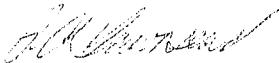


**North West Planning Advisory Committee
January 4, 2012**

TO: Chair and Members of North West Planning Advisory Committee

SUBMITTED BY: 
Phil Townsend, Director, Planning and Infrastructure

DATE: December 10, 2011

SUBJECT: **Case 17291: Mill Cove Plaza Façade Improvements Amending Agreement, Bedford**

ORIGIN

Application by Sobeys Developments to amend the existing development agreement for the Mill Cove Plaza at 961 Bedford Highway (PID #40592297), Bedford. The amendment request is to enable façade improvements to the Mill Cove Plaza.

RECOMMENDATION

It is recommended that North West Planning Advisory Committee recommend that North West Community Council:

1. Give Notice of Motion to consider the proposed amending agreement as provided in Attachment A, and schedule a public hearing;
2. Approve the proposed Amending Agreement, set out in Attachment A of this report, for the Mill Cove Plaza at 961 Bedford Highway as being consistent with the intent of the Bedford Municipal Planning Strategy; and
3. Require the Amending 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

The subject property (961 Bedford Highway) is regulated by a development agreement which was approved by the Town of Bedford in 1983 enabling the Mill Cove area development. The property owner wishes to improve the appearance of the Mill Cove Plaza by updating the exterior with a modern design. The existing development agreement does not permit the proposed renovation; therefore, to enable such a renovation the existing development agreement must be substantively amended.

Subject Property

The property under review is designated Commercial Comprehensive Development District under the Bedford Municipal Planning Strategy (MPS) and zoned CCDD (Commercial Comprehensive Development District) under the Bedford Land Use By-Law (LUB). The property is located at the intersection of the Bedford Highway and the Hammonds Plains Road, north of Moirs Pond (Map 1 and 2). The property is occupied by various commercial uses including a grocery store, NSLC outlet, medical offices, service station, pharmacy, as well as the plaza building in question which contain eight commercial leaseholds. Attachment B shows the existing configuration of the property.

Existing Development Agreement:

In 1983, the former Town of Bedford entered into a development agreement that enabled the development of the Mill Cove area in three separate phases. Each phase required a separate development agreement approved by Council.

The Phase 1 Agreement, which is under consideration for amendment, was entered into in August of 1983. The agreement permitted the development of two buildings, a grocery store (Sobeys) and a commercial leasehold building (the plaza building). The Phase 1 Agreement contains a provision that the finish on the buildings be Folly Lake Aggregate. Any other exterior finish to the building may only be considered by substantively amending the agreement.

Proposal

While the proposed amendment would apply to both the existing plaza building and the grocery store building, the developer only intends to renovate the existing plaza building at this time. Attachment C contains the proposed elevation of the plaza building and identifies brick, cultured stone and EIFS (exterior insulation and finishing system) as the proposed cladding materials. The amendment has been written to include these materials as well as concrete and aggregate, in order to provide flexibility should any future changes be desired. It should be noted that the materials which relate to doors, windows and signs (typically glass and metal) are not considered to be cladding materials and therefore are not included in this amendment.

DISCUSSION

When considering this application, an evaluation of the proposal against the relevant policy criteria of the Bedford Municipal Planning Strategy MPS is required (see Attachment D).

The MPS includes as part of its commercial objective the promotion of attractive commercial areas through the regulation of commercial signage, parking and building design. Policy C-33 of the MPS seeks to achieve this objective through the requirements of the LUB. However, while the LUB contains provisions for exterior cladding within the CMC (Mainstreet Commercial) zone, there are no such provisions for buildings within the CCDD zone and this is expected as the contents of development agreement typically address such details. The existing development agreement only provides for one type of external finish (Folly Lake Aggregate) and therefore leaves no options to update the appearance of the plaza building.

It is unlikely that the intent of the existing development agreement was to prohibit renovations to update the buildings appearance nearly thirty years later. It is more reasonable to presume that in 1983 the intention was to build the structure using Folly Lake Aggregate and the development agreement was written to accommodate that proposal.

It is the opinion of Staff that Section 4 of the Existing Phase 1 Agreement be amended to allow additional cladding materials and acceptable equivalents. This would enable the Developer to update the external appearance of the plaza building. This amendment is also consistent with the intent of the MPS which seeks to promote attractive commercial areas.

Summary

The proposed amendment is consistent with the intent of the Bedford Municipal Planning Strategy. Staff is recommending that Council approve the proposed Amending Agreement as set out in Attachment "A".

BUDGET IMPLICATIONS

The HRM costs associated with processing this application have been accommodated within the approved operating budget for C310 Planning & Applications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting (PIM) held on November 17, 2011. A public hearing must be held by Council before they can consider approval of any amendments.

For the PIM, notices were posted on the HRM website, in the newspaper and mailed to property owners within the notification area as shown on Map 2. No members of the public attended the PIM and therefore no minutes were recorded. Should Council decide to proceed with a Public Hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area (as shown on Map 2) will be notified.

The proposed Development Agreement Amendment will potentially impact the following stakeholders: local residents, property owners, and plaza tenants.

ALTERNATIVES

The following alternatives are presented to North West Community Council for consideration:

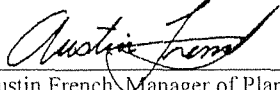
1. Council may choose to approve the proposed amending agreement as shown in Attachment A. This is the recommended course of action.
2. Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons based on a conflict with MPS policies.
3. Council may choose to approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the applicant and may require an additional public hearing.

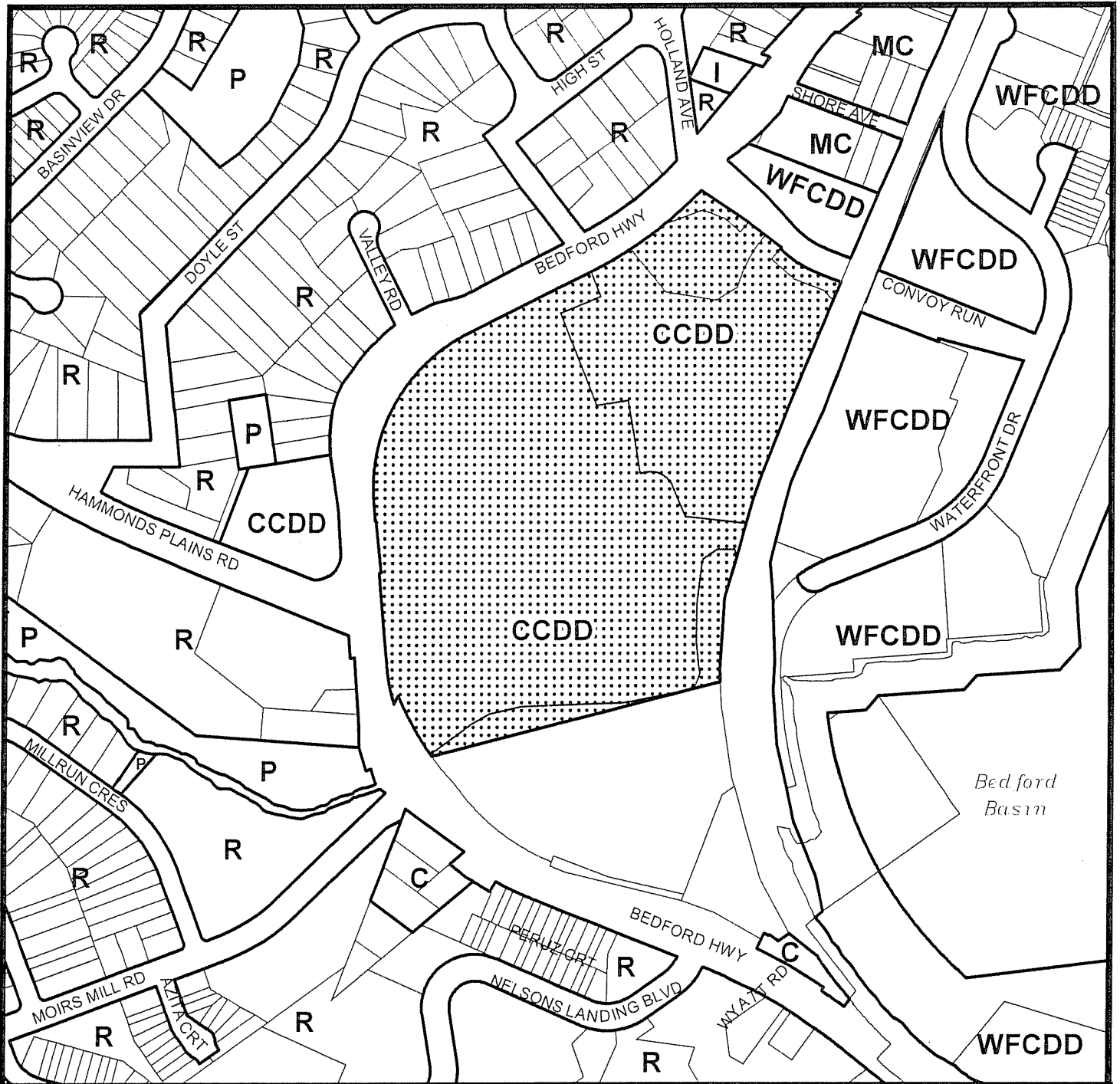
ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning
Attachment A:	Proposed Amending Agreement
Attachment B:	Site Plan
Attachment C:	Building Elevations
Attachment D:	Excerpts from the Bedford Municipal Planning Strategy and Policy Review

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

Report Prepared by: Jacqueline Belisle, Planner I, Planning Services. 869-4262

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



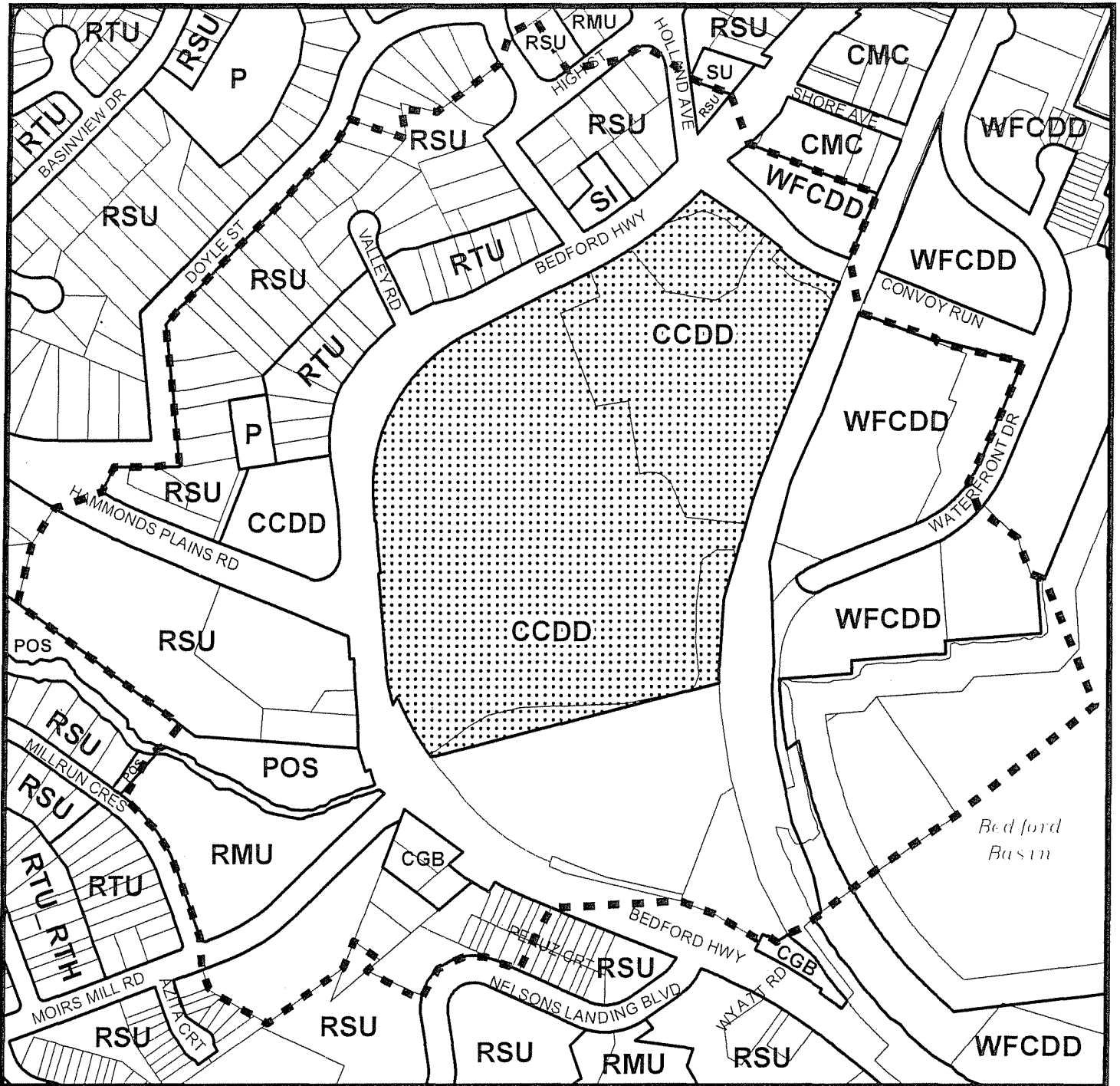
Map 1
Generalized Future Land Use

 Existing Development Agreement

HALIFAX
REGIONAL MUNICIPALITY
Planning Services

- R Residential Designation
- C Commercial Designation
- MC Mainstreet Commercial Designation
- P Park and Recreation Designation
- I Institutional Designation
- CCDD Commercial Comprehensive Development District
- WFCDD Waterfront Comprehensive Development District





**Map 2
Zoning**

- RSU Single Dwelling Unit Zone
- RTU Two Dwelling Unit Zone
- RMU Multiple Dwelling Unit Zone
- RTH Townhouse Zone
- CMC Mainstreet Commercial Zone
- CGB General Business District Zone



Existing Development Agreement



Notification Area

- P Park Zone
- POS Park Open Space Zone
- SI Institutional Zone
- SU Utilities Zone
- CCDD Commercial Comprehensive Development District
- WFCDD Waterfront Comprehensive Development District

HALIFAX
REGIONAL MUNICIPALITY
Planning Services



Attachment A
Proposed Amending Agreement

THIS AMENDING AGREEMENT made this day of , 2012,

BETWEEN:

[Insert Name of Corporation/Business LTD.]
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located north of Moirs Pond, east of the intersection of the Bedford Highway and the Hammonds Plains Road, south of Convoy Run and west of the CNR Railway right-of-way in Bedford known as the Mill Cove Plaza and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Town of Bedford entered into an agreement with Food City Limited on the 23rd day of March, 1983 to allow the construction of a three-phase commercial development known as Mill Cove Plaza on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 18314 in Book 3821 on Pages 970 through 976 (hereinafter called the "Existing Agreement").

AND WHEREAS the Town of Bedford entered into an agreement with Food City Limited on the 31st day of August, 1983, identified as Municipal Case Number 83-03, to permit the development of Phase I of the Existing Agreement (two buildings to a maximum of ninety thousand (90,000) square feet for warehouse retail space, associated parking and farmers market), said agreement being recorded at the Registry of Deeds in Halifax as Document Number 18315 in Book 3821 on Page 977 through 984 (hereinafter called the "Phase I Agreement");

AND WHEREAS the Developer has requested an amendment to the provisions of the Phase I Agreement to permit façade renovations to improve and update the external appearance of the plaza building on the Lands pursuant to the provisions of the Halifax Regional Municipality Charter Act and pursuant to Policies C-7, C-8 and Z-3 of the Bedford Municipal Planning Strategy and Part 4 Section 3.d) of the Bedford Land Use By-law (hereinafter called the "Phase I Amending Agreement");

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on [insert date], referenced as Municipal Case Number 17291;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree to the following amendments to the Phase I Agreement:

- 1. Delete the text of Section 4 and replace with the following text

“The buildings are to be built of concrete. The exterior building materials shall not include vinyl siding but may include any one or more of the following:
brick;
concrete;
stone;
noncombustible cladding;
aggregate; or
acceptable equivalent in the opinion of the Development Officer.”

- 2. Insert the following text immediately after Section 4:

“4A Non Substantive Amendments

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

- (a) Changes to the exterior building materials as detailed in Section 4.”

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

SIGNED, SEALED AND DELIVERED
in the presence of:

(Insert Registered Owner Name)

Per: _____

Per: _____

=====

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

=====

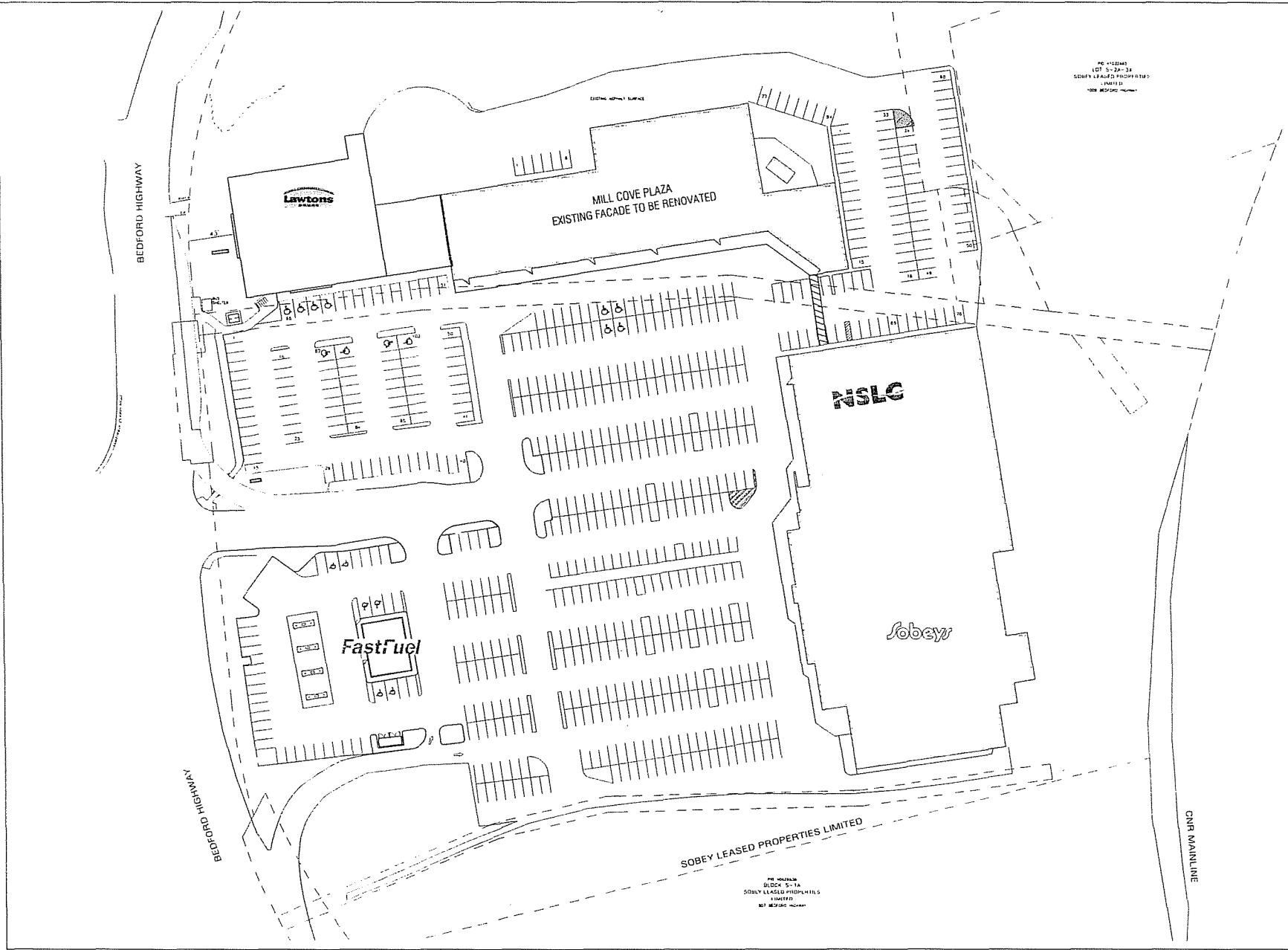
**HALIFAX REGIONAL
MUNICIPALITY**

Per: _____

Mayor

Per: _____

Municipal Clerk



PG 112244
 LOT 5-2A-3A
 SOBEY LEASED PROPERTIES
 1/2011
 100 M2012

PG 112244
 BLOCK 5-1A
 SOBEY LEASED PROPERTIES
 1/2011
 M2012

KEY PLAN

DATE	BY	PARTICULARS

REVISIONS

FOR INFORMATION ONLY
 DRAWINGS MAY NOT ACCURATELY
 DEPICT ACTUAL CONDITIONS
 VERIFY ALL CONDITIONS ON SITE

DATE	BY	PARTICULARS

ISSUE RECORD

Crombie
 113 HUNG STREET
 STERLING HEIGHTS, COVING
 ON 1/12
 PHONE 1-800-733-2434

MILL COVE PLAZA
 BEDFORD, NS

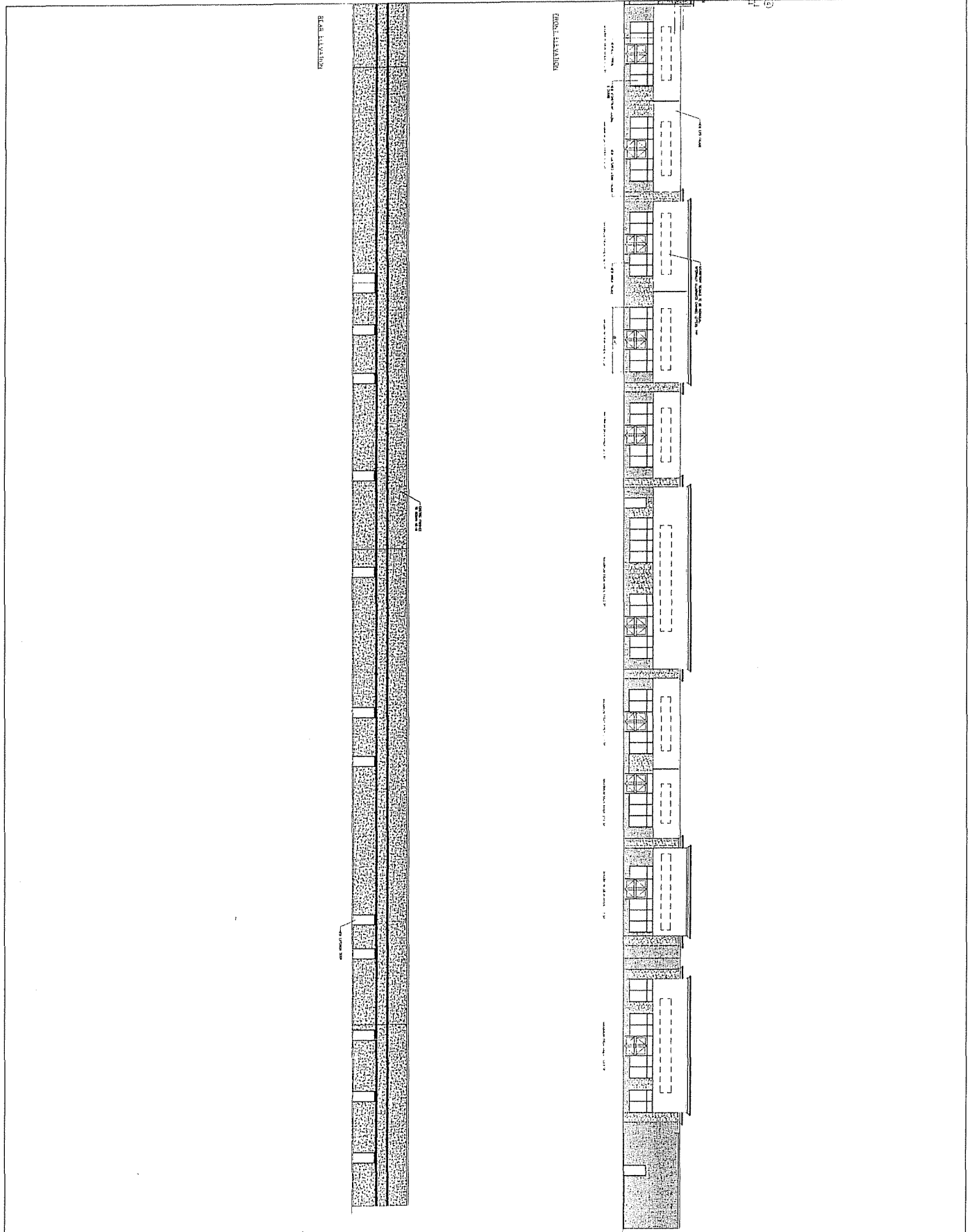
EXISTING SITE PLAN

DRAWN BY	DATE
DC	09-22-2011

DRAWN BY	SCALE
DC	1"=40'

JOB NO	DWG NO
MILL_COVE	

REV. 101



<p>312</p>	<p>312</p>	<p>312</p>	<p>312</p>	<p>312</p>	<p>312</p>
<p>CRUMBLE</p> <p>ARCHITECTURAL FIRM</p> <p>1000 W. 10TH ST. SUITE 100</p> <p>ROSELAND, NJ 07068</p> <p>TEL: 908-992-1000</p> <p>FAX: 908-992-1001</p> <p>WWW.CRUMBLE.COM</p>					
<p>MILL COVE PLAZA</p> <p>BEDFORD, NS</p>					
<p>EXTERIOR ELEVATIONS</p>					
<p>DATE: 10/12/11</p> <p>SCALE: 1/8" = 1'-0"</p> <p>PROJECT: MILL COVE PLAZA</p> <p>CLIENT: [REDACTED]</p> <p>DESIGNER: [REDACTED]</p> <p>DATE: 10/12/11</p>					

Attachment D

Excerpts from the Bedford Municipal Planning Strategy and Policy Review

Policy Criteria: Policy C-7:

It shall be the intention of Town Council to designate the lands shown on Map 3 as Commercial Comprehensive Development Districts, and in the Land Use By-Law the lands shall be zoned Commercial Comprehensive Development District (CCDD). The CCDD Zone will permit mixed use, residential/commercial projects, including single unit dwellings, two unit dwellings, multiple-unit buildings, senior residential complexes, neighbourhood commercial, office buildings, CGB Zone uses, convention facilities, recycling depots, park uses, and institutional uses. Existing uses within the CCDD Zones shall be considered as permitted uses and be allowed to continue operation.

It shall be the intention of Town Council to require development of commercial uses on 50% of each CCDD site and further, that multiple unit buildings not be permitted to occupy more than 25% of a CCDD site. Multiple unit buildings shall be constructed in accordance with the RMU zone requirements. Maximum building height may be increased to four stories in the case of sloped lots where the building is designed to fit the natural topography of the site. Lot area requirements shall be calculated on the basis of 2000 square feet per unit, regardless the unit size. Lot area associated with each building may be reduced in size to increase the common open space. The architectural, landscaping, and streetscape considerations for multiple unit buildings within the RCDD zone, as articulated in Policies R-12A, R-12B and R-12C, shall apply to multiple unit developments within the CCDD zone.

Staff Comment:

The subject property is designated Commercial Comprehensive Development District. The property is also zoned CCDD (Commercial Comprehensive Development District). It should be noted that Policy C-7 (and C-8) was not in existence in 1983 when the Mill Cove Plaza was established. The Mill Cove Plaza was enabled under previous plan policy. The remainder of the policy (second paragraph) is not relevant given that this application strictly pertains to a façade improvement which does not affect the size or height of the existing plaza building.

Policy Criteria: Policy C-8:

It shall be the intention of Town Council to enter into Development Agreements pursuant to the Planning Act with the owners of the lands zoned Commercial Comprehensive Development District to carry out the proposed commercial and mixed use commercial/residential development(s) provided that all applicable policies of this document are met. In considering applications Council shall have regard to whether the proposed land use emphasizes the unique features of the site in terms of its location within the Town, its unique physical characteristics, its overall size and the relationship developed with adjoining existing or proposed uses. A special emphasis on the conservation of the natural environment including features such as watercourses, lakes, trees, and the natural topography shall be highlighted in

the development proposal.

Staff Comment:

A Development Agreement was entered into for the subject property in 1983 under plan policy that existed at that time. As the property is zoned CCDD (Commercial Comprehensive Development District) and Policy C-8 enables council to consider amendments to the 1983 Development Agreement.

Policy Z-3:

It shall be the policy of Town Council when considering zoning amendments and development agreements [excluding the WFCDD area] with the advice of the Planning Department, to have regard for all other relevant criteria as set out in various policies of this plan as well as the following matters:

Policy Criteria	Staff Comment
1. That the proposal is in conformance with the intent of this Plan and with the requirements of all other Town By-laws and regulations, and where applicable, Policy R-16 is specifically met;	Plan policy (above) enables the consideration of amendments to the existing Development Agreement Note: Policy R-16 is a policy involving the development of RCDD lands and does not apply to this application
2. That the proposal is compatible with adjacent uses and the existing development form in the neighbourhood in terms of the use, bulk, and scale of the proposal;	The use, bulk and scale of the existing building is to remain unchanged. This proposal only pertains to the materials used on the building façade
3. That provisions are made for buffers and/or separations to reduce the impact of the proposed development where incompatibilities with adjacent uses are anticipated;	There is no anticipated impact to any adjacent uses with respect to the proposed façade improvements
4. That provisions are made for safe access to the project with minimal impact on the adjacent street network;	The proposed façade improvements will not affect access to the site nor will they have an impact on the existing street network
5. That a written analysis of the proposal is provided by staff which addresses whether the proposal is premature or inappropriate by reason of:	...
i) the financial capability of the Town to absorb any capital or operating costs relating to the	There is no anticipated cost to the municipality relating to the development

development;	
ii) the adequacy of sewer services within the proposed development and the surrounding area, or if services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems;	The property is currently serviced by municipal water and sewer. Façade improvements will not have an impact on the servicing of the property
iii) the adequacy of water services for domestic services and fire flows at Insurers Advisory Organization (I.A.O.) levels; the impact on water services of development on adjacent lands is to be considered;	
iv) precipitating or contributing to a pollution problem in the area relating to emissions to the air or discharge to the ground or water bodies of chemical pollutants;	Façade improvements do not raise any specific concern with respect to air emissions or chemical discharge
v) the adequacy of the storm water system with regard to erosion and sedimentation on adjacent and downstream areas (including parklands) and on watercourses;	Municipal storm water services are present in the area, however no grade alteration is required to complete the façade renovation and therefore no impact expected on any watercourses or parkland in the area
vi) the adequacy of school facilities within the Town of Bedford including, but not limited to, classrooms, gymnasiums, libraries, music rooms, etc.;	As this proposal does not enable any residential units this would result in no increase to school age population
vii) the adequacy of recreational land and/ or facilities;	As this proposal does not enable any residential units this would result in no impact on the adequacy of recreational lands or facilities
viii) the adequacy of street networks in, adjacent to, or leading toward the development regarding congestion and traffic hazards and the adequacy of existing and proposed access routes;	The proposed façade improvements are not expected to have an impact on the existing street network or traffic patterns
ix) impact on public access to rivers, lakes, and Bedford Bay shorelines;	N/A
x) the presence of significant natural features or historical buildings and sites;	N/A
xi) creating a scattered development pattern which requires extensions to trunk facilities and	N/A

public services beyond the Primary Development Boundary;	
xii) impact on environmentally sensitive areas identified on the Environmentally Sensitive Areas Map; and,	N/A
xiii) suitability of the proposed development's siting plan with regard to the physical characteristics of the site.	N/A as the building is in existence on the site and not expanding
6. Where this plan provides for development agreements to ensure compatibility or reduce potential conflicts with adjacent land uses, such agreements may relate to, but are not limited to, the following:	...
i) type of use, density, and phasing;	These items are regulated under the existing DA and would not be altered under the proposed amending agreement
ii) traffic generation, access to and egress from the site, and parking;	N/A
iii) open storage and landscaping;	N/A
iv) provisions for pedestrian movement and safety;	N/A
v) provision and development of open space, parks, and walkways;	N/A
vi) drainage, both natural and subsurface;	N/A
vii) the compatibility of the structure(s) in terms of external design and external appearance with adjacent uses; and, .	The proposed façade improvement would provide a more consistent look with the recently constructed Lawton's Building which is also located on the property and physically abuts the existing plaza building.
viii) the implementation of measures during construction to minimize and mitigate adverse impacts on watercourses	Standard permits will be required for the construction work to renovate the existing facades
7. Any other matter enabled by Sections 73 and 74 of the Planning Act.	
8. In addition to the foregoing, all zoning	...

amendments and development agreements shall be prepared in sufficient details to:	
i) provide Council with a clear indication of the nature of the proposed development; and	The Development Agreement presented in Attachment A pertains solely to the external appearance of the building (façade improvements)
ii) permit staff to assess and determine the impact such development would have on the proposed site and the surrounding community.	Standard required items for application were submitted
9. To assist in the evaluation of applications to enter into development agreements, Council shall encourage proponents to provide the following information:	...
a) a plan to a scale of 1":100' or 1":40' showing such items as:	A 3/32: 1'0" plan showing the proposed exterior elevation was submitted.
i) an overall concept plan showing the location of all proposed land uses;	Site plan provided
ii) each residential area indicating the number of dwelling units of each type and an indication of the number of bedrooms;	NA
iii) description, area, and location of all proposed commercial, cultural, mixed-use projects proposed;	N/A
iv) location, area, shape, landscaping and surface treatment of all public and private open spaces and/or park areas;	N/A
v) plan(s) showing all proposed streets, walkways, sidewalks, bus bays and bike routes;	N/A
vi) a description of any protected viewplanes; and,	N/A
vii) an indication of how the phasing and scheduling is to proceed.	N/A
b) For individual phases of a development more detailed concept plans are to be provided indicating such items as maximum building heights, location and configuration of parking lots,	N/A

<p>landscaping plans, and any additional information required to be able to assess the proposal in terms of the provisions of the Municipal Planning Strategy.</p>	
<p>c) Plans to the scale of 1":100' showing schematics of the proposed sanitary and storm sewer systems and, water distribution system.</p>	<p>N/A</p>
<p>10. Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</p>	<p>No holding zone has been established and no additional lots are proposed in conjunction with this application</p>