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District 12 PAC  
April 27, 2009

TO: Chair and Members of District 12 Planning Advisory Committee

SUBMITTED BY:

Dan English, Chief Administrative Officer

Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: March 27, 2009

SUBJECT: **Case 01243: Non-substantive DA amendment - 1445-1467 South Park St., Halifax**

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### ORIGIN

Application by W.M. Fares Group for a non-substantive amendment to the existing development agreement for 1445-1467 South Park Street (corner of Brenton Place), Halifax, to allow for an increase in the number of dwelling units from 80 to 85, with no change in the building's size or exterior appearance.

### RECOMMENDATION

It is recommended that District 12 Planning Advisory Committee recommend that Regional Council:

1. Approve by resolution the non-substantive amendment to the existing development agreement for 1445-1467 South Park Street, Halifax, as detailed in the amending agreement appended as Attachment A of this report.
2. Require that the amending agreement be signed and returned within 120 days, or any extension thereof granted by Regional Council on request of the applicant, from the date of final approval by Regional Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

On August 12, 2008, Regional Council approved a development agreement (Case 01046) for the northeast corner of South Park Street and Brenton Place, Halifax, to permit a 19-storey mixed use residential/commercial building commonly known as the Trillium on South Park. Excavation is underway at the site and it is expected that foundation work will begin shortly.<sup>1</sup>

An application was received in January for a non-substantive amendment to the existing development agreement, to allow for an increase in the number of dwelling units from 80 to 85. The need for additional units became apparent during the start of the pre-selling phase when a higher demand for smaller units was identified compared to what had been originally anticipated.

## **DISCUSSION**

The actual number of dwelling units was not identified as a substantive matter during the public consultation period for this project. Therefore, an increase in the number of dwelling units was contemplated under the non-substantive amendments provisions of the existing development agreement. Clause 6.2(j) specifies that an increase in the number of dwelling units can be approved by resolution of Council if the building size has not increased and the exterior appearance of the building is not changed.

Staff has reviewed the revised floor plans and have determined that both the building size and the exterior appearance of the building will be unaffected by the proposed amendment. Staff also notes that the increase in the number of units is relatively minor, as it represents only a 6% increase to what is permitted under the existing development agreement, and will have no bearing on the permitted maximum population density.

## **Conclusion**

The proposal satisfies the applicable non-substantive provisions of the existing development agreement, as well as the policies of the Halifax Municipal Planning Strategy and as such, it is recommended that Regional Council approve by resolution the attached amending development agreement.

## **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 proposed budget with existing resources.

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<sup>1</sup> A Construction Permit has been issued for the construction of the sub-level parking and podium only.

**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. Regional Council may choose to approve the amending agreement, as contained in Attachment A. This is the recommended course of action as the proposed non-substantive amendment meets the overall intent of the existing development agreement and the Halifax Municipal Planning Strategy.
2. Regional Council may choose to approve the terms of the amending agreement with modifications or conditions. Some modification or conditions may be outside the scope of a non-substantive amendment and may require a substantive amendment to the existing development agreement.
3. Regional Council may choose to refuse to amend the existing agreement. Pursuant to Section 245(6) of the *Halifax Regional Municipality Charter*, Council must provide reasons to the applicant justifying this refusal, based on policies of the MPS. This alternative is not recommended, as the existing development agreement and the Halifax Municipal Planning Strategy allow for this change.

**ATTACHMENTS**

Map 1	Location
Attachment A	Draft Amending Agreement

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.

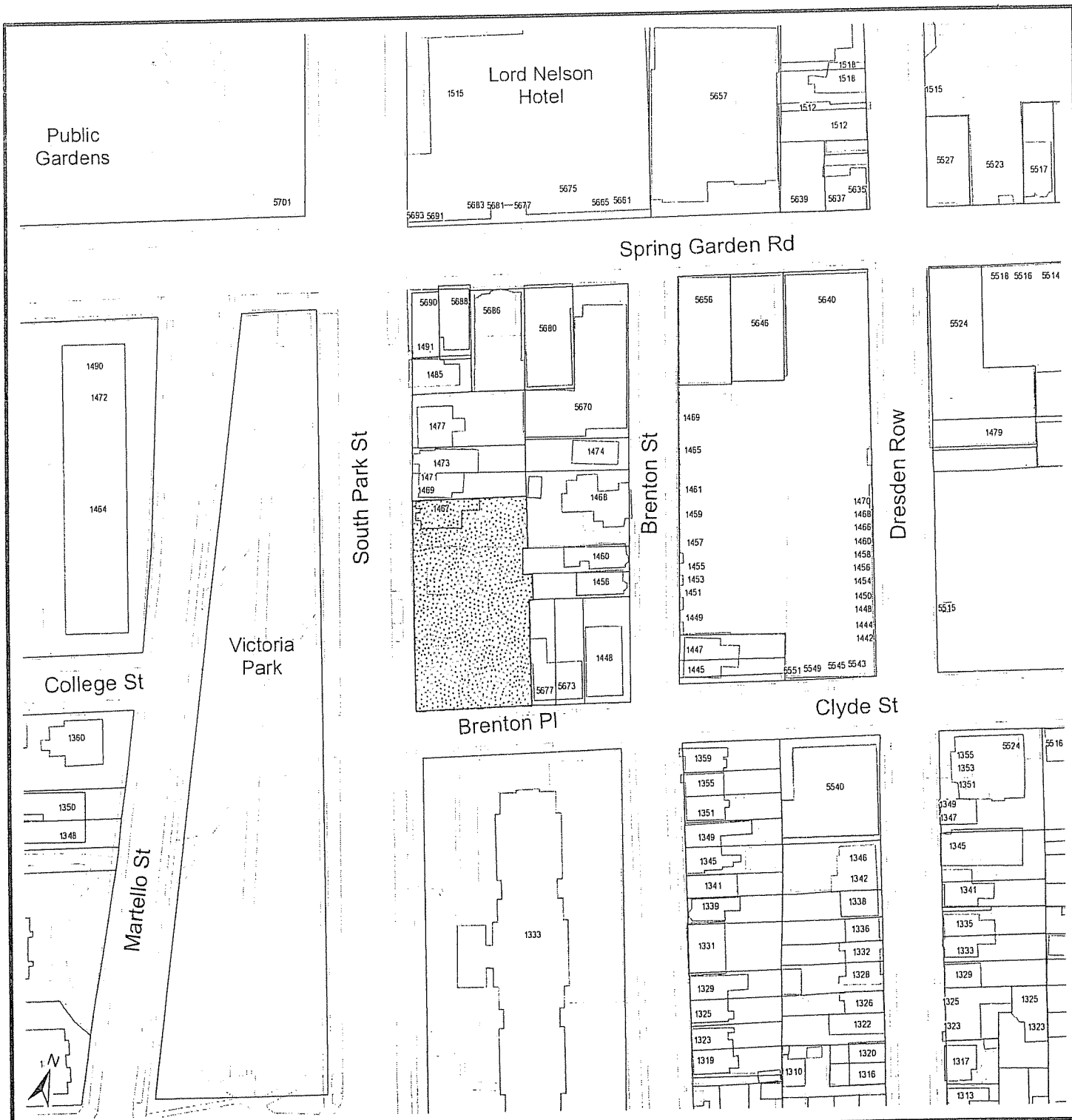
Report Prepared by : Luc Ouellet, Planner I, 490-3689



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




Report Approved by: Paul Dunphy, Director of Community Development



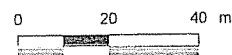
**Map 1 - Location**

1441-1467 South Park Street  
 5679-5683 Brenton Place  
 Halifax

 Subject area

Halifax Peninsula  
 Land Use By-Law Area

**HALIFAX**  
 REGIONAL MUNICIPALITY  
 COMMUNITY DEVELOPMENT  
 PLANNING SERVICES



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

**Attachment A - Draft Amending Agreement**

THIS FIRST AMENDING AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2009,

BETWEEN:

**3225655 NOVA SCOTIA LIMITED,**  
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 1445-1467 South Park Street, Halifax [**Insert PID**] and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Regional Council of the Municipality approved an application by the Developer to enter into a development agreement to allow for a nineteen (19) storey mixed use residential/commercial building on the Lands, which said development agreement was registered at the Land Registry Office in Dartmouth on October 16, 2008, as Document Number 91878547 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested an amendment to the provisions of the Existing Agreement to enable an increase in the number of dwelling units from 80 to 85 units;

AND WHEREAS the Regional Council for the Municipality approved this request at a meeting held on [**INSERT Date**], referenced as Municipal Case Number 01243;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

1. The Existing Agreement is amended by replacing Section 3.3.1 with the following:
  - 3.3.1 The building shall contain a maximum of 85 dwelling units to be located on Residential Levels 300 to 1900, inclusive.
2. All other terms and conditions of the Existing Agreement shall remain in full force and effect.

3. This First Amending Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this amending agreement until it is discharged by the Council.

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	)	<b>3225655 NOVA SCOTIA LIMITED</b>
in the presence of	)	
	)	
per: _____	)	per: _____
	)	
	)	
per: _____	)	per: _____
	)	
SEALED, DELIVERED AND	)	
ATTESTED to by the proper	)	
signing officers of Halifax Regional	)	<b>HALIFAX REGIONAL MUNICIPALITY</b>
Municipality duly authorized	)	
in that behalf in the presence	)	
	)	
per: _____	)	per: _____
	)	MAYOR
	)	
per: _____	)	per: _____
	)	MUNICIPAL CLERK