



Municipality of the District of West Hants

SUPPLEMENTARY STAFF REPORT

TO: Planning Advisory Committee

FROM: Jeanne Bourque, Planner

DATE: October 17, 2013

SUBJECT: Brison Developments Ltd. (3229190 Nova Scotia Limited) – Application to Amend Existing Development Agreement for *The Crossing* Land Lease Community (PIDs 45053063 and 45003811)

- Legal Review
- Clarification of Parklands Dedication
- Clarification of Public vs Private Streets

ORIGIN

On September 25, 2013, Planning Advisory Committee reviewed a staff report and draft amending agreement and passed a motion recommending Council approve amendments to *The Crossing* Land Lease Community Development Agreement. The recommendation was made pending satisfactory legal review.

Planning Advisory Committee also requested that staff provide clarification regarding the designated parklands component of the Land Lease Community.

Planning staff are also providing some background information surrounding the issue of public streets vs private roads.

The Amending Agreement is attached which incorporates changes recommended by the municipal solicitor, as well as clarification regarding designated parklands. None of these changes are considered substantive so no further review is required by PAC before this goes to public hearing on November 12, 2013.

LEGAL REVIEW

The municipality's solicitor, Peter Rogers of McInnes Cooper, reviewed the draft amending agreement and suggested a number of minor text amendments which have been incorporated into the amending agreement. He stated that he did not think that any of his suggested changes would be considered substantive amendments

PARKLANDS CLARIFICATION

This development is enabled by a development agreement process which is more flexible than traditional zoning and allows Council to consider requirements that are either more, or less stringent, than requirements in the Land Use By-law. Committee members expressed concern that the project does not meet the minimum recreation space requirements as outlined in the Municipal Planning Strategy.

Both the original development agreement and the proposed amendments do require that an amount of parklands, meeting or exceeding the minimum policy requirements, be designated for passive and usable recreational space.

There may be some confusion over the term “Parklands”. Historically speaking, this term refers to the amount of land (typically 5%) that must be transferred to the Municipality when land is subdivided. However, this development is not being subdivided, and no parklands are being deeded to the Municipality. The developer is required to retain ownership of, develop and maintain recreation lands for use by residents of the manufactured home park. To clarify the difference between typical subdivision requirements and those of a Manufactured Home Park, planning staff have applied the term “Community Commons” to the lands previously designated “Parklands” within *The Crossing* development.

COMMUNITY COMMONS

The MPS Policy 5.3.9 states the minimum requirements for a Manufactured Home Park and section (f) states that, “a minimum of 10 percent of the total area of the park shall be devoted to parks, playgrounds and other usable recreational space...” The 2013 Amending Agreement Schedules designate 28%, or 15.47 acres of the total Land Lease Community area of 55.75 acres, as Parklands, now referred to in the Agreement as “Community Commons”. There was some concern that the MPS policy requirements would not be met if the developer located the community use building and second maintenance shed on these lands.

Neither the MPS nor the Land Use By-law provide a definition of “usable recreational space”. The West Hants Subdivision By-law does have a definition of “usable land”, but this only applies to land divisions and is not appropriate for a Manufactured Home Park which is not being subdivided. For clarification, the definition “Activity Node” will be revised to “Active Recreational Uses”, and include the multi-purpose trail system. The revised definition for “Community Commons” now clearly list the uses permitted on the Community Commons lands, and the list includes watercourse buffers and community buildings.



Figure 1

remaining, a small portion will be used for the community buildings and the watercourse buffer. A larger portion will be the treed area between the development and Highway 14 to the south, through which Tregothic Brook runs (see **Figure 1**).

To provide further clarity, actual acreage is used in the Amending Agreement instead of percentages. The 15 acres to be designated as Community Commons reflects the area shown in the Schedules, and translates to about 28% of the total Land Lease Community property of 55.75 acres. The amending agreement ensures that a minimum of 5.5 acres, or 10%, will be used for “active recreational uses”. This satisfies the requirement of the MPS Policy 5.3.9.

Of the approximately 10 acres of designated Community Commons

While this forested area cannot be used for typical active recreational use because of the slope and watercourse, it has important value as a visual and sound buffer between the land lease community and surrounding residential uses, and as passive green space and wildlife habitat which benefits all residents of the immediate area.

*Definition of “Community Commons” added to Amending Agreement
Add new definition.....*

1.11 “Community Commons” means designated lands that may be used for passive or active recreational uses, required watercourse buffers, community uses, and maintenance buildings.

Replace definition

Delete -

1.1 “Activity node” means an area where outdoor activity takes place, for example, playgrounds, tennis courts, lawn bowling greens, picnic areas, community gardens, or similar uses.

...and replace with...

1.1 “Active Recreational Uses” means an area within designated Community Commons land where recreational activity takes place, for example, playgrounds, tennis courts, lawn bowling greens, picnic areas, community gardens, multi-purpose trails, or similar uses.”

Revision of Clauses Referring to Parklands in Amending Agreement

Clause 12.1

Delete –

12.1 No Less than 15 percent of the total land area of the Property shall be reserved for passive recreational space and two activity nodes as shown in Schedule I (2013) – Parks and Trails Plan.

...and replace with...

12.1 Approximately 15 acres of the total land area of the Property shall be designated as Community Commons, as shown in Schedule I (2013) - Parks and Trails Plan. A minimum of 5.5 acres of the designated Community Commons area shall be used for active recreational uses.

PUBLIC STREETS VS PRIVATE ROADS

Section 3.3 of the MPS speaks about Council’s intentions regarding future non-rural development in the two designated Growth Centres of Falmouth and Three Mile Plains. *“It is expected that a full range of municipal services, including water and sewer, recreation facilities, street lights and sidewalks, will eventually be provided in these communities as they become necessary. Concentrated development makes the provision of such services more economical.”* This intent is reiterated in MPS Section 5.0, Growth Centre, *“Council’s intent is that over time, most land within the [Growth Centre] boundaries will be fully serviced.”* These policies were developed to effectively accommodate future growth, and to reflect provincial legislation. As stated in the preamble to MPS Section 14.4, Transportation, *“Changes in provincial legislation in 1995 made municipal units responsible for all new local, or subdivision, streets.”*

When planning staff were reviewing the original application for *The Crossing*, comments on street ownership were solicited from Rick Sherrard, the Municipal Engineer, who advised, *“I believe that we prefer public streets as residents on private roads with a population density as indicated are seldom satisfied with restricted services, and the Municipality would require*

easements on private roads for services.” Planning staff have spoken with Mr. Sherrard and he maintains that the statement is still relevant. Clause 4.3 and 4.4 of the original development agreement require that all streets within the development be turned over to the Municipality, and these clauses have not been under review.

It is important to note that long term transportation connectivity within the Garlands Crossing development area has been the topic of much discussion between the Municipality, the Town of Windsor, and Nova Scotia Transportation. A recently commissioned Transportation Study undertaken by Griffen Transportation Group was presented to Council in June of 2013. A Future Streets concept map has been approved in principle by Council and is currently being prepared for adoption as an amendment to the Subdivision By-law.

Municipal staff advise that in order to encourage cost effective and efficient development as set out in the Future Streets Concept Map, municipal ownership of streets provides greater control of the placement of future road reserves, and ensures municipal ability to maintain the “under the road” services. Within the Growth Centres, all municipal water and sewer services are overlain by municipal public streets.

CONCLUSION

The draft Amending Agreement attached to this report includes changes recommended by the Municipality’s solicitor, as well as Planning staff’s recommended changes clarifying the designation of Community Commons as described above. A copy of the Consolidated Version for internal use only is also attached. None of the proposed changes affect the overall intent of the Amending Agreement presented to PAC on September 25th.

Respectfully submitted,


Jeanne Bourque
Planner