

8.3



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
July 5, 2005

August 9, 2005

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: *Julia Hamcastle*
for Councillor Stephen Adams, Chair
Western Region Community Council

DATE: June 28, 2005

SUBJECT: Case 00589: Timberlea/Lakeside/Beechville MPS and LUB
Amendment for 2892/2894 St. Margaret's Bay Road, Timberlea

ORIGIN

Western Region Community Council June 27, 2005.

RECOMMENDATION

Western Region Community Council recommend that Regional Council:

1. Give First Reading to the proposed amendments to the Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) and Land Use By-law (LUB) as contained in Attachment A of the staff report dated June 10, 2004 and schedule a joint public hearing with Western Region Community Council.
2. Approve the amendments to the Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) and Land Use By-law (LUB) as contained in Attachment A of the staff report dated June 10, 2005.

DISCUSSION

Western Region Community Council considered this matter at a meeting held on June 27, 2005 and approved the recommendation found above.

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 other relevant legislation.

ATTACHMENTS

Staff report dated June 10, 2005

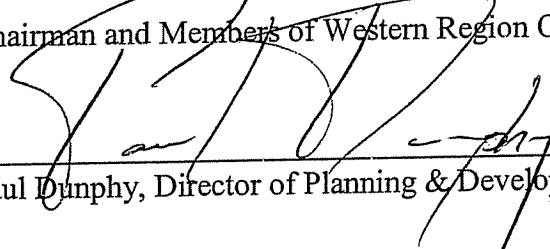
Extract from the draft minutes of Western Region Community Council - June 27, 2005

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

Western Region Community Council
June 27, 2005

To: Chairman and Members of Western Region Community Council

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

Date: June 10, 2004

Subject: **Case 00589: Timberlea/Lakeside/Beechville MPS and LUB Amendment for 2892/2894 St. Margaret's Bay Road, Timberlea.**

ORIGIN

Request by Bay Self Storage Incorporated to amend the Timberlea/Lakeside/Beechville Municipal Planning Strategy and Land Use By-law to enable expansion of an existing Self-storage Facility at 2892/2894 St. Margaret's Bay Road, Timberlea by development agreement.

RECOMMENDATION

It is recommended that Western Region Community Council recommend that Regional Council:

- 1 Give First Reading to the proposed amendments to the Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) and Land Use By-law (LUB) as contained in Attachment A and schedule a joint public hearing;
- 2 Approve the amendments to the Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) and Land Use By-law (LUB) as contained in Attachment A.

It is further recommended that Western Region Community Council:

1. Move Notice of Motion to consider approval of the proposed development agreement, as contained in Attachment B, to permit an expansion of an existing Self-storage Facility at 2892/2894 St. Margaret's Bay Road, Timberlea, and schedule a joint public hearing with Regional Council;
2. Contingent upon the attached amendments being approved by Regional Council and becoming effective pursuant to the requirements of the *Municipal Government Act*, approve the proposed development agreement, as contained in Attachment B;
3. Require that the development agreement be signed and delivered within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Initiation: At its February 1, 2005 meeting, Regional Council agreed to initiate a process to consider amending the Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) and Land Use By-law (LUB) to permit expansion of an existing Self-storage Facility at 2892/2894 St. Margaret's Bay Road, Timberlea by development agreement. A public information meeting in the proposal was held on March 24, 2005. The minutes of that meeting are provided in Attachment C of this report.

Location, Designation and Zoning: The subject property is within the Urban Residential designation and zoned C-3 (Service Business) Zone according to the Municipal Planning Strategy (see Maps 1 & 2). The lands abut residential uses to their front and sides and a trail corridor to their rear.

Synopsis of Proposed Development: The existing self-storage facility is permitted under the present zoning applicable for the property, but the proposed expansion requires amendments to be made to the MPS and LUB in order to proceed. The existing operation comprises two storage buildings on two separate lots which the applicant proposes to consolidate. One of the storage buildings presently shares a lot (2892) with a building used by TA Products Limited, a metal fabrication and welding business also owned by the applicant.

The applicant wishes to construct seven new buildings, for a total of nine buildings on the consolidated lots, one of which would be used as a maintenance and office building. Development is to be phased with the existing T. A. Products Limited building to be demolished as part of the final phase. This project is proposed for the long term with buildings to be constructed only as needed so the completion of the development may not occur for a number of years.

DISCUSSION

Site specific MPS amendments and policy reviews should generally only be considered where circumstances related to policies of an MPS have changed significantly. In this situation the demand for self-storage facilities has increased considerably as a result of increased development in the vicinity. Much of this development has been in the form of more compact housing types which have limited storage space. There are very few C-3 Zoned properties within this plan area which could accommodate this use and the level of expansion proposed. Consequently, there is some merit in limiting the ability to expand the use to the subject site. This request meets the test that there has been a change in circumstances as a result of the increase in demand for this type of facility to serve the needs of the community.

The proposal is not permitted under the current MPS. Policy UR-20; "permits service commercial uses of up to five thousand (5,000) square feet in floor area" but Policy UR-20 also allows "any proposed expansion of permitted service commercial uses beyond the five thousand (5,000) square foot maximum floor area permitted in the zone, may be considered according to the development agreement provisions of the Planning Act, subject to the criteria outlined in Policy UR-22".

Policy UR-22 (g) requires “that the maximum gross floor area ¹of the proposed development, exclusive of any area devoted to an accessory dwelling unit, shall not exceed six thousand five hundred (6,500) square feet”. The applicable MPS policies are appended as Attachment D.

The MPS clearly did not contemplate such an extensive expansion of the current use on this site. The requested increase in floor area for the self-storage use (max. 41,500 sq. ft.) is substantially greater (about 8 times) than what is presently allowed but, as the property is relatively large (3.37 acres), the total proposed expansion is less than the 30% maximum lot coverage permitted within the C-3 Zone.

Proposed MPS and LUB Amendments

An amendment to the MPS is required in order to enable a development agreement to be considered for the proposed expansion of the existing self-storage business. Additionally, the LUB is proposed in order to permit a development agreement relative to the amended MPS policy. The proposed MPS and LUB amendments are provided in Attachment A of this report.

Proposed Development Agreement

Subject to the proposed MPS and LUB amendments being adopted by Regional Council, Western Region Community Council would be in a position to consider a development agreement to permit the proposed self-storage business expansion. The criteria in Policy UR-22 and Policy IM-12 relative to any proposed expansion of C-3 Zone uses has been considered in the preparation of a development agreement for this project which is provided as Attachment B of this report. The applicable policies are appended to this report as Attachment D. A summary analysis pursuant to these policies is as follows:

- The site is outside the service boundary and has an approved septic system and well in place. The existing on-site septic and well systems serving the property are capable of meeting the requirements of the proposed development.
- The single existing vehicular access to the site has good visibility and is to be maintained.
- The proposed site plan provides for emergency vehicle access by allowing adequate separation distances between the buildings.
- Adequate parking is to be provided on site for easy access to the units while allowing circulation.
- The development agreement requires existing vegetation around the boundary to be maintained as well as perimeter security fencing.
- The proposed buildings are a single storey, with the exception of the office/maintenance building which is proposed to be two storeys. These heights are consistent with the abutting residential buildings which are generally at elevations several feet higher than the subject lands.

¹GROSS FLOOR AREA means the aggregate of the floor areas of a building above and below grade, measured between the exterior faces of the exterior walls of the building at each floor level but excluding car parking areas within the building; and for the purpose of this clause, the walls of an inner court shall be deemed to be exterior walls.

- The buildings are to be white metal with green doors consistent with the existing buildings
- An existing single sign at the entry identifying the business would be retained.
- The development agreement requires that the property be adequately maintained and that litter control, garbage removal and snow removal be undertaken.
- While 24 hour access is provided to facility users, experience has shown that visitation associated with the facility is minimal between the hours of 10:00 p.m. and 8:00 a.m.
- Dangerous goods are not permitted to be stored on the site.
- Security lighting provides a measure of security for the abutting residential property owners and the users of the trail without having a negative impact on personal enjoyment.

Summary and Conclusion

While a decision on a development agreement or rezoning must be based on existing policies contained in the Municipal Planning Strategy, an amendment to the MPS relies to a considerable extent on community support for such amendment. Staff has reviewed the proposal and finds that the potential impacts from an expansion of this use on abutting residential properties is minimal. The residents feel that it is not an offensive use, have indicated that they have no concerns with an expansion of this use and believe that they will benefit from the security measures used on this site. Staff feels the proposal has merit and it is appropriate to approve the MPS and LUB amendments and the proposed development agreement.

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:

1. **Regional Council** may choose to approve the proposed amendments to the Municipal Planning Strategy and Land Use By-law provided in Attachment A and **Western Region Community Council** may approve the development agreement provided in Attachment B. This is the recommended course of action.
2. **Regional Council** may choose to refuse the requested amendments to the Municipal Planning Strategy. A request to amend its Municipal Planning Strategy is completely at the discretion of Council. A decision not to amend the MPS cannot be appealed. Should Regional Council not adopt the proposed amendments to the Municipal Planning Strategy, the matter is at an end and there is no action required of Western Region Community Council.

3. Subject to adoption by Regional Council of the proposed MPS and LUB amendments, **Western Region Community Council** may choose to refuse the development agreement, and in doing so, must provide reasons based on conflict with MPS Policy. Staff does not recommend this alternative, as the proposed amendments to the MPS have been drafted to permit this development agreement and the proposed development agreement is consistent with applicable MPS policies.
4. Subject to adoption by Regional Council of the proposed MPS and LUB amendments, **Western Region Community Council** may choose to request modifications to the development agreement. Such modifications may require further negotiations with the developer. This alternative is not recommended as the attached agreement is consistent with MPS policies proposed to be adopted by Regional Council to allow this development.

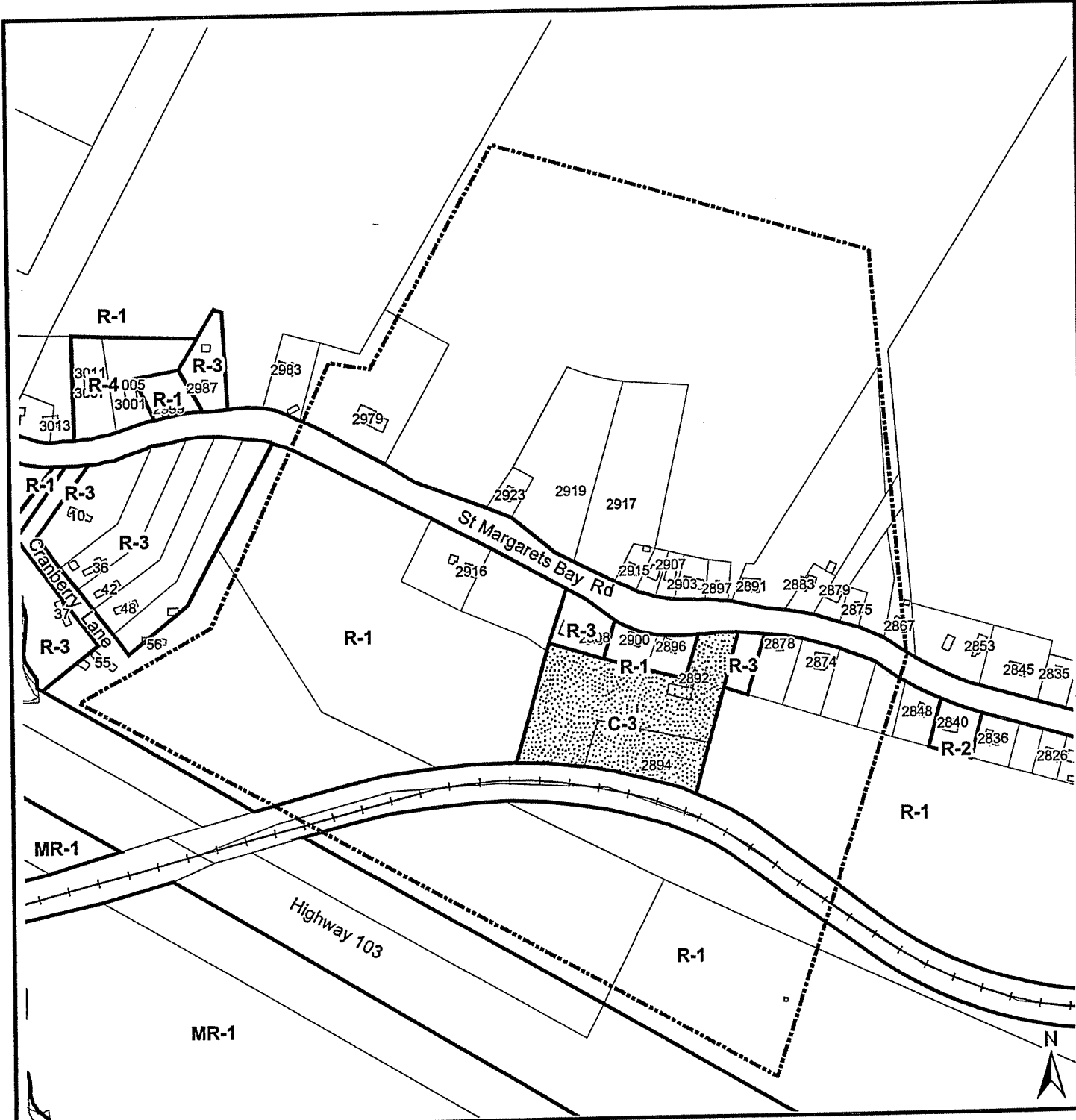
ATTACHMENTS:

- | | |
|---------------|---|
| Map 1: | Generalized Future Land Use |
| Map 2: | Location, Zoning and Notification Area |
| Attachment A: | Proposed Amendments to the Timberlea/Lakeside/Beechville Municipal Planning Strategy and Land Use By-law |
| Attachment B: | Draft Development Agreement with
Schedule B - Site Grading Plan
Schedule C - Lot Consolidation Plan |
| Attachment C: | Minutes of the March 24, 2005 Public Information Meeting |
| Attachment D: | Extracts from the Timberlea/Lakeside/Beechville Municipal Planning Strategy and the Land Use By-law |

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: Randa Wheaton, Planner II, 490-4499

Report Reviewed by: Kathy Smith, Financial Consultant, 490-6153



Map 1: Location and Zoning

2892 & 2894 St. Margaret's Bay Road
 Timberlea


-  Subject property
-  Area of notification

Zone	
R-1	Single Unit Dwelling
R-2	Two Unit Dwelling
R-3	Mobile Dwelling
R-4	Multi-unit Dwelling
MR-1	Mixed Resource
C-3	Service Business

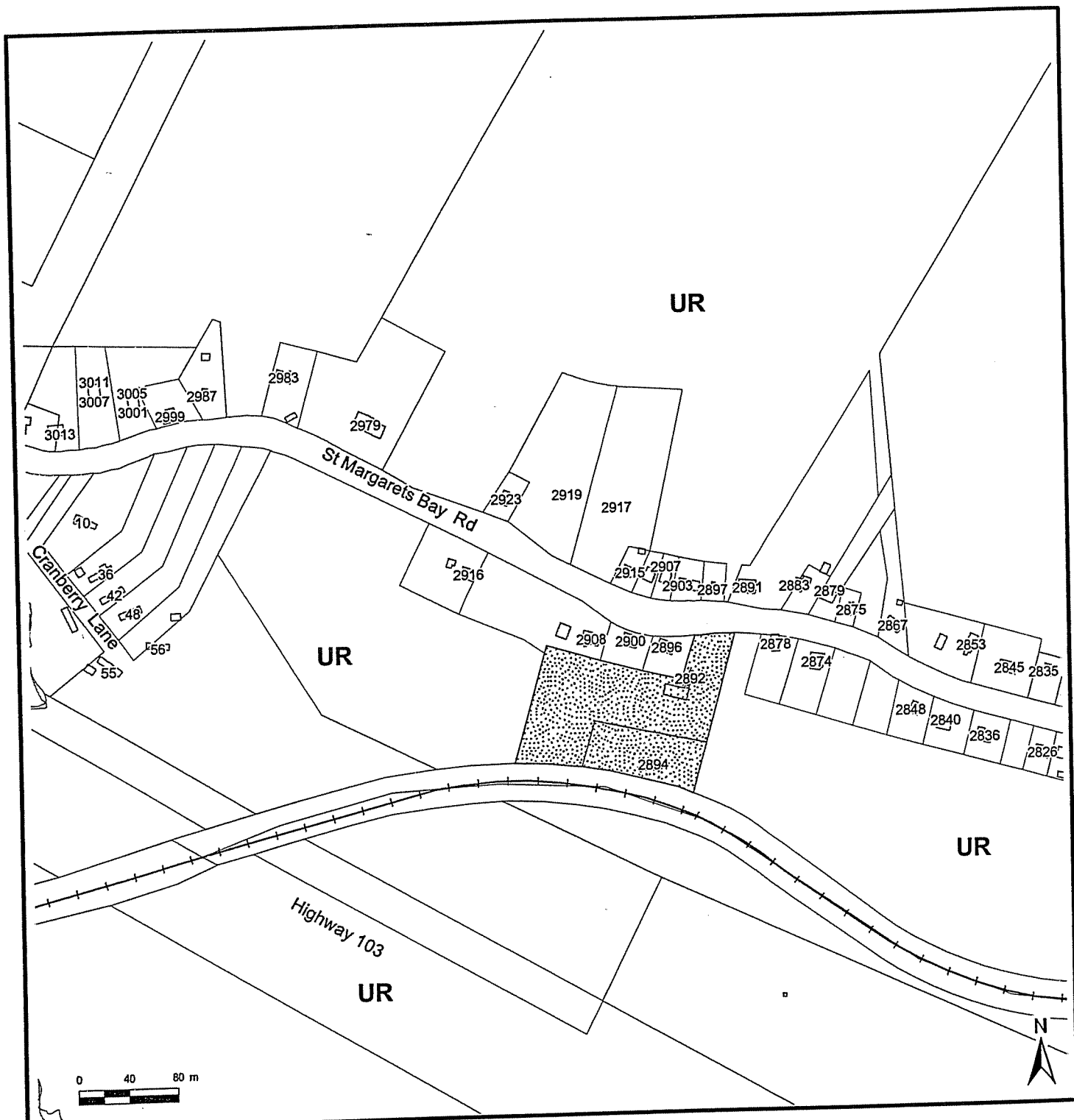
Timberlea/Lakeside/Beechville Plan Area

HALIFAX
 REGIONAL MUNICIPALITY
 PLANNING AND
 DEVELOPMENT SERVICES

0 40 80 m




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
 2892 & 2894 St. Margaret's Bay Road
 Timberlea



 Subject property

Designation

Timberlea/Lakeside/Beechville Plan Area

UR Urban Residential

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Timberlea/Lakeside/Beechville Plan Area.

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

Attachment A

Proposed Amendments to the Timberlea/Lakeside/Beechville Municipal Planning Strategy

The Municipal Planning Strategy for Timberlea/Lakeside/Beechville is hereby amended by:

1. Adding the following to Section III - Urban Residential, Policy UR-20 after the first paragraph:

In addition, for the total land area of properties known as 2892 and 2894 St. Margaret's Bay Road (Land Registration Information Service [PID] Numbers 40054538 and 40305369), Council may permit an expansion of the existing self-storage facility to an overall maximum gross floor area of 41,500 square feet.

2. Adding the following to Section III - Urban Residential, Policy UR-22 (g):

In addition, for the total land area of properties known as 2892 and 2894 St. Margaret's Bay Road (Land Registration Information Service [PID] Numbers 40054538 and 40305369), the Municipality may permit an expansion of the existing self-storage facility to an overall maximum gross floor area of 41,500 square feet;

Proposed Amendments to the Timberlea/Lakeside/Beechville Land Use By-law:

The Land Use By-law for Timberlea/Lakeside/Beechville is hereby amended by:

1. Adding the following to Part 14: C-3 (Service Business) Zone:

14.5 2892/2894 ST. MARGARET'S BAY ROAD

Notwithstanding Subsection 14.3 (a) for the total land area of properties known as 2892 and 2894 St. Margaret's Bay Road (Land Registration Information Service [PID] Numbers 40054538 and 40305369), the Municipality may permit an expansion of the existing self-storage facility to an overall maximum gross floor area of 41,500 square feet in accordance with Policy UR-20.

Attachment B

THIS AGREEMENT made this day of , 2005,
BETWEEN:

BAY SELF STORAGE INCORPORATED

A body corporate, in the Halifax Regional Municipality,
Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY

a municipal body corporate, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the developer wishes to obtain permission to expand an existing self storage use at 2894 St. Margaret's Bay Road, Timberlea (LRIS PID No. 40054538 and No. 40305369), pursuant to Policies UR-20, UR-22 and IM-12 of the Timberlea/Lakeside/Beechville Municipal Planning Strategy and Section 14.5 of the Timberlea/Lakeside/Beechville Land Use By-law;

AND WHEREAS the Developer warrants that it is the registered owner of the lands described in Schedule A hereto (hereinafter called the "Lands")

AND WHEREAS a condition of the granting of approval of Council is that the Developer enter into an agreement with the Halifax Regional Municipality;

AND WHEREAS the Western Region Community Council of Halifax Regional Municipality, at its meeting on the day of 2005, approved the said agreement, referenced as Municipal Case Number 00589, to allow expansion of an existing self storage facility on the lands subject to the registered owner of the lands described herein entering into this agreement;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the parties agree as follows:

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

The Developer agrees that the Lands shall be subdivided, consolidated, developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.2 Applicability of Land Use By-law and Subdivision By-law

Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Timberlea/Lakeside/Beechville Land Use By-law and the Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other Bylaws, Statutes and Regulations

Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

1.4 Conflict

Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any lands owned by the Developer.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: USE OF LANDS AND DEVELOPMENT PROVISIONS

2.1 Schedules / Use of Lands

The Developer shall develop and use the lands substantially in conformance with Plans No.00589-0003 and 00589-0004 filed in the Halifax Regional Municipality Planning and Development Services as Case 00589 and are attached as the following Schedules to this Agreement:

Schedule A	Legal Description of the Lands
Schedule B	Site Grading Plan (0003)
Schedule C	Lot Consolidation Plan (0004)

2.2 Architectural Requirements

- (a) The storage buildings shall be of metal construction mounted on concrete floor slabs supported by footings along the perimeter of each building.
- (b) The colour of all new buildings shall be compatible with the existing storage buildings.
- (c) Buildings abutting existing residential uses shall be constructed so that there are no exterior doors on the residential side.
- (d) The buildings identified on Schedule B as Phase II (existing), Phase IX and Phase VII shall be heated. All other buildings on site shall not be heated.
- (e) The maximum eave height of any new building shall not exceed twelve (12) feet with the exception of the Phase VII building which shall have a maximum eave height of seventeen (17) feet.
- (f) The 2 storey building identified in Schedule B as Phase VII shall function as a combined office and site services centre housing administrative services, electrical and security system controls and a service area for the storage and servicing of snow removal and other site maintenance equipment.
- (g) An eight (8) foot high security fence shall be located in accordance with Schedule B and completed in conjunction with Phase IX of the project. The fence shall be located a maximum of fifteen (15) feet from the rear property lines of the existing residential fronting on St. Margaret's Bay Road.
- (h) Security lighting shall be directed to driveways, building and site access areas and any other locations required for security purposes but shall be arranged to reduce the impact to abutting residential.
- (i) The maximum building size shall be thirty (30) feet by one hundred and seventy (170) feet and 5,100 square feet of gross floor area. The maximum gross floor area for the entire site shall be 41,500 square feet.

2.3 C-3 (Service Business) Zone Requirements

Subject to the provisions of this Agreement, the self storage facility shall meet the requirements of the C-3 (Service Business) Zone of the Timberlea/Lakeside/Beechville Land Use By-law.

2.4 Landscaping

Existing natural vegetation located around the perimeter of the site, and in particular abutting existing residential uses, shall be retained as required in order to maintain a vegetative buffer.

2.5 Services

- (a) The developer shall be responsible for securing all applicable approvals associated with the on-site servicing systems required to accommodate the development. Such approvals shall be obtained in accordance with applicable by-laws, standards, policies and regulations of HRM and other approval agencies, except as provided herein. All work is to be in accordance with the Municipal Service System guidelines. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer.
- (b) The Developer shall ensure that no surface drainage from the lot flows onto St. Margaret's Bay Road.
- (c) The storm drainage outlet to Block 1 of T. A. Products Limited is approved provided ownership of Block 1 is under the same ownership as the proposed development. Any conveyance of the western property, Block 1, shall be subject to provision of a service easement for the storm drainage outlet.

2.6 Parking

On site parking shall be provided throughout the site substantially in conformance with Schedule B. After the construction of the Phase VII building a minimum of six (6) parking stalls shall be provided along the frontage for customer use.

2.7 Driveway

The driveway shall meet the requirements of By-law S-300 and all hard surface areas shall be hard packed gravel.

2.8 Lot Consolidation

The two existing lots identified as 2892 and 2894 St Margaret's Bay Road (PID No. 40054538 and No. 40305369) shall be consolidated prior to building permit issuance for the Phase VII building. As an interim measure, prior to building permit issuance for the Phase III building, 2892 St. Margaret's Bay Road (T.A. Products Lands - PID No. 40305369) shall be subdivided as identified in Schedule C and consolidated with 2894 St. Margaret's Bay Road (Bay Self Storage Lands - PID No. 40054538). The remaining portion of 2892 St. Margaret's Bay Road (T.A. Products Lands - PID No. 40305369) shall be consolidated with 2894 St. Margaret's Bay Road (Bay Self Storage Lands - PID No. 40054538) prior to building permit issuance for the Phase VII building.

2.9 Dangerous Goods

The storage of Dangerous Goods as defined in the Canadian Dangerous Goods Management Regulations is prohibited.

2.10 Non-Substantial Amendments

The following items are considered by both parties to be non-substantial matters and may be amended by resolution of the Western Region Community Council:

- (a) changes to the architectural design or colour of the buildings.
- (b) changes to which buildings are to be heated as well as the total number of heated buildings.
- (c) reductions in the size of any of the buildings.
- (d) changes to the order of construction (phasing) of the buildings.
- (e) an extension in the length of time for commencement of Phase IX of the development as identified in Section 3.3 of this agreement.

2.11 Substantial Amendments

Amendments to any matters not identified under section 2.10 shall be deemed substantial and may only be amended in accordance with the approval requirements of the Municipal Government Act.

2.12 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and exterior of the building, fencing, parking areas and driveways, and any landscaping as well as be responsible for litter control, garbage removal and snow removal from driveways.

PART 3: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

3.1 Registration

A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay for the registration cost incurred in recording such documents.

3.2 Subsequent Owners

This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this agreement is discharged by the Council.

3.3 Commencement of Development

In the event that construction of Phase IX of the project has not been commenced within twenty (20) years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may by resolution of Council, either discharge this Agreement, whereupon this

Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction. For the purpose of this section, commencement shall mean the pouring of the footing and foundation for Phase IX of the development.

3.4 Completion of Development

Upon the completion of the development or portions thereof, or within twenty five (25) years from the date of registry of this Agreement with the Registry of Deeds, whichever time period is less, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

3.5 Issuance of Permits

The Municipality shall issue the necessary permits for the development upon the expiration of the fourteen day appeal period under Section 249 of the Municipal Government Act, as the same may be amended from time to time, or upon the withdrawal or dismissal of any appeal which may be taken.

PART 4: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

4.1 Access

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the lands, the Developer agrees to allow for such an inspection during any reasonable hour within seven (7) days of receiving such a request.

4.2 Failure or Default

If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:

- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;

- (b) the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property and be shown on any tax certificate issued under the Assessment Act.
- (c) the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
- (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

IN WITNESS WHEREOF the parties hereto have properly executed this Agreement as of the day and year first above written.

Signed, sealed and delivered in the presence of:) <u>BAY SELF STORAGE INCORPORATED</u>
)
)
per: _____) per: _____
)
)
) per: _____
)
Sealed, Delivered and Attested by the proper signing officers of Halifax Regional Municipality duly authorized on that behalf in the presence of) <u>HALIFAX REGIONAL MUNICIPALITY</u>
)
)
) per: _____ Mayor
)
)
per: _____) per: _____ Municipal Clerk
)

ST MARGARETS BAY ROAD

Now of Family
HELEN FRASER

PHASE VII
OFFICE AND MAINT
30' x 75'
2 STOREY

T.A. Products property to be transferred prior to Phase VII
"Block B"

PAUL J. and
MARION C. HARPER

PHASE IX
20' x 170'

PHASE VIII
30' x 167'

PHASE IV
30' x 167'

Existing Building (Metal Sided) 30' x 167'

JAMES W. and
DAWN L. TUTTS

Existing Building (Metal Sided) 20' x 170'
Balance of T.A. Products property to be transferred after Development Agreement - Block "A"

PHASE III
30' x 167'

PHASE V
30' x 167'

PHASE VI
30' x 167'

Existing Bay Self Storage property
PID 40054538

PAUL S. and BEVERLY HANLEY

BLOCK 1
T.A. PRODUCTS LTD.

00589-0004

HER MAJESTY THE QUEEN, in Right of Her
Province of Nova Scotia
(Department of Natural Resources)

Attachment C

**Public Information Meeting Minutes
Case 00589
March 24, 2005**

In attendance: Councillor Rankin
Randa Wheaton, Planner
Gail Harnish, Planning & Development Services
Tom Robertson
David Robertson

Ms. Randa Wheaton called the public information meeting to order at approximately 7:00 p.m. in the cafeteria of the Beechville/Lakeside/Timberlea School.

Ms. Wheaton advised the application is for an amendment to the municipal planning strategy (MPS), and also involves a development agreement. There are two processes running concurrently. She reviewed the process:

- It starts with an application/letter of request.
- Staff does a preliminary review of the application to ensure it is a viable application and there are no obvious technical problems.
- An initiation report goes to Regional Council. A report went to Regional Council on February 1st, at which time they decided it was a proposal they wanted to pursue and were interested in considering an amendment to the MPS for this particular project.
- We are at the public information meeting (PIM) which is really the first step in reviewing the application. The PIM is held early in the process so we can gauge the community feelings. It is important for planning staff and Council to know early in the process whether this is something the community is comfortable with and if there are any major problems or concerns. If concerns are identified at the PIM, changes are made to the plans to improve it and address some of the public's concerns. It is the first opportunity the public has a say in what is happening.
- Planning staff does a detailed review of the application. We would forward it to other HRM departments and other agencies.
- A report is prepared by Planning staff which lays out for Council the planning policy basis under which we would be bringing this forward and it would explain exactly what is being proposed. A development agreement would be attached to the report which outlines all the terms and conditions the applicant would be required to meet. The development agreement is essentially a contract between the developer and HRM and identifies the obligations of Mr. Robertson and HRM. It is legally binding on the property, so if he was to sell the property, it would run with the property. The development agreement does not change the zoning but is placed on top as a legal contract.
- The report and development agreement are tabled with Western Region Community Council who makes a recommendation to Regional Council.
- Regional Council would decide on the MPS amendment. They have the option to refuse it at this point. If they accept that it's valid, they would set a public hearing date. That would be the second opportunity the community has to bring forward any concerns or issues. Anyone within 250' of the project would be given notification of the public hearing. Because

- it is an MPS amendment and a development agreement, it will be a joint public hearing held by Regional Council and Western Region Community Council.
- Regional Council approves the MPS amendment first. It goes to the Minister of Service Nova Scotia and Municipal Relations for review and approval. The development agreement cannot be approved until the MPS amendment is approved and advertised.
 - It then goes back to Community Council for approval of the development agreement.
 - Once the development agreement is approved or rejected, there is an opportunity for an appeal to the N.S. Utility and Review Board.

Mr. David Robertson pointed out the property in question, noting they currently have two buildings. One was built in 2002 and the other last year. The rest of the development agreement proposal focuses on the remaining buildings. He displayed a plan showing the various buildings and pointed out the order of phasing in which they would build the buildings. He pointed out the area of the fence on the map. Once they get to that point, they will remove the fence and are talking about doing the office function out at the front of the property which will allow them to move the gate out front to permit further expansion.

Mr. Robertson advised the buildings are a minimum of 25' in from the property line, so they have 15' from the property line to the 8' high security fence and then 10' from the fence to the buildings. There are no doors or access points on the back of the buildings or any lights that would cause any issues with the neighbours.

Mr. Robertson pointed out an area where they would leave the natural vegetation. He pointed out which buildings would have doors on four sides and those which would have doors on two and three sides.

Mr. Robertson indicated they abut the Rails for Trails at the back of the property and there is natural vegetation between the fence and the trail.

Mr. Robertson advised it has been laid out so that there is sufficient space between the buildings to allow for multiple customers to arrive at one time to load and unload their vehicles, as well as allow for emergency access by the fire department.

Mr. Robertson noted the buildings they are talking about using are identical to the existing ones. They are self-framing structures.

Mr. Robertson displayed a picture showing the most current building and what the property looks like behind the nearest building.

Mr. Robertson advised that since being opened in 2002, in any twenty-four hour period, they get about 3.34 customers at one time so there is not much traffic. The most they've had in a full twenty-four hours is ten to twelve customers. Very seldom are there more than three people on the site at any one time. They have a number of customers around their immediate area using their facility for their own business who access it on a more regular business.

An individual referenced the map on the handout and questioned whether the Robertson's own the lot behind the R-3 lot. Tom Robertson responded no. It was clarified there is an error on the map.

Mr. Derek Redden, 1949 St. Margarets Bay Road, stated it's an ambitious project. He questioned the timeframe he was looking at to complete everything.

Mr. Tom Robertson responded that may never happen because of the way the zoning has been done over the years. This application is now two years old and noted it may be another year before this is through. They have no plans to build at this time. It depends on the volume of business. They have laid it out so that if the opportunity and the demand is there, then they will move forward without having all the hassles.

Ms. Wheaton indicated there was a requirement for a plan amendment because in the MPS there is a limit on the gross floor area that a business such as this is allowed to have. There needs to be an amendment to the MPS and the land use by-law to lift that cap. When Mr. Robertson first came in, we said that if he was going through the process of amending the MPS to increase the area that he's allowed, instead of doing it building by building and having to go through the process every time he wanted to build another building, then show us the ultimate buildout so that we could look at one amendment to the MPS and one development agreement that would allow him to build the ultimate goal even though it may not happen. He's asking now for the ability to build all those nine buildings at some time in the future. In the next five years he may only build two or three more buildings depending on the market. They felt it was important for him to proceed with the ultimate design so that he makes one proposal to Council and a development agreement that allows him to do the most he can on the property. That is why he has this grandiose plan. It seemed reasonable and better for everyone to proceed with this one proposal and do it one time instead of again and again.

Mr. Redden commented it was a totally different story ten years ago. All of a sudden now you want us to build and have great things, when before they were all restricted to the tiniest of things and now it is a great thing that they can build out and use the property and promote the idea of using the property. It is a great idea.

Ms. Wheaton noted there are only eight properties in the Beechville/Lakeside/Timberlea plan area that have this particular zoning, so the opportunity for doing a similar project like this is extremely limited. Most of those eight properties are already developed so this is the only opportunity to do what he wants to do and he has the property to do it. Even with the nine buildings, he is still not exceeding the 30% maximum lot coverage. The only standard he's exceeding is the cap on the gross floor area.

Mr. Redden asked for confirmation that it would require an MPS amendment.

Ms. Wheaton responded yes, because the maximum floor area is stipulated in the MPS. We would have to amend the MPS to allow a development agreement on this particular property and allow this property to increase that gross floor area, so it does not give the same capability to the other C-3 zoned properties. They would have to go through the same process.

Mr. Donnie MacDonald, 2358 St. Margarets Bay Road, said he also supported the project. It is needed in this community. HRM is partly the cause why it's needed because now they find people can build on 44' wide lots. Where would people on those lot sizes build to store anything without having to travel around? The business does not create a traffic hazard. There are all kinds of reasons why this should be allowed to proceed. He completely supported the project.

Ms. Carlita Hunter, 2891 St Margarets Bay Road, said she lived directly across from the driveway and the property. She and her husband have used the facilities and find them excellent. They have fewer problems with the traffic arising from the business there than they do from the people that are parking there to use the trail. That is more a concern than this expansion. She was all for the expansion and was looking forward to keeping Tom as a corporate neighbour.

Mr. Humphrey Longard, 21 Riverview Drive, stated it is a good project and he would recommend that Council approve it.

Ms. Bev Hanley, 2908 St. Margarets Bay Road, said they live directly in front of the property. They had no complaints about it and were 100% in favour of the proposal.

An individual from a property next door said he was 100% in favour of the proposal. It gives them more security than they have ever had there. It is the greatest thing he has ever had there.

Ms. Wheaton thanked everyone for coming forward. She encouraged that they attend the public hearing as well. Any comments made to Council in support or not is always well received and they like to hear from the community in relation to any proposal.

Councillor Rankin questioned when Randa anticipated having the report in front of Council, and whether it could be by the end of April. Randa responded probably longer than that.

Councillor Rankin encouraged that the report be ready by mid May, keeping in mind the Council summer break.

Ms. Wheaton said she would try and get it to Council before the summer break.

The meeting adjourned at approximately 7:35 p.m.

Attachment D

Extracts from the Timberlea/Lakeside/Beechville Municipal Planning Strategy and the Land Use By-law

Timberlea/Lakeside/Beechville Municipal Planning Strategy

Existing Commercial and Industrial Uses

The intent of this strategy is to minimize and, where possible, resolve some of the most serious land use conflicts and to designate areas which are appropriate for development. There remain however, a number of existing commercial and industrial uses located in residential areas, which do not involve serious land use conflicts. The road pattern and the absence of zoning controls until 1982 have produced a mixture of residential, commercial and industrial uses along Highway No. 3. Some of this mix is incongruous with respect to traffic, noise, aesthetics, and suitable separation distances.

These uses are reasonable, however, in terms of the services they provide, their acceptance to the community and their suitability to the immediate area in terms of scale and size.

Other commercial and industrial uses include retail stores, small manufacturing operations, a number of autobody shops and equipment sales and rental shops. In the main, residents have accepted these as part of the community, notwithstanding their residential locations. In order to accommodate these commercial and industrial land uses, zoning and development agreement provisions will be established, which are intended to recognize the existing uses and provide specific control over of any potential expansion. It shall not be the intention to apply these remedies to new uses but only to recognize existing uses.

UR-20 Notwithstanding Policy UR-1, within the Urban Residential Designation, it shall be the intention of Council to provide for the continued use of commercial and industrial properties through the application of a service business zone which permits service commercial uses of up to five thousand (5,000) square feet in floor area. This zone shall also specifically permit existing uses, including existing buildings which presently exceed the maximum permitted floor area, but shall not permit the establishment of such uses in the future. To offer protection for adjacent uses, open storage, outdoor display, and parking areas shall be regulated. It shall not be the intention of Council to permit future rezoning to a service business zone within the Urban Residential Designation. Further, any proposed expansion of permitted service commercial uses beyond the five thousand (5,000) square foot maximum floor area permitted in the zone, may be considered according to the development agreement provisions of the Planning Act, subject to the criteria outlined in Policy UR-22.

There are a number of general commercial uses located along the Bay Road including grocery stores and gas stations which are located outside of a commercial designation. These uses could not be considered to be local in nature nor are they similar to existing uses to which the service business zone will be applied. Therefore, it is appropriate to apply the general business zone to these few properties.

UR-22 Notwithstanding Policy UR-1, within the Urban Residential Designation, it shall be the intention of Council to provide for the continued use of commercial and industrial properties identified in Appendix "B" of the land use by-law. Further, Council shall consider any proposed expansion or change of such uses according to the development agreement provisions of the Planning Act. In considering any expansion proposal or change of use, Council shall have regard to the following:

- (a) that site design details, including landscaping, buffering, outdoor storage areas, parking areas and driveways are of an adequate size and design to address potential impacts on adjacent residential development, and to provide for the needs of users of the development;
- (b) that the appearance of all buildings and structures related to the use shall be compatible with the surrounding area in terms of scale, exterior appearance and signage;
- (c) the impact on traffic circulation and, in particular, sighting distances and entrances and exits to the site;
- (d) that municipal central services or, in unserved areas, on-site services, are capable of supporting the development;
- (e) an assessment of the environmental concerns related to the development, including potential effects on watercourses, based on a report from the appropriate Federal or Provincial government authority;
- (f) hours of operation;
- (g) that the maximum gross floor area of the proposed development, exclusive of any area devoted to an accessory dwelling unit, shall not exceed six thousand five hundred (6,500) square feet;
- (h) maintenance of the development; and
- (i) the provisions of Policy IM-12.

IM-12 In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this strategy, Council shall have appropriate regard to the following:

- (a) that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulations.
- (b) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Municipality to absorb any costs relating to the development;
 - (ii) the adequacy of sewer and water services;
 - (iii) the adequacy or proximity to school, recreation or other community facilities;
 - (iv) the adequacy of road networks leading or adjacent to, or within the development; and
 - (v) the potential for damage to or for destruction of designated historic buildings and sites.
 - (vi) the proposed means of handling storm water and general drainage within and from the development. RC - October 30, 2001 E / December 8, 2001
- (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;

- (ii) height, bulk and lot coverage of any proposed building;
 - (iii) traffic generation, access to and egress from the site, and parking;
 - (iv) open storage and outdoor display;
 - (v) signs; and
 - (vi) any other relevant matter of planning concern.
- (d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding.
- (e) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.
(RC July 2, 2002 / E - August 17, 2002)

Timberlea/Lakeside/Beechville Land Use By-law

PART 3: ZONES AND ZONING MAPS

3.6 OTHER USES CONSIDERED BY DEVELOPMENT AGREEMENT

Notwithstanding Section 3.5 above, certain uses which may not be uses permitted in any zone may be considered in accordance with the development agreement provisions of the Planning Act. As provided for by Policy IM-10 of the Municipal Planning Strategy for Timberlea/Lakeside/Beechville, such uses are as follows:

- (a) mobile home parks and expansions of existing mobile home parks;
- (b) townhouse developments;
- (c) senior citizen housing;
- (d) medical clinics and day care facilities;
- (e) residential care facilities;
- (f) expansion of service commercial uses;
- (g) expansions or change of use of commercial and industrial uses identified in Appendix "B";
- (h) expansions of the Halifax Sufferance Warehouse;
- (i) dwelling units above the first floor of commercial buildings;

- (j) shopping plazas and malls with greater than fifty thousand (50,000) square feet (4645.2 m²) of floor area;
- (k) taverns and other commercial entertainment uses;
- (l) extractive facilities and bulk storage of aggregate or minerals; and
- (m) the development of uses within any CDD (Comprehensive Development District) Zone.

PART 14: C-3 (SERVICE BUSINESS) ZONE

14.1 C-3 USES PERMITTED

No development permit shall be issued in any C-3 Zone except for the following:

Commercial Uses

- Retail stores
- Food Stores
- Service and personal service shops
- Offices Banks and financial institutions
- Restaurants except drive-in and take-out restaurants
- Nursery and commercial greenhouse operations
- Medical, dental and veterinary clinics
- Post offices
- Plumbing, heating, electrical, carpentry and other special trade contracting services and shops, except welding, auto repair, and metal fabrication shops.

Self-storage facility (WRCC June 24, 2002 / E - July 14, 2002)

Existing uses as follows:

<u>Use</u>	<u>Civic Address</u>	<u>LRIS Index</u> <u>Number</u>
R and R Pools	1949 Bay Road	40026726
Ewing's Autobody	2581 Bay Road	40050155
Atlantic Micro Computers	2777 Bay Road	40054249
T. A. Products	2892 Bay Road	40305369
		40054470
		40054538
		40304339
Carlsen's Manufacturing	3156 Bay Road	40027625
H. Longard's Enterprises Ltd.	2449 Bay Road	40027609
		40027633
		40160509
M. Longard's Trucking	2206 Bay Road	40592479
Timberlea Dive Shop	2810 Bay Road	

Residential Uses

Single unit dwellings including a dwelling unit for maintenance or security personnel Business Uses in conjunction with permitted dwellings

Community Uses

All uses permitted in the P-2 (Community Facility) Zone

14.2 C-3 ZONE REQUIREMENTS

In any C-3 Zone, no development permit shall be issued except in conformity with the following:

Minimum Frontage:	central sewer and water services	75 feet
	on-site services	100 feet
Minimum Lot Area	central services	10,000 square feet (929 m ²)
	on-site services	20,000 square feet (1,858 m ²)
Minimum Front or Flankage Yard		30 feet
Minimum Rear or Side Yard		25 feet
Maximum Lot Coverage		30 percent
Maximum Height of Main Building		35 feet

14.3 OTHER REQUIREMENTS: FLOOR AREA AND BUILDING SEPARATION

- (a) The gross floor area of all buildings on any lot in a C-3 Zone, excluding permitted dwelling units, shall not exceed five thousand (5,000) square feet (464.5 m²).
- (b) No main building within any C-3 Zone shall be located within fifty (50) feet of a dwelling on any abutting lot.

EXTRACT FROM THE DRAFT JULY 27, 2005 WESTERN REGION COMMUNITY COUNCIL MINUTES

MOVED by Councillor Rankin, seconded by Councillor Adams, that western Region Community Council recommend that Regional Council:

- 1. Give First Reading to the proposed amendments to the Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) and Land Use By-law (LUB) as contained in Attachment A of the staff report dated June 10, 2004 and schedule a joint public hearing with Western Region Community Council.**
- 2. Approve the amendments to the Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) and Land Use By-law (LUB) as contained in Attachment A of the staff report dated June 10, 2005.**

It is further recommended that Western Region Community Council:

- 1. Moved Notice of Motion to consider approval of the proposed development agreement, as contained in Attachment B, to permit an expansion of an existing self storage facility at 2892/2894 St. Margaret's Bay Road, Timberlea, and schedule a joint public hearing with Regional Council.**