

Harbour East Community Council
April 5, 2012

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:



Peter Stickings, Acting Director, Planning and Infrastructure

DATE: March 7, 2012

SUBJECT: **Case 17170: Amendments to the Development Agreement at 61 Athorpe Drive, Dartmouth, regarding Temporary Signage**

ORIGIN

Application by Allan Curry for lands of Dartmouth Dodge, to amend the existing development agreement at 61 Athorpe Drive, Dartmouth.

RECOMMENDATION

It is recommended that the Harbour East Community Council:

1. Give notice of Motion to consider the proposed amending agreement as set out in Attachment A of this report and schedule a public hearing;
2. Approve the proposed amending agreement as set out in Attachment A of this report, to permit temporary signage in accordance with the Temporary Signage By-Law at 61 Athorpe Drive, Dartmouth, as shown on Map 1 of this report; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Allan Curry submitted an application for lands of Dartmouth Dodge at 61 Athorpe Drive to amend the existing development agreement that permitted the construction of a car dealership on the lands. The agreement permitted a 30,000 square foot structure, associated uses and terms and conditions regarding building design, parking, landscaping, signage, lighting, outdoor storage, maintenance, hours of operation and on-site circulation. The signage section of the Agreement prohibits the use of temporary signage on the lands and the applicant believes that competing commercial enterprises have an advantage as they are allowed temporary signs as permitted by the Temporary Sign By-Law. The applicant understands that being permitted to use temporary signs, in accordance with the Temporary Sign By-Law, will permit the type of signage they require. Furthermore, the licensing requirements under the By-Law will control factors such as number of signs, type of signs and duration of display.

Location, Designation, Zoning and Surrounding Land Use

The lands are:

- located between the west side of Athorpe Drive and the northbound slip lane of Portland Street onto the Circumferential;
- approximately 174,280 square feet (c. 4 acres) in area;
- designated Commercial under Dartmouth Municipal Planning Strategy (MPS) (Map 1);
- zoned R-1 (Single Family Residential) under the Dartmouth Land Use By-Law (Map 2); and
- abutting R-1 zoned lands to the north and a mix of zoned properties (P, C-3, C-1 and R-1) to the east of Athorpe Drive.

Proposal

The applicant has requested that Dartmouth Dodge be permitted to locate temporary signs on the dealership lands as currently permitted under the HRM Temporary Sign By-Law (By-Law S-800). When the original development agreement was approved in 2000, the By-Law did not exist nor were there adequate regulations for temporary signage. Therefore, the Agreement prohibited mobile or moveable signs or billboards.

Dartmouth Municipal Planning Strategy

Policy IP-14 of the Dartmouth MPS requires the LUB to contain sign provisions for signage not regulated under the Temporary Sign By-Law (HRM By-Law S-800). Any reference to or provision relating to temporary signage in the LUB, is superseded by the provisions of By-Law S-800. Requirements for temporary signage are contained only in the Temporary Sign By-Law.

Land Use By-Law vs. Temporary Sign By-Law

A development agreement can vary the provisions contained in a LUB but can not vary provisions in the Temporary Sign By-Law. Therefore, the existing development would comply with the provisions of the Temporary Signage By-Law, if the Agreement is amended.

DISCUSSION

Staff has reviewed the proposal relative to the applicable policies of the Dartmouth MPS, the intent of the original agreement and public input received from a survey questionnaire on the request. Policy IP-1 (c) sets out the general evaluation criteria for all development agreement proposals in Dartmouth, including this application. Staff is of the opinion that the proposal is consistent with all applicable policies of the Dartmouth MPS. Concerns and issues raised from the survey are discussed below.

1) Number, Location and Scale of Signs

Under the existing development agreement, specific building mounted signage and two pylon signs are permitted; one located adjacent Portland Street and one adjacent Highway No. 111. The agreement also allows directional ground and fascia signage for wayfinding purposes. Mobile signs, moveable signs or billboards are not permitted on the lands. Resident's responses raised issues with the number of signs on the lands, as they created clutter, and the size and location of signs that block views of traffic. Staff is of the opinion that providing mobile or moveable signs under the Temporary Sign By-Law will allow the same signage opportunities as throughout HRM and address resident's concerns. However, staff continues to support the need to prohibit billboards on the lands.

2) On Street Parking

The existing development agreement requires 375 parking spaces, or 3.25 times the required number of spaces under the Dartmouth LUB, for the display of vehicles, employee parking and customer parking. The parking comprises of 83 rooftop spaces, 277 surface spaces and 15 customer parking spaces. Concern was expressed in the responses to the survey that the present amount of employee on-street parking and unloading of the car carriers is a hazard, and that allowing additional signage on the site will only add to the distractions while driving on Athorpe Drive. All signage is required to be erected 4.6 metres (15 feet) from the street line so as to not interfere with sightlines when driving. Staff believes there is adequate on-site parking for stock and employee's vehicles and no changes are recommended. Also, the site plan was designed to accommodate car carriers accessing the lands from Athorpe Drive.

Conclusion

Staff is of the opinion that the proposed amending development agreement is consistent with the intent of the Dartmouth Municipal Planning Strategy and the existing development agreement for the subject lands. The proposed amendment to allow signs as permitted under the Temporary Sign By-Law, gives the developer the same signage opportunities as other commercial entities and the By-Law provides an acceptable level of control on temporary signage. Therefore, staff recommends that Council approve the proposed amending agreement.

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 the Agreement can be carried out within the proposed 2011/12 budget with existing resources.

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

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through a survey questionnaire, responses to inquiries, as well as an information/notification sheet that was sent to property owners in the general area of the site, regarding the proposal

Should Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area, as shown on Map 1, will be notified.

The proposed development agreement will potentially impact local residents, property owners and adjacent businesses.

ALTERNATIVES

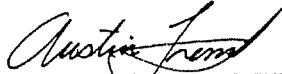
1. Council may choose to approve the proposed amending agreement as set out in Attachment A. This is the recommendation of staff for reasons set out in this report.
2. Council may choose to approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the Developer and a second Public Hearing.
3. Council may choose to refuse the proposed amending agreement as set out in Attachment A, and in doing so, must identify conflict(s) with MPS policy.

ATTACHMENTS

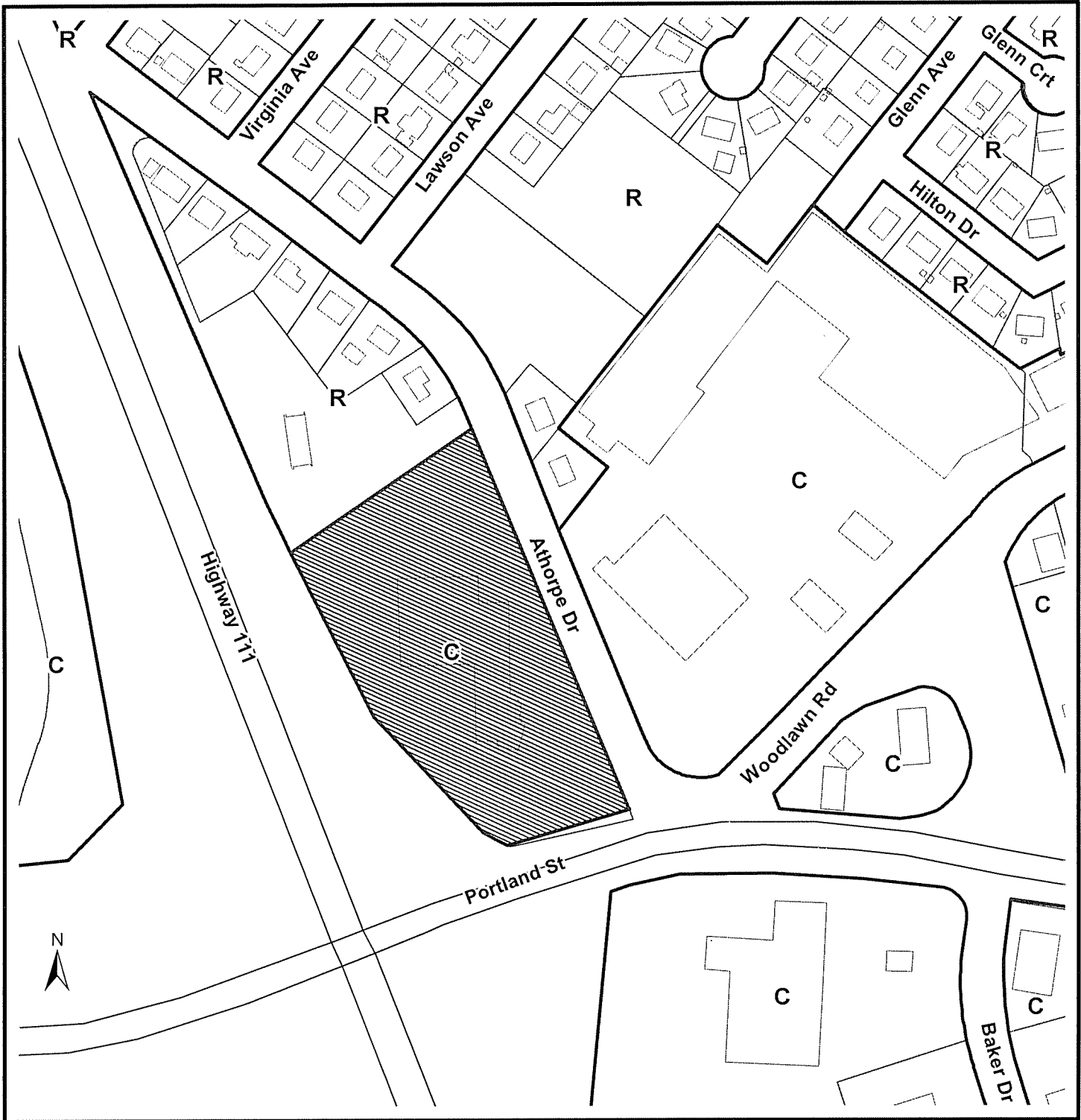
Map 1 Generalized Future Land Use
Map 2 Land Use By-Law Zoning
Attachment A Proposed Amending Development Agreement

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 1, 490-4181




Report Approved by: Austin French, Manager, Planning Services, 490-6717



Map 1 - Generalized Future Land Use

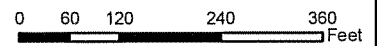
61 Athorpe Drive

 Subject Property

Designation

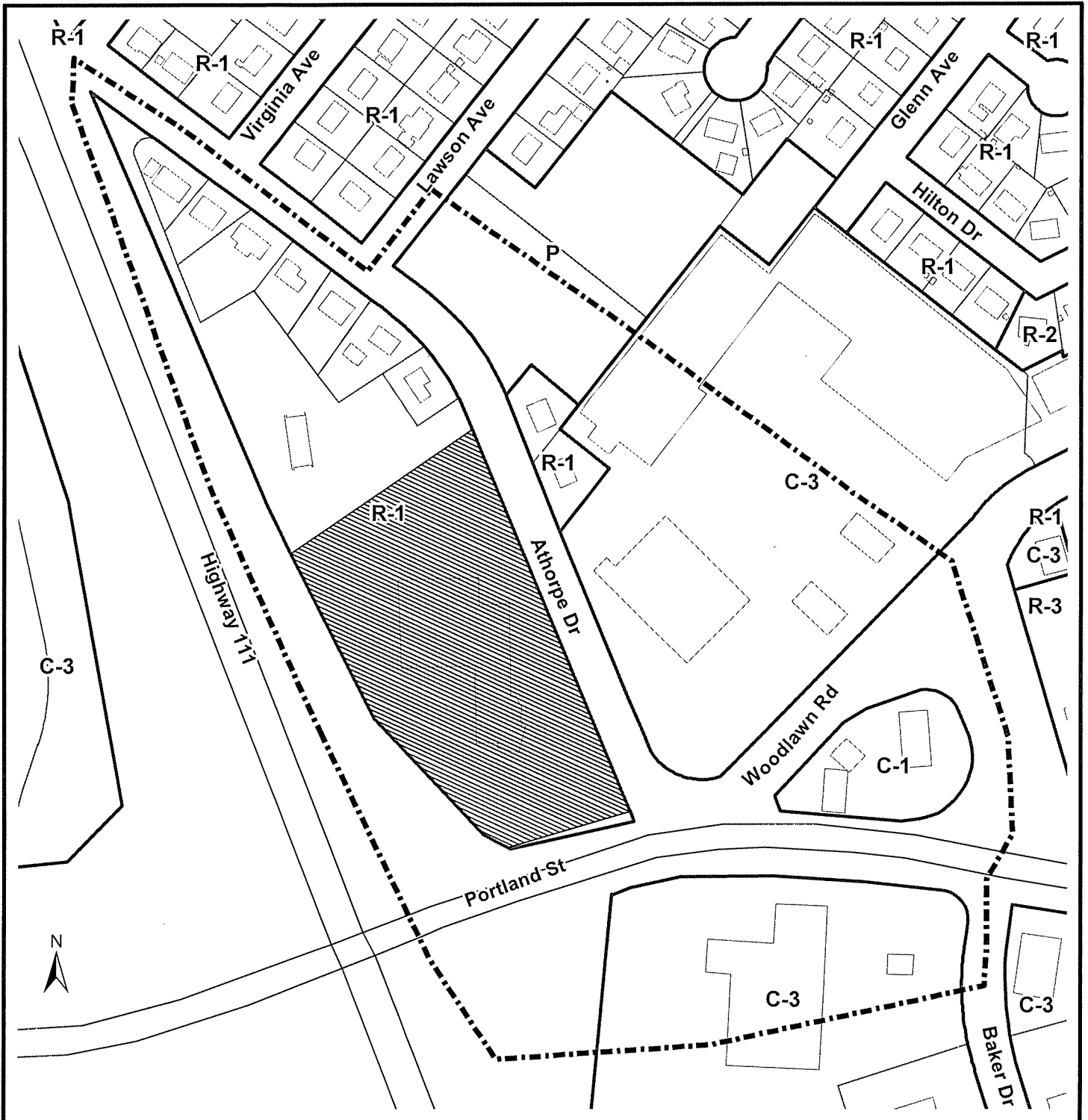
R Residential
C Commercial

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND INFRASTRUCTURE
PLANNING SERVICES





This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Dartmouth Plan Area. HRM does not guarantee the accuracy of any representation on this plan.

Dartmouth Plan Area



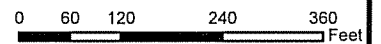
Map 2 - Zoning and Location

61 Athorpe Drive

-  Subject Property
-  Notification Area

Zoning

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- C-3 General Business



This map is an unofficial reproduction of a portion of the zoning Map for the Dartmouth Plan Area.

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

Dartmouth Plan Area

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 20____.

SIGNED, SEALED AND DELIVERED
in the presence of:

(Insert Registered Owner Name)

Per: _____

Per: _____

=====

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**SEALED, DELIVERED AND
ATTESTED** to by the proper signing
officers of Halifax Regional Municipality,
duly authorized in that behalf, in the
presence of:

**HALIFAX REGIONAL
MUNICIPALITY**

Per: _____
Mayor

Per: _____
Municipal Clerk
