

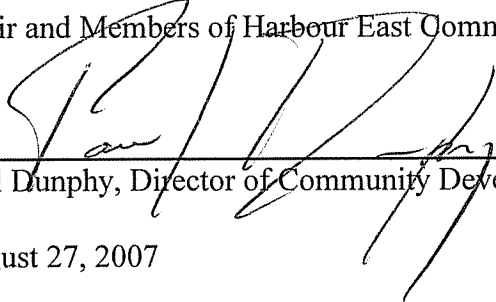


PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

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Harbour East Community Council  
September 6, 2007

**TO:** Chair and Members of Harbour East Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Community Development

**DATE:** August 27, 2007

**SUBJECT:** Case 00992: Rezoning, 381 Portland Street, Dartmouth

### ORIGIN

Application by Cox's Auto Clinic to rezone a portion of 381 Portland Street, Dartmouth from R-2 (Two family Residential) Zone to C-2 (General Business) Zone to enable an addition to the existing automotive service business.

### RECOMMENDATION

It is recommended that Harbour East Community Council:

- (a) Give First Reading to consider the proposed zoning map amendment to the Dartmouth Land Use By-law as shown in Attachment "A", and schedule a public hearing;
- (b) Approve the proposed zoning map amendment to the Dartmouth Land Use By-law by rezoning PID Nos. 40878357 and 40878365 from R-2 (Two Family Residential) Zone to C-2 (General Business) Zone, as shown in Attachment "A" to enable an addition to the existing automotive service business.

## **BACKGROUND**

In 2006, Cox's Auto Clinic applied for a permit to expand their automotive operation at 381 Portland Street. Development Services refused to issue a development permit due to residential zoning on a portion of the subject property. Subsequently, an application was made to rezone the subject parcels to achieve the appropriate zone as required by the Dartmouth Land Use By-law (LUB).

The subject area (Map 1) is comprised of three lots. The main lot is situated on the corner of Lakefront Drive and Portland St. and contains the main building (former Irving Service Station) and parking lot for the automotive repair use. This lot is zoned C-2 (General Business) which permits automotive repair uses.

The two remaining lots, which are subject to this rezoning application, are presently used for vehicle parking and a storage shed for the repair business. A single-unit dwelling was removed from the easterly identified lot in the 1980's by Irving Oil Ltd. The properties remain zoned R-2, which permits only residential uses, and not commercial (Attachment B). The requested rezoning will enable compliance of the existing commercial use in accordance with the requirements of the C-2 Zone.

### **Proposed Building Addition**

Cox's Auto Clinic are proposing an addition (approximately 1,000 sq.ft.) comprised of two automotive service repair bays to complement the existing two-bay and reception area structure consisting of 1,476 sq. ft. The addition is proposed to be located on the east side of the existing business on the R-2 zoned lots and is intended to match the construction details of the existing automotive repair business. The proposed construction will be subject to the development standards of the C-2 Zone including setback requirements from property boundaries and buffering from adjacent uses.

## **DISCUSSION**

### **Municipal Planning Strategy**

The subject area is designated Commercial under the Dartmouth Municipal Planning Strategy (MPS) which allows Council to consider an amendment to the LUB (rezoning to C-2) in accordance with Policy IP-1(c). The evaluation criteria contained in Policy IP-1(c) have been reviewed relative to this development. Staff does not anticipate the requested rezoning to present any significant impacts on surrounding properties and is consistent with applicable policy.

## Land Use By-law

### C-2 Zone

In addition to the development standards of the C-2 Zone, Section 15(i) of Part II “General Provisions” of the LUB will apply to the expanded commercial use (Attachment “B”). In summary, these provisions will provide for a visual buffer on the subject site adjacent to the neighbouring residential land uses. These provisions will be required during the permitting process for the building addition.

Due to the location of the existing use on a corner lot (Lakefront Dr. and Portland St.), the longstanding use of the existing business on most of the site and the buffering requirements of the LUB for adjacent residential uses, Staff is supportive of the rezoning request to the C-2 Zone. Approval of the rezoning will enable the business operator to improve the property and continue to provide a neighbourhood service amenity.

As submitted, both the proposed rezoning and building addition are able to comply with the Plan policy and LUB requirements.

### **Public Information Meeting/Area of Notification**

A Public Information Meeting for this application was held on April 26, 2007. Minutes of this meeting are provided as Attachment “C” of this report. No significant issues of concern were raised by the attendees. Staff provided clarification of the exact area subject to the rezoning and the extent of the proposed development in relation to existing property boundaries, as well as the provisions of the Land Use By-law regarding buffering of commercial uses adjacent to residential uses.

Should Community Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 1 will be sent written notification.

### **Conclusion**

Staff contends the requested rezoning satisfies the applicable policies of the Dartmouth Municipal Planning Strategy. It is recommended that Harbour East Community Council approve the requested amendment to the Zoning Map of the Land Use By-law.

### **BUDGET IMPLICATIONS**

There are no budget implications.

**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**

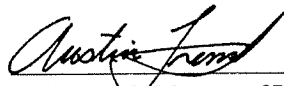
1. Council may choose to approve the proposed amendment to the Land Use By-law. This is the recommended course of action.
2. Council may choose to refuse the proposed amendment to the Land Use By-law, and in doing so, must provide reasons based on a conflict with MPS policies. This is not the recommended action.

**ATTACHMENTS**

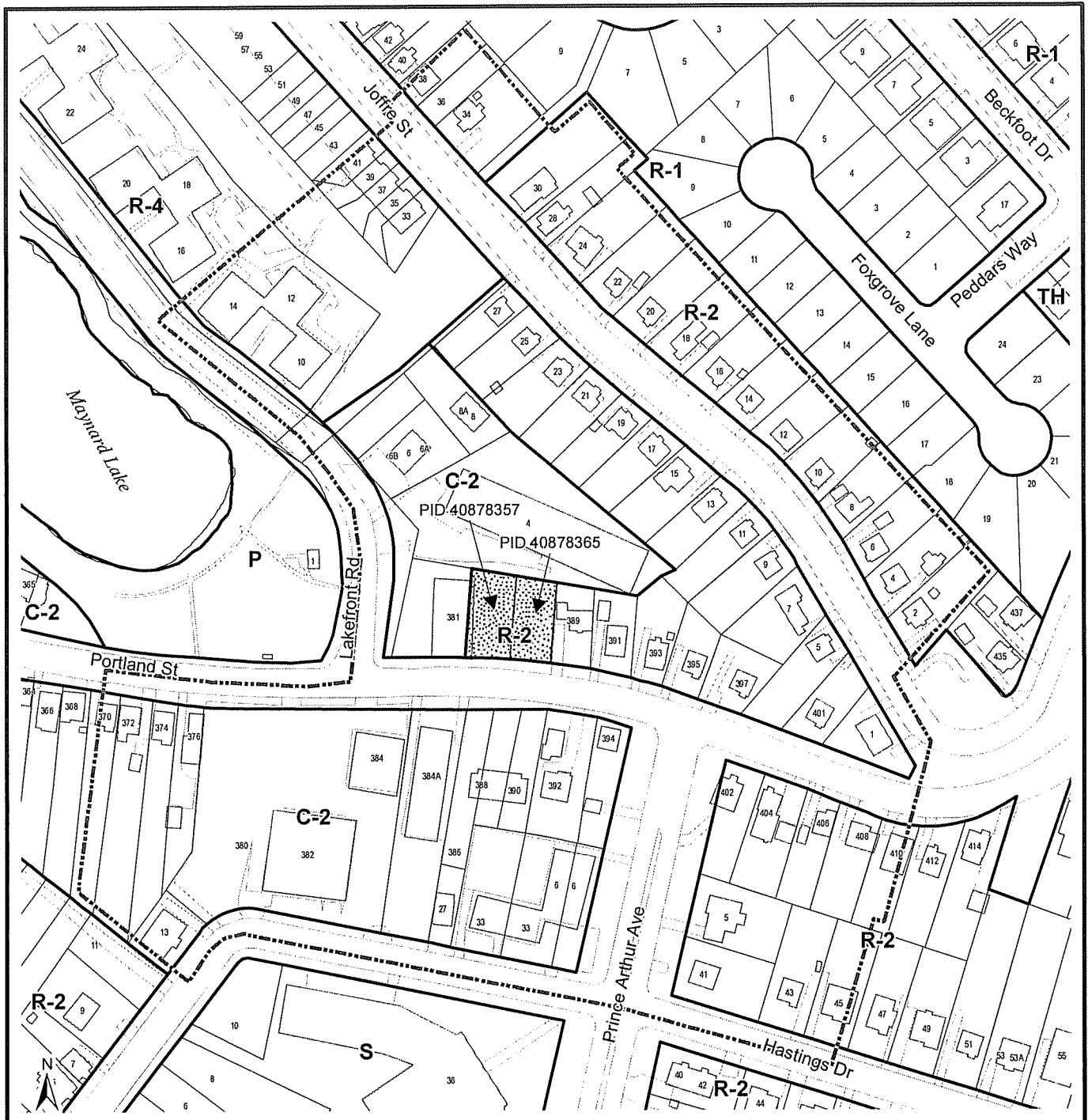
Map 1	Location and Zoning
Attachment "A"	Amendment to the Land Use By-law for Dartmouth
Attachment "B"	Relevant Excerpts of the Dartmouth MPS & LUB
Attachment "C"	Public Information Meeting Minutes - April 26, 2007

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 : David Lane, Senior Planner, 490-5719




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




**Map 1 - Location and Zoning**

Portland Street

Dartmouth

 Property to be rezoned from R-2 (Two Family Residential) to C-2 (General Business)

 Area of notification

Dartmouth Plan Area

**Zone**

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Res. (medium density)
- R-4 Multiple Family Res. (high density)
- C-2 General Business
- I-3 Harbour Oriented Industrial
- P Park
- S Institutional



This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area.

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

**Attachment "A"**

Amendment to the Land Use By-law for Dartmouth

BE IT ENACTED by the Harbour East Community Council of the Halifax Regional Municipality that the Dartmouth Land Use By-law, is further amended as follows:

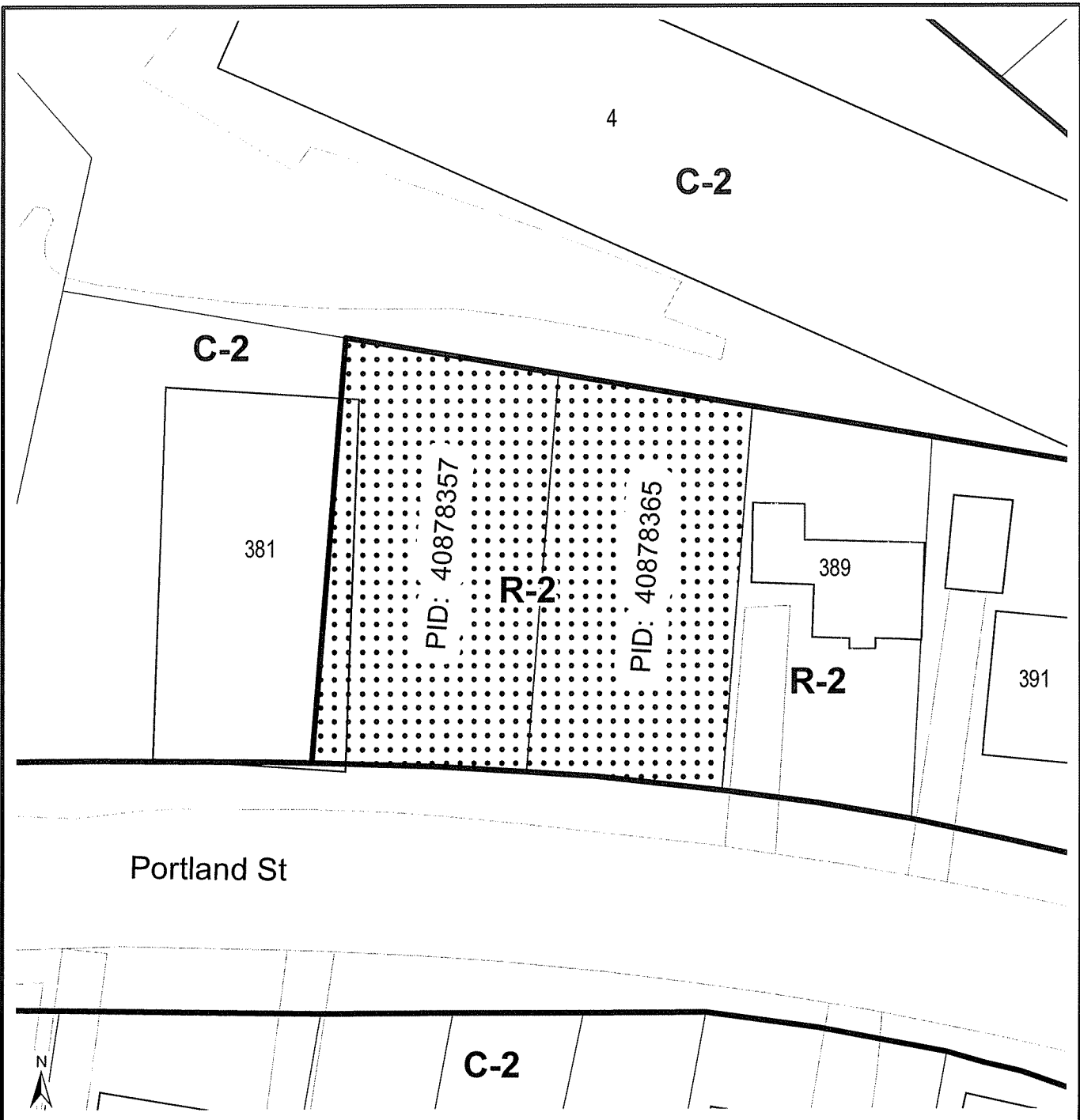
1. The Zoning Map of the Land Use By-law shall be amended as shown in the attached Schedule "A".

I HEREBY CERTIFY that the amendment to the Land Use By-law for Dartmouth as set out above, was passed by a majority vote of the Harbour East Community Council of the Halifax Regional Municipality at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2007

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2007


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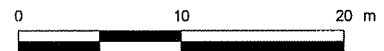
Jan Gibson  
Municipal Clerk



**Schedule "A"**

Portland Street  
Dartmouth

 Area proposed to be rezoned from R-2 (Two Family Residential) to C-2 (General Business)



This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area

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Dartmouth Plan Area

**Attachment "B"**

Relevant Excerpts of the  
Dartmouth Municipal Planning Strategy and Land Use By-law  
Pertaining to Case No. 00992

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.

### **R-2 ZONE - TWO FAMILY RESIDENTIAL ZONE**

33. (1) The following uses only shall be permitted in an R-2 Zone:
- (a) R-1 uses as hereinbefore set out,
  - (b) a semi-detached dwelling,
  - (c) a duplex dwelling,
  - (d) basement apartments added to single family dwellings so that each building contains only two families,
  - (e) a dwelling for not more than ten persons, owned or operated by a voluntary non-profit organization,
  - (f) any uses accessory to any of the foregoing uses.
- (2) Buildings used for R-1 uses in an R-2 Zone shall comply with the requirements of an R-1 Zone.
- (3) Buildings used for R-2 uses in an R-2 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 sq. ft.
  - (b) Lot coverage maximum - 35%
  - (c) Side and rear yards shall be provided on each side and at the rear of a building as specified in the Building By-laws of the City.
  - (d) notwithstanding anything contained in this section, a lot in an R-2 Zone created by the subdivision of a lot containing two semi-detached

dwellings shall be permitted, provided that each lot resulting from the subdivision and each individual dwelling unit complies with the following requirements:

- (i) Lot area minimum - 2,500 square feet
  - (ii) Lot frontage minimum - 25 feet
  - (iii) Lot coverage maximum - 35%
  - (iv) compliance with the building by-laws of the City.
- (e) Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC - Feb 8, 2005 E - April 23, 2005)
- 33 (4) Notwithstanding anything else in this by-law, the following zone requirements shall apply to all new lots that were approved after October 13, 2001:

**C-2 ZONE - GENERAL BUSINESS ZONE**

39. (1) The following uses only shall be permitted in a C-2 Zone:
- (a) R-1, R-2, R-3, C-1 and TH uses as herein set out;
  - (b) Business or commercial enterprises except:
    - (i) obnoxious uses and uses creating a hazard to the public and
    - (ii) offices other than those permitted in the C-1 Zone
    - (iii) except Adult Entertainment uses(As amended by RC January 31/06 Eff date March 16/06)
  - (c) Uses accessory to the foregoing uses.
- (2) Buildings used for R-1, R-2, R-3, C-1 and TH uses in a C-2 Zone shall comply with the requirements of an R-1, R-2, R-3, C-1 or TH Zone respectively.
- (3) Buildings used for C-2 uses in a C-2 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 sq. ft.
  - (b) Height maximum - 3 storeys for a building with an office function as its primary function.

- (c) Maximum Lot coverage - 100% if the requirements for 100% lot coverage in the Building Bylaws of the City of Dartmouth are met, except that a motel building or buildings shall occupy surface area of not more than one-third of the total area of the building lot.
- (d) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building Bylaws of the City of Dartmouth.
- (e) Additional Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W".  
(RC - Feb 8, 2005 E - April 23, 2005)

## **Part II General Provisions, Section 15(i) of the Dartmouth Land Use By-law**

15 (i) a landscaped buffer shall be provided for any new or expanded commercial, industrial or institutional use, including but not limited to: buildings; parking lots; outdoor display; or open storage to be located adjacent to any property zoned or used for residential or community uses. The landscaped buffer shall consist of:

- (1) a grassed area with a minimum depth of twenty (20) feet along the entire length of the adjacent property line and containing a vegetation screen consisting of at least two staggered rows of coniferous trees or other vegetation that may be approved by the Development Officer which are at least six (6) feet in height and at a maximum spacing of eight (8) feet on centre;
- (2) notwithstanding Subsection 15(i) (1), the grassed landscaped area may be reduced to ten (10) feet where an opaque fence of at least six (6) feet in height is provided along the common property boundary. The grassed landscaped area shall contain a mix of nursery-stock trees at a maximum spacing of ten (10) feet on centre, or a mix of shrubs at a spacing of six (6) feet on centre, or a combination of nursery-stock trees and shrubs at the required spacing.
- (3) no structures, parking, storage or open display shall be permitted within the landscaped area. (HECC-July10/03, Effective-August3/03)

Attachment "C"

HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING  
CASE NO. 00992 - 381 Portland St., Dartmouth

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7:00 p.m.  
April 26, 2007  
Southdale Elementary School (Gymnasium)

IN ATTENDANCE: David Lane, Senior Planner, HRM Planning Applications  
Jennifer Chapman, Planner, HRM Planning Applications  
Raylene MacLellan, Administrative Support, HRM Planning Applications

ALSO PRESENT: Jeff Cox, Applicant

REGRETS: Councillor McCluskey

PUBLIC IN  
ATTENDANCE: 8

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The meeting commenced at 7:00 p.m.

1. Opening remarks/Introductions/Purpose of meeting

Mr. David Lane HRM Planner welcomed everyone to the meeting, thanked them for attending, and introduced himself, Jennifer Chapman, and Raylene MacLellan HRM Community Development, and Jeff Cox of Cox's Automotive Clinic, the applicant.

Mr. Lane explained that the purpose of the meeting was to inform the public about the proposal, explain the planning approval process and to give the public an opportunity to comment on the application. Mr. Cox has made application to rezone a portion of the property located at 381 Portland Street, Dartmouth, by amending the Dartmouth Land Use By-Law from the R2 Two Family Residential Zone to C-2 General Business Zone to permit the construction of two auto service bays. He explained the reason behind a public information meeting (PIM) is to listen to what the public has to say about the application. He asked anyone who has any questions after the presentation, to please state their name and address for the record.

2. Presentation of Proposal

Mr. Lane explained that Cox's Automotive Clinic is seeking to expand the existing business where there are presently parked cars and a shed, but not into the adjacent grassy area. There are

two service bays on the property. Mr. Lane reviewed the history of the subject property which has been zoned residential for many years while the adjacent lots were occupied by an automotive service and repair station. There was no trigger causing the City at the time to change the zoning, as the subject lots contained a residential dwelling which fell into disrepair and was demolished in the 1980's. Application was made last fall for the additional repair bays and this triggering the requirement for the rezoning, this is why we are hold the meeting.

### 3. Overview of planning process

Mr. Lane explained the planning process and the steps that will follow this meeting. Then he would turn it over to the applicant to describe what they are planning to do with the property and make time for Q & A. He explained that the public information meeting is the initial stage to hear what the local residents have to say about the application. The minutes are attached to the staff report with the recommendations to be presented to Council at a public hearing to review and make a decision. A notice of the public hearing will be advertised in the Chronicle Herald for two consecutive Saturdays, two weeks prior to the public hearing, as well a notice will be sent out by mail to the residents in the area. The public hearing will be open to residents to comment on the application. After Council makes a decision to approve the application, there is a 14 day appeal period to the Utility and Review Board. A notice of approval advertisement will appear in the Chronicle Herald. Or, Council could defer or deny the application. At public consultations, we cannot guarantee the outcome.

Mr. Lane opened the floor for questions from the public.

### 4. Questions and Comments

Tom Deakin of Portland Street, asked for clarification regarding how far the proposed development was to occur in an easterly direction to the property boundary, citing concerns the vacant lot would be encroached upon. The Planner responded with the assistance of a PowerPoint slide-show exhibiting the submitted site plan, and clarified the limits of the subject property as well as the propped development. The adjacent vacant lot is not subject to this application. The applicant is proposing to remove the existing shed and the extent of the two proposed additional service bays will go no further than the existing asphalt parking lot of Cox's Automotive Clinic. A privacy fence is also proposed to be installed along the easterly boundary.

Mr. Deakin also inquired as to the development status of the adjacent vacant lot east of the subject property. Mr. Deakin expressed concern that the frontage of the lot was not sufficient to accommodate a residential dwelling. The Planner responded that the lot pre-dated the Land Use By-law (LUB) and was not subject to the minimum requirements regarding lot size and dimensions, however the remaining provisions of the LUB such as yard setbacks, parking etc., would still have to be satisfied for permits.

Mr. Lane further explained the site plan and elevation drawings proposed for the property, which listed where the landscaping, parking spaces are proposed to be located, the existing facility, and

the new addition, and the limits of the new construction. Mr. Lane also clarified where there is not going to be any structure and where the fence is going to be erected.

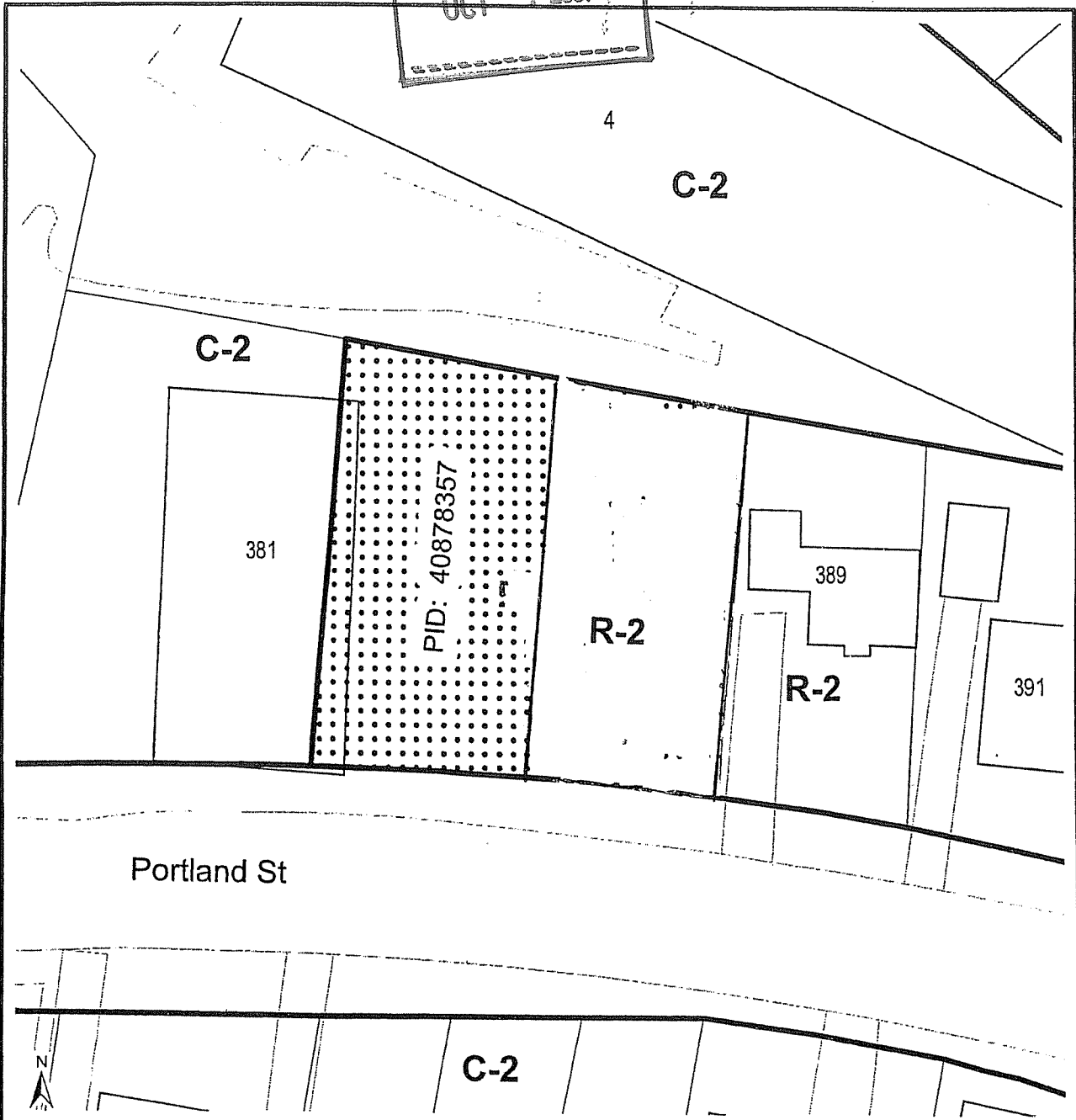
The Planner asked the attendees if there were any further questions, hearing none, Mr. Lane closed the meeting stating that any further questions or comments may be directed to himself, and that residents will be receiving a notice of the Public Hearing once it has been scheduled. He thanked everyone for attending the meeting.

5. Adjournment

The meeting adjourned at 7:40 p.m.

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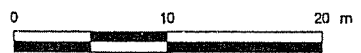


**Schedule "A"**

Portland Street  
Dartmouth

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

 Area proposed to be rezoned from R-2 (Two Family Residential) to C-2 (General Business)



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Dartmouth Plan Area