



The City of Saint John

Date: March 15, 2016

To: Planning Advisory Committee

From: Community Planning & Development
Growth & Community Development Services

For: Meeting of **Tuesday, March 15, 2016**

SUBJECT

Applicant: Horizon Management Ltd.

Location: 459, 617-885 and 540-900 Ashburn Road and a Parcel of Land Northeast of the One Mile Interchange

Application Type: Municipal Plan Amendment and Rezoning

On March 14, 2016 Growth and Community Development Staff met with the applicant to review the report and Staff Recommendation to the Planning Advisory Committee. The applicant requested clarification relating to 5 of the proposed Section 39 conditions recommended in the report (item 5 of the recommendation) as discussed below. After reviewing the feedback received from the developer, Staff are proposing minor clarifications to the Section 39 conditions.

Costs and cost sharing – Conditions g) and i)

The applicant noted that item i) requiring the developer to be responsible for all infrastructure costs, appeared to contradict item g) which outlined the process by which a cost-sharing arrangement, should it be proposed as the result of the required transportation and infrastructure studies would be reviewed and adopted.

Staff agree that the manner in which items g) and i) are presented in the listing of recommended Section 39 conditions requires additional clarity. The intent of these conditions is that any costs are the responsibility of the developer, unless the required infrastructure or transportation

studies to be completed by the developer at their expense identify works which are the responsibility of a party other than the developer, such as the City or Province. Should cost-sharing between the Developer and another level of Government be proposed (as a result of the findings of the studies to be carried out by the developer's consultants), it is recommended that this cost sharing agreement be subject to the approval of Common Council, as a statutory amendment to these conditions. This would involve an amendment to the Section 39 conditions and the required public process involving a Staff Report and recommendation to PAC and a Public Hearing at Common Council.

Given this, it is recommended that the existing items i) and g) be eliminated and replaced with the following:

- g) Any upgrades to the existing municipal infrastructure required to service this proposed development will be the developer's responsibility and cost. However, should any cost sharing agreement be proposed between the developer and City, which may involve another level of Government, related to costs associated with infrastructure upgrades, servicing, transportation network improvements or development of the project, that such cost-sharing agreement be subject to the approval of Common Council, as a statutory amendment to these conditions.

Timeline for Development – Condition i) (current condition j)

Upon request by the developer for clarification and a review of the wording of item j) by Staff, it was noted this recommended condition did not refer to the specific completion of the first phase of the development as referenced in the body of the report on Page 14. In addition Staff note that this development is unique in that the proposed Section 39 conditions recommend a suite of studies to be completed by the developer and subject to review as Section 39 Amendments(s) prior to any construction commencing on the project.

To align with the intent of Policy I-5 of the Municipal Plan, Staff recommend that the developer be given a five year window from the date of this approvals to complete the required studies and prepare phasing plan outlining the development timeline. If the studies are not completed within the three year time frame, then Common Council has the authority to repeal the rezoning subsequent to the provisions of the *Community Planning Act*. Common Council would reserve the right to impose further conditions on the completion of the phasing of the development through the Section 39 amendment process associated with the review of the required studies.

- j) The required studies outlined in conditions a) through f) inclusive shall be completed within 5 years of the date of the Municipal Plan amendment and rezoning coming into effect. Should this not occur, Common Council reserves the right to take steps to immediately repeal the rezoning agreement and the rezoning pursuant to Sections 39(5) and 39(6) of the *Community Planning Act* and return the land shall return to its previous zone which existed prior to this agreement; and,

No portion of the site shall be developed prior to the preparation of a detailed phasing plan that graphically outlines the timeline for completion of the site development, prepared by the developer and is subject to the approval of Common Council, as a statutory amendment to these conditions. Common Council reserves the right to impose additional conditions relating to the timeline for completion of the project phases and the repeal of the rezoning agreement and the rezoning pursuant to Sections 39(5) and 39(6) of the *Community Planning Act* and the return the of the land to its previous zone which existed prior to this agreement at the time the studies are reviewed as part of the required Section 39 Amendment.

Traffic Study – Condition a)

The developer has expressed concern that the wording of condition a) does not allow for their involvement in the development of a scope for the required traffic impact study. In meeting with the developer, staff have indicated that it is the intent to involve the developer in meeting(s) with both the City and NBDTI to develop the scope of the required traffic impact study. To clarify this Staff recommend that condition a) should now read:

- a) No portion of the site shall be developed prior to the completion of a Transportation Impact Study prepared by the developer and subject to the approval of Common Council, as a statutory amendment to these conditions. The scope of work for the transportation impact study will be established in cooperation between the City, NBDTI and the developer.

Building Elevations – Condition e)

Concern was expressed by the developer regarding the review of the building elevations. Staff indicated the intent of this requirement is not to have a comprehensive architectural design review, but to ensure that the building design which is presented through the approval process is what actually gets constructed.

Staff recommend that the word “typical” be inserted before “building elevations” in condition e)

Market Study – Condition f)

The developer expressed concern with the requirement for a market study outlined in condition f). The developer has provided a consultant’s report which outlines the target market of the development. Based on a review of this requirement, Staff are of the opinion that an addendum to the market study should only be required if there is a significant change in the scope of the development or the proposed concept. To clarify this, Staff recommend that condition f) be revised as follows:

- f) Should a significant change be proposed in the project concept plan, an addendum is required to the market study that provides additional analysis of the impacts of the proposed development on the regional retail sector as a whole, and is subject to the approval of Common Council, as a statutory amendment to these conditions. This addendum to the market study will be prepared by the developer.

RECOMMENDATION

Staff recommend that the following be substituted for the Section 39 conditions outlined in Item 5 of the Staff Report:

- a) No portion of the site shall be developed prior to the completion of a Transportation Impact Study prepared by the developer and subject to the approval of Common Council, as a statutory amendment to these conditions. The scope of work for the transportation impact study will be established in cooperation between the City, NBDTI and the developer.
- b) No portion of the site shall be developed prior to the preparation of a servicing study reviewing the impacts on the City's water supply and sanitary sewer collection systems prepared by the developer and subject to the approval of Common Council, as a statutory amendment to these conditions.
- c) No portion of the site shall be developed prior to the preparation of a stormwater management study that details the approach for stormwater management on the development site and reviews the impacts of the development on upstream and downstream areas of the Marsh Creek watershed prepared by the developer and subject to the approval of Common Council, as a statutory amendment to these conditions.
- d) No portion of the site shall be developed prior to the proponent registering the project with the Provincial Environmental Impact Assessment Process and a Certificate of Determination being issued by the Province.
- e) No portion of the site shall be developed except in accordance with detailed plans including, but not limited to, a context plan, a site plan, typical building floor plans, typical building elevations, and a landscape plan all of which are to be prepared by the proponent and subject to the approval of Common Council, as a statutory amendment to these conditions.
- f) Should a significant change be proposed in the project concept plan, an addendum is required to the market study that provides additional analysis of the impacts of the proposed development on the regional retail sector as a whole, and is subject to the approval of Common Council, as a statutory amendment to these conditions. This addendum to the market study will be prepared by the developer.

- g) Any upgrades to the existing municipal infrastructure required to service this proposed development will be the developer's responsibility and cost. However, should any cost sharing agreement be proposed between the developer and City, which may involve another level of Government, related to costs associated with infrastructure upgrades, servicing, transportation network improvements or development of the project, that such cost-sharing agreement be subject to the approval of Common Council, as a statutory amendment to these conditions.
- h) The maximum floor area of a building in the rezoned area is limited to 3000 square metres
- i) The required studies outlined in conditions a) through f) inclusive shall be completed within 5 years of the date of the Municipal Plan amendment and rezoning coming into effect. Should this not occur, Common Council reserves the right to take steps to immediately repeal the rezoning agreement and the rezoning pursuant to Sections 39(5) and 39(6) of the *Community Planning Act* and return the land shall return to its previous zone which existed prior to this agreement; and ,

No portion of the site shall be developed prior to the preparation of a detailed phasing plan that graphically outlines the timeline for completion of the site development, prepared by the developer and is subject to the approval of Common Council, as a statutory amendment to these conditions. Common Council reserves the right to impose additional conditions relating to the timeline for completion of the project phases and the repeal of the rezoning agreement and the rezoning pursuant to Sections 39(5) and 39(6) of the *Community Planning Act* and the return the of the land to its previous zone which existed prior to this agreement at the time the studies are reviewed as part of the required Section 39 Amendment, and

- j) In accordance with Section 39(8) of the Community Planning Act, the applicant shall provide a certified cheque in the amount of one thousand dollars (\$1,000.00) to cover expenses related to the cancellation of the conditional rezoning agreement and/or repeal of the rezoning in the event that the conditions attached to the rezoning cannot be met, as per policy I-5 in the Municipal Plan. The certified cheque shall be repayable on the substantial completion of the development for which the rezoning is granted. This shall be provides by the Developer to the City within 30 days of Third Reading of the 2016 Municipal Plan Amendment and Rezoning.

SIGNATURES AND CONTACT

Prepared by:



Mark Reade, P.Eng., MCIP, RPP
Senior Planner

Approved by:



Jacqueline Hamilton, MURP, MCIP, RPP
Commissioner

"RESOLVED that, pursuant to Section 39 of the *Community Planning Act*, the development and use of the parcel of land with an area of approximately 37.5 hectares, located at 459,540-900, and 885 Ashburn Road, also identified as PID Numbers 00296673, 00357327, 00432203, 55003222, 55069074, 55100325, 55155378, 00297143, 00297895, 00418160 and a portion of PID Number 00053025 for a commercial development and the parcel of land with an area of approximately 17.3 hectares, located north east of the One Mile Interchange, also identified as PID Number 55189385 for an Eco-Park, shall be subject to the following conditions:

a) No portion of the site shall be developed prior to the completion of a Transportation Impact Study prepared by the developer and subject to the approval of Common Council, as a statutory amendment to these conditions. The scope of work for the transportation Impact study will be established in cooperation between the City, NBDTI and the developer.

b) No portion of the site shall be developed prior to the preparation of a servicing study reviewing the impacts on the City's water supply and sanitary sewer collection systems prepared by the developer and subject to the approval of Common Council, as a statutory amendment to these conditions.

c) No portion of the site shall be developed prior to the preparation of a stormwater management study that details the approach for stormwater management on the development site and reviews the impacts of the development on upstream and downstream areas of the Marsh Creek watershed prepared by the developer and subject to the approval of Common Council, as a statutory amendment to these conditions.

d) No portion of the site shall be developed prior to the proponent registering the project with the Provincial Environmental Impact Assessment Process and a Certificate of Determination being issued by the Province.

e) No portion of the site shall be developed except in accordance with detailed plans including, but not limited to, a context plan, a site plan, typical building floor plans, typical building elevations, and a landscape plan all of which are to be prepared by the proponent and subject to the approval of Common Council, as a statutory amendment to these conditions.

f) Should a significant change be proposed in the project concept plan, an addendum is required to the market study that provides additional analysis of the impacts of the proposed development on the regional retail sector as a whole, and is subject to the approval of Common Council, as a statutory amendment to these conditions. This addendum to the market study will be prepared by the developer.

g) Any upgrades to the existing municipal infrastructure required to service this proposed development will be the developer's responsibility and cost. However, should any cost sharing agreement be proposed between the developer and City, which may involve another level of Government, related to costs associated with infrastructure upgrades, servicing, transportation network improvements or development of the project, that such cost-sharing agreement be subject to the approval of Common Council, as a statutory amendment to these conditions.

h) The maximum floor area of a building in the rezoned area is limited to 3000 square metres.

i) The required studies outlined in conditions a) through f) inclusive shall be completed within 5 years of the date of the Municipal Plan amendment and rezoning coming into effect. Should this not occur, Common Council reserves the right to take steps to immediately repeal the rezoning agreement and the rezoning pursuant to Sections 39(5) and 39(6) of the *Community Planning Act* and return the land shall return to its previous zone which existed prior to this agreement; and, No portion of the site shall be developed prior to the preparation of a detailed phasing plan that graphically outlines the timeline for completion of the site development, prepared by the developer and is subject to the approval of Common Council, as a statutory

amendment to these conditions. Common Council reserves the right to impose additional conditions relating to the timeline for completion of the project phases and the repeal of the rezoning agreement and the rezoning pursuant to Sections 39(5) and 39(6) of the Community Planning Act and the return the of the land to its previous zone which existed prior to this agreement at the time the studies are reviewed as part of the required Section 39 Amendment, and

j) In accordance with Section 39(8) of the Community Planning Act, the applicant shall provide a certified cheque in the amount of one thousand dollars (\$1,000.00) to cover expenses related to the cancellation of the conditional rezoning agreement and/or repeal of the rezoning in the event that the conditions attached to the rezoning cannot be met, as per policy 1-5 in the Municipal Plan. The certified cheque shall be repayable on the substantial completion of the development for which the rezoning is granted. This shall be provides by the Developer to the City within 30 days of Third Reading of the 2016 Municipal Plan Amendment and Rezoning."

I certify that this instrument
is registered or filed in the
Saint John
County Registry Office,
New Brunswick

J'atteste que cet instrument est
enregistré ou déposé au bureau
de l'enregistrement du comté de
Saint John
Nouveau-Brunswick

01 JUN 2016 11:56:19 35980839
date/date time/heure number/numéro
S. J. [Signature]
Registrar-Conservateur