



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No.
Halifax and West Community Council
February 28, 2017

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: **Original Signed**

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: January 19, 2017

SUBJECT: **Case 20215: Land Use By-law Amendment for 1840 St. Margaret's Bay Road, Timberlea – Micro-Alcohol Production Facility**

ORIGIN

Application by Canadian International Capital Incorporated to amend the Land Use By-law for Timberlea/Lakeside/Beechville to allow micro-breweries as a permitted use within the C-2 (General Business) Zone.

LEGISLATIVE AUTHORITY

Refer to Attachment G.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give first reading to consider approval of the proposed amendments to the Land Use By-law for Timberlea/Lakeside/Beechville, as contained in Attachment A of this report, to permit Micro-Alcohol Production Facilities in the C-2 (General Business) Zone, and schedule a public hearing;
2. Adopt the amendments to the Land Use By-law for Timberlea/Lakeside/Beechville, as set out in Attachment A.

BACKGROUND

Canadian International Capital Incorporated is applying to amend the Land Use By-law (LUB) for Timberlea/Lakeside/Beechville to allow the establishment of micro-breweries as a permitted use within the C-2 (General Business) Zone, for the property at 1840 St. Margaret's Bay Road, Timberlea. The Municipal Planning Strategy (MPS) for Timberlea/Lakeside/Beechville enables consideration of the proposed uses within the C-2 Zone, provided the uses are consistent with MPS policies.

In response to this application and the increased demand and popularity of the industry, staff are recommending that amendments to the C-2 Zone are appropriate and should include new definitions and land use standards to allow for micro-breweries and other micro-alcohol production facilities such as craft distilleries (i.e., micro-distilleries), with accessory retail spaces. The proposed amendments could impact a total of 29 properties (Maps 1A-1D and Maps 2A-2D).

Subject Sites	1840 St. Margaret's Bay Road	C-2 Zoned properties (Total of 29)
Location	South side of St. Margaret's Bay Road, and north of Brunello Estates Subdivision (Map 1A & Map 2A)	Along St. Margaret's Bay Road (Maps 1B, 1C and 1D, and Maps 2B, 2C and 2D)
Regional Plan Designation	Urban Settlement	Urban Settlement
Community Plan Designation	CC - Commercial Core Designation (Map 1A) Municipal Planning Strategy for Timberlea/Lakeside/Beechville (MPS)	- UR – Urban Residential Designation (Maps 1B, 1C and 1D) <i>(10 Properties)</i> - CC - Commercial Core Designation (Map 1A) <i>(11 Properties)</i> - GC - General Commercial (Map 1C) <i>(3 Properties)</i> Municipal Planning Strategy for Timberlea/Lakeside/Beechville (MPS)
Zoning	C-2 (General Business) Zone (Map 2A)	C-2 (General Business) Zone (Maps 2A, 2B, 2C and 2D)
Size of Site	Approximately 2,843 sqm (30,602 sqft)	Lot areas vary between 1,858 sqm (20,320 sqft) and 20,000 sqm (21,5278.2 sqft)
Street Frontage	Approximately 129.5 ft (39.5m)	Frontages of impacted properties vary between 18.3 m (60ft) and 240 m (789ft)
Current Land Use(s)	Vacant	<ul style="list-style-type: none"> • Service station and corner stores, parking lot to the east and west; • Brunello Estates Subdivision to the south; and • Residential and institutional uses to the north.
Surrounding Use(s)	<ul style="list-style-type: none"> • Service station, corner stores, parking lot to the east and west; • Brunello Estates Subdivision to the south; and • Residential and institutional uses to the north. 	

Proposal Details

The major aspects of the applicant's proposal for the property located at 1840 St. Margaret's Bay Road include the construction of one building consisting of:

- An area for alcohol production;
- A smaller area for the retail sale of the beverages made on-premises; and
- A private event/hospitality area for private tours and tastings, where beverages produced at the facility can be sampled without charge.

It is important to note that the proposal does not include commercial entertainment uses such as taverns, beverage rooms or lounges. These uses can only be considered by way of a separate and different discretionary Planning Process (i.e. Development Agreement).

Enabling Policy and LUB Context

The location of the Commercial Core (CC) Designation has been chosen primarily because of its ability to accept commercial growth with minimum adverse impact on the residential environment. The designation is intended to sustain and encourage consideration of a mixture of recreational, community, commercial, mixed-use commercial/residential developments, retail and entertainment uses. As such, policies CC-1, CC-2, GC-1, GC-2 and UR-21 enable Council to consider the proposed LUB amendments to allow for a "Micro-Alcohol Production Facility" as a permitted use in the C-2 Zone. Staff's detailed evaluation of the proposal in accordance with these policies is included as Attachment B.

With regards to the LUB requirements, the C-2 (General Business) Zone permits a wide range of residential and minor and major commercial uses, which are predominately dispersed along Highway No. 3. These uses include full-service, take-out and drive-thru restaurants, neighbourhood convenience outlets, highway commercial uses such as gas stations, and business uses found within dwellings. Attachment C contains a detailed list of permitted land uses and development provisions.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site and letters mailed to property owners within the notification area. The public comments received were in support of the proposed amendments (Attachment E).

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed LUB amendments. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local residents and nearby property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment A contains the proposed LUB amendments that would allow a "Micro-Alcohol Production Facility" as a permitted use in the C-2 Zone.

LUB Amendment Review

Attachment B provides an evaluation of the proposed amendments in relation to relevant MPS policies. Of the matters reviewed to satisfy the MPS criteria, the following have been identified for more detailed discussion:

New Land Use - Popularity & Growth:

Micro-alcohol production is one of the fastest growing industries in Canada. Micro-breweries and other low-volume alcohol production facilities, such as micro-distilleries, have become increasingly popular in recent years. Due to the rapid growth of this trend, many Canadian municipalities have adopted land use definitions and regulations for all scales of alcohol production. The intent is to support new and existing businesses, regulate the scale of the use and production, and limit potential issues and impacts on surrounding properties.

Locally, many alcohol production facilities of different scales have been established, mostly, in dense and mixed-use urban areas in the Halifax peninsula and Downtown Dartmouth areas. However, with the increased interest and growth potential of this industry, there is an advantage in investigating, exploring and introducing this sector in the suburban-community context of the TLB area.

Generally, these types of facilities are considered less intensive than large-scale industrial size alcohol production facilities such as commercial breweries, and are currently absent from the LUB. As such, including definitions and land use regulations will address the volume of manufacturing for different types of alcoholic beverages, and permit these uses with a focus on the land use compatibility and mitigation measure to minimize any potential conflicts with adjacent properties.

The proposed land use provisions, included in Attachment A, would limit the scale of the production and distribution of alcoholic beverages, and allow for accessory uses such as tours of the facility, retail sale, wholesale, events/hospitality room, as well as on premise consumption of beverages made in the facility. Attachment D is a letter provided by the applicant that outlines the details of the operations with some background information on the brewing industry in the Municipality.

Commercial vs. Industrial:

The base use of micro-alcohol production may be considered light industrial in nature. However, given the predominant commercial elements associated with retail/whole sale of produced beverages, tasting events and facility tours, the proposed uses are considered appropriate for key commercial/general business locations. Such uses are also consistent with the primary objective of the Urban Residential and Commercial Core Designations and policies of the Plan Area (Attachment B).

The intent of the proposed LUB amendments is to create space for smaller producers to operate within commercial areas and regulate the micro-production elements of these facilities. The amendments also include land use provisions relating to location criteria, land use compatibility, space allocation, building design and outdoor storage, in order to mitigate against any potential impacts on neighbouring properties (Attachment A).

Municipal & Provincial Regulations:

Micro-alcohol production facilities are a relatively new type of land use. Due to the economies of scale in production, distribution, marketing and advertising, large-scale facilities such as breweries have dominated the beer industry for decades. However, in recent years, the increased interest in the small to medium-scale production industry, and the demands for independent local products have led to a significant rise of micro-alcohol production industry as a new type of use. As a result, many municipalities across the country have started adopting land use regulations to address specific issues and potential impacts on surrounding properties.

It is important to note that cities and municipalities across Canada rely on provincial regulations under the *Liquor Control Act* to define and regulate the production and consumption of alcoholic beverages. The *Liquor Control Act* consists of separate definitions for brewpubs, micro-breweries, craft (micro-) distilleries and larger-scale breweries, limiting them in size, production, on-site consumption and even size of sampling containers.

In Nova Scotia, the production and consumption of alcoholic beverages is regulated by the provincial crown corporation, the Nova Scotia Liquor Corporation (NSLC), and the Nova Scotia Alcohol, Gaming, Fuel and Tobacco Division, respectively. This is accomplished through the issuance of appropriate licences based on the applicant's business model, in accordance with the regulations of the *Liquor Control Act*. For example, as per the Manufacture's Policy of NSLC, included in Attachment F, there are four types of breweries:

1. Nano-Brewery: A small-scale manufacturing facility with a production limit of less than 2,000 hectolitres of beer per year and, counted separately, less than 2,000 hectoliters of cider or other non-spirits per year.

2. Brew-Pubs: an establishment where beer is brewed or manufactured with the primary distribution in an adjoining restaurant where food is served.
3. Micro-Brewery (or Craft Brewery): A medium-scale manufacturing facility with a production limit of more than 2,000 hectolitres but less than 15,000 hectoliters of beer per year. The facility may include a tasting room where beer manufactured onsite is served.
4. Brewery (or Commercial Brewery): A large-scale brewery with annual beer production that exceeds 15,000 hectoliters. The facility may include a tasting room where beer manufactured onsite is served.

Note: One hectolitre is 100 litres, which equals 25 gallons or 12 cases of beer.

Current municipal land use regulations for the T/L/B Plan Area and other plan areas in the Municipality do not contain specific definitions and land use provisions for micro-alcohol production facilities. For example, most general business and major commercial zones in urban and suburban plan areas, generally allow various types and levels of intensity of commercial uses. These include retail spaces or restaurants with accessory micro-breweries, subject to size limitations.

As such, in order to provide for land use definitions and regulations in a comprehensive approach that will provide greater clarity and predictability to future business owners and municipal staff during the issuance of municipal permits, the NSLC's Manufacture's Policy was utilized as a guide. The proposed LUB amendments (Attachment A) clearly articulate the permitted uses associated with the industry and limit the scale of production, with a focus on land use compatibility.

Proposed Regulation – Overview

Generally, introducing new land uses in a land use by-law requires the creation of new definitions and land use requirements to regulate the use and associated structures/buildings. In this scenario, micro-alcohol production facilities involve a light industrial element that must be addressed and mitigated against by emphasizing the commercial component. The following is a brief overview of the proposed changes:

Land Use Definitions:

A new use definition is proposed called "Micro-Alcohol Production Facility". This would accommodate for medium-scale manufacturing facilities for the production of beer, cider and distilled spirits, in accordance with a valid alcohol manufacturing licence from the Nova Scotia Liquor Corporation (NSLC). The proposed definition addresses two types of facilities, Micro-Brewery and Micro-Distillery, to:

- Produce alcoholic beverages limited to 15,000 hectolitres in a Micro-Brewery, and 75,000 litres in a Micro-Distillery (*One hectolitre is 100 litres, which equals 25 gallons*);
- Retail/wholesale the beverages made on-premises; and
- Contain a private event/hospitality area for private tours and tastings, where beverages produced at the facility can be sampled.

Land Use Regulations:

New regulations would permit Micro-Breweries and Micro-Distilleries in most C-2 zoned properties in the T/L/B Plan Area. Upon a detailed review of the request and the existing land use fabric, it was determined that permitting Micro-Alcohol Production Facilities as-of-right, while incorporating land use provisions and standards into the C-2 Zone, would ensure that these uses operate in a manner compatible with surrounding land uses. The proposed land use provisions are as follows:

- Land Use Compatibility: Micro-Alcohol Production Facilities are limited to commercial areas. No facility will be permitted where the subject property abuts residential uses, or residentially-zoned or community-zoned properties;
- Gross Floor Area: Permitted facilities shall not exceed 604 square metres (6,500 square feet) in gross floor area. Facilities larger than 6,500 square feet often exhibit industrial characteristics including frequent freight shipping and deliveries. Such activity may not be suitable in all commercial areas, specifically those located within close proximity to residential properties;

- Commercial Component: The remainder of the floor area shall include accessory uses such as retail sale, wholesale, tours and events/hospitality room, where beverages produced at the facility can be sampled and consumed without charge.
- Interior Layout: Only 60% of the totally gross floor space of the facility shall be used for the production and packaging;
- Several other regulations that address accessory uses, mechanical equipment, loading bays and outdoor storage.

The proposed LUB amendments will introduce new types of land uses in a compatible and appropriate manner with the existing neighbourhood, and consistent with the intent and policies of MPS (Attachments A and B).

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the T/L/B MPS to introduce micro-alcohol production facilities as a new type of land use within the C-2 Zone. Therefore, it is recommended that Halifax and West Community Council approve the proposed LUB amendments as set out in Attachment A.

FINANCIAL IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of the proposed LUB amendments.

RISK CONSIDERATION

There are no significant risks associated with the recommendation contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed LUB amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed LUB amendments subject to modifications. Such modifications may require further discussion with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve the proposed LUB amendments is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed LUB amendments, and in doing so, must provide reasons why the proposed amendments do not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendments is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

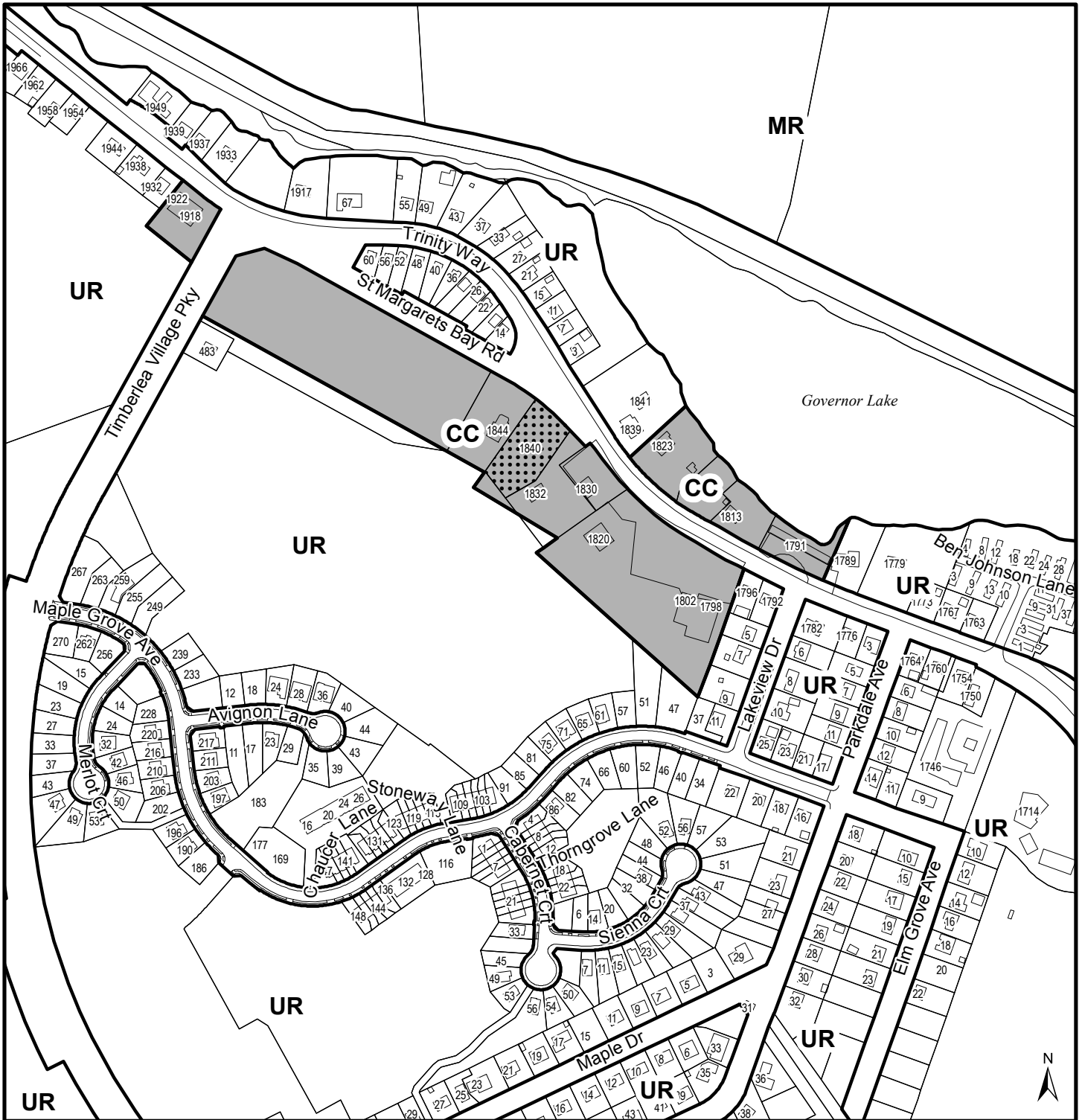
ATTACHMENTS

Maps 1A, 1B, 1C & 1D:	Generalized Future Land Use
Maps 2A, 2B, 2C & 2D:	Zoning and Notification Area
Attachment A:	Proposed Land Use By-law Amendments for the Timberlea/Lakeside/Beechville (LUB)
Attachment B:	Excerpts from the Municipal Planning Strategy for Timberlea/Lakeside/Beechville (MPS): Policy Evaluation
Attachment C:	Excerpts from the Land Use By-law for Timberlea/Lakeside/Beechville (LUB)
Attachment D:	Letter of Intent – Applicant's Submission
Attachment E:	Public Comments via Correspondence
Attachment F:	Manufacturer's Policy – NSLC
Attachment G:	Legislative Authority

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Dalí Salih, Planner II, Current Planning, 902.490.1948

Report Approved by: Original Signed
Kelly Denty, Manager, Current Planning, 902.490.4800




Map 1A - Generalized Future Land Use

1840 St. Margaret's Bay Road,
Timberlea

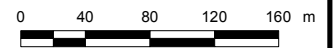
HALIFAX

 Subject Property

 Area of Proposed Land Use
By-law Amendments within
the C-2 Zone

Designation

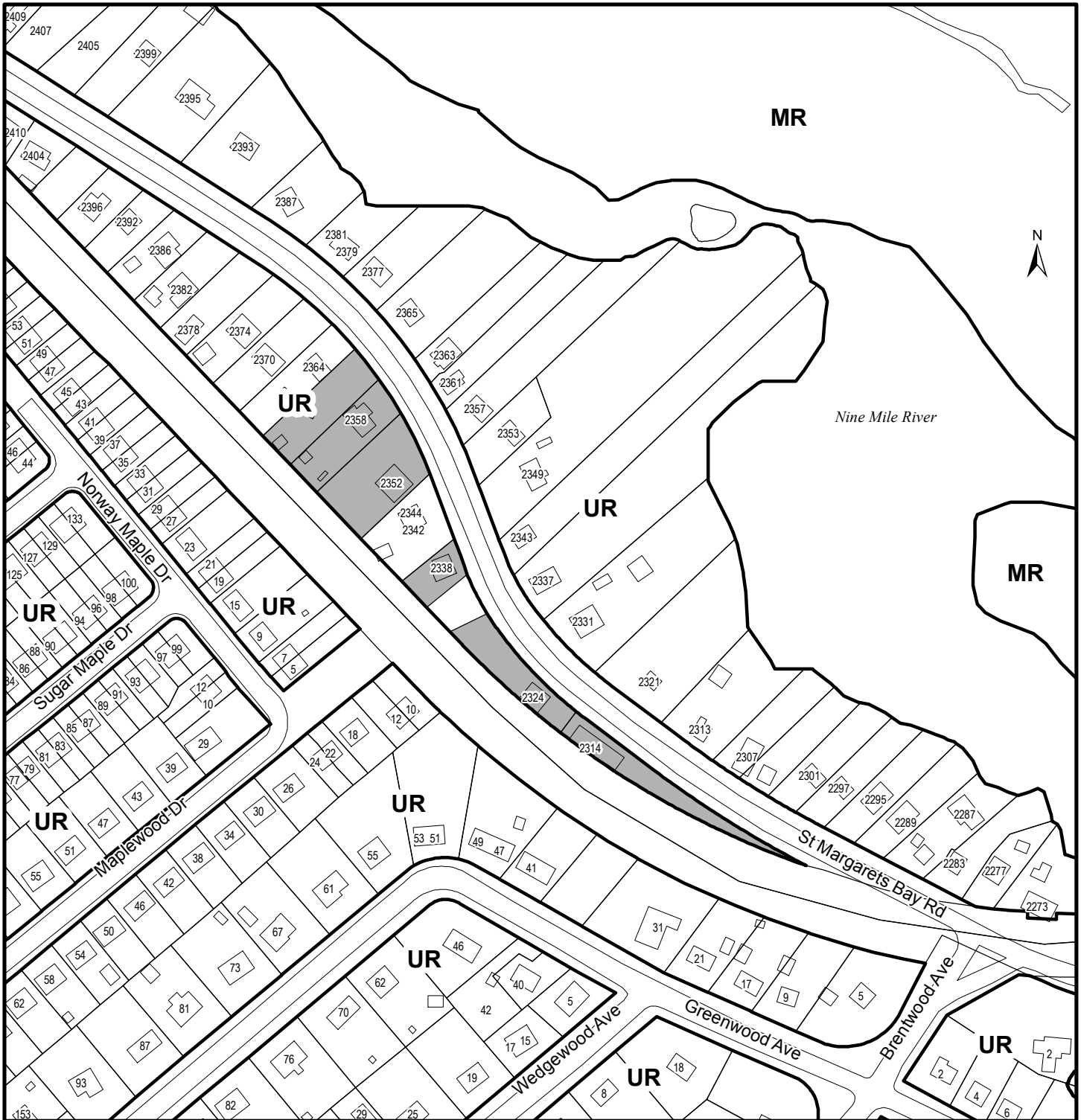
- UR Urban Residential
- CC Commercial Core
- MR Mixed Resource



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

The accuracy of any representation on this plan is not guaranteed.


Timberlea/Lakeside/Beechville Plan Area

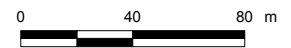


Map 1B - Generalized Future Land Use

St. Margaret's Bay Road,
Timberlea

HALIFAX

 Area of Proposed Land Use
By-law Amendments within
the C-2 Zone



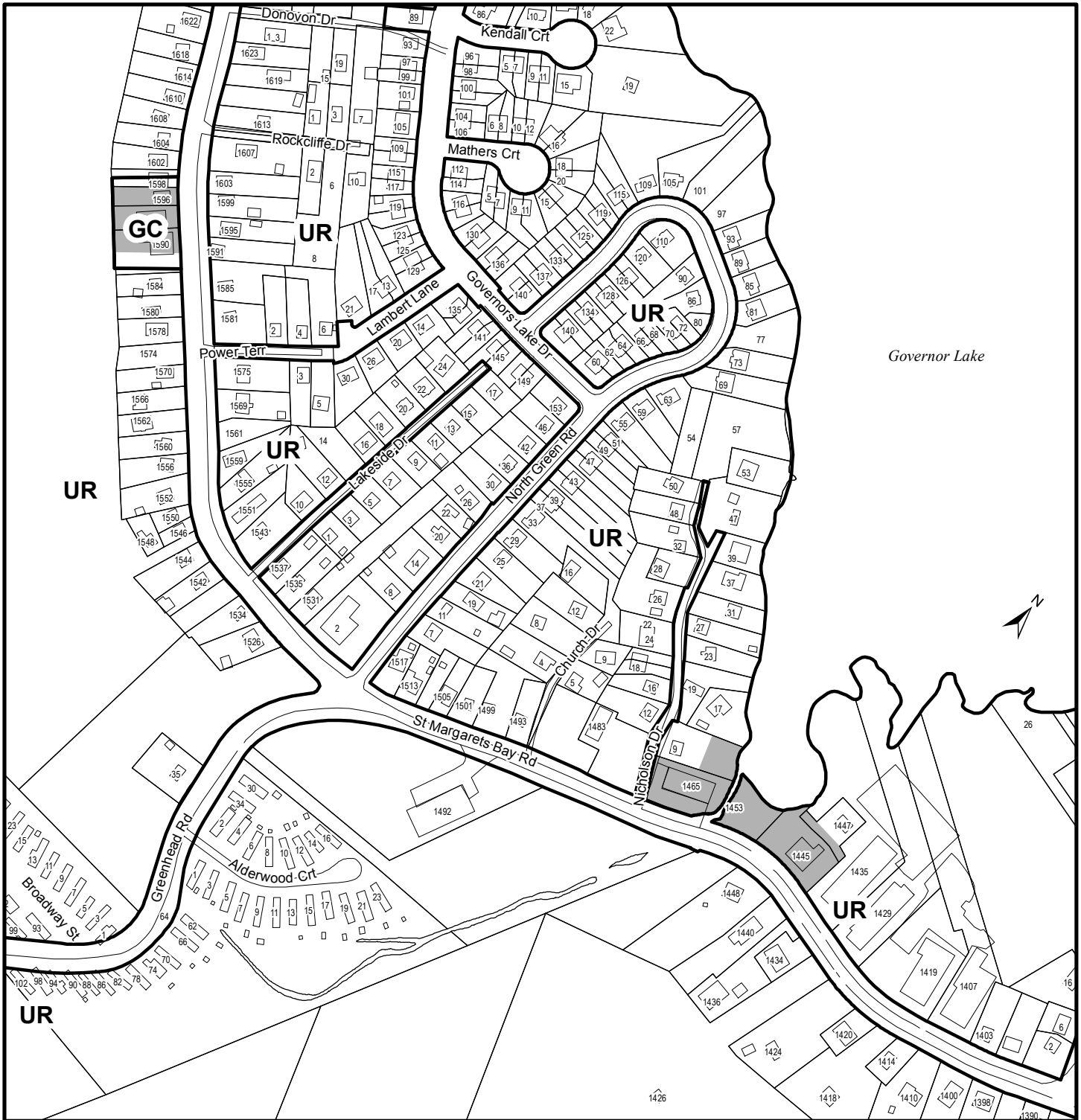
Designation

UR Urban Residential
MR Mixed Resource

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Timberlea/Lakeside/Beechville Plan Area



Governor Lake

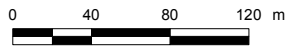


Map 1C - Generalized Future Land Use

St. Margaret's Bay Road,
Timberlea

HALIFAX

Area of Proposed Land Use
By-law Amendments within
the C-2 Zone



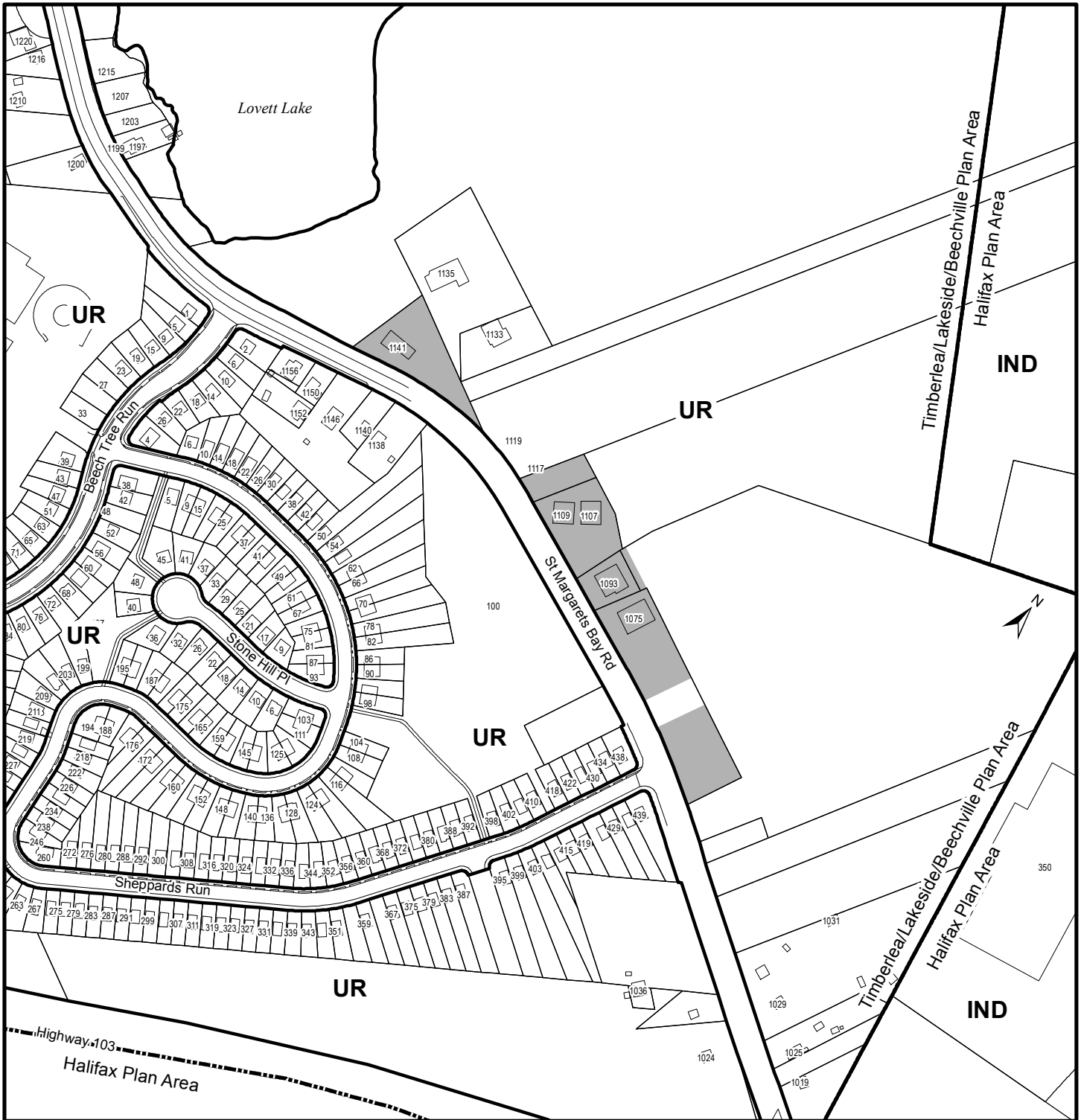
Designation

- UR Urban Residential
- CC Commercial Core
- MR Mixed Resource

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Timberlea/Lakeside/Beechville Plan Area




Map 1D - Generalized Future Land Use

St. Margaret's Bay Road,
Timberlea

HALIFAX

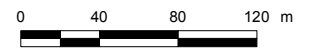
 Area of Proposed Land Use
By-law Amendments within
the C-2 Zone

 Plan Area Boundary

Timberlea/Lakeside/Beechville Plan Area
Halifax Plan Area

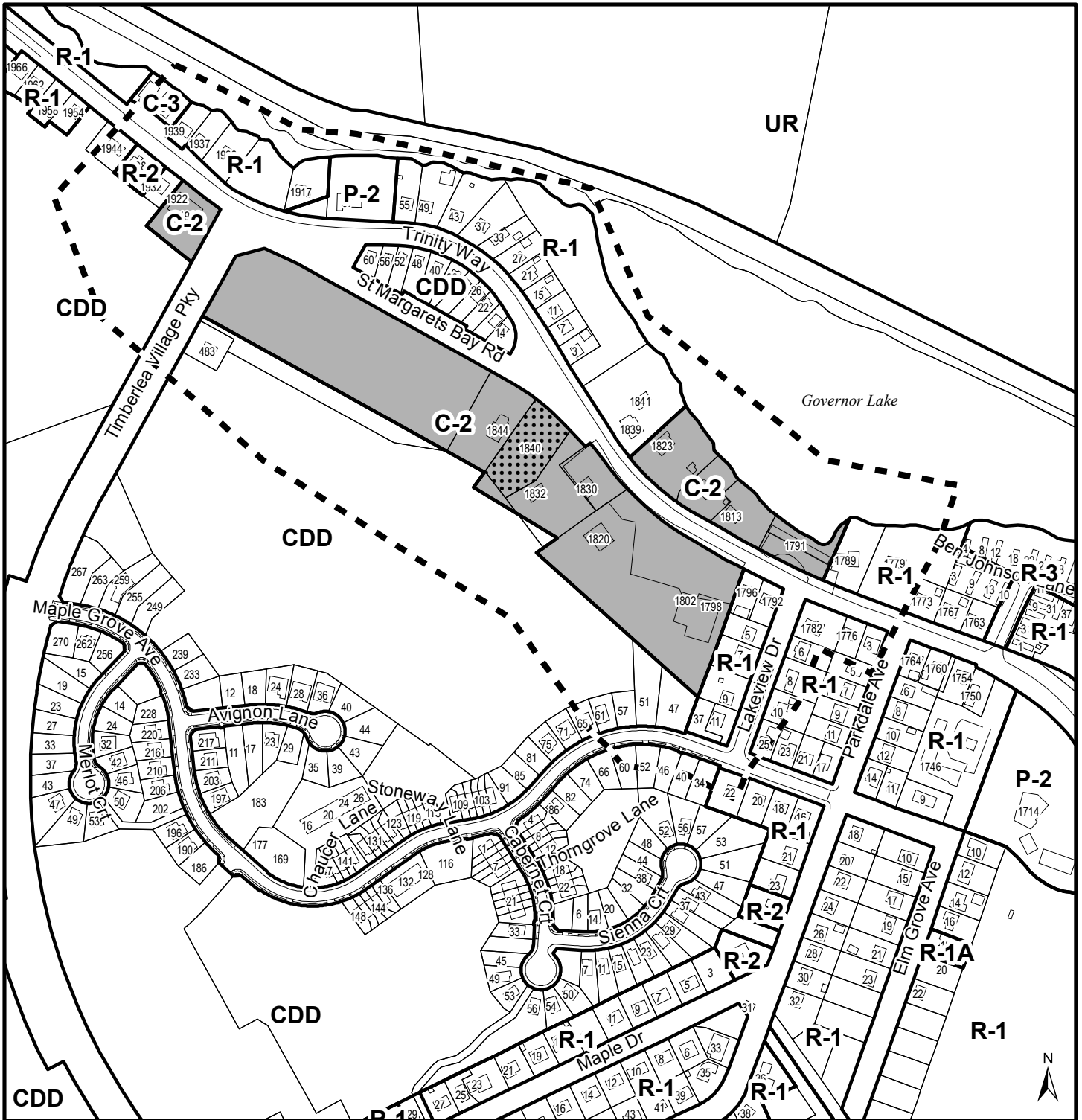
Designation

TLB	UR	Urban Residential
Halifax	IND	Industrial



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Map 2A- Zoning and Notification

1840 St. Margaret's Bay Road,
Timberlea

Subject Property

Area of Proposed Land Use
By-law Amendments within
the C-2 Zone

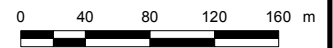
Area of Notification

Timberlea/Lakeside/Beechville Plan Area

Zone

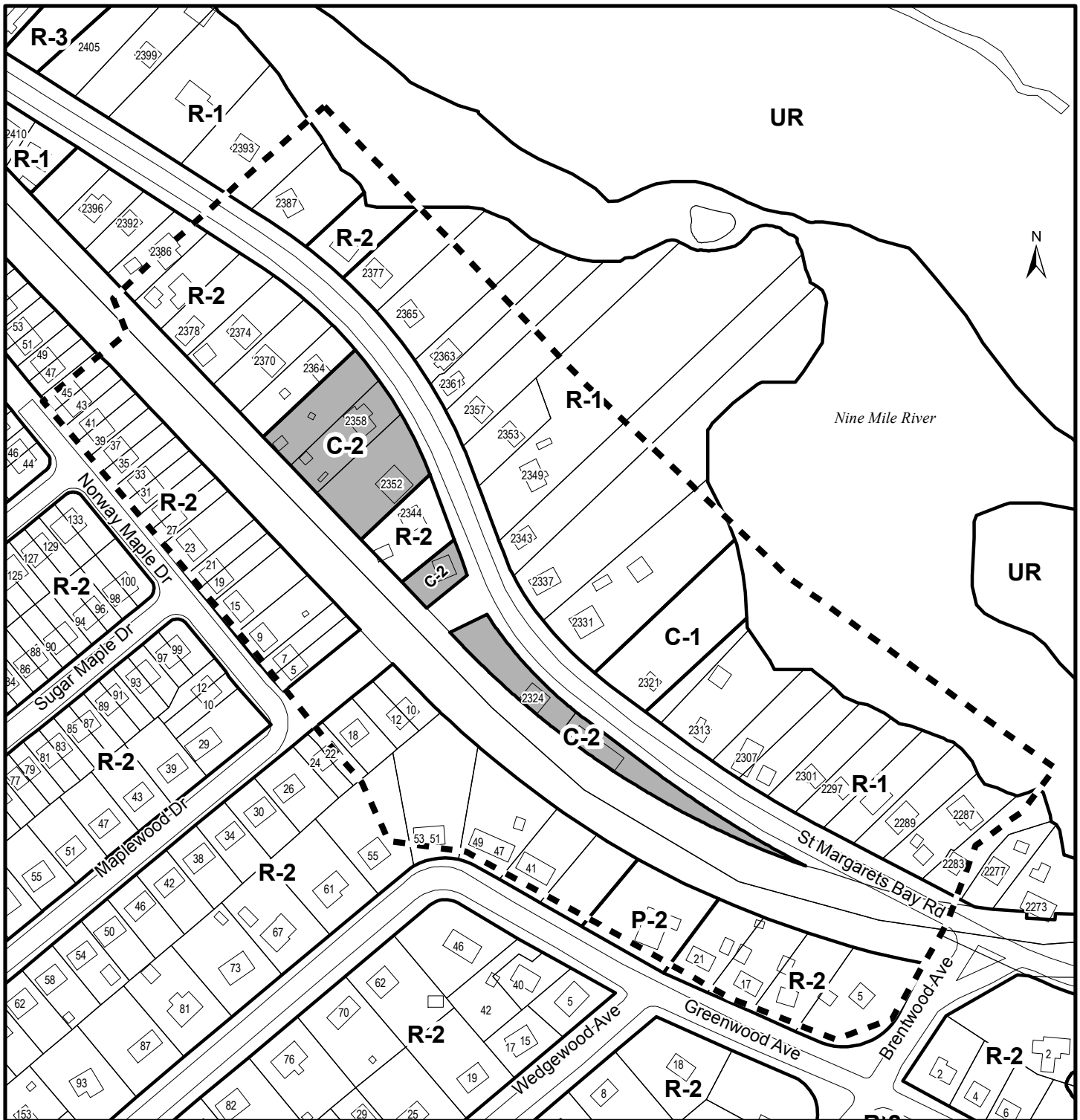
- R-1 Single Unit Dwelling
- R-1A Auxiliary Dwelling Unit
- R-2 Two Unit Dwelling
- R-3 Mobile Dwelling
- C-2 General Business
- C-3 Service Business
- P-2 Community Facility
- CDD Comprehensive Development District
- UR Urban Reserve

HALIFAX



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



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Map 2B- Zoning and Notification

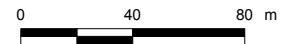
St. Margaret's Bay Road,
Timberlea



-  Area of Proposed Land Use By-law Amendments within the C-2 Zone
-  Area of Notification

Zone

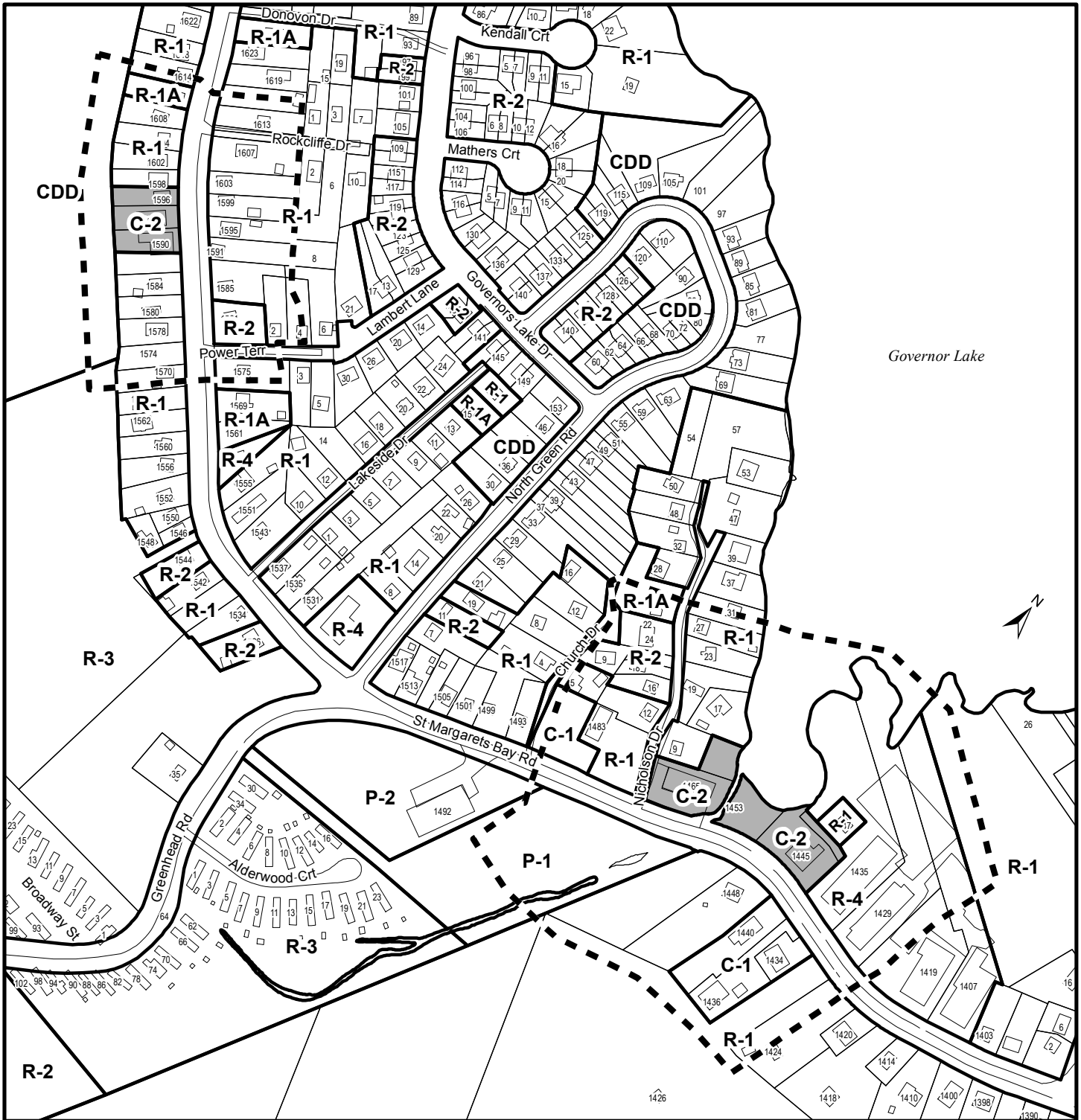
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-3 Mobile Dwelling
- C-2 General Business
- P-2 Community Facility
- UR Urban Reserve



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Timberlea/Lakeside/Beechville Plan Area



Map 2C- Zoning and Notification

St. Margaret's Bay Road,
Timberlea

 Area of Proposed Land Use
By-law Amendments within
the C-2 Zone

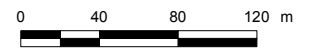
 Area of Notification

Timberlea/Lakeside/Beechville Plan Area

Zone

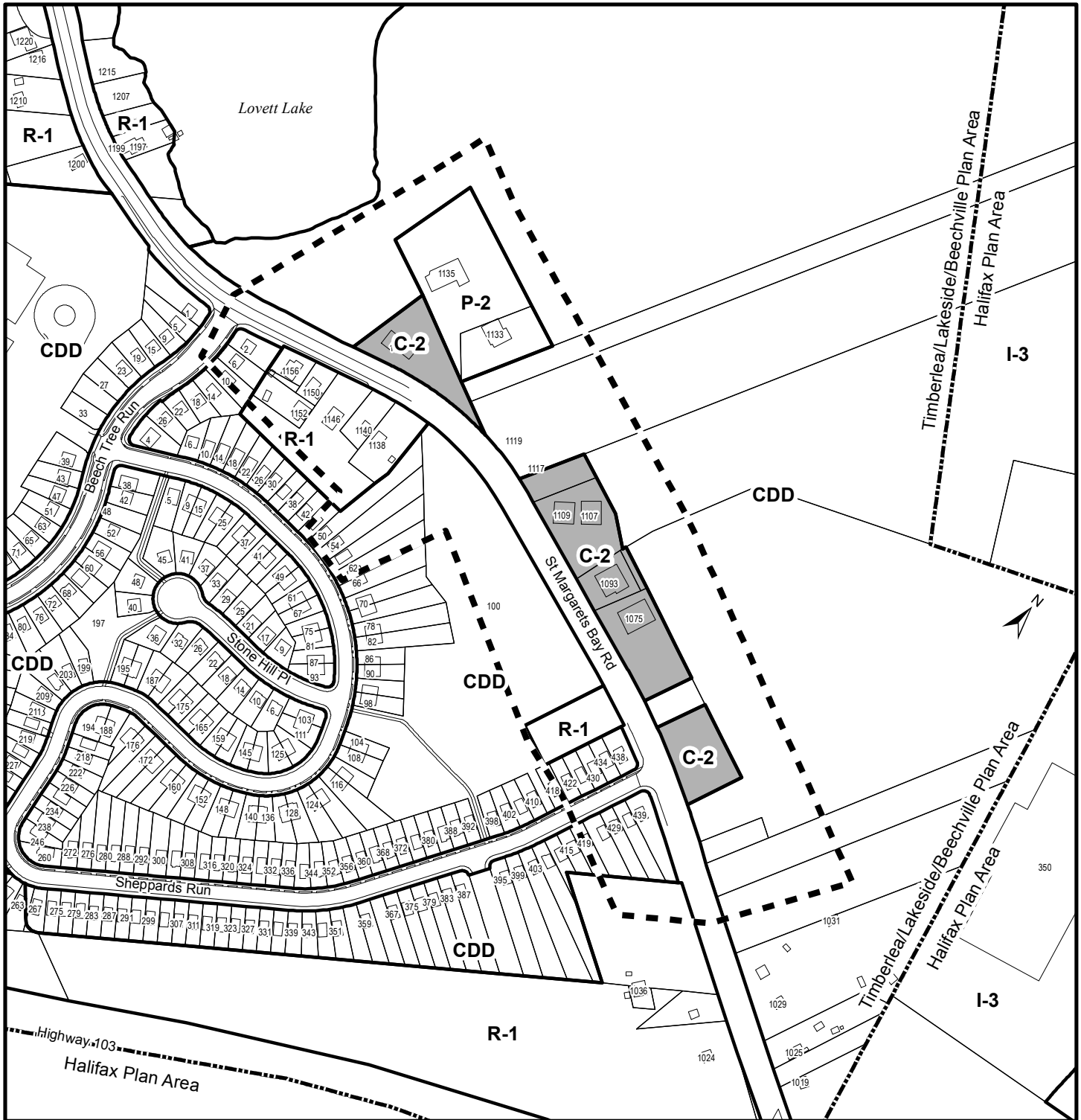
- R-1 Single Unit Dwelling
- R-1A Auxiliary Dwelling Unit
- R-2 Two Unit Dwelling
- R-3 Mobile Dwelling
- R-4 Multi-Unit Dwelling
- C-1 Local Business
- C-2 General Business
- P-1 Open Space
- P-2 Community Facility
- CDD Comprehensive Development District

HALIFAX



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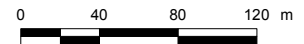
Map 2D- Zoning and Notification

St. Margaret's Bay Road,
Timberlea



- Area of Proposed Land Use
- Area of Notification
- Plan Area Boundary

Zone	
TLB	R-1 Single Unit Dwelling
	C-2 General Business
	P-2 Community Facility
	CDD Comprehensive Development District
Halifax Mainland	I-3 General Industrial



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Timberlea/Lakeside/Beechville Plan Area
Halifax Plan Area

**ATTACHMENT A:
Proposed Amendments to the Land Use By-law for
Timberlea/Lakeside/Beechville (LUB)**

BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Timberlea/Lakeside/Beechville as adopted by the Council of the former Halifax County Municipality on the 10th day of August, 1992, and approved by the Minister of Municipal Affairs on the 20th day of November, 1992, which includes all amendments thereto which have been adopted by the Halifax Regional Municipality and are in effect as of the [insert date of 'appeal date'] is hereby further amended by:

1. Adding the following definition of "Micro-Alcohol Production Facilities" to Part 2: Definitions, following Section 2.39:

2.39A "MICRO-ALCOHOL PRODUCTION FACILITY means a Micro-Brewery or a Micro-Distillery:

(a) MICRO-BREWERY means a craft brewery primarily engaged in the production and packaging of less than 15,000 hectoliters per year of speciality or craft beer, ale, or other malt beverages. The facility may include accessory uses such as retail sale, wholesale, tours and events/hospitality room, where beverages produced at the facility can be sampled.

(b) MICRO-DISTILLERY means a craft distillery primarily engaged in the production and packaging of less than 75,000 litres per year of liquor and spirits, other than wine and beer. The facility may include accessory uses such as retail sale, wholesale, tours and events/hospitality room, where beverages produced at the facility can be sampled.

2. Adding "Micro-Alcohol Production Facilities" to the list of permitted Commercial Uses in Section 13.1 of Part 13: C-2 (General Business) Zone following the words, "Re-cycling depots".

3. Adding "OTHER REQUIREMENTS: MICRO-ALCOHOL PRODUCTION FACILITIES" following Section 13.7, as follows:

13.8 OTHER REQUIRMENTS: MICRO-ALCOHOL PRODUCTION FACILITIES

Where micro-alcohol production facilities are permitted in any C-2 Zone, the following shall apply:

(a) No Micro-Alcohol Production Facility shall be permitted where the subject property abuts a residential use, or any Residential or Community Use zone.

(b) No Micro-Alcohol Production Facility shall be permitted in conjunction with existing entertainment uses, shopping plazas or malls, and/or drive-in and take-out restaurants.

(c) Notwithstanding the Lot Area and Lot Coverage requirements of Section 13.2, where a Micro-Alcohol Production Facility is permitted in any C-2 zoned property in conjunction with a full-service restaurant, it shall be secondary and accessory to the full-service restaurant and the following shall apply:

Minimum Lot Area	10,000 square feet (929 m²)
Maximum Gross Floor Area of the Micro-Alcohol Production Facility, excluding restaurant	3,500 square feet (325 m²)
Maximum Lot Coverage, including restaurant	40 percent

(d) Notwithstanding the Lot Area requirements of Section 13.2, where a Micro-Alcohol Production Facility is erected in any C-2 Zone, as a stand alone use, the following shall apply:

Minimum Lot Area	10,000 square feet (929 m²)
Maximum Gross Floor Area of the Micro-Alcohol Production Facility	6,500 square feet (604 m²)

- (e) No more than 60% percent of the gross floor area of the Micro-Alcohol Production Facility shall be dedicated to production and packaging, including but not limited to the brew house, boiling and water treatment areas, bottling and kegging lines, storage, fermentation tanks, conditioning tanks, serving tanks and similar structures. The remaining portion of the floor area may include accessory uses such as retail sale, wholesale, tours and events/hospitality rooms, where beverages produced at the Micro-Alcohol Production Facility may be sampled.**
- (f) Loading bays shall not exceed two in number and may only be located at the rear of the main building and may not be located on the facade of the building facing a street**
- (g) Notwithstanding the requirements of Section 13.5, no outdoor storage shall be permitted.**

I HEREBY CERTIFY that the amendments to
the Land Use By-law for
Timberlea/Lakeside/Beechville, as set out
above, were duly passed by a majority vote of
the Halifax and West Community Council at a
meeting held on the ___ day of _____, 20__.

GIVEN under the hand of the Clerk and the
Corporate Seal of the Halifax Regional
Municipality this ___ day of _____, 20__.

Municipal Clerk

**ATTACHMENT B:
Excerpts from the Municipal Planning Strategy for
Timberlea/Lakeside/Beechville (MPS): Policy Evaluation**

The proposal may be considered by Council through the following applicable policies of the Municipal Planning Strategy for Timberlea/Lakeside/Beechville (MPS):

<u>URBAN RESIDENTIAL DESIGNATION – Existing Commercial and Industrial Uses</u>	
<p><i>The intent of this strategy is to minimize and, where possible, resolve some of the most serious land use conflicts and to designate areas which are appropriate for development. There remain however, a number of existing commercial and industrial uses located in residential areas, which do not involve serious land use conflicts. The road pattern and the absence of zoning controls until 1982 have produced a mixture of residential, commercial and industrial uses along Highway No. 3. Some of this mix is incongruous with respect to traffic, noise, aesthetics, and suitable separation distances. These uses are reasonable, however, in terms of the services they provide, their acceptance to the community and their suitability to the immediate area in terms of scale and size.</i></p> <p><i>Other commercial and industrial uses include retail stores, small manufacturing operations, a number of autobody shops and equipment sales and rental shops. In the main, residents have accepted these as part of the community, notwithstanding their residential locations. In order to accommodate these commercial and industrial land uses, zoning and development agreement provisions will be established, which are intended to recognize the existing uses and provide specific control over of any potential expansion. It shall not be the intention to apply these remedies to new uses but only to recognize existing uses.</i></p>	
Applicable Policies	Staff Comments
<p>Policy UR-21: <i>UR-21 Notwithstanding Policy UR-1, within the Urban Residential Designation, it shall be the intention of Council to accommodate a number of existing commercial operations with direct access to Highway No. 3 through the application of a general business zone (Policy CC-2). It shall not be the intention of Council to permit future rezoning to a general business zone within the Urban Residential Designation.</i></p>	<p>The application is for a general amendment to the LUB to include specific land use definitions and regulations that would permit for micro-breweries and micro-distilleries with accessory retail and events/hospitality area in C-2 Zoned properties, in response to the increased demand and popularity of the industry.</p> <p>The proposed definitions and land use regulations, included in Attachment A, address the volume of manufacturing for different types of alcoholic beverages, and permit these uses with a focus on the land use compatibility and mitigation measure to minimize any potential conflicts with adjacent properties.</p> <p>The proposed amendments prohibit establishing these types of facilities on C-2-zoned properties that abut residential uses, or Residentially-zoned or Community-zoned properties. Other provisions:</p> <ul style="list-style-type: none"> • restrict the size of the facility; • limit the size of the area dedicated to the brewing and distilling operations; and • address loading bays, mechanical equipment and open storage.

COMMERCIAL CORE DESIGNATION:

Commercial land use in Timberlea/Lakeside/Beechville is illustrative of an early stage of suburban commercial development.

The previous section on residential land use, particularly Policies UR-20, UR-21 and UR-22, dealt with various commercial activities outside the Commercial Designation.

The location of the commercial core has been chosen primarily on its ability to accept growth with minimum adverse impact on the residential environment. It is sufficiently large to sustain a functional mixture of community facility, recreational, commercial, mixed use commercial/residential developments, cultural, retail and entertainment uses and is located so as to take advantage of existing, as well as potential transportation investment in collector roads, interchanges and public transit.

Applicable Policies	Staff Comments
Policy CC-1: <i>It shall be the intention of Council to establish the Commercial Core Designation, as shown on Map 1 - Generalized Future Land Use. Lands within the designation are intended to provide a commercial and service focus for the Plan Area.</i>	The proposed amendments to include micro-alcohol production facilities with accessory retail and events rooms are limited to the C-2 Zone. This reinforces the intent of this policy and the Commercial Core Designation.
Policy CC-2: <i>Within the Commercial Core Designation, it shall be the intention of Council to establish a general business zone which permits general commercial uses not exceeding fifty thousand (50,000) square feet of gross floor area, and also permits special trade contracting services and shops not exceeding two thousand (2,000) square feet in gross floor area along with community uses and existing dwellings. This zone shall also permit up to two (2) dwelling units to be used on conjunction with permitted commercial uses, as well as boarding and rooming houses. The zone shall be applied to existing commercial uses in the Residential Designation, subject to the conditions established in Policy UR-21, and within the General Commercial Designation subject to Policy CG-2.</i>	The proposed amendments limit the size of micro-alcohol production facilities to a maximum of 604 square metres (6,500 square feet) in gross floor area. This falls within the gross floor area bounds in the policy, enforces land use compatibility and meets the intent of the CC Designation.

GENERAL COMMERCIAL DESIGNATION:

It is the intent of this strategy to designate minor general commercial areas in each of the three communities to conveniently serve local residents, provide a range of retail goods and services and minimize land use conflicts exemplified by strip commercial development. Four of these centres have been identified and a General Commercial Designation has been applied to each. One centre is located in Beechville, one in Timberlea and two are in the community of Lakeside.

These areas are differentiated from the major commercial core area in that they do not permit shopping centres in excess of 50,000 square feet of floor area, nor will they permit mixed use commercial/residential developments.

Applicable Policies	Staff Comments
<p>Policy GC-1: <i>It shall be the intention of Council to establish a General Commercial Designations, as shown on Map 1 - Generalized Future Land Use. Lands within this designation are intended to serve local community needs, while minimizing the potential for strip development.</i></p>	<p>The proposed amendments to include micro-alcohol production facilities with accessory retail and events room are limited to the C-2 Zone. The proposed land use regulations place restrictions on the location of these facilities, lot area and building size, in order to minimize potential impacts.</p> <p>Council should note that there are only three properties that are designated General Commercial (GC) (Map 1C).</p>
<p>Policy GC-2: <i>Within the General Commercial Designation, it shall be the intention of Council to apply the General Business Zone (Policy CC-2) to existing commercial uses and to consider new commercial uses by amendment to the land use by-law, with regard to the provisions of Policy IM-12.</i></p>	<p>The proposal is intended to include a new commercial use within the C-2 Zone by way of amendments to the LUB.</p>
Applicable Implementation Policies	Staff Comments
<p>Policy IM-12: <i>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:</i></p>	
<p>(a) <i>that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulations.</i></p>	<p>The proposed amendments meet the intent of the Urban Residential and Commercial Core Designations, and the intent of MPS.</p>
<p>(b) <i>that the proposal is not premature or inappropriate by reason of:</i></p>	
<p>(i) <i>the financial capability of the Municipality to absorb any costs relating to the development;</i></p>	<p>There are no budget implications. The developer will be responsible for all costs, expenses, liabilities and obligations.</p>
<p>(ii) <i>the adequacy of sewer and water services;</i></p>	<p>All C-2 Zoned properties impacted by the proposed amendments are connected to municipal services.</p>
<p>(iii) <i>the adequacy or proximity to school, recreation or other community facilities;</i></p>	<p>Not applicable.</p>
<p>(iv) <i>the adequacy of road networks leading or adjacent to, or within the development; and</i></p>	<p>All C-2 Zoned properties impacted by the proposed amendments have direct frontage on St. Margaret's Bay Road.</p>
<p>(v) <i>the potential for damage to or for destruction of designated historic buildings and sites.</i></p>	<p>Not applicable.</p>
<p>(vi) <i>the proposed means of handling storm water and general drainage within and from the development.</i></p>	<p>Not applicable.</p>
<p>(c) <i>that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i></p>	
<p>(i) <i>type of use;</i></p>	<p>The base use of micro-alcohol production may be considered light industrial in nature. However, given the predominant commercial elements associated with retail/whole sale of produced</p>

	<p>beverages, tasting events and facility tours, the proposed uses are considered appropriate for key commercial/general business locations.</p> <p>The proposed amendments include land use provisions relating to location criteria, land use compatibility, space allocation, and outdoor storage, in order to mitigate against any potential impacts on neighbouring properties. Detailed regulations are included in Attachment A.</p>
<i>(ii) height, bulk and lot coverage of any proposed building;</i>	The proposed land use regulations place restrictions on the location of these facilities, lot area and building size, in order to minimize potential impacts. Detailed regulations are included in Attachment A.
<i>(iii) traffic generation, access to and egress from the site, and parking;</i>	Parking requirements are detailed in the LUB. No changes are proposed.
<i>(iv) open storage and outdoor display</i>	The proposed amendments include provisions that prohibit open storage. Detailed regulations are included in Attachment A.
<i>(v) signs; and</i>	Signage requirements are detailed in the LUB. No changes are proposed.
<i>(vi) any other relevant matter of planning concern</i>	None.
<i>(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.</i>	Not applicable.
<i>(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.</i>	Not applicable.

ATTACHMENT C:
Excerpts from the Land Use By-law for Timberlea/Lakeside/Beechville (LUB)

PART 13: C-2 (GENERAL BUSINESS) ZONE

13.1 C-2 USES PERMITTED

No development permit shall be issued in any C-2 (General Business) Zone except for the following:

Commercial Uses

Retail stores
Food stores
Service and personal service shops
Offices
Commercial schools
Banks and financial institutions
Restaurants and drive-in and take-out restaurants
Outdoor display courts
Shopping plazas and malls
Theatres and cinemas
Existing entertainment uses
Entertainment uses associated with motels, hotels and hostels
Motels, hotels and hostels
Commercial recreation uses
Service stations
Taxi and bus depots
Parking lots
Greenhouses and nurseries
Veterinary hospitals and kennels
Welding, plumbing and heating, electrical and other special trade contracting services and shops
Local fuel distribution facilities
Re-cycling depots

Residential Uses

Existing dwellings
Boarding and rooming houses
Two or fewer dwelling units in conjunction with permitted commercial uses

Community Uses

Open space uses Institutional uses

13.2 C-2 ZONE REQUIREMENTS: COMMERCIAL AND RESIDENTIAL USES

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

Minimum Lot Area	6,000 square feet (558 m ²)
Minimum Frontage	60 feet (18.3 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	15 feet (4.6 m)
Maximum Lot Coverage	50 percent
Maximum Height of Main Building	35 feet (10.7 m)
Minimum Width of Main Building	20 feet (6.1 m)

13.3 OTHER REQUIREMENTS: SERVICE STATIONS

Notwithstanding the provisions of Section 13.2, where any service station is erected in any C-2 Zone the following shall apply:

- (a) Minimum Lot Area 30,000 square feet (2787 m²)
- (b) Minimum Frontage 150 feet (45.7 m)
- (c) No portion of any pump island shall be located closer than twenty (20) feet (6.1 m) from any street line.
- (d) The minimum distance between ramps or driveways shall not be less than thirty (30) feet (9.1 m).
- (e) The minimum distance from a ramp or driveway to a road intersection shall be fifty (50) feet (15 m).
- (f) The minimum angle of intersection of a ramp to a road line shall be forty-five (45) degrees.
- (g) The width of a ramp shall be a minimum of twenty (20) feet (6.1 m) and a maximum of twenty-six (26) feet (7.9 m).

13.4 OTHER REQUIREMENTS: COMMERCIAL FLOOR AREA

- (a) Notwithstanding the provisions of Section 13.2, where welding, plumbing and heating, electrical and other special trade contracting services and shops are permitted in any C-2 Zone, no such shop shall exceed two thousand (2,000) square feet (186 m²) in gross floor area.
- (b) Notwithstanding the provisions of Section 13.2, where shopping plazas and malls are permitted in any C-2 Zone, no such plaza or mall shall exceed fifty thousand (50,000) square feet (4645 m²) of gross floor area.

13.5 OTHER REQUIREMENTS: OPEN STORAGE AND OUTDOOR DISPLAY

Where any portion of any lot in any C-2 Zone is to be used for open storage or outdoor display, the following shall apply:

- (a) Any area devoted to open storage shall not exceed fifty (50) percent of the lot area.
- (b) No open storage shall be permitted within any required front yard.
- (c) No outdoor display shall be located within ten (10) feet (3 m) of any front lot line.
- (d) No open storage or outdoor display shall be permitted within any yard in a C-2 Zone where such yard abuts any Residential or Community Uses Zone, except where a fence or other visual and physical barrier is provided within the abutting yard.

13.6 OTHER REQUIREMENTS: PARKING LOTS

Where parking lots are permitted in any C-2 Zone, whether in conjunction with other uses or as a separate use of land, the following shall apply:

- (a) Where any C-2 Zone abuts any Residential or Community Uses Zone, no portion of any parking space within the C-2 Zone shall be permitted within ten (10) feet (3 m) of any side or rear lot line.
- (b) No portion of any parking space within any C-2 Zone shall be located within ten (10) feet (3 m) of any front lot line.

13.7 C-2 ZONE REQUIREMENTS: COMMUNITY USES

In any C-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.

Case 20215 - Attachment D:
Letter of Intent - Applicant's Submission



October 23, 2015

Mr. Andrew Bone, MCIP, LPP
Senior Planner
Planning Services & Applications
Halifax Regional Municipality
7071 Bayers Road
Suite 2005
Halifax, N.S.
B3L 2C2

**Re: Beechville Lakeside Timberlea (BLT) – Land Use By-law – C2 Zoning Amendment
for Establishment of a Micro Brewery**

Dear Andrew,

On behalf of Canadian International Capital Inc. please accept this letter as an official request for an amendment to the BLT Land Use by law to allow Micro Breweries as an allowable use under the existing by law. We recently had a purchaser for a piece of property on Highway # 3 that is zoned C 2 and the purchaser wanted to build and operate a Micro Brewery which was met with resistance by HRM because Micro Brewery is not an allowable use listed in the BLT Land Use Bylaw. In discussion with Sean Audas, HRM Development Officer his suggestion was to add the word Micro Brewery as a permitted use after "*Restaurants and drive-in and take out restaurants*" in the list of allowable C-2 uses.

The concept of Micro Breweries is a relative new concept that certainly was not envisioned back in 1992 when the land use by law was created for the BLT area. I have researched the zoning of the existing Micro Breweries in Peninsula Halifax and 4 of the 5 are located in a C-2 zone which would lead me to believe that precedent has been set to allow this type of use in a C-2 Zone. The list of uses for the BLT Land Use by Law is certainly a comprehensive one, which allows a variety of commercial uses, some which are very similar to that of a Micro Brewery. For example a restaurant where food is prepared sold and consumed in a dine in and takeout fashion is an allowable use. A micro Brewery is not that much different and in my opinion would certainly be similar in that the craft beer is prepared there, sold for consumption within or packaged and sold as take out for consumption elsewhere.

It is on this basis that we feel the Land Use By law needs to be changed to incorporate Micro Brewery in the list of acceptable uses. People who are looking to open up and operate viable businesses in the community are having issue because of the way the current by law operates and the information contained in it. Other by laws that are in place such as the Peninsula bylaw that was created under the former city of Halifax only restricted those uses that weren't allowed rather than trying to capture all the possible uses that were allowed which is the format the BLT Land Use By law follows.

The proposal that was presented to us and HRM for the proposed Micro Brewery in the C-2 zone along Highway # 3 would create upwards of 15 jobs for the local area with significant private investment. Attached you will find a brief overview provided to us by the purchaser which outlined their plan and how they compare to existing Micro Breweries already operating in Halifax and you will see there is no difference. Significant precedent has been set for them to operate in the C-2 zone but unfortunately due to one word not being listed as a use in the Land Use Bylaw this immediate opportunity was lost and plans had to be revised to fit a use that was listed and allowed under the by law.

In closing, based on my review of the existing Micro Breweries in operation it is quite compelling that their use falls under a C-2 zoning and the precedent has been set in Peninsula Halifax. I would ask that you review the information provided as it relates to this use in the C-2 zone for BLT and initiate the process to amend the current BLT land use by law to include.

If you have any questions feel free to contact me at 902-830-4021.

Thanking you in advance for your time and consideration in this matter.

Regards,


Original Signed


Andrew Giles P.Eng., NSLS
Vice President Development
Brunello Estates
Division of Canadian International Capital Inc.

Attach:

It is important to note that all of the above breweries are currently operating in C-2 zoning. We are asking that Timberlea review current land use bylaws and allow a microbrewery to be a permitted use under C-2 zoning. We are not asking for anything above and beyond what is currently taking place in HRM and understand that microbreweries were in neonatal stages when land use bylaws were created. It is a tremendous opportunity for the community and will provide jobs for young people and retain tax money in our province. In addition, it will meet the demand of the local people for a local product. This will create a local character and prosperity within Timberlea and create a sense of community well-being. It will also give young entrepreneurs a chance to show some innovation in this new and emerging market. We are extremely considerate of environmental sustainability and have opted to use state of the art equipment that minimizes the environment footprint and creates a sustainable future for this business as it grows.

The brewery will be appealing visually and will contain a retail shop which will allow sale of product and merchandise directly on site. Containing large glass windows will allow customers to see through building and observe the beauty of the polished stainless steel brew house. The upstairs multipurpose room will walk out onto a patio that overlooks the golf course and create a superb setting for private functions, brew tastings and brewery tours. The room could be used 2-3 times per week during the busy season (May to October) and less through the winter. The room could also be rented for a fee to host event's or parties, such as a staff Christmas party and this would be based on demand. Several of the other Micro Breweries currently operating in Halifax have a similar type room that is used for the functions described above.

We hope that information helps in your decision making. By allowing this project to move forward it will open the doors to many opportunities in Timberlea. It will compliment your community and provide a service that is in demand by your local people.

Additional Information

- Microbrewery:

“Clause 1A(1)(ga) added: O.I.C. 2001-371, N.S. Reg. 98/2001.

(h) “cottage-brewery,” “micro-brewery” or “mini-brewery” means a small free-standing brewery which produces less than 15,000 hectolitres of beer per year; (liquor control act)

We include this important fact as to ensure that the community is protected from industrial production.

- For our previous project in Port Williams we have raised money using [Community Economic-Development Investment Funds](#). This is a program that allows NS citizens to utilize RRSP funds to invest in a local NS business. Nova Scotians are investing more than \$600 million annually in RRSP and currently less than 2% of RRSP money stays in the province. We intend to raise capital the same way thus bringing local RRSP money back into a community project.
- Based on local breweries in HRM area we expect this project to create upwards of 15 jobs. Jobs of multiple sectors including but not limited to: accounting, retail, social media, sales, brewing, distribution, etc.

ATTACHMENT E:
Public Comments via Correspondence

From: Donnie MacDonald
Sent: April-22-16 10:51 AM
To: Salih, Dali
Subject: RE: Case 20215 - Microbreweries - Timberlea/Lakeside/Beechville

Hi; re; case 20215- microbreweries- timberlea/lakeside/beecheville

That's an excellent idea I would like to it happen completely for it.

Donald Macdonald

From: Jamie Aitken
Sent: May-02-16 7:37 AM
To: Salih, Dali
Subject: Case 20215

To whom it may concern,

There is tremendous opportunity within the craft beer market here in Nova Scotia. We have seen it with wineries and now there is an emergence of craft beer. I ask that you take a serious look at this opportunity and amend C2 zoning to allow the infrastructure to proceed for a craft brewery. It will not only create jobs for local people but will keep beer money in the province. The last figure I read indicated 3% of beer drunk in NS was made here. We are hemorrhaging money out of this province on beer sales. Thank you for your time and consideration.

Regards
Jamie Aitken

From: Brad Mitton
Sent: May-02-16 4:50 PM
To: Salih, Dali
Subject: Micro Brewery Case 20215

Hello Dali,

This is a very exciting prospect for the area. As a craft beer enthusiast, it is wonderful to see the craft beer market exploding in Nova Scotia. Currently Halifax has seen the brunt of the growth due to the differences in commercial zoning regulations. Many town zoning laws should have been updated across the board when amalgamation took place, to reflect the rules of commercial zones of HRM as a whole. Craft breweries have a huge community focus, and provide a huge draw of people who otherwise would not have ventured to the BLT area. This has a significant positive impact on the surrounding businesses, with the increased traffic flow. Craft breweries provide jobs and strong taxation dollars, that go towards improving the area around them. Great news, please approve!

Brad Mitton



6.1 POLICY STATEMENT

This Policy is intended to establish guidelines for the issuance of permits and ongoing operation of manufacturers of beverage alcohol in the province of Nova Scotia.

6.1.1 DEFINITIONS

In this Policy,

- a.) "manufacturer" means a manufacturing plant located in the Province for the manufacturing of beer in the case of a brewery, manufacturing or blending and bottling wine in the case of commercial winery, and manufacturing or blending of spirits and other liquor in the case of a distillery to which a license has been issued by the Government of Canada and a Special Permit (hereinafter referred to as "Permit") by the NSLC.
- b.) "commercial brewery" means a manufacturer of beer, where the primary business function is to sell packaged product to the NSLC and thence to the general public through retail liquor stores or for export, and which manufactures 15,000 hectolitres or more of beer per year. Commercial breweries retail pricing is subject to NSLC standard beer pricing policies on all production.
- c.) "craft brewery" means a manufacturer of beer, where the primary business function is to sell packaged product to the NSLC and thence to the general public through retail liquor stores, or for export, and which manufactures more than 2000 hectolitres but less than 15,000 hectolitres of beer per year. Craft breweries may, subject to approval from the Alcohol and Gaming Division, have an adjacent licensed premise that shall be totally segregated from their manufacturing facility and operated under the terms and conditions of the liquor license issued for the licensed premise, and may have an ownership interest in up to four additional licensed premises.

Note: A craft brewery that produces in excess of 15,000 hectolitres of beer in any given year, as determined by the NSLC, will automatically become a commercial brewery, will no longer qualify for a craft brewery permit, will no longer be permitted to operate or own a licensed premise, and will be subject to NSLC commercial beer markup on all production.

- d.) "nano brewery" means a small capacity manufacturing facility where the primary business function is the production of less than 2000 hectolitres of beer per year and, counted separately, less than 2000 hectoliters of wine, cider or other non-spirits per year (no distillation permitted and each product separately approved by the NSLC), and is authorized by the NSLC to sell product to the NSLC and thence to the general public through retail liquor stores, or for export, or to the general public in approved containers at its facility, or for consumption in its adjacent, totally segregated, licensed premises, or other sales as may be authorized by the NSLC. Sales may occur at the manufacturing facility and in up to four additional licensed premises in which the nano brewery principal owner has at least 51% ownership interest.
- e.) "commercial winery" means a manufacturing plant, located in the Province, to which a permit has been issued by the NSLC and where wine is manufactured or blended and bottled for sale to the NSLC or for export but does not include a farm winery as defined in Section 49 of the Nova Scotia Liquor Corporation Regulations;
- f.) "distillery" means a manufacturing plant, located in the Province, to which a license has been issued by the Government of Canada and to which a permit has been issued by the NSLC and where liquor, other than beer or wine, is manufactured or blended and bottled for sale to the NSLC or for export;
- g.) "beer" in this policy shall be the product of the alcoholic fermentation by yeast of an infusion of barley or wheat malt and hops or hop extract in potable water and shall be brewed in such a manner as to possess the aroma, taste and character commonly attributed to beer.
- h.) "spirits" means a potable alcoholic beverage obtained from the distillation of an alcohol-containing liquid.
- i.) "wine" means any liquor containing not more than 16.0% alcohol by volume which is produced by the natural fermentation of grapes which cannot be defined as beer or spirits. All additives and processes (such as chaptalization with sugar), are permitted as allowed by the federal *Food and Drugs Act* with the exception of the addition of alcohol. "Wine" includes but is not limited to wine coolers, table wine, still wine, sparkling wine, champagne and cider.

- j.) "alcoholic product" (hereinafter referred to in policy) means beer over .5%, spirits or wine manufactured by a Manufacturer.
- k.) "on-premises sale" means a sale where the purchaser or the purchaser's agent is present in the store at the time of the sale;
- l.) "plant site" means the land, buildings, machinery, apparatus and fixtures employed by a manufacturer in the manufacturing process at the location of a brewery, winery or distillery and includes land adjacent thereto; and;
- m.) "store" means a Manufacturers' Retail Store for the on-premises sale of liquor.

6.1.2. PERMIT ISSUANCE REQUIREMENTS

6.1.2.1 The NSLC may issue a permit to a manufacturer provided it has a demonstrated technical capability of consistently producing quality beverage alcohol on a commercial basis with a minimum production capacity of:

- 15,000 hectolitres (commercial brewery)
- 10,000 litres (winery)
- 2,500 litres (distillery)

6.1.2.2 Manufacturers may be allowed to operate in the Province upon receipt of NSLC permits. The terms and conditions as outlined on the permits, the contents of applicable NSLC Policy Guidelines, and any Contract between the Manufacturer and the NSLC, along with the general provisions of the Liquor Control Act and Regulations are to be followed as they relate to the manufacturing, handling, distributing and selling of alcoholic products at the premises.

6.1.2.3 Manufacturers permitted by the NSLC may apply for permits to include an on-site Hospitality Room and a Manufacturer's Retail Store. Renewal of permits is required from the NSLC annually as per its standard fee schedule along with completed Application Forms.

6.1.2.4 Separate permits will be required for the manufacture of beer, spirits and wine.

6.1.2.5 The following information is required prior to the issuance of a permit:

- 1.) Before making application to the Supervisor, Permits and Regulatory Affairs, a preplanning stage should include contacting and receiving approvals from Excise Canada (federal licensing and apparatus standards), and the Canadian Food Inspection Agency (packaging and labeling).
- 2.) Written proposal including drawings of proposed Manufacturer must be submitted for approval by the NSLC. Proposal should include the following:
 - Structure of Company: Board of Directors, President, etc.
 - Method of Distribution
 - Marketing Plan
 - Expected Volume of Business
 - Quality Control
 - Alcoholic Strength
 - Location of Facilities
 - Number of People to be Employed
 - Projected Market Penetration
 - Capital Cost.
 - Written approval from municipality relative to zoning, land use, occupancy, fire and safety, and health inspection.
- 3.) Quality control of all listed products must be approved by appropriate government departments in accordance with their standards. Type of package to be used must comply with industry standards and comply with requirements of the Nova Scotia Resource Recovery Fund Board if sold at retail within Nova Scotia.

6.1.2.6 Unless otherwise defined in this policy or specifically authorized by the NSLC, a manufacturer is not permitted to own, rent, lease or operate a licensed premise as defined and approved by the Nova Scotia Alcohol & Gaming Division.

6.1.3. PREMISES

6.1.3.1 Manufacturing facilities are to be carefully controlled. They are to be annually inspected by the Fire Marshall or his delegate and the limits as to number of persons permitted at any one time are not to be exceeded and health standards are to be maintained.

6.1.4 INSURANCE

6.1.4.1 The Manufacturer shall provide and maintain appropriate insurance for the premises and shall provide and maintain liability insurance in respect of all persons who enter the premises, and for all products sampled or sold.

6.1.4.2 The Company shall indemnify the NSLC of and from and against all actions, suits, claims and demands which may be brought against or made upon the NSLC from and against all loss, costs, charges, damages and expenses which may be incurred, sustained or paid by the NSLC arising out of the issuing of the permit or permits and the consumption of products pursuant thereto.

6.1.5. MARKETING

6.1.7.1 All external and media advertising must conform to the requirements of the Nova Scotia Liquor Corporation regulations. Improper promotional activities, which are not in keeping with the spirit and intent of the Act, Regulations, and Policy Guidelines, may result in disciplinary action.

6.1.7.2 Manufacturers' are encouraged to understand NSLC merchandising programs and should familiarize themselves with the various NSLC merchandising and marketing initiatives which are designed to enhance their marketing efforts.

6.1.6 NSLC LISTINGS

6.1.6.1 Products to be listed by the NSLC for retail sale are selected and approved by the Merchandising and Marketing Division of the NSLC. The appropriate category manager should be contacted for further information on this process.

6.1.7 RECORD REQUIREMENTS

6.1.7.1 Record keeping will be in accordance with generally accepted accounting practices and normal business practices. The NSLC will also provide specific record-keeping and reporting requirements to each manufacturer for audit and control purposes.

6.1.7.2 Conditions with respect to record requirements specified by the Canada Revenue Agency must be respected.

6.1.8. AUDIT

6.1.8.1 The NSLC, or its agents, shall be permitted at any time to enter the premises of the Manufacturer to ensure, to the satisfaction of the NSLC, that the operations comply with the provisions of the Act, Regulations, Policy Guidelines or directives of the NSLC, and the provisions of the Contract.

6.1.8.2 The Manufacturer shall permit access to its records including production, purchase, shipment, and sales reports; and access to its premises, in order to permit an audit by authorized personnel acting on behalf of the NSLC.

6.1.8.3 The Manufacturer and its employees shall cooperate fully with the NSLC, or its agents.

6.1.9 PRODUCT DELIVERY

6.1.9.1 All alcoholic product for resale in Nova Scotia can only be shipped to the NSLC, with the exception of keg beer which may be shipped direct to Licensees. Delivery of keg beer to Licensees must be made by bonded carrier (Refer to Policy Guideline on keg deliveries). Exceptions to this provision may be authorized by the NSLC at its sole discretion on an individual basis.

6.1.9.2 In the case where a manufacturer has more than one separate production facility in the province of Nova Scotia, the transfer of product between facilities for the purpose of retail sales may be permitted under the following circumstances:

- 1.) The transfer has received prior approval by the NSLC.
- 2.) Each facility has been issued a manufacturing permit by the NSLC.

- 3.) Each additional facility must be wholly owned by the principal owner of the originating manufacturing facility.
- 4.) The product being transferred is produced and packaged in Nova Scotia.

6.1.9.3 In accordance with the Alcohol & Gaming Division, the regulations issued under the Liquor Control Act, and this policy, it is not permitted for a registered liquor representative to deliver alcoholic products to a Licensee; therefore such delivery by the Manufacturer's sales personnel is not permitted.

6.1.9.4 Commercial brewers will be responsible for the establishment of a suitable delivery system for their products, subject to approval by the NSLC.

6.1.9.5 The carriage and delivery of liquor must comply with the provisions of the Act, the Regulations and policies of the NSLC.

6.1.1.10 QUALITY CONTROL

6.1.10.1 Proper manufacturing techniques are to be followed ensuring that high standards of hygiene, quality and safety are ongoing and meet the requirements of the NSLC, municipal applicable municipal health authorities, requirements under the provincial *Health Protection Act*, and any applicable federal requirements.

6.1.10.2 Beer must be stabilized by an acceptable method to guarantee a satisfactory shelf life.

6.1.10.3 Production materials used by Manufacturer must meet Canadian Food and Drug standards.

6.1.10.4 The alcohol content of products manufactured by Manufacturer must fall within the current standard as specified by the Food and Drug Act.

6.1.10.5 Manufacturers must package their products in suitable, approved containers.

6.1.10.6 All alcoholic product produced is to be properly and accurately measured as to alcohol content before being sold. Production records for this parameter must be maintained by the

Manufacturer and are subject to inspection by the NSLC from time to time.

6.1.11 GENERAL

- 6.1.11.1 Security of ingredients and final product is to be assured regarding adulteration, infestation, sanitary conditions, burglary, sabotage and theft.
- 6.1.11.2 Manufacturer staff must be of legal drinking age at a minimum, in good health to ensure product safety, and are not to consume any alcoholic product while on duty except as required for quality assurance purposes.
- 6.1.11.3 Alcoholic product is not to be consumed, given away or sold in the manufacturing portion of the Manufacturer's facility.
- 6.1.11.4 Tours are permitted for the purposes of public relations and increasing public knowledge of the Manufacturer and its products; and for hosting, tasting, or sampling of products produced by the Manufacturer. Such tours are not to be used as an inducement for licensees, to permit over-consumption, or to allow underage drinking. Tastings during tours are permitted only in the approved Hospitality Room as designated by way of a permit issued by the NSLC.

6.1.12 MANUFACTURER'S RETAIL STORE GUIDELINES

6.1.12.1 General Guidelines

- 6.1.12.1.1 The Nova Scotia Liquor Corporation may issue a permit to a Manufacturer to operate one store at its plant site or each of its plant sites in Nova Scotia.
- 6.1.12.1.2 The store is to be owned or leased by the Manufacturer and located and operated at the plant site.
- 6.1.12.1.3 The store may only sell liquor products manufactured or blended and bottled at the plant site, and other related non-alcoholic products, unless exceptions are specifically approved by the NSLC.
- 6.1.12.1.4 All sales will be by unopened container.

6.1.13 HOURS OF SALE

6.1.13.1 The Store shall comply with provincial retail closing legislation, applicable by-laws of the municipality in which the Store is located, and any other requirements as may be determined by the NSLC.

6.1.14 EMPLOYEES

6.1.14.1 Employees of the store will have no employment relationship whatsoever, direct or indirect, with the NSLC or the Nova Scotia Alcohol & Gaming Division.

6.1.14.2 The Manufacturer shall comply with all applicable laws respecting employment, health & safety of store employees.

6.1.14.3 All employees who handle or sell products on the store premises shall be of legal drinking age at a minimum.

6.1.15 MANUFACTURER'S STORE PERMIT

6.1.15.1 The NSLC will provide a Permit to the store and the Permit shall be displayed in the premises at all times;

6.1.15.2 The NSLC shall indicate terms and conditions on the Permit respecting operation of the store.

6.1.15.3 The Manufacturer may terminate the Permit to operate a store by giving written notice by registered mail addressed to the Supervisor, Permits and Regulatory Affairs, Nova Scotia Liquor Corporation, 93 Chain Lake Drive, Bayers Lake Business Park, Halifax, Nova Scotia B3S 1A5, at least sixty days before the date of the intended termination.

6.1.15.4 The NSLC may terminate the Permit to operate a store at any time without notice if, in its opinion, the operation of the store is unsatisfactory, or if the Liquor Control Act, the Regulations, or policy directives of the NSLC have been contravened.

6.1.15.5 The Manufacturer will indemnify the NSLC against all actions, suits, claims, and demands which may be brought against or made upon the NSLC from any loss, costs, charges, damages and expenses which may be incurred, sustained or paid by the NSLC in connection with the store.

6.1.16 SALES, PRICING AND LISTING

6.1.16.1 Liquor sold at a Manufacturers Retail Store shall be deemed to have been first purchased from the NSLC. Requirements for remittance and reporting of sales to the NSLC shall be provided by the NSLC to the Manufacturer as described in Section 6.1.17 of this policy, and the Manufacturer agrees to comply with such requirements as a condition of the Permit.

6.1.16.2 Liquor not listed by the NSLC shall be sold at such prices as the NSLC may approve. Manufacturers operating a retail store shall submit a retail price list for all products sold in the store to the NSLC Pricing Coordinator annually, and upon demand by the NSLC. The NSLC reserves the right to require approval of prices charged in the store. In no instance shall liquor be sold for less than the NSLC's approved social reference price.

6.1.16.3 Manufacturers Retail Stores may not sell liquor to licensees except as specifically permitted by the NSLC.

6.1.17 STORE OPERATIONS

6.1.17.1 The Manufacturer shall make returns to the NSLC on forms prescribed by the NSLC, showing accurately all information required thereon respecting the sale of products, proceeds from such sales, remittances due to the NSLC, stock movement into and out of the store, and any other information which the NSLC may deem necessary.

6.1.17.2 The Manufacturer agrees to remit all amounts due to the NSLC monthly and in full, unless other arrangements have been agreed to by the NSLC.

- 6.1.17.2 The NSLC may approve a tasting area in the store for which a Hospitality Room Permit is issued.
- 6.1.17.3 The Manufacturer shall not sell products nor provide samples to a person who is intoxicated.
- 6.1.17.4 The Manufacturer shall not sell liquor nor provide samples to a person who is not of legal drinking age.
- 6.1.17.5 The Manufacturer is responsible for maintaining orderly control of their premises at all times, and shall comply with any orders given by a NSLC Inspector or other official, or by any law enforcement personnel, respecting operation of the premises.
- 6.1.17.6 The Manufacturer is responsible for the recording and remittance of Harmonized Sales Tax in accordance with the laws of the Province of Nova Scotia and the Government of Canada, and will comply with provisions of the Excise Tax Act (Canada).

ATTACHMENT G – Legislative Authority

Land Use By-law Amendments By Community Council

The *Community Council Administrative Order*, subsection 3 (1) “Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council.”

Halifax Regional Municipality Charter (“HRM Charter”),

30 (3) A community council may amend the land-use by-law of the Municipality applicable to the community with respect to any property in the community if the amendment carries out the intent of any municipal planning strategy of the Municipality applicable to the property and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.

HRM Charter, Part VIII, Planning and Development, including:

Requirements for adoption of planning documents

220 (1) The Council shall adopt, by by-law, planning documents.

(3) Before planning documents are read for a second time, the Council shall hold a public hearing.

Amendment of land-use by-law

225 (1) An amendment to a land-use by-law that

(a) is undertaken in accordance with the municipal planning strategy; and

(b) is not required to carry out a concurrent amendment to a municipal planning strategy,

is not subject to the review of the Director or the approval of the Minister.

(2) The procedure for the adoption of an amendment to a land-use by-law referred to in subsection (1) is the same as the procedure for the adoption of planning documents, but a public participation program is at the discretion of the Council and the amendment may be adopted by a majority of votes of the Council members present at the public hearing.

(3) Upon the adoption of an amendment to a land-use by-law referred to in subsection (1), the Clerk shall place a notice in a newspaper circulating in the Municipality stating that the amendment has been adopted and setting out the right of appeal.

(4) When notice of an amendment to a land-use by-law referred to in subsection (1) is published, the Clerk shall file a certified copy of the amending by-law with the Minister.

(5) Within seven days after a decision to refuse to amend a landuse by-law referred to in subsection (1), the Clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.

(6) Where the Council has not, within one hundred and twenty days after receipt of a completed application to amend a land-use by-law referred to in subsection (1), commenced the procedure required for amending the land-use bylaw by publishing the required notice of public hearing, the application is deemed to have been refused.

ATTACHMENT G – Legislative Authority

(7) Within seven days after an application to amend a land-use by-law, referred to in subsection (1), being deemed to be refused, the Clerk shall notify the applicant in writing that the application is deemed to have been refused and setting out the right to appeal.

- (8) An amendment to a land-use by-law referred to in subsection (1) is effective when
- (a) the appeal period has elapsed and no appeal has been commenced; or
 - (b) all appeals have been abandoned or disposed of or the amendment has been affirmed by the Board.

Content of land-use by-law

235 (1) A land-use by-law must include maps that divide the planning area into zones.

(2) A land-use by-law must

- (a) list permitted or prohibited uses for each zone; and
- (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

(3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

(4) A land-use by-law may

- (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
- (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
- (c) regulate the maximum area of the ground that a structure may cover;
- (d) regulate the location of a structure on a lot;
- (e) regulate the height of structures;
- (f) regulate the percentage of land that may be built upon;
- (g) regulate the size, or other requirements, relating to yards;
- (h) regulate the density of dwelling units;
- (i) require and regulate the establishment and location of off-street parking and loading facilities;
- (j) regulate the location of developments adjacent to pits and quarries;
- (k) regulate the period of time for which temporary developments may be permitted;
- (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;

ATTACHMENT G – Legislative Authority

- (m) regulate the floor area ratio of a building;
 - (n) prescribe the fees for an application to amend a landuse by-law or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use by-law may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
 - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
 - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
 - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
 - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
 - (f) regulate the location of disposal sites for any waste material;
 - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
 - (h) regulate or prohibit the removal of topsoil;
 - (i) regulate the external appearance of structures;
 - (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
 - (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
 - (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
 - (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
 - (n) prohibit development or certain classes of development where, in the opinion of the Council, the
 - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) cost of maintaining municipal streets would be prohibitive;
 - (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;

ATTACHMENT G – Legislative Authority

- (p) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy, or unstable,
 - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
 - (v) is known to be contaminated within the meaning of the *Environment Act*, or
 - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
 - (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
 - (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.
- (6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

Appeals to the Board

262 (1) The approval or refusal by the Council to amend a land-use by-law may be appealed to the Board by

- (a) an aggrieved person;
- (b) the applicant;
- (c) an adjacent municipality;
- (d) the Director.