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Halifax, Nova Scotia
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Item No. 7.1.1
Heritage Advisory Committee
January 28, 2015

TO: Chair and Members of Heritage Advisory Committee

Original Signed by

SUBMITTED BY:

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: November 26, 2014

SUBJECT: **Case 19329: Development Agreement Amendment, 930 and 932 Bedford Highway, Bedford**

ORIGIN

Application by Tim Donut Limited

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter; Part VIII, Planning & Development

RECOMMENDATION

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

1. Give Notice of Motion to consider the proposed amending development agreement as set out in Attachment A of this report to allow for changes to the front façade of the Tim Hortons building at 930 and 932 Bedford Highway, and schedule a public hearing;
2. Approve the proposed amending development agreement as set out in Attachment A of this report to allow for changes to the front façade of the Tim Hortons building at 930 and 932 Bedford Highway ; and
3. Require the agreement be signed by the property owner 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

An application has been received from Tim Donut Limited to amend the development agreement for 930 and 932 Bedford Highway (Tim Hortons) to allow for changes to the front façade of the building.

In 1989, a development agreement was approved to enable the construction of a Tim Hortons restaurant and a subsequent agreement, approved in 2000, allowed for the addition of a drive-thru window. The existing development agreement contains requirements pertaining to the site's design and requires the architecture of the building complement that of the adjacent Moirs Ltd. Power House (Moirs Mill Tourism Centre), a municipally, provincially and federally registered heritage property. The applicant has identified that this proposal, to renovate the front façade of the building is part of a nation-wide effort to update and refresh the exterior appearance of the buildings owned by the franchise.

The proposed changes to the front façade are substantive in nature in accordance with the existing development agreement and must be approved by a decision of North West Community Council following a public hearing.

Location, Designation, Zoning and Surrounding Area

Subject Property	930 and 932 Bedford Highway, Bedford
Location	West side of the Bedford Highway, South of the intersection with Hammonds Plains Road
Lot Area	30,175 square feet
Community Designation	Commercial (C) under the Bedford Municipal Planning Strategy (MPS)
Regional Designation	Urban Settlement (US) under the Regional Planning Strategy
Zoning	Residential Single Unit (RSU) under the Bedford Land Use By-law (LUB)
Surrounding Land Uses	Primarily commercial, the lands are bordered to the north by the Village Centre commercial plaza (Scotiabank, Starbucks) and are across the Bedford Highway from the Mill Cove commercial plaza (Sobeys and Lawtons). Directly south of the property is the Moirs Mill Park, containing the Moirs Mill Tourism Centre.
Current Use	Tim Hortons restaurant and drive-thru

Proposal

The front façade of the building is proposed to be renovated to add a stone parapet wall, gooseneck lighting, red lap siding and window awnings. The treatment will wrap around to include a portion of the sides of the building. Schedule C1 of the proposed amending agreement, included as Attachment A of this report, illustrates the proposed changes.

Existing Development Agreement

The initial (1989) development agreement on the property recognized that the property was an important transition between the Village Centre Plaza and the municipal park containing the tourism centre. The cultural and historical importance of the tourism centre was a primary consideration, and accordingly, the current design of the Tim Hortons represents a major departure from the standard franchise design. In 2000, a request for the addition of a drive-through window resulted in discharge of the 1989 development agreement and approval of a new agreement. Considerations at the time were primarily focussed on buffering and separation between the uses, along with architectural treatment.

The existing development agreement recognizes the significance of the adjacent Moirs Mill Tourism Centre. The Centre was originally a power supply house that supported the Moirs chocolate factory refinery and box mill. The building is a small, single storey, box-shaped building adjacent to Moirs Mill brook, a small feeder stream running between Paper Mill Lake and the Bedford Basin.

HRM's Heritage Property program includes the following elements as character-defining elements of the proposed exterior of the Moirs Mill Tourism Centre building:

- Reinforced concrete construction;
- Simplified quasi-classical details on the front façade;
- Simple concrete cornice
- Double wood panel glazed doors
- Three-over-three transom doors
- 'Moirs Ltd.' name inset into wall surface above entablature;
- double three-over-three windows at the same level as the transom;
- box-like shape

The current exterior of the building mimics the tourism centre in its roof design, the tall rectangular windows, the box-like shape and its unadorned façade.

Role of the HAC

The Heritage Advisory Committee (HAC) is to review the proposal relative to the criteria of the Bedford MPS Policy Z-3, subsections 5. x) and 6.vii), and Regional Plan Policy CH-16 (Development Abutting Registered Heritage Properties), which respectively require Council's regard for the presence of significant natural features or historical buildings and sites; and the compatibility of the structure in terms of external design and external appearance with adjacent uses. The Committee must make a recommendation to Council based on interpretation of the proposal's merits when evaluated against the policies (See Attachment B).

DISCUSSION

Staff conducted a review of the proposal relative to the applicable policies of the Bedford MPS and have concluded that the proposal is consistent with all applicable policies. Attachment B outlines the policy and relevant evaluation in detail. Many of the policy requirements have been considered by Council as part of the existing development agreement (2000). The scope of this evaluation is limited to the policy requirements that pertain to the proposed exterior renovation. Aspects of the development that warrant further discussion are noted as follows:

Architectural Design, Finishes and Details

The Tim Hortons building retains the unadorned facades on three sides, the flat roof, the muntins within the tall rectangular windows, and the box-like building shape in recognition of aspects of the tourism centre. The primary façade alteration does not significantly impact the overall acknowledgement of the historical context. Further, the addition of the stone parapet and lap siding are new features in the façade, where the guidelines largely discourage removal of existing architecture. The gooseneck lighting and façade improvements are sensitive to the historical context.

Heritage Policy Review

The proposal has been reviewed in relation to the applicable policies of the Regional MPS, the Bedford MPS and the 1999 HRM Heritage Alteration Guidelines. The initial review by Heritage Planning staff did not identify any specific issue with the proposal, and noted that the proposed changes better reflect the abutting heritage building's scale, massing, proportions, profile and character (Policy CH-2 (a), Regional MPS).

Recommendation by North West Planning Advisory Committee

The North West Planning Advisory Committee (NWPAC) reviewed this application on August 6, 2014. The Committee recommended that North West Community Council approve the renovation to the exterior of the building, subject to recommendation of approval by the Heritage Advisory Committee. A report from the PAC to Community Council will be provided under separate cover.

Conclusion

The proposed substantive amendments do not negatively affect the heritage value and character defining elements of the Moirs Ltd. Power house, and are in keeping with the intent of the original development agreement. Therefore, it is recommended that the Heritage Advisory Committee make a favourable recommendation to Council. The proposed amendments are consistent with the Bedford MPS policies and staff recommends approval of the proposed amending development agreement as contained in Attachment A of this report.

FINANCIAL 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 Agreement. The administration of the Agreement can be carried out within the approved 2014/15 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 consultation, achieved through a Public Information Meeting held on July 23, 2014 however no one from the public attended the meeting. Notices of the public information meeting were posted on the HRM website, placed in the newspaper, and mailed to property owners within the notification area as shown on Map 2.

A public hearing must be held by Community Council before they can consider approval of any substantive amendments to the existing development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposed amending agreement will potentially impact local residents, property owners and adjacent businesses.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all relevant environmental policies contained in the MPS documents. No additional concerns were identified beyond those discussed in this report.

ALTERNATIVES

The Heritage Advisory Committee could recommend that Community Council:

1. Refuse to approve the amending development agreement. In doing so, the Community Council must provide reasons why the agreement does not reasonably carry out the intent of the MPS. A decision of Community Council to refuse this amending agreement is appealable to the N.S. Utility and Review Board as per Section 262 of the *HRM Charter*.
2. Approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the applicant, a supplementary staff report and an additional public hearing. A decision of Community Council to approve this amending agreement is appealable to the N.S. Utility and Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

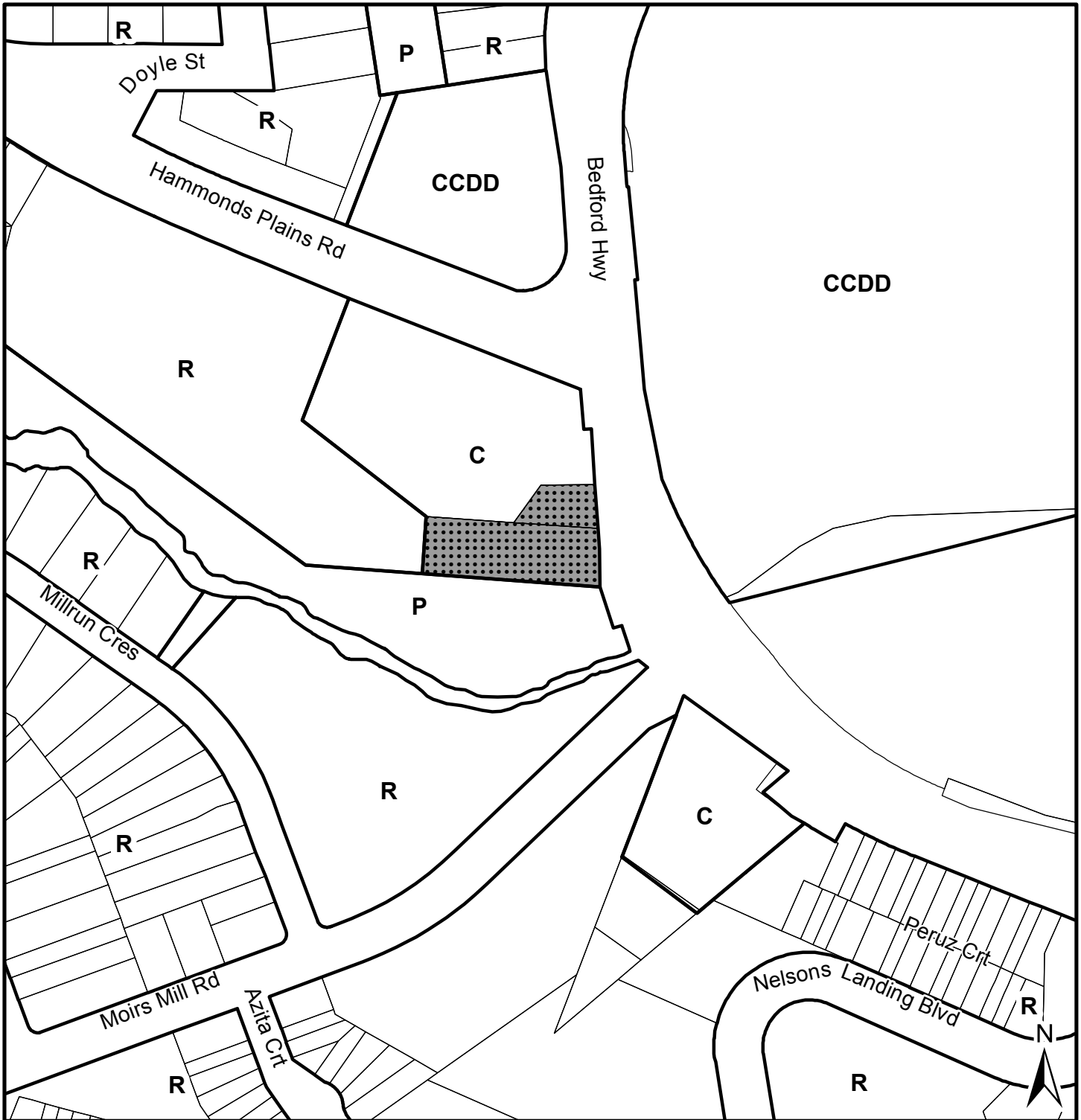
Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Attachment A	Proposed Amending Agreement
Attachment B	Excerpts from the Bedford MPS: Policy Evaluation

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

Report Prepared by: Erin MacIntyre, Planner, 902-490-6704

Original Signed by


Report Approved by: _____
Kelly Denty, Manager, Development Approvals, 902-490-4800



Map 1 - Generalized Future Land Use

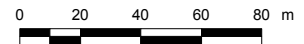
HALIFAX

930-932 Bedford Highway
Bedford

 Area of existing development agreement

Designation

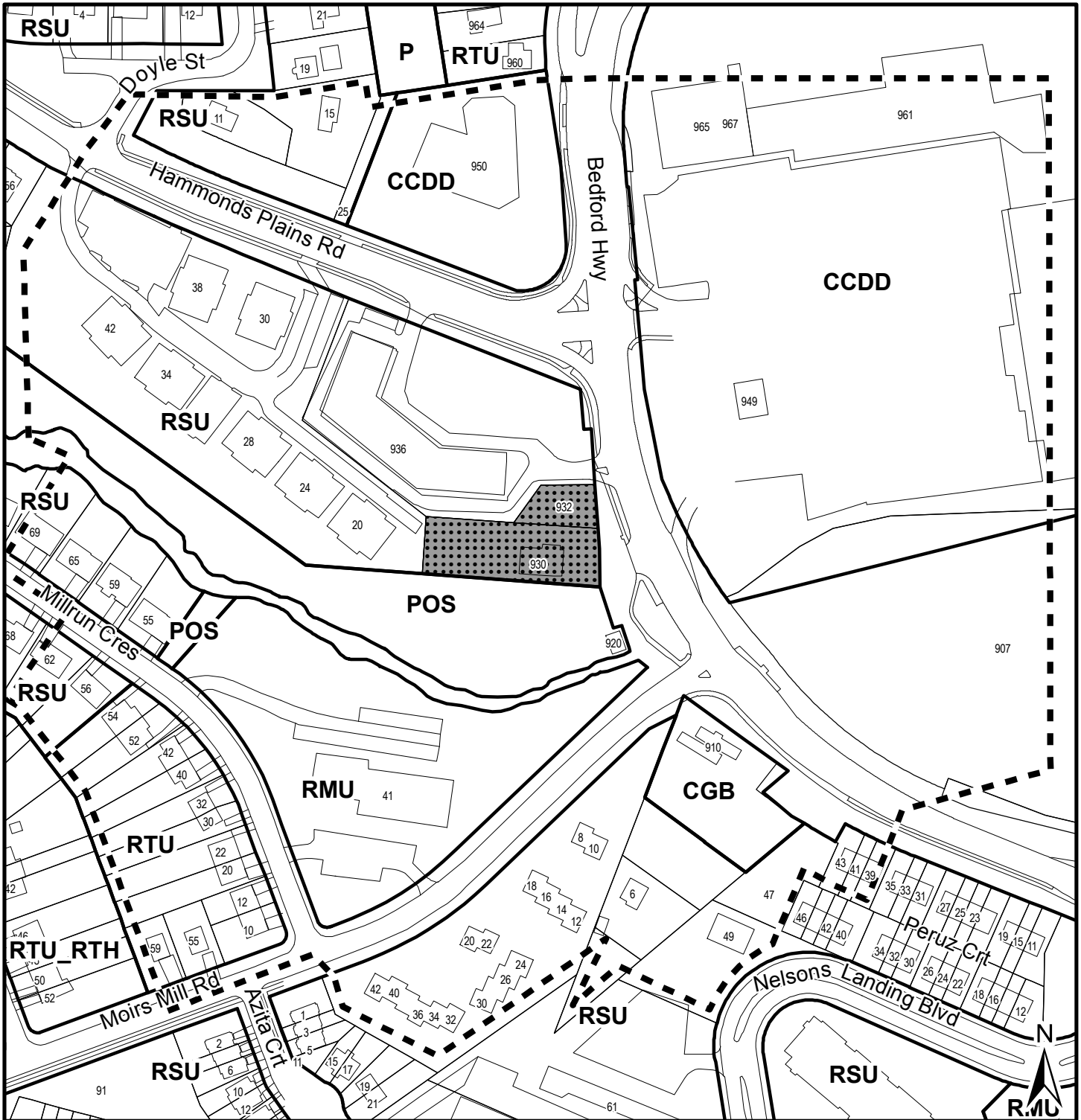
- R Residential
- P Park and Recreation
- C Commercial
- CCDD Commercial Comprehensive Dev. District



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.


Bedford
Plan Area




Map 2 - Zoning and Notification

HALIFAX

930 Bedford Highway
Bedford

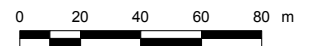
 Area of existing development agreement

 Area of notification

Bedford
Plan Area

Zone

- RSU Single Dwelling Unit
- RTU Two Dwelling Unit
- RMU Multiple Dwelling Unit
- RTH Townhouse
- CCDD Commercial Comprehensive Dev. District
- CGB General Business District
- P Park
- POS Park Open Space



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Attachment "A"
Amending Development Agreement

THIS FIRST AMENDING AGREEMENT made this day of **[Insert Month]**, 20__,

BETWEEN:

[INSERT DEVELOPER NAME]

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

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 930 and 932 Bedford Highway and which said rezone lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipality entered into a Development Agreement to allow for the construction of a restaurant on the Lands which was registered at the Land Registry Office in Halifax in Book 4338, Pages 1109 to 1128 (hereinafter called the "Original Agreement");

AND WHEREAS the Municipality discharged the Original Agreement and entered into a Development Agreement to allow for a drive-through function in association with the existing restaurant which was registered at the Land Registry Office in Halifax in Book 6681, Pages 435 to 461 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that the Municipality enter into an amending Agreement to allow for alteration to the front façade of the building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy Z-3 of the Bedford Municipal Planning Strategy;

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 19329;

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

The Existing Agreement is amended as follows:

1. Delete “Schedule C” from the Existing Agreement and replace it with “Schedule C1” in this Amending Agreement;
2. Delete “Schedule D” from the Existing Agreement;
3. In Section 2.1, delete the words ‘Schedule “C”’ and replace with the words ‘**Schedule “C1”**’;
4. In Section 2.2, delete the letter “C” and replace with the words “**C1**”;
5. Delete Section 2.3.3, (‘Building Design’), and replace it with a new Section 2.3.3, as follows:

2.3.3 Building Design

- (a) **The restaurant building design shall complement the architecture of the Moirs Mill Tourist Centre including, but not limited to, the roof style and rectangular windows accentuated by design details. Architectural detailing shall be required on all facades.**
 - (b) **The building’s exterior design and materials shall generally conform to Schedule “C1”.**
 - (c) **The drive-through window shall only be located on the southern side of the existing building, and the design and materials used to create the window shall match the existing building, as generally shown on Schedule “C1”.**
6. In Section 2.3.4.2(c), delete the words ‘No permits shall be issued until the Heritage Planner provides written approval to the Development Officer indicating the retaining wall(s) compliance with the Halifax Regional Municipality’s Heritage Alteration Guidelines, as attached in “Schedule D” ’.
 7. In Section 2.3.4.3(a), delete the words ‘Schedule “C”’ and replace them with ‘**Schedule “C1”**’.
 8. Delete Section 2.3.8(a)1 and replace it with a new Section 2.3.8(a)1, as follows:

‘Fascia signage shall be as illustrated on Schedule C1’.

This Amending Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

SIGNED, 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

Witness

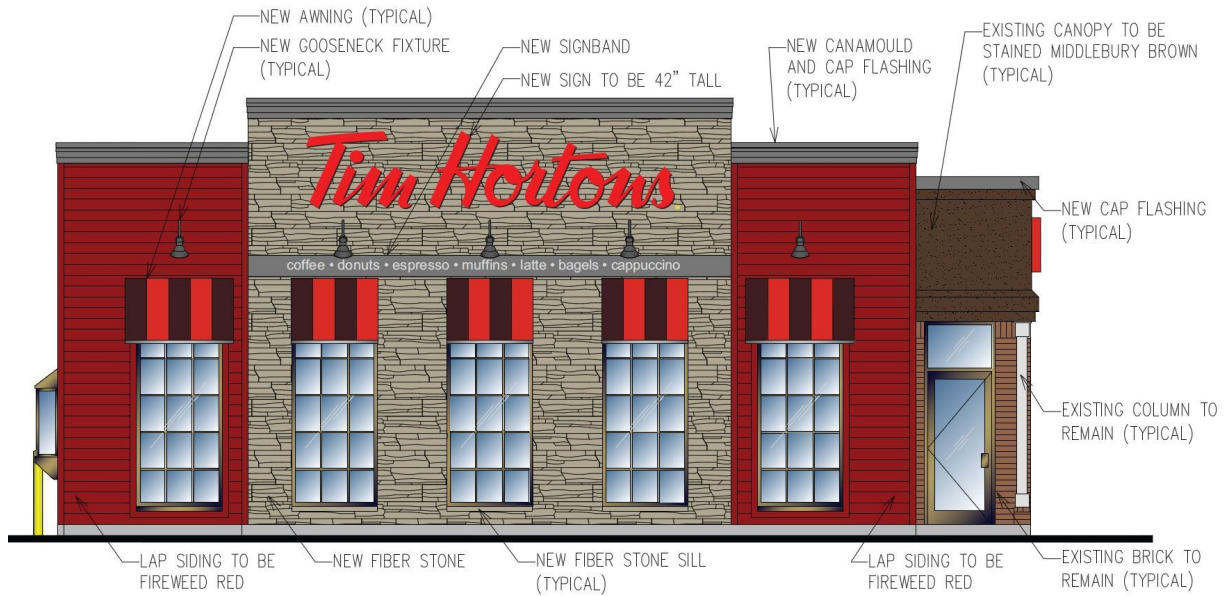
Per: _____
MAYOR

Witness

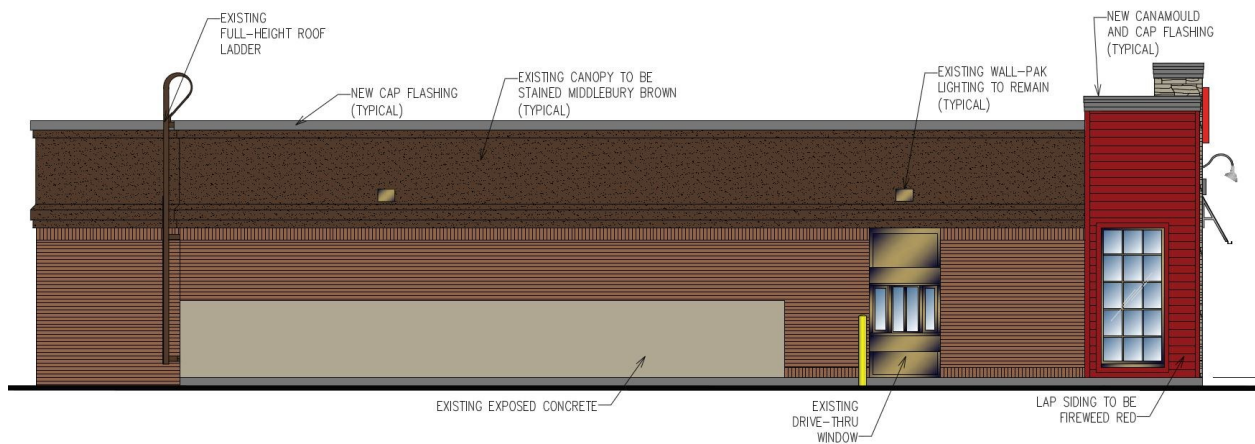
Per: _____
MUNICIPAL CLERK

Schedule C1 - Elevations

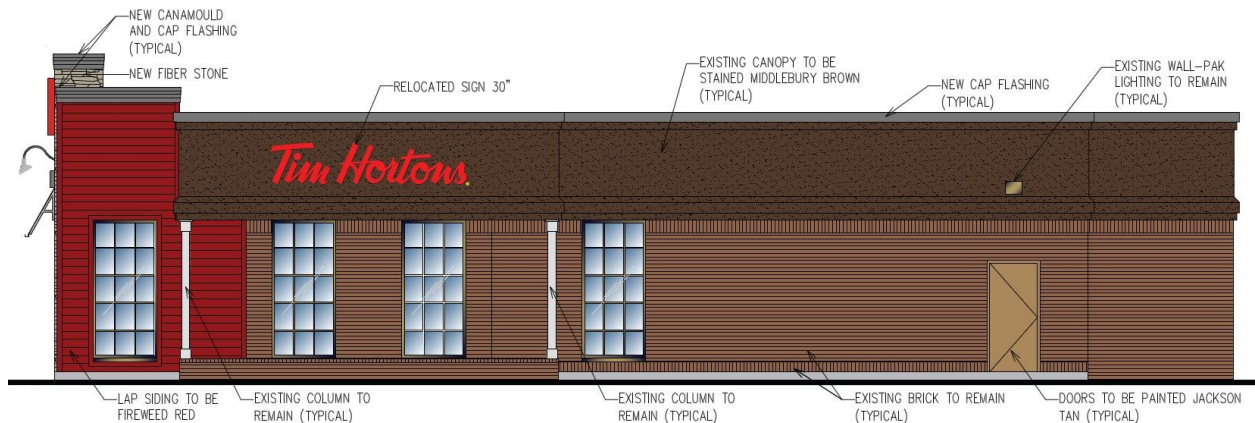
Front elevation



Left elevation



Right elevation



**Attachment B:
Excerpts from the Bedford MPS: Policy Evaluation**

A full policy analysis was previously completed for the review and approval of the original development agreement for the 930 and 932 Bedford Highway (Tim Hortons) and is available upon request. Staff have reviewed the Bedford MPS policies and wish to identify that the proposed amendments impact the following policies.

Policy Z-3 (Bedford MPS)

Policy Criteria	Comment
<p><i>Policy Z-3 (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></p> <p><i>x) the presence of significant natural features or historical buildings and sites;</i></p>	<p>The subject property is adjacent to the Moirs Ltd. Power House (Moirs Mill Tourism Centre), a registered Federal/ Provincial Heritage Place. The proposed changes to the restaurant do not impact the architectural recognition by the restaurant of the adjacent historic building, as many of the character-defining elements remain (tall rectangular windows, flat roof, top-banded façade retained on three sides).</p>
<p><i>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></p> <p><i>vii) the compatibility of the structure(s) in terms of external design and external appearance with adjacent uses; and,</i></p>	<p>The external design and appearance is being updated. The intent of the original development agreement was to reflect the architecture of the adjacent Moirs Ltd. Power House (Moirs Mill Tourism Centre); that intent is retained. The building's appearance remains compatible.</p>
<p>CH-16 (Regional Plan) <i>For lands abutting federally, provincially or municipally registered heritage properties, HRM shall, when reviewing applications for development agreements, rezonings and amendments pursuant to secondary planning strategies, or when reviewing the provision of utilities for said lands, consider a range of design solutions and architectural expressions that are compatible with the abutting federally, provincially or municipally registered heritage properties by considering the following:</i></p>	
<p><i>(a) the careful use of materials, colour, proportion, and the rhythm established by surface and structural elements should reinforce those same aspects of the existing buildings;</i></p>	<p>The external design and appearance is being updated. The intent of the original development agreement was to reflect the architecture of the adjacent Moirs Mill Tourism Centre; that intent is retained. The buildings remain compatible.</p>
<p><i>(b) ensuring that new development is visually compatible with yet distinguishable from the abutting registered heritage property. To accomplish this, an appropriate balance must be struck between mere imitation of the abutting building and pointed contrast, thus complementing the abutting registered heritage property in a manner that respects its heritage value;</i></p>	<p>The external design and appearance is being updated. The intent of the original development agreement was to reflect the architecture of the adjacent Moirs Mill Tourism Centre; that intent is retained. The buildings remain compatible.</p>

Policy Criteria	Comment
<p><i>(c) ensuring that new developments respect the building scale, massing, proportions, profile and building character of abutting federally, provincially or municipally registered heritage structures by ensuring that they:</i></p> <p><i>i) incorporate fine-scaled architectural detailing and human-scaled building elements.</i></p> <p><i>ii) reinforce, the structural rhythm (i.e., expression of floor lines, structural bays, etc.) of abutting federally, provincially or municipally registered heritage properties; and</i></p> <p><i>iii) any additional building height proposed above the pedestrian realm mitigate its impact upon the pedestrian realm and abutting registered heritage properties by incorporating design solutions, such as stepbacks from the street wall and abutting registered heritage properties, modulation of building massing, and other methods of massing articulation using horizontal or vertical recesses or projections, datum lines, and changes in material, texture or colour to help reduce its apparent scale;</i></p>	<p>No change is proposed to the building scale, height, massing, etc.</p>
<p><i>(e) not unreasonably creating shadowing effects on public spaces and heritage resources;</i></p>	<p>The intent of the original development agreement was to reflect the historic resource of the adjacent Moirs Mill Tourism Centre; that intent is retained.</p>
<p><i>(f) complementing historic fabric and open space qualities of the existing streetscape;</i></p>	
<p><i>(g) minimizing the loss of landscaped open space;</i></p>	
<p><i>(h) ensuring that parking facilities (surface lots, residential garages, stand-alone parking and parking components as part of larger developments) are compatible with abutting federally, provincially or municipally registered heritage structures;</i></p>	<p>Not applicable- no proposed change to the parking facilities.</p>
<p><i>(i) placing utility equipment and devices such as metering equipment, transformer boxes, power lines, and conduit equipment boxes in locations which do not detract from the visual building character or architectural integrity of the heritage resource;</i></p>	<p>Not applicable- no proposed change to the utility equipment.</p>
<p><i>(j) having the proposal meet the heritage considerations of the appropriate Secondary Planning Strategy, as well as any applicable urban design guidelines; and</i></p>	<p>Not applicable- no secondary planning strategy applies to this property, no urban design guidelines apply, other than those set out in the staff report.</p>
<p><i>(k) any applicable matter as set out in Policy G-14 of this Plan.</i></p>	<p>Policy G-14 (pertaining to Regional Plan amendment and required subsequent to other planning documents for consistency), does not apply in this case.</p>