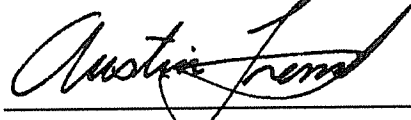




PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Chebucto Community Council**  
**December 7, 2009**

**TO:** Chair and Members of Chebucto Community Council

**SUBMITTED BY:**   
Austin French, Acting Director of Community Development

**DATE:** October 26, 2009

**SUBJECT:** **Case 01321: Non-Substantive DA Amendment – 137 Solutions Drive**

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**ORIGIN**

Application by Ardmore Hall Limited.

**RECOMMENDATION**

It is recommended that Chebucto Community Council:

1. Approve, by resolution, the second amending Stage II Agreement for Clayton Park West - Phase 4J, presented as Attachment A to this report, to allow for an increase in the number of units with no increase in density at 137 Solutions Drive (Lot SD-02; PID 41119843), Halifax;
2. Require the Agreement be signed and returned within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later, including any applicable appeal periods; otherwise this approval shall be void and any 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 and to the east of the Bicentennial Highway interchange.

The 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 multiple-unit residential buildings (Case #00399). Schedule C-2 of the most recent Stage I agreement allocates 760 residential units for Parcels H-1 and H-2 on Solutions Drive and Greenpark Close. The Stage I agreement also includes the option for a 20% increase in the number of units, as long as the number of people remains the same.

The original 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 original Stage II agreement divides a theoretical population of 1710 people among these nine lots.

Earlier this year, an amendment to the Stage II development agreement replaced Schedule E with a new Schedule E1 (Case #01219). Schedule E1 simply transferred density from Lot SD-02 to Lot GP-02, because of Lot SD-02's proximity to the Bicentennial Highway and Lot GP-02's improved buffering from the highway.

## **Zoning and Enabling Policy**

The subject property is 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 a public hearing and Council's approval of a Stage I concept plan and development agreement. The second stage requires more detailed plans and development agreements for individual phases of the development. Stage II development agreements must be consistent with the Stage I agreement and their approval by Council is by way of resolution only without a public hearing.

## **DISCUSSION**

The owner of 137 Solutions Drive (Lot SD-02) has submitted an application to amend Schedule E1 of the Stage II development agreement to allow for an increase in the number of dwelling units with no increase in density (see Map 1).

The current agreement provides for 58 units and 130 people on Lot SD-02. This works out to a multiple-unit residential building with almost all two-bedroom units (e.g. 58 two-bedroom units x 2.25 persons per two-bedroom unit = 130.5 people).

Based on feedback from their last project (150 Solutions Drive), the applicant believes that prospective tenants are interested in a variety of smaller units. However, if the building is designed with a combination of bachelor, one-bedroom and two-bedroom units, the numbers will reach 58 units before the density of 130 people is reached.

As such, the applicant is requesting an increase in the number of units permitted on Lot SD-02 without increasing the density (i.e. the number of people).

The requested amendment would permit 86 units and 130 people on Lot SD-02. The applicant is proposing 48 bachelor suites, 14 one-bedroom units and 24 two-bedroom units. This distribution may change at the permitting stage, as long as the building doesn't exceed 86 units or 130 people.

Both the existing Stage I and Stage II development agreements allow 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 on all of the apartment buildings currently existing or under construction.

A 20% increase on the 760 units permitted by the Stage I agreement works out to 912 units. The current amendment would increase the number of units from 821 to 849, which is still below the maximum permitted.

More importantly, the proposed amendment will not allow the total theoretical population to exceed 1710 people. Furthermore, no density would be transferred away from the remaining undeveloped properties (Lots GP-01 and GP-04).

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 will not change the theoretical population permitted by either agreement. As such, it is recommended that Chebucto Community Council approve the proposed amendments to the existing Stage II agreement.

### Legal review

Consistent with Chebucto Community Council's October 5, 2009 motion, the proposed amending agreement has been reviewed by HRM's Legal department and the content of the agreement has been approved.

## **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 choose to approve the attached Second Amending Stage II Agreement.
2. Council may choose to propose modifications to the Second Amending Stage II Agreement. Such modifications may require further negotiations with the developer.
3. Council may refuse to enter into the Second 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".

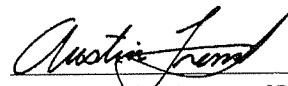
## **ATTACHMENTS**

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

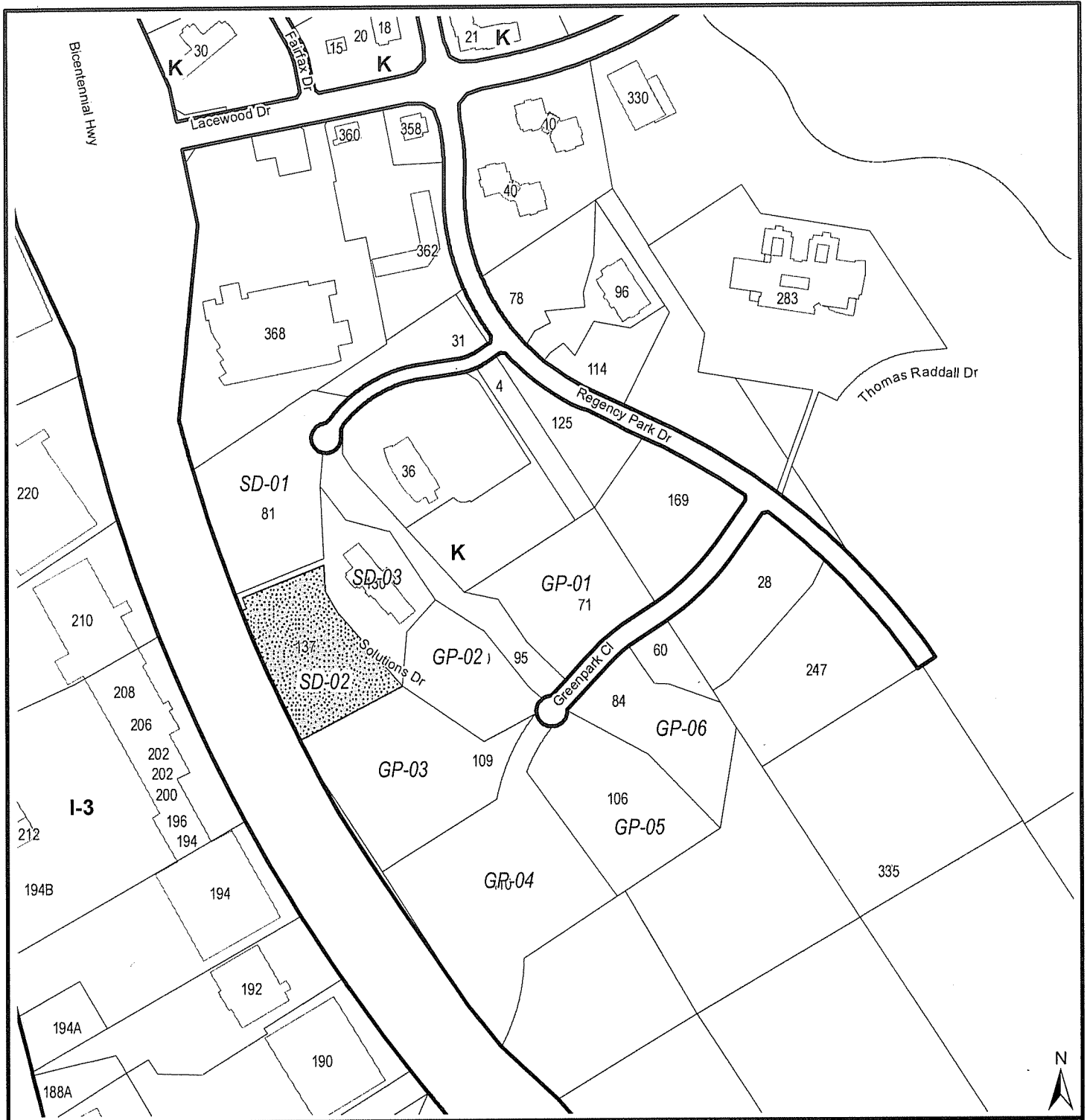
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Mackenzie Stonehocker, Planner I, 490-4793

Report Approved by:




Austin French, Manager of Planning Services, 490-6717



**Map 1 - Location and Zoning**

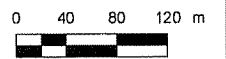
137 Solutions Drive  
Halifax

 Subject area (Lot SD-02)

Halifax Mainland  
Land Use By-Law Area

**Zone**

- 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

**Attachment A:  
Second Amending Stage II Agreement**

THIS AMENDING AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2009,

BETWEEN:

**ARDMORE HALL 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 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 Halifax Regional Municipality previously entered into an amending Stage II development agreement with Mythos Developments Limited and Ardmore Hall Limited to allow for a transfer of density from 137 Solutions Drive (Lot SD-02) to 150 Solutions Drive (Lot GP-02), Halifax on May 6, 2009 (Municipal Case No. 01219), which said agreement is recorded at the Land Registry Office in Halifax as Document #93686153 (hereinafter called the "First Amending 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), 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 an increase in the number of dwelling units with no increase in density at 137 Solutions Drive (Lot SD-02), Halifax (hereinafter called the "Second 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. 01321;

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, as previously amended by the First Amending Stage II Agreement, shall be further amended by replacing the existing Schedule E1 with a new Schedule E2, as attached to this Second Amending Stage II Agreement.
2. All other terms and conditions of the Existing Stage I Agreement, the First Amending Stage I Agreement, the Second Amending Stage I Agreement, the Third Amending Stage I Agreement, the Existing Stage II Agreement, and the First Amending Stage II Agreement shall remain in full force and effect.
3. This Second 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 triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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 E2

<b>Land Use and Development Chart - Phase 4J</b>					
<b>Parcel</b>	<b>Land Use</b>	<b>Approx. Acreage</b>	<b>Units (#)</b>	<b>People (#)</b>	<b>Comments</b>
<b>Total number of units and people permitted:</b>			<b>760</b>	<b>1710</b>	
<i>Buildings constructed as of October 2009</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-02	Multi-unit residential	3.8	120	210	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 October 2009</i>					
SD-02	Multi-unit residential	4.5	86	130	Up to 12 stories
<b>Total number of people accounted for:</b>				<b>1310</b>	
<b>Remaining number of people permitted:</b> (To be split between GP-01 and GP-04.)				<b>400</b>	
<i>Vacant parcels as of October 2009</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-04, 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 was accounted for in previous amendments (see Schedule E1 of Case 01219 for 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.