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Harbour East Community Council
June 11, 2009

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: *Denise Schofield*
Denise Schofield, Acting Director of Community Development

DATE: May 21, 2009

SUBJECT: Case 01257: Amending Agreement - Evergreen Plaza, Dartmouth

ORIGIN

Application by Evergreen Plaza Incorporated to amend the existing development agreement for 510 and 530 Portland Street to permit temporary signs along the Portland Street side of the property.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Approve, by resolution of Council, the proposed amending agreement as set out in Attachment A of this report;
2. Require the proposed amending development agreement be signed and delivered within 120 days, or any extension thereof granted by Harbour East Community Council on request of the applicant, from the date of final approval of said agreement by Harbour East Community Council and any other bodies as necessary, whichever is later, including any appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

BACKGROUND

In 2000, Halifax Regional Municipality entered into a Development Agreement with Pinnacle Homes Limited to enable a mixed use development (residential, commercial and institutional) at 506 Portland Street. The civic address for this site has changed to 510 and 530 Portland Street. Evergreen Plaza Incorporated acquired the properties in 2007 and is seeking non-substantive amendments to the existing Development Agreement to enable temporary signs along Portland Street.

Request

Evergreen Plaza Incorporated is requesting they be allowed planter box signs as permitted under the By-law for Temporary Signage. The consideration of signage provisions, except for pylon signs, is identified by the existing Agreement as a non-substantive amendment and may be approved by resolution of Council.

Existing Development Agreement

The existing Agreement permits single-unit, semi-detached and townhouse dwellings, one multiple-unit building, a variety of commercial uses, a fire station and open space and park uses. The Agreement limits signage to:

- 3 pylon signs (only 2 permitted to front onto Portland Street);
- 1 mobile sign per business for new business openings only;
- fascia signs and/or projecting signs for commercial uses;
- one ground sign for the multiple-unit building; and
- additional directional ground and fascia signs.

Location, Designation, and Zoning

- The properties (PIDs 41067653 and 41067679) are 4.56 acres (1.85 hectares) in area, located on the south side of the intersection of Portland Street and the Circumferential Highway, across from Penhorn Mall.
- The property is designated and zoned CDD (Comprehensive Development District) under the Dartmouth Municipal Planning Strategy (MPS) as illustrated on Map 1 and Map 2 of this report.

Enabling Policy

The subject property is designated Comprehensive Development District (CDD) under the Dartmouth MPS. The intent of the MPS policy (Attachment B) is that a CDD shall be primarily a residential development providing a mix of residential types. Within the CDD, Council may consider permitting any residential, institutional, commercial and recreational uses or facilities to serve the area subject to specific criteria. Signage is addressed within the detailed site plan criteria.

DISCUSSION

Staff has reviewed the application based on all applicable policies of the Dartmouth MPS, which are included as Attachment B to this report. The following issues have been identified for more detailed discussion. Non-substantive amendments only require a resolution of Council, not a public hearing.

Existing Temporary Signage:

The existing development agreement permits mobile signs as the only type of temporary signage and permits 1 per business for a maximum of 30 days for new business openings. They must be located in close proximity to the secondary entrance to the property and there must be no more than 2 mobile signs at any time on the property. The signs proposed by the applicant, Planter box signs, was not acceptable as mobile signs as they are of a more semi-permanent nature.

Proposed Signage:

At the time the existing Agreement (2000) was entered into HRM typically restricted the use of temporary signs, such as mobile signs, in development agreements due to the lack of standards. In 2006, HRM adopted a Temporary Sign By-law which established rules and regulations for a broad range of temporary signage such as mobile signs, planter box signs, and sandwich boards. The By-law addresses the visual confusion resulting from the proliferation of signage.

Staff is of the opinion the planter box type signs that the applicant is proposing would be adequately provided for by the Temporary Sign By-law. The By-law would permit on the property that contains more than one premise, 1 planter box sign per premise with a 150 foot spacing distance between signs. Staff believe the original intent to limit the number of "mobile signs" to 2 should be retained and applied to the temporary signs. The presence of 2 permanent pylon signs and 2 temporary signs at any one time fronting onto Portland Street is adequate in staff's opinion. The mobile signs permitted under the existing Agreement would also be permitted under the Temporary Sign By-law.

Pedestrian and Vehicular Safety

Concern with signage often relates to issues of pedestrian and vehicular movement safety. The height and width of the proposed signs shall conform to the provisions of the Temporary Sign By-law. However, signage of this scale must not impact on public streets by obstructing motor vehicle operator's views or creating conflict for pedestrian traffic. Staff is of the opinion that the proposed location requirement of the existing Agreement - "close proximity to the secondary entrance to the property (not in the road right-of-way for Portland Street)" is appropriate and is retained under the amending Agreement.

Aesthetics

One other concern with signage regulation is aesthetics. The existing Agreement contains no design requirements or guidelines for signage appearance. Staff is of the opinion that the

decorative header required by the Temporary Sign By-law for planter box signs and maintenance requirements will contribute to the visual quality of the signs.

Public Information Meeting

A Public Information Meeting is not required for non-substantive amendments to development agreements.

Conclusion

Staff are of the opinion that the proposed amending agreement set out in Attachment A is consistent with the intent of the MPS for commercial development at this location. The proposed amending agreement provides for temporary signs but maintains restrictions on location and number of signs as in the existing agreement. Therefore, staff recommend that HECC approve the proposed amending development agreement included as Attachment A of this report.

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

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

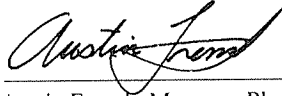
1. Council may choose to approve the proposed amending agreement as set out in Attachment A of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amending agreement subject to modifications. This may require further negotiation with the applicant.
3. Council may choose to refuse to approve the proposed amending agreement, and in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended as staff are satisfied that the proposed amending development agreement is consistent with the policies and intent of the MPS.

ATTACHMENTS

Map 1	Generalized Future Land Use Map
Map 2	Zoning and Location Map
Attachment A	Proposed Non-Substantive Amending Development Agreement
Attachment B	Relevant Excerpts from Dartmouth MPS
Attachment C	Relevant Excerpts from Dartmouth LUB
Attachment D	510 & 530 Sign Details

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, 490-4181




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



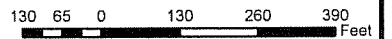
Map 1 Generalized Future Land Use

510 & 530 Portland Street

 Subject Parcels

Designation

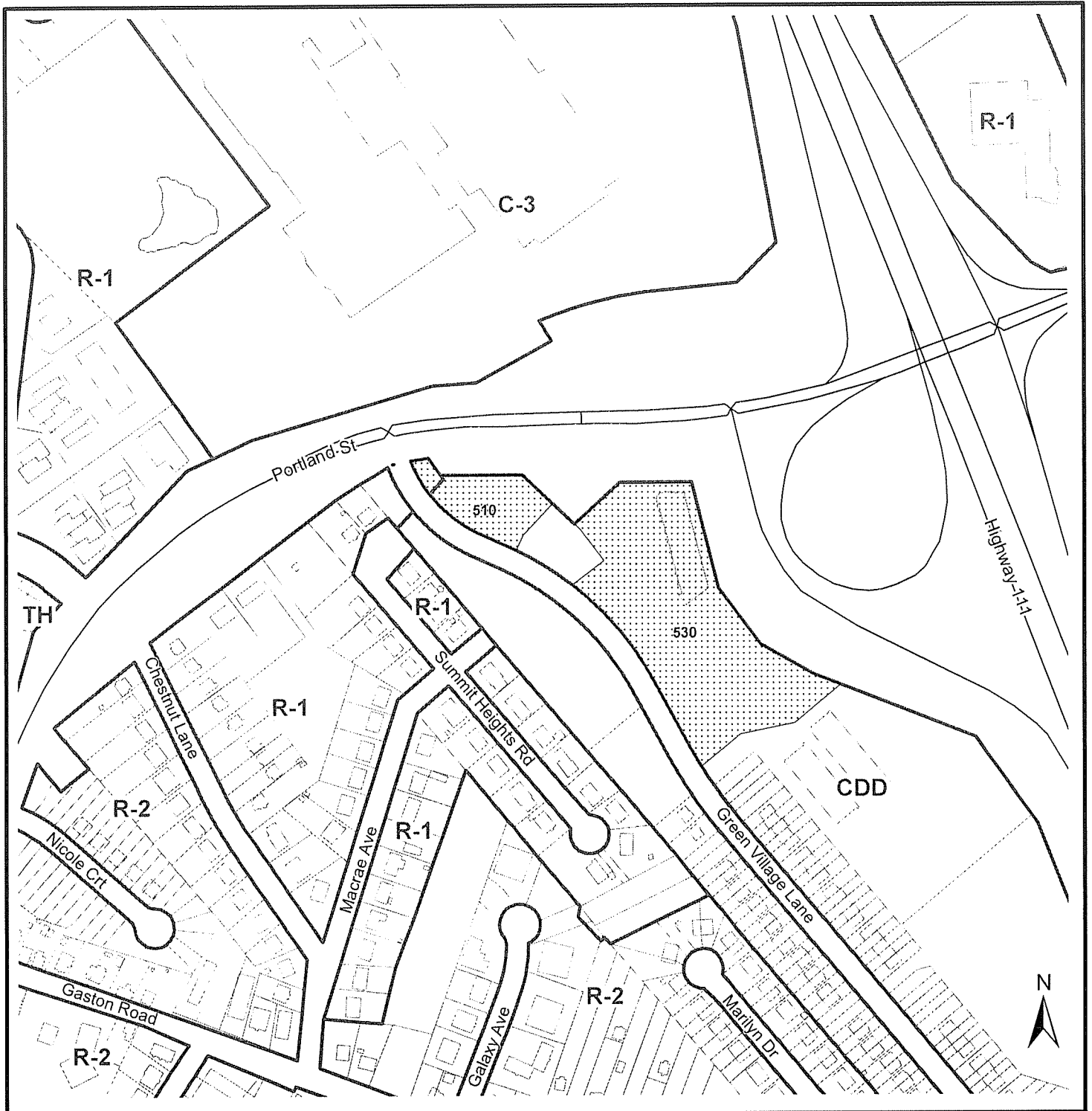
R Residential
C Commercial



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Dartmouth Land Use By-law area


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

Dartmouth Plan Area



Map 2 Location and Zoning

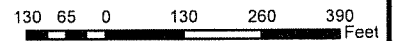
510 & 530 Portland Street

 Subject Parcels

Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- TH Town Housing
- C-3 General Business
- CDD Comprehensive Development District

Dartmouth Plan Area



This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Land Use By-law area

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

Attachment A: Proposed Non-Substantive Amending Development Agreement

THIS AMENDING AGREEMENT made this day of , 2009,

BETWEEN:

EVERGREEN PLAZA INCORPORATED

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 PID 41067653 and PID 41067679, Dartmouth and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Halifax Regional Municipality approved an application by the Developer to enter into a Development Agreement to allow for a mixed development of residential, commercial and institutional on the Lands, which said Development Agreement was registered at the Registry of Deeds Office in Halifax as Document Number 35871 in Book No. 6658, at Pages 116 to 145 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested a non-substantive amendment to the provisions of the Existing Agreement to enable temporary signs;

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on [**Insert Date**], referenced as Municipal Case Number 01257;

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

1. The Existing Agreement be amended to replace Section 2.4.9(c) with the following:

2.4.9 (c) Temporary signs shall be permitted in accordance with By-law Number S-800 "A By-law Respecting Requirements for the Licensing of Temporary Signs".
Temporary signs shall only be located in close proximity to the secondary entrance to the Property (not permitted within the road right-of-way for Portland Street).
At no time shall there be more than 2 temporary signs on the Property.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2009.

SIGNED, SEALED AND DELIVERED)	EVERGREEN PLAZA INCORPORATED
in the presence of)	
per _____)	per: _____
)	
)	
per _____)	per: _____
)	
SEALED, DELIVERED AND)	
ATTESTED to by the proper)	
signing officers of Halifax Regional)	
Municipality duly authorized)	
in that behalf in the presence)	HALIFAX REGIONAL MUNICIPALITY
per _____)	per: _____
)	MAYOR
)	
per _____)	per: _____
)	MUNICIPAL CLERK

Attachment B: Relevant Excerpts from the Dartmouth MPS

(3) *Comprehensive Development District (CDD)*

The CDD mechanism permits a land owner and the City to negotiate the development standards for a designated property, allowing for more flexibility than offered by zoning and subdivision regulation. In keeping with the City's concerns regarding the residential development of large vacant parcels inside the development boundary, several properties will be designated as CDDs and others may be considered by Council or owners in the future.

An important objective in providing for CDDs is to create mixed residential developments, with variety in dwelling type, building design and lot characteristics. In most cases, this mix will be achieved within each CDD. However, some districts may be located in the immediate vicinity of alternate housing forms and in these cases, the surrounding neighbourhood will be taken into account in determining an acceptable mix of housing for the property.

(Deleted: RC-Jan 12/99; E-Jun 26/99)

CDDs will be developed according to master plans and implemented by development agreement(s). Policies H-3 through H-3E expand on City Council's intentions in providing for CDDs. (As amended by By-law C-697, June 18, 1993).

Policy H-3 It shall be the intention of Council to establish a comprehensive development district (CDD) within the land use by-law. A CDD may be applied to vacant lands which have a minimum area of ten acres and which are located within the development boundary. It is the intention that a CDD shall be primarily a residential development and shall provide a mix of residential uses. Within the CDD, Council may consider permitting any residential use and institutional, commercial and recreational facilities to serve the area.

Policy H-3(AA) It shall be the intention of Council to establish a Public Participation Committee upon the Municipality receiving an application to develop lands within a CDD. The composition of the Committee should include local residents, other interested citizens, affected land owners, the proponent and municipal staff. The general purpose of the Committee is to collaborate to produce the conceptual plans and detailed plans for the area to be developed, as described by Policies H-3A, H-3B and H-3C. Council shall also establish a Committee to deal with substantial amendments to CDD Agreements.

Policy H-3A Pursuant to section 56 of the Planning Act, development within a CDD shall be subject to an agreement. Prior to considering any agreement within a CDD, Council shall require a concept plan for the entire land holding. The concept plan shall include the following information, some or all of which may be made part of any agreement as Council deems necessary to fully describe and control

the development:

- (a) *a map(s) and assessment of the physical nature of the land, including its topography, mature vegetation, natural features restricting development and any significant environmental characteristics;*
- (b) *a transportation plan, including vehicular, pedestrian and public transit systems, and traffic impact analysis sufficient to evaluate the internal and off-site implications of the systems;*
- (c) *the method of providing municipal sewerage, water and storm services to the development;*
- (d) *the general phasing of development;*
- (e) *the distribution and nature of all land uses; and*
- (f) *the total number of dwelling units, the proportion of all units which are proposed to be in apartment buildings and the gross residential density of the whole development and each of its phases.*

Policy H-3B

In addition to the provisions of Policy H-3A, Council shall consider the following prior to approving any agreement within a CDD:

- (a) *the adequacy of the mix of residential uses to provide a range of housing options in terms of lot characteristics, building and dwelling type and design;*
- (b) *the general guide that the maximum number of apartment units shall not exceed 40% of the total actual number of units within the CDD. Such figure may be increased to a maximum of 50% provided clear advantages are gained within the CDD by means of increased parkland or open space, increased areas of undisturbed terrain and vegetation, decreased amount of impermeable surfaces and/or improved environmental protection or an improved transportation system. (RC- Mar 22/05; E-Apr 23/05)*
- (c) *the location and concentration or dispersal of multi-unit residential buildings with respect to impacts on street networks, abutting uses and the physical environment;*
- (d) *the general guide of a maximum residential density of 8 units per gross acre, excluding acreage devoted to commercial use;*
- (e) *the compatibility of various land uses, within and adjacent to the development, and measures proposed to integrate and buffer uses. Compatibility refers to the type of land use, dwelling (housing) type and size and height of the development. Buffering refers to measures that mitigate impacts on adjacent uses, such as adequate separation distances, retention of existing vegetation and the installation of suitable screening features such as new vegetation, berms and or fencing;*
- (f) *the adequacy of measures to minimize disruption of existing terrain, vegetation, watercourses and other physical features and to mitigate against the potential effects of disruption;*
- (g) *the hours of operation of non-residential uses, including business uses located in dwellings;*

- h) the safety and efficiency of all transportation systems, including the effects of driveways to and traffic from abutting uses to streets and walkways including the adequacy of pedestrian facilities (sidewalks/walkways);*
- (i) the general guide that street frontage for single detached development not be less than forty (40) feet and that the total number of single detached lots having street frontage less than the minimum requirement as prescribed by the land use by-law and/or the subdivision by-law (RC-Jan 29/02; E-Mar 2/02) not exceed twenty-five percent of the total number of single detached units within the CDD;*
- (j) that the size and type of commercial uses be designed to serve the shopping needs of residents within the local area, rather than the community or the region. Commercial uses to be considered are to be compatible with and sympathetic to the character of the surrounding residential community in terms of location, use, scale, design and traffic impacts. Uses to be considered may include, but not limited to, offices, financial institutions, convenience shops, drug stores, personal service outlets (dry cleaning depot, laundry mats, hair salons, tailors and so on), small food stores, gas bars, and restaurants (excluding drive-throughs). Uses not to be considered include, but are not limited to department stores, home improvement centres, drinking establishments, adult entertainment uses and large grocery stores;*
- (k) Notwithstanding criteria "j", larger commercial development containing a wider range of uses may be considered for lands adjacent Highway 111 at the proposed Woodside interchange;*
- (l) within the Morris-Russell Lake area, all new development shall adhere to the Morris Lake Watershed Management policies as contained in Policies ML-1 to ML-23 as applicable;*
- (m) the impact the proposed development may have on the quality of life of existing neighbourhoods, and notwithstanding criteria (b), (d), (i), and (j), Council may reduce the maximum allowable under each criteria in order to protect the quality of life of residents within existing neighbourhoods;*
- (n) any and all other matters applicable to the subdivision and servicing of the lands, the provision of parkland and the effects of the development on community services as set out in policy IP- 1(c) and, for specific uses which are otherwise subject to development agreements, the specific considerations required by the text and policies of this Plan; and*

Policy H-3C For each phase of development in the CDD, detailed site plans shall be submitted.

In addition to the provisions of any agreement pursuant to Policy H-3B, detailed site plans shall provide the following information:

- (a) the design, exterior appearance, signage, elevations and landscaping of multi-unit buildings, institutional buildings and commercial buildings;*

- (b) *the dimensions of all yards and the physical nature of measures to integrate or buffer adjacent uses;*
- (c) *the details of layout, lighting and landscaping of parking areas for multi-unit residential development, institutional and commercial development;*
- (d) *the provision of useable amenity areas including indoor and outdoor recreational facilities for multi-unit residential developments;*
- (e) *a tentative subdivision plan showing all municipal services and proposed building locations;*
- (f) *grading plans or other information regarding the method of developing, protecting or restoring significant physical features of the site during construction;*
- (g) *a projected time frame for construction;*
- (h) *the location, size and number of vehicular access points to all developments;*
- (i) *landscaping and maintenance plans for multi-unit residential, commercial and institutional uses;*
- (j) *the details of street scape aesthetics (landscaping, street trees, etc.); and*
- (k) *any additional information required to be able to assess the proposal in terms of the concept plan and any approved development agreements.*

Policy H-3D It shall be the intention of Council that all or part of an agreement made pursuant to policies H-3A, H-3B and H-3C may be discharged upon completion of the development or upon completion of particular phases of the development. Upon discharging part or all of any agreement, Council shall zone the lands to reflect the intent of the agreement or by creating a specific zone for the site.

Policy H-3E It shall be the intention of Council to consider the zoning of lands within the Plan area that meet the criteria for a CDD by amendment to the Land Use By-law.

(RC-Jan 12/99;E-Jun 26/99)

Attachment C: Relevant Excerpts from the Dartmouth LUB

PART 27: CDD (COMPREHENSIVE DEVELOPMENT DISTRICT) ZONE

- 53(A)
- (a) *The following uses only shall be permitted in a CDD:*
 - (i) *residential uses;*
 - (ii) *commercial, institutional and recreational uses.*
 - (iii) *All equipment, structures and buildings associated with extracting water from Morris Lake in association with an existing oil refinery operation. (RC-Mar 22/05;E-Apr 23/05)*
 - (b) *No development permit shall be issued except in conformity with an agreement pursuant to Section 56(3) of the Planning Act.*

(As amended by By-law C-698, Jun 18/93)

Max sign face of 6' x 10'
2 Sides
one sign on 510 and one on 530
Portland Street

Attached to planter box

Ground level

Planter box

Attachment: D

510 & 530 Portland Street

HRM does not guarantee the accuracy of any base map information on this map.

June 01, 2009

Case 01257

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