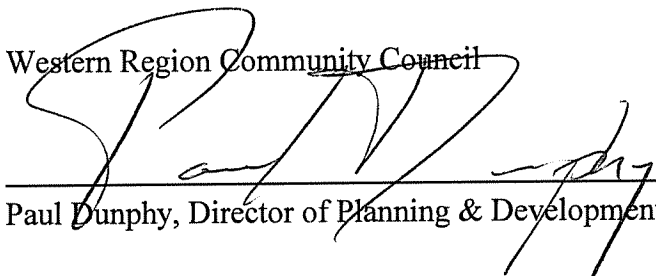


Western Region Community Council
September 6, 2005

TO:

Western Region Community Council

SUBMITTED BY:


Paul Dunphy, Director of Planning & Development Services

DATE:

August 29, 2005

SUBJECT:

Case 00799: Rezoning of 1569 St. Margarets Bay Road

ORIGIN

Application by Reginald and Patricia Bennett to rezone 1569 St. Margarets Bay Road (PID 40050890), Lakeside, from a P-2 (Community Facility) Zone to an R-1A (Auxiliary Dwelling Unit) Zone and to discharge an existing development agreement (DA-TLB-17-90-02) that allows for the construction of a funeral home.

RECOMMENDATIONS

It is recommended that Western Region Community Council:

1. Give First Reading to the proposed rezoning and schedule a public hearing.
2. Approve the rezoning of 1569 St. Margarets Bay Road (PID 40050890), as shown on Map 1, from a P-2 (Community Facility) Zone to an R-1A (Auxiliary Dwelling Unit) Zone.
3. Approve the discharge of the existing development agreement (DA-TLB-17-90-02) as set out in the Discharge Agreement (Attachment "F").

BACKGROUND

Location, Designation and Zoning: The land under consideration is located at 1569 St. Margarets Bay Road, Lakeside (See Map 1).

The subject property is designated Urban Residential under the Generalized Future Land Use Map for Timberlea/Lakeside/Beechville and zoned P-2 (Community Facility). The surrounding area is zoned R-1 (Single Unit Dwelling), R-1A (Auxiliary Dwelling Unit), R-2 (Two Unit Dwelling), R-4 (Multi-Unit Dwelling), C-2 (General Business), and CDD (Comprehensive Development District).

Site History: The property, which is now vacant, was formerly used in part as a parking lot for the J.A. Walker Funeral Homes Limited and in part as the site of a single unit dwelling (demolished in 2000). On June 24, 1991, the Council of the former County of Halifax approved a development agreement for the property to permit the relocation of the J.A. Walker Funeral Home from across the road. The funeral home was never built.

Synopsis of Proposed Development: The rezoning has been requested by the current property owner in order to allow for the construction of a house with an auxiliary dwelling unit (see Attachment "A"). However, it must be pointed out that there is the potential for the lot to be subdivided at a later date, thereby resulting in the creation of an additional R-1A lot (see Attachment "B" for a list of permitted uses in the R-1A Zone).

Enabling Policy: Policy UR-3 of the Timberlea/Lakeside/Beechville MPS provides for a rezoning to R-1A (Auxiliary Dwelling Unit), within the Urban Residential designation. Please refer to Attachment "C" for excerpts from the MPS.

Public Information Meeting: A public information meeting was held on June 8, 2005, for this application. Attachment "D" provides minutes of the meeting. The area of notification for the public information meeting is shown on Map 1. A second mail notification will be undertaken for the same area should this application proceed to a public hearing.

DISCUSSION

When the current Timberlea/Lakeside/Beechville Municipal Planning Strategy (MPS) was being drafted, the community made it clear to Council that it had concerns that the appearance of auxiliary units would detract from the surrounding area. Specific concerns related to the size of auxiliary units, parking and the location of external entrances. In response to these concerns, Council adopted an MPS that allowed auxiliary dwelling units by rezoning to an Auxiliary Dwelling Zone.

Policy UR-3 of the Timberlea/Lakeside/Beechville MPS states that in order to consider a rezoning to R-A1 (Auxiliary Dwelling Unit), Council shall have regard to the following:

- (a) that the scale and appearance of the dwelling is in keeping with the surrounding area; and
- (b) the provisions of Policy IM-12.

Based on the elevation plan submitted by the proponents as part of their rezoning application (Attachment "A"), staff is of the opinion that the proposed dwelling is compatible with the surrounding areas. Staff is also satisfied that the provisions of Policy IM-12 are all being met in the case of this rezoning application. Please see Attachment "E" for detailed staff comments on the provisions of Policy IM-12.

Conclusion

Staff feels that the proposal satisfies the applicable policies of the Municipal Planning Strategy (Attachment "C"). As such, it is recommended that Western Region Community Council approve the rezoning application and the request to discharge the existing development agreement (DA-TLB-17-90-02).

BUDGET IMPLICATIONS

There are no budget implications at this time.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

1. Council may approve the rezoning application. This is the recommended course of action.
2. Alternatively, Council may choose to reject the proposed rezoning, and in doing so, should provide reasons. This alternative is not recommended as staff is satisfied that the proposed rezoning is consistent with the policies and intent of the MPS.

ATTACHMENTS

Map 1	Location and Zoning Map
Attachment "A"	Front/Rear Elevations
Attachment "B"	List of Permitted Uses in an R-1A Zone
Attachment "C"	Excerpts from the MPS for Timberlea/Lakeside/Beechville
Attachment "D"	Minutes from Public Information Meeting
Attachment "E"	Staff Comments on Policy IM-12
Attachment "F"	Discharge Agreement

**1569 St. Margarets Bay Rd.
Case 00799**

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**Western Region Community Council
September 6, 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: Luc Ouellet, Planner I (902) 490-3689



Map 1 - Zoning

1569 St. Margarets Bay Road
Lakeside

Property to be rezoned from
P-2 (Community Facility) to
R-1A (Auxiliary Dwelling Unit)

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
C-2	General Business
P-1	Open Space
P-2	Community Facility
CDD	Comprehensive Dev. District

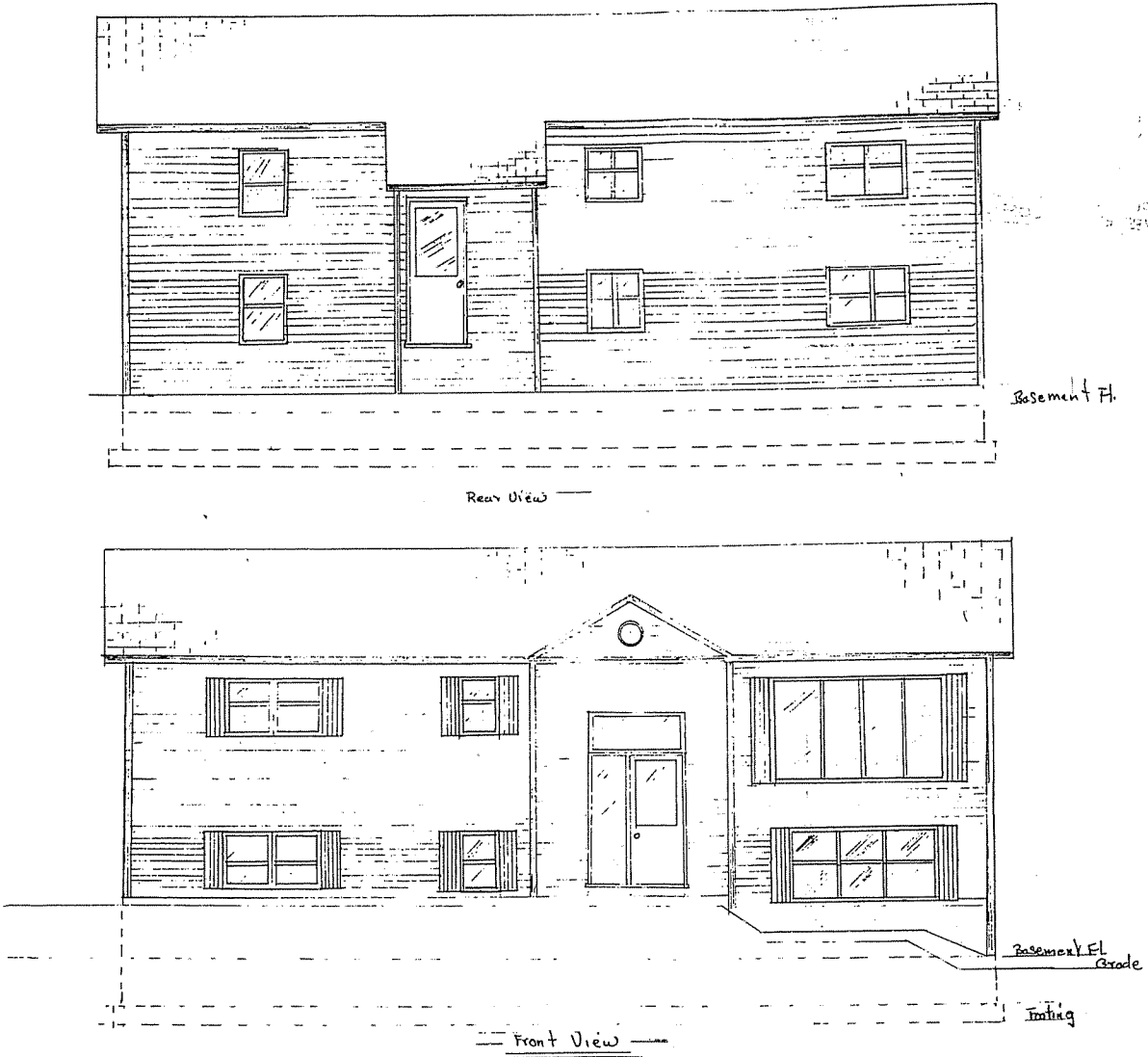
HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES

0 20 40 60 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.

Attachment A



Attachment "B" - List of Permitted Uses in an R-1A Zone

PART 7: R-1A (AUXILIARY DWELLING UNIT) ZONE

7.1 R-1A USES PERMITTED

No development permit shall be issued in any R-1A (Auxiliary Dwelling Unit) Zone except for the following:

Residential Uses

Single unit dwellings

Auxiliary dwelling units

Business uses in conjunction with permitted dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings.

Community Uses

Open Space Uses

Institutional Uses

Attachment "C" - Excerpts from the MPS for Timberlea/Lakeside/Beechville

Auxiliary Dwelling Units

There has been a growing trend in the housing market to provide independent apartment units within single unit dwellings, either at the time of construction or through conversion. Many such units are built with family members in mind, but are also used for income purposes by homeowners. This increasing interest in providing independent accommodation to family or non-family members within a conventional single unit dwelling has resulted in the illegal conversion of an unknown number of dwellings in recent years.

Although the impact of an auxiliary unit on adjacent dwellings is generally minimal, there are concerns that the appearance of such units will detract from the surrounding area. Specific concerns relate to the size of such units, provisions for parking spaces and the location of external entrances. There are also concerns that the uncontrolled proliferation of auxiliary dwelling units might change the character of existing neighbourhoods. Research in other jurisdictions indicates that at any one time between ten and twenty percent of single unit dwellings contain an auxiliary dwelling unit. Such a housing mix is considered to be acceptable in this Plan Area.

UR-3 Notwithstanding Policy UR-2, in support of existing auxiliary dwelling units within the Urban Residential Designation, it shall be the intention of Council to create an auxiliary dwelling unit zone, which permits auxiliary dwelling units in addition to all uses permitted in the R-1 zone. Also, the zone shall control parking, maximum gross floor area of the auxiliary unit, and the number of entrances along the front wall of the dwelling. In considering amendments to the land use by-law to an auxiliary dwelling unit zone, Council shall have regard to the following:

- (a) that the scale and appearance of the dwelling is in keeping with the surrounding area; and
- (b) the provisions of Policy IM-12.

Attachment "D"

**Public Information Meeting Minutes
Case 00799
June 8, 2005**

In attendance: Luc Ouellet, Planner
Gail Harnish, Planning & Development Services
Sharon Hurd, representing the applicants (her parents)
1 member of the public

Mr. Luc Ouellet called the public information meeting (PIM) to order at approximately 7:00 p.m. in the Lakeside Community Centre.

Mr. Ouellet advised that a request has been received to rezone 1569 St. Margarets Bay Road, Lakeside. It used to be the old funeral home parking lot for the funeral home which used to be located across the street. They rezoned it to P-2 (Community Facility) Zone to permit the new funeral home which was never built. A development agreement was negotiated for that as well. Since it was never built, they sold the lot and the applicants bought it and want to rezone it to R-1A (Auxiliary Dwelling Unit) Zone to permit an in-law suite.

Ms. Sharon Hurd advised it is one house. Her parents would live downstairs and her sister would live upstairs. Her father talked to one of the neighbours who was happy that an apartment building was not going to be there. It will turn into residential.

Mr. Ouellet indicated there is currently a development agreement which allows a funeral home to be built on the site, which is transferrable and runs with the land. The applicants bought the property and want to turn it into a residence.

Ms. Barb Arsenault questioned what the "A" meant in the name of the zone (R-1A).

Mr. Ouellet advised that it means you can have an auxiliary unit. He referenced the third page of the handout which notes the permitted uses and other requirements for the R-1A zone, which he reviewed.

Ms. Hurd noted it would look like a split entry home.

Mr. Ouellet reviewed the rezoning process:

- planning staff does a preliminary review of the application
- there is a PIM held which is where we are tonight

Ms. Arsenault questioned whether they are required to hold the PIM.

Mr. Ouellet advised that the only time we waive the PIM is when the application is really minor or when the councillor asks us to waive it. In this instance, we did not waive the PIM because the requested zone is a step above the R-1 zone. Also, in this instance we are discharging a development agreement.

Mr. Ouellet continued with reviewing the rezoning process:

- staff will do a detailed review of the application
- staff prepares a staff report with a recommendation which is tabled with the Western Region Community Council
- Community Council either rejects the application or sets a date for the public hearing
- the public hearing is held. It will either be held in August or September.
- Community Council makes a decision following closure of the public hearing
- there is a fourteen day appeal period

Ms. Arsenault questioned whether they are required to have the set date meeting as well.

Mr. Ouellet responded yes, noting it is a requirement under the Municipal Government Act (MGA) to hold a public hearing. HRM has a policy to hold PIMs although they are not required under the MGA.

Ms. Arsenault wished them luck. She came to the meeting out of interest because she had a property nearby.

Ms. Arsenault questioned where Community Council holds the public hearings. Mr. Ouellet advised they are usually held at Keshen Goodman Library. Sometimes if there is a really big issue, Community Council will hold the public hearing in the community.

The meeting adjourned at approximately 7:30 p.m.

Attachment "E"- Staff Comments on Policy IM-12

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 Condition	Staff Comments
(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.	Staff feels that the proposal is in conformity with the MPS and 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;	The Municipality will not be absorbing any additional costs related to this development.
(ii) the adequacy of sewer and water services;	The area is presently serviced by both water and sewer services. Moreover, it is the opinion of staff that the additional sewer capacity created by the development of an R-1A use would be less than what could be expected from a fully operational funeral home.
(iii) the adequacy or proximity to school, recreation or other community facilities;	The proposed development will have a negligible impact on existing schools, recreation and other community facilities.
(iv) the adequacy of road networks leading or adjacent to, or within the development;	The proposed development will have direct access to the St. Margarets Bay Road.
(v) the potential for damage to or for destruction of designated historic buildings and sites; and	There are no designated historic buildings and sites in the immediate area.
(vi) the proposed means of handling storm water and general drainage within and from the development.	The amount of post-development storm water expected to be generated from this site is negligible and can easily be handled by the existing infrastructure.

(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;	The controls contained in the R-A1 Zone are adequate to reduce potential conflicts with adjacent and nearby land uses.
(ii) height, bulk and lot coverage of any proposed building;	The height, bulk and lot coverage allowed in the R-A1 Zone is equal to what is allowed in the R-1 Zone (base zone).
(iii) traffic generation, access to and egress from the site, and parking;	The additional traffic expected to be generated by the proposed development is minimal.
(iv) open storage and outdoor display;	The R-1A Zone does not permit open storage and outdoor display.
(v) signs; and	No signs are being proposed for the site.
(vi) any other relevant matter of planning concern.	No additional matter of a planning concern has been identified.
(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.	There are no limitations to the site in terms of natural conditions.

Attachment "F"

THIS AGREEMENT made this day of , 2005,

BETWEEN:

REGINALD JOSEPH BENNETT
PATRICIA ANN BENNETT
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 1569 St. Margarets Bay Road, Lakeside, also known as PID number 40050890 (hereinafter called the "Lands");

AND WHEREAS the County of Halifax entered into a development agreement with the previous owners of the Lands, said agreement being recorded at the Registry of Deeds in Halifax in Book No. 5235, Pages 317-323 (hereinafter referred to as "the Agreement");

AND WHEREAS the Developer has requested that the Agreement be discharged;

AND WHEREAS in accordance with the requirements of the Municipal Government Act, the Western Region Community Council approved this request by resolution at a meeting held on
2005;

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

1. The Agreement is hereby discharged and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with all applicable provisions and requirements of the land use bylaw for Timberlea/Lakeside/Beechville, as amended from time to time, and any future subdivision of the Lands shall conform with all applicable provisions and requirements of the subdivision bylaw for the former County of Halifax, as amended from time to time.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

Signed, sealed and delivered)

)

REGINALD JOSEPH BENNETT
PATRICIA ANN BENNETT

in the presence of:)

)

per: _____

per: _____

)

)

per: _____

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)

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Sealed, Delivered and Attested
by the proper signing officers of
Halifax Regional Municipality
duly authorized on that behalf
in the presence of

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per: _____

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MAYOR

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per: _____

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MUNICIPAL CLERK