



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 10.1.2
Halifax and West Community Council
October 14, 2014

TO: Chair and Members of Halifax and West Community Council

Original Signed

SUBMITTED BY: _____

Bob Bjerke, Director, Planning and Development

DATE: September 28, 2014

SUBJECT: **Case 19275: Non-Substantive Amendments to Existing Development Agreement – Dutch Village Road and Alma Crescent, Halifax**

ORIGIN

Application by United Gulf Developments Limited

LEGISLATIVE AUTHORITY

HRM Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Approve, by resolution, the Amending Development Agreement as shown in Attachment “A” of this report to allow for the subdivision of the property and a one-year extension to the date of commencement of a mixed-use development at Dutch Village Road and Alma Crescent, Halifax (former Halifax West High School site); 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

An application has been submitted by United Gulf Developments Limited for non-substantive amendments to the development agreement for the former Halifax West High School site at Dutch Village Road and Alma Crescent, Halifax (Maps 1 and 2). The purpose of the proposed amendments is to allow the proposed mixed-use development to be subdivided into three land parcels and to allow for a one-year extension to the date of commencement of the development. Pursuant to the existing development agreement on the site, the proposed amendments are non-substantive and only require a resolution of Halifax and West Community Council to be approved.

Location and Surrounding Area

The subject site is located off Dutch Village Road and Alma Crescent in Halifax (Maps 1 and 2), and is:

- Approximately 1.9 hectares (4.7 acres) in total area;
- Vacant, graveled, with some tree cover; and
- Includes existing driveway locations (curb cuts) which will be utilized or reconfigured for the development.

The surrounding area is predominantly comprised of:

- Minor commercial uses, primarily on Dutch Village Road, Titus Street and Alma Crescent;
- Low-density residential uses including single family, duplex, semi-detached and townhouse dwellings;
- Apartment buildings which vary in size, including an adjacent 8-storey building on Dutch Village and Alma Crescent; and
- Institutional uses including churches and daycares.

Designation and Zoning

The subject site is:

- designated Community Facilities in the Municipal Planning Strategy (MPS) for Halifax (Fairview Secondary Planning Strategy)(Map 1); and
- zoned P (Park and Institutional) by the Halifax Mainland Land Use By-law (LUB)(Map 2).

Existing Development Agreement

The existing development agreement, herein referred to as the “Agreement”, was approved by the former Chebucto Community Council on February 6, 2012, following Regional Council’s adoption of site-specific amendments to the Municipal Planning Strategy and Land Use By-law. The Agreement provides for the following (Attachment B):

- A mixed-use, interconnected development of varying building heights, fronting on Dutch Village Road with a common underground parking level;
- Commercial and institutional uses (maximum of 116,000 sq.ft. total area):
 - 6-storey, 60,000 sq. ft. commercial building (Bldg. A) with retail on ground floor and offices on remaining 5 floors;
 - 3-storey, 27,000 sq.ft. commercial building (Bldg. B) with retail on ground floor and offices on upper floors; and
 - one-storey retail building (Bldg. E) with ground floor retail, institutional and/or residential uses at the base of the residential towers;
- Residential uses: approx. 130 apartment units within two 7-storey towers (Buildings C & D), set above a commercial or mixed-use ground floor level. Maximum residential population of 300 persons;
- Parking: 375 underground spaces, 75 surface spaces for a total of 450 parking spaces (approx.); and
- Subdivision and retention by HRM of proposed Community and Neighbourhood Park area at the western end of the site (which has taken place) and developer’s responsibilities which include the installation of park infrastructure, mitigation of drainage issues and provision of a public walkway through the site linking Coronation Avenue and the park to Dutch Village Road.

The Agreement was registered on April 30, 2012 and requires that the development commence within 3 years, which includes a requirement for obtaining municipal construction permits, undertaking site excavation and the installation of the footings and foundation for the proposed buildings. The Agreement stipulates that, in the event that the development does not commence within the 3-year timeframe, Council may, by resolution, either discharge the Agreement or grant an extension to the date of commencement through a non-substantive amendment to the Agreement. The non-substantive amendment section also allows Council to consider, the subdivision of land on the site other than those lands for parkland dedication.

Proposal

The applicant is requesting non-substantive amendments to the Agreement (Attachment A) to allow for:

- the subdivision of the building and property into three parcels or components, each of which will have at least 60 feet of frontage on a public street; and
- a one-year extension to the timeframe for commencement of the development, which would give the developer until April 30, 2016 to install the footings and foundation for the proposed building.

DISCUSSION

The proposal has been reviewed in relation to the applicable policies of the Halifax Municipal Planning Strategy (Attachment C) and the existing Agreement. Section 5.2, *Non-Substantive Amendments*, of the existing Agreement allows Community Council to consider the subdivision of the lands and changes to the date of commencement of the development. In staff's opinion, the proposed allowance for the subdivision of the parcel and the one-year time extension is consistent with the applicable policies as well as the existing development agreement.

The two requested amendments are highlighted for more detail discussion below:

Subdivision: At the time of approval of the agreement, the developer had no clear intention to subdivide the parcel. It was envisioned that the development would be under single ownership via one condominium corporation. However, since that time, that intention has changed in order to allow for alternative financing and the possibility of rental units instead of condominiums. If Council approves the proposal, the developer intends to proceed with subdivision approval prior to making permit applications.

Time

Extension: As indicated in the Background section of this report, the agreement stipulated a 3-year time period for the commencement of the development, which includes obtaining municipal permits and installation of the footings and foundation. While such a time period is not uncommon with regard to development agreements, longer time periods of 4 or 5 years for large construction projects are also typically acceptable. In this case, given the magnitude of the project, a one-year time extension is considered reasonable.

Conclusion

The proposal to allow for subdivision of the property and a one-year extension to the date of commencement of development, as provided for in the proposed amending development agreement in Attachment A of this report, is consistent with the existing development agreement and the MPS. Therefore, staff recommends that Halifax and West Community Council approve the proposed amending development agreement.

FINANCIAL 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.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through the HRM website, responses to inquiries, public accessibility to the meetings of Council and the placing of a sign on the property giving notice of the application. A public information meeting and a public hearing are not required for a non-substantive amendment to a development agreement. The decision is made by resolution of Council.

The proposed development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

ENVIRONMENTAL IMPLICATIONS

No additional concerns have been identified beyond those raised in this report.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant and the preparation of a supplementary staff report.
2. Halifax and West Community Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons why doing so would not reasonably carry out the intent of the MPS. This alternative is not recommended. A decision of Council to refuse the proposed amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning
Attachment A	Proposed Amending Development Agreement
Attachment B	Site Plan from Existing Agreement
Attachment C	Applicable Policies of Halifax MPS

Note: The Existing Development Agreement is available upon request.

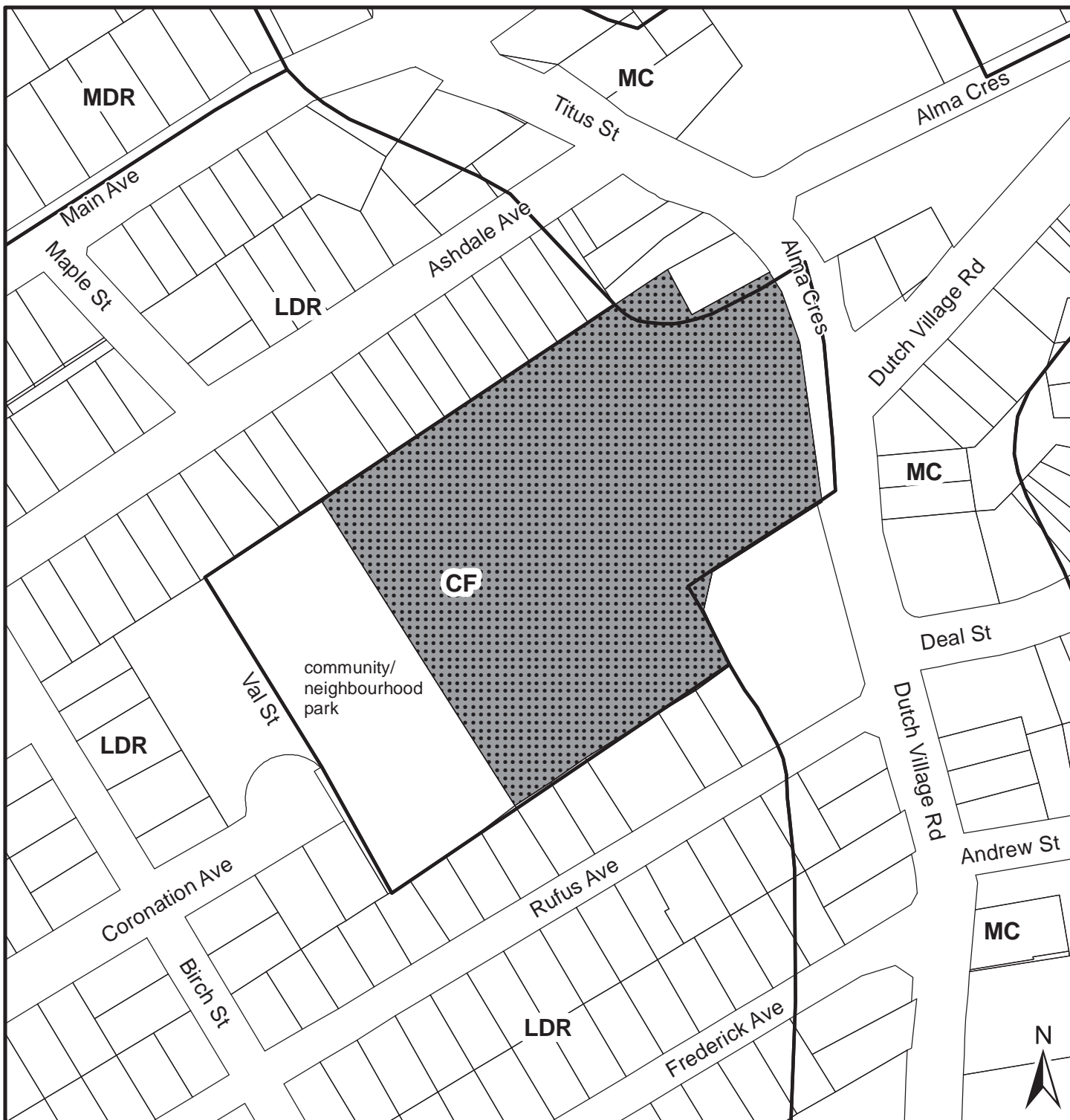
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

Report Prepared by: Paul Sampson, LPP, Planner, Development Approvals, 902-490-6259

Original Signed


Report Approved by:

Kelly Denty, Manager, Development Approvals, 902-490-4800



Map 1 - Generalized Future Land Use

Former Halifax West High School site
Dutch Village Road, Halifax

 Area of existing
development agreement

Halifax Plan Area
Fairview Secondary Plan Area

Designation

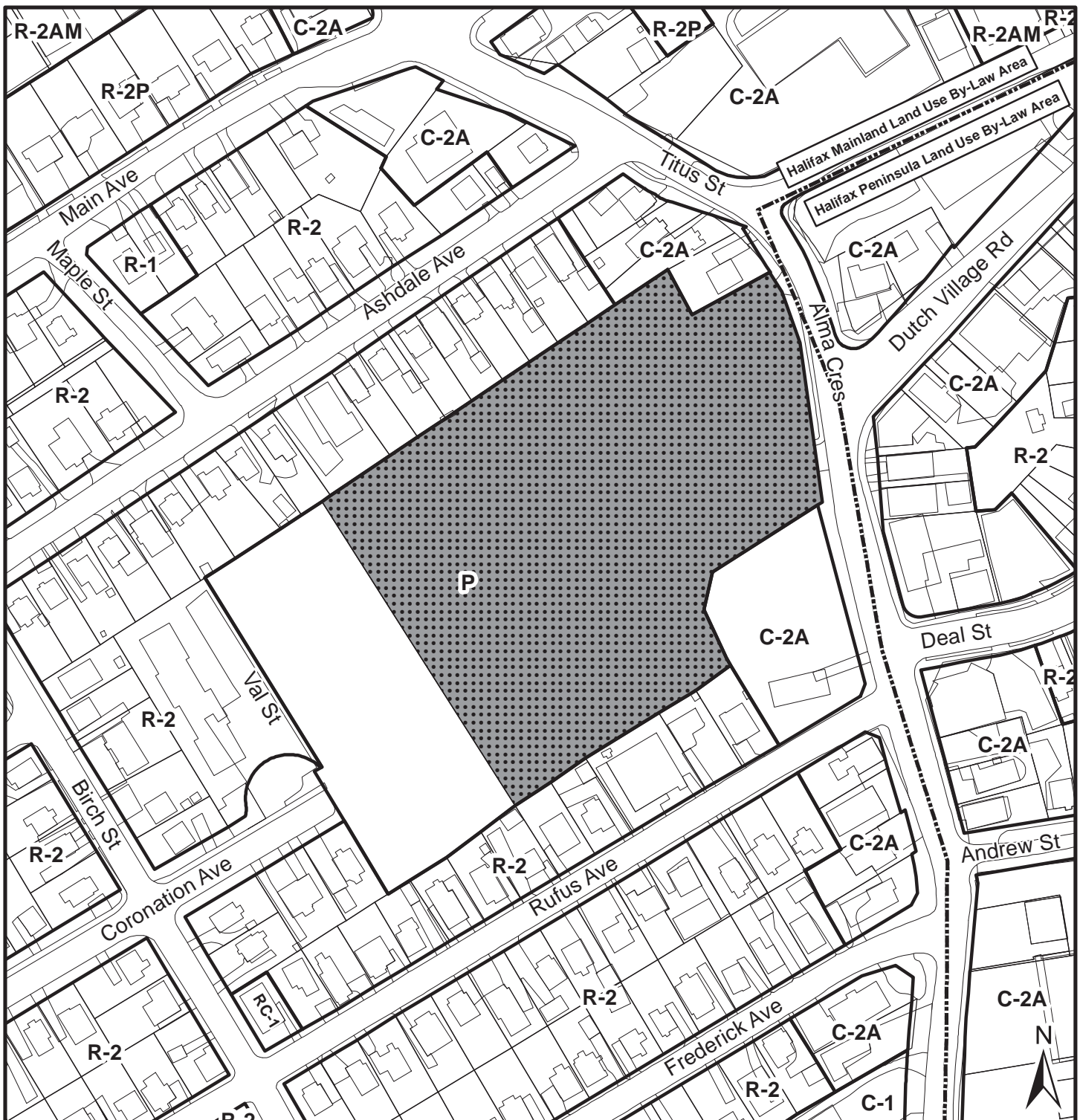
LDR Low Density Residential
MDR Medium Density Residential
MC Minor Commercial
CF Community Facility

HALIFAX

0 20 40 60 m

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

The accuracy of any representation on
this plan is not guaranteed.



Map 2 - Zoning

Former Halifax West High School site
Dutch Village Road, Halifax



Area of existing
development agreement

Halifax Mainland
Land Use By-Law Area

Zone - Halifax Mainland

- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- R-2AM General Residential Conversion
- RC-1 Neighbourhood Commercial
- C-1 Local Business
- C-2A Minor Commercial
- P Park and Institutional

Zone - Halifax Peninsula

- R-2 General Residential
- R-2AM General Residential Conversion
- C-2A Minor Commercial

HALIFAX

0 20 40 60 m

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a portion of the Zoning Map for the plan
area indicated.

The accuracy of any representation on
this plan is not guaranteed.

ATTACHMENT A:

Proposed Amending Development Agreement

THIS AMENDING AGREEMENT made this day of , 2014,

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 at Dutch Village Road and Alma Crescent, Halifax [INSERT LOT and PID#], and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the former Chebucto 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, which said Development Agreement was registered at the Land Registration Office in Halifax as Document Number 100577684 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested non-substantive amendments to the provisions of the Existing Agreement to enable further subdivision and a time extension;

AND WHEREAS the Halifax and West Community Council for the Municipality approved these requests at a meeting held on [INSERT DATE], referenced as Municipal Case Number **19275**:

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

The Existing Agreement is amended as follows:

1. Section 2.10 shall be amended by adding the following subsection immediately following subsection 2.10.1:

“2.10.2 The Lands (Lot HW-1A, which does not include the Community/ Neighbourhood Park) may be subdivided into three or fewer parcels, provided that each lot has a minimum of 60 feet of frontage on a public street (Dutch Village Road, Alma Crescent) and all other requirements of the Municipality and Halifax Water are met. The development resulting from such subdivision shall be exempted from Land Use By-law requirements related to building setbacks, horizontal and vertical angles, the number of buildings per lot (Sections 7(1) and 7(2)), parking (Sections 9(a) through (d)) and open space. No additional parkland dedication requirements of the Regional Subdivision By-law shall apply to such subdivision beyond those indicated in Section 2.11. Appropriate easements for access, parking, servicing and maintenance of building(s) shall be shown on the final plan of subdivision.”

2. In Subsection 6.3.1, the word “three” shall be deleted and replaced with the word “four”.

All other provisions of the Existing Agreement shall remain in place and in force.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in
the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

Witness

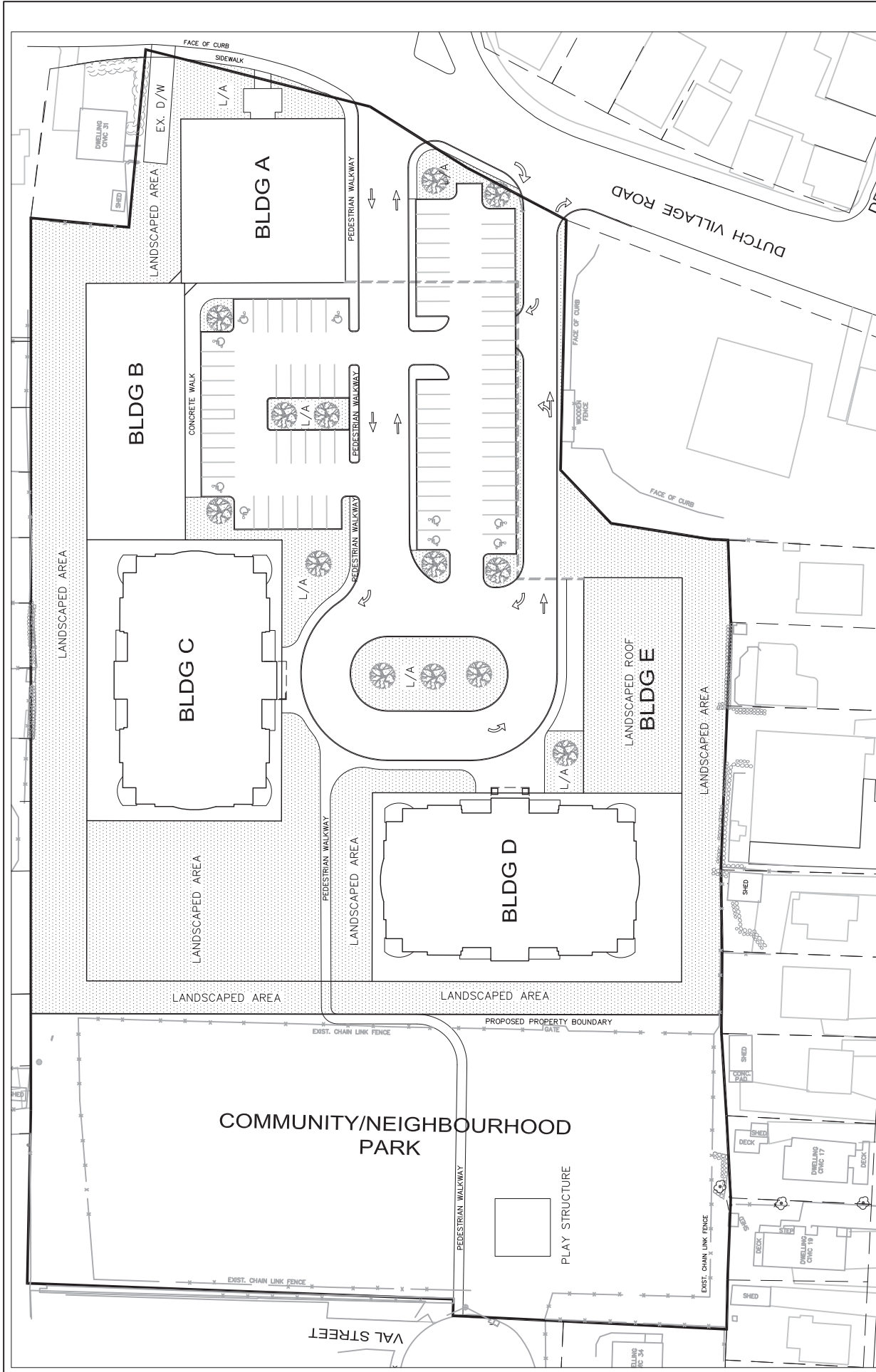
Per: _____

MAYOR

Witness

Per: _____

MUNICIPAL CLERK



**SCHEDULE B
SITE PLAN
PROPOSED MIXED-USE DEVELOPMENT
3620 DUTCH VILLAGE ROAD
HALIFAX**

UNITED GULF DEVELOPMENTS LIMITED

Plan No. 01254-001

Tel: (902) 493-3070
Fax: (902) 652-1752

380 Bedford Highway
Halifax, Nova Scotia
Canada B3M 2L4

Attachment C - Applicable Policies of Halifax MPS

SECTION VII - FAIRVIEW AREA SECONDARY PLANNING STRATEGY

OBJECTIVES AND POLICIES

1. RESIDENTIAL ENVIRONMENTS

Objective: Maintain and enhance the residential environment of Fairview while allowing for growth and change in designated areas.

1.9 Notwithstanding the Community Facilities objective and policies of Section II, for the property known as the former Halifax West High school on Dutch Village Road (PID #00188490), the Municipality may permit a mixed-use development of the site by development agreement. (RC-Nov 15/11;E-Jan 14/12)

1.9.1 Any development permitted pursuant to Policy 1.9 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 subdivision and retention of a minimum of 1.6 acres of land by the Municipality at the western end of the site for public open space purposes along with related park development and infrastructure improvements to be carried out by the land developer;**
- (b) the massing, location and height of building(s), which shall not exceed the low to mid-rise range, and in no case shall any building height exceed 8 storeys above underground parking level(s);**
- (c) the architectural design of the building, including building materials, signs and lighting;**
- (d) the provision of adequate site landscaping and useable open space for building residents;**
- (e) the provision of safe vehicular and pedestrian access and egress, including provision for the continued vehicular access to the existing driveway of Civic #31 Alma Crescent and pedestrian access through the site to Dutch Village Road;**
- (f) the adequacy of vehicular, bicycle parking and solid waste facilities; and**
- (g) the adequacy of the servicing capacity of the site.**

(RC-Nov 15/11;E-Jan 14/12)