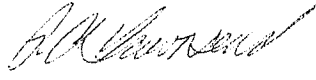


Chebucto Community Council
February 6, 2012

TO: Chair and Members of Western Region Community Council

SUBMITTED BY: 
Philip Townsend, Director, Planning and Infrastructure

DATE: December 16, 2011

SUBJECT: **Case 17257, Amendment to the Existing Development Agreement for
Governors Brook to reduce the number of townhouse units and to add
additional parkland**

ORIGIN

Application by Armo Capital Inc.

RECOMMENDATION

It is recommended that the Chebucto Community Council:

1. Give Notice of Motion to consider an application by Armco Capital Inc. to amend the existing agreement for Governor's Brook and schedule a public hearing;
2. Approve the 5th Amending Agreement to reduce the number of townhouses by 6 units and to add additional parkland, as provided in Attachment "A" of this report; and
3. Require that the Development Agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

BACKGROUND

Governor's Brook is a 351 acre development located between McIntosh Run and Colpitt Lake (see Map 1). The development of the land is subject to a development agreement for a comprehensive residential development that was approved by Council on January 10, 2005.

The agreement has been amended four times since it was first approved:

- July 30, 2007 - to replace multiple unit dwellings with semi-detached dwellings;
- October 6, 2008 - to modify the permitted driveway width;
- Oct 5, 2009 - to remove the limitation on the rate of development; and
- November 7, 2011 - to convert the neighbourhood commercial property to single unit dwelling lots.

The existing agreement, as amended, permits the following:

- 507 single unit dwellings;
- 238 two unit dwellings;
- 68 townhouses;
- 2 multiple unit dwellings totalling 96 units; and
- approximately 245 acres for parkland as conservation parkland and active parkland.

Proposal

Of the 68 townhouse units now permitted, 32 are to be located on the corner of Alabaster Way and Mica Crescent (see Attachment D). They are to be developed as a Block where all of the townhouse units are to be under a single ownership. The developer would like to subdivide the townhouses so each unit can be individually subdivided into freehold lots. In doing this, the layout of the proposed townhouses will be altered so each unit can achieve frontage on Alabaster Way and Mica Crescent. The number of units will be reduced from 32 to 26 units and 2.3 acres will be added to the proposed parkland located to the rear of the properties.

Location, Designation and Zoning

The subject area is zoned RDD (Residential Development District) in the Halifax Mainland Land Use By-Law and is designated Residential Development District in the Mainland South Secondary Plan, in the Municipal Planning Strategy for Halifax. Policies 1.5, 1.5.1 and Schedule I of the Mainland South Secondary Plan, outline criteria to be considered for development within the Residential Development District Designation.

DISCUSSION

The main objective of the proposed application is to convert the townhouse block on Mica Crescent and Alabaster Way to freehold townhouse lots which would permit individual ownership. The change in ownership type will result in a change to the design and layout of each lot as each unit will need to have its own road frontage. As a result, there will be additional driveways along Alabaster Way.

The proposed amending agreement will require the driveways for the townhouses to be paired where possible and includes design requirements for the narrow strip to be located between the paired driveways. The proposed driveway locations have been reviewed by HRM Development Engineering. Any alterations in the location of the driveways will need to comply with the HRM Streets and Services By-Law (S-300).

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, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. As this application is considered to be minor, a public information meeting was not held, however, information concerning the application has been made available on the HRM website. A public hearing has to be held by Council before they can consider approval of changes to the development agreement.

Should Council decide to proceed with a Public Hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area (as shown on Map 2) will be notified.

The proposed rezoning will potentially impact the following stakeholders: local residents, property owners.

ALTERNATIVES

1. Council may choose to approve the proposed amending agreement as set out in Attachment A of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the applicant.

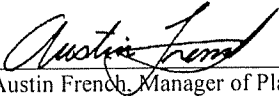
3. Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended as the proposal is consistent with the MPS.

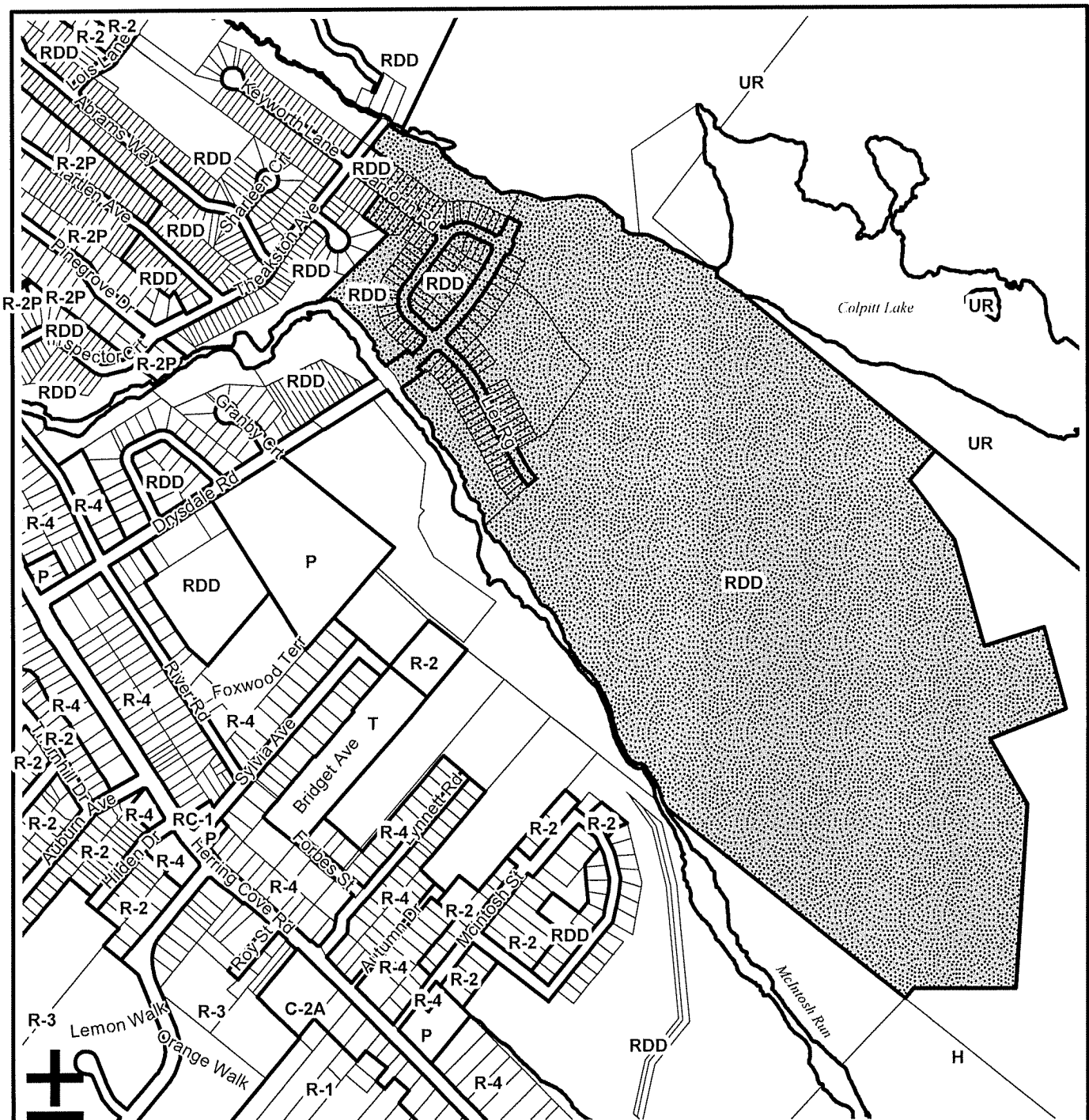
ATTACHMENTS

Map 1	Location and Zoning
Map 2	Notification Area
Attachment A	Proposed 5 th Amending Agreement
Attachment B	Proposed Lot Layout
Attachment C	Review of Relevant Policies from the MPS for Halifax
Attachment D	Existing Site Plan by Unit Type

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: Jillian MacLellan, Planner, 490-4423

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



Map 1 - Location and Zoning

Governors Brook
Halifax


 Extent of development
agreement area

Halifax Mainland
Land Use By-Law Area

Zone

R-1	Single Family Dwelling
R-2	Two Family Dwelling
R-2P	General Residential
R-3	Low-Rise Apartment
R-4	Multiple Dwelling
RC-1	Neighbourhood Commercial
C-2A	Minor Commercial
C-2	General Business
P	Park and Institutional
T	Mobile Home Park
H	Holding
UR	Urban Reserve
RDD	Residential Development District

HALIFAX
REGIONAL MUNICIPALITY
DP N N V O J U Z I E F V F M P Q N F O U
Q M B O O J O H T F S W D F T

0 50 100 150 200 m




This map is an unofficial reproduction of a
portion of the Zoning Map for the plan area
indicated

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



Map 2 - Area of Notification


Governors Brook
Halifax

-  Extent of development agreement area
-  Area of notification

Halifax Mainland
Land Use By-Law Area

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 50 100 150 200 250 m



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

Attachment A
Proposed 5th Amending Agreement

THIS 5th AMENDING AGREEMENT made this day of , 201[#],

BETWEEN:

[INSERT Name of Corporation/Business LTD.]

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located off Danforth Road and Drysdale Road, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application to enter into a development agreement to allow for a comprehensive residential development on the Lands on January 10, 2005 (municipal reference number 00066), which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 82165268 (hereinafter called the "Existing Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application to enter into an amending development agreement to enable the replacement of 48 multi-family units with single and/or semi-detached dwelling units and to allow 32 single and/or semi-detached dwelling units within the comprehensive residential development on the Lands, on July 30, 2007 (municipal reference number 00943), which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 89091657 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application to enter into an amending development agreement to enable a modification to the maximum permitted driveway width on October 6, 2008 (municipal reference number 01124) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office as Document Number 92570341 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application to enter into an amending development agreement to remove the limitation on the rate of the development on October 5, 2009 (municipal reference number 01253) on the Lands, which said development agreement was registered at the Halifax County Land Registration Office as Document Number 94876407 (hereinafter called the "Third Amending Agreement");

AND WHEREAS the Chebucto Community Council of the Municipality approved an application to enter into an amending development agreement to convert the neighbourhood commercial lot to 4 Type B (30' single family) lots on November 7, 2011 (municipal reference number 17231) on the Lands, which said development agreement was registered at the Halifax County Land Registration Office as Document Number **INSERT NUMBER** (hereinafter called the "Fourth Amending Agreement");

AND WHEREAS the Developer has requested further amendments to the Existing Agreement and Amending Agreements to convert a 32 unit townhouse block located on the corner of Alabaster Way and Mica Crescent to 26 freehold townhouse units and additional parkland;

AND WHEREAS the Chebucto Community Council for the Municipality approved this request at a meeting held on [**INSERT-Date**], referenced as Municipal Case Number 17257;

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

1. Section 2.1(a) of the Existing Agreement as amended is further amended by
 - (a) replacing "Schedule B.1 Landscape Plan" with "Schedule B.2 Landscape Plan";
 - (b) replacing "Schedule D.1 Concept Plan" with "Schedule D.2 Concept Plan";
 - (c) replacing "Schedule F.1 Site Plan By Unit Types" with "Schedule F.2 Site Plan By Unit Types"; and
 - (d) replacing "Schedule G.1 Phasing" with "Schedule G.2 Phasing Plan".
2. The Existing Agreement as amended is further amended by
 - (a) replacing all references to "Schedule B.1" with "Schedule B.2";
 - (b) replacing all references to "Schedule D.1" with "Schedule D.2";
 - (c) replacing all references to "Schedule F.1" "Schedule F.2"; and
 - (d) replacing all references to "Schedule G.1" with "Schedule G.2".
3. Section 2.1(b)(vi) of the Existing Agreement as amended is further amended by replacing the number "68" with "62" when referring to the number of townhouse units to be developed.
4. Section 2.2(m) of the Existing Agreement as amended is further amended by adding the following after 2.2(m)(iii):

“2.2(m) (iv) There shall be one driveway per unit for each townhouse unit that is to be located on a separate lot.

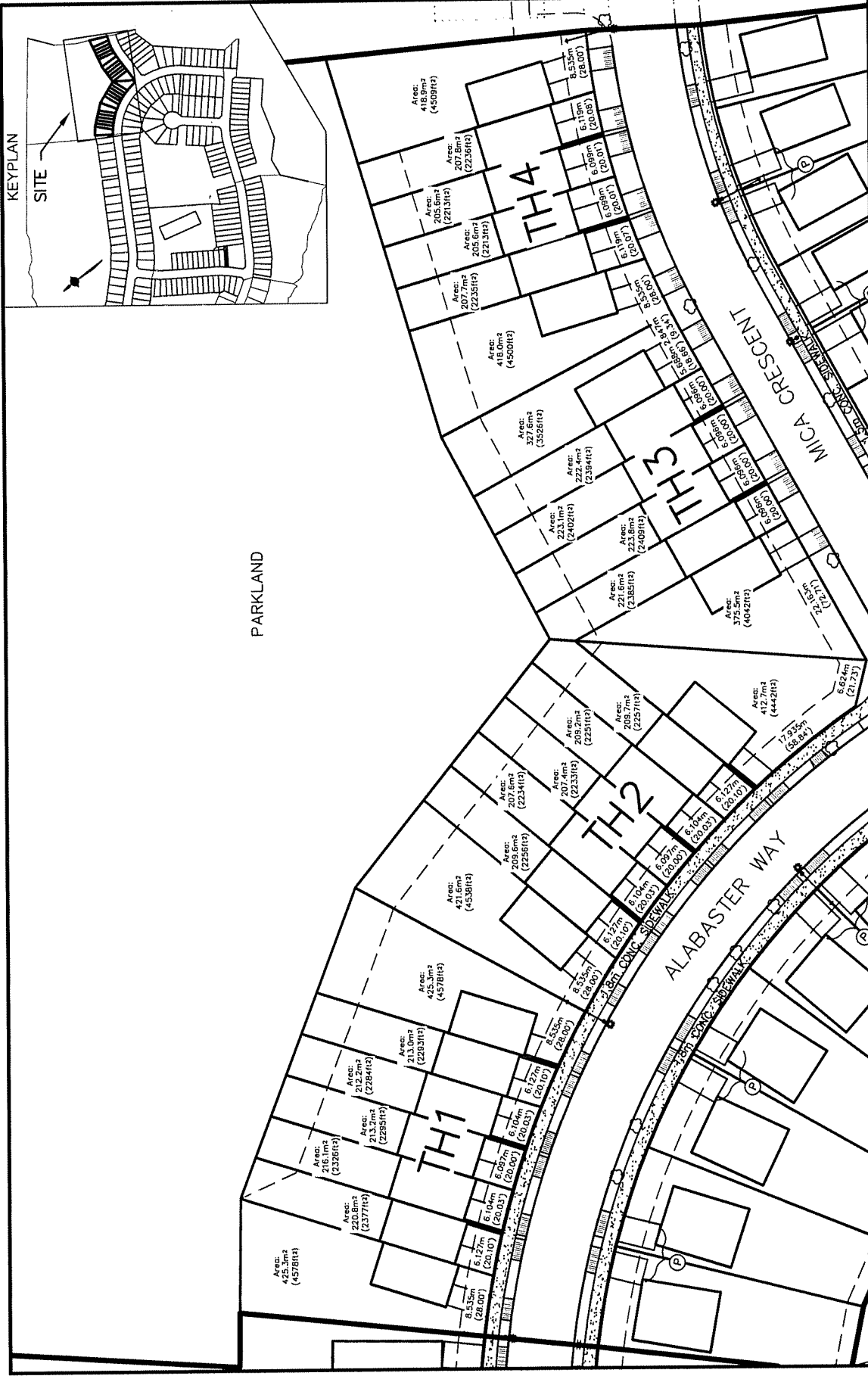
2.2(m) (v) Notwithstanding section 2.2(m)(iii) a minimum of 80% of the driveways for the townhouse lots along Mica Crescent and Alabaster Way shall be paired and have a decorative strip between each driveway. Each strip shall be a minimum of 30 cm (1 foot) in width and shall be located between each driveway. Approximately 1/3 (in length) of each decorative strip shall be landscaped at the end closest to the dwelling. The remaining two thirds of the strip shall consist of a decorative hard surface, including but not limited to brick pavers, cobblestone, exposed aggregate or beach stones. The Development Officer, in consultation with the Development Engineer, may relax this requirement if design constraints (including but not limited to the placement of services, utilities, etc.) limits the pairing of driveways.”

5. Section 2.9 of the Existing Agreement as amended is further amended by adding the following after 2.9(e):

“2.9(f) The Developer shall provide easements to enable access to the rear of individual townhouse units by their respective owners and these access easements shall be shown on the final plan of subdivision. The Developer agrees to convey these access easements to the individual property owners at the time of conveyance of the individual lots. The conditions attached to the access easements must ensure they are kept clear.”

WITNESS that this Fifth Amending Agreement, made in triplicate, was properly
executed by the respective Parties on this _____ day of _____, A.D.,
201[#].

SIGNED, SEALED AND DELIVERED)	(INSERT - REGISTERED
in the presence of)	OWNERS NAME)
per _____) per: _____	
)	
)	
per _____) per: _____	
)	
SEALED, DELIVERED AND)	
ATTESTED to by the proper)	
signing officers of Halifax Regional)	
Municipality duly authorized)	
in that behalf in the presence)	HALIFAX REGIONAL MUNICIPALITY
per _____) per: _____	
)	MAYOR
)	
per _____) per: _____	
)	MUNICIPAL CLERK



Attachment C
Review of Relevant Policies from the MPS for Halifax

Policy Criteria	Staff Comment
SECTION X MAINLAND SOUTH SECONDARY PLANNING STRATEGY	
1.5 Areas designated as "Residential Development District" on the Generalized Future Land Use Map shall be residential development areas planned and developed as a whole or in phases under a unified site design, providing a mixture of residential uses and related recreational, commercial and open space uses, with an emphasis on a mix of dwelling unit types.	A development agreement was approved for the Governor's Brook Development on January 10, 2005 by the Chebucto Community Council.
1.5.1 Pursuant to Policy 1.5, the Land Use By-law shall provide a new zone, the Residential Development District, within which "Low-Density Residential" development and public community facilities shall be permitted and other development shall be permitted only under the contract development	See Section 62(A) (Residential Development District Zone) of the Land Use By-law for Halifax Peninsula. The proposed amendments comply with the Residential Development District Zone.
SCHEDULE I GUIDELINES FOR RESIDENTIAL DEVELOPMENT DISTRICT	
Pursuant to Policy 1.5.1, contract development in any area designated "Residential Development District" on the Generalized Future Land Use Map must conform with the following guidelines: <u>Uses Which May be Permitted</u> 1. Residential Uses 2. Community Facilities 3. Institutional Uses 4. Neighbourhood Commercial Uses 5. Commercial Convenience Centres.	The proposed amendments concern residential uses.
Site Development Guidelines	
5. Residential - a density of twenty-two persons per gross	The proposed amendments will decrease the

acre shall be permitted. Proposals in excess of twenty-two persons per gross acre may be considered provided that no development shall exceed the capacity of existing or proposed sewers. In calculating the permissible density of any project, the capacities available to the drainage area shall be considered.	density for the developments from 18.7 persons per acre to 18.6 persons per acre.
- no more than 15 percent of any area covered by a development agreement may be developed for apartment uses including the building(s), ancillary parking, open space, and landscaping.	The proposed amendments only concern the development of townhouses. The development of apartment uses will not be effected.
- the design and layout of the portion of new residential developments abutting existing residential areas shall endeavour to protect the character and scale of these areas by attention to such matters as use of open space, landscaping, and ensuring adequate transition between areas of differing building forms and densities.	The proposed amendments concern an area of the development that does not abut an existing residential area. However, it is important to note that there is no change in the overall character of the overall development.
6. Commercial - neighbourhood commercial uses are permitted at or near the intersection of local streets, and on the ground floor of high-density residential buildings. In addition, consideration may be given for a commercial convenience centre, except in the RDD areas generally west of the Herring Cove Road and south of Leiblin Drive. The amount of gross leasable space may be limited to ensure that the development primarily serves the adjacent neighbourhoods. The intent is to provide for a range of uses such as retail, rental and personal service, household repair shops, service stations, restaurants and office uses. The additional matters to be considered are found in the guidelines of Policy 3.7 of Section II.	The proposed amendments do not concern neighborhood commercial development.
Landscaping and Open Space	
7. At least 5 percent of the area of the district development must be useable, landscaped,	The proposed amendments include adding approximately 2.3 acres to the parkland for the

open space.	development. The parkland dedication for this development is already in excess of 5% land area for the development.
8. No residential or accessory building shall be constructed within 50 feet of any lake, watercourse, or water body. No commercial or accessory structure shall be constructed within 100 feet of any lake, watercourse, or water body.	Section 2.2(n) of the existing agreement requires a setback of at least 100 feet from any lake, water course or water body for all buildings.
9. Any proposal to construct a community facility or institutional use within 100 feet of the water's edge should ensure, through the use of landscaping or other means, that adverse effects on water quality will be avoided or ameliorated during and after construction.	The proposed amendments do not concern community facility or institutional development.
10. A landscape plan shall be submitted as part of the approval process and the preservation of natural amenities, including rock outcroppings, groves of trees, mature trees, ponds, streams, shores, and wetlands should be preserved whenever possible.	A landscape plan would have been provided as part of the original application.
Circulation	
11. Access to arterial or collector streets should be such that additional traffic along local streets in residential neighbourhoods adjacent to the development is minimized.	The proposed amendments do not impact the road network of the development.
12. Where common parking areas are provided, they should be so aligned as to restrict through traffic.	N/A

