

**Halifax and West Community Council**  
**August 7, 2013**

**TO:** Chair and Members of Halifax and West Community Council  
**SUBMITTED BY:** ( Original Signed  
Brad Anguish, Director of Community & Recreation Services  
**DATE:** July 17, 2013  
**SUBJECT:** **Case 18699: Amendment to the Timberlea/Lakeside/Beechville Land Use By-law to permit larger Home Child Care Operations**

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**ORIGIN**

At the February 4, 2013 meeting of Halifax and West Community Council, Deputy Mayor Rankin explained that a number of residents have expressed concern over the restrictive number of child care spaces permitted within semi-detached dwellings in the Timberlea/Lakeside/Beechville (Timberlea) Plan area. Community Council discussed the issue and approved the following motion:

*MOVED by Deputy Mayor Rankin, seconded by Councillor Adams that Halifax & West Community Council request staff to explore the feasibility of increasing, from 3 to 5, the number of children permitted in Timberlea area daycare facilities housed in semi-detached dwellings. MOTION PUT AND PASSED.*

**LEGISLATIVE AUTHORITY**

*HRM Charter; Part VIII, Planning & Development*

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give First Reading to the proposed amendment to the Timberlea/Lakeside/Beechville Land Use By-law to increase the number of child care spaces permitted within a two unit dwelling from 3 to 5 children, as contained in Attachment A, and schedule a public hearing; and
2. Approve the proposed amendment to the Timberlea/Lakeside/Beechville Land Use By-law, as contained in Attachment A of this report.

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## **BACKGROUND**

### **Designation and Zoning**

In recognition of established residential communities and the need to provide for a variety of residential opportunities, the Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) establishes the Urban Residential Designation, as shown on Map 1. The Designation constitutes the priority area for continuing residential development and for those uses which are supportive of residential environments as set out in Policy UR-1 (Attachment B).

Under the Urban Residential Designation, various residential zones were established, including the R-2 Zone as per Policy UR-4. The R-2 Zone permits, in addition to low density residential uses (single and two unit dwellings):

- Day care facilities for not more than fourteen (14) children in conjunction with permitted single unit dwellings;
- Home child care services for not more than three (3) children in conjunction with permitted two unit dwellings;
- Business uses in conjunction with permitted dwellings;
- Open space uses; and
- Institutional uses except day care facilities, medical clinics and fraternal centres and halls.

### **Location and Implications**

The R-2 Zone is found throughout the Urban Residential Designation and has been applied to various individual properties and to subdivisions such as Greenwood Heights. Most R-2 Zoned properties abut R-1 (Single Unit Dwelling) zoned properties with a few properties abutting commercially or CDD (Comprehensive Development District) zoned lands (Maps 2 and 3).

### **Previous Amendments: Home Child Care Services**

Until January 1996, the Timberlea/Lakeside/Beechville Land Use By-law (LUB) did not permit any child care services within two unit dwellings due to compatibility concerns as a result of smaller lot sizes and dwelling footprint coverage. This restriction was removed by North West Community Council on January 24, 1996, as it was seen to be discriminatory compared to other residential areas within the former County which enabled such services in two unit dwellings (i.e. Sackville and Eastern Passage). Therefore, North West Community Council approved an amendment to the Timberlea/Lakeside/Beechville LUB to permit “*home child care services for not more than three (3) children in conjunction with permitted two unit dwellings*” as shown in Attachment B. The term “home child care services” was used instead of the more common term “day care” as provincial requirements for daycares did not apply to operations with less than 4 children in 1996. However, current provincial Day Care Regulations exempt child care operations that care for 6 or fewer children of any age on a regular basis, including any children of the person providing the care, from requiring a license.

## **DISCUSSION**

The intent of the R-2 Zone is to encourage low density residential uses up to two units and supportive uses (home business uses, open spaces, and limited institutional uses) within the Urban Residential Designation. There is no specific MPS policy to consider larger home child services, nor is there specific policy to preclude Council from considering amending the R-2 Zone to permit two additional children within two unit dwellings.

Amendments to the LUB may be considered through a review of Policy UR-4 and the general implementation policy (Policy IM-12) of the Timberlea/Lakeside/Beechville MPS. In staff's opinion, the proposed amendment to the R-2 Zone is consistent with the MPS to support small scale home based businesses. Attachment B provides an evaluation of the proposed amendment in relation to these applicable policies. The following issue is being highlighted for more detailed discussion.

### **Compatibility**

The proposed amendment, if approved by Community Council, would allow for the establishment of home child care services for up to 5 children on all properties zoned R-2 Zone within the Timberlea/Lakeside/Beechville Plan area, provided all applicable requirements of the LUB are met. In staff's opinion, the proposed increase should have minimal impact on abutting low density residential uses due to the small increase from 3 to 5 children.

The Timberlea/Lakeside/Beechville MPS indicates that large day care facilities (over 14 children) within the Urban Residential Designation are a concern as they have the potential to generate compatibility issues, thus, they are permitted by development agreement only in accordance with Policy UR-16. However, the proposed increase in the number of children in home child care services is minor and does not warrant a development agreement to minimize land use conflicts. Further, the Timberlea/Lakeside/Beechville LUB contains adequate provisions (lot area and frontage, setbacks, and lot coverage) to deal with compatibility issues for such uses. Therefore, staff recommends that Halifax and West Community Council approve the proposed amendment to the R-2 Zone to enable up to 5 children within home child care operations as contained in Attachment A of this report.

## **FINANCIAL IMPLICATIONS**

The HRM costs associated with processing this planning application can be accommodated within the approved 2013/14 operating budget for C310 Planning & Applications.

## **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. Due to the nature of the proposed amendment and in consultation with the local Councillor, no public information meeting was held on this application.

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A public hearing must be held by Community Council before they can consider approval of this application. Should Community Council decide to proceed with a public hearing on this application, an advertisement will be published in the newspaper.

The proposed amendment will potentially impact (but not be limited to) the following stakeholders: local residents and property owners within residentially zoned areas.

### **ENVIRONMENTAL IMPLICATIONS**

No implications have been identified.

### **ALTERNATIVES**

1. Council may choose to approve the proposed amendment to the LUB for Timberlea/Lakeside/Beechville Land Use By-Law, as provided in Attachment A of this report. This is the staff recommendation. A decision of Council to approve this land use by-law amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Council may choose to refuse to approve the proposed amendment to the LUB for Timberlea/Lakeside/Beechville Land Use By-Law and, in doing so, must provide reasons why the LUB amendment does not reasonably carry out the intent of the MPS. This is not recommended for the reasons discussed in this report. A decision of Council to reject this land use by-law amendment, with or without a public hearing, is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
3. Council may choose to approve alternative amendments or additions to those outlined in this report. This may require an additional staff report(s) and a second Public Hearing.

### **ATTACHMENTS**

Map 1	Urban Residential Designation
Map 2	Zoning West
Map 3	Zoning East
Attachment A	Proposed Amendments to the Timberlea/Lakeside/Beechville Land Use By-law
Attachment B	Excerpts of Timberlea/Lakeside/Beechville MPS and Policy Review
Attachment C	Excerpts from the Timberlea/Lakeside/Beechville Land Use By-law

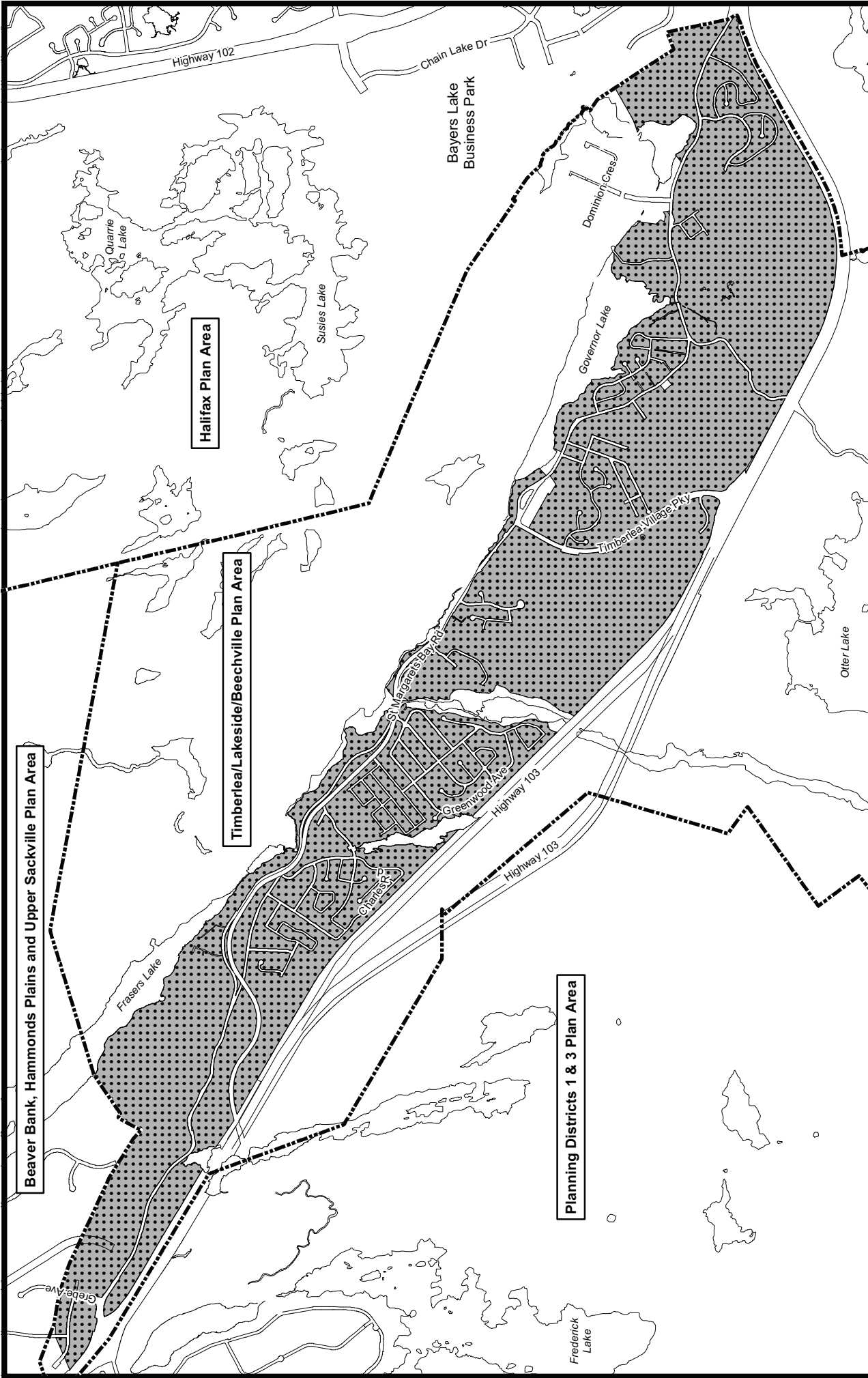
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Kurt Pyle, Supervisor of Planning Applications, 490-6011

Original Signed

Report Approved by:  Kelly Dent, Manager of Development Approvals, 490-4800

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**Map 1 - Urban Residential Designation**

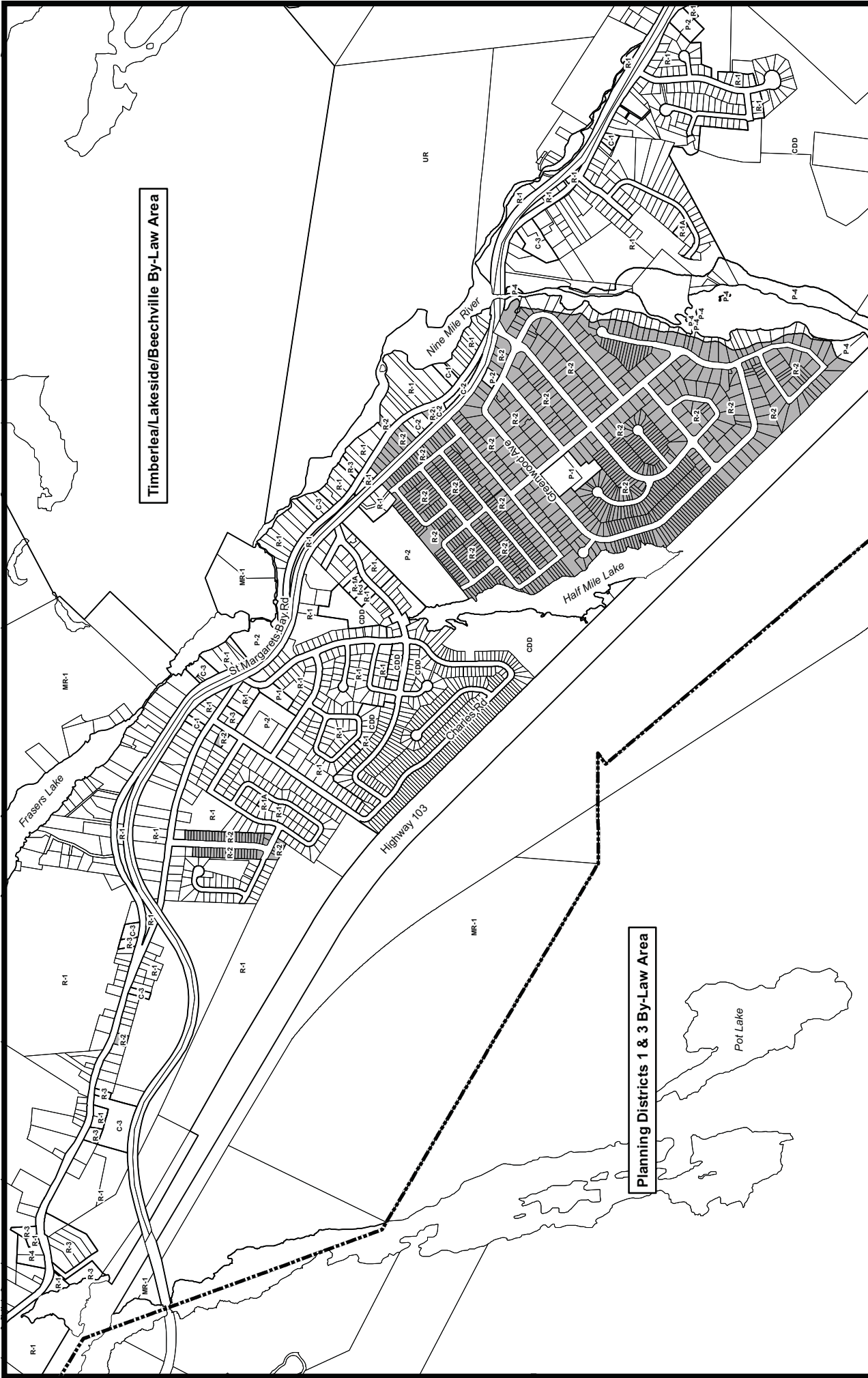
 Urban Residential Designation

Timberlea/Lakeside/Beechville  
Plan Area

**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS



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



Timberlea/Lakeside/Beechville By-Law Area

Planning Districts 1 & 3 By-Law Area

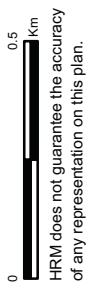
### Map 2 - Zoning West

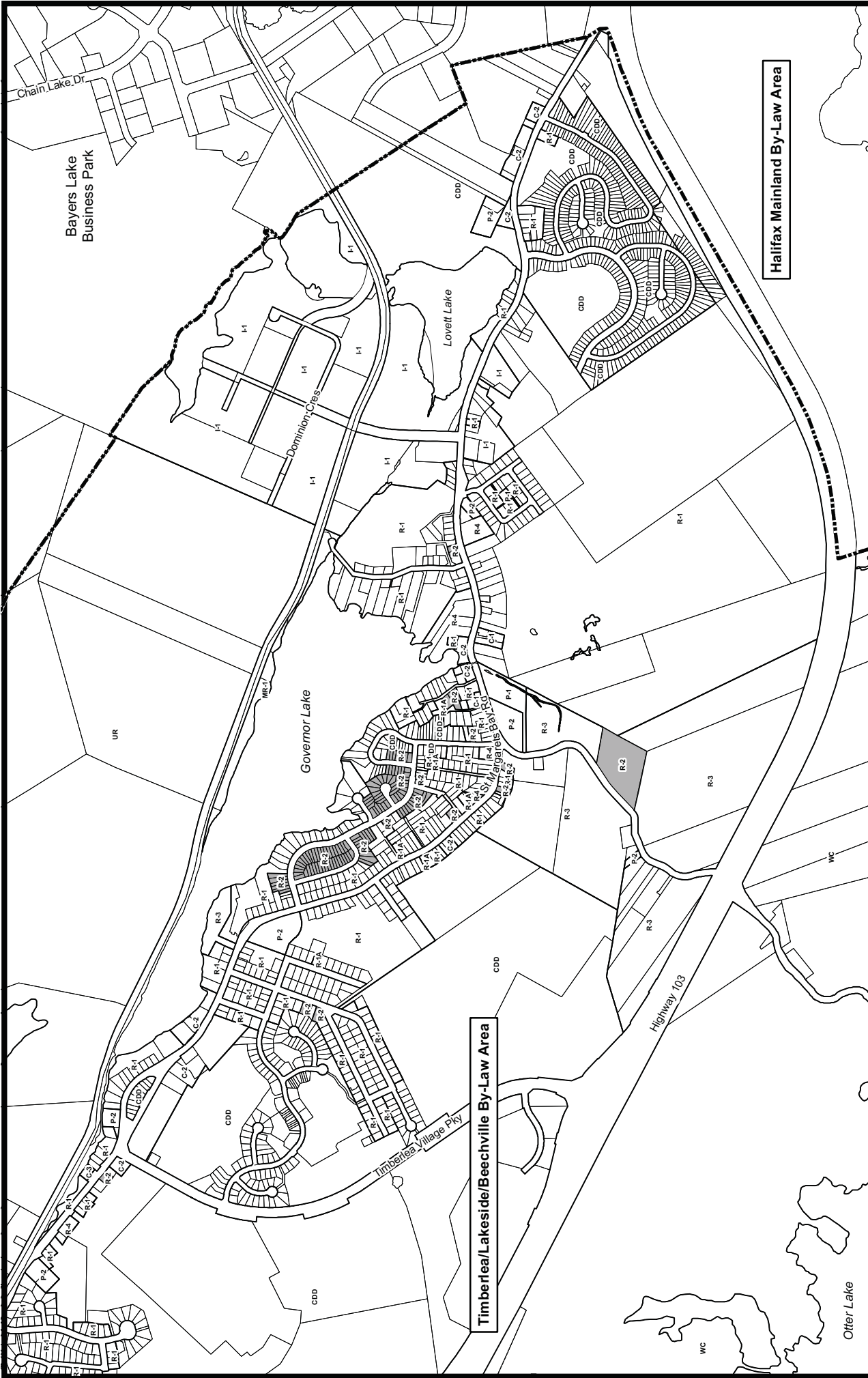
R-2 Zoned Properties

Timberlea/Lakeside/Beechville  
Land Use By-Law Area

- Zones**
- R-1 Single Unit Dwelling
  - R-1A Auxiliary Dwelling Unit
  - R-2 Two Unit Dwelling
  - R-3 Mobile Dwelling
  - R-4 Multi-Unit Dwelling
  - C-1 Local Business
  - C-2 General Business
  - C-3 Service Business

- CDD Comprehensive Development District
- MR-1 Mixed Resource
- P-1 Open Space
- P-2 Community Facility
- P-4 Conservation
- UR Urban Residential
- WC Western Common Regional Park





Halifax Mainland By-Law Area

Timberlea/Lakeside/Beechville By-Law Area

### Map 3 - Zoning East

R-2 Zoned Properties

Timberlea/Lakeside/Beechville  
Land Use By-Law Area

Zones	Comprehensive Development District
R-1	Single Unit Dwelling
R-1A	Auxiliary Dwelling Unit
R-2	Two Unit Dwelling
R-3	Mobile Dwelling
R-4	Multi-Unit Dwelling
C-1	Local Business
C-2	General Business
C-3	Service Business
CDD	Comprehensive Development District
I-1	Light Industry
MR-1	Mixed Resource
P-1	Open Space
P-2	Community Facility
UR	Urban Residential
WC	Western Common Regional Park





**Attachment A**  
**Proposed Amendments to the Timberlea Land Use By-law**

BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Timberlea/Lakeside/Beechville Land Use By-law, which was adopted by the former Halifax County on the 10<sup>th</sup> day of August, 1992 and approved by the Minister of Municipal Affairs on the 20<sup>th</sup> day of November, 1992, as amended, is hereby further amended as follows:

1. Amend Section 8.1 by deleting the text “three (3)” immediately after the words “Home child care services for not more than” and immediately before the words “children in conjunction with permitted two unit dwelling ” and replacing it with the following text:

**“five (5)”**

I HEREBY CERTIFY that the amendments to the Land Use By-law for Timberlea/Lakeside/Beechville as set out above, was passed by a majority vote of the Halifax and West Community Council of the Halifax Regional Municipality at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Cathy Mellett  
Municipal Clerk

**Attachment B**  
**Excerpts of Timberlea MPS and Policy Review**

<b>Policy Criteria</b>	<b>Staff Comment</b>
<p>UR-1 In recognition of the established residential community and the need to provide for a variety of residential opportunities, it shall be the intention of Council to establish the Urban Residential Designation, as shown on Map 1 - Generalized Future Land Use. The Designation shall constitute the priority area for continuing residential development and for those uses which are supportive of residential environments.</p>	<p>Proposed amendment is consistent with the intent of the Urban Residential designation to allow for a variety of residential opportunities and supportive residential uses such as child care services.</p>
<p>UR-4 Notwithstanding Policy UR-2, within the Urban Residential Designation, it shall be the intention of Council to establish a two unit dwelling zone, which permits single and two unit dwellings, as well as park and open space uses. The zone will also provide for institutional uses, business uses and limited day care facilities located in single unit residences provided that the scale of the business and its external appearance are compatible with the residential environment. In addition, the zone shall control parking and the number and size of signs, the placement of electrical metering and shall prohibit open storage and outdoor display. Provisions shall be established within the land use by-law to allow for reduced front or flankage yards in the case of lots shown on tentative or final subdivision plans which were designed based on the previous zone standards. In considering amendments to the land use by-law to a two unit dwelling zone, Council shall have regard to the following:</p> <ul style="list-style-type: none"> <li>(a) that where land to be rezoned abuts or is immediately adjacent to existing single unit dwelling zones, a buffer of R-1 zoned lots shall be maintained between existing and proposed development, on lands forming part of the area to be rezoned;</li> <li>(b) that streets are not considered to constitute part of the buffer and, except for individual lot infill, parkland with an area of less than one acre and a depth of less than one hundred (100) feet shall not constitute part of the buffer;</li> <li>(c) that municipal central services are available and capable of supporting the development;</li> </ul>	<p>The R-2 Zone enables limited day care facilities now within both single and two unit dwellings according to the Timberlea LUB. The addition of two more children within two unit dwellings residences zoned R-2 is not anticipated to impact abutting properties and is consistent with what is permitted in other suburban MPS's and LUB's within HRM, such as Sackville.</p>

<ul style="list-style-type: none"> <li>(d) the effect of the proposed development on the overall housing mixture in the community;</li> <li>(e) where new roads are being proposed as part of the development, an evaluation of the proposed road layout and the impacts on traffic circulation in the surrounding area; and</li> <li>(f) the provisions of Policy IM-12.</li> </ul>	
<p>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:</p>	
<ul style="list-style-type: none"> <li>(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.</li> </ul>	<p>The proposed amendment is consistent with the intent of the MPS to allow child care services in residential areas, specifically in two unit dwellings.</p>
<ul style="list-style-type: none"> <li>(b) that the proposal is not premature or inappropriate by reason of:</li> </ul>	
<ul style="list-style-type: none"> <li>(i) the financial capability of the Municipality to absorb any costs relating to the development;</li> <li>(ii) the adequacy of sewer and water services;</li> <li>(iii) the adequacy or proximity to school, recreation or other community facilities;</li> <li>(iv) the adequacy of road networks leading or adjacent to, or within the development; and</li> <li>(v) the potential for damage to or for destruction of designated historic buildings and sites.</li> <li>(vi) the proposed means of handling storm water and general drainage within and from the development. (RC-Oct 30/01;E-Dec 8/01)</li> </ul>	<p>The proposed amendment is neither premature or inappropriate relative to municipal infrastructure.</p>
<ul style="list-style-type: none"> <li>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</li> </ul>	
<ul style="list-style-type: none"> <li>(i) type of use;</li> <li>(ii) height, bulk and lot coverage of any proposed building;</li> <li>(iii) traffic generation, access to and egress from the site, and parking;</li> <li>(iv) open storage and outdoor display;</li> <li>(v) signs; and</li> <li>(vi) any other relevant matter of planning concern.</li> </ul>	<p>No specific development associated with the proposed amendment. However, the R-2 Zone contains adequate controls to reduce conflicts with abutting uses.</p>

<p>(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.</p>	<p>N/A</p>
<p>(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-Jul 2/02;E-Aug 17/02)</p>	<p>N/A</p>

**Attachment C**  
**Excerpts from the Timberlea Land Use By-law**

PART 8: R-2 (TWO UNIT DWELLING) ZONE

8.1 R-2 USES PERMITTED

No development permit shall be issued in any R-2 (Two Unit Dwelling) Zone except for the following:

Residential Uses

Single unit dwellings

Two unit dwellings

**Daycare facilities for not more than fourteen (14) children in conjunction with permitted single unit dwellings;**

**Home child care services for not more than three (3) children in conjunction with permitted two unit dwellings (MC-Jan 24/96;E-Feb 17/96)**

Business uses in conjunction with permitted dwellings

Community Uses

Open space uses

Institutional uses except day care facilities, medical clinics and fraternal centres and halls

8.2 R-2 ZONE REQUIREMENTS: RESIDENTIAL USES

In any R-2 Zone, where uses are permitted as Residential Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:	6,000 square feet (558 m <sup>2</sup> ), or 3,000 square feet (279 m <sup>2</sup> ) per dwelling unit where each dwelling unit of a two unit dwelling is located on a separate lot and where central services are available 20,000 square feet (1858 m <sup>2</sup> ) where central services are not available
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Minimum Frontage:	60 feet (18.3 m), or 30 feet (9.1 m) per unit where each dwelling unit of two unit dwelling is located on a separate lot and where central services are available 100 feet (30.5 m) where central services are not available
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Minimum Front or Flankage Yard	24 feet (7.3 m)
Minimum Rear or Side Yard	8 feet (2.4 m) and 0.0 feet (0.0 m) from the side being common with another dwelling unit
Maximum Lot Coverage	35 percent
Maximum Height of Main Building	35 feet (10.7 m)

### 8.3 OTHER REQUIREMENTS: BUSINESS USES

Where business uses are permitted in any R-2 Zone, the following shall apply:

- (a) Any business shall be wholly contained within the dwelling which is the principal residence of the operator of the business.
- (b) No more than twenty-five (25) percent of the gross floor area shall be devoted to any business use, and in no case shall any business use occupy more than three hundred (300) square feet (27.8 m<sup>2</sup>).
- (c) No mechanical equipment shall be used except that which is reasonably consistent with the use of a dwelling and which does not create a nuisance by virtue of noise, vibration or glare.
- (d) No open storage or outdoor display shall be permitted.
- (e) No more than (1) sign shall be permitted for any business and no such sign shall exceed two (2) square feet (.2m) in area.
- (f) One (1) off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m<sup>2</sup>) of floor area devoted to any business.
- (g) **No exterior alterations to the dwelling shall be permitted except to meet fire safety, structural safety, or health regulations, or to place a sign pursuant to 8.3 (e). (MC-Jan 24/96;E-Feb 17/96)**

### 8.4 ARCHITECTURAL REQUIREMENT: TWO UNIT DWELLINGS

Where two unit dwellings are permitted in any R-2 Zone, the following architectural requirements shall apply:

- (a) **No electrical utility meter shall be attached to the front face of any main building.**
- (b) **No exterior conduits for electrical service shall be located along the front face of any permitted dwelling beyond a distance of one (1) foot below the soffit line of the main roof. (C-Nov 8/93;E-Dec 4/93)**

#### 8.5 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-2 Zone, the following shall apply:

- (a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling, which is the principal residence of the operator of the facility.
- (b) Except for play equipment, no open storage or outdoor display shall be permitted.
- (c) No more than one (1) sign shall be permitted for any facility and no such sign shall exceed two (2) square feet (.2 m<sup>2</sup>) in area.
- (d) One off-street parking space, other than that required for the dwelling, shall be provided.

#### 8.6 R-2 ZONE REQUIREMENTS: COMMUNITY USES

In any R-2 Zone, where uses are permitted as Community Uses, no development permit shall be issued except in conformity with the provisions of Part 18 and Part 19 as are applicable.

#### 8.7 EXCEPTION: EXISTING R-2 ZONED LOTS

Notwithstanding the minimum front or flankage yard requirements of Section 8.2, where uses are permitted as residential uses on any lands which are zoned R-2 (Two Unit Dwelling) Zone and shown on a tentative or final subdivision plan approved on or before the effective date of this By-law, the minimum front or flankage yard may be reduced to twenty (20) feet.