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Halifax, Nova Scotia
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Item No. 13.1.1
Harbour East - Marine Drive Community Council
April 7, 2022

TO: Chair and Members of Harbour East – Marine Drive Community Council

-Original Signed-

SUBMITTED BY:

Kelly Denty, Executive Director of Planning and Development

DATE: March 25, 2022

SUBJECT: **Case 23934: Amendments to Development Agreement for lands at 19 Hamlet Lane, Dartmouth**

ORIGIN

Application by Upland Planning & Design, on behalf of Dartmouth Secure Self Storage Limited

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Harbour East – Marine Drive 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 a non-substantive amendment to an existing development agreement extending the completion date for the building construction;
2. Approve, by resolution, the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. Require the amending development agreement be signed by the property owner within 240 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

Upland Planning and Design have applied on behalf of Dartmouth Secure Self Storage Limited and Pinnacle Construction to amend an existing development agreement for Evergreen Place at 19 Hamlet Lane, Dartmouth to allow for additional time to complete the development. The proposed amending developing agreement adds two additional years to the timeframe for completion of construction of the approved development (Attachment A).

| | |
|---|--|
| Subject Site | 19 Hamlet Lane, Dartmouth (PID # 41028556) |
| Location | Off Green Village Lane & Portland Street; backs onto Highway #111 |
| Regional Plan Designation | Urban Settlement (US) |
| Community Plan Designation (Map 1) | Higher-Order Residential (HR) and Corridor (COR), Regional Centre Secondary Municipal Planning Strategy (MPS) |
| Zoning (Map 2) | Higher-Order Residential 1 (HR-1) Zone and Corridor (COR) zone, Regional Centre Land Use By-law (LUB) |
| Size of Site | 1.74 hectares (4.3 acres) +/- |
| Street Frontage | Approx. 15.3 metres (50 feet) on Green Village Lane |
| Current Land Use(s) | Existing self-storage buildings, remainder is vacant land |
| Surrounding Use(s) | Apartment buildings and Evergreen Place commercial development to the northwest; Hwy. 111 and an apartment building to the east & southeast; townhouses to the west & southwest. |

Existing Development Agreement

A development agreement (DA) and subsequent amendments were approved by Community Council starting in 2000, as follows:

- The original agreement by Pinnacle Homes Limited (Case 00163) was approved on September 14, 2000 to allow for a mixed-use development of a 26-acre property at Civic 506 Portland Street, Dartmouth, referred to as 'Evergreen Village' (formerly known as the Hammerling lands). The proposal was to include a mix of residential, commercial, community facilities and institutional uses, which included the subject parcel;
- Amendments to the original DA were approved on July 10, 2003 to allow changes to the type, location and size of commercial development (Case 00473);
- Amendments to the original DA were approved on July 2, 2009 to permit temporary signs (Case 01257); and
- Amendments to the original DA were approved on June 2, 2015 to allow 263 residential dwelling units and associated amenity space in 3 buildings in addition to commercial and institutional uses (Case 18255). These amendments allowed for the development of the southeastern half of the subject site with a residential apartment building.

The staff report outlining the most recent amendments (Case 18255) can be found at the following link: <https://legacycontent.halifax.ca/council/agendasc/documents/150127ca1121.pdf>

Proposal Details

The proposal is for additional time to complete development of the site at 19 Hamlet Lane (Attachments B and C). Most of the buildings in the overall development have been constructed. Municipal construction permits have recently been issued for a 90-unit residential building on the abutting site at Civic 22 Hamlet Lane. The subject site at Civic 19 contains two self-storage buildings and the remainder of the parcel to the south is vacant. In 2015, this site was approved for a residential apartment building containing 148 units. The applicant wishes to extend the completion date by two years to provide enough time to complete the 148-unit building. The only remaining undeveloped site within the area covered by the DA is a HRM-owned institutional site on the southwest side of Green Village Lane, which was acquired as a possible fire station site.

Section 3.4 of the existing agreement stipulates that the development must be completed within five (5) years from the date of registration, establishing a completion date of March 17, 2022. The applicant proposes to amend the existing development agreement to extend the completion date to March 17, 2024. This is enabled by Section 2.10.1, which permits non-substantive amendments for extensions to commencement and completion dates by resolution of Council.

Enabling Policy and LUB Context

The existing development agreement was approved under former Policies H-3G and H-3H of the Dartmouth Municipal Planning Strategy. The Regional Centre Plan 'Package A' was adopted on September 17, 2019, and at that time the subject site was re-designated HR (Higher Order Residential) within the Regional Centre Secondary MPS (RCSMPS) and zoned HR-1 (Higher Order Residential 1) within the Regional Centre LUB. A small portion of the site at the northwest end is designated and zoned Corridor (COR).

The RCSMPS provided specific 'transition' policies enabling non-substantive amendments to approved development agreements. Policy IM-34 of the RCSMPS provides for a maximum 2-year extension to the dates of commencement and completion of construction. As such, this would be the final time extension enabled by policy for this development agreement.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through providing information through the HRM website and signage posted on the subject site. A public information meeting and public hearing are not required for a non-substantive amendment to a development agreement. The decision on the amendments is made by resolution of Council.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it remains reasonably consistent with the intent of the Dartmouth MPS. There have been no changes to the proposal, since Council's original consideration and approval.

Proposed Amending Development Agreement

Attachment A contains the proposed amending development agreement for the subject site. The proposed amending development agreement addresses the time extension by specifying a completion date of March 17, 2024.

The proposed change relates only to the development completion date; the development itself will be unchanged. This extension can be permitted as a non-substantive amendment pursuant to section 3.4 of the existing development agreement and the proposed 2-year extension is the maximum permitted by Policy IM-34 of the RCSMPS. It is recommended that the date for development completion be extended as specified in the proposed amending development agreement (Attachment A).

Timeframe for signing of Agreements

The COVID-19 pandemic has resulted in difficulties in having legal agreements signed by multiple parties in short periods of time. To recognize this difficulty these unusual circumstances presents, staff are recommending extending the signing period for agreements following a Council approval and completion of the required appeal period. While normally agreements are required to be signed within 120 days, staff recommend doubling this time period to 240 days. This extension would have no impact on the development rights held within the agreement, and the agreement could be executed in a shorter period of time if the situation permits.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the Dartmouth MPS. The only proposed amendment is to the date of completion. The architecture, placement and use of the proposed structures is unchanged from that which is set out in the existing development agreement. Therefore, staff recommend that Community Council approve the proposed amending development 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 development agreement. The administration of the proposed development agreement can be carried out within the proposed 2022-2023 budget and with existing resources.

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 development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

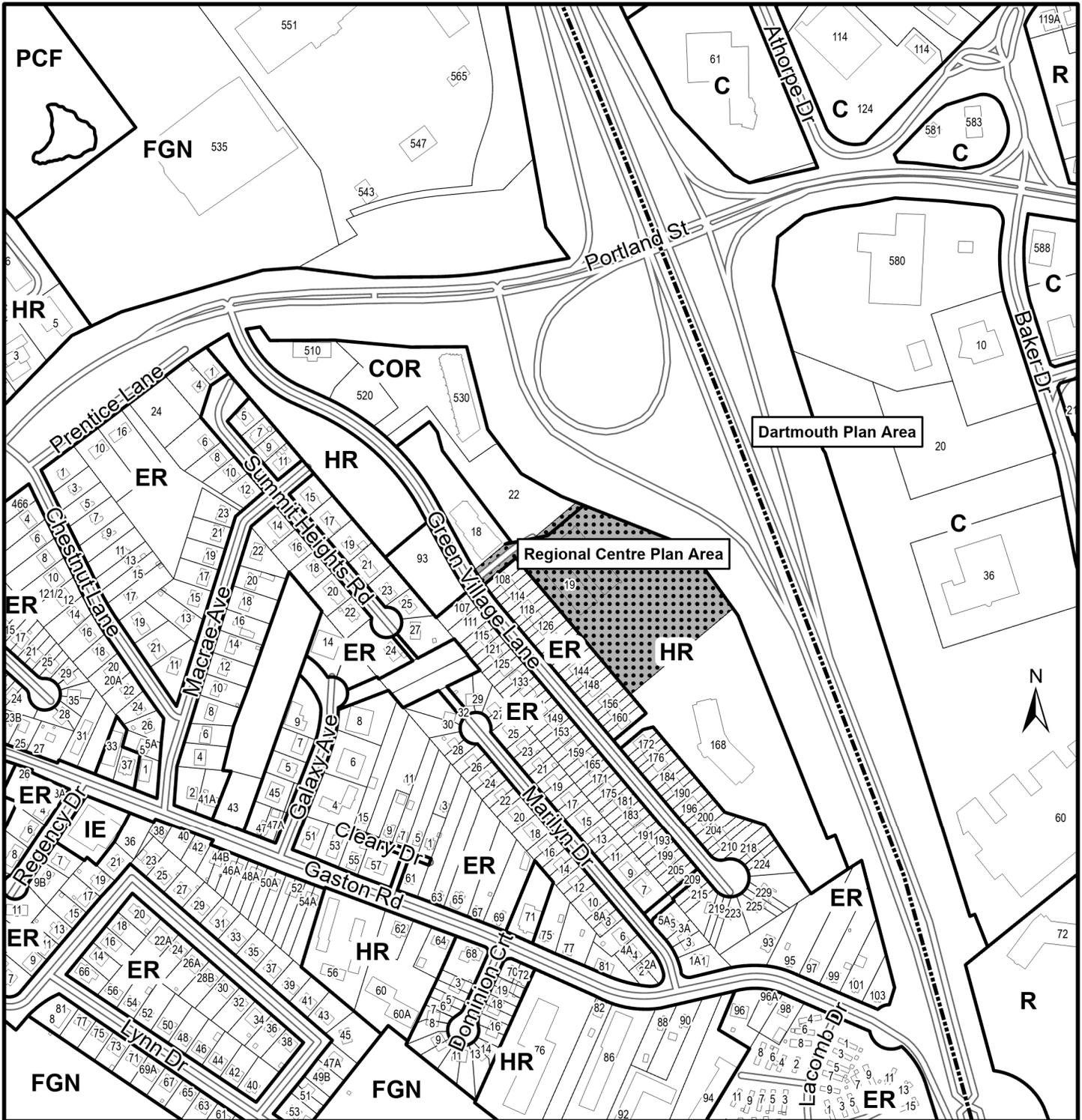
1. Harbour East – Marine Drive Community Council may choose to approve the proposed amending development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Harbour East – Marine Drive Community Council may choose to refuse the proposed amending development 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 development 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 |
| Attachment A: | Proposed Amending Development Agreement |
| Attachment B: | Applicant Request |
| Attachment C: | Existing Site Plan |

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: Paul Sampson, Planner II, 902.717.8125



Map 1 - Generalized Future Land Use

Green Village Lane,
Dartmouth

-  Subject Property
-  Community Plan Area

Regional Centre Plan Area

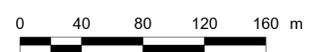
Regional Centre Designation

- COR Corridor
- ER Established Residential
- FGN Future Growth Node
- HR Higher-Order Residential
- IE Institutional Employment
- PCF Park and Community Facility

Dartmouth Designation

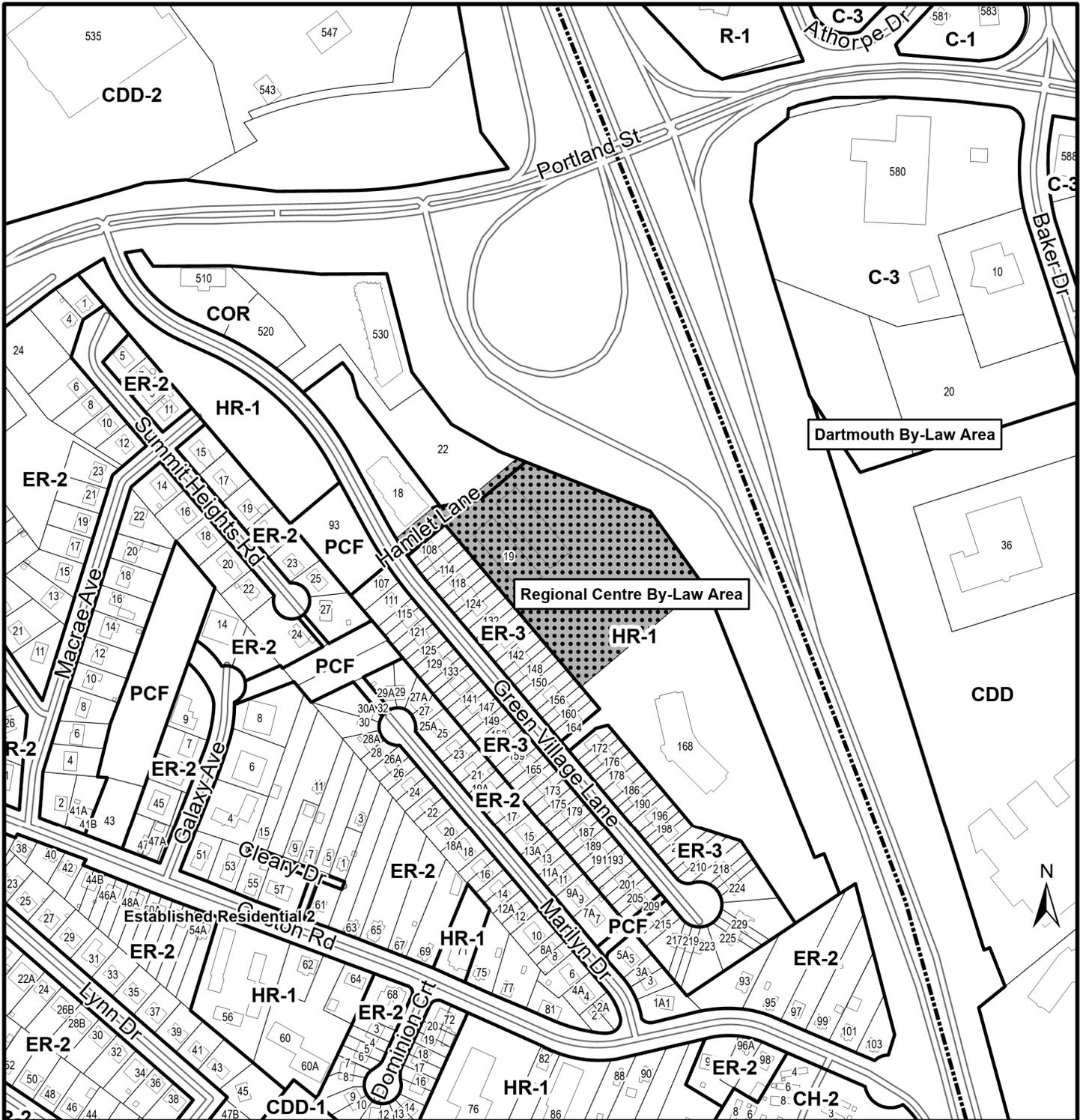
- R Residential
- C Commercial

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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.



Map 2 - Zoning

Green Village Lane,
Dartmouth

 Subject Property

Regional Centre
Land Use By-Law Area

Regional Centre Zoning

- COR Corridor
- HR-1 Higher-Order Residential 1
- ER-2 Established Residential 2
- ER-3 Established Residential 3
- PCF Parks and Community Facilities
- CDD-1 Comprehensive Development District 1
- CDD-2 Comprehensive Development District 2

Dartmouth Zoning

- R-1 Single Family Residential
- C-3 General Business
- CDD Comprehensive Development District

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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: Proposed Amending Development Agreement

THIS FOURTH AMENDING DEVELOPMENT AGREEMENT made this day of ,
2022,

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 located at Civic 19 Hamlet Lane, Dartmouth [PID# 41028556], and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS on September 14, 2000 the Harbour East Community Council approved an application by Pinnacle Homes Limited to enter into a development agreement (Case 00163) to allow for a mixed-use development of property known as Civic 506 Portland Street, Dartmouth (PID# 00226514), which said development agreement was registered at the Registry of Deeds in Halifax as Book 6658 and Pages 116-145 on November 2, 2000 (hereinafter called the "Original Agreement"), and which applies to the Lands;

AND WHEREAS on July 10, 2003 the Harbour East Community Council approved an application by Pinnacle Homes Limited to amend the Original Agreement for two parcels of land (PIDs 41067653 and 41067661) which formed part of the lands formerly known as Civic 506 Portland Street, Dartmouth to allow changes to the type, location and size of commercial development (Case 00473), which said amending agreement was registered at the Registry of Deeds in Halifax as Book 7500 and Pages 235-241 on October 8, 2003 (hereinafter called the "First Amending Agreement"), and which does not apply to the Lands;

AND WHEREAS on July 2, 2009 the Harbour East Community Council approved an application by Evergreen Plaza Incorporated to amend the Original Agreement to permit temporary signs (Case 01257), which said amending agreement was registered at the Registry of Deeds in Halifax as Document Number 94915759 on December 11, 2009 (hereinafter called the "Second Amending Agreement"), and which does not apply to the Lands;

AND WHEREAS on June 2, 2015 the Harbour East – Marine Drive Community Council approved an application by Evergreen Plaza Incorporated and Dartmouth Secure Self Storage Ltd. to amend the Original Agreement to allow 263 residential dwelling units and associated amenity space in 3 buildings in addition to the commercial uses (Case 18255), which said amending agreement was registered at the Registry of Deeds in Halifax as Document Number 110476943 on March 17, 2017 (hereinafter called the "Third Amending Agreement"), and which applies to the Lands;

AND WHEREAS the Original Agreement, the First Amending Agreement, the Second Amending Agreement and the Third Amending Agreement together comprise the Existing Agreement (hereinafter called the “Existing Agreement”);

AND WHEREAS the Developer has requested a non-substantive amendment to the Existing Agreement to allow for a further two years for completion of the development on the Lands, pursuant to the provisions of the *Halifax Regional Municipal Charter* and pursuant to Policy IM-34 of the Regional Centre Secondary Municipal Planning Strategy and Sections 2.10.1 and 3.4 of the Third Amending Agreement;

AND WHEREAS the Harbour East – Marine Drive Community Council approved this request at a meeting held on **[INSERT DATE]**, referenced as Municipal Case **23934**;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows: Harbour East – Marine Drive Community Council

1. Except where specifically varied by this Fourth Amending Agreement, all other conditions and provisions of the Existing Agreement, as amended, shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Fourth Amending Agreement, and the Existing Agreement.
3. Section 3.4 of the Existing Agreement shall be amended by deleting the text shown in ~~strikeout~~, and inserting the text shown in **bold**, as follows:
 - 3.4 In the event the Developer fails to complete the development or portions thereof, ~~or after five years from the date of registry of this Agreement~~ **by March 17, 2024** ~~with the Land Registration office in Halifax, whichever time period is less~~, Council may review this Agreement, in whole or in part, and may:
 - (a) retain the Agreement in its present form;
 - (b) negotiate a new Agreement;
 - (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

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: _____

HALIFAX REGIONAL MUNICIPALITY

SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

RE: Development Agreement Extension for 19 Hamlet Lane (PID 41028556)

November 4, 2021

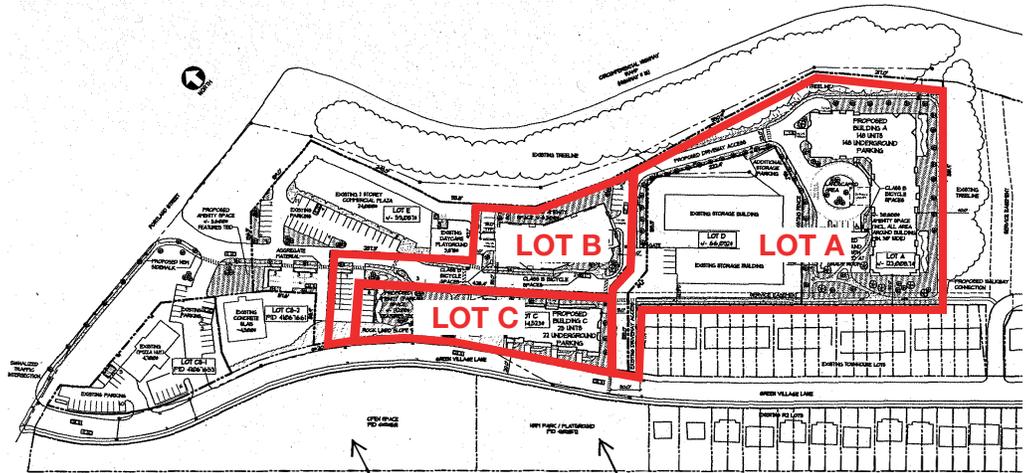
Carl Purvis
 Program Manager
 Planning Applications
 Halifax Regional Municipality
 PO Box 1749
 Halifax, NS B3J 3A5

Dear Mr. Purvis,

I am writing on behalf of our client, Pinnacle Construction (Dartmouth Self Storage Ltd.), to request a non-substantive amendment to the development agreement at 19 Hamlet Lane in Dartmouth (PID 41028556). The requested change is to extend the completion date by two years.

Background

The subject properties are part of the larger Green Village Lane development, approved in a 2000 development agreement (Doc. #35871). The agreement has been amended multiple times since then to address various aspects of the overall development. Material to the current application, the agreement was amended in September of 2016 to enable 263 residential units and associated amenity space in 3 buildings on 3 separate lots (Doc. #110592277).



Excerpt from 2016 Development Agreement Site Plan

Lot C, which fronts on Green Village Lane, is now complete and contains 25 residential units with underground and surface parking.

Lot B is currently a vacant field located between the existing commercial plaza and existing self-storage facility. It is intended to host 90 residential units. Our client reports that this portion of the development is currently under permit and construction will commence shortly.

Lot A is a vacant field located south-east of the existing self-storage facility. It is planned for 148 residential units in a 10-story building. This portion of the development is pending completion of Lot B and other various projects our client has under construction.

Section 3.4 of the amending agreement states that Council may discharge the development agreement if the developer fails to complete the development within five years from the date of the agreement's registration at the Land Registration office. Based on the April 11, 2017 registration date the current "completion date" would therefore be April 11, 2022.

Request

I am requesting that Section 3.4 of the development agreement be amended to allow a further two years for completion of the development.

This request is enabled as a non-substantive amendment under Subsection 2.10.1 of the agreement:

2.10.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:

[...]

1) The length of time for the completion of the development as identified in Section 3.4 of this Agreement.

Further, this request is consistent with Policy IM-34 of the Regional Centre Secondary Municipal Planning Strategy, which allows for one extension of up to two years for development agreements approved prior to the adoption of that Plan.

I have not enclosed in this application any drawings or studies because this is a simple textual amendment to the timeline of an already-approved development. However, please do not hesitate to reach out if you have any questions or require further information about the subject site.

Sincerely,



Ian Watson, Senior Planner, MCIP

