

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

**SUBMITTED BY:**

[REDACTED]  
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Jerry Blackwood, Acting Chief Administrative Officer

[REDACTED]  
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John Traves, K.C., Executive Director of Legal and Legislative Services

**DATE:** August 1, 2023

**SUBJECT:** **Case #23293 - Board Order to Approve Development Agreement at Intersection of Beaverbank Road and Windgate Drive**

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## **PRIVATE & CONFIDENTIAL SUPPLEMENTARY REPORT**

### **ORIGIN**

- Application by WM Fares Architect
- Planning Application Case No. 23293
- January 16, 2023 decision of the North West Community Council refusing a request for a development agreement to permit a multiple-unit dwelling at the intersection of Beaverbank Road and Windgate Drive
- AG Property Limited filed an appeal of Council's decision
- July 21, 2023, the Nova Scotia Utility and Review Board issued a decision and ordered that North West Community Council approve the Development Agreement

### **LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development Utility and Review Board Act*

### **RECOMMENDATION**

It is recommended that Council proceed in accordance with the Order of the Board.

It is further recommended that this report not be released to the public.

### **BACKGROUND**

On January 16, 2023, North West Community Council refused the application for a development agreement at the intersection of Beaverbank Road and Windgate Drive for the following reasons:

- Lack of traffic infrastructure to support the development with emphasis on the Beaver Bank Road and Windgate Drive intersection;
- Lack of available medical facilities, schools and other needed community amenities; and
- It was noted that the development does not fit the community landscape and there are potential environmental implications and issues surrounding storm water.

The Developer appealed the decision of the Community Council to the UARB and on July 21, 2023 the UARB ordered that Community Council approve the Development Agreement.

### **ANALYSIS**

In its analysis the Board addressed the Council's reasons as follows:

- Lack of traffic infrastructure to support the development

The Board accepted the evidence in the Traffic Impact Study completed by Harbourside Transportation Consultants. The TIS Report determined that the impact on local traffic was negligible, even when its proposal was for two buildings comprising a total of 92 units. HRM engineering reviewed and accepted the TIS. AG Property's proposal since changed to one building for 46 units, half the number of units considered in the TIS. The Board found that there was no requirement for the TIS to consider new infrastructure for the Beaver Bank Road and Windgate Drive intersection or the Beaver Bank Bypass. The Board concluded that Council's first reason for refusing the development agreement was not supported by the evidence and did not reasonably carry out the intent of the MPS

- Availability of community amenities and facilities

The Board found no objective basis for this reasoning in the evidence that was before Community Council and the Board in this matter. The evidence showed that there are public schools in proximity to the development. There are also several local parks, churches and a daycare facility in the nearby area. The Board concluded that Council's second reason for denial of the development agreement was not supported by the evidence and did not reasonably carry out the intent of the MPS.

- Compatibility

The Board found that there is no reasonable basis upon which Community Council could find that the proposed development is not compatible with adjacent or nearby land uses. The Board is satisfied that the development agreement reasonably addresses site and building design control features to further compatibility. In refusing the proposed development for its lack of compatibility, the Board concludes that Community Council's decision was not reasonably consistent with the MPS.

- Environmental Issues about stormwater

The Board determined that it was clear from the provisions in the proposed development agreement that stormwater and other potential environmental issues have been addressed. In refusing to approve the development agreement due to concerns about stormwater, the Board found that Community Council's decision did not reasonably carry out the intent of the MPS.

The Board allowed the appeal on the basis that the decision of the Community Council was not consistent with the intent of the MPS.



**ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

**ALTERNATIVES**

The Board has ordered that the Community Council approve the Development Agreement and therefore there are no alternatives.

**ATTACHMENTS**

None.

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If the report is released to the public, a copy can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Meg MacDougall, Solicitor, Legal Services, 902.490.2034

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