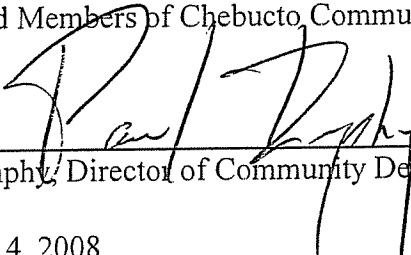




PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
February 4, 2008

TO: Chair and Members of Chebucto Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: January 14, 2008

SUBJECT: **Case 00965: Amendment to Stage II Development Agreement -
Royale Hemlocks Subdivision, Halifax**

ORIGIN

Application by Kimberly-Lloyd Developments Ltd. to amend the Royale Hemlocks Stage II development agreement, Phases 1B and 3 to 9, to allow the development of the last 48 dwelling units prior to construction of the Highway 102 and Larry Uteck Blvd. interchange.

RECOMMENDATION

It is recommended that Chebucto Community Council:

1. Approve the amending Stage II development agreement, presented as Attachment "A" to this report, to delete clause 5.10, thereby allowing for the development of the last 48 dwelling units of the Royale Hemlocks Subdivision prior to the construction of the Highway 102 and Larry Uteck Blvd. interchange.
2. Require that the amending Stage II development agreement be signed within 120 days, or any extension thereof granted by the Community 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

- The subject lands are zoned Schedule “K” under the Mainland Halifax Land Use By-law.
- In 1998, Chebucto Community Council approved a Stage I development agreement for the Royale Hemlocks subdivision. The agreement provides for a mixed-density residential subdivision.
- In 2001, Chebucto Community Council approved a Stage II development agreement for Phases 1B and 3 to 9 of the subdivision.
- In 2003, Chebucto Community Council approved a request by Kimberly-Lloyd Developments to amend the Royale Hemlocks Stage II development agreement, Phases 1B and 3 to 9, to change the overall housing mix in order to increase the proportion of multi-unit dwellings, thereby increasing the total number of dwelling units within the development by 48.¹
- The 2003 Stage II amending agreement made subdivision approval for the parcels capable of accommodating the last 48 units conditional on the construction of the Wentworth/Bedford South Interchange (Clause 5.10, see Attachment “B”).

Proposal

Kimberly-Lloyd Developments wishes to amend the Stage II development agreement by deleting clause 5.10 (see Attachment “B”), thereby allowing the subdivision and development of the last 48 dwelling units.

DISCUSSION

Enabling Policy

The Halifax Municipal Planning Strategy and Mainland Halifax Land Use By-law establish a two-stage approval process for development agreement applications made on properties zoned Schedule “K” (Comprehensive Development District). In Stage I, conceptual approval is sought for the entire area and agreement terms relative to substantive aspects of the development such as land use allocation, densities, layout of arterial and collector roads and phasing are laid out. The test for approval is conformance with MPS policy criteria of “Schedule K”, “City Wide Objectives and Policies”, other sections as appropriate and “Implementation Policies”. Approval

¹ This amendment was part of a larger package of amendments for the Royale Hemlocks Subdivision.

by the Community Council is required and, prior to granting any approvals, a public hearing must be held.

In Stage II, approval is sought on a phased basis where the detailed elements related to subdivision and development are established. Each Stage II agreement again must receive approval by the Community Council and the test for approval is conformance with the terms of the approved Stage I agreement. No public hearing is required.

Analysis

Clause 5.10 of the 2003 Stage II amending agreement was approved by Council following the adoption of the Wentworth Secondary Plan and at the same time as master planning exercises were being undertaken for the Wentworth/Bedford South area. A traffic study², undertaken in support of the master planning exercise, had concluded that 2000 housing units within the Wentworth/Bedford South area and the Royale Hemlocks subdivision could be developed and occupied prior to the construction of the Highway 102 and Larry Uteck Blvd. interchange without causing the level of service to deteriorate on the Bedford Highway below a performance level acceptable under municipal traffic guidelines.

Therefore, the intent behind clause 5.10 was to prevent the last 48 units from being developed prior to the interchange, as a way of ensuring an adequate level of service on the Bedford Highway. However, Chebucto Community Council, in approving this clause, also recognized that some of the projections contained in the original traffic study might not occur as anticipated. Hence, Council allowed the Developer the opportunity, at a future date, to demonstrate to HRM, by way of an updated traffic study, that there would be sufficient capacity on the Bedford Highway to accommodate the extra traffic generated by the additional units as well as projected future traffic increases. If this could be shown, then Council could proceed in amending the Stage II development agreement to allow the remaining 48 units to proceed prior to the interchange. Community Council should also be advised that staff is recommending to Regional Council (Case 01101) that consideration be given to amending the Wentworth/Bedford South Secondary Plan to enable this same approach to traffic relative to the Bedford Highway be applied to pre-interchange development within the plan area.

As part of its application, Kimberly-Lloyd Developments submitted a revised traffic study prepared by Hatch Mott MacDonald.³ The traffic study was reviewed by HRM Traffic Services who accept its findings that the last 48 dwelling units can be accommodated within the Royale

²Atlantic Road and Traffic Management. *The Final Report Traffic Impact Study Prince's Lodge/Bedford South Master Plan*. June 2000.

³ Hatch Mott MacDonald. *Royale Hemlocks Traffic Impact Study Update 2007 (Revised)*. November 29, 2007.

Hemlocks Subdivision without resulting in an unacceptable impact on the traffic flow of the Bedford Highway. The revised traffic study took into account recent projections supplied by HRM of the expected number of dwelling units that could be occupied within both the Royale Hemlocks and the Bedford South subdivisions by January 2010.^{4 5}

Conclusion

Staff advises that the proposed amendment to the Stage II development agreement for Phases 1B and 3 to 9 is consistent with both the approved, Stage I development agreement for Royale Hemlocks and the Halifax Municipal Planning Strategy. As such, it is recommended that Chebucto Community Council approve the proposed amendment to the Stage II agreement.

Public Information Meeting / Area of Notification

Public consultation is not a usual component of the Stage II development agreement amendment process. As such, staff did not schedule a public information meeting, nor did it publish a notice in a local newspaper or undertake mail notification of surrounding property owners as part of this application.

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 and the work 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.

⁴ Expected date of the Wentworth/Bedford South Interchange becoming fully operational.

⁵ The Federal Government has recently confirmed their commitment to fund one third of the cost of the construction of the Interchange.

ALTERNATIVES

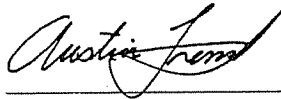
1. Approve the attached amending Stage II development agreement. This is the recommended alternative.
2. Council may choose to propose modifications to the amending Stage II development agreement. Such modifications may require further negotiations with the developer. This alternative is not recommended for the reasons described above.
3. Council may refuse to enter into an amending Stage II development agreement. In accordance with the Schedule "K" requirements of the Land Use By-law, the Community Council would be required to notify the applicant of the objectionable features of the final plan. This alternative is not recommended as staff advises that the proposed amending development agreement satisfactorily complies with the Stage I development agreement.

ATTACHMENTS

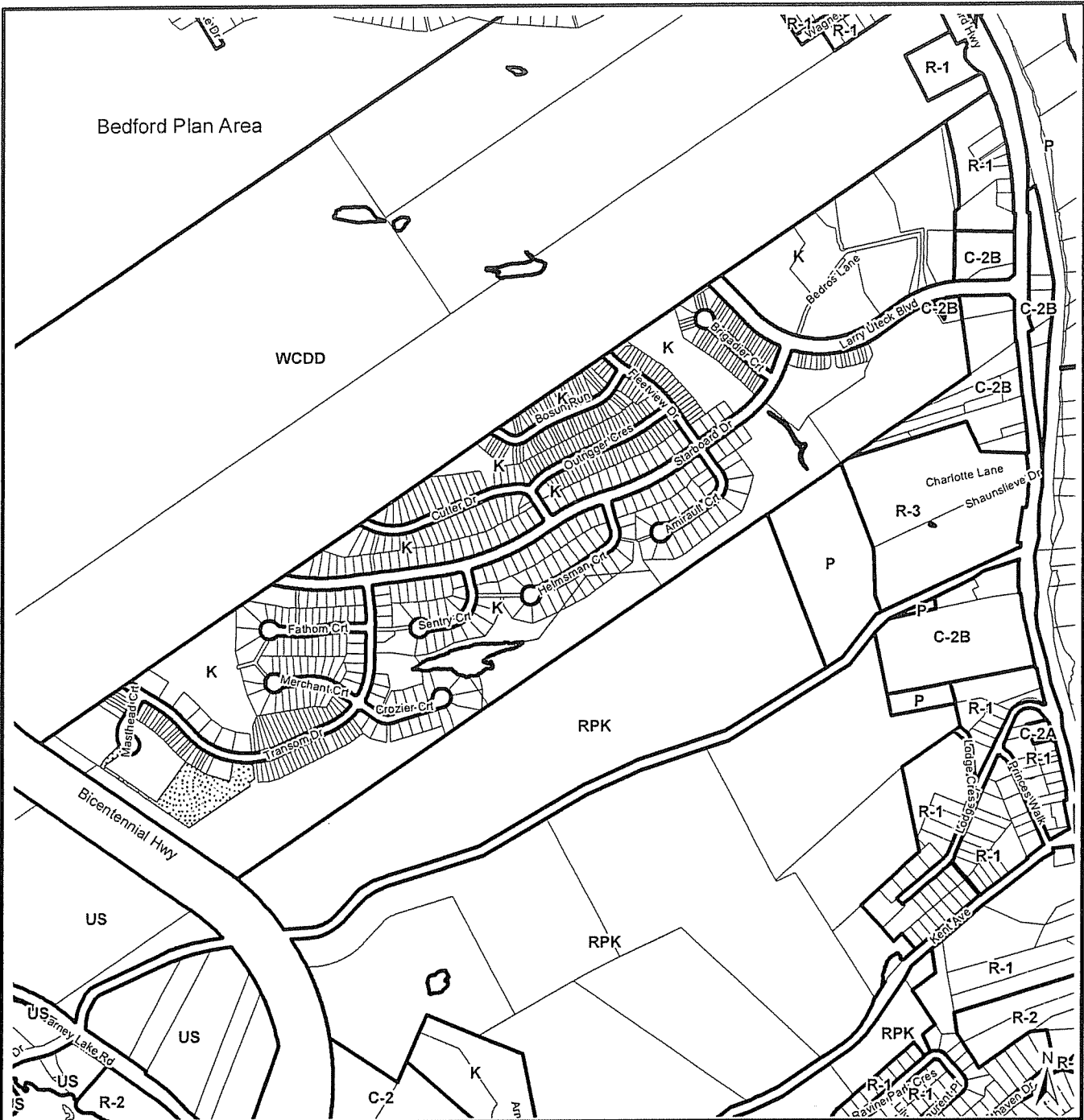
Map 1	Location and Zoning
Attachment "A"	Amending Stage II Development Agreement
Attachment "B"	Extract from 2003 Stage II Amending Agreement

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 of Planning Services, 490-6717



Map 1 - Location and Zoning

Royale Hemlocks
Subdivision
Halifax

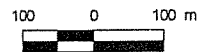
 Subject area

Halifax Mainland
Land Use By-Law Area

Zone

- R-1 Single Family Dwelling
- R-2 Two-Family Dwelling
- R-3 Gen. Residential & Low-Rise Apt.
- C-2 General Business
- C-2A Minor Commercial
- C-2B Highway Commercial
- P Park and Institutional
- K Schedule K
- WCCD Wentworth Comprehensive Dev. District
- US Urban Settlement
- RPK Regional Park

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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

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

Attachment "A"
Amending Stage II Development Agreement

THIS AMENDING AGREEMENT made this day of , 2008

BETWEEN:

KIMBERLY-LLOYD DEVELOPMENTS 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 on the west side of the Bedford Highway, immediately to the north of Hemlock Ravine Park in Mainland Halifax (PID # 41235136) and which said lands are more particularly described in Schedule "A" hereto (hereinafter called the "Lands");

AND WHEREAS the Chebucto Community Council of the Municipality previously approved an application by Bedford Basin Estates Limited and The Armoian Group Limited to enter into a Stage I development agreement (Municipal Case No. 7620) for the conceptual subdivision and development of the Royale Hemlock Subdivision, which said agreement was entered into on November 17, 1998, and then registered at the Registry of Deeds in Halifax on November 20, 1998 as Document No. 37344, Book No. 6308, Pages 596 to 618 (hereinafter called the "Existing Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously amended the Existing Stage I Agreement by entering into an amending agreement with the Developer on August 13, 2003 (Municipal Case No. 00454), which said agreement was registered at the Registry of Deeds in Halifax on August 15, 2003 as Document No. 35309, Book No. 7446, Pages 903 to 909 (hereinafter called the "First Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously amended the Existing Stage I Agreement by entering into an amending agreement with the

Developer on October 25, 2003 (Municipal Case No. 00454 Supplemental), which said agreement was registered at the Registry of Deeds in Halifax on October 29, 2003 as Document No. 47969, Book No. 7518, Pages 1159 to 1164 (hereinafter called the "Second Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously amended the Existing Stage I Agreement by entering into an amending agreement with the Developer on February 9, 2004 (Municipal Case No. 00606), which said agreement was registered at the Registry of Deeds in Halifax on February 16, 2004 as Document No. 6336, Book No. 7612, Pages 969 to 984 (hereinafter called the "Third Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously amended the Existing Stage I Agreement by entering into an amending agreement with the Developer and Primo Properties Limited on _____, 2008 (Municipal Case No. 01013), which said agreement was registered at the Registry of Deeds in Halifax on _____ 2008, as Document No. _____ (hereinafter called the "Fourth Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously entered into a Stage II development agreement with the Developer on May 2, 2001 (Municipal Case No. 00262) for Phases 1B, 3, 4, 5, 6, 7, 8 and 9 of the Royale Hemlock Subdivision, which said agreement was registered at the Registry of Deeds in Halifax on May 7, 2001 as Document No. 14534, Book No. 6751, Pages 1030 to 1059 (hereinafter called the "Existing Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously amended the Existing Stage II Agreement by entering into an amending agreement with the Developer on May 6, 2002 (Municipal Case No. 00402), which said agreement was registered at the Registry of Deeds in Halifax on May 29, 2002 as Document No. 21066, Book No. 7050, Pages 132 to 139 (hereinafter called the "First Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously amended the Existing Stage II Agreement by entering into an amending agreement with the Developer on August 13, 2003 (Municipal Case No. 00454), which said agreement was registered at the Registry of Deeds in Halifax on August 13, 2003 as Document No. 35311, Book No. 7446, Pages 915 to 928 (hereinafter called the "Second Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously amended the Existing Stage II Agreement by entering into an amending agreement with the Developer on August 15, 2005 (Municipal Case No. 00761), which said agreement was registered at the Registry of Deeds in Halifax on September 1, 2005 as Document No. 82892556 (hereinafter called the "Third Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality previously amended the Existing Stage II Agreement by entering into an amending agreement with the

Developer and Primo Properties Limited on _____ (Municipal Case No. 01013), which said agreement was registered at the Registry of Deeds in Halifax on _____ as Document No. _____ (hereinafter called the "Fourth Amending Stage II Agreement");

AND WHEREAS the Developer wishes to further amend the Existing Stage II Agreement for Phases 1B and 3 to 9 (as amended), pursuant to the provisions of the Municipal Government Act, to allow for subdivision approval of parcels that would be able of accommodating the last 48 dwelling units of the development prior to the construction of the Wentworth/Bedford South interchange on the Bicentennial Highway (hereinafter called the "Fifth Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved this request at a meeting held on the ___ day of _____, 2008, referenced as Municipal Case Number 00965;

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

1. The Existing Stage II Agreement is amended by deleting clause 5.10.
2. All other terms and conditions of the Existing Stage II Agreement, the First Amending Stage II Agreement, the Second Amending Stage II Agreement, the Third Amending Stage II Agreement and the Fourth Amending Stage II Agreement shall remain in full force and effect.
3. This Fifth Amending Stage II 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., 2008.

SIGNED, SEALED AND DELIVERED)

in the presence of)

_____)

KIMBERLY-LLOYD
DEVELOPMENTS LIMITED

) Per: _____

SEALED, DELIVERED AND)

ATTESTED to by the proper)
signing officers of Halifax Regional)
Municipality duly authorized)
in that behalf in the presence)
of)

_____)

HALIFAX REGIONAL MUNICIPALITY

) Per: _____

MAYOR

) Per: _____

MUNICIPAL CLERK

Attachment "B"
Extract from 2003 Stage II Amending Agreement

clause 5.10

The Developer shall not seek subdivision approval of parcels that would be capable of accommodating the last 48 dwelling units of the development until construction of the Wentworth/Bedford South interchange on the Bicentennial Highway. The Developer may request that Community Council seek a change to this provision and other municipal planning strategy policies to enable the additional dwelling units provided that a traffic study has concluded that the level of service for any road within the Royale Hemlocks development or connecting to the abutting road network does conform with the performance criteria established under the Municipality's Guidelines for Preparation of Traffic Impact Studies. The Developer shall provide the analysis, prepared by a qualified consultant, needed to make such a determination.

