

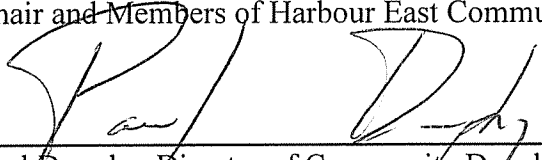
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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
July 2, 2009

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: June 12, 2009

SUBJECT: Case 01257: Amending Agreement - Evergreen Plaza, Dartmouth

SUPPLEMENTARY REPORT

ORIGIN

- Application by Evergreen Plaza Incorporated to amend the existing development agreement for 510 and 530 Portland Street to permit temporary signs along the Portland Street side of the property.
- May 21, 2009 Staff Report to Harbour East Community Council.
- June 11, 2009 Harbour East Community Council meeting.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Approve, by resolution of Council, the proposed amending agreement as set out in Attachment A of this report; and
2. Require the proposed amending development agreement be signed and delivered within 120 days, or any extension thereof granted by Harbour East Community Council on request of the applicant, from the date of final approval of said agreement by Harbour East Community Council and any other bodies as necessary, whichever is later, including any appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

BACKGROUND / DISCUSSION

Staff reviewed the application based on all applicable policies of the Dartmouth MPS. A detailed review on all aspects of the proposed development is included in the staff report dated May 11, 2009. The report was discussed by Harbour East Community Council and Council directed staff to respond to concerns regarding the following issues:

Third Party Signs

The proposed Amending Agreement would permit temporary signs as set out in the Temporary Sign By-law. The applicant wishes to advertise Dartmouth Secure Self Storage Limited on one of the temporary signs to be located at 510/530 Portland Street. The Self Storage business is under the same Development Agreement but is located on a different lot. The Temporary Sign By-law does not permit third party signs that are defined as:

Third party sign means a sign that directs attention to a business, profession, activity, commodity, service or entertainment, other than those conducted, sold, promoted or offered upon the premises where such sign is located or within the building such sign is affixed.

The proposed amending Agreement may permit temporary signs as set out in the Temporary Sign By-law but may not alter this Municipal By-law to allow third party signage.

Shortly, Regional Council will be considering amendments to the Temporary Sign By-law. One of the proposed amendments is to allow third party advertising, i.e., more than one property in a business development to advertise on a common temporary sign. If this amendment is approved by Council, it would then apply to the Temporary Sign By-law under the Development Agreement as amended. Staff believe the applicant should proceed with the proposed amending agreement and await until the proposed amendments are addressed.

In the interim, should Dartmouth Secure Self Storage lease space for office use in the Evergreen Plaza premises, they would be entitled to advertise that office on the temporary signs for that premise pending approval of the amending agreement.

"Space for Lease" Signs

At present, there are two large format signs near the Evergreen Plaza building at 510 Portland Street, generally facing onto Portland Street, that advertise space for lease. Under the Dartmouth Land Use By-law a single unlighted sign may be placed on any real property advertising such property for lease or for sale. These signs do not require a permit but must not exceed 0.5 square metres in total sign area and there is no time limit for their display.

The size of the signs as described above are obviously much larger in area than permitted under the LUB. There are no permits on file for these signs. Following a site visit, staff believe the signs may be located in the Nova Scotia Transportation and Infrastructure Renewal (NSTIR)

right-of-way. Also, the pylon sign nearest the Evergreen Plaza building and the flags/banners alongside Portland Street appear to be located in the NSTIR right-of-way. Staff will be working with NSTIR and the applicant in regards to this issue and devise a suitable resolution.

Conclusion

Staff are of the opinion that the proposed amending agreement as set out in this report is consistent with the intent of the MPS for commercial development at this location. The proposed amending agreement provides for temporary signs but maintains restrictions on location and number of signs as in the existing agreement. Therefore, staff recommend that HECC approve the proposed amending development agreement included as Attachment A of this report.

BUDGET 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 this agreement. The administration of this Agreement can be carried out within the approved budget with existing resources.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

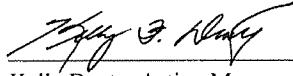
1. Council may choose to approve the proposed amending agreement as set out in Attachment A of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amending agreement subject to modifications. This may require further negotiation with the applicant.
3. Council may choose to refuse to approve the proposed amending agreement, and in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended as staff are satisfied that the proposed amending development agreement is consistent with the policies and intent of the MPS.

ATTACHMENTS

Attachment A Proposed Non-Substantive Amending Development Agreement

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

Report Prepared by : Darrell Joudrey, Planner, 490-4181



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

2. All other terms and conditions of the Existing Agreement shall remain in effect, except where specifically varied by this Amending Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2009.

SIGNED, SEALED AND DELIVERED)	EVERGREEN PLAZA INCORPORATED
in the presence of)	
per _____)	per: _____
)	
)	
per _____)	per: _____
)	
SEALED, DELIVERED AND)	
ATTESTED to by the proper)	
signing officers of Halifax Regional)	
Municipality duly authorized)	
in that behalf in the presence)	HALIFAX REGIONAL MUNICIPALITY
per _____)	per: _____
)	MAYOR
)	
per _____)	per: _____
)	MUNICIPAL CLERK