

Item No. 11.1.1
Halifax Regional Council
October 2, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

DATE: September 17, 2012

SUBJECT: **Case 17491: MPS Amendments and Development Agreement for 2894
St. Margarets Bay Road, Timberlea**

ORIGIN

Application by Bay Self-Storage Inc.

RECOMMENDATION

It is recommended that Halifax Regional Council not initiate the process to consider additional amendments to the Municipal Planning Strategy for Timberlea/Lakeside/Beechville that enable amendments to the existing Development Agreement for the expansion of a self-storage facility located at 2894 St. Margarets Bay Road, Timberlea, to the adjacent property (Map 3).

BACKGROUND

Since 2002, Bay Self Storage Inc. has operated a self storage facility on approximately 4 acres of land at 2892/2894 St. Margarets Bay Road, Timberlea. In 2005, Regional Council approved amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Timberlea/Lakeside/Beechville to establish site-specific policies that enabled the existing self-storage facility to expand by development agreement (Case 00589). Western Region Community Council approved an expansion of the facility by approving a development agreement in August of 2005 to enable the construction of seven new storage buildings, for a total of nine storage buildings, one of which is to be for maintenance and office uses. Bay Self Storage Inc. is now requesting further amendments to the MPS and the existing development agreement to allow the operation to expand beyond its current boundaries as shown on Map 3 and 4.

Location, Designation, Zoning and Surrounding Land Use:

Subject Property	2894 St. Margarets Bay Road, Timberlea (PID No. 40305369)
Location	On the south side of St. Margarets Bay Road, bordering residential uses to the north and east, and a trail corridor to the south (Map 1).
Lot Area	Approximately 8.84 acres in area
Designation	Urban Residential under the MPS (Map 1)
Zoning	The property consists of two different zones under the LUB (Map 2): <ul style="list-style-type: none">• the C-3 (Service Business) Zone to the east, which houses the existing operation; and• the R-1 (Single Unit Dwelling) Zone to the west, which is the area where the expansion is being requested.
Current Use(s)	Self-storage buildings are located on the eastern portion of the subject property, while the remaining portion is vacant and partially forested (Map 3).
Surrounding Uses	Various residential uses that are developed with a mix of single and two unit dwellings located to the north and east (Map 2).

New Proposal & Requested Amendments

Bay Self-Storage Inc. has submitted a new application to enable further expansion of the existing self-storage facility beyond the boundaries of its current Development Agreement onto undeveloped lands zoned R-1 and designated by the Plan for residential development as shown on Map 3. The expansion is to allow for open-air unenclosed storage of large items such as vehicles and trailers. To enable Council to consider the proposed expansion, an amendment to the MPS is required.

In support of the proposal, the applicant has submitted technical documentation relative to the environmental conditions of the subject property. The documentation revealed no evidence of environmental contamination at the subject property. It also contained a report by Nova Scotia Environment (NSE) indicating that wetlands were observed on the southeast corner of the property and that they should not be impacted or altered in any way.

Enabling Policy

The subject property is located within the Urban Residential Designation, which constitutes the priority area for continuing residential development in the community of Timberlea (Policy UR-1). This is implemented through LUB provisions, mainly through the application of the R-1 Zone. However, the Urban Residential Designation recognizes that there were various existing commercial and industrial uses within the designation when the plan was adopted in 1992. To address this, Council adopted Policy UR-20 to provide for the continued use of these existing commercial and industrial properties through the application of a service business zone (i.e. C-3 Zone), which permits service commercial uses of up to five thousand (5,000) square feet in gross floor area (GFA). It should be noted that Policy UR-20 does not allow for future rezonings to the C-3 Zone within the Urban Residential Designation. However, Policy UR-22 enables the expansion of these existing commercial uses, by development agreement, to a maximum of 6,500 square feet on their existing properties (refer to Attachment A of this report).

In 2005, Bay Self-Storage requested and received site-specific amendments to Policies UR-20 and UR-22 to enable the expansion of the maximum GFA of their operation from 5,000 square feet to 41,500 square feet. Following the approval of the MPS Amendments, Western Region Community Council approved a development agreement allowing the expansion. The amendments and development agreement were specific to the two parcels of land that were used commercially by the applicant when the Plan was adopted.

Land Use Provisions

Self-storage facilities are not permitted as-of-right under the R-1 Zone or under any residential zone in the LUB. Such facilities are only permitted in the C-3 Zone to a maximum gross floor area of 5,000 square feet. Attachment B of this report lists uses permitted in the R-1 and C-3 Zones which are generally as follows:

R-1 Zone	C-3 Zone
Single unit dwellings	Retail And Food Stores
Existing mobile home parks	Service And Personal Service Shops
Day care facilities	Offices
Business uses in conjunction with a dwelling	Banks And Financial Institutions
Open space uses	Self-Storage Facilities
Institutional uses	Plumbing, heating, electrical, carpentry and other special trade contracting services and shops,
Others	Others

Lot Consolidation

When the former Halifax County Municipality adopted the MPS and LUB in 1992, the two lots that previously made up the subject property were zoned C-3. In 2005, the two lots were consolidated into one parcel and the area defined under the existing development agreement remained undeveloped.

In 2011, Bay Self Storage added additional lands under their ownership to the existing operation, which are zoned R-1 and cover approximately 4.75 acres of land, as shown on Map 4.

Land Use Compliance

In 2011, HRM became aware of an expansion to the Bay Self-Storage operation beyond the area permitted by their existing development agreement. HRM determined that Bay Self Storage was storing vehicles and trailers on lands outside the boundaries of their agreement as shown on Map 3. After being advised of this unauthorized expansion by Municipal Compliance staff, Bay Self Storage removed and relocated the vehicles, and then submitted a planning application to HRM Development Approvals to request the expansion.

DISCUSSION

Amendments to Planning Strategies should only be considered where circumstances related to existing policies have changed significantly. This is not the case in this instance.

Staff's review of the proposal finds that the existing MPS policies are appropriate for the current state of the community and circumstances related to land uses have not changed to warrant an amendment to the MPS.

The intent of the Urban Residential Designation is to preserve and maintain the residential environment of the Plan Area. The designation is also intended to minimize and resolve land use conflicts by designating areas for residential purposes and not permitting additional commercial or industrial uses within these areas.

Since the adoption of the MPS, residential development has continued to occur within the Urban Residential designation. The rationale behind the 2005 MPS amendments was based upon the increased demand for self-storage facilities as a result of growing residential development in the Timberlea area. Staff recommended approval of a 6 fold increase in the gross floor area for the facility to meet the demand for storage space and the intensification was limited to the lands zoned C-3. This is recognized and supported by the MPS. However, Policy UR-20 prohibits applying the C-3 zone to any additional lands in order to reduce conflicts between new commercial lands and residential development.

The current proposal by Bay Self Storage is significantly different from their previous application for an increase in gross floor area for the storage facility. In the previous proposal, Council authorized the intensification of an existing lot that was already zoned for commercial use and could be developed for commercial uses as-of-right. The current proposal, on the other hand, is essentially an expansion of an existing commercial use beyond its boundaries onto undeveloped lands zoned R-1 and designated by the Plan for residential development. Moreover, the MPS does not support the approach of expanding commercial zoning across adjacent residential lands within the Urban Residential Designation. Also, the area that is proposed for the expansion has never been traditionally used for commercial uses and the proposed expansion for outdoor storage is incompatible with adjacent residential uses. In this light, staff recommend that Council not support the new proposal as it is inconsistent with the intent of MPS policies to prohibit new commercial areas within the Urban Residential Designation.

Conclusion

The proposed amendments have been evaluated in relation to applicable MPS policies. The proposal does not meet the intent envisioned by MPS policies as it presents issues of incompatibility within the Urban Residential Designation. Therefore, Staff recommend that Regional Council not initiate an amendment to the MPS for the Bay Self-Storage proposed expansion.

BUDGET IMPLICATIONS

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

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

At this stage, it is recommended that Regional Council not initiate a process to consider the amendments being sought by Bay Self-Storage. Should Council, in the alternative, decide to initiate the application, staff will undertake a comprehensive review of the issues associated with the application. Staff will also consult with the public and other stakeholders through a Public Information Meeting and other means, following which a report and recommendation will be submitted to Regional Council. Depending upon the exact nature of the amendments, the Halifax Watershed Advisory Board will also be asked to consider this matter and to make a recommendation to Council. If Council wishes to consider adopting MPS amendments, it will need to hold a public hearing.

ENVIRONMENTAL IMPLICATIONS

None, beyond those identified in the Background section of this report.

ALTERNATIVES

1. Regional Council may choose not to initiate the MPS amendment application by Bay Self-Storage, which would retain the existing MPS policies and regulations of the existing Development Agreement. Council has complete discretion on whether to retain or to change its Planning Policies and its decision is not subject to an appeal. This is staff's recommendation.
2. Regional Council may choose to initiate the process to consider amendments to the Municipal Planning Strategy and Land Use Bylaw for Timberlea/Lakeside/Beechville to enable substantive amendments to the existing Development Agreement to allow the expansion of an existing self-storage facility located at 2894 St. Margarets Bay Road,

Timberlea on to adjacent lands, as shown on Map 3. Initiating the application requires staff to follow the public participation program as approved by Halifax Regional Council on February 25, 1997.

ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Location and Zoning
Map 3	Development Agreement Extent & Unauthorized Expansion
Map 4	Parcel Subdivision and Consolidation
Attachment A	Excerpts from the Municipal Planning Strategy for Timberlea/Lakeside/Beechville
Attachment B	Excerpts from the Land Use Bylaw for Timberlea/Lakeside/Beechville

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

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Map 1 - Generalized Future Land Use

2894 St. Margaret's Bay Road
Timberlea

 Subject area

Timberlea/Lakeside/Beechville
Plan Area

Designation

UR Urban Residential
MR Mixed Resource

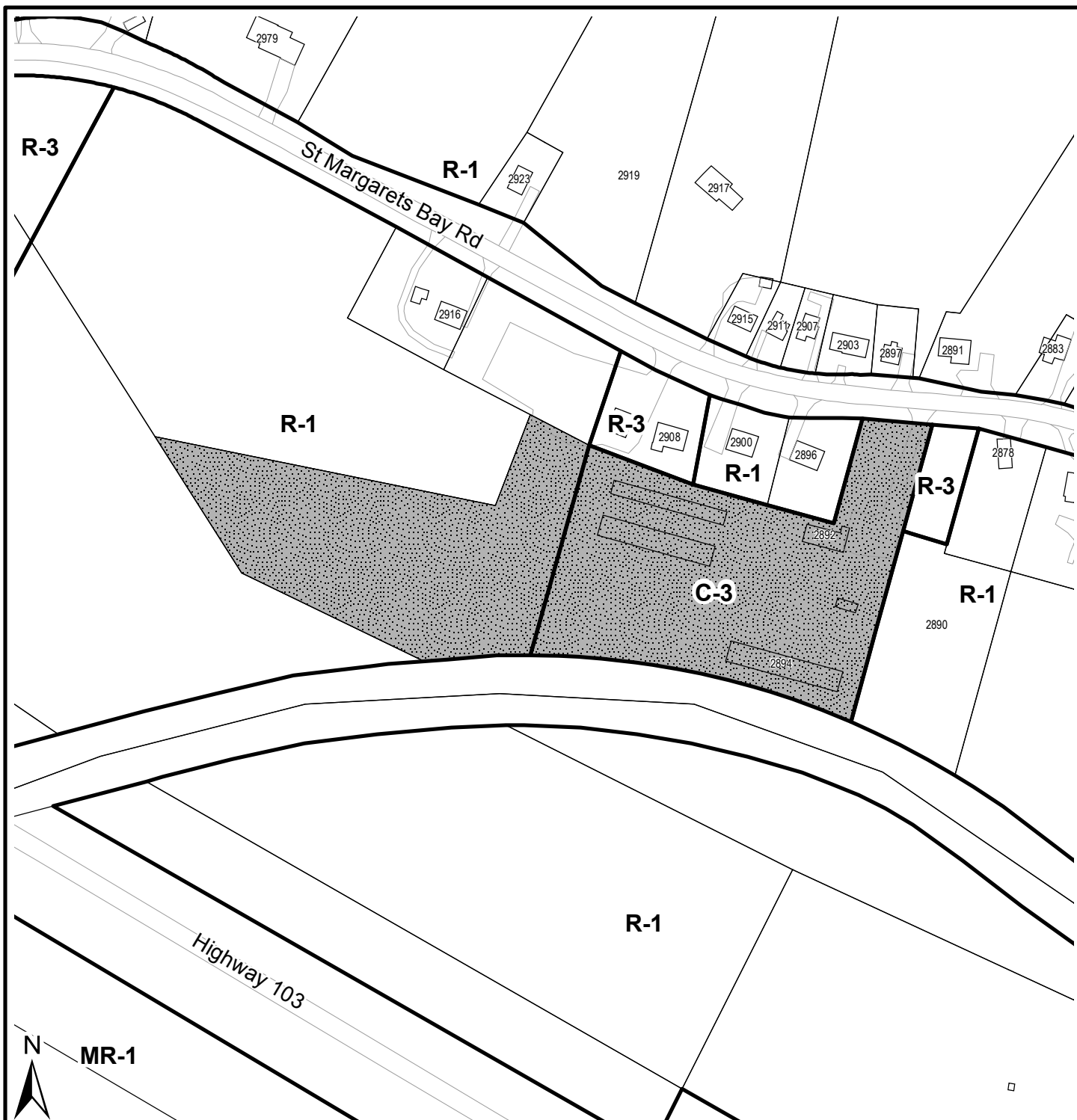
HALIFAX
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DEVELOPMENT APPROVALS

0 30 60 90 m




This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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



Map 2 - Location and Zoning

2894 St. Margaret's Bay Road
Timberlea

 Subject area

Timberlea/Lakeside/Beechville
Plan Area

Zone

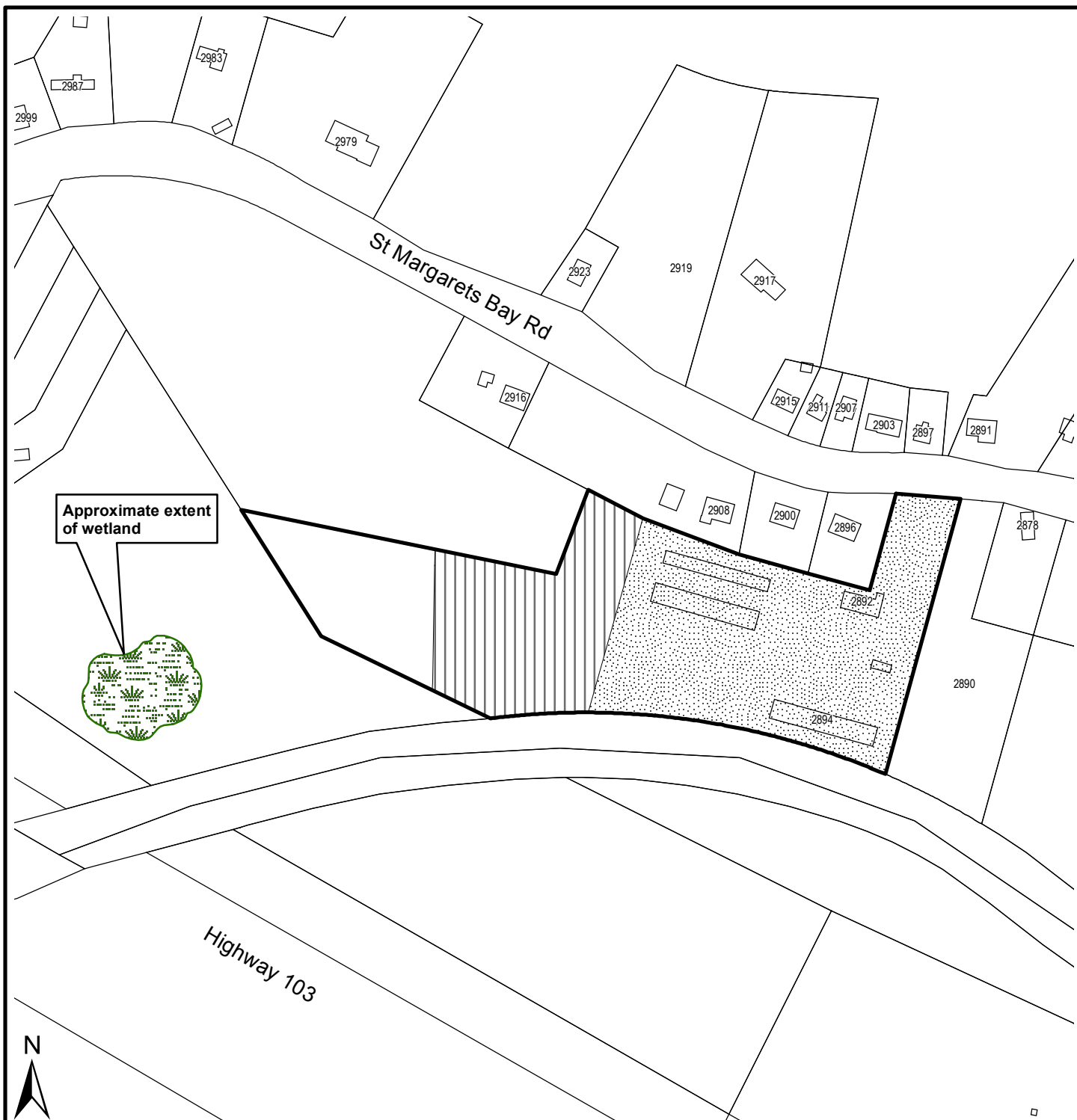
R-1	Single Unit Dwelling
R-3	Mobile Dwelling
C-3	Service Business
MR-1	Mixed Resource

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This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.




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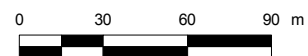


Map 3 - Development Agreement Extent and Unauthorized Expansion

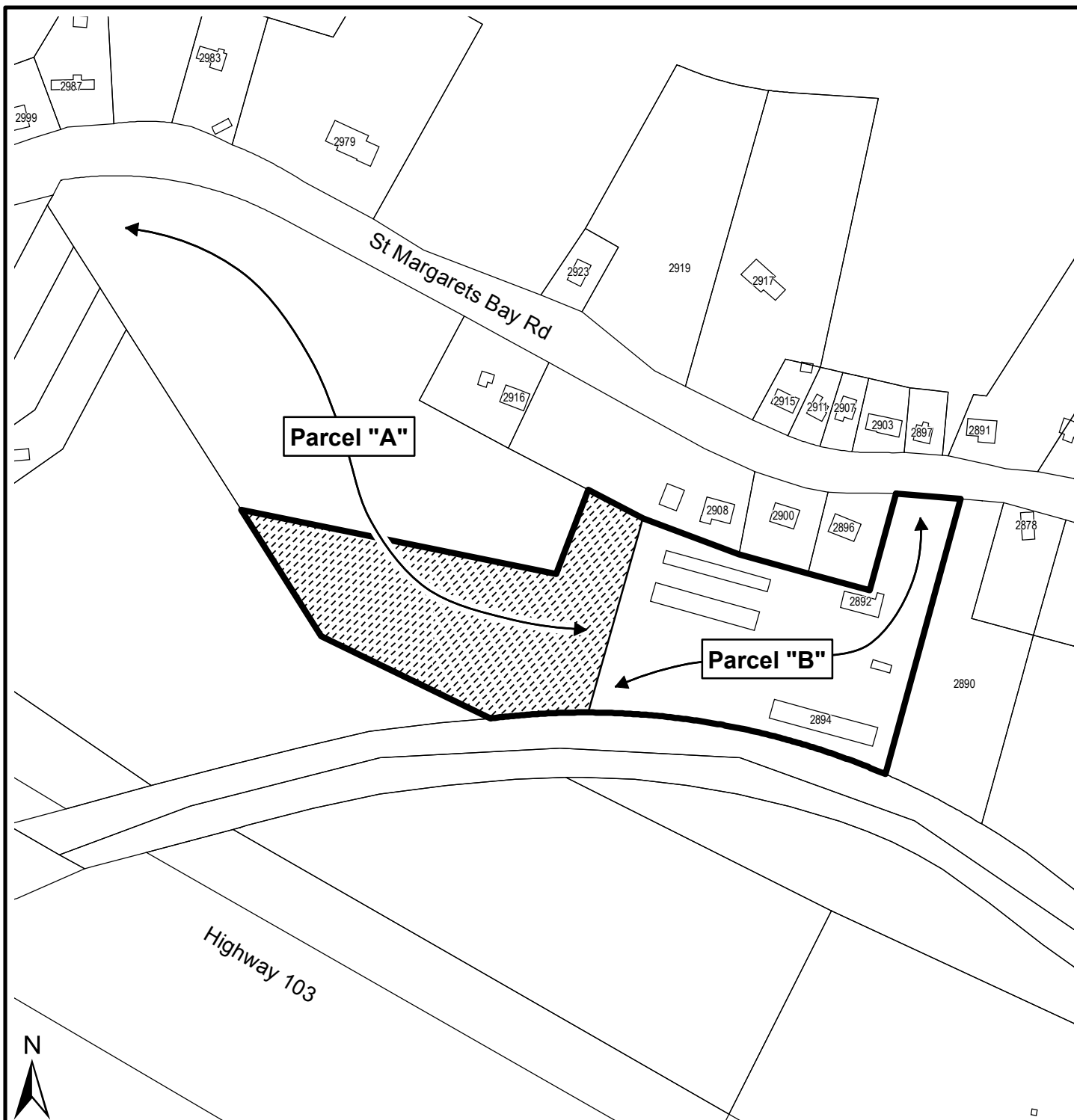
2894 St. Margaret's Bay Road
Timberlea

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-  Subject property
-  Extent of existing development agreement (DA)
-  Area of unauthorized expansion in 2011



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of any representation on this plan.




Map 4 - Parcel Subdivision and Consolidation

2894 St. Margaret's Bay Road
Timberlea

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 Area subdivided from Parcel "A" and added to Parcel "B"

 Parcel created as result of lot consolidation

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ATTACHMENT A
**Excerpts from the Municipal Planning Strategy
for Timberlea/Lakeside/Beechville**

Policy 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.

Policy 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.

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. (RC/WRCC - August 9, 2005/ E September 3, 2005).

Policy 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. **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 (RC/WRCC - August 9, 2005 / E September 3, 2005).**
- h) maintenance of the development; and
- i) the provisions of 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:

- 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.

ATTACHMENT B
**Excerpts from the Land Use By-law
for Timberlea/Lakeside/Beechville**

PART 6: R-1 (Single Family Dwelling) Zone

R-1 USES PERMITTED

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

Residential Uses

- Single unit dwellings
- Existing mobile home parks
- Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings
- 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.

R-1 ZONE REQUIREMENTS: RESIDENTIAL USES

In any R-1 Zone, where uses are permitted as Residential Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	Central services	6,000 square feet (558 m ²)
	On-site services	20,000 square feet (1858 m ²)
Minimum Frontage	Central services	60 feet (18.3 m)
	On-site services	100 feet (30.5 m)
Minimum Front or Flankage Yard		20 feet (6.1 m)
Minimum Rear or Side Yard		8 feet (2.4 m)
Minimum Lot Coverage		35 per cent
Minimum Height of Main Building		35 feet (10.7 m)

OTHER REQUIREMENTS: BUSINESS USES

Where business uses are permitted in any R-1 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 or facility.
- 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 (28 m²).
- 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 one (1) sign shall be permitted for any business and no such sign shall exceed two (2) square feet (.2 m²) in area.
- f) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m²) of floor area devoted to any business.

OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-1 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 m²) in area.
- d) One off-street parking space, other than that required for the dwelling, shall be provided.

R-1 ZONE REQUIREMENTS: COMMUNITY USES

In any R-1 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.

PART 14: C-3 (Service Business) ZONE

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:

Use	LRIS Index (Civic Address Number)
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)
Carlsen's Manufacturing	3156 Bay Road (40304339)
H. Longard's Enterprises Ltd.	2449 Bay Road (40027625, 40027609, 40027633)
M. Longard's Trucking	2206 Bay Road (40160509)
Timberlea Dive Shop	2810 Bay Road (40592479)

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

C-3 ZONE REQUIREMENTS

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

Minimum Lot Area	Central services	10,000 square feet (929m ²)
	On-site services	20,000 square feet (1,858 m ²)
Minimum Frontage	Central services	75 feet (22.8 m)
	On-site services	100 feet (30.5 m)
Minimum Front or Flankage Yard		30 feet (9.1 m)
Minimum Rear or Side Yard		25 feet (7.6 m)
Minimum Lot Coverage		30 per cent
Minimum Height of Main Building		35 feet (10.7 m)

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.

EXEMPTION: EXISTING BUILDINGS

- (a) Notwithstanding Subsection 14.3(a), existing buildings having in excess of five thousand (5,000) square feet (464.5 m²) of gross floor area shall be permitted as existing uses and may be reconstructed, renovated or changed to another use permitted in the C-3 Zone provided that this does not result in an additional increase in gross floor area.
- (b) Notwithstanding Section 14.2 and Subsection 14.3(b), where a building in the C-3 Zone has been erected on or before the effective date of this By-law, on a lot having less than the minimum frontage, area, or depth, or having less than the minimum separation distance, setback, or side yard or rear yard required by this By-law, the building may be enlarged, reconstructed, renovated or changed to another use permitted in the zone provided that: