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Western Region Community Council
August 27, 2007

TO: Chair and Members of Western Region Community Council

SUBMITTED BY:

Dunne Schfield for
Paul Dunphy, Director of Community Development

DATE: August 7, 2007

SUBJECT: Case 01020: Rezoning of 1268 St. Margarets Bay Road, Beechville

ORIGIN

Application by Mr. Fred Pope on behalf of F & C Family Trust to rezone 1268 St. Margaret's Bay Road, Beechville, from the R-1 (Single Unit Dwelling) Zone to the I-1 (Light Industrial) Zone.

RECOMMENDATION

It is recommended that Western Region Community Council:

1. Give First Reading of the proposed rezoning and schedule a public hearing.
2. Approve the rezoning of 1268 St. Margarets Bay Road (PID # 40160541 and PID # 40049660), Beechville, as shown on Map 1, from the R-1 Zone to the I-1 Zone.

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1268 St. Margarets Bay Rd.
Case 01020

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BACKGROUND

The subject property, 1268 St. Margaret's Bay Road, is located on the south side of Highway No. 3 (St. Margaret's Bay Road), east of the Munro Subdivision. The site currently has a residential dwelling and two accessory storage buildings located on two properties with a combined area of 27,300 square feet. The current business use of the property as offices and storage is not authorized within the R-1 Zone. The applicant is requesting a rezoning from the R-1 Zone to the I-1 Zone in an effort to legalize the business uses. The rezoning to the I-1 Zone would require the removal of the residential uses from the property.

DISCUSSION

The property is zoned R-1 and is flanked on both sides by properties zoned I-1. The designation for the area is Urban Residential under the Timberlea / Lakeside / Beechville MPS.

The MPS states that, "the growth of industrial uses along Highway No. 3 in Beechville is an impediment to future residential development." To control the spread of industrial uses along the St. Margarets Bay Road the MPS has identified areas suitable for future growth of industrial uses. The geographic location specified for future industrial growth is found in the preamble to policies UR-24 and UR-25 (Attachment "A") which states that, "industrial use on the south side of Highway No. 3 and adjacent to the Lakeside Industrial Park is not in an inappropriate location." However, Policy UR-25 is specific and states that "Council may consider permitting an extension of the industrial zone to these properties situated on the south side of Highway No. 3, east of the Munro Subdivision, by amendment to the land use by-law." It is further stated that the property and properties in the vicinity of the former Halifax Sufferance Warehouse¹ (PID 40049512) identified on Map 2 is the preferred area for rezoning to industrial.

For certain clarity the property in question, 1268 St. Margaret's Bay Road, is an abutting property to the former Halifax Sufferance Warehouse property being located east of the Munro Subdivision (Map 2) and on the south side of St. Margarets Bay Road and is located in the exact geographic location as discussed in the MPS. In consideration of the concern related to creating a precedence for future rezonings staff can assure Council that the policy is very specific geographically with no ability to extend the policy outside the geographic confines as described in the MPS.

Staff feel that the proposal satisfies the applicable policies of the Municipal Planning Strategy. As such, it is recommended that Western Region Community Council approve the rezoning application.

¹ Sufferance warehouses are privately owned and operated facilities licensed by the Canada Border Services Agency (CBSA) for the control, short-term storage, and examination of imported goods until they are released by the CBSA or exported from Canada.

Public Information Meeting / Area of Notification

A Public Information Meeting for this application was held on May 30, 2007. Minutes of this meeting are provided as Attachment "B" of this report. Community attendees held strong opinions against approving the request to rezone the property.

During the Public Information Meeting the public expressed concern regarding the potential precedence created by this rezoning and the future effect on the integrity of existing residential areas within Beechville, especially along St. Margarets Bay Road. Another issue of concern raised was the process whereby the applicant created the unauthorized use of the residential property without following proper municipal procedures. Conversely, the meeting also included support for the application by representatives from local businesses. Should Community Council decide to hold a Public Hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 1 will be sent written notification.

BUDGET IMPLICATIONS

There are no budgetary 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. Council may approve the rezoning application. This is the recommended course of action.
2. Alternatively, Council may choose to reject the proposed rezoning. The applicant would be required to cease operation of the commercial uses of the property. This alternative is not recommended as staff is satisfied that the proposed rezoning is consistent with the policies and intent of the MPS.

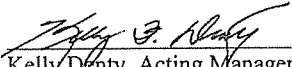
ATTACHMENTS

Map 1	Zoning and Area of Notification
Map 2	Generalized Future Land Use
Attachment "A"	Excerpts from the Timberlea/Lakeside/Beechville MPS
Attachment "B"	Minutes from the May 30, 2007, Public Information Meeting

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

Report Prepared by: Brian White, Planner I, 490-4793

Report Approved by:


Kelly Denty, Acting Manager, Planning Services, 490-6011

Attachment "A"
Excerpts from the Timberlea/Lakeside/Beechville MPS

Timberlea / Lakeside / Beechville Municipal Planning Strategy

With the establishment of the Lakeside Industrial Park, there has been the accompanying development of truck terminals and warehousing. These facilities have located in Beechville and have spread eastward along Highway No. 3 from the entrance to the Park. These industrial uses have raised concerns among local residents regarding attendant problems with traffic, noise, pedestrian safety and adequate separation and buffering as well as the potential for future expansion of these industries.

Highway No. 3 in Beechville is used as a truck route to the Lakeside Industrial Park. Much of the road is only two lanes and there are no sidewalks despite its frequent use by school children and other pedestrians.

The Halifax Sufferance Warehouse has also raised resident concern. This warehouse abuts one side of the Munroe Subdivision as well as other residential properties on the south side of Highway No. 3. Several private residences are further encompassed on two or more sides by industrial uses. Noise, truck traffic and inadequate separation distances and buffering are prevalent complaints from local residents. Further, there is the potential for expansion on vacant lands in an easterly direction towards a residential area and abutting crown lands to the south which may at one time, have been reserved for the black community. In any event, the growth of industrial uses along Highway No. 3 in Beechville is an impediment to future residential development.

No doubt industrial use on the south side of Highway No. 3 and adjacent to the Lakeside Industrial Park is not in an inappropriate location. However, area residents wish to see the present conflict between residential and industrial land use controlled and eventually resolved. Limits will be placed on the expansion of industrial uses on the south side of Highway No. 3 and outside of the Lakeside Industrial Park.

UR-24 Notwithstanding Policy UR-1, it shall be the intention of Council to support existing industrial uses within the Halifax Sufferance Warehouse and vicinity by providing the uses with the appropriate industrial zone. Further and notwithstanding Policy IM-7, Council may consider any expansion of the Halifax Sufferance Warehouse only onto the vacant lands presently owned by the owner of the Sufferance Warehouse, Land Registration Information Service Number 40049512, according to the development agreement provisions of the Planning Act. In considering an expansion proposal, Council shall have regard to the appropriate provisions of Policies IM-12 and UR-22, as well as to proper separation and buffering with existing and potential residential development.

UR-25 Notwithstanding Policies UR-2 and in order to accommodate those residential properties presently encompassed within the Halifax Sufferance Warehouse and vicinity, Council may consider permitting an extension of the industrial zone to these properties situated on the south side of Highway No. 3, east of the Munroe Subdivision, by amendment to the land use by-law.

Attachment B
Public Information Meeting
Case 01020
May 30, 2007

In attendance: Councillor Rankin
Brian White, Planner, Planning Applications
Gail Harnish, Planning Services
Fred Pope, Applicant

Mr. Brian White called the public information meeting to order at approximately 7:00 p.m. at the Lakeside Fire Hall. The purpose of the meeting is to discuss an application by Fred Pope, on behalf of F & C Family Trust, to rezone 1268 St. Margarets Bay Road from R-1 (Single Unit Dwelling) Zone to I-1 (Light Industrial) Zone.

Mr. White reviewed the rezoning process:

- an application was received
- staff did a preliminary review of the application
- we are now holding the public information meeting
- staff will do a detailed review of the application
- we will prepare a staff report which will be tabled with Western Region Community Council, which will include a recommendation
- Council will either reject the application or give first reading and set a public hearing date
- the public hearing is held
- there is an appeal process

Mr. White pointed out the property on a map. It is across the road from Lovett Lake and is zoned R-1. In this area along the St. Margarets Bay Road there are areas of Light Industrial Zoning and pockets of R-1.

Mr. Fred Pope pointed out the property in question. He noted his proposal was pretty much stated in the second page of the handout. If he was allowed to continue on with this project, there would be more upgrades made on the property. He would add shrubs and ground lighting along this fence line, pave the parking lot, install planters underneath the windows, and paint the buildings to match the siding on the front structure. It is for two different construction companies; an electrical company and a renovation construction company.

Mr. Pope stated they are not a point of sale company. They supply and install which limits the traffic. There is no in and out and it is not busy in the yard. The guys come in the morning to pick up their work and come back at the end of the day. They are closed on Saturday and Sunday. He tried to make the property look as good as he could and hoped it speaks for itself.

Ms. Margery Wright expressed concern with what it'll be down the road. They had so many promises before that things would happen but problems kept growing and growing.

Mr. Pope responded that is why HRM has by-law enforcement officers. He could only speak for the next twenty to thirty years. He was going to be working for a number of years yet. His son is sixteen now and hopefully he will take over after him for twenty to thirty years.

Ms. Wright said he will make it look nice but what are his plans.

Mr. Pope responded he just wanted to finish it off. He wanted to do some painting, paving, and landscaping.

Ms. Wright said they were aware somebody bought the property and thought somebody was going to live there. They did not know it was going to be a business.

Mr. White displayed the list of uses permitted in the I-1 Zone which would be allowed to locate on that property if it was rezoned from R-1.

Ms. Wright stated they have enough traffic on the road now.

Ms. Debbie Awalt said he bought a residential property knowing what he was planning to do with it, and questioned why he was being so sneaky.

Mr. Pope responded he was trying to show the community what the finished product would be.

Ms. Awalt said that when she walked by, she thought it was a little three storey apartment building and all of a sudden somebody said they would put another business in there. She lived in this community and liked it the way it is. She questioned why he tried to get in the back door.

Mr. Pope responded he bought it as residential with the building there and with the intention of converting it.

Ms. Awalt stated he should have gone to the community first to see what they thought about it before he applied. This community is families. It is all single family homes where she lived.

Mr. Pope indicated that if that building had not been surrounded by industrial he would not have moved into the community and tried to push outwards. It is completely surrounded by industrial other than this one property that has been sitting as a vacant lot for a number of years.

Mr. Carson Jackson noted the zoning is R-1 and they recognize that some businesses had been there and some were tolerated because they were already there. The reason they went through all this trouble some years ago was because people from their community were moving away and trying to come back to the area. They wanted to keep Beechville as a family area. There is R-1 property out

there and they would love to have people come in and build a family dwelling and become part of the community. They had a meeting with their councillor some years ago and said the existing commercial was fine because it was there and they tolerated it but they did not want any more commercial. The Industrial Park is over there if somebody wanted to move in. There are all kinds of vacancies there. That industrial park has been established for some time although many of their community members do not have business in there. If somebody wants to come in and start a business, that's where they should be. They want family homes along the main road and not be pushed off into a corner or a small area.

Mr. Jackson indicated Beechville at one time had 5000 acres. They had lots of families. Some moved away but the ones that are here are trying to make their community grow. He had nothing against this gentleman but they did not want any more businesses other than the existing ones. He was able to buy the property for a good price and now is applying to rezone the property. He got the land for practically nothing and the people who sold the land could have gotten more had they known.

Mr. Jackson asked staff to consider the wishes of the community. It is the people who live in the community who should have the say on what they want in their community. They did some things so their community could increase and not lose its identity. It is a family oriented community and they would like it to stay that way.

Mr. Hector Rossborough, Nova Craft Ltd., stated they did not have any objection to this proposal.

An individual stated she was born in Beechville and grew up in Beechville. She would love to see no more commercial businesses come in there except for residential so that they can have families. Although she hoped the business was not allowed to locate there, she asked Mr. Pope if he would put the name "Lakeside" on his sign like everybody else.

Mr. Pope responded it would be the community of Beechville.

Mr. Donald Currie said he has known Mr. Pope for a long time. All his properties are good. He knew the people were concerned about him moving in there. The site is in the middle of a commercial development and is the only reason he bought it.

Mr. John Benoit, Benoit Electrical, indicated he rented from Mr. Pope and had a business at 1268 St. Margarets Bay Road. He has known Mr. Pope for a long time. All his properties are in tip top shape and he conducts himself in a professional manner. He also had a family. He thought they are also giving to the community. On their invoices, it is always Beechville. They shop at the Irving and the pizza shop. They are in the community buying stuff everyday and showing a presence there. He could not see what was being proposed as being harmful to the community.

An individual stated he did not live there.

Mr. Benoit concurred but said he spent a lot of time there. He spoke to a lot of the people who live in the community.

Councillor Rankin indicated he thought they have to test this application against the municipal planning strategy for the area. It tries to capture what the community wanted. That was one of his first tests in 1991. There was a lot of controversy about businesses on the St. Margarets Bay Road. There was some accommodation in 1992. Beechville is a distinct community in the Timberlea/Lakeside/Beechville area. The document says "these industrial uses have raised concerns among local residents regarding attendant problems with traffic, noise, pedestrian safety and adequate separation and buffering as well as the potential for future expansion of these industries." Further, "the growth of industrial uses along Highway No. 3 in Beechville is an impediment to future residential development".

Councillor Rankin noted what is not acceptable to the community is to presume the industrial development was fine. That raises suspicions that it's a done deal which he did not like. They assumed it was okay but it flies in the face of this document. It would have been better to engage with the public rather than risk it after the fact. When they asked for industrial zoning next to the Irving station, he supported it because there had always been a business there and it was obviously the right thing to do. That is not the case here.

Councillor Rankin indicated that if this rezoning is approved, what about the two to three lots next to the warehouse or on the other side of the road? Would somebody make the same case and would this open up that kind of possibility? If so, you would have to re-examine the information on what the community said in the planning document. He knew that other people were interested in that lot but did not want to take the risk because it was residential. There is a concern about setting a precedent for future rezonings.

Mr. White stated we have not yet done a detailed review of the application. Tonight is the first chance we get to understand the concerns. We will look at the municipal planning strategy.

Councillor Rankin commented it is often easier to ask for forgiveness than to ask for permission. He thought there has to be an acknowledgment that Mr. Pope did the wrong thing in building before getting permission and he has to ask for forgiveness from the community. He had a problem with breaking faith with the planning document. The business next to his store was a business that existed in the past which is why he supported it. Some people initially had a problem understanding that. How could he make a case on the basis that Mr. Pope seems like a nice man and a good business but what about the next person. On this one he was looking for some guidance from the community. They own this planning document.

Mr. Jackson indicated there were some residents in the area on different properties who decided to do something in terms of business and got started for a very short time but were asked to shut down because the area was not zoned for that. He was speaking without prejudice because he did not know

this gentleman. He was speaking with regard to any industrial use which they already said they did not want any more of in this particular area. These are things that need to be heard.

Mr. Stockley asked if this is approved, whether there was any opportunity for expansion or limits on what is there now.

Mr. White responded that if this rezoning is approved, it would only apply to the shaded portion of the two lots with the civic address of 1268.

Councillor Rankin referenced the controversy at the time he became a councillor where the existing businesses had not been recognized. The commercial neighbourhood in this area is in the area of the Pharmsave. That is where commercial development was encouraged but yet there were businesses like Tom Robertson and R&R Pools and what we could do for them because they were already there. There was an accommodation which was to give them a particular zone which limits them to what they were doing and a limited number of uses. He questioned whether that was another tool that could be considered.

Mr. White responded he did not think it would apply because this was not a legal conforming use in existence when the zone was created.

Mr. Pope stated he knew they were concerned about the future. He said he was here for the long term and could assure them the property would be kept neat and it would be better than what it is now and will be kept that way. He hoped to continue on and fit in and run his business and to complete the project. He would not let them down and turn it into something not there already.

Mr. Jackson commented the biggest problem was that he put the "cart before the horse". If he had met with the community at the church hall, he could have outlined what he wanted to do and he would have had an earlier answer to what the community was looking for in order to move ahead. It was a single family dwelling and then a lot was cleared and then a building was put up which was then fixed up to look better than what was first put there. He was in touch with the councillor wondering what was going on and reminded him of what was in the document in regards to the zoning in the Beechville area. He would not speak for Lakeside or Timberlea or any community that he did not live in and have a stake in. They have a right to zoning and regulations in the community according to what the people wanted in their community and they did that. Sometimes things change and compromises are made but that is where communication comes in. It only works when you are at ground level and not at ceiling level so that everybody is on the same page. If you are a good community member and want to be a member of the community, that is the wrong foot to start off on.

Mr. Pope stated he appreciated that. He went to the planning department to see if the site was a logical candidate and was told it was. He invested a lot of money on bad advice and made a wrong decision. If the rezoning does not go through, it will be a major loss and something he was not looking forward to. He has lost a lot of sleep over this and it has been a rough few months for him.

He really did not think they would be disappointed in how it would be run and would fit into the community.

Mr. Jackson indicated their comments had nothing to do with him as an individual or a business. It is what they have laid down for properties in their particular area and would say the same thing to anybody else. Over the years they have made some decisions for the welfare of their community.

Mr. Pope said that when they looked at the property and talked with the planner, the only reason he attempted to do this is because it was surrounded by industrial and it did not seem like a good fit to have a residential home there. There is industrial on each side and across the street. That is the only reason he made the bad decision he referred to.

Mr. Richard Hoadley commented he felt bad for Mr. Pope. He bought a piece of property because it might be zoned commercial but he did some homework and has not gone ahead. They made a mistake. He lived in this community for thirty-seven years and did not know there was a community against any rezoning. He ran into somebody and found out there was. He probably lost some money too and now knew who to talk to. He thought he would still make that attempt. Where everything else is commercial, you think there is a possibility. His property was supposedly commercial at one time and got switched over.

An individual stated there is more traffic in this area now than there was twenty years ago. Trucks woke her up every morning at 5 o'clock. By letting more come into the community she might as well sell her house and move. She tried to walk in the morning and tried to cross the street. When she went to work at 6 o'clock, the traffic was horrendous. It is a residential area. He could buy the property next door and in twenty years time expand.

Mr. Pope commented he too heard the sound of air brakes and the noise from trucks backing up.

Ms. Rolita Somers questioned why Planning would tell Mr. Pope this was a good candidate for a rezoning.

Councillor Rankin commented he thought it was an error and was probably a reasonable interpretation in some of the planning documents. If an area is surrounded with industrial zoning, it is probably a reasonable interpretation.

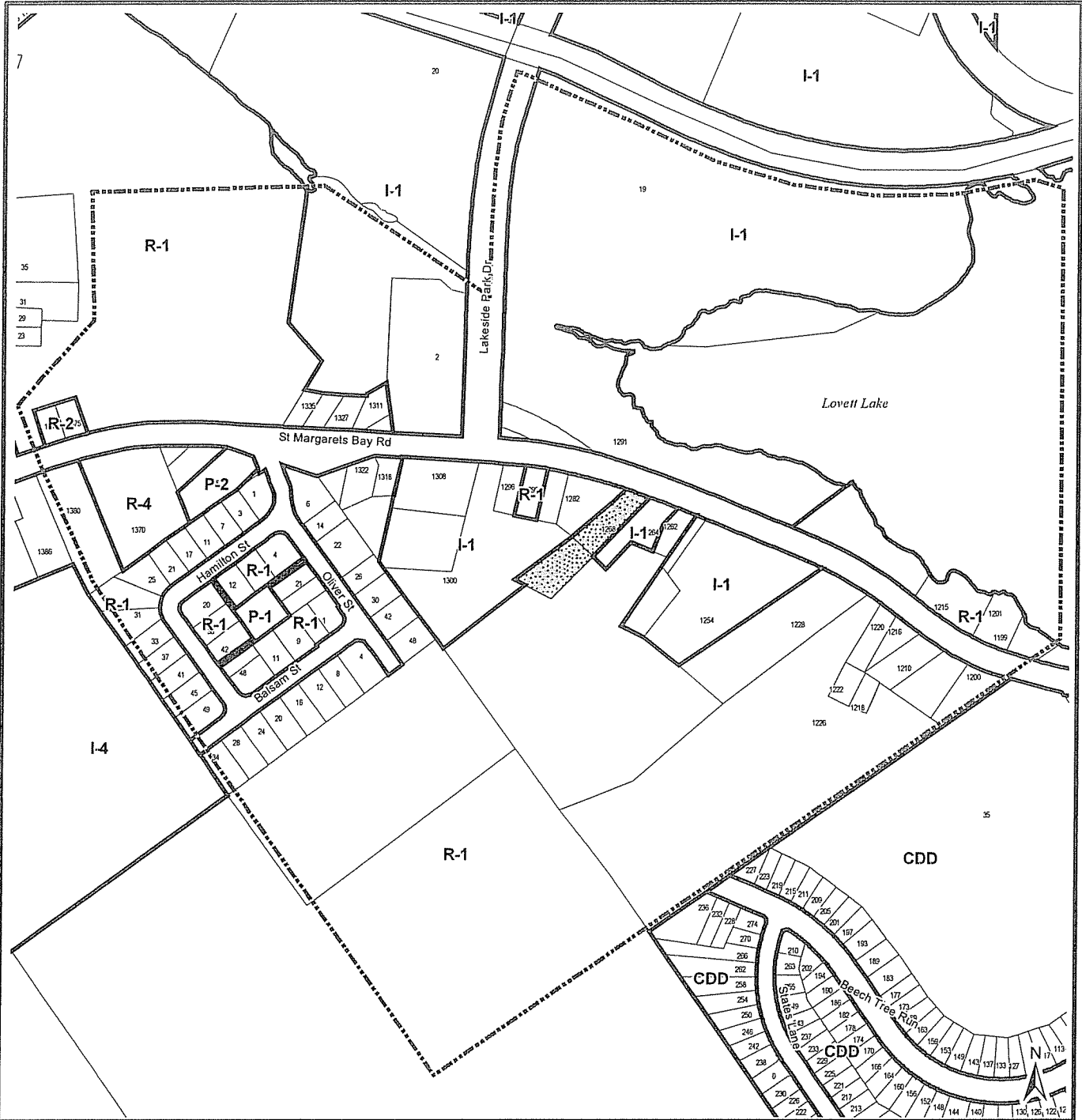
Mr. White responded that in terms of a good candidate, generally speaking everybody has the ability to apply for a rezoning. The caveat is that we only have a certain ability to rezone based on the land use designation. There are policies in the municipal planning strategy that suggest within this localized area near the Lakeside Industrial Park that it might be possible for Council to consider a rezoning. On that basis, we will say to any member of the public they have the ability to make an application and go through the process. That is throughout HRM.

Ann individual questioned how they got this far without it being questioned.

Mr. Pope responded everything has permits except for the second building.


Mr. White advised there are ongoing issues with this site which are being dealt with by the Land Use Compliance Officers. If the rezoning does not get approved, Mr. Pope will no longer be permitted to operate his business on that site. He was not sure what happened in this particular case. When you apply for a building permit, you also apply for a development permit which looks at whether the use complies with the land use.


The meeting adjourned at approximately 8:00 p.m.



Map 1 - Zoning

1268 St. Margarets Bay Road
Beechville

 Property to be rezoned from R-1 (Single Unit Dwelling) to I-1 (Light Industrial)

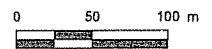
 Area of notification

Timberlea/Lakeside/Beechville Plan Area

Zone

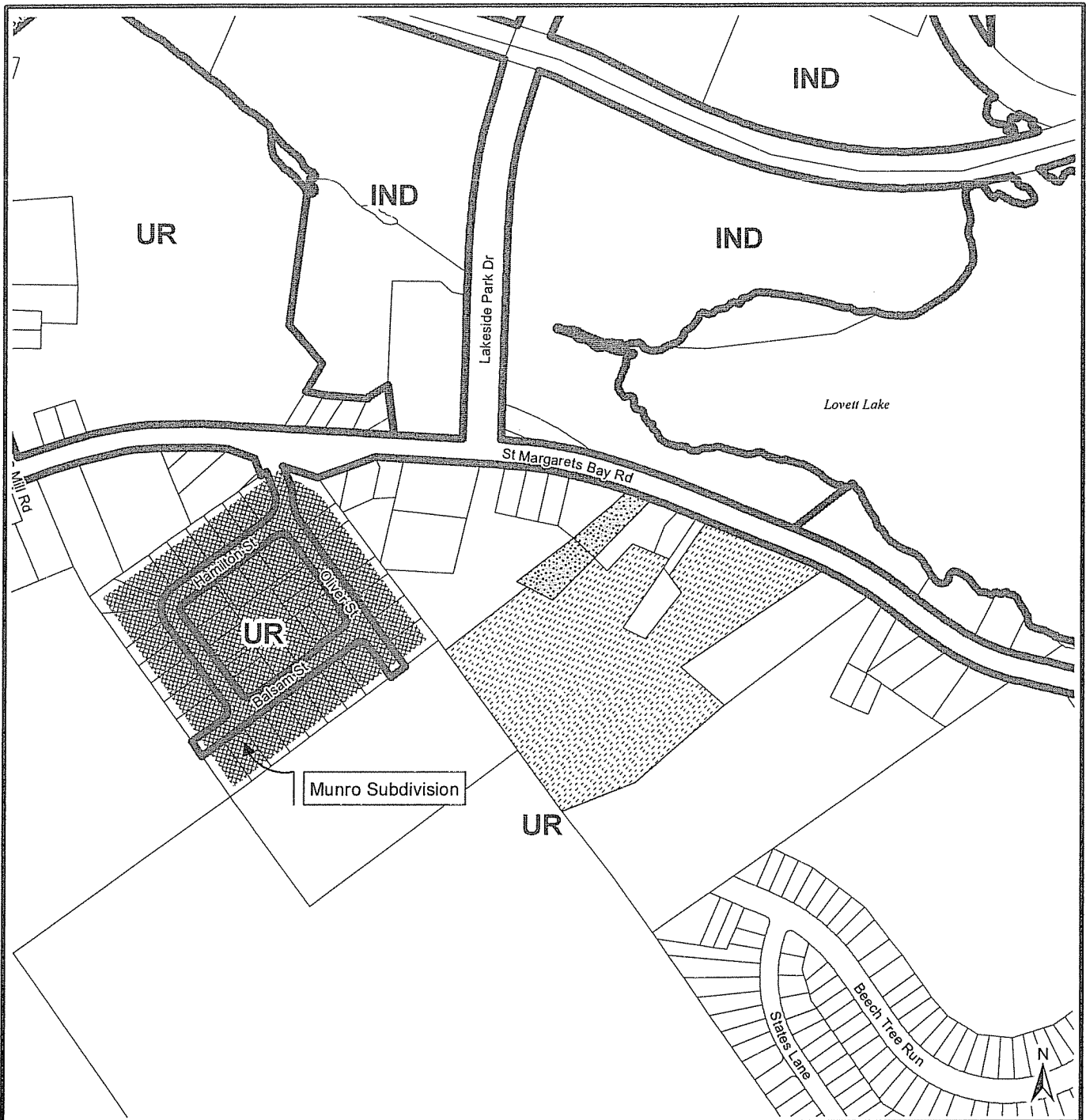
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-4 Multi-Unit Dwelling
- I-1 Light Industry
- P-1 Open Space
- P-2 Community Facility
- CDD Comprehensive Development District

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PLANNING SERVICES




This map is an unofficial reproduction of a portion of the Zoning Map for the Timberlea/Lakeside/Beechville Plan area.


HRM does not guarantee the accuracy of any representation on this plan.



Map 2 - Generalized Future Land Use

1268 St. Margarets Bay Road
Beechville

 Property to be rezoned from
R-1 (Single Unit Dwelling) to
I-1 (Light Industrial)

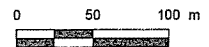
 Halifax Sufferance Warehouse property

Timberlea/Lakeside/Beechville Plan Area

Designation

UR Urban Residential
IND Industrial

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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