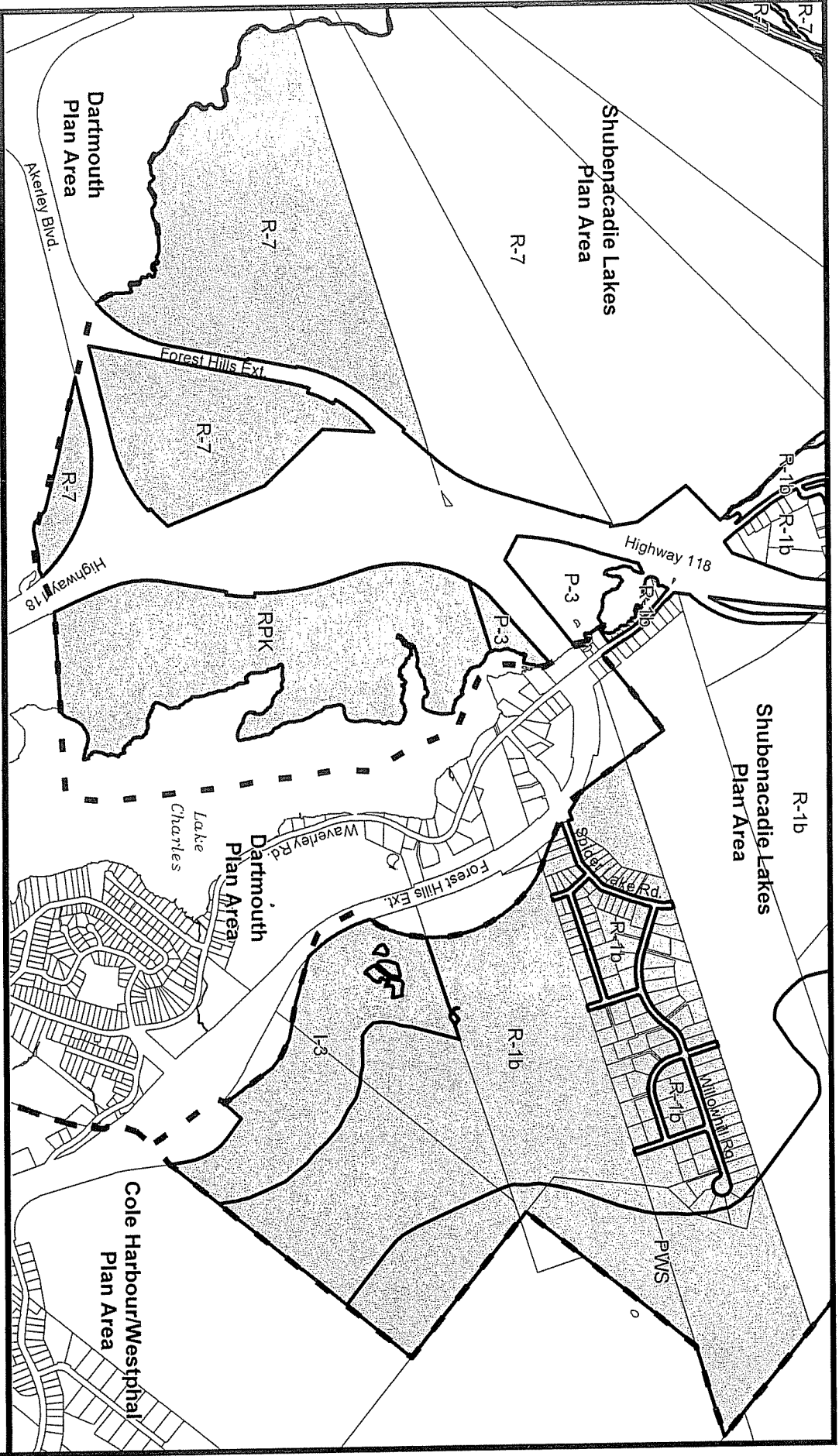


Map 1
Generalized Future Land Use

- Shubenacadie Lakes Plan Area**
- R Residential Designation
 - RE Resource Designation
 - SA Special Area Designation
 - WS Watershed Designation



Portion of Shubenacadie Lakes Plan Area within Harbour East Community Council
 Plan Area Boundaries

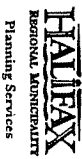
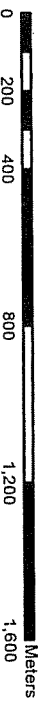




Map 2
Zoning

- Shubenacadie Lakes Plan Area**
- R-1b Suburban Residential Zone
 - R-6 Rural Residential Zone
 - R-7 Rural Estate Zone
 - RPK Regional Park Zone
 - PWS Protected Water Supply Zone
 - P-3 Park Zone

 Portion of Shubenacadie Lakes Plan Area within Harbour East Community Council
 Plan Area Boundaries



**Attachment A:
Amendments to the Land Use By-law for Planning Districts 14 and 17**

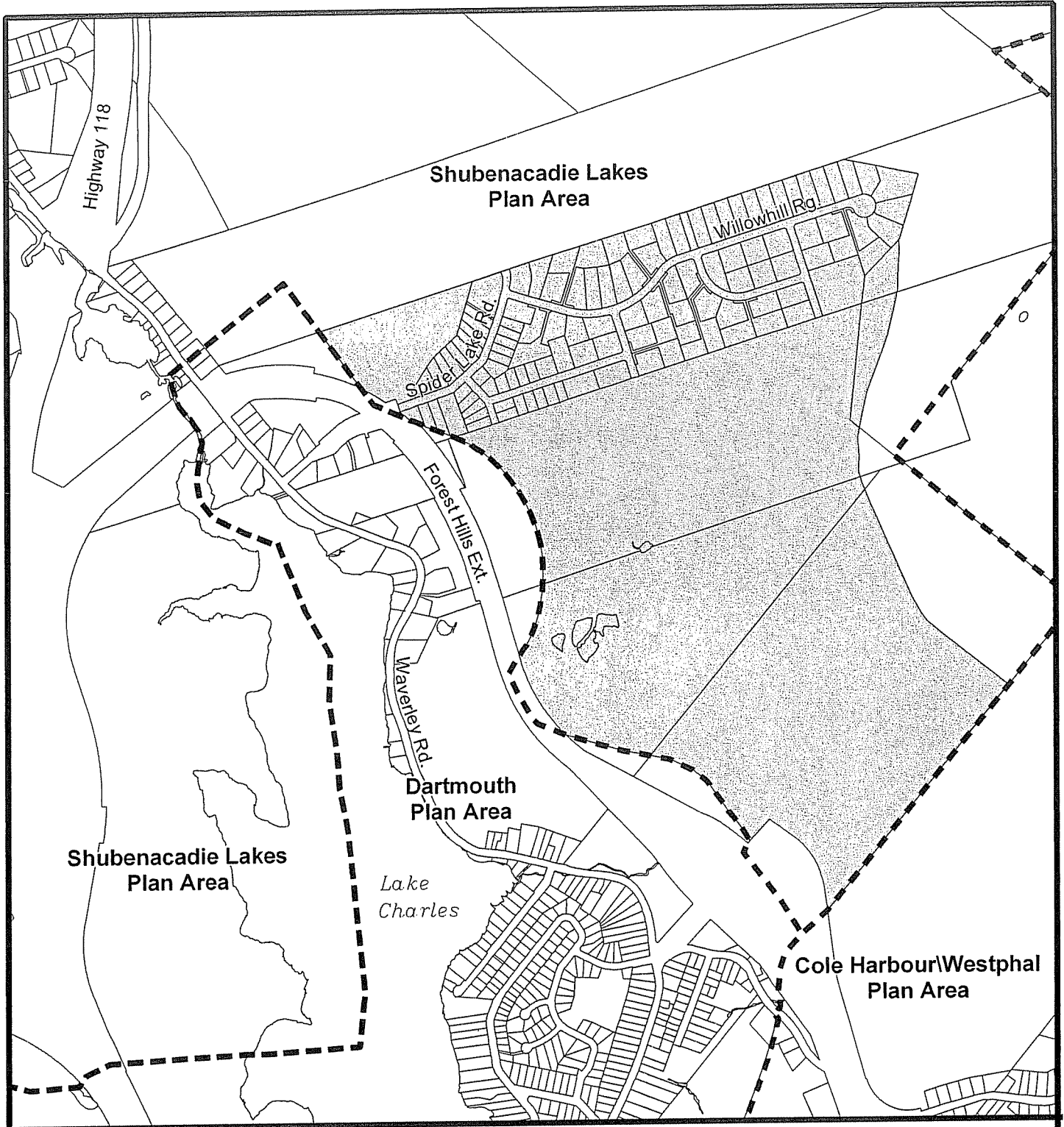
BE IT ENACTED by the Marine Drive, Valley and Canal Community Council and the Harbour East Community Council of the Halifax Regional Municipality that the Land Use By-Law for Planning Districts 14 and 17 as enacted by the former Halifax County Municipality on the 2nd day of May, 1989 and approved by the Minister of Municipal Affairs on the 19th day of July, 1989, as amended, is hereby further amended as follows:

1. Add the following text, after of section 4.11 a) (iii) 3:
 4. **twenty five (25) feet (7.62 m) or the height of the main building, whichever is less, in any R-1B zone within the subject area identified in Schedule I of this By-law;**

I HEREBY CERTIFY that the amendments to the Land Use By-law for Planning Districts 14 and 17 as set out above, were passed by a majority vote of the Marine Drive Valley and Canal Community Council, and Harbour East Community Council at a joint meeting held on the ____ day of _____, 2008.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2008.

Municipal Clerk



Schedule I

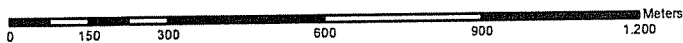


Subject Area



Plan Area Boundaries

HALIFAX
 REGIONAL MUNICIPALITY
 Community Development
 Planning Services



**Attachment B:
LUB Requirements for Accessory Buildings**

4.11 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (i) be used for human habitation except where a dwelling is a permitted accessory use;
 - (ii) be built closer to the front lot line than the minimum distance required for the main building or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 1. in any Residential Zone, garages which are accessory to dwellings shall be a minimum of four (4) feet (1.2 m) from any side or rear lot line;
 - 2. common semi-detached garages Day be centred on the mutual side lot line;
 - 3. boat houses, boat docks and float plane hangars may be built to the lot line when the line corresponds to the high water Dark;
 - 4. accessory buildings and structures in a P-2 (Community Facility) Zone shall not be built closer to any side or rear lot line than ten (10) feet (3.0 m) or one half (½) the height of such building or structure, whichever is the greater; and
 - 5. accessory structures shall be permitted to be constructed within the front yard of an AE-1 (AeroTech Core) Zone and AE-2 (General Airport) Zone, but shall not be permitted within the minimum required front yard.
 - (iii) Exceed a height of:
 - 1. **twenty five (25) feet (7.62 m) in any R-1A zone or the height of the main building, whichever is less; (MDVCCC-Dec 6/07;E-Dec 22/07)**
 - 2. twenty five (25) feet (7.6 m) in any R-1B, R-1C, or R-1D zone;
 - 3. thirty five (35) feet (10.7 m) in any R-6 or R-7 zone;
 - (iv) Exceed a gross floor area of:
 - 1. seven hundred and fifty (750) square feet (70 m²) in any R-1A, R-1B, R-1C or R-1D zone; or
 - 2. one thousand (1,000) square feet in any R-6 or **R-1E zone. (C-Jun 29/93;M-Aug 6/92)**
 - (v) **(deletion - MC-Mar 28/94;SCC-Apr 12/94;E-May 7/94)**
 - (vi) Be built within eight (8) feet (2.4 m) of the main building within any Residential Zone or twelve (12) feet (3.7 D) in any other zone.
 - (vii) **be used for the keeping of livestock, except where agriculture is a permitted use. (C-Aug 27/90;E-Sep 22/90)**

- (b) Notwithstanding anything else in this By-law, drop awnings, clothes poles, flag poles, garden trellises, fences and retaining walls shall be exempted from the requirements of Subsection (a).