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Item No. 13.1.2
Halifax and West Community Council
January 21, 2020

TO: Chair and Members of Halifax and West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Director of Planning and Development

DATE: January 7, 2020

SUBJECT: **Case 21952: Development Agreement and Discharging Agreement, Civic 50, 60 and 70 Armstrong Court, Halifax**

ORIGIN

Application by WM Fares Architects and Castlehill Development Limited.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the proposed Development Agreement and proposed Discharging Development Agreement, as set out in Attachments A and B of this report, to consider a seven-storey addition to an existing apartment building at 60 and 70 Armstrong Court, Halifax and schedule a public hearing;
2. Approve the proposed Development Agreement, which shall be substantially of the same form as set out in Attachment A;
3. Approve, by resolution, the proposed Discharging Development Agreement, which shall be substantially of the same form as set out in Attachment B; and
4. Require the Discharging Development Agreement and 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

WM Fares Architects has applied to discharge an existing development agreement and enter into a new development agreement on two residential properties at located at 50, 60 and 70 Armstrong Court, Halifax (Maps 1 and 2) to enable a seven-storey addition to an existing apartment building at 60-70 Armstrong Court, Halifax.

Subject Site	50 Armstrong Court and 60and 70 Armstrong Court, Halifax
Location	Northeast quadrant of Hwy. 102 and Kearney Lake Road interchange
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Commercial (COM), Section II (City-Wide Objectives and Policies), Halifax Municipal Planning Strategy (MPS)
Zoning (Map 2)	General Business (C-2) zone, Schedule "L" of Halifax Mainland Land Use By-law (LUB)
Size of Site	50 Armstrong Court: 1.56 hectares (3.86 ac.) 60 and 70 Armstrong Court: 2.12 ha (5.24 ac.) *Total of 6 hectares (9 acres)
Street Frontage	50 Armstrong Court: 34.6m (113.5 ft.) 60 and 70 Armstrong Court: 44.2m (145 ft.) *Total of 78.8 m (258.5 ft)
Current Land Use(s)	4-storey apartment building on each lot
Surrounding Use(s)	Two 3-storey apartment buildings to the immediate north; Hotel and commercial plaza to the south; Single-unit dwellings on east side of Armstrong Court; Pocket park and school at end of Armstrong Court.

Proposal Details

The proposed discharging development agreement and new development agreement would apply to the existing apartment buildings at 50, 60 and 70 Armstrong Court, as both buildings share the site's access, parking and landscaped amenity areas. The existing agreement will continue to apply unchanged to two remaining commercial properties at Civic 117 and 133 Kearney Lake Road, which are held under different ownership.

The existing residential site (two properties) at 50, 60 and 70 Armstrong Court includes the following:

- A total of 200 dwelling units in two buildings;
- 267 surface parking spaces, including some visitor parking shared with buildings to the north at 82 and 92 Armstrong Court; and
- Outdoor amenity space of approximately 3,140 square metres (33,800 sq. ft.).

The applicant proposes to enter into a development agreement to allow a seven-storey addition to the eastern end of the existing 4-storey apartment building at 60-70 Armstrong Court (Attachment A). The major aspects of the proposal are as follows:

- Approximately 75 additional dwelling units, of which 70% will be 2 bedrooms or more, which results in a total of 275 units combined in both buildings;
- A minimum of 58 additional underground parking spaces and approximately 46 surface parking spaces to replace 78 existing surface spaces. Therefore, there will be a net gain of approximately 26 spaces or more, for a total of 293 spaces;
- Exterior building materials to include masonry veneer at the parking podium level, non-combustible siding, architectural panels, vinyl windows and other glazing systems;
- Existing outdoor amenity area to be maintained for tenant use in its present state or better;
- Replacement of trees removed from the area of the addition with new trees; and
- Indoor amenity space of 1,200 sq. ft. minimum.

No exterior changes to the existing buildings are proposed, except at the east end of 60 Armstrong Court to accommodate the addition. Renovations would be permitted in accordance with the zone standards for the R-4 (Multiple Dwelling) Zone of the Halifax Mainland Land Use By-law with the exception that the building addition be exempt from angle controls in the zone.

Existing Development Agreement

In December of 1992, the City of Halifax entered into a development agreement with Realco Management Limited for two commercial sites at 117 and 133 Kearney Lake Road and the two residential apartment sites at 50, 60 and 70 Armstrong Court. The agreement was amended twice in 1993. Subsequently, a retail plaza was constructed at 117 Kearney Lake Road, a hotel was constructed at 133 Kearney Lake Road and 4-storey apartment buildings were built on each lot on Armstrong Court.

The existing agreement is proposed to be discharged from the two properties at 50, 60 and 70 Armstrong Court, but it will continue to remain in effect for the two commercial sites at Civic 117 and 133 Kearney Lake Road.

Enabling Policy and LUB Context

The subject site is designated Commercial (COM) within Section II (City-Wide objectives and policies) of the Halifax Municipal Planning Strategy (Attachment C and Map 1). The site is zoned C-2 (General Commercial) and falls within Schedule "L" of the Land Use By-Law for Halifax Mainland (Map 2).

The proposal is being considered pursuant to City-Wide policy 3.7 and Implementation Policy 3.12 which enable the development agreement process (Attachment C).

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, and approximately 400 postcards mailed to residents within the notification area in February of 2019.

The public comments received (11 emails) included the following topics:

- Increase in traffic and density;
- Impact on parking, including visitor parking;
- Lack of walkways and pedestrian safety;
- Construction noise, dust, timing and nuisance;
- Displacement of tenants in 8 units in 60 Armstrong Court next to the addition;
- Height & appearance of the addition; and
- Protection of trees & amenity space.

A public hearing must be held by Halifax and West Community Council before it can consider the proposed development agreement. If Community Council decides to proceed with a public hearing on this application, in addition to the published newspaper advertisements, staff will notify property owners within the notification area shown on Map 3 by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposal will potentially impact local residents and property owners.

DISCUSSION

Staff reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the Halifax MPS. Attachment C provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

Proposed Development Agreement

Attachment A contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- The height of the proposed addition is limited to 7 floors above the parking podium;
- An indoor amenity space of at least 1,200 square feet is required in the addition;
- The existing outdoor amenity area is required to be maintained in its current state or better, and not reduced in size;
- Minimum vehicular parking requirements which exceed those of the Land Use By-law;
- Bicycle parking for the additional units, as required by the Land Use By-law;
- Minimum standards for exterior materials, landscaping, outdoor lighting, signage, solid waste containers, screening, and maintenance; and
- Changes to dates of commencement and completion are listed as non-substantive matters, as well as changes to the parking and sign requirements.

Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment C, the following have been identified for detailed discussion:

Traffic and Parking

A Traffic Impact Statement submitted by the applicant was reviewed by engineering staff and determined to be acceptable. This statement found that the number of vehicle trips resulting from the proposed building addition are not expected to negatively affect traffic operations on the surrounding street network. The current entrance for the existing residential buildings will not change. The existing access is from the end of Armstrong Court and is shared with the residential buildings at 82 and 92 Armstrong Court.

The supply of parking, including spaces for visitors, was a concern expressed through the engagement process. However, the Land Use By-law does not require on-site parking for visitors of apartment building sites and the proposal exceeds LUB requirements for the overall number of parking spaces provided. In terms of bicycle parking, the addition will include spaces for bikes as per LUB requirements.

Land Use Compatibility

The proposed 7-storey addition, while higher than the existing 4-storey and 3-storey apartment buildings in the immediate area, is compatible with its surroundings. Likewise, the use of different exterior materials on the addition, such as non-combustible siding and architectural panels in comparison to primarily brick, wood and vinyl siding on the existing buildings, poses no compatibility concerns. Setbacks from the addition to the nearest residential building (40 feet from property line, approximately 75 feet between buildings) are reasonable and exceed the minimum setback requirements of the LUB.

Landscaping, Walkways and Amenity Areas

The proposal includes the retention of trees or replacement of those which are damaged or removed in the area between the proposed addition and the building to the immediate north (Civic 82). The existing landscaped amenity area will be preserved and not reduced in area. Other treed areas will be retained, with the exception that vegetation may be removed to accommodate a small, additional surface parking area at the eastern end of the site, opposite the underground parking entrance. Existing walkways will be retained, including those leading from the parking areas to the building entrances and several informal pathways which cross the landscaped areas. These walkways and pathways are sufficient for pedestrian circulation and are similar to those on other suburban apartment sites.

Changes Resulting from Community Engagement

As a result of feedback from the community and staff, the original proposal was changed to require:

- that more parking be provided than originally proposed to offset the loss of some surface parking for visitors in the area of the addition; and
- the replacement of any trees removed from the area of the addition during construction with new trees and that the existing landscaped amenity area not be reduced in size.

Conclusion

Staff 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 Community Council approve the proposed 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 2019-2020 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 can make decisions that are consistent with the MPS; Community Council decisions can be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed discharging development agreement and new development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another 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*.
2. Halifax and West Community Council may choose to refuse the proposed discharging development agreement and new 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 development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

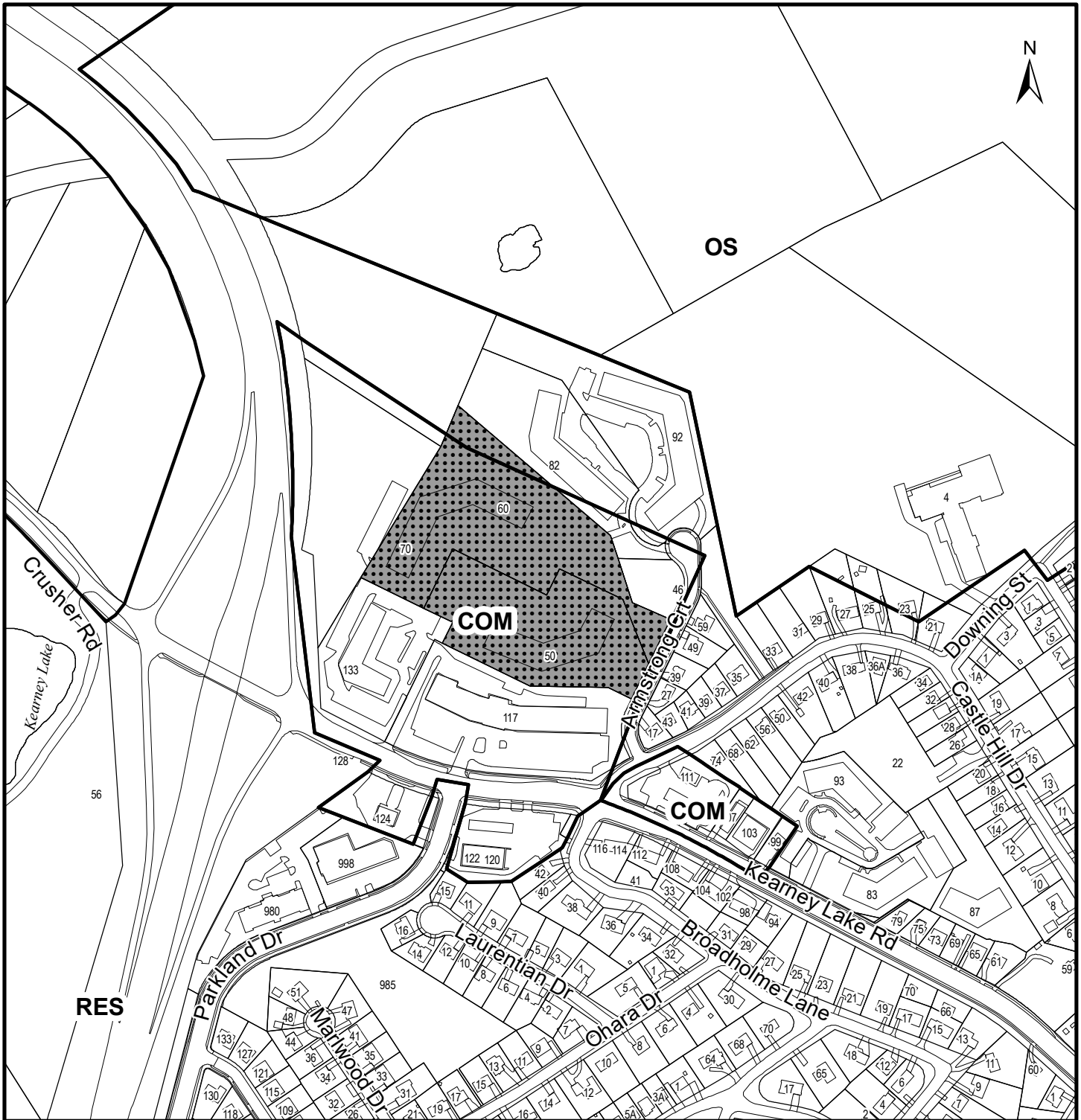
Map 1	Generalized Future Land Use
Map 2	Zoning
Map 3	Notification Area

Attachment A	Proposed Development Agreement
Attachment B	Proposed Discharging Development Agreement
Attachment C	Review of Relevant Halifax Municipal Planning Strategy Policies

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: Paul Sampson, Planner II, 902.490.6259

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



OS

COM

COM

RES

Map 1 - Generalized Future Land Use

60 & 70 Armstrong Court,
Halifax

HALIFAX

 Subject Properties

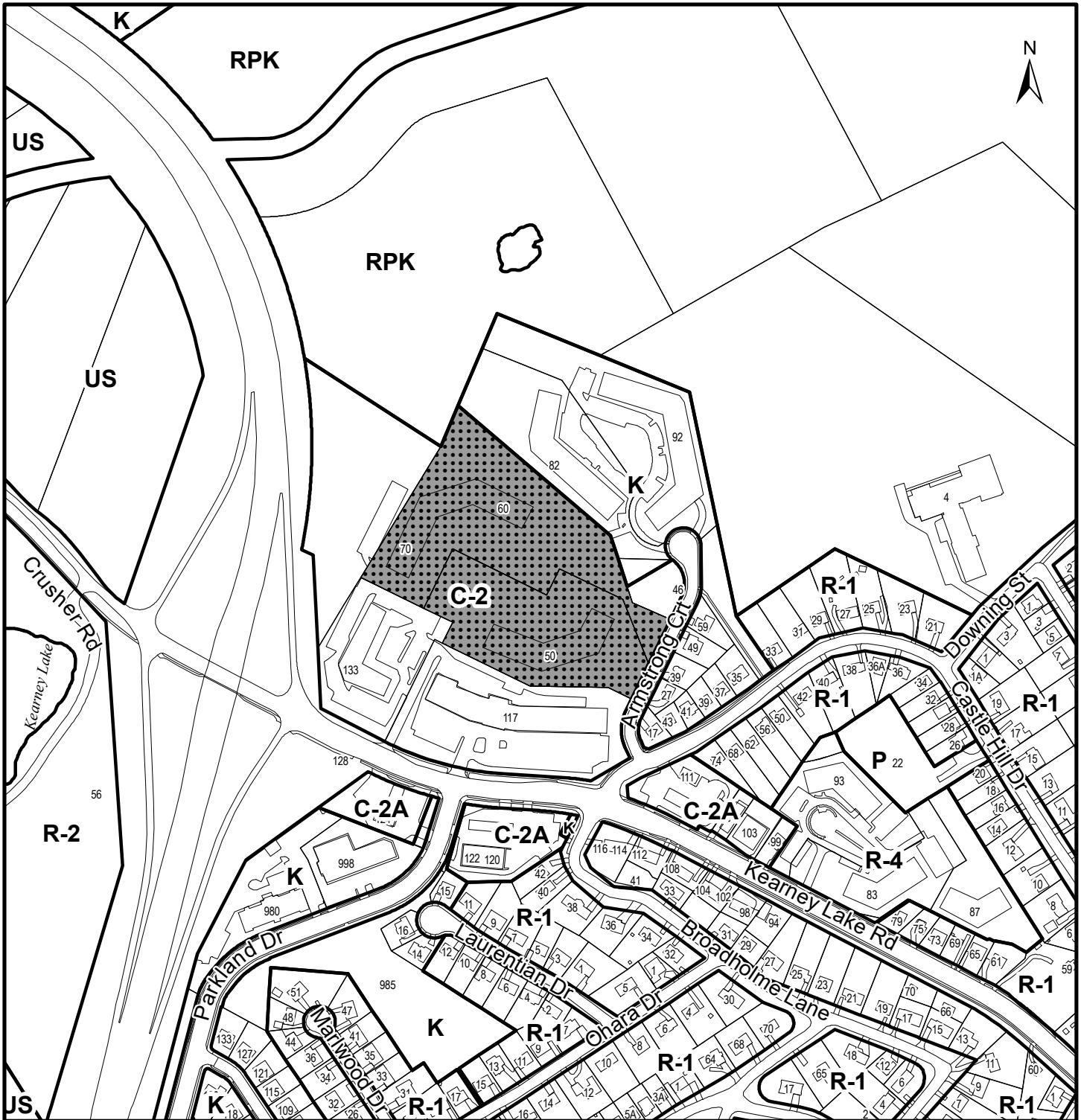
Designation
 COM Commercial
 OS Major Community Open Spaces
 RES Residential Environments



Halifax
Plan Area

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

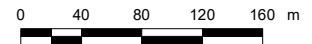
60 & 70 Armstrong Court,
Halifax

 Subject Properties

Halifax Mainland
Land Use By-Law Area

- Zone**
- C-2 General Business
 - C-2A Minor Commercial
 - K Schedule K
 - P Park and Institutional
 - R-1 Single Family Dwelling
 - R-2 Two Family Dwelling
 - R-4 Multiple Dwelling
 - RPK Regional Park
 - US Urban Settlement

HALIFAX



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.




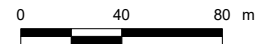
Map 3 - Area of Notification

60 & 70 Armstrong Court,
Halifax

HALIFAX

 Subject Property

 Area of Notification



Halifax Mainland
Land Use By-Law Area

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Attachment A: Proposed Development Agreement

THIS AGREEMENT made this day of **[Insert Month]**, 20__.

BETWEEN:

[Insert Name of Corporation/Business LTD.]

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 Civic No. 50, 60 and 70 Armstrong Court (PID No. 40656837, 40656845) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the former City of Halifax entered into a development agreement with Realco Management Limited to allow for a mixed-use, commercial and residential development of properties on Kearney Lake Road and Armstrong Court, Halifax (PID No. 40656837, 40656845, 40656852, 40662413 and 40637803) on September 9, 1992, and which said development agreement (referenced as municipal case 6528) was registered at the Land Registry Office in Halifax on December 24, 1992 in Book No. 5347 at pages 794-799 as Document #58234 (hereinafter called the "Original Agreement"), and which applies to the Lands;

AND WHEREAS the former City of Halifax entered into an amending development agreement with Realco Management Limited to allow for changes to the mixed-use development of properties on Kearney Lake Road and Armstrong Court, Halifax (PID No. 40656837, 40656845, 40656852, 40662413 and 40637803) on January 14, 1993, and which said development agreement (referenced as municipal case 6528) was registered at the Land Registry Office in Halifax on February 19, 1993 in Book 5365 at pages 461-463 as Document #6881 (hereinafter called the "First Amending Agreement"), and which applies to the Lands;

AND WHEREAS the former City of Halifax entered into an amending development agreement with Barcan Developments Inc. to allow for changes to the proposed signalization at the intersection of Kearney Lake Road, Castlehill Drive and Broadholme Lane, Halifax (referenced as Municipal Case 6528), which said amending development agreement was registered at the Land Registry Office in Halifax on October 29, 1993 as Document #45440 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Original Agreement, the First Amending Agreement, and Second Amending Agreement together comprise the Existing Agreement (hereinafter called the "Existing Agreement");

AND WHEREAS the Halifax and West Community Council approved by resolution a request to discharge the Existing Agreement from the Lands at a meeting held on **[Insert - Date]**, referenced as municipal case 21952;

AND WHEREAS the Developer has requested that the Municipality enter into a new Development Agreement to allow for a seven (7) storey addition to the apartment house building at Civic No. 60 Armstrong Court (PID No. 40656845) on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to City-Wide Policy 3.7 and Implementation Policy 3.12 of the Halifax Municipal Planning Strategy and Section 69 of the Halifax Mainland Land Use By-law;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[insert - Date]**, referenced as municipal case 21952;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

- 1.1.1 The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.2 Applicability of Land Use By-law and Subdivision By-law

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the applicable Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.
- 1.2.2 Variances to the requirements of the applicable Land Use By-law shall not be permitted.

1.3 Applicability of Other By-laws, Statutes and Regulations

- 1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.
- 1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

- 1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

- 1.5.1 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

- 1.6.1 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.

1.7 Lands

- 1.7.1 The Developer hereby represents and warrants to the Municipality that the Developer is the owner of the Lands and that all owners of the Lands have entered into this Agreement.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

- 2.1.1 All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law; if not defined in these documents their customary meaning shall apply.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

- 3.1.1 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 filed in the Halifax Regional Municipality as Case Number 21952:

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Development Plan
Schedule C	South Elevation
Schedule D	East Elevation

3.2 Requirements Prior to Approval

- 3.2.1 Prior to the commencement of any site work on the lands, the Developer shall provide to the Development Officer the documents required under Section 5.2 of this Agreement.
- 3.2.2 Prior to the issuance of a Development Permit, the Developer shall provide the following to the Development Officer:
- (a) a detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.6 of this Agreement.
- 3.2.3 Prior to the issuance of any Municipal Occupancy Permit, the Developer shall provide to the Development Officer written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Landscape Plan.
- 3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

- 3.3.1 The use(s) of the Lands permitted by this Agreement are the following:
- (a) Two existing apartment houses (one building per lot);
- (b) An addition to the existing apartment house on Civic 60-70 (PID No. 40656845), not to exceed a height of seven (7) storeys above the average grade of the finished ground adjoining the building not including underground parking level(s) as illustrated on Schedules C and D;
- (c) Underground and surface parking; and
- (d) Uses accessory to any of the foregoing uses.

3.4 Detailed Provisions for Land Use

- 3.4.1 The seven (7) storey addition shall be exempted from the horizontal and vertical angle controls, population density, open space and parking requirements of the R-4 (Multiple Dwelling Zone) of the Land Use By-law. Instead, the Schedules and written provisions of this Agreement shall apply.
- 3.4.2 Interior and exterior changes to the existing apartment houses, other than the seven (7) storey addition, shall be permitted provided such changes comply with the R-4 zone requirements of the Land Use By-law and provided there is no increase in gross floor area of the existing buildings.
- 3.4.3 A minimum of 30% of units within the seven (7) storey addition shall contain two or more bedrooms.
- 3.4.4 The seven (7) storey addition shall include a minimum of 1,200 square feet of indoor amenity space.

3.5 Siting and Architectural Requirements

- 3.5.1 The seven (7) storey addition's siting, height, and massing shall be as shown on the Schedules B, C and D. The building's exterior design and materials shall be as generally shown on Schedules C and D.
- 3.5.2 The main entrances to building shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. Service entrances shall be integrated into the design of the building and shall not be a predominate feature.
- 3.5.3 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, or offsets in the vertical plane).
- 3.5.4 Any exposed foundation in excess of 0.75 metres in height and 2 square metres in total area shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.
- 3.5.5 The following external cladding materials are prohibited:
 - (a) vinyl siding;
 - (b) plastic;
 - (c) plywood;
 - (d) unfinished concrete;
 - (e) cinder block;
 - (f) exterior insulation and finish systems where stucco is applied to rigid insulation; and
 - (g) darkly tinted or mirrored glass, excepting spandrel glass panels.
- 3.5.6 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.
- 3.5.7 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from any public street or abutting properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.
- 3.5.8 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from public view.

3.6 Landscaping

- 3.6.1 The existing outdoor amenity space in the centre of the parking area, as generally shown on Schedule B, shall be maintained for tenant use and not reduced in size.
- 3.6.2 All plant material shall conform to the Canadian Nursery Landscape Association's Canadian Nursery Stock Standard (ninth edition). All landscape construction on the site shall conform to the Canadian Landscape Standard.
- 3.6.3 Prior to the issuance of a Development Permit, the Developer agrees to provide a Landscape Plan which complies with the provisions of this section and generally conforms with Schedule B. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.
- 3.6.4 Prior to issuance of an Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.
- 3.6.5 Notwithstanding Section 3.6.4, where the weather and time of year do not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

3.7 Parking, Circulation and Access

- 3.7.1 A minimum of 58 parking spaces shall be provided within the underground parking levels of the seven (7) storey addition. Each underground parking space shall measure at least 8 feet wide and 18 feet long.
- 3.7.2 Surface parking, access and circulation shall generally conform to Schedule B.
- 3.7.3 Bicycle parking shall be provided for the seven (7) storey addition at a rate in accordance with the requirements of the applicable Land Use By-law.

3.8 Outdoor Lighting

- 3.8.1 Lighting shall be directed to driveways, parking areas, loading areas, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

3.9 Maintenance

- 3.9.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

3.9.2 All disturbed areas shall be reinstated to original condition or better. Any trees which are removed to make way for the seven (7) storey addition shall be replaced by new trees planted in close proximity to the building addition. Vegetation may be removed to accommodate the additional surface parking areas shown on Schedule B.

3.10 Signs

3.10.1 The sign requirements shall be in accordance with the applicable Land Use By-law as amended from time to time.

3.10.2 Billboards shall not be permitted.

3.10.3 Signs depicting the name or corporate logo of the Developer shall be only be permitted while a sales or marketing office is located on the site.

3.11 Temporary Construction Building

3.11.1 A building shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit.

3.12 Screening

3.12.1 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.

3.12.2 Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from abutting properties. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.

3.12.3 Mechanical equipment shall be permitted on the roof and podium provided the equipment is screened and not visible from the surrounding properties and public streets, or incorporated in to the architectural treatments and roof or podium structure.

3.12.4 Any mechanical equipment shall be visually concealed from abutting properties, including municipal rights-of-way, and shall include noise reduction measures.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

4.1.1 All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

4.2 Off-Site Disturbance

4.2.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

4.3 Undergrounding Services

- 4.3.1 All secondary or primary (as applicable) electrical, telephone and cable service to the building shall be underground installation.

4.4 Outstanding Site Work

- 4.4.1 Securities for the completion of outstanding on-site paving and landscaping work (at the time of issuance of the first Occupancy Permit) may be permitted. Such securities shall consist of a security deposit in the amount of 110 percent of the estimated cost to complete the work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable automatically renewing letter of credit issued by a chartered bank. The security shall be returned to the Developer by the Development Officer when all outstanding work is satisfactorily completed.

4.5 Solid Waste Facilities

- 4.5.1 The seven (7) storey addition shall include designated space for five stream commercial waste containers (1. Garbage, 2. Blue Bag Recyclables, 3. Paper, 4. Corrugated Cardboard, and 5. Organics) to accommodate source separation program in accordance with By-law S-600 as amended from time to time. This designated space for five (5) waste containers shall be shown on the building plans and approved by the Development Officer and Building Official in consultation with HRM Solid Waste Resources.
- 4.5.2 Refuse containers and waste compactors shall be confined to the loading areas of each building, and shall be screened from public view where necessary by means of opaque fencing or masonry walls with suitable landscaping.
- 4.5.3 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating all refuse and recycling material to ensure minimal effect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Private Storm Water Facilities

- 5.1.1 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

5.2 Stormwater Management Plans and Erosion and Sedimentation Control Plan

- 5.2.1 Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:
- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
 - (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and

- (c) Submit to the Development Officer a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer.

5.3 Archaeological Monitoring and Protection

- 5.3.1 The Lands fall within the High Potential Zone for Archaeological Sites identified by the Province of Nova Scotia. The Developer shall contact the Coordinator of Special Places of the Nova Scotia Department of Communities, Culture and Heritage prior to any disturbance of the Lands and the Developer shall comply with the requirements set forth by the Province of Nova Scotia in this regard.

5.4 Sulphide Bearing Materials

- 5.4.1 The Developer agrees to comply with the legislation and regulations of the Province of Nova Scotia with regards to the handling, removal, and disposal of sulphide bearing materials, which may be found on the Lands.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

- 6.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:
 - (a) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1;
 - (b) The length of time for the completion of the development as identified in Section 7.5.1;
 - (c) Changes to the parking requirements of Section 3.7; and
 - (d) Changes to the sign requirements of Section 3.10.

6.2 Substantive Amendments

- 6.2.1 Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

- 7.1.1 A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

7.2 Subsequent Owners

- 7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.
- 7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within four (4) years from the date of registration of this 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.

- 7.3.2 For the purpose of this section, commencement of development shall mean the installation of the footings and foundation for the proposed building addition.
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1 if the Municipality receives a written request from the Developer prior to the expiry of the commencement of development time period.

7.4 Completion of Development

- 7.4.1 Upon the completion of the whole development or complete phases of the development, 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;
 - (c) discharge this Agreement; or
 - (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Halifax Municipal Planning Strategy and Land Use By-law as may be amended from time to time.

7.5 Discharge of Agreement

- 7.5.1 If the Developer fails to complete the development, or phases of this development, after seven (7) years from the date of registration of this Agreement at the 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;
 - (c) discharge this Agreement; or
 - (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Halifax Municipal Planning Strategy and Land Use By-law for, as may be amended from time to time.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

- 8.1.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty-four hours of receiving such a request.

8.2 Failure to Comply

- 8.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:
- (a) 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;

- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this 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; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with 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: _____

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

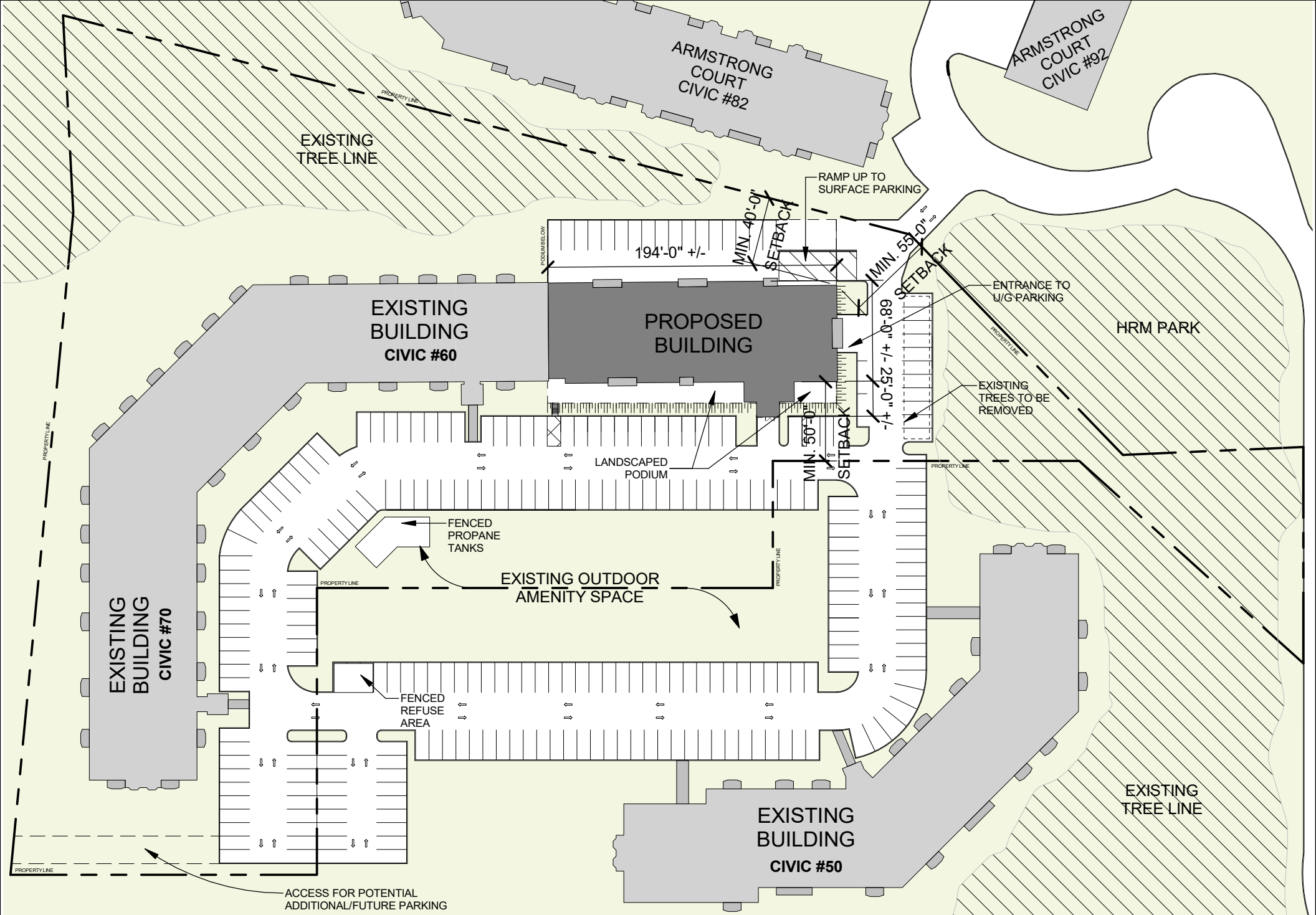
On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

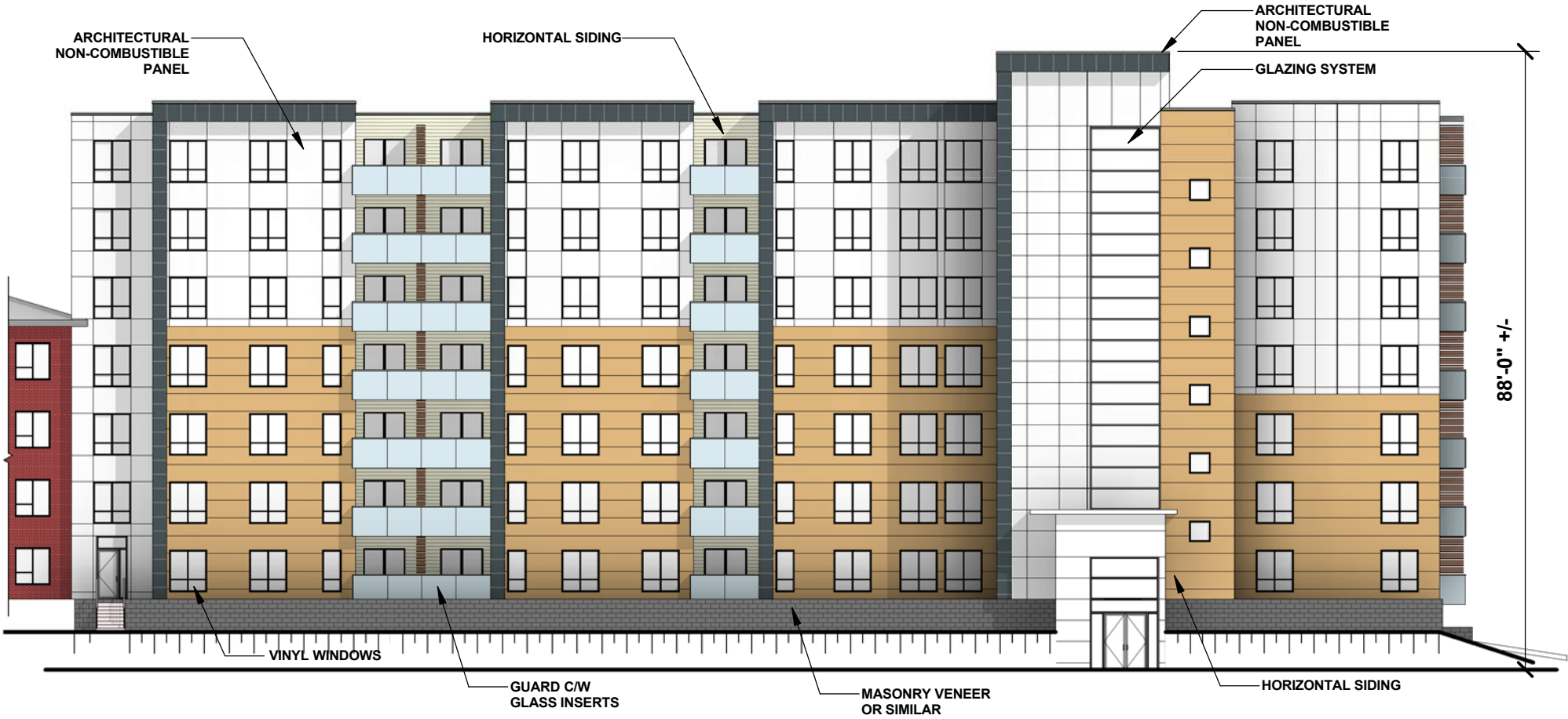
A Commissioner of the Supreme Court
of Nova Scotia

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

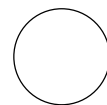




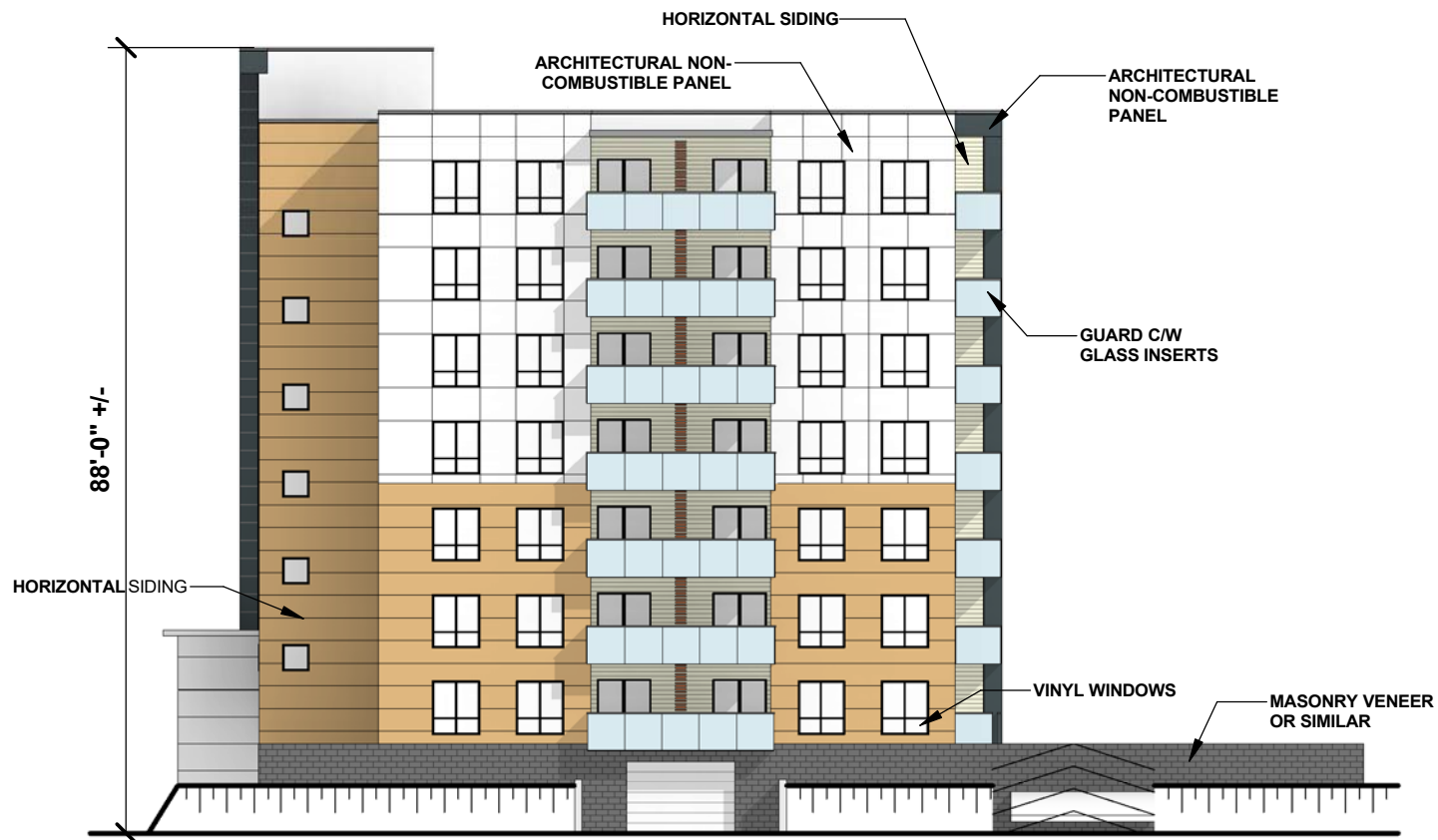
SCHEDULE C
SOUTH ELEVATION

**CASTLE HILL
ADDITION
60-70 ARMSTRONG COURT**

Project No: 2017-19
Scale: 3/64" = 1'-0"
Date: SEPT 2019



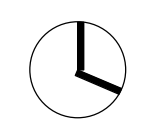
WM FARES
ARCHITECTS



SCHEDULE D
EAST ELEVATION

**CASTLE HILL
ADDITION
60-70 ARMSTRONG COURT**

Project No: 2017-19
Scale: 3/64" = 1'-0"
Date: SEPT 2019



WM FARES
ARCHITECTS

03

Attachment B: Discharging Development Agreement

THIS DISCHARGING AGREEMENT made this day of **[Insert Month]**, 20__,

BETWEEN:

[Insert Name of Corporation/Business LTD.]

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 Civic No. 50, 60 and 70 Armstrong Court (PID No. 40656837, 40656845) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the former City of Halifax entered into a development agreement with Realco Management Limited to allow for a mixed-use, commercial and residential development of properties on Kearney Lake Road and Armstrong Court, Halifax (PID No. 40656837, 40656845, 40656852, 40662413 and 40637803) on September 9, 1992, and which said development agreement (referenced as municipal case 6528) was registered at the Land Registry Office in Halifax on December 24, 1992 in Book No. 5347 at pages 794-799 as Document #58234 (hereinafter called the "Original Agreement"), and which applies to the Lands;

AND WHEREAS the former City of Halifax entered into an amending development agreement with Realco Management Limited to allow for changes to the mixed-use development of properties on Kearney Lake Road and Armstrong Court, Halifax (PID No. 40656837, 40656845, 40656852, 40662413 and 40637803) on January 14, 1993, and which said amending development agreement (referenced as municipal case 6528) was registered at the Land Registry Office in Halifax on February 19, 1993 in Book No. 5365 at pages 461-463 as Document #6881 (hereinafter called the "First Amending Agreement"), and which applies to the Lands;

AND WHEREAS the former City of Halifax entered into an amending development agreement with Barcan Developments Inc. to allow for changes to the proposed signalization at the intersection of Kearney Lake Road, Castlehill Drive and Broadholme Lane, Halifax (referenced as Municipal Case Number 6528) on June 29, 1993, and which said amending development agreement was registered at the Land Registry Office in Halifax on October 29, 1993 in Book No. 5485 at pages 927-929 as Document #45440 (hereinafter called the "Second Amending Agreement"), and which applies to the Lands;

AND WHEREAS the Original Agreement, the First Amending Agreement, and Second Amending Agreement together comprise the Existing Agreement (hereinafter called the "Existing Agreement");

AND WHEREAS Section 244(2) of the *Halifax Regional Municipality Charter* states 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 owners;

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

AND WHEREAS the Halifax and West Community Council approved this request by resolution at a meeting held on [INSERT - date], referenced as municipal case 21952;

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 all applicable provisions and requirements of the Land Use By-law for Halifax Mainland, as amended from time to time.

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 Name of Corporation/Business 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

Attachment C
Review of Relevant Halifax Municipal Planning Strategy Policies

Section II – City-Wide Policies	
3. COMMERCIAL FACILITIES	
Policy	Staff Comment
<i>3.7 In considering applications pursuant to Implementation Policy 3.10, Council shall have regard for the guidelines set out below:</i>	Note: “Implementation Policy 3.10” is a textual error which should read “Policy 3.12” as it relates to Schedule “L” of the Halifax Mainland LUB. This is clarified by LUB Section 69 which redirects back to MPS “Policy 3.12” and has been recognized in previous staff reports involving properties within Schedule “L”. This housekeeping issue will be resolved through the Land Use By-law Simplification project.
<i>(i) that entrances and exits be arranged in such a way so as to minimize the impact of additional traffic on any adjacent residential areas;</i>	The current entrance for the existing residential buildings will not change. The existing access is from the end of Armstrong Court and is shared with the residential buildings at Civic 82 and 92. A Traffic Impact Statement was submitted by the applicant, reviewed by staff and its findings were determined to be reasonable.
<i>(ii) that the proposed use does not entail an unacceptable nuisance such as traffic, smoke, toxic, or noxious effluents and noise;</i>	The Traffic Impact Statement estimated the existing traffic on Armstrong Court based on all existing residential buildings, projected the traffic increase caused by the building addition and reviewed traffic counts for the signalized intersection at Kearney Lake Road and Broadholme Lane/ Castlehill Drive. The TIS found that the low number of vehicle trips resulting from the building addition are not expected to affect traffic operations on the streets in the area. Staff reviewed the TIS and are in agreement with the findings. As the proposal is a residential use, there are no other expected nuisances.
<i>(iii) that storage areas be enclosed or be visually screened from the abutting street by such means as planting materials or well-designed fences;</i>	This will not be an issue, as the proposed use is residential versus commercial, and the site is not visible from Armstrong Court. However, the agreement contains clauses regarding screening of elements such as refuse containers, propane tanks, electrical and mechanical equipment, etc.
<i>(iv) that service areas for trucks and other vehicles be located in areas other than the front yards;</i>	As the proposed use is residential, there will be minimal need for service areas. These areas will not be located in the front yard. The current front yard off Armstrong Court is treed and not used for access or service purposes.
<i>(v) that front yards of an appropriate size be provided, well landscaped and including provisions for tree planting;</i>	The front yard of both properties off Armstrong Court is currently and proposed to remain in a natural treed state. Areas around the building that are not used for parking are either landscaped or treed.
<i>(vi) that drainage from large paved areas be required to be treated in cases where such</i>	The current site is developed and there are no identified watercourses. The agreement requires

<i>drainage will result in unacceptable pollution of watercourses or water bodies;</i>	that, prior to commencement of any site work on the Lands, the developer provide the following plans to staff for review: a Site Disturbance Plan, Erosion and Sedimentation Control Plan and a Site Grading and Stormwater Management Plan.
<i>(vii) that appropriate measures be taken to prevent erosion or deposit of sediments away from the development site during construction and afterwards;</i>	This is required by the agreement. See clause (vi) above.
<i>(viii) that the building envelope be located in such a manner as to provide a sufficient area for landscaped open space in both front and side yards</i>	See clause (v) above regarding the front yards. Also, the agreement requires that the existing landscaped amenity area be maintained and not reduced in size and that any trees which are removed to make way for the building addition be replaced by new trees planted in close proximity.
<i>(ix) that areas of significant natural, aesthetic and amenity value be protected as part of the site design in accordance with Policy Sets 7 and 8 of this Plan as appropriate;</i>	As noted above, the landscaped amenity area will be preserved and other treed areas will be retained. No other significant areas have been identified.
<i>(x) that there be an appropriate setback or other separation of any building from abutting residential properties and that a portion of such setback be landscaped; and</i>	The nearest residential building is a 3-storey apartment building to the immediate north of the proposed addition, which is also owned by the applicant. The addition will be located approximately 40 feet from the property line, which exceeds LUB requirements, and several existing trees in this location along the common line will be either retained or replaced with new trees.
<i>(xi) that the applicant provide a statement of the environmental impacts of the proposed development on and off the site and identify the ways and means to mitigate any negative effects, particularly as they relate to such aforementioned matters as air and water pollution, erosion and sediment control, and protection of significant natural, aesthetic, and amenity value;</i>	As noted above, landscaped and treed areas will be preserved, and detailed plans will be provided at the permitting stage regarding Site Disturbance, Erosion and Sedimentation Control and Site Grading/ Stormwater Management.
<i>(xii) such other land use considerations as Council may from time to time deem necessary, based on guidance provided by the policies of this Plan.</i>	There are no concerns with regard to sewer and water servicing, the details of which will be confirmed at the permitting stage.
Implementation Policies	
Policy	Staff Comment
<i>3.12 For areas designated as “industrial” or “commercial” excluding areas designated for detailed planning pursuant to Section II, Policy 2.5.2, and for which intensive development may have significant environmental or land use impacts, HRM may amend its Zoning By-law to provide for developments under Section 249 of the Halifax Regional Municipality Charter. (RC-Jun 16/09; E-Oct 24/09)</i>	The site is designated as “Commercial” on the Generalized Future Land Use Map. The application is for a development agreement, pursuant to the Halifax MPS and Section 249 of the Charter.