

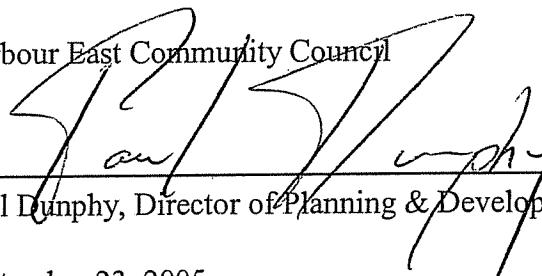


P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

7.1.1

Harbour East Community Council
October 6, 2005

TO: Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Planning & Development Services

DATE: September 23, 2005

SUBJECT: Case 00786: Development Agreement - Medical Clinic Parking Lot

ORIGIN

Application by Plaza Tacoma Centre Ltd for a development agreement to permit a parking lot for a medical clinic in the R-1 Zone at Valleyfield Road and Oakwood Avenue, Dartmouth.

RECOMMENDATIONS

It is recommended that Harbour East Community Council:

- 1. Give Notice of Motion to consider an application by Plaza Tacoma Centre Ltd for a Development Agreement to permit a parking lot for a medical clinic in the R-1 Zone at Valleyfield Road and Oakwood Avenue, Dartmouth, and to schedule a public hearing for November 3, 2005.**
- 2. Approve the development agreement, presented as Attachment C of this report.**
- 3. Require that the development agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

BACKGROUND

Plaza Tacoma Centre Limited wishes to expand a parking lot to serve a medical clinic above a new Shoppers Drug Mart store located at Tacoma Drive and Valleyfield Road (see Map 1). This property is split-zoned with the new Shoppers located on the C-3 portion and the proposed parking lot on an area of the property zoned R-1.

A public information meeting was held on June 1st 2005 with approximately 19 people in attendance. Notice of this meeting was mailed to nearby residents and advertised in the Chronicle Herald. Minutes of the meeting are attached to this report as Attachment A, and the same notification area will be used for the public hearing (see Map 1).

DISCUSSION

Parking for a commercial use is not permitted on the R-1 zoned portion of this property. However Municipal Planning Strategy (MPS) policy permits the consideration of development agreements for medical clinics in the residential designation, subject to criteria outlined in the MPS policy are being satisfied. The relevant MPS policies are provided in Attachment B.

The following discussion describes how the relevant MPS Policy concerns have been addressed through the draft development agreement presented with this report as Attachment C.

The impact of the proposed development on the existing residential uses in the area with regard to the use, buffering, landscaping, hours of operation, the adequate provision of parking, etc.

- The proposed development agreement limits the use to the provision of 30 parking spaces. A landscaped buffer, with a minimum width of 20 feet, is required between the paved portion of the parking lot and the adjacent residence at 3 Oakwood Avenue. There is an existing fence along a portion of this property line, and the planting of a mix of evergreen and deciduous trees is required to screen the parking lot from the residence. Additional street tree planting along Oakwood Avenue and Valleyfield Road is required in order to enhance the appearance of the streetscape and neighbourhood.

Pedestrian and motor traffic circulation with particular regard to ingress and egress from the site, traffic flows and parking areas

- The proposed development agreement limits access to existing driveways located on the C-3 Zoned portion of the property and prohibits any new access to the site from either Valleyfield Road or Oakwood Avenue.

The specific use and size of the structure if a new or expanded structure is proposed.

- The use of the subject site is restricted to a parking lot, and the development agreement explicitly prohibits the construction of any commercial building.

Any other similar matter which Council feels is necessary to ensure the general compatibility of the use with adjacent residential areas.

- Residents expressed concern with litter in the area blowing over to adjacent residential properties, as well as the potential for the lot to become attractive for skateboarding when cars are not parked there. The development agreement would require the property owner to remove litter from the property on a daily basis. The owner has further agreed to post a sign prohibiting skateboarding.

With these measures in place, staff has determined that the proposed development agreement achieves a reasonable balance between addressing community concerns while meeting the anticipated needs of the future medical clinic for additional parking.

BUDGET IMPLICATIONS:

None.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

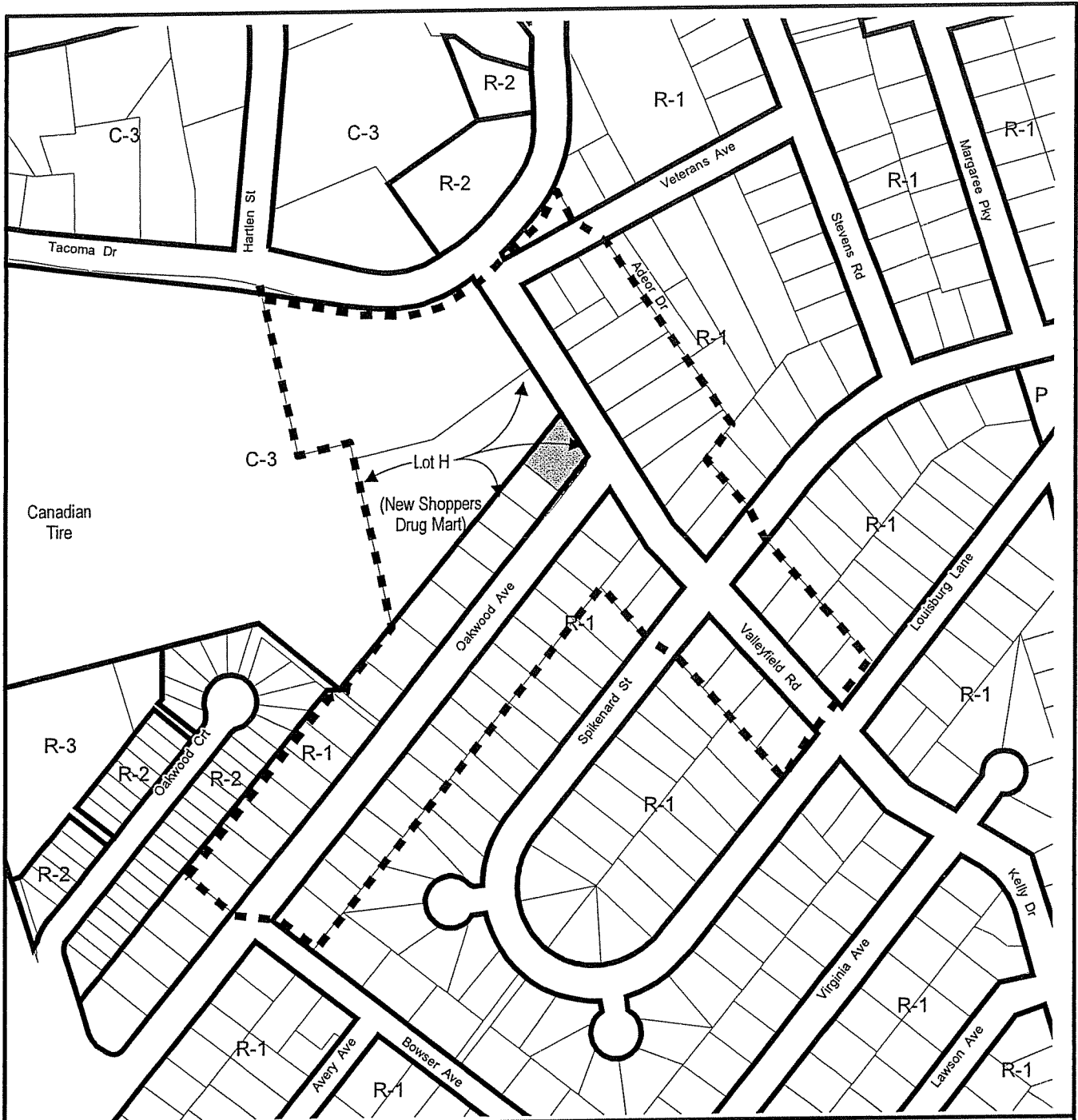
1. Council may approve the development agreement appended as Attachment C to permit a parking lot for a medical clinic in the R-1 zone at the corner of Valleyfield Road and Oakwood Avenue, Dartmouth. This is the recommended course of action.
2. Council may refuse to enter into the development agreement, and in doing so, must provide reasons based on conflict with existing MPS Policy. This is not recommended.
3. Council may choose to request modifications to the development agreement. Such modifications may require further negotiations with the developer. This alternative is not recommended as the agreement adequately addresses MPS policy.

ATTACHMENTS

Map 1: Location and Notification Area for Public Hearing
 Attachment A: Minutes of Public Information Meeting, June 1, 2005
 Attachment B: Policies of the Dartmouth MPS
 Attachment C: Proposed Development Agreement

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Hanita Koblents, Planner, 490-4181



Map 1

Portion of Lot H
Valleyfield Road



Subject Property



Notification Area

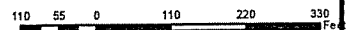
Zone

- R-1 Single Family Residential Zone
- R-2 Two Family Residential Zone
- R-3 Multiple Family Residential Zone
- C-3 General Business Zone



HALIFAX
REGIONAL MUNICIPALITY

PLANNING AND DEVELOPMENT SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area.

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

Dartmouth Land Use By-Law Area

Attachment A

**HALIFAX REGIONAL MUNICIPALITY
PLANNING SERVICES - ALDERNEY GATE OFFICE
PUBLIC INFORMATION MEETING
CASE 00786 PLAZA TACOMA CENTRE LIMITED - REZONING**

7:00 p.m.

June 1, 2005

Admiral Westphal School, Gymnasium

STAFF: Hanita Koblents, Planner
Samantha Charron, Administrative Support

APPLICANT: Jim Pushie, Plaza Tacoma Centre Ltd.

OTHER: Councillor, Andrew Younger

**MEMBERS OF
THE PUBLIC:** approx 19 people

Meeting commenced at approximately 7:05 p.m.

1. INTRODUCTIONS/OPENING COMMENTS

Hanita Koblents welcomed residents to the meeting and thanked them for attending. She introduced Andrew Younger, Councillor for District 6 and the applicant representing Plaza Tacoma Centre Ltd, Jim Pushie. She continued by introducing herself as the planner assigned to this application.

Hanita Koblents began her presentation by explaining the application submitted by Mr. Pushie. She explained the location of the lot and history of the parcel's split zoning. She gave a brief overview of the planning process and the applicable zoning regulations contained in the Land Use By-Law for Dartmouth.

Hazel Jordon asked why the lot is considered commercial? She stated she was under the impression the lot was zoned residential.

Hanita Koblents responded the lot is not considered commercial. She stated within the Municipal Planning Strategy (MPS) for Dartmouth there is a mechanism permitting Council to consider applications to rezone a residential property which abuts the commercial designation.

An unknown resident asked what the outlined area in the notification letter represented?

Hanita Koblents replied the outlined area represented the notification area. She explained the notification procedure Planners follow when doing mail-outs to local residents. She suggested the public information meeting is an opportunity for staff to gauge the level of support by residents for

potential change to the area. She stated it also provides staff an opportunity to discuss any concerns and approximate time lines for a process of this nature.

Hanita Koblents asked residents if there were any questions regarding process or procedure before inviting Jim Pushie to give his presentation.

2. QUESTIONS AND COMMENTS

Heather Philp asked if the applicant would be required to create a buffer on the side of the lot facing the street?

Hanita Koblents indicated buffers would only be required abutting residential property.

Clark Vining asked Hanita if there should be a buffer between the Shoppers lot and the properties located behind it?

Jim Pushie indicated there should be a 20' buffer and stated without the buffer they would need to construct a 6' fence.

Hanita Koblents explained the next steps for this application. She suggested she would write a report, to be presented for first reading at Harbour East Community Council. Then there would be a public hearing which is a formal opportunity for residents to speak to this application. She stated residents will be notified by mail in advance of the public hearing as well as newspaper ads that run two consecutive Saturdays before the hearing.

Paul MacKenzie asked what criteria will be used to deny or approve this application?

Hanita Koblents replied there are many aspects that may impact the decision such as; compatibility with the surrounding area, conformance with the MPS and whether or not the application is reasonable.

Councillor Younger described first reading at Community Council. He stated Hanita will write a report that will be submitted to Council prior to the meeting. This report will be based on supporting policy and rules. Once Council has had a chance to familiarize themselves with the report, it will go through the first reading process at Community Council. He suggested at this point Councillors will make a decision to continue or cancel the application. He stated the decision will be based on interest and support of the community and the report recommendations made by Hanita. He then explained the public hearing process.

Heather Collins, an adjacent resident to the property indicated the shopping centre did not own the land before, and asked Councillor Younger when the land was sold and purchased by the mall?

Councillor Younger stated at some point the land was consolidated and sold to Plaza Tacoma Centre Ltd. and suggested he was unable to indicate a time frame.

Jim Pushie stated Plaza Tacoma Centre Ltd. was not aware at the time the property was purchased that there were two zonings on the one property. He informed residents the first time the zoning issue came to light was when the building application for the Shoppers was submitted.

Heather Philp asked if the size of the lot had any impact on the size of the building the mall was able to construct?

Hanita Koblents replied the size of the entire parcel does not determine the size of a structure. She explained that setbacks and buffers to adjacent residential properties may limit a building size. She suggested residents wait for Mr. Pushie to give his presentation before asking questions, considering most questions would probably be answered

Jim Pushie introduced himself as a representative of Plaza Tacoma Centre Ltd.. He explained they purchased the property approximately 2 ½ years ago and stated at the time they were unaware of the zoning issues with the property. He explained Plaza Tacoma Centre Ltd. would traditionally try to redevelop existing structures in a community and stated in this case, Shoppers approached them to construct a combined retail/medical structure. He suggested to the residents, to make this possible, they would need to rezone the portion of the lot presently zoned residential to create a parking area for staff and patrons.

Barry Oxner stated he is concerned if the grassy area is removed and a parking area created, the on-going problem with blowing garbage from the mall will only get worse. He also expressed concern regarding medical waste being added to this problem.

Jim Pushie explained medical waste is required to be removed in a different manner than regular garbage is. He stated Plaza Tacoma Centre would like to be good neighbors to the abutting residents and the entire community. He suggested they would be more than willing to listen to solutions the residents may have regarding the garbage issue.

Barry Oxner stated creating more open space does not seem like a reasonable solution to him.

Jim Pushie reiterated they would be willing, with resident participation, to work to find a solution suitable for everyone involved.

Herb Jordon stated he has been a resident of the community since 1954. He read a prepared statement as follows: "My name is Herb Jordan. My wife, Hazel and I have lived at 4 Oakwood Ave. since 1954. We bought our lot from Joe Redden in 1953 for \$300.00 Joe Redden owned the block of land which was bounded by Oakwood Ave, Tacoma Drive and up to Penhorn Lake. This parcel of land was then zoned R 1 and know as the Redden sub-division. Oakwood Ave. was actually known as Redden Road. Mr. Redden had approval from Halifax County for 10 building lots on Oakwood Ave. There lots were approved in size as 75 x 100 ft. My father-in-law, George Ridgley, bought lot # 2 and we bought lot # 4 on the south side of Oakwood Ave. Mr. Redden was then in his seventies and was "land-poor". He had been trying to sell the lots without success when Charles MacCulloch offered to buy the entire block of land. It was reported that he paid Mr. Redden

approximately \$14,000 for the land. Mr. McCulloch immediately cut the remaining eight lots by twelve and one-half feet each, thus getting two extra lots. He started building houses under the name of Eastern Woodworkers. Shortly thereafter, he got the remainder of the land rezoned to commercial use. We have been opposing the infringement of commercial zoning ever since. For some reason of which I am not aware, he did not build a house on the lot of land which we are discussing tonight. He attempted to put a commercial building on this lot which the local residents successfully opposed. As I recall, he stated then that if he did not get it rezoned that he would leave it as it was without any improvement and it would look worse than if a nice building was built on it. My point is, we did not build next to a shopping centre, the shopping centre was built next to us. I have, over the years, removed many bags of garbage from our property which keeps blowing over from Burger King and various other commercial businesses. This lot should be kept as a buffer between the commercial and residential properties. Mr. Collins who lives at 3 Oakwood Ave. and other neighbors, do not need a parking lot next to them with car doors slamming and lights shining into their houses at all hours of the night. Lot 1 was R-1, now it is R-2. Once it is a parking lot, it becomes much easier to get rezoning to C-1 or C-2. Who knows what future owner will attempt to build on this lot. It would be more appropriate to landscape this lot and make it into a nice little park.”

Jim Pushie stated with the participation of the neighbors, Plaza Tacoma Centre Ltd. would be willing to designate this parcel as a no-build zone and indicated this would be registered as such with the Registrar of Deeds. He explained this would ensure no-one would be able to build on this piece of property.

Residents had a brief discussion regarding landscaping and asked Jim to describe what they have proposed.

Jim Pushie gave a detailed description with use of an overhead to the residents.

Joan Massey local MLA gave a brief history of the parcel to be rezoned stating the lot was intended to be a park and indicated over the years this has changed. She then suggested the park idea be revisited. She feels it would be a great addition to the community and would like to see Plaza Tacoma Centre consider this.

A brief discussion followed with residents voicing negative concern regarding seating areas attracting teenagers and loud noise all hours of the night.

An unknown resident asked why they had to go through all this for twenty parking spaces and questioned why they could not find a better solution to create more spaces in the front of the store?

Heather Philp an adjacent resident to the property asked if Jim could clarify the property lines?

Jim Pushie explained to Mrs. Philp, with the site plan, the property line boundaries.

Wolf Jacobi supported Joan Massey's park suggestion.

Hanita Koblents indicated a park was not being considered for this site. She stated the application was to rezone the parcel to C - 2 to consider a parking area suitable for the shoppers/medical office development.

Heather Philp asked if the next property owner would have to abide by all provisions laid out in the DA attached to this property?

Councillor Younger addressed the residents at this time, informing them of the options before them: The first is to leave it the way it is, the second would be to support the rezoning application the way it is to allow for the parking area or the third to allow the rezoning but regulating future development on the site with all provisions residents are requesting being laid out in a development agreement.

Greg Bonnell asked Jim to give a building positioning description.

Jim Pushie described the development in relation to the commercial lot by using a site plan.

Greg Bonnell asked if snow removal had been considered and indicated there have been issues in the past with the piling of the snow removed from the parking lot. He suggested the problem may worsen if this is not taken into consideration.

Jim Pushie indicated he was unable to answer that at this time and suggested the operation and logistic issues are not dealt with by him. He agreed this issue should be looked into further to come up with an acceptable snow removal plan.

Heather Collins asked if the fence that separates the mall from the abutting residents could be equipped with gates for residents to access the mall?

Jim Pushie indicated this could be looked into.

An unknown resident asked for clarification regarding the buffer zone.

Jim Pushie clarified the buffer zone location and layout with the use of the site plan.

Residents discussed the buffer, parking area and the access road and suggested they do not feel there will be enough room for the construction of all three.

Rob Philp asked Jim what he meant when he said Shoppers has a no build clause?

Jim Pushie explained that this is included in a 15 year lease that they have with Shoppers.

Rob Philp asked what would happen after the 15 year lease was up?

Jim Pushie indicated Plaza would be prepared to commit to applying a no build zone to this portion indefinitely. He also suggested if residents have any concerns, their offices are located on site and he is more than willing to sit down and speak to them at any time.

Hanita Koblents suggested when the application was submitted by Jim he indicated to her, they had no intention of ever building on that portion of the site, he just wanted to build a parking area. She stated he asked her at that time if there was a way to work with the residents to have an agreement stating this area would always remain a parking area and have a no-build clause attached to the deed.

Marianne Welsh asked if the parking lot will have an effect on the value of the abutting homes.

Jim Pushie suggested the area is already a parking area.

Herb Jordon asked if a different layout for the parking lot could be looked into to eliminate the parking area behind the Shoppers.

Rick Kempton asked if new lighting was to be installed and if so would they consider low level lighting?

Jim Pushie stated there was no additional lighting proposed.

Councillor Younger indicated there will be more public consultation before any decisions are made. He also stated residents who wish to speak to this issue will have an opportunity to do so formally at the public hearing.

Hanita Koblents added residents will be notified by mail in advance of the public hearing as well as newspaper ads that run two consecutive Saturdays before the hearing will be held.

Hanita Koblents thanked everyone for their time and closed the meeting.

3. MEETING ADJOURNMENT

Meeting adjourned at approximately 8:30 p.m.

Attachment B**Policies of the Dartmouth (MPS)**

Policy C-12 Notwithstanding Table 4 in Chapter 10 of the M.P.S., it shall be the intention of City Council to permit, through the development agreement provisions, the development of new medical clinics of not more than 2 storeys in height and the conversion of existing buildings of not more than 3 storeys in height to medical clinics in areas with a Residential land use designation.

The MPS further directs Council, when evaluating a proposal under Policy C-12, to have regard for the following matters:

2. Those elements listed in Section IP-1(c) of chapter 10 of the M.P.S.
3. The impact of the proposed development on:
 - (i) The existing residential uses in the area with particular regard to the use and size of the structure that is proposed, buffering, landscaping, hours of operation for the proposed use, the adequate provision of parking and other similar features of the use and structure.
 - (ii) Pedestrian and motor traffic circulation with particular regard to ingress and egress from the site, traffic flows and parking areas.
 - (iii) The submission of a site plan showing the location of the structure on the lot, parking areas and building plans showing the nature and design of the proposed structure (Policy C-13).

Policy C-14 Furthermore, the development agreements may contain such terms and conditions that Council feels necessary to ensure that the development is consistent with the policies of this Plan. To this end, the agreement should include, but shall not be limited to, some or all of the following:

- (i) The specific use and size of the structure if a new or an expansion of an existing structure is proposed.
- (ii) The compatibility of the structure in terms of design and appearance with adjacent residential uses.
- (iii) Provisions for adequate buffering to screen the development from adjacent uses.
- (iv) Any matters which may be addressed in a Land Use By-law, ie. yard requirements, parking requirements, lot coverage, etc.
- (v) The hours of operation.
- (vi) The provision of services and utilities.
- (vii) Time limits for the construction and completion of construction.
- (viii) Any other similar matter which Council feels is necessary to ensure the general compatibility of the use and structure with adjacent residential areas.

Policy IP-1(c) In considering zoning amendments and contract zoning, Council shall have regard to the following:

- (1) that the proposal is in conformance with the policies and intents of the Municipal Development Plan;
- (2) that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal;
- (3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries;
- (4) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the City is to absorb any costs relating to the development;
 - (ii) the adequacy of sewer and water services and public utilities;
 - (iii) the adequacy and proximity of schools, recreation and other public facilities;
 - (iv) the adequacy of transportation networks in adjacent to or leading to the development;
 - (v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas;
 - (vi) preventing public access to the shorelines or the waterfront;
 - (vii) the presence of natural, historical features, buildings or sites;
 - (viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized;
 - (ix) the detrimental economic or social effect that it may have on other areas of the City.
- (5) that the proposal is not an obnoxious use
- (6) that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or near by land uses and public facilities. Such controls may relate to, but are not limited to, the following:
 - (i) type of use, density, and phasing;
 - (ii) emissions including air, water, noise;
 - (iii) traffic generation, access to and egress from the site, and parking;
 - (iv) open storage and landscaping;
 - (v) provisions for pedestrian movement and safety;
 - (vi) management of open space, parks, walkways;
 - (vii) drainage both natural and sub-surface and soil-stability;
 - (viii) performance bonds;
- (7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors.
- (8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council.

- (9) that in addition to the foregoing, all amendments are prepared in sufficient detail to provide:
- (i) Council with a clear indication of the nature of proposed development, and
 - (ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community

Attachment C - Proposed Development Agreement

THIS AGREEMENT made this day of , 2005,

BETWEEN:

**PLAZA TACOMA CENTRE LTD. ON ITS OWN BEHALF AND AS
GENERAL PARTNER FOR TACOMA CENTRE LIMITED
PARTNERSHIP**
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,
a body corporate, in the County of
Halifax, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands identified as the portion of Lot H (PID #41126988) at the corner of Valleyfield Road and Oakwood Avenue, and in the R-1 Zone of Dartmouth, which said lands are more particularly shown on Schedule "A" and described on Schedule "B" of this Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to permit a parking lot for a medical clinic on that portion of the lands in the R-1 zone at the corner of Valleyfield Road and Oakwood Avenue pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for Dartmouth;

AND WHEREAS Harbour East Community Council approved this request at a meeting held on _____ 2005, referenced as Municipal Case Number 00786;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

- 1.1 The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 1.2 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law for Dartmouth, as may be amended from time to time.

- 1.3 Pursuant to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer agrees to observe and comply with all such laws, by laws and regulations in connection with the development and use of the Lands.
- 1.4 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.5 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by laws or codes applicable to any lands owned by the Developer or lot owners.
- 1.6 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: USE OF LANDS AND DEVELOPMENT PROVISIONS

2.1 Use

- 2.1.1 The Developer shall develop and use the Lands to for no more than 30 parking spaces and associated landscaping in a manner which, in the opinion of the Development Officer, is substantially in conformance with Plans filed with Halifax Regional Municipality Planning and Development Services as Case #00786 and attached as the following Schedules to this Agreement:

Schedule "A" Survey Plan of Lands
Schedule "B" Legal Description of the Lands
Schedule "C" Landscape Planting Plan

- 2.1.2 The developer shall not use the Lands as shown on Schedule "A" and described on Schedule "B" to construct any commercial building.

2.2 Landscaping and Lighting

- 2.2.1 Specific Landscaping measures shall be as generally shown on Schedule "C" and as follows:

- (a) Along boundary with 3 Oakwood Avenue: sod to extend a minimum of twenty (20') feet from the property line and a minimum of five (5) coniferous trees having a

minimum height at planting of 175cm, and two(2) deciduous trees with a minimum caliper at planting of 60 mm.

- (b) Along Oakwood Avenue, a minimum sixteen (16') foot strip of sod with minimum two(2) deciduous trees with a minimum caliper of 60 mm at planting.
- (c) Along Valleyfield Road: a minimum ten (10') foot strip of sod with five (5) deciduous trees with a minimum caliper of 60 mm at planting.

2.2.2 Section 2.2.1 notwithstanding, the Development Officer may approve modifications to the location and species of required planting provided such modifications are minor in nature and in the opinion of the Development Officer, further enhance the appearance of the site.

2.3 Vehicle Parking and Circulation

2.3.1 The Developer shall provide no more than thirty (30) parking spaces on the Lands. Dimensions of parking spaces shall comply with the requirements of the Dartmouth Land Use By-law, as may be amended from time to time.

2.3.2 The Developer shall not construct additional driveways to access the Lands from either Oakwood Avenue or Valleyfield Road.

2.4 Signage

2.4.1 No commercial signage shall be permitted in the area of the property zoned R-1.

2.4.2 A sign shall be posted prohibiting the use of skateboards in the parking lot as generally shown on Schedule "C".

2.5 Maintenance

2.5.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, maintenance of the parking area and of all landscaping including the replacement of damaged or dead plant stock.

2.5.2 The developer shall remove litter from this area on a minimum daily basis or more often if required.

2.5.3 Snow removed from outside the area shown as "Scope of Works" on Schedule "C" shall not be stored in this area.

2.6 Development Permit

- 2.6.1 Prior to issuance of a development permit to construct the parking lot, the Developer shall be required to supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping including soil amendments, sod, plant material and signage. The security deposit shall be in the form of a certified cheque or letter of credit in a form acceptable to HRM, issued by a chartered bank to the Development Officer.
- 2.6.2 Should the Developer not complete the landscaping within six months of issuance of the development permit or by September 1 of the year in which the development permit was issued, whichever is earlier, the Municipality may use the deposit to complete the landscaping as set out in Section 2.2 of this agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The unused portion of the security deposit shall be returned to the Developer upon completion of the work.

PART 3: AMENDMENTS

- 3.1 Amendments to any matters under this agreement shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

PART 4: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 4.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.
- 4.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 4.3 If the Developer fails to complete the development within five years from the date of registration of this Agreement at the Registry of Deeds, Community Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
 - (b) negotiate a new Agreement;
 - (c) discharge this Agreement.

PART 5: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

- 5.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer.

- 5.2 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:
- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
 - (b) The Municipality may enter onto the Property and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the development agreement, whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants or remedial action, shall be a first lien on the Property and be shown on any tax certificate issued under the Assessment Act.
 - (c) the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
 - (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

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

SIGNED, SEALED AND DELIVERED)	Plaza Tacoma Centre Ltd. On its Own Behalf and as General Partner For Tacoma Centre Limited Partnership
in the presence of)
Per _____)Per _____)James Petrie, Secretary and Corporate Counsel
Sealed, Delivered and Attested by the proper signing officers of Halifax Regional Municipality duly authorized on that behalf in the presence of)) Halifax Regional Municipality))) Per _____) Mayor
Per _____) Per _____ Municipal Clerk

