



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

10.1.4

Harbour East Community Council
November 6, 2008

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:


Paul Dunphy, Director of Community Development

DATE: October 10, 2008

SUBJECT: Case 01189: Amending Agreement, Portland Hills Phases 4 and 5

ORIGIN

An application by Clayton Developments Ltd. to amend the development agreement for Phases 4 and 5 of the Portland Hills CDD (Case 00846) to reduce the minimum frontage requirement for multi-unit building lots located on the outside of a street curve.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Give Notice of Motion to consider the proposed amending agreement set out in Attachment A of this report and schedule a public hearing;
2. Approve the proposed amending agreement 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

Portland Hills is a mixed residential development in Dartmouth that has been approved through two separate development agreements. The development agreement for the initial phases of Portland Hills allowed for a reduced frontage for all lots located on the outside of a street curve. The development agreement for the final phases of Portland Hills (Phases 4 - 5) enables a reduction in street frontage for all forms of housing located on the outside of a curve except for multi-unit buildings. Clayton Developments has applied to amend the development agreement for Phases 4 and 5 of Portland Hills to provide for the same frontage reduction for multi-unit buildings that is included in the initial agreement.

Location, Designation, Zoning and Surrounding Land Uses

- Portland Hills is generally bounded by Portland Estates, Portland Street, Morris Lake and the Innishowen subdivision;
- The subject lands are located within a 103 acre area that constitutes Phases 4 and 5 of Portland Hills, development of which was approved via development agreement by HECC on June 8, 2006 (Map 1);
- The lands are designated Residential under the Dartmouth Municipal Planning Strategy (MPS) and zoned Comprehensive Development District (CDD) under the Dartmouth Land Use By-law (LUB) (Maps 2 and 3).

Enabling Policy

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. Council approved a 462 unit mixed residential development on the subject lands on June 8, 2006 (Case 00846).

DISCUSSION

The existing development agreement for Phases 4 and 5 of Portland Hills provides a frontage reduction for all forms of housing located on the outside of a street curve except for multi-unit buildings. The development agreement for the previous phases of Portland Hills allows reduced frontage for all forms of housing located on the outside of a street curve, including multi-unit buildings. That agreement provides for a reduced minimum frontage for multi-unit properties on the outside of a curve of 60 feet, the same provision that Clayton is requesting in this proposal.

Staff have not identified any concern related to the Developer's proposal. Furthermore, a reduction similar to that requested by the Developer is already in place for all forms of housing enabled under the development agreement for Phases 4 and 5. Furthermore, the proposed amendments would ensure that all development within Portland Hills is subject to a consistent and common standard.

Conclusion

No issues or concerns have been experienced with lots developed using the existing frontage. Staff are of the opinion that the proposal is consistent with the intent of the Dartmouth MPS regarding development of CDD sites. 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 Attachment 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.

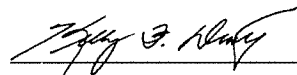
ATTACHMENTS

Map 1	Subject Area Map: Portland Hills Phases 4 and 5
Map 2	Zoning and Notification Map
Map 3	Generalized Future Land Use Map
Attachment A	Proposed Amending Agreement
Attachment B	Excerpts from the Dartmouth MPS

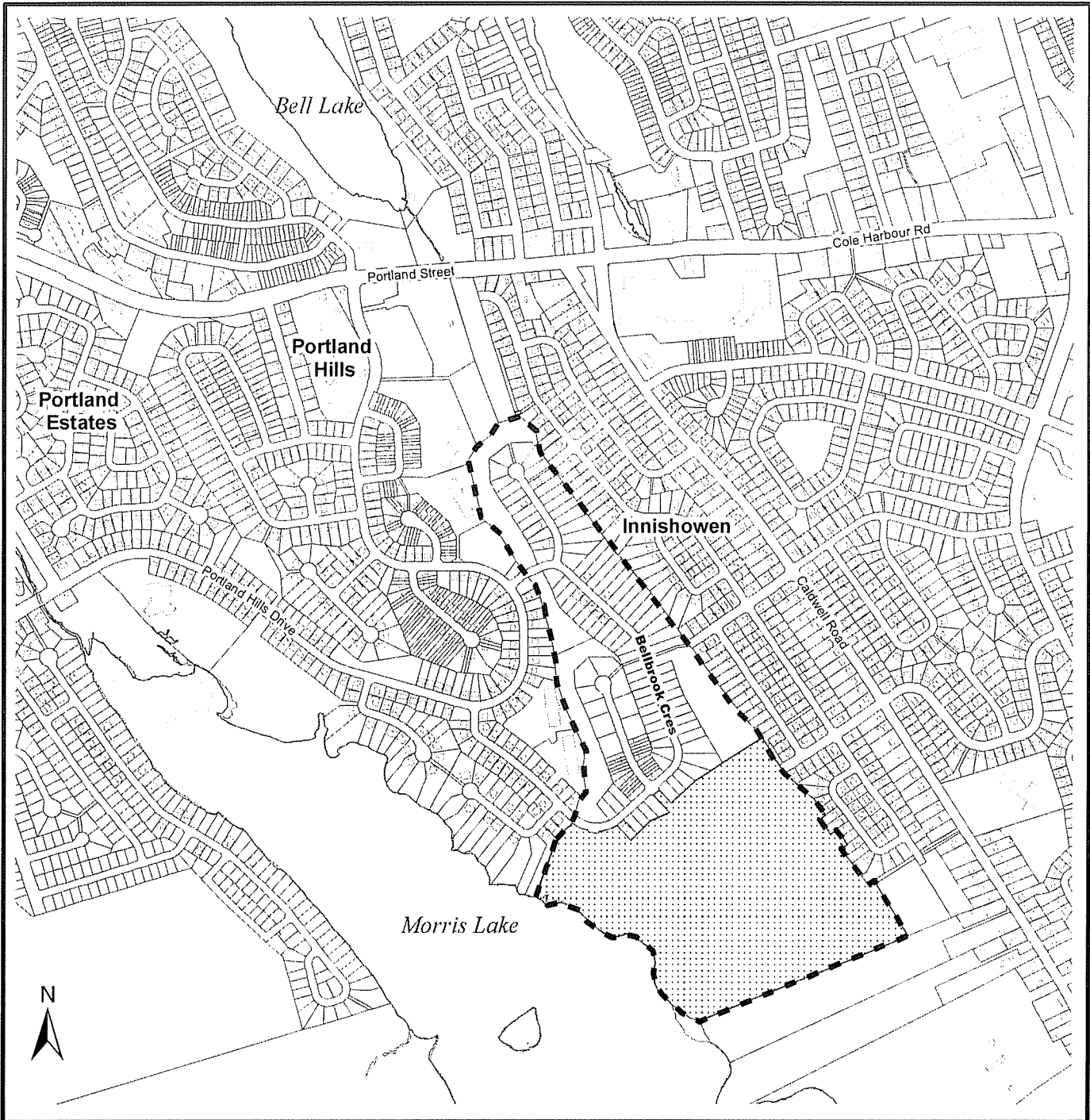
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Joseph Driscoll, Planner, 490-3991


Report Approved by:




Kelly Denty, Acting Manager of Planning Services, 490-6011



Map 1 Subject Area Map: Portland Hills Phases 4 & 5

 Subject Property

 Portland Hills Phases 4 & 5

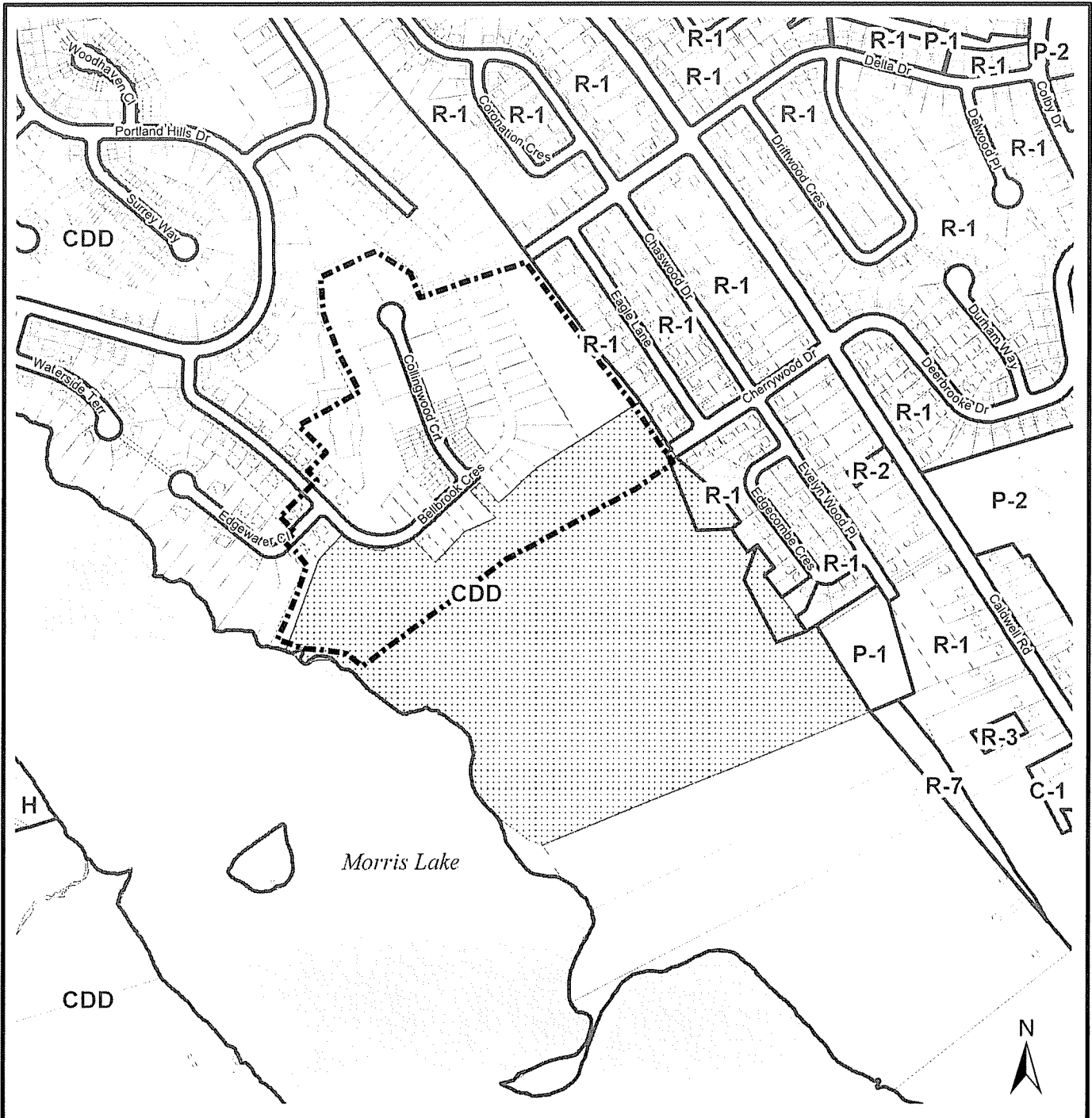
Dartmouth & Cole Harbour/
Westphal Plan Areas

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



350 175 0 350 700 1,050
Feet

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

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



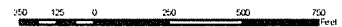
Map 2 Location and Zoning

-  Subject Property
-  Notification Boundary

Dartmouth & Cole Harbour/
Westphal Plan Areas

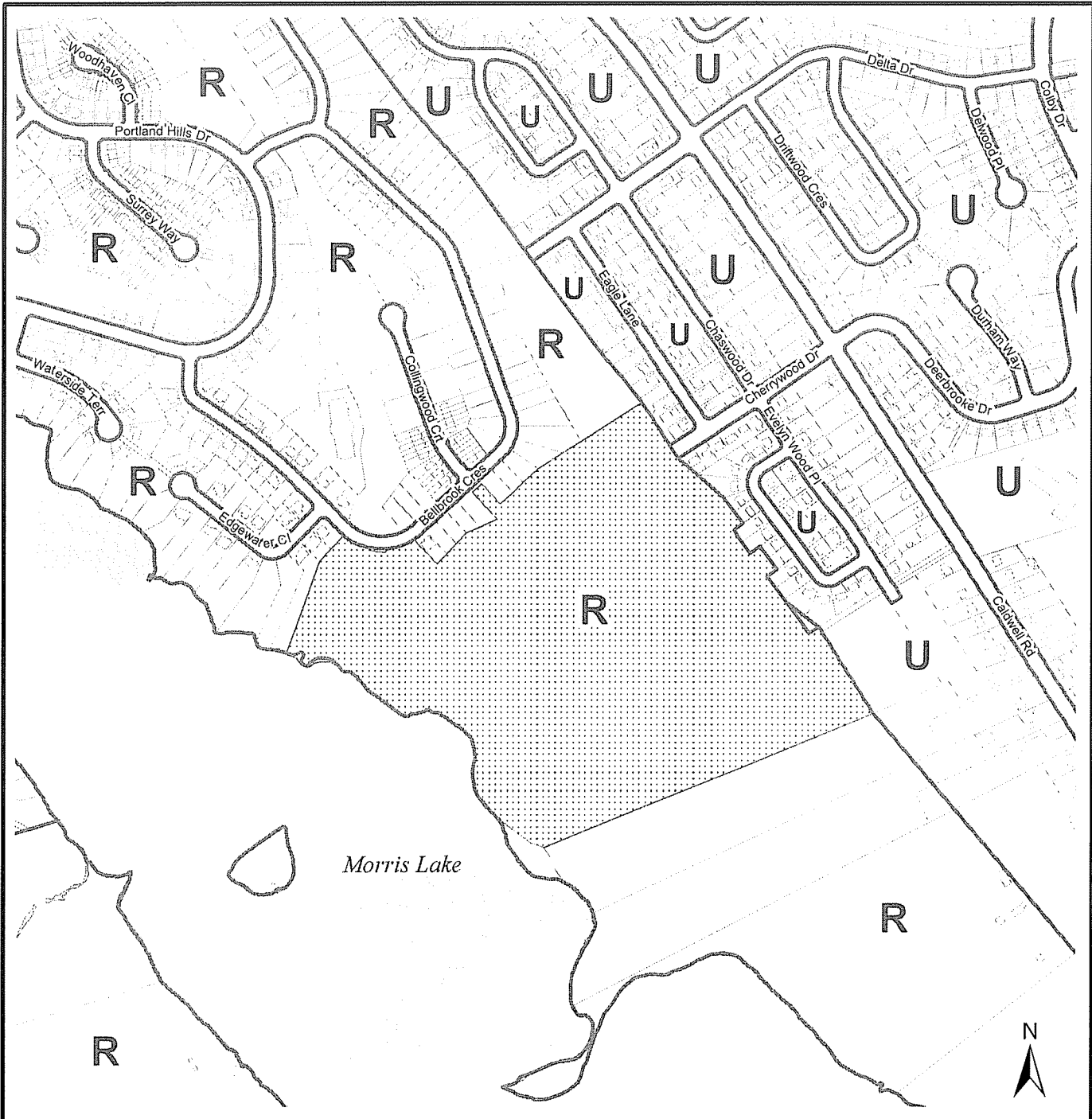
Zone

<p>Cole Harbour/ Westphal</p>	<p>R-1 R-2 R-3 R-7 C-1 P-1 P-2</p>	<p>Single Unit Dwelling Two Unit Dwelling Mobile Dwelling Rural Estate Local Business Open Space Community Facility</p>
<p>Dartmouth</p>	<p>H CDD</p>	<p>Holding Comprehensive Development District</p>




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

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



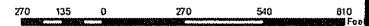
Map 3 Generalized Future Land Use

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

 Subject Property

Designation

- Cole Harbour/
Westphal U Urban Residential
- Dartmouth R Residential



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Dartmouth & Cole Harbour/Westphal Plan areas

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

Dartmouth & Cole Harbour/
Westphal Plan Areas

Attachment A: Proposed Amending Agreement

THIS AMENDING AGREEMENT made this day of , 2008,

BETWEEN:

CLAYTON DEVELOPMENTS 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 in Portland Hills, Dartmouth, PID 41046202 and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council of the Municipality approved an application by the Developer to enter into a Development Agreement to allow for a mixed residential development for Phases 4 and 5 of Portland Hills on the Lands (Municipal Case Number 00846), which said Development Agreement was registered at the Land Registry Office in Halifax as Document Number 86184315 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested an amendment to the provisions of the Existing Agreement to enable an amendment to the frontage requirement for multi-unit building lots located on the outside of a street curve (hereinafter called the "Amending Agreement");

AND WHEREAS the Harbor East Community Council for the Municipality approved this request at a meeting held on , 2008 referenced as Municipal Case Number 01189;

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 include the following clause immediately after subsection 4.7.3:

4.7.4 The minimum lot frontage required for multi-unit building sites located on the outside of a street curve, or portion thereof, is 18.3 metres (60 feet).

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

SIGNED, SEALED AND DELIVERED) **CLAYTON DEVELOPMENTS LTD.**
 in the presence of)
) Per: _____
 _____)
)

SEALED, 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: _____
) ACTING 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