



P.O. Box 1749 Halifax, Nova Scotia B3J 3A5 Canada

Chebucto Community Council August 8, 2011

TO:

Chair and Members of Chebucto Community Council

SUBMITTED BY:

Justic

Austin French, Manager, Planning Services

DATE: July 25, 2011

SUBJECT: Case 16678 – 6th Amending Stage II Development Agreement, Clayton Park West, Phase 4 to permit an auto service use (Mr. Lube) at 368 Lacewood Drive, Halifax

SUPPLEMENTARY REPORT

<u>ORIGIN</u>

Approval of the Stage I Amending Agreement on June 13, 2011 and conclusion of the appeal period on July 4, 2011 allowing consideration of the Stage II Amending Agreement.

RECOMMENDATION

It is recommended that Chebucto Community Council:

- 1. Approve, by resolution, the Stage II Amending Agreement as provided in Attachment "A" of this report; and
- 2. Require that the Development Agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

BACKGROUND

The subject property, 368 Lacewood Drive, is located on the corner of Lacewood Drive where it intersects with Highway 102. The subject property is zoned Schedule K under the Halifax Mainland Land Use Bylaw. The Schedule K Zone requires the approval of Stage I and Stage II development agreements before a property can be developed. The Stage I Agreement provides a concept for development and includes the layout of the properties and the types of uses to be permitted. The Stage II agreement requires more detailed plans and addresses the specific location and design of buildings and structures. Stage I and Stage II agreements for other land uses have existed on the property since 2000.

On June 13, 2011, Chebucto Community Council approved an amendment to the Stage I Agreement to permit an additional lot for an auto service use (Mr. Lube). The expiration of the 14 day appeal period ended on July 4, 2011 and the execution and registration of the amending agreement allows Council to consider the approval of the Stage II amending agreement by resolution.

After the Stage I amending agreement was approved by council it was noted that a typo appeared in Schedule C-4 of the agreement permitting a building of only 108 sq. ft. This is an error and does not relate to the proposed main use as, clearly, there was never any intention to develop an auto service use within such a small building. The policy review undertaken for the 6th Stage I amending agreement considered an auto service use of approximately 1866 sq. ft. as is proposed through this Stage II amending agreement.

Proposal

The current proposal is to provide provisions for the placement and design for the proposed auto service use on the newly created Parcel BC-7A. As the proposed use will be located in the parking area for Home Depot, the parking space requirements for Home Depot will also be reduced. The 108 sq. ft. noted in Schedule C-4 appears to be an error and does not relate to the proposed main use as, clearly, there was never any intention to develop an auto service use within such a small building. The policy review undertaken for the Stage I 6th amending agreement considered an auto service use of approximately 1866 sq. ft. as is proposed through this Stage II amending agreement.

DISCUSSION

Design Criteria

The existing Stage I agreement envisions a mixed use development with the majority of the commercial uses located along Lacewood Drive. Schedule D of the Stage I agreement outlines design criteria that must be considered when contemplating a new development. The criteria are divided into 4 main categories:

- Promoting a suburban character,
- Allowing a mixed use development with a range of uses in a unified setting,
- Establishing high design standards for buildings and streetscapes and
- Establishing land use buffering and environmental protection.

A detailed review of these criteria is shown in Attachment B.

Parking

Another aspect of this application deals with the reduction of parking for the Home Depot store. The original agreement required 525 parking spaces for Home Depot. This was reduced to 415 in the 5th amending agreement to allow outdoor storage. The proposed placement of the Mr. Lube building will further reduce the Home Depot customer parking to 372 spaces. The Halifax Mainland Land Use Bylaw requires approximately 452 parking spaces for a commercial use of a similar size to Home Depot. Although the proposed parking will be less than the Land Use Bylaw requirement, this amount of parking is considered excessive by Home Depot and is not necessary to meet their operational needs. Rather than maintain the land for unnecessary parking, an additional commercial use on this site would serve to provide more character to the area by filling in the streetscape.

The proposed Mr. Lube use includes 9 parking spaces which is in keeping with the parking requirements in the Halifax Mainland Land Use Bylaw for an auto service use.

Legal Review

Consistent with Chebucto Community Council's motion of October 5, 2009, the proposed amending development agreement has been reviewed by HRM's legal services 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, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. A public information was held on January 26, 2011 to discuss the Stage I Amendments. The information discussed during the meeting included a design of the building and its placement. Residents were invited to express any concerns regarding the proposed development agreement. Information concerning the application has also been made available on the HRM website.

ALTERNATIVES

- 1. Council may choose to approve the proposed amending development agreement as set out in Attachment A of this report. This is the recommended course of action.
- 2. Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant and the preparation of a supplementary staff report for Council's consideration.
- 3. Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons based on a conflict with MPS policies and the Stage I Agreement. This alternative is not recommended as the proposal is consistent with the MPS and the Stage I agreement.

ATTACHMENTS

Map 1:	Zoning Map and Notification Area
	Proposed Stage II Amending Development Agreement
Attachment B:	Review of Stage I Design Guidelines

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 : Jillian MacLellan, Planner I, 490-4423

Attachment A: **Proposed Development Agreement**

THIS AMENDING AGREEMENT made this day of ,2011,

BETWEEN:

[DEVELOPER]

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 at 368 Lacewood Drive, 40884082, Halifax 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 approved an application by the Developer to enter into a Stage I Development Agreement to allow for a mixed commercial / residential development on February 23, 2000 (Municipal Case 00122) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 5656 (hereinafter called the "Existing Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by Clayton Developments Ltd and the Shaw Group Ltd to enter into an amending Stage I Development Agreement to allow for multiple unit dwelling and park uses on May 28, 2001 (Municipal Case 00358) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 17295 (hereinafter called the "First Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by Pacrim Developments to enter into an amending Stage I Development Agreement to allow for a licensed lounge in conjunction with an existing restaurant Lot BC-5 on November 7, 2001 (Municipal Case 00337) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 44063 (hereinafter called the "Second Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by Clayton Developments Ltd and the Shaw Group Ltd to enter into an amending Stage I Development Agreement to allow for residential multiple use buildings on Parcels BC-9B, BC-9C, H-1 and H-2 on March 22, 2002 (Municipal Case 00399) on the Lands, which said

Development Agreement was registered at the Halifax County Land Registration Office as Document Number 11995 (hereinafter called the "Third Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by Clayton Developments Ltd and the Shaw Group Ltd to enter into an amending Stage I Development Agreement to allow for residential multiple use buildings on Parcel Z on January 20, 2005 (Municipal Case 00691) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 81302797 (hereinafter called the "Fourth Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by Clayton Developments Ltd and the Shaw Group Ltd to enter into an amending Stage I Development Agreement to allow for additional outdoor storage and display on March 1, 2010 (Municipal Case 01317) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 96165874 (hereinafter called the "Fifth Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by Home Depot of Canada Inc to enter into an amending Stage I Development Agreement to allow an additional parcel for an auto service use on June 13, 2011 (Municipal Case 16678) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number **[INSERT]** (hereinafter called the "Sixth Amending Stage I Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by the Developer to enter into a Stage II Development Agreement to allow for a mixed commercial / residential development on February 23, 2000 (Municipal Case 00122) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 5657 (hereinafter called the "Existing Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by the Developer to enter into an amending Stage II Development Agreement to allow for the preparation and serving of foods on parcel BC-7 on October 30, 2000 (Municipal Case 00279) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 2993 (hereinafter called the "First Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by the Developer to enter into an amending Stage II Development Agreement to allow for a licensed lounge in conjunction with an existing restaurant on Parcel BC-5 on October 15, 2001 (Municipal Case 00337) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 40285 (hereinafter called the "Second Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by the Developer to enter into an amending Stage II Development Agreement to allow for the enclosure of seasonal exterior patio on Parcel BC-5 on April 28, 2004 (Municipal

Case 00627) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 75559568 (hereinafter called the "Third Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by the Developer to enter into an amending Stage II Development Agreement to allow for automobile rental use on Parcel BC-8 on September 6, 2006 (Municipal Case 00917) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 86122588 (hereinafter called the "Fourth Amending Stage II Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application by the Developer to enter into an amending Stage II Development Agreement to allow for additional outdoor storage and display on April 12, 2010 (Municipal Case 01317) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 96165957 (hereinafter called the "Fifth Amending Stage II Agreement");

AND WHEREAS the Developer has requested an amendment to the provisions of the Existing Stage II Development Agreement to enable an auto service use on Parcel BC-7A and to reduce the required parking area for Home Depot;

AND WHEREAS the Chebucto Community Council for the Municipality approved this request at a meeting held on [INSERT-Date], referenced as Municipal Case Number 16678;

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 amended is further amended by replacing all references to "BC-7" in the Existing Agreement and all amending agreements to "BC-7".
- 2. Section 2.1 of the Existing Stage II Agreement as amended is further amended by adding the following after Schedule "H" Outdoor Display and Storage:

Schedule "I"	Site Plan (Parcel BC-7A)
Schedule "J"	North and South Elevations (Parcel BC-7A)
Schedule "K"	East and West Elevations (Parcel BC-7A)

3. The Existing Stage II Agreement as amended is further amended to by adding the following subsection following subsection 2.2.1(b)(iii):

2.2.1(c)	Parcel BC-7A	(i) a commercial building for an auto service use.
		(ii) vehicle parking, loading and circulation areas.
		(iii) open space buffer areas, landscaping and walkways

4. The Existing Stage II Agreement as amended is further amended to by adding the following subsections following subsection 2.3.3:

	2.3.4	Parcel BC-7A (a) The Developer shall construct a building on Parcel BC-7A of the
		Lands which, in the opinion of the Development Officer, is substantially in conformance with Schedules "I", "J" and "K" attached hereto, including the location, size, height and the architectural design including façade detailing, type and colour of exterior materials.
		Pursuant to Section 2.3.4, the Development Officer may approve modifications to the architecture, size, height, exterior materials and colour of the buildings, provided such modifications are minor in nature and, in the opinion of the Development Officer, further enhance the appearance of the buildings and Lands
5.	Section replacio	2.4.1 of the Existing Schedule II Agreement as amended is further amended by ng the number, "415" with "372".
6.	insertin	a 2.4.1 of the Existing Stage II Agreement as amended is further amended by any the sentence "There shall be 9 parking spaces for Parcel BC-7A." after the "and 200 spaces for Parcels BC-4, BC-5 & BC-8."
7.		a 2.7.2 of the Existing Stage II Agreement as amended is further amended by "and BC-7A" after "Parcel BC-7".
8.	The Ex followi	tisting Stage II Agreement as amended is further amended to by adding the ing subsection following subsection 2.9.2 (b):
	2.9.3	 Parcel BC-7A (a) Refuse containers and waste compacters on Parcel BC-7A shall be screened by opaque fencing or masonry walls. (b) Propane tanks and electrical transformers on Parcel BC-7A shall be located and screened in accordance with the applicable approval agencies. These facilities shall be screened by a means of opaque fencing, masonry walls and/or suitable landscaping as determined by the Development Officer.
9.	The Ex followi	sisting Stage II Agreement as amended is further amended to by adding the ing subsection following subsection 2.12.5:
	2.12.6	 Parcel BC-7A (a) Prior to the commencement of any site works on the Lands, the Developer shall submit a detailed Site Grading and Drainage Plan. Such plan shall require the approval of the Development Officer, on the advice of the Development Engineer. Modifications to the site grading and finished elevations as indicated on the Plan, may be approved, provided such modifications are minor and further the intent of the Agreement.

(b) The Developer further agrees that prior to the commencement of any work on any Parcel of the lands, or associated off-site works, all proposed detailed erosion and sedimentation control measures and storm water management measures to be put in place prior to and during development. The plans shall be reviewed by, and require the approval of the Development Officer, on the advice of the Development Engineer and any other applicable agencies, prior to any site works being undertaken.

(c) The Developer shall secure all necessary approvals from the Nova Scotia Department of Environment prior to disturbance of any acid-bearing (pyritic) slate on the Lands.

WITNESS that this Amending Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2011.

SIGNED, SEALED AND DELIVERED in the presence of

[INSERT REGISTERED OWNER NAME]

Per	
Per	

SEALED, DELIVERED AND ATTESTED to by the proper signing officer of the Halifax Regional Municipality duly authorized in that behalf in the presence of

Per	
Per	

Per ______
Per _____

HALIFAX REGIONAL MUNICIPALITY

Per _____

Per

Mayor

Clerk

<u>Attachment B:</u> <u>Review Stage I Agreement Schedule D - Design Guidelines</u>

Criteria	Staff Comment
1. A Suburban Character	
Maintain lower densities The practical density limitations for the Phase 4 district are imposed by the capacities of the local servicing networks. These densities are significantly lower than the central business district for commercial uses, and reflect the suburban character of the area.	The proposed use will not add to the density of the area.
Generate a sense of spaciousness In keeping with a suburban character, the office and commercial buildings in the mixed use development are to be lower rise structures (as opposed to the commercial towers of the central business district). Landscaped setbacks from the streets and green space around the structures reinforce the sense of spaciousness typical of suburban environments.	The proposed building is one storey. The existing development agreement includes landscaped requirements. Any landscaping that is disturbed will need to be remediated.
Accommodate the automobile and pedestrian As a defining element of suburban character, good suburban planning must accommodate the automobile. Vehicular circulation and parking must be integrated into the overall concept. Based upon the established street network, the hierarchy of streets will be expressed through width, landscaping and degree of access. Locations of access point to individual lots will be controlled and may be paired to facilitate traffic between sites. The need for traffic control devices (signals, crosswalks, ect.) may be necessary based on existing and estimated traffic volumes.	There will be no changes to the street hierarchy and network established in the existing agreement. The new parcel will share the driveway off Lacewood Drive currently used for Home Depot and the professional centre on Block BC-4.
At the same time, the automobile should not be allowed to dominate planning concerns and preempt the place of the individual person. Parking areas will be broken with landscaped elements. Starting with the street sidewalk system, a clear network of pedestrian walkways will be provided, distinct from the vehicle pattern.	All landscaping and pedestrian networks have been established though the existing agreement.
2. A Mixed Use Development with Range of Uses in a Unified Setting	
Develop a clear context for varied uses The plan for the district is structured to accommodate a range of uses, sensitively integrated. Commercial uses will be concentrated along Lacewood Drive. Parcels removed from Lacewood may form transition uses, with primarily residential uses behind.	The proposed commercial use will be located along Lacewood Drive.
Recognizing that the entire district lies between the Bayer's Lake Business Park (agglomeration of large format retailers and other commercial uses) and Clayton Park (master planned residential community), the district will be an amalgam of commercial and residential. Only parcel BC-7R, adjacent to the Bayer's Lake Business Park and the highway interchange,	

vill be limited to parcels BC-2a, BC-3a, BC-4, BC-5, BC7- R, BC-7A, BC-8, and the northern portion of BC-9.	
losely related to the street and will include strong pedestrian	The proposed use will be located near the Lacewood Drive and Highway 102 interchange.
Schedule "C" of this Agreement provides additional details concerning the intended use for each parcel of land within the district, and potential alternative uses should market forces alter significantly over the next decade. This shall provide guidance in addressing applications for any Stage II Agreements. Unless otherwise specified in the Schedule, commercial uses shall be limited to those permitted in the C-1 Local Business) Zone of the Halifax Mainland Land Use Bylaw, to include uses such as retail, service commercial, financial initiations, offices, restaurants and service stations. Excluded uses include motor vehicle dealerships and repair, adult entertainment uses and amusements centers.	Schedule C-4 of the 6 th amending Stage I agreement permits an auto service use for Parcel BC-7A.
Schedule "C" also specifies approximate sizes for commercial buildings and approximate number of units and height for any proposed multiple unit buildings.	The 108 sq. ft. noted in Schedule C-4 appears to be an error and does not relate to the proposed main use as, clearly, there was never any intention to develop an auto service use within such a small building. The policy review undertaken for the Stage I 6 th amending agreement considered an auto service use of approximately 1866 sq. ft. as is proposed through this Stage II amending agreement.
Create a sense of place	
This district marks a principal entry to the lands of Clayton Park. Thus the district is a principal node in the local planning context and requires a distinct sense of place to express this significance.	
This sense of place is extended through the use of a common vocabulary of architectural elements and materials in the principal buildings in the district, building the sense of a distinct enclave	The use of brick is a predominate theme for buildings in this area. The proposed building will incorporate brick on 3 of its four elevations.
Introduce unifying elements:	
As a further strategy to develop a unified setting, a consistent approach will be developed for the accessory elements. Site entries are to be identified. Signage on multiple tenant buildings will be controlled using a consistent type of sign box or a sign band with prescribed heights and location. Signage	The existing sign for Home Depot will be altered to also include advertising for Mr. Lube.

will be sympathetic to the overall architectural theme of the	
Façade. Pylon sign locations will be limited to the Highway	
02-and-Lacewood corridor, with a maximum of 2 pylons	
(total) for parcels BC-4, BC-5, BC-7R BC-7A, and BC-8, and	
1 pylon sign for parcel BC-3a. Pylons will have a uniform	
pyion sign for parcer bC-5a. Tytons will have a uniform	
frame and base, as well as a consistent overall appearance and	
shall not exceed forty (40) feet. No mobile or portable signs	
or billboards will be used in the district.	
	,
3. A High Design Standard for Buildings and Streetscapes	
Establish harmony	
To reinforce the sense of place as mentioned above and to	The building is required to incorporate
establish a sense of visual harmony, a common vocabulary of	brick, concrete block and stucco within
architectural elements is envisioned for the district. The aim is	its architectural design. The roof will
not to produce a series of identical structures, but rather to	contain a cornice line and will
encourage variety within a related context.	incorporate corner elements to add to
	the building's visual interest. Fabric
The general theme envisions strong brick volumes with	canopies will overhang the large,
prominent entrances. A harmonized and distinctive roof scape	overhead doors thus softening the
for the district will be achieved through the use of sloped roofs	"service-type" building's appearance.
for the district will be achieved unough the use of sloped roots	control office control of the second se
on a majority of the buildings. Buildings with flat roofs will	
incorporate sloped roof forms with the façade to achieve visual	
unity with buildings having sloped roofs. Bands of windows	
will to be used to separate the building and roof volumes.	
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Considerable attention will be paid to the quality and quantity of landscaping between the street and the adjacent properties.	
The pedestrian sidewalk and path system will also be a focus of planting to establish a conformable pedestrian stetting.	
4. Land Use Buffering and Environmental Protection Screening and use separation	
Within the mixed use district, appropriate buffers and visual screening will be provided between the commercial and residential uses, and between individual residential buildings. This may be achieved through protection of existing plant material or by creating new landscaped areas. Landscaped areas may include decorative fences, planting or mounds to achieve the appropriate screening.	Land use buffering and environmental protection requirements will not be altered through the proposed 6 th amending stage II agreement.
<i>Protection of natural features</i> No tree removal or significant landscape alteration will be permitted within the district until Stage 2 approvals have been granted.	Landscaping alteration may be required to connect to municipal sewer and water. No alterations will take place until Stage II approval has been granted, the appeal period has elapsed and permits have been issued.
Protection of Environment Development of any site will require the preparation of an erosion and sedimentation control plan, for implementation during construction and a stormwater management plan to ensure that surface runoff odes not impact on natural down stream receiving systems.	The developer will be required to put in place erosion and sedimentation control measures and storm water management measures prior to and during development at the discretion of the Development Engineer during the permitting stage.







Case 16678 - Schedule J

