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**Item No. 13.1.5**  
**North West Community Council**  
**January 16, 2023**

**TO:** Chair and Members of North West Community Council

Original Signed

**SUBMITTED BY:**

\_\_\_\_\_  
Kelly Denty, Executive Director of Planning and Development

**DATE:** January 6, 2023

**SUBJECT:** **Case 20110: Request for additional time to sign the approved Development Agreement for an Open Space Design Development, Windgate Drive, Beaver Bank**

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**ORIGIN**

Request by Marque Investments Ltd.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that North West Community Council require that the development agreement for Case 20110 be signed by the property owner within 360 days (an extension of an additional 120 days from the original 240 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 / DISCUSSION**

On December 13, 2021, North West Community Council (NWCC) approved a Land Use By-law amendment to rezone a portion of the site, approximately 19.4 hectares (48 acres) fronting on Windgate Drive from the I-1 (Mixed Industrial) Zone to the MU-1 (Mixed Use) Zone. The rezoning enabled consideration of an Open Space Design development agreement that allowed a total of 374 units comprised of single unit dwellings and senior citizen housing in the form of 45 townhouse dwellings and 3 multiple unit dwellings. On January 17, 2022 (NWCC) approved that development agreement.

The decision of NWCC to approve the development agreement was appealed to the Nova Scotia Utility and Review Board (NSUARB). The NSUARB held a hearing in April of 2022, and on June 7, 2022 the appeal was dismissed, effectively upholding the decision of NWCC to approve the development agreement.

The developer is now able to sign the development agreement and have it registered in the Land Registry Office. However, prior to signing the development agreement, the developer must first subdivide the land and then provide staff with the resulting recording particulars to allow for registration of the agreement. Additionally, the developer has indicated that they require time to convey title of the newly created lots prior to registration of the agreement. Marque Investments Ltd. has been actively pursuing the required subdivision and resulting property descriptions, but it has taken more time than was initially expected.

Typically, 120 days time is provided to allow for signing of the agreement, but in anticipation of the need for extra time, the October 5, 2021 report<sup>1</sup> recommended doubling this time period to 240 days. Council's approved motion required the development agreement be signed by the property owner within 240 days from the conclusion of the appeal of NWCC's approval (June 7, 2022). If the development agreement is not signed by February 2, 2023 (240 days from June 7, 2022), the approval for the development agreement will be void.

Marque Investment Ltd. has requested additional time to sign the development agreement, to allow for the required subdivision and submission of recording particulars to have the development agreement registered. The request is for an additional 120 days for a total of 360 days from the conclusion of the appeal of NWCC's approval (June 7, 2022). This extension would allow the additional needed time to complete the subdivision and allow for the agreement's registration.

### **Conclusion**

Staff has reviewed the request to extend the timeframe for signing of the development agreement. The extension would have no impact on the previously approved development's provisions or requirements, and the agreement would remain consistent with all applicable planning policies. Staff recommends that Community Council extend the time limit set for the signing of the 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 approved 2022-2023 operating budget for Planning and Development.

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<sup>1</sup><https://www.halifax.ca/media/75280>

### **RISK CONSIDERATION**

If Council were to refuse to extend the time to sign the agreement and the 240 days were to expire without the agreement being executed, the January 2022 decision of Community Council to approve the development agreement would be considered void.

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and is described in the October 5, 2021 staff report for Case 20110.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified with this request for additional time to sign the development agreement.

### **ALTERNATIVES**

1. North West Community Council may choose to approve an alternative timeframe for the signing of the development agreement.
2. North West Community Council may choose to refuse the requested time extension for signing the development agreement, in which case, if the development agreement were not be signed by February 2, 2023 the approval of Community Council becomes null and void.

### **ATTACHMENTS**

None.

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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