

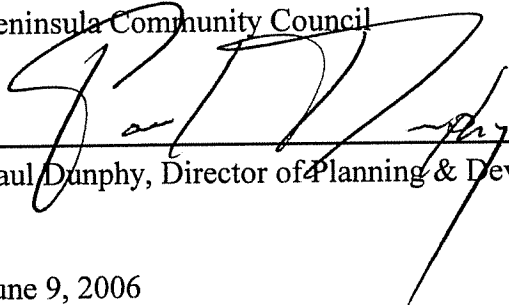
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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
July 10, 2006

TO: Peninsula Community Council

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

DATE: June 9, 2006

SUBJECT: **Case 00906: Extension to Development Agreement Time Limit for 1270 Oxford Street, Halifax.**

ORIGIN

Request from Danny Chedrawe, on behalf of the Owners, Khaled Shaaban and Soad Tolbah, for a 2-year extension to the Development Agreement time limit to construct a 22 unit residential apartment building.

RECOMMENDATION

It is recommended that Chebucto Community Council amend the Development Agreement with Khaled Shaaban and Soad Tolbah, recorded on October 4, 2004, at the Registry of Deeds at Halifax as Document Number 76399477 in Book 7912, Pages 702-724, to extend the date for commencement of construction to October 4, 2008.

BACKGROUND

On January 12, 2004, Peninsula Community Council approved an application by W.M. Fares and Associates, on behalf of the Owners Khaled Shaaban and Soad Tolbah, to enter into a development agreement to allow a 22 unit residential apartment building at 1270 Oxford Street (PID #00078154) as identified on Map 1. The agreement contained a two year time limit for commencement of construction which expires on October 4, 2006.

DISCUSSION

Development agreements contain an expiry date so that projects which have been approved but not constructed can be brought to a conclusion. If the applicant has not proceeded within the allotted time Council may grant an extension, at the request of the applicant, in cases where it is felt that the development is still appropriate.

The Owners have not proceeded with the development and now intend to sell the property, with the development agreement rights attached to it, if Council grants an extension, in order to allow the purchaser time to complete the transaction, to market the project, get financing in place and commence construction.

Staff have revised the clause in the existing agreement (Section 4.3 - refer to Attachment B) which relates to the time limit for commencement to require physical commencement of construction, including site excavation and the placement of the footings and foundation, by October 4, 2008 (refer to Attachment A).

A decision to extend the time limit does not require a Public Hearing. Staff has no objection to granting the requested time extension. A draft amending agreement is included as Attachment A.

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 agreement (Attachment A). This is the recommended course of action.

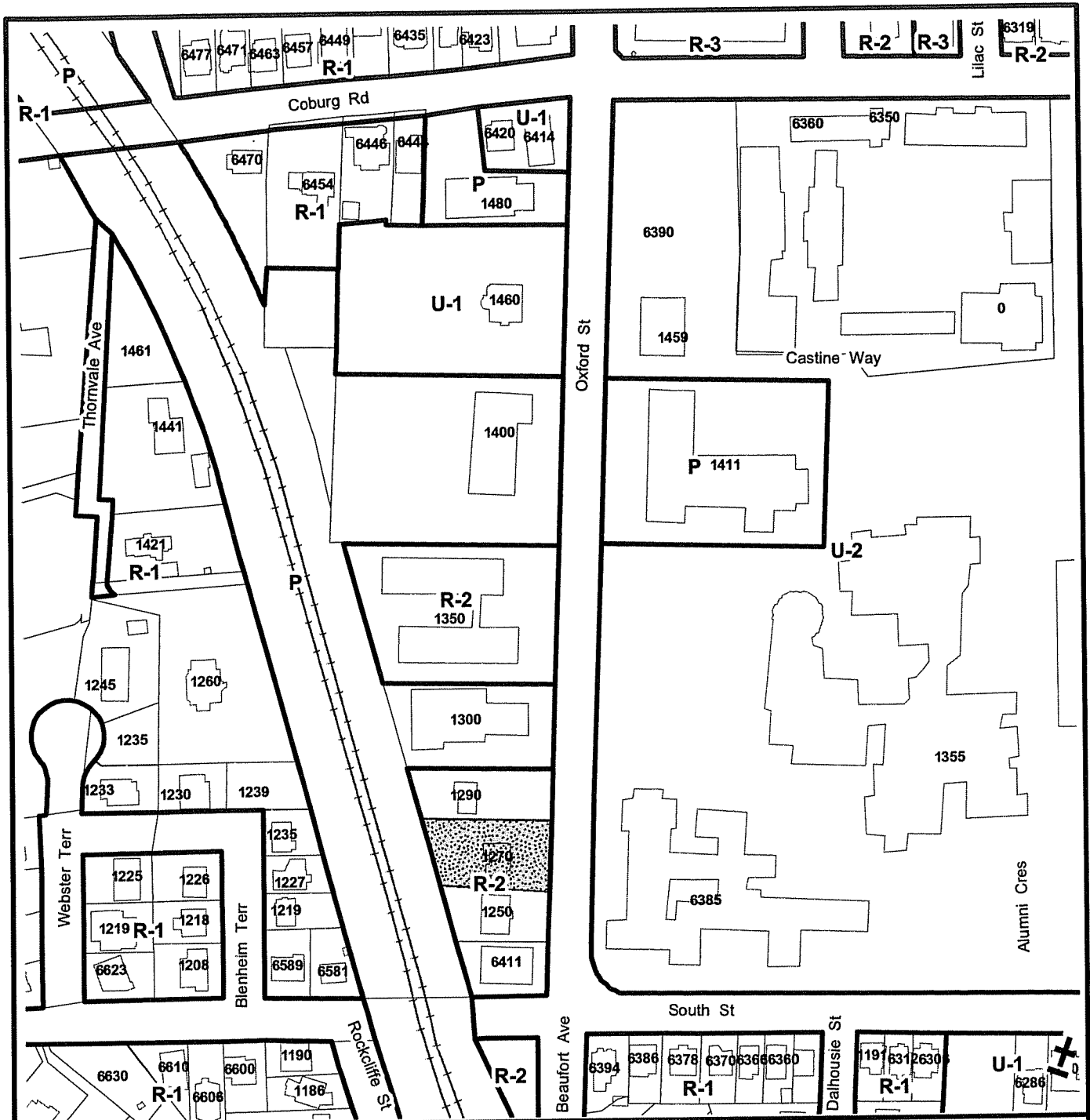
2. Council could refuse the extension, in which case as of October 4, 2006, the Development Agreement would become null and void, and the property could no longer be developed for a 22 unit residential apartment building. This alternative is not recommended by staff.

ATTACHMENTS

| | |
|--------------|--|
| Map 1 | Location and Zoning |
| Attachment A | Amending Development Agreement |
| Attachment B | Excerpts from the Existing Development Agreement |


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 : Randa Wheaton, Senior Planner, Planning and Development Services, 490-4499



Map 1 - Location and Zoning

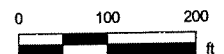
1270 Oxford St
Halifax

 Subject property

Zone

- R-1 Single Family Dwelling
- R-2 General Residential
- P Park and Institutional
- U-1 Low-Density University
- U-2 High-Density University

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-law Area.

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

Halifax Peninsula By-Law Area

Attachment A

THIS AMENDING AGREEMENT made this day of , 2006
BETWEEN:

KHALED SHAABAN AND SOAD TOLBAH,
of Halifax, Province of Nova Scotia,
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate, Province of Nova Scotia,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS Khaled Shaaban and Soad Tolbah and Halifax Regional Municipality previously entered into an agreement to permit a 22 unit residential apartment building at 1270 Oxford Street, Halifax, the said Agreement being recorded at the Registry of Deeds at Halifax as Document Number 76399477 in Book 7912, Pages 702-724 (hereinafter called the "Existing Agreement")(referenced as Municipal Case Number 00461);

AND WHEREAS the Developer has requested an amendment to the Existing Agreement by extending the time limit for commencement as set out in Clause 4.3 of the Existing Agreement.

AND WHEREAS the Chebucto Community Council of Halifax Regional Municipality, at its meeting on the 10th day of July, 2006, approved the requested amendment (referenced as Municipal Case Number 00906);

NOW THEREFORE THIS Amending Agreement **WITNESSETH THAT** in consideration to the granting by the Municipality of this Amending Agreement requested by the Developer, the Developer agrees as follows:

1. Clause 4.3 of the Existing Agreement shall be deleted and replaced with the following:

4.3 Commencement of Development

In the event that construction of the project has not commenced by October 4, 2008, the Municipality may, by resolution of Council, upon the written request of the Developer, grant

an extension to the date of commencement of construction. For the purpose of this section, commencement of construction shall mean the issuance by the Municipality of a building permit for construction of the dwelling, site excavation and the placement of the footing and foundation. If the development has not commenced by the applicable time, this agreement will terminate unless specifically extended upon request of the applicant and all rights shall be at an end.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

| | | |
|-----------------------------------|---|--|
| Signed, sealed and delivered |) | <u>KHALED SHAABAN AND SOAD TOLBAH</u> |
| in the presence of: |) | |
| |) | |
| 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 |

Excerpts from the Existing Development Agreement

PART 4: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 4.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developers shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.
- 4.2 This 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 Agreement until this Agreement is discharged by the Council.
- 4.3 In the event that construction of the project has not commenced within two years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement whereupon this Agreement shall have no further force or effect, or upon the written request of the Developers, grant an extension to the date of commencement of construction. For the purposes of this section, "commencement of construction" shall mean completion of the footings for the proposed building.
- 4.4 If the Developers fails to complete the development, or after five years from the date of registration of this Agreement at the Registry of Deeds, whichever time period is less, Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
 - (b) negotiate a new Agreement;
 - (c) discharge this Agreement.