

Harbour East Community Council  
June 8, 2006

TO: Harbour East Community Council

SUBMITTED BY: *Gail Harnish / for*  
Ray DeRoche, Chair  
Harbour East Planning Advisory Committee

RE: Case 00784 - Rezoning and Development Agreement - Prince Albert Road  
and Bartlin Road

DATE: June 6, 2006

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**ORIGIN**

Harbour East Planning Advisory Committee meeting - June 5, 2006

**RECOMMENDATION**

The Harbour East Planning Advisory Committee passed a motion recommending that the matter be forwarded to Harbour East Community Council for consideration.

As background, a motion to recommend approval of the proposal did not receive a seconder, and a motion to recommend that the proposal be refused was lost due to a tie vote.

**ATTACHMENTS**

Staff report dated May 29, 2006

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.

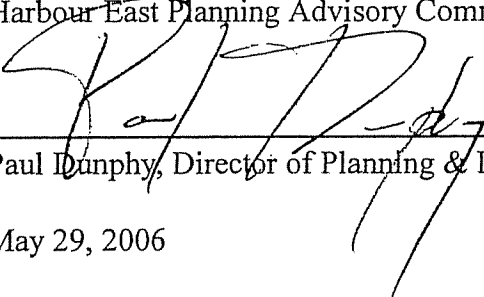
Report prepared by: Gail Harnish, Admin/PAC Coordinator, 490-4937  
Report reviewed by: Ray DeRoche, Chair, Harbour East PAC



PO Box 1749  
Halifax, Nova Scotia  
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**Harbour East Planning Advisory Committee - June 5, 2006**

**TO:** Harbour East Planning Advisory Committee

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

**DATE:** May 29, 2006

**SUBJECT:** **Case 00784: Rezoning, Development Agreement - Prince Albert & Bartlin Rd.**

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**ORIGIN**

Application by Twin Lakes Developments Ltd for a rezoning from R-2 to R-3 and a development agreement to permit a twelve (12) storey multiple residential building off Prince Albert Road at Bartlin Road, Dartmouth;

**RECOMMENDATION**

It is recommended that Harbour East Planning Advisory Committee recommend that:

Harbour East Community Council refuse the rezoning and development agreement with Twin Lakes Developments Ltd., presented as Attachment C to this report, for a twelve (12) storey multiple residential building off Prince Albert Road at Bartlin Road, Dartmouth.

Pursuant to Section 230(6) of the *Municipal Government Act*, Council is required to provide reasons to the applicant justifying this refusal, based on the policies of the Municipal Planning Strategy. By reason of *building height and scale*, a twelve storey building in this location is not considered compatible with adjacent and nearby two and four storey dwellings. [Policy IP5-(b) i].

## **BACKGROUND**

### *Site Description*

This proposed development is located on steeply sloped lands between Prince Albert Road and Alderney Elementary School (Map 1 and Schedule B of the agreement). The site includes five parcels to be assembled by the developer, and two HRM-owned parcels. Staff have reviewed the request made by the developer to acquire the subject portions of the HRM property and consider the requested portions surplus to the requirements of the municipality.

### *Zoning and Enabling Policy*

A rezoning to R-3 (Multiple Family Residential-Medium Density) is sought on parcels zoned R-2 (Two Family Residential) to enable the negotiation of a development agreement for the proposed use. Lands zoned C-2 (General Business) may already be considered for R-3 uses. The lands are respectively designated residential and commercial on the Generalized Future Land Use Map.

This application is made pursuant to Policy IP-I (b) of the Dartmouth Municipal Planning Strategy (MPS) which enables the consideration of zoning amendments for any permitted use within each generalized land use category (i.e. R-2 to R-3), and Policy IP-5 which requires the negotiation of a development agreement for all multiple unit dwellings in Dartmouth. Policy IP-1(c) outlines criteria for Council to consider when evaluating rezonings and development agreements. Relevant policy and regulations are contained in Attachment B. The subject area is outside the 35' height limit established for properties around Lake Banook.

### *Surrounding Land Uses*

As shown on Map 1, surrounding land uses include: commercial buildings; single and semi-detached housing; an elementary school and medium rise (4 storey) multiple unit residential.

### *The Proposal*

While approval of this application is not being recommended, in the event Council wishes to consider approval, a draft development agreement is attached which will allow the proposed building. This agreement specifically provides for the following:

- A twelve storey multiple residential building with a maximum of 84 units as illustrated on the schedules of the development agreement (Attachment C);
- Sufficient parking for the R-3 use, storage, and bicycle parking;
- Common indoor meeting rooms, fitness centre, and common outdoor terrace;
- Rehabilitation of a public pedestrian corridor from Prince Albert Dr. to Alderney School;
- Construction of parkland improvements on the Alderney School grounds (\$30,000 value)

## **DISCUSSION**

Council's decision with regard to planning matters must reasonably carry out the intent of the Municipal Planning Strategy (MPS). While this proposal responds positively to many relevant policies, there are several to which staff feels it does not comply. The degree of non-

compliance is such that, in staff's view, approval of this proposal would not reasonably carry out the intent of the MPS. The applicant has been made aware of staff's position, but has elected to bring the application forward. While the complete policies are included under Attachment B, criteria relevant to this proposal are addressed in greater detail below.

#### *Architecture, Massing, Scale, Height*

The proposed exterior architectural design is of a high quality, attractive building. However, the building is out of scale with its surroundings as it is located between low rise (2 storey) dwellings and medium rise (4 storey) apartment buildings. While the building mass and roof line are broken into a series of smaller components (a suitable approach for a hillside development) several stories will project well beyond the ridge line. The prominent location of this building (halfway up a hill) combined with limited area for planting trees in front of the building, will further accentuate the difference in scale from its surroundings, especially when viewed from Prince Albert Road or Lake Banook. It should be noted that the developer has tried to address this concern to some extent by reducing the height by one storey from an earlier proposal by burying one level of parking.

The building is relatively tall because the developers have tried to minimize disturbance to the slope and limit removal of vegetation by reducing the building footprint and increasing the height to achieve their desired unit count. Vegetation retained behind the building will help blend it into the natural setting when viewed from the uphill side.

It would have been preferable for the building to be sited so that existing land forms were used as a backdrop to the structure, rather than using the sky. This could be achieved with a building height not exceeding the mid-point of the tallest structure on the adjacent uphill lot, i.e. a six or seven storey building. Using the same footprint, this would have reduced the unit count to about 45 - 50 units and the developer did not find this solution acceptable.

#### *Density*

The developer proposes to construct the maximum number of units permissible under the R-3 zone of the Dartmouth Land Use Bylaw (or 84 units, whichever is less)<sup>1</sup>. The R-3 zone relies on site area to determine permissible density, and while it can be argued there will be sufficient land area to accommodate about 84 units, it seems inappropriate to maximize the density given the degree of site constraints. In addition to the topographic constraints already mentioned, the site is geometrically constrained since the proposed lot will be an awkward 'U' shape resulting in very little useable site area.

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<sup>1</sup>The exact number of units permitted by R-3 won't be known until the land assembly is complete.

*Traffic and Transportation networks*

The developer was asked to conduct new traffic counts and carry out a signal warrant analysis of the Prince Albert Road/ Graham's Grove intersection in response to concerns from the public. The study concluded that traffic signals will not provide a positive impact on total intersection operation and are not required, both with and without the development. In terms of other modes of transportation, the development is well served by Metro Transit and nearby trails.

*Parking and Amenities*

The proposal is capable of meeting parking requirements of the Land Use Bylaw. Proposed amenities have been described above. In addition, a significant amount of professional landscaping is required and will ensure the site is aesthetically pleasing.

The draft agreement also requires the rehabilitation of a severely degraded HRM path connecting Prince Albert Road to the Alderney School property. This path is well used now by school children and for access to the supermarket. It will also provide future residents with direct pedestrian access to recreational facilities at Alderney School, as well as to the nearby Trans Canada Trail along Lakes Banook and MicMac. This should compensate for the lack of useable on-site amenity area due to the steep slopes. To address inadequacies in nearby parkland, the agreement also requires site improvements to the Alderney School grounds.

*Other*

Due to the steep slope, it will be of paramount importance to protect the lakes during construction. The Dartmouth Lakes Advisory Board reviewed the proposal on November 30, 2005. Upon their recommendation, a clause in the Agreement requires the final erosion & sedimentation control plan to be reviewed by the Board before any permits are issued.

As with proposals for many buildings of any height, there is the potential for nearby residents to lose views they may have. MPS policy does not entrench any rights to private views, and instead favours the protection of designated views. This site is not within any designated viewplane and blockage of private views does not constitute any of the reason for recommendation of refusal.

*Public Consultation*

A public information meeting was held on December 12, 2005 (Attachment A). Residents in attendance were generally supportive of medium density housing in this location but had a number of concerns with height and scale relative to surrounding land uses. Should Council decide to proceed with a public hearing, individual property owners will be notified by mail of the scheduled hearing date, and two advertisements will be placed in the local newspaper. The area of property notification is identified on Map 1.

**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. Community Council could choose to refuse the rezoning and the development agreement application. This is the staff recommendation.
2. Community Council could choose to approve the rezoning and refuse the development agreement. This is not recommended.
3. Community Council could choose to approve the rezoning and the development agreement. This is not recommended.

If Council chooses to approve either the rezoning or the development agreement, Council should Give First Reading and Notice of Motion to consider a rezoning and the attached development agreement and schedule a public hearing;

If Council chooses to approve the rezoning and development agreement following the public hearing, Council should: "Approve the rezoning of the subject lands from R-2 to R-3 and approve the development agreement (following the expiry of the appeal period for the rezoning), attached to this report as Attachment "C", to allow for an multiple residential building off Prince Albert Road at Bartlin Road, Dartmouth; and

Require that the development agreement be signed within 180 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 approval is later, including applicable appeal periods, otherwise, this approval will be void and obligations arising hereunder shall be at an end.

**ATTACHMENTS**

Map 1

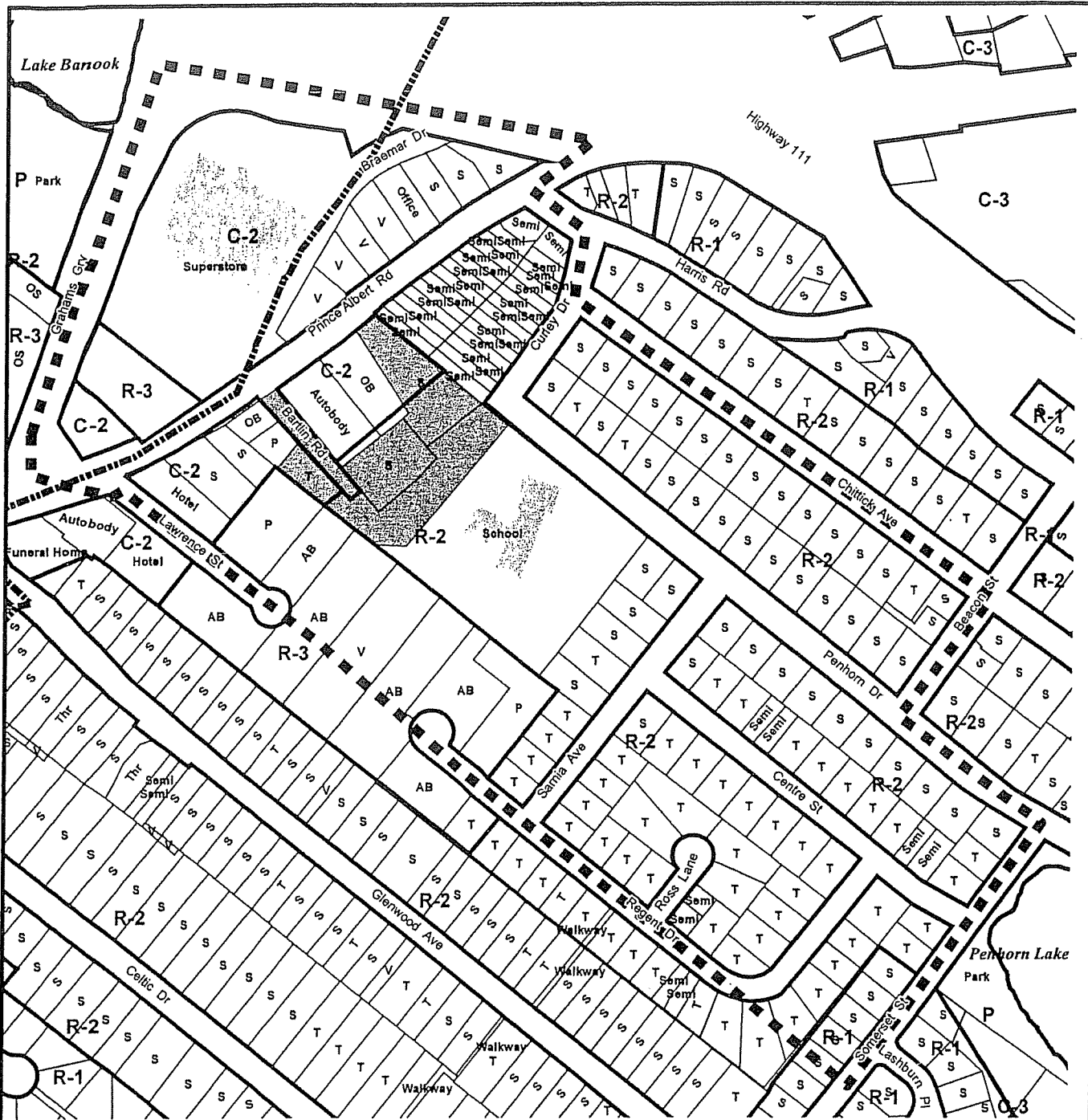
Attachment A: Minutes of Public Information Meeting, December 12, 2005

Attachment B: Policies of the Dartmouth Municipal Planning Strategy




Attachment C: Draft 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



Map 1  
339 Prince Albert Road

-  Approximate Subject Property
-  35' Height Limit
-  Notification Area

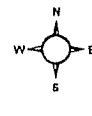
Dartmouth Land Use By-Law Area

**Zone**

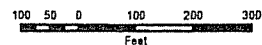
- R-1 Single Family Residential Zone
- R-2 Two Family Residential Zone
- R-3 Multiple Family Residential Zone
- C-2 General Business Zone
- P Park Zone

**Land Use**

- S Single Unit Dwelling
- T Two Unit Dwelling
- Thr Three Unit Dwelling
- Semi Semi-Detached Dwelling
- AB Apartment Building
- OB Office Building
- V Vacant



**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING AND  
DEVELOPMENT SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Land Use By-Law area.

HRM does not guarantee the accuracy of any representation on this plan.

**Attachment "A"****PUBLIC INFORMATION MEETING****CASE 00784 - TWIN LAKES DEVELOPMENTS LTD.****DARTMOUTH PLAN AREA**

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December 12, 2005

Alderney Elementary, Dartmouth

7:00 p.m.

**STAFF IN**

**ATTENDANCE:** Hanita Koblents, Planner  
Samantha Charron, Administrative Assistant

**APPLICANT:** Dan Goodspeed, Kasner Goodspeed Architects  
Bob Yuille, Twin Lakes Developments Ltd.

**OTHER:** Gloria McCluskey, Councillor

**MEMBERS OF**

**THE PUBLIC:** Approximately 20 people

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**PRESENTATION/OPENING COMMENTS**

Hanita Koblents welcomed residents to the meeting and thanked them for attending. She explained local councillor Gloria McCluskey would be attending the meeting just a few minutes late. She also introduced Dan Goodspeed and Bob Yuille representing Twin Lakes Developments Ltd.. She then introduced herself as the planner assigned to this case.

Ms. Koblents explained the purpose of tonight's meeting is to discuss an application by Twin Lakes Development Ltd. to construct an 84 unit condominium on lands just down the slope from this school, off Bartlin Rd. The application is for a rezoning and a development agreement to allow this new building.

With use of overhead and site map Ms. Koblents gave an overview of the location of the proposed development. She stated the proposal includes a number of lots, some of which have existing buildings. She suggested there is a portion of a lot owned by Twin Lakes Development Ltd. within the C-2 zone, which permits apartment buildings by development agreement. She explained the other portion of the subject lands is zoned R-2, which permits one and two unit dwellings. She indicated the application for rezoning, is for these lands, to rezone them to R-3, which permits medium density multi-unit residential buildings by development agreement.

Ms. Koblents pointed out that lands shaded in grey which are presently owned by the municipality. She explained the developer has approached HRM Real Property division about purchasing the portion of these lands within the dotted line (which represents roughly where the chain link fence at the edge of the school grounds is located). She then explained that Real



Property have circulated this request to other HRM departments and to the school board, and have ascertained that the lands can be deemed surplus. She informed residents if a development proposal is approved on these lands, they will be sold at market value to the applicant. She stated the lands owned by the municipality within the dotted line are comprised of a steep slope containing trees, a drainage ditch, and a heavily eroded path. With a topographical map Ms. Koblents outlined the lands where the building is proposed.

Ms. Koblents then gave a brief overview of the planning process to provide a better understanding of how applications are evaluated and how resident input is considered.

Ms. Koblents explained the planning process typically begins with an application from a developer to receive planning approval for their project. An HRM planner is assigned to the case and begins a technical review of the proposal by circulating it to relevant agencies and departments for example, engineering services, the water commission, traffic services, parkland planning, metro transit, the school board, etc. The purpose of this circulation is to get feedback and recommendations for the proposal. She suggested while this is proceeding, a public information meeting (what we are doing now) is scheduled, to help staff get a sense of any issues the community may have, and how these might be addressed. She stated community members have local knowledge that is valuable to the planning process.

She explained in some cases the review process can be an iterative one, with the applicant bringing additional information forward to respond to concerns and recommendations, and adjusting their proposal to meet those concerns, if possible. Once the review is complete, the planner prepares a staff report with a recommendation to Community Council. Harbour East Community Council normally meets the first Thursday of every month and consists of a subset of Regional Council including representatives from Dartmouth, Cole Harbour and Eastern Passage.

If Community Council decides to proceed, they will set a Public Hearing date. If you received notice in the mail for this PIM, you will receive notice for the hearing. If you would like to receive notice but didn't please make sure your name and fulling mailing address is on the attendance sheet tonight. The public hearing will also be advertised in the Herald for two consecutive Saturdays before the meeting.

The public hearing is a formal opportunity for any member of the public to speak for or against the proposal before Council makes a decision to accept or reject the proposal. After the decision is made, there is a 14 day appeal period.

Ms. Koblents then explained a development agreement is a contract between the landowner and the municipality that spells out how the land will be developed. It contains development standards that supercede the zoning standards. She explained a development agreement can control a range of aspects related to development such as site design, architectural form, landscaping, maintenance, parking, etc.

Ms. Koblents stated that once signed, a development agreement gets registered with the Registry of Deeds, obligating future land owners to abide by the terms of the agreement. The agreement stays in effect until it's discharged which can typically be done only if both parties consent.

Ms. Koblents suggested when negotiating a development agreement, Policy IP-5 of the Municipal Planning Strategy directs staff to review the proposal based on a number of criteria. These include the form of the building (design, height, bulk, scale); it's relationship to other nearby land uses and how any conflicts will be reduced in terms of parking, access/ egress etc. The policy directs staff to ask how adequate are the local community services (like schools, places of worship, shops, and transportation networks) to support the population that will be living in the proposed development. Staff also consider the design of the site and landscaping to ensure the development will be aesthetically pleasing, appropriately buffered, and that the needs of the residents for usable on-site amenity areas are met. Finally we are asked to consider environmental issues such as drainage, soil stability and slope treatment.

She suggested residents keep these criteria in mind while they are listening to the proposal this evening. She then invited Dan Goodspeed to give his presentation on behalf of Twin Lakes Developments Ltd. and suggested residents hold their questions until after Mr. Goodspeed's presentation.

Dan Goodspeed, with use of slides gave a full site description. He explained the location of the school property to the proposed development. He explained the landscape surrounding the development including a path that will be redeveloped connecting the school yard to the proposed site. He continued with a description of the existing structures on the site.

Mr. Goodspeed explained as the designer of this property, he first considered the compatibility of this structure with the surrounding community. He suggested constructing a building suitable for the surrounding environment, to be top priority. He then explained given the context of the surrounding use in this area, he feels this to be a suitable location for this type of development. Mr. Goodspeed indicated the developer has undertaken an examination of the existing traffic versus the impact this development will have; accessibility and proximity to amenities, recreational facilities and retail; and the potentially beautiful views the development will offer. He suggested high density use is already present in the community and seems to work well. Mr. Goodspeed then described some technical issues that were brought to light and after they were fully examined they will have minimal impact on the proposal.

Mr. Goodspeed described the slope separating the school from the proposed site. He explained the slope is approximately 60 feet and will be supported with three levels of parking and described the grading. Above that there will be nine floors of condominium apartments as well as a penthouse.

With a site plan Mr. Goodspeed gave a full description of the exterior of the building including access, views, location on the site, terraces, exterior finishes and landscaping.

Mr. Goodspeed then described in detail the floor plans for the proposed development. There would be nine units per floor, two penthouse suites, parkade levels and extra conveniences like the proposed gym and bicycle lock-up areas. Mr. Goodspeed then explained the existing tree line seen from the school yard will be maintained and the trail connecting the school and the development will be redeveloped, he indicated the grade will change and lighting will be installed to ensure this path and small wooded area are kept safe for pedestrian use.

Mr. Goodspeed suggested increasing density in the downtown core is beneficial to the municipality as it helps to create more healthy, sustainable communities and better utilizes public services.

Mr. Goodspeed stated they feel this development would be an asset to the community. He then invited residents with concerns or comments to raise them now.

#### QUESTIONS AND COMMENTS

Peter Majeau commented he feels the traffic study findings are not accurate for this neighbourhood. He feels traffic in the area needs to be addressed and future developments need to take this into account.

Mr. Goodspeed suggested the traffic study did indicate an existing problem in this community, but implied the construction of this proposed development would not add to the existing problem.

Peter Majeau commented there should be additional bus shelters in this area.

Mr. Godley, a resident of Samia Ave, stated his concern that his and his neighbour's view of the lakes will be lost if this development is approved.

An unknown resident asked what the units price range would be.

Dan Goodspeed indicated the prices would vary.

Leslie Ganai asked what type of demographic they are trying to attract to the proposed development.

Mr. Goodspeed indicated they are looking more to retirees or the aging community.

Don Kennedy commented he has concerns the size of the project is not compatible with this community, and asked if Twin Lakes Development Ltd. have considered any other type of development for this site

Mr. Goodspeed suggested he was hired to design a development this size that would be most accommodating to the community.

Don Kennedy has concerns about additional traffic to the local streets. He asked Mr. Goodspeed if he felt this development will add to the existing traffic flow problem in the area. He is also concerned the height of the development will have a direct impact on residents' views and shading.

Mr. Goodspeed explained the traffic study indicated traffic would not be affected by this development.

Don Kennedy questioned the location of the only crosswalk and lack of HRM staff to recognise the need for additional crosswalks.

Mary Kennedy suggested the wonderful walking trails in the community along the Lake Banook side of the street are not safely accessible to residents now, and stated if additional vehicles are added this will only make the situation worse.

Steve Giles a resident of Sarnia Ave, does not support this development . He suggested the views from his home and his neighbours will be lost, if this application is approved. He would like to have this taken into consideration and have staff come to Sarnia Ave and look into this concern.

Residents asked if the developer would supply them with a copy of the site and development proposal.

Mr. Goodspeed indicated this is possible if residents call their office.

Residents asked Councillor McCluskey what she thought of the proposed development

Councillor McCluskey indicated she was in attendance to listen to comments and concerns residents have regarding the proposed rezoning and development. She explained there would also be future opportunities for residents to speak directly to this application and her decision would be based on residents' comments and concerns and staff's recommendation.

A group discussion regarding traffic followed.

Councillor McCluskey indicated traffic is an issue in this area and she will be fighting the traffic authority to have changes made. She suggested the residents submit a petition she can bring forward to the proper authority.

Steve Giles asked if the Dartmouth Lakes Advisory Board (DLAB) has had the chance to comment on this proposal and if so what was their decision.

Councillor McCluskey indicated that DLAB did have a chance to review the proposed application and has requested additional information before commenting.

Mary Kennedy asked if wind studies will be conducted on the school yard to see if there will be an effect from the proposed development.

Dan Goodspeed suggested that the wind impact is generally limited to an area around the building and that findings of wind studies are not always definitive.

Leslie Ghanai asked if there are setback requirements for structures located next to school yards.

Ms. Koblents stated she was not aware of specific requirements such as this in HRM.

Leslie Ghanai asked if there are any other schools in HRM with such a tall structure adjacent to them.

Ms. Koblents indicated she could not answer that question at this time.

Marilyn Moore local MLA, asked if the comments from the various municipal divisions are available to the public. She also has concerns of the school yard being shadowed by a development this size and she would like to see this taken into consideration.

Ms. Koblents indicated the school board returned their comments asking for some changes and she suggested the developers have made changes to the plan to accommodate their concern.

Marilyn More suggested if the municipality is promoting infrastructure and infilling in the downtown core, then the traffic authority needs to listen to the community's concerns. She also suggested if various communities made a decision not to support any more development until the traffic issues are dealt with maybe this would prompt a resolution between residents and the traffic authority.

Don Kennedy asked Mr. Yuille if he felt the proposed development is the best for the community.

Bob Yuille suggested he felt it was compatible and suggested traffic is an existing problem that will not be impacted negatively by the construction of this development.

Residents suggested their surroundings and views have to be considered not just the financial benefits for the developer.

Peter Majeau suggested, if the proposed development is approved will there be some measures taken to ensure construction debris is maintained during construction.

Dan Goodspeed indicated Twin Lakes Development Ltd. would maintain all their construction sites to respect local residents and the on site workers safety.

A brief discussion followed and residents expressed concern that traffic engineers were not present.

Ms. Koblents indicated she will bring all comments recorded here back to the engineers for review.

Robin Majeau asked how many stories will be above the school yard.

Dan Goodspeed indicated about eight stories. He suggested some views will be blocked but does not feel its fair to say all views will be blocked.

Mr. Ghanai suggested if the IP 5 criteria were considered he does not understand how the proposed development could possibly fit with surrounding community. He suggested the size difference between this and the surrounding structures alone is immense.

Ms. Koblents indicated traffic is an issue that spans all of HRM and stated height is usually an issue when considering developments over four stories.

Mary Kennedy is concerned about school closure and the future development potential for this particular site. She suggested if the school were ever to close and the land sold off, the next developer would have to build a larger and taller development to have a view over this development if it is approved.

Sharon Yuille suggested the school board is making potential residents feel this area is not sustainable as far as the school system goes. She feels young families are deterred from purchasing homes in this community because the future of the school is unpredictable. She suggested the Municipality and the Department of Education need to come together and put an end to this.

Steve Giles asked if HRM keeps statistics that will show the type of developments that attract young families, he feels this is what this neighbourhood needs so if the development will not attract this demographic then it should not be supported.

Ms. Koblents stated she was not aware of any such statistic but suggested the school board may have something like this.

Councillor McCluskey asked if residents would like to have a public meeting with the traffic department to discuss local concerns.

Residents indicated that would be greatly appreciated. They also asked when and where the public hearing for this application will be held.

Ms. Koblents explained residents will be notified by mail in advance of the public hearing as well as newspaper ads that run two consecutive Saturdays before the hearing will be held. She then thanked everyone for their time and closed the meeting.

### **MEETING ADJOURNMENT**

Meeting adjourned at approximately 8:45 p.m.

**Attachment "B"****Relevant Policies of the Dartmouth Municipal Planning Strategy and Regulations from the Dartmouth Land Use Bylaw****Policy IP-1****(b) Generalized Land Use**

Zoning amendments may be considered for any permitted use within each generalized land use category without a plan amendment provided that they do not conflict with the policies of this plan.

**Policy IP-5**

It shall be the intention of City Council to require Development Agreements for apartment building development in R-3, R-4, C-2, MF-1 and GC Zones. Council shall require a site plan, building elevations and perspective drawings for the apartment development indicating such things as the size of the building(s), access & egress to the site, landscaping, amenity space, parking and location of site features such as refuse containers and fuel storage tanks for the building.

In considering the approval of such Agreements, Council shall consider the following criteria:

- (a) adequacy of the exterior design, height, bulk and scale of the new apartment development with respect to its compatibility with the existing neighbourhood;
- (b) adequacy of controls placed on the proposed development to reduce conflict with any adjacent or nearby land uses by reason of:
  - (i) the height, size, bulk, density, lot coverage, lot size and lot frontage of any proposed building;
  - (ii) traffic generation, access to and egress from the site; and
  - (iii) parking;
- (c) adequacy or proximity of schools, recreation areas and other community facilities;
- (d) adequacy of transportation networks in, adjacent to, and leading to the development;
- (e) adequacy of useable amenity space and attractive landscaping such that the needs of a variety of household types are addressed and the development is aesthetically pleasing;
- (f) that mature trees and other natural site features are preserved where possible;
- (g) adequacy of buffering from abutting land uses;
- (h) the impacts of altering land levels as it relates to drainage, aesthetics and soil stability and slope treatment; and
  - (i) the Land Use By-law amendment criteria as set out in Policy IP-1(c).

**Policy IP-1(c)**

In considering zoning amendments and contract zoning, Council shall have regard to the following:



- (1) that the proposal is in conformance with the policies and intents of the Municipal Development Plan
- (2) that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal
- (3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries
- (4) that the proposal is not premature or inappropriate by reason of:
  - (i) the financial capability of the City is to absorb any costs relating to the development
  - (ii) the adequacy of sewer and water services and public utilities
  - (iii) the adequacy and proximity of schools, recreation and other public facilities
  - (iv) the adequacy of transportation networks in adjacent to or leading to the development
  - (v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas
  - (vi) preventing public access to the shorelines or the waterfront
  - (vii) the presence of natural, historical features, buildings or sites
  - (viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized
  - (ix) the detrimental economic or social effect that it may have on other areas of the City.
- (5) that the proposal is not an obnoxious use
- (6) that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or near by land uses and public facilities. Such controls may relate to, but are not limited to, the following:
  - (i) type of use, density, and phasing
  - (ii) emissions including air, water, noise
  - (iii) traffic generation, access to and egress from the site, and parking
  - (iv) open storage and landscaping
  - (v) provisions for pedestrian movement and safety
  - (vi) management of open space, parks, walkways
  - (vii) drainage both natural and sub-surface and soil-stability
  - (viii) performance bonds.
- (7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors
- (8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the

residents to clearly understand the proposal previous to the formal public hearing before City Council

### **R-3 ZONE - MULTIPLE FAMILY RESIDENTIAL ZONE (MEDIUM DENSITY)**

34. (1) The following uses only shall be permitted in an R-3 Zone:
- (a) R-1, R-2 and TH uses as herein set out,
  - (b) apartment buildings,
  - (c) uses accessory to any of the foregoing uses.
  - (d) lodging houses (As amended by By-law C-657, Feb2/89)
- (2) Buildings used for R-1, R-2 and TH uses in an R-3 Zone shall comply with the requirements of an R-1, R-2 or TH Zone respectfully.
- (3) Buildings used for R-3 uses in an R-3 Zone shall comply with the following requirements:
- (a) Lot coverage, maximum - 25%
  - (b) Area of site required per dwelling unit:

Provided that where the site area is greater than one acre, the area of the site required per dwelling unit shall be:

Type of dwelling unit	Area of site required per dwelling unit
One bedroom and bedsitting room	1,000 sq. ft.
Two or more bedrooms	1,350 sq. ft.

- (c) On all buildings a minimum side and rear yard clearance of 15 feet shall be maintained and if the building is more than fifty feet high on its highest side the sideyards and rearyards shall have a minimum clearance of not less than one half the height of the adjacent side of the building.
  - (d) The yard area located between the street line and the minimum setback line shall be landscaped, and the entire site and all buildings maintained in a neat, tidy manner including the trimming and upkeep of landscaped areas.
  - (e) Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC - Feb 8, 2005 E - April 23, 2005)
- (4) No uses other than those permitted in R-1 and R-2 shall be permitted unless the lot area is equal to or greater than ten thousand square feet and unless the street frontage is equal to or greater than one hundred feet.
- (5) All developments including three or more dwelling units shall provide, in addition to the site requirements set out in sub-section (3) of this section, amenity areas of not less than one hundred square feet for each bedsitting room or one bedroom dwelling unit; three

hundred square feet for each two bedroom dwelling unit; and 500 square feet for each three or more bedroom dwelling units. An amenity area shall be a space set aside for recreational purposes such as communal play areas, recreational room, roof decks, balconies, swimming pools and tennis courts. An amenity area shall have no dimension less than thirty feet.

*NOTE: Effective December 4, 1991, Multiple family residential developments in the City of Dartmouth are permitted only by development agreement.*

### **C-2 ZONE - GENERAL BUSINESS ZONE**

39. (1) The following uses only shall be permitted in a C-2 Zone:
- (a) R-1, R-2, R-3, C-1 and TH uses as herein set out;
  - (b) Business or commercial enterprises except:
    - (i) obnoxious uses and uses creating a hazard to the public and
    - (ii) offices other than those permitted in the C-1 Zone
    - (iii) *except Adult Entertainment uses*  
*(As amended by RC January 31/06 Eff date March 16/06)*
  - (c) Uses accessory to the foregoing uses.
- (2) Buildings used for R-1, R-2, R-3, C-1 and TH uses in a C-2 Zone shall comply with the requirements of an R-1, R-2, R-3, C-1 or TH Zone respectively.
- (3) Buildings used for C-2 uses in a C-2 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 sq. ft.
  - (b) Height maximum - 3 storeys for a building with an office function as its primary function.
  - (c) Maximum Lot coverage - 100% if the requirements for 100% lot coverage in the Building Bylaws of the City of Dartmouth are met, except that a motel building or buildings shall occupy surface area of not more than one-third of the total area of the building lot.
  - (d) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building Bylaws of the City of Dartmouth.
  - (e) *Additional Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W".*  
*(RC - Feb 8, 2005 E - April 23, 2005)*

**Attachment C**

**DRAFT Development Agreement**

THIS AGREEMENT made this            day of            , 2006,

BETWEEN:

Twin Lakes Developments Ltd  
a body corporate, in the County of  
Halifax, Province of Nova Scotia

(hereinafter called the "Developer")

OF THE FIRST PART

and

HALIFAX REGIONAL MUNICIPALITY,  
a municipal body corporate,  
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located off Prince Albert Road, Dartmouth, Nova Scotia, and which said lands are more particularly described in Schedules A and B of this Agreement; (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for the construction of a multiple unit residential building on the Lands pursuant to the provisions of the Municipal Government Act and Municipal Planning Strategy and Land Use Bylaw for Downtown Dartmouth;

AND WHEREAS the Harbour East Community Council approved this request at a meeting held on \_\_\_\_\_, 2006, referenced as Municipal Case Number 00784;

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

**PART 1: DEFINITIONS**

In this Agreement, unless the context otherwise requires:

- (a) "Community Council" means the Harbour East Community Council of the Municipality.
- (b) "Development Engineer" means any person designated by the Municipality to grant approvals for the design, construction and acceptance of municipal service systems .
- (c) "Development Officer" means a person appointed by Regional Council to administer the Land Use and Subdivision By-laws and the terms and conditions of this Agreement.
- (d) "Land Use By-Law" means the Dartmouth Land Use By-law, as amended from time to time.
- (e) "Landscape Architect" means a professional who is a member in good standing of the Atlantic Provinces Association of Landscape Architects.
- (f) "Parkland Planner" means a person designated by the Municipality to make recommendations to the Development Officer regarding the acceptance of parkland and open space dedications to the Municipality.

**PART 2: GENERAL REQUIREMENTS AND ADMINISTRATION**

- 2.1 The Developer agrees that the Lands shall be subdivided, developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 2.2 Except as otherwise provided for herein, development and use of the Lands shall comply with the requirements of the Dartmouth Land Use Bylaw as may be amended from time to time.
- 2.3 Except as otherwise provided for herein, the subdivision/ consolidation of the Lands shall comply with the requirements of the applicable Subdivision Bylaw, as may be amended from time to time.
- 2.4 Pursuant to Section 2.2 and 2.3, 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 Bylaw of the Municipality applicable to the Lands (other than the Land Use Bylaw and Subdivision Bylaw to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, Bylaws and regulations in connection with the development and use of the Lands. For greater clarity, the following bylaws and guidelines have been identified which the Developer hereby agrees to comply with:

- Bylaw B 201 Building Bylaw
  - Bylaw N 200 Noise Bylaw
  - Bylaw S 300 Streets Bylaw
  - Bylaw E-200 Encroachments
  - Bylaw W-101 Wastewater Discharge
  - HRM Municipal Service System Specifications
  - NSDEL Erosion & Sedimentation Control Handbook for Construction Sites
- 2.5 Where the provisions of this Agreement conflict with those of any Bylaw of the Municipality applicable to the Lands (other than the Land Use Bylaw and Subdivision Bylaw to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 2.6 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, bylaws or codes applicable to any lands owned by the Developer or lot owner.
- 2.7 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 3: USE OF LANDS AND DEVELOPMENT PROVISIONS**

#### **3.1 Schedules**

The Developer shall develop and use the Lands in a manner which in the opinion of the Development Officer is substantially in conformance with plans filed in the Halifax Regional Municipality Planning and Development Services Department as Case 00784 and attached as the following Schedules to this Agreement:

Schedule A	Legal Description of the Lands
Schedule B	Subject Area
Schedule C	Landscape Plan
Schedule D	West Elevation (facing Prince Albert Road)
Schedule E	East Elevation (facing Alderney School)
Schedule F	North and South Elevations
Schedule G (1&2)	Floor plans - Levels 1, 2 & 3 and penthouse.
Schedule H	Municipal Services and Stormwater Management Plan

- 3.2 Prior to issuance of a development permit the developer shall submit verification that all lots have been consolidated and there are no lots fronting on Bartlin Road.

**3.3 Permitted Uses**

The use of the Lands permitted by this Agreement, subject to its terms and as generally illustrated on the Schedules attached hereto, is a multiple unit dwelling with a maximum density in accordance with the R-3 zone of the Land Use Bylaw, and no more than 84 residential units.

**3.4 Architectural Requirements**

- 3.4.1 The Developer shall construct a building on the Lands, which is substantially in conformance with Schedules "B-H" attached hereto.
- 3.4.2 The Developer agrees that any building constructed on the Lands shall not exceed 38.7 metres (127 feet) in height as measured from the lowest point of grade along the west side.
- 3.4.3 Building setback, lot coverage, density, and parking shall be in accordance with the R-3 zone of the Land Use Bylaw.
- 3.4.4 The exterior appearance of all sides of parking podium visible above grade shall be designed so as to minimize the visual impact by way of techniques shown on schedules D, E and F including but not limited to: using darker exterior colors than those used on the rest of the building; breaking up the facade of the parking podium vertically by using different materials on different sections and horizontally by way of using striping; use of archways, installation of trellis system to support climbing vines as shown, and planting of a mix of large evergreen and deciduous trees on landscaped areas immediately in front of any part of the parking structure that is above ground.
- 3.4.5 Construction materials shall be predominantly concrete construction with exterior cladding consisting primarily of products such as shown on Schedules D, E and F.
- 3.4.6 The roofline, pattern of windows (including shape, size, and pattern of arrangement) shall be substantively in conformance with Schedules D, E and F.
- 3.4.7 The Development Officer may approve minor changes to the architectural requirements and to the building footprint provided that overall unit numbers are not increased, and that such changes, in the opinion of the Development Officer, are minor in nature, and serve to further the intent of this agreement.
- 3.4.8 Notwithstanding 3.4.7, the Development officer may approve any reduction in height, including a reduction in the amount parking podium visible from above ground.

**3.5 Streets and Municipal Services**

- 3.5.1 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 sanitary sewer system, water supply system, storm sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable Bylaws, standards, policies and regulations of HRM and other approval agencies, except as provided for herein. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer.
- 3.5.2 The Developer shall have prepared by a Professional Engineer for submission a detailed servicing plan illustrating proposed municipal services for the site. This plan shall be subject to review and recommendation of approval by the Development Engineer, prior to issuance of a Streets and Services Permit through the Building Permit.
- 3.5.3 Any disturbance to existing off site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, landscaped areas and utilities, upgrades or additions to sanitary and storm sewerage infrastructure, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Engineer.
- 3.5.4 All secondary electrical, telephone and cable service to all buildings shall be underground installations, unless otherwise acceptable to the Development Officer.
- 3.5.5 Where storm and sanitary infrastructure is proposed outside of a street right of way, adequate width for easements, as determined by the Development Engineer, shall be provided for maintenance purposes and the infrastructure shall be readily accessible.
- 3.5.6 To accommodate this development, the sanitary service for the Alderney School is to be relocated as illustrated in Schedule H. With the realignment of the trail between the Alderney School and Prince Albert Road (generally as shown on Schedule C), there is the need to re-design / realign the storm water sewer system (which may include an overland, grass lined swale). The design details are to be included on the servicing plan at the Building Permit stage. A letter of permission to enter the Alderney School site shall accompany the Building Permit Application. Prior to commencement of the construction on and near the Alderney School, the developer shall contact the school principal to coordinate site disruptions and safety measures.
- 3.5.7 Pursuant to this section (Section 3.5), no occupancy permit shall be issued for any dwelling unit on the Lands until all street improvements and/or reinstatement, municipal servicing systems and utilities have been completed, except that the occupancy permit(s) may, at the discretion of the Building Official, be issued subject to security being



provided to the Municipality in the amount of 120 per cent of the estimated cost of completion of all outstanding work. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of all work, as described herein and illustrated on the Schedules, and as approved by the Municipality.

### **3.6 Private Amenity Space**

3.6.1 Common internal amenity areas accessible to all residents of the building shall be provided and shall be set aside for residents' recreational purposes as shown on Schedule G.

3.6.2 A common external amenity area that is a minimum 139m<sup>2</sup> ( 1500 ft<sup>2</sup>) shall be provided and set aside for residents' recreational purposes as shown on Schedule G. Detailed design of this area shall be included on the Landscape Plan required under 3.7.1

3.6.3 Private outdoor amenity space shall be provided through a minimum of one balcony or terrace per unit. All balconies shall have no dimension less than least 1.5m (5 feet).

### **3.7 Landscape Plan**

3.7.1 A detailed Landscape Plan prepared by a Landscape Architect shall be submitted with the application for Building and Development Permits. The plan shall provide details for all external areas (including soft landscaped areas, retaining walls, pedestrian pathways, driveways and curbs) generally in conformance with that shown on Schedule C. At a minimum, the plan shall specify an amount of new plant material at the minimum sizes indicated on Schedule C. The plan shall also specify all model numbers, quantities and manufacturers of site furnishings as well as construction details of landscaping features (planters, retaining walls, pathway, benches, lighting, etc.). All exterior planters and retaining walls should be of materials similar or complimentary to those on the building exterior.

3.7.2 The perimeter of all driveway and parking areas shall be concrete curbed where shown on Schedule C.

3.7.3 In addition to landscape measures outlined above, a certain amount of existing natural vegetation on the site shall be preserved as shown on Schedule C. Vegetation located within these areas shall be protected for the duration of construction through the erection of protective fencing outside the dripline of all trees to be preserved. No excavation or stockpiling of soil or other materials shall be permitted within the fenced areas, and any damaged limbs or roots shall be properly pruned.

- 3.7.4 Any propane tanks located outside the buildings shall be screened on all sides by means of opaque fencing or masonry walls and suitable landscaping. No other outdoor storage shall be permitted on the Lands.
- 3.7.5 The landscaping plan shall specify that all plant material conforms to the latest edition of the Canadian Nursery Trades Association Metric Guide Specifications, and that all new grass areas shall be sodded and conform to the Canadian Nursery Sod Growers' Specifications.
- 3.7.6 The Development Officer may approve modifications to the Landscape Plan provided such modifications, in the opinion of the Development Officer, are minor in nature and enhance the attractiveness and visual appearance of the Lands.
- 3.7.7 Prior to issuance of an occupancy permit, the Developer shall provide written certification from a Landscape Architect to the Development Officer indicating that all site design and landscaping has been completed in accordance with section 3.7 of this agreement.
- 3.7.8 No occupancy permit shall be issued until such time as the landscaping required under section 3.7 has been completed in accordance with Schedule C. However, where such building has been completed and all other terms of this agreement except for landscaping have been met, an occupancy permit may be issued provided that the developer supplies a security deposit in the amount of 120 percent of the estimated cost to complete the landscaping. The security deposit shall be in the form of a certified cheque or an automatically renewing letter of credit issued by a chartered bank to the Development Officer. Should the developer not complete the landscaping within twelve months of issuance of the occupancy permit, the Municipality may use the deposit to complete the landscaping as set out on the landscape plan. The security deposit or unused portion of the security deposit shall be returned to the developer upon completion of the work and its certification.

### **3.8 *Public Park Dedication***

- 3.8.1 A minimum of a ten (10) metre wide public recreation corridor to accommodate a trail with grass shoulders linking Alderney School Grounds to Prince Albert Road shall be dedicated to HRM prior to issuance of any occupancy permit. A corridor width variance may be considered within 50 metres of Prince Albert Road provided that a two (2) metre wide trail and one (1) metre wide shoulders are accommodated and provided the neighbouring land uses do not require a significant property line buffer. These requirements may be varied subject to the approval of a Parkland Planner.
- 3.8.2 The developer shall provide design and construction services to install a continuous public trail within the public recreation corridor extending from the existing crosswalk on

Prince Albert Road to the property of the Alderney School as shown on Schedule C. The trail shall be constructed of asphalt and shall be a minimum of two metres (2m) wide with a two metre (2m) sodded shoulder area either side. A minimum of three vandal-resistant, ornamental light standards shall be supplied along the length of the path. The natural topography of the land will result in trail slopes exceeding accessibility standards of 5% to 8% and therefore the design shall accommodate a level rest area approximately midway between Prince Albert Road and the school property at the top of the hill. The rest area shall accommodate pathway connections from neighbouring developments, a light standard, and garbage receptacle, and may include a seating area. The design shall be carried out by a Landscape Architect and must be approved in writing by an HRM Parkland Planner prior to issuance of a Development Permit.

- 3.8.3 The developer shall provide design and construction services of \$30,000 equivalent value to enhance the Alderney School grounds in anticipation of increased use. Recreation facility enhancements may consist of a paved basketball court facility, a new, age appropriate, play structure, tree planting and landscaping for educational purposes or any combination thereof or any other element deemed acceptable by a Parkland Planner. The design shall be carried out by a Landscape Architect and must be approved in writing by an HRM Parkland Planner prior to issuance of a Development Permit.
- 3.8.4 Where all other terms of this agreement relating to the issuance of a development permit have been completed, excepting the design of parkland elements required under 3.8.1, 3.8.2 and 3.8.3, a development permit may be issued provided that the developer supplies a security deposit in the amount of 120 percent of the estimated cost to complete the design and construction of these elements. The security shall be in favour of HRM and shall be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. Should the developer not complete these elements within twelve months of issuance of the development permit, the Municipality may use the deposit to complete the these elements as per this section and the schedules to this agreement. The security deposit or unused portion of the security deposit shall be returned to the developer upon completion of the work and its certification. The Developer shall be responsible for all costs in this regard exceeding the posted security.
- 3.8.5 Unless otherwise approved by a Parkland Planner, no fencing shall be located along the public recreation corridor. Any fencing shall be installed entirely on private property and shall be maintained by the private property owner. Any fencing shall consist of a 1.2m high (maximum), black, vinyl coated chain link or ornamental iron, with openings to provide access to public recreation corridor.
- 3.8.6 The recreation corridor required in section 3.8.1, the developer constructed trail required under 3.8.2, and the recreation facility enhancements under 3.8.3 shall be accepted in

writing by a Parkland Planner and conveyed to HRM prior to issuance of any occupancy permit. However, where such building has been completed and all other terms of this agreement except for the public recreation corridor, trail, and school ground recreation facility enhancements have been met, an occupancy permit may be issued provided that the developer supplies a security deposit in the amount of 120 percent of the estimated cost to complete the Park Dedication elements. The security shall be in favour of HRM and shall be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. Should the developer not complete these elements within twelve months of issuance of the occupancy permit, the Municipality may use the deposit to complete the these elements as per this section and the schedules to this agreement. The security deposit or unused portion of the security deposit shall be returned to the developer upon completion of the work and its certification.

### **3.9 Environmental Protection**

3.9.1 Prior to the issuance of any permits the Developer agrees to:

- a) Submit a detailed erosion and sedimentation control plan, in accordance with the Nova Scotia Department of Environment and Labour Erosion and Sedimentation Control Guidelines for Construction Sites, prepared by an Engineer of suitable discipline licensed to practice in the Province of Nova Scotia, indicating the sequence of construction, the areas to be disturbed, and all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during development; and in advance of any anticipated rainfall events.
- b) Submit a detailed final site grading and storm water management plan which shall include an appropriate storm water collection and treatment system.
- c) Present the plans required under 3.9.1 a) and b) above for review to the Dartmouth Lakes Advisory Board prior to issuance of a development permit.
- d) Post security in the amount of \$10,000.00, to ensure that all environmental protection measures are properly implemented and maintained. The security shall be in favour of HRM and may be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. The security shall be returned to the Developer within eight (8) months of the date of issuance of the final occupancy permit, provided all measures for environmental protection have been implemented to the satisfaction of the Development Officer;

3.9.2 Modifications to the approved site grading and finished elevations may be approved by the Development Officer on the advice of the Development Engineer, provided that such modifications are minor and further the intent of this Agreement.

- 3.9.3 The Developer agrees to provide professional site supervision during mass excavation and installation of services to ensure that the environmental protection measures are properly implemented and maintained.
- 3.9.4 If the Developer fails at any time during any phase of site work to fully conform to the approved environmental protection plans as required under section 3.9, the Municipality shall redeem the provided security and undertake the required measures as deemed appropriate, including but not limited to:
- a) the installation of appropriate on-site and off-site erosion and sedimentation control measures and interim stormwater management measures to ensure compliance with the approved plans;
  - b) protection and stabilization of exposed surfaces and stockpiles of materials prior to anticipated rain events;
  - c) the identification and remediation of any sedimentation which has occurred on HRM property or within an HRM storm water system, and the installation of temporary measures within a watercourse as may approved by the Nova Scotia Department of Environment and Labour to reduce the potential for introduction of suspended solids into any watercourse.
- 3.9.5 The Developer shall be responsible for all costs in this regard exceeding the posted security.

### **3.10 Solid Waste Facilities**

The proposed building shall include designated space for three stream (refuse, recycling and composting) source separation services (containers, rooms, facilities, etc.). This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Official.

### **3.11 Storage**

Storage shall be provided for individual units as generally shown on Schedule G.

### **3.12 Maintenance**

The Developer shall maintain and keep in good repair all portions of the development and Lands, including but not limited to, the interior and exterior of the buildings and driveways; maintenance of all landscaping including the replacement of damaged or dead plant stock; litter control, and snow removal/salting of walkways and driveways.

**PART 4: AMENDMENTS**

- 4.1 The provisions of this Agreement relating to the following matters are identified as, and shall be deemed to be, not substantive and may be amended by resolution of Harbour East Community Council:
- (a) Changes to the exterior architectural appearance of the building or the design, layout and positioning of the building (excepting such minor changes which may be approved by the Development Officer pursuant to section 3.4.7) provided that plans are submitted for any changes to the building design and that such changes, in the opinion of Council, are minor in nature;
  - (b) Changes to the landscaping and amenity space requirements under section 3.6 and 3.7 which, in the opinion of Council, are minor in nature;
  - (c) Changes to the time frames for commencement and/or completion of the development as outlined in Part 5.6;
- 4.2 Amendments to any matters not identified under Section 3.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

**PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

- 5.1 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.
- 5.2 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.
- 5.3 Notwithstanding any subdivision approvals granted pursuant to this Agreement or any transfer or conveyance of any lot or of all or any portion of the Property, this Agreement shall continue to apply to and bind the Developer, the Property and each lot owner and the Developer shall continue to be bound by all terms and conditions of this Agreement.
- 5.4 Upon the transfer of title of any lot, the owner thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.
- 5.5 Notwithstanding Section 4.4 or any transfer of title to a lot, the Developer shall continue to be responsible for the fulfillment of the Developer's covenants under this Agreement and any Subdivision Agreement entered pursuant to this Agreement.

- 5.6 In the event that construction on the Lands has not commenced within 5 (five) years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction.
- 5.7 Upon the completion of all development on the Lands, or portions thereof, or after 10 (ten) years from the date of registration of this Agreement at the Registry of Deeds, whichever time period is less, 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 on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use Bylaw, as may be amended.

**PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

- 6.1 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. 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 one day of receiving such a request.
- 6.2 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 defense 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 whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be

recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property and be shown on any tax certificate issued under the Assessment Act.

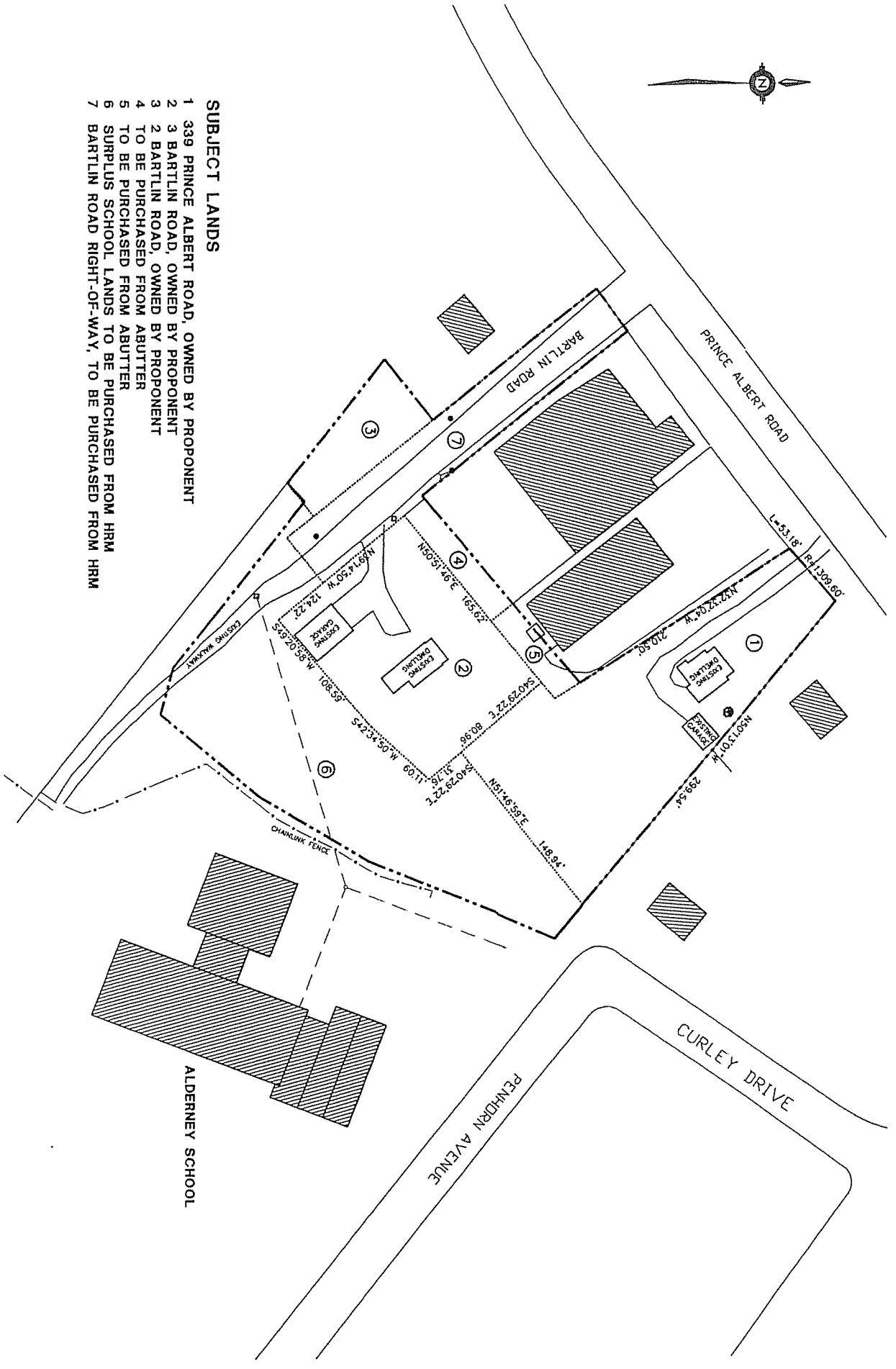
- (c) the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use Bylaw; and/or
- (d) in addition to the above remedies the Municipality reserves 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	)	TWIN LAKES DEVELOPMENTS LTD
in the presence of:	)	
	)	
per: _____	)	per: _____
	)	

Sealed, Delivered and Attested	)	HALIFAX REGIONAL MUNICIPALITY
by the proper signing officers of	)	
Halifax Regional Municipality	)	
duly authorized on that behalf	)	per: _____
in the presence of	)	MAYOR
	)	
per: _____	)	per: _____
	)	MUNICIPAL CLERK





**SUBJECT LANDS**

- 1 339 PRINCE ALBERT ROAD, OWNED BY PROPONENT
- 2 3 BARTLIN ROAD, OWNED BY PROPONENT
- 3 2 BARTLIN ROAD, OWNED BY PROPONENT
- 4 TO BE PURCHASED FROM ABUTTER
- 5 TO BE PURCHASED FROM ABUTTER
- 6 SURPLUS SCHOOL LANDS TO BE PURCHASED FROM HRM
- 7 BARTLIN ROAD RIGHT-OF-WAY, TO BE PURCHASED FROM HRM

KASSNER/GOODSPEED ARCHITECTS

TWIN LAKES CONDOMINIUMS

SCHEDULE B

1"=100'

Jun 01, 2006

ALDERNEY SCHOOL

PENHORN AVENUE

CURLEY DRIVE

BARTLIN ROAD

PRINCE ALBERT ROAD

CHANGRIK FENCE

EXISTING DRIVE

EXISTING DRIVE

EXISTING DRIVE

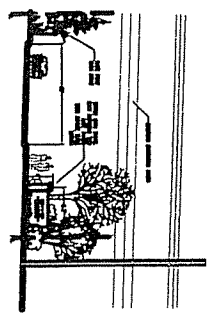
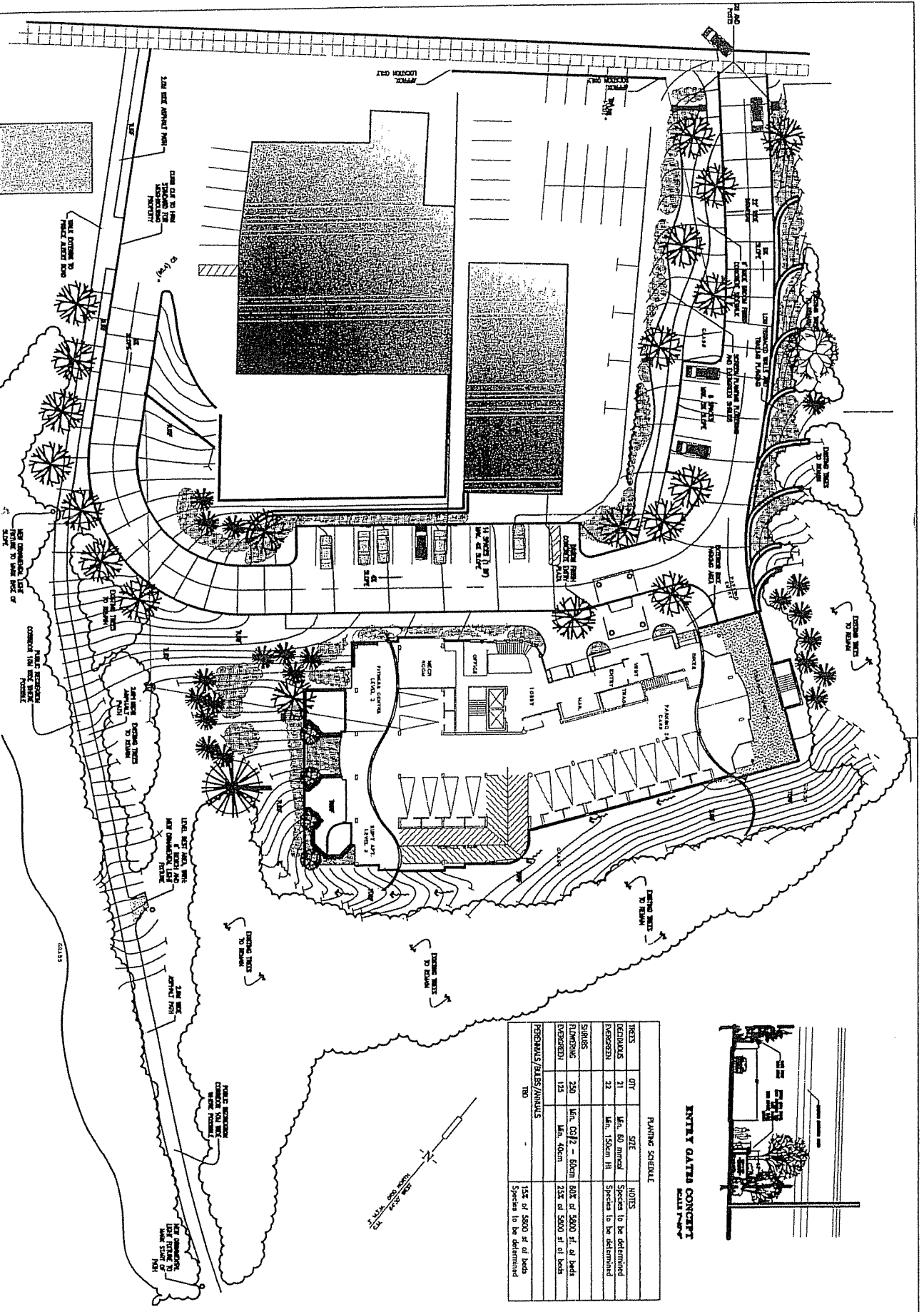
EXISTING DRIVE

EXISTING DRIVE

EXISTING DRIVE

EXISTING DRIVE

EXISTING DRIVE



ENTRY GATEWAY CONCEPT  
MAY 17, 2006

PLANTING SCHEDULE

TREES	QTY	SITE	NOTES
REDWOODS	21	Min. 80' overall	Species to be determined
EVERGREEN	22	Min. 150cm HI	Species to be determined
SHRUBS	250	Min. 60cm - 80cm	80% of 2500 sq. ft. of beds
FLORIBUNDAS	125	Min. 45cm	25% of 2500 sq. ft. of beds
PERENNIALS/BALIS/ANNUALS	TBD		15% of 2500 sq. ft. of beds Species to be determined

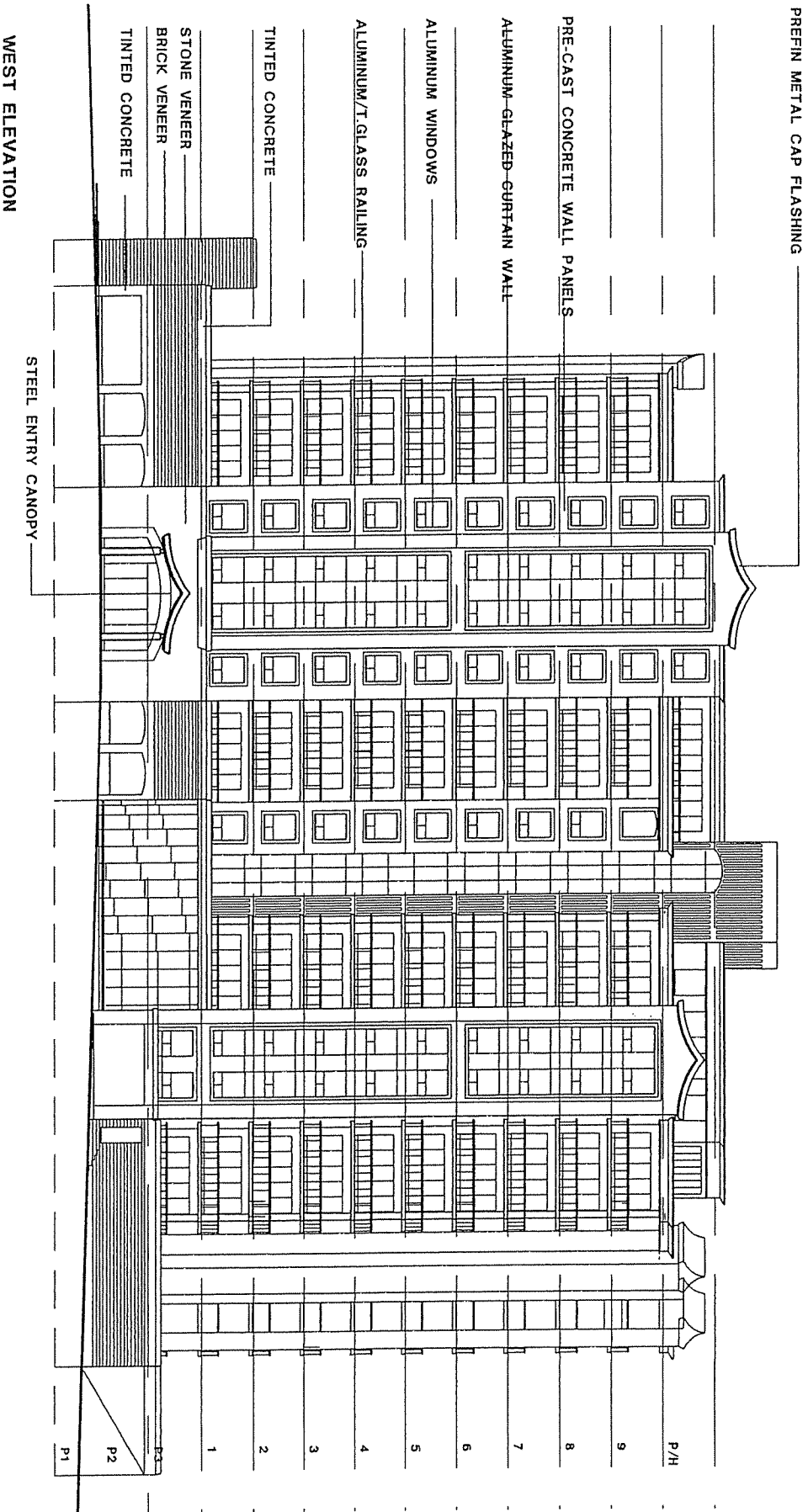
KASSNER/GOODSPEED ARCHITECTS

TWIN LAKES CONDOMINIUMS

SCHEDULE C  
LANDSCAPE PLAN

Yollick, McKee, Petersmann  
ARCHITECTS  
3811 UNIVERSITY AVENUE  
SAN FRANCISCO, CA 94118

Jun 01, 2006



KASSNER/GOODSPEED ARCHITECTS

TWIN LAKES CONDOMINIUMS

SCHEDULE D

Jun 01, 2006



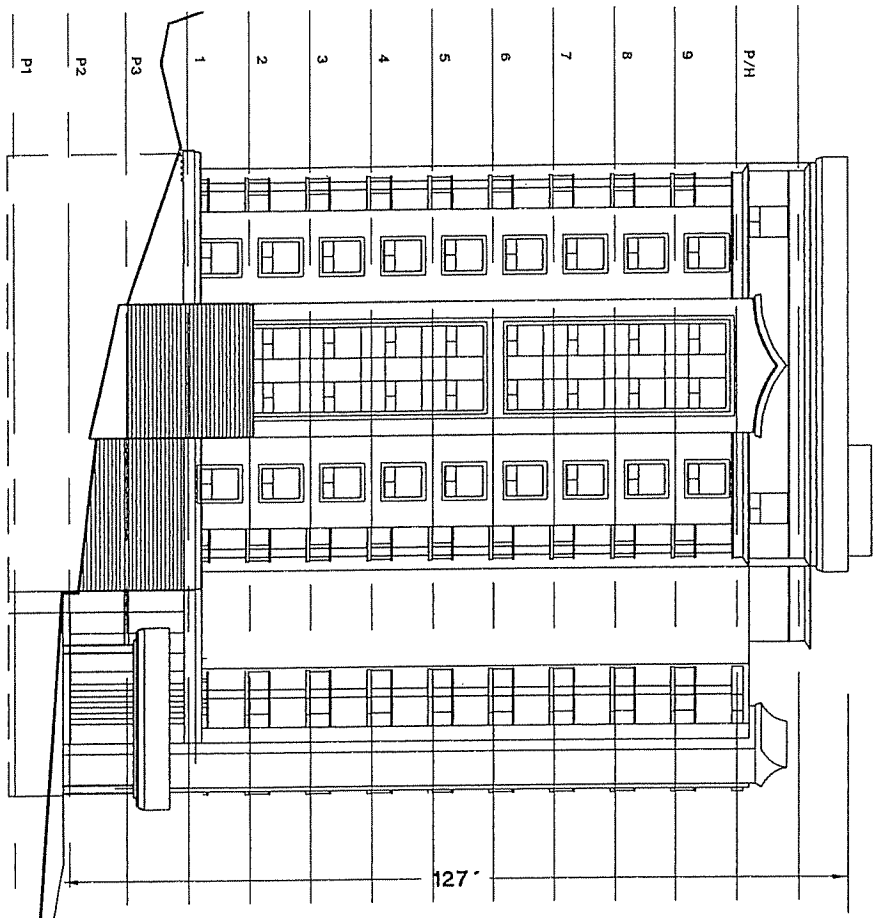
EAST ELEVATION

KASSNER/GOODSPEED ARCHITECTS

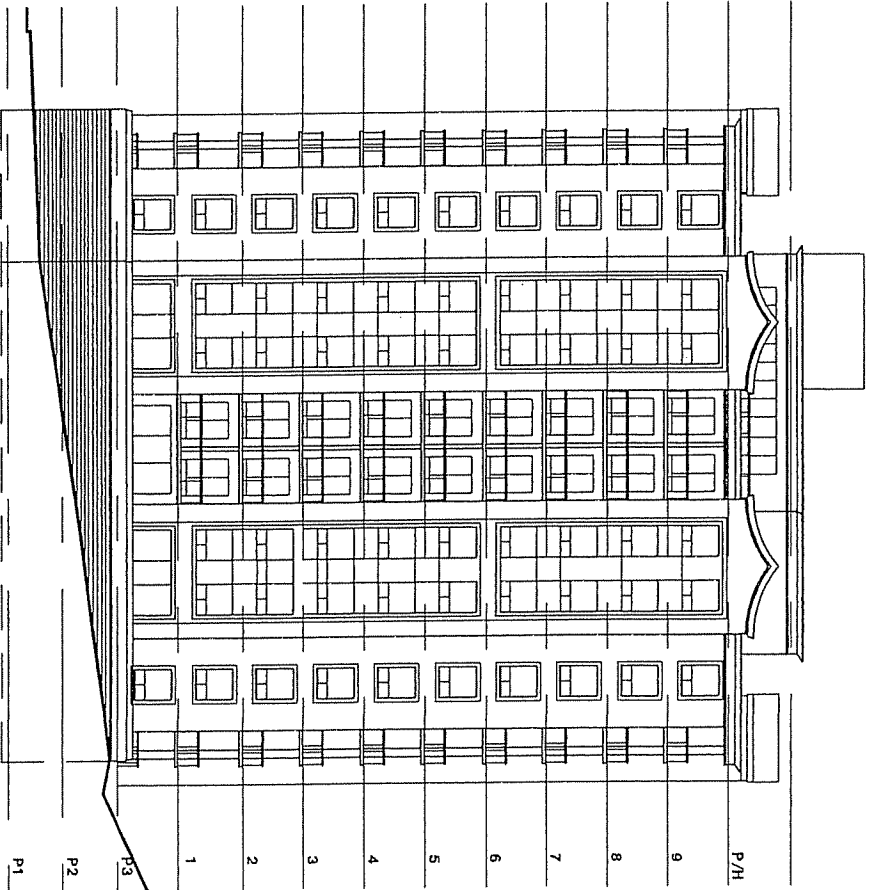
TWIN LAKES CONDOMINIUMS

SCHEDULE E

Jun 01, 2006



NORTH ELEVATION



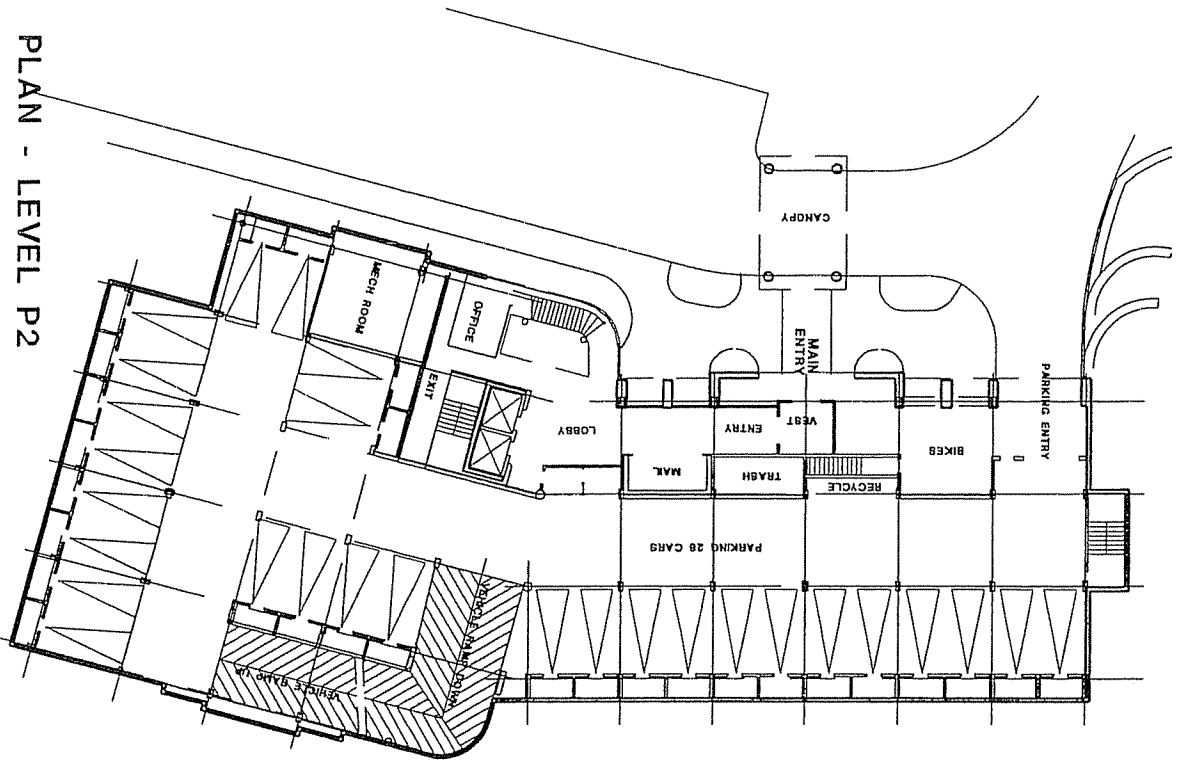
SOUTH ELEVATION

KASSNER/GOODSPEED ARCHITECTS

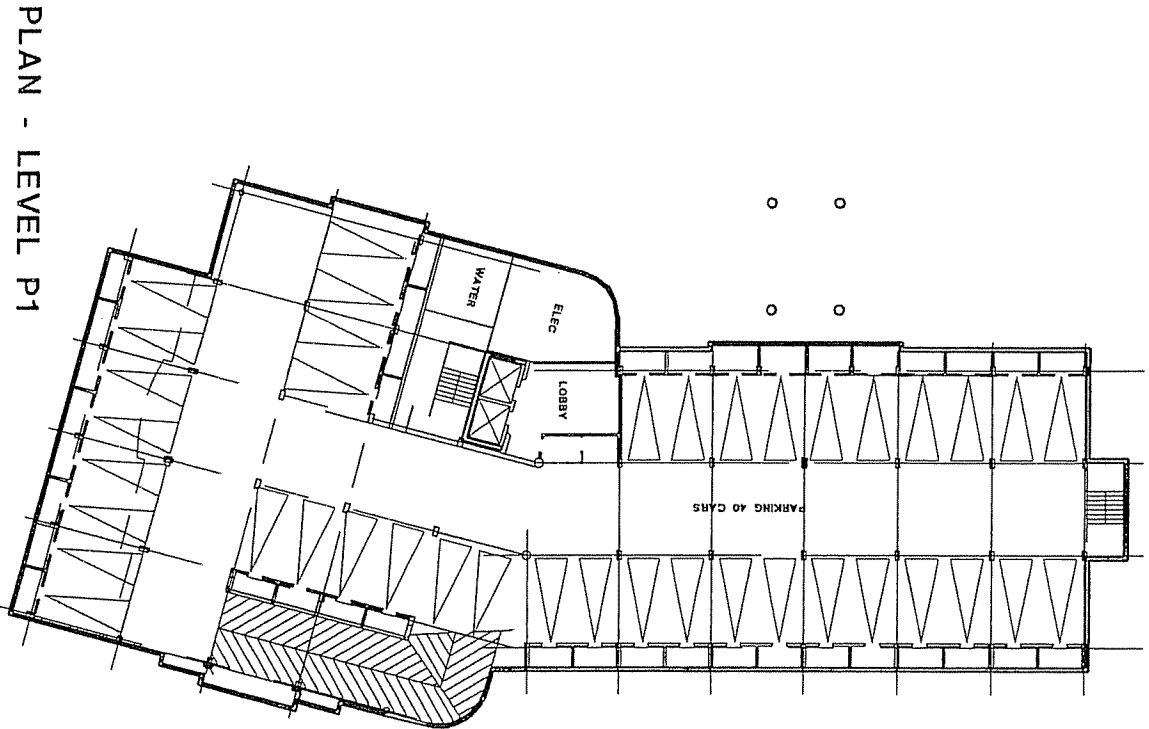
TWIN LAKES CONDOMINIUMS

SCHEDULE F

Jun 01, 2006

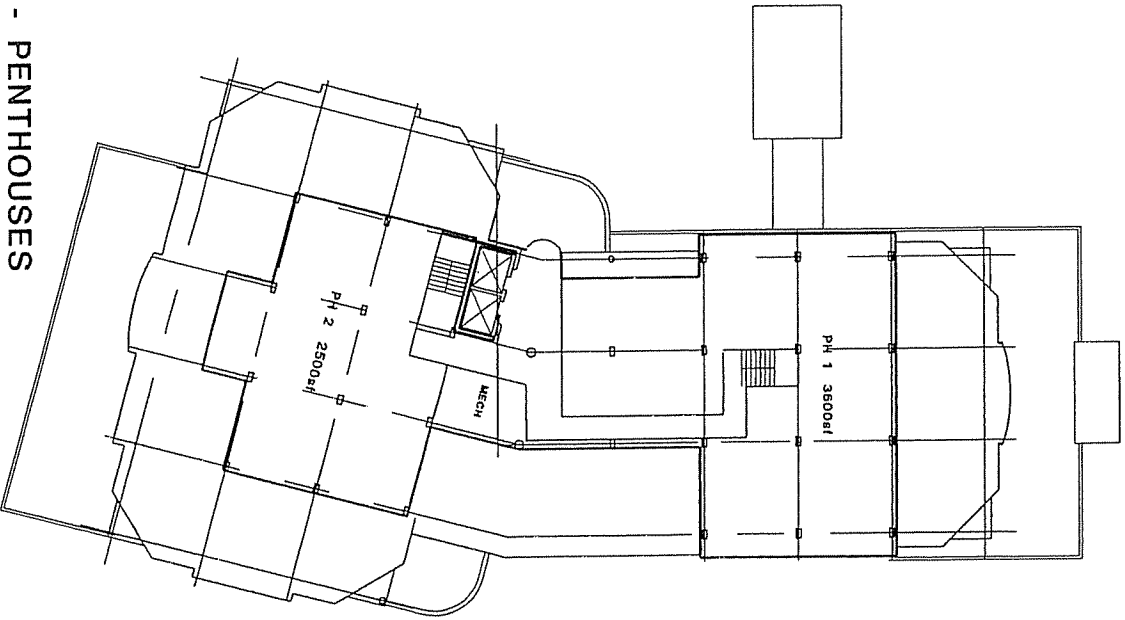


PLAN - LEVEL P2

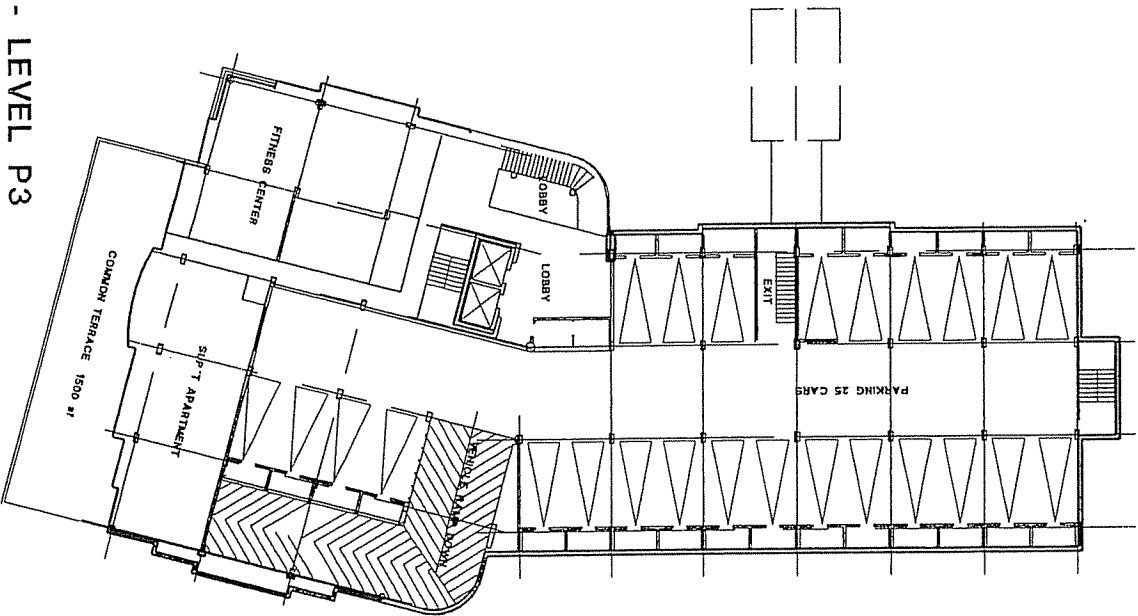


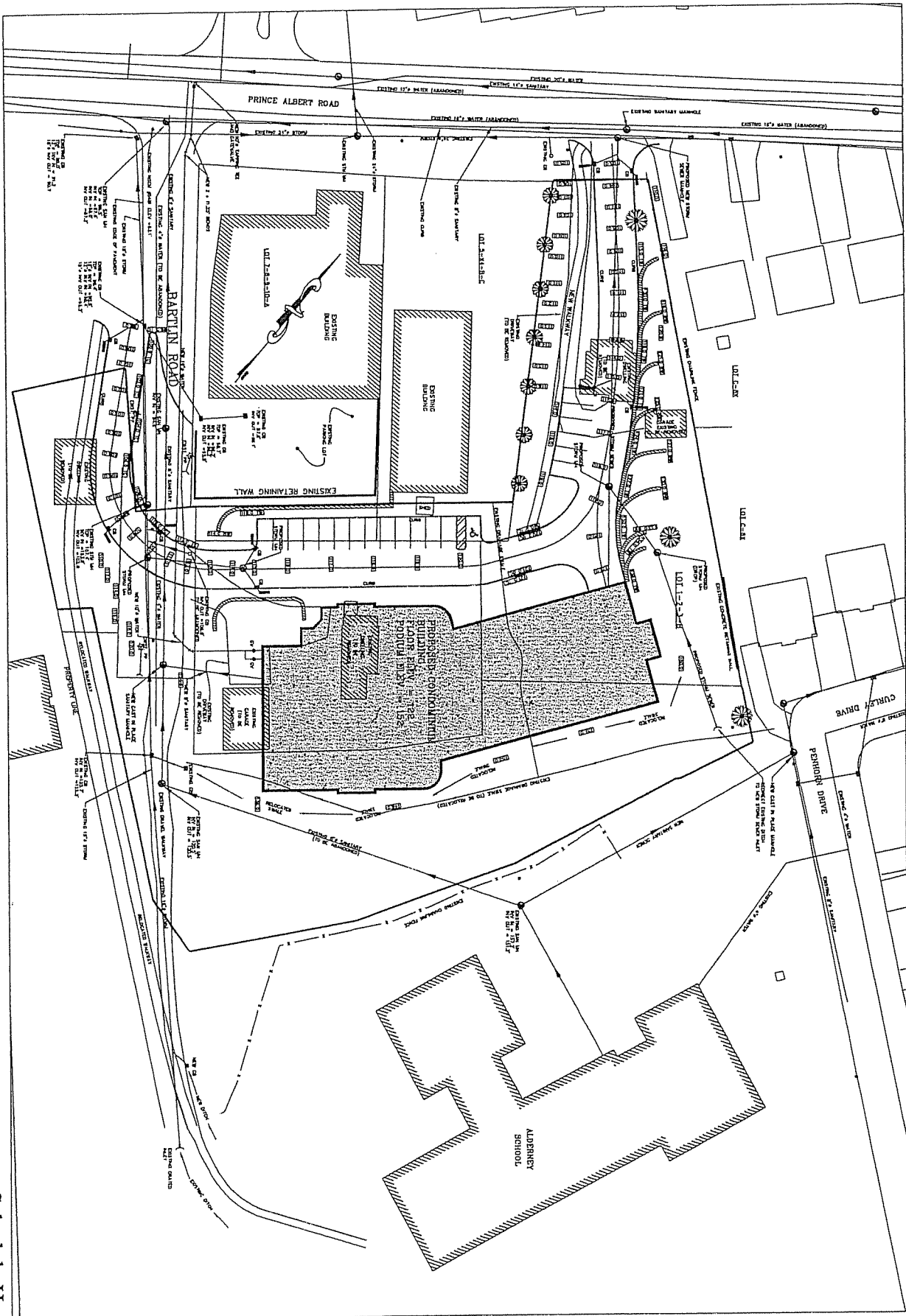
PLAN - LEVEL P1

PLAN - PENTHOUSES



PLAN - LEVEL P3





KASSNER/GOODSPEED ARCHITECTS

TWIN LAKES CONDOMINIUMS

Schedule H

Jun 01, 2006