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Item No.
Halifax and West Community Council
July 25, 2017

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original signed

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: June 3, 2017

SUBJECT: **Case 20996: Amendments to the Existing Development Agreement for Bedford West Sub Area 9, Bedford and Halifax**

ORIGIN

Application by Cresco Holdings Inc. for amendments to the existing development agreement for Bedford West sub area 9 to enable the development of hotel/motel/guest house uses.

LEGISLATIVE AUTHORITY

See Attachment A.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the proposed amending agreement, as set out in Attachment B of this report, to allow hotel/motel/guest house uses within Sub Area 9 of Bedford West and schedule a public hearing;
2. Approve the proposed amending agreement, which shall be substantially of the same form as set out in Attachment B of this report; and
3. Require the amending 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, which is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Cresco Holdings Inc. is applying for amendments to an existing development agreement to allow for hotel/motel/guest house uses within Sub Area 9 of Bedford West.

Subject Site	Portions of Sub Area 9, Bedford West
Location	The subject site is located at the intersection of Larry Uteck Boulevard, Hogan Court and Highway 102
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Bedford West Secondary Planning Strategy within the Bedford Municipal Planning Strategy, and the Halifax Municipal Planning Strategy
Zoning (Map 2)	Bedford West Comprehensive Development District within the Bedford Land Use By-law and the Halifax Mainland Land Use By-law
Size of Site	Approximately 36 acres
Current Land Use(s)	Vacant
Surrounding Use(s)	Kearney Lake and a low density residential neighborhood are located to the west. A commercial development is located to the east across Highway 102. Lands to the south are currently vacant.

Proposal Details

The applicant proposes to amend the existing agreement to permit hotel/motel/guest house uses within general commercial areas of the development.

Enabling Policy and LUB Context

The existing development agreement is enabled under policies BW-38A, BW-39, and BW-40A within the Bedford West Secondary Planning Strategy. These policies allow for a mixed use development containing a range of commercial activities with particular emphasis on highway commercial uses, and medium to high density residential uses. The policies provide direction on landscaping, pedestrian access, building design, and density.

Existing Development Agreement

In 2012, North West Community Council and Chebucto Community Council approved a development agreement to allow for a mixed use development within Sub-Area 9 of Bedford West. The agreement generally:

- allows for a mixed use development containing residential and commercial uses;
- provides general commercial and residential building design criteria; and
- establishes a transportation plan for the area including a road network and trail plan.

In 2015, North West Community Council and Halifax and West Community Council approved an amendment to the existing agreement to allow the transfer of 118 dwelling units from Sub-Area 9 of Bedford West to Cresco's Wentworth Lands.

Joint Decision of Community Councils

The subject site straddles the jurisdictional boundary of the North West Community Council and the Halifax and West Community Council. As a result, the decision on the proposed amending agreement is a joint decision between the two Councils.

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 providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to

property owners within the notification area and a public information meeting held on March 8, 2017. Attachment C contains a copy of the minutes from the meeting, and the public comments received include the following topics:

- A question regarding the permitted heights of buildings within the existing agreement.

Individual public hearings by both North West Community Council and Halifax and West Community Council, or a joint hearing of both community councils, must be held before the proposed amending agreement can be considered. 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 proposal will potentially impact local residents and property owners.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment D provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

Proposed Development Agreement

Attachment B contains the proposed amendments to the existing development agreement for the subject site, and the conditions under which the development may occur. The proposed amendments will permit a hotel/motel/guest house use in areas designated as "General Commercial" within the development. Of the matters addressed by the proposed amending development agreement to satisfy the MPS criteria as shown in Attachment D, the following have been identified for detailed discussion.

Permitted Uses

As stated previously, the subject site is designated "General Commercial" within Sub-area 9 of the Bedford West Secondary Planning Strategy. The policies that enabled the existing agreement speak specifically to providing a range of general and highway commercial uses within this area. As such, a hotel/motel/guest house use can be considered an appropriate use under this policy. Further, within the Bedford LUB, the Highway Oriented Commercial Zone (CHWY) allows for a variety of higher intensity uses including hotels, motels and guest homes.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The policy expressly permits the consideration of highway commercial uses within Sub-Area 9 and the Highway Oriented Commercial Zone (CHWY) within the Bedford LUB lists hotels, motels and guest homes as permitted uses. Therefore, staff recommend that the Halifax and West Community Council and North West Community Council approve the proposed amending agreement.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed amending development agreement. The administration of the proposed development agreement can be carried out with existing resources and within the approved 2017/18 budget for C310 Urban and Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amending agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amending agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

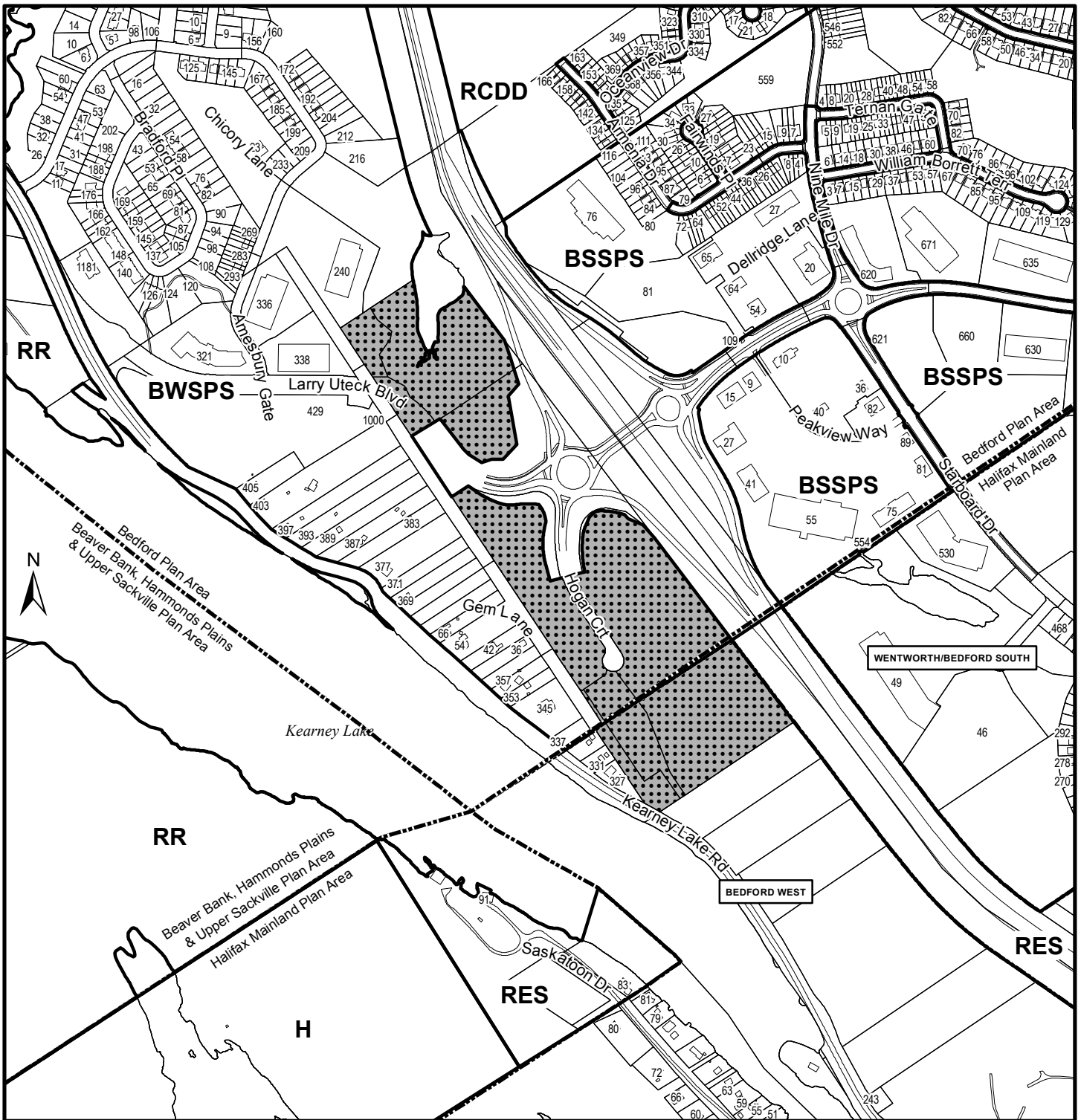
Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Legislative Authority
Attachment B:	Proposed Amending Development Agreement
Attachment C:	Public Information Meeting Minutes
Attachment D:	Review of Relevant MPS Policies

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Melissa Eavis, Planner II, Current Planning, 902.490.3966

Report Approved by: Original signed

Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

HALIFAX

Bedford West Subarea 9,
Bedford

Non-Substantive Amendment
to Existing Development Agreement

Plan Area Boundary

Bedford &
Halifax Plan Areas
-Bedford West
-Wentworth/Bedford South

Bedford Designations

- RCDD Residential Comprehensive Development District
- RR Residential Reserve
- BSSPS Bedford South Secondary Planning Strategy
- BWSPS Bedford West Secondary Planning Strategy

Halifax Plan Designations

- RES Residential Environments
- H Holding Area

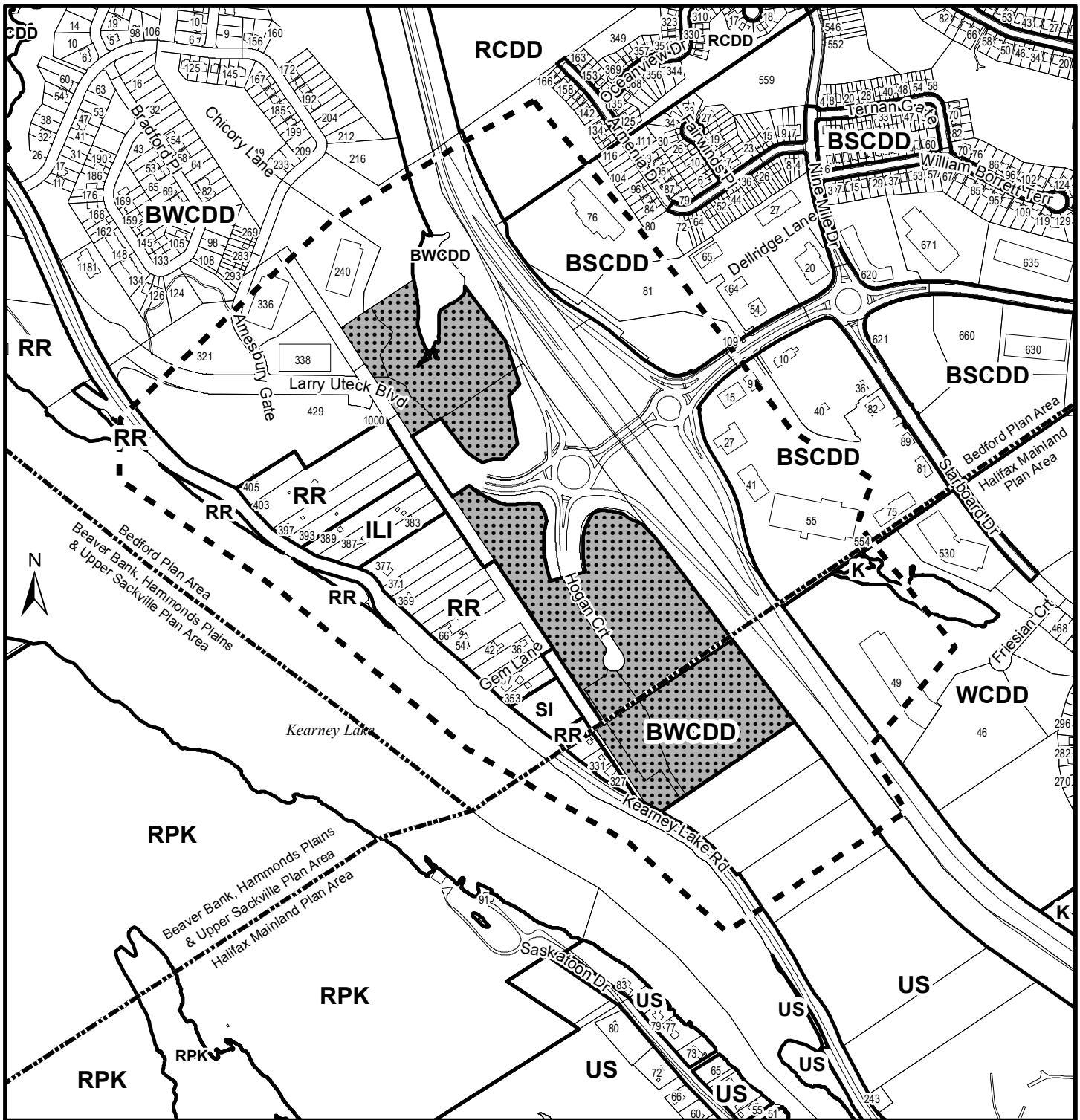
Beaver Bank, Hammonds Plains & Upper Sackville Designations

- RR Residential Reserve



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.



Map 2 - Zoning and Notification

Bedford West Subarea 9,
Bedford

Non-Substantive Amendment
to Existing Development Agreement

Area of Notification

Plan Area Boundary

Bedford & Halifax Mainland
Land Use By-Law Area

Bedford Zones

RR	Residential Reserve
ILI	Light Industrial
RCDD	Residential Comprehensive Development District
BWCCD	Bedford West Comprehensive Development District
BSCDD	Bedford South Comprehensive Development District
SI	Institutional

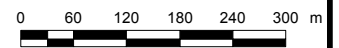
Halifax Mainland Zones

US	Urban Settlement
WCCD	Wentworth Comprehensive Development District
BWCCD	Bedford West Comprehensive Development District
RPK	Regional Park
K	Schedule K

Beaver Bank, Hammonds Plains and Upper Sackville Zones

RPK	Regional Park
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HALIFAX



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 – Legislative Authority

Development Agreements By Community Council

The *Community Council Administrative Order*, subsection 3 (1) “Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council.”

Halifax Regional Municipality Charter:

Development agreements by community councils

- 31 (1)** This Section applies to a community council if the Council so provides in the policy establishing the community council.
- (2)** Where a municipal planning strategy of the Municipality provides for development by agreement, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.
- (3)** A development agreement, or amendment to a development agreement, entered into by a community council must be signed by the Mayor and the Clerk on behalf of the Municipality.
- (4)** Where a development agreement entered into by a community council purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 39, s. 31.

HRM Charter, Part VIII, Planning and Development, including:

Development agreements

- 240 (1)** The Council may consider development by development agreement where a municipal planning strategy identifies
- (a) the developments that are subject to a development agreement;
 - (b) the area or areas where the developments may be located; and
 - (c) the matters that the Council must consider prior to the approval of a development agreement.
- (2)** The land-use by-law must identify the developments to be considered by development agreement. 2008, c. 39, s. 240.

Content of development agreements

- 242 (1)** A development agreement may contain terms with respect to
- (a) matters that a land-use by-law may contain;
 - (b) hours of operation;
 - (c) maintenance of the development;
 - (d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, stormwater systems, wastewater facilities, water systems and other utilities;
 - (e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;
 - (f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;
 - (g) the subdivision of land;
 - (h) security or performance bonding.
- (2)** A development agreement may include plans or maps.
- (3)** A development agreement may

- (a) identify matters that are not substantive or, alternatively, identify matters that are substantive;
- (b) identify whether the variance provisions are to apply to the development agreement;
- (c) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;
- (d) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by the Council;
- (e) provide that, where the development does not commence or is not completed within the time specified in the development agreement, the development agreement or portions of it may be discharged by the Council without the concurrence of the property owner. 2008, c. 39, s. 242.

Requirements for effective development agreement

- 243**
- (1)** A development agreement must not be entered into until
 - (a) the appeal period has elapsed and no appeal has been commenced; or
 - (b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.
 - (2)** The Council may stipulate that a development agreement must be signed by the property owner within a specified period of time.
 - (3)** A development agreement does not come into effect until
 - (a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board;
 - (b) the development agreement is signed by the property owner, within the specified period of time, if any, and the Municipality; and
 - (c) the development agreement is filed by the Municipality in the registry.
 - (4)** The Clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry. 2008, c. 39, s. 243.

ATTACHMENT B
Proposed Amending Development Agreement

THIS AMENDING DEVELOPMENT AGREEMENT made this day of , 2017

BETWEEN:

[INSERT REGISTERED OWNER 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 Hogan Court and Highway 102 in Bedford and Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the North West Community Council and Chebucto Community Council of the Municipality approved an application (Case 16666), to enter into an agreement to allow for development of a mixed use subdivision at Sub Area 9 Bedford West, Bedford which said development agreement was registered at the Registry of Deeds in Halifax on May 8, 2012 as Document No.100634063 (hereinafter called the "Original Agreement") and applies to the Lands;

AND WHEREAS the North West Community Council and Chebucto Community Council of Halifax Regional Municipality granted approval of an application (Case 18514) by the Developer of the first part to enter into an amendment to the Original Agreement to permit the transfer of 118 dwelling units from Bedford West Sub Area 9 to Cresco's Wentworth Lands, which said agreement was registered at the Registry of Deeds in Halifax on January 29, 2016 as Document No. 108457111 (hereinafter called "the First Amending Agreement") and applies to the lands;

AND WHEREAS the Original Agreement and the First Amending Agreement together comprise the Existing Development Agreement (the "Existing Agreement");

AND WHEREAS the Developer has requested amendments to the Existing Agreement to allow for hotel/motel/guest house uses pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to the terms of this Agreement;

AND WHEREAS the North West Community Council and Halifax and West Community Council for the Municipality approved this request at a meeting held on _____, referenced as Municipal Case 20996;

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

**ATTACHMENT B
Proposed Amending Development Agreement**

1. Except where specifically varied by this Second Amending Agreement, all other terms, conditions and provisions of the Existing Agreement shall remain in effect.
2. The schedules of the Existing Agreement shall be amended by deleting Schedule H General Commercial Land Uses and replacing it with Schedule H1 General Commercial Land Uses (attached).
3. The Existing Agreement shall be amended by deleting all references to "Schedule H" and replacing each with a reference to Schedule H1.

IN WITNESS WHEREOF 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 Owners Names)

Witness

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

Witness

Per: _____

Mayor

Witness

Per: _____

Municipal Clerk

Schedule H1
General Commercial Land Uses

No development permit shall be issued in a General Commercial area except for one or more of the following uses:

- a) All Age/Teen Clubs
- b) Banks and Financial Institutions
- c) Billiard and Snooker Clubs
- d) Commercial Photography
- e) Daycare Facilities, Nursery Schools, Early Learning Centres
- f) Drycleaning Depots
- g) Funeral Homes
- h) Garden Markets
- i) General Retail exclusive of mobile home dealerships but inclusive of building supply sales
- j) Ice cream stands
- k) Medical Clinics
- l) Hotel/Motel/Guest House
- m) Neighborhood Convenience Stores
- n) Office Uses
- o) Private Clubs (social)
- p) Full Service, Drive-in and Take Out Restaurants
- q) Service, Personal Service Shops, Health and Wellness Centres exclusive of massage parlours
- r) Veterinary clinics
- s) Institutional (SI) uses, excluding cemeteries
- t) Parking Lots and Structures
- u) Gas Bars
- v) Service Stations
- w) Automotive vehicle, parts & accessories sales and service
- x) Uses accessory to the foregoing uses (including drive-thru windows)

(All uses shall be defined as found in the Bedford Land Use By-Law)

Attachment C: Public Information Meeting Minutes

HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting
Case 20996

The following does not represent a verbatim record of the proceedings of this meeting.

Wednesday, March 8, 2017
7:00 p.m.

Ecole Secondaire du Sommet (Classroom #1112)

STAFF IN

ATTENDANCE:

Melissa Eavis, Planner, HRM Planning and Development
Alden Thurston, Planning Technician, HRM Planning and
Development
Cara McFarlane, Planning Controller, HRM Planning and
Development

ALSO IN

ATTENDANCE:

Councillor Russell Walker, District 10
Councillor Tim Outhit, District 16
Farhang Fotovat, Cresco Holdings Limited

PUBLIC IN

ATTENDANCE:

Approximately 4

The meeting commenced at approximately 7:00 p.m.

1. Call to order, purpose of meeting – Melissa Eavis

Ms. Eavis introduced herself as the Planner and Facilitator for the application; Kevin Neatt, Cresco Holdings Limited; Councillor Tim Outhit, District 1; and Alden Thurston and Cara McFarlane, HRM Planning and Development.

Case 20996 - Application by Cresco Holdings Ltd. for non-substantive amendments to an existing development agreement within Sub-Area 9 of the West Bedford Secondary Planning Strategy to allow for motels, hotels and guest homes.

The purpose of the Public Information Meeting (PIM) is to: a) identify the proposal site and highlight the proposal; b) give the applicant an opportunity to present the proposal; and c) receive public feedback and input regarding the proposal that will be used to prepare the staff report and go forward with this application. No decisions are made at this PIM.

2. Presentation of Proposal: Melissa Eavis

Ms. Eavis presented the proposal outlining the site and the relevant planning policies (BW38A, BW-39 and BW-40A) under the Bedford West Secondary Planning Strategy designation within the Bedford and Halifax Municipal Planning Strategies (MPS) and zone [BW CDD (Bedford West Comprehensive Development District) Zone] within the Bedford and Halifax Mainland Land Use By-laws (LUB). Due to a technical oversight when the existing development agreement was being drafted, the use of motels, hotels and guest homes was missed. This process is

considered a housekeeping matter.

Presentation of Proposal: Farhang Fotovat, Development Manager, Cresco Holdings Limited

Mr. Fotovat gave some background on the site and explained that the original proposal for the existing development agreement included the use of motels, hotels and guest homes but was missed during the approval process.

3. Questions and Comments

Mr. Robinson, Kearney Lake Road wondered how many storeys the hotel, if one was to be built on the site, would be. **Joseph Daniel, representing the Developer** – The maximum height for this area is 60 feet. **Mr. Fotovat** explained that the whole area is zoned General Commercial (list of permitted uses allowed) with two pockets of parkland. Currently, it is not known what will go on the site, but the intention is for high-end general retail, hotel, etc. **Mr. Robinson** wondered when the public would know what is going on the site. **Mr. Daniel** explained that whoever buys the land will determine its use. The purpose of expanding the list of uses is to allow what was asked for in the original proposal. It will be known what is going on the site once the development permit has been issued.

4. Closing Comments

Ms. Eavis thanked everyone for coming and expressing their comments.

5. Adjournment

The meeting adjourned at approximately 7:18 p.m.

Attachment D
Review of Relevant Policies from the BWSPS

Bedford West Secondary Planning Strategy

The General Commercial Centre

The General Commercial Designation envisions a built form with a range of commercial, activities and medium to higher density residential. Recognizing the location of the General Commercial Designation adjacent the Larry Uteck Boulevard and the Bicentennial Highway (Highway 102) interchange, the following objectives are intended:

- to provide for general and highway commercial uses;
- to enable a portion of the site to be developed as medium or higher density residential;
- integrate pedestrian access between surrounding residential areas and commercial activities;
- to encourage innovative design and comprehensive planning; and
- to support public transit.

Policy BW-38A: A range of general and highway commercial, medium and higher density residential, institutional, and recreational uses may be permitted within the General Commercial Centre Designation shown on Schedule BW-7 subject to consideration of the following matters:

Policy	Comment
a) natural vegetation, landscaping or screening is employed around parking areas and measures are employed to provide safe and convenient pedestrian access to the buildings they are intended to serve;	Not applicable to this application
b) sidewalks and/or plazas are provided so as to encourage a secure and inviting walking environment throughout the commercial centre and to neighbouring residential neighbourhoods;	Not applicable to this application
c) provisions are made for the storage of bicycles;	Not applicable to this application
d) exterior materials, street furniture; trees, lighting and landscaping measures are incorporated in buildings to foster an interesting and secure environment;	Not applicable to this application
e) the windows, exterior features and materials and signs employed in any building create a sense of interest from public streets;	Not applicable to this application
f) the massing, height of buildings and architectural detail contribute to a pedestrian oriented environment; and	Not applicable to this application
g) the proposal conforms with all applicable provisions and requirements adopted under this Secondary Planning Strategy regarding environmental protection, the community transportation system and municipal services.	Meets the specified provisions.

Policy BW-39: A comprehensive development district zone shall be applied to larger undeveloped parcels within Sub-Area 9. Commercial uses may be considered on lands in the vicinity of the proposed interchange with consideration given to the criteria of policy BW-38A. Residential uses may be permitted

on the remaining lands with consideration given to the criteria of policy BW-32. No development agreement application shall be considered for approval unless a public participation program has been undertaken to identify development opportunities and constraints and to facilitate collaboration in preparing a conceptual community design for the Sub-Area.

Policy BW-40A: Within the Sub Area 9 and the adjacent Bedford South/Wentworth Secondary Planning Strategy areas it shall be the intention to establish a land use node as identified in Schedule BW-8. Land uses within this node shall be established by existing policies however the densities or allotment of land uses may be redistributed throughout the Larry Uteck interchange node subject to the following:

Policy	Comment
a) the proposed land use to be relocated must be enabled within the Bedford West Secondary Planning Strategy portion of the node and the Bedford South/Wentworth portion of the node;	Not applicable to this application
b) the collection of infrastructure charges;	Not applicable to this application
c) the impact on major road networks, specifically Larry Uteck Boulevard and the completion of Starboard Drive (Bedford South/Wentworth);	Not applicable to this application
d) the impact on water and sewer infrastructure;	Not applicable to this application
e) that the proposed increase of density does not exceed that transferred out from the Bedford South and/or Wentworth Secondary Planning Strategies.	Not applicable to this application

Bedford Land Use By-law and Halifax Mainland Land Use By-law (LUB)

BWCDD ZONE – Bedford West Comprehensive Development District Zone

62AD No development permit shall be issued for a development with a Bedford West Comprehensive Development District Zone except in accordance with a development agreement approved pursuant to policies contained in the Bedford West Secondary Planning Strategy.