



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 13.1.1
Harbour East-Marine Drive Community Council
August 2, 2018

TO: Chair and Members of Harbour East-Marine Drive Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Director, Planning and Development

Original Signed

Dave Reage, Acting Chief Administrative Officer

DATE: June 11, 2018

SUBJECT: **Case 21727: Non-substantive amendments to an existing development agreement on lands at 72-74 Primrose Street, Dartmouth.**

ORIGIN

Application by Innovation Architects Ltd. On behalf of Ameya Properties Ltd.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council:

1. Approve, by resolution, the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report, to extend the development commencement date for the proposed development at 72-74 Primrose Street, Dartmouth; and
2. Require the amending development agreement be signed by the property owners within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Innovation Architects Ltd, on behalf of Ameya Properties Ltd. is applying for a non-substantive amendment to an existing development agreement to allow for a time extension to the development commencement date for a proposed residential/commercial development at 72-74 Primrose Street, Dartmouth.

| | |
|---|---|
| Subject Site | 72-74 Primrose Street (PIDs 00036160 and 00036178) |
| Location | East side of Primrose Street, north of Pinecrest Drive, Dartmouth |
| Regional Plan Designation | Urban Settlement (US) |
| Community Plan Designation (Map 1) | Residential Designation, and located within the Pinecrest-Highfield Park Secondary Plan of the Dartmouth Municipal Planning Strategy |
| Zoning (Map 2) | R-3 (Multiple Family Residential- Medium Density) Zone under the Dartmouth Land Use Bylaw |
| Size of Site | Approximately 4,050 square metres (43,600 square feet) |
| Street Frontage | Approximately 61 meters (200 feet) |
| Current Land Use(s) | Vacant |
| Surrounding Use(s) | 3-4 storey apartment buildings along both sides of Primrose Street, single family bungalow style homes along Pinecrest to the south, and a mix of single family and residential apartment buildings along Jackson Road to the east. |

Proposal Details

On March 7, 2013, Harbour East-Marine Drive Community Council approved a development agreement to allow for the development of a four-storey, 43-unit residential building to be located at 72-74 Primrose Street, Dartmouth.

The agreement allows for a four-storey apartment building with a maximum of 43, one-bedroom units. Section 7.3.1 of the agreement stipulates that the development must commence within five (5) years from the date of registration, thereby establishing a commencement date of July 9, 2018. Section 7.5 of the agreement stipulates that if the developer fails to complete the development after 7 years from the date of registration of the agreement, Council may retain the agreement, negotiate a new agreement, or discharge the agreement.

The applicant proposes to amend the existing development agreement to allow for a time extension to the construction commencement date for the project. The request is to extend the commencement date by three (3) years resulting in a commencement date in 2021, or eight (8) years from the date of registration of the existing agreement. The applicant is applying for this time extension on behalf of the owner due to an unexpected financial situation that has been recently resolved, as well as for the owner to have time to work with Housing Nova Scotia to provide affordable units, and to have detailed engineering plans completed.

Enabling Policy and LUB Context

Policies IP-5 and IP-1(c) of the Dartmouth MPS, and Section 18B of the Dartmouth LUB allows for the development of apartment buildings through development agreement. This is the policy framework under which the agreement was considered and approved, and which continues to apply to the request for an amendment to the existing agreement.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through providing information through the HRM website and signage posted on the subject site. A public information meeting

and public hearing are not required for a non-substantive amendment to a development agreement. The decision on the amendments is made by resolution of Council.

DISCUSSION

The proposed change relates to the development commencement date stipulated in the existing development agreement, however the development itself will be unchanged. This extension can be permitted as a non-substantive amendment pursuant to section 6.1(c) of the development agreement. It is recommended that the date for development commencement be extended as outlined in the proposed amending development agreement (Attachment A).

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. Therefore, staff recommend that the Harbour East-Marine Drive Community Council approve the proposed amending development agreement.

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 development agreement. The administration of the proposed development 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 existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amending development 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 to approve the proposed amending agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or a public hearing. A decision of Council to approve this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Harbour East-Marine Drive Community Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1: Generalized Future Land Use
Map 2: Zoning

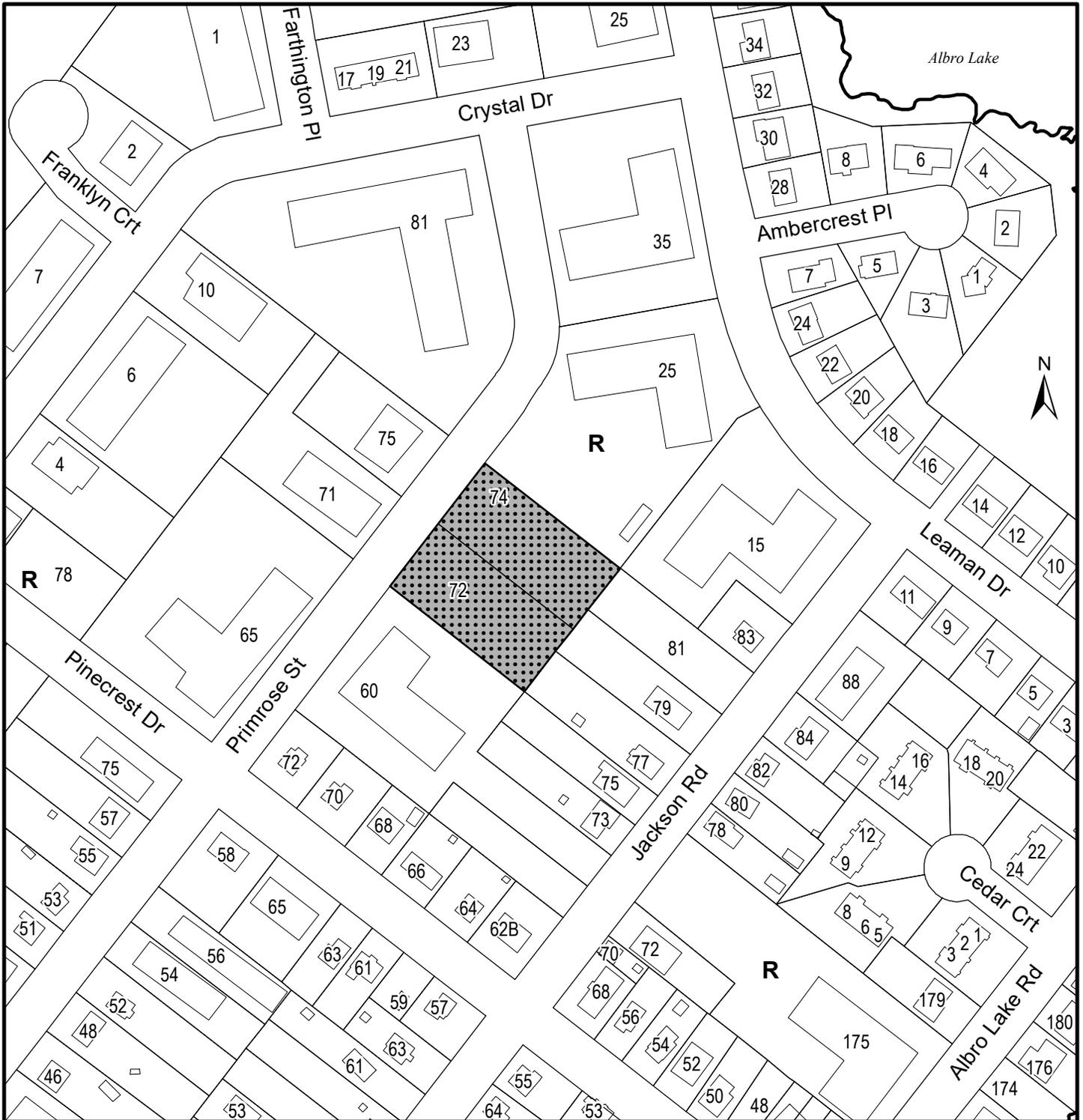
Attachment A: Proposed Amending Development Agreement

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: Brittney MacLean, Planner II, Current Planning, 902.490.7175

Report Approved by: Original Signed

Carl Purvis, Acting Manager of Current Planning, 902.490.4797



Map 1 - Generalized Future Land Use

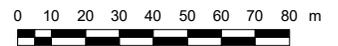
72-74 Primrose Street,
Dartmouth

HALIFAX

 Area of Existing Development Agreement

Designation

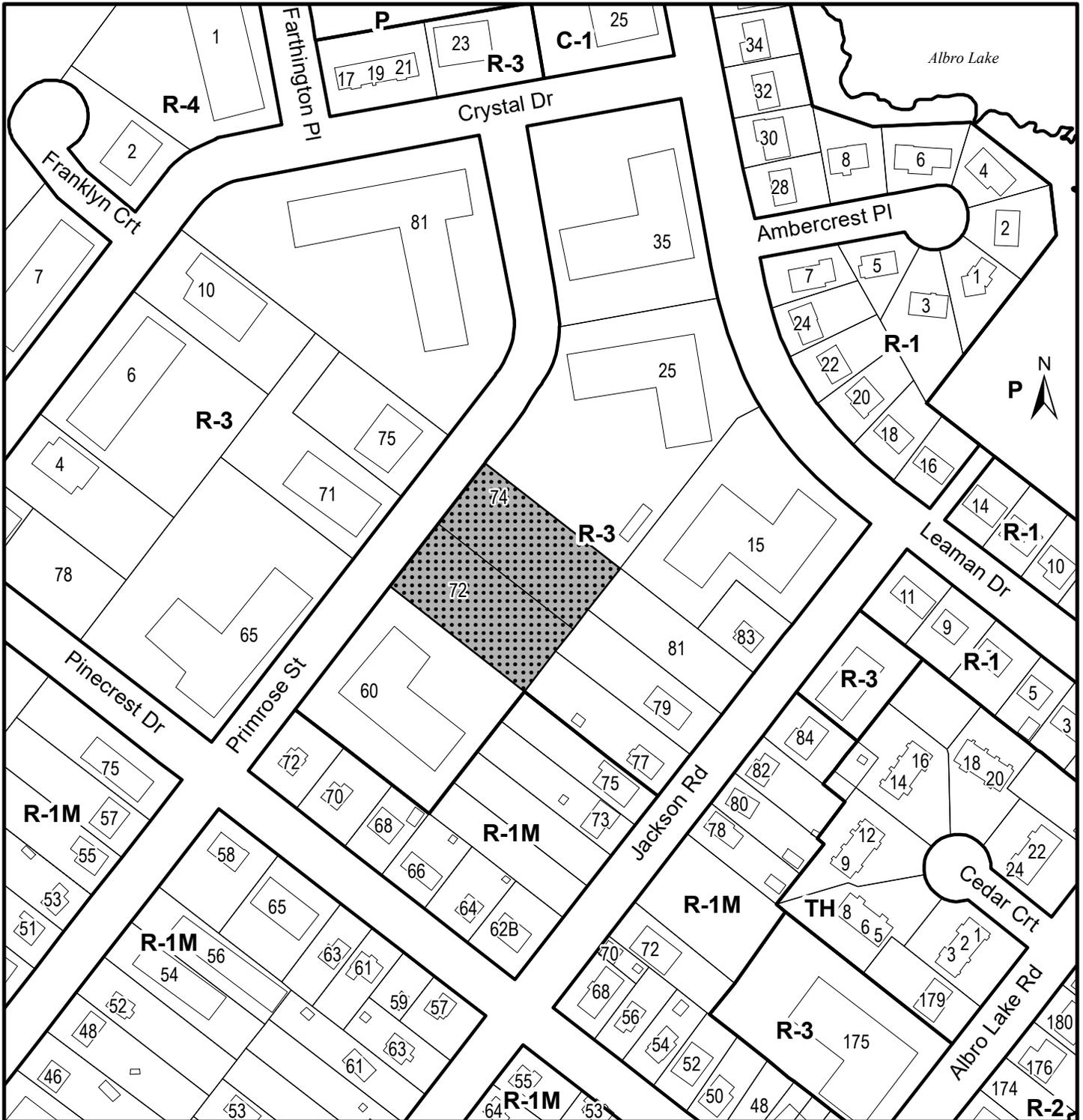
R Residential



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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

Dartmouth Plan Area



Map 2 - Zoning

72-74 Primrose Street,
Dartmouth

HALIFAX

 Area of Existing Development Agreement

Zone

- R-1 Single Family Residential
- R-1M Single Family (Modified) Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- R-4 Multiple Family Residential (High Density)
- C-1 Local 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 Plan Area

Attachment A
Proposed Amending Development Agreement

THIS FIRST AMENDING DEVELOPMENT AGREEMENT made this day of **[Insert Month]**, 20___,

BETWEEN:

AMEYA PROPERTIES LIMITED

A body corporate, in the Halifax Regional Municipality 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 on 72-74 Primrose Street, Dartmouth, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East-Marine Drive Community Council of the Halifax Regional Municipality approved an application to enter into a development agreement to allow for a 4 storey, 43 unit residential building on the Lands on March 7, 2013 (Municipal Case 17762), which said Agreement was registered at the Land Registration Office on July 9, 2013 as Document Number 103382470 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer wishes to amend the Existing Agreement to allow for a three (3) year extension to the date of construction commencement of development pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Part 6 of the Existing Agreement;

AND WHEREAS the Harbour East-Marine Drive Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number **21727**;

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

1. Except where specifically varied by this First Amending Development Agreement, all other terms, conditions and provisions of the Existing Agreement shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this First Amending Development Agreement, and the Existing Agreement.
3. Section 7.3.1 of the Existing Agreement shall be amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in bold as follows:

7.3.1 In the event that development on the Lands has not commenced within ~~5~~ **3** years from the date of registration of this **First Amending Development** Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the 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.

4. Section 7.5 of the Existing Agreement shall be amended by deleting the text shown in strikeout and inserting the text shown in bold as follows:

7.5 *Discharge of Agreement*
If the Developer fails to complete the development after ~~7~~ **5** years from the date of registration of this **First Amending Development** Agreement at the Registry of Deeds or Land Registration Office 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; or
(c) discharge this Agreement.

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

AMEYA PROPERTIES LIMITED

Witness

Per: _____

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

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Kevin Arjoon, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia