



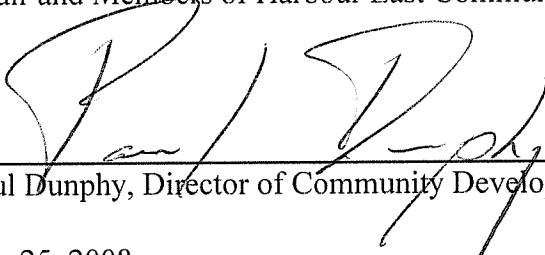
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10.1.5

Harbour East Community Council
August 7, 2008

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:



Paul Dunphy, Director of Community Development

DATE: July 25, 2008

SUBJECT: **Case 01174: Non-substantive Amendment - Sheppard's Island, 675
Windmill Road, Dartmouth**

ORIGIN

Application by Harbour Isle Halifax Incorporated for non-substantive amendments to the existing development agreement for the Sheppard's Island lands situated at 675 Windmill Road, Dartmouth.

RECOMMENDATION

It is recommended that Harbour East Community Council not approve the requested non-substantive amendments to the Sheppard's Island development agreement as the proposed changes to the site plan and exterior elevations of Building "A" are not minor in nature.

BACKGROUND

On April 5, 2007 Harbour East Community Council entered into the Sheppard's Island development agreement to allow for a residential condominium development. The agreement provided for three condominium apartment buildings ranging from 6 to 12 storeys in height and containing a total of 255 dwelling units (Attachment A, B and C). At present, no construction activity has occurred on the lands.

Location

The lands encompass three properties owned by Harbour Isle Halifax Incorporated located at 675 Windmill Road in Dartmouth that extend southward from the intersection of Windmill Road and Ralston Avenue to Wright's Cove in the Bedford Basin (see Map 1). The lands are comprised of two mainland lots with an area of 8.8 acres of which 3.2 acres are water lots and Sheppard's Island has an area of approximately 1.8 acres.

Existing Development Agreement

Under the Sheppard's Island development agreement, Building "A" will be constructed as a 7 storey traditional masonry apartment building containing 135 units surrounded by landscaping and a broadwalk (Attachment A).

The development agreement outlines what issues can be considered as non-substantive matters which may be approved by resolution of Council. Non-substantive matters are those matters deemed to be of a non-contentious nature and within the reasonable interpretation of staff and Council without requiring consultation with the public. Specifically, sub-section 5.1(1) provides for minor changes to the Site Development Plan, the exterior design of the buildings, and the Landscaping Plan (Attachment D). The decision on whether or not a change is minor or not rests with Harbour East Community Council.

Proposed Amendments

Maxim Construction Limited, on behalf of Harbour Isle Halifax Incorporated, has requested non-substantive amendments to the existing development agreement to enable changes to Building "A". The requested changes are as follows:

- i) Site Development Plan: reduction in the building foot print and the number of units
- ii) Landscaping Plan: additional landscaping and expanded broadwalk
- iii) Building Elevations: re-design of the building to a modern glass structure that contains two (2) additional storeys.

DISCUSSION

The following table compares the proposed changes to Building "A" relative to the building permitted under the existing development agreement:

Table 1: Comparison of Design Criteria for Building "A"

Criteria	Building "A"	Proposed Building "A"
Design Style	Traditional: masonry finished exterior	Post-Modern: mirrored glass exterior
# of Storeys	7	9
Height	29 feet	35 feet
Roof Type	pitched roof	flat roof
# of Units	135	110
Footprint	45,100 sq. feet	12, 800 sq. feet
Landscaping	vegetation, walkways, broadwalk	vegetation, walkways, expanded broadwalk

The proposed Building "A" is a curvilinear glass design that is less intensive (building footprint and number of units) than the building permitted under the development agreement. Overall, the proposed building contains good architectural design features and is consistent with the overall intent of the agreement to provide for multi-unit residential development of the lands (Figures 1 and 2). However, the proposed changes significantly deviate from the comprehensive design of the development.

The Sheppard's Island agreement allows for three multi-unit buildings on the lands subject to a comprehensive design approach based upon buildings that are more traditional (rectangular) in design and finished with masonry. To allow one of the buildings to significantly deviate from the set design approach would result in a building that is inconsistent with the design of the development which is problematic in staff's opinion. The proposed changes would result in amendments to the Site Development Plan (size and mass of the building), the Landscaping Plan, and, especially, the changes to the exterior appearance of the buildings (glass vs masonry, increase in height and storeys; see Figures 1 and 2) that are not, in the opinion of staff, minor in nature. Therefore, staff recommend Council not approve the proposed amendments as non-substantive matters.

Should Council choose to refuse the proposed changes as non-substantive amendments, the applicant would be required to submit a new planning application for a substantive amendment to the existing development agreement. This application would follow HRM's standard application process.

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 the 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

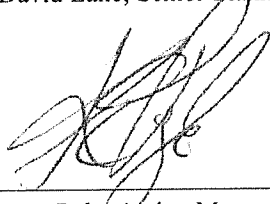
1. Council may choose to refuse the non-substantive amendment to the development agreement. This is the recommended course of action.
2. Council may choose to approve the proposed amendments as non-substantive matters to the development agreement. If Council chooses this alternative they need to approve the attached Amending Agreement (Attachment E). This is not the recommended course of action for the reasons stated in this report.

ATTACHMENTS

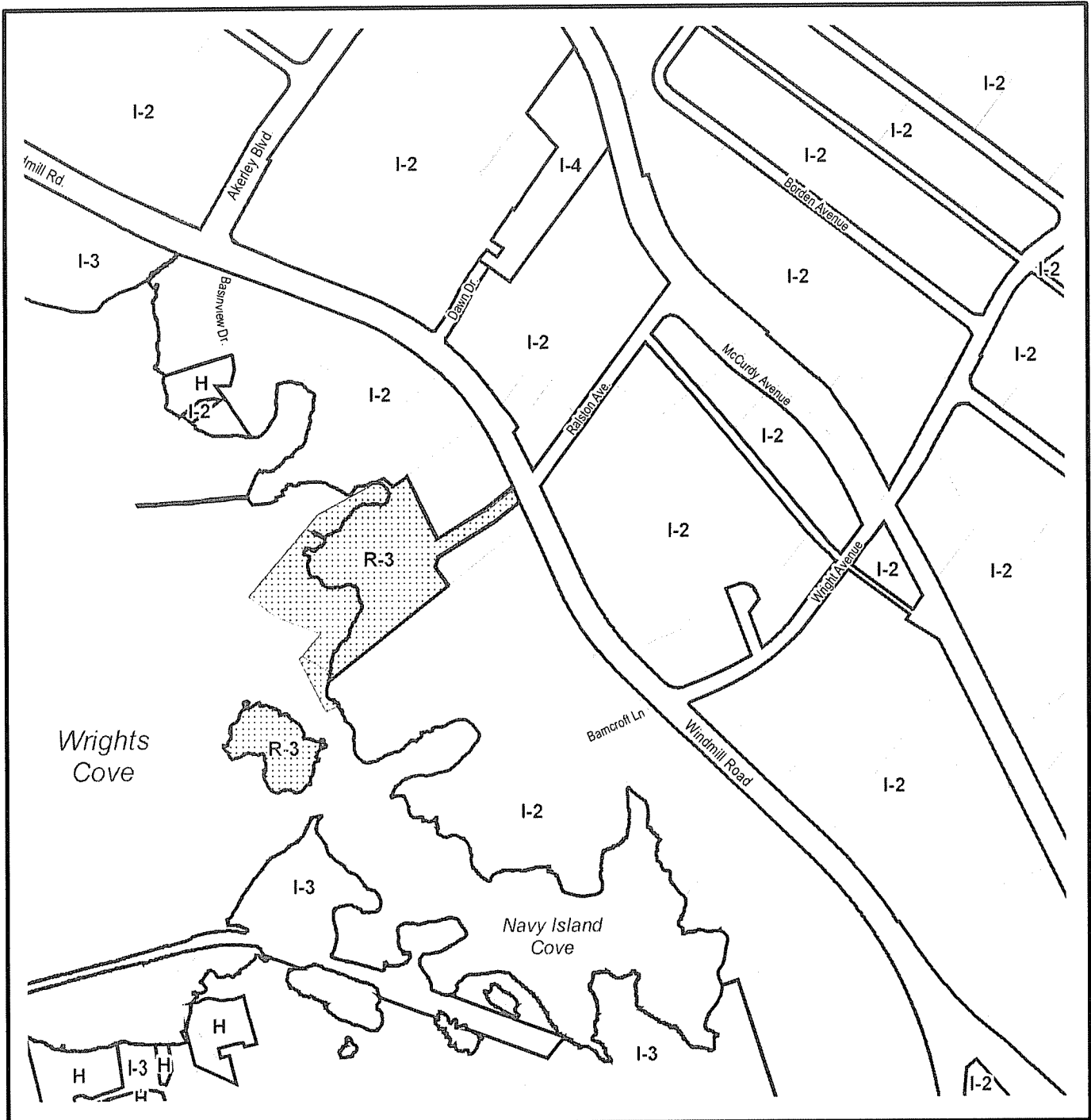
Map 1	Zoning & Location
Figure 1	Existing and Proposed Elevation and Plan View Building "A"
Figure 2	Existing and Proposed Site Plans for Building "A"
Attachment A	Existing Development Agreement Site Plan
Attachment B	Existing Development Agreement Building A Conceptual Elevation
Attachment C	Existing Development Agreement Building A, B and C Elevations
Attachment D	Textual Excerpts from Existing Development Agreement
Attachment E	Proposed Amending 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 : David Lane, Senior Planner, 490-5719




Report Approved by: Kurt Pyle, Acting Manager of Planning Services, 490-7066



Map 1 Zoning & Location

Sheppard's Island

 Subject Properties

Dartmouth Plan Area

ZONE

- R-3 Multiple Family Residential
- H Holding Zone
- I-2 General Industrial Zone
- I-3 Light Industrial Zone
- I-4 Salvage Zone

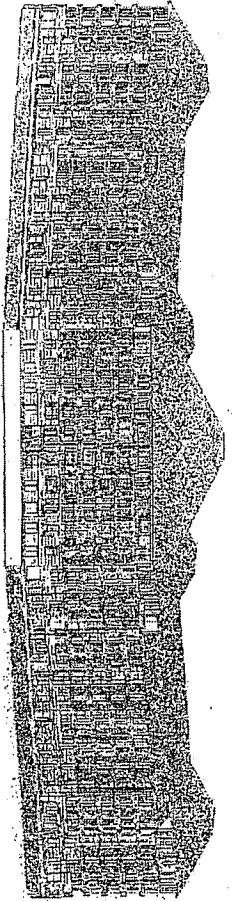
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REGIONAL MUNICIPALITY
Community Development
Planning Services



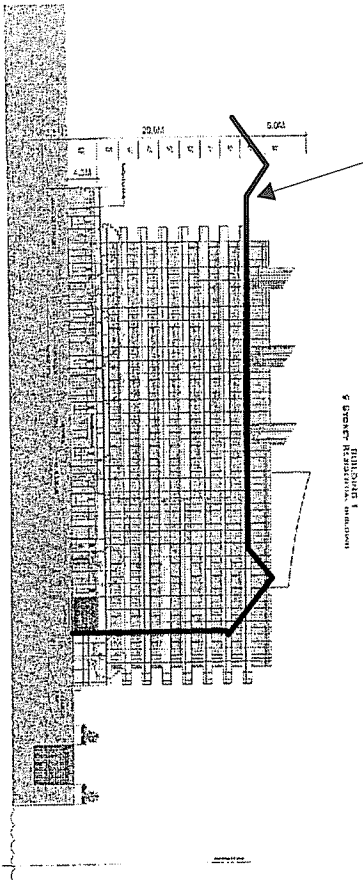
This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Land Use By-law area

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Existing



Outline of Existing Building



Proposed

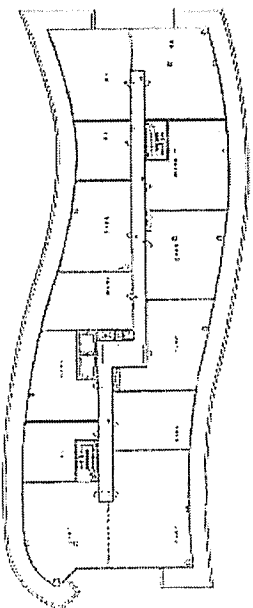


Figure 1 Existing and Proposed Elevation and Plan View Building "A"

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Existing



Proposed

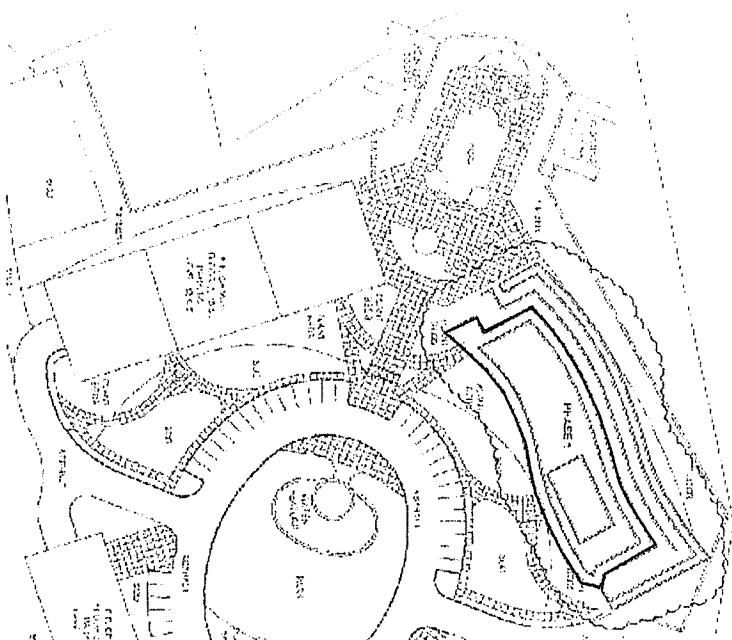
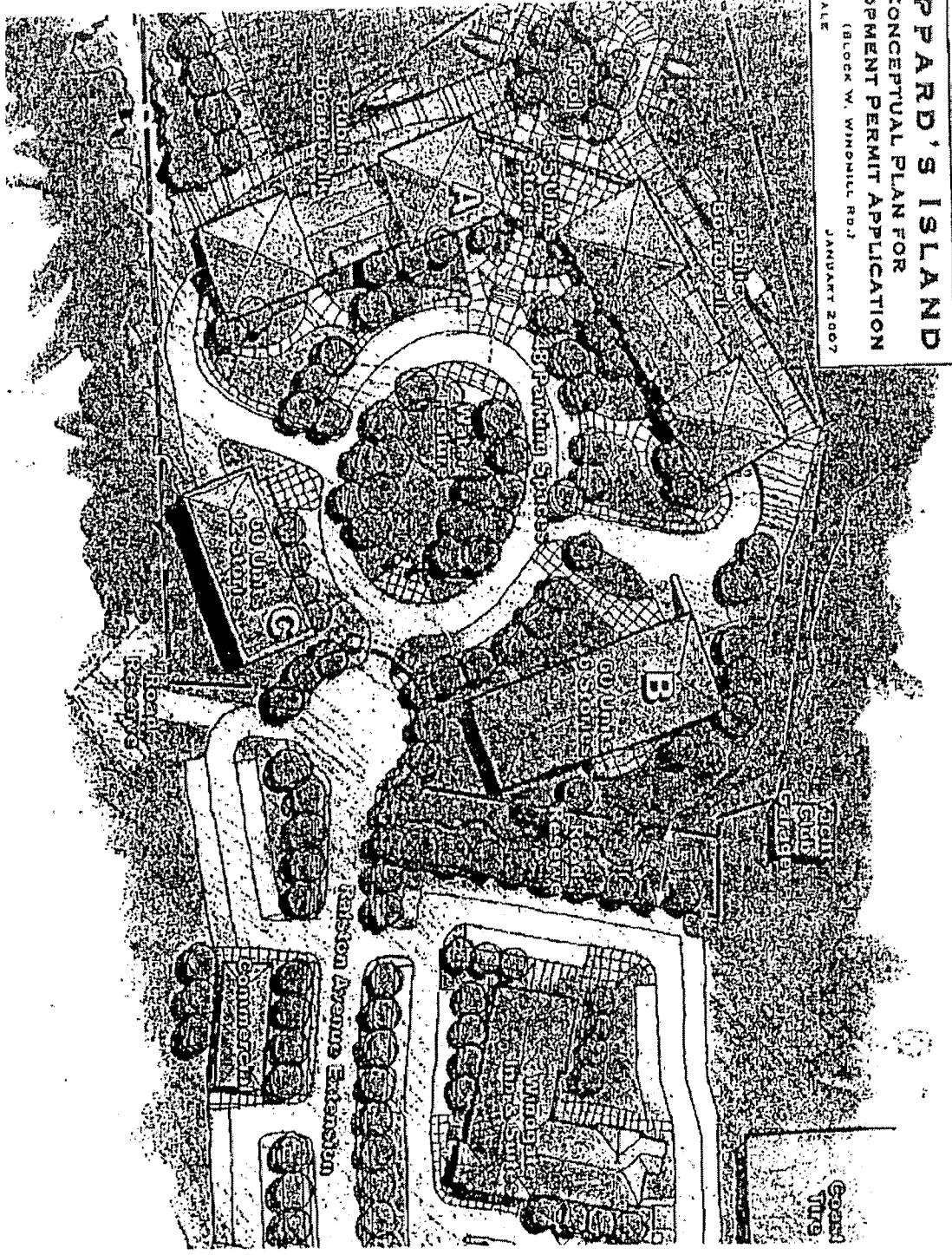


Figure 2 Existing and Proposed Site Plans for Building "A"

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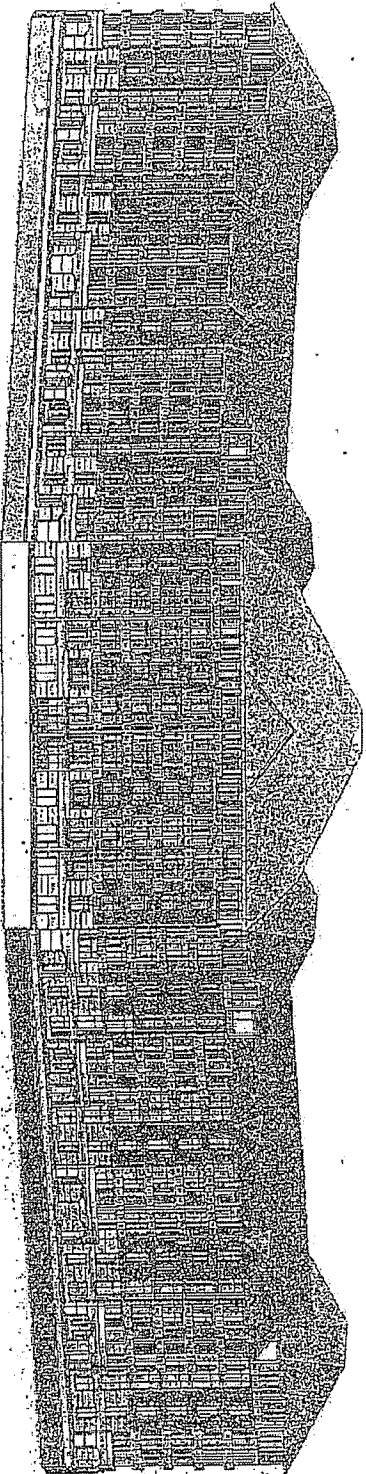
PPARD'S ISLAND
CONCEPTUAL PLAN FOR
PERMIT APPLICATION
 (Block W, Windmill Rd.)
 JANUARY 2007



Attachment A Existing Development Agreement Site Plan

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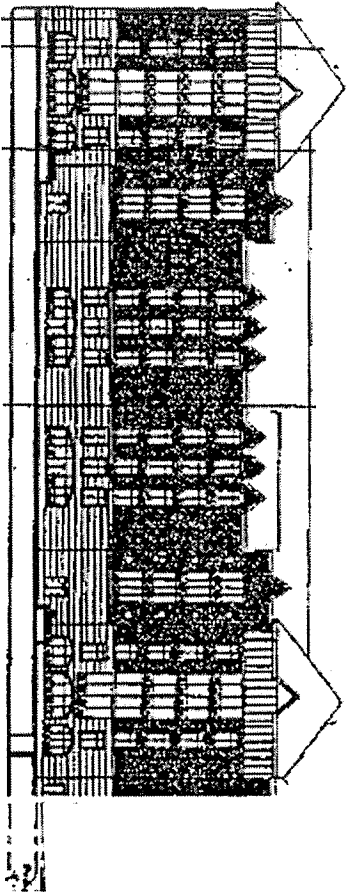


Attachment B Existing Development Agreement Building "A" Conceptual Elevation

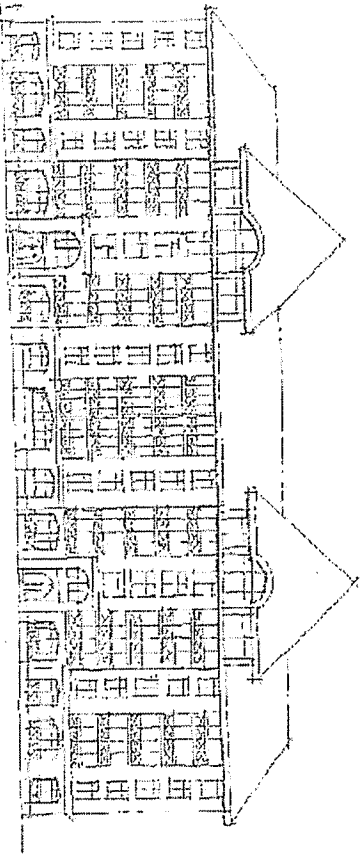
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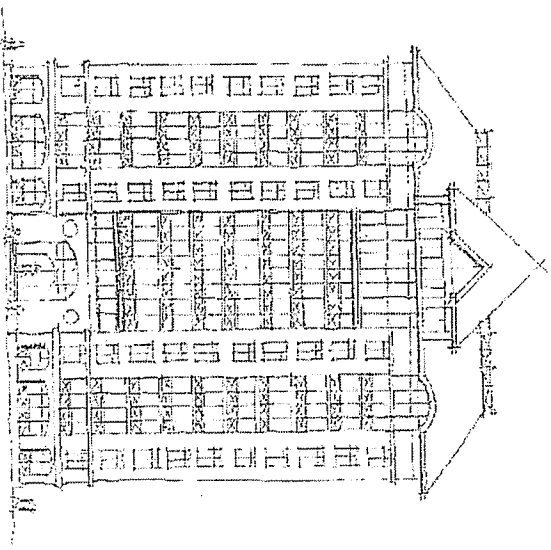
Building "A"



Building "B"



Building "C"



Attachment C
Existing Development Agreement "A", "B", and "C" Elevations

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July 25, 2008

Case 01-174

Attachment D
Textual Excerpts from Existing Development Agreement

- 4.1 The Municipality agrees that the developer shall be permitted to develop three buildings on the Lands for residential occupancies provided that:
- (4) the dimensions and external appearance of the buildings substantially conform with the dimensions and external appearance presented on Schedules G, H and I;
 - (5) each building shall be constructed with exterior masonry with a minimum thickness of four (4) inches, double glazed windows and central air conditioning.
- 5.1 The following matters shall be deemed non-substantive and may, at the request of the Developer, be amended by resolution of the Community Council:
- (1) changes to the Site Development Plan presented as Schedule F; the exterior design of the buildings presented as Schedules G, H and I; or the Landscaping Plan presented in Schedule J which, in the opinion of the Community Council are minor;
 - (2) a maximum increase of five (5) percent to the number of dwelling units allowed within each building as shown on Schedule F;
 - (3) a redistribution of some or all of the units within buildings B and C, as presented on Schedule F;

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on August 7, 2008, referenced as Municipal Case Number 01174;

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

1. The Agreement be amended by adding the attached Schedules F-1, F-2, F-3, F-4 and F-5 to Schedule F and thereby providing for changes to Building "A" on the Site Plan.
2. The Agreement be amended by replacing Schedule G with the attached Schedules G-1, G-2 and G-3 and thereby providing for changes to the exterior of Building "A".
3. The Agreement be amended by adding a new section immediately following subsection 4.1(5) as follows:

"4.1(5a) Notwithstanding subsection 4.1.(5), the exterior of Building "A" shall consist predominantly of pre-cast concrete, steel and glass. The construction details shall incorporate adequate soundproofing measures to the satisfaction of the Development Officer including, as a minimum, double glazed windows and central air conditioning."

4. The Agreement be amended by adding a new sub-section immediately following Sub-section 4.1(8) as follows:

4.1(8a) The Developer shall provide a revised Schedule J "Planting (Landscaping) Plan" to the Development Officer for approval prior to the issuance of a Construction Permit for Building "A".

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2008.

SIGNED, SEALED AND DELIVERED

in the presence of

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HARBOUR ISLE HALIFAX
INCORPORATED

Per: _____

SEALED, DELIVERED AND
ATTESTED to by the proper
signing officers of Halifax Regional
Municipality duly authorized
in that behalf in the presence
of

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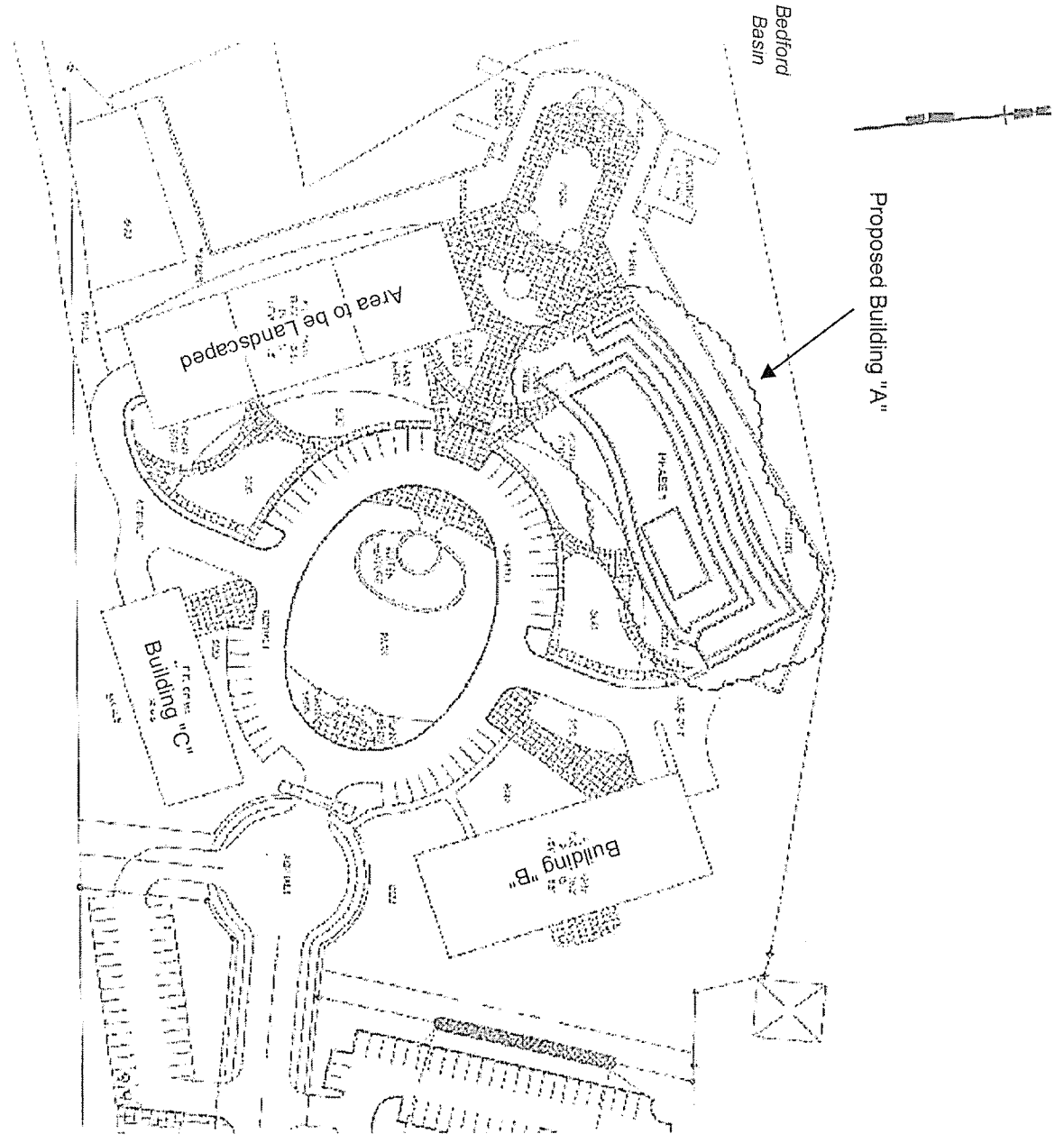
HALIFAX REGIONAL MUNICIPALITY

Per: _____

MAYOR

Per: _____

MUNICIPAL CLERK



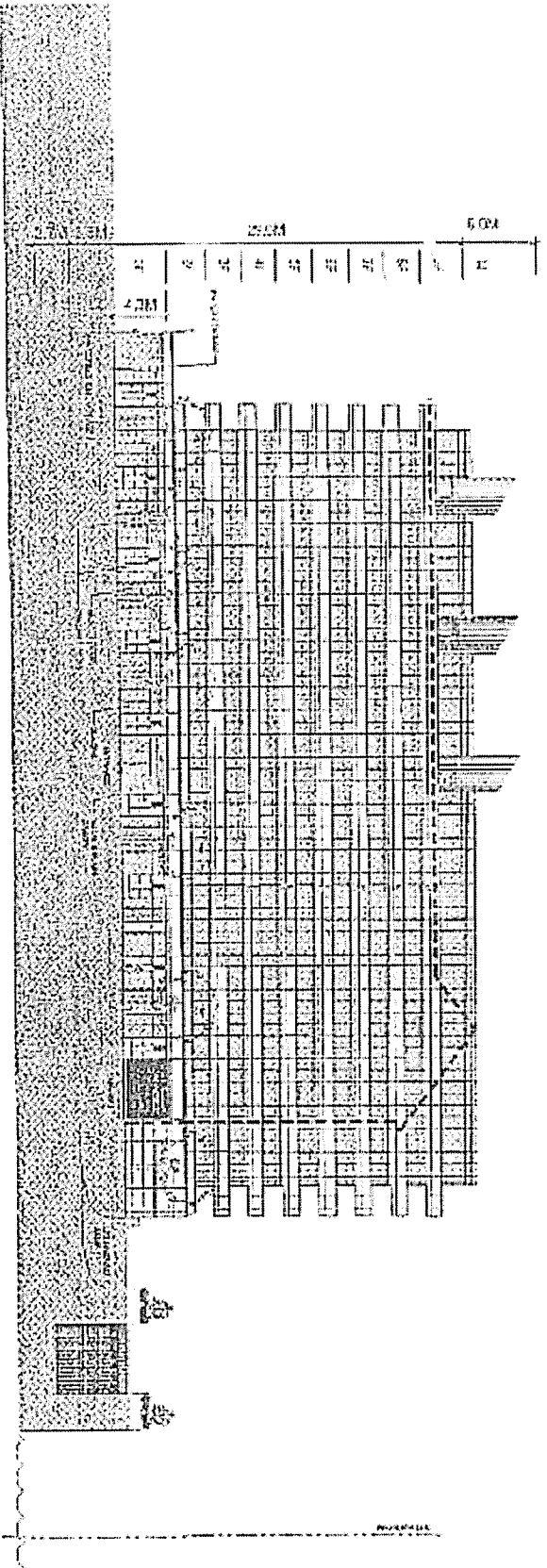
Schedule F-1 Site Plan

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July 23, 2008

Case 01174

2 STORY RESIDENTIAL BUILDING



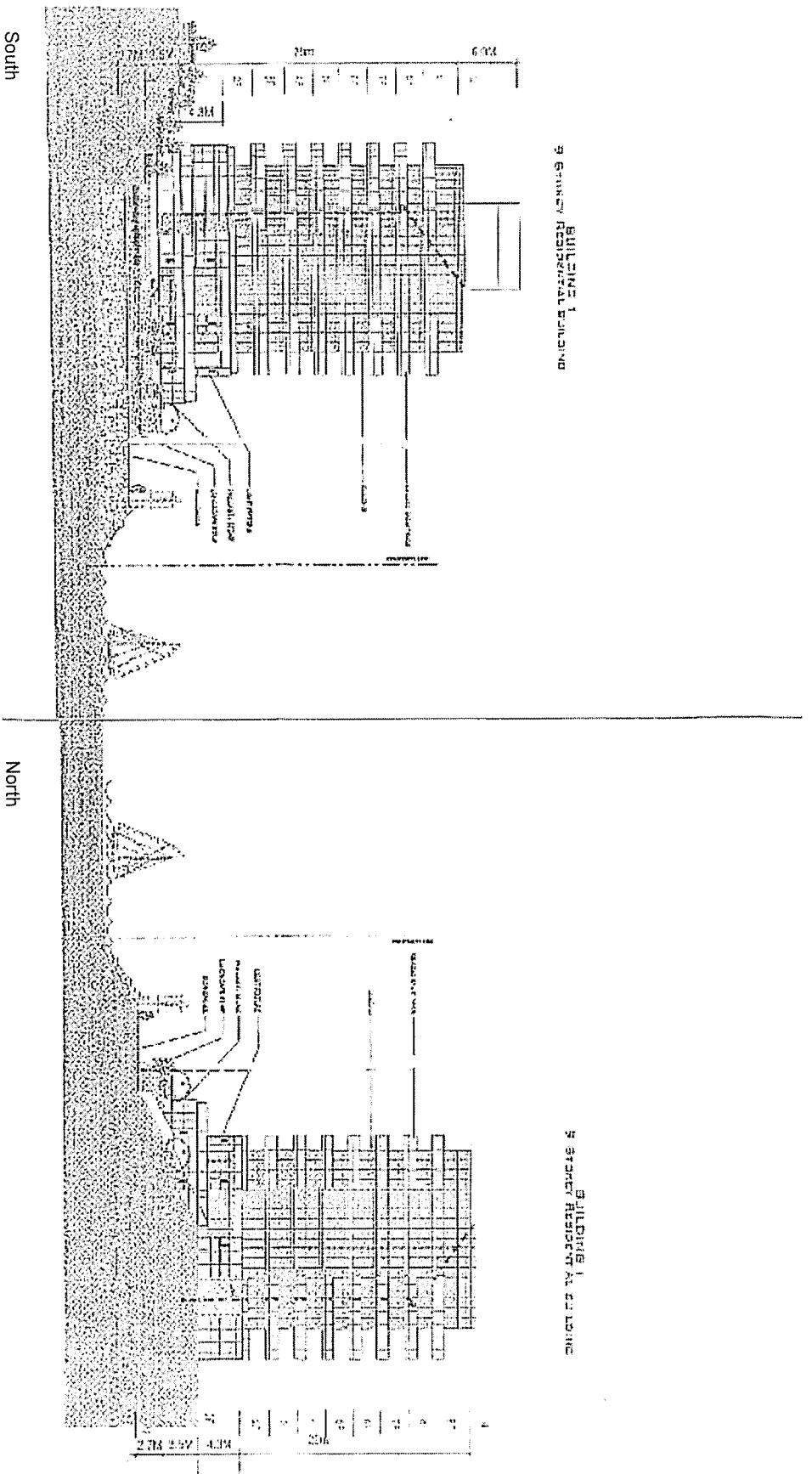
Schedule G-1 East Elevation

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July 23, 2008

Case 01174

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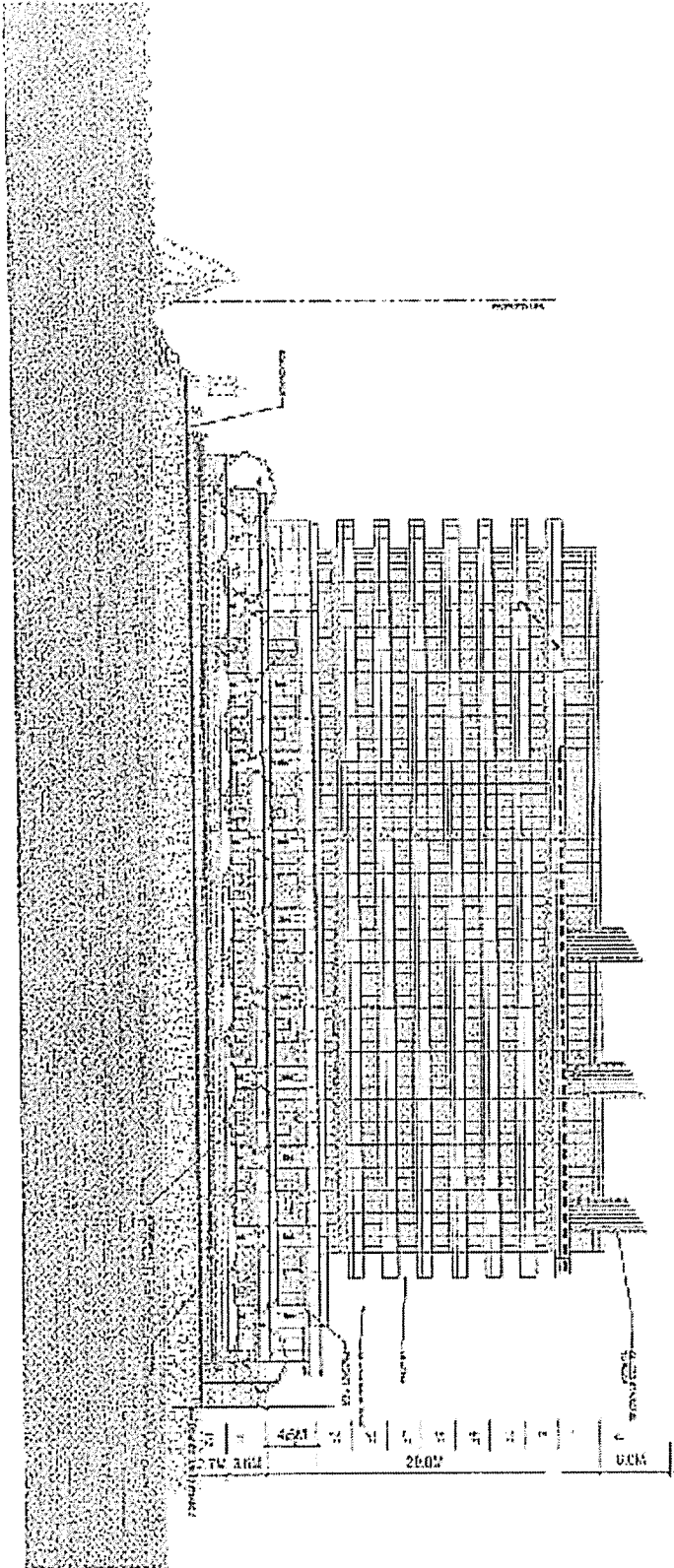


Schedule G-2 North and South Elevations

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BUILDING 1
5 STOREY RESIDENTIAL BUILDING



Schedule G-3 West Elevation

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July 23, 2008

Case 01174

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