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B3J 3A5 Canada

North West Community Council
May 26, 2014

TO: Chair and Members of North West Community Council

SUBMITTED BY: Original Signed
Brad Anguish, Director of Community & Recreation Services

DATE: April 28, 2014

SUBJECT: Case 19168: Non-Substantive Amendments to Development Agreement for 910 Bedford Highway, Bedford

ORIGIN

Application by United Gulf Developments Limited.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that North West Community Council:

1. Approve, by resolution, the proposed Amending Agreement as contained in Attachment A of this report to extend the construction commencement date for the development at the southern corner of Bedford Highway and Moirs Mill Road, Bedford, by an additional year to May 19, 2015;
2. Approve, by resolution, the proposed Amending Agreement as contained in Attachment A of this report to allow for an increase to the maximum number of residential units permitted, from 30 units to a maximum of 60 units, provided the total number of bedrooms does not exceed 60; and
3. Require the Amending 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 will be void and obligations arising hereunder shall be at an end.

BACKGROUND

In 2006, the Municipality entered into a development agreement (Case 00723) with United Gulf Development Ltd. for a mixed use (commercial/residential) development at the southern corner of Bedford Highway and Moirs Mill Road, Bedford (Maps 1, 2 and 3). The proposal enabled the development of a multi-level commercial/residential building as a means of promoting development on lands in close proximity to commercial nodes and the Bedford Waterfront.

Proposed Amendments

The development agreement contains a five year time limit for the commencement of construction which expired on December 6, 2012. In 2012, the developer made an application to extend the construction commencement date deadline. On November 27, 2012 Regional Council approved a one (1) year extension to the construction commencement date (Case 18101). The extended deadline expired on December 6, 2013. Commencement of construction is defined within the development agreement as the issuance of a construction permit. Given the construction commencement date has expired, the developer is requesting a further one (1) year extension to allow sufficient time to obtain a construction permit.

In addition to the requested extension, the developer has proposed an increase to the maximum number of residential units. The development agreement permits a maximum of thirty (30) units. However, the development agreement allows Council to consider a non-substantive amendment to allow an increase to the number of units, provided the maximum number of bedrooms does not exceed sixty (60). The developer is proposing a total of sixty (60) units and no more than sixty (60) bedrooms.

Amendments to the commencement date and the total number of dwelling units are listed as non-substantive matters in Sections 6.2(d) and 6.2(a) of the development agreement and may be approved through a resolution of Council without a public hearing.

DISCUSSION

MPS Policy

The existing development agreement, approved by Community Council on September 28, 2006, and amended on November 27, 2012, is enabled through Policy C-4(a) of the Bedford Municipal Planning Strategy (MPS). This policy enables mixed use commercial/residential at the southern corner of the Bedford Highway and Moirs Mill Road to be considered through the development agreement process.

Extension to Construction Commencement Date

The existing development agreement contains a commencement date to encourage the timely development and completion of the project. If the developer has not commenced the project within the allotted time, Community Council may grant an extension, at the request of the owner, in cases where it is determined that the development is still appropriate. In this instance, the request is for a one (1) year extension to the commencement of the construction deadline. The one (1) year extension provides the developer with adequate time to obtain the necessary permits and commence construction of the project.

Should Community Council grant the one (1) year extension, all development rights under the existing agreement will remain in effect. If the request for a time extension is denied, a development permit cannot be issued. Any future development of the property could only be in accordance with the General Business District (CGB) Zone or through the consideration of a new development agreement for mixed use commercial/residential development.

It should be noted that the existing development agreement permits a ten year time frame for the completion of the entire development (December 6, 2017). A change to the date of completion is considered a substantive amendment. The developer has not made application to amend the date of completion. Provided the one (1) year extension to the date of commencement of construction is granted by Community Council, the developer would have approximately 2.6 years to complete the development. This timeframe is considered reasonable.

All other requirements of the development agreement must still be satisfied, including but not limited to: the total height of the building; the location of commercial uses; building lot coverage; building setbacks; architectural requirements; amenity space; parking; and driveway access requirements.

Increase to Number of Residential Units

The developer has requested an increase to the number of residential dwelling units. The enabling MPS Policy allows for a maximum density of thirty (30) persons per acre, based on a two (2) bedroom equivalent per unit. In accordance with this, Section 3.4.6 of the development agreement currently permits a maximum of thirty (30) residential units, but provides flexibility to allow for an increase to the total number of residential units, provided the total number of bedrooms does not exceed sixty (60). The developer has proposed an increase in the total number of residential units to sixty (60), with no more than sixty (60) bedrooms. This proposed change requires a non-substantive amendment to the development agreement and thus approval of Council. This proposed change is viewed as a minor modification to the development agreement.

North West Planning Advisory Committee

The North West Planning Advisory Committee (NWPAC) reviewed this application on April 2, 2014, and passed a motion in favour of the application with the following comment:

1. The Committee expressed concern regarding the proposed increase to the total number of residential units and its potential impact on traffic, specifically the impact on parking layout and the total number of parking spaces required.

During the meeting, staff indicated that the developer would be required to satisfy all requirements of the development agreement, including all conditions related to parking, driveway access and circulation. A report from the PAC will be forwarded to Community Council under a separate cover.

Conclusion

The proposed non-substantive amendments to extend the commencement of construction date by one (1) year and to increase the total number of residential units is reasonably consistent with the

MPS policies. Attachment A contains the proposed amendment to the existing development agreement. Staff recommend approval of the requested extension and increase to the total number of residential units as the development proposal is still appropriate for the area and meets the intent of applicable MPS Policies C-4(a) and Z-3.

FINANCIAL IMPLICATIONS

There are no financial 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 2014/15 budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

The level of community engagement strategy was information sharing, achieved through a sign on the property and information on the HRM website. Public information meetings and public hearings are not required for non-substantive amendments to a development agreement. The decision to grant a non-substantive amendment is made by resolution of Community Council.

In addition, in accordance with Section 6.2.2 of the existing development agreement, property owners within 152m (500 ft) of the site were informed by mail at least 10 days in advance of the proposed non-substantive amendments being considered by Community Council.

The proposed amending development agreement will potentially impact, but is not limited to, the following stakeholders: local residents and property owners.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

ALTERNATIVES

Community Council may choose to:

1. Refuse to grant the time extension, thus not extending the construction commencement date. If an extension to the commencement of construction date is not granted by Community Council, development permits cannot be issued for the subject development as outlined in the existing development agreement. This is not recommended.
2. Approve the proposed amending agreement, as contained in Attachment A, with modifications or conditions respecting the commencement of construction. A shorter deadline is not recommended on the basis that the one year extension is reasonable. Some

modifications or conditions may require additional negotiation with the developer and a supplementary staff report.

3. Refuse to grant an increase to the total number of residential units. This is not recommended as the request for additional units is reasonable provided all other conditions of the development agreement are satisfied.
4. Approve the proposed amending agreement, as contained in Attachment A, with modifications or conditions respecting the request for an increase to the total number of residential units. Some modifications or conditions may require additional negotiation with the developer and a supplementary staff report.

ATTACHMENTS

Map 1: Generalized Future Land Use
Map 2: Zoning and Notification
Map 3: Approved Development
Attachment A: Proposed Amending Development Agreement
Attachment B: Relevant Sections of Existing Development Agreement

Available upon request

Staff Report for Case 00723

http://www.halifax.ca/commcoun/nwcc/documents/_0609074431_001.pdf

Supplementary Report for Case 00723

<http://www.halifax.ca/commcoun/nwcc/documents/10.1.2.pdf>

Staff Report for Case 18101

<http://www.halifax.ca/boardscom/NWPAC/documents/Case18101TimeExtensiontoDABedfordHwyandMoirsMillRd.pdf>

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: Tyson Simms, Planner I, 490-4843

Original Signed 


Report Approved by:  Kelly Denty, Manager, Development Approvals, 490-4800



Map 1 - Generalized Future Land Use

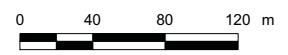
910 Bedford Highway
Bedford



 Area Subject to Development Agreement

Designations

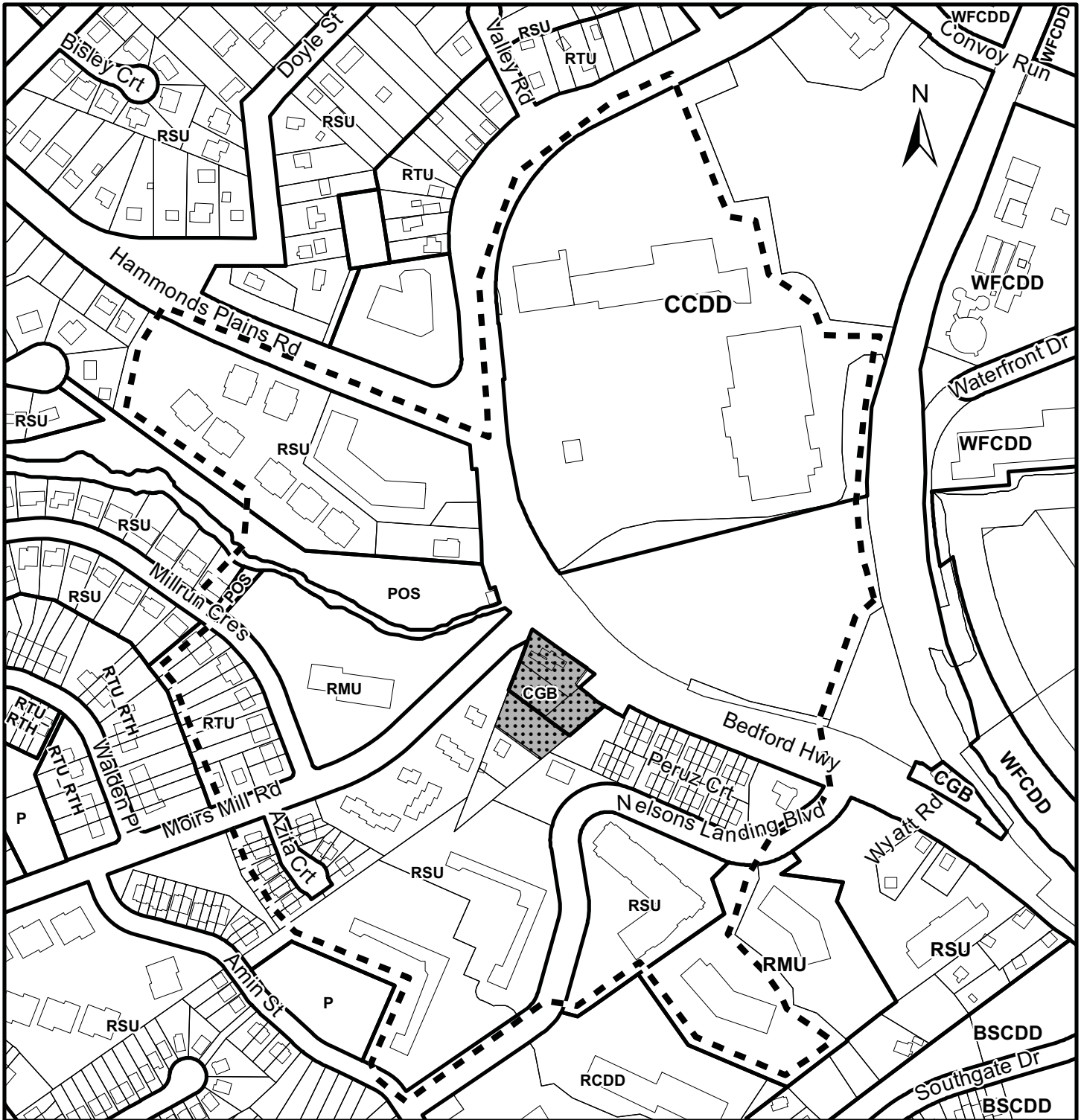
R	Residential
C	Commercial
P	Park
RCDD	Residential Comprehensive Development District
CCDD	Commercial Comprehensive Development District
WFCDD	Waterfront Comprehensive Development District



Bedford
Plan Area


This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.


HRM does not guarantee the accuracy of any representation on this plan.



Map 2 - Zoning and Notification

910 Bedford Highway
Bedford

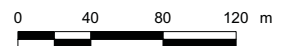
 Area Subject to
Development Agreement

 Area of notification

Bedford
Land Use By-Law Area

Zones

- | | |
|-------|--|
| RSU | Single Dwelling Unit |
| RMU | Multiple Dwelling Unit |
| RTU | Two Dwelling Unit |
| RTH | Townhouse |
| CGB | General Business District |
| P | Park |
| POS | Park Open Space |
| CCDD | Commercial Comprehensive Development District |
| RCDD | Residential Comprehensive Development District |
| WFCDD | Waterfront Comprehensive Development District |
| BSCDD | Bedford South Comprehensive Development District |



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

HRM does not guarantee the accuracy of any representation on this plan.



Proposed Building Design 910 Bedford Hwy.

Map 3
Approved Development



HAJIFAX
REGIONAL MUNICIPALITY

Attachment A
Proposed Amending Development Agreement

THIS SECOND AMENDING AGREEMENT made this day of _____, 2014
BETWEEN:

<INSERT DEVELOPER NAME>,
a body corporate, in the Province of Nova Scotia

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer, **<INSERT DEVELOPER NAME>**, and the Halifax Regional Municipality previously entered into an agreement to allow for development of a mixed use development at 910 Bedford Highway, Bedford (south corner of Bedford Highway and Moirs Mill Road, Bedford), the said Agreement being recorded at the Registry of Deeds at Halifax as Document 89487459 (hereinafter called the "Existing Agreement") referenced as Municipal Case Number 00723;

AND WHEREAS the Developer and Halifax Regional Municipality previously entered into a First Amending Agreement to permit a one (1) year time extension to the commencement of construction date to the provisions of the Existing Agreement, being recorded at the Registry of Deeds at Halifax as Document 103014875 (referenced as Municipal Case Number 18101);

AND WHEREAS the Developer requested to amend the Existing Agreement to permit a time extension of one (1) year for the commencement of construction date and to increase the maximum number of residential units to sixty (60) (max 60 bedrooms) by entering into this amending agreement (hereinafter called the Second Amending Agreement) (referenced as Municipal Case Number 19168); and

AND WHEREAS the North West Community Council of Halifax Regional Municipality, at its meeting on the ____ day of _____, 2014, approved this request (referenced as Municipal Case Number 19168);

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree to the following amendments to the Existing Agreement:

1. The Existing Agreement shall be amended by deleting Clause 8.3.1 and replacing it with the following:

8.3.1 In the event that a Building Permit has not been issued by May 26, 2015, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction.

2. The Existing Agreement shall be amended by deleting Clause 3.4.6 and replacing it with the following:

3.4.6 A maximum of sixty (60) units shall be permitted within the building, provided the overall number of bedrooms does not exceed sixty (60).

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in
the presence of:

(Insert Registered Owner Name)

Witness

SIGNED, DELIVERED AND ATTESTED
to by the proper signing officers of Halifax
Regional Municipality, duly authorized in that
behalf, in the presence of:

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK