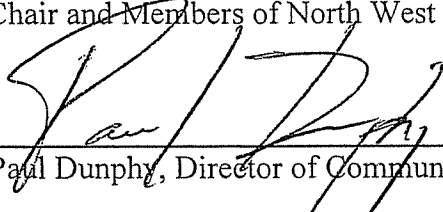




PO Box 1749
Halifax, Nova Scotia
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North West Planning Advisory Committee
May 7, 2008

TO: Chair and Members of North West Planning Advisory Committee

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: April 11, 2008

SUBJECT: **Case 01146: Non-Substantial Amendment - Phase 1 of the Bedford Waterfront Development Project**

ORIGIN

An application by Provident Development Incorporated to amend the development agreement for Phase 1 of the Bedford Waterfront Development Project to permit a temporary sales building on Site 3.2.

RECOMMENDATION

It is recommended that North West Community Council:

1. Approve the proposed amending agreement, set out in Attachment A of this report, to permit a temporary sales building on Site 3.2 of the Bedford Waterfront lands;
2. Require the proposed amending agreement be signed and delivered within 120 days, or any extension thereof granted by North West Community Council on request of the applicant, from the date of final approval of said agreement by North West Community Council and any other bodies as necessary, whichever is later, including any appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end; and

BACKGROUND

In 1991, the former Town of Bedford entered into a development agreement with the Bedford Waterfront Development Corporation (BWDC) to develop Phase 1 of the Bedford Waterfront Development Project (Map 1). Phase 1 is designated and zoned Waterfront Comprehensive Development District under the Bedford Municipal Planning Strategy (MPS) and Land Use By-law (LUB) (Maps 2 and 3 respectively). The main policy intent for the WFDC designation is to promote development of the waterfront as an active mixed use urban area that includes public open space and access to the water's edge. The relevant MPS policies are included in Attachment B.

Phase 1 is comprised of four parcels of land including the subject property, identified as Site 3.2 (PID 40601676). The undeveloped portion of site 3.2, the subject property, is a 2.2 acre parcel of land which is located adjacent to Bedford Basin and across Waterfront Drive from the Mill Cove Sewage Treatment Plant.

Existing Development Agreement

The existing development agreement enables development of three commercial buildings on Site 3.2. One of these, an office building at 200 Waterfront Drive, is already developed. The existing Agreement enables the development of a 5 storey and a 6 storey building on the remainder of the site. NWCC recently approved amendments to this development agreement to revise the architectural requirements and to enable mixed use commercial/residential buildings. The existing Agreement does not reference the establishment of a temporary sales building. Further, the Bedford LUB permits the establishment of a temporary sales or rental office only if construction is underway. The LUB does not permit a temporary sales office prior to construction.

Proposal

Provident has applied for an amendment to the existing Agreement to permit a temporary sales building on Site 3.2 prior to the issuance of construction permits for the development. The existing Agreement defines non-substantive amendment as anything that does not relate to an increase in height of a building, increase in site coverage or changes to commercial land uses. Therefore, the proposal to enable a temporary sales office is a non-substantive amendment to the Agreement.

A Resolution of Council is required to approve the non-substantive amendment. A Public Hearing is not held to consider a non-substantive amendment although Council's decision can be appealed to the Nova Scotia Utility and Review Board.

Aside from the proposed change, Provident shall comply with all other requirements of the existing Agreement.

Bedford Visioning Project

The Bedford Waterfront is one of the first communities to create a Community Vision through the new VisionHRM initiative. Objectives of the vision include improving public access to the

waterfront; expanding residential and business activity; and providing a safe, secure, fully serviced environment for users of the waterfront including pedestrians.

Staff believe that the proposed amendment does not have an impact on the Bedford Vision given that the proposal is for a temporary sales office in support of a permitted commercial / residential building.

DISCUSSION

Staff have reviewed the proposed amendment relative to the intent of the existing Agreement and all relevant policies of the Bedford MPS. The following comments are offered:

1. MPS policies - The proposed amendment does not violate the intent of existing policies for the Bedford Waterfront or general MPS policies. While the Bedford LUB permits temporary sales buildings for projects under construction, the enabling MPS policy does not necessitate that the building be under construction.
2. Ensuring temporary buildings are temporary - The establishment of a temporary sales building is permitted through Policy Z-24 (Attachment B). Therefore, staff suggests temporary sales or rental office be permitted for a period of two years prior to the commencement of construction of each building. In addition, staff suggest the sales office may remain for an extended period during the construction of the building in accordance with the provisions of the LUB.
3. Size of building - Staff are of the opinion that the temporary sales building be no more than 2000 square feet in size. A clause in the proposed development agreement amendment reflects this limit.

Conclusion

Staff are of the opinion that the proposed amendment, included as Attachment A, is consistent with the intent of the policies in the Bedford MPS. Staff have included requirements in the proposed amendment to deal with the identified issues. Further staff are recommending that North West Community Council approve the proposed amendments as outlined in the recommendation section of this report.

BUDGET IMPLICATIONS

The HRM costs associated with processing this application can be accommodated within the operating budget for C310.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may choose to approve the proposed amending development agreement. This is the recommended course of action.
2. Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons for refusing the amendment. This alternative is not recommended as Staff are satisfied that the proposed agreement is consistent with the intent of the existing agreement and the MPS.
3. Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant.

ATTACHMENTS

Map 1 Phase 1, Bedford Waterfront Development
Map 2 Generalized Future Land Use Map
Map 3 Zoning and Notification Map

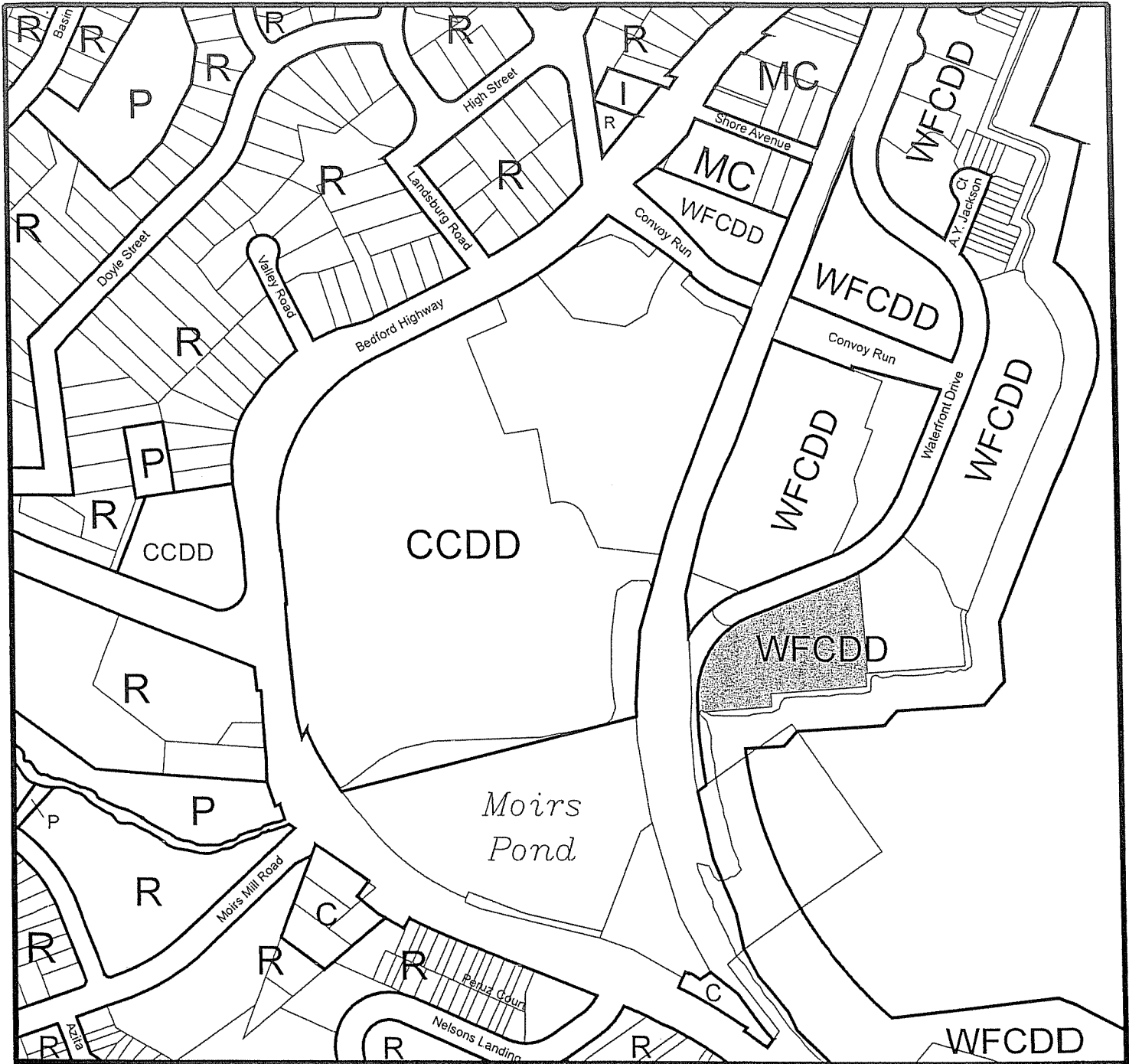
Attachment A Proposed Amending Agreement
Attachment B Excerpts from the Bedford MPS
Attachment C Excerpts from the Bedford LUB

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 : Andrew Bone, Senior Planner, 869-4226



Report Approved by: _____
Austin French, Manager of Planning Services, 490-6717



Map 1
Generalized Future Land Use

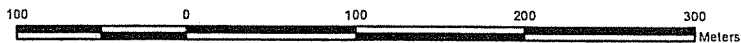


Subject Property

- R Residential Designation
- P Park and Recreation Designation
- C Commercial Designation
- I Institutional Designation

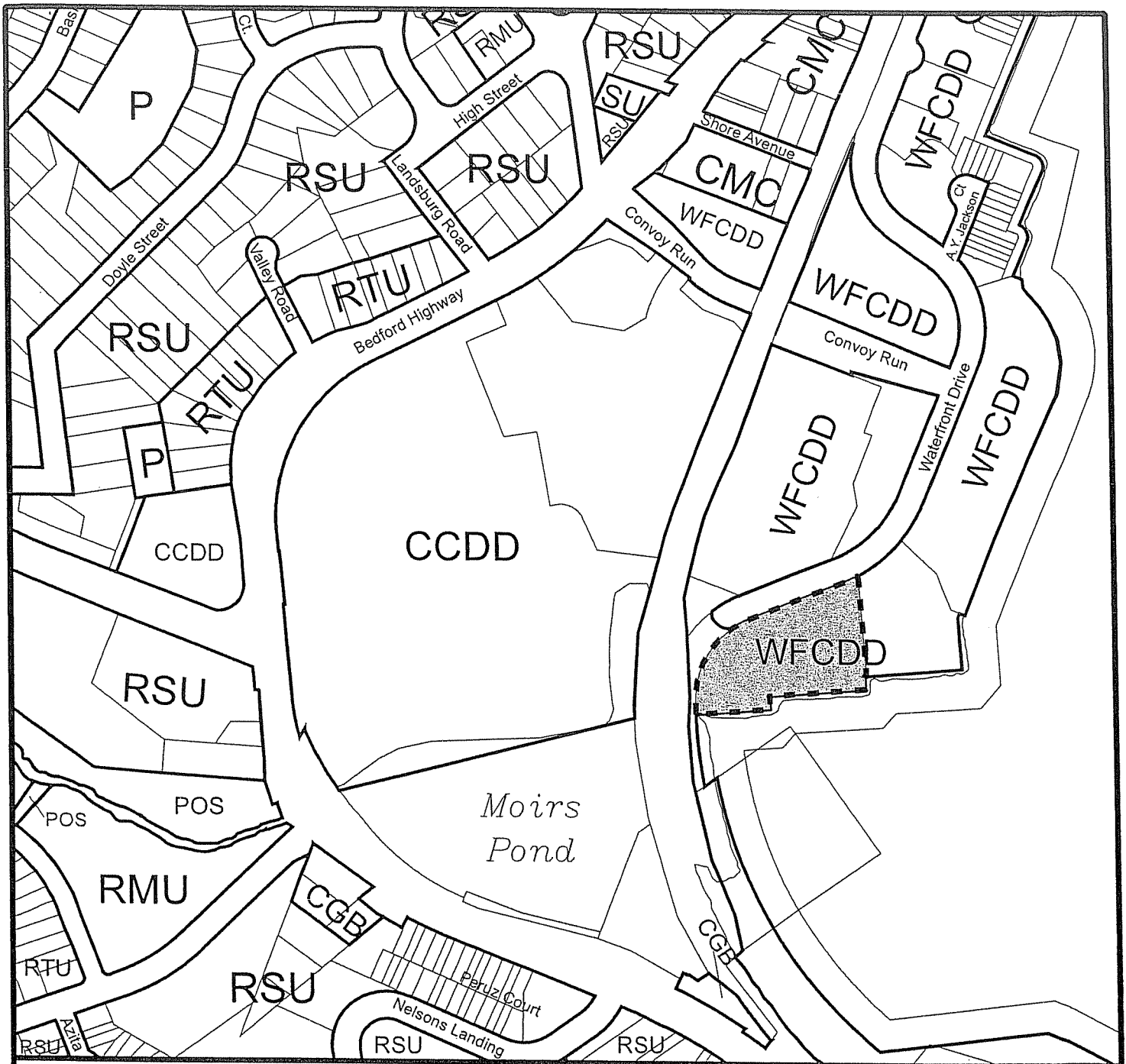
- MC Mainstreet Commercial Designation
- CCDD Commercial Comprehensive Development District
- WFCDD Waterfront Comprehensive Development District

--- Notification Area



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Community Development
Planning Services





**Map 2
Zoning**



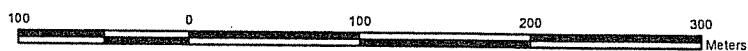
Subject Property



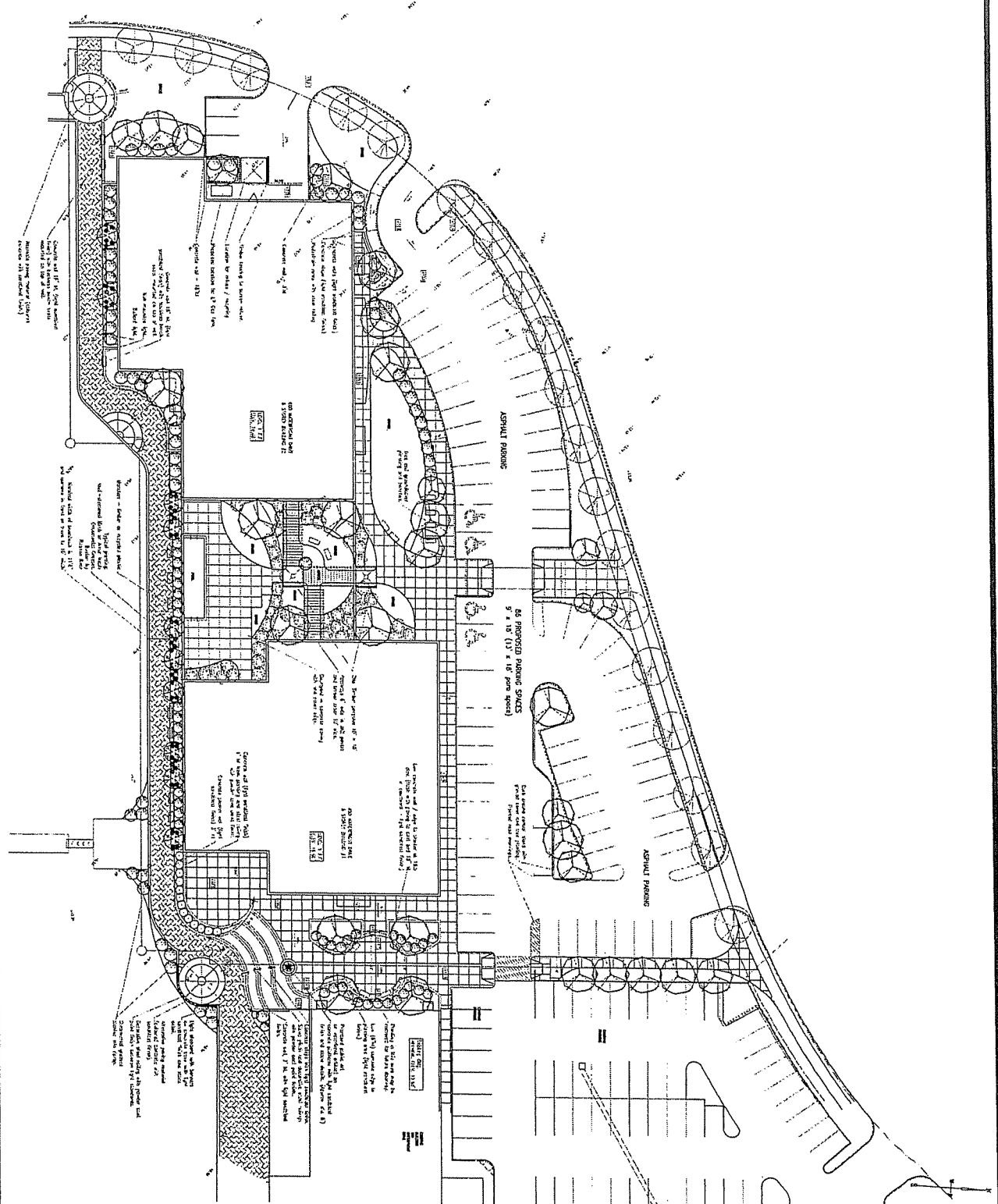
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|-----|--------------------------------|-------|---|
| RSU | Single Dwelling Unit Zone | P | Park Zone |
| RTU | Two Dwelling Unit Zone | POS | Park Open Space Zone |
| RMU | Multiple Unit Dwelling Zone | SU | Utilities Zone |
| CMC | Mainstreet Commercial Zone | CCDD | Commercial Comprehensive Development District |
| CGB | General Business District Zone | WFCDD | Waterfront Comprehensive Development District |



--- Notification Area



Map 3
Site Plan



Apr. 11, 2008

HRM does not guarantee the accuracy of any base map information on this map.

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Attachment A: Proposed Amending Agreement

THIS AMENDING AGREEMENT made this day of , 2008,

BETWEEN:

Provident Holdings Limited
a body corporate, in the Halifax Regional Municipality,
Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at PID 40601676 Bedford and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Bedford Town Council approved an application by the Developer to enter into a development agreement to allow for development of Phase 1 of the Bedford Waterfront Development Project on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 30603 in Book 5264 Pages 234 - 284 (hereinafter called the "Existing Agreement");

AND WHEREAS Bedford Town Council previously amended the Existing Agreement by entering into an amending agreement to allow development of a clock tower on site 3.2, said agreement being recorded at the Registry of Deeds at Halifax as Document Number 8826 in Book 5370 at Page 336 (hereinafter called the "First Amending Agreement");

AND WHEREAS North West Community Council previously amended the Existing Agreement by entering into an amending agreement to allow development of mixed use buildings on site 3.2, said agreement being recorded at the Registry of Deeds at Halifax as Document Number 8826 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Developer has requested an amendment to the provisions of the Existing Agreement to enable a temporary sales building on the Lands (hereinafter called the "Agreement");

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on [INSERT-Date], referenced as Municipal Case Number 01146;

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

1. The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conform with the Schedules attached to this Agreement and the plans filed in the Halifax Regional Municipality as Case Number 01082.

The schedules are:

Schedule A: Legal Description of the Land(s)

2. The Existing Agreement shall be amended to permit the establishment of a temporary sales or rental office for the development provided that the following conditions are met:
 - (a) The temporary sales building shall not exceed a footprint of 185.8 m² (2000 square feet);
 - (b) The temporary sales building shall not exceed a height of 10.66 m (35 feet);
 - (c) The temporary sales or rental office shall be permitted to be established for a period of two years prior to the commencement of construction of each mixed use building. If construction has commenced on the multi-use buildings permitted by this agreement, the Developer shall be permitted to maintain the temporary sales or rental office subject to the requirements of Part 5 of the Bedford Land Use By-law;
 - (d) The access and parking for the temporary sales building shall be separate from any construction access.

Attachment B: Excerpts from the Bedford MPS

WATERFRONT PROJECT OBJECTIVES

OVERALL OBJECTIVE

To promote the development of Bedford's waterfront project area as an active year-round mixed-use urban waterfront area containing public spaces and activities with residential, commercial, cultural and institutional uses that when developed, emphasize the waterfront project area's location, heritage and environment.

Policy WF-1:

It shall be the intention of Town Council, within the design and layout of the Waterfront project, to maximize access to the development as well as the Bedford Basin for all residents of the Town.

Policy WF-2:

It shall be the intention of Town Council to ensure that the physical form, visual appearance, and pedestrian amenity of streets, sidewalks and bicycle routes between the waterfront project area and the Town increase the public's accessibility to the waterfront project area.

Policy WF-10:

It shall be the intention of Town Council to require the Bedford Waterfront Development Corporation to provide for the development of recreational areas to meet the recreational requirements of residents of the waterfront project area housing. The amount of recreational space shall be as required in the Multiple Dwelling Unit (RMU) Zone of the Town's Land Use By-Law.

Policy WF-13:

It shall be the intention of Town Council to encourage provision of a variety of housing styles and dwelling unit sizes on the waterfront project area consistent with the housing objectives of the Town, but in no case shall the residential buildings exceed a height of eight storeys or 100 feet.

Policy WF-15:

It shall be the intention of Town Council to promote commercial development in the waterfront project area excluding large scale shopping centres but including retail, office, hotel and convention facilities as well as increased commercial entertainment opportunities such as a privately operated theatre or activity centre.

Policy WF-22:

It shall be the intention of Town Council that the following uses shall be considered as potentially permitted uses in the Waterfront Comprehensive Development District:

- | | |
|----------------------------|------------------------|
| a) townhouse dwellings | i) marine related uses |
| b) multiple unit dwellings | j) office uses |

- | | |
|------------------------------------|--|
| c) senior residential complexes | k) convention facilities |
| d) neighbourhood convenience store | l) hotel facilities |
| e) retail commercial uses | m) institutional SI/SU uses |
| f) commercial entertainment uses | n) parks & recreational uses |
| g) commercial service | o) cultural uses |
| h) food and beverage uses | p) any uses accessory to the foregoing |

Policy WF-23:

It shall be the intention of Town Council, in addition to all other criteria set out in the various policies of this planning strategy, to have regard for the following criteria in evaluating all proposals for the Waterfront Comprehensive Development District Zone:

Intent

- i) That the proposal provides for a predominantly mixed-use, medium-rise (4, 5, 6 storeys) and high-rise (7 & 8 storeys) project;

Access

- ii) the adequacy of access into the Waterfront Project with preference given to an access at the Holland Avenue/ Bedford Highway intersection;
- iii) That the proposal makes provision for a continuous public walkway immediately adjacent to the water's edge running the entire length of the project except where general accessibility to any marine-related use would be unsafe; and such walkway shall be intersected at various points by public parks and plazas and contain appropriate street furniture;
- iv) That the proposal makes provision for appropriate pedestrian signage;

Views

- v) That the proposal positions buildings and roads so that there is a view corridor unobstructed by any building from any access road straight to the water's edge;
- vi) That the proposal addresses the positioning and massing of buildings so that acceptable views are maintained between the Bedford Highway and the Bedford Bay as per Policy WF-14;
- vii) That the proposal provides for a variety of materials, building types and heights to enhance the view from the water side of the project;

Recreation

- viii) That the proposal provides for public parks such that they are located along the waterfront project area edge in conjunction with the public walkway;
- ix) That the proposal provides for a mix of small and large public parks with a large public park suitable for Town assemblies and open-air recreational activities such as band concerts;
- x) That the proposal provides that the siting and massing of buildings around public park areas shall be to reinforce the nature of the park areas as public;
- xi) That the proposal makes provision for commercial uses at grade in all buildings that abut public park areas;

- xii) That in light of policy and the intent of the Strategy to develop a community oriented Waterfront Development Project, Council shall give special consideration to projects that include public boat launching facilities with associated parking and walkways along the water's edge;

Housing

- xiii) That the proposal allows for the clustering of residential units into distinct housing areas rather than located along the entire length of the project;
- xiv) That the proposal includes height limitations for all residential buildings consistent with Policy WF-13 and WF-14, however there shall not be more than two high-rise residential buildings which are not to exceed eight storeys or 100 feet in height;

Commercial

- xv) That the proposal makes provision for a variety of small scale commercial uses located at grade;
- xvi) That the proposal contains height limitations consistent with Policy WF-14 and WF-15 for all commercial buildings specifying that in no case are the commercial buildings to exceed 75 feet in height;
- xvii) That the proposal locates office uses at levels other than grade;

Parking

- xviii) That the proposal provides for development of parking structures to minimize the amount of land used by surface parking lots;

Environment

- xix) That the proposal provides for planting, vegetation screens and other visual barriers to minimize the visibility of the sewage treatment plant.
- xx) That the proposal includes provision of servicing designs and plans that are in accordance with Town requirements.
- xxi) That the proposal provides for the construction of underground services.
- xxii) That the proposal is in sufficient detail to include information on the waterfront project area's demographics, mix of passive/active recreational space, and the relationship of public space to private space.

Policy Z-24:

It shall be the intention of Town Council to set limits, to be established in the Land Use By-law, to control the length of time the temporary use of land and structures will be permitted and the nature, kind, size and description of any public display of advertising.

Attachment C
Excerpts from the Bedford Land Use By-law

Part 5

7. Temporary Commercial Uses Permitted

Nothing in this By-law shall prevent the use of land or the erection of a temporary building or structure including a sales or rental office incidental to construction in progress until such construction has been finished or discontinued for a period of thirty days and provided that such temporary structures or buildings are located on an approved building lot and meet the zone setbacks; or the temporary use of land for such purpose as midways, circuses, fairs, festivals, the display of artwork and crafts, or artistic performances provided that such remain in place no longer than five (5) days. Christmas tree sales are permitted in all zones for a maximum period of thirty (30) days per year. Mobile vendors and canteens are permitted in all zones except Residential Zones in conjunction with a special event including but not limited to, recreational events, Town events, community events, for a maximum period of four (4) days, per event. Mobile vendors and canteens also require a license pursuant to the Town's Trade and Licensing By-law. Flea Markets shall be considered as an accessory uses within the Shopping Centre (CSC) Zone and conducted within enclosed buildings.

Temporary ice cream stands are permitted within the Mainstreet Commercial (CMC) Zone and CGB(General Business) Zones and shall be exempt from landscaping general and zone specific landscaping, fencing and roof design and siding requirements.

Temporary ice creamstands shall also be exempt from zone yard requirements and shall have a minimum 20 foot front yard and 8 foot rear and side yards. Temporary ice cream stands shall be permitted for a maximum period of six (6) months per year.

Temporary uses are not required to connect to municipal services provided they have adequate measures in place for sanitation as approved by the Municipality and any other regulatory agency with jurisdiction. (NWCC-July7/05;E-Dec 5/05) Any development permit issued for a special use under this section shall be in force for a maximum period of one (1) year from the date of issue and any permit may be reissued upon request, subject to review by the Development Officer.