



Report to Planning Advisory Committee (PAC)

Submitted By: Jeanne Bourque, Planner

Date: January 19, 2017

Subject: **Holleman and Associates Inc. – Application to Amend Existing Development Agreement for *Ellershouse Landing*, 6004 Highway 1, Ellershouse, PID 45013588**

File No. H3DA 16-01

STAFF REPORT

ORIGIN

An application was received from Anthony and Sheana Holleman (registered as Holleman and Associates Inc.), to amend the development agreement registered on their property at 6004 Highway 1, Ellershouse, also known as *Ellershouse Landing*. The amendments requested would:

- enable the addition of multiple unit dwellings;
- increase the maximum number of dwelling units permitted from 8 to 18.

RECOMMENDATION

It is recommended that:

THE APPLICATION FOR AMENDMENTS TO THE *ELLERSHOUSE LANDING* DEVELOPMENT AGREEMENT (PID 45013588), AS CONTAINED IN THE PLANNING STAFF REPORT OF JANUARY 19, 2017 BE SENT TO PUBLIC HEARING.

BACKGROUND

In 2014, Council approved a development agreement that enabled the establishment of a condominium housing development, called *Ellershouse Landing*, in the Hamlet of Ellershouse, West Hants.

Planning staff prepared a Staff Report dated April 14, 2014, which reviewed the initial development agreement application. When the Hollemans applied for an amendment to that agreement, staff prepared a Preliminary Staff Report dated December 15, 2016 for the

Planning Advisory Committee (PAC). PAC recommended that the application be sent to a Public Information Session to be hosted by the Planning Advisory Committee. Staff prepared this report which reviews the requested amendments against the appropriate planning policies.

DEVELOPMENT AGREEMENT (DA)

A development agreement (DA) is a legal contract between a municipality and a property owner that sets out the type and form of development permitted on a property. A DA may include requirements such as landscaping, screening, setbacks, hours of operation, building design and location, and whatever other matters are permitted by the *Municipal Government Act* (MGA) to be considered by Council. A DA is more flexible than traditional zoning and may allow Council to authorize a use which otherwise would not be permitted, and vary Land Use By-law (LUB) requirements for a site-specific project. A DA also provides Council a greater deal of control over the details of a development.

PUBLIC PARTICIPATION PROGRAM

The *Municipal Government Act* requires that Councils adopt public participation programs for the preparation of planning documents. West Hants has had such a program since 1988, with the latest revision done in 1999. In 2014, the Planning department recommended a broader interpretation of the program to enable a higher degree of public input earlier in the planning process.

For the Public Information Session, property owners within 300 feet of the subject property receive a letter notifying them that the Planning Advisory Committee (PAC) will be reviewing the application at a regularly scheduled meeting, tentatively scheduled for January 19, 2017. The full staff report will be available to the public prior to that session, through the municipal website and hard copies in the planning office. After hearing from the public at this informal meeting, PAC may then recommend that the application be sent to a Public Hearing after legal review of the amendments. After receiving public input in that forum, the application typically goes to Council for a decision. If Council approves the application for amendments to the DA, then a notice is published of this approval which sets out the public's right of appeal to the Nova Scotia Utility and Review Board.

MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW

In reviewing an application to amend an existing development agreement, Council must reconsider all relevant policies and regulations of the *West Hants Municipal Planning Strategy* (MPS) and *West Hants Land Use By-law* (LUB). The specific policy that will be considered for this application is Policy 6.2.4, and also the requirements of Policy 16.3.1, *General Policy for all Land Use By-law Amendments and Development Agreements*.

Hamlet - Residential Development

Section 7.0 of the MPS designates Hamlets and sets out how Council wishes to guide development in this designation. The ability to consider multiple unit dwellings in Hamlets was an MPS policy amendment approved by Council on August 9, 2016. Background to that decision can be found in the Staff Report dated May 26, 2016. This is the first application for a development agreement to be considered under this revised policy.

Policy 7.1.3 *It shall be the policy of Council to consider proposals for stand-alone multiple unit dwellings, grouped single, two and multiple unit dwellings consisting of three or more units in Hamlets by development agreement subject to the criteria listed in Policy 6.2.4.*

This is the policy that allows Council to consider grouped dwellings in the Hamlets by development agreement, and stipulates what policy staff must consider when reviewing the proposal.

Policy 6.2.4 *It shall be the policy of Council to consider proposals for stand-alone multiple unit and grouped single, two and multiple two unit dwellings consisting of three or more units in the Village designation by development agreement subject to the following:*

(a) *the development fronts on an arterial street or has direct access to an arterial street;*

There is no change to this specification.

(b) *the proposed overall density of the development does not exceed one dwelling unit per acre;*

The original staff report states that the subject property was 14 acres in size. At that time, the developer made staff aware that a recent survey of the lands had been done and that the property was actually 18 acres in size. However, this survey had not been registered at the Provincial Registry of Deeds, and staff can only use the property description that is registered. This was not an issue at the time as the applicant was only applying for eight units, so the density of one dwelling unit per acre was met. Since that time, the survey with the correct acreage was registered, and staff can now consider up to eighteen dwelling units, a density of one unit per one acre. The scale of this development is compatible with the surrounding rural residential area.

(c) *the minimum distance between main buildings is 20 feet (6.10 meters);*

The development agreement stipulates a minimum distance between main buildings of 40 feet (12.2 m), and this remains in force.

(d) *adequate open space or recreational areas are provided;*

The Site Plan (2016) indicates that the original all-season trail, approximately one kilometer in length, around the perimeter of the subject property remains in place. It was noted that the original DA does not specifically mention trails, or the requirements such as minimum width. This will be added to the DA in this amending process. There is also an area about 2.5 hectares in size on the Site Plan (2016) labeled as Future Use. This is anticipated to be the

location of the cluster septic treatment bed, and is considered to be Condominium Common Element Use. Staff consider the proposed perimeter trail and Future Use green space to be adequate open space for the development.

- (e) *existing and proposed streets are adequate to support the development and existing streets will not require major infrastructure improvements as a result of the development; a traffic impact study may be required in accordance with Section 14.6 of this Strategy;*

The intersection of the private road, Muir Drive, with Highway 14 is considered adequate by staff at Nova Scotia Transportation and Infrastructure Renewal to support the increased number of dwelling units.

- (f) *building clusters are located so as to conserve existing natural features of the site;*

The requirement remains in force.

- (g) *the lot is capable of supporting private central or on-site sewage disposal systems, and an adequate potable water supply is available;*

The developer has consulted with Nova Scotia Environment regarding the proposed cluster septic field and increased water needs, and will have to provide documentation that all provincial requirements are met.

- (h) *adequate emergency protection services, including fire, police and ambulance, can be provided;*

The development agreement required that the private road be built to municipal standards, and this standard provides adequate access for emergency services.

- (i) *the application is accompanied by:*
 - (i) *a site plan drawn to scale showing the proposed number, location and type of buildings, lot coverage, parking areas, vehicular and pedestrian circulation systems within the development, access to the site and open space and recreational areas;*
 - (ii) *other supporting maps showing the topography of the lot including contours at five meter intervals, and significant natural features such as watercourses, wetlands and unique habitat or vegetation; and*
 - (iii) *photo examples, plans or drawings showing the exterior design of the proposed buildings;*

All of these requirements have been met.

- (j) *any other matter which may be addressed in a development agreement; and*
- (k) *Policy 16.3.1.*

General Policy for Development Agreements

Policy 16.3.1 *In considering development agreements and amendments to the West Hants Land Use By law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:*

- (a) *whether the proposal is considered premature or inappropriate in terms of:*
 - (i) *the adequacy of sewer and water services;*
 - (ii) *the adequacy of school facilities;*
 - (iii) *the adequacy of fire protection;*
 - (iv) *the adequacy of road networks adjacent to, or leading to the development; and*
 - (v) *the financial capacity of the Municipality to absorb any costs relating to the development.*
- (b) *whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on site sewage disposal system;*
- (c) *the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;*

The ten dwelling units to be added to this development do not substantially impact the proposals ability to meet the above criteria.

- (d) *the adequacy of the dimensions and shape of the lot for the intended use;*

The property is 18 acres in size, and is able to accommodate the proposed increase in dwelling units while maintaining the density of one unit per acre.

- (e) *the pattern of development which the proposal might create;*

The proposed development is a small grouping of eighteen dwellings in a variety of configurations within a predominantly rural residential area, and is considered by staff to be compatible with surrounding existing uses.

- (f) *the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding;*

The developer provided storm water drainage plans which were approved by the Municipal Engineer. Planning staff are aware that localized flooding issues which existed prior to the work on this project continue. After consultation with the Municipal Engineer, staff consider that the Holleman development to date has not increased the impact.

- (g) *whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by laws and regulations; and*

The development agreement requires that all applicable municipal, provincial and federal statutes and regulations be met. This will be carried over to the amending agreement. Staff are not aware of any provincial, federal or municipal by-laws and regulations the proposed amendment cannot meet.

(h) *any other matter required by relevant policies of this Strategy.*

All other matters have been addressed elsewhere in this report.

CONCLUSION

This report has reviewed the application to amend the existing development agreement against relevant policies and requirements of the MPS and the LUB, and Planning staff feel that the proposed amendments reasonably carry out the intent of the MPS, and do not conflict with the LUB. Staff therefore recommend that the application be considered for approval, and proceed to the next step in the review process.

OPTIONS

1. PAC could forward the application to Public Hearing after which Council will consider the application. This is the motion that is contained on page 1 of this staff report.
2. PAC could request changes to the proposed amendments
3. PAC could recommend no further action be taken on the application. This is not the recommended action based on Staff's review of the relevant provisions of the MPS and LUB. If this option is chosen by PAC, staff requests that PAC specify what policy they consider the application does not meet.