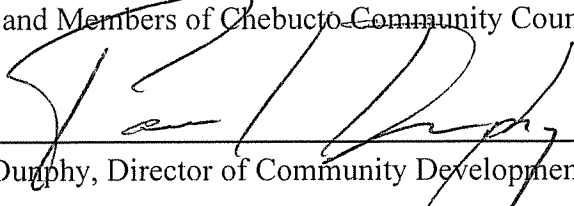




PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
May 5, 2008

TO: Chair and Members of Chebucto Community Council

SUBMITTED BY: 
Paul Murphy, Director of Community Development

DATE: April 14, 2008

SUBJECT: **Case 01131: Extension to Stage I and Stage II Development Agreement Time Frames, Dunbrack Street, Halifax**

ORIGIN

Request by Harvey and MacKenzie Architects Limited, on behalf of the Roman Catholic Episcopal Corporation of Halifax, for an extension to the existing Stage I and Stage II development agreements to allow for the construction of a church on Dunbrack Street, Halifax (PID 40516445).

RECOMMENDATION

It is recommended that Chebucto Community Council:

1. By resolution amend Section 9 of the existing Stage I Development Agreement to extend the time limit for the completion of the agreement until May 5, 2010 (a public hearing is not required);
2. Approve the Amending Stage I Agreement as shown in Attachment "A" of this report;
3. *Following the coming into effect of the Amending Stage I Agreement*, by resolution amend Section 11 of the existing Stage II Development Agreement to extend the time limit for the completion of the agreement until May 5, 2010 (a public hearing is not required). Staff will bring this matter back to Community Council for a decision at the appropriate time;
4. Approve the Amending Stage II Agreement as shown in Attachment "B" of this report; and
5. Require that the Amending Agreements be signed within 120 days or any extension thereof granted by Council on request of the applicant from the date of the motion approved by Council and any other bodies as necessary whichever approval is later, otherwise, this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The subject property, Block K, Dunbrack Street (PID 40516445) is a vacant parcel of land located at the northwest corner of Dunbrack Street and Radcliffe Drive in Halifax (see Map 1). The site is included in the Stage I and Stage II development agreements for Clayton Park West, Phase I. The Stage I Development Agreement required completion of Phase I by 1997. The Stage II Development Agreement required completion by 1991. The Stage II Development Agreement designates this parcel of land for church use, subject to the requirements of the P (Park and Institutional) Zone of the Halifax Mainland Land Use By-law.

The applicant is requesting an extension to the existing Stage I and Stage II agreements to allow for the construction of Saint Benedict Parish church.

DISCUSSION

Development agreements contain an expiry date so that projects which have been approved but not constructed can be brought to a conclusion within a reasonable time frame. 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.

Staff have revised the clauses in the existing agreements which relate to the time limit for completion (Section 9, Stage I agreement, and Section 11, Stage II agreement) to require physical commencement of construction, including site excavation and the placement of the footings and foundation, by May 5, 2010 (refer to Attachments "A" and "B").

A decision to extend the time-frame does not require a public hearing. Staff has no objection to granting the requested time extension.

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, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

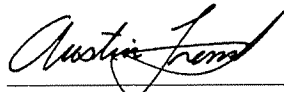
1. Council may approve the amending development agreements (Attachments "A" and "B"). This is the recommended course of action.
2. Council may choose to approve the amending development agreements with modifications which are acceptable to the applicant. Such modifications may require further negotiations with the applicant and/or revisions to the attached amending agreement.
2. Council may refuse the extension, in which case the property could no longer be developed without approval of a new development agreement. This alternative is not recommended by staff.

ATTACHMENTS

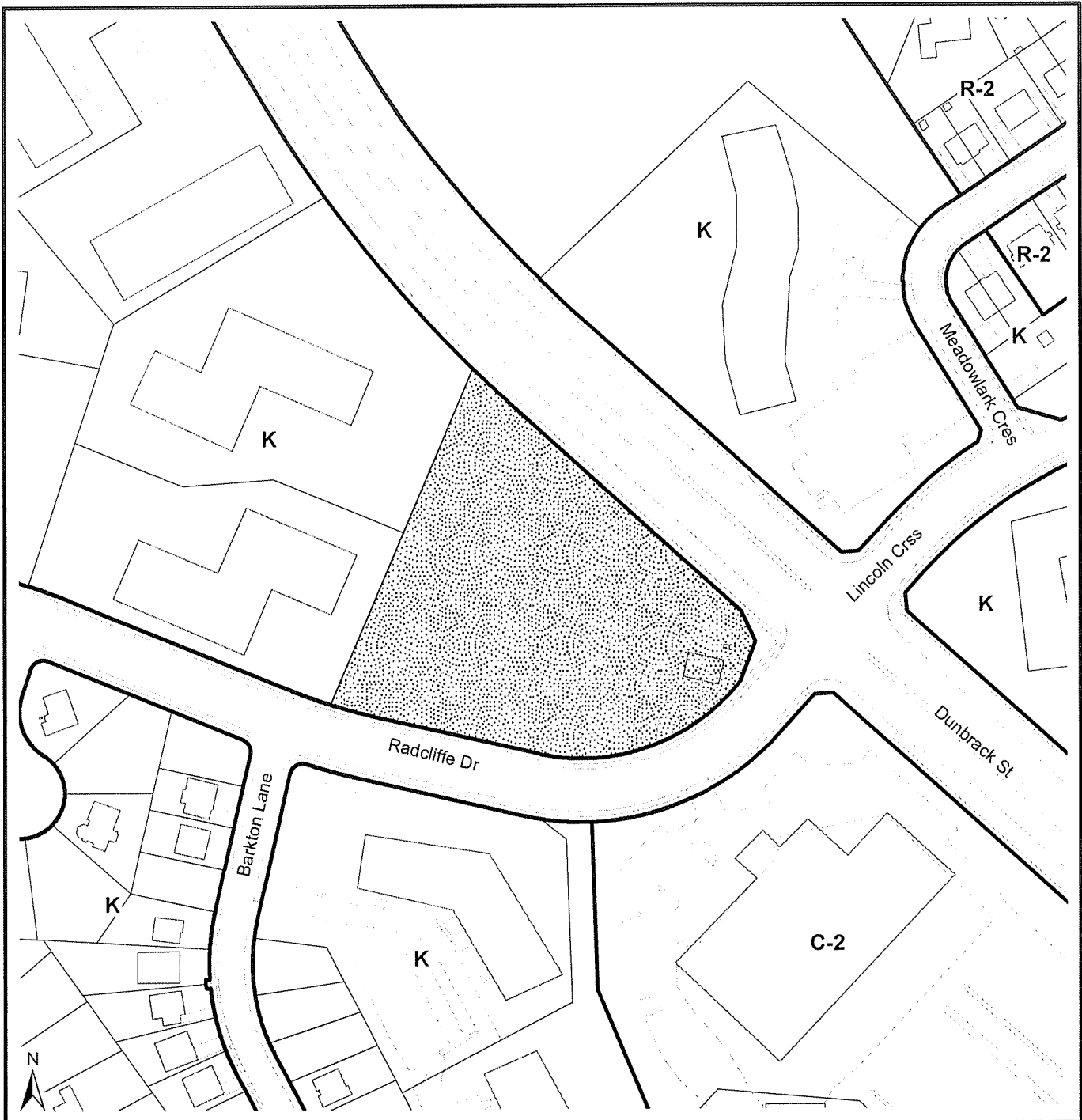
| | |
|--------------|---|
| Map I | Zoning and Location |
| Attachment A | Amending Stage I Development Agreement |
| Attachment B | Amending Stage II Development Agreement |
| Attachment C | Excerpts from Existing Stage I Development Agreement |
| Attachment D | Excerpts from Existing Stage II Development 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 : Patricia Hughes, Planner I, 490-1948

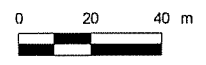



Report Approved by: Austin French, Manager of Planning Services, 490-6717



Map 1 - Location and Zoning

Dunbrack Street
at Radcliffe Drive
Halifax



 Subject area

Zone

Halifax Mainland
Land Use By-Law Area

R-2 Two Family Dwelling
K Schedule K

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 , 2008
BETWEEN:

ROMAN CATHOLIC EPISCOPAL CORPORATION,
of Halifax, 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 certain lands located at the corner of Dunbrack Street and Radcliffe Drive, Block "K", Dunbrack Street, and which said lands are more particularly described in Schedule "A" to this Agreement (herein after called the "Lands");

AND WHEREAS the Council of the City of Halifax granted approval of a Stage I Development Agreement pertaining to preliminary subdivision and development of the Lands on April 20, 1988 as Municipal Case Number 5006 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 64849 in Book No. 4658 at Pages 760 (hereinafter called the (Stage I Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of a Stage II Development Agreement to allow Phase I of a primarily residential development on the Lands on April 20, 1988 as Municipal Case Number 5006 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 64850 in Book No. 4658 Page 772 (hereinafter called the "Stage II Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of an amendment to the Stage II Agreement to allow an apartment building on Block "A" of the Lands on September 6, 1989 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 58850 in Book No. 4831 Page 335 (hereinafter called the "Amended Stage II Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of an second amendment to the Stage II Agreement to allow minimum side yards of four feet for single

detached dwellings on the Lands on October 18, 1989 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 27629 in Book No. 5099 Page 1065 (hereinafter called the "Second Amended Stage II Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of a third amendment to the Stage II Agreement to allow two four storey apartment buildings at Parcel "C" of the Lands on July 25, 1991 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 40434 in Book No. 5138 Page 845 (hereinafter called the "Third Amended Stage II Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of a fourth amendment to the Stage II Agreement to allow two four storey apartment buildings at Parcel "E" of the Lands on June 17, 1993 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 40434 in Book No. 5433 Page 238 (hereinafter called the "Fourth Amended Stage II Agreement");

AND WHEREAS the Developer has requested an amendment to the Stage I Agreement to allow for the construction of a church by extending the time limit for completion as set out in Clause 9 of the Stage I Agreement;

AND WHEREAS the Chebucto Community Council of Halifax Regional Municipality, at its meeting on the day of 2008, approved the requested amendment (referenced as Municipal Case Number 01131);

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:

Clause 9 of the Stage I Agreement is replaced with the following:

9. **Phase I (the lands described in Schedule "A") of the development shall be completed (completion is defined as fulfilling the terms of the entire agreement) within nine (9) years from the date of final approval by Halifax City Council or any other bodies as necessary, whichever approval is later, including any applicable appeal periods, with the exception of Block K, PID 40516445, lands designated for a church, in which case construction shall be commenced by May 5, 2010. In the event that construction of the church has not commenced by May 5, 2010, 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 building, site excavation and the placement of the footing and foundation. If the development has not been**

completed, and/or the construction of the church 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 in 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: _____

**ROMAN CATHOLIC EPISCOPAL
CORPORATION OF HALIFAX**

per: _____
=====

HALIFAX REGIONAL MUNICIPALITY

per: _____
MAYOR

per: _____
CLERK

Attachment B

THIS AMENDING AGREEMENT made this day of , 2008
BETWEEN:

ROMAN CATHOLIC EPISCOPAL CORPORATION,
of Halifax, 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 certain lands located at the corner of Dunbrack Street and Radcliffe Drive, Block "K", Dunbrack Street, and which said lands are more particularly described in Schedule "A" to this Agreement (herein after called the "Lands");

AND WHEREAS the Council of the City of Halifax granted approval of a Stage I Development Agreement pertaining to preliminary subdivision and development of the Lands on April 20, 1988 as Municipal Case Number 5006 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 64849 in Book No. 4658 at Pages 760 (hereinafter called the (Stage I Agreement));

AND WHEREAS the Council of the City of Halifax granted approval of a Stage II Development Agreement to allow Phase I of a primarily residential development on the Lands on April 20, 1988 as Municipal Case Number 5006 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 64850 in Book No. 4658 Page 772 (hereinafter called the "Stage II Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of an amendment to the Stage II Agreement to allow an apartment building on Block "A" of the Lands on September 6, 1989 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 58850 in Book No. 4831 Page 335 (hereinafter called the "Amended Stage II Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of a second amendment to the Stage II Agreement to allow minimum side yards of four feet for single detached dwellings on the Lands on October 18, 1989 which said agreement is recorded at the

Registry of Deeds at Halifax as Document Number 27629 in Book No. 5099 Page 1065 (hereinafter called the "Second Amended Stage II Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of an third amendment to the Stage II Agreement to allow two four storey apartment buildings at Parcel "C" of the Lands on July 25, 1991 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 40434 in Book No. 5138 Page 845 (hereinafter called the "Third Amended Stage II Agreement");

AND WHEREAS the Council of the City of Halifax granted approval of an fourth amendment to the Stage II Agreement to allow two four storey apartment buildings at Parcel "E" of the Lands on June 17, 1993 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 40434 in Book No. 5433 Page 238 (hereinafter called the "Fourth Amended Stage II Agreement");

AND WHEREAS the Developer has requested a further amendment to the Stage II Agreement to allow for the construction of a church by extending the time limit for completion as set out in Clause 11 of the Stage II Agreement;

AND WHEREAS the Chebucto Community Council of Halifax Regional Municipality, at its meeting on the day of 2008, approved the requested amendment (referenced as Municipal Case Number 01131);

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:

Clause 11 of the Stage II Agreement is replaced with the following:

11. **Phase A of the development shall be completed (completion is defined as fulfilling the terms of the entire agreement) within three (3) years from the date of final approval by Halifax City Council or any other bodies as necessary, whichever approval is later, including any applicable appeal periods, with the exception of Block K, PID 40516445, lands designated for a church, in which case construction shall be commenced by May 5, 2010. In the event that construction of the church has not commenced by May 5, 2010, 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 building, site excavation and the placement of the footing and foundation. If the development has not been completed, and/or the construction of the church 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 in 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: _____

**ROMAN CATHOLIC EPISCOPAL
CORPORATION OF HALIFAX**

per: _____
=====

HALIFAX REGIONAL MUNICIPALITY

per: _____
MAYOR

per: _____
CLERK

**Attachment C
Excerpts from Stage I Development Agreement**

9. Phase I (the lands described in Schedule “A”) of the development shall be completed (completion is defined as fulfilling the terms of the entire agreement) within nine (9) years from the date of final approval by Halifax City Council or any other bodies as necessary, whichever approval is later, including any applicable appeal periods. If the development has not been completed by the applicable time, the City may terminate this Agreement unless specifically extended, upon request of the applicant, by resolution of City Council, and all rights and obligations arising hereunder shall be at end.

**Attachment D
Excerpts from Stage II Development Agreement (as amended)**

5. (f) The church use on Parcel K shall meet the requirements of the Land Use Bylaw, Mainland Area, Park and Institutional (P) Zone.

11. Phase A of the development shall be completed (completion is defined as fulfilling the terms of the entire agreement) within three (3) years from the date of final approval by Halifax City Council or any other bodies as necessary, whichever approval is later, including any applicable appeal periods. If the development has not been completed by the applicable time, the City may terminate this Agreement unless specifically extended, upon request of the applicant, by resolution of City Council, and all rights and obligations arising hereunder shall be at an end.