

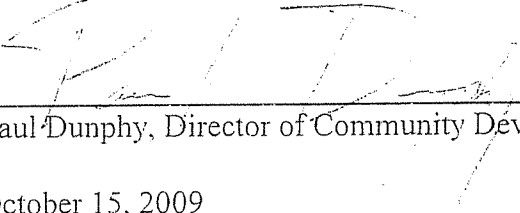


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North West Planning Advisory Committee  
November 4, 2009

**TO:** Chair and Members of North West Planning Advisory Committee

**SUBMITTED BY:**

  
Paul Dunphy, Director of Community Development

**DATE:** October 15, 2009

**SUBJECT:** Cases 01344: Bedford South Non-substantive amendments -  
Neighbourhoods D, E and Commercial Areas

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### ORIGIN

An application by Clayton Developments Limited to amend the development agreement for Neighbourhoods D, E and Commercial Lands of Bedford South.

### RECOMMENDATION

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

1. Approve, by resolution, the proposed amending agreement as set out in Attachment A of this report, to permit the issuance of Development and Building permits for the residential dwellings units within Clayton Developments' lands in Neighbourhoods D, E and Commercial Lands prior to the interchange at Highway 102 and Larry Uteck Boulevard being connected to Larry Uteck Boulevard and open to vehicular traffic; and
2. Require the agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, 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

In 2002, policy relating to a new master plan area was added to the Bedford MPS. This area is known as Bedford South/Wentworth Estates and encompasses about 625 acres (253 hectares) of land located between Highway 102, the Royale Hemlock, Oceanview, Millview and Fernleigh Subdivisions. Policy for this area limits the number of residential units that can be developed in order to protect the surrounding road network, specifically the Bedford Highway. Policy permits the removal of the restriction once a second major road access has been provided at Highway 102 and Larry Uteck Boulevard.

The Neighbourhoods D, E and Commercial Areas (Case 01159) are subject to the proposed development agreement amendment being considered. This agreement enabled a mix of residential land uses including single family, semi-detached, townhouses, lifestyle and multi-unit housing as well as a significant commercial area. The agreement enables the completion of Larry Uteck Boulevard and its connection to Nine Mile Drive and the extension of Starboard Drive towards Royale Hemlocks Subdivision. The agreement restricts residential development so that no units are permitted prior to the construction of the interchange at Highway 102 and Larry Uteck Boulevard and its connection to Larry Uteck Boulevard (Attachment B).

### *The Interchange*

On December 17, 2008 the federal and provincial announcement was made which secured funding for the new interchange. The funding is part of the Provincial Territorial Base Funding Agreement which secures funding for infrastructure projects throughout the Province. The interchange is now under construction and is expected to be open by the fall of 2010.

The construction of the interchange is intended to provide for alternate access points for development in the Royale Hemlocks, Wentworth, Bedford South and Oceanview subdivisions. This interchange will allow traffic from these areas to use Highway 102 as an alternate means of access and will reduce the traffic load on the Bedford Highway.

### *The Proposal*

Clayton Developments Limited has made an application for non-substantive amendments to this agreement to consider permitting the issuance of Development and Building Permits for residential development prior to the opening of the interchange and its connection to Larry Uteck Boulevard.

### *Non-substantive Amendments*

This agreement permits the consideration of a non-substantive amendment to permit construction activity to begin prior to the completion of the interchange via Section 3.45 of the agreement (Attachment B). Non-substantive amendments are not required to have a public participation meeting or a public hearing and Community Council may approve such amendments by resolution.

## DISCUSSION

Staff have reviewed the proposed non-substantive amendment relative to the intent of the existing Agreement and Policy MS-7 as required. The following comments are offered:

### *Policy MS-7:*

*No development agreement shall be approved which would permit building permits to be granted for more than 2,000 housing units within the master plan area and the abutting Royale Hemlocks Subdivision unless:*

- a) the interchange has been constructed and connected to Larry Uteck Boulevard or the financing for the interchange and roads has been secured, a time frame for implementation agreed upon; and*

As a result of the announcement made on December 17, 2008 this provision has been met.

- b) consideration is given to the transportation improvements recommended by the Prince's Lodge/ Bedford South Transportation Study or any other transportation study available to the Municipality. A development agreement application shall not be approved where a traffic study concludes that the level of service for any road within the secondary planning strategy or connecting to the abutting road network does not conform with the performance criteria established under the Municipality's Guidelines for Preparation of Traffic Impact Studies and the applicant shall be required to provide the analysis, prepared by a qualified consultant, needed to make such a determination. Without limiting the generality of the foregoing statement, particular consideration will be given to traffic impacts on the Bedford Highway, Nine Mile Drive and Oceanview Drive.*

In accordance with this policy, HRM Engineering have reviewed the Prince's Lodge/ Bedford South Transportation Study. Staff have waived the need for a further transportation study as no units will be occupied until after the interchange has constructed and open to the public. Specifically, assuming a 18 month construction and occupancy period of a multiple unit dwelling, the first development enabled by the proposal will not be ready for occupation until approximately June 2011. This date is 10 months after the excepted opening of the interchange and connection to Larry Uteck Boulevard. Therefore, since it is anticipated that the interchange connection will have been completed and opened to the public, the proposed amendment will have a minimal impact on the existing road network, specifically Bedford Highway.

Further, as part of the subdivision process, bonding will be provided by the developer for the construction of Larry Uteck Boulevard and its connection to the interchange. Thus there is little risk that Larry Uteck Boulevard will not be constructed and connected to the interchange. In addition, the proposed amendment only enables the issuance of construction-related permits. Occupancy permits cannot be issued until the interchange is connected to Larry Uteck Boulevard and open to the public.

When the Bedford South development is connected to Nine Mile Drive, Starboard Drive and adjacent streets, the impact is anticipated to be beneficial to all surrounding streets as an additional major accesses for the subdivision and surrounding neighbourhoods will be provided.

### **Conclusion**

Staff have reviewed the request for a non-substantive amendment to the Clayton Developments Limited Neighbourhood B development agreement and have concluded the proposal complies with the intent of the existing agreement and Policy MS-7. Staff recommends North West Community Council, by resolution, approve the non-substantive amendment to enable the issuance of Development and Building permits for all remaining residential units prior to the construction and connection of the interchange to Larry Uteck Boulevard as identified in the recommendation section of this report.

### **BUDGET IMPLICATIONS**

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 Amending Agreement. This administration of the Amending 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, 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 amendments. 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.

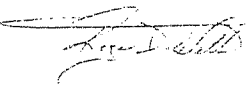
### **ATTACHMENTS**

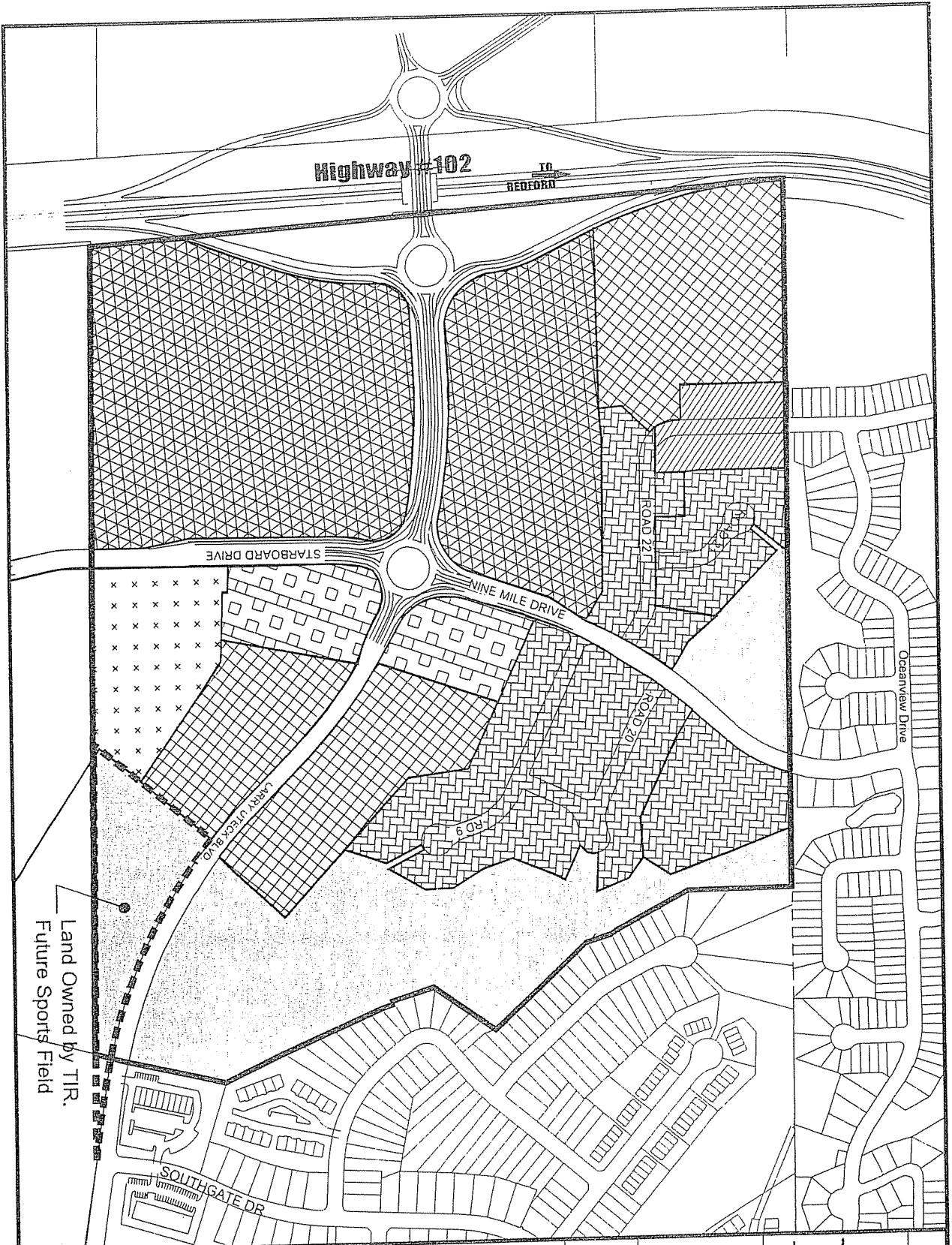
Map 1	Bedford South/Wentworth Estates Master Plan
Attachment A	Proposed Amending Agreement-Neighbourhoods D, E and Commercial Area

Attachment B      Relevant Development Agreement Clauses-Neighbourhoods D, E and  
Commercial Area

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, Planning Applications, 869-4226

Report Approved by:        
Roger Wells, Acting Manager of Planning Services, 490-4373









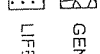
Map 1

the Ravines  
OF BEDFORD SOUTH

Land Use Plan



0 200 400 600  
N.T.S. - units in feet

-  SINGLES (min 40')
-  TOWNHOUSE/SEMI-DETACHED/SINGLES
-  MULTIPLE
-  COMMUNITY COMMERCIAL
-  PARKLAND (HRM)
-  LIFESTYLE COMMUNITY
-  GENERAL COMMERCIAL

**Attachment A: Proposed Amending Agreement - Neighbourhoods D, E and  
Commercial Area**

THIS AMENDING AGREEMENT made this      day of                      , 2009,

BETWEEN:

**CLAYTON DEVELOPMENTS 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 to the east side of the Bicentennial Highway in Bedford, and which said lands are identified as PID#s 40288128 and 40834103 as more particularly described in Schedule "A" of this Amending Agreement(hereinafter called the"Lands");

AND WHEREAS the North West Community Council approved an application by the Developer to enter into a development agreement to allow for development of Neighbourhood D, E and Commercial Areas of the Bedford South/Wentworth Estates Secondary Planning Strategy on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 93658731 on June 24, 2009 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer wishes to further amend the Existing Agreement to enable development prior to the completion of construction of an interchange at Highway 102 and Larry Uteck Boulevard on the "Lands" pursuant to the provisions of the *Halifax Regional Municipality Charter*, (hereinafter called the "First Amending 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 01344;

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

- 1. The Existing Agreement shall be amended by adding the following text prior to section 3.5:

3.4.5 Notwithstanding section 3.4.4, the development officer may issue development and building permits for all development permitted by this agreement prior to the construction of the interchange at Highway 102 and its connection to Larry Uteck Boulevard. Occupancy permits for any residential development shall not be issued until the interchange at Highway 102 has been constructed and the connection to Larry Uteck Boulevard is complete and open to the public.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SIGNED, SEALED AND DELIVERED  
in the presence of  
  
\_\_\_\_\_

) Clayton Developments Limited  
)  
)  
) Per: \_\_\_\_\_  
)  
)

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  
)  
) Per: \_\_\_\_\_  
) MUNICIPAL CLERK  
)



Attachment B  
Relevant Development Agreement Clauses-Neighbourhood D, E and Commercial Area

Existing Agreement

**Dwelling Units Prior to the Interchange**

- 3.4.4 The Development Officer shall not grant Development Permits for any dwellings units on the Lands until the interchange has been constructed and connected to Larry Uteck Boulevard. Development and building permits for a community commercial (Schedule N) or general commercial (Schedule P) use may be issued, however, Occupancy Permits shall only be issued once the interchange has been constructed and connected to Larry Uteck Boulevard and open to the public.

