

Case #21813 – Frequently Asked Questions

1. Why is HRM considering an extension to the area of rezoning to include PIDs 41453937, 41459520 and 41459538?

This application was received as a request to rezone a portion of PID 41453945 from the P-2 (Community Facility) Zone to the RA (Rural Area) Zone. When staff discovered that three abutting properties also had a similar zoning configuration, it seemed reasonable to explore extending the area of rezoning to include the other three properties as well and bring the scenario to the public for their feedback.

The P-2 Zone permits a broader list of more intensive uses than the RA Zone. Specifically, the P-2 zone permits a single unit dwelling to be developed if it is in conjunction with a daycare facility but does not permit a single unit dwelling by itself. It is staff's general observation that a single unit dwelling is a less intensive use by itself than in conjunction with a daycare and is more compatible with the surrounding neighbourhood. Land Use By-law requirements are also in place to restrict where development can take place in relations to Cow Bay Lake and the abutting wetland.

HRM staff has not yet made a recommendation to Council regarding this application and will use feedback from the public information meeting held January 31, 2019 to inform the process through a staff report.

2. Why was the area of land around Cow Bay Lake zoned P-2 in the first place?

The portion of the subject properties zoned P-2 (Community Facility) have been zoned as such since at least 1982. After a thorough review, it is still unclear why the P-2 Zone would have been applied to this area of land. However, since this time wetland and watercourse setbacks have been adopted into the Eastern Passage/Cow Bay Land Use By-law to require an appropriate setback for development adjacent to a watercourse. Specific to this application, no development permit shall be issued within 30 metres of the edge of the wetland that is contiguous with Cow Bay Lake.

Excerpt from the Eastern Passage/Cow Bay 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."

The majority of [Plan Areas](#) in HRM have a minimum setback requirement of 20 metres from their watercourses. Eastern Passage/Cow Bay is one of a few exceptions, where the minimum watercourse setback is 30 metres.

3. Will the rezoning permit two single unit dwellings on each property?

No. Only one single unit dwelling is permitted to be developed on each property in this application, regardless of the outcome of this rezoning application. The proposed rezoning from the P-2 (Community Facility) Zone to the RA (Rural Area) Zone would allow for the single unit dwelling to be permitted further back from Cow Bay Road, as long as it is not within the thirty metre (30m) watercourse buffer outlined in Question #2. It will not create an increase in density.

4. Do Coastal Elevation requirements apply to the subject lands of this application?

Based on a [Supreme Court decision made in 2007](#), it has been determined that Cow Bay Lake is a freshwater “pond or lake connected to the sea by a lagoon”. Therefore, based on the Court’s decision, it has been determined by HRM’s Development Officers, who are responsible for administering the Land Use By-law, that the 3.8 metre elevation referenced in Section 4.18A of the [Eastern Passage/Cow Bay Land Use By-law](#) does not apply to any of the properties considered under Case #21813 or abutting Cow Bay Lake generally.

Horizontal watercourse setbacks will still apply, as described under FAQ #2.

5. How will Nova Scotia Bill No.106 (Coastal Protection Act) impact this application?

The Coastal Protection Act’s impact on this application will be based on the specific content of that legislation along with an assessment by HRM’s Planning and Legal departments which will ensure the proposed legislation is applied to this application appropriately. When the application is brought forward for Council’s consideration, any impacts associated with the Coastal Protection Act will be outlined in the staff report to allow Council to make a fully informed decision.

While we have not yet completed the final assessment of the Act, we believe the intent from a regulatory perspective is to create consistent coastal development regulations across the province in response to the fact that there are municipalities that do not have any development regulations for coastal development. HRM currently has watercourse setbacks and coastal elevation requirements in its Land Use By-laws which may be compliant with the new legislation. However, until the Act is proclaimed, and any associated provincial regulations are created, it is not possible to determine if amendments to Municipal Planning documents may be required.

Case #21813 – Zone Comparison

Permitted Uses

P-2 Zone	RA Zone
<u>Institutional Uses</u> Educational institutions and uses; Denominational institutions and uses; Day care facilities; Single unit dwelling in conjunction with a daycare facility; Senior citizen housing; Existing residential care facilities; Fire and police stations; Government office and public works (except transportation maintenance); Hospitals and medical clinics; Public libraries, museums, galleries; Fraternal centres and halls; Community centres and halls. <u>Open Space Uses</u> Public and private parks and playgrounds; Recreation uses (excluding golf courses) Cemeteries (excluding crematoriums) Day camps; Historic sites and monuments.	<u>Residential Uses</u> Single unit dwellings; Existing mobile dwellings; Mobile dwellings at Silver Court, Cow Bay; <u>Business Uses</u> Bed and breakfast establishments in conjunction with permitted dwellings; Home business uses <u>Resource uses</u> Forestry uses Agriculture uses Fishing and fishing related uses on saltwater watercourse, Bissett Rd, Cow Bay Rd or Dyke Rd

Zone Requirements

	P-2 Zone	RA Zone
Minimum Lot Area	30,000 square feet (with on-site services)	50,000 square feet
Minimum Lot Frontage	125 feet	200 feet
Minimum Front or Flankage Yard	30 feet OR 15 feet for Open Space Uses	20 feet
Minimum Rear or Side Yard	½ the height of the main building OR 15 feet for Open Space uses	8 feet
Minimum Lot Width	n/a	100 feet
Maximum Height of Building	n/a	35 feet
Lot Coverage	50%	35%