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Item No. 10.1.3
Halifax and West Community Council
June 24, 2015

TO: Chair and Members of Halifax and West Community Council

Original Signed

SUBMITTED BY:

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: June 1, 2015

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

SUPPLEMENTARY REPORT

ORIGIN

- Application by Sunrose Land Use Consulting
- March 20, 2012 Regional Council initiation of the MPS and LUB amendment process
- March 31, 2015 Regional Council approval of amendments to the Halifax MPS and Halifax Peninsula LUB to allow for the consideration of 6 houses on a shared private driveway at 1017 and 1021 Beaufort Avenue by development agreement

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

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

BACKGROUND / DISCUSSION

On March 31, 2015, Halifax Regional Council and Halifax and West Community Council held a joint public hearing to consider:

1. proposed amendments to the Municipal Planning Strategy for Halifax (MPS) and the Land Use By-law for Halifax Peninsula (LUB) to allow for the consideration of 6 detached one family dwelling houses (houses) on a shared private driveway at 1017 and 1021 Beaufort Avenue by development agreement; and
2. A proposed development agreement to allow for the development of 6 houses on a shared private driveway at 1017 and 1021 Beaufort Avenue.

Subsequent to the public hearing, Regional Council gave its approval to the proposed MPS and LUB amendments. While the proposed development agreement was part of the public hearing process, it could not be approved by Halifax and West Community Council until the MPS and LUB amendments took effect.

The amendments to the MPS and LUB have since been reviewed by the Provincial Director of Planning as per Section 223 of the *Halifax Regional Municipality Charter*. These amendments became effective on May 16, 2015. Accordingly, it is now appropriate for Halifax and West Community Council to consider the proposed development agreement, as contained in Attachment A of this report.

FINANCIAL IMPLICATIONS

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved 2015/16 budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting (PIM) held on May 16, 2012. Further, a Public Hearing was held on March 31, 2015.

Notices of the PIM and Public Hearing were posted on the HRM website, in the newspaper and mailed to property owners within the notification area shown on Map 3 of the January 23, 2015 staff report.

ENVIRONMENTAL IMPLICATIONS

The proposed development agreement is consistent with applicable environmental policies of the MPS.

ALTERNATIVES

1. Halifax and West Community Council may choose to propose modifications to the proposed development agreement. Such modifications may require further negotiations with the Developer, and may require a supplementary report and/or an additional public hearing. A decision of Council to approve the proposed DA is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed development agreement and, in doing so, must provide reasons why the agreement does not reasonably carry

out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A: Proposed Development Agreement

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

ATTACHMENT A
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)(u) 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

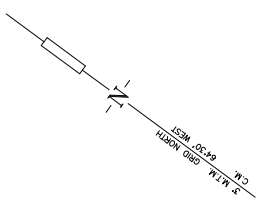
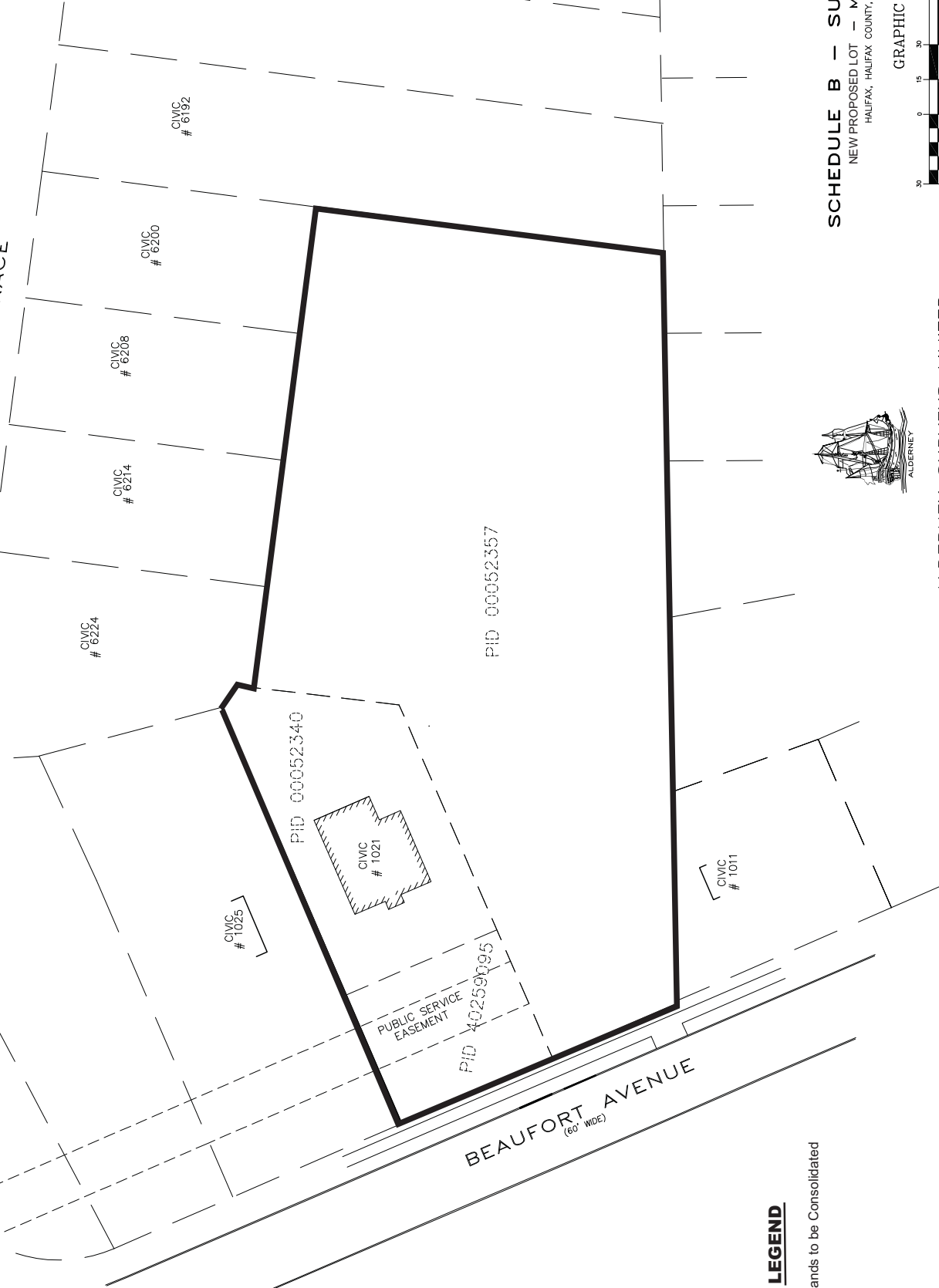
PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

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

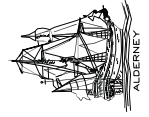
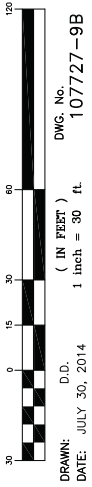
BEAUFORT AVENUE
(60' WIDE)



SCHEDULE B - SUBDIVISION PLAN

NEW PROPOSED LOT - MERLIN COURT
HALIFAX, HALIFAX COUNTY, NOVA SCOTIA

GRAPHIC SCALE



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

LEGEND

Lands to be Consolidated



