

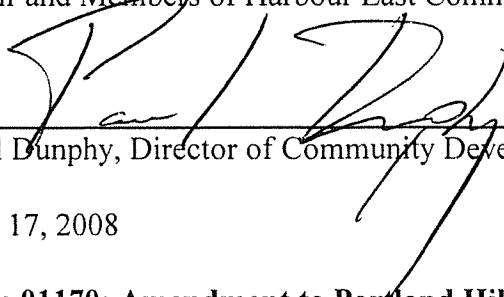


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

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Harbour East Community Council
August 7, 2008

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: July 17, 2008

SUBJECT: Case 01170: Amendment to Portland Hills Development Agreement

ORIGIN

An application by Clayton Developments Ltd., on behalf of Edgewater Investments Inc., for a substantial amendment to the Portland Hills development agreement (Phase 1) to increase the number of multi-unit dwellings permitted in Phase 1 of Portland Hills from 280 to 281 in order to enable one (1) additional dwelling unit in the existing multiple unit building at 74 Bellbrook Crescent.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Give Notice of Motion to consider the proposed amending development agreement set out in Attachment A of this report and schedule a public hearing;
2. Approve the proposed amending development agreement to permit development of one (1) additional dwelling unit at 74 Bellbrook Crescent, as set out in Attachment A of this report; and
3. Require the 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

Location, Designation, Zoning and Surrounding Land Uses

- The subject property is 74 Bellbrook Crescent (PID 41224924), the site of a 40 unit apartment building that was enabled under the development agreement for Phase 1 of Portland Hills (Case 00251);
- The subject property is 2 acres in size and located within the community and plan area of Dartmouth;
- The subject property is adjacent Bell Brook to the east, single unit dwellings to the south and west, and an existing multi-unit building at 347 Portland Hills Drive to the north (Map 1); and
- The subject property is designated Residential and zoned Comprehensive Development District (CDD) under the Dartmouth Municipal Planning Strategy (MPS) and Land Use By-law (LUB) (Maps 1 and 2).

Enabling Policy

Although the subject property is located within the area subject to the Morris-Russell Lake Secondary Planning Strategy, the development agreement for Phase 1 of Portland Hills was approved prior to Council's adoption of the secondary plan.

Policy H-3 of the Dartmouth MPS establishes the CDD Zone and enables Council to consider applications for a mixed residential development by development agreement within a CDD Zone. The main intent of the policy is to enable large areas of undeveloped land within the Residential designation to be developed in a comprehensive manner.

Proposal

Clayton Developments has proposed to amend the development agreement for Phase 1 of Portland Hills to permit 1 additional dwelling unit within the existing multi-unit building at 74 Bellbrook Crescent. The building is 4 storeys in height and contains 40 dwelling units plus an overnight guest suite intended to accommodate visitors of the building's residents. The guest suite would be converted to a permanent dwelling unit under the proposal.

DISCUSSION

Issues

Staff have reviewed the proposal 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.

Housing Mix and Density

The original development agreement for Phase 1 of Portland Hills enabled a variety of dwelling types, including a maximum of 200 multi-unit dwelling units. The agreement was previously amended in 2003 (Case 00554) to increase the number of multi-unit dwelling units permitted in

Phase 1 of Portland Hills from 200 to 280. Policy H-3B of the Dartmouth MPS indicates that apartments should not exceed 40%-50% of the total number of units within a CDD and that residential density should generally not exceed 8 units per acre. Including the additional unit proposed under this application, apartments would constitute approximately 36% of the overall number of units on the Lands subject to this development agreement and the density of residential development would be approximately 6 units per acre, both within the guidelines established under Policy H-3B.

Given that the full range of dwelling types are permitted within the development, and the building in question is already developed, staff are of the opinion that the addition of 1 dwelling unit to replace a guest suite is consistent with the intent of the MPS and the existing development agreement in so far as housing mixture is concerned. Furthermore, with the addition of the additional unit the development agreement would still comply with the guidelines for density and total apartment units as set out in the Dartmouth MPS.

Municipal Services and Roads

HRM Development Engineering staff have not identified any issues or concerns with the proposal. The presence of one additional unit does not present a concern regarding traffic generation or the capacity of sewer and water systems.

Compatibility

The proposed development agreement requires that no alterations to the size, height and appearance of the existing building shall be permitted in relation to the addition of the proposed unit. Given that there would be no change in the appearance of the building and the proposed development agreement requires that all provisions related to parking, landscaping, amenity space, etc. required pursuant to the existing development agreement and the Dartmouth Land Use By-law be met, staff are of the opinion that the proposed amending agreement ensures no discernable impact, either visually or functionally, to the surrounding area.

Conclusion:

It is the opinion of Staff that the proposed amendment to the Portland Hills development agreement set out in Attachment A is consistent with the intent of the MPS for residential development within the master plan area and with the existing development agreement. The full range of housing types are permitted within the Morris Russell Lake Secondary Planning Strategy and under the existing development agreement. The addition of 1 dwelling unit is not anticipated to have any impact on surrounding properties as it would be wholly contained within the existing building, would not involve any alterations to the exterior of the building, and would replace an existing visitor suite which is currently permitted to accommodate temporary guests on an ongoing basis. Therefore, staff recommend that Harbour East Community Council 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 the 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 development agreement as set out in Attachments A of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant and may require a second public hearing.
3. Council may choose to refuse the proposed amending development 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.

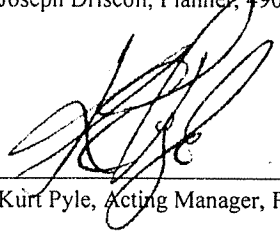
ATTACHMENTS

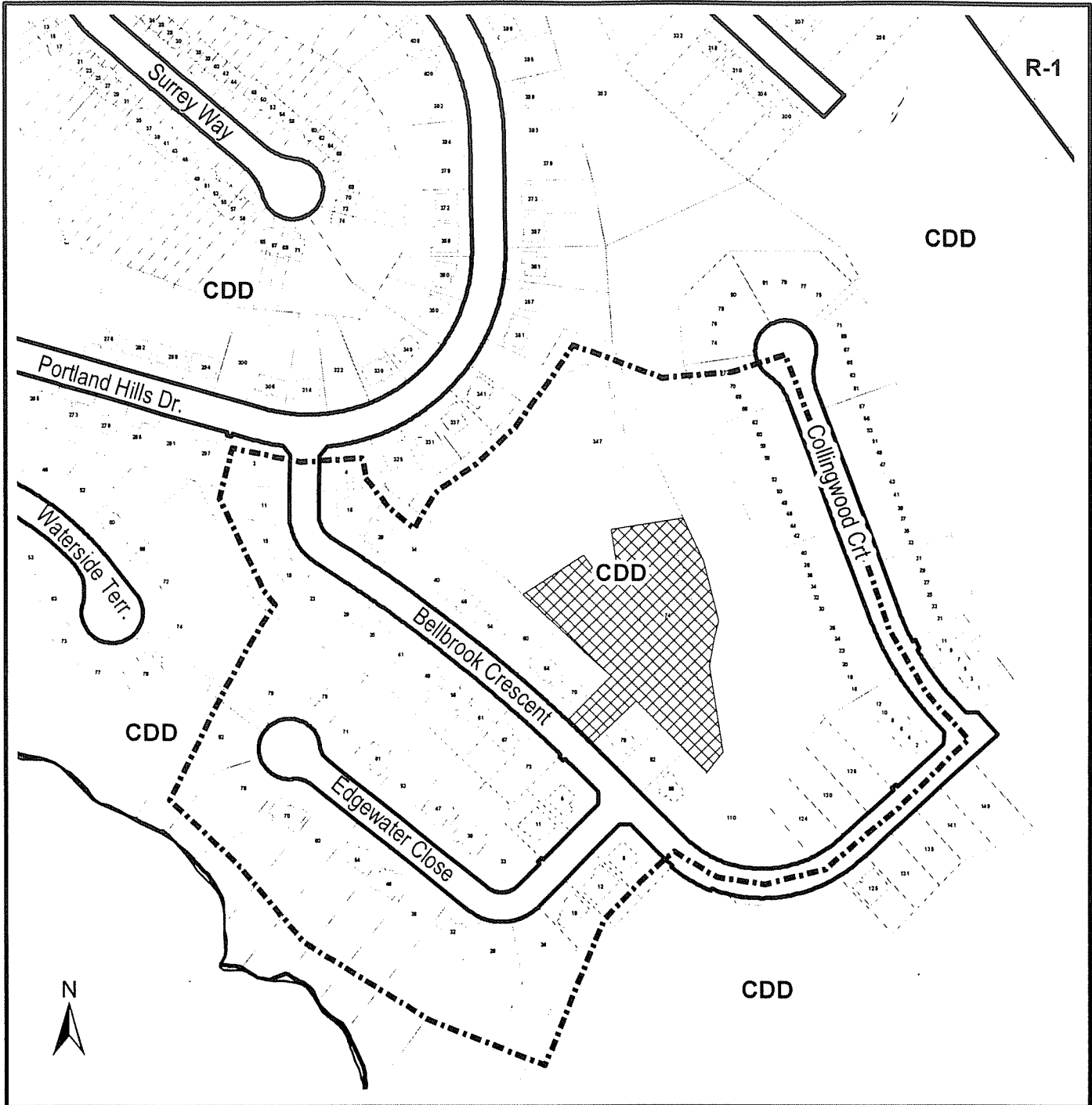
Map 1	Zoning and Notification Map
Map 2	Generalized Future Land Use Map
Attachment A	Proposed Amending Development Agreement
Attachment B	Excerpts from the Dartmouth MPS

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 : Joseph Driscoll, Planner, 490-3991


Report Approved by:



Kurt Pyle, Acting Manager, Planning Services, 490-7066



Map 1 Location and Zoning

74 Bellbrook Crescent

 Subject Property

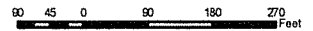
 Proposed Notification Boundary

Dartmouth Plan Area

Zone

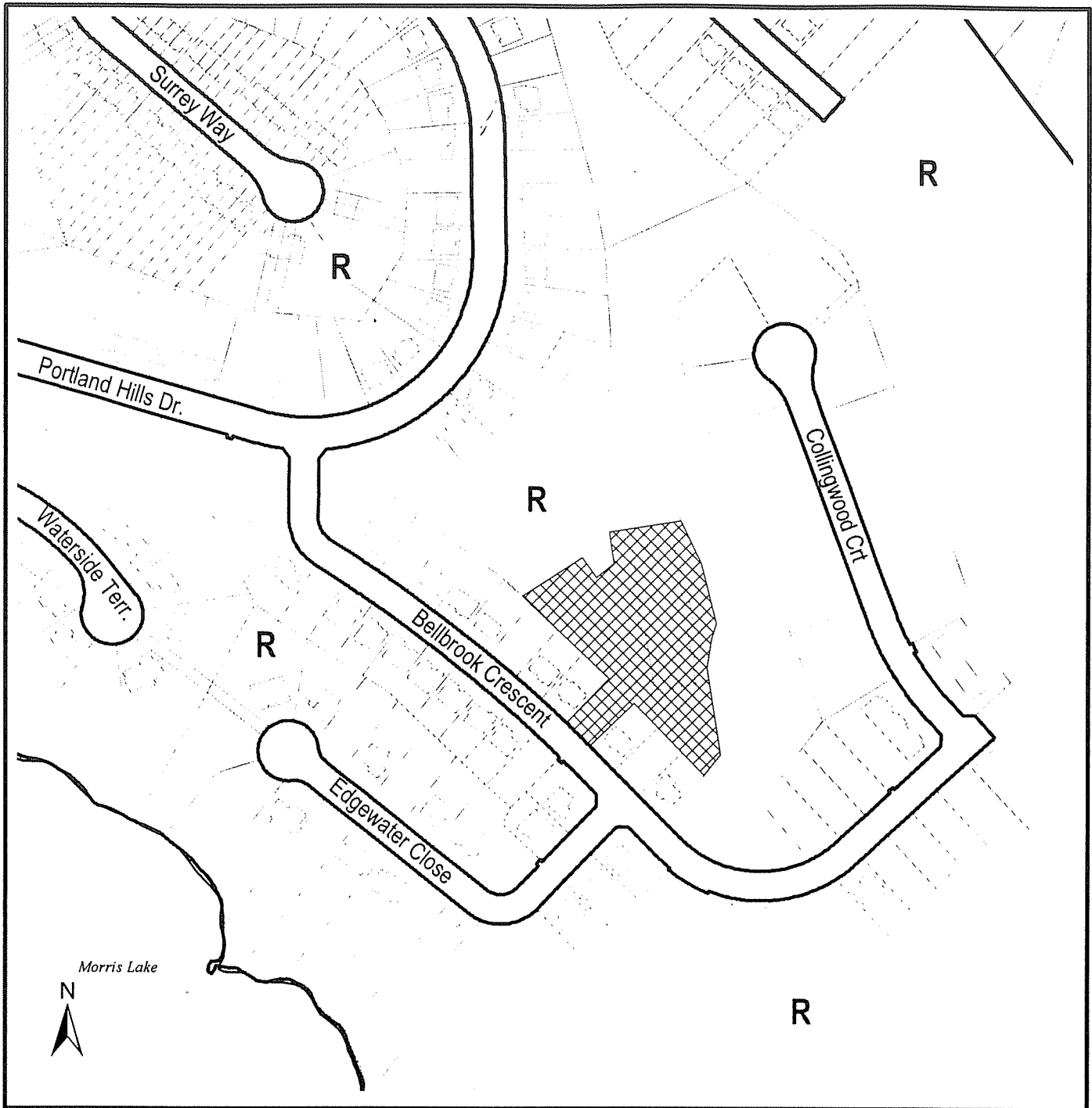
R-1 Single Family Residential
 CDD Comprehensive Development District

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 COMMUNITY DEVELOPMENT
 PLANNING SERVICES




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.



Map 2 Generalized Future Land Use

74 Bellbrook Crescent

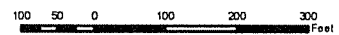
 Subject Property

Designation

R Residential

Dartmouth Plan Area

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 PLANNING SERVICES



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

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

Attachment A: Proposed Amending Development Agreement

THIS AMENDING AGREEMENT made this day of , 2008,

BETWEEN:

EDGEWATER INVESTMENTS INC.

a body corporate, in the Halifax Regional Municipality,
Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,

a municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 74 Bellbrook Crescent, Dartmouth (PID 41224924) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council approved an application by Clayton Developments Ltd. to enter into a development agreement to permit a mixed residential development known as Portland Hills, and which includes the Lands subject to this amending agreement, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 26019 in Book 6615 at Pages 657 - 695 and referenced as Municipal Case Number 00251 (hereinafter called the "Existing Agreement");

AND WHEREAS Halifax Regional Municipality previously amended the Existing Agreement by entering to an amending agreement with Clayton Developments Ltd. on February 27, 2004, referenced as Municipal Case Number 00554 to permit an increase in the number of apartment units permitted on the Lands and to enable modifications to the phasing schedule, said agreement being recorded at the Registry of Deeds at Halifax as Document Number 10022 in Book 7633 at Pages 384 - 390 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Developer wishes to further amend the Existing Agreement to permit one (1) additional multi-unit dwelling in the existing building located at 74 Edgewater Crescent, which is located within the "Lands" governed by the Existing and First Amending Agreements, pursuant to the provisions of the Municipal Government Act, (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on _____, 2008, referenced as Municipal Case Number 01170;

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 increase the maximum number of multi-unit dwellings permitted within Phase 1 of Portland Hills from 280 to 281 in order to enable 1 additional dwelling unit at 74 Bellbrook Crescent (PID 41224924), said property being described in Schedule A, provided that the following conditions are met, to the satisfaction of the Development Officer:
 - (a) No more than 41 dwelling units, or 40 dwelling units and 1 guest suite shall be permitted on the Lands;
 - (b) The exterior appearance, size, and height of the existing building at 74 Bellbrook Crescent shall not be modified to enable development of the additional dwelling unit;
 - (c) Any modifications relating to elements such as, but not limited to, parking, landscaping, and amenity space required pursuant to the Existing Agreement, First Amending Agreement and the Dartmouth Land Use By-law and resulting from the additional dwelling unit shall be met to the satisfaction of the Development Officer; and
 - (d) All other terms and conditions of the Existing Agreement and the First Amending Agreement shall remain in effect, except where specifically varied by this Second Amending Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2008.

SIGNED, SEALED AND DELIVERED) **EDGEWATER INVESTMENTS INC.**
in the presence of)
) Per: _____
)
_____)

SEALD, DELIVERED AND)
ATTESTED to by the proper)
signing officers of Halifax Regional) **HALIFAX REGIONAL MUNICIPALITY**
Municipality duly authorized)
in that behalf in the presence) Per: _____
of) **MAYOR**
_____)
) Per: _____
) **MUNICIPAL CLERK**

Attachment B: Excerpts from the Dartmouth MPS

- 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-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 - March 22, 2005 E - April 23, 2005)
 - (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 (Regional Council-January 29, 2002, Effective-March 2, 2002) 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**