

Peninsula Community Council
July 10, 2006

TO: Peninsula Community Council

SUBMITTED BY: Heather Ternoway
Heather Ternoway, Chair
District 12 Planning Advisory Committee

DATE: June 27, 2006

SUBJECT: Case 00875 - Amend Development Agreement: 2303-19 Princess Place,
2368 June Street and 5839 Cunard Street, Halifax

ORIGIN

District 12 Planning Advisory Committee meeting - June 26, 2006

RECOMMENDATION

The District 12 Planning Advisory Committee recommend that Peninsula Community Council:

- (1) by resolution, approve the non-substantive amendment to the Development Agreement formerly known as 5837 Cunard Street and 2372 June Street and now known as 2303, 2307, 2311, 2315 and 2319 Princess Place, 2368 June Street and 5839 Cunard Street as required for the approval of a landscape plan and of the masonry wall to be constructed on the Lands along the rear lot line of the lots fronting on Princess Place as detailed in the Amending Agreement appended as Attachment A of the report dated June 12, 2006; and
- (2) require that the Amending Agreement be signed and returned within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

ATTACHMENT:

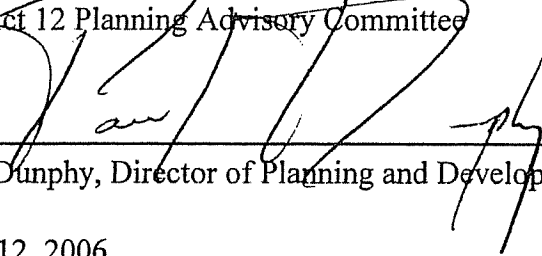
Staff report dated June 12, 2006

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Gail Harnish, Admin/PAC Coordinator, 490-4937
Report reviewed by: Heather Ternoway, Chair, District 12 PAC

District 12 Planning Advisory Committee - June 26, 2006

TO: District 12 Planning Advisory Committee

SUBMITTED BY: 
Paul Dunphy, Director of Planning and Development Services

DATE: June 12, 2006

SUBJECT: **Case 00875 - Amend Development Agreement: 2303-19 Princess Place,
2368 June Street and 5839 Cunard Street, Halifax**

ORIGIN

Application by Cunard Street Developments Incorporated.

RECOMMENDATION

It is recommended that District 12 Planning Advisory Committee recommend that Peninsula Community Council:

- (1) by resolution, approve the non-substantive amendment to the Development Agreement formerly known as 5837 Cunard Street and 2372 June Street and now known as 2303, 2307, 2311, 2315 and 2319 Princess Place, 2368 June Street and 5839 Cunard Street as required for the approval of a landscape plan and of the masonry wall to be constructed on the Lands along the rear lot line of the lots fronting on Princess Place as detailed in the Amending Agreement appended as Attachment A of this report; and
- (2) require that the Amending Agreement be signed and returned within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND:

This development is located between Princess Place and June Street (refer to Map 1). There is an approved Existing Development Agreement in effect for these properties. The Agreement was approved by Peninsula Community Council in September, 2004, (Case 00628).

Subsequent to and in accordance with the existing development agreement (Section 2.14) the lands have been subdivided to create five lots on Princess Place (2303, 2307, 2311, 2315 and 2319), a townhouse block on June Street (2368) and the remainder of the Lands on Cunard Street (5839) for the apartment building.

DISCUSSION:

Section 2.9.1 of the Existing Development Agreement enables Council to approve a landscape plan and Section 2.10.2 of the Existing Development Agreement enables Council to approve the masonry wall to be constructed on the Lands along the rear lot line of the lots fronting on Princess Place by way of a non-substantive amendment to the agreement (See Attachment B). Non-substantive amendments are approved by a resolution of Council and do not require a public hearing.

The proposed landscape plan identifies the type, size and location for proposed plant material and hard and soft surface areas. The Sitework Details plan shows the proposed masonry wall along the rear lot line shared with the Registered Heritage properties on Princess Place. These items are specified in the draft Amending Agreement appended as Attachment A to this report.

Due to the proximity of this project to a number of Registered Heritage properties, the plans have been evaluated by the Heritage Planner and were found to be sympathetic to the surrounding area. The proposal would be considered a Level One Design Review as it meets the Building Conservation Guidelines for Heritage Buildings.

Public Information Meeting

Given the nature of this application, a Public Information Meeting was not held. The Applicant did hold a Resident's Meeting on December 28, 2005, to present the Landscape Plan and Wall details. There were 18 local residents in attendance and all those attending appeared to be in favour of what was being proposed.

BUDGET IMPLICATIONS

No Budget Implications

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. Approve the draft Non-Substantive Amendment to the Existing Development Agreement as proposed. This is the recommended option as the proposed amendments meet the overall intent of the Development Agreement.
2. Approve the draft Non-Substantive Amendment to the Existing Development Agreement with modifications or conditions. Some modification or conditions may be outside the scope of a Non-Substantive Amendment and may require a Substantive Amendment to the Development Agreement.
3. Council may refuse to amend the Existing Development Agreement. Pursuant to Section 230(6) of the Municipal Government Act, Council is required to provide reasons to the applicant justifying this refusal, based on policies of the MPS. This alternative is not recommended, as the Existing Development Agreement allows for this change.

ATTACHMENTS

- Map 1: Location and Zoning Map
Attachment A: Proposed Non-Substantive Amendment to the Existing Development Agreement
Attachment B: Excerpts from the Existing Development Agreement

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Randa Wheaton, Senior Planner, Planning and Development Services 490-4499



Map 1: Location and Zoning

2303-19 Princess Place
 2368 June Street
 5839 Cunard Street
 Halifax

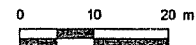
Halifax Peninsula By-Law Area

 Subject property

Zone

- R-2 General Residential
- R-3 Multiple Dwelling
- P Park and Institutional

HALIFAX
 REGIONAL MUNICIPALITY
 PLANNING AND
 DEVELOPMENT SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula By-Law Area.

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

ATTACHMENT A

THIS AMENDING AGREEMENT made this day of , 2006,

BETWEEN:

CUNARD STREET DEVELOPMENTS INCORPORATED

in the Halifax Regional Municipality,
Province of Nova Scotia
(hereinafter called "the Developer")

OF THE FIRST PART

HALIFAX REGIONAL MUNICIPALITY

a municipal body corporate, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS Amalthea Holdings Limited entered into a Development Agreement with the Municipality, December 15, 2004, as Municipal Case Number 00628 to construct a residential apartment building and said agreement being recorded at the Registry of Deeds in Halifax as Document Number 81130750, (hereinafter called the "Existing Agreement");

AND WHEREAS Amalthea Holdings Limited while the registered owner of the lands located at 5837 Cunard Street and 2372 June Street, Halifax, (LRIS PID numbers 00150631, 40267916, 00150573 and 40267908) subsequently subdivided the lands to become 2303, 2307, 2311, 2315 and 2319 Princess Place, 2368 June Street and 5839 Cunard Street (LRIS PID numbers 41158254, 41158262, 41158270, 41158288, 41158296, 41158304 and 41158312);

AND WHEREAS Amalthea Holdings Limited subsequently transferred its interest in the lands to Cunard Street Developments Incorporated;

AND WHEREAS Cunard Street Developments Incorporated is now the registered owner of the lands located at 2303, 2307, 2311, 2315 and 2319 Princess Place, 2368 June Street and 5839 Cunard Street, Halifax, and which said lands are more particularly described in Schedule A1 to this Amending Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer wishes to amend the Existing Agreement to allow for the inclusion of a Landscape Plan and details of the masonry wall to be constructed on the Lands along the rear lot line of the lots fronting on Princess Place pursuant to the provisions of the Municipal Government Act, (hereinafter called the "Amending Agreement");

AND WHEREAS Peninsula Community Council for the Municipality approved this request at a meeting held on , 2006, referenced as Municipal Case 00875;

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

1. Add the following Schedules of this Amending Agreement to the Existing Agreement:
Schedule O - Landscape Plan
Schedule P - Sitework Details
2. Replace Schedule A of the Existing Agreement with Schedule A1 (revised Legal Description of the Lands) attached to this Amending Agreement.
3. Replace Section 2.9.1 of the Existing Agreement with the following:
Landscaping for the Lands shall be substantively in conformance with Schedule O as attached to this Amending Agreement. The Developer shall submit the landscape plan to the Development Officer for approval as part of the first development permit application and subsequent to the approval of this non-substantive amendment before any development permit may be issued. The intent of the landscaping is to provide aesthetic enhancement.
4. Replace Section 2.10.1 of the Existing Agreement with the following:
A masonry wall shall be constructed on the Lands along the rear lot line of the lots fronting along Princess Place substantively in conformance with Schedule P.
5. Replace Section 2.10.2 of the Existing Agreement with the following:
The Developer shall submit the Sitework Details plan (Schedule P) to the Development Officer for approval as part of the first development permit application and subsequent to the approval of this non-substantive amendment before any development permit may be issued. The purpose of the wall is to provide privacy for the abutting Princess Place properties.
6. All other terms of the Existing Agreement shall remain in full force and effect.
7. Time is of the essence of this agreement.
8. This Amending Agreement and everything contained herein shall be binding upon the Parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set hands and seals to this Amending Agreement on the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

Per _____

Sealed, Delivered and Attested by the
proper signing officers of Halifax
Regional Municipality duly authorized
on that behalf in the presence of:

Per _____

) CUNARD STREET DEVELOPMENTS
) INCORPORATED

)
) Per _____

)
)
) HALIFAX REGIONAL MUNICIPALITY

) Per _____
) Mayor

)
) Per _____
Municipal Clerk

GIFFELS DESIGN BUILD
Duffus Tomans Rounsefell
 ARCHITECTS
 1000 WEST 10TH AVENUE, SUITE 1000
 DENVER, CO 80202

PRATO ENGINEERING LTD.
 CONSULTANTS
 BURNSIDE CONSULTANTS LTD.
 CONSULTANTS

ARMOURY SQUARE

LANDSCAPE PLAN

DESIGNED FOR DEVELOPMENT AGREEMENT APPLICATION
 DATE: 10/10/07
 DRAWN BY: JAC
 CHECKED BY: JAC
 SCALE: 1/8" = 1'-0"
 SHEET: 0915 OF 7

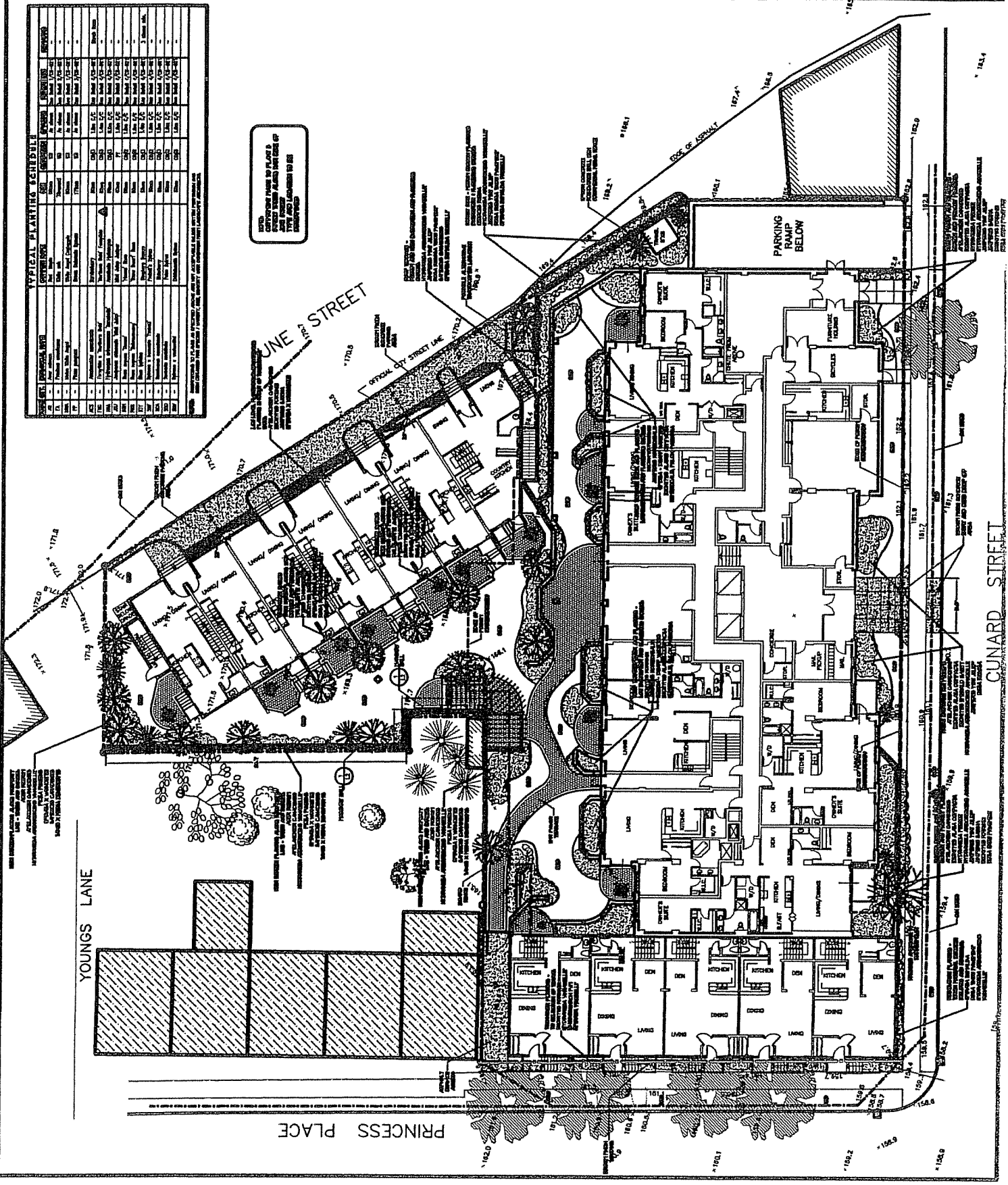
NOT FOR CONSTRUCTION

0915

TYPICAL PLANTING SCHEDULE

NO.	SYMBOL	PLANT	SIZE	PLANT	SIZE	PLANT	SIZE
1	(Symbol)	Red Maple	12"	Red Maple	12"	Red Maple	12"
2	(Symbol)	Green Ginkgo	12"	Green Ginkgo	12"	Green Ginkgo	12"
3	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
4	(Symbol)	Black Locust	12"	Black Locust	12"	Black Locust	12"
5	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
6	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
7	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
8	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
9	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
10	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
11	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
12	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
13	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
14	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
15	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
16	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
17	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
18	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
19	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
20	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
21	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
22	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
23	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
24	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
25	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
26	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
27	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
28	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
29	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
30	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
31	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
32	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
33	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
34	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
35	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
36	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
37	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
38	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
39	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
40	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
41	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
42	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
43	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
44	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
45	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
46	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
47	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
48	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
49	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"
50	(Symbol)	White Birch	12"	White Birch	12"	White Birch	12"

NOTE: CENTER LINE SHALL BE PLACED IN THE CENTER OF THE ROADWAY UNLESS OTHERWISE INDICATED.



CUNARD STREET

YOUNGS LANE

PRINCESS PLACE

JUNE STREET

ATTACHMENT B

Excerpts from the Existing Development Agreement

2.9 Landscaping

- 2.9.1 The developer shall submit a landscape plan, prepared and sealed by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects, to the Development Officer for approval as part of the development permit application and shall be subject to a non-substantial amendment to this agreement before a development permit may be issued. The intent of the landscaping is to provide aesthetic enhancement.
- 2.9.2 Landscaping shall be provided consisting of a minimum of upright shrubs with a minimum height of 60 cm. (2 ft.) in continuous planting beds and groundcover. The developer shall ensure that all soft landscape areas not planted with shrubs are to be sodded and the sod is to conform to the Canadian Nursery Sod Growers' Specifications. The developer shall ensure that all plant material is to conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards.
- 2.9.3 Landscaping shall be provided on the podium in order to provide some screening for the users. The shrub material shall be a minimum of 50% coniferous for year round cover. The podium may include sufficient and appropriate decorative seating.
- 2.9.4 It is the responsibility of the developer to ensure that the underground parking structure is to be capable of supporting loads for drainage gravel or an appropriate drainage system over the extent of the landscape podium plus topsoil for sod, shrubs and flowers, all of which is in addition to the anticipated mature weight of the plant material.
- 2.9.5 Landscaping may include containers planted with ornamental trees, shrubs and perennials/annuals.
- 2.9.6 All landscaping shall be completed prior to the issuance of the occupancy permit. Proof of completion shall be in the form of certification by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects indicating that the landscaping has been done in accordance with the landscape plan approved as a non-substantial amendment to this agreement. An occupancy permit may be issued where the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost to complete the landscaping. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable letter of credit, with an automatic renewal clause, issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work and receipt of certification by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects indicating that the landscaping has been done in accordance with the landscape plan approved as a non-substantial amendment to this agreement.

2.10 Masonry Wall

2.10.1 A masonry wall shall be constructed on the Lands along the rear lot line of the lots fronting on Princess Place.

2.10.2 The developer shall submit drawings showing the masonry wall on the Lands along the rear lot line of the lots fronting on Princess Place to the Development Officer for approval as part of the development permit application and shall be subject to a non-substantial amendment to this agreement before a development permit may be issued. The purpose of the wall is to provide privacy for the abutting Princess Place properties.

2.11 Non-Substantial Amendments

The following items are considered by both parties to be non-substantial matters and may be amended by resolution of the Peninsula Community Council:

- (a) Changes to the architectural detailing as shown on Schedules B - E and L - N
- (b) approval of a landscape plan
- (c) approval of the masonry wall to be constructed on the Lands along the rear lot line of the lots fronting on Princess Place.

2.12 Substantial Amendments

Amendments to any matters not identified under section 2.11 shall be deemed substantial and may only be amended in accordance with the approval requirements of the Municipal Government Act.