

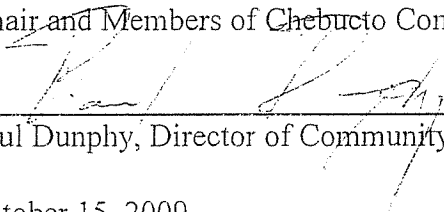


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

North West Planning Advisory Committee - November 4, 2009
Chebucto Community Council - December 7, 2009

TO: Chair and Members of North West Planning Advisory Committee
Chair and Members of Chebucto Community Council

SUBMITTED BY:


Paul Dunphy, Director of Community Development

DATE: October 15, 2009

SUBJECT: Cases 01343: Bedford South Non-substantive amendments,
Neighbourhood B

ORIGIN

An application by Clayton Developments Limited to amend the development agreement for Neighbourhood B of Bedford South.

RECOMMENDATION

It is recommended that North West Planning Advisory Committee recommend that North West Community Council:

1. Approve, by resolution, the proposed amending agreement as set out in Attachment A of this report, to permit the issuance of Development and Building permits for the remaining multiple unit dwellings within Clayton Developments' lands in Neighbourhood B prior to the interchange at Highway 102 and Larry Uteck Boulevard being connected to Larry Uteck Boulevard and open to vehicular traffic; and
2. Require the agreement be signed 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, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

It is recommended that Chebucto Community Council:

1. Approve, by resolution, the proposed amending agreement as set out in Attachment A of this report, to permit the issuance of Development and Building permits for the remaining multiple unit dwellings within Clayton Developments' lands in Neighbourhood B prior to the interchange at Highway 102 and Larry Uteck Boulevard being connected to Larry Uteck Boulevard and open to vehicular traffic; and
2. Require the agreement be signed 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, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

In 2002, policy relating to a new master plan area was added to the Bedford Municipal Planning Strategy. This area is known as Bedford South/Wentworth (Map 2) and encompasses approximately 625 acres (253 hectares) of land located between Highway 102, the Royale Hemlock, Oceanview, Millview and Fernleigh Subdivisions. Policy for this area limits the number of residential units that can be developed in order to protect the surrounding road network, specifically the Bedford Highway. Policy permits the removal of the restriction once a second major road access has been provided at Highway 102 and Larry Uteck Boulevard.

A portion of Neighbourhood B, previously exclusively owned by Clayton Developments Limited, is subject to an existing development agreement (Map 1 and 2). The existing agreement enables high density multi-unit dwellings along Larry Uteck Boulevard and a commercial area at the corner of Larry Uteck Boulevard and Southgate Drive. The agreement initially restricted residential development so that no residential units were permitted prior to the construction of the interchange at Highway 102 and Larry Uteck Boulevard and its connection to Larry Uteck Boulevard (Map 2)(Attachment B). The agreement was subsequently amended to permit the issuance of Development and Building Permits for 136 residential units prior to the completion of the interchange and its connection with Larry Uteck Boulevard (Attachment B).

The Clayton Developments' lands of Neighbourhood B (Case 00624, Case 01223, and Case 01226) are generally the subject of the proposed amendment. However, commercial lands (Lot UT-C and UT-D on Map 1) have been excluded as they are currently permitted to develop under the existing agreement and 136 units of residential development on Larry Uteck Boulevard has been excluded as development has been permitted under a previous amendment.

The Interchange

On December 17, 2008 the federal and provincial announcement was made which secured funding for the new interchange. The funding is part of the Provincial Territorial Base Funding Agreement which secures funding for infrastructure projects throughout the Province. The interchange is now under construction and is expected to be open by the fall of 2010.

The construction of the interchange is intended to provide for alternate access points for development in the Royale Hemlocks, Wentworth, Bedford South and Oceanview subdivisions. This interchange will allow traffic from these areas to use Highway 102 as an alternate means of access and will reduce the traffic load on the Bedford Highway.

The Proposal

Clayton Developments Limited has made an application for a non-substantive amendment to the development agreement to consider permitting the issuance of Development and Building Permits for residential development to prior to the opening of the interchange and its connection to Larry Uteck Boulevard. The proposed amendment is to only apply to residential lands still controlled by Clayton Developments (Map 1).

Non-substantive Amendments

The existing agreement permits the consideration of a non-substantive amendment to permit construction activity to begin prior to the completion of the interchange through Section 2.12 of the agreement (Attachment B). Non-substantive amendments do not require a public information meeting or a public hearing and Community Council may approve such amendments by resolution.

Council Jurisdiction

The proposed amendment is to a development agreement that straddles the boundary between two Community Councils; North West Community Council and Chebucto Community Council. As a result, the proposed amendment requires approval by both Community Councils to become active.

DISCUSSION

Staff have reviewed the proposed non-substantive amendment relative to the intent of the existing Agreement and Policy MS-7 as required. The following comments are offered:

Policy MS-7:

No development agreement shall be approved which would permit building permits to be granted for more than 2,000 housing units within the master plan area and the abutting Royale Hemlocks Subdivision unless:

- a) *the interchange has been constructed and connected to Larry Uteck Boulevard or the financing for the interchange and roads has been secured, a time frame for implementation agreed upon; and*

As a result of the announcement made on December 17, 2008 this provision has been met.

- b) *consideration is given to the transportation improvements recommended by the Prince's Lodge/ Bedford South Transportation Study or any other transportation study available to the Municipality. A development agreement application shall not be approved where a traffic study concludes that the level of service for any road within the secondary planning strategy or connecting to the abutting road network does not conform with the performance criteria established under the Municipality's Guidelines for Preparation of Traffic Impact Studies and the applicant shall be required to provide the analysis, prepared by a qualified consultant, needed to make such a determination. Without limiting the generality of the foregoing statement, particular consideration will be given to traffic impacts on the Bedford Highway, Nine Mile Drive and Oceanview Drive.*

In accordance with this policy, HRM Engineering have reviewed the Prince's Lodge/ Bedford South Transportation Study. Staff have waived the need for a further transportation study as no units will be occupied until after the interchange has constructed and open to the public.

Specifically, assuming a 18 month construction and occupancy period of a multiple unit dwelling, the first development enabled by the proposal will not be ready for occupation until approximately June 2011. This date is 10 months after the expected opening of the interchange and connection to Larry Uteck Boulevard. Therefore, since it is anticipated that the interchange connection will have been completed and opened to the public, the proposed amendment will have a minimal impact on the existing road network, specifically Bedford Highway.

Further, as part of the subdivision process, bonding will be provided by the developer for the construction of Larry Uteck Boulevard and its connection to the interchange. Thus there is little risk that Larry Uteck Boulevard will not be constructed and connected to the interchange. In addition, the proposed amendment only enables the issuance of construction-related permits. Occupancy permits cannot be issued until the interchange is connected to Larry Uteck Boulevard and open to the public.

When the Bedford South development is connected to Nine Mile Drive, Starboard Drive and adjacent streets, the impact is anticipated to be beneficial to all surrounding streets as an additional major accesses for the subdivision and surrounding neighbourhoods will be provided.

Conclusion

Staff have reviewed the request for a non-substantive amendment to the Clayton Developments Limited Neighbourhood B development agreements and have concluded the proposal complies with the intent of the existing agreement and Policy MS-7. Staff recommends North West Community and Chebucto Community Council, by resolution, approved the non-substantive amendment to enable the issuance of Development and Building permits for all remaining residential units prior to the construction and connection of the interchange to Larry Uteck Boulevard as identified in the recommendation section of this report.

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 Amending Agreement. This administration of the Amending 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

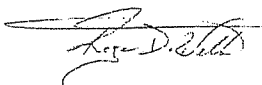
1. Council may choose to approve the proposed amending development agreement. This is the recommended course of action.
2. Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons for refusing the amendment. This alternative is not recommended as Staff are satisfied that the proposed agreement are consistent with the intent of the existing agreement and the MPS.
3. Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant.

ATTACHMENTS

Map 1	Neighbourhood B
Map 2	Bedford South / Wentworth Master Plan
Attachment A	Proposed Amending Agreement - Neighbourhood B
Attachment B	Relevant Development Agreement Clauses-Neighbourhood B

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 : Andrew Bone, Senior Planner, Planning Applications, 869-4226

Report Approved by: 
Roger Wells, Acting Manager of Planning Services, 490-4373

Existing Neighbourhoods 'A&C'

Bedford Plan Area
Halifax Plan Area



Future Development

Map 1

HALIFAX
REGIONAL MUNICIPALITY
Planning Services








--- Lands of Clayton Developments
--- Subject to Development Agreement

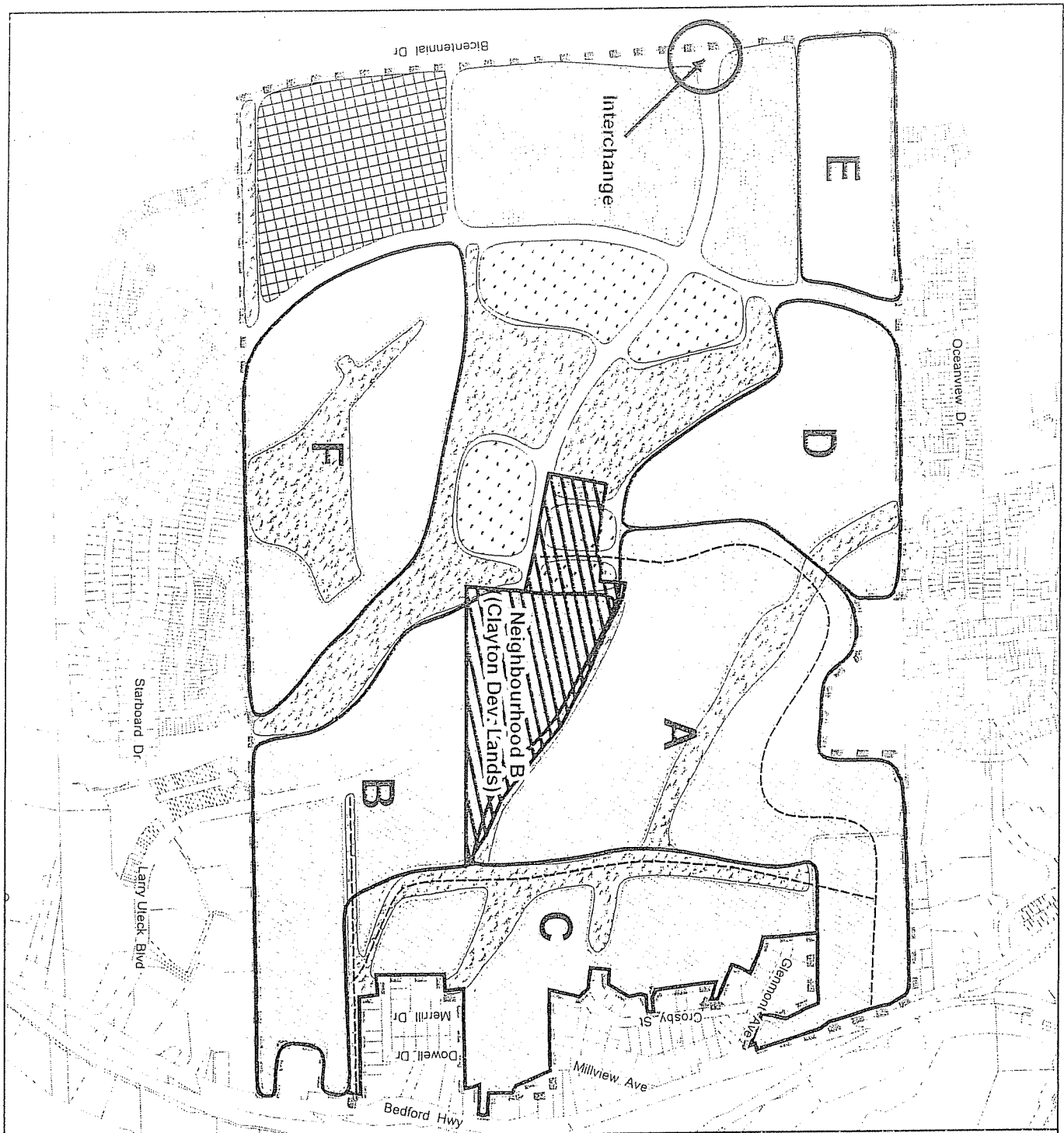
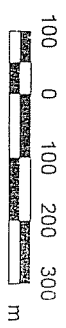
Bedford South / Wentworth Master Plan

Map2

Proposed Land Use

-  Residential Neighbourhoods
-  General Commercial
-  Community Commercial / Institutional
-  Mixed Use / Business Campus
-  Park / Open Space (Major Areas)

Note: Neighbourhood Parks to be confirmed by Development Agreement.



Oct. 26, 2009

T:\work\planning\Repmaps\Devagree\01343\Map2.rxd

Attachment A: Proposed Amending Agreement - Neighbourhood B

THIS 4th AMENDING AGREEMENT made this day of , 2009,

BETWEEN:

CLAYTON DEVELOPMENTS LIMITED
a body corporate, in the Halifax Regional Municipality,
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 to the north of the Royal Hemlocks subdivision and west of the Bedford Highway in Halifax, and which said lands are more particularly described in Schedule "A" of this Amending Agreement (hereinafter called the "Lands");

AND WHEREAS the North West Community Council and Chebucto Community Council approved an application by the Developer to enter into a development agreement to allow for development of Neighbourhood B on the Bedford South/Wentworth Estates Secondary Planning Strategy on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 88868600 on September 20, 2007 (hereinafter called the "Existing Agreement");

AND WHEREAS the North West Community Council of the Municipality previously amended the Existing Agreement by entering into an Amending Agreement with Clayton Developments Limited on 10th day of March 2009 as Municipal Case Number 01223 to permit development of 136 multiple unit dwelling units prior to the construction of the interchange at Highway 102 and Larry Uteck Boulevard, said Agreement was registered at the Registry of Deeds in Halifax as Document Number 92987438 on March 19, 2009. (hereinafter called the "First Amending Agreement");

AND WHEREAS the North West Community Council of the Municipality previously amended the Existing Agreement by entering into an Amending Agreement with Samir and Marie Chater, and Elie and Nada Abou Haidar on the 8th day of September 2009 as Municipal Case Number 01226, to enable changes to the siting and location of buildings, said Agreement was registered at the Registry of Deeds in Halifax as Document Number 94275667 on September 15, 2009 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the North West Community Council of the Municipality previously amended the Second Amending Agreement by entering into an Amending Agreement with Samir and Marie Chater, and Elie and Nada Abou Haidar on the 6th day of October 2009 as Municipal Case Number 01226, to enable a drive thru at the northwest corner of Larry Uteck Boulevard and Southgate Drive, said Agreement was registered at the Registry of Deeds in Halifax as Document Number [INSERT-Document Number] on [INSERT-Date] (hereinafter called the "Third Amending Agreement");

AND WHEREAS the Developer wishes to further amend the Existing Agreement to enable development prior to the completion of construction of an interchange at Highway 102 and Larry Uteck Boulevard on the "Lands" pursuant to the provisions of the *Halifax Regional Municipality Charter*, (hereinafter called the "Fourth Amending Agreement");

AND WHEREAS the North West Community Council approved this request at a meeting held on [INSERT-Date], and Chebucto Community Council approved this request at a meeting held on [INSERT-Date] referenced as Municipal Case Number 01343;

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

1. The Existing Agreement shall be amended by adding the following text prior to section 2.13:
 - 2.12.2 Notwithstanding section 2.12.1, the development officer may issue development and building permits for all residential development identified on Schedule B-2 as "Lands of Clayton Developments" prior to the completion of construction of the interchange at Highway 102 and its connection to Larry Uteck Boulevard. Occupancy permits for any residential development shall not be issued until the interchange at Highway 102 has been constructed and the connection to Larry Uteck Boulevard is complete and open to the public.
2. The Existing Agreement shall be amended by adding Schedule B-2, attached as Schedule B.

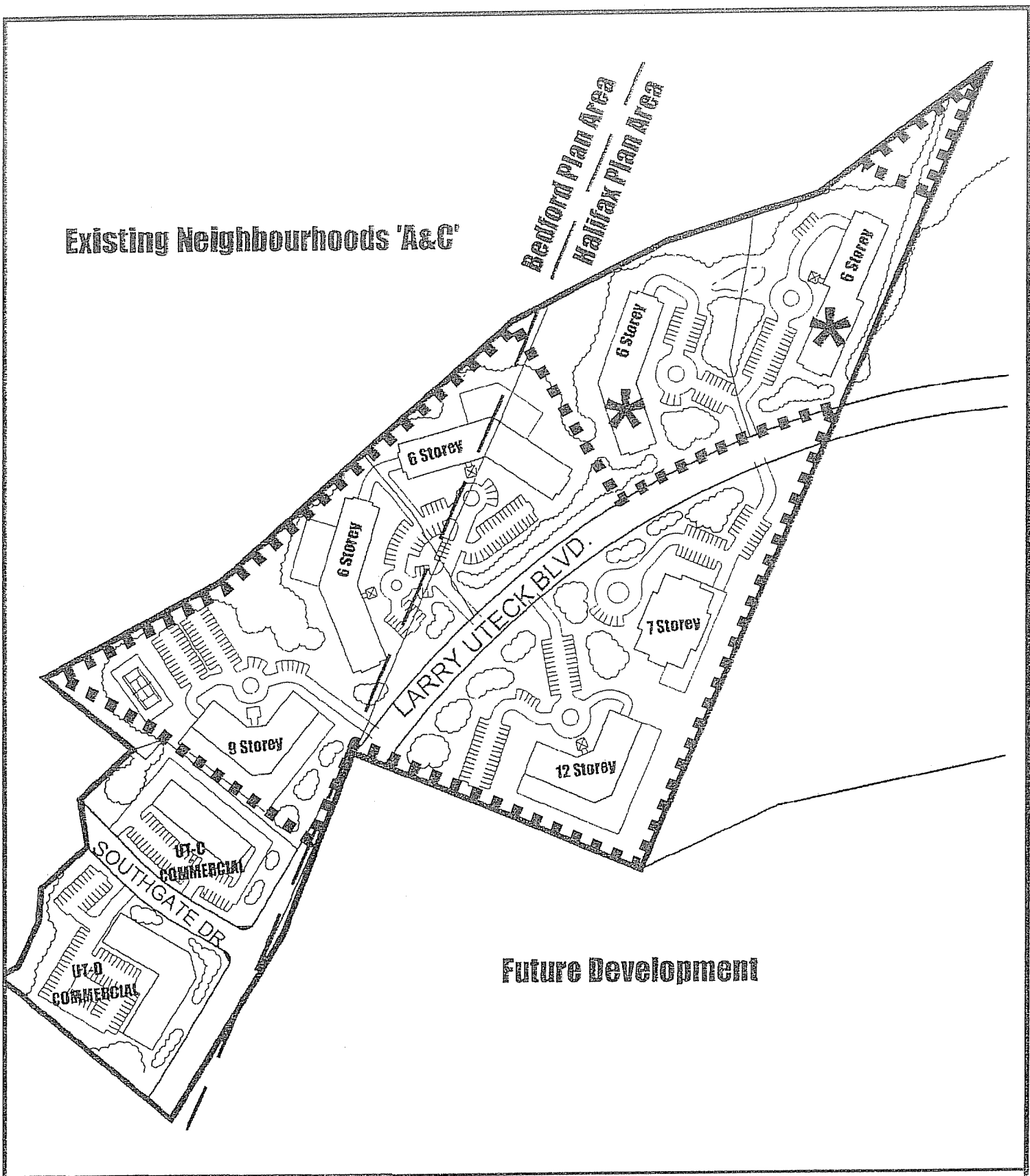
WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2009.

SIGNED, SEALED AND DELIVERED) **Clayton Developments Limited**
in the presence of)
_____) Per: _____

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

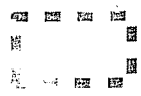
Existing Neighbourhoods 'A&C'

Bedford Plan Area
Halifax Plan Area



Future Development

Schedule B-2



Lands of Clayton Developments

HALIFAX
REGIONAL MUNICIPALITY
Planning Services



Attachment B
Relevant Development Agreement Clauses-Neighbourhood B

Existing Agreement

2.12 Dwelling Units Prior to the Interchange

- 2.12.1 The Developer shall not seek development or building permits for more than 0 (Zero) dwelling units on the lands until the interchange has been constructed and connected to Larry Uteck Boulevard. Furthermore the Development Officer shall not grant Development Permits for more than 0 (Zero) dwelling units on the lands until the interchange has been constructed and connected to Larry Uteck Boulevard. Building permits may be issued, however, for the two commercial buildings and they may receive occupancy permits when Southgate Drive has been accepted by the Municipality generally to the intersection with Larry Uteck Boulevard.

First Amending Agreement

2. The Existing Agreement shall be amended to permit two multiple unit dwelling (total maximum of 136 units) along Larry Uteck Boulevard prior to the interchange on Highway 102 being constructed or connected to Larry Uteck Boulevard.