

**MEMORANDUM**

**TO:** Chair and Members of the Bedford Waters Advisory Board

**FROM:** Joseph Driscoll, Planner - Community Development

**DATE:** July 26, 2007

**SUBJECT:** Case 01035 - Application by Sobey Leased Properties Ltd to amend the Mill Cove Plaza development agreement to enable development of a two storey building for office and retail use on the former site of the Empire 6 Cinemas at 961 Bedford Highway, Bedford.

**Location and Site Description:**

The Mill Cove Plaza is located on an 18 acre parcel of land situated at 961 Bedford Highway (PID 40592297), directly west of the intersection of the Bedford Highway and Hammonds Plains Road in Bedford. The property is designated and zoned Commercial Comprehensive Development District (CCDD) under the Bedford Municipal Planning Strategy (MPS) and Land Use By-law (LUB). The property is in close proximity to the Mill Cove Sewage Treatment Plant, the Bedford Fire Hall, the Bedford Waterfront lands and is directly north of Moirs Pond. There is a mix of commercial and some residential properties across the Bedford Highway from the site. The Mill Cove Plaza property contains a variety of other commercial operations including a Sobeys grocery store, Nova Scotia Liquor Corporation outlet, Blockbuster Video and Wacky Wheatleys.

**Existing Development Agreement:**

In 1983 the former Town of Bedford entered into a development agreement that enabled the development of the Mill Cove Plaza in three separate phases. Each phase required a separate development agreement approved by Council. The agreements have been amended several times, including a 1988 amendment that enabled development of the theatres as part of Phase 2, instead of an office building approved as part of the original agreement. Most recently, on January 25, 2007, North West Community Council approved an amendment that enables development of a gas bar instead of a 20,000 square foot commercial building on another portion of the Mill Cove Plaza property. To date, all three phases of the development have been completed with the exception of a future commercial building between Mill Cove Plaza and the Bedford Fire Station (Phase 2), and 150 multiple residential units to be accessed from Convoy Run (Phase 3).

**Proposal:**

The proposal seeks to amend the Mill Cove Plaza development agreement (Phase 2) to enable redevelopment of the Empire 6 Cinemas site with a retail and office building. The 1983 development agreement, which originally permitted an 8 storey office building, was amended in 1988 to enable development of the theatres. The proposed two storey building would have a height and footprint less than that of the existing theatre building and the proposed building would have a greater set back from the adjacent drainage swale directly north of the project area. The proposed building would have a footprint of 19,600 square feet comprised of the following:

- 12,600 square foot Lawtons Drugs
- 2,800 square foot medical clinic; and
- 4,200 square foot commercial retail unit

The applicant has also requested the option to develop a second floor above the proposed Lawtons and medical clinic, totalling 15,400 sq.ft., for office and retail use. A tenant has not been secured for the proposed 4,200 square foot ground floor commercial retail unit but this component of the proposal would be 1 storey in height only and the potential uses limited to those permitted within the CCDD Zone. The application also proposes 80 new parking spaces near the northeast corner of the property. Relevant policies from the Bedford MPS and the proposed site plan are attached.

**Watershed Advisory Board:**

Pursuant to the Board's terms of reference, your input with respect to the potential impact on the areas watercourses is requested. Please find attached relevant MPS Policies that the application will be reviewed under.

If you have any questions on the above matter, please contact me at 869-4260.

## MPS Policies

### COMMERCIAL COMPREHENSIVE DEVELOPMENT DISTRICT POLICIES:

#### Policy C-7:

It shall be the intention of Town Council to designate the lands shown on Map 3 as Commercial Comprehensive Development Districts, and in the Land Use By-Law the lands shall be zoned Commercial Comprehensive Development District (CCDD). The CCDD Zone will permit mixed use, residential/ commercial projects, including single unit dwellings, two unit dwellings, multiple-unit buildings, senior residential complexes, neighbourhood commercial, office buildings, CGB Zone uses, convention facilities, recycling depots, park uses, and institutional uses. Existing uses within the CCDD Zones shall be considered as permitted uses and be allowed to continue operation.

It shall be the intention of Town Council to require development of commercial uses on 50% of each CCDD site and further, that multiple unit buildings not be permitted to occupy more than 25% of a CCDD site. Multiple unit buildings shall be constructed in accordance with the RMU zone requirements. Maximum building height may be increased to four stories in the case of sloped lots where the building is designed to fit the natural topography of the site. Lot area requirements shall be calculated on the basis of 2000 square feet per unit, regardless the unit size. Lot area associated with each building may be reduced in size to increase the common open space. The architectural, landscaping, and streetscape considerations for multiple unit buildings within the RCDD zone, as articulated in Policies R-12A, R-12B and R-12C, shall apply to multiple unit developments within the CCDD zone.

#### Policy C-8:

It shall be the intention of Town Council to enter into Development Agreements pursuant to the Planning Act with the owners of the lands zoned Commercial Comprehensive Development District to carry out the proposed commercial and mixed use commercial/residential development(s) provided that all applicable policies of this document are met. In considering applications Council shall have regard to whether the proposed land use emphasizes the unique features of the site in terms of its location within the Town, its unique physical characteristics, its overall size and the relationship developed with adjoining existing or proposed uses. A special emphasis on the conservation of the natural environment including features such as watercourses, lakes, trees, and the natural topography shall be highlighted in the development proposal.

#### Policy C-9:

It shall be the intention of Town Council to consider discharging the agreements made pursuant to Policy C-8 upon the completion of the development. Council may thereafter zone the CCDD in such a manner as to be consistent with the development, by creating a specific zone for the site which incorporates the uses provided for in the development agreement as well as provisions consistent with Sections 53 and 54 of the Planning Act.

## ENVIRONMENTAL POLICIES:

### **Watercourse Protection**

It is an accepted fact that virtually any change in the natural terrain will affect storm runoff. Given this situation, it becomes necessary to ensure that storm runoff is controlled in terms of water quality.

Quality control becomes significant in several aspects. For example, storm water runoff reaching recreational areas such as lakes and beaches may effectively force the closure of these areas due to excessive discoloration and sedimentation. Eventually, uncontrolled runoff can affect a body of water biologically so that fish and plant life are destroyed. The most noticeable degradation of water quality caused by storm water runoff occurs during the construction phase of development. The quantity of runoff increases during construction as a result of vegetation being removed; the exposed soil in combination with the increased quantity of runoff results in the soil being eroded and eventually deposited in nearby watercourses. Quality of runoff is also affected after development. Dirt and oils on streets and fertilizers from lawns are additional foreign substances which are picked up by surface runoff after an area is developed and contribute to water quality degradation.

There are several mechanisms which can be employed to minimize the impact of development on the quality of surface runoff. Policies E-3 to E-8 discuss these approaches. Policy E-3 refers to Town Council's intention to encourage the use of innovative storm water management mechanisms to reduce the development impacts on watercourses. These mechanisms will work to reduce the increase of storm water runoff as well as minimize the effect on water quality.

Policy E-4 prohibits the erection of single dwelling units, two unit dwellings, and townhouses or the excavation or infilling of land within fifty feet of a watercourse or water retention area to distance disturbed areas from watercourses to minimize the potential for sedimentation. This fifty foot buffer shall be maintained with existing vegetation. Multiple unit dwellings shall be subject to the same setback and buffer provisions as commercial and industrial uses as per Policy E-8. Excavation or infilling activity associated with single and two unit dwellings and townhouses may occur between fifty (50) and thirty-five (35 ) feet of a watercourse or water retention area, by development agreement, where it is demonstrated that a property can not be reasonably developed by complying with the fifty foot site disturbance provisions and where mitigation measures are proposed which will compensate equally for the reduced effectiveness of the 50' natural buffer. This "no net loss in effectiveness" shall be demonstrated through an environmental study which examines the issues of runoff quality and quantity, erosion potential, and sedimentation both during and after construction. The aforementioned study shall be reviewed by the Bedford Waters Advisory Committee (Policy E-5). The Bedford Waters Advisory Committee is requested to implement a water quality sampling program of all lakes and rivers in the Town to provide historical data on water quality. This program would be similar to the activities of the Dartmouth Lakes Advisory Board (Policy E-7). Stricter provisions have been placed on the setback of structures in commercial and industrial zones. Policy E-8 requires a 100 foot setback from a watercourse or water retention area for industrial, commercial, or multiple unit buildings as the impact of these larger developments during and after construction is usually greater. A reduction in the buffer may be considered through a development agreement subject to the undertaking of an environmental study and the installation of mechanism which ensure a "no

net loss in the effectiveness" of the buffer. Watercourses and water retention areas referred to in Policies E-4 to E-8 are identified on the map showing environmentally sensitive areas in the Town. Properties abutting the Bedford Basin are exempt from the requirements of these policies.

### **Floodplain Protection**

In 1981 a hydrotechnical study of the Sackville River was completed under the joint Canada-Nova Scotia Flood Reduction Program. The study identified and mapped two flood risk areas, one for the 1:20 year storm and another for the 1:100 year storm. The recommendation of the study was that no development be permitted within the 1:20 year flood area, and that floodproofing measures be required for structures located within the 1:100 year area. Within Bedford, large portions of both the 1:20 and 1:100 year flood areas have been infilled and/or developed. Further infilling and/or inappropriate development could disturb the balance which exists presently between the river and its floodway areas. In recognition of the need to minimize the consequences of flooding along the Sackville River, Policies E-9 to E-12 suggest the establishment of a floodway zone and its application to the 1:20 year floodway and the establishment of floodproofing measures for structures erected within the 1:100 year floodway fringe. Uses within the 1:20 floodway zone shall be restricted to conservation related uses and limited recreation uses. Structures intended for human habitation shall be prohibited.

### **Environmentally Sensitive Areas**

As outlined in Policies E-13 and E-14, certain hydrologic and geomorphic features have been identified as environmentally sensitive areas requiring protection. These areas specifically include slopes greater than 20% and water retention areas (lakes, ponds, swamps, bogs, and marshes). Slopes greater than 20% when cleared for development create the potential for erosion problems. Water retention areas are key elements in a successful storm water drainage system as they serve as areas in which water can gather during heavy rainfall. When these areas are infilled, their storage capacity is lost. The water, of course, must go elsewhere, and the result is either the creation of a flooding problem or the need to build expensive storm drains to carry the extra load. In addition to being a retention area, swamps and bogs act as natural filter systems; as water passes through a swamp it leaves behind many of the impurities being carried. Policies E-13 and E-14 indicate that development within these identified environmentally sensitive areas shall be prohibited unless it can be demonstrated, through an environmental impact study as part of a development agreement process, that the environmental constraints are non-existent or can be overcome without adversity to the natural environment. Environmentally sensitive areas outside the Residential Development Boundary shall be identified through a study as referenced in Policy E-15.

### **Policy E-3:**

It shall be the intention of Town Council to encourage the use of innovative storm water management systems which reduce the impact of urban development on the environment. Such systems include incorporation of stormwater retention/detention ponds into the storm sewer system, use of velocity breaks and drop manholes on storm sewers which discharge to watercourses, use of open ditch drainage systems where appropriate, and directing roof drains to the surface rather than connecting directly to the storm sewer system where appropriate. Storm sewer systems are to avoid the direct discharge of stormwater into water bodies where possible.

Policy E-4:

It shall be the intention of Town Council in Residential, Residential Reserve, or RCDD zones to prohibit except by development agreement the erection of any structure or the excavation or infilling of land within 50 feet of a watercourse or water retention area identified on the map showing environmentally sensitive areas in the Town, except the Bedford Basin. This 50 foot buffer shall be maintained with existing vegetation and is applicable to single dwelling units, two unit dwellings, and townhouses. All multiple unit dwellings, regardless of which zone they are located in, shall be subject to the same setback and buffer provisions as commercial and industrial uses and per Policy E-8. Excavation or infilling activity associated with single unit dwelling, two unit dwellings, and townhouses may occur between 50 and 35 feet of a watercourse, by development agreement, where it is demonstrated that a property can not be reasonably developed by complying with the 50 foot site disturbance provisions and where mitigation measures are proposed which will compensate equally for the reduced effectiveness of the 50' natural buffer. This "no net loss in effectiveness" shall be demonstrated through an environmental study which examines the issues of runoff quality and quantity, erosion potential, and sedimentation both during and after construction. Commercial uses in the RCDD zone shall be subject to the setback and buffer provisions of Policy E-8.

Policy E-5:

It shall be the intention of Town Council to require that development proposals undertaken by development agreement pursuant to Policy E-4 include an environmental study which addresses the issues identified in Policy E-4 and the mitigation of any potential adverse development impacts associated with these issues. The mitigation measures shall be embodied within the development agreement and compliance with the agreement will be subject to Section 80 (1),(2) of the Planning Act. The chart in Appendix A is to be used as a guide when undertaking an environmental study pursuant to this policy.

Policy E-6:

It shall be the intention of Town Council to request that the Bedford Waters Advisory Committee provide a written comment on developments being undertaken by a development agreement pursuant to Policy E-4 and E-8 prior to a recommendation being made by the Bedford Planning Advisory Committee.

Policy E-7:

It shall be the intention of Town Council to request the Bedford Waters Advisory Committee to *implement* a water quality sampling program of all lakes and rivers in the Town in an attempt to provide an historical data base for water quality.

Policy E-8:

In areas where Industrial ILI or IHI Zones, **Institutional Zones (RC-Mar 18/03;E-May10/03)**, or Commercial Zones abut a watercourse or water retention area identified on the map showing environmentally sensitive areas in the Town, Town Council shall prohibit the erection of any structure, or the excavation or filling in of land within 100 feet of the watercourse or water retention area. This 100 ft. area shall be maintained with existing vegetation or landscaped. A reduction in the buffer from 100' to 50' may be considered by Town Council by a development agreement, where it is demonstrated that a

property can not be reasonably developed by complying with the 100 foot setback and site disturbance provisions. A development agreement shall be subject to the provisions of Policy Z-3, and the undertaking of an environmental study which addresses the issues of runoff, erosion, siltation and any other impacts on the watercourse during and after construction. The development agreement shall outline the specific measures to be used to ensure a no net loss in the effectiveness of the natural 100' buffer in terms of protecting the watercourse. The setback and site disturbance provisions of this policy are applicable also to commercial uses in an RCDD zone and multiple unit dwellings in all zones. Single unit dwellings, two unit dwellings and townhouses in all zones are subject to the setback provisions of Policy E-4. Policy E-8 shall not apply to properties abutting the Bedford Basin.

### **Environmentally Sensitive Areas**

#### **Policy E-13:**

It shall be the intention of Town Council to identify on a map areas which are environmentally sensitive to development. This map shall be known as the Environmentally Sensitive Areas Map. These areas, which require special consideration in their development because of the presence of certain hydrologic and geomorphic features, are slopes which exceed 20% and water retention areas [ lakes, ponds, swamps, bogs, marshes]. Environmentally sensitive areas within the two large undeveloped portions of the Town located within the Residential Development Boundary have been studied and identified: a) Union Street RCDD, and b) Papermill Lake RCDD.

#### **Policy E-14:**

Town Council shall require that environmentally sensitive areas as identified in Policy E-13 remain in a natural state, unless as part of a development agreement the proponent undertakes an environmental impact study to determine whether the environmental constraints are non-existent or can be overcome without adversity to the environment. The study shall identify the area's sensitivities through consideration of the items listed in the chart within Appendix A. The study shall address the impact of the proposed development on the area's identified sensitivities and how the impact(s) may be mitigated. The study shall also establish a means of monitoring any potential impacts during the development phase and for a specific time following development. Proposals considered under this policy shall be subject to the evaluation criteria contained in Policy Z-3.

### **IMPLEMENTATION POLICIES:**

#### **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;
    - 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 "Infrastructure 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 "Infrastructure Charges" Policies of this MPS. (RC-July 2/02; Effective-Aug 17/02)**