


Item No. 10.1.4
Halifax Regional Council
June 15, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: June 1, 2010

SUBJECT: Case 16139 - Centennial Group / WDCL Development Agreement

ORIGIN

Application from Centennial Group Limited

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Approve the amending development agreement found in Attachment A, relating to the development of the lands on the South-east corner of Lower Water Street and Salter Street, thereby requiring that development commence by May 31, 2011 and be complete by May 31, 2015; and
2. Require that the amending development agreement be signed and returned within 120 days, or any extension thereof granted by Council on request of the Developer, from the date of final approval by Council or 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 June 19, 2007, Halifax Regional Council approved a development agreement for a project comprised of residential, retail, office, and hotel uses for lands on the south-east corner of Lower Water Street and Salter Street (Case 00745). The development agreement specifies that the project is to commence within three years; by June 19, 2010. The Developer, Centennial Group Limited, has requested time extension noting that, “The complexity and size of this Project, as well as the requirement to complete negotiations with another level of government has taken more time than we had originally envisioned.” In consultation with Waterfront Development Corporation (WDCL), who is also a party to the development agreement, Regional Council is asked to grant an extension to the commencement of construction date to May 31, 2011.

The original development agreement did not specify when the project was to be completed. Such clauses are contained in other downtown development agreements and it is appropriate that the same be included in this amending agreement. In consultation with the WDCL, it is now suggested that the project be required to be completed by May 31, 2015.

The commencement and completion dates that are suggested coincide with the dates of a separate contract between Centennial and WDCL.

DISCUSSION

Enabling Policy Context

The existing development agreement allows for Regional Council to consider amendments to the commencement and completion dates through a “non-substantive” amendment, which may be approved through a resolution of Council without a public hearing.

In 2009, Regional Council adopted Downtown Halifax Secondary Municipal Planning Strategy and Downtown Halifax Land Use By-law. It replaced the former Waterfront Secondary Plan and its development agreement policies that enabled the adoption of the original development agreement. However, the Downtown Halifax Secondary Municipal Planning Strategy allows for non-substantive amendments to existing developments to be approved by Regional Council through Policy Policy 90D, which states, “Applications for non-substantive amendments to approved development agreements shall be considered under the policies in effect at the time the agreement was approved.”

Merits of the Time Extension

A full review of the development agreement policies are not necessary as it is solely the time lines associated with the project that are under consideration. The rationale for the request is contained in letters from Centennial and the WDCL (Attachment B), which is viewed to be reasonable based upon the complexity of the project. It should be also be noted that the commencement date in the

original development agreement is shorter than those specified in many other similar development agreements.

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 approved budget with existing resources.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The original development agreement was the subject of a public hearing. That agreement contemplated that changes to the time requirements for project would be considered without additional public consultation.

ALTERNATIVES

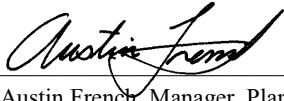
1. Regional Council could approve the amending development agreement. This is recommended alternative.
2. Regional Council could refuse the proposed amending development agreement. Pursuant to subsection 6 of Section 254 of the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal based on the policies of the Municipal Planning Strategy.

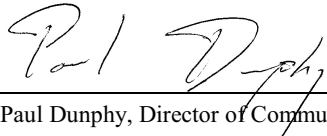
ATTACHMENTS

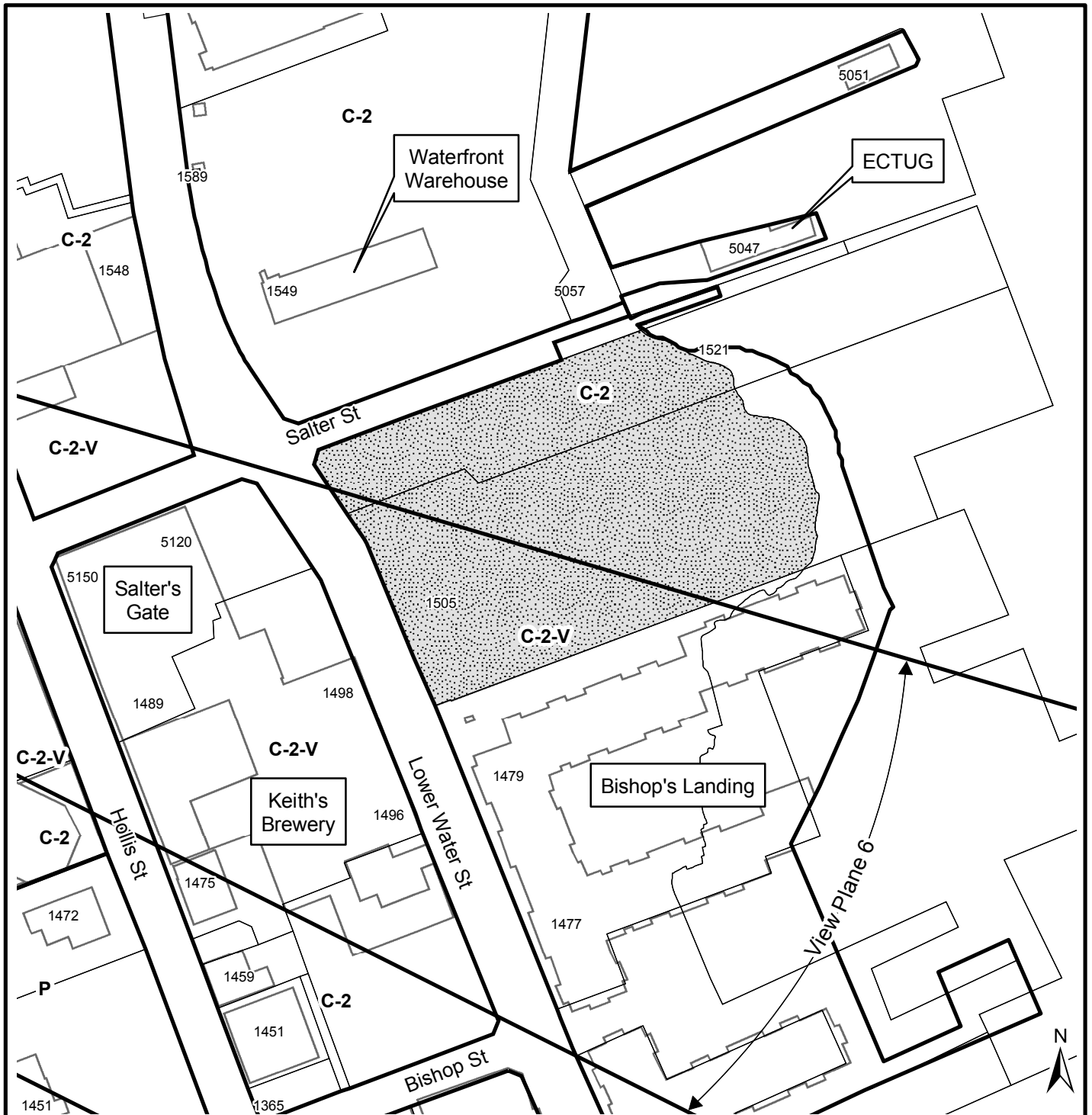
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| Map 1 | Location and Zoning from Case 00745 |
| Attachment A | Amending Development Agreement |
| Attachment B | Letters from Centennial Group and WDCL |

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

Report Prepared by: Richard Harvey, Senior Planner, 490-5637

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

Report Approved by: 
Paul Dunphy, Director of Community Development



Map 1: Location and Zoning

1505-1521 Lower Water Street
Halifax


 Subject property

Halifax Peninsula
By-Law Area

Zone

C-2 General Commercial
C-2-V General Commercial (view plane)
P Park & Institutional

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 10 20 30 m


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

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

Attachment A - Amending Development Agreement

THIS AMENDING AGREEMENT made this ____ day of _____, 20__,

BETWEEN:

WATERFRONT DEVELOPMENT CORPORATION LIMITED

a body corporate, in the Province of Nova Scotia
(hereinafter called the "the Corporation")

OF THE FIRST PART

- and -

CENTENNIAL GROUP LIMITED

A body corporate, in the County of Halifax, Province of Nova Scotia
(“the Developer”),

OF THE SECOND PART

- and -

HALIFAX REGIONAL MUNICIPALITY

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

OF THE THIRD PART

WHEREAS the Corporation is the registered owner of certain lands located at located on Lower Water Street and Salter Street, (PIDs 00646794 and 40177974), Halifax, Nova Scotia, and which said lands are more particularly described in Schedule A to this Amending Agreement (hereinafter called the “Lands”);

WHEREAS the Halifax Regional Council entered into a Development Agreement (the Original Agreement) with the Corporation and the Developer on June 19, 2007 for the development of the Lands;

AND WHEREAS the Developer, with the acknowledgement of the Corporation, has requested that the Municipality enter into an Amending Development Agreement (the Amending Agreement) to allow for changes to the commencement and completion requirements of the original development agreement pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy 90D of the Downtown Halifax Secondary Municipal Planning Strategy ;

AND WHEREAS the Halifax Regional Council for the Municipality approved this request at a meeting held on _____, referenced as Municipal Case Number 16139;

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

1. That the following provisions of the Original Agreement, as shown in ~~strikeout~~, be deleted and the following provisions, shown in **bold**, be inserted:

~~5.3 In the event that construction of the project has not commenced within three years from the date of approval of this Agreement by the Municipality and any other bodies as necessary, 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 Developer, grant an extension to the date of commencement of construction. For the purposes of this section, "commencement of construction" shall mean the issuance of Development and Building Permits, site excavation and the placement of footings for the underground parking of the development.~~

5.3 In the event that development on the Lands has not commenced by May 31, 2011, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law. For the purposes of this section, "commenced" shall mean the issuance of Development and Building Permits, site excavation and the placement of footings for the underground parking of the development.

5.5 By May 31, 2015, the development shall be substantially complete and an occupancy permit shall be obtained, or 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; or
- (c) discharge this Agreement.

WITNESS that this Amending Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 20____.

Signed, sealed and delivered the
presence of:

per: _____

Signed, sealed and delivered the
presence of:

per: _____

Sealed, Delivered and Attested by
the proper signing officers of
Halifax Regional Municipality duly
authorized on that behalf in the
presence of

per: _____

) WATERFRONT DEVELOPMENT
) CORPORATION LIMITED
)

) per: _____
)

) CENTENNIAL GROUP LIMITED
)

) per: _____
)

) HALIFAX REGIONAL
) MUNICIPALITY
)

) per: _____
) MAYOR
)

) per: _____
) MUNICIPAL CLERK

THE CENTENNIAL GROUP LIMITED

1601 Lower Water Street
P.O. Box 1074
Halifax, Nova Scotia
B3J 2X1
Phone (902) 421-1601
Faxcom: (902) 422-7639

April 22, 2010

Richard Harvey, Senior Planner
West End Mall Office
Halifax Regional Municipality
6960 Mumford Road, Suite R19
Halifax, Nova Scotia B3L 4P1

Dear Richard:

Re: Salter Street - HRM Development Agreement – Case #00745

Halifax Regional Council approved this Development Agreement June 19, 2007 with a three (3) year time frame for commencement of construction. The complexity and size of this Project, as well as the requirement to complete negotiations with another level of government has taken far more time than we had originally envisaged. Other factors have also contributed to the delay.

We are pleased to report that we have executed a 99 year Ground Lease and a Construction Agreement with the Waterfront Development Corporation Limited.

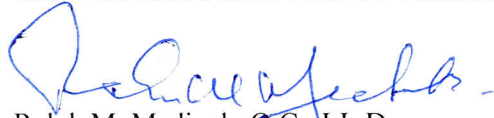
In accordance with Section 5.3 of the Development Agreement, The Centennial Group Limited, as the Developer, requests a one (1) year extension to the date set out in the Development Agreement for the commencement of construction.

We were grateful and very encouraged by Council's unanimous approval of the Project. With this approval, we proceeded to engage engineers, building architects and landscape architects, spending hundreds of thousands of dollars. We very much regret that it is taking so long for this Project to come to fruition sooner. Council's continued support will be very much appreciated.

Please let me know if you require any further information.

Sincerely,

THE CENTENNIAL GROUP LIMITED



Ralph M. Medjuck, Q.C., LL.D
Chairman and C.E.O.

The Cable Wharf
1751 Lower Water Street
Halifax, Nova Scotia
B3J 1S5

Telephone: (902) 422-6591
Fax: (902) 422-7582
e-mail: info@wdcl.ca
www.wdcl.ca

Waterfront Development
Corporation Limited



April 28, 2010

Mr. Richard Harvey, Senior Planner
Halifax Regional Municipality
West End Mall Office
6960 Mumford Road, Suite R19
Halifax, NS B3L 4P1

Dear Richard:

Re: Salter Street – HRM Development Agreement- Case #00745

I am writing in reference to the correspondence sent to you by CGL, dated April 22, 2010, regarding a request for a one-year extension to the above referenced Development Agreement.

We are pleased to confirm that we have reached an agreement with CGL to commence the terms of the land lease on June 1, 2010. Therefore, we are in agreement with this request for the extension, with the proviso, that the development agreement should be extended to May 31, 2010 to bring it in agreement with the terms of the Land Lease and Construction Agreement between CGL and WDCL which requires CGL to, within 12 months of entering into possession of the lands, complete the site excavation and the placement of footings in accordance with Section 5.3 of the HRM Development Agreement.

Please let me know if you require any further information.

Yours truly,

Eric Burchill
Director of Planning and Development