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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
April 26, 2005

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: *Shengle Murphy*
for Councillor Harry McInroy, Chair
Harbour East Community Council

DATE: April 19, 2005

SUBJECT: **Case 00729: Request to Amend the Municipal Planning Strategy for Eastern Passage/Cow Bay**

ORIGIN

Harbour East Community Council - April 7, 2004

RECOMMENDATION

Harbour East Community Council recommend that Regional Council:

1. Not initiate amendments to the growth management measures of the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-Law and former Halifax County Subdivision By-Law to increase the rate of subdivision permitted within the Rural Area Designation from one lot per year per area of land to five lots per year per area of land.
2. Not initiate amendments to the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-Law to reduce minimum lot frontages for lots in the Rural Area Zone from 200 to 125 feet.
3. Direct that staff not entertain further requests to amend Municipal Planning Strategies and Land Use By-Laws which propose changes to Interim Growth Management measures or community based growth control standards pending adoption by Regional Council of the proposed Regional Plan.

DISCUSSION

Harbour East Community Council considered this matter at a meeting held on April 7, 2005 and approved the recommendation found above.

ATTACHMENTS

Staff report dated February 25, 2005.

Extract - Draft Minutes - Harbour East Community Council, April 7, 2005

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: Julia Horncastle, Legislative Assistant

**EXTRACT - DRAFT MINUTE - HARBOUR EAST COMMUNITY COUNCIL -
APRIL 7, 2005**

10.1 Case 00729: Request to Amend the Municipal Planning Strategy for Eastern Passage/Cow Bay

- A staff report dated February 25, 2005 was before Community Council for consideration.
- A document entitled "What is to Happen if Road Reduction is approved from 200' to 125' from Mr. Arthur Rhyno, President, Silver Sands Realty, was circulated to members of Community Council.

Mr. John MacPherson, Planner, briefly reviewed the proposal by Silversands Realty Ltd. to amend the Municipal Planning Strategy and Land Use By-Law to relax growth management measures and to permit single unit dwelling lots of lesser frontages on lands proposed for the Silversands Golf Course. Mr. MacPherson responded to questions from members of Community Council.

MOVED by Councillor Kent, seconded by Councillor Younger that Harbour East Community Council recommend that Regional Council:

- 1. Not initiate amendments to the growth management measures of the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-Law and former Halifax County Subdivision By-Law to increase the rate of subdivision permitted within the Rural Area Designation from one lot per year per area of land to five lots per year per area of land.**
- 2. Not initiate amendments to the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-Law to reduce minimum lot frontages for lots in the Rural Area Zone from 200 to 125 feet.**
- 3. Direct that staff not entertain further requests to amend Municipal Planning Strategies and Land Use By-Laws which propose changes to Interim Growth Management measures or community based growth control standards pending adoption by Regional Council of the proposed Regional Plan.**

Following a brief discussion, the **MOTION WAS PUT AND PASSED UNANIMOUSLY.**

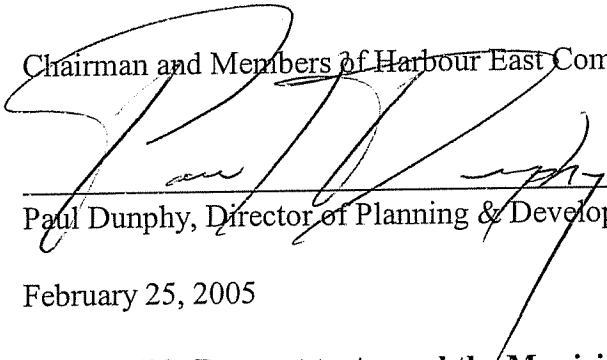
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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
April 7, 2005

To: Chairman and Members of Harbour East Community Council

Submitted by: 
Paul Dunphy, Director of Planning & Development Services

Date: February 25, 2005

SUBJECT: **Case 00729: Request to Amend the Municipal Planning Strategy for Eastern Passage/Cow Bay**

ORIGIN

Application by Silversands Realty Ltd. to amend the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Eastern Passage/Cow Bay and the Subdivision By-law to relax growth management measures and to permit single unit dwellings lots of lesser frontages on lands proposed for the Silversands Golf Course.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Recommend that Regional Council **not** initiate amendments to the growth management measures of the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-law and former Halifax County Subdivision By-law to increase the rate of subdivision permitted within the Rural Area Designation from one lot per year per area of land to five lots per year per area of land;
2. Recommend that Regional Council **not** initiate amendments to the Eastern Passage/Cow Bay Municipal Planning Strategy and Land Use By-law to reduce minimum lot frontages for lots in the Rural Area Zone from 200 to 125 feet.
3. Recommend that Regional Council direct that staff **not** entertain further requests to amend Municipal Planning Strategies and Land Use By-laws which propose changes to Interim Growth Management measures or community based growth control standards pending adoption by Regional Council of the proposed Regional Plan.

BACKGROUND

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.

The developer proposes to reduce the golf course to 9 holes and reduce the number of tourist cottages in favour of creating 29 residential lots with private on-site sewer and water systems and frontage along Cow Bay Road. The applicant seeks to amend the Municipal Planning Strategy and Land Use By-law for Eastern Passage/Cow Bay in order to:

- relax subdivision growth controls applicable to the Rural Area Designation 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.

Pending approval of the requested amendments, the applicant seeks to discharge the existing development agreement in whole or in part and make application to subdivide the property's road frontage for residential lot development. Should the applicant wish to proceed with remaining aspects of the golf course and tourist resort development are to proceed, the development agreement will require substantial amendments which require council approval and a public hearing.

MPS Policies and Zoning

The Eastern Passage/Cow Bay MPS was last reviewed in 1998. Maintaining a rural character within the community of Cow Bay and discouraging subdivision development in areas of Cow Bay and Eastern Passage not serviced by centralized water and sewer systems are central themes of the MPS. Past subdivision development practices within this largely rural community raised significant concerns articulated in the MPS as follows:

- the effect of continued subdivision development on the rural character of the community of Cow Bay;
- the potential for serious environmental concerns in the plan area due to the presence of poorly drained and highly erodible soils, proximity of sensitive wetlands and small streams, the quality of groundwater and the protection of groundwater recharge areas;
- linked with environmental concerns is an expressed desire by the residents of Cow Bay to ensure that urban services of municipal sewer and water are not extended into the community.

In response to community concerns expressed during the preparation of the MPS, a Rural Area Designation and Rural Area (RA) Zone were applied to the area to protect the area's rural character and sensitive natural environment. Specifically, the MPS policies:

- limit the rate of subdivision to one lot per year per area of land; and
- establish a minimum lot size of 50,000 square feet and 200 feet of road frontage for new lots in order to maintain the area's rural character.

This application presents concerns relative to the community-based growth management policies of the MPS which will be elaborated upon in the Discussion section of this report.

DISCUSSION

Rationale For Change

Site specific amendments to the MPS are not routine applications as rezoning and development agreement applications are. The Municipal Government Act contemplates applications for rezoning and development agreements and sets out procedures to follow including provisions for an appeal of Council decisions. While there is an ability for Council to amend its MPS, it is under no obligation to do so and there is no appeal on its decision to amend or not amend. In order for Planning staff to recommend considering a change to the MPS, there must be a change in circumstance or a significantly different situation from what the MPS policies anticipated.

Requests to Amend Community Based Growth Controls

These policies place appropriate limitations on the rate of subdivision development which may occur in areas of Eastern Passage/Cow Bay that are not accessible to centralized servicing systems. Allowing the subdivision of one lot per year per area of land provides landowners with some reasonable development potential.

It should be noted that Policy RA-2 specifically states an intention by 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". This application clearly contradicts what is presently a stated intention of Council to maintain the existing growth management measures that are in place for Eastern Passage/Cow Bay. Relaxing the current measures for one property owner would likely invite similar requests by owners of other properties in the area which would further undermine the overall MPS policy objectives related to growth management.

Growth Management Policies

In 2004, Regional Council adopted Interim Growth Management (IGM) measures to prevent accelerated, unserviced residential subdivision activity and to ensure that Council keeps its options open during preparation of the Regional Plan. The IGM measures apply to all areas of HRM not accessible to centralized sewer and/or water services. The IGM measures do not apply in areas such as Eastern Passage/Cow Bay where growth management policies already existed. Other communities with pre-existing growth controls are Dartmouth, Bedford, Hammonds Plains, Upper Sackville and Beaverbank. Amending the Eastern Passage/Cow Bay growth management policies for this property would be precedent setting for the remainder of the Plan area as well as the five other communities which have their own unique growth management policies.

It is staff's position, that requests to amend any community based growth management policies to accelerate unserviced residential subdivision growth during the regional planning exercise is premature. It would result in conflicting messages about what HRM's intentions are in respect to limiting the rate of subdivision activity occurring in areas not accessible to centralized services.

For this reason, staff are also of the opinion that all similar requests to amend growth management policies anywhere in the Region should not be entertained pending completion of the Regional Plan.

BUDGET IMPLICATIONS

None

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

The following alternatives to the staff recommendation are identified:

1. Regional Council may choose to **refuse** to initiate the requested amendments to the Municipal Planning Strategy, Land Use By-law for Eastern Passage/Cow Bay and the Halifax County Subdivision By-law. This is the recommended course of action.
2. Regional Council may choose to initiate MPS amendments to the Municipal Planning Strategy, Land Use By-law for Eastern Passage/Cow Bay and the former Halifax County Subdivision By-law. This is not recommended for reasons identified in this report.
3. Regional Council may choose to initiate a variation on the requested MPS and by-law amendments. For example, Council may choose to increase the rate of new subdivision which may occur within the Rural Area Designation from one lot per year per parcel of land to five lots per year per parcel of land; and refuse to approve a reduction to the minimum lot size requirement of 200 feet of road frontage for lots in the Rural Area Zone to 125 feet of road frontage. This is not recommended for reasons provided in this report.
4. Regional Council may choose to initiate MPS amendments necessary to approve site specific amendments to the Municipal Planning Strategy, Land Use By-law for Eastern Passage/Cow Bay and the former Halifax County Subdivision By-law to accommodate this request. This would enhance the development rights of Silver Sands Realty Limited but would maintain current policies in respect to other properties. This is not recommended as the current community plan policies apply to other properties in the area under the same conditions and provide a reasonable level of subdivision rights.

ATTACHMENTS

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

Attachment A: Pertinent MPS Policies

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




Map 1

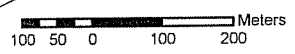
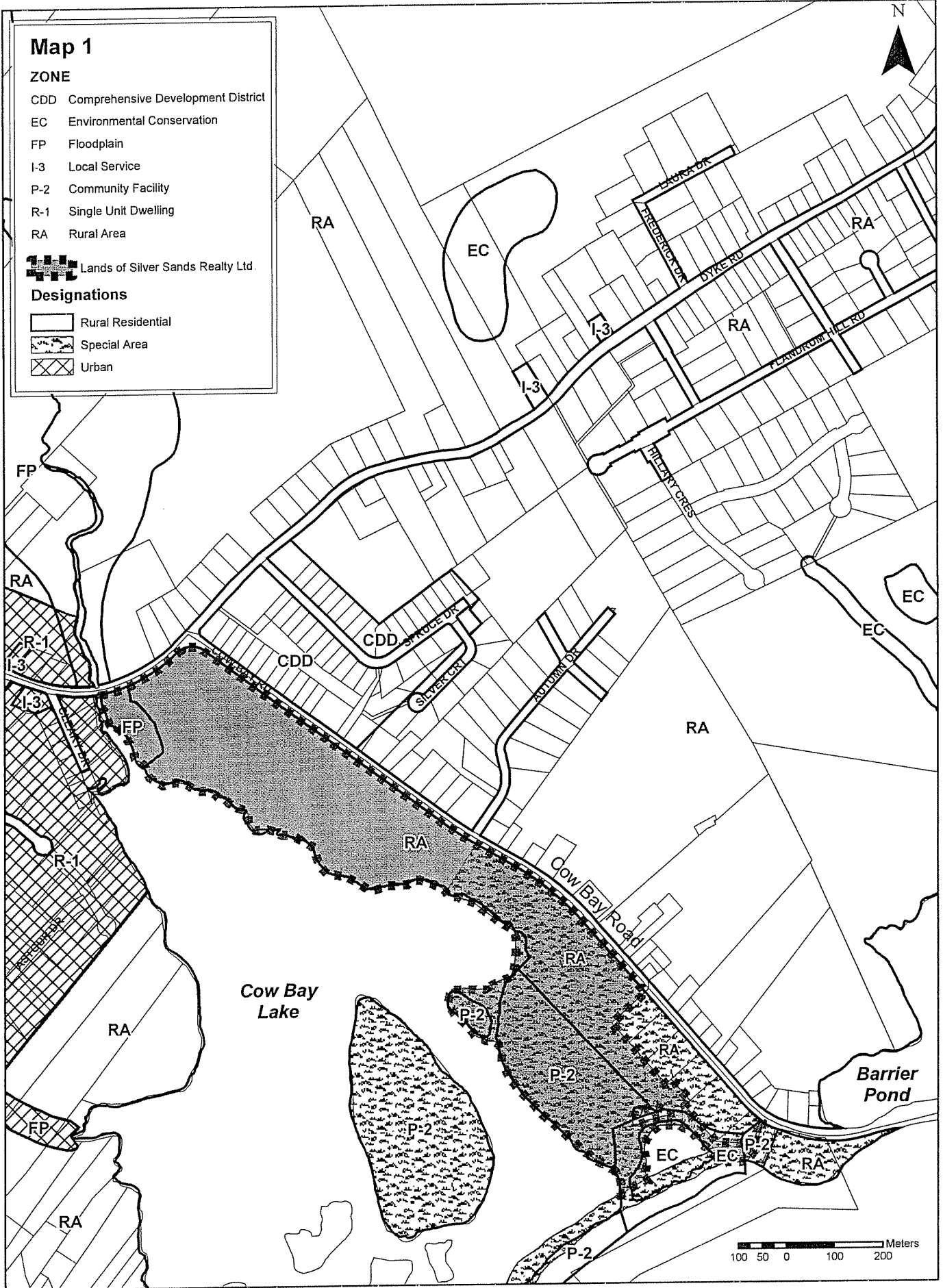
ZONE

- 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

 Lands of Silver Sands Realty Ltd.

Designations

-  Rural Residential
-  Special Area
-  Urban



Attachment A
Pertinent Municipal Planning Strategy Policy

Eastern Passage/Cow Bay MPS

RURAL AREA DESIGNATION - (RC-Jan.27, 1998 - M-April 27, 1998)

Community of Cow Bay

As discussed in Section I, the community of Cow Bay is seen as being distinct from Eastern Passage. The community is perceived as being rural in character due to large tracts of undeveloped land, extensive forest cover, and the absence of municipal sewer and water service, despite the development of a number of residential subdivision developments over the past decade. The majority of the landholdings are large parcels of land with no or very limited road frontage, and date back to the original crown grants in the area.

Previous land use regulations in the community allowed unlimited subdivision development within this largely rural community. That approach raised two significant concerns in terms of potential impacts. First, the traditional community form was that of ribbon-style development along the three main roads, and the large scale extension of new local roads into the backland areas has begun to significantly alter the basic nature of the community, which has greatly increased the population of the area. Maintaining the rural character of the area is a goal of the community, and the continued development of subdivisions is inconsistent with that goal. Second, serious environmental concerns have also been expressed (as discussed in the Environmental Protection section), due to the presence of poorly drained and highly erodible soils, the proximity of many sensitive wetlands and small streams, the quality of groundwater, and the protection of groundwater recharge areas. Linked with the environmental concerns is an expressed desire to ensure that the urban services of municipal sewer and water are not extended into the community. Such services may well become necessary in the long term to address problems if large subdivisions continue to develop. There is therefore the need to balance large scale subdivision development against these significant concerns.

From a municipal perspective, there are also concerns about growth in the area. Allowing large scale subdivision development encourages urban/suburban sprawl which has broad impacts in terms of the provision and cost of municipal services. Because of high municipal expenditures for services in the more central areas, it is logical to encourage most growth to take place where those services already exist or can be more efficiently and economically provided. It is therefore appropriate to place limitations on the rate of subdivision development which can occur in the majority of the backland areas, to address both the community and municipal concerns. Allowing the subdivision of one lot per year per area of land, however, would provide landowners with some development potential, in addition to certain "as of right" uses. This approach is consistent with that which was recommended in the Revised Porter Plan in 1978.

Community of Eastern Passage

The unserviced portions of Eastern Passage are very similar to Cow Bay in terms of the presence of large tracts of undeveloped land. However, the community has not expressed a desire to maintain rural character, and it is anticipated that in the long term these lands will be developed largely for residential subdivision purposes. However, the form of development within this area is a concern, in terms of large unserviced lots versus serviced lots.

As discussed relative to the community of Cow Bay, there are significant cost implications for the Municipality relative to road maintenance costs, and ensuring the efficient utilization of existing infrastructure such as the Eastern Passage sewage treatment plant. It is likely that these areas of the community will develop as an urban community in the long term, due to their proximity to the existing serviced areas of both Eastern Passage and Cole Harbour. Allowing development of unserviced subdivisions in the short term does not reduce the likelihood that central services will at some point be extended. The extension of such services where development has already occurred on the basis of wells and septic systems is extremely inefficient, with major cost implications for both the municipality and individual property owners. It is therefore appropriate to limit growth until such time as central sewer and water services are extended. This will permit an efficient and orderly expansion of the serviced area to accommodate future urban growth.

The establishment of a Rural Area Designation for both communities, along with a Rural Area Zone, will seek to address the various concerns.

- RA-1 It shall be the intention of Council to establish the Rural Area Designation, as shown on Map 1 - Generalized Future Land Use. This designation will encourage the maintenance of a high degree of rural character within the Cow Bay area, and discourage subdivision development in those unserviced areas of Eastern Passage until such time as municipal services may be efficiently provided.
- 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.
- RA-3 It shall be the intention of Council, through the Subdivision Bylaw, to limit the rate of new subdivision development which may occur within the Rural Area Designation to one lot per year per parcel of land.

Attachment B
Pertinent Land Use By-law Requirements

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:

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- (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.

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)