

# MEMORANDUM

To: Chair and Members of North West Planning Advisory Committee

From: Tyson Simms, Planner

Date: March 17, 2014

Subject: **Case 19168 - Application by United Gulf Development Limited for non-substantive amendments to the development agreement to a time extension and a change in residential unit mix at 910 Bedford Highway, Bedford.**

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**Overview:** Please find attached a set of plans and supporting information detailing a proposal submitted by United Gulf Development Limited, requesting two non-substantive amendments to the existing development agreement for 910 Bedford Highway, the southern corner of the Bedford Highway and Moirs Mill Road. The non-substantive amendment requests are enable an extension to the construction commencement date by two years and to allow more than 30 residential units with the approved mixed use residential/commercial building but to not exceeding a maximum total of 60 bedrooms.

**Existing Use:** A small commercial building (known as the Hummingbird Spa) and existing treed vegetation.

**Designation:** Commercial under the Bedford Municipal Planning Strategy (Map 1).

**Zoning:** Majority of the subject area is zoned CGB (General Business District) and a small rear portion is zoned RSU (Single Unit Dwelling) (Map 2).

**Existing Development Agreement:**

In 2006, North West Community Council approved an application to enter into a development agreement (Case 00723) to allow a mixed use (commercial/residential) development at the southern corner of Bedford Highway and Moirs Mill Road in Bedford (Maps 1 and 2). 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 (Map 3).

The development agreement contains a time limit for the commencement of construction to encourage the timely development and completion of the project. On November 27, 2013 Regional Council granted a one year time which extended the commencement of construction to December 6, 2013 upon the developer's request. Commencement of construction is

defined within the development agreement as the issuance of a construction permit. To date, a construction permit has not been issued. An amendment to the commencement date is listed as a non-substantive matter in the development agreement and may be approved through a resolution of Council without a public hearing.

The development agreement permits 30 residential units with a maximum total of 60 bedrooms. However, the development agreement contains a non-substantive amendment provision that enables greater than 30 residential units provided the maximum number of bedrooms does not exceed 60.

**Proposals:** The proposal is to amend the existing development agreement to: (a) extend the construction commencement date by two years and (b) allow more than 30 residential units but not exceeding a maximum total of 60 bedrooms.

**MPS Policy:** The application can be considered subject to the site specific policy C-4(a) of the Bedford Municipal Planning Strategy, which allows Council to consider mixed use commercial/residential at the corner of the Bedford Highway and Moirs Mill Road subject to a development agreement.

**Input Sought from the Committee:**

Staff are requesting that NWPAC review the application and provide comments related to any land use compatibility concerns or requirements for the development that should be identified. PAC's recommendation will be included in the staff report to North West Community Council.

**Attachments:**

Map 1: Generalized Future Land Use  
Map 2: Zoning and Notification  
Map 3: Approved Development  
Attachment A: Relevant Sections of Existing Development Agreement  
Attachment B: Applicable MPS Policies and Excerpts from the Bedford MPS

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## ATTACHMENT A

### Relevant Sections of Existing Development Agreement

#### PART 6 AMENDMENTS

Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

#### 6.2 Non-Substantive Amendments

6.2.1 The following items are considered by both parties to be not substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act:

- (a) increase in the number of residential units provided the overall number of bedrooms does not exceed 60. For the purposes of determining bedrooms, one bedroom plus den/office units shall be considered to be a two bedroom unit, two bedroom plus den/office units shall be considered to be a three-bedroom unit and so on.;
- (b) permit Commercial Uses which are not listed in Section 3.4.2 of this agreement provided the commercial uses are appropriate with mixed use developments;
- (c) an increase to the licensed area of the pub or lounge in accordance with Section 3.4.3 of this agreement;
- (d) granting of an extension to the date of commencement of construction as identified in Section 8.3 of this agreement;
- (e) changes to the exterior architectural appearance of the buildings or the design, layout and positioning of the buildings, provided that plans are submitted for any changes to the building design and that such changes, in the opinion of Council, are minor in nature;
- (f) changes to the landscaping measures as detailed in Section 3.9 which, in the opinion of Council, are minor in nature;
- (g) reduction in the parking space requirements;

6.2.2 In considering the approval of a non-substantive amendment under Section 7.2, property owners within 152m (500 ft) of the site shall be informed by mail at least 10 days in advance of the proposed amendment being considered by Council.

#### PART 8 REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

##### 8.1 Registration

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall incur all cost in recording such documents.

##### 8.2 Subsequent Owners

8.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.

8.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

### **8.3 Commencement of Development**

8.3.1 In the event that a Construction Permit has not been issued within 5 years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, 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.

8.3.2 If the Developer(s) fails to complete the development, or after 10 years from the date of registration of this Agreement at the Registry of Deeds, 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.

### **8.4 Completion of development**

Upon the completion of the development, 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 for Bedford, as may be amended from time to time.

## ATTACHMENT B

### Applicable MPS Policies and Excerpts from the Sackville LUB

#### Policy C-4(a)

It shall be the intention of Council to enable mixed use commercial/residential development at the south corner of the Bedford Highway and Moirs Mill Road as a means of promoting more intense development on what currently are under utilized lands with a municipal services in close proximity to commercial nodes and future transit oriented. Within the Commercial Designation, a mixed use development shall only be considered by a development agreement in accordance to the provision of the Municipal Government Act. In considering any such agreement, Council shall have regard to the following:

- a) commercial shall be integrated into a building provided the commercial be located on the first floor fronting the Bedford Highway as a minimum provided commercial and residential uses smoothly co-exist within architecturally attractive buildings accessible by automobiles and pedestrians. The commercial uses be limited to those sympathetic to mixed use development;
- b) the residential density shall not exceed 30 units per acre (based on a two-bedroom equivalent per unit);
- c) all principal structures are designed to be seen from three vantage points: from the Bedford Highway motorist's point of view, from the pedestrians up-close viewpoint, and in relationship with adjacent and nearby buildings.
- d) controls are set on the bulk, scale, and massing of any proposed development to ensure it does not significantly alter the character of this area and ensure such development contribute to a vibrant, attractive, safe, walkable area of Bedford.;
- e) adequate buffers and screening should be provided for any proposed building or parking area from adjacent single unit dwellings, and attractive fencing and landscaping to enhance privacy should be provided where appropriate;
- f) landscaping complements the proposed buildings, reinforces circulation paths, highlights entrances, provides shade, adds seasonal interest, and outlines a maintenance plan. Landscaping shall be designed for appreciation by pedestrians, bicyclists and motorists. adequate landscaping and/or streets trees should be provided around the perimeter and throughout the site of the development to enhance the aesthetics of the site;
- g) areas should be characterized by open space, green space, pedestrian connections and sidewalks that create a pedestrian-friendly area adequate recreation;
- h) parking areas should be located so as to not dominate the site. The visual appearance of parking areas should be minimized through use of landscaping treatments, rear yards or enclosed parking, reduced parking standards or other appropriate means;
- i) traffic circulation and access to an from the site should be designed to minimize adverse impacts on the adjacent residential uses, local road and the Bedford Highway;
- j) adequate provisions should be made for safe and convenient pedestrian circulation on the site and to nearby amenities;
- k) lighting shall be designed to provide security, safety, and visual appeal for both pedestrians and vehicles while ensuring minimal impact on adjacent residential properties.
- l) measures should be proposed to mitigate impact on adjacent properties;
- m) significant natural and cultural features on the site should be identified and protected where appropriate;
- n) the provisions of Policy Z-3 be met. (RC-Aug 8/06;E-Sep 9/06)

**Policy Z-3:**

It shall be the policy of Town Council when considering zoning amendments and development agreements [excluding the WFCDD area] with the advice of the Planning Department, to have regard for all other relevant criteria as set out in various policies of this plan as well as the following matters:

1. That the proposal is in conformance with the intent of this Plan and with the requirements of all other Town By-laws and regulations, and where applicable, Policy R-16 is specifically met;
2. That the proposal is compatible with adjacent uses and the existing development form in the neighbourhood in terms of the use, bulk, and scale of the proposal;
3. That provisions are made for buffers and/or separations to reduce the impact of the proposed development where incompatibilities with adjacent uses are anticipated;
4. That provisions are made for safe access to the project with minimal impact on the adjacent street network;
5. That a written analysis of the proposal is provided by staff which addresses whether the proposal is premature or inappropriate by reason of:
  - i) the financial capability of the Town to absorb any capital or operating costs relating to the development;
  - ii) the adequacy of sewer services within the proposed development and the surrounding area, or if services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems;
  - iii) the adequacy of water services for domestic services and fire flows at Insurers Advisory Organization (I.A.O.) levels; the impact on water services of development on adjacent lands is to be considered;
  - iv) precipitating or contributing to a pollution problem in the area relating to emissions to the air or discharge to the ground or water bodies of chemical pollutants;
  - v) the adequacy of the storm water system with regard to erosion and sedimentation on adjacent and downstream areas (including parklands) and on watercourses;
  - vi) the adequacy of school facilities within the Town of Bedford including, but not limited to, classrooms, gymnasiums, libraries, music rooms, etc.;
  - vii) the adequacy of recreational land and/ or facilities;
  - viii) the adequacy of street networks in, adjacent to, or leading toward the development regarding congestion and traffic hazards and the adequacy of existing and proposed access routes;
  - ix) impact on public access to rivers, lakes, and Bedford Bay shorelines;
  - x) the presence of significant natural features or historical buildings and sites;
  - xi) creating a scattered development pattern which requires extensions to trunk facilities and public services beyond the Primary Development Boundary;
  - xii) impact on environmentally sensitive areas identified on the Environmentally Sensitive Areas Map; and,
  - xiii) suitability of the proposed development's siting plan with regard to the physical characteristics of the site.
6. Where this plan provides for development agreements to ensure compatibility or reduce potential conflicts with adjacent land uses, such agreements may relate to, but are not limited to, the following:
  - i) type of use, density, and phasing;
  - ii) traffic generation, access to and egress from the site, and parking;
  - iii) open storage and landscaping;
  - iv) provisions for pedestrian movement and safety;
  - v) provision and development of open space, parks, and walkways;

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
Email: [simms@halifax.ca](mailto:simms@halifax.ca)

- vi) drainage, both natural and subsurface;
  - vii) the compatibility of the structure(s) in terms of external design and external appearance with adjacent uses; and,
  - viii) the implementation of measures during construction to minimize and mitigate adverse impacts on watercourses.
7. Any other matter enabled by Sections 73 and 74 of the Planning Act.
8. In addition to the foregoing, all zoning amendments and development agreements shall be prepared in sufficient details to:
- i) provide Council with a clear indication of the nature of the proposed development; and
  - ii) permit staff to assess and determine the impact such development would have on the proposed site and the surrounding community.
9. To assist in the evaluation of applications to enter into development agreements, Council shall encourage proponents to provide the following information:
- a) a plan to a scale of 1":100' or 1":40' showing such items as:
    - i) an overall concept plan showing the location of all proposed land uses;
    - ii) each residential area indicating the number of dwelling units of each type and an indication of the number of bedrooms;
    - iii) description, area, and location of all proposed commercial, cultural, mixed-use projects proposed;
    - iv) location, area, shape, landscaping and surface treatment of all public and private open spaces and/or park areas;
    - v) plan(s) showing all proposed streets, walkways, sidewalks, bus bays and bike routes;
    - vi) a description of any protected viewplanes; and,
    - vii) an indication of how the phasing and scheduling is to proceed.
  - b) For individual phases of a development more detailed concept plans are to be provided indicating such items as maximum building heights, location and configuration of parking lots, landscaping plans, and any additional information required to be able to assess the proposal in terms of the provisions of the Municipal Planning Strategy.
  - c) Plans to the scale of 1":100' showing schematics of the proposed sanitary and storm sewer systems and, water distribution system.
10. Within any designation, where a holding zone has been established pursuant to AInfrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the AInfrastructure Charges@ Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)



**Map 1 - Generalized Future Land Use**

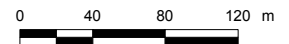
910 Bedford Highway  
Bedford

 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
- BSSPS Bedford South Secondary Planning Strategy

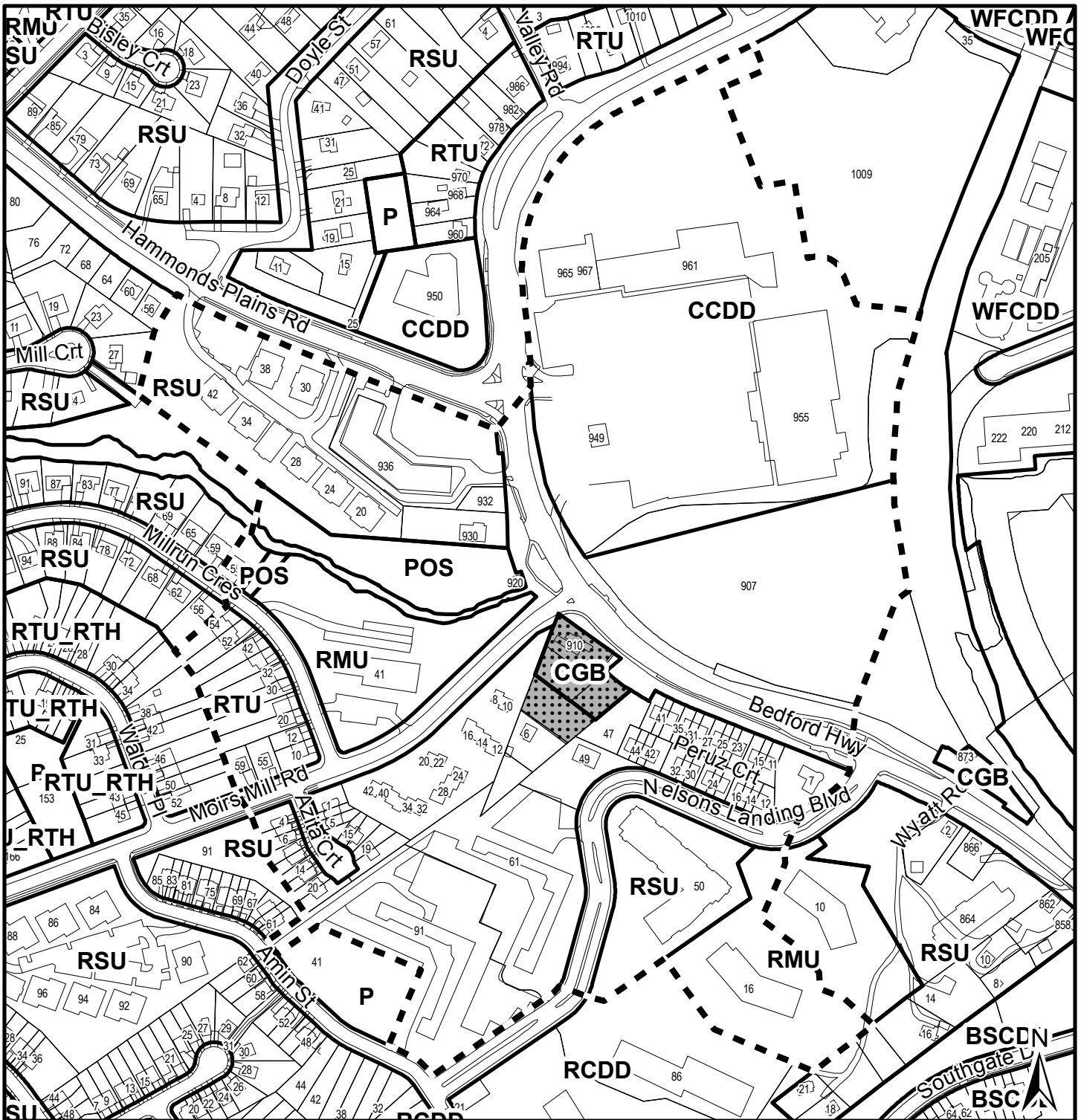
Bedford  
Plan Area



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 |

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DEVELOPMENT APPROVALS

0 40 80 120 m



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## *Proposed Building Design 910 Bedford Hwy.*

Map 3  
Approved Development



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