

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

Item No. 10.1.3

Harbour East-Marine Drive Community Council June 10, 2015

TO:	Chair and Members of Harbour East-Marine Drive Community Council	
SUBMITTED BY:	Original signed	
	Bob Bjerke, Chief Planner and Director, Planning and Development	
DATE:	May 12, 2015	
SUBJECT:	Case 18255: Development Agreement for 530 Portland Street and 104 Green Village Lane, Dartmouth	

SUPPLEMENTARY REPORT

<u>ORIGIN</u>

- Application by CAP
- March 10, 2015 Regional Council approval of Municipal Planning Strategy (MPS) and Land use Bylaw (LUB) amendments for Dartmouth

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council:

- 1. Approve the proposed amending agreement as contained in Attachment A of this report; and
- 2. Require the amending agreement be signed by the property owner within 240 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/DISCUSSION

On March 10, 2015, Regional Council held a joint public hearing with Harbour East-Marine Drive Community Council (HEMDCC) to consider amendments to the Dartmouth Municipal Planning Strategy (MPS) and Land Use By-law (LUB) as well as a proposed development agreement for lands at 530 Portland Street and 104 Green Village Lane, in Dartmouth (Maps 1 and 2). At this public hearing, Regional Council approved the site specific amendments to the Dartmouth MPS and LUB. The amendments enable an increase in residential density in the form of three multiple unit buildings at 530 Portland Street and 104 Green Village Lane by development agreement in the Comprehensive Development District (CDD) Zone of the MPS and LUB on lands as shown on Maps 1 and 2.

Subsequent to the public hearing, the province has reviewed the amendments to Dartmouth MPS to ensure compliance with Provincial requirements. As noted in the December 15, 2014 staff report, Community Council could not make a decision on the proposed development agreement until the MPS and LUB amendments became effective. As the MPS and LUB amendments became effective on May 9, 2015, Community Council is now in a position to consider the proposed development agreement as contained in Attachment A of this report.

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 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 was consultation, achieved through two Public Information Meetings held on Wednesday, October 23, 2013 and Wednesday, October 30, 2013. A public hearing was held on March 10, 2015. Notices of the Public Information Meetings and the Public Hearing were posted on the HRM Website, in the newspaper, and mailed to property owners within the notification area as shown on Map 2 of the December 15, 2014 staff report.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

ALTERNATIVES

- 1. Council may choose to refuse to approve the proposed amending agreement and, in doing so, must provide reasons why the agreement does not reasonably carry out the intent of the MPS. A decision of Council to reject this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
- 2. Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant a supplementary staff report and additional public hearing. A decision made by Council to approve this development agreement is appealable to the NS Utility and Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1 Generalized Future Land Use

Map 2 Zoning and Notification

Attachment A: Proposed Amending Development Agreement

December 15, 2014 Staff Report: http://www.halifax.ca/council/agendasc/documents/150310ca91.pdf

A copy of this report can be obtained online at http://www.halifax.ca/council/agendasc/cagenda.php then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Darrell Joudrey, Planner I, Development Approvals, 902-490-4181

	Original signed	
Report Approved by:	Kelly Denty, Manager of Development Approvals, 902-490-4800	





Attachment A: Third Amending Development Agreement

THIS THIRD AMENDING DEVELOPMENT AGREEMENT made this day of [Insert Month], 20XX,

BETWEEN:

(INSERT DEVELOPER NAME)

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 530 Portland Street and 104 Evergreen Village Lane, Dartmouth, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council approved an application by the Developer to enter into a Development Agreement to allow for single unit dwellings, semi-detached dwellings. townhouse dwellings, a multiple unit dwelling, commercial use, a fire station and associated office space, park and open space use development on the Lands on October 3rd, 2000, referenced as Municipal Case Number 00163, said Agreement was registered at the Land Registration Office in Halifax as Document Number 35871 (hereinafter called the "Existing Agreement");

AND WHEREAS the Municipality entered into an amendment to the Existing Development Agreement with Pinnacle Homes Limited to revise the concept plan to identify three commercial sites for a commercial plaza, commercial buildings and self-storage, define restaurant use and adopt Schedule C-1 which was registered at the Land Registry Office in Halifax as Document Number 44510 (hereinafter called the "First Amending Development Agreement");

AND WHEREAS the Municipality entered into an amendment to the Existing Development Agreement with Pinnacle Homes Limited to allow temporary signs in accordance with By-law Number S-800 which was registered at the Land Registry Office in Halifax as Document Number 94915759 (hereinafter called the "Second Amending Development Agreement);

AND WHEREAS the Developer has requested that the Municipality enter into a third amending Development Agreement to allow 263 dwelling units in 3 multiple unit residential buildings and associated amenity space on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies H-3G and H-3H of the Dartmouth Municipal Planning Strategy (herein after called the "Third Amending Development Agreement);

AND WHEREAS the Harbour East-Marine Drive Community Council approved said request at a meeting held on XXXXX XX, 20XX, referenced as Municipal Case 18255;

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

The Existing Agreement is amended as follows:

1. The Existing Agreement shall be amended by adding the following section after clause 2.10.1

2A MULTIPLE UNIT DEVELOPMENT: BUILDINGS A, B and C

2A.1 Schedules

2A.1.1 The Developer shall develop and use the Lands in a manner which in the opinion of the Development Officer is substantially in conformance with plans filed in the Halifax Regional Municipal Development Approvals Department as Case 18255 and attached as the following Schedules to this Agreement:

Schedule 2A1 Schedule 2B1 Schedule 2C1 Schedule 2C2 Schedule 2C3 Schedule 2C4 Schedule 2C5 Schedule 2C6 Schedule 2D1 Schedule 2D2 Schedule 2D3 Schedule 2D4 Schedule 2E4 Schedule 2E3 Schedule 2E3	Legal Description of the Lands Concept Site Plan Building A West Elevation Building A South Elevation Building A East Elevation Building A North Elevation Building A Northwest Elevation Building B South Elevation Building B West Elevation Building B West Elevation Building B East Elevation Building C South Elevation Building C West Elevation Building C West Elevation Building C North Elevation Building C North Elevation Building C East Elevation
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Schedule 2F1 Schedule 2G	View of Amenity Space and Gateway Elements Proposed Subdivision Plan
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- 2A.1.2 The uses permitted by this agreement, subject to its terms and as generally illustrated on the Schedules, attached hereto, are the following:
 - a) 10 storey Multiple Unit Building A with a maximum of 148 units;
 - b) 9 storey Multiple Unit Building B with a maximum of 90 units;
 - c) 4 storey Multiple Unit Building C with a maximum of 25 units;
 - d) Commercial Uses (as per Schedule H); and
 - e) Amenity Space located as shown on Schedules 2B1 and 2F1 of this Agreement.

2A.1.3 The mix of residential unit types shall be as follows:

- a) Building A shall contain a maximum of 31 one bedroom units;
- b) Building B shall contain no one bedroom units;
- c) Building C shall contain a maximum of 6 one bedroom units; and
- d) Notwithstanding the above clauses the Development Officer may vary the overall unit type by up to 10% of the number of units required.
- 2A.1.4 Commercial uses shall be permitted in Building B as follows:
 - a) Commercial uses shall be in accordance with Schedule F;
 - b) Commercial uses shall, if possible, be located fronting onto the sidewalk or public space and provide interactive elements such as doors and windows; and
 - c) Commercial uses shall be limited to 40% of the gross ground floor area but may be permitted in combination with ground floor residential uses.
- 2A.1.5 The Developer shall be permitted to develop a maximum of 263 residential units on the property as generally illustrated on Schedule 2B1.
- 2A.1.6 Sections 2.3.1, 2.3.8, 2.3.9, 2.3.12, 2.3.23, 2.3.24 and 2.4.1 of the Existing Agreement do not apply to this Third Amending Agreement.

2A.2 Architectural Requirements for Multiple Unit Buildings

- 2A.2.1 All facades of the multiple unit buildings shall be designed and detailed as primary facades, with detailing and finishes as shown on the Schedules to fully extend around the buildings. The exterior cladding, architectural detailing, and window proportions, shall, in the opinion of the Development Officer, conform to that shown on the Schedules. All public entrances fronting onto a sidewalk or a public space shall be clearly identified and highlighted through architectural details, landscaping or ground treatment.
- 2A.2.2 Roof mounted mechanical and/or telecommunication equipment shall be visually integrated into the roof design or screened and shall not be visible from any abutting public street or adjacent residential development. All vents, down spouts, flashing, electrical conduits, meters, service connections and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used as an accent.
- 2A.2.3 The Developer agrees to provide a landscaped-at-grade roof Amenity Space adjacent Building A as located on Schedule 2B1 that features the following:
 - a) the amenity space shall have a minimum area of 7200 square feet;
 - b) the amenity space shall feature design elements to integrate it into the surrounding landscaped area and sidewalk system of Building A;
 - c) the stairs and railing shall be treated as design elements and integrated into the rooftop amenity space; and
 - d) detailed design shall be provided in the Landscape Plan required under this Agreement.
- 2A.2.4 The Developer agrees to provide an Amenity Space adjacent to Building B as located on Schedule 2B1 of this Agreement that features the following:
 - a) the amenity space shall have a minimum area of 6500 square feet; and
 - b) detailed design shall be provided in the Landscape Plan required under this Agreement.
- 2A.2.5 The Developer agrees to provide an Amenity Space adjacent to Building C and Gateway Elements as located on Schedules 2B1 and 2F1 of this Agreement that feature the following:
 - a) the amenity space shall have a minimum area of 17,200 square feet;
 - b) stairs connecting the amenity space to Green Village Lane shall feature design elements integrated into the stairs;
 - c) the existing slope graded towards Green Village Lane immediately adjacent the amenity space shall be considered part of the design response for the amenity space;
 - d) the existing slope from the amenity space northeast edge to Building C and from the amenity space northwest edge to the existing parking spaces shall be landscaped areas;
 - e) Gateway elements shall be located at both sides of the street as shown on Schedule 2F1; and
 - f) detailed design shall be provided in the Landscape Plan required under this Agreement.
- 2A.2.6 A covered feature shall be located at Building B generally where the building fronts on to the sidewalk and shall be given architectural and landscape architectural design treatment that shows consideration of the pedestrian realm interaction in the Landscape Plan. All pedestrian entrances and landscaped areas adjacent to pedestrian entrances of Buildings A, B and C shall be acknowledged with landscape architectural design treatment in the Landscape Plan.

2A.3 Parking

- 2A.3.1 Parking shall be provided as follows:
 - a) Underground resident parking for each Building shall be provided at a minimum rate of 1 space per unit for Building A, at a rate of 0.75 spaces per unit for Building B and 22 spaces for Building C;

- b) A minimum of 5 surface parking spaces to serve as visitor parking only and 60 Class A and 14 Class B bicycle parking spaces shall be provided for Building A;
- A minimum of 5 surface parking spaces to serve as visitor parking only and 36 Class A and 9 Class B bicycle parking spaces shall be provided for Building B; and
- d) A minimum of 6 surface parking spaces to serve as visitor parking only and 10 Class A and 3 Class B bicycle parking spaces shall be provided for Building C.
- 2A.3.2 The surface parking areas as well as internal driveways shall be hard surfaced and defined by concrete curb.

2A.4 Outdoor Lighting

2A.4.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

2A.4.2 Lighting Plan

Further to subsection 2A.4.1 prior to the issuance of a Development Permit, the Developer shall prepare a Lighting Plan and submit it to the Development Officer for review to determine compliance with Subsection 2.3.24 of this Agreement. The Lighting Plan shall contain, but shall not be limited to, the following:

- a) The location, on the Buildings and on the premises, of each lighting device;
- b) The location and type, on the amenity space, of each individual lighting device: and
- c) A description of the type of proposed illuminating devices, fixtures, lamps, supports, and other devices.
- 2A.4.3 The Lighting Plan and description shall be sufficient to enable the Development Officer to ensure compliance with the requirements of Subsection 2A.4.2 of this Agreement.

2A.5 Landscaping

Landscape Plan

- 2A.5.1 Prior to the issuance of a Development Permit, the Developer agrees to provide a Landscape Plan which complies with the provisions of this Agreement and generally conforms with the overall intentions of Schedule 2B1. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this Agreement.
- 2A.5.2 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 2A.5.3 The Landscape Plan shall include the following:
 - a) a sidewalk to provide a pedestrian connection from Portland Street to Building A as generally shown on Schedule 2B1. This sidewalk shall be constructed of concrete;
 - b) a sidewalk on the northeast side of Green Village Lane to provide a pedestrian connection from Portland Street to the south side of the existing driveway access as generally shown as Schedule 2B1. This sidewalk shall be constructed of concrete;
 - c) a detailed design for each individual Building site (including Landscaped Areas);
 - d) a detailed design for the Amenity Space (including furniture) and Gateway elements as shown on Schedules 2B1 and 2F1as required in the Agreement; and
 - e) a detailed design for the landscape-at-grade roof Amenity Space of Building A and the Amenity Space of Building B.

2A.5.4 All walkways shall be hard surfaced.

Compliance with Landscaping Plan

- 2A.5.5 Prior to issuance of the first Occupancy Permit for Building A, Building B and Building C the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping including hard surfacing of all walkway, parking and driving areas has been completed according to the terms of this Development Agreement.
- 2A.5.6 Notwithstanding Section 2A.5.5, where the weather and time of year does not allow the completion of the outstanding landscape and onsite paving works prior to the issuance of the Occupancy Permit, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within six months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.
- 2A.6 Subdivision of the Lands The lands may be subdivided in accordance with Schedule 2G of this Agreement subject to the requirements of the Regional Subdivision By-law.

The Municipality agrees that the park dedication requirements have been fulfilled as per the terms of the Existing Development Agreement.

2A.7 Solid Waste Facilities

The buildings shall include designated space for five stream (refuse, recycling and composting) source separation services in accordance with By-law S-600 as amended from time to time. This designated space for source separation services shall be shown on the building plans.

2A.8 Non Substantive Amendments

- 2A.8.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:
 - a) Changes to the requirements of Subsection 2A.2.1 regarding exterior design for matters such as window design and proportion, variations to cladding materials and colours which, in the opinion of the Development Officer, do not conform with Schedules 2C1 to 2C6, 2D1 to 2D4 and 2E1 to 2E4;
 - b) Alterations to the residential unit types established by Subsection 2A.1.3 provided that at least 60 percent of units are two bedroom or larger;
 - c) A reduction in the parking requirement below the threshold set out in Subsection 2A.3.1, provided that a minimum ratio of 0.8 spaces per unit is provided;
 - d) Changes to the Landscaping Plan as detailed in Section 2A.5 which, in the opinion of the Development Officer, do not conform with Schedule 2B1 or 2F1;
 - e) The granting of an extension to the date of commencement of construction as identified in Section 3.3 of this Agreement;
 - f) The length of time for the completion of the development as identified in Section 3.4 of this Agreement.

2A.9 Substantive Amendments

Amendments to any matters not identified under Section 2A.8 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

- 2. The Existing Agreement shall be amended by deleting Section 3.3 and replacing it with the following Section 3.3
 - 3.3 In the event that construction of Buildings A, B or C has not commenced within three years from the date of registration of this Agreement at the Land Registration office, 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. For the purpose of this section, commencement shall mean upon the issuance of the first development permit.
- 3. The Existing Agreement shall be amended by deleting Section 3.4 and replacing it with the following Section 3.4
 - 3.4 In the event the Developer fails to complete the development or portions thereof, or after five years from the date of registry of this Agreement with the Land Registration office, whichever time period is less, Council may review this Agreement, in whole or in part, and may:
 - (a) retain the Agreement in its present form;
 - (b) negotiate a new Agreement;
 - (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per:_____

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

Witness

the presence of:

Witness

HALIFAX REGIONAL MUNICIPALITY

Per:__

MAYOR

Per:___

MUNICIPAL CLERK



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Schedule 2C3 - Building A East Elevation



Schedule 2C4 - Building A North Elevation





Schedule 2C6 - Building A Northeast Elevation



Schedule 2D1 - Building B South Elevation



Schedule 2D2 - Building B West Elevation



Schedule 2D3 - Building B North Elevation



Schedule 2D4 - Building B East Elevation



Schedule 2E1 - Building C South Elevation



Schedule 2E2 - Building C West Elevation



Schedule 2E3 - Building C North Elevation



Schedule 2E4 - Building C East Elevation



Schedule 2F1 - View of Amenity Space and Gateway Elements



Schedule 2G - Proposed Subdivision Plan