

**North West Planning Advisory Committee
January 9, 2013**

TO: Chair and Members of North West Planning Advisory Committee

Original Signed

SUBMITTED BY: Brad Anguish, Director of Community and Recreation Services

DATE: December 14, 2012

SUBJECT: **Case #18083: Non-Substantive Amendment to the Development Agreement for the northwest corner of Larry Uteck Blvd. and Southgate Drive, Bedford**

ORIGIN

Application by Samir Chater

LEGISLATIVE AUTHORITY

- *HRM Charter*; Part VIII, Planning & Development

RECOMMENDATION

It is recommended that North West Planning Advisory Committee recommend that Central Community Council:

1. Approve the proposed Amending Agreement as set out in Attachment A of this report to permit an increase to the building footprint for the approved commercial building at north-west corner of Larry Uteck Blvd. and Southgate Drive, Bedford; and
2. Require the Amending Agreement be signed by the property owners 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 will be void and obligations arising hereunder shall be at an end.

BACKGROUND

At the intersection of Larry Uteck Boulevard and Southgate Drive, Bedford, is a community commercial node which has been developed under an approved development agreement as part of the Bedford South/Wentworth Estates Master Plan Area (Maps 1 and 2). The development agreement permits two commercial buildings on the west side of Southgate Drive (subject site) and stipulates the maximum building footprint for each building. Only one commercial building has been constructed to date and that building's footprint is smaller than the permitted maximum footprint. The applicant is seeking to transfer a portion of the unused building footprint from the constructed building to the footprint of the remaining undeveloped building (Map 3). In accordance with the Section 3.1(a) of the development agreement, such a change to the commercial buildings can only be considered through the non-substantive amendment process.

Bedford South and the Existing Agreement

In 2002, Regional Council approved the Bedford South Secondary Plan (the Secondary Plan) which provides guidance for the development of a new community between Bedford Highway and Highway 102 north of the Royale Hemlocks Subdivision and south of the Crestview subdivision.

On September 18, 2006, North West Community Council and Chebucto Community Council approved a development agreement (the Agreement) for Neighbourhood B which enabled 638 dwelling units on Larry Uteck Boulevard, a high school (École du Sommet), and two commercial sites located at the intersection of Larry Uteck Boulevard and Southgate Drive which permit a range of commercial uses including but not limited to full service restaurants, offices, convenience stores and retail. The subject properties are the two commercial sites as shown on Maps 1 and 2.

The Site, Designation and Zoning

The subject site consists of two lots (Lot UTCC1A & UTCC1B) with a combined area of 8,943 m² (2.2 acres). The subject site is designated Bedford South Secondary Planning Strategy (BSSPS) under the Bedford Municipal Planning Strategy (MPS), Community Commercial/Institutional under the Bedford South Community Concept Plan, and zoned Bedford South Comprehensive Development District (BSCDD) under the Bedford Land Use By-law (LUB) (Maps 1 and 2). The subject site is also designated Urban Settlement under the Regional Plan.

Amendments to the Existing Agreement

The development agreement which was approved in 2006 has been amended three times. The first amendment dealt with the construction of residential units prior to the construction of the Larry Uteck interchange at Highway 102. This amendment is not relevant to the current application.

However, the second and third amending agreements were specific to the subject site. The development agreement approved in 2006 permitted a single L-shaped building on the subject site. On March 26, 2009 North West Community Council approved an amendment (second amending agreement) to the Agreement to permit two commercial buildings on the site (Map 3)

instead of the one L-shaped building and additional provisions for landscaping. On April 23, 2009, Community Council approved a further amendment (third amending agreement) to the Agreement permitting drive-in and take-out restaurants as an additional land use and additional provisions for parking and signage.

The Proposal

Under Section 2 of the second amending agreement, the footprints of the two approved buildings are not to exceed 3,000 square feet and 13,000 square feet, respectively.

One building has been constructed to date on Lot UTCC1A (a Pharmasave in 2010). It has a total building footprint of 1,115 m² (12,000 sq.ft.) which is 93 m² (1,000 sq.ft.) less than the permitted maximum building footprint. The applicant has requested the maximum permitted footprint for the undeveloped building to be located on Lot UTCC1B, be increased from 279 m² (3,000 sq.ft.) to 335 m² (3,600 sq.ft.). Map 3 shows the proposed site plan and this proposal would result in the net decrease of building footprint on the site by 37 m² (400 sq.ft.). This information is represented on Table 1 below.

Section 3.1(a) of the Agreement allows Community Council to consider changes to the siting of the buildings through a “non-substantive” amendment provided Community Council is satisfied that such amendments are minor and conform with the intent of all applicable policies of the Community Planning Strategy and the Regional Planning Strategy. Further, a “non-substantive” amendment may be approved through a resolution of Community Council without a Public Hearing.

Table 1: Existing and Proposed Maximum Building Footprints for the Site

	The Site	
	Lot UTCC1A	Lot UTCC1B
Max. Permitted Footprint (Existing Agreement)	1,208 m ² (13,000 sq. ft.)	279 m ² (3,000 sq. ft.)
Footprint Constructed to Date	1,115 m ² (12,000 sq. ft.)	0
Proposed Max. Permitted Footprint	1,115 m ² (12,000 sq. ft.)	335 m ² (3,600 sq. ft.)
Net change	- 93 m ² (1,000 sq. ft.)	+ 56 m ² (600 sq. ft.)

DISCUSSION

Enabling Policy

The subject site is designated as a Community Commercial/Institutional area under the Bedford South Community Concept Plan. Policy CCI-1 (Attachment B) provides the primary policy guidance within the Community Commercial/Institutional designation. The main intent is to enable a range of commercial and institutional uses while ensuring attractive, interesting and pedestrian friendly design.

When considering this application, an evaluation of the proposal against the relevant policy criteria is required (Attachment B). Staff reviewed the application based on all applicable policies and as the proposed increase to the undeveloped building on Lot UTCC1B is only 56 m² (600 sq.ft.) of the gross floor area footprint the impact on the site design as a whole is expected

to be relatively minor. The only potential impact identified during the staff review of this proposal relates to parking and is discussed below.

Parking

The number of parking spaces required on the property is based on the type of land use proposed and the total floor area devoted to that land use. An increase in floor area typically results in additional parking spaces being required. Staff conducted a review of the proposal and there are adequate spaces on the site to accommodate the parking requirements should the proposed amendment be approved. Parking requirements are also confirmed at the permitting stage and must meet the provisions of the Agreement and Bedford Land Use By-law.

Conclusion

It is the opinion of staff that the proposed amending agreement is consistent with the intent of the Bedford South Secondary Planning Strategy. Therefore, staff recommend Community Council approve the proposed amending development agreement as set out 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 information sharing achieved through a sign on the site and information on the HRM website. A public information meeting is not required for a non-substantive amendment to a development agreement, nor is a public hearing. The decision of a non-substantive amendment is made by resolution of Council.

The proposed amending agreement will potentially impact the following stakeholders but not limited to local residents, property owners.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all relevant, environmental policies contained in the Bedford MPS and LUB. Please refer to Attachment B of this report for further information.

ALTERNATIVES

The North West Planning Advisory Committee could recommend that Central Community Council:

1. Approve the proposal amending agreement, as contained in Attachment A. This is the recommended course of action as the proposed amendment meets the intent of Bedford South Secondary Planning Strategy (BSSPS) and the existing development agreement.
2. Approve the terms of the proposed amending agreement, as contained in Attachment A, with modifications or conditions. Some modification or conditions may require additional negotiation with the developer.
3. Refuse the proposed amending agreement. Pursuant to Section 245(6) of the *Halifax Regional Municipality Charter*, Council must provide reasons for the refusal based on the policies of the BSSPS.

ATTACHMENTS

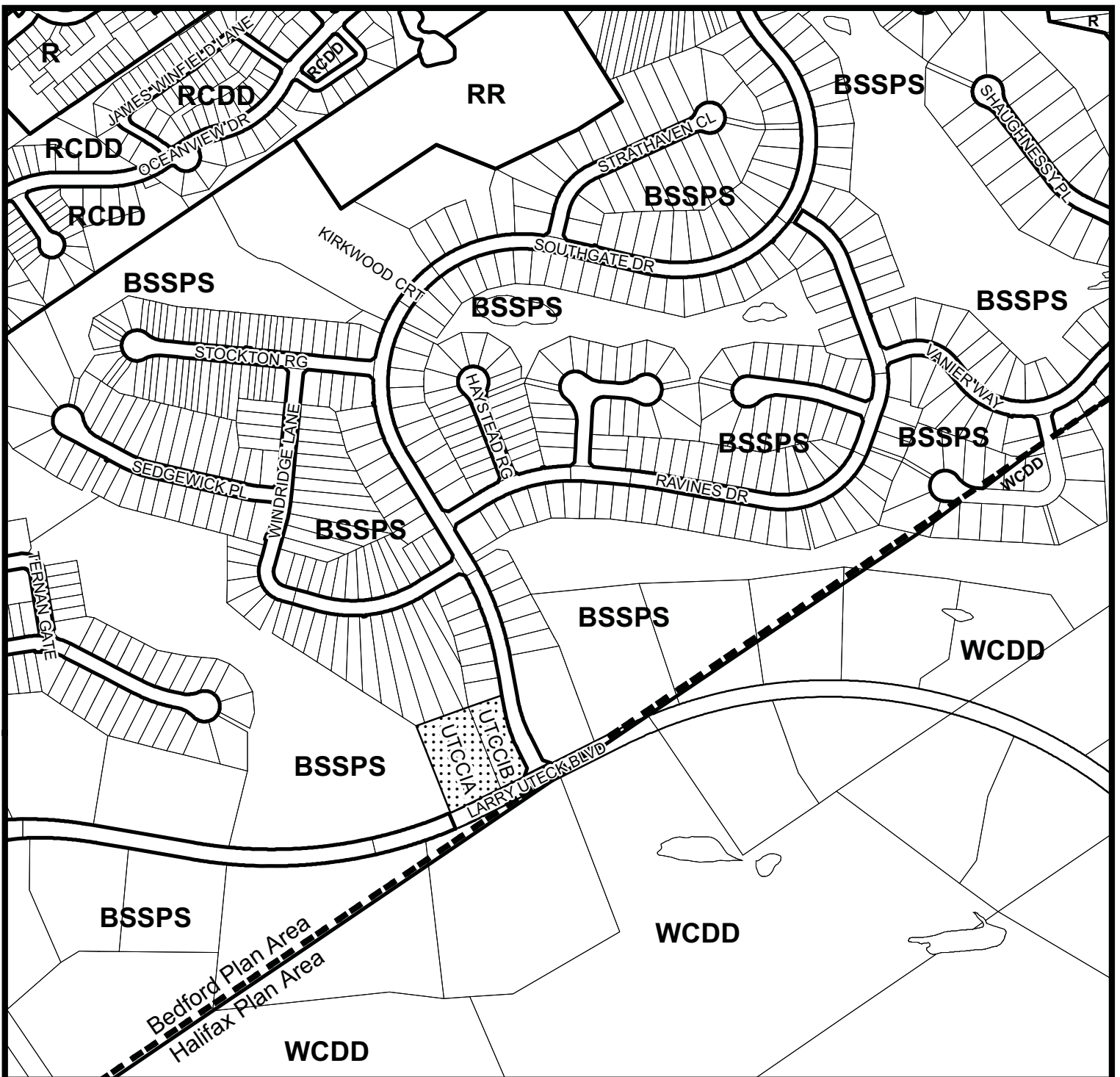
Map 1	Generalized Future Land Use Map
Map 2	Zoning Map
Map 3	Proposed Site Plan
Attachment A	Proposed Amending Development Agreement
Attachment B	Policy Review (Applicable Policies)

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.

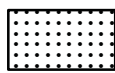
Report Prepared by: Jacqueline Belisle, Planner 1, 869-4262

Original Signed

Report Approved by:  Kelly Denny, Manager of Development Approvals, 490-4800



Map 1
Generalized Future Land Use



Subject Properties



HALIFAX
REGIONAL MUNICIPALITY
Community Development
Planning Services

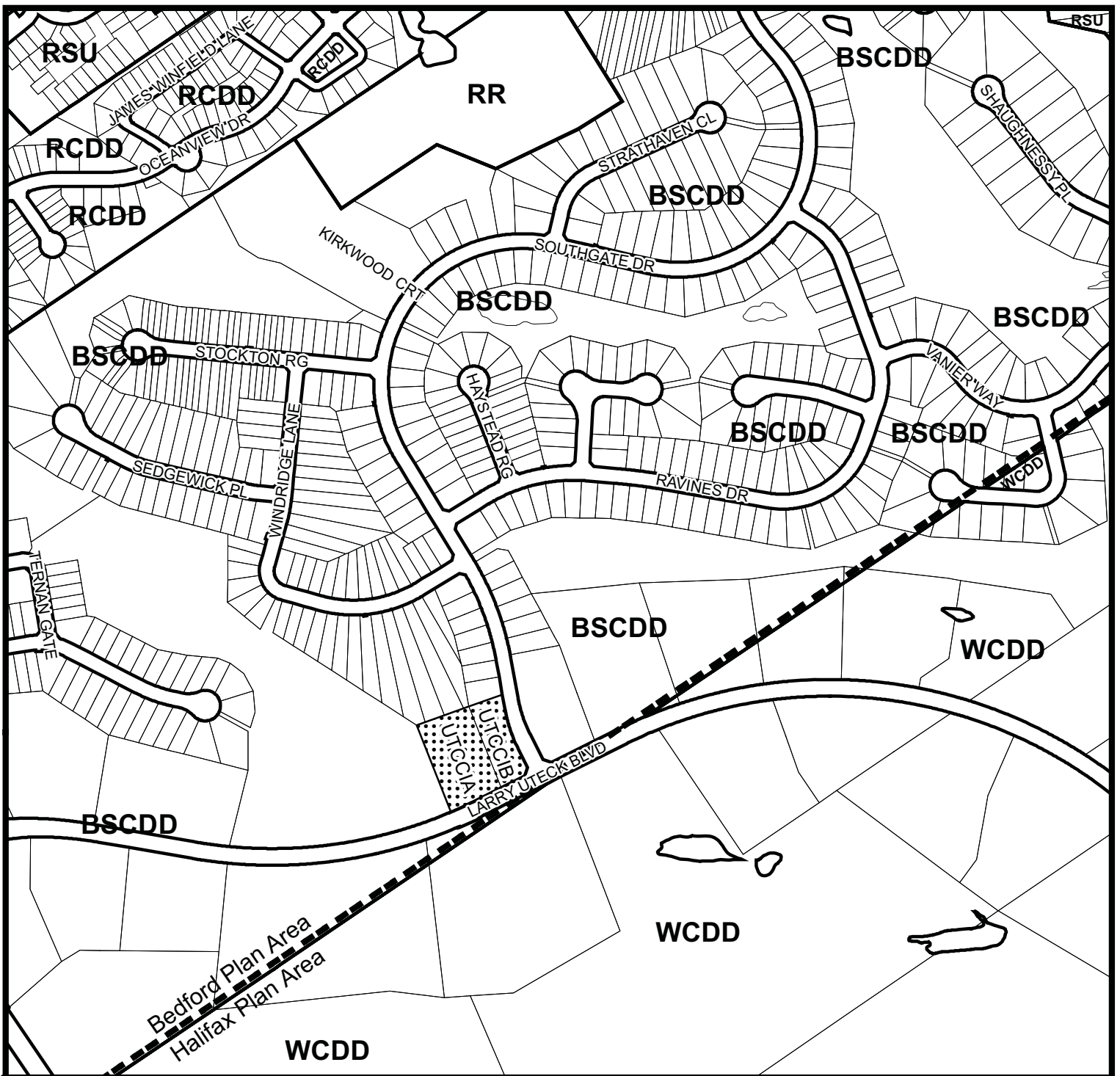
Bedford Plan Area Designations

- R Residential Designation
- RR Residential Reserve Designation
- RCDD Residential Comprehensive Development District
- BSSPS Bedford South Secondary Planning Strategy

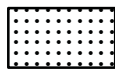
Halifax Plan Area Designations

- WCDD Wentworth Comprehensive Development District





Map 2
Zoning



Subject Property



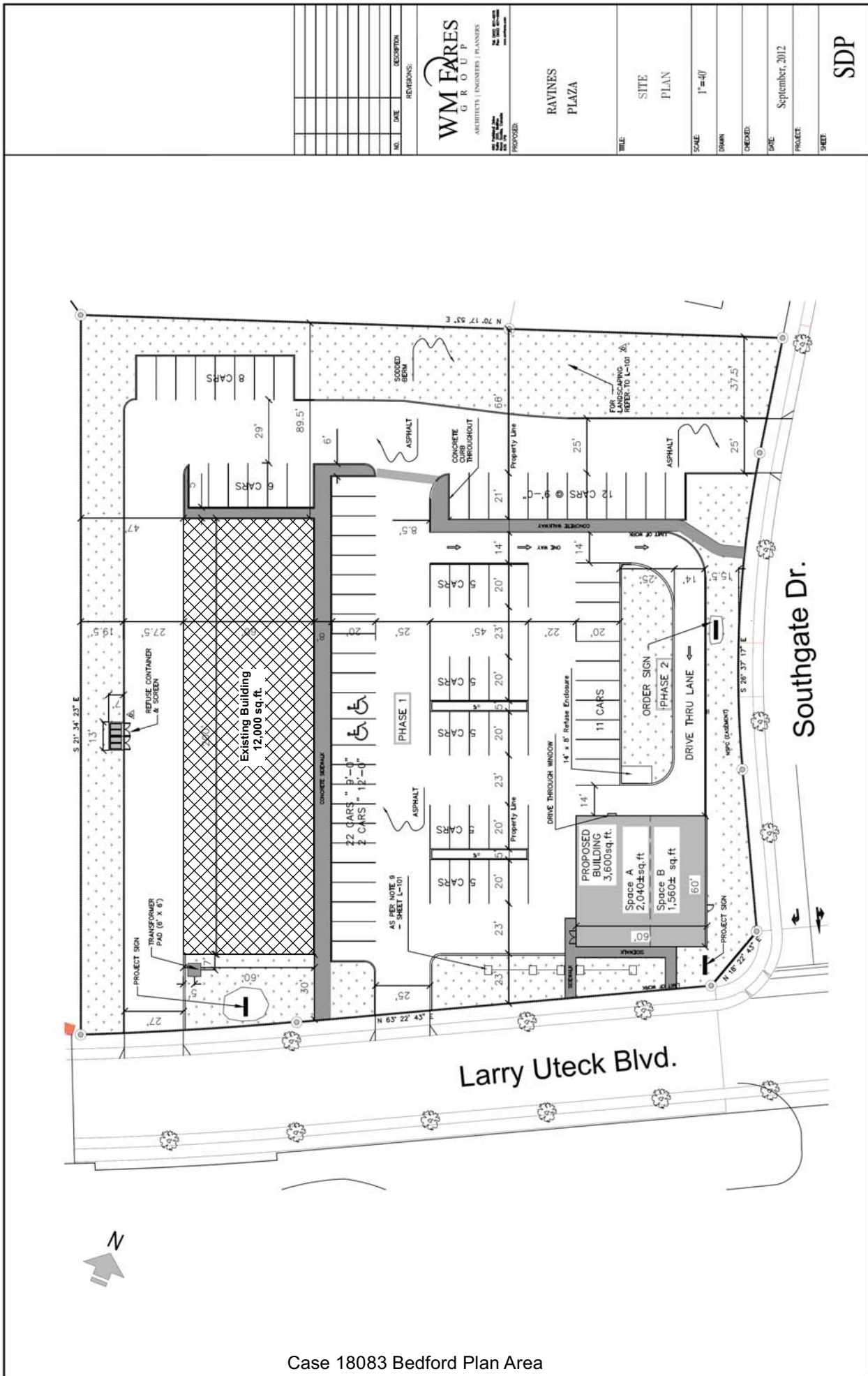
Bedford Plan Area Zones

- RSU Single Dwelling Unit Zone
- RR Residential Reserve Zone
- RCDD Residential Comprehensive Development District
- BSCDD Bedford South Comprehensive Development District

Halifax Plan Area Zones

- WCDD Wentworth Comprehensive Development District





Case 18083 Bedford Plan Area

NO.	DATE	DESCRIPTION

WM FARES GROUP ARCHITECTS ENGINEERS PLANNERS 2100 WEST 12TH AVENUE, SUITE 200 DENVER, CO 80202 303.733.8888 WWW.WMFARES.COM	PROPOSED: RAVINES PLAZA
TITLE: SITE PLAN	SCALE: 1"=40'
DRAWN:	CHECKED:
DATE: September, 2012	PROJECT:
SHEET:	SDP

**Attachment A
Proposed Amending Development Agreement**

THIS AGREEMENT made this day of **[Insert Month]**, 2013,

BETWEEN:

[INSERT NAME]

individuals, in the Halifax Regional Municipality
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

[INSERT NAME]

individuals, in the Halifax Regional Municipality
(hereinafter called the "Developer")

OF THE SECOND PART

- and -

HALIFAX REGIONAL MUNICIPALITY

a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE THIRD PART

WHEREAS the Developer is the registered owner of certain lands located at the corner of Larry Uteck Boulevard and Southgate Drive, Lots UTCC1A (535 Larry Uteck Boulevard) and UTCC1B, Bedford and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the North West Community Council and the Chebucto Community Council of the Halifax Regional Municipality approved an application on September 18, 2006 to enter into a Development Agreement to allow for commercial or institutional development on the Lands, which said Development Agreement was registered at the Land Registry Office in Halifax as Document Number 88868600 and referenced as Municipal Case Number 00624 (hereinafter called the "Existing Agreement");

AND WHEREAS the North West Community Council approved a non-substantive amendment to the Existing Agreement on January 22, 2009, referenced as Municipal Case Number 01223, to permit construction of 136 dwelling units within 2 multi-unit buildings prior to the construction of the interchange at Highway 102 and its connection to Larry Uteck Boulevard, said agreement being recorded at the Land Registry Office in Halifax as Document Number 92987438 and referenced as Municipal Case Number 01223 (hereinafter called the "First Amending Agreement");

AND WHEREAS the North West Community Council approved a non-substantive amendment to the Existing Agreement on March 26, 2009, referenced as Municipal Case Number 01226, to permit changes to the siting and location of buildings and to establish specifications for landscaping, said agreement being recorded at the Land Registry Office in Halifax as Document Number 94275667 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the North West Community Council approved a substantive amendment to the Existing Agreement on April 23, 2009, referenced as Municipal Case Number 01226, to permit drive-in and take-out restaurants, reduce the parking requirements for a drive-in or take-out restaurant, and revise the signage provisions, said agreement being recorded at the Land Registry Office in Halifax as Document Number 94640191 (hereinafter called the "Third Amending Agreement");

AND WHEREAS the Developer has requested a non-substantive amendment to the provisions of the Second Amending Agreement to enable changes to the siting and location of buildings on the Lands.

AND WHEREAS the Central Community Council for the Municipality approved this request at a meeting held on [**Insert - Date**], referenced as Municipal Case Number 18083;

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

-
1. Delete Section 2 and replace with the following text:
 - “2. Buildings shall be located and oriented as generally illustrated on Schedule B. Furthermore, the Development Officer may, in consultation with the Development Engineer, permit a reduced setback of 0 feet to public streets for the building proposed to be located directly at the corner of Larry Uteck Boulevard and Southgate Drive. The footprints of the buildings shall not exceed 335 square meters (3,600 square feet) and 1,115 square meters (12,000 square feet) respectively.”

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2013.

SIGNED, SEALED AND DELIVERED
in the presence of:

(Insert Registered Owner Name)

Per: _____

Per: _____

Witness

SIGNED, SEALED AND DELIVERED
in the presence of:

(Insert Registered Owner Name)

Per: _____

Per: _____

Witness

=====

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

=====

**HALIFAX REGIONAL
MUNICIPALITY**

Per: _____

Mayor

Witness

Per: _____

Municipal Clerk

Witness

**Attachment B
Policy Review (Applicable Policies)**

Excerpt from the Bedford South Secondary Planning Strategy

Community Commercial/Institutional Designation

The Community Commercial/Institutional Designation envisions a built form of human scale with a diverse range of commercial, civic and residential activities. The developments are intended to be safe and attractive for pedestrians with convenient links established to surrounding residential neighbourhoods. A specific site has been reserved for one or more new schools if needed by the Regional School Board.

Objectives:

- to provide a focus for pedestrian oriented community and commercial activities with the community
- to create a built form reminiscent of a town square or main street
- to foster activities for all ages and a wide range of lifestyles in a safe and secure environment
- to encourage innovative design and comprehensive planning
- to reserve lands for schools

Policy CCI-1:

A range of community commercial, institutional, and recreational uses may be permitted within the Community Commercial/Institutional Designation subject to consideration of the following matters:

Policy Criteria	Staff Comment:
<i>a) no parking or loading areas are located between a public street and a building and any buildings with commercial occupancies shall be located in close proximity to the street line;</i>	The proposed amendment will not affect the location of parking or loading areas.
<i>b) parking areas are designed so as not to appear obtrusive from a public street or dominate the streetscape, provide safe and convenient pedestrian access to the buildings they are intended to serve;</i>	The proposed amendment will not affect the design of parking areas.
<i>c) provisions are made for the storage of bicycles;</i>	Bicycle parking is required under Section 37A of the Bedford Land Use By-law.
<i>d) exterior materials, street furniture; trees, lighting and landscaping measures are incorporated in buildings to foster an interesting and secure environment;</i>	These provisions are addressed under the existing agreement. The proposed amendment has no effect on these requirements.

<i>e) the windows, exterior features and materials and signs employed in any building create a sense of interest from public streets;</i>	Section 2.2.7 (e) (iv) of the existing agreement addresses this policy provision. The proposed amendment has no effect on this requirement.
<i>f) no building height exceeds six stories in height and no residential uses are permitted on the ground floor of any building within fifty (50) feet of a public street;</i>	The maximum height permitted on the site under Section 2.2.7(d) of the existing agreement is three (3) stories above average grade.
<i>g) the proposal conforms with all applicable provisions and requirements adopted under this Secondary Planning Strategy regarding environmental protection, the community transportation system and municipal services.</i>	This proposal is in conformance with the provisions of the Bedford South SPS.