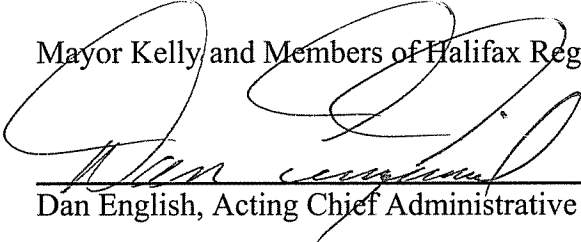


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Halifax Regional Council  
October 22, 2002

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**   
Dan English, Acting Chief Administrative Officer

**DATE:** October 8, 2002

**SUBJECT:** Case 00511 - Various Amendments to the MPS and LUB, Bedford

**ORIGIN:**

Staff.

**RECOMMENDATION:**

It is recommended that Regional Council:

1. Approve the request to initiate the plan amendment process to give consideration to the appropriate designation and zoning of waterfront areas along the Bedford Basin, the floodway area of the Sackville River and general housekeeping matters within for the Bedford Municipal Planning Strategy and Land Use Bylaw.
2. Request staff to follow the public participation program as approved by Council in February, 1997.

**SUMMARY:**

Over the past several months, staff has discovered several policy, regulatory and mapping inconsistencies within the Bedford Municipal Planning Strategy and Land Use Bylaw. Six areas of concern have been identified:

- 1) portions of the Bedford Waterfront lands which are partially infilled (Phase Two);
- 2) Moirs Mill Pond;
- 3) water lots along Shore Drive;
- 4) floodway area of Sackville River;
- 5) the exclusion of Institutional Uses from watercourse setback requirements; and
- 6) housekeeping matters such as wording and interpretation clarification.

Of these six items, it is critical that three be corrected in a timely manner. The reason for this concern is that without any zoning on infilled land, there are no restrictions on the type of use, size of building, lot coverage, or setbacks, etc. This is because zoning does not “grant” property rights; zoning “restricts” property rights.

It is also critical that the remaining items be corrected to ensure that development does not occur within the Sackville River floodway. The consequences of these policy and regulatory problems are not as extreme as in the case of infilled lots. This is because land along the Sackville River is zoned, however, the setback restrictions from the river are inconsistent with the Municipal Planning Strategy.

**DISCUSSION:**

***Portions of the WFCDD lands which are partially infilled***

The Waterfront Development is a project which will create, through infill, a site of approximately 55 acres along the southwest portion of the Bedford Basin starting from Boutilier’s Boat Yard and extending to Crosby Island. The objective of the Waterfront Development project is to promote the development of Bedford’s waterfront as an active, year-round mixed use urban waterfront.

To implement this objective Policy WF-19 of the Bedford Municipal Planning Strategy establishes the Waterfront Comprehensive Development District (WFCDD) on the Generalized Future Land Use Map (*refer to Map 1*). The policy also requires the WFCDD zone to be applied to infilled lands within the WFCDD designation through an amendment to Schedule “A” of the Bedford Land Use By-Law. Infill activity has commenced in Phase Two of the WFCDD designation, however the WFCDD zone has yet to be applied to this area. It is the opinion of staff, the WFCDD zone should be applied to infill lands of Phase Two in accordance with Policy WF-19 of Bedford Plan. (*refer to Map 2*)

### ***Moirs Mill Pond***

Sobey Leased Properties Limited have submitted an application to the Federal Department of Fisheries and Ocean and the Port Authority to partially infill the Moirs Mill Pond. To date, approval has not been granted nor has Sobey Leased Properties identified any future development plans for this area. However, if infill does occur there are no land use restrictions because the area is not zoned but the area has been identified as an environmentally sensitive area (*refer to Map 3*). It is the opinion of staff a plan amendment exercise should be initiated to explore planning options for Moirs Mill Pond area in the event Federal approval is granted for infill.

### ***Water lots along Shore Drive***

Many properties along Shore Drive include water lots which enable infilling of the shoreline subject to approval from Federal agencies. When infilling takes place, the new land area is not given a designation or zone. Without a zone, land use restrictions do not apply. The Bedford Municipal Planning Strategy and Land Use Bylaw does not include a provision which enables the extension of the abutting zone to an infilled area. This is unlike other HRM Municipal Planning Strategies and Land Use Bylaws (i.e. Peninsula and Mainland Halifax), which include provisions for infilled areas (*refer to Map 4 and 5*).

It is the opinion of staff a plan amendment exercise should be initiated to establish a provision in the Bedford Municipal Planning Strategy and Land Use Bylaw which would enable the extension of the abutting zone to an infilled area along Shore Drive without being subject to an amendment process (i.e. plan amendment or land use bylaw amendment).

### ***Floodway area of Sackville River***

During the review process for the minor variance application for 1552 Bedford Highway (Riverside Pub) staff discovered an oversight in the mapping of the floodway area of the Sackville River. Policy E-9 of the Bedford Municipal Planning Strategy states that “*a floodway designation shall be established on the Generalized Future Land Use map which reflects the 1:20 floodway of the Sackville River as defined by mapping of the Canada-Nova Scotia Flood Reduction Program. The 1:100 floodway fringe of the Sackville River shall also be defined by mapping of the Canada-Nova Scotia Flood Reduction Program.*”

The 1:20 floodway has been identified as the Floodway (FW) zone on Schedule “A” Zoning Map and Schedule “B” Generalized Future Land Use Map. The 1:100 floodway has been identified as the Floodway Fringe on Schedule “A” Zoning Map with special provision within the Land Use Bylaw. However, a portion of the 1:20 and 1:100 floodway; the south side of Sackville River between Union Street and Bedford Place Mall, was omitted from Schedule “A”. (*refer to Map 6*)

It is the opinion of staff a plan amendment exercise should be initiated to amend the Schedule "B" Generalized Future Land Use Map and Schedule "A" Zoning Map to accurately reflect the intent of Policy E-9.

### *Exclusion of Institutional Uses from watercourse setback requirements*

Within all Industrial and Commercial Zones, a 100 foot buffer from a watercourse is required in accordance with Policy E-8 of the Bedford Municipal Planning Strategy. A reduction of this buffer to 50 feet may be considered by development agreement. However, Institutional Uses have not been included in this policy and therefore are not required to be 100 feet from a watercourse.

The list of permitted uses in the Institutional (SI) Zone is extensive, and includes golf courses, public buildings, churches, schools and private recreational facilities. There does not appear to be any planning or environmental rationale for permitting Institutional (SI) uses to be constructed up to the high water mark of a watercourse. Therefore, it is the opinion of staff that Policy E-8 be amended such that Institutional (SI) uses may be subject to the watercourse setback requirement.

### *Housekeeping Matters*

Several matters of a technical or housekeeping nature that require correction through the plan amendment process have been identified by staff. These relate to incorrect wording in a Municipal Planning Strategy policy or Land Use Bylaw provisions. It is proposed that these matters also be addressed through the plan amendment process.

### **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 not to initiate the MPS amendment process. This is not recommended for reasons discussed above.

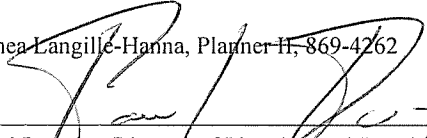
### **ATTACHMENTS:**

Map 1: Waterfront Generalized Future Land Use Map  
Map 2: Waterfront Zoning Map  
Map 3: Environmentally Sensitive Areas Map  
Map 4: Water Lots Generalized Future Land Use Map  
Map 5: Water Lots Zoning Map

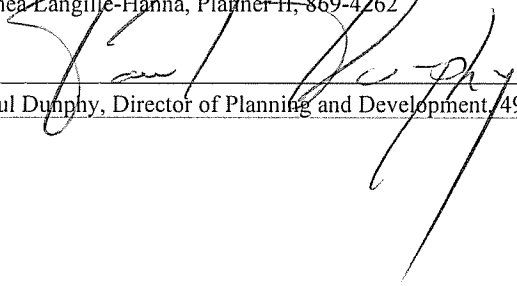
Map 6: Floodway Area of Sackville Drive - Existing Situation  
Appendix A: Excerpt from the Bedford Municipal Planning Strategy and Land Use Bylaw

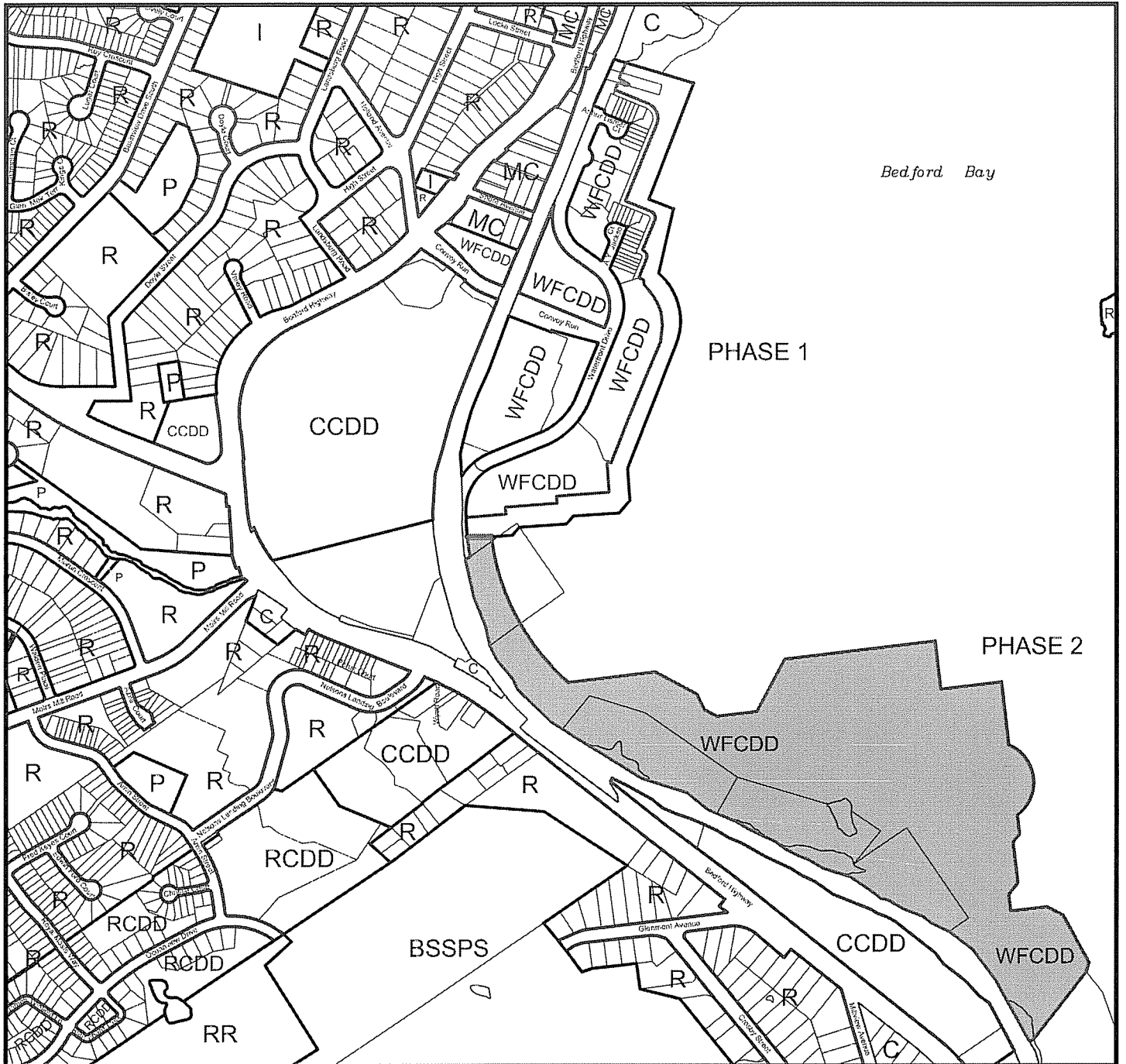
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by:


  
Thea Langille-Hanna, Planner II, 869-4262

Report Approved by:

  
Paul Dunphy, Director of Planning and Development, 490-4933



Map 1  
Generalized Future Land Use

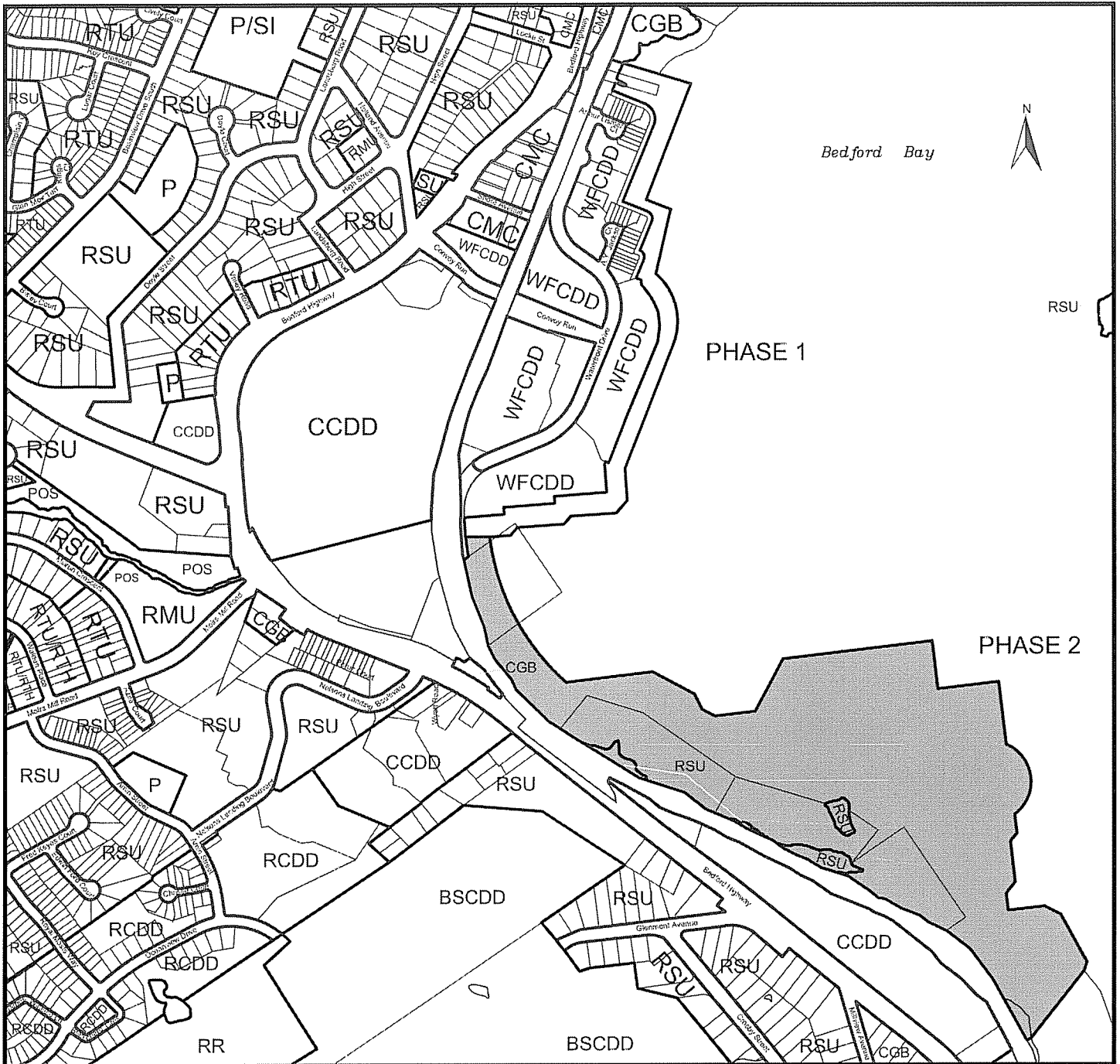
 Area to be rezoned to WFCDD



- R Residential Designation
- I Institutional Designation
- P Park and Recreation Designation
- C Commercial Designation
- MC Mainstreet Commercial Designation

- BSSPS Bedford South Secondary Planning Strategy
- CCDD Commercial Comprehensive Development District
- RCDD Residential Comprehensive Development District
- WFCDD Waterfront Comprehensive Development District





**Map 2  
Zoning Map**



Area to be rezoned to WFCDD

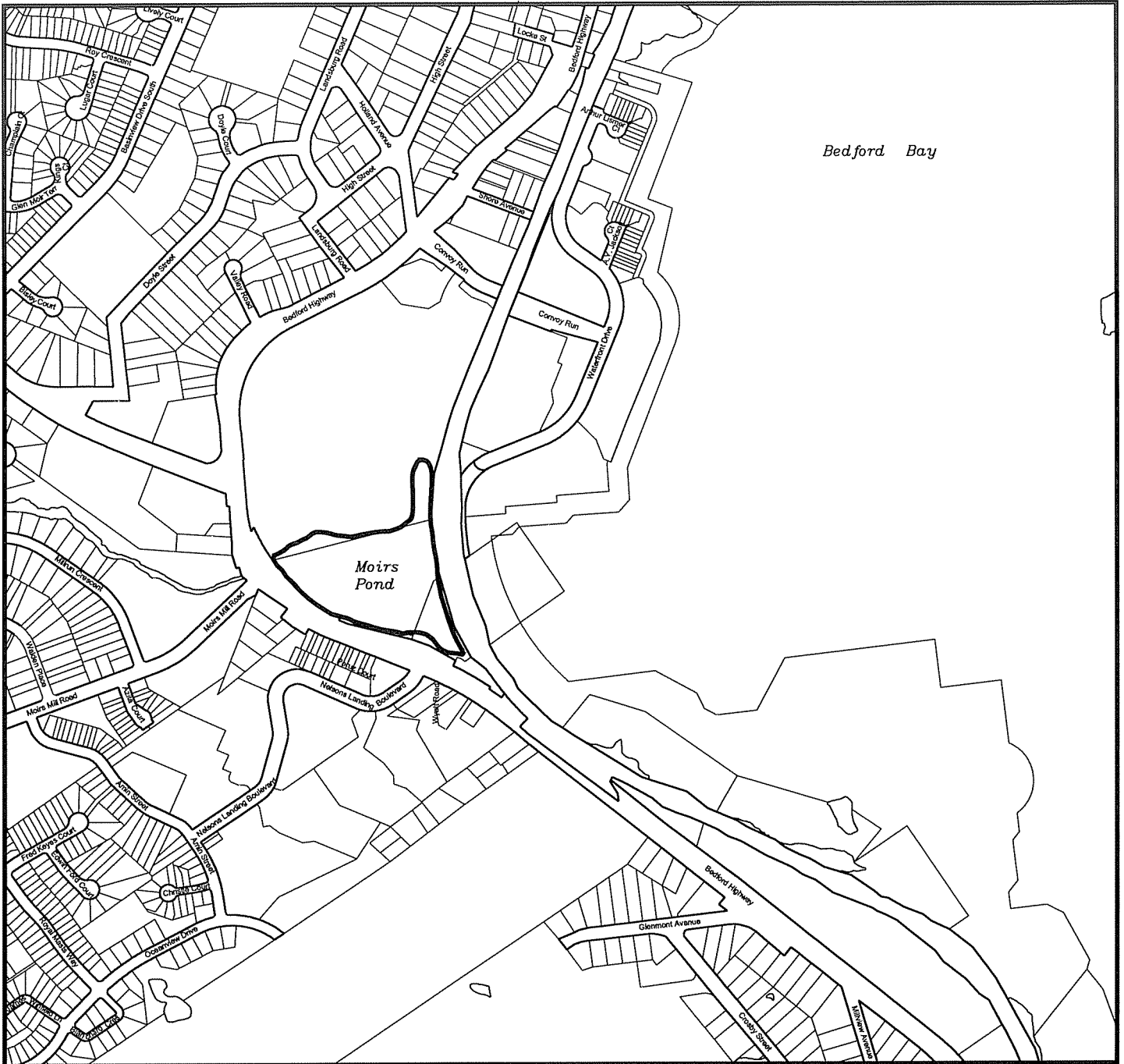


- RSU Single Dwelling Unit Zone
- RTU Two Dwelling Unit Zone
- RMU Multiple Dwelling zone
- RTH Townhouse Zone
- RR Residential Reserve Zone
- P Park Zone
- POS Park Open Space Zone

- CMC Mainstreet Commercial Zone
- CGB General Business District Zone
- SI Institutional Zone
- SU Utilities Zone
- RCDD Residential Comprehensive Development District
- CCDD Commercial comprehensive Development District
- BSCDD Bedford South Comprehensive Development District
- WFCDD Waterfront Comprehensive Development District

125 0 125 250 metres





Bedford Bay

Moirs Pond

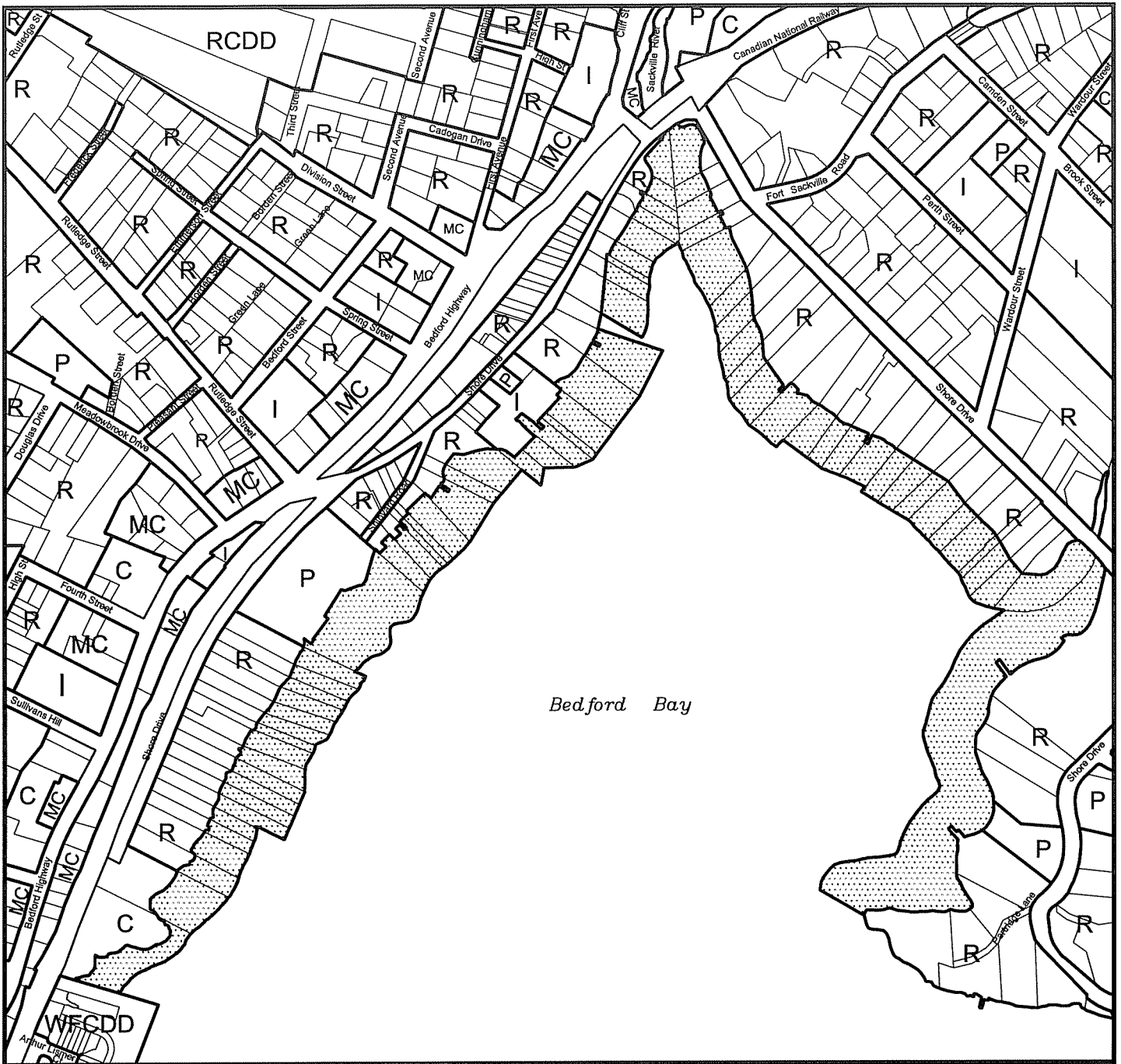
**Map 3**  
**Environmentally Sensitive Areas**

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—— Moirs Pond (From the Environmentally Sensitive Areas Map)







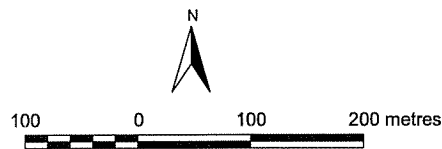
Map 4  
Generalized Future Land Use

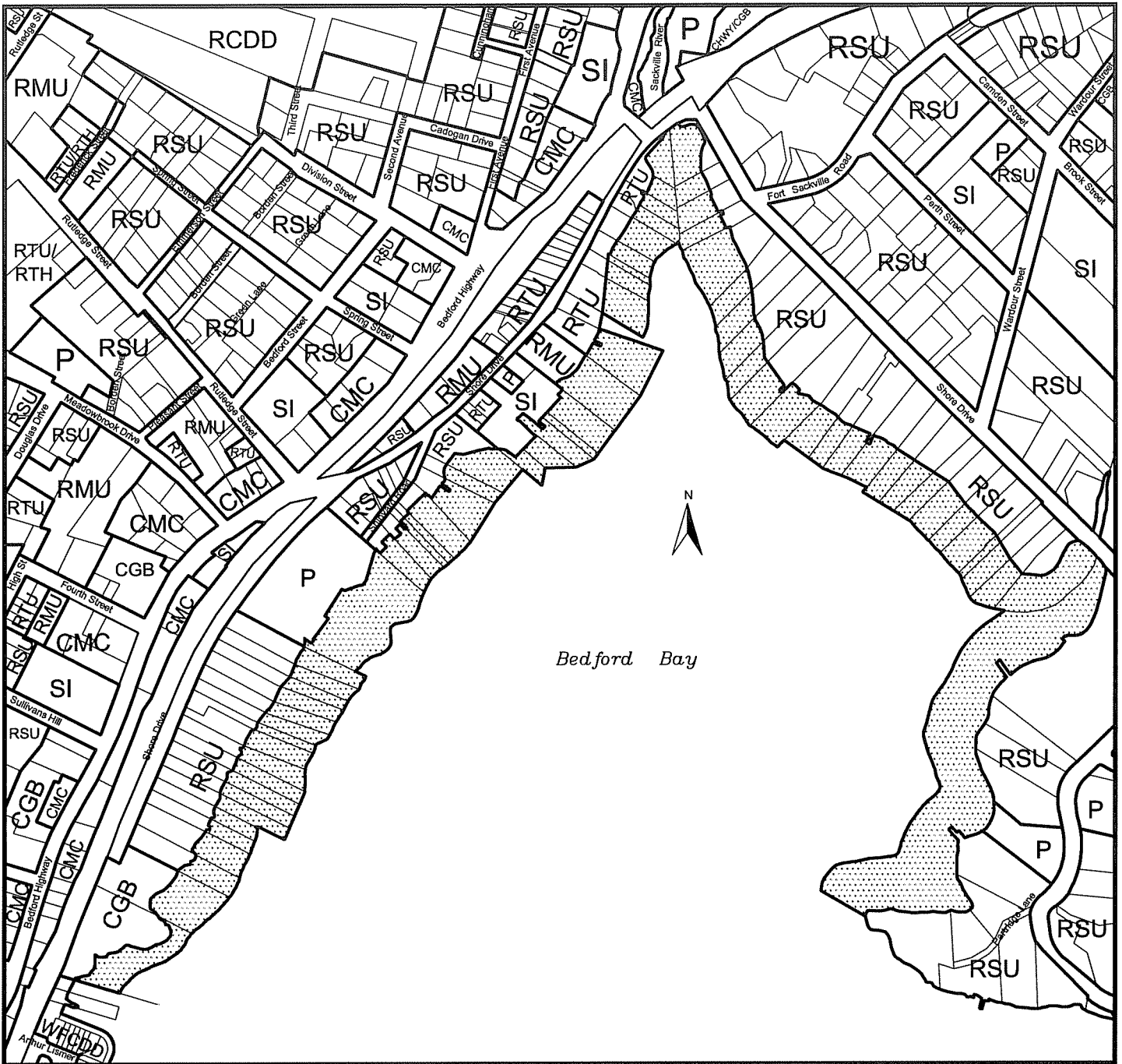
 Water Lots



R Residential Designation  
I Institutional Designation  
P Park and Recreation Designation

C Commercial Designation  
MC Mainstreet Commercial Designation  
RCDD Residential Comprehensive Development District  
WFCDD Waterfront Comprehensive Development District





**Map 5  
Zoning**

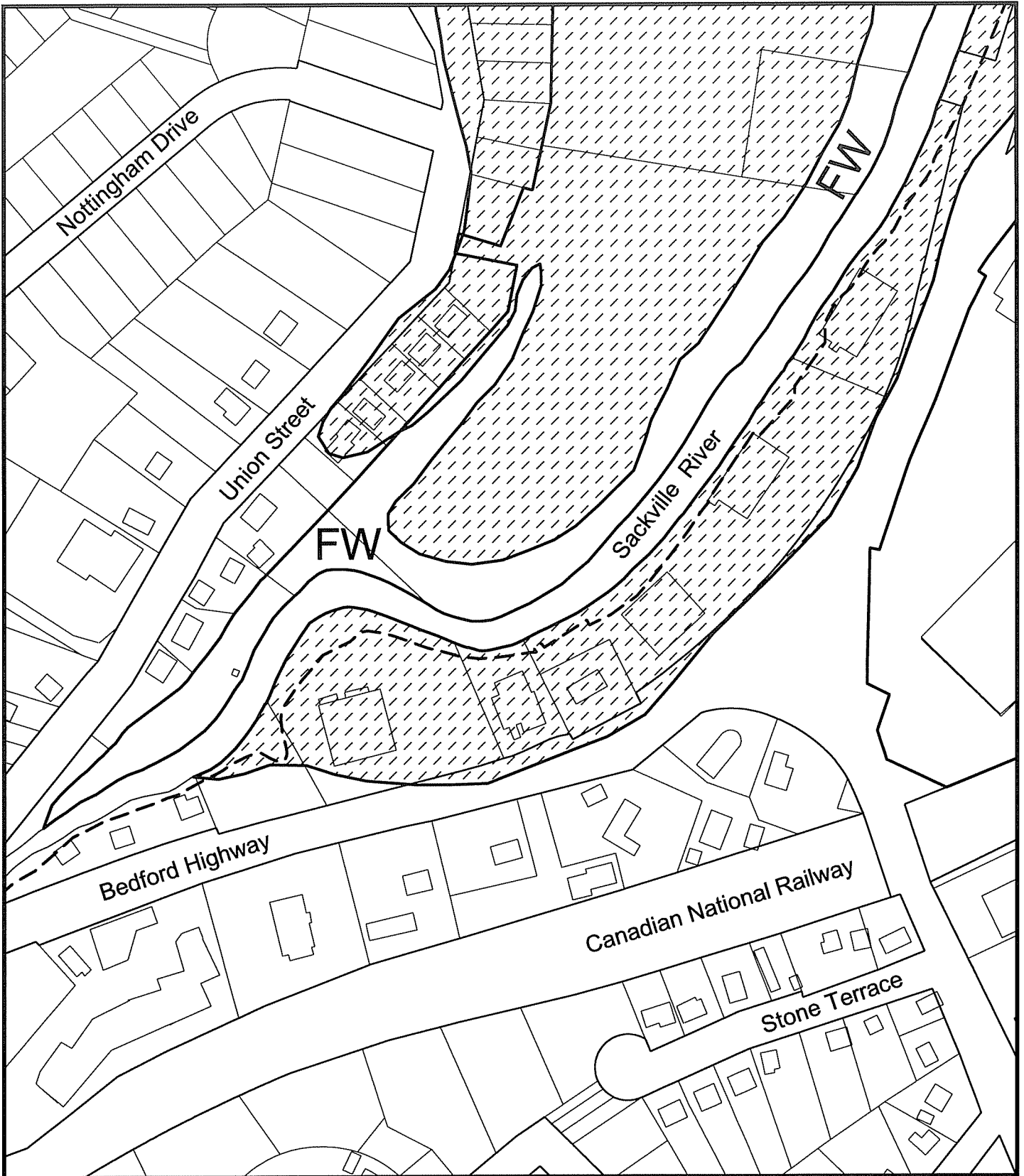
 Water Lots




- RSU Single Dwelling Unit Zone
- RTU Two Dwelling Unit Zone
- RMU Multiple Dwelling zone
- RTH Townhouse Zone
- P Park Zone

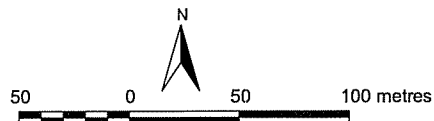
- CMC Mainstreet Commercial Zone
- CGB General Business District Zone
- SI Institutional Zone
- RCDD Residential Comprehensive Development District
- WFCDD Waterfront Comprehensive Development District





**Map 6 - Floodway area of Sackville River - Existing Situation**

- FW Floodplain Zone
- - - 1:20 Year Flood Line
-  Floodway Fringe Zone



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## APPENDIX A

### EXCERPT BEDFORD MUNICIPAL PLANNING STRATEGY

#### Waterfront Comprehensive Development District

##### Policy WF-1:

It shall be the intention of Town Council, within the design and layout of the Waterfront project, to maximize access to the development as well as the Bedford Basin for all residents of the Town.

#### **Implementation**

##### Policy WF-19:

It shall be the intention of Town Council, to designate the total area, including existing land and land which is to be created by infilling the bay, as Waterfront Comprehensive Development District on the Generalized Future Land Use Map. Town Council shall make provision in the Land Use By-law for a Waterfront Comprehensive Development District Zone and shall apply the zone to the land base which exists within the waterfront project on the effective date of the Zoning By-law. The WFCDD zone shall be applied to additional infilled land within the WFCDD designation through an amendment to Schedule "A" of the Land Use Bylaw.

#### Environmental

##### **Protection of Watercourses**

##### Policy E-8:

In areas where Industrial ILI or IHI Zones, or Commercial Zones abut a watercourse or water retention area identified on the map showing environmentally sensitive areas in the Town, Town Council shall prohibit the erection of any structure, or the excavation or filling in of land within 100 feet of the watercourse or water retention area. This 100 ft. area shall be maintained with existing vegetation or landscaped. A reduction in the buffer from 100' to 50' may be considered by Town Council by a development agreement, where it is demonstrated that a property can not be reasonably developed by complying with the 100 foot setback and site disturbance provisions. A development agreement

shall be subject to the provisions of Policy Z-3, and the undertaking of an environmental study which addresses the issues of runoff, erosion, siltation and any other impacts on the watercourse during and after construction. The development agreement shall outline the specific measures to be used to ensure a no net loss in the effectiveness of the natural 100' buffer in terms of protecting the watercourse. The setback and site disturbance provisions of this policy are applicable also to commercial uses in an RCDD zone and multiple unit dwellings in all zones. Single unit dwellings, two unit dwellings and townhouses in all zones are subject to the setback provisions of Policy E-4. Policy E-8 shall not apply to properties abutting the Bedford Basin.

### **Floodplain Protection**

#### Policy E-9:

It shall be the intention of Town Council to establish a Floodway designation on the Generalized Future Land Use map which reflects the 1:20 Floodway of the Sackville River as defined by mapping of the Canada-Nova Scotia Flood Reduction Program. The 1: 100 Floodway Fringe of the Sackville River shall also be defined by mapping of the Canada-Nova Scotia Flood Reduction Program.

#### Policy E-10:

Within the Floodway designation it shall be the intention of Town Council to establish a Floodway Zone, encompassing the 1:20 year floodway, in which conservation related uses, public and private parks and playgrounds, recreation uses, roadways, and uses of a similar nature shall be permitted. Notwithstanding that these uses shall be permitted, any structures intended for human habitation, whether permanent or temporary, shall be prohibited.

#### Policy E-11:

It shall be the intention of Town Council to permit the redevelopment of existing uses within the 1:20 year floodway through the development agreement process, subject to the proponent agreeing to maintain, or enhance where possible, the water retention capabilities of the floodway.

#### Policy E-12:

It shall be the intention of Town Council to identify the 1:100 Floodway fringe on the Zoning map by cross hatching of the zones within its boundaries. Permitted uses within the floodway fringe shall be determined by the underlying zones. Further to the applicable

zone requirements, Town Council shall require floodproofing of structures erected within the 1:100 floodway fringe and shall regulate the placement and stabilization of fill necessary for the floodproofing of permitted structures unless the structures have been specifically designed to accommodate water flow and storage.