

PO Box 1749 Halifax, Nova Scotia B3J3A5 Canada

> North West Community Council September 28, 2006

TO:

North West Community Couneil

SUBMITTED BY:

Paul Dunphy, Director of Planning & Development Services

DATE:

September 13, 2006

SUBJECT:

Case 00723 - Development Agreement - Mixed Use Development at

south corner of Bedford Highway and Moirs Mill Road, Bedford

SUPPLEMENTARY REPORT

ORIGIN:

- Approval by Regional Council on August 8, 2006, of amendments to the Bedford Municipal Planning Strategy and Land Use By-law
- Request by United Gulf Limited to amend the Bedford MPS and LUB to enable a mixed use development (commercial/residential) by development agreement at 910 Bedford Highway

RECOMMENDATION:

It is recommended North West Community Council:

- 1. Approve the proposed development agreement provided as Attachment A; and
- 2. Require 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 of said agreement by Council and any other bodies as necessary, whichever is later, including applicable appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

DISCUSSION:

On August 8, 2006, Regional Council approved amendments to the Bedford Municipal Planning Strategy and Land Use By-law to enable a mixed use (commercial/residential) development at the south corner of the Bedford Highway and Moirs Mill Road by development agreement. The amendments have been reviewed by Service Nova Scotia and Municipal Relations as per Section 208 of the Municipal Government Act. These amendments became effective September 9, 2006.

As noted in the staff report dated May 9, 2006, staff was to bring the matter back to North West Community Council for a decision on the development agreement once the MPS and LUB amendments took effect. It is now appropriate for Council to consider the attached draft development agreement, on which the August 8th joint public hearing was held.

ALTERNATIVES:

- 1. Council may choose to proceed with the development agreement. This is recommended for reasons described above.
- 2. Council may choose to refuse the requested amendments. This is not recommended for the reasons outlined above.

ATTACHMENTS:

Attachment A 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: Thea Langille-Hanna, Senior Planner, Planning and Development Services, 869-4262

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ATTACHMENT "A"

THIS AGREEMENT made this day of

, 2006

BETWEEN:

UNITED GULF DEVELOPMENT LIMITED

a body corporate, in the Halifax Regional Municipality, 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 at the south corner of the Bedford Highway and Moirs Mill Road, Bedford and identified as 00428722, 00428748, 00428730 and 00430090 and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for a mixed use commercial/residential building on the Lands pursuant to the provisions of the Municipal Government Act and pursuant to Policy(ies) C-4(a) of the Bedford Municipal Planning Strategy and Section 3(c)(iix) of the Bedford Land Use Bylaw;

AND WHEREAS the North West Community Council approved this request at a meeting held on [INSERT - Date], referenced as Municipal Case Number 00723;

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.2 Applicability of Land Use By-law and Subdivision By-law

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

1.3 Applicability of Other Bylaws, Statutes and Regulations

Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of HRM and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer.

1.4 Conflict

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 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any lands owned by the Developer.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

2.1 **Definitions**

All words/terms unless otherwise specifically defined herein shall be as defined in the Bedford Land Use Bylaw and Subdivision Bylaw.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop the lands in a manner, which, in the opinion of the Development Officer, is generally in conformance with the Schedules attached to this agreement and plans filed with the Halifax Regional Municipality as Case Number 00723:

The schedules are:

Schedule A: Legal Description of the Lands(s) (Lot 1234)

Schedule B: Site Plan: Plan # 00723-03

Schedule C: Preliminary Landscape Plan: Plan # 00723-11
Schedule D: Stormwater Management Plan: Plan # 00723-13A
Schedule E: Erosion and Sedimentation Control: Plan # 00723-13B

Schedule F: Servicing Plan: *Plan # 00723-13C*

Schedule G: Limit of Site Disturbance Plan: *Plan # 00723-14*Schedule H: Building Elevations: *Plan # 00723-12 (5 pages)*

Schedule I: Perspective Views: Plan # 00723-08 and Plan # 00723-04

Schedule J: Floor Plan(s): Plan # 00723-06 (a) to (h)
Schedule K: Parking Plan: Plan # 00723-06 (a) and (b)

3.2 Requirements Prior to Approval

- 3.2.1 Prior to the issuance of any municipal Permits, the Developer shall complete the MICI (Multi-unit/Industrial/Commercial/Institutional/Commercial) process.
- 3.2.2 Prior to the issuance of a Grade Alteration Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
 - (a) Post securities in accordance with Section 6.4 of this agreement;
 - (b) Plan of Survey of approval Lot Consolidation of PID's 00428722, 00428748, 00428730 and 00430090. This Plan of Survey shall comply with Section 3.6.4 of this agreement; and
 - (c) Written confirmation and photograph demonstrating the existing buildings/structures on the Lands have been removed.
- 3.2.3 Prior to the issuance of a Construction Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
 - (a) Lighting Plan in accordance with Section 3.7 of this agreement; and
 - (b) Landscaping Plan in accordance with Section 3.9 of this agreement.
- 3.2.4 Prior to the issuance of the first Municipal Occupancy permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
 - (a) Written confirmation from the Development Engineer indicating compliance with Section 4.3 of this Agreement (i.e. secondary services);

- (b) Certification from a qualified professional engineer that the Developer has complied with the required Erosion and Sedimentation Control Plan as required pursuant to this Agreement;
- (c) Certification from a qualified professional engineer indicating that the Developer has complied with the Stormwater Management Plan required pursuant to this Agreement;
- (d) Certification from a qualified professional indicating that the Developer has complied with the Landscaping Plan required pursuant to this Agreement;
- (e) Certification from a qualified professional indicating that the Developer has complied with the Lighting Plan required pursuant to this Agreement; and
- (f) Written confirmation, from the Metro Transit, indicating the Developer has complied with the requirements to install a new transit shelter pursuant to this Agreement.
- 3.2.5 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an occupancy permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

The use(s) of the Lands permitted by this Agreement are the following:

- (a) a Mixed Use Commercial/Residential Building in accordance with the provisions of this agreement; or
- (b) Any uses permitted within the applied zone to the Lands subject to the applicable provisions contained within the Land Use Bylaw for Bedford as amended from time to time.

3.4 Detailed Provisions for Land Use

The Mixed Use Building:

3.4.1 The number of floors fronting or facing the Bedford Highway shall not exceed four (4) floors above proposed grade, except in the transition from one building roof elevation to another, where the outside wall may intermittently exceed the height of four (4) floors.

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Commercial Component:

- 3.4.2 The Commercial use(s) permitted within the building are the following as defined within the Bedford Land Use Bylaw:
 - (a) business and professional offices;
 - (b) medical, veterinary, and health service clinics; outdoor kennels associated with veterinary clinics are prohibited;
 - (c) full service restaurant;
 - (d) food stores;
 - (e) general retail;
 - (f) personal and household service shops (exclusive of massage parlors);
 - (g) banks and financial institutions;
 - (h) pub and lounge in conjunction with a full service restaurant;
 - daycare facilities, nursery school, early learning centre;
 - (j) bed and breakfast/guest home;
 - (k) post office;
 - (l) private clubs;
 - (m) all age/teen club; and
 - (n) uses accessory to the foregoing uses.
- 3.4.3 A full service restaurant shall be permitted within the building provided that:
 - (a) The licensed area of the pub or lounge shall not exceed 74.3 m² (800 ft²) with an additional 74.3 m² (800 ft²) permitted on an outdoor patio;
 - (b) No video gambling machines or video lottery terminals are permitted. Pool tables and arcade games may be provided within the lounge;
 - (c) There is no drive-through window, although a home delivery service and take-out may be provided;
 - (d) Permitted hours of operation for the licensed area of the pub or lounge shall not exceed beyond 1:00am on any given day; and
 - (e) Any obnoxious odors, as determined by the Development Officer, generated by a commercial use shall be mitigated.
- 3.4.4 Commercial shall be located on the first and second storey at grade facing the Bedford Highway and shall occupy a minimum of 15% of the total gross floor area of the building (excluding all underground parking) as shown on the Schedules.

3.4.5 Further to Section 3.4.4, an increase in the commercial area may be permitted provided: (a) the number of residential units does not increase, (b) the required amenity space is not decreased, and (c) the footprint of the building does not increase.

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Residential:

- 3.4.6 A maximum of 30 units shall be permitted within the building.
- 3.4.7 The Developer shall be entitled to modify the internal floor plans and the configuration of internal units provided (a) the number of units and building size has not increased, (b) the exterior appearance of the building is not significantly altered, (c) the required amenity space is not decreased, and (d) the commercial area described in the above Section has not decreased.

3.5 Siting and Architectural Requirements

The Developer agrees that the building constructed on the Lands shall comply with the provisions of this section and as generally illustrated on the Schedules.

Siting

- 3.5.1 The buildings siting, bulk and scale shall comply to the following:
 - (a) lot coverage shall not exceed 40%;
 - (b) the building shall be a minimum of 18.3m (60ft) from the front lot line;
 - (c) all portions of the building (below grade) are a minimum of 1.5m (5ft) from the southwest property line and all portions of the building (above grade) are a minimum of 10.7m (35 ft) from the southwest property line;
 - (d) all portions of the building (below grade) are a minimum of 1.5m (5ft) from the southeast property line and all portions of the building (above grade) are a minimum of 3.1m (10ft) from the southeast property line;
 - (e) all portions of the building (below grade) are a minimum of 1.5m (5ft) from the northeast property line and all portions of the building (above grade) are a minimum of 6.1m (20ft) from the northeast property line;
 - (f) maximum height of the building shall not exceed 30m (98.4 ft) above the northwest corner of the building at grade or 33.8m (111ft) above mean sea level;
 - (g) the Development Officer may permit a 5 % increase to the provision identified in Section 3.5.1 (a) to (f) provided the intent and all other specific provisions of this Agreement have been adhered to; and

(h) where 1.5 m (5 ft) setbacks are permitted, they are subject to a detailed review by the Development Officer to ensure compliance with all relevant building codes and by-laws. Any excavation, construction and/or landscaping will be carried out in a safe manner, with the appropriate measures put into place to ensure the protection and preservation of the adjacent properties.

<u>Architectural</u>

Entrances:

3.5.2 The main entrances to building shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. At least one main door shall face the Bedford Highway. Service/delivery entrances shall be integrated into the design of the building and shall not be a predominate feature.

Rear and side facades:

3.5.3 The façades facing the Bedford Highway and Moirs Mill Road shall be designed and detailed as primary façade. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedules.

Blank Walls:

3.5.4 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork (murals), textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, offsets in the vertical plane, etc.) as identified on the Schedules.

Exposed Foundation

3.5.5 Any exposed foundation in excess of 0.6m (2ft) in height and 1.8m² (20 ft²) in total area shall be architecturally detailed, veneered with stone or brick.

Building Material:

- 3.5.6 Exterior building materials shall not include vinyl siding but may include any one or more of the following:
 - clay masonry;
 - noncombustible cladding;
 - concrete split face masonry;
 - cut stone masonry;
 - random stone masonry; or
 - acceptable equivalent in the opinion of the Development Officer.

Functional Elements:

3.5.7 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

3.5.8 Buildings shall be designed such that the mechanical systems (HVAC, cooking exhaust fans, etc.) are not visible from Bedford Highway, Moirs Mill Road or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

Windows:

3.5.9 The first floor front façade of buildings with ground floor commercial uses must be between 50% – 75% windows, doors or other treatment sufficiently transparent to provide view of the interior of the building. All windows shall be vertical in orientation, or square. If shutters are used, they must be sized to fit the opening and must be provided for all windows. Windows shall be vertically proportioned, where possible. Windows should be framed with painted or stained wood, prefinished metal or vinyl.

Awnings:

3.5.10 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade.

Roof:

3.5.11 All roof mounted mechanical and/or telecommunication equipment shall be visually integrated into the roof design or screened from public view.

Commercial Storefronts:

3.5.12 Multiple storefronts shall be visually unified through the use of complementary architectural forms, similar materials and colours. Covered walkways, arcades, awnings, open colonnades and similar devices shall be permitted along long facades to provide shelter, and encourage pedestrian movement.

Minor Changes

3.5.13 The Developer shall be entitled to minor modifications to the architectural requirements of this section provided the changes are minor in nature, in the opinion of the Development Officer and comply with the intent to this agreement.

3.6 Parking, Circulation and Access

3.6.1 The internal driveway layout and the number and layout of parking spaces on the Lands shall be as generally illustrated on the Schedules. The Developer agrees that the parking on the Lands shall comply with the following:

- (a) a minimum of 75% of the required commercial parking shall be provided underground and a minimum of 75% of the required residential parking shall be provided underground. Residential parking shall be a minimum of 1.25 spaces per unit. Commercial parking space requirements shall be in accordance with the Bedford Land Use Bylaw as amended from time to time.
- (b) All parking areas, driveways, circulation aisles and pathways shall have a finished hard surface such as asphalt, concrete, paving blocks or an acceptable equivalent in the opinion of the Development Officer. Notwithstanding, pathways shall not be finished with asphalt.
- (c) Where parking lots are to be delineated by concrete curbing.
- 3.6.2 Use of the existing "30' easement" to/from Moirs Mill Road as shown on Schedule B shall be prohibited.
- 3.6.3 Development Officer may approve, in consultation with the Development Engineer, upon application by the Developer, changes to the parking and circulation layout as illustrated on the Schedules provided such changes further the intent of this Agreement.
- 3.6.4 Prior to the issuance of the Grade Alteration Permit, the Developer shall demonstrate how the access (driveway) to which PID 00431006 (Lot 5 Leonard Walter Fox) has legal rights to is maintained and unobstructed during and after construction. If this can not be achieved, the Developer shall provide the Development Officer with an acceptable alternative which is agreed to (in writing) by the property owners of PID 00431006. The Developer shall provide the Development Officer with all written documentation subject to this provision.

Bicycle Parking/Storage

- 3.6.5 Storage, sufficient to store a bicycle, shall be provided for the residential units.
- 3.6.6 A minimum of two bicycle stalls/racks situated in such a way to ensure it can be visually monitored by people within the commercial component of the building or people entering the building. The stalls/racks shall be located on a stable surface.

3.7 Building and Site Lighting

- 3.7.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.7.2 Prior to the issuance of a Construction Permit, the Developer shall prepare a lighting plan (by a certified professional) and submit it to the Development Officer for review to determine compliance with this agreement. The lighting plan shall contain, but shall not be limited to, the following:

- (a) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, other devices.
- (b) Description of the illuminating devices, fixtures, lamps, supports and other devices. This description may include, but is not limited to, manufacturers' catalog cuts and drawings including sections where required.
- (c) The lighting plan and description shall be sufficient to enable the Development Officer to ensure compliance with the requirements of this article will be secured. If such plan and description cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.
- (d) Should the applicant desire changes to the lighting plan on the lands after a permit has been issued, the applicant shall submit all changes prepared by a certified professional to the Development Officer for approval, with adequate information to assure compliance with this clause.

3.8 Amenity and Recreation Space

3.8.1 Amenity space shall be set aside for recreational purposes such as common recreational areas, play areas, recreational rooms, roof decks, swimming pools, courtyards, gardens, patios and tennis courts and clearly identified on plans submitted for a Development Permit. Amenity space shall be provided as generally shown on Schedule C. The amenity space shall be provided based on the type of residential unit as follows:

(a) One Bedroom/Bachelor: 18.6 square meters (200 square feet)
(b) Two Bedroom: 53.4 square meters (575 square feet)
(c) Three Bedroom: 88.2 square meters (950 square feet)
(d) Four or more Bedroom: 123.1 square meters (1,325 square feet)

3.8.2 For the purposes of determining amenity space, one bedroom plus den/office units shall be considered to be a two-bedroom unit, two bedroom plus den/office units shall be considered to be a three-bedroom unit and so on.

3.9 Landscaping

Landscape Plan

3.9.1Prior to the issuance of a Construction Permit, the Developer agrees to provide Landscape Plan which comply with the provisions of this section and generally conforms with the overall intentions of the Preliminary Landscape Plan shown on Schedule C. The Landscape Plan shall prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.

Landscape Plan Details

- 3.9.2 Planting details for each type of plant material proposed on the plan shall be provided, including a species list with quantities, size of material, and common and botanical names (species and variety).
- 3.9.3 Landscaping greater than 0.6 m (2 ft) in height shall not be permitted within the daylight triangle.

Roof/Podium Landscaping

- 3.9.4 A minimum of 15 cm (6 inches) of drainage gravel over the extent of the landscape podium plus an additional 40 cm (16 inches) of topsoil for sod; 60 cm (2 ft.) of topsoil for shrubs; and 90 cm (3 ft.) of topsoil for trees, shall be provided or an approved equivalent in the opinion of the Development Officer.
- 3.9.5 It is the responsibility of the developer to ensure that the underground parking structures or other structures are capable of supporting loads from all landscaping as well as the anticipated mature weight of the plant material on any rooftop and podium.

Foundations

3.9.6 Foundation planting shall be provided in the form of upright shrubs and mulched planting beds or an approved equivalent in the opinion of the Development Officer.

Entrances

- 3.9.7 All site entrances shall be identified by decorative walls, and landscaping, or approved equivalent. A landscaped focal area and decorative signage identifying the entrance to shall be installed.
- 3.9.8 Decorative plantings, landscaping or walls shall be provided at the entrances to the building consisting of a combination of small decorative trees, shrubs and ground covers, or approved equivalent in the opinion of the Development Officer.

Buffering

- 3.9.9 Trees and shrubs, a minimum 75% of which shall be coniferous, shall be provided along the property line adjacent to abutting residential uses for screening purposes prior to the issuance of the first Occupancy Permit. The percentage of coniferous trees and shrubs may be reduced if in the opinion of the Development Officer this reduction improves the visual screening of the building from the abutting residential uses.
- 3.9.10 Landscaping such as shrubs, trees and/or fencing shall be provided in the proximity of 914 Bedford Highway (PID 00430116),8 and 10 Moirs Mill Road (PID 40566374). The landscaping shall create a visual buffer of the side entrance and parking garage entrance and well as ensuring the headlights from vehicles do not negatively impact these residential properties.

Retaining Walls/Terraced Landscaping

- 3.9.11 All proposed retaining walls or terraced landscaping shall be constructed of a decorative precast concrete or modular stone retaining wall system or equivalent.
- 3.9.12 Upright shrubs shall be located at the base of all retaining walls. Low maintenance ground covers or vines in association with shrubs and retaining walls may also be used.

Walkways and Trails

- 3.9.13 The walkways shall be located as shown on the Detailed Landscape Plan and composed of any combination of poured in place concrete, decorative patio slabs, decorative interlocking precast concrete paverstones, crushed stone, pea gravel, crushed brick or acceptable equivalent in the opinion of the Development Officer.
- 3.9.14 Every effort should be made to reduce pedestrian and vehicular conflict in the design of the walkway system.
- 3.9.15 Main walkways intended for public use (excluded maintenance pathways) shall be designed to be barrier free.

HRM Right-of-Way

- 3.9.16 Landscaping Plan shall include treatments to the HRM "right-of-way" labeled "area to be sodded" on Schedule C. The treatments shall include but not limited to new sods, small shrubs, and flower beds.
- 3.9.17 The Developer shall also install a new transit shelter (on existing platform) in the general location of the existing transit hut as shown on Schedule C prior to issuance of first Occupancy Permit. All plans shall be reviewed and approved by Metro Transit. The Developer shall be responsible for the repair and/or replacement of the platform if subject to damage during the development of the Lands. The cash contribution shall not exceed \$6,500 for the new transit shelter (excludes any repairs/replacement required for the platform).

Compliance with Landscaping Plan

- 3.9.18 Prior to issuance of the first Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.
- 3.9.19 Notwithstanding the above the occupancy permit may be issued provided the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost to complete the landscaping. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the

work as described herein and illustrated on the Schedules, and as approved by 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 in this Section of the agreement. The developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the developer upon completion of the work and its certification.

3.10 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow removal/salting of walkways and driveways.

3.11 Signs

- 3.11.1 Signage for the commercial uses shall be in accordance with the requirements of the Mainstreet Commercial (CMC) zone of the Bedford Land Use Bylaw, as amended. The Developer shall submit to the Development Officer sufficient information to ensure that no sign obstructs driver sight lines. All signage shall be uniform and complementary to the buildings design.
- 3.11.2 A temporary sign depicting the names and/or corporate logo of the Developer and the development shall be permitted on the site and shall be removed prior to the issuance of the last Occupancy Permit.

3.12 Outdoor Storage and Display

- 3.12.1 No outdoor storage shall be permitted on the Lands. Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing/masonry walls with suitable landscaping.
- 3.12.2 Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from the Bedford Highway and residential properties along the southwest property line. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing/masonry walls with suitable landscaping.

3.13 Construction/Sales Trailer

A trailer shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this agreement. The construction trailer shall be removed from the Lands prior to the issuance of the last Occupancy Permit. One of the existing structures on the Lands may be utilized as a construction trailer in accordance with this section.

PART 4 STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

All construction shall satisfy Municipal Service Systems Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineer prior to undertaking the work. The Development Officer, in consultation with the Development Engineer, may give consideration to minor changes to the street network, provided the modifications serve to maintain or enhance the intent of this Agreement.

4.2 Off-Site Disturbance

Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

4.3 Underground Services

All secondary electrical, telephone and cable service shall be underground installation.

4.4 Outstanding Site Work

Security for the completion of outstanding on-site paving and landscaping work (at the time of issuance of the first occupancy permit) may be permitted. Such bonding shall consist of a security deposit in the amount of 120 per cent of the estimated cost to complete the work. The security shall be in favour of the Municipality 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 when all outstanding work is satisfactorily completed.

4.5 Municipal Water Distribution and Sanitary Sewers

- 4.5.1 The water distribution system shall conform with the schematics presented on Schedule F and all design and construction requirements of the Halifax Regional Water Commission.
- 4.5.2 The sanitary sewer system shall conform with the schematics presented on Schedule F and the design and construction standards of the Municipal Service Systems Manual,

Solid Waste Facilities 4.6

- The building shall include designated space for three stream (refuse, recycling and 4.6.1 composting) source separation services. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.
- Refuse containers and waste compactors shall be confined to the loading areas of each 4.6.2 building, and shall be screened from public view where necessary by means of opaque fencing/masonry walls with suitable landscaping.
- All refuse and recycling materials shall be contained within a building, or within suitable 4.6.3 containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal affect on abutting property owners by means of opaque fencing/masonry walls with suitable landscaping.

4.7 Blasting

All blasting shall be in accordance to By-law B-300 (Blasting By-Law) as amended from 4.7.1 time to time.

Construction Access 4.8

Construction activity shall be restricted to the access from the Bedford Highway unless 4.8.1 otherwise permitted by the Development Officer.

ENVIRONMENTAL PROTECTION MEASURES

Stormwater Management Plans 5.1

- Prior to the commencement of any onsite works on the Lands, including earth movement 5.1.1 and/or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall engage a qualified professional to prepare a Stormwater Management Plan shall based on the provisions of Schedule D which identifies structural and vegetative stormwater management measures such as, infiltration, retention, and detentions controls, vegetative swales, filter strips, and buffers to minimize any significant adverse impacts on receiving watercourse during and after construction. The plans shall indicate the sequence of construction, the areas to be disturbed, all proposed erosion and sedimentation control measures and stormwater management measures, including a monitoring/sampling program, which are to be in place prior to and during development unless otherwise acceptable to the Development Engineer. The Stormwater Management Plan shall conforms with following:
 - the schematics and information presented on Schedules D, E, F, and G; (a)

- (b) the requirements of the Nova Scotia Department of the Environment and the Municipal Service Systems Manual; and
- Prior to the commencement of any onsite works on the Lands, including earth movement and/or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall install snow fence or other appropriate continuous physical barrier or delineation and signage in the field delineating the area of disturbance. The snow fence or other appropriate continuous physical barrier or delineation and signage shall be maintained by the Developer for the duration of the construction and the snow fence or other appropriate continuous physical barrier or delineation and signage in the field may only be removed only upon the issuance of the first Occupancy Permit.
- 5.1.3 All storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

5.2 Stormwater Treatment Chambers or Devices

- 5.2.1 The Developer agrees, at its own expense, where any stormwater treatment chambers or devices are provided, such devices shall be maintained in accordance with the manufacturer's specifications until or unless such time as the warranty period expires and such devices are the ownership of the Municipality.
- 5.2.2 Prior to installing any stormwater treatment chambers or devices on the site, which is to be privately maintained, the Developer shall submit a schedule of future inspection and cleaning prepared by a professional engineer based on the manufacturer specifications. When approved by the Development Officer this schedule shall be undertaken for as long as this agreement is in force.
- 5.2.3 All removed contaminants shall be disposed of according to all applicable guidelines and regulations of the Nova Scotia Department of Environment and Labour. The Developer shall submit to the Development Officer certification that the work has been done following each inspection/clean-out.
- 5.2.4 If the Developer fails to observe or perform this section of the Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, the Municipality may require that a penalty of five thousand dollars (\$5,000) be paid to the Municipality.

5.3 Erosion and Sedimentation Control and Grading Plans

Prior to the commencement of any onsite works on the Lands, including earth movement and/or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall have prepared by a Professional Engineer and submitted to the Municipality for review by the Development Engineer and the Department of the Environment (if applicable) a detailed Erosion and Sedimentation Control Plan shall based

on the provisions of Schedule E. The plans shall comply with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by the Nova Scotia Department of the Environment and Labour. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this clause have been met and implemented.

- 5.3.2 The detailed Erosion and Sedimentation Control Plan shall provide measures to ensure water storage in maintained on site during heavy water events.
- 5.3.3 Prior to the commencement of any onsite works on the Lands, including earth movement and/or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall have prepared by a Professional Engineer and submitted to the Municipality for review and approval by the Development Engineer a detailed Master Site/Grading Plan for the Lands based on the provisions of Schedule E. No work is permitted on the site until the requirements of this clause have been met and implemented unless otherwise stated in the Agreement.

5.4 Securities

Prior to the issuance of Grade Alteration Permit, the Developer shall post security in the amount of \$10,000 to ensure that all environmental protection measures, identified in this section, are properly implemented and maintained. The security of \$10,000 include the amounts required in accordance with the Grade Alternation Bylaw. The security shall be in favour of the Municipality 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 at the time of issuance of the final occupancy permit or release of Landscaping security bond whichever is later, provided all measures for environmental protection have been implemented to the satisfaction of the Development Officer, in consultation with the Development Engineer, and that all disturbed surfaces have been permanently reinstated, and that all landscaping has become established. Should the Developer fail to complete the environmental protection measures to the satisfaction of the Development Officer, the Municipality may use the deposit to complete the landscaping as set out in this Section of the agreement. The developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the developer upon completion of the work and its certification.

5.5 Failure to conform to Plans

If the Developer fails at any time during any site work or construction to fully conform to the approved plans as required under this Agreement, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Engineer to ensure compliance with the environmental protection measures.

PART 6 AMENDMENTS

6.1 Substantive Amendments

Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

6.2 Non-Substantive Amendments

- 6.2.1 The following items are considered by both parties to be not substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act:
 - increase in the number of residential units provided the overall number of bedrooms does not exceed 60. For the purposes of determining bedrooms, one bedroom plus den/office units shall be considered to be a two-bedroom unit, two bedroom plus den/office units shall be considered to be a three-bedroom unit and so on.;
 - (b) permit Commercial Uses which are not listed in Section 3.4.2 of this agreement provided the commercial uses are appropriate with mixed use developments;
 - an increase to the licensed area of the pub or lounge in accordance with Section 3.4.3 of this agreement;
 - (d) granting of an extension to the date of commencement of construction as identified in Section 8.3 of this agreement;
 - (e) changes to the exterior architectural appearance of the buildings or the design, layout and positioning of the buildings, 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;
 - (f) changes to the landscaping measures as detailed in Section 3.9 which, in the opinion of Council, are minor in nature;
 - (g) reduction in the parking space requirements;
- 6.2.2 In considering the approval of a non-substantive amendment under Section 7.2, property owners within 152m (500ft) of the site shall be informed by mail at least 10 days in advance of the proposed amendment being considered by Council.

PART 7 ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

7.1 The Developers agree 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 Developers. The Developers 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 Developers agrees allow for such an inspection during any reasonable hour within one day of receiving such a request.

- If the Developers fail to observe or perform any covenant or condition of this Agreement 7.2 after the Municipality has given the Developers 15 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:
 - the Municipality shall be entitled to apply to any court of competent jurisdiction for (a) injunctive relief including an order prohibiting the Developers from continuing such default and the Developers hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy; and/or
 - the Municipality may enter onto the Lands and perform any of the covenants (b) 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 preformance of the covenants or remedial action, shall be a first lien on Property and be shown on any tax certificate issued under the Assessment Act.
 - the Municipality may by resolution discharge this Agreement whereupon this (c) 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
 - in addition to the above remedies the Municipality reserves the right to pursue any (d) other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement; and/or

Environmental Protection 7.3

In matters concerning environmental protection and mitigation the Municipality shall be entitled to draw in whole or in part on the security as required under this Agreement and use the proceeds therefrom to ensure that the protection measures are in place as required pursuant to the terms of this Agreement.

PART 8 REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

Registration 8.1

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

8.2 **Subsequent Owners**

This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, 8.2.1 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.

8.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

8.3 Commencement of Development

- 8.3.1 In the event that a Construction Permit has not been issued within 5 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.
- 8.3.2 If the Developer(s) fails to complete the development, or after 10 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.

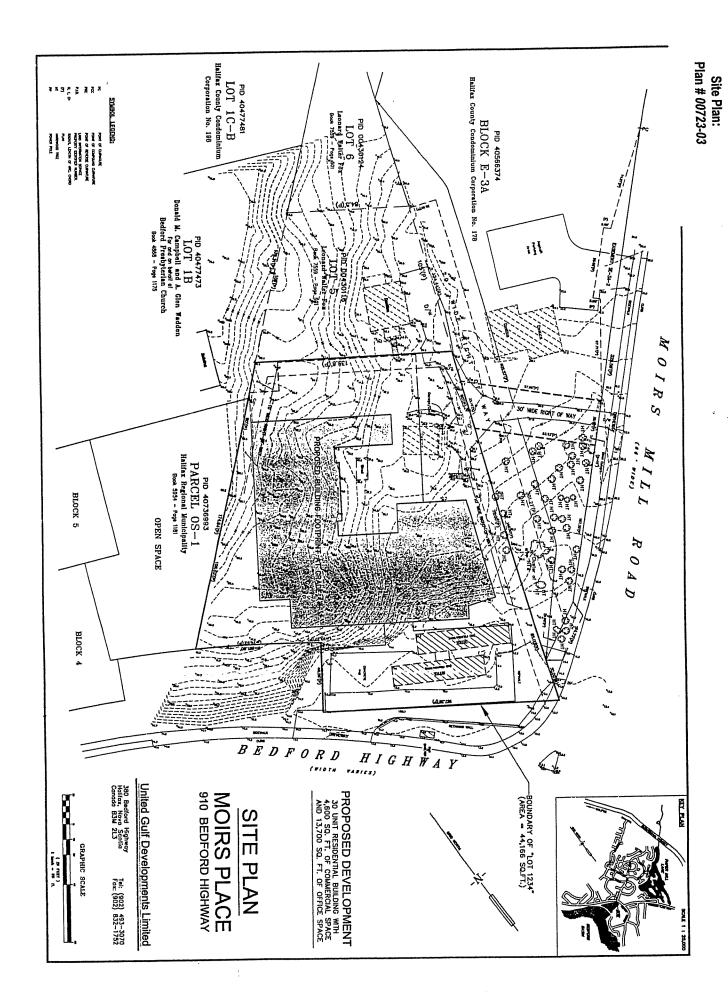
8.4 Completion of development

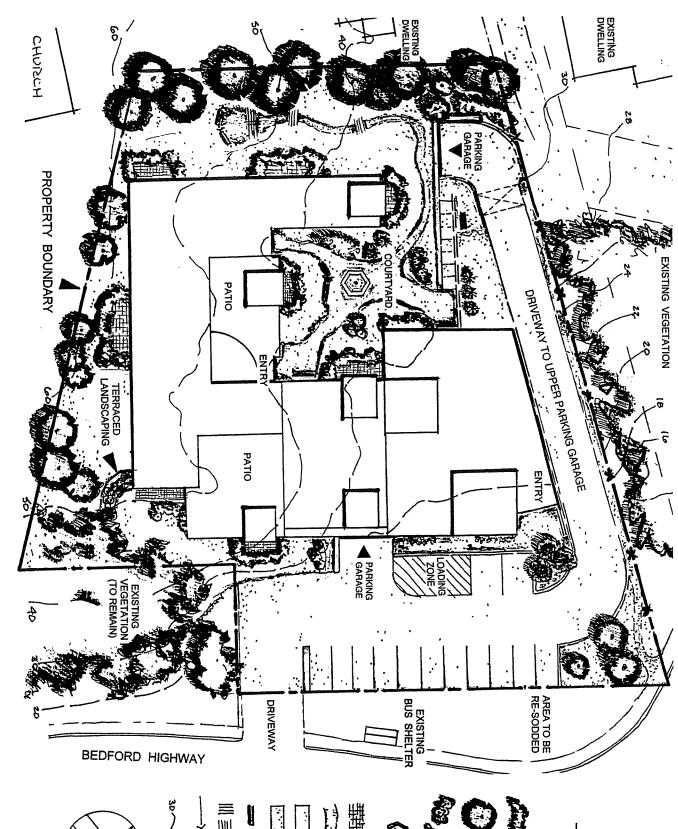
Upon the completion of the development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- 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 By-law for Bedford, as may be amended from time to time.

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





ANDSCAPE PLAN **PRELIMINARY**

910 BEDFORD HIGHWAY



Visual Buffer

(Coniferous and deciduous trees)

Visual Aesthetic (Ornamental

shrubs, flowers and small trees)



Courtyard Focal Point (Fountain or raised garden)



Balcony or Terrace

Walkway



Vehicular Access and Parking

Park Bench



30 Contour Lines at 2 ft. intervals



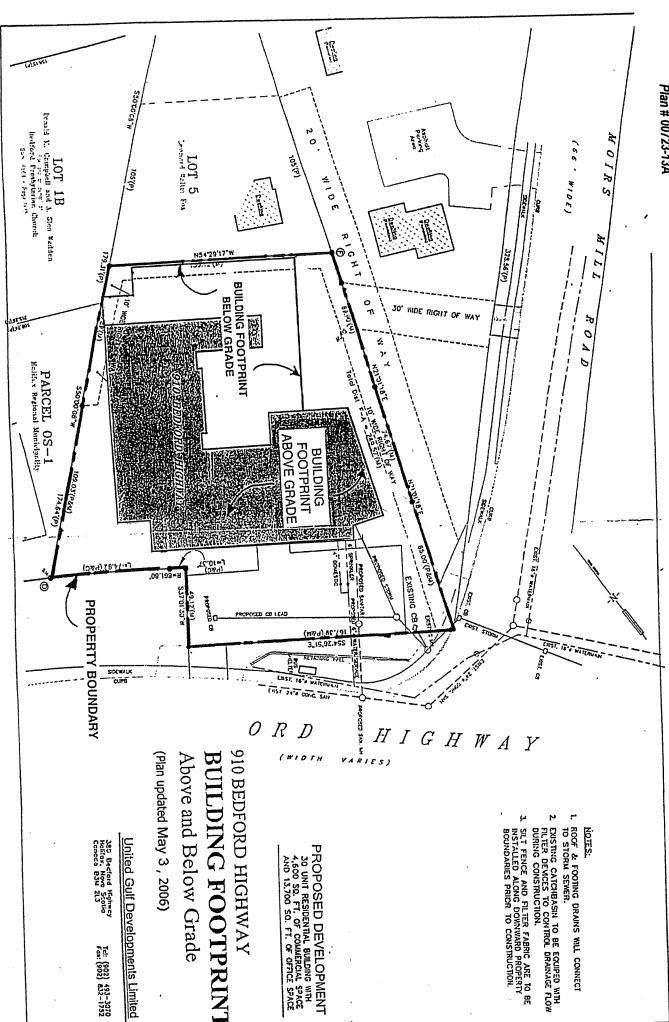
North

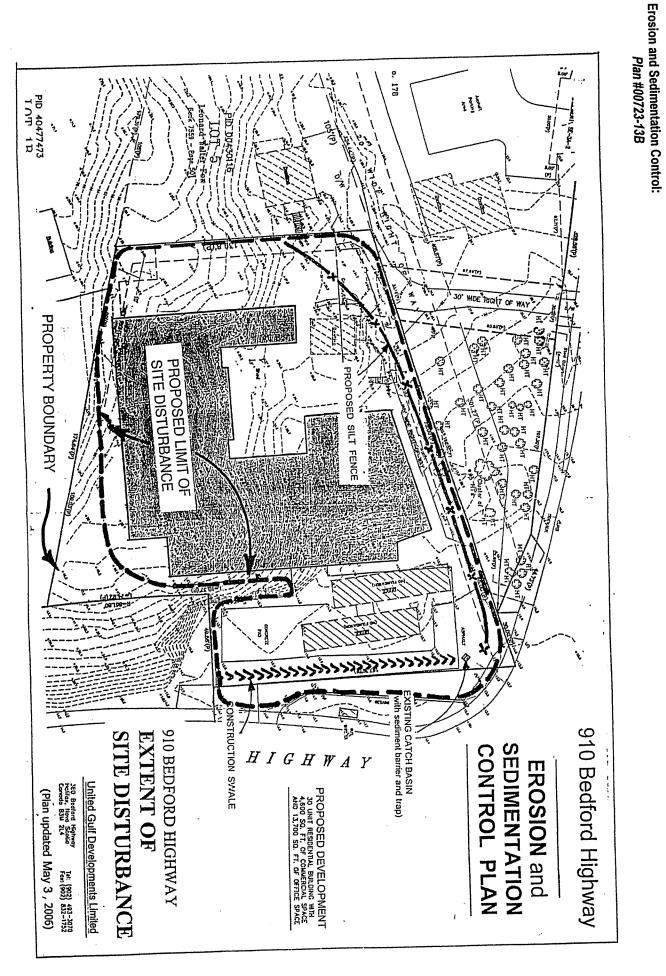
PLAN REVISED MAY 3, 2006

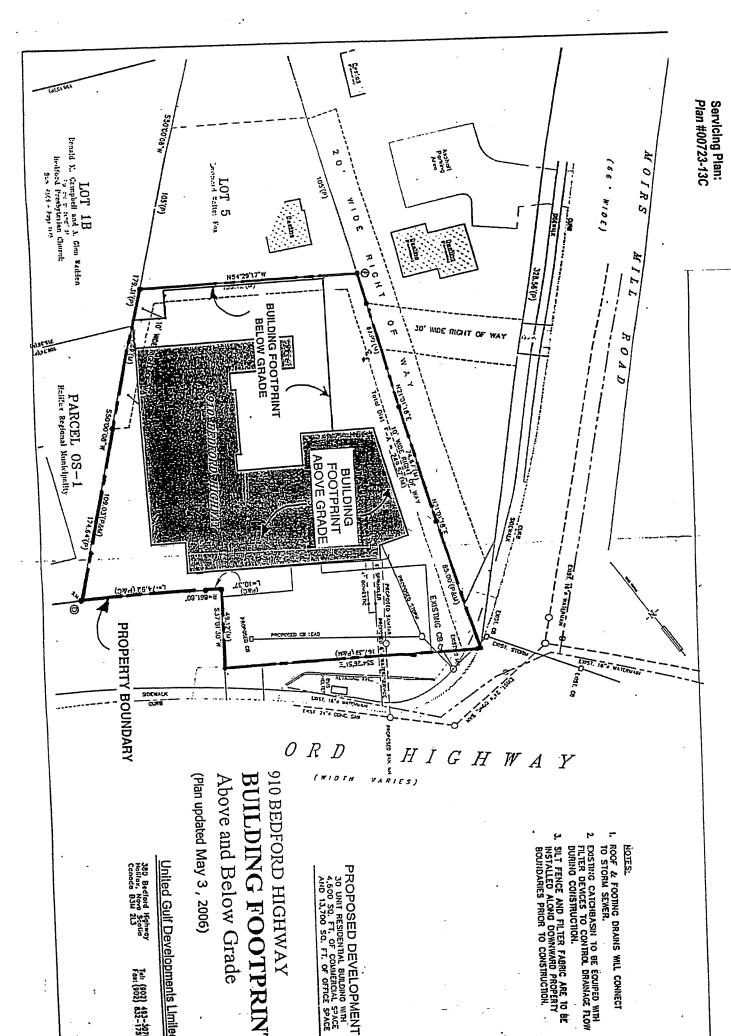
Schedule C

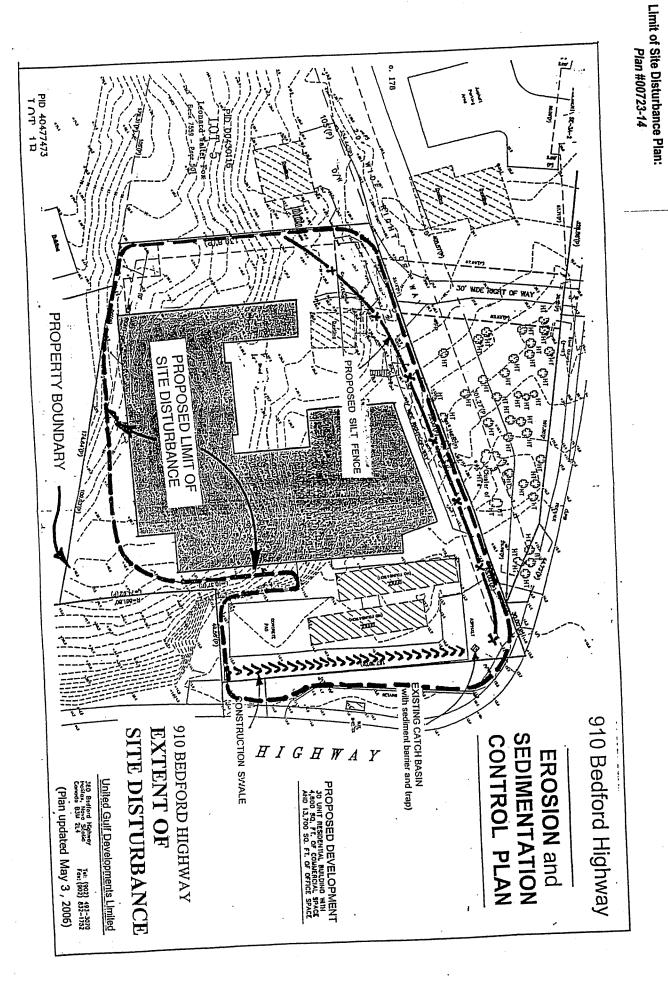
Preliminary Landscape Plan: Plan #00723-11

Stormwater Management Plan: Plan # 00723-13A









BUILDING ELEVATIONS FOR "MOIRS PLACE"

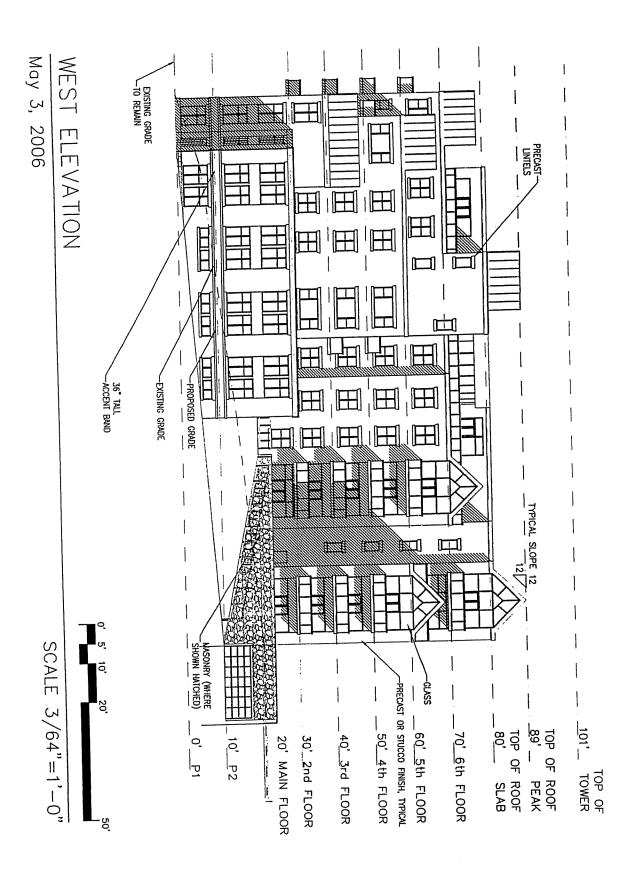
910 BEDFORD HIGHWAY

United Gulf Developments Limited

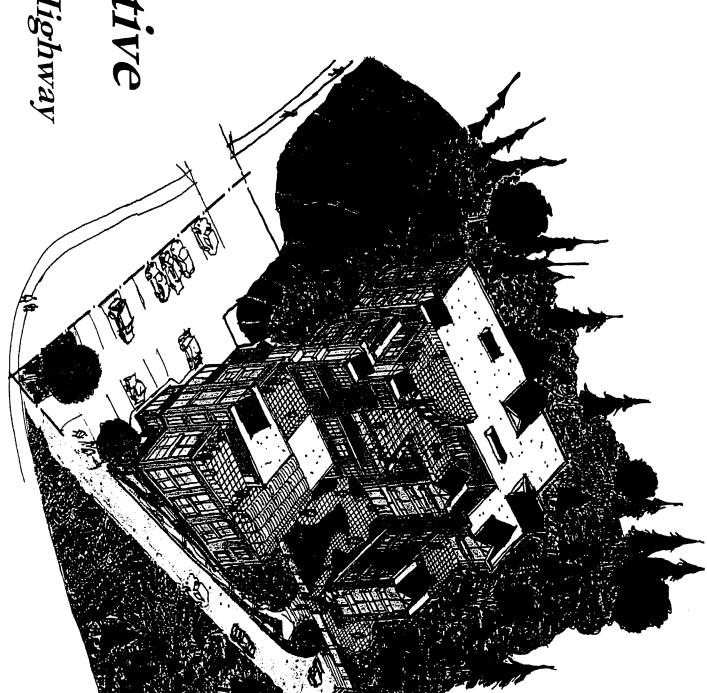
380 Bedford Highway Halifax, Nova Scotia Canada B3M 2L3

Tel: (902) 493-3070 Fax: (902) 832-1752

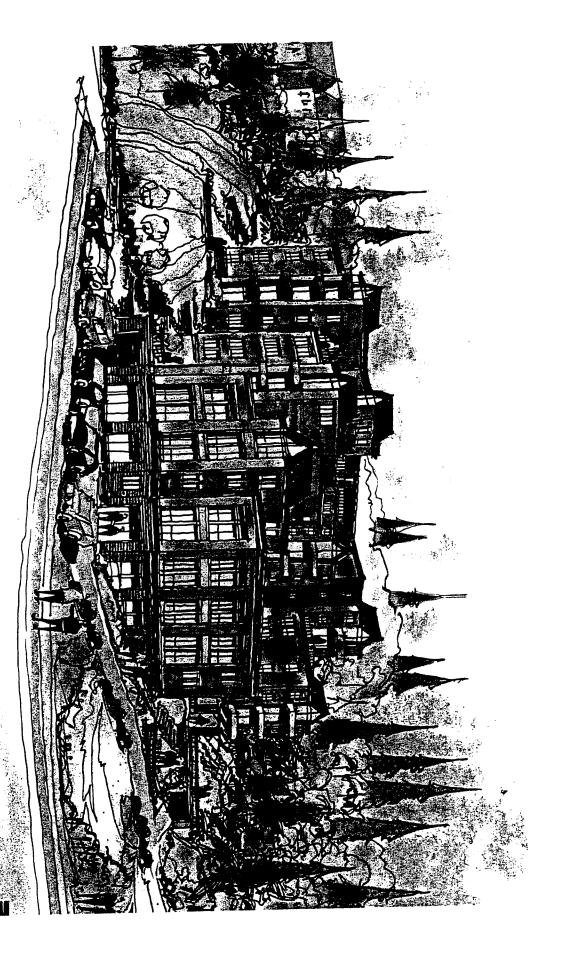
MAY 3, 2006



Perspective View: Plan #00723-08

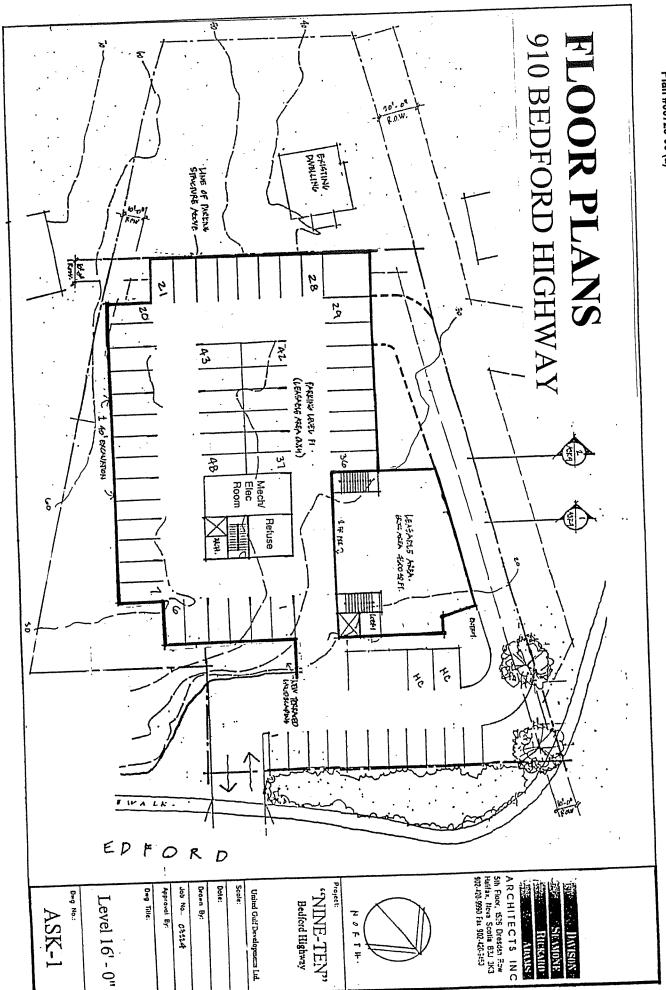


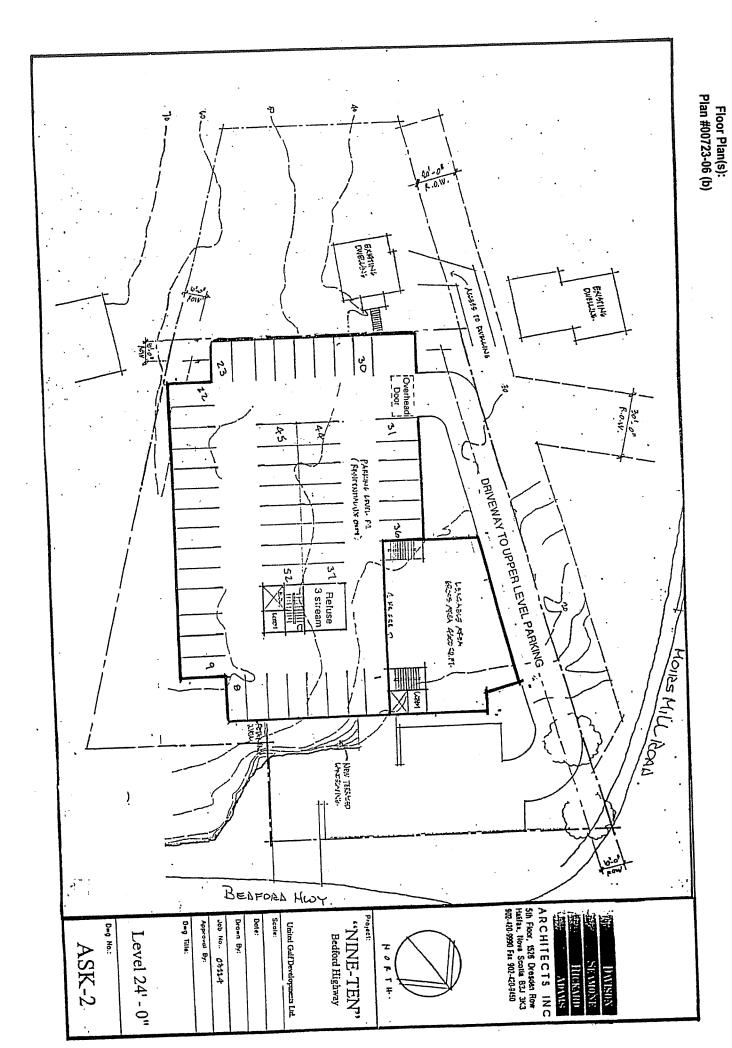
Perspective
910 Bedford Highway



Proposed Building Design 910 Bedford Hwy.

Floor Plan(s): Plan #00723-06 (a)





Schedule J

