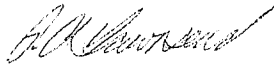


Harbour East Community Council
January 12, 2012

TO: Chair and Members of the Harbour East Community Council

SUBMITTED BY: 
Phil Townsend, Director of Planning and Infrastructure

DATE: December 15, 2011

SUBJECT: Case 17385: Notting Village Development Agreement, Non-Substantive Amendment

ORIGIN

An application by Kassner Goodspeed Architects Ltd. for a non-substantive amendment to the existing Development Agreement for 184 Wyse Road (Notting Village), Dartmouth, to enable the subdivision of two additional lots on the site.

RECOMMENDATION

It is recommended that the Harbour East Community Council:

1. Approve, by resolution of Council, the subdivision of 184 Wyse Road (Notting Village), as contained in Attachment A to this report and as shown on the amended Schedule B; and
2. Require that the Amending 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

The Development Agreement for the Notting Village development (184 Wyse Road) was signed on September 27, 2007. At that time, the Development Agreement (DA) permitted the creation of a mixed use development, consisting of two proposed commercial/residential mixed use buildings as well as another proposed apartment building. In addition, the DA also recognized the old Notting Park School which fronts Boland Road is on its own lot. Under the DA, the Notting Park School is intended to be used for institutional uses and currently houses a daycare service. At present, one of the new mixed commercial/residential buildings has been constructed and currently sits at the corner of Wyse and Boland Roads (see Attachment A - Schedule B-1).

Proposal:

Kassner Goodspeed Architects Ltd. has applied to amend the Existing Development Agreement to permit the subdivision of these lands for the purpose of allowing one building per lot (see Attachment A).

Location, Designation, Zoning and Surrounding Land Uses:

- 184 Wyse Road is the former Notting Park school site and is approximately 2.9 acres;
- The subject property is bounded by Wyse and Boland Roads;
- The lands are situated within the Dartmouth Municipal Planning Strategy (MPS) and are split designated, with the portion of the site fronting Wyse Road designated commercial and the rear portion of the site designated Residential (Map 1); and
- The property is zoned C-2 under the Dartmouth Land Use By-Law (LUB) (Map 2).

Enabling Provision:

The Existing Agreement contemplates the future subdivision of the lands provided adequate access and services can be satisfied (Attachment C). This intent is specified under section 6.1.1 of this Agreement which allows Council to consider the application as a non-substantial amendment. Further, due to the non-substantive nature of this application, Harbour East Community Council can approve the requested amendment by resolution of Council as permitted under the HRM Charter.

DISCUSSION

The Existing development agreement contemplates the future subdivision of lands at 184 Wyse Road. The subdivision of these lands would create a total of four distinct parcels that would contain one building per lot. The purpose of the subdivision is for financial reasons.

Internal circulation and site access to both Wyse and Boland Roads will be achieved by way of an easement agreement through the subdivision process in favour of the adjoining parcels. The access locations were approved through the existing DA approval. Any future amendments to the development agreement would require the cooperation of the land owners that are subject to the development agreement. It should also be noted that under the approved site plan there is relatively little separation from the buildings to the proposed lot lines. Spatial separation is a fire

safety issue. As each building must be built to the standard of the National Building Code, these issues will be addressed at the building permit stage.

Staff has reviewed the applicable sections of the Dartmouth Municipal Planning Strategy and the Existing Development Agreement and are of the opinion that the requested amendment is consistent with the intent of the Dartmouth MPS and the Existing Development Agreement. Therefore, Staff recommends that the proposed amendment be approved.

BUDGET IMPLICATIONS

There are no Budget implications.

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

Community engagement was undertaken during the original development agreement process. Non-substantial amendments to the Agreement do not require additional community engagement.

ALTERNATIVES

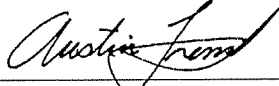
1. Council may choose to approve the proposed amending development agreement as set out in Attachment A of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant.
3. Council may choose to refuse the proposed amending development agreement and, in doing so, must provide reasons based on a conflict with MPS policies and the general intent of the Existing Development Agreement.

ATTACHMENTS

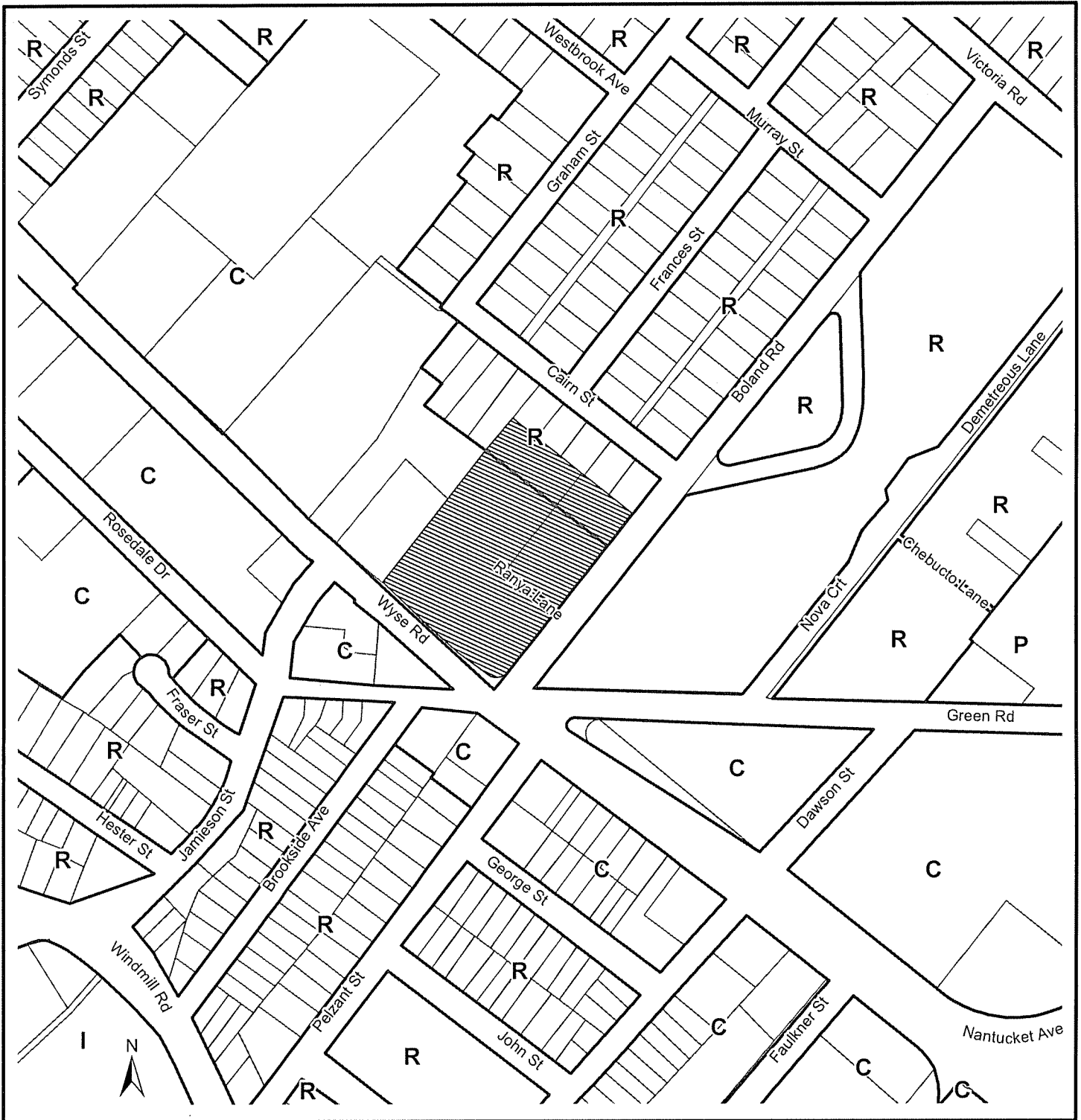
Map 1: Generalized Future Land Use Map
Map 2: Zoning Map
Attachment A: Proposed Amending Agreement
Attachment B: Excerpts from Existing Development Agreement
Attachment C: Applicable Policies from Dartmouth MPS

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: Shayne Vipond, Senior Planner, 490- 4335




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



Map 1 - Generalized Future Land Use

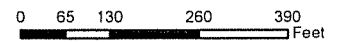
184 Wyse Road

 Subject Area

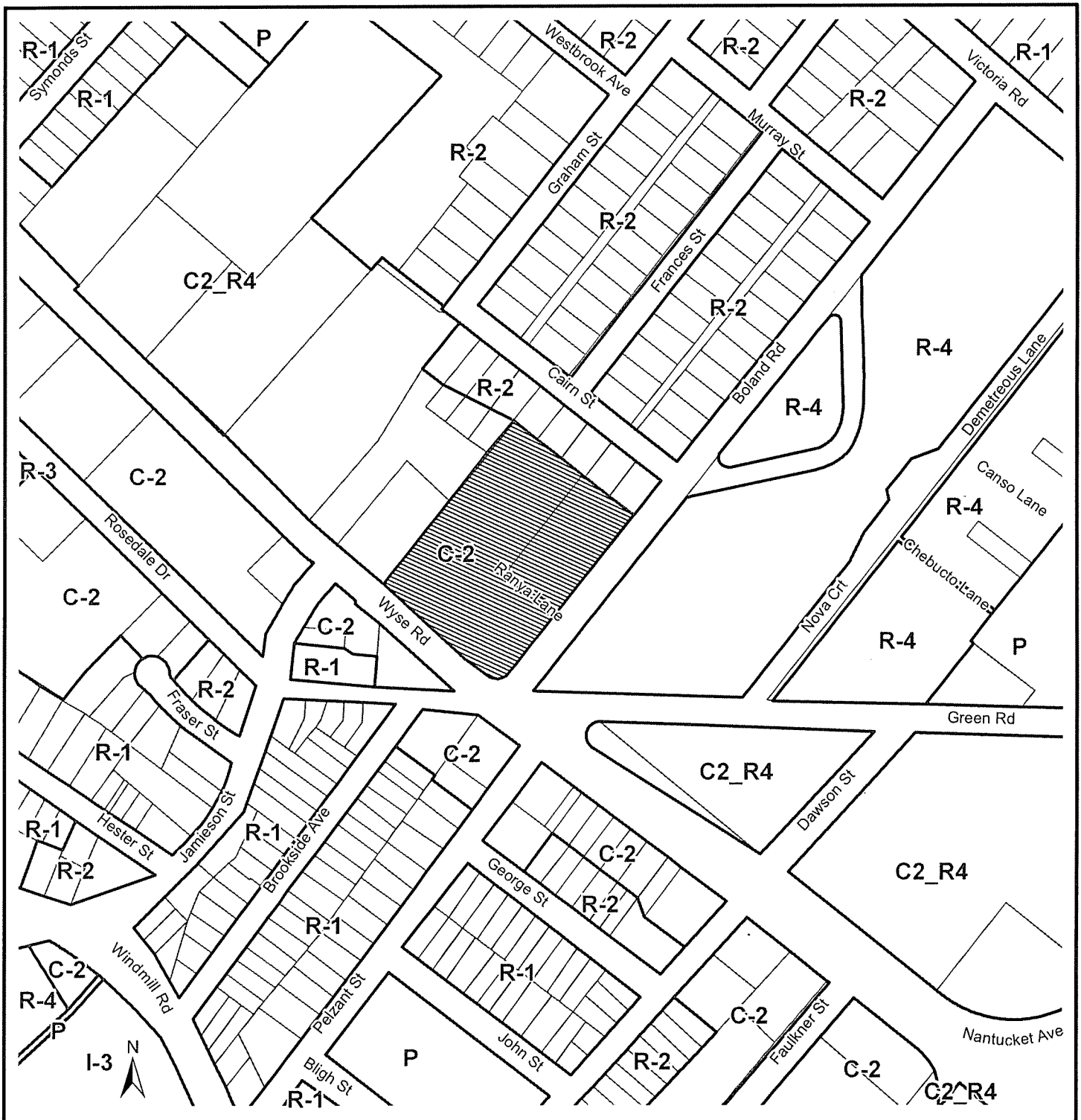
Designation

- R Residential
- C Commercial
- I Industrial
- P Park

Dartmouth Plan Area




This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Dartmouth Plan Area. HRM does not guarantee the accuracy of any representation on this plan.



Map 2 - Location and Zoning

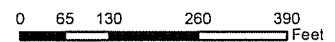
184 Wyse Road

 Subject Area

Dartmouth Plan Area

Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-4 Multiple Family Residential (High Density)
- C-2 General Business
- I-3 Harbour-Oriented Industrial
- P Park



This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area.

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

ATTACHMENT A – DRAFT DEVELOPMENT AGREEMENT

THIS AGREEMENT made this ____ day of [Insert Month], 20 __,

BETWEEN:

[INSERT PROPERTY OWNER NAME],
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 at 184 Wyse Road, Dartmouth and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council of the Municipality approved an application by the Developer to enter into a Development Agreement to allow for a mixed use development on the Lands (Municipal Case Number 00781), which said Development Agreement was registered at the Land Registry Office in Halifax as Document Number 89078357 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer wishes to further amend the Existing Agreement to subdivide the lands pursuant to Section 6.1.1 of the Existing Agreement and the provisions of the HRM Charter (hereinafter called the First Amending Agreement);

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on [INSERT-Date], referenced as Municipal Case Number 17385:

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

-
1. Except where specifically varied by this First Amending Agreement, all other terms, conditions and provisions of the Existing Agreement shall remain in effect.
 2. Schedule B of the Existing Agreement as it pertains to the Lands shall be deleted and replaced with Schedule B-1 as attached to this First Amending Agreement.

- 3. The Developer shall subdivide and develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with Schedule B-1 attached to this First Amending Agreement and filed in the Halifax Regional Municipality as Case Number 17385.

WITNESS that this First Amending Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2012.

SIGNED, SEALED AND DELIVERED) (Insert Registered Owner Name)
in the presence of)
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 B
Relevant Policies of the Dartmouth Municipal Planning Strategy

Policy IP-1(c)

In considering zoning amendments and contract zoning, Council shall have regard to the following:

- (1) that the proposal is in conformance with the policies and intent of the Municipal Development Plan
- (2) that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal
- (3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries
- (4) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the City is to absorb any costs relating to the development
 - (ii) the adequacy of sewer and water services and public utilities
 - (iii) the adequacy and proximity of schools, recreation and other public facilities
 - (iv) the adequacy of transportation networks in adjacent to or leading to the development
 - (v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas
 - (vi) preventing public access to the shorelines or the waterfront
 - (vii) the presence of natural, historical features, buildings or sites
 - (viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized
 - (ix) the detrimental economic or social effect that it may have on other areas of the City.
- (5) that the proposal is not an obnoxious use
- (6) that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or near by land uses and public facilities. Such controls may relate to, but are not limited to, the following:
 - (i) type of use, density, and phasing
 - (ii) emissions including air, water, noise
 - (iii) traffic generation, access to and egress from the site, and parking
 - (iv) open storage and landscaping
 - (v) provisions for pedestrian movement and safety
 - (vi) management of open space, parks, walkways
 - (vii) drainage both natural and sub-surface and soil-stability
 - (viii) performance bonds.
- (7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors

- (8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council
- (9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:
 - (i) Council with a clear indication of the nature of proposed development, and
 - (ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community
- (10) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)

Policy IP-5

Apartment Buildings

It shall be the intention of City Council to require Development Agreements for apartment building development in R-3, R-4, C-2, MF-1 and GC Zones. Council shall require a site plan, building elevations and perspective drawings for the apartment development indicating such things as the size of the building(s), access & egress to the site, landscaping, amenity space, parking and location of site features such as refuse containers and fuel storage tanks for the building.

In considering the approval of such Agreements, Council shall consider the following criteria:

- (a) adequacy of the exterior design, height, bulk and scale of the new apartment development with respect to its compatibility with the existing neighbourhood;
- (b) adequacy of controls placed on the proposed development to reduce conflict with any adjacent or nearby land uses by reason of:
 - (i) the height, size, bulk, density, lot coverage, lot size and lot frontage of any proposed building;
 - (ii) traffic generation, access to and egress from the site; and
 - (iii) parking;
- (c) adequacy or proximity of schools, recreation areas and other community facilities;
- (d) adequacy of transportation networks in, adjacent to, and leading to the development;
- (e) adequacy of useable amenity space and attractive landscaping such that the needs of a variety of household types are addressed and the development is aesthetically pleasing;
- (f) that mature trees and other natural site features are preserved where possible;
- (g) adequacy of buffering from abutting land uses;
- (h) the impacts of altering land levels as it relates to drainage, aesthetics and soil stability and slope treatment; and the Land Use By-law amendment criteria as set out in Policy IP-1(c).

(As amended by By-law C-692, Dec. 4, 1991).

Attachment C – Excerpts from existing Development Agreement

“6.0 AMENDMENTS

6.1 Non-Substantive Amendments

6.1.1 The following items considered by both parties to be not substantive and may be amended by resolution of the Council.

- (d) Further subdivision of the lands subject to adequate access, services and any other matters of a relevant planning concern.”