



PO Box 1749  
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B3J 3A5 Canada

**Western Region Community Council**  
**February 22, 2010**

**TO:** Chair and Members of Western Region Community Council

**SUBMITTED BY:**

A handwritten signature in black ink, appearing to read "Austin French", written over a horizontal line.

Austin French, Acting Director of Community Development

**DATE:** February 8, 2010

**SUBJECT:** Case 01328: Rezoning – 1426 St. Margarets Bay Road, Lakeside

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**ORIGIN**

Application by NewCap Inc.

**RECOMMENDATION**

It is recommended that Western Region Community Council:

1. Give First Reading to consider the proposed rezoning of a portion of 1426 St. Margarets Bay Road from I-4 (Transmitter) to R-1 (Single Unit Dwelling), as identified in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed rezoning of a portion of 1426 St. Margarets Bay Road from I-4 (Transmitter) to R-1 (Single Unit Dwelling), as identified in Attachment A of this report.

## **BACKGROUND**

NewCap Inc. has applied to rezone the front portion of 1426 St. Margarets Bay Road (PID 40050122) in Lakeside from the I-4 (Transmitter) Zone to the R-1 (Single Unit Dwelling) Zone. The rear portion of the property is already zoned R-1.

### **Subject Property**

- Located opposite Governor Lake and Raines Mill Road
- Approximately 71 acres in area
- Within the Urban Service Area boundary
- contains several watercourses and wetlands in the northwest corner

### **Designation**

- Urban Settlement – Regional Municipal Planning Strategy (MPS)
- Urban Residential – MPS for Timberlea / Lakeside / Beechville (Map 1)

### **Zoning**

- Under the Land Use By-law for Timberlea / Lakeside / Beechville, the I-4 (Transmitter) Zone currently applies to the front portion of the subject property (Map 2).
- The R-1 (Single Unit Dwelling) Zone applies to the rear portion of the subject property.

### **Surrounding Land Uses**

- Undeveloped lands (zoned R-1) to the west (privately owned), south (municipally owned) and east (provincially owned)
- Low density residential uses to the north (on St. Margarets Bay Road) and northeast (on Balsam and Hamilton streets)

### **Proposal**

When the Municipal Planning Strategy for Timberlea / Lakeside / Beechville was approved in 1992, the front portion of the subject property was zoned I-4 (Transmitter) to accommodate the existing land use of AM radio transmission towers. Today, NewCap Inc. is converting from AM to FM across the country. As such, the existing AM radio transmission towers on the subject property are no longer in use, and they will be disassembled and removed from the property.

Since the land use that led to the I-4 (Transmitter) Zone is no longer in place, the proposal is to change the zoning for that portion to the R-1 (Single Unit Dwelling) Zone, the base zone for the Urban Residential designation.

### **Enabling Policy**

Policy UR-2 allows Council to consider rezonings to the R-1 (Single Unit Dwelling) Zone in the Urban Residential designation of the Timberlea / Lakeside / Beechville MPS. The R-1 Zone is

the default zone in this designation, applied unless special circumstances warrant, such as in this situation, commercial uses, or a plan for higher density development. Since special circumstances will no longer apply to this property, the R-1 zone is appropriate.

## **DISCUSSION**

Staff have reviewed the proposed rezoning with regard to the relevant policies contained in the Timberlea / Lakeside / Beechville MPS. The proposed rezoning of a portion of the subject property to the R-1 (Single Unit Dwelling) Zone meets the criteria listed in Policies UR-2 and IM-12. Analysis of these policies is included as Attachment B.

### **Potential for future subdivision**

No subdivision or development is proposed as part of the rezoning: the subject property will remain as one parcel and only R-1 uses (e.g. one single unit dwelling) would be permitted. Any future subdivision would be subject to the availability of servicing capacity, as well as the requirements of the Regional Subdivision By-law and the Land Use By-law for Timberlea / Lakeside / Beechville.

Since the subject property is within the Urban Service Area boundary, any new lots eventually created through the subdivision process will be serviced with sewer and water. At this time, due to limitations with the Nine Mile River sewage treatment plant, there is no capacity in the area for new subdivision development (with the exception of certain previously-approved concept subdivision plans). As such, the subject property **cannot** be subdivided until such time as adequate sanitary sewer capacity is available.

Halifax Water is currently exploring several options for upgrading the sewage treatment plant, but will not be able to confirm if additional capacity is available until the appropriate upgrade has been chosen, constructed and monitored for one year.

### **Watercourses and wetlands**

By rezoning the front portion of the subject property to the R-1 Zone, staff are proposing that R-1 uses – such as one single unit dwelling – are appropriate for this parcel. On a 71 acre parcel, a suitable building site can be found for a single unit dwelling, even with the constraints of the watercourses and wetlands.

If a future owner of the subject property wanted to subdivide the lands, the watercourses and wetlands would be identified and protected. The Regional Subdivision By-law requires that watercourses and wetlands be delineated on both concept and final subdivision plans, and the Land Use By-law limits development in or around watercourses and wetlands. In addition, both watercourses and wetlands are protected through Nova Scotia Environment regulations.

Therefore, while the watercourses and wetlands are a significant feature of the subject property, it is staff's opinion that they will be adequately protected from disruption associated with future development through the same regulations in the Subdivision By-law and Land Use By-law that apply to watercourses and wetlands throughout the Timberlea / Lakeside / Beechville Plan Area.

### **Public Information Meeting**

A public information meeting (PIM) for the proposed rezoning was held on November 4, 2009. The minutes for the PIM are included as Attachment C.

If Council decides to schedule a public hearing, property owners within the notification area shown on Map 2, as well as anyone who signed up at the PIM, will be notified of the hearing by mail. Public notices will also be posted in the local newspaper and on the HRM website.

### **Conclusion**

Staff have considered the proposed rezoning of a portion of 1426 St. Margarets Bay Road from the I-4 (Transmitter) Zone to the R-1 (Single Unit Dwelling) Zone, and advise that the proposal meets the criteria set out in Policies UR-2 and IM-12 of the Timberlea / Lakeside / Beechville MPS. Staff recommend that Western Region Community Council approve the proposed rezoning, as set out in Attachment A of this report.

### **BUDGET IMPLICATIONS**

The HRM costs associated with processing this planning application can be accommodated within the approved operating budget for C310.

### **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

### **ALTERNATIVES**

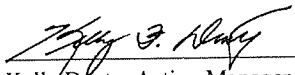
1. Council may choose to approve the proposed rezoning. This is the recommended course of action.
2. Council may choose to refuse the proposed rezoning, and in doing so, must provide reasons based on a conflict with the MPS policies.

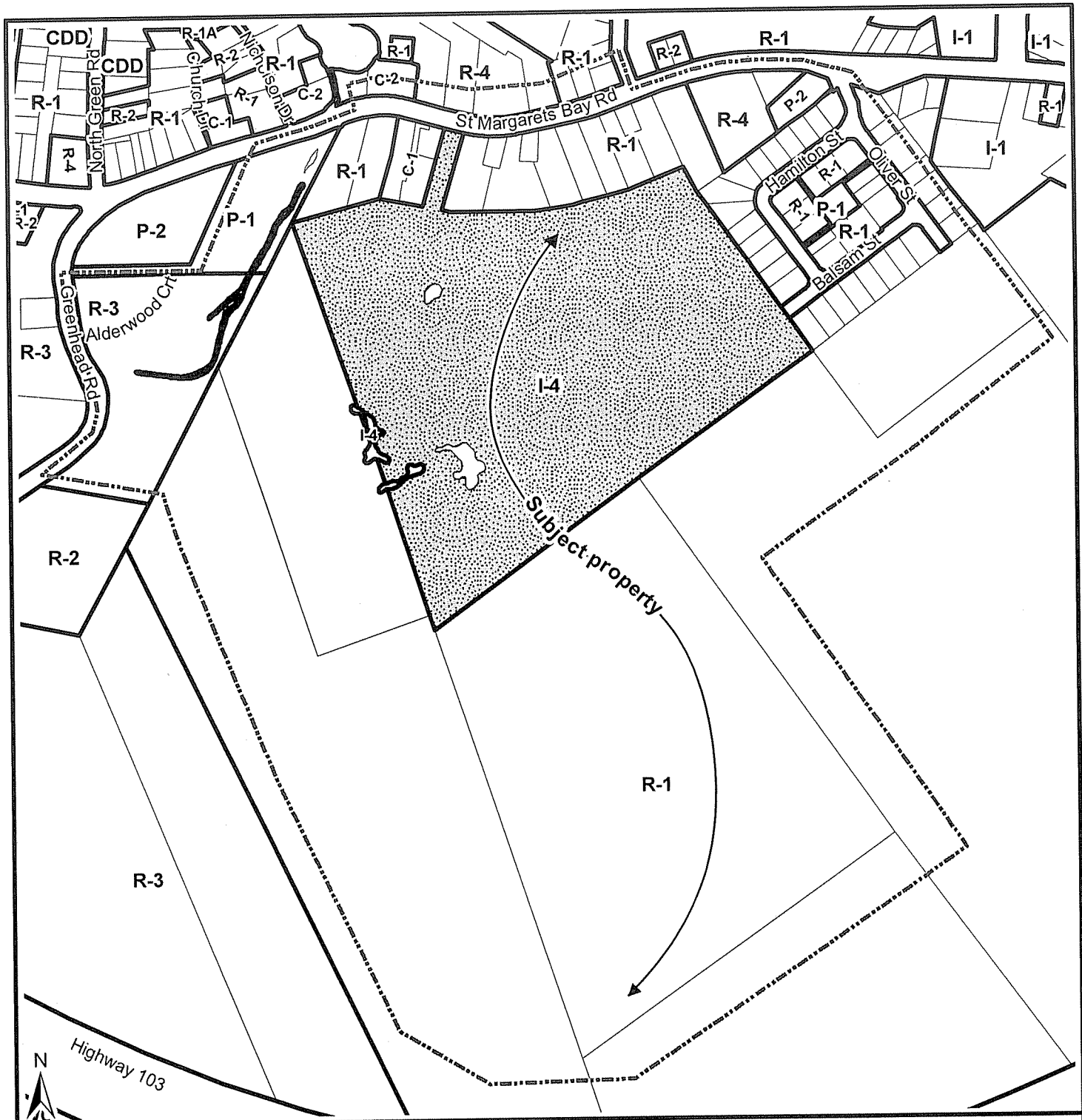
ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification Area
Attachment A	Amendments to the LUB for Timberlea / Lakeside / Beechville (including Schedule A)
Attachment B	Review of Relevant Policies from the MPS
Attachment C	PIM Minutes – November 4, 2009

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: Mackenzie Stonehocker, Planner I, 490-4793


Report Approved by:   
Kelly Denty, Acting Manager of Planning Services, 490-6011



## Map 2 - Location and Zoning

1426 St. Margarets Bay Road  
Lakeside

 Area proposed to be rezoned  
from I-4 (Transmitter) to  
R-1 (Single Unit Dwelling)

 Area of notification

Timberlea/Lakeside/Beechville Plan Area

### Zone

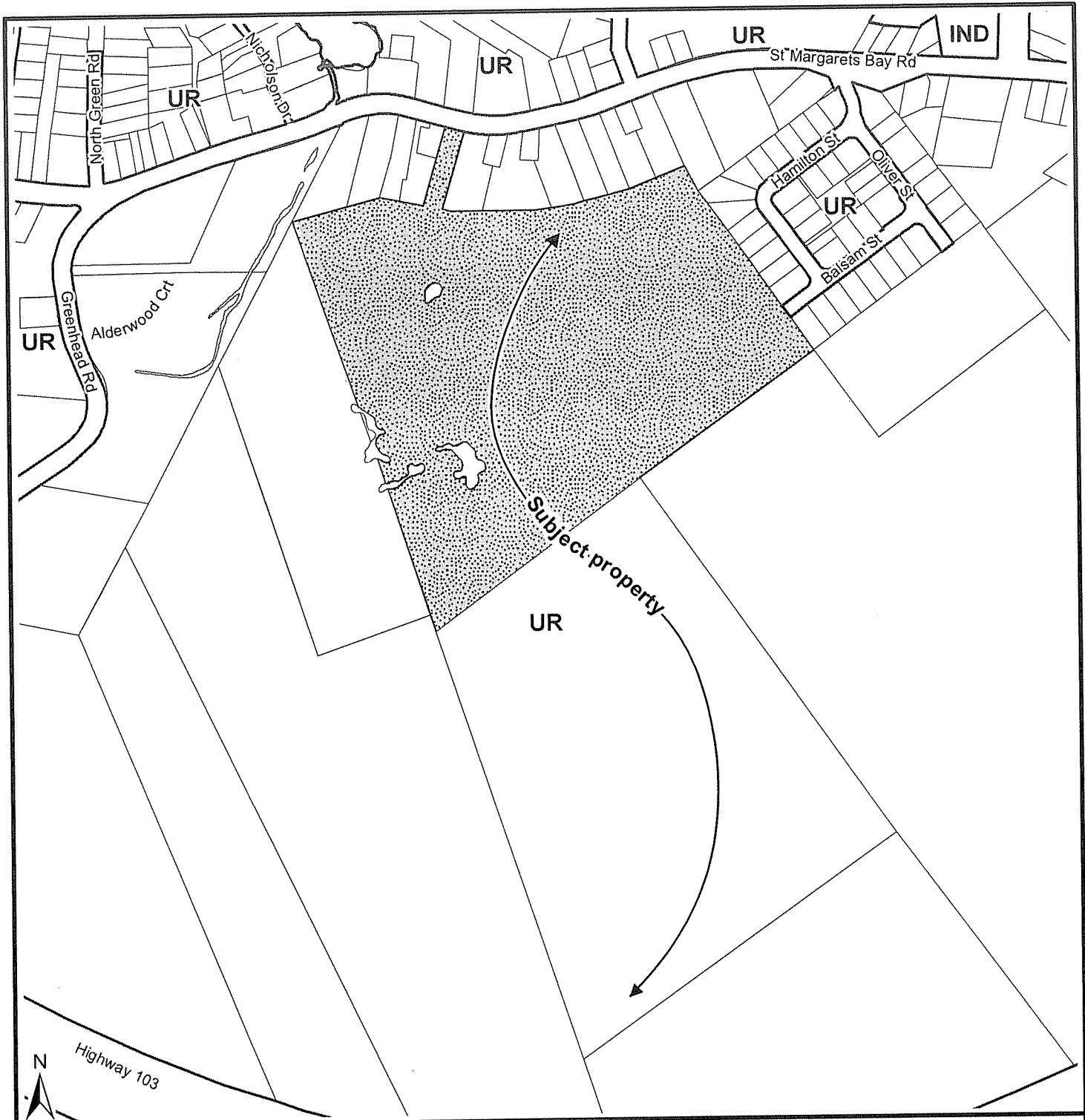
R-1	Single Unit Dwelling
R-1A	Auxiliary Dwelling Unit
R-2	Two Unit Dwelling
R-3	Mobile Dwelling
R-4	Multi-unit Dwelling
CDD	Comprehensive Dev. District
C-1	Local Business
C-2	General Business
I-1	Light Industry
I-4	Transmitter
P-1	Open Space
P-2	Community Facility

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PLANNING SERVICES

0 50 100 150 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 1 - Generalized Future Land Use

1426 St. Margarets Bay Road  
Lakeside



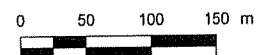
Area proposed to be rezoned  
from I-4 (Transmitter) to  
R-1 (Single Unit Dwelling)

### Designation

IND	Industrial
UR	Urban Residential

Timberlea/Lakeside/Beechville Plan Area

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

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**Attachment A:**  
**Amendments to the Land Use By-law for Timberlea / Lakeside / Beechville**

BE IT ENACTED by the Western Region Community Council of the Halifax Regional Municipality that the Land Use By-law for Timberlea / Lakeside / Beechville, as amended, is hereby further amended as follows:

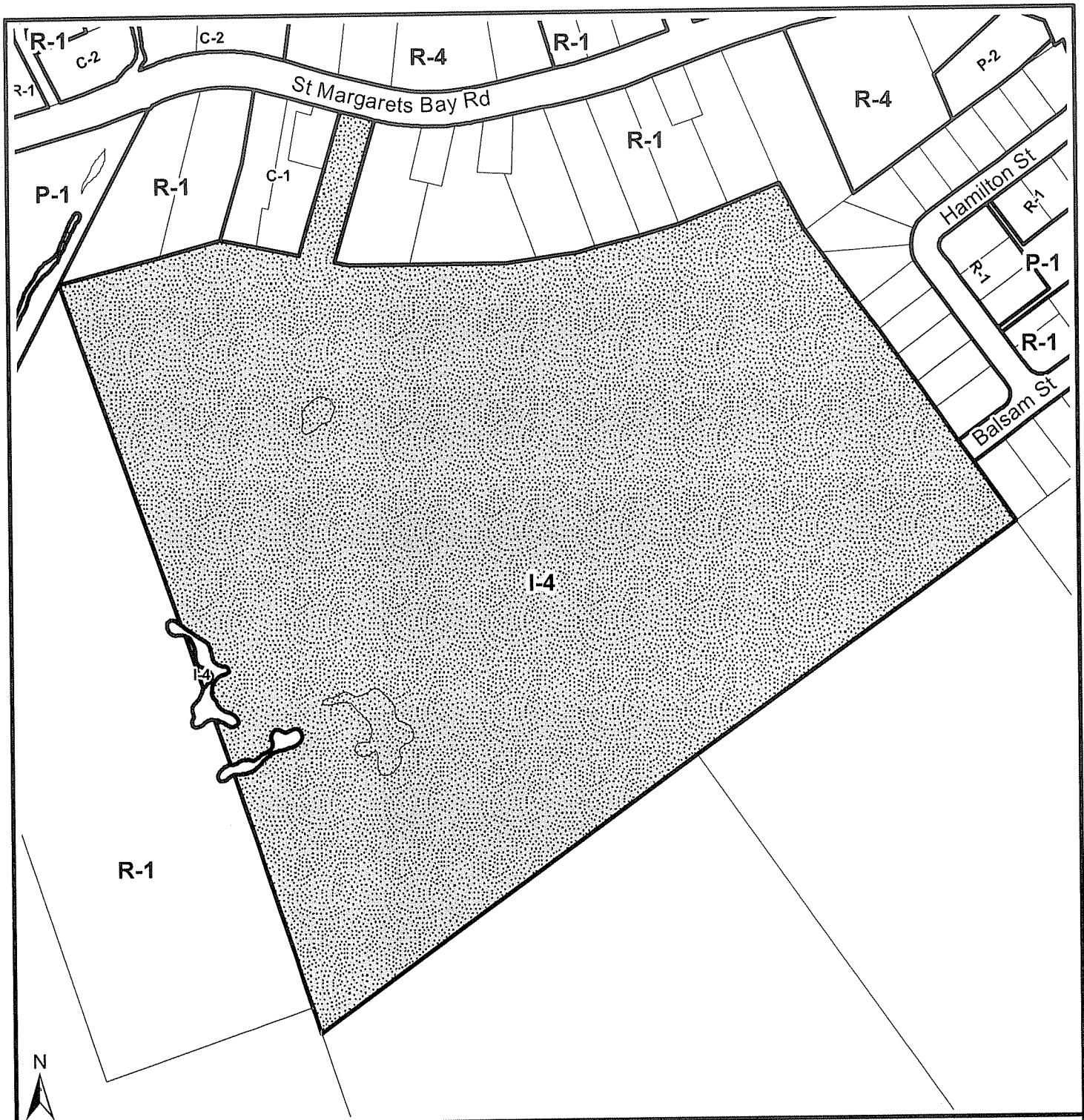
1. The Timberlea / Lakeside / Beechville Zoning Map shall be amended by rezoning a portion of 1426 St. Margarets Bay Road (PID 40050122) from the I-4 (Transmitter) Zone to the R-1 (Single Unit Residential) Zone, as illustrated on the attached Schedule A.

I HEREBY CERTIFY that the amendment to the Land Use By-law for Timberlea / Lakeside / Beechville, as set out above, was passed by a majority vote of the Western Region Community Council of the Halifax Regional Municipality at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2010.

GIVEN under the hands of the Municipal Clerk and Under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Municipal Clerk





## Schedule A

1426 St. Margarets Bay Road  
Lakeside

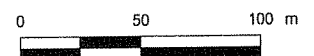


Area to be rezoned  
from I-4 (Transmitter) to  
R-1 (Single Unit Dwelling)

### Zone

R-1	Single Unit Dwelling
R-4	Multi-unit Dwelling
C-1	Local Business
C-2	General Business
I-4	Transmitter
P-1	Open Space
P-2	Community Facility

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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.

Timberlea/Lakeside/Beechville Plan Area

**Attachment B:**  
**Review of Relevant Policies from the MPS**

**Policy UR-2:**

Within the Urban Residential Designation, it shall be the intention of Council to establish a single unit dwelling zone which permits single unit dwellings, community facility and open space uses, and provides for business uses and limited day care facilities located in a residence, 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, and shall prohibit open storage and outdoor display.

**Staff Comment:**

The I-4 (Transmitter) Zone was specifically applied to existing radio and television transmission facilities through Policy UR-26. Since the radio transmission towers on this property are no longer in use, the I-4 Zone is out of date. As such, staff can consider applying the base zone in the Urban Residential designation, the R-1 (Single Unit Dwelling) Zone.

**Policy 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:

Policy Criteria	Staff Comment
(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.	The R-1 (Single Unit Dwelling) Zone is the base zone in the Urban Residential designation. The subject property already has R-1 zoning on the rear portion; rezoning the front portion to match is in conformance with the MPS.
(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	Since the rear portion of the property is already zoned R-1, a single unit dwelling could be constructed in that part. By applying the R-1 zone to the front portion of the property, the property owner could put a single unit dwelling in either portion. One single unit dwelling is not premature.  However, if the rezoning is approved, there is

Policy Criteria	Staff Comment
<p>school, recreation or other community facilities;</p> <p>(iv) the adequacy of road networks leading or adjacent to, or within the development; and</p> <p>(v) the potential for damage to or for destruction of designated historic buildings and sites.</p> <p>(vi) the proposed means of handling storm water and general drainage within and from the development.</p>	<p>potential for as-of-right subdivision, with potential access from St. Margarets Bay Road and / or Balsam Street.</p> <p>Any subdivision would be subject to evaluation of the criteria listed in (b) as part of the standard as-of-right subdivision process. <b>At this time, subdivision of the subject property cannot be considered because of a lack of sanitary sewer capacity in the area.</b> However, no subdivision is associated with the rezoning application: this proposal serves only to restore the base zone in the Urban Residential designation.</p>
<p>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</p> <p>(i) type of use;</p> <p>(ii) height, bulk and lot coverage of any proposed building;</p> <p>(iii) traffic generation, access to and egress from the site, and parking;</p> <p>(iv) open storage and outdoor display;</p> <p>(v) signs; and</p> <p>(vi) any other relevant matter of planning concern.</p>	<p>The controls placed on the land through the application of the R-1 (Single Unit Dwelling) Zone are the same controls placed on the surrounding properties.</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>By rezoning the front portion of the subject property to the R-1 zone, staff are proposing that R-1 uses – such as one single unit dwelling – are appropriate for this parcel. On a 71 acre parcel, a suitable building site could be found for a single unit dwelling.</p> <p>Once again, if the rezoning was approved, the criteria listed in (d) would be considered</p>

Policy Criteria	Staff Comment
	during subdivision. <b>Specifically, watercourses and wetlands are delineated and protected as part of the subdivision and development processes.</b>
(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.	Not applicable.  Subdivision has not been requested, and a holding zone does not apply to the subject property.

Attachment C:  
PIM Minutes – November 19, 2009

HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING  
CASE # 01328 - NewCap Inc.

7:00 p.m.

Wednesday, November 4, 2009  
Lakeside Community Center, Lakeside

**IN ATTENDANCE:** Mackenzie Stonhocker, Planner, HRM Planning Services  
Scott LeBlanc, Planning Technician, HRM Regional and  
Community Planning  
Sharlene Seaman, Planning Controller, HRM Planning Services  
Councillor Reg Rankin

**ALSO IN  
ATTENDANCE:** Steve Lund, New Cap Inc.  
Scott Weatherby, New Cap Inc.

**PUBLIC IN  
ATTENDANCE:** Approximately 9

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The meeting commenced at approximately 7:05 p.m.

**1. Opening remarks/Introductions/Purpose of meeting - Mackenzie Stonhocker**

**Ms. Stonhocker** opened the meeting by introducing herself as the planner in charge of the application. She then introduced the applicant and HRM staff. She also gave the overall guidelines of the meeting.

She stated that the purpose of the meeting was to hear public comments and questions concerning the application by NewCap Inc. to rezone 1426 St. Margarets Bay Road, Lakeside, from I-4 (Transmitter Zone) to R-1 (Single Unit Dwelling Zone) to allow residential uses. She then described the area and surrounding area, showing property lines, vacant lands, wetlands and streams.

**2. Overview of planning process - Mackenzie Stonhocker**

**Ms. Stonhocker** stated that an application was received by the applicant and reviewed. A Public Information Meeting was set up to hear the comments and views of the public. Following the

meeting there would be a detailed review of the application. It would then be sent to Western Region Community Council (WRCC). If accepted, there would be a Public Hearing, where the public would again have a chance to give their opinion. After the Public Hearing, Council would make their decision based on staff's recommendation and the Public Hearing. She provided contact information and then passed the floor to the applicant, Scott Weatherby.

**3. Presentation of Proposal - Scott Weatherby**

**Mr. Scott Weatherby** introduced himself as the applicant and advised that their company, NewCap Inc., no longer requires the land as they are slowly converting from AM stations (780 Kicks) to FM stations throughout the Country. He advised that there are three towers to be removed (long term) and the company vision is to rezone to sell as they are not in the developing business. They had consulted with the Municipality and was advised that the most logical route is to ask for rezoning to R-1. They are not currently looking to subdivide at this time.

**4. Questions/Comments**

**Mr. Trevor Behan** asked Mr. Weatherby why they wanted to Rezone to R-1? Would it add value to the property and would it be better to sell?

**Mr. Weatherby** advised that the zoning is no longer applicable as there are no uses for a U-1 on that property. He confirmed that the value would increase if the zone was R-1 and their vision was to sell it.

**Mr. Behan** asked if they were requesting the change because they were already approached by a developer or if they were doing it on their own.

**Mr. Weatherby** stated that as soon as they no longer required the land for the tower, it was excess to the company.

**Mr. Behan** asked if the land had been on the market for two months and if they had any offers.

**Mr. Weatherby** stated that they have had offers.

**Mr. Behan** asked if the offers were contingent on the rezoning.

**Mr. Weatherby** advised that at least one offer was.

**Mr. Behan** asked how the company came about to owning the property.

**Mr. Weatherby** stated that they acquired "Kicks" in 1989 from CBC and built the towers on the land.

**Mr. Behan** asked how much the company paid for the land at that time and if he could provide that information at the next meeting. He also asked the selling price today.

**Mr. Weatherby** stated that they paid approximately half a million including the towers and the land and work included, but does not know the exact amount for the land only. He could provide it for the next meeting. The land is currently for sale at “one million, twenty five”.

**Mrs. Joan Clements**, asks if there would have to be another exit for that development as there is only one road currently.

**Ms. Stonehocker** advised that theoretically for development there would be two access points required. She stated that as per HRM engineers, there was a road right of way there when “Balsam Court” was done but it has never been cleared. She could not confirm if that road was cleared for access or would meet today’s standard as they have not done any subdivision plans.

**Reg Kelsey**, stated that he does not want more traffic in the sub division.

**Mr. Behan** asked if the primary access from St Margarets Bay Road in Lakeside could be used as a road to a subdivision.

**Ms. Stonehocker** stated that the development engineer had a preliminary look at it and figured that it was probably the right width but there had been no traffic impact statement done. There are no specific plans for a road. For a purchaser it should be “buyer beware” currently.

**Mr. Behan** stated concern for the wetlands in relation to the property and wanted it noted in the staff report that they are very important to the community for the ecology of the lakes in that area and for the runoff by St. Margarets Bay Road. He believes that they are also beautiful, pristine and full of rare plants and animals which is again very important. He showed concern for the portion of St. Margarets Bay Road, right by the strip mall, because of the water levels. Any development may be dangerous for flooding on St. Margarets Bay Road.

**Ms. Stonehocker** commented that four wetlands in that area have a twenty meter buffer around them. No disturbance is permitted in that buffer area. Also engineering requires storm water management and subdivision grading plans.

**Mr. Behan** states that there should be something done concerning the run off on St. Margarets Bay Road because it is dangerous. He also wanted staff to make reference to whether or not the lands might be better suited to a development agreement. This would allow the community to have a say in what happens as the lands were crown lands that were owned by CBC. They were at one time in the public realm and he believes the public should have some say concerning development. He also would like HRM to look into acquiring the property, if feasible, to protect and preserve the land.

**Councillor Reg Rankin** advised that he has walked the area and advised that there is a portion of land that may be used for residential but states that there is environmentally sensitive land as well. He thinks that it should be noted by staff and should be subject to research and analysis. If the Wetlands are encroached upon by residential uses they could not be recovered. He thinks it is fair to take into consideration that there is already an R1 in that zone. He would like it noted that an environmental area such as this is precious and cannot be replaced.

**Ms. Stonehocker** stated that she would look into that, as it would be in the internal review process.

**Councillor Rankin** stated that he isn't convinced that the ecosystem could survive if developed. He believes that there is a large area that should be considered a conservation area. He would also like to see the time taken by staff to do research to identify what he understands to be an ecosystem.

**Mr. Behan** stated that he agrees with Councillor Rankin. He advised that there are "Pitcher" Plants that are rare located on that property. He believes that they would be effected if any development were to take place on this property. He stated that he was pro-development for sustainable development that everyone can live with, but the lands deserve to be thought of as precious.

**Councillor Rankin** invited the applicants, Steve Lund or Scott Weatherby, to respond to the comments. He asked how could the area ever be replicated. Also, how they feel about the existing problem with the run off on St. Margarets Bay Road. He stated that this would be a negative value on the development.

**Mr. Scott Weatherby** advised that their company would be fully open to a land exchange with HRM or the province. They just want to move forward and believes that R1 would be the simplest.

**Mr. Steve Lund** stated that NewCap is just looking to find a future owner and they are not obliged to restrict them, as HRM would require the developer to take all of the considerations at the time of development. That would be a conversation to have with the developer.

**Councillor Rankin** again noted that the land should be looked at by the Municipality for conservation. He speaks on behalf of the community as the ecosystem cannot be replaced.

**Ms. Stonehocker** advised that the Planning department could not possibly purchase the land and Real Property would be the department to speak with. Staff makes recommendations to council based on the policies that are in the plan. Comments will be addressed in the staff report which will have a conclusion and then a recommendation to WRCC as to whether staff thinks Council should say yes or no.

**Councillor Rankin** requested that the applicants recognize that there is a special ecosystem on the lands.



**Ms. Stonehocker** advised that any other questions or comments may be forwarded to her and would be addressed.

**Mr. Behan** stated that the land contains an important Wetland and is unspoiled. He would like it to remain a part of the community and himself. He would love the community to take the land back because he believes that any machinery brought in would tear up the ground and the ecosystem would be gone. He would like the applicants to talk with the community to discuss a development agreement or covenants on the land. He would like them to give back to the community because they have been there, grown and prospered for twenty years. He offered to walk through the land with them.

**Mr. Scott Weatherby** advised that he was well aware and in tune with the property features.

**Mr. Steve Lund** stated that the property is beautiful and that there is the possibility of a compromise. He stated that he has no further interest in the land. He hopes a developer would work with the community because his attempt is to make it properly zoned for someone to use. He notes that the planning department works on the behalf of the community so that the rules are followed. He believes that development can happen without destroying everything.

**Councillor Rankin** stated that whatever the outcome of the land, he believes a second entrance probably would not be required due to the number of people in the subdivision. He also believes that the applicant should have the right to apply and would like the people to be objective. He would like to know what areas are sensitive and should be considered and it may not be ready for council review until late January.

**Mr. Behan** requested that planning find out if a road may be needed and if a road could be placed there.

**Ms. Stonehocker** stated that they may not be able to say yes or no but maybe she can provide a general answer.

**Mr. Scott Weatherby** responded to Councillor Rankin's earlier comment by stating that he doesn't object concerning development because he does not know all the regulations.

## **5. Closing comments**

**Ms. Stonehocker** asked for any other questions and thanked everyone for attending the meeting.

## **6. Adjournment**

The meeting adjourned at approximately 8:05 p.m.