



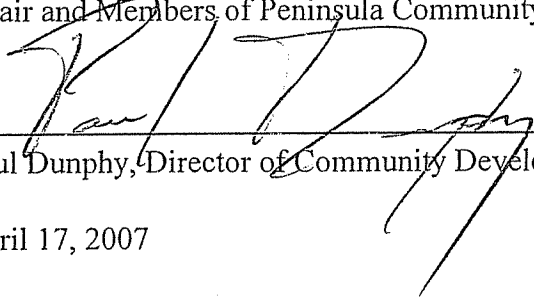
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council

~~May 7, 2007~~

June 11, 2007

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: April 17, 2007

SUBJECT: Case 01028: Non-substantive Amendment - 5620 South Street, Halifax.

ORIGIN

Application by Steve Tsimiklis, on behalf of the Owners, Dimitrios and Dimitra Tsimiklis.

RECOMMENDATION

It is recommended that Peninsula Community Council:

1. By resolution, approve the non-substantive amendment to the 5620 South Street (PID 41030727) Development Agreement as required for the approval of a revised landscape plan and of the separation wall and fence along the front of the Lands as detailed in the revised Second Amending Agreement appended as Attachment A of this report.
2. Require that the revised Second Amending Agreement be signed and returned within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND:

This development is located mid block between South Park Street and Queen Street (refer to Map 1). There is an existing, approved Development Agreement and a First Amending Agreement in effect for this property. The Agreement was originally approved by Peninsula Community Council in August, 2004, (Case 00789) and subsequently amended on December 12, 2005 (Case 00836). Peninsula Community Council approved an amending agreement for a landscape plan on June 12, 2006 (Case 00899) but the agreement was not signed within the 120 day time period. This application is to replace the previously approved landscape plan as required in the existing Development Agreement.

DISCUSSION:

Section 2.10 of the existing Development Agreement enables Council to approve a landscape plan and approve the separation wall and fence along the front of the lands abutting South Street by way of a non-substantial amendment to the agreement (See Attachment B). Non-substantial amendments are approved by a resolution of Council and do not require a public hearing.

The landscape proposal was revised in response to a Crime Prevention Through Environmental Design (CPTED) audit. The proposed landscape plan identifies the type, size and location for proposed plant material, benches, fencing and hard surface areas. Construction details are included which show the proposed decorative metal fence along the boundary of the site, planting beds around the parking area and the fence and wall along South Street. These items are specified in the revised draft Second Amending Agreement appended as Attachment A to this report.

Public Information Meeting

Given the nature of this application, a Public Information Meeting was not held.

BUDGET IMPLICATIONS

There are no budget implications.

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. Approve the revised draft Non-Substantive Second Amendment to the existing Development Agreement as proposed. This is the recommended option as the proposed amendments meet the overall intent of the Development Agreements.

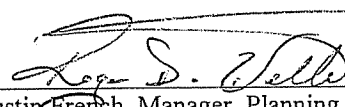
2. Approve the revised draft Non-Substantive Second Amendment to the existing Development Agreement with modifications or conditions. Some modification or conditions may be outside the scope of a Non-Substantive Amendment and may require a Substantive Amendment to the Development Agreement.
3. Council may refuse to amend the Existing Development Agreement. Pursuant to Section 230(6) of the *Municipal Government Act*, Council is required to provide reasons to the applicant justifying this refusal, based on policies of the MPS. This alternative is not recommended, as the existing Development Agreement allows for this change.

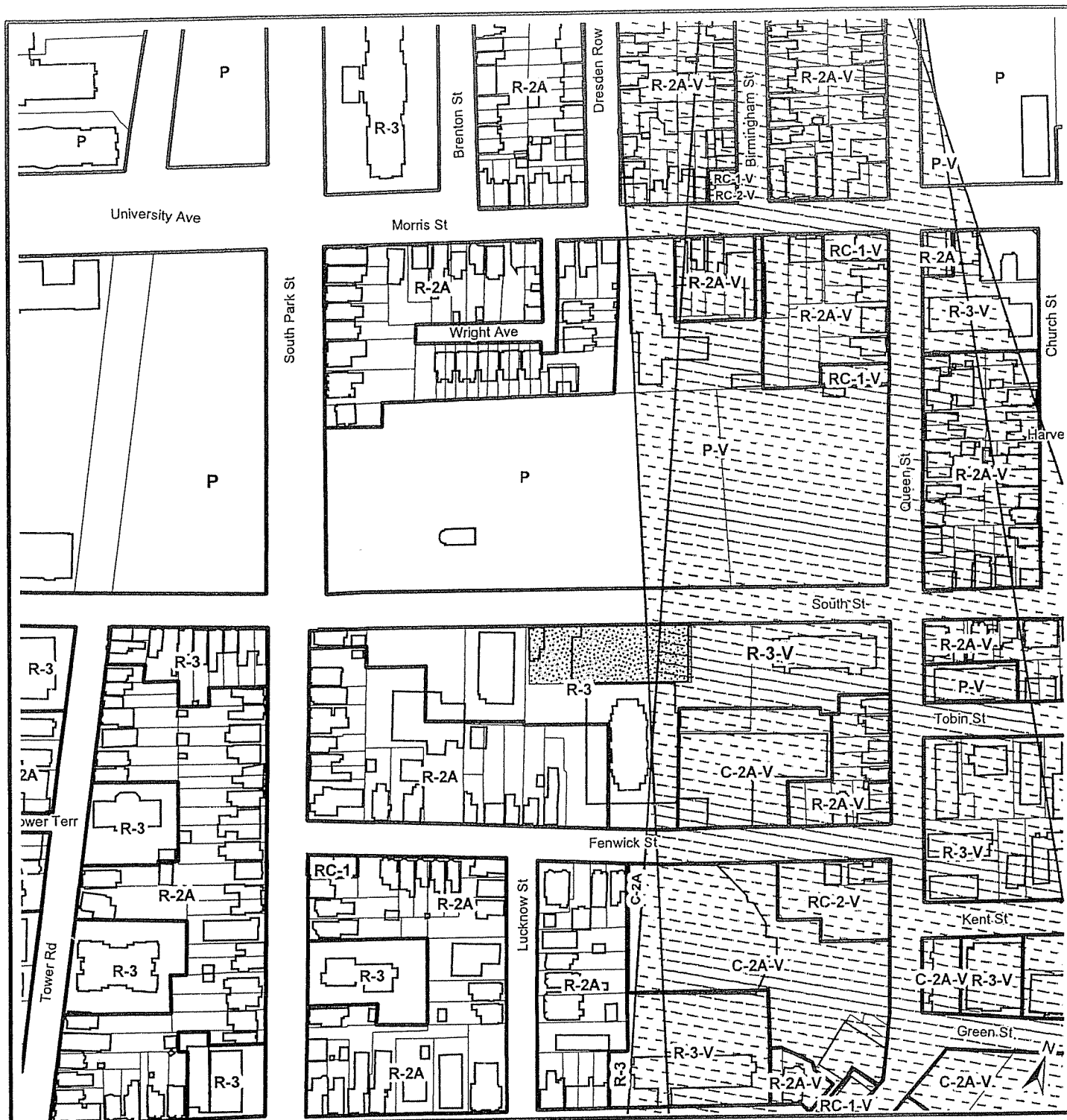
ATTACHMENTS

- Map 1: Location and Zoning Map
- Attachment A: Proposed Non-Substantial Second Amendment to the Existing Development Agreement for 5620 South St., with:
- Schedule O - Landscape Plan
 - Schedule P - Aluminum Guard Rail Detail (ASK-46)
 - Schedule Q - Planter - Edge Parking Deck (ASK-47)
 - Schedule R - Planter on Podium (ASK-48)
 - Schedule S - Section Through South Street Wall (SK-03)
 - Schedule T - Landscape Cost Estimate
- Attachment B: Excerpts from the Existing Development Agreement

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

Report Prepared by: Randa Wheaton, Senior Planner, Community Development, 490-4499

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



Map 1 - Location and Zoning

View plane

5620 South Street
Halifax

Subject property

Halifax Peninsula
Land Use By-Law Area

Zone - (-V) within viewplane

- R-2A(-V) General Residential Conversion
- R-3(-V) Multiple Dwelling
- C-2A(-V) Minor Commercial
- RC-1(-V) Neighbourhood Commercial
- RC-2(-V) Residential Minor Commercial
- RC-3(-V) High Density Residential Minor Commercial
- P(-V) Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES

0 20 40 m

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

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

ATTACHMENT A

THIS AMENDING AGREEMENT made this day of , 2006,

BETWEEN:

DIMITRIOS AND DIMITRA TSIMIKLIS
both of Bedford, in the Halifax Regional Municipality,
Province of nova Scotia
(hereinafter called "the Developer")

OF THE FIRST PART

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

OF THE SECOND PART

WHEREAS Amalthea Holdings Limited entered into a Development Agreement with the Municipality, January 10, 2005, as Municipal Case Number 00614 to construct three (3) multiple unit residential buildings and said agreement being recorded at the Registry of Deeds in Halifax as Document Number 81305303, (hereinafter called the "Existing Agreement");

AND WHEREAS Amalthea Holdings Limited subsequently transferred its interest in the lands to Dimitrios and Dimitra Tsimiklis;

AND WHEREAS Dimitrios and Dimitra Tsimiklis are now the registered owners of the lands located at 5620 South Street, Halifax, (LRIS PID number 41030727) and which said lands are more particularly described in Schedule A to this Agreement (hereinafter called the "Lands");

AND WHEREAS Halifax Regional Municipality previously amended the Existing Agreement by entering to an amending agreement with the Developer on December 12, 2005, as Municipal Case Number 00836 to construct a single building, said agreement being recorded at the Registry of Deeds at Halifax as Document Number 85088285 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Developer wishes to further amend the Existing Agreement to allow for the inclusion of a Landscape Plan and details of the separation wall or fence along the frontage for the "Lands" pursuant to the provisions of the *Municipal Government Act*, (hereinafter called the "Second Amending Agreement");

AND WHEREAS Peninsula Community Council for the Municipality approved this request at a meeting held on , 2007, referenced as Municipal Case 01028;

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

1. Add the following Schedules of this Amending Agreement to the Existing Agreement:
 - Schedule O - Landscape Plan numbered 01028-0007
 - Schedule P - Aluminum Guard Rail Detail (ASK-46) numbered 01028-0002
 - Schedule Q - Planter - Edge Parking Deck (ASK-47) numbered 01028-0003
 - Schedule R - Planter on Podium (ASK-48) numbered 01028-0004
 - Schedule S - Section Through South Street Wall (SK-03) numbered 01028-0005
 - Schedule T - Landscape Cost Estimate numbered 01028-0008
2. Replace Section 2.9.1 of the Existing Agreement with the following:

Landscaping for the Lands shall comply with Schedules O through T inclusive as attached to this Second Amending Agreement. The Developer shall submit these plans and cost estimate to the Development Officer for approval as part of the development permit process and before any occupancy permit may be issued. The intent of the landscaping is to provide aesthetic enhancement.
3. Replace Section 2.9.2 of the Existing Agreement with the following:

Landscaping shall be provided consisting of a minimum of upright shrubs with a minimum height of 60 cm (2 feet) in mulched continuous planing beds and street trees with a minimum size of 60 mm CAL. The Developer shall ensure that all soft landscape areas not planted with shrubs or trees are to be sodded and the sod is to conform to the Canadian Nursery Sod Growers' Specifications. The Developer shall ensure that all plant material conforms to the current Canadian Nursery Trades Association Metric Guide Specifications and Standards.
4. All other terms of the Existing Agreement and the First Amending Agreement shall remain in full force and effect.
5. Time is of the essence of this agreement.
6. This Second Amending Agreement and everything contained herein shall be binding upon the Parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set hands and seals to this Second Amending Agreement on the day and year first above written.

SIGNED, SEALED AND DELIVERED

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

Per _____

) DIMITRIOS TSIMIKLIS

)

) Per _____

)

) DIMITRA TSIMIKILIS

)

) Per _____

)

) HALIFAX REGIONAL MUNICIPALITY

)

) Per _____

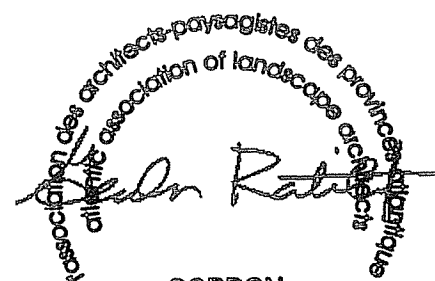
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Mayor

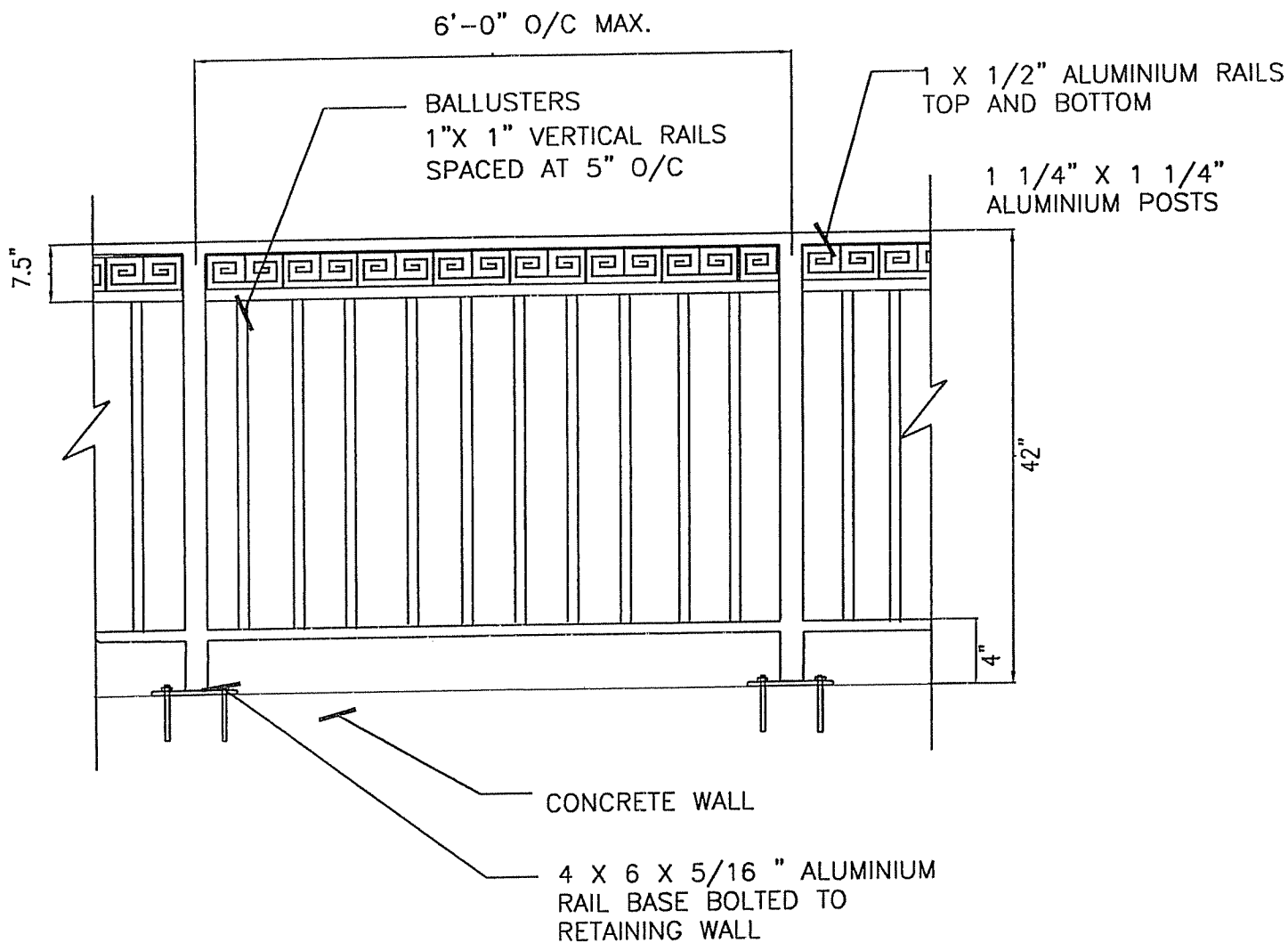
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) Per _____

Municipal Clerk



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01028 - 0002

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email: studio1@shz.ondaro.com
site: www.studio-works.ca

title

SOUTH STREET APTS
ALUMINUM GUARD RAIL DETAIL

location

HALIFAX, NS

scale

N.T.S.

date

MARCH 28/07

drawn

mg

proj.

ST0501

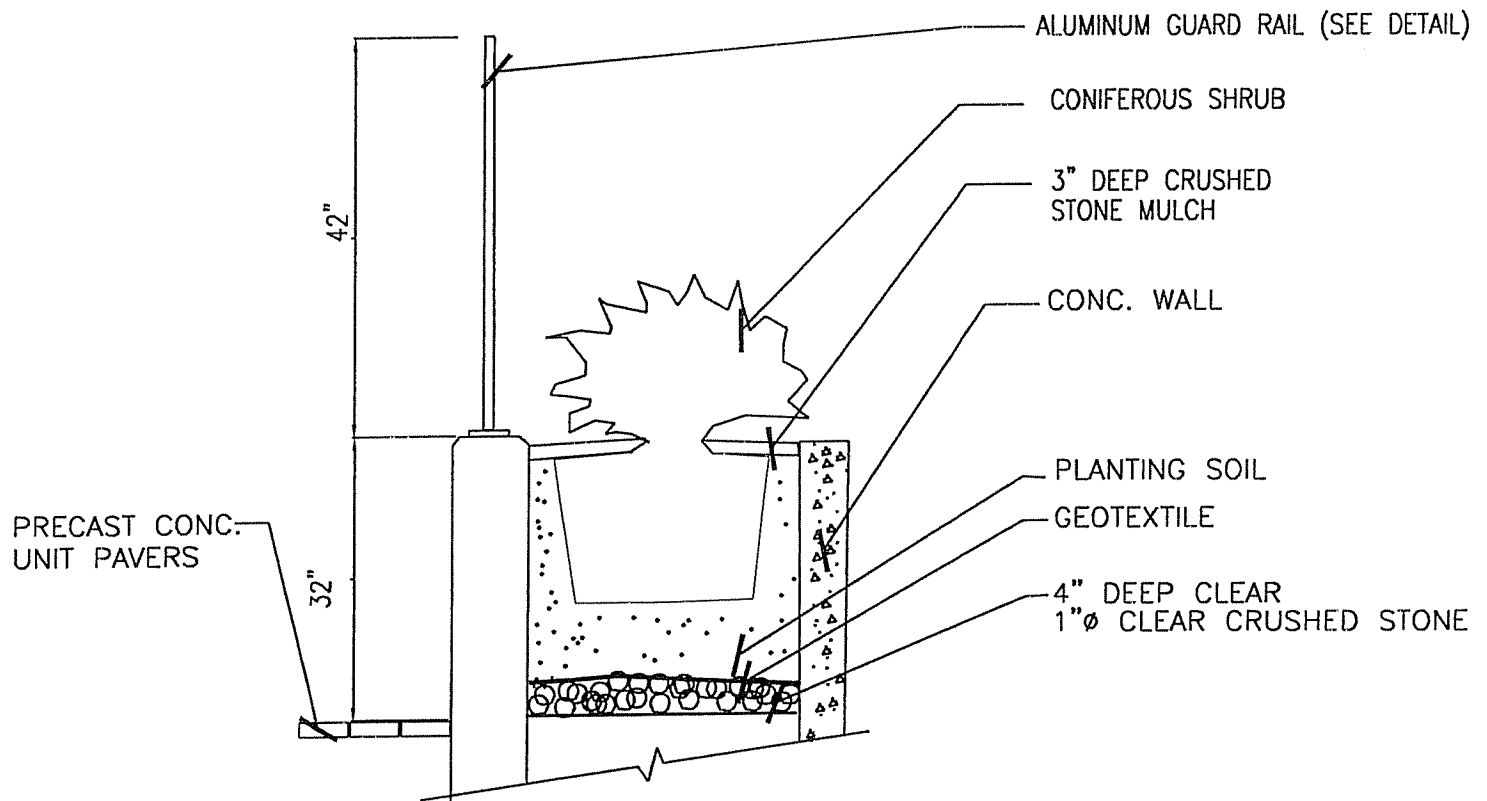
dwg no:

ASK-46

rev.



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01028 - 0003

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Halifax, Nova Scotia email: studio1@hbx.ansara.com
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title

SOUTH STREET APTS
PLANTER - EDGE PARKING DECK

location

HALIFAX, NS

scale

N.T.S.

date

MARCH 28/07

drawn

mg

proj.

ST0501

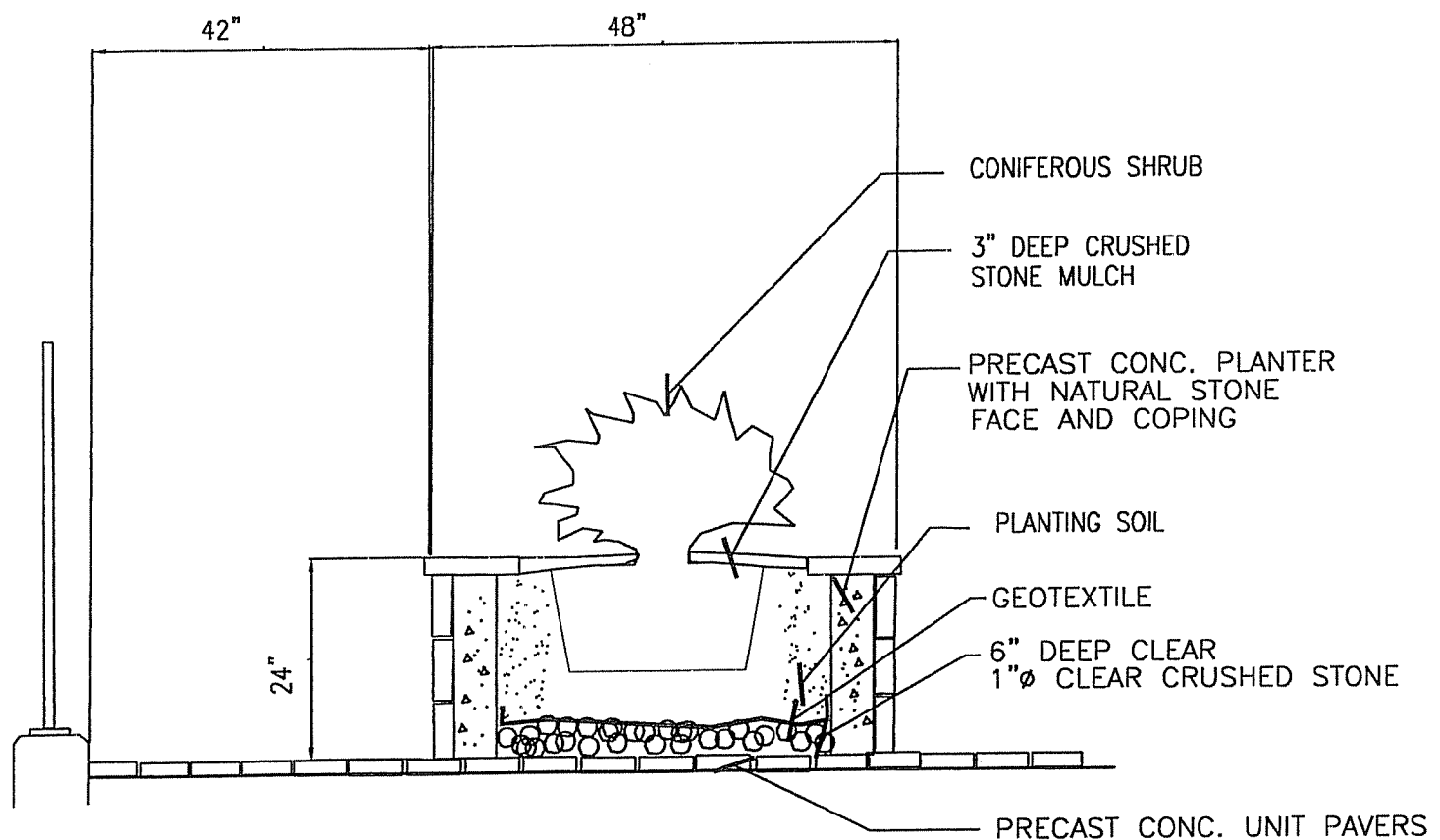
dwg no:

ASK-47

rev.

association des architectes-paysagistes des provinces atlantiques
atlantic association of landscape architects
Gordon Ratcliffe

GORDON
RATCLIFFE



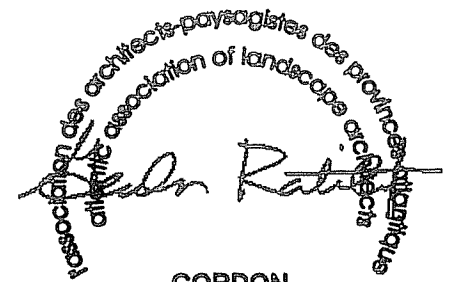
01028 - 0004

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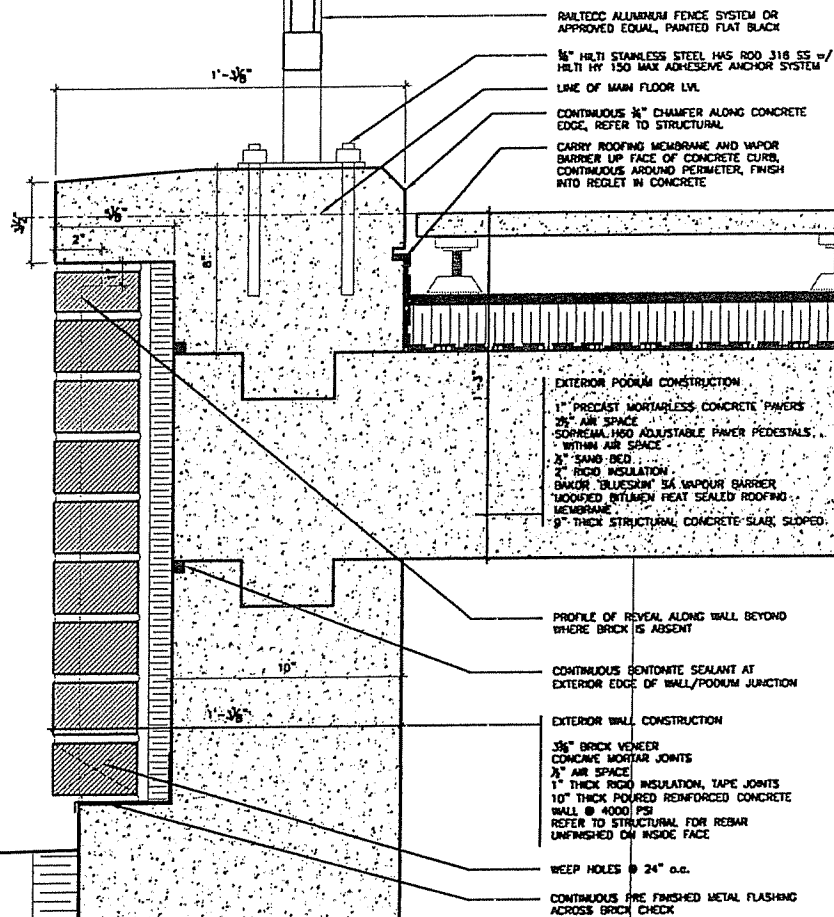
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location	HALIFAX, NS

scale	N.T.S.
date	MARCH 28/07
drawn	mg
proj.	ST0501

dwg no:	ASK-48
rev.	-



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01028-0005

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title

SOUTH STREET APTS
SECTION THRU SOUTH ST WALL

location

HALIFAX, NS

scale

2"=1'-0"

date

APRIL 28/06

drawn

mg

proj.

ST0501

dwg no:

SK-03

rev.

Gordon Ratcliffe
Landscape Architects

01028-0008

5539B Young Street
Halifax, Nova Scotia B3K 1Z7

Tel: 902 857-1500
Fax: 902 857-1108

April 9th, 2007

Studio Works International Ltd.
Suite 100, 6156 Quinpool Road
Halifax, NS B3L 1A3
Attention: Ron Smith

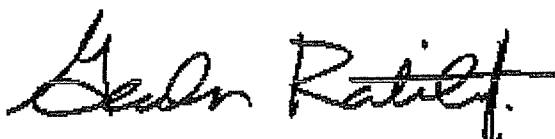
Dear Ron,

Re: South Street Apartment, Halifax, NS

Further to our telephone conversation of earlier today, the following is a cost estimate for the work shown on the Landscape plan, Drawing A37, revised April 9/07.

Item	Quantity	Unit Rate or Allowance	Cost
1. precast conc. unit pavers	18,000 sf	\$10.00	\$180,000
2. precast concrete planters	1,350 sf	\$60.00	\$ 81,000
3. prefab. aluminum fence	800 lf	\$60.00	\$ 48,000
4. coniferous shrubs	98	\$50.00	\$ 4,800
5. trees	4	\$600	\$ 2,400
6. benches	6	\$2,500	\$ 15,000
7. pole mounted lights	6	\$3,000	\$ 18,000
8. topsoil and sod		allowance	\$ 4,000
9. one year maintenance		allowance	\$ 1,500
total			\$354,700

If you have any questions, please contact me.
Yours truly,



Gordon Ratcliffe, CSLA



ATTACHMENT B

Excerpts from the Existing Development Agreement

2.9 Landscaping

- 2.9.1 The developer shall submit a landscape plan for the lands including a cost estimate, prepared and sealed by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects, to the Development Officer for approval as part of the first development permit application and shall be subject to a non-substantial amendment to this agreement before any development permit may be issued. The intent of the landscaping is to provide aesthetic enhancement.
- 2.9.2 Landscaping shall be provided consisting of a minimum of upright shrubs with a minimum height of 60 cm. (2 ft.) in continuous planting beds and groundcover. The developer shall ensure that all soft landscape areas not planted with shrubs are to be sodded and the sod is to conform to the Canadian Nursery Sod Growers' Specifications. The developer shall ensure that all plant material is to conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards.
- 2.9.3 Landscaping shall be provided on the podium in order to provide some screening for the users. The shrub material is to be a minimum of 50% coniferous for year round cover. The podium may include sufficient and appropriate decorative seating.
- 2.9.4 It is the responsibility of the developer to ensure that the underground parking structure is to be capable of supporting loads for drainage gravel or an appropriate drainage system over the extent of the landscape podium plus topsoil for sod, shrubs and flowers, all of which is in addition to the anticipated mature weight of the plant material.
- 2.9.5 Landscaping may include containers planted with ornamental trees, shrubs and perennials/annuals.
- 2.9.6 All landscaping, including any interim landscaping required by clause 2.9.8, shall be completed for each lot prior to the issuance of the occupancy permit for such lot. Proof of completion shall be in the form of certification by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects indicating that the landscaping has been done in accordance with the landscape plan approved as a non-substantial amendment to this agreement. An occupancy permit may be issued where 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 may be in the form of a certified cheque or irrevocable letter of credit, with an automatic renewal clause, issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work and receipt of certification by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects indicating that the

landscaping has been done in accordance with the landscape plan approved as a non-substantial amendment to this agreement.

- 2.9.7 Where an occupancy permit has been issued prior to completion of the landscaping, the Developer shall complete the said landscaping within six months of issuance of the occupancy permit or by September 1 of the year in which the occupancy permit was issued, whichever is earlier. If the Developer fails to complete the said landscaping within the specified period, the Municipality may use the security deposit to complete the landscaping as set out in this section of this 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.
- 2.9.8 In the event that the three buildings are not constructed at the same time, the landscape plan required by clause 2.9.1 shall show how each of the lot(s) which will not be built on, will be landscaped in the interim. At a minimum the unbuilt lots shall be sodded and the sod is to conform to the Canadian Nursery Sod Growers' Specifications or equivalent landscaping.
- 2.9.9 The interim landscaping required by clause 2.9.6 shall not be required for the lot(s) upon which construction has commenced. For the purpose of this section, commencement of construction shall mean the pouring of the second floor slab of the building.

2.10 Non-Substantial Amendments

The following items are considered by both parties to be non-substantial matters and may be amended by resolution of the Peninsula Community Council:

- (a) changes to the architectural detailing as shown on Schedules J - N;
- (b) approval of a landscape plan;
- (c) approval of the separation wall or fence along the front of the lands abutting South Street;
and
- (d) changes to the order of construction of the buildings provided that the complete underground parking structure shall be built at part of the first building.

2.11 Substantial Amendments

Amendments to any matters not identified under section 2.10 shall be deemed substantial and may only be amended in accordance with the approval requirements of the *Municipal Government Act*.