



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

Item No. 13.1.2
Harbour East Marine Drive Community Council
May 3, 2018

TO: Members of Harbour East Marine Drive Community Council

ORIGINAL SIGNED

SUBMITTED BY:

Kelly Denty, Acting Director, Planning and Development

ORIGINAL SIGNED

Jacques Dubé, Chief Administrative Officer

DATE: April 10, 2018

SUBJECT: Case 21583: Discharging Agreement on 77 Lakecrest Drive, Dartmouth.

ORIGIN

Application by Parsco Engineering & Construction Ltd on behalf of the property owner, Hours Investments Limited.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter); Part VIII, Planning & Development

RECOMMENDATION

It is recommended Harbour East Marine Drive Community Council:

1. Approve, by resolution, the proposed Discharging Agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
2. Require the Discharging Agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council, otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Parsco Engineering and Construction Ltd. has applied to discharge the existing development agreement on lands at 77 Lakecrest Drive, Dartmouth.

Location	77 Lakecrest Drive, Dartmouth
Community Plan Area	Dartmouth
Community Plan Designation	Main Street (MS), Town Residential Sub-Designation
Regional Plan Designation	Urban Settlement (US)
Zoning (Map 1)	Multi Family Residential Zone- Medium Density (R-3)
Size of Site	Approximately 7,602 square metres (81,832 sq. feet)
Street Frontage	Approximately 43.5 meters (143 feet)
Current Land Use(s)	Vacant
Surrounding Use(s)	<ul style="list-style-type: none">• Two apartment buildings to the east (three storeys)• Mixed single/two-unit residential properties on bordering streets• Mixed single/two residential, apartment buildings, and commercial businesses along Lakecrest drive opposite the subject site. Some commercial properties with through-ways to Main Street.

Proposal Details

The applicant has requested approval to discharge the existing development agreement (Attachment B) at 77 Lakecrest Drive to allow construction of an apartment building as-of-right under R-3 Zoning. A development permit was issued in 2014 to construct a 101-unit apartment building. However, when the applicant applied to renew the development permit in 2017, an existing development agreement registered on the property was discovered that was overlooked during the review for the original development permit. That development agreement must be discharged to allow the current proposal to proceed under R-3 zoning.

Existing Development Agreement

In May 1997, HRM amended the Dartmouth MPS and LUB to enable a development agreement for a three (3) storey multi-unit building, containing a maximum of forty-nine (49) dwelling units, designed for persons with limited physical and sensory abilities. This development agreement regulates uses, building location, architectural design, parking, access, landscaping, lighting, and signage. The MPS provisions that enabled this development were deleted on September 10, 2013, when the updated Main Street secondary MPS came into effect but the associated development agreement remains in place until Community Council authorizes its discharge.

Discharge of Development Agreements

The Halifax Regional Municipality Charter provides Council with a mechanism to discharge development agreements. Part VIII, Section 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The Charter does not require a public hearing for the discharge of an agreement or a portion thereof. A development agreement may be discharged by resolution of Community Council.

COMMUNITY ENGAGEMENT

The community engagement process has been consistent with the intent of the HRM Community Engagement Strategy. A public information meeting or a public hearing is not required, nor is it the practice to hold such meetings for the discharge of a development agreement. The decision to discharge a development agreement is made by resolution of Community Council.

The proposed discharge will have no impact on local residents, property owners or other stakeholders as the existing underlying zone will apply to the existing building.

DISCUSSION

The site is currently zoned R-3 and is vacant. The applicant proposes to discharge the existing agreement to allow the subject site to be developed under the underlying R-3 zoning.

Section 2.3 of the existing development agreement allows Council to discharge the agreement if a municipal development permit application for the construction of the project has not been made by the Developer within two (2) years from the date of the registration of the agreement. An application was received in 1999 within that specified time frame but that project was never carried out.

Council may also discharge the agreement at the request of the property owner. HRM received a letter of consent from the property owner.

Discharging the existing development agreement will enable the subject property to be developed in accordance with the provisions of the existing underlying R-3 zone. This would also be consistent with the policies and intent of the policies of the Main Street Secondary Planning Strategy (SPS) which promote mid-rise residential buildings to provide a buffer between town centre and the surrounding established low-density residential neighborhoods. This was accomplished by applying an R-3 Multiple Family Residential (Medium Density) Zone, which allows multi-unit buildings as-of-right in the Main Street Designated areas.

Conclusion

Staff recommends that Community Council discharge the existing development agreement by approving the proposed discharging agreement, which shall be substantially in the same form as set out in Attachment A.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed discharging agreement. The administration of the proposed discharging agreement can be carried out within the approved 2018/2019 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under Section 244 of the *Halifax Regional Municipality Charter*. Community Council has the discretion to make decisions that are consistent with their legislative authority. Information concerning risks and other implications of adopting the proposed Discharging Agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Harbour East Marine Drive Community Council may choose not to discharge the existing development agreement and therefore, development on the property would remain subject to the conditions of the development agreement. A decision of Council to refuse to discharge a development agreement is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 2	Location and Zoning
Attachment A	Discharging Agreement
Attachment B	Existing Development Agreement

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Brittny MacLean, Planner II, 902.490.7175

ORIGINAL SIGNED

Report Approved by: _____
Maggie Holm, Principal Planner, Urban Enabled Applications, 902.293.9496

ORIGINAL SIGNED

Report Approved by: _____
Steve Higgins, Acting Manager of Current Planning, 902.490.4382



Map 2 - Zoning
77 Lakecrest Drive
Dartmouth



 Subject Site

Zone

- R-1 Single Family Residential
- R-1A Auxiliary Dwelling Unit
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- C-2 General Business
- P Park



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Dartmouth Land
 Use By-Law Area

**ATTACHMENT A
PROPOSED DISCHARGE AGREEMENT**

THIS DISCHARGING AGREEMENT made this day of **[Insert Month]**, 2018,

BETWEEN:

HOURS INVESTMENTS LIMITED,
a body corporate in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 77 Lakecrest Drive, Dartmouth and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the former Harbour East Community Council approved an application to enter into a development agreement to allow a three (3) storey multi-unit building, containing a maximum of forty-nine (49) dwelling units, designed for older persons and persons with limited mobility, on May 23, 1997, and which said development agreement was registered on July 15, 1997 at the Registry of Deeds in Halifax as Document Number 29995, Book 6086 at pages 770-788, (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that the Existing Agreement be discharged from the Lands;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the Harbour East Marine Drive Community Council for the Municipality approved this request by resolution at a meeting held on **[INSERT DATE]** referenced as Municipal Case Number 21583;

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

1. The Existing Agreement is hereby discharged as it applies to the Lands and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with the Dartmouth Land Use By-law as it may be amended from time to time.

SIGNED, SEALED AND DELIVERED in the presence of:

HOURS INVESTMENTS LIMITED

Witness

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

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

SEE DR. 288 FOR
PLANS

Halifax County Registry of Deeds	2995	book	770-788
I certify that this document			
was registered as shown here.	JUL 15 1997	9:07	
Central District	Registrar		

THIS AGREEMENT made this day 15 of May

A.D., 1997.

770

BETWEEN:

LUNA DEVELOPMENT LIMITED, (hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer has requested that the Municipality enter into a development agreement pursuant to sections 55 and 73 of the Planning Act;

AND WHEREAS the Developer is the registered owner of the lands known as 75/77 Lakescrest Drive in the community of Dartmouth and described by Schedule "A" or "A1" attached hereto (hereinafter called "the Property");

AND WHEREAS the Developer wishes to construct a multiple unit residential building on the lands;

NOW THEREFORE WITNESS that the parties hereto agree to the following:

PART 1: DEFINITIONS

- 1.1 In this Agreement, unless the context otherwise requires:
- (a) "Accessibility Features and Requirements Plan" means the design requirements and construction features illustrated and described in Schedule "E" of this Agreement;
 - (b) "Building" means the building illustrated on the Site Plan as "Seniors Building";
 - (c) "Building By-law" means the Building By-law which covers that portion of the Municipality formerly known as the City of Dartmouth, as amended from time to time;
 - (d) "Council" means Council of the Halifax Regional Municipality;
 - (e) "Developer" includes LUNA Development Limited and its successors and assigns and the owner or owners from time to time of the Property;
 - (f) "develop" or "development" means any construction, alteration, or replacement of any building or structure permitted on the Property in accordance with the terms and conditions of this Agreement and any use, change of use or alteration in the use made to the building or any building located on the Property;

APPROVED
AS TO FORM
Municipal Solicitor

- (g) "Development Officer" means a person appointed by the Municipality under the provisions of the Planning Act to administer and enforce the Subdivision By-law and the Land Use By-laws of the Municipality;
- (h) "Elevation Plan" means the plan attached hereto as Schedule "C" showing the exterior architectural design, dimensions and construction detail of the Building proposed to be constructed as part of the Project;
- (i) "Engineer" means the Director of Engineering Services appointed by Council of Halifax Regional Municipality;
- (j) "Floor Plan" means the plan attached hereto as Schedule "D" showing the interior layout of the Building and the type of uses to be constructed on each floor.
- (k) "Landscaping Plan" means the plan attached hereto as Schedule "F" showing the landscaping and planting measures for the Property, including, but not limited to fencing, vegetation, walkways, etc.;
- (l) "Minimum Standards By-law" means the Minimum Housing and Maintenance Standards By-law which covers that portion of the Municipality formerly known as the City of Dartmouth, as amended from time to time;
- (m) "Professional Engineer and/or Architect" means a registered member in good standing of the Association of Professional Engineers and/or Architects of the Province of Nova Scotia;
- (n) "Property" means the lands described in Schedule "A" or "A1" attached hereto;
- (o) "Project" means the development of the Property in the manner contemplated by the provisions and schedules of this Development Agreement;
- (p) "Site Plan" means the plan attached hereto as Schedule "B" showing the proposed access driveway, walkways, parking area, exterior lighting, wheelchair access ramps and Building footprint for the Project;
- (q) "Subdivision By-law" means the Subdivision By-law which covers that portion of the Municipality formerly known as the City of Dartmouth, as amended from time to time;
- (r) "Zoning By-law" means the Zoning By-law which covers that portion of the Municipality formerly known as the City of Dartmouth, as amended from time to time;
- 1.2 Any other word defined under Part 2 of the Zoning By-law and used herein shall have the meaning ascribed thereto in the Zoning By-law.
- 1.3 The following schedules shall form part of this Agreement:
- | | |
|----------------|--|
| Schedule "A": | Property Description |
| Schedule "A1": | Consolidated Property Description |
| Schedule "B": | Site Plan |
| Schedule "C": | Elevation Plan |
| Schedule "D": | Floor Plan |
| Schedule "E": | Accessibility Features and Requirements Plan |
| Schedule "F": | Landscaping Plan |
| Schedule "G": | Site Drainage Plan |
| Schedule "H": | Erosion and Sediment Control Plan |
- 1.4 The Developer agrees that the Property shall only be developed and used in accordance with and subject to the terms and conditions of this Agreement.

PART 2: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGES

- 2.1 A copy of this Agreement, and every amendment and discharge or partial 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 costs incurred in recording such documents.
- 2.2 Notwithstanding any subdivision, transfer or conveyance of the Property or any portion thereof, this Agreement shall continue to apply to and bind the Developer and the Property, and every part thereof, and the Developer and any owner of any part of the Property shall be bound by all terms and conditions of this Agreement to the extent applicable to that part of the Property owned by such person until this Agreement is discharged by the Municipality.
- 2.3 In the event that a municipal development permit application to permit the construction of the Project has not been made by the Developer within two (2) years from the date of the registration of this Agreement at the Registry of Deeds, Council may, by resolution, discharge this Agreement whereupon this Agreement shall have no force or effect and the Zoning By-law shall apply to the Property.
- 2.4 If this Agreement has not been signed by the Developer within 6 (six) months of the date of the resolution by Council to enter into this Agreement, or the decision on appeal of this Agreement, this Agreement shall be deemed to be discharged by resolution of Council, whereupon the provisions of the Zoning By-law shall apply to the Property.
- 2.5 The Developer shall at all times indemnify and save harmless the Municipality from and against all claims, demands, losses, costs, damages, actions, suits or other proceedings by whomever made, sustained, brought or prosecuted to the extent that the foregoing are based upon, occasioned by, or attributable to, anything done or omitted by the Developer, or his servants, or his agents, or employees in the fulfilment of any of its obligations under this agreement.

PART 3: GENERAL REQUIREMENTS AND ADMINISTRATION

- 3.1 Nothing in this Agreement shall exempt or be taken to exempt the Developer or any other person from complying with the requirements of any by-law of the Municipality (other than the Zoning By-law and Subdivision By-law to the extent varied by this Agreement) or any statute or regulation of the Province of Nova Scotia and the Developer agrees to observe and comply with all such laws, by-laws and regulations in connection with any use or development of the Property.
- 3.2 Where the provisions of this Agreement conflict with those of any by-law of the Municipality (other than the Zoning By-law and Subdivision By-law to the extent varied by this Agreement), or any provincial or federal statute or regulation, the higher or more stringent provisions or requirements shall prevail.
- 3.3 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the provisions of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to the Property.
- 3.4 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.
- 3.5 All construction plans, engineering plans and landscaping plans shall be signed and sealed by a professional architect or engineer.
- 3.6 This Agreement shall be administered upon behalf of the Municipality by the Development Officer.

PART 4: PERMIT REQUIREMENTS

- 4.1 The Developer shall not commence any part of the Project, including the clearing or grubbing of the Property, until a municipal development permit and a building permit have been issued therefor by the Municipality on the Property. In addition to complying with all other terms and conditions of this Agreement, and any applicable provisions of the Zoning By-law and the Building By-law, the issuance of a municipal development permit and a building permit for the Project is conditional upon the Developer obtaining and providing to the Municipality the following:
- (a) a deed description of the Property that indicates the two lots known as 75 Lakecrest Drive (L.I.M.S. # 175281) and 73 and 77 Lakecrest Drive (L.I.M.S. # 175273) were consolidated under the Subdivision By-law as required under Section 5.3 of this Agreement.
 - (b) a Demolition Permit and the three (3) existing buildings on the Property have been demolished and all construction debris material has been removed from the Property and disposed of at an approved disposal site.
 - (c) a Site Drainage Plan, prepared by a Professional Engineer and approved by the Engineer demonstrating the means by which stormwater runoff will be accommodated upon completion of the Project and this plan shall form Schedule "G" of this Agreement;
 - (d) an Erosion and Sediment Control Plan, prepared by a Professional Engineer and approved by the Engineer indicating all excavation work on the Property and erosion control measures and this plan shall form Schedule "H" of this Agreement. The Developer shall not begin clearing or grading of the Property unless the approved site disturbance boundary as shown on the approved Erosion and Sediment Control Plan is demarcated on the Property;
 - (e) a security bond, posted by the Developer in the amount of 120 per cent of the estimated costs of all environmental protection measures, lot grading, servicing requirements, landscaping measures, paving and curbing, and work required under the Site Drainage Plan and Erosion and Sediment Control Plan required by this Agreement. The security bond shall be in the form of a certified cheque or letter of credit issued by a chartered bank. Upon the successful completion of all terms described by this Section, as determined by the Development Officer, the security bond shall be returned to the Developer;
 - (f) a Street Opening Permit has been issued by the Engineer for the sanitary sewerage system, water supply mains, and major stormwater drainage and sewerage systems as well as the access driveway for this Project; and
 - (g) written confirmation that all electrical, telephone, and cable television systems, required under Part 10 of this Agreement, to service the Building have been approved by the applicable utility companies and that the Engineer has copies of the applicable approvals.
- 4.2 The Building shall not be occupied until an Occupancy Permit has been issued by the Municipality and no occupancy permit shall be issued unless:
- (a) all lighting, walkways, ramps, parking areas, driveway, and landscaping shown on the Site Plan and Landscaping Plan have been completed in accordance with the applicable requirements of Parts 7, 8, and 9 of this Agreement;
 - (b) written notification has been provided by the Engineer that the services identified in Part 10 of this Agreement have been completed in accordance to the requirements of this Agreement;

- 774 (c) the Building has been constructed in conformity with the requirements of Part 6 of this Agreement, the Building By-law, and all other applicable by-laws of the Municipality;
- (d) written notification has been provided by the Engineer that the requirements of the Site Drainage Plan (Sub-Section 4.1(c)) and Erosion and Sedimentation Control Plan (Sub-Section 4.1(d)) have been completed in accordance to the requirements of this Agreement; and
- (e) notwithstanding Subsection 4.2(a), landscaping measures may be completed within eight (8) months after the issuance of the occupancy permit at the discretion of the Development Officer if the Developer provides security to the Municipality in the amount of 120 percent of the cost of completion of all outstanding landscaping work. The security shall be in the favour of the Municipality and may be in the form of a certified cheque or letter of credit issued by a chartered bank.

PART 5: PERMITTED USES AND RESTRICTIONS

- 5.1 The Property shall be developed in accordance with the terms and conditions of this Agreement for the construction of a three (3) storey multi-unit building, containing a maximum of forty nine (49) dwelling units, designed for older persons and persons with limited mobility.
- 5.2 The Municipality and the Developer recognize that discrimination on the basis of age is unlawful, however, it is also recognized that in the future there will be a growing need for housing accommodation for the elderly. The Developer, therefore, agrees that the design and construction of the apartment building development will be accessible by, and suitable for, senior citizens.
- 5.3 The two properties known as 75 Lakecrest Drive (L.I.M.S. # 175281) and 73 and 77 Lakecrest Drive (L.I.M.S. # 175273) shall be consolidated in accordance with the requirements of the Subdivision By-law regulations.
- 5.4 The Developer shall not further subdivide the Property as described in Schedule "A" or "A1".
- 5.5 The Developer shall only permit guests of a tenant within the Building to occupy the Guest Suite, as generally illustrated on the Floor Plan. An occupant of the Guest Suite shall not be permitted to occupy the Guest Suite for more than four (4) consecutive weeks within a six (6) month period.

PART 6: BUILDING LOCATION AND ARCHITECTURAL DESIGN

- 6.1 The Building shall be located as generally illustrated on the Site Plan or in such a location as may be approved by the Development Officer pursuant to Section 12.1.
- 6.2 The Building shall contain a maximum of forty-nine (49) dwelling units, consisting of 38, 1-bedroom units and 11, 2-bedroom units, and all units shall be designed and constructed, as generally illustrated and described on the Accessibility Features and Requirements Plan, to allow for easy conversion of any unit to Barrier Free standards as required under the Provincial Building Code. Of the forty-nine (49) units, a minimum of eight (8) units shall be designed and constructed to Barrier Free standards of the Provincial Building Code, as generally illustrated on the Floor Plan.
- 6.3 The exterior architectural design, dimensions, and construction materials of the Building shall be as generally illustrated and described on the Elevation Plan.

- 6.4 The interior layout and use of the Building shall be generally as illustrated and described on the Floor Plan and shall also include a fire sprinkler system, an intercom system for communicating from each apartment to the main entrance door, a mechanism to unlock the main door from each apartment, and twelve (12) cubic metres of useable storage space for each dwelling unit within the Building, of which six (6) cubic metres must be within the unit, excluding the entrance closet and bedroom closets.
- 6.5 Notwithstanding Section 6.4, the Developer shall establish a common room on each floor of the Building as generally illustrated on the Floor Plan and the common room on the first floor shall have direct access to a landscaped area outside the Building as generally illustrated on the Site Plan.
- 6.6 A Guest Suite shall be designed and located as generally illustrated on the Floor Plan, and shall be constructed to Barrier Free standards. The guest suite shall not include a kitchen or kitchen appliances, such as a refrigerator, stove, hot plate or microwave oven.

PART 7: PARKING AND ACCESS

- 7.1 The Developer shall construct 53 parking spaces on the Property as generally illustrated on the Site Plan of which eight (8) spaces shall meet the requirements for barrier free parking under the Provincial Building Code. The parking area shall be surfaced with either concrete or asphalt and the limits of the parking spaces shall be clearly delineated. The entire edge of the parking area shall be defined by concrete curbing.
- 7.2 Notwithstanding Section 7.1, the number of barrier free parking spaces shall be equal to the number of barrier free units constructed within the Building but at no time shall the number of barrier free parking spaces be less than 8 spaces.
- 7.3 Notwithstanding Section 7.1, the Development Officer may direct the Developer to provide additional parking spaces on the Property, to a total of sixty-two (62) spaces on-site, if deemed by the Development Officer that the number of parking spaces provided under Section 7.1 is inadequate to meet the needs of the Project.
- 7.4 The Developer shall construct an access driveway on the Property as generally illustrated on the Site Plan. The driveway shall be surfaced with either concrete or asphalt and the limits of the driveway shall be defined by concrete curbing.
- 7.5 The Developer shall construct concrete wheelchair access ramps and walkways on the Property, to Barrier Free standards of the National Building Code, as generally illustrated on the Site Plan. All walkways shall be a minimum of 20 feet from the Building.

PART 8: LANDSCAPING

- 8.1 The Developer shall complete all groundwork, planting, and landscaping on the Property as generally illustrated on the Landscaping Plan. The Developer may be permitted to utilize comparable variations in plant species upon written approval from a Landscape Architect on compatibility and no change in plant type such as tree to shrub and a variation in landscape materials, except for the retaining wall, with prior written approval of the Development Officer.
- 8.2 The Developer shall remove all existing fencing on the Property and erect new fencing as generally illustrated on the Site Plan. The new fencing shall be constructed of pressure treated wood and galvanized steel to a minimum height of eight (8) feet as generally illustrated on the Landscaping Plan.
- 8.3 Any landscaping and/or plant materials associated with the Project that are situated within the street right-of-way shall be established and maintained by the Developer.

- 8.4 The Developer shall construct gabion retaining walls on the Property as generally illustrated on the Landscaping Plan and such walls shall be landscaped in order to reduce the visual impact of the walls on adjacent properties as generally illustrated on the Landscaping Plan. On any portion of a retaining wall that exceeds a height of 3 feet above finished grade, the Developer shall install a safety barrier of at least 4 feet in height on the top of the wall, unless such wall is fenced as stipulated in Section 8.2 of this Agreement.
- 8.5 Prior to any excavation work or the placement of fill material on the land, the Developer shall submit a "Site Drainage Plan" indicating proposed finished grades on the Property, and the impact on the surface drainage of abutting properties. The drainage plan must be approved by the Engineer prior to the issuance of a development permit for the Project. All work and costs associated with any on-site or off-site stormwater drainage system associated with the Project shall be the responsibility of the Developer.
- 8.6 Prior to the issuance of a development permit for this Project, the Developer shall submit an "Erosion and Sediment Control Plan" that indicates all excavation work, a site disturbance boundary and the means by which sediment would be controlled on the Property. The Development Officer shall require the Developer to post security in the amount of 120 per cent of the estimated cost of the work required under the Erosion Plan in the form of a certified cheque or letter of credit issued by a chartered bank to ensure that the protection measures are properly implemented and maintained.

PART 9: LIGHTING AND SIGNAGE

- 9.1 The Developer shall mount and maintain exterior lighting on the Building and Property to illuminate all driveways, parking areas, walkways, ramps, and building entrances as generally illustrated by the Site Plan.
- 9.2 Notwithstanding Section 9.1, the Developer shall not illuminate any area outside the Building unless such illumination is directed away from adjoining properties and any adjacent streets.
- 9.3 The Developer shall erect a ground signage, at least fifteen feet from the front property line, on the Property as generally illustrated on the Site Plan.
- 9.4 The ground sign advertising the Building shall be designed and constructed as generally illustrated on the Elevation Plan.

PART 10: SERVICES

- 10.1 The Developer shall design and install all on-site and off-site engineering systems, including, but not limited to, water supply, sanitary sewer, stormwater sewer and utilities. No development permit shall be issued until the design of all engineering systems has received approval in writing from the Engineer and any other applicable authorities. The Developer shall connect the sanitary sewer line from the Building to the existing sanitary sewer line on Raymond Street at the corner of Raymond Street and Lakecrest Drive, at the expense of the Developer.
- 10.2 Any disturbance to the existing infrastructure within the street rights-of-way, including, but not limited to, sidewalks, curbs, pavement and utilities shall be the responsibility of the Developer, and shall be re-instated, removed or relocated as directed and approved by the Engineer, at the expense of the Developer.
- 10.3 The Developer shall install and locate all secondary electrical, telephone, and cable television systems serving the Building or Property underground and no development permit shall be issued until the Developer has submitted to the Engineer copies of all necessary approvals from the applicable utilities.

PART 11: OPERATION AND MAINTENANCE

- 11.1 The Developer shall provide a covered waste disposal container for the Building on the Property in the area generally illustrated on the Site Plan and the container shall be screen with a six (6) foot high fence. All garbage and refuse collected in the container shall be removed from the Property by the Developer at least once a week.
- 11.2 The Developer shall at all times keep all walkways, ramps, entrances, parking areas, and driveway clear of snow and ice and shall salt and sand the surfaces of such areas as required for public safety and convenience.
- 11.3 The Developer shall maintain and keep in good repair all portions of the Project including, but not limited to, the interior and exterior of the Building, fencing, retaining walls, landscaping, walkways, ramps, parking areas and driveway.

PART 12: VARIANCES

- 12.1 The Development Officer may approve changes considered by the Development Officer to be minor in nature, to:
 - (a) the location of driveway, parking spaces, landscaped areas, ramps, fencing, retaining walls, walkways, Building, and lighting; and
 - (b) the interior layout of the Building without increasing the number of dwelling units or bedrooms as specified under Part 6 of this Agreement.

PART 13: AMENDMENTS

- 13.1 Subject to Section 13.2, no amendment of this Agreement of a substantial nature shall be made except in accordance with the applicable provisions of the Planning Act.
- 13.2 The provisions of this Agreement may, subject to Section 13.3, be amended pursuant to a resolution of Council with respect to the following matters which are hereby identified as and shall be deemed to be not substantial for the purposes of the Planning Act:
 - (a) the relocation of the driveway entrance to the Property provided that the relocation has been approved by the Engineer; and
 - (b) changes to the architectural design elements and type and/or colour of exterior materials of the Building.
- 13.3 Prior to passing any resolution under the provisions of Section 13.2, the Council shall send a notice in writing (by ordinary mail posted at least ten (10) days prior to the meeting of the Council to consider the resolution), at the expense of the Developer, according to the assessment records maintained by the Province of Nova Scotia, of all properties located within five hundred (500) feet of the Property, according to the records maintained by the Nova Scotia Department of Municipal Affairs, notifying such owners that they shall be permitted to present written or oral submissions to Council at the meeting to consider the resolution to amend this Agreement pursuant to Section 13.2.

PART 14: RIGHTS AND REMEDIES ON DEFAULT

- 14.1 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer fourteen (14) days written notice of the failure or default, then in each such case if the failure or default is not cured or a plan acceptable to the Municipality to cure the failure or default is not submitted by the Developer within such fourteen (14) day period:
- (a) the Developer shall pay to the Municipality forthwith after demand the sum of one hundred (\$100.00) dollars per day for each day such default continues as liquidated damages for the breach of this contract and not as a penalty and the Developer hereby acknowledges and agrees that such sum represents a genuine estimate of the damages which are expected to be sustained by the Municipality by reason of the breach of this Agreement by the Developer;
 - (b) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
 - (c) the Municipality may, after thirty (30) days' notice in writing, 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;
 - (d) with respect to any breach of this Agreement relating to the development of the Project and occurring before the issuance of an occupancy permit for the Building, the Municipality shall be entitled to terminate this Agreement effective thirty (30) days after notice in writing to the Developer and to any mortgagee under a mortgage of the Property the name and address for whom has been given to the Development Officer by the Developer in writing unless within such thirty (30) day period the failure or default giving rise to the notice of termination has been cured. Upon the termination of this Agreement, the Property may be used and developed only in accordance with the provisions of the Zoning By-law then in effect for the area in which the Property is located, as the same may be amended from time to time, and such Zoning By-law shall apply to all future development of such lands and shall be deemed to have applied as of and from the date of this Agreement and the Developer shall take or cause to be taken all actions as may be necessary so that all buildings and other structure located on the Property and all uses of the Property conform to the requirements of such Zoning By-law. Upon termination of this Agreement, any buildings or other structures located on the Property and any uses of the Property shall not be considered or deemed to be lawful uses by reason of this Agreement; and

The foregoing rights and remedies of the Municipality shall be cumulative not alternative and shall be in addition to any other rights or remedies available to the Municipality pursuant to this Agreement at law or in equity.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED)
in the presence of)

Original Signed)

SEAL, DELIVERED & ATTESTED)
to by the proper signing)
officers of Halifax Regional)
Municipality duly authorized)
in that behalf in the presence)
of)

Original Signed)

Original Signed)
LUNA DEVELOPMENTS LIMITED)

HALIFAX REGIONAL MUNICIPALITY

Original Signed)

Original Signed)

MUNICIPAL ENGINEER

PROVINCE OF NOVA SCOTIA
HALIFAX REGIONAL MUNICIPALITY

ON THIS 23rd day of May 1997 A.D., before me, the subscriber personally came and appeared [Signature] Original Signed [Signature], a subscribing witness to the foregoing Agreement, who having been by me duly sworn, made oath and said that the [Signature] Original Signed [Signature], one of the parties therein, signed, sealed and delivered the same in his/her presence.

[Signature] Original Signed [Signature]
A Commissioner of the Supreme
Court of Nova Scotia

PROVINCE OF NOVA SCOTIA
HALIFAX REGIONAL MUNICIPALITY

Vivian Bowen Original Signed
ON THIS 2nd day of July A.D., 1997, personally came and appeared before me the subscribing witness to the foregoing Indenture, who having been by me duly sworn made oath and said that the Halifax Regional Municipality, by its officer, Mayor Walter Fitzgerald and Vi Carmichael, Municipal Clerk, signed, sealed and delivered the same in his/her presence.

Original Signed [Signature]
A Commissioner of the Supreme
Court of Nova Scotia
SARAH S. ALLEN

ALL that piece, lot and parcel of land situate, lying and being on the Northern side of the Old Preston Road, in the County of Halifax and more particularly described as follows, that is to say:

BEGINNING at the Northeastly corner of property of one George Campbell;

THENCE running in a westerly direction along said Campbell's northern boundary a distance of sixty-five (65) feet more or less or until it comes to the northwestly corner of said Campbell's property;

THENCE Northwardly a direct line in continuation of the Westwardly line of said Campbell's property a distance of eighty-five (85) feet;

THENCE eastwardly in a line parallel with the line first herein described for a distance of forty-five (45) feet and from THENCE running in a line parallel with the line secondly herein described until it meets a line in direct continuation of said northern side line of said George Campbell's property and from THENCE to run westerly in a direct line to the place of beginning, together with the use of a right-of-way eight (8) feet in width running along the eastwardly side line of the lands herein described and extending to the Old Preston Road;

THE said piece and parcel of land being the same piece and parcel of land conveyed by Warranty Deed by Annie Muise to Theresa Ann DeBate on the 12th day of April, 1951, and recorded in the Office of the Registrar of Deeds, at Halifax, in the County of Halifax, in Book 1346, Page 132;



All and singular that certain lot, piece, parcel or block of land situated lying and being on the northern side of Lakecrest Drive, in the City of Dartmouth, County of Halifax, Province of Nova Scotia and being Block "WM-1X", as shown on a plan of survey, showing lot consolidation of Block "WM-1" and Parcel "X", to form Block "WM-1X", Lands of Lorio Diquinzio and Amédéo Ravina, dated the 22nd day of March A.D. 1985 and drawn by K. W. Robb and Associates Limited, Nova Scotia Land Surveyors. Approved by the City of Dartmouth and endorsed by the Development Officer of the City of Dartmouth on the 2nd day of April A.D. 1986 and which block may be more particularly described as follows:

Beginning at a survey marker set on the northern boundary of Lakecrest Drive and which survey marker forms the southeastern corner of Lands of Charles L. Carroll and Jean Carroll and is marked "A1" on said plan and is distant thirty-three feet (33') from the centre line of Lakecrest Drive and forms the most southwestern corner of the Block herein described.

Thence to run along a portion of the eastern side line of Lands of Charles L. Carroll and Jean Carroll and following an existing old fence on a bearing of north sixteen degrees twenty-one minutes seventeen seconds west (N16°-21'-17"W) for a distance of one hundred and thirty decimal six six feet (130.66') to a found iron pin and which iron pin is marked "B1" on said plan and forms the southwestern corner of Lands of Amy S. MacLeod.

Thence to run along the southern boundary line of Lands of Amy S. MacLeod and following the course of an old fence in part, on a bearing of north sixty-seven degrees zero five minutes thirty-two seconds east (N67°-05'-32"E) for a total distance of sixty-five decimal zero zero feet (65.00') to a survey marker and which survey marker is marked "C" on said plan and forms the southeastern corner of Lands of the said Amy S. MacLeod.

Thence to run along the eastern boundary line of Lands of Amy S. MacLeod on a bearing of north thirty degrees fifty-five minutes twenty-two seconds west (N30°-55'-22"W) for a distance of eighty-five decimal zero zero feet (85.00') to a survey marker and which survey marker is marked "C1" on said plan, and forms the northeastern corner of Lands of the aforesaid Amy S. MacLeod.

Thence to run along the northern or rear boundary line of Lands of Amy S. Lachland on a bearing of south sixty-seven degrees forty-one minutes forty seconds west ($267^{\circ}-41'-40''$) for a distance of forty-five decimal zero zero feet ($45.00'$) to a survey marker set on the eastern or rear boundary line of Lot "E1" of the John P. Kachenko Subdivision, being Lands of Kenneth F. Boutlier and Linda E. Boutlier and which survey marker is marked "E" on said plan.

Thence to run along a portion of the eastern or rear boundary line of Lot "E2" of the John P. Kachenko Subdivision, being Lands of Kenneth F. Boutlier and Linda E. Boutlier, and continuing along the eastern or rear boundary line of Lot "E3" of the John P. Kachenko Subdivision, being Lands of Roy M. McCormick and Mariah V. McCormick, the eastern or rear boundary line of Lot "E4" of the John P. Kachenko Subdivision, being Lands of Mary Mackinnon and the eastern or rear boundary line of Lot "E5" of the John P. Kachenko Subdivision, being Lands of Garnett Coshin on a bearing of north seventeen degrees thirty-nine minutes zero three seconds west ($817^{\circ}-39'-03''$) for a distance of three hundred and thirty-seven decimal six nine feet ($337.69'$) to a survey marker and which survey marker is on the southern or rear boundary line of Lot "E6" of the Raymond Sellers Subdivision, being Lands of Bruce G. Sponagle and is marked "F" on said plan, and which survey marker forms the most northwesterly corner of the block herein described.

Thence to run along a portion of the southern or rear boundary line of Lot "E8" of the Raymond Sellers Subdivision, being Lands of Bruce G. Sponagle and continuing along the southern or rear boundary line of Lot "E7" of the Raymond Sellers Subdivision, being Lands of Guy D. Harrison and Lucille Harrison on a bearing of north sixty-one degrees fifteen minutes fifty-one seconds east ($861^{\circ}-15'-51''$) for a distance of one hundred and forty-one decimal eight nine feet ($141.89'$) to a found survey marker set on the western boundary of Parcel "W", being Lands of Tenfold Bros. Company Limited and which survey marker is marked "G" on said plan and forms the most northeasterly corner of the block herein described.

Thence to run along a portion of the western boundary line of Parcel "W" being Lands of Tenfold Bros. Company Limited on bearings and distances of south eighteen degrees twelve minutes thirty seconds east ($818^{\circ}-12'-30''$) for a distance of four hundred and seventeen decimal six one feet ($417.61'$) to a found survey marker marked "H" on said plan and south fifteen degrees seventeen minutes zero zero seconds east ($815^{\circ}-17'-00''$) one hundred and seventy-nine decimal two seven feet ($179.27'$) to a found survey marker set on the northern boundary of Lakcrest Drive and which found survey marker is on the arc of a curve having a radius of three hundred and eighty-five decimal zero eight feet ($385.08'$) and is marked "I" on said plan.

Thence to the right following the arc of the said curve and continuing along the northern boundary of Lakcrest Drive for a distance of one hundred and nineteen decimal zero two feet ($119.02'$) to the place of beginning.

A Block of Land containing seventy-seven thousand two hundred and twelve decimal seven eight eights feet (77,212.78 sq. ft.).

All bearings are M. T. M. GRID and are referenced to Nova Scotia Control Monument Numbers 3251, 3252 and 3270.

The above described Block of Land however, is subject to a private right-of-way twelve feet wide (12') and which right-of-way passes over the above described land and is reserved unto the owner or owners of Lands of Amy S. MacLeod and is reserved for the purpose of passing and re-passing, by day or by night and at all times and by foot or by vehicle and which right-of-way is reserved unto Amy S. MacLeod, her heirs and assigns and is more particularly shown on the above said plan and described as follows:

Beginning at a survey marker set on the northern boundary of Lakecrest Drive and which survey marker is on the arc of a curve having a radius of three hundred and eighty-five decimal zero eight feet (385.08') and is distant thirty-three feet (33') from the centre line of Lakecrest Drive and is marked "A" on said plan.

Thence crossing over Block "WM-LX" and running on a bearing of north twenty-two degrees twenty-four minutes thirty-seconds West (N22°-24'-30"W") for a distance of one hundred and forty-seven decimal zero zero feet (147.00') to a survey marker and which survey marker is marked "B" on said plan and is on the southern boundary of Lands of Amy S. MacLeod.

Thence to run along a portion of the southern boundary line of Lands of Amy S. MacLeod on a bearing of north sixty-seven degrees zero five minutes thirty-two seconds east (N67°-05'-32"E") for a distance of twelve decimal zero zero feet (12.00') to a survey marker.

Thence crossing over Block "WM-LX" and running on a bearing of south twenty-two degrees twenty-four minutes thirty seconds east (S22°-24'-30"E") for a distance of one hundred and forty-five decimal eight two feet (145.82') to a curve, marker set on the northern boundary of Lakecrest Drive and which survey marker is on the arc of a curve having a radius of three hundred and eighty-five decimal zero eight feet (385.08') and is distant thirty-three feet (33') from the centre line of Lakecrest Drive.

Thence to the right following a portion of the arc of the said curve and running along the northern boundary of Lakecrest Drive for a distance of twelve decimal three zero feet (12.30') to the place of beginning.

The above described Lands are or are intended to be for those lands described in a deed from Wilfred Mulet to Loris Diquinzio and Amedeo Ravina. Recorded at the Registry of Deeds Office, Halifax in BOOK 3921, PAGE 1.

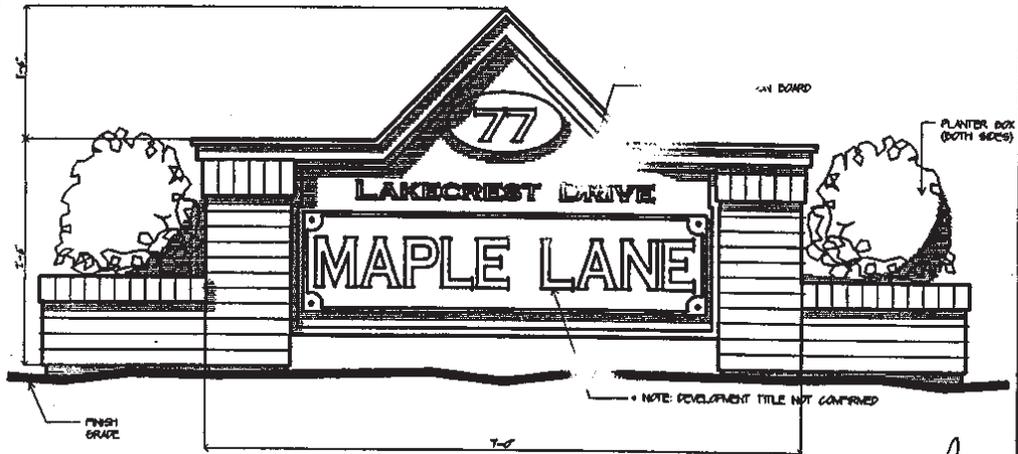
AND ALSO for those lands described in a deed from Béatin Nadi Halkfogto to Loris Diquinzio and Amedeo Ravina. Recorded at the Registry of Deeds Office, Halifax in BOOK 3941, PAGE 11.

786



SECTION @ PEAK

SECTION @ SUPPORT

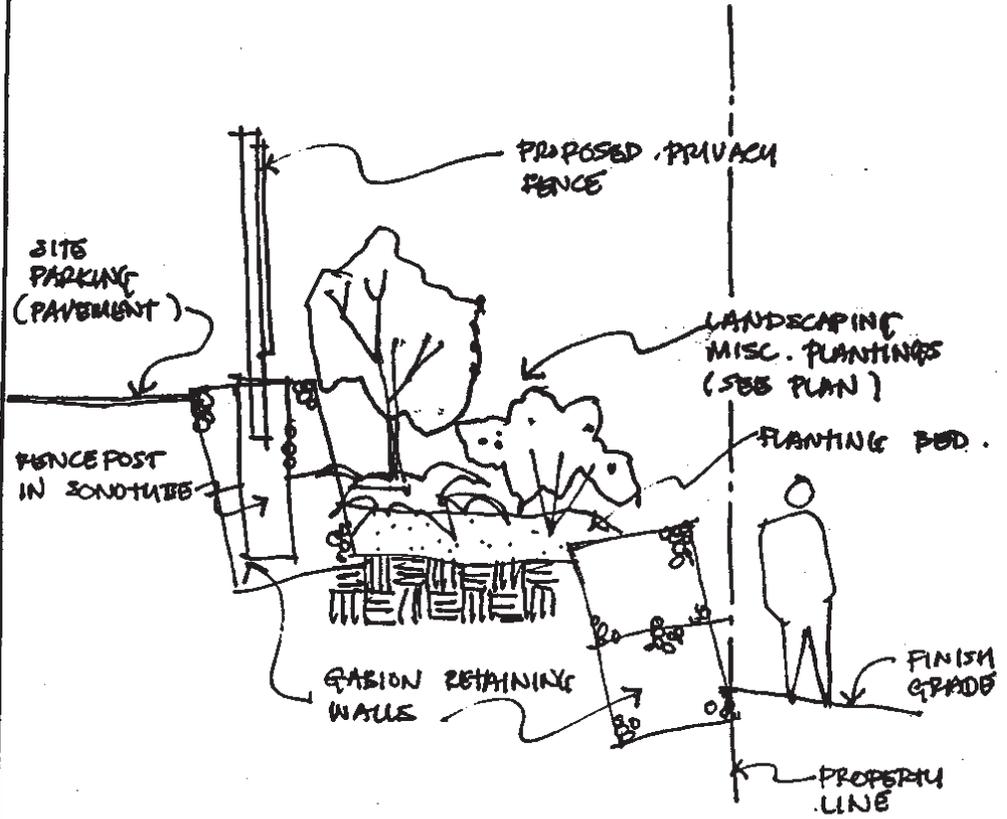


SIGN ELEVATION

Original Signed

Schedule "C"
Elevation Plan (continued)

Scale N.T.S.	Date 96-08-14	Designed STAFF	Drawn CER	Checked PC	Approved PC	Contract 94211B
 Connor Architects and Planners		77 LAKECREST DRIVE PROPOSED SENIORS DEVELOPMENT EXTERIOR SIGNAGE				DWG No. SK-4



Scale AS NOTED	Date 97-01-27	Designed STAFF	Drawn CER	Checked PC	Approved PC	Contract 94211B
-------------------	------------------	-------------------	--------------	---------------	----------------	--------------------

CAP
Connor Architects
and Planners

77 LAKECREST DRIVE
PROPOSED SENIORS DEVELOPMENT
SECTION AT GABION WALL

DWG No.
SK-7