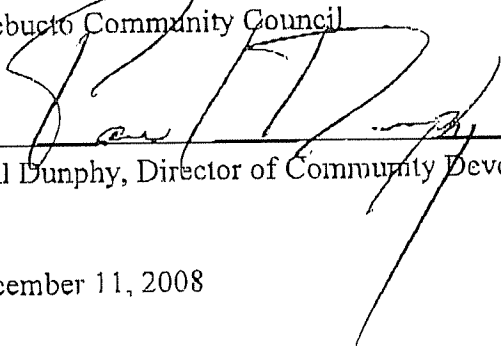




PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
January 5, 2009

TO: Chebucto Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: December 11, 2008

SUBJECT: **Case 01219: Amendment to Stage II Development Agreement -
Solutions Drive, Halifax**

ORIGIN

Application by Mythos Developments Limited and Ardmore Hall Limited.

RECOMMENDATION

It is recommended that Chebucto Community Council:

1. Approve the First Amending Stage II Agreement for Clayton Park West, Phase 4J, presented as Attachment A to this report, to allow for a transfer of density from 137 Solutions Drive (Lot SD-02) to 150 Solutions Drive (Lot GP-02), Halifax;
2. Require that the 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

In 1999, a Stage I development agreement (Case #00122) was approved by Chebucto Community Council for mixed commercial / residential development on lands on both sides of Lacewood Drive to the east of the Bicentennial Highway interchange.

This Stage I agreement has been amended several times. In 2001, additional land was added for multiple unit dwelling and park uses (Case #00358), and a licensed lounge was permitted in conjunction with the Swiss Chalet restaurant (Case #00337).

In 2002, the Stage I agreement was once again amended to add additional lands for residential multiple use buildings (Case #00399). Schedule C-2 of this most recent Stage I agreement allocates 760 residential units for Parcels H-1 and H-2 on Solutions Drive and Greenpark Close.

The Stage II development agreement was approved in 2002 (Case #00424). By this time, Parcels H-1 and H-2 had been divided into Lots SD-01 to SD-03 and Lots GP-01 to GP-06. Schedule E of the Stage II agreement specifically divides the 760 residential units (and the resulting theoretical population of 1710 people) among these nine lots.

Zoning and Enabling Policy

The subject lands are zoned Schedule K under the Land Use Bylaw for Mainland Halifax. Development under Schedule K requires a two stage approval by Council. The first stage involves Council approval of a Stage I concept plan and development agreement, and a public hearing is required. Stage II 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

An application to amend Schedule E of the Stage II development agreement for Lots SD-02 and GP-02 has been submitted by the property owners to allow for a transfer of density from Lot SD-02 (137 Solutions Drive) to Lot GP-02 (150 Solutions Drive) (see Map 1).

The applicant would like to increase the number of residential units on Lot GP-02, as it has better buffering from the Bicentennial Highway than Lot SD-02. Currently, a 99-unit residential building with five storeys of residential units is under construction on Lot GP-02. The density transfer would allow for a 19-unit sixth storey to be added to this building, bringing the total to 120 units on Lot GP-02. The design intent of the building will remain the same.

As a result of the density transfer, development on Lot SD-02 will be limited to a 58-unit residential building, accounting for 130 theoretical people.

Both the existing Stage I and Stage II development agreements allow for a 20% increase in the number of residential units on Lots SD-01 to SD-03 and Lots GP-01 to GP-06, as long as the theoretical population does not exceed 1710 people. This optional increase has been used (to various extents, ranging from 10% to 20%) on all of the apartment buildings currently existing or under construction.

The proposed amendment takes this into account, and ensures the total theoretical population will not exceed 1710 people. Furthermore, no density would be transferred away from the two remaining undeveloped properties owned by others (Lots GP-01 and GP-04). The applicant is only re-balancing the density originally allocated to those properties which have been developed or are owned by their companies (Lots SD-01, SD-02, SD-03 and GP-02).

Staff advises that the proposed amendments to the existing Stage II development agreement are consistent with the approved Stage I development agreement for Clayton Park West, Phase 4J. The proposed amendment does not seek to change the total number of units or theoretical population listed in either agreement. As such, it is recommended that Chebucto Community Council approve the proposed amendments to the existing Stage II agreement.

BUDGET IMPLICATIONS

There are no budget implications. The developers 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. Approve the attached First Amending Stage II Agreement.
2. Council may choose to propose modifications to the First Amending Stage II Agreement. Such modifications may require further negotiations with the developers.
3. Council may refuse to enter into the First Amending Stage II Agreement. In accordance with the Schedule K requirements of the Land Use Bylaw for Halifax Mainland, Community Council would be required to "notify the applicant of the objectionable features of the final plan".

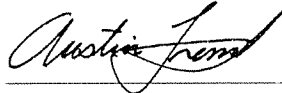
ATTACHMENTS

Map 1 Location and Zoning
Attachment A First Amending Stage II Agreement

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.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 Mackenzie Stonehocker, Planner I, 490-1948

Report Approved by:



Austin French, Manager, Planning Services, 490-6717

Attachment A

THIS AMENDING AGREEMENT made this _____ day of _____, 2009,

BETWEEN:

MYTHOS DEVELOPMENTS LIMITED,
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

ARDMORE HALL LIMITED,
a body corporate, in the Province of Nova Scotia
(hereinafter called 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 Halifax Regional Municipality previously entered into a Stage I development agreement with Clayton Developments Limited and the Shaw Group Limited for a mixed commercial / residential development on February 23, 2000 (Municipal Case No. 00122), which said agreement is recorded at the Registry of Deeds at Halifax in Book 6525 at Pages 538 to 551 (hereinafter called the "Existing Stage I Agreement");

AND WHEREAS Halifax Regional Municipality previously entered into an amending Stage I development agreement with Clayton Developments Limited and the Shaw Group Limited for multiple unit dwelling and park uses on May 28, 2001 (Municipal Case No. 00358), which said agreement is recorded at the Registry of Deeds at Halifax in Book 6765 at Pages 763 to 774 (hereinafter called the "First Amending Stage I Agreement");

AND WHEREAS Halifax Regional Municipality previously entered into an amending Stage I development agreement with Pacrim Developments Incorporated for a licensed lounge in conjunction with an existing restaurant Lot BC-5 on November 7, 2001 (Municipal Case No. 00337), which said agreement is recorded at the Registry of Deeds at Halifax in Book 6908 at Pages 955 to 957 (hereinafter called the "Second Amending Stage I Agreement");

AND WHEREAS Halifax Regional Municipality previously entered into an amending Stage I development agreement with Clayton Developments Limited and the Shaw Group Limited to allow for residential multiple use buildings on Parcels BC-9B, BC-9C, H-1 and H-2 on March 22, 2002 (Municipal Case No. 00399), which said agreement is recorded at the Registry of Deeds at Halifax in Book 6999 at Pages 1222 to 1232 (hereinafter called the "Third Amending Stage I Agreement");

AND WHEREAS Halifax Regional Municipality previously entered into a Stage II development agreement with Clayton Developments Limited and the Shaw Group Limited for multiple unit residential buildings on March 22, 2002 (Municipal Case No. 00424), which said agreement is recorded at the Registry of Deeds at Halifax in Book 7010 at Pages 1092 to 1109 (hereinafter called the "Existing Stage II Agreement");

AND WHEREAS the Developer is now the registered owner of certain lands located at 137 Solutions Drive (Lot SD-02, PID 41119843) and 150 Solutions Drive (Lot GP-02; PID 41071952), Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer wishes to further amend the Stage II development agreement to allow for a transfer of density from 137 Solutions Drive (Lot SD-02) to 150 Solutions Drive (Lot GP-02), Halifax (hereinafter called the "First Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of Halifax Regional Municipality approved this request at a meeting held on _____, 2009, referenced as Municipal Case No. 01219;

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 shall be amended by replacing the existing Schedule E with a revised Schedule E1, as attached to this First Amending Stage II Agreement.
2. All other terms and conditions of the Existing Stage I Agreement and the First Amending Stage I Agreement, the Second Amending Stage I Agreement, the Third Amending Stage I Agreement and the Existing Stage II Agreement shall remain in full force and effect.
3. This First 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 Amending Agreement, made in quadruplicate, was properly executed by the respective Parties on this _____ day of _____, 2009.

SIGNED, SEALED AND DELIVERED) **MYTHOS DEVELOPMENTS**
in the presence of) **LIMITED**
)
per _____) per: _____
)

per _____) per: _____
)

SIGNED, SEALED AND DELIVERED) **ARDMORE HALL LIMITED**
in the presence of)
)
per _____) per: _____
)

per _____) per: _____
)

SEALED, DELIVERED AND)
ATTESTED to by the proper)
signing officers of Halifax Regional)
Municipality duly authorized)
in that behalf in the presence) **HALIFAX REGIONAL MUNICIPALITY**
)

per _____) per: _____
) **MAYOR**
)

per _____) per: _____
) **MUNICIPAL CLERK**
)

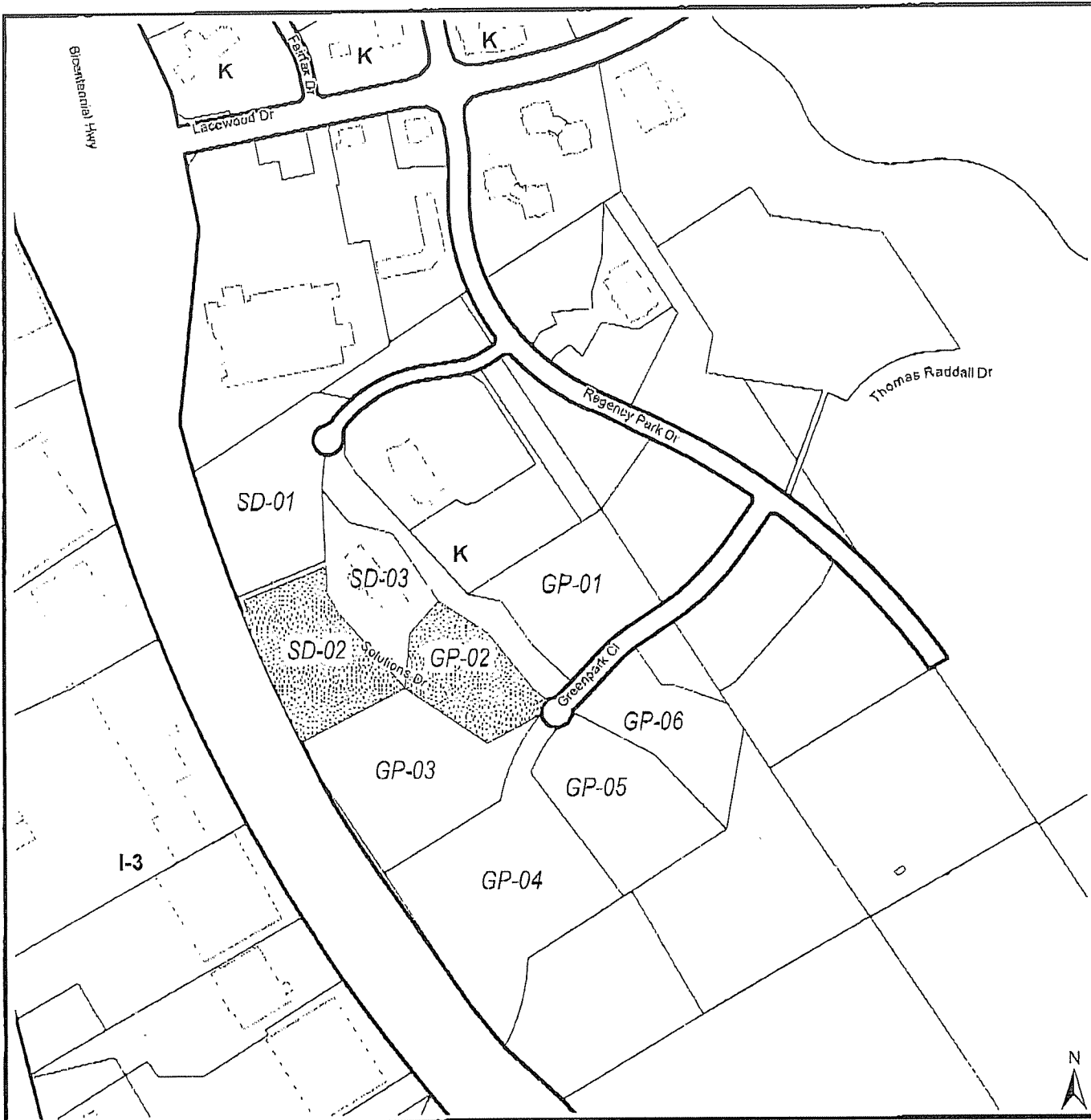
Schedule E1

Land Use and Development Chart - Phase 4J					
Parcel	Land Use	Approx. Acreage	Units (#)	People (#)	Comments
Total number of units and people permitted:			760	1710	
<i>Buildings constructed as of December 2008</i>					
SD-01	Multi-unit residential	5	96	206.75	Up to 12 stories
SD-03	Multi-unit residential	2.7	91	198	Up to 12 stories
GP-03	Multi-unit residential	6.2	94	185	Up to 12 stories
GP-05	Multi-unit residential	5.2	102	196.5	Up to 12 stories
GP-06	Multi-unit residential	3.7	90	183.75	Up to 12 stories
<i>Parcels amended as of December 2008</i>					
SD-02	Multi-unit residential	4.5	58	130	Up to 12 stories
GP-02	Multi-unit residential	3.8	120	210	Up to 12 stories
Total number of people accounted for:				1310	
Remaining number of people permitted: (To be split between GP-01 and GP-04.)				400	
<i>Vacant parcels as of December 2008</i>					
GP-01	Multi-unit residential <i>Alternative: Seniors</i>	4.3	86 <i>Alternative: 140</i>	194 <i>Alternative: 180</i>	Up to 12 stories
GP-04	Multi-unit residential	7.9	84	189	Up to 12 stories
<i>Non-residential parcels</i>					
GPC-01	ROW	1			Greenpark
SOL-01	ROW	0.2			Solutions
A-C	Park	0.9			Ravine
A-D	Park	2.5			Pond Area
Balance	Open space	17.2			Lands south

Note: For Lots GP-01 and GP-06, the actual number of units for each parcel may vary (increase) by a maximum of 20%, provided the total number of projected people on all parcels will not exceed 1710

For the remaining parcels, this variation either has already been used (Lots SD-01, SD-03, GP-03, GP-05 and GP-06) or has been accounted for in this amendment (Lots SD-02 and GP-02)

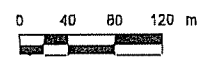
The population (projected people) for the entire CPW project was an average of 27 ppa (gross acreage) and is the controlling factor for densities. Plus the additional density and development rights negotiated to offset cost sharing and purchased from HRM as outlined in Schedule L.




Map 1 - Location and Zoning

Solutions Drive
Halifax

HALIFAX
REGIONAL, MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



 Subject area

Zone

Halifax Mainland
Land Use By-Law Area

- I-3 General Industrial
- 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.