



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Western Region Community Council**  
**October 18, 2010**

**TO:** Chair and Members of Western Region Community Council

**SUBMITTED BY:**

A handwritten signature in black ink, appearing to read "Paul Dunphy", written over a horizontal line.

Paul Dunphy, Director of Community Development

**DATE:** October 15, 2010

**SUBJECT:** **Case 01297: Development Agreement Time Extension - 7990 St. Margarets Bay Road, Ingramport**

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### **SUPPLEMENTARY REPORT**

#### **ORIGIN**

- On July 27, 2009, Western Region Community Council approved a non-substantive amendment to the existing development agreement for 7990 St. Margarets Bay Road, Ingramport, to extend the date of commencement of construction. A requirement of approval is that the agreement be signed within 120 days of approval.
- An extension of the 120 day signing period for HRM's execution of the development agreement is being requested.

#### **RECOMMENDATION**

It is recommended that Western Region Community Council require the amending development agreement for 7990 St. Margarets Bay Road, Ingramport, be signed by the Municipality by December 1, 2010; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

## **BACKGROUND & DISCUSSION**

On July 27, 2009, Western Region Community Council (WRCC) approved a non-substantive amendment to the existing development agreement for 7990 St. Margarets Bay Road, Ingramport, to extend the date of commencement of construction. The agreement provides for the development of 12 townhouse style dwelling units and common private amenity space on a 4.71 acre parcel of land. The agreement was originally approved in January 2006 but, due to a downturn in the housing market, the project did not commence with construction by the required deadline of November 13, 2009.

In response to a request made by the developer in June 2009, WRCC approved an extension to the project commencement date to November 13, 2011. As a standard condition of approval, Council required that the amending development agreement be signed within 120 days following the expiry of the appeal period. Although the applicant did sign the agreement within that time, HRM did not execute the agreement within the 120 day time frame. **As a result, an extension to the signing period by WRCC is necessary to allow the agreement to be signed and properly executed by HRM.** To avoid a similar situation in the future, Planning Services has worked with Legal Services to revise the language of the 120 day signing period motion to clarify that it is intended to apply only to the property owner and not the Municipality.

Staff are of the opinion that the requested extension is appropriate. The developer is ready to proceed with construction and is anxiously awaiting the execution of the previously-approved development agreement amendment by HRM's signing officers in order that the document may be filed with the Land Registry Office.

## **COMMUNITY ENGAGEMENT**

The community engagement process for this application was consistent with the intent of the HRM Community Engagement Strategy. The non-substantive amendment was approved by a resolution of Council, following which public newspaper ads were placed advising of Council's decision, and the right of appeal was explained.

## **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.

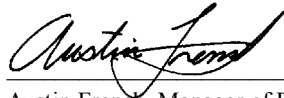
### **ALTERNATIVES**

1. Community Council may choose to approve the requested time extension for signing the amending development agreement by December 1, 2010. This is the recommended course of action.
2. Community Council may choose to not approve the requested time extension for signing the amending development agreement, which would render the agreement null and void. This is not recommended.

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: Luc Ouellet, Senior Planner, 490-3689

Report Approved by:



Austin French, Manager of Planning Services, 490-6717