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Halifax, Nova Scotia  
B3J 3A5 Canada

**North West Planning Advisory Committee  
June 5, 2013**

**TO:** Chair and Members of the North West Planning Advisory Committee

Original Signed

**SUBMITTED BY:**

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Brad Anguish, Director of Community and Recreation Services

**DATE:** May 13, 2013

**SUBJECT:** Case 18417 – Partial Discharge of Development Agreement at corner  
of Cobequid Road and Legacy Court, Sackville

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**ORIGIN**

Application by Innovation Architects Limited

**LEGISLATIVE AUTHORITY**

- *HRM Charter*; Part VIII, Planning & Development

**RECOMMENDATION**

It is recommended that the North West Planning Advisory Committee recommend that North West Community Council approve, by resolution, the discharge of the existing and amending development agreements on the lands at the corner of Cobequid Road and Legacy Court as shown on Maps 1 and 2 (subject property) and as described in Attachment A of this report.

## **BACKGROUND**

On February 22, 2001, North West Community Council entered into a development agreement to enable the development of three multiple unit buildings at 24, 34 and 35 Legacy Court and commercial buildings at 91 Sackville Drive and Lot 5 (the subject property). To date, the commercial building approved for Lot 5 (corner of Cobequid Road and Legacy Court) has not been constructed.

### **Request**

Legacy Developments Limited, the property owner, has indicated that there is no demand for new commercial space at Lot 5 and has requested the development agreement be discharged from the corner of Cobequid Road and Legacy Court. In support of this request, the applicant has identified that the commercial building constructed in 2011 under the existing agreement at 91 Sackville Drive is currently 30% vacant. They have indicated they wish to develop a multiple unit dwelling on Lot 5 as there is strong demand for residential units in the area. The discharge of the agreement on Lot 5 is necessary as the existing agreement does not enable a multiple unit dwelling, however, the underlying PC (Pinehill/Cobequid) Zone does.

### **Location/Designation/Zoning**

The subject property (Lot 5 / PID #41087255) is:

- currently vacant and located at the western corner of Cobequid Road and Legacy Court (Maps 1 and 2);
- designated Pinehill-Cobequid under the Sackville Drive Secondary Planning Strategy (SPS) (Map 1);
- zoned PC (Pinehill/Cobequid Zone) under the Sackville Drive Land Use By-law (LUB) (Map 2);
- 3,815 sq. metres (41,067 square feet) in size with approximately 94m (308 feet) of road frontage on Cobequid Road and 37m (121 feet) on Legacy Court; and
- subject to a development agreement that was approved by North West Community on February 22, 2001 permitting the development of three multiple unit buildings and two commercial buildings.

## **DISCUSSION**

### **Discharge of Development Agreements**

The *Halifax Regional Municipality Charter* provides Community Councils with a mechanism to discharge development agreements. Part VIII, Clause 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The *Charter* does not require a public hearing for the discharge of the agreement, thus Council may discharge the agreement by motion (resolution).

### **Review of Proposal**

At the time the existing development agreement was approved in 2001, the area was subject to the requirements of the C-3 (Commercial Corridor) Zone under the Sackville Land-Use By-law. In 2002, the Sackville Drive Secondary Planning Strategy and Land-Use By-law brought in new regulations to address land use in the area and the C-3 (Commercial Corridor) Zone was removed and replaced with the PC (Pinehill/Cobequid) Zone.

The existing development agreement identifies the subject property as the location for a commercial lot. And specifically permits “...all C-3 (Commercial Corridor) Zone uses, including park and ride facilities, but excluding outdoor display courts, commercial recreation uses, recycling depots, automotive repair outlets, auto body shops, wholesale bakeries, transport facilities and maintenance yards, and residential uses.” The existing development agreement also requires that no commercial building exceed 20,000 square feet in footprint area or 3 storeys in height.

As with all applications, when discharging a development agreement, there is the understanding that any of the land uses permitted within the underlying zone could be established through the as-of-right permitting process. By discharging the agreements from the subject property, the property will be regulated by the underlying PC Zone which permits a variety of uses (See Attachment B). The applicant wishes to develop a multiple unit dwelling and staff have verified that it is possible to situate a multiple unit dwelling on the subject property and meet the requirements of the LUB. Discharging the development agreement on the subject property does not create conflict with the MPS.

### **Summary**

Staff has reviewed the discharge request and see no conflicts between the surrounding existing and proposed land uses. The proposed discharge is consistent with MPS policies for the area and the discharge of the agreement would result in the property being subject to the land use provisions of the existing PC Zone. Any future development of the portion of the lands discharged from the Agreement must conform with all applicable provisions and requirements of the Sackville Drive Land Use By-law, as amended from time to time, and any future subdivision of the lands must conform with all applicable provisions and requirements of the Regional Subdivision By-law, as amended from time to time.

Therefore, staff recommend the discharge of the existing and amending development agreement from the lands at the corner of Cobequid Road and Legacy Court as identified in the Recommendation section of this report.

### **FINANCIAL IMPLICATIONS**

There are no financial 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 discharge can be carried out within the approved 2013/14 budget with existing resources.

## **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 sign on the property and information on the HRM website. A public information meeting is not required for the discharge of a development agreement, nor is a public hearing. The decision to discharge a development agreement is made by resolution of Council.

The proposed discharge will potentially impact, but not limited to, the following stakeholders: local residents, property owners.

## **ENVIRONMENTAL IMPLICATIONS**

The proposal meets all relevant, environmental policies contained in the Sackville Drive SPS and LUB.

## **ALTERNATIVES**

The North West Planning Advisory Committee could recommend that North West Community Council:

1. Approve, by resolution, the discharge of the existing and amending development agreement for the lands at the corner of Cobequid Road and Legacy Court as shown on Map 1 and 2 and in Attachment A of this report. This is the recommended alternative. A decision of Council to approve this resolution is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the discharge of the existing and amending agreement for the lands at the corner of Cobequid Road and Legacy Court. This alternative is not recommended as the development on the property would remain subject to the conditions of the Development Agreement. A decision of Council to reject this resolution is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

## **ATTACHMENTS**

Map 1	Generalized Future Land Use Map
Map 2	Zoning Map
Attachment A	Proposed Discharging Agreement
Attachment B	Excerpt from the Pinehill/Cobequid (PC) Zone

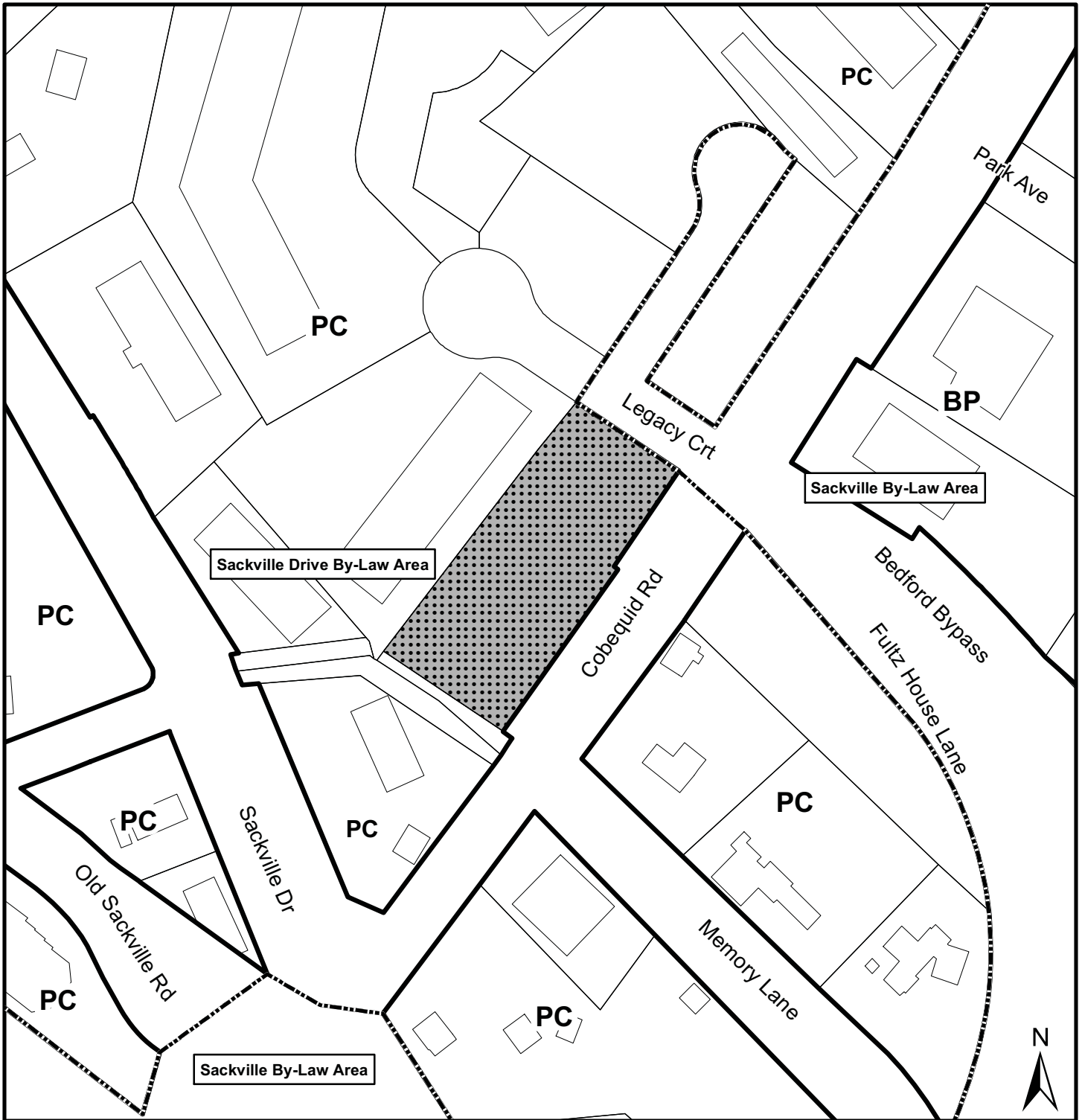
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Jacqueline Belisle, Planner, 869-4262

**Original Signed**

Report Approved by:  Kelly Denty, Manager of Development Approvals, 490-4800

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**Map 1 - Generalized Future Land Use**

Cobequid Road  
Lower Sackville



Subject Property

**Sackville Drive Designations**

PC Pinehill / Cobequid

**Sackville Designations**

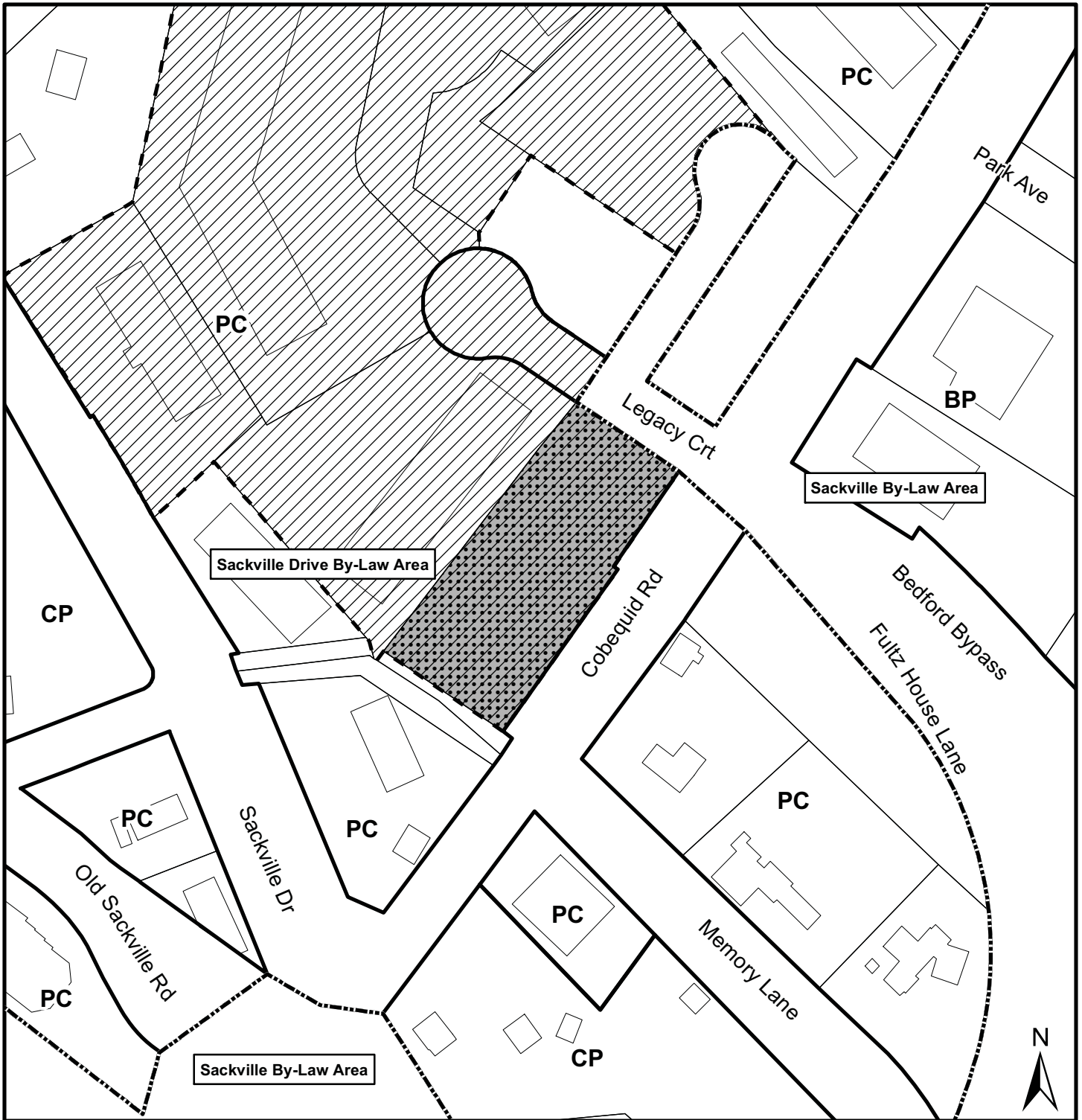
BP Business Park



Sackville Drive  
Plan Area

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

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



**Map 2 - Zoning**

Cobequid Road  
Lower Sackville



Subject Property

**Sackville Drive Zones**

**Sackville Zones**



Area of existing  
Development Agreement

CP Community Parkland and Facility  
PC Pinehill / Cobequid

BP Business Park

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

Sackville Drive  
Land Use By-Law Area

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

**Attachment A**  
**Proposed Discharging Agreement**

THIS DISCHARGING AGREEMENT made this      day of **[Insert Month]**, 2013,

BETWEEN:

**[Insert Name of Corporation/Business LTD.]**  
a body corporate, in the Province of Nova Scotia  
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

**WHEREAS** the Developer is the registered owner of certain lands located at Lot 5, Cobequid Road, Lower Sackville and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** the North West Community Council of the Halifax Regional Municipality granted approval on February 22, 2001 of a development agreement, which was recorded at the Registry of Deeds in Halifax as Document Number 25669 Book 6813 Pages 663-731 (hereinafter called the "Existing Agreement"), to permit the development of three multiple unit buildings and two commercial buildings on the lands in the community of Lower Sackville;

**AND WHEREAS** the North West Community Council of the Halifax Regional Municipality granted approval on August 25, 2005 to amend the existing development agreement, which was recorded at the Registry of Deeds in Halifax as Document Number 84098483 (hereinafter called the "Amending Agreement");

**AND WHEREAS**, the developer has requested that the Existing Agreement and Amending Agreement be discharged from the Lands;

**AND WHEREAS** the North West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 18417;

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



1. The Existing Agreement and Amending Agreement are hereby discharged and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with all applicable provisions and requirements of the Sackville Drive Land Use By-law, as amended from time to time.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

**SIGNED, SEALED AND DELIVERED** in the presence of:

**(Insert Registered Owner Name)**

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_

**SIGNED, 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**

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
MUNICIPAL CLERK

**Attachment B**  
**Excerpt from the Pinehill/Cobequid (PC) Zone**

**Part 14: PINEHILL/COBEQUID (PC) ZONE**

**Permitted Uses**

1. No development permit shall be issued in any PC (Pinehill/Cobequid) Zone except for the following:

Commercial Uses

- Retail stores
- Food stores
- Building Supply Outlets
- Personal service shops
- **Health and Wellness Centres (NWCC-May 26/05;E-May 28/05)**
- Offices
- Commercial schools
- Banks and financial institutions
- Restaurants (full service, take-out, drive-thru)
- Shopping Plaza/Strip Mall
- Commercial Entertainment
- **All Age/Teen Club (NWCC-May 26/05;E-May 28/05)**
- Motels, Hotels
- Guest Homes
- Bed and Breakfasts
- Commercial Recreation
- Automotive Service Stations
- Greenhouses and nurseries
- Garden Market in conjunction with a retail store
- Welding, plumbing and heating, electrical, automotive and other special trade contracting services and shops
- Re-cycling depots
- Automotive Repair Outlets
- Funeral Parlours and undertaker establishments
- Bakeries (including wholesale)
- Printing and publishing establishments
- Car Wash
- Service Shop
- **Outdoor Display Courts (RC-Sep 5/06;E-Oct 7/06)**
- Existing auto body shops

Institutional and Community Uses

- Educational Institutions (including commercial schools)
- Denominational Institutions excluding Cemeteries
- **Day Care Facilities (RC-Mar 3/09;E-Mar 21/09)**

- Civic Buildings including but not limited to public office, post office, fire station, police station, library, museum, and gallery
- Medical, Veterinary and Health Service Clinics; outdoor kennels associated with veterinary clinics are prohibited.
- Community/Recreational Centre
- Community Parkland and Facility uses
- **Residential Care Facilities (NWCC-May 24/07;E-Jun 9/07)**

Residential Uses

- Existing Single Unit Dwellings
- Existing Two (detached and semi-detached) Dwellings
- Townhouses
- Multiple Unit Dwellings