



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

Item No. 13.1.1
North West Community Council
March 11, 2019

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Director of Planning and Development

Original Signed

Jacques Dubé, Chief Administrative Officer

DATE: January 7, 2019

SUBJECT: **Case # 21812: Municipal Planning Strategy Amendment to Enable Non-Substantive Amendments to the Existing Development Agreement for St. Margarets Square, Upper Tantallon.**

ORIGIN

- July 23, 2012, Development Agreement for commercial buildings approved by Western Regional Community Council.(Case 16770).
- Application by WSP Canada Inc. (WSP), on behalf of PRO Real Estate Investment Trust (PRO REIT) for non-substantive amendments to Original Development Agreement.
- September 11, 2018, Regional Council initiation of the MPS amendment process.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Planning Districts 1 & 3 (St. Margarets Bay) as set out in Attachments A and B of this report, to enable non-substantive amendments to the existing Development Agreement for St. Margarets Square, Upper Tantallon and to include Map 3 - East River in the MPS as a housekeeping amendment; and hold a Public Hearing.
2. Adopt the proposed amendments to the MPS and LUB for Planning Districts 1 & 3, as set out in Attachments A and B of this report.

Contingent upon the amendment to the Planning Districts 1 & 3 (St. Margarets Bay) Municipal Planning Strategy being approved by Regional Council and becoming effective pursuant to the requirements of the *Halifax Regional Municipality Charter*, it is further recommended that North West Community Council:

3. Approve, by resolution, the proposed amending development agreement to allow non-substantive amendments, which shall be substantially of the same form as contained in Attachment C of this report.
4. Require the amending development 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 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

WSP Canada Inc. (WSP), on behalf of PRO Real Estate Investment Trust (PRO REIT), has requested approval of non-substantive amendments to the existing development agreement at St. Margarets Square in Upper Tantallon. The original agreement was approved in 2012 and since that time new planning policies have been adopted creating the Tantallon Crossroads Coastal Village Designation (Map 1). These new policies are applicable to the subject property and require compliance with criteria set out in the MPS when considering amendments to existing development agreements. The amendments proposed in this application do not comply with the newly adopted criteria set out in Policy CV-7. Therefore, modifications to the Planning Districts 1 & 3 (St. Margarets Bay) Municipal Planning Strategy (MPS) are required to allow consideration of the proposed amendments.

Subject Site	St. Margarets Square (PID 41410010)
Location	South-east of the St. Margarets Bay Road / Hammonds Plains Road Intersection
Regional Plan Designation	Rural Commuter
Community Plan Designation (Map 1)	Tantallon Crossroads Coastal Village Designation
Zoning (Map 2)	VC (Village Centre) Zone
Size of Site	5.06 hectares (12.5 acres)
Street Frontage	259.1m (850.06ft)
Current Land Use(s)	Three multi-tenant commercial buildings. Phase C site is currently undeveloped.
Surrounding Use(s)	The surrounding area comprises residential uses, commercial uses, and undeveloped lots: <ul style="list-style-type: none"> • North: St. Margarets Bay Trail & residential uses (VG & VR Zone); • East: Undeveloped lot & Emergency Health Services building (VC Zone); • South: Undeveloped NS Department of Natural Resources lot (VC Zone); and West: Multi-tenant (i.e., Canadian Tire & Mark's) commercial building (VC Zone).

Existing Development Agreement and MPS Context

In 2012, the subject site was located in the Mixed Use B Designation under the Planning Districts 1 & 3 (St. Margarets Bay) MPS. MPS Policy MU-16(A) enabled Council to consider new commercial developments or expansions resulting in a gross floor area in excess of 697 square metres (7,500 square feet) by

development agreement. On July 23, 2012 the former Western Regional Community Council approved a development agreement (St. Margarets Square) in accordance with policies MU-16(A) and IM-9 for Mixed Use B Designation.

The development agreement allows:

- a five-building commercial development of which three buildings have been constructed, while Phase C and D remain undeveloped;
- Phase C is a two-storey commercial building with a maximum gross floor area of 3159 square metres (34,000sq.ft.) and a maximum building footprint of 1579 square metres (17,000 sq.ft.);
- Phase D is a one-storey commercial building with a maximum gross floor area of 697 square metres (7,500sq.ft.); and
- Section 6.1 of the approved development agreement lists eight non-substantive amendments which include minor changes to the expansion of buildings not exceeding ten percent of gross floor area, exterior architecture of buildings, landscaping, signage, and time extensions to the commencement and completion of the development.

After the approval of the existing development agreement, the MPS was amended and the Tantallon Crossroads Coastal Village Designation (Map 1) was applied to the subject site in 2014. Policy CV-7 enables Council to consider amendments to existing development agreements within this designation, if key criteria are met. Under these circumstances, both substantive and non-substantive amendments must comply with the existing development agreement and the newly adopted MPS policy. The new MPS policy requires compliance with the Village Centre Zone including limitations on building footprint size (6000 sq. ft.) and a prohibition on parking between the building and the street. The current proposal does not comply with these requirements in that it includes front yard parking and an increase in building footprint from 17,000 to 18,700 sq. ft.

Proposal Details

Pursuant to Section 6.1 of the existing development agreement, the applicant wishes to undertake non-substantive amendments to the existing development agreement (Attachment C). Specifically, the applicant proposes to change the Phase C building as follows:

- Increase the building footprint from 1579 square metres (17,000 sq.ft) to 1737 square metres (18,700 sq.ft);
- Reduce the gross floor area from 3159 square metres (34,000 sq.ft) to 1842 square metres (19,825 sq.ft);
- Replace the second storey with a mezzanine, and reduce the building height from 2 to 1.5 storeys and as a result alter the building's exterior architectural appearance;
- Landscaping modifications to Phase C and D including temporary parking spaces;
- Revised location of facial wall signage from second storey to first;
- A new double-tenant pylon sign to replace the existing Tim Horton's pylon sign; and
- A new single-tenant pylon sign near the east driveway.

In order to carry out the desired changes, the applicant proposes to amend the MPS to allow the non-substantive amendments as listed in Section 6.1 of the existing development agreement to be considered in accordance with the policies that existed at the time the original agreement was approved.

Approval Process

The approval process for this application involves two steps:

- a) First, Regional Council must consider and, if deemed appropriate, approve proposed amendments to the MPS and LUB; and

- b) Secondly, North West Community Council must consider and, if deemed appropriate, approve, by resolution, the proposed non-substantive amendments to the existing development agreement once the MPS amendment is in effect.

In the event Regional Council approves the MPS and LUB amendments, North West Community Council may only make a decision on the proposed non-substantive amendments following the amendment to the MPS coming into effect. A decision on the proposed MPS amendment is not appealable to the Nova Scotia Utility and Review Board (Board). However, the subsequent decision on the proposed amending agreement for the non-substantive amendments is appealable to the Board.

COMMUNITY ENGAGEMENT

The community engagement process for the original development agreement was consistent with the intent of the HRM Community Engagement Strategy, the HRM Charter, and the Public Participation Program approved by Council on February 25, 1997. However as indicated in the MPS amendment initiation report, given the minimal impact and localized nature of this request, the level of community engagement included information on the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area (Map 2), and consultation with the North West Planning Advisory Committee (NWPAC).

As a result, staff received one public comment pertaining to the scope of the proposal and a recommendation from the October 3, 2018 presentation of the proposal to North West Planning Advisory Committee. Their recommendation is outlined below in the Discussion section of this report.

The proposal will potentially impact the following stakeholders: residents, property owners, community or neighbourhood organizations, nearby business owners, and other HRM business units.

DISCUSSION

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in Municipality. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. In this case, staff advise that there is merit in considering the proposed MPS amendment for the subject site to enable the non-substantive amendments to be grandfathered under previous policy provisions. The following paragraphs review the rationale and content of the proposed MPS amendment, as well as the associated non-substantive amendments to the existing development agreement.

Proposed MPS Amendments

Staff considered the existing and previous MPS policy context while drafting the proposed MPS amendment (Attachments A). A summary of the proposed amendment is as follows:

- To distinguish between substantive and non-substantive amendments for the subject site by introducing a site-specific policy under the existing Policy CV-7; and
- Allow non-substantive amendments to the subject site to be considered under the previous Policy MU 16(A).

A detailed discussion and rationale of this site-specific policy is as follows:

Non-Substantive Amendments

The existing policy CV-7 permits new commercial buildings within the Village Centre Sub-designation through development agreement or through amendments to existing development agreements. The policy does not, however, distinguish between substantial or non-substantial amendments. Currently the policy requires any type of amendment to an existing development agreement to address a number of

considerations. These include issues such as front yard setbacks, building foot prints and heights, facades and entry doors relative to parking and the street, connected walkways, and the location of parking lots. The amendment, whether originally negotiated as substantive or non-substantive must comply with the same policies, regulations and public participation process.

It is generally understood by staff and Council that non-substantive amendments in an agreement provide the property owner and staff moderate flexibility to respond to future market demand, unforeseen conditions or future changes in regulations without requiring further public engagement and a full Council approval process. Non-substantive amendments typically have negligible impact on the overall design and intent of the agreement. For this reason, they generally only require staff review and resolution of Council.

Staff considers this proposed MPS amendment to be a reasonable request noting a similar approach has already been implemented in other plan areas (i.e. Halifax MPS, Policy 2A.10). The proposed site-specific policy will distinguish between substantive and non-substantive amendments and provide reasonable flexibility to allow the final two phases of the previously approved development to be completed in a manner consistent with the original approved plan.

Proposed Non-Substantive Amendments

Attachment C contains the proposed amending agreement for the subject site. The proposed agreement addresses the following matters:

- Increase the building footprint from 1579 square metres (17,000 sq.ft.) to 1737sq.m. (18,700 sq. ft) as permitted in Section 3.4 of the original agreement;
- Reduce the gross floor area from 3159 square metres (34,000 sq. ft) to 1842 sq.m. (19,825 sq.ft);
- Replace the second storey with a mezzanine, and reduce the building height from 2 to 1.5 storeys;
- Replacing the existing single tenant pylon sign with double tenant pylon ground sign and allow a new single tenant pylon sign near the east driveway with landscaping at the bases, as permitted in Section 3.9; and
- Implement the required landscaping buffer area between St. Margaret Bay Road and the parking lot for Phase D prior to the Phase C building occupancy permit as stated in Section 3.9 of the original agreement.

The proposed non-substantive changes comply with the original Development Agreement provisions and comply with the Mix Use B Designation policies under which the original agreement was approved. However, a significant change in policy was made through the adoption of Tantallon Crossroads Coastal Village Designation in 2014, to reflect the development vision for the community. Where possible, the proposed amendments incorporated changes that would be in keeping with the current Tantallon Crossroads Coastal Village Designation policies.

North West Planning Advisory Committee

On October 3, 2018, the North West Planning Advisory Committee (PAC) recommended that the application be approved. The committee understood the non-substantial nature of the proposal and agreed that the non-substantive components of the development agreement should be in compliance with the policies under which the agreement was approved. The Committee did, however, request that landscaping between St. Margarets Bay Road and the proposed temporary parking lot be required by the Occupancy of the proposed Building C. The landscaping will aid in screening the parking lot from the road. This recommendation has been included in the proposed amendments (Attachment C).

Housekeeping amendment- Map 3 East River

Due to an oversight, Map 3 (see Attachment A) of the Municipal Planning Strategy was not included in the Tantallon Crossroads Coastal Designation amendment package that was approved in 2014. The East River Map 3 as referenced in Policy CV-17 and the Watershed Conservation section of the designation identifies the East River in Tantallon. In addition to responding to the applicant's proposal, this report also provides an opportunity to include this map as a housekeeping amendment for the MPS of Planning Districts 1 & 3.

Conclusion

Staff have reviewed the request in terms of all relevant existing and previous policy criteria and context. Staff advise that the MPS should be amended to allow the non-substantive amendments as listed within the development agreement to be applied in accordance with the policies that were in effect at the time the agreement was approved. Therefore, staff recommends approval of the proposed MPS and LUB amendments (Attachment A) to Planning Districts 1 & 3 (St. Margarets Bay). Should Regional Council approve the MPS and LUB amendments, staff will bring this report to North West Community Council for consideration, by resolution, of the proposed non-substantive amendments to the existing development agreement (Attachment C).

FINANCIAL IMPLICATIONS

There are no financial 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 Development Agreement. The administration of the development agreement can be carried out within the approved 2018-2019 budget with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No additional concerns were identified beyond those raised in this report and the previous planning process for the Original Development Agreement.

ALTERNATIVES

The North West Community Council may choose to recommend that Regional Council:

1. Modify the proposed amendments to the MPS and LUB for Planning Districts 1 & 3 (St. Margarets Bay), as set out in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the proposed amendments to the MPS and LUB for Planning Districts 1 & 3 (St. Margarets Bay). A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

The North West Community Council may choose to:

3. 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 development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

4. 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 development 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 and Notification Area

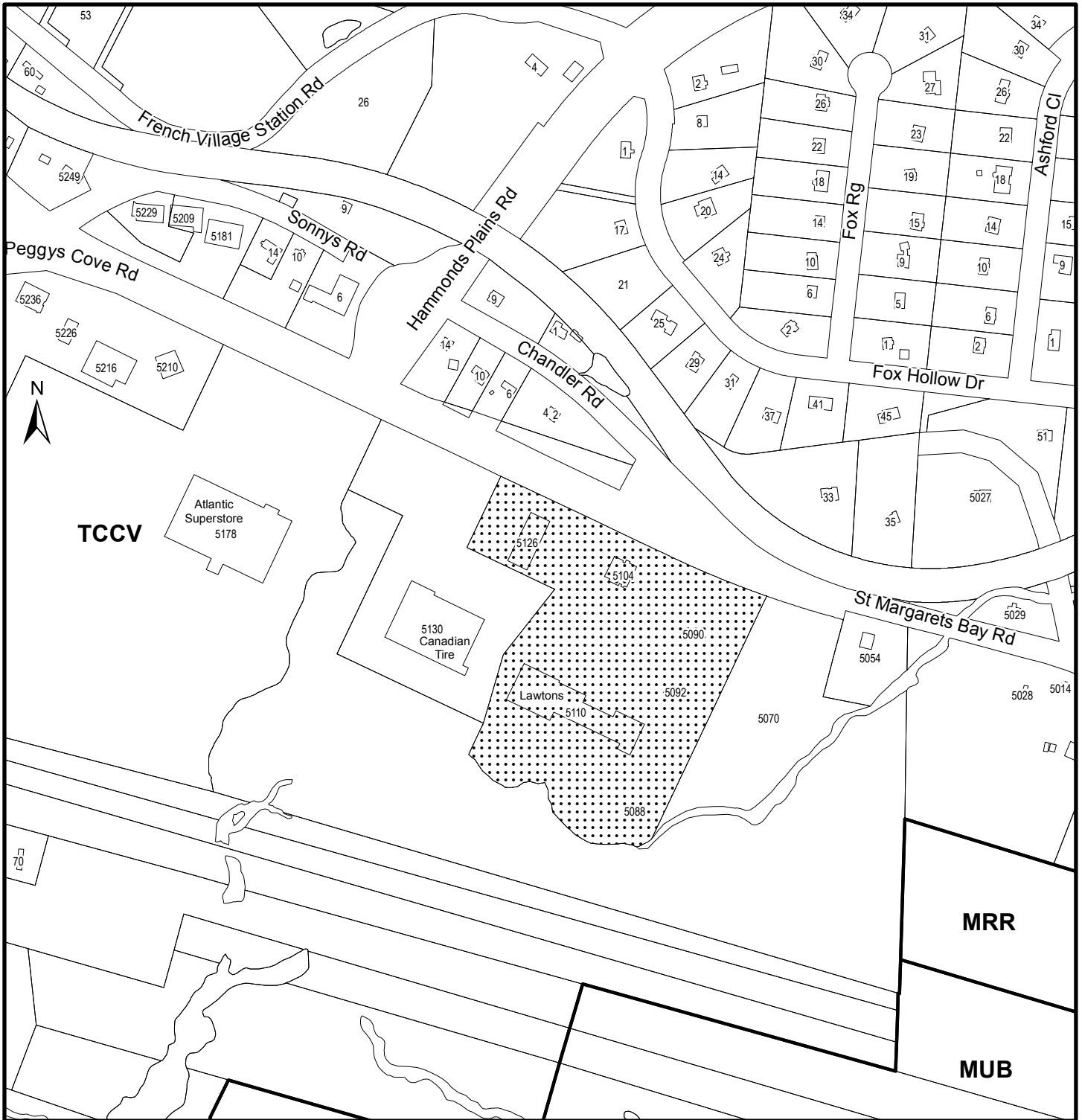
Attachment A Proposed Amendments to the Planning Districts 1&3 MPS
Attachment B Proposed Amendment to the Planning Districts 1&3 LUB
Attachment C Proposed Amending Development Agreement (*with Schedules*)

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: Maria Jacobs, Planner II, Current Planning, 902.490.4911


Original Signed

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

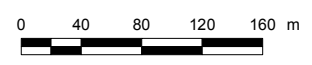


Map 1 - Generalized Future Land Use

St. Margaret's Square
Upper Tantallon

 Subject Property

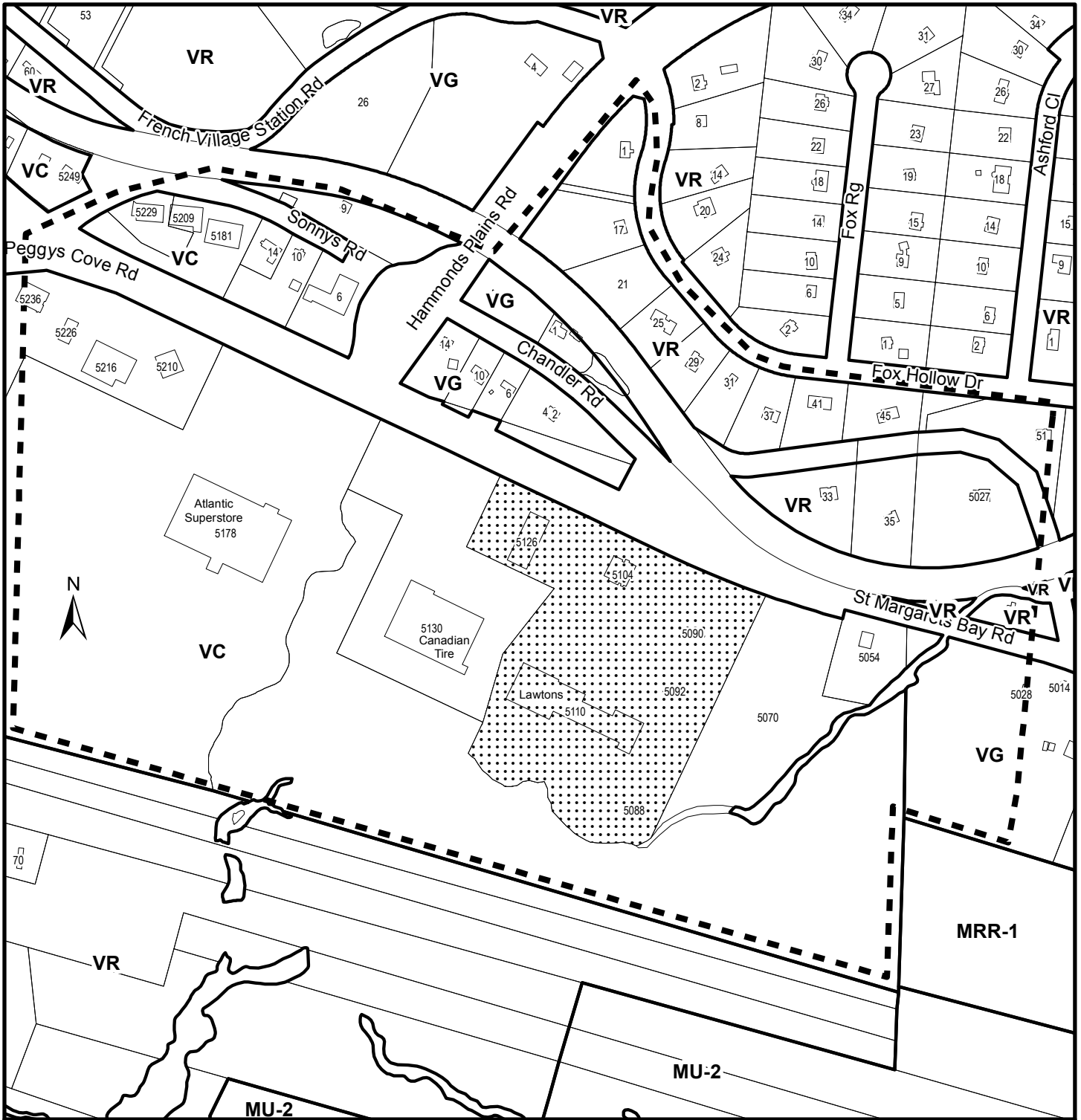
Designation
 TCCV Tantallon Crossroads Coastal Village
 MRR Mixed Rural Residential
 MUB Mixed Use B



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.

Planning District 1 & 3
(St Margarets Bay) Plan Area

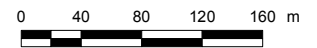


Map 2 - Zoning and Notification

St. Margaret's Square
Upper Tantallon

-  Subject Property
-  Area of Notification

- Zone**
- VC Village Centre
 - VG Village Gateway
 - VR Village Residential
 - MU-2 Mixed Use 2
 - MRR-1 Mixed Rural Residential



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.

Planning District 1 & 3
(St Margarets Bay) Land Use By-Law Area

ATTACHMENT A

**Proposed Amendments to the
Planning Districts 1 & 3 (St. Margarets Bay) Municipal Planning Strategy**

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality that the Planning Districts 1 & 3 (St. Margarets Bay) Municipal Planning Strategy is hereby amended as follows:

1. By adding Policy CV-7A to the Section titled “Tantallon Crossroads Coastal Village Designation” and the subtitle “Village Centre Sub-Designation”, immediately following Policy CV-7, as shown in bold as follows.

CV-7A Notwithstanding Policies CV-7 and CV-6, applications for non-substantive amendments to the approved development agreement for St. Margarets Square shall be considered under the policies in effect at the time the development agreement was approved.

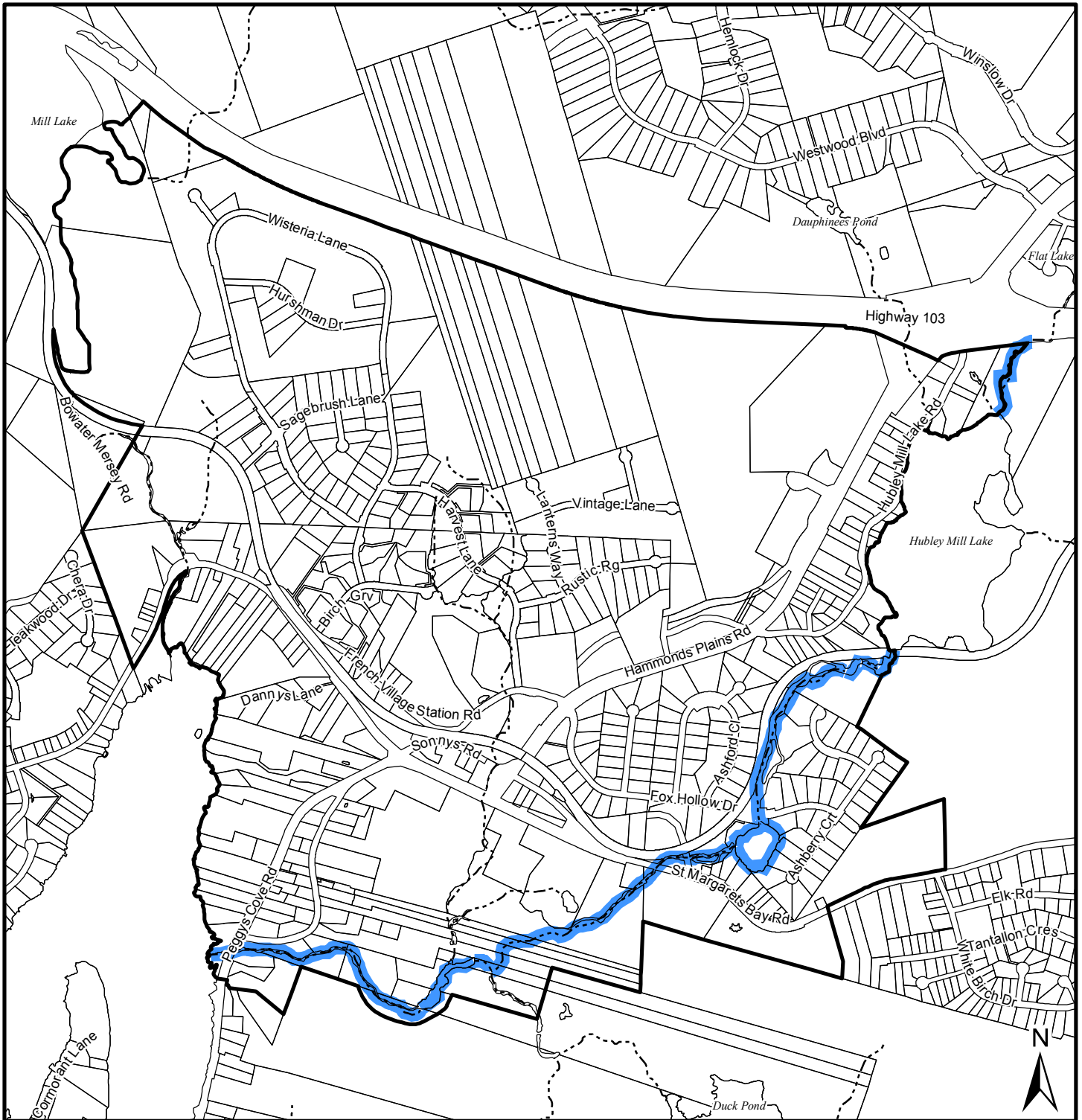
2. By adding **Map 3 - East River** as shown on Schedule A attached hereto immediately following “Map 2 - Schedules M,N,O,P and R Tantallon Crossroads Coastal Village”.
3. By adding Map 3 - East River in the “Table of Contents”, immediately following Map 2 – Schedules M,N,O,P and R -Tantallon Crossroads, as shown in bold as follows:

Map 3 – East River

I, Kevin Arjoon, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on [DATE], 2019.

Kevin Arjoon

Municipal Clerk

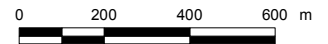


Map 3 - East River

Tantallon Crossroads Coastal Village

HALIFAX

- East River
- Waterway



Planning District 1 & 3
(St Margarets Bay) Plan Area

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

Effective:

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ATTACHMENT B

**Proposed Amendments to the
Planning Districts 1 & 3 (St. Margarets Bay) Land Use By-law**

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality that the Planning Districts 1 & 3 (St. Margarets Bay) Land Use By-law is hereby amended as follows:

1. Section 3.6(r)(iv) USES CONSIDERED BY DEVELOPMENT AGREEMENT shall be amended by adding the text shown in bold below:

- (r) (iv) Within Schedule N, in accordance with Policy CV-7 **and CV-7A** of the Municipal Planning Strategy for Planning Districts 1 and 3, building expansions or new buildings.

I, Kevin Arjoon, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on [DATE], 2019.

Kevin Arjoon
Municipal Clerk

ATTACHMENT C

Proposed First Amending Agreement to the Existing Development Agreement

THIS FIRST AMENDING AGREEMENT made this day of , 20 ,

BETWEEN:

HALIFAX COUNTY CONDOMINIUM CORPORATION NO. 381

a condominium corporation, declared pursuant to the *Condominium Act* of
Nova Scotia

- and -

PRO REIT ACQUISITION (1) Inc.

a body corporate, in the Province of Nova Scotia

(hereinafter collectively called the "Developer")

- and -

HALIFAX REGIONAL MUNICIPALITY

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

WHEREAS the Developer is the registered owner of certain lands located at 5090 to 5126 St Margarets Bay Road (Highway #3) in Upper Tantallon (known as St. Margarets Square and PID 41410010), and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Western Region Community Council for the Municipality approved an application to enter into a Development Agreement with St. Margaret's Square Limited at a meeting held on July 23, 2012 to allow for three additional commercial buildings (Municipal Case Number 16770), pursuant to the provisions of the *Halifax Regional Municipality* and pursuant to Policy MU-16(A) of the Municipal Planning Strategy for Planning Districts 1 and 3 and Section 3.6 (q) of the Land Use By-law for Planning Districts 1 and 3, which said development agreement was registered at the Land Registry Office in Halifax on December 27, 2012 as Document Number 102216042 (hereinafter called the "Original Agreement");

AND WHEREAS on St. Margaret's Square Limited made a declaration pursuant to the *Condominium Act* that formed Halifax County Condominium Corporation No.381 on August 29, 2014 and such declaration was registered with the Land Registry Office on October 21, 2014 as Document Number 106009328;

AND WHEREAS, pursuant to the condominium declaration, the Lands were divided into five units, PIDs 41414004, 41414012, 41414020, 41414038, and 41414046;

AND WHEREAS the Developer has requested to non-substantive amendments to the Original Agreement to allow for minor amendments to phase C Building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy CV-7A of the Municipal Planning Strategy for Planning Districts 1 & 3 and Section 6.1 of the Original Agreement (hereinafter called the "First Amending Agreement);

AND WHEREAS the North West Community Council for the Municipality approved this request at

a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 21812;

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 Agreement, all other terms, conditions and provisions of the Original Agreement shall remain in effect.
2. Section 3.1 of the Original Agreement shall be amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

3.1 The Developer shall develop the lands in a manner, which in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and **First Amending Agreement** and filed in the Halifax Regional Municipality as Case Number 16770 **and 21812**:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	West Elevation – Phase C Building
Schedule D	North/South Elevations – Phase C Building
Schedule E	East Elevation – Phase C Building
Schedule B.1	Site Plan
Schedule C.1	West Elevation – Phase C Building
Schedule D.1	North/South Elevations – Phase C Building
Schedule E.1	East Elevation – Phase C Building
Schedule F	West Elevations-Phase D Building
Schedule G	North/South Elevations – Phase D Building
Schedule H	East Elevation-Phase D Building
Schedule I	West Elevation-Phase E Building
Schedule J	North/South Elevation-Phase E Building
Schedule K	East Elevation-Phase E Building

3. The schedules of the Original Agreement shall be amended by deleting Schedule B, Schedule C, Schedule D, and Schedule E, and inserting Schedule B.1 (attached), Schedule C.1 (attached), Schedule D.1 (attached), and Schedule E.1 (attached).
4. The Original Agreement shall further be amended by:
 - a) deleting all references to “Schedule B” and replacing each with a reference to “Schedule B.1”
 - b) deleting all references to “Schedule C” and replacing each with a reference to “Schedule C.1”
 - c) deleting all references to “Schedule D” and replacing each with a reference to “Schedule D.1”
 - d) deleting all references to “Schedule E” and replacing each with a reference to “Schedule E.1”
5. Section 3.3.1(a) of the Original Agreement shall be amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:
 - 3.3.1 The uses of the Lands permitted by this Agreement are the following:
 - (a) Commercial uses permitted in the ~~MU-2 (Mixed Use)~~ **VC (Village Centre)** zone of the Land Use By-law, **notwithstanding which the existing drive thru use within the Phase A building as identified in Schedule B.1 shall be permitted;**
6. Section 3.4.1 of the Original Agreement shall be amended by deleting the text shown in ~~strikeout~~

and inserting the text shown in bold, as follows:

The proposed commercial buildings, as shown on the Schedules, shall comply with the following:
Phase C: **Maximum 2 storeys, maximum gross floor area (GFA) of 34,000 sq.ft., 19,825 sq.ft. maximum building "footprint" (ground level GFA) of 47,000 sq.ft. 18,700 sq ft. as shown on the Schedules.**

7. Section 3.8.6 of the Original Agreement shall be amended by deleting the text shown in strike out and inserting the text shown in bold as follows:

3.8.6 Prior to issuance of the first Occupancy Permit **for Phase C**, the Developer shall submit to the Development Officer a letter prepared by a Landscape Architect certifying that all landscaping **for all Phases has, including the area adjacent to and along St. Margarets Bay Road as shown on Schedule B.1, has** been completed according to the terms of this Agreement.

8. Section 3.8 of the Original Agreement shall be amended by adding the text shown in bold immediately following section 3.8.7 as follows:

3.8.8 The provision of buffering and screening measures, including the use of berms, vegetation and may include a pathway, shall be provided in the area along St. Margarets Bay Road as shown on Schedule B.1 as a means to reduce any visual impact of the parking lots from the public road. The visual screen shall be provided in accordance with the following:

- (a) **Materials - shall contain vegetation and/or natural material which will form an effective year-round screen.**
- (b) **Height - screening shall be at least five (5) feet in height. Plant materials, when planted, may be not less than three and one-half (3.5) feet in height if of a species or variety which shall attain the required height and width. Height shall be measured from the finished grade.**
- (c) **Width - screening shall be in a strip of landscaped open space a minimum of forty (40) feet in depth running the entire length of St. Margarets Bay Road.**
- (d) **Maintenance - all required plant and natural materials shall be properly maintained, kept free of litter, and replaced whenever necessary.**

3.8.9 Once the provisions in Section 3.8.8 are met and approved by the Development Officer, the area shown as Phase D can be used as a parking area with the landscaped islands as shown on Schedule B.1 until the construction of Phase D building.

9. Section 3.9.1 of the Original Agreement shall be amended by deleting the text shown in strikeout and inserting the text shown in bold, as follows:

3.9.1 Exterior signs shall meet the requirements of the Land Use By-law **except as varied by this Development Agreement** and shall be generally limited to the following:

- (c) ~~facial wall signs on the top level of the Phase C building~~ **as shown on Schedules C.1 and D.1;** and
- (d) ~~one new ground sign on lot 4A as shown on Schedule B~~ **ground signs as generally shown on Schedule B.1.**

10. Section 3.9.2 of the Original Agreement shall be deleted in its entirety.

11. Section 6.1 of the Original Agreement shall be amended by inserting the text shown in bold, as follows:

6.1 Non-Substantive Amendments

The following items are considered by both parties to be non-substantive and may be amended by resolution of Council **under the policies in effect at the time the Original Agreement was approved.**

12. Subsection 7.4 of the Original Agreement shall be amended by inserting the text in bold as shown as follows:

7.4.1 If the Developer fails to complete the development after six (6) years from the date of registration of this **First Amending Development** Agreement at the Registry of Deeds or Land Registry 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:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

Witness

Per: _____

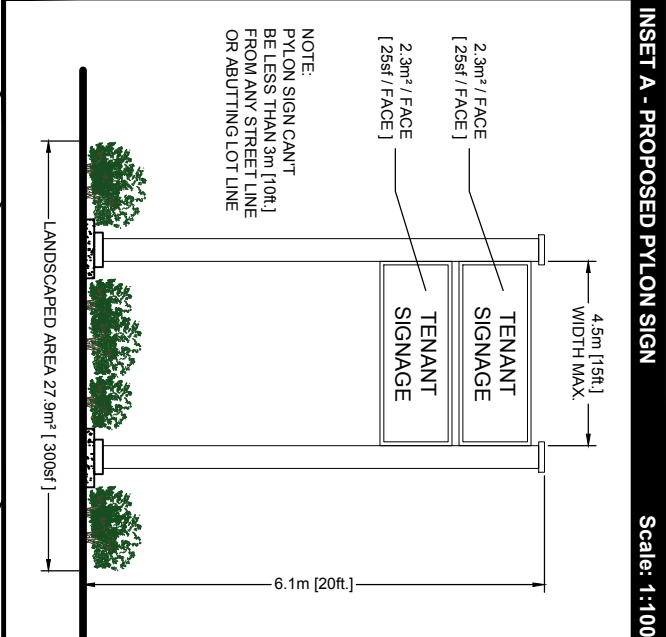
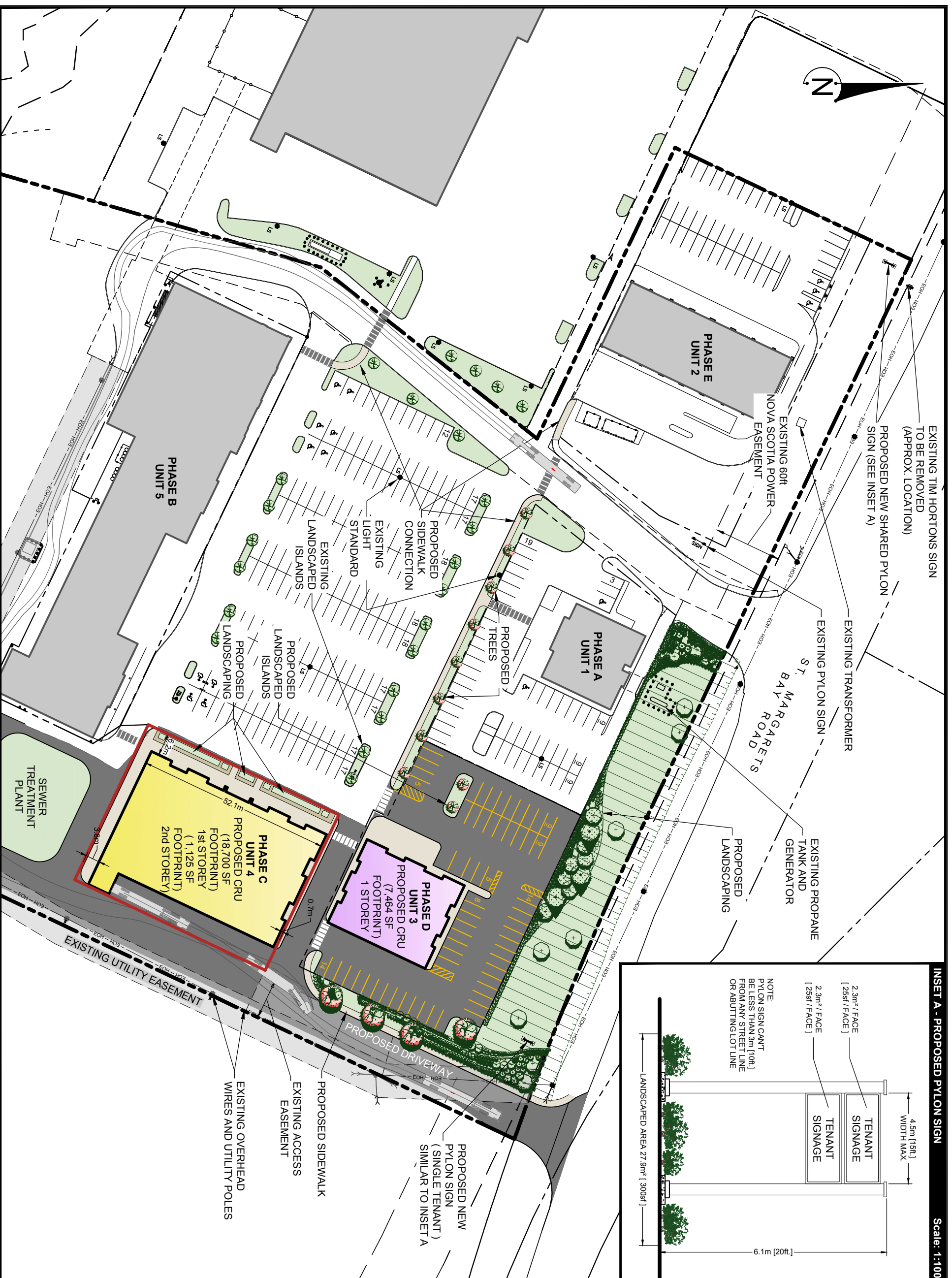
MAYOR

Witness

Per: _____

MUNICIPAL CLERK

Schedule B.1



INSET A - PROPOSED PYLON SIGN

Scale: 1:100

LEGEND

- Proposed Unit 4 Site Boundary
- Property Boundary
- Adjacent Property Boundary
- Existing Parking Stalls
- New Parking Stalls

SITE SUMMARY:

- Unit 4 Land Area - 2,614.9 m²
- Building - 18,700 SF Ground Floor with 1,125 SF Second Floor Mezzanine
- Existing Zone - VC
- PID: 41410010
- Owner: Halifax Condominium Corp. No. 381
- New Parking provided: 64 stalls

NOTES:

- Adjacent property lines approximate only.
- Site subject to survey

SOURCES:

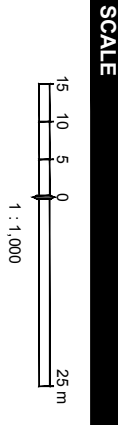
- Adjacent property lines and topographic features from .pdf SDMM plan No. 14-1645-1, dated October 8, 2014
- Unit 4 plan area based on WSP Topo survey '161-17891-500.dwg', dated December 22, 2016

Designer: KWATTERS
Planner: CLOVITT
VERSION **112**

SCHEDULE B.1 ST. MARGARET'S SQUARE SITE PLAN - UNIT 4 Highway No.3 - St. Margaret's Bay Rd. UPPER TANTALLON, NOVA SCOTIA



OCTOBER 15, 2018
161-17891-112



1 SPECTACLE LAKE DRIVE, DARTMOUTH, NS, CANADA B3B 1X7
PHONE: 902 835-9855 - FAX: 902 835-1645 - WSP.COM





NORTH ELEVATION



SOUTH ELEVATION

