


Item No. 11.1.15
Halifax Regional Council
June 24, 2014

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original signed by 

Richard Butts, Chief Administrative Officer

Original Signed by Director

Brad Anguish, Director of Community & Recreation Services

DATE: June 17, 2014

SUBJECT: **Case 19171 – Amendments to the Downtown Halifax MPS and an Existing Development Agreement at 1593 Barrington Street, Halifax**

SUPPLEMENTARY REPORT

ORIGIN

- Application by W.M. Fares Group, on behalf of 3258146 Nova Scotia Limited.
- March 18, 2014 - Regional Council initiation of the MPS and LUB amendment process.
- June 9, 2012 - Regional Council approval of amendments to the Downtown Halifax Secondary Municipal Planning Strategy to enable an extension to the commencement and completion requirements for a 16 storey building at 1593 Barrington Street.

LEGISLATIVE AUTHORITY

HRM Charter, Part VIII, Planning and Development

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Approve the proposed amending development agreement as contained in Attachment A of this report; and
2. Require that the amending development agreement be signed by the property owner within 120 days, or any extension thereof granted by Regional Council on request of the property owner, from the date of final approval by Regional 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 / DISCUSSION

On June 10, 2014, Halifax Regional Council held a public hearing to consider proposed amendments to the Downtown Halifax Secondary Municipal Planning Strategy (DHSMPs), as well as a proposed amending development agreement. The proposed amendments and amending agreement enable an extension to the commencement and completion requirements for an already approved 16 storey building at 1593 Barrington Street. Following the public hearing, Regional Council gave its approval to the amendments to the DHSMPs. While the proposed development agreement was part of the public hearing process, it could not be approved by Regional Council until the MPS amendments took effect.

The amendments to the MPS have since been reviewed by the Province as per Section 223 of the *Halifax Regional Municipality Charter*. A notice of approval to indicate that the amendments have become effective is being published on June 20, 2014. Accordingly, it is now appropriate for Regional Council to consider the development agreement, as contained 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 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 an invitation to submit public comments and a public hearing that was held on June 10, 2014.

Notices of the invitation to submit public comments and the public hearing were posted on the HRM website, in the newspaper and mailed to property owners within the notification area shown on Map 1 of the April 23, 2014 staff report.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified

ALTERNATIVES

1. Regional Council may choose to refuse the proposed amending development agreement thereby retaining the current timing requirements in the original development agreement. This would effectively prevent the development from proceeding forward. A decision of

Council to not approve potential amendments is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*. This is not recommended.

ATTACHMENTS

Attachment A Proposed Amending Development Agreement

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Richard Harvey, Major Projects Planner, 490-6494

Original Signed

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

ATTACHMENT A
PROPOSED AMENDING DEVELOPMENT AGREEMENT

THIS AMENDING AGREEMENT made this ____ day of _____, 20__,

BETWEEN:

[INSERT Name of Corporation/Business LTD.]

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 within Halifax which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Regional Council of the Municipality approved an application to enter into a development agreement to allow for a building of greater than 40 feet in height on the Lands (municipal case number 01231), which said Development Agreement was registered at the Halifax County Land Registration Office on July 22, 2011 as Document Number 98772172 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested the Existing Agreement be amended to extend the commencement and completion time requirements;

AND WHEREAS the Regional Council for the Municipality approved this request at a meeting held on [**INSERT-Date**], referenced as Municipal Case Number 19171;

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 by deleting the text shown in ~~strikeout~~ and adding the text shown in **bold**, as follows:

1. In Section 8.3:

8.3.1 In the event that development on the Lands has not commenced within ~~3~~ 5 years from the date of execution of this Agreement, the Agreement shall have no further force of effect and henceforth the development of the Land shall conform to the provisions or the Land Use By-law.

2. In Section 8.4:

8.4.1 The development shall be substantially complete within ~~6~~ 8 years of the execution of this Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 20____.

SIGNED, SEALED AND DELIVERED in
the presence of: _____

Witness

Witness

**[INSERT REGISTERED
OWNER NAME]**

Per: _____

Per: _____

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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