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Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 10.1.1
Harbour East-Marine Drive Community Council
January 8, 2015

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

SUBMITTED BY: Original signed by Bob Bjerke

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: December 2, 2014

SUBJECT: Case 19637: Discharge of Development Agreement – 613 Highway #7,
Westphal

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. 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
2. 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

The owner of 613 Highway #7, Westphal, Madison Realty Limited, has proposed to demolish the existing commercial building and discharge a development agreement approved in 2010. The development agreement permitted the operation of beverage rooms and other entertainment uses on the property. The Cole Harbour/Westphal Land Use By-law (LUB) requires that commercial buildings with 929 square meters (10,000 square feet) of gross floor area, or more, be considered by development agreement. During its operation, the approximately 4,645 square meter (50,000 square foot) commercial building was home to several businesses including, but not limited to: Beazley's Bowling Lanes, Dooley's and Par-T-Golf Lounge.

Location, Designation, Zoning and Surrounding Land Use:

Subject Property	613 Highway #7, Westphal (Map 1)
Location	Located at northwest corner of Highway #7, Main Street and Forest Hills Parkway intersection, Westphal
Lot Area	6.26 acres (2.53 hectares)
Regional Designation	Urban Settlement
Community Designation	Highway Commercial under the Cole Harbour/Westphal Municipal Planning Strategy (MPS) (Map 2)
Zoning	C-4 (Highway Commercial) Zone under the Cole Harbour/Westphal LUB (Map 2)
Surrounding Uses	J.L Patterson Sale and Service (581 Hwy #7) to the west; Sobey's gas bar (639 Hwy #7) to the east; Sobey's Land Holdings Limited (615 Hwy #7) to the south; and a vacant 5.38 acre C-4 zoned property to the north (PID #41332503). An active development agreement application (Case 18288) to consider mixed residential development is pending on the lands identified as PID #41332503.
Current Use	Large existing commercial building (approximately 4,645 square meters). Building is no longer occupied, however examples of previous uses included: Beazley's bowling lanes; Par-T-Golf Lounge; and Dooley's.

Existing Development Agreement

In 1994, the former Halifax County entered into a development agreement to allow the operation of a lounge on the property. Amendments to the development agreement were approved by Harbour East Community Council (HECC) in 1998 and 2007. The development agreement identified where alcohol may be consumed, seating capacity, hours of operation, prohibition of adult entertainment and prohibition of dance floors and stages. In 2010, HECC discharged the 1994 development agreement, subsequent amending agreements and entered into a new development agreement to allow for beverage rooms, lounges and eating establishments (with liquor service). The development agreement, referenced as Case 15952, permitted these land uses, up to a maximum of 929 square meters (10,000 square feet), within the existing commercial building.

Enabling Policy

Consideration of the 2010 development agreement was enabled under Policy HC-5 of the Cole Harbour/Westphal Municipal Planning Strategy (MPS). The policy allows for consideration of beverage rooms and other entertainment uses only in commercial structures having greater than 929 square meters (10,000 square feet) of gross floor area. The policy enabled consideration of several factors including: separation from residential uses; vehicular access and egress; the location and extent of open storage and/or display; the location of parking and loading areas; drainage both on and off the site and landscaping of such uses.

MPS and LUB Amendments to Consider Mixed Residential Development

On October 7, 2014, subject to Municipal Case #18684, Regional Council approved amendments to the Cole Harbour/Westphal MPS and LUB, establishing site-specific policy to allow for consideration of mixed residential development on a portion of the subject lands (Map 3). In brief, the approved MPS and LUB

amendments established requirements pertaining to, but not limited to: land use; building form; impact on traffic; pedestrian access; and environmental protection measures.

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.

DISCUSSION

Staff has reviewed the discharge request and has determined that it is consistent with the MPS policies for the Cole Harbour/Westphal MPS. If approved by Community Council, the discharge will result in the removal of the development agreement from the subject lands. Any future as-of right commercial development will be required to meet all applicable requirements of the Cole Harbour/Westphal LUB, including the applicable C-4 (Highway Commercial) Zone provisions. Any future proposed commercial development exceeding 929 square meters (10,000 square feet) of gross floor area and or proposals for lounges or beverage rooms will be subject to approval by Community Council through a development agreement process.

Community Council may also consider proposals for mixed residential development on lands designated Mixed Residential Development in Highway Commercial. As shown on Map 3, a portion of the subject lands are designated Mixed Residential Development in Highway Commercial. As such, subject to Policy HC-10 of the Cole Harbour/Westphal MPS, these lands are eligible for consideration of mixed residential development.

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.

The level of community engagement was information sharing, achieved through the HRM website and responses to inquiries. 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.

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
Map 3: Mixed Residential Development in Highway Commercial Designation

Attachment A: Proposed Discharging Agreement

Copies of the Staff Reports for Municipal Cases: 15952, 18288 and 18684 are available upon request or online at:

<http://www.halifax.ca/municipalclerk/documents/Case15952.pdf>

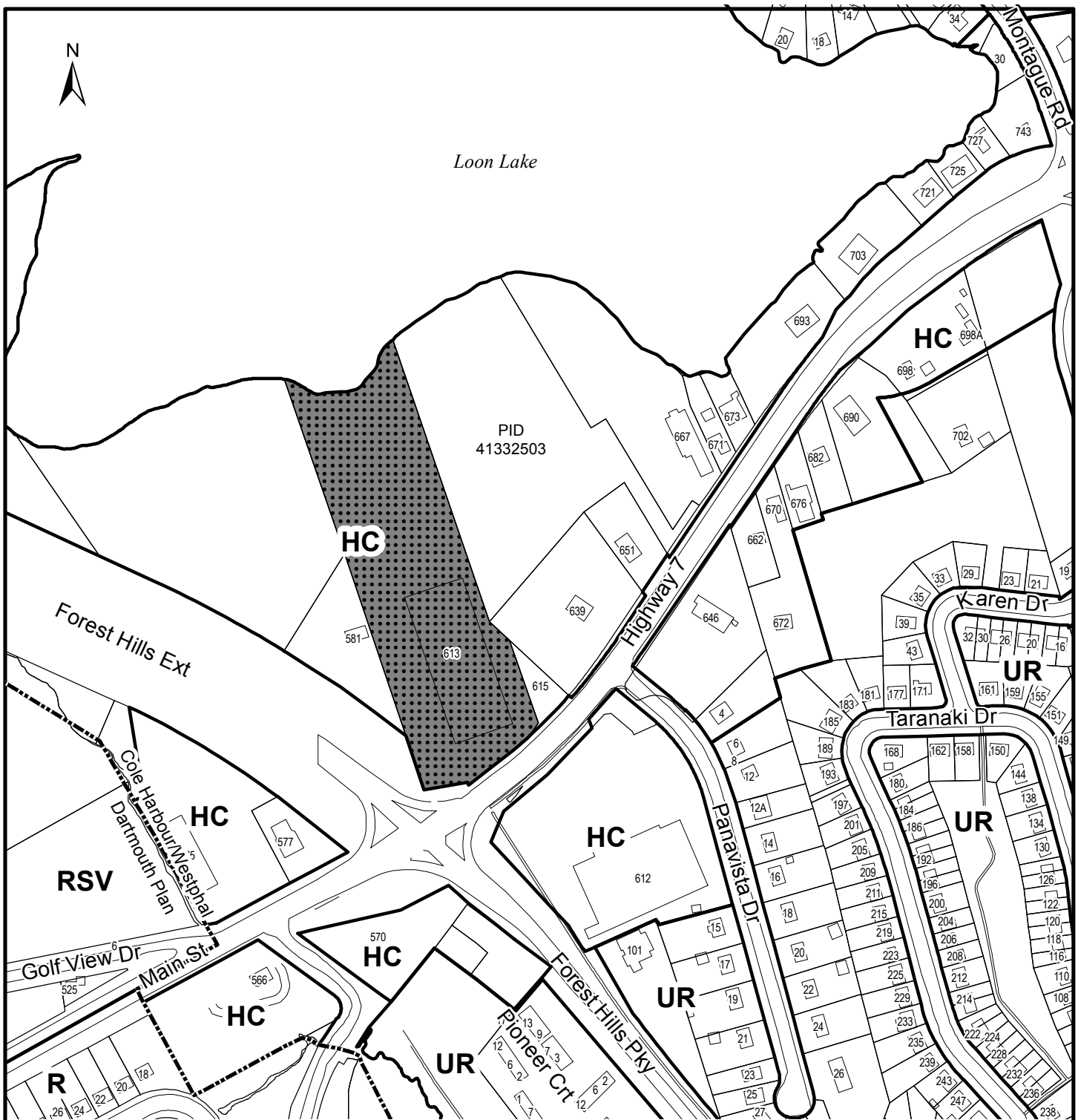
<http://www.halifax.ca/Commcoun/east/documents/140807hemdcc1013.pdf>

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 by Kelly Denty


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



Map 1 - Generalized Future Land Use

613 Highway 7,
Westphal

 Area of Existing Development
Agreement to be Discharged


 Plan Area Boundary

Cole Harbour/Westphal
Plan Area

Designation

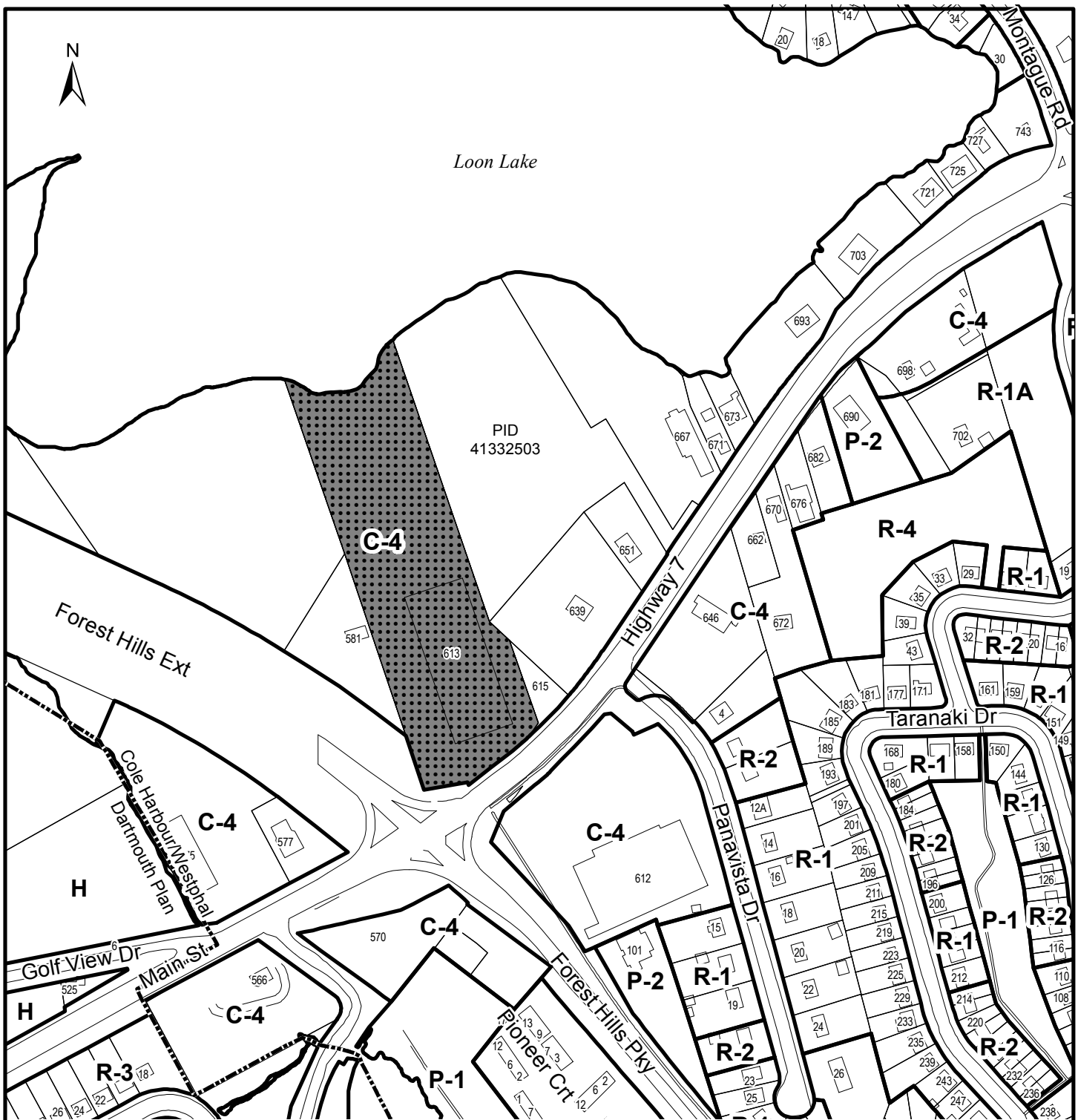
Cole Harbour/ Westphal	UR	Urban Residential
	HC	Highway Commercial
Dartmouth	R	Residential
	RSV	Reserve

0 20 40 60 80 100 m




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

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

0 20 40 60 80 100 m

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.



Loon Lake

PID
41332503

Forest Hills Ext

Highway 7

Panavista Dr

Taranaki Dr


Main St


Map 3 - Mixed Residential Development in Highway Commercial Designation

HALIFAX

613 Highway 7,
Westphal

 Mixed Form Residential Development
in Highway Commercial Designation

 Plan Area Boundary

0 20 40 60 80 m


Cole Harbour/Westphal Plan Area

19 December 2014

Case 19637

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1. The aforementioned development agreement, referenced as Municipal Case 15952, 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