



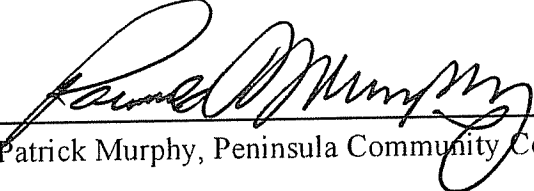
PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 10.2.1**

**Halifax Regional Council  
March 25, 2008**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

  
Councillor Patrick Murphy, Peninsula Community Council

**DATE:** March 25, 2008

**SUBJECT:** Case 00930 - MPS and LUB Amendment for 6955 Bayers Road,  
Halifax

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**ORIGIN**

Peninsula Community Council of March 3, 2008.

**RECOMMENDATION**

Peninsula Community Council recommends that Halifax Regional Council:

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law contained in Attachment "A" of the Staff Report of January 21, 2008, and
2. Schedule a joint public hearing with Peninsula Community Council to consider approval of the amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as contained in Attachment "A" of the Staff Report of January 21, 2008.

## BACKGROUND

Peninsula Community Council considered this matter at its March 3, 2008 meeting. Notice of Motion was given and Community Council recommended a joint Public Hearing with Regional Council be scheduled, to consider amending the Halifax MPS and LUB to allow for a 16-story, multi-unit dwelling with 12 units at 6955 Bayers Road, Halifax by Development Agreement.

## FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

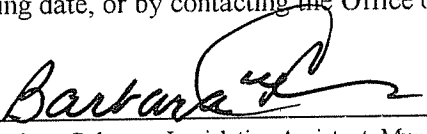
This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

## ATTACHMENTS

1. Staff report dated January 21, 2008

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

Report Prepared by:

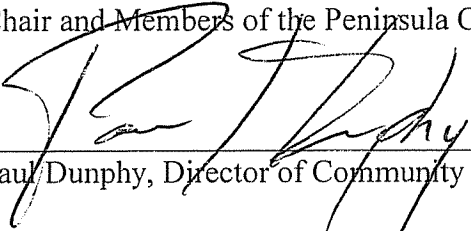
  
Barbara Coleman, Legislative Assistant, Municipal Clerk's Office



PO Box 1749  
Halifax, Nova Scotia  
B3J3A5 Canada

Peninsula Community Council  
February 11, 2008

**TO:** Chair and Members of the Peninsula Community Council

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

**DATE:** January 21, 2008

**SUBJECT:** Case 00930 - MPS and LUB Amendment for 6955 Bayers Road, Halifax

#### ORIGIN

Request by Kassner Goodspeed Architects Limited, on behalf of 3106631 Nova Scotia Limited, to amend the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law to allow for a 16 storey, multiple unit dwelling with 121 units at 6955 Bayers Road, Halifax, by development agreement.

#### RECOMMENDATION

**It is recommended that Peninsula Community Council:**

1. Move Notice of Motion to consider approval of the proposed Development Agreement contained in Attachment B to allow for a 121 unit apartment building, and schedule a joint public hearing with Regional Council;
2. Recommend that Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law contained in Attachment A and schedule a joint public hearing with Peninsula Community Council;
3. Recommend to Regional Council that the amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law as contained in Attachment A be approved.

*Recommendations continue on next page.*

**Contingent upon the amendments being approved by Regional Council and becoming effective pursuant to the requirements of the *Municipal Government Act*, it is further recommended that Peninsula Community Council:**

1. Approve the proposed development agreement as contained in Attachment B; and
2. Require that the development agreement be signed and delivered 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 or any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

### **BACKGROUND**

**Location, Designation and Zoning:** The subject property, which is located on the north side of Bayers Road was part of the former St. Andrews School site previously owned by Halifax Regional Municipality. The site, abutting the St. Andrews Community Centre and Alta Gymnastics, is 2.22 acres in area and is now vacant. The lands adjoin an HRM owned cemetery which is the Memorial Grave Site for Unidentified Victims of the Halifax Explosion, and separate, private family plots.

The property is located within the Park and Institutional (P) Zone (Refer to Map 1). The lands are designated Residential Environments on the Generalized Future Land Use Map of the Halifax Municipal Planning Strategy (MPS) (Refer to Map 2). The property falls within an Urban District Centre designation under the Regional Plan.

### **History of the Property:**

- In August, 1997, Halifax Regional Council approved amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law to enable development by development agreement for specific uses (Refer to Attachment D).
- On April 1, 1998, Peninsula Community Council (PCC) approved a development agreement to permit a combined senior citizen housing and cultural centre complex for the Italian Canadian Cultural Association (ICCA) of the Halifax and Dartmouth Area.
- The approved 1998 development agreement expired on May 3, 2001.
- A new development agreement was approved by PCC on March 4, 2002.
- The 2002 development agreement expired in March of 2004.
- In July of 2004 the ICCA offered HRM first right of refusal to purchase the property back.
- HRM's Real Property Planning department determined the land was not required for municipal purposes.
- The property is now under private ownership.

**Synopsis of the Proposed Development:** The Developer considered a number of options for this site but determined that a single, 16 storey, residential apartment building with a total of 121 units and underground parking was the most suitable for the site and context. The proposed building meets

the R-3 (Multiple Dwelling) Zone standards. The single building proposal reduces the extent of the development on the site resulting in the Developer being able to donate a portion of the site to HRM for public open space. There should be no unusual difficulties in servicing this development and improvements will be made to the existing access driveway including new curbs and sidewalks. An improved entry from Bayers Road will allow only right turns into and out of the site. Given the volumes of traffic already carried by Bayers Road, the additional trips generated by this proposal are not expected to have a significant impact. Refer to the site plan which is Schedule B of Attachment B.

## **DISCUSSION**

Site specific MPS amendments and policy changes should generally only be considered where circumstances related to policies of the MPS have changed significantly. This proposal meets this test as the existing policies were created to specifically allow the Italian Canadian Cultural Association proposal. The Park and Institutional Zone on the lands does not allow the residential use proposed. Refer to Attachment D for the existing policies.

The Regional Plan designates this area as a Urban District Centre which calls for a mix of high density residential, commercial, institutional and recreational uses. With commercial uses to the west and recreation and institutional uses bordering this site, a high density, residential use seems reasonable in terms of meeting the goals of the Regional Plan.

Considering an MPS amendment to allow a development agreement for this use seems appropriate to ensure that the siting and design of the building takes into consideration the surrounding uses and allows for visual and physical linkages for pedestrians and vehicles to the site and abutting recreation facilities and, in particular, the cemetery.

The Development Agreement includes:

- Sections dealing with the building architecture, landscaping, parking, circulation and access, services, maintenance, public open space and archaeological monitoring;
- The building is designed to have a compact footprint resulting in increased open space on the site which the Developer is donating to HRM to facilitate improvements which include:
  - the construction of a passive open space area with seating and landscaping;
  - the creation of a 12 foot wide paved path which will function as a ceremonial access for funeral processions to the HRM-owned cemetery which is the Memorial Grave Site for Unidentified Victims of the Halifax Explosion;
  - replacing existing fencing and landscaping within the Memorial Grave Site with decorative metal fencing and appropriate trees; and
  - providing a public right-of-way to facilitate access to the Cemetery and the existing additional parking for the Community Centre.
- An emphasis has been placed on high quality materials and the exterior building materials are proposed to be aluminum/glass curtain wall, tinted precast concrete panels and concrete columns (see Schedules C, D, E and F of Attachment B);
- A detailed landscape plan prepared by a Landscape Architect is required at the building permit stage and minimum requirements have been identified;

- On-site monitoring by a Professional Archaeologist during any excavation adjacent the Memorial Grave Site is required; and
- Improvements to the existing HRM owned access driveway from Bayers Road including new curb and gutter, sidewalk and asphalt surface.

Staff suggest that an MPS Amendment which aligns with the vision of the Regional Plan to allow a multiple unit dwelling by development agreement which captures the unique community benefits of this proposal is the most appropriate action.

**Public Consultation:** A public information meeting was held on January 24, 2007, and the minutes are attached (Attachment C). The main concern raised at the meeting was related to traffic. A Traffic Impact Statement (TIS) was completed for this project which stated that "site generated trips will not have any noticeable impact on Bayers Road traffic performance." The TIS for this proposal has been reviewed and meets HRM standards. The original proposal was for two buildings, each eight storeys, which has been modified to one building. The single building option was also discussed at the meeting. Staff believe that the single building that is now being proposed is much more integrated with the abutting community centre and memorial site. The area of notification to be used should a public hearing be held is shown on Map 1.

### **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. Halifax Regional Council may choose to approve the requested amendments to the Municipal Planning Strategy and Peninsula Land Use By-law. This is the recommended course of action.
2. Halifax Regional Council may choose to refuse the requested amendments to the Municipal Planning Strategy and Peninsula Land Use By-law. Regional Council is under no obligation to consider a request to amend its MPS and a decision not to amend the MPS cannot be appealed. This alternative is not recommended, as Staff feels that a residential development and public open space is the preferred use of this site.

3. Peninsula Community Council may choose to approve the proposed development agreement appended as Attachment B to permit a 121 unit apartment building. This is the recommended course of action.
4. Peninsula Community Council may choose to refer the Case back to Staff with specific changes to modify the development agreement to permit a residential building with different standards to address concerns.
5. Peninsula Community Council may choose to refuse the proposed development agreement. This is not recommended for the reasons cited above. Reasons must be provided for a refusal.

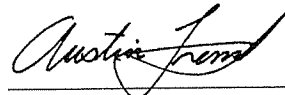
### ATTACHMENTS

- Map 1 Location and Zoning
- Map 2 Generalized Future Land Use
- Attachment A Amendments to the Halifax MPS and LUB
- Attachment B Development Agreement with Schedules
- Attachment C Minutes of the January 24, 2007, Public Information Meeting
- Attachment D Extracts from the Municipal Planning Strategy and the Peninsula Land Use By-law

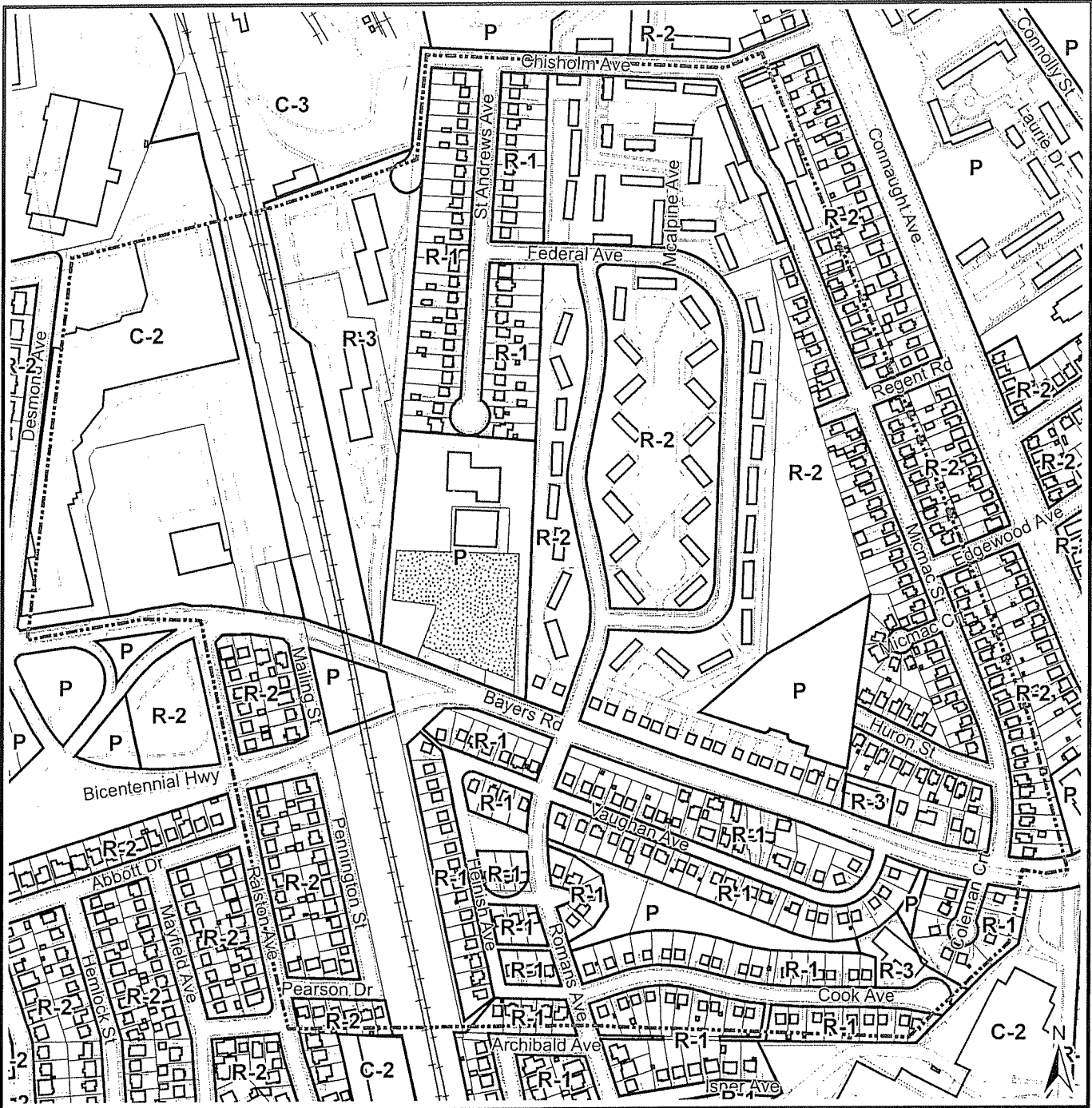
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Randa Wheaton, Senior Planner, Community Development, 490-4499

Report Approved by:





Austin French, Manager, Planning Services, 490-6717



**Map 1 - Location and Zoning**

6955 Bayers Road  
Halifax

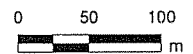
-  Subject property
-  Area of notification

Halifax Peninsula  
Land Use By-Law Area

**Zone**

- R-1 Single Family Dwelling
- R-2 General Residential
- R-2T Townhouse
- R-3 Multiple Dwelling
- C-2 General Business
- C-3 General Industrial
- P Park and Institutional

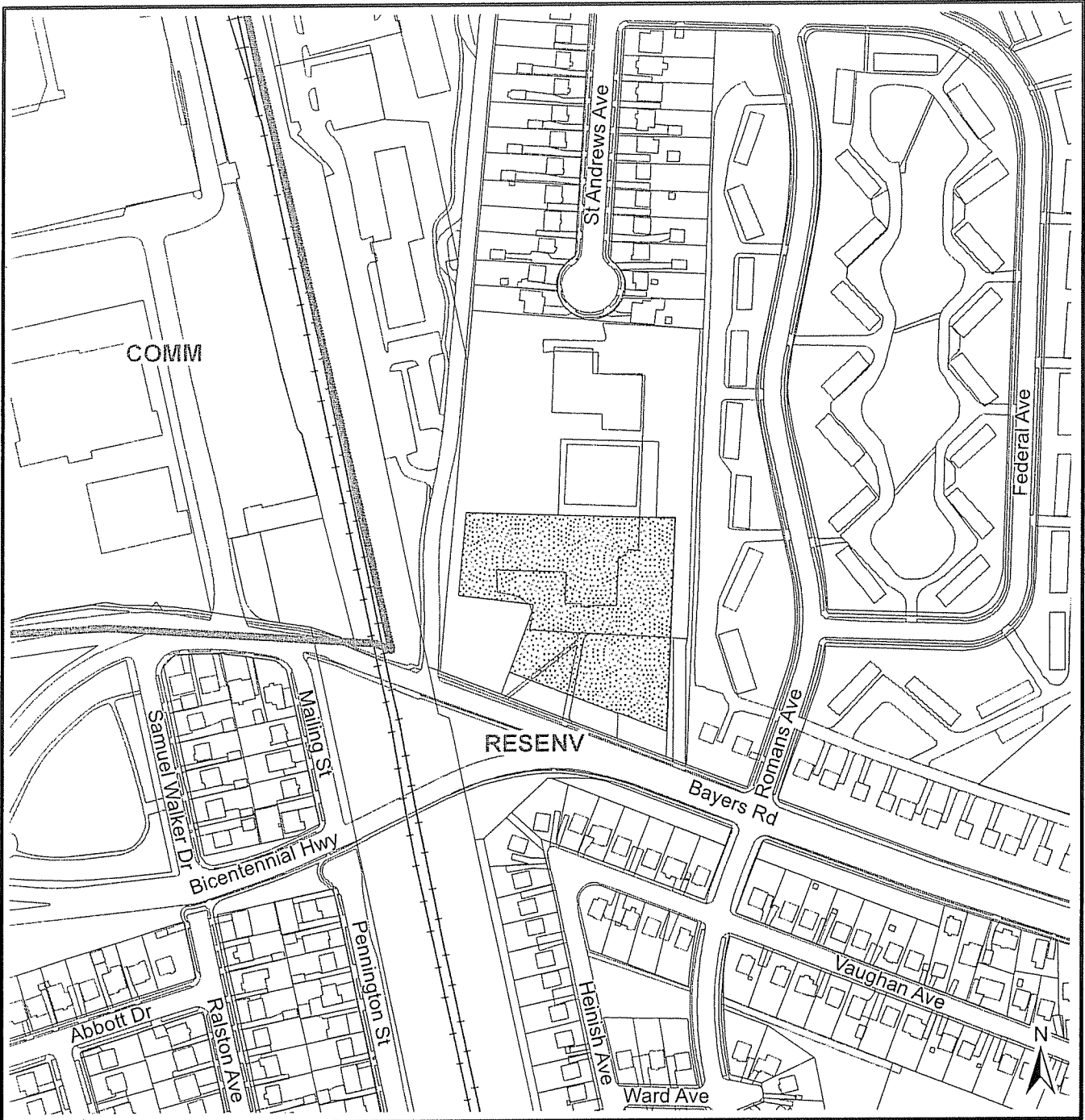
**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law area


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





Map 2 - Generalized Future Land Use

6955 Bayers Road  
Halifax

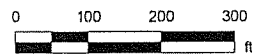
 Subject property

Halifax Plan Area

**Designation**

RESENV Residential Environments  
COMM Commercial

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan Area

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

ATTACHMENT "A"

**Proposed Amendments to the Halifax Municipal Planning Strategy  
and Halifax Peninsula Land Use By-law**

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Halifax is hereby amended as follows:

1. Replace Policies 2.14 and 2.14.1 of Section II (City-Wide Objectives and Policies) of the Halifax Municipal Planning Strategy with the following policies:

**2.14 For the property at 6955 Bayers Road (PID # 40824005) the Municipality may permit the development of a multiple unit residential building by development agreement.**

**2.14.1 Any development permitted pursuant to Policy 2.14 shall be compatible with the surrounding area and this shall be achieved by attention to a variety of factors for which conditions may be set out in the development agreement, such as but not limited to:**

- a) the adequacy of the servicing capacity of the site;
- b) the architectural design of the building including building materials;
- c) the adequacy of parking facilities;
- d) preservation and/or enhancement of the function of the larger site which includes the existing Cemetery and Community Centre;
- e) provide opportunities for public access to the existing indoor and outdoor components of the larger site;
- f) provision for vehicular and pedestrian access and egress patterns from the surrounding area;
- g) the provision of open space; and
- h) adequate site landscaping.

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Land Use Bylaw for Halifax Peninsula is hereby amended as follows:

1. Replace Section 99(9) of the Halifax Peninsula Land Use By-law to read as follows:

**6955 Bayers Road (PID #40824005)**

**Council may, by development agreement, pursuant to Policies 2.14 and 2.14.1 of Section II of the Halifax Municipal Planning Strategy, permit the development**

**of a multiple unit residential building at 6955 Bayers Road, Halifax (PID #40824005).**

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the \_\_\_\_ day of \_\_\_\_\_, A.D. 2008.

Given under the hand of the Municipal Clerk and under the corporate seal of the Municipality this \_\_\_\_\_ day of July, A.D. 2008.

\_\_\_\_\_  
Municipal Clerk

**ATTACHMENT "B"**  
**Development Agreement**

THIS AGREEMENT made this      day of                      , 2008,

BETWEEN:

**3106631 NOVA SCOTIA LIMITED,**  
a body corporate in the Province of Nova Scotia  
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

**HALIFAX REGIONAL MUNICIPALITY,**  
a municipal body corporate,  
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 6955 Bayers Road, Halifax (PID # 40824005) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for a 121 unit 16 storey residential apartment building on the Lands pursuant to the provisions of the Municipal Government Act and pursuant to the provisions of the Halifax Municipal Planning Strategy of the Halifax Peninsula Land Use By-law;

AND WHEREAS the Peninsula Community Council approved this request at a meeting held on                      , 2008, referenced as Municipal Case Number 00930;

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

**PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

**1.1 Applicability of Agreement**

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

## 1.2 **Applicability of Land Use By-law and Subdivision By-law**

Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Halifax Peninsula Land Use By-law and the Subdivision By-law, as may be amended from time to time.

## 1.3 **Applicability of Other By-laws, Statutes and Regulations**

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

## 1.4 **Conflict**

1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.4.2 Where the written text of this agreement conflicts with information provided in the Schedules attached to this agreement, the written text of this agreement shall prevail.

1.4.3 Where metric values conflict with imperial values within the written text of this Agreement, the metric values shall prevail.

### 1.5 **Costs, Expenses, Liabilities and Obligations**

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal regulations, by-laws or codes applicable to the Lands.

### 1.6 **Provisions Severable**

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

## **PART 2: USE OF LANDS AND DEVELOPMENT PROVISIONS**

### 2.1 **Schedules**

The Developer shall develop the lands in a manner, which, in the opinion of the Development Officer, is generally in conformance with Schedules B to F inclusive attached to this agreement and the plans numbered 00930-0024 to 00930-0028 inclusive filed in the Halifax Regional Municipality as Case Number 00930 and shall not develop or use the Lands for any purposes other than a 121 unit 16 storey residential apartment building.

The schedules are:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan numbered 00930-0028
Schedule C	East Building Elevation (main entrance) numbered 00930-0024
Schedule D	Southwest Elevation (Bayer's Road) numbered 00930-0025
Schedule E	Northwest Elevation (Memorial Site) numbered 00930-0026
Schedule F	Northeast elevation (Comm Ctr) numbered 00930-0027

### 2.2 **Requirements Prior to Approval**

2.2.1 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an occupancy permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

2.2.2 Prior to the issuance of any municipal permits, the Developer shall complete the MICI (Multi-unit/Industrial/Commercial/Institutional/Commercial) permit review process.

2.2.3 The Developer shall convey to the Municipality a 6 metre (20 foot) wide right-of-way (R.O.W.) as specified under Section 2.6.2 of this agreement.

2.2.4 The Developer shall convey to the Municipality the public open space as identified on Schedule B as specified under Sections 2.8.8 and 2.11 of this agreement.

### 2.3 **General Description of Land Use**

The use of the Lands permitted by this Agreement, subject to its terms and as generally illustrated on the Schedules attached hereto, are as follows:

- a) One sixteen (16) storey, 121 unit multiple unit residential building, including an underground parking level; and
- b) public open space.

### 2.4 **Detailed Provisions for Land Use**

2.4.1 The sixteen storey building shall be designed in accordance with the Multiple Dwelling (R-3) Zone provisions contained within the Land Use By-law for Halifax Peninsula.

2.4.2 For the purposes of determining permissible density, one bedroom plus den units shall be considered to be a one-bedroom unit.

2.4.3 The Development Officer may approve minor modifications to the building, including the architectural design of the building such as facade features and the type of exterior materials, provided such modifications are minor in nature and, in the opinion of the Development Officer, further enhance the appearance of the building and the Lands.

2.4.4 The area of land to be conveyed to the Municipality for public open space purposes, comprising 6,981 square metres (22,905 square feet), shall be allowed to be used for the purpose of calculating density, open space and landscaped open space requirements and shall function as recreational amenity space for the proposed development.

### 2.5 **Architectural Requirements**

2.5.1 The Developer agrees that the building constructed on the Lands shall be as generally illustrated on Schedules B to F inclusive.

2.5.2 Architectural treatment shall be continued around all sides of the building as identified on Schedules C, D, E and F.

2.5.3 Exterior building materials shall not include vinyl siding or exposed treated lumber but may include any one or more of the following:

- (a) aluminum/glass curtain wall;
  - (b) tinted precast concrete panels;
  - (c) concrete columns;
  - (d) noncombustible cladding; or
  - (e) acceptable equivalents in the opinion of the Development Officer.
- 2.5.4 The maximum height of the building shall not exceed 55 metres (180 feet) above the existing average grade of the abutting access driveway.
- 2.5.5 The dwelling units shall not contain any non-habitable rooms, which in the opinion of the Development Officer, could be converted to habitable rooms.
- 2.5.6 Roof materials shall be comprised of prefinished metal roofing/siding, or equivalent in the opinion of the Development Officer.
- 2.5.7 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.
- 2.5.8 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from public view.
- 2.5.9 Any exposed foundation in excess of one (1) metre (3 feet) in height shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.
- 2.5.10 A minimum of 60 bicycle parking spaces shall be provided with a minimum of 50 provided inside the building.
- 2.5.11 Decorative lighting is to be provided on the building face at the pedestrian level for security and aesthetic purposes. Lighting shall be directed to driveways, parking areas, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 2.5.12 The roof top perimeter fencing/guardrail and balcony railings shall be of decorative metal and tempered, tinted glass complementary to the building.
- 2.5.13 The Developer shall be entitled to modify the internal floor plans and the configuration of internal units provided the number of units and building size does not increase and the exterior appearance of the building is not affected.



- 2.5.14 The building shall include designated space for three stream (refuse, recycling and composting) source separation services. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.

## 2.6 **Parking, Circulation and Access**

- 2.6.1 The internal driveway layout and the number and layout of at-grade parking spaces on the Lands shall be as generally illustrated on Schedule "B". The Developer agrees that the parking on the Lands shall comply with the following:

- (a) a minimum of 100 spaces shall be provided underground and a minimum of 125 parking spaces shall be provided in total.
- (b) all parking areas, driveways, circulation aisles and walkways shall have a finished hard surface such as asphalt, concrete, paving blocks or an acceptable equivalent in the opinion of the Development Officer.
- (c) all parking lots shall be delineated by curbing and such curbing shall not be asphalt.

- 2.6.2 Prior to the issuance of an Occupancy Permit, the Developer shall convey a 6 metre (20 foot) wide right-of-way (R.O.W.) to the Municipality, in a form acceptable to the Municipality, to provide an unencumbered public access for vehicles to the existing Cemetery, Gymnasium and Community Centre as shown on Schedule B.

## 2.7 **Amenity Space**

Amenity space shall be set aside for recreational purposes such as common recreational areas, play areas, recreational rooms, balconies and roof decks. Amenity space shall include all area(s) set aside for the purposes of visual improvement or recreation and not used for buildings, structures, parking areas or driveways, and shall include areas of grass, flower beds, shrubbery, trees and landscaping, and balconies and sun decks.

## 2.8 **Landscaping**

- 2.8.1 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications

- 2.8.2 A detailed Landscape Plan prepared by a Landscape Architect (that is a full member, in good standing, of the Canadian Society of Landscape Architects) shall be submitted with the application for Development Permit. The detailed landscape plan shall include, as a minimum, planting as identified in this agreement. The landscape proposal for the lands currently owned or to be owned by the Municipality to be reviewed and found satisfactory to the Parkland Planner and the Development Officer.

- 2.8.3 Planting details for each type of plant material proposed on the plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).
- 2.8.4 Construction Details or Manufacturer's Specifications for all landscaping features such as fencing and benches shall be provided to the Development Officer, and shall describe their design, specifications, materials and placement so that they will enhance the design and the character of the surrounding area.
- 2.8.5 It is the responsibility of the Developer to ensure that the landscaped podium is designed to be capable of supporting loads from the weight of landscaping including such items as decorative planters/pots, the anticipated mature weight of the plant material, as well as the weight of any hard surface material.
- 2.8.6 A minimum of 18, salt tolerant, high branching deciduous trees, minimum 60 mm caliper (2.4 inch diameter) in size, shall be planted on the Lands adjacent to the existing access road and along the Bayer's Road frontage. A minimum of 15, mid size trees, a minimum 45 mm caliper (1.7 inch diameter) in size, and 30 shrubs, a minimum height of 60 cm (2 ft.) shall be planted on the landscaped podium and to provide screening for the parking areas. Outdoor bicycle racks and associated hard surface shall be provided in the location indicated on Schedule B.
- 2.8.7 The Developer shall provide new, decorative metal fencing, to the satisfaction of the Parkland Planner, to be located to the west, south and east of the existing Memorial site as shown on Schedule B. The eight existing overgrown conifer trees within the Memorial site are to be replaced by the Developer with an equal number of trees of a size and type satisfactory to the Parkland Planner and the Municipality's Urban Forester. The installation work shall be co-ordinated with the Municipality's Cemeteries/Capital District Maintenance section. The Developer agrees to make every effort to preserve the existing trees along the west side of the memorial site and, in particular, during the removal and installation of fencing.
- 2.8.8 The Developer shall be responsible for completing improvements to the public open space as identified on Schedule B and as further detailed in the landscape plans required under section 2.8.2 of this agreement to the satisfaction of the Parkland Planner prior to the conveyance of ownership to the Municipality and prior to the issuance of any Occupancy Permit for the building. The landscape treatment shall include tree planting, benches, garbage receptacles, fencing, a 3.6 metre (12 ft.) wide access drive (with opportunities for parallel parking for use by the cemetery) and be fine graded, top soiled and sodded.
- 2.8.9 All disturbed areas shall be reinstated to original condition or better.

2.8.10 Prior to issuance of the Occupancy Permit the Developer shall submit to the Development Officer a letter certifying that all landscaping has been completed according to the terms of this Development Agreement.

2.8.11 Notwithstanding the above, should the weather or seasonal conditions be such that the Developer is unable to complete the landscape works (i.e., between November 15 and March 15) then the Occupancy Permit may be issued provided the Developer supplies security in the amount of 110 per cent of the estimated cost to complete all of the landscaping. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the security to complete the landscaping as set out in this Section of the agreement. The Developer shall be responsible for all costs in this regard exceeding the security. The security or any unused portion thereof shall be returned to the Developer upon completion of the work and its certification.

## 2.9 **Maintenance**

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow removal/sanding of walkways and driveways, including the existing access road abutting the site. The maintenance of the public open space will become the responsibility of the Municipality upon its acceptance of the deed for that parcel.

## 2.10 **Archaeological Monitoring and Protection**

The lands at 6955 Bayers Road immediately abut an existing cemetery resulting in a high potential for archeological impact. The Developer shall contact the Curator of Special Places with the Heritage Division of the Department of Tourism, Culture and Heritage of the Province of Nova Scotia prior to any disturbance of the site and the Developer shall comply with requirements set forth by the Province in this regard. The Developer shall provide on-site monitoring by a Professional Archaeologist during any excavation adjacent to the east and north sides of the Memorial site, pursuant to the requirements of the Nova Scotia Museum under the *Special Places Protection Act*.

## 2.11 Public Open Space

- 2.11.1 The Developer shall convey to the Municipality public open space, of approximately 6,981 square metres (22,905 square feet) (as shown on Schedule B) fully developed as identified in Section 2.8.8., upon completion of all site works and prior to the issuance of occupancy permits for the building. The existing cemetery shall be upgraded in accordance with Schedule B and Section 2.8.7 of this agreement by the Developer prior to the issuance of an Occupancy Permit for the building.
- 2.11.2 Should the landscape work in the public open space make the public open space not ready for donation to the Municipality as a result of weather or seasonal conditions such that the Developer is unable to complete the landscape works (i.e., between November 15 and March 15) then the land shall be deeded to the Municipality prior to issuance of an Occupancy Permit and the Developer shall provide a cost estimate for all incomplete work, which includes itemized unit costs and includes a minimum of 10% of the total for a contingency fee, to the Development Officer and shall provide Equivalent Value security in favour of the Municipality in the form of a certified cheque or irrevocable automatically renewing Letter of Credit issued by a chartered bank in the amount of 110% of the amount of the cost estimate. The Development Officer shall return the security to the Developer upon acceptance of the outstanding site works. Should the outstanding landscape works not be completed within the growing season immediately following the issuance of the Occupancy Permit for the building then the securities shall be cashed and utilized for the completion of the outstanding landscape works.

## PART 3: STREETS AND MUNICIPAL SERVICES

- 3.1 All construction shall satisfy the Municipal Service Systems Specifications and By-law S-300 unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineer prior to undertaking the work.
- 3.2 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.
- 3.3 The Developer shall be responsible for the upgrading of the existing HRM-owned access driveway from Bayers Road along the eastern property boundary of the site including new curb and gutter, new sidewalk, asphalt surface and reconfiguration of the access onto Bayers Road in accordance with Schedule B to the satisfaction of the Development Engineer.

- 3.4 If it is determined during the design or construction stage that the power pole located west of the access driveway on Bayers Road is to be relocated to accommodate any improvements to the entrance driveway from the site to Bayers Road, the Developer shall be responsible for all associated costs.

#### **PART 4: SUBDIVISION OF THE LANDS**

Unless otherwise acceptable to the Development Officer, a subdivision application shall be submitted to the Development Officer in accordance with the plan presented as Schedule B and the Development Officer shall grant subdivision approval for the public open space subject to and in accordance with the Sections 2.8.2, 2.8.8 and 2.11 of this agreement.

#### **PART 5: AMENDMENTS**

##### **5.1 Substantive Amendments**

Amendments to any matters not identified under Section 5.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Municipal Government Act*.

##### **5.2 Non-Substantive Amendments**

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

- (a) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this agreement;
- (b) The granting of an extension to length of time for the completion of the development as identified in Section 7.4.1 of this agreement;
- (c) A change of the number of residential units provided the allowable density in the Halifax Peninsula Land Use By-law is not exceeded; that plans are submitted for any changes to the building design; and that such changes, in the opinion of Council, are minor in nature;
- (d) Changes to the architectural requirements/details as shown on the attached schedules or as detailed in Section 2.5 which, in the opinion of Council and the Development Officer are minor in nature;
- (e) Changes to the design of public open space including landscaping, size or configuration which, in the opinion of Council, the Parkland Planner and the Development Officer are minor in nature;
- (f) A reduction in the height and/or floor area of the building; and
- (g) Changes to the landscaping measures as detailed in Section 2.8 which, in the opinion of Council, are minor in nature.

## **PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **6.1 Enforcement**

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within one day of receiving such a request.

### **6.2 Failure to Comply**

If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:

- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy; and/or
- (b) the Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the development agreement, whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants or remedial action, shall be a first lien on Lands and be shown on any tax certificate issued under the *Assessment Act*.
- (c) the Municipality may, by resolution, discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
- (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the *Municipal Government Act* or Common Law in order to ensure compliance with this Agreement.

## **PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **7.1 Registration**

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds or Land Registry Office for Halifax, Nova Scotia and the Developer shall incur all cost in recording such documents.

### **7.2 Subsequent Owners**

7.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the lands which is the subject of this Agreement until this Agreement is discharged by the Council.

7.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

### **7.3 Commencement of Development**

7.3.1 In the event that development on the Lands has not commenced within three years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

7.3.2 For the purposes of this section, commencement shall mean the installation of the footings and foundation for the proposed building.

7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 5.2, if the Municipality receives a written request from the Developer at least sixty (60) days prior to the expiry of the commencement of development time period.

### **7.4 Completion of Development**

7.4.1 If the Developer fails to complete the development, or after five years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office, whichever time period is less, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement.

- 7.4.2 Upon the completion of the development or portions thereof, or within/after five years from the date of registration of this Agreement with the Registry of Deeds or Land Registry Office, whichever time period is less, Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
  - (b) negotiate a new Agreement;
  - (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Halifax Peninsula, as may be amended from time to time.

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:

**3106631 NOVA SCOTIA LIMITED**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

=====

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

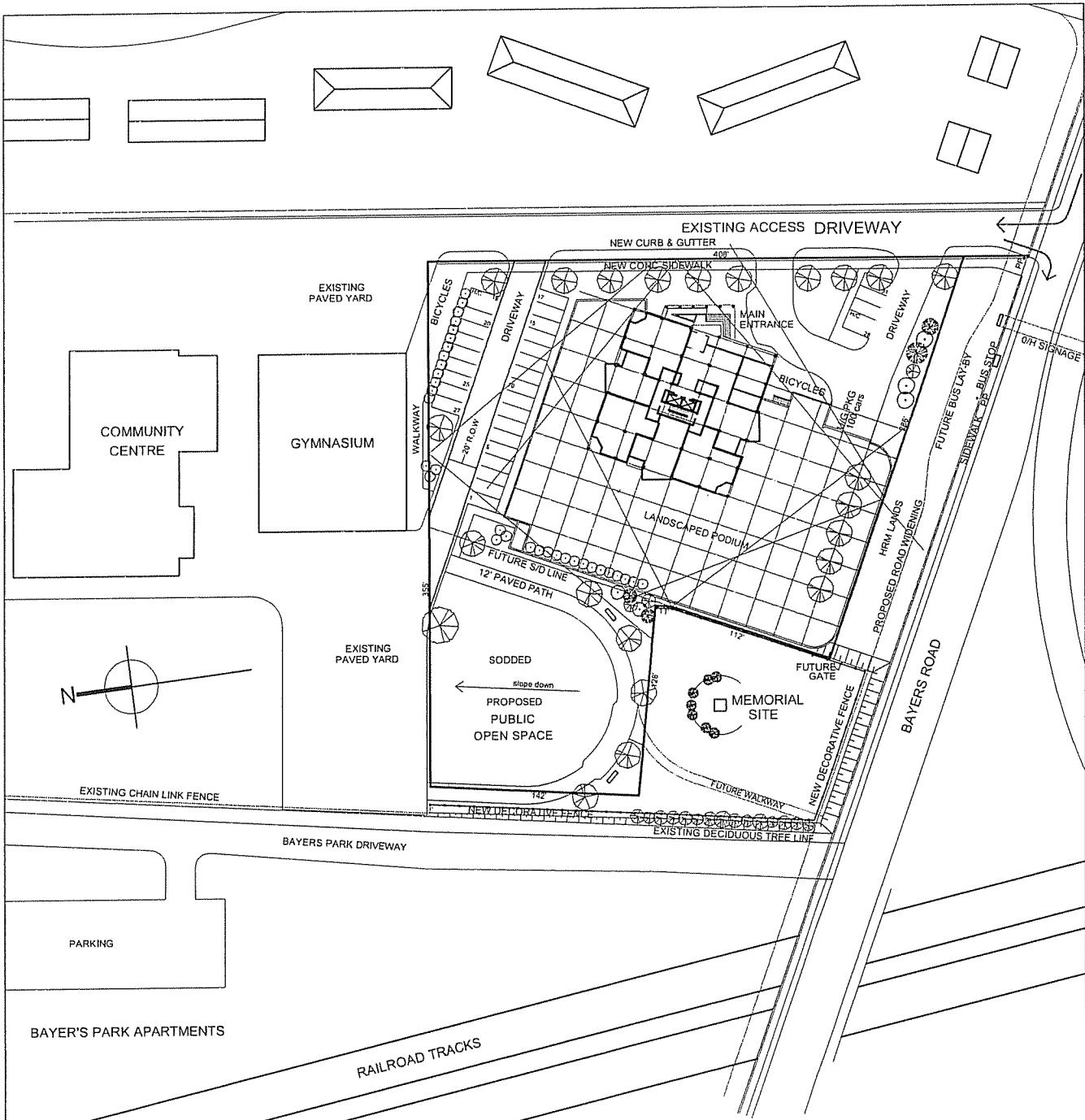
=====

**HALIFAX REGIONAL MUNICIPALITY**

Per: \_\_\_\_\_  
Mayor

Per: \_\_\_\_\_  
Clerk





total site area	95,832 sf	project density		total site area	95,832 sf
frontage allowance	15,780 sf	4 - 3BR	16 people	building area	11,416 sf
gross site area	111,612 sf = 2.56Ac	59 - 2BR	177 people	driveways, ext.pkg	17,480 sf
allowable population @ 125 ppa	320 people	58 - 1BR	116 people	i.o.s provided	66,936 sf
		121 suites	309 people	unit balconies	8,137 sf
		i.o.s required	27,420 sf	roof terraces	2,792 sf
		rec space req'd	5,020 sf	total open space	77,865 sf
				public open space	22,905 sf
				net open space	54,960 sf

**KASSNER  
GOODSPEED**  
ARCHITECTS

5663 CORNWALLIS STREET, SUITE 200  
HALIFAX, N.S. B3K 1B6 902-422-1557

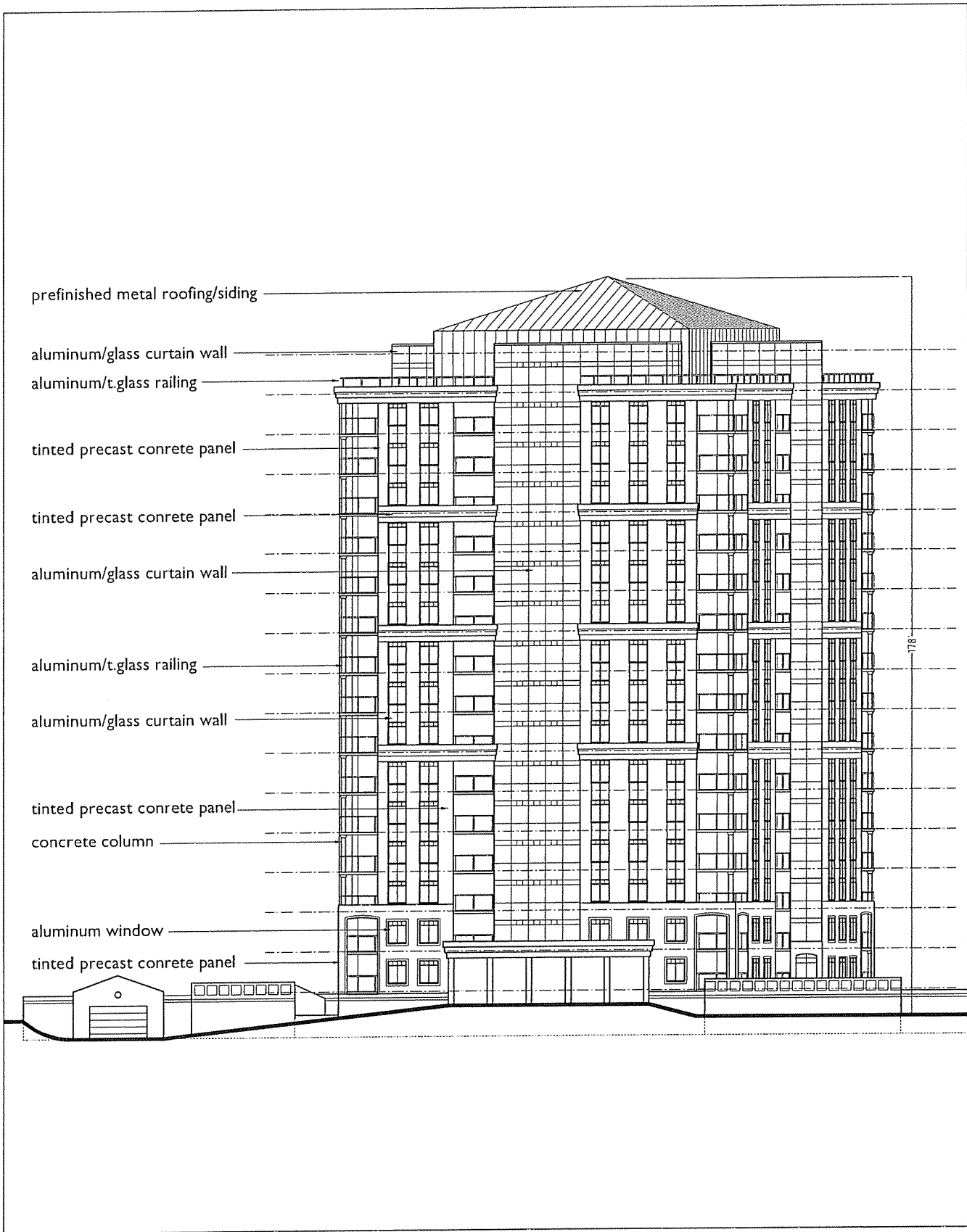
**RESIDENTIAL DEVELOPMENT**

6955 BAYER'S ROAD, HALIFAX NS

**SCHEDULE B**

SITE PLAN

SCALE 1"=100'  
Jan 13, 2008



**KASSNER  
GOODSPEED**  
ARCHITECTS

5663 CORNWALLIS STREET, SUITE 200  
HALIFAX, N.S. B3K 1B6 902-422-1557

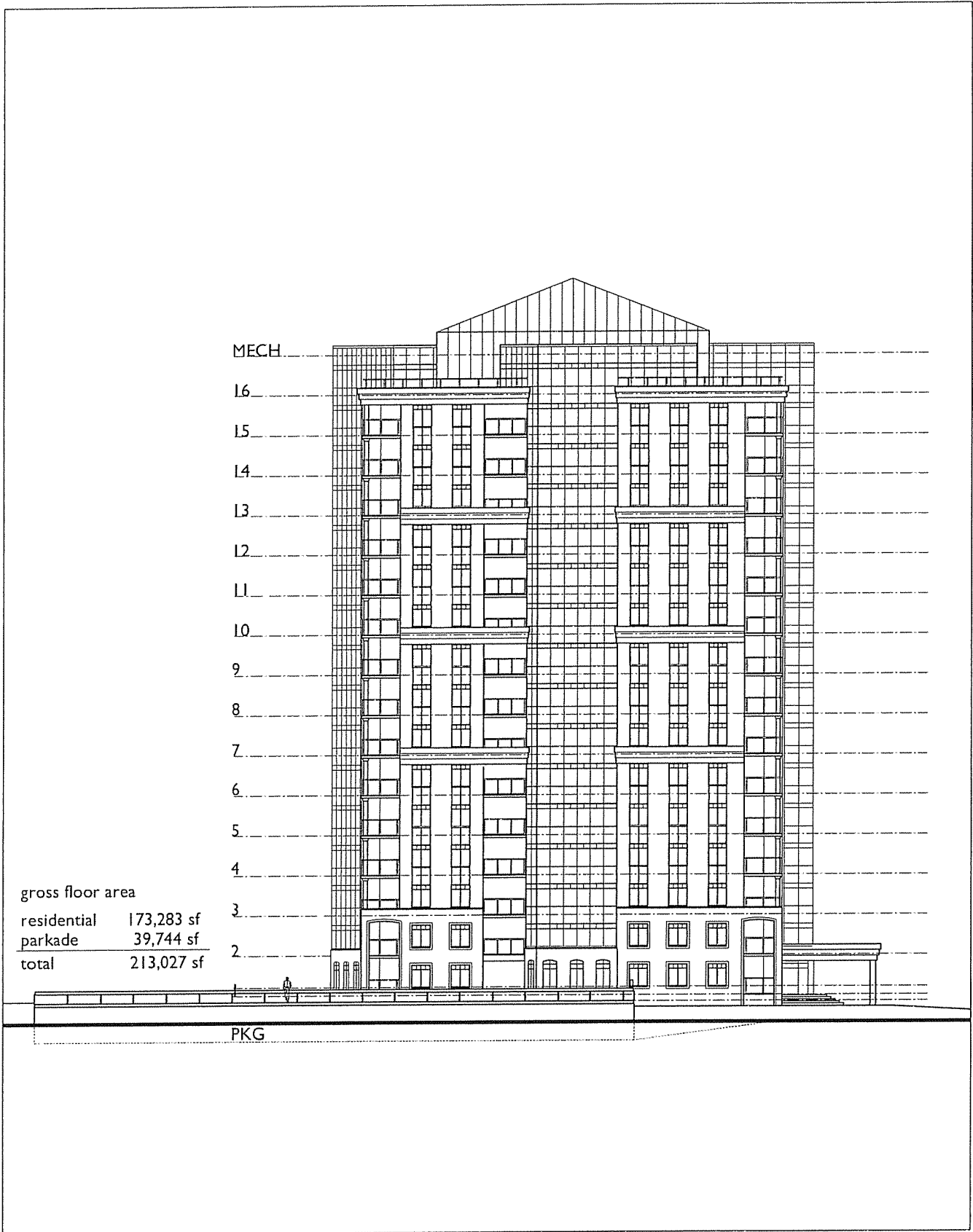
**RESIDENTIAL DEVELOPMENT**

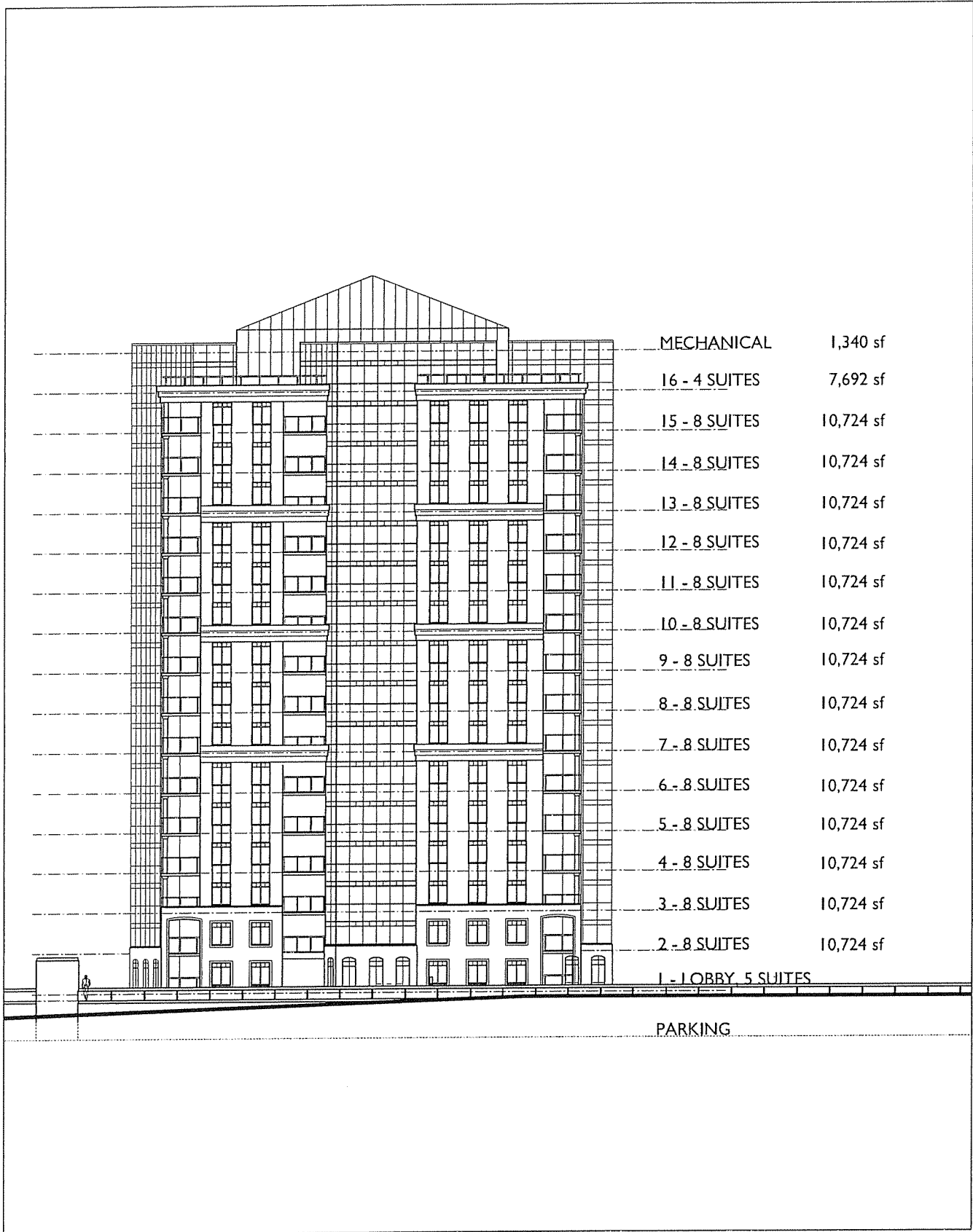
6955 BAYER'S ROAD, HALIFAX NS

**SCHEDULE C**

EAST ELEVATION

SCALE 1"=32'  
Jan 08, 2008





**KASSNER  
GOODSPEED**  
ARCHITECTS

5663 CORNWALLIS STREET, SUITE 200  
HALIFAX, N.S. B3K 1B6 902-422-1557

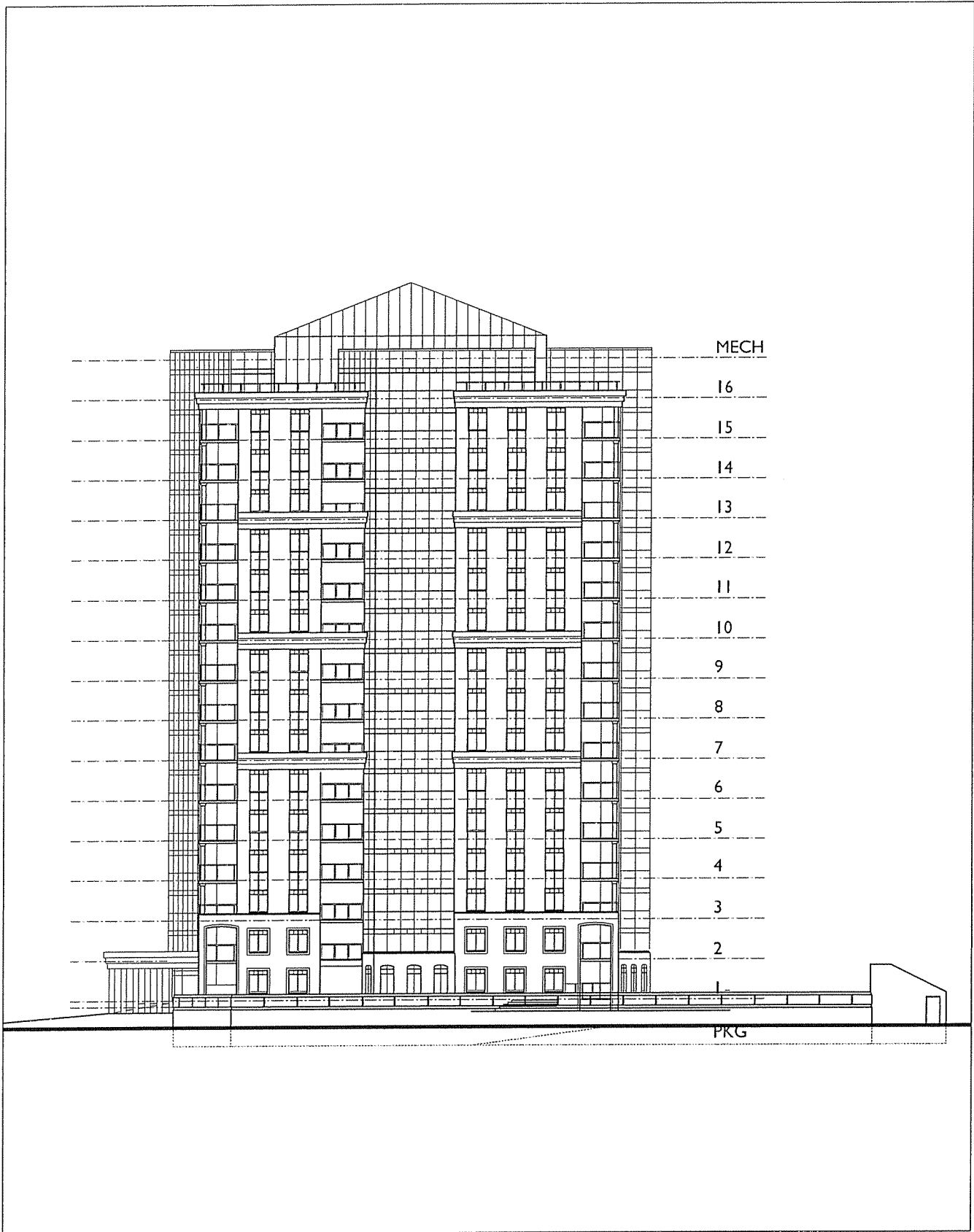
**RESIDENTIAL DEVELOPMENT**

6955 BAYER'S ROAD, HALIFAX NS

**SCHEDULE E**

NORTHWEST ELEVATION

SCALE 1"=32'  
Jan 08, 2008



**KASSNER  
GOODSPEED**  
ARCHITECTS

5663 CORNWALLIS STREET, SUITE 200  
HALIFAX, NS B3K 1B6 902-422-1557

**RESIDENTIAL DEVELOPMENT**

6955 BAYER'S ROAD, HALIFAX NS

**SCHEDULE F**

NORTHEAST ELEVATION

SCALE 1"=32'  
Jan 08, 2008

**ATTACHMENT "C"**  
**Public Information Meeting Minutes**  
**Case 00930**  
**January 24, 2007**

In attendance: Randa Wheaton, Senior Planner, Planning Applications  
Gail Harnish, Planning Services  
Dan Goodspeed, Kassner Goodspeed Architects  
Councillor Fougere  
Councillor Murphy  
Councillor Walker

**Ms. Randa Wheaton** called the public information meeting (PIM) to order at approximately 7:00 p.m. at the St. Andrews Recreation Centre.

Ms. Wheaton advised the application involves a plan amendment, a land use by-law amendment, and a development agreement. The request is to amend the Halifax Municipal Planning Strategy and the Peninsula Land Use By-law to permit a development agreement for two eight storey multiple unit residential buildings containing a total of 122 units at 6955 Bayers Road. The property was part of the former St. Andrews School site previously owned by HRM.

Ms. Wheaton indicated the site is the open area next door and does not include the HRM owned cemetery. In 1998, Peninsula Community Council approved a development agreement to permit a combined senior citizens housing and cultural centre complex for the Italian Cultural Association of Halifax and Dartmouth areas. The development did not proceed and HRM was offered the property but determined it was not required for municipal purposes and it is now under private ownership.

Ms. Wheaton noted the Parks and Institutional zoning which is currently on the land does not allow the residential use being proposed. The existing policies in the MPS were created to specifically allow the Italian Cultural proposal. Because of this, development on the lands will require that the MPS be amended. Site specific amendments are generally only considered where circumstances related to the policies of the MPS have changed, as they have in this case.

Ms. Wheaton advised this property also falls within the Urban District Centre Designation under the Regional Plan which calls for a mix of high density commercial, institutional and recreational use. Because this land is zoned P (Park and Institutional), a residential complex cannot be developed as-of-right so the MPS has to be amended.

Ms. Wheaton reviewed the application process:

- the process starts with an application
- there is a preliminary review of the application by staff to make sure there are no major technical problems

- an initiation report is sent to Regional Council for direction - Regional Council has the right to decide whether or not they want to initiate the process to consider amending the MPS. The initiation report went to Council in October and they determined we should proceed with the process to look at an MPS amendment for this property.
- tonight is the public meeting - it is very early in the process so that we can get feedback from the community and understand how the community feels about this proposal. In many cases, the public meeting is when the proposal gets modified or improved to address concerns that are brought forward by the community.
- we will do a detailed review of the application, which includes circulating the proposal to various departments and agencies to review the technical aspects
- Planning Services will prepare a report and a draft development agreement - a development agreement is a legal document between the developer and HRM which lays out all the requirements in order for this development to proceed
- the report and the recommendation will go to Peninsula Community Council and then to Regional Council
- Regional Council has the choice of either proceeding to a public hearing and setting a hearing date or not proceeding. Generally they will schedule a public hearing date. It would be advertised as this meeting was.
- it would be a joint public hearing of Regional Council and Peninsula Community Council - members of the public would have the opportunity to come forward and speak in favour or against and to express any concerns.
- once the public hearing is closed, Regional Council will make a decision on the plan amendment. If the amendment is approved, it will be forwarded to the Minister to review to make sure there is no conflict with Provincial interest.
- once notice of approval is given for the plan amendment, the development agreement would go back to Peninsula Community Council for approval.

**Mr. Dan Goodspeed** advised their architectural firm has been practicing in Halifax for about twenty-five years. They have a great deal of experience in residential projects. He reviewed some projects his company has designed. The developer is Sol Ghosn. They worked with him previously on the Lexington apartments on the corner of Robie Street near the Commons which they finished about two years ago. About one year ago, they were asked to look at a residential project for this site.

Mr. Goodspeed pointed out the site at 6955 Bayers Road. It is an irregular shaped piece of land. He pointed out the original small site and this piece sold off ten years ago as well as the memorial site and the recreational area, noting the site separates the two. The memorial site is for the unidentified victims in the Halifax Explosion. They also understood there may be some other burials there. It is fenced off. He has lived in the city for twenty-five years and did not know until four years ago that this was a memorial site.

Mr. Goodspeed pointed out: various types of residential properties surrounding St. Andrews Avenue and Romans Avenue, some townhouses, rowhouses, and Bayers Road apartments. The site is 2.22 acres with 300' of frontage on Bayers Road. At the moment it is a level paved site. You can find

traces there of the old foundation of the school building. There is a little garage towards the street side.

Mr. Goodspeed indicated there is a single access road that runs along the east side of the site which provides access not only to the site but to the recreational site. Because of the juncture of the highway with Bayers Road, that is the only possible access to this site. It goes without saying that some improvement would be required to the Bayers Road intersection to make the right hand turn easier to negotiate.

Mr. Goodspeed noted there is clear indication of pedestrian paths crossing the site. You can see evidence of it here (pointed out). It is very heavily used. Any pedestrian traffic from the east to the commercial area has to cross the bridge on Bayers Road.

Mr. Goodspeed indicated they have the monument in the southwest corner. It is raised and completely fenced. He thought there was great room for improvement on that and his client was willing to make upgrades or enhancements to the memorial site as part of the project they are proposing.

**An individual** stated there is a gated entrance and somebody was recently buried there. Bodies are being buried there as we speak.

Mr. Goodspeed indicated in the initial application they made to the city about a year ago, they were advised by Parks and Recreation that this site was intended to provide recreational uses for quite a large surrounding distance. Additionally on the site they have the gym leased to the gymnastics group, the play fields in behind, and the building they are in which is the recreational centre which has a gym and quite a lot of facilities for community use.

Mr. Goodspeed noted there are a number of planning issues to be considered. It is important to recognize that the site was considered surplus to HRM needs for at least seven years. It was sold quite some time ago and HRM did not pick up on an option to purchase it back. The Italian Cultural Centre project did not proceed.

Mr. Goodspeed stated that because of the Park and Institutional zoning, they require a plan amendment to permit a residential use. There is specific mention of this site in the Municipal Planning Strategy (MPS) and it creates the ability to approve a senior's oriented development. It is their position that in the ten years since that amendment was placed in the plan, conditions have changed quite dramatically and there are more facilities available for seniors within the area.

Mr. Goodspeed indicated they have a site which is a very prominent location. The junction of a major transportation route; the 102 meets Bayers Road in front of the site. In essence it is a gateway to the peninsula and to the urban core. The memorial grave yard is of considerable historic significance which he believed needs to be celebrated. Another piece of information from the preliminary review is that this site is not considered appropriate for commercial use. The basic reason for that is access. The area where the 102 meets Bayers Road is not a point where you want



much turning and traffic heading into a commercial development. However, it was considered appropriate for residential use.

Mr. Goodspeed noted the site is designated as an Urban District Centre in the new Regional Plan. They are in an area where development is encouraged; where transit can be facilitated; and where it creates centres to the surrounding area. The Bayers Road area was identified in the plan. High residential development is identified as a higher priority use.

Mr. Goodspeed indicated they are in a situation in the city where they need to shrink their footprint. In urban planning terms, that means we need to find options to increase density in their downtown core. Rather than having Halifax three storeys high to Hubbards, they have to concentrate more development on the peninsula and closer together. There are two strategies to do that. You add one storey everywhere. You can do that but it is unpractical. The other way is to find sites that are available and appropriately located where higher density uses can be done. That can include old industrial sites or former institutional sites. They tend to be on the higher traffic routes and near intersections. They believe this is a prime example of a site like that. It abuts a residential area and is an opportunity to enhance the recreation potential. It gives amenities to higher density in those areas and they have a situation with a district park status which he thought in recreation terms means it should be further developed and highlighted. They have an opportunity or perhaps an obligation to integrate the memorial, improve it, and make it exceptional.

Mr. Goodspeed noted that if you look around the site, they are pretty much surrounded by residential development. The Vaughan Avenue area has a very particular character with one to 1.5 storey buildings. To the east they have Romans Avenue which is basically a lower housing project. Just to the north they have Bayers Park apartments with ten storeys each with 200-250 units and immediately to the north they have St. Andrews Avenue which is a mixture of one, one and a half, and two storey homes.

Mr. Goodspeed indicated if look at the site, it has major traffic in and outbound on Bayers Road. They only have one traffic route into the site which will serve the site and provide access to the recreational area. There is a clear pedestrian road from the Bayers Road corridor. There is a connection so they flow into the recreational centre. There is a secondary path that comes from the Bayers Park apartments behind and through the site and begins to head east.

Mr. Goodspeed advised that when the site was sold, a 15' strip was retained along this boundary (pointed out) which is the cemetery access road. There is a 40' wide strip along the front which belongs to HRM in anticipation of future road widening.

Mr. Goodspeed indicated the MPS provides three categories for development in Halifax. In the Central Business District, they can develop 250 persons per acre (ppa). The balance of the peninsula, including this area, can be developed to a maximum of 125 ppa. In the mainland, for the most part, they can develop 73 ppa in the R-3 zone. That tends to get over written by development agreements

but this is the basic structure used to control development in the city. They are allowed a maximum population of 297 people.

Mr. Goodspeed advised Halifax counts habitable rooms in order to decide how many people are in an apartment. Depending on the mix of apartment type you might have in a particular development, the total number of units can change but the control is the maximum number of people permitted. When you apply these rules to the site, they are looking at a project with approximately 100 - 130 units depending on the mix.

Mr. Goodspeed indicated the question to them became how to best put that volume on the site. Their client is looking to develop a high quality rental apartment project:

- it will be non-combustible construction which will be fully sprinklered
- there will be a mix of one, two and three bedroom suites
- large windows
- private balconies
- a substantial amount of visitor parking
- general parking will be accommodated under the buildings
- bicycle facilities will be included
- the site will be fully landscaped
- the project responds to the adjacent community uses, highlights the memorial, and basically becomes a good neighbour to everybody around.

Mr. Goodspeed noted they came up with four schematic designs that fit within HRM controls. The first solution they looked at included three four storey buildings which they did not think was successful. They looked at two six storey buildings. They were not terribly pleased with the development pattern it created so they looked at a single building.

Mr. Goodspeed indicated they then met with the local councillor and discussed all three scenarios and presented their take on which would be better. It was felt the single building would be too tall and not appropriate so they had to find another solution that they felt remedied some of the problems, and ended up with two eight storey buildings.

Mr. Goodspeed referenced the four storey solution, noting the coverage is about 34% which is very high for four storey buildings. There were nooks and crannies which are not good for security reasons and all views of the recreational areas were blocked by the buildings. They would have underground parking but by virtue of this building coming over here (pointed out) it downplays the importance of the memorial site and it looks like this is adjacent to a bigger project. In all of these solutions, they would provide a sidewalk along the existing access road. They were unsatisfied with this. It is too dense.

Mr. Goodspeed indicated they then looked at a six storey solution. This is in many ways similar to the project planned by the Italian Cultural organization. They had one building that was L shaped in this location (pointed out). It would be the same bulk. They did not feel this treated the memorial

site well. They felt the buildings were too close together and at six floors they could have some potential problems through here (pointed out). They did not feel that was a terribly good pattern.

Mr. Goodspeed noted they then looked at the single building. Now their coverage is down to 10% of the site. If they did that pattern they would be willing to create a recreational space out of this piece of land. The piece of left over is about the size of a ballfield or a skating pond. The nice thing is that it would allow pedestrian flow through. This was the plan they had at the meeting with the councillor.

Mr. Goodspeed indicated they ended up with this solution - two eight storey buildings. Basically they were able to pull them further apart and on podiums and they achieved space between the buildings so that you can have views there. Pedestrian circulation is still compromised and he believed it is a bit disrespectful to the memorial site. However, they had to select one in order to make a submission to start the process and to get to this point. It was his suggestion to come forward with four alternatives. This is the solution in front of HRM - two eight storey buildings. They have 120 suites and the parking would be in raised podiums. These buildings have not been fully designed yet.

Mr. Goodspeed said he went to Vancouver and came back with the impression that the tall buildings in Vancouver created interesting spaces. He was not sure the two eight storey buildings was the best solution. He thought they have an advantage in a taller building. It is a place marker and serves as a marker at a very significant point in the city's fabric. He thought the best solution is to have less ground coverage and give back as much land space as possible.

**Mr. Dusty Miller** asked them to put up the aerial photo, noting that he lived in a high rise at 6969 Bayers Road. His interest has been the memorial site. You have a lot of things wrong there. He went over and measured it and the memorial site looks like the bottom part of a pyramid. It is 150' down each side and it is about 100' across the front. If you start on the sidewalk, it goes up on a slope on a knoll over 5'. The fence is at the top of the cemetery. He visited cemeteries in England, the United States, and Canada. He wondered why it was a knoll. It is a knoll because 5' down is solid rock. The proof is that if you take the left hand corner facing the cemetery on Bayers Road, the tracks are cut down 25' into solid rock. That bridge is the most dangerous bridge in Halifax. In looking at it, something told him it was not only a memorial site but also a grave site. One of the markers says December 6, 1917, and there are other remains buried there of people who died as late as 1982. At the end of November/beginning of December, his wife came home and said there was a funeral down there. He went over and found the Johnson family and also the Baldwin family. There's lots of people buried in that cemetery.

Mr. Miller noted it was said there was an access road to the left. The access road and Bayers Road about a private road. Between the fence and the private road is 2.5' and there is a bunch of trees in there and it an area of garbage collection. The trees are right down the centre of it. The memorial is surrounded by trees. If they do underground parking, how close are they going to go to that memorial garden when they are dynamiting through solid rock? He was sure there are more graves

beyond that fence. How and where are they going to put the access to allow people who have families buried in that cemetery? How will they get from Bayers Road which is a one way street? How are they going to allow a funeral procession?

Mr. Goodspeed noted the City retained a strip of land between the edge of the Bayers Road apartments and this edge (pointed out) which is about 15' wide. It is the access road that has been retained to get into the memorial site on the left hand side. Their property is 15' from the fence.

Mr. Miller commented he did not think the proposal for the 135 units one would fly. He questioned if all the underground parking is for all those buildings.

Mr. Goodspeed indicated there are foundations there which go 4-5' down into the ground. They would drop their parking down and then come up 4-5' above ground. These days to disturb rock is a dangerous venture, so they look for ways to minimize or eliminate any fill removed from the site. If they do have to get into the rock, it will only be a few feet and there will be no blasting; it will be ripped.

Mr. Miller indicated they were concerned in his building about how much dynamiting they would do.

**Mr. John Greatwich** said he was representing his mother who lived on St. Andrews Avenue for thirty-five years where he grew up and will probably retire in the future. In the past, residents came to meetings to negotiate something for the Italian Cultural Centre. Somehow they went from that meeting to nothing happening to the City selling the land and now they are hearing about this proposal. Council should go back and keep this as institutional land.

Mr. Greatwich stated the driveway is a safety hazard. He has come out of here in the City trucks and it is a nightmare. All they are hearing from the City is that it's a smart city but this has to be the stupidest idea he has ever heard. He considered this high density. Apartments are high density. They are talking upwards of 300 people on this small two acre site. They also mentioned concern about the Halifax Memorial and he was concerned they are obliterating the site. They have come from traffic calming on the other side of this street, and they are getting upset with all the stupid ideas coming out of HRM. Get your act in gear and fix up the site you got! They already sold off part of the parkland or recreational land from the front of the site and what they will be left with is a nightmare. He did not believe a word they said about ample parking. You go to this recreational centre on a busy day and the parking lot is full and they are going to add 300 people and visitors parking who will be parking on City land. The City should reverse its decision to sell this land.

**Ms. Rosemary Mooney** commented it is a freeway on Romans Avenue. The chicanes helped the speeding somewhat. She could not believe the City sold this property when they need green area, particularly when she looked at all the kids in the public housing project. She did not hear the traffic issues being addressed. Three hundred and ten people will live in these units. There will be at least

300 cars, plus deliveries and visitors, going to and from work and to the shopping centre, and it is at the exit of the highway. How will people get in and out of their development?

Ms. Mooney said she thought the City is good at allowing developers to put up buildings but no thought was given to the people who live in the area who have to live with these hideous buildings, and they have to put up with traffic and garbage, etc. Every new development is new property tax for the City but she did not see any benefit for the people in this area. They did not want to have this ugly building in front of them. She thought the City should re-think this issue. It is not right for the people who live in this neighbourhood.

Mr. Goodspeed advised there was a preliminary review of the traffic. There will be a traffic study. They did not feel 150-200 cars will be an issue.

**Ms. Leah Maloney** referenced the statements in the staff report "The existing road network allows only right turns into and out of the site. Given the volumes of traffic already carried by Bayers Road, the additional trips generated by this proposal are not expected to have a significant impact." As a resident of Vaughan Avenue, they put up with u turns at Romans and Vaughan. They now have a no u turn sign which has the people obeying but now the cars turn in their yards and do u turns, and now they are looking at a potential of 120 more cars. They will not get one person in her neighbourhood that will agree to this proposal. This should have remained as recreational land. It should be kept for the kids of the community. She felt HRM should reconsider what it has done.

**Mr. David MacDougall** stated the people who live on Romans Avenue have no way to get to their homes from Bayers Road. They used to be able to turn left. The reality is that people coming from Bayers Lake into their neighbourhood all make u turns on their streets. There will be another 150 cars a day on their streets.

Mr. MacDougall referenced the comment about there being no need for further senior's residential projects in the City. In the last election the mandate was to put 1000 beds in the Province which has not been addressed yet. He referred to Northbrook but the new facilities being built for down the road are for the Bedford/Sackville area and not Halifax.

Mr. Goodspeed indicated when he referenced Northbrook he meant the outreach program.

**Ms. Barb Brennan** noted it was said all the cars would turn right and questioned whether they would all go down her one way street. People often come down the wrong way. There are lots of little kids and a park across the way.

Mr. Goodspeed indicated they cannot design the roads; they are there already. They were presented with a site and asked to come up with a high density residential development. If you look at the traffic study, this is probably one of the less intensive uses that could be proposed for that site, aside from leaving it as it is.

Ms. Brennan stated they would be affected by the proposal. They cannot get out of Pennington Street and questioned if they are proposing traffic lights.

Mr. Goodspeed indicated the traffic issue needs to be addressed to HRM's satisfaction. Their position is that the warrants are not there for lights. He thought they have to look at the bigger picture. They need more development on the peninsula. Improvements to the highway network will have to come.

Ms. Wheaton advised she did speak with an HRM traffic engineer this afternoon who indicated they are looking at this particular section of Bayers Road. They are looking to put money into the capital budget for 2008/09 to upgrade this section of the road. In the next one to two years they will look at how to design this area to make it more efficient in its operation. Hopefully there will be some review of this situation and some work undertaken in the foreseeable future. Through the process of this application they will be involved in looking at the traffic and how this development might impact the existing traffic patterns and future problems for this area.

**Mr. David Thomas** said there should be some plan for traffic control and traffic diversion before the amendment is approved by the City.

**Mr. Harry Daine** stated the only way to improve traffic is to keep high rise apartments out of there.

**Mr. George Beatty** said there is a general consensus in this room that the project is not acceptable to the people in the area. Several people suggested that HRM should review the sale of this land. He questioned if that is possible and if they would be informed of that decision.

**Councillor Fougere** stated this land was sold by HRM eight years ago. It is privately owned. That was done at the staff level when the Italian Cultural Association decided to sell it. It was not a decision Council made. As the property owners, the Italian Cultural Association made a private land sale. We could ask HRM real estate to have another look at that but there would be a large cost associated with it so they would have to look at it from a financial perspective. Right now it is privately owned so HRM would have to buy it back.

It was questioned whether they would be interested in putting together a proposal for a lower density.

Mr. Goodspeed responded he would have to discuss that with his client.

**Mr. Miller** questioned whether there was a way this could be stopped by Council.

Councillor Fougere responded this is the very beginning of the process. An application was made which is why they came here to hear what you have to say. We are taxpayers too and live in neighbourhoods. They do listen to people. They might not always agree individually but they do listen. She took offence to that kind of disrespect. A private landowner asked in good faith if they

could do something on their land. They are here too so they are aware of what the public thinks. Their hands are never tied. They make a decision when it comes to the decision-making process at Council. The minutes from this meeting will be presented to all of Council for consideration. The property owner has the opportunity to make changes in response to what they have heard.

**Ms. Orr** questioned whether St. Andrews Community Centre as they know it today was in any danger of being interfered with. It was responded no.

**Ms. Jackie de Mestral** noted they showed the blueprints and that the footprint would be reduced for the proposal they were leaning towards, which would leave more land available for other uses. She questioned if they would put all the parking underground.

Mr. Goodspeed responded yes, noting that the half buried level is actually much larger than the footprint. In essence it would be a pyramid effect.

Ms. De Mestral indicated she worked in a fifteen storey tower and it is fairly functional inside. It is a nightmare to enter and exit, particularly whenever the wind blows. There are times the door does not close because of the wind. There would be wind tunnels. She thought if a building was to aesthetically look like it belongs, it has to nestle into the site. By the time you raise the podium and put this massive fifteen storey building on top of it, he did not think it will look good and it will stick out like a sore thumb similar to Fenwick Tower.

Mr. Goodspeed indicated the raised podium area would be roughly in the same level as the current memorial, maybe 5' above the sidewalk. What that tends to do is limit the effects around the outside edges. The Tupper Building is a case study of how not to do things. He thought tall buildings have a place and he saw this as a good spot for a tall building. Usually when a building goes above 35', you cease to be aware of the additional height in general terms.

Ms. de Mestral said she felt the building would cast shadows over the townhouses. She felt its presence would be felt.

Mr. Goodspeed agreed it would be felt but thought there are some benefits.

Ms. de Mestral stated that if it has to be developed, it should be lower density especially because of the proximity to a very busy roadway. The higher density buildings should be east of here on the other side of Windsor Street where there is quite a bit of open land being developed.

Mr. Goodspeed said he felt it should be on a major roadway. The bus route is there. You would not want to put this type of development in the middle of a neighbourhood.

Ms. de Mestral commented there should be improvements to Bayers Road. Before that happens it is hard to imagine them putting additional traffic on it.

**Mr. Pat Gagnon** stated he was concerned about the traffic flow. Bayers Road is a problem and they know it. It is very common to have cars lined up on Bayers Road from Romans Avenue. He was concerned the traffic flow resolution would be to open up St. Andrews Avenue and make the road to the apartments.

Mr. Goodspeed commented that would be very bad planning.

Mr. Gagnon indicated that dead end section is used by a lot of kids cycling in the summer months because there is no traffic. The land use is Institutional and Park, and questioned whether that meant a prison or a mental hospital could be built there by right.

Ms. Wheaton responded yes.

Mr. Gagnon stated he was not opposed to high density apartments considering it could be so much worse.

**Ms. Darlene Trenholm** said she grew up on St. Andrews Avenue and moved back there because it is a quiet residential area with not a lot of traffic on the top section of that street as opposed to where Pat is. They are surrounded now by apartment houses and townhouses. There are a lot of residents on St. Andrews Avenue and some of the original owners are starting to get up in years. The problem is with the resale value because the area in general does not always have the best reputation. The last thing they need is to add more apartments. It is a quiet neighbourhood where you want to attract young families with schools and bus centres close by.

Ms. Trenholm indicated they are looking to make changes with some of the schools. For example, Westmount School is slated to be closed and St. Catherines and they are amalgamating, so why would they want to bring another 400 people into an area which already does not have enough facilities for young people. They do not have enough recreational facilities. The kids do not have access to a skating rink and soccer fields. The kids can only get one night a week because the facilities are not available. The land could be put to a better use than another apartment building in this area.

Ms. Trenholm stated people are going to shortcut from Connaught Avenue along Chisholm Avenue up St. Andrews and out Romans Avenue. The people in the community want safe places for their children to play. The last thing they want to do is increase the amount of traffic.

Ms. Trenholm referenced the comment about senior's complexes. There is not enough senior's housing. Her grandmother has been sitting in a critical care unit since this summer because there are not enough facilities available. If you have thousands of dollars you can pay for a nursing home and get in faster. The average person cannot pay \$4000 to \$5000 per month. They need more facilities for the aging population in the cities rather than another high rise unit. They should put something back into the community for the seniors and the children and that is not what those apartments would do.



**Mr. Martin Lee** said he was a professional engineer who worked with the Department of Transportation for thirty-one years. They want to build an apartment building. There is rock. He referenced another project where they could not put in a basement parking lot so parking is on the ground level. He questioned how they are going to deal with that. They will have a hard time.

Mr. Goodspeed responded they are not fully excavating the basement.

Mr. Lee said they could not build a high rise there. If they want to build on Bayers Road, they should think about the architecture.

**Mr. Doug Large** indicated he lived there since 1950. He was one of the originals that moved into the area when the sixty-six houses were considered to be Westmount. At the time there were no other houses around and Westmount was considered to be in the boondocks. Since that time, things shifted dramatically.

Mr. Large said his comments are about the traffic situation. He lived on Vaughan Avenue and they can appreciate the problems. When he came down to Romans Avenue, he had to fight with the traffic. The cars do not leave a gap when the lights are red. That is a continual sore point. If you add 150 cars into this new development, it will add to the aggravation. He would be against them putting up any kind of development. Don't make it any more difficult for the people living around here! He was one of the older generations and one of these days they would be putting him in the ground.

**Ms. Shirley Daine** stated that her father built their house and she did not think they need any more apartments around here. It is a disgrace to put something like that in front of this building. When they were building Bayers Road they had to take their pictures down because of the blasting. They need seniors buildings and not apartment buildings. It is terrible. You cannot get seniors into a place to live. There are a lot of seniors on this street and in this area and they are all going to need a place to live.

**Mr. David Thomas** questioned if approval of this amendment would open up the floodgate for the Bayers Road Shopping Centre, especially with Zellers moving out. Will somebody propose to build a 2000 unit apartment complex at the Bayers Road Shopping Centre?

**John...** indicated there has always been shortcutting paths going across this property. If the property belonged to him, he would stick up a fence so all the paths would be cut off.

Mr. Goodspeed stated one of the reasons they do these types of developments through development agreements is so that they can address that type of concern.

John ... questioned whether they would expand the existing driveway. They referenced installing a sidewalk along the driveway.

Mr. Goodspeed indicated they would put in proper sidewalks and it would be of typical city street dimensions.

John... questioned whether the developer would be forced to do driveway improvements at their own cost to the school property.

Mr. Goodspeed responded that is the type of thing they can address in a development agreement, if the negotiations go any further. It becomes a legal agreement between the developer and the Municipality representing the people. That is why we have these kind of meetings.

It was commented the developer would do the sidewalk improvements and HRM would have to plow it out.

Ms. Wheaton indicated it would remain a driveway on City owned property.

**Mr. Mike Brown** noted they mentioned they would not do any blasting and just scraping with excavators. He questioned how they proposed to proceed with water and sewer services.

Mr. Goodspeed responded there are existing drains that were established for the school but there is equipment available today as part of the harbour solutions project that can trench rock without blasting. It is a tunneling machine. They do not have a great amount of rock excavation associated with these schemes.

Mr. Brown said he was opposed to this proposal and hoped it did not go through. He felt City planning staff should look at it again. It is mostly townhouses and single family homes and they are talking about putting up a fifteen storey building.

**Ms. Anne-Marie Bourgeois-Moore** stated she was against this proposal.

**Mr. Bill Roski** indicated that when Medjuck built the high rise, there was no exit to Chisholm Avenue. Now they have an exit onto Chisholm Avenue. He was assuming this could happen here. Somebody will say why can't we get into the laneway next door. If you had to come onto Bayers Road from Vaughan Avenue at rush hour it is dangerous; it is bumper to bumper. Putting another 200 cars there trying to get out onto Bayers Road will not help the traffic. He was against this proposal.

**Harry Daine, Jim Canning, Margaret Gentleman, and Bill Factor** stated they were against this proposal.

Ms. Wheaton thanked everyone for attending. She was sure the councillors have listened and she, as a member of planning staff, heard what they had to say. As well, she was sure the property owner and the consultant listened. Should this proceed further, there will be notification sent to everybody whose name is on the mailing list.

The meeting adjourned at approximately 9:00 p.m.

**ATTACHMENT "D"**  
**Extracts from the Halifax Municipal Planning Strategy - Existing Policy**

**Section II CITY-WIDE OBJECTIVES AND POLICIES**

21. Residential Environments

- 2.14 For the St. Andrews Centre site at 6955 Bayers Road (PID#85050) Council may consider applications for a combined seniors citizen housing and cultural centre complex through a development agreement.

This integrated complex shall be designed and situated in a manner which is (1) compatible with the surrounding residential neighbourhoods in both form and operation, (2) preserves and/or enhances the function of the larger site given the existing buildings and other land uses present on this site, and (3) provides opportunities for public access to both the indoor and outdoor components of the complex.

- 2.14.1 In considering agreements for the St. Andrews Centre site, Council shall consider the following items in relation to the policy criteria set out in Policy 2.14 above, for which conditions may be set out in the development agreement:
- a) the adequacy of the servicing capacity of the site;
  - b) the capacity of, and the activities generated by the cultural/community centre portion of the complex;
  - c) phasing of the individual components of the integrated complex;
  - d) the scale, height, and massing of the building;
  - e) the location and amount of parking provided;
  - f) vehicular and pedestrian access and egress patterns from the surrounding area;
  - g) location and form of open space and outdoor recreational areas;
  - h) site landscaping including buffering;
  - i) the hours of operation of the cultural/community centre;
  - j) other relevant policies of this plan particularly those of the Residential Environments Section.

**Extracts from the Peninsula Land Use By-law**

**Peninsula Wide - Development Agreements**

- 99(9) **St. Andrews Centre Site**  
Council may, by development agreement, pursuant to Policies 2.14 and 2.14.1 of section II of the Municipal Planning Strategy, permit the development of a senior citizen housing and cultural/community centre complex on the site known as St. Andrews Centre at 6955 Bayers Road (PID # 85050).