



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

**Item No. 13.1.1**  
**Harbour East-Marine Drive Community Council**  
**January 10, 2019**

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

Original Signed

**SUBMITTED BY:**

---

Kelly Denty, Director, Planning and Development

Original Signed

---

Jacques Dubé, Chief Administrative Officer

**DATE:** December 2, 2018

**SUBJECT:** **Case 22035: Non-substantive amendments to an existing development agreement on lands at 8 Linden Lea, Dartmouth.**

---

**ORIGIN**

Application by Denmar Real Estate 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 8 Linden Lea, 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**

Denmar Real Estate Ltd. has applied for a non-substantive amendment to an existing development agreement to allow for a time extension to the development commencement and completion dates for a proposed residential development at 8 Linden Lea, Dartmouth.

<b>Subject Site</b>	8 Linden Lea, Dartmouth
<b>Location</b>	East side of Linden Lea (Map 1)
<b>Regional Plan Designation</b>	Urban Settlement (US) within Regional Centre, under the Regional MPS
<b>Community Plan Designation (Map 1)</b>	Downtown Neighbourhood in the Downtown Dartmouth Secondary Planning Strategy (SPS)
<b>Zoning (Map 2)</b>	DN (Downtown Neighbourhood) in the Downtown Dartmouth Land Use By-law (LUB)
<b>Size of Site</b>	4,707 square metres (1.16 acres)
<b>Street Frontage</b>	45.04 metres (147 feet) along Linden Lea
<b>Current Land Use(s)</b>	Existing three storey multiple unit dwelling and associated parking
<b>Surrounding Use(s)</b>	The surrounding area is comprised mainly of residential uses. Surrounding land uses include: <ul style="list-style-type: none"><li>• South – several single unit dwellings, a semi-detached dwelling, low rise apartment buildings bounded by Pleasant Street;</li><li>• West – on the opposite side of Linden Lea, a small park, 2 semi-detached dwellings and low rise apartment building;</li><li>• North - single unit and semi-detached residential uses beside the subject site and rear yards of single unit dwellings facing Portland Street; and</li><li>• East - low rise apartments, and single unit dwellings bound by Old Ferry Road.</li></ul>

### **Proposal Details**

On August 9, 2016 Harbour East-Marine Drive Community Council approved a development agreement to allow a residential development at 8 Linden Lea, Dartmouth. The agreement allows a 4-storey residential building that features 41 residential units and underground parking spaces. Section 7.3 of the agreement stipulates that the development must commence within two (2) years from the date of registration, establishing a commencement date of January 27, 2019.

The applicant has requested to amend the existing development agreement to extend the construction commencement date by two (2) years resulting in a commencement date in 2021, or four (4) years from the date of registration of the existing agreement.

Staff also note that Section 7.4 of the agreement stipulates the development must be completed by five (5) years from the time of registration of the existing development agreement which establishes a completion date of August 9, 2021. Staff advise the completion date also be amended to extend the completion date to three (3) years from the date of registration of the amending agreement.

### **Enabling Policy and LUB Context**

The Downtown Neighbourhood designation is intended to recognize and protect the character of residential neighbourhoods surrounding the downtown business district. Low density housing types such as one and two unit dwellings, small scale townhouses and a limited conversion of existing dwellings are encouraged throughout the neighbourhoods. Policy N-5 enables proposals for medium density townhouses and low rise apartments to be considered by development agreement on properties that are identified in the Dartmouth SPS and LUB as Opportunity Sites.

## **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 non-substantive amendments to an existing development agreement. The decision on the amendments is made by resolution of Council.

## **DISCUSSION**

The requested changes relate only to the development commencement and completion dates; the nature of the development as defined in the existing agreement will be unchanged. These extensions may be permitted as non-substantive amendments pursuant to sections 6.1(c) and 6.1(d) of the existing development agreement.

Staff have reviewed the request in terms of all relevant policy criteria and advise those policies are unchanged from the time of original approval and the proposal remains 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 to extend the commencement date by two (2) years and the completion date to three (3) years from the date of registration of the amending development agreement as outlined in the proposed amending development agreement (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 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 development 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 development 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

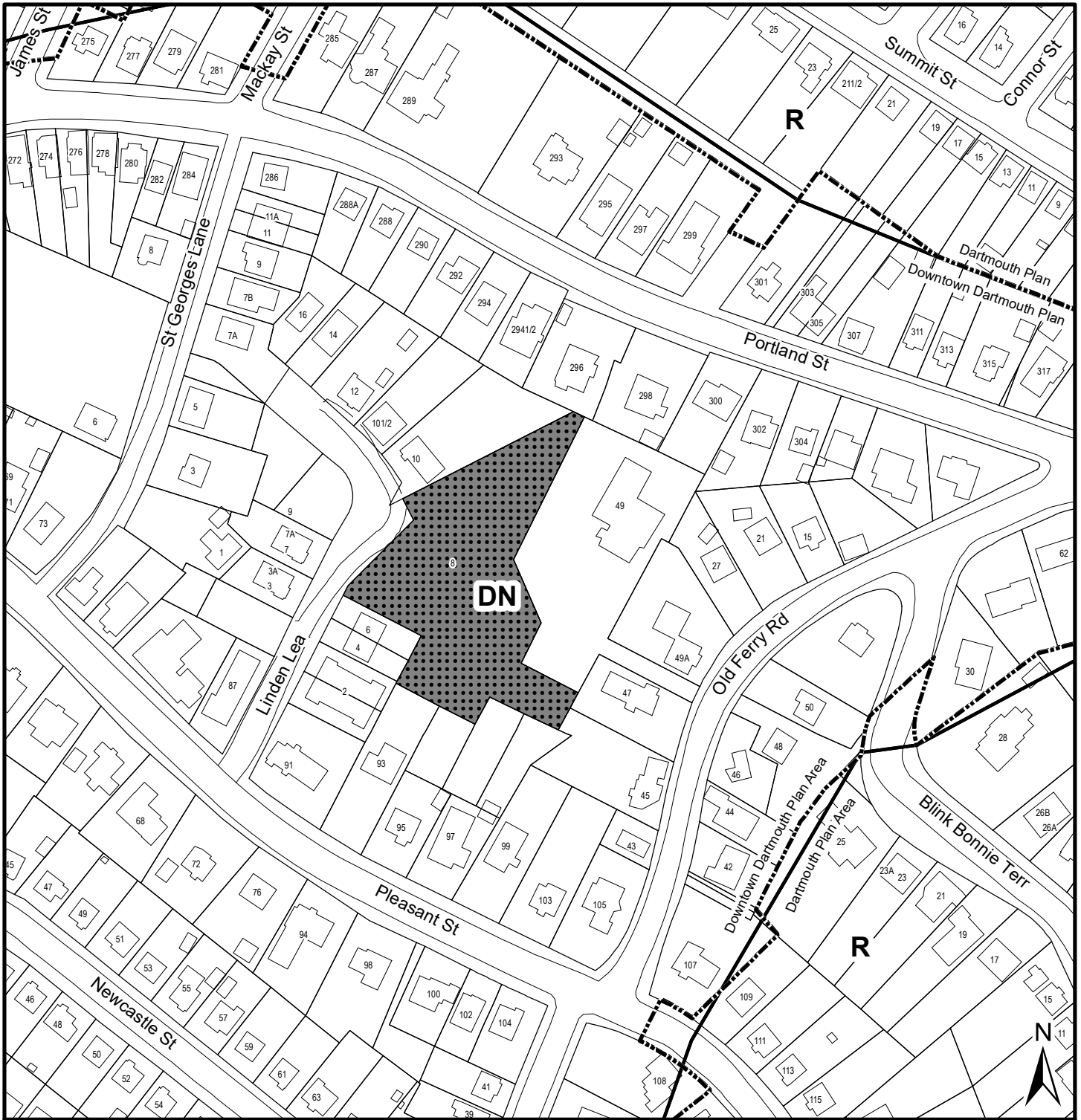
---

A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Darrell Joudrey, Planner II, Current Planning, 902.490.4181

Original Signed



Report Approved by: Steven Higgins, Manager Current Planning, 902.490.4382



**Map 1 - Generalized Future Land Use**

**HALIFAX**

8 Linden Lea,  
Dartmouth

-  Subject Property
-  Plan Area Boundary

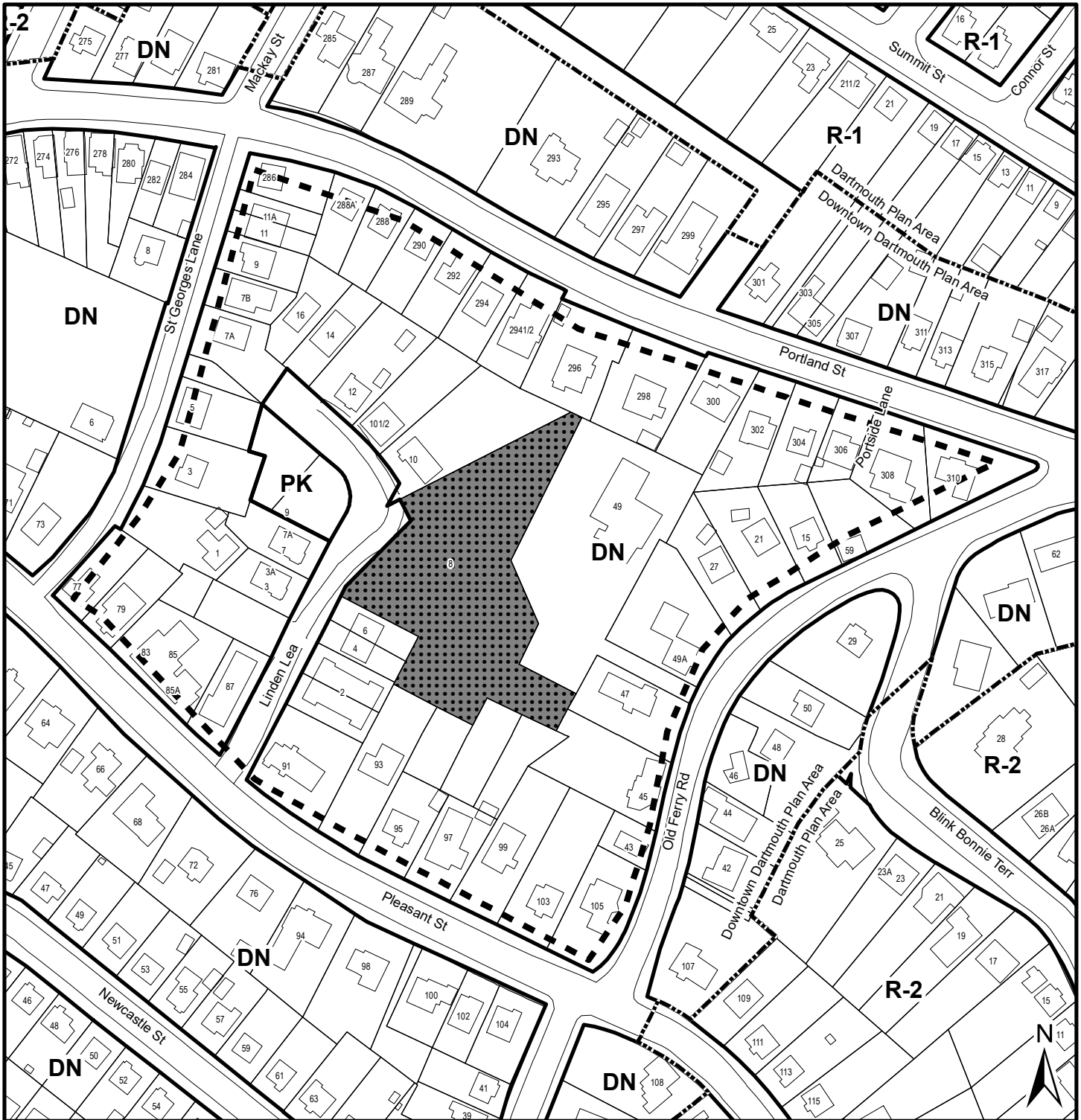
**Designation**

- Downtown Dartmouth Plan Area
- Dartmouth Plan Area
- DN Downtown Neighbourhood
- 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.



## Map 2 - Zoning and Notification

**HALIFAX**

8 Linden Lea,  
Dartmouth

-  Subject Property
-  Area of Notification
-  Plan Area Boundary

### Zone

- |  |   |
|--|---|
| <p>Downtown Dartmouth<br/>By-Law Area</p> <p>Dartmouth<br/>By-Law Area</p> | <p>DN Downtown Neighbourhood</p> <p>PK Park and Open Space</p> <p>R-1 Single Family Residential</p> <p>R-2 Two Family Residential</p> |
|--|---|



Downtown Dartmouth  
Land Use By-Law Area

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.

**Attachment A**  
**Proposed Amending Development Agreement**

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

BETWEEN:

**DENMAR REAL ESTATE LTD.**

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 at 8 Linden Lea in 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 residential development on the Lands on October 6, 2016 (Municipal Case 19258), which said Agreement was registered at the Land Registration Office on January 27, 2017 as Document Number 110257483 (hereinafter called the "Original Agreement");

**AND WHEREAS** the Developer has requested to amend the Existing Agreement to allow for a two (2) year extension to the Commencement of Development dates for development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Part 6.1 of the Original 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 22035;

**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 Original 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 Original Agreement.
3. Subsection 7.3.1 of the Existing Agreement shall be amended by deleting the text shown in strike out, and inserting the text shown in bold as follows:

7.3.1 In the event that development on the Lands has not commenced within two (2) years from the date of registration of ~~this~~ **the 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. Subsection 7.4.1 of the Existing Agreement shall be amended by deleting the text shown in strikeout, and inserting the text shown in bold as follows:

7.4.1 If the Developer fails to complete the development after ~~five (5)~~ **three (3)** years from the date of the registration of ~~this~~ **the 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 this 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:

**DENMAR REAL ESTATE LTD.**

\_\_\_\_\_  
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