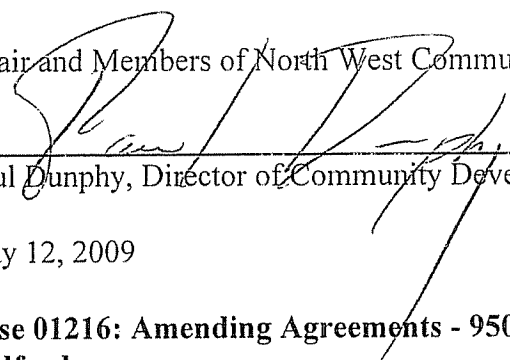




PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

North West Community Council  
May 28, 2009

TO: Chair and Members of North West Community Council

SUBMITTED BY:   
Paul Dunphy, Director of Community Development

DATE: May 12, 2009

SUBJECT: **Case 01216: Amending Agreements - 950 Bedford Highway, Bedford**

**SUPPLEMENTARY REPORT**

**ORIGIN**

1. An application by Homburg Canada Incorporated for non-substantive and substantive amendments to the development agreement for 950 Bedford Highway as it relates to the locating of a second sign on the Hammonds Plains Roads side of the property.
2. On April 23, 2009 North West Community Council (NWCC) approved the proposed non-substantive amendments and held a Public Hearing regarding the proposed substantive amendments. However, because the substantive amendments are contingent upon approval of the non-substantive matters, Council could not make a decision on the substantive matters until the appeal period for the non-substantive matters expired.
3. On May 9, 2009 the appeal period for the non-substantive amendments expired and Council is now in a position to consider the proposed development agreement for substantive matters, as set out in Attachment A of this report.

**RECOMMENDATION**

It is recommended that North West Community Council:

1. Approve the proposed amending development agreement set out in Attachment A of this report;
2. Require the agreement be signed and delivered within 120 days, or any extension thereof granted by North West Community Council on request of the applicant, from the date of final approval of said agreement by North West 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/DISCUSSION

The subject property is located at the corner of Hammonds Plains Road and Bedford Highway at 950 Bedford Highway (Map 1). Homburg Canada Incorporated proposed both non-substantive and substantive amendments to the existing development agreement. On April 23, 2009 NWCC approved the following non-substantive amendment by resolution:

### Proposed Non-Substantive Amendment

- Permit a second sign on the property.

Council also held a Public Hearing for the following proposed substantive amendment:

### Proposed Substantive Amendment

- Permit further intrusion into the natural wooded area on the Hammonds Plains Road side of the property.

Council's approval of the non-substantive amendments became effective on May 9, 2009 following the expiration of the 14 day appeal period required pursuant to the *Halifax Regional Municipality Charter*. Council is now in a position to make a decision on the proposed substantive amendments, as set out in Attachment A.

## **Conclusion**

Staff are of the opinion that the proposed amending development agreement is consistent with the intent of the MPS for commercial development at this location. Therefore, staff recommend that NWCC 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

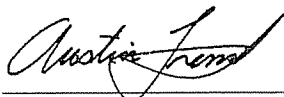
1. Council may choose to approve the proposed amending agreement as set out in Attachments A of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amending development agreement subject to modifications. This may require further negotiation with the applicant and may require a second public hearing.
3. Council may choose to refuse to approve 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

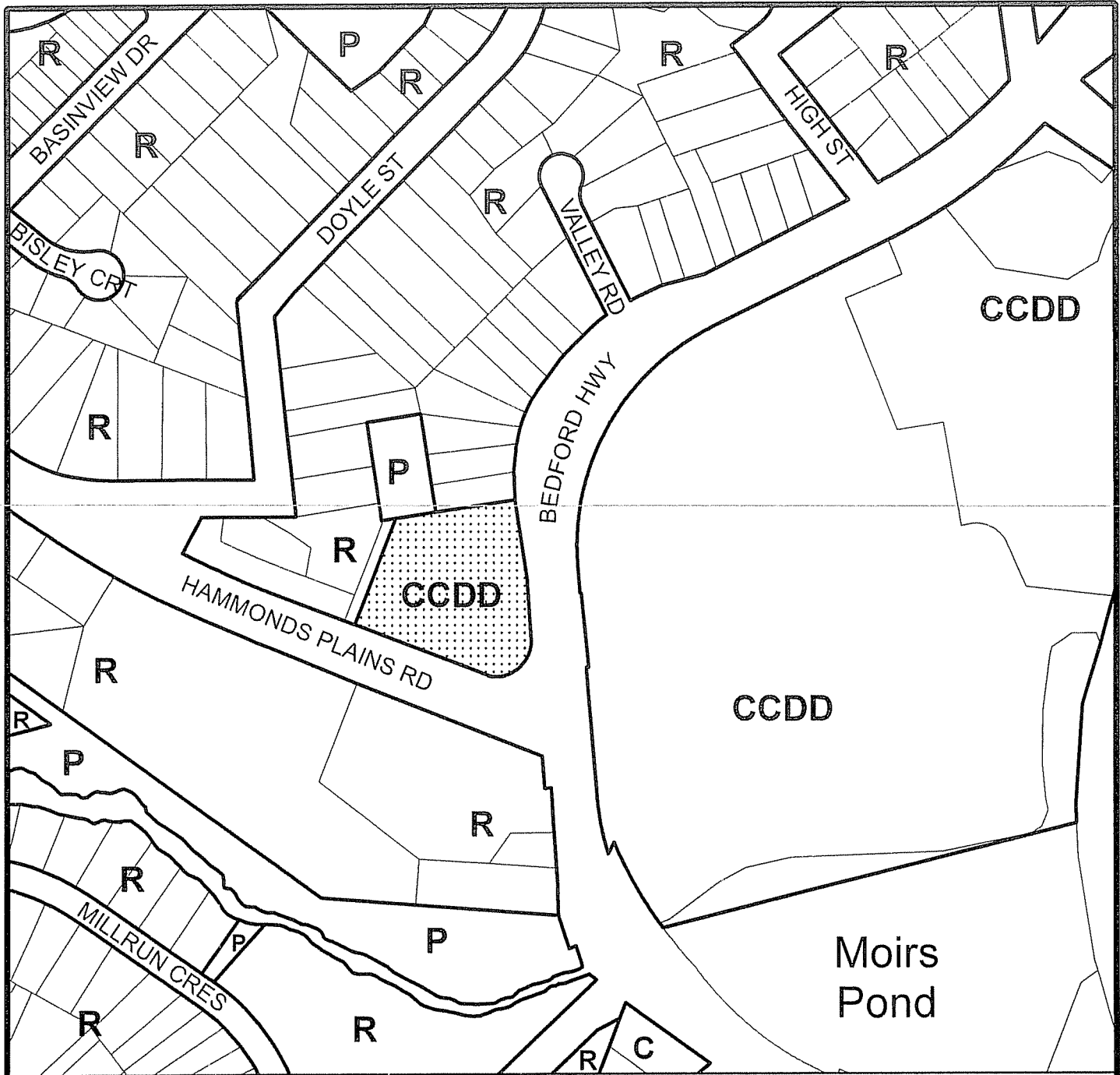
Map 1	Generalized Future Land Use Map
Map 2	Zoning and Notification Map
Map 3	Natural Wooded Area
Attachment A	Proposed Amending Development Agreement - Substantive Matter
Attachment B	Relevant Excerpts from Bedford MPS
Attachment C	Public Information Meeting Minutes

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.

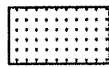
Report Prepared by : Darrell Joudrey, Planner, 490-4181



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



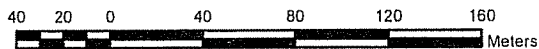
Map 1  
Generalized Future Land Use

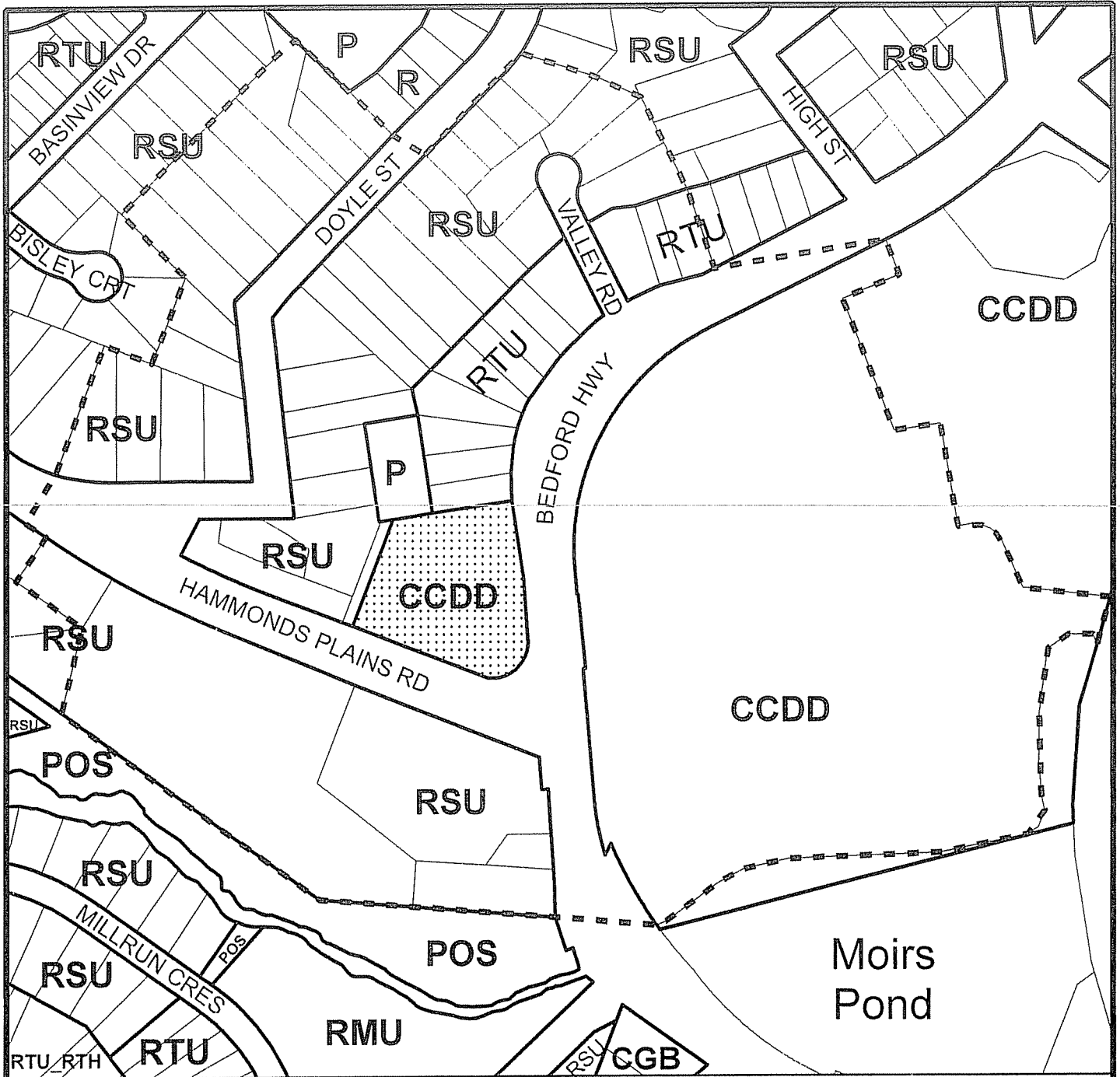


Subject Property

- R Residential Designation
- P Park and Recreation Designation
- C Commercial Designation
- CCDD Commercial Comprehensive Development District

**HALIFAX**  
REGIONAL MUNICIPALITY  
Community Development  
Planning Services





Map 2  
Zoning



Subject Property



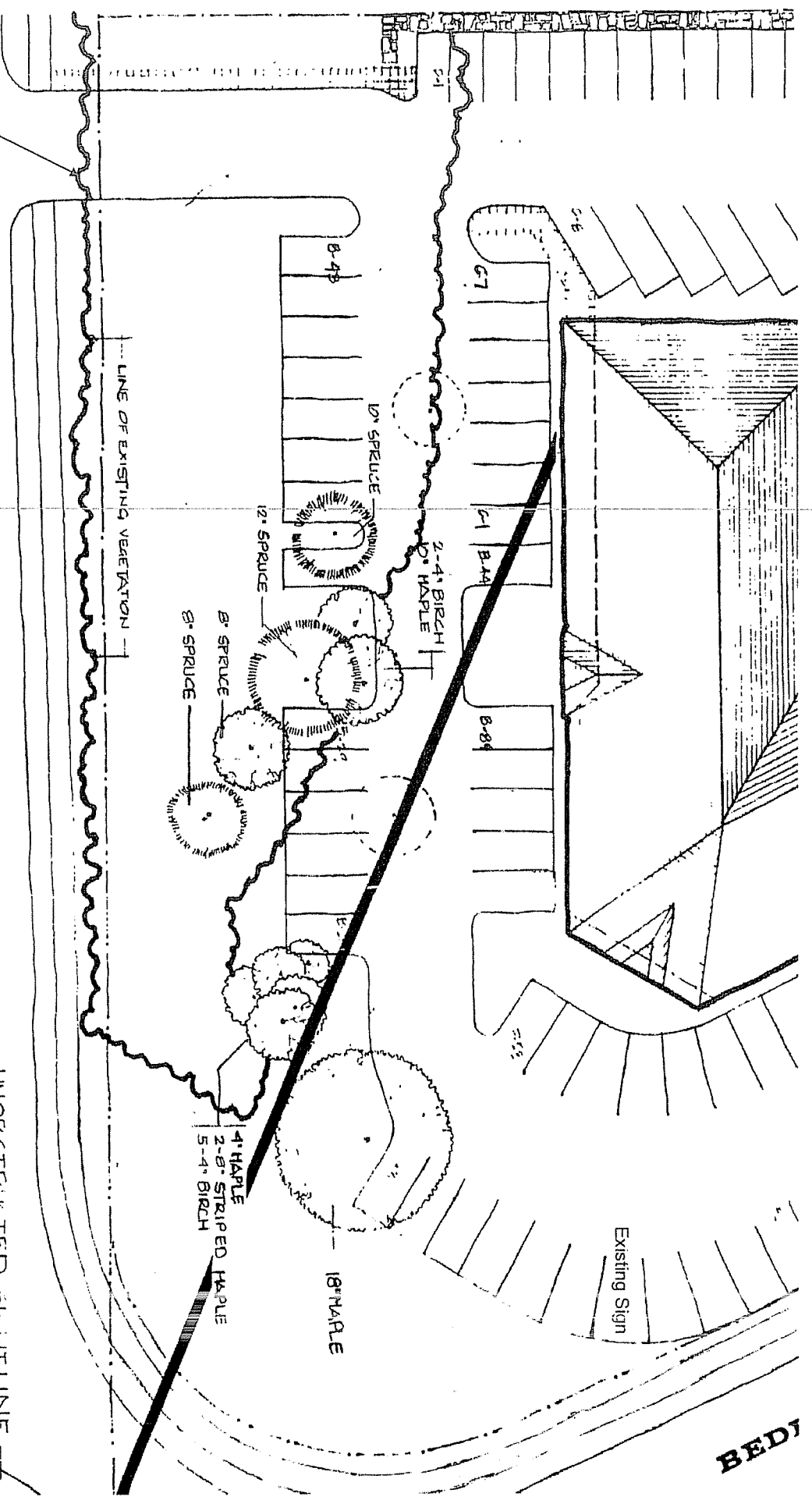
Notification Area



- RSU Single Dwelling Unit Zone
- RTU Two Dwelling Unit Zone
- RMU Multiple Unit Dwelling Zone
- RTH Townhouse Zone

- P Park Zone
- POS Park Open Space Zone
- CGB General Business Zone
- CCDD Commercial Comprehensive Development Zone





**HAMMONDS PLAINS ROAD**

**Map 3: Natural Wooded Area**

950 Bedford Highway

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

UNOBSTRUCTED SIGHT LINE  
 REQUESTED AS OF MAY 6, 1999  
 #950, Bedford H18  
 1999, Revision 1



Attachment A: Proposed Amending Development Agreement

THIS AMENDING AGREEMENT made this      day of                      , 2009,

BETWEEN:

**HOMCO REALTY FUND 37 LTD. PARTNERSHIP**

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 40628893 Bedford and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Bedford Town Council of the Municipality approved an application by the Developer to enter into a Development Agreement to allow for development of a building with ground floor retail having second floor office and retail space on the Lands, which said Development Agreement was registered at the Registry of Deeds Office in Halifax as Document Number 47071 in Book No. 5490, at Pages 1094-1104 (hereinafter called the "Existing Agreement");

AND WHEREAS the North West Community Council approved a non-substantive amendment to the Existing Agreement on [**Insert Date**] referenced as Municipal Case Number 01216, to permit a second ground sign, said agreement being recorded at the Registry of Deeds Office in Halifax as Document Number [**Insert Document Number when available**] referenced as Municipal Case Number 01216 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Developer has requested a substantive amendment to the provisions of the Existing Agreement to enable further intrusion into the natural wooded area;

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on [**Insert Date**], referenced as Municipal Case Number 01216;

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 add a new section in Schedule C immediately following section (I):
    - (j) In addition to section (I) the Developer be permitted further intrusion into the natural wooded area along the Hammonds Plains Road side of the property provided that the following conditions are met:
      - (j)1. development shall be limited to the erection of a second ground sign; and
      - (j)2. Prior to the issuance of any permit to enable development of the sign the Developer shall submit to the Development Officer a plan and written analysis, prepared by a Certified Arborist, Landscape Architect, Landscape Technologist, or Urban Forester, certifying that the proposed location will ensure no negative impact on or any interference with the natural wooded area:
- 
2. In addition to the above amendments, development of the Lands shall comply with the provisions set out in the Existing Agreement except where specifically varied by this agreement.
  3. The Existing Agreement be amended to provide for the removal of a tree that is dead, dying or in decline and that represents a danger to private property, public infrastructure or other natural trees and vegetation within the natural wooded area. Prior to granting approval for the removal of such a tree, the Development Officer shall have the discretion to require that the Developer engage a Certified Arborist, Landscape Architect, Landscape Technologist, Urban Forester or other person with equivalent credentials to certify in writing that the tree poses a danger to people or property or is in severe decline.

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 ) **HOMCO REALTY FUND 37 LTD.**  
 in the presence of ) **PARTNERSHIP**  
 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 Bedford MPS

Commercial Comprehensive Development Districts

Policy C-7:

It shall be the intention of Town Council to designate the lands shown on Map 3 as Commercial Comprehensive Development Districts, and in the Land Use By-Law the lands shall be zoned Commercial Comprehensive Development District (CCDD). The CCDD Zone will permit mixed use, residential/ commercial projects, including single unit dwellings, two unit dwellings, multiple-unit buildings, senior residential complexes, neighbourhood commercial, office buildings, CGB Zone uses, convention facilities, recycling depots, park uses, and institutional uses. Existing uses within the CCDD Zones shall be considered as permitted uses and be allowed to continue operation.

~~It shall be the intention of Town Council to require development of commercial uses on 50% of each CCDD site and further, that multiple unit buildings not be permitted to occupy more than 25% of a CCDD site. Multiple unit buildings shall be constructed in accordance with the RMU zone requirements. Maximum building height may be increased to four stories in the case of sloped lots where the building is designed to fit the natural topography of the site. Lot area requirements shall be calculated on the basis of 2000 square feet per unit, regardless the unit size. Lot area associated with each building may be reduced in size to increase the common open space. The architectural, landscaping, and streetscape considerations for multiple unit buildings within the RCDD zone, as articulated in Policies R-12A, R-12B and R-12C, shall apply to multiple unit developments within the CCDD zone.~~

Policy C-8:

It shall be the intention of Town Council to enter into Development Agreements pursuant to the Planning Act with the owners of the lands zoned Commercial Comprehensive Development District to carry out the proposed commercial and mixed use commercial/residential development(s) provided that all applicable policies of this document are met. In considering applications Council shall have regard to whether the proposed land use emphasizes the unique features of the site in terms of its location within the Town, its unique physical characteristics, its overall size and the relationship developed with adjoining existing or proposed uses. A special emphasis on the conservation of the natural environment including features such as watercourses, lakes, trees, and the natural topography shall be highlighted in the development proposal.

Policy C-9:

It shall be the intention of Town Council to consider discharging the agreements made pursuant to Policy C-8 upon the completion of the development. Council may thereafter zone the CCDD in such a manner as to be consistent with the development, by creating a specific zone for the site which incorporates the uses provided for in the development agreement as well as provisions consistent with Sections 53 and 54 of the Planning Act.

Policy C-14:

It shall be the intention of Town Council to enter into a development agreement for the CCDD area located at the northern corner of the Hammonds Plains Road and the Bedford Highway. Any development agreement approved shall insure, through regulating the uses on the land and buffering provisions, that the project is compatible with the adjacent low density residential neighbourhood. Provisions shall also be made in the development agreement for retention of the existing vegetation within the street rights-of ways between the Hammonds Plains Road and the Old Hammonds Plains Road. The existing developed park, Millview Park, shall either be incorporated into a development proposal, or an alternate park space shall be provided by the developer to replace the existing park.

**Aesthetics of Commercial Activities**

Policy C-33:

It shall be the intention of Town Council, in areas designated Commercial, to improve the aesthetics of such commercial areas by encouraging rear yard parking, discouraging large front yard setbacks and parking in front and side yards, regulating commercial signage, requiring landscaping, and regulating the architectural design of new and redeveloped commercial buildings through requirements in the Land Use By-law.

Policy C-34:

**It shall be the intention of Town Council to include in the Land Use By-law provision for the general regulation of signage in all zones, except the Mainstreet Commercial Zone, including prohibition on certain types of signs, as well as type, size, number and location. Within the Mainstreet Commercial Zone it shall be the intention of Town Council to include specific sign regulations to ensure that signage in this zone is compatible with the small scale, pedestrian orientation of the area. These provisions shall relate to the nature, size, location, number, and type of signs (including signboards, projecting signs, canopies, and window signs) as well as their illumination. (RC-Sep26/06;E-Nov18/06)**

**Commercial Development Adjacent to Residential Areas**

Policy C-35:

It shall be the intention of Town Council to minimize the impact of commercial uses, commercial traffic and parking areas, and commercial refuse containers on abutting existing residential uses or on lands which are designated and/or zoned for residential uses through regulations in the Land Use Bylaw, and through the development and subsequent enforcement of a property maintenance by-law.

**Mainstreet Improvement District**

Policy C-36:

It shall be the intention of Town Council to complete streetscape improvements, consistent with the former Provincial Mainstreet Program, along the Bedford Highway from the Halifax City boundary to the northern boundary, as well as that portion of Dartmouth Road designated and zoned for commercial uses, along the eastern side as far as Main Street and as far as Parkers Brook along the western side (Map 3).

## IMPLEMENTATION POLICIES

### Policy Z-3:

It shall be the policy of Town Council when considering zoning amendments and development agreements [excluding the WFCDD area] with the advice of the Planning Department, to have regard for all other relevant criteria as set out in various policies of this plan as well as the following matters :

1. That the proposal is in conformance with the intent of this Plan and with the requirements of all other Town By-laws and regulations, and where applicable, Policy R-16 is specifically met;
2. That the proposal is compatible with adjacent uses and the existing development form in the neighbourhood in terms of the use, bulk, and scale of the proposal;
3. That provisions are made for buffers and/or separations to reduce the impact of the proposed development where incompatibilities with adjacent uses are anticipated;
4. That provisions are made for safe access to the project with minimal impact on the adjacent street network;
5. That a written analysis of the proposal is provided by staff which addresses whether the proposal is premature or inappropriate by reason of:
  - i) the financial capability of the Town to absorb any capital or operating costs relating to the development;
  - ii) the adequacy of sewer services within the proposed development and the surrounding area, or if services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems;
  - iii) the adequacy of water services for domestic services and fire flows at Insurers Advisory Organization (I.A.O.) levels; the impact on water services of development on adjacent lands is to be considered;
  - iv) precipitating or contributing to a pollution problem in the area relating to emissions to the air or discharge to the ground or water bodies of chemical pollutants;
  - v) the adequacy of the storm water system with regard to erosion and sedimentation on adjacent and downstream areas (including parklands) and on watercourses;
  - vi) the adequacy of school facilities within the Town of Bedford including, but not limited to, classrooms, gymnasiums, libraries, music rooms, etc.;
  - vii) the adequacy of recreational land and/ or facilities;
  - viii) the adequacy of street networks in, adjacent to, or leading toward the development regarding congestion and traffic hazards and the adequacy of existing and proposed access routes;
  - ix) impact on public access to rivers, lakes, and Bedford Bay shorelines;
  - x) the presence of significant natural features or historical buildings and sites;
  - xi) creating a scattered development pattern which requires extensions to trunk facilities and public services beyond the Primary Development Boundary;
  - xii) impact on environmentally sensitive areas identified on the Environmentally Sensitive Areas Map; and,
  - xiii) suitability of the proposed development's siting plan with regard to the physical characteristics of the site.

6. Where this plan provides for development agreements to ensure compatibility or reduce potential conflicts with adjacent land uses, such agreements may relate to, but are not limited to, the following:
  - i) type of use, density, and phasing;
  - ii) traffic generation, access to and egress from the site, and parking;
  - iii) open storage and landscaping;
  - iv) provisions for pedestrian movement and safety;
  - v) provision and development of open space, parks, and walkways;
  - vi) drainage, both natural and subsurface;
  - vii) the compatibility of the structure(s) in terms of external design and external appearance with adjacent uses; and,
  - viii) the implementation of measures during construction to minimize and mitigate adverse impacts on watercourses.
7. Any other matter enabled by Sections 73 and 74 of the Planning Act.
8. In addition to the foregoing, all zoning amendments and development agreements shall be prepared in sufficient details to:
  - i) provide Council with a clear indication of the nature of the proposed development; and
  - ii) permit staff to assess and determine the impact such development would have on the proposed site and the surrounding community.
9. To assist in the evaluation of applications to enter into development agreements, Council shall encourage proponents to provide the following information:
  - a) a plan to a scale of 1":100' or 1":40' showing such items as:
    - i) an overall concept plan showing the location of all proposed land uses;
    - ii) each residential area indicating the number of dwelling units of each type and an indication of the number of bedrooms;
    - iii) description, area, and location of all proposed commercial, cultural, mixed-use projects proposed;
    - iv) location, area, shape, landscaping and surface treatment of all public and private open spaces and/or park areas;
    - v) plan(s) showing all proposed streets, walkways, sidewalks, bus bays and bike routes;
    - vi) a description of any protected viewplanes; and,
    - vii) an indication of how the phasing and scheduling is to proceed.
  - b) For individual phases of a development more detailed concept plans are to be provided indicating such items as maximum building heights, location and configuration of parking lots, landscaping plans, and any additional information required to be able to assess the proposal in terms of the provisions of the Municipal Planning Strategy.
  - c) Plans to the scale of 1":100' showing schematics of the proposed sanitary and storm sewer systems and, water distribution system.
10. **Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-July 2/02; Effective-Aug 17/02)**

Attachment C

HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING

CASE NO. 01216 - Application by Homburg Canada Incorporated to amend the existing  
development agreement

7:00 p.m.

Monday, January 26, 2009

Basinview Drive Community Elementary School

STAFF IN

ATTENDANCE:

Darrell Joudrey, Planner, HRM Planning Services  
Alden Thurston, Planning Technician, HRM Planning Services  
Alana Hines, Planning Controller, HRM Planning Services  
Cara McFarlane, Planning Controller, HRM Planning Services

ALSO IN

ATTENDANCE:

Councillor Tim Outhit, District 21  
Brenda Ruggles, Representative of Homburg Canada

PUBLIC IN

ATTENDANCE:

2 people

The meeting commenced at approximately 7:15 p.m.

1. Opening Remarks/Introductions/Purpose of Meeting

Mr. Joudrey introduced himself as a Planner from the Eastern Region and identified that this is a case he is working on from the Central Region; He also introduced staff Cara McFarlane and Alden Thurston, from HRM Planning Services Central Region, and Alana Hines, HRM Planning Services Western Region.

The agenda and purpose of the meeting were reviewed.

2. Application

The applicant is Homburg Canada Incorporated and their request is to amend the existing development agreement at 950 Bedford Highway (Hammond Centre) to erect a second ground sign on the property.

The proposed signage was shown.

3. Presentation of Proposal

The subject property is in the Bedford plan area. The land use is designated and zoned Commercial Comprehensive Development District (CCDD). A map showing the subject property was shown.

Councillor Outhit asked if there was presently a sign on the Bedford Highway and none on the Hammonds Plains Road side and this was confirmed correct.

The purpose of the meeting is to identify that an application has been received by HRM, what the applicant is requesting, to inform residents and hear any concerns before the reports are prepared to go to Community Council. Mr. Joudrey identified that no decisions on this application would be made this evening.

From the Municipal Plan Strategy (MPS), the CCDD intent is to encourage the best utilization of the site, compatibility with adjacent land uses and innovation and flexibility of design. The existing development agreement, for example, includes controls for lighting, residential development on the site is not permitted, and has a protected natural treed area.

The original development agreement (signed in 1993) permits one ground sign along with other requirements. The proposed amendment is to add one additional ground sign on the Hammonds Plains Road side of the subject property. Councillor Outhit asked if the original development agreement was with HRM or the former Town of Bedford. Mr. Joudrey confirmed it was between the Town of Bedford and the applicant.

**Outline of the planning process for this application**

- Public Information Meeting (held tonight)
- HRM Staff Review
- HRM Staff Report
- Public Hearing - Community Council
- Decision of Community Council
- Appeal period

At this point, the presentation was turned over to Brenda Ruggles, Homburg Canada, to describe the application.

Ms. Ruggles thanked Mr. Joudrey and everyone for coming. Homburg started looking at this project approximately a year ago after speaking with their tenants. From the Bedford Highway (where the existing pylon is located), there is good visibility to the front of the building. There is an entrance/exit on the Hammonds Plains Road side of the building where there is a lot of vegetation and trees. This blocks visibility to the tenants along that side of the building.

One of the tenants, Ian Mark (in attendance) who owns Imagine Salon and Spa, had approximately 11,000 square feet of space at the Hammond Centre and has recently expanded his business to 33,000 square feet. Homburg wants to put a pylon sign on that side of the building so that the business has directional signage for its patrons coming and going.

Ms. Ruggles also mentioned that Weight Watchers, tenants who have also been in the building a long time, are on this same side. The Hammond Dental Centre fronts the Hammonds Plains Road side as well. The Dental Centre has doubled the size of their practice and requires signage as well. Quite often, clients from these three businesses go past the Hammond Centre not knowing they drove by it and call looking for directions to these businesses.

Ms. Ruggles indicated where Homburg would like to place the new sign (in the grassed area shown on the slide). Ms. Ruggles advised that none of the natural vegetation and trees would be touched, and that this proposal is in compliance with HRM's policies. She also indicated that the sign would not obstruct traffic visibility on the Hammonds Plains Road.

This was the end of Ms. Ruggles presentation and she opened the floor for questions.

#### **4. Questions/Comments**

Councillor Outhit asked what the size of the proposed sign would be. Ms. Ruggles showed and described a new sign design Homburg is now proposing, which is the same size as the original proposal of 15 feet as shown in the PowerPoint Presentation. Ms. Ruggles said that Homburg feels that this new sign would be more appealing to the eye and more the standard they wished to present of Homburg on behalf of their tenants.

Councillor Outhit asked how this newly proposed sign compares in look and size to the existing sign. Ms. Ruggles said the new sign would be smaller in size. The existing sign has every tenant on it (8 readers plus the top). The proposed sign will only have 3 readers for the tenants on the Hammonds Plains Road side: Imagine Salon and Spa, Weight Watchers, and Hammond Dental Centre. There will also be a reader board on this new sign so that the tenants can advertise. Councillor Outhit asked if community advertising would be considered. Ms. Ruggles said certainly and that Homburg does this now at some of their other rental properties. Mr. Mark had mentioned that his business and other tenants in the building would agree to this as well. Councillor Outhit said he'd support that and Ms. Ruggles said that she would too.

Councillor Outhit also asked if Homburg would get pressure from the other tenants in the building to have advertising on both sides of the property. Ms. Ruggles said no, it has already been established that the new sign would be for the tenants on that side of the building only.

Councillor Outhit asked Mr. Joudrey to indicate, as part of the presentation at the public hearing to the Community Council, that Homburg is willing to use the bottom part of the sign for public advertising.

Councillor Outhit also said he liked the design of the newly proposed sign as handed out by Ms. Ruggles.

#### **5. Closing Comments**

Mr. Joudrey thanked Ms. Ruggles and everyone for coming. His contact information was given to the public for any further questions or comments on this application.

#### **6. Adjournment**

The meeting adjourned at approximately 7:35 p.m.