

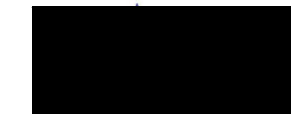


P.O. Box 1749
Halifax, Nova Scotia
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Item No.10.1.1
North West Community Council
February 26, 2024
March 18, 2024

TO: Chair and Members of North West Community Council

SUBMITTED BY:



Jacqueline Hamilton, Executive Director of Planning and Development

DATE: January 31, 2024

SUBJECT: **PLANAPP 2023-01145: Amending Development Agreement for 644 Bedford Highway, Halifax**

ORIGIN

Application by Greg Johnston of Paul Skerry Architects Limited.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council:

1. Give notice of motion to consider the proposed amending development agreement, as set out in Attachment A, to allow the conversion of an interior parking area to create two additional residential units at 644 Bedford Highway, Bedford and schedule a public hearing;
2. Approve 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 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, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Paul Skerry Architects Limited has requested substantive amendments to the existing development agreement at 644 Bedford Highway, Halifax. The amendments would allow the conversion of surplus interior parking spaces to create an additional two units within the building which is presently under construction. No additional changes to the development agreement or building are proposed.

Subject Site	644 Bedford Highway, Halifax (PID 00289678)
Location	On the west side of the Bedford Highway and north of Larry Uteck Boulevard
Regional Plan Designation	US (Urban Settlement)
Community Plan Designation (Map 1)	HC (Highway Commercial), within the Schedule R area in the Bedford Highway Secondary Planning Strategy of the Halifax Municipal Planning Strategy (MPS)
Zoning (Map 2)	C-2B (Highway Commercial Zone) of the Land Use By-law for Halifax Mainland (LUB)
Size of Site	5,830.7 m ² (62,761 ft. ²)
Street Frontage	30.5 m (100 ft.)
Current Land Use(s)	Multi-unit dwelling
Surrounding Use(s)	A mix of residential and commercial uses, including a hotel, retail, offices and multi-unit dwellings along Bedford Highway and Larry Uteck Boulevard

Proposal Details

The major aspects of the proposal are as follows:

- The proposal increases the total number of permitted residential units from 52 units to 54 units through the conversion of six surplus interior parking;
- The existing development agreement requires a minimum of 70 vehicle parking spaces with no more than 25 exterior parking spaces. There are currently 85 indoor parking spaces and eight outdoor parking spaces. The reduction of six indoor parking spaces would result in a total of 79 indoor spaces which still exceeds the required minimum; and
- The proposed changes will not affect the exterior of the existing apartment building which is currently under construction.

Existing Development Agreement History

- [On January 20, 2014](#), North West Community Council approved a development agreement (Case 17760) to allow the construction of a seven storey, 52 unit residential building. The development agreement required that construction commence within three years and be completed within five years of the agreement's registration at the Land Registration Office. The development agreement was registered on March 17, 2014.
- [On November 15, 2016](#), the North West Community Council approved an amendment to the development agreement to allow an additional two year extension to the dates of commencement and completion of development (Case 20781).
- [On December 10, 2018](#), the North West Community Council approved an amendment which granted an additional three year extension to the dates of commencement and completion of development (Case 21915).

Construction is currently underway, and the applicant has applied for a substantive amendment to the existing development agreement to allow the increase of two additional residential units within the building.

Enabling Policy and LUB Context

The C-2B zone of the LUB permits a variety of commercial and residential uses, but restricts height to 35 feet. However, the subject site is included on Schedule R of the LUB, which enables it for consideration of height in excess of 35 feet by development agreement, through Policy 1.8 of the Bedford Highway Secondary Plan allows residential development, which states:

“In order to promote investment in mixed use redevelopment within two specific nodes along the Bedford Highway, that being at the north end of the Halifax plan area and adjacent intersection of the Bedford Highway and Larry Uteck Boulevard, and to prevent conflict between new and existing uses the Municipality may, through the land use by-law, identify areas that provide an opportunity for and will benefit from a mix of residential and commercial uses. In those areas identified in the land use by-law as Schedule “R”, all mixed residential/commercial developments or residential developments that exceed 35 feet in height shall be considered by development agreement in accordance with Sections 242 to 245 and 249 of the Halifax Regional Municipality Charter and as illustrated on Map ZM-2.”

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and the Public Participation Administrative Order (2023-002-ADM). The level of community engagement was information sharing achieved through providing information through the HRM website and signage posted on the subject site.

The HRM website received a total of 92 unique pageviews over the course of the application, with an average time on page of 19 seconds. Staff did not receive any comments directly from the community.

A public hearing must be held by North West Community Council before they can consider approval of the proposed amending development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the advertisement on the HRM webpage, property owners and residents within the notification area shown on Map 2 will be notified of the hearing by regular mail.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the Halifax Municipal Planning Strategy and the Bedford Highway Secondary Plan.

Attachment A contains the proposed third amending development agreement. This agreement allows the increase of two residential units resulting in a total of 54 units within the approved residential building. The proposed amendment cannot be considered as a non-substantive amendment as it is not identified in section 6.1 of the existing development agreement.

The enabling MPS policy 1.8 of the Bedford Highway Secondary Plan (Part VIII) has not changed since the application was originally approved and staff advise that the proposal remains reasonably consistent with those specific policies and the overall Halifax MPS.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise it is reasonably consistent with the intent of the MPS. The increase of two residential units replaces six interior parking spaces, but the remaining parking is well above the minimum required, and the proposal does not affect the exterior appearance of the building. As such, staff recommend that the North West Community Council approve the proposed second 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 development agreement. The administration of the proposed development agreement can be carried out within the approved 2023-2024 operating budget for Planning and Development.

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

ENVIRONMENTAL IMPLICATIONS

No environmental implications have been identified.

ALTERNATIVES

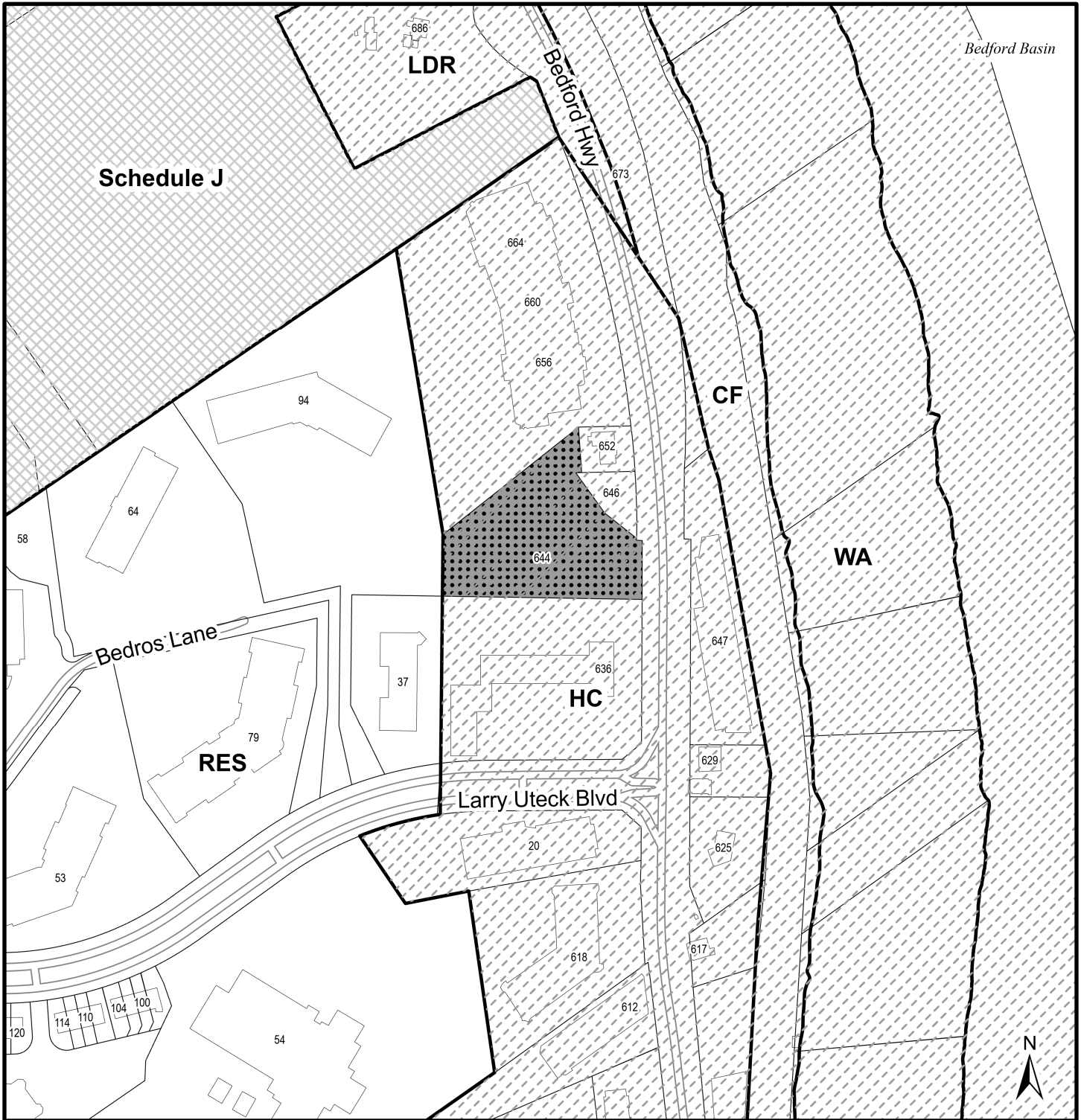
1. North West Community Council may choose to approve the proposed amending agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. North West Community Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons why the proposed amending 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 and Notification Area
Attachment A:	Proposed Third Amending Development Agreement

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: Ardalan Shareghi B., Planner II- Urban Enabled Applications, 782.641.3478



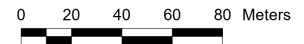
Map 1 - Generalized Future Land Use

644 Bedford Highway,
Halifax

HALIFAX

-  Subject Property
-  Bedford Highway Detailed Plan Area
-  Wentworth Detailed Plan Area

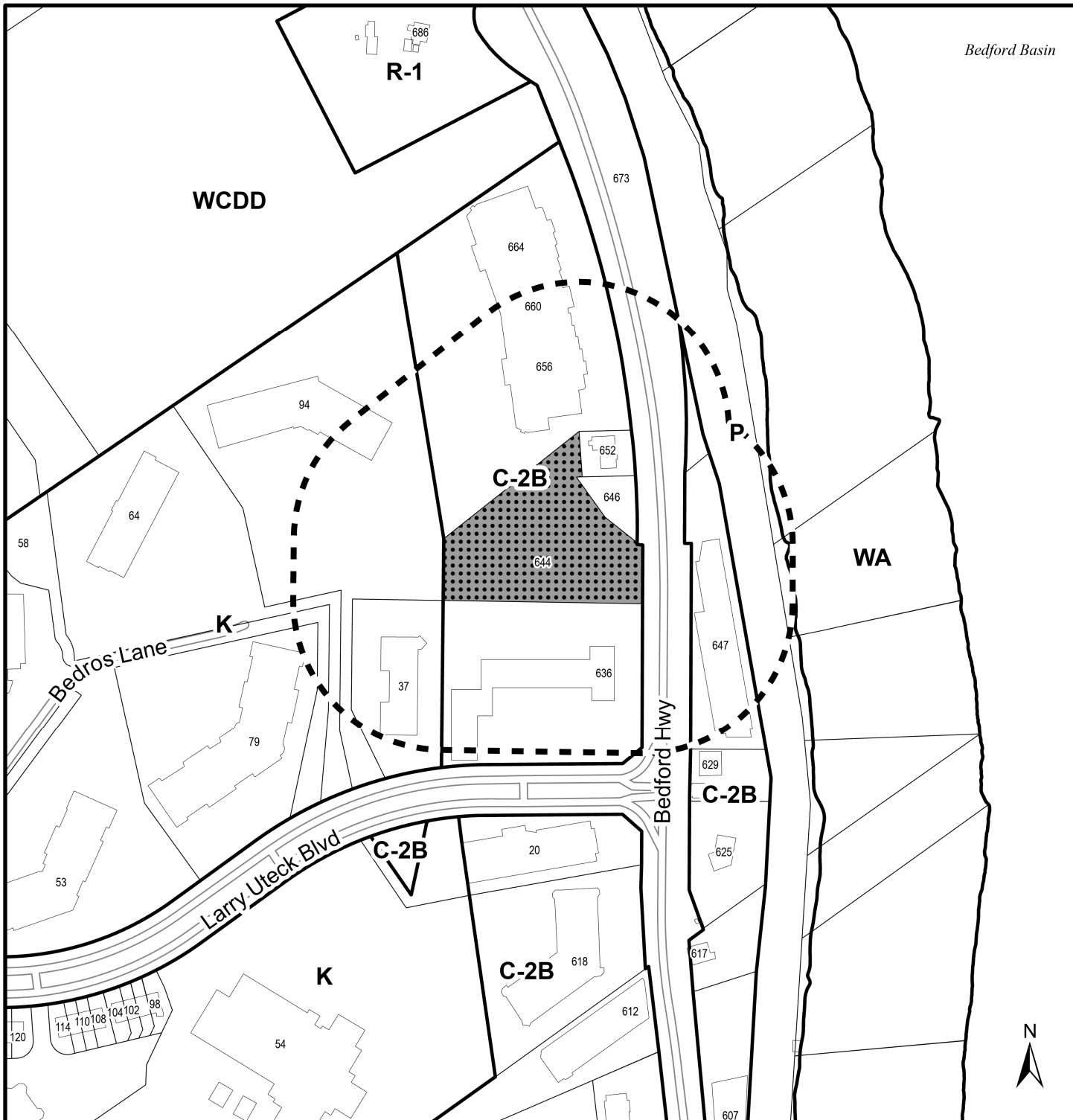
Designation	
Bedford	<p>CF Community Facilities</p> <p>HC Highway Commercial</p> <p>LDR Low Density Residential</p> <p>RES Residential Environments</p> <p>Schedule J Wentworth (See Section XIV)</p> <p>WA Water Access Area</p>



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.



Halifax Plan Area



Map 2 - Zoning and Notification Area

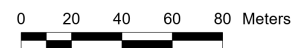
644 Bedford Highway,
Halifax

HALIFAX

-  Subject Property
-  Area of Notification

Zone
Bedford

- C-2B Highway Commercial
- K Schedule K
- P Park and Institutional
- R-1 Single Family Dwelling
- WA Water Access
- WCDD Wentworth Comprehensive Development District



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

Halifax Mainland
Land Use By-Law

The accuracy of any representation on this plan is not guaranteed.

**Attachment A:
Proposed Third Amending Development Agreement**

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

BETWEEN:

[Insert Owner]

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 644 Bedford Highway, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS on January 20, 2014 the North West Community Council approved an application to enter into a Development Agreement to allow for multi-unit residential building on the Lands (Case 17760), which said Development Agreement was registered at the Land Registration Office in Halifax on March 17, 2014, as Document Number 104764007 (hereinafter called the "Original Agreement");

AND WHEREAS on November 15, 2016 the North West Community Council approved an application to amend the Original Agreement to allow for a two-year extension to the dates of commencement and completion of development on the Lands (Case 20781), which said Development Agreement was registered at the Land Registration Office in Halifax on February 28, 2017 as Document Number 110392025 (hereinafter called the "First Amending Agreement", and which does apply to the Lands;

AND WHEREAS on December 10, 2018 the North West Community Council approved an application to amend the development agreement to allow for a three-year extension to the dates of commencement and completion of development on the Lands (Case 21915), which said Development Agreement was registered at the Land Registration Office in Halifax on May 21, 2019, as Document Number 114484208 (hereinafter called the "Second Amending Agreement", and which does apply to the Lands;

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

AND WHEREAS the Developer has requested that further amendments to the Existing Agreement to allow the conversion of interior parking to create two additional units on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy 1.8 of the Bedford Highway Secondary Plan of the Halifax Municipal Planning Strategy and Section 74 of the [Halifax Mainland Land Use By-law](#);

AND WHEREAS the North West Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as PLANAPP 2023-01145;

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

1. Except where specifically varied by this Third 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 Third Amending Agreement, and the Existing Agreement.
3. Section 3.3.1 of the Existing Agreement shall be amended by deleting the text shown in ~~strikeout~~, and inserting the text shown in bold as follows:
 - 3.3.1 The use of the Lands permitted by this Agreement is ~~fifty two (52)~~ **fifty-four (54)** unit, seven (7) storey residential building including indoor and outdoor amenity space and underground and surface parking.

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: _____

Print Name: _____

Position/Title: _____

Date Signed: _____

=====

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

Date Signed: _____

Witness

Per: _____

MUNICIPAL CLERK

Date Signed: _____

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, personally came and appeared _____, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, personally came and appeared _____, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that Mike Savage, Mayor and Iain MacLean Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia