

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

# Western Region Community Council September 24, 2012

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

**SUBMITTED BY:** 

Brad Anguish, Director, Community and Recreation Services

**DATE:** September 17, 2012

# SUBJECT:Case 17521: Non-substantial amendments to the existing development<br/>agreement for Brunello Estates, Timberlea: Blocks 1, 2 and 3

# <u>ORIGIN</u>

Application by Genivar

#### **RECOMMENDATION**

It is recommended that Western Region Community Council:

- 1. Approve, by resolution, the 7<sup>th</sup> Amending Agreement, as provided in Attachment "A" of this report, for the development of alternate housing sites on Blocks 1, 2 and 3 of Brunello Estates; and
- 2. Require that 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 shall be void and any obligations arising hereunder shall be at an end.

Brunello Estates (formerly known as Westgate) is a mixed use residential development which includes a golf course, town center and office campus. The existing development agreement permits 3,200 dwelling units (2,500 units may be for multiple unit residential purposes), an eighteen hole golf course, commercial uses, a Town Center (consisting of commercial, residential, institutional and open space uses), an office campus, and public and private open space uses. The original development agreement was approved by the Western Region Community Council on December 18, 2001. Since this time, there have been several amendments made to the original agreement. The applicant is requesting a further amendment to the existing development agreement to enable the development of alternate housing on 3 parcels of land known as Block 1, Block 2 and Block 3 (see Map 2).

#### Location, Designation and Zoning

- The subject area is located in Timberlea, near the Nine Mile River. It is made up of several properties and is approximately 550 acres in size (see Map 1).
- The subject area is zoned CDD (Comprehensive Development District) under the Land Use Bylaw for Timberlea/Lakeside/Beechville and is designated Urban Residential in the Municipal Planning Strategy for Timberlea/Lakeside/Beechville.
- The subject blocks are located in first phase of the development, known as the Maple Grove Phase (see Map 2). The majority of lots in this Phase were approved for subdivision in 2011.

#### Proposal

To address detailed matters of design and layout, the existing development agreement requires that certain forms of development be considered through the non-substantive amendment process. Alternate housing types fall within this category and are specifically defined by the development agreement as follows:

"Alternate housing types include individual cottages as condominiums or rental units, referred to as "cottage cluster"; homes which share one or more walls and potentially a single access and frontage, referred to a "cluster homes"; homes with home offices or storefronts, referred to as "live-work" units; condominiums that are stacked with one unit above the other, referred to as "stacked condominiums" or duplex dwelling; and semi-detached housing."

Cluster homes, resembling townhouse units, are proposed to be developed on Blocks 1, 2 and 3 as follows:

- (a) Block 1 up to 9 units
- (b) Block 2 up to 9 units
- (c) Block 3 up to 12 units

Each unit will have its own independent entrance and access to its rear yard. Each Block will include a common access driveway to a public street and will be serviced by independent sanitary and storm laterals. None of the Blocks can be further subdivided, thus, each Block will

- 3 -

be under common ownership; either through a condominium corporation or under a single owner and be used as a rental property. By stating the maximum number of units permitted on each Block, the agreement provides for flexibility in the scale of development for each site.

# DISCUSSION

Staff have completed a detailed review of this application and have determined that the proposed development is consistent with the provisions of the existing agreement. Matters requiring a more detailed examination are discussed below.

#### **Evaluation Criteria for Alternate Housing**

The existing development agreement allows for the consideration of alternate housing types through the non-substantive amendment process which requires approval by resolution of community council without a public hearing. When considering this type of housing, the agreement provides criteria that should be considered. As the proposed buildings are to be developed as cluster housing in the style of townhouses, requirements for townhouses in the existing agreement were used as a reference.

#### Building Height and Lot Coverage

- The proposed amending agreement will permit a maximum main building height of 40 feet which is consistent with the height permitted in the existing agreement for townhouses and other types of residential units.
- The approximate lot coverage of the proposed Blocks ranges from 20% to 28%. This is less than the maximum 40% to 45% lot coverage permitted for low single units dwelling, two unit dwelling and townhouse lots in the existing development agreement.

# Architecture

- The proposed style of housing resembles the appearance of townhouse dwellings. Each unit has an individual entrance which is marked by a small porch and pitched roof.
- The proposed amending agreement requires the Developer to use a combination of building materials for each unit. A list of acceptable building materials has been included as part of the proposed amending agreement. The development agreement further encourages the use of different materials or colours to help diversify each unit.

# Landscaping

- The proposed amending agreement includes a preliminary landscaping plan to which the Developer must adhere as part of the development. Existing trees and vegetation will be retained where possible and new plantings will be used to border along the properties.
- The proposed amending agreement requires landscaping to be located in the front of each unit, in areas not used for parking.

#### Parking

• The proposed agreement does not require a minimum or maximum number of parking spaces for each unit, but rather provides a limit on the number of exterior parking spaces. This is to reduce the amount of paved area as part of the development. Additional parking spaces can be supplemented with interior garages or parking spaces.

- 4 -

• To help demarcate the location of parking spaces and reduce the amount of asphalt on each block, the proposed agreement requires that each parking space located in front of each individual unit will be constructed of an alternative hard surface such as exposed aggregate or brick pavers.

### Public Safety

- As part of staff's review of this application an analysis for Crime Prevention Through Community Design (CPTED) was completed. The analysis indicated that although the proposed dwellings are located away from the street (Maple Grove Court and Cabernet Court), their orientation along the shared driveways allows for natural surveillance or the effect of "eyes on the street".
- The CPTED review further recommended that signage be placed at the ends of driveway/lanes to indicate civic numbers. However, as each of the Blocks will contain more than 3 units with individual access, a driveway name must be provided and a sign must be placed at the ends of driveway/lanes in accordance with HRM By-Law C-300 Respecting Civic Addressing. Civic numbers will be provided based on the driveway name.

# Lot Access

• Blocks 1 & 2 will be accessed from Maple Grove Drive and Block 3 will be accessed from Cabernet Court. The driveway locations have been reviewed HRM Development Engineering and meet HRM requirements.

# Lot Servicing

• The proposed development and servicing schematic design was reviewed by Halifax Water and determined to meet their requirements for central sanitary, water and stormwater servicing.

# Additional Criteria – Timberlea Wastewater Treatment Facility

When the existing development agreement was approved, there were and still are issues concerning the capacity of the Timberlea Waste Water Treatment Facility (TWWTF). As part of the 5th amending agreement, a 180 unit limit on development was established for the first phase of Brunello Estates. This limit is to remain in place until a solution meeting the requirements of Nova Scotia Environment (NSE) has been achieved or a wastewater servicing management plan, acceptable to Halifax Water and NSE, has been established.

There are currently 162 lots that have received approval for subdivision as part of the Brunello Estates development. This proposed amending agreement would allow for the development of up to 30 units. As the proposed maximum amount of units to be considered as part of this agreement would cause the 180 unit limit to be exceeded by 12 units, the proposed amending agreement requires the repealing of the equivalent number of lots if more than 18 units are to be developed throughout the three subject Blocks. These lots cannot be re-subdivided or developed until the matter of the TWWTF has been resolved.

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. As the process requires approval by resolution of council, neither a public information meeting nor a public hearing is required. In keeping with standard practices, information concerning the application has been made available on the HRM website.

#### ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

#### ALTERNATIVES

- 1. Council may choose to approve the proposed amending 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 agreement subject to modifications. This may necessitate further negotiation with the applicant.
- 3. Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended as the proposal is consistent with the existing Development Agreement and the MPS.

#### **ATTACHMENTS**

Map 1	Location of Brunello Estates
Map 2	Location of Proposed Non-substantive Amendments

Attachment A Proposed 7<sup>th</sup> Amending Agreement

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, Development Approvals, 490-4423

Report Approved by:

3. Kling

Kelly Denty, Manager, Development Approvals, 490-4800





THIS  $7^{\text{th}}$  AMENDING AGREEMENT made this day of , 20\_\_,

BETWEEN:

[INSERT Name of Corporation/Business LTD.]

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 within Timberlea which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into a development agreement to allow for a mixed use community with a golf course on the Lands (municipal reference number 00265), which said Development Agreement was registered at the Halifax County Land Registration Office on February 14, 2011as Document Number 6552 (hereinafter called the "Existing Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to allow changes to the road network on the Lands, (municipal reference number 00590), which said Development Agreement was registered at the Halifax County Land Registration Office on August 22, 2003 as Document Number 37295 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to modify the approved road network (municipal reference number 00623) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on April 21, 2004 as Document Number 75364217 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to include properties fronting along Trinity Way (municipal reference number 00536) on the Lands, which said development agreement was registered at the Halifax County Land Registration Office on July 15, 2004 as Document Number 75884560 (hereinafter called the "Third Amending Agreement"); AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to remove restrictions placed on the development due to sewage capacity constraints (municipal reference number 01040) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on January 22, 2008 as Document Number 91321258 (hereinafter called the "Fourth Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to address development in the first phase the development (municipal reference number 01312) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on November 9, 2010 as Document Number 97179270 (hereinafter called the "Fifth Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to modify the road layout, parkland size and configuration and to complete minor text changes (municipal reference number 16934) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on November 9, 2010 as Document Number 97179270 (hereinafter called the "Sixth Amending Agreement");

AND WHEREAS the Developer has requested further amendments to the Existing Agreement and Amending Agreements to develop alternate housing on Blocks 1, 2 and 3;

AND WHEREAS the Western Region Community Council for the Municipality approved this request at a meeting held on [INSERT-Date], referenced as Municipal Case Number 17521;

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

1. Section 2.1 of the Existing Agreement is further amended by adding the following:

"Schedule T-1:	Site Plan – Blocks 1 & 2
Schedule T-2:	Landscape Plan – Blocks 1 & 2
Schedule T-3:	Elevations – Blocks 1 & 2 – 1 Storey Option
Schedule T-4:	Elevations – Blocks 1 & 2 – 2 Storey Option
Schedule U-1:	Site Plan – Block 3
Schedule U-2:	Landscape Plan – Block 3
Schedule U-3:	Elevations – Block 3 - 1 Storey Option
Schedule U-4:	Elevations – Block 3 - 2 Storey Option"

2. The Existing Agreement as amended is further amended by adding Section 2.4.3.1 as follows:

# "2.4.3.1 Development Standards for Alternate Housing Sites – Blocks 1, 2 and 3

#### Requirements Prior to Approval

- (a) Prior to the issuance of a Development Permit for the development of Blocks 1, 2 or 3 the Developer shall provide the following to the Development Officer:
  - (i) A detailed Site Grading Plan prepared by a Professional Engineer;
  - (ii) A detailed Site Disturbance Plan prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
  - (iii) A detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with Section 2.7.1 of this Agreement;
  - (iv) A detailed Servicing Plan of which may include a Stormwater Management Plan designed to Halifax Water's specifications; and
  - (v) A detailed Landscape Plan prepared by a Landscape Architect in accordance with clauses (w) to (aa) and acceptable to the Development Officer.
- (b) Further to clause (a) and Section 2.2.1.1 of this Agreement, prior to the issuance of any Development Permit on Block 3, the Developer must repeal the equivalent number of approved lots under the development agreement to ensure that only a maximum of 180 residential units are capable of development, until a wastewater solution meeting Nova Scotia Environment's requirements has been achieved or a wastewater servicing management plan, acceptable to Halifax Water and Nova Scotia Environment has been agreed to.
- (c) Prior to the issuance of an Occupancy Permit for Blocks 1, 2 or 3, the Developer shall provide to the Development Officer, certification from a Landscape

- 10 -

Architect in accordance with clause (z) indicating that the Developer has complied with the landscaping required pursuant to this Agreement, or Security in accordance with clause (aa) of this Agreement has been provided.

# General Description of Land Use for Blocks 1 and 2

- (d) The uses permitted by this Agreement for Blocks 1 and 2 are as follows:
  - (i) No more than 9 townhouse style units on each Block;
  - (ii) One Accessory Building on each Block subject to clause (l); and
  - (iii) Accessory Uses.
- (e) Each building shall be located on Blocks 1 and 2 as generally shown on Schedule T-1. Variations to the setbacks provided on the Schedule may be permitted provided the variation does not exceed 1.5 meters (4.92 feet) of the setbacks as illustrated. Upper floors are permitted to project no more than 2 feet (.61 meters) from the base of the building.
- (f) Notwithstanding clause (e), no portion of the building shall be located closer than 1.8 meters (6 feet) from any property line.
- (g) Each building shall be developed as generally shown on Schedule T-3 or T-4.

#### General Description of Land Use for Block 3

- (h) The uses permitted by this Agreement for Block 3 are as follows:
  - (i) No more than 12 townhouse style units;
  - (ii) One Accessory Building subject to clause (l); and
  - (iii) Accessory Uses.
- (i) Each building shall be located on Block 3 as generally shown on Schedule U-1. Variations to the setbacks provided on either Schedule may be permitted provided the variation does not exceed 1.5 meters (4.92 feet). Upper floors are permitted to project no more than .61 meters (2 feet) from the base of the building.
- (j) Notwithstanding clause (i), no portion of the building shall be located closer than 1.8 meters (6 feet) from any property line.
- (k) Each building shall be developed as generally shown on Schedule U-3 or U-4.

#### Accessory Buildings

(1) Notwithstanding Section 2.4.6 of this Agreement, one (1) accessory building shall be permitted on each Block. Each accessory building will be subject to the following requirements:

	A	<b>A</b> <i>i</i>	_
(i)	The building shall be located no less than 1.8	meters (6 feet) from any	y
	dwelling;		

**September 24, 2012** 

- (ii) The building shall be located no less than 1.22 meters (4 feet) from any property line;
- (iii) The building shall not exceed to 4.7 meters (15 feet) in height; and

- 11 -

(iv) The building shall not exceed a foot print of 27.87 square meters (300 square feet).

#### Architectural Requirements for all Buildings

- (m) Exterior building cladding must include a combination of two or more of the following materials:
  - clay brick;
  - stone;
  - cedar shakes;
  - wooden cladding;
  - concrete brick
  - stucco;
  - random stone masonry;
  - vinyl siding; or
  - acceptable equivalent, in the opinion of the Development Officer.
- (n) Variations to building materials or colours for buildings that are adjacent to each other are required.
- All vents, down spouts, flashing, electrical conduits, metres, 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 expressly as an accent.

#### Subdivision

(p) No subdivision shall be permitted on Blocks 1, 2 or 3 for the purposes of placing each unit on its own lot.

#### Parking, Circulation and Access

- (q) No more than 28 external parking spaces shall be permitted on Blocks 1 and 2 and no more than 12 external parking spaces shall be permitted on Block 3. Additional parking located within each unit is permitted.
- (r) Each parking space shall be a minimum of 2.74 meters (9 feet) in width and 6.1 meters (20 feet) long.

(s) Parking spaces located in front of individual entrances to the dwellings shall consist of a decorative hard surface, including but not limited to brick pavers, cobblestone or exposed aggregate and shall not include asphalt.

- 12 -

- (t) The driveway width shall be a minimum of 6.1 meters (20 feet).
- (u) The driveway and all parking areas shall be hard surfaced. The limits of the driveway and parking area shall be defined by fencing or landscaping or curb.
- (v) The Developer is responsible for the placement and maintenance of driveway name signage in accordance with Civic Addressing By-law (By-law C-300).

#### Landscaping

- (w) Prior to the issuance of a Development Permit for each Block, the Developer agrees to provide a detailed Landscape Plan which complies with the provisions of this section and generally conforms to the overall Preliminary Landscape Plan shown on Schedules T.2 and U.2. 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 section.
- (x) Where a parking space is not located in front of an individual entrance to a dwelling unit, landscaping must be provided along the full frontage of the dwelling unit.
- (y) 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.
- (z) Prior to issuance of the first Occupancy Permit the Developer shall submit to the Development Officer a photograph of the work completed and a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.
- (aa) Notwithstanding clause (z), the Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape works and that the Developer supplies 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 twelve months of issuance of the

- 13 -

Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of this 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.

#### Maintenance

- (ab) The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.
- (ac) All disturbed areas shall be reinstated to original condition or better."
- 3. The Existing Agreement as amended is further amended by adding Section 3.1(k) as follows:
- "3.1(k) the development of Blocks 1, 2 and 3 referenced in Section 2.4.3.1 of this Agreement"

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.

# SIGNED, SEALED AND DELIVERED

\_\_\_\_\_

\_\_\_\_\_

in the presence of:

=

presence of:

#### (Insert Registered Owner Name)

Per:\_\_\_\_\_

Per:\_\_\_\_\_

=

\_\_\_\_\_

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

HALIFAX MUNICIPALITY REGIONAL

Per:\_\_\_\_\_ Mayor

Per:\_\_\_\_\_ Municipal Clerk



Case 17521 Schedule T-1 - Site Plan Blocks 1 & 2



Case 17521 Schedule T-2 - Landscape Plan Blocks 1 & 2



Blocks 1 & 2 - 1 storey option



Case 17521 Schedule T-4 - Elevations Blocks 1 & 2 – 2 Storey Option



Schedule U-1 - Site Plan Block 3



Case 17521 Schedule U-2 - Landscape Plan Block 3



Schedule U-3 - Elevations Block 3 - 1 storey option



Case 17521 Schedule U-4 - Elevations Block 3 – 2 Storey Option