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Halifax, Nova Scotia
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Item No. 13.1.9
North West Community Council
February 29, 2016

TO: Chair and Members of the North West Community Council

SUBMITTED BY: Original Signed

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: February 17, 2016

SUBJECT: **Case 19625: Non-substantive amendments to the Bedford West Sub Area 5 development agreement, Bedford**

SUPPLEMENTARY REPORT

ORIGIN

- On November 16, 2015 North West Community Council approved non-substantive amendments to the Bedford West Sub Area 5 development agreement.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that the North West Community Council:

1. Approve the corrected amending development agreement document for execution, as contained in Attachment A of this report; and
2. Require that the development 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 of said agreement by Council and any other bodies as necessary, including applicable appeal periods whichever is later; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

BACKGROUND

On November 16, 2015, North West Community Council considered and approved non-substantive amendments to the development agreement for Bedford West Sub Area 5. The amending agreement enabled an increase in building height for two sites within Bedford West Sub Area 5.

Required Corrections

Prior to execution of the agreement, two required corrections were identified:

- 1) The replacement of one of the Schedules in the agreement has created an issue with references to the schedules; and
- 2) An editing error resulted in additional punctuation in a location not intended.

In addition to the corrections, staff is recommending the time period for the signing of the development agreement be reset to 120 days.

DISCUSSION

As a means of addressing the issues identified above, staff has attached a revised development agreement (Attachment A) for Bedford West Sub Area 5 which contains amendments as follows:

- All references to Schedule "O" are replaced with Schedule "O-1"; and
- Additional punctuation has been removed from the affected clause.

It is important to note the required corrections have no effect on the intent of the development agreement that was previously approved. Community Council is able to approve the amendments to the development agreement by motion without a public hearing. Upon Council's decision, and subsequent to an appeal period, the amending development agreement must be signed by the developer within 120 days before the agreement can be authorized for execution by the Municipality.

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 2015/16 budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and is described in the October 28, 2015 staff report¹.

ENVIRONMENTAL IMPLICATIONS

No additional concerns have been identified.

¹ <http://www.halifax.ca/Commcoun/central/documents/151116nwcc1011.pdf>

ALTERNATIVES

1. North West Community Council may choose to approve the corrected amending development agreement subject to modifications. This may necessitate further negotiation with the applicant, a supplementary staff report and a public hearing. A decision of Community Council to approve potential amendments is appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.
2. North West Community Council may choose to refuse the corrected amending agreement, and in doing so, must provide reasons why the agreement does not reasonably carry out the intent of the MPS. A decision of Council to reject this amending agreement, with or without a public hearing, is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A Corrected 1st Amending Development Agreement – Bedford West Sub Area 5

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: Andrew Bone, Senior Planner, Development Approvals, 902-490-6743

Original Signed

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

Attachment A
Proposed Amending Development Agreement

THIS AGREEMENT made this day of **[Insert Month]**, 20___,

BETWEEN:

[Insert Name of Corporation/Business LTD.]
a body corporate, in the Province of Nova Scotia

-and-

[Insert Name of Corporation/Business LTD.]
a body corporate, in the Province of Nova Scotia
(hereinafter together 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 two parcels lands, specifically Lot WB-13R8 and Lot KLR-R3 located at Amesbury Gate, Bedford and which said lands are more particularly described in Schedule A and illustrated in Schedule A-1 hereto (hereinafter called the "Lands");

AND WHEREAS the North West Community Council of the Municipality, at its meeting on 23rd day of June 2011, approved a development agreement to allow for residential and commercial subdivision on the Lands, and said Agreement is filed in the Land Registry as Document Number 101458348 (hereinafter called the "Existing Development Agreement");

AND WHEREAS the Developer has requested that the Municipality enter into an amending development agreement to allow for increased building height for multiple unit dwellings on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies of the Bedford West Secondary Planning Strategy and the Bedford Municipal Planning Strategy and Part 4, Section 3, Clause p) of the Bedford Land Use By-law;

AND WHEREAS the North West Community Council of Halifax Regional Municipality, at its meeting on November 16, 2015, approved this request;

AND WHEREAS the North West Community Council of Halifax Regional Municipality, at its meeting on **INSERT DATE**, approved this corrected amending development agreement and extended timeframe for signature of this corrected amending development agreement;

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

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1. Section 3.1 of the Existing Development Agreement shall be amended by deleting Schedule O and replacing it with Schedule O-1, attached as Schedule B to this agreement;
 2. The Existing Agreement shall be amended by deleting all instances of the text "Schedule O" and replacing all instances with the text "Schedule O-1"; and
 3. Clause (f) of section 3.4.5 of the Existing Development Agreement shall be amended by adding the following text after the words "underground parking structures" in the second sentence: "**, except as indicated on Schedule O-1.**".

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: _____

Witness

Per: _____

(Insert Registered Owner Name)

Witness

Per: _____

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 B

