



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

Item No. 14.1.1
Halifax and West Community Council
September 19, 2023

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: - Original Signed -

Jacqueline Hamilton, Executive Director of Planning and Development

DATE: August 28, 2023

SUBJECT: **PLANAPP 2023-01043: Substantive Amendment to the Development Agreement for 1021 Beaufort Rd, Halifax**

ORIGIN

Application by BMP Developments, on behalf of Halifax County Condominium Corporation No. 412.

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 amending agreement, as set out in Attachment A, to permit an extension for the completion of construction at 1021 Beaufort Avenue, Halifax and schedule a public hearing;
2. Approve the proposed amending agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the 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

BMP Developments, on behalf of Halifax County Condominium Corporation No. 412, have applied to amend an existing development agreement at 1021 Beaufort Avenue, Halifax to extend the date of completion of development by two (2) years.

Subject Site	1021 Beaufort Ave, Halifax, PID 41457144
Location	On the north side of Beaufort Avenue between Regina Terrace and Inglis Street
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Established Residential
Zoning (Map 2)	Established Residential 1 (ER-1)
Size of Site	5,500m ² (59,211 ft ²)
Street Frontage	39.5 m (129.6 ft)
Current Land Use(s)	Single Unit Dwelling
Surrounding Use(s)	Residential (ER-1), single unit dwellings up to three unit dwellings; across Beaufort Ave is the multi-use trail as well as the railway corridor.

Existing Development Agreement

- On March 31, 2015, Regional Council adopted site-specific policies (Policies 1.4.1.3 and 1.4.1.4 of the Halifax Municipal Planning Strategy) to allow the consideration of the consolidation two parcels of land and development of six (6) detached, single unit buildings on a shared private driveway at 1021 Beaufort Avenue, Halifax (Case 17174).
- On June 24, 2015, Halifax and West Community Council approved a development agreement to allow the proposed development (Attachment D). The development agreement was registered at the Land Registry on November 9, 2015.
- The commencement and completion time periods contained within the existing agreement are four (4) and six (6) years from date of registration of the agreement (November 9, 2019 and November 9, 2021), respectively.
- The development agreement defines commencement of development as final subdivision approval for consolidation of the two lots into one (1), as per Schedule B of the development agreement. The consolidation was approved on April 5, 2017.
- The completion of development is defined as the issuance of a construction permit for all six home sites. To date, only two construction permits have been received, and one of those has been issued, which does not satisfy the completion requirements of the development agreement. According to Section 7.4.2 of the existing agreement, the agreement shall have no further force or effect if completion does not occur within the prescribed time period.

Section 6.1 of the existing development agreement identifies amendments that are deemed to be non-substantive, including the granting of an extension for the length of time for the completion of the development. However, section 7.4.4 of the agreement states that extensions can only be considered if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the completion of the development time period. The written request was not received by September 10, 2021, therefore, the proposed amendment can only be considered as a substantive amendment.

Enabling Policy and LUB Context

The existing development agreement was approved under Policies 1.4.1.3 and 1.4.1.4 of the Halifax Municipal Planning Strategy ([see staff report dated January 23, 2015](#))¹. The Regional Centre Secondary Municipal Planning Strategy (RCSMPS) and the Regional Center Land Use By-law (LUB) was adopted on

¹ <https://legacycontent.halifax.ca/council/agendasc/documents/150310ca1121.pdf>

November 21, 2021, at which time the subject site was designated ER (Established Residential) and zoned ER-1 (Established Residential 1).

When the RCSMPS was adopted, the policies which enabled the original development were repealed, including policies 1.4.1.3 and 1.4.1.4. However, the RCSMPS does provide specific 'transition' policies, such as Policy IM-33, which enables applications for non-substantive amendments to existing development agreements to be considered under the policies in effect at the time the agreement was approved. Policy IM-34 enables Council to consider applications to extend construction commencement and completion dates by two years, which is reflected in the applicant's request (Attachment B).

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 and signage posted on the subject site.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed amending agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the advertisement on the HRM webpage, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

DISCUSSION

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

Proposed Amending Agreement

Attachment A contains the proposed amending agreement which allows for a time extension for the completion of development. As per Policy IM-34 of the RCSMPS, the new completion date extends two (2) years, but not beyond, from the completion date contained in the original development agreement. Section 7.4.2 of the development agreement states that the development is to be completed within six (6) years from the date of registration of the agreement, which translates to November 9, 2021. The proposed amending agreement states that the development must be completed by November 9, 2023, in accordance Policy IM-34. Staff are working with the applicant to ensure that all requirements for construction permit submissions are being met and that there is sufficient time for the review and issuance of the permits as required by the agreement. If the amending agreement is approved and the remaining five construction permits are not issued by Nov 9, 2023, the agreement will have no further force or effect, and the development of the lands will need to conform to the provisions of the Land Use Bylaw.

Land Use Compatibility

No changes are proposed to the development details contained within the existing development agreement. This includes the requirements pertaining to scale, siting, and architectural details of the structures, as well as tree preservation, interpretive panels, access, driveway, and parking requirements. The January 23, 2015 staff report (linked above within the Background section of this report) provides additional details, along with background information relative to the land use compatibility.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the RCSMPS. The proposed amendment will allow the development to continue, considering delays that were experienced during the Covid-19 pandemic and ongoing labour and market challenges, while not granting unintended longstanding rights. The extension to the completion date is not expected to result in any additional neighbourhood impact. Given that the proposed development

remains the same as in the existing agreement, it remains compatible with the community. The RCSMPS specifically indicates that only a single time extension application per development agreement shall be considered under the new policy. As such, this would be the one and only extension request permitted on this property under the current iteration of this policy. Therefore, staff recommend that the Halifax and West Community Council approve the proposed amending agreement.

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 proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2023-2024 operating budget for Planning and Development.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing SMPS policies. Community Council has the discretion to make decisions that are consistent with the SMPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amending development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amending agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons why the proposed amending agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

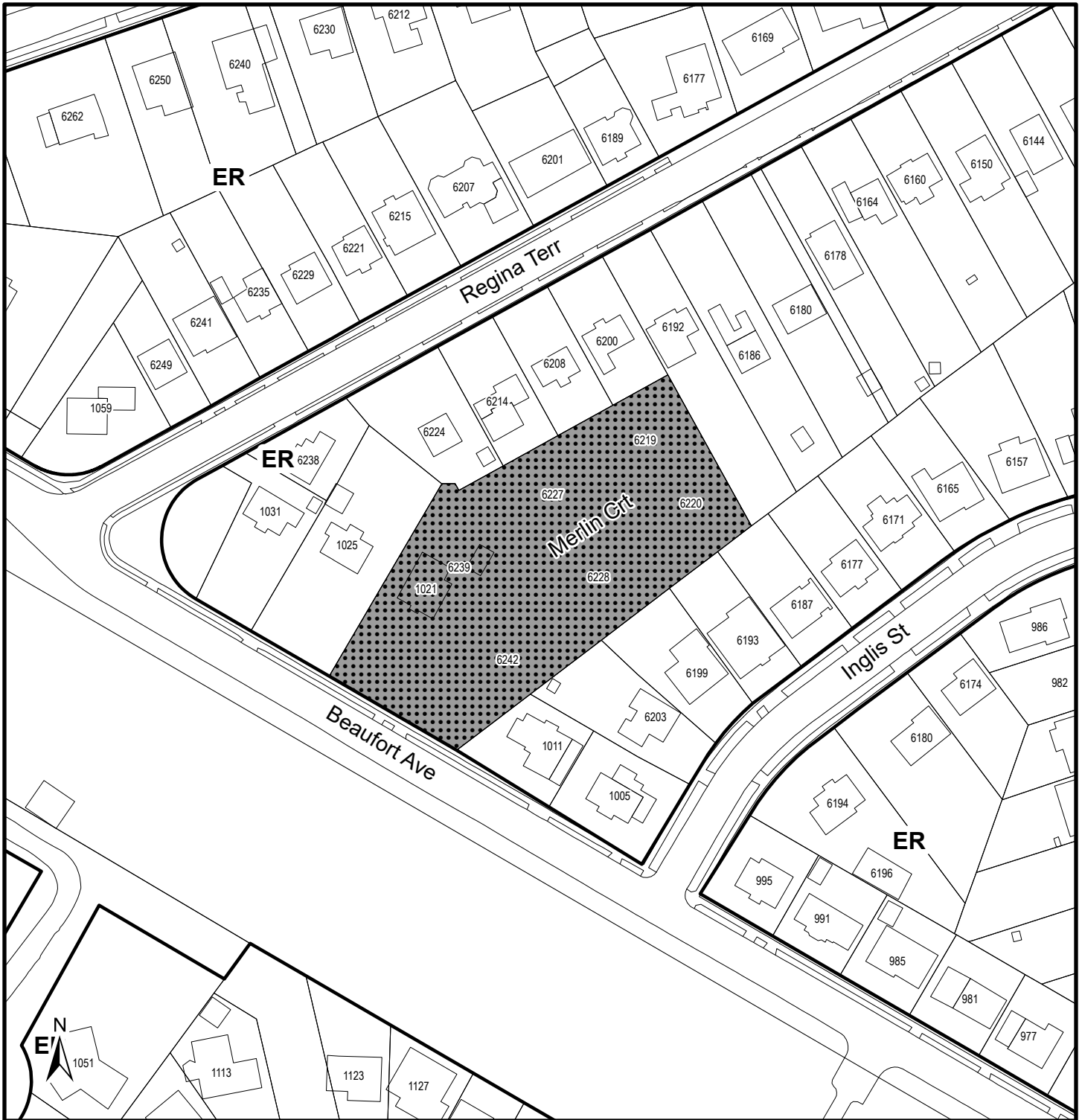
ATTACHMENTS

Map 1: Generalized Future Land Use
Map 2: Zoning and Notification Area

Attachment A: Proposed Amending Agreement
Attachment B: Applicant Submission Letter
Attachment C: Review of Relevant MPS Policies
Attachment D: Existing Development Agreement


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

Report Prepared by: Kelly Greenland, Planner II, Urban Enabled Applications, 902.497.5088



Map 1 - Generalized Future Land Use

1021 Beaufort Avenue
Halifax

 Subject Property

Designation

ER Established Residential

0 40 m



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.

Regional Centre
Land Use By-Law Area



Map 2 - Zoning and Notification Area

1021 Beaufort Avenue
Halifax

HALIFAX

Zone

ER-1 Established Residential 1

- Subject Property
- Area of Notification



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.

Regional Centre
Land Use By-Law Area

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

BETWEEN:

HALIFAX COUNTY CONDOMINIUM CORPORATION NO. 412
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 1021 Beaufort Ave, Halifax (PID 41457144) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Halifax and West Community Council approved an application to enter into a Development Agreement to allow for the Lands to be consolidated into one (1) residential lot and developed with six (6) detached single unit houses (municipal case 17174), which said Development Agreement was registered at the Land Registration Office on November 9, 2015 as Document Number (108075806) (hereinafter called the "Original Agreement");

AND WHEREAS the Developer has requested an amendment to the Original Agreement to allow for an extension to the date of construction completion of development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy IM-34 of the Regional Centre Municipal Planning Strategy and pursuant to Section 6 of the Original Agreement;

AND WHEREAS Halifax and West Community Council approved this request at a meeting held on **[Insert – Date]**, referenced as Municipal Case Number PLANAPP-2023-01043;

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 conditions and provisions of the Original/Existing Agreement as amended shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this First Amending Agreement, and the Original Agreement.

3. Section 7.4.2 of the Original Agreement shall be amended by deleting the text shown in ~~strikeout~~, and inserting the text shown in bold as follows:

7.4.2 In the event that development on the Lands has not been completed **by November 9, 2023**, ~~within six (6) 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.

4. Section 7.5.1 of the Original Agreement shall be amended by deleting the text shown in ~~strikeout~~, and inserting the text shown in bold as follows:

7.5.1 If the Developer fails to complete the development **by November 9, 2023** ~~after six (6) years from the date of registration of this First Amending Agreement at the Registry of Deeds or Land Registration Office Council~~ **the Municipality** 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:

HALIFAX COUNTY CONDOMINIUM CORPORATION NO. 412

Witness

Per: _____

Print Name: _____

Position/Title: _____

Date Signed: _____

=====

=====

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

Date Signed: _____

Witness

Per: _____
MUNICIPAL CLERK

Date Signed: _____

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, personally came and appeared _____, the 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, personally came and appeared _____, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that Mike Savage, Mayor and Iain MacLean 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 A

Registration County: HALIFAX COUNTY

Street/Place Name: BEAUFORT AVENUE / HALIFAX

Title of Plan: PLAN OF SURVEY OF LOT BA-1, A CONSOLIDATION OF P.I.D. 00052357, P.I.D. 00052340, & P.I.D. 40259095, LANDS OF 3291735 NOVA SCOTIA LIMITED

Designation of Parcel on Plan: LOT BA-1

Registration Number of Plan: 110604353

Registration Date of Plan: 2017-04-13 13:21:42

*** Municipal Government Act, Part IX Compliance ***

Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the Land Registration Act

Registration District: HALIFAX COUNTY

Registration Year: 2017

Plan or Document Number: 110604353

Attachment B: Applicant Submission Letter

BMP DEVELOPMENTS LTD.

PO Box 20259 RPO Bayer's Road
Halifax, Nova Scotia, B3L 4T7

[REDACTED]
[REDACTED]

July 6th. 2023

Dean MacDougall

Planner III

DEVELOPMENT SERVICES | PLANNING & DEVELOPMENT

macdoude@halifax.ca

Cell: 902-240-7085 **HALIFAX**, Nova Scotia.

Dear Dean,

Re: Application to Extend the Development Agreement.
Case Number 17174 Merlin Court, Halifax, NS.

Please be advised that; As per Policy IM-34 of the Regional Centre SMPS, we are applying for an Amendment to our existing Development Agreement for Merlin Court, Halifax to **extend** the completion date by 2 years via Section 6.1 and Section 7.4.

If additional information is required please do not hesitate to contact me.

Sincerely,

[REDACTED]

Roberto Mehendez - Architect
RAIC, NSAA

[Handwritten signature]

Attachment C – Review of Relevant MPS Policies

Regional Centre Municipal Planning Strategy	
Policy	Staff Comments
IMPLEMENTATION	
<p>Policy IM-34 <i>Policy IM-34 Applications for amendments to existing development agreements to extend the project commencement and completion dates shall only be considered by Council if:</i></p>	
<p><i>a) the project commencement date is proposed to increase by no more than two years;</i></p>	<p>The development has already met the requirements for the commencement of the project therefore this is not applicable for this application.</p>
<p><i>b) the project completion dates proposed to increase by no more than two years; and</i></p>	<p>The completion date set out in the existing development agreement is a maximum of six (6) years from the date of registration of the existing agreement. The existing agreement was registered on November 9, 2015, therefore the completion date was November 9, 2021. The proposed extension is stated in the proposed amending agreement as November 9, 2023. This new date satisfies the policy.</p>
<p><i>c) there is only one application per development agreement to be considered.</i></p>	<p>This is the first application for extension for this development agreement</p>

Form 24

Purpose: to change the registered interest, benefits or burdens

(Instrument code: 450)

(If change(s) requested relate(s) to one or more of the following and no other interests are being added or removed on this form: manner of tenure, description of manner of tenure, non-resident status, parcel access or NSFLB occupant. Note: This form cannot be used to correct an error in a parcel register).

(Instrument code: 451)

(Change to existing servient or dominant tenement PID number in a parcel register as a result of subdivision or consolidation. Note: This form cannot be used to correct an error in a parcel register)

For Office Use

Registration district: Halifax
 Submitter's user number: 3555
 Submitter's name: Philip Whitehead

HALIFAX COUNTY LAND REGISTRATION OFFICE
 I certify that this document was registered or recorded as shown here.
 Kim MacKay, Registrar

108075806 LR ROD
 Document #
NOV 09 2015 15:09
NOV 09 2015 Time 10

In the matter of Parcel Identification Number (PID)

PID 40259095	00052357
PID	00052340

(Expand box for additional PIDs, maximum 9 PIDs per form)

The following additional forms are being submitted simultaneously with this form and relate to the attached document (check appropriate boxes, if applicable):

- Form 24(s)
- Form 8A(s)

Additional information *(check appropriate boxes, if applicable):*

- This Form 24 creates or is part of a subdivision or consolidation.
- This Form 24 is a municipal or provincial street or road transfer.
- This Form 24 is adding a corresponding benefit or burden as a result of an AFR of another parcel.
- This Form 24 is adding a benefit or burden where the corresponding benefit/burden in the "flip-side" parcel is already identified in the LR parcel register and no further forms are required.

Power of attorney *(Note: completion of this section is mandatory)*

- The attached document is signed by attorney for a person under a power of attorney, and the power of attorney is:
 - recorded in the attorney roll
 - recorded in the parcel register
 - incorporated in the document

OR

- No power of attorney applies to this document

May 4, 2009

This form is submitted to make the changes to the registered interests, or benefits or burdens, and other related information, in the above-noted parcel register(s), as set out below.

The registered interests and related information are to be changed as follows:

Instrument type	N/A
Interest holder and type to be removed (if applicable)	N/A
Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) if applicable</i>	N/A
Mailing address of interest holder to be added (if applicable)	N/A
Manner of tenure to be removed (if applicable)	N/A
Manner of tenure to be added (if applicable)	N/A
Description of mixture of tenants in common and joint tenancy (if applicable)	N/A
Access type to be removed (if applicable)	N/A
Access type to be added (if applicable)	N/A
Percentage or share of interest held (for use with tenant in common interests)	N/A
Non-resident (to qualified solicitor's information and belief) (Yes/No?)	N
Reference to related instrument in parcel register (if applicable)	N/A
Reason for removal of interest (for use only when interest is being removed by operation of law and no document is attached) <i>Instrument code: 443</i>	N/A

The following tenant in common interests that appear in the section of the parcel register(s) labelled "Tenants in Common not registered pursuant to the *Land Registration Act*" are to be removed because the interests are being registered (*insert names to be removed*):

May 4, 2009

I have searched the judgment roll with respect to this revision of the registered interest and have determined that it is appropriate to add the following judgment(s) or judgment-related documents to the parcel register, in accordance with the *Land Registration Act* and *Land Registration Administration Regulations*:

Instrument type	
Interest holder name and type to be added	
Interest holder mailing address	
Judgment Roll reference	

The following benefits are to be added and/or removed in the parcel register(s):
(Note: An amending PDCA is required if the changes being made to the benefit section are not currently reflected in the description in the parcel register).

Instrument type	
Interest holder and type to be removed (if applicable)	
Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i>	
Mailing address of interest holder to be added (if applicable)	
Servient tenement parcel(s) (list all affected PIDs):	
Reference to related instrument in names-based roll/parcel register (if applicable)	
Reason for removal of interest (for use only when interest is being removed by operation of law) <i>Instrument code: 443</i>	

The following burdens are to be added and/or removed in the parcel register(s):
(Note: An amending PDCA is required if the changes being made to the burden section are not currently reflected in the description in the parcel register).

Instrument type	Agreement re Use of Land
Interest holder and type to be removed (if applicable)	N/A
Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i>	Halifax Regional Municipality – Party to Agreement (Burden)
Mailing address of interest holder to be added (if applicable)	PO Box 1749, Halifax, NS, B3J 3A5
Reference to related instrument in names-based roll/parcel register (if applicable)	NA

May 4, 2009

Reason for removal of interest <i>(for use only when interest is being removed by operation of law)</i> Instrument code: 443	NA
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The following recorded interests are to be added and/or removed in the parcel register:

Instrument type	
Interest holder and type to be removed <i>(if applicable)</i>	
Interest holder and type to be added <i>(if applicable)</i> <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i>	
Mailing address of interest holder to be added <i>(if applicable)</i>	
Reference to related instrument in names-based roll/parcel register <i>(if applicable)</i>	
Reason for removal of interest <i>(for use only when interest is being removed by operation of law)</i> Instrument code: 443	

The textual qualifications are to be changed as follows:

Textual qualification on title to be removed <i>(insert any existing textual description being changed, added to or altered in any way)</i>	
Textual qualification on title to be added <i>(insert replacement textual qualification)</i>	
Reason for change to textual qualification <i>(for use only when no document is attached)</i> Instrument code: 838	

The following information about the occupier of the parcel, which is owned by the Nova Scotia Farm Loan Board, is to be changed:

Name and mailing address of occupier to be removed	
Name and mailing address of occupier to be added	

May 4, 2009

Certificate of Legal Effect:

I certify that, in my professional opinion, it is appropriate to make the changes to the parcel register(s) as instructed on this form.

Dated at Halifax, in the County of Halifax, Province of Nova Scotia, on

Nov 3
~~Aug 26~~, 2015.



Signature of authorized lawyer

Name: Philip Whitehead

Address: 

Phone: 

E-mail: 

Fax: 

- This document also affects non-land registration parcels. The original will be registered under the *Registry Act* and a certified true copy for recording under the *Land Registration Act* is attached.

May 4, 2009

THIS AGREEMENT made this 7th day of October, 2015,

BETWEEN:

THREE BROOKS DEVELOPMENT CORPORATION LIMITED,
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

Approved as to Form
and Authority


Solicitor

OF THE FIRST PART

- and -

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

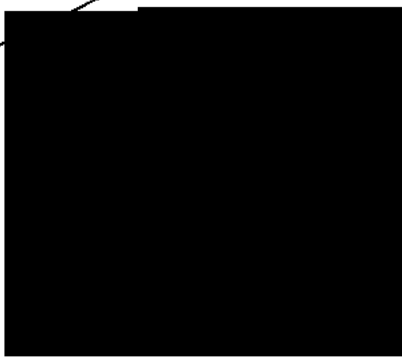
OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 1017 and 1021 Beaufort Avenue, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for the Lands to be consolidated into one (1) residential lot and developed with six (6) detached one family dwelling houses, pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 1.4.1.3 and 1.4.1.4 of Section V of the Municipal Planning Strategy for Halifax and Section 94(1)(u) of the Land Use By-law for Halifax Peninsula;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this Development Agreement at a meeting held on June 24, 2015, referenced as Municipal Case Number 17174;

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

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

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Halifax Peninsula and the Regional Subdivision By-law, as may be amended from time to time.

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 and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial or 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 and Subdivision 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

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

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.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

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.

2.2 Definitions Specific to this Agreement

The following words used in this Agreement shall be defined as follows:

- (a) "Certified Arborist" means a professional, full member in good standing with the International Society of Arboriculture;
- (b) "Architect" means a professional, full member in good standing with the Nova Scotia Association of Architects;
- (c) "Buildable Area" means the portion of a Home Site, as identified by dashed line on Schedule C, in which a detached one family dwelling house or accessory building or structure over 100 square feet in area must be located;
- (d) "Common Shared Private Driveway" means a shared private driveway which provides access to the individual Home Sites from the Municipal public street;
- (e) "Existing Buildings" means the existing detached one family dwelling house and the detached accessory building located at 1021 Beaufort Avenue as shown on Schedule C;
- (f) "Forester" means a professional, full member in good standing with the Registered Professional Foresters Association of Nova Scotia;
- (g) "Home Site" means a specific site designated for a detached one family dwelling house as shown on Schedule C;
- (h) "Home Site Driveway" means a driveway providing access to a Home Site from the Common Shared Private Driveway;
- (i) "Interpretative Panel" means a weather-resistant panel providing historical information related to the Lands;
- (j) "Landscape Architect" means a professional, full member in good standing with the Canadian Society of Landscape Architects; and
- (k) "Professional Engineer" means a professional, full member in good standing with Engineers Nova Scotia.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

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 17174:

- Schedule A Legal Description of the Lands
- Schedule B Subdivision Plan
- Schedule C Home Site Plan

3.2 General Description of Land Use

3.2.1 The uses of the Lands permitted by this Agreement are the following:

- (a) Six (6) detached one family dwelling houses, located on Home Sites 1 through 6;
- (b) Home occupations;
- (c) A Common Shared Private Driveway;
- (d) Interpretative Panels; and
- (e) Accessory buildings and structures on the Home Sites.

3.2.2 Home occupations are permitted subject to the requirements of the Land Use By-law for Halifax Peninsula, except that the following uses are not permitted:

- (a) Day care facilities in conjunction with a dwelling; and
- (b) The storage of commercial vehicles.

3.3 Requirements Prior to Approval

- 3.3.1 Prior to the issuance of a Building Permit for a detached one family dwelling house, the Developer shall complete the consolidation of the Lands into one (1) residential lot through the Municipal subdivision process, in accordance with the Regional Subdivision By-law and Section 3.4 of this Agreement.
- 3.3.2 Prior to the issuance of any Development Permit for a detached one family dwelling house, the Developer shall submit a Home Site Grading Plan which corresponds to the Site Grading Plan for the Lands submitted during the Municipal subdivision process, in accordance with Sections 3.4 and 5.1(c) of this Agreement.
- 3.3.3 Prior to the issuance of the first Development Permit for a detached one family dwelling house, the Developer shall provide a detailed design for the interpretative panel(s) in accordance with Section 3.9.1 of this Agreement.
- 3.3.4 At the time of each Occupancy Permit (excluding Occupancy Permits for the Existing Buildings where no grading changes have occurred), the Developer shall provide the Development Officer with certification from a Surveyor or Professional Engineer that the Developer has complied with the Home Site Grading Plan and the Site Grading Plan, which includes appropriate stabilization or landscaping for long term stability of the Home Site, subject to the Lot Grading By-law (By-law L-300), unless otherwise permitted by the Development Engineer.
- 3.3.5 For the purposes of this Agreement, specifically Sections 3.3.2 and 3.3.4, Home Sites shall meet the requirements applicable to Lots under the Lot Grading By-law (By-law L-300).
- 3.3.6 Prior to the issuance of the first Occupancy Permit for a detached one family dwelling house, the Developer shall install the interpretative panel(s) in accordance with Section 3.9.2 of this Agreement.
- 3.3.7 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, the Land Use By-law and the Subdivision By-law (except to the extent that the provisions of the Land Use By-law and Subdivision 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.

3.4 Subdivision of the Lands

3.4.1 The Lands shall be consolidated into one (1) residential lot as shown on Schedule B of this Agreement.

3.4.2 The Development Officer shall grant final subdivision approval for the Lands to be consolidated into one (1) residential lot through the subdivision approval process subject to and in accordance with the Regional Subdivision By-law and with the following terms and conditions:

- (a) The final subdivision application shall include sufficient copies of the following detailed design information, which shall be certified by a Professional Engineer (with the exception of detailed information required by Section 3.4.2 (a)(iii)):
 - (i) Final design (including plan and profile) of all proposed public and private services, including water, sanitary, and stormwater;
 - (ii) Final design (including geotechnical report) of the Common Shared Private Driveway in accordance with Section 3.10 of this Agreement and with the standards of the National Building Code;
 - (iii) A Tree Preservation Plan in accordance with Section 3.11 of this Agreement;
 - (iv) A detailed Site Disturbance Plan in accordance with Section 5.1(a) of this Agreement;
 - (v) A detailed Erosion and Sedimentation Control Plan in accordance with Section 5.1(b) of this Agreement; and
 - (vi) A detailed Site Grading and Stormwater Management Plan for the Lands in accordance with Section 5.1(c) of this Agreement.
- (b) Upon approval of the detailed Site Disturbance Plan and the Erosion and Sedimentation Plan, and prior to the pre-construction meeting, the Developer may request approval from the Development Officer to begin site clearing and tree removal for the installation of services and the Common Shared Private Driveway.
- (c) Upon approval of the final design of all proposed public and private services, prior to the pre-construction meeting, the Developer may request a Blasting Permit from the Development Officer, subject to approval by all required agencies.
- (d) Upon positive recommendation of the detailed design by the Development Officer, Development Engineer, Building Official and Halifax Water, a pre-construction meeting shall be held prior to permits being issued. Prior to the scheduling of the pre-construction meeting, the Developer shall provide the Development Officer with construction time schedule.
- (e) During the Municipal subdivision process, the Developer shall obtain the necessary approvals for all required servicing work, including, but not limited to:
 - (i) Streets and Services permit for the Common Shared Private Driveway to meet the Streets By-law (S-300) and Municipal Design Guidelines in accordance with Section 3.10 and Part 4 of this Agreement;
 - (ii) HRM Streets and Services permits and Halifax Water permits to install laterals for water and sanitary services;
 - (iii) Extinguishing the portion of the public service easement located outside Home Site 1.
- (f) During the Municipal subdivision process, the Developer shall construct the necessary public and private services for the Lands, including, but not limited to:
 - (i) The Common Shared Private Driveway;

- (ii) Laterals for water and sanitary service; and
 - (iii) Any on-site or off-site fire hydrants required by Fire Services and Halifax Water.
- (g) Prior to the Development Officer's approval of the Lands being consolidated into one (1) residential lot, the Developer shall provide the necessary inspections and acceptance of work completed, including, but not limited to:
- (i) Registration of the amended public service easement (extinguishing the portion of the public service easement located outside Home Site 1) at the Land Registration Office, at the cost of the Developer;
 - (ii) Certification from a Professional Engineer indicating that the Developer has complied with the Stormwater Management Plan;
 - (iii) A Certificate of Construction Compliance from a Professional Engineer for the Common Shared Private Driveway;
 - (iv) Inspection and acceptance of the Common Shared Private Driveway as required by Fire Services, and a registered agreement with the Traffic Authority for Designated Fire Lanes, if required; and
 - (v) A letter from a Certified Arborist certifying that all trees required to be preserved by this Agreement have been protected throughout the construction of the Common Shared Private Driveway and are in good condition.

3.4.3 The Development Officer shall not approve the consolidation of the Lands into one (1) residential lot until the detailed design information, necessary permits, construction, inspections and acceptance, as outlined in Sections 3.4.2 (a) through 3.4.2(g) have been satisfied.

3.5 Archaeological Considerations

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

3.6 Existing Buildings

Notwithstanding any section of this Agreement, if destroyed or damaged by fire or otherwise, an Existing Building may be rebuilt, replaced or repaired to be substantially the same as it was before the destruction or damage, subject to compliance with the requirements of the Nova Scotia Building Code.

3.7 Detached One Family Dwelling Houses and Accessory Buildings and Structures

- 3.7.1 Six (6) detached one family dwelling houses, located on Home Sites 1 through 6 as shown on Schedule C, are permitted under the terms of this Agreement.
- 3.7.2 The variance provisions under the Land Use By-law for Halifax Peninsula and the *Halifax Regional Municipality Charter* do not apply to the Lands.
- 3.7.3 No portion of a detached one family dwelling house, including covered porches or verandas and unsheltered structures such as decks or stairs, shall be located outside of the Buildable Area for the Home Site, as illustrated on Schedule C.
- 3.7.4 The Gross Floor Area of a detached one family dwelling house shall be applied to the size of the Home Site, and not to the size of the lot, and shall not exceed:

- (a) 5698 square feet on Home Site 1;
- (b) 5438 square feet on Home Site 2;
- (c) 5625 square feet on Home Site 3;
- (d) 5574 square feet on Home Site 4;
- (e) 5196 square feet on Home Site 5;
- (f) 5625 square feet on Home Site 6.

- 3.7.5 Accessory buildings or structures may be permitted inside the Buildable Area for a Home Site, as illustrated on Schedule C, but shall not be included in the Gross Floor Area calculations.
- 3.7.6 The maximum footprint, including the detached one family dwelling house and all accessory buildings and covered structures, shall not exceed thirty-five (35) percent of the Home Site.
- 3.7.7 The maximum height of a detached one family dwelling house shall not exceed thirty-five (35) feet, calculated according to the applicable height provisions of the Land Use By-law.
- 3.7.8 Siting, bulk and scale of accessory buildings or structures shall comply with the following requirements:
- (a) No portion of a building or structure shall be located less than four (4) feet from any dwelling or any side or rear property line;
 - (b) No portion of a building or structure shall be located closer to the Common Shared Private Driveway than the setback between the dwelling on that Home Site and the Common Shared Private Driveway;
 - (c) No portion of a building or structure shall be located closer to the public street than the setback between the dwelling on that Home Site and public street;
 - (d) The maximum footprint shall not exceed:
 - (i) 600 square feet for accessory buildings or structures located within the Buildable Area of a Home Site; or
 - (ii) 100 square feet for accessory buildings or structures located outside the Buildable Area of a Home Site.
 - (e) Measured to the highest point of the roof from the mean grade of the natural ground adjoining the building, the maximum height shall not exceed:
 - (i) Fourteen (14) feet for accessory buildings or structures located within the Buildable Area of a Home Site; or
 - (ii) Ten (10) feet for accessory buildings or structures located outside the Buildable Area of a Home Site.

3.8 Architectural Requirements

- 3.8.1 All plans submitted for Development and Building Permits shall include written confirmation from an Architect that the plans meet the architectural requirements of Sections 3.8.2 and 3.8.3.
- 3.8.2 Detached one family dwelling houses shall substantially conform to one of three architectural styles, described below:
- (a) A Traditional Vernacular architectural style shall include such typical elements as: simple footprint, steeply pitched roof, gable dormers, vertically oriented hung

windows, windows and doors with wooden trim, corner boards, and wooden clapboard or wooden shingle siding;

- (b) A Craftsman architectural style shall include such typical elements as: two storeys, a low pitched roofline, gabled or hipped roof, deeply overhanging eaves with exposed rafter ends or brackets, large covered porches or wraparound porches, substantial pillars, 4-over-1 or 6-over-1 double-hung windows, window boxes with wooden brackets, exterior chimneys, and handcrafted stonework or woodwork; or
- (c) A Contemporary architectural style may include such elements as: large window openings, clean lines, modern materials, and modest ornamentation, but must include inspiration from and respect for either the Craftsman or Traditional Vernacular architectural styles.

3.8.3 General architectural requirements for accessory buildings and structures are as follows:

- (a) Accessory buildings and structures shall be substantially the same style and materials as used on the detached one family dwelling house on that Home Site; and
- (b) All vents, down spouts, flashing, electrical conduits, meters, service connections, and other functional elements shall be treated as integral parts of the design.

3.9 Interpretative Panels

3.9.1 Prior to the issuance of a Building Permit for the first one family dwelling house, the Developer obtain a Development Permit for one or more interpretative panels. The Development Permit application shall be reviewed by the Development Officer and the HRM Heritage Planner, and shall include a detailed design for one or more interpretative panels. Interpretative panels shall be located on Home Site 1 or Home Site 6 and shall be setback a minimum of ten (10) feet from the Common Shared Private Driveway and a maximum of two (2) feet front the property line shared with Beaufort Avenue. Interpretative panels shall not exceed five (5) feet in height and four (4) feet in width.

3.9.2 Prior to the issuance of an Occupancy Permit for the first one family dwelling house, the Developer shall submit to the Development Officer, in consultation with the HRM Heritage Planner, confirmation that the interpretative panel(s) required by Section 3.9.1 have been installed.

3.10 Access, Driveway and Parking Requirements

3.10.1 Access to the Home Sites shall be via the Common Shared Private Driveway as shown on Schedule C.

3.10.2 The Common Shared Private Driveway shall comply with the requirements of the Streets By-law (S-300) and Municipal Design Guidelines.

3.10.3 The Common Shared Private Driveway shall comply with the requirements of the National Building Code for required access routes for Fire Services.

3.10.4 Each Home Site shall include a Home Site Driveway and a minimum of three (3) parking spaces at least eight (8) feet wide and sixteen (16) feet long.

3.11 Tree Preservation

3.11.1 Schedule C identifies significant trees to be preserved. The Developer shall ensure conservation of these significant trees through the following measures:

- (a) The Site Disturbance Plan shall identify the limit of disturbance, tree habitat preservation areas, the hoarding fence location and the stockpile location;
- (b) Prior to the issuance of a Construction Permit for a detached one family dwelling house, the Developer shall submit a Home Site Disturbance Plan which shall identify the limit of disturbance, tree habitat preservation areas, the hoarding fence location and the stockpile location;
- (c) During demolition and construction, proper arboricultural practices shall be undertaken and shall include such activities as:
 - (i) the erection of tree protective hoarding fence located as close to the drip-line of the trees to be preserved as possible for the duration of construction;
 - (ii) no stockpiling of soil or materials or the movement of equipment within the hoarded areas; and
 - (iii) pruning of any damaged limbs or roots.
- (d) If any of the significant trees shown on Schedule C are damaged or removed, two (2) new trees of the same species shall be provided for each damaged or removed tree. Each replacement tree shall be provided at the expense of the Developer within six (6) months and shall have a minimum 100 mm caliper, measured 30 cm above grade level. The Developer shall provide a letter from a Certified Arborist certifying that all replacement trees have been planted and are in good condition in accordance with this Section.

3.11.2 Notwithstanding Section 3.11.1, where a Landscape Architect, Certified Arborist or Forester engaged by the Developer or lot owner certifies in writing that a significant tree poses a hazard to people or property or is in severe decline, the Development Officer may permit the tree to be removed. Any significant tree shown on Schedule C that is removed shall be replaced at the expense of the Developer or lot owner with a new tree, of the same species, and of a minimum size as outlined in Section 3.11.1.

3.12 Outdoor Lighting

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

3.12.2 Lighting on the Common Shared Private Driveway shall use a full cut-off fixture design.

3.13 Solid Waste

Municipal collection of solid waste shall be provided subject to the requirements of the Solid Waste Resource Collection and Disposal By-Law (By-law S-600).

3.14 Maintenance

3.14.1 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 all buildings, fencing, walkways, recreational amenities, the Common Shared Private Driveway, Home Site Driveways and parking areas, 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.

- 3.14.2 The Developer shall be responsible for all aspects of maintenance for the Common Shared Private Driveway, the Home Site Driveways, any private hydrants, the private stormwater management systems, and any private water and sanitary laterals. This infrastructure will not be taken over by the Municipality.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

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

4.2 Off-Site Disturbance

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 and the HRM Urban Forester.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plans

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, the areas to be disturbed or undisturbed, any removal of vegetation and intended means of replacement, and any removal and replacement of significant trees, subject to the requirements of Section 3.11;
- (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, which shall include an appropriate stormwater collection and treatment system. The Site Grading and Stormwater Management Plan shall identify structural and vegetative stormwater management measures, which may include infiltration, retention, and detention controls, wetlands, vegetative swales, filter strips, and buffers that will minimize adverse impacts on receiving watercourses during and after construction.

PART 6: AMENDMENTS

6.1 Non Substantive Amendments

The following items are considered by both parties to be not substantive and may be amended by resolution of Council:

- (a) Minor changes to the architectural requirements and exterior architectural appearance or materials as detailed in Section 3.8;
- (b) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement; and
- (c) The length of time for the completion of the development as identified in Section 7.4 of this Agreement.

6.2 Substantive Amendments

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

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 final subdivision approval into one (1) residential lot as shown on Schedule B of this Agreement.
 - 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 at least sixty (60) calendar days 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; or
- (c) Discharge this Agreement.

7.4.2 In the event that development on the Lands has not been completed within six (6) 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.

7.4.3 For the purpose of this section, completion of development shall mean the issuance of a Construction Permit for all Home Sites.

7.4.4 For the purpose of this section, Council may consider granting an extension of the completion of development time period through a resolution under Section 6.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the completion of development time period.

7.5 Discharge of Agreement

7.5.1 If the Developer fails to complete the development after six (6) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office Council may review this Agreement, in whole or in part, and may:

- (a) Retain the Agreement in its present form;
- (b) Negotiate a new Agreement; or
- (c) Discharge this Agreement.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

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

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 defense 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:

[Redacted signature]

Witness

THREE BROOKS DEVELOPMENT CORPORATION LIMITED

Per

Print name:

E. J. BRYAN

Position:

PRESIDENT

=====

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

[Redacted signature]

Witness

[Redacted signature]

Witness

=====

HALIFAX REGIONAL MUNICIPALITY

[Redacted signature]

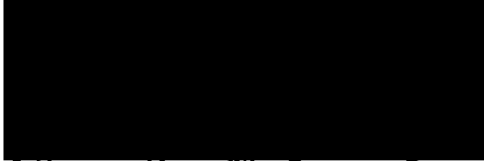
Mayor

[Redacted signature]

Municipal Clerk

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

On this 26th day of August, A.D., 2015, before me, the subscriber personally came and appeared E. D. Bruson a subscribing witness to the foregoing Indenture who having been by me duly sworn, made oath and said that **THREE BROOKS DEVELOPMENT CORPORATION LIMITED**, one of the parties thereto, signed, sealed and delivered the same in his/her presence.



A Commissioner of the Supreme Court
of Nova Scotia

Philip Whitehead, B.Sc., LL.B.
Barrister - Solicitor - Notary Public



PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

On this 1th day of October, A.D., 2015, before me, the subscriber personally came and appeared Ken Benoit & Laurie Lee Bryden the subscribing witness to the foregoing Indenture who being by me sworn, made oath, and said that Mike Savage, Mayor, and Cathy Mellett, 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

SHERRYLL MURPHY
A Commissioner of the Supreme
Court of Nova Scotia

Legal Description
P.I.D. 00052357
Beaufort Avenue, Halifax
Halifax County, Nova Scotia

All that certain piece or parcel of land lying and being on Beaufort Avenue, Halifax, Halifax County shown as Lot 7 on a plan of Subdivision of the William McFatridge property, created by Charles P. Roper, P.L.S., dated April 1, 1936, and registered as plan number 374. Said Lot 7 being more particularly described as follows:

BEGINNING at a point at the southeastern corner of Lot 1 (P.I.D. 00052282), lands of Paul Gunnar Doerwald & Estelle Joubert, said point being the most northern corner of P.I.D. 00052357;

THENCE South 28 degrees 56 minutes 00 seconds East a distance of 46.025 metres to a point on the northwestern boundary of Lot 14 (P.I.D. 00052050), lands of Barbara Elizabeth Shaw & Alexander Ferguson Shaw;

THENCE South 52 degrees 43 minutes 51 seconds West a distance of 78.943 metres to a point on the former northeastern boundary of Beaufort Avenue (formerly Connaught Avenue);

THENCE North 59 degrees 51 minutes 47 seconds West a distance of 25.298 metres to a point at the southern corner of P.I.D. 00052340, lands of Three Brooks Development Corporation Limited;

THENCE North 30 degrees 09 minutes 13 seconds East a distance of 31.882 metres to a point;

THENCE North 29 degrees 35 minutes 08 seconds West a distance of 19.812 metres to a point at the southern corner of Lot 4 and a portion of Lot 5 (P.I.D. 00052316), lands of Kimberly Dawn White & Michael William Butt;

THENCE North 61 degrees 04 minutes 00 seconds East a distance of 64.008 metres to the point of **BEGINNING**. Containing an area of 3,888 square metres more or less.

TOGETHER WITH an easement for water service over a portion of Lot 2 (P.I.D. 00052290), lands of Jodi Asbell-Clarke & David Clarke, as described in Book 1081 Page 473.

Also All that certain piece or parcel of land lying and being on Beaufort Avenue, Halifax, Halifax County shown on a plan showing City Owned Property on east side of Connaught Avenue, South of Regina Terrace compiled on October 19, 1949, revised April 28, 1950, and is on file at Halifax Regional Municipality Design & Construction Services as plan number PP-2-11075. Said parcel being more particularly described as follows:

BEGINNING at a point at the southeastern corner of Lot 7 as shown on registered plan number 374;

THENCE South 52 degrees 43 minutes 51 seconds West a distance of 19.812 metres more or less to a point on a northeastern boundary of Beaufort Avenue;

THENCE North 59 degrees 51 minutes 47 seconds West a distance of 16.764 metres more or less to a point;

THENCE North 30 degrees 09 minutes 13 seconds East a distance of 18.288 metres to a point;

THENCE South 59 degrees 51 minutes 47 seconds East a distance of 25.298 metres to the point of **BEGINNING**. Containing an area of 393 square metres more or less.

SUBJECT TO an easement and right of way in favour of Halifax Regional Municipality as described in Book 1417 Page 332.

All bearings are based on 3-degree M.T.M. Grid North, Central Meridian 64 degrees 30 minutes West.

**Legal Description
P.I.D. 00052340
Beaufort Avenue, Halifax
Halifax County, Nova Scotia**

All that certain piece or parcel of land lying and being on Beaufort Avenue, Halifax, Halifax County being a portion of Lot 8 on a plan of Subdivision of the William McPatridge property, created by Charles P. Roper, P.L.S., dated April 1, 1936, and registered as plan number 374. Said parcel being more particularly described as follows:

BEGINNING at a point at a western corner of Lot 7 as shown on the above mentioned plan, said point lying on the former streetline of Beaufort Avenue (formerly Connaught Avenue);

THENCE North 59 degrees 51 minutes 47 seconds West a distance of 21.549 metres to a point on the southeastern boundary of Lot 8A (P.I.D. 00052332), lands of Mary Karine Renton;

THENCE North 30 degrees 20 minutes 13 seconds East a distance of 45.811 metres more or less to a point at the northeastern corner of said Lot 8A (P.I.D. 00052332), lands of Mary Karine Renton;

THENCE North 89 degrees 31 minutes 09 seconds East a distance of 3.658 metres to a point;

THENCE South 29 degrees 19 minutes 59 seconds East a distance of 21.336 metres to a point;

THENCE South 30 degrees 09 minutes 13 seconds West a distance of 31.882 metres to the point of **BEGINNING**. Containing an area of 823.6 square metres more or less.

All bearings are based on 3-degree M.T.M. Grid North, Central Meridian 64 degrees 30 minutes West.

**Legal Description
P.I.D. 40259095
Beaufort Avenue, Halifax
Halifax County, Nova Scotia**

All that certain piece or parcel of land lying and being on Beaufort Avenue, Halifax, Halifax County shown on a plan showing City Owned Property on east side of Connaught Avenue, South of Regina Terrace compiled on October 19, 1949, revised April 28, 1950, and is on file at Halifax Regional Municipality Design & Construction Services as plan number PP-2-11075. Said parcel being more particularly described as follows:

BEGINNING at a point at the southeastern corner of Lot 8A (P.I.D. 00052332), lands of Mary Karine Renton;

THENCE North 30 degrees 20 minutes 13 seconds East a distance of 18.288 metres to a point;

THENCE South 59 degrees 51 minutes 47 seconds East a distance of 21.549 metres to a point;

THENCE South 30 degrees 09 minutes 13 seconds West a distance of 18.288 metres to a point on a northeastern boundary of Beaufort Avenue

THENCE North 59 degrees 51 minutes 47 seconds West a distance of 21.549 metres to the point of **BEGINNING**. Containing an area of 394 square metres more or less.

SUBJECT TO an easement and right of way in favour of Halifax Regional Municipality as described in Book 1417 Page 332.

All bearings are based on 3-degree M.T.M. Grid North, Central Meridian 64 degrees 30 minutes West.

Legal Description
P.I.D. 40259095, P.I.D. 00052340, & P.I.D. 00052357
Beaufort Avenue, Halifax
Halifax County, Nova Scotia

All that certain pieces or parcels of land lying and being on Beaufort Avenue, Halifax, Halifax County shown on a plan showing City Owned Property on east side of Connaught Avenue, South of Regina Terrace compiled on October 19, 1949, revised April 28, 1950, and is on file at Halifax Regional Municipality Design & Construction Services as plan number PP-2-11075 and on a plan of Subdivision of the William McFtridge property, created by Charles P. Roper, P.L.S., dated April 1, 1936, and registered as plan number 374. Said parcels being more particularly described as follows:

BEGINNING at a point at the southeastern corner of Lot 1 (P.I.D. 00052282), lands of Paul Gunnar Doerwald & Estelle Joubert, said point being the most northern corner of P.I.D. 00052357;

THENCE South 28 degrees 56 minutes 00 seconds East a distance of 46.025 metres to a point on the northwestern boundary of Lot 14 (P.I.D. 00052050), lands of Barbara Elizabeth Shaw & Alexander Ferguson Shaw;

THENCE South 52 degrees 43 minutes 51 seconds West a distance of 98.775 metres more or less to a point a northeastern boundary of Beaufort Avenue;

THENCE North 59 degrees 51 minutes 47 seconds West a distance of 38.313 metres more or less to a point at the southeastern corner of Lot 8A (P.I.D. 00052332), lands of Mary Karine Renton;

THENCE North 30 degrees 20 minutes 13 seconds East a distance of 64.099 metres to a point;

THENCE North 89 degrees 31 minutes 09 seconds East a distance of 3.658 metres to a point;

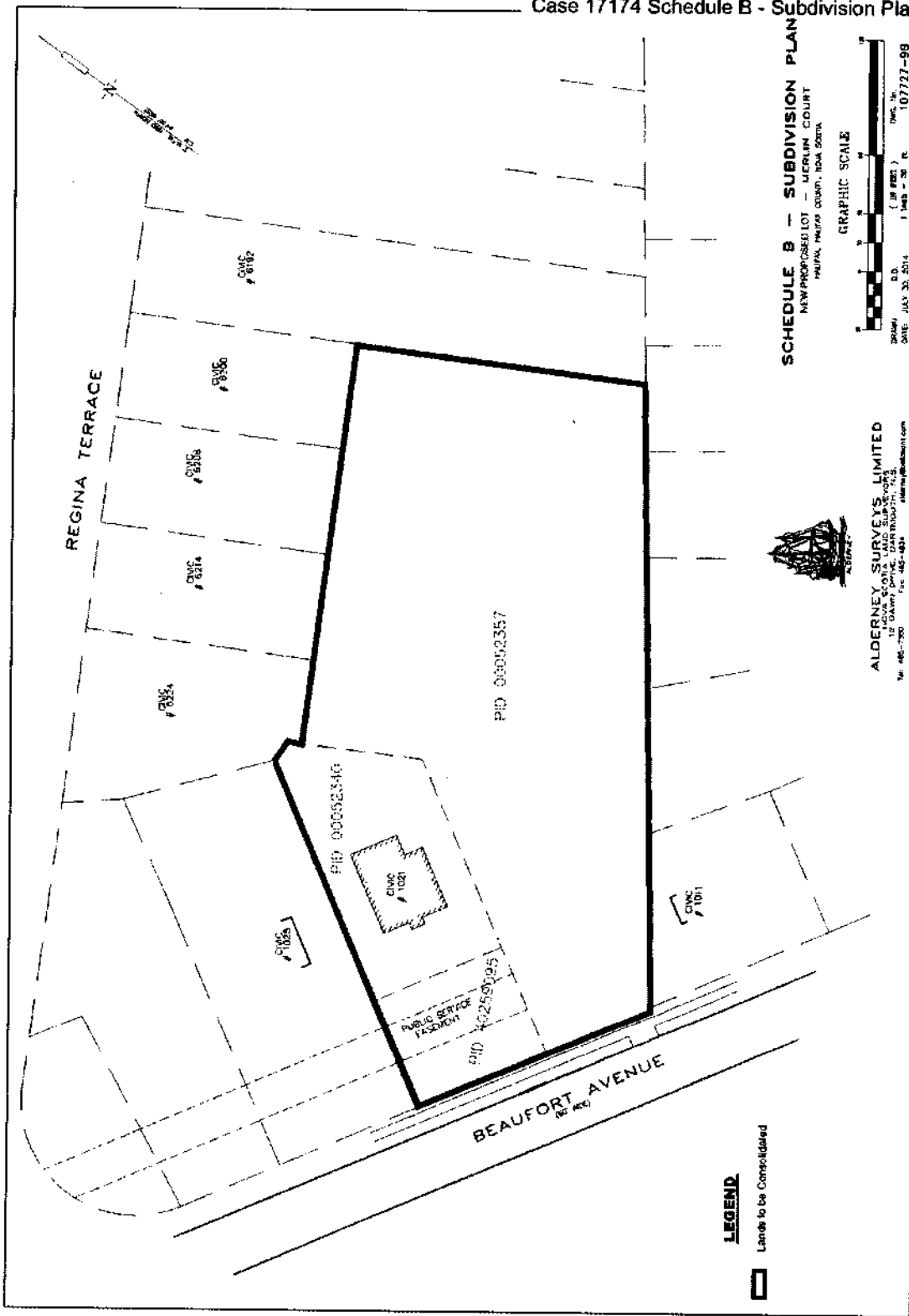
THENCE South 29 degrees 19 minutes 59 seconds East a distance of 1.524 metres to a point;

THENCE North 61 degrees 04 minutes 00 seconds East a distance of 64.008 metres more or less to the point of **BEGINNING**. Containing an area of 5,500.3 square metres more or less.

TOGETHER WITH an easement for water service over a portion of Lot 2 (P.I.D. 00052290), lands of Jodi Asbell-Clarke & David Clarke, as described in Book 1081 Page 473.

SUBJECT TO an easement and right of way in favour of Halifax Regional Municipality as described in Book 1417 Page 332.

All bearings are based on 3-degree M.T.M. Grid North, Central Meridian 64 degrees 30 minutes West.



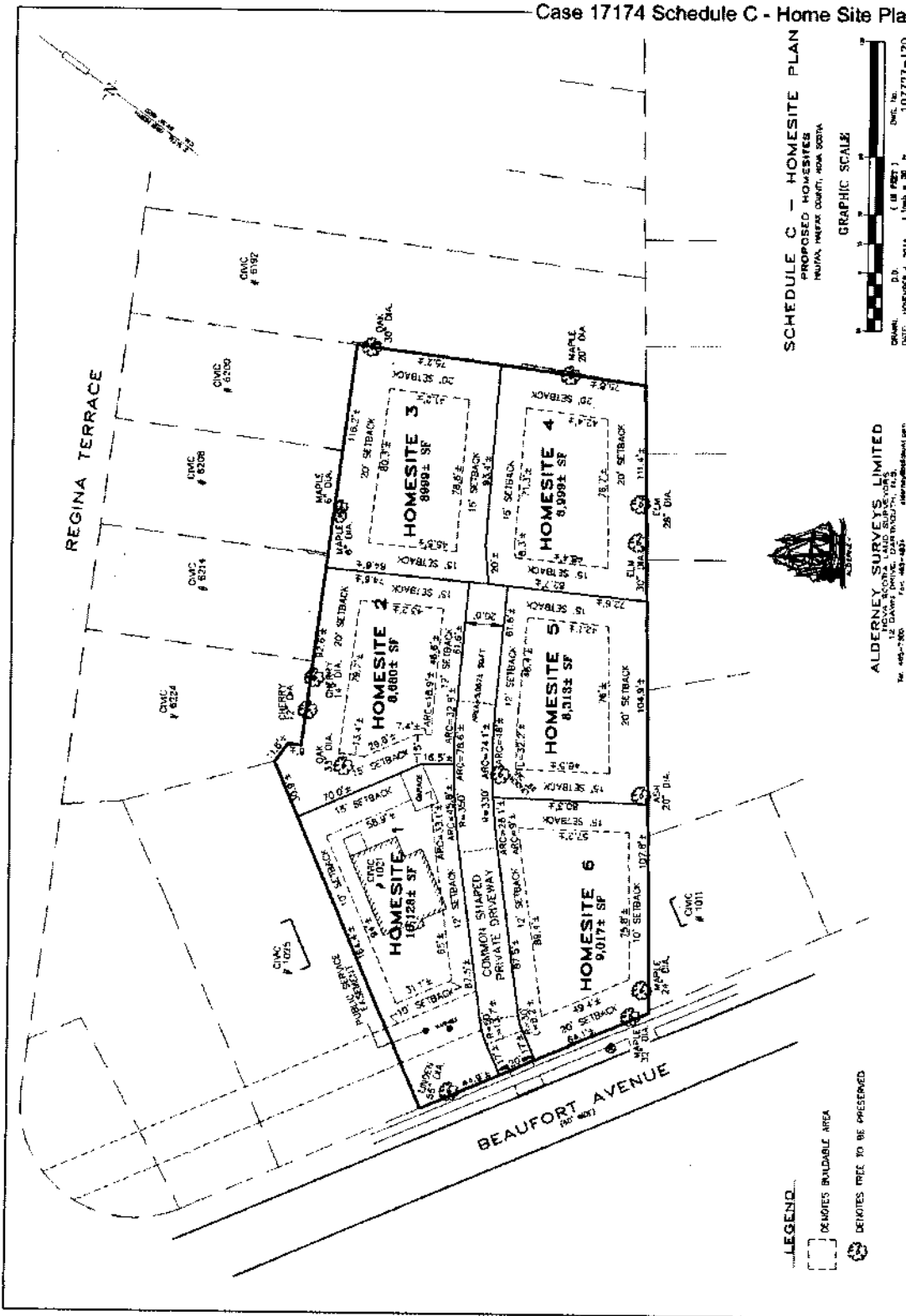
SCHEDULE B - SUBDIVISION PLAN
 NEW PROPOSED LOT - MERLIN COURT
 NAUVAL, PHILIP GROUP, BNA 50274

DATE: JUL 31, 2014
 DRAWN BY: J.R. PERE
 SCALE: 1" = 30' (1" = 30')



ALDERNEY SURVEYS LIMITED
 11 GAVES ROAD, SUITE 100
 BRIDGEVIEW, ONTARIO L3R 9V7
 TEL: 416-750-1100 FAX: 416-750-1101
 www.alderneysurveys.com

LEGEND
 [Thick black line symbol] Lots to be Consolidated



SCHEDULE C - HOMESITE PLAN
 PROPOSED HOMESITES
 MUTUAL HEIGHTS QUARTER, RMA 0074

GRAPHIC SCALE
 1" = 20' (1" = 10')

DATE: November 4, 2014
 D.D. (11/04/14)
 SHEET NO. 107727-120

ALDERNEY SURVEYS LIMITED
 11100-111th Street, Unit 101, Richmond, BC V6V 2G6
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 www.alderneysurveys.com

LEGEND
 [Dashed Line] DENOTES BUILDABLE AREA
 [Circle with 'X'] DENOTES TREE TO BE PRESERVED