

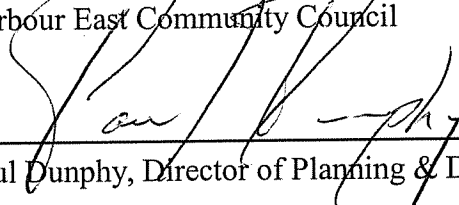
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P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
November 3, 2005

TO: Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Planning & Development Services

DATE: October 12, 2005

SUBJECT: Case 00786: Development Agreement - Medical Clinic Parking Lot

SUPPLEMENTARY REPORT

ORIGIN

Application by Plaza Tacoma Centre Ltd for a development agreement to permit a parking lot for a medical clinic in the R-1 Zone at Valleyfield Road and Oakwood Avenue, Dartmouth.

RECOMMENDATIONS

It is recommended that Harbour East Community Council:

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

BACKGROUND

The lands that are the subject of this development agreement are a portion of a larger lot owned by the developer. The development agreement is not intended to apply to the entire lot, but only the portion within the R-1 zone. To ensure clarity, the developer recently had a survey and legal description prepared of the specific portion of the lot which is the subject of the agreement. These have been included in the revised development agreement (Attachment A).

DISCUSSION

The addition of these new schedules necessitated minor changes to the text of the development agreement as shown. In addition, a Schedule "D" has been included, to add clarity to Schedule "C" by showing the landscape plan at a larger scale.

BUDGET IMPLICATIONS:

None.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

1. Council may approve the development agreement appended as Attachment A to permit a parking lot for a medical clinic in the R-1 zone at the corner of Valleyfield Road and Oakwood Avenue, Dartmouth. This is the recommended course of action.
2. Council may refuse to enter into the development agreement, and in doing so, must provide reasons based on conflict with existing MPS Policy. This is not recommended.
3. Council may choose to request modifications to the development agreement. Such modifications may require further negotiations with the developer. This alternative is not recommended as the agreement adequately addresses MPS policy.

ATTACHMENTS

Attachment A: Revised Development Agreement

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Hanita Koblents, Planner, 490-4181

Attachment A - Revised Development Agreement

THIS AGREEMENT made this day of , 2005,

BETWEEN:

**PLAZA TACOMA CENTRE LTD. ON ITS OWN BEHALF AND AS
GENERAL PARTNER FOR TACOMA CENTRE LIMITED
PARTNERSHIP** (hereinafter called the "Developer")

OF THE FIRST PART

-and-

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands identified as **Lot B1, a the** portion of Lot H 1 (PID #41126988) at the corner of Valleyfield Road and Oakwood Avenue, and in the R-1 Zone of Dartmouth, which said lands are more particularly shown on Schedule "A" and described on Schedule "B" of this Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to permit a parking lot for a medical clinic on ~~that portion of the lands in the R-1 zone at the corner of Valleyfield Road and Oakwood Avenue~~ **the lands** pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for Dartmouth;

AND WHEREAS Harbour East Community Council approved this request at a meeting held on _____ 2005, referenced as Municipal Case Number 00786;

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 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 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law for Dartmouth, as may be amended from time to time.

- 1.3 Pursuant 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 to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer agrees to observe and comply with all such laws, by laws and regulations in connection with the development and use of the Lands.
- 1.4 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 to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.5 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 regulations, by laws or codes applicable to any lands owned by the Developer or lot owners.
- 1.6 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: USE OF LANDS AND DEVELOPMENT PROVISIONS

2.1 Use

- 2.1.1 The Developer shall develop and use the Lands to for no more than 30 parking spaces and associated landscaping in a manner which, in the opinion of the Development Officer, is substantially in conformance with Plans filed with Halifax Regional Municipality Planning and Development Services as Case #00786 and attached as the following Schedules to this Agreement:

Schedule "A" Survey Plan of Lands
Schedule "B" Legal Description of the Lands
Schedule "C" ~~Landscape Planting Plan~~ **Site Plan and Details**
Schedule "D" **Landscape Plan**

- 2.1.2 The developer shall not use the Lands as shown on Schedule "A" and described on Schedule "B" to construct any commercial building.

2.2 Landscaping and Lighting

- 2.2.1 Specific Landscaping measures shall be as generally shown on Schedule "C D" and as follows:

- (a) Along boundary with 3 Oakwood Avenue: sod to extend a minimum of twenty (20') feet from the property line and a minimum of five (5) coniferous trees having a minimum height at planting of 175cm, and two(2) deciduous trees with a minimum caliper at planting of 60 mm.
- (b) Along Oakwood Avenue, a minimum sixteen (16') foot strip of sod with minimum two(2) deciduous trees with a minimum caliper of 60 mm at planting.
- (c) Along Valleyfield Road: a minimum ten (10') foot strip of sod with five (5) deciduous trees with a minimum caliper of 60 mm at planting.

2.2.2 Section 2.2.1 notwithstanding, the Development Officer may approve modifications to the location and species of required planting provided such modifications are minor in nature and in the opinion of the Development Officer, further enhance the appearance of the site.

2.3 Vehicle Parking and Circulation

2.3.1 The Developer shall provide no more than thirty (30) parking spaces on the Lands. Dimensions of parking spaces shall comply with the requirements of the Dartmouth Land Use By-law, as may be amended from time to time.

2.3.2 The Developer shall not construct additional driveways to access the Lands from either Oakwood Avenue or Valleyfield Road.

2.4 Signage

2.4.1 No commercial signage shall be permitted **on Lot B1 as shown on Schedule "A" in the area of the property zoned R-1.**

2.4.2 A sign shall be posted prohibiting the use of skateboards in the parking lot as generally shown on Schedule "E D".

2.5 Maintenance

2.5.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, maintenance of the parking area and of all landscaping including the replacement of damaged or dead plant stock.

2.5.2 The developer shall remove litter from this area on a minimum daily basis or more often if required.

2.5.3 Snow removed from outside the area shown as "Scope of Works" on Schedule "E D" shall not be stored in this area.

2.6 Development Permit

- 2.6.1 Prior to issuance of a development permit to construct the parking lot, the Developer shall be required to supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping including soil amendments, sod, plant material and signage. The security deposit shall be in the form of a certified cheque or letter of credit in a form acceptable to HRM, issued by a chartered bank to the Development Officer.
- 2.6.2 Should the Developer not complete the landscaping within six months of issuance of the development permit or by September 1 of the year in which the development permit was issued, whichever is earlier, the Municipality may use the deposit to complete the landscaping as set out in Section 2.2 of this agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The unused portion of the security deposit shall be returned to the Developer upon completion of the work.

PART 3: AMENDMENTS

- 3.1 Amendments to any matters under this agreement shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

PART 4: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 4.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.
- 4.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 4.3 If the Developer fails to complete the development within five years from the date of registration of this Agreement at the Registry of Deeds, Community 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;
 - (c) discharge this Agreement.

PART 5: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

- 5.1 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.

- 5.2 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, 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 defence based upon the allegation that damages would be an adequate remedy;
 - (b) The Municipality may enter onto the Property 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 development 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 Property 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; and/or
 - (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

SIGNED, SEALED AND DELIVERED)	Plaza Tacoma Centre Ltd. On its Own Behalf and as General Partner For Tacoma Centre Limited Partnership
)
)Per _____
)James Petrie, Secretary and Corporate Counsel
)
) Halifax Regional Municipality
)
) Per _____
) Mayor
)
) Per _____
) Municipal Clerk

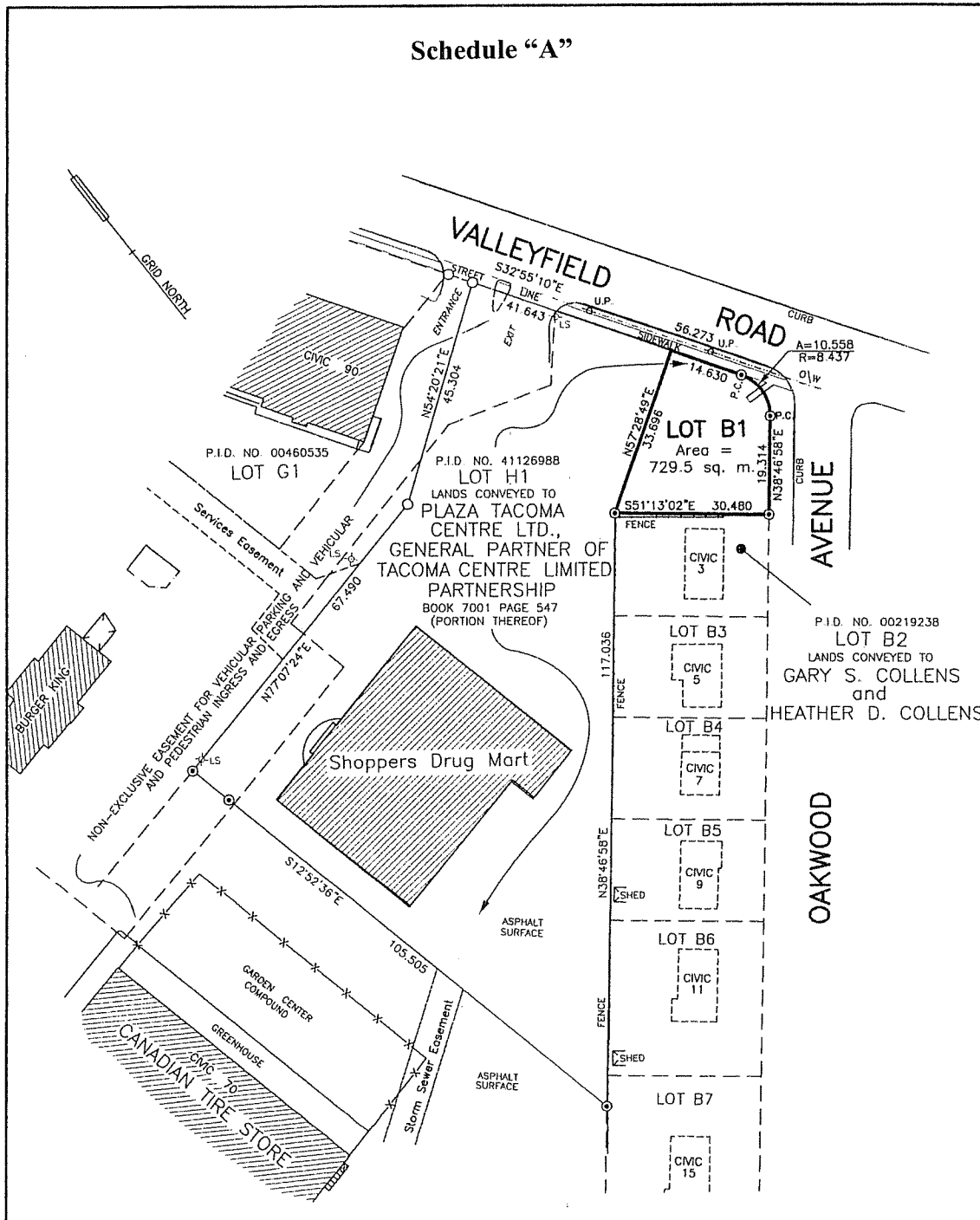
in the presence of

Per _____

Sealed, Delivered and Attested by the
proper signing officers of Halifax
Regional Municipality duly authorized
on that behalf in the presence of

Per _____

Schedule "A"



NOTE LOT B1 OF THE REDDEN SUBDIVISION WAS APPROVED BY THE HALIFAX COUNTY PLANNING BOARD ON JANUARY 5, 1959. LOT B1 WAS THEN CONSOLIDATED AND APPROVED AS PART OF LOT M BY THE CITY OF DARTMOUTH ON SEPTEMBER 14, 1973. LOT M WAS FURTHER SUBDIVIDED AND LOT H WAS APPROVED BY HALIFAX REGIONAL MUNICIPALITY ON MARCH 18, 2004. LOT H WAS SUBSEQUENTLY SUBDIVIDED INTO LOT H1 AND APPROVED ON APRIL 18, 2005. LOT B1 IS CURRENTLY A PORTION OF LOT H1.

SKETCH SHOWING
LOT B1 REDDEN SUBDIVISION
 OAKWOOD AVENUE and VALLEYFIELD ROAD
 DARTMOUTH, HALIFAX COUNTY
 NOVA SCOTIA

SCALE 1: 1000 Metric DATE: SEPTEMBER 27, 2005
 MAP: 5P11-17SE P.I.D. No 41126988
 ARCHIVE #4 1286 FILE 13232

PREPARED BY
THOMPSON CONN LIMITED
 Nova Scotia Land Surveyors
 Halifax, Nova Scotia

Schedule "B"

PID 41126988

Lot B1 Oakwood Avenue and Valleyfield Road, Dartmouth

All that certain lot, piece or parcel of land situate, lying and being on the southwestern side of Valleyfield Road and the northwestern side of Oakwood Avenue, at Dartmouth, County of Halifax, Province of Nova Scotia, shown as Lot B1 on sketch showing Lot B1 Redden Subdivision, dated the 27th day of September, 2005, prepared by Thompson Conn Limited, and being more particularly described as follows:

Beginning at the intersection of the northwestern boundary of Oakwood Avenue with the northeastern boundary of Lot B2;

Thence along the northeastern boundary of Lot B2 on a bearing of north 51 degrees, 13 minutes, 02 seconds west for a distance of 30.480 metres;

Thence on a bearing of north 57 degrees, 28 minutes, 49 seconds east for a distance of 33.696 metres or to the southwestern boundary of Valleyfield Road;

Thence along the southwestern boundary of Valleyfield Road on a bearing of south 32 degrees, 55 minutes, 10 seconds east for a distance of 14.630 metres to a point of curvature;

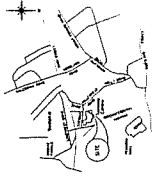
Thence continuing along the southwestern boundary of Valleyfield Road and along the northwestern boundary of Oakwood Avenue following a curve to the right having a radius of 8.437 metres for an arc distance of 10.558 metres to a point of curvature;

Thence continuing along the northwestern boundary of Oakwood Avenue on a bearing of south 38 degrees, 46 minutes, 58 seconds west for a distance of 19.314 metres to the point of beginning;

Containing an area of 729.5 square metres;

Being and intended to be a portion of those lands conveyed to Plaza Tacoma Centre Ltd., General Partner of Tacoma Centre Limited Partnership recorded at the Registry of Deeds for Halifax County in Book 7001 at Pages 547.

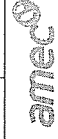
PLAZA



Vollek McKee Petersmann
 LANDSCAPE ARCHITECTS
 10000 15th Avenue, Suite 100
 Tacoma, WA 98402
 (206) 835-1100
 www.vollek.com

DATE	DESCRIPTION

PRELIMINARY
 NOT FOR CONSTRUCTION



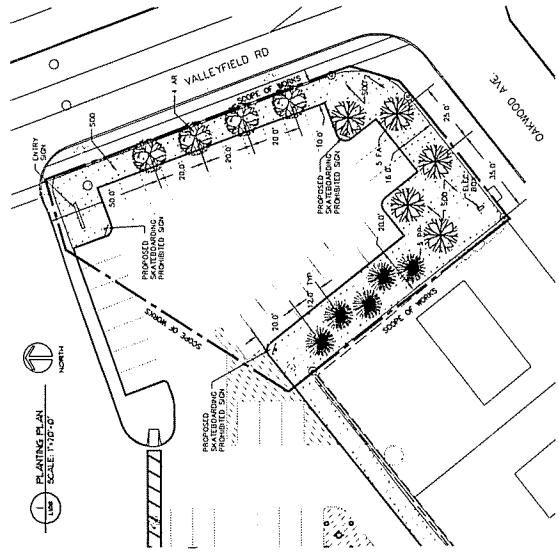
TACOMA CENTER
 TACOMA DRIVE
 DARTMOUTH, N.S.

LANDSCAPE
 PLANTING PLAN

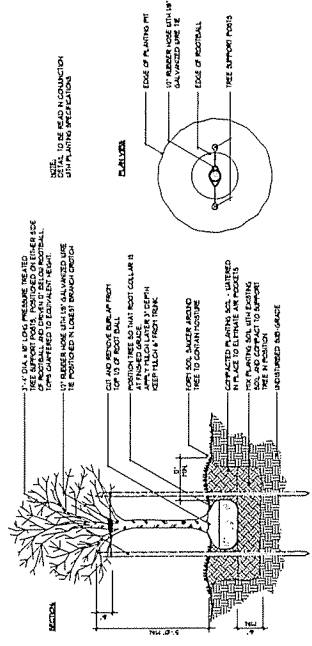
LANDSCAPE ARCHITECT	DATE
JAN 12, 2010	
DESIGNER	

L100
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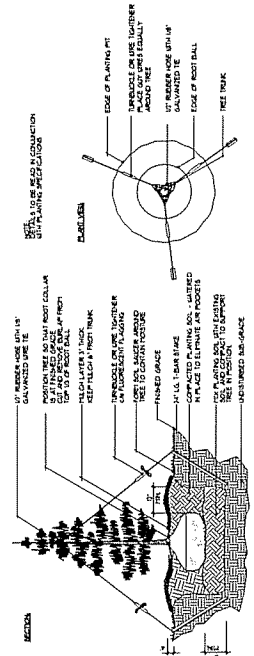
Schedule "C" Site Plan and Details



1. DECIDUOUS TREE PLANTING

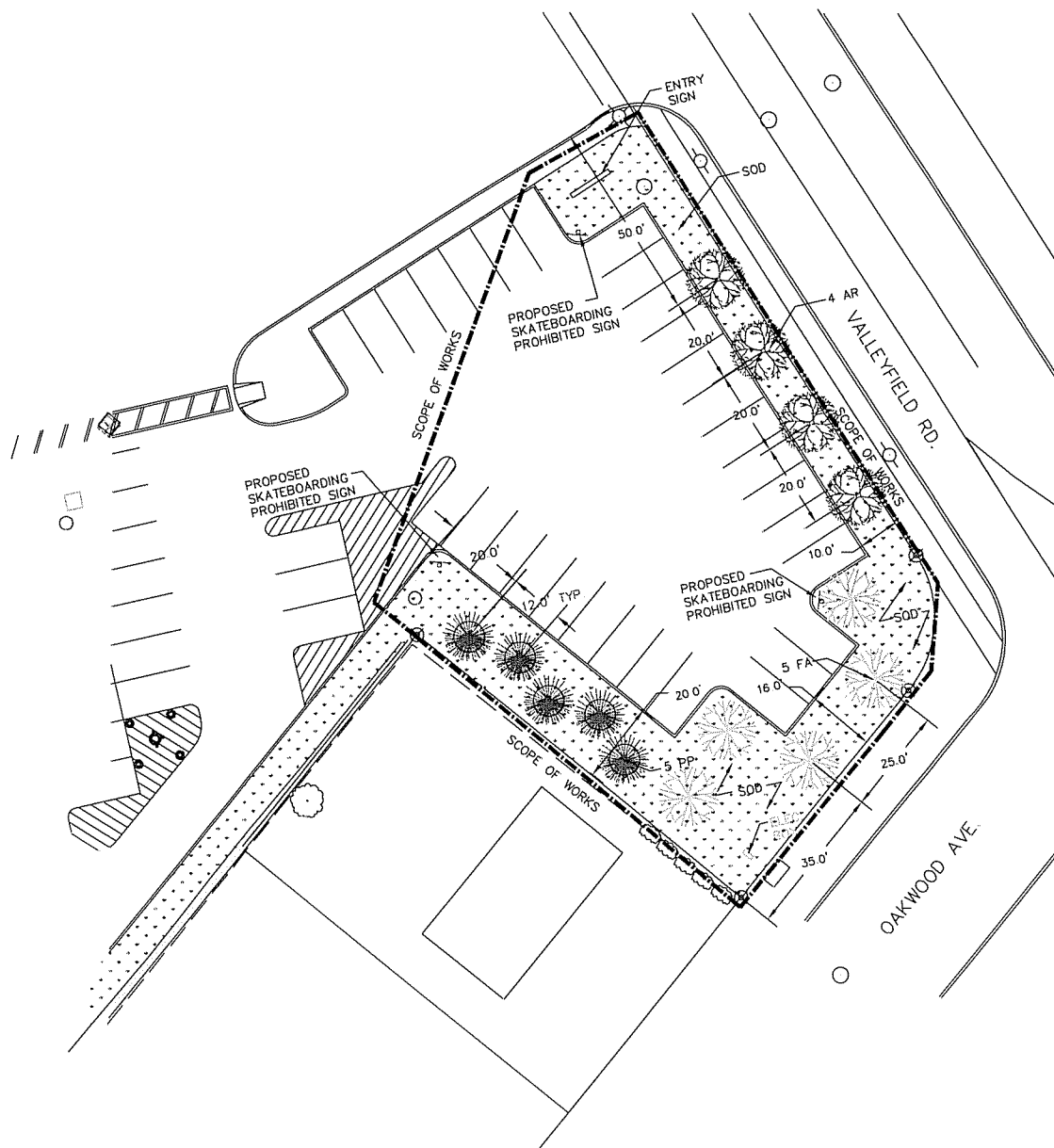


2. CONIFEROUS TREE PLANTING



CODE	CITY	BOTANICAL NAME	SIZE	CONDITION	SPACING	STAKES	REMARKS
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

- NOTES:**
- THIS IS NOT AN OFFICIAL SURVEY DRAWING.
 - CONTRACTOR SHALL VERIFY ALL DIMENSIONS, ELEVATIONS, TOLERANCES, CONSTRUCTION PRACTICES AND SPECIFICATIONS WITH THE DESIGNER, APPLICABLE LOCAL REGULATIONS AND PROJECT SPECIFICATIONS.
 - ERECT SALTATION BARRIER FENCES AT LOCATED CORNERS OF OPEN AREAS AND THROUGH THEM IN TOP FUNCTIONAL CONDITION AT ALL TIMES. PROVIDE SALTATION CONTROL FENCING AROUND AND/OR STABLE SURFACE OF TEMPORARY STOCKPILES.
 - DETERMINING SALTATION LOCATIONS ARE UNUSUAL. CONTRACTOR TO VERIFY LOCATIONS IN FIELD PRIOR TO BEGINNING.
 - INSTALL 6" OF TOPSOIL IN ALL AREAS TO BE SOILED.
 - DO NOT SCALE THIS DRAWING.



- 1 THIS IS NOT AN OFFICIAL SURVEY DRAWING
- 2 ALL CONSTRUCTION PROCEDURES ARE TO COMPLY WITH NOVA SCOTIA ENVIRONMENTAL CONSTRUCTION PRACTICE SPECIFICATIONS LATEST EDITION, APPLICABLE LOCAL REGULATIONS AND PROJECT SPECIFICATIONS
- 3 ERECT SILTATION BARRIER FENCES AT LOWEST CONTOURS OF OPEN AREAS AND MAINTAIN THEM IN TOP FUNCTIONAL CONDITION AT ALL TIMES PROVIDE SILTATION CONTROL FENCING AROUND AND/OR STABILIZE
- 4 UNDERGROUND UTILITY LOCATIONS ARE UNKNOWN CONTRACTOR TO VERIFY LOCATIONS IN FIELD PRIOR TO EXCAVATION
- 5 INSTALL 6" OF TOPSOIL IN ALL AREAS TO BE SODDED
- 6 DO NOT SCALE THIS DRAWING

Schedule "D" Landscape Plan

