



P.O. Box 1749  
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**Item No. 10.1.3**  
**Halifax and West Community Council**  
**February 17, 2015**

**TO:** Chair and Members of Halifax and West Community Council

*Original Signed*

**SUBMITTED BY:**

\_\_\_\_\_  
Bob Bjerke, Chief Planner and Director, Planning and Development

**DATE:** January 23, 2015

**SUBJECT:** **Case 17174: Amendments to the Halifax MPS and Halifax Peninsula LUB,  
and a Development Agreement - 1017 & 1021 Beaufort Avenue, Halifax**

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**ORIGIN**

- Application by Sunrose Land Use Consulting
- On March 20, 2012 Regional Council initiated a MPS and LUB amendment process

**LEGISLATIVE AUTHORITY**

*HRM Charter; Part VIII, Planning & Development*

**RECOMMENDATIONS**

It is recommended that Halifax and West Community Council recommend that Halifax Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy for Halifax (MPS) and the Land Use By-law for Halifax Peninsula (LUB) as contained in Attachments A and B of this report and schedule a joint public hearing with Halifax and West Community Council;
2. Approve the proposed amendments to the Halifax MPS and the Halifax Peninsula LUB, as contained in Attachments A and B of this report.

It is recommended that Halifax and West Community Council:

3. Move Notice of Motion to consider the proposed development agreement as contained in Attachment C of this report to permit 6 detached one family dwelling houses at 1017 and 1021 Beaufort Avenue, Halifax as shown on Map1. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation #1.

**RECOMMENDATIONS CONTINUED ON PAGE 2**

Contingent upon the adoption of the above MPS and LUB amendments which are applicable to the proposed development agreement as set out in Attachment C of this report, and those amendments becoming effective under the Halifax Regional Municipality Charter, it is further recommended that Halifax and West Community Council:

1. Approve the proposed development agreement as contained in Attachment C of this report; and
2. Require the development agreement to be signed by the property owner within 120 days, or any extension thereof granted by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

Sunrose Land Use Consulting, on behalf of the property owner, Three Brooks Development Corporation Limited, has proposed to consolidate 1017 and 1021 Beaufort Avenue (subject lands) and develop 6 detached one family dwelling houses (houses) on a shared private driveway. The proposal cannot be considered under existing policy and zoning established in the Municipal Planning Strategy for Halifax (MPS) and Land Use By-law for Halifax Peninsula (LUB). As such, the applicant is seeking an amendment to the MPS and LUB to enable consideration of their proposal through a development agreement.

### **Land Uses and Surrounding Context**

The subject lands:

- are abutting parcels on the east side of Beaufort Avenue between Regina Terrace and Inglis Street in Halifax (Map 1);
- combine to create approximately 62,000 square feet in area and approximately 127 feet of street frontage;
- contain a two-storey house at 1021 Beaufort Avenue;
- include a large vacant lot at 1017 Beaufort Avenue, which contained a house and large accessory building prior to 2011;
- includes significant vegetative cover, including several mature trees; and
- are surrounded by well-established low density residential development, predominantly comprised of 1.5 and 2 storey houses with pitched roof forms.

### **Designation and Zoning**

The subject lands:

- are located within District 1 of the South End Detailed Area Plan (SEAP), which forms part of the MPS (Map 1);
- are designated Low Density Residential (LDR) (Map 1). The LDR designation supports family-type housing accommodations and requires all new residential developments to be detached houses; and
- are zoned R-1A (Single Family Residential A) under the LUB (Map 2), which permits detached houses.

### **Subdivision and Zoning Context**

Prior to requesting MPS and LUB amendments, the property owner commenced a process to establish a subdivision comprised of a new public street and 9 residential lots, which involved the demolition of the house at 1021 Beaufort Avenue. As this occurred, some area residents became concerned the proposal was out of character with the neighbourhood relative to the location of the street and the relatively small size of the proposed lots. However, the proposal met the Municipality's requirements and was approved in May of 2011.

In September of 2011, Regional Council approved amendments to the MPS and LUB which replaced the R-1 (Single Family Residential) Zone in the area bounded by Oakland Road, Beaufort Avenue, Inglis Street, and Bellevue Avenue with a new low density residential zone (R-1A – Single Family Residential A). Compared to the R-1 Zone, the R-1A Zone has larger lot area and frontage requirements. The R-1A Zone also includes specific front yard setback and height requirements, and was adopted to provide development controls in keeping with the existing character of the neighbourhood.

Based on the new R-1A Zone requirements, a new subdivision on the subject lands can still move forward, but the size and development of each lot would need to satisfy the new zone requirements. This would result in a subdivision comprised of a new public street and potentially 7 to 8 lots.

### **Policy Context**

The MPS does not provide a mechanism for Community Council to consider more than one house on a lot. The MPS and LUB also require new lots to abut a public street. However, the MPS also highlights the importance of retaining the existing residential character of predominantly stable residential neighbourhoods through policy 2.4, which states:

*Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.*

### **Proposal**

Although a new subdivision can be approved under existing subdivision regulations and without a decision of Council, the applicant is proposing an alternative to the standard subdivision approach which is intended to be more reflective of the existing neighbourhood character. Instead of constructing a new public street and creating new lots, the applicant is requesting the ability to develop 6 houses on a single lot, with access provided by a shared private driveway. To reflect the character of the neighbourhood, the applicant has also agreed to the application of policy intended to protect mature trees and regulate architectural design. To achieve this type of alternative development approach, the applicant is requesting amendments to the MPS and LUB to allow for this type of development to be regulated by development agreement.

### **Approval Process**

The approval process for this application involves two steps:

- i. First, Regional Council must consider and, if deemed appropriate, approve proposed amendments to the MPS and LUB; and
- ii. Secondly, Halifax and West Community Council must consider and, if deemed appropriate, approve a proposed development agreement.

A public hearing, which is required prior to a decision on both matters, may be held at the same time for both MPS and LUB amendments and a proposed development agreement. In the event Regional Council approves MPS and LUB amendments, Halifax and West Community Council may only make a decision on a proposed development agreement following the amendments to the MPS and LUB coming into effect. A decision on proposed MPS and LUB amendments is not appealable to the Nova Scotia Utility and Review Board (Board). However, the decision on the proposed development agreement is appealable to the Board.

## **DISCUSSION**

### **Municipal Planning Strategy Amendments**

Municipal Planning Strategies lay out the municipal intent regarding appropriate land use and future patterns for development. Amendments to a MPS are not routine undertakings and Council is under no obligations to consider such requests. Amendments should only be considered when there is reason to believe that there has been a change to the circumstances since the MPS was adopted or last reviewed, or in cases where circumstances are significantly different from the situations the MPS anticipated.

### **Rationale for Site Specific Development Controls**

As outlined in the Background section of this report, Regional Council approved a new zone (R-1A) in 2011 for the area bounded by Oakland Road, Beaufort Avenue, Inglis Street, and Bellevue Avenue. As the (R1-A) zone requires larger lot sizes and specific building placement, individual lot development would generally be in keeping with that of the surrounding neighbourhood. However, the introduction of a new public street on the lands may not serve to enhance the surrounding, well-established residential neighbourhood.

The proposed site specific policy works toward addressing previously stated community concerns which focused on ensuring any redevelopment of this property would be sensitively incorporated into the existing fabric of the community. The most prominent example of this concern which would not be addressed if development occurred under the existing by-law and MPS regulation involves the street providing access to the proposed dwellings. HRM public street specifications would require more than 40 percent of the subject lands to be used for right-of-way purposes. Substantial site disturbance on the lands would result in the character of the lands being diminished due to the loss of several mature trees. This would not contribute positively to the enhancement of the neighbourhood's existing character. The proposed policy and by-law amendments along with the proposed development agreement would enable development to be accessed via a private driveway with reduced dimensions when compared to a public street. Reducing visual impact while also allowing a number of mature trees to be retained.

Further to the reduced size of the access route, the proposed policy and development agreement also enable site specific controls to ensure that the buildings themselves are designed in a manner which complement the existing architectural character of the neighbourhood, the retention of the existing home located at 1021 Beaufort Avenue, and the incorporation of heritage interpretation design elements as discussed later in this report. While site specific Municipal Planning Strategy Policy should be reserved only for the most unique sites to address the most unique planning issues, the benefits afforded by this policy warrant its application.

### **Proposed Amendments to the MPS & LUB**

In order to provide a site specific policy that enables more compatible and appropriate infill development on the subject lands, amendments to the MPS are necessary. This is achieved through the proposed amendments to the MPS and LUB as contained in Attachments A and B. These amendments would enable consideration of a residential development containing up to 6 houses on a single consolidated lot by development agreement, subject to a tree preservation plan. This approach also provides an opportunity to bring forward additional requirements aimed at enhancing the neighbourhood's existing character.

### **Proposed Development Agreement**

In staff's opinion, the proposed development agreement will permit a development that is consistent with the proposed MPS and LUB amendments (see Attachment D). Of the matters addressed by the proposed development agreement, the following are highlighted for more detailed discussion:

#### **Home Site Plan:**

The proposed development agreement requires the subject lands be consolidated into one lot. In order to regulate the development of each house, including surrounding site development and accessory buildings, the proposed development

agreement includes a Home Site Plan. The Home Site Plan identifies the general size and layout of each 'home site'.

Tree Preservation: The Home Site Plan identifies the location, size, and species of trees to be preserved, and was developed in consultation with HRM's Urban Forrester. This approach protects 14 mature trees, many of which are significant in size. Protecting mature trees on the subject lands ensures development is generally consistent with the character of the existing neighbourhood.

Architectural Design: Each house must conform to 1 of 3 architectural styles, described in the proposed development agreement as Traditional Vernacular, Craftsman, or Contemporary. If the Contemporary architectural style is chosen for a house, the design must include inspiration from and respect for either the Craftsman or Traditional Vernacular architectural styles. This approach ensures development is generally consistent with the character of the existing neighbourhood.

House Sizes: Within the buildable area shown on the Home Site Plan, the proposed development agreement limits all houses to 35 percent coverage in relation to the size of a home site. The height of each house is limited by the same 35 foot height restriction applied to all R-1A zoned properties. A maximum gross floor area for each house is required in relation to the size of each home site, with maximums based on a 25 percent increase compared to as-of-right development. Given the proposed development agreement requires the protection of mature trees and conformance with specific architectural styles, the additional gross floor area is not considered out of character with the existing neighbourhood.

Existing House: The proposed development agreement allows for the existing house and accessory building at 1021 Beaufort Avenue to be retained. If these existing buildings are not retained, development would be subject to the terms of the proposed development agreement.

Shared Driveway The proposed development agreement requires each house to be accessed from a shared private driveway. The shared private driveway must be constructed in conjunction with the consolidation of the subject lands into one lot and prior to the issuance of construction permit for any of the houses. In comparison to the construction of a public street, this approach allows a significant number of mature trees to be protected. Maintenance of this driveway will be the shared responsibility of the homeowners.

Historical Signage: The subject lands and surrounding neighbourhood were formerly part of the old Estates of Oaklands and Belmont (no longer in existence). In order to highlight the historical significance of the subject lands and surrounding neighbourhood, the development agreement requires the installation of interpretative panels on the lands which face the public sidewalk.

#### **Districts 7 & 8 Planning Advisory Committee**

On June 10, 2013, Halifax and West Community Council (HWCC) passed a motion directing staff to establish a Planning Advisory Committee for Districts 7 and 8 (PAC) and require all planning applications with public information meetings held after September 1, 2013 to be considered by the PAC. The public information meeting for this application was held on May 16, 2012. In keeping with HWCC's motion, PAC feedback was not sought in relation to this application.

#### **Conclusion**

The R-1A Zone applied to the subject lands and the surrounding area provides lot development controls consistent with the existing character of the neighbourhood. However, the size of the subject lands enables the construction of a new public street, resulting in substantial site disturbance. In order to

provide for an alternative development option which allows a more compatible redevelopment of the subject lands, amendments to the MPS and LUB are necessary. This is achieved through the proposed amendments and development agreement contained in this report. Therefore, staff recommends that Regional Council approve the MPS and LUB amendments contained in Attachments A and B, and that Halifax and West Community Council approve the development agreement contained in Attachment C.

### **FINANCIAL IMPLICATIONS**

The HRM costs associated with processing this planning application can be accommodated within the approved 2014/15 operating budget for C310 Planning & Applications.

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting (PIM) held on May 16, 2012. Attachment E contains a copy of the minutes from the meeting. Additional public comments are provided in Attachment F. Notices for the PIM were posted on the HRM website, in the newspaper, and mailed to property owners with the notification area shown on Map 3.

Prior to considering the approval of any MPS amendments, Regional Council must hold a public hearing. Should Regional Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, individual property owners within the notification area shown on Map 3 will be advised of the public hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

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

### **ENVIRONMENTAL IMPLICATIONS**

The proposed amendments to the MPS and LUB are consistent with applicable environmental policies of the MPS.

### **ALTERNATIVES**

The Halifax and West Community Council could recommend that Halifax Regional Council:

1. Modify the proposed amendments to the Halifax MPS and Halifax Peninsula LUB as contained in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications and amendments is required. Substantive amendments may require another public hearing to be held before approval is granted.
2. Refuse the proposed amendments to the Halifax MPS and Halifax Peninsula LUB as contained in Attachments A and B of this report. This is not recommended. A decision of Council to refuse the proposed amendments is not appealable.

### **ATTACHMENTS**

Map 1	Generalized Future Land Use
Map 2	Zoning
Map 3	Area of Notification

Attachment A	Proposed Amendments to the Halifax MPS
Attachment B	Proposed Amendments to the Halifax Peninsula LUB
Attachment C	Proposed Development Agreement
Attachment D	Proposed Development Agreement Policy Review
Attachment E	Minutes from the Public Information Meeting
Attachment F	Additional Public Comments

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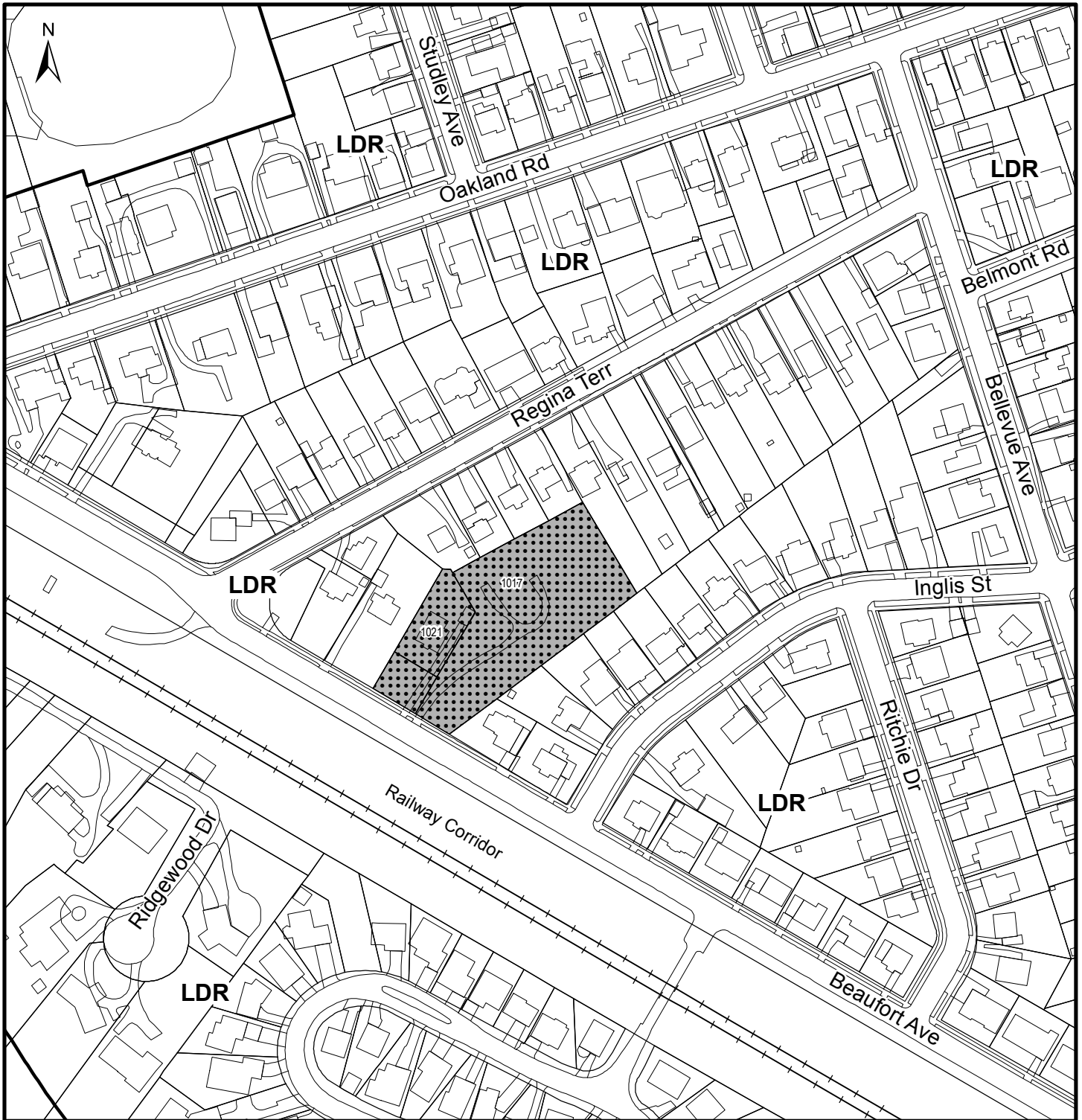
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Miles Agar, LPP, Planner 1, Development Approvals, 902.490.4495

*Original Signed* 

Report Approved by: \_\_\_\_\_  
Kelly Denty, Manager of Development Approvals, 902.490.4800


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**Map 1 - Generalized Future Land Use**

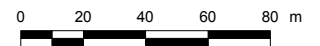
1017 and 1021 Beaufort Avenue  
Halifax

**HALIFAX**

 Subject Lands

**Designation**

LDR Low Density Residential

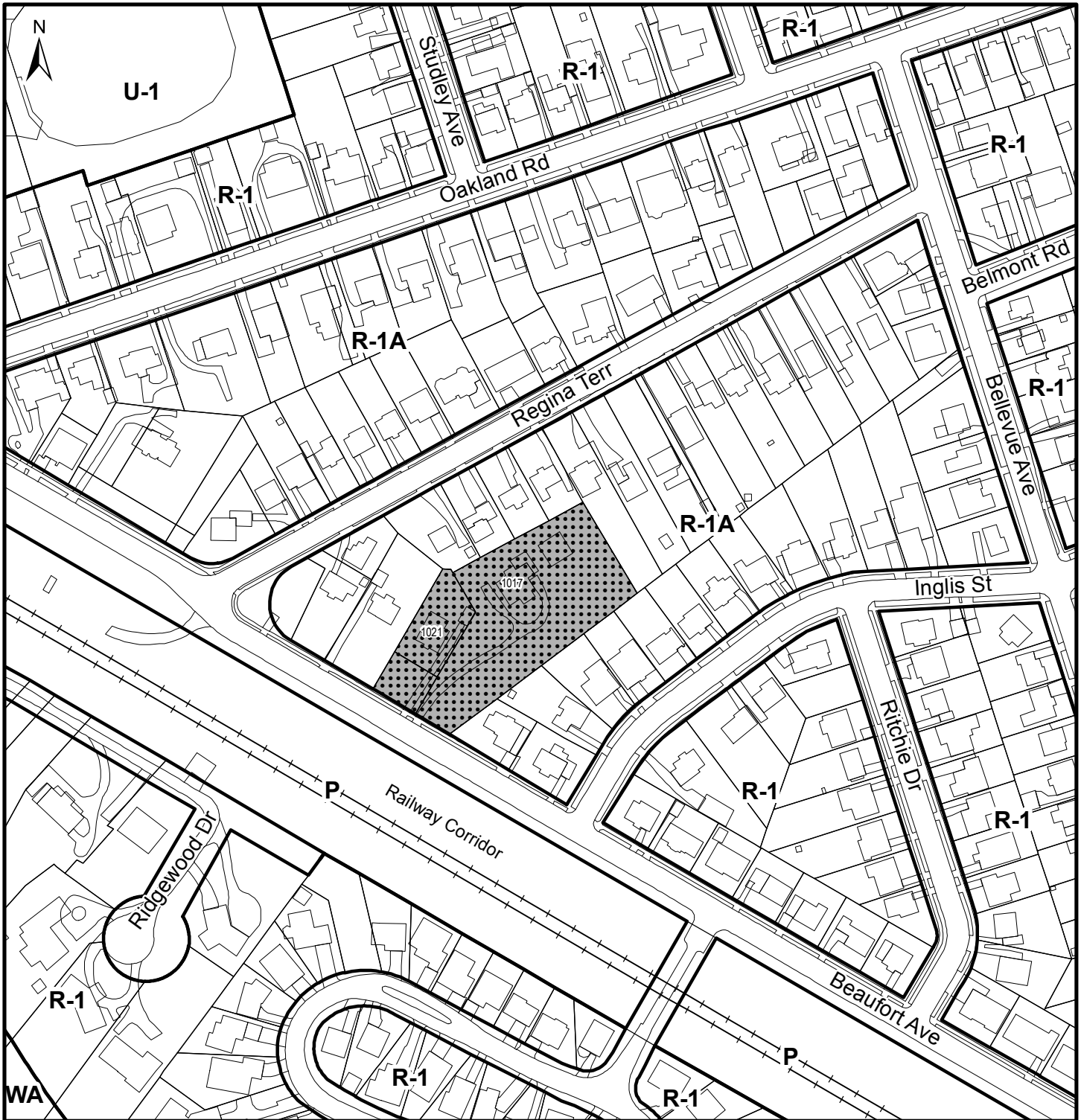


Halifax Plan Area  
South End Detailed Area Plan

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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






**Map 2 - Zoning**

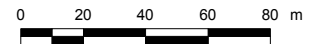
1017 and 1021 Beaufort Avenue  
Halifax

**HALIFAX**

 Subject Lands

**Zones**

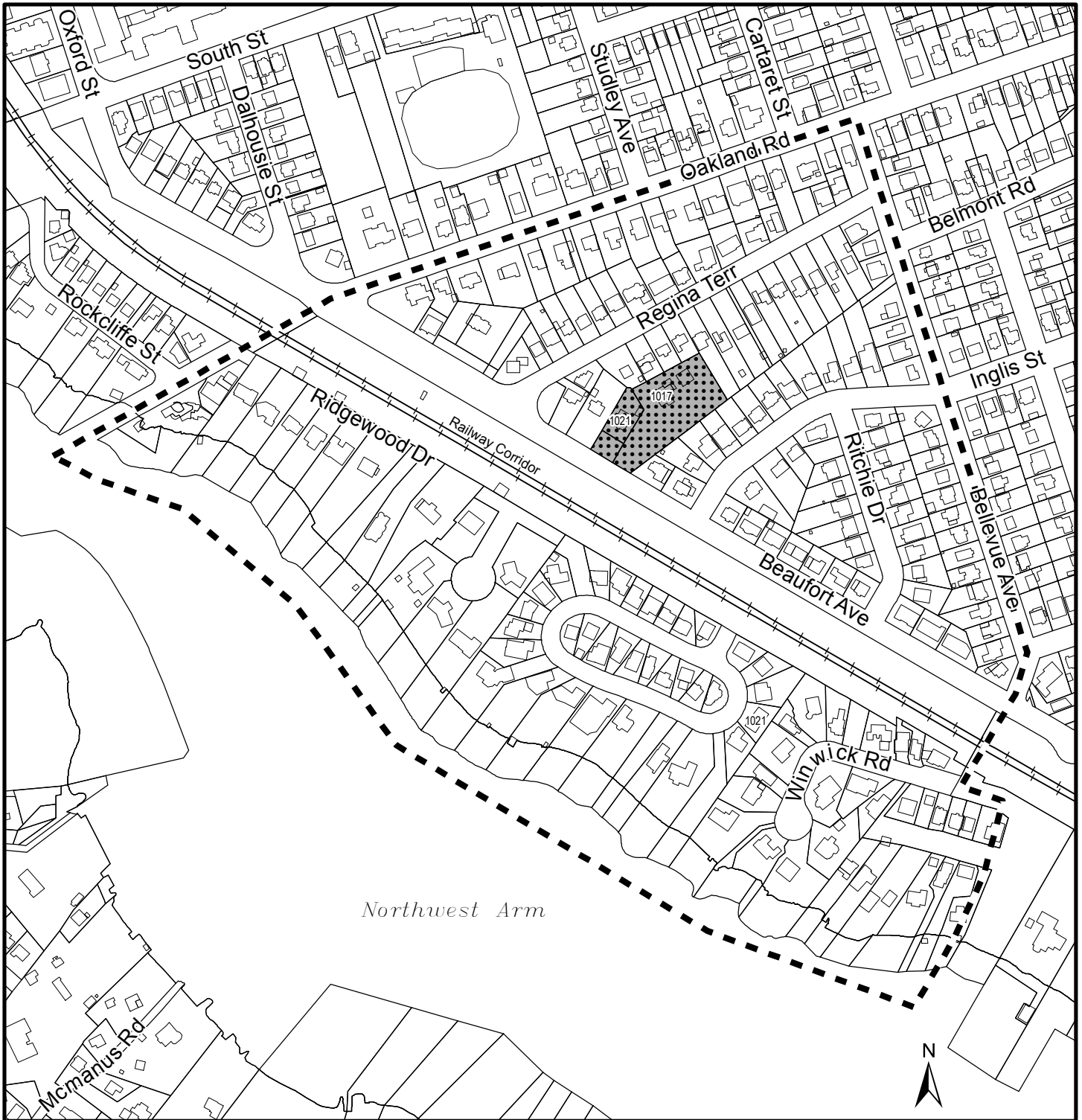
- R-1 Single Family Dwelling
- R-1A Single Family Dwelling A
- R-2 General Residential
- U-1 Low Density University
- U-2 High Density University
- P Park and Institutional
- WA Water Access



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.



Halifax Peninsula  
Land Use By-Law Area

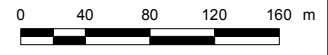


**Map 3 - Area of Notification**

1017 and 1021 Beaufort Avenue  
Halifax

**HALIFAX**

-  Subject Lands
-  Area of notification



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

Halifax Peninsula  
Land Use Plan Area

**ATTACHMENT A**  
**Proposed Amendments to the Municipal Planning Strategy for Halifax**

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

1. In Section V, Part 1 Residential Environments adding as shown in **bold** as follows immediately after policy 1.4.1.2:
  - 1.4.1.3 1017 and 1021 Beaufort Avenue are located in the area described by Policy 1.4.1.2 and combine to create an area of land large enough to allow for the development of a new public street. In order to enable an alternative to public road construction that acts to protect significant features on these lands while also allowing for development that reflects the existing character of the area, detached one family dwelling development may be considered by development agreement in accordance with the *Halifax Regional Municipality Charter*.**
  - 1.4.1.4 In considering development agreements pursuant to policy 1.4.1.3, Council shall consider the following:**
    - (a) the development contains a maximum of six detached one family dwelling houses, all of which may be located on a consolidated lot;**
    - (b) the development includes a tree preservation plan generally consistent with the character of surrounding development;**
    - (c) the architectural design of each house is generally consistent with the character of surrounding houses;**
    - (d) the height of each house is consistent with the permitted height of surrounding houses;**
    - (e) the appropriate placement of each house in relation to surrounding properties;**
    - (f) the separation distance between each house;**
    - (g) the footprint and gross floor area of each house;**
    - (h) the size, location and design of accessory buildings;**
    - (i) the types of home occupations;**
    - (j) provision for vehicular access and egress;**
    - (k) provision for on-site parking;**
    - (l) provision for site disturbance, erosion control, site grading, and stormwater management; and**
    - (m) provision for historical on-site signage.**
2. In Section V, Part 7 District Policies, adding as shown in **bold** as follows immediately after policy 7.1.2
  - 7.1.3 Pursuant to Policies 1.4.1.3 and 1.4.1.4, a development agreement may be considered for a development comprised of detached one family dwelling houses at 1017 and 1021 Beaufort Avenue.**

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., 20\_\_\_\_.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.

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

**ATTACHMENT B**  
**Proposed Amendments to the Land Use By-Law for Halifax Peninsula**

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

1. Section 94(1) be amended by adding text as shown in **bold** as follows immediately after clause 94(1)(s):

**1017 and 1021 Beaufort Avenue**

**94(1)(t) permit a development comprised of detached one family dwelling houses in accordance with policies 1.4.1.3 and 1.4.1.4.**

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., 20 \_\_\_\_.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this \_\_\_\_ day of \_\_\_\_\_, A.D., 20 \_\_\_\_.

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

**ATTACHMENT C**  
**Proposed Development Agreement**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

BETWEEN:

**INSERT DEVELOPER.**

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 1017 and 1021 Beaufort Avenue, Halifax, 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 the Lands to be consolidated into one (1) residential lot and developed with six (6) detached one family dwelling houses, pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 1.4.1.3 and 1.4.1.4 of Section V of the Municipal Planning Strategy for Halifax and Section 94(1)(t) of the Land Use By-law for Halifax Peninsula;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this Development Agreement at a meeting held on **[INSERT DATE]**, referenced as Municipal Case Number 17174;

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, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Halifax Peninsula and the Regional 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 and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial or Federal Government, and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, 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 and Subdivision 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.

## **1.5 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 laws, by-laws, regulations and 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: DEFINITIONS**

### **2.1 Words Not Defined under this Agreement**

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

### **2.2 Definitions Specific to this Agreement**

The following words used in this Agreement shall be defined as follows:

- (a) "Certified Arborist" means a professional, full member in good standing with the International Society of Arboriculture;
- (b) "Architect" means a professional, full member in good standing with the Nova Scotia Association of Architects;
- (c) "Buildable Area" means the portion of a Home Site, as identified by dashed line on Schedule C, in which a detached one family dwelling house or accessory building or structure over 100 square feet in area must be located;
- (d) "Common Shared Private Driveway" means a shared private driveway which provides access to the individual Home Sites from the Municipal public street;
- (e) "Existing Buildings" means the existing detached one family dwelling house and the detached accessory building located at 1021 Beaufort Avenue as shown on Schedule C;
- (f) "Forester" means a professional, full member in good standing with the Registered Professional Foresters Association of Nova Scotia;
- (g) "Home Site" means a specific site designated for a detached one family dwelling house as shown on Schedule C;
- (h) "Home Site Driveway" means a driveway providing access to a Home Site from the Common Shared Private Driveway;



- (i) “Interpretative Panel” means a weather-resistant panel providing historical information related to the Lands;
- (j) “Landscape Architect” means a professional, full member in good standing with the Canadian Society of Landscape Architects; and
- (k) “Professional Engineer” means a professional, full member in good standing with Engineers Nova Scotia.

## **PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS**

### **3.1 Schedules**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 17174:

Schedule A	Legal Description of the Lands
Schedule B	Subdivision Plan
Schedule C	Home Site Plan

### **3.2 General Description of Land Use**

3.2.1 The uses of the Lands permitted by this Agreement are the following:

- (a) Six (6) detached one family dwelling houses, located on Home Sites 1 through 6;
- (b) Home occupations;
- (c) A Common Shared Private Driveway;
- (d) Interpretative Panels; and
- (e) Accessory buildings and structures on the Home Sites.

3.2.2 Home occupations are permitted subject to the requirements of the Land Use By-law for Halifax Peninsula, except that the following uses are not permitted:

- (a) Day care facilities in conjunction with a dwelling; and
- (b) The storage of commercial vehicles.

### **3.3 Requirements Prior to Approval**

3.3.1 Prior to the issuance of a Building Permit for a detached one family dwelling house, the Developer shall complete the consolidation of the Lands into one (1) residential lot through the Municipal subdivision process, in accordance with the Regional Subdivision By-law and Section 3.4 of this Agreement.

- 3.3.2 Prior to the issuance of any Development Permit for a detached one family dwelling house, the Developer shall submit a Home Site Grading Plan which corresponds to the Site Grading Plan for the Lands submitted during the Municipal subdivision process, in accordance with Sections 3.4 and 5.1(c) of this Agreement.
- 3.3.3 Prior to the issuance of the first Development Permit for a detached one family dwelling house, the Developer shall provide a detailed design for the interpretative panel(s) in accordance with Section 3.9.1 of this Agreement.
- 3.3.4 At the time of each Occupancy Permit (excluding Occupancy Permits for the Existing Buildings where no grading changes have occurred), the Developer shall provide the Development Officer with certification from a Surveyor or Professional Engineer that the Developer has complied with the Home Site Grading Plan and the Site Grading Plan, which includes appropriate stabilization or landscaping for long term stability of the Home Site, subject to the Lot Grading By-law (By-law L-300), unless otherwise permitted by the Development Engineer.
- 3.3.5 For the purposes of this Agreement, specifically Sections 3.3.2 and 3.3.4, Home Sites shall meet the requirements applicable to Lots under the Lot Grading By-law (By-law L-300).
- 3.3.6 Prior to the issuance of the first Occupancy Permit for a detached one family dwelling house, the Developer shall install the interpretative panel(s) in accordance with Section 3.9.2 of this Agreement.
- 3.3.7 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, the Land Use By-law and the Subdivision By-law (except to the extent that the provisions of the Land Use By-law and Subdivision 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.

### **3.4 Subdivision of the Lands**

- 3.4.1 The Lands shall be consolidated into one (1) residential lot as shown on Schedule B of this Agreement.
- 3.4.2 The Development Officer shall grant final subdivision approval for the Lands to be consolidated into one (1) residential lot through the subdivision approval process subject to and in accordance with the Regional Subdivision By-law and with the following terms and conditions:

- (a) The final subdivision application shall include sufficient copies of the following detailed design information, which shall be certified by a Professional Engineer (with the exception of detailed information required by Section 3.4.2 (a)(iii)):
  - (i) Final design (including plan and profile) of all proposed public and private services, including water, sanitary, and stormwater;
  - (ii) Final design (including geotechnical report) of the Common Shared Private Driveway in accordance with Section 3.10 of this Agreement and with the standards of the National Building Code;
  - (iii) A Tree Preservation Plan in accordance with Section 3.11 of this Agreement;
  - (iv) A detailed Site Disturbance Plan in accordance with Section 5.1(a) of this Agreement;
  - (v) A detailed Erosion and Sedimentation Control Plan in accordance with Section 5.1(b) of this Agreement; and
  - (vi) A detailed Site Grading and Stormwater Management Plan for the Lands in accordance with Section 5.1(c) of this Agreement.
- (b) Upon approval of the detailed Site Disturbance Plan and the Erosion and Sedimentation Plan, and prior to the pre-construction meeting, the Developer may request approval from the Development Officer to begin site clearing and tree removal for the installation of services and the Common Shared Private Driveway.
- (c) Upon approval of the final design of all proposed public and private services, prior to the pre-construction meeting, the Developer may request a Blasting Permit from the Development Officer, subject to approval by all required agencies.
- (d) Upon positive recommendation of the detailed design by the Development Officer, Development Engineer, Building Official and Halifax Water, a pre-construction meeting shall be held prior to permits being issued. Prior to the scheduling of the pre-construction meeting, the Developer shall provide the Development Officer with construction time schedule.
- (e) During the Municipal subdivision process, the Developer shall obtain the necessary approvals for all required servicing work, including, but not limited to:
  - (i) Streets and Services permit for the Common Shared Private Driveway to meet the Streets By-law (S-300) and Municipal Design Guidelines in accordance with Section 3.10 and Part 4 of this Agreement;
  - (ii) HRM Streets and Services permits and Halifax Water permits to install laterals for water and sanitary services;
  - (iii) Extinguishing the portion of the public service easement located outside Home Site 1.
- (f) During the Municipal subdivision process, the Developer shall construct the necessary public and private services for the Lands, including, but not limited to:
  - (i) The Common Shared Private Driveway;

- (ii) Laterals for water and sanitary service; and
  - (iii) Any on-site or off-site fire hydrants required by Fire Services and Halifax Water.
- (g) Prior to the Development Officer's approval of the Lands being consolidated into one (1) residential lot, the Developer shall provide the necessary inspections and acceptance of work completed, including, but not limited to:
- (i) Registration of the amended public service easement (extinguishing the portion of the public service easement located outside Home Site 1) at the Land Registration Office, at the cost of the Developer;
  - (ii) Certification from a Professional Engineer indicating that the Developer has complied with the Stormwater Management Plan;
  - (iii) A Certificate of Construction Compliance from a Professional Engineer for the Common Shared Private Driveway;
  - (iv) Inspection and acceptance of the Common Shared Private Driveway as required by Fire Services, and a registered agreement with the Traffic Authority for Designated Fire Lanes, if required; and
  - (v) A letter from a Certified Arborist certifying that all trees required to be preserved by this Agreement have been protected throughout the construction of the Common Shared Private Driveway and are in good condition.

3.4.3 The Development Officer shall not approve the consolidation of the Lands into one (1) residential lot until the detailed design information, necessary permits, construction, inspections and acceptance, as outlined in Sections 3.4.2 (a) through 3.4.2(g) have been satisfied.

### **3.5 Archaeological Considerations**

A portion of the Lands falls within the High Potential Zone for Archaeological Sites identified by the Province. The Developer shall contact the Curator of Special Places with the Heritage Division of the Department of Communities, 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.

### **3.6 Existing Buildings**

Notwithstanding any section of this Agreement, if destroyed or damaged by fire or otherwise, an Existing Building may be rebuilt, replaced or repaired to be substantially the same as it was before the destruction or damage, subject to compliance with the requirements of the Nova Scotia Building Code.

### **3.7 Detached One Family Dwelling Houses and Accessory Buildings and Structures**

- 3.7.1 Six (6) detached one family dwelling houses, located on Home Sites 1 through 6 as shown on Schedule C, are permitted under the terms of this Agreement.
- 3.7.2 The variance provisions under the Land Use By-law for Halifax Peninsula and the *Halifax Regional Municipality Charter* do not apply to the Lands.
- 3.7.3 No portion of a detached one family dwelling house, including covered porches or verandas and unsheltered structures such as decks or stairs, shall be located outside of the Buildable Area for the Home Site, as illustrated on Schedule C.
- 3.7.4 The Gross Floor Area of a detached one family dwelling house shall be applied to the size of the Home Site, and not to the size of the lot, and shall not exceed:
- (a) 5698 square feet on Home Site 1;
  - (b) 5438 square feet on Home Site 2;
  - (c) 5625 square feet on Home Site 3;
  - (d) 5574 square feet on Home Site 4;
  - (e) 5196 square feet on Home Site 5;
  - (f) 5625 square feet on Home Site 6.
- 3.7.5 Accessory buildings or structures may be permitted inside the Buildable Area for a Home Site, as illustrated on Schedule C, but shall not be included in the Gross Floor Area calculations.
- 3.7.6 The maximum footprint, including the detached one family dwelling house and all accessory buildings and covered structures, shall not exceed thirty-five (35) percent of the Home Site.
- 3.7.7 The maximum height of a detached one family dwelling house shall not exceed thirty-five (35) feet, calculated according to the applicable height provisions of the Land Use By-law.
- 3.7.8 Siting, bulk and scale of accessory buildings or structures shall comply with the following requirements:
- (a) No portion of a building or structure shall be located less than four (4) feet from any dwelling or any side or rear property line;
  - (b) No portion of a building or structure shall be located closer to the Common Shared Private Driveway than the setback between the dwelling on that Home Site and the Common Shared Private Driveway;
  - (c) No portion of a building or structure shall be located closer to the public street than the setback between the dwelling on that Home Site and public street;
  - (d) The maximum footprint shall not exceed:
    - (i) 600 square feet for accessory buildings or structures located within the Buildable Area of a Home Site; or

- (ii) 100 square feet for accessory buildings or structures located outside the Buildable Area of a Home Site.
- (e) Measured to the highest point of the roof from the mean grade of the natural ground adjoining the building, the maximum height shall not exceed:
  - (i) Fourteen (14) feet for accessory buildings or structures located within the Buildable Area of a Home Site; or
  - (ii) Ten (10) feet for accessory buildings or structures located outside the Buildable Area of a Home Site.

### **3.8 Architectural Requirements**

- 3.8.1 All plans submitted for Development and Building Permits shall include written confirmation from an Architect that the plans meet the architectural requirements of Sections 3.8.2 and 3.8.3.
- 3.8.2 Detached one family dwelling houses shall substantially conform to one of three architectural styles, described below:
  - (a) A Traditional Vernacular architectural style shall include such typical elements as: simple footprint, steeply pitched roof, gable dormers, vertically oriented hung windows, windows and doors with wooden trim, corner boards, and wooden clapboard or wooden shingle siding;
  - (b) A Craftsman architectural style shall include such typical elements as: two storeys, a low pitched roofline, gabled or hipped roof, deeply overhanging eaves with exposed rafter ends or brackets, large covered porches or wraparound porches, substantial pillars, 4-over-1 or 6-over-1 double-hung windows, window boxes with wooden brackets, exterior chimneys, and handcrafted stonework or woodwork; or
  - (c) A Contemporary architectural style may include such elements as: large window openings, clean lines, modern materials, and modest ornamentation, but must include inspiration from and respect for either the Craftsman or Traditional Vernacular architectural styles.
- 3.8.3 General architectural requirements for accessory buildings and structures are as follows:
  - (a) Accessory buildings and structures shall be substantially the same style and materials as used on the detached one family dwelling house on that Home Site; and
  - (b) All vents, down spouts, flashing, electrical conduits, meters, service connections, and other functional elements shall be treated as integral parts of the design.

### **3.9 Interpretative Panels**

- 3.9.1 Prior to the issuance of a Building Permit for the first one family dwelling house, the Developer obtain a Development Permit for one or more interpretative panels. The Development Permit application shall be reviewed by the Development Officer and the

HRM Heritage Planner, and shall include a detailed design for one or more interpretative panels. Interpretative panels shall be located on Home Site 1 or Home Site 6 and shall be setback a minimum of ten (10) feet from the Common Shared Private Driveway and a maximum of two (2) feet front the property line shared with Beaufort Avenue. Interpretative panels shall not exceed five (5) feet in height and four (4) feet in width.

- 3.9.2 Prior to the issuance of an Occupancy Permit for the first one family dwelling house, the Developer shall submit to the Development Officer, in consultation with the HRM Heritage Planner, confirmation that the interpretative panel(s) required by Section 3.9.1 have been installed.

### **3.10 Access, Driveway and Parking Requirements**

- 3.10.1 Access to the Home Sites shall be via the Common Shared Private Driveway as shown on Schedule C.
- 3.10.2 The Common Shared Private Driveway shall comply with the requirements of the Streets By-law (S-300) and Municipal Design Guidelines.
- 3.10.3 The Common Shared Private Driveway shall comply with the requirements of the National Building Code for required access routes for Fire Services.
- 3.10.4 Each Home Site shall include a Home Site Driveway and a minimum of three (3) parking spaces at least eight (8) feet wide and sixteen (16) feet long.

### **3.11 Tree Preservation**

- 3.11.1 Schedule C identifies significant trees to be preserved. The Developer shall ensure conservation of these significant trees through the following measures:
- (a) The Site Disturbance Plan shall identify the limit of disturbance, tree habitat preservation areas, the hoarding fence location and the stockpile location;
  - (b) Prior to the issuance of a Construction Permit for a detached one family dwelling house, the Developer shall submit a Home Site Disturbance Plan which shall identify the limit of disturbance, tree habitat preservation areas, the hoarding fence location and the stockpile location;
  - (c) During demolition and construction, proper arboricultural practices shall be undertaken and shall include such activities as:
    - (i) the erection of tree protective hoarding fence located as close to the drip-line of the trees to be preserved as possible for the duration of construction;
    - (ii) no stockpiling of soil or materials or the movement of equipment within the hoarded areas; and
    - (iii) pruning of any damaged limbs or roots.

(d) If any of the significant trees shown on Schedule C are damaged or removed, two (2) new trees of the same species shall be provided for each damaged or removed tree. Each replacement tree shall be provided at the expense of the Developer within six (6) months and shall have a minimum 100 mm caliper, measured 30 cm above grade level. The Developer shall provide a letter from a Certified Arborist certifying that all replacement trees have been planted and are in good condition in accordance with this Section.

3.11.2 Notwithstanding Section 3.11.1, where a Landscape Architect, Certified Arborist or Forester engaged by the Developer or lot owner certifies in writing that a significant tree poses a hazard to people or property or is in severe decline, the Development Officer may permit the tree to be removed. Any significant tree shown on Schedule C that is removed shall be replaced at the expense of the Developer or lot owner with a new tree, of the same species, and of a minimum size as outlined in Section 3.11.1.

### **3.12 Outdoor Lighting**

3.12.1 Lighting shall be directed to the driveways, parking areas, building entrances and walkways and shall be arranged so as to divert the light away from public streets, adjacent lots and buildings.

3.12.2 Lighting on the Common Shared Private Driveway shall use a full cut-off fixture design.

### **3.13 Solid Waste**

Municipal collection of solid waste shall be provided subject to the requirements of the Solid Waste Resource Collection and Disposal By-Law (By-law S-600).

### **3.14 Maintenance**

3.14.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of all buildings, fencing, walkways, recreational amenities, the Common Shared Private Driveway, Home Site Driveways and parking areas, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

3.14.2 The Developer shall be responsible for all aspects of maintenance for the Common Shared Private Driveway, the Home Site Driveways, any private hydrants, the private stormwater management systems, and any private water and sanitary laterals. This infrastructure will not be taken over by the Municipality.

## **PART 4: STREETS AND MUNICIPAL SERVICES**

### **4.1 General Provisions**



All design and construction of primary and secondary service systems shall satisfy the latest edition of the Municipal Design Guidelines and the latest edition of Halifax Water's Design and Construction Specifications unless otherwise provided for in this Agreement, and shall receive written approval from the Development Engineer prior to undertaking the work.

## **4.2 Off-Site Disturbance**

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 and the HRM Urban Forester.

## **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

### **5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plans**

Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:

- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction, the areas to be disturbed or undisturbed, any removal of vegetation and intended means of replacement, and any removal and replacement of significant trees, subject to the requirements of Section 3.11;
- (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and
- (c) Submit to the Development Officer a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer, which shall include an appropriate stormwater collection and treatment system. The Site Grading and Stormwater Management Plan shall identify structural and vegetative stormwater management measures, which may include infiltration, retention, and detention controls, wetlands, vegetative swales, filter strips, and buffers that will minimize adverse impacts on receiving watercourses during and after construction.

## **PART 6: AMENDMENTS**

### **6.1 Non Substantive Amendments**

The following items are considered by both parties to be not substantive and may be amended by resolution of Council:

- (a) Minor changes to the architectural requirements and exterior architectural appearance or materials as detailed in Section 3.8;
- (b) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement; and
- (c) The length of time for the completion of the development as identified in Section 7.4 of this Agreement.

## **6.2 Substantive Amendments**

Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

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

### **7.1 Registration**

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

### **7.2 Subsequent Owners**

- 7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.
- 7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

### **7.3 Commencement of Development**

- 7.3.1 In the event that development on the Lands has not commenced within four (4) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the 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 purpose of this section, commencement of development shall mean final subdivision approval into one (1) residential lot as shown on Schedule B of this Agreement.
- 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 6.1, if the

Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

#### **7.4. Completion of Development**

7.4.1 Upon the completion of the whole development or complete phases of the development, 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; or
- (c) Discharge this Agreement.

7.4.2 In the event that development on the Lands has not been completed within six (6) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the 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.

7.4.3 For the purpose of this section, completion of development shall mean the issuance of a Construction Permit for all Home Sites.

7.4.4 For the purpose of this section, Council may consider granting an extension of the completion of development time period through a resolution under Section 6.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the completion of development time period.

#### **7.5 Discharge of Agreement**

7.5.1 If the Developer fails to complete the development after six (6) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office 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; or
- (c) Discharge this Agreement.

### **PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

#### **8.1 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 twenty four hours of receiving such a request.

**8.2 Failure to Comply**

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, 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;
- (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 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 the 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; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the Halifax Regional Municipality Charter or Common Law in order to ensure compliance with this Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

**SIGNED, SEALED AND DELIVERED**

in the presence of:

\_\_\_\_\_  
=====

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

\_\_\_\_\_

**DEVELOPER**

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

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

=====

**HALIFAX REGIONAL MUNICIPALITY**

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

Mayor

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

Municipal Clerk

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS \_\_\_ day of \_\_\_\_\_, A.D., 201 , before me, the subscriber personally came and appeared \_\_\_\_\_ a subscribing witness to the within and foregoing Indenture, who, having been by me duly sworn, made oath and said that **DEVELOPER**, one of the parties thereto, signed, sealed and delivered the same in his presence.

---

A Commissioner of the Supreme  
Court of Nova Scotia

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS \_\_\_ day of \_\_\_\_\_, A.D., 201 , before me, the subscriber personally came and appeared before me \_\_\_\_\_ the subscribing witness to the within and the foregoing Indenture, who, having been by me duly sworn, made oath and said that the Halifax Regional Municipality, one of the parties thereto, caused the same to be executed and its Corporate Seal to be thereunto affixed by the hands of Mike Savage, its Mayor, and Cathy Mellet, its Municipal Clerk, its duly authorized officers in his presence.

---

A Commissioner of the Supreme  
Court of Nova Scotia

REGINA TERRACE

BEAUFORT AVENUE  
(60' WIDE)

CIVIC # 6224  
CIVIC # 6214  
CIVIC # 6208  
CIVIC # 6200  
CIVIC # 6192

CIVIC # 1025

PID 00052340

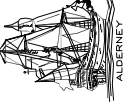
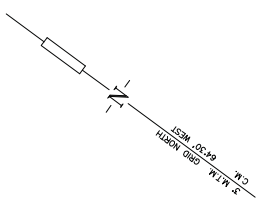
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CIVIC # 1021

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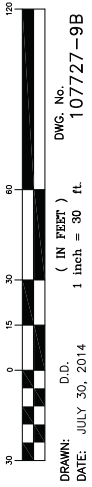
CIVIC # 1011



**ALDERNEY SURVEYS LIMITED**  
NEW SCOTIA  
12 DAWNT DRIVE, DARTMOUTH, N.S.  
Tel: 465-7300 Fax: 465-4834  
alderney@alderney.com

**SCHEDULE B - SUBDIVISION PLAN**  
NEW PROPOSED LOT - MERLIN COURT  
HALIFAX, HALIFAX COUNTY, NOVA SCOTIA

GRAPHIC SCALE



**LEGEND**

Lands to be Consolidated



REGINA TERRACE

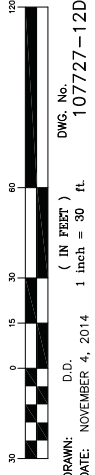
BEAUFORT AVENUE  
(60' WIDE)



**ALDERNEY SURVEYS LIMITED**  
 12 DAWN DRIVE, DARTMOUTH, N.S.  
 Tel: 465-7300 Fax: 465-4834  
 alderney@alliant.com

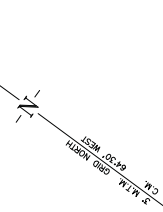
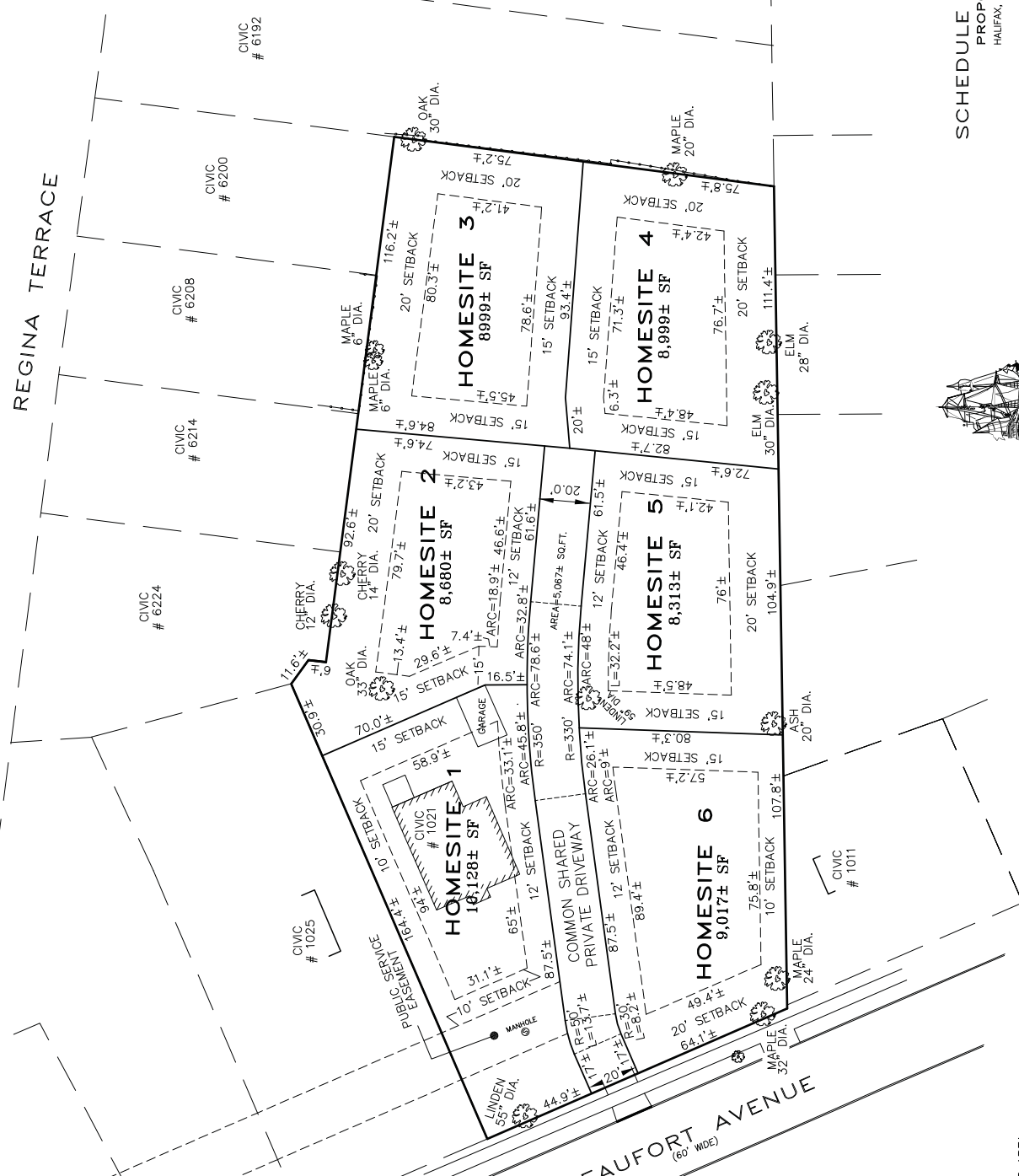
**SCHEDULE C — HOMESITE PLAN**  
 PROPOSED HOMESITES  
 HALIFAX, HALIFAX COUNTY, NOVA SCOTIA

GRAPHIC SCALE



**LEGEND**

- DENOTES BUILDABLE AREA
- DENOTES TREE TO BE PRESERVED



## Attachment D

### Proposed Development Agreement Policy Review (based on proposed amendments to the Municipal Planning Strategy)

Policy Criteria:	Staff Comment:
<p><b>Section V (South End Area Plan)</b></p> <p>1.4.1.3 1017 and 1021 Beaufort Avenue are located in the area described by Policy 1.4.1.2 and combine to create an area of land large enough to allow for the development of a new public street. In order to enable an alternative to public road construction that acts to protect significant features on these lands while also allowing for development that reflects the existing character of the area, detached one family dwelling development may be considered by development agreement in accordance with the Halifax Regional Municipality Charter.</p>	<p>The proposed development agreement applies to 1017 and 1021 Beaufort Avenue.</p>
<p>1.4.1.4 In considering development agreements pursuant to policy 1.4.1.3, Council shall consider the following:</p>	<p>See below.</p>
<p>(a) the development contains a maximum of six detached one family dwelling houses, all of which may be located on a consolidated lot;</p>	<p>The proposed development agreement allows six detached one family dwelling houses, and requires the subject lands to be consolidated into one lot.</p>
<p>(b) the development includes a tree preservation plan generally consistent with the character of surrounding development;</p>	<p>The proposed development identifies the location, size, and species of trees to be preserved. This approach protects 14 mature trees, many of which are significant in size. Protecting mature trees on the subject lands ensures development is generally consistent with the well-established character of the existing neighbourhood.</p>
<p>(c) the architectural design of each house is generally consistent with the character of surrounding houses;</p>	<p>Each house must conform to 1 of 3 architectural styles, described in the proposed development agreement as Traditional Vernacular, Craftsman, or Contemporary. If the Contemporary architectural style is chosen for a house, the design must include inspiration from and respect for either the Craftsman or Traditional Vernacular architectural styles. This approach ensures development is generally consistent with the character of the existing neighbourhood.</p>
<p>(d) the height of each house is consistent with the permitted height of surrounding houses;</p>	<p>The height of each house is limited by the same 35 foot height restriction applied to all R-1A zoned properties.</p>
<p>(e) the appropriate placement of each house in relation to surrounding properties;</p>	<p>The proposed development agreement includes a Home Site Plan which identifies the maximum buildable area for each house. This approach ensures appropriate setbacks from surrounding properties.</p>



<i>(f) the separation distance between each house;</i>	The proposed development agreement includes a Home Site Plan which identifies the maximum buildable area for each house. This approach ensures appropriate setbacks between each house.
<i>(g) the footprint and gross floor area of each house;</i>	Within the buildable area shown on the Home Site Plan, the proposed development agreement limits all houses to 35 percent coverage in relation to the size of a home site. A maximum gross floor area for each house is required in relation to the size of each home site, with maximums based on a 25 percent increase compared to as-of-right development. Given the proposed development agreement requires the protection of established trees and conformance with specific architectural styles, the additional gross floor area is not considered out of character with the existing neighbourhood.
<i>(h) the size, location and design of accessory buildings;</i>	The proposed development agreement requires accessory buildings to be substantially the same style and materials used for the corresponding house. Further, the location and size of accessory buildings are restricted to ensure neighbourhood compatibility.
<i>(i) the types of home occupations;</i>	The proposed development agreement allows for home occupations permitted by the LUB, with the exception of day care facilities and the storage of commercial vehicles.
<i>(j) provision for vehicular access and egress;</i>	As part of the development agreement process, the applicant submitted a traffic impact statement (TIS), which states the proposed development is not expected to have any noticeable impact to the level of performance of Beaufort Avenue, the intersections at Beaufort Avenue and Inglis Street, or the regional street network. The TIS was reviewed by HRM's Development Engineer and was found to be acceptable.
<i>(k) provision for on-site parking;</i>	The proposed development agreement requires a minimum of 3 parking spaces per home site, which is 2 more than typically required for a house.
<i>(l) provision for site disturbance, erosion control, site grading, and stormwater management; and</i>	In conjunction with the consolidation of the subject lands into one lot, the proposed development agreement requires a professional engineer to provide detailed plans related site disturbance, erosion and sedimentation control, site grading, and stormwater management. This approach ensures site development is carried out in accordance with accepted engineering practices.
<i>(m) provision for historical on-site signage.</i>	The subject lands and surrounding neighbourhood were formerly part of the old Estates of Oaklands and Belmont (no longer in existence). In order to highlight the historical significance of the subject lands and surrounding neighbourhood, the development agreement requires the installation of one or more interpretative panels facing the public sidewalk.

**ATTACHMENT E**  
**Public Information Meeting Minutes**

**HALIFAX REGIONAL MUNICIPALITY**  
**PUBLIC INFORMATION MEETING**  
**CASE # 17174**

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**7:00 p.m.**  
**Wednesday, May 16, 2012**  
**St. Mary's Boat Club, Halifax**

**IN ATTENDANCE:** Miles Agar, Planner, HRM Planning Services  
Hilary Campbell, Planning Technician, HRM Planning Services  
Sharlene Seaman, Planning Controller, HRM Planning Services  
Applicant, Jenifer Tsang, Sunrose Land Use Consulting  
Developer, Ed Weaver, Three Brooks Development Corp.  
Developer, David Bryson, Three Brooks Development Corp.  
Developer, Don Williams, Three Brooks Development Corp.  
Councillor Jennifer Watts  
Councillor Sue Uteck

**PUBLIC IN ATTENDANCE:** Approximately 33

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The meeting commenced at approximately 7:00 p.m.

**1. Opening remarks/Introductions/Purpose of meeting – Miles Agar**

Councillor Sue Uteck opened the meeting by introducing herself, the planner in charge of the application, Miles Agar and HRM staff. She welcomed everyone and thanked them for coming.

She stated that the Planning department received an application by Sunrose Land Use Consulting on behalf of the lands of Three Brooks Development Corporation Limited to amend the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law to allow for the consideration of 6 single unit dwellings on a shared private driveway at 1017 and 1021 Beaufort Avenue, Halifax through the development agreement process.

Mr. Agar introduced himself and reviewed the application. He stated that the purpose for the Public Information Meeting was to identify the scope of the proposal and the process and to compare the current development availability on the site with the applicant's proposal. Also, he would be looking to receive feedback on any issues and concerns that are brought forward. He

noted that no decisions had been made on the application and no decisions would be made at the meeting.

He outlined the meeting agenda and ground rules.

## **2. Overview of planning process/Presentation of Proposal – Miles Agar**

Mr. Agar showed the proposed location, noting that the application will consider a maximum of 6 single unit dwellings on a shared private driveway. It will also consider amendments to the Halifax Municipal Planning Strategy and Land-Use By-law. A development agreement will be required to provide detail for what can be done on the subject property.

He noted that because a request was made for an amendment to the Halifax Municipal Planning Strategy and the Land-Use By-law. Regional Council had to provide staff with direction. This was done in March of 2012. Staff was directed to initiate the process to consider the proposal. The public information meeting is the next step in this process. There will be no decisions made at the meeting. Planning staff will conduct an analysis on the proposal, and include any applicable agencies. He noted that with public comment, a staff report and recommendation will be brought forth to Peninsula Community Council and then to Regional Council for Public Hearing.

Mr. Agar advised that the general location of the property site is the eastern side of Beaufort Avenue, south of Regina Terrace and north of Inglis Street, Halifax. There are three parcels, approximately 62,000 square feet of total area with about 127 feet of street frontage. The property is zoned R-1A. This zone was adopted by Council in the fall of 2011. It replaced the R-1 zone that was previously applied to the area. The R-1A zone is the same as the R-1 zone with a few changes, mainly being lot area. It has larger lot area and larger lot frontage requirements. There are also some specific setback and height requirements. The R-1A zone is intended to provide development controls consistent with the character of the neighbourhood.

He stated that in terms of the current development ability there is the ability on the site to allow for a subdivision, as-of-right. This does not require council's approval. As-of-right, the developer can construct a public street and seven lots. These lots can primarily be used for single unit dwellings. The controls in the R-1A zone focus on lot size and building location size and height requirements. The minimum lot size for this zone is 5,000 square feet. The minimum frontage is 50 square feet. The front yard is 15 feet. The rear yard is 20 feet. The maximum lot coverage is 35 percent. The maximum height is 35 feet. The maximum gross floor area is 3,000 – 3,300 feet.

He showed the subject area, including the lot lines. There is a required lot area minimum of 5,000 square feet in the R-1A zone. The required frontage is 50 feet. The front yard setback requirement is 15 feet. The side yard setback requirement is a maximum of 6 feet but if the lot is only 50 feet, the requirement would be 5 feet. The rear lot is 20 feet. The maximum lot coverage is 35 percent. The height measurement in this particular zone is taken from the base of the building to the roof feet and 35 feet is the maximum. The gross floor area regulates the size of the actual floor area. It varies depending on the size of the lot. He provided examples. In a case where there is a height restriction of 35 feet and a 35 percent coverage restriction but no gross floor area requirement, there would be no requirement in terms of the maximum area of floor area. He advised that currently the space can be developed at an average of 5,200 square feet per lot, with 7 lots and a public road. About 1,850 square feet of each lot could be covered with a

building footprint, and a maximum floor area of 3,120 square feet. The calculation for height is 35 feet to the maximum high point, which would be the roof peak. The block immediately surrounding the site, Regina Terrace, has properties that average just less than 1,200 square feet in footprint. The average on Inglis Street is 1,720. Bellevue Street has 1,425 and Beaufort Avenue averages 1,335 square feet.

Mr. Agar advised that the proposal is for a driveway and six houses on the property by development agreement. A development agreement is a negotiated contract between the municipality and the property owner. It is guided by the Municipal Planning Strategy policy. In this case they would need to look into creating a new policy for council's consideration. The provisions typically include the land use, which is permitted through the agreement, building size, site development and environmental protection. This must go through a public process prior to a decision of Council, which is required.

Mr. Agar turned the floor over to the applicant, Jenifer Tsang, for presentation.

### **3. Presentation of Proposal – Jenifer Tsang**

Jenifer Tsang introduced herself as the applicant. She is a planning consultant on behalf of Three Brooks Development Corporation. She also introduced her colleagues.

She noted that there are a few options for this development. Option A shows 9 lots because it is a sub-division application that has been approved by HRM. This was approved prior to the changes in the zone. She is not sure that it would still be approved, due to the changes. They may have to convert to 7 lots to get a final approval because the lot sizes have increased. As or right, it involves the creation of a public street and cul-de-sac, which is located on a property line behind Regina Terrace. They are asking permission to build a shared driveway, instead of a public street. It would be cared for by the residents as it would under a condo corporation. As a normal part of an as-of-right sub-division, Parkland dedication fees were brought up at Council. There is some discussion as to whether or not this would be a condominium or six individual lots. The second option would allow HRM to seek Parkland fees. This is a technical detail that she would like to add. The developer doesn't prefer one over the other but she wanted to put that option out there as a decision should be made on that quite soon.

She noted that in both options they need to meet the Land-Use By-law requirements. She wanted to talk about lot coverage as it has been an issue in a previous development. The developer prefers to have 6 lots with an average lot size of 10,000 square feet with a lot coverage of 35 percent. This insures that there are no changes for the rest of the neighbourhood. She would not like to see the gross floor area rule apply to this development because it was originally put in place to reduce the amount of homes that were being purchased, renovated and rented to students. There was general feeling in the larger neighbourhood that this was not something the neighbourhood wanted to encourage. Under a development agreement, this could be taken care of. It could specify that these are to be single unit dwellings with no rentals of rooms.

Ms. Tsang showed what the buildings might look like. It could have two floors with a peaked roof or the same home could have a basement, or a recreation space in the peaked roof and it will not change the look of the building from the outside. They feel that someone who is purchasing a

10,000 square foot lot should have the right to have a bigger home than someone who has purchased a 5,000 square foot lot because the requirements will still be met.

Mr. Agar gave the ground rules and opened the floor for any questions and comments.

#### **4. Questions/Comments**

**David Clarke, Halifax,** asked if option A is actually buildable. He understands that the lot needs to be 5,000 square feet before a building permit will be issued. He feels that option B is the only option. He is concerned about having monster houses towering over the existing neighbourhood. The average floor area of the current properties is about 1,400 square feet. The gross floor area is around 2,500 square feet. He does not want to see development in his backyard that has doubled the existing sizes of floor space.

He would like to hear more detail in the application as there is currently nothing to debate. If something is not specified, it would fall to the existing By-Law to regulate. He would like to see that the development agreement has some protection against how the buildings are developed. The gross floor area of 4,500 square feet is well beyond the size of the existing houses. This is not in keeping with the neighbourhood. To have maximum lot coverage as 35 percent doubles the existing sizes. Again, that is not in keeping with the neighbourhood. He would like to see more numbers concerning a maximum size applied to the houses, in the development agreement.

He feels that 1,500 square feet for the footprint and a maximum of 3,500 square feet for a house size is sufficient for the neighbourhood. He noted that a style of home should also be provided. He would like to see peaked roofs and natural siding on the new development.

He noted that he would like to note that the size and style should be in keeping with the neighbourhood.

**Barbara Shaw, Halifax,** expressed concern about the houses in the area being sympathetic to each other as the developer stated that they may not be responsible for the building of the development. She feels that basements may be a concern as the area is built on iron stone rock. She would not like to see three storey developments.

**Ian Beauprie, Halifax,** is interested in the process as he stands to gain 3 or 4 backyard neighbours. He would like to constrain the development as he feels that any unsaid issues will be brought to a maximum by the developer, if possible. He suggested again any suspension of the gross floor area limitations. He would like to see some firm planned setbacks, security and limitations of lot size.

**Rosemary Nichols, Halifax,** inquired about the existing trees that surround the properties. She noted the green space but wondered if a development agreement could include the preservation of the trees.

Mr. Agar advised that the development agreement does provide the ability to regulate non-disturbance areas. This could include certain trees but only speaks to land on the subject property.

Ms. Nichols asked when such a requirement could be added.

Mr. Agar advised that all comments from the meeting would be considered. He turned the floor over to the applicant for further information concerning the topic.

Ms. Tsang stated that with option A some of the nicer trees on the site cannot be saved but in option B there is a proposal to wind the driveway around the larger trees on the property. Perimeter trees should not be disturbed. Some of the trees will provide a natural buffer for the properties. She stated that it would be in the development agreement if they were to go with option B.

**Jody Clarke, Halifax**, is happy that the development agreement is coming forth because she is not happy with the idea of a cul-de-sac in her backyard. She feels that the need for written details is necessary. She is nervous about the asbestos in the area.

**Mark Poirier, Halifax**, is concerned about the shared private driveway component for the subdivision option. He feels that a shared private driveway means that cars and people are not welcome. He feels that it would be similar to a gated community. He would like to see that discussion take place. He thinks this issue should be discussed before any decisions are made. He wonders if it would be in the interest of the community or just in the interest of a few developers. He feels that there should be a policy on this before any consideration is given.

He asked what 6.1 meters means in terms of all parking for guests, service vehicles, delivery vehicles, construction vehicles, moving vans, emergency vehicles, waste collection trucks, snow clearing vehicles, etc. He asked if a super mailbox would be installed at the entrance which may cause a bottle neck at times. He asks about the traffic situations that may come about and turning radiuses for emergency vehicles, keeping in mind that other people may be leaving the driveway at the same time.

He asked in what other areas and situations would this be allowed. He believes that decisions on the design standard should be made prior to any approvals. This will be the first case and will lead the standard forever after. He hopes that HRM proceeds with caution when it comes to a shared private driveway rather than rushing into something that may cause regret in the community later.

**Taki Kostopoulos, Halifax**, noted that he has been in the neighbourhood for a long time. He asked if the backyards are going to remain as it currently is or if they will be fixed up. He would like to see the remaining trees stay as they are. He hopes that they can build around them as other builders have done. He is concerned about the elevation at the back of the property. He feels that garbage collection will have to be private and may become an issue. Also it may be messy. He asked if snow will be removed by a private company and if so, where will they move it. This could cause an issue as it has in the past.

He asked when the setbacks for side yards changed to 6 feet.

Mr. Agar stated that he would look into that.

**Dan O'Halloran, Halifax**, noted that it is very important to preserve the character of the neighbourhood. Moving in the direction of too many lots on the development would be a

disadvantage. It may also be a concern if there are not enough lots. He feels that it is important to look at the gross floor area when looking at a development agreement.

He stated that the corner of Beaufort and Inglis is not the best intersection in the city. He wonders if traffic will be an issue. He would like that arrangement be looked at very carefully as there is a lot of corner cutting currently and is not very safe. He is concerned about the size of the driveway. He asked if there would be a sidewalk and if there would be enough parking for all types of vehicles. He would like to see the trees remain. He is concerned about construction noise outside of normal working hours. He would like to see the property remain the same but notes that the change should be a positive one. He stated that the developer is a very sensitive, by reputation.

**Corrine Renton, Halifax,** would like to be considered when construction begins. She would like to make sure that she is prepared and able to get out of her driveway, when necessary. She requested that the neighbours be able to request a down time on construction if there are any special events happening in the neighbourhood. She is concerned about traffic and garbage issues. She is also concerned about walking her dog as there are no sidewalks in the plan.

Ms. Renton would like to keep her dignity throughout this process and the development process.

David Clarke asked how the comments from the meeting are placed into the development agreement.

Mr. Agar advised that the minutes from the public information meeting are recorded and transcribed. They will be included in any future staff report that goes forth to Council. As a part of the process staff will use the considerations made at the meeting in how to go forward in evaluating the proposal and how they go forward in formulating their recommendations to Council.

Mr. Clarke advised that he has no input in the interpretation of the minutes.

Mr. Agar advised that it would all culminate at a public hearing, in terms of recommendation. There would be a development agreement which would have conditions and clauses laid out that are relevant to the development. This would be presented to the public about 6-8 weeks before the public hearing. The public would be invited to come out and give comment at the public hearing. Written submissions would also be attached to the staff report. This gives the public an opportunity to digest what is being proposed.

Ian Beuprie noted that the as-of-right option turns a lot of tree into asphalt. He would rather suggest option B. He noted that a public hearing is just an exercise in making the public feel better and comments are completely ignored. He hopes that the public comments from the meeting are seriously considered in the decision making process.

Barbara Shaw noted that the residents on Inglis Street possibly have serious water run-off issues. She feels that this may cause some lawsuit issues.

Alan Hayman, Halifax, asked for answers concerning issues with emergency vehicle access.

Mr. Agar advised that the proposal is currently being reviewed by HRM's fire services department.

Jenifer Tsang advised that they did receive some preliminary comments from the HRM fire services department. They pointed out that option B would have “no parking” posted so there is availability for fire vehicles. They have indicated that they are adhering to the codes for width and length of the driveway. A traffic impact study has been completed and will be made available. It does meet all the requirements for sight distance, turning radius, etc. This will be addressed in the staff report.

She noted that with option A, having a cul-de-sac, there could be public parking. Also with this option, it was determined that a sidewalk was not necessary as they would only be servicing 6 homes. Under option B, no sidewalk is proposed at this point. In terms of garbage, a condominium association would be responsible for all things such as garbage and snow clearing, if it were to be condos. There would be rules that would have to be followed. In terms of stormwater management, there are requirements. They are aware of the issues and adequate controls will be put in place to address those issues, with both options.

Unknown speaker asked if option A was still able to move forward.

Mr. Agar advised that the current rules allow for option A to go forth as-of-right.

**Ed Weaver, developer**, advised that they do not intend on going with option A as it is less desirable but it is something they have to consider. It is not their preference but it is still on the table for discussion.

**Brian Guns, Halifax**, feels that if there is no option for guest parking and emergency vehicles on the new driveway or cul-de-sac, Regina Terrace will get the brunt of the traffic as there are also no options for guest parking on Beaufort or Inglis Streets.

## **5. Closing comments**

Mr. Agar thanked everyone for coming and provided his contact information.

Councillor Sue Uteck advised that she will be working with HRM planning staff to figure out the comments and details of the development agreement. She advised that it is her job to ensure that it works for the community members. She will work with the developers to solve as many issues as she possibly can. She noted that no matter what option is chosen, the development agreement will incorporate the information provided at the meeting.

## **6. Adjournment**

The meeting adjourned at approximately 8:15 p.m.



**Attachment F**  
**Additional Public Comments**

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Submitted by email on May 15, 2012

Mr. Miles Agar

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Issues concerning the Three Brooks Development - from Karine Renton

1 - The demolition. Debris and any asbestos contained on Bryson property if demolished, should be properly handled this time - assuring protection of my property and my fence which are in close proximity to the Bryson house.

The demolition of the Norwood property was a disaster and not planned well - totally inconsiderate of the surrounding houses and properties. One garden hose was used as a water source.

Trucks parked with no drivers anywhere - could not get out of my driveway safely - no pylons placed to leave some space for my driveway. Drivers left engines running, creating noise and pollution. Sometimes trucks parked right across the driveway and I had to seek out the driver.

What will this group do this time?

2. Guidelines for the construction - Again - trucks and workers cars must find some place to park other than taking up the whole street. There is a two hour parking limit - but no truck or worker got a ticket - are there two sets of rules? There is only one side on which to park - and during the years of construction that lie ahead - there should be parking space for tradesmen and visitors to existing homes that border on the construction site. The property to be developed offers ample space for tradesmen and their vehicles to park.

Hours of construction - should be agreed upon and observed. Please no radios playing endlessly and no loud and foul language - as exhibited by the company that demolished the Norwood house.

If there is a special event at an adjacent property - eg. a wedding - then construction should stop for a period of time agreed upon by the developer and the household holding the event.

Debris and rubble that could migrate to surrounding properties should be cleaned up daily.

Then the issue of blasting: - surrounding houses should be examined before and after any blasting and compensation offered by the developers for any damage.

3. After construction - what are the plans for garbage cans etc. - will they go out to the street - and if so they should be restricted to the area that is directly in front of the development and not spill over onto other properties and the Bus Stop.

Snow removal - where will the snow go - please not on the Trail and please not pushed on to the area on the street in front of other properties. Will there be a company that does this - or will residents of this development be on their own to do snow removal on an individual basis?

Right now - before anyone builds anything, could a request be made that there is no further dumping of garden refuse etc. on the edge of the Trail on HRM and/or CN land by these new properties and all others.

Karine Renton

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Submitted by email on May 16, 2012

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Hi Miles;

I'm attaching a PDF of a written response to case 17174 up for discussion tonight at the St. Mary's Boat Club, on behalf of seven of us on Regina Terrace. If a few more folks ask to sign at the last minute, I shall send you an updated document, which would be updated only in the list of signatories at the end; the content of the letter is fixed.

An acknowledgement of receipt would be appreciated.

Thanks Miles. I'll see you tonight.

Cheers, David

# Response to proposed DA with HRM for 1017/1021 Beaufort Ave.

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Mr. Miles Agar, Planner  
HRM Planning Services, Western Region  
May 15, 2012

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Dear Mr. Agar:

Please accept the following document as our written response and input to the proposed Development Agreement (DA) with HRM for 1017/1021 Beaufort Ave. (case 17174) as submitted by Sunrose Land Use Consulting (Ed Weaver) for the lands of Three Brooks Development Corporation Limited (David Bryson).

In this response, we raise several concerns regarding home size, setbacks, type of housing, *etc.* From the outset, though, we wish to make it clear that no one in the neighbourhood we know of is trying to *block* development. Rather, we wish to come to a mutual agreement on the type of development and its density that best suits everyone involved.

As presented on the HRM website, the submitted proposal consists of several tentative, even rough diagrams from which one can glean a few of the details of the proposed DA (*e.g.*, the map "proposed building setbacks"), but nowhere near enough to assure us that construction would be "in keeping with the character of the neighbourhood". As we understand it (*e.g.*, from the telephone conversation between you and DAC on Monday, May 14), details such as footprint, GFA, exterior lighting, house style, *etc.*, not specified in the DA will be determined, where applicable, by the existing bylaws pertaining to the neighbourhood in which the development is built. These would be the HRM bylaws as amended September 27, 2011 by City Council, known by some as the "BARTIS amendments".

The main differences between a development governed by "as-of-right" and the proposed DA are right-of-way and lot size. In an as-of-right, 26,000 ft<sup>2</sup> of the combined properties would be taken up by a cul-de-sac, leaving the developer 36,000 ft<sup>2</sup> of property to sell. At a minimum lot size of 5,000 ft<sup>2</sup> (as set by the BARTIS amendments), the subdivision could include seven lots, on which homes would be limited by the bylaws to a footprint of 1,800 ft<sup>2</sup> and a GFA of 3,100 ft<sup>2</sup>. Under a DA where all land is sellable including the common right-of-way, average lot size for six lots would be 10,300 ft<sup>2</sup> on which the current bylaws would permit homes with a footprint of 3,600 ft<sup>2</sup> and a GFA of 4,500 ft<sup>2</sup>, significantly larger than any home currently surrounding the properties. Compounded with a potential minimum setback of 6', this could dramatically affect the quality of life for the impacted neighbours.

The table on the next page presents approximate footprints of each of the 15 homes surrounding the proposed development, as measured from the HRM maps website using its measure tool. The relevant map appears next to the table, with Regina Terrace on the bottom left, Inglis St. on the top right, and Beaufort Ave. on the bottom right. The number of floors was established visually, with fractional floors accounting for attics, carports, *etc.*

<i>address</i>	<i>footprint</i>	<i>floors</i>	<i>GFA</i>
Regina Terr.			
6192	1,350	1.5	2,000
6200	1,110	2.0	2,200
6208	830	2.5	2,100
6214	1,530	2.0	3,100
6224	930	2.5	2,300
6234	960	2.0	1,900
Beaufort Ave.			
1031	1,280	1.5	1,900
1025	1,250	2.0	2,500
1011	1,730	2.0	3,500
1005	1,500	2.0	3,000
Inglis St.			
6203	1,460	1.5	2,200
6199	1,900	1.5	2,900
6193	2,430	1.5	3,600
6187	1,400	1.5	2,100
6177	1,370	1.5	2,100
average	1,400		2,500



Basements are not included. The footprint should be good to within  $\pm 50$  ft<sup>2</sup>, whereas the GFA, given roughly as the product of the floors and footprint, is probably no better than  $\pm 200$  ft<sup>2</sup>. Still, these data serve to quantify an important part of what defines the "character of a neighbourhood", namely house size.

The average footprint is 1,400 ft<sup>2</sup>, with 1,500 ft<sup>2</sup> at the beginning of the top tercile. Both the average GFA and the beginning of its top tercile is 2,500 ft<sup>2</sup>. These dimensions are far less than the maximum allowed by the bylaws on 10,000 ft<sup>2</sup> lots, as defined in the proposed DA, and we could not support a DA that does not address this.

Obviously, the subject of housing style is much more subjective, and what may be cherished by some could be detested by others. That said, certain recent developments very close to and even within our neighbourhood have been almost universally panned, including the late Dimitri Procos' development at the end of Beaufort Ave., Joe Ross' "box" at 6097 Roxton Rd., and the huge institutional-like brick building at 1171 Waterloo St. Others have enjoyed near-universal acclaim, such as the new home at 6271 Oakland Rd., which looks as though it has always been there, and even the new home going up at 6177 Regina Terrace.

For our part, we wish to encourage the construction of homes like 6271 Oakland Rd., and discourage those like 1171 Waterloo St. Homes built like the former could still be quite large without detracting from the character of the neighbourhood, whereas even small homes

built like the latter could be very disruptive. It is difficult to know how this could be “legislated”, or even how effective such stipulations might be. The best we can do is suggest some quantitative and qualitative constraints that might encourage a development more in keeping with the neighbourhood. The proposed constraints enumerated below are our attempt to do just that.

1. *Footprint*: Based on the data tabulated above, we suggest a maximum footprint of 1,600 ft<sup>2</sup>, excluding small sheds and modest decks. Such a home would have the fourth largest footprint of any already in the neighbourhood.
2. *GFA*: The largest GFA in the neighbourhood is about 3,500 ft<sup>2</sup>, and we suggest this be the cap imposed on any home built in the proposed DA.
3. *Setback*: The former Gillis/Norwood house at 1017 Beaufort Ave. came no closer than within 26' (8 m) of the property lines at 6208 and 6214 Regina Terrace. We therefore suggest a green perimeter of 8 m be established around the periphery of the combined 1017/1021 Beaufort Ave., inside which no permanent structure or part thereof be built.
4. *Exterior lighting*: All exterior lighting should be “dark-sky friendly”. Thus, outdoor lighting should be modest, light beams aimed *downward* and not, for example, shining in someone else’s back yard or glaring in their bedroom window at night.
5. *Strictly R1 residential*: No multi-family dwellings, studio basement apartments, *etc.*, should be permitted.
6. *Architecture and style*: Finally, in an attempt to address the most subjective of issues, we offer a few qualifiers to describe homes we feel would enhance the character of the neighbourhood:
  - peaked roofs, not flat;
  - peak-to-ground height limited to 35', as per the bylaws;
  - natural material siding (with the possible exception of clapboard-style cement fibre siding such as 6221 Regina Terrace);
  - Built in the traditional style, typical of home construction in pre-World War II Halifax. As an example, most of the homes built on Oakland Rd., particularly the west end, come to mind.

This is our first attempt at outlining some of the conditions and limitations we would like to see in a DA for the properties in question. As the process unfolds, others may arise. Above all, we hope it is clear that paramount in our minds is the desire to protect the long-term health and best interest of the neighbourhood, and to preserve a way of life enjoyed by

several generations of Haligonians for many generations yet to come.

Thank you for your consideration.

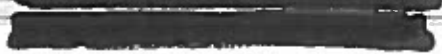
Respectfully submitted:

David A. Clarke and Jodi Asbell-Clarke

Patty Livingston and Brian Gums

Ian Beauprie

Alan and Françoise Longhurst



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Submitted by email on May 16, 2012

Regarding Case 17174:

I am not opposed to the development of up to 6 homes on 1017/1021 Beaufort. Hopefully most of the large trees can be preserved. A larger number will not allow for adequate on-site parking. While there is some 2-h parking on the east side of Beaufort Avenue, this part of the street is narrow and very busy for much of the day M-F, including a remarkable number of trucks and a good rush-hour bus service. Traffic is especially heavy when undergraduate university classes are in session and I doubt if the dated traffic figures quoted in your report are still valid.

J. Stuart Grossert

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Submitted by email on May 17, 2012

Dear Miles;

Thanks again for a well-run meeting last night.

I would like to add a follow-up to both my written response (attached for convenience) and my verbal summary last night, as I don't think I was clear enough on the conditional nature of my support for the DA proposal. I am speaking for myself here (not necessarily for any of the co-signatories of the letter, all Cced). I am also Ccing Messrs. Weaver and Bryson and the two councillors in attendance last night as I would like them to hear this as well.

It is crucial that explicit building size limitations be placed on what can be built in a DA. If there aren't any or what are imposed are insufficient, I would not support the DA and would invite, instead, the developers to go as-of-right. Ms. Song seemed to indicate in her presentation that the developers would prefer even the current GFA limitations lifted, and that houses even larger than 4,500 square feet be built. I would fight that tooth and nail.

For me, the openness of the property is very dependent on how much building my eye catches as I gaze across my back yard. Limited by the GFA, an as-of-right would produce no more than  $7 \times 3,100 = 21,700$  square feet of housing, whereas a DA not self-limited could produce  $6 \times 4,500 = 27,000$  square feet of housing. If Ms. Song has her way, this could be even higher. Why on earth would I support a DA that puts \*more\* housing in my back yard rather than less?

You have said, Miles, that a part of your mandate is to protect the "character of the neighbourhood". And while qualitatively (e.g., type of housing), that task could be very difficult, quantitatively we can pin this down. As in our attached response, I show that the average footprint of the houses surrounding 1017/1021 Beaufort is 1,400 square feet, and the average GFA is 2,500 square feet, both in accord with the numbers you presented last night. Being generous and allowing the new homes in the development to be well in the top third of the neighbourhood, we are suggesting 1,600 square feet maximum footprint and a GFA of 3,500 square feet, the latter figure matching that of the largest existing house. We are also seeking an 8 m green space around the periphery of the development (reflecting the proximity of the original 1017 BA to property lines) inside which no permanent structures be built.

We feel these limitations are reasonable, even generous, and at least quantitatively satisfy the criterion that construction be in keeping with the character of the neighbourhood. Lest there be any doubt of my position, my support for a DA of any sort is contingent on these limitations being met. Otherwise, my vote---if I have one---is to invite the developers to go as-of-right.

Thank you.

Best regards,

David-A. Clarke

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Submitted by email on May 22, 2012

Mark Poirier

I wish to comment on the shared private driveway component of the alternate proposal.

There are larger issues at play here than just the perceived compatibility of a new subdivision with the existing neighbourhood. A shared private driveway means that cars and pedestrians do not appear to be welcome. The subdivision is then similar to a gated community. The discussion has to take place as to whether this is acceptable and desirable in our community.

A large property awaiting subdivision is rare but not unique in the South End. For example, there is currently an "estate-sized property with plenty of potential" for sale on Francklyn Street. There could be, in fact are likely to be, more proposals for shared private driveways on such properties.

I submit that their possible introduction to the South End is an issue that is of concern to our entire community, not just to the neighbourhood surrounding this particular proposed subdivision.

Are they in the community interest, or just in the interest of a few developers and homeowners ? A policy on how proposals for shared private driveways are to be treated needs to be added to the municipal planning strategy for the South End and perhaps beyond -- before any particular application for one is considered.

This proposal does not address the many questions that have to be answered before it can be discussed properly.

It contains no information that could help answer those questions -- no width or other measurements, but only a "not to scale" drawing.

Will the driveway be able to accommodate all parking for guests, construction, service and delivery vehicles, and moving vans on-site, or will there at times be spill-over onto Beaufort ? How will waste collection (which will be restricted to the site frontage on Beaufort) and snow plowing and removal affect traffic flow ? Because this is a new subdivision, will a super mailbox be installed at the entrance and possibly cause a bottleneck at times ?

If the driveway does not have two lanes, what is going to happen when it is rush hour, and one vehicle is trying to make a left turn off Beaufort into the subdivision at the same time as another is trying to make a left turn onto Beaufort out of the subdivision ?



Modern engineering standards for subdivision streets are there to ensure that all safety considerations are met. Anything else is by definition "sub-standard" until proven otherwise.

For this and other shared private driveways without a cul-de-sac, how can ready access and an adequate turning radius for fire, police, and ambulance emergency vehicles be ensured while still providing access for residents to enter and leave the subdivision ? Will these emergency service providers and the Traffic Authority be asked to review any proposal before it goes out for public consultation ?

The report alludes to the likelihood that developers will try to make shared private driveways the norm in new small subdivisions in the middle of the city. Looking ahead, what are the situations in which they should be allowed ? Only in cases where it is difficult or impossible to fit a cul-de-sac in the plan of subdivision ? Or in all cases where it is the preference of the surrounding neighbourhood ?

The decision on this, on design standards, and on whether or not we even want shared private driveways has to be made before proposals for them start appearing. Otherwise, developers will be pressuring staff and councillors to deal with applications in an ad-hoc fashion, and to use the design of the "first case" as the design standard forever after.

I hope that the municipality will proceed with caution on this shared private driveways issue, rather than rushing headlong into something that may be cause for regret in our community later.

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Submitted by email on May 23, 2012

Dear Mr Agar,

I have just seen David Clarke's note to you concerning this matter. I regret I was unable to attend the meeting: my absence did not indicate any lack of interest: my wife and I are vitally interested.

I have no doubt at all that unless the building footprints and setbacks drafted in the DA plan which was distributed are respected in such a manner that they cannot be later modified by any administrative action, I shall not support a DA and will be happy to see the As-of-Right alternative used by the developer. In fact, in many ways I much prefer that alternative because it will be significantly less disruptive of my privacy and of the outlook from my windows at 6214 Regina.

Nor shall I support any DA that does not limit the overall size of houses that may be built to the dimensions suggested to be appropriate by my neighbour, David Clarke, in his submission to you.

Unless development in the area concerned is controlled by your office, the entire neighbourhood could have its aspect modified very significantly. It is, of course, tragic that the very last piece of open ground in the South End should be built over now, rather than being reserved for future community use.

Very sincerely yours,

Alan Longhurst

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Submitted by email on May 28, 2014

Following the May 16 Information Meeting and several of the comments/concerns, it would appear that a wider driveway and somewhat smaller lots would alleviate some of the issues. At least one sidewalk and grass verge with trees, plus wider paved driveway, would be helpful.

Respectfully,

Dan O'Halloran.

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Submitted by email on August 6, 2012

Thank you for the opportunity to make this submission following the public information meeting (PIM) for this application. It is difficult to comment fully on the matter though because so little information has been provided about it as discussed below.

First, it is unclear who the applicant is. It is critical to establish who the contracting and responsible party/ies will be for a Development Agreement (DA) to be considered. HRM "Case 17174 Details" for this matter indicate that the applicant is Sunrose Land Use Consulting (Sunrose). Sunrose is registered at the NS Registry of Joint Stocks as a partnership/business name with Jennifer Tsang listed as the only associate. Neither Sunrose nor Tsang are the owners or tenants of the subject property at 1017/1021 Beaufort Avenue. Instead, at the PIM, Ms. Tsang was identified as the planning consultant for the real owner of the lands, Three Brooks Development Corporation Limited (Three Brooks). A Three Brooks representative advised at the PIM that they are the owner/developer of the proposed six dwelling unit DA project. The representative stated that there was in fact a third possible DA/property ownership model which would include private ownership of individual lots and a bare land condominium corporation. The DA application is premature when the applicant and DA contracting parties have not yet been determined. Who is applying for the DA and who will be accountable for abiding by its terms and what are these terms?

The development proposed is not as of right, nor is the ability to negotiate a DA which must first be enabled by Municipal Planning Strategy (MPS) and Land Use By-law (LUB) amendments. Any party/ies seeking to amend the MPS and LUB and enter into a DA must demonstrate their ability to comply with the terms of any DA and provide assurances in the event they fail to do so. The DA is a legal agreement which is registered against the land and recorded at the Registry of Deeds. The land owner is responsible for compliance with the DA terms and conditions and enabling By-laws. An applicant of convenience, such as Sunrose, that has no legal property interest is not a valid or enforceable contracting party. In the current application, it may be Sunrose, possibly Three Brooks, or maybe some combination with unknown private property owners that will be a party/parties to the DA with HRM. Fundamentally, a DA is a contract, and the contracting parties must be clearly determined at the outset of any DA application so their ability to abide by the terms of the DA can be adequately assessed.

The second information gap is the absence of any draft enabling MPS and LUB provisions and DA. The MPS and LUB provisions set out the pre-conditions and terms against which a DA can be considered. Without them the application is being considered in a legislative void with no framework against which to evaluate the application. To date there are no known DA requirements for basic issues such as: emergency vehicle access; minimum lot sizes; maximum house sizes; accessory building numbers, sizes and uses; home based business uses; water, road, sidewalk, sewer and electrical infrastructure installation and maintenance; garbage collection; signage; drainage; demolition and site disturbance plans; landscaping; etc. It is unimaginable how two single family homes/lots with narrow street frontage

can accommodate a large in-fill housing development project under the auspices of a DA with no MPS and LUB criteria against which to consider it. Why isn't this baseline MPS/LUB work being done first and subject to public comment and hearing to determine if the community even supports the possibility of future multi-dwelling DA's before jumping into a full DA application with no background analysis or criteria?

Third, because there are no MPS/LUB criteria, details of the proposed development are unknown. Aside from the brief "Case 17174 Details" document, interested parties such as myself have no particulars about the current application. More information is required explaining what is envisioned by the developer so it can be evaluated: who the proposed contracting parties will be; what is meant by a "shared private driveway" and implications thereof; if is this a bare land condominium project and what is the impact is; proposed dwelling size; building lot size; building materials; landscaping; infrastructure maintenance; accessory building numbers and size; permitted residential and business uses within homes and accessory buildings; etc. These are all unknown at present. At what stage in this process will these particulars be determined and interested parties able to comment before possibly being approved by HRM? This situation is unacceptable and must be addressed before this application is further considered. At a minimum a second PIM is needed before proceeding, with the details of this information being provided in advance.

Given this the following additional comments are made with the expectation the applicant(s) will be required by HRM to provide this detailed information before proceeding further so the application may be considered in a full and transparent manner by all concerned. Next draft MPS and LUB amendments should be thoughtfully prepared against which any DA application must be assessed. If this application is approved, it will not be the last DA for a multi-dwelling development of its kind in traditional Residential single lot/single home zone. With DA creep, more lots will be consolidated and neighbourhoods transformed into subdivisions within residential blocks.

Notwithstanding, if HRM continues with this application without enabling MPS and LUB amendments then reference must at least be made to similar DA's as a minimal benchmark. HRM entered into a DA with Marterra Inc. in 2011 for a multi-dwelling development on Kirk Road. There was also considerable public opposition to the project. The Marterra Inc. DA did come about however after lengthy public consultation and does provide some baseline DA content applicable to the current case (with the exception of some site specific heritage and waterfront protection measures). This is important if the current application is allowed and the developer(s) is allowed to skirt MPS, LUB and Subdivision By-law site development and infrastructure standards.

The Marterra Inc. DA contains relevant requirements that should be insisted on in this application including: limitations on one home occupation per dwelling; home business occupancy restrictions; maximum number of lots within the development with no increases; water and sewer plans; common shared driveway standards and definitions; landscaping plan with retention of identified established vegetation; site disturbance plan; erosion, storm water and sediment control plans; blasting permits; variance prohibition; deck restrictions; gross floor area, building footprint and height and accessory building maximums; architectural and building material stipulations; resident, guest and emergency vehicle access and parking requirements; building and land maintenance standards; enforcement, rights and remedies for DA default; etc.

Additional DA provisions that should be included in the current application are: "BARTIS" LUB conformance; existing building demolition and construction site clean-up plan and enforcement mechanisms; indemnification for damage caused to neighbouring properties caused by development blasting, demolition and construction; environmental assessment and remediation action for potentially

contaminated lands on eastern boundary which is believed to be the site of a former Cunard Steamship storage site for used boilers and oil tanks; on-site garbage, compost and recycling storage and collection due to narrow street frontage; fencing and vegetation buffer for all neighbouring properties installed and maintained by the developer(s); clarification of whether there will be a public street or private, shared driveways servicing the development, implications of same and maintenance standards and responsibilities for same; dust, litter and noise control during all phases of demolition, site preparation and construction; impact of DA transfer to a new owner(s) if for example the bare land condominium corporation winds up; all matters in DA are considered "substantial" in nature and therefore any amendment would require a public hearing process; circumstances under which the DA is considered to be terminated if for example no construction has commenced for a specified period of time; compliance with other HRM, Provincial and Federal legislation; etc.

These are offered as preliminary comments only since a full submission cannot be made until the particulars of the application, draft MPS and LUB amendments and DA are known. Once this information is forthcoming the public must be given an additional opportunity to make comment at another PIM. It is imperative that this be an open and transparent application and process to ensure meaningful public consultation and the best interests of the community.

Submitted by:

Karine Renton

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