

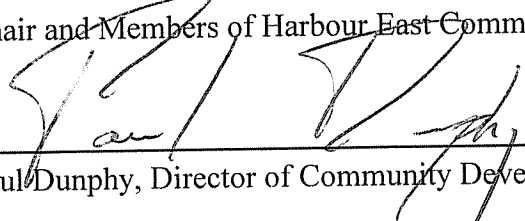
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PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Harbour East Community Council  
November 12, 2009

**TO:** Chair and Members of Harbour East Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Community Development

**DATE:** October 14, 2009

**SUBJECT:** Case 01335 - Amending Agreement, King's Wharf Phasing Schedule

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**ORIGIN**

An application by EDM Ltd., for lands of The Anchorage at Dartmouth Cove Property Development Inc., Olivia Ferris Ltd. and Fares Art Holdings Inc., for a non-substantive amendment to the Stage I development agreement for King's Wharf, Dartmouth to amend the phasing schedule for the project.

**RECOMMENDATION**

It is recommended that Harbour East Community Council:

1. Approve, by resolution of Council, the non-substantive amendment to the Stage 1 development agreement for King's Wharf to amend the phasing schedule for the project as set out in the proposed amending agreement included as Attachment A; and
2. Require the agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, 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**

On August 7, 2008, Harbour East Community Council approved the Stage I development agreement for Kings Wharf to permit a mixed-use development on the former Dartmouth Marine Slips property, Alderney Drive, Dartmouth (Map 1). The Stage I development agreement establishes the overall concept and master plan for the development while the construction of buildings must be approved through a series of stage 2 development agreements which will come forward to Council as the project progresses.

The phases of the development, and the sequential order in which they are to occur, are set out in section 3.4 and Schedule D of the Stage I development agreement. The purpose of the phasing provisions are to ensure that development of infrastructure, services, parks and buildings progresses in a reasonable order.

### **Proposal**

This application seeks to revise the phasing schedule set out in the Stage I development agreement by switching Phase 2 to Phase 1 and vice versa. This would enable construction of Buildings A, B, C and D as the initial phase of the development rather than Buildings I and L. The existing phasing plan is illustrated on Map 2 (Existing Phasing Plan) and the proposed phasing plan is illustrated on Map 3 (Proposed Phasing Plan).

### **Elements of Phase 2 which would become Phase 1 under the proposed amending agreement:**

- Construction of King St. extension;
- Buildings "A, B, C & D" and associated private parks;
- King Street park; and
- Transfer of ownership of Shubenacadie Canal Park

### **Elements of Phase 1 which would become Phase 2 under the proposed amending agreement:**

- Construction of "Anchorage Lane";
- Buildings "I & L";
- King's Wharf Park; and
- Associated section of the Waterfront Promenade

If Council does not approve the proposed changes to the phasing schedule, as set out in Attachment A, the Developer will not be permitted to develop Buildings A, B, C, and D until the existing Phase 1 (Buildings I and L) is completed. The proposed amending agreement set out in Attachment A would result in a switch of phasing between Phase 1 and Phase 2 only. No other provisions of the phasing schedule or Stage I development agreement would be amended.

Although the phasing provisions of the Stage 1 development agreement reference "King Street" and "King Street Park", HRM Civic Addressing staff have indicated that use of the name King Street is

not permitted within the Kings Wharf development because it would result in a need to renumber King Street. However, for consistency purposes, this amendment to the Stage I agreement also references the name "King Street". The Developer has been advised that the name "King Street" is not to be included in any Stage II development agreement.

## **DISCUSSION**

Staff have reviewed the proposed changes to the phasing schedule relative to Policy W-9A of the Downtown Dartmouth MPS as well as the intent of the existing Stage I agreement relative to phasing. The first phase of the development will be accessed by a single new street extending from Alderney Drive at a location opposite King Street. Therefore, a key factor in any phasing change is the ability of the single street and new intersection at Alderney Drive to service the amount of development in the initial phase.

The Developer has submitted a Traffic Impact Statement, prepared by a transportation engineer, which indicates that development of Buildings A, B, C and D within the proposed phase 1 is consistent with HRM standards for a single access street and that the intersection can accommodate the resulting traffic. HRM staff have reviewed this opinion and agree with the conclusions.

### **Conclusion**

Staff are of the opinion that the proposed phasing change for the King's Wharf development project, as set out in Attachment A, is consistent with the intent of the Downtown Dartmouth MPS and the Stage I development agreement. Furthermore, under the existing phasing plan, the new street opposite King Street was to be the first street constructed on the lands and Buildings A, B, C, and D are the first buildings on the street and are closest to the existing downtown Dartmouth community. Therefore, staff recommend that HECC approve the proposed amending development agreement as set out in Attachment A of this report.

## **BUDGET IMPLICATIONS**

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved budget with existing resources.

## **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may choose to approve the proposed amending development agreement as set out in Attachment A of this report. This is the recommended course of action for reasons set out above.
2. Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant.
3. Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons based on a conflict with MPS policies and the Stage 1 development agreement. This alternative is not recommended as staff are satisfied that the proposed amending development agreement is consistent with the policies and intent of the MPS and with the Stage 1 development agreement.

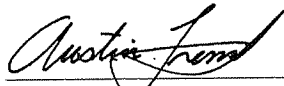
ATTACHMENTS

Map 1: Zoning and Location  
Map 2: Existing Phasing Plan  
Map 3: Proposed Phasing Plan

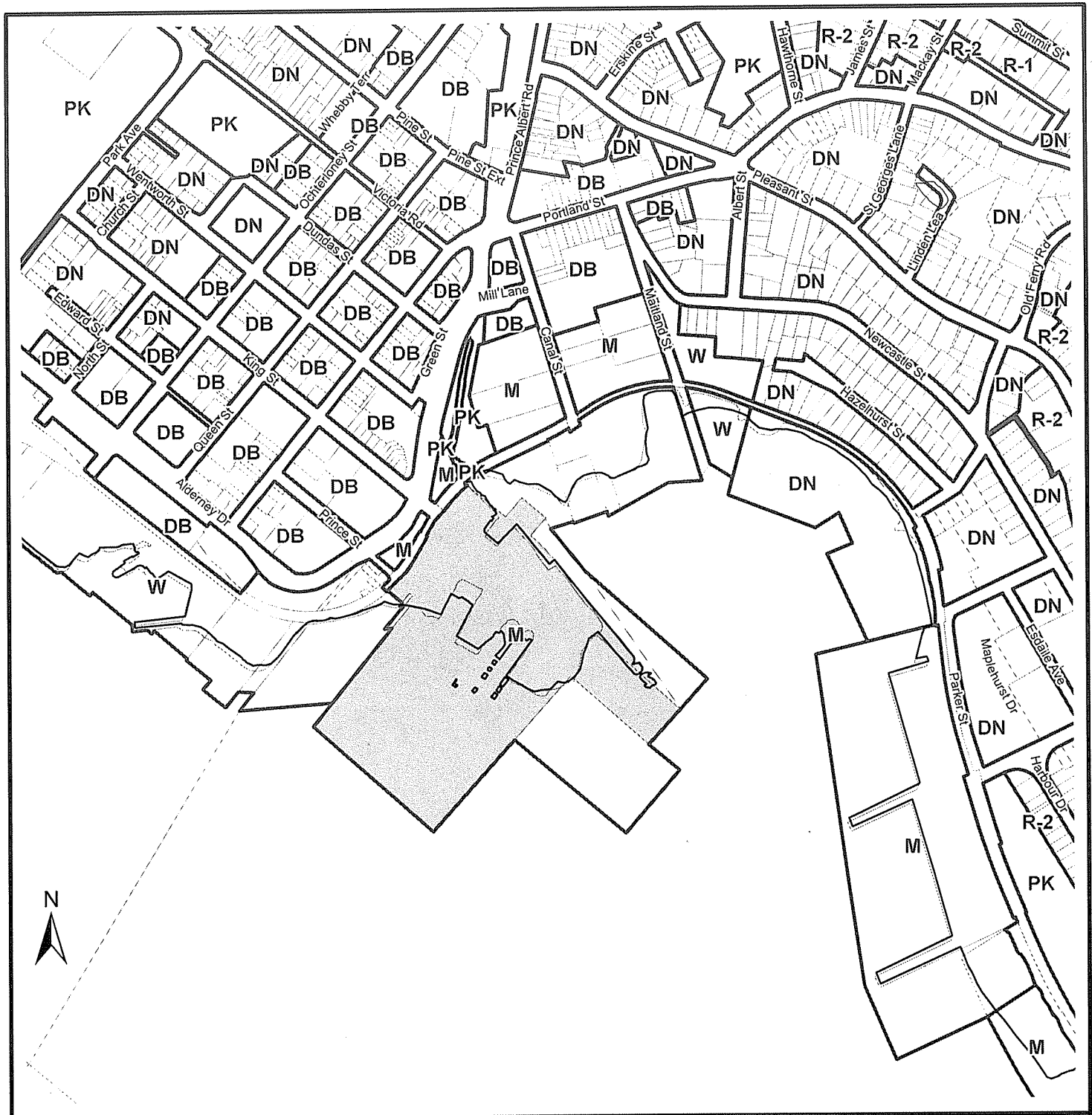
Attachment A: Proposed Amending Development Agreement  
Attachment B: Excerpts from the Downtown Dartmouth MPS  
Attachment C: Phasing Provisions of the Existing Stage 1 Development Agreement

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Joseph Driscoll, Senior Planner, 490-3991




Report Approved by: Austin French, Manager of Planning Services, 490-6717



### Map 1 Zoning and Location

Dartmouth Marine Slips

 Subject Lands

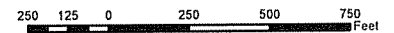
Downtown Dartmouth & Dartmouth By-law Area

#### Zone

- DB Downtown Business District
- DN Downtown Neighbourhood
- PK Park and Open Space
- W Waterfront
- M Marine Business
- R-1 Single Family Residential
- R-2 Two Family Residential



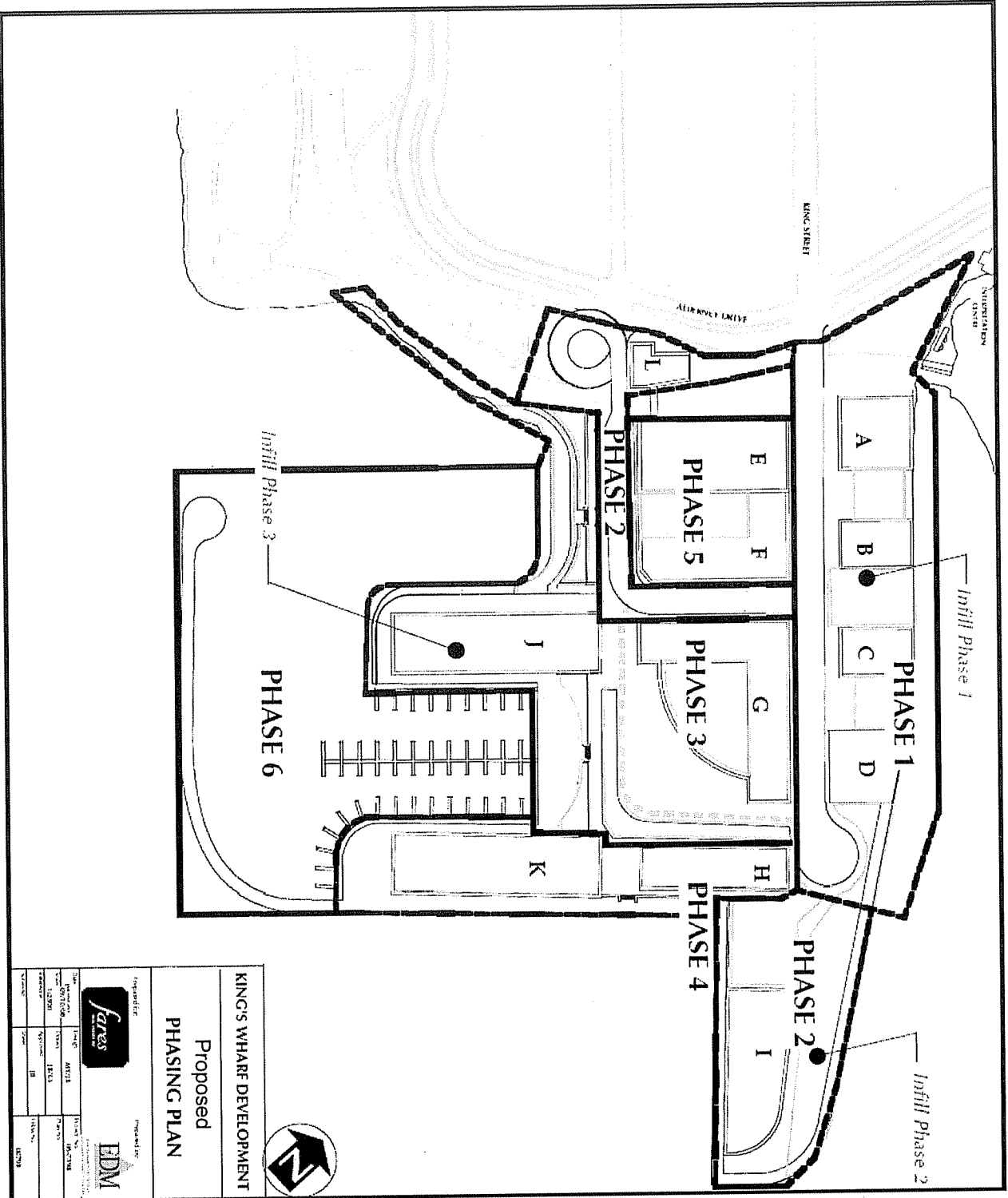
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Downtown Dartmouth & Dartmouth Land Use By-law area.

HRM does not guarantee the accuracy of any representation on this plan.





# Map 3 Proposed Phasing Plan

HRM does not guarantee the accuracy of any base information.

October 15, 2009

Case 01335

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AND WHEREAS the Harbour East Community of the Municipality approved an application by the Developer to enter into a Stage I Development Agreement pertaining to the concept plan for the Kings Wharf development project on August 7, 2008, referenced as Municipal Case Number 00798, which said Agreement was registered at the Land Registry Office in Halifax as Document Number 94067684 (hereinafter called the "Existing Stage I Agreement");

AND WHEREAS the Developer has requested an amendment to the provisions of the Existing Stage 1 Agreement to enable adoption of a revised phasing schedule for development of the Lands (hereinafter called the "Stage 1 Amending Agreement");

AND WHEREAS the Harbour East Community Council of the Municipality approved this request at a meeting held on \_\_\_\_\_, referenced as Municipal Case Number 01335;

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

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1. The Developer agrees that phasing for the development of the Lands shall occur in a manner, which, in the opinion of the Development Officer, conforms with the schedules attached to this Stage 1 Amending Agreement and the plans filed in the Halifax Regional Municipality as Case Number 01335.

The schedules are:

Schedule A:            Legal Description of the Lands  
Schedule B:            Phasing Plan

2. Further to section 1, the Phasing Plan attached to this Stage 1 Amending Agreement as Schedule B shall replace the Phasing Plan attached to the Existing Stage 1 Agreement as Schedule D. Furthermore, both parties agree that the location and timing of phases for the development shall now consist of:

Phase 1:

- Construction of King St. Extension;
- Buildings "A, B, C & D" and associated private parks;
- King Street park; and
- Transfer of ownership of Shubenacadie Canal Park

Phase 2:

- Construction of "Anchorage Lane";
- Buildings "I & L";
- King's Wharf Park; and
- Associated section of the Waterfront Promenade

Phase 3:

- Buildings "G & J" and associated private parks
- Prince Street Park
- Marina Park; and
- Associated sections of the Waterfront Promenade including the extension from Ferry Terminal Park to Prince Street Park.

Phase 4:

- Buildings "H & K"; and
- Associated section of the Waterfront Promenade.

Phase 5:

- Buildings "E & F" and associated private park

Phase 6:

- Marina; and
- Waterfront Promenade.

3. Both parties agree that no Occupancy Permit shall be issued for a building until all pertinent infrastructure applicable to the Lands is complete, subject to the appropriate sections of the applicable Stage II development agreement.
4. Further, to section 3 and as part of a Stage II agreement process, construction of the grade separated access from Alderney Drive at Prince Street to the development and Prince Street Extension shall be during Phase 2, or when the development exceeds a maximum of 300 units; whichever occurs first. The Developer may, at anytime before either threshold is reached, construct the grade separated access and/or Prince Street Extension.
5. Data calculation tables shall be provided with each Stage II Agreement for each phase of the Development. The data tables shall contain unit, population counts, and floor area.
6. Any Stage II development agreement shall consist of an entire phase as per section 2.
7. The Development Officer shall be satisfied of the completion of any permitted phase prior to the granting of approvals for any subsequent phase.
8. With the exception of the amendments to the Existing Stage 1 Development Agreement specifically related to the phasing of the development and specifically set out in this Stage 1 Amending Agreement, both parties agree that development of the Lands shall comply with the provisions set out in the Existing Stage 1 Agreement.

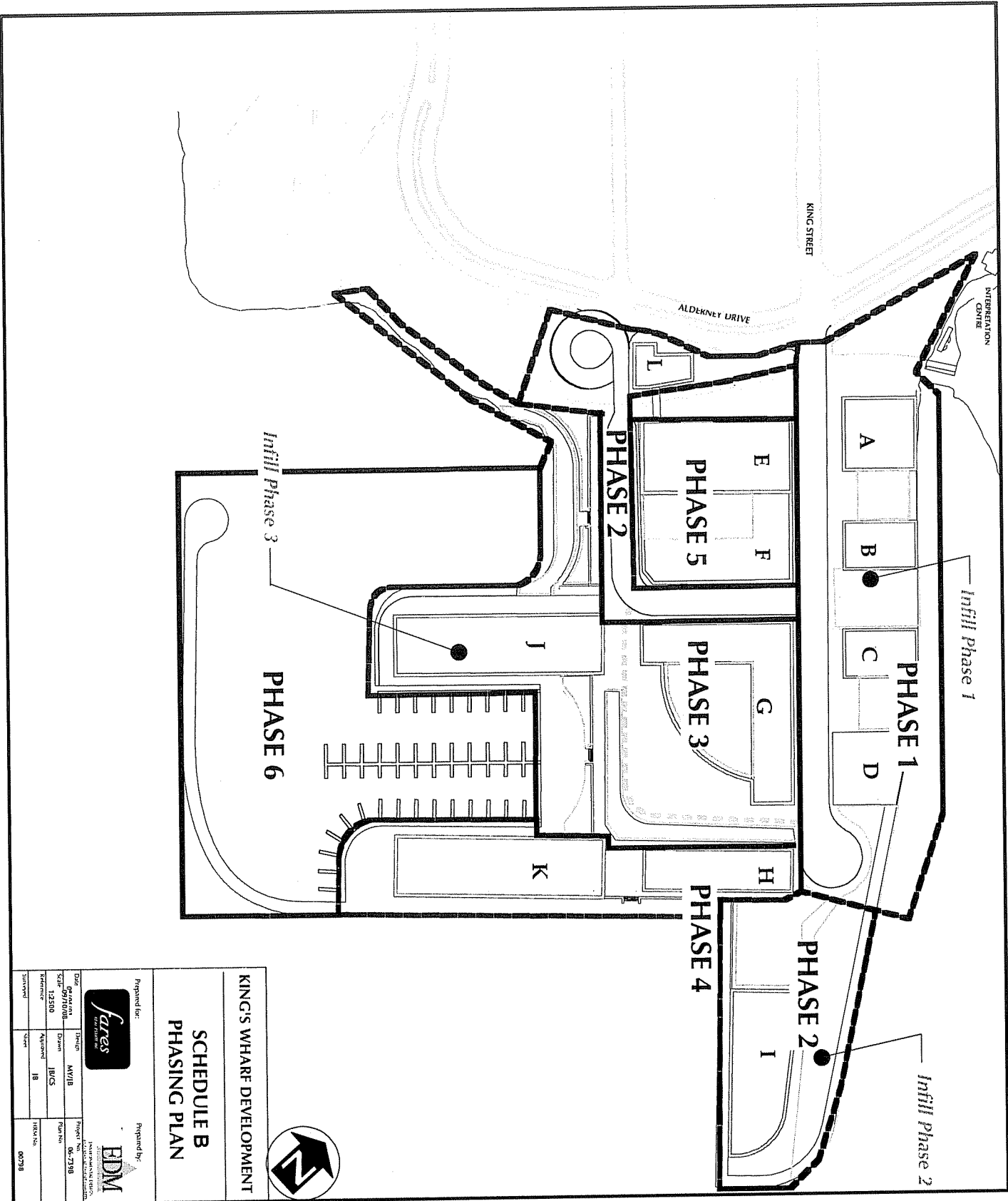
WITNESS that this Agreement, made in quadruplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SIGNED, SEALED AND DELIVERED ) THE ANCHORAGE AT DARTMOUTH COVE  
in the presence of ) PROPERTY DEVELOPMENT INC.  
)  
\_\_\_\_\_) Per: \_\_\_\_\_  
)  
)

SIGNED, SEALED AND DELIVERED )  
in the presence of ) OLIVIA FERRIS LIMITED  
)  
\_\_\_\_\_) Per: \_\_\_\_\_  
)  
)

SIGNED, SEALED AND DELIVERED )  
in the presence of ) FARES ART HOLDINGS INC.  
)  
\_\_\_\_\_) Per: \_\_\_\_\_  
)  
)

SEALED, DELIVERED AND )  
ATTESTED to by the proper )  
signing officers of Halifax Regional ) HALIFAX REGIONAL MUNICIPALITY  
Municipality duly authorized )  
in that behalf in the presence ) Per: \_\_\_\_\_  
of ) MAYOR  
\_\_\_\_\_)  
) Per: \_\_\_\_\_  
) MUNICIPAL CLERK  
)



**KING'S WHARF DEVELOPMENT**  
**SCHEDULE B**  
**PHASING PLAN**

Prepared for: **fatex** (an HOK company)  
 Prepared by: **EDM** Environmental Design Management

DATE	ISSUE	BY	PROJECT NO.
2024-09-10	REVISED	AY/IB	06-7198
12/20/20	APPROVED	IB/CS	
DATE	BY	PROJECT NO.	
2024-09-10	AY/IB	06-7198	
12/20/20	IB/CS		
DATE	BY	PROJECT NO.	
2024-09-10	AY/IB	06-7198	
12/20/20	IB/CS		

Attachment B: Excerpts from the Downtown Dartmouth MPS

*Notwithstanding policies W-8 and W-9, HRM may consider permitting a mixed use development on the former Dartmouth Marine Slips property (identified as PID Nos. 00130286, 00130419, 00130278, 41164286 and 40943730) by approval of a two-stage development agreement.*

*The Stage I development agreement shall generally show the concept of the proposal including the land uses, site plan, access and street layout, servicing capability, parks and open space, and phasing of the development. Notwithstanding the development agreement criteria of Policy W-9A, the stage I agreement shall establish further specific requirements of any Stage II development agreement. Council shall hold a public hearing prior to the approval of the Stage I development agreement.*

*Stage II development agreements shall be generally consistent with the intent of the Stage I development agreement, through the provision of fine grain details of a phase under the Stage I development agreement. Stage II development agreements shall be approved by a resolution of Council.*

*Any development agreement application shall conform with the following criteria:*

- 1. The development shall consist of a mix of land uses (residential, commercial, office, institutional, and park and open space uses) with residential land uses that contain a mix of unit types being the primary land use.*
- 2. Residential proposals should incorporate adequate soundproofing measures to buffer residents from nearby waterfront events and activities.*
- 3. A high quality of urban design is encouraged and adequate consideration is given to Policy W-9B.*
  - a) Special consideration should be given to building materials in proximity to the water's edge.*
  - b) The proposal should impart a sense of history to the area and contribute to the area's evolving history.*
  - c) Proposals should respect that the waterfront is a pedestrian precinct. Wherever possible, buildings should be designed to create public spaces, and appropriate consideration should be given to weather protection for pedestrians.*
- 4. Visual access to the harbour shall be provided through the incorporation of street corridor views leading to the water and through the use of urban design features. The height of any proposed building should respect the viewplanes from the Dartmouth Common as shown on Map 7.*
- 5. The Development should address public accessibility the water's edge.*
- 6. Special consideration shall be given to parking to ensure that proposals are designed with pedestrian orientation in mind rather than cars. Where parking is needed it should be situated below finished grade or enclosed within the core of a building with other uses wrapping the core to render the parking invisible. Surface parking is strongly discouraged, but when deemed absolutely necessary surface parking areas are to be strictly limited in size and duration.*

7. *An internal street may be needed to provide emergency and delivery access to the development. Alternative street design standards should be considered for any new streets which are in keeping with the historical grid and pedestrian character of the downtown.*
8. *The Development shall minimize the amount of infilling that occurs on the water lots to ensure the character of Dartmouth Cove is not significantly altered.*

***Policy W-9B***

***Notwithstanding Policy D-1, HRM should ensure that a high quality of urban design is provided for the development. To achieve this objective Council shall adopt the following design guidelines for the former Dartmouth Marine Slips property:***

- a) *The traditional street grid pattern and grain of development of Downtown Dartmouth should be maintained and re-established in the new development;*
- b) *Microclimate issues such as wind, solar orientation, and shadowing should be considered, with positive impacts capitalized upon, and negative impacts minimized.*
- c) *Pedestrian street level activity shall be encouraged in all development through the incorporation of outdoor cafes, ground floor uses, and uses that are open beyond daytime hours of operation. Consideration should be given to weather protection for pedestrians through use of decorative canopies and awnings.*
- d) *Proposals should respect that the waterfront is primarily a pedestrian precinct, and pedestrian circulation should be an important consideration of all development. Buildings should be designed to create attractive and functional public spaces and pedestrian routes. Active ground level uses shall be encouraged adjacent to public access points and public open spaces.*
- e) *Public art should be provided on or adjacent to buildings throughout any proposed development, commensurate with HRM's Cultural Plan.*
- f) *Important views from parks and streets should be respected in the design and configuration of development, especially harbour and street corridor views as shown on "Map 7 - Public Views."*
- g) *A high quality of design should be required for streetscape elements and furniture.*
- h) *Public safety should be a consideration in the design of new buildings and public spaces to ensure the design of public spaces does not create opportunities for crime at any time, with special attention paid to placement and intensity of lighting, visibility, directional signage, and land uses which will provide opportunities for eyes on the street through incorporation of residential development and street level activity after normal working hours.*
- i) *A high level of refinement in the architectural details shall be provided to provide visual interest, both in the upper stories, and in particular at pedestrian level.*
- j) *The waters edge should be designed for unrestricted public access by either public ownership and/or perpetual easement. (RC-Jul 8/08;E-Jul 26/08)*

**Attachment C: Phasing Provisions of the Existing Stage 1 Development Agreement**

**3.4 Phasing**

3.4.1 No Occupancy Permit shall be issued for a building until all pertinent infrastructure applicable to the Lands is complete, subject to the appropriate sections of the applicable Stage II development agreement.

3.4.2 The location and timing of phases for the development shall be undertaken as identified on Schedules D and E, and shall consist of:

Phase 1:

- Construction of King St. Extension
- Buildings "I & L"
- King's Wharf Park; and
- Associated section of the Waterfront Promenade

Phase 2:

- Buildings "A, B, C & D" and associated private parks
- Construction of "Anchorage Lane"
- King Street park; and
- Transfer of ownership of Shubenacadie Canal Park.

Phase 3:

- Buildings "G & J" and associated private parks
- Prince Street Park
- Marina Park; and
- Associated sections of the Waterfront Promenade including the extension from Ferry Terminal Park to Prince Street Park.

Phase 4:

- Buildings "H & K"; and
- Associated section of the Waterfront Promenade.

Phase 5:

- Buildings "E & F" and associated private park

Phase 6:

- Marina; and
- Waterfront Promenade.

3.4.3 Further, to sub-section 3.4.2, as part of a Stage II agreement process, construction of the grade separated access from Alderney Drive at Prince Street to the development and Prince Street Extension shall be during Phase 2, or when the development exceeds a maximum of 300 units; whichever occurs first. The

Developer may, at anytime, before either threshold is reached construct the grade separated access and/or Prince Street Extension.

- 3.4.4 Data calculation tables shall be provided with each Stage II Agreement for each phase of the Development. The data tables shall contain unit, population counts and floor area.
- 3.4.5 Any Stage II development agreement shall consist of an entire phase as per subsection 3.4.2.
- 3.4.6 The Development Officer shall be satisfied of the completion of any permitted phase prior to the granting of approvals for any subsequent phase.