

**Peninsula Community Council**  
**October 15, 2012**

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

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

**DATE:** October 9, 2012

**SUBJECT:** Discharge of Development Agreement – former “The Bay department store”, Chebucto Road, Halifax

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**ORIGIN**

Staff

**RECOMMENDATION**

It is recommended that Peninsula Community Council approve, by resolution, the discharge of the existing development agreement for the former The Bay department store at 7067 Chebucto Road, Halifax, as provided in Attachment A of this report.

## **BACKGROUND**

This report concerns the discharge of a development agreement on the site of the former Bay department store building at 7067 Chebucto Road, Halifax.

### *Land Use By-law Requirements and The Bay*

The former Bay property is located within the C-2 Zone and Schedule C of the Halifax Peninsula Land Use By-law (LUB). The zone allows for a wide range of commercial uses with few land use or building size restrictions. However, for development within Schedule C areas, any addition or new building of greater than 5,000 square feet in size or over 35 feet in height must be approved by development agreement. This does not preclude changes in use within existing buildings or renovations that change the appearance of existing buildings as these types of development are neither an addition nor an increase in height. The Schedule C requirements were introduced in 1978 as an interim measure until detailed secondary planning was undertaken. In the case of the Bay and other surrounding lands, detailed secondary planning has not been undertaken to date.

### *Permits for the Redevelopment of The Bay*

The Bay closed in 2011 and shortly thereafter permits were issued for interior and exterior renovations and a change in occupancy from a department store to office uses. The redevelopment did not result in new floor space or additional building height and therefore did not require a development agreement. Work pursuant to those permits is now complete and the building is occupied, namely by Admiral Insurance and Eastern College.

As part of the standard permit review process, research was undertaken to determine whether there were development agreements attached to the site and none were found. As the redevelopment work was well underway, the property owners indicated that they wished to construct an additional three storeys of office space above the current building. As the addition would exceed 35 feet in height and consume more than 5,000 square feet in new floor area, this work could only be considered through a development agreement. The developer proceeded to file a development agreement application (Case 17397) which, when further examined by staff, was determined to also require amendment to the Halifax Municipal Planning Strategy.

### *Existing Development Agreement*

As part of the planning application review, it was found that there was in fact an existing development agreement applicable to the property that had not been identified during the initial permit review process. Although registration documentation for the development agreement can be found in the Registry of Deeds' database, the property had been migrated to the Land Registration system where the agreement is not listed as a burden against the parcel register.

The development agreement was approved by the former City of Halifax in 1981. It allowed the construction of The Bay (previously Simpsons) building and includes building elevations and conditions over other matters such as land use.

### **DISCUSSION**

From a planning perspective, staff advises that the purpose of the existing development agreement was to permit and control the development of the former department store. That was completed some 30 years ago and as such, there is no longer a need to maintain the agreement on the property. With respect to future development of the site to add three storeys to the building, an amendment to the Municipal Planning Strategy and the approval of a development agreement will be necessary requiring public consultation and decisions of Regional and Community Councils following a public hearing.

It should be noted that, unrelated to the matter of the existing development agreement, the planning application for the additional three storeys has now been abandoned. The developer wants to pursue informal public consultation before proceeding with a potential new application. This future planning process will ensure that any new development of the site is appropriate. Further, staff has no concern with the existing use of the building for office and private school purposes.

In consideration of the foregoing, staff recommend that Community Council discharge the existing development agreement from the property. It should be noted that this matter has been discussed with the developer and they are in agreement with the discharge.

### **Advice from Legal, Insurance and Risk Management Services**

See the Confidential Information Report to PCC dated October 9, 2012.

### **BUDGET IMPLICATIONS**

There are no budget implications related to this report.

### **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**

There is no community engagement related to this report.

**ENVIRONMENTAL IMPLICATIONS**

No implications have been identified.

**ATTACHMENTS**

Attachment A            Proposed Development Agreement Discharge Resolution

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

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**Attachment A**  
**Proposed Development Agreement Discharge Resolution**

**IN THE MATTER OF the *Halifax Regional Municipality Charter***  
**being Chapter 39 of the Acts of 2008**

- and -

**IN THE MATTER OF the development of certain lands**  
**known as the former The Bay department store at 7067 Chebucto Rd., Halifax;**

**WHEREAS** the Peninsula Community Council of the Halifax Regional Municipality granted approval on October 15, 1981 of a development agreement, which was recorded at the Registry of Deeds for Halifax as Document Number 49122 in Book 3536 at Pages 383-388 (hereinafter called the "Agreement"), for a department store and parking garage for the area described on Schedule A (hereinafter called the "Lands");

**AND WHEREAS**, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the Peninsula Community Council approved, by resolution, the discharge of this Agreement from the Lands as shown on Schedule B, at a meeting held on the \_\_\_ day of \_\_\_\_\_ 2012, said discharge is to take effect upon the registration of this resolution at the Registry of Deeds;

**THEREFORE**, the Agreement shall no longer have any force or effect on the Lands.

I HEREBY CERTIFY that the motion as set out above, was passed by a majority vote of the Peninsula Community Council of the Halifax Regional Municipality at a meeting held on the \_\_\_ day of \_\_\_\_\_, 2012.

GIVEN under the hands of the Municipal Clerk and Under the Corporate Seal of the Halifax Regional Municipality this \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Municipal Clerk