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Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 10.1.2
Harbour East-Marine Drive Community Council
July 30, 2015

TO: Chair and Members of Harbour East – Marine Drive Community Council

SUBMITTED BY: *Original signed*

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: July 7, 2015

SUBJECT: **Case 19637: Supplementary Report - Discharge of Development Agreement
613 Highway #7, Westphal**

SUPPLEMENTARY REPORT

ORIGIN

Application by WSP Group.

LEGISLATIVE AUTHORITY

Halifax Regional Municipal Charter, Part VIII, Planning and Development.

RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council:

1. Rescind the motion of January 8, 2015, discharging the development agreement applied to 613 Highway #7, Westphal, as referenced in the staff report dated December 2, 2014;
2. Approve, by resolution, the discharge agreement as contained in Attachment A of this report, to allow for the discharge of the development agreement applied to 613 Highway #7, Westphal; and
3. Require the discharge 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 and DISCUSSION

On January 8, 2015, Harbour East-Marine Drive Community Council (HEMDCC) approved, by resolution, the discharge of a development agreement applied to 613 Highway #7, Westphal (Maps 1 and 2). The development agreement permitted the operation of beverage rooms and other entertainment uses on the property. As part of their motion, HEMDCC approved the discharge as contained in Attachment A (Proposed Discharging Agreement) of the Staff Report¹ dated December 2, 2014. Due to a clerical error, the proposed discharging agreement and staff report referenced an incorrect case number, Municipal Case 15952. Rather, the proposed discharging agreement and staff report should have referenced Municipal Case 16032.

Although the intent was to discharge the existing development agreement identified as Case 16032, such references may not be corrected administratively as doing so would be inconsistent with the language contained in Council's motion to discharge. Accordingly, to correct the matter, Staff recommend that HEMDCC: 1) rescind their original motion from January 8, 2015; 2) approve, by resolution, the discharge agreement as contained in Attachment A of this supplementary report, and; 3) Require the discharge agreement be signed by the property owner within 120 days, or any extension thereof, granted by Council on request of the property owner as detailed in the Recommendation section of this report.

Discharge of Development Agreements

The *Halifax Regional Municipality Charter* provides Council 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 an agreement or a portion thereof. A development agreement may be discharged by resolution of Community Council.

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

A public information meeting or a public hearing is not required, nor is it the practice to hold such meetings for discharging development agreements. The decision to discharge a development agreement is made by resolution of Community Council.

The proposed discharge will have no impact on local residents, property owners or other stakeholders as the existing zoning allows for the uses that were permitted by the existing development agreements.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

¹ Staff report available on the Halifax website at <http://www.halifax.ca/Commcoun/east/documents/Item10.1.1HEMDJan8.pdf>

ALTERNATIVES

1. Council may choose not to discharge the existing development agreement and therefore, development on the property would remain subject to the conditions of the development agreement. This is not recommended.

ATTACHMENTS

Map 1 Generalized Future Land Use
Map 2: Zoning

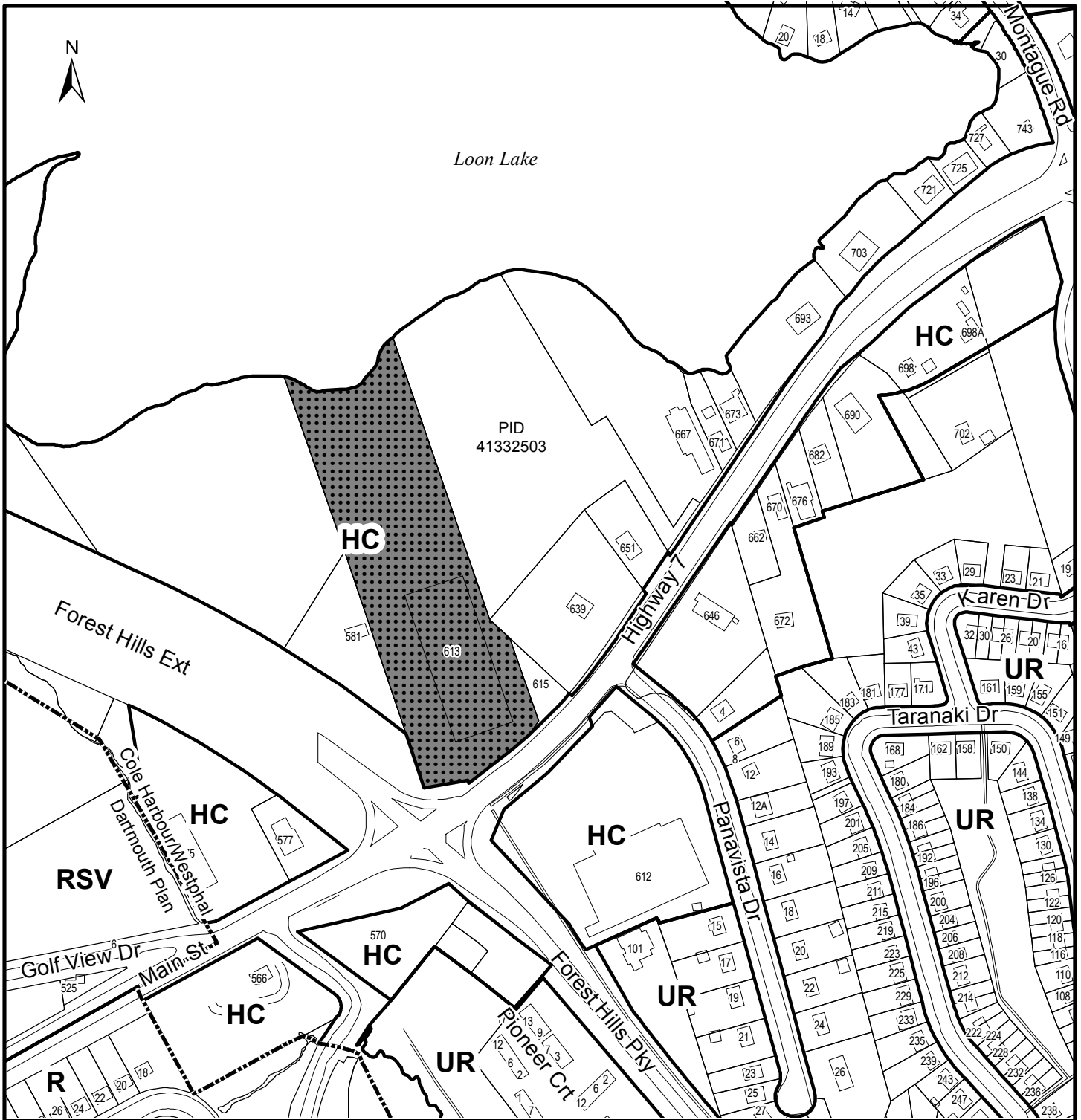
Attachment A: Proposed Discharging Agreement

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: Tyson Simms, Planner 1, 902.490.4843

Original signed


Report Approved by: _____
Kelly Denty, Manager of Development Approvals, 902.490.4800



Map 1 - Generalized Future Land Use

613 Highway 7,
Westphal

HALIFAX

 Area of Existing Development Agreement to be Discharged

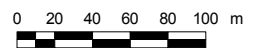
 Plan Area Boundary

Designation

Cole Harbour/
Westphal

Dartmouth

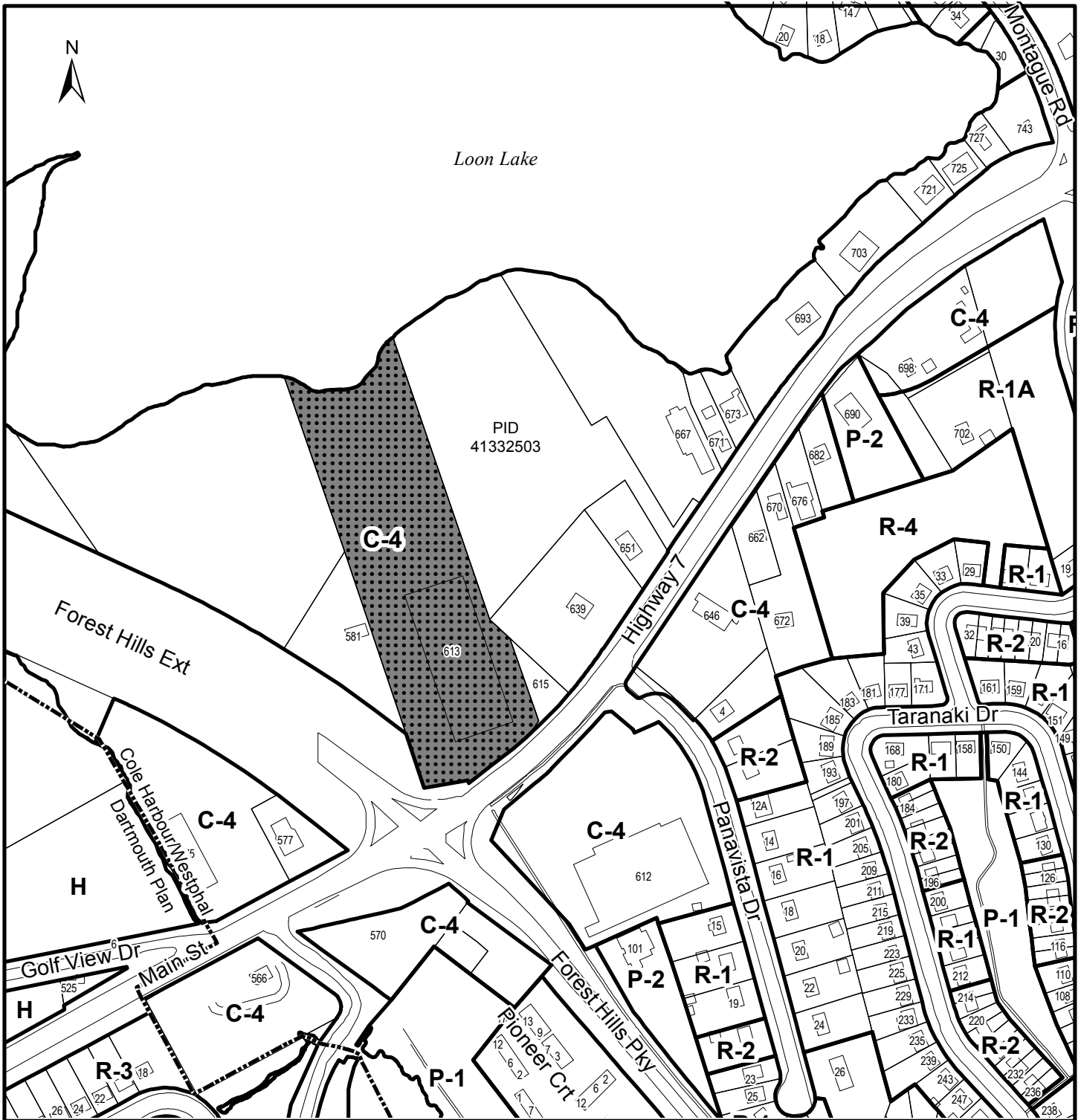
UR	Urban Residential
HC	Highway Commercial
R	Residential
RSV	Reserve



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.


Cole Harbour/Westphal
Plan Area



Map 2 - Zoning

613 Highway 7,
Westphal

 Area of Existing Development
Agreement to be Discharged

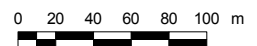
 Plan Area Boundary

Cole Harbour/Westphal
Plan Area

Zone

Cole Harbour/ Westphal	R-1A	Single Unit Dwelling
	R-1	Single Unit Dwelling
	R-2	Two Unit Dwelling
	R-4	Multiple Unit Dwelling
	C-4	Highway Commercial
	P-1	Open Space
	P-2	Community Facility
Dartmouth	R-3	Multiple Family Residential (Medium Density)
	H	Holding

HALIFAX



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

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

**Attachment A:
Proposed Discharging Agreement**

THIS DISCHARGING AGREEMENT made this day of , 2015,

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 613 Highway #7, Westphal, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council granted approval on September 16, 2010, for a development agreement (referenced as Municipal Case Number 16032) to allow for beverage rooms, lounges and eating establishments (with liquor service) to a maximum of 10,000 square feet of the total gross floor area of the building on the Lands, which was recorded at the Registry of Deeds as Document Number 97224936 (hereinafter called the "Existing Agreement");

AND WHEREAS the Existing Agreement applies to the Lands shown on Schedule A attached hereto;

AND WHEREAS the Developer has requested that the Existing Development Agreement be discharged from the Lands;

AND WHEREAS, pursuant to the procedures and requirements contained in the Halifax Regional Municipality Charter, the Harbour East-Marine Drive Community Council of the Municipality approved this request by resolution at a meeting held on [INSERT – date], referenced as Municipal Case Number 19637;

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

1. The aforementioned development agreement, referenced as Municipal Case 16032, is hereby discharged and shall no longer have any force or effect.

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 Corporation Name and 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