



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
December 4, 2006

TO: Chebucto Community Council

SUBMITTED BY:

Paul Dunphy, Director of Community Development

DATE: November 27, 2006

SUBJECT: **Case 00961: Stage I and II Development Agreement Amendments,
Block Z-1, Regency Park Drive, Halifax**

ORIGIN

Application by Clayton Developments Limited, on behalf of Mount Olympus Realty, to amend the Stage I and II development agreements for Block Z-1, Regency Park Drive, Halifax, to allow for a transfer of population density, resulting in 13 additional dwelling units in a multiple unit residential building for a total of 158 units.

RECOMMENDATION:

It is recommended that Chebucto Community Council:

1. Give Notice of Motion to consider an application by Clayton Developments Limited to amend the development agreement for Block Z-1, Regency Park Drive, Halifax, and schedule a public hearing;
2. Approve the amending Stage I development agreement, included as Attachment A of this report, to allow a transfer of population density to Block Z-1, Regency Park Drive, Halifax to permit additional dwelling units in a multiple unit residential building;
3. Following the coming into effect of the amending Stage I development agreement, approve the amending Stage II development agreement, included as Attachment B, to allow a transfer of population density to Block Z-1, Regency Park Drive, Halifax to permit additional dwelling units in a multiple unit residential building (Staff will bring this matter back to Community Council for a decision at the appropriate time);
4. Require that the development agreement be signed within 120 days, or any extension thereof granted by Regional Council on request of the applicant, from the date of final approval by Community 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 February 10, 2004 Regional Council approved a purchase and sale agreement with Clayton Developments Limited for Block Z, Regency Park Drive (see Map 1) which was HRM-owned surplus land abutting the Mainland Common. On December 6, 2004, Chebucto Community Council approved a Stage I development agreement for a 145-unit residential building on Block Z of up to 12 storeys in height. The Stage II agreement was approved on November 7, 2005 which permitted a building of 10 storeys with the same number of dwelling units (145). Mount Olympus Realty Ltd., the current property owner, is currently building a 9-storey, 145-unit residential building on the site.

The Proposal

- The owner would like to add an additional floor for a total of 10 storeys above grade and 158 residential units. The existing agreement permits 10 storeys, but limits the number of units at 145. The site development, including driveways, landscaping and parking areas, is proposed to remain the same. The additional resulting density (13 units) is proposed to be transferred from an existing density surplus from other “under-built” sites, thereby not resulting in an increase in the overall density allocation for Clayton Park West. The building’s superstructure has been designed to carry the additional floors in the event Council approval is granted.

The draft development agreements are included as Attachments A and B.

Zoning and Enabling Policy:

The subject lands are zoned Schedule “K” in the Mainland Halifax Land Use Bylaw. Development under Schedule “K” requires a two stage approval by Council. The first stage involves Council approval of a concept (Stage I) plan and development agreement and a public hearing is required. The second stage requires more detailed plans and development agreements for individual phases of the development. Stage II development agreements are to be consistent with the Stage I agreement. Council approval is required for Stage II agreements but a public hearing is not required.

DISCUSSION

Development agreements for multi-unit residential buildings in Clayton Park West (Stage I and II) typically allow for minor variations in density (usually up to 20%), provided that the permitted overall population is not exceeded. This allows for minor adjustments, based on market conditions, at the detailed design (permitting) stage. In this case, as this was surplus HRM land, the real estate transaction and development agreement specified 145 units. As the proposal does not involve an increase in overall density and the height permitted in the Stage I agreement (12 storeys) is not being exceeded, staff have no objections to the proposal.

Public Comment:

In consultation with the Council chairperson, due to the minor nature of the proposed amendment, a public information meeting concerning this proposal was not held. The area of property owner notification (by mail) is shown on Map 1.

BUDGET IMPLICATIONS

None.

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 approve the amending development agreements. This is the recommended course of action.
2. Council may refuse to amend the existing development agreements. This alternative is not recommended for the reasons described above.
3. Council may choose to approve the amending development agreements with modifications which are acceptable to the applicant. Such modifications may require further negotiations with the applicant and/or revisions to the attached amending agreement.

ATTACHMENTS

Map 1	Zoning and Area of Notification
Attachment A	Draft Amending Stage I Development Agreement
Attachment B	Draft Amending Stage II Agreement with:
Schedule "C-1"	Front (Southeast) Elevation
Schedule "D-1"	Side (Northeast) Elevation
Schedule "E-1"	Rear (Northwest) Elevation
Schedule "F-1"	Side (Southwest) Elevation


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

Report Prepared by: Paul Sampson, Planner I, Planning and Development Services, ph.490-6259



Map 1 - Location and Zoning

247 Regency Park Drive - Block "Z-1"
Halifax

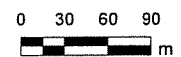
 Subject property

Halifax Mainland
Land Use By-Law Area

Zone

K Schedule K
I-3 General Industrial

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area.

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

Attachment A

THIS AMENDING AGREEMENT made this day of , 2006
BETWEEN:

MOUNT OLYMPUS REALTY LIMITED

of 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 Halifax Regional Municipality previously entered into a Stage I development agreement with Clayton Developments Limited and the Shaw Group Ltd. for a mixed commercial/residential development on February 23, 2000 (Municipal Case No. 00122), said agreement being recorded at the Registry of Deeds at Halifax in Book 6525, Pages 538-551 (hereinafter called the " Existing Agreement");

AND WHEREAS the Developer is the registered owner of Parcel "Z-1" (PID# 41148933), Phase 4, Clayton Park West, and which said lands are more particularly described in Schedule "A-4" to this agreement (hereinafter called the "Lands");

AND WHEREAS the Chebucto Community Council approved an amendment to the Existing Agreement on April 10, 2001 to permit development of Blocks B, X, Y and A-B for multiple unit residential and park uses (Municipal Case No. 00358) (hereinafter called the "First Amending Agreement");

AND WHEREAS the Chebucto Community Council approved an amendment to the Existing Agreement on September 10, 2001 to permit a licensed lounge in conjunction with an existing restaurant on Lot BC-5 (Municipal Case No. 00337);

AND WHEREAS the Chebucto Community Council approved an amendment to the Existing Agreement on February 21, 2002 to allow for residential multiple unit buildings on Parcels BC-9B, BC-9C, H-1 and H-2 (Municipal Case No. 00399);

AND WHEREAS the Chebucto Community Council approved an amendment to the Existing Agreement on December 6, 2004 to permit residential multiple unit buildings on Parcel "Z" (Municipal Case No. 00691);

AND WHEREAS the Developer has requested a further amendment to the Existing Agreement;

AND WHEREAS the Chebucto Community Council for the Municipality approved this request at a meeting on the day of , 2007, referenced as Municipal Case Number 00961;

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

The Existing Agreement is amended by:

1. Adding the following Schedule to Section 2C.1:

 "Schedule "A-4" Legal description of Parcel Z-1"

2. Adding the following sentence to Section 2C.3.1 immediately after the first sentence:

 "Notwithstanding this, the proposed number of dwelling units or square foot area of Parcel Z-1 may vary by 20 percent provided that the total permitted theoretical population does not increase."

All other terms and conditions of the Existing Agreement shall remain in full force and effect. This Amending Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED) **MOUNT OLYMPUS REALTY LIMITED**

in the presence of:)

)

per: _____)

per: _____

)

per: _____)

per: _____

)

)

)

Sealed, Delivered and Attested) **HALIFAX REGIONAL MUNICIPALITY**

by the proper signing officers of)

Halifax Regional Municipality)

duly authorized on that behalf)

per: _____

in the presence of)

MAYOR

)

per: _____)

per: _____

MUNICIPAL CLERK

Attachment B

THIS AMENDING AGREEMENT made this day of , 2006
BETWEEN:

MOUNT OLYMPUS REALTY LIMITED

of 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 Block "Z-1" Regency Park Drive (PID# 41148933), Halifax, Nova Scotia, and which said lands are more particularly described in Schedule 'A-1' to this Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer and the Municipality have previously entered into a Stage II development agreement (Municipal Case #00816) to allow for the construction of a multiple unit residential building on the Lands (hereinafter called the "Existing Stage II Agreement");

AND WHEREAS the Developer has requested an amendment to the Existing Stage II Agreement to allow for a transfer of population density, resulting in 13 additional dwelling units in a multiple unit residential building for a total of 158 units on the Lands pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for Halifax (Mainland);

AND WHEREAS the Chebucto Community Council of Halifax Regional Municipality, approved this request at a meeting held on , 2007 (referenced as Municipal Case Number 00961);

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

The Existing Stage II Agreement shall be amended as follows:

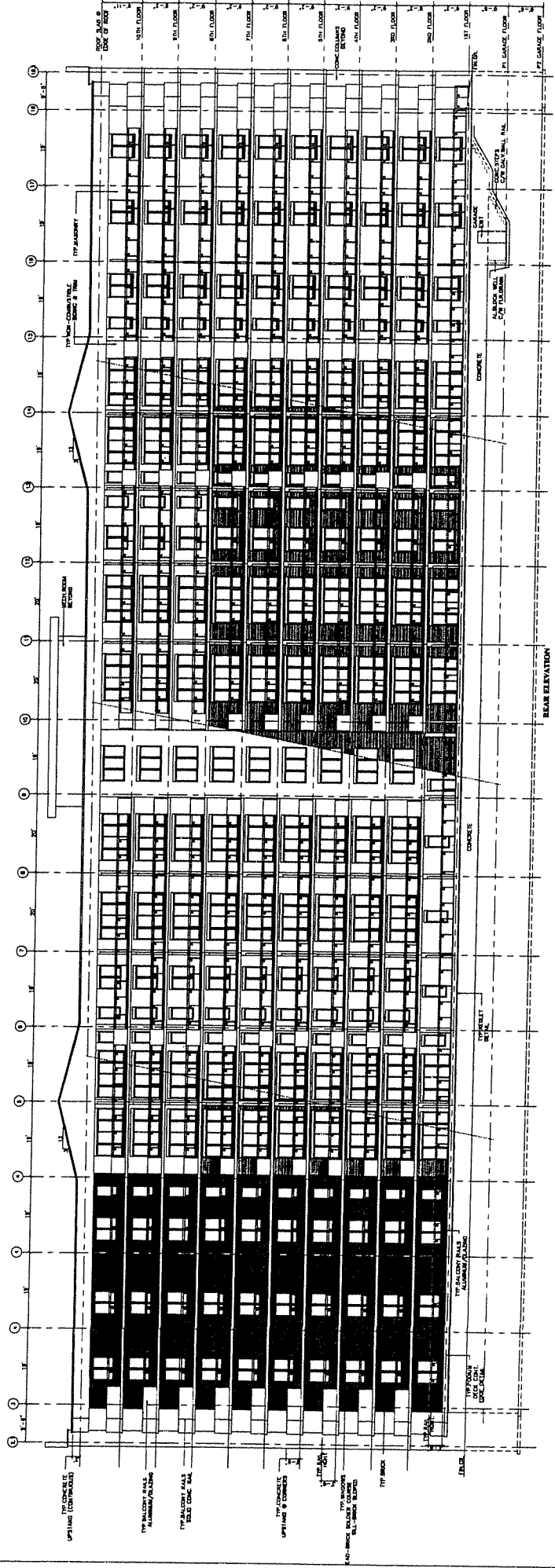
1. All references to Schedule "A" and "Block Z" shall be replaced with Schedule "A-1" and "Block Z-1";
2. Section 3.1 shall be amended by replacing the legal description for Block Z (Schedule "A") with the description for Block Z-1 (Schedule "A-1") attached hereto;
3. Schedules "C", "D", "E" and "F", and all references thereto, shall be replaced with Schedules "C-1", "D-1", "E-1" and "F-1";
4. Clause 3.2 (a) shall be amended by replacing "145" with "158".

All other terms and conditions of the Existing Stage II Agreement shall remain in full force and effect. This Amending Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of the day and year first above written.

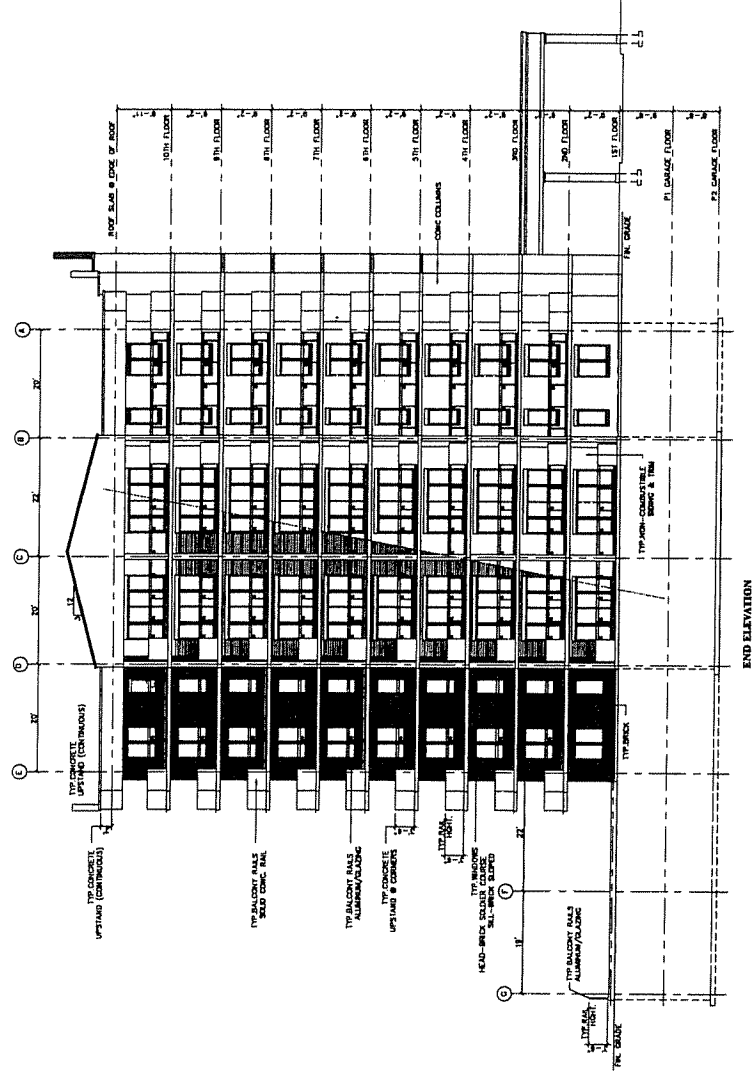
SIGNED, SEALED AND DELIVERED)	<u>MOUNT OLYMPUS REALTY LIMITED</u>
in the presence of:)	
)	
per: _____)	per: _____
)	
per: _____)	per: _____
)	
)	
Sealed, Delivered and Attested)	<u>HALIFAX REGIONAL MUNICIPALITY</u>
by the proper signing officers of)	
Halifax Regional Municipality)	
duly authorized on that behalf)	per: _____
in the presence of)	MAYOR
)	
per: _____)	per: _____
)	MUNICIPAL CLERK

Schedule "E-1"



<p>NOTES:</p> <ol style="list-style-type: none"> 1) THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY AND COUNTY OF HALIFAX BEFORE PROCEEDING. 2) THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY AND COUNTY OF HALIFAX BEFORE PROCEEDING. 3) DRAWING REPRESENTATIONS SHALL BE MADE IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE ARCHITECTURAL BOARD OF NEW BRUNSWICK. 4) DIMENSIONS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED. 	<p>REVISED</p> <table border="1"> <thead> <tr> <th>No.</th> <th>Date</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>12/1/85</td> <td>Initial Issuance</td> </tr> </tbody> </table>	No.	Date	Description	1	12/1/85	Initial Issuance	<p>APPROVED</p> <p>PAUL F. SKERRY</p> <p>ARCHITECT</p>	<p>PROJECT</p> <p>APARTMENT BLDG. BLOCK Z REGENCY PARK DR. HALIFAX, N.S.</p> <p>CLIENT</p> <p>MOUNT OLYMPUS REALTY LTD.</p>	<p>FILE</p> <p>BUILDING ELEVATIONS</p>	<p>OWNER</p> <p>DATE</p> <p>SCALE</p>	<p>DATE</p> <p>PROJECT NO.</p> <p>2742</p>
No.	Date	Description										
1	12/1/85	Initial Issuance										

A4.2



END ELEVATION

<p>NOTES:</p> <ol style="list-style-type: none"> 1) THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES AND THE ARCHITECT BEFORE PROCEEDING WITH CONSTRUCTION. 2) USE TYPICAL DIMENSIONS UNLESS OTHERWISE INDICATED. 3) ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE INDICATED. 4) ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE INDICATED. 		<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>No.</th> <th>DESCRIPTION</th> <th>Date</th> <th>No.</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Added window elevations</td> <td>12/1/02</td> <td></td> </tr> </tbody> </table>		No.	DESCRIPTION	Date	No.	1	Added window elevations	12/1/02		<p>PROJECT</p> <p>APARTMENT BLDG. REGENCY PARK OR. HALIFAX, N.S. (for MOUNT OLYMPUS REALTY LTD.)</p>		<p>ARCHITECTS</p> <p>Paul Sherry Architects Ltd. 3011 LAWRENCE PARK HALIFAX, N.S. B3K 2M8 PHONE: 454-4324 FAX: 454-4321 EMAIL: paul@psherry.com</p>		<p>TITLE</p> <p>BUILDING ELEVATIONS</p>		<p>Drawn by: P.S. Date: DEC 31/02 Checked: P.S. Project #: 2142 Sheet #: A4.3</p>	
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