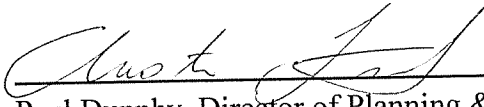




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Harbour East Community Council
September 7, 2006

TO: Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Planning & Development Services

DATE: August 15, 2006

SUBJECT: Case 00920: Application for Rezoning - 9 Braemar Drive

ORIGIN

Application by Terrain Group on behalf of Loblaw Properties Limited to rezone a portion of 9 Braemar Drive from R-3 (Medium Density Residential) to C-2 (General Business Zone).

RECOMMENDATIONS

It is recommended that Harbour East Community Council:

1. Give First Reading for the rezoning of the subject lands and schedule a public hearing;
2. Approve the rezoning of a portion of 9 Braemar Drive from R-3 (Medium Density Residential) to C-2 (General Business Zone) as shown on Map 1.

BACKGROUND

The property at 9 Braemar Drive (PID #41028085) is split-zoned R-3/ C-2 (Map 1) and once consisted of a number of separate lots containing a Keddy's Motor Inn (on the larger C-2 portion) an eight-room lodging house (R-3 portion), and small commercial uses (smaller C-2 portion).

In January of 2000, Loblaw Properties Ltd applied for a development permit to construct a grocery store (Superstore) on the property. Permits were issued in August 2000 and all of the lots were consolidated in September 2000. Almost every year since 2001, HRM has also issued permits to erect a seasonal garden centre on the property. In 2006, staff noticed that the seasonal garden centre, as well as a number of parking spaces, were located on lands zoned R-3. In June of 2006, Loblaw Properties Ltd made application to have the R-3 lands rezoned to C-2 to allow continued commercial uses.

DISCUSSION

Policy and Zoning

As shown in Attachment A, the C-2 zone permits more intense uses than allowed under R-3 and additional rights would be conferred upon the lands should Council approve this rezoning. While a Municipal Planning Strategy (MPS) amendment would normally be required before considering a rezoning from a residential zone to a commercial one, in this case the R-3 portion of the lot is located in the Commercial Designation of the Generalized Future Land Use Categories suggesting the Dartmouth MPS already anticipates more intense uses at this location. MPS policy IP-1(b) permits the consideration of rezonings for any permitted use within each generalized land use category without an MPS amendment. Table 4 of the MPS (Attachment B) shows which uses are permitted within each generalized land use category.

Policy IPI (c) of the MPS directs Council to have regard for a number of criteria when considering any rezoning (Attachment C). Criteria relevant to this proposal are discussed below. In addition to the specific use being proposed by the applicant (e.g. seasonal garden centre/parking), it is important that Council have regard for the range of possible uses permitted under the zone being applied for when considering a rezoning.

- **That the proposal is in conformance with the policies and intents of the MPS**

This property is designated 'commercial' in the Dartmouth MPS suggesting that the long term vision for these lands anticipated a commercial use might one day be appropriate.

- **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**

The proposal appears to be compatible and consistent with adjacent uses. The subjects lands are 'sandwiched' directly between two pieces already zoned C-2 and lands across Prince Albert Road and Graham's Grove include a mix of C-2, R-3 and P (park) zones. The lands are located within the 35' height limit surrounding Lake Banook so incompatibilities with the nearby lake uses are unlikely to arise as a result of this rezoning.

- **Provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries**
No potential incompatibilities have been identified.
- **Adequacy of Servicing/ Infrastructure** - Existing services to the site are adequate.
- **The proposal is not an obnoxious use** - Parking and a seasonal garden centre are not obnoxious uses. Obnoxious uses are expressly prohibited from the C-2 zone.
- **Suitability of site** - This large, flat, paved site, primarily surrounded by other C-2 uses, with good visibility and accessibility, appears to be very suitable for commercial uses.

Public Participation

The case was discussed with the councillor for the area who agreed to waive a public information meeting. Residents will be notified of the public hearing via newspaper advertisements as well as by direct mail to the properties outlined within the notification area shown on Map 1.

Conclusion

Although development permits for the present use were granted partially in error, the owner is now making application in good faith to have the error corrected. The site is suitable and appropriate for existing and future commercial uses, and surrounding land uses are very unlikely to be negatively affected by the proposed change. Planning staff consider this application to be consistent with the Dartmouth MPS and recommend approval of the rezoning.

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 requested rezoning. This is recommended.
2. Alternatively, Council may choose to refuse the requested rezoning. This is not recommended for the reasons outlined above.

ATTACHMENTS

Attachment A: Extracts from Dartmouth Land Use Bylaw
Attachment B: Extract from Dartmouth MPS Policy
Map 1: Zoning and Location

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Hanita Koblents, Planner, 490-4181

Attachment A
Extracts from the Dartmouth Land Use Bylaw

R-3 ZONE - MULTIPLE FAMILY RESIDENTIAL ZONE (MEDIUM DENSITY)

34.

- (1) The following uses only shall be permitted in an R-3 Zone:
 - (a) R-1, R-2 and TH uses as herein set out,
 - (b) apartment buildings,
 - (c) uses accessory to any of the foregoing uses.
 - (d) lodging houses (As amended by By-law C-657, Feb2/89)
- (2) Buildings used for R-1, R-2 and TH uses in an R-3 Zone shall comply with the requirements of an R-1, R-2 or TH Zone respectfully.
- (3) Buildings used for R-3 uses in an R-3 Zone shall comply with the following requirements:
 - (a) Lot coverage, maximum - 25%
 - (b) Area of site required per dwelling unit:

Type of dwelling unit	Area of site required per dwelling unit
One bedroom and bedsitting room	1,300 sq. ft.
Two or more bedrooms	1,800 sq. ft.

Provided that where the site area is greater than one acre, the area of the site required per dwelling unit shall be:

Type of dwelling unit	Area of site required per dwelling unit
One bedroom and bedsitting room	1,000 sq. ft.
Two or more bedrooms	1,350 sq. ft.

- (c) On all buildings a minimum side and rear yard clearance of 15 feet shall be maintained and if the building is more than fifty feet high on its highest side the sideyards and rearyards shall have a minimum clearance of not less than one half the height of the adjacent side of the building.
- (d) The yard area located between the street line and the minimum setback line shall be landscaped, and the entire site and all buildings maintained in a neat, tidy manner including the trimming and upkeep of landscaped areas.
- (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)

- (4) No uses other than those permitted in R-1 and R-2 shall be permitted unless the lot area is equal to or greater than ten thousand square feet and unless the street frontage is equal to or greater than one hundred feet.
- (5) All developments including three or more dwelling units shall provide, in addition to the site requirements set out in sub-section (3) of this section, amenity areas of not less than one hundred square feet for each bedsitting room or one bedroom dwelling unit; three hundred square feet for each two bedroom dwelling unit; and 500 square feet for each three or more bedroom dwelling units. An amenity area shall be a space set aside for recreational purposes such as communal play areas, recreational room, roof decks, balconies, swimming pools and tennis courts. An amenity area shall have no dimension less than thirty feet.
- (6) Buildings used for lodging house uses shall comply with the requirements of the Lodging House By-law of the City of Dartmouth. (As amended by By-law C-657, Feb2/89)

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)

Attachment B
 Extract from Dartmouth MPS Policy

Table 4							
Reserve	Urban Core	Institutional	Park & Open Space	Industrial	Commercial	Residential	← General Land Use Classification Land Use ↓
●	<i>Deleted-Reg. Council-July 11/2000, Effective-Sept 2/2000</i>				●	●	Single
●				●	●	●	Duplex
●					●	●	Low Density Multiple
●					●	●	Medium Density Multiple
●					●	●	High Density Multiple
●					●	●	Mobile Homes
●					●	●	Neighbourhood Con. Stores
●					●	●	Home Occupations
●					●	●	Retail Trade
●					●	●	Service Commercial
●					●	●	Regional Commercial
●				●	●	●	Local Office
●					●	●	General Office
●					●	●	Tourist Commercial
●				●	●	●	Warehousing/Distribution
●					●	●	Light Industrial
●					●	●	Harbour Oriented Industrial
●			●		●	●	General Industrial
●			●		●	●	Local Parks/Rec. Facilities
●			●		●	●	District Parks/Rec. Facilities
●		●		●	●	City Parks/Rec. Facilities	
●		●		●	●	Regional Parks & Facilities	
●		●		●	●	Watershed	
●		●		●	●	Environmental Protection Area	
●		●		●	●	Local Institutional	
●		●		●	●	City/Regional Institutional	
●		●		●	●	Utilities	

Policy IP-1(b) Generalized Land Use

The generalized land use categories for the City shall include: (1) Residential, (2) Commercial, (3) Industrial, (4) Park and Open Space, (5) Institutional. Deleted-Reg.Council-July11/2000, Effective-Sept2/2000. In addition, areas outside the development boundary not designated on the Generalized Land Use Map shall be designated Reserve in accordance with Map 9c attached as Schedule "C". (As amended by By-law C-475, Sept. 20, 1983).

Table 4 identified, in matrix form, the permitted uses under each category. The uses permitted in the Zoning Bylaw shall be consistent with uses permitted under each category as shown on matrix form on Table 4. The generalized land uses are also shown on: Map 9; Map 9b, 9c, 9d, 9e, 9g, 9h,9i (By-law 633), 9i (By-law 724), 9j, 9q, 9m, 9o, 9p (Portland St), 9p (Craigwood) and 9r (As amended by By-law C-475, Sept. 20, 1983, By-law C- 493, Dec. 9, 1983, By-law C-494, Dec. 9, 1983 and By-law C-511, Jul.,1984).

These maps shall be the Generalized Land Use Map for the City of Dartmouth based on the policies contained in this plan.

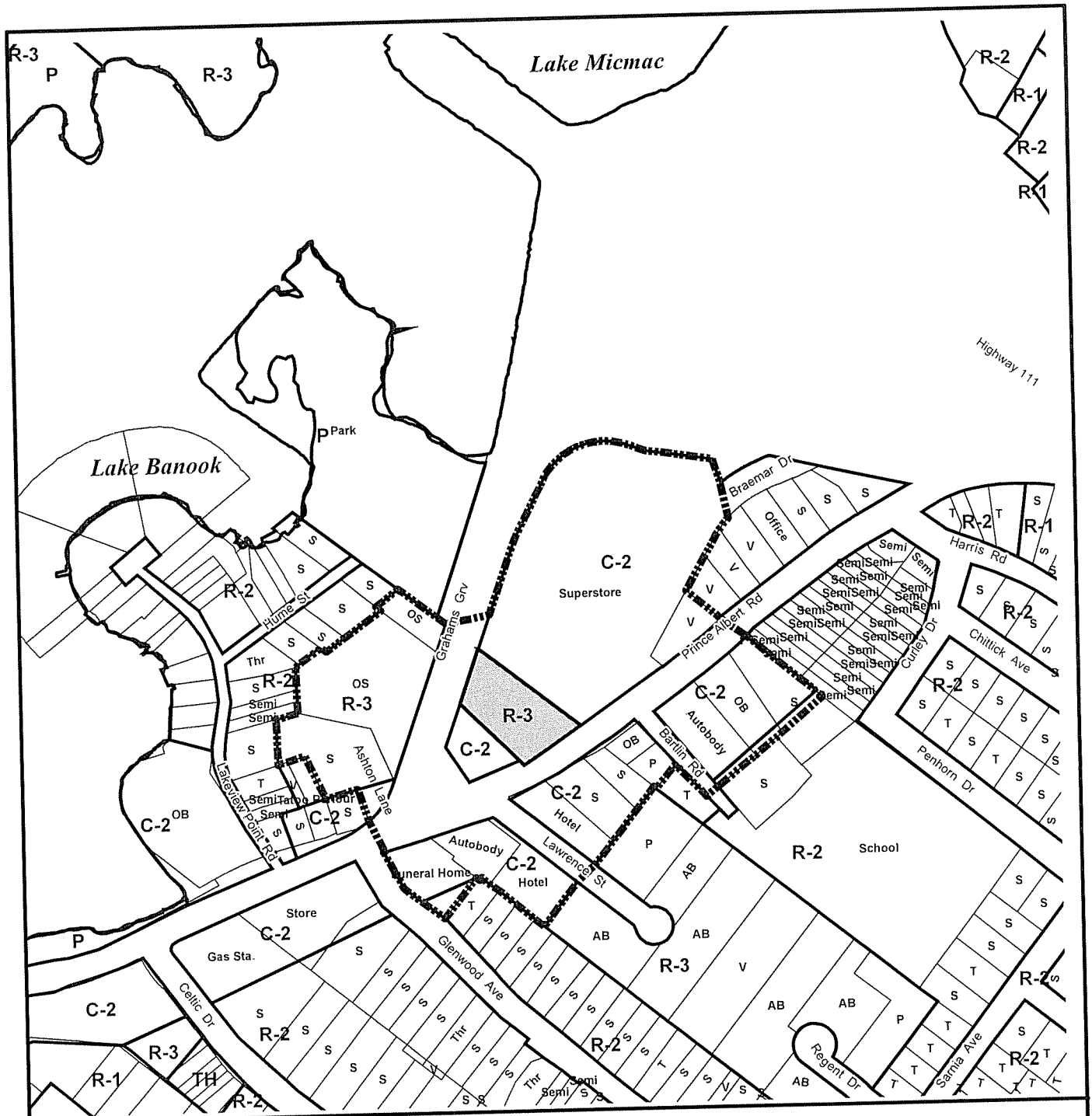
Zoning amendments may be considered for any permitted use within each generalized land use category without a plan amendment provided that they do not conflict with the policies of this plan.

Policy IPI (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 trunk 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.
- (7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors
- (8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council
- (9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:
- (i) Council with a clear indication of the nature of proposed development, and
 - (ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community



Map 1
Location & Zoning Map

9 Braemar Drive
(Braemar Superstore)

Subject Property

Notification

Dartmouth Land Use By-Law Area

Zone

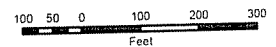
- R-1 Single Family Residential Zone
- R-2 Two Family Residential Zone
- R-3 Multiple Family Residential Zone
- C-2 General Business Zone
- P Park Zone

Land Use

- S Single Unit Dwelling
- T Two Unit Dwelling
- Thr Three Unit Dwelling
- Semi Semi-Detached Dwelling
- AB Apartment Building
- OB Office Building
- V Vacant



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DEVELOPMENT 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