



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Non-Substantive Amendment to a Development Agreement

TO: Development Officer

DATE: August 4, 2022

SUBJECT: **Case 24243: Non-Substantive Amendment to an existing Development Agreement at Civic 60 Armstrong Court, Halifax**

LEGISLATIVE AUTHORITY

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

Adoption or amendment of development agreement by policy 245

(3A) Notwithstanding subsections (1) to (3), a development officer may approve non-substantive amendments to a development agreement without holding a public hearing.

(3B) Subsection (3A) does not apply where amendments to a development agreement are a combination of substantive and non-substantive amendments.

RECOMMENDATION

It is recommended that the Development Officer:

1. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report.

BACKGROUND

WM Fares Architects has applied to amend an existing development agreement to increase the amount of surface parking at 60 Armstrong Court, Halifax.

Subject Site	60 Armstrong Court, Halifax (PID 40656845)
Location	Northeast quadrant of Hwy. 102 and Kearney Lake Road interchange
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Commercial (COM)
Zoning (Map 2)	General Business (C-2) and Schedule L
Size of Site	5.24 Acres (22,8254.4 sq. ft.)
Street Frontage	34.6 metres (114 ft.)
Current Land Use(s)	4-storey multi-unit residential building
Surrounding Use(s)	Two 3-storey multi-unit residential buildings to the immediate north; One 4-storey multi-unit residential building, Hotel and commercial plaza to the south; Single-unit dwellings on eastern side of Armstrong Court; and A pocket park and school at end of Armstrong Court.

Proposal Details

The applicant is proposing a non-substantive amendment to an existing development agreement for 60 Armstrong Court, Halifax to increase the amount of surface parking. No other aspects of the development agreement are proposed to be changed.

History/Existing Development Agreement

- In December of 1992, the former City of Halifax entered into a development agreement (original agreement) with Realco Management Limited for two commercial sites at 117 and 133 Kearney Lake Road and the two residential apartment sites at 50, 60 and 70 Armstrong Court.
- The development agreement was amended twice in 1993 (First and Second Amending Agreement). Subsequently, a retail plaza was constructed at 117 Kearney Lake Road, a hotel was constructed at 133 Kearney Lake Road and 4-storey apartment buildings were built on each lot on Armstrong Court.
- On February 18, 2020, Halifax and West Community Council discharged the existing development agreement from the two properties at 50, 60 and 70 Armstrong, but it would continue to remain in effect for the two commercial sites and 117 and 133 Kearney Lake Road.
- On February 18, 2020, Halifax and West Community Council entered into a new development agreement to allow for a seven-storey addition to the existing four-story apartment building at 60 Armstrong Court. The staff report, discharging the previous agreement and approving the new development agreement can be found at the link below:

<https://cdn.halifax.ca/sites/default/files/documents/city-hall/community-councils/200121hwcc1312.pdf>

Enabling Policy and LUB Context

The subject site is designated Commercial (COM) under Section II (City-Wide objectives and policies) of the Halifax Municipal Planning Strategy (Map 1). The site is zoned C-2 and falls within Schedule "L" of the Land Use By-Law for Halifax Mainland (Map 2). The C-2 zones permits a range of general commercial uses.

The proposal was originally considered to City Wide policy 3.7 and Implementation policy 3.12 of the Halifax Municipal Planning Strategy through the development agreement process. However, with the adoption of the Regional Center SMPS and Land Use By-law (LUB) City Wide policy 3.7 was deleted from the Halifax MPS (please refer to Attachment C for the now deleted policy 3.7). Implementation policy 3.12 continues to allow for the consideration of the amendment to the existing development agreement. Additionally, section 6.1.1 (c) of the existing development agreement allows for changes to the parking requirements outlined in section 3.7 as a non-substantive amendment, provided it meets all other applicable requirements. As such, staff have determined this application has sufficient policy support to be considered.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it remains reasonably consistent with the intent of the Halifax MPS. Attachment B provides an evaluation of the request in relation to the relevant MPS policies.

Proposed Non-substantive Amendment to the Development Agreement

Attachment A contains the proposed non-substantive amendment to the existing development agreement. The proposed change relates only to the location and amount of the proposed surface parking area and the rest of the development agreement will be unchanged. The increase in the amount of surface parking can be permitted as a non-substantive amendment pursuant to section 3.7 of the existing development agreement approved in 2020.

Traffic and Parking

Under the existing development agreement application, a Traffic Impact Statement submitted by the applicant was reviewed by engineering staff and determined to be acceptable. The statement found that the low number of vehicle trips generated from the proposed building addition are not expected to negatively affect traffic operations on the surrounding street network. Staff reviewed the TIS and is in agreement with the findings. These findings and conclusions are not altered by the proposed non-substantive amendment.

The supply of parking, including spaces for visitors, was a concern expressed through 2020 public engagement. The proposed non-substantive amendment will be able to address this parking supply issue.

Landscaping

The existing landscaped amenity area will be preserved and not reduced in area. Other treed areas will be retained, with the exception that the expansion of the surface parking lot will remove a small number of mature trees but the majority of this area is covered by low shrubbery that does not contribute to the canopy cover.

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 and seeking comments 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.

This application has received 134 pageviews since May 1st, 2022. Average time spent on viewing this application page is 1min 53 seconds. There were no public comments received on this application.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The proposed amendment is to enlarge the size of surface parking area. Other aspects of the existing development agreement, including the use, placement, architecture and landscaping, is unchanged from that which is set out in the agreement. Therefore, staff recommend that the Halifax and West Community Council approve the proposed Amending Development Agreement.

ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning Map
Attachment A	Proposed Amending Development Agreement
Attachment B	Review of Relevant Halifax Municipal Planning Strategy Policies
Attachment C	Halifax MPS – Deleted City Wide Policy 3.7

Report Prepared by: Yanan Gou, Planner II, 782.641.5657

Development Officers Decision

HALIFAX REGIONAL MUNICIPALITY

Non-Substantive Development Agreement
Is **APPROVED** for

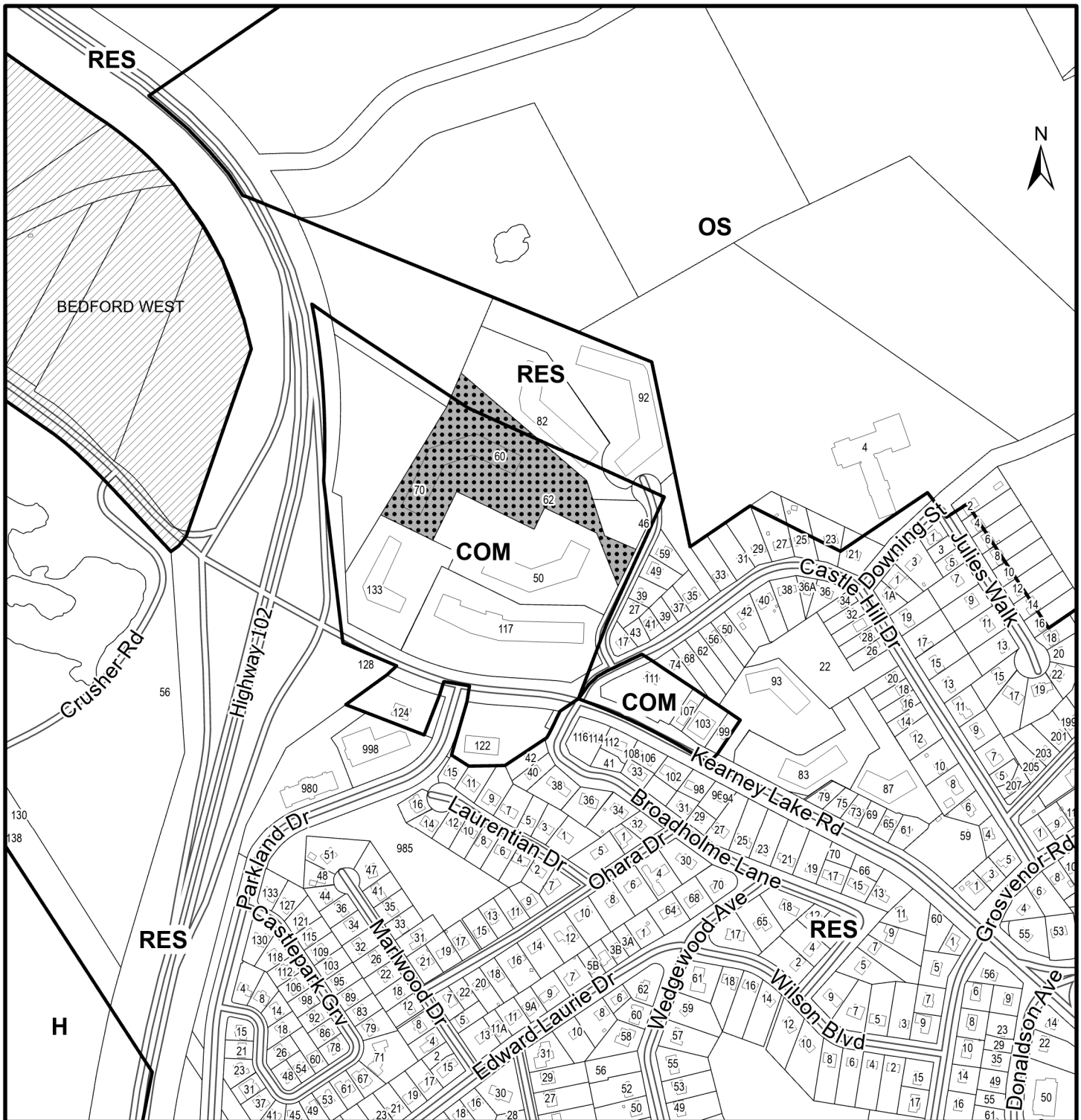
Details: As detailed in the report

Date: Aug.12, 2022

Original Signed

Approved by Development
Officer
Trevor Creaser

Or Refused – outline the reasons for decision:



Map 1 - Generalized Future Land Use

60 Armstrong Court,
Halifax

HALIFAX

 Existing Development Agreement

Designation

RES Residential Environments
COM Commercial
OS Major Community Open Spaces
H Holding Area

0 40 80 120 160 200 m

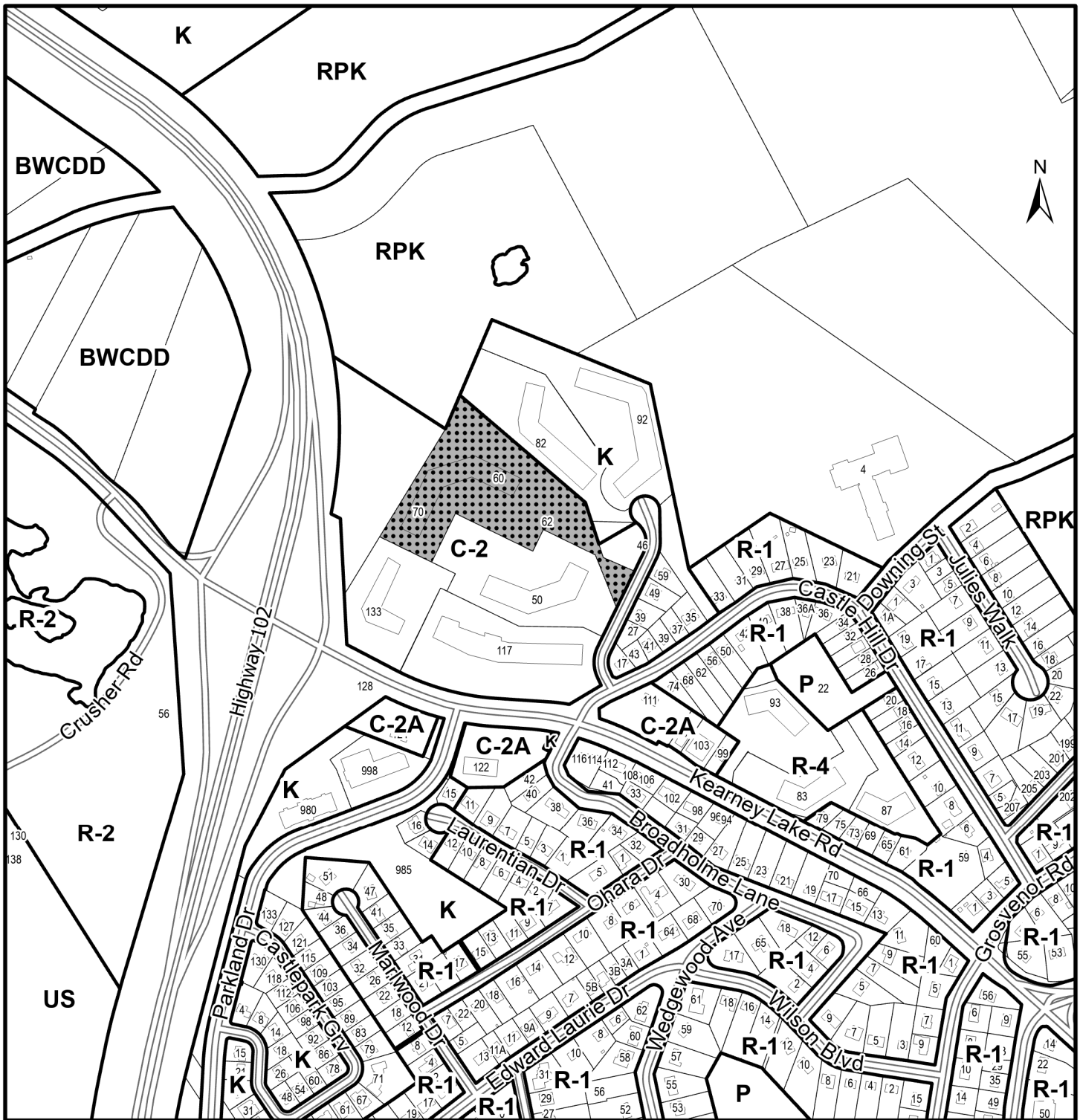
This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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

Halifax Plan Area &
Bedford West Secondary Plan

23 June 2022

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Map 2 - Zoning and Location

60 Armstrong Court,
Halifax

 Existing Development Agreement

Halifax Mainland
Land Use By-Law Area

Zone

R-1	Single Family Dwelling
R-2	Two Family Dwelling
R-4	Multiple Dwelling
C-2A	Minor Commercial
C-2	General Business
K	Schedule K
BWCDD	Bedford West Comprehensive Development District
P	Park and Institutional
RPK	Regional Park
US	Urban Settlement

HALIFAX

0 40 80 120 160 200 m

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.

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

BETWEEN:

[NAME OF CORPORATION]

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 No. 60 Armstrong Court (PID No. 40656845) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Halifax and West Community Council approved an application to enter into a Development Agreement to allow for a seven (7) storey addition to the apartment house building on the Lands (municipal case 21952), which said Development Agreement was registered at the Land Registration Office on June 12, 2020 as Document Number 116475022 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested an amendment to the Existing Agreement to allow for additional surface parking on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Part 6 of the Existing Agreement, Policy 3.12 of the Halifax Municipal Planning Strategy, and Section 69 of the Halifax Mainland Land Use By-law;

AND WHEREAS in accordance with subsection 245(3A) of the *Halifax Regional Municipality Charter* a Development Officer may approve non-substantive amendments to a Development Agreement;

AND WHEREAS **[insert name of Development Officer]**, Development Officer, approved this request for non-substantive amendments, referenced as Municipal Case 24243;

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 First 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 First Amending Agreement, and the Existing Agreement.
3. Section 3.1.1 of the Existing Agreement shall be amended by deleting the text shown in strikeout and inserting the text shown in bold, as follows:

~~Schedule B~~ ~~Site Development Plan~~

Schedule B-1 Site Development Plan

4. The Existing Agreement shall be amended by deleting the following Schedule:

Schedule B Site Development Plan

And inserting the following Schedule:

Schedule B-1 Site Development Plan (attached)

5. The Existing Agreement shall be amended by deleting all text references to Schedule B and replacing them with a reference to Schedule B-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: _____

Name: _____

Position: _____

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

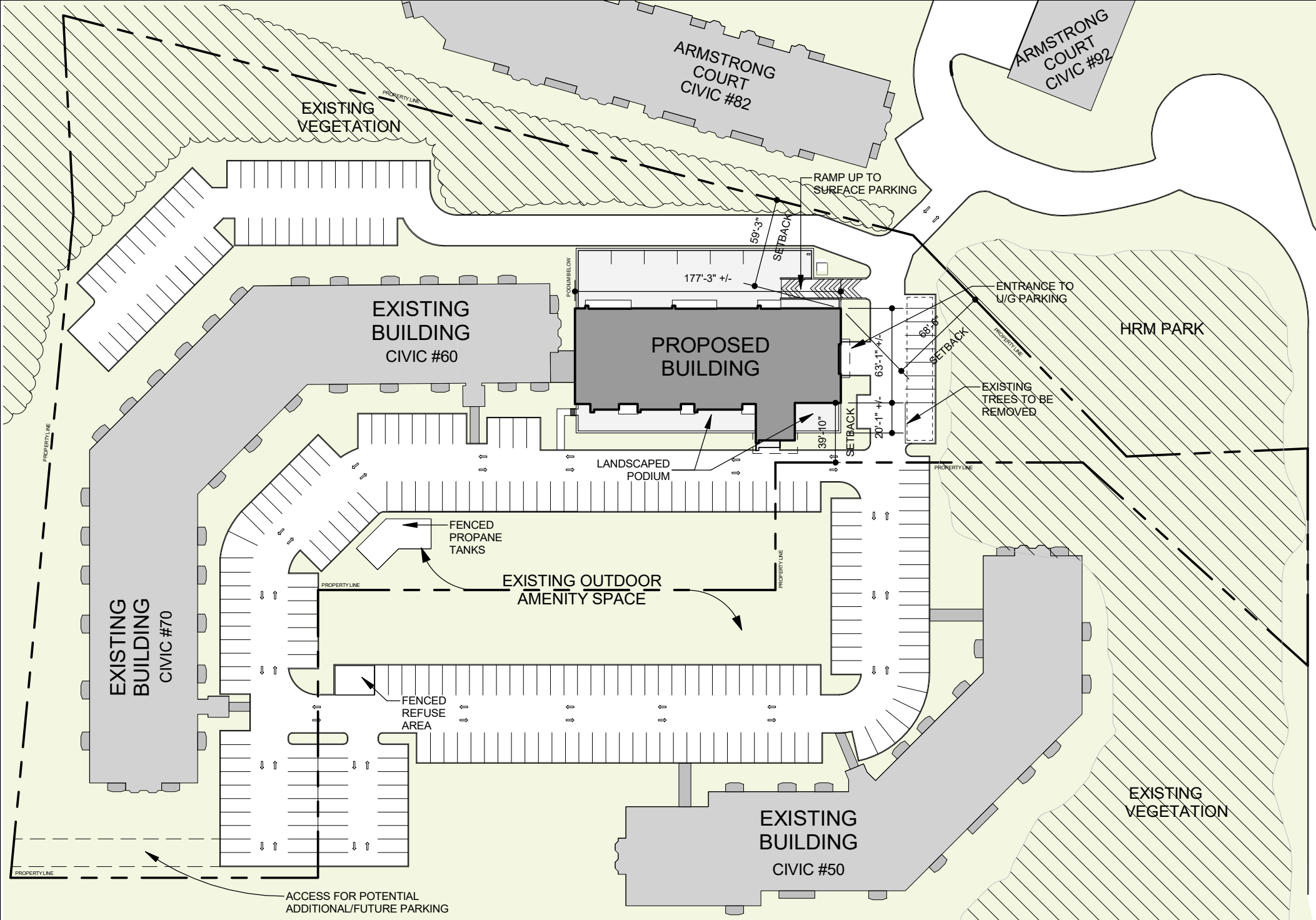
On this _____ day of _____, A.D. 20____, before me, personally came and appeared _____, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

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



Attachment B
Review of Relevant Policies from the Regional MPS and the Halifax MPS

REGIONAL MUNICIPAL PLANNING STRATEGY	
Chapter 9: Governance and Implementation	
Policy G-15: In considering development agreement applications pursuant to the provisions of this Plan, in addition to all other criteria as set out in various policies of this Plan, HRM shall consider the following:	
(a) that the proposal is not premature or inappropriate by reason of:	
(i) the financial capability of HRM to absorb any costs relating to the development;	The proposed development is not expected to generate any excess costs for HRM.
(ii) the adequacy of municipal wastewater facilities, stormwater systems or water distribution systems;	The additional parking space will have no effect on municipal wastewater or water distributions. Detailed plans will be required at the permitting stage regarding Site Disturbance, Erosion and Sedimentation Control and Site Grading/ Stormwater Management. Any costs associated with that are the responsibility of the developer.
(iii) the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;	Proposed surface parking expansion will not create additional demands for these municipal services.
(iv) the adequacy of road networks leading to or within the development; and	Under the original development agreement application, the Traffic Impact Statement estimated the existing traffic on Armstrong Court based on all existing residential buildings, projected the traffic increase caused by the building addition and reviewed traffic counts for the signalized intersection at Kearney Lake Road and Broadholme Lane/ Castlehill Drive. The TIS found that the low number of vehicle trips resulting from the building addition are not expected to affect traffic operations on the streets in the area. Staff reviewed the TIS and are in agreement with the findings. These findings and conclusions are not altered by the proposed non-substantive amendment.
(v) the potential for damage to or for destruction of designated historic buildings and sites;	There are no designated historic buildings or sites on or close to the subject site.
(b) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:	
(i) type of use;	The existing use on the lands are residential and the expanded surface parking is considered accessory to that use. All surface parking is required to be built as per the schedules of the agreement which locates internally between the buildings or buffered through existing vegetation.

(ii) height, bulk and lot coverage of any proposed building;	evaluated and determined under the existing development agreement. Setbacks, lot coverage, height, and architectural requirements are found within the existing agreement and will not be altered by this amendment.
(iii) traffic generation, access to and egress from the site, and parking;	Under the original development agreement application, the Traffic Impact Statement estimated the existing traffic on Armstrong Court based on all existing residential buildings, projected the traffic increase caused by the building addition and reviewed traffic counts for the signalized intersection at Kearney Lake Road and Broadholme Lane/ Castlehill Drive. The TIS found that the low number of vehicle trips resulting from the building addition are not expected to affect traffic operations on the streets in the area. Staff reviewed the TIS and are in agreement with the findings. These findings and conclusions are not altered by the proposed non-substantive amendment. The expanded parking area is buffered from neighbouring properties and buildings through existing vegetation which is identified on the site plan.
(iv) open storage; and	This will not be an issue, as the proposed use is residential versus commercial, and the site is not visible from Armstrong Court. However, the existing agreement contains clauses regarding screening of elements such as refuse containers, propane tanks, electrical and mechanical equipment, etc. This amendment will not alter or effect this.
(v) signs;	The existing development agreement reverts back to the sign requirements in the Land Use By-law. This does not change under this proposed amendment.
(c) that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding; and	No concerns. The site is already developed and the area where the proposed surface parking will be located is currently shrubbery. There are no watercourses, marshes, or bogs adjacent to the area. A Site Disturbance Plan, Erosion and Sedimentation Control Plan and a Site Grading and Stormwater Management Plan will be required at permitting that address the expanding paved areas.
(d) if applicable, the requirements of policies E-10, T-3, T-9, EC-14, CH-14 and CH-16.	<p>Policy E-10: The expansion of the surface parking lot will remove a small amount of mature trees but it is mostly shrubbery that does not contribute to the canopy cover.</p> <p>Policies T-3, EC-14, CH-14 and CH-16 are not applicable to this application.</p>

HALIFAX MUNICIPAL PLANNING STRATEGY	
Section II – City Wide Policies	
2. Residential Environments	
Policy	
2.11 - For all residential uses the parking and storage of vehicles such as trailers, boats and mobile campers, shall be restricted to locations on the lot which create minimal visual impact from the street.	Proposed surface parking area is in a location that results in no visual impact from Armstrong Court.
IMPLEMENTATION POLICIES	
Policy	Staff Comment
Policy 3.12: For areas designated as “industrial” or “commercial” excluding areas designated for detailed planning pursuant to Section II, Policy 2.5.2, and for which intensive development may have significant environmental or land use impacts, HRM may amend its Zoning By-law to provide for developments under Section 249 of the Halifax Regional Municipality Charter.	The site is designated as “Commercial” on the Generalized Future Land Use Map. The application is for a development agreement, pursuant to the Halifax MPS and Section 249 of the Charter.

Attachment C
Halifax MPS – Deleted City Wide Policy 3.7

Section II – City-Wide Policies	
3. COMMERCIAL FACILITIES	
Policy	Staff Comment
<i>3.7 In considering applications pursuant to Implementation Policy 3.10, Council shall have regard for the guidelines set out below:</i>	
<i>(i) that entrances and exits be arranged in such a way so as to minimize the impact of additional traffic on any adjacent residential areas;</i>	
<i>(ii) that the proposed use does not entail an unacceptable nuisance such as traffic, smoke, toxic, or noxious effluents and noise;</i>	
<i>(iii) that storage areas be enclosed or be visually screened from the abutting street by such means as planting materials or well-designed fences;</i>	
<i>(iv) that service areas for trucks and other vehicles be located in areas other than the front yards;</i>	
<i>(v) that front yards of an appropriate size be provided, well landscaped and including provisions for tree planting;</i>	
<i>(vi) that drainage from large paved areas be required to be treated in cases where such drainage will result in unacceptable pollution of watercourses or water bodies;</i>	
<i>(vii) that appropriate measures be taken to prevent erosion or deposit of sediments away from the development site during construction and afterwards;</i>	
<i>(viii) that the building envelope be located in such a manner as to provide a sufficient area for landscaped open space in both front and side yards</i>	
<i>(ix) that areas of significant natural, aesthetic and amenity value be protected as part of the site design in accordance with Policy Sets 7 and 8 of this Plan as appropriate;</i>	
<i>(x) that there be an appropriate setback or other separation of any building from abutting residential properties and that a portion of such setback be landscaped; and</i>	
<i>(xi) that the applicant provide a statement of the environmental impacts of the proposed development on and off the site and identify the ways and means to mitigate any negative effects, particularly as they relate to such aforementioned matters as air and water pollution, erosion and sediment control, and protection of significant natural, aesthetic, and amenity value;</i>	
<i>(xii) such other land use considerations as Council may from time to time deem necessary, based on guidance provided by the policies of this Plan.</i>	

Note: “Implementation Policy 3.10” is a textual error which should read “Policy 3.12” as it relates to Schedule “L” of the Halifax Mainland LUB. This is clarified by LUB Section 69 which redirects back to MPS “Policy 3.12” and has been recognized in previous staff reports involving properties within Schedule “L”. This housekeeping issue will be resolved through the Land Use By-law Simplification project.